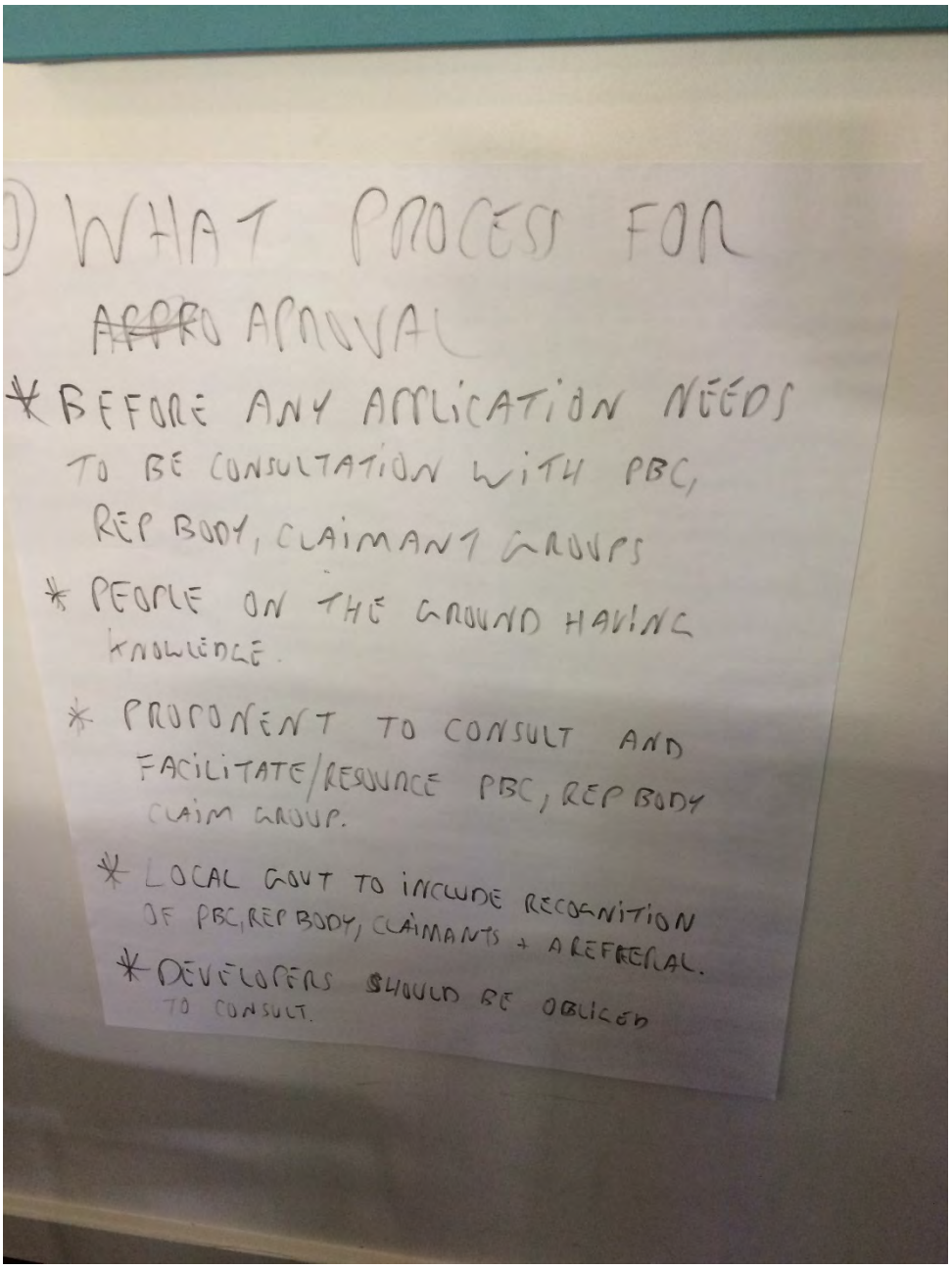
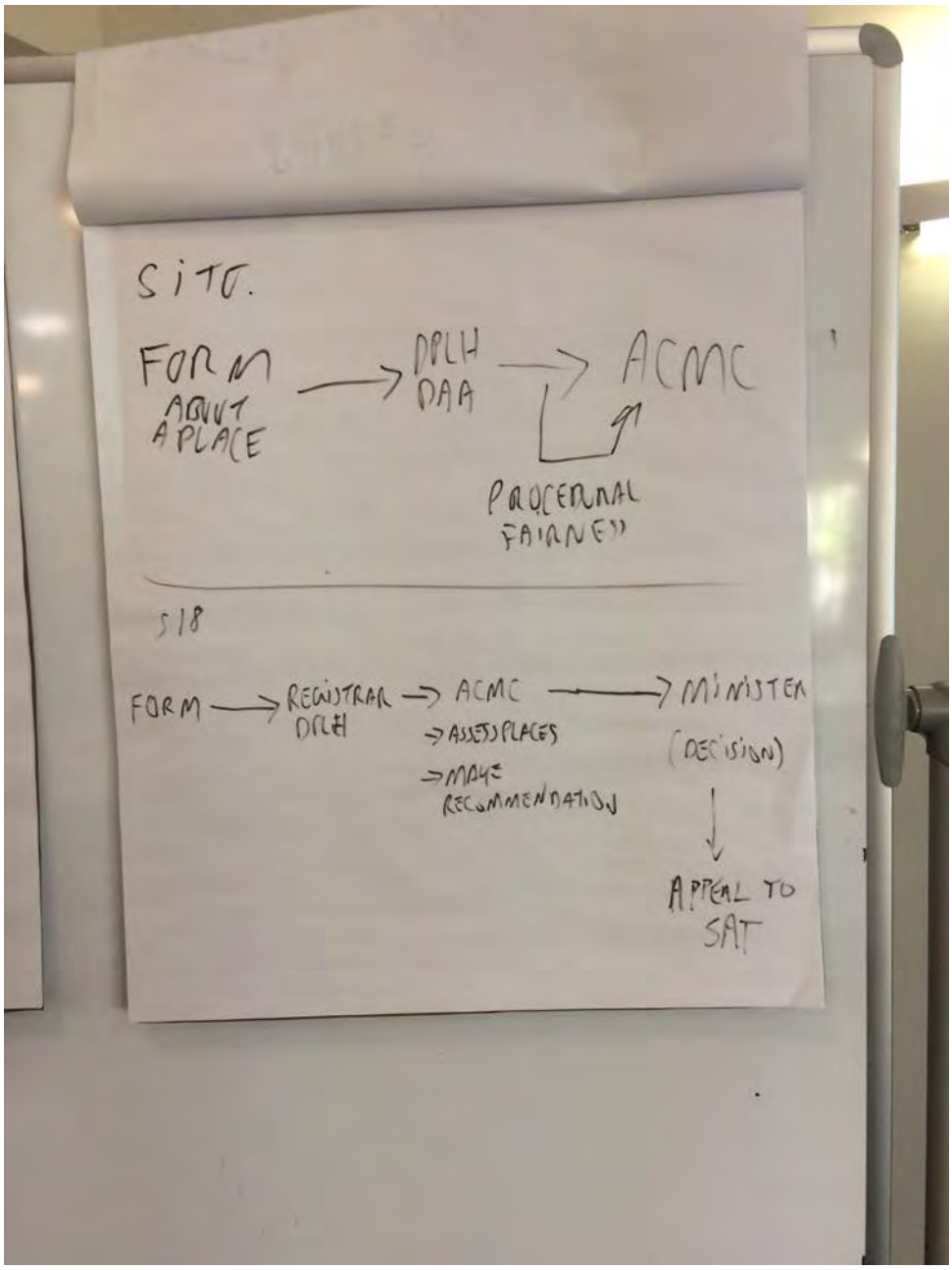
