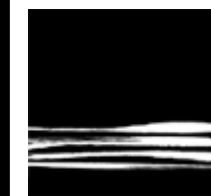
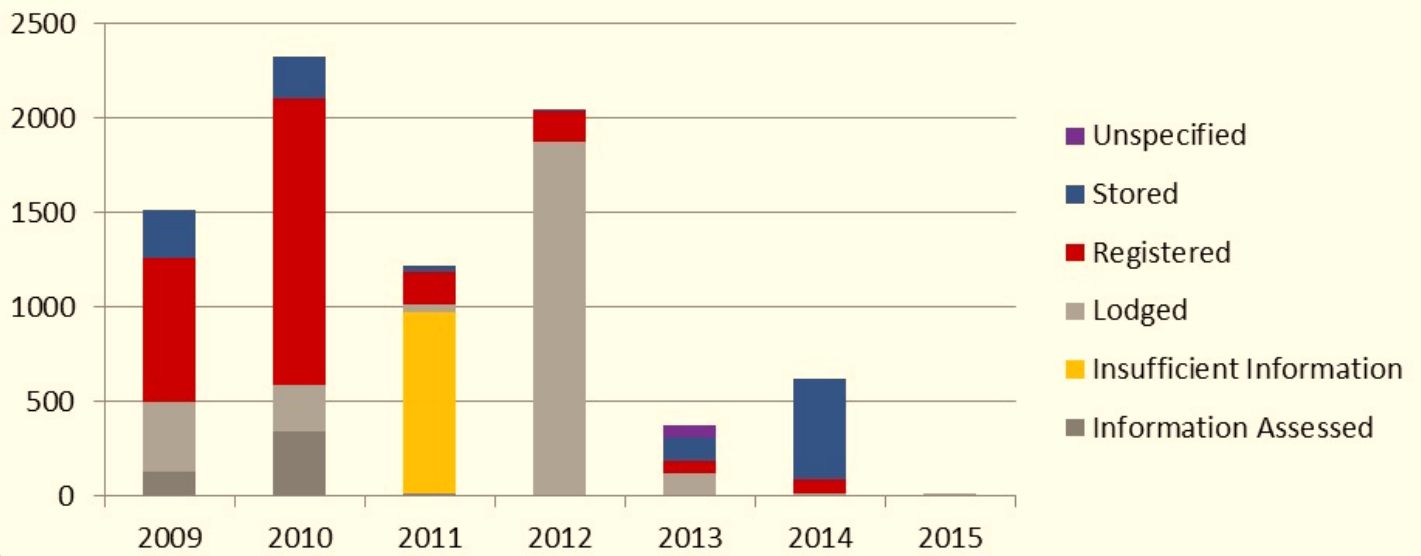


Status assigned to new site submissions





JAACA 2016 Volume 4

Table of contents

Site Watch: recent changes to Aboriginal heritage site registration in Western Australia
JOE DORTCH & TOM SAPIENZA

1

Front cover: Joe Dortch & Tom Sapienza

©Australian Association of Consulting Archaeologists Inc.

ISSN 2202-7890



Site Watch: recent changes to Aboriginal heritage site registration in Western Australia

JOE DORTCH & TOM SAPIENZA

Joe Dortch (Dortch and Cuthbert Pty Ltd; joe.dortch@dortchcuthbert.com.au)

Tom Sapienza (Extent Heritage; tsapienza@extent.com.au)

In 2011 the Western Australian government reformed administration of the Aboriginal Heritage Act 1972 (the Act). Among several changes, many sites ceased to be recognised as sites, and new site submissions became unlikely to be accepted as sites. To identify changing patterns in site acceptance, we compared the government's metadata spanning seven years (2008-2015) listing registered sites and lodged and rejected site submissions. A remarkable 14,419 site status decisions were made in the period, including the mass de-registration of 3207 formerly registered sites—mostly in the Pilbara mining region. The majority of affected sites are archaeological sites, with artefact scatters affected out of proportion. It is unclear whether sites became de-registered because they have been disturbed as the result of approval for development applications, or for other reasons. Up to 2015, consultation with Aboriginal stakeholders was minimal. Some 5% of site status changes involve illogical or unexpected steps such as re-registration or temporary removal from the site lists, potentially creating confusion for stakeholders and proponents. By 2011, heritage management under the Act had become cumbersome, but the drastic reforms since then have increased uncertainty and undermine Aboriginal heritage protection. We call for greater transparency in management, and for recognition of Aboriginal sites as components of landscapes in which damage to heritage should be minimised.

Introduction

In late 2011, the WA Department of Aboriginal Affairs (DAA) announced a reform of the Aboriginal Heritage Act 1972 (Western Australia; the Act). With mineral exploration and extraction at an all-time high, and consequent increased risks to heritage sites, avoidance of harm to Aboriginal sites was demanding considerable effort. However, rather than devoting more resources to site protection, the State Government proposed to reduce the level of protection and streamline the requirements for compliance (DIA 2012).

Among other measures, none of which involved changes to legislation, Aboriginal heritage sites would be registered as sites under section 5 of the Act according to a stringent definition of significance. Previously, s5 of the Act had been interpreted in a way such that most sites were eventually registered. However, in 2012 this situation changed dramatically. By 2014, Aboriginal stakeholders reported many previously registered sites had lost registration status (*The Australian*, 25 September 2014). Analysis in 2014 indicated that potentially more than 1500 sites had been de-registered in the Pilbara alone (Dortch 2014). Concerned about these claims, we undertook a spatial analysis of

DAA metadata to identify the extent and direction of the changes.

In July 2015, at the end of our analysis, the DAA Register of Places and Objects comprised 32,347 heritage places, divided into 'Registered' (sites), 'Lodged' and 'Stored Data /Not a Site'. Registered sites are places that have been assessed by the Aboriginal Cultural Materials Committee (ACMC), and accepted as a site under s5 of the Act by the Minister for Aboriginal Affairs (Minister). Lodged places are typically site records submitted to the DAA and are considered as possible sites, but they have not yet been reviewed by the ACMC to determine their status under s5. Places described as Stored data / Not a Site are places that were assessed by the ACMC and determined by the Minister not to be a site under s5 of the Act.

Places that are described as 'Stored Data / Not A Site' may include places where the Minister consented to impacts under s18, and which, due to the results of the impacts, no longer meet the definition of sites under s5. Information about all these places is retained in the register so that assessments can be revisited—however DAA register data do not show whether any place has been disturbed under s18, and if so, whether it was wholly or partly disturbed as a result of development.

