

Consulting Citizens

Engaging with Aboriginal Western Australians



Department of the
Premier and Cabinet
Citizens and Civics Unit



Department of
Indigenous Affairs



Australian Government
Aboriginal and Torres Strait Islander Services



Addendum

Indigenous Governance Structures in WA

Consulting Citizens: Engaging with Aboriginal Western Australians was developed in cooperation with representatives of the Aboriginal and Torres Strait Islander Commission (ATSIC) and the Aboriginal and Torres Strait Islander Service (ATSIS). The willingness of individuals and community groups to work together and contribute was an invaluable part of ensuring the information presented is generally supported.

The WA Government is committed to working in partnership with Indigenous people. The Statement of Commitment is an agreement between the Government of Western Australia and Aboriginal Western Australians. A key message of the guide is that there are a wide range of Indigenous organisations through which we can engage with Indigenous people in WA.

The Commonwealth Government's decision to abolish ATSIC and wind up the ATSIC Regional Councils has created an opportunity for the Commonwealth and State Government and Indigenous people to look at the way government and the Indigenous community conduct their business together.

The Commonwealth and State Governments are committed to having mechanisms to engage and seek advice from Indigenous people in relation to Indigenous affairs. As these regional representative structures are agreed, they will be posted on the Department of Indigenous Affairs website.

This guide is a practical measure to enable government, non-government organisations and Indigenous people to build mutual respect, identify responsibilities and share aspirations through active and meaningful engagement. Sharing of knowledge and understanding is fundamental to achieving this objective. The guide predates the abolition of ATSIC, however the principles and concepts contained in the document remain extremely relevant to those seeking to engage effectively with Indigenous people.

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Foreword

All Western Australians have the right to live in a society where they have equal access to essential government services, and where their culture and traditions are respected and valued.

The past record of Australian governments, both State and Federal, has not always been exemplary in this regard. Much work is still needed to redress the imbalance that exists between Indigenous and non-Indigenous Western Australians and to improve the most basic rights of health, housing, education, employment, and social support.

In the past, a large part of the problem has been policies formulated without the active involvement of the very people whose lives and livelihoods are going to be affected by them and whose support is needed for their success.

In October 2001, the Western Australian Government and the ATSIC WA State Council clearly signalled their shared recognition that a different approach to Indigenous issues was needed. The result was the signing of a landmark agreement to work together to build a new and just relationship between the Aboriginal people of Western Australia and the State Government.

Improving the relationship between the State Government and the Indigenous peoples of Western Australia requires genuine partnerships based on common understandings, shared commitments, and genuine consultation and engagement.

This is the goal that underpins the development of this third guide in the Consulting Citizens series. As with the previous guides, this effort is guided by the belief that stronger and healthier communities are more engaged and allow for greater participation in decision making.

Only when we work together can we begin to chip away at the legacy of inequality that we have inherited. We cannot undo what has been done, but we can work together with good will and respect to build a better future. A better future where the Aboriginal people of this State and their culture are valued and where their continuing and unique rights and responsibilities as the first peoples of Western Australia are recognised.

DR GEOFF GALLOP MLA
PREMIER

Foreword

This guide to engaging with Aboriginal Western Australians should be celebrated.

It marks a positive step by the Government to guide public servants, those employed in industry and those working for non-government organisations on how to improve the way they work with Aboriginal people.

It is another step forward in the process of carrying out the 2001 Statement of Commitment, which committed the State Government of Western Australia and Indigenous communities to some important principles in a new and just relationship.

Central to engaging in a meaningful way with Aboriginal people are the guidelines and protocols in this resource guide. I encourage each government agency to look to it for guidance, and draw from its elements in successful consultation with Aboriginal Western Australians.

It will assist government work and relate to our nine ATSIC elected regional councils, which represent more than 280 local Indigenous communities.

The guidelines support government, industry and not for profit organisations to develop regional and locally preferred ways of working in partnership, to improve outcomes at the community level.

One of the wonderful outcomes from this resource guide is that it will provide Western Australia's Indigenous people with a much greater opportunity to set agendas in partnership with government.

It is also supporting a gradual recognition and acceptance by government policy makers of the need to consult Aboriginal people directly on the delivery of government services to the Aboriginal community.

Clearly a key factor when any government agency commits to engagement with our people is their enthusiasm for doing this and that is it not just a token exercise.

Nobody said consulting with Aboriginal Western Australians will always be easy and the first step in this consultation process may bring out past resentment about past practices before we can move forward together.

With the joint commitment to engage we will together achieve greater and better results.

BRIAN CHAMPION
ACTING CHAIRPERSON
ATSIC WA STATE COUNCIL

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Intention

In October 2001, the Western Australian Government and the Aboriginal and Torres Strait Islander Commission (ATSIC) WA State Council clearly signalled their shared recognition that a different approach to Indigenous issues was needed. The result was the signing of a landmark agreement to work together to build a new and just relationship between the Aboriginal people of Western Australia and the State Government.

This guide seeks to address a matter that has long been a source of concern for Aboriginal people and Government - policies that are formulated and implemented without the active involvement of the very people whose lives and livelihoods are affected and whose support is therefore needed for their success.

The task of building such relationships requires a long-term shared commitment so that genuine partnerships can develop, based on respect and understanding for each others' circumstances, responsibilities and aspirations, and a preparedness to engage openly and honestly with one another. This means that Government and Aboriginal people need to develop the capacity to listen and seek to understand each other, work towards identifying the key issues, and together devise ways of addressing problems through sound and sustainable policies and programs.

This guide is intended to assist the development of Indigenous community and public sector capacities to fully engage in effective partnerships, and thus facilitate greater Aboriginal participation in community and public affairs as envisaged by the Statement of Commitment. It suggests principles and practical means by which Government and Aboriginal might begin the process of engagement through active and appropriate consultation.

It is the third guide in the Citizens and Civics Unit Consulting Citizens series, the first of which Consulting Citizens: A Resource Guide (April 2002) sought to provide a starting point for consultation offering best practice guidelines rather than formulas. The second document, *Consulting Citizens: Planning for Success* (June 2003), aimed to help people plan public participation programs appropriate to issues and objectives. These guides can be located at the Citizenscape website <http://www.citizenscape.wa.gov.au>

The Statement of Commitment

The principal objective of the Statement of Commitment to a New and Just Relationship between the Government of Western Australia and Aboriginal Western Australians¹ is to:

...agree on a set of principles and a process for the parties to negotiate a State-wide framework that can facilitate negotiated agreements at the local and regional level;

The shared objective is to negotiate a new approach in Aboriginal affairs policy and administration in Western Australia based on regional agreements;


The partnership framework aims to enhance negotiated outcomes that protect and respect the inherent rights of Aboriginal people and to significantly improve the health, education, living standards, and wealth of Aboriginal people;

The Statement of Commitment obliges the parties to the following principles:

