



Reg. No: A14282J

INC.

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22 December 2005

Mr Gavin Jennings MP
Minister for Aboriginal Affairs
Level 21, 555 Collins Street
MELBOURNE 3000

Dear Minister,

We are writing to you to express our concern about the proposed *Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 2005* (the Cultural Heritage Bill). As you are aware, the Bill will change Commonwealth legislation so that the Victorian Government can directly administer Aboriginal heritage protection laws in Victoria.

Health Issues Centre (HIC) has been an independent, not-for-profit organisation for over 20 years, promoting consumer perspectives in the Australian health system. Its mission is to improve the health outcomes for Australians, especially those who are disadvantaged. It works with a wide range of consumers, health providers, researchers, governments and other health organisations to achieve this through: policy analysis and advocacy from consumer perspectives;

consumer-focused research; supporting consumer participation; and providing information.

HIC's understanding is that there are aspects to the draft exposure Bill that many Indigenous Victorians find deeply troubling. For example, the draft Bill will decrease Indigenous control over cultural heritage by making the Victorian Civil and Administrative Tribunal, a body lacking specific Indigenous expertise, the final arbiter of any dispute.

The Bill is also likely to cause conflict among Aboriginal communities in Victoria, due to the potential for recognition of multiple 'Registered Aboriginal Parties', with a consequent likely diminution of the rights of traditional owners.

Other aspects of the Bill include a lack of clarity with regard to decision-making processes and structures, and an associated reduced accountability to Indigenous people in matters of cultural heritage.

The Bill consultation process itself has not allowed sufficient time for all Aboriginal Victorians to absorb and discuss the ramifications of the proposed legislation in the detail required.

These issues are of serious concern to us as a health policy and research organisation supporting accessible and affordable health care for all Australians, and particularly Victorians. Our understanding of health is based on the World Health Organisation's view of health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity". Implicit in this social model of health is the evidence-based understanding that social and cultural issues are crucial to health and well-being.

This is particularly the case for Aboriginal and Torres Strait Islander people, for whom dispossession of land, the legacy of stolen generations, and inadequately protected cultural heritage have profound negative health consequences. As just one illustration of the interrelatedness of these themes, we refer you to a recent

essay in the *Medical Journal of Australia* (Wendy A Hermeston, 'Telling you our story: How apology and action relate to health and social problems in Aboriginal and Torres Strait Islander communities', Vol 183, No 9, November 2005).

Diverse health commentators, consumers and practitioners also agree that improving the parlous state of Indigenous health requires a greater degree of meaningful dialogue with Aboriginal and Torres Strait Islander people, including adequate time and effective economic resourcing of those communities, in order for genuine consultation and participation to take place.

It is therefore also our concern that the Cultural Heritage Bill as it is currently drafted, and the associated process of consultation with Victorian Indigenous people, does not model good practice. It thereby works against efforts in other areas to foster trust and reciprocity between Indigenous and non-Indigenous Victorians, and appears contrary to the spirit and intention of the Government's *A Fairer Victoria*.

We urge you to discuss these matters with your parliamentary colleagues and to support a delay for the Bill, so that Indigenous Victorians may have adequate time to negotiate among themselves about how best to respond in detail to the draft. This must go in tandem with the basis of genuine consultation - adequate economic resourcing for items like travel and Indigenous expertise.

Yours sincerely,

Tony McBride , CEO

cc The Honourable Rob Hulls, Attorney-General