

Response ID ANON-8EBD-41MS-8

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?

No

What is your name?

Optional:

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?:

It should be clearly prescribed that Aboriginal people should not only be consulted but also that the Aboriginal Cultural Material Committee should have (majority) members from the Aboriginal community.

Question 3

Ineffective

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

All efforts should be made to appoint honorary wardens of Aboriginal descent (with a written record of all efforts to do so - so that proof is provided the full required effort was made. Put in the Act that there will need to be clear written proof for reasons of appointment of honorary wardens who are not of Aboriginal descent.) Perhaps a fine needs to be imposed if failure to appoint persons available of Aboriginal descent as honorary wardens and a person of non-Aboriginal descent is appointed instead. So, one way to improve this is to impose 'consequences' ie fines or similar if non-Aboriginal people are appointed over available Aboriginal people.

Question 4

No

Role and functions - Minister:

It appears confusing and unclear. There also appear to be too many committees, departments, groups, communities, bodies, etc. This needs to be streamlined to a strong body consisting primarily of people of Aboriginal descent. They need to have more powers to guide the Minister in their Aboriginal affairs and not the other way around ie (the Minister over Aboriginal Affairs).

As an important side note: State Government should not have a Minister for Aboriginal Affairs who is not of Aboriginal descent. Aboriginal representation should be in at least 2-3 ministers in each government (political party) when appointing ministers. There have clearly been times when Ministers for Aboriginal Affairs have actually been discriminatory and even racist in their views. This is no longer acceptable. Or alternatively consider that an Aboriginal Community member be appointed as Minister for Aboriginal Affairs (as the only portfolio) to ensure Aboriginal people are represented without the previous discrimination of ministers with that portfolio who were ill-suited and racist in their views (regardless of which political party is in office. If this could be agreed by both parties prior to the next election).

No

Role and functions - Registrar:

clearer definitions, roles and responsibilities and limitations, which helps in clarifying roles.

No

Role and functions - Committee:

Greater powers to override influential corporate/mining/business interests. The preservation of Aboriginal culture and heritage must come above business interests.

No

Role and functions - DPLH:

Clearer roles throughout - with input from Aboriginal communities. Ask them what changes they would see and what problems/issues they come up against when dealing with the Dept which could benefit and help preserve and promote Aboriginal heritage and culture. Also, greater Aboriginal staff in the departments that have a direct influence on their culture and heritage in our State would assist. Greater employment opportunities as well as ongoing training and development opportunities at work.

What is Protected?**Question 5**

Yes

5. How can section 5 be improved?:

But I am of non-Aboriginal descent, so there may be some things that Aboriginal people feel have been left out which I would not be aware of. This area would very much be guided by Aboriginal communities for any identified gaps.

Question 6

Yes

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

But I am of non-Aboriginal descent, so there may be some things that Aboriginal people feel have been left out which I would not be aware of. Again, this area would very much be guided by Aboriginal communities for any identified gaps.

Question 7

No

Additional comments:

Greater emphasis on the importance and protection measures needs to be added, including consequences of breaches. Perhaps also clarity that the importance of these areas overrides all other interests ie business/mining/corporate interests - so there is no misunderstanding from anyone that the area is not to be touched, negotiated over or 'sold out' for money. There is no negotiation here.

Question 8

Yes

8. what needs to be considered?:

These provisions should be very clearly stated and worked with Aboriginal communities on how specifically they wish to manage Aboriginal Ancestral Remains. However they wish to respectfully manage Ancestral remains, needs to be completely guided by the Aboriginal community. Once an agreed majority view is reached, this process should be included in the Act to reflect the process and procedures stated.

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

Again, only the affected Aboriginal Community could advise what they would allow to provide consent or authorisation on their site. As a non-Aboriginal, there isn't much that I would consent or allow authorisation for that would affect a site of my culture and heritage (you don't see mining companies/corporations demolishing churches or grave sites in Australia. So the same respect should be shown to the original inhabitants.)

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

None. It is either sacred/has cultural or heritage significance or it doesn't. Don't impose 'grey' areas. This is where everything gets complicated and compromised. As I stated previously, the State Government would never allow land developers to build over Karrakatta Cemetery (even though it is prime land to develop considering its location), where they just bulldoze the top gravesite and build on the burial sites. When one non-Aboriginal grave site has been desecrated by vandals, it makes news headlines. To develop over an entire cemetery would be such a public outcry, protests (even violent demonstrations) and political action/implications. To negotiate on this aspect for Aboriginal people is highly discriminatory and therefore unlawful.