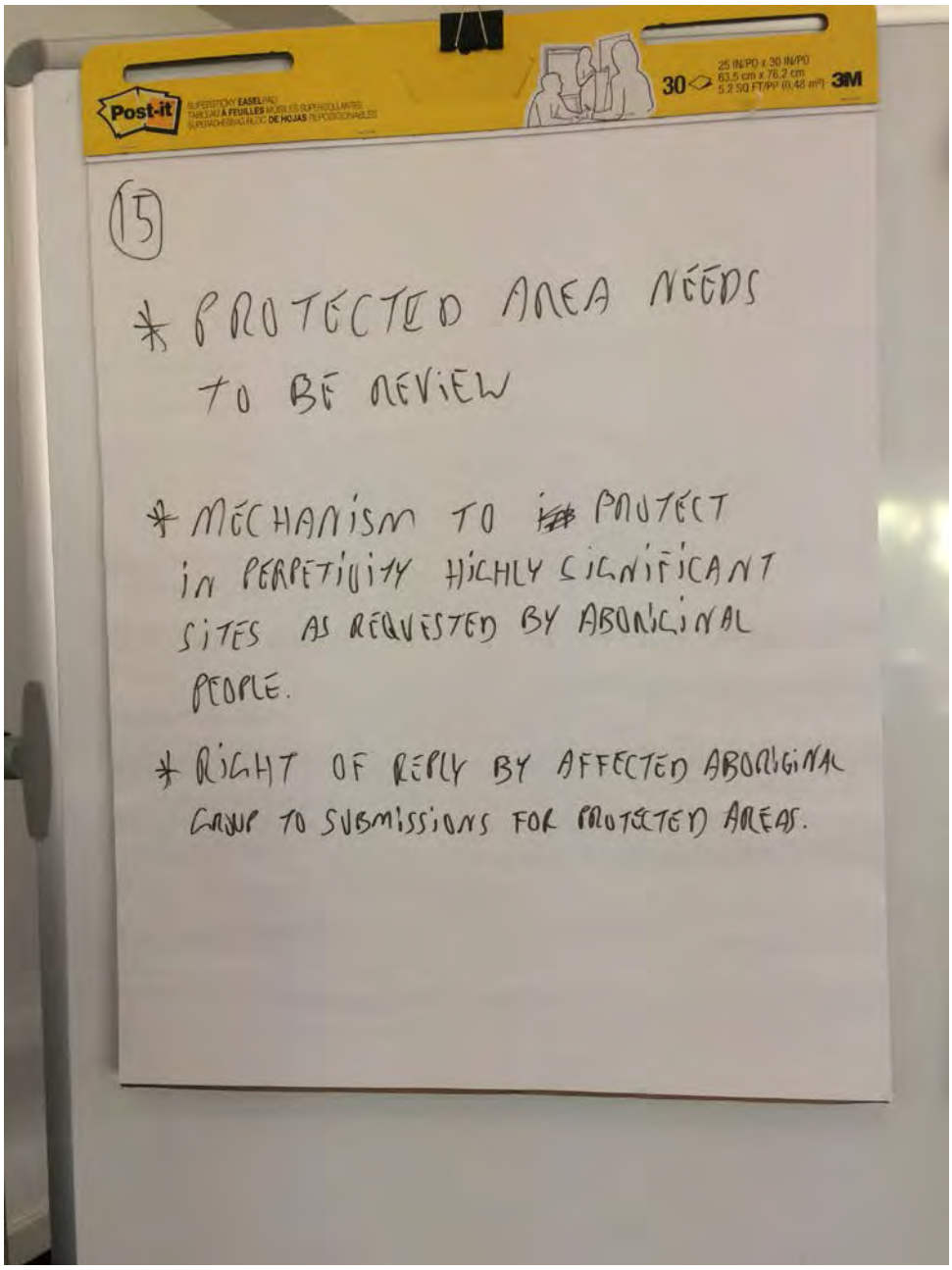
***MY HERITAGE, MY VOICE* WORKSHOP**
BROOME – 7 MAY 2018

