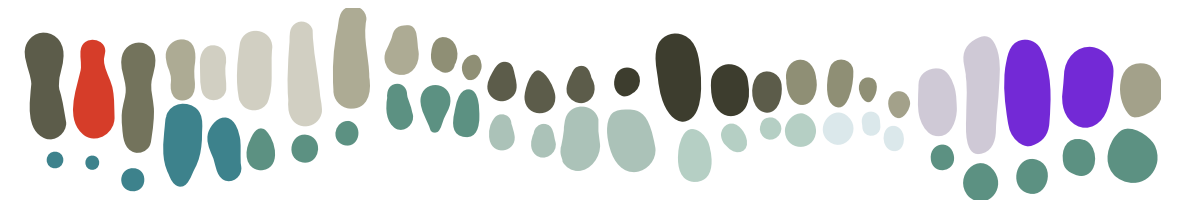


# Aboriginal Cultural Heritage Bill 2021



Clause [Consultation draft]	Change(s) made	Reason for change
<b>Part 3 Provisions of general application</b>		
10. Aboriginal Cultural Heritage and related terms	<ul style="list-style-type: none"> <li><b>[Amendment]</b> The definition of Aboriginal cultural heritage has been amended to link it to Aboriginal tradition and now includes a definition of intangible Aboriginal cultural heritage.</li> </ul>	<ul style="list-style-type: none"> <li>Aboriginal stakeholders and heritage professional groups raised concerns that the Bill does not adequately cover intangible Aboriginal cultural heritage and that intangible Aboriginal cultural heritage is not separately defined.</li> <li>Amendments to the Aboriginal cultural heritage definition respond to concerns that the definition was unclear, industry stakeholders requested for the term to be linked to the definition of Aboriginal tradition.</li> <li>Definitions for Aboriginal cultural heritage and intangible Aboriginal cultural heritage separated for clarity as requested by some stakeholders.</li> </ul>
14. Act binds Crown	<ul style="list-style-type: none"> <li><b>[Deletion]</b> The following paragraph has been removed: 'Nothing in this Act makes the State, or the Crown in any of its other capacities, liable to be prosecuted for an offence.'</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Aboriginal stakeholder concerns that the provision provided that the State or Crown is not liable to be prosecuted for an offence under the Act. The amendment means that State or the Crown is now liable for prosecution for an offence.</li> </ul>
New	<ul style="list-style-type: none"> <li><b>[Addition]</b> New clause added to ensure that culturally sensitive information is not required to be provided as part of Freedom of Information (FOI) requests.</li> </ul>	<ul style="list-style-type: none"> <li>Clause was added in response to Aboriginal stakeholders concerns regarding the disclosure of culturally sensitive information as part of FOI requests. This has been an ongoing issue in regards to FOI request relating to approvals under the <i>Aboriginal Heritage Act 1972</i> (1972 Act).</li> </ul>
<b>Part 4 Aboriginal Cultural Heritage Council (ACH Council) and local Aboriginal cultural heritage services (LACHS)</b>		
17. Membership	<ul style="list-style-type: none"> <li><b>[Amendment]</b> The Minister will appoint two Aboriginal co-chairpersons (one female and one male) rather than appointing a chairperson and a deputy chairperson.</li> <li><b>[Amendment]</b> The Minister must ensure (as far as is practicable) that the majority of members of the ACH Council are Aboriginal people rather than just giving preference to Aboriginal people.</li> </ul>	<ul style="list-style-type: none"> <li>The Government's Aboriginal Advisory Council WA recommended that the ACH Council should have co-chairpersons (one female and one male) to appropriately manage gender-restricted information as part of any applications.</li> <li>Change in response to Aboriginal stakeholder feedback that the ACH Council should have majority Aboriginal membership.</li> </ul>
34. Appointment of LACHS	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Requirements for designation (formerly appointment) have been expanded to ensure that the person: <ul style="list-style-type: none"> <li>has the endorsement of both registered native title bodies corporate or registered native title claimant for the area or part of the area;</li> <li>has sufficient support of the local Aboriginal community in the area to enable it to provide all LACHS functions (as opposed to just consultation); and</li> <li>is able to engage and negotiate as appropriate (rather than just promote negotiations).</li> </ul> </li> <li><b>[Deletion]</b> Requirement for the person to be impartial has been removed.</li> </ul>	<ul style="list-style-type: none"> <li>Change to respond to Aboriginal stakeholder concerns that the endorsement of Native Title (NT) parties as a requirement for the appointment as LACHS, was not adequately addressed in drafting.</li> <li>Change in response to Aboriginal stakeholder concerns regarding the impartial criteria. In particular Prescribed Bodies Corporate (PBC) were concerned this criterion may conflict with their statutory functions as a PBC.</li> </ul>
37. Suspension or cancellation of appointment of LACHS for area	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Clause expanded to allow for the suspension or cancellation of designation as LACHS for all <i>or part</i> of an area.</li> <li><b>[Addition/Amendment]</b> The Minister or the ACH Council may suspend or cancel the designation if they are no longer satisfied that the person has priority for designation (i.e. if the LACHS is not a NT party, when a NT party is subsequently registered, the NT party would have priority to be designated as a LACHS) or the person is not providing LACHS functions.</li> <li><b>[Addition]</b> Public notice of a suspension or cancellation now required.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Aboriginal stakeholder concerns that priority for the appointment of NT parties was not adequately addressed in drafting.</li> <li>Change was made based on feedback to address issues when LACHS do not perform their functions set out in the Bill.</li> <li>Public notice for cancellation/suspension of an appointment was added for openness and transparency. The need for improved transparency was raised in a number of submissions made on the Bill.</li> </ul>
New	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to require the ACH Council to give a person who may object to decisions of the ACH Council about LACHS, written notice of that decision along with reasons for the decision within 14 days.</li> </ul>	<ul style="list-style-type: none"> <li>Change to ensure transparency and consistency with the requirements to give notice of decisions that can be reviewed.</li> </ul>



Clause [Consultation draft]	Change(s) made	Reason for change
32. Functions of LACHS	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to ensure LACHS use best efforts to perform functions in a timely manner, particularly in respect to matters affected by time limits.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to industry stakeholder feedback to provide a positive obligation on LACHS to perform their functions.</li> </ul>
<i>New</i>	<ul style="list-style-type: none"> <li><b>[Addition]</b> New clause added to provide that a LACHS may apply to the Council for funding for the purpose of enabling the LACHS to perform its functions.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to stakeholder concerns regarding inadequate funding and resourcing of LACHS.</li> </ul>
<b>Part 5 Rights and duties in relation to Aboriginal cultural heritage</b>		
50. ACH Council to be notified about Aboriginal ancestral remains	<ul style="list-style-type: none"> <li><b>[Addition]</b> Subclause added to provide for exemptions to subclause 1 (written notice to be provided to the ACH Council to notify of possession of ancestral remains). Exceptions include: <ul style="list-style-type: none"> <li>an Aboriginal person acting in accordance with their traditional rights, interests and responsibilities in respect of Aboriginal ancestral remains; or</li> <li>a person acting at the written request of an Aboriginal person described above; or</li> <li>a person who had reasonable cause to believe, and did in fact believe, that the ACH Council was already aware of the existence of the Aboriginal ancestral remains.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Changes in response to stakeholder feedback that Aboriginal people and a person acting at the request of an Aboriginal person should be exempted from the requirement to notify of possession of ancestral remains.</li> </ul>
