

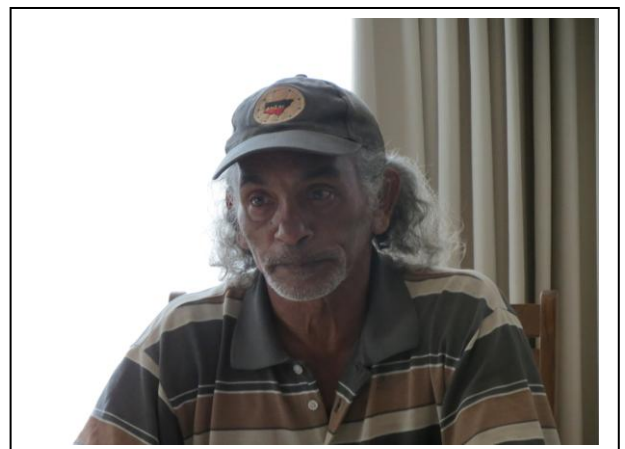
Workshop Summary Report Reform of Aboriginal Culture and Heritage Legislation

**Grafton
5 Mile Hotel and Stakehouse
Armidale Road Grafton
9 November 2011**

Facilitation and Summary Report - Markwell Consulting



Workshop participants working through NSW Culture and Heritage Legislation Reform business...



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Warning

Aboriginal and Torres Strait Islanders readers are warned this report may contain names and images of people who have passed away.

Preamble

This report is a summary of discussions, outcomes and key messages from participants at a workshop which focused on Aboriginal issues associated with the reform of the NSW Aboriginal Culture and Heritage Legislation (the Reform). The workshop was one of a series of 25 workshops held across NSW coordinated by the NSW Office of Environment and Heritage (OEH). The purpose of these workshops was to seek input from Aboriginal people on the reform.

The workshop was facilitated by Mr Ken Markwell, Markwell Consulting (the Consultant), an independent Aboriginal consulting business. The Consultant was not required to undertake an analysis of the information from the workshop, rather simply provide a summary of key discussions and outcomes to OEH. This report is that summary.

The information provided from the workshops will be considered by the Reform Working Party, Senior OEH Officials and the Minister in developing new culture and heritage legislation in NSW.

To ensure transparency and accuracy of the information the Consultant provided a draft summary report to workshop participants for their comment. Comments received have been incorporated into this report.

OEH is also coordinating 5 roundtable workshops facilitated by independent consultants - Twyfords. The purpose of these workshops is to seek views from NSW Aboriginal people, key stakeholders and others on the reform.

Acronyms

New South Wales National Parks and Wildlife Service (NSWPWS)

New South Wales National Parks and Wildlife Act (NSWNPW Act)

Department of Aboriginal Affairs (DAA)

Caring for Country (CFC)

Aboriginal Heritage Information Management System (AHIMS)

Local Aboriginal Land Council (LALC)

New South Wales Aboriginal Land Council (NSWALC)

Native Title Services Corporation (NTSCORP)

Natural Resource Management (NRM)

Draft Running Sheet

DRAFT RUNNING SHEET
ABORIGINAL CULTURE AND HERITAGE REFORM
REGIONAL ABORIGINAL WORKSHOPS - NOVEMBER/DECEMBER 2011

9:00 – 9:30	Morning Tea	
9:30 – 9:45	Welcome to Country	Local Elder
9:45 – 10:15	The Reform Process	OEH COB RM
10:15 – 11:00	Structure for the Day	Facilitator
11:00 – 11:30	DVD	
11:30 – 12:30	Workshop Session	Facilitator
12:30 – 13:30	Lunch	
13:30 – 14:45	Workshop Session	Facilitator
14:45 – 15:00	Summary and Wrap up	Facilitator
15:00	Afternoon Tea	

Attendees

Name	Organisation / Aboriginal Group
Linda Stewart	Casino Boolangle LALC
Bernie Walker	Casino Boolangle LALC
Robyn Bancroft	OEH
Terry Tibbett	
Ian Ross	
Andrew Donnelly	Baryulgil
Ashley Donnelly	OEH CCHD – Northern Rivers Region
Lisa Southgate	OEH CCHD – Northern Rivers Region
Rosalie Neve	OEH – EPRG – North East
Elizabeth Smith	Yaegl
Trevor Kapeen	Bulgarr Ngaru MAC
Lana Mundine	Bulgar Ngaru (AMS)

Welcome to Country

Aunty Robyne Bancroft Smith provided participants with a Welcome to Country.

