

Law Reform Commission of Western Australia

# **Aboriginal Customary Laws**

Project No 94

## **THEMATIC SUMMARY OF METROPOLITAN CONSULTATIONS**

January 2004

# The Law Reform Commission of Western Australia

## **Commissioners:**

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## Preface

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The Law Reform Commission's formal consultations on the Aboriginal Customary Laws project commenced with a series of consultations in the Perth metropolitan area. Formal consultations were held progressively across the State during 2003 and have been preceded by pre-consultation discussions and visits.

The timetable for the metropolitan consultations was drawn up after discussion with the project's Aboriginal Reference Council and community leaders:

4 November 2002	Manguri, Queens Park
18 November 2002	Herb Graham Recreation Centre Mirrabooka
2 December 2002	Shire Council Function Room Armadale
9 December 2002	Medina Aboriginal Cultural Centre Rockingham
16 December 2002	Midland Town Hall Midland

This report provides thematic summaries of the issues that were raised and discussed at each of the consultations. The consultations themselves and these thematic summaries have been conducted in accordance with the Memorandum of Commitment (refer Appendix I) and with protocols that were discussed and approved by the Reference Council.

All of the consultations commenced with introductions by the project manager (Ms Cheri Yavu-Kama-Harathunian) and Special Commissioner, Ms Beth Woods, a traditional welcome and a presentation about the project by Professor Ralph Simmonds, Chair of the Law Reform Commission. At Manguri the traditional welcome was provided by Mr Dean Collard; at Mirrabooka by Mrs Doolann Eattes; at Armadale by Mr Milton Hansen; at Medina by Mr Fred Collard; and at Midland by Mr Richard Wilkes.

After the formal introductions and welcome, the consultations were opened up for contributions, comments and discussion by all who were present. These discussions sometimes occurred with the group as a whole, and sometimes within smaller discussion groups to reflect more specific concerns. The Directors of Research, in collaboration with the other members of the project team, produced a thematic summary which maintained the integrity of the consultations by utilising the colloquial language spoken during the discussions.

The reports were compiled by Dr Harry Blagg, Ms Hannah McGlade, Dr Neil Morgan and Ms Pat Torres (Ms Tatum Hands, Acting Executive Officer of the Law Reform Commission of Western Australia assisted in taking notes at the Armadale, Medina and Midland consultations).

## Terms of Reference

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Recognising that all persons in Western Australia are subject to and protected by this State's legal system; and there may be a need to recognise the existence of, and take into account within this legal system, Aboriginal customary laws:

The Law Reform Commission of Western Australia is to enquire into and report upon Aboriginal customary laws in Western Australia other than in relation to Native Title and matters addressed under the Aboriginal Heritage Act 1972 (WA)

Particular reference will be given to:

1. how those laws are ascertained, recognised, made, applied and altered in Western Australia;
2. who is bound by those laws and how they cease to be bound; and
3. whether those laws should be recognised and given effect to; and, if so, to what extent, in what manner and on what basis, and in particular whether:
  - (a) the laws of Western Australia should give express recognition to Aboriginal customary laws, cultures and practices in the administration or enforcement of Western Australian law;
  - (b) the practices and procedures of the Western Australian courts should be modified to recognise Aboriginal customary laws;
  - (c) the laws of Western Australia relating to the enforcement of criminal or civil law should be amended to recognise Aboriginal customary laws; and
  - (d) whether other provisions should be made for the identification and application of Aboriginal customary laws.

For the purposes of carrying out this inquiry, the Commission is to have regard to:

- matters of Aboriginal customary law falling within state legislative jurisdiction including matters performing the function of or corresponding to criminal law (including domestic violence); civil law (including personal property law, contractual arrangements and torts); local government law; the law of domestic relations; inheritance law; law relating to spiritual matters; and the laws of evidence and procedure;
- relevant Commonwealth legislation and international obligations;
- relevant Aboriginal culture, spiritual, sacred and gender concerns and sensitivities;
- the views, aspirations and welfare of Aboriginal persons in Western Australia.

Peter Foss QC MLC  
2 December 2000

## Introduction

The Manguri consultations revealed a wide spectrum of concerns. The issues can be grouped together under five main headings.

1. Context and general perceptions of the project
2. Scope and Terms of Reference
3. What is Aboriginal Customary Law?
4. Recognition, status and role of Elders
5. Priority areas: Family and children; Law and Justice; and Governance

### 1. Context and general perceptions of the project

The consultation strongly reinforced the importance of the project reflecting Aboriginal diversity and taking account of different historical, social and regional contexts. In particular, the discussion frequently returned to issues relating to the effects of colonisation/conquest on indigenous people in the South-West. These included the following –

- The decimation of much indigenous culture, including traditional law and structures of family and governance;
- Questions of identity, relationships and family trees;
- The devastating impact of government policies of removing Aboriginal children from their families;
- Family violence and sexual abuse;
- A legacy of welfare dependency; and
- High rate of imprisonment of men women and children.

As a consequence of these and other factors, the consultations addressed some basic questions relating to the definition and identification of Aboriginal law and also the identification and role of Elders. These issues are discussed later.

These historical and social factors also caused some concern about the whole project. For example, there were comments to the effect that “there will only be laws for white people” and that, in some respects, it is “too late” in this part of the state.

There were also frequent references to the gaps between the expectations, the content and recommendations of earlier reports and their actual implementation. For example, many of the recommendations of the Royal Commission into Aboriginal Deaths in Custody have not been implemented. Indeed, the Western Australian government recently “de-implemented” one of the Royal Commission’s most basic recommendations – namely that there should be an independent Aboriginal agency to monitor the Royal

Commission's recommendations. The abolition of the Aboriginal Justice Council means that Western Australia is now the only State to have no such independent agency.

Nevertheless, despite these concerns, the consensus was that this is an important and worthwhile project provided it develops strategies capable of implementation.

## **2. Scope and Terms of Reference**

In some respects, the terms of reference are very broad, embracing all aspects of Western Australian law other than native title and the Aboriginal Heritage Act. However, several difficulties were identified in attempting to address Aboriginal law within the framework of this reference. They included the following:

- The project is limited by the exclusion of national laws, including the Commonwealth Constitution. Although the State Constitution would fall within the terms of reference, Australia's national Constitution may also require amendment: "until we deal with the foundations, it is only whitewashing".
- Many Australian symbols are built on false assumptions that exclude Indigenous peoples. For example, the national anthem talks of Australians as "young and free" but this is clearly a reference to non-Indigenous peoples who first arrived in 1788. To Indigenous people, the country is neither young nor free. Until Indigenous peoples are included in national symbols, how can true credibility be given to "recognition" of Aboriginal law?
- There are significant regional variations even within the State; and state boundaries pose artificial limitations on discussions of Aboriginal law.
- The laws under discussion are State laws but the issues cross the whole of Australia – they are about the "total dreaming".
- Nationhood status is a key issue across the whole country; and the recognition of Aboriginal law is just one part of the mechanics of nationhood.
- A call for formal apologies (or a "proclamation of reconciliation") from the UK government as well as Australian governments.
- The implications of Australia becoming a republic.

Native title issues have proved very draining on some families, and sometimes divisive within the community.

## **3. What is Aboriginal customary law?**

The history of colonisation in the South-West has raised difficulties surrounding the question "what is Aboriginal law?" There were lengthy discussions of this question. Key responses included the following: -

- Values, dreaming, ceremonies, recognised practices;
- Our definition of ourselves;
- Our place and sense of being (whereas white law tends to look at "law and order");

- Our total dreaming, our world view that materialises into practical outcomes and spirituality, which give meaning;
- Recognition of family and kinship; and of who can talk about what;
- A set of values and responsibilities that come with being indigenous;
- The key to survival and our connection with the past; and
- Embracing social order in both humanity and environment.

Land and access – including an inbuilt sense of being and of responsibilities in going into other people’s country.

There was also a strong focus on the importance of reclamation and revival of customary law for Noongar people, who have had more intensive history of dispossession and overturning of customary law by colonial authorities and legislatures: “By reclaiming customary law, we can take back much of what was lost when we were taken away”. The importance of Noongar language to the revival of customary law was also recognised.

Although there was no attempt to finalise a definition, the following statement summarises the gist of the debates:

“Connecting people in a web of relationships with a diverse group of people; and with our ancestral spirits, the land, the sea and the universe; and our responsibility to the maintenance of this order.”

#### 4. Recognition, status and role of elders

Although Elders play a key role, the consultations revealed a range of issues within the Noongar community with respect to the identification of Elders and their roles. These dilemmas again reflect historical factors, including the stolen generation. For example, some people found themselves thrust into “leadership roles” when they had themselves been taken from their families and lost much of their cultural identity and support. It is clear that such uncertainties are unlikely to be encountered in some other parts of the State, where Elders are clearly recognised and their roles are well-defined.

The following points emerged during discussions:

- Some young people struggle to acknowledge as “Elders” people who may themselves have done “bad things”.
- It was suggested that Elders may be recognised through lineage (linkages through family trees); through earning community respect; and through knowledge of law. As one person put it, Elders have “knowledge, culture and respect and lead by example”.
- Some participants also suggested that there may be confusion between role models, leaders and Elders; and of the importance of distinguishing these categories. Clearly, the extent of such confusion, when it exists, varies widely across the State.
- **Female Elders:** Several people stressed the important role of matriarchs and female Elders and one suggestion was that there should be more co-ordination between Aboriginal women across the country.
- **Co-initiates:** The role of co-initiates was also stressed, in addition to that of Elders. Co-initiates can be a key peer group and a vital influence.

