

## Response ID ANON-8EBD-41R9-K

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

Submitted on **2018-05-25 15:51:05**

### 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 opinion

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

### Roles under the Act

#### Question 2

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

The need to consult with Aboriginal people about their heritage should be explicitly included in the Act. Leaving this requirement out of the Act creates the opportunity for other interests to supersede and override Aboriginal peoples' decisions and aspirations about their heritage. It may be necessary to have relevant non-Aboriginal experts as members of the ACMC, but there should be a minimum number of places set aside for Aboriginal people. Having the need to include Aboriginal people as an expectation rather than a requirement potentially creates harmful loop-holes within the Act.

#### Question 3

No opinion

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

#### Question 4

Yes

**Role and functions - Minister:**

Yes

**Role and functions - Registrar:**

No

**Role and functions - Committee:**

The membership of the Committee needs to be addressed in the Act to ensure that it could fulfil its objective. There are numerous issues to do with the current operation of the Committee, especially the outrageous backlog, that need to be considered and addressed if the Committee is to continue to operate. Aboriginal people also need to have a meaningful voice within the Committee and the other members of the Committee should be explicitly required to have qualifications and experience relevant for making decisions about the protection of Aboriginal heritage.

Yes

**Role and functions - DPLH:**

## What is Protected?

### Question 5

No

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

The definition should be expanded to include intangible heritage values and landscapes, the latter which might include both tangible and intangible values. The narrow focus on objects and physical sites is outdated within Australia and many other Acts across the country attempt to include intangible values. Archaeology and anthropology within Australia have long recognised the significance of intangible heritage for Aboriginal people and this should be reflected in the Act.

### Question 6

Yes

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

### Question 7

No

#### Additional comments:

That no Protected Areas have been declared since the 1980s is concerning and suggests that the declaration of Protected Areas is not functioning adequately and should be reconsidered.

### Question 8

Yes

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

The management of ancestral remains is an incredibly sensitive topic for Aboriginal people, and the Act needs to say something meaningful about the management of such remains. In including this provision, it would be essential to emphasise that the relevant Aboriginal community should be primary decision makers about managing the remains of their ancestors.

## Protection and Enforcement

### Question 9

No opinion

#### 9. Activities that should require consent or authorisation:

### Question 10

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

It needs to be demonstrated that all practical alternatives to avoid impacts to a site have been explored. The necessity and potential benefit of the activity need to be justified relative to the potential impacts to heritage.

### Question 11

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

This should be assessed by the relevant Aboriginal community to whom the site is sacred. Appropriately qualified and experienced anthropologists and archaeologists could also assist in the assessment of impacts on intangible heritage values.

### Question 12

No opinion

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

### 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 opinion

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

**Question 16**

No

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

The potential penalties for offences are not substantial enough to act as deterrents, especially for large companies. Non-monetary sanctions should also be considered, such as repealing approvals for land-use. Too many companies operate with the attitude that they will wear the fine and continue with their activity regardless. The Act should have enforceable penalties that actively deter offences rather than merely causing minor inconvenience after the fact.

**Site Assessment and Registration**

**Question 17**

Yes

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

**Question 18**

No opinion

**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**

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

Explicit inclusion of the requirement to consult with the relevant Aboriginal community on their heritage needs to be included in the Act.

**Question 21**

No opinion

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

**Any other comments**

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