Queanbeyan Public Consultation Workshop –
8 November 2013

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The following are recorded comments made by members of the public as part of the ACH Law Reform consultation process for Phase 3. The comments presented in this document are the exact written comments made on butcher’s paper on the day of the workshop by the participants during roundtable discussions, with the exception that references to individuals and company names have been removed. Names of individual participants making the comments were not recorded.
Preamble and definition

- Aboriginal cultural values & Lore should be situated in the preamble
- Elements that should be in spiel: Spirit, Heat, Light, Water, Earth/Mineral
- Language, dreaming stories & responsibility to one another, the landscape, resources & the Prime Creator
- Concern that definition does not adequately define ACH
- Should be reworked and taken out again
- No wishy-washy statements about how it will be supported by legislation
- Majority (90%) of community will not use website for 'have your say'
- LALC should be used as partner in the venture
- What was said in 2012 is NOT in this document!!
- This butcher paper method is not adequate - Laptops should be provided
- Refusal to comment or give extra words until this has gone to communities
- 6 months at least for this consultation
- Time & date of the workshops and the timeframes is an insult to Aboriginal culture
- Ask Govt to partnership this process
- Ask partners when to have workshop; use their network & ask NSWLC who and how facilitation should take place
- Executive Summary (page 1/para 1)
  - Heritage professionals should NOT be listed in that paragraph
- Executive Summary (page 8)
  - Industry & heritage professionals linked together. Completely separate. This is NOT true.
  - Skeleton/shell is there but go back & put the guts in it
- Ministers Forward is inadequate
  - He should change this immediately as it will not be discussed until completely changed!!
- Why didn't the 'expert' people go and present to NSWALC?
- Ministers Forward refers to Aboriginal people as having 'settled the land'
- Settled the land??! This has to be taken out. Aboriginal people were here because of..., they were given Lore; they were given language, pathways, the land; the rules; the lore
- All boundaries established by the NSW Government in the early days of the colony are legal fiction
- No true legal documentation for ownership between our Prime Creator and British Invaders exists. The ancestors and their descendants occupy a custodial role with the Prime Creator - the only owner of that which it created the earth and to whom we are responsible for land and resource management Australia wide.
- The role of indigenous people of this land and the Ancestors has been handed down to us by the Prime Creator, who gave us our place in the landscape, language, dreaming stories and responsibility to one another, the landscape, resources and the Prime Creator
- If you cannot understand this, then you must bear the consequences of your perceptions and judgements
Negotiating Agreements

- Need ACH principles
- National heritage management principles
- Ask first' policy
- Burra Charter
- Agreements need to come from LALC members
- LALC currently have legislation for agreements (can stop work) ALR. LALC should continue with negotiating agreements
- CMA LLS Agreements
- Bottom up instead of top down
- Should have beneficial inclusions
- Oral histories (e.g. NTS Corp & LALC could work together)
- Contemporary/intergenerational equity
- Funding for agreements
- Funding options need to be decided by local committee up front
- Needs to be better local consultation for current reform process
- More time spent consulting local area
- Timing over Christmas, short time frames
- Needs to be better local consultation for any agreements
- More time spent consulting local area
- Proponents want certainty
- Who decides minimum standards (legal input)?
- Ensure conservation outcomes across the state, not just developing areas
- Potential for corruption for local committee (bribes) (transparency)
- Heritage resource is a valuable non-renewable resource and shouldn’t be negotiated
- Checks and balances to be put in place
Tools and Mapping

- Mapping in proposed model is unachievable
- Adequate timeframes needed (e.g. > 12mths)
- Maps are a starting point
- Mapping should include investigation and testing processes
- Low ACH values need further assessments (e.g. archaeology)
- ACH Committees need to do assessments of local areas for each DA in addition to mapping
- Map significance rated low, med, high - unknown areas have potential issues
- Predictive modelling to protect potential unknown
- Concept for map is good but using map for detailed planning decisions is inappropriate (e.g. maps make assumption about ACH landscape in unfeasible timeframe)
- Map to be developed on project by project basis over a longer period of time
- Maps underestimate disturbed Country (e.g. farming/forestry)
- Access needs to be given to every land/area/property to assess ACH value so as to make decisions about ACH landscape
- adequate timeframe of 50 yrs. needed
- Funding needed for committees to map local areas
- Funding needed for communities to build skills, training, capacity building
- Concern that POMs are inflexible
- POMs need to be flexible/renewable with option to renew 'on demand'
- Unexpected finds need to be catered for
- Relationship between mapping & conservation plans connected to POM - how is a representative sample of sites from a settlement system to be protected?
- Need fluid boundaries
- Land council boundaries can equate to multi language groups
- Boundaries should follow catchments
- Look at what is currently happening to move forward (e.g. CMA, LGA, Mal Ridges)
- ACH info needs to be freely available
- An 'elinks' for Aboriginal community concerns
- Manage sensitive info
- Ensure new info uploaded regularly
- Definition of 'cultural practitioner' needs to be clearer
- How will low/high impacts be determined?
- Who tests the mapping?
- Where are the minimum standards for recording sites?
- Mining control developers - ACH override this = Fed no State approach
- Complicated maps
- Suspicious of NPWS role
- Concerns that government setting up system for inconsiderate land use (e.g. green flag for developers because it links directly to Planning Act)
- Focus needs to be about intergenerational ACH knowledge/culture (e.g. NOT 'open for business' focus)
- Establish an external stakeholder working group
- Provide more resources
Local ACH Committees