51. Duties of organisations to return Aboriginal ancestral remains	<ul style="list-style-type: none"> <li><b>[Addition]</b> Requirement for an organisation to identify a custodian of the ancestral remains (prior to having to return the ancestral remains to a custodian/hold on to them for a custodian).</li> <li><b>[Addition]</b> An organisation must seek the advice of the ACH Council as to compliance with their obligations to return Aboriginal ancestral remains.</li> </ul>	<ul style="list-style-type: none"> <li>Changes in response to concerns raised by some stakeholder groups that it is unfair to expect some persons/organisations to know how to identify the custodian of Aboriginal ancestral remains and that some people/organisations may not have the capacity to return ancestral remains, which could present a risk to those ancestral remains. These changes will ensure the ACH Council has an active role in the return of ancestral remains.</li> </ul>
52. Duties of individuals to return Aboriginal ancestral remains	<ul style="list-style-type: none"> <li><b>[Addition]</b> An individual must seek the advice of the ACH Council as to compliance with their obligations to return Aboriginal ancestral remains.</li> </ul>	<ul style="list-style-type: none"> <li>Change to ensure consistency with the process required for organisations when returning Aboriginal ancestral remains.</li> </ul>
58. ACH Council to be notified about secret or sacred objects	<ul style="list-style-type: none"> <li><b>[Addition]</b> Added sub-clause to provide for exemptions for the following: <ul style="list-style-type: none"> <li>An Aboriginal person acting in accordance with the person's traditional rights, interests and responsibilities in respect of the object; or</li> <li>A person acting at the written request of an Aboriginal person described above; or</li> <li>A person who had reasonable cause to believe, and did in fact believe, that the ACH Council was already aware of the existence of the secret or sacred object.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Aboriginal stakeholder concerns that Aboriginal organisations who are holding on to Aboriginal ancestral remains and secret or sacred objects on behalf of custodians may be penalised for not reporting to the ACH Council. Amendments have been made to provide an exemption for Aboriginal people and a person acting at the written request of an Aboriginal person.</li> </ul>
59. Duties of prescribed public authorities to return secret or sacred objects	<ul style="list-style-type: none"> <li><b>[Addition]</b> Requirement for a prescribed public authority to identify a custodian of the object (prior to having to return the object to a custodian/hold on to them for a custodian).</li> <li><b>[Amendment]</b> A prescribed public authority must now seek advice of the ACH Council as to compliance with returning secret or sacred objects (previously was 'may request').</li> </ul>	<ul style="list-style-type: none"> <li>Amended to ensure consistency with process to return Aboriginal ancestral remains.</li> </ul>
62. Reporting Aboriginal cultural heritage	<ul style="list-style-type: none"> <li><b>[Amendment/Addition]</b> Exemptions amended to add 'a person acting at the written request of an Aboriginal person acting in accordance with the person's traditional rights, interests and responsibilities in respect of an Aboriginal place, object or ancestral remains.'</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to stakeholder feedback that a person acting at the request of an Aboriginal person should be exempted from reporting Aboriginal cultural heritage.</li> </ul>



Clause [Consultation draft]	Change(s) made	Reason for change
<b>Part 6 Protected Areas</b>		
63. Terms used	<ul style="list-style-type: none"> <li><b>[Amendment/Addition]</b> Definition of 'outstanding significance' amended to make it clear that the heritage has to be of outstanding significance to the knowledge holders for that heritage.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Aboriginal groups and industry groups concerns that some applications for protected areas may be made by people with no cultural knowledge for the heritage.</li> </ul>
<i>New</i>	<ul style="list-style-type: none"> <li><b>[Addition]</b> New clause to ensure that the factors set out in the protected area orders guidelines are considered when determining whether Aboriginal cultural heritage is of outstanding significance.</li> </ul>	<ul style="list-style-type: none"> <li>Addition in response to stakeholder concerns that there is insufficient guidance as to the criteria for determining whether Aboriginal cultural heritage is of outstanding significance for the purpose of a protected area order.</li> </ul>
69. Preliminary assessment by ACH Council	<ul style="list-style-type: none"> <li><b>[Addition]</b> Added a prescribed period within which the ACH Council must make a preliminary assessment.</li> </ul>	<ul style="list-style-type: none"> <li>Change to ensure decisions are made in a timely manner.</li> </ul>
71. Review of preliminary view of ACH Council that area not be declared as protected area	<ul style="list-style-type: none"> <li><b>[Addition]</b> Added a prescribed period by which a person who is given notice that the ACH Council has formed a preliminary view that no part of an application area should be declared as a protected area may request the Minister consider the Council's decision.</li> </ul>	<ul style="list-style-type: none"> <li>Change to ensure decisions are made in a timely manner. Unlike State Administrative Tribunal (SAT) reviews where there is a timeframe for an affected person to apply to SAT for a review of decisions, there was no timeframe in which people can object to the Minister regarding a decision of the Council. This change will provide consistency with SAT reviewable decisions.</li> </ul>
72. Recommendation of ACH Council	<ul style="list-style-type: none"> <li><b>[Addition]</b> Added a prescribed period within which the ACH Council must make a recommendation.</li> </ul>	<ul style="list-style-type: none"> <li>Change to ensure decisions are made in a timely manner.</li> </ul>
74. Decision of Minister	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Minister 'must' make a decision (changed from 'may') if the ACH Council makes a recommendation on an application for an area to be declared a protected area.</li> <li><b>[Addition]</b> Added a prescribed period within which the Minister must make a decision.</li> <li><b>[Addition]</b> Added requirement for the Minister to give public notice of a decision (by the Minister) that no part of an application area should be declared as a protected area.</li> </ul>	<ul style="list-style-type: none"> <li>Changes to ensure decisions are made in a timely manner and to increase transparency of decision making.</li> </ul>
