

# THE ADELAIDE REVIEW

## When two's a crowd



SOUTH Australia is blossoming but not without growing pains. Hundreds of millions of dollars of development and the state's indigenous heritage have collided with a crunch. At stake are big-ticket, progressive projects such as wind farms; also at stake, tens of thousands of years of cultural artifacts and beliefs. The focal point is the coastal growth spurt. It's not just houses and marinas but facilities needed for them to function, especially power. SA is striving to be a national leader in the development of wind farms and power companies are happy to oblige; there is a swathe of proposals in the offing. And this is where development and heritage clash.

A case in point is the Wattle Point. Southern Hydro, formerly Meridian Energy, has approval for Australia's largest wind-farm development – 59 turbines perched near the coast of the south-eastern tip of the Yorke Peninsula. Section 12 of the Aboriginal Heritage Act (1988) allows developers to seek a determination from the Aboriginal Affairs Minister on whether an area is an Aboriginal site or whether Aboriginal objects exist there. After extensive consultation, Minister Terry Roberts found places of significance across the development site, but under section 23 of the same Act, authorised damage to those sites. It's here that the controversy simmers.

Quenten Agius of the Narungga Heritage Committee says irreplaceable history is being destroyed, in part because the Minister is listening to the “wrong” people. He claims to be a custodian of dreaming stories handed down through his parents and grandparents. Yet he believes greater weight has been given to the views of the Narungga Nations Aboriginal Corporation, which he argues is comprised of blow-ins – Aboriginal people shipped in following the closure of communities elsewhere, and without direct connection to that land and its stories.

“The government wants this wind farm for the economy, so it's listening to the blackfellas who agree with them and will accept compensation money, not us mob who want our dreaming protected.” He angrily questions the point of having a Heritage Act if the Minister has the final say on what constitutes heritage, and the power to allow its destruction – with no right of appeal. “We haven't got thousands of dollars for fancy lawyers to fight these decisions,” Mr Agius says. “Once it's gone, it's gone and it's too late.”

Andrew Wilson, Southern Hydro's wind project implementation manager, says companies face a dilemma in dealing with the “right” people. “We knew there was some potential for archeological sites and wanted to do the right thing, so we requested a determination.” He rejects claims that the company had acted with haste and not fully complied with the Minister's ruling. “We also consulted with the Narungga people, but there were divisions within the community as to how to handle the issue. It's a problem sometimes knowing whether you're talking to the right people or dealing with the right groups within the community, which has complicated the process. It's taken longer than we expected.” It's clear that the Aboriginal Heritage Act isn't doing the job it should. Disputes amongst Aboriginal groups make it difficult to know whose claims to trust; developers lack certainty and the government is left trying to sort out the mess. The Minister's office acknowledges the problem, especially the delays created by the cumbersome structure of this ageing Act, and says with the “rash of developments needing Aboriginal Heritage determinations, the system needs to be changed to cope”.

Enter Lange Powell. The respected human services specialist and former Commissioner for the Ageing has accepted the challenge of both administering and reviewing the system. He's heading a task force to streamline the operation of the Act and hopes to make significant progress by the end of this year. Consulting with stakeholders and the disparate views of the indigenous community is a particular challenge.

“We do find some Aboriginal groups insisting that we shouldn't be talking to others. But the Act doesn't define who are the “right” people – at the moment we're required to speak with Aboriginal Heritage Committees, traditional owners and any other people or organisations regarded to have an interest in the area. It means there's a high likelihood of encountering rivalries, and of the Minister being exposed to conflicts. In the end he has to make a judgment about those, but it's a better process than only dealing with one or two groups and neglecting the views of others.”

But does the Minister have a conflict of interest? Powell deftly dodges the question, although he can understand why Aboriginal people have difficulty with the Minister's dual role as the decider of the sacred and the authoriser of its destruction. Wattle Point is such a case, where its spiritual dimension and association with a number of dreamings was recognised.

“I can appreciate the perplexity in the Aboriginal community because they feel once a site has been determined then any disturbance should be out of bounds, but of course the Minister is a member of the Government and must take into account a wide range of interests. One of the issues of reform is it does need to recognise that Aboriginal Heritage protection doesn't exist in a social, environmental or economic vacuum; that there are broader interests that impinge on it. We'll be exploring that balance.”

There are some, like Agius, who argue there exists a subtle racism in the determination process. They're concerned the Register of Aboriginal Sites and Objects has been ignored, underfunded and undervalued for so long that it lacks credibility. As a result, they feel the interests of multimillion dollar developments are given greater priority than the less tangible value of cultural heritage. What does the community value? Aboriginal history that to most people may seem, for example, an insignificant pile of shells, but to some Aboriginal people is an ancestral midden at Black Point imbued with dreaming stories? Or is a proposed telecommunications tower more important?

Aboriginal claims that their interests are secondary are not borne out by statistics which show most of the 3400 entries on the heritage register have been protected, with another 3800 sites reported as significant but not yet verified as such.

Powell disagrees that there is a racist agenda, but concedes it is important to tackle that perception. He says it would be impossible to register every significant site in a state the size of SA. A more sensible strategy is strengthening the current register and verifying the reported sites, something for which he was developing proposals at the time of writing.

Powell wants the core of the reform to examine ways of protecting sites that don't rely on the current section 12 and section 23 practices of placing all responsibility on the Minister. He points to Queensland as a good model. Its new Aboriginal Heritage legislation provides several pathways for communities and developers to reach agreement, increasing the likelihood of site protection.

“I think it's vitally important that the Aboriginal community takes ownership of heritage protection, especially if it can overcome its internal divisions, and can come to accept that development does not always have to be incompatible with the preservation of Aboriginal tradition and spirituality. I'm keen to strengthen our relationship with those groups and engage them in site identification, verification and preservation. Ultimately it should be them negotiating site protection just as more mainstream heritage groups concerned with built heritage, for example, have become central to its preservation,” Powell says.

Whether such change will require legislative amendments is too early to say, but Powell hopes not, as that would create further delay. There is some urgency as the development juggernaut gathers pace. No-one would want to see a repeat of the painful Hindmarsh Island saga, where the legal and social wounds of contested cultural beliefs and controversial development rights suppurate even today.

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