



Australian Marine Sciences Association Inc.

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Stephen Palethorpe
Secretary
The Senate Environment & Communications Committee

Dear Committee,

PROTECTING THE SPIRIT OF SEA COUNTRY BILL 2023

The Australian Marine Sciences Association Inc. (AMSA) is Australia's peak professional body for marine scientists from all disciplines and for over 50 years has promoted all aspects of marine science in Australia. AMSA operates with a membership network of individuals and corporate affiliates, currently numbering around 900 members, as a not-for-profit organisation.

AMSA acknowledges that the Indigenous heritage of Australia, both tangible and intangible, is recognised internationally as being of outstanding universal value. AMSA recognises that Aboriginal and Torres Strait Islanders are the Traditional Custodians of the land and seas of Australia. AMSA affirms their support for the Uluru Statement from the Heart. We willingly accept the invitation of First Nations people to join a 'movement of the Australian people' to create a better future for all.

AMSA agrees that First Nations people have cared for this Country, land and sea, since time immemorial and that it is unconscionable that fossil fuel companies can submit offshore project proposals and environment plans for offshore projects without consulting Traditional Owners/ Custodians.

AMSA trust that the objects of the EPBC Act recognise the practical role played by Indigenous Australians in the conservation and sustainable use of resources, and the need to promote the co-operative use of local and traditional ecological knowledge to inform management and conservation decisions.

AMSA agree that the three flaws of the current legislative framework need remedy.

Overall, AMSA support the intent and core purpose of this bill to legislate the principles of:

1. Including Traditional Owners and knowledge holders in First Nations communities in the definition of 'Relevant Person';
2. The requirement for standards of consultation to be created; and

3. Ensuring that underwater and intangible cultural heritage is identified in offshore project proposals and environment plans, alongside an evaluation of the impacts and risks that this project might pose and any potential alternative options.

AMSA identifies, however, that written in its current form, the bill does not adequately protect Aboriginal and Torres Strait Islander people and their cultural heritage. As such, we highlight the important considerations below to enhance the relevance of the Bill and avoid future misunderstandings:

1. The word “engagement” would be more appropriate than “consultation”. A definition of what is considered appropriate engagement should also be included (see further comments in section 3 below).
2. The Underwater Cultural Heritage section is not strong enough:
 - Intangible cultural heritage is not adequately considered. In the Bill it is stated that “Underwater Cultural heritage includes... intangible cultural heritage associated with First Nations archaeological sites and artefacts”. This does not consider the importance of underwater intangible cultural heritage that is not associated with First Nations archaeological sites and artefacts. Sea Country is extremely important to coastal First Nations groups with spiritual connections and responsibilities linked to the sea through songlines (or dreaming tracks), stories, sea kin and practices. The sea carries the same cultural significance as the land does, with no distinction made between land and sea. The Dreaming provides structure and obligations of people to Country (including Sea Country) and all that is within it. The Dreaming is expressed through stories, songs, ceremonies and art, providing a blueprint on how to care for and manage the environment.
 - There needs to be a clearer definition of what an artefact, site, structure or building is for the purposes of this bill. This issue has been highlighted previously to your department through numerous avenues. An appropriate way to try and encompass what individual First Nations communities may consider underwater cultural heritage linked to Sea Country go beyond just artefacts and could include substrate, cultural artefacts, culturally significant species and locations (including locations of significance during previous sea levels), it is up to the individual First Nations community in a given area to confirm what is of cultural significance/heritage to them and this may differ between groups i.e., species may be of importance to one group, but less important to another. The subjective nature of the current wording leaves the interpretation of what is considered cultural heritage open. This will place First Nations groups in the same position without this bill, in a difficult position when their culturally significant area, species or system may be impacted and does not fit within the definition you have provided. This is a significantly important part of the purpose of this bill in protecting the Spirit of Sea Country.
3. The department should provide a blueprint for what is considered appropriate engagement, including a wider community approach to solicitation and not just an individual or one community organization. If Free, Prior and Informed Consent are to be appropriately followed, ALL members of a community should expect to be engaged with, even if they are not a member of any governing body like a Prescribed Body Corporate or Land Council.

AMSA have faith in the government's commitment to reform Australia's environmental laws to better protect, restore and manage our unique environment through such legislative response as: *Nature Positive Plan: better for the environment, better for business*. This along with the implementation of National Environmental Standards in particular, First Nations engagement and participation in decision-making provide a clear way forward.

Professor C.L.J. Frid

National President

Australian Marine Sciences Association.