Because of the large number of status changes since 2012, and the minimal information provided by DAA to explain them, we developed procedures to monitor alterations to the Register using a Geographical Information System (GIS). We planned to report such information regularly under the term 'Site Watch', to parallel State government information dissemination initiatives benefitting stakeholder decision making (e.g. Fuel Watch). This article provides the baseline data for 2015.

Methods

With commendable attention to transparency and efficiency, the DAA has long provided its register data in GIS formats (shapefile, tabfile etc.) for

download at no cost to anyone wishing to map heritage sites. We used 13 privately archived downloads dating from July 2008 to January 2015. The data were compiled into a single geodatabase containing 452,000 records and normalised using new coding to account for minor DAA terminological changes. For example, records marked as 'L' in 2010 meant the same as 'Lodged' in 2014. We next investigated changes occurring by region, site status and site type. Site type refers to the types of heritage material present in a site. For example, a place may contain both the site 'types' artefact scatter and mythological information.

Results

We confirmed that, compared to other years, during the period between 2012 and 2014, a very large number of sites lost registration status. Currently, these sites are listed as either 'Lodged' or 'Stored data/ Not a Site'. Unsurprisingly, the vast majority of all status changes occurred in the Pilbara (Figures 1, 2, 3), where the majority of heritage surveys were (and are) conducted due to mining exploration and extraction. The number of status changes was revealing. In the seven years from 2008-2015 the DAA records reflect 14,419 site status changes made to 10,711 sites (i.e. 3708 sites had more than one status change), with most changes occurring between 2012 and 2014. Submissions of new data led to 8086 places being added to the register. Because we do not have continuous Register data, these are minimum numbers: some changes could have been made and reversed between our download dates.

The changes may be broken down as follows:

De-registrations

In 2009-2011, and before the start of public consultation about heritage reform, 1469 registered sites were listed under a new status, 'Information Assessed' (Figure 3, Table 1). This status was first used in 2009, but not publicised until 2010. According to DAA register metadata downloaded in 2010-2012, this status meant a site record submission had been assessed by DAA

support staff, but not by the ACMC. Yet, by definition of their role and responsibilities, the ACMC must have already assessed all 1469 of the registered sites that changed to 'Information Assessed', since registration is only possible following ACMC assessment. Numerous new submissions and Lodged sites were also assigned to the 'Information Assessed' category. However, in 2012, the entire category was reclassified: 2960 'Information Assessed' places were reclassified as 'Lodged' (even though most had been Registered), 112 reverted to 'Registered', and 7 were downgraded to 'Stored Data/Not a Site'. In 2013, an additional, different set of 1486 registered sites was reclassified as 'Stored Data', without any intervening steps.

In short, between 2009 and 2013, DAA determined that 2955 sites registered as a result of ACMC review should be re-assessed. Half were reclassified as 'Stored Data / Not A Site', presumably ignoring previously ACMC determinations. Over seven years (2008-2015), about 3207 sites ceased to be registered. The total number of sites in the 'Stored Data' category increased from 2202 to 5661. Currently there is no summary data showing whether these are de-registered as a result of their destruction, or because the DAA site ascription changed.

Reclassifying the backlog

In 2014, another status, 'Insufficient Information' was abolished. This status meant that the site submission had been assessed by the ACMC, but that, for a variety of reasons, the ACMC had decided there was insufficient information to make a recommendation about the place. Some 4576 'Insufficient Information' places were assigned to 'Lodged' status (Figure 4). For all intents and purposes the two categories are similar—in either case, the place might be a site, but the Minister has not made a decision about it. This change has revealed the extent of the backlog of incomplete site assessments. On 15 June 2015, the 'Lodged' category contained 12,637 sites (Figure 5). By comparison, in 2008, there were 4702 'Lodged' places and 4611 places

classified as 'Insufficient Information', that is, the Minister of the time had yet to make a decision about a smaller total of 9313 site submissions. Put another way, the number of 'Lodged' places grew by 35% since the present State government took office and began the heritage reform.

New data

From 2008 to 2015, heritage surveys resulted in 8,086 new site submissions (Table 2, Figure 6). Of these submissions, 2751 were registered, 3626 were 'Lodged' or deemed to have 'Insufficient Information', and 1166 were allocated to 'Stored Data / Not a Site'. Consistent with recent questions in Parliament (Hansard, 2013), the proportion of new submissions that were registered as sites dropped dramatically between 2010 and 2011 from 65% to 15%. In 2012, just eight percent of new submissions were registered.

In contrast, before 2012 less than 17% of new submissions were assessed as 'Stored Data / Not A Site'. In 2013, this 'rejection' rate doubled to 34%, and in 2014 it rose to 86% of new submissions, the inverse of 2008-2011.

Invalid changes

Some 1729 site status changes (5%) defy logic. These changes include:

- heritage places that had no specified status,
- places that changed status from 'Stored Data/Not a Site' to 'Registered' or 'Lodged',
- places that changed status frequently (up to five times in seven years),
- places that disappeared from the Register and then re-appeared, and
- places that disappeared from the Register and had not re-appeared as of June 2015.

The occurrence of even one of these changes—let alone all of them—would cause concern for stakeholders and for proponents undertaking due diligence checks, as they undermine the registration process. To date no explanations have been forthcoming about the reasoning underpinning status changes in DAA summary data. Cynicism among heritage stakeholders is

rife, especially as most of these 'illogical' changes occur in areas that are intensively mined.

Bias against artefact scatters and scarred trees

An inspection of these changes by site type (Table 3, Figure 7) shows that 50% of all status changes involved places with artefact scatters, which comprise about 58% of all places in the Register. The site type most affected is the 'modified (scarred) tree' site type. In 2013-2014, the breadth of changes increased with numerous status changes occurring within most site types.

As a subset of all status changes, de-registrations are biased towards artefact scatters. In the seven-year period from 2008 to 2015, 2637 (82%) of the 3207 sites that lost registration status were sites containing artefact scatters—out of proportion to their 58% representation in the Register. Of these, 1528 artefact scatter sites became 'Stored Data', and 1106 artefact scatter sites temporarily became 'Information Assessed' before mostly becoming 'Lodged'.

As for the most culturally sensitive sites, 69 sites with a mythological component were de-registered, and 31 with a ceremonial component were de-registered (17 sites have both components; 83 separate sites are affected). Specific site data can be extracted and checked with stakeholders if desired. Despite making up a relatively small number, the changes to mythological and ceremonial sites are significant because many of the affected sites cover extensive areas.