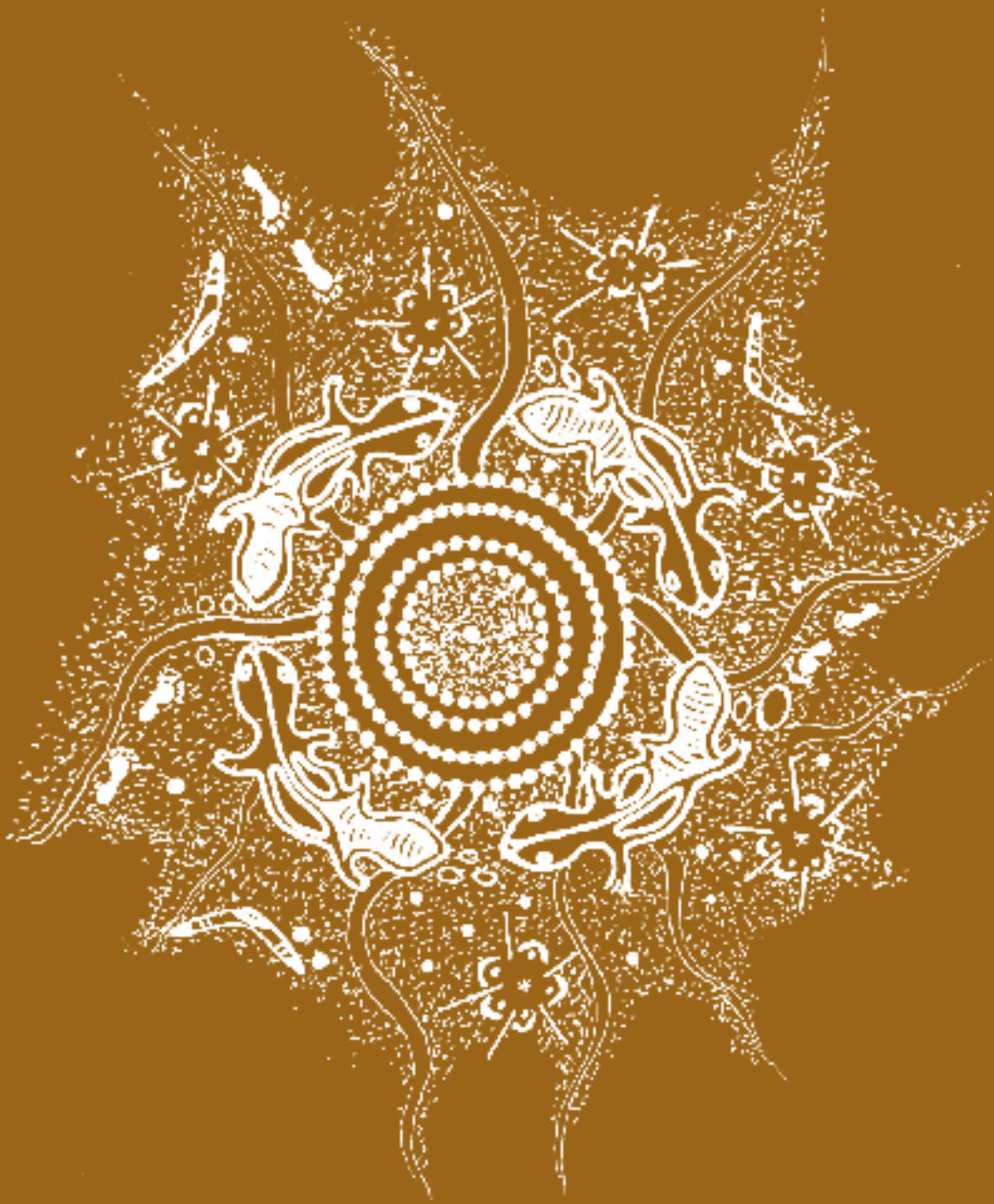
- *Recognition of the continuing rights and responsibilities of Aboriginal people as the first peoples of Western Australia, including traditional ownership and connection to land and waters;*
- *Legislative protection of Aboriginal rights;*
- *Equity with respect to citizenship entitlements;*
- *Regional and local approaches to address issues that impact on Aboriginal communities, families and individuals;*
- *A commitment to democratic processes and structures;*
- *Inclusiveness;*
- *The need to address issues arising from past acts of displacement;*
- *A commitment to improved governance, capacity building and economic independence.*

¹ A copy of the Statement of Commitment can be found on the Department of Indigenous Affairs website <http://www.dia.wa.gov.au>





Respect through knowledge and understanding



The *Statement of Commitment* affirmed the intention of the Western Australian Government and Aboriginal people to work to build respect for one another's rights, responsibilities, and aspirations through active and meaningful engagement. The development of mutual knowledge and understanding is fundamental to achieving this objective.

Understanding the diversity of Aboriginal Western Australians

The population of Aboriginal Western Australians is often referred to as the 'Aboriginal community'. This terminology suggests a population with common and coherent interests. In some important ways this is true - Aboriginal people generally recognise and respect the Aboriginality of other Aboriginal people, acknowledge each other as such, and have strong bonds based on a shared historical experience, such as their subjugation to the terms of the 1905 Aborigines Act, or the impact of 'stolen generation' policies. They may also share common cultural protocols such as those dictating that an Aboriginal person cannot discuss or make decisions about another Aboriginal person's land without reference to that person. But it can also disguise the diversity of the Aboriginal population, one that is apparent from whatever perspective one chooses - geographic and demographic, cultural, linguistic, political and economic. This suggests that a 'one size fits all' Government approach to engaging with Aboriginal people so as to facilitate greater Aboriginal participation in its operations is not only impractical, but futile.

The term Aboriginal 'community', even though it is widely used, can be problematic when applied to some groups of Aboriginal people. Quite apart from the diversity of interests and views found in any community, many of the towns and villages in which Aboriginal people in Western Australia live were established by the Government or the Church missionaries, with no reference to the wishes of the Aboriginal people and no consideration of Aboriginal social or cultural needs. In many cases, people from distinct Aboriginal cultural and language groups were removed from their traditional homelands and forced into a single settlement. Although over time a certain community of interest might have developed, people living in these communities may be from different traditional land owning groups and, as a result, have very different interests and perspectives.

The following sections demonstrate the diversity of the Aboriginal population of Western Australia, including the Perth metropolitan area, which over the last thirty years has become the most populous and diverse centre of Aboriginal population in the State. There is a large and growing volume of valuable published and on-line information about Aboriginal people in various parts of Western Australia, much of it written and prepared by Aboriginal people.

A list of resources is given at the end of this guide. Government officers charged with the responsibility of engaging with Aboriginal populations in their area are encouraged to use these resources to develop their understanding and knowledge of the local population.

'Aboriginal People today are a diverse group of people and historically were diverse in language and cultural practices.'

Mr Marty Sibosado - Nirrumbuk Aboriginal Corporation

Demographic diversity

The 2001 Census shows clearly that the State's Aboriginal population is much more regionally based than the general population.

According to the 2001 Census the largest number of the State's Aboriginal people live in the Perth metropolitan area, although as a proportion of the whole population of Perth, they make up only 1.5%. The Kimberley has the highest proportion of Aboriginal people of any of the State's regions, making up one third of the total regional population. Outside the major towns, Broome, Kununurra and Derby, Aboriginal people in the Kimberley make up the overwhelming majority of the population. There is a similar picture in the Pilbara, where 5,736 Aboriginal people were counted out of a total population of 42,411, a proportion of 13.5%. Outside the Pilbara towns of Port and South Hedland, Karratha, Newman and Tom Price, the majority of the population is Aboriginal.

Significant populations of Aboriginal people live in all other regions of Western Australia, in particular Central (9.2%), South Eastern (9.2%), Upper Great Southern (4.8%), and Midlands (4%). It is significant that while Aboriginal people throughout the State have moved increasingly to the major population centres, they continue to make up high proportions of the populations of rural and regional areas. Table 1 on page 10 shows a number of clear differences in the population profiles of the general and Aboriginal populations around the State:

- Nearly three quarters (72%) of the State's total population live in the Perth metropolitan area;
- Of the State's Aboriginal population, 34.2% live in the Perth metropolitan area, making the Aboriginal population much more regionally based than the general population;
- Comparatively small proportions of the State's total population live outside the Perth metropolitan area;
- In each of the regions except for the Perth metropolitan area and the South West (which includes Mandurah and Bunbury), a significant proportion of the regional population is Aboriginal.

Table:1
Comparisons between General and Aboriginal populations;
Western Australia and Regions; Census 2001²

Statistical Division (ABS)	Total Population	% of Total State Population	Aboriginal Population	% of Regional Population
Kimberley	40,653	2.2	13,555	33.3
South West (includes Mandurah, Bunbury, Vasse, Blackwood)	180,940	9.8	3,445	1.9
Lower Great Southern (includes Albany)	50,176,271,6	2.7	1,632	3.2
Midlands	50,614	2.8	2,050	4.0
Central (includes Geraldton and Gascoyne)	66,445	3.6	6,082	9.2
Upper Great	17,773	0.9	850	4.8
South East (includes Kalgoorlie/Boulder)	55,799	3.0	5111	9.2
Pilbara	42,411	2.3	5,736	13.5
Perth Metropolitan	1,325,392	72	20,015	1.5

² ABS Census of Population and Housing 2001



Community and cultural diversity

Western Australia's Aboriginal people live in many different circumstances. These include:

- Rental and private housing in Perth and regional centres;
- Large communities, many of them former missions, including places such as Kalumburu, Beagle Bay, Jigalong, Warburton, Balgo and Mt Margaret;
- Communities adjacent to towns, such as Mowanjum, Junjuwa, and Tjalka Boorda;
- More remote Aboriginal towns such as One Arm Point, Looma, and Punmu;
- Community outstations, most of them on pastoral leases, or on land excised from pastoral leases and Aboriginal reserves. These make up a significant number of Aboriginal communities in the Kimberley.

Linguistic diversity

At the time of colonisation there were hundreds of different Aboriginal languages in use in Western Australia. Since colonisation, there has been and continues to be considerable movement among speakers of Aboriginal languages. For example:

Mirning speakers were taken to Carnarvon in the early 1900s and Nyungar speakers from west of Esperance were taken to New Norcia by Salvado (Brandenstein 1986). Banjima speakers moved to Onslow in the 1960s. Speakers of Western Desert languages have moved into and out of settlements like Jigalong. In addition there are speakers of Torres Strait Islander languages in Port Hedland, and speakers of many Western Australian Aboriginal languages now living in Perth.³

From forced resettlement in reserves, pastoral stations, missions and government institutions came the development of common languages among groups of people who originally spoke different languages.

... In the Pilbara, Banjima, Yindjibarndi and Nyangumarta have each spread as the main means of communication for speakers of numerous other languages. Martuwangka at Jigalong is a language formed when speakers of Kartujarra and Manjiljarra were brought in from the desert in the 1960s.⁴

Kimberley Kriol is a well-known example of a common language used by many people in the Kimberley region. In addition to northern Kriols, Aboriginal English is the most significant dialect of Australian English. 'Aboriginal English' is a complete language, incorporating elements of Standard Australian English and many Aboriginal languages spoken all over Western Australia, including in the Perth metropolitan area.⁵

To ensure equitable access to Government services, it is important to consider the need for effective communication, especially in the areas of health, employment and justice.⁶

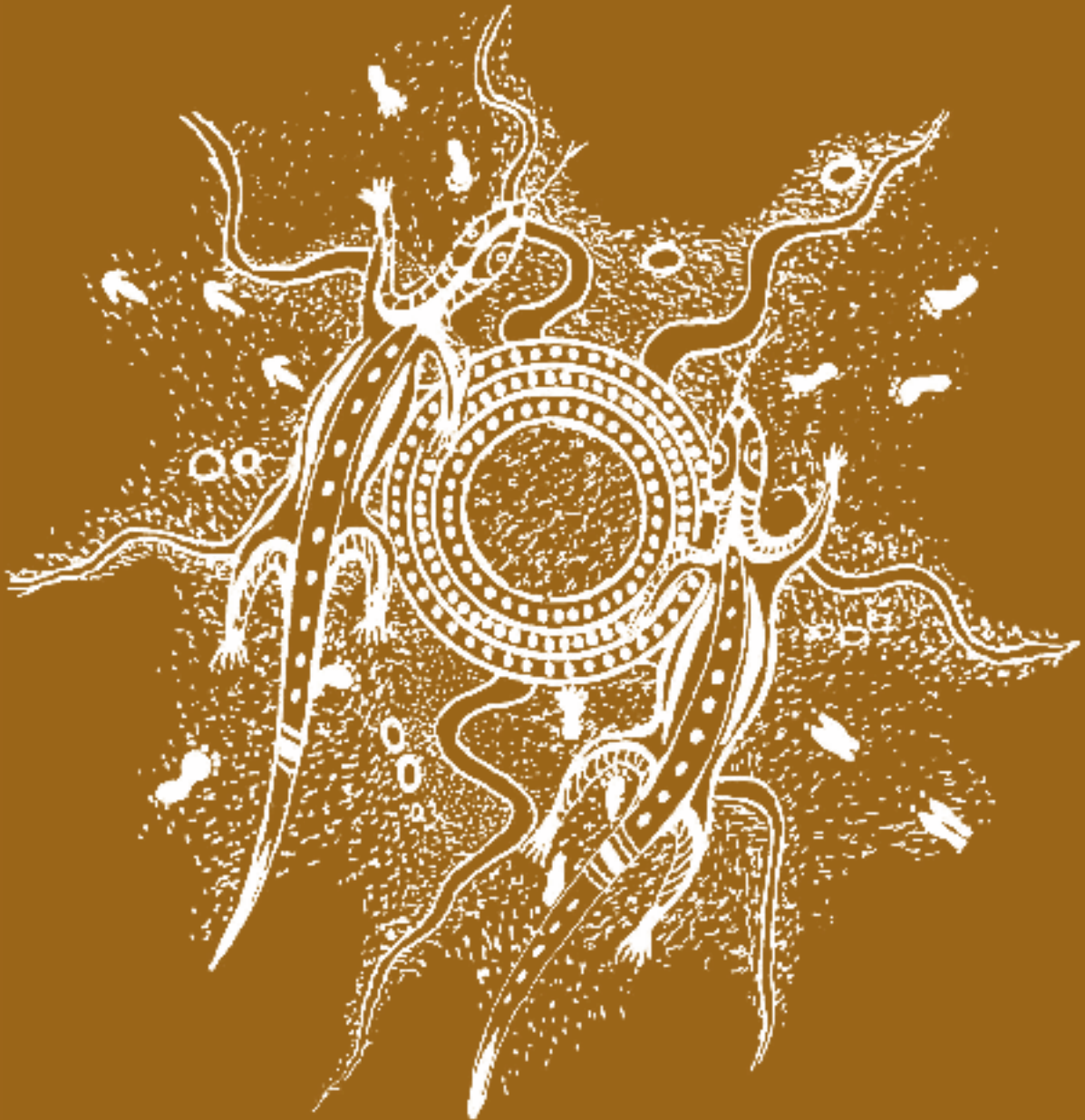
³ Thieberger, N. *Handbook of Western Australia Languages South Of the Kimberley Region*, Department of Linguistics, Australian National University, Canberra, 1993. (<http://coombs.anu.edu.au/WWWVLPages/AborigPages/LANG/WA>)

⁴ *ibid.*

⁵ Arthur, J.M., *Aboriginal English*, Oxford University Press, 1996.

⁶ There are Indigenous interpreters trained and accredited in approximately 10 Indigenous languages. The *Kimberley Interpreting Service* is currently the only accredited Indigenous Interpreting Services in WA.

History



Understanding why Aboriginal people may be wary of Government.

History -

Understanding why Aboriginal people may be wary of Government

From the 1880s to the early 1900s, when European Australians were laying down the legal and policy foundations of State and Federal government, protective laws and policies were put in place that denied Aboriginal people the rights and privileges accorded to other Australians. From 1900 until the 1960s, these laws and policies at State and Federal levels resulted in Western Australian Aboriginal people being unable to vote, to hold public office or to receive Commonwealth social welfare benefits.

State legislation from 1905 further entrenched inequalities by making the Chief Protector the guardian of all Aboriginal children, preventing Aboriginal people from owning land, entering into an employment contract, borrowing money, moving outside the State or a designated mission or reserve, or from marrying without the permission of the Protector. Decades later, the 1944 Natives (Citizenship Rights) Act, that became known as a 'dog ticket' provided a pathway to equal citizenship for Aboriginal people, but only if they adopted a 'civilised life' and did not associate with Aboriginal people without citizenship rights.

This discrimination affected the most private and personal areas of Aboriginal people's lives. It resulted in a history of removal, separation and outside control of Aboriginal families that lies at the heart of decades of dislocation and subsequent mistrust of government policies and officers. It was only in 1972 that all discriminatory Laws were disbanded in Western Australia. Even then, section 4(2) of the newly established Aboriginal Affairs Planning Authority Act (WA) contained clauses from the old protection and surveillance era, stating that 'an officer of the Authority, in the exercise of his powers and duties, may enter at any time into or upon any land or premises where persons of Aboriginal descent are in any circumstances or where he has reasonable cause to suspect that they may be found.'

For at least six decades, Aboriginal people were designated as a State domestic 'issue,' neither accorded the rights of citizens of the Commonwealth or of the States, nor seen to be members of their own Indigenous governing structures.

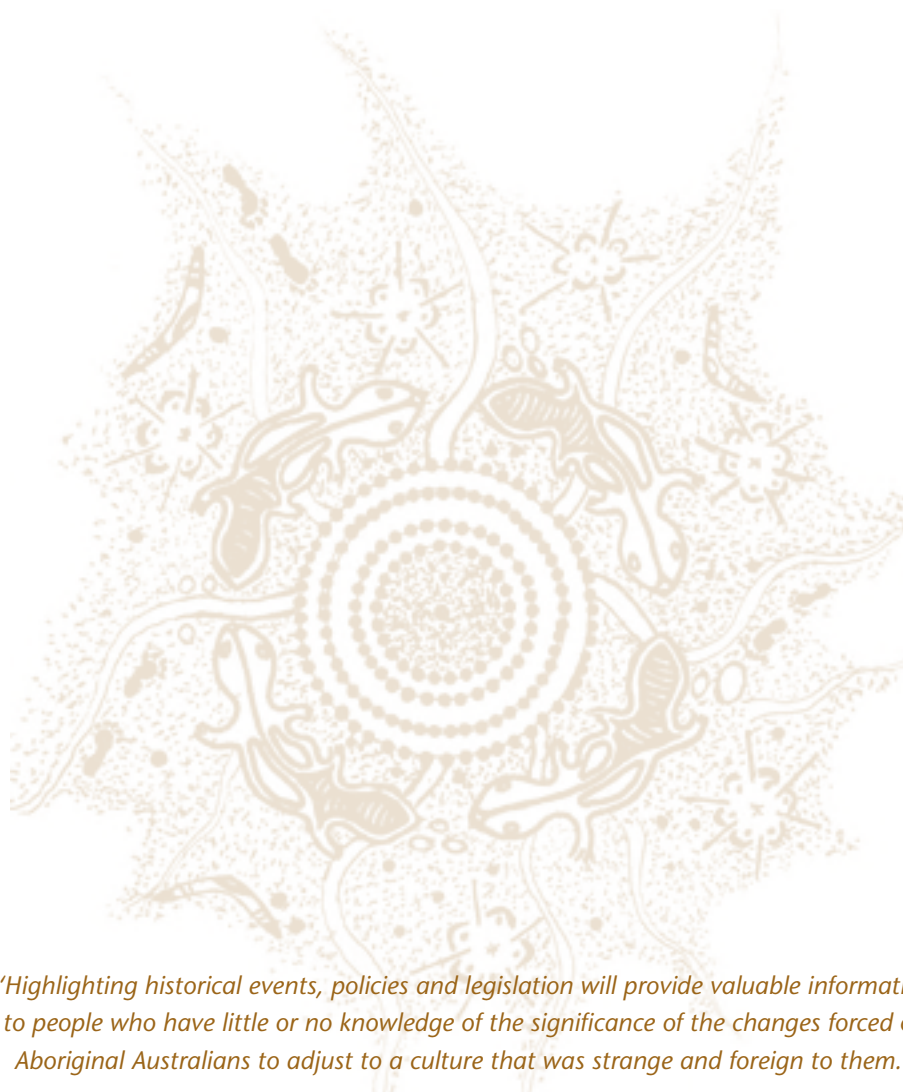
A plethora of Commissions of Inquiry from the 1880s onwards have noted the worsening social and economic situation for Aboriginal Western Australians and recommended changes in policies and administrative structures from protection, assimilation, and integration to self-determination in the 1970s. The first major Western Australian Inquiry, the 1904 Roth Royal Commission, heard from only two Aboriginal police trackers, while Commissions in 1934 and 1948, continued the trend of asking non-Aboriginal people what was needed to 'solve the Aboriginal problem.'