Question 11

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

No proposals for land use on sacred sites. If the land is deemed a sacred site, then that should be the standard; that should be the 'impact'; that should be the assessment ie if the land is deemed sacred, you do not under any circumstances put proposals forward from anyone for the land use. The land is either a sacred site or it is not. It can't be a sacred site that is negotiable for proposals for land use. Otherwise it looks as though the Aboriginal culture, heritage and ancestral remains are only sacred at the right price or awaiting the right land use proposal or monetary figure. You wouldn't do it to white people sacred and burial sites, so don't do it to Aboriginal sacred sites. Otherwise the Act will continue to be backward, racist and discriminatory. We have an opportunity to stop treating Aboriginal people differently, so we need to take it.

Question 12

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

No one - please see notes above. The site is either sacred or of cultural significance or it is not. It's not up for negotiation or the best proposal or highest bidder.

Question 13

No opinion

13. How s18 can be improved?:

Question 14

14. provisions for long-term protection of sites:

To ensure the LONG-TERM protection of Aboriginal sites means significant changes in our education system and community engagement processes. This means we, like New Zealand, need to teach the Aboriginal language to primary school children, so youth get an early appreciation of the Aboriginal language, culture and heritage to combat discrimination and exclusive behaviours. More programs at school, involving primary children and their parents should have frequent visits to remote Aboriginal communities (for at least a weeks' stay) to develop a first-hand appreciation of the culture, art, food, heritage and community. When you have this first-hand knowledge, it demystifies differences and promotes inclusion and understanding. The more people (at an early age and ongoing through their high-school years) who are educated, aware and have contact with Aboriginal people, the more they will ensure the long-term protection of Aboriginal sites. There is a real opportunity to address this in the amended Act now - but putting something in there that, in conjunction with educational programs and the School Education Act 1999 that promotes/raises awareness of Aboriginal culture, learning o the language, heritage and inclusion programs for all Western Australians to ensure the long-term protection of Aboriginal sites.

Question 15

No

15. How can enforcement provisions be improved?:

There need to be far severe penalties to signify the importance of the Aboriginal heritage.

Question 16

No

16. How can penalties be improved?:

Individual should start at \$50,000 for the first offence and two years imprisonment - not 9 months (that is nothing). Second offence higher
Body corporates can afford much more and there also needs to be imprisonment as well. Why would an individual get fined and imprisoned but a body corporate not! That is \$250,000 for first offence and imprisonment of the Owner/Director and Board Members (whoever voted/agreed) to destroy/damage/conceal or alter Aboriginal sites or objects in the course of their business. There must be imprisonment for body corporates as the 'buildings' don't make the decisions, people do. The decision makers are always the owner/ Managing Director and often voted by the Board. These are the people who should also go to prison for at least one year. This will really make them think twice when they take action and will do their research more thoroughly in future.

Site Assessment and Registration

Question 17

No opinion

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

Question 18

No opinion

18. What should the criteria be?:

This again can only be answered by people from the Aboriginal community.

Question 19

19. Steps to report place or object:

Reduce red tape and take cultural diversity into account when a place or object is reported. Secure immediately in the first instance and then take the steps to verify - this way, the site/object is instantly protected against any damage/loss. The process should be as simple as possible to secure in the first instance and then a more detailed process can take place to verify.

No opinion

19. Steps to nominate a place or object:

Aboriginal persons would best be able to answer this.

19. Steps to assess a place or object:

Start with the definitions currently in the Act and seek input from Aboriginal communities of any additional steps to assess a place or object.

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

Once verified, there should be very immediate steps (reduce bureaucracy and red tape) in these instances to increase the chances of preserving the site/object. The quicker it is on the register, the increased chances you have of protecting the site/object.

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

Once verified that there is an amendment regarding a place or object, there should be very immediate steps (reduce bureaucracy and red tape) to advise of the amendment in the Register to increase the chances of preserving the proper site/object. The quicker it is amended on the register, the increased chances you have of protecting the proper site/object.

19. Steps to remove place or object from Register:

Once verified that a place/object needs to be removed, there should be immediate steps (reduce bureaucracy and red tape) to update the Register.

Other Parts of the Act**Question 20****20. What's missing from the Act?:**

Something in there that mentions the significance of the sites/objects/culture to the WA community as a whole and the implications to the wider community ie. recognition that there needs to be additional training/education in the wider community to raise awareness and promote Aboriginal culture which will in turn help preserve the heritage in the long term.

Question 21

No opinion

21. Sections to be removed from Act?:**Any other comments****Any other comments:**

Just to reiterate that the Minister for Aboriginal Affairs should be of Aboriginal descent and only have that portfolio, so that there is Aboriginal representation guaranteed in parliament/cabinet (at least 1) from every political party in the future. This is to avoid Aboriginal interests being in the hands of discriminatory ministers, as has often been the case in the past.