Session 1: The Reform Process

Overview of the Refrom Process (OEH)

Mr Ashley Donnelly and Ms Lisa Southgate (OEH) provided an overview of the reform process and purpose of the workshops and roundtable meetings. The presentation is provided below.

REFORM of ABORIGINAL CULTURE & HERITAGE LAW

1

Reform process gets underway

- Aboriginal people have been seeking reform for over 30 years – There has been many processes in the past.
- For the 1st time the need for reform is supported by all political parties in the NSW Parliament. A real opportunity exists.
- In September 2011, the Government announced a reform process to explore options for the protection and management of Aboriginal culture and heritage in NSW.
- Government has asked for recommendations by September 2012. - A 10 month window of opportunity is now available to work out what is needed, and to advise the Government on what will work.
- We can only reform NSW law – not Commonwealth law such as the Native Title or Copyright law
- This workshop is the start of that process.

2

Goals of the Reform – in summary

- Protect and manage NSW Aboriginal culture and heritage.
- Clarify role of Aboriginal people in management of, and decision making about their culture and heritage.
- Create clear roles and responsibilities for Aboriginal people and communities, heritage professionals, government agencies, and industry
- Link Aboriginal heritage law to NSW natural resource management and planning processes
- Ensure streamlined and flexible regulation of Aboriginal heritage

3

A Reform Working Party – appointed by and reports to the Minister for the Environment and the Minister for Aboriginal Affairs to be made up of:

- Chairperson – Office of Environment and Heritage - *ex-officio*
- Aboriginal Affairs NSW – *ex-officio*
- A nominee from the Coalition of Aboriginal Peak Organisations (CAPO) – *ex-officio*
- An expert in community engagement with a broad understanding of the cultural and social issues affecting Aboriginal people in NSW
- Two individuals with expertise in land management and the issues affecting Aboriginal cultural heritage
- An Aboriginal culture and heritage legal expert
- An expert in Aboriginal culture and heritage conservation
- Two individuals from industry or business with experience in issues relating to Aboriginal culture and heritage

4

Terms of Reference for the Working Party

- To advise Government on:
- Reviewing existing provisions
 - Reviewing laws and policies of other jurisdictions
 - Existing provisions that should be retained
 - Roles of responsibilities of Aboriginal people regarding their culture and heritage
 - Processes to identify significant Aboriginal culture and heritage items, places, and landscape values
 - Possible use of negotiated outcomes
 - Dispute resolution and mediation processes
 - Links to environmental planning, development control and natural resource management processes
 - NSW agency responsibilities

5

The Reform Process – Consultation

Phase 1 November - December 2011

- Series of 25 regional workshops with Aboriginal communities
- Public awareness campaign re process and timetable (internet updates, media articles, dvd, reports to regular meetings)
- Circulate issues paper and initial background material to stimulate discussion
- On line survey
- Interagency meetings + peak stakeholder consultations (property, heritage, environment, local government, industry)

6

The Reform Process – Consultation

Phase 2 April – June 2012

- Consultation with Aboriginal communities and other stakeholders about a range of options for legislation based on ideas gleaned from Phase 1.
- The Working Party will report to Ministers in September 2012
- After that it is a matter for Government to decide

7

In conclusion

- This is a unique opportunity to have your say in how Aboriginal culture and heritage in NSW is to be protected .
- The Government and the Working Party welcome your views and appreciates your time, effort and interest in this important reform process.

8

The Reform Process – Participants Comments

The participants had the following comments, issues and suggested improvements in relation to the reform process.

The Reform Process
Participants wanted to know the process on the selection of the Reform Working Party, including who are on the WP and when will they be appointed
Workshops were ill informed leading to lack of community participation <ul style="list-style-type: none"> • Need more time and space for community to be involved • Need to use existing contacts / engagement strategies
More detail on the Reform Working Parties roles and responsibilities

Session 2: Culture and Heritage

Participants were asked what culture and heritage means to them. Their responses are outlined below. This was an important session to outline what culture and heritage values are important to Aboriginal people.