With each subsequent inquiry and new policy there has been a gradual recognition and then acceptance on the part of policy makers of the need to consult Aboriginal people directly on the delivery of government services to the Aboriginal community. Recent inquiries at both State and Federal level demonstrate significant changes in policies and practice, underpinned by extensive consultation processes that recognise the need for a high level of engagement by Aboriginal people in reviewing and assessing future policy directions.

Historical legal and policy framework for Aboriginal citizenship

- | | |
|------|---|
| 1829 | Colonisation of Western Australia by the British. Governor Stirling's Proclamation gave protection to Aboriginal people: 'If any Person or Persons shall be convicted of behaving in a fraudulent, cruel or felonious Manner towards the Aborigines of the Country, such Person or Persons will be liable to be prosecuted and tried for the Offence, as if the same had been committed against any other of His Majesty's Subjects.' |
| 1886 | Aborigines Protection Board established under the Aborigines Protection Act, to provide Aboriginal people with food and clothing when destitute. |
| 1900 | Commonwealth Constitution made Aboriginal people a State issue, excluding the Commonwealth from making laws for Aboriginal people (section 51), and from including Aboriginal people in the Census (section 127). |
| 1905 | The Aborigines Act (1905) responded to the Roth Royal Commission of 1904. This 'protective' legislation made the Chief Protector the legal guardian of all Aboriginal children and instituted a system of surveillance and strict controls over Aboriginal people. |
| 1944 | The Natives (Citizenship Rights) Act gave limited rights to Aboriginal people who could prove, among other things that they had adopted a 'civilised life' and did not associate with Aborigines. |
| 1960 | The Commonwealth Social Service (Consolidation) Act lifted all restrictions applying to Aboriginal people receiving maternity and aged benefits. |
| 1962 | Aboriginal people were eligible to vote in State elections. Voting not compulsory. |
| 1963 | The Native Welfare Act lifted the remaining restrictions on Aboriginal people, unless they were 'nomadic'. |
| 1967 | Commonwealth Referendum. 91% of Australians vote 'Yes' to alter the Constitution to enable the Commonwealth Government to legislate in relation to Aboriginal matters and for Aboriginal people to be counted in the national Census. |
| 1968 | Federal Pastoral Industry Award allowing for equal wages for Aboriginal people in the pastoral industry. |
| 1972 | Aboriginal Affairs Planning Authority (AAPA) Act constitutes the Aboriginal Lands Trust, the Aboriginal Advisory Council and the Aboriginal Affairs Co-ordinating Committee. Last restrictions on 'nomadic' Aboriginal people lifted. |
| 1977 | National Aboriginal Conference (NAC) established the first Aboriginal elected body with direct access to government. |

1990	The Aboriginal and Torres Strait Islander Commission commenced.
1991	The Report of The Royal Commission into Aboriginal Deaths in Custody was tabled in State and Federal Parliaments.
1992	The High Court's Mabo decision overturned the doctrine of 'terra nullius'.
1993	The Commonwealth Parliament passed the Native Title Act, which came into effect 1 January 1994.
1996	The HREOC report tabled into the separation of Aboriginal children from their families.
2001	Signing of the Statement of Commitment to a New and Just Relationship between the Western Australian Government and Aboriginal Western Australians.



‘Highlighting historical events, policies and legislation will provide valuable information to people who have little or no knowledge of the significance of the changes forced on Aboriginal Australians to adjust to a culture that was strange and foreign to them.’

*Moya Newman
FESA Manager - Remote Indigenous Community Support*

Putting principles into practice



Aboriginal people have the right to access services.

Putting principles into practice

A number of key and inter-connected principles underpin effective engagement with Aboriginal populations:

- Recognition and understanding of the individual aspirations and unique circumstances of Aboriginal people and communities in the different regions of the State;
- The need to build trust and co-operation between Government and Aboriginal people;
- Mutual respect and reciprocity;
- Effective communication;
- Informed consent;
- Sustainability of relationships.

Effective consultation is an on-going process in which relationships are built over time, rather than a one off event. The fact that 'consultation' has so often appeared to be haphazard and meaningless is one reason for the level of cynicism that Aboriginal people often express about promises to consult. This is also the reason why this guide talks about 'engagement' rather than simply consultation.

Respecting cultural security

This guide emphasises the importance of principles of cultural security in the design and delivery of Government services, which affirm that Aboriginal people have the right to access services in a way that does not diminish or threaten their cultural rights, expectations or norms. Cultural security is a commitment to the cultural rights, values and expectations of Aboriginal people, and demands that programs and services provide equal quality and outcomes irrespective of cultural background.

Commitment to engage

Effective engagement depends on an ability and commitment to putting consultation principles into practice. A key factor when a Government agency commits to engagement with Aboriginal people is enthusiasm for the process, and a desire to see it through to its conclusion. There can be no half measures in effective engagement; to pull out or let a process of engagement stagnate will simply reinforce the cynicism many Aboriginal populations have developed over the years with Government promises to 'consult'.

Effective engagement however is not always easy and will probably not result in immediate praise and support for a new Government policy or measure. In fact, a commitment to engage may well bring initial criticism of Government and expressed anger about past practices. All this reinforces the need for the commitment to engage to be reflected throughout the organisation, in particular to have the support of the most senior levels of management.

Reasons for engagement

The reasons for engagement need to be appreciated and understood by Government and Aboriginal people. They will help determine the method of engagement most appropriate to the situation. There are many reasons why a government agency might need to consult Aboriginal people. It may be for one or more of the following:

- To provide information on an existing policy or program, for example a housing initiative;
- To provide input into the management of a public resource, such as a river, park or catchment area;
- To seek input and advice on the development and design of new programs or measures, for example a pest eradication program;
- To consult about the need in a community for a proposed policy or program, for example aged care services;
- To set up a continuing dialogue about a policy or program, for example establishing a consultative committee, working group or community forum;
- To monitor the implementation of an existing program or policy, for example a juvenile justice initiative;
- To invite participation in a proposed initiative.

