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To Whom it May Concern

#### ABORIGINAL HERITAGE ACT 1972 (WA) REVIEW – PUBLIC COMMENT SUBMISSION

The following correspondence is in response to the recently published Consultation Paper addressing current state government processes to review the *Aboriginal Heritage Act 1972* (AHA). I wish to provide feedback to further inform this process. I do this on behalf of myself as someone who has worked for more than a decade for both private business and local government as a heritage coordinator. I am also in my final year of study at the University of Western Australia, completing a Master of Arts in Indigenous Heritage Studies. It is because of this combined professional and tertiary background that I provide the following feedback.

I note that the history of heritage management in Western Australia has, since its inception, been separated into two parts; Aboriginal and Non-Aboriginal. The AHA and the *Heritage of Western Australia Act 1990* (HWAA) both attempt to provide certainty for and protection of heritage in Western Australia. In each case however, the origins of the legislation and the resulting way in which heritage is defined and afforded protection varies.

The rationale for maintaining separate heritage legislation is unclear. It has been suggested amongst academic circles that the separation in heritage management prevents consistency and inclusivity, instead encouraging inequality and segregation between Aboriginal and non-Aboriginal Western Australians.

Whether of Aboriginal origin or not, 'heritage' is a shared asset to the entire Western Australian community. Western Australia's pre- and post-contact history is unique and should underpin a shared cultural narrative, the resulting heritage of which should be protected under a single management framework. This view is supported by the recent amalgamation of the former state departments of Planning, Lands, the State Heritage Office and the heritage functions of the Department of Aboriginal Affairs. That is, the once separate departments who administered the AHA and HWAA now exist in the same department.

I question why both pieces of legislation are therefore not being reviewed concurrently with the view to producing a single piece of guiding legislation. Looking beyond heritage legislation and the departments that administer the legislation, examples of consolidated acts do exist in Western Australia. The *Water Services Act 2012* for example replaced complex and outdated legislation distributed across nine Acts; some that had been in operation for over 100 years.

Looking further abroad, a single heritage management framework in post-apartheid South Africa affords equal protection to all heritage regardless of its origin. The Republic of South Africa's *National Heritage Resources Act 1999* (NHRA) makes provision for all manner of heritage whether it be material remains of human activity, rock art, wrecks of any vessel or aircraft and/or features, structures or artefacts associated with military history. The NHRA emphasizes the importance of shared heritage in creating identity. In much the same way the *Heritage New Zealand Pouhere Taonga Act 2014* provides for the protection of pre- and post-contact and stresses the value in adopting a collaborative approach New Zealand's heritage.

Moving beyond whether a single or dual management framework should exist for Western Australian heritage, there are several legacy issues that must be addressed in a legislative revision. Namely the following:

- Convoluted and time-consuming processes associated with the administration of the AHA particularly in relation to Section 18;
- An Aboriginal Site Register that currently contains inaccurate and outdated data;
- Inadequate penalties in relation to the unauthorised disturbance of heritage;
- The propensity of the AHA to address heritage in the context of objects and/or sites that are finite as opposed to heritage values at a landscape scale or those aspects of heritage that are intangible; and
- The limited role of Traditional Owners in relation to the ongoing management of heritage including their inclusion in consultative processes.

It was during the 1960's that, under the guidance of anthropologist Professor Ronald Berndt, Western Australia was at the forefront of developing Aboriginal heritage legislation. The state's failure to update the AHA in response to major industry breakthroughs like the publishing of the Burra Charter however has meant that Western Australia and has fallen behind. Now is the time to once again take lead in relation to heritage management and challenge the status quo regardless of how 'difficult' it may be.

I look forward to ongoing consultation and participation in relation to the revision of the AHA. Should you need further clarification in relation to any aspect of the above please do not hesitate to contact me on [REDACTED] or alternatively via email at [REDACTED]

Kind Regards

Kobi Bradshaw-Chen