Discussion

The Site Watch data demonstrate unprecedented changes in the Register of Places and Objects (formerly the Site Register). In the period 2008-2015, 14,419 decisions over existing status of registered sites were made. Ninety-three percent of decisions occurred in 2010-2014 with 34% in 2014 alone. Many decisions would necessarily have been assessed by the ACMC in its monthly meetings. However, ACMC meetings became

noticeably shorter over this period, and ACMC membership declined. Therefore, it is difficult to believe that many decisions were given due consideration.

The scale of changes also requires us to raise the issue of whether the government is using its resources appropriately. The number of 'Lodged' places, i.e. those needing a decision, grew by 4324 records—and yet 1469 of these 'Lodged' places had already been assessed and registered. As a result of the ACMC changing registered sites to lodged places, combined with the high rate of new site submissions in 2008-2012, the backlog of 'Lodged' places grew to 12,637 in 2015, and will take decades to address under current processes.

The immense increase in sites assigned to the 'Stored Data / Not A Site' category might suggest an increase in certainty for those wishing to use heritage places. However, this improvement seems unlikely because stakeholders might reasonably be expected to disagree with many decisions. They may have been consulted about use of sites, but they probably have not been consulted not about de-registration. Disagreement leads to increased uncertainty, affecting commercial interests and the work of other government agencies. Uncertainty is also increased by the frequency, illogicality and unpredictability of many changes and will not assure business and heritage stakeholders that their interests are protected.

It is likely that stakeholders are only broadly aware of the impacts in their regions. As heritage and GIS professionals, we spent more than 150 pro bono hours to produce our findings. It is unrealistic to expect every Aboriginal stakeholder or their representatives have sufficient capacity to monitor changes to the Register in their geographic areas of interest, much less for registered sites that they might reasonably expect to remain unchanged. Stakeholders no doubt expect some notification about changes to site status, but notification seems unlikely to have occurred for 14,419 site decisions.

Conclusion

In attempting to update the processes surrounding the *Aboriginal Heritage Act 1972*, the current Government has introduced new levels of confusion and uncertainty, with no appreciable reduction in workload. Five years ago, the Minister, acting under the advice of the regulator, accepted all but 10% of site submissions as sites. Yet although the law and regulations have not changed, the regulator's interpretation of them has apparently undergone a complete reversal: they now reject all but 14% of site submissions. The reasoning behind the change is unclear. It is also not possible to track the s18 consent process that enables impacts to sites. Making clear the reasons for site status changes, and the physical state of sites that have been impacted, would greatly improve the transparency and accountability of the site status changes that we have tracked.

The reform process to date also represents a missed opportunity. Since promulgation of the Act more than 40 years ago, heritage practitioners

and industry have come to agree with indigenous stakeholders that archaeological and cultural landscapes tend to be continuous (David and Thomas 2008). By way of illustration, in many of the areas most affected by de-registrations, the gaps between heritage sites are smaller than the sites themselves. The number of sites affected by a single consent under s18 is often large (Collier, 2015). It would be preferable for the reform process to recognise this continuous heritage landscape, and seek to minimise harm to heritage rather than play with the terminology.

References

- Collier, P. 2015 Response to Question On Notice, Legislative Council, Western Australia, 18 June 2015.
- David, B. and Thomas, J. (eds) 2008 *Handbook of Landscape Archaeology*. Left Coast Press, Walnut Creek.
- DIA (Department of Indigenous Affairs) 2012 Review of the Aboriginal Heritage Act 1972 Discussion Paper. DIA Perth, April 2012.
- Dortch 2014 Recent changes in the Western Australian Department of Aboriginal Affairs (DAA) Register of Places and Objects. Submission to the DAA in response to the Aboriginal Heritage Act Amendment Bill (2014). Available on enquiry from heritageenquiries@daa.wa.gov.au.

Changed from	Changed to	2009	2010	2011	2012	2013	2014	2015
Information Assessed	Insufficient Information	0	0	1	3	0	0	0
Information Assessed	Lodged	0	0	0	2960	0	0	0
Information Assessed	Registered	0	0	187	112	0	0	0
Information Assessed	Stored	0	0	12	7	0	0	0
Insufficient Information	Information Assessed	0	0	507	0	0	0	0
Insufficient Information	Lodged	0	0	0	0	0	4576	0
Insufficient Information	Registered	18	24	14	5	7	1	0
Insufficient Information	Stored	13	16	4	19	22	6	0
Lodged	Information Assessed	0	0	137	0	0	0	0
Lodged	Insufficient Information	40	69	1	4	2	0	0
Lodged	Registered	348	244	2	494	202	15	0
Lodged	Stored	98	43	0	155	275	32	14
Registered	Information Assessed	0	0	1469	0	0	0	0
Registered	Insufficient Information	1	0	2	3	0	0	0
Registered	Stored	13	18	1	24	1486	174	16
Stored	Information Assessed	0	0	268	0	0	0	0
Stored	Insufficient Information	1	6	1	6	0	0	0
Stored	Registered	2	4	7	8	2	0	0
Unspecified	Lodged	0	0	0	0	0	1	0
Unspecified	Registered	0	0	0	0	2	28	0
Unspecified	Stored	0	0	0	0	32	142	0
	TOTALS	534	424	2613	3800	2030	4975	30

Table 1. Changes to site status

Changed from	Changed to	2009	2010	2011	2012	2013	2014	2015
New to register	Information Assessed	123	343	12	1	0	0	0
New to register	Insufficient Information	0	0	960	0	0	0	0
New to register	Lodged	374	244	37	1874	117	16	4
New to register	Registered	762	1515	177	160	64	73	0
New to register	Stored	252	223	27	7	125	532	0
New to register	Unspecified	0	0	0	0	64	0	0
	TOTALS	1511	2325	1213	2042	370	621	4

