



**Aboriginal Areas**

**Protection Authority**

protecting sacred sites across the territory

1247  
Your Ref. [REDACTED]  
Our Ref. [REDACTED]

Ms Jenni Daniel-Yee  
Executive Director  
Legal Policy  
Department of the Attorney-General and Justice

Email: [jenni.daniel-yee@nt.gov.au](mailto:jenni.daniel-yee@nt.gov.au)

Dear Jenni,

**Re: REVIEW OF THE ANTI-DISCRIMINATION ACT AND SECTION 43**

Thank you for the opportunity to provide comment in relation to the above review.

The Aboriginal Areas Protection Authority (the Authority) is an independent statutory body established under the Northern Territory Sacred Sites Act (the Act). The Authority administers the Act, under which a procedure for the protection and registration of sacred sites, including avoidance of sacred sites in development and use of land are established. Entry onto, work and desecration of sacred sites is regulated under Part IV of the Act.

All sacred sites in the NT are protected by the Act whether they are known about by the Authority or not.

The Authority maintains records of more 12,700 sacred sites across the NT and over 2,000 of these sites have been formally entered into the Register of Sacred Sites by the Board of the Authority.

### **Section 43 of the Anti-discrimination Act**

The Authority has considered the implications for the Aboriginal community if section 43 was to be removed.

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### Sacred sites

As noted in the discussion paper (page 21) the protection of Aboriginal sacred sites is available through existing provisions in the Sacred Sites Act and the removal of section 43 is unlikely to have an impact on the Authority and its ability to protect sacred site.

### Other sites

However the Authority believes that the removal of section 43 may have implications for other sites located throughout the NT. While the Authority protects sacred sites, it is also aware of other culturally significant sites, for example archaeological and burial sites, which are not afforded protection under the Sacred Sites Act, but in some cases are protected by the Heritage Act or the Cemeteries Act

It is likely that there are number of these other sites that could have restrictions relating to sex, age, race or religion placed upon them by Aboriginal communities. For example in southern Kakadu there is a region known as Sickness Country that is associated with an important creation ancestor, and numerous interconnected sacred sites are associated with its travels. These sites have strict access restrictions based on gender, knowledge and age and Sickness Country as a whole has numerous prohibitions on access and behaviour.<sup>1</sup>

As such the Authority believes that there may be merit in retaining the protection section 43 of the Anti-Discrimination Act to protect other sites of cultural significance in the NT (that are not sacred sites). The Authority notes that the Land Councils are being consulted on section 43, and also recommends that the Heritage Branch of Department of Tourism and Culture also be consulted.

Yours sincerely



Dr Ben Scambary  
Chief Executive Officer  
4 May 2018

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<sup>1</sup> Scambary, B and Lewis G., 2016, 'Sacred bodies and ore bodies: conflicting commodification of landscape by Indigenous peoples and miners in Australia's Northern Territory'. In: P McGrath (ed). *The right to protect sites: Indigenous heritage management in the era of native title*. Canberra: Australian Institute of Aboriginal and Torres Strait Islander Studies, 228.