



CIRCULAR HEAD COUNCIL

Please quote our ref: CORPORATE MANAGEMENT – Legislation – Aboriginal Heritage Act  
Your ref:  
Enquiries to:

24 September 2019

Aboriginal Heritage Act Review  
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Dear Sir/Madam

**SUBMISSION – STATUTORY REVIEW OF THE ABORIGINAL HERITAGE ACT 1975**

I refer to the statutory review of the *Aboriginal Heritage Act 1975* and the discussion paper released for consideration of submissions. Circular Head Council seeks to provide the following written advice to the Aboriginal Heritage Act review for consideration.

Across the various aspects of the current *Aboriginal Heritage Act 1975* there are numerous areas of inconsistency and conflict in how the Act seeks to protect and preserve the important elements of local aboriginal heritage significance. The following points describe in more specific detail some local concerns of note;

1. At present the Heritage Act does not provide for a clear hierarchy of significance methodology or structure to support effective management of cultural significance. In the absence of this hierarch there remains a significant tension between local and state-based management of sites of significance. In combination with the significance element of consideration, the present legislation is not clear on the types of values to be respected and considered in any way. This provides a significant level of insecurity for effective dialogue and consultation for issues to be discussed or resolved;
2. The present legislative framework does not reflect or consider joint custodianship or interest of significance by local groups in a given local area;
3. The present Act does not support a growing inclusion of education and public awareness of Aboriginal Heritage processes and responsibilities across all sections of the Tasmanian community as there is not a clearly defined single source of reference;
4. The current legislation is unclear on the responsibilities of ownership and in community at either local and or state level by various owner groups. This creates a significant level



of breakdown in communication leading to sub-optimal outcomes particularly at the local on-ground level. This in turn reduces the effectiveness of being able to promote and respect Aboriginal culture and promote the importance of local significance and storytelling as an opportunity for aboriginal cultural enterprise and employment development;

5. Across the legislation there is required a new perspective of who is a responsible local entity. This is paramount to allow informed and respected communication.
6. The levels of custodianship, either state or local, require clarification and greater legislative support with matters relating to Aboriginal Heritage ownership on state held land.
7. A number of the present definitions in the legislation are open ended and provide no clear clarification of concerns. As an example, the absence of definitions on when or at what time an item becomes culturally significant adds to community confusion and conflicts. Greater definition clarity will support improved understanding of the intent of the legislation and support local community outcomes;
8. The present legislation has no mechanism to deal with inconsistent and conflicting evidence and verification methods when issues are in conflict or being disputed;
9. The mechanisms of appeal embodied in the legislation require review given the conflicts that arise across the wider community;
10. The legislation review should also provide greater clarity on the expectations and outcomes desired in relation to the existence of Aboriginal relics discovered on all land holdings.

The above matters are of importance to the Circular Head Council and the wider review process, to which Council looks forward to your advice and confirmation of consideration.

Council thanks you for your consideration of the matters raised and looks forward to your advice on the next steps in the review process.

Yours sincerely

  
**GENERAL MANAGER**