## 5. Priority areas: family and children; law and justice; and governance

Whilst recognising the overlap, and the holistic nature of the terms of reference, the consultation sought to identify priority areas. These can be grouped under three main headings: Family and Children; Law and Justice; and Governance.

### (a) Family and children

Issues relating to family and children were at the forefront of discussions, with a particular focus on family violence, sexual abuse and the rights of children and women. The range of issues included the following:

- Custody issues in the Family Court and its mediation services - the court is “not listening” and does not seem to understand the dynamics of Aboriginal families.
- Aboriginal families sometimes adopt different parenting models (including the role of aunties, uncles and grandparents).
- A need for parenting programs for indigenous families (building on examples such as Manguri).
- Need for budgeting support/education.
- Long-term support services and an increase in Aboriginal Child Care agencies.
- Too many Aboriginal children are identified primarily as offenders and too little attention is given to Aboriginal children as victims.
- The circumstances of violence and abuse make it difficult for children to disclose abuse.
- The need for more “men’s programs”.

Overall, there was a clear consensus that it is necessary to develop Aboriginal-based family healing projects and initiatives, designed to give Aboriginal people responsibility and authority to work on issues on a systematic long-term basis. Such programs would include exploration and enhancement of cultural values of respect and non-violence, and a focus on mediation and conferencing. It was considered that the key to success will be incorporating a stronger community dimension and not in increasing funding to other government agencies.

### (b) Law and justice

Discussions raised a large number of issues with respect to the criminal process and mental health procedures. They included the following:

- **Mental health:** practitioners tend to operate within a psychiatric framework and may not take full account of the cultural framework/context. For example, “hearing voices” may be interpreted differently. It was suggested that there should be greater cultural input, including the use of Aboriginal healers and co-ordination between psychiatric and Aboriginal cultural service providers.
- **Aboriginal/police relations:** it was recognised that there have been worthwhile initiatives in some parts of the State but that more needs to be done to improve police training/education and the development of relationship and protocols between police and Aboriginal communities.

- **Cultural dislocation** caused by people being imprisoned or held in detention a long distance from home (a problem with both remandees and sentenced persons).
- **Bail** conditions being too onerous; and people being remanded in custody and therefore unable to meet their cultural obligations (for example to the victim's family). Bail conditions disadvantage Aboriginal people who often do not own property and are discriminatory in that sense.
- **Court procedures and personnel:** too few Aboriginal lawyers and a need for Aboriginal judges and magistrates. Also a concern that juries may not understand cultural issues.
- **Sentencing circles and healing:** strong support was voiced for alternative approaches to be piloted. These included "sentencing circles" with judges/magistrates and community representatives sitting together. This was seen as one very practical mechanism for incorporating customary law approaches; and to provide a forum to focus on positive rather than negatives cultures.
- **Prisons:** although some prisons have established "meeting places" for Aboriginal prisoners, several other areas should be explored. In particular:
  - Dietary issues, including traditional foods
  - The development of truly Aboriginal programs (not "Aboriginalised") versions of non-aboriginal programs). These should include a strong focus on family and community responsibilities and family healing.

### (c) Governance

One of the strongest themes to emerge from the consultations was the need to achieve social justice and to break down the current level of welfare dependency. Recognition of customary law was seen as a key aspect of greater empowerment.

As noted earlier, there was concern that there are few foundations in place upon which to build strong new models of governance. For example, there is no "treaty" in Australian (unlike New Zealand and Canada); the federal and state Constitutions do not acknowledge Aboriginal people; national symbols such as the national anthem exclude indigenous people; and the State government has abolished the Aboriginal Justice Council and nothing has yet replaced it.

However, a number of innovative options were canvassed as a means to "lifting" Aboriginal peoples' authority and enhancing governance structures. These included:

- A consideration of how the State Constitution could at least be amended (even if the national constitution is not). This could include an examination of mechanisms whereby Aboriginal people may have a more definite "voice" in Parliament (for example, Maori people in New Zealand have their own reserved parliamentary seats and significant political representation).
- The possible appointment of an Aboriginal Attorney General (with equivalent status to the current Attorney General) with oversight of Aboriginal law issues.

- The need for the Attorney General to also have Aboriginal advisors and to formulate protocols to insure the inclusion of Aboriginal people or advisors in studies or inquiries of relevance to Aboriginal people.
- Greater devolution to local communities in some areas. For example, the possible establishment of Community Justice Centres.

## **6. Conclusion**

The Manguri consultation was conducted in a spirit of good will and collaboration and raised an enormous number of issues. It identified a range of problems, limitations and hurdles; but it also raised some important options for future detailed consideration. It also reaffirmed two important points. First, it is impossible – and dangerous – to generalise about Aboriginal law. The questions that are likely to be raised and the responses to those questions will vary across the State. Secondly, many of the proposals and initiatives would not require legislative change or change to the common law; they could be partially or fully achieved by changes in policy priorities and directions.

# MIRRABOOKA

18 November 2002

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*"Aboriginal law was the first law in Australia".*

Participant at the Mirrabooka consultation.

*"Aboriginal Law means, guidelines set down since time immemorial to govern Aboriginal people in social groups".*

Participant at the Mirrabooka consultation.

## Introduction

The Mirrabooka consultation covered a diversity of issues, from criminal justice through to questions of political sovereignty and governance.

These themes, as addressed at the Mirrabooka consultations, are best summarised under the following headings:

1. Context and underpinning issues;
2. Large group discussion;
3. Small group discussions on priority areas;
4. Summary of main recommendations.

## 1. Context and underpinning issues

The Mirrabooka consultation discussions began by establishing some key questions:

- What is Aboriginal customary Law?
- How do we (Noongar people) recognise our law?
- What are the major issues facing our law?
- How can our law be enforced in Western Australia?

The impact of colonisation on Aboriginal law in the southwest was acknowledged. It was also said that "law" still exists in many forms, and continues to have an impact on the lives of Noongars – through family and kinship and through principles of mutual obligation and reciprocity. Despite attempts at "cultural genocide", Noongar people have survived.

## 2. Large group discussion

The large group discussion traversed a number of issues:

- The demise of the Aboriginal Justice Council was noted with some concern, as was the failure to deliver on the promise to come up with a better model (ATSIC, ALS, Government responsible for this).
- Lack of resources for the development of alternatives in the justice area, particularly to strengthen culture and help youth.

- The non-implementation of the RCIADIC recommendations was noted – some believed that fewer than 10 were completely implemented. But “we cannot admit defeat” on this.

### **Sovereignty**

Need for constitutional change. An Aboriginal “Attorney General” sitting with the Attorney General.

- Self-determination and sovereignty were important foundational issues. Aboriginal people had to be acknowledged as a nation and given that status. The “Noongar Nation” movement was viewed by many participants as a worthy model to follow.
- Some positive non-legislative developments were noted, such as where magistrates and judges have recognised that Aboriginal defendants are often also subject to Aboriginal law.

### **Elders**

- The initiatives at Yandeyarra, and other initiatives where Elders sit with magistrates, were supported.
- Elders “get left out” – eg. Plans to disband the Council of Elders. Also the system does not want to involve Elders in work with Aboriginal people. Aboriginal cultural practices are not thought suitable for inclusion in Community Service Orders.
- There needs to be more done for ex-prisoners. Elders should be given a role with young ex-prisoners.
- Not anyone can be an elder/law person – you are chosen.
- Respect for Elders is the core of Aboriginal culture.

### **Views of the project**

- Some views were expressed regarding the “limited Aboriginal representation on the project”
- There should be two Elders from each region on the Aboriginal Customary Law Research Reference Council.

### **Culture, values and beliefs**

- Aboriginal law once had an economic base, now we are dependent on welfare. We need an economic base.
- Intellectual copyright is an essential part of re-claiming culture.

### **Major issues affecting Aboriginal people and the criminal justice system and the law**

- Policing, courts and prisons are still a major problem for Aboriginal people.
- Lack of equality – particularly in courts.
- “We still have the 1905 Act in reality – Mandatory Sentencing laws continue child removal policies”. They still “control our nation through our children”.
- DIA & ATSIC “control us, not us control them”.

- There need to be changes to State Constitution to enshrine equality between nations. The present one is racist.
- Good examples from Canada where Aboriginal people legislate for themselves.

### **3. Small group discussions on priority areas**

#### **(a) Law and justice issues**

This group focussed on issues related to policing, courts & prisons. There was a view that the system was biased against Aboriginal people and discriminated against them at all levels. The greatest criticism was levelled against the police who were seen as “racist & discriminatory” and who “targeted Aboriginal people”, “especially young people in the Mirrabooka area”. Other views expressed were:

##### ***Cross cultural training***

- Ongoing compulsory cross-cultural training of government employees by Aboriginal people, preferably from the area.
- Elders should be involved in training and in accrediting such training programs.

##### ***Juvenile justice***

- Diversion favours non-Aboriginal children. Need more Aboriginal people on juvenile justice teams. There was general support for the new Department of Justice initiative of having an Aboriginal co-ordinator, but more needs to be done.

##### ***Policing***

- Targeting of Aboriginal youth still occurs.
- Public stereotypes of Aboriginal youth – leads to over-policing.
- “Flogging” of Aboriginal youth still occurs in interview rooms – the police Royal Commission should be encouraged to look into this.
- More on the Police Royal Commission – “not interested in the policing of Aboriginal people – will be a whitewash of this issue”.

