



Aboriginal Cultural Heritage Reforms Phase 3 Consultation

Report on questionnaire results

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Published by:

Office of Environment and Heritage

59 Goulburn Street, Sydney NSW 2000

PO Box A290, Sydney South NSW 1232

Phone: +61 2 9995 5000 (switchboard)

Phone: 131 555 (environment information and publications requests)

Phone: 1300 361 967 (national parks, general environmental enquiries, and publications requests)

Fax: +61 2 9995 5999

TTY users: phone 133 677, then ask for 131 555

Speak and listen users: phone 1300 555 727, then ask for 131 555

Email: info@environment.nsw.gov.au

Website: www.environment.nsw.gov.au

Report pollution and environmental incidents

Environment Line: 131 555 (NSW only) or info@environment.nsw.gov.au

See also www.environment.nsw.gov.au

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1. Introduction

This report presents an overview of the feedback received through an online questionnaire made available during phase 3 of public consultation on the Aboriginal cultural heritage (ACH) reforms.

Other information on the results of the phase 3 consultation process is available via:

- a fact sheet which provides an overall summary of the feedback received (www.environment.nsw.gov.au/resources/cultureheritage/aboriginal-cultural-heritage-reforms-factsheet-160717.pdf)
- an overview of the feedback received in written submissions (www.environment.nsw.gov.au/resources/cultureheritage/aboriginal-cultural-heritage-reforms-submissions-report-160701.pdf)
- an overview of the feedback received in public workshops (www.environment.nsw.gov.au/resources/cultureheritage/aboriginal-cultural-heritage-reforms-workshops-report-160702.pdf).

1.1 Questionnaire process and format

The questionnaire was available for completion online on the NSW Government's *Have Your Say* website from 30 September 2013 to 28 March 2014.

The questionnaire consisted of 28 questions grouped under the following themes:

- stand-alone legislation, new preamble and definition
- who is to make local decisions
- significance criteria for ACH values
- ACH maps and plans of management
- negotiating project agreements
- ACH Register
- State of Aboriginal Cultural Heritage Report
- local prioritisation and strategic planning
- early, upfront and ready access to ACH information
- ACH outcomes managed via project agreements
- funding ACH outcomes
- resolution processes
- appeals and reviews
- other considerations for government.

Most questions enabled respondents to provide a 'yes' or 'no' answer or to indicate their order of preference for a number of proposed options. Respondents could also submit written comments for most questions. No questions were mandatory and some respondents chose not to answer all questions. As such, the number of responses to each question varies.

1.2 Respondent demographics

Sixty-seven respondents completed the questionnaire, of which 37 identified as Aboriginal and 30 as non-Aboriginal.

Respondents were from across the state, including coastal New South Wales, the Sydney metropolitan region, central New South Wales, and the far west region.

Questionnaire respondents identified as belonging to the following groups:

- Aboriginal organisations and Local Aboriginal Land Councils (LALCs)
- government representatives (local, state)
- non-profit organisations
- heritage practitioners
- industry groups (e.g. oil and gas, housing and construction)
- education sector
- community workers
- members of the general public.

1.3 Response analysis

As the number of questionnaire responses was relatively low, a simple analysis (counts and percentages) rather than detailed statistical analysis was undertaken. The size of the dataset was too small to analyse responses by area or group. Data was disaggregated on the basis of whether or not respondents identified as being Aboriginal, although it is noted that sample sizes are still small. The report identifies where a clear distinction in views between these two groups existed, but for most questions there did not appear to be a significant difference.

The report also notes where responses to the questionnaire differed significantly to the responses received in the written submissions or workshops.

For each question, the report provides both the actual number of responses as well as a percentage. Where the question involved multiple components, the graph represents the number of responses for each component; these are grouped as a range in the text description. Where the question asks respondents to rank their preferences, the graph shows each option ranked in order of preference.

The report summarises the comments received and provides a selection of direct quotes that represent the type and range of comments received.

A copy of [all written submissions](#) received as part of the online questionnaire is available, excluding comments where respondents specifically requested their responses not be made public. The comments in this report and the full transcript of publishable comments appear exactly as entered into the online questionnaire and have not been edited.

2. Stand-alone legislation, preamble and definition

Q1: Should a new stand-alone Aboriginal Cultural Heritage Act be created?

There was very strong support (57 'yes' responses; 85% of all responses) for creating a new stand-alone Aboriginal Cultural Heritage Act. Only seven (10%) respondents did not support the proposal, while three (5%) did not answer this question (Figure 1).

If not, what would you suggest?

Questionnaire respondents were asked to suggest alternative options if they did not agree with the proposal for a new Act. Suggestions included broadening the *Aboriginal Land Rights Act 1983*.

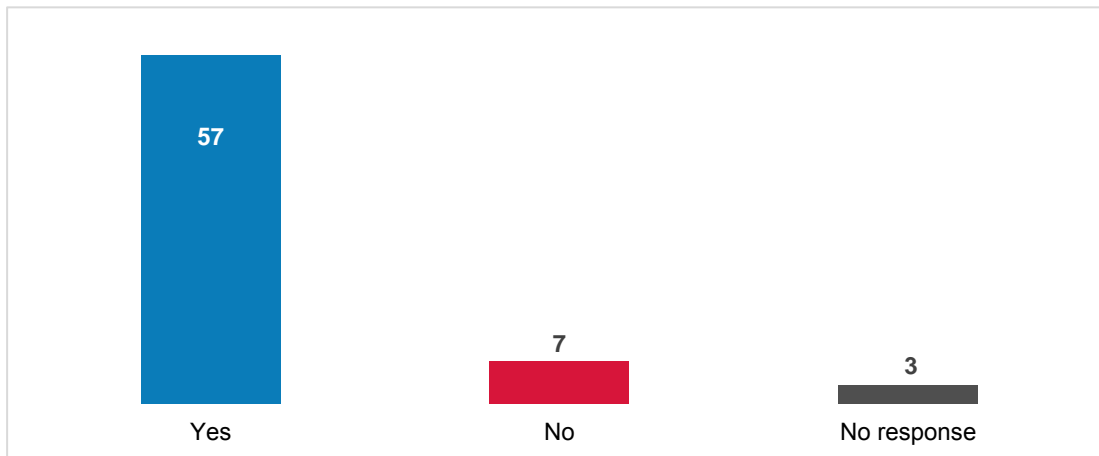


Figure 1: Responses to whether a stand-alone Act should be created (number of responses)

In your own words

'Suggestion would be for a more flexible legislation that kept the best of what exists and enhances the current legislative intent to facilitate opportunities for local management where appropriate.'

Q 2: Does the proposed preamble respectfully reflect contemporary views and understanding of the value of Aboriginal culture and heritage?

Two-thirds of respondents (45, 67%) thought that the proposed preamble respectfully reflected contemporary views and understanding of the value of Aboriginal cultural heritage, while one quarter did not (17, 25%), and a small number of respondents (5, 8%) did not answer this question (Figure 2).

If not, what suggestions would you make to improve the preamble?

A number of respondents provided suggestions for improving the preamble. These suggestions included that the preamble recognise the diversity within Aboriginal culture; the cultural authority of traditional owners in relation to their ancestral lands; the inherent land, law and spiritual rights of Aboriginal people; the importance of reconnecting to cultural practice, including through opportunities to work on Country; and that it is Aboriginal communities not individuals who are the critical determinants of ACH values.

Several respondents commented that wording needed to be in everyday language that was clear and would be understood by everyone.

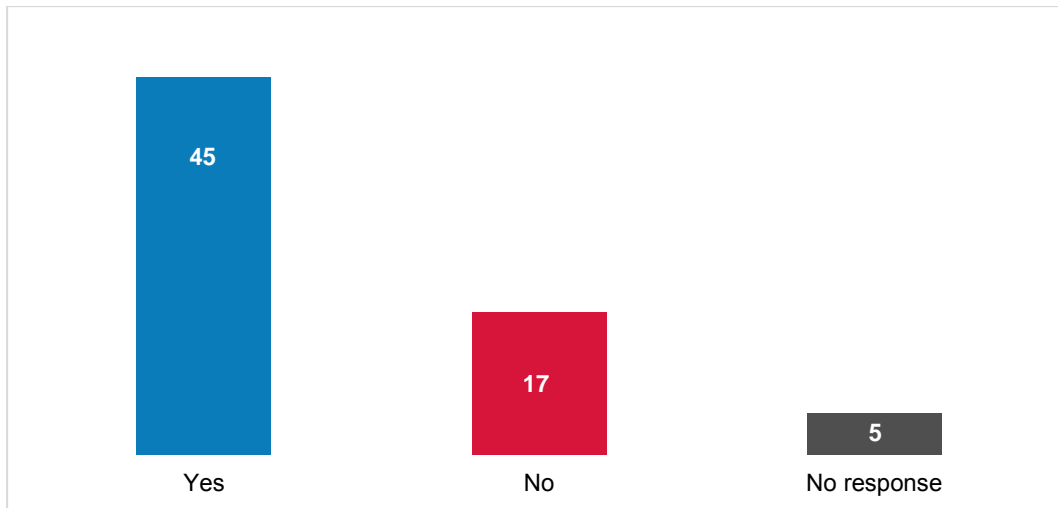


Figure 2: Responses to whether the preamble respectfully reflects contemporary views (number of responses)

In your own words

'We cannot talk about this country Australia in a generic way because all of the Aboriginal Tribes within Australia had unique and vibrant Cultures and this must be portrayed within this preamble and as well as the rest of this document.'

'Aboriginal people must have the opportunity to reconnect with their cultural values and traditional practices through the provision of direct opportunities to work on and in their country.'

'Delete the word 'share'. Access to our ACH sites must not be taken as 'open to everyone'; sacred site access protocols require permission from Elders.'

Q3: Does the proposed definition for Aboriginal cultural heritage appropriately recognise tangible and intangible ACH values?

Half of respondents (34, 51%) thought that the proposed definition for ACH appropriately recognised tangible and intangible ACH values. A larger proportion of Aboriginal respondents (22, 59%) than non-Aboriginal respondents (12, 40%) answered 'yes' to this question (Figure 3).

If not, what alternative wording would you suggest to improve the definition of ACH?

A number of non-Aboriginal respondents commented that it was up to Aboriginal people to define 'Aboriginal cultural heritage'. A couple of comments suggested that the definition needed to better reflect spiritual connection to land, which cannot necessarily be seen in the landscape. A few respondents suggested variations to the proposed definition, while a couple of respondents were concerned the definition was too broad. Several respondents commented on the wording, noting that the definition needed to be in everyday language that was understandable to all.

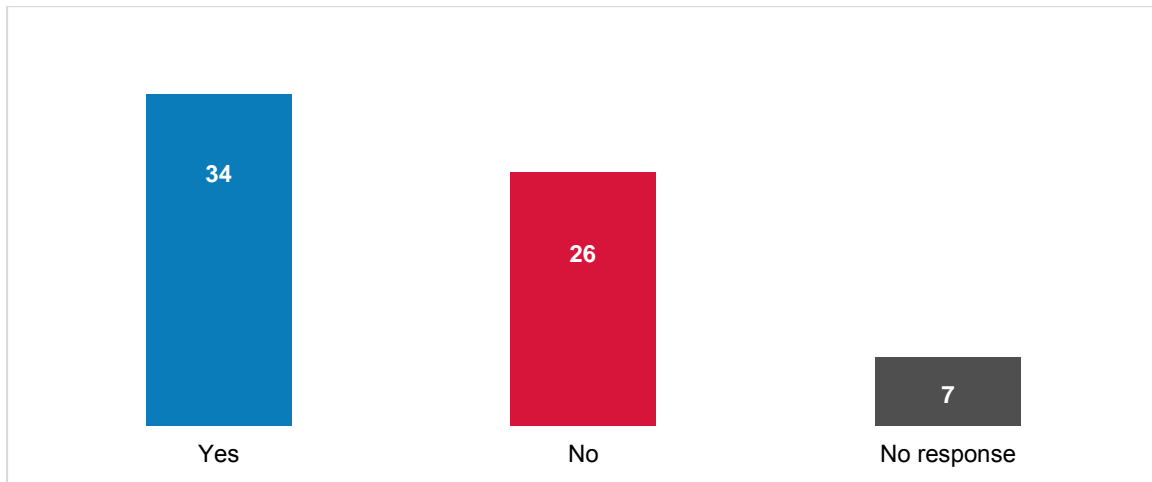


Figure 3: Does the proposed definition appropriately recognise ACH values (number of responses)

In your own words

‘There also needs to be some definition added which includes intangible Cultural Heritage like areas that may be devoid of physical objects (archaeological evidence) but are still considered by the Traditional Owners to be of great importance within their Cultural Heritage.’

‘...I think simpler language, i.e. that spoken by every day Aboriginal people, would be better...’

‘The terms ‘insofar as these values are reflected in the landscape’ I don’t think adequately conveys intangible values. And also who decides how/when/where these values are reflected in the landscape?’

