

Response ID ANON-8EBD-41Y9-T

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

Submitted on **2018-05-31 15:07:53**

About You

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

Individual

Individual details

Are you of Aboriginal or Torres Strait Islander descent?

No

What is your name?

Optional:

Rachel Fry

Do you give permission for your name to be published with your feedback?

Yes

Purpose of the Act

Question 1

No

If not, what changes should be made?:

to make provision for the preservation and conservation on behalf of the Traditional Aboriginal Owners and the community of places, practices and objects customarily used by or traditional to the original inhabitants of Australia or their descendants, or associated

Roles under the Act

Question 2

2 - who should be consulted?:

Traditional Owners should be consulted about any likely impacts on their heritage places including on the associated heritage landscape.

It is vital that Aboriginal people are included on the APMC. In particular, guest TOs should be present when heritage matters relevant to their group are discussed.

Question 3

Ineffective

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

Honorary wardens should be TOs from the relevant area. They should be fully supported by the department with training, necessary equipment and expenses.

Question 4

No

Role and functions - Minister:

The Minister is able to override the recommendations of the APMC. This has been used frequently in the past to facilitate development and allow the destruction of heritage places. The Minister should return to the appropriate TO group to negotiate an agreement if he does not agree with the decision of the committee.

No

Role and functions - Registrar:

The Registrar should act on behalf of and for the protection of Aboriginal Heritage.

The Registrar should be obliged to inform TOs of any decisions made by the department regarding their heritage.

All decisions/recommendations made by the Registrar and the department regarding heritage should be entirely transparent to the relevant Traditional Owners.

No

Role and functions - Committee:

More and compulsory Aboriginal participation. More consultation with the relevant TO groups.

Decisions are not final till reviewed by the relevant TO group.

Appointment of qualified archaeologists and anthropologists to the committee.

No

Role and functions - DPLH:

The Act has been misconstrued by the Department of Planning, Lands and Heritage (including the Department in its previous incarnations) to facilitate destruction of Aboriginal Heritage. The Act needs to be clear that the primary function of the Department is to protect Aboriginal Heritage and facilitate the ongoing management of that Heritage, in consultation with the relevant Traditional Owner groups.

What is Protected?

Question 5

No

5. How can section 5 be improved?:

Section 5 should include some way of preserving cultural landscapes, not just sites or places without context.

Question 6

Yes

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

Question 7

No

Additional comments:

See above. Sites exist in a cultural or heritage landscape. Protected areas should consider the relationship of sites in this context.

Question 8

Yes

8. what needs to be considered?:

Consultation with relevant TO group regarding options. E.g. reburial, preservation, relocation.

Protection and Enforcement

Question 9

9. Activities that should require consent or authorisation:

Any activity that will impact on the site, in terms of disturbance or destruction. Any activity that restricts or prevents access to the site for TOs or that will impact on the ongoing use, amenity or management of the place by TOs. Also any construction or development that will allow greater public access to the site.

Question 10

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

See above

Question 11

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

See Q 10 above. Consult the relevant TOs and any relevant written records about the site, where information was recorded with past elders.

Question 12

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

The relevant Traditional Owners in consultation with the APMC.

Question 13

Ineffective

13. How s18 can be improved?:

It is very effective for developers. It gives them a right of appeal, unlike Aboriginal people, if decisions do not go their way. It has been used as a tool to facilitate development at the cost of site protection.

Aboriginal TO groups should have the right to appeal a decision if a S18 consent is granted and is in conflict with their wishes. TO groups should be informed about all S 18 decisions that impact on their heritage. The entire process needs to be transparent.

Question 14

No opinion

14. provisions for long-term protection of sites:

Question 15

No

15. How can enforcement provisions be improved?:

The enforcement provisions need to be policed and enforced more rigorously. Wardens should be fully supported in assisting with this. Prosecutions should be actively pursued by the department.

Question 16

No

16. How can penalties be improved?:

Penalties should be considerably increased, especially for body corporates.

Site Assessment and Registration

Question 17

Yes

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

Question 18

No

18. What should the criteria be?:

Sites need to be viewed in a cultural landscape context. A group of sites of various or similar types may be much more meaningful in their relationships to each other and to place than a site in isolation.

Aboriginal cultural meaning is embedded in landscape. Preserving one site while destroying all other sites and the landscape associated with it is to detract hugely from its cultural relevance.

Question 19

19. Steps to report place or object:

Contacting the Register of Aboriginal Places and Objects and achieving all necessary assistance required.

19. Steps to nominate a place or object:

See Q19 above.

19. Steps to assess a place or object:

Consultation with TOs, references to reports by qualified and professional anthropologists and archaeologists. Places should be assessed in context with other cultural places in the area, not in isolation.

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

All places and objects presented to the Register should be entered into the Register unless:

- a) the place or object is specifically requested not to be placed on the Register by the appropriate T Os,
- b) the place or object has been assessed as not a site or cultural object by a qualified professional archaeologist or anthropologist, preferably in consultation with the relevant TO group.

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

Consult the relevant TO group and qualified anthropologist/ archaeologist.

19. Steps to remove place or object from Register:

See above.

Other Parts of the Act

Question 20

No opinion

20. What's missing from the Act?:

1. A consideration of Aboriginal culture in an holistic way.
2. Proactive departmental management strategies for Aboriginal heritage.
3. Strategies for ongoing inclusive consultation with TOs about the ongoing management of their heritage.

Question 21

No opinion

21. Sections to be removed from Act?:

Any other comments

Any other comments: