

Response ID ANON-X4AN-M617-6

Submitted to **Review of the Aboriginal Heritage Act 1972 - Phase Two consultation**

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Introduction

What is your name?

Name:

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What is your organisation?

Organisation:

Submissions will be published as part of the consultation process. Do you wish to have your name removed from your submission?

No

Proposal 1

Will the proposal deliver the desired outcome?

Not Answered

If no, why not?:

What changes would you suggest and why?:

Proposal 2

Will the proposal deliver the desired outcome?

Not Answered

If no, why not?:

What changes would you suggest and why?:

Proposal 3a

Will the proposal deliver the desired outcome?

No

If no, why not?:

There is a lack of detail in this proposal which is troubling.

There are a number of foreseeable problems with this area. These include:

1. Diversity across the state in terms of institutional capacities, priorities, interests, concerns of Aboriginal people which militate against a consistent approach to heritage.
2. Native Title bodies are the obvious candidates for the role of LAHS, but this raises the question of how to manage in situations of dispute or where native title has been extinguished.
3. Resourcing. How are LAHS to be funded and resourced?
4. Role of the DPLH. This is unclear. There is a danger that the problems already existing in Aboriginal heritage will be transferred to LAHS, which will arguably be less well resourced and with less expertise.
5. What decisions will LAHS actually be responsible for?

What changes would you suggest and why?:

The success of this proposal in achieving the desired outcome is dependent on resourcing. Unless there is a full commitment to resourcing LAHS in terms of both funding and capacity building and access to relevant expertise, it is arguable that the system is set up to fail.

Proposal 3b

Will the proposal deliver the desired outcome?

No

If no, why not?:

This proposal could deliver some of the desired outcomes. It is not clear how this proposal ensures that 'Aboriginal heritage is respected and valued by the wider community'.

As with a number of these proposals, they sound good but it is difficult to see how effective their implementation will be. Effective resourcing is essential.

What changes would you suggest and why?:

The abolition of the ACMC is welcome, but the proposal for the new AHC lacks detail. It is vital that the new body has clear terms of reference and processes. It is also vital that the AHC has within its ranks (or available to it, through expert reference groups, co-opted subcommittees or similar) sufficient professional expertise and representation of Aboriginal people.

Proposal 3c

Will the proposal deliver the desired outcome?

Not Answered

If no, why not?:

What changes would you suggest and why?:

As with a number of these proposals, the devil is in the detail or lack of detail. It is not clear what the extent of ministerial delegation will be and what processes will be put in place to ensure transparency and accountability.

Proposal 3d

Will the proposal deliver the desired outcome?

Not Answered

If no, why not?:

What changes would you suggest and why?:

While it is logical that the DPLH continues in its responsibilities, it is vital that the department is adequately funded and resourced. Many of the difficulties in the system at the moment are the result of long-term deficits in resourcing, including too few well-qualified and experienced staff. No doubt providing support to the proposed LAHS will add further to the burden on departmental staff. Thus, ensuring adequate resources will be vital to the success of this proposal.

Proposal 3e

Will the proposal deliver the desired outcome?

No

If no, why not?:

I have little faith that DPLH has the capacity to administer such a system. How will the Department ensure that heritage professionals are adequately qualified?

What changes would you suggest and why?:

The main concern here is the relatively low standard of work required in WA. Standards have been driven down over many years by a range of factors including pressure on standards from industry, inadequate oversight by the department and the employment of inexperienced and poorly qualified consultants. It is imperative to restore confidence in the heritage sector by actively working to raise standards. The concern here is that lack of resources and expertise within DPLH will make assessment of professional qualifications and experience of heritage professionals difficult and thus the Directory will be an unreliable source of information.

With regard to the setting of standards, it is vital that the outcome aspires to 'best practice' rather than encouraging a 'race to the bottom'. I would strongly recommend a process of consultation with reputable professionals and professional organisations (such as AACAI) in order to improve standards.

A key measure that could be taken is for the department to actively encourage higher standards by refusing to accept sub-standard heritage work.

Proposal 4

Will the proposal deliver the desired outcome?

No

If no, why not?:

1. Changing the name of the register does nothing to address the poor quality of information now held and the cumbersome processes of accessing that information.

2. Setting and regulating reporting standards may improve the situation in future but is of limited value without a thorough overhaul and effective audit of the current system.

3. Substantial amounts of heritage information are not included on the register but are held by private companies, particularly mining companies. This missing

information seriously limits the capacity of the system to act as an effective planning or research tool. It also involves users of the system in unnecessary costs in terms of duplication of effort and resources in replicating surveys already conducted.

What changes would you suggest and why?:

Eliminate the distinctions in the register between Registered Sites and Other Heritage Places. All reported Aboriginal sites should be protected under the act. Other Heritage Places that have been assessed by the APMC are assumed not to be places to which the act applies. However, this assumes that the information available to the APMC has been adequately recorded and reported, and that it is complete with no possibility of amendment or new information becoming available. Inherent in the data is the problem that this is not necessarily the case. Thus the distinction is confusing in that it has the potential to mislead non-professionals into thinking that Other Heritage Places are unimportant to Aboriginal people. The categorisation of sites as OHPs is also hurtful to Aboriginal people by implying that these places are unimportant. The distinction also means that the process of searching for information on the Register is unnecessarily cumbersome.

A transparent and simple process for searching the register for particular site types, and for previous section 18 decisions (and their impact on sites) would be very helpful for heritage professionals.

Confidentiality of information is an important issue for Aboriginal communities. However, it is not clear to me why mandatory reporting of data collected by development companies should not be considered.

Proposal 5

Will the proposal deliver the desired outcome?

No

If no, why not?:

There is not enough detail about how this would work to assess the likely success of this proposal, particularly with respect to 'low impact activities' and how tiered assessments would actually be implemented.

What changes would you suggest and why?:

Consideration of heritage issues should be mandated at an early stage in any development process. Too often this aspect is considered at too late a stage for effective measures to protect heritage or develop suitable mitigation.

Developers would undoubtedly find that undertaking early planning with respect to heritage would produce better outcomes, avoid conflict and costly delays and ultimately would probably save money. Active improvements to the quality of the information register would underpin such initiatives.

Proposal 6

Will the proposal deliver the desired outcome?

Not Answered

If no, why not?:

I find this proposal unclear and confusing.

I would be concerned if these agreements were used to undercut standards - for example, by 'expediting approvals' without safeguards.

It is also unclear to me how this relates to agreements already in place as a consequence of Native Title.

What changes would you suggest and why?:

Proposal 7

Will the proposal deliver the desired outcome?

Not Answered

If no, why not?:

What changes would you suggest and why?:

Transparency is vital and I strongly support this. It is also vital that Aboriginal people have rights of appeal. The current situation is unjust in this regard.

I would suggest a specialist Heritage Appeals Tribunal would be a more effective avenue for ensuring a fair, equitable and transparent process.

Proposal 8

Will the proposal deliver the desired outcome?

Not Answered

If no, why not?:

What changes would you suggest and why?:

Proposal 9

Will the proposal deliver the desired outcome?

Not Answered

If no, why not?:

What changes would you suggest and why?: