



Australian Government



TOWNSVILLE

| DARWIN

| PERTH

17 March 2022

Committee Secretary
 Joint Standing Committee on Treaties
 PO Box 6021
 Parliament House
 Canberra ACT 2600

Dear Committee Secretary

The Australian Institute of Marine Science (AIMS) is pleased to make a submission to the Joint Standing Committee on Treaties Inquiry into Australia's ratification of the *Convention on the Protection of the Underwater Cultural Heritage (the Convention)*.

AIMS acknowledges the intent and purpose of the Convention. We note that, as a corporate Commonwealth entity undertaking marine research in Australia's tropical waters – which involves in-water research activities and the removal of biological and other samples from the seabed and the water column above it – we are aware of the various Commonwealth, state and territory legislation already in place in relation to underwater cultural heritage.

For example, where our research occurs within legislated protected zones around underwater cultural heritage, we operate with appropriate permits and regulatory oversight of the relevant legislation. These are usually zones associated with historic shipwrecks, plane wrecks or other heritage from Australia's era of European discovery and settlement, under the protection of the *Underwater Cultural Heritage Act 2018* (Cth) (and the *Historic Shipwrecks Act 1976* (Cth) that preceded it). However, in the context of the Convention, AIMS would like to draw the Committee's attention to another area of underwater cultural heritage of priority for AIMS, this being Indigenous and Torres Strait Islander cultural heritage.

One of the key targets of the AIMS Strategy 2025, is to undertake science collaborations with Traditional Owners in key projects focused on sea Country. AIMS' interest in this area has grown from the deep engagement with Traditional Owners of Australia's sea Country through the development and implementation of the AIMS Indigenous Partnerships Policy and Procedures. The AIMS approach recognises that Traditional Owners have inherent rights and responsibilities and an enduring spiritual and cultural connection with their land and sea Country and all within it.

Through its Indigenous partnerships AIMS has become aware that significant underwater Indigenous cultural heritage exists in Australia and falls within scope of the Convention, which defines 'underwater cultural heritage' as 'all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years'. For example:

- Tangible evidence of Indigenous use of the marine environment during the period of current sea level (the last 7-8000 years), for example coastal and inland rock fish traps and weirs [1].
- Tangible evidence of Indigenous use of the marine environment during periods of lower sea level, when vast areas of the currently inundated continental shelf were part of a dry landscape (see figure 1). The first Australian submerged site was recently discovered in WA with stone tools and artefacts associated with a now-submerged freshwater spring that people would have once lived around [2]. There is enormous potential for many more sites to become discovered and documented in future.

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- Intangible cultural heritage associated with now-marine areas, including stories, dances, songs, mythical creation beings associated with underwater features, submerged songlines, and surviving memories of place-based ancient histories. For example, Aboriginal memories of the inundation of the Australian coast more than 7000 years ago have been corroborated with empirical evidence [3] (and see Figure 1), and a timeline of the development of south west Western Australia from the Permian ice age (350 MYA) to the Holocene flooding event 7000 years ago has been aligned with Nyoongar-inherited lore, stories, songs and dance still in practice today [4].



Figure 1: Map of Australia showing 21 coastal locations with surviving Aboriginal stories about coastal inundation 7000 years ago. The light orange area shows the extent of exposed continental shelf at the height of the last glacial maximum (~20,000 years ago). [3]

In collaboration with Traditional Owners, AIMS is currently taking steps to consider the existence of Indigenous underwater heritage and the potential impacts of AIMS' research operations on that heritage. We are developing institutional policy, procedure and training to improve the ability of AIMS researchers to identify and document submerged heritage sites that they may encounter; and better risk-manage the possibility that AIMS operations might disturb cultural heritage sites, particularly research activities that significantly disturb the seabed.