<i>Formerly part of 76. Amending and repealing orders</i>	<ul style="list-style-type: none"> <li><b>[Addition/Amendment]</b> The subclause (formerly in s76) which requires that an application for the repeal of a protected area order be laid before both Houses of Parliament and approved by a resolution passed by both Houses of Parliament has been extended to apply also to an application to amend an order to reduce the area declared to be a protected area.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Aboriginal stakeholder concerns that protected areas may be reduced in size to accommodate land use activities.</li> </ul>
<i>New</i>	<ul style="list-style-type: none"> <li><b>[Addition]</b> Requirement for CEO to lodge a notification with the Registrar of Titles and Registrar of Deeds and Transfers when a protected area order is made, amended or appealed. On lodgement of a notification, the Registrar must make any endorsement or notation the Registrar considers necessary on the certificate of title or other register in respect of the land to which the notification applies.</li> </ul>	<ul style="list-style-type: none"> <li>Due to the importance of protected areas, addition was made to ensure lodgement of notifications of protected area orders with the Registrars, similar to certain notices that need to be lodged under the <i>Heritage Act 2018</i>.</li> </ul>
<i>New</i>	<ul style="list-style-type: none"> <li><b>[Addition/Amendment]</b> New clause added to provide for a penalty of \$20,000 for the contravention of any conditions on a protected area order. It is a defence to this charge to prove that the person did not know and could not by the exercise of reasonable diligence have known, of the condition to which the charge relates.</li> </ul>	<ul style="list-style-type: none"> <li>Changes to ensure compliance with conditions on protected areas.</li> </ul>
<b>Part 7 Offences about harming Aboriginal cultural heritage</b>		
81. What constitutes harm to Aboriginal cultural heritage	<ul style="list-style-type: none"> <li><b>[Deletion]</b> Acts that demonstrate disrespect or diminish or otherwise affect the value of Aboriginal cultural heritage have been removed from the definition of harm.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to industry and land user stakeholder feedback that the definition of harm was too broad and subjective thus creating significant risks and uncertainty for stakeholders.</li> </ul>



Clause [Consultation draft]	Change(s) made	Reason for change
83. Serious harm to Aboriginal cultural heritage: offence	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Summary conviction penalties added: <ul style="list-style-type: none"> <li>○ Individual: Imprisonment for 2 years or a fine of \$700,000 or both and a fine of \$35,000 for each day or part of a day during which the offence continues.</li> <li>○ Body corporate: fine of \$7,000,000 and a fine of \$350,000 for each day or part of a day during which the offence continues.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Additions in response to feedback from industry and Government stakeholders to ensure consistency with other indictable offences within State legislation.</li> </ul>
84. Serious harm to Aboriginal cultural heritage: strict liability offence	<ul style="list-style-type: none"> <li>• <b>[Deletion]</b> Imprisonment removed as a possible penalty for an individual.</li> </ul>	<ul style="list-style-type: none"> <li>• Deletion in response to industry stakeholder concerns that an imprisonment penalty is disproportionate for an offence that requires no intent or negligence.</li> </ul>
<b>Part 8 Managing activities that may cause harm to Aboriginal cultural heritage</b>		
90. Terms used	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Previous heritage agreements and native title agreements have been combined and renamed related agreements and are no longer restricted to those entered into before this section comes into effect.</li> <li>• <b>[Amendment]</b> Exempt activity amended : <ul style="list-style-type: none"> <li>○ No longer include clearing of native vegetation in accordance with a clearing permit granted under Part V Division 2 of the <i>Environmental Protection Act 1986</i> (EP Act) and amended to only allow exemptions for clearing of a kind set out in EP Act Schedule 6 item 10, 10A, 11 or 12.</li> <li>○ Construction, renovation or demolition of a residential building expanded to make it clear it covers single houses/dwellings.</li> <li>○ Exemptions for prescribed burns will cover any undertaken by a public authority on crown land and not just to those undertaken by the FES Commissioner.</li> </ul> </li> <li>• <b>[Amendment]</b> Amendments to replace references of minimal, low and medium to high impact activities in the Bill to Tier 1, 2, 3 activities.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to industry stakeholder concerns that the previous definition for previous heritage agreements was limited and did not include any agreements that may be entered into after the Bill is proclaimed.</li> <li>• Change in response to Aboriginal people and heritage professional's feedback that native vegetation clearing permits may cover vast areas of land. This has been amended to allow exemptions for small-scale clearings that are exempted under the EP Act.</li> <li>• Change in response to Government stakeholder feedback that residential buildings do not cover single houses/dwellings.</li> <li>• Change in response to Government stakeholder concern that the exemptions for burning and firebreaks did not cover some activities that are undertaken by public authorities.</li> <li>• Change in response to Aboriginal stakeholders concerns regarding implied correlation between physical impacts of activities with impact on Aboriginal cultural heritage.</li> </ul>
93. What is due diligence assessment	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Wording amended to provide that a person undertakes an assessment, and not a 'preliminary determination' about whether an area is a protected area, the level of activity, whether Aboriginal cultural heritage exists in the area and whether there is a risk that Aboriginal cultural heritage may be harmed by the Tiers 2 and 3 activity and persons to be notified and consulted about the activity.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to Aboriginal stakeholder concerns that proponents, and not Aboriginal knowledge holders, are determining whether Aboriginal cultural heritage exists and determining impact on Aboriginal cultural heritage. Provisions have been amended to clarify it's an assessment and not a determination.</li> </ul>
98. Who is Aboriginal party to ACH management plan	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Amended to provide for where there is no LACHS and no native title party for an area, the native title representative party for the area is the Aboriginal party to an ACH management plan (knowledge holder has been removed).</li> <li>• <b>[Addition]</b> Provision added to provide for arrangements where an Aboriginal party to a plan no longer exists or there is no Aboriginal party to a plan e.g. Council nominates an Aboriginal party to a plan.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to stakeholder concerns that there is no requirement for knowledge holders who are a party to a plan (when they aren't a LACHS) to be a body corporate. This change will prevent situations where a proponent has to enter into a management plan with multiple individual knowledge holders. Knowledge holders can still be a party to a plan if they are appointed as a LACHS for the area.</li> <li>• Change to provide for contingency arrangements for when an Aboriginal party ceases to exist e.g. CATSI Corporation is deregistered, or LACHS has been cancelled or suspended.</li> </ul>
