

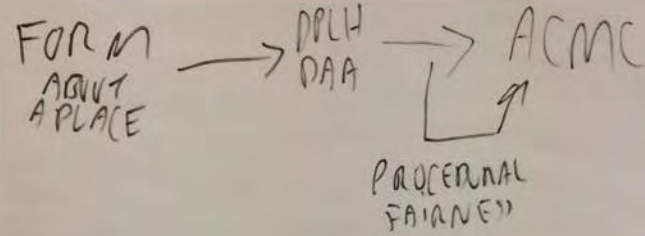
MY HERITAGE, MY VOICE WORKSHOP
BROOME - 7 MAY 2018

MEETING RECORD

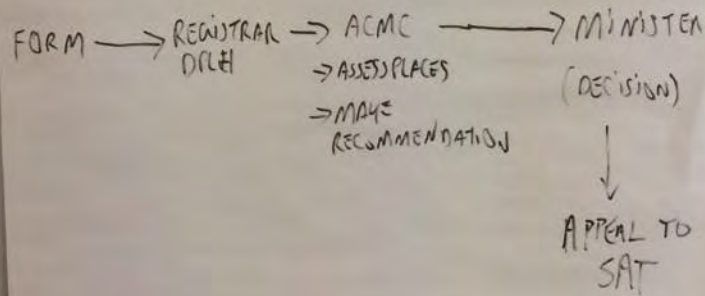
① WHAT PROCESS FOR
~~APPRO~~ APPROVAL

- * BEFORE ANY APPLICATION NEEDS TO BE CONSULTATION WITH PBC, REP BODY, CLAIMANT GROUPS
- * PEOPLE ON THE GROUND HAVING KNOWLEDGE.
- * PROPONENT TO CONSULT AND FACILITATE/RESOURCE PBC, REP BODY CLAIM GROUP.
- * LOCAL GOVT TO INCLUDE RECOGNITION OF PBC, REP BODY, CLAIMANTS + A REFERRAL.
- * DEVELOPERS SHOULD BE OBLIGED TO CONSULT.

S170.



S18





(15)

* PROTECTED AREA NEEDS
TO BE REVIEW

* MECHANISM TO ~~IS~~ PROTECT
IN PERPETUITY HIGHLY SIGNIFICANT
SITES AS REQUESTED BY ABORIGINAL
PEOPLE.

* RIGHT OF REPLY BY AFFECTED ABORIGINAL
GROUP TO SUBMISSIONS FOR PROTECTED AREAS.

(14) ENFORCEMENT

* STATE TO PROVIDE FUNDS FOR THE
PHYSICAL PROTECTION OF SITES
(E.G. FENCING)

* MEMORIAL ON TITLE WHERE
HERITAGE EXISTS

* FUNDING FOR MONITORING BY
RANGERS.

(4) WHAT NEEDS LEGISLATION TO PROTECT.

* CONTEMPORARY ABORIGINAL ART

* LANGUAGES

+ RIGHTS FOR ABORIGINAL PEOPLE
UNDER INTERNATIONAL LAW + CUSTOM
eg FPIC

FREE PRIOR INFORMED CONSENT

Q 9 WHO NEEDS TO BE CONSULTED

4 (b) WHO NEEDS TO BE CONSULTED

* PBCs

* REGISTERED CLAIMANTS

* NT REP BODIES

* PREVIOUS INFORMANTS

* LAW + CULTURE ORGANISATIONS UNDER
REP. BODIES

* OUTLINE CLEAR PROCEDURAL FAIRNESS

PROCESS:

→ PROTECTS CONFIDENTIAL CULTURAL
KNOWLEDGE.

→ INCLUDE DEFINITION OF INTERESTED
PARTIES

* REVIEW EXISTING FORMS TO
PROTECT KNOWLEDGE ACCESS

⑥ WHO NEEDS TO BE
CONSULTED.

→ CONSIDER BROADER CONSULTATION WHERE
MORE THAN ONE GROUP AFFECTED BY
DECISION.

→ LAW BOSSES

③ WHAT NEEDS LEGISLATION TO PROTECT.

