CENTRAL DESERT NATIVE TITLE SERVICES

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Assistant Director General, Heritage Services
Heritage Services
Department of Planning, Lands and Heritage
PO Box 7479 Cloisters Square
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By Email: *AHAreview@dplh.wa.gov.au*

Dear Mr Gammie,

Aboriginal Heritage Act 1972 (WA) – Response to Consultation Paper

1. These submissions are made on behalf of the Central Desert Group **(CDG)** which, for the purposes of these submissions comprises the Central Desert Native Title Services (CDNTS) the recognized native title service provider for the native title claimants and holders of the Central Desert region, and, Desert Support Services (DSS) a wholly owned subsidiary of CDNTS who support Indigenous organisations to maximise the beneficial use and management of their lands and to build and run strong Indigenous land holding and management organisations.

2. The submissions are made in response to the "*Review of the Aboriginal Heritage Act 1972 Consultation Paper:* March 2018"**.**

3. The term Traditional Owner is used throughout these submissions to refer to people who under their traditional laws and customs have the cultural and decision-making authority to deal with matters of heritage and includes common law holders of native title rights and interests.

General Comments

4. The *Aboriginal Heritage Act 1972* (WA) **(AHA** or **the Act)** has been the subject of a number of reviews over the years, the most recent having been undertaken in 2012. Despite the number of reviews, the AHA remains ineffective in protecting Aboriginal heritage and can be described as a relic reflective of bygone times and attitudes.

5. CGD view is that the AHA should be replaced with a new act. This is particularly so given the extensive revision that the current AHA would require in order to ensure that it achieves the objective of protecting Aboriginal heritage. A new act, or an overhaul of the AHA must enshrine Aboriginal values and Aboriginal participation in best practice processes around cultural heritage management. A new act is also the opportunity to replace the inefficient process which consume the resources of all parties, which would be better invested in proactively managing cultural heritage.

6. In undertaking this review, the State Government should look to, and be guided by, the *United Nations Declaration on the Rights of Indigenous Peoples* **(Declaration)**, endorsed by Australia in April 2009.

7. The Declaration provides definitively that Indigenous People should not be subjected to the destruction of their culture[1]. Articles 11 and 12 of the Declaration go on to state that:

   Article 11

   1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

   2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

   Article 12

   1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

   2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

8. It is vital that the AHA embodies these principles in the relevant Articles, and recognises that culture is not static, it can be revitalised and evolve and still be traditional.

9. CDG also draws your attention to the *Australia ICOMOS Burra Charter 2013, Statement on Indigenous Cultural Heritage* and *The Burra Charter and Indigenous Cultural Heritage Management Practice Note* which sets out best practice principles for the conservation and management of places of cultural significance.

Intersect between heritage and native title

10. It has been long accepted that native title rights and interests include the right to maintain and protect sites and areas which are of significance to the common law holders under their traditional laws and customs. Where exclusive possession is found, native title also includes the right to possess, occupy, use and enjoy the land and waters of the determination area to the exclusion of all others, including:

    (a) the right to make decisions about the use and enjoyment of the determination area; and

[1] Article 8

(b) the right to control access to, and activities conducted by others on, the land and waters of the determination area.

11. There is no recognition of native title rights and interests of Traditional Owners in the AHA. While procedural fairness may oblige the Aboriginal Cultural Material Committee **(ACMC)** to consult with native title holders and claimants, the bottom line is that the AHA does not reflect the fundamental connection between Aboriginal heritage and the native title rights, interests and obligations of Aboriginal People under their traditional laws and customs.

12. The AHA in essence is an administrative process for "dealing with" Aboriginal sites and objects, and successive State Governments have demonstrated that "dealing with" means approving the destruction of Aboriginal sites and areas of significance which are effectively deemed to be 'in the way' of mining and associated development. The lack of an enshrined Aboriginal voice, and the conflicting roles of the Minister to preserve sites and objects on "behalf of the community[2]" while administering the "general interest"[3] test in relation to consents to damage or destroy cultural heritage means that the rights and interests of Aboriginal People in relation to their own culture are second to that of industry and community.

13. The AHA takes responsibility for decision-making about the protection, conservation and management of Aboriginal sites away from Traditional Owners and instead gives it to committees and Ministers, even where native title has been found to exist.

14. The AHA processes also provide avenues for increased conflict between proponents and native title parties, particularly where engagement is at a late stage of planning for the proponent. The protection and management of Aboriginal heritage is often dealt with through the NTA future act processes. Proponents and native title parties for the most part, enter into agreements which provide mechanisms to ensure sites, areas and objects of significance are protected from any activity that the proponent will undertake. However, there will always be instances where parties do not come to such an agreement, and proponents rely heavily on their ability to obtain section 18 consents to strong arm Traditional Owners into accepting "something is better than nothing" type arrangements.

15. The damage that section 18 consents cause not only to areas and sites of significance, but to communities and law and culture can be irreparable. The AHA should promote, and in fact require, parties to work together early in the planning process to manage cultural heritage. Although the NTA future act provisions are far from an ideal model, the 'right to negotiate' provisions requirement for parties to sit down and talk to each other has promoted greater understanding of the issues each face and often result in mutually beneficial outcomes.

16. In addition to the fact that native title and the protection of Aboriginal heritage are inexorably linked, native title parties seek to enter into heritage based future act agreements because the AHA fails to provide the protection required.

17. This failure has been well documented over the years, including by the Western Australian Auditor General in the report "Ensuring Compliance with Conditions of Mining"[4]. CDG draws your attention to the fact that the National Native Title Tribunal **(NNTT)** in a number of inquiry

[2] AHA Long Title
[3] Section 18(3) of the AHA
[4] Report 8, September 2011

matters[5] has adopted the findings of the report relating to the WA's heritage regime. When considering the contentions by the State Government that the regulatory regime in Western Australia is sufficient to ensure that "future acts"[6] that attract the "expedited procedure"[7], "is not likely to interfere with areas or sites of particular significance"[8] the NNTT has specifically considered and accepted, the findings of the Auditor General that because of the failure of the Department of Aboriginal Affairs to effectively monitor compliance with heritage protection conditions placed on mining operations, sites have been lost and damaged without the State knowing, or doing anything about it[9]. The NNTT was of the view that it was possible and reasonable to extrapolate this finding to exploration activities[10].

18. Although there have been subsequent reports which suggest compliance with mining conditions has improved, it is our view that the AHA remains woefully inadequate in protecting Aboriginal heritage[11].

19. CDG submits that the AHA needs to align with the NTA and recognise that Aboriginal heritage does not sit in a silo separate from native title rights and interests.

Purpose of the Act

Is the long title an adequate description of what the amended Act should set out to do? If not, what changes should be made?

20. The long title of legislation attempts to provide a snapshot of the purpose of the particular piece of legislation.

21. An 'Aboriginal Heritage Act' should:

    (a) Acknowledge that Aboriginal heritage and culture is living and dynamic;

    (b) Provide for the protection, preservation, conservation and management of Aboriginal heritage in accordance with internationally recognised best practice;

    (c) Recognise that Traditional Owners are the custodians of Aboriginal heritage and knowledge and information regarding Aboriginal heritage;

    (d) Provide that the protection, preservation, conservation and management of Aboriginal heritage should be with the informed consent, and, at the direction of Traditional Owners; and

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[5] Karajarri Traditional Lands Association (Aboriginal Corporation)/Western Australia/ASJ Resources Pty Ltd, [2012] NNTTA 18 (24 February 2012)
Cyril Barnes and Others on behalf of Central East Goldfields People/Western Australia/Karl Christian Pirkopf, [2012] NNTTA 50 (9 May 2012)
[6] As that term is defined in the *Native Title Act 1993 (Cth)*
[7] As that term is defined in the *Native Title Act 1993 (Cth)*
[8] Section 237(b) of the *Native Title Act 1993 (Cth)*
[9] *see n4 at page 7*
[10] *see n8 at para 49*
[11] https://audit.wa.gov.au/reports-and-publications/reports/ensuring-compliance-conditions-mining-follow/better-oversight-mines-aboriginal-heritage-sites-department-aboriginal-affairs-needs-complete-system-improvements/

(e) Highlight the importance of Aboriginal culture and heritage to the State and the wider community.

22. The current long title does not describe what CDG, and its constituents, believe should be in an amended Act.

Roles under the Act

What do you think are the best ways to ensure the appropriate people are consulted about what Aboriginal heritage places should be protected and how a proposal may impact those places?