3. Who is to make local decisions?

Q4: Should the composition of the local ACH committees include people with the following statutory recognition:

- parties to a native title determination (*NSW Native Title Act 1994*)?
- registered native title claimants (*NSW Native Title Act 1994*)?
- people identified as Aboriginal owners (*Aboriginal Land Rights Act 1983*)?
- parties to an Indigenous Land-use Agreement (*NSW Native Title Act 1994*)?

Overall, there was support for the composition of local ACH committees to include people with statutory recognition of their authority. Of the four statutory processes listed, greatest support was demonstrated for including people identified as Aboriginal owners under the *Aboriginal Land Rights Act 1983* (51, 76%), with 38–39 (57–58%) of respondents supporting identification of people through the other three processes (Figure 4).

List any other statutory processes government should consider for identifying Aboriginal people with the cultural authority to speak for Country.

Suggestions for other processes for identifying Aboriginal people with cultural authority to speak for Country included building on existing structures, for example using local aboriginal land councils (LALCs) and people nominated by the LALCs. However, it was also noted that the LALCs needed to engage with non-members and a number of comments (3) specifically opposed the involvement of the LALCs. Other groups of people nominated for participation included traditional owners, Elders, knowledge holders, people identified through expression

of interest or community nomination, and people with a history of engagement on Aboriginal cultural heritage.

Two respondents noted that there are not enough people in New South Wales with statutory recognition of cultural authority to form all the committees, especially in the far west of the state. Another person recommended that the criteria for participation on the committees should not limit or exclude participation by being overly prescriptive.

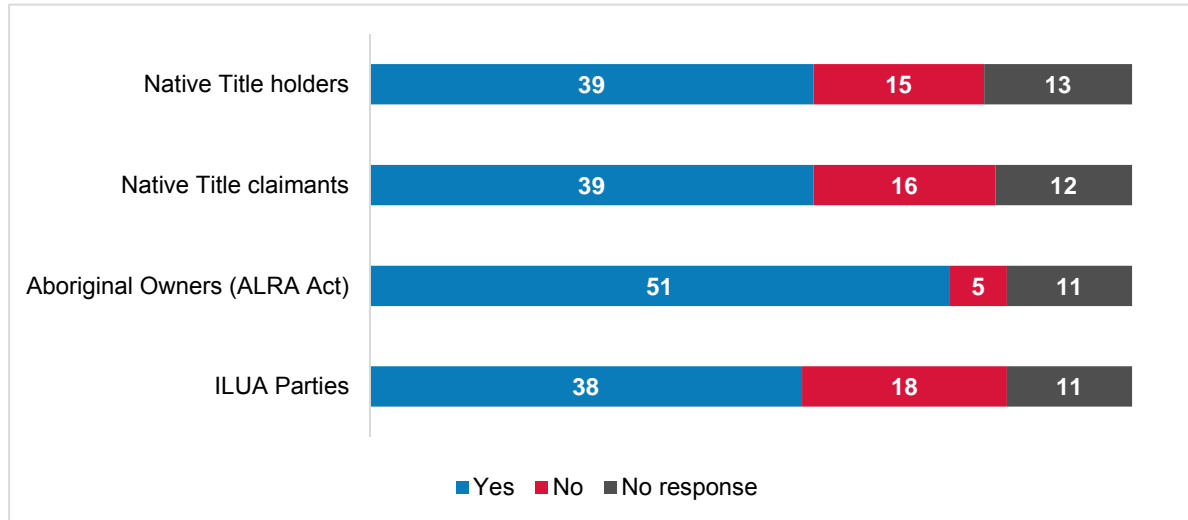


Figure 4: Responses to whether the local ACH committee should include these groups of people with statutory recognition (number of responses)

In your own words

‘The number of people who fall into the above categories in NSW are minimal. For the majority of NSW, where Native Title is not applicable, let alone any claims have been registered or determined, Aboriginal communities could be afforded the respect to determine who speaks for what country.’

‘...The local committees need to reflect all Aboriginal people with cultural knowledge for the area in question. It is more important that the makeup does not exclude participation by being too prescribed.’

‘Only those People, the Traditional Owners that have proven via the Native Title process such as Registered Native Title claimants and Parties to a Native Title determination and that have proven they are directly connected to a particular area should have the sole right to speak for that area.’

‘Must be LALC involvement. They have a responsibility for ACH. But needs to include others too. Some people are not welcomed in LALCs that needs to change to bring everyone together instead of fighting against each other.’

Q5: Should the local ACH committees also include Aboriginal Elders who are traditional owners and knowledge holders?

There was very strong support overall (57, 85%) for the local ACH committees to include Aboriginal Elders who are traditional owners and knowledge holders (Figure 5).

What guidance would you suggest is used to identify Aboriginal Elders who are traditional owners and knowledge holders that should be recognised for membership of a local ACH committee?

Respondents provided a range of guidance for identifying Aboriginal Elders who are traditional owners and knowledge holders. These included:

- people with cultural authority recognised through existing statutory processes, such as native title holders
- cultural leaders recognised and verified by the local Aboriginal community through a process of community consultation
- a system of expressions of interest that are reviewed by an expert or representative panel in consultation with established Aboriginal groups
- election of representatives by Aboriginal communities
- a system of self-nomination
- family or community nomination
- people nominated by the LALCs or Elders identified through the LALCs
- Elders (or their delegate) identified through a formalised and endorsed process.

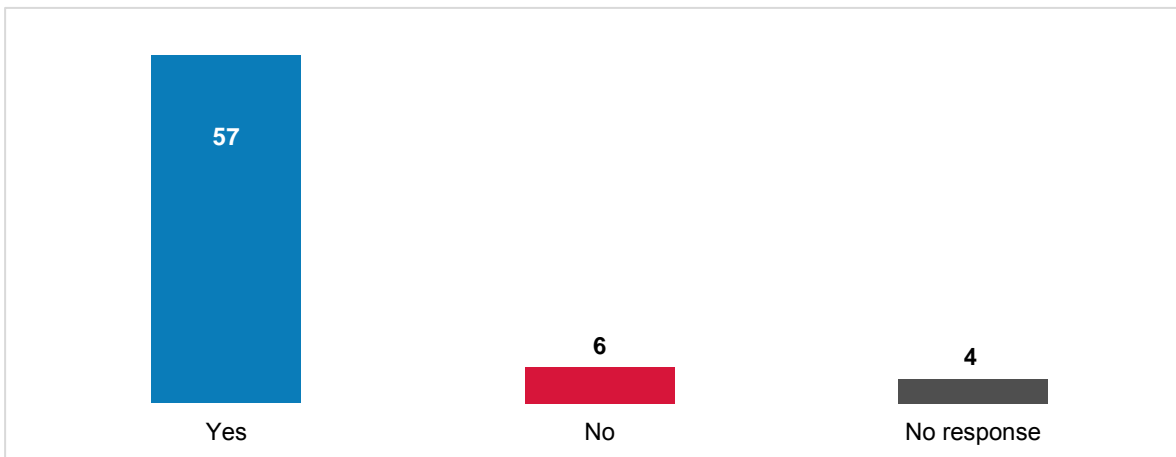


Figure 5: Responses to whether the local ACH committees should include Aboriginal Elders who are traditional owners and knowledge holders (number of responses)

In your own words

‘...Fundamentally, accreditation of Aboriginal voices should be by Aboriginal people, not by government-designated people.’

‘Recognised through the LALC or through elections, like the old ATSIC reps from each region.’

‘Expression of interest and expert/representative panel review, informed by consultation with established Aboriginal groups’

‘Consultation with members of the Aboriginal Community guided by LALC.’

‘Internal voting amongst the local Aboriginal community. Such a ballot could be conducted following a public forum or a meeting (formed by members of the community identified in an early round of consultation).’

Q6: Which of these four proposed options for creating boundaries for the Local ACH Committees do you prefer?

- **Local Aboriginal Land Council (LALC) boundaries**
- **regional Aboriginal Land Council boundaries**
- **local government and shire boundaries**
- **Local Land Services boundaries to be established**

Of the four options proposed as the basis for creating boundaries for local ACH committees, respondents preferred the use of Local Aboriginal Land Council boundaries, followed by regional ALC boundaries. There was less support for local government and shire boundaries and Local Land Services boundaries (Figure 6).

This was different to the responses received via written submission and to feedback from the workshops. Feedback via these other methods provided more mixed views with no clear preference.

List any other boundaries government should consider for the local ACH committees.

A number of respondents put forward traditional boundaries that were referred to as tribal or nation boundaries, cultural groups/blocks or language groups/blocks. Another suggestion was for boundaries based on rivers and other landscape features known by Aboriginal people. One person commented that regional ALC boundaries were too large, but that smaller groupings of LALCs may be workable.

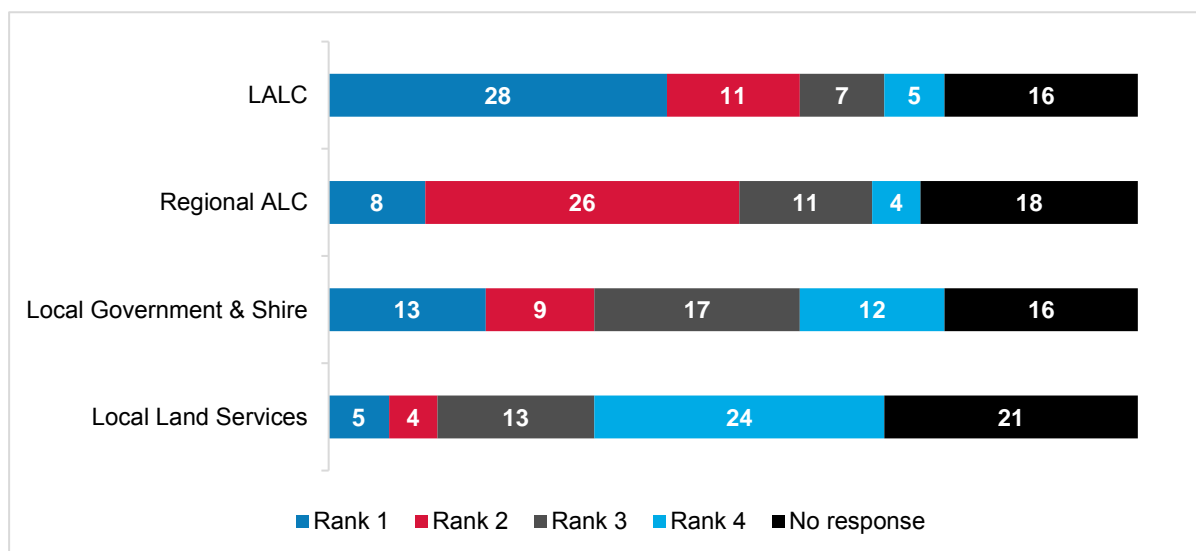


Figure 6: Preferences for the local ACH committees' boundaries (number of responses)

In your own words

‘All of these options are limited...are artificial and do not take into consideration Traditional Aboriginal boundaries or borders or the considerations of peoples cultural connections to country...’

‘Many of the current LALC boundaries make no sense. There are enough general traditional boundaries recorded to make for a reasonable discussion around more specific boundaries. Language Blocks, Cultural Blocks. Geography.’

‘...A committee boundary would have to follow the recognised registered Native Title claimant/determination boundary for it all to work correctly!! ...Where the situation occurs where there are no recognised Traditional Owners, then a different model would need to be installed but to be flexible so as to allow for if the occasion arises that the Traditional owners are recognised or are eventually successful in becoming registered Native Title claimants.’

4. Significance criteria for ACH values

Q7: Do you agree with the proposal to establish the following three categories for classifying ACH values?

- no or low ACH value?
- high ACH value?
- incomplete ACH information?

Less than half of respondents (28, 42%) supported using the 'no or low ACH value' category, while just over half supported using the 'high ACH value' (38, 57%) category and 'incomplete ACH information' category (34, 51%; Figure 7).

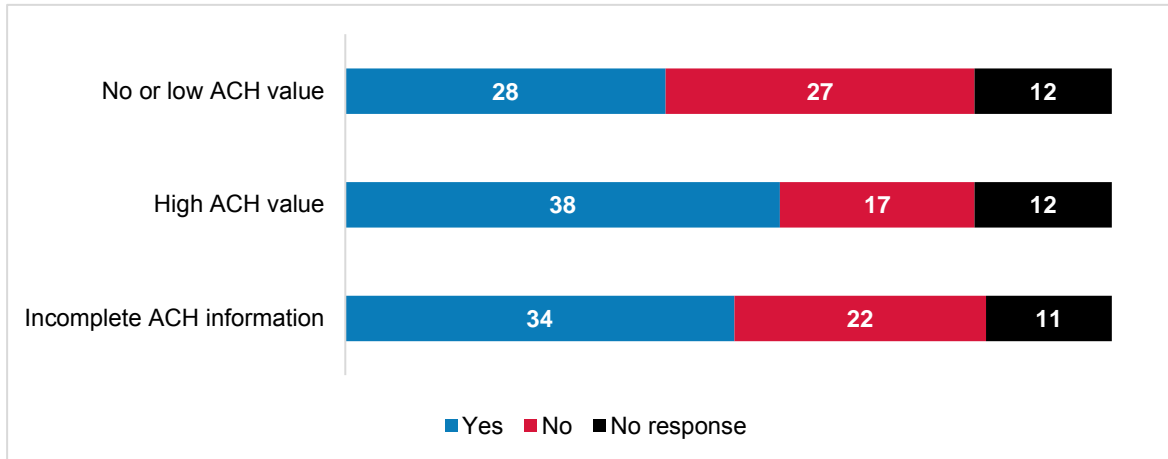


Figure 7: Responses to the proposal to establish three categories of ACH value (number of responses)

List any other criteria government should consider for local ACH committees and people to map and categorise local ACH values.

