

# **Reform of Aboriginal Cultural and Heritage Legislation NSW**

**Office of Environment and Heritage**

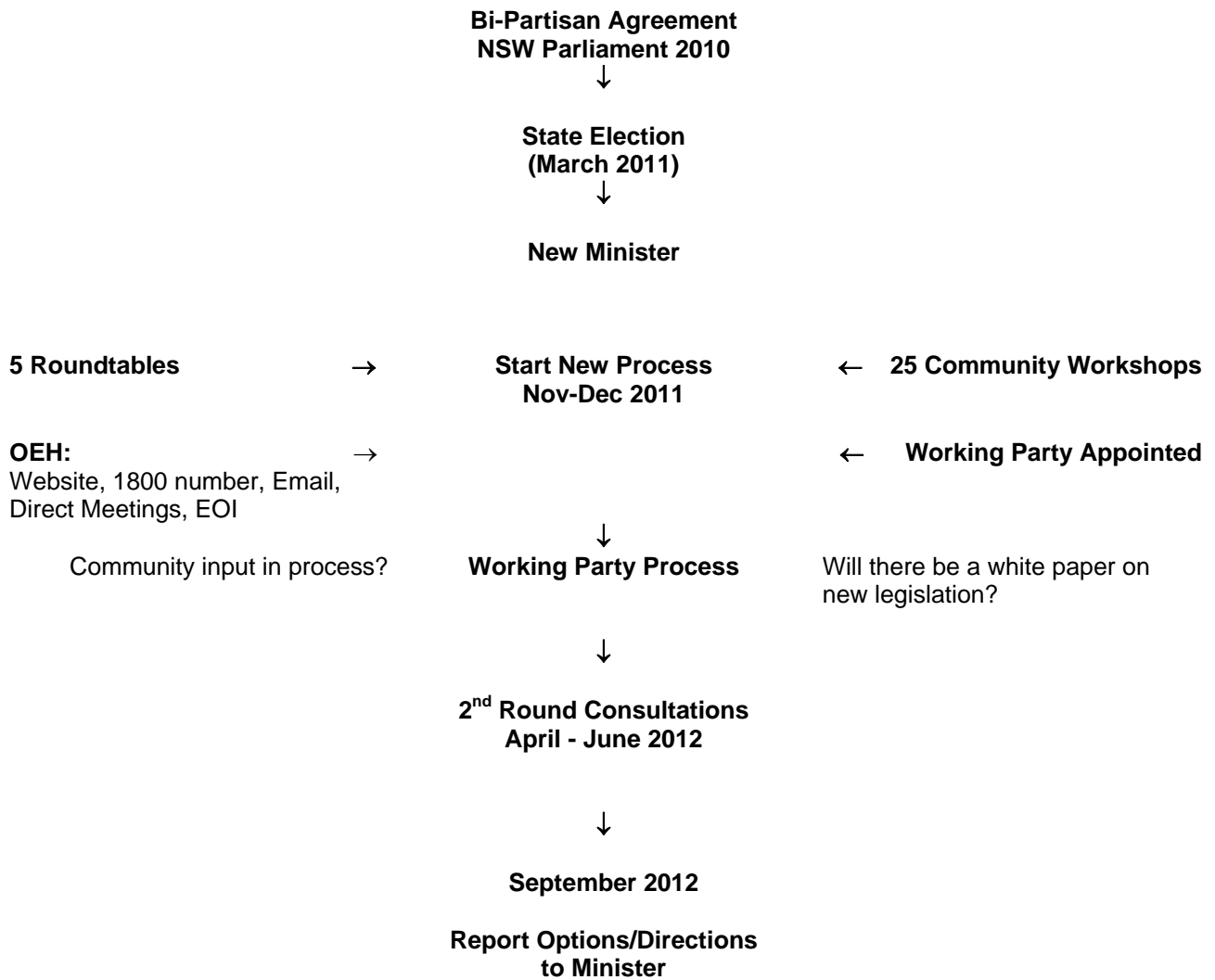
**Regional Aboriginal Community Consultations  
(November/December 2011)**

