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SUBMISSION ON 'A PATH FORWARD - DEVELOPING THE WESTERN AUSTRALIAN GOVERNMENT'S ABORIGINAL EMPOWERMENT STRATEGY' DISCUSSION PAPER

Thank you for the opportunity to provide feedback on the Western Australian Government Discussion Paper 'A Path Forward - Developing the Western Australian Government's Aboriginal Empowerment Strategy', which we understand is about developing a whole-of-Government strategy that would enable the State Government to work with Aboriginal people for better social, economic, health and cultural outcomes than those that have arisen to date.

We are told that the Government's starting point for the discussion paper was to listen to what Aboriginal people have told Government already (page 5) and the paper thereby sets out the key messages that the Government has heard from Aboriginal people previously (Discussion Paper Fact Sheet).

Having reviewed the Discussion Paper, we note that in fact "in developing this discussion paper approximately 100 key Aboriginal organisations around the State were approached for their initial views on the core concepts and proposed strategic elements". Furthermore, "their feedback was critical in shaping and refining this discussion paper" (page 6).

The Goolarabooloo were not invited or approached to be a part of any of these meetings or workshops, nor were we informed that they were occurring, despite being a community based law and culture group. We are left wondering whether there has been a filtering process of sorts involved from the outset of this process, - what was the basis on which particular organisations were approached while others were not? Why are they considered key organisations?

We therefore find any suggestion that 'Aboriginal people' in general have already had opportunity to provide views on formulating the core concepts and proposed strategic elements of this strategy both misleading and perhaps, slightly disingenuous. We would suggest that this exclusive process is a missed opportunity for the process to be better informed.

But here we are, now invited to provide a submission on the strategy, similar to the procedural fairness process that the Goolarabooloo have been insultingly relegated to in current heritage and development consultations around our country, despite our law bosses being responsible for the law of that country and being custodians of sites across the area.

Are the Main Ideas Right?

Before discussing whether the main ideas are right, we need to get down to what may be the 'devil in the detail'.

Page 24 of the discussion paper advises us that "there are already a range of Government strategies, frameworks, policies and initiatives, either in place or in development, that will have some overlap with the proposed whole of government strategy". Also, that "it is important that the new strategy aligns with these, rather than adding to the complexity".

This makes it clear to us that the proposed 'whole-of-government' strategy is about using refreshed versions of the same government strategies, frameworks, policies and initiatives that have in part led to current situations that the government acknowledges need to change.

We are very disappointed with this approach, particularly as the only reason that is given for not looking for better alternatives is that they will 'add to the complexity'. We find this reason a bit superficial given the stakes involved and suggest that this amounts to a big missed opportunity for all in the Western Australian community.

The whole-of-government strategy is apparently an effort to facilitate Aboriginal empowerment, however we are unsure whether Aboriginal people who are currently in bad circumstances, marginalized, disenfranchised and left vulnerable from past and current government strategies, frameworks, policies and initiatives will be empowered by the refreshed versions so as to bring about the change aspired to in the discussion paper.

An example: Goolarabooloo's own marginalisation and disempowerment

In the Rubibi Native Title Determination over parts of Broome and surrounds Justice Merkel determined, **based on the evidence that was presented to him**, that the Djugun people of Broome had historically been 'absorbed' into the Yawuru, who had traditionally lived on the plains to the south of Broome.

Justice Merkel also determined that this absorption had occurred after the cultural traditions and practices of the Djugun, (who had followed what is now called the Northern Tradition) had been so adversely affected that they were able to be absorbed into a group who followed a different cultural tradition (the Yawuru practicing the Southern Tradition).

Meanwhile, as the Government has been told **many** times before, custodianship of the Broome area under the Northern Tradition was passed on by the last of the Djugun law bosses to Goolarabooloo men practicing the Northern Tradition, in particular Paddy Roe (OAM). This role has been passed down to other Goolarabooloo men since that time and today Goolarabooloo men are still responsible for that law and custodians of the country around Broome under traditional law and culture of the area.

