Reform of Aboriginal Cultural and Heritage Legislation NSW

Office of Environment and Heritage

Regional Aboriginal Community Consultations
(November/December 2011)

Wagga Wagga Community Workshop Notes

Lawson Motor Inn, Wagga Wagga
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Process and timing – outline and comments

1st Phase
March 2011

Consultation Guidelines
Documents
DECCW => OEH
Expressions of Interest
1800 no.
Direct Meetings
=>

Community Workshops
(25)

<= 5 Roundtables

- Legislative say
- Other community groups
- Information:
  - get it out
  - get it quicker
  - at least 1 month
  - emails
  - follow-up
- Realistic with structural timing
  - at least 6 months
  - end of year period

Working Party

March – June
2012
2nd Round

↓
September 2012
Terms of reference

- Heritage
  - what you learn
  - language
  - places of significance

  e.g. Old mission listed as ‘Heritage’ but land owner allowed to close off roads
    - need ongoing recognition
    - our children should continue to go back and learn
    - big history, big story

- Marry Heritage and Culture together (VIP)

- Culture
  - the practice
  - behaviours
    - Wiradjuri with connections to specific country, not a label

- Review historical legislation

- Culture and Heritage (different but connected)

- Lore and Law
Stand Alone Culture and Heritage Legislation

- Constitution
- Native Title
- Federal Legislation
- Act
- World Heritage
- UNESCO
- United Nations
- International Conventions
- NPWS
- Primary Industries
- Species
- Vegetation
- Museums
- Local Government
- CMA’s
- Conservation
- Heritage
- Aboriginal Land Rights
- Roads and Maritime (RMS)
- Fisheries

What is needed in the stand-alone legislation
Ideal: Standardised processes across all Departments – user specific

- Flexible
- New protocols and new standard
- Cover all players – how they fit
- Artefacts belong to the community
- Address all Aboriginal Owners, Native title
- Capture our true history
- Not white academic people doing PhD’s – got to cease

- Pathways
- Cultural and heritage activities
- Cultural protocols (right at top of all this)
- Allocation matched to NSW Aboriginal population
- Repatriation to go back to the right place not elsewhere in country
- Recognition of unique identities - we are different, not just ‘Aboriginal’ - diverse people
- Equitable distribution of $$$
- Community should be involved, not just one person!
- Accountability
- Substantial resources
- Mining
- One stop shop
- Aboriginal Owner consultation guidelines
New Culture and Heritage Legislation

- Who speaks?

- Mediation and disputes
  - build into legislation
  - process needed
  - resources

- Working Party
  - representative
  - membership
  - process
  - roles
  - issues
  - Terms of Reference (TOR)
  - community people don’t know them
  - if CAPO are deemed to be the peak organisation in state they should have equal representation on this working party

- Protocols and Policies
  - clear protocols
  - memo of ACTION not just understanding
  - no loopholes
  - across all departments
  - dangerous by-passes in negotiated settlement
  - stand alone
• Aboriginal involvement/ownership
  ⇒ Minister talks with ‘knowledge holders’ across state - new group needed
  ⇒ write the legislation
  ⇒ Aboriginal ways and meanings
  ⇒ policing/monitoring process
  ⇒ accountable
  ⇒ transparent
  ⇒ NOT top down

• People
  ⇒ Elders
  ⇒ community
  ⇒ organisations
  ⇒ Traditional Owners
  ⇒ Aboriginal Owners
  ⇒ Native Title holders

• Process
  ⇒ Time (more)
  ⇒ Locations (more)
  ⇒ Working Party to come out

• Communications
  ⇒ information
  ⇒ documents
  ⇒ workshops
  ⇒ forums
  ⇒ community sessions
  ⇒ get word out

• Culture and Heritage
responsibility
ownership
repatriation
cultural practice
language
knowledge
places
protection
conservation
‘travelling stock routes’ and pathways
Risks in process

- Aboriginal people have only had short time to be part of the legislation processes
  - within a tiny framework
  - only in specific wording
- Examples: Three (3) incidents locally where processes have failed
  - Grader through sites
  - Wriadjuri reserve
  - Silverlight project
- Land clearing
- Blowout mentality that nothing is left to protect
- We cared for country – custodians, NOT owners
- Being drowned in words and paperwork (complexity)
- Corruption of our languages (often by our own people)
- Displaced and dispossessed people must be addressed by legislation – they must have a voice
- Their law, their way, their terms
- How do you turn spirituality into a gigalitre or $$$$?
- We are always at the bottom of the pile
- Time does not extinguish connection and conviction to protect
- Why should I have to explain and point out why that place/area is significant – I should be able to just say! Might be different to another person!
- We have never relinquished sovereignty!
- $$$$ that have been spent on European cultural heritage values vs. Aboriginal (mismatch)
- Basic community language – not frightening people off
- Honour, integrity, respect
- Leave a legacy for our descendants
- Naming/renaming
  - e.g. Kosciuszko – why named for Polish man who never set foot here?
  - Dual naming
- Storylines
- Artwork
- Birthing places
- Ceremonial places
- Campsites
- Corroboree grounds

- Spirits
- Spiritual places

- Spirituality
- The WHOLE landscape
- Spiritual connections
- Women’s places
- Men’s places

- Intellectual copyright
- Community copyright
- Shared rights

How do we explain this to ignorant people?

Place or info in my head, my knowledge
Working Party

- Chair – OEH
- A.A.
- C.A.P.O.

