

**ABORIGINAL HERITAGE ACT 1972 (AHA) REVIEW
PHASE 1 CONSULTATION WORKSHOPS
APRIL TO MAY 2018**

FACILITATOR REPORT

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| WORKSHOP: | <i>My Heritage, My Voice</i> | <input checked="" type="checkbox"/> | <i>Working with Our Aboriginal Heritage</i> | <input type="checkbox"/> |
| DATE: | 3 May 2018 | | | |
| TOWN/VENUE: | Jigalong, BHP Shed | | | |
| FACILITATOR: | Dr Stuart Bradfield | | | |

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| Number of attendees: | 25 |
| Any logistical/venue related issues?: | Discussions on the day with the Chair of the local Corporation and other residents led to us changing the venue from the basketball courts to the BHP Training Venue. While this could have created issues, early arrival at Jigalong meant we were able to adjust plans. 'The Shed' as it is known, worked very well, with participants happy to use the space. The Shed should be considered for future workshops and meetings, particularly as free, good quality accommodation is also available on site for people who use the venue. |

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| 1. SUMMARY OF KEY ISSUES RAISED |
| <ul style="list-style-type: none"> • Culture is central to life, with a contemporary, ongoing importance. • Protection of heritage is of vital importance to Aboriginal people's beliefs and values. • Heritage processes should be culturally appropriate. • People should be provided with the mechanisms for making decisions about their own country. <p>It was clear that to the participants in attendance at Jigalong, the importance of heritage is directly linked to the broader, central and significance of culture and country to people's lives, values and belief systems. Participants strongly expressed the ongoing importance of culture to them, and therefore of aspects of heritage that are part of that culture. It remains important for people to follow cultural traditions, therefore it is necessary that appropriate local knowledge holders be the ones to identify and look after significant cultural sites on land. This principle was described as '<i>part of Aboriginal life, passed down for generations</i>'. The participants at Jigalong expressed the view that their culture is strong, as opposed to other Aboriginal peoples who they regarded as having 'lost' their culture. They were proud that their young people were educated in culture, and again, contrasted this with what they believed to be the case in other Aboriginal communities.</p> <p>Heritage was broadly conceived as including much that was important to people in the way of tangible sites and objects, but also stories and songs that have been passed down for generations. The significance of heritage was seen in one senior man's description as a '<i>treasure box</i>' which contained a variety of things of immense significance and value to</p> |

Martu people.

Given the centrality of cultural rules and protocols, protection of heritage is seen as a very significant matter. It is also a practical matter with real and significant consequences for traditional owners – and others – if it was not given due attention and respect.

As is likely to be evident in other places in the Pilbara (and elsewhere), heritage was also viewed through the prism of contest with those seeking to access and develop on country. Respectful management of heritage sites was the main challenge people had in dealing with mining companies who were active around Jigalong. While local people had very good relationships with some proponents who were respectful of Aboriginal people, culture and heritage, they battled with others who did not appear (or seek) to understand local concerns. Current legislation was not strong enough to prevent the negative impact perpetuated by these proponents.

Cultural traditions stressed the importance of speaking for, and looking after, country. Workshop participants thus objected to people from another country making decisions about heritage on their land. The fact that this runs counter to long held tradition was captured by one woman's suggestion that *'we know who we are and we look after the land. This is how it was from the beginning.'*

In line with this key, central principle of local autonomy, there was a general objection to a role for the Aboriginal Cultural Materials Committee in making decisions about Martu country. There was also a general objection to non-Aboriginal people being on the ACMC.

Again, reflecting the ongoing importance of culture, workshop participants suggested the processes by which heritage is managed have to be culturally appropriate. This was seen as having practical implications for day to day processes, such as ensuring proper roles for men and for women.

2. SUMMARY OF KEY IDEAS FOR AMENDED LEGISLATION

- Broaden the definition of 'heritage'.
- Ensure that heritage decisions are to be made by local people, according to culturally appropriate processes.
- If ACMC remains, it needs to include elected regional representation.
- Penalties for breaching the Act should be strengthened.
- Ministerial oversight needs to include mechanisms for local consultation.

Reflecting participants' holistic understanding of what constituted 'heritage', and its ongoing importance, it was felt the scope of what is protected by amended legislation needs to be broadened. Participants identified that stories, songlines – *'all'* heritage needs to be protected. It was noted that the linkages between important places meant discussions were likely to be required between different groups.

In line with a principle of local autonomy, there was a general objection to the role of the ACMC. It was felt that decisions to protect sites should be made by local traditional owners, *'not by some committee in Perth'* that was populated by people from other countries.