**Balranald Community Workshop Notes**

**Balranald Ex-Services Club  
2<sup>nd</sup> December 2011**

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## Review of process



## **Constitution => NSW**

- Native Title
- Heritage commission
- Defence
- DHAWC
- ICIMOS
- FaCHSIA
- Cross-border stuff

## **Stand Alone Culture and Heritage**

- Control
- Overriding legislation
- With teeth!
- Identify gaps
- Resourcing

*All arrowing pointing up to our own Act!*

- ↑ NPWS
- ↑ CMA
- ↑ Australian museum
- ↑ OEH
- ↑ Planning – Umbrella culture and heritage
- ↑ Mining
- ↑ Water
- ALRA
- Native Title
- Coroner

- Forestry
- Fisheries
- EPA
- NSW heritage
- Local govt.
- Threatened species
- R&M
- Electricity
- Police
- SES
- RFS
- Victorian Culture and Heritage legislation
  - ⇒ compliance approach
  - ⇒ tick boxes
- How POWERFUL will this new Act be?
- Where will this legislation sit?
- Active compliance checks
- Evidence issues
- Jurisdiction issues (e.g. burials uncovered)

## Future Ways

- Local Koori Interagency Networks (KIN)
- Advertising:
  - ⇒ to working parties
  - ⇒ social media (e.g. facebook)
  - ⇒ radio; email; TV; media
  - ⇒ word of mouth
  - ⇒ Challenge: how is info used? Which represented? Who makes the determination re who is appropriate?
- Processes that protect
- Cutting through red tape
- Who speaks?
  - ⇒ Connection # right to speak for country
  - ⇒ Genealogy/genetics
  - ⇒ Custodians don't get a say
  - ⇒ e.g. Robinvale issues with Native Title
  - ⇒ Confusing historical relationships with traditional
  - ⇒ Other people coming in
  - ⇒ Reference 1989 models and papers
  - ⇒ ILC recognition process – almost self-determination; affects communities across NSW
  - ⇒ NOT a RAP like Victoria – they have local Indigenous networks (community affairs)
  - ⇒ Local government elections – as Aboriginal people sit on council as voted representative of community (one democratic process)
  - ⇒ First People's Congress – Role? Function?
  - ⇒ Pre-Native Title Act ways of community business (e.g. part of community absorbed linkages) – not divisive
  - ⇒ Doesn't count for adoption
  - ⇒ Divisions in community
- Recognition (e.g. by farmers, 4 generations only versus 20,000 years)

- 'They must acknowledge knowledge'
- We want something – over the whole state; if don't start you'll never finish
- Mining:
  - ⇒ Legal representation
  - ⇒ Royalties
  - ⇒ Employment
  - ⇒ Consultation → negotiation
  - ⇒ Aboriginal community involvement (e.g. West Wyalong model)
- We don't want this to be lost!
- We should have been priority all along
- Negotiation:
  - ⇒ Better process needed
  - ⇒ ID who is dealt with
  - ⇒ Clear process
  - ⇒ On their country
  - ⇒ Community knowing its own stuff
- Resourcing:
  - ⇒ Recognised positions in city
  - ⇒ Leadership opportunities
  - ⇒ Up-skilling
- Roles and Responsibilities:
  - ⇒ Community
  - ⇒ Agencies and departments
  - ⇒ The Commonwealth and State
  - ⇒ Anyone developing
  - ⇒ Increase awareness
  - ⇒ Cultural
- Political Leadership
- Consistency
- Mechanism that looks after our interests – a process under the Act; triggers to talk/action

