



# Cultural Heritage Policy Statement

In accordance with YMAC's Mission, Vision and Values, and in the face of growing pressures to amend the *Aboriginal Heritage Act 1972 (WA)* to provide easier approvals to access country by Land Users in the Resource and Mining Sectors, YMAC, on behalf of its members, is committed to responding to, and progressing, the cultural heritage protection aspirations of the Traditional Owners of Yamatji and Marlpa country.

Cultural heritage plays an ongoing and significant role in the lives of Aboriginal people, who have maintained strong cultural and spiritual affiliations to the land as a whole. The protection of heritage sites, whether an archaeological site or an area of ethnographic importance, is critical to the maintenance of Aboriginal culture and ability for Traditional Owners to exercise their native title rights and interests; many of which are cultural obligations under traditional law and custom. For example, sites may require protection, may need to be avoided, may be only accessed by men or women, or may form parts of important stories which may be passed down through Aboriginal law.

- ***Cultural heritage is central to the identity, laws, customs and cultures of the Traditional Owners of the land. The protection of Aboriginal Cultural Heritage is of paramount importance to the futures of Yamatji and Marlpa people and the exercise of native title rights and interests, law and custom.***

## Aboriginal Cultural Heritage – Legislative Protection

Aboriginal cultural heritage is recognised and defined under Australian law.

*The Aboriginal and Torres Strait Islander Heritage Protection Act 1984* enables the Australian Government to respond to requests to protect traditionally important areas and objects that are under threat, if it appears that state or territory laws have not provided effective protection. The government can make special orders, called declarations, to protect significant Aboriginal areas, objects and classes of objects from threats of injury or desecration. The government cannot make a declaration unless an Aboriginal or Torres Strait Islander person (or a person representing an Aboriginal or Torres Strait Islander person) has requested it and has provided satisfactory evidence of a body of traditions, customs, observances and beliefs that explains, firstly, why there is a threat of injury or desecration and, secondly, why the area, object or class of objects is of particular significance to Aboriginal or Torres Strait Islander people. The power to make declarations is meant to be used as a last resort, after the relevant processes of the state or territory have been exhausted.

*The Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) establishes the National Heritage List, which includes natural, Indigenous and historic places that are of outstanding heritage value to the nation. The Act also establishes the Commonwealth Heritage List, which comprises natural, Indigenous and historic places on Commonwealth lands and waters or under Australian Government control, and identified by the Minister for the Environment, Heritage and the Arts (the Minister) as having Commonwealth Heritage values.

*Protection of Movable Cultural Heritage Act 1986*, which includes legislation that prevents objects of cultural heritage significance, such as those that are sacred to Indigenous people's heritage,

from being exported out of Australia. This helps to ensure these special objects, important to our Indigenous heritage, are not lost to the nation.

There is also legislation specific to the protection of Aboriginal cultural heritage in Western Australia, the *Aboriginal Heritage Act 1972*. This Act applies to

- (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.

- **YMAC does not consider that the Aboriginal Heritage Act 1972 (WA) provides for the sufficient protection of Aboriginal Cultural Heritage and seeks significant amendments to the Act to ensure fair and transparent processes; and that an appropriate level of protection is applied to Aboriginal Cultural Heritage.**
- **YMAC seeks significantly increased involvement of Traditional Owners in decision-making over their cultural heritage, greater recognition of their rights and interests in country in the AHA, and improved accountability to Traditional Owners for decisions made about the future of Aboriginal Cultural Heritage.**

### **Native Title Act 1993**

The Native Title “Future Acts” regime provides the mechanism for the negotiation of the protection of Aboriginal Cultural Heritage, rather than the AHA, through agreement making including processes for managing cultural heritage issues.

- **YMAC calls for the recognition of the Native Title Act in the Aboriginal Heritage Act 1972.**
- **YMAC seeks, wherever possible, that sites and areas of cultural significance to Traditional Owners are avoided and properly protected; and that the wishes of the cultural custodians are respected.**
- **In conducting negotiations with parties with interests in land, YMAC seeks fair and transparent processes which properly recognise the importance of Aboriginal Cultural Heritage to Traditional Owners and to the broader Australian community**

### **YMAC Cultural Heritage Protection Services**

YMAC does not receive Government funding to provide Cultural Heritage Services, but given the importance of heritage protection to Traditional Owners, has been providing these services since 1994. Any surplus funds derived from the income from the coordination of heritage surveys is only used for providing native title and heritage protection services.

- **YMAC is a not-for-profit organisation that does not operate for the profit or gain (either direct or indirect) of its individual members.**

YMAC provides respectful and professional cultural heritage protection services to meet the aspirations of Traditional Owners by ensuring an enduring protection of Indigenous cultural heritage and providing a strong legacy for Yamatji and Marlpa People for the future. YMAC will continue to do so by through the following means:

- Negotiating strong agreements and appropriate heritage clearance processes with Land Users.
- Providing professional heritage services to Traditional Owners.
- Identifying and pursuing funding from a range of sources for Cultural Heritage protection projects across both regions.
- Pursuing when required through legal processes, the best heritage protection outcomes for our clients.
- Developing best practice guidelines for the identification and protection of Indigenous cultural heritage.
- Developing best practice guidelines for the undertaking of, and production of, heritage surveys and associated reports to meet DIA and State Government requirements.
- Providing formal comments on, and pursuing where necessary through legal processes, any changes to current Legislation that affects the aspirations of Indigenous people in the identification and protections of places of cultural significance.
- Continuing engagement with Indigenous people in the Murchison-Gascoyne and Pilbara regions about their heritage and environment protection concerns and aspirations.

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