- Need Aboriginal people
- Need NSW people
- Need expertise
- Ambiguous
- No consultation
- Committee already set up without us
- Only those that Government select
- Communities get nothing

What is needed

- Locality (all NSW)
- Community just being told who is on the panel
- Spirituality
- Traditional Lore representation what/where is:
- Selection process and criteria?
- Controlled by this ‘Aboriginalisation’ system – not good energy
- People on this – who are they?
- ‘NSW’ only mentioned in three (3) criteria – what right does NT or WA have to decide our culture and heritage?
- You need understanding re. these issues but also need community – the two need to walk together
- Not just book read – these academic qualified people
- Collection of Elders invited/respected to have discussions on this => matter of protocol
- Right to have a say on our culture and heritage rights and places
- Need people who can write these things for us (in legislation)
- Need ‘knowledge holders’ (not just ‘experts’)
- “We are not one under-developed brain – we have knowledge”
- Expert could be a legal person not a community
- “Fool away from home”
- “Drip under pressure”
- ACHAC seat at this table
Key inclusions and ideas

- Mainstream does not equal Aboriginal
- Legal, Lore, Spirituality
- Being robbed of our identity
- One umbrella
- Legislation of utmost importance
- Government must be held to account for desecration of our lands and rivers
- Whitefella borders don’t limit us
- Redrawing boundary maps
- 1984 Morrie Keen paper
- Other info – access to this
- Getting left out of the equation
- Bogus claims
- Access to documents
Issues for Process

- Personal vendetta’s have no place
- DAA should be here but staff member was ordered back to office – State Office OK but not local manager
- Head office/local office issues
- Recognised person and advocate and respected
- A.A. supposed to be the watchdog of the Land Rights’ Act and community issues
- Problems with Dept’s abusing their power
- 4000 people in Wagga Wagga
- Review internal politics of Dept A.A.
- Local staff know the community
Recognition

- Don’t destroy our unique identities
- Council of Elders conference planned in Albury 2012 re constitutional recognition – for our grandchildren
- Our stories
- Language
- NSW must have legislation to reflect the number of Aboriginal people in this state
- True historical account
- Australia has to recognise the factual history of traditional nations

Terms of Reference

....protection of BOTH Culture and Heritage as separate entities but connected
Current Concerns

- Employment targets – need fulltime
- Simple as black and white
- Care for country $$$ via local council:
  - They dictate training and process
  - Not recognising community organisations
  - Had to access other $$$ to do our training
- Where are Native Title holders? – big issue – not traditional community people
- 900 Aboriginal owners registered in NSW:
  - Access to these names?
  - Who are they?
  - How do I get info?
- Only short term but supposed to create sustainable communities
- Currently have to nail down the micro stuff in agreements
- TSR’s – land being swallowed up by greedy land owners
- Why should NSW Aboriginal people be disadvantaged?
- What Government decides are Aboriginal people and priorities => $$$ pulled out
New Legislation

- Approaches:
  - “Wisdom to move forward”
  - Recognise Aboriginal science and practice for their worth
  - Separate groups:
    - need young people, men’s, women’s, elders
    - open doors
    - respecting and have honour in each other’s viewpoints
  - Need to be within cultural framework
  - Facilitators need to come out to communities to do this properly

- Communication:
  - Extra time
  - Resources
  - Information out early
  - Working party should come and sit with us in Round 2

- Consultation:
  - Absolute consultation
  - Should be 150 workshops across state 6-12 months timeframe

- Why are we being rushed with this? White-fellas take years to change their legislation
- Scientific/legal need to use our ways of describing (in policies now!)
- Working party should have been formed first
- Give ownership of our culture and heritage back to us! (what’s ours?)
- Language issues and meanings
- Protocols and policies must be open, not developed ‘in house’
  - Community who will be affected by this need to do this.

- Written by Aboriginal people using Lore and Law – not just white mans’ law
- Preservation, Conservation, Protection ]: do not mean the same thing
- European history always 1st - always has conservation and protection together
- Important to state and recognise our history goes well before 200 years ago => education needed

Consultation Process and Approaches
- Negotiation
- Legislation
- Integrity is needed
- Have tried to be involved
- Still got involved early but got ignored re. Silverlight
- We should have been able to sit down at table and do this, not divide and rule
- Very disappointed community here re. CMA process and Silverlight:
  - insulting
  - we did everything in process and still failed
- Huge movement in NSW re. more than one group need to be consulted
- LEP response back to planning (2 weeks together)
- Why wasn’t M.D. team first off the rank with Silverlight?
- Frustration
- Debilitation
- How many people have we lost arguing for our Culture and Heritage?
One-on-one interviews:
- Not online
- Not technology

Increase resources

Get knowledge recorded

Co-ordinate efforts

Send out: OEH structure, contacts etc.

Plain language:
- Not too many Questions
- So people understand it

Feedback re how many said ‘x’ & summary of common stuff

Simple, brief, concise survey to capture broader comments and people who won’t come to meetings or talk up

Respectful, direct, supportive

Consultants OK for the workshops, but working party must be all NSW people
**Strength in Process Long Term**

- When do you get to insert the teeth?
- Why we are involved in the process?
- Aboriginal men want to have a role in protecting/preserving our culture and heritage through hands-on approach with young generation
- Funding and legislation processes need to be open and clear
- At head of table where we belong – men and women
- Positions/resourcing to train/support/employ the next generation
- Pride
- Fair share
- Ensure strong and based like OH&S
- Provider
- RDA

**Under New Legislation**

- CCHD needs to be replaced as the division needs to be done right (real opportunity)
- The person who heads up this new division should be appointed by the people - not the Minister (get the right, knowledgeable people)
- Make sure they have equal footing and status with other decision-makers
- Weed out the dead wood
- Doing it for community
- Silverlight problems addressed
- Language programs