

Response ID ANON-8EBD-41CA-C

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

Submitted on **2018-06-01 16:53:07**

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:

Richard Hosking

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?:

The current description of the Act has failed to capture the spirit of "country" as the valuable item of past, present and future.

'...to make provision for the preservation on behalf of the "country itself" and its community of places and objects customarily used by or traditional to the original inhabitants of Australia or their descendants, or associated therewith, and for other purposes incidental thereto.'

Roles under the Act

Question 2

2 - who should be consulted?:

The Act needs to include an over arching provision that if there are no identifiable Aboriginal People then the presumption must be that it needs to be preserved and cared for.

The existing mechanism has failed to preserve.

Question 3

No opinion

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

Question 4

No

Role and functions - Minister:

The unfettered power to make assessment over 65000 year old items of country should never have been handed over to a transient Minister in 1995.

It only watered down the effectiveness of the Act, already watered down by the previous amendments in 1980, even more so and has led to massive exploitation by vested interests through the ear of one person.

No

Role and functions - Registrar:

The Registrar needs to not just be a record keeping role its powers need to be significantly improved for powers of entry to ensure any works are not detrimental and its powers of ceasing works have sufficient teeth.

No

Role and functions - Committee:

If the role of the Minister is to be retained in any improved Act the appropriately constituted committee (see note below), must have a Veto power against Ministerial decisions to allow development or delisting of heritage matters.

Committee comprised of vested interests needs to be rebalanced. For instance it appears that Landgate is going into private hands so putting the keys to WA's land (country) into their control is inappropriate. Likewise, having the Department of Planning. It needs to comprise of the Dept's of Environment and the Museum.

No

Role and functions - DPLH:

Their power is pro development and destruction of country. In addition any recommendations can be overridden by the sitting Minister, making it a farce.

What is Protected?**Question 5**

No

5. How can section 5 be improved?:

It currently fails to acknowledge the sacredness of the Country Itself (the Rock Art, the Rivers, the creatures, the ancestors etc).

Question 6

No

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

The big object that was taken was the Country Itself.

For sites newly populated by the non indigenous in the last 200 years they have been taken, the remaining country now need to be treated as protected.

Question 7

No

Additional comments:

The fact that no new areas have been protected areas since 1980 speaks volumes. They need to be sought out rather than blown up, exported or otherwise lost. The Act needs to be altered to protect 'in the first instance' and not proven.

Question 8

Yes

8. what needs to be considered?:

Treat all undeveloped sites as protected. It is not up to the stolen generations to prove they exist and are visited.

Protection and Enforcement**Question 9****9. Activities that should require consent or authorisation:**

All activities.

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

They cannot use the land unless it is an activity that keeps it in its natural state. For instance, wild harvesting of traditional bush foods would not alter landscape nor disturb.

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

They cannot use the land unless it is an activity that keeps it in its natural state. For instance, wild harvesting of traditional bush foods would not alter landscape nor disturb.

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

All mining and current broad acre farming techniques affect sites permanently so NOT authorised.

Other activities that do not interfere should be permissible the same way as the Act should have operated since inception.

Question 13

Ineffective

13. How s18 can be improved?:

The Committee should have the power of determination and not the Minister. The various ministers in office, since given their unilateral powers, have removed listings and approved most applications.

Question 14

14. provisions for long-term protection of sites:

Alter the Act to ensure the presumption that all remaining sites are significant.

Question 15

No

15. How can enforcement provisions be improved?:

Increase the penalties into the billions of dollars not the current pathetic amounts and the penalties to be placed into trust for site monitoring and management plus invested in caring for country programs.

Make the penalties retrospective, 500 years (especially for mining transgressions given no permission and no rehabilitation is possible).

Again, make all profits flowing from continued use of affected sites pay a royalty for policing the protection of remaining sites and investment in caring for country programs (nationalise the asset as well as the infrastructure).

Question 16

No

16. How can penalties be improved?:

Increase the penalties into the billions of dollars not the current pathetic amounts and the penalties to be placed into trust for site monitoring and management plus invested in caring for country programs.

Make the penalties retrospective, especially for mining transgressions.

Again, make all profits flowing from continued use of affected sites pay a royalty for policing the protection of remaining sites and investment in caring for country programs (nationalise the asset as well as the infrastructure).

Site Assessment and Registration

Question 17

Yes

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

Given that aboriginal people have had to endure (and hide) from 200 years of:

1. The Authorities and land owners killing them.
2. Hide their children from being stolen (for generations)
3. Suffer poorly implemented assimilation strategies.

It remains deeply entrenched that aboriginal people do not disclose for fear of the consequences. Those in a position of power cannot exploit or destroy what they do not know about or understand.

It is therefore imperative the Act is designed to protect those (including the land itself) with no statutory veto power (past, present and future).

Question 18

No

18. What should the criteria be?:

Whilst the definitions are adequate the Minister is the one who adds to the list (which he tends not to).

The fact that there is a back log and no objects have been listed, indicates the process is flawed due the pressure to not protect.

Question 19

19. Steps to report place or object:

None will need to be identified in addition to those already identified if all remaining undeveloped country is deemed as 'reported'.

19. Steps to nominate a place or object:

None will need to be nominated in addition to those already nominated if all remaining undeveloped country are deemed nominated.

19. Steps to assess a place or object:

None will need to be assessed in addition to those already assessed if all remaining undeveloped country was assessed when country was dispossessed.

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

None will need to be entered in addition to those already entered if all remaining undeveloped country (as inclusive of place and or objects) was placed on the register.

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

That the land user will respect county for sustainable utilisation not destructively unsustainable and culturally insensitive.

19. Steps to remove place or object from Register:

See prior comments.

Other Parts of the Act

Question 20

No opinion

20. What's missing from the Act?:

Question 21

No opinion

21. Sections to be removed from Act?:

Any other comments

Any other comments: