



Department of Biodiversity,
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Office of the Director General

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Mr Darren Foster
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Dear Mr Foster

DISCUSSION PAPER – AN OFFICE FOR ADVOCACY AND ACCOUNTABILITY IN ABORIGINAL AFFAIRS IN WESTERN AUSTRALIA

Thank you for your letter of 2 July 2018 and your invitation to provide a submission on the discussion paper - An Office for Advocacy and Accountability in Aboriginal Affairs in Western Australia (the new office).

It is timely for Government to consider such a proposal. The Department of Biodiversity, Conservation and Attractions (DBCA) has been increasing its engagement with Aboriginal people to deliver land management outcomes in recent years, including through amendments to the *Conservation and Land Management Act 1984* to enable joint management, facilitate the ongoing connection to country through the conduct of customary activities and conserve and protect Aboriginal cultural heritage values. DBCA is also working to track its performance in the delivery of services in these areas, which is likely to align with the objectives of the new office.

Please find attached the DBCA's submission on the discussion paper.

Should your staff wish to discuss this submission further, please contact Dr Simon Choo, Senior Policy and Planning Officer on 9219 9799 or simon.choo@dbca.wa.gov.au.

Yours sincerely

Mark Webb
DIRECTOR GENERAL

5 September 2018

Att



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Discussion Paper – An Office for Advocacy and Accountability in Aboriginal Affairs in Western Australia - Submission September 2018

1. What are your views about the outline of the office's basic features? Does it miss anything important? Is there anything included that shouldn't be?

- The Department of Biodiversity, Conservation and Attractions supports the establishment of an Office for Advocacy and Accountability in Aboriginal Affairs (New Office) which will, as indicated within the Discussion Paper, address an 'institutional accountability gap' and provide an important holistic and cross-sectoral approach to improve the delivery of services by Government to the Aboriginal community.
- In establishing the New Office, it will be important to clearly distinguish the roles of existing accountability and advocacy institutions within Western Australia, such as the Ombudsman, Chief Mental Health Advocate, Equal Opportunity Commission, Aboriginal Advisory Council, Aboriginal Affairs Coordinating Committee, Office of the Auditor General, Commissioner for Children and Young People, Inspector of Custodial Services and Director of Equal Opportunity in Public Employment.
 - The Discussion Paper (at p.7) notes that most generalist oversight entities operate focusing mainly on 'public sector *efficiency, effectiveness*, consistency and compliance with legislation'. The functions of the New Office also have a focus on monitoring and assessing *efficiency and effectiveness* (Discussion Paper at p.10).
 - To the extent that there is any overlap between functions, it may be necessary to amend either the scope, mandate and functions of existing bodies to minimise duplication of process.
 - Noting the important distinction between the cross-sectoral approach of the New Office, and its accountability directly to Parliament, the New Office should seek to maximise opportunities to share information and align with processes, data collection, and other matters of shared interest, with other accountability institutions to avoid duplicating government expenditure.
 - Given the role of the New Office in representing Aboriginal people, it will be important to effectively communicate the new role of the office and its functions with the Aboriginal community, so that Aboriginal people have a clear understanding of which accountability organisation should be approached for particular matters.

- It would be beneficial to identify any lessons learned from the discontinuance of the Northern Territory's 'Community Champion's' program in order to avoid any issues that contributed to the discontinuance of that program.
- As identified in the Discussion Paper it will also be important to align the functions of the office with other non-WA Government institutions and processes.
 - 'Closing the Gap' is a whole-of-government agenda for the Commonwealth and each State and Territory which sets out a strategic framework to deliver meaningful socio-economic development, health and education outcomes. This provides an important public accountability against key targets.
 - Alignment of work of the New Office with strategic frameworks such as Closing the Gap, or assessment processes arising from such work, will assist Government in improving its performance against key targets in a strategic and coordinated manner.
- The Discussion Paper notes that the New Office will be accountable to Parliament and independent of any Minister. Given the significant role that the New Office will play in representing the interests of, and advocating for, Aboriginal people, consideration should be given to the mechanisms through which the New Office will be accountable to Aboriginal people themselves. The Discussion Paper references participation of Aboriginal people and organisations in the appointment process of the holder of the office, consideration should be given to other mechanisms to involve the Aboriginal community in the ongoing work of the New Office, potentially through an advisory body or other governance mechanism.
- The Discussion Paper references the powers of the New Office to obtain documents and information, there are also a range of other accountability processes, ranging from royal commissions to advisory bodies referred to in the Discussion Paper, each with different powers. The nature and extent of the powers of the New Office will have impacts on the resourcing requirements and its statutory framework.
- Given the necessarily broad mandate of the New Office it will be important that the New Office is resourced adequately in order to address its functions. While general Aboriginal engagement, analytical and advocacy skills would be beneficial for employees of the New Office, there may also be the need for sectoral expertise to investigate on specific issues.

2. What should the name of the organisation be?

- Given the role of the New Office in representing and advocating for Aboriginal people, it is considered that Aboriginal people themselves are best placed to advise on the name for the organisation.

3. How should Aboriginal people and organisations be involved in the appointment process of the office-holder. Who should be involved?

- It is recommended that Aboriginal representative groups and bodies affected by the scope and focus of the New Office have the opportunity to input into the selection of the office holders. These groups could include Native Title Representative Bodies and Prescribed Bodies Corporate (representing traditional owners and interests in land management matters); peak Aboriginal health and education bodies; organisations such as the Aboriginal Legal Service which provides support to Aboriginal people at the interface of the justice system; and Aboriginal academic or research units that have specialised expertise.
- A challenge will be identifying an inclusive process for Aboriginal input. Should the New Office be appointed by the Governor as per the Ombudsman under the *Parliamentary Commissioner Act 1971*, then input into the appointment process could be facilitated through a process through which nominations, recommendations or submissions are made to the Governor by relevant representative Aboriginal groups.