A number of respondents commented that they did not support the concept of categorising ACH significance and argued that all ACH is of high significance, especially in areas where a lot of ACH value has already been lost. The main concern for other respondents was about assessing areas as having 'no' ACH significance. These respondents commented that there was a big difference between 'no' and 'low' significance and suggested these needed to be separated. A number of different categorisations were suggested, including: low, medium and high; least value to greatest value; type of ACH; disturbance level; tenure type; or level of threat. Some respondents stated the importance of having criteria to guide assessment. Two respondents called for the Burra Charter to be reflected.

Several respondents highlighted the need for extensive funding and support to research and map ACH values in order to avoid most areas being mapped as 'incomplete information', while others noted that Aboriginal people would be reluctant to share sensitive cultural information, or would identify all areas as being of high ACH significance. Two respondents expressed concern that the publication of maps showing the location of sites of ACH significance would lead to greater deliberate destruction of these sites.

In your own words

'Aboriginal people do not put such criteria on their culture or the remains of that culture. It is all significant. More consultation with the Aboriginal community is needed.'

'Country should be mapped according to some of the following criteria: Developed, undeveloped (natural), disturbed, undisturbed, Land Use Tenure, Protected area, Aboriginal owned, Aboriginal Place declared, Public, Private.'

'I do not think that the above criteria are adequate for action-oriented management and/or protection. I would prefer something along the lines of: At-risk ACH...and Probable At-risk ACH.'

5. ACH maps and plans of management

Q8: Should the local ACH committees work with other local Aboriginal people identified with cultural authority to:

- identify local ACH values?
- categorise local ACH values?
- map local ACH values?
- develop local ACH plans of management to outline strategies for managing each type of ACH value identified in the map?

Approximately three-quarters of respondents (range 48–53, 72–79%) thought local ACH committees should work with local Aboriginal people with cultural authority to undertake the four activities listed. This proposal was more strongly supported by non-Aboriginal respondents than by respondents who identified as being Aboriginal (Figure 8).

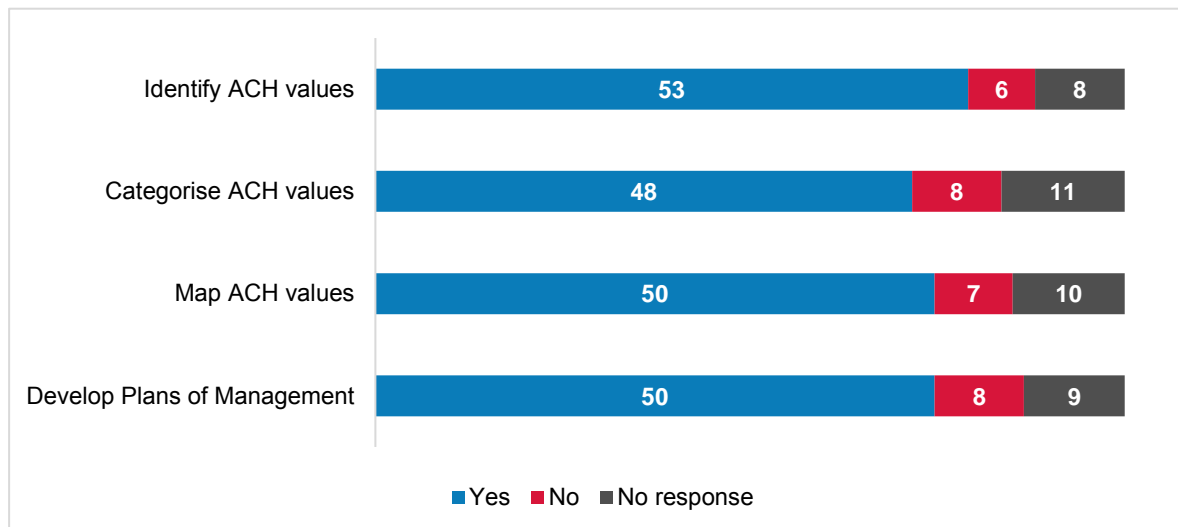


Figure 8: Should the local ACH committee work with local people to...? (number of responses)

List any other ways each local ACH committee should work with the local Aboriginal people, with community or legislatively recognised cultural knowledge, to manage their local ACH values.

Respondents proposed a wide range of ways that local ACH committees could engage and work with other local Aboriginal people. These included: giving local Aboriginal communities the opportunity to provide input into and comment on maps and plans; using Aboriginal media and networks to engage with local communities; undertaking open and transparent consultation with communities; and working through the LALC networks, including through online surveys of members. Some respondents thought that decision-making should be limited to those with ancestral cultural connections to Country, but that people with historical connections and the LALCs should be consulted.

In your own words

'Community meetings and forums, visits to country. Appropriate time and resources should be supplied for this process. The Committee should be supported with adequate

administrative assistance to fulfil their functions and document community knowledge and concerns.'

'Local ACH members work with the local Aboriginal people to determine these sites and to map them. These maps should not be made public but kept in a safe place away from prying eyes.'

'Local Aboriginal people should be empowered by the local ACH to care for tangible ACH sites as well as connect to Country through cultural practice.'

'Mapping and the development of Plans of Management is irresponsible and dangerous for Aboriginal People, more importantly will be impossible to achieve considering the cultural complexities of NSW and the destruction that has occurred to date of significant landscape since invasion. How can the committee make informed decisions, based on these issues?? In my experience, it's on the people who speak the loudest who are included on these committees not the real Knowledge Holders. I do not have faith in this process.'

6. Negotiating project agreements

Q9: Should project agreements be negotiated between the Local ACH Committee and proponents?

Just over half of respondents (35, 52%) thought that project agreements should be negotiated between the local ACH committees and project proponents, while approximately one-third (24, 36%) responded 'no'. However, approximately two-thirds of Aboriginal respondents supported the proposal compared with only a third of non-Aboriginal respondents (Figure 9).

What process would you suggest the local ACH committee undertake to negotiate a project agreement?

The main concerns expressed about the negotiation process for project agreements were about power being vested in a small number of people, the possibility of corruption, concerns that financial benefits could act as an incentive to accept adverse impacts on ACH, and concerns about one party having both an approval and negotiating role. An alternative process suggested was that the local ACH committee present the facts to the approving authority, who would then mandate the requirements that the developer must adhere to.

Suggestions for a negotiation process included: involving a neutral agency to ensure transparency and fairness between parties; providing training and resources to ensure transparency; involving the LALCs and communities in the negotiation process; and establishing local ACH auditors to monitor developments and/or establishing an ACH Commission.

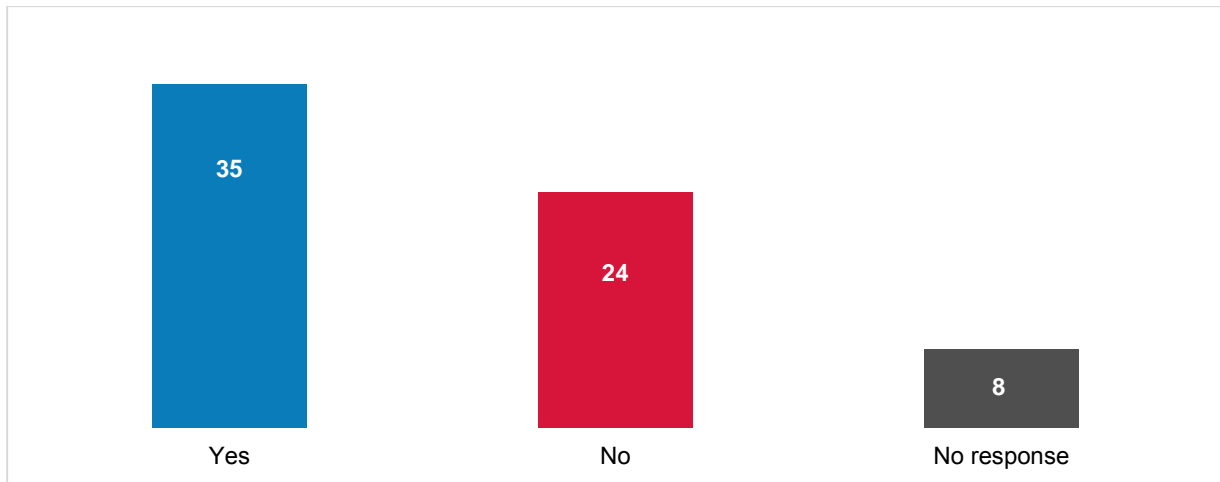


Figure 9: Should project agreements be negotiated between the local ACH committee and proponents? (number of responses)

In your own words

‘...a neutral agency needs to be involved to ensure all dealings are transparent and ethical.’

‘The local ACH committee would need to be well resourced and well trained and a process with absolute transparency would have to be in place to avoid the potential for perceived or real discrepancies.’

‘The Project Agreements could be negotiated between the local ACH committee and proponents but this would have to apply to all areas as in those considered to have low ACH values as well as incomplete and high ACH values.’

7. ACH Register

Q10: Will the creation of a public ACH Register, which will be publicly accessible and contains all ACH information for New South Wales, help:

- raise awareness of ACH values?
- with strategic planning and development processes?
- lead to better opportunities to protect ACH?
- inform land-use decisions?
- create ACH conservation outcomes at both local and state levels?

Approximately two-thirds of respondents thought that the creation of a public ACH Register containing all known and relevant ACH information for New South Wales would help: raise awareness of ACH values (45, 67%); assist with strategic planning and development processes (44, 66%); lead to better opportunities to protect ACH (44, 66%); inform land-use decisions (45, 67%); and create ACH conservation outcomes at both local and state levels (42, 63%; Figure 10).

List any other suggestions for improving the use of the ACH Register.

A number of respondents argued that the ACH Register should only be made available to people authorised to use it for a specific purpose, and that it should be controlled and maintained by the local ACH committees. Several others suggested that information in the ACH Register should be limited in detail, providing guidance only and then refer people to knowledge holders for further information and local level consultation. These comments reflected respondents’ concerns about the potential for misuse of information, fears about destruction of identified ACH sites, and concerns about intellectual property.

Suggestions included:

- clearly identifying a link between the ACH Register and the *Environmental Planning and Assessment Act 1979*
- establishing a system for putting ACH first in state planning processes, for example by identifying a system of no impact zones upfront rather than after land has already been allocated for development purposes.

Respondents highlighted the need to improve the quality of data in the Register, including by conducting audits and timely updates of the database as new information becomes available. Some people recommended that government monitor how information is accessed and used to see if, and how, it influences changes in behaviour in relation to ACH consideration and protection.

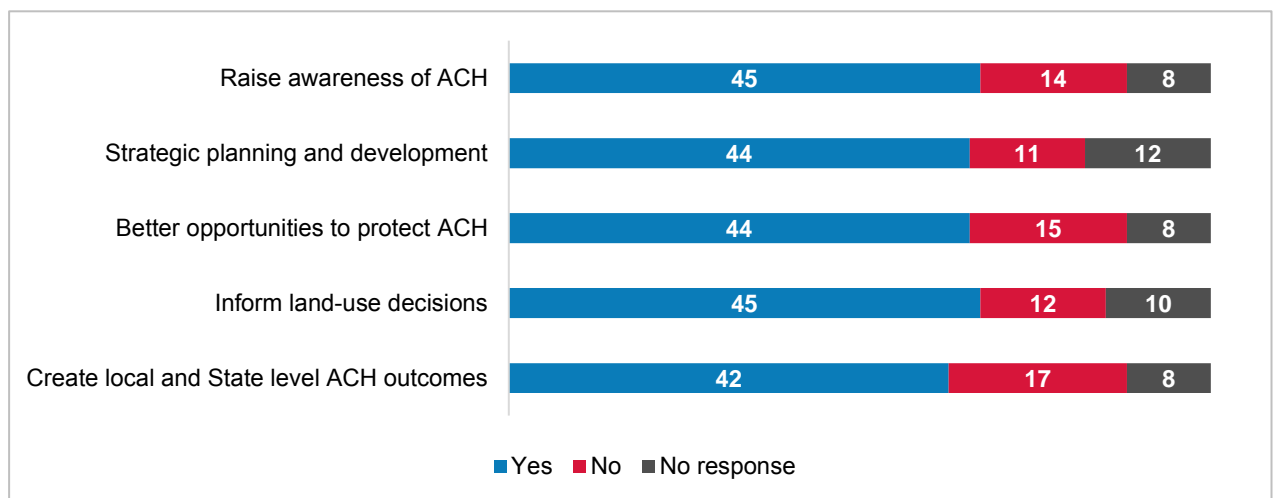


Figure 10: Responses to whether a public ACH Register will help improve other ACH processes (number of responses)

In your own words

‘This ACH Register and the information it contains should not be available to just anyone within the public domain but only to those who are authorised to utilise the register for specific reasons which would necessitate the collating of such information...’

‘Cultural knowledge is not likely to be provided as the Aboriginal community will not divulge that information to OEHL now due to sites being destroyed etc...’

‘Provide clarity on how the ACH register is to legally operate under the Environmental Planning and Assessment Act 1979 - given that this is the legislation that primarily governs land use decision making.’

‘...the register will not actively engender any improvement in behaviour or change decisions unless it is backed up by qualifying controls and checks by ACH or OEHL on how the info is used and what changes are implemented as a result of the information use.’

8. State of Aboriginal Cultural Heritage Report

Q11: Will the State of ACH Report be an effective tool for:

- monitoring cumulative impacts and conservation outcomes?
- informing local, regional and statewide government policy and programs?
- evidence-based decision-making at the local and statewide levels?
- informing community and government conservation priorities?

Almost two-thirds of respondents thought that the State of ACH Report would be an effective tool for: monitoring cumulative impacts and conservation outcomes (40, 60%); informing policies and programs (44, 66%); local and statewide decision-making (41, 61%); and informing conservation priorities (42, 63%; Figure 11).

Describe what you believe the State of ACH report should include and the benefits it would provide to stakeholders.

Respondents said that the State of ACH Report should include:

- ACH maps, an asset register of sites and places, development sites and impact areas, and project agreements
- statistics on development applications, including applications, approvals and justification of decisions made
- expected impacts of development and actual ACH loss/attrition
- expected ACH benefits and actual ACH protected and conserved
- detailed breakdown of program funding, including purpose and amount of funding
- analysis of how ACH reporting changes behaviour and whether it leads to better conservation outcomes.

A number of respondents recommended that reporting should meet best practice, use national benchmarks, and be subject to a process of expert review. Respondents suggested that the report needs to be written in clear, simple language that is easy to read. Annual reporting was proposed as an alternative to reporting once every three years. Another suggestion was for annual reporting for the first three years, followed by reporting once every three years thereafter.

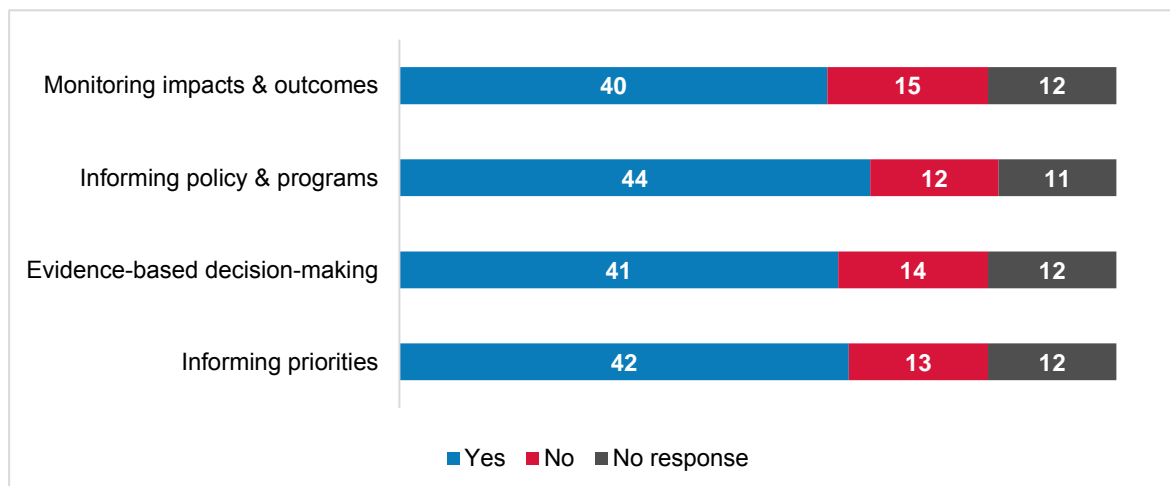


Figure 11: Will the State of the ACH Report be an effective tool for...? (number of responses)

In your own words

‘Detailed cultural heritage attrition rates expressed in an accurate relevant measure.
Detailed conservation outcomes and the rate of attrition of these areas over time.
Identification of conservation outcomes that are in reality in place in perpetuity.’

‘There should be some qualifying data/info on what conservation priorities are changing as result of ACH reporting and how these have influenced the changes.’

‘The State of ACH report should have regard to the evaluation methodologies provided in the 2011 Commonwealth State of the Environment Report. Critically it should use benchmarks that can be applied in a national context.’

‘The state of ACH report would need to be interpreted against a control standard. Whether that is informed by what happens in other states or internationally - it needs to be placed in the context of what can be achieved in a best practice model - to determine how the State of ACH is tracking against impacts from time, environment and activities that are not regulated by the legislation to see what difference it has made.’

9. Local prioritisation and strategic planning

Q12: Will the following proposed statutory ACH conservation tools help local ACH committees work with other parties to develop funding applications, to conserve, protect and manage ACH values:

- local ACH plan of management?
- local ACH maps?
- ACH Register?
- project agreements?
- State of Aboriginal Cultural Heritage Report?

Over half of the respondents (range 34–40, 51–60%) thought that the proposed statutory tools would help local ACH committees to work with other parties to develop funding applications, and to conserve, protect and manage ACH values. Between seven and 11 respondents (10–15%) did not think the tools would help achieve the proposed benefits, and almost one-third of respondents (range 19–22, 28–33%) did not answer this question.

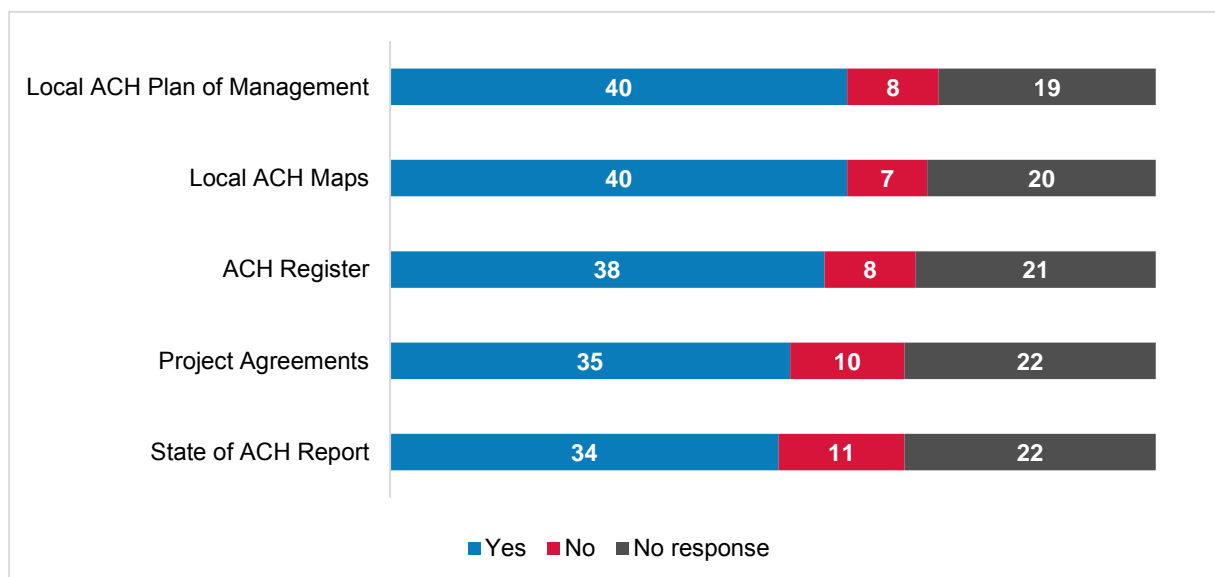


Figure 12: Responses to whether the proposed statutory tools will help protect ACH (number of responses)

List any other ACH conservation tools government should consider to help conserve, protect and manage ACH values.

Suggestions made in response to this question covered a broad range of issues, including:

- ensuring that the right people speak for Country
- consulting with Aboriginal communities through workshops
- disseminating information via a range of mechanisms, including hardcopy documents since not everyone has access to the internet
- building partnerships between local government, local ACH committees and the LALCs
- learning from Aboriginal knowledge about land management and integrating cultural knowledge and scientific (including archaeological) knowledge
- providing local ACH committees with the financial resources to access any additional skills and support they might need
- developing a strategy for celebrating ACH for both Aboriginal and non-Aboriginal communities
- developing a conservation priority overlay for ACH maps
- establishing binding protocols and clear links between ACH legislation and Local Environmental Plans
- clarifying local government roles and responsibilities for ACH under the Environmental Planning and Assessment Act
- ensuring that all developers, including government agencies, use the tools created.

In your own words

‘Need for flexibility and support for those involved in process. Local ACH committees may not have the prerequisite skills to fulfil all aspects of their brief. They should have support (financial / practical) to access those skills to help them in completing processes. Preparation of suggested methods of data collection and processes to assist committee in fulfilling their roles.’

‘...the scientific knowledge and assessments that work together with the cultural, significant impacts to the cultural and archaeological record will prove to be detrimental.’

‘The ACH maps should be overlaid with other conservation values to allow the restriction in some areas of explorations licences and rezonings etc.’

‘Provide clarity on role and responsibilities of local government to consider ACH conservation tools under the *Environmental Planning and Assessment Act 1979*.’

Q13: Would tools such as minimum standards, templates and criteria support and assist the local ACH committees to develop effective plans of management, ACH maps and project agreements?

Just over two-thirds of respondents (46, 69%) thought that tools such as minimum standards, templates and criteria would be useful in assisting the local ACH committees to develop effective plans of management, ACH maps and project agreements. Only four respondents (6%) thought that these tools would not be useful, while 17 (25%) did not answer this question (Figure 13).

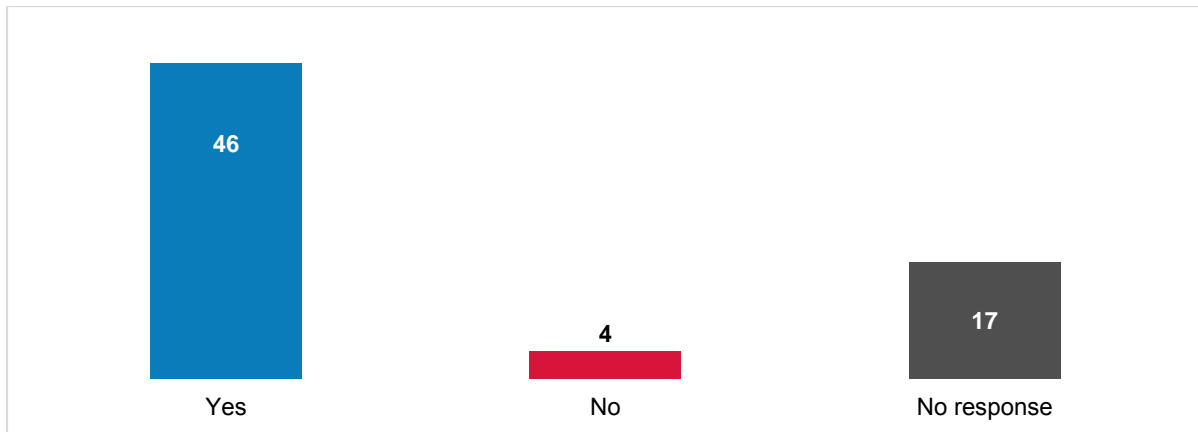


Figure 13: Responses to whether the proposed minimum standards and templates will be useful for developing conservation tools (number of responses)

List any other assistance government should consider to assist local ACH committees to develop local ACH maps, plans of management and project agreements

There were only two comments made in response to this question. One respondent sought clarification about the funding arrangements and responsibility for reviewing the ACH tools. The other noted that the government should work with the original tribal councils.

In your own words

‘How will local ACH committees be funded? Who reviews these Maps, Plans of Management and Project Agreements?’

‘Again, good ideas, but I have to answer NO because I oppose the government installing ACH committees. As previously, each of our original tribal councils are the only legally empowered body for government to conduct all business with.’

Q14: Should the following existing mechanisms be strengthened in order to protect, conserve and manage ACH values:

- **declaring Aboriginal places (currently within the *National Parks and Wildlife Act 1974*)?**
- **voluntary conservation agreements (currently within the *National Parks and Wildlife Act*)?**
- **listing places and items on State Heritage Register (currently within the *Heritage Act 1977*)?**

There was strong support for maintaining and strengthening existing mechanisms for protecting, conserving and managing ACH values: 55 (82%) respondents indicated support for strengthening the process for declaring Aboriginal places; 50 (75%) supported voluntary conservation agreements; and 50 (75%) supported listing places and items on the State Heritage Register (Figure 14).

List any other processes the government should consider to protect, conserve and manage ACH values.

Respondents proposed a broad range of additional measures that the government could consider to protect, conserve and manage ACH values in New South Wales.

In relation to strengthening the legal system to protect ACH, suggestions included:

- consolidating relevant legislation
- better integration of ACH protection into state and local government planning processes
- nominating places for listing and protection at the national/ Commonwealth level
- removing exemptions for State Significant Infrastructure and State Significant Development

- strengthening disincentives to harm ACH, for example by increasing fines for negative impacts and ensuring laws are enforced.

Linking education and awareness-raising programs to regular council processes, such as ACH information accompanying land valuation and rates notices, was one measure suggested to ensure that people understood the system and were aware of their responsibilities.

A couple of respondents noted that the ACH reform process needs to give due regard to the *Racial Discrimination Act 1975* and the *United Nations Declaration on the Rights of Indigenous Peoples*, and empower local Aboriginal people to negotiate with developers to protect or develop their land.

Respondents recommended that government engage with traditional owners through a regular dialogue on relevant issues, and hold workshops with community Elders and members to ensure that they are involved and informed.

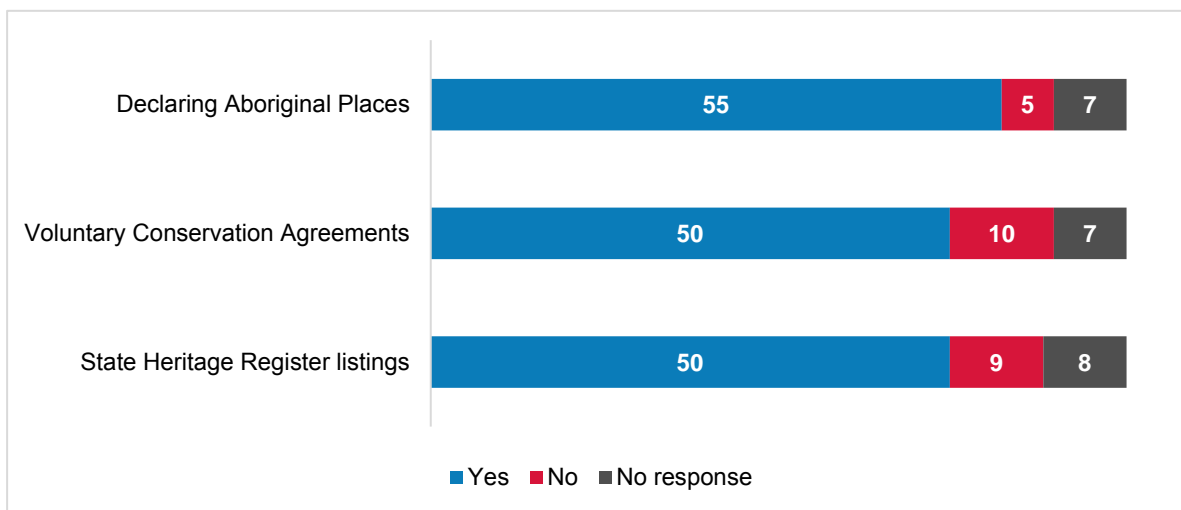


Figure 14: Responses to whether existing mechanisms should be strengthened to protect ACH (number of responses)

In your own words

‘Given the existing complexity of legislation, it is requested that the reform process considers the consolidation of relevant law in order to simplify and improve the legislative processes that are designed to protect ACH.’

‘Make ACH the first requirement in all State and local planning processes, before any plans are made for land management...’

‘...Remove the exemptions for ACH from SSI and SSD...’

‘Make penalties for breaking the law regarding Aboriginal Cultural Heritage so hefty and actually carry through on the promise that legal action will be taken against those who break the law and will be brought down with the full force of the law that those who see a fine as a cheap alternative to complying with regulations relating to Aboriginal Cultural Heritage will rather comply with the new legislation than break the law.’

Q15: Will the following serve as incentives for people to better protect, conserve and manage ACH values:

- maintaining the existing penalties for harm to ACH values?
- maintaining the existing offences of harm to ACH values?
- maintaining the existing powers to investigate harm to ACH values?
- introducing a penalty for failing to comply with a project agreement?
- introducing a penalty for failing to comply with consultation requirements?

More than two-thirds of respondents (range 45–53, 67–79%) thought that the listed measures would act as an incentive to encourage people to better protect, conserve and manage ACH values. More than three-quarters of respondents supported the introduction of new penalties for failing to comply with a project agreement (52, 78%) or consultation requirements (53, 79%; Figure 15).

List any other incentives the government should consider to protect, conserve and manage ACH values.

Recommendations included strengthening the effectiveness of penalties for harm to ACH values, for example by: increasing the size of fines; making the size of the fine proportional to the value of the development in order to create a stronger incentive to comply with ACH legislation; and applying a criminal conviction where harm is deliberate or the result of reckless action. One respondent noted that no penalty could compensate for the loss of a sacred place.

Several respondents recommended the introduction of positive incentives to encourage protection of ACH. Examples included awards for good practice and good ACH outcomes, and public recognition of developers and local ACH committees that have respectfully and successfully negotiated project agreements.

Additional suggestions included:

- that fines be directed to ACH protection and conservation projects
- issuing of on-the-spot fines for lesser offences and prosecution through the courts for more serious offences
- additional non-monetary penalties be introduced
- funding be increased to support investigation and enforcement of penalties
- more grant funding be made available for ACH projects.

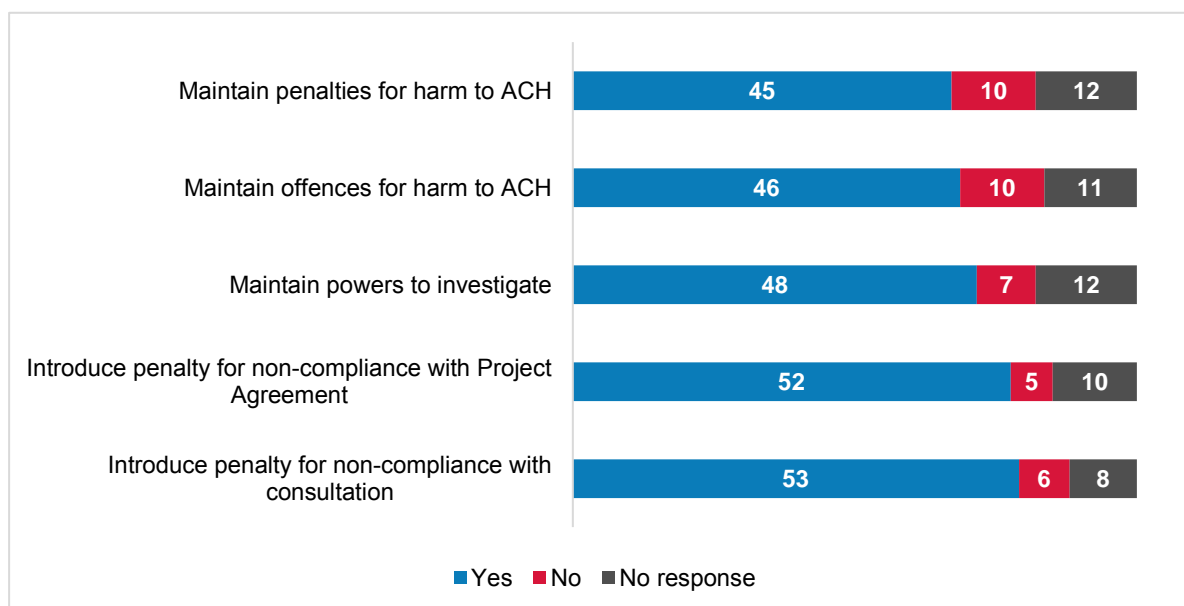


Figure 15: Will these things serve as incentives to better protect ACH? (number of responses)

In your own words

'...the fine for any misconduct in relation to the requirements needs to be of such proportion and enforced to the degree that it will be more attractive to proponents/developers to comply with regulations than to break them.'

'Instead of concentrating on punitive measures as the only way to get conformance - look to a more proactive way of working with proponents...'

'Public recognition of a respectful and successful negotiation between a project proponent and a local Aboriginal community could enhance the reputation of the former and empower the latter.'

'Benefits for conservation of key sites, such as 'heritage banking'. Making ACH a good news story, one which developers want to promote, rather than run away from.'

Q16: Would the following processes provide for transparency and accountability in the proposed ACH model:

- **criteria for ACH values within ACH maps?**
- **placing ACH maps and plans of management on public exhibition before decisions are made?**
- **placing all relevant ACH information on the public ACH Register (with restrictions for culturally sensitive information)?**
- **review of project agreements by the Heritage Division before listing them on the public ACH Register?**
- **reporting via the State of Aboriginal Cultural Heritage Report?**

Two-thirds (67%) of respondents agreed that the proposed measures would provide for transparency and accountability in the proposed ACH model, while nine (13%) respondents thought they would not and 14 (21%) did not respond to this question (Figure 16).

Responses from Aboriginal and non-Aboriginal respondents were similar overall, however only 46% of Aboriginal respondents thought that placing ACH maps and plans of management on public exhibition before decisions were made would provide transparency, compared with 80% of non-Aboriginal respondents. This difference in response appears to reflect comments made by Aboriginal people that site information should only be available to people authorised to access it, rather than publicly available, and that culturally sensitive information should not be included on the Register.

List any other suggestions for increasing the transparency and accountability in the proposed system.

Suggestions for increasing the transparency and accountability in the proposed systems included:

- establishing minimum standards for agreements, the agreement-making process, committee performance, and levels of community involvement
- supporting standards of advice by involving qualified heritage professionals, including archaeologists, or supporting professional training of Aboriginal people in archaeological identification, recording and management processes
- strengthening legislative powers, for example under the Aboriginal Land Rights Act, as well as giving the NSW Ombudsman powers to investigate and report on complaints about the failure of government processes to protect ACH value
- providing greater guidance and support to local government in relation to the protection of ACH
- ensuring that local people are informed and engaged, and establishing a process through which people can request information on ACH value assessment and project agreements, while protecting sensitive cultural information.

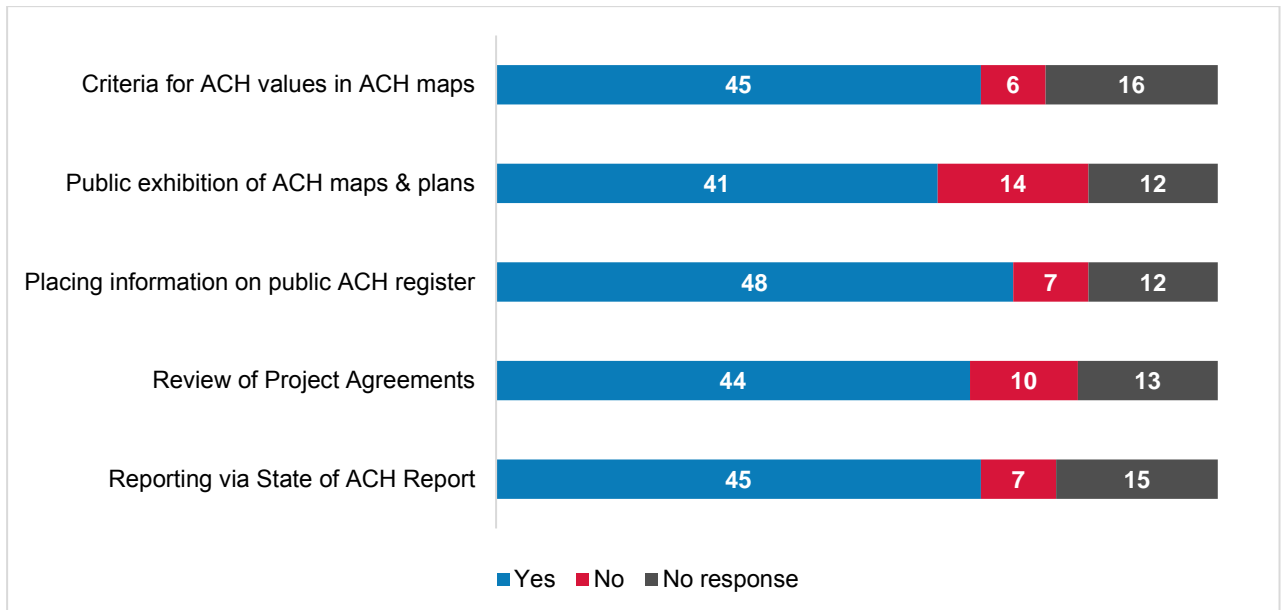


Figure 16: Will the proposed processes improve transparency and accountability? (number of responses)

In your own words

‘Set minimum performance levels of each committee and make this open to public viewing, set minimum levels of community involvement...’

‘...there should be a specific power given to the Ombudsman to investigate and report (including publicly reprimand the government and refer specific matters to the ICAC) any tenable complaint by local Aboriginal persons about the failure of the processes to protect ACH.’

‘There really should be a partnership with local government...LGA is in the best place to ensure this works, not state government’

‘The public exhibition before decisions are made has the danger of releasing information to those who should not be privy to it. Aboriginal controlled and OEH facilitated public meetings to develop the ACH maps and POMs to inform the committee in their assessment and planning process would be more useful’

10. Early, upfront and ready access to ACH information

Q:17: Would linking the ACH maps and plans of management with the proposed ePlanning process:

- be useful for considering ACH values early in the planning process?
- incorporate ACH values into the strategic planning process?
- provide clarity for proponents, planning authorities of the ACH values developments should avoid impacting?
- link effectively with the proposed planning reform?
- provide better opportunities for local ACH committees and local councils to work together to plan, protect and manage ACH values via the local land-use plans?

Two-thirds of respondents (41–49, 61–73%) agreed that linking the ACH maps and plans of management with the proposed ePlanning process would provide the listed benefits. Levels of support were similar for each of the benefits listed. Approximately one-quarter (15–20, 22–30%) of questionnaire respondents did not answer this question (Figure 17).

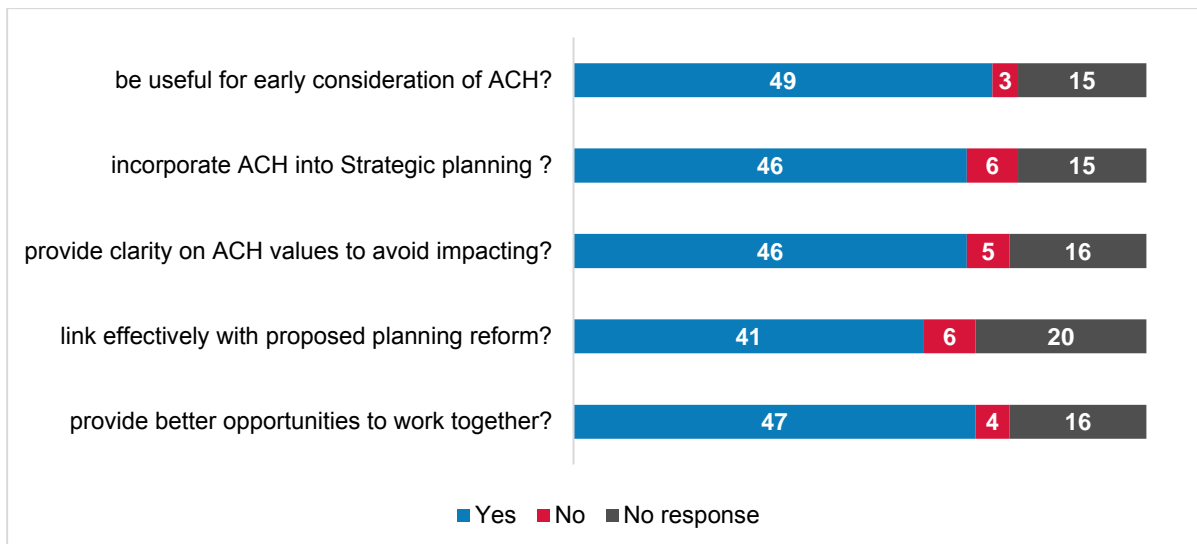


Figure 17: Would linking ACH maps and plans with the proposed ePlanning process...? (number of responses)

List any other processes the government should consider to integrate ACH values at the strategic level.

Respondents identified a number of other processes that the government could consider in order to ensure that ACH values were integrated at a strategic level.

Respondents recommended that the ACH and planning legislation reviews and reforms be aligned to enable seamless operation for strategic planning and decision-making; the planning system engage with appropriate Aboriginal representatives; and formalisation of a project agreement should be a prerequisite for planning approval.

A number of respondents suggested ways to strengthen expert input into and review of the process, for example by resourcing the LALCs to better meet their ACH responsibilities, ensuring that local councils access heritage expertise, and by establishing OEH as the approval authority for project agreements.

Other recommendations were to: conduct surveys well in advance of agreement-making in order to ensure a better understanding of the cultural values present; build on existing information resources; and adequately resource the development and maintenance of ACH maps and plans of management.

In your own words

‘Review the Environmental Planning and Assessment Act concurrently to ensure seamless operation of strategic planning and development assessment decision making’

‘...conclusion of project agreements should not be regarded as a ‘strategic’ objective. They should be a genuine hurdle in order to accord proper respect to ACH, and should be identified as such in all development application material. Also, their status should clearly only be as evidence of binding intent, conditional upon planning approval, and they not able to be formalised prior to planning approval.’

‘Make sure the people dealing with ePlanning know who to check with. A valued informed Aboriginal person, both a man and a woman would be appropriate.’

‘Understand the resourcing needs and implications for the proposed ACH Map/Plans of Management model - which can only succeed if pro-actively resourced and properly executed.’

Q:18: If a project agreement has not been developed before planning approval is issued, should the approving authority be required to include a standard clause as a condition of consent?

For example: 'an ACH project agreement must be gained to manage the high and/or incomplete ACH values mapped on Lot xx DP xx, prior to commencing any ground disturbance works'.

Three-quarters (50, 75%) of respondents thought that a standard clause, such as the one above, should be included as a condition of consent to a planning approval where a project agreement had not yet been developed. Eight respondents (12%) disagreed with the proposal and nine respondents (13%) did not answer this question. A higher proportion of Aboriginal respondents (84%) said 'yes' to this question compared with non-Aboriginal respondents (63%). There was no qualitative question asked (Figure 18).

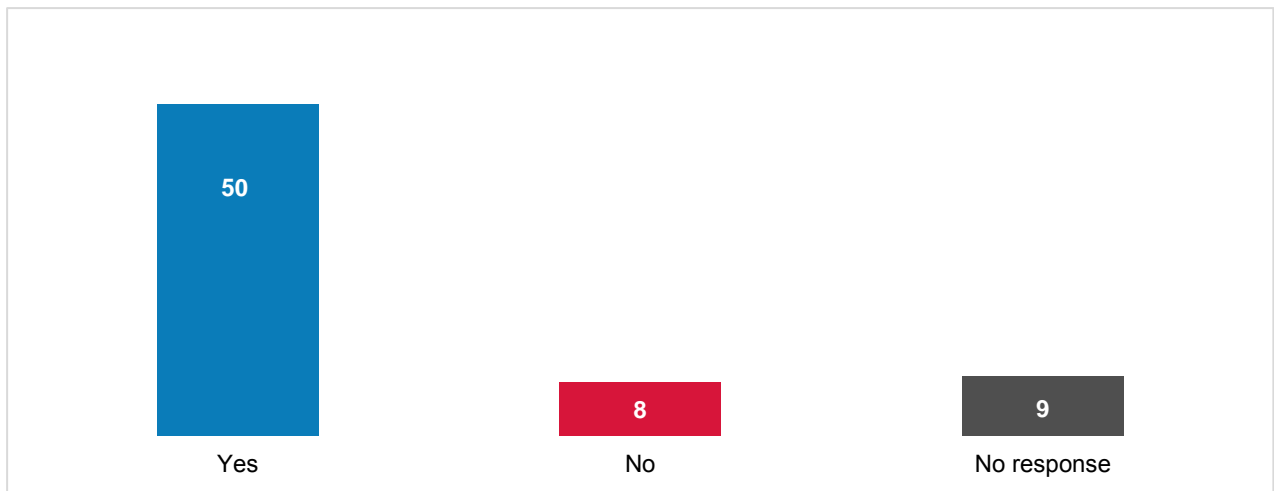


Figure 18: Should the approving authority be required to include a standard clause as the condition of consent? (number of responses)

Q19: Would developing project agreements at the earliest stages of the planning process rather than after a development approval is issued be a more effective way to consider and manage ACH values?

More than three-quarters (52, 78%) of respondents thought that developing project agreements at the earliest stages, rather than after a development approval has been issued, would be a more effective way to consider and manage ACH values. Only four respondents (6%) disagreed with this proposal and 11 respondents (16%) did not answer the question (Figure 19).

List any other mechanisms to encourage project agreements to be created early in the planning process.

One comment received in response to this question indicated that planning approvals should be subject to the consent of the original tribal council.

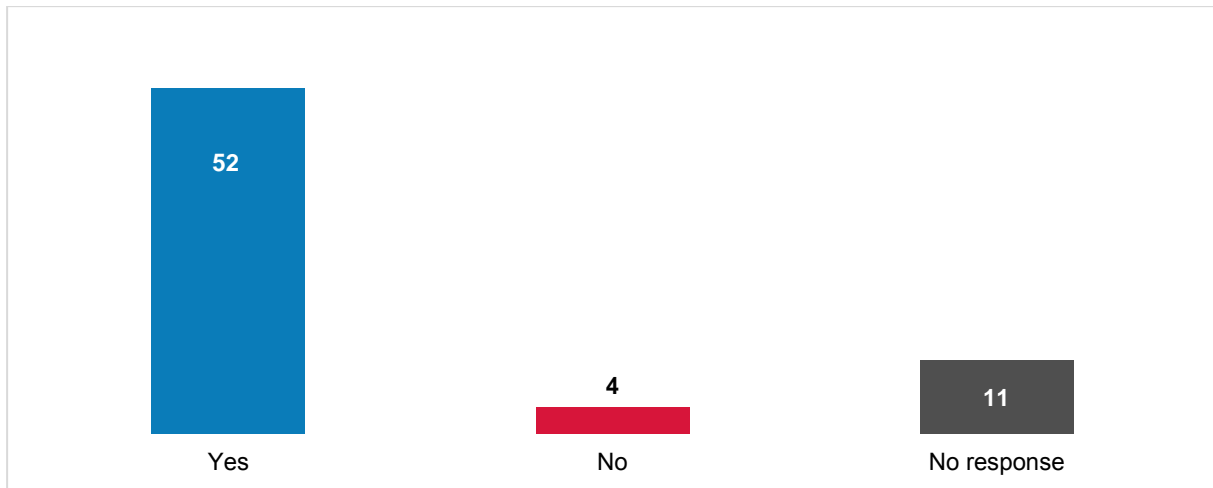


Figure 19: Responses to whether having project agreements earlier in the planning process would be more effective in managing ACH values (number of responses)

In your own words

‘Government is on the wrong pathway. Planning Approvals should never be provided until the original tribal council has given consent.’

Q20a: What process would you suggest planning authorities undertake to ensure ACH values have been considered when development consent is sought?

Responses to this question addressed how ACH should be considered throughout the project planning, approval and implementation process. Key issues raised included the integration of ACH into the proposed new planning process, including by requiring submission of the ACH assessment report, signed off by the local ACH committee, as part of a development application, and independent auditing of project agreements.

Respondents also recommended the establishment of standard criteria, against which the consent authority could check that an appropriate consultation process had been conducted, that the site has been satisfactorily surveyed, and that the development application was in line with the relevant ACH map and plan of management.

A number of respondents called for greater clarity on roles and responsibilities, and recommended that the processes apply to all proponents.

Respondents stressed the importance of effective engagement with relevant local stakeholders, including through onsite meetings, to discuss project planning needs.

In your own words

‘If ACH was incorporated into the new Planning legislation as per the current s91 Integrated Development, this would provide certainty to the process with regard to both decisions and time-frames. Proponents could discuss matters with the local ACH committee prior to submitting a Development Application or rezoning proposal, to ensure that they were proceeding in the correct manner and with the approval of the Committee...’

‘make roads, mines and all developers for all projects follow the same rules - then everyone knows what’s got to be done and how...’

‘Check the map- check the [Plan of Management] - advise the local committee of their anticipated response and then - LISTEN to the response. If it appears to be inconsistent with the information publically available - refer it to arbitration’

‘That the developer/proponent has spoken to the Traditional Owners/registered Native Title claimants/determination groups from that specific area and adequately addressed all avenues that pertain to the protection and preservation of the Aboriginal Cultural Heritage

within the area and that there are mechanisms put in place that at no stage can anyone side step or bypass any of the requirements as set out in the legislation.'

Q20b: List any suggestions for improving the links between the ACH and planning reform processes.

Responses to this question included the following suggestions for improving the links between the ACH and planning reform processes:

- review the statutory processes for assessment of ACH under planning legislation, formally incorporate consideration of ACH into the new planning system, and clarify the responsibilities of planning consent authorities
- ensure a consistent approach and make sure the same rules apply to everyone
- ensure better interagency coordination and establishment of systems for improving access to existing reports, rather than requiring new ones be prepared
- make details publicly available so that everyone understands the process that is required
- improve ACH education and awareness raising, and ensure that local government has the expertise to assess ACH aspects of development applications
- ensure that people with ACH knowledge and expertise sit on the local ACH committees
- introduce compulsory requirements for consultation during the planning process to ensure appropriate engagement and consideration of ACH
- establish an audit process to assess proponents' performance and practices.

In your own words

'Properly review the statutory processes for ACH assessment under the Environmental Planning and Assessment Act, role of local government, and provide certainty as to how new ACH legislation will operate with existing planning processes and responsibilities of planning consent authorities.'

