

# Aboriginal Heritage review

## OVER VIEW - LEGISLATIVE CHANGES.

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Rather than propose a series of amendments to the aboriginal Heritage Act 1972, this Consultation Paper seeks community and stakeholder feedback on the effectiveness of the current legislation, to identify any gaps, and encourage ideas on how it can be improved.

This is the **first opportunity** for you to contribute to the review of the Act. Other opportunities for comment and input will be provided during **phase two**, which will see the release of a Discussion Paper later this year that will offer a series of proposals on what an amended Act should do.

Land use makes a significant contribution to the economic, social and environmental wellbeing of communities in Western Australia. It is therefore essential that heritage legislation operates in harmony with other relevant legislation in the interests of all stakeholders. It should also foster the efficient use of private and public resources through transparent processes that promote certainty.

The first set of amendments in 1980 included the addition of the terms 'importance' and 'significance' in section 5. Parliamentary debates through Hansard show that the purpose of this addition was to 'tighten' the definition of an Aboriginal site and ensure that only places 'worthy of preservation' are subject to the protection of the Act. The second set of amendments, in 1995, transferred responsibilities for the administration of the Act from the Trustees of the WA Museum to the Minister and the then Aboriginal Affairs Department.

And it is with this certainty required from stakeholders in the small-scale mining sector/prospectors that we seek the following changes.

**Ben Wyatt** has asked the following and in response we have answered.

It is therefore time to ask:

– Is the Act meeting the expectations of stakeholders and the aspirations of the community for the way in which Western Australia's Aboriginal heritage is recognised, managed and protected?

**It is adequate if not appearing to be invasive in the mining sector and needs to be pulled back with less onerous obligations on stakeholders.**

– What changes are necessary to improve the effectiveness of the legislation?

**Defined AHSurveys where the claimant and proponent are able to negotiate scaled fees in accordance with the mining tenement they may have across Crown Land. Small scale miners can not afford that of the likes of medium to large scale mining. Large Scale mining can make their own contracts and pay a lot more where small individual miners are unable to sustain such agreements and expenses.**

## ROLES UNDER THE ACT

The Act sets out the roles and functions of the Minister, the Committee and the Registrar. The Department is responsible for administering the Act and works with all stakeholders to preserve and manage Aboriginal sites of importance and significance.

## PURPOSE OF THE ACT

**The purpose of the Act is set out in the long title:** An Act to make provision for the preservation on behalf of the 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. The long title sets out the general aims of the legislation to provide context for the detailed provisions of the legislation.

- 1. Is the long title an adequate description of what the amended Act should set out to do? If not, what changes should be made?**

**No comment here.**

**Role of Aboriginal people :** While the Act does not explicitly require Aboriginal people to be consulted regarding Aboriginal cultural heritage, the general expectation is that where a proposal may breach the Act, Aboriginal people with knowledge of a particular area participate in heritage surveys associated with the proposal. The Committee is obliged, as a matter of procedural fairness, to ensure that it has sufficient information from Aboriginal people who might be affected by a decision as to the existence, significance and importance of sites. While there is no explicit requirement for Aboriginal people to be consulted under the Act, it is acknowledged that information about the Aboriginal heritage for a particular area is best obtained through consultation with the relevant Aboriginal people.

While there is no definitive list of Aboriginal people who should be consulted for an area, the Committee suggests that the following people at least should be consulted:

- (a) determined native title holders;
- (b) registered native title claimants;
- (c) persons named as informants on Aboriginal site recording forms held in the Register; and
- (d) any other Aboriginal people who can demonstrate relevant cultural knowledge in a particular area.

As part of the procedural fairness process, consultation with the relevant Aboriginal people is currently a pre-condition to the Committee's consideration of an application for consent or approval under the Act.

Under section 50 of the Act, the Minister may appoint honorary wardens for the purposes of the Act. Honorary wardens appointed by the Minister may exercise enforcement powers under Part VII of the Act. There is no requirement for honorary wardens to be of Aboriginal descent.

Q1. What do you think are the best ways to ensure the appropriate people are consulted about what Aboriginal heritage places should be protected, and

A . If they wish to bring this requirement that they be of aboriginal descent then they would perhaps consider defining the Honorary Warden to an elder of the area with proven knowledge and 30 years history in the area. If there is no-one suitable in the region[country] with proven history and knowledge and then they may not always have to be of aboriginal descent.

Q2.How a proposal may impact those places?

Many places identified by in the past are not sites but end up delaying the process and significantly adding to costs. The documentation of such sites with transparency would be of significance as long as they have the proven knowledge with at least 30 years in the country and show Respect for and protection of significant tangible aboriginal history.

Q3. To what extent has the provision to appoint honorary wardens been effective and how can it be improved?

1. Heritage officials need to be made much more accountable, Experience, advice, research and proven evidence based. Accreditation of any group or individual must prove beyond doubt that they have lived at one time or another for an extended period of years say 30 years in the relevant survey area. Such a domicile provision should not be based on tribal, family or "mob" connections. Once accredited, only this group can be utilized as heritage surveyors.
2. There should be a register of heritage professionals that are accountable to strict standards and can be struck off or fined. Accredited holders.
3. Greater transparency and heritage reporting to should be available
4. There should be strict guidelines and standards for surveys available for the proponent and the claimant.

If they wish to bring this requirement then they would perhaps consider defining the Honorary Warden to an elder of the area with proven knowledge. Perhaps some academic qualification? Which would be great to create a school for this where history of aboriginal sacred areas is defined in writing and the knowledge is past down from generation to generation without dilution. Or over zealous younger ones coming through thinking they can stake out any area with dilution of the facts. Taking into account ALL stakeholders and the history of mining as well.

**Role of the Aboriginal Cultural Material Committee:** The Committee is established as an advisory body under section 28. The role of the Committee is to evaluate, on behalf of the community, the importance or significance of Aboriginal places and objects and recommends places and objects to the Minister, which are or have been of special significance to Aboriginal people. The Committee's advice may include recommendations about the preservation or management of Aboriginal sites and objects, and applications for land development.

The functions of the Committee, listed in section 39(1), are:

- to evaluate on behalf of the community the importance of places and objects alleged to be associated with Aboriginal persons;
- where appropriate, to record and preserve the traditional Aboriginal lore related to such places and objects;
- to recommend to the Minister places and objects which, in the opinion of the Committee, are, or have been, of special significance to persons of Aboriginal descent and should be preserved, acquired and managed by the Minister;
- to advise the Minister on any question referred to the Committee, and generally on any matter related to the objects and purposes of this Act;
- to perform the functions allocated to the Committee by this Act; and
- to advise the Minister when requested to do so as to the apportionment and application of moneys available for the administration of this Act.

**Committee members** are drawn from various parts of Western Australia and are people who, in the opinion of the Minister, have special knowledge, experience or responsibility that will assist the Committee in the recognition and evaluation of the cultural significance of matters coming before the Committee. The Minister appoints a chairperson of the Committee from the appointed members. Of the appointed members, one shall be a person with specialised experience in anthropology, and there are three ex-officio members representing government agencies, including Landgate, the WA Museum and the Department of Planning, Lands and Heritage.

**Problem: They are not processing the AHS in a timely business like manner and some 14500 outstanding surveys have not been processed due to some dilution of evidence on the ground.**

Once authorised, the applicant may deal with all matters arising under the Act to deal with an application. According to the Due Diligence the provision 'ensures that all those who deal with the applicant in relation to matters arising under the AHA can be assured that the applicant is authorised to do so'. In practice, however, some groups include in their authorisation specific directions or constraints on the applicant's authority. Consequently, the extent of the authority of the applicant may not be clear to stakeholders. The legal status of these directions or constraints is also unclear.

ACMC Ex-officio positions as prescribed in Sect 29 of the Act, should have mirror positions from DMIRS and the mining industry within the assessment panel. This would give some

truth to the demand for transparency from the proponents of the new Act, specifically, the WA Government itself.

*Under section 10* of the Act, the Minister's role is to ensure that, so far as is reasonably practicable, all places in Western Australia that are of traditional or current sacred, ritual or ceremonial significance to Aboriginal people's should be recorded on behalf of the community, and their relative importance is evaluated so that resources can be made available for the preservation of such places. The Minister can delegate all or any of his or her powers under the Act, except for the power of delegation, to an officer of the Department. Additionally, the Minister's powers under Part VI of the Act can be delegated to the Trustees under the Museum Act 1969.

Role of the Registrar of Aboriginal Sites The Registrar is appointed to undertake various statutory responsibilities under the Act, including maintaining the Register and granting permits to undertake certain activities on Aboriginal sites. The Registrar, subject to the approval of the Director General of the Department, can delegate any of his or her powers or duties under the Act, except for the power of delegation, to another officer of the Department.

**Q4. Are the roles and functions assigned under the Act sufficiently clear and comprehensive to fulfil the objectives of the legislation to preserve Aboriginal heritage places and objects?**

What is needed in the consultancy process is 1) a register of consultants, 2) certainty of outcome, 3) and recognized survey standards.

To define the scope of the authority of the applicant in conducting the claim and confirm the status of such directions in a timely manner.

Q4[a] If not, what changes in roles and functions would you suggest?

ACMC Ex-officio positions as prescribed in Sect 29 of the Act, should have mirror positions from DMIRS and the mining industry within the assessment panel. This would give some truth to the demand for transparency from the proponents of the new Act, specifically, the WA Government itself.

**WHAT IS PROTECTED?** Sites and Objects – The Act applies to places of archaeological, ethnographic, historical and anthropological importance and/or interest, and also sacred or ceremonial sites of importance and special significance to Aboriginal people (section 5). Aboriginal objects are covered under section 6 and Part VI of the Act.

Q5

***Insert section 5***

*S5. any place of importance and significance where persons of Aboriginal descent have, or appear to have, left any object, natural or artificial, used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people, past or present;*

*(b) any sacred, ritual or ceremonial site, which is of importance and special significance to persons of Aboriginal descent;*

*(c) any place which, in the opinion of the Committee, is or was associated with the Aboriginal people and which is of historical, anthropological, archaeological or ethnographical interest and should be preserved because of its importance and significance to the cultural heritage of the State;*

*(d) any place where objects to which this Act applies are traditionally stored, or to which, under the provisions of this Act, such objects have been taken or removed.*

[Section 5 inserted by No. 8 of 1980 s. 2; amended by No. 24 of 1995.]

Q. Does section 5 adequately describe the sorts of places or sites that should be protected under the amended Act?

Yes, the current level of legislation is adequate and we do not want to add anything here. Only change is that they are of “proven significance “ and “proven importance” .

Q. If not, how can it be improved?

To be of “proven significance”

### **Section 6. Application to objects**

*(1) Subject to subsection (2a), this Act applies to all objects, whether natural or artificial and irrespective of where found or situated in the State, which are or have been of sacred, ritual or ceremonial significance to persons of Aboriginal descent, or which are or were used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people past or present.*

*(2) Subject to subsection (2a), this Act applies to objects so nearly resembling an object of sacred significance to persons of*

*Aboriginal Heritage Act 1972 Application and traditional use Part II*

*As at 18 Nov 2013 Version 04-g0-04 page 5 Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information*

*Aboriginal descent as to be likely to deceive or be capable of being mistaken for such an object.*

*(2a) This Act does not apply to a collection, held by the Museum under section 9 of the Museum Act 1969, which is under the management and control of the Trustees under that Act.*

*(3) The provisions of Part VI do not apply to an object made for the purpose of sale and which —*

*(a) is not an object that is or has been of sacred significance to persons of Aboriginal descent, or an object so nearly resembling such an object as to be likely to deceive or be capable of being mistaken for the same; or*

*(b) is an object of the kind referred to in paragraph (a) that is disposed of or dealt with by or with the consent of the Minister.*

*[Section 6 amended by No. 24 of 1995 s. 7.]*

Q6. Do section 6 and Part VI adequately describe the sorts of objects that should be protected under the amended Act?

Yes, the legislation covers this adequately. Section 3[a] in particular is adequate but may need to add penalties for falsifying an object.

If not, how can they be improved?

No Improvement except penalties for falsifying an object in section 6[3](a)

Protected Areas – Aboriginal sites of outstanding importance may be declared Protected Areas under section 19.

Q7. Is the declaration of a Protected Area under the Act the best way to deal with Aboriginal sites of outstanding importance?

Aboriginal Ancestral (Skeletal) Remains – the Act does not include specific provisions that cover the discovery and management of Aboriginal Ancestral (Skeletal) Remains.

Skeletal remains should be left as they are. .

Section 19 (5) should be amended to include a requirement for survey and precise demarcation of the existing 80 protected areas. The demarcated spot should be a matter of publicly available knowledge. This would ensure that there can be no excuse for any damage caused by lack of awareness. Far better to ensure the area and location is known rather than have someone punished following irrecoverable destruction. Public knowledge also assists with awareness campaigns across WA and the world to ensure the acknowledgement that WA's Protected Sites are crucial to aboriginal culture and are clearly apparent. Section 23 (3) should be removed or totally reconsidered. If a Protected Area is not surveyed and/or demarcated as in Section 19 (5) it is unfair practice and lacking in transparency. I maintain that such esoteric, secretive, obfuscation should be a thing of the past if the new Act is not to perpetuate the current lack of credibility of Aboriginal Heritage within the public eye.