Culture	
Spirituality	Kinship
Knowledge	Stories / Dreamtime
Totems/ Tribes and Families	Continuity – continuous connections to family and place
Sustainability of life	Rights and responsibilities
Identity	Your mob – different clans
Your environment	Values
Respect	Your community
Tradition	Economic sustainability
Beliefs	History
Belonging	Connection

Heritage	
Inherited / where you come from	Kinship / Language / Belonging
Intangible values – fabric interwoven	Holistic
Music / art / dance and ceremony	Inherited trauma
Inherited culture	Evidence of your inheritance – plants, artefacts and stories
Make sure there is a future for our families	Stories passing them down – history /past
Responsibilities – things you have to carry on	

Culture and Heritage Protection and Management

Participants were asked what is currently protected (or what should be currently protected) under the existing NSWNPWS legislation versus what should be protected under new or revised legislation.

Protected in this context includes recognised, valued, protected and managed.

Currently Protected	Should be Protected
Stones	Birth places
Objects Aboriginal	Caves
Bones/ burials	Underground water
Rock art	Rivers/waterways
Scarred trees	Camping areas
Aboriginal place declarations	Ceremony
Middens	Walking paths/ ceremonial areas
Bora-rings	Underground minerals
Caves	Stories and story places – Aboriginal connection to land
Birth places	Language
	Access / ongoing use
	Intellectual copyright knowledge
	Culture - connectedness
	Hunting and fishing
	Aboriginal knowledge (see below)

Aboriginal Knowledge

Participants were particularly interested in ensuring Aboriginal knowledge was recognised and protected in any new legislation. The group offered the following specific comments in relation to Aboriginal knowledge and its significance to Aboriginal peoples.

Aboriginal Knowledge	
Not a right it's a responsibility	Handed down - learnt
Owned by Aboriginal people – individuals and families	Patrilineal and matrilineal lines
Recognition for non- physical associations and values	Understanding of government and others that Aboriginal people need to own and manage their culture, heritage and knowledge

Aboriginal Knowledge	
Knowledge empowers Aboriginal people	Aboriginal people should be believed – Aboriginal history wasn't written by Walt Disney
Womens and mens business – can transcend regions and families	

Session 3: Who Speaks for Culture and Heritage

Participants were asked to identify who speaks for country and who should not speak for country. In some circumstances there were different views on who should speak for country. In these cases those people/organisations were placed on both categories.

Importantly, Aboriginal people are indicating local circumstances must be recognised and prevail. For example in some areas Aboriginal people have established their own organisations to speak for their people and country, whereas in other areas people prefer the LALCs to have a role in speaking for them. This reflects different community circumstances across the State.

Who should not speak for Country	Who should speak for Country
Somebody who doesn't come from that country – Indigenous or non-Indigenous	The Language group
Non-Indigenous people can have knowledge and be supporters but not speak for country	Original people – with bloodlines to country
Land Councils – assist to connect people who can speak (enablers)	People with specific permissions who may or may not be from country
Government – all levels	Senior Elders and where appropriate junior Elders
Archaeologists	
Non-Indigenous experts – including those in organisations	

Session 4: New Culture and Heritage Legislation

Participants provided ideas and thoughts on key elements required under new NSW culture and heritage legislation. This included key components of the existing legislation that needs to be retained and/or improved and new concepts and elements that the existing legislation currently does not include.

New NSW culture and heritage legislation	
Improve communication with local government i.e. through guidelines for development approvals	Meaningful inclusion of Aboriginal people – right from the start of projects
Include all Aboriginal heritage values identification earlier - holistic	Revised role for archaeologists to assist Aboriginal to interpret values, identify values and mentor and train Aboriginal people

New NSW culture and heritage legislation	
Continue to roll out AHIMS database to community where capacity exists- Stop access of sites information without necessary approvals from community and more community ownership / management of values and sites information	All development applications should be referred to LALCs
Recognition /acknowledge sovereign rights of NSW Aboriginal people – not just government but business and others	New stand alone legislation
Solid statement /process about access /use and management of heritage information	All actions should have a compulsory assessment re: Roads and Transport Authority
All local government need to do comprehensive cultural heritage assessments and management plans	Set funding aside from legislation for job training etc. Managed independently by Aboriginal people with necessary expertise
Good archaeologists working again in community and with new legislation	

Enforcement

Enforcement was seen as particularly important issue which needs consideration and enhancement under any new legislation. Participants provided the following comments and suggestions in relation to enforcement.

