

Tasmanian Aboriginal Heritage Legislation Project

INFORMATION BULLETIN



Summary of Consultation Meetings: Regional Forums

24 to 27 October, 2005

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Tasmania

Background

The Tasmanian Aboriginal Heritage Legislation Project was announced by the Tasmanian Government on 5 June, 2005 with the aim of developing new legislation for the protection and management of Aboriginal heritage in the state.

Key aspirations for the project are to achieve improved protection of Tasmania's valuable Aboriginal heritage, to empower the Tasmanian Aboriginal community in the management and protection of its heritage and to provide increased certainty for owners and other users of land who have an interest in undertaking sustainable development, or other economic or recreational activities.

Starting Community Consultation

Identifying issues and gathering input

The Project started with a series of Initial Stakeholder Consultation meetings. The meetings were intended to provide early and maximum opportunity for participation in the Project by the Aboriginal community and a range of stakeholders. This series of meetings form part of the project research into issues and options for new legislation.

As a first step, the Initial Stakeholder Consultation, held during July 2005, was aimed at engaging a range of key stakeholder representative organisations across four main sectors: Aboriginal community; Conservation, Recreation and Tourism; Forestry and Agriculture; and Industry and Planning.

As a second step, Ongoing Consultation is also occurring, aimed at providing opportunities for stakeholders to communicate with the Project Team according to their preferred method. Ongoing Consultation started after the Initial Stakeholder Consultation meetings, taking the form, for instance, of face to face meetings with individuals, small group briefings, and project staff attendance at stakeholder committee meetings. These meetings will occur wherever it is appropriate, according to the needs of various groups and individuals. These state wide meetings will be important in gathering input from regional and local interests. These Ongoing Consultation meetings will continue throughout the life of the Project; until new legislation and other associated instruments and processes are finalised.

As a third step, Regional Forums were conducted in Launceston (24 October 2005), Burnie (25 October 2005) and Hobart (27 October 2005). These forums provided all stakeholders, including smaller stakeholder groups and interested individuals, with the opportunity to hear and discuss the outcomes of the Initial Stakeholder Consultation and to offer their views.

Development of discussion material

After analysis of research and consultation results, discussion papers for new legislation will be released. This discussion material will be made available for comment during 2006, with further opportunities for consultation.

Regional Forums

The purpose of the Regional Forums was to present the project to a broader audience of stakeholders and to invite general comment and comment on the summary of results of Initial Stakeholder Consultation.

Advertisements were placed in the three Tasmanian regional newspapers over a two and a half week period preceding the forums. In addition, letters were sent out to all organisations invited to the Initial Stakeholder Consultation meetings. A Project information booklet, along with a notice detailing the dates and venues of the Regional Forums was posted to identified stakeholder groups, as well as all contacts on the Project contact list.

The forums were independently facilitated by Mr Chris Wells. A presentation detailing the project aspirations, process and timeframe, together with a summary of the outcomes of the Initial Stakeholder Consultation meetings, was presented by Mr Greg Lehman, Project Officer, Aboriginal Heritage Office.

Following the presentation, Mr Wells gathered comment and invited participants to nominate a range of 'what we must do' items for consideration by the project. Comments and 'must do' items are summarised in table form at the end of this bulletin.

Summary of key topics

There were a number of clear topics that emerged from the Regional Forums, which will provide future direction to the project. Many of these may be most effectively addressed through further consultation and development of discussion papers. These topics include:

- equity and empowerment of Aboriginal people in identification, protection and management
- limitations of current legislation to be demonstrated
- the relationship of new legislation with European and mainland Aboriginal heritage
- the nature of Tasmanian Aboriginal heritage, both material and spiritual, how it is identified and valued
- access to places of importance for assessment and management purposes
- incentives for best practice, compensation, cost of assessments
- planning and development systems and how they can provide certainty
- information on Tasmanian Aboriginal culture and community

- standards and processes for assessments
- project governance, including the role of the Steering Committee and Aboriginal participation
- involvement of local and young stakeholders in consultation
- information management, interpretation and protection of Aboriginal intellectual property
- improved education in schools and the whole community

Project Team

Aboriginal Heritage Office:	Brett Noble, Manager Greg Lehman, Project Officer Jillian Mundy, Project Assistant
Office of Aboriginal Affairs:	Karen Brown, Policy Officer
Tasmanian Aboriginal land and Sea Council	Colin Hughes, Manager
Facilitator:	Chris Wells

Regional Forum Meetings

Launceston	Time: 11:00 am to 2:30 pm Date: Monday 24 October, 2005 Location: Tram Shed Function Centre, Inveresk, Launceston.
Burnie	Time: 11:00 am to 2:30 pm Date: Tuesday 25 October, 2005 Location: Civic Centre, Burnie.
Hobart	Time: 11:00 am to 2:30 pm Date: Thursday 26 October, 2005 Location: Hobart Convention Centre, Elizabeth Pier, Hobart

Table 1: Comments from the Regional Forums

	Launceston	Burnie	Hobart
1.0 How protection can be achieved			
1.1 Must get rid of the ignorance clause		X	
1.2 Encourage corporate responsibility			X
1.3 Recognise each group as being different			X
1.4 Identify how Act will legally apply to any land			X
1.5 Engender corporate social responsibility within business, not just shareholder bottom line			X
1.6 It is not about significance, but a question of an appropriate response			X
1.7 Must give reasons for restricted access to heritage	X		
1.8 Must have a body that is charged with review (where does the Aboriginal voice come in and is there a framework of accountability?)		X	
1.9 Must show how to get certainty of planning for small scale activity (i.e. Coast care)			X
1.10 Give definition of conservation and protection			X
1.11 Define the terms being used (including conservation) / Burra charter defines terms			X
1.12 <i>Historic Cultural Heritage Act 1995</i> (HCH) excludes Aboriginal heritage: how do you get integration; what overrides what; why two acts; will they be equal or not?	X		X
1.13 From local community perspective, how do you give certainty for community to protect natural values?			X
1.14 Produce a user friendly document on how to get assessments done			X
1.15 Guidelines should provide for resolving conflicts of legislation and process			X
1.16 Must have guidelines for helping people get what they need from process (and a 'brief' that works for them)			X
1.17 Must promote successful approaches and methods for heritage protection and management	X		
1.18 Assess interstate approach to significance assessment	X		
1.19 Must show a gradation of importance for Aboriginal heritage / a significance rating	X		
1.20 Show examples of significance	X		
1.21 Significance assessment must involve a process	X		
1.22 Must have legislation that can change with changing community attitudes		X	
1.23 Recognise protection requires an enduring and sustainable way of managing things long term (people/money/place must come together)			X

	Launceston	Burnie	Hobart
1.24			X
1.25		X	X
1.26		X	
1.27		X	
1.28			X
1.29			X
Register			
1.30		X	
1.31		X	
1.32		X	
1.33			
1.34			X
1.35	X		
1.36	X		
Negotiation			
1.37			X
1.38	X		
1.39	X		
Assessment			
1.40		X	
1.41			X
1.42			X
1.43			X
1.44			X
1.45			X
1.46			X
1.47	X		
5.0	X		