- Legal support to be provided by government
- Legal representative for local community to help with POM
- Financial support to be provided by government
- To be effective, committee needs to be funded by government.
- Needs admin arm for support
- Paid committee members
- Employment opportunities for local community
- Certainty for industry
- Develop guidelines & protocols for stakeholder groups to consult with each other
- Certainty for Aboriginal communities
- Develop respect for culture & understanding of Aboriginal people's past experiences
- Aboriginal ownership of CH & info
- Need autonomous Aboriginal body looking after ACH by Aboriginal people
- Who are 'traditional owners'?
- Needs a process to distinguish between register of Aboriginal owners, displaced traditional owners, traditional custodians, displaced traditional custodians etc.
- LALC representation from local LALCs
- Elected representatives
- VIC model for RAPs is a good example
- Local community nominate members
- Should be made up of cultural knowledge holders
- Multiple members on different community committees is a likelihood
- POMs, assessments and renewals
- Needs to be current POMs, assessments and renewals from proponents (e.g. not ones that have previously been done 10 years ago)
- Methodologies
- Needs to ensure relevant methodologies used to inform assessments/renewals
- What are boundaries?
- UN Declaration on rights of Indigenous Peoples
- Aboriginal people have right to nominate committee members. Committee members should NOT be government appointed
- Suspicious of government role. Government needs to be transparent.
- government should only have facilitator role
- Who determines Native Title?
Penalties and Protection

- Not one single person should own an object. Shared. Belongs to collective.
- Elders have a responsibility as a group. TOs have responsibility if no Elders group
- Protection of intellectual property required e.g. stories - publication of stories, connection of land & sea, language
- Due diligence is a 'cop out'. Due diligence needs to be enforced. New legislation needs to be enforced and prosecution
- Shame. Learn about cultural area. Repair damage & learn respect (e.g. football team, Bega)
- Possible definition of due diligence (e.g. talk to ACH committee, engage an archaeologist/anthropologist/ecologist approved by ACH committee)
- What would the differences in penalties be for 'low' & 'high' cultural sites? How will it be determined?
- Need to increase penalties especially for big business/mining as a deterrent
- Criminal elements as well jail times
- ACH committees should have a say via the creation of a specific provision that allows id of the penalty rates - refer to UN declaration
- Consider 'circle sentencing' for anyone/company that breached the Act. ACH committee would put forward statements on cultural significance & cultural impact for judge to consider in sentencing. Make recommendation on fine to match the scale of the offence.
- Develop a scale of breaches
- Fines for corporations should be linked to % of turnover not a set fine.
- Need review/information about state of ACH (e.g. Swan Hill golf course early 1990s destroyed burial site)
- Research how many proponents have been fined. How much has been destroyed in the last 40 yrs. by development (since NPWS Act in place)
- Don't like term 'cultural authority'.
- Prefer to use 'knowledge holders'
- Don't like term 'due diligence' - it's a way out for developers
- If sites are destroyed needs to be a form of punishment. A deterrent.
- Who determines 'high' & 'low' status?
- Problem with sites classed as 'low' cultural heritage not needing to be negotiated in agreements. Not good enough.
- Time frames too short especially for unexpected finds/discoveries
- No fixed timeframes for unexpected finds - needs to be dealt with appropriately.
- Does the new legislation cover sea? E.g. damage by visitation to sites like Mystery Bay & Montague Island
- Legislation needs to influence NSW Fisheries Management Act & Marine Parks Act
- Needs to sort out contradictions e.g. cultural rights to fish but can’t take away from shore
- Needs to consider submerged cultural objects & stories
- What affect does this have on current & future joint management arrangements?
Open comments from individuals:

- Requested 2 day community workshops and more of them around the state to ensure that all people around the state can participate effectively and have time to fully consider the reforms.
- No understanding that people are not flora and fauna.
- Need Aboriginal ownership.
- The government document is a very detailed document and very complex. The language is often difficult to understand. People will need assistance to interpret the document and comment effectively.