

Robert Cassidy

Aboriginal Heritage Act Review

To whom it may concern:

**RE: Aboriginal Heritage Act 1975; Reviewed by Robert L. Cassidy, 18 August 2019 –and-
Discussion Paper: Statutory Review of the Aboriginal Heritage Act 1975**

Based on my reading and understanding of the Aboriginal Heritage Act, a smart lawyer could pick it apart in Federal Court, based upon the following-

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2. Interpretation:

“Council means the Aboriginal Council . . .” Needs to be differentiated between 29 Local Government Councils, so there is no confusion . . . Include the word “Aboriginal” before Council, through the document.

“Crown land . . . fee simple” What does “fee simple” mean in plain English

“land includes . . .” Absolutely contrary to any dictionary definition

(2) “. . . any person who is wholly or partly descended from the original inhabitants . . . is a person of Aboriginal descent”. My DNA test has revealed that I am 1% descended from Turk and Caucasus, but I do not identify myself as a Turk, nor do I identify as French, though I have 28% of my DNA from those origins.

All of my life, I believed I was descended from Native Americans and I lived on an Indian reservation, but it turns out that my DNA test reveal no Native American ancestry and I do not identify myself as such.

Thus, it is time for clarity on this issue. If there were no pecuniary or conflicted interests, then it would not matter.

We should also be clear that recent archaeological digs in Victoria have identified humans much older than those we arbitrarily have identified as "First Australians" or Aboriginal. In fact, skeletal remains were unearthed on the Tasman Peninsula, unlike any Tasmanian Aboriginal, but the bones were confiscated and cremated, before a forensic analysis or archaeological radio-carbon-dating could be done. <https://www.deakin.edu.au/about-deakin/media-releases/articles/archaeological-dig-could-show-life-in-oz-is-50.000-years-older-than-first-thought> and <http://ancientnews.net/2019/03/11/archaeology-places-humans-in-australia-120000-years-ago/>

(3) "... a relic is-

(c) the remains of the body ... possession cannot and should not be claimed until anthropological, archaeological, carbon-dating, and forensic analysis has been completed.

Why? Why have we travelled as far as the Moon and taken soil samples from Mars, other than to understand our origins and how human beings came to evolve on Earth. Once destroyed that scientific base of information is lost forever. I ONLY care about science and not political correctness or political agenda.

(2A)"For the purposes of providing advice ... the Aboriginal Council is to seek ... or professional or expert advice ... " And, that person should hold at least a Masters Degree from an accredited university in archaeology and or anthropology. Word-of-mouth or "Chinese whispers" should not qualify.

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4. Membership of Council

(2) "All members of the Aboriginal Council are to be Aboriginal persons" Who determines who is or is not Aboriginal,

100% surety and clarity on this issue and, I propose the most accurate way it can be assured is through DNA testing, plus active and current practice of Aboriginal traditions, bearing in mind I actually lived on an "Indian reservation", yet do not identify as Native American, verified by my DNA test.

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PART III – Declaration and Management ... of Protected Sites

(2) "Without prejudice to the generality of subsection(1), the Director shall cause to be carried out on a protected site such work as in his opinion is necessary or desirable for the purpose of –

(a) protecting or preserving a protected object or any other object on or in the site and providing and maintaining means of access to any such object or to the site and

(b) restoring or repairing any such object"

Consider that one of the most historically and archaeologically significant sites in Tasmania, has been deliberately destroyed, after handback by then Premier Ray Groom, in 1995. I refer to Risdon Cove, thus this portion of the Aboriginal Heritage Act has not been complied with, at all. If it was preserved and protected, intact, then we would know 100% that Irish convict Edward White lied to the Broughton Committee, as he was never among and Irish convicts sent to Van Diemen's Land, according to shipping records. Because the site was farmed and altered by T.A.C. we will never know the truth and history has been written favouring a devious and emotive "massacre" and "invasion" narrative.

No?! Firstly consider that I served in the Army and was decorated an Expert Marksman for both Rifle and Pistol, plus the following:

- Brown Bess Musket Rate-of-Fire is 20 seconds between shots fired, and a very inaccurate smooth-bore, according widely available test-fire reports.
- 15 Soldiers, not very well disciplined, according to historical accounts
- 3 hours engagement or 10,800 seconds

Do the math: $10,800 \div 20 = 540$ shots per British Soldier $\times 15 = 8,100$ musket balls on the surface, just beneath, embedded in trees, at Risdon Cove, easily discovered by a layman. **Where are they?**

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9. Protection of protected sites

(1) "... no person-

Does this preclude anthropological and archaeological scientific research?

10. Duties of persons owning or finding relics

Consider ONLY 13,500 Aboriginal Heritage Sites are identified on the Register. "Legacy Data recorded up to 2014, was merely Dot Points, but no mapping or accurate outline of an area. If the Aboriginal site is known and mapped and the person who deliberately removes to sell or trade for profit and was fully aware of the site, then that person should be penalised. But, what if it was not an identified site, not mapped, and the person did not know what he found was actually a relic, but merely an unusual-looking rock? Should he be punished?

14. Protection of relics

(1) "... no person shall ..."

(b) make a copy or replica Photography should be excluded, for clarification of the Act.

The Discussion Paper is structured around the following key topics relating to the management of Aboriginal heritage in Tasmania:

1. **What is the Aboriginal Heritage Act 1975 trying to achieve?**
Ground rules for Aboriginal and non-Aboriginal people . . . There should be no exceptions made, not even in the instance of "Emergency Work" to allow destruction of Aboriginal Artifacts, especially skeletal remains, stone works, tools, conspicuous sites of long-term habitation.
2. **What is Aboriginal heritage?**
Good question. If an Aboriginal person makes a didgeridoo, December 2019, does it become a more cherished artifact than the first "black box" invented by David Warren, in Melbourne, though only as old as March 1953? Thus, 1876 or 1905 has some relevance. Fast forward 1,000 years. Both Aboriginal relics or artifacts would be equally important to those who would unearth them, to understand where they came from. Consider the term "cultural icon" for anything except skeletal remains.
3. **Ownership of Aboriginal heritage.**
So, "ownership" IS the problem, which has allowed skeletal remains to be claimed as Aboriginal and cremated, even when they may not have been Aboriginal, without any consideration given to scientific discovery or forensic analysis or radio-carbon dating. BUT, it should not just sit in a display cabinet of foreign museum as a novelty. Ownership should be joint, State, Federal, Aboriginal, and non Aboriginal Australians. I as an individual have a right to know who they were and what their lives contributed to evolution of humanity. Claiming ownership then destroying it, robs me of an opportunity to learn from the past. IF Aboriginal artifacts, relics, cultural icons, skeletal remains are discovered on Agricultural land, the site MUST BE surveyed by competent authority and cordoned off. Burial is head-in-sand and denial. Removal removes the context. Removing the context removes the archaeological and scientific significance. Of a property consisting of 10,000 acres, for example, would a Farmer miss a one or two acre site? Consider Mitchel Cottage, once lived in by Irish patriot exiled to Bothwell, Van Diemen's Land, who escaped to America, whose son died in the American Civil War. Mitchel Cottage while it stands upon a farmer's land, does he own its historical significance to Ireland, to Tasmania, to America? OR, does it belong to the people. Would that farmer miss a one or two acre plot, upon which the dilapidated cottage stands? How much do we value our heritage, our history, our relics, whether 171 years old or 17,100 years old? Who owns the heritage? A person, an entity, the people, the world?
4. **Making decisions about what happens to Aboriginal heritage.**
Whoever makes decisions should be qualified, to do so. A minimum of a Masters Degree in Archaeology and/or Anthropology.
5. **The Aboriginal Heritage Council – what it is and what it does.**
First and foremost, it should educate non-Aboriginals, then make rules, then enforce them.

Consider my personal experience and enlightenment or possible disappointment over my DNA results . . . If a person is claiming Aboriginality but cannot prove it based on scientific and repeatable facts, then that person does not qualify to serve on the Aboriginal Heritage Council. If a person is pushing a self-serving political agenda, has a pecuniary interest or

conflict of interest by claiming Aboriginality, then that person does not qualify. Again, consider my DNA results. I actually lived on an American Indian Reservation, yet my DNA results discount any Native American blood and the fully 1% Turk and Caucasus DNA does not make me a Turk. Compare this to my identifying as being a Roman Catholic, but I don't attend Mass. How Catholic am I. I lived on 2222 Mount Hope Road, on the Tuscarora Indian Reservation, but I don't identify as Native American. This will never have any clarity until DNA tests sort out this issue.

6. **Offences under the Aboriginal Heritage Act and penalties for doing the wrong thing.**
If malicious and deliberate destruction, whether by non-Aboriginals or Aboriginals, there MUST be consequences as a deterrent. The Act should include "Stop Work Provisions", even in Emergency.
7. **When can Aboriginal heritage be interfered with?**
Only for scientific research. AND, without Geospatial Mapping of all 13,500 sites, how can it be monitored or even enforced. I am betting on there being more than 13,500 Aboriginal sites, they just have not been discovered, yet. Somehow, Aboriginal Sites should have easily identifiable physical demarcation, in case a person stumbles upon the site. Warnings for interference should be posted. This Geo-spatial Mapping Data should be available to Local Government Councils and kept out of view from the general public.
8. **Enforcement of the legislation.**
Though I am no Lawyer, I believe it could be challenged in Court, in the Act's present form.
9. **Other ways the legislation protects Aboriginal heritage; and**
Please re-read the aforementioned.
10. **Other matters covered by the legislation.**

There should be opportunities for the Aboriginal Community to educate non-Aboriginals, and provide escorted Aboriginal Site visits. Start breaking down barriers. Keep the political rhetoric and points-scoring to an absolute minimum. Cut out all language about "massacre" and "invasion". There was plenty of bloodletting through armed aggression on both sides, according to historical accounts. If "it takes two to tango", then it takes two to fear, distrust, and hate to the point of killing and retribution. There was plenty of that on both sides. When it comes to invasion, I think of D-Day or the 19 February 1942 bombing of Darwin Harbour by the Japanese. Emotive and divisive language will not lead to reconciliation.

Sincerely,