

# Willandra Lakes Ancestral Remains Reburial Project

## Summary of Public Submissions



Willandra Lakes

Image credit – Mick Kelly

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# 1. Introduction

Heritage NSW and NPWS, on behalf of the Barkindji/Paakantji (Bar-can-gee), Mutthi Mutthi (Mutt-e Mutt-e) and Ngiyampaa (Nee-am-paa) peoples, represented by the Willandra Lakes Region Aboriginal Advisory Group (AAG), propose to undertake the reburial of 108 Willandra Lakes Aboriginal Ancestors (also known as Aboriginal Ancestral remains or Aboriginal Remains). Reburial is the final stage in the return to country of the Ancestors that are currently held in secure storage at Mungo National Park.

The proposed action is a series of reburial ceremonies including the excavation of graves and the reburial of 108 Aboriginal Ancestors at 26 sites within the Willandra Lakes Region (WLR) World Heritage site. Each reburial will be undertaken with a small private cultural ceremony as the remains are re-interred close to their point of origin. No markers will be installed to indicate the grave locations and the sites will be returned to existing conditions.

The proposed action will fulfil the long-term aspirations of the Aboriginal community, including Barkindji/Paakantji, Mutthi Mutthi and Ngiyampaa peoples, who have a strong and special association of the property with the Willandra Lakes and the Willandra Lakes Aboriginal Ancestors. The proposed works are aligned with the *Willandra Lakes World Heritage Area Plan of Management* (Department of Environment, Sport & Territories (DEST) 1996) and *Mungo National Park Plan of Management* (NSW National Parks and Wildlife Service 2006).

In January 2021, the National Parks and Wildlife Service (NPWS), as the consent authority under the NSW *Environmental Planning and Assessment Act 1979*, approved the reburial through a Review of Environmental Factors (REF) (Heritage NSW & NSW National Parks and Wildlife Service 2021). Other approvals for reburial were also provided by Heritage NSW under the NSW *Heritage Act 1977*.

As the region is a World Heritage Area, an assessment process was also undertaken under Commonwealth legislation. Heritage NSW referred the proposal, which includes the above REF, to the Commonwealth Department of Water and the Environment (DAWE) for its consideration in on 12<sup>th</sup> May 2021.

The referral was briefly placed on public display in July 2021, and on 5 August Minister Ley determined the activity was a controlled action under the EPBC Act requiring assessment and a decision on whether it should be approved under the EPBC Act. Minister Ley also sought further public consultation. The controlling provisions are World Heritage properties (Sections 12 & 15A) and National Heritage places (Sections 15B & 15C).

Noting the diversity of views, including recent calls for establishing a keeping place and the impact of COVID-19 on undertaking consultation, the former NSW Minister of State, Don Harwin, wrote to Minister Ley advising the Commonwealth that the NSW Government would delay the commencement of public consultation until 1 November 2021 and extend the period of exhibition to

60 working days, citing the importance of ensuring there was an opportunity to hear all viewpoints on the reburial, including the option of a keeping place.

The EPBC referral was subsequently exhibited again together with an invitation for interested persons and organisations to provide Heritage NSW written submissions on the proposed action. The period within which submissions could be made was between 1 November 2021 and 31 January 2022.

Written notice of exhibition of the EPBC referral and invitation for submissions was published pursuant to Section 95(2) of the EPBC Act as described in Table 1 below. Heritage NSW invited the public to make written submissions on the EPBC referral via email [willandra.repatriation@environment.nsw.gov.au](mailto:willandra.repatriation@environment.nsw.gov.au) or hard copies to Heritage NSW PO Box 1040 ALBURY NSW 2640.

The EPBC referral including all attachments and appendices was made available online at <https://www.heritage.nsw.gov.au/protecting-our-heritage/willandra-lakes-ancestral-remains-reburial-invitation-for-public-comment/> and at the following locations:

- Buronga Library - Midway Service Centre, 6 Midway Drive, Buronga NSW 2739
- Wentworth Library - Murray Street, Wentworth NSW 2648
- NSW Department of Planning, Industry and Environment - Corner of Sturt Highway and Melaleuca Street, Buronga NSW 2739.

The referral was also made available at Balranald Library following a request from the community.

Some 220 individuals and organisations from a wide range of interest groups were directly invited to comment on the EPBC referral in early November including the former Willandra Community Management Council (CMC); Technical and Scientific Advisory (TSAC) members; former Temporary Scientific Advisory Group, former Executive Officers; universities; museums; Willandra Advisory Committee; Willandra Aboriginal Advisory Group; Dareton and Balranald Local Aboriginal Land Councils; Aboriginal organisations; native title holders ( Native Title Prescribed Body Corporate); Elders; Aboriginal community members; NPWS Regional Advisory Committee members; academics from universities and institutions in Australia; New Zealand and the United States.

All submissions received during the exhibition period were reviewed and are considered in this report. However, after requests for an extension, submissions made up until COB 1 February 2022 were received and are included in this summary of submissions. This Submissions Report provides a summary of all public submissions received and where relevant, how they have been addressed.

**Table 1: Written notice of public display of the EPBC referral and invitation for submissions**

Type of Advertising	Details
Statutory advertising as required and approved by the Department of Agriculture, Water and the Environment	State and national newspapers: <ul style="list-style-type: none"> <li>• Sydney Morning Herald</li> <li>• Koori Mail</li> </ul> Local newspapers: <ul style="list-style-type: none"> <li>• Sunraysia Daily (Mildura)</li> <li>• Barrier Daily Truth (Broken Hill)</li> <li>• Swan Hill Guardian (regional – southern Riverina)</li> <li>• Riverina Grazier (Hay)</li> </ul> Heritage NSW Website: 1 November 2021 to 31 January 2022 (462 visits and 398 unique views during the exhibition period)
Email to known stakeholders	4 November 2021
Letter to known stakeholders	4 November 2021

## 2. Background

From the late 1960s to the 1980s, approximately 108 ancient Aboriginal Ancestors' remains were removed from the Willandra Lakes and Lake Mungo and taken to Canberra for study at the ANU, including the remains of the internationally renowned Mungo Woman and Mungo Man. Dated to approximately 42,000 years, these are the oldest human remains found in Australia. The Willandra Lakes area was added to the UNESCO World Heritage List in 1981 based on its outstanding cultural and natural values.

### Willandra Lakes Region World Heritage Area Advisory Bodies

The Willandra Lakes Region World Heritage Area has two advisory bodies. The Advisory Committee is appointed by the NSW Minister for the Environment, and the AAG is appointed by the NPWS. The AAG was formed in 2015 and is an Aboriginal community-elected group and the peak Aboriginal body for the Willandra Lakes World Heritage Area. The nine-members of the AAG are made up of three people from each of the traditional owner groups, Barkindji/Paakantji, Mutthi Mutthi and Ngiyampaa.

The Three Traditional Tribal Elders Council (3TTGs) was the main advisory and consultation group forum for the Willandra Lakes Region from the mid-1990s to 2013. The 3TTG Council was superseded by the AAG (above) in 2015 as part of a restructure of the World Heritage management. As a result, representation moved from informal membership to formally elected and appointed membership.

Appointment to the AAG is for a three-year term with elections so far held in November 2015 and May 2018. The next elections are scheduled in May 2022. The AAG elections are managed by the NSW NPWS and run via an external facilitator. In 2018, 42 individuals attended the elections and voluntarily and formally registered as voters.

The Willandra Repatriation Traditional Custodians group (WRTC) was formed on the 11 April 2014 by the Heritage Division of the then Office of Environment and Heritage (now Heritage NSW, Department of Premier and Cabinet). The WRTC was established as a consultation forum on the repatriation of the Willandra Ancestral Remains. The role and purpose of the WRTC was to advise on returning the Willandra Ancestral Remains to Country. The Group's role was completed with the return of the Willandra Aboriginal Ancestors to Mungo in November 2017 and this committee has ceased to meet.

### Keeping Place Proposals

Proposals for the alternative management (not reburial) of the Willandra Aboriginal Ancestors began in 1984 when the Australian Archaeological Association wrote to the Minister for Planning and Environment to propose an underground keeping place at Mungo for the Mungo skeletal remains. Aboriginal community consultation on reburial and Keeping Place options was undertaken between 1985 and 1991 and has been documented in detail (Western Heritage Group 2017).



In 2003, a detailed plan was developed by NPWS with the Willandra 3TTG Elders Council for a Keeping Place, Education and Research Centre. On this basis six options, involving placing the Willandra Aboriginal Ancestors permanently in storage, were developed between 2003 and 2015. Some of the options were accompanied by concept designs, costings, and detailed design briefs, while others were more conceptual (Williams 2016). These options were explored in detail, and at length, in community forums (Williams & Associates 2016; 2017). While no detailed costings have been prepared the cost of the 2011 Mungo Centre (incorporating a Keeping Place) was estimated in excess of \$5,000,000. In the 2016 and 2017 forums (Williams & Associates 2016; 2017) NPWS indicated such funding would not be available for construction or ongoing running costs.

The option for the construction of a Keeping Place has not been pursued by the AAG and has not been adopted as the AAG preferred course of action due to a renewed focus on long held community views that Ancestors should be returned to country. Reburial of the Willandra Aboriginal Ancestors is the preferred option as this is consistent with past sentiments and views expressed by many Elders and members of the various 3TTG representative bodies of the Willandra Lakes Region World Heritage Area over the last 40 years.

### **Return to Country of the Willandra Ancestral Remains Collection 2017**

At the first Willandra Lakes Region World Heritage committee meeting between Aboriginal community members and government in 1984, Elders expressed concerns over the removal and study of ancestral remains. Lobbying for the return and reburial of the Ancestors has continued to the present day. In 1992 Mungo Woman was returned to Mungo National Park for safekeeping. In 2017 the rest of the Willandra Ancestors were returned to Mungo National Park and are kept in the same location as Mungo Woman.

Aboriginal community awareness and concern over the unauthorised removal and study of Ancestral remains from the Willandra increased in the 1980s (Cribb 1990; Stannard 1988) and in this context the academic and Aboriginal community participants in a Mungo Workshop in 1989 reached an agreement that the Willandra Ancestral Remains collection should be returned to Mungo, and that, as a symbol of reconciliation, keys should be held by both the Aboriginal community and researchers (see EPBC Attachment K - The Mungo Statement).

The Plan of Management for the Willandra Lakes (DEST 1996) called for the development of a series of strategies for the return of all human remains "...to the satisfaction of the three Traditional Tribal Groups" (Strategy 33.1) and between 1984 and 2016 some 70 Willandra World Heritage meetings discussed repatriation, a research centre and reburial (Review of Willandra Meetings 1984-2015).

In February 2015, the NSW government (NPWS & Heritage NSW) held a repatriation forum to discuss the final resting place for the Willandra Ancestral Remains. This forum brought together a wide range of scientists and traditional custodians (Williams & Associates 2015). In November 2016, a second forum was held and options for repatriation and reburial outlined (Williams & Associates 2016). In April 2017, a third forum was held presenting options for repatriation.

Consensus was reached to return all Ancestral remains back to Mungo National Park (Williams & Associates 2017).

In November 2015 the Willandra ancestral remains were transferred from the Australian National University (ANU) to the National Museum of Australia and at that time formal letters of apology from the ANU the Barkindji/Paakantji, Mutthi Mutthi and Ngiyampaa peoples were provided at the time of this transfer. In 2017 the NSW Office of Environment and Heritage (now Heritage NSW) proposed to transfer the Willandra ancestral remains collection from the National Museum of Australia to Mungo National Park. This action was referred to the Commonwealth Department of Environment and Energy (now Department of Agriculture Water and the Environment) (Willandra Lakes Region Ancestral Remains Repatriation Project, Willandra Lakes Region, NSW EPBC referral 2017/8040). This referral was approved as *Not a controlled action if undertaken in a particular manner* under sections 75 and 77 A of the EPBC Act. Reburial of the Willandra Ancestral Remains was not part of, and not authorised under, the approval.

On 17 November 2017, the Willandra Ancestral remains collection was returned to safekeeping at Mungo.

### Proposals for Reburial of the Willandra Ancestral Remains Collection

The continued storage of Ancestors is a source of distress for many Aboriginal people. In November 2018, the Willandra AAG, which represents Barkindji/Paakantji, Mutthi Mutthi and Ngiyampaa peoples of Western NSW, passed the following motion to rebury the Willandra ancestral remains collection:

*In exercising our inalienable rights and as Traditional Owners the Willandra Lakes Region World Heritage Area Aboriginal Advisory Group as duly elected representatives of the three Traditional Tribal Groups unanimously resolves to rebury the Willandra Ancestral Remains collection. This resolution is consistent with past sentiments and views expressed by Elders and members of the various three Traditional Tribal Group representative bodies of the Willandra Lakes Region World Heritage Area over the last 40 years.*

Following this meeting, Heritage NSW (HNSW) commenced plans to implement this motion. The AAG discussed the process and planning for reburial in March 2019, and from 1-5 April 2019, representatives of the AAG/3TTGs and HNSW were part of the field assessment team which fine-tuned the location of assessment sites selected for reburials and informed the preparation of a Review of Environmental Factors (REF).

In August 2019, Heritage NSW made a draft REF available to more than 220 individual Willandra stakeholders and four weeks was allowed for comment. These stakeholders included a wide range of interest groups such as members of the previous Community Management Council (CMC) and Technical and Scientific Advisory Committee (TSAC), former World Heritage Executive Officers, universities, museums, academics, AAG members, Local Aboriginal Land Councils, Aboriginal organisations, native title holders, Elders, community members and NPWS Advisory committee members. Researchers from universities and institutions in Australia, New Zealand and the United



States were also included. The REF was revised in light of the comments received during this phase of consultation.

The draft REF was also made available to the new Willandra Lakes Region World Heritage Advisory Committee. The Committee held its first meeting in April 2019 and received a briefing on the project at that meeting. All members were kept informed of the draft REF and were provided opportunity to comment. A letter in support of the proposed reburial, from the Advisory Committee to the Federal Minister for Environment and Energy, is presented in the REF.

In January 2021, NPWS approved the REF under the NSW *Environmental Planning and Assessment Act 1979*. This decision has been conveyed to more than 220 individual and organisational Willandra stakeholders. Other approvals for reburial were also provided by Heritage NSW under the NSW *Heritage Act 1977*.

As the region is a World Heritage Area, an assessment process was also undertaken under Commonwealth legislation. Heritage NSW met with the Commonwealth Department of Agriculture, Water and the Environment (DAWE) in February 2019 for a pre-referral meeting and discussed the general scope of the project and the overall requirements for a referral under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Heritage NSW subsequently referred the proposal, which includes the above REF, to DAWE for its consideration in on 12<sup>th</sup> May 2021. The referral was placed on initial public display for 10 days until 22 July 2021.

On 5 August Minister Ley determined the activity was a controlled action under the EPBC Act requiring assessment and a decision on whether it should be approved under the EPBC Act. Minister Ley also sought further public consultation. The controlling provisions are World Heritage properties (Sections 12 & 15A) and National Heritage places (Sections 15B & 15C).

