

**ABORIGINAL HERITAGE ACT 1972 (AHA) REVIEW
PHASE 1 CONSULTATION WORKSHOPS
APRIL TO MAY 2018**

FACILITATOR REPORT

WORKSHOP:	<i>My Heritage, My Voice</i> <input checked="" type="checkbox"/>	<i>Working with Our Aboriginal Heritage</i> <input type="checkbox"/>
DATE:	22 May 2018	
TOWN/VENUE:	Busselton/Community Resource Centre	
FACILITATOR:	Graham Castledine	

Number of attendees:	9
Any logistical/venue related issues?:	No

1. SUMMARY OF KEY ISSUES RAISED

- There needs to be a more holistic approach to the protection of places based on the ongoing cultural significance of areas.
- Traditional owners should not just be consulted, they should have the most say in how heritage is protected and impacted.
- The Minister should not be able to override the views of the traditional owners and, in any event, should prioritise heritage values over other economic/social interests.
- Consultation is often currently inappropriate ie not enough time for consideration and too much pressure to allow proposals to proceed.
- Penalties need to be increased and revenue collected should be directed towards remediation and protection of the area damaged.
- In the southwest, cultural knowledge is not necessarily held by descendants of apical ancestors; therefore, consultation and decision making should not be closely linked to native title processes.
- Burial grounds are prolific along the coastal areas in the southwest and need protection; they may still exist despite prior disturbance by development.
- Caves are also very important sites especially for ancestral remains and are not well protected under current arrangements.

2. SUMMARY OF KEY IDEAS FOR AMENDED LEGISLATION

What needs protection

- Burial grounds should be protected where they are found
- Even areas where there is previous disturbance may continue to have significant heritage value (eg coastal dunes where there has been a lot of tourism related activity)
- Ancestral remains including repatriation to caves
- The focus of the Act should be on respect and caring for country – past, present and future
- Protected places should include those with intangible value – such as walking trails, songlines and places associated with particular stories
- Environmental protection generally is important for preservation of cultural heritage
- There needs to be an appreciation of the life sustaining qualities of cultural heritage places for all humanity

Who is to be consulted and how

- Aboriginal people need to be consulted early, not at the last minute – especially for works involving excavation, rehabilitation etc
- Heritage professionals should be elected by the traditional owners
- Decision making processes need to be culturally appropriate with sufficient time (and no undue pressure) for consultation
- Consultation should be with the people carrying the knowledge – this is not necessarily descendants of apical ancestors; land councils should not dictate who is involved
- Should apply the principle of free, prior and informed consent – and an ability to say ‘no’ when appropriate
- The people carrying the cultural knowledge should be included on a database

Roles and responsibilities

- Cultural rangers should be appointed and funded through tourism operations (eg cave tourism) – in particular, younger Aboriginal people need opportunities to be trained and employed in positions where they can help protect heritage
- There should be an independent body to assess cultural values of places
- If the ACMC is to continue, the Act should mandate Aboriginal membership
- ACMC members should not be involved in decisions affecting someone else’s country
- It would be better to have the affected people (in the country concerned) making the call and advising the Minister directly
- The Minister should not have the final say on such matters; alternatively, the burden of proof should be reversed so that the presumption is that heritage places will not be damaged – cultural heritage values should prevail over other social/economic factors
- Aboriginal people need to have the say rather than archaeologists/anthropologists

Actions requiring approval

- People should be required to check database before impacting land (due diligence)
- Tourism operators should be required to get approval before accessing important places

Enforcement and compliance

- Penalties need to increase to around \$2M for corporations and \$200,000 for individuals
- Needs to be more signage identifying sites and penalties applying
- Tourism operators should be required to notify people about sites
- Need more prosecutions
- Remove limitation period of 12 months
- Penalty amounts should be applied towards rehabilitation and protection of damaged areas
- There should be no ability to seek retrospective approval of damage done
- Dept staff need more resources (esp in compliance) and to be free of political influence
- Rangers should be given enforcement powers like under the CALM Act and Local Government Act – and rangers under those Acts could be given some enforcement powers under the AHA
- Remove section 62 – ignorance should not be a defence

3. POINTS OF CONTENTION

NA

4. OVERALL EFFECTIVENESS OF WORKSHOP

The workshop provided a good opportunity to hear about the distinctive issues affecting Aboriginal heritage protection in the south-west.

5. ANY OTHER OBSERVATIONS?

6. ANY SUGGESTIONS FOR NEXT PHASE OF CONSULTATION?