

What is happening with federal cultural heritage protection?

The Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth) (ATSIHPA) is long overdue for change.

The Federal Government (Minister Plibersek and the Department of Climate Change, Energy, the Environment and Water) entered into a partnership with the First Nations Heritage Protection Alliance

(FNHPA) to explore ways of improving (and modernising) cultural heritage protection legislation at a national level and engaging in a process of consultation about this. See, culturalheritage.org.au.



FNHPA and the Commonwealth produced options for reform of the cultural heritage legislation, such as:

- 1 Commonwealth taking over control of cultural heritage protection;
- 2 A system that accredits State and Territory legislation to a set of established standards but retains the ability to intervene where such State and Territory legislation fails to meet these standards;
- 3 Producing model legislation which States and Territories can adopt.

Option 3 has so far been rejected by most Traditional Owner groups and by the FNHPA. The government has been concerned about the expense and political viability of option 1 in setting up a whole new system. Option 2 looks like the most likely that is being pursued.

A second round of consultations (based on the three options) have commenced, but the consultations were delayed from early-2023 by the Commonwealth Government.

The Minister has again committed to have the new legislation in this term of government, and the FNHPA plans to work with the Commonwealth on drafting a new Act or a major overhaul of ATSIHPA.

The FNHPA has been meeting regularly as a whole alliance, with a leadership group meeting in between. YMAC has been participating in the leadership group and the alliance.

The key principles that the FNHPA has been trying to incorporate are those in the United Nations Declaration on the Rights of Indigenous Peoples, with its principle of free, prior and informed consent, and also the principles in the 2020 *Dhawura Ngilan: A Vision for Aboriginal and Torres Strait Islander Heritage in Australia*, which sets out best practice standards, and can be accessed at culturalheritage.org.au/resources.

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