23. It is a complete travesty that an Act about protecting Aboriginal heritage provides no explicit requirement for relevant Traditional Owners to be at least consulted about what happens to their cultural heritage.

24. Traditional Owners must be the ones to make decisions about matters affecting their cultural heritage and must be provided with the opportunity to exercise their right to protect culture and their right to self-determination. This should be explicit in the AHA.

25. The AHA should require that the following people participate in any decision-making process in relation to an area:

    (a) Determined native title holders through their nominated PBC;
    (b) Registered native title claimants;
    (c) persons named as informants on Aboriginal site recording forms held in the Register; and
    (d) any other Aboriginal people who can demonstrate relevant cultural knowledge in a particular area, including unregistered native title claimants.

26. Ideally, Traditional Owners should be given the right to negotiate and approve cultural heritage management plans and to veto the destruction of their cultural heritage. Agreed cultural heritage management plans could conceivably become a required deliverable of future act processes under the NTA, and failing that, be required by the State before any activity that impacts sites may proceed.

Wardens

27. The concept of "Honorary Wardens" is one that is firmly stuck in the 1970s and should be removed from the AHA. Instead, the State Government should incorporate the use of culturally authorized ranger teams to perform a range of functions under the AHA, such as those outlined in section 51 of the Act.

28. It should be said that it is important for the State to bear in mind that PBCs and native title claim groups are the first point of contact for the State's engagement with Traditional Owners, and that the involvement of ranger teams in such work should be negotiated with the relevant PBCs and native title claim group. Additionally, it would be important to ensure that there is no confusion about the role of rangers undertaking "warden" or fee-for-service monitoring type duties with the PBC or Applicant to be consulted and make decisions in relation to the protection of cultural heritage.

29. The State Government currently provides grants for Aboriginal not-for-profit organisations to preserve and promote Aboriginal sites[12]. It also provides grants to support Aboriginal ranger programs[13], including support for cultural site management and cultural awareness activities run by those ranger groups, and, contracts ranger groups through fee-for-service arrangements to provide various land and sea management services to the State[14]. The latter is complimentary to the significant investment already being made by the Australian Government and private organisations[15] in Aboriginal ranger programs in WA.

30. It is therefore possible and appropriate that Ranger teams be used for monitoring of compliance with the AHA, subject to appropriate funding or fee for service arrangements. Ranger teams could be appointed by the Minister pursuant to section 9 of the current AHA to exercise the duties and powers of the Minister which relate to monitoring and auditing compliance with the AHA and conditions imposed on section 18 consents. There is no need to wait for an amended, or new, AHA for this to occur.

31. An on-going presence of ranger teams will also increase the likelihood that damage or interference with sites is detected sooner after the event, thereby making collection of evidence required for prosecution more timely and efficient. Presence of ranger teams more importantly will also reduce the likelihood that sites will be damaged in the first place.

32. In addition to the obvious benefit that increased monitoring and auditing would have for the State Government, formally tasking ranger teams with these duties creates long term and viable employment opportunities for Traditional Owners and empowers them to use and manage their traditional lands to advance their social, cultural and economic futures.

Are the roles and functions assigned under the Act sufficiently clear and comprehensive to fulfil the objectives of the legislation to preserve Aboriginal heritage places and objects? If not, what changes in role and functions would you suggest?

33. Although the AHA may have been enacted with good intent, there is no doubt that the roles and functions assigned to the ACMC and Minister in particular, have resulted in the loss of significant areas of cultural, community and scientific significance.[16]

Role of the ACMC

34. CDNTS submits that the ACMC should be disbanded and removed from the AHA, or not included in a new act.

35. The functions bestowed on the ACMC, including to make evaluations about the significance of places and objects, and to make recommendations about whether places may be impacted upon is inappropriate. The ACMC are made up of a group of people appointed to the role and who

[12] https://www.daa.wa.gov.au/heritage/site-preservation/grant-program/
[13] https://www.dpaw.wa.gov.au/parks/aboriginal-involvement/504-aboriginal-ranger-program
[14] for example, Wiluna Martu rangers contracted to provide biodiversity conservation services on Matuwa and Kurrara Kurrara IPA
[15] for example, BHP Billiton Foundations's recent significant investment in the 10 Desert's Project (see https://tendeserts.org/)
[16] some examples of loss include removing the protected area status over Woodstock/Abydos to allow for construction of a railway, the removal of petroglyphs from the Burrup Peninsula to construct an LNG plant, destruction of grave sites, rock shelters and caves to allow the 'Solomon Hub' mining operations

culturally do not have authority to make decisions about other people's country. Missing from the committee is the voice of the Traditional Owners themselves. Aboriginal sites and objects should only ever be dealt with in accordance with traditional law and culture and should never be subject to consideration and decisions by non-Indigenous People and Indigenous people who are not members of the relevant Traditional Owner group.