- * WHAT IS CURRENTLY PROTECTED BEING THE MINIMUM STANDARD.
- * NEEDS TO BE PROVISIONS THAT ALLOW ABORIGINAL PEOPLE TO VETO DEVELOPMENT THAT WILL IMPACT SIGNIFICANT SITES.
- * SECTION THAT GUARANTEES ABSOLUTE PROTECTION FOR SIGNIFICANT SITES.
- * TREES, PLANTS, FAUNA ~~AND~~ THAT IS OF CULTURAL SIGNIFICANCE.
- * PROTECTING INTELLECTUAL PROPERTY AS IT RELATES TO TRADITIONAL KNOWLEDGE

ROLES + RESPONSIBILITIES

* PBC → COMMUNITY

+

* CONSULTATION IN EARLY STAGES

* ~~DISAGREE WITH~~ ^{REVIEW} CURRENT ACMC STRUCTURE

* ~~SEE~~

* WOULD LIKE TO SEE THE ACMC'S VIEW OF HOW THE ACT CAN BE IMPROVED.

* REGIONALISE ACMC

* MINISTER AS A LAST RESORT

⇒ BEFOREHAND NEEDS TO BE MEDIATED PROCESS IF NO AGREEMENT

* ALTERNATIVE TO THE MINISTER IS AN INDEPENDENT TRIBUNAL THAT MAKES DECISIONS BASED ON TERMS IN THE ACT

⑥ WHO NEEDS TO BE
CONSULTED.

→ CONSIDER BROADER CONSULTATION WHERE
MORE THAN ONE GROUP AFFECTED BY
DECISION.

→ LAW BOSSES

⑨ WHAT ACTIVITIES REQUIRE AA
APPROVAL

* FUTURE PLANNING.

* Section 17 (OR EQUIVALENT) NEEDS
TO INCLUDE "IMPACTS TO THE
SIGNIFICANCE OF THE SITE"

* ALTERING A SITE NEEDS TO INCLUDE
IMPACTS ON INTANGIBLE.

* PROPOSALS THAT AFFECT ENVIRONMENTAL
+ VISUAL

* IMPACT ON SOCIAL VALUE.

* LEAVE SECTION 17 BUT EXPAND

8) ROLES + RESPONSIBILITIES

- * DECISIONS REGARDING IMPACTING SITES SHOULD ALSO HAVE REFERENCE TO PAST DECISIONS
- * MOVING FROM ABORIGINAL PEOPLE BEING CONSULTED TO BEING DECISION MAKERS
- * THE RIGHT TO BE INVOLVED IN THE MANAGEMENT OF YOUR OWN HERITAGE
- * THE RIGHT TO SAY "NO"
- * HARDWIRE PROCEDURAL FAIRNESS INTO LEGISLATION

② WHAT NEEDS LEGISLATION TO PROTECT IT?

- * SECTION 5 NEEDS TO BE EXPANDED TO INCLUDE INTANGIBLE HERITAGE
- * PROTECTION OF WATERWAYS DUE TO:
 - ASSOCIATED STORIES/BELIEFS
 - CULTURAL TRADITIONS
 - ENVIRONMENTAL INTEGRITY
- * LAW GROUNDS NEED BUFFERS TO PROTECT THEIR INTEGRITY → APPLIES TO ALL SITES, NOT JUST LAW GROUNDS.
- * PROTECT CULTURAL CORRIDORS FOR TRAVEL BY SPIRITUAL BEINGS
- * CULTURAL CORRIDORS ALSO NEED TO BE USED DURING LAW → MAY BE SEASONAL

(13) ENFORCEMENT

- * EXTEND STATUTE OF LIMITATIONS PERIOD
- * INCREASE PENALTIES FOR MULTIPLE OFFENCES.
- * CLARIFY THAT THE DEVELOPER/PROPONENT COMMITS THE OFFENCE
- * "DIAL BEFORE YOU DIE".
- * CEO TO BE PROSECUTABLE
- * PENALTIES COMPULSORY
- * INCREASES PENALTIES
- * COMMUNITY AFFECTED TO BE CONSULTED ON SENTENCING/REMEDIAL ACTION
- * REPARATION TO BE MADE TO COMMUNITY
- * ACKNOWLEDGEMENT FROM OFFENDER

WHAT PROCESS FOR APPROVAL

* MOVE AWAY FROM ONE PERSON
MAKING FINAL DECISION

* PROCESS NEEDS TO MOVE IN DIRECTION
OF AGREEMENT MAKING AND
AWAY FROM ADVERSARIAL.

