

Following long standing concerns of energy, resources and development industries about the management of Aboriginal Heritage issues in Western Australia, the State Government has released the draft *Aboriginal Heritage Amendment Bill 2014 (WA)*.

Changes have been suggested to the current legislation to recognise the significant changes that have occurred in the Aboriginal, mining and development spheres over the last 40 years, bringing it up to date with current industry practice.

The Department of Aboriginal Affairs (**DAA**) suggests that the proposed amendments are designed to provide:

- stronger compliance regime with increased penalties;
- a stronger voice for Aboriginal people;
- streamlined permitting processes; and
- increased transparency and accountability.

What Will Change?

Section 18 Certificates	<p>Three options:</p> <ul style="list-style-type: none"> • The DAA CEO may issue a declaration that there are no sites on the land; • The DAA CEO may issue a permit that although there is a site on the land it will not be significantly damaged or altered; or • The Minister on recommendation from the Aboriginal Cultural Materials Committee (ACMC) may issue a permit that the works may proceed although a site may be significant damaged or altered. <p>Heritage surveys and consultations with traditional owners are not a requirement. Although, it will be easier to obtain a declaration if such steps have been undertaken by the proponent.</p> <p>The permits may be transferred.</p> <p>Application fees will be prescribed.</p>
Compliance Regime and Penalties	<p>Increased penalty fees. In some cases by a multiple of 10.</p> <p>Increased timeframe for prosecution from 1 – 5 years.</p> <p>Change in onus of proof.</p> <p>The Court may now issue remedial orders.</p>
Permits and Declarations Register	<p>Declarations and permits issued under the new s18 process will be recorded on public register</p>
Assessment of Sites	<p>The ACMC will no longer hold function of assessing aboriginal sites outside of the s18 process. This function will now lie with the DAA CEO.</p>

Public submissions on the proposed Bill close on **9 August 2014**.

Please contact us if you would like to know further how the proposed amendments may affect your operations, or you would like assistance to prepare a submission.

We also offer in-house workshops, to your staff and executive, to assist in a better understanding of these proposed reforms. We are happy to discuss further with you.

Contacts

Margie Tannock

Partner
T +61 8 9429 7456
E margie.tannock@squirepb.com

Lauren Barnett

Associate
T +61 8 9429 7530
E lauren.barnett@squirepb.com