102. Authority to carry out Tier 2 activity that may harm Aboriginal cultural heritage	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Addition of requirement to undertake due diligence prior to carrying out a Tier 2 activity that may harm Aboriginal cultural heritage.</li> </ul>	<ul style="list-style-type: none"> <li>• Amendment to clarify the requirement to undertake due diligence prior to carrying out a Tier 2 activity that may harm Aboriginal cultural heritage.</li> </ul>
103. Authority to carry out Tier 3 activity that may harm Aboriginal cultural heritage	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Addition of requirement to undertake due diligence prior to carrying out a Tier 3 activity that may harm Aboriginal cultural heritage.</li> </ul>	<ul style="list-style-type: none"> <li>• Amendment to clarify the requirement to undertake due diligence prior to carrying out a Tier 3 activity that may harm Aboriginal cultural heritage.</li> </ul>
105. Notice of intention to carry out Tier 2 activities	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Amended to make it clear that a notice is to be given when a Tier 2 activity may harm Aboriginal cultural heritage.</li> </ul>	<ul style="list-style-type: none"> <li>• Change to address industry stakeholder concerns that notice will need to be given for all Tier 2 activities even when a due diligence assessment identified no Aboriginal cultural heritage.</li> </ul>





Clause [Consultation draft]	Change(s) made	Reason for change
107. Application for ACH permit	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Amended to provide that an application for an ACH permit must include details of the steps that will be undertaken to ensure that the proposed activity is managed to avoid or minimise the risk of harm to Aboriginal cultural heritage.</li> <li>• <b>[Amendment]</b> Amended to provide that the permit application must identify Aboriginal cultural heritage that has been assessed as part of a due diligence assessment that exists in the area and the characteristics of the Aboriginal cultural heritage that the proponent is aware of.</li> </ul>	<ul style="list-style-type: none"> <li>• Changes in response to Aboriginal stakeholder concerns that Tier 2 activities may have significant impact on Aboriginal cultural heritage.</li> </ul>
110. Further information in support of application	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Clause amended to make it explicitly clear that the information the ACH Council may request has to be in relation to the information that must be provided as part of an application.</li> </ul>	<ul style="list-style-type: none"> <li>• Changes in response to industry stakeholder concerns that 'stop the clock' can occur when the ACH Council requires "further information" and that it is not clear if the requests have to be in relation to information required as part of the application and therefore the concept is open-ended.</li> </ul>
112. Grant of ACH permit	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Amended to make it clear that the ACH Council must (instead of may) issue a permit if requirements are met (including setting out how the proposed activity will be managed to avoid or minimise the risk of harm to Aboriginal cultural heritage). An additional subclause has been added to confirm that the ACH Council must refuse to grant a permit if the requirements are not met.</li> </ul>	<ul style="list-style-type: none"> <li>• Changes in response to industry stakeholder concerns that the way the clause was written provided discretion for the ACH Council to not issue a permit even if requirements are met.</li> </ul>
113. Duration of ACH permit	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Clause amended to increase the duration of ACH permits from 2 years to 4 years.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to industry stakeholder feedback that the duration of ACH permits should be increased to 4 years, to align with the period for Programme of Works under the <i>Mining Act 1978</i>.</li> </ul>
115. ACH Council to give public notice of application for extension of ACH permit	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Amendments made to make it clear that the ACH Council's notice of a permit application is to be given to Aboriginal people of the area to which the application relates.</li> </ul>	<ul style="list-style-type: none"> <li>• Change to increase transparency and notify Aboriginal stakeholders of permit extension applications.</li> </ul>
New	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Clause added to provide that applications can be refused if not made in accordance with the Bill.</li> </ul>	<ul style="list-style-type: none"> <li>• Change progressed to achieve consistency with the process for seeking new permits.</li> </ul>
110. Further information in support of application	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Additional provision to allow the ACH Council to request further information from the application in relation to the application for an extension of an ACH permit.</li> </ul>	<ul style="list-style-type: none"> <li>• Change progressed to achieve consistency with the process for seeking new permits.</li> </ul>
118. Conditions	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Additional provision to provide that the ACH Council must within the prescribed period give written notice to persons to be notified about the ACH permit about the ACH Council's decision to impose, amend or revoke a condition.</li> </ul>	<ul style="list-style-type: none"> <li>• Change to achieve better transparency of decisions made. Additional notice of decision given to persons to be notified e.g. Aboriginal parties.</li> </ul>
119. Amendment of permit area	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Addition to provide that ACH Council must give written notice of amendment of an ACH permit area to the holder of the ACH permit and person to be notified of the ACH permit.</li> </ul>	<ul style="list-style-type: none"> <li>• Change to achieve better transparency of decisions made. Additional notice of decision given to persons to be notified e.g. Aboriginal parties.</li> </ul>
120. Suspension or cancellation of ACH permit	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Addition to provide that the ACH Council must give written notice to each of the persons to be notified about the ACH Council's decision to suspend or cancel an ACH permit.</li> </ul>	<ul style="list-style-type: none"> <li>• Change to achieve better transparency of decisions made. Additional notice of decision given to persons to be notified e.g. Aboriginal parties.</li> </ul>
121. Objection to decision of ACH Council	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Addition to provide that a person who objects to a ACH Council's decision to refuse to extend, grant, suspend or cancel a permit, impose, amend or revoke a condition under a permit must give notice of the objection to persons to be notified of the activity.</li> <li>• <b>[Amendment]</b> Clause amended to provide that an objection must be made within a prescribed timeframe.</li> </ul>	<ul style="list-style-type: none"> <li>• Change to achieve better transparency of decisions made. Additional notice of decision given to persons to be notified e.g. Aboriginal parties.</li> </ul>
