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Aboriginal Heritage Act Review  
Department of Planning, Lands and Heritage  
Locked Bag 2506  
Perth WA 6000

Via Email: [AHAreview@dplh.wa.gov.au](mailto:AHAreview@dplh.wa.gov.au)

Dear Sir / Madam

**Re: Consultation Draft Aboriginal Cultural Heritage Bill 2020**

NTS Goldfields Ltd (**NTSG**) submits that the draft *Aboriginal Cultural Heritage Bill 2020* (**Bill**) should not be introduced into parliament as, among other things, it fails to meet the standards enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**). In keeping with the central principle of self-determination enshrined in the UNDRIP, NTSG holds that Aboriginal people should be the ultimate decision makers regarding their heritage. This includes decisions about what is, and is not, an heritage site, the relative importance of intangible and tangible heritage and how their heritage should be managed, preserved and protected. This principle informs our reading of, and response to the Bill.

NTSG is the commonwealth funded native title service provider for the Goldfields region of Western Australia and has as its priority, the resolution of native title matters in the region. The protection, caring for and respecting of culturally significant or sacred sites and landscapes form part of the native title rights and interests subject to section 211 of the *Native Title Act 1993* (Cth). The current Bill falls markedly short of empowering Aboriginal people to do so and, in fact, creates a situation where other parties are making a judgement about whether an area is subject to Aboriginal cultural heritage, or not.

The *Aboriginal Heritage Act 1972* (WA) (**AHA**) was legislated following an act of cultural destruction in the Goldfields. The removal and sale of sacred stones from Weebo, approved by a Western Australian mining wardens' court, created the necessity for legislation to protect Aboriginal cultural heritage. Almost 50 years later, the destruction of Juukan Gorge by Rio Tinto has shown the glaring inadequacies of the AHA, particularly the power afforded to the Minister responsible for Aboriginal affairs, and the section 18 process. The reforms proposed in the Bill, in its current form, fail to remedy the conditions which led to the Juukan Gorge disaster.

Whilst NTSG views reforms to the current Aboriginal heritage system as much needed, the reforms presented in the Bill do not sufficiently alter the balance of power between the Western Australian government, private individuals, companies, and Aboriginal people. NTSG recognises

the need for streamlined, effective processes for negotiating between Aboriginal people and those who wish to make use of their land, this is especially pertinent to the Goldfields region. Unlike other regions of the state, there is a significant percentage of small miners in the region who often do not conform to the requirements of the AHA, and are unlikely to adhere to the processes outlined in the Bill. This is particularly important as decisions about what is cultural heritage is determined by proponents rather than Aboriginal people, as outlined in the proposed due diligence regime.

NTSG submits that it is short-sighted to sacrifice the heritage of ancient, living cultures in favour of accelerated development. To truly respect and empower Aboriginal people, heritage legislation needs to give communities the ability to make informed decisions projects that will cause harm to their cultural heritage, through a process of free, prior and informed consent.

Furthermore, NTSG has read and fully supports the submission made by the National Native Title Council.

Should you have any queries regarding anything in this correspondence, please do not hesitate to contact me at [davidlanagan@ntsg.org.au](mailto:davidlanagan@ntsg.org.au) or on telephone number 08 93310121.

Yours sincerely



David Lanagan  
**Chief Executive Officer**