

Eastern Goldfields Prospectors Association

An Affiliated branch of the Amalgamated Prospectors & Leaseholders
Association of W.A. Inc

PO Box 2071, BOULDER WA 6432



Representing Prospectors
Since 1904

SUBMISSION ON THE REVIEW/REWRITING OF THE ABORIGINAL HERITAGE ACT 1972

The Eastern Goldfields Prospectors Association (EGPA) is a not for profit organisation operated by volunteers, representing some 600 members with a mandate to protect, to facilitate and to further the interests of the small end of the mining industry represented by non-corporate prospectors, small miners and leaseholders in the Eastern Goldfields region.

From the small end of the mining, we believe that the State should not introduce new policies and regulations that will adversely affect the ability for other land users to make a living. Other land users contribute to the general economy and help sustain regional economies where most aboriginal people needing economic assistance live, where most services that these people need are based, and where the employment benefits for local aboriginal people can be maximized.

It is of little use if most regional aboriginal people end up being further disadvantaged by these programs, shutting down employment and economic benefits and regional communities. Heritage sites of significance should be recognised and protected, but some estimate of the value of these sites in relation to the value to existing aboriginal and regional economies for alternative uses should be also recognised. It would be counter-productive for everyone if the net outcome of protecting low value heritage sites were to increase hardship (economic or otherwise) on all, including existing and future Aboriginal communities.

A summary of 48 issues of particular relevance for professional prospectors recorded from within our organisation over a recent series of meetings

A) Heritage sites

1. There should be a hierarchical ranking of sites (ranging from 1 to say 10) from those of low protection value to high protection value.
2. How can sites be adequately protected when they are imprecisely located or mapped incorrectly and no information is available? Explorers/miners need to know precisely where sites are so they can avoid them (secret sites and non-disclosure of sites is not acceptable). With today's GPS technology there is really no excuse for poor defined site locations.
3. The section 18 (S18) process is far too long, clumsy and costly.
4. How can the system be credible when prospectors are being told that the surveys expire after a limited term? Some EGPA prospector members have been told that some surveys need resurveying after 2 years. Such claims are often being interpreted as examples of rent seeking exercises, benefiting assessors.
5. The tenure of heritage surveys should not cease and be needlessly repeated for subsequent tenement holders over the same ground.

6. There is a need for areas to be surveyed and cleared only once. Where a team of Aboriginal Informants has identified a site, the Register needs to record the name of a proxy person who can speak on behalf of any one of the Informants in the event of his/her death. This is important where it is agreed that a site or buffer zone is not where it has been mapped and you need the agreement of the Informants to change/extinguish it.
7. Trees, having a very limited life, should not constitute protected sites.
8. Many places, mistakenly identified by professionals, are later found not to be actual sites, and end up delaying the process and significantly adding to costs.
9. Land users need to be advised of the presence of registered sites, sites under consideration and also land areas cleared as being free of heritage sites.
10. The current heritage clearance process is too complex, slow and time consuming.
11. There is a need for clearly defined time lines and end points similar to those used in Native Title resolutions.
12. All AH Surveys and maps must, by law under the Act, be lodged into the State database.
13. A need for stricter reporting standards.
14. Need for a central register of all sites and all surveys.
15. Mandatory reporting of identified sites and past surveys to be made readily available on-line to future site users.

B) Heritage Professionals

16. There is considerable concern about who is qualified to consult on heritage issues and clearances.
17. There needs to be a register established documenting the credentials of acceptable consultants.
18. The register of suitable consultants must be independent of land councils.
19. Land councils should not have the ultimate say, and should recognise input from elders who should also be available for consultation with the tenement holder.
20. In particular heritage officials need to be made much more accountable. There should be strict guidelines and standards for surveys and there should be a register of heritage professionals who are accountable to these strict standards or face being struck off or fined.
21. Survey participants and assessors need to demonstrate they are qualified to speak for an area.
22. A reasonable standard hourly rate and expenses for those qualified and registered agents and assessors involved in the survey should be defined and adopted.
23. The costs of engaging aboriginal people is generally acceptable, it is the added on costs, middle management and fees that is the more important concern. Costs should be contained or irradiated, and the regulatory burden minimized or deleted for the small operator.
24. Upfront fees (which can be described as booking fees) are currently being asked over and above fees charged for undertaking heritage surveys. This is generally considered predatory, illegal, unethical and unacceptable behavior. Some EGPA members have been asked to pay \$15,000 to initiate initial discussions in relation to clearances. Prospectors sometimes see this as a discouragement or deterrent for small operators, who are, perhaps seen as a less lucrative market.

C) Heritage reports

25. A written report to the applicant land users/tenement holders, highlighting the level of the survey, relevant locations, issues and potential concerns, recommendations, with detailed maps with GPS coordinates referencing critical locations may be all that is necessary. This should be registered and made available to whoever is paying for it, and in the case of mining tenements to the DMIRS and other aboriginal interest groups to avoid future duplication of the effort and expense and to provide a permanent record.
26. Prospectors and small miners often hold numerous tenements needing heritage clearances. These are frequently commonly relinquished as they move on. Prospectors need certainty prior to committing to projects and investing, and need access to heritage information and records. The costs can be considerable.

27. There should be greater transparency and heritage reporting should be available to all.
28. Register legacy issues – the boundaries are much too large.
29. Past heritage registered sites need to be updated to reflect where the actual sites are located, with GPS references. 10 X 10 km blocks are no longer appropriate and are terribly wasteful of available ground.
30. Sites should be promptly removed if subsequent work shows they are not correctly located or if proven to be invalid.
31. Heritage sites should be verified on the ground before being added to the system by the Dept.
32. All reports to be made public.
33. The Act to include a schedule of costs for consultations and surveys.
34. There are major concerns that the system and processes are open to being rorted.
35. Land councils are acting as gate-keepers and are not allowing prospectors' access to aboriginal people with knowledge to resolve disputes and confirm heritage issues.
36. Punitive measures should be introduced to deter against bogus or false claims made by heritage professionals.
37. Local elders should be the arbiters in site disputes

D) What prospectors need

38. Users want certainty and workable tenements.
39. Different types of sites having different significance need to be ranked and accommodated.
40. A register of properly audited, officially cleared areas is needed.
41. Concerns over buffer zones, continuing to accrue rates, rents and expenditure commitments for the tenement holder who is denied access to often, large parts of tenements.
42. If heritage areas and buffer zones are to be isolated from the tenement holder then the area involved should also be excluded from rent and shire rates and in determining lease expenditure commitments.
43. Concerns if an area has already been disturbed prior to a survey, how should this be treated in a new or subsequent survey? 125 years of mining activity in many areas has heavily distorted the surface making the effective surveying of heritage impacts questionable.

E) The government's role

44. The government needs to take leadership and ownership of the heritage process. The role of the consultation process is currently flawed and needs review.
45. The government should fund a cultural/heritage mapping survey of all sites across the State so land users know where sites are.
46. There would be support for a regional standard heritage agreement model across the State.
47. There is an urgent need for a functional tribunal for appeals regarding site assessments and disputes. An example of problems causing serious delays with financial implications was a case with a prospector at Kanowna where a "dreaming track" described on the Register as a "gimlet grove" was put over the area by members from the Central West Claim group *after* the tenement (Mining Lease) was granted. Discussions at a meeting resulted in an agreement with them that the site was not on the prospector's mining lease. DIA advised that the Register could be changed if all 5 of the original informants signed a statement in agreeance. Two of the 5 were dead and it took years of backwards and forwards to the APMC (Aboriginal Cultural Materials Committee) before it was finally amended. Meantime, the prospector could not get a POW (Program of Works) approved to work his tenement.
48. The relevant department needs adequate resources to process the large backlog of sites needing to be assessed.

In conclusion

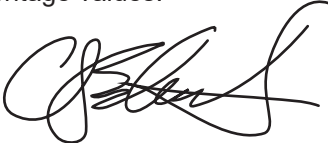
This submission raises some of the issues of concern for professional prospectors and small miners, depending as they do, on timely access to ground and the regular turnover of tenements needing timely heritage clearance. The concerns are focused on reducing the cost and regulatory burden and improving and standardising the heritage protection process. Heritage protection is principally designed to both recognise and protect sites of heritage value, and not to be seen as providing income streams for individuals in the evaluation process, at the expense of existing small prospecting

businesses operating in the area. Unlike larger corporate miners, small operators cannot afford expensive and time-consuming additional regulatory burdens when operating on tight financial budgets and time constraints.

A preferred solution to most heritage issue problems would be a State Government controlled process with a designated fully funded government department to take over responsibility for managing and implementing a fair, functional heritage system for the State, similar to how the Geological Survey of WA operates within the Mines Department managing many mapping and reporting functions.

The existing 1972 Aboriginal Heritage Act has worked reasonably well over the last 46 years. By this time all significant sites should have been identified. Surely the discovery of any significant new sites becomes a case of diminishing returns, highlighting the increasing futility of continuing the process. Apart from managing the existing database and general housekeeping, does much more really need to be done and is there really much of significance left undone?

The EGPA looks forward to continuing this discussion and progressing towards a streamlined and functional Aboriginal Heritage Act that accommodates the concerns and protects the interests of both professional small miners and Aboriginal heritage values.



Cranston Edwards

President

The Eastern Goldfields Prospectors Association