Q8. Should the Act provide for the management of Aboriginal Ancestral (Skeletal) Remains?

Nothing to add here as we prefer to leave this to remain the same.

If so, what needs to be considered?

Nothing to add here

**PROTECTION AND ENFORCEMENT** [S17]. Anyone who excavates, destroys, damages, conceals or in any alters an Aboriginal site without authorisation or consent commits an offence under the Act. There are also restrictions when dealing with Aboriginal cultural material.

Consent or authorisation is usually given in one of three ways: • Section 16 authorisation. Section 16 of the Act provides that the Registrar may, on the advice of the Committee, authorise the entry upon and excavation of an Aboriginal site, and the examination and removal of anything on or under the site in such manner and subject to such conditions as the Committee may advise.

• Section 18 consent. Section 18 of the Act provides that, in order to avoid committing an offence under section 17, a land owner may give notice to the Committee that he or she requires to use the land for a purpose that might impact on a heritage site unless consent is given by the Minister. The Committee considers the notice and makes a recommendation to the Minister. The Minister then makes a decision whether or not to consent to the use of the land. If consent is granted, the Minister can also impose conditions.

### **s18. Consent to certain uses**

*(1) For the purposes of this section, the expression the owner of any land includes a lessee from the Crown, and the holder of any mining tenement or mining privilege, or of any right or privilege under the Petroleum and Geothermal Energy Resources Act 1967, in relation to the land.*

*(1a) A person is also included as an owner of land for the purposes of this section if —*

*(a) the person —*

- (i) is the holder of rights conferred under section 34 of the Dampier to Bunbury Pipeline Act 1997 in respect of the land or is the holder's nominee approved under section 34(3) of that Act; or*
- (ii) has authority under section 7 of the Petroleum Pipelines Act 1969 to enter upon the land; or*

*(b) the person is the holder of a distribution licence under Part 2A of the Energy Coordination Act 1994 as a result of which the person has rights or powers in respect of the land; or*

*(c) the person is the holder of a licence under the Water Services Act 2012 as a result of which the person has rights or powers in respect of the land.*

*(2) Where the owner of any land gives to the Committee notice in writing that he requires to use the land for a purpose which, unless the Minister gives his consent under this section, would be likely to result in a breach of section 17 in respect of any*

*Aboriginal site that might be on the land, the Committee shall, as soon as it is reasonably able, form an opinion as to whether there is any Aboriginal site on the land, evaluate the importance and significance of any such site, and submit the notice to the Minister together with its recommendation in writing as to whether or not the Minister should consent to the use of the land for that purpose, and, where applicable, the extent to which and the conditions upon which his consent should be given.*

*(3) Where the Committee submits a notice to the Minister under subsection*

*(2) he shall consider its recommendation and having regard to the general interest of the community shall either —*

*(a) consent to the use of the land the subject of the notice, or a specified part of the land, for the purpose required, subject to such conditions, if any, as he may specify; or*

*(b) wholly decline to consent to the use of the land the subject of the notice for the purpose required,*

*and shall forthwith inform the owner in writing of his decision.*

*(4) Where the owner of any land has given to the Committee notice pursuant to subsection (2) and the Committee has not submitted it with its recommendation to the Minister in accordance with that subsection the Minister may require the Committee to do so within a specified time, or may require the Committee to take such other action as the Minister considers necessary in order to expedite the matter, and the Committee shall comply with any such requirement.*

*(5) Where the owner of any land is aggrieved by a decision of the Minister made under subsection (3) he may apply to the State Administrative Tribunal for a review of the decision.*

*[(6) deleted]*

*(7) Where the owner of any land gives notice to the Committee under subsection (2), the Committee may, if it is satisfied that it is practicable to do so, direct the removal of any object to which this Act applies from the land to a place of safe custody.*

• Regulation 10 authorisation. Regulation 10 of the Aboriginal Heritage Regulations 1974 details particular activities that require written authorisation from either the Registrar or the Minister before any such activities can occur on land and/or property to which these Regulations apply.

For section 18 applications, a land owner typically commissions a heritage survey where an activity will likely affect a site. As part of the heritage survey Traditional Owners or knowledge holders are engaged to identify cultural heritage places and strategies to manage the identified Aboriginal cultural heritage places. There is also a covenants provision under the Act that has not been used. In recent years, agreements by land users to protect cultural heritage have emerged under other legislation such as the Native Title Act 1993, the Heritage of Western Australia Act 1990 and processes such as the Noongar Standard Heritage Agreement under the South West Native Title Settlement. These have become a more common means for setting out requirements for the long-term, site-specific conservation of heritage places, irrespective of changes in ownership, where it is desirable to establish clear guidelines and enforcement.

