Addressing Aboriginal people’s concerns

The NSW Government has conducted broad and extensive consultation with all stakeholders who have an interest in Aboriginal cultural heritage (ACH) matters. Specific public consultation sessions were held for Aboriginal people to ensure Aboriginal communities’ views, issues and concerns informed the ACH legislation review.

There was great diversity about which issues were considered important. The Government model is based on finding common ground in all perspectives to find a balanced solution that will deliver ACH outcomes.

Input into the process was received from a large number of participating Aboriginal individuals, organisations, families and corporations. While feedback varied according to peoples’ individual views, different experiences and needs for their local area, there were many common themes. See the details of the Phase 1 feedback in: www.environment.nsw.gov.au/achreform.

What did Aboriginal people want from this reform?

Some of the major shared concerns and issues raised by participating Aboriginal people were:

- including a new definition of Aboriginal cultural heritage that encompasses more cultural values and is broader than ‘objects’ and ‘places’
- identifying the people with cultural authority and knowledge of cultural practices to make decisions about Country
- introducing mechanisms to support strategic and proactive protection, and conservation outcomes such as ACH Plans of Management and ACH Maps, to highlight and prioritise the protection of landscapes, rather than creating the small, isolated conservation outcomes that arise from responding to threats of harm at a project level
- increasing the opportunities available for Aboriginal people to have earlier input into the planning process to ensure ACH values can be considered and impacts can be avoided, minimised and appropriately managed.

How have Aboriginal community concerns been incorporated?

The Government model proposes this definition of ACH to extend protection beyond ‘objects’ and ‘places’:

Aboriginal cultural heritage means the practices, representations, expressions, knowledge and skills – as well as associated objects and artefacts – that Aboriginal people recognise as part of their cultural heritage, insofar as these values are reflected in the landscape.

Local ACH Committees will identify who speaks for Country and who is to be consulted within specific boundaries across NSW. This process will complement sections 82(2)(b) and (c) and section 170 of the Aboriginal Land Rights Act 1983 (NSW) and the Native Title Act 1993.

The Government model is designed to consider input, knowledge and information provided by Aboriginal communities at both the strategic level and at the individual project level. This will occur by recording all cultural heritage values and information within an ACH Map and an ACH Plan of Management.
What is the role for Aboriginal people in the proposed Government model?

Local Aboriginal people will determine the significance of Aboriginal values as part of a systematic mapping and planning process of all ACH values across NSW. They will, via membership of Local ACH Committees, make decisions about managing and protecting ACH values in their area.

A statewide Aboriginal Cultural Heritage Advisory Committee (ACHAC) will be empowered to have input at strategic levels, including developing minimum standards, policies and guidelines for the proposed ACH Act to protect and enhance identified ACH values to support local initiatives identified by local Aboriginal people.

The ACHAC will comprise Aboriginal people with cultural authority, a range of relevant skills and experience in ACH matters and knowledge of planning processes.

What are local ACH committees?

- Local ACH Committees will become the local ‘one-stop-shop’ for consulting on all ACH matters.
- They will include 10 nominated identified people with connection to Country who have knowledge and understanding of the cultural heritage practices and priorities for their Country.
- Positions on the Local ACH Committee will be held for five years.
- To ensure the diversity and broader interests of the local Aboriginal community are represented, they will have a balance of males and females and also represent different local groups.

What will the local ACH committees do?

Each Local ACH Committee will consult with Aboriginal people with cultural association to identify the significance of the ACH values identified in their local boundary and will be responsible for developing a local ACH Map and a Plan of Management. The committees will be able to negotiate directly with proponents to develop a Project Agreement to determine how best to protect and manage ACH values in a project area. These must be consistent with the aims outlined in the Local ACH Committee’s Plan of Management.

Committees will be able to request the Crown to transfer custody and ownership of ACH material or Aboriginal objects to the relevant local Aboriginal community.
By developing conditions within Project Agreements, Local ACH Committees will also have the ability to deal with the care and ownership ACH material or Aboriginal objects. They will develop strategies for managing ACH. These must be consistent with the aims outlined in the Local ACH Committee’s Plan of Management.

How do other Aboriginal people have a say in ACH matters?

Consistent with the intent of section 82(2)(b) and (c) of the Aboriginal Land Rights Act 1983, Local ACH Committees will be required to consult and work with Aboriginal people with cultural association to develop ACH Maps and Plans of Management. These will be placed on public exhibition to provide the opportunity for input by all members of the public before the Minister can approve them.

Committees will be required to demonstrate to the Minister that appropriate consultation with the Aboriginal people with cultural association has occurred.

Aboriginal people can advise the Minister if the statutory process for consultation and developing ACH Maps and Plans of Management has not occurred.

Process for developing, approving, reviewing and updating ACH Maps and Plans of Management

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<tr>
<th>Step 1</th>
<th>Step 2</th>
<th>Step 3</th>
<th>Step 4</th>
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<tr>
<td>Local ACH Committee consults with the local Aboriginal community and assesses the ACH values within its boundary.</td>
<td>Local ACH Committee determines the significance of the ACH values and develops maps and Plans of Management (guided by minimum standards).</td>
<td>Heritage Division reviews maps and Plans of Management to ensure they comply with minimum standards.</td>
<td>Maps and Plans of Management are placed on public exhibition for broad public review and input.</td>
<td>Minister considers public input (against factors to consider outlined in the legislation), approves Maps and Plans of Management, and lists these on the ACH Register.</td>
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Review and update process

*Periodic reviews and updates of ACH Maps and Plans of Management will occur as required by regulation. The legislation will also require statutory reviews of all ACH Maps and Plans of Management every five years.*

What are the benefits for Aboriginal people under the proposed model?

- The proposed model seeks to deliver better protection for cultural heritage so that Aboriginal people can keep significant cultural values safe and continue to practise the traditions that are integral to their spiritual and physical wellbeing.
- Aboriginal people will have new and increased opportunities to inform the planning process at both the strategic planning level and for individual projects.
- Aboriginal people with the cultural authority to make decisions about culture will be consulted on decisions for conserving, protecting, maintaining, and mitigating ACH values within a local area.
- A better system will lead to strong working relationships developing between Aboriginal people and project proponents as they find ways to achieve their outcomes together.
- The NSW Government aims to develop a model that supports and ensures that this resilient culture continues to thrive into the future for the benefit of all Australians.

The current phase of public consultation seeks to hear the views and solutions of all stakeholders. There are several ways for you to have your say.

- **Online** Make a submission online at: www.environment.nsw.gov.au/achreform/haveyoursay.htm
- **Attend a workshop** Details can be found at www.environment.nsw.gov.au/achreform
- **By mail** Post your written submission to:
  Aboriginal Cultural Heritage Reform Secretariat
  NSW Office of Environment and Heritage
  PO Box 1967 Hurstville BC NSW 1481
- **By phone** Record your submission by calling the free message line: 1800 881 152
- **By fax** Fax your written submission to: 02 9585 6366
- **By email** Email your submission to: ach.reform@environment.nsw.gov.au

For more information on the public consultation process, see Fact sheet 2: How to have your say in the reform (download at: www.environment.nsw.gov.au/achreform/ACHmedia.htm).

The closing date for consultation is **14 February 2014**.