**MY HERITAGE, MY VOICE WORKSHOP
BROOME – 7 MAY 2018**

MEETING RECORD

What needs Legislation to protect it?

- New legislation need to Value add, strengthen protection, not water down.
- Recognize and protection Native Title Land.
- Protection for places deemed to be important by people whose heritage it is.
- Current Protected Area administration being the standard.
- Recognition of IPAS (Indigenous Protected Areas) in State Legislation also.
- Section 5 needs to be expanded to include intangible heritage.
- Protection of waterways due to:
 - Associated stories/beliefs.
 - Cultural traditions.
 - Environmental integrity.
- Law grounds need buffers to protect their integrity – applies to all sites not just law grounds.
- Protect cultural corridors for travel by spiritual being.
- Cultural corridors also need to be used during law- may be seasonal.
- Contemporary Aboriginal art.
- Languages.
- Rights for Aboriginal people under international law and customs eg FPIC (Free Prior Informed Consent).
- What is currently protected to be the minimum standard.
- Needs to be provision that allow Aboriginal people veto development that will impact significant sites.
- Section that guarantees absolute protection for significant sites.
- Tree, plants, and fauna this is of cultural significance.
- Protecting intellectual property as it relates to traditional knowledge.

What Process for Approval

- Recognize elders and their knowledge.
- Process for ensuring correct information is available for decision making (including from traditional knowledge holders).
- Principle of “free, prior, Informed, consent” to apply.
- More weighting to the social impact of the local Aboriginal community from decision made under the legislation.
- Independent tribunal instead of Minister – both sides able to present their cases.
- Transparency of decision at all stages.
- Move away from one person making final decision.
- Process need to move in direction of agreement making and away from adversarial.
- Before any application needs to be consultation with Prescribed Body Corporate (PBC), Representative Body (Rep Body) and Claimants group.
- People on the ground having knowledge.
- Proponent to consult and facilitate/resource PBC, Rep Body and Claim Group.
- Local Government to include recognition of PBC, Rep Body and Claim Group and referrals.
- Developers should be obliged to consult.
- Future planning.
- Section 17 (or equivalent) needs to be include impacts to the significance of the sites.
- Altering a sites need to include impacts on intangible.
- Proposals that affect environmental and visual.
- Impact on social value.
- Leave section 17 but expand.

Who needs to be consulted?

- PBC.
- Registered Claimants.
- Native Title Rep Body.
- Previous informants.
- Law and Culture organizations under Rep Bodies.
- Outline clear procedural fairness process:
 - Protects confidential cultural knowledge.
 - Include definition of interested parties.
- Review existing forms to protect knowledge access.
- Consider broader consultation where more than one group affected by decision.
- Law bosses.

Enforcement

- State to provide funds for the physical protection of sites (eg Fencing).
- Memorial on title where heritage exist.
- Funding for monitoring by Rangers.
- Extend statute of limitations period.
- Increase penalties for multiple offence.
- Clarify that the developers/proponent commits the offence.
- “Dial before you dig”.
- CEO to be prosecutable.
- Penalties compulsory.
- Community affected to be consulted on sentencing/remediation.
- Reparation to be made to community.
- Acknowledgment from offender.

Roles and Responsibilities

- PBC – community.
- Consultation in early stages.
- Review current ACMC structure.
- Would like to see the current ACMC view of how the act can be improved.
- Regionalize ACMC.
- Minister as last resort. Beforehand needs to be mediation process if no agreement.
- Alternative to the Minister is an independent tribunal that makes decision based on terms in the act.
- Decisions regarding impacting sites should also have reference to past decisions.
- Moving from Aboriginal people being consulted to being decision makers.
- The right to be involved in the management of your own heritage.
- The right to say No.
- Hardwire procedural fairness into Legislation.

Additional information (not sure what heading to put it under)

- Protected area needs to be reviewed.
- Mechanism to protect in perpetuity highly significant sites as requested by Aboriginal people.
- Right to reply by affected Aboriginal group to submissions for protected areas.