## 3. Public Submissions

The EPBC preliminary documentation consultation was between 1 November 2021 and 31 January 2022. A total of 162 submissions on the EPBC referral were received by Heritage NSW from First Nations people, Traditional Owners, individuals, academics, businesses, groups and organisations during the exhibition period.

A submission was considered to be any written document relevant to the EPBC referral that was submitted by email or post, via the advertised addresses, which was clearly intended to be a submission to the EPBC referral. Each petition (a submission with multiple signatures) was treated as a single submission. Template submissions (individually signed and pre-composed letters) were treated as separate submissions, made by each person providing a template submission. Multiple submissions made by the same entity were combined and treated as a single submission.

Submissions were handled by Heritage NSW in accordance with the *Privacy and Personal Information Protection Act 1998* (NSW), including the collection, handling and maintenance of any personal information included within any submission.

### 3.1 Submission Review Process

A standardised approach was used where each submission was collected, registered, stored and reviewed consistently. Each submission was allocated an individual submission number and stored on a digital file to be reviewed.

The process of reviewing submissions on the EPBC referral was:

- Submissions were entered into a digital database and each comment or issue raised was assigned into themes. The submission themes and issues are presented in Section 4.3.
- The analysis of submissions to the EPBC referral by submission type and nature of submission is presented in Section 4.
- The issues were then reviewed to determine if they necessitated change to the EPBC referral or required further investigation or research to be undertaken. The criteria against which submissions were analysed for possible amendment to the EPBC referral are set out in Section 3.2.
- Following analysis and consideration of all submissions, additional mitigation measures to be carried out in addition to the mitigation measures in the EPBC referral were developed where required. These are detailed in Section 6.

## 3.2 Criteria for Amendment

Comments in submissions were addressed and taken into account by Heritage NSW, as appropriate, in consultation with the AAG. Multiple staff members were involved in the analysis process, with cross checking carried out to ensure a consistent approach was taken.

Amendments were made to the EPBC referral where a submission:

- provided additional information that corrected inaccuracies or clarified unclear information in the EPBC referral
- proposed strategies that are feasible and which improve environmental outcomes
- identified further information or research that was required to adequately determine the impacts of the proposed action.

Amendments to the EPBC referral were not made where a submission:

- clearly supported the proposed action
- offered a neutral statement or did not seek any change
- addressed issues beyond the scope of the EPBC referral, or issues within the scope of the REF only
- included statements that were incorrect
- raised issues or made comments on information that had already been considered and addressed in the EPBC referral
- suggested project alternatives beyond the scope of the EPBC referral.

## 4. Analysis of Submissions

### 4.1 Submission Origin

A total of 162 submissions were made by academics, businesses, heritage committees, museums, First Nations people, Traditional Owners, Members of Parliament (MPs) and other individuals. Table 2 and Figure 1 indicate the number of submissions from each submitter type.

**Table 2: Submissions by Submitter Type**

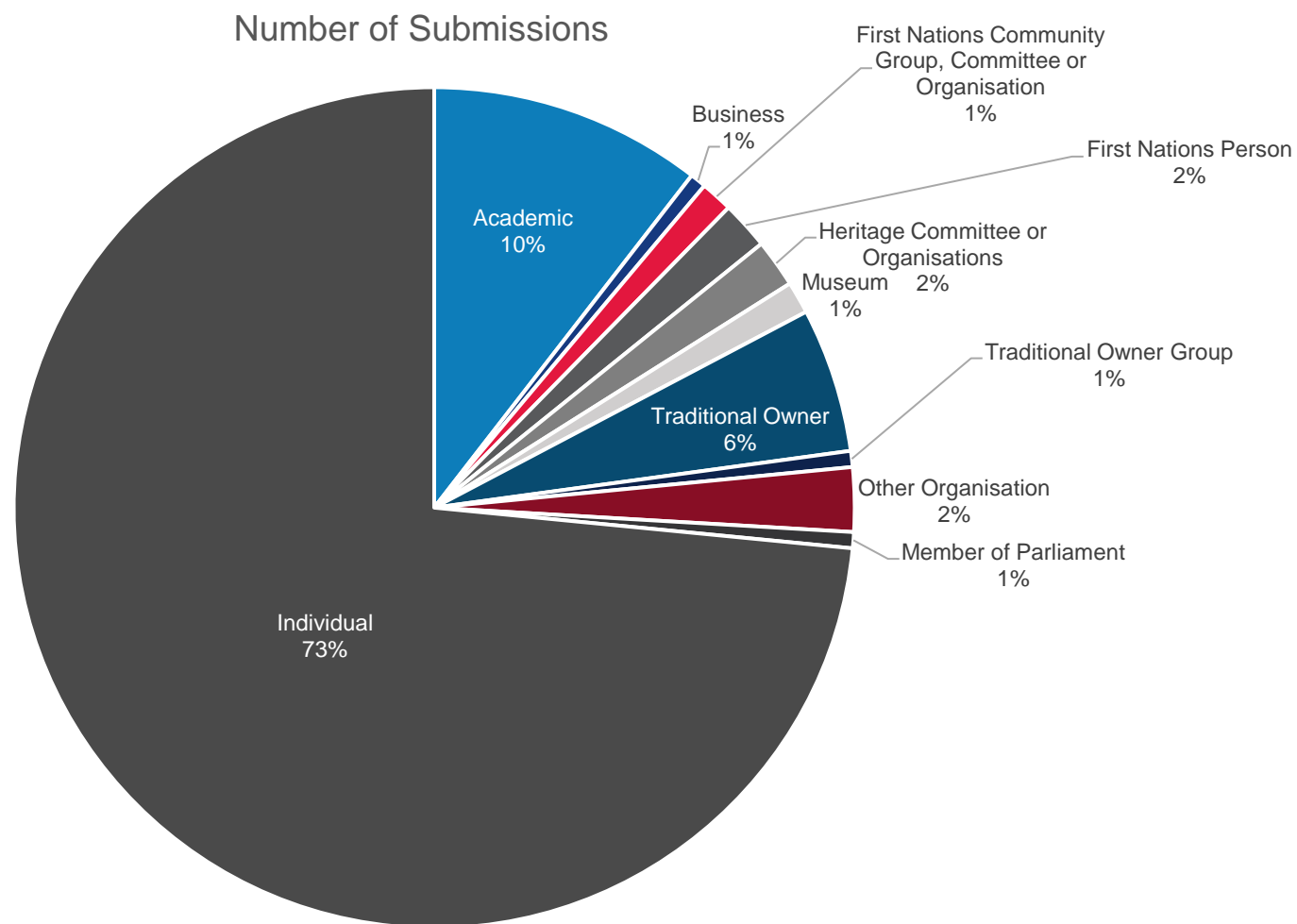
Submission Origin	Number of Submissions
Academic	17
Business	1
First Nations Community Group, Committee or Organisation	2
First Nations Person	3
Heritage Committee or Organisations	3
Museum	2
Traditional Owner	9
Traditional Owner Group	1
Other Organisation	4
Member of Parliament	1
Individual	119
<b>TOTAL</b>	<b>162</b>

### 4.2 Nature of Submissions

The nature of the submissions are summarised in Table 3 and in the section below by submitter type with Traditional Owners, Traditional Owner Groups, First Nations Peoples or First Nations Community Group, Committee or Organisations combined into one group for analysis purposes. For each type the following questions were asked:

- How many submissions indicated their support for the wishes of the Aboriginal community?
- How many submissions were opposed to the wishes of the Aboriginal community?
- How many submissions indicated their support for the proposed reburial?
- How many submissions were opposed to the proposed reburial?
- How many submissions indicated their support for a keeping place?
- How many submissions were opposed to a keeping place?
- How many submissions did not indicate support for either the proposed reburial or a keeping place?

Figure 1: Submissions by Submitter Type



**Table 3: Overall nature of submissions**

Support	Support wishes of Aboriginal community	Support Reburial	Opposed to reburial	Neither support or oppose reburial
Traditional Owners, Traditional Owner Groups, First Nations Peoples or First Nations Community Group, Committee or Organisations	14 out of 15 93.3%	11 out of 15 73.3%	3 out of 15 20%	1 out of 15 6.7%
Academics	8 out of 17 47.1%	6 out of 17 35.3%	10 out of 17 58.8%	1 out of 17 5.9%
Museums	1 out of 2 50%	1 out of 2 50%	1 out of 2 50%	1 out of 2 50%
Business	0 out of 1 100%	1 out of 1 100%	0 out of 1 0%	0 out of 1 0%
Members of Parliament	1 out of 1 100%	1 out of 1 100%	0 out of 1 0%	0 out of 1 0%
Heritage Committees or Organisations	3 out of 3 100%	2 out of 3 66.7%	0 out of 3 0%	1 out of 3 33.3%
Other Organisations	2 out of 4 50%	3 out of 4 75%	1 out of 4 25%	0 out of 4 0%
Individuals	89 out of 119 74.8%	51 out of 119 42.9%	28 out of 119 23.5%	40 out of 119 33.6%
<b>Overall submissions</b>	<b>118 out of 162</b>	<b>77 out of 162</b>	<b>42 out of 162</b>	<b>44 out of 162</b>
<b>TOTAL % of submissions*</b>	<b>72.3%</b>	<b>47.5%</b>	<b>25.9%</b>	<b>27.2%</b>

\*Percentages indicate the sentiments of all the submissions e.g. 72.3% of all submissions indicated that they supported the wishes of the Aboriginal community. Some submissions supported multiple outcomes e.g. supported reburial but also a keeping place and supported the wishes of the Aboriginal community.



## Traditional Owner and First Nations Submissions

15 submissions were received from those that identified as Traditional Owners, Traditional Owner Groups, First Nations Peoples or First Nations Community Group, Committee or Organisations.

**86.7% (13 out of 15) of Traditional Owner and First Nations submissions indicated their support for the wishes of the Aboriginal community. The remaining submissions did not indicate either way.**

*We are the Willandra Lakes Region World Heritage Aboriginal Advisory Group, the duly elected representatives of the Barkindji/Paakantji, Ngiyampaa and Mutthi Mutthi Tribal groups. We note that you are now in carriage of an extended consultation process under the EPBC Act referral process to rebury our Ancestors back in our Country. We are shocked to learn that, without consultation with us, you have extended the public consultation period from 20 to 58 days and have sought public comment on a “permanent keeping place” which is not part of the EPBC Act referral.*

*The Aboriginal Advisory Group is established to provide advice on all Cultural Heritage matters within the Willandra Lakes Region and Mungo National Park. We are the only constituted group who can provide advice to you on this matter. We have already discussed, with our community and families the option of a keeping place. We have discussed this as an option many times over the past 40 years and more recently, since 2015, we have had three workshops to discuss this very matter. With our communities support, we do not support a Keeping place and are offended that you, unilaterally decided to canvas public comment for one. You have appropriated our agency over our culture and heritage for purposes unknown to us. This has the potential for wide ranging implications for all Aboriginal people across NSW in regards to managing their cultural and heritage.*

*Willandra Lakes Region World Heritage Aboriginal Advisory Group*

*It has always been stated and reiterated over the last 40 plus years that our Ancestors remains have to be returned back home to country and reburied back to where they come from not in a crypt/ Keeping Place with monuments and stories dedicated to certain people within the scientific community but returned back to the ground we call Mother Earth.*

*Michael Kelly (Traditional Owner - Ngiyampah Mai)*

*We...are Mutthi Mutthi traditional owners and children of Alice Kelly. We Acknowledge our shard connections with other tribal groups the Ngiyampaa and Barkindji to the WLRWH site. Given the recent media attentions, we would like to clarify our position on the Willandra Ancestral Remains. We fully support the AAG November 2018 resolution to rebury all the ancestral remains as close to the original locations as possible.*

*Patsy Winch, Mary Pappin, Maureen Reyland (Mutthi Mutthi Elders)*

*The community of origin are the focal point of repatriation, they are the rightful custodians and should determine when and how repatriation should be undertaken.*

*[First Nations] Advisory Committee for Indigenous Repatriation (ACIR) to the Commonwealth Department of Infrastructure Transport, Regional Development and Communications*

**73.3% (11 out of 15) of Traditional Owner and First Nations submissions indicated their support for reburial (one of these also mentioned a keeping place). Two of these submissions supported reburial as part of the proposed 'Three Phase Plan'.**

*I understand that the majority of First Nations people have maintained that these Ancestors should be returned to Country and laid to rest. I strongly believe that the only way that this can happen that is consistent with our belief system is to return them to the earth in a manner that ensures the cultural safety of everyone that has been involved with their removal and subsequent ongoing battle to return them.*

*If the suggested "keeping place" is built, one of the proposed uses is for ongoing scientific research. This research could contain both destructive and non-destructive analysis. As a First Nations Man, I believe this is unacceptable and poses significant intangible cultural risk for First Nations and non-First Nations people involved in that work. I understand that people have said that Mungo Man and Lady and the Ancestors had a story to tell the world about our people. Now that the chapter is closed, and they have re-enforced what our elders and ancestors have always said, that we have always been here - shouldn't they be laid to rest back into mother earth with dignity and culture? I certainly think so.*

*Ethan Williams*

*(First Nations Person*

*Paakantyi, Ngiyampaa Wangaaypuwan and*

*Ngiyampaa Karulkiyalu Descendant)*

*I have worked in the storeroom where Mungo Lady has been kept in a vault, for the last 20 years since her handback in the nineties, it has not been easy working in that space. I have felt the presence of her spirit on many occasions making me feel uneasy, anxious, worried, and very uncomfortable at times as this is not part of our traditional customs. Feeling her spirit locked in a cold steel box without the comfort of mother earth to cradle her remains where she had originally been placed after moving on to the spirit world is heartbreaking. It is like a loved one laying in a morgue with no intention of ever being placed at rest. Now all the Willandra remains are being stored in that room. I am highly concerned for other Indigenous staff members who must work in the space or nearby knowing firsthand what it can feel like. This is not just a job it is my life and I live it daily. These feelings are not left at the office at the end of the day but follow me home where it effects my family also. As a young girl I was told by my old people not to play or walk in certain places in the landscape as there were burials nearby, if you disturbed their spirits they would follow you and would haunt or play tricks on you or family members. I think of this daily and although I am not the one who removed the Willandra ancestors from their resting places, this is a burden that I carry and lays heavy on me as it has generations before. Culturally the respectful thing to*

*do is give the ancestors a dignified reburial into the earth from which they were stolen, not place them in the ground in a way where they can be retrieved for scientific research. That is even more disrespectful because it's like you are taunting them, or lying to them, you are not really lying them to rest, you are putting them in the ground as a performance, so you appear to be doing the right thing, knowing full well you are not. Our families are experiencing ongoing intergenerational trauma due to certain scientists arguing against reburial.*

*Leanne Mitchell (First Nations Person – Paakantji)*

*I have had a long involvement in the ongoing issues pertaining to these respective skeletal remains. I am a P(b)aarintyi (I am also Maraura/Thangaali) senior estate holder. I am Makwara moiety. My maternal great grandparents are Manfred Mary and Manfred Tommy are P(b)aarintyi. My maternal grandfather Fred Johnson is P(baarintyi) (son of Manfred Mary and Manfred Tommy) and was born at Mount Manara on P(b)arrinty kiira (country).*

*The archaeological significance of the skeletal material is undisputed. Equally the spiritual significance of such material to P(b)aarintyi persons should be undisputed. It is due to the ongoing spiritual beliefs of P(b)aarintyi persons that such as smoking ceremonies are still continued to the present in accordance with traditional law and custom (using Kuyipara - Spotted Emu Bush - *Eremophila maculatas*). Red ochre (placed with the skeletal remains or spread over the remains) also continues to the present be utilised by Maraura/Thangkaali and Southern P(b)aaakantyi and P(b)aarintyi persons in funeral rights/practices.*

*In accordance with P(b)aarintyi traditional law and custom all the skeletal remains should be permanently reburied (and reburied in a manner that is in accordance with traditional law and custom).*

*I believe the spirits of these deceased persons are not at rest and will not otherwise be at rest until the physical skeletal remains are appropriately reburied. Additionally, human bone dust is considered as having a potential to cause harm (sickness and uneasiness) to the living. It is my belief, based on my knowledge of the traditional law and custom, that all the skeletal remains should be reburied and this should take place at, or (given ground/soil stability concerns) as reasonably close as possible to, the original burial sites.*

*Dorothy Lawson (nee Mitchell)*

20% (3 out of 15) of Traditional Owner and First Nations submissions were opposed to reburial (all these submissions supported a keeping place as an alternative to reburial) and 6.6% (1 out of 15) submission did not indicate either way.