'...incorporating the Project Agreement into the new Planning legislation as per the current s91 Integrated Development requirements would formalise the links between the ACH and the Planning legislation...'

'The legislation for protection of ACH needs to be consistent. If it is 'turned off' randomly by different planning processes it creates ill feeling and fails to indicate a respectful two way working relationship. If there is a need to change the legislation and regulation - then make the approach CONSISTENT.'

'Compulsory rules around consulting with the ACH committee during planning processes would ensure planning is not undertaken without consideration of ACH, it will also force the parties to link and engage in the process.'

11. ACH outcomes managed via project agreements

Q21: Should project agreements be flexible to allow the local ACH committee and proponent to form conditions relating to:

- ownership of ACH values within the relevant land?
- access to ACH values within the relevant land?
- methodologies for managing ACH values to be impacted or investigated within the relevant land?
- conservation of ACH values within the relevant land?
- the needs of the project?

More than half of respondents (35–44, 52–66%) thought that project agreements should be flexible to allow local ACH committees and proponents to form conditions relating to the five issues listed (Figure 20). Approximately one-quarter of questionnaire respondents did not answer this question.

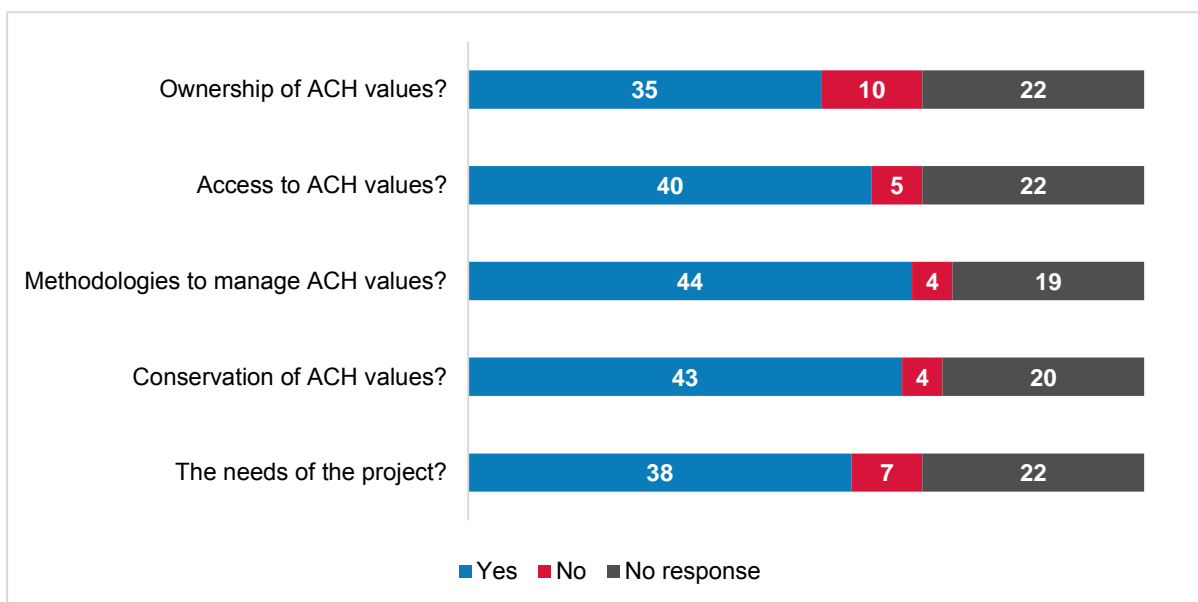


Figure 20: Should project agreements be flexible enough to allow for negotiation on conditions of...? (number of responses)

List any other factors a project agreement should include.

Respondents indicated that the following factors should be addressed in a project agreement:

- ACH ownership and access
- standardised criteria for determining ACH value
- flexible methodologies for management and conservation of ACH values, with a requirement to access expert advice for complex projects or sites
- employment opportunities for Aboriginal people.

In relation to the process for negotiating a project agreement, respondents stated that Aboriginal people, especially Elders and community representatives, must be consulted right from the start of the planning process. Some suggested project agreements need to be subject to independent review and that local councils need to review the agreed outcomes and responsibilities for implementing those outcomes.

In your own words

'Standardised criteria for measuring ACH values must be met, even if such criteria varies from locality to locality. Set criteria allows for the differentiation of ACH values within a context such as a locality or project site, and such differentiation within ACH values will aid greatly in allowing Project Agreements to be flexible.'

'flexibility should come in to play for methodologies for managing and conservation of the values under archaeologist and aboriginal community'

'The ability to seek independent advice from an archaeologist and/or anthropologist to inform a PA. For complex sites/landscapes, it should be compulsory that such advice is demonstrated upfront'

'Project Agreements must still be subject to independent review'

Q22: Will a code of conduct and negotiation framework assist local ACH committees and proponents to conduct fair, equitable and good faith negotiations when developing project agreements?

More than two-thirds of respondents (48, 72%) thought that a code of conduct and negotiation framework would assist local ACH committees and proponents to conduct fair, equitable and good faith negotiations when developing a project agreement. Only five respondents (7%) did not think the proposed tools would be useful and 14 respondents (21%) did not answer this question (Figure 21).

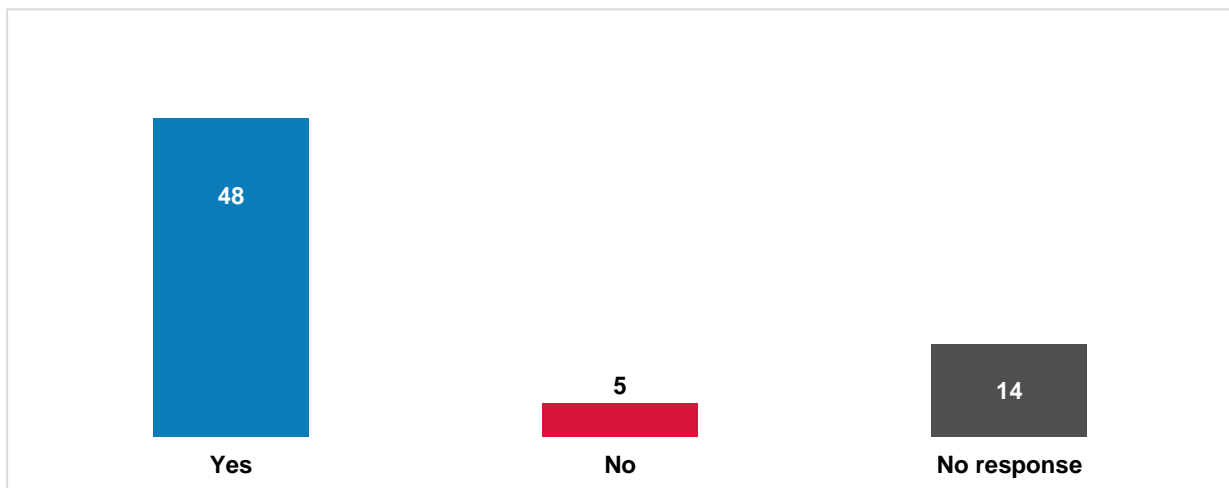


Figure 21: Responses to whether a code of conduct and negotiation framework would be useful (number of responses)

List any other suggestions you have to support both local ACH committees and proponents to conduct fair, equitable and good faith negotiations.

Only a few comments were made in response to this question. One person recommended that a neutral facilitator should support negotiations between the parties to the project agreement, and another queried how a code of conduct would be enforced.

In your own words

'...the inclusion of a neutral facilitator will encourage the negotiations'

'how would this code of conduct be enforced?'

'There will be no need for government enforcement measures and penalties. If future development is not approved by the original tribal council, the reason for such a decision will be provided in detail. A future Treaty will address the vast majority of government's concerns.'

12. Funding ACH outcomes

Q23: Which of the funding options do you believe would provide the best outcomes for both the ACH values and development? (rank in order of preference)

- voluntary funding support
- levy
- offsets
- cost recovery plus conservation

In relation to the proposed funding options, respondents demonstrated a clear preference for a levy (frequency rank 1 = 21), followed by cost recovery plus conservation (13) and offsets (8). Voluntary funding was the least preferred option (6). Approximately a third of questionnaire respondents did not answer this question (Figure 22).

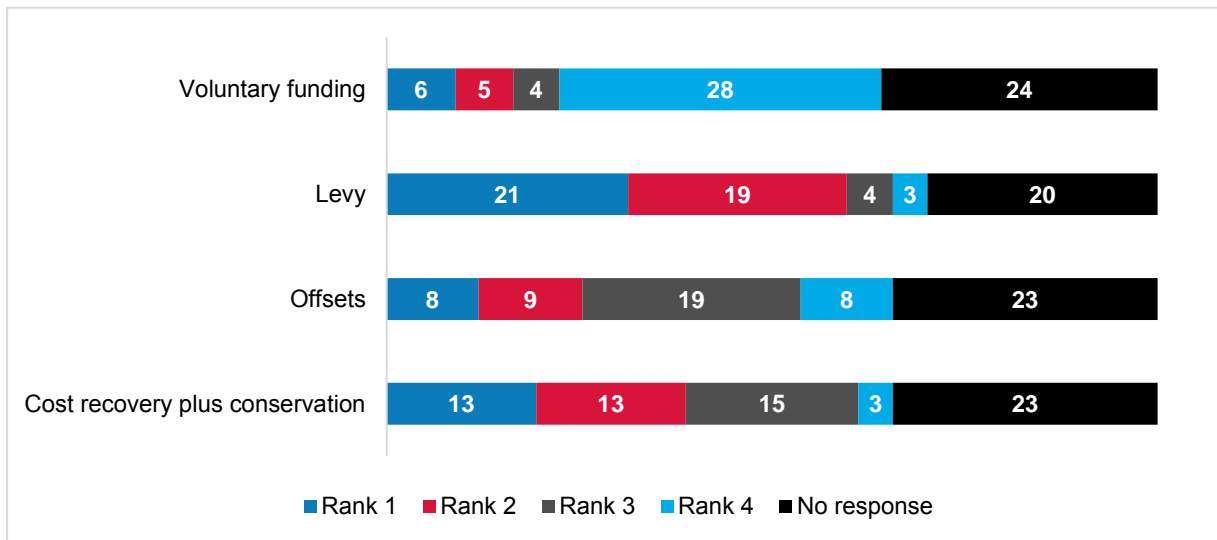


Figure 22: Which funding option would provide the best outcomes for both ACH values and development? (number of responses)

List any other funding suggestions you have that would result in supporting sustainable ACH outcomes and meet the needs of the development project.

Other suggestions for funding options included: introduction of a requirement for a contribution, similar to the 'contribution towards provision or improvement of amenities or services' under section 94 of the *Environmental Planning and Assessment Act 1974*; and government funding of ACH projects through discretionary funding and grants. One person suggested that as a minimum, proponents would need to recompense Aboriginal representatives for their time in relation to the project and provide funding to support protection of ACH in the area in which they were operating.

Several respondents were concerned about the impact that the issue of money would have on the decision-making process. One queried how this process could be funded by proponents without it creating a conflict of interest, while another noted their concern that there may be a bias towards larger projects that will return a greater amount of funding. Measures suggested to avoid such bias and conflicts of interest included establishing fixed fees, government funding and ensuring transparency through reporting.

In your own words

‘S94 type arrangements on all development’

‘A fixed regulatory system that defines what has to be done, by when and how. This could provide a means of funding ACH through fixed costs - this is how councils fund their service and road installations...’

‘Not one person will agree where money is concerned... will need long term consultation and education before this proposed process should be allowed to start’

‘Transparency. Easy to understand reporting available for everyone to see. No secrets’

13. Dispute resolution and appeals processes

Q24: Which dispute resolution process do you think would be the most effective for assisting the local ACH committee and proponent? (Rank in order of preference)

- mediation
- arbitration
- neutral evaluation
- conciliation

Mediation (frequency rank 1 = 15) and conciliation (15) were the preferred dispute resolution processes, followed by arbitration (12) and lastly, neutral evaluation (8; Figure 23). In the written submissions and workshop, there was no clear preference.

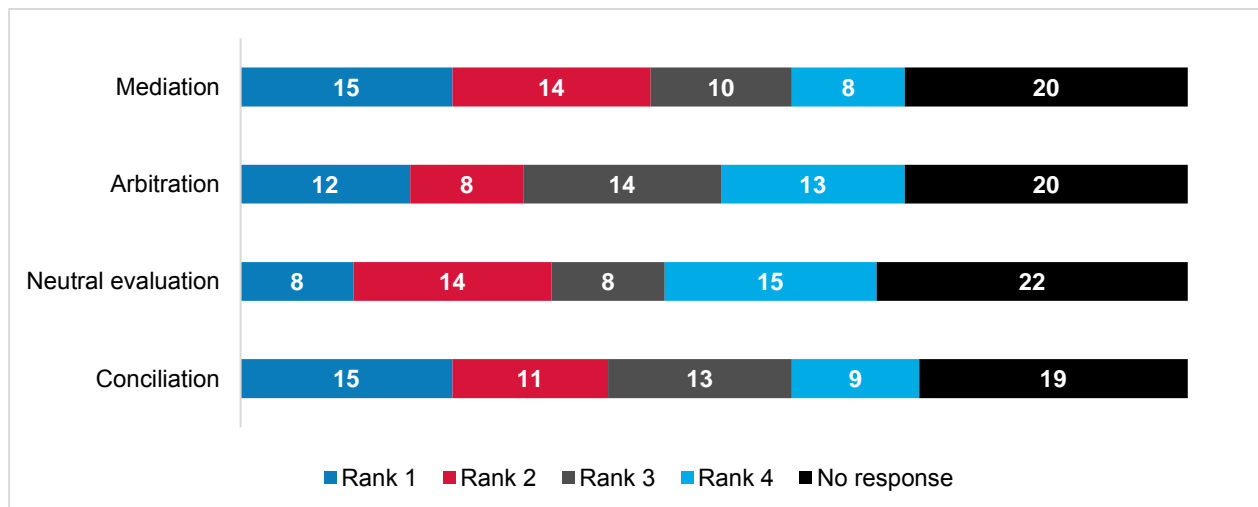


Figure 23: Most effective dispute resolution processes (number of responses)

List any other suggestions for dispute resolution processes for government to consider.

The comments in response to this question included: take a hierarchical approach, starting from least legalistic and moving through to arbitration only if necessary; matching the approach to the parties and issues involved; and ensuring guidance is available to strengthen the process and ensure openness and transparency.

In your own words

‘Enable disputes to go through different levels of process. Start with least legal and move to arbitration if no other avenue has been successful.’

‘This will depend on the individuals and the issues.’

'...if there are no appeal or review rights, what is the point of having a formalised resolution process. This theory of having the appeal mechanism at the Plan of Management stage is one which there has been a great deal of opposition and rightly so. But it effectively removes the community's option to voice its concern over specific projects.'

Q25: Will the need for dispute resolution and the likelihood of appeals be reduced by:

- requiring compliance with minimum standards and guidelines for the development and approval of ACH maps and plans of management?
- placing plans of management and ACH maps on public exhibition before decisions are made?
- setting mandatory timeframes, minimum standards and guidelines for consultation?
- compliance with a mandatory code of conduct and negotiation framework for project agreements?
- mandatory criteria and minimum standards for development of project agreements?

More than half of respondents (55–66%) thought that four of the five proposed measures would reduce the need for dispute resolution and the likelihood of appeals (Figure 24). The proposed requirement for compliance with a mandatory code of conduct and negotiation framework for project agreements received the greatest positive response (44, 66%). The proposal to place ACH maps and plans on public exhibition before decisions are made received the least number of positive responses (31, 46%).

A qualitative question was not included as part of question 25.

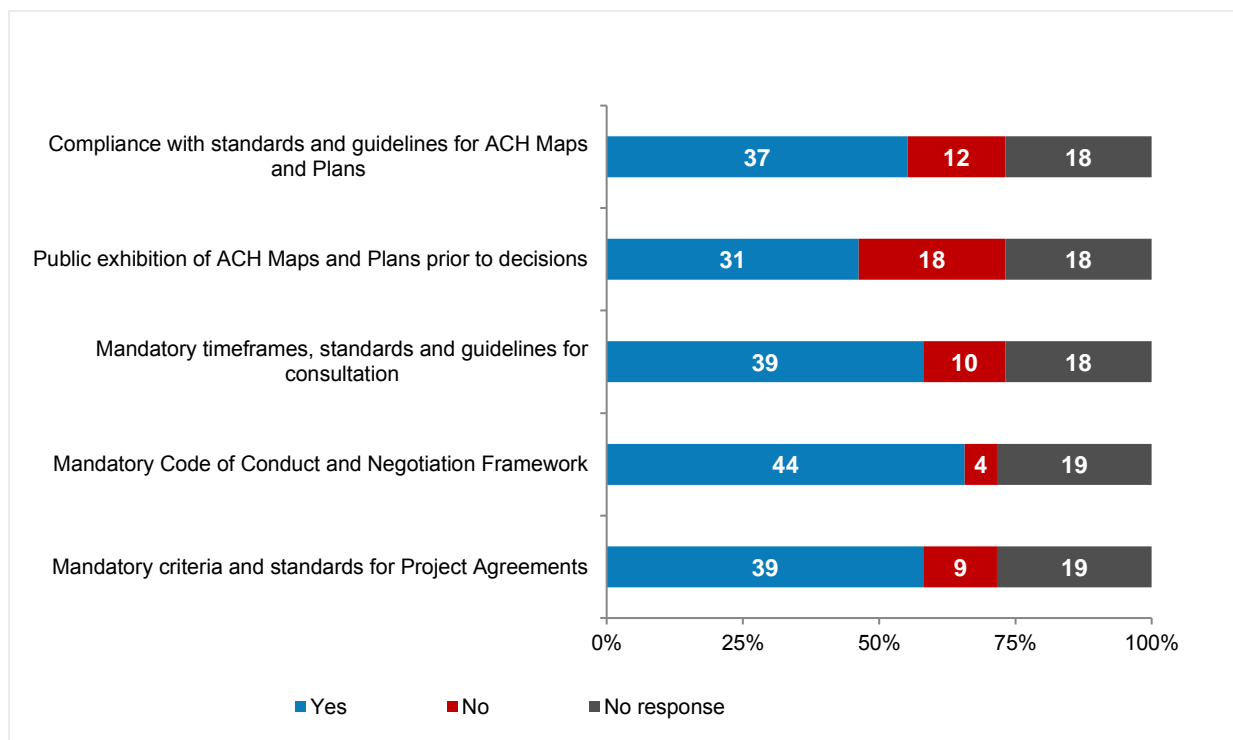


Figure 24: Will the need for dispute resolution and likelihood of appeals be reduced by...? (number of responses)

Q26: When plans of management are made by the local ACH committees, should any member of the public have the right to appeal the making of those plans:

- on the basis that person does not think that the plan is appropriate, fair, equitable, and have the Court decide on the plan (i.e. merits appeal)?
- on the basis that the process contravened legal principles (i.e. judicial review)?

Just under half of all respondents (33, 49%) thought that any member of the public should have the right to seek either a merits appeal or judicial review in relation to the making of an ACH

plan by the local ACH committee (Figure 25). A larger proportion of non-Aboriginal respondents were supportive of access to appeals and reviews by members of the public than were Aboriginal respondents. A qualitative question was not included as part of question 26.

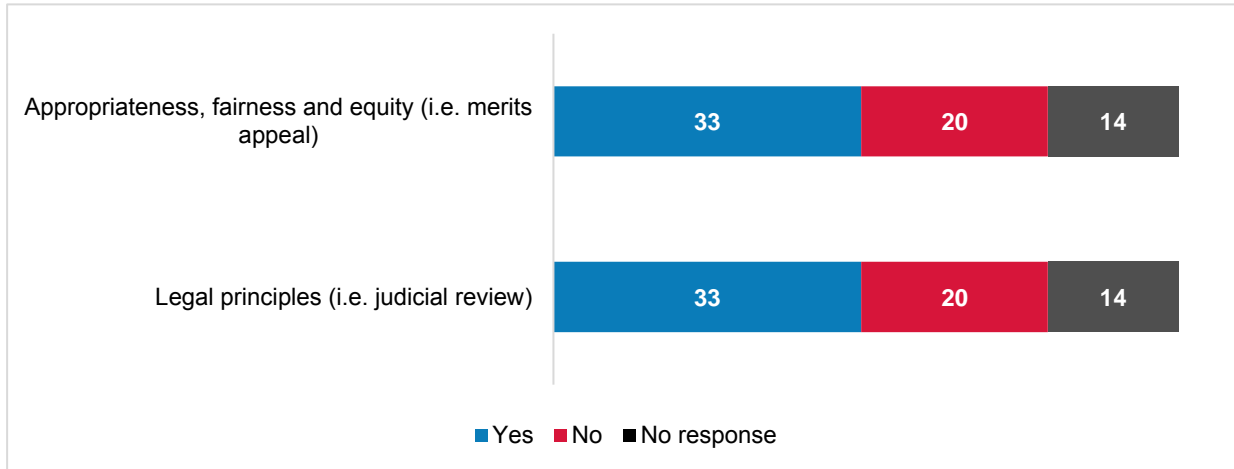


Figure 25: Should members of the public have the right to appeal plans of management based on...? (number of responses)

Q27: When project agreements are made by the local ACH committees, should any member of the public have the right to appeal the making of those agreements:

- on the basis that person does not think that the plan is appropriate, fair, equitable, and have the Court decide on the plan (i.e. merits appeal)?
- on the basis that the process contravened legal principles (i.e. judicial review)?

Less than half of all respondents thought that any member of the public should have the right to seek a merits appeal (28, 42%) or a judicial review (33, 49%) in relation to the making of project agreements by a local ACH committee (Figure 26). A qualitative question was not included as part of question 27.

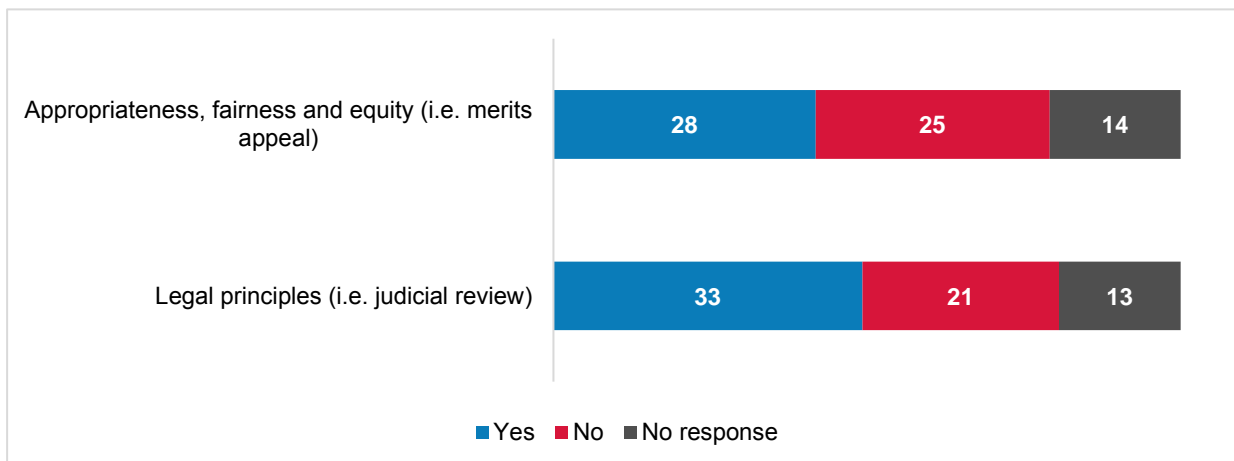


Figure 26: Should members of the public have a right to appeal project agreements based on...? (number of responses)

14. Other considerations for government

Q28: What other suggestions or comments would you like government to consider?

A large number of respondents took the opportunity to make a final comment. Many of these comments reiterated points made against earlier questions, while a few raised additional issues. Comments included:

- integrate ACH into the planning system to create a single system that everyone, including government developers, must follow
- return ownership of all ACH materials and ancestral remains to the Aboriginal owners
- establish a statewide ACH Commission
- make assessment requirements commensurate with ACH significance, for example, more extensive requirements for a burial site compared with a single artefact
- conduct comprehensive ACH surveys, including archaeological surveys, as part of any development
- ensure assessment of ACH is undertaken by appropriately qualified Aboriginal people using standardised recording methods
- retain and expand the existing database (AHIMS), which people are becoming familiar with, rather than create a new database system
- match reporting frequency to the extent of report coverage, for example annual State of ACH Report, biannual regional reports and quarterly local reports
- provide scope for the public to access appeals processes, but introduce penalties for vexatious appeals
- establish powers for public reporting and referral to Parliament or the Independent Commission Against Corruption (ICAC).

In your own words

'...make it one system, one process and make government follow this act too - and they pay fines if they fail. They need to be accountable for the impact to our culture too. It's not just developers'

'That all cultural heritage materials and skeletal remains be returned to Aboriginal Owners.'

'...Consultation with the traditional owners is of most importance for development to proceed in a manner that protects and respects. Without respect procedures proceed a lot slower!!'

'Aboriginal cultural heritage is the resource and the responsibility of the collective...Ensuring that participants on the local committees are delegates of the shared knowledge store and not individual representatives is a critical component to the success of the process.'

'That the NSW state government establish a Aboriginal Cultural Heritage Commission.'

'It should be recognised that archaeological assessment ensures the standardised recording of cultural remains, and that remains of any type have value to all people.'

'Annual reports statewide, 6 monthly regionally, 3 monthly local.'

'Enabling any community member who can identify their right of interest to have the right of appeal on any aspect of the decision process but to penalise appeals that are considered to be vexatious.'

'There should be scope for an independent inquiry into merits, with flexible powers to report publicly and refer matters, if necessary, to Parliament and ICAC.'