Enforcement	
Strengthen omnibus legislation	Aboriginal people set penalties. Penalties should be a specific consultation topic as part of stage 2 consultations.
Penalties must be increased and achievable	Funding generated from heritage legislation (penalties, permits, convictions etc.) should come back direct to the community (who's heritage was affected) or if appropriate via government but not for bureaucracy – only on-ground heritage outcomes. Government needs to fund the Acts operation from general consolidated revenues.
Who enforces should also be the subject of stage 2 consultations. This is to ensure Aboriginal informed enforcement policies/penalties/procedures	Onus on developer not Aboriginal people (i.e. drink driving, speeding, red light cameras). Duty of care and due diligence

Session 5: Key Messages and Next Steps

Key Messages

The following session provide participants with the opportunity to provide key messages to NSW Parliament, Ministers, Reform Working Party, OEH and other key stakeholders on the culture and heritage reform.

These include comments specific to the reform process, stage 2 consultations, legislation and policy.

Key Messages	
Aboriginal issues Aboriginal involvement at all levels	Good notice on phase 2 consultations and improved processes
Majority of working party to be Aboriginal people	Aboriginal people to be able to nominate people to the working party
Working party should have representation from across the State	

Next Steps

1. Consultant is required to deliver workshop summary report to OEH as soon as possible
2. Consultant to provide draft summary report to participants for their comments prior to submitting final report to OEH.
3. Participants did not want their comments to be on behalf of other people.
4. Participants agreed for the summary report to be a public document, including being placed on the OEH reform website.

Addendum: Participants Comments Post Workshop

Markwell Consulting sent all participants a draft of the Workshop Summary report for their comments. The following comments were received by participants after the workshop. They reflect the participant's perspectives on the reform. Because they were provided as 'post workshop' comments, the Consultant has included them as an addendum to the Report so not to change the integrity of the workshop discussions and outcomes. The comments reflected below are verbatim extracts from workshop participants.

Attachment A: Completed Participant Workshop Evaluation Forms

Evaluation Form

NSW Aboriginal Heritage Reform - Aboriginal Workshop

[Location] Grafton [Date] 11-11-11

How would you rate the following (place a tick in the appropriate box)

Poor 1	Fair 2	Average 3	Good 4	Excellent 5
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	1	2	3	4	5
1. Value of workshop in meeting your needs					✓
2. Suitability of introductory session (OEH)					✓
3. Suitability of the facilitator					✓
4. Presentation techniques/style of the facilitator					✓
5. Usefulness of handouts					✓
6. Clarity of objectives					✓
7. Workshop structured to maximise participants active involvement					✓
8. Timeliness of the sessions					✓
9. Suitability of venue				✓	
10. Workshop organisation					✓
11. Culturally Appropriate					✓

What did you like most about the workshop?

Presentation techniques/style, Culturally Appropriate,
Participants Active, food was excellent,

What do you think could have been better?

More community Members,

Other comments (also use back):

food was excellent Workshop active involvement.
Culturally Appropriate

Evaluation Form

NSW Aboriginal Heritage Reform - Aboriginal Workshop

[Location] GARRATTON [Date] 11-11-11

How would you rate the following (place a tick in the appropriate box)

Poor	Fair	Average	Good	Excellent
1	2	3	4	5

	1	2	3	4	5
1. Value of workshop in meeting your needs					✓
2. Suitability of introductory session (OEH)					✓
3. Suitability of the facilitator					✓
4. Presentation techniques/style of the facilitator					✓
5. Usefulness of handouts					✓
6. Clarity of objectives					✓
7. Workshop structured to maximise participants active involvement					✓
8. Timeliness of the sessions					✓
9. Suitability of venue					✓
10. Workshop organisation					✓
11. Culturally Appropriate					✓

What did you like most about the workshop?

SIMPLE PRESENTATION (PLAIN ENGLISH)

What do you think could have been better?

AUDIO

Other comments (also use back):

ABORIGINAL CULTURE & HERITAGE IS EXTREMELY IMPORTANT TO ABORIGINAL PEOPLE & HOPEFULLY THIS PROCESS WILL LEAD TO A BETTER OUTCOME FOR ALL CONCERNED

Evaluation Form

NSW Aboriginal Heritage Reform - Aboriginal Workshop

[Location] Cadogan [Date] 11.11.11

How would you rate the following (place a tick in the appropriate box)

Poor	Fair	Average	Good	Excellent
1	2	3	4	5

	1	2	3	4	5
1. Value of workshop in meeting your needs					✓
2. Suitability of introductory session (OEH)				✓	
3. Suitability of the facilitator				✓	
4. Presentation techniques/style of the facilitator					✓
5. Usefulness of handouts				✓	
6. Clarity of objectives					✓
7. Workshop structured to maximise participants active involvement				✓	
8. Timeliness of the sessions				✓	
9. Suitability of venue					✓
10. Workshop organisation					✓
11. Culturally Appropriate				✓	

What did you like most about the workshop?