*I also strongly disagree with the proposal to rebury Mungo Man, Mungo Lady and Mungo Child as this is not the wishes of my ancestors, nor that of the wider Aboriginal community.*

*Gary Pappin (Traditional Owner)*

*Mungo Man, Mungo Lady and Mungo Child are not to be reburied in shallow graves as this is not the wishes of the ancestors, nor is it an appropriate solution for the scientific community.*

*Cynthja Pappin, Wakool Indigenous Corporation*

*I DO NOT support the remains being reburied at various locations unmarked and unknown, with no celebration or ceremony or public invitation for everyone to attend. I believe Mungo Man and Mungo lady resurfaced and showed themselves for a reason to the world and I believe the elders wanted to honour that, and so do I for my daughter as does the elders that are still alive today. There is still unfinished business that people outside of AAG will continue to fight until there is no breath in us to honour the wishes of the elders gone before including Alice Kelly.*

*Sharon Johnson*

66.7% (10 out of 15) of Traditional Owner and First Nations submissions were opposed to a keeping place.

*I am strongly opposed to any form of keeping place for these remains as per my mother the late Alice Kelly's wishes. She was adamant as am I that once we received the remains back from ANU, that they were not to be permanently placed in any vault or keeping place, that they were to be returned to the womb of mother earth by their ancestors.*

*Maureen Rayland (Mutthi Mutthi Elder)*

*It is culturally inappropriate to build some kind of 'keeping place' or 'crypt' to store these ancestral remains in a retrievable state. This contradicts Aboriginal lore and customary practices as well as best practice for the repatriation of Indigenous ancestral remains globally. A 'keeping place' or 'crypt' will only cause further trauma and cultural safety violations for all traditional owners involved. The rate of deaths occurring as a result of meddling with these ancestral remains is alarmingly high, but of no surprise whatsoever to anyone with sufficient cultural knowledge as to why people in the community associated with this process keep passing away. The decision of what should happen to these ancestral remains is already established in the teachings of over 60,000 years of Aboriginal culture. It is Aboriginal cultural lore to lay the dead to rest and never disturb them again. It is*

*the Aboriginal people's responsibility to maintain this cultural lore. While colonisation has affected our access to Country and impacted our ability to maintain cultural lore, the Barkindji/Paakantji, Ngayampaa and Mutthi Mutthi people never ceded sovereignty nor responsibilities as traditional custodians.*

*Robert Kelly (First Nations Person, Founder of the Indigenous Repatriation Alliance and father to two children who are Paakantji and direct descendants of the late Aunty Irene 'Reenie' Mitchell)*

*Our People they are not subject matters and specimens to call their own, and when scientists or certain people within the scientific community continue to interfere within our own affairs and with our Ancestors we as First Nations People feel violated and impacted on both the personal and spiritual level no to mention the impacts carried out on Our Ancestors through the invasive techniques this also impacts and attacks our Spirituality as First Nations People, at the end of the day the scientific community have had our Ancestors for over 40+ years and still can't tell us anything new we already don't know to this day it is only Just and fair that they be returned back to the ground for their internment for Millennia.*

*Michael Kelly (Traditional Owner - Ngayampah Mai)*

*Scientists have had more than 52 years studying Mungo Woman and 47 years for Mungo Man and they should now respect the wishes of traditional owners and stop creating barriers preventing reburial on traditional lands. A keeping place is culturally inappropriate and not accepted cultural practice.*

*[First Nations] Advisory Committee for Indigenous Repatriation (ACIR) to the Commonwealth Department of Infrastructure Transport, Regional Development and Communications*

### Academics

17 submissions were received from current and retired academics from a number of institutions including Bond University, the University of New South Wales, the National Museum of Australia, the University of Western Sydney, the Australian National University, the University of Tasmania, the University of Pauda (Italy), the University of Kent (UK), Texas Tech University (USA), Simon Fraser University (Canada), Frankfurt Isotope and Element Research Center and the University of Queensland.

**47% (8 out of 17) of submissions from academics indicated their support for the wishes of the Aboriginal community. The remaining 52.9% (9 out of 17) of submissions did not indicate either way.**

*In my view, any decisions relating to the Willandra Ancestral Remains collection should be made solely by the AAG, as the relevant Traditional Owners for the Willandra Lakes Region World Heritage property.*

*Hilary Howes, Centre for Heritage & Museum Studies, ANU*

*The AAG made the decision to rebury these ancestral remains in accordance with TO preferred protocols and modes of caring for their ancestors.*

*Professor Daryle Rigney*

**35.3% (6 out of 17) of submissions from academics indicated their support for reburial (one of these also indicated support for a keeping place).**

*My view is that the 108 remains should be buried according to the wishes of the traditional owners of the region.*

*David Mindard, Western Sydney University*

*Not proceeding with reburial as proposed would perpetuate the long and regrettable history of ignoring cultural continuities and the wishes of the Mutthi Mutthi, Barkindji/Paakantji and Ngiyampaa people.*

*Paul Turnbull, UTAS/ANU*

**58.8% (10 out of 17) of submissions from academics were opposed to reburial (three of these also indicated their support for the wishes of the Aboriginal community).**

*...I pursue knowledge and understanding, and the loss of these remains is the loss of Indigenous culture and information for all of us in the future, whether Indigenous or non-Indigenous. Reburial will only hurt Indigenous people; scientists will be very disappointed if complete burial goes ahead but it's not their culture that is being destroyed. ...*

*My argument is for retaining the most important individuals in the WAC in a respectful manner, perhaps in a Keeping Place of some kind, a proposal I first made decades ago. It would be controlled by the Three Traditional Tribal Groups responsible for the region and the community could benefit from it into the future. It could be a joint venture of those involved. As custodians they would hold the power of how their culture and ancestral history is researched, preserved and told in a sensitive and proper manner.*

*Steve Webb, Bond University*

*Consideration of the two iconic burials, Mungo Lady & Mungo Man is merely the tip of much larger iceberg. They have many stories to tell. Mungo Lady, stands as the oldest ritual cremation in the world. Her physically modern physiology at 40,000 years ago, renders as totally irrelevant efforts by anatomy and physical anthropology to identify ancient Australians as less than fully modern.*

*Mungo Man's ritual burial with fire and ochre anointing in the lake-side cemetery was equivalent to a requiem in any famous cathedral today. These were people of advanced sophistication more than 40,000 years ago. Living 35,000 years before Abraham, their*



reality places the Abrahamic religions (Judaic, Christian and Moslem) in an entirely different context.

*The international impact of those two burial icons is already of global significance...*

*The opportunity here for contemplation of appropriate repatriation place has been long in coming. Variousy described as "Keeping Place", it offers appropriate residence, not only for Mungo Lady & Mungo Man's remains but ensures appropriate acknowledgement of all Willandra emerging human remains.*

*Jim Bowler*

*The reburial of the Willandra ancient remains would significantly harm the ability of future generations of both Aboriginal and non-Aboriginal people to learn about the Australian past. As a World Heritage listed property, the value of the heritage represented here has been deemed globally significant. This value must be protected for current and future generations, as a principle of the World Heritage Convention. Reburial of the ancestral remains would represent a clear violation of the protections afforded by inclusion on the World Heritage list.*

*Arthur Durband, Texas Tech University*

**64.7% (11 out of 17) the submissions from academics indicated support for a keeping place as an alternative to reburial.**

*The establishment of a Keeping Place and cultural facility in the WLR as envisaged by decades worth of meetings and studies would be a significant legacy of whatever administration was able to achieve it. It would be fully consistent with obligations under the World Heritage Convention and would undoubtedly become a place of national pilgrimage, national acknowledgement national celebration and national reconciliation. One might replace the word 'national' with 'international' in these three examples. A Keeping Place that involves reburial in a retrievable, controlled environment to provide for further scientific research will provide the opportunity for powerful new stories to be told, and ideally the stories will be told by 3TTGs researchers as they continue to develop the skills to investigate their past using scientific methods such as those from biological anthropology and archaeology.*

*Doug Williams*

*The reburial of ~108 ancestral remains across 26 different sites clearly represents the destruction of Outstanding World Heritage Values, and it was concerning that NSW State heritage officers pursued the destruction of these values and excluded the expertise that can comment on these values from the two crucial workshops that determined that the ancestral remains should be reburied. The approach undermined a long-term commitment to a keeping place and cultural centre as recognised in over two decades of management plans, architectural concepts, feasibility studies, meetings etc. The keeping place ultimately holds longer-term benefits to the Traditional Owners (TO) of the Willandra, and presents the opportunity to tell important new stories from the ancestors who made the cultural record of the Willandra. There are a small handful of landscapes in the World that present*

*this opportunity to tell such stories from the Ice Age past, and in the Asian Pacific region the Willandra represents the only such landscape.*

*A Keeping Place that involves reburial in a retrievable, controlled environment to provide for further scientific research will provide the opportunity for powerful new stories to be told, and ideally the stories will be told by TOs. We have seen this across the world, as Indigenous populations and descendant communities gain the opportunity to obtain the skill set to investigate their past using scientific methods such as those from biological anthropology and archaeology. First peoples and descendant communities across are telling new powerful stories from a unique perspective. This movement represents an important decolonisation of these disciplines, while at the same time provides an inspiring new perspective of the past.*

*Michael Westaway, University of Queensland*

*A keeping place that is jointly managed by Traditional Owners and staff of the Willandra Lakes Region World Heritage Area would allow for the possibility that a collaborative project of the type mentioned above could be developed. It would also allow for the possibility that further technical advances will enable us to recover information about the early inhabitants of the Willandra that we haven't dreamed of yet. The speed of change in relation to techniques for analysing fossils has been staggering in recent years and there is no reason to think that it is going to slow down. We simply don't know what information we might be able to recover in a few years, and it would be good to keep open the possibility of future work with exciting new methods. Equally importantly, we also don't know how future Traditional Owners will feel about research on the remains of their ancestors. It is not hard to imagine that, if interest in what biological anthropology can tell us about ancient humans continues to grow, a large majority of future Traditional Owners could want to see the Willandra fossils analysed further and perhaps also participate in such research. A keeping place would allow for an open future vis-à-vis new analytical techniques and the desires of Traditional Owners. In contrast, because environmental conditions in the Willandra are such that the fossils will be destroyed very quickly, reburial would seriously limit the options available to both Traditional Owners and the scientific community.*

*Mark Collard, Simon Fraser University (Canada)*

**5.9% (1 out of 17) of submissions from academics did not indicate support for reburial or a keeping place.**

*TOs and descendants to decide.*

*Bruce Pascoe*

23.5% (4 out of 17) of submissions from academics were opposed to a keeping place.

*There is no case for reburial to enable future retrieval for further scientific research that outweighs what would be a transgression of the ethical and legal rights and obligations of the Mutthi Mutthi, Barkindji/Paakantji and Ngiyampaa people.*

*Paul Turnbull, UTAS/ANU*

*I am surprised and disappointed that Heritage NSW has chosen to introduce the option of a 'permanent Keeping Place for [the] remains of Mungo Man and Mungo Woman' which 'could involve reburial in a retrievable, controlled environment to provide for further scientific research'. Unless such an option has been raised by the AAG, which I understand is not the case, it deserves no consideration whatsoever. Decisions relating to Ancestral Remains are not matters for public consultation, regardless of the age or international renown of the Ancestral Remains in question. As for 'further scientific research', I believe it is high time we abandoned the offensive and harmful belief that Western science automatically takes priority over Indigenous peoples' cultural responsibilities.*

*Hilary Howes, Centre for Heritage & Museum Studies, ANU*

## Museums

Two submissions were received from museums.

The South Tyrol Museum of Archaeology (Italy) submission did not indicate support for or opposition to reburial or the wishes of the Aboriginal community but did indicate support for a keeping place to allow for future scientific study.

*The human remains of the Willandra Lakes World Heritage region occupy a unique and outstanding place in anthropology on a global scale. Following repatriation, they are now an excellent example of the preservation of human remains within their original cultural environment. We can only wish the same was the case for our famous glacier mummy, Ötzi the Iceman. Thus, from our experience, we strongly advocate the preservation of the human remains, including Mungo Man and Mungo Woman, in a dedicated and carefully designed Keeping Place within their culturally protected context and with the possibility of keeping the burials identifiable and accessible for future cultural and/or scientific consultation.*

*Angelika Fleckinger, Museum director, South Tyrol Museum of Archaeology (Italy)*

A submission from National Museum of Australia indicated their support for the wishes of the Aboriginal community and for reburial.