36. Recommendations of the ACMC to the Minister can be made on very limited information and without an understanding of the broader cultural landscape within which sites are located.

37. There is pressure from the proponents for approvals to be granted quickly, and often this has resulted in section 18 applications being pushed through with scant information, lack of engagement with Traditional Owners or dubious processes (such as not involving the right people on heritage surveys).

38. Where it is the case that land use could or will impact a site or area of significance and there is no pre-existing agreement between a proponent and Traditional Owners about heritage management, the matter should be referred to the relevant representative body, such as the prescribed body corporate. The proponent should be required to seek the consent of the Traditional Owners and develop a heritage management plan. To assist this process, the ACMC should be replaced with a panel of 'experts' for example, ethnographic, archaeological, historical who can assist with and mediate the process.

39. Of course, there are always going to be matters that cannot be resolved to the mutual satisfaction of both parties, and to that end the establishment of a body which can arbitrate proceedings should be considered. It is important to note that the AHA as it currently stands has no mechanism by which decisions of the Minister can be appealed on behalf of Traditional Owners, and as such it is important that the right to appeal decisions is enshrined in amended legislation.

40. The process outlined above also has the added advantage of encouraging proponents to genuinely engage with Traditional Owners as part of the NTA's future act processes. One of the biggest fears of proponents is delay and having what is in effect a two-step process for engagement on matters of heritage means that there is an added incentive for proponents engage in good faith.

Role of the Minister

41. The Minister wields a significant amount of power when it comes to a decision whether cultural heritage is preserved or destroyed and as noted above, there is no ability for Traditional Owners to appeal such decisions.

42. For example, section 18(3) of the AHA requires the Minister to consider the recommendations of the ACMC and have regard to the "general interest of the community". This term is not defined by the AHA. It appears from the history of consents granted that the "general interest of the community" test is applied in such a way that the "interest" is an economic one, driven by the needs of the mining industry. It seems that the economic interests of industry (and/or the State) takes precedence over the cultural interests of Traditional Owners, which goes against the

objective of the AHA to preserve and protect Aboriginal heritage. Yet, there is no mechanism built into the AHA that allows Traditional Owners to challenge a decision of the Minister.

43. CDG recalls the radio interview where Peter Collier, the then Minister for Aboriginal Affairs, talked about his friend Andrew Forrest from whom he took "guidance and great advice from his wisdom"[17]. At the same time, Mr. Collier was dealing with a number of applications from FMG to destroy sites to make way for mining operations in the Pilbara. FMG successfully obtained section 18 approvals to destroy sites as well as the removal of conditions on section 18 consents. Despite the obvious perception of bias and conflict, there was no way for the Yindjibarndi Traditional Owners to appeal these decisions of the Minister.

44. It is hoped that by making substantial amendments to the AHA such as allowing Traditional Owner participation in decision making and abolishing the ACMC to allow for a more representative and proactive process, the role of the Minister, at least in relation to consents to impact areas of significance, would be less open to bias, and, more focused on culture and not just economic opportunities.

Role of the Registrar of Aboriginal Sites

45. We have already discussed at numerous points in this submission, the absence of Traditional Owner voices in the Act. Functions, such as the examples below, are able to be performed or undertaken by the Registrar without any formal input or recourse to Traditional Owners:

    (a) Excavation of Aboriginal sites (section 16);
    (b) Marking of boundaries or erection of fences or structures on or around protected areas (section 23(1)).

46. The AHA needs to be amended so as to ensure that the Registrar has the involvement of Traditional Owners when exercising its functions under the Act.

Aboriginal Sites

Does section 5 adequately describe the sorts of places that should be protected under the amended Act? If not, how can it be improved?