MEETING RECORD




SITE.
FORM
ABOUT A PLACE
DPLH DAA
ACMC
PROCEDURAL FAIRNESS
S18
FORM
REGISTRAR DPLH
ACMC
⇒ ASSESS PLACES
⇒ MAKE RECOMMENDATION
MINISTER
(DECISION)
APPEAL TO SAT



(15)

* PROTECTED AREA NEEDS TO BE REVIEW

* MECHANISM TO ~~for~~ 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.

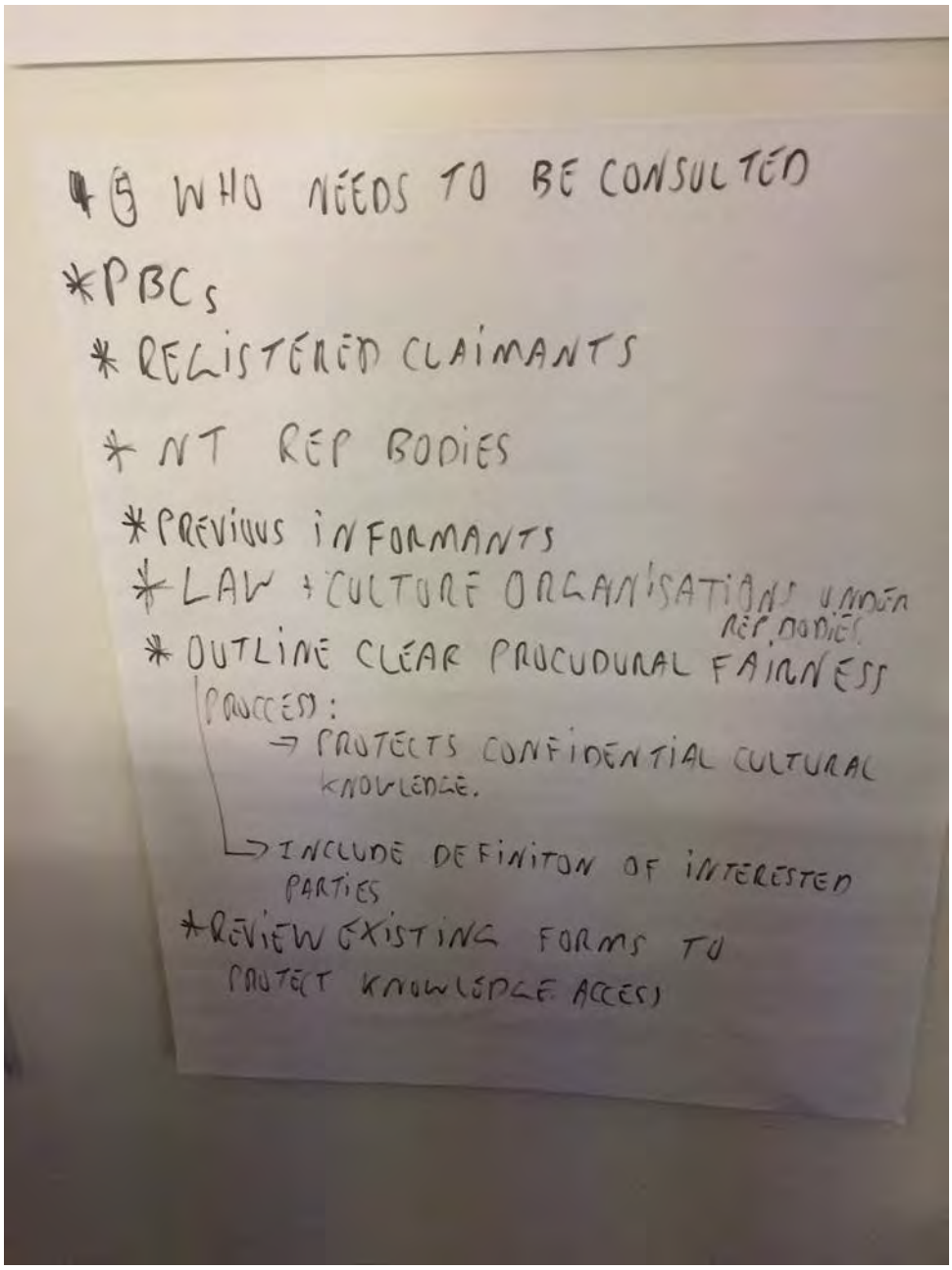
* CONTEMPORARY ABORIGINAL ART

