

HAROLD RILEY'S SUBMISSION TO THE HERITAGE ACT

I am Harold Riley, 81 years of age. I have spent a lifetime working on Country in Tasmania and Queensland. I am descended through the Johnson family to Woretermoteryenna, a daughter of Mannalargenna and wife of George Briggs, sealer. Their daughter Dolly Briggs married Thomas Johnson.

My father and great uncles Bill and Lou Johnson taught me much of my life skills of living in the bush and mountain life with the care of Country, including fire-stick burning as a land management tool. This helped to protect Country and animals. In Queensland I managed 25,000 acres with fire stick practices and many acres in NSW. All without fire fighting equipment and never needed any outside help.

I am a member of Melythina Tiakana Warrana Aboriginal Corporation and look to pass on my knowledge to the current generation of Aboriginal members and the wider Tasmanian community.

I write this submission in the hope that it will help to put in place the necessary changes to the Act to protect our Aboriginal cultural heritage. I am of the opinion that there is a lack of understanding of the value of Aboriginal heritage among the people making assessments and decisions. There has to be more consultation with regional Aboriginal Communities in the decision making process and this can be through the Aboriginal Heritage Council.

Part B – Submission.

Section 1. What is the Aboriginal Heritage Act 1975 trying to achieve?

The purpose of the Act is to have legislation that protects Tasmania's living Aboriginal culture. To do this it has to be clearer in how it sees these objectives and intentions being achieved. Regional Aboriginal people should be given a role in the protection of Aboriginal Heritage and their knowledge, traditional practises and rights should be stated and acknowledged in the Act.

Section 2. How well does the Act define Aboriginal heritage?

Not clearly enough. The Act needs to define Aboriginal places and Aboriginal objects in detail. The Aboriginal Heritage Council (AHC) should, with regional Aboriginal Communities assistance, deal with remains that are not interred in a marked grave. The term relic should be removed from the Act. The term Aboriginal Cultural Heritage is more appropriate. Aboriginal remains and intangible heritage should also be defined in the section. Fire stick burning is an essential tool in the protection of Aboriginal heritage and trained Aboriginal rangers should be involved in a planned annual burn procedure. Regional Aboriginal communities need to be involved and consulted in the care and protection of the land in their area. This will help restore their traditional care of country and their identified sites.

Section 3. Ownership of Aboriginal Heritage.

There should not be a term 'ownership' in the Act. Aboriginal people are custodians or traditional managers and ownership is a western concept that introduces rights that should not be recognised in the Act. Landowners should not have a right of ownership over Aboriginal Heritage. The crown likewise should not have a right of ownership of Aboriginal heritage on Crown land. It is also unreasonable that the Crown have a right of compulsory acquisition of Aboriginal heritage. The AHC should be consulted in relation to Aboriginal heritage and the regional Aboriginal custodians linked to the object should have care of the heritage. If government want to make a strong statement on Aboriginal heritage they must be prepared to recognise that the AHC and regional communities should have the say in its protection.

Section 4. Making decisions about what happens to Aboriginal heritage.

Too much power is placed in the hands of the Minister in current form. The Minister and or Director should seek advise from the AHC before making a decision. There should also be a right of appeal to the courts if that advice is ignored. Regional Aboriginal communities can express their views on decisions to their sitting members on the AHC. This will send a clear message that Aboriginal people have clear pathways in expressing their views on Aboriginal heritage.

Section 5. The Aboriginal Heritage Council – What it is and what it does.

It is my opinion that in its current form the Aboriginal Heritage Council is just a rubber stamp on decisions being made elsewhere by others. The Act needs to clearly state that the AHC is the watchdog on all matters to do with Aboriginal Heritage. It is the conduit for the regional Aboriginal Communities to express their views and concerns to Government and it should be actively protecting and prosecuting the care of Aboriginal heritage. It should not be necessary for Aboriginal people to engage in press pressure to have issues addressed when they come to light. In giving some teeth to the AHC the government is sending a very clear message that Aboriginal Heritage is valued and will be protected.

Section 6. Offences Under the Act and Penalties for doing the Wrong Thing.

The term relic has been addressed in section 2. In relation to penalties being adequate, it is doubtful that harsher penalties work as a deterrent. In fact it could well deter people reporting offences under the Act. In regard to compliance Officers, I am of the firm opinion that these should be well-trained personnel or police officers. I am aware that Parks have a well-resourced training programme for their authorised Officers. AHC should be reviewing compliance offences and making a prosecution recommendation to the magistrate. In my experience "on the spot" fines and mandatory penalties just lead to warning being given and no further action. I think that there are circumstances where the Act should apply differently to different people. Such a case would be Aboriginal people practising their culture at their sites. Examples could be:- Fire stick management, Ochre gathering,

gathering stone, wood or plant material, feathers or animal bones, teeth or quills for use in ceremony. The AHC could rule on that.

Section 7. When can Aboriginal heritage be interfered with?

Aboriginal regional communities through the AHC should have more say in the authorising of interference with Aboriginal heritage. Regional communities should be consulted and aware of everything that is heritage related being conducted in their area. This should be coming from their AHC members or the director's office. The need for fire stick burning programme planning needs to be conducted yearly by the AHC with regional assistance from Aboriginal communities. In relations to guidelines it appears they do not provide adequate protection for Aboriginal heritage. More cultural awareness would assist in strengthening the profile of AHC perhaps with regional forums.

Section 8. Enforcement of the legislation.

There probably needs to be a trained Compliance Officer employed by the AHC that can follow up on reported breaches of the Act. In emergency police can be called upon to administer a prosecution and could enforce a "Stop work provision" if it was needed. Wardens or Honorary wardens will just water down what should be strong investigation. Experience says that "on the spot fines" or "infringement notices" are a waste of time.

Section 9. Other ways the legislation protects Aboriginal heritage.

Many regional Aboriginal communities feel the current Act is not protecting and Managing Aboriginal heritage. The feeling that comes from non – Aboriginal Tasmanians is that there is no value in Aboriginal Heritage and there is little lost if it is destroyed. There needs to be work done in the regions, to bring people together, and that could be driven by regional aboriginal communities with their municipal councils. Some pride in what is in their area.

