Reform of Aboriginal Cultural and Heritage Legislation NSW

Office of Environment and Heritage

Regional Aboriginal Community Consultations
(November/December 2011)

Mt Druitt Community Workshop Notes

Rooty Hill RSL, Rooty Hill
2nd November 2011

Facilitator: Justin Noel
M: 0410 342 634
E: justin@originbg.com.au
Note:

Representatives of NSWALC and NTSCorp attended the venue and, at the commencement of the forum, voiced serious concerns regarding the current process and proposed approach. They reiterated concerns raised at the previous day’s Redfern forum regarding requests to boycott the process and request an urgent meeting with the Minister.

Subsequent to these statements the representatives departed along with several participants.

The remaining participants indicated that they were keen to discuss the issues, learn about the process, had made the effort to attend and in some cases did not view the organisations as being their representatives. Agreement was made by the participants to continue the forum with an acknowledgment of the stated concerns.
Culture and Heritage

- Minimise tokenism – not just one Aboriginal representative, respect for Traditional Owners (including Welcomes To Country)
- Knowledge
- Practice
- Respect for past
- Heritage relating directly to land
- Male and female
- Science vs. culture
- Culture and heritage – need to be split; local groups to decide their own
- Personal definitions
- Cultural values and heritage values
- Government should NOT regulate and legislate our cultures
- Spirituality
- Local courses
- Not stagnant
Successful Act Will Achieve….

- Consideration of our Aboriginal views
- Show others what they can and can’t do
- Museum repository:
  > Long term management
  > Australian Museum
  > Keeping places strong and guaranteed
- Aboriginal land:
  > Statement
  > Acknowledge
- Capacity building
- Resources
- Relationships that properly take on board cultural respect
- Aboriginal people’s contribution not just at end of process
- Peak body clarifications
- Education
- Compulsory components (e.g. Local Government)
- Skilling up
- Suite of different tools available (more than just archaeology)
- Local Government accountability, especially re. development
- Right to say what can/can’t be destroyed (no delegation of this)
- Control, Ownership, Power, Responsibility
- Due diligence
- Codes of practice
- Ownership of culture and heritage
- Flag bipartisan support for resourcing
- Gives us a say
- Land and water
- Aboriginal culture and heritage valued; the people respected
- Proper assessments of sites, projects, risk etc
- Identify penalties and incentives => enforcement, regulation, prosecutions
- Stronger penalties
- My kids will know (past, present, future, always)
Engagement and Development approach for legislation

Engagement
- Recognition
- Awareness
- Consultation
- Negotiation

Participation
- Agreement

Evaluation
- Resourcing
- Regulation
- Oversight
- Development
Working Party

- Big issue: who speaks for country?!
- 1st step: need a process to register interests (e.g. Vic / Qld processes and legislation)
- Good understanding of disciplines relevant to culture and heritage for Aboriginal people
  > Archaeology
  > Ethnography
  > Anthropology
  > How various assessments are done
  > Planning

- Different areas represented
- Voting structure / Decision-making process
- How will the working party consult / communicate back with the community
- Access to / lobbying of members of the working party
- Community expertise included in process and structure
- Paramount to include grass roots
- Look at CMA’s Aboriginal reference groups and dedicated membership – link in with reference groups etc.
- Concern re. size of group – many people who would be interested and should be here (lack of notice and lack of options)
- Rigorous approach needed
- Over-ruling by Ministerial decisions to be prevented
- Specific rules re. selling of objects
- Intellectual property rights of communities needs to be included – has to include knowledge (intangible)
- LEGAL EXPERT – ALL LEGISLATION
- Someone who is not just on government / developer side, but has worked with community to protect / on behalf of community
- ABORIGINAL members (not experts in Aboriginal)
- Regulatory requirement
- Clarification of who will DRAFT the legislation (OEH, Crown Solicitor…. ) =>> needs to know and have experience with Aboriginal people
- Practice our own culture and heritage under our own processes and understanding without Government interference
- PARTICIPATION is key principle
- Process to ensure that Chairperson is informed of all 3 tiers – Heritage Branch, C&HD, EPA
- Review of national status – only NSW has no C&H legislation / best practice
- How does THIS process feed into / link with EPA and other acts?
- Boundaries / country

Composition

Industry representatives might be non-Aboriginal

Mostly Aboriginal people

Concern re. Dept. recommendations and selection criteria

open and transparent

Community Representation on this panel

Must have them
Culture and Heritage issues

- Community say (validated) – properly, thoroughly consulted
- Legislation
- Originally not written by Aboriginal people (slotted in to Government policy)
- Communications:
  - Bigger
  - More community involvement
  - Broader participation
  - 2 way highway
- Roles of Aboriginal people in implementing the Act
- Legal definitions
- Representation / recognition
- Risk of pulling communities apart
- Laws must be aware of other laws and definitions
- Traditional owners
- Tired of being TOLD what we will get
- Timing
- Respect
- Trust
- Negotiation
- Local => Regional => State
- Process / steps
- Links with other Acts (due diligence and code of practice under NSW National Parks Act)
- Terms Of Reference (T.O.R.)
- Working Party roles
- Clarification of what this means to us
- Prosecution? (where / when was this decided?)
- “Stones and Bones” only => culture is more than this
- Political decision not cultural
- Why now? Why so quick?
- Hidden reasons for change – current Government agenda
- Fear of pre-developed
- Are members able to get feedback from other workshops?
- Frequent/timely feedback – ongoing updates (issues, answers, FAQ's)
- Feedback/advice/notification to community stakeholders
Consultation Guidelines and Processes

- How do you gather that info?
- How is the Omnibus Legislation working re. this?
- Peak bodies have right and imperative to protest
- Aboriginal people will meet half-way
- Consulted on the process of the new law
- Consultation can be done
- OEH go back and have a rethink re. model etc
- Why rush?
- Ongoing process
- Take the timeframe out – too short
  - > Rather extend and get it right rather than stuff it
  - > Totally and thoroughly work with whole of NSW (regardless of location, organisation)
- Youth should have a voice
- Facebook (should be used)
- Newspapers (Koori, mainstream, local)
- Emails to individuals and organisations
- NSWALC Magazine (Tracker)
- Letters to LALC’s and Traditional Owners
- Faxes
- Feedback from OEH
- TV Presentation
- Local and mainstream radio
- Twitter