

## Response ID ANON-X4AN-M61B-H

Submitted to **Review of the Aboriginal Heritage Act 1972 - Phase Two consultation**  
Submitted on **2019-05-31 17:00:09**

### Introduction

#### What is your name?

**Name:**

Sarah Bell

#### What is your email address?

**Email:**

sarah.bell@uymail.com

#### What is your organisation?

**Organisation:**

Applied Anthropological Services

#### Submissions will be published as part of the consultation process. Do you wish to have your name removed from your submission?

No

### Proposal 1

#### Will the proposal deliver the desired outcome?

No

**If no, why not?:**

Well yes and no. It certainly represents a great improvement, however adequate resourcing and syncing with other relevant legislation are key issues that do not appear to be addressed.

**What changes would you suggest and why?:**

The legislation should be beneficial legislation in that it recognises Aboriginal people as the owners and custodians of Aboriginal heritage. The concepts of intangible heritage and cultural landscapes should be incorporated. Importantly it needs a high level of consistency with other legislation, and the Native Title Act in particular.

### Proposal 2

#### Will the proposal deliver the desired outcome?

Yes

**If no, why not?:**

**What changes would you suggest and why?:**

Approaches that include the management of cultural landscapes / significant heritage sites through Cultural Heritage Management Plans as part of the standards required.

### Proposal 3a

#### Will the proposal deliver the desired outcome?

No

**If no, why not?:**

I think it's highly problematic for a State Government Instrumentality to decide on the accreditation of Aboriginal organisations that are then proposed to be LAHS. There is the danger here that LAHS will end up being organisations potentially in conflict or competition with PBCs or registered Native Title Claimant groups over legitimacy or authenticity in being the representative group/organisation that deals with heritage. The implication that LAHS will achieve or ensure that the "right people speak for country" where (supposedly) native title groups (determined or not) have not been able to do this, is at best naïve and at worst paternalistic. The suggestion around agreements seems to completely side-step the processes of agreement making under the future acts and ILUA provisions of the Native Title Act. Not only would this proposal seem unworkable, I think its also legally questionable.

**What changes would you suggest and why?:**

Much greater alignment of the AHA with the Native Title Act. If an instrumentality such as the LAHS is to exist, it should always be the PBC or registered Native

Title Claim group (and where they don't exist an another constituted Aboriginal organisation).

### **Proposal 3b**

**Will the proposal deliver the desired outcome?**

Yes

**If no, why not?:**

**What changes would you suggest and why?:**

Adequate funding and expertise in the Department is required for this to be successful in achieving desired outcomes.

### **Proposal 3c**

**Will the proposal deliver the desired outcome?**

Yes

**If no, why not?:**

**What changes would you suggest and why?:**

### **Proposal 3d**

**Will the proposal deliver the desired outcome?**

Yes

**If no, why not?:**

**What changes would you suggest and why?:**

Funding, resourcing and professional development in the Dept. required.

### **Proposal 3e**

**Will the proposal deliver the desired outcome?**

No

**If no, why not?:**

I don't think the directory will achieve the desired outcomes, it's non-compulsory (and appropriately so) but as such seems a bureaucratic administrative process with no regulatory authority.

**What changes would you suggest and why?:**

Template minimum standards in heritage management/surveys and recording.

### **Proposal 4**

**Will the proposal deliver the desired outcome?**

Yes

**If no, why not?:**

**What changes would you suggest and why?:**

### **Proposal 5**

**Will the proposal deliver the desired outcome?**

Yes

**If no, why not?:**

**What changes would you suggest and why?:**

### **Proposal 6**

**Will the proposal deliver the desired outcome?**

No

**If no, why not?:**

The requirement that agreements be submitted for AHC scrutiny is legally questionable. Conflicts with NTA agreement confidentiality clauses.

**What changes would you suggest and why?:**

Align with NTA.

## **Proposal 7**

**Will the proposal deliver the desired outcome?**

Not Answered

**If no, why not?:**

**What changes would you suggest and why?:**

## **Proposal 8**

**Will the proposal deliver the desired outcome?**

Not Answered

**If no, why not?:**

**What changes would you suggest and why?:**

## **Proposal 9**

**Will the proposal deliver the desired outcome?**

Not Answered

**If no, why not?:**

**What changes would you suggest and why?:**