##### ***Corrections***

- Need more Aboriginal prison officers and teachers in prisons.
- Pay Elders to work with prisoners.
- Need more Aboriginal supervisors on programs and more culturally appropriate ones – post release and community based programs.
- The “Banana Wells” program is a good model.
- Need to involve Aboriginal prisoners in design and delivery of programs – “they are the experts in their own lives”.
- Aboriginal people should be involved in the planning of Work Camps.

- The Department of Justice is not sufficiently accountable. There are no jobs for released prisoners, they are often unsupervised and left without adequate support.
- Aboriginal people in prison are given less respect than others – “treated as low-life”.
- The issue of transportation of prisoners for health related matters needs to be looked at: “security guards stop Aboriginal people receiving medical attention because they use security concerns to mask their indifference to Aboriginal health needs”.
- Imprisonment creates mental health problems – not addressed by “white treatment”.
- Loss of contact with family, they become homeless when they leave prison. Department of Justice to work with Homes West on this issue. Should be on housing waiting list when in prison.
- Design and layout of prisons not appropriate for Aboriginal people.

### ***Courts***

- Courts should acknowledge the relevance of Aboriginal law.
- Aboriginal law is useful in resolving family feuds.
- The Aboriginal Legal Service is under-staffed and under-resourced.
- Courts are part of “psychological abuse of Aboriginal people – from colonisation onwards Aboriginal people re-live a nightmare”.
- More funding for psychological support and assessments for Indigenous people.
- Child witness service not relevant for Indigenous children.
- Aboriginal women are the “back bone of the family” keep them out of prison as much as possible. Better diversionary programs, plus de-criminalisation of some offences.

### ***General issues in law and justice***

- Agencies need to “get out of their own boxes”.
- The recommendations of Royal Commission into Aboriginal Deaths in Custody need to be re-visited – why are there still deaths and over-representation of Aboriginal people in prisons?
- Young people need more community support and activity programs to combat boredom.
- Aboriginal children “access prison to survive because in custody they get three meals and a bed”.
- Need for an Aboriginal Ombudsman to hear complaints.
- Post-release suicides should be investigated as deaths in custody.

### **(b) Governance and sovereignty**

- Look at other countries New Zealand, Canada and Palestine – to see what happened in those countries.
- Consider an indigenous treaty with all indigenous people. The government will deal with one body and cannot make the excuse that it does not know who to deal with.

- Indigenous people to look for outside help – United Nations etc.
- Mandatory sentencing must be abolished.
- The indigenous people never surrendered and therefore there should be indigenous passports and an indigenous electoral roll.
- The constitution should allow for 5 per cent of revenue and not the 1 per cent initially promised.

**(c) Government practices and policies and state constitutional change**

Even though DIA and ATSIC exist, they are not autonomous of government. How can we make them work better? They are not working at grass-roots level.

- There needs to be a “decolonisation of administration”.
- The Westminster legal model is no longer appropriate.
- Aboriginal people are not represented properly in government – policies are “white fella” concepts.
- The Indigenous Affairs Advisory Council is inappropriate and not an Aboriginal process.
- Aboriginal bureaucrats are captured by the system.
- Need to involve Aboriginal law in government processes to achieve Indigenous governance.
- Amend the Western Australian Constitution to recognise Indigenous sovereignty and the jurisdiction of Customary Law.
- Reinstate section 70 of the Western Australian constitution, which intended to reserve 1 per cent of state revenue for Aboriginal people.
- Authority of Elders to speak on behalf of Indigenous groups to be acknowledged.
- Establishment of local justice structures.
- Community councils resourced and empowered with authority to make these happen.
- Multi-disciplinary, integrated local teams to deliver justice strategies in partnership with Aboriginal communities.

**(d) How do we deal with racism & prejudice at all levels of Australian society?**

- Aboriginal and non-Aboriginal people need to be educated to understand the issues.
- Develop community education programs to dispel the myths and provide cross-cultural awareness training.
- “Best Practice” includes “hands on” training based on stories and experiences (“yarning”).
- Participation could be as in the reconciliation process, based around community action groups, to promote individual ownership of the process, working on family, friends, and workmates.

### ***Schools***

- Guest speakers in schools for teachers/workers as well as students.
- Teaching strategies to include storytelling/yarning/dance/art and music.
- Respect/language/community.
- In-services pre-school programs.

### ***Government***

- Develop strategic partnership with Aboriginal communities to protect local communities and empower individuals.
- Create judicial and political employment opportunities for Aboriginal candidates.
- Develop employment protocols and strategies that embrace the diversity of Aboriginal people and their skills.
- Be accountable and flexible.
- Acknowledge the principle of best practice in community and develop appropriate screening register of best operators.
- Participate in ongoing cross-cultural training.

### ***Getting the message out***

- Target organisations with a community base to disseminate message.
- Develop posters depicting positive images of difference and diversity.
- Development employment opportunities and traineeships in media for Aboriginal people.
- Use of cross cultural awareness training in universities, government departments and for media personnel and policy makers.
- Government support for Aboriginal films or films depicting a diversity of Aboriginal people with positive messages.

### ***Cultural strength***

- "Return to Country" – support for the "homeland" movement.
- Work on continuity and resilience of culture.
- Record family oral histories in written form to strengthen cultural awareness in our youth.
- Respect for self and others, particularly family and community.
- Respect Aboriginal customary laws and practices to empower cultural freedom.
- Unpack the shame factor and embrace a process of healing.
- Acknowledge successes of Aboriginal people and create mentor programs that encourage Aboriginal youth to learn from these role models.
- Target influential people to be supporters of the cause. Use appropriate range of people including youth, men, women and Elders.

### **(e) Cultural rites and rights**

This group's focus was the acceptance/embracing of rites and rights of Aboriginal people:

- Burial rites: including taking the dead back to homelands without government and police interference.
- Conflict Resolution Groups to mediate between families in times of grief – Elders and law people involved.
- Access and exit from homelands, through Elders and law people – proper protocols to be adhered to by everyone.
- Elders to be consulted on all business in the area – not just selectively.

#### ***Rites / rights of parents, grandparents***

- Acceptance of Aboriginal parenting, and childcare practices.
- Inclusion of Aboriginal Elders who have first and final say in childcare placements.
- Currently, agencies do not negotiate in a culturally appropriate way with Elders.

#### ***Marriage, inheritance***

- Acceptance of Aboriginal marriage.
- Respect for skin groups, totems and moiety.
- Inheritance rights are given by both parents to designated child, or eldest child, depending on local custom.
- A need for the law to accept the veracity of oral as well as written testimony.
- A need for the law to accept Indigenous inheritance protocols, re: Aboriginal identity, birth, homelands, custodianship of sacred or significant sites and rights to practice culture.
- A need for the law to accept the practice of Aboriginal marriage by being "promised" or "given away".
- Right to be an Aboriginal person in Australia without needing written documentation, instead based on oral history of individual and family.
- Right to speak/write in own language in courts, with police and in other legal contexts.
- Right to freely associate in public parks and on street corners.
- Right to request Aboriginal elder/lawperson as "significant other"/advocate where language or culture presents as a barrier.
- Right to child custody access, where child safety and/or Aboriginality are in jeopardy.
- Family Law issues are immensely complex for participants; need more research on the impact on Aboriginal people and a process of dialogue on the issues.
- Right to Bail according to means on own recognizance.

#### 4. Summary of main recommendations

- The Western Australian Government to recognise and respect Aboriginal Nationhood and Sovereignty.
- Two Elders from each region to be involved in the Aboriginal Customary Law project.
- Ensure Minister for Aboriginal Affairs is an Aboriginal person – consider having two Ministers, a man and a woman.
- Aboriginal affairs is a national responsibility, not just a state issue.
- There should be positions reserved for Aboriginal people in politics. Including Aboriginal parliamentarians sitting in a “House of Law”.
- More Aboriginal police officers and other similar positions.
- Need for dual laws working in partnership.
- Legal representation and support = white legal representation and support. Aboriginal people receive poor justice.
- More needs to be done to understand why Aboriginal recidivism is high.
- Government to recognise prior debt owed to Aboriginal people (Section 70 of the Western Australian Constitution – reserving 1 per cent of state revenue for Aboriginal people should not have been repealed – current calculation should be 5 per cent).
- In principle, agree to a Peace Accord: Aboriginal people agreement with each other recognised by UN (World).
- Recognise and accept usage of Aboriginal passport by Aboriginal people (self determination).
- Aboriginal delegation to investigate Aboriginal system of governance and autonomy with UN.
- The Western Australian Constitution should be amended to recognise Aboriginal sovereignty including representatives in Parliament, in political parties or a separate Aboriginal political party.
- Develop community programs that promote positive images of Aboriginal people to all Australians:
- Strategy of changing opinions and beliefs about Aboriginal people and culture.
- Owing prejudices and ignorance – accept as a shortcoming and accept change.
- Aboriginal communities need to “act” against racism, prejudice and discrimination – use Aboriginal Ombudsman and other agencies highlighting racism and discrimination.
- Recognition of Aboriginal protocols within government structure – local jobs for local Aboriginal people.
- Recognise and fund Aboriginal Disputes Agency that government and Western Australian’s can use.
- Recognition of Aboriginal laws of marriage, inheritance, land and skin groups.
- Good parenting skills and practices should be encouraged and supported.
- Aboriginal people should have the right to speak their own language in courts (need for language interpreters).
- Recognise that Aboriginal customary law is passed down orally (not written).
- Right to be Aboriginal in Australia (without documentation).
- Right to meet and gather on own land.
- Right to bail according to means.

