

# Tasmanian Aboriginal Heritage Legislation Project

## INFORMATION BULLETIN



### Summary of Round One Consultations: Meetings with Peak Stakeholder Representative Organisations

[www.tahl.tas.gov.au](http://www.tahl.tas.gov.au)

Hobart, 18 to 21 July, 2005

## Background

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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.

## Community Consultation

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**Phase One - identifying issues and gathering input.** The first phase of the Project has been undertaken through a series of consultation rounds, intended to provide maximum opportunity for participation to the Aboriginal community and a full range of stakeholders.

The First Round, held during July, 2005, was aimed at engaging a range of key stakeholder representative organisations, across four sectors: Aboriginal community; Conservation, Recreation and Tourism; Forestry and Agriculture; and Industry and Planning.

The Second Round is a continuing process, aimed at providing opportunities for stakeholders to communicate with the Project Team according to their preferred method. Second Round consultations commenced at the conclusion of Round One, and take the form of individual, face to face meetings, small group briefings, attendance at committee meetings or other approaches. These will occur wherever it is appropriate, according to the needs of various groups and individuals. This state wide round will be important in gathering input from regional and local interests. The Second Round will continue throughout the life of the Project; until new legislation and other associated instruments and processes are finalised. Bulletins will be provided on the outcomes of this round as consultations progress.

The Third Round of consultation was conducted as a series of regional forums. These were held in Launceston (24 October), Burnie (25 October) and Hobart (27 October). This round provided stakeholders, including smaller stakeholder groups and interested individuals, with the opportunity to hear and discuss the outcomes of the First Round and to offer additional input. A Bulletin on this round will be released soon.

**Phase Two – development and discussion.** After analysis of stakeholder consultation, further discussion papers for new legislation will be released. These will be made available for comment during 2006.

## First Round Consultations

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The purpose of the First Round of stakeholder discussion was to confirm an appropriate consultation process and to obtain an overview of key issues as they are perceived by various interest groups. Meetings were held in Hobart and hosted by the Aboriginal Heritage Office and Secretariat of the Department of Tourism, Parks, Heritage and the Arts. They were attended by members of the Project Team and independently facilitated.

A total of 37 organisations were invited to attend the First Round meetings. Responses were received from 30 (80%) and 18 (50%) were able to attend. As part of Round Two, follow up meetings and discussions are being held with a wide range of organisations, including those that did not attend the first round. Input from these consultations will be presented for broader public discussion at regional forums in Round Three.

First Round meetings supported the approach being taken by the Project Team to stakeholder consultations. They resulted in valuable assistance being made available to the Project by a number of organisations; offering the use of newsletters, magazines, meetings and other facilities to assist in the distribution of information.

Participants at Round One meetings raised a number of issues. These are collated in Table 1. There was consensus on a number of key issues:

- The current regime is ineffective and inefficient for all parties.
- Aboriginal heritage in Tasmania requires more effective protection, with direct involvement of the Tasmanian Aboriginal people and recognition of their cultural values
- The Project be presented as a component of government policy, with a clear set of principles
- Protection processes be integrated with other planning and development schemes to provide reliable, quality and timely assessments and determinations
- Protection be achieved through a package of measures, including information, education, training and resourcing
- Private land tenure and ownership be recognised
- Co-operation between the Aboriginal community, land owners and users be encouraged, building on existing networks
- Discussion be facilitated on issues to minimise conflict by seeking early resolution
- There be consistency with relevant Commonwealth legislation

## Project Team

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- **Aboriginal Heritage Office:** Brett Noble, Manager  
Caleb Pedder, Manager, Aboriginal Heritage Services  
Greg Lehman, Project Co-ordinator
- **Office of Aboriginal Affairs:** Karen Brown, Policy Officer
- **Facilitator:** Chris Wells

## Meetings

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- **Conservation, Recreation and Tourism**

Time: 11.00 to 12.30

Date: Monday 18 July 2005

Location: Board Room, DTPHA, ANZ Centre, Hobart

Attended by: Anne McConnell, Tasmanian State Representative, Australia ICOMOS and Vice President, Tasmanian National Parks Association

Jim Russell, Delegate, Cultural Heritage Practitioners Tasmania

Jess Feehely, Principle Lawyer, Environmental Defenders Office

Michael Lynch, Director, Tasmanian Conservation Trust

Nicki Reed, People Planners, Tourism Council Tasmania

Gemma Tillack, Community Campaigner, Tasmanian Wilderness Society

Invited, but not in attendance:

Peter Bird, Australian Trail Horse Riders Association (apologies)

Rowena Bell, Chairperson, National Parks and Wildlife Council (apologies)

Kathy Gatenby, Manager Natural Areas, Tourism Tasmania (apologies)

David Palmer, NRM (apologies)  
Bryce McNair, Chairperson, World Heritage Area Consultative Committee (apologies)  
Peter Richards, Manger, Freshwater Anglers Council of Tasmania  
Peter Neilson, President, Independent Tour Operators of Tasmania  
Greg Daly, President, Tasmanian Recreational Vehicle Association

- **Forestry and Agriculture**

Time: 11.00 to 12.30

Date: Tuesday, 19 July 2005

Location: Board Room, DTPHA, ANZ Centre, Hobart

Attended by: Denise Gaughwin, Nominated Representative , Forest Practices Authority  
Judy Alexander, Forest Management Representative, Forestry Tasmania  
Alan Ashbarry, Delegate, Timber Communities Australia

Invited, but not in attendance:

Peter Taylor, Regional Private Forester, Private Forests Tasmania (apologies)

Brett Mackenzie, Chairperson, Rural Youth (apologies)

Mike Grey, Acting General Manager, Forests and Forest Industry Council (apologies)

Ian Whyte, Executive Officer (NRM) Tasmanian Farmers and Graziers Association (apologies)

Terry Edwards, Chief Executive Officer, Forest Industry Association of Tasmania

David Hazell, Executive Officer, Tasmanian Forest Contractors Association

- **Planning and Industry**

Time: 1100 to 1230

Date: Wednesday, 20 July 2005

Location: Board Room, DTPHA, ANZ Centre, Hobart

Attended by: Sandra Hogue, Senior Heritage Consultant, Hydro Tasmania  
Jodie Epper, Executive Officer, Tasmanian Landcare Association  
John Johnson, Environmental CoordinatorTransend

Terry Long, Executive Officer, Tasmanian Minerals Council  
Russell Brooks, Regional Manager, Telstra  
Andrew Febey, Chief Executive, Tasmanian Fishing Industry Council  
Allan Garcia, Chief Executive Officer, Local Government Association of Tasmania

Invited, but not in attendance:

Brian Risby, President, Planning Institute of Tasmania (apologies)  
Julian Green, Executive Commissioner, Resource Planning and Development Commission  
Damon Thomas, Chief Executive Officer, Tasmanian Chamber of Commerce and Industry

- **Aboriginal Community**

Time: 9.00 to 11.30

Date: Monday 25 July 2005

Location: Tasmanian Aboriginal Land and Sea Council, Lefroy St, North Hobart

Attended by: Colin Hughes, Manager, Tasmanian Aboriginal Land and Sea Council  
Tony Brown, Committee Member, Tasmanian Aboriginal Land and Sea Council  
Greg Brown, Manager, Office of Aboriginal Affairs  
Jillian Mundy, Administrative Officer, TAHL Project, Aboriginal Heritage Office

Invited, but not in attendance:

Michael Mansell, Legal Advisor, Tasmanian Aboriginal Centre  
Clyde Mansell, Chairperson, Aboriginal Land Council of Tasmania

**Table 1: Ideas and issues raised by participants in Round One meetings**

<b>Comments, Concerns and Issues</b> – the following are brief summaries of matters raised by Attendees at meetings. These have provided the Project Team with an indication of the nature and scope of concerns by stakeholder representatives. They will be used as a guide for further research and consultation and as a basis for reporting back to later consultative meetings. x = indicates that the item was recorded from that meeting	Conservation, Recreation & Tourism	Forestry & Agriculture	Planning & Industry	Aboriginal Community
<b>1.0 How Protection can be Achieved</b>				
1.1 A public policy and a set of principles is needed to underpin this process	x			
1.2 Issues of private land tenure and owners rights should be addressed	x	x	x	x
1.3 Integrated framework for legislation/communications education and resourcing is needed	x		x	
1.4 Best practice policy and procedures to occur at all levels on the ground – aligned with EIS			x	
1.5 Need quality control for assessment and management recommendations		x	x	x
1.6 Legislation should be developed in the spirit of – <i>Ask First</i> (Australian Heritage Commission, 2002)	x			
1.7 New process must not slow approvals – should be effectively integrated	x	x	x	x
1.8 Need improved access to information	x	x	x	
1.9 Currently a lack of protection for heritage places	x			x
1.10 Protection of Aboriginal heritage must take account of associated values and landscape	x			x
1.11 Protection needed for tangible (ie artefacts) and intangible (ie. educational) values	x			x
1.12 Important to link with Tas Together and Reconciliation	x			
1.13 Planning and appeals should improve on LUPAA		x		
1.14 Emphasis should be place on the precautionary principle	x			
1.15 Need a balance of enforcement and encouragement	x			
1.16 Monitoring and assessment needed wherever ground disturbance occurs (subsurface material)				x
1.17 Discovery of an artefact should not bring processes to a halt			x	
1.18 Overall protection is preferred to assessment criteria models	x			x
1.19 Overall protection is the most effective way to protect associative values	x			x

<b>2.0 Empowerment for Aboriginal People</b>				
2.1 More involvement of Aboriginal people must be built in to legislation	x	x	x	x
2.2 Significance and treatment of heritage should be a matter for Aboriginal community	x			x
2.3 Role of Aboriginal community is to protect and manage heritage				x
2.4 Aboriginal community should be involved in appointing Aboriginal people to any AH council				x
2.5 Emphasise local involvement in assessment and management		x		
2.6 Maximise opportunity for Aboriginal community to talk directly with stakeholders			x	
<b>3.0 Enforcement and Penalties</b>				
3.1 Better enforcement is required	x	x	x	x
3.2 Current enforcement is almost impossible				x
3.3 Limitation on investigation should be lengthened beyond six months		x		
3.4 Penalties inadequate – should be consistent with ATSIHP Act 1984.	x			x
3.5 Penalties should reflect motive – less for accidental destruction – more for deliberate		x	x	
3.6 Implementation and enforcement – clarify responsibility across levels of government			x	x
3.7 Legislation does not equate to enforcement – this process must be adequately resourced	x			x
3.8 Enforcement is improved by information	x	x	x	x
<b>4.0 Further Resourcing, Information, Education</b>				
4.1 Legislation is only one mechanism, but insufficient on its own – need a package of measures/information/capacity building	x	x	x	x
4.2 Most people don't understand legislation – need other sources of information		x		
4.3 Legislation should provide resourcing for enforcement and protection	x			
4.4 Use revenue from penalties and process fees to fund site protection or rehabilitation works				x
4.5 Significance needs explanation to non Aboriginal communities			x	x
4.6 Develop resourcing now – alongside legislation	x	x		
4.7 Make sure package includes communications to better inform, educate and provide reasons for policy – to explain why this is important.	x		x	
4.8 Capacity for volunteers (ie. Landcare) to get information must be enhanced			x	
4.9 Increase available information on sites – what to look for	x	x	x	

4.10 Make sure package includes values statements and develop mechanisms to ensure dialogue between business and Aboriginal interests	x			
4.11 A package of measures is needed to develop community capacity and understanding	x	x	x	x
4.12 Utilise national expertise ie. ICOMOS, AHC – for input on issues/options	x			
4.13 Engaging regional NRMs will be essential	x			
4.14 Provide training to industry about identification and management issues	x	x		
4.15 Communicate authentically – emphasise Aboriginal use of land	x	x		x
4.16 Recognise working forests/landscapes		x		
4.17 Important to communicate different cultural values	x	x		x
4.18 Need understanding that heritage is not always visible on the surface	x			x
4.19 Recognise that Aboriginal heritage values may also include contact sites and built heritage		x		
<b>5.0 Aboriginal Heritage Officers</b>				
5.1 Heritage assessments and recommendations need improved quality control			x	
5.2 Provide for Aboriginal Heritage Officers (AHOs) to brief community organisations			x	
5.3 Reduce inconsistency of advice from AHOs			x	
5.4 Need more resourcing for education/training/support of new AHOs		x		
5.5 Need an accreditation process		x		
5.6 Ensure roles and expectations are appropriate to skills			x	
5.7 Need to be involved in legislation development through workshop				x
<b>6.0 Consultation</b>				
6.1 Use already established newsletters to spread information			x	
6.2 TALSC to be primary source of input from Aboriginal community – OAA will ensure full coverage				x
6.3 Use stakeholder organisations to disseminate information – enhance stakeholder trust	x	x		
6.4 Documents for consultation must be in plain English		x		x
6.5 Ensure consultation reaches all interested parties – at local level	x	x		
6.6 Providing opportunity to have input is what is important – stakeholders will choose whether to participate	x			
6.7 Communicate project governance to stakeholders	x			
6.8 Facilitate discussion of issues to minimise conflict and get conciliation and early resolution		x		

6.9 Consult directly with industry – ie. Gunns	x			
6.10 8 week turnaround generally OK – Landcare prefers 12 weeks	x	x	x	x
<b>7.0 Associated Legislation and Processes</b>				
7.1 Links to federal legislation must be examined (ie. ATSIHP 1984)– ensure consistency and accreditation	x		x	
7.2 Inconsistency with national regimes is an obstacle to investment and development			x	
7.3 Current legislation is not used by many who are bound – they rely on other mechanisms to not breach codes		x		
7.4 Aboriginal heritage identification and assessment must be an early component of all planning process	x		x	
7.5 Processes for assessment and determination must be timely and consistent with RMPS	x	x	x	x
7.6 Need for outside advice leads to delays in assessment and planning			x	
7.7 Need clarity on responsibility for standards/consistency/interpretation			x	
7.8 Legislation effectiveness is restricted by awareness and resourcing	x	x	x	x
<b>8.0 Need for Definition and Discussion</b>				
8.1 Who should issue permits?				x
8.2 Expectation that levels of significance can be defined			x	
8.3 Concept of ‘cultural landscape’ needs development and better definition to recognise the range of human associations – refer to Uluru Plan for defining spiritual associations – also UNESCO/ICOMOS	x	x		
8.4 Cultural landscapes	x			x
8.5 A better definition of heritage is needed – ie. No relevance to 1876	x			x
8.6 Better ways to protect Aboriginal cultural and associative values	x			x
8.7 Effective representation of Aboriginal people in decision making	x		x	x
<b>9.0 Land Tenure</b>				
9.1 Consider concept of Community Forests in legislation		x		
9.2 Ensure that private title rights are recognised and protected	x	x	x	
9.3 Need provision for access to private land for recording of heritage and co-operation in management				x

<b>10.0 Legislative Instruments</b>				
10.1 Legislation should promote current co-operative approaches between landowners and Aboriginal people for management planning		x		
10.2 Legislation needs a plain English companion guide – explaining triggers		x		x
10.3 Legislation must provide for timely decisions and expert input to decision making	x	x	x	
10.4 Legislation should allow for delegation of decision making – build in cooperation		x		
10.5 Who issues permits? – Aboriginal Heritage Office, TALSC or a statutory body?				x
10.6 Aboriginal community decision making powers must be provided by legislation	x			x
10.7 Aboriginal representation in decision-making needs to be adequately provided	x			x
10.7 Need to provide improved access to TASI database for planning purposes	x		x	
10.8 Legislation must link to LUPAA	x	x	x	x