

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Heritage Theme for Prioritising Nominations for assessment for the National Heritage List (Assessment Period commencing 1 July 2021) Determination 2020

(Issued under the Authority of the Minister for the Environment)

Legislative Authority

Section 324C of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act) requires the Minister to keep a written record of places and their national heritage values, called the National Heritage List. Entries in the list are made of places in the Australian jurisdiction that the Minister is satisfied have outstanding heritage value to the nation. Subdivision BA of Division 1 of Part 15 of the Act outlines the process of assessing places for inclusion in the National Heritage List.

Section 324H of the Act provides for the Minister to determine one or more heritage themes that the Minister considers should be given priority in relation to an assessment period.

Purpose

The purpose of this determination is to establish “*Indigenous Cultural Heritage*” as the heritage theme to be given priority for the assessment period commencing 1 July 2021.

Background

Determining this theme is part of the Government’s response to *Dhawura Ngilan: A Vision for Aboriginal and Torres Strait Islander Heritage in Australia*. On 21 September 2020, the Vision was presented to the Commonwealth, State and Territory Ministers with responsibility for Heritage and Indigenous Affairs by the Chairs of Australia’s national, state and territory Indigenous heritage bodies.

Key Focus Area 1.2 of the Vision calls for Heritage Councils to work with Aboriginal and Torres Strait Islander people to identify and protect heritage places and achieve better equity on statutory lists. By determining a theme, the Minister for the Environment is able to specify Indigenous Cultural Heritage as the priority for the Australian Heritage Council for the coming assessment period.

Impact and Effect

The determination will result in the theme of Indigenous Cultural Heritage being given priority in assessing places for inclusion in the National Heritage List for the nomination period commencing 1 July 2021.

Consultation

The Vision has been endorsed by the Australian Heritage Council, the National Native Title Council and First Nations Heritage Protection Alliance (which represent every major Aboriginal Land Council and Native Title body in Australia), the Indigenous Advisory Committee and the Threatened Species Scientific Committee. The Vision was further welcomed and supported by the Heritage Council of New South Wales, the Aboriginal Cultural Heritage Advisory Committee (New South Wales), the Australian Capital Territory Heritage Council, the Victorian Heritage Council, the Victorian Aboriginal Heritage Council, the Queensland Heritage Council, the Queensland Department of Aboriginal and Torres Strait Islander Partnerships (responsible for administering Indigenous cultural heritage Acts), the Tasmanian Heritage Council, the Aboriginal Heritage Council (Tasmania), the South Australian Heritage Council and the State Aboriginal Heritage Committee (South Australia).

The Determination implements part of the Vision's recommendations. Therefore, the endorsement of the Vision by the groups specified above constitutes consultation on the determination for the purposes of the *Legislation Act 2003*.

The Office of Best Practice Regulation was consulted in the preparation of the determination and advised that a Regulation Impact Statement is not required (OBPR ID43173).

The Australian Heritage Council has been consulted and supports the determination.

The determination commences on the day after it was registered on the Federal Register of Legislation.

Details/Operation

The determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment A.

The determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Heritage Theme for Prioritising Nominations for assessment for the National Heritage List (Assessment Period commencing 1 July 2021) Determination 2020

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

Section 324C of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act) requires the Minister to keep a written record of places and their national heritage values, called the National Heritage List. Entries in the list may be made of places in the Australian jurisdiction that the Minister is satisfied have outstanding heritage value to the nation. Subdivision BA of Division 1 of Part 15 of the Act outlines the process of assessing places for inclusion on the National Heritage List.

Section 324H of the Act provides for the Minister to determine one or more heritage themes that the Minister considers should be given priority in relation to an assessment period.

The purpose of this instrument is to establish ‘Indigenous Cultural Heritage’ as the heritage theme to be given priority for the assessment period commencing 1 July 2021.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Circulated by authority of the Minister for the Environment

The Hon. Sussan Ley MP