*I write in support of permitting the management of the Willandra Lakes remains in accordance with the preferred protocols of the Traditional Owners. Any decisions as to the final disposition of the Ancestral Remains should be the choice of Traditional Owners. Typically, repatriation of Ancestral Remains in Australia is unconditional. Legal and moral ownership of Ancestral Remains rests with the Traditional Owners to whom the remains were returned. To impose retroactive conditions on the management of the remains is in opposition to Federal Government policy and to Australian Museums best practice. A compulsion by external agency to store Ancestral Remains in a repository and to be made available for research is a direct interference in the rights of ownership of the Traditional Owner Groups.*

*Should the community decide to rebury the remains, I am confident that the locations will be documented by the Department of the Environment to ensure their future protection. As a consequence, the location of the Remains will always be known to authorised people. In addition, the proposed earthworks will not be a significant impact on the World Heritage Area. The disturbance is likely to be far less than that caused by feral and native animals in a single night. Further, erosion mitigation measures associated with the reburials will most likely help reduce erosion and disturbance in localised areas.*

*In closing, the decision as to what should happen to the Ancestral Remains is one for the Traditional Owners only.*

*Michael Pickering, National Museum of Australia*

## Business

One submission (received in two parts) was received from a business. The business was from Mungo Lodge, a private tourism business adjacent to Mungo National Park. The submission included a petition signed by 200 people in support of reburial.

*Support for the permanent reburial of 108 Aboriginal ancestral remains including Mungo Man and Mungo Woman.*

Petition comments include themes of respect, resting in peace, common sense and traditional owners wishes.

## Members of Parliament

One submission was received from David Shoebridge MP (NSW) in favour of the aspirations of Aboriginal community and reburial but with 'appropriate cultural memorials'. Mr Shoebridge was opposed to 'unmarked graves'.

*Based on my discussions and consultations with Traditional Owners, Custodians, descendants and others, I firmly believe the proposal to rebury the ancestral remains in unmarked graves and without appropriate memorials goes against the wishes of many living and deceased Aboriginal Elders and will constitute a denial of long held Aboriginal aspirations which have been discussed, expressed and documented over many years. It would also represent an unfathomable loss for all of humanity...I strongly urge you to work to fulfill the long-held aspirations of the Aboriginal community, including the Barkindji/Paakantji, Mutthi Mutthi and Ngiyampaa peoples, for the respectful management of these precious remains, including the establishment of a Keeping Place and associated memorials and infrastructure, in line with their clearly articulated three-phase plan.*

David Shoebridge MP

## Heritage Committees or Organisations

Three submissions were received from heritage committees. All submissions were supportive of the wishes of the Aboriginal community and two submissions were supportive of the proposed reburial (the remaining submission did not say either way).

*A decision not to provide for reburial would be contrary to the express wishes of Willandra's Aboriginal representative body... A keeping place is not part of the referral by NSW Government under consideration by the EPBC Act and therefore should not be further considered. A keeping place is culturally inappropriate, is not 3TTGs accepted cultural practice and should not be supported.*

Australian World Heritage Advisory Committee

*The Willandra Lakes Region World Heritage Advisory Committee strongly advises that the Willandra Ancestral remains be reburied – it's the Lore and it's the Law. The AAG is the duly elected body of Willandra's Aboriginal community. The AAG unanimously agreed that it is their cultural practice to rebury their Ancestral remains. This was made abundantly and unequivocally clear when the AAG passed the following resolution on 6 Nov 2018: "In exercising our inalienable rights and as Traditional Owners the Willandra Lakes Region World Heritage Area Aboriginal Advisory Group as duly elected representatives of the 3TTGs unanimously resolves to rebury the Willandra Ancestral Remains collection." The EPBC Act gives clear direction that the AAG is the primary source of information on the management of their Willandra Ancestral remains Any final EPBC Act decision must be in accord with the Act, in this case, the express wishes of the elected Aboriginal body representing the Aboriginal people of Willandra – the AAG.*

Willandra Lakes Region World Heritage Advisory Committee

*Australia ICOMOS reiterates the critical importance of recognising the right of Australia's Indigenous people to speak for Indigenous heritage, and in particular for any decision to be based on the free, prior and informed consent of the Indigenous traditional custodians as provided for under the UNDRIP 2007. Indigenous community consent also needs to be based on open and transparent discussion, on the inclusivity of those members with a right to speak on this matter (as determined by them), and on a clear understanding of the various views and options, which must be genuine options, and the implications of these.*

*Australia ICOMOS also notes that there may be additional perspectives on this matter held by other cultural groups, hence that there is also need for further perspectives to be heard and considered as per the Australia ICOMOS 1998 Code on the Ethics of Co-existence in Conserving Significant Places. We further note that the current consultation provides an opportunity for this. There is also a need under the Code on the Ethics of Co-existence to allow for evolving views within cultural groups, to ensure each cultural group has access to pertinent information, and that there is an exchange of information among groups.*

*In relation to Keeping Places, Australia ICOMOS notes that these are a widely accepted solution to the long-term preservation of ex-situ and repatriated Indigenous heritage objects. This is an option that should be available for the WLR Traditional Owners to consider, although it is ultimately their choice as to whether they wish to have a Keeping Place, the nature of the Keeping Place and the use of the Keeping Place. We note that Keeping Places may be used for a range of types of Indigenous heritage, have different storage approaches and provide for different levels of access and presentation. In this context a Keeping Place, if desired, can provide for the conservation of a range of cultural objects, not just ancestral remains, repatriated from collections from museums and other organisations in Australia and internationally.*

*It is important in this discussion to bear in mind that World Heritage properties are places of internationally accepted Outstanding Universal Value, and as such they require the highest levels of management and protection. In view of this, it is important that the government:*

- commit to a best practice approach to reburial and, if desired, other forms of conservation, including if this is a Keeping Place for storage and/or commemoration or presentation of heritage objects related to the WLR; and*
- also commit to provide adequate and timely funding for development and ongoing conservation needs.*

*In making this comment, we note that Australia ICOMOS expressed concerns about the inadequacy of the level of resourcing for the Mungo Keeping Place in our 2017 submission, with examples being insufficient climate control and a lack of secure cabinets. If a Keeping Place is a potential option, it is important that the government commit to practical and timely support to ensure that this is a genuine option.*

*Australia International Council on Monuments and Sites (ICOMOS)*



## Other Organisations

Four submissions were received from other organisations. Two submissions were supportive of the wishes of the Aboriginal community, three were supportive of the proposed reburial (however one was opposed to 'secret and unmarked graves') and one was not supportive of proposed reburial.

*The proposal to rebury these remains in secret locations fails to honour these ancestors. Secret reburial is not in accord with long-held aspirations of Aboriginal people for an education and cultural centre, a desire still held by some members of the Aboriginal Advisory Group. Returning these sacred remains to the ground in a known and secure location would enable their overdue reburial to proceed without delay, pending the construction of an agreed keeping place.*

*Social Justice Group, St Joan of Arc Catholic Parish*

*The AAG was established to provide advice on all Cultural Heritage matters within the Willandra Lakes Region and Mungo National Park. They are the only constituted group who provide advice on this matter. Our understanding is that the three Tribal groups have discussed with community and families the option of a keeping place for the 108 Aboriginal Ancestral Remains (including Mungo Man and Mungo Woman). They have discussed this as an option many times over the past 40 years and more recently, in 2018, the AAG unanimously resolved to rebury the Willandra Ancestral Remains collection in the Willandra Lakes Region World Heritage Area. With communities support, the AAG does not support a Keeping place and have clearly and unanimously decided to rebury the Ancestral Remains.*

*We strongly urge the State Government to respect this position and follow the wishes of the TTGs and rebury the Willandra Ancestral Remains Collection in the Willandra Lakes Region World Heritage Area. The Australian Government on behalf of NSW is a signatory to the United Nations Declaration on the Rights of Indigenous Peoples. Article 18 states: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.*

*Blue Mountains People for Reconciliation*

*The issue of Mungo Man is an opportunity to begin to redress the entrenched injustices in our dealings with our First Nations people, as requested last year by Senior Australian of the Year, Miriam-Rose Ungunmerr. Please show that you have learned from the shameful experience of Rio Tinto's destruction of Juukan Gorge. Please show, by responding in action, that you have listened to those who respectfully request that Mungo Man and*

*Mungo Lady be returned to their own country in a culturally respectful manner with a culturally appropriate memorial.*

*Carmelite Nuns*

*In response to the R.E.F calling for anonymous and unmarked reburial there has been a public outcry, focused on a number of key areas.*

- 1. Destruction of Heritage of Outstanding Universal Heritage.*
- 2. Denial of long-held and well documented Aboriginal aspirations for Keeping Place/Memorial/Cultural-Education Center.*
- 3. Serious security concerns for iconic human remains of Mungo Man and Mungo Lady.*
- 4. Denial to future generations a place of pilgrimage, into this great Australian story.*
- 5. Scientific concerns about loss of access to the remains for future generations.*

*Great numbers of the community are united in calling for an appropriate resting place for Mungo Man, Mungo Lady and the other human remains. Resources must be allocated appropriately to this process, once and for all.*

*Unity Earth*

## Individuals

119 submissions were received from individuals.

**74.8% (89 out of 119) of submissions from individuals indicated their support for the wishes of the Aboriginal community, one was opposed to the wishes of the Aboriginal community and the remaining 24.4% (29 out of 119) of submissions did not indicate either way.**

*The reburial of these Traditional Owners must respect and follow the wishes and customs of the Willandra Lakes area and people. The wishes of the Traditional Owners are paramount at all stages with management of Mungo Lady and Mungo Man. The control of the remains is no longer at the call and whim of the NSW government.*

*Jennifer Jenkins-Flint*

*Please listen to TOs and Elders and follow the proposed plan for burial of Mungo Man and Mungo Lady. A proper Keeping Place must be resourced rather than the currently planned secret, unmarked grave.*

*Abigail Rose*

*I support that the remains known as Mungo Man and Mungo Lady be interred with the greatest respect and in a place and way that their descendants determine to be culturally appropriate.*

*Joanne Campbell*

42.9% (51 out of 119) of submissions from individuals indicated their support for reburial (14 of these also supported reburial and a keeping place).

*Please allow the remains found in the Willandra Lakes Region World Heritage Area to be reburied as is fitting for the remains of any person without allowing them to be further studied and desecrated according to the customs of their peoples.*

*Joan Childs*

*We support the wishes of the three Aboriginal tribes who wish the remains of their people to be laid to rest in a secret place and not disturbed again. I am surprised we are being asked - it's their call to make. We support that the wishes of Aboriginal people be implemented and that Mungo Man and Woman be (finally) left in peace. The Aboriginal people deserve this respect - to do otherwise continues to add to the abuses of the past. I would be distressed if the remains of my ancestors were treated in a way contrary to my beliefs and/or wishes.*

*Michael & Karen O'Brien*

*As a documentary filmmaker who has been working for the past 10yrs with TO's of Willandra Lakes Region and 3TTG advisory body I have recorded oral histories on the intergenerational trauma caused by ongoing 40yr fight to have the Willandra ancestral remains returned and reburied. I respect and support the decision of reburial of all ancestral remains as the consistent majority wish of these communities and with respect to cultural lore and custom.*

*Vera Hong*

23.5% (28 out of 119) of submissions from individuals were opposed to reburial (20 of these also indicated their support for the wishes of the Aboriginal community). 26 of the submissions from individuals who opposed to reburial also indicated support for a keeping place as an alternative to reburial.

*Not all the ancient remains should necessarily be treated the same way and to my mind, reburial would not be inappropriate for a great many of them, with possibly some small number continuing to be made available under Elder supervision for scientific research purposes.*

*Michael Ockwell*

*I am writing to let you know that I, along with many other citizens of this amazing country, do not agree with your plan for a secret, unmarked reburial of Mungo Man and Mungo Lady.*

*Christopher Brincat*

*Please support the wishes of the Aboriginal people in their wish for an appropriate memorial and keeping place for Mungo Man and Mungo Lady. Do not go ahead with plans for a secret unmarked reburial.*

*Coral Johnson*

**11% (13 out of 119) of submissions from individuals were opposed to a keeping place, all these individuals indicated their support for the proposed reburial.**

*I believe it is imperative that the scientific community now step back and acknowledge that the past 40 years of unrestrained access to indigenous human remains was a bestowed privilege, not a rolling contract or an assumed surety. It is now time for all interested people outside of the traditional custodian circle to support the soil based repatriation of the remains as opposed to an artificial keeping place option allowing undefined future research access to the skeletal remains, and the irreversible damage to bone material that unavoidably comes with a significant percentage of the testing procedures necessary for such research.*

*Emma Morgan*

*Over forty years now Mungo Man and Mungo Lady have been out of there resting place, they don't need to be studied anymore, over the past forty years there has been a lot of elders from the Mutthi Mutthi Barkindji Ngyiampaa people that have fort for the return of Mungo Man and Lady Mungo for reburial and have sadly passed and have left with unfinished business I don't want the next generation or future generations of elders to have to go through this, our identity gives us the write to reburial of our ancestors.*

*Tanya Charles*

*The stalling and delays have gone on too long and many Elders have passed waiting for their people to be reburied on Country. Living descendants must have closure - it is the only decent human response. Let them rest in peace once again and a new chapter for Willandra can begin.*

*Craig Bender*

**45.4% (54 out of 119) of submissions from individuals indicated support for a keeping place.**

*As the grandmother of children with Aboriginal heritage and an Australian who respects our history, I would like to add my voice for you to properly resource appropriate memorials and a Keeping Place for Mungo Man and Mungo Woman.*

*Sally Walsh*

*I am writing to state my support for a "proper Keeping Place" in fulfilment of decades-long Aboriginal wishes in regard to the 108 ancestral remains including "Mungo Man" and "Mungo Woman". After all the pain experienced by Aboriginal peoples in regard to the removal of their deceased ancestors to other countries, for scientific study, it is the very least we can do now to be respectful of Aboriginal wishes and look after their remains as they would wish them to be looked after.*

*Katrina Stomann*

*Mungo Man and Mungo Woman are iconic figures of outstanding significance that speak to all humanity. Future scientific opportunity should not be lost. The Keeping Place would provide employment, enhance tourism and generate benefits for Lake Mungo and the wider region. Traditional Owners may also regret their decision to reburial and the loss of further understanding of their culture.*

*Kylie Winkworth*

**33.6% (40 out of 119) submissions from individuals did not support or oppose reburial. 30 of these submissions supported the wishes of the Aboriginal community.**

*Please respect the wishes of people who have a genuine relationship with the land and the spirit of the land when dealing with Mungo Man and Mungo Woman. Commercial interest and 'control' measures by authorities should not be considerations when dealing with these special icons. Please be considerate to just how special these discoveries really are.*

*Des Steedman*

*I urge you to listen carefully and completely to the wishes and recommendations of ALL the relevant Traditional Owners involved. These remains are theirs to manage. No one else's.*

*Hilary Furlong*

*I am writing to voice my concern regarding the secrecy pertaining to the remains of Mungo Man and Mungo Lady. Please be respectful of the wishes of Indigenous Peoples and their customs. They alone have claim to the remains of their ancestors.*

*Janelle Henry*

### 4.3 Submission Themes

Key issues and comments from the 162 submissions were assigned themes for consideration. Issue themes were created to reflect the nature of the issues raised. The number of comments or concerns by theme are listed in Table 4 below. Some submissions raised multiple comments or concerns. Responses against each theme are provided in Table 5 in Section 5.

Responses to themes and issues that are outside the scope of the proposed action, as outlined in EPBC referral, are provided in Table 6 in Section 5.

