



DIRECTOR OF PUBLIC PROSECUTIONS
for WESTERN AUSTRALIA

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Office of the Director

Your Ref : PLH0415-2017A/01
Our Ref: ADM2018/88
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Ms Gail McGowan
Director General
Department of Planning,
Lands and Heritage
140 William Street
PERTH WA 6000

By Email : AHAreview@dplh.wa.gov.au

Dear Ms McGowan

Review of the *Aboriginal Heritage Act 1972*

Thank you for your letter dated 9 March 2018 inviting me to make a submission in relation to the Consultation Paper : Review of the *Aboriginal Heritage Act 1972* (the Act).

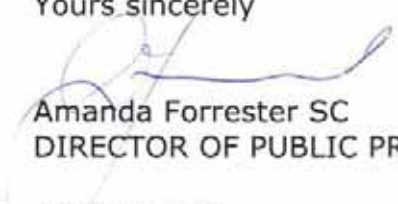
I note that the Consultation Paper seeks submissions in relation to the adequacy of the current enforcement provisions and penalties in the Act.

I would like to bring to your attention that the Office of the Director of Public Prosecutions (ODPP) does not currently prosecute breaches of sections 17 and 43 of the Act. Any proposal to increase the seriousness of the offences in the Act to indictable criminal offences would result in prosecutions moving to the superior Courts of Western Australia. The jurisdictional limits of the Magistrate's Court of Western Australia also need to be kept in mind when considering increasing the penalties in the Act.

Amendment of the seriousness of offences and penalties under the Act, accordingly, may raise questions as to the role of the Office of the Director of Public Prosecutions under the Act.

Whether the offences in sections 17 and 43, and the penalties in section 57, should be increased are matters of policy for the Government to determine. I would appreciate, however, being further consulted if proposed changes will affect the role of the ODPP in the administration of the Act.

Yours sincerely



Amanda Forrester SC
DIRECTOR OF PUBLIC PROSECUTIONS

14 May 2018