	Launceston	Burnie	Hobart
2.0 Empowerment			
2.1 Define Aboriginal community in an inclusive way and recognise communities		X	
2.2 Aboriginality to be defined by community, not government		X	
2.3 Do not let the consultation process become bogged down with Aboriginality issues	X		
2.4 Must deal with continuity and inheritance		X	
2.5 Must deal with living culture and sense of evolution		X	
2.6 Must address issue of Aboriginal powerlessness – provide equity			X
2.7 Resolve representation and identification of Aboriginal people			X
2.8 Utilise state legislation on Aboriginality			X
2.9 Provide transparency and equity for Aboriginal interests			X
2.10 Must deal with Aboriginality (who represents Aboriginal community needs to be decided for this Act to be effective)			X
2.11 Recognise Aboriginality definition recently put forward by the State government, but should include access for others 'as opinions' in negotiations			X
2.12 Recognise current community heritage, cultural practices as rights			X
2.13 Market Aboriginal culture much more than present and promote and interpret			X
2.14 Legal rights must not override Aboriginal rights			X
2.15 Ensure adequate training is provided for heritage assessors	X		
2.16 Legislation should facilitate research	X		
2.17 Must determine whether this legislation should deliver a significance component	X		
2.18 The Aboriginal community must determine significance	X		
2.19 There are different types of significance, eg Aboriginal, scientific	X		
2.20 Must determine what the Aboriginal community need for managing their heritage	X		
2.21 Education and training, resources and communication to understand Aboriginal perspectives for all practices involved	X		
2.22 Recognise different groups involved			X
Council			
2.23 Must have an advisory council (like Tasmanian Heritage Council) and it must be properly maintained, funded, constituted and have a mechanism that allows community to have its say		X	
2.24 Majority of advisory council must be Aboriginal		X	
2.25 Must have a majority Aboriginal advisory body to respond to the recommendations of these forums		X	
2.26 A professional body should determine significance	X		
2.27 Policy body must be Aboriginal	X		

	Launceston	Burnie	Hobart
Ownership			
2.28		X	
2.29	X		
Assessment			
2.30			X
3.0 Compliance			
3.1		X	
Compensation			
3.2			X
3.3			X
3.4			X
3.5	X		X
3.6			X
3.7			X
3.8			X
3.9			X
3.10			X
3.11	X		
3.12	X		
3.13	X		X
3.14	X		
4.0 Further resources, education and information			
4.1		X	
4.2		X	
4.3		X	
4.4		X	
4.5			X

	Launceston	Burnie	Hobart
4.6			X
4.7			X
4.8			X
4.9			X
4.10			X
4.11	X		
4.12	X		
4.13	X		
4.14	X		
4.15	X		
4.16	X	X	
4.17		X	
4.18		X	
4.19	X		
4.20	X		
4.21			X
4.22			X
5.0			
Aboriginal Heritage Officers			
5.1			X
5.2		X	X
5.3			X
5.4			X
5.5			X
5.6			X
5.7	X		
5.8		X	
6.0			
Consultation			
6.1		X	
6.2		X	

	Launceston	Burnie	Hobart
6.3		X	
6.4		X	
6.5		X	
6.6		X	
6.7		X	
6.8		X	
6.9		X	
6.10		X	
6.11		X	
6.12		X	X
6.13		X	X
6.14			X
6.15			X
6.16			X
6.17			X
6.18			X
6.19			X
6.20			X
6.21			X
6.22			X
6.23			X
6.24			X
6.25			X
6.26			X
6.27	X		
6.28	X		X
6.29			X
6.30			X
6.31			X
6.32			X
6.33			X

	Launceston	Burnie	Hobart
6.34			X
6.35			X
6.36			X
6.37			X
6.38			X
6.39			X
6.40			X
6.41			X
6.42	X		
6.43	X		
6.44	X		
6.45	X		
6.46	X		
6.47	X		
6.48	X	X	
6.49	X		
6.50	X		
6.51	X		
6.52	X		
6.53	X		
6.54	X		
6.55	X		
6.56	X		
6.57	X	X	
6.58	X	X	
6.59	X	X	
6.60	X		
6.61	X		
6.62	X	X	
6.63	X		
6.64	X		
6.65	X		
6.66	X		