For decades Goolarabooloo men were primarily involved in consultation on proposed development and potential heritage impacts around Broome and recognised that **a considered balance is required to achieve sustainable development, healthy country and heritage protection**. This standing was recognized and respected over decades by past Government Premiers, Ministers and senior bureaucrats, including Ben Wyatt's own father Cedric Wyatt, who once sat with Goolarabooloo for Corroboree.

As Aboriginal people should know, it is country that holds the law and is the boss. Country has not changed around Broome, however many things have changed in Government's approach to consultation around Broome and surrounding areas.

One change is that Government now has a policy to come and speak with Native Title holders 'in the first instance'. More frequently it seems this is decided to be adequate consultation and no consultation occurs with Goolarabooloo. This policy is not culturally appropriate and does not respect our cultural standing and authority in the area. When we tried to get a meeting to discuss our situation with Ben Wyatt, his office asked us to speak with his advisor Howard Pedersen, who had just come from working for many years with Yawuru and we suggest has a huge conflict of interest.

This change in Government's approach includes consultation on heritage around Broome, where there is no early engagement with Goolarabooloo that would enable us to provide advice on proposed developments and associated impacts to heritage and consider design adjustments. Instead consultation with

Goolarabooloo now only seems to happen in a procedural fairness process when an application to impact a site is being decided under the Aboriginal Heritage Act, and then only because they absolutely have to.

Even the Broome Shire now has a policy up on their website that they only consult with Yawuru on potential developments and heritage impacts in the area. Yawuru and the current Shire President even have a joint business venture. We are dismayed to hear that this has been happening and are sad that some Yawuru people are being asked to essentially put themselves into vulnerable and at times dangerous personal situations by making decisions on country and sites that are not associated with their cultural tradition.

The Goolarabooloo have become marginalized and disempowered and to be honest, a little disenfranchised with Government and its current approach to consultation with the Aboriginal community of Broome.

We hope that you, the reader, can now see why the Goolarabooloo are quite disappointed to see that the ideas and approaches in this Discussion Paper are only meant to refresh current Government policies, strategies, frameworks and initiatives.

While the Discussion Paper contains notions like 'Putting Culture at the Centre' and 'Supporting Aboriginal People's Cultural Identities, Cultural Continuity and Cultural Authority' and 'Building Cultural Understanding and Respect', they appear as hollow words out of Government's mouth that currently mean little against Goolarabooloo's experience over the recent past.

In actual fact, what we have endured feels more like a reestablishment of cultural genocide, in part through the production of deliberate barriers to the continuity of our Aboriginal culture, to use the words on page 12 of the Discussion Paper. We feel like the Government has come to devalue our culture, our connection to country, our religious beliefs, religious practices and community authority structures.

If Government is actually serious in playing an important role in supporting Goolarabooloo's cultural identity, cultural continuity and cultural authority, as suggested on page 12 of the Discussion Paper, then our current situation needs to change immediately.

As we noted in our 2019 submission to the Department of Premier and Cabinet on the proposed Aboriginal Advocacy Body, Aboriginal people's rights and interests in relation to their traditions and cultural heritage are now protected under United Nations Charter, to which Australia is a signatory. Any new 'whole-of-Government' approach to Aboriginal engagement therefore must respect and account for these rights and interests, and **for all Aboriginal people, not just Native Title holders.**

So... Are the Main Ideas Right?

1. Putting Culture at the Centre

As the old and genuinely knowledgeable local people in Broome and surrounding areas know well, the Goolarabooloo have direct cultural continuity in the area, and as practitioners of our law and culture, we have always put culture at the centre of everything that we do. We are therefore very much in favour of this idea and encourage it to be properly realised in action.

However like with the 'whole-of-government' approach, **there also needs to be a 'whole-of-Aboriginal people' approach** that takes into account the range of differences in cultural continuities and experiences. As mentioned on page 13 of the Discussion Paper, this may involve people walking in two worlds, meaning that some Aboriginal people reserve the right to walk at times in the Aboriginal world and resist assimilative processes. These people have the right to assert and exercise their cultural belonging as first nations people and this all needs to be respected and accounted for in any new approach.

