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Mr Graeme Gammie
Assistant Director General
Heritage Services
Department of Planning, Lands and Heritage
PO Box 7479 Cloister's Square
WA 6850

Submission on the Review of the Aboriginal Heritage Act 1972 Consultation Paper

Please find my submission for the Review of the *Aboriginal Heritage Act 1972* Consultation Paper (March 2018). I have made a number of recommendations for this first round review:

- 1) There is a need for a new Aboriginal Heritage Act as it does not accommodate;
 - a. Current best-practice in heritage management;
 - b. The post-native title, corporation and IPA environment; or
 - c. The increased volume of s16 and s18 applications submitted.

- 2) There is a need to embed a values-based approach to heritage (e.g. *The Burra Charter: the Australian ICOMOS charter for places of cultural significance*) as:
 - a. The actual or perceived significance of places, sites and objects is opaque;
 - b. Many significant places, such as missions and contact sites, are silent; and
 - c. The social significance of sites to Owners/Custodians is 'fossilized' in time.

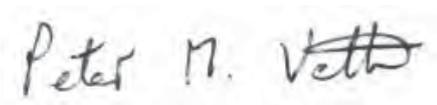
- 3) The Aboriginal Cultural Materials Committee (ACMC) should be abolished, as:
 - a. It can no longer fulfil the objectives of the AHA given ambiguities in s5;
 - b. It structurally conflates site assessment and decisions to use land/sites;
 - c. Treatment of Aboriginal heritage is inconsistent with other statutes; and
 - d. There are negligible/inefficient appellant rights given in camera decision-making.

- 4) The APMC should be replaced by two bodies, the *Heritage Advisory Council*:
- a. The *Council* could ensure Aboriginal values were assessed at the regional level;
 - b. It would comprise Indigenous and non-Indigenous heritage specialists;
 - c. It would transmit Aboriginal values into a transparent values-based framework; and
 - d. It would be semi-autonomous receiving materials from senior DLPH staff;
- And a *Heritage Division* of the State Administrative Tribunal which would;
- a. Provide the right of review in a transparent manner to affected parties;
 - b. Underwrite facilitated and/or mediated outcomes for heritage and proponents;
 - c. Separate the assessing of significance and impact by the same body;
 - d. Allow resolution of conflicts on site significance and use in a more timely fashion; and
 - e. Encourage compliance with Cultural Heritage (co)-Management Plans and regional agreements with both native title and non-native title parties.

A large number of heritage practitioners within NTRBs, industry, the academy and consultancy have multi-decadal experience which can be drawn on in this heritage reform process. Benchmarking the Western Australian legislation against other jurisdictions, values-based approaches such as the *Burra Charter*, and giving adequate voice to Aboriginal people and their rights under Native Title Act and co-management is more likely to lead to harmonized protection and management of sites and superior resolution of conflicts.

I commend the Government for the inclusive nature and high standards of this consultative process.

Yours sincerely,



(Professor) Peter Veth FSA MAACAI FAHA
Professor of Australian Archaeology
Kimberley Foundation Ian Potter Chair in Rock Art
School of Social Sciences • M257 • 1.19 Old Economics Building • 35 Stirling Highway • UWA • 6009 •
T+61 8 6488 2863 • M +61 49 793 8486 • E sven.ouzman@uwa.edu.au • W [Archaeology](#) & [CRAR+M](#)