Opportunity to address issue in group discussion
throughout workshop.

What do you think could have been better?

I have only one thing to say about the question
is that I was pretty disappointed with attendance
at workshop. Community organisation and group
need to attend.

Other comments (also use back):

Pretty happy with today's Reform
Workshop.

Evaluation Form

NSW Aboriginal Heritage Reform - Aboriginal Workshop

[Location] Grafton [Date] 11-11-11

How would you rate the following (place a tick in the appropriate box)

Poor	Fair	Average	Good	Excellent
1	2	3	4	5

	1	2	3	4	5
1. Value of workshop in meeting your needs				✓	
2. Suitability of introductory session (OEH)					✓
3. Suitability of the facilitator					✓
4. Presentation techniques/style of the facilitator					✓
5. Usefulness of handouts				✓	
6. Clarity of objectives					✓
7. Workshop structured to maximise participants active involvement				✓	
8. Timeliness of the sessions					✓
9. Suitability of venue			✓		
10. Workshop organisation				✓	
11. Culturally Appropriate					✓

What did you like most about the workshop?

The chance to involve Aboriginal peoples in the process.

What do you think could have been better?

Earlier information - the chance to get more of our people to the discussions.

Other comments (also use back):

Evaluation Form

NSW Aboriginal Heritage Reform - Aboriginal Workshop

[Location] Crafton [Date] 11/11/11

How would you rate the following (place a tick in the appropriate box)

Poor	Fair	Average	Good	Excellent
1	2	3	4	5

	1	2	3	4	5
1. Value of workshop in meeting your needs				✓	
2. Suitability of introductory session (OEH)				✓	
3. Suitability of the facilitator				✓	
4. Presentation techniques/style of the facilitator					✓
5. Usefulness of handouts				✓	
6. Clarity of objectives				✓	
7. Workshop structured to maximise participants active involvement					✓
8. Timeliness of the sessions				✓	
9. Suitability of venue				✓	
10. Workshop organisation				✓	
11. Culturally Appropriate				✓	

What did you like most about the workshop?

Atmosphere was inclusive of all persons present.

What do you think could have been better?

Other comments (also use back):

Evaluation Form

NSW Aboriginal Heritage Reform - Aboriginal Workshop

[Location] Grafton [Date] 17-11-11

How would you rate the following (place a tick in the appropriate box)

Poor	Fair	Average	Good	Excellent
1	2	3	4	5

	1	2	3	4	5
1. Value of workshop in meeting your needs					✓
2. Suitability of introductory session (OEH)					✓
3. Suitability of the facilitator					✓
4. Presentation techniques/style of the facilitator					/
5. Usefulness of handouts					/
6. Clarity of objectives					/
7. Workshop structured to maximise participants active involvement					/
8. Timeliness of the sessions					/
9. Suitability of venue					/
10. Workshop organisation					/
11. Culturally Appropriate					/

What did you like most about the workshop?

All

What do you think could have been better?

NIL

Other comments (also use back):

No

Evaluation Form

NSW Aboriginal Heritage Reform - Aboriginal Workshop

[Location] GRAFTON [Date] 11/11/2011

How would you rate the following (place a tick in the appropriate box)

Poor	Fair	Average	Good	Excellent
1	2	3	4	5

	1	2	3	4	5
1. Value of workshop in meeting your needs					✓
2. Suitability of introductory session (OEH)					✓
3. Suitability of the facilitator					✓
4. Presentation techniques/style of the facilitator					✓
5. Usefulness of handouts					✓
6. Clarity of objectives					✓
7. Workshop structured to maximise participants active involvement					✓
8. Timeliness of the sessions					✓
9. Suitability of venue					✓
10. Workshop organisation					✓
11. Culturally Appropriate					✓

What did you like most about the workshop?

Mostly I liked is that discussion
where thought threw thoroughly.

What do you think could have been better?

Need more discussion for youth
and employment opportunity

Other comments (also use back):