47. The definition of Aboriginal sites in the Act is very narrow. It does not reflect the complexity of Aboriginal culture including the way in which places and areas of significance are interconnected. The current definition essentially isolates and silos sites which means the totality of cultural values are not properly recognised or considered in decision making.

48. CDG notes that the restrictive nature of the definition of Aboriginal sites in the AHA is at odds with the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)* which refers to "significant Aboriginal area" and where "area" is defined to include a site.

49. The definition of Aboriginal sites in the AHA is also another example of where the AHA and the *Native Title Act* fail to align. Section 237(b) of the *Native Title Act* refers to both "areas" and

[17] https://www.theaustralian.com.au/national-affairs/state-politics/clan-fury-as-mp-clears-hurdle-for-friend-andrew-forrest/news-story/d2d3ad3dbfa774232f9e4e9ac4ea8288?sv=86389cdf295c178209eb577365d5702d

"sites" of significance thereby recognising that significance may be attached to broader geographical localities.

50. The AHA as it stands therefore also limits the ability of sites to be considered within the context of a "site complex", or the connectivity of sites or the significance of a particular site within a wider cultural landscape. The effect of this is that the ACMC and the Minister look at sites singularly and are not assessing the real impact of the grant of section 18 consents on Aboriginal heritage (and traditional law and culture).

Aboriginal Objects

Do section 6 and Part VI adequately describe the sorts of objects that should be protected under the amended Act? If not, how can they be improved?

51. Any object with Aboriginal cultural significance should be protected under the AHA, and, should be dealt with at the instructions of the relevant Traditional Owners.

52. Objects should also remain the property of, and in the custody of Traditional Owners unless they have otherwise so directed.

Aboriginal Ancestral (Skeletal) remains

Should the Act provide for the management of Aboriginal Ancestral (Skeletal) remains? If so, what needs to be considered?

53. The AHA should provide for the management of Aboriginal Ancestral remains, including repatriation, however how remains are handled and what becomes of them is the right of Traditional Owners. To the extent that remains may be of scientific value, it should incumbent on the State, or any other party, to seek the consent of the relevant Traditional Owners before undertaking any scientific studies or tests.

54. The State should provide the necessary resources, assistance and expertise to ensure that remains are dealt with in accordance with the relevant traditional law and culture.

55. All remains held by the State or State institutions should be repatriated.

Protection and enforcement

What sort of activities that may affect an Aboriginal site should require consent or authorisation?

56. Any activity that may affect an Aboriginal area of significance should require the consent and authorisation of the relevant Traditional Owners before being undertaken, except of course those being undertaken by the Traditional Owners themselves in accordance with traditional law and custom or in the exercise of their native title rights and interests.

What should be the criteria against which to evaluate an activity that may affect a site? (E.g a proposal to use or develop land)?

57. This question appears to be attempting to find ways, a tick the box or ranking system, to make it even easier, or more efficient, for the ACMC to recommend the granting of section 18 approvals.

58. CDG submits that the way to evaluate an activity that may affect a site is to talk to the people who have traditional and cultural responsibility for the relevant site or area.

59. Impact on a site goes beyond just the physical and localised impact of activities. In the case of songlines, and dreaming tracks, the impact can be wide ranging for many groups and many individuals. Impacting, damaging, destroying a site in Country A can mean destroying a site, a story and the culture of people from Country B.

How can "impact" arising from proposals for land use on sacred sites that do not have physical cultural elements be assessed?

60. The simple response to this question, as above, is to go to the source of what is being impacted, that is, the Traditional Owner group, their culture and their native title rights and interests.

Who should provide consent or authorisation for proposals that will affect Aboriginal sites?

61. As CDG has stated a number of times, Traditional Owners for the relevant area should provide consent for the implementation of proposals that will affect their areas of significance. Traditional Owners will make decisions, in accordance with their own laws and customs about matters relevant to them.

To what extent is the current section 18 process effective and how can it be improved?

62. The section 18 process has been effective in destroying Aboriginal sites and areas of significance, predominately by placing a higher importance on the granting of speedy approvals for mining activities.

