

Response ID ANON-8EBD-41PN-6

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

Submitted on **2018-06-01 15:37:44**

About You

Are you submitting a response as an individual, or on behalf of your organisation?

Organisation

Organisation details

What is the name of your organisation?

Organisation Name:

Black Wattle Archaeology Pty Limited

Name of submitting officer and position.

Submitting officer and position:

Michael Marsh - Director

Do you have authorisation to make a submission on behalf of your organisation?

Yes

In which field is your business?

Heritage professional

If "other" please specify your field of business:

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 must be updated to ensure that the appropriate people are consulted about what Aboriginal heritage places should be protected, and how a proposal may affect those places.

Given the good native title framework that already exists across much of WA, the Act should state that appropriate people from the recognized PBC or other relevant registered Aboriginal community body should be consulted regarding the protection of each heritage place and any proposals that may affect that heritage place.

The Act also should make provisions for ACMC membership to include local members from the Aboriginal community. So if, for example the ACMC is considering the protection of Aboriginal sites in the Pilbara, there should be both male and female members of the Pilbara Aboriginal community on the ACMC to guide the decision making process. Similarly if the ACMC was considering sites in the Goldfields there should be Goldfield members.

Perhaps the ACMC should be made up of a few core permanent members and include local members from the Aboriginal community when necessary. It therefore may be beneficial to sit locally to facilitate local Aboriginal community members or have people fly into Perth for ACMC meetings.

Question 3

Ineffective

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

Question 4

No

Role and functions - Minister:

s39d of the Act only requires minister to consider any advice by the ACMC.

If the ACMC decision regarding a site can be effectively ignored by the Minister by this clause of consideration - it defeats the purpose of the legislation to preserve Aboriginal heritage places and objects.

The ministers function here should be changed, to acting on the advice of the ACMC.

Yes

Role and functions - Registrar:

Yes

Role and functions - Committee:

Yes

Role and functions - DPLH:

What is Protected?

Question 5

Yes

5. How can section 5 be improved?:

in generally section 5 works well to adequately describe the sorts of places or sites that should be protected under the amended Act.

However, should be strengthened so that it recognizes the importance of place to Aboriginal people who are its custodians.

Also 5(c) only recognizes significance at state level. WA is such a large portion of the nation, and area like the Kimberley is equivalent nationally to an area larger than Victoria. This is inappropriate measure of significance, given the size of the state. Would be better to reduce significance to regional level to preserve significant places across larger sections of WA. This is important to reduce the accumulative impact of development which is occurring regionally at different levels to heritage places.

Question 6

Yes

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

Question 7

Yes

Additional comments:

Section 19 should also be used to protect the last remaining examples of site types in regions from the effects of accumulative impact.

We are now seeing in areas of high resource development like the Pilbara all the know examples of a single type of place, like large standing stone arrangements within in that region have been or will be destroyed.

When this is known to be occurring, the last known examples should be protected under section 19 for future generations.

Question 8

Yes

8. what needs to be considered?:

Protection and Enforcement

Question 9

9. Activities that should require consent or authorisation:

All commercial development activities, or ground disturbance activities that may impact the significance of that place including prospecting.

Question 10

No opinion

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

Question 11

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

This needs to be assessed with reference to the wishes of the people who hold custodianship over that place.

Question 12

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

Preferably, the people who hold custodianship over that place.

However, if this is no practicable - the Minister only acting on the advice provided by the ACMC, whom have taken the wishes of the people who hold custodianship over that place into consideration.

Question 13

No opinion

13. How s18 can be improved?:

Question 14

14. provisions for long-term protection of sites:

Question 15

Yes

15. How can enforcement provisions be improved?:

Question 16

No

16. How can penalties be improved?:

Penalties for Body Corporate insufficient.
Prosecution limitation should be removed.

Site Assessment and Registration

Question 17

Yes

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

Question 18

Yes

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

No opinion

20. What's missing from the Act?:

Question 21

No opinion

21. Sections to be removed from Act?:

Any other comments

Any other comments: