

LEGISLATIVE COUNCIL
Question on notice

12 JUN 2012

Tuesday, 1 May 2012

5457. Hon Robin Chapple to the Minister for Indigenous Affairs.

With reference to the Aboriginal Heritage Act 1972 (AHA), I ask in reference to s.17 offences relating to Aboriginal sites -

(1) In respect of s.17, is it correct that without permission under s.16 or consent under s.18 of the AHA that an archaeologist, anthropologist, or member of the general public other than the indigenous custodian cannot lawfully remove or disturb, either temporarily or permanently, any Aboriginal artefacts contained in that Aboriginal site or in any way alter that Aboriginal site, or do anything to that site that is not sanctioned by relevant custom?

(2) If no to (1), why not?

(3) If yes to (1), does this mean that any activity undertaken in respect of an Aboriginal site that may move, handle or interact with that site in any way that may not be sanctioned by relevant custom breaches the intent of s.17?

(4) If no to (3), why not?

(5) If yes to (3), what action does the Minister or Registrar take to ensure that that all Aboriginal sites are protected according to the provisions of s.17 of the AHA?

(6) In respect of those matters that may or may not be sanctioned by relevant custom, who determines what those relevant customs may be in relation to any site?

(7) In respect of Aboriginal sites, can any activity be undertaken on those sites without the permission of the Registrar under s.16 or the consent of the Minister under s.18?

(8) If yes to (7), under what section of the AHA is this permitted?

(9) If yes to (7), what actions can be undertaken?

(10) If yes to (7), how is this permitted?

(11) If no to (7), what action does the Minister or Registrar take to ensure that this does not occur?

Answer

(1) No

(2) The savings, rights and interests in respect of traditional usage are those set out in sections 7, 8 and 9 of the *Aboriginal Heritage Act 1972*.

(3) Not applicable.

(4) Not applicable.

(5) Not applicable.

(6) Under section 7(1)(a), the Aboriginal possessor or custodian; under section 8, the Minister after consultation with the Aboriginal Cultural Material Committee (ACMC); and under section 9, the Minister on advice from the ACMC.

(7) Yes

(8) Written consent pursuant to Regulation 10 of the *Aboriginal Heritage Regulations* 1974 (Regulations).

(9) Activities sanctioned under Regulation 10 include:

- Alter, damage, or destroy any notice, boundary, fence, shelter, grille, cutting, drain, protective work or other thing which the Registrar or any officer of the Department has, or has caused to be, erected, constructed, made or placed thereon or therein;
- Dig any hole or otherwise disturb the surface of the ground, or remove or disturb any stone, soil, sand, rock or gravel, or any other natural object;
- Cut, pick, pull, break, remove, take, injure, poison, strip or destroy any tree, shrub, herb, grass or other plant or part thereof whether living or dead;
- Post, stick, stamp, stencil, paint, draw or otherwise affix or make any mark, symbol, lettering, notice, advertisement poster, sign or document of any description;
- Except in a place approved or provided for the purpose –
 - i. Drive, tow, operate or park any vehicle;
 - ii. Camp, erect tents or shelters, light fires or make fireplaces;
 - iii. Deposit or leave any refuse, rubbish or litter; or
 - iv. Take, ride or drive, graze or agist any horse, cattle, sheep, goat, camel, donkey or pig, or allow any such animal to remain;
- Sell any food, beverage or other article;
- Unlock, unfasten or leave open any gate unless duly authorized to do so; or
- Except with the prior written approval of the Minister, or the Registrar, and in accordance with such requirements as he may impose, take any photograph or make any recording for the purpose of commercial reproduction or publication.

(10) Upon the written consent pursuant to the Regulations, regulation 10 by the Minister or the Registrar of Aboriginal Sites or a person authorized in writing by the Minister or the Registrar.

(11) Not applicable.



Minister for Indigenous Affairs