	Launceston	Burnie	Hobart
6.67 Plain English legislation, preamble and policy	X		
6.68 Legislation to cover all heritage	X		
6.69 Separate legislation for Aboriginal heritage	X		
6.70 Establish technical advisory groups	X		
6.71 What will be the relevance of international agreements?	X	X	
6.72 Steering Committee representation should be broader than public servants	X	X	X
6.73 Who is the steering committee, working group and project team?		X	
6.74 More effort should be put into getting elders to attend meetings		X	
6.75 Comment that no response was provided to a submission for the 1998 review		X	
7.0 Associated legislation and processes			
7.1 Must have integration with federal law, understanding strength (re native title)			X
7.2 Must be consistent with Australian Government, particularly in the breadth of legislation			X
7.3 What will be the structure of new system (e.g. appeals, powers, processes)?	X		
7.4 What does the team mean by certainty?	X		
7.5 Must have an open and widely accessible process	X		
7.6 Must not have any surprises from operation of clauses	X		
7.7 Copyright Act needs to be considered		X	
7.8 Concern expressed that the forest industry may be exempt from the new legislation	X	X	
Planning framework			
7.9 RMPS should not dominate, but serve the interests of new legislation/ Have a mechanism to tie back into the RMPS et al, but RMPS must have a secondary role		X	
7.10 Involve planners and planning schemes (Telstra's 'dial before you dig')		X	
7.11 In the planning framework, an agent of change must be responsible for cost of change (user pays)			X
7.12 Integration <i>with Land Use Planning and Approvals Act</i> (LUPAA; like GT Spot website, maps of general values, or use a broader bush mapping, sensitivity zones)			X
7.13 Work together, about values and resources and increasing awareness (noting the objectives of LUPAA, integrating with LUPAA is critical, must be formal integration and consistent across all the planning schemes)			X
7.14 What is the role of local government in administration of new Act?	X	X	
Compensation			
7.15 Must give details on management requirements and approach to compensation	X		

	Launceston	Burnie	Hobart
8.0 Need for definition and discussion			
8.1 Must give a clear definition of Aboriginal heritage and authenticity		X	
8.2 Must consider overlap of Tasmanian and mainland culture		X	
8.3 Purpose of legislation should be to recognise and develop Aboriginal culture		X	
8.4 Define the uniqueness of Tasmanian Aboriginal culture, eg shell necklaces, could be included in preamble		X	
8.5 Protect ownership of knowledge		X	
8.6 Must include a discussion about Aboriginality at community level		X	
8.7 Must deal with Aboriginality in preamble		X	
8.8 Aboriginal practices and knowledge must be protected through copyright		X	
8.9 Must remove the 1876 clause and cover contemporary material		X	X
8.10 Must explore the overlap of traditional and contemporary culture		X	
8.11 People need to understand breadth of definition of Aboriginal heritage (all Tasmania is Aboriginal heritage)		X	
8.12 Landscape definitions must be clear in legislation		X	
8.13 Include practices such as basket making, birding, egging		X	
8.14 Must consider all Tasmania an Aboriginal site and work backwards from there, then heavily inspect certain areas (but agree will still not find everything), maybe this could be included in the preamble.		X	
8.15 Protect intangible values/spiritual places		X	X
8.16 Adopt Burra Charter principles in legislation, allows sharing of information across groups internationally and links with approach in HCH Act			X
8.17 Aboriginal community must define Aboriginal heritage			X
8.18 Must define Aboriginal heritage as tangible/intangible and broader cultural practices, as broad a definition as possible and clarity in incorporating intangible			X
8.19 Must link spiritual heritage with community through new legislation			X
8.20 Must consider not only places but also landscapes		X	X
8.21 Put definition as a question to the Aboriginal community to be debated and developed within a legal framework			X
8.22 Must not reinvent the wheel (e.g. Burra Charter)			X
8.23 Must not use the definition in the Burra Charter			X
8.24 Must assess significance as part of the meaning of a thing (an object carries meaning)			X
8.25 Take account of meaning			X
8.26 Must give explanation of cultural significance	X		
8.27 Why are all sites equally significant?	X		
8.28 Definition of Aboriginal heritage needs to be tight; authenticity is linked to definition	X		
8.29 Legislation should say what is special about Aboriginal culture and heritage	X		

- 8.30 Must be clear who we are developing significance for
- 8.31 Need definition Aboriginal culture

Launceston	Burnie	Hobart
X		
	X	