**Table 4: Number of instances a theme was raised in submissions**

No.	Theme	Number of Submissions that Raised Theme
1	Aboriginal Community Wishes	118
2	Reburial	55
3	Cultural Safety	5
4	Security	6
5	Erosion	5
6	Accessibility for Science/Research	47
7	Consultation	11
8	Burial Ceremony	1
9	Burial Methodology	2
10	Secrecy	48
11	Unmarked Graves	49
12	Impacts to OUV	22
13	Human Rights/Law/Policy	18
14	Memorial/Monument	30
15	Reputational Risk	1
16	Keeping Place	100
17	Aboriginal Advisory Group (AAG)	3
18	Environment	1



## 5. Response to Submissions

**Table 5: Heritage NSW responses to issues raised by the submissions**

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
<b>1</b>	<b>Aboriginal Community Wishes</b>	<b>1 issue, 118 submissions</b>	
1a	Repatriation/management in accordance with or respect for the wishes of the AAG/Traditional Owners/Elders/Descendants/Aboriginal Community.	3, 5, 6, 8-13, 15, 17-23, 25, 28-33, 36, 38, 40-45, 49, 50, 53, 55, 57-60, 64, 66-69, 71, 72, 75-92, 94-97, 99-101, 103, 104, 107, 110, 112, 114-116, 118-121, 123-127, 130-133, 135-142, 144-147, 149-161, 163	<p>The views of the AAG, native title holders and the wider Aboriginal Community have been adequately assessed in the referral.</p> <p>The AAG is a community elected peak Aboriginal consultative and advisory body for the Willandra Lakes Region World Heritage property. The AAG represents Barkindji/Paakantji, Mutthi Mutthi and Ngiyampaa peoples and is also part of the Willandra Lakes Region World Heritage Area Advisory Committee. The AAG provides advice to NSW government on Aboriginal Cultural Heritage matters within the World Heritage boundaries. It can also be consulted on matters within Mungo National Park.</p> <p>The proposed action arose from a motion of the Willandra AAG in 2018 and is supported by the Barkandji Native Title Group Aboriginal Corporation - Native Title Group Aboriginal Corporation Registered Native Title Body Corporate (RNTBC), the native title holders for the surrounding region.</p> <p>The referral has described the development of the proposal and the consultation that has taken place in Section 8.9.</p> <p><b>No amendments required.</b></p>
<b>2</b>	<b>Reburial</b>	<b>6 issues, 55 submissions</b>	
2a	Remains will be destroyed by reburial.	4, 7, 49, 51, 52, 125, 162	The method and conduct of the reburials are issues that are not directly relevant to a matter of national environmental significance protected under the EPBC Act.

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>The aim of reburial of Aboriginal Ancestors is not necessarily preservation. The AAG have made the decision to rebury the Ancestors in the landscape where they were originally laid to rest in accordance with Aboriginal traditions where they will be subject to natural taphonomic processes.</p> <p>The proposed action arose from a motion of the Willandra AAG</p> <p><b>No amendments required.</b></p>
2b	Reburial must be a permanent and traditional Aboriginal reburial e.g. into the ground from where they came from.	8, 10, 13-15, 17, 18, 20-22, 27, 28, 33, 36, 38, 40, 44, 63, 75, 83, 90, 96, 97, 103, 104, 110, 111, 116, 119, 121-123, 126, 128, 129, 133, 136-138, 145, 148, 150, 154-156, 159, 161	<p>The method and conduct of the reburials are issues that are not directly relevant to a matter of national environmental significance protected under the EPBC Act.</p> <p>The referral described the location, area of impact, and soil return of each burial. This will involve reburial into the ground from where they came from, or in a nearby area. The ceremonial and traditional elements of the burials have not been described in the referral and will be planned and implemented by the AAG at a later time.</p> <p>Refer to Sections 1 and 4 of the EPBC referral.</p> <p><b>No amendments required.</b></p>
2c	Reburial shouldn't be a controlled action as the practice of burial has existed in the area for at least 42,000 years and prior to the EPBC Act.	44	<p>The Minister for the Environment decided that the proposed action is a controlled action under the EPBC Act and determined that the project will require assessment and approval under the EPBC Act before it can proceed.</p> <p>The Minister also decided that the proposed action be assessed by preliminary documentation under section 95(1) of the EPBC Act following further public consultation.</p> <p><b>No amendments required.</b></p>
2d	Reburial is a controlled action.	106	<p>See response to 2c.</p> <p><b>No amendments required.</b></p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
2e	Reburial shouldn't occur until there is unanimous agreement by the Aboriginal community.	115	<p>A diverse range of views have been put forward by the Aboriginal community as outlined in Table 3, and a single unanimous agreement on the future of the Willandra ancestors has not been presented and is unlikely to occur.</p> <p>The origins of the proposed action are based in Aboriginal community aspirations and recognised committee and representative bodies. The proposed action arose from a motion of the Willandra AAG in 2018 and has been supported by the Barkandji Native Title Group Aboriginal Corporation - Native Title Group Aboriginal Corporation Registered Native Title Body Corporate (RNTBC), the native title holders for the surrounding region.</p> <p>See also response to 1a, 12a.</p> <p><b>No amendments required.</b></p>
2f	Reburial will contribute to cultural healing/is an opportunity for reconciliation/self-determination.	126, 145	<p>There are many reasons why Ancestral Remains should be repatriated and or reburied. The preamble to the <i>Australian Government Policy on Indigenous Repatriation</i> that 'repatriation [of Ancestral Remains and secret/sacred objects to their communities of origin] helps promote healing and reconciliation for Aboriginal and Torres Strait Islander peoples' (Department of Communications and the Arts 2016).</p> <p><b>No amendments required.</b></p>
<b>3</b>	<b>Cultural Safety</b>	<b>1 issue, 5 submissions</b>	
3a	Delay in reburial is causing cultural harm/continuing intergenerational trauma/soul sickness.	85, 123, 132, 137, 138	<p>The NSW Government acknowledges the distress that the delay in reburial has and is causing the Aboriginal community.</p> <p>See response to 2f.</p> <p><b>No amendments required.</b></p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
4	<b>Security</b>	<b>2 issues, 6 submissions</b>	
4a	Vandalism, theft.	2, 41, 94, 125	<p>The EPBC referral includes post burial security mitigation measures (Section 4) and these are expanded on in Attachment A REF-Part1 (Section 6.2) and in Attachment A REF-Part4 Appendix 7 (Section 11.1). These sections cover Reburial, Post Reburial Remediation, Post Reburial Security, and Long-Term Management.</p> <p>In response to the submissions received, the following comments are provided:</p> <ul style="list-style-type: none"> <li>• Vandalism and theft would be more likely if the burial sites are marked in some way. The mitigation measures are intended to obscure and blend the burial sites into the landscape, so that no visible indicators remain long term.</li> <li>• The burial sites will be unmarked in accordance with the wishes of the AAG. It is unlikely that theft or vandalism will occur as it will be difficult to locate the burial sites in the landscape without precise location information.</li> <li>• Information about the exact locations of the burial sites will only be known/available to the AAG, NPWS, Heritage NSW. This information will only be provided to others at the discretion of the AAG.</li> <li>• A scheduled monitoring program will be implemented. Each location will be monitored at four monthly intervals in years one and two following the reburials. After year two it is anticipated that the reburial locations will be revegetated and will not be visible. Regular scheduled monitoring will then change to yearly monitoring for two years.</li> </ul>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
4b	Concerns about security of reburial sites.	41, 74, 106, 125	<ul style="list-style-type: none"> <li data-bbox="1227 368 2141 472">• If unexpected change is observed at any location during monitoring e.g. erosion, disturbance or visitation, appropriate site conservation or access constraint and monitoring will be implemented.</li> </ul> <p data-bbox="1182 488 2141 555"><b>The additional mitigation measures above will be carried out as part of the proposed action. See Recommendations in Section 6.</b></p> <p data-bbox="1182 579 2141 719">Information about the precise locations of the reburial sites will be recorded to allow monitoring and protection of the sites in the long term. Access to this information will be limited for security purposes in accordance with the wishes of the AAG.</p> <p data-bbox="1182 738 2141 1254">Repatriation and reburial of ancestral Aboriginal remains, and other cultural materials has been successfully undertaken in NSW since the 1980s and is currently guided by clear policies (Office of Environment &amp; Heritage 2018). Some 800 Aboriginal ancestors remains, taken by George Murray Black burials from many locations along the Murray and Riverina (McWilliams 2016), were returned to south west NSW in the late 1980s and early 1990s. This included very large, ancient and scientifically significant collections of late Pleistocene ancestral remains such as Coobool Creek (Brown 1989), Lake Benanee, and Lake Victoria (Pardoe 1988). These ancestors were successfully and securely returned to country between 1989 and 2016 in various land tenures including freehold, leasehold and government ownership. These reburial locations are not marked, and their locations are not widely known. This method has proven successful in providing safe and secure reburials. A similar method and approach is planned for the Willandra reburials.</p> <p data-bbox="1182 1273 1420 1302">See response to 4a.</p> <p data-bbox="1182 1321 1509 1345"><b>No amendments required.</b></p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
<b>5</b>	<b>Erosion</b>	<b>6 issues, 5 submissions</b>	
5a	Proposed erosion mitigation is sufficient.	5	<b>No amendments required.</b>
5b	Concerns about remains eroding/erosion of <i>new</i> emerging remains.	14, 50	The identification of additional remains eroding from the landscape in the WLR will be managed on a case by case basic by NPWS and Heritage NSW (where required) in accordance with the wishes of the AAG. This is outside the scope of the EPBC referral and the proposed action. <b>No amendments required.</b>
5c	Geomorphology assessment should be undertaken to confirm preservation capabilities of the soil at burial depth.	41	The EPBC referral includes details on the burial location selection (Section 4) and these are expanded on in Attachment A REF-Part1 (Section 6.2), and in Attachment A REF-Part4 Appendix 7 (Section 11.1). At sites where the soil is sandy throughout the profile, reburials will be at a greater depth than sites with finer soil texture. See response to 2a. <b>No amendments required.</b>
5d	Current proposal is inadequate to address possible erosion.	41	The EPBC referral took account of the soil erosion potential and the selected reburial locations are in stable landscape areas. As discussed in Section 3.2 of the EPBC referral, it was observed during the reburial site assessments that some areas with more impermeable soils have suffered severe water erosion including eroded gullies running downslope possibly caused by vehicle tracks or stock routes. The EPBC referral includes several erosion mitigation measures (Section 4) including:



Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
5e	Concerns about pest animal management.	41, 125	<ul style="list-style-type: none"> <li>• Reburial sites were selected to be close to historic records of the find locations of the remains (where records existed) but avoided unstable land surfaces.</li> <li>• Selection of the reburial sites was done on foot and ensured that each reburial location was on bare or weedy ground, avoided established shrubs and outside dripline of trees, avoided areas of severe wind or water erosion and avoided unstable land surfaces.</li> <li>• The upper fill material in the hole will be well compacted to avoid soil subsidence and thus avoid erosion; special care will be taken during compaction to avoid damaging any unexpected Aboriginal objects or Aboriginal Ancestors below.</li> <li>• At sites where the soil is sandy throughout the profile, reburials will be at a greater depth than sites with finer soil texture.</li> <li>• Topsoil and surface mulch/seed will be saved prior to excavation of the reburial hole, ensuring that these resources are not cross contaminated with subsoil. Topsoil will be respread over the disturbed area after the hole is refilled lightly raked and the stored organic matter spread on the raked area to assist in natural regeneration.</li> <li>• In addition to these general mitigation measures, 26 Site Specific Mitigation Measures have been identified for each location (see Attachment A REF-Part4 Appendix 7 (Section 11.2).</li> </ul> <p><b>The additional mitigation measures above will be carried out as part of the proposed action. See Recommendations in Section 6.</b></p> <p>The mitigation measures proposed in the EPBC referral will appropriately mitigate erosion to the extent required.</p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>As set out in the Section 4 of the referral, the reburial sites will not be located within 10 metres of rabbit warrens as these could become unstable due to soil erosion or further burrowing.</p> <p>NPWS actively manage pest plants and animals in Mungo National Park and the pastoral lease holders manage pest animals on the Western Land Leases.</p> <p>See also response to 5b.</p> <p><b>No amendments required.</b></p>
5f	Potential erosion of reburial sites on private property (Western Land Leases) from increased stock movements.	41	<p>The mitigation measures proposed in the EPBC referral would appropriately mitigate erosion to the extent required.</p> <p>See response to 5b, 5d and 5e.</p> <p><b>No amendments required.</b></p>
<b>6</b>	<b>Accessibility for Science/Research</b>	<b>8 issues, 47 submissions</b>	
6a	Remains should be accessible for future/further research/future generations.	7, 14, 16, 46, 47, 48, 49, 50, 51, 52, 74, 85, 93, 98, 115, 125, 130, 131, 134, 162, 163	<p>While acknowledging their scientific value, the AAG have made the decision to exercise their cultural rights, specifically that the 108 Aboriginal Ancestors will no longer be the subject of research and to carry out cultural practice and rebury the ancestors.</p> <p>The AAG have a demonstrated record of support for research and study in the Willandra. Since December 2015, a third of their time has been spent pursuing and supporting research priorities for the Willandra. The AAG have considered more than 111 agenda items directly related to research projects in the Willandra. All but one of those research projects considered were approved.</p> <p>Future/further opportunities for research, including DNA and dating research, still exist in the Willandra (with both newly identified and known individuals), however these will be carried out with the approval of the AAG and in accordance with the</p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>Willandra Lakes Region Aboriginal Advisory Group's <i>Research Code of Practice</i> (2021) (see Attachment L) and any relevant local, state or commonwealth approvals.</p> <p>See also response to 1a.</p> <p><b>No amendments required.</b></p>
6b	Possibility of gathering new information with improved DNA/dating techniques.	1, 4, 50, 51, 93, 115, 125, 163	<p>With the support of the AAG, the Willandra Aboriginal Ancestors have provided scientific information to various academics and scientists over the last 40 years. The AAG have also established a <i>Research Code of Practice</i> (2021) to facilitate culturally appropriate research in the WLR. The former Leaghur Homestead, now called the Willandra Research and Learning Centre, has been established within Mungo National Park in collaboration with the AAG. Stage 1 of the project provides the adaptively reused homestead which will provide spaces for AAG and Advisory Committee meetings together with space for researchers and university students to undertake clean research activities and meet informally with the AAG and other community members to talk, learn and share knowledge about the Willandra.</p> <p>The loss of potential further scientific information will be mitigated by the following additional measures that have been approved and endorsed by the AAG:</p> <ul style="list-style-type: none"> <li>• 3D scanning and photogrammetry of selective individual Ancestors will take place under the direction of the AAG prior to reburial. The individual ancestors have been prioritised with the assistance of scientists who have previously studied them. The AAG will be the owners of this data.</li> <li>• An ancient DNA test is to be undertaken prior to the reburial. This sample is to be taken from Mungo Man.</li> <li>• A sample for radiocarbon dating will be taken from the individual known as WLH4.</li> </ul>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<ul style="list-style-type: none"> <li>Future/further opportunities for research, including DNA and dating research, still exist in the Willandra (with both newly identified and known individuals). These may be carried out with the approval of the AAG and in accordance with the AAG's <i>Research Code of Practice</i> (2021) and any relevant local, state or commonwealth approvals.</li> </ul> <p>See also response to 6a.</p> <p><b>The additional mitigation measures above will be carried out as part of the proposed action. See Recommendations in Section 6.</b></p>
6c	Remains have been studied enough/should not be retrieved or be available for future/further research e.g. not culturally appropriate.	8, 9, 10, 13, 19, 36, 44, 59, 66, 78, 103, 123, 133, 137, 138, 148, 159	See response to 6a. <b>No amendments required.</b>
6d	Ongoing research should be culturally appropriate and lead/approved by Traditional Owners/in accordance with the AAG's <i>Research Code of Practice</i> (2021).	11, 13, 28, 41, 50, 51, 85, 115, 138, 159, 162	See response to 6a. <b>No amendments required.</b>
6e	Science does not/should not take priority over TOs ethics/legal rights and cultural responsibilities/obligations.	25, 28, 44, 119, 123, 138	See response to 6a. <b>No amendments required.</b>
6f	Does NSW government have intentions for future research and removal of remains from the Willandra Lakes?	41	The NSW Government has no plans to lead future research or to remove Ancestral Remains from the WLR. See the response to 6a. <b>No amendments required.</b>
6g	Further study is an opportunity for collaboration between scientists and TOs and reconciliation.	51	See response to 6a. <b>No amendments required.</b>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
6h	Scientists are coercing/targeting/dividing the Aboriginal community.	123	See response to 6a. <b>No amendments required.</b>
<b>7</b>	<b>Consultation</b>	<b>3 issues, 11 submissions</b>	
7a	More consultation required after reburial on memorial/other infrastructure.	12, 30, 34, 96 ,132	The development of further infrastructure or memorials in the WLR are not part of the EPBC referral or the proposed action. Community consultation on further infrastructure/memorials in the WLR could commence following the proposed reburial if that is the wish of the AAG and/or is proposed by other individuals or organisations. <b>No amendments required.</b>
7b	Additional consultation distressing to Traditional Owners.	6, 25, 44	The NSW Government acknowledges the distress that the delay in reburial has and is causing the Aboriginal community. See response to 2f. <b>No amendments required.</b>
7c	Some stakeholders (scientific and Aboriginal community) not consulted.	14, 41, 50, 132	Public notices concerning consultation for the referral were placed in national and regional media, and in local libraries and Wentworth and Buronga as required by DAWE. Details were also available on the Heritage NSW website. Some 220 individuals and organisations from a wide range of interest groups were also directly invited to comment on the EPBC referral in early November including the former Community Management Council (CMC); Technical and Scientific Advisory (TSAC) members; former Executive Officers; universities; museums; Willandra Advisory Committee; Willandra Aboriginal Advisory Group; Dareton and Balranald Local Aboriginal Land Councils; Aboriginal organisations; native title holders (Native Title Prescribed Body Corporate); Elders; Aboriginal community members; NPWS Regional Advisory Committee members; academics from universities and institutions in Australia; New Zealand and the United States.