Whatever the reasons, consultation needs to be both passive (i.e. allowing opportunities for the community to acquire information) and active (i.e. seeking interaction and engagement with particular groups).⁷

Setting realistic goals

A commitment to engage with Aboriginal people means that an agency should be realistic and honest about what it can actually deliver. Thus, it needs:

- To be clear about its charter, including the legislation under which it operates;
- To be prepared to explain its role including being open about any limitations to what it can and cannot do;
- To be open about its capacity to meet expectations engendered as a result of consultation.

⁷ As expressed in the Protocol for *Community Engagement in Regional Natural Resource management Planning and Implementation* <http://www.nht.gov.au/nht2/bilaterals/wa>

Mutual agreement of goals

The goals of an engagement process can be established as part of the process itself. This means that clarity of purpose, clear communication and openness will be a central element of engagement.⁸ It is inevitable that the respective goals of the agency and the Aboriginal community will vary in some fundamental ways - what the Aboriginal party hopes to achieve from an engagement with Government may be quite different from what the Government agency hopes to achieve. An openness and mutual acknowledgement of these respective goals is essential for the subsequent effectiveness and eventual success of an engagement process.

Action planning

Once the reasons for needing to engage are clarified, a plan of action should be developed to find out which Aboriginal organisations and individuals in the area are to be involved.

Understanding the region

Officers in positions of engagement with Aboriginal people must be sensitive to the needs and circumstances of Aboriginal people in their particular region. They will need to take steps to learn about the regional Aboriginal population in order to effectively engage. This will include:


- Understanding some of the important issues affecting Aboriginal people in the region;
- Taking account of the different situations in which Aboriginal people in their regions live;
- Taking into consideration the diversity and range of Aboriginal protocols operating in the region.

Seek and listen to advice about who and how to consult

The responsibility of a government officer is generally limited to seeking advice widely and taking note of that advice. Government officers are not responsible for matters beyond their control or their level of knowledge. For example, it is not up to the officer to define traditional owners and other Aboriginal people with rights and interests in the area particularly when, in a native title context, this is the role of the Federal court. However, it is the responsibility of an officer to be aware of what is already known about a community and the traditional landowners, through seeking advice from appropriate people and undertaking research through available public resources.

There are no right or wrong ways to begin the engagement process, but if there is one general rule it is to seek advice from a wide range of sources and to listen to that advice. In particular, the advice of officers more experienced in working with Aboriginal people, particularly that of Aboriginal staff members, should be sought at an early stage of the process.

⁸ For a concise guide to planning effective community consultations see *Consulting Citizens: Planning for Success* <http://www.citizenscape.wa.gov.au>



In making contact with an Aboriginal organisation or community, it is acceptable practice to initially seek to contact the listed person or people on organisational databases using the prescribed contact methods, whether these are by telephone, fax, email or letter. In the case of an Aboriginal community, for example, start the consultation process by making contact through the community office. The first point of contact may well be an employee of the community, possibly an administrator or adviser who may not necessarily be an Aboriginal person. It is important to emphasise that the first contact is just that - a preliminary contact, and does not necessarily mean that the process is underway.

Be prepared to open channels of communication to get advice on who may need to be spoken to, when and how meetings might occur and what role the agency will be expected to play. Once advice is given it is essential that it is followed up. Having made contact with the community office, it is possible that the Government officer will be given advice on whether it is necessary to have separate or preliminary meetings with individuals like the Chairs of community working groups or committees. Such preliminary meetings can provide the link that will facilitate effective engagement as well as establishing ongoing channels of communication for building future relationships.

Recognise and utilise existing networks and skills

There may be existing networks of Aboriginal people with detailed knowledge and understanding of Aboriginal communities, and the unique nature of their regions. These may already be employed by Government agencies, including in regional offices. These are the people within the structure who have the capacity to link the agency with the local community and may be the first source of advice. Sometimes, Aboriginal employees will have the explicit role of assisting and advising non-Aboriginal officers in their contacts with Aboriginal people, and can advise on the correct procedures and protocols that should be followed in the region.

The support and expertise of existing networks of Aboriginal employees should be utilised by an officer with responsibility for engaging Aboriginal participation. In fact, it should be the exception rather than the norm for a non-Aboriginal officer, particularly one inexperienced in working with Aboriginal people, to have sole responsibility for designing and undertaking an engagement process.

Seek advice of Aboriginal organisations

Recognition of Aboriginal organisations is an essential part of the commitment to engage, as they reflect the unique nature and structure of local Aboriginal communities and their interests. As such they are foundations for active and effective engagement. Aboriginal people have set up, participated in and managed a large number and variety of organisations that have been designed to represent their diverse interests at a State, regional, local and family level. These structures present an opportunity for active engagement with a population of diverse geographical, political, social, cultural and economic interests.

Department of Indigenous Affairs (DIA) and Aboriginal and Torres Strait Islander Services (ATSIS) maintain databases of Aboriginal organisations throughout Western Australia. Aboriginal organisations should be considered the primary sources of contact and advice for the process of engagement, and will often reflect the diversity of the local community. Because of this diversity it is important to develop a range of contacts with Aboriginal organisations rather than depend on the advice of a few. Some, such as ATSIC Regional Councils, are established by statute and incorporate elected representative structures. They may therefore often be in a position to recommend local and regional organisations that might have a particular interest in specific issues, and can be used to start the process of building networks of engagement.

Types of Aboriginal organisations include:

- Major peak representative bodies such as ATSIC State Council or ATSIC Regional Councils;
- Native Title Representative Bodies, title holding bodies or native title working groups;
- Community councils and Aboriginal resource centres;
- Sectoral organisations including community controlled health services, Community Development and Employment Program organisations, media organisations including community radio stations, Aboriginal Legal Services, cultural, art or language organisations and Aboriginal community schools;
- Regional and local interest groups, including family, women's and youth groups;
- Business networks including tourism or pastoral enterprises.

Some organisations have statutory functions or are otherwise connected to Government. The ATSIC Act provides that Regional Councils are to be elected and gives them the following functions:

- (a) To formulate, and revise from time to time, a regional plan for improving the economic, social and cultural status of Aboriginal and Torres Strait Islander residents of the region;
- (b) To assist, advise and co-operate with the Commission, the Torres Strait Regional Authority (TSRA), other Commonwealth bodies and State, Territory and local government bodies in the implementation of the regional plan;
- (c) To make proposals, in accordance with section 97, in relation to the region;
- (d) To receive, and to pass on to the Commission and the TSRA, the views of Aboriginal persons and Torres Strait Islanders about the activities, in the region, of the Commission, the TSRA, other Commonwealth bodies and State, Territory and local government bodies;
- (e) To represent Aboriginal and Torres Strait Islander residents of the region and to act as an advocate of their interests;
- (f) Such other functions as are conferred on the Regional Council by or under this Act;
- (g) To do anything else that is incidental or conducive to the performance of any of the preceding functions.