	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Additional provision to provide that the ACH Council must give a person who has a right to object to the Minister written notice about the decision, the notice must state a description of the decision, reasons for the decision and a statement that they have a right to object to the Minister.</li> </ul>	<ul style="list-style-type: none"> <li>• Change to achieve better transparency of decisions made. Additional notice of objection given to persons to be notified e.g. Aboriginal parties, also to achieve consistency with requirements for notices that have to be given for SAT reviewable decisions.</li> </ul>



Clause [Consultation draft]	Change(s) made	Reason for change
	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to provide that it is an offence to breach a condition of an ACH permit.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Aboriginal stakeholder concerns that there was no offence provisions for non-compliance with conditions.</li> </ul>
123. Contents of ACH management plan	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Added requirement for plans to identify the characteristics of Aboriginal cultural heritage in the area.</li> <li><b>[Amendment]</b> Added requirement that plans need to include a clear explanation of the steps, if any, that will be taken to avoid or minimise risk.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to heritage professional and Aboriginal stakeholders concerns that the Bill does not adequately cover the process for assessing and identifying Aboriginal cultural heritage.</li> <li>Change to clarify that plans need to include a clear explanation of the steps, if any that will be taken to avoid or minimise risk of harm to Aboriginal cultural heritage.</li> </ul>
	<ul style="list-style-type: none"> <li><b>[ Addition]</b> Clause added to make it a requirement for a proponent to take reasonable steps to identify, and obtain an understanding of, the characteristics of the Aboriginal cultural heritage that exists in the area.</li> </ul>	<ul style="list-style-type: none"> <li>Heritage professionals and Aboriginal stakeholder groups raised concerns that the Bill does not adequately cover the process for assessing and identifying Aboriginal cultural heritage. A key object of the Bill is Aboriginal people are responsible for determining what Aboriginal cultural heritage is important to them and should be added to the Directory or nominated as protected areas. To respond to the concerns, the Bill provides that a proponent has to have sufficient knowledge of Aboriginal cultural heritage before entering into negotiations with Aboriginal parties when developing an ACH management plan. The ACH management code will outline the steps that will need to be undertaken to understand the Aboriginal cultural heritage that may be within an area of activity.</li> </ul>
127. Reaching agreement about ACH management plan	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Amendment to provide that parties to a plan may agree on a longer negotiation period, if required or if imposed by the ACH Council.</li> <li><b>[Amendment]</b> Amendment to provide for a positive obligation for both proponent and Aboriginal party to use their best endeavours to reach agreement on an ACH management plan.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Aboriginal and industry stakeholder feedback that there should be a provision in the Bill to allow for parties to an ACH management plan to be able to seek an extension to the negotiation timeframe.</li> <li>Change in response to stakeholder feedback that both parties to a plan should use their best endeavours to reach agreement on an ACH management plan.</li> </ul>
130. Informed consent	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Clause amended to ensure that the requirements for informed consent includes the requirement for proponents to provide details of all feasible options available to undertake the activities.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to stakeholder feedback that suggested informed consent should make it clear that proponents are required to provide details of options available to undertake the activity.</li> </ul>
132. Information in support of application	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Clause amended to make it explicitly clear that the information the ACH Council may request has to be in relation to the information that must be provided as part of an application.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to industry concerns that 'stop the clock' can occur when the ACH Council requires "further information" and that it is not clear if the requests have to be in relation to information required as part of the application and therefore the concept is open-ended.</li> </ul>
New	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to provide that a standard condition of an approved ACH management plan is that a party to a plan must notify the ACH Council of new information about the existence or significance of Aboriginal cultural heritage.</li> </ul>	<ul style="list-style-type: none"> <li>Change to ensure that the ACH Council is notified of new information about the existence or significance of Aboriginal cultural heritage.</li> </ul>
137. Suspension or cancellation of ACH management plan approval	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Clause amended so that only the Minister can cancel or suspend an approved ACH management plan and allows the Minister to cancel or suspend an approved ACH management plan if the proponent carries out an activity that may harm Aboriginal cultural heritage that is not authorised under the plan and if the proponent breaches a condition imposed on a plan.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to industry stakeholder concerns that the ACH Council can cancel/suspend approved plans. As approved plans are those agreed to by all parties only the Minister should be able to cancel/suspend them.</li> </ul>
New	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to require notice to be given of a decision that may be objected to and what information needs to be included.</li> </ul>	<ul style="list-style-type: none"> <li>Change progressed to achieve consistency with requirements for notices that have to be given for SAT reviewable decisions.</li> </ul>
140. Application for authorisation of ACH management plan	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Clause amended to make clear that application for authorisation of an ACH management plan can only happen after period to reach agreement on a plan has ended and proponent has not been able to reach agreement despite using their best endeavours.</li> </ul>	<ul style="list-style-type: none"> <li>Technical change to make it clear that application for authorisation of plan can only happen after period to reach agreement on an ACH management plan and proponent has not been able to reach agreement using their best endeavours.</li> </ul>
141. Information in support of application	<ul style="list-style-type: none"> <li><b>[ Amendment]</b> Clause amended to make it explicitly clear that the information the ACH Council may request has to be in relation to the information that must be provided as part of an application.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to industry stakeholder concerns that 'stop the clock' can occur when the ACH Council requires "further information" and that it is not clear if the requests have to be in relation to information required as part of the application and therefore the concept is open-ended.</li> </ul>