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
8	<b>Burial ceremony</b>	<b>2 issues, 1 submission</b>	<p>In addition to the specific consultation undertaken for the referral (above), over several years in the lead up to the referral, a wide range of stakeholders had opportunity for input. In February 2015, the NSW government (NPWS &amp; Heritage NSW) held a repatriation forum to discuss the final resting place for the Willandra Ancestral Remains. This forum brought together a wide range of scientists and traditional custodians (Williams &amp; Associates 2015). In November 2016, a second forum was held and options for repatriation and reburial outlined (Williams &amp; Associates 2016). In April 2017, a third forum was held presenting options for repatriation (Williams &amp; Associates 2017).</p> <p>Further details of on consultation are included in Section 1.13 of the EPBC referral.</p> <p><b>No amendments required.</b></p>
8a	Attendance at burial ceremony should include people approved by 3TTGs not just AAG.	41	<p>The Barkindji/Paakantji, Mutthi Mutthi and Ngiyampaa peoples were previously represented by the 3TTG Council which was superseded by the AAG in 2015 as part of a restructure of the world heritage management. As a result, representation moved from informal membership to formally elected and appointed membership. The AAG is a community elected peak Aboriginal consultative and advisory body for the Willandra Lakes Region World Heritage property.</p> <p>The action will involve 108 burials across 26 different locations and will take several weeks to complete. There will not be a single burial ceremony, but multiple events. The method and attendance at the reburial ceremonies are issues that are not directly relevant to a matter of national environmental significance protected under the EPBC Act.</p>



Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>Attendance at the reburial ceremony will be at the discretion of AAG and the intent of the application is to hold a private, not public event to maintain site confidentiality.</p> <p><b>No amendments required.</b></p>
8b	NSW government staff undertaking the reburial should be women as per cultural protocols.	41	<p>Attendance at the reburial ceremony by NSW Government staff will be at the discretion of AAG.</p> <p>See response to 8a.</p> <p><b>No amendments required.</b></p>
<b>9</b>	<b>Burial Methodology</b>	<b>6 issues, 2 submissions</b>	
9a	Depth of graves is inadequate e.g. should be 6ft.	41, 42	<p>Section 1 of the EPBC referral states that the Aboriginal Ancestors will be reburied at a depth of 60cm. However, the general mitigation conditions (Section 4.1 of the EPBC referral) states that at sites where the soil is sandy, reburials should be at a greater depth than sites with finer soil texture. The reference to a depth of 60cm is a minimum, and in many instances will be significantly deeper. The locations where greater depth is required has been identified in the 26 Site Specific Mitigation Measures for each location (see Attachment A REF-Part4 Appendix 7 (Section 11.2).</p> <p>Grave depth at each reburial location will be determined on site by representatives of the AAG.</p> <p>See response to 5d.</p> <p><b>No amendments required.</b></p>
9b	Grave orientation, Mutthi Mutthi prefer east-west.	41	<p>Grave orientation will be determined on site by representatives of the AAG.</p> <p><b>No amendments required.</b></p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
9c	Remains to be lain in anatomical order in the ground.	41	The nature of how the Aboriginal Ancestors are to be lain in the ground will be determined on site by representatives of the AAG. <b>No amendments required.</b>
9d	Burial methodology should be approved by 3TTGs and address the Burra Charter.	41	See response to 8a. The burial methodology has been developed by and will further refined and implemented at discretion of the AAG. This approach does not contravene the Burra Charter. <b>No amendments required.</b>
9e	Elders from 3TTGs should assess each reburial site for suitability.	41	Representatives from Barkindji/Paakantji, Mutthi Mutthi and Ngiyampaa groups, as members of the AAG, participated in the initial site assessments for each reburial area. See response 8a. <b>No amendments required.</b>
9f	Concern about how cultural protocols be undertaken.	41	Cultural protocols will be undertaken in accordance with the wishes of the AAG. <b>No amendments required.</b>
<b>10</b>	<b>Secrecy</b>	<b>2 issues, 48 submissions</b>	
10a	Opposed to/concern about secret/anonymous grave sites.	7, 12, 16, 30, 34, 41, 47, 52, 57, 59, 61, 63, 64, 69, 73, 75, 77, 78, 83, 84, 87, 88, 92, 94, 96, 99, 100, 101, 102, 107, 108, 112, 113, 114, 115, 118, 124, 132, 133, 135,	Information about the locations of the reburial sites will be limited for security purposes in accordance with the wishes of the AAG. See response to 4a. <b>No amendments required.</b>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
		140, 142, 144, 146, 147, 149, 153	
10b	Concern for graves being lost or hidden.	2	Information about the exact locations of the burial sites will be known/available to the AAG, NPWS, Heritage NSW and others at the discretion of the AAG. The burial sites will be unmarked in accordance with the wishes of the AAG. See response to 4a. <b>No amendments required.</b>
<b>11</b>	<b>Unmarked Graves</b>	<b>1 issue, 49 submissions</b>	
11a	Graves should be marked/opposed to unmarked graves.	14, 30, 34, 39, 57, 59, 61, 63, 65, 67, 69, 70, 73, 74, 75, 78, 83, 84, 85, 87, 88, 90, 93, 94, 96, 99, 105, 106, 107, 109, 114, 118, 124, 125, 128, 129, 132, 133, 135, 140, 142, 144, 146, 149, 151, 153, 155, 156, 163	The burial sites will be unmarked in accordance with the wishes of the AAG. Vandalism and theft would be more likely if the burial sites are marked in some way. See response to 4a. <b>No amendments required.</b>
<b>12</b>	<b>Impacts to Outstanding Universal Value (OUV)</b>	<b>6 issues, 22 submissions</b>	
12a	Reburial would result in loss of Aboriginal cultural heritage.	1, 41, 49	The ancestral remains are of high significance as Aboriginal cultural heritage. Several submissions argue against (1; 41; 49; 85; 93) or for (145) the delay of reburial of Ancestral remains because reburial would mean a loss of cultural heritage for the Traditional Owners and their descendants.

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>Submission 41 from a Traditional Owner strongly disagrees with the proposal to rebury Mungo Man, Mungo Lady and Mungo Child because it is against the wishes of his ancestors, or the wider Aboriginal community.</p> <p>Conversely, several submissions argue that if it is the wish of the Traditional Owners to have the ancestral remains reburied then their wishes should be respected (5) and the reburial should go ahead in accordance with the decision of Willandra Aboriginal Advisory Group on 6 November 2018 (19; 28; 123; 159).</p> <p>In this regard, the principal framework within which the reburial of ancestral remains should be considered is the United Nations <i>Declaration on the Rights of Indigenous Peoples</i> (UNDRIP) (United Nations 2007) which upholds the right of Indigenous peoples to speak for Indigenous heritage and for any decision about their heritage to be based on the free, prior and informed consent of the Indigenous traditional custodians. UNDRIP principles underpin the <i>UNESCO Policy on Engaging with Indigenous Peoples</i> (UNESCO 2018) and have been endorsed by the World Heritage Committee.</p> <p>The World Heritage Convention's Operational Guidelines (Paragraphs 12 and 211d) recognise Indigenous peoples as stakeholders and rights-holders in the management and protection processes of World Heritage properties in line with a human rights based approach.</p> <p>It is important to note that, contrary to submission 49, precedents do exist for the reburial of ancestral remains in World Heritage properties at the request of Traditional Owners. These include reburials in Papahānaumokuākea (Hawaii, USA), Mapungubwe Cultural Landscape (South Africa) and Mesa Verde (USA) (see Attachment A REF-Part4, Appendix 8).</p> <p>The impacts of the proposed action will be offset by the mitigation measures in Section 4 of the EPBC referral. Additional mitigation measures in response to</p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>concerns about security, erosion and loss of scientific information have been developed in response to submissions received.</p> <p><b>The additional mitigation measures will be carried out as part of the proposed action. See Recommendations in Section 6.</b></p>
12b	Reburial would result in loss of scientific value.	1, 7, 14, 41, 49	<p>The international scientific significance of the ancestral remains, and in particular Mungo Man and Mungo Woman, is highlighted in submissions 1, 7, 14, 46, 49, 50, 93, 98, 125. For example:</p> <p><i>'The great antiquity of Mungo Lady and Mungo Man) (~41 ka), their in situ context, their demonstration of complex ritual burial practises and their fully modern morphology are all key components of their contribution to the story of human origins and dispersal, at both Australian and global scales' (Submission 98).</i></p> <p><i>'The Willandra ancestral remains represent the largest sample of early modern humans (Homo sapiens) in the world. They provide an unparalleled window into the origins and evolution of the earliest Australians' (Submission 49).</i></p> <p>Submissions 1, 7, 14, 49, 50, 93 and 98 oppose reburial on the grounds that further scientific analysis of the ancestral remains has the potential to generate important new information about the human past in Australia and globally. For example:</p> <p><i>'reburial of the Aboriginal Ancestral Remains would remove the possibility further scientific research on these remains utilising new techniques and able to answer hitherto unanswerable questions regarding the evolution of humankind, the habitation of Australia and vital history relating to Indigenous peoples' (Submission 7).</i></p> <p>It is not disputed that the ancestral remains have international scientific significance and that their scientific analysis, including dating, has generated information of global significance about human origins, the colonisation of Australia and the antiquity of burial practices. It is also agreed that reburial of the</p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>ancestral remains will have an impact on the scientific research potential of the ancestral remains. However, according to the impact assessment conducted by Extent (2019) (see Attachment A REF-Part4, Appendix 8) and in conformity with the Operational Guidelines to the World Heritage Convention, the international scientific significance of the ancestral remains and their scientific research potential are not directly relevant to the question of whether reburial will impact on the OUV of WLR.</p> <p>Arguments and evidence for this conclusion are detailed below (see also response to 12d) and summarised here as:</p> <ul style="list-style-type: none"> <li>• The OUV of the WLR, the inscribed property, is conveyed by attributes within the property and underpinned by the conditions of integrity and authenticity for the property as described in the Retrospective Statement of Outstanding Universal Value (RSoOUV). The ancestral remains are not referred to as attributes of OUV in the RSoOUV and not mentioned in the conditions of integrity or authenticity for the property.</li> <li>• The international scientific significance of Mungo Man and Mungo Woman was a catalyst for the development of the World Heritage listing. However, at the time of inscription - the point at which the World Heritage Committee agreed that the property has OUV, these ancestral remains had already been removed from the property.</li> <li>• Scientific analysis of the ancestral remains has the potential to further inform understanding of the cultural significance of the WLR but removing the opportunity for potential generation of new knowledge through reburial of the ancestral remains does not impact the OUV of the property.</li> </ul> <p>It is acknowledged that the proposed action will have an impact, though not significant, on the OUV. The impacts of the proposed action will be offset by the mitigation measures in Section 4 of the EPBC referral. Additional mitigation</p>



Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>measures in response to concerns about security, erosion and loss of scientific information have been developed in response to submissions received.</p> <p><b>The additional mitigation measures will be carried out as part of the proposed action. See Recommendations in Section 6.</b></p>
12c	Reburial would result in no significant impact on OUV.	5, 28, 123	<p>These submissions concluded that reburial would result in no significant impact to OUV.</p> <p>While Heritage NSW agrees with these submissions, see response to 12b.</p> <p><b>No amendments required.</b></p>
12d	Reburial will negatively impact/diminish OUV.	45, 49, 74, 75, 85, 93, 98, 106, 107, 109, 125, 162	<p>Submissions concluding that reburial will negatively impact on or diminish OUV are based on arguments that may be summarised as follows:</p> <ul style="list-style-type: none"> <li>• The discovery and international scientific significance of Mungo Man and Mungo Woman led to the development of a World Heritage Nomination for WLR (Submissions 1, 7, 14, 41, 45, 49, 50, 75, 125); and</li> <li>• The collection of ancestral remains in its entirety (159) or a part of the collection including Mungo Man and Mungo Woman (75, 98, 106, 107) are of OUV or are part of the OUV of the WLR.</li> </ul> <p>The Operational Guidelines to the World Heritage Convention and contemporary approaches to the evaluation of impacts to OUV provides the appropriate framework for assessing whether the reburial of the ancestral remains will have an impact on the OUV of the WLR. It is agreed that the archaeological discoveries of Mungo Man and Mungo Woman can be said to ‘underlie’ (7); to have led to (45); were a ‘catalyst’ for (14) and had a foundational role in inscription of WLR on the World Heritage List (1, 14). This is not disputed.</p> <p>Submission 14 quotes NSW Office of Environment &amp; Heritage (January 2019) as saying Mungo Lady and Mungo Man were fundamental in establishing the cultural heritage significance of the Willandra Lakes and that this recognition formed a key</p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>part of the justification for the nomination of the Willandra Lakes to the World Heritage list in 1981 (Australian Heritage Commission 1980). The findings of scientific and/or historical research are a common driver or catalyst for initial consideration of whether a place may be of potential OUV, and therefore for development of a World Heritage nomination for that place. The findings of scientific analysis of cultural material recovered/removed from a place may inform and support arguments for the cultural values of that place, but it is the place itself that is agreed to be of OUV by the World Heritage Committee at the time of inscription (Operational Guidelines Paragraphs 45 and 154), not the place as it may have been at some time in the past prior to removal of cultural material. The Willandra Lakes Region is inscribed on the World Heritage List, not the collection of ancestral remains recovered from the property.</p> <p>Several submissions (98, 106, 107) propose that the ancestral remains are of OUV or part of the OUV of the property and therefore their reburial would impact on or diminish the OUV; that the iconic WLH 1 (Mungo Lady) and WLH 3 (Mungo Man) clearly do have World Heritage OUV status (98); and/or that Mungo Lady and Mungo man provide distinct Outstanding Universal Value (107). Collections of movable cultural heritage, in this case ancestral human remains, are not of OUV as defined in the World Heritage Convention. The World Heritage Convention protects the OUV of <b>places</b> that are inscribed on the World Heritage List.</p> <p>The Operational Guidelines do not provide a specific definition for an attribute of OUV. However, guidance on developing nominations and assessments of impact to OUV in cultural properties describes attributes of OUV as holding or conveying OUV (ICOMOS 2010; 2011).</p> <p>Attributes include the physical elements of the property, and may include the relationships between physical elements, essence, meaning, and at times related</p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>processes, that need to be protected and managed in order to sustain OUV (ICOMOS 2010).</p> <p>Attributes of OUV are described in the SoOUV or RSoOUV for a World Heritage property.</p> <p>No SoOUV was required for the WLR when it was inscribed on the World Heritage List in 1981, and the 1981 nomination for Willandra Lakes does not identify attributes of OUV. However, the cultural values presented focus on the burials in the Mungo lunette that provide evidence of Homo sapiens in south eastern Australia before 30,000 years ago, and specifically the evidence for ritual burial practices provided by the 26,000-year-old cremation of Mungo Woman and the 30,000-year-old ochre burial of Mungo Man.</p> <p>The requirement for all World Heritage properties to have SoOUV or RSoOUV was introduced in 2005 to provide a key reference point for effective protection and management (see World Heritage Committee (2011) Operational Guidelines Paragraphs 51 &amp; 155). SoOUVs systematically describe the property, the attributes of OUV, the conditions of integrity and authenticity for the property and the protection and management of OUV. The SoOUV or RSoOUV is the baseline for assessing impact to OUV (ICOMOS 2011:1). The RSoOUV for WLR, adopted by the World Heritage Committee in 2013, therefore provides that baseline. The attributes of OUV described in the WLR RSoOUV include cultural deposits within the undisturbed stratigraphy that include various kinds of cultural material such as stone tools, grindstones, middens and trackways and burial sites. The ancestral remains that were removed from WLR between 1968 and the early 1980s are not described as attributes in the RSoOUV which makes reference only to the cremation site itself and that the property contains evidence of Homo sapiens sapiens in the area from nearly 50,000 years BP.</p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<p>The attributes of OUV in a property also provide the basis for assessing whether a property meets the conditions of integrity which is an essential component of OUV. To meet the conditions of integrity, all attributes necessary to express OUV are required to be within the property boundary (see World Heritage Committee (2011) Operational Guidelines Paragraph 88). The ancestral remains were removed from the WLR prior to inscription of the property on the World Heritage List.</p> <p>It is agreed that the Aboriginal Ancestors provided scientific evidence for understanding the scientific and cultural values of the WLR.</p> <p>According to an impact assessment of the proposed action on OUV of the WLR (Extent 2019; see Attachment A REF-Part4, Appendix 8), the reburial will return the 'attributes' to within the property boundary and therefore enhance the OUV of the WLR.</p> <p>The WLR RSoOUV's <i>Statement of Authenticity</i> clearly identifies the importance of Aboriginal peoples' connection to their cultural heritage and the maintenance of their connection through cultural practices (reburial):</p> <p><i>For the Traditional Tribal Groups (TTGs) that have an association with the area there has never been any doubt about the authenticity of the Willandra and any particular sites it contains. The TTGs have maintained their links with the land and continue to care for this important place and participate in its management as a World Heritage property. Aboriginal people of the Willandra take great pride in their cultural heritage and maintain their connection through modern day cultural, social and economic practices.</i></p> <p>The impacts of the proposed action will be offset by the mitigation measures in Section 8 of the EPBC referral (see also Attachment L: Willandra Lakes AAG (2021) <i>Research Code of Practice</i>). Research protocols have already been developed by the AAG, including principles such as:</p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			<ul style="list-style-type: none"> <li>• all research must be developed in partnership</li> <li>• no research project or question is to be developed on Aboriginal Ancestors without the AAG</li> <li>• no remains are to be off country or out of the ground for an indefinite period</li> <li>• a date must be set by which time remains are to be reburied.</li> </ul> <p><b>The additional mitigation measures will be carried out as part of the proposed action. See Recommendations in Section 6.</b></p>
12e	Reburial enhances/restores OUV.	19, 159	<p>Two submissions similarly suggest that the reburial of the ancestral remains would enhance or restore the OUV of WLR.</p> <p>The impacts of the proposed action will be offset by the mitigation measures in the EPBC referral. Additional mitigation measures in response to concerns about security, erosion and loss of scientific information have been developed in response to submissions received.</p> <p><b>The additional mitigation measures will be carried out as part of the proposed action. See Recommendations in Section 6.</b></p>
12f	The ancestor's remains were removed before it was World Heritage listed therefore reburial has no impact on the OUV.	123	<p>The Operational Guidelines and guidance on the preparation of nominations and management of cultural properties (World Heritage Committee 2011) are silent in regard to any relationship between the OUV of a World Heritage property and cultural material that has been removed from the property prior to inscription. However, properties are agreed by the World Heritage Committee to have OUV at the time of inscription, not as they may have been at some time in the past, prior to removal of cultural material from the property.</p> <p><b>No amendments required.</b></p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
<b>13</b>	<b>Human Rights/Law/Policy</b>	<b>9 issues, 18 submissions</b>	
13a	Extended consultation and option of keeping place were harmful or violated <i>United Nations Declaration on the Rights of Indigenous Peoples</i> (Articles 12, 18,19 & 31).	6	<p>The NSW Government acknowledges the distress that the delay in reburial has and is causing the Aboriginal community. Consultation about the EPBC referral has occurred in accordance with Commonwealth requirements.</p> <p>The proposed action (reburial in accordance with the wishes of the AAG) is in accordance with Articles 12.1 and 12.2, 18, 19 and 31 of the <i>United Nations Declaration on the Rights of Indigenous Peoples</i> (United Nations 2007).</p> <p>See response to 12a.</p> <p><b>No amendments required.</b></p>
13b	Reburial/management should be in accordance with <i>United Nations Declaration on the Rights of Indigenous Peoples</i> (Articles 18 and 19).	18, 19, 28, 43, 85, 123, 132, 138, 159	<p>The proposed action (reburial in accordance with the wishes of the AAG) is in accordance with Articles 18 and 19 of the <i>United Nations Declaration on the Rights of Indigenous Peoples</i> (United Nations 2007).</p> <p>See response to 12a.</p> <p><b>No amendments required.</b></p>
13c	Retrievable burial would have implications for recourse under the Commonwealth <i>Aboriginal and Torres Strait Islander Heritage Protection Amendment Act 1987</i> .	28	<p>This act amended the <i>Aboriginal and Torres Strait Islander Heritage Protection Act</i> (1984). This Act allows the Minister to make declarations following applications by Aboriginal people or organisations seeking the preservation or protection of a specified area from injury or desecration. The proposed action does not plan for retrievable burials to take place.</p> <p><b>No amendments required.</b></p>
13d	Retrievable burial is contrary to <i>Dhawura Ngilan: A Vision for Aboriginal and Torres Strait Islander Heritage in Australia</i> .	26, 28	<p>The proposed action of reburial (rather than retrievable storage) has been initiated by and is in accordance with the wishes of the AAG. The proposed action is in accordance with the key focus areas of <i>Dhawura Ngilan</i> (Heritage Chairs of</p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			Australia and New Zealand 2020) and the <i>Australian Government Policy on Indigenous Repatriation</i> (Department of Communications and the Arts 2016). <b>No amendments required.</b>
13e	Retrievable burial in defiance of AAG may constitute a misdemeanour at Common Law.	28	The proposed action does not plan for retrievable burials, and no action in defiance of the AAG is proposed. <b>No amendments required.</b>
13f	Different perspectives to be heard and considered as per the Australia ICOMOS <i>Code on the Ethics of Co-existence in Conserving Significant Places</i> (1998).	43	Extensive consultation has been carried out for the proposed action with several different views heard and considered in accordance with <i>Code on the Ethics of Co-existence in Conserving Significant Places</i> (Australia ICOMOS 1998). See also response to 7c. <b>No amendments required.</b>
13g	Management should be in accordance with the Intergenerational Equity Principle.	106, 107, 109, 130, 131	The proposed action has been initiated by and is in accordance with the wishes of the AAG. The proposed action will help to redress some of the cultural harm and intergenerational trauma that was caused by the past unauthorised removal of the Aboriginal Ancestors from the WLR and their original resting places. The safe return of the Ancestors will be an important and positive legacy for current and future generations.  The proposed action is not in conflict with the principle of Intergenerational Equity which articulates a 'concept of fairness among generations in the use and conservation of the environment and its natural resources' (Brown Weiss 1989). <b>No amendments required.</b>
13h	The decision to rebury made by the AAG needs to be respected by the NSW Government if it is to be ethical and consistent with <i>OCHRE (Opportunity, Choice, Healing, Responsibility,</i>	121	NSW Government is committing to fulfilling the wishes of the Aboriginal community, as represented by the AAG, with respect to the management of the Aboriginal Ancestors from WLR.

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
	<i>Empowerment): NSW Government Plan for Aboriginal affairs: education, employment &amp; accountability.</i>		The proposed action has been initiated by and is in accordance with the wishes of the AAG and is consistent with the NSW Government's <i>OCHRE</i> plan (Department of Aboriginal Affairs, NSW 2013), specifically Section 4 (Healing) and 5.3 (Local Decision Making). See also response to 1a. <b>No amendments required.</b>
13i	Consultation must be in accordance with the <i>UNESCO Policy on Engaging with Indigenous Peoples</i> .	132	Consultation has been carried out in accordance with <i>UNESCO Policy on Engaging with Indigenous Peoples</i> (UNESCO 2018). This policy is an internal UNESCO document to guide their staff and operations. It is acknowledged as best practice and while NSW are not obliged to follow this specific document, in practice our operations comply with the policy. Extensive consultation about the proposed action has occurred for the EPBC referral (in accordance with Commonwealth requirements) and about the management of the Aboriginal Ancestors over the last 40 years. See response to 12a. <b>No amendments required.</b>
13j	NSW government must commit to best practice approach to reburial and/or other forms of conservation and commit to adequate funding for ongoing conservation.	43	Heritage NSW is committed to a best practice approach to reburial of the Willandra Lakes Aboriginal Ancestors in accordance with State and Commonwealth policy (Office of Environment & Heritage NSW 2018). <b>No amendments required.</b>
<b>14</b>	<b>Monument/Memorial</b>	<b>1 issue, 30 submissions</b>	
14a	Memorial/monument/cenotaph to Ancestors and/or victims of colonial massacres should be erected.	12, 14, 29, 30, 34, 39, 55, 63, 66, 69, 70, 75, 79, 80, 85, 96, 99, 102,	The development of further infrastructure or memorials in the WLR are not part of the EPBC referral or the proposed action. Community consultation on further



Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
		106, 108, 109, 116, 118, 120, 132, 140, 142, 150, 153, 157	infrastructure/memorials in the WLR could commence following the proposed reburial if that is the wish of the AAG or other Aboriginal people or organisations. <b>No amendments required.</b>
<b>15</b>	<b>Reputational Risk</b>	<b>2 issues, 1 submission</b>	
15a	NSW Government must respect the decision of AAG to maintain public credibility.	44	See response to 13h. <b>No amendments required.</b>
15b	Ignoring community wishes runs contrary to all that has been achieved by way of reconciliation through recognition of the rights of Indigenous Australians to ownership and control of their heritage and culture over the past half-century.	44	See response to 2f and 15a. <b>No amendments required.</b>

**Table 6: Heritage NSW responses to issues raised by the submissions that are outside the scope of the proposed action**

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
<b>16</b>	<b>Keeping Place</b>	<b>9 issues, 100 submissions</b>	
16a	Retain Mungo Man and Mungo Woman and scientifically/culturally important individuals in a keeping place.	1, 7, 41, 42, 45, 46, 55, 66, 67, 69, 70, 73, 76, 79, 92, 94, 107, 110, 112, 114, 118, 120, 140, 142, 144, 147, 149, 153, 156, 160, 162, 163	<p>The development of a keeping place in the WLR does not form part of the proposed action in the EPBC referral.</p> <p>The referral has acknowledged the scientific significance of the Willandra ancestors (Section 2) and a history of discussions on a keeping place are acknowledged and outlined in Section 8 of the EPBC referral.</p> <p>While a range of submissions has supported the concept of a keeping place this view is not held by the AAG. A submission from the AAG in response to the EPBC referral stated that with their community's support, they do not support a keeping place.</p> <p><b>No amendments required.</b></p>
16b	Retain all/the remains in a keeping place.	4, 47, 48, 49, 50, 51, 52, 57, 59, 60, 61, 74, 78, 82, 83, 85, 86, 87, 88, 93, 95, 99, 100, 108, 115, 124, 125, 128, 135	<p>The development of a keeping place in the WLR does not form part of the proposed action in the EPBC referral. A submission from the AAG in response to the EPBC referral stated that with their community's support, they do not support a keeping place.</p> <p><b>No amendments required.</b></p>
16c	A keeping place is not culturally appropriate and/or not supported by AAG/Traditional Owners e.g. would cause further trauma.	6, 10, 13, 18, 19, 21, 25, 26, 28, 33, 40, 44, 123, 136, 137, 138, 159	<p>The development of a keeping place in the WLR does not form part of the proposed action in the EPBC referral. A submission from the AAG in response to the EPBC referral stated that with their community's support, they do not support a keeping place.</p> <p><b>No amendments required.</b></p>
16d	Support for education/research facility/cultural centre/tourism and economic/employment opportunities.	7, 16, 30, 41, 45, 46, 50, 52, 60, 65, 74, 75, 85, 93, 96, 98,	The development of further infrastructure in the WLR does not form part of the proposed action in the EPBC referral.

