

CHA Review
Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP)
PO Box 15397
CITY EAST QLD 4002

26 July 2019

Dear Madam or Sir

Review of the *Aboriginal Cultural Heritage Act 2003*

Thank you for the opportunity to comment on the review of the Queensland Government's *Aboriginal Cultural Heritage Act 2003* (ACHA 2003).

Reference is made to the issues or areas of concern, raised in the 2019 'Consultation Paper – Review of the Cultural Heritage Acts'.

Some of these issues, along with my own concerns and recommendations, are listed in the following eleven points:

1. That major project proposals (e.g. mining, exploration, construction, quarrying, land subdivision, infrastructure for aquaculture and water extraction, infrastructure for residential, industrial and water/energy/transport developments) requiring an EIS and/or are greater than one hectare in size, automatically trigger a need for a ACHA 2003 Part 6 (comprehensive) Cultural Heritage Study with the Aboriginal Party.
2. That the definition of *intangible heritage* within the ACHA 2003, in relation to the types or values of Aboriginal sites that can be submitted on the DATSIP database for site recording, must encompass the following:
 - stories, story-places and song lines
 - Dreaming tracks
 - Law grounds
 - Burials, reburials of ancestors and historical burials
 - Massacre sites, post-contact conflict sites (e.g. the Frontier Wars)
 - birthing places
 - traditional and historical pathways, and places with Aboriginal names
 - traditional hunting grounds and sources and species of plants and animals used in traditional foods and medicines (e.g. cultural resource areas)
 - waterways, springs, groundwater and surface water sources and their associated catchments
 - cultural landscapes, including mountains, hills, waterways and wetlands and their visual amenity
 - intellectual property
 - oral histories
 - constellations
 - old-growth trees and old growth forests (considered as family members by many Traditional Owners)
 - any type of marked (mature) tree or scarred tree and uniquely shaped or (naturally) marked rock (crevices or hollows) can present (at times) in an especially meaningful way to Traditional Owners, and be of spiritual heritage significance, particularly when set in or along a well-known, traditional and ancestral site or waterway
3. That the process of *self-assessment* be reviewed and improved, as substantial areas and objects of Aboriginal cultural heritage are being disturbed and destroyed. I believe that a more extensive overview with

monitoring, is needed by Traditional Owners and their appointed heritage consultants. Land-users making use of tree clearing laws at local and state government levels, are probably in most cases, not even aware of their 'Duty of Care' and self-assessment obligations in relation to the ACHA 2003.

4. Self-assessment by a land-user or development proponent is of concern as well. It may take at least a decade or more for a Traditional Owner to learn from the oral histories of their family Elders in gaining extensive knowledge about Country, and for a non-Aboriginal archaeologist or heritage consultant, they would have had to complete at a minimum, a four-year university course and then complete at least 3 to 6 years of project work, before they become competent at undertaking cultural heritage assessments. It is not logical for the ACHA 2003 to assume that self-assessment by non-Aboriginal people or lay-people, is undertaken in a knowledgeable and sensitively informed approach.

5. With the ACHA 2003, it is crucial to revisit the notion of prior ground disturbance (e.g. farming and tree clearing practices) as to leaving an area devoid of any Aboriginal cultural heritage values or artefacts, and which leaves the project area devoid of any consultation with Traditional Owners. In the experiences of my lifetime, myself and family members quite often come across artefacts located on farming lands and adjoining waterways. For example, in my family's case, as Traditional Owners of the Bunya Mountains and Ban Ban Springs area, many farmlands are criss-crossed by traditional and historical story places and Aboriginal pathways.

6. The ongoing issues for Traditional Owners of '**Sorry Business**' and saying '**Goodbye to Country**' needs to be discussed and visited during the Review process. Such experiences, which are occurring across Queensland, leave a broad collective of Traditional Owner communities and their members, in various stages of Post-Traumatic Stress. This is a process which reverses any progress made with the *Closing the Gap* initiatives.

7. I strongly support any initiatives to help raise awareness on and implement or administer the ACHA 2003, and especially support ideas to seek extensive resources and collaborations, and that give agency to and empower Traditional Owners in Caring for Country. There is a huge disparity in the number of funded non-Aboriginal Ranger/Landcare/Environmental Officer roles, in comparison to the small number of Traditional Owner Ranger roles.

8. The Queensland Government needs to provide incentives to local councils across the State, for such councils to provide on their websites and at workshops, awareness raising and educational resources on the ACHA 2003 and 'Duty of Care', and the need to consult with Aboriginal Parties.

9. That places like Ban Ban Springs (near Gayndah) having been subject to a ACHA 2003 Part 6 Cultural Heritage Study, need to have supporting legislation and programs in place to ensure that the local ground and surface water is not depleted or disturbed to the extent that the Ban Ban Springs remain dry for the majority of time i.e. cultural flows of water are required by law to be sustained, and it becomes unlawful for surrounding land-uses to deplete the water sources of significant Aboriginal sites. This situation also applies to the Bunya Mountains and Maidenwell Springs area and surrounds, under threat from mining and fracking proposals.

10. *State of the Environment Reporting*, which includes reporting on the *State of Aboriginal Cultural Heritage*, needs to periodically produce and provide an **inventory** of recorded, intact and disturbed and destroyed sites together, with a statistical breakdown of values and data, and made available to the relevant Traditional Owners.

Yours sincerely

Jimal Willmot
Wakka Wakka Traditional Owner