Clause [Consultation draft]	Change(s) made	Reason for change
143. Assistance to reach agreement on ACH management plan	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause to provide that if ACH Council is acting as a mediator, it must not disclose or use information to which it has access to other than for specific purposes.</li> </ul>	<ul style="list-style-type: none"> <li>Addition to ensure confidentiality obligations apply to the ACH Council as mediator.</li> </ul>
147. Decision of Minister	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Clause amended to require the Minister to give notice of decision to relevant parties.</li> </ul>	<ul style="list-style-type: none"> <li>Change progressed to improve openness and transparency and to achieve consistency with requirements to give notice for other decisions made under the Bill. The need for improved transparency was raised in a number of submissions made on the Bill.</li> </ul>
149. Conditions	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to provide that a standard condition of an authorised ACH management plan is that a party to a plan must notify the ACH Council of new information about the existence or significance of Aboriginal cultural heritage. This clause also allows for the authorisation of an ACH management plan to be subject to other conditions that the Minister considers appropriate to minimise or avoid risk of harm to Aboriginal cultural heritage, and for conditions to be amended, imposed or removed when new information is provided.</li> </ul>	<ul style="list-style-type: none"> <li>Change progressed to achieve consistency with the ability to add conditions on permits when new information becomes known. The reporting of new information is a key feature of the Bill and the Government believes that power should be provided to amend, impose or remove conditions in light of new information about the existence, or the significance, of Aboriginal cultural heritage.</li> </ul>
<i>New</i>	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to allow the Minister to cancel or suspend an approved ACH management plan if the proponent carries out an activity that may harm Aboriginal cultural heritage that is not authorised under the plan and if the proponent breaches a condition imposed on a plan.</li> </ul>	<ul style="list-style-type: none"> <li>Change made in response to feedback that authorisations should be subject to cancellation or suspension if proponent breaches conditions on a plan.</li> </ul>
<i>New</i>	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to provide that approved or authorised ACH management plan continues to have effect despite change to identify of party.</li> </ul>	<ul style="list-style-type: none"> <li>A number of comments were made on what happens to approved or authorised plans when a LACHS is suspended or cancelled, as some stakeholders were concerned this may result in plans being invalid. As such, amendment was made to provide that when a LACHS is suspended/cancelled an approved or authorised ACH management plan continues to operate and proponents are required to continue to meet their obligations under the plan.</li> </ul>
151. State significance guidelines	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Amendment to provide that the Council must consider the factors set out in State significance guidelines in determining Aboriginal cultural heritage is of State significance for the purposes of the Bill.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to stakeholder concerns that there is insufficient guidance as to the criteria of State significance.</li> </ul>
<b>Part 9 Aboriginal Cultural Heritage Directory</b>		
164. Information and documents on ACH Directory	<ul style="list-style-type: none"> <li><b>[Addition]</b> Provides for information on intangible Aboriginal cultural heritage to be on the ACH Directory.</li> </ul>	<ul style="list-style-type: none"> <li>Aboriginal stakeholders have raised concerns that the Bill does not adequately provide for intangible Aboriginal cultural heritage. To be kept alive, intangible Aboriginal cultural heritage must be relevant to its community, continuously recreated and passed on from one generation to another. The inclusion of intangible Aboriginal cultural heritage on the ACH Directory will allow Aboriginal people to record and preserve intangible Aboriginal cultural heritage.</li> </ul>
170. Access to assess activities that may harm Aboriginal cultural heritage	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Clause has been amended to make sure that culturally sensitive information about Aboriginal cultural heritage is not made available to a person unless knowledge holders for the Aboriginal cultural heritage have given explicit consent to the disclosure of the information.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Aboriginal stakeholder concerns regarding the disclosure of culturally sensitive information about Aboriginal cultural heritage to wider public.</li> </ul>
<i>New</i>	<ul style="list-style-type: none"> <li><b>[Addition]</b> Provisions to provide include a new function for the ACH Council to consider and endorse Aboriginal cultural heritage protection agreements, which are voluntary and proactive agreements between Aboriginal groups and proponents to protect Aboriginal cultural heritage. Clauses allow for ACH protection agreements to be recorded on the ACH Directory.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to stakeholder feedback that the Bill focuses on managing harm to Aboriginal cultural heritage and there are no measures to deal with the conservation of Aboriginal cultural heritage. The Bill provides for voluntary Aboriginal cultural heritage protection agreements to be entered into. These agreements will deal with the protection, maintenance or use of land containing an Aboriginal place or Aboriginal objects. They cannot allow for the harm of Aboriginal cultural heritage.</li> </ul>
<b>Part 10 Stop activity orders, prohibition orders and remediation orders</b>		
173. Terms used	<ul style="list-style-type: none"> <li><b>[Addition]</b> New term added for 'new information about Aboriginal cultural heritage' to provide that it is relation to new information about the existence of Aboriginal cultural heritage or the objective characteristics of Aboriginal cultural heritage in the area that are identified in permits and plans.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to industry stakeholder feedback that the threshold for new information about Aboriginal cultural heritage is not clearly defined.</li> </ul>



Clause [Consultation draft]	Change(s) made	Reason for change
New	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to provide that the ACH Council can recommend the making of a prohibition order without a stop activity order being in place.</li> </ul>	<ul style="list-style-type: none"> <li>Change progressed to ensure that a prohibition order can be issued even without a stop activity order being in place. There may be situations where there is no imminent threat of harm to Aboriginal cultural heritage, therefore not requiring a stop activity order, but there will still be a need to issue a prohibition order as there is ongoing or longer term risk of harm to Aboriginal cultural heritage.</li> </ul>
