

Elizabeth Sambo,

28 May 2018.

Assistant Director General Heritage Services,  
Department of Planning, Lands and Heritage,  
PO Box 7479,  
Cloisters Square PO,  
WA 6850.

Dear Sir/Madam,

**Re: *Aboriginal Heritage Act Review***

Thank you for the opportunity to make this submission to the *Aboriginal Heritage Act Review*. This submission is made on behalf of myself, Elizabeth Sambo, and the other members of my family. We are the Kaparn group, currently in the process of preparing an Application for Determination of Native Title in respect of our traditional lands for submission to the Federal Court of Australia. We write to comment on the following issues:

- More clarity in the definition of "significance" should be written into any amendments to the present Act;
- Giving Aboriginal people the same rights under Section 18 as currently enjoyed by developers;
- Ensuring that traditional owners are the primary people to be consulted over developments and not Land Councils or Prescribed Bodies Corporate.

On the first point, we believe that the present Act must be rewritten to clarify that the places and objects which it covers should be places and objects of importance and significance to Aboriginal people and not to self-appointed non-Aboriginal people with University Degrees who act and speak without our authorization. Only Section 5(b) of the current Act and the first part of Section 6(1) make that most important point clear. Sections 5(a), (c) and (d) and the second part of Section 6(1) leave completely unclear the persons or groups to whom the places and objects should be significant. This problem is carried over to the functions of the APMC, where Sections 39(2)(a) and (b) reflect the situation we wish for, but Sections 39(2)(c) and (d) continue the above confusion. As the Sections to which we object stand, the Act is only partially an Aboriginal Heritage Act and partially an Act for the benefit of non-Aboriginal people. Section 39(3) is clear and acceptable to us. We would not wish to see it changed. In the same way, we would wish to see Sections 40(b) and (c) left out of an amended Act.

The above then brings up the further question of whether sites or objects should be significant in general to Aboriginal people or to the traditional people of a particular area. In our opinion, only the traditional people of any given area should have the

right to determine whether a place or object is significant or not. How do you identify those people? The Department of Aboriginal Affairs already has lists of what they call "Knowledge Holders" or "Informants" for areas of the State. We suggest that those lists should be made comprehensive and formalized and updated regularly to ensure that deceased people are removed from them. Those people should have the sole right to assess the significance of a place or object.

Moving on from that, here in the Kalgoorlie/Coolgardie area, we have a Land Council which does not represent any of the traditional owner families of that area. Yet they are continually trying to work out ways to take over our heritage and to push us aside. It seems that achieving native title for us, which should be their primary job, has been too hard, so they are trying to elbow us aside and take over our rightful right to speak for our heritage. The amended Act should clarify this situation and require face-to-face consultation with the traditional owners of any given area and not with persons or organizations that try to place themselves in the middle for financial or other reasons. It boils down to a simple statement: we are more than able to look after our own heritage and do not need interfering middlemen.

We believe that the present Act contains a major flaw that is demeaning to Aboriginal people. Section 18(5) gives the owner of land aggrieved by the way the APMC and Minister have decided on his or her Notice, the right to appeal the matter to the Supreme Court of WA. We Aboriginal people do not have a reciprocal right when we are aggrieved by such a decision. This calls into question whether it is in fact an Aboriginal Heritage Act or an act for the benefit of developers. We would wish to see the amended Act include a clause giving Aboriginal people the same right of appeal as developers.

Thank you for allowing us to make this submission.

Yours sincerely,

  
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Elizabeth Sambo