Each ATSIC region has its own elected Regional Council (see www.atsic.gov.au).

The Native Title Act 1993 assigns Native Title Representative Bodies (NTRBs) functions and powers in relation to assisting and representing native title claimant groups with their claims, and also provides that they need to be representative of Aboriginal native title and land interests in their area. Each region in Western Australia is covered by a NTRB (see www.ntrb.net). The Native Title Act further provides that native title holders establish their own prescribed bodies corporate to hold their native title on behalf of the community of native title holders.

The Commonwealth *Aboriginal Councils and Associations Act 1976* sets out a process for Aboriginal people to incorporate organisations that represent their diverse interests. As a result a large number of Aboriginal organisations exist and function throughout Western Australia, covering a range of functions including education, language and culture, small business and enterprise, tourist information, and many other areas. Some Aboriginal organisations may have a large membership and a regional coverage, while others represent smaller family groups and have much narrower functions.

Most Aboriginal communities and outstations are managed by Community Councils, which are generally incorporated under the Commonwealth *Aboriginal Councils and Associations Act 1976*. These organisations have Constitutions that give them powers to manage the community and its affairs. In addition, they may have powers under the WA *Aboriginal Communities Act 1979* to make community by-laws, which are enforced by the Police. For instance the Community Council may have the power to make by-laws that prohibit alcohol within the community boundaries, which will also apply to visitors.

A visitor should always seek and gain permission to enter an Aboriginal community, and in the case of Aboriginal Reserve land, must do so by obtaining an entry permit. Under the *Aboriginal Affairs Planning Authority Act (AAPA) 1972*, transit permits are required for any person visiting or passing through an Aboriginal reserve subject to Part III of the AAPA Act, unless he/she is:

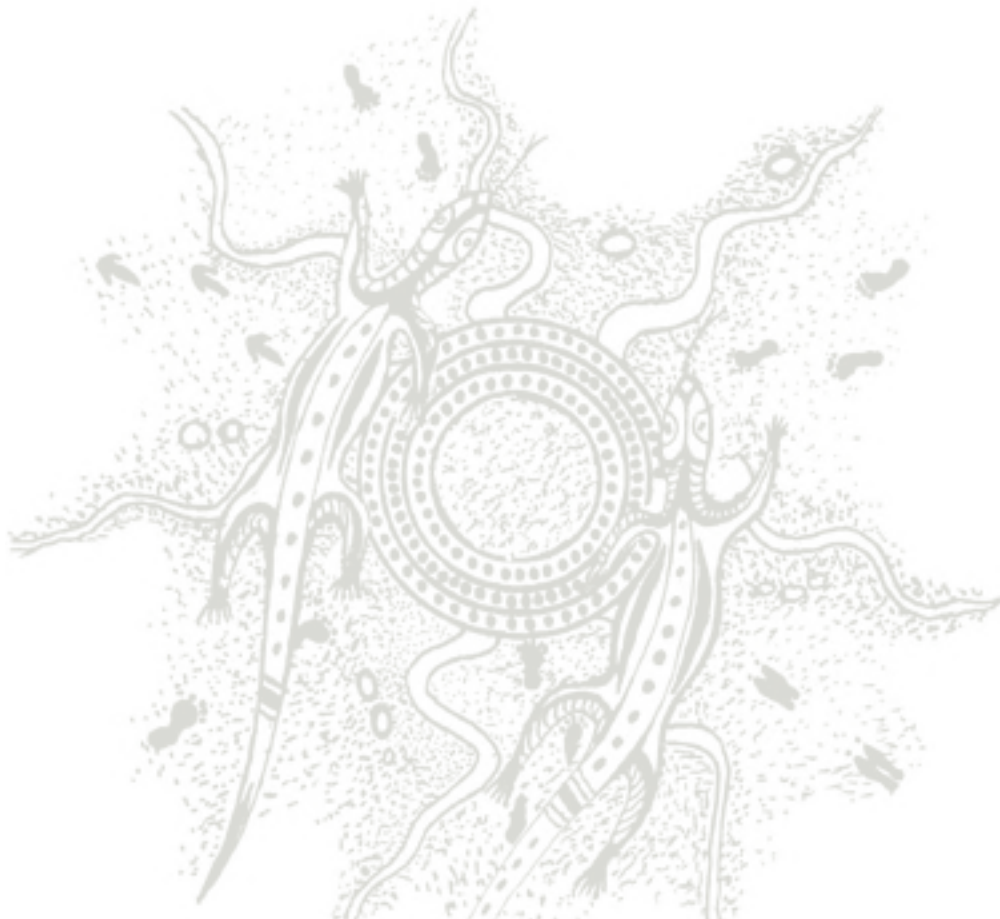
- A person of Aboriginal descent;
- A member of either House of Parliament of the State or of the Commonwealth;
- A person exercising a function under the AAPA Act or otherwise acting in pursuance of a duty imposed by law; or
- A person authorised under the regulations of the AAPA Act.

The Aboriginal Lands Trust manages entry permits but the relevant Community Council must be consulted before an entry permit is issued.⁹

⁹ Entry permits can be applied for on-line by application to the DIA; see <http://www.dia.wa.gov.au/Land/Permits>

The Aboriginal Heritage Act, 1972 provides legal protection for Aboriginal sites throughout Western Australia. Advice on heritage issues should be sought from the relevant Aboriginal people or groups. The Aboriginal Sites Register, established and maintained under the 1972 Act, provides information on recorded sites. Sites are protected whether or not they appear on the Register.