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
		106, 107, 109, 123, 125, 132, 133, 157, 162	<p>The visitor centre at Mungo National Park currently provides information and education for visitors.</p> <p>The former Leaghur Homestead, now called the Willandra Research and Learning Centre, has been established within Mungo National Park. Stage 1 of the project has adapted and reused the homestead and it will provide spaces for AAG and Advisory Committee meetings together with space for researchers and university students to undertake research activities and meet informally with the AAG and other community members to talk, learn and share knowledge about the Willandra. Community consultation on further infrastructure or other opportunities in the WLR could commence following the proposed reburial if that is the wish of the AAG.</p> <p><b>No amendments required.</b></p>
16e	A keeping place, if desired [by the Aboriginal community], can provide for the conservation of a range of cultural objects, not just ancestral remains, repatriated from collections from museums and other organisations but requires adequate resourcing.	43, 52	<p>See response to 16a.</p> <p><b>No amendments required.</b></p>
16f	A keeping place isn't financially feasible/unlikely to be funded and would be an unnecessary duplication of the recently announced National Resting Place in Canberra.	44, 136	<p>See response to 16a.</p> <p><b>No amendments required.</b></p>
16g	A keeping place should be placed under the care, control and management of the	45, 50, 51, 85, 115, 162	<p>See response to 16a.</p> <p><b>No amendments required.</b></p>

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
	Willandra Elders, or some other appropriate Willandra Aboriginal group.		
16h	Supports 'Three Phase Plan'	12, 24, 26, 30, 31, 34, 37, 39, 74, 85, 96, 107, 108, 113, 132, 133, 139, 146, 158	<p>This plan calls for reburial of Mungo Man and Mungo Woman with marked/known graves in the form of a burial mound and further consultation about a memorial/keeping place/cultural centre/education centre and the funding of any such infrastructure. The online petition was signed by over 17,000 people, however the comments on the petition were centred on the need for reburial and/or the management of the remains as per the wishes of the Aboriginal community.</p> <p>The proposed action allows for the reburial of the 108 Aboriginal Ancestors from WLR, including Mungo Man and Mungo Woman, as called for in the petition.</p> <p>The burial sites will be unmarked in accordance with the wishes of the AAG. Vandalism and theft would be more likely if the burial sites are marked in some way.</p> <p>Burial within/under or in association with a burial mound is not a traditional method of burial for the Barkindji/Paakantji, Mutthi Mutthi and Ngiyampaa peoples.</p> <p>The development of further infrastructure or memorials in the WLR are not part of the EPBC referral or the proposed action. Community consultation on further infrastructure/memorials in the WLR could commence following the proposed reburial if that is the wish of the AAG or other Aboriginal people or organisations.</p> <p>The development of a keeping place in the WLR does not form part of the proposed action in the EPBC referral. A submission from the AAG in response to the EPBC referral stated that with their community's support, they do not support a keeping place. See responses to 1a, 4a, 11a, 14a, 16a and 16d regarding the wishes of the Aboriginal community, security, marked graves, memorials and a keeping place.</p> <p><b>No amendments required.</b></p>
16i	A keeping place addresses concerns of leaseholders about constraints on their	98	Lease holders have provided written support and permission for the proposed reburial (see EPBC referral Attachment A (REF), Appendix 10, Section 12.6).

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
	management options caused by World Heritage status.		See also response to 16a. <b>No amendments required.</b>
<b>17</b>	<b>Aboriginal Advisory Group</b>	<b>2 issues, 3 submissions</b>	
17a	NSW should apply to the Elders Council of each Traditional Tribal Group (Barkindji/Paakantji, Nyiampaar, Mutthi Mutthi) to have the AAG sanctioned and AAG 'elected' representatives approved to speak on behalf of the tribe. Ideally, each individual should be approved to stand prior to the election taking place. Self-appointed nominees should not be allowed to stand.	41	The AAG is a community elected peak Aboriginal consultative and advisory body for the Willandra Lakes Region World Heritage property and represents Barkindji/Paakantji, Mutthi Mutthi and Ngaympaa peoples. The three groups were previously represented by the 3TTG Council which was superseded by the AAG in 2015 as part of a restructure of the world heritage management. As a result, representation moved from informal membership to formally elected and appointed membership. Appointment to the AAG is for a three-year term. The AAG elections are managed by the NSW NPWS. In 2018, 42 individuals attended the elections and voluntarily and formally registered as voters. <b>No amendments required.</b>
17b	Some Aboriginal community members have been excluded from the AAG/decision making process.	132, 158	All members of the community had the opportunity to make a submission on the EPBC referral. The invitation to make a submission was advertised in local and national newspapers, including the Koori Mail, and was also emailed or posted directly to members of the Aboriginal community and Aboriginal groups and organisations.  The decision-making process has involved a wide range of Aboriginal stakeholders and there have been multiple opportunities for input. In February 2015, the NSW government (NPWS & Heritage NSW) held a repatriation forum to discuss the final resting place for the Willandra Ancestral Remains. This forum brought together a wide range of scientists and traditional custodians (Williams & Associates 2015). In November 2016, a second forum was held and options for repatriation and reburial outlined (Williams & Associates 2016). In April 2017, a third forum was held presenting options for repatriation (Williams & Associates 2017).

Issue No.	Issue	Submissions Raising this Issue	Heritage NSW Response
			See also response to 17a and 7c. <b>No amendments required.</b>
<b>18</b>	<b>Environment</b>	<b>5 issues, 1 submission</b>	
18a	Impacts of the alternative proposal on flora and fauna are not described.	41	No environmental impact assessments have been carried out for the alternative proposal (a keeping place) as it was not identified as the preferred option by the AAG. See response to 16a. <b>No amendments required.</b>
18b	Impacts of the alternative proposal on hydrology are not described.	41	See response to 18b. <b>No amendments required.</b>
18c	Impacts of the alternative proposal on soil, vegetation and gradient are not described.	41	See response to 18b. <b>No amendments required.</b>
18d	Impacts of the alternative proposal on flora and fauna are not described.	41	See response to 18b. <b>No amendments required.</b>
18e	Environmental impact and cultural heritage assessment for the alternative proposal should be conducted.	41	See response to 18b. <b>No amendments required.</b>

## 6. Recommendations

### 6.1 Aboriginal Advisory Group Statement

Heritage NSW have prepared the EPBC referral on behalf of the Willandra Lakes Region Aboriginal Advisory Group (AAG), On 17<sup>th</sup> March 2022, members of the AAG provided the following concluding overall statement of support to rebury their Ancient Ancestors:

*Cultural Trauma has impacted the current AAG and past Three Tribal Group members, Elders Past and present. Therefore experiencing current ongoing Trauma is affecting our social and emotional wellbeing. We have a responsibility; we are their people and we have a duty of care for Country and Reburial and Repatriation as one prominent voice to also provide Cultural Safety to immediate family who also work out at Mungo National Park. 'A Lot of our old people always wanted reburial and that is what concerns Us'.*

*As direct descendants of the old women, Aunty Alice Kelly, Aunty Renee Mitchell, Aunty Elsie Jones, Aunty Alice Bugmy and Aunty Tibby Briar, we are all fighting to uphold their strong voices. Current Elder Aunty Joanie Slade is on the advisory committee to this day.*

*Our actions today contribute to creating a footprint for our next generations to continue to practice culture and must clear a symbolic pathway free of trauma for our future generations.*

### 6.2 Mitigation Measures

The mitigations measures set out in Section 4 of the EPBC referral have been reviewed and the following mitigation measures will be carried out as part of the proposed action. These mitigation measures include matters raised in response to the submissions received. Additional measures added since the EPBC referral are highlighted in bold.

#### Erosion Control

*Submissions 14, 41, 50 & 125*

- Graves will be close to historic records of the find locations of the remains (where records existed) but will avoid areas of severe wind or water erosion, unstable land surfaces, established shrubs and will be placed outside dripline of trees.
- Graves will be placed on bare areas. No clearing or modification of native vegetation or habitat resources will take place.

- The upper fill material in each grave will be well compacted to minimise soil subsidence and erosion. Special care will be taken during compaction to avoid damaging any unexpected Aboriginal objects or Aboriginal Ancestors below.
- At sites where sandy soil has been identified throughout the profile, reburials will be at a greater depth than sites with finer soil texture. The locations where this occurs have been identified in Site Specific Mitigation Measures (Attachment A REF-Part4 Appendix 7, Section 11.2).
- Topsoil and surface mulch/seed will be saved prior to excavation of the grave, ensuring that these resources are not cross contaminated with subsoil. Topsoil will be respread over the disturbed area after the grave is refilled and lightly raked and the stored organic matter spread on the raked area to assist in natural regeneration.
- Graves will not be located within 10 metres of rabbit warrens as these areas could become unstable due to soil erosion or subject to further burrowing.
- The surface area of each grave will be minimised according to the volume of Aboriginal Ancestors to be buried, with the lower limit based on the minimum diameter possible that can be excavated with a shovel (or manual soil auger if used).
- Avoid all recorded and observed Aboriginal objects. In the event that unexpected discoveries of objects or Aboriginal Ancestors occurs during the proposed works:
  - works will cease immediately
  - the objects or Aboriginal Ancestors will be recorded and photographed
  - a Heritage NSW Aboriginal Heritage Information Management System record card will be completed
  - the excavation will be refilled
  - a new grave site will be chosen elsewhere from within previously assessed area.
- Excavated graves must not be left open overnight to avoid entrapment of wildlife.
- Waste associated with the works will be removed from site and disposed of appropriately, with the exemption of the boxes used to store and transport the Aboriginal Ancestors to the site which will be burnt as part of the reburial ceremony.
- Where possible reburials should occur in Autumn to optimise natural regeneration while the soil is freshly disturbed, and to minimise the time period the ground at each reburial location remains bare and disturbed to avoid erosion.
- Reburials must avoid the period after heavy rainfall to ensure wheel tracks are not created in soft soil and vehicles don't become bogged.
- Avoid threatened species, ecological communities and their habitats (features and resources) during the final siting of the grave locations as confirmed by a suitably qualified and experienced ecologist who will be present to confirm the final locations can avoid impacts and limit risk.
- Where reburials are to be located at the toe of an advancing sand wall, the reburial locations should be close to the centre point of the assessment area, near the base of advancing dunes, so the area is quickly buried by natural sand progression.
- In addition to these general mitigation measures the Site Specific Mitigation Measures identified for each of the 26 reburial locations will be implemented (see Attachment A REF-Part4 Appendix 7 (Section 11.2)).



## Post Burial Security

Submissions 2, 41, 94 & 125

- The design of the reburials will limit the environmental impact of the works, limit the physical visibility of the reburial locations (therefore minimise the potential for the locations to be relocated and disturbed) and minimise the potential for the locations to be subject to erosion (and therefore re-exposure) in the short and long term.
- **The burial sites will be unmarked in accordance with the wishes of the AAG. It is unlikely that theft or vandalism will occur as it will be difficult to locate the burial sites in the landscape without the location information. Vandalism and theft would be more likely if the burial sites are marked in some way.**
- **Information about the precise locations of the reburial sites will be recorded to allow monitoring and protection of the sites in the long term. The precise location of each grave will only be known/available to the AAG, the NPWS & Heritage NSW project and monitoring team, and others at the discretion of the AAG. This information will be stored within a secure GIS platform.**

## Accessibility for Science/Research

Submissions 1, 4, 7, 14, 41, 45, 49, 50, 51, 74, 75, 85, 93, 98, 106, 107, 109, 115, 125, 162 & 163

- The action will not close the opportunity for further study and a pathway for further research in the Willandra Lakes World Heritage property exists. Future opportunities for research, including DNA and dating research, will still exist in the Willandra on both newly identified and known, *in situ*, individuals.
- **Research may be carried out with the approval of the AAG and in accordance with the AAG's *Research Code of Practice (2021)* and any relevant local, state or Commonwealth approvals.**
- **The AAG and NSW government have approved the following research actions:**
  - **3D scanning and photogrammetry of selective individual Ancestors will take place under the direction of the AAG prior to reburial. The individual ancestors have been prioritised with the assistance of scientists who have previously studied them. The AAG will be the owners of this data.**
  - **An ancient DNA test is to be undertaken prior the reburial (this sample to be taken from Mungo Man).**
  - **A sample for radiocarbon dating will be taken from the individual known as WLH4.**

## Monitoring and Contingency Planning

*Submissions 2, 41, 94 & 125*

- **A Monitoring and Contingency Plan will be developed for the project. The plan will allow for emergency and management works without additional assessment for five (5) years from the date of project commencement.**
- **The Monitoring and Contingency Plan will include information around contingency planning for the burial locations, including:**
  - **emergency and standard issues that may need to be addressed or remediated under contingency scenarios**
  - **appropriate management protocols that are consistent with the proposed action as set out in the referral and relevant key technical appendices to guide the delivery of on-ground works and actions**
  - **allocation of responsibility for the works**
  - **establishing a reporting framework which is agreed to by Heritage NSW, NPWS and the AAG.**
- **The Monitoring and Contingency Plan is to include monitoring procedures and protocols around:**
  - **methods used to monitor the burial locations**
  - **allocate responsibility for the monitoring program, including reporting and storage (management) of data and information collected as part of the program**
  - **specify monitoring frequency over the proposed duration of the project**
  - **scheduled reporting on the success of remediation works on site.**
- **As a minimum the above will require each of the locations to be monitored at four monthly intervals in years one and two following the reburials. Where possible monitoring will be done via photography taken from a drone. This method will:**
  - **eliminate the need for vehicle tracks to each location**
  - **minimise the environmental impact**
  - **reduce the visual impacts of site visits.**

## Reporting

*Submissions 2, 41, 94 & 125*

- **Upon finalising the works a written report confirming the project completion will be prepared. The report will provide:**
  - **information on the project's performance and confirm the implementation of the safeguards and mitigation measures applied**
  - **report on issues encountered or associated with project delivery, including (but not limited to) any security issues or matters raised by the AAG or Traditional Owners.**

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## **More information**

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