

Statement by Esperance Tjaltjraak Native Title Aboriginal Corporation RNTBC (ETNTAC) on New Aboriginal Cultural Heritage Act 2021 (WA)

Esperance Tjaltjraak Native Title Aboriginal Corporation RNTBC (ETNTAC) has worked hard since native title was first determined by the Federal Court in 2014 to be a responsible and productive steward and manager of native title and Aboriginal Cultural Heritage on behalf of the Esperance Wudjari people.

ETNTAC shares the Esperance community's concerns about the workability of the new *Aboriginal Cultural Heritage Act 2021 (WA)* (ACHA) and the State Government's lack of meaningful engagement with industry, farmers, the local community and Aboriginal people in relation to how the new legislation and regulations will apply.

ETNTAC has not yet decided whether it will apply to become a registered Local Aboriginal Cultural Heritage Service (LACH) under the ACHA and has expressed concerns to the State Government about the lack of clarity around approvals processes, the rushed timeframes and the heavy compliance obligations that will be placed on certain land users and stakeholders, including ETNTAC.

Despite the above, we acknowledge that ETNTAC will inevitably be drawn into the requirements of the ACHA as the representative body for the Wudjari people and ETNTAC being a farmer and land manager itself.

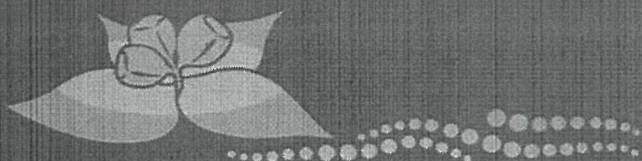
ETNTAC's interpretation of the ACHA is that where farmers and land users are essentially undertaking the same activities as they have always carried out in the same areas, the activities will be exempt under the ACHA and therefore there will be no requirement to engage with the Department of Planning, Lands and Heritage, the Aboriginal Heritage Council or ETNTAC.

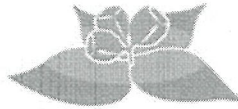
ETNTAC considers that regardless of any ambiguity created by the tier activity classifications in the new ACHA, new activities undertaken by farmers and residential land users on cleared land will pose a low risk of causing additional impact to Aboriginal Sites and should not be subject to any burdensome or costly approvals requirements.

ETNTAC has no desire to be bogged down in any Government imposed compliance processes or permitting for such activities. Once ETNTAC has clarified the exact requirements of the new ACHA and accompanying regulations, it will work collaboratively with affected land users to develop streamlined and proportionate processes to deal with any new approval obligations imposed by the ACHA. But this will take time and certainly will not happen by 1 July.

Even for new ground disturbing activities which do hold some risk for causing cultural harm, such as mining, land clearing, and changes to hydrology, the preference of ETNTAC will be to work with proponents and mining companies to ensure any impacts on Aboriginal Sites or Aboriginal Cultural Heritage are avoided and to deal with approvals processes by agreement outside of the cumbersome regulatory processes created by the ACHA.

Despite our concerns with the roll-out of the ACHA, ETNTAC stands committed to continue to work to promote respect, reconciliation and cohesion in the Esperance community and to ensure the mutual interests of all parties are respected in its dealings. ETNTAC has a track





record of doing this in its management of native title which caused a similar level of community concern at the time of recognition in 2014.

As the practical effects of the new ACHA become better understood, ETNTAC commits to continue engaging as best it can in a collaborative and constructive way with community concerns and to adopt a sensible and workable approach to heritage management.

You can email heritage@etntac.com.au if you want to talk about this more or explore heritage concerns on your property.

If you do decide to contact us, please be aware that ETNTAC's current resourcing enables the employment of one part-time heritage officer. For the past 2 years, our colleague has been dealing with a significant surge in heritage related matters arising from increased mining exploration in the region. There is no clear pathway for ETNTAC to increase its capacity to deal with existing demands let alone what may happen from 1 July.

Accordingly, we ask for your patience. If we are unable to respond; this does not indicate a lack of care but instead the limits of our human resources.

Please also be aware that ETNTAC is not, and will never be, responsible for advising landowners and private businesses about their compliance with the ACHA or any other law.

ETNTAC's role is to represent native title and cultural knowledge holders. Whilst we will always seek to perform this role in a respectful and collaborative way; ETNTAC is not responsible for the administration or implementation of the ACHA. If you have questions about how the ACHA may affect you – those questions should be directed to your own advisers or the State Government's ACH Implementation team on 6551 8002 or achimplementation@dplh.wa.gov.au.

We thank the media and others for the interest in ETNTAC's perspective on the new ACHA. We will not be offering additional media comment at this time.

Gail Reynolds-Adamson
Chairperson

Peter Bednall
Chief Executive Officer

15 June 2023