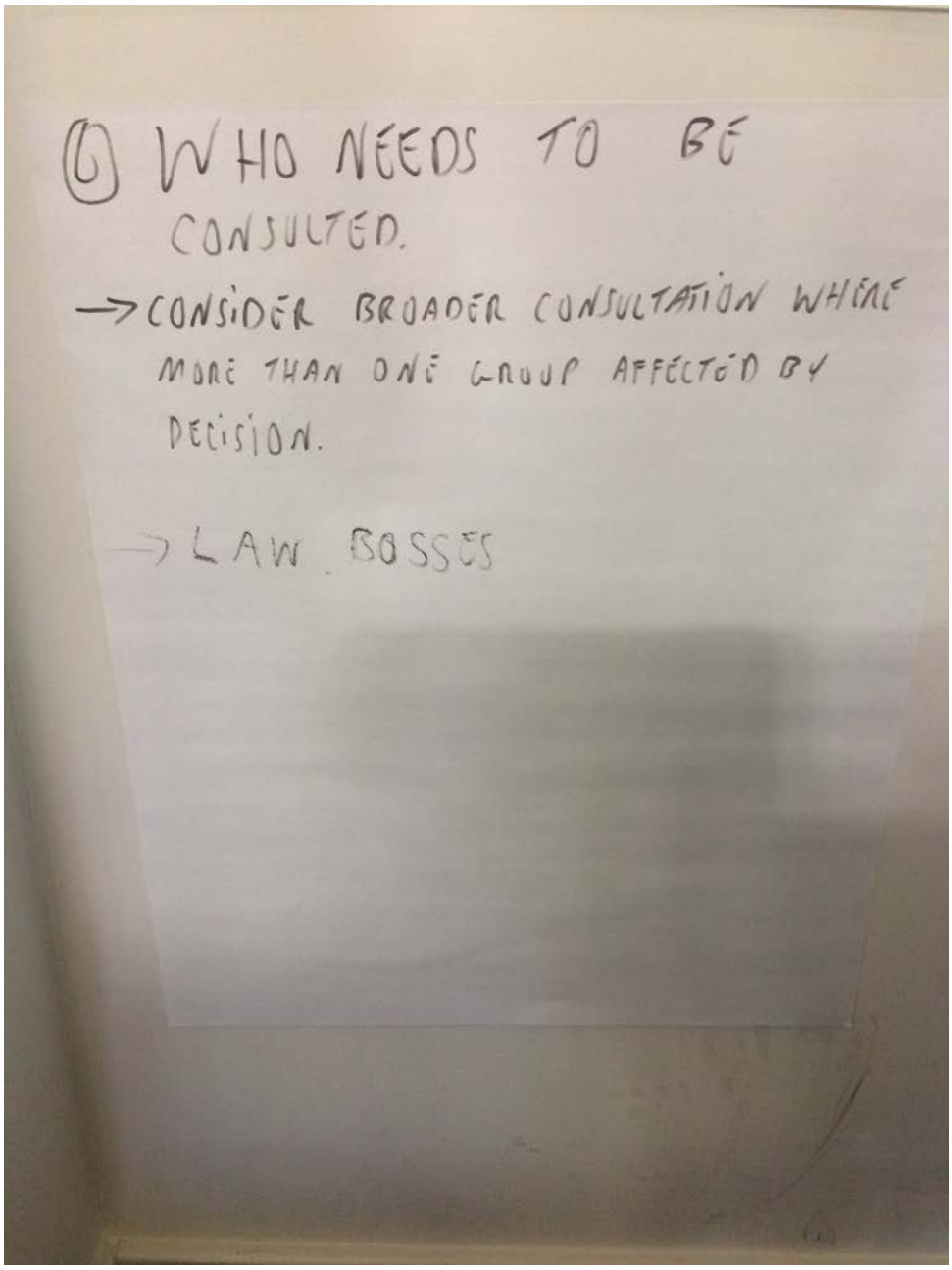
* LANGUAGES

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

  FREE PRIOR INFORME CONSENT

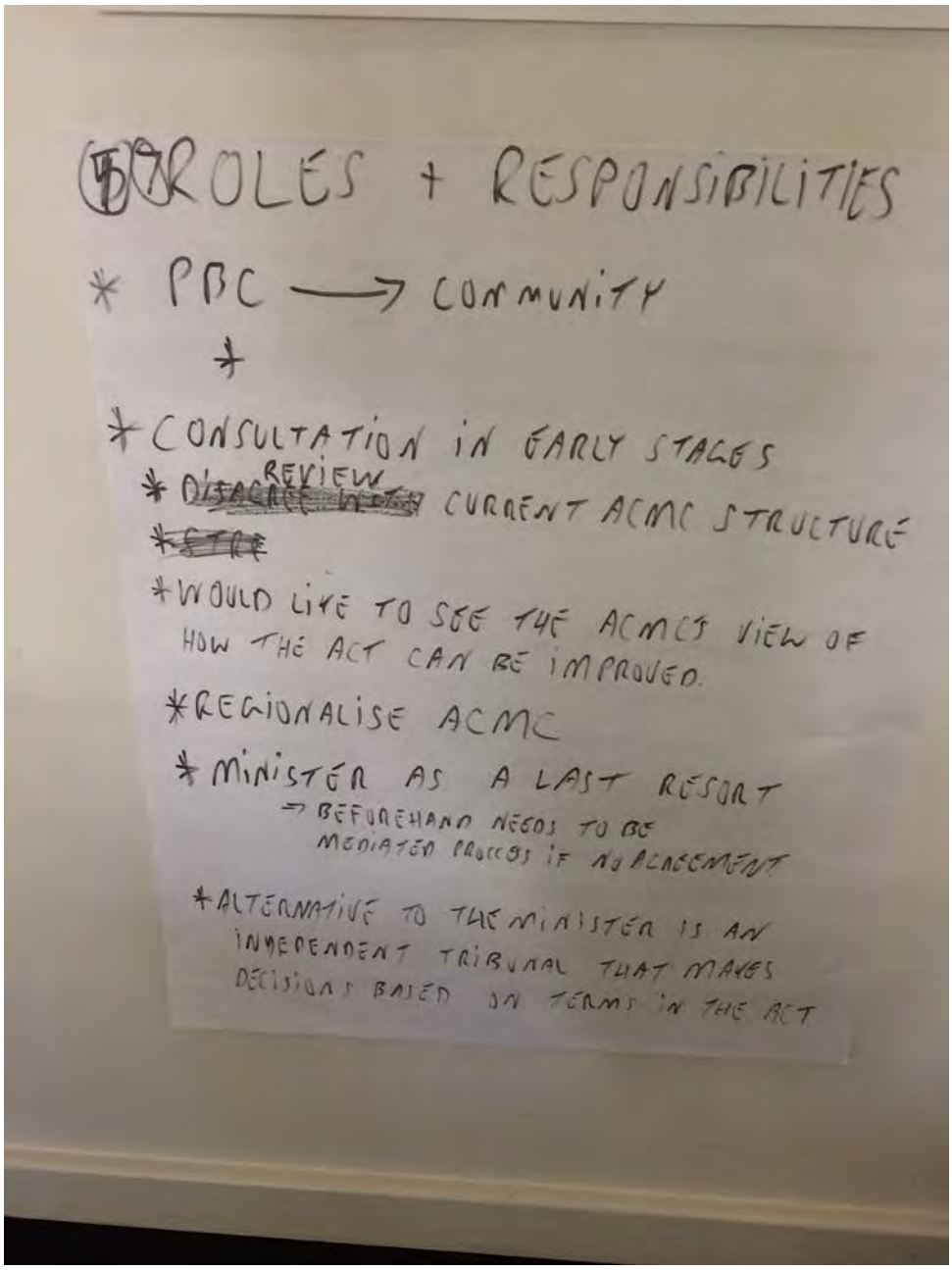
(5) WHO NEEDS TO BE CONSULTED

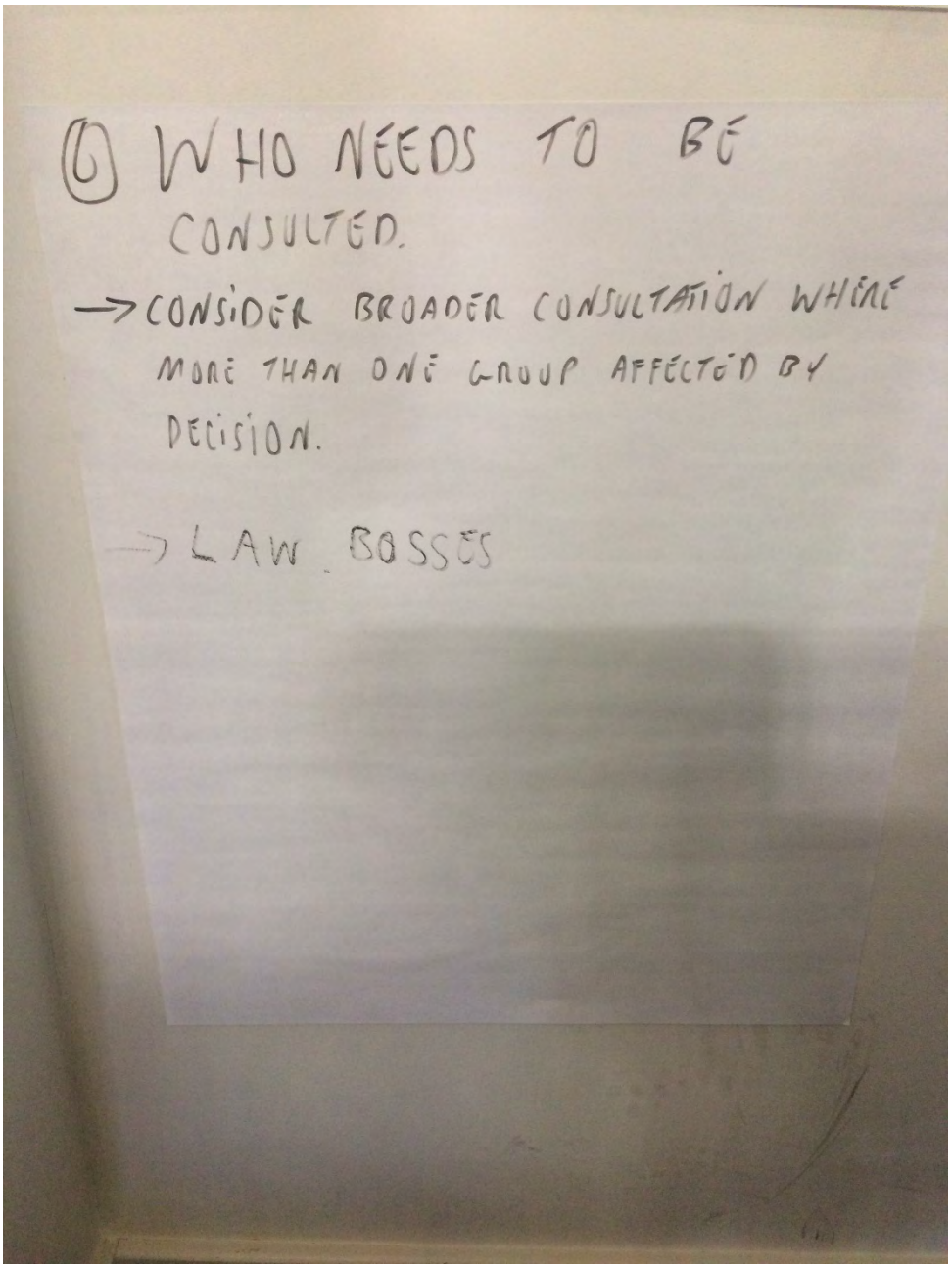

WHO NEEDS TO BE CONSULTED
*PBCs
* REGISTERED CLAIMANTS
* NT REP BODIES
*PREVIOUS INFORMANTS
*LAW + CULTURE ORGANISATIONS UNDER REP. BODIES
* OUTLINE CLEAR PROCUDURAL FAIRNESS
PROCESS:
→ PROTECTS CONFIDENTIAL CULTURAL KNOWLEDGE.
→ INCLUDE DEFINITON OF INTERESTED PARTIES
*REVIEW EXISTING FORMS TO PROTECT 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 ~~#~~ THAT IS OF CULTURAL SIGNIFICANCE.
* PROTECTING INTELLECTUAL PROPERTY AS IT RELATES TO TRADITIONAL KNOWLEDGE


