



# *ABORIGINAL HERITAGE ACT 1972 REVIEW*

## OVERVIEW OF PROPOSALS FOR NEW LEGISLATION

MARCH 2019

Following analysis of feedback received from Phase 1 of the public consultation process, and the legislation in other states and territories, a new system has been designed to protect Aboriginal heritage in Western Australia. The proposed new system aims to be equitable, efficient and consistent with modern heritage management best practice. Fundamentally, the new system:

- Recognises and respects **Aboriginal people** as **owners of, and primary holders of knowledge** about, their heritage;
- Emphasises **agreement making** based on respectful relationships between local Aboriginal people and land use proponents;
- Provides **transparent approvals** processes for land use proposals that are **tiered** according to the extent of the impact on Aboriginal heritage;
- Encourages **avoidance of damage** to Aboriginal heritage by providing the most **streamlined** processes to those land use proposals that can demonstrate little or no impact on that heritage;
- Gives **expert oversight** of the system through a new **Aboriginal Heritage Council** that will set standards and ensure they are met; and
- Fosters respect for Aboriginal heritage through effective **public awareness** strategies and an **updated enforcement regime**.

This brochure summarises the key components of the new system.

# NEW APPROACH TO DEFINING HERITAGE

- All Aboriginal heritage will continue to be protected, whether registered or not, until formal consent is given to it being impacted
- Place-based intangible heritage, cultural landscapes and ancestral remains will be specifically covered by adopting a definition of place based on the Burra Charter
- The importance of heritage will be determined by local Knowledge Holders who may or may not be Traditional Owners (unless it is of scientific value only)
- Local Aboriginal Heritage Services will ensure the right people speak for Country and facilitate agreements with land users

# NEW APPROACH TO LAND USE CONSENTS

- A referral process and tiered assessments will provide advice and efficient decision-making for land users
- Activities that have zero/low impact on heritage will benefit from a streamlined process
- Agreements between heritage owners and land users will be recognised and encouraged
- The Minister's consent will only be required for major impacts to heritage or if a State Significant Project is involved



# NEW STRATEGIC BODY

- A new skills based Aboriginal Heritage Council (AHC) will have strategic oversight of the Aboriginal heritage protection system
- The AHC will set and enforce standards of research, reporting and registration of Aboriginal heritage
- The AHC will oversee the operation of Local Aboriginal Heritage Services
- The AHC will advise the Minister on certain land use proposals
- The AHC will facilitate financial assistance for the conservation of Aboriginal heritage
- The AHC will be responsible for public education and promotion of Aboriginal heritage



# NEW CHECKS IN THE SYSTEM

- AHC and Ministerial decisions will be explained and published
- There will be equal rights of review and appeal
- There will be increased penalties
- The statute of limitations period will be increased



# COMMENTING ON THE PROPOSALS

Please read the full Discussion Paper, Consultation Paper and Key Themes and Summary of Issues Paper, which can be found at the department's website:

[www.dplh.wa.gov.au](http://www.dplh.wa.gov.au)

The feedback received from the Discussion Paper will be used to prepare a draft Bill which will be put out for public comment.



# HOW TO SUBMIT YOUR VIEWS

There are several ways to make a written submission:

Online: [www.dplh.wa.gov.au](http://www.dplh.wa.gov.au)

Email: [AHAreview@dplh.wa.gov.au](mailto:AHAreview@dplh.wa.gov.au)

Post: Assistant Director General,  
Heritage Services  
Department of Planning,  
Lands and Heritage  
Locked bag 2506  
Perth WA 6001

Phone for enquiries: (08) 6551 8002

As with Phase 1 of the consultation process, all feedback will be published on the department's website.

**All written submissions must be received by 31 May 2019.**