

Response to WA Heritage Rorting Claims

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MEDIA RELEASE

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Members of the [Australian Association of Consulting Archaeologists Inc. \(AACAI\)](#), the [Australian Archaeological Association \(AAA\)](#) and the [Anthropological Society of Western Australia \(ASWA\)](#) are outraged by the [slandering allegations made about heritage consultants on the front page of the West Australian Newspaper in their article on the Aboriginal heritage assessment process in Western Australia \(WA\)](#).

The story cites an Ernst and Young report that has not, contrary to claims, been publically released, claiming that the Aboriginal heritage process costs an estimated \$100 million a year. It also claims the average cost for a Section 18 heritage application (i.e. an application for ministerial consent to use land which contains heritage sites) is \$382,000. No details are provided in the article on how these figures have been derived. Let's consider the matter more closely and in context.

In preparation of such applications, applicants must meet standards mandated by the [Department of Aboriginal Affairs \(DAA\)](#). These standards exist so that the [Aboriginal Cultural Material Committee \(ACMC\)](#) can provide consistent/appropriate advice to the Minister in regards to the granting of approvals to destroy heritage places. As such, the level and standard of work required to be undertaken by a client prior to submission of a Section 18 application is dictated and influenced by the DAA: as the Regulators they set the required standards.

Heritage consultants, working in partnership with both proponents and Aboriginal community representatives alike, are required to carry out surveys to identify any heritage places present, assess the heritage significance of any such places and provide an evaluation of the importance and significance of any such places.

Our members work under specific instruction from clients regarding the nature or extent of the scope of work to be completed. We receive instructions, carry out the fieldwork and other tasks needed to fulfil the instructions, and complete reports in a timely manner. We are involved in review meetings, briefings with clients and stakeholder processes as required under normal work contracts. If there is work outside of approved budgets, this is always discussed with the client, so no work other than what companies have agreed to pay for is conducted.

The large archaeological cost in the Section 18 process is a direct reflection of the size of the area to be surveyed and the necessity of providing a lasting recording of each heritage place before the Minister grants approval to destroy that place forever. This approach is referred to as "preservation by recording". The survey areas are often very large—sometimes over 10s and even 100s of square kilometres—and are typically in remote areas of WA. Oftentimes, hundreds of heritage places will need to be identified, recorded and assessed in each survey area in order for a Section 18 application to be prepared.

Rates charged by heritage consultants are, like those charged by all professional consultants, determined by qualifications, experience, accreditation and the risk associated with complex compliances. In the case of AACAI, the Association recommends a minimum fee scale as a guide for members. Both AACAI and ASWA rates are subject to market competition. AACAI and ASWA heritage consultants all work under Code of Ethics that outline principles to govern professional standards in line with international best practice.

The West Australian Newspaper article flagrantly fails to compare the costs of heritage approvals to those for other environmental or mining approvals. As just one component of the multibillion dollar mining industry, we ask whether the costs associated with heritage are, in fact, “exorbitant”? During the mining boom, land access requests increased 10-fold. All service providers have had to address this increased demand and we reiterate that it is the DAA as the Regulator that has responsibility to set and manage reporting standards. Therefore, if there is indeed any kind of “error” it is of the DAA’s making. Both AACAI and ASWA have on numerous occasions offered to work collaboratively with DAA to improve standards and competency and to address any shortcomings they saw as regulatory. These offers have not been taken up.

The comment that archaeologists and anthropologists have “caused significant delays to resources projects” is unfounded. Like all service providers in this industry, heritage consultants work within specified timeframes as advised by the client. Typically our members find that some proponents who have not fully appreciated or anticipated the complexity of either Native Title or heritage protection laws may face delays; given their poor risk management strategy and lack of forward planning their projects suffer accordingly.

The statement by DAA Deputy Director Aaron Rayner that consultants provide services “that do not ... significantly enhance heritage protection” is incorrect. As the government agency with responsibility for heritage regulation, it is predominantly DAA’s role to “significantly enhance heritage protection”. Consultants record heritage places, evaluate their significance and advise clients of the need to have these places protected and managed appropriately.

Heritage consultants do work on a daily basis with Aboriginal communities and proponents to find ways in which numerous places of heritage significance can be avoided and protected as exploration and development proceeds. Heritage outcomes beyond just compliance are many and varied with community books, articles, walking trails and interpretative materials all stemming from heritage consultants, Aboriginal people and proponents working together. To suggest such results are not “significantly enhance[d] heritage protection outcomes” is ludicrous.

AACAI heritage consultants recommend that all heritage places in WA can only be destroyed after completing the Section 18 consent process, after there has been sufficient mitigative recording of those heritage places, thereby capturing their heritage values. ASWA members are more typically involved with recording and evaluating the more non-tangible aspects of heritage: sacred sites, ritual and ceremonial sites.

The so-called “salvage” recording and investigation of heritage places in advance of development is a process carried out throughout the world. Heritage workers play a vital role in the regulatory process to “enhance heritage protection” through heritage place identification but are not part of the approvals mechanism once a report has been submitted to the client.

Every year, hundreds of Aboriginal heritage sites, some aged tens of thousands of years old, are destroyed by resource and other development companies with approval from the Minister on advice from the ACMC and the DAA after section 18 consent applications have been granted. The ratio of such heritage site destructions in WA clearly matches the high degree of mining and other development undertaken during the past decade.

Heritage protection rarely means protection per se but, typically in the case of lower significance sites, “destruction” allowed after recording has been taken place. The cultural heritage of WA is a non-renewable resource, without the systematic recording and investigation of which both Aboriginal people and the broader WA community will lose this irreplaceable record of our shared human story which extends beyond 40,000 years.

We note that procedural changes within the DAA in recent years based, in part, on contradictory and flawed registration threshold criteria, have already resulted in a massive decline in the protection afforded to Aboriginal heritage places in WA; two years ago more than 84% of heritage places that were nominated for inclusion on the register of Aboriginal sites were successful; now the percentage of heritage places that are successfully nominated has fallen to just 6%. And this is in advance of further legislative changes in the current heritage Bill being discussed in the WA Parliament.

Nolan Hunter, the CEO of the [Kimberley Land Council](#) notes that “The implications of being in a remote area coupled with the exceptionally high bar set by the Department of Aboriginal Affairs to register a site, makes the heritage process in WA time consuming and costly.” He also says that “The Aboriginal Heritage Act needs to be changed so it is easier for Aboriginal people to register a site but harder for industry to destroy a significant place. Only then will the heritage process become less onerous. We call on the State Government to introduce these changes as part of its Aboriginal Heritage Amendment Bill 2014.”

Heritage consultants play a vital role in the approvals process and the protection of Aboriginal heritage in WA and across Australia. As professionals, we provide independent advice to the DAA, Aboriginal communities and proponents, while at the same time we stand alongside Aboriginal people in helping ensure appropriate strategies are put in place to manage the rich and diverse cultural heritage of Aboriginal Australia.

To cast members of the heritage profession as “rotting” the system is a cynical attempt to undermine and devalue the tangible and intangible heritage values of this State. Removing heritage consultants from the approvals process leaves us in little doubt that far fewer Aboriginal heritage places would be protected than has been the case. And should the proposed amendments to the Aboriginal Heritage Act be passed we hold grave concerns that any Aboriginal heritage places will be afforded adequate protection in the future.

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