	<b>[New part ] Compensation for harm to Aboriginal cultural heritage</b>	
New	<ul style="list-style-type: none"> <li><b>[Addition]</b> The Bill amends Schedule 1 of the <i>Sentencing Act 1995</i> to allow penalties for harm to Aboriginal cultural heritage offences to be paid to a Special Purpose Account rather than to Consolidated Revenue to facilitate the payment of compensation to Aboriginal parties.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Aboriginal stakeholder feedback that the Bill should provide for compensation to be payable to relevant Aboriginal parties for harm to Aboriginal cultural heritage. In particular, stakeholders commented that penalties for harm to Aboriginal cultural heritage offences should be provided to Aboriginal stakeholders as compensation for harm to their heritage.</li> </ul>
	<b>Part 11 Securing compliance</b>	
204. Aboriginal inspectors	<ul style="list-style-type: none"> <li><b>[Addition]</b> New clause to provide that the CEO is to notify the relevant LACHS when appointing an Aboriginal inspector. Where there is no LACHS for the area in which an Aboriginal inspector is to be appointed then no notification needs to occur.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to stakeholder feedback that LACHS should be notified before appointing an Aboriginal inspector in the LACHS area of appointment.</li> </ul>
208. Impersonation	<ul style="list-style-type: none"> <li><b>[Amendment]</b> The penalty for impersonating an inspector will be increased to \$12,000 and imprisonment of 12 months.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to industry stakeholder feedback that the penalty for impersonating an inspector was not strong enough considering the powers provided to inspectors. This change will be the penalties in line with those under the Criminal Code for impersonating a public officer.</li> </ul>
218. Seizure of thing relevant to an offence	<ul style="list-style-type: none"> <li><b>[Addition]</b> Clause added to include a requirement for inspectors to issue a receipt of seized things to the person the item was seized from.</li> </ul>	<ul style="list-style-type: none"> <li>Change to ensure increased transparency and accountability.</li> </ul>
	<b>Part 12 Legal proceedings</b>	
240. Who may commence proceedings for simple offence	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Remove of 'simple' to allow the CEO and person authorised by the CEO, or DPP/SSO to commence prosecution for all offences in the Bill.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to Government stakeholder feedback suggesting retaining maximum flexibility as to who can commence a prosecution for all offences in the Bill and not limiting it to simple offences. This amendment allows the CEO and person authorised by the CEO, or the Director of Public Prosecutions, State Solicitor's Office to commence prosecution for all offences in the Bill.</li> </ul>
249. Liability of partners	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Provisions regarding liability of a partner when another partner is charged with an offence or has been proved to have committed an offence have been removed.</li> </ul>	<ul style="list-style-type: none"> <li>Industry and Government stakeholders have raised concerns that these provisions will dis-incentivise partnership arrangements and go against principles of criminal law.</li> </ul>
New	<ul style="list-style-type: none"> <li><b>[Addition]</b> Additional clauses to provide that if an agent contravenes the Bill, the agent's principal is taken to have contravened the Bill.</li> </ul>	<ul style="list-style-type: none"> <li>Additional clauses to enforce accountability and ensure that principals can be held accountable for their agent's contravention under the Bill.</li> </ul>
245. Liability of employer for offences by employee	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Amended to remove the words 'in the course of employment', to align with s241 of the <i>Biodiversity Conservation Act 2016</i>. From the perspective of an employer, balance is provided by the defence available to the employer.</li> </ul>	<ul style="list-style-type: none"> <li>Change to address Government and industry stakeholders concerns as to the scope of the clause.</li> </ul>
251. Application of Division	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Amendment to provide that for a matter to be taken to be proved applies only in the absence of evidence to the contrary.</li> </ul>	<ul style="list-style-type: none"> <li>Change to address stakeholder feedback that the words 'proof to the contrary' were not sufficiently clear and it needed to be clarified whether the accused should prove the fact to be otherwise (having both evidentiary and legal burden of proof) or just produce some evidence or raise the matter on the evidence.</li> </ul>
252. Certain matters taken to be proved if alleged in prosecution notice or indictment	<ul style="list-style-type: none"> <li><b>[Amendment]</b> Amendment to remove Items 2, 3. Item 5 amended to reflect the land of a specified description only.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to industry stakeholders concerns regarding Items 2, 3 and 5, which they assert in effect reverses the burden of proof.</li> </ul>
	<b>Part 13 Review by State Administrative Tribunal</b>	
258. Review of certain decisions	<ul style="list-style-type: none"> <li><b>[Addition]</b> Addition to provide that each affected person in relation to the reviewable decision is entitled to a copy of the application.</li> <li><b>[Amendment]</b> Removal of SAT review of Minister's decisions to authorise or refuse to authorise, cancel or suspend the authorisation of an ACH management plan or amended ACH management plan.</li> </ul>	<ul style="list-style-type: none"> <li>Change in response to stakeholder feedback that the Bill should require relevant parties to be notified when a SAT review is requested.</li> <li>Change made to reflect accepted principles of modern governance, public administration and the recognised responsibilities of the elected government of the day.</li> </ul>





Clause [Consultation draft]	Change(s) made	Reason for change
	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Addition of review for affected Aboriginal people in respect of a decision to amend or cancel a prohibition order.</li> <li>• <b>[Amendment]</b> Amend the Bill to include provisions that SAT may receive submissions from Aboriginal parties, and be joined as a party, in respect of an application by the proponent for a review of a prohibition order/remediation order decision.</li> </ul>	<ul style="list-style-type: none"> <li>• Changes in response to Aboriginal stakeholder concern regarding the lack of review rights for Aboriginal parties. The amendments provide that Aboriginal parties are able to seek a SAT review if a prohibition order is amended or cancelled, establishing equity in the process. SAT may also receive submissions from Aboriginal parties or be joined as a party in relation to an application for a review of the decision to give a prohibition order or remediation order.</li> </ul>
	<b>Part 14 Miscellaneous</b>	
New	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> This clause provides power to make regulations as to procedures to determine whether certain information is culturally sensitive information for the purposes of the Bill, including for the review of that decision.</li> </ul>	<ul style="list-style-type: none"> <li>• Amendment to address Aboriginal stakeholders concerns on how culturally sensitive information will be handled.</li> </ul>
