

## Response ID ANON-8EBD-41C3-X

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

Submitted on **2018-06-01 12:40:36**

### 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:**

Marcel Teschendorff

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

No

### Purpose of the Act

#### Question 1

Yes

**If not, what changes should be made?:**

### Roles under the Act

#### Question 2

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

The Act does not explicitly state that Aboriginal people should be consulted or that the Aboriginal Cultural Material Committee should have members from the Aboriginal Community. However, it is believed that these people should always be asked and offered a greater ability to protect their cultural heritage. Therefore, any changes to the Act should explicitly state that Aboriginal people should be consulted or that the Aboriginal Cultural Material Committee should have members from the Aboriginal Community.

It is vital to ensure that appropriate people are always being consulted, including aboriginal people, traditional Custodians or members from the Aboriginal community and Aboriginal Cultural Material Committee (ACMC) so as to properly protect their heritage. The importance of this consultative process is stressed by the 22nd Prime Minister of Australia Malcolm Fraser (Koori Mail, 2007),

"In the ten years since the tabling of the Bringing Them Home Report in Federal Parliament, Indigenous people have been squeezed out of important areas of our national life. There are fewer Indigenous Australians in the Commonwealth Public Service, and in our national universities. We fail to understand how much Australia's Indigenous people have to contribute to our national well-being."

Sara Maynard, the State Secretary of Tasmanian Aboriginal Centre, has also mentioned (Koori Mail, 2007),

"the idea arose without consultation with the Aboriginal community and is offensive, and paternalistic."

The ability of traditional custodians in protecting cultural heritage is being challenged, for instance, in the emergence of a new crop industry. Plant species that are being utilised and developed into a new crop, have frequently and traditionally been treated and used as a food source for medicinal or other applications by aboriginal people, such as the Australian Bush Tomato, *Solanum centrale* (Lee, 2013). Although there are different prevailing strategies to maintain and safeguard Aboriginal people's intellectual property and traditional knowledge in native plants, it still fails to capture Indigenous hereditary custodians knowledge or contravenes the Indigenous customary law (Janke and Quiggin, 2002).

The Australian Aboriginal people, and people from their community are the primary stakeholders who stand to be directly affected by the aboriginal heritage protection act, therefore, there are no excuses to forgo passing over their opinions. They should always be allocated the greatest ability to protect their cultural heritage, Traditional Custodians in particular.

The best way to ensure appropriate people are being consulted is to include and engage different stakeholders from Aboriginal communities in defining specific issues. It is a crucial and meaningful strategy, especially when aboriginal people have a great diversity regarding culture. Understanding and appreciation of history, culture, and customs are necessary to create effective communication and negotiation between Government and Aboriginal people. Hence, this approach is proven to be useful to address the ownership of issues and potential solutions (Sutherland et al., 2010), while reducing bias from specific stakeholders (Varma et al., 2015).

■  
Reference

Janke, T., and Quiggin, R. (2002). 'Indigenous Cultural and Intellectual Property and Customary Law.' (The Law Reform Commission of Western Australia: Perth.)

Koori Mail (2007). Former PM to be Alliance Joint Patron. P.5.  
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**Question 3**

No opinion

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

**Question 4**

No opinion

**Role and functions - Minister:**

No opinion

**Role and functions - Registrar:**

No opinion

**Role and functions - Committee:**

No opinion

**Role and functions - DPLH:**

**What is Protected?**

**Question 5**

Yes

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

**Question 6**

Yes

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

**Question 7**

No opinion

**Additional comments:**

**Question 8**

No opinion

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

## **Protection and Enforcement**

### **Question 9**

No opinion

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

### **Question 10**

No opinion

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

### **Question 11**

No opinion

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

### **Question 12**

No opinion

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

### **Question 13**

No opinion

No opinion

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

### **Question 14**

No opinion

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

### **Question 15**

Yes

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

### **Question 16**

No opinion

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

## **Site Assessment and Registration**

### **Question 17**

No opinion

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

### **Question 18**

No

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

### **Question 19**

No opinion

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

No opinion

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

No opinion

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

No opinion

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

No opinion

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

No opinion

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

**Other Parts of the Act**

**Question 20**

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

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## **Question 21**

No opinion

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

**Any other comments**

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