Table 2. Status assigned to new site submissions

Change from	Change to	AS	CER	ENG	FISH	GRPA	HIST	MANM	MIDD	MODT	MYTH	PNTG	QUAR	REPO	RS	SKEL
Information Assessed	Insufficient Information	2	0	0	0	0	0	0	0	0	1	0	0	0	1	0
Information Assessed	Lodged	1858	58	133	5	195	78	121	84	161	241	17	247	8	428	33
Information Assessed	Registered	256	2	1	0	5	1	0	21	3	19	0	21	3	8	1
Information Assessed	Stored	11	0	0	0	0	0	1	2	1	0	0	0	0	2	0
Insufficient Information	Information Assessed	234	16	16	1	26	16	39	25	14	102	1	33	3	59	9
Insufficient Information	Lodged	2603	180	105	10	141	62	250	151	49	356	45	81	18	287	140
Insufficient Information	Registered	29	7	4	1	1	6	7	1	1	19	0	3	0	9	1
Insufficient Information	Stored	43	2	7	0	1	3	5	4	1	4	1	0	0	16	0
Lodged	Information Assessed	87	6	3	0	12	7	3	4	3	13	0	3	0	10	6
Lodged	Insufficient Information	25	9	6	0	1	8	11	8	6	62	0	2	0	26	3
Lodged	Registered	908	14	75	0	238	23	27	87	55	49	3	88	1	162	6
Lodged	Stored	364	8	6	0	72	8	17	27	21	18	0	16	1	91	4
Registered	Information Assessed	1106	29	101	1	135	29	42	52	88	57	12	170	5	150	11
Registered	Insufficient Information	3	0	0	0	0	0	0	0	0	1	0	0	0	0	1
Registered	Stored	1528	2	21	0	88	10	32	80	33	11	0	72	6	99	3
Stored	Information Assessed	139	1	4	0	11	4	20	1	28	20	0	4	0	15	0
Stored	Insufficient Information	8	0	3	0	1	0	1	0	0	0	0	0	0	1	0
Stored	Registered	14	0	0	0	1	1	1	6	0	3	0	0	2	0	0
Unspecified	Lodged	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
Unspecified	Registered	16	0	12	0	2	0	2	0	0	0	0	4	0	0	0
Unspecified	Stored	146	1	2	0	2	1	2	0	3	4	0	8	0	19	0
	TOTAL	9380	335	499	18	932	257	581	553	467	980	79	752	47	1384	218

Table 3. Status changes by sites with a given type – due to the existence of multi-component sites, each set (column) overlaps with other sets

Site Type Abbreviations

AS - Artefacts / Scatter; CER - Ceremonial; ENG - Engraving; FISH - Fish trap; GRPA - Grinding patch; HIST - Historical; MANM - Man-made structure; MIDD - Midden; MODT - Modified tree; MYTH - Mythological site; PNTG - Painting; QUAR -Quarry; REPO - Repository / cache; RS - Rockshelter; SKEL - Skeletal / burial

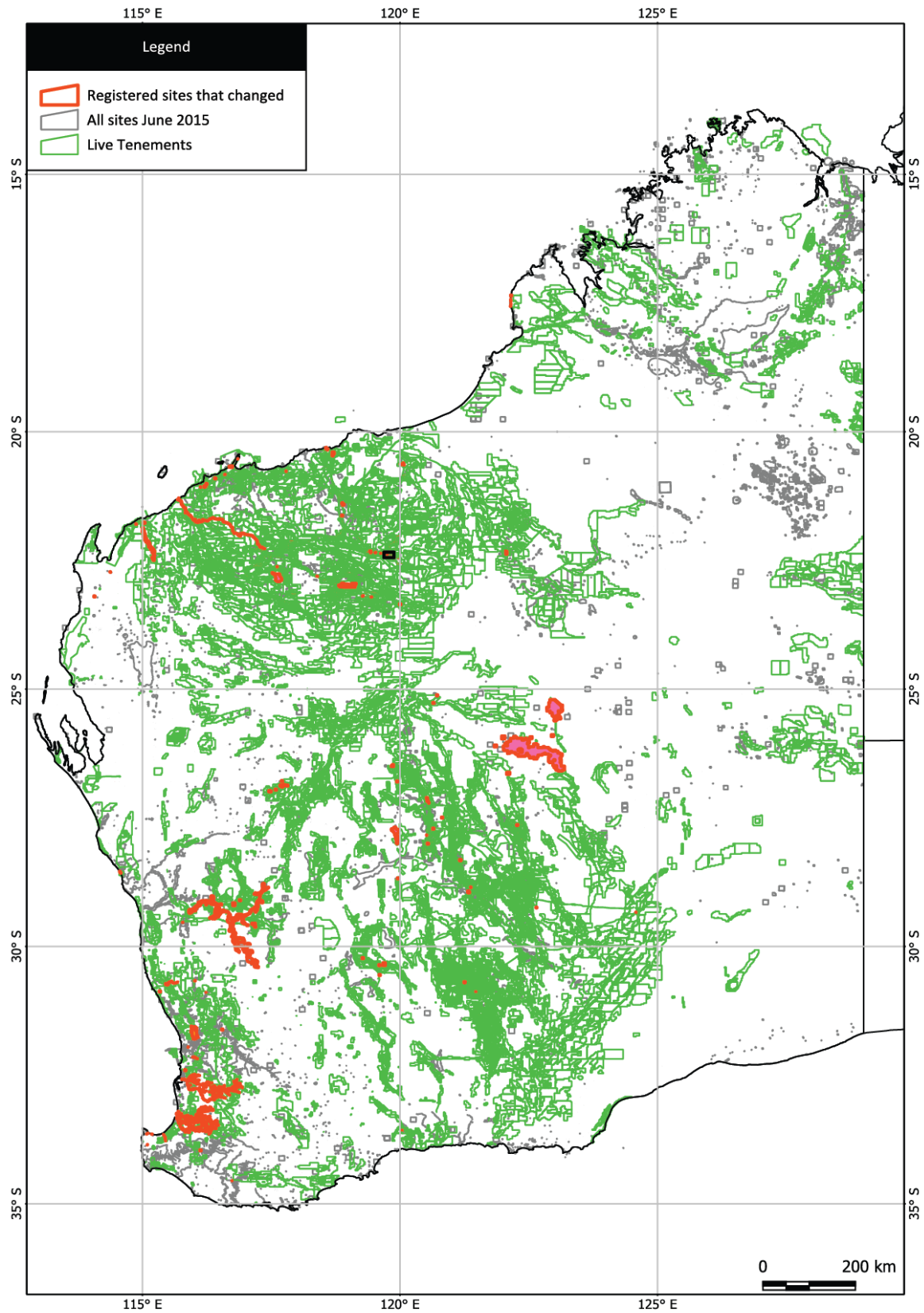


Figure 1: Western Australia, showing the registered sites that changed status in 2008-2015 (red outlines) and relationship to mining tenements.