# ARMADALE

2 December 2002

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*"Knowing where you are from, who you are and where you can go, these are Aboriginal customary law rights."*

Participant at the Armadale consultation

## Introduction

The Armadale consultations considered a wide range of issues. Many of themes were similar to those raised at the previous consultations (Manguri and Mirrabooka) but a number of new issues were also discussed. The themes included the meaning and importance of Aboriginal Customary Law; how Customary Law is recognised by Aboriginal people; the main issues facing the community; and the capacity and mechanisms to bring about change.

These themes, as addressed at the Armadale consultations, are best summarised under the following headings:

1. Context and underpinning issues;
2. The "big picture" issues;
3. Governance;
4. Recognising and implementing customary law;
5. Connections between Aboriginal customary law and "white" law;
6. How can we bring about change?
7. Priorities for reinforcing and recognising Aboriginal customary laws:
  - (a) General cultural recognition
  - (b) Legal processes
  - (c) Children, adults and family: the way forward
  - (d) Substance abuse

## 1. Context and underpinning issues

Participants stressed that it is crucial for the long term success of the project that the WA government is genuine in its commitment to the "rightful process of engagement": that is, for local family-based leaders and elders to be involved at all levels of planning, management and administration of the government response. This will need to occur at the local level in order to recognise regional and cultural diversities.

ACL issues will need to be appropriately defined with the rightful custodians of this knowledge. Participants stressed that there will need to be discussions on how this occurs at the local level. At some point detailed "case studies" and "focus groups" within families and communities in their cultural regions will be required.

There is a need for family-focused solutions to matters of law but the State must also recognise that political and economic issues (including sovereignty) connect to the acknowledgement of Aboriginal customary law. Aboriginal Laws came first but loss of land has meant loss of an economic base and created a welfare dependency. Immediate action is needed to examine changes to write Aboriginal people [First Australians] into the WA Constitution and to recognise their special status. This needs to be done in a climate of reconciliation, prior rights and social justice.

Aboriginal identity must be accepted in its contemporary forms: not by reference to outmoded stereotypical notions of the “primitive-fixed in time” or the “mystical-romantic noble savage” but by reference to the lived realities (urban, remote and rural). Our culture, spirituality and laws have not been “washed away by the tides of history” but have been preserved and evolved within families, communities, relationships and belief systems.

Knowledge of Aboriginal models/forms of governance and cross-cultural training is critical for all Australians including Judges, Magistrates, Lawyers, Police and Prison staff through the teaching of Indigenous Australian Studies. Intensive cross-cultural consciousness training should include “on-site” experiences in urban, rural and remote communities.

A range of new strategies is urgently required within public institutions, [including the media] to address the embedded and continuing racism which is still prevalent and continues to impact negatively on Aboriginal peoples. Long-term government strategies are also required in the form of strategic staffing and operational plans so that Aboriginal representatives have identified seats as Ministers, politicians, lawyers and advisors.

There is an urgent need for specific programs for Aboriginal youth, their families, leaders and elders within preventative and diversionary programs. Government must think in new ways: over-policing is not the answer and only exacerbates underlying cycles of disadvantage and lack of opportunities.

The consultations frequently stressed that it is difficult to address Aboriginal Customary Law given the continuing negative effects of dispossession and the exclusion of Noongar people from the economic, social and political life and development of the Australian Nation.

*“Need for recognition of the initial theft of land, language, culture, stories, all the laws that governed us. Need for a treaty to deal with this past treatment.”*

The denigration of Noongar law, culture and human rights at all levels was experienced during the British occupation and invasion. Land was stolen, never sold or given up through treaty or legal agreement with the custodial families. Despite this, the relationship between Aboriginal people, land and place survived.

*“Noongar law must be upgraded and uplifted- the history must be told and exposed-both good and bad.”*

Aboriginal customary law has survived within strong family structures until the present day despite the fact that governments and urbanised environments have superimposed forms of Western governance.

*"Family decision-making structures to be recognised, without the influence of outside authorities."*

Aboriginal forms of maintaining law and order and honouring family and individual rights continue to occur in a diversity of forms across rural, remote and urban locations with some areas experiencing change and adaptations as a result of contact with European government, missions and society.

*"The Noongar language and culture centre must be re-established."*

The "payback" form of punishment still exists within communities and is often administered by family leaders to individuals who have "broken the law". However, some individuals are then punished by both sets of laws and others face jail for administering payback.

The notion of "community", constructed by past government policies and which regularly informs government discussions on Aboriginal matters has often restricted, oppressed or destroyed the localised family-directed and informed, traditional forms or "tribal" structures, thereby excluding Aboriginal involvement, self-determination and management.

The need for Aboriginal families to reclaim, reteach and restore the prior Aboriginal forms of law and order is paramount, so that the discipline of children by families and adult actions within communities strengthens "culture", "law" and "respect", and restores local governance, control and cultural knowledge for the future survival of Aboriginal peoples.

*"Resolution of conflicts is better when old ways of immediate response is used by families."*

Respect needs to be acknowledged by both Aboriginal and non-Aboriginal towards each other, towards leaders and elders, youth, parents, grandparents, children, the land and what's on it, including people, plants, animals, land and sea environments.

*"Who are the Noongar elders? Who are the traditional people from this area? ...The rightful and traditional families from the areas must be involved in any kind of government projects or programs for customary law."*

## **2. The "big picture" issues**

Aboriginal systems of localised customary laws as they exist today and in the past must be both recognised (acknowledged) and supported (validated) within the government within its public organisational structures, policies and practices (including the legal, political and education systems) in order to upgrade and elevate the status of Aboriginal Australians within Australia's Nationhood

*"Aboriginal people [status] need to be upgraded, uplifted, need to have pride and recognition of how Aboriginal people lived before the white people came-Aboriginal people are still hurting-now degrading other people [due to this hurt]."*

Constitutional changes should be made to recognise the importance and existence of Aboriginal peoples within the State, their Aboriginal Customary Laws [prior to British occupation of Australia and present day forms] and the

diverse and localised nature of its practice within Aboriginal forms of governance to maintain law and order.

Aboriginal Family clan structures and their localised and regional histories, heritage and laws should be acknowledged by the inclusion of "rightful" leaders that are defined/nominated/elected by their own families who represent them in a range of customary law matters negotiated between families and government.

*Responsibility is throughout families, not just parents but grandparents, aunties, uncles – all can discipline now-[stolen generation times has meant that ] no-one knows the correct way to parent ...because we don't live in the way that traditional people live....we must find new ways...people don't understand the role of the Noongar Patrol-they are trying to help the people...if you are not a responsible parent you can't blame society for what your kids are doing.*

The reteaching, relearning and continuity of customary laws, practice and teachings must be done using "Aboriginal Ways", as described and negotiated by its rightful custodians within localised family clan structures whose members hold and practice the knowledge within current day Aboriginal family realities.

*What is Bibbulmun Law? Do we know? People today are making up laws because of the ignorance of white people. This sets a precedent-they are the contemporary laws not traditional laws...white people are being told that the wrong people are elders because [government] needs leaders for certain things like ATSIC regional councils etc.*

Aboriginal Customary Law must be returned to its own space with Aboriginal families having custodial ownership. Governments should create opportunities for this to happen through commitment to change, driven by a spirit of good will, social justice and reconciliation. Total involvement with Indigenous Australians will effect a better future for all Australians.

*Aboriginal laws have to stay in their own regions-can't have Noongar law up north or Kimberley laws down south-it doesn't work.*

This project may see Aboriginal customary law "get diluted so much to fit into white law that it is not able to be recognised...have seen kids in their cultural environments and they have no traditional education either...in remote areas they have their law and they don't need permission from white people. White people should listen to Aboriginal law first-not impose white law."

*White people won't change law to suit Aboriginal people; there have been many attempts; promises before; need a treaty first; this is a good exercise for Aboriginal people but won't come to anything...white laws look after white people; need same treatment [as white people].*

Education for all Australians about the true history and laws of Australia's past, [especially the historical period of British occupation and the affects of colonisation on the original Aboriginal peoples] and its resultant relationships between all who currently live in Australia in order to restore a balanced,

cross-cultural knowledge base that teaches respect for Indigenous Australians.

*No recognition of some of the old people who got things done for everybody [like setting up ALS, AMS etc] under ACL had traditional spiritual healing people – white policy of voting people in (e.g. ATSIC) is wrong because only recognises one person for an area where there may be many elders.*

*Schools are not [always the best] place because their way confuses rational white thinking with Aboriginal spiritual thinking.*

The role of Aboriginal families to manage their family affairs should be reclaimed and restored, with parents and grandparents and recognised by government as the appropriate and rightful carers and authority figures for their children. Strategies should be put into place to effect this in the wider community and within government structures, policies and practices.

*Aboriginal ways of giving people a function in the community, that is ACL-What is the process for people to become an elder?-this has been diluted-what is the ACL way to elect elders?-how do we bring this back into our culture today?*

*We need the people [elders/leaders] who are the closest to those traditional people of yesterday [to be involved in this project and share knowledge about ACL].*

*Aboriginal Customary Law had responsibility for economics which was shared by community-family structures carried this out-ACL has ways of understanding family structures/responsibilities.*

Aboriginal children's safety, care, health and well-being are paramount issues that need to be addressed for the continued viability and future of Aboriginal families and customary law practices. All governments must ensure long term commitment and action in the community happens, with Aboriginal family involvement at all levels of policy, planning, program management and service delivery.

*"We need a safe place for kids."*

*"Kids today are in trouble because of [the effects of] the 'stolen generation' times-people who didn't learn traditional ways -and how to be good parents-they didn't have any parents to learn from-they were taken from them young."*

*"We need a system-a place where we can put them [kids] away and get them better-not be jailed...problems with young girls getting pregnant."*

*"In this area, plenty of substance abuse -need health workers, hospitals to look after them [the kids] not jail!"*

*"Where are Aboriginal kids playing sport? Should have more sports and activities to stop boredom!"*

*"[Some] kids not looked after at home, parents are on drugs etc so kids are going into town to get a feed from the white fellas...some kids have no hope-they sniff glue for that*

*reason...some kids in Perth, seven years old, sleeping rough because some parents are unable to look after them."*

*"Aboriginal people need to discipline our children-they are going astray; need Aboriginal law back to allow parents and families to discipline own kids and get respect back" ... "glue sniffers need law against the kids doing this on the street; need the right to take the bottle off kids; take the glue."*

*"Parents must be able to hit [discipline] kids and bring them home."*

*"But sometimes, no-one is responsible at home, when they bring them home!"*

*"Need type of initiation from 11-12 year olds, need a program to make/help kids to understand how white and black society meets, need to explain welfare, drugs, educate them."*

*"Initiation: young people taken from own people to learn of other laws-should understand their dreaming and stories and land forms; spiritual should infuse everything; this place is a burial place [where meeting is]."*

*"People need to look into own community; white people keep all the records and don't share with Aboriginal people."*

The knowledge and histories of past experiences and information about customary law practices held by stolen generation people be acknowledged, remembered, recorded and shared.

*"Stolen generation people do have knowledge [of customary law] from before missions."*

Localised Aboriginal "models of reconciliation" be recognised, and established within community and government to resolve and address issues of anger, anguish and traumas experienced by families as a result of past government policies and practices that continue this dispossession and oppression into the present day lives of Indigenous Australian people.

*"Community meetings can help kids-schools need funding to run programs to educate children and then parents can learn too-we need language programs for parents and kids too."*

*"Aboriginal people did not have prisons-they were dealt with according to customary law-family solutions is needed-they don't impose laws on anyone else[everyone knew what the law was!]"*

*"It's different for black and white [people] how they are treated."*

*"The ACL system well, it is changed by white people (law makers) white 'rational thinking' which is far removed from Aboriginal Customary Law-this will lead to oppression of Aboriginal people."*

*"What is needed is cultural awareness in schools!"*

National and public holidays be established within the state and nation to heal the past and to celebrate the future for example a National and State-wide

“Sorry Day” to remember specific events in history that have affected Aboriginal Australians.

*“For some people, it’s too late to reconcile-too much hurt and anger inside them.”*

Need long-term commitment [financial and ideological] from state and federal government to ensure equity and access in terms of economic and other opportunities for Aboriginal people.

*“Funding [for Aboriginal programs] short term, not good-need long term-best way is to train kids for jobs-CDEP should be abolished [in its present form] because there is no continuity after 6 months on the training program-kids go back to what they were doing before-they need jobs waiting for them [at end of training] ...programs for Aboriginal people are doomed to fail because of limited funding-need long term answers.*

*Aboriginal people must earn their money [in employment] not have hand outs – [organisations like] Noongar Patrol should get paid for looking out for white businesses and organisations [as they are playing a security role for people and their property].*

*We need to straighten out the system, but we still have to live within the system.”*

### **3. Governance**

Systems of governance in Australia today copy and impose the Westminster model. Governments need to change policies/ways of doing business within Aboriginal communities and Aboriginal people need ownership of change. ATSIC is the peak body that drives Indigenous affairs but, whilst it purports to serve Indigenous needs, often the system does not allow enough accountability and feedback to the communities it serves.

Past experiences of getting government to listen and act responsibly have been frustrating; there is therefore a danger that the ACL project will be corrupted by non-indigenous society as it is put within the operations of “white” law.

Government structures minimise the reality of Aboriginal family structures and given them inadequate representation in programs and the administration of policies.

As a foundation for effective governance, the WA Constitution should be changed to acknowledge WA Indigenous peoples. Compensation for Aboriginal peoples should be obtained through the securing of the 2% of revenue that was negotiated by British Commonwealth with WA government and later repealed by legislation. Consideration should also be given to the appointment of Aboriginal Ministers in state and federal Parliaments to holistically represent Indigenous peoples needs. It is no longer acceptable for non-Aboriginal people to hold positions that misrepresent our views and needs, or to set policy directions.

Organisations that support the continuation of Aboriginal cultural knowledge and practices must be given long-term support. It is wrong that Aboriginal

organizations are constantly required to “prove their worth” instead of being provided long term resources.

Family solutions and strategies should be recognised as the “right and appropriate” way to resolve Aboriginal issues at all levels of government and community programs; and individual family units should be involved in resolving their own issues and not in making decisions that fall within other families responsibilities, these responsibilities and rights are commonly known and recognised across the state within Aboriginal communities.

#### **4. Recognising and implementing customary law**

The consultations emphasised that the recognition and reinforcement of Aboriginal Customary Laws would have a beneficial impact on Aboriginal peoples’ self-esteem and knowledge. This, in turn, would reinforce boundaries of appropriate behaviour, especially amongst young people. The main points included the following:

- Need to look into the old forms of ACL and initiation stages for children and the teaching of the laws to children from the perspective of the two cultures – Western and Indigenous. We need historical journeys for children back to old places, to teach the old ways again with the rightful elders/leaders/family custodians of knowledge.
- People must be given the opportunity to re-learn and reteach their own cultures about Dreaming, land and places. Because of the past, communities and families are disempowered. Therefore for Aboriginal customary law and order to function well there need to be programs that aim to restore and return cultural environments.
- Each region must keep its own laws. Elected representatives must acknowledge the ACL way, and not interfere in the cultural business, responsibilities or decisions that are not their responsibility. Practices must be Aboriginalised and reflect true custom not forced to change to fit government needs for efficiency/expediency. The most appropriate people to guide in issues of ACL are those who have been closest to old laws and traditions; they are the rightful ones to be involved, not just people who have western education/law.
- If Aboriginal controlled family/community based programs are supported with adequate levels of support-funding and people, then ACL ways of dealing with “out of control” children can be adopted (including more forceful discipline without the threat of intervention by the Child Protection Unit).
- For ACL to have meaning, Aboriginal people must be empowered to take on the responsibility of returning to old laws, and of educating the youth into respect for themselves, families and country, so that previous ways of travelling into sites/places can be revitalised and “cultural dreaming tracks” returned to the original custodians.
- All must acknowledge the past and continuing affects of Christianity on Aboriginal spiritual traditions. These must be exposed and critically examined in workshops/courses so that Christian traditions don’t override Indigenous ones.
- There has been a tradition within Australia of archiving and “bottling-up” our cultural knowledge told in confidence to early writers/researchers. Access to earlier research and academic works about ACL should be returned to the rightful families and communities.

## **5. Connections between Aboriginal customary laws and “white” law**

The consultations addressed a number of difficult questions with respect to how Noongar law fits with “white peoples’ law”. Inevitably, discussions returned consistently to issues of dispossession and colonisation:

- There are issues relating to inter-generational responsibilities as a result of “stolen generation” times. Remember also that times are changing, people are adapting to new ways and all cultures are. We need to be given the opportunity to define our own terms of reference about...What Noongar Law is!
- Today there are few demonstrations of the proper Noongar decision-making model. Culture and language must be returned so that we regain our respect for self, children and family.
- Parental rights and responsibilities must be returned so that the family can be part of the solution for addressing children’s futures and opportunities; intra community conflicts may be reduced if things are done the right way according to ACL.
- Families/communities need programs so that individuals understand their rights and the role of different agencies.

## **6. How can we bring about change?**

Throughout the consultations, there was a strong focus on the importance of education for both Aboriginal and non-Aboriginal people.

- Education programs teaching both sides of history should exist in schools.
- All teachers should receive cross-cultural awareness and anti-racism training.
- Library guides and warning notices to be placed within the front of books/films/education kits about any sensitive and sacred materials contained within. Often these materials have been collected by white researchers who do not realise the cultural significance of the material or the inappropriateness of Aboriginal children accessing them.
- Programs for all Australians to gain knowledge about how white ways have affected the way that Aboriginal people do things today.
- Stolen generations need increased programs for counselling; their children need support to understand the history; and parents who were stolen children need to return to the places/sites they belong to, so that their identities can be reclaimed, their healing can begin, and future generations will not have to deal with unfinished business of trauma, pain and grief.
- Stolen generation people have a wealth of knowledge and experience that needs to be shared so that the whole nation can heal with their stories.
- Intergenerational traumas play out with self-destructive behaviours that can lead to being targeted by law enforcement agencies: “We are not criminals-we are reacting to hurts and traumas that have never been resolved”.
- We must create again the intergeneration of knowledge, language and culture where children and adults learn in the community/family about our own people’s history - stories of Yagan and others.

- Councils can set up proper cultural advisory groups with all families represented across the board and create ASSPA committees in schools and homework centre programs so that Noongar people work better with each other and not in competition for the limited resources.

## **7. Priorities for reinforcing and recognising Aboriginal customary law**

Smaller focus groups considered priority areas, including the question of how Aboriginal Customary Law can be recognised by “white law” and be enforced and respected in Western Australia.

