

## Response ID ANON-8EBD-41P4-C

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

Submitted on **2018-05-14 11:10:38**

### 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

No

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

Needs to be stated in plain English that it aims to stipulate the rules around preserving places and objects customarily used by or traditional to the .....etc.

### Roles under the Act

#### Question 2

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

The traditional owners of that land should be consulted about anything that could impact or change places or objects that are culturally significant to them.

The Aboriginal Cultural Material Committee should consult with the local Aboriginal people about each specific place and/or object when anything heritage related located on that land is being discussed or decided. The Committee can then act in the best interests of the local traditional owners to protect those sites.

Traditional land owners would occupy a "fluid" membership in which the respective traditional owners would step in and out of the Committee, appearing only when their respective heritage sites were being discussed.

#### Question 3

No opinion

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

I do not know enough about this to have an opinion.

The Act says that the community chooses the Honorary Wardens so as long as there is a transparent and democratic process behind this for the local traditional land owners, then it should be effective. However, this also needs to be audited to ensure that the chosen representative is able to fulfill the warden duties as expected by the Act and the community.

#### Question 4

No opinion

**Role and functions - Minister:**

I believe so... however I have issue with ensuring that the registrar is working on behalf of the Committee and liaising with the Minister. I do not believe that the Registrar should be making sole decisions for the Committee. I also think that if the Minister is making decisions about Aboriginal Heritage and places of cultural significance, he/she should be of Aboriginal descent - or be very reliant on the Committee members who are of Aboriginal descent in decision making.

No

**Role and functions - Registrar:**

The Act states "day to day" activities for the Committee. Ideally there should be a Registrar for every region within WA who feed back to a Lead Registrar who can then liaise with the Committee & Minister.

This would help in the backlog of assessing cultural heritage sites as well as keeping communication open between regional honorary wardens and the Committee.

No

**Role and functions - Committee:**

The role and functions are not very clear. It seems to be a committee that meets occasionally to determine areas of cultural significance based on evidence provided. It concerns me that there may be conflicted interests of deciding whether to excavate or not with an anthropologist and other historian type people as members. It should have someone local from the lands being discussed to ensure that people who have never been to that region are making the right informed decision - without political or self interests.

No

**Role and functions - DPLH:**

The Act is based on a lot of advice being given around without any real definitive decisions made - except by the Minister - which is a position that depending on who sits in the portfolio can be swayed by competing interests.

**What is Protected?****Question 5**

No

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

The traditional owners of the Land should decide what is of cultural significance with taking the above and archeological evidence into consideration.

**Question 6**

No

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

s40 words it better.

Aboriginal cultural material

Where the Committee recommends to the Governor that an object or class of objects in the State is of Aboriginal origin and is —

- (a) of sacred, ritual or ceremonial importance;
- (b) of anthropological, archaeological, ethnographical or other special national or local interest; or
- (c) of outstanding aesthetic value,

the Governor may, by Order in Council, declare that object or class of objects to be classified as Aboriginal cultural material.

**Question 7**

No

**Additional comments:**

Yes and no. It is important to have the site declared as a registered Protected Area. But there must be a way for people to look up the protected areas (or have it signposted near to the site) so that those who are unaware of the site do not unknowingly camp or drive through the area, potentially damaging the site.

**Question 8**

Yes

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

It should outline the protocol of what to do - the local Traditional owners of the land should be consulted as well to determine what they would like to do with the remains.

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

Anything that may potentially damage or remove items from an Aboriginal site.

Generally walking through an area of land is OK as long as nothing is removed or disturbed.

If the site is still being used for culturally significant events - then consent should be obtained to check that the site is clear to walk through.

Areas with skeletal remains should perhaps have consent all the time...?

#### **Question 10**

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

Potential damage to the site - short and long term impacts to the site.

If the site is still currently used by Aboriginal people and require access to it.

The type and length of activity - is the activity worth the impact on the site if only running for 1-3 years?

Benefits of proposed activity to the local community, environment and sustainability of the site.

#### **Question 11**

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

I do not think i know enough about this to provide an educated answer. However i would have thought the area must be uncontaminated or disturbed and aspects that make the area significant are maintained and preserved.

#### **Question 12**

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

The Committee in consultation with the local Traditional Owners - with the deciding outcome provided to the Ministers of Aboriginal Affairs prior to final consent &/or authorization.

#### **Question 13**

Ineffective

No opinion

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

#### **Question 14**

No opinion

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

#### **Question 15**

No

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

Needs to be locally enforced with people educated about the restrictions of Aboriginal cultural material.

#### **Question 16**

No

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

Prosecution for an offense must be longer than 12months. Some sites are remote and damage may not be noticed for a while - with finding the individuals responsible taking longer.

I cant imagine this would be a priority for police to follow up when competing with physical harm offenses. Especially if charges are to be laid within 12months or they are unable to prosecute at all.

Body corporate penalties should take into account their last 5year profits and be fined a % of that amount.

## **Site Assessment and Registration**

#### **Question 17**

Yes

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

### Question 18

Yes

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

I think so but i could be wrong

### Question 19

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

Traditional owner consensus of the significance of the site with corroborative evidence.

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

As above

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

Any physical evidence. Traditional owner or local communities stories - consensus about the site and reasons behind its cultural significance.

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:

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

It is no longer of cultural significance to the local traditional owners. They would notify through the Registrar.

### Other Parts of the Act

### Question 20

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

There should be some protection for individuals who do not realize they are on a sacred site.

If an individual/s have checked before hand via a printout or screen shot to determine if where they are going is on the Aboriginal Heritage register (and it is not) - and the site is not signposted or obviously of Aboriginal heritage (obvious Aboriginal art or structures), then there should be some protection against individuals from unintentional damage to a site if they did not know.

### Question 21

No opinion

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

#### Any other comments

Any other comments: