

Port Hedland sacred site ruling highlights 40-year-old heritage system's inadequacy, Peter Collier says

By Nicolas Perpetch

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A landmark Supreme Court ruling over a Port Hedland sacred site reinforces the need for change to Western Australia's more than 40-year-old heritage system, WA Aboriginal Affairs Minister Peter Collier says.

The court yesterday quashed a recommendation by a Government committee for land and water around parts of Port Hedland's port to be removed from the heritage register.

Justice John Chaney found the Aboriginal Cultural Materials Committee had wrongly used a new definition of a sacred site, where a place must be devoted to religious use rather than subject to mythological story, song or belief.

Greens MP Robin Chapple has now called on the Government to reinstate heritage protection to 22 other sites he said had been deregistered using this interpretation of a sacred site.

Mr Collier said the court's decision highlighted problems within the current legislation.

"It is reflective of an Aboriginal heritage system that was developed more than 40 years ago, and how a lack of clarity within the current legislation can impact on decisions by those that work within its boundaries, including the Aboriginal Cultural Material Committee," he said.

"The decision provides further clarity and the decision will now be reviewed.

"It reinforces the need for change to the system, and I look forward to debating the proposed changes to the Aboriginal Heritage Act 1972 in Parliament."

Revealing the proposed changes last year, Mr Collier argued the pace of economic development in recent years, particularly in mining and construction, had highlighted inadequacies in the current 42-year-old law.

Government power to deregister other sites questioned

Aboriginal and legal groups, such as the Kimberley Land Council and the Law Society, have been scathing of the changes, saying they would largely cut out Indigenous people and focus power in the hands of the Department of Aboriginal Affairs' chief executive officer.

Greg McIntyre, the barrister who brought the Port Hedland case for Marapikurrinya siblings Kerry and Diana Robinson, said yesterday's ruling had set a precedent, putting into question the Government's power to deregister other sites.

"It sets a fairly clear interpretation of the legislation, which is inconsistent with the interpretation the committee has been applying," Mr Macintyre said.

Aboriginal Heritage Action Alliance co-founder Clayton Lewis, a Widi traditional owner from the state's Mid West, agreed.

"We were always amazed at the new criteria and the deregistration of that site," Mr Lewis said.

"So, fantastic news for the people in Port Hedland and, I think, setting a precedent across the state."



PHOTO: A WA court has reversed a decision by a government committee to deregister a sacred Aboriginal site at Port Hedland port. (Reuters: David Gray)

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Mr Chapple queried the motive behind the committee's interpretation of a sacred site.

"Many of these sites were deregistered because they were impeding state development," he said.

"It certainly makes you wonder why the department introduced such a narrow interpretation of a sacred site at this time."

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