

Response ID ANON-8EBD-41Z8-T

Submitted to **Review of the Aboriginal Heritage Act 1972**

Submitted on **2018-03-09 12:14:25**

About You

Are you submitting a response as an individual, or on behalf of your organisation?

Organisation

Organisation details

What is the name of your organisation?

Organisation Name:

Strelley Pastoral Pty Ltd; Nomads Charitable & Educational Foundation

Name of submitting officer and position.

Submitting officer and position:

Terry Butler-Blaxell

Do you have authorisation to make a submission on behalf of your organisation?

Yes

In which field is your business?

Aboriginal organisation

If "other" please specify your field of business:

Purpose of the Act

Question 1

Yes

If not, what changes should be made?:

Roles under the Act

Question 2

2 - who should be consulted?:

Affected Aboriginal People from the places that contain Aboriginal Heritage must be consulted; The ACMC must place greater weighting on the views expressed by affected Aboriginal People.

Question 3

Ineffective

How can the provision to appoint honorary wardens be improved?:

Question 4

No

Role and functions - Minister:

The Minister must be satisfied that the ACMC has fulfilled its role with diligence and care; greater evidence of procedural fairness and inquiry must be kept. Onus is on the minister to ensure his/her department and committees therein are conducting their affairs with care and diligence.

No opinion

Role and functions - Registrar:

No

Role and functions - Committee:

ACMC must demonstrate that it has exercised appropriate level of inquiry and that all affected Aboriginal groups have been consulted when assessing sites.

No opinion

Role and functions - DPLH:

What is Protected?

Question 5

Yes

5. How can section 5 be improved?:

Question 6

Yes

6. How can section 6 / Part VI be improved?:

Question 7

Yes

Additional comments:

Question 8

Yes

8. what needs to be considered?:

Human remains should remain the purview of the Coroners Act; Aboriginal Human Remains should be afforded additional protection equivalent in status to a Protected Area.

Protection and Enforcement

Question 9

9. Activities that should require consent or authorisation:

If the affected Aboriginal People consider a site should not be viewed by outsiders; there needs to be a buffer zone.

Question 10

10. Criteria to evaluate activities that may affect a site:

Is the activity likely to cause physical damage to an Aboriginal Heritage Site?

Is the activity likely to prevent or restrict enjoyment of an Aboriginal Heritage site by the Aboriginal People who consider that site significant?

Is the activity likely to cause distress to the Aboriginal People who consider that site significant?

Question 11

11. What is an impact in relation to sacred sites?:

Ethnographic report or similar submissions from the affected Aboriginal People. ACMC should take advice from independent Ethnographic adviser to help assess the submissions. If the affected Aboriginal People are dissatisfied with the assessment, they should have the right to request that another adviser is engaged to review the submissions.

Question 12

No opinion

12. consent / authorisation for proposals that will affect sites:

Three way sign-off by

ACMC

Registrar

Minister

Question 13

Ineffective

13. How s18 can be improved?:

Too much weighting is given to Aboriginal informants who are holders of Native Title. More voice should be given to non-Native Title holders or dissenting voices from within the Native Title parties.

Question 14

No opinion

14. provisions for long-term protection of sites:

Question 15

No

15. How can enforcement provisions be improved?:

This should be a strict liability offence. More enforcement officers with greater mobility.

Question 16

No

16. How can penalties be improved?:

The requirement to commence prosecution within 12 months does not provide adequate opportunity for discovery, investigation, reporting and review. This should be increased to 24 months.

Site Assessment and Registration

Question 17

No

17. Why shouldn't a defence be provided?:

Question 18

No

18. What should the criteria be?:

ACMC must demonstrate it has made sufficient inquiry when assessing a site.

Question 19

19. Steps to report place or object:

Culturally sensitive information should continue to be unavailable for public viewing. Where the Aboriginal informants have reported a sensitive site and requested that its location be concealed - the AHIS system should flag that there is a site in the region but not provide the exact location: for further information contact the Registrar. The Registrar should then endeavour to contact the knowledge holders and determine how to proceed with disclosure of the site.

19. Steps to nominate a place or object:

The place or object must be supported by claims from traditional knowledge holders- or explicitly identify the holders of the traditional knowledge who were consulted when the AHIS form was submitted.

19. Steps to assess a place or object:

ACMC must consider Statements and testimony from traditional knowledge holders or statements and testimony compiled on behalf of traditional knowledge holders with their informed consent.

19. Steps to enter a place or object on the Register:

Any place or object that is considered significant by Aboriginal Persons must be entered onto the register and remain entered on the register until it can be shown without any doubt, that the site is not significant.

No opinion

19. Steps to amend a place or object on Register:

19. Steps to remove place or object from Register:

No object or place should be removed from the register unless it can be shown without any doubt that the place or object is not significant to Aboriginal Persons.

Other Parts of the Act

Question 20

20. What's missing from the Act?:

Its relationship to other Acts effecting land tenure.

Question 21

No opinion

21. Sections to be removed from Act?:

Any other comments

Any other comments: