Reforming the Aboriginal cultural heritage legislation in NSW

Questions & answers

Addressing industry’s concerns

The NSW Government conducted extensive consultation with all stakeholders with an interest in Aboriginal cultural heritage (ACH) matters to listen to their views, issues and ideas to inform the review of the ACH legislation. All input received during the previous consultation phases was considered in developing the Government proposal for reforming the current ACH legislation.

What concerns did industry raise?

Feedback from the consultation sessions was received from numerous people who represented farmers, mining, infrastructure companies, housing developments, heritage advisors and government agencies. Some of the major concerns and issues raised by industry included:

- a regulatory process that responds to the specific needs of different developments
- a simplified consultation process that clearly identifies who proponents must consult with for all ACH matters
- a clear process for resolving differences or disputes that may arise during negotiations
- certainty about the process and timeframes
- a clear process for responding to unexpected finds when developments have already commenced.

How have the concerns of industry been incorporated?

The proposed model will create a clear and streamlined process for identifying who to consult with and a new process for assessing and conserving ACH values while also supporting the social and economic growth of NSW. It will also introduce a more flexible regulatory process to ensure that the assessment, action and ongoing ACH management can be designed to fit the scale of the project – a ‘fit-for-purpose’ rather than a ‘one-size-fits-all’ approach. Flexible Project Agreements will replace the current Aboriginal Heritage Impact Permits (AHIPs) and will be negotiated at the local level.

How is the regulatory process streamlined and fit for purpose?

- The model proposes a fit-for-purpose approach to managing ACH considerations and project needs. Projects with fewer ACH values will have a different regulatory process than projects that have more ACH values.
- Upfront mapping of ACH and Plans of Management will provide greater clarity and certainty in project planning.
- New code-based standards and requirements for assessing ACH values will result in reduced timeframes.
- New assessments would only be required when there are gaps in previous assessment information or where the new code is not met. This will avoid the need to duplicate assessments.

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<td>Undertake consultation</td>
<td>Develop an</td>
<td>Undertake assessment</td>
<td>Finalise a Project</td>
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<td>requirements</td>
<td>assessment plan</td>
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There will be a maximum of six key steps in the new process, each with mandatory timeframes and support resources.

Dispute resolution and judicial review will be available.

How has the consultation process been simplified?

- The consultation process will be clear through creating Local ACH Committees within specific boundaries across NSW.
- Local ACH Committees will represent ‘who speaks for Country’ and be the one-stop-shop for ACH consultation.
- This process will complement section 82(2)(b) and (c) and section 170 of the Aboriginal Land Rights Act 1983 (NSW) and the Native Title Act 1993.

Managing unexpected finds when a project has already commenced

- Each ACH Plan of Management will specifically outline the processes required for managing unexpected and unmapped ACH values.
- The level of response required for managing the unexpected find will vary according to the type of site, and be subject to mandatory timeframes.


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.