

## Response ID ANON-8EBD-41C6-1

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

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### 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?**

Yes

**What is your name?**

**Optional:**

Noel Morich

**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 provide for the preservation, the practicing and access to for places, objects, customs, traditional practices and intellectual property, on behalf of the various traditional owner groups and custodians of Australia or their descendants to continue to maintain their cultural, spiritual, heritage, hunting, camping, fishing and land management practices at the level represented by their historic tribal affiliation.

### Roles under the Act

#### Question 2

**2 - who should be consulted?:**

The objective of the Aboriginal Heritage Act should be to preserve and protect the remaining Aboriginal Heritage places, sites, objects and the protection of Aboriginal populations ability to maintain cultural practices or customs which have not been desecrated, impacted , inhibited or destroyed since European arrival. This can only occur if the Act explicitly states that Aboriginal people must be consulted and that the Aboriginal Cultural Material Committee structure must be replicated and adequately resourced financially, capacity building , capability and structurally at the regional level representative of the traditional owner groups. There should be better transparency of the Heritage consultation and selection process. There should be improved controls over development with no back door deals by local government or development proponents with Aboriginal groups and families who say that they are the only parties that should be consulted on property or mining developments. There should be an online register of proposed developments, consultation processes and the heritage monitoring should be conducted on an Expression of Interest basis by properly qualified Aboriginal monitors with proven associations to the areas being developed. The online register should also provide details of the consultative process and reports published subject to cultural sensitivities associated with certain sites and objects.

#### Question 3

Ineffective

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

Honorary Wardens should be appointed at the local level and representative of the native title groups if necessary these persons appointed should local descendants from traditional ownership, have appropriate training and accreditation and have powers to fine, mediate and prosecute under the Heritage Act. These Warden's must be of Aboriginal descent and be adequately resource and remunerated and they should not be voluntary roles.

#### Question 4

No

**Role and functions - Minister:**

The Minister should have an reviewing role and should not make the final decision a legal panel or tribunal should be involved in considering the views of traditional owners and custodians and those of the development proponent. There should be regional consultations and decision making so as to enable Aboriginal people to be involved at a local level in the administration of the revised Aboriginal Heritage Act.

No

**Role and functions - Registrar:**

The Registrar should have a role in providing administrative support, registration, providing resources to support the functioning of the Aboriginal regional groups, reporting, prosecution and maintaining a database of consultations conducted on Aboriginal Heritage matters. The Registrar should also be involved in accrediting people involved in heritage work. Too often non Aboriginal people are not asked to prove their credentials and Aboriginal people are not accredited in any way to perform the heritage work. It should be mandated that the Non Aboriginal development proponents be culturally competent and to have a prequalification process with regard to Aboriginal heritage matters when submitting development applications which may potentially impact an Aboriginal site.

No

**Role and functions - Committee:**

Clearer more concise definition of the the roles, responsibilities and functions of the ACMC. The ACMC should discuss and evaluate the operation of the AHA and the regional protection of sites and Aboriginal Cultural heritage by regional ACMC type administrative groups.

No

**Role and functions - DPLH:**

There needs to be adequate resourcing. The DPLH should also have a role of developing capability, education of the non aboriginal community and capacity building for Aboriginal heritage protection at the regional level. Aboriginal Heritage protection in the regions. The development of relationships. There should be an avenue for a negotiated settlement with money or resources for local Aboriginal heritage protection as desired outcomes from the processing of development applications. There may also be room for individual ILUA type settlements which provide economic or employment outcomes to benefit local Aboriginal people impacted.

**What is Protected?**

**Question 5**

No

**5. How can section 5 be improved?:**

The definition needs to be broadened to protect Aboriginal cultural heritage practices and land access, the definitions should also provide for protection of contemporary Aboriginal Cultural Heritage sites such as missions, stock routes, station camps, removal routes for prisoners, relocations from traditional lands to missions and hunting camping and fishing areas.

**Question 6**

No

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

There should be provision for the protection of objects which have been removed overseas and to Australian museums in this section.

**Question 7**

No

**Additional comments:**

There should be a regional or locational ILUA type agreement which involves the Aboriginal traditional owners being involved in negotiating with land owners and interested parties to agree to the protection of these areas of special significance.

**Question 8**

Yes

**8. what needs to be considered?:**

The Act should consider skeletal material removed to coroners, museums, overseas institutions for archaeological investigation. The repatriation of these should also be addressed.

**Protection and Enforcement**

**Question 9**

**9. Activities that should require consent or authorisation:**

Mining, Agriculture, Property Development, Excavation, Fishing, Natural resource harvesting, land clearing, fauna protection, fencing, road construction, infrastructure development. Any developments within an areas where there are registered sites.

**Question 10**

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

Any proposal involving land use, flora and fauna exploitation, mining, infrastructure, rail ports, impacts to river and water sources and the utilisation of water sources.

## Question 11

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

through a proper process negotiated with traditional owner from the area to be impacted. Only the local traditional owners will have the knowledge and capacity to determine the impact of the development on their cultural heritage.

## Question 12

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

A localised tribunal which involves Aboriginal representation.

## Question 13

Effective

### 13. How s18 can be improved?:

There should be an online register of pre-development applications, more time for Aboriginal people to consider and respond to these proposals. The establishment of better linkages to development processing. The online database requires transparency and engagement for traditional owners to be actively informed of the processes undertaken when approving land and mining development applications. Aboriginal monitors should be selected from an EOI process or through a transparent, selection process with a pre-qualification process required for persons nominating themselves to be involved in Aboriginal Heritage monitors.

## Question 14

No opinion

### 14. provisions for long-term protection of sites:

## Question 15

Yes

### 15. How can enforcement provisions be improved?:

The person doing the damage should be made to be responsible for the redress to the local traditional owners impacted. There should be greater penalties and a comprehensive public education program.

## Question 16

No

### 16. How can penalties be improved?:

The penalties should be greatly increased and resourcing of the enforcement of the ACT should be increased.

## Site Assessment and Registration

## Question 17

Yes

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

## Question 18

Yes

### 18. What should the criteria be?:

## Question 19

### 19. Steps to report place or object:

A local committee should be consulted at the regional level consisting of traditional owners, an assessment should be undertaken by archaeological, anthropologists and ethnographic experts in consultation with traditional owners.

### 19. Steps to nominate a place or object:

A local committee should be consulted at the regional level consisting of traditional owners, an assessment should be undertaken by archaeological, anthropologists and ethnographic experts in consultation with traditional owners.

### 19. Steps to assess a place or object:

A proper process with specified prequalification addressed.

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

It should be gazetted and the local community be educated as to its registration.

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

No amendments should be required unless the site or object is totally destroyed.

**19. Steps to remove place or object from Register:**

There should be no removals.

**Other Parts of the Act**

**Question 20**

**20. What's missing from the Act?:**

No protection of intellectual property, inadequate protection of Aboriginal cultural practices such as bush medicine, hunting, plant use. No protection for informants when giving information to researchers it is the researcher who retains and benefits from the information provided.

**Question 21**

No opinion

**21. Sections to be removed from Act?:**

**Any other comments**

**Any other comments:**