Q9. What sort of activities that may affect an Aboriginal heritage site should require consent or authorisation?

**Leave this as is do not amend.**

Q10. What should be the criteria against which to evaluate an activity that may affect a site (e.g. a proposal to use or develop land)?

Q11. How can 'impact' arising from proposals for land use on sacred sites that do not have physical cultural heritage elements be assessed?

Punitive measures should be introduced for bogus or false claims by heritage professionals  
There needs to be a register established documenting the credentials of acceptable consultants  
Local elders should be the arbiters in site disputes  
The relevant departments need adequate resources to process the considerable backlog of sites  
Land users to be advised of the presence of registered site, sites under consideration and site free areas.

Q12. Who should provide consent or authorisation for proposals that will affect Aboriginal sites?

Q13. To what extent is the current section 18 application process effective and how can it be improved? *as soon as it is reasonably able, form an opinion as to whether there is any Aboriginal site on the land, evaluate the importance and significance of any such site, and submit the notice to the Minister together with its recommendation in writing as to whether or not the Minister should consent to the use of the land for that purpose, IN A TIMELY BUSINESS LIKE MANNER OTHERWISE PANALTIES APPLY. The Government should make a decision record the decision for all stakeholders and let business continue on. Either remove objects or set the area aside so business can carry on.*

Its time to stop having so many outstanding Surveys in the system and to evaluate them quicker. If they are not of proven significance that is by Westminster legislative law standards, then they need to be registered as not important and the business left to get on with the project. The area registered as no proven significance. And if it is of significance then registered as cordoned off so everyone knows not to go in the area or removed to a more suitable place as the case may be.

Enforceable time constraints to be prescribed in the proposed Act and its Regulations specifying completion dates for assessments. These constraints should have prescribed penalties for non-compliance. Default judgements should be made by the Minister in the event of unacceptable delays that breach the prescribed times.

Q14. What provisions could be included in an amended Act to ensure the long-term protection of Aboriginal sites where alternative statutory arrangements do not apply?

Punitive measures should be introduced for bogus or false claims by heritage professionals.  
There needs to be a register established documenting the credentials of acceptable consultants  
Local elders should be the arbiters in site disputes.  
The relevant departments need adequate resources to process the considerable backlog of sites  
The current approval process is too complex and time consuming and clearly not being processed with some 14500 outstanding Aboriginal Surveys not processed.  
Need for clear time lines take into account consultation times.  
Need much higher reporting standards.  
Need clearer guidance materials  
The Act to include a schedule of costs for consultations and surveys that is indexed to CPI.

## PENALTIES

The penalties for destroying, damaging, concealing or altering Aboriginal sites or objects as a breach of sections 17 and 43 of the Act are outlined under section 57:

- \$20,000 and 9 months' imprisonment for an individual who commits their first offence; and \$40,000 and 2 years' imprisonment for subsequent offences.
- \$50,000 for a Body Corporate for a first offence; and \$100,000 for subsequent offences.

Other offences under the Act include disclosing confidential information, interfering with markings of Protected Areas, contravening regulations relating to Protected Areas, failing to comply with terms of a notice vesting the property in and right to possession of an object in the Minister, and contravening an order under section 49.

As the Act does not stipulate a limitation period for when a prosecution for an offence under the Act must commence, section 21 of the Criminal Procedure Act 2004 applies. This means a prosecution of a person for an offence under the Act must commence within 12 months after the date on which the offence was allegedly committed. In proceedings for an offence under the Act, section 62 provides a 'special defence of lack of knowledge'.

Section 62 states '*It is a defence for the person charged to prove that he did not know and could not reasonably be expected to have known, that the place or object to which the charge relates was a place or object to which [the Act] applies*'.

Q15. Are the enforcement provisions under the Act adequate to protect sites? If not, how can they be improved?

Yes they are adequate and should remain as it. Which means a prosecution of a person for an offence under the act must commence within 12 months. Leave as is. It is of no benefit to business to have this lengthened as lack of awareness as to where the sites are is often a problem.

Q16. Are the current penalties under the Act adequate?

Yes they are adequate and should not be increased but penalties should be added for enforceable time constraints to be prescribed in the proposed Act and its Regulations specifying completion dates for assessments. These constraints should have prescribed penalties for non-compliance.

how can they be improved?