Participants were pragmatic enough to explore a modified ACMC if the committee was to be retained in amended legislation. Interestingly, this idea integrated elements of a western-style democratic process with more traditional aspects of speaking for country. If there is to be an ACMC style committee as part of amended legislation, it was felt it needed to be more representative of Aboriginal peoples in WA, rather than be composed of Ministerial appointees who may or may not cover the different WA regions. Participants felt there should be local/regional representation, as determined by community people. This should be aligned with particular 'cultural blocs' evident in Aboriginal WA. For example, Western Desert people should have two representatives, which may be made up of one man and one woman. The workshop did not explore in detail how representatives might be elected, but people were clear that those on such a committee should have the requisite cultural knowledge and authority. Any amended legislation should also stipulate that membership of the ACMC (or similar style body) should only be open to Aboriginal people.

In line with the view that heritage should be managed by local people, it was felt new or amended legislation had to clearly articulate that processes for heritage identification and management needed to be culturally appropriate. This referred to both articulating the primacy of senior local knowledge holders, as well as reflecting specific roles such as for men and women.

Participants expressed their objection to the way s18 currently operates. It was felt amended legislation should stipulate that senior local people should determine the extent to which sites could be impacted (by mining companies etc.). The participants felt that s18 should be amended to reflect this principle.

Penalties for breaching legislation needed to be stronger, in part to reflect the fact that people profited from damaging or removing elements of Aboriginal heritage. Repeat offenders should be punished by increasing fines for subsequent offences. Fines for corporations needed to be big enough to be a real deterrent, an aspect that was absent from the current regime.

Aboriginal people should have a right to appeal decisions taken under amended legislation. It was regarded as anomalous that proponents who did not hold heritage as intrinsically important or sacred had the right of appeal, but Aboriginal people, '*as cultural people*', did not.

If the Minister was to retain the right to have a final say on heritage protection, amended legislation should stipulate that he or she make decisions only after consulting with appropriate local people. This would have to take place in ways appropriate to, and determined by, senior local people. This was contrasted with an historic visit by a Government Minister where local people had little or no idea about what was going on because no translation mechanisms were provided to ensure their equal participation in proceedings.

3. POINTS OF CONTENTION

- No apparent points of contention.

There were no apparent points of contention between participants, with a high level of consensus apparent.

Consensus was achieved in part by participants discussing issues amongst themselves, in language, as points were raised by the facilitator or staff. It was also facilitated via strong buy in from the Chair of the local corporation who effectively 'co-facilitated' parts of the discussion. This helped shared positions to emerge. The workshop process afforded the space for this process to play out which appeared to gain participants' confidence and further help things run smoothly.

4. OVERALL EFFECTIVENESS OF WORKSHOP

- Workshop was very effective with a good attendance and participation.

Overall, I think the workshop was very effective, with a good level of engagement and attendance from this remote community.

The outdoor venue meant use of butcher's paper to capture key points was impractical. Instead we explored key themes via a broad ranging, open discussion. Participants appeared to feel comfortable and thus spoke freely, appreciating the opportunity to comment on matters that were clearly important to them.

The success of the workshop was in part facilitated by Department staff making contact with the Chair of the local corporation. This 'local champion' was not the original person contacted prior to the workshop, but once briefed, was happy to recruit meeting attendees and assist with the workshop. We organically developed a process whereby she, in part, 'co-facilitated' the meeting, by restating in language, questions asked by the facilitator, and assisted with ensuring all meeting participants had their say.

At the conclusion of the workshop she expressed her satisfaction with the way it was conducted, and committed to assist with recruitment and coordination of any subsequent workshops in Jigalong.

Having a BBQ on site (which was deftly managed by Department staff who continued to monitor discussion) was a another advantage. This was not only helpful in getting participants to the venue, it facilitated good discussions over lunch.

5. ANY OTHER OBSERVATIONS?

- Strongly recommend a return visit to Jigalong.

Participants were vocal in their support of a multi-phased consultation process, with discussion between department staff and senior local people already taking place about the nature of any subsequent workshop(s) in Jigalong.

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| 6. ANY SUGGESTIONS FOR NEXT PHASE OF CONSULTATION? |
| <ul style="list-style-type: none">• Hold the next Jigalong workshop at the BHP Shed. <p>I would suggest any subsequent workshop in Jigalong should be held at the same venue. Given the availability of free, good quality accommodation on site, it may be worth the consultation team arriving the night before a workshop so as to enable informal discussion and recruitment to take place on the morning of the workshop.</p> |