

Hi there,

Thankyou for the opportunity to comment on the operation of the Aboriginal Heritage Act 1975.

Within the function of the Council as a Planning Authority, the processes of development applications made under the Land Use Planning and Approvals Act 1993 (LUPAA) is the most common time at which Aboriginal heritage issues are raised though also the time at which very little can be done. The component of the AHA which most relates to development is Section 10 regarding the discovery of relics. Unfortunately, the issue we have is that LUPAA does not incorporate the elements of the AHA so Aboriginal Heritage issues cannot be considered. Though a diligent landowner will sometimes obtain Aboriginal Heritage advice prior to lodging a planning application, there is no requirement to. As such, even in areas known to contain high densities of relics (such as the Western Tasmania Aboriginal Cultural Landscape / Arthur Pieman Conservation Area), we can only advise the applicant to do the necessary checks prior to commencing construction. The result is that works may be occurring without due consideration/reporting of relics and only picked up where discovered by the Parks and Wildlife Service or reported by neighbours.

Councils are currently undergoing a transition to a State-wide Planning Scheme. The new scheme contains a Local Historic Heritage Code in which Section C6.8 of this Code includes 'Development Standards for Places or Precincts of Archaeological Potential'. It would seem logical that this section could map and include areas with a high occurrence of Aboriginal relics (such as coastal areas within the Western Tasmania Aboriginal Cultural Landscape or Rocky Cape in our municipality) and trigger the need for aboriginal heritage assessments to be undertaken. The actual sites themselves would not be identified, just the region as a whole.

However, the idea of utilising the Code in this way was presented to the Aboriginal Heritage Council and was not supported, advising me that that the location of heritage areas were not to be disclosed to the public, and that a portal was being developed (now available) to do quick desktop assessments for those seeking advice on known aboriginal sites. In reality, as mentioned above, it relies on a developers good-will to check the land before they make applications and is therefore not to be relied upon to protect sensitive sites and reactionary responses are required to rectify situations where the AHA has been breached. Councils were also specifically advised by the State's Planning Policy Unit that it cannot include areas of Aboriginal Heritage in the new code as the AHA could not interact with LUPAA. This seems a missed opportunity for Aboriginal Heritage to be considered in a relatively simple manner. It is likely that through some amendments to LUPAA it might be possible to interact better with the AHA and integrate the consideration of Aboriginal Heritage aspects alongside European heritage though the land use planning system.

Please feel free to contact me if you would like to discuss any of these matter in more detail.

Kind regards,

Benji Krom