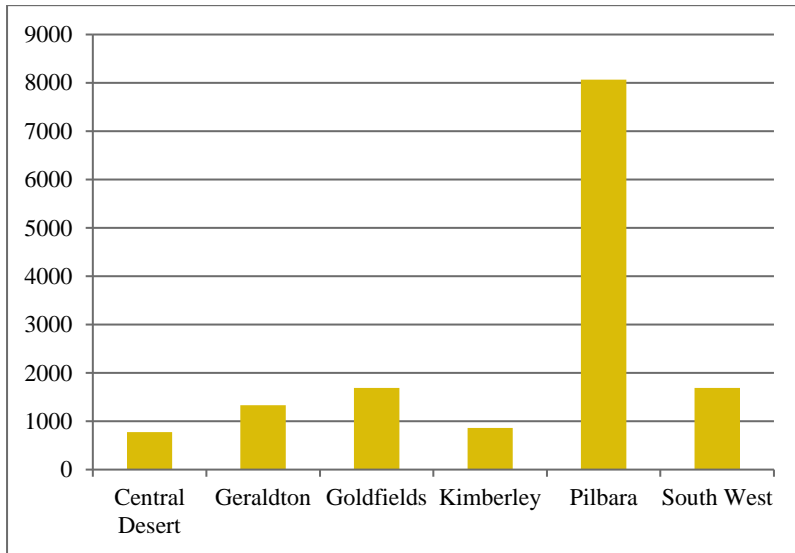


Figure 2. Number of sites that changed status, 2008-2015, by RATSIB area

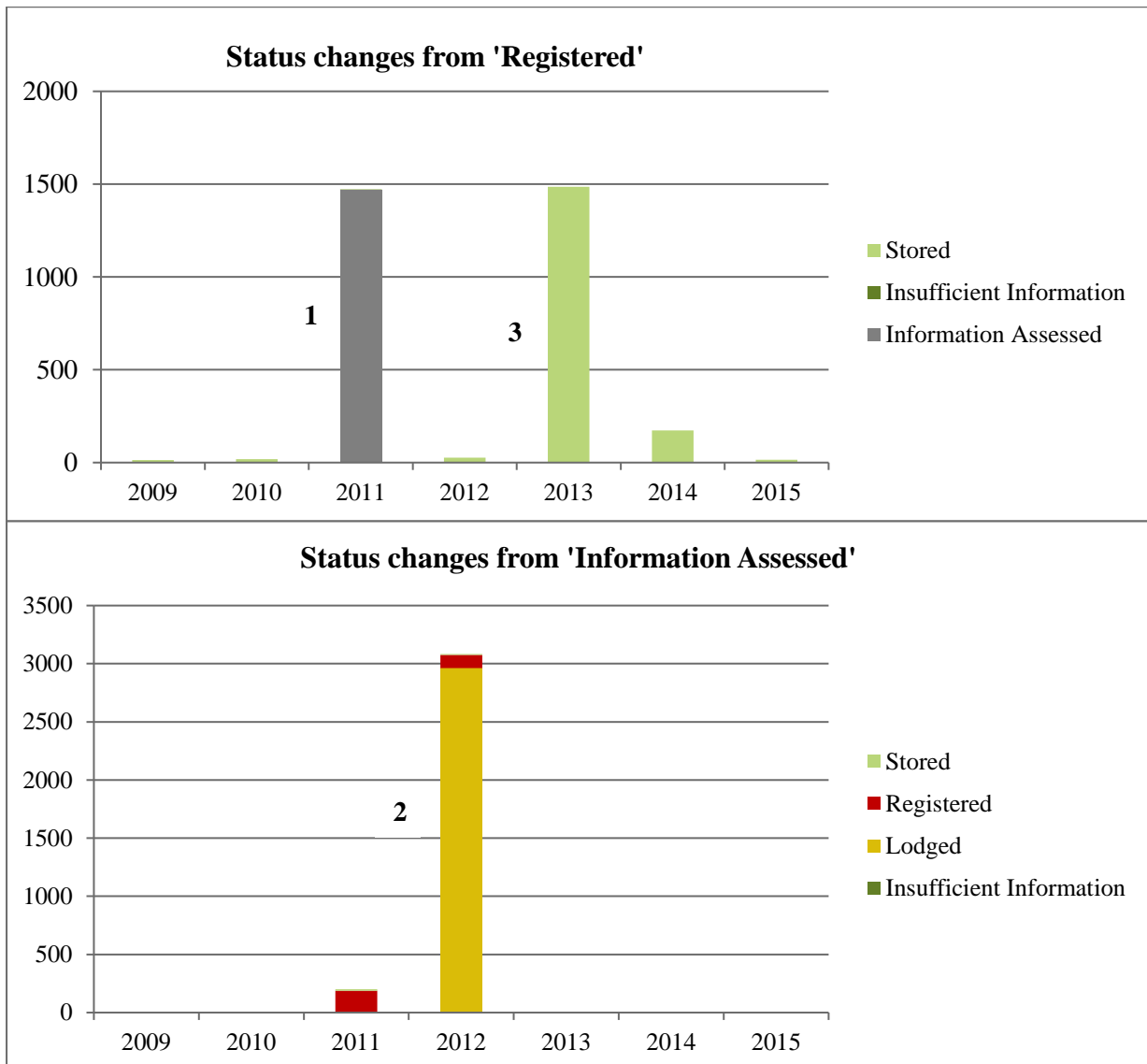


Figure 3. Moving registered sites into 'information assessed' (1) and from there to 'lodged' (2); moving more registered sites to 'stored data' (3)

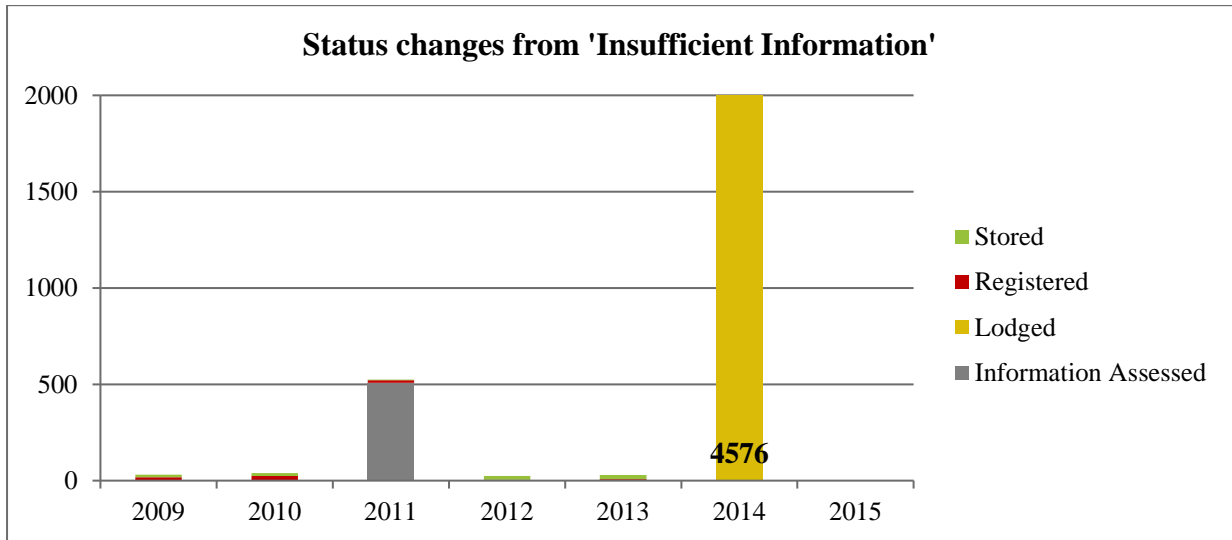


Figure 4. Renaming 'Insufficient Information'

