

**LEGISLATIVE COUNCIL**  
**Question on notice**

17 SEP 2013

Tuesday, 6 August 2013

192. Hon Robin Chappie to the Minister for Aboriginal Affairs.

I refer to the Minister for Mines reply to question on notice No. 5437, answered on 1 May 2012, in which he states that site Lake Yindarlgooda, Mammu Tjukurpa registered site 30602 is not a registered site. In the Minister for Mines' reply, he states that "I am informed that before such a site can be registered, the Aboriginal Material Cultural Committee (ACMC) must consult with land owners, which includes the holders of any mining tenement, as defined under the *Aboriginal Heritage Act 1972* (the Act)", and ask:

- (a) will the Minister specify under which current provision of the Act this is the case;
- (b) will the Minister identify the source of the advice to the Minister for Mines on this matter;
- (c) was the advice that the Minister for Mines received accurate;
- (d) did Aboriginal custodians request registration of this site:
  - (i) if so, when; and
  - (ii) will the Minister tender the relevant correspondence;
- (e) what was the initial view of the ACMC on the registration of this site;
- (f) did the Aboriginal custodians present evidence to the ACMC and Department of Aboriginal affairs (DAA) supporting the view that the whole of the lake was a 'place of significance' under the terms of the Act;
- (g) if yes to (f), what was the nature of this evidence;
- (h) was this evidence provided by senior Aboriginal authorities for this area;
- (i) what was the view of the ACMC on the evidence provided by custodians;
- (j) what decision did DAA come to as to the Aboriginal custodians' view that the whole of the Lake was a site;
- (k) if DAA rejected the Aboriginal custodians' view, will the Minister state on what basis their view was rejected;
- (l) did DAA's final decision on the registration of this site differ from the view of the ACMC;
- (m) was the ACMC advised to reject registration of the site, and if so, by which DAA officer;
- (n) if DAA rejected the advice of the ACMC, will the Minister state on what basis their view was rejected;
- (o) under what part of the Act can the DAA reject the advice or views of the ACMC;
- (p) have the holders of mining tenements covering the lake made any representations to the Minister requesting that the lake not be registered as a sacred site:
  - (i) if yes to (p), what was the nature, date and source of these representations; and
  - (ii) if yes to (p), will the Minister tender the relevant correspondence;
- (q) have the holders of mining tenements covering the lake made any representations to DAA staff members requesting that the Lake not be registered as a sacred site:
  - (i) if yes to (q), what was the nature, date and source of these representations; and

- (ii) if yes to (q), will the Minister tender the relevant correspondence;
  - (r) was DAA's decision not to register the site influenced in any way by these representations; and
  - (s) under what power contained within the Act can the DAA or the Registrar refuse, alter or overturn the decisions of the ACMC?
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### **Answer**

- (a) There is no expressed provision in the *Aboriginal Heritage Act 1972*. Affording procedural fairness to a person whose interest maybe negatively impacted by the decision is a well understood administrative practice.
- (b) The Department of Aboriginal Affairs had previously provided advice to the Department of Mines and Petroleum regarding DAA's common law obligations as to procedural fairness.
- (c) Yes.
- (d) Yes.
- (i) 10 October 2011.
- (ii) No.
- (e) The initial view of the Aboriginal Cultural Material Committee was that the *Aboriginal Heritage Act 1972* applied to the place.
- (f) Yes.
- (g) Site recording form, report, opinions and legal submissions.
- (h) Yes.
- (i) Following consideration of further information, the Aboriginal Cultural Material Committee was of the view that there was insufficient information to support the case that the place is a sacred site.
- (j) The Department of Aboriginal Affairs did not make any decision.
- (k) Not applicable.
- (l) Refer to (j).
- (m) No.
- (n) – (o) The Aboriginal Cultural Material Committee did not provide advice to the Department of Aboriginal Affairs.

(p) Yes.

(i) Integra Mining Limited by letter dated 28 February 2012 requested that the company and other affected parties be given an opportunity to make a submission in the matter. Aruma Resources Limited by email dated 7 June 2012 regarding the actions of the Goldfields Land and Sea Council.

(ii) No.

(q) Yes.

(i) The Department of Aboriginal Affairs has received representations from companies wanting to better understand the Aboriginal Cultural Material Committee 's processes and find out how the lake in its entirety can be a sacred site pursuant to the *Aboriginal Heritage Act 1972*. Numerous representations and the provision of heritage information about the lake have been provided to the Department of Aboriginal Affairs and the Aboriginal Cultural Material Committee.

(ii) No.

(r) The Department of Aboriginal Affairs did not make any decision.

(s) The Department of Aboriginal Affairs or Registrar did not refuse, alter or overturn the decision of the ACMC. There is no such provision in the AHA.



Minister for Aboriginal Affairs