## SITE ASSESSMENT AND REGISTRATION

**ASSESSMENT** - Section 15 of the Act provides that any person who has knowledge of any thing or place to which the Act applies or might reasonably be suspected to apply has an obligation to report it to the Registrar. However, under section 7(1) (b), Aboriginal people are not compelled to disclose information or otherwise act contrary to any prohibition of the relevant Aboriginal customary tradition.

When the Registrar receives notification of a heritage place that may be a site under the Act, the assessment process commences. This includes the heritage place being listed as 'lodged' on the

Department's database, and a preliminary assessment is prepared for consideration by the Committee to decide whether the heritage place meets the criteria under section 5.

Should the Committee form the view the heritage place meets the criteria under section 5 of the Act, it will then be considered an Aboriginal site and placed on the Register.

In evaluating the importance of places and objects, sections 39(2) and (3) of the Act provide that the Committee shall have regard to:

- 39(2) (a) any existing use or significance attributed under relevant Aboriginal custom;
- (b) any former or reputed use or significance which may be attributed upon the basis of tradition, historical association, or Aboriginal sentiment;
- (c) any potential anthropological, archaeological or ethnographic interest; and
- (d) aesthetic values.

39(3) Associated sacred beliefs, and ritual or ceremonial usage, in so far as such matters can be ascertained, shall be regarded as the primary considerations to be taken into account in the evaluation of any place or object for the purposes of this Act.

The majority of assessments undertaken relate to land use applications under section 18 of the Act. As a result, **there is a significant backlog of sites yet to be assessed.** The process for assessing whether or not an object is an Aboriginal object to which the Act applies is outlined in section 41 under Part VI of the Act. This process includes the Minister (or delegate) inspecting the object. If it is decided the Act applies to the object, the Minister is responsible for photographing, copying, or otherwise obtaining a record of the object and investigating the extent or nature of any interest the object may have. This process may include consulting the WA Museum.

It should be noted that currently there are no objects listed on the Register.

**Then what are the 14500 registered heritage survey back log made up of?**

Q17. Should a defence continue to be provided where the disclosure of information (section 15) is against customary laws/protocols?

**Yes anyone who wants to defend themselves against allegations or reported aboriginal heritage sites has a right to defend themselves. However, they need to be transparent.**

Q18. Are the criteria for assessing the significance of sites under section 39 (2) and (3) adequate to evaluate whether a site should be added to the Register?

**They need to be proven significance. By certified accredited people in the field.**

If not, what should the criteria be to assess the significance of a site?

## **THE REGISTER**

The Act specifies that a Register must be maintained. Under current arrangements the Register is held and maintained by the Registrar, currently an officer of the Department. The Register is intended to, so far as is practicable, list all Protected Areas, all Aboriginal cultural material, and all other places and objects to which the Act applies. The manner and form of the Register is determined by the Minister.

The Register is an essential reference tool to assist land users in identifying locations where Aboriginal heritage is present, and is available to members of the public for searching online via the Aboriginal Heritage Inquiry System. However, searches are subject to exclusions where information is of a culturally sensitive, confidential or restricted nature. As a rule, confidential and restricted information held or managed by the Department can only be accessed with the permission of relevant Aboriginal informants, or their descendants.

Q19. What should be the steps to report, nominate, assess, enter, amend or remove an entry from the Register?

The Registrar of Aboriginal Sites needs to be transparent to all stakeholders so that Register does reflect where the actual sites are located so that they are not accidentally bulldozed or mined. And Miners and prospectors know where NOT to go.

They should report, nominate, assess, enter, amend or remove an entry in the Register for all parties concerned to see, not just aboriginal informants, or their descendants. Whilst we understand they want to protect the site we stakeholders have difficulty knowing what areas to stay away from. At the very least before a sale of tenement can go through DMIRS it should have to list all known Aboriginal Heritage Sites. It is not good business or in either parties interest to have to re-register a Aboriginal Survey over and over again. It should be to have it remove and listed as removed for transparency to all stakeholders and future stakeholders so there is a better understanding and due diligence when taking over a mining lease.

Land users to be advise of the presence of registered site, sites under consideration and site free areas

## **OTHER PARTS OF THE ACT**

Comments on any other aspect of the Act are welcome. Please include your ideas and suggestions in your submission.

20. What do you think is missing from the Act?

21. What sections, if any, do you think should be removed from the amended Act, and why?

No comment here.

[REDACTED]

[REDACTED]