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Department of Planning, Lands and Heritage  
PO Box 7479  
Cloisters Square WA 6850  
[AHAreview@dplh.wa.gov.au](mailto:AHAreview@dplh.wa.gov.au)

Dear Sir/Madam,

## REVIEW OF THE ABORIGINAL HERITAGE ACT 1972

The Town of Port Hedland is pleased to make a submission on the Department's first phase of public consultation on the review of the *Aboriginal Heritage Act 1972* (the Act).

The following points are made at this first phase of consultation:

- The Town strongly supports the protection and management of important and significant aboriginal places and objects through a clear legislative framework. There needs to be a clear relationship between the *Planning & Development Act 2005*, *Local Government Act 1995*, *Land Administration Act 1997*, *Mining Act 1978* and the Act so that staff operating within the provisions of the legislation are able to identify and advise when developers need to consider aboriginal heritage, and the process for considering heritage, in the determination of proposals.
- The process for exemptions on certain activities needs to be made clear, particularly in relation to applications for development approval under the *Planning & Development Act 2005* and Works and Services activities undertaken pursuant to Schedule 3.2 of the *Local Government Act 1995*.
- The declaration of clearly defined protected areas is one way of providing a mechanism to recognise aboriginal heritage. The Department should review why there have been no declaration of protected areas since the 1980's, review how other States in Australia consider protected areas, and propose an appropriate framework for protected areas in WA legislation based on the review. This review should also consider whether Registered Sites should be considered Protected Areas.
- The Aboriginal Heritage Inquiry System (AHIS) and Aboriginal Heritage Risk Matrix contained within the Aboriginal Heritage Due Diligence Guidelines are useful tools toward assessing whether development affects aboriginal heritage. It is recommended that any amended version of the Act includes similar supportive tools that can clearly be applied to proposals that may affect heritage, ensuring that reporting requirements are not onerous and supporting a streamlined planning framework. This includes clear processes to ensure certain assessment tools are used in the right circumstances, appropriate heads of power exist and

appeals processes are in place to determine possible conflicts. The use of appropriate planning assessment tools to support legislative provisions should be carefully considered and tested by the Department before implementing amendments to the Act.

- Clearly defined groups should be nominated for certain land areas or heritage sites to consult with when a proposal may impact those places. Legislation or subsidiary legislation should also be in place to ensure that no unreasonable financial obligations are imposed to undertake the consultation, and reasonable timeframes are included in legislation to ensure delays in the consultation process are minimised, enabling a streamlined planning process. A clear process should also exist for a third party to assist with resolving any roadblocks that may occur with required consultation groups.

The Town looks forward to release of the Discussion Paper later this year and for future opportunities to be involved in detailed review of the legislation.

If you have any questions, please contact the Town's Principal Planner Chaz Roberts on 9158 9328 or by email [croberts@porthedland.wa.gov.au](mailto:croberts@porthedland.wa.gov.au).

Yours sincerely,



David Pentz  
**Chief Executive Officer**

29 May 2018