## Issues

- Culture change
- Loopholes
- Behavioural change – do the right thing
- Need to raise awareness:
  - ⇒ ‘Front of Mind’
  - ⇒ Knowledge and understanding across communities
- Why does the Government expect Aboriginal community people to come to meeting and give expertise for free?
- Documentation – nominate a local organisation to protect site (no \$\$\$/no resources)
- What do we do?
- Currently people clearing land without cultural heritage assessment in PVP
- LALC:
  - ⇒ Staff quality and experience
  - ⇒ Resourcing
  - ⇒ Capacity
  - ⇒ \$130K annually to do everything
  - ⇒ Governance
- Community reps don’t get paid for attending or have transport
- Risk of conflict
- Triggers
- Fears of losing land if areas identified (e.g. farmers)
- “I hope these meetings are not tokenism.”
- “I want this legislation to have teeth and NOT be a pilot program – be serious.”
- “Needs to be a funded outcome.”

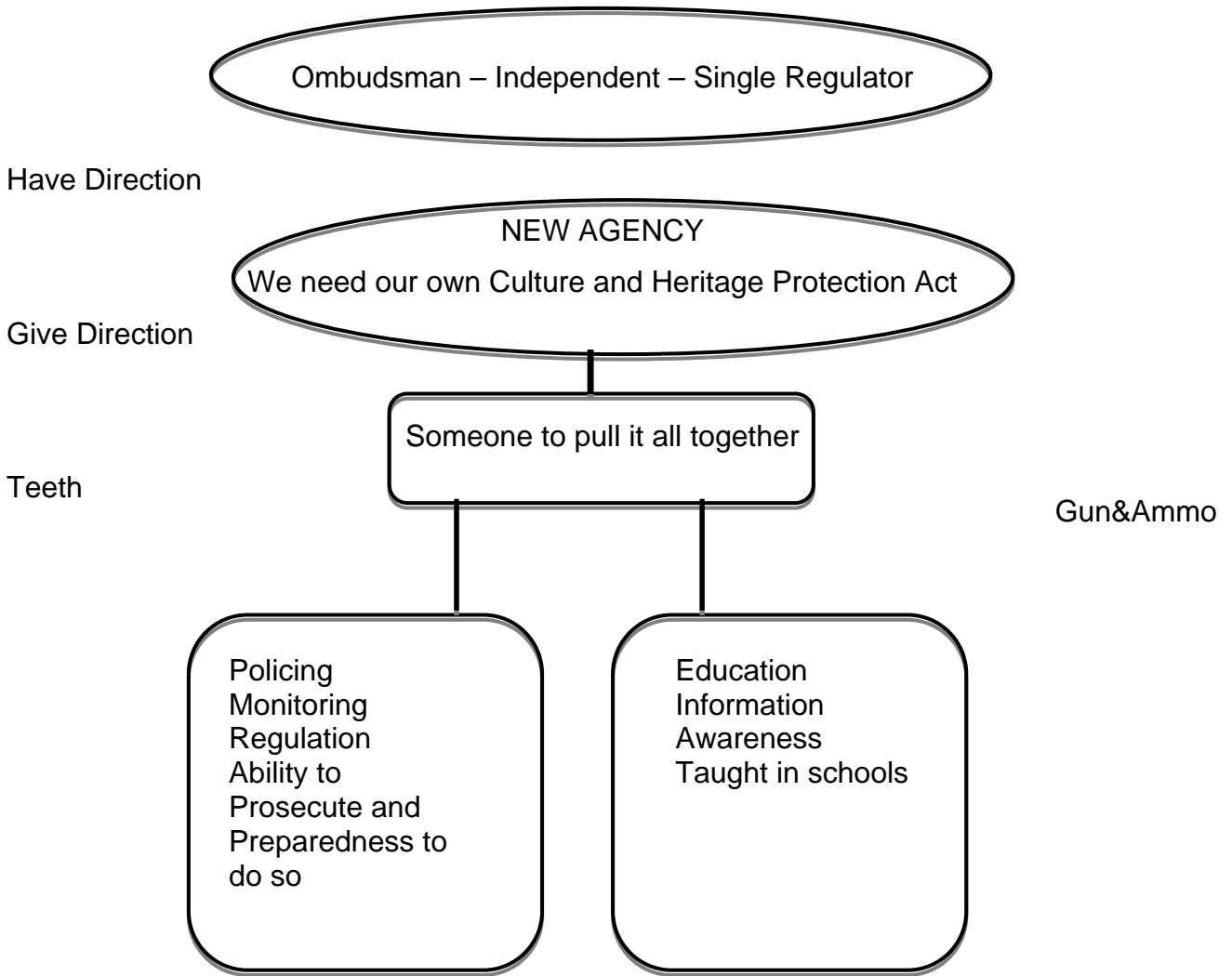
## Phase 2

- Title of this branch (i.e. the one responsible for developing new Act)?
  - ⇒ Fact sheets
  - ⇒ Key people from organisations and relevant Acts to be present
  - ⇒ Circulate options etc. prior to workshops
  - ⇒ Talk to regions and organisations, not just CEO's and managers
- Normal language
- Regionalise/transport/pick ups
- Drop in option for a yarn
- Target interested communities
- Location:
  - ⇒ Consult regions
  - ⇒ Places missing out in Round 1 of this
- Straight to the point
- More lead up time
- Concentrate on community members:
  - ⇒ Local community
  - ⇒ Elders one specifically
- Explain WHAT it is – What's in it for me? Why important?
  - ⇒ Mail-outs
  - ⇒ Feedback forms
  - ⇒ Fuel card
  - ⇒ Incentive
  - ⇒ Recognise local ways
- OEH to communicate more and spread information
- Have more meetings: 9-5 plus evenings
- Targeted workshops in community:
  - ⇒ Elders
  - ⇒ Gender (both)
  - ⇒ Youth
- Need increased information to distribute
  
- Workshops for engagement – come with an open mind and open to change



- Run out on country
- More of them
- Community used to being TOLD in consultations – need to make them what this process is