2. Bringing Decisions Closer to Communities through Empowered Engagement and Agreement-making

Aboriginal people have been asking for something like this to happen for a very long time and we welcome this idea. However the empowered engagement and agreement making cannot just be with Native Title organisations only, grass roots organisations must also get a fair go so all Aboriginal people are empowered.

The structures that are 'strengthened or developed' must be responsive to the **realities on the ground**, as mentioned on page 14 of the discussion paper. This will mean greater efforts than have been happening under existing government policies, strategies, frameworks etc.

We also consider that bringing decisions closer to communities must also include bringing decisions closer to traditional communities and traditional decision-making networks, ie **directly inclusive of groups of law people and elders and empowering these marginalised groups**.

Consulting with a particular 'working group' of various Aboriginal people may tick a box in demonstrating consultation has occurred, but if the people being consulted have no cultural authority under traditional law of that country, then they are potentially being treated unfairly themselves and in a culturally inappropriate way, possibly even putting their health at risk. Young Aboriginal people being 'groomed' are particularly vulnerable here. This goes back to Idea Number 1 – putting culture at the center.

Empowered engagement of traditional law groups and elders through traditional authority and decision-making structures is crucial if the

proposed whole-of-Government approach is to achieve the objectives set out in the discussion paper. **This sets the standard of respect shown towards Aboriginal culture on which Government will be judged.** This is particularly relevant in considering any potential changes to the Aboriginal Heritage Act, as is currently happening.

3. Enabling Aboriginal-led Solutions Through Improved Service Commissioning and Grant-making

The Goolarabooloo were instrumental in starting up Aboriginal-led health and community services in Broome decades ago. We have always championed this approach and we encourage the concept of changing the way Government services are designed, funded and procured to significantly increase the involvement and support the development of grass-roots Aboriginal community-controlled organisations.

However we remain wary of how this will be implemented in reality. Any such approach needs to be **respectful and inclusive** of existing Aboriginal community-controlled organisations, including capacity building those organisations that do not have the benefit of receiving native title money or gaining benefits through native title agreements.

Undertaking initiatives like policy development, system reforms, commissioning services and coordinating service delivery on local levels must be inclusive of all relevant Aboriginal groups and **ensure the right people (under local traditional cultural protocol)** have formal and systematic roles in decision-making processes.

4. Investing More in Preventative and Early-Intervention Initiatives

The Goolarabooloo are cautious of this idea and how it will be implemented. The whole nature of the stolen-generations was built around racist, paternalistic, out-of-touch notions of 'early-intervention', apparently for the wellbeing of the people who were 'stolen'.

The 'early-intervention' initiatives of Government that have occurred more recently in the Northern Territory and parts of Western Australia have also been described at times in the public as creating a second 'stolen generation'.

We therefore think that the Government needs to tread carefully in this space.

While it is pleasing to see increased inclusion of Aboriginal community-controlled organisations in service delivery here, organisations built around traditional law and culture will often get the best results. Any 'early-intervention' initiatives that are undertaken will be heavily scrutinised by Aboriginal people everywhere, and improper conduct will not be tolerated.

5. Boosting Economic Opportunities Across All Areas of Government Activity

The Goolarabooloo recognize that boosting economic opportunities for Aboriginal people is important, including supporting Aboriginal people's employment and business aspirations. However these should not be to the detriment of supporting Aboriginal people's traditional and cultural aspirations, including aspirations to maintain cultural connections to land and protecting particular areas that are vital in the maintenance of cultural traditions.

As mentioned above in page 3, Goolarabooloo have long recognized that a considered balance is required to achieve sustainable development, healthy country and heritage protection. Heritage protection can be vital in maintaining particular cultural traditions, which are protected under International Charter and Government obligations under agreement.

We know that sustainable development is necessary for the health and wellbeing of country and all Australians, however we remain cautious that this notion of 'boosting economic opportunities for Aboriginal people' will potentially be used as a driver by those who are seeking to push development, particularly in the Kimberley, at any cost and in unsustainable directions. Government must act responsibly here in upholding the balance.