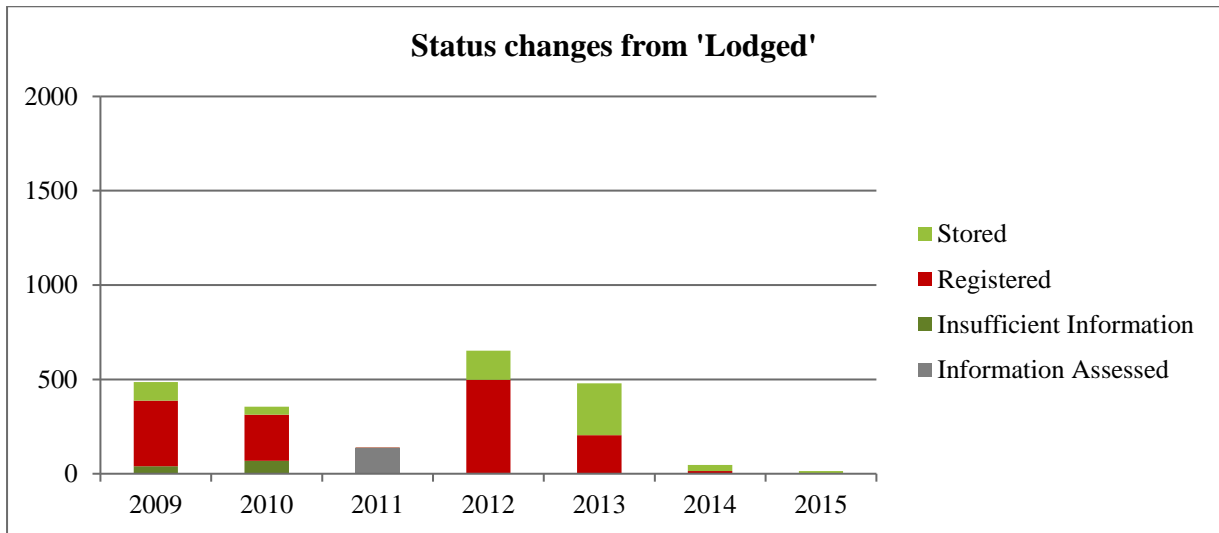


Figure 5. Lodged sites become less likely to be registered and more likely to become Stored Data (2011-2013); then they become less likely to be assessed at all (2014-2015)

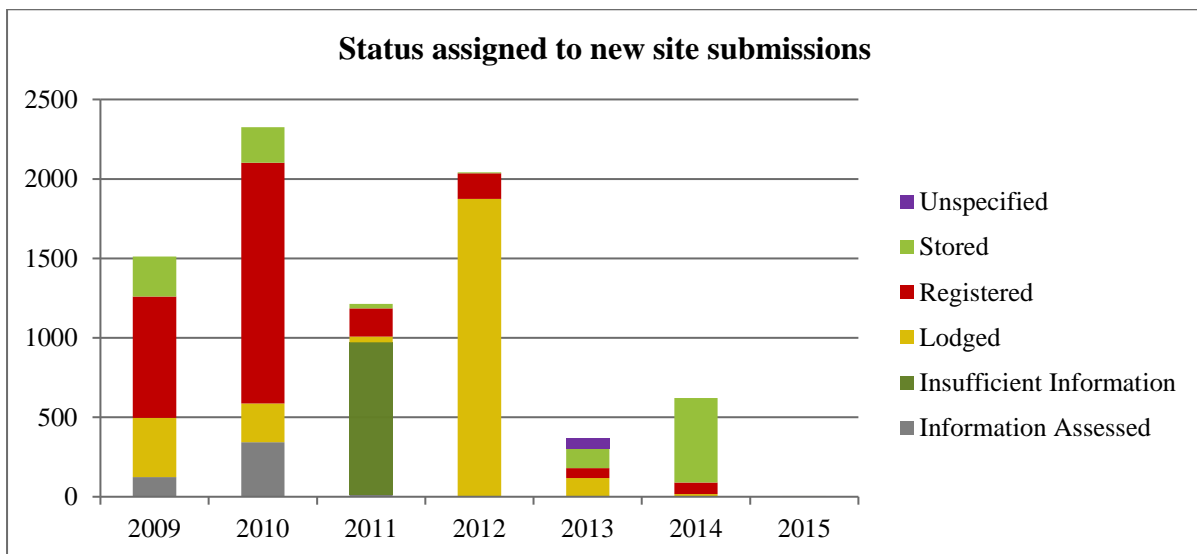


Figure 6. New site submissions become less likely to be registered, then decline sharply and are more likely to become stored data

