



Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)

Notice of an application for the protection of a specified area, being the area known as Koonalda Cave, South Australia

Invitation to make representations

I, Andrew Preston, hereby give notice as follows:

The Minister for the Environment and Water (**minister**), responsible for the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)* (**ATSIHP Act**), has received an application made under section 10 of the ATSIHP Act. The application is seeking long term preservation and protection of a specified area, being the area known as Koonalda Cave on the Nullarbor Plain in South Australia. The minister has appointed me to provide a report to the minister under paragraph 10(1)(c) of the ATSIHP Act.

The Applicant

The application is made by a Mirning Elder on behalf of the Mirning people (**applicant**).

The purpose of the application

The application seeks the long-term preservation or protection of the area specified in the application (the **specified area**). This area is depicted in Figure 1. Section 10 of the ATSIHP Act confers power on the minister to make a declaration to preserve and protect an area where the minister is satisfied that it is a 'significant Aboriginal area' under threat of injury or desecration. A 'significant Aboriginal area' is an area of land or water in Australia that is 'of particular significance to Aboriginals in accordance with Aboriginal tradition'. 'Aboriginal tradition' is the 'body of traditions, observances, customs and beliefs of Aboriginals generally or of a particular community or group of Aboriginals, and includes any such traditions, observances, customs or beliefs relating to particular persons, areas, objects or relationships'.

Matters the report is required to deal with

The minister must consider my report pursuant to section 10 of the ATSIHP Act in relation to the specified area before deciding whether to make a declaration under section 10 of the ATSIHP Act. Under subsection 10(4) of the ATSIHP Act, the report is required to deal with the following matters:

- (a) the particular significance of the area to Aboriginals;
- (b) the nature and extent of the threat of injury to, or desecration of, the area;
- (c) the extent of the area that should be protected;
- (d) the prohibitions and restrictions to be made with respect to the area;
- (e) the effects the making of a declaration may have on the proprietary or pecuniary interests of persons other than the Aboriginal or Aboriginals who made the application, or on whose behalf the application is made;
- (f) the duration of any declaration;

- (g) the extent to which the area is or may be protected by or under a law of a State or Territory, and the effectiveness of any remedies available under any such law; and
- (h) such other matters (if any) as prescribed.

The specified area

Figure 1 depicts the area for which preservation and protection is sought. This specified area is Koonalda Cave on the Nullarbor Plain in South Australia.

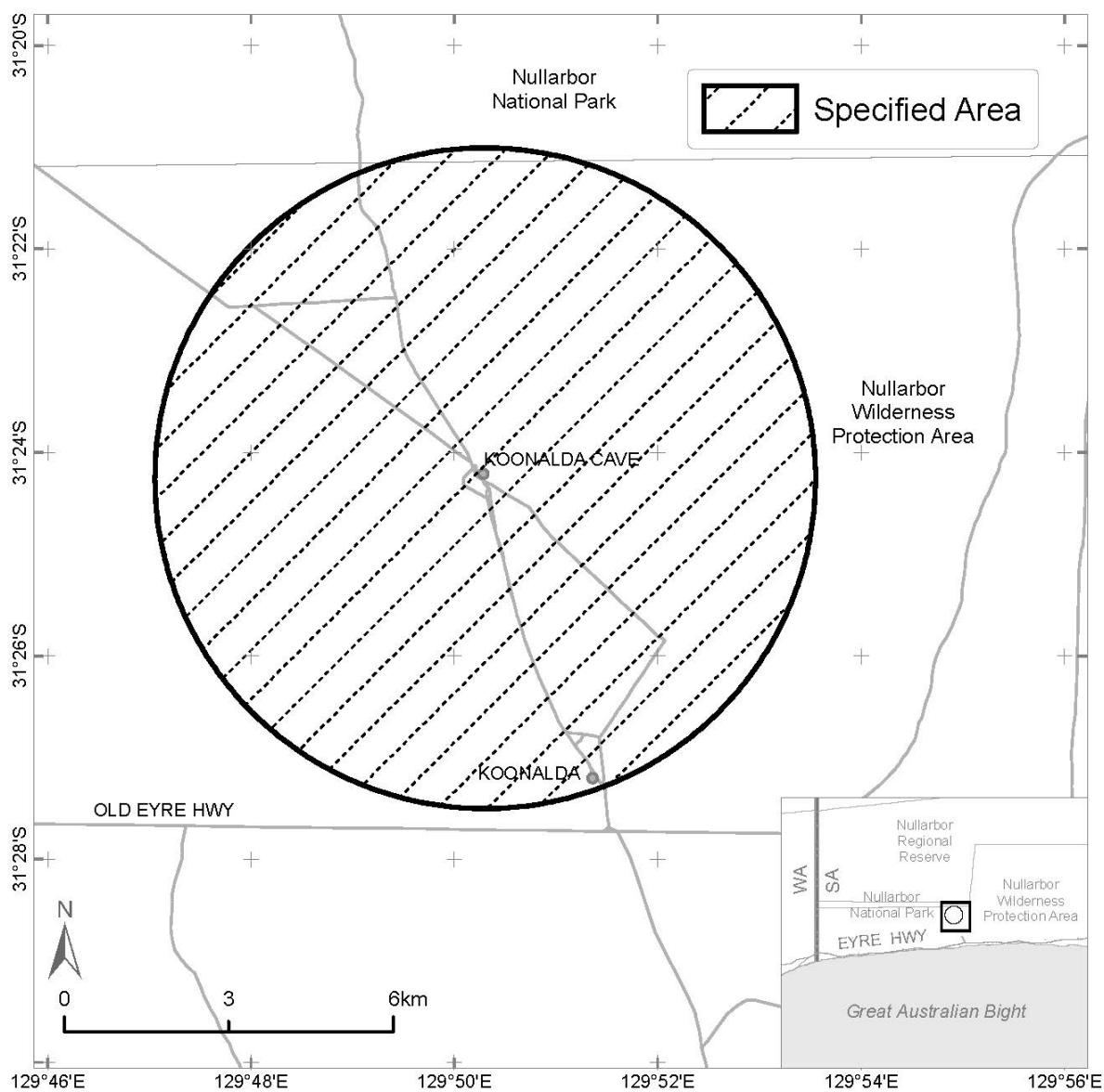


Figure 1 Map showing the specified area of Koonalda Cave, SA

Claims in relation to ‘significant Aboriginal area’

The applicant claims the specified area is of particular significance in accordance with Aboriginal tradition for the following reasons:

- Koonalda Cave is a sacred place that contains spiritually significant artwork having a sacred bond to Mirning ancestors and with the Whale Dreaming;
- Koonalda cave contains associated artefacts;

- Koonalda Cave contains some of the earliest known examples of cave art in the World
- Mirning people carry stories, duties and responsibilities to care for these places as family.

Claimed threat of injury or desecration

The applicant claims that the specified area is under threat from vandalism and culturally inappropriate unauthorised entry proposed by the South Australian Department of Environment and Water.

The specified area is a highly spiritual and sacred place for the Mirning People. The history of vandalism to the cave art and finger fluting, ongoing threats of cultural lateral violence (i.e. threats of violence and vandalism from other Aboriginal groups) and repeated entry into the specified area without cultural authority which has disturbed the ancestors and brought spiritual harm to the Mirning people. The significance of the specified area and its remoteness, increases the likelihood of further threat of injury and desecration, despite security surveillance and a locked cave entrance.

The Applicant claims that the specified area remains under threat due to the exclusion of Traditional Elders and Traditional Owner Custodians from decision making and cultural monitoring of the specified area to ensure its ongoing protection in accordance with traditional laws, customs and cultural practices.

The Applicant also claims that the entrance and access to the cave has been desecrated by the development of a car park, bollards, picnic table and wooden stairs. Such structures were installed over a sacred site contrary to traditional and state/territory law and failed to follow the principles of Free, Prior and Informed Consent from Traditional Owner Custodians and Traditional Elders who hold cultural authority. These structures have made the cave and specified area more open to tourists, more accessible and susceptible to vandalism, desecration and spiritual harm.

Access to the Art Cave and other areas within the cave have been made more accessible from steps being carved and built into the rock of the cave.

Invitation to make representations

Interested parties are invited to furnish representations in connection with my report to:

Andrew Preston
Jeddart Chambers Level 35 Santos Place
32 Turbot Street
Brisbane Qld 4000
Phone: 07 3155 3977 or 0487 090 597
email: preston@jeddart.com

Interested parties are urged to **contact me** as soon as possible to be provided with further information about the submission process, including the provision of the application, the making of representations in response to the application, and the making of final comments in response to representations received.

Representations must be made in writing by 5pm AEST on 2 October, 2025 or within such further period as may be allowed. **Do not send your representations directly to the minister.** First Nations people without representatives may provide an oral representation.

Representations made by, or on behalf of, more than one person should be signed by each of those persons.

Representations received by the due date may subsequently be provided to the applicant and other interested parties for their review and comment in order to meet procedural fairness requirements. If representations are circulated to the applicant and/or other interested parties for comment, an additional period will be allowed for those parties to make any final comments in writing. Representations will only be circulated to the applicant and/or other interested parties where the representation may adversely affect the interests of that particular interested party. Please contact me should you have any questions about this.

Claiming confidentiality

If you wish to claim confidentiality over any part of your representation, please identify why you are claiming confidentiality and how you wish confidentiality to apply. Representations will be provided to the Minister for the Environment and the Department of Climate Change, Energy, the Environment and Water (**department**), along with the section 10 report. Representations, even those subject to confidentiality, may be disclosed where it is authorised or required by law, to meet procedural fairness requirements, and in response to a request by a House or Committee of the Parliament of the Commonwealth.

Privacy

Your personal information is protected by law, including the *Privacy Act 1988* (Cth).

Please read this notice carefully before submitting a representation about the application.

Collection and use of your personal information

Your representation may contain your personal information, such as your name, contact details, your identity as an Aboriginal and/or Torres Strait Islander person, and your opinions about the application.

By submitting a representation, you consent to your personal information being collected by me for the purpose of:

- Contacting you about your representation, including for verification or clarification purposes;
- Preparing my report and briefing the minister;
- The minister making a decision in relation to the application,

and for related purposes. You also consent to your personal information being collected by the Department of Climate Change, Energy, the Environment and Water for these same purposes.

Disclosure of your personal information

I may need to disclose your personal information to the department and the minister for the purposes listed above. I may also need to disclose your personal information to:

- Third parties that may be affected by the minister's decision, where necessary to meet procedural fairness requirements;
- Commonwealth, State or Territory entities and/or persons or organisations, where necessary to prepare my report and/or for the minister to make a decision about the application.

Your personal information will not be disclosed to overseas recipients unless necessary for the above purposes.

Anonymous representations

You can make an anonymous representation or use a pseudonym. However, this may mean I cannot verify information provided in your representation and/or take your representation into account.

Representations containing other people's personal information

If your representation contains the personal information of another person, you must ensure they have agreed to their personal information being collected, used and disclosed in accordance with this privacy notice. This includes giving them a copy of this public notice and the privacy notice.

Privacy Policy

The department's Privacy Policy is available at <https://www.dcceew.gov.au/about/commitment/privacy> and explains how personal information is handled by the department, how to access or correct your personal information, and how to make a complaint.