The practical application of this approach has been implemented by AIMS through a tiered Indigenous engagement guide to inform staff in applying the appropriate level of engagement based on the characteristics of their project. There are four tiers (Bronze to Platinum) that follow a hierarchy of effort, investment and the extent to which a project is driven by the researcher, in a partnership, or by Traditional Owners.

- The Bronze tier represents the foundational level of engagement expected of all AIMS projects, with subsequent tiers adding additional characteristics and expectations as appropriate, and as relationships and our cultural competency matures. For Bronze projects, researchers must identify the relevant Traditional Owner group of the area in which their project is conducted or is associated with, acknowledge them in all outputs, and communicate with them regarding field trip plans and results.

- For Silver projects, researchers must comply with Bronze requirements plus must undertake detailed consultation about projects in order to obtain Free Prior Informed Consent for the work to proceed. Resourced opportunities for Traditional owners to participate in the project are also encouraged. This deeper level of engagement may lead to greater cultural competency and the development of stronger two-way relationships.
- For Gold projects, researchers must comply with Silver requirements plus work with Traditional Owners to co-design and co-deliver projects in areas of mutual interest in true collaboration.
- For Platinum projects, researchers must comply with Gold requirements with the leadership balance tipped to the Traditional Owners who initiate and lead the project with AIMS' assistance.

Projects that involve a significant intersection with sea Country, for example through the collection of samples, disturbance of the seabed or deployment of equipment, must be a minimum silver level project. This means that all such projects within the AIMS portfolio, require the free, prior and informed consent (FPIC) of Traditional Owners. In other words, Traditional Owners are the decision makers about whether such projects can occur on their sea Country. The deep engagements necessary to fully explain complex science in order to seek and obtain FPIC, have resulted in solid relationships based on mutual understanding and respect, and several significant partnerships projects between AIMS and Traditional Owners which have successfully brought western and traditional science perspectives together.

Taking the formal step to ratify the Convention provides an opportunity for Australia to play a leading role internationally in further supporting the protection of Indigenous underwater cultural heritage. AIMS recognises it is at the early stages of its efforts to improve our Indigenous partnerships, but this has already delivered significant learnings. AIMS would welcome the opportunity to share this work with likeminded counterparts to recognise, understand and protect a critical part of Australia's national identity.

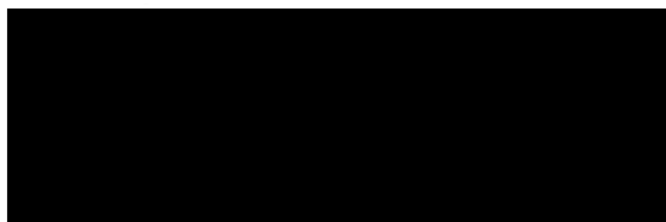
[1] M. J. Rowland and S. Ulm, "Indigenous fish traps and weirs of Queensland," *Queensland Archaeological Research*, vol. 14, pp. 1-58, 2011.

[2] J. Benjamin, M. O'Leary, J. McDonald, C. Wiseman, J. McCarthy, E. Beckett, P. Morrison, F. Stankiewicz, J. Leach, J. Hacker, P. Baggaley, K. Jerbic, M. Fowler, J. Fairweather, P. Jeffries, S. Ulm and G. Bailey, "Aboriginal artefacts on the continental shelf reveal ancient drowned cultural landscapes in northwest Australia," *PlosOne*, vol. 15, no. 7, 2020.

[3] P. D. Nunn and N. J. Reid, "Aboriginal memories of inundation of the Australian coast dating from more than 7000 years ago," *Australian Geographer*, vol. 47, no. 1, pp. 11-47, 2016.

[4] F. Robertson, G. Stasiuk, N. Nannup and S. D. Hopper, "Ngalak koora koora djinang (looking back together): a Nyoongar and scientific collaborative history of ancient Nyoongar boodja," *Australian Aboriginal Studies*, pp. 40-54, 2016.

Yours sincerely

A large black rectangular box redacting the signature of Dr Paul Hardisty.

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Chief Executive Officer