

**TO:** Chair, Aboriginal Culture and Heritage Reform Working Party ,  
c/o Office of Environment and Heritage  
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**Personal Response to NSW Aboriginal Cultural Heritage Reform:  
Indigenous Greens Councillor, dominicWYkanak, boondiboondi, Bondi Ward Waverley  
Council:**

## **1. SOVEREIGNTY**

1.1 Sovereignty as the context and premise for any interaction between Aboriginal and NonAboriginal power means for me that the current NSW discussion about Aboriginal Cultural Heritage Reform is already unbalanced by the existing system of government/corporate dominated power structures that do not have in place a formal Code Of Engagement based on a recognition of equality between colonially instituted ongoing power and an Aboriginal Community-Based struggle for Sovereignty and Self-Managed Water-Land Rights regimes.

1.2 Sovereignty, or the track to it, is paved with 'good intentions' and there is always suspicion from The Community when relatively new governments seek to amend Aboriginal matters that the ultimate result of the changes may not be benevolent and that further disadvantage may accumulate upon The Community, and the process for this reform has not allayed such suspicion, especially when the process is perceived as too quick and the circle for discussion is missing KEY StakeHolders that means a more complete and truer consensus will not be achievable.

1.3 Sovereignty for Aboriginal People in whatever form or name that is politically palatable should be advanced by any engagement for reform.

1.4 Sovereignty between/within Aboriginal Nations as well as between a federation of Aboriginal Nations and NonAboriginal power bases manifested in Local, State and Commonwealth Governments, sought to be influenced by corporate/economic lobbyists, should be relevantly considered in the reform process and this submission Supports Native Title Claimants, Local Aboriginal Land Councils ['LALCs'], Native Title Services Corporation ['NTSCORP'] and NSW (State) Aboriginal Lands Council ['NSWALC'] being Members of the Working Party for this reform.

## **2. BEST PRACTICE**

2.1 Sydney/NSW inhabitants living in the town and state of the first point of English Invasion have a Humanitarian Obligation to engage in Aboriginal-NonAboriginal interactions with 'Best Practice' and this submission Supports other submissions made asking government agencies involved to use this reform process as an opportunity to implement meaningful reforms now broadly covered by the United Nations Declaration on The Rights of Indigenous Peoples ratified in Australia April 2009.

2.2 This Submissioner revokes those Representations already made to the Working Party about the lack of 'Best Practice' in Aboriginal-NonAboriginal interactions as evidenced in this NSW Aboriginal Cultural Heritage Reform by the fact that (as represented in the Eastern Region Local Government Aboriginal Torres Strait Islander Forum Submission Fri30Dec2011) :

"..According to the website <http://www.environment.nsw.gov.au/achreform/> the expert working group and terms of reference has not been finalised to date and was last updated on 18<sup>th</sup> October 2011. It is not good practice to begin consultation processes without finalising the terms of reference and working group membership. It is our understanding that currently The Office of Environment and Heritage has excluded key stakeholders who are not represented on this working group. The NSW Aboriginal Land Council (NSW ALC) and Local Aboriginal Land Councils (LALCs) are the democratically elected leaders of the statutory governing bodies for Aboriginal land, culture and heritage and should be KEY stake holders on the working group for these proposed reforms. ..".

2.3 'Best Practice' should also cover the accumulative connexion between a number of reforms/reviews currently impacting on Aboriginal matters so that this particular Culture and Heritage reform should patiently accompany/await and be contemporarily informed by other processes/consultations, both broad and detailed, involving the scheduled review of the Aboriginal Land Rights Act NSW, new NSW Aboriginal Affairs Policy, Commonwealth Constitutional Recognition of Aboriginal People and ongoing conversations about the form of a Treaty.

2.4 Best Practice should seek to 'Rebalance the Empowerment' of Aboriginal People as a relevant consideration of this reform in order for The Aboriginal Community to control and regain control of processes impacting on a proper expression of 'Connexion To Country' through Spiritual practices.

### **3. LOCAL GOVERNMENT**

3.1 Local Government in NSW legislatively manages Public/Private Crown Land/Water which has attached Aboriginal Interests that this reform needs to relevantly consider and address as part of improving an efficient co-existent management regime.

3.2 Local Government legislatively through the related planning Acts exercises administrative decision making powers impacting on Aboriginal Culture and Heritage from its broad Spiritual concept of, 'All Land and Water is under Cultural Custody', to the specific impacts that development applications administratively considered by Local Government may have on tangible Aboriginal relics.

3.3 Local Government in NSW has agencies/mechanisms such as the Aboriginal Land Council Membership of the NSW Local Government Association ['LGA'] where NSW Aboriginal Land Councillor Roy Ah-See of Sydney-Newcastle Region was elected to the LGA Executive in 2011, and the NSW Local Government Aboriginal Network, which should be specifically consulted by the Working Party in its reform deliberations to provide useful comment on the interactions involving Aboriginal Culture and Heritage within NSW Local Government.

3.4 Specific measures impacting on Aboriginal Culture and Heritage are contained within NSW Local Government Council's Statutory Instruments of Local Environment Plans ['LEPs'] and Local Council Ordinances/By-Laws of Development Control Plans ['DCPs'], so this Submissioner recommends that the Working Party relevantly consider how a more co-existent efficient Aboriginal Cultural Heritage management protection regime can be produced from the necessary consultation of this reform with Local Government.

### **4. COMMUNITY RESOURCING**

4.1 Community Resourcing is necessary to achieve an adequate level of monitoring and compliance observations of activities impacting on Aboriginal Cultural Heritage, so that the

reform has to both improve the legislative power of protection enhancement and maintenance of Aboriginal Culture Heritage as well as provide recommendations on how the monitoring and compliance regime is to be meaningfully resourced to a degree sufficient enough to meet the demands of proper Aboriginal Cultural Heritage impact management.

4.2      Resourcing The Community to provide Local Government (and other agencies) with the necessary Training and Staff Development to work in partnership with NSW LALCs and Community Organizations to achieve a consensus in co-management of local Aboriginal Culture and Heritage should be an area of the Working Party's consideration.

4.3      Resourcing Community Training projects/Institutions which produce multiskilled Aboriginal Specialists for what should be a Cultural Career in industries/agencies which work with the engagement necessary to maintain and protect Aboriginal Culture and Heritage needs to be a fundamental consideration of the Working Party.

4.4      Community owned and directed initiatives which serve and protect NSW Aboriginal Culture and Heritage should be a definite outcome of the reform process and thereby an important step towards a workable concept of Sovereignty by Aboriginal People over the Cultural management of Our Inherent Rights to Care and Speak for Country.

Yours In Community

Indigenous Greens Councillor dominicWYkanak boondiboondi Bondi Ward Waverley Council ;

Happy New Year 2012 !!