

Reform of Aboriginal Cultural and Heritage Legislation NSW

Office of Environment and Heritage

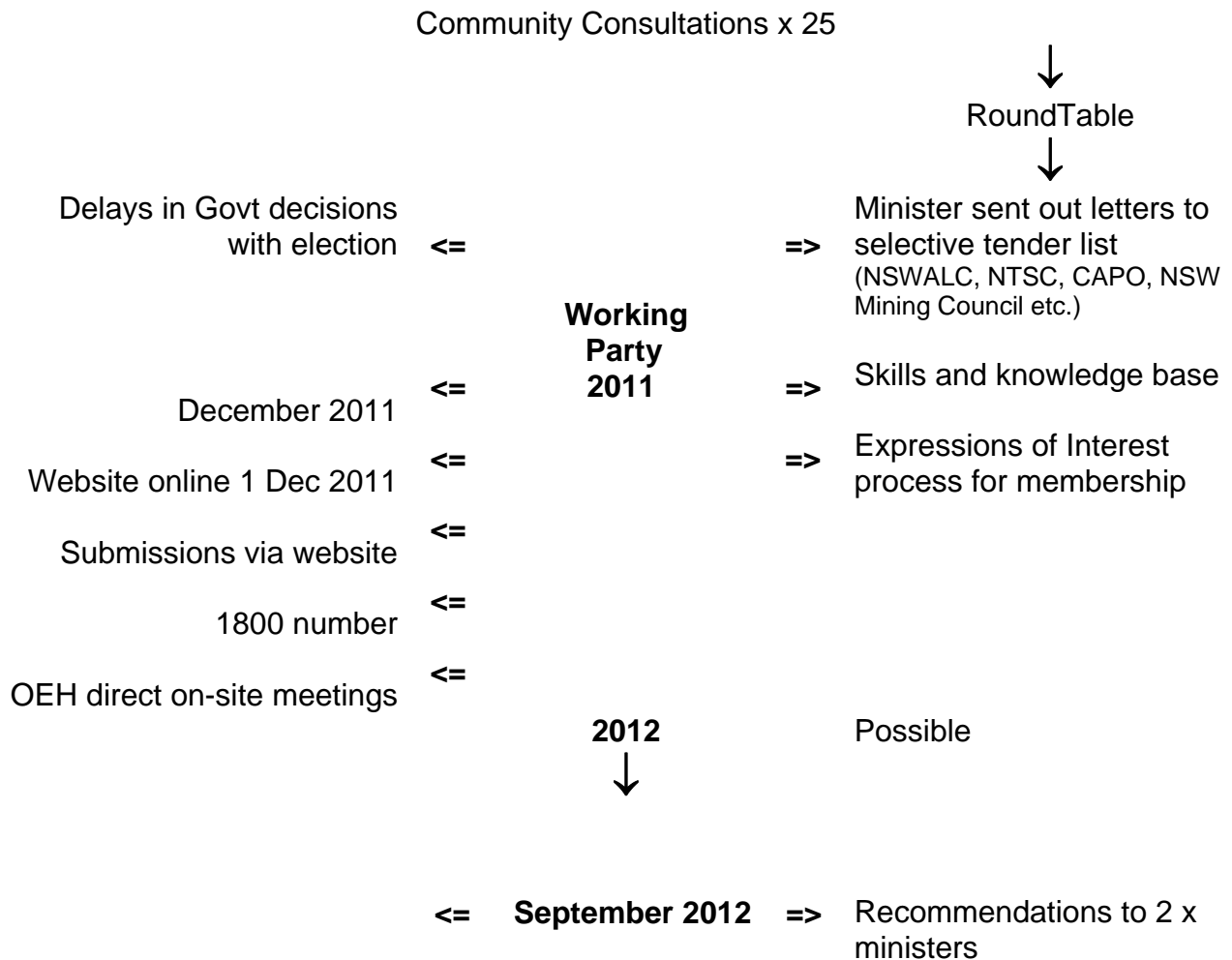
**Regional Aboriginal Community Consultations
(November/December 2011)**

Wollongong Community Workshop Notes

**Illawarra Aboriginal Corporation, Wollongong
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Outline of process



Inclusions in the Act

- Consent
- Respect
- Decisions
- Sites
- Section 14C
- Section 87
- Section 90
- Stories
- Validation



ONE ACT?

Issues and pressures

- Archaeologists:
 - > Aboriginal People
 - > Protocols
- D.G. powers and over-riding
- Staff stress
- Staff training
- Knowledge
- Education (Government)
- Education for community
- Trust
- Look at our work seriously
- Developers – extra effort to do specific work surveys
- Local Government
- Understand statutes
- NPSW Act – specifics

- Stress and fallout
- Preserve heritage
- Share knowledge
- Aboriginal people need to make decisions on own cultural heritage (not EPA)
- Determinants of cultural significance ONLY – not powerful players influencing decision process (e.g. S.90)
- Who in the community has say?
- Traditional Owners
- LALC's
- Developers are sent list of ALL community organisations in area – who then say they want to have a say!
- Minister wants suggestions and solutions from this process
- New guidelines and tiers of consultation are NOT working:
 - > Local
 - > Statutory
 - > Knowledge holders
 - > Native Title holders
- Holding rights
- Connections

Key issues and questions

- Culturally significant land and sites => Claiming system
- Kinship and family
- People/communities being put in little boxes
- Living on shared country
- Negotiators, mediators, facilitators => good ones needed to make community representation process valid
- Stop perpetuating the hurt
- Native Title vs. Land Rights Acts => made to create conflict
- Mining leases
- Timeframes => 25 years + for escarpment as one example
- How do we bring all families together?
- People have rights
- Development processes
- \$\$\$\$\$\$ (money)
- Trees are worth dollars under biodiversity but our culture and heritage is worth nothing
- Until culture and heritage becomes worth dollars to developers, it will continue to be destroyed
- Need agreements to save more than is currently covered
- Who speaks for country?:
 - > Until this is solved we will continue to go round in circles
 - > Even when guidelines for consulting 'Aboriginal Owners' are included the Registrar thought it too hard

What is needed

- Need more reclamation focus => different process would result
- Practice living culture
- What if? => create/find/preserve new sites => biodiversity links
- Educating all players to understand the meaning and value of
- Need to be deadly serious about breaches:
 - > Public naming (of breachers)
 - > not just paper tiger
 - > need real teeth
- Existing damage
- Why aren't penalties being imposed, or at a level that matters?
- Fines should go back to community for remedial activities and employment, not into government coffers

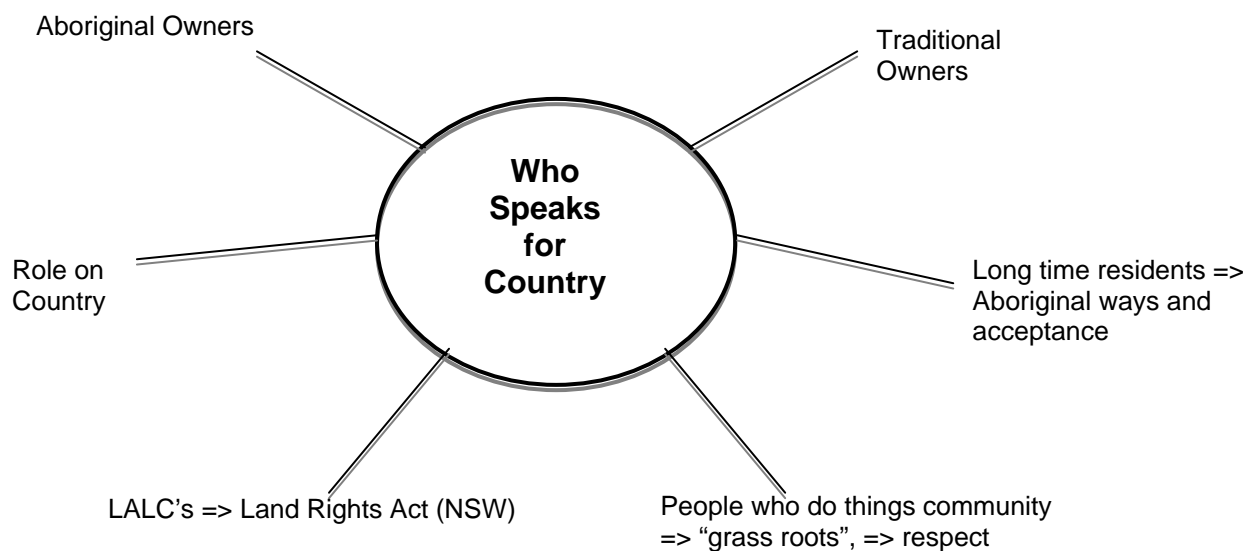
Concerns and penalties

- S.90's are acting as an insurance policy for damage
- Penalties need to send very clear message to miners and developers re culture and heritage and proper process
- CMA deals with land holders re property clearance, but under Native Vegetation Act, there is no culture and heritage component
- CMA has INTERNAL processes for culture and heritage knowledge, and advice re. other acts and regulations. They need to adhere to these.
- Government agencies should NOT be telling archaeologists and companies who to talk to in community:
 - > CMA's have response letter to clarify this (useful resource)
 - > LALC's as statutory body – but under-resourced

Problems with current system

- Part 3A processes – impacts/usefulness
- Massive demands on LALC's and community organisations re. development and assessments
- Government destruction/developer preservation => different rules
- Existing processes that may work well (e.g. roads, local systems)
- Community focus groups
- Phases of consultation
- Biodiversity being used as culture and heritage 'catch all'

Who speaks for country



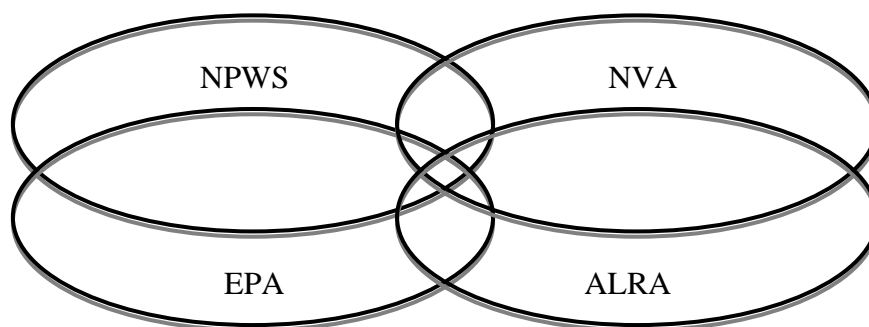
- No where now that gives you this as a one-stop-shop!

How to move forward

- Established services
- LALC's and NTSC
- Process across state is bastardised:
 - > Who does what?
 - > Being paid to do assessments?
- It's about culture and heritage NOT \$\$\$\$!!!
- Traditional attachments, cultural attachments and personal attachments
- Budget for doing this process
- Multiple contact/consult points in community => different opinions on this
- All about working in the local area
- Not simple => transfers work from government to community
- Consensus => some set of forms
- Only speak for OWN family group/clan => each has its own rights



Acts currently impacting



- Empower us to protect our areas

What's Worked

- Premiers Department => support => our community based working groups
- Declaration of Sandon Point:
 - > Fast declaration
 - > Place was given the respect
 - > But local government still allowing dogs on site
 - > Stopped any further development on that beach
 - > Since then:
 - > Landcare/plan of management/local govt => proper site management plan
 - > 3 employees now for maintenance of site
- Non-Aboriginal staff in South Coast area believe in culture and heritage value:
 - > Site training
 - > Cultural awareness
 - > Value management workshop
 - > Know you are part of the process
- Bringing stakeholders together
- Listen to everyone
- Process => come to the table to get your say
- ACHAC what works/doesn't process in workshop
- Southern Area:
 - > Non-Aboriginal staff do up issues and development – they now know and stand up for our issues
- Consultation requirements:
 - > Archaeological report examples
 - > 200 page report
 - > 110 stakeholders involved => but lack of community feedback
- Colliery:
 - > 1st stage destruction
 - > 2nd stage shelters filled and preserved
 - > Company - LALC donation not just bulldozed shelters
 - > Now link them
 - > Markers on top to flag site
 - > Good outcome
- Our people need to be informed, educated, involved so they can be part of the process
- Simple Blackfella language
- Major projects on South Coast:

- > Aboriginal participation in construction and employment
- > Partnership with Roads and Maritime (formerly RTA) and TAFE – training course for Aboriginal participants
- > Gerringong upgrade
- > Pre-tender process
- > Naming of bridges
- > Boards

More Good Stuff

- Cultural knowledge and workshops in the government. system => staff turnover => revisit cultural training in organisations every 3-5 years
- OEH should show the good stuff (we never hear good stuff)
- Acknowledgement of effort and good stuff
- AGL – in South West Sydney:
 - > Part 3A agreed upon outcomes as part of pre-planning
 - > Removed gas well from significant site
 - > But this will only affect this company
 - > RTA doing separate process which will result in destruction
- 5 Local Govt Areas: Wollongong, Shoalhaven, Wingecarribee, Kiama, Nowra:
 - > Working with these to develop cultural toolkit (like Culture and Heritage Guidelines for RTA)
 - > Should be discussed with LALC's, owner groups, community
- Issue: decision-making authority – where this resides and roles of staff
- Agencies – big efforts to engage – genuine efforts
- Need: top person who holds values (champion) and feeds down information as process

NOW (WHAT CAN BE PROTECTED)

- Objects
- Places

- Art Sites
- Scar Trees

FUTURE (WHAT ELSE SHOULD BE PROTECTED)

- Stories (Elders, handed-down...)
- Stories of the land
- Landscapes (overall...part of the same place, includes objects...)
- Understanding of the connection to the land – significance
- Family
- History
- Heritage
- Sense of the landscape (land/water etc.)
- Cultural knowledge
- Traditional names
- Storyline
- Language
- Dance
- Ceremony
- Songlines
- Place so cultural significance or historical importance
- Important people (leaders)

This will require:

- Reference points
- Research

Culture

- Issue: Department of Lands surveys prior to handback
- Our ways (e.g. deaths and grief)
- Mothers/Fathers

- Family ways
- Fishing
- Kinship
- Sports
- Our culture is ours (unique in different areas)
- Issue: Federal Government recognition re. country, remote, land ownership

Repatriation

- Issue for Culture and Heritage
- Encourage to bury back in ground with ceremony – but up to community to decide

Issue for this process

- Don't call it draft if it's set – be up front and honest
- Lots of savvy people in community...listen to them
- Understand the processes – paperwork, procedures, what they're ACTUALLY destroying
- Minister can answer questions...no good if they don't know
- Question to OEH: Out of the info you already have, what are your thoughts/ideas?
- Shared understanding of what we are calling culture and heritage – all flows from that
- Question: : Will these changes affect the OEH processes?:
 - > e.g. Section 90 Permits
 - > Cost of project determines cost of fees
- Permit process
- Permit cost
- Delays in projects
- Changes in procedures (e.g. archaeology advice in OEH)
- If you have a project that community are involved in and partnered with then the Government should NOT be telling people how to do our business

Getting information out to community

- Venues and locations
- Community sitting back, therefore can't feel they can have an impact
- Embedded mistrust re. old processes (e.g. DCWA and NPWS)
- Koori networks regionally
- LALC's
- To community-based network
- Out to networks

What else is needed

- Who speaks for country (clarify)
- Being listened to...
- Archaeology
- Culture and heritage in ALL acts
- Working party and process in 2011/2012
- Repatriation
- Timeframes
- Objects and artefacts belong to the community, NOT the crown
- Aboriginal knowledge and stories
- Need for education and information – promotion re. Aboriginal rights
- Family connections
- Consultation guidelines and processes
- Expertise
- Aboriginal decisions and power
- Resources and funding
- Mediate and manage conflict
- Multiple Acts and regulations and uniformity
- Government role and responsibility – take it seriously
- Significance and preservation
- Valuing culture and heritage (\$\$ value too)
- Site definitions
- Legislation needs teeth for ALL
- Processes
- Trust
- Young people and kids
- Elders
- More focus on reclamation and creation
- Facilitation