

Response ID ANON-8EBD-41M3-8

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

Submitted on **2018-04-06 15:13:57**

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:

Andrew

Do you give permission for your name to be published with your feedback?

Yes

Purpose of the Act

Question 1

No

If not, what changes should be made?:

..to make provision for the protection of Aboriginal cultural heritage, and Aboriginal intangible heritage by empowering traditional owners as protectors of their cultural heritage, and strengthen the ongoing right to maintain distinct spiritual relationship, and connection with, the land and waters, and customs under traditional knowledge.

Roles under the Act

Question 2

2 - who should be consulted?:

It should be mandatory for consultation. If there are not recognised/registered groups of an area then in conjunction with other agencies such as Native Title then there should be a period of public notice to inform of the right to respond to be consulted over a matter.

Question 3

No opinion

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

Aboriginal appointments should be considered in the first instance. Aboriginal Officers or Rangers should also be able to assist.

Question 4

No

Role and functions - Minister:

What is considered 'outstanding' importance? To whom is something considered of outstanding importance?

No

Role and functions - Registrar:

Arbitration, mediation and transparency in decisions within traditional knowledge information dissemination guidelines.

No

Role and functions - Committee:

Arbitration, mediation and transparency in decisions within traditional knowledge information dissemination guidelines.

No

Role and functions - DPLH:

Greater support for functions with broader integration over related disciplines. Heritage should be more inclusive within planning, development and sustainability programs.

What is Protected?**Question 5**

No

5. How can section 5 be improved?:

Needs to consider the current circumstances as much as the past.

Needs to address Aboriginal traditions, custodianship.

Needs to address protection, preservation and conservation of tangible and intangible heritage.

Question 6

No opinion

6. How can section 6 / Part VI be improved?:**Question 7**

Yes

Additional comments:

Providing support is also appropriate for the management and maintenance required.

Question 8

Yes

8. what needs to be considered?:

Unexpected discovery of finds - Police - coroner - anthropologist/archaeologist - traditional owners

Repatriation procedures and the management process

Consultation

Keeping places, custodianship

Roles and responsibilities within the process

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

Any works or site use that will have an impact on the place, objects and nature of the area.

Significant ground disturbance

Any case where harm (knowingly or unknowingly) may occur.

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

Consider the Victorian legislation evaluation criteria. While not perfect, it does work and provides clarity for evaluation of requirements for any further heritage work.

Cultural Heritage Management Plans developed and approved by the local Aboriginal representative organisation and the authorities.

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

Through consultation and 3D modelling techniques the visual and audio impacts can be assessed alongside much of the intangible heritage. This is now becoming global heritage practice, particularly for large infrastructure projects.

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

The Aboriginal custodians in conjunction with the Department for Aboriginal Heritage or equivalent.

Question 13

No opinion

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?:

Appoint more Aboriginal officers and Aboriginal heritage advisers/officers.

Start prosecuting and uphold accountability - it is the best way to ensure the compliance message gets through.

Question 16

No

16. How can penalties be improved?:

They need to be improved and commensurate with the benefit the individual/organisation will receive from allowing/causing the destruction. Compensation levels need to be addressed for any ongoing harm or impact to the place as well.

Site Assessment and Registration

Question 17

Yes

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

Aboriginal people should be in custody of their own traditional knowledge.

Question 18

No

18. What should the criteria be?:

Should possibly consider assessment values against an Aboriginal specific version of Commonwealth and National Heritage values. Although state-based legislation, that is a colonial construct and Aboriginal heritage has global significance.

Question 19

19. Steps to report place or object:

Submission of site cards.

Verification of sites/objects by specialists and subject matter authorities with consultation of Aboriginal communities.

19. Steps to nominate a place or object:

As above.

19. Steps to assess a place or object:

Verification of sites/objects by specialists and subject matter authorities with consultation of Aboriginal communities.

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

Approval from Aboriginal communities in conjunction with subject matter authorities.

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

Approval from Aboriginal communities in conjunction with subject matter authorities.

19. Steps to remove place or object from Register:

Approval from Aboriginal communities.

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:

Consider the Victorian legislation as a model. It requires improvement, in particular with the management and enforcement, however it streamlines many processes for all parties.