

# HERITAGE



# **Aboriginal Heritage Act 1972**

**An Act to make provision for the preservation on behalf of the community of places and objects customarily used by or traditional to the original inhabitants of Australia or their descendants.**



# Heritage

- Register of Aboriginal Sites
- Statutory Applications Process
- Functions of Aboriginal Cultural Material Committee (ACMC)
- Role of Department of Indigenous Affairs (DIA)



# Aboriginal Sites Register

- Section 38 – Establishes the Register
- Minister approves the manner and form of the Register
- Register includes all reported places (over 24,000 reported)
- Assessment of reports results in places being classified as Lodged, Permanent, Insufficient Information or Stored
- Confidentiality rules govern access to site information
- Access via DIA website or in person

# Statutory Applications Processes

- Section 17 – Offences
- Section 18 – Notices to use land for a purpose
- Section 16 – Rights to excavate
- DIA provides Assessment & advice



# Standards & Guidelines

- APMC expects that applications are consistent with the standards and guidelines available at <http://www.dia.wa.gov.au/Heritage/>
  - S18 Notice template
  - Aboriginal heritage surveys
  - Aboriginal site recordings
- APMC expects that consultation includes relevant Aboriginal people.

# S18 Notices, S16 Permits

- Audience is ACMC & DIA
- Write for the ACMC within the context of the AHA
  - Applications are not an academic article
  - Not an advice to a client
  - Not a lobby document
  - Is a Statutory Application

# Aboriginal Cultural Material Committee

- Established under section 28 of the AHA
- Members:
  - Mr Kenneth Ninyette Chairperson
  - Ms Jackie Tang Ex-Officio - A/Director General, Dept of Indigenous Affairs
  - Dr Moya Smith Ex-Officio - Executive Director, WA Museum
  - Mr Ken McCrackan Ex-Officio - Manager, Dept for Planning and Infrastructure
  - Mr Michael Robinson Member - Specialist Anthropologist
  - Ms Violet Drury ACMC Member - Mid West
  - Ms Jean Boladeras ACMC Member - Metropolitan
  - Mr Alec Tucker ACMC Member - Pilbara
  - Ms Pearl Gordon ACMC Member - East Kimberley
  - Mr Peter Francis ACMC Member - West Kimberley



# Functions of Aboriginal Cultural Material Committee (ACMC)

- S5 - Application to places
- S16 – Excavations
- S18 – Recommendations about Notices
- S19, 20, 21, 25 – Rec about Protected Areas (Governor)
- S39 – Evaluation, Recording, Preservation, Advisory
- S40, 42, 59 – Objects (Governor) & (Minister)



# Assessing Sites – Step 1

## **S5 – Does a reported place have evidence of the following:**

- a) any place of importance and significance where persons of Aboriginal descent have, or appear to have, left any object, natural or artificial, used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people, past or present;
- b) any sacred, ritual or ceremonial site, which is of importance and special significance to persons of Aboriginal descent;
- c) any place which, in the opinion of the Committee, is or was associated with the Aboriginal people and which is of historical, anthropological, archaeological or ethnographical interest and should be preserved because of its importance and significance to the cultural heritage of the State;
- d) any place where objects to which this Act applies are traditionally stored, or to which, under the provisions of this Act, such objects have been taken or removed.

## Assessing Sites – Step 2

S39 – understand the context of significance for reported places and objects

- (2) In evaluating the importance of places and objects the Committee shall have regard to:
  - (a) any existing use or significance attributed under relevant Aboriginal custom;
  - (b) any former or reputed use or significance which may be attributed upon the basis of tradition, historical association, or Aboriginal sentiment;
  - (c) any potential anthropological, archaeological or ethnographical interest; and
  - (d) aesthetic values.
- (3) Associated sacred beliefs, and ritual or ceremonial usage, in so far as such matters can be ascertained, shall be regarded as the primary considerations to be taken into account in the evaluation of any place or object for the purposes of this Act.

# Functions of Aboriginal Cultural Material Committee (ACMC)

- S18
- (2) Where the owner of any land gives to the Committee notice in writing that he requires to use the land for a purpose which, unless the Minister gives his consent under this section, would be likely to result in a breach of section 17 in respect of any Aboriginal site that might be on the land, the Committee shall, as soon as it is reasonably able, form an opinion as to whether there is any Aboriginal site on the land, evaluate the importance and significance of any such site, and submit the notice to the Minister together with its recommendation in writing as to whether or not the Minister should consent to the use of the land for that purpose, and, where applicable, the extent to which and the conditions upon which his consent should be given.



# Assessing S18 Notices

- Each Notice must at least enable the ACMC to:
  - form an opinion as to whether there is any Aboriginal site on the Land subject to the section 18 Notice, and,
  - evaluate the importance and significance of any such site, and
  - determine whether a breach of s17 of the AHA will occur if the Minister does not consent to the purpose described in the Notice, and
  - make recommendations to the Minister for Indigenous Affairs as to whether the Minister should or should not consent to use the Land for the purpose described in the Notice, and
  - recommend any or to what extent conditions should be placed on the consent.



# Role of Department of Indigenous Affairs (DIA)

- Support for & advice to the Minister
- Support for and advice to the ACMC with statutory applications
- Advice to Aboriginal people
- Advice to landowners
- Maintain the Register

# Kimberley Data

The North West Kimberley is a large remote region

From the Department of Indigenous Affairs perspective the knowledge of the heritage values of this region is patchy and incomplete.

In partnership with the Traditional owners this will take years of comprehensive studies/surveys



# Kimberley Data

Status	Number of Sites
• L (Lodged)	110
• P (Permanent)	746
• I (Insuf Info)	177
• S (Stored)	16
• SR (SAG)	2 (S)
• Total =	1051