



**Hon Dr Tony Buti MLA**  
**Minister for Education; Aboriginal Affairs;**  
**Citizenship and Multicultural Interests**

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Our Ref: 80-13053

[REDACTED]  
Department of Transport

Via email: [REDACTED]

Dear [REDACTED]

**SECTION 18 NOTICE – DEPARTMENT OF TRANSPORT – TANTABIDDI  
BOATING FACILITY PROJECT**

I refer to the Notice submitted under section 18(2) of the *Aboriginal Heritage Act 1972*, dated 7 June 2023 by the Department of Transport (DoT) (Notice).

The Notice advises that the DoT wishes to use the land described as:

- Reserve 40729, Lot 156 on Deposited Plan 240286, CT 3144/10, Land Act Number 1125721, Exmouth; and
- Marine Reserve 2, Land Act Number 1048588, Ningaloo Marine Park

for the Purpose described as:

- Tantabiddi Boating Facility Project.

I am advised that the intended use will impact upon one Aboriginal site within the meaning of section 5 of the *Aboriginal Heritage Act 1972*, being:

- ID 39730 (Tantabiddi Midden 1).

Pursuant to section 18(3) of the *Aboriginal Heritage Act 1972*, having considered the recommendation of the Aboriginal Cultural Material Committee and having regard to the general interest of the community, I have decided to grant consent with conditions to the Notice. The form of consent is enclosed.

I take this opportunity to acknowledge the consultation that DoT has undertaken with the Nganhurra Thanardi Garrbu Aboriginal Corporation RNTBC and the Yamatji Marlpa Aboriginal Corporation and support the agreements that have been reached. I note that Nganhurra Thanardi Garrbu Aboriginal Corporation RNTBC requested that Baiyungu people are invited to be present as cultural monitors for ground disturbing works during any construction phase of the project.

I also note that DoT has agreed to the above request and express my appreciation. I strongly encourage all parties to act in accordance with the agreements they have entered into to ensure the benefits to both parties, particularly the appropriate protection and management of Aboriginal heritage, are realised.

I also draw your attention to the additional information attached, which is provided for your assistance.

If you have any queries in relation to this matter, please contact [REDACTED] Assistant Manager, Aboriginal Heritage Conservation at the Department of Planning, Lands and Heritage on [REDACTED]

Yours sincerely

[REDACTED]

Dr Tony Buti MLA

**MINISTER FOR ABORIGINAL AFFAIRS**

5 DEC 2023

Att.

## **ABORIGINAL HERITAGE ACT 1972**

### **CONSENT PURSUANT TO SECTION 18(3)**

**CONSENT GRANTED TO:** The Department of Transport on behalf of the State of Western Australia

**IN RESPECT OF THE LAND:**

- Reserve 40729, Lot 156 on Deposited Plan 240286, CT 3144/10, Land Act Number 1125721; and
- Marine Reserve 2, Land Act Number 1048588

**PURPOSE:** Tantabiddi Boating Facility Project

**REFERENCE:** MIN-2023-1764

**SITE(S) TO BE IMPACTED:** ID 39730 (Tantabiddi Midden 1)

### **CONDITIONS OF CONSENT**

That the consent holder:

1. Invites, in writing, giving 60 days' notice, for two members nominated by Nganhurra Thanardi Garrbu Aboriginal Corporation to be present for ground disturbing works on the Land where it intersects the boundary of Aboriginal site ID 39730 (Tantabiddi Midden 1).
2. Provides an annual report to the Registrar of Aboriginal Sites advising what extent the Purpose has impacted on all or any sites located on the Land.
3. Provides a final written report to the Registrar of Aboriginal Sites within 60 days of the completion of the Purpose, advising whether and to what extent the Purpose has impacted on all or any of the sites located on the Land. The report should include a detailed description of:
  - a. what extent the Purpose has impacted any Aboriginal site on the Land;
  - b. where any Aboriginal site has been impacted, whether such site has been partially or wholly impacted by the Purpose, and the level, effect and type of any such impact – preferably by the provision of photographs taken before and after the impact;
  - c. where any Aboriginal site has been subject to archaeological or cultural salvage, when and how such salvage took place, who was present at the salvage and where the material was re-located, the results of the salvage and any subsequent analysis conducted; and
  - d. what extent the site has been remediated.



## SECTION 18 CONSENTS

### ADDITIONAL INFORMATION

The following information is provided for the guidance of the owner of the land given consent by the Minister for Aboriginal Affairs under section 18(3) of the *Aboriginal Heritage Act 1972* (Act).

#### 1. Right of review of decision

A consent holder or a native title party in relation to the land the subject of the consent who is aggrieved by a decision of the Minister made under section 18(3), including any condition to which the consent is subject, may apply to the State Administrative Tribunal (SAT) for a review of the decision (see [www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au)).

The Premier may, within 28 days, direct SAT to refer the application where the Premier considers that it raises issues of such State or regional importance. The Premier may direct SAT to first hear the application and then refer it with recommendations.

#### 2. Consent is transferable

If there is a change in ownership of land the subject of a consent, the new owner of the land must give notice in writing to the Minister within 14 days of the change in ownership. The notice must include

- (a) a copy of the consent;
- (b) the name and contact details of each owner of the land; and
- (c) the date on which the change in ownership occurred.

The new owner is required to give a copy of the notice within 28 days after the day of change in ownership occurred to:

- (a) the Aboriginal Cultural Heritage Committee (can be via ACHknowledge); and
- (b) any native title party in relation to the land.

The new owner may also make a written application to the Minister to revoke the consent.

The consent holder should notify the new owner of these requirements.

#### 3. New Information

The owner of the land the subject of the consent must notify the Minister within 21 days using ACHknowledge at if the owner becomes aware, on or after 1 July 2023 on or after the day that consent is given, of any new information about an Aboriginal site on the land the subject of the consent.

ACHknowledge can be found at: <https://www.wa.gov.au/government/document-collections/achknowledge-portal>.

*New information about an Aboriginal site* means information about an Aboriginal site on the land, other than information that the Minister was made aware of for the purposes of making the decision to give consent.

Where the Minister becomes aware of new information about an Aboriginal site, the Minister can, having regard to the general interest of the community:

- (a) amend the consent by amending any conditions, imposing new conditions or changing the specification of the land to which it relates;
- (b) revoke the consent;
- (c) revoke the consent and give a new consent; or
- (d) confirm the consent.

The Minister must make a decision within 28 days or as soon as practicable after that. An application can be made to SAT in relation to the Minister's decision.

#### **4. Compliance**

The Department of Planning, Lands and Heritage carries out routine audits to ensure that land owners are compliant with the conditions of consent. Failure to comply with a condition may constitute an offence under section 55 of the Act and be subject to prosecution.

The consent holder should inform all employees, contractors and any others engaged in carrying out the purpose of the consent of the terms of the consent and obligations under the *Aboriginal Heritage Act 1972*.

If any skeletal material is discovered, the police and the Department should be advised as soon as possible.

Reports to the Registrar of Aboriginal Sites should be submitted via the ACHknowledge portal at <https://achknowledge.dplh.wa.gov.au/>.

#### **5. Mitigation and Protection strategies**

It is expected that parties act in accordance with any agreements they have entered into to ensure the benefits to both parties, particularly the appropriate protection and management of Aboriginal heritage, are realised.