63. The section 18 process has not been effective in protecting, preserving and managing Aboriginal cultural heritage.

64. We refer to paragraphs 38 to 40 about how the process could be improved.

65. CDG also contends that the granting of a section 18 consents by the Minister is a "future act" for the purposes of the NTA. Section 18 consents impact on the native title right to maintain and protect sites (and areas of significance), and, for those areas where exclusive native title exists, it affects the rights to make decisions about the use of land and the control of the activities of others.

What provisions could be included in an amended Act to ensure the long-term protection of Aboriginal sites where alternative statutory arraignments did not apply?

66. We refer you to paragraphs 38 to 40.

Are the enforcement provisions under the Act adequate to protect sites? If not, how can they be improved?

67. CDG submits that the current enforcement provisions are inadequate to protect sites.

68. The vastness and remoteness of Western Australia means that the State will likely never properly resource its agencies to monitor and audit compliance with the AHA and will therefore continue to rely on industry self-regulation. Of course, it is not just industry who pose a threat to Aboriginal sites, objects and areas of significance, tourists have caused significant damage to areas in the Central and Western Desert Regions.

69. The solution to this is supporting and enhancing the capabilities of Traditional Owners to do this work through Ranger teams. It is cost effective, and appropriate for Ranger teams to be resourced by the State to monitor compliance with the AHA, enforce conditions on consents and see that management plans are adhered to.

70. CDG would also support increased penalties for breaches of the Act, however, while penalties are a deterrent, it may not be enough of a deterrent given the general knowledge that prosecution under the Act is nearly impossible and is rarely undertaken. Increased penalties need to go hand in hand with increased monitoring and compliance measures, because ultimately the aim is to protect sites from damage in the first place.

Are the current penalties under the act adequate? If not, how can they be improved?

71. While GDG is generally supportive of increasing penalties, penalties will only be a deterrent and assist in improving compliance if there is a high chance that non-compliance will be quickly detected, and that prosecutions will be initiated. The major issue with the penalties under the Act is that they are rarely used due to the State's under resourcing of compliance monitoring and the consequent difficulty in prosecuting non-compliant activity even if it is eventually investigated. People who breach the Act are rarely prosecuted.

Site assessment and registration

Should a defence continue to be provided where the disclosure of information (section 15) is against customary laws/protocols?

72. CDG submits that no Traditional Owner should be compelled to disclose information regarding their traditional laws and customs, or cultural heritage, particularly where that information is secret or sacred.

73. Perhaps rather than the provision of a 'defence', it instead should be an exception. An exception should also apply to people who have been entrusted with information but may not be Traditional Owners (such as anthropologists, etc.).

Are the criteria or assessing the significance of sites under section 39(2) and (3) adequate to evaluate whether a site should be added to the register? If not what should the criteria be to assess the significance of a site?

74. CDG submits that the criteria set out in sections 39(2) and (3) of the AHA are not adequate to evaluate whether a site should be added to the Register.

75. Firstly, as set out in paragraphs 47 to 50 above, the definition of an "Aboriginal site" is so narrow that it does not accurately reflect how Aboriginal law, culture and traditions view the landscape and therefore removes the ability to register 'areas' of significance, site complexes and sites that are geographically distant but connected by stories and songs.

76. The language of section 39(3) particularly narrows even further the possibility that a place is eligible to appear on the Register by use of the words "sacred beliefs, ritual or ceremonial usage". Sites, places, areas and indeed objects, maybe of cultural significance or importance even if they do not fall into the realm of sacred (which usually implies secret or gender or status restricted), ritual or ceremonial uses.

77. Section 39, like the rest of the Act, should be modernised to reflect knowledge and information held by Traditional Owners pursuant to their traditional laws and customs.

What should be the steps to report, nominate, assess, enter, amend or remove an entry from the Register?

78. The reporting, nominating, assessing, entering, amending or removing an entry from the Register should be the decision of the relevant Traditional Owners.

General

What do you think is missing from the act?

79. The AHA clearly lacks a legitimate Aboriginal voice, this needs to be rectified as part of the amendments or through the enactment of a new best practice, progressive act which accords with the Declaration.

What sections, if any, do you think should be removed from the amended Act, and why?

80. CDG submits that it would actually be more beneficial to repeal the AHA and replace it with a new legislative instrument which embodies best practice in cultural heritage protection, preservation and management, and which demonstrates that WA is seriously committed to looking after its cultural assets.

Yours sincerely

Ian Rawlings
Chief Executive Officer