### **(a) General cultural recognition**

- Aboriginal culture and history existed in Australia before colonisation and indigenous people had a 40,000+ years of occupation and history prior to colonisation.
- When Aboriginal people meet each other they ask-who are you? Individuals often give their family and birth connections to people, place and events that go back thousands of generations within Australia-not just a few years of migrating here from overseas destinations
- It is important Aboriginal history be revitalised and respect. Families can learn more from older records [archives-Berndt Museum, SA Museum] and old people, and family files kept by government within old departments of AAD [Aboriginal Affairs Dept/Aboriginal Affairs Planning Authority].
- Aboriginal people must be thoroughly involved in the tourist and travel industry and royalties which are collected for national parks and tours to country should be paid into an Indigenous fund which can be distributed direct to Indigenous people to elevate their economic opportunities.
- Elders must be empowered to maintain local knowledge and culture, and where it has been taken due to past policies, this knowledge must be taught again to families.
- Indigenous people must have input into rewriting the Constitution so that it acknowledges our prior occupation, our current situation and future position.
- Monuments/plaques/statues should be erected in public places honouring the original groups of the land with local history information presented about the lifestyles of past and present family groups and organizations.
- Re-naming of important and historical sites that place Noongar history side by side with colonial history – for example renaming railway stations/public places with original Noongar.
- Long-term management plans to include Indigenous peoples in the preservation and maintenance of sites, “walking tracks” and natural parklands or animal and plant species protection within their environments. Environmental care programs utilising Indigenous people their systems of knowledge, land management practices and traditions, like “fire-burning or fire-stick farming” techniques so that bush fires don’t do widespread damage and so species are protected.
- Recognition, use and maintenance of Aboriginal spiritual cleansing and welcoming rituals like “smoking ceremonies” or language welcomes within government ceremonies and sittings of parliament.

- Fishing, hunting and gathering rights licences be given to Aboriginal people, their families, communities in recognition of our heritage and culture and continuous cultural practices.
- Land grants and funding programs be made directly to families so that cultural continuity is realised and educational, training and employment opportunities are created on the land to improve the well being of families.

#### **(b) Legal processes**

There was general concern that white law and lawyers do not provide adequate support or recognise cultural difference. A range of strategies was discussed to try to address these matters, including the following:

- Elders of the families should be empowered to resolve the problem of feuding. White law doesn't address the problem but just puts more people in prison.
- Elders should have more authority at a stage prior to formal contact with the white legal system.
- Elders should have special justice status along with judges, magistrates and be able to identify and address disputes.
- Prisons are bad places; they involve abuse and violence and do not rehabilitate. Imprisonment also exacerbates families' problems. There is a need for Aboriginal-owned diversionary programs
- Aboriginal people need to learn old ways of respect for law, learn about cultural ways and how to heal. To this end, Culture Centres should be established to have responsibility to address these issues in partnership with relevant agencies.
- Aboriginal law is the ancient law and needs to be brought back in to restore patterns of law and order and systems of respect for people, land, property and maintenance of order. This is needed for non-Aboriginal people too: they live in Australia but don't know what the first law was.
- Youth and stolen vehicles and driving without licences need to be addressed. The government should re-establish the driving programs at Clontarf and Cannington.
- Constant levels of inappropriate police conduct and responses towards Aboriginal people resulting in over-policing and targeting of our youth for what is perceived by them as anti-social behaviours are often misunderstandings not misconduct. A cross-cultural consciousness needs to be developed to address these issues.
- Aboriginal police and night patrols should not be law enforcers for "whites' interests" but should have a on-going and empowering relationship with the Aboriginal people, the community and elders they represent and serve.
- Aboriginal children often do not understand what is required of them within the court system and so inadvertently offend the magistrate due to misunderstandings in manner, dress and stance-need for education programs about this by the ALS and lawyers who represent Indigenous children.

### **(c) Children, adults and family: the way forward**

- The main discipline is by parents, grandparents, also assisted by children's/adults aunts and uncles. Due to the stolen times, this form of discipline needs to be taught again. White laws about children's rights are often used by children as a threat against parents who attempt to discipline their child for wrong-doings.
- Welfare and Adoption legislation were a colonial tool for oppression against the Indigenous peoples. There is a need to repeal these laws.
- Safe sex education programs are needed in areas of high Aboriginal populations and especially in primary schools grades 5,6,7 together with the local Aboriginal medical services and with Community Health Services.
- Truancy of children must be examined for reasons why they leave school early or don't want to attend; and then culturally appropriate programs of support with Aboriginal staff be established to increase retention rates.
- There should be follow-up programs for youths' progress in school and later increased support in job seeking and career decisions. More responsibility should be given to AIEO's and ALO's with the "duty of care" clearly spelt out in their job descriptions.
- Those families who have been identified as requiring support in their parenting to be monitored and supported with culturally relevant "Aboriginal granny power" community structured programs.
- If Aboriginal families are to survive the next decade there needs to be the establishment of land and home grants to be extended for all families who can be established by the Aboriginal community as constantly "facing financial hardship".
- Establish economic and family enterprises for Aboriginal families to run own shops by "grants-in-aid", for example, "second-hand clothing and goods" and other family co-ops like bulk-foods etc., these "grants-in-aid" to include appropriate training and education for management of staff and enterprises.
- Eviction of families for "anti-social" behaviour only exacerbates the family housing problems-problems should be resolved through mediation and family conferencing-needs to address racism within Homeswest against Aboriginal families-evictions just lead to overcrowding into other families homes.
- Problems in housing and anti-social behaviours should be resolved in joint meetings with local shire councils, police and Noongar community towards a local solution that empowers the aboriginal community not further disadvantages them.

### **(d) Substance abuse**

The participants all shared major concerns about the prevalence of substance abuse and the need for innovative strategies to address these issues. The main points that were raised included the following:

- Drug and substance abuse should not be a criminal matter but a health issue.
- There is no suitable drug rehabilitation or detox system in Perth for Aboriginal people.

- We need local laws to protect the youth and children against the rising incidents of glue and petrol sniffing – for example, allowing the police to remove these items.
- Agencies should co-ordinate “family circles” with families whose children are petrol or glue-sniffers or are involved in other community misdemeanours.
- Community education seminars are required on drugs, with Aboriginal people employed to get these messages across.
- Councils should become active in addressing these issues and establish active Aboriginal Advisory Committees who have a wide representation of families in their shire and clear job criteria.

# ROCKINGHAM

9 December 2002

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*"I'm happy you've come here to sit down and talk, think and see."*

Noongar Elder

## Introduction

The Rockingham / Medina consultations showed that there are many concerns that are common across the metropolitan area; but also that there are some issues that have a particular resonance in each area. The main issues that were addressed are considered under the following headings:

1. The project structure and objectives
2. Context and underpinning issues
3. Broad areas of concern
4. Education
5. Police and the criminal process
6. Housing
7. Reclaiming Noongar customary law
8. Promoting change

### 1. Project structure and objectives

At the start of the consultation, questions were asked about how the Law Reform Commissioners, Special Commissioners and Research Reference Council were appointed. It was pointed out that there is no Noongar Special Commissioner. One participant also asked whether it is the opinion of the WA Law Reform Commission that Noongar Law is in fact "dead". It was also noted that Noongar elders had not signed off on the "terms of reference" for the project and that some had also not signed off on the "Memorandum of Commitment".

Professor Ralph Simmonds provided a detailed background to the project. He noted that the terms of reference were the responsibility of the Government and had simply been entrusted to the Commission. He pointed to the broad membership of the Reference Council (with representatives from all regions), emphasised that there is no view that Noongar law is "dead", and added:

*"The Aboriginal Community Consultations are about embracing Aboriginal Customary Law and to take the advice of Aboriginal people to make changes...important to remain open and to share... We are independent of State government, therefore we can report freely your advice...so that a living document can be prepared that truly reflects the Aboriginal Customary Law matters that should be taken into account-this is the beginning of that process."*

Concerns were also raised that the final outcome of this project might end up being further dominance of white law over first nations' land.

However, despite such concerns, the consultation generated passionate debate and unanimity on many matters, one of the elders remarking that:

*"We will do our best to implement our Noongar Law to bring back respect today."*

Participants also stressed the importance of holding a forum at the end of project to discuss its outcomes: "Don't just shelve and archive it."

## **2. Context and underpinning issues**

Many members of the audience felt that aspects of Noongar Law had disappeared due to the effects of colonisation and the restrictive and racist policies which followed. However, although "ritualised initiations" had been disrupted, many aspects relating to family, law and order had survived and a range of best practice models could be extracted from "yarning about family history" and the experiences of Aboriginal Customary Law within those families who had actively preserved their languages and customs despite the genocidal practices of governments and missions.

Gender based issues were also acknowledged. There was agreement that these had to be unpacked in more detail as historical records show that the south-west peoples had both matrilineal and patrilineal models of kinship which in turn translates as men and women having customs linked to law.

It was said that Customary Law for the Medina/Rockingham community of people means the return of respect for Indigenous Australian people; and that it would be desirable if the consultation processes included having elders of each region working alongside the younger western educated facilitators of these consultations.

## **3. Broad areas of concern**

The consultation revealed numerous issues relating to law, language, culture and family – and the effects of colonisation:

- Law has died out for [some] Noongar families and many have intermarried with other groups. How do we separate them so that they can be true to their own laws?
- "Noongar law is tracked back to the mother's line-we should all join into the one fight for the same cause."
- How many people know Noongar language? Some families stated that they wanted to learn from their own elders not others peoples who come from different areas.