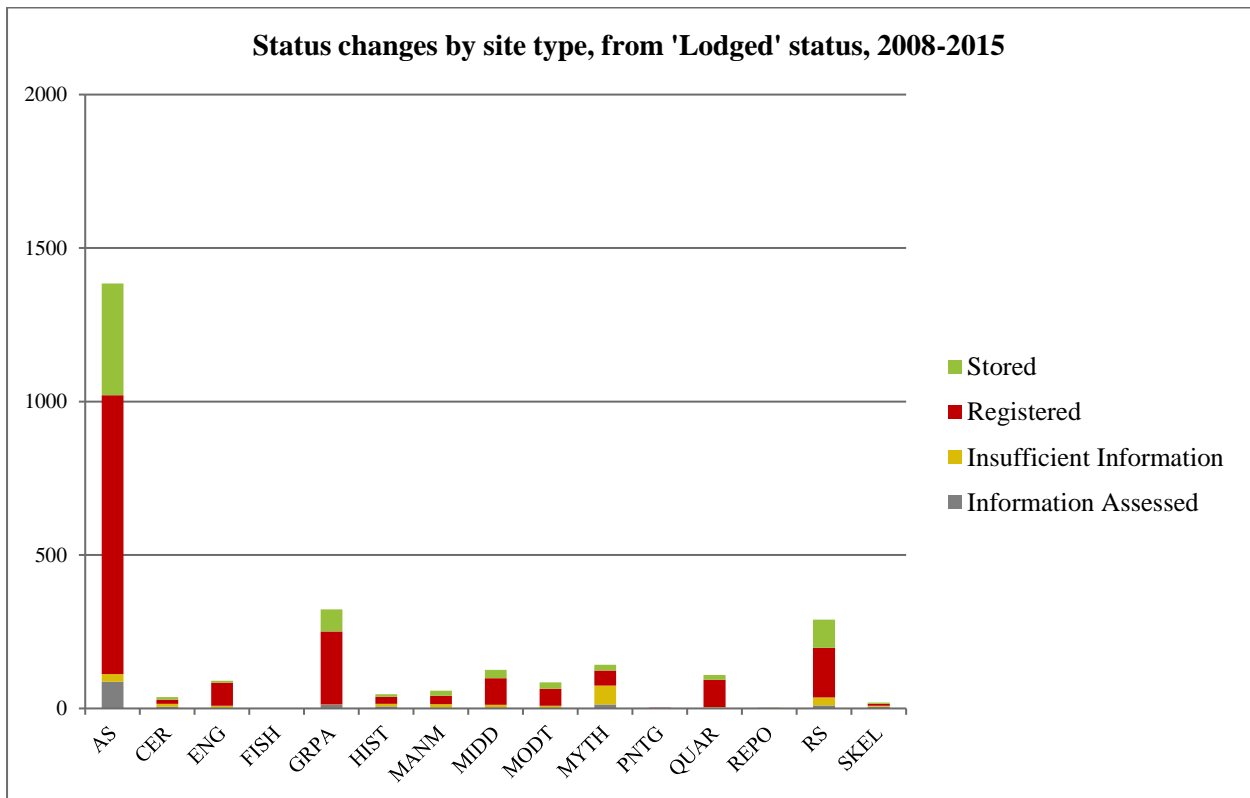
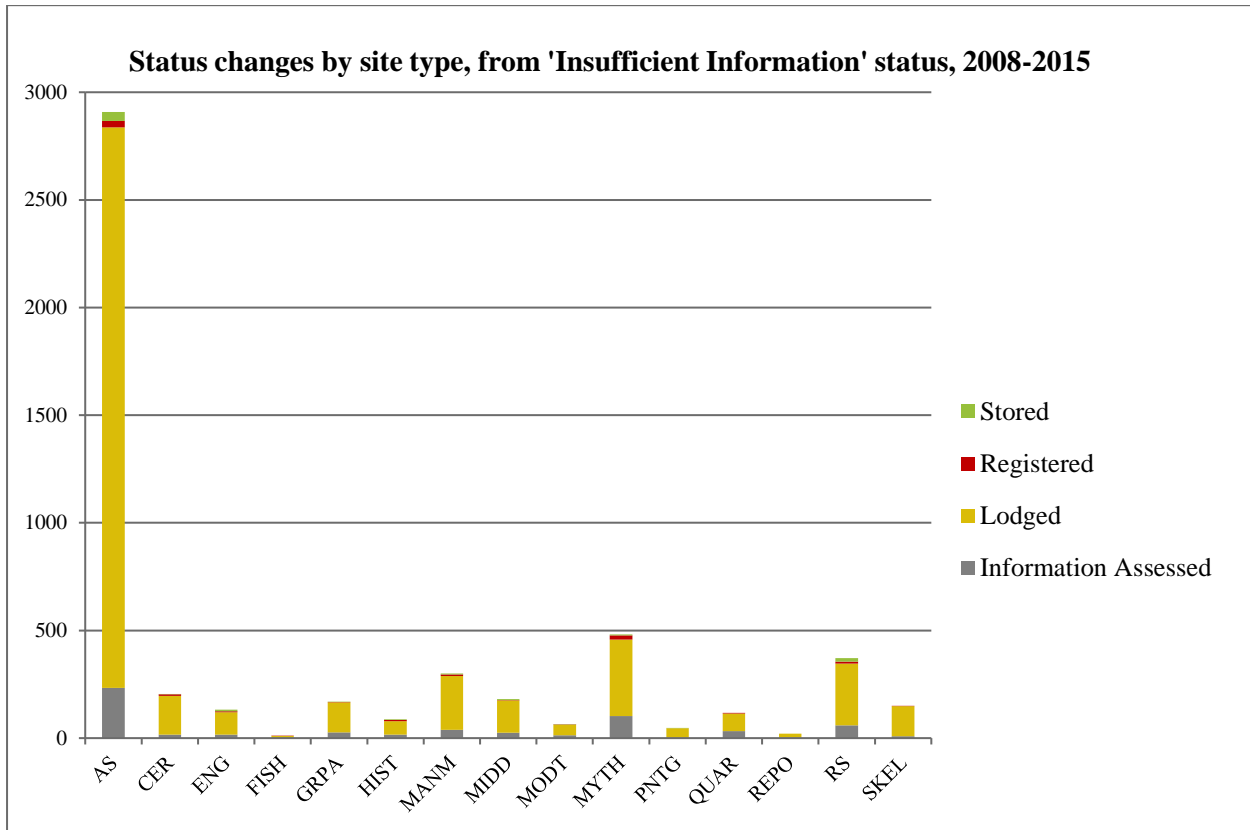