ROLES + RESPONSIBILITIES
* PBC → COMMUNITY
+
* CONSULTATION IN EARLY STAGES
* REVIEW CURRENT ACMC STRUCTURE
* WOULD LIKE TO SEE THE ACMCS 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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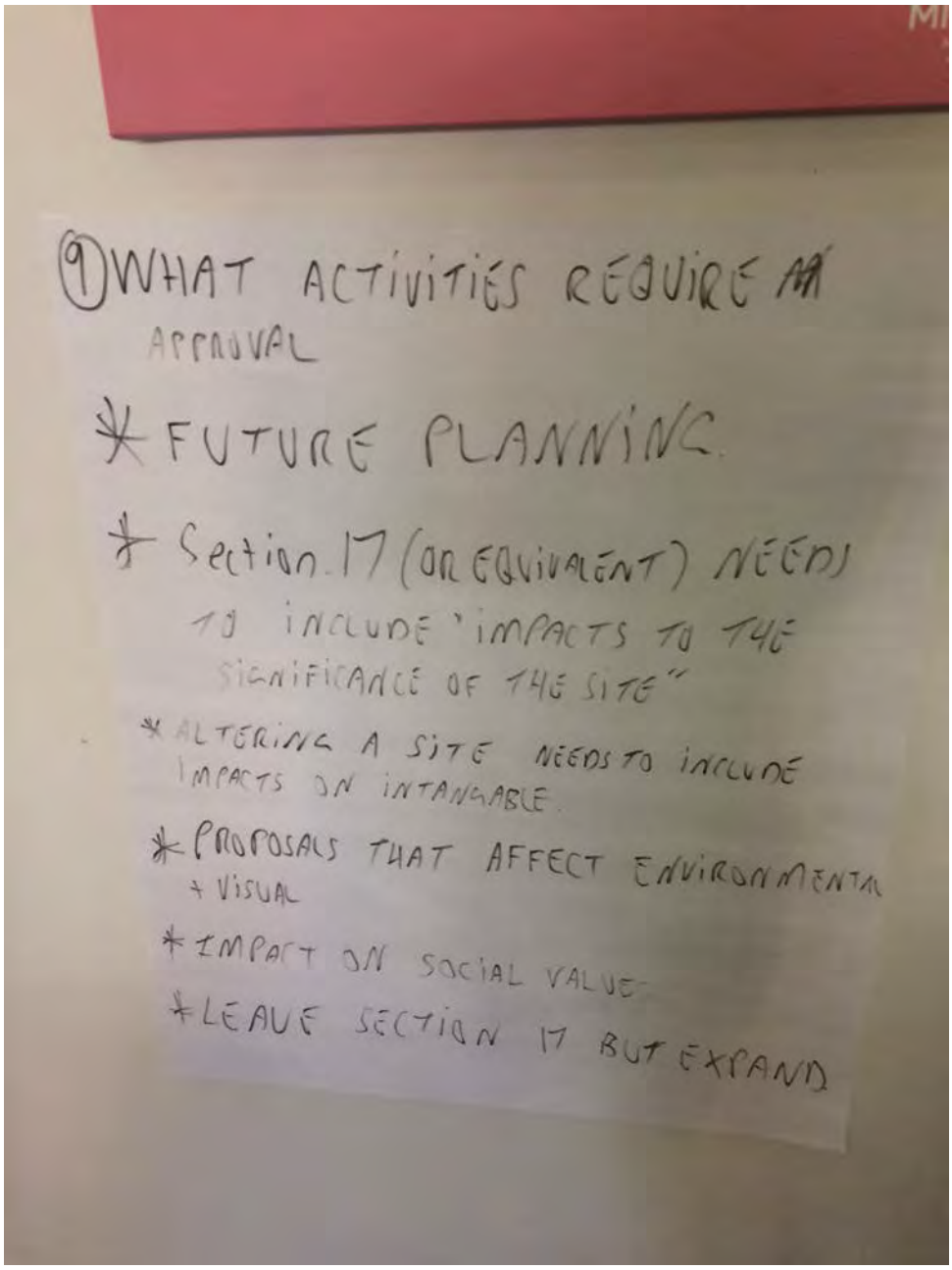
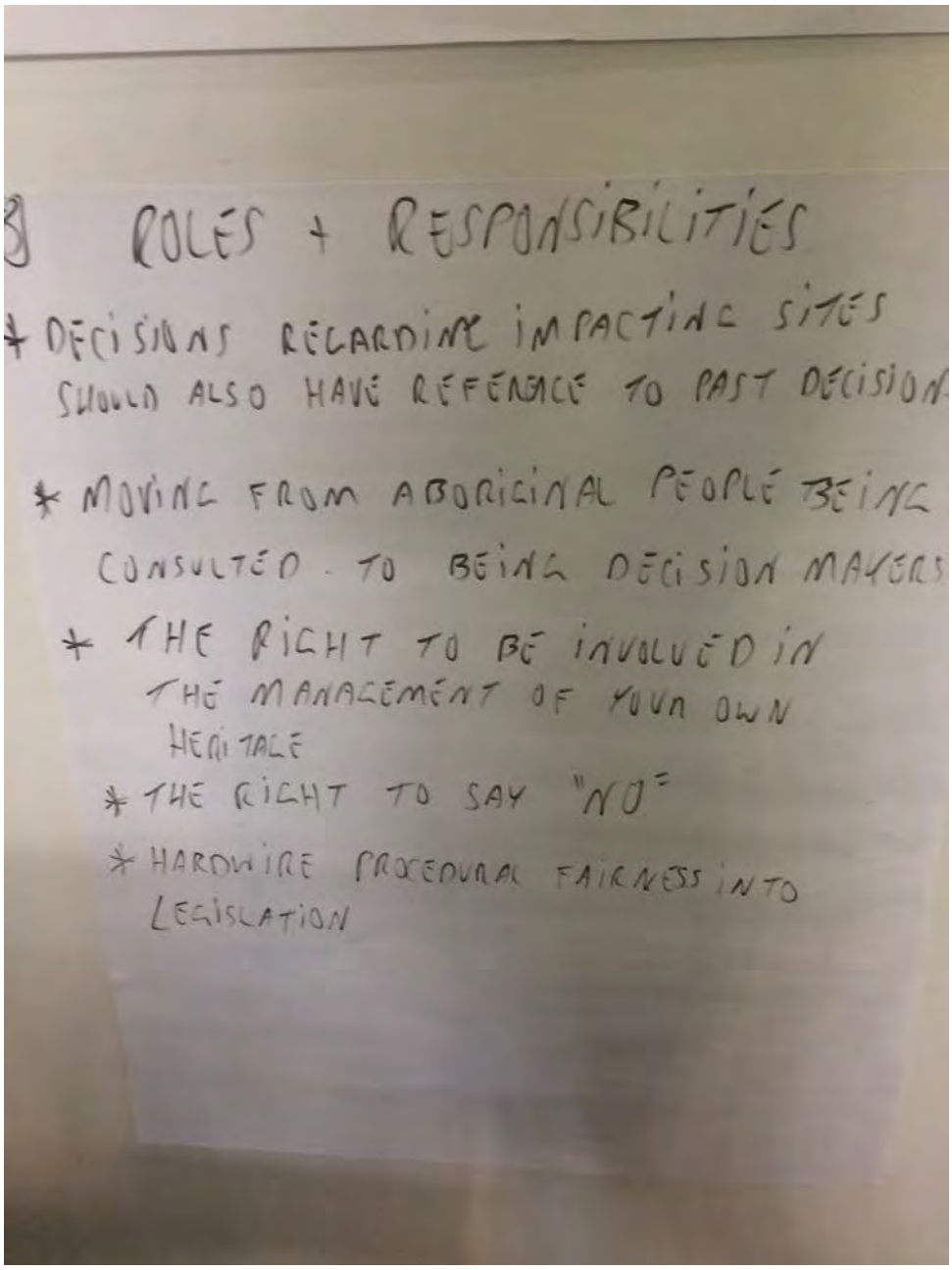

