

MY HERITAGE, MY VOICE WORKSHOP  
PERTH - 15 MAY 2018

MEETING RECORD

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1. Known sites of cultural significance for both women & men.
2. Culturally significant objects & places such as "scar tree", water holes, meeting places, shell middens, stone sites (ochre)
3. Burial sites (HISTORIC)

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1. Aboriginal involvement in ALL parts ~~of~~ and all levels of negotiations
2. We oppose the situations of non-Aboriginal persons appointing other non-Aboriginal persons to the decision making process.
3. Wardens or rangers to be of Aboriginal descent only!

- 3 -

1. Persons of Aboriginal Descent should be consulted in the decision process or matters involving the act.



What roles and responsibilities are needed?

- ~~Formation~~ education function.

- ~~However~~ Workers need to be better defined, more power to,

- ~~more education~~ of the roles, better utilised, implemented.

## WHAT NEEDS LEGISLATION TO PROTECT IT?

- skeletal remains + burial grounds
- song lines
- physical objects, geographical locations
- waterways
- historical sites - campsites, missions
- massacre sites
- ROTINEST
- airspace
- intangible / spiritual sites
- artefacts

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**MEETING RECORD**

The *My Heritage, My Voice* Perth workshop commenced at 10.17 a.m.

Professor Colleen Hayward, Facilitator, introduced herself and provided an outline of how the workshop would proceed.

Professor Hayward then introduced Mr Walter McGuire, who provided a Welcome to Country.

Ms Amanda Hughes, Director of Review and Reform at the Department of Planning, Lands and Heritage, provided a brief overview of how the current *Aboriginal Heritage Act 1972* (the Act) functions, and of the proposed review process.

**GENERAL DISCUSSION**

There was general discussion prior to talk of the AHA review commencing. Points raised included:

- Heritage does not give a stuff about Aboriginal religion. We are being told how to practice own religion.
- Sacred places are inadequately protected under the current Act.
- Concerns were raised about heritage issues in Katanning, including at Jinka Hill.

**DISCUSSION ABOUT GUIDELINES**

- Are there case studies? Examples of where the situated has worked well, and where the Act has failed them? Examples of where Traditional Owners have come together and reached agreement for everyone's benefit?
- Discussed unique aspects of Aboriginal culture, including song, dance and stories. Asked why do we have to write things in a Western way? Make the wider community look at it from an Aboriginal perspective. "We talk, we tell stories, we have art; we don't write things down". We need to look at how we can get the message across from a different perspective.
- Needs to be inclusive, and to recognise the diversity of Aboriginal cultures.
- Guidelines need to tell people in layman's terms, in terms that can be understood by everyone, what they have to do in order to have a site recognised.
- Any information provided needs to be protected, and kept culturally safe.
- The process to have a site registered and protected should be shorter; we should not have to go to such levels of scrutiny to protect our sites.

The Facilitator then asked the tables to discuss the questions posed – Who should be consulted? What penalties are needed? What needs legislation to protect it? What actions require approval? What roles and responsibilities are needed? - amongst themselves and to capture their responses on the butcher's paper provided.

The tables then came back together at 100 p.m. for a whole-of-group discussion.

The Facilitator noted that, at yesterday's *Working with Our Aboriginal Heritage* workshop, the group, which it was noted was comprised predominantly of non-Indigenous people, discussed whether there should be two acts as per the current system – built heritage and Aboriginal heritage – and, even if so, should they be more on a par with each other i.e. comparable penalties?