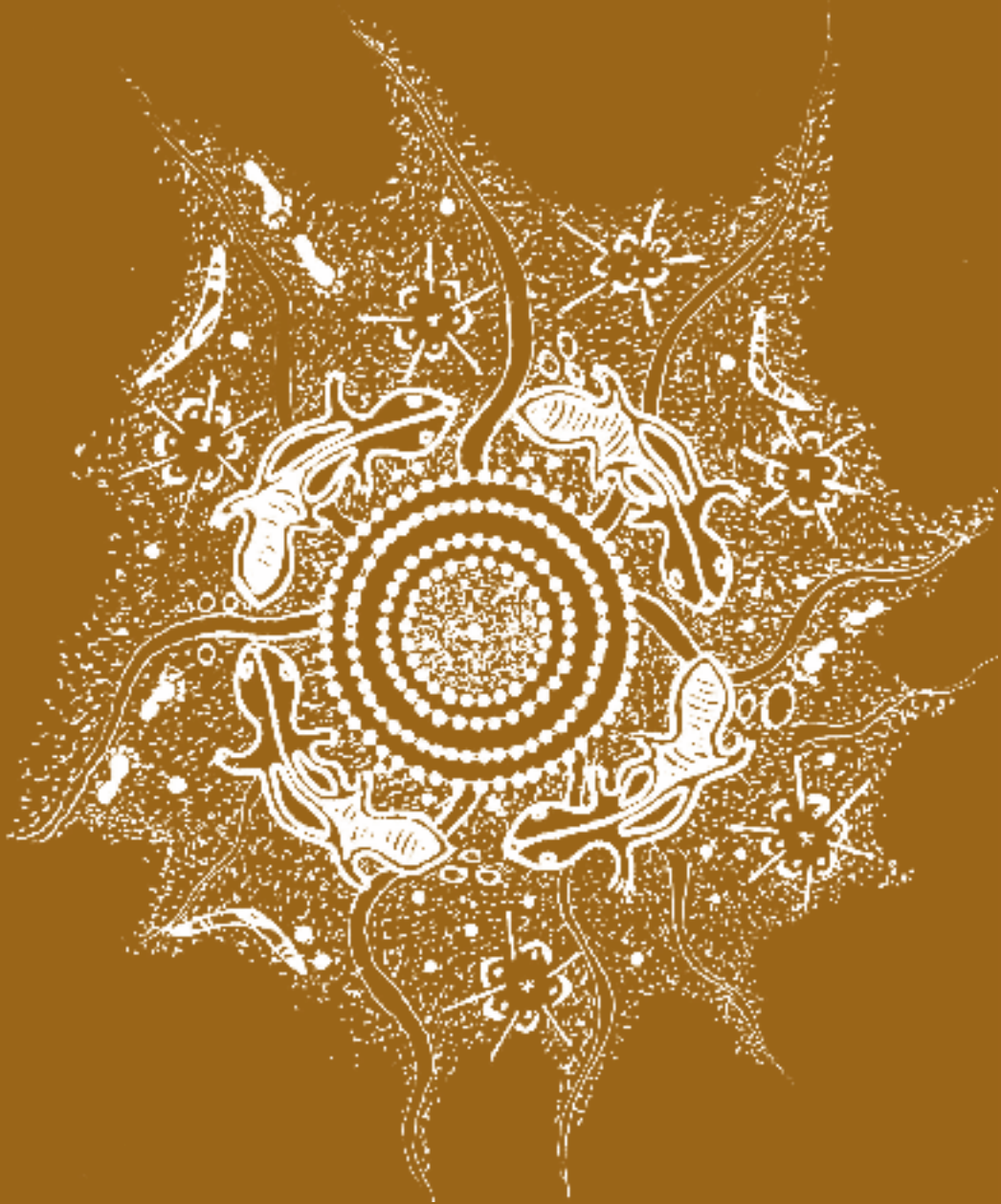
The online version of the Sites Register is an index to the Aboriginal Site Register. An appointment is required to view all related material held by DIA by contacting the Heritage Liaison Officer on (08) 9235 8113 or email sites@dia.wa.gov.au.



‘History should reflect the need for consultation protocols and the sensitivities of past acts and deeds that have ignored Aboriginal people as citizens in this state so as there is no repeat of “doing things for their own good”.

*Brian Wyatt
Executive Director - Goldfields Land and Sea Council*

Protocols




Awareness and respect for cultural protocols.

Awareness and respect for cultural protocols

The diversity of the cultures and interests in regions will require a flexible approach to cultural protocols. An important aspect of avoiding rudeness or inappropriate behaviour is, as mentioned before, to seek and listen to advice from people with experience and knowledge if it is offered. Some points to remember when working with Aboriginal communities include:

- a. Each community is different and unique, and while there may be some common interests, what applies in one will not automatically apply in another;
- b. Recognition and respect for the protocol that an Aboriginal person cannot generally speak about or for another person's land, unless given permission by the traditional landowner to do so;
- c. The community members have the right to choose the time and place for a meeting. A visitor can of course state a preferred arrangement but it is ultimately up to the community to decide how, when and where a meeting takes place etc;
- d. In some settings, use of Aboriginal languages including interpreters may be required to adequately define terms, particularly if the terminology used is of a technical or complex nature;
- e. Face to face meetings can help to overcome fundamental lack of understandings about Aboriginal ways of life and thus build trust for sustainable agreements and effective engagement;
- f. Follow up preliminary contacts with letters or phone calls, as the request to consult may need to be put to other committees or members of the community;
- g. Allow time for discussion, for meetings to be planned and for organisation of meetings whether they are small or large;
- h. Allow information to filter to other community members who for various reasons cannot be at the meeting;
- i. Make an effort to give on the spot feedback and follow up feedback reports at consultations or meetings;
- j. Agree to a feedback or follow up process at the meeting or consultation, and confirm decisions of the meeting in writing. Be careful about 'forcing' outcomes; take a break to review and allow discussion before returning to pursue an agreed agenda;
- k. Don't expect an immediate answer to questions and don't be disappointed or dismissive if the consultation doesn't meet expectations;
- l. Stick with agreements made at a meeting - make sure that actions that the agency agrees to are actually carried out




It is not unheard of for a government officer to turn up at a community thinking that a meeting has been properly arranged, but find nobody there, or that the word has not got out that a meeting is on at a prescribed time. This may not mean that people are not interested or that the issue to be discussed is not considered to be important. It may simply be that communications within the community have broken down, or that other priorities have intervened. It is generally advisable to check before arrival at a community about whether a meeting is expected to proceed as planned.

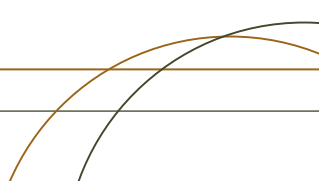
Aboriginal communities can be very busy, even in places that might seem isolated and remote to a visitor. As well as all the day-to-day community business, some communities, particularly in the winter months, can be in an almost constant state of meeting overload, with a continuous and seemingly never ending procession of government and other people wanting to engage the time and concentration of members. In addition, there may be occasions such as when a community member has died or when other important cultural business is taking place that the whole community is shut down for external business. In such instances, community business takes precedence, regardless of what meetings have been previously arranged, or the importance of the matters to be discussed.

Personal protocols

The general rule for effective dealing with personal protocols is the standard one of politeness and respect. Although to a non-Aboriginal person unfamiliar with Aboriginal people, personal and cultural protocols might seem complex and in some cases unfathomable, a person can in most cases be reasonably confident that by treating people with respect they will not go far wrong, and if they do, they will soon be corrected. Hopefully in most cases, an officer inexperienced in working with Aboriginal people will be accompanied and advised by an Aboriginal officer of the agency. Although as stated, there are no hard and fast rules in personal protocols, the following suggestions may be handy:

- A visitor should behave as a visitor and only go where invited or given permission;
- It is important to respect confidentiality about issues relating to other communities;
- At meetings take your cue from the Chairperson who will in most situations introduce the subject the officer wishes to discuss, and generally manage the discussion. The chair will tell a visiting officer when the subject is closed for discussion, and will outline what follow-up action is considered appropriate;
- Many communities prefer to remain alcohol free, and thus alcohol should not be brought into in any Aboriginal community, even if a visitor is not certain of its status.

