

Proposal Number	Support/Not Support	City of Wanneroo Comments
<p><b>Proposal 1</b></p> <p><b>Repeal the Aboriginal Heritage Act 1972 and deliver new Aboriginal heritage legislation</b></p>	Support	<p>The Act is over 45yrs old. Few elements of the Act function well, however, overall to amend the Act to meet modern expectations and standards would be difficult to manage and could result in a far more cumbersome and unworkable piece of legislation. The parts which work, will be easier to retain and move across to a new Act than to 'retrofitting' the broken sections of the Act.</p>
<p><b>Proposal 2</b></p> <p><b>Extend the scope of what is covered by new legislation to include ancestral remains, places that are cultural landscapes and place-based intangible heritage.</b></p> <p><b>It is not proposed to extend the definitions in the new legislation to include intellectual property rights.</b></p>	Support	<p>Additional and updated definitions will allow consistency in interpretation, provide clarity and reduce doubt when using and interpreting the Act.</p> <p>The increase of scope to include ancestral remains, places that are cultural landscapes and intangible cultural heritage is considered appropriate and reflects how people interact, identify and associate with their environment and culture. It also reflects best practice and national standards.</p>
<p><b>Proposal 3(a) - Local Aboriginal Heritage Services</b></p> <p><b>Provide for the appointment of Local Aboriginal Heritage Services to:</b></p> <ul style="list-style-type: none"> <li>• <b>ensure the right people to speak for particular areas of country and related cultural heritage are identified;</b></li> <li>• <b>make agreements regarding Aboriginal heritage</b></li> </ul>	Support – in principle	<p>Yes in principle, direct involvement in decision making should be provided by local custodians who have a connection to and cultural responsibility.</p> <p><b>Concerns</b></p> <p>There is concern that depending on the area/local aboriginal community the capacity to provide this service may be limited.</p> <p>Some local custodians may have better capacity or larger networks. How will this new process ensure that those with a limited capacity are provided appropriate support to provide this service to land users, as there will be an expectation from land users for the delivery of this?</p> <p>An appropriate overarching framework should be provided to ensure consistency in process and determinations.</p> <p>This will give applicants and custodians clear guidance on the process and</p>

<p>management and land use proposals in their geographic area of responsibility</p>		<p>responsibilities of all parties in the process.</p>
<p><b>Proposal 3(b) - Aboriginal Heritage Council (AHC)</b></p> <ul style="list-style-type: none"> <li>• <b>Establish an Aboriginal Heritage Council (AHC) as the central body providing advice and strategic oversight of the Aboriginal heritage system.</b></li> <li>• <b>Abolish the Aboriginal Cultural Material Committee</b></li> </ul>	<p>Support in principle</p>	<p>The efficiency and effectiveness of the AHC will be the main driver in achieving desired outcome no.2 (Aboriginal heritage is respected and valued by the non-Aboriginal community). If the AHC is not afforded appropriate delegations or head of power, it will be perceived as another 'advice' provider and will not achieve respect or value by the non-aboriginal community.</p> <p>It is important that membership of the AHC is furnished by representatives from recognised Land and Sea Councils, to ensure Aboriginal People have the intended voice on decisions that affect their heritage.</p> <p><b>Concerns</b> Inclusion of a framework around decision making capacity of the AHC is imperative.</p>
<p><b>Proposal 3(c) – The Minister’s Role</b></p> <p><b>The Minister retains overall accountability and decision-making powers for the Aboriginal heritage system in Western Australia, but may delegate certain decisions and functions to the Aboriginal Heritage Council</b></p>	<p>Support – with concerns</p>	<p>Matters which do not require ministerial involvement due to their minor or agreed nature should not have to involve the Minister. If the Minister's involvement is still required for all outcomes (e.g. no delegated authority to the AHC), it will make the AHC redundant in terms of process efficiencies.</p> <p><b>Concerns</b> Potential for system to be clogged by matters where Minister and the Aboriginal Heritage Council disagree about what is going to have a significant impact on Aboriginal Heritage. Changes suggested would be to delegate overall accountability and authority to Aboriginal Heritage Council. Minister only given authority to intervene under legislation if projects meet a specific criteria which details that if project is not executed it will be significantly detrimental to the State. 'Significantly detrimental' to be defined very specifically in legislation to ensure transparency.</p>
<p><b>Proposal 3(d) - The role of the Department of Planning, Lands and Heritage</b></p> <p><b>The Department of Planning, Lands and Heritage remains</b></p>	<p>Support</p>	<p>This proposal will be effective if appropriately qualified and experienced staff are assigned by the Department.</p> <p>Ideally the Department of Planning, Lands and Heritage and the AHC should be equally supporting each other.</p>

<p>responsible for the day to day operation of the Act</p>		
<p><b>Proposal 3(e) – Heritage Professionals</b></p> <p><b>Aid people needing to engage a Heritage Professional with appropriate qualifications and experience, and promote higher standards by publishing on the Department’s website a public directory of Heritage Professionals and the standards required for heritage investigations, community consultation and reporting of heritage information.</b></p>	<p>Support in principle</p>	<p>Query regularity of updating the information and assessment criteria for heritage professionals listed. The Directory should be easy to use/reference such as a table that ticks the services or experience of the heritage professional(s). Allow those seeking services to be able to compare between professionals.</p>
<p><b>Proposal 4</b></p> <p><b>Retain the current form and function of the register of Aboriginal places and objects but rename it the Aboriginal Heritage Register</b></p>	<p>Support</p>	<p>Support the need for the register to be a trusted source of information. Action is necessary to reduce the perception of secrecy or mistrust in the database. To create a more simple and efficient way to register aboriginal heritage, may encourage registration and increase the utility of the register and trust in its completeness.</p> <p>Will provisions be made for those significant areas that Aboriginal people do not want publicly listed for cultural reasons?</p>
<p><b>Proposal 5</b></p> <p><b>Introduce a referral mechanism to facilitate tiered assessments of proposed land uses</b></p>	<p>Not Support</p>	<p><b>Concerns</b></p> <p>The proposal for the 'call-in' power could be perceived cynically. There should be a clear framework and triggers for what works or activities or actions require 'call-in'. It is acknowledged that things can be missed inadvertently in considered appropriate</p>

		triggers, however, it may be perceived by land-users that this 'call-in' power can be abused by vocal parties who do not agree with the 'triggers' or processes in place.
<b>Proposal 6</b> <b>Encourage and recognise agreement making</b>	Support	In principle the proposal should deliver the desired outcome. However, if a party feels the process is unfair or unbalanced, the agreement and trust in the process may not occur.
<b>Proposal 7</b> <b>Transparency and Appeals</b>	Support	Decisions being published will build confidence in the decisions and the process. Decisions should not be 'generic/template' decisions; they should be specific to the issue before the tribunal. If 'generic' or broad decisions are published, it will provide no more relevant information than a statement saying approved or refused and will therefore not deliver the desired outcomes.
<b>Proposal 8</b> <b>A modernised enforcement regime</b>	Support	Extending the limitation period from 12 months to 5yrs will discourage damage and destruction of aboriginal heritage. As the process for determination of land use matters is a slow cumbersome process for the land user, there is no incentive to avoid unauthorised damage to aboriginal heritage where the limitation is only 12 months. Compliance may be considered a more appropriate route.  <b>Concerns</b> Query regularity of compliance inspections.
<b>Proposal 9</b> <b>Protected Areas</b>	Support	Flexibility and active management will support compliance and participation in the process. Protected Areas can be appropriately managed and protected.