- The acts should remain separate. Aboriginal heritage protection is more powerful under a separate act (general discussion).
- Separate Aboriginal heritage legislation is inherent to us as people (general discussion).
- The Act in its current form does not consider spirituality, religion etc (general discussion).
- Should be built into legislation that, before you do anything, you “dial before you dig”.
- Pat gave the cemetery at Katanning as an example, noting that the community has been trying to get the area recognised, and to have it fenced etc.
- There are things that need to change and that we can change. Companies need to build Aboriginal heritage into their forward planning.
- Most projects in life require a permit. Why can't Aboriginal heritage issues be factored into all projects/developments?
- What is the difference between an Aboriginal site and a church? There is a church built on a sacred waterhole at Pearce. What if I wanted to bulldoze that church to access the sacred waterhole?
- Education is needed, and needs to be adequately funded.
- When seeking to have a site registered, that site needs to fit within the definitions within the Act currently. So we have to decide if these definitions are what we want. How do we assess sites? Do we need to expand on the types of sites and how they are defined? For example, do we need to provide criteria for what constitutes a mythical site?
- How do we prove spiritual connection?
- The process needs to be transparent. There is currently no transparency in the process for the assessment of sites. What is the threshold? What is the standard of proof? There is no feedback and we have no access to the decision making.
- Perhaps an examination of the current processes around the AHA? Examples of lessons learned, for example.
- Penalties are not severe enough. They need to be increased.
- There needs to be parity with penalties. Impact/destruction of Aboriginal heritage sites should attract at least the same penalties as impacting/destroying built heritage.
- The impact of the destruction should have a bearing on the penalty. As one workshop attendee noted, “If the Globe was destroyed, you would be unhappy. If Lake Disappointment was filled in, it would make people sick”.
- Penalties should not just be about the heritage values. They should also take into consideration what you have done outside of what you were allowed to do. Have you done what you are entitled to, or more? If more, how much more?
- Aboriginal people are not asking for much. We just want to be treated fairly.
- The legislation has to be definitive – no loopholes!
- One of the things that has contributed to the low number of prosecutions is the confusion and uncertainty around what constitutes an Aboriginal site. Should they have to prove their beliefs? Does a Christian person have to prove their beliefs?

- There was general discussion around environmental approvals and the setting of conditions. It was noted that the review will be looking at other legislation, such as environmental protection legislation, as well as heritage protection legislation from other regimes.

## **ROLES OF OTHERS (I.E MINISTER)**

- There is a lack of procedural fairness for Aboriginal people.
- There is no right of appeal, and no internal review mechanism.
- The only avenue of appeal available to Aboriginal people currently is through Supreme Court action, which is difficult and prohibitively expensive. There needs to be an appeal process readily accessible to Aboriginal people.
- Decisions should not rest with one person as is currently the case (the Minister).
- A representative body of Aboriginal people from across the State should be established to make decisions on sites. This body must be empowered to make decisions – there is no point having one if they aren't.
- The representative body – be it the ACMC or other – must have gender balance.

## **INFORMATION**

- There was discussion about efforts that have been made in recent years to streamline and reduce the amount of detail provided, particularly when making application under section 18 of the AHA. Concerns were raised that the information provided to the ACMC was done so in a “diluted form” – be it diluted by the body making application, the Department, and/or traditional owners - and that the Committee is not getting the level of detail that is provided on-ground by knowledge holders during heritage surveys.
- It was also noted at this point that the person(s) conducting the heritage survey have a huge amount of influence.

## **EDUCATION AND ACCREDITATION**

- Do people undertaking heritage surveys have to be registered? Is there accreditation.
- There is no requirement under the current Act for those conducting surveys to be accredited.
- It was noted that attempts to register heritage professionals in Western Australia has long been an area of contention. While it hasn't worked in the past, it is certainly something that can be considered during the current review. For example, it is a requirement under UK and Irish heritage legislation for practitioners to be licensed.

## **“APPROPRIATE ABORIGINAL PEOPLE SHOULD BE THE ONES TO MAKE DECISIONS”**

- Who are the appropriate people?
- I like the term knowledge holder.
- Not strictly a native title issue; there are also people with historical connections, not just native title claimants/holders.
- Who decides who is a knowledge holder, and how do we prescribe this?
- The Act should not prescribe that only PBCs are consulted – this is too narrow, and native title has been too divisive. We absolutely need to talk to these people, but they



should not be the only ones. A lot of people don't participate in these groups, and for very good reason, but that does not mean they should be excluded from discussions.

- Native title is not the be all and end all. It is flawed and changing all the time.
- ILUA's are a good example of where other people are a good source of knowledge. People not of a bloodline but who have been part of a community long enough to have knowledge that they are entitled to speak to.
- Like the Burrup. The traditional people have done; in their place now are caretakers.
- What about missions? For example, Roelands in the south-west. People who were brought up there from other areas of the State still have a connection, even though it was not their country.
- Can't forget traditional entities. People with an interest in and knowledge of Aboriginal "lore" and "law" must be consulted.
- If this was raised under the act, who would/should be consulted? There needs to be an adequate process for determining who should be consulted.

In closing, the Facilitator thanked everyone for their time in what had been a very useful and fruitful discussion.