*"Younger and older people who are educated should help the elders to fight for their people's issues."*

*"Need things in the community for kids to do and without being thrashed and beaten for wrongdoings by the police- funding is needed for this but 'white man' has control of the money [and make their own decisions on how it is spent.]"*

*"Where are the ATSIC commissioners? They should be attending meetings like this instead of pussy-footing around."*

- Some discussion ensued on the changing role of men and the loss of status and pride as contemporary warriors on their own land. Stolen generation people faced these issues due to government policies of separation from families, removal from family's land base and their access to their relatives who were custodians of law and cultural knowledge.

*"In the past, my family has been put in jail for teaching language and culture, for teaching the corroborees to our children and family."*

*"The biggest issue is that there has been a breakdown in respect for Aboriginal people, our culture, our laws!...so kids today are getting into trouble with the [white man's] law."*

It was suggested that, in order to return respect to Aboriginal Customary Law, the following issues need to be taken into account:

- Elders should sit with judges: "There should be two Wongi's, two Yamatji and two Noongars on the bench with the Magistrate to represent the families from the Perth region."
- Projects should be sustainable and culturally appropriate providing employment and training for Aboriginal workers who are family members of the children to continue the respect systems that are part of Aboriginal Customary Law. Such law was never enforced by strangers but by someone who had built up a relationship with you.
- Each area, according to the language has its own laws: Noongar, Wongi, Yamatji systems. Practical responses to including ACL within white law must hold this principle in high regard for outcomes to be culturally appropriate and just to the individuals concerned. However, "whether you are Noongar, Yamatji, or Wongi you are subject to the laws of the land that you are currently living on...there are similarities between Aboriginal Laws; we can understand each other's laws."

Here it is Whadjuk country-this must be respected-Aboriginal cultural protocols must apply at all times...Government should stop classifying us in "white man's terms":

*"People who break law should be punished by their own law – Noongar kids must stay in Noongar country for their punishments."*

*"The Noongar language must come back to be taught to the families to return this respect through the law and through the rightful language that carries this law."*

*"Today, we as elders have to go back to our traditional ways...it can be done - we as people now from this day – at the present day - we don't go out to our areas and teach our children about the land...we must start to do this again...give the history and culture back to the children to build up this respect again for law."*

*"There should be 'culture camps' again for kids who get into trouble to teach the children respect for their laws, land and people...children should walk the old tracks again".*

Participants also listed a range of other issues that impact on the project:

- Destruction of sites
- Identity – crisis
- Stereotypes – what is traditional
- Destruction of art
- Disrespect for cultural boundaries
- Breaking the law (for example, by claiming the wrong land or not respecting land/boundaries)
- Making decisions behind closed doors
- Family breakdowns/strengths
- Dreaming: Stories and False claims
- What is authentic? And who has the right to authenticate or define?
- Commodities, culture – tends to be devalued or made “kitsch”
- Ignorance and greed
- Marriage/family kinship/skin ties give permission for involvement with respect to share knowledge/skills
- Individual action for respect
- People from country introduce visitation to places/sites – protocols/practices and responsible behaviour to disclose or not
- Respect cultural boundaries when knowledge is shared
- Recognition of ancestral stories
- Connect across the land
- Meanings must be known – land rights be recognised/respected/validated
- Reclaim stories from archives
- Past history of union activity/role of missions impacted on Noongar people

#### **4. Education**

- In South Australia elders and custodians have a say in how Aboriginal studies are taught in the schools, that should happen here in WA with Noongar involvement with schools and EDWA.

*“We need to teach Aboriginal language and culture again, in the past our old people were put into jail for teaching about our languages and laws!”*

- Black man’s story has not been presented – we must present the truths of our people, history and culture.
- In the past the white law put Aboriginal people off the streets at 6.00pm due to the curfews to prevent Aboriginal peoples movement on the land, this history must be understood and reasons behind these laws and how it affects our contemporary knowledge about white law and the treatment of Aboriginal people in it.
- We see Aboriginal kids in Banksia Hill Detention Centre for minor things. They shouldn’t be jailed, but dealt with by their own elders, families and

communities to bring back respect for old ways and respect for law- if the law doesn't respect them how can they gain respect for the white man's law?

## 5. Police and the criminal process

- Police have to be held accountable for their actions towards children who are involved in the high-speed car chases. Kids have died, but there has not been proper investigation into the cases. "We must encourage all parents here and elsewhere who are affected by this to make sure investigators are doing the job properly...kids have been beaten by police!...Aboriginal investigators might help."
- Police Violence still a real and immediate issue with Aboriginal youth and adults who come into contact with them: "We know from our families' experiences that kids who get into trouble with the police are being flogged by police, that's not white law or black law."
- Adults/responsible people must be present when children interviewed by police and the Police Act should urgently be reviewed / changed
- Aboriginal people are feeling helpless, and the legal system doesn't appear to be representing their interests in defending their rights within white law, just processing them for courts and pleading guilty for expediency. The ALS are too busy dealing with what is classified as "criminal" cases and should be funded adequately to look at other civil and domestic law issues.

*"The ALS always seem to be too busy-lack of services to the 'black-man' – they are all white [staff] and why aren't they [ALS] employing Aboriginal people to do these jobs?"*

- Aboriginal investigators are needed (and agencies such as the Anti-Corruption Commission should get an Indigenous perspective
- Aboriginal community advocacy services and training to be provided to get law matters dealt with fairly and justly
- What about government statements on Reconciliation? They should work with people to address the issues of law and order-not victimise and demonise the Aboriginal community
- The Aboriginal Visitors Scheme [AVS] has broken down-Prisoners are not getting the proper critical care and treatment identified in the RCIADC. "We need someone there with voice-to ensure that kids aren't flogged in jail."

*"Parents are not allowed to hit kids and because of white man's law, governments [in the past] have taken this [parental control] away and communities are still paying for it."*

## 6. Housing

Housing emerged as a core issue. The "extended family" nature of Aboriginal families and the obligations imposed on families by Customary Law often means that people who are evicted go to families who still have housing and this results in overcrowding in unsuitably planned housing.

- Homeswest needs to adjust/change to suit the specific needs of Aboriginal people and reflect these realities. They may need house that have more than 5 bedrooms. Building plans/designs must cater for Aboriginal peoples' lifestyle: Houses that are appropriately built (for example (5 bedrooms) Granny Flats attached to 3-4 bedroom units or houses will satisfy the short term needs of families in established homes):

*"Those Houses that have been built especially for Aboriginal people need to be kept for Aboriginal people and utilise local culture groups (eg Medina) to allocate houses as they respect Aboriginal people's needs)...Make it 'real' don't pay 'lip-service' – departments should be made accountable...Government are set in their ways-too rigid and inflexible- not right for Aboriginal people's changing needs as family numbers is ever-changing as relations come and go."*

- Consideration should be given to directing money for housing to people instead of being administered by "housing authorities that don't want to house people".
- The Aboriginal staff in Homeswest Housing Authority need proper training so that they can be advocates for Aboriginal families as in the recent past, departmental officials have put some houses that were built especially for Aboriginal families on the market for sale to white people once the original families were evicted from the houses.

## **7. Reclaiming Noongar customary law**

There was great discussion and debate about the continued existence and relevance of Noongar law given the genocidal practices of government and missions: "How can we recognise our law if our law is not respected?" Historical treatment of Aboriginal people meant that some ACL practices went underground and others disappeared (especially from families who had been part of the stolen generation). However, it was also acknowledged that stolen children were often old enough to remember the old ways and carried this information on through the generations by their storytelling and yarning about the past and old ways.

*"It [bringing Noongar customary law back] can be done – must now embrace Noongar history and teach the youth. We are damaging our Noongar culture if we don't take this opportunity and use this centre to teach the kids. We have a responsibility to learn Noongar stories and pass them on...this lady has a room full of Noongar information...you can teach yourself the Noongar language – it should be compulsory for kids to attend cultural camps – learn language, stories, respect and hand them on to others...some people want money for stories before they do any work...this is wrong!...not what Noongar culture is about...it's an oral history...teaching about this will bring about respect, keep children out of jail."*

Many people within the meeting felt that "We are all together now and should fight for one cause."

Discussions were held on the historical treatment by government and missions and the pressures placed on Elders today to represent their communities. There was a role for the younger people to assist in reclaiming back the previous law and power bases for elders and parents.

*Structures should give Aboriginal law full respect. For example, when you travel to another country you are under that law. This means that Aboriginal people should have proper representation on bench (with judges); that elders should be supported in teaching language and culture (in the past, they were put in jail for teaching law): "We have a history on Noongar Boodjah to teach our law ...We need to share our stories teaching our kids about the past, the kura."*

It was agreed that we need to consolidate oral histories of places/sites where people were.

In discussions, the following facets of Aboriginal customary law were identified:

- Elders, warrior spirit
- Sense of belonging
- Land, heritage, identity, humility, price
- Giving, sharing, unity, togetherness
- Spiritualness to land
- Communal not exclusive or dictatorial
- Trust
- Family and upbringing, shared meaning and values, family based
- Role models
- Knowledge, cultural boundaries, custodians
- Ancestral ownership, custodianship

## **8. Promoting change**

Participants noted that Blackman's law has been in existence for thousands of years and white man's law for just 200 years. This is Aboriginal country but Aboriginal people have had to adapt to white ways. This has caused many problems. Eventually white law took over black-man's law. How do we get around this? We must use the white man's law properly to respect Aboriginal people's needs.