6. Building Cultural Understanding and Respect

The Goolarabooloo see this idea as being crucial to the success of the proposed whole-of-Government approach. In fact, **this Idea needs to be included with 'Putting Culture at the Centre' within the centre circle of ideas in the model on page 11 of the discussion paper.**

As already mentioned in the discussion paper, Government staff will need to build on their understanding and respect of Aboriginal people and our culture for the proposed approach to be truly effective. Building cultural understanding and respect to adequate levels really needs to come **before** successful placement of culture at the centre of the model.

To us, any other approach is senseless. There is no point requiring that Government staff, particularly policy makers, put culture at the centre of what they are doing and implementing when they do not have an adequate understanding of what it is they are meant to be putting in that centre. Simply putting warm fuzzy stuff into the centre without proper realisation will turn the whole approach into a fake approach – and get Aboriginal people further off-side than they might already be!

We therefore suggest there is more to this idea than just considering racism. Substantive equality does need to be considered here. Anthropologists used to inform the Australian public and Government on traditional Aboriginal culture –

what happened? Maybe they can return to doing that after Native Title? Perhaps Government can even engage with and learn from knowledgeable law people instead?

We are also unsure what 'cultural responsiveness' training and standards are in the first key idea for Public Sector in the Table on page 23 of the discussion paper. What is this 'cultural responsiveness'..being responsive to culture..? If cultural responsiveness doesn't include cultural awareness then we suggest that cultural awareness training also needs to go in this section.

We would welcome opportunities to engage with Government in training and increasing awareness and understanding of our cultural traditions.

Summary

As we consider this whole-of-Government approach over time we will be asking ourselves 'what should Aboriginal Empowerment with Culture and Cultural Understanding and Respect at its core look like in our community and more broadly'?

We would hope that is also what Government policy and decision makers will ask themselves throughout the whole-of-Government approach that is proposed in the discussion paper.

In not having had the benefit of being involved in discussing these concepts with Government prior to release of the Discussion Paper, we are sure that we have not identified all of the issues that we may have with the approaches proposed in this submission.

However it is clear to us that the notion of placing culture at the centre of the proposed whole-of-Government approach needs to be properly considered before being implemented. Cultural underpinnings like 'culturally appropriate processes and protocols' and 'adherence to traditional decision-making processes' are yet to be properly included in the language describing the other ideas and associated notions.

An example would be on page 15 of the discussion paper, where it is mentioned that the idea of 'bringing decisions closer to communities' includes recognising and supporting Aboriginal leadership, representation and engagement through formal recognition of, and where necessary establishment of, regional structures that represent Aboriginal people. Aboriginal leadership is mentioned however no mention is made here of the existing traditional Aboriginal leadership – the law bosses and elders that in some areas seem to have become marginalised and **not included in direct engagement as proper traditional cultural protocol would require**. Is it implied in the proposed model? It should be made explicit. It is hoped that formal recognition of these groups in their own right and culturally appropriate, direct engagement and support of these groups, as is suggested, is undertaken in the new whole-of-Government approach.

We also hope that as Government people learn more and develop an adequate understanding and respect of Aboriginal people and our culture, and what it means and takes to place Aboriginal culture into the core of Government's proposed approach to empowering Aboriginal people then Government's approach will develop and things will perhaps change for the better.

To reiterate, based on our experiences in the recent past, we strongly suggest that Government take a good hard look at some of the current policies and strategies that are currently being implemented in Aboriginal community engagement in the Broome area and perhaps across the state. Particularly with what seems to be a fixation on native title organisations at the expense of the rights of Aboriginal people and groups who do not hold native title. Some of the current policies and strategies appear to need more than just a refresh.

In principle, the discussion paper has a number of good ideas and notions and we look forward to seeing how they are realised through future Government action. However Government must be mindful and expect that any actions that are not in line with Government's obligations in the protection of all Aboriginal peoples rights and interests under law and International agreement will no longer be tolerated.

Sincerely,



Daniel Roe

General Manager, GMIC

For and on behalf of Goolarabooloo families, as Custodians and Northern Tradition law and knowledge holders of the Broome area