- Feedback to support further participation
- Make advertising personal – ‘have a say for your kids’

**Possible model**



## New Act

- Since 1974, discussions have so far focussed on evidence, not WHY it was there
- Approval mechanisms
- Historical (in NPWS):
  - ⇒ Relics protected because they EXIST, not because they are registered
  - ⇒ Need links with this and consent process
- Cultural landscapes
- Sovereignty
- Consent issues
- How stories are documented – destruction because stories are not told (e.g. Yorta Yorta claim)
- ‘Evidence’ of our culture protected
- Mindful living culture – continuous
- Recording and mapping (e.g. scar trees)
- Nothing recognises intangibles
- Real timeframe issues
- Respect (not have non-Aboriginal people tell us our culture)
- Land value has to account for meaning of land not just \$\$\$
- Victorian Act refers to other Acts and compliance
- Cultural changes with river flows – fishing areas have changed
- Private land owners like to think they don’t have to do cultural surveys:
  - ⇒ Change in use/development
  - ⇒ PVP compliance
- Gaps culture and heritage checks in processes – ALL
- Need PEOPLE to do this
- Terminology

## Working Party comments

- Chair – OEH
- AA
- CAPO
- Elders
- Paper qualifications
- ‘Expert’
- ‘Expertise’
- Not ‘yes men’
- Community engagement
- Land management
- Legal culture and heritage
- Conservation
- Industry and business: non-Aboriginal archaeologists; developers
- Authority to talk for country e.g. people who have moved onto country and know stories and knowledge history but not their country. Who decides?
- Regional representation
- Still controlling us
- Concerns:
  - ⇒ Are there LGA avenues to input – one of biggest struggles – not necessarily on working party but engaged
  - ⇒ Who is advising the minister? Who’s an expert?
  - ⇒ Aboriginality
  - ⇒ Non-Aboriginal experts
  - ⇒ Male and Female
  - ⇒ Cultural respect
  - ⇒ Timeline concerns
  - ⇒ Regional/South Western not represented
  - ⇒ NSW not interstate (e.g. Minister in Victoria has Native Title advisor); connections to NSW; not outsiders