A range of issues and strategies were identified, including the following:

- ACL needs land – otherwise you've got no place. Noongar land was taken not given.
- Policing prohibiting cultural traditions – kangaroo hunting/rights
- Constitutional changes needed for "Betterment of Aboriginal people" Commonwealth law and State Law need to be renewed to see if Aboriginals represented.
- In rewriting the constitution, don't blame the people of the past: address the issues today with respect– sharing with balance is needed.
- Parents/grandparents control should be returned to Aboriginal communities.

- Establish well-managed groups who advocate/network/liase with Aboriginal families (e.g. the Medina Cultural Group in this area); but proper resources are required – including vehicle, staff, 24 hour service, safe house from police and government agencies.
- Strong Aboriginal – controlled community justice organisations are required.
- Funds should not be tied so directly to government control but in community hands. It is important to empower community projects.
- We must be “right and strong – not yes people” – and must be strong enough to represent indigenous voices.
- Cultural/law people should be involved in all areas – courts – police – education – Justice (ALS).
- We should avoid taking sides or being selective in responding.
- Must be aware of the diversity of aboriginal groups.
- Surviving “tribal” people are key people for change.
- Knowledge kept in archives be treated with caution – need to de-construct/re-construct.
- Develop mechanisms to reconnect and revitalise ancestral dreaming through family/country/knowledge.

*"The spirit of our law is still there – it may be dormant,  
but it will be revived".*

Participant at the Midland consultation

## Introduction

The Midland consultation took the form of a large group workshop where a number of issues that concerned local Aboriginal people were discussed. Participants at the Midland consultation identified a variety of issues of concern, including youth issues, prison health and policing issues as well as the identity and status of Elders in communities. There was a particularly strong focus on youth issues by comparison with the other metropolitan consultations and a number of young people were moved to speak about the issues that most concerned them and offered suggestions about how youth issues could be better addressed in the Midland area.

The suggestions, recommendations and comments made at the Midland consultation are summarised under four broad headings:

1. Law and justice
2. Youth issues
3. Economic and governance
4. Meaning and recognition of Aboriginal customary law

### 1. Law and Justice

As at other consultations, there was a strong focus on developing more effective law and criminal justice mechanisms in the interests of both the Aboriginal community and the whole of society.

*"We need a different system of punishment that deals with  
Aboriginal people in a culturally appropriate way."*

#### Criminal Justice

Participants voiced a wide range of concerns about access to justice, court processes and court administration and decision-making. The main issues to be voiced were the following:

- Inconsistency of sentences given to Aboriginal offenders and other groups of offenders.
- Lawyers too often tell Aboriginal defendants to plead guilty – even when there is not enough evidence to support a verdict of guilty if tried.
- Legal Aid access is not equal – there is discrimination against Aboriginal people in terms of Legal Aid resources.
- Magistrates should sit with Elders.

- Aboriginal people should be encouraged to become Justices of the Peace ("JP"), especially in the rural areas where JP's sit in judgement on many Aboriginal people. The Department of Justice should openly advertise for Aboriginal JP's.
- Aboriginal advisors are needed in courts and at police stations to explain police and court processes, sentences, how to deal with fines and ask for time to pay, how the Aboriginal Legal Service works and how to get Legal Aid.

## **Police**

As at the other metropolitan consultations, a major concern was Aboriginal – Police relations and police attitudes towards offences in which Aboriginal people are involved as victims or offenders.

- The police get involved in high-speed chases – too many Aboriginal children die.
- The police do not give the same resources to the investigation of all crimes. In particular, crimes involving an Aboriginal offender and an Aboriginal victim are not given the same priority as where the victim is non-Aboriginal.
- Police should pay greater attention to the assessment of health issues when a person is received into police custody.
- Police should do more to stop youth sniffing substances – their powers are too limited – they can't take away the substances.

## **Fines**

Several specific concerns were raised about the imposition and enforcement of fines.

- Fines are often set too high – they need to be appropriate to suit the means of Aboriginal people.
- Minor fines are imposed for small things – drinking in public, abusive language etc.
- When fines are set too high and people cannot pay them their motor vehicle licence is suspended – this impacts on work/family/social lives.
- Monetary fines are not always appropriate

## **Prisons – health and social issues**

Major concerns were raised about the extent to which the recommendations of the Royal Commission into Aboriginal Deaths in Custody have been implemented and the need for independent monitoring of implementation issues:

- Need for Aboriginal prisoners to have family nearby, not be taken to prisons that are too far away for family to travel.
- Proper medical attention for Aboriginal people in prison.
- Imprisonment should be used as a last resort – this is still not the case.

- Attention should be given to the Aboriginal Visitors Scheme. It is not working well. They should employ gender appropriate people and Elders with language to talk to those in prison.
- Often they use women to counsel men in anger-management and sex offender programmes in prison – this is not appropriate and it doesn't offer role models for male youth in prison.
- Instead of custodial sentences consider diversionary options – break the cycle of imprisonment.

## 2. Youth issues

*"Aboriginal agencies need to put Aboriginal youth back on the agenda."*

### General youth issues

The consultations raised many concerns about the position of young people – especially with respect to the role of elders and role models and the prevalence of substance abuse through "sniffing".

- Need for better conflict resolution/mediation – managing anger – involve family members to sort out issues/problems.
- Aboriginal youth are angry and misunderstood. Their anger is misinterpreted in courts and in prisons and they are punished twice.
- In the Aboriginal system, youth have a significant family member as a mentor. This needs to be brought back. Identify male and female community Elders as mentors for youth.
- Upholding responsibilities to culture, and especially to elders, is most important. It is important to have someone to speak to.
- Discipline must be taught to young kids – there are too many young kids on the streets playing truant from school.
- There are severe problems with respect to substance abuse, particularly the sniffing of paint and glue, in Midland area.
- Young girls are being sexually abused and exploited – older men are trading paint and other substances for sex.
- Substance abuse a consequence of trauma/abuse, lack of healing. This starts a cycle of stealing and prison.
- Support agencies need to do more: and those who do get funding for programmes to help kids must be more accountable for how they spend their money.
- Kids have got to be more actively encouraged to go into substance abuse programmes. Much more can be done.
- Need a separate Aboriginal agency devoted to Aboriginal youth to deal with issues like youth suicide, substance abuse, truancy, etc.
- Keep kids off the streets with things like: discos, fishing, holidays, meeting with other groups, abseiling, camps, night-time activities.
- Lack of respect for elders.
- Lack of confidence - need for confidence-building exercises aimed at kids.

## Schools

*"Parents need to take responsibility and talk to teachers. It starts from the bottom – if we don't have a say in the schools then how are we going to have a say in Parliament?"*

- Teachers and Principals of schools need ongoing cross-cultural training to teach Aboriginal kids appropriately and handle their issues.
- We have to stop our kids from being bullied at school – this leads to rebellion and lack of education.
- Truancy is a real problem with Aboriginal kids. If kids have got a problem the parents should not just say "don't go to school" – they should be talking to the teachers.
- Importance of education – kids must grow-up and be in a position to make changes that will help their people. If this does not happen it puts the aspirations of Aboriginal people back another generation.

## 3. Economic and governance issues

### Economic and land issues

- Need for strong independent economic base for Aboriginal people.
- Need economic base for land acquisition – fishing/hunting/water rights/gathering – a place where we can exercise our own law.
- Need for meaningful right to land, not a "Clayton's" title.
- Aboriginal culture and law is based in the economic exchange of trading between tribes.
- Aboriginal people knew how to maintain their economic base – they moved from place to place to allow their natural resources to regenerate.

### Government and governance

- Aboriginal people's voices are watered down
- We haven't got anyone at the government level to change policies about Aboriginal people.
- Need for cross-cultural training of agency workers and government by Aboriginal people.
- Need constitutional change to properly recognise Aboriginal people and Aboriginal law.

## 4. Meaning and recognition of Aboriginal customary law

*"People discriminate between urban, rural and remote people. They think that because we live in an urban or rural area that our culture is dead, but it's very much alive."*

### Two law systems

- There are two systems of law: white law and Aboriginal law. Aboriginal law is swift – white man's law is slow.

- White law treats Aboriginal people with contempt – we are still governed by a racist system.
- Aboriginal law demands satisfaction between families when something wrong is done. This appeases the spirits and is true to Aboriginal culture. White law does not have the same objectives or impact.
- Reconciliation between families (of victim and offender) can only be achieved after punishment is over. Without punishment, feuds between families begin.
- The “pay back” system is still strong in Aboriginal communities – even in the cities.
- Fair trial – family choose champions – spirits make the right time for punishment to be done.
- Customary law is based in territory – it does not change, only the people change.

## Elders

*“I blame the Elders for our problems because they do nothing unless they get paid.”*

As at some of the other consultations (especially Manguri) profound questions were raised with respect to the identification and role of Elders:

- Who are the real Elders?
- Importance of Elders to deal with Aboriginal justice issues – need to face offenders.
- Because of the lack of true Elders around it is hard to administer Aboriginal customary law. It is not being used enough in the metro area.
- Inappropriate for government to appoint Elders: they must be appointed by the Aboriginal community itself.
- Consideration should be given to introducing a system of elections to designate who Elders are.
- Need for a cultural workshop for Elders to help identify and debate the following questions:
  - Who is an Elder?
  - What are the responsibilities of being an Elder?
  - Who can give guidance and support?
  - Who is standing up for us?
- Decision-making land, place and language.
- Desert people/Elders – the Yamatji and Wongi still live their cultural lives even as urbanised blackfellas.
- It is for us Aboriginal people to make Aboriginal customary law and culture strong.

# APPENDICES

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**Appendix I: Memorandum of Commitment**

**Appendix II: Format for Submissions**