(9) WHAT ACTIVITIES REQUIRE
APPROVAL
* FUTURE PLANNING.
* Section 17 (OR EQUIVALENT) NEEDS
TO INCLUDE 'IMPACTS TO THE
SIGNIFICANCE OF THE SITE"
* ALTERING A SITE NEEDS TO INCLUDE
IMPACTS ON INTANGABLE.
* PROPOSALS THAT AFFECT ENVIRONMENTAL
+ VISUAL
* IMPACT ON SOCIAL VALUE
* LEAVE SECTION 17 BUT EXPAND


ROLES + RESPONSIBILITIES
* DECISIONS REGARDING IMPACTING SITES SHOULD ALSO HAVE REFERENCE TO PAST DECISION
* 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?

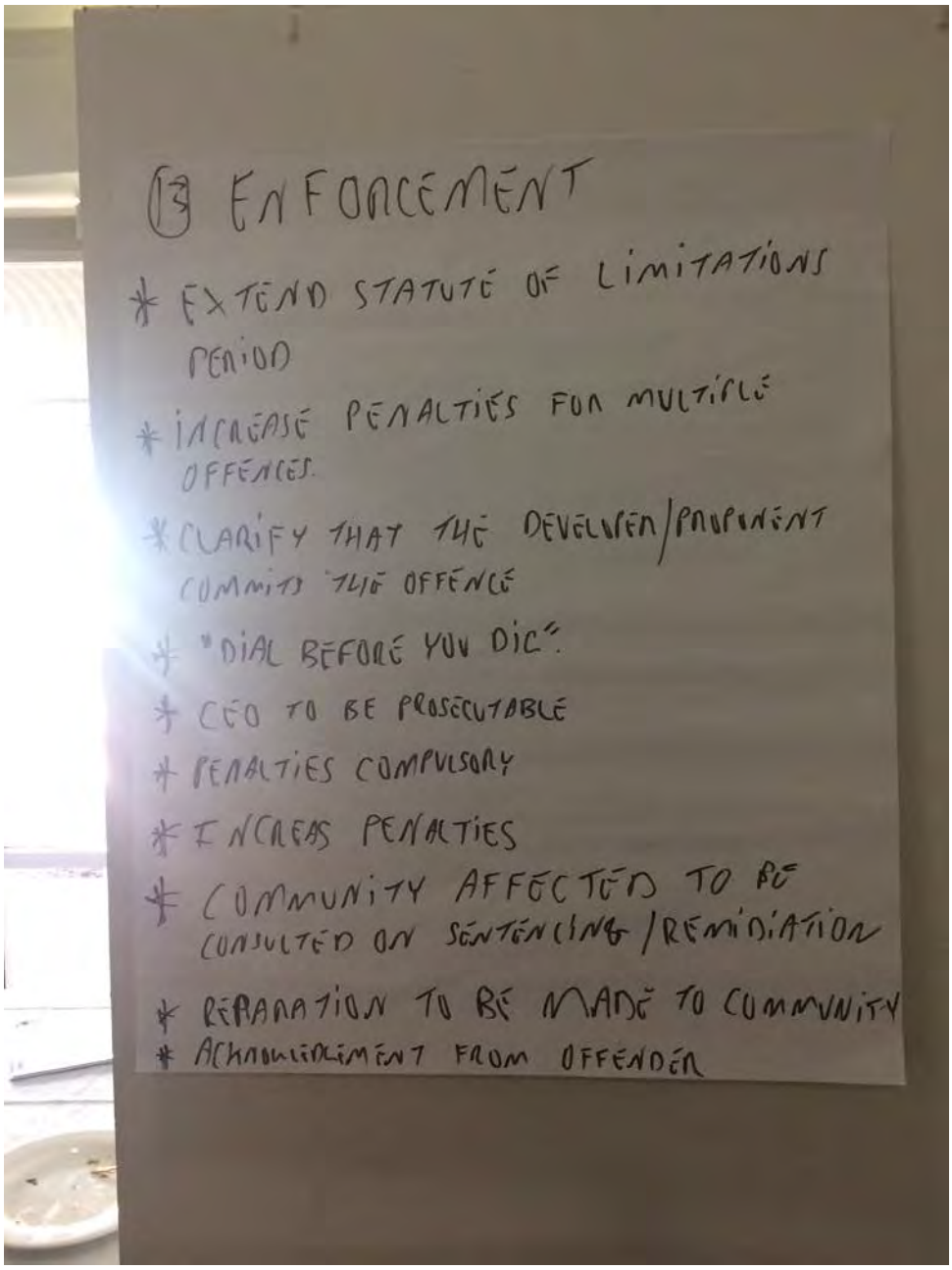
* SECTION 5 NEEDS TO BE EXPANDED TO INCLUDE INTANGABLE HERITAGE

* 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 DIG".
* CEO TO BE PROSECUTABLE
* PENALTIES COMPULSORY
* INCREAS PENALTIES
* COMMUNITY AFFECTED TO BE CONSULTED ON SENTENCING/REMIDIATION
* 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 ADVERSERIAL.

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 he 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 dee 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.