

Our Ref: JJ:JJ, ACT02

31 May 2018

Assistant Director General
Heritage Services
Department of Planning, Lands & Heritage
PO Box 7479
CLOISTERS SQUARE PO WA 6850

By email: AHAreview@dplh.wa.gov.au

Dear Sir / Madam

SHIRE OF BROOME SUBMISSION – REVIEW OF THE *ABORIGINAL HERITAGE ACT 1972*

Thank you for the opportunity to provide a submission on the *Aboriginal Heritage Act 1972 (AHA)* and the opportunity to attend the stakeholder workshop held in Broome on 10 May 2018.

The Shire of Broome is supportive of conserving and protecting the State's Aboriginal heritage and maintaining positive relationships with Aboriginal people. The Shire's comments provided do not address all the discussion points contained in the Consultation Paper, and instead are presented in a similar format to the workshop discussions, with 5 broad topics.

1. What should be protected (section 5 places and objects)

The Shire is of the opinion that there is uncertainty with regards to mythological sites recorded on the Aboriginal Heritage Register (**Register**) and the potential impact from development. It is recommended that mythological sites recorded in the Register should clearly define what type of activities will adversely affect the site. This may assist in providing clarity and transparency to proponents when progressing proposed projects.

2. Who should be consulted and how? a) on sites to be included on the Register, b) section 18 notice

- a) The Shire recommends that when assessing an application for inclusion on the Register, all affected parties (including landowners and parties with interest in the land) should be provided with access to all materials for consideration as part of the consultation process. Additionally, the time to provide a submission on an application should be extended to at least 6 weeks.

Site nominations should include a level of significance and implications if accepted for registration (restrictions).

- b) The Shire submits that there is inconsistency between native title holders (or registered parties) and 'knowledge holders'. It can be very complex and confusing to understand who can speak for country.

When assessing a proposed project for Aboriginal heritage implications it is sometimes difficult to determine who the proponent should be consulting with. The Shire suggests that the Register include details of the knowledge holders and the knowledge holder should be a group rather than an individual. This would provide the proponent a point of contact in the event an individual is deceased.

3. Roles and responsibilities

The Shire is supportive of additional resources for the Department of Planning, Lands and Heritage to assess the backlog of site applications and to provide an Aboriginal Cultural Material Committee (ACMC) for each region to streamline processes and reduce red tape.

To comply with the AHA it is imperative the Register is up to date.

4. Section 18

The Shire believes there is an opportunity to streamline this process and reduce red tape. The AHA could be amended to provide for the situation where consent to undertake an activity / impact a heritage site is obtained from the relevant Aboriginal parties. This could be in the form of "Consent to Undertake Works", potentially significantly reducing the number of section 18 applications and expediting projects. Ultimately the ACMC would only need to assess applications where consent cannot be obtained.

The AHA should also have provision for circumstances where the proponent has made reasonable endeavour to undertake Aboriginal heritage survey but the relevant Aboriginal party has not been cooperative. This could be overcome if the AHA included the requirement for the proponent to serve notice of 'request for survey' and the obligation for the Aboriginal group to undertake the requested survey within a specified timeframe.

The Shire is of the opinion that the section 18 process should be more transparent, providing clarity to parties, with timeframes for each approval / recommendation, trackable via the Register. Also, minutes of the ACMC meeting should be publicly available.

5. Compliance and enforcement

The Shire is supportive of reviewing current penalties, bringing fines into line with other relevant legislation in Western Australia.

The Shire looks forward to being involved in further consultation. Should you have any further queries please do not hesitate to contact Jacquie Jankowski, Land Tenure Officer, on 9191 3402 or via email to Jacqueline.Jankowski@broome.wa.gov.au.

Yours faithfully

Aletta Nugent
DIRECTOR DEVELOPMENT AND COMMUNITY