Figure 7. Site status changes 2008-2015 by site type

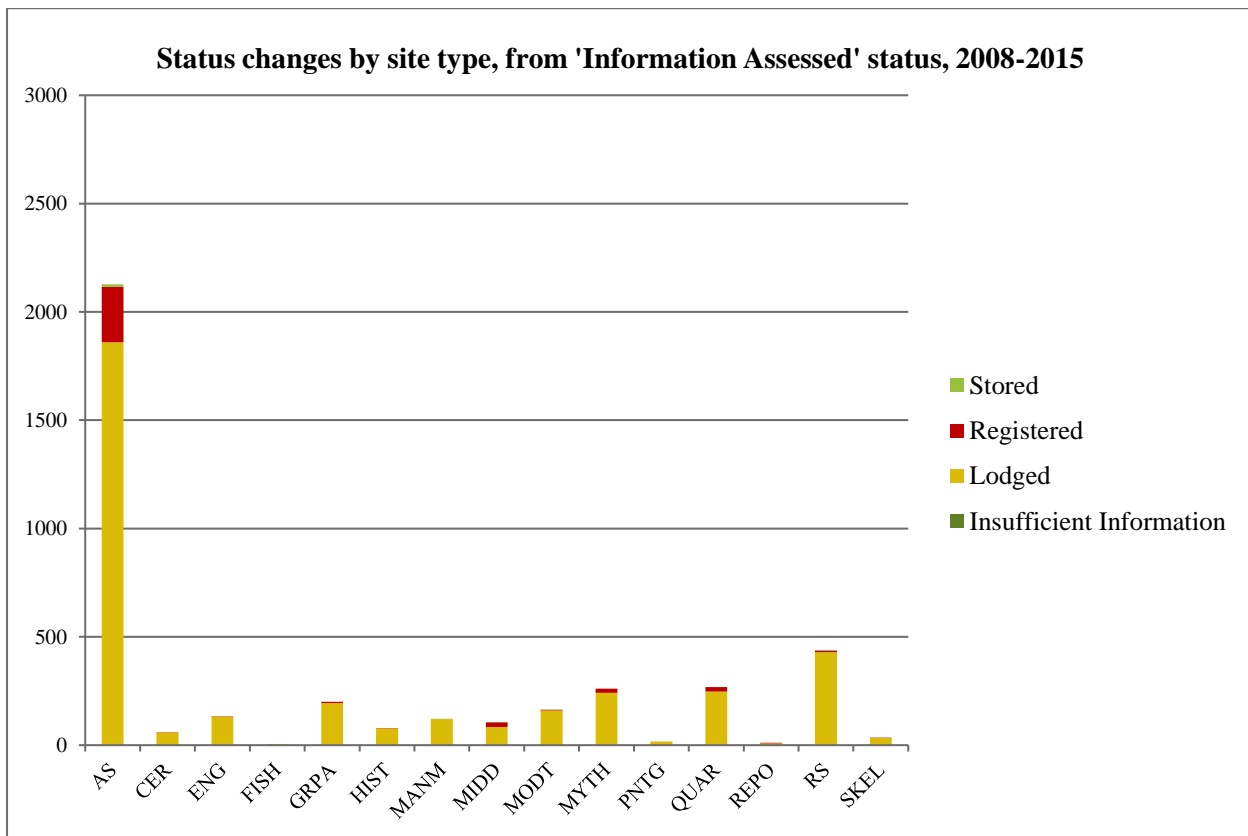
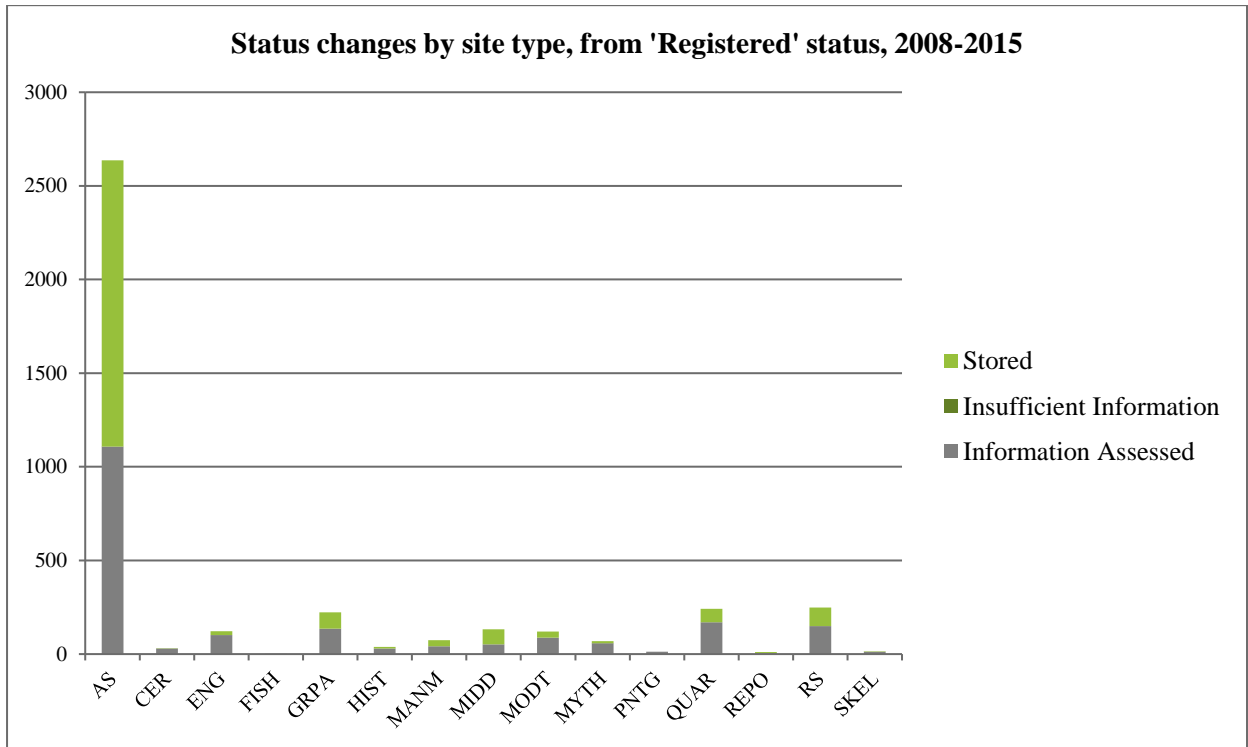


Figure 7 (cont.). Site status changes 2008-2015 by site type



Submitting to the Journal

The Journal of the Australian Association of Consulting Archaeologists (JAACA) is a peer reviewed journal that aims to encourage the communication of results, and exchange of ideas and information about issues of relevance to professional practice in Australia.

The primary content of the journal is short reports (about 2000-2500 words) on topics such as interesting presentations of surveys, site recording and excavation results, and discussions about aspects of methodology, policy, legislation, public engagement, professional development, ethics etc. Contributions with a strong visual element are encouraged.

Longer articles (up to about 5000 words) will also be considered for publication, as will themed special issues or supplements.

JAACA is an open access online journal. Articles are published on the AACAI website once they have completed the acceptance process. At the end of each year, the current volume is closed off and a PDF of the complete volume is made available.

Opinions expressed in JAACA are those of the authors and are not necessarily the view of AACAI.

Editors

JAACA is edited by Dr Caroline Bird and Dr Jim Rhoads.

Authors wishing to publish in the Journal of the Australian Association of Consulting Archaeologists are encouraged to contact the editors regarding potential articles or ideas for special supplements.

The full requirements for format of submissions can be found on the AACAI website.

URL: <<http://www.aacai.com.au/publications/Journal/>>

Email: editor.jaaca@aacai.com.au