



22 May 2019

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ENQUIRIES

Callum Crofton (6552 4151)

Mr Vaughan Davies
Assistant Director General, Heritage and Property Services
Department of Planning, Lands and Heritage
Locked Bag 2506
PERTH WA 6001

Dear Mr Davies

REVIEW OF THE ABORIGINAL HERITAGE ACT 1972

Thank you for providing the opportunity to comment on the proposals for a new Aboriginal Heritage Act. The following submission is made on behalf of the Heritage Council of Western Australia. Comments and recommendations are based on the Council's experience in management of cultural heritage in general, and in relation to specific recommendations that have parallels in historic heritage.

1. The Heritage Council recognises the importance of promoting public awareness of heritage, stating one of its four key objectives as "The importance of heritage places to Western Australia's identity and quality of life is understood and appreciated." The Council therefore **supports** the inclusion of a similar function for the Aboriginal Heritage Council (**Proposal 3(B)**, Functions of the Aboriginal Heritage Council, **item xiii**).
2. Encouraging wider understanding, appreciation and recognition of heritage is fundamental to any efforts to manage change and deliver positive heritage outcomes. Given its importance the Council would encourage the elevation of this function to be included in the preamble and commentary around the role of the Aboriginal Heritage Council.
Similarly, education and training support informed decision-making and better understanding of heritage places, and contribute to their appreciation and ongoing conservation. The Council therefore **supports** their inclusion as a role of the Aboriginal Heritage Council (**Proposal 3(B)**, Functions of the Aboriginal Heritage Council, **item xvi**).
3. It is recognised in the discussion paper (**Proposal 3(D)**, The role of the Department of Planning, Lands and Heritage, **items ix) and x)**), that practical delivery of both education and training and promotion programs will be delivered by the Department. Given the fundamental changes proposed, and the extent of support required from the Department, the Council would ask that care is taken to ensure that **sufficient funding** is made available to adequately resource these key areas.
4. Within the area of training and education, the Council would also encourage a clear statement of intent in relation to the **professional development**, training and support for members **of the Aboriginal Heritage Council**. Council members have valued the ability

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to participate in events and activities that develop our knowledge and experience within our field of operation, and enhance our ability to provide expert advice and informed decisions.

5. The proposal to establish and manage a Directory of Heritage Professionals (**Proposal 3(E)**) is given **cautious and conditional support**. The Heritage Council's own experience with such a Directory has resulted in a more 'hands off' approach that simply allows consultants to identify their services in the non-curated online directory inContact. Even though this approach is delivered with substantial disclaimers in regard to the relationship between consultants and the Heritage Council and Department, the Heritage Council is conscious that it can be considered to be an endorsement or accreditation, or imply support for listed providers.

Any steps taken to verify the capabilities of heritage professionals would move towards a system of accreditation and endorsement that would need to allow for assessment of heritage skills and capabilities. Such a system would also need to include a complaints resolution process and compliance process. If such a system were adopted, it could potentially extend to all heritage professionals and provide an alternative to the Council's current model.

We encourage **further consideration** of this approach, in particular one that does not require or rely on inclusion in legislation. It may also be a service that is better provided through one or more professional bodies.

6. Transparency of decision-making (**Proposal 7**) is a matter that is welcomed in the *Heritage Act 2018* and **supported** in the development of a new Aboriginal Heritage Act. In particular, the requirement to make public certain recommendations of the Council and determinations of the Minister (**item i**), and providing a clear role for the State Administrative Tribunal (**item v**), should encourage good governance and informed decision-making at all levels.
7. Transparency and consistency will also be assisted in the provision of a clearly defined and published framework for decision-making. For historic heritage this consists of a Development Assessment Framework, which outlines policy settings for proposed development, and the Heritage Impact Statement, which guides the assessment and consideration of impacts of change on heritage values. The development and publication of comparable **guides for decision-making** are highly recommended.
8. An issue that legislation may need to address is the identification, assessment and management of places that may be recognised under both Acts. While the *Heritage Act 2018* does not apply to places whose significance arises solely in relation to Aboriginal tradition and culture, there are numerous places that are significant for different reasons relevant to each Act, or have values that are shared between both Acts. Legislation may therefore need to consider how such places are identified and recorded, how change is informed efficiently and without undue duplication, and how compliance is initiated, where required.

9. Finally, thought could be given to following the example of New Zealand's heritage bodies in a mandated sharing of members between the Maori Heritage Council and the board of Heritage New Zealand. This has been reported as being beneficial to both bodies and could assist in sharing information and understanding relevant to both historic and Aboriginal heritage.

The Heritage Council acknowledges the work of the Department in progressing the review to this stage, and undertaking the breadth of consultation and engagement required for this comprehensive review. The Council very much looks forward to seeing the results of the consultation and the resulting Green Paper.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Anne Arnold', with a large, stylized flourish at the end.

Anne Arnold
Chair