New	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> New clause to provide head of power for regulations to be made to facilitate cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>• Change made to allow for the charging of fees for certain services provided by the ACH Council and Government.</li> </ul>
267. Guidelines	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Addition of guidelines for the fee structure for the fees to be charged in connection with the provision of LACHS functions.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to stakeholder feedback that guidelines should be provided for fee structures that a LACHS may charge.</li> </ul>
268. Consultation on proposed guidelines	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Clause amended so that the period in which an opportunity will be provided for people to make a submission on the draft guidelines under is increased from 28 days to 60 days.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to stakeholder feedback that the period to consult on significant guidelines was too short.</li> </ul>
272. No contracting out	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Amendments to strengthen the no circumventing or contracting out clause.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to stakeholder concerns that no contracting out clause didn't go far enough to limit no objection/gag clauses in agreements.</li> </ul>
	<b>Part 15 Repeals and transitional matters</b>	
New	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Amendment to provide that all historical AH Act section 18 consents issued under the AHA 1972 expire 10 years after transition day, unless the landowner subject of the consent has substantially commenced the purpose specified in the consent.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to Aboriginal stakeholder concerns that historical section 18 consents do not expire and continue indefinitely.</li> </ul>
New	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Clauses added to provide that persons with a transitional AH Act section 18 consent can request an extension from the Minister for a further five years for State significant projects.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to industry stakeholder feedback that transitional section 18 consents should be able to be extended for State significant projects.</li> </ul>
New	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Amendment to provide that clause that a 1972 Act section 18 consent is taken to be an authorised ACH management plan.</li> <li>• <b>[Addition]</b> Clause added to provide that for the purpose of Part 10 order in respect of a transitional 1972 Act section 18 consent, the term new information about the existence or characteristics of Aboriginal cultural heritage means information about the existence or characteristics of Aboriginal cultural heritage that was not identified in the notice given to the ACHC under section 18 of the 1972 Act or to the Minister before such consent was given.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to Aboriginal stakeholder concerns that section 18 consents should not be taken to be an approved ACH management plan where parties have agreed.</li> <li>• Change in response to stakeholder concerns that transitional section 18 consents will not be subject to various protection provisions in the Bill. This change allows stop activity orders and prohibition orders to be issued where there is risk of harm to Aboriginal cultural heritage due to the carrying out of activities that are authorised under a transitional section 18 consent but where there is new information about Aboriginal cultural heritage.</li> </ul>
New	<ul style="list-style-type: none"> <li>• <b>[Addition]</b> Provisions added to provide that on and after transition day, an activity being carried out in accordance with a 1972 Act approval is taken to be an activity that is authorised under Part 8 Division 4 in circumstances including to provide a defence to a charge of offence.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in response to stakeholder concerns that historical section 18 consents will not be subject to various protection provisions in the Bill. This change allows for stop activity orders and prohibition orders to be issued where there is risk of harm to Aboriginal cultural heritage due to the carrying out of activities that are not authorised under the historical section 18 consents.</li> </ul>
	<b>Part 16 Amendments to Aboriginal Heritage Act</b>	
298.	<ul style="list-style-type: none"> <li>• <b>[Amendment]</b> Changes will amend section 18 of the 1972 Act to provide that the owner of a section 18 consent is to report new information about the existence or significance of Aboriginal cultural heritage.</li> </ul>	<ul style="list-style-type: none"> <li>• This change applies to section 18 consents issued during the transitional period. Aboriginal people and heritage professionals raised concerns that section 18 consents would not be subject to various protection provisions in the Bill.</li> </ul>



Clause [Consultation draft]	Change(s) made	Reason for change
299.	<ul style="list-style-type: none"><li>• <b>[Amendment]</b> This subdivision sets out the changes to be made to the 1972 Act on the day section 86 comes into effect (proclamation date). Amendments to the 1972 Act on this date include:<ul style="list-style-type: none"><li>○ Amending the long title of the 1972 Act to provide that it is an Act to deal with certain applications.</li><li>○ Removal of definitions no longer required.</li><li>○ To limit the 1972 Act to deal with applications made under section 16; section 18 and the Aboriginal Heritage Regulations 1974.</li><li>○ Deletion of sections 6(3); 8, 9, 10, 14, 15, 17, 19, 27, 38, Part VI, 55, 59 and 62.</li><li>○ Technical amendments will be made to various sections to link the operation of the remaining clauses to the new Act.</li></ul></li></ul>	<ul style="list-style-type: none"><li>• This change provides the Aboriginal Cultural Material Committee and Minister 6 months to deal with any unfinished applications made under the 1972 Act following the proclamation of the new Act.</li></ul>
	<b>Part 17 Amendments to other Acts</b>	
	<p>The majority of changes to other Acts will amend references to the 1972 Act, the Aboriginal Cultural Material Committee, Aboriginal cultural material and Aboriginal sites and honorary wardens. The key changes to other Acts are:</p> <ul style="list-style-type: none"><li>• A new clause will be added to the <i>Coroners Act 1996</i> that will require a coroner investigating a death to notify the Council if they believe the body is, or is likely to be, Aboriginal ancestral remains.</li><li>• Section 41 of the <i>Environmental Protection Act 1986</i> will not constrain the Council or Minister from approving / authorising a permit or plan under the new Act.</li></ul>	<ul style="list-style-type: none"><li>• The consultation draft did not include amendments to other Acts as the Department was still consulting other agencies.</li><li>• Amendment to the <i>Environmental Protection Act 1986</i> will provide for the removal of unnecessary duplication in the environmental impact assessment process where there are legislative overlaps between the two Acts.</li></ul>