

Subject: **PUBLIC CONSULTATION ON ABORIGINAL HERITAGE BILL 2020**

The Aboriginal Cultural Heritage Bill 2020 is now open for public consultation. This new legislation will replace the outdated Aboriginal Act 1972 concluding a couple of years or so of consultation with Aboriginal people, industry representatives like ourselves (stakeholders), heritage professionals and the Western Australian community.

The old current Bill Aboriginal Heritage Bill 1972 will remain in place for 1 year.

A Bit of history.

Recognising the need to reassess previous approaches to land use and development, the Western Australian Government introduced the Aboriginal Heritage Bill into Parliament on 30 March 1972. With, for the most part, bi-partisan support, the Bill received Royal Assent on 2 October 1972, and the Aboriginal Heritage Act 1972 (the AHA) came into operation on 15 December 1972. At the time of its introduction, it was widely recognised that the AHA was the most comprehensive piece of Aboriginal heritage legislation in Australia, affording automatic (or blanket) protection to places and objects important to Aboriginal people. In contrast to other legislation developed around the same time, the AHA emphasised the importance of Aboriginal tradition, culture and heritage to contemporary Aboriginal people and their culture, rather than merely matters of archaeological, anthropological, or other scientific interest.

APLA have been working on this, Les Lowe our President and Marise Palmer -Secretary, have been attending the meetings for the last two years on behalf of APLA completing Phase 1 and 2 consultations, we are now releasing Phase 3 to members for comment. Interestingly we are not sure if our request have been met.

Phase 3 consultation - Under way

- Bill released for consultation
- Stakeholders engagement
- Bill introduced to Parliament
- Feedback considered
- Bill debated and passed into law

The State Government is seeking feedback on the Bill to ensure Western Australia has a serious law that protects and respects Aboriginal culture and balances outcomes for all stakeholders. Review the Bill and have your say DPLH Policy on our online consultation hub.

Consultation Hub is online with Dept of Lands and Heritage at the following address and page down. **Submissions close Friday, 9 October 2020**

<https://www.dplh.wa.gov.au/policy-and-legislation/review-of-the-aboriginal-heritage-act-1972/phase-three-final-consultation-of-the-aboriginal-h>

APLA President and the APLA State Secretary has been heavily involved in this for about the last two years. Only now has the Bill been made available after months of us being restrained by confidentiality agreements. It's vital that you get any questions to us before our next meeting with the Dept of Planning, Lands and Heritage (DPLH) to be held on Tuesday/ Wednesday next week – TBA. The inclusion of "cultural landscape", "contemporary perspectives" means that the potential is for aboriginal heritage to "everywhere across the land". Connect that with the statement that "this Act is only applicable where Aboriginal Cultural Heritage is known to exist" and you can see the global nature of the Act.

We've been given the understanding from DPLH that "metal detecting is fine and is exempt from requiring a permit",,,,,,,,,,,,,,but disturbing the surface to dig up the nugget will need a referral to be made to the Local Aboriginal Cultural Heritage Committee to see if they agree to allow you recover that gold from the ground. This is just on fraction of the impacts we foresee. Work such as loaming, surface dryblowing, panning etc will all require a permit of some kind. Also affected is the right to traverse off-road to mark out mining tenement or sample Vacant Crown Land with a prospect in mind. The access rights and the that cornerstone of prospecting "the first in time principle" with it's inherent confidentiality that we enjoy today could be a thing of the past. The total time for these permits to be issued with be two sets of 21 day waiting periods – 6 weeks. For our leaseholders and small scale miners, any project that disturbs the surface will require an Aboriginal Cultural Heritage Management Plan (ACHMP) which take longer.

The management of heritage will be changed enormously. The DPLH has told us they will tell us which Traditional Owner group we are to negotiate with. They will also assess ACHMPs and permits. APLA believes this is an impossible task and that DPLH is not equipped to do it efficiently. Local heritage councils will replace the current system. TO/s will have almost total control over Crown Land, mining tenements and their heritage.

If passed, this Bill will become the future for decades to come. It's important to have your say. However, APLA advises that prospectors do not respond to the "survey question" style of submission that can be seen on the DPLH website. We see it as biased and loaded. Make your submissions to APLA and we'll redirect them to our

contacts in DPLH or send them direct to DPLH administration, correctly titled please. There is no formal channel for these submissions.

Thank you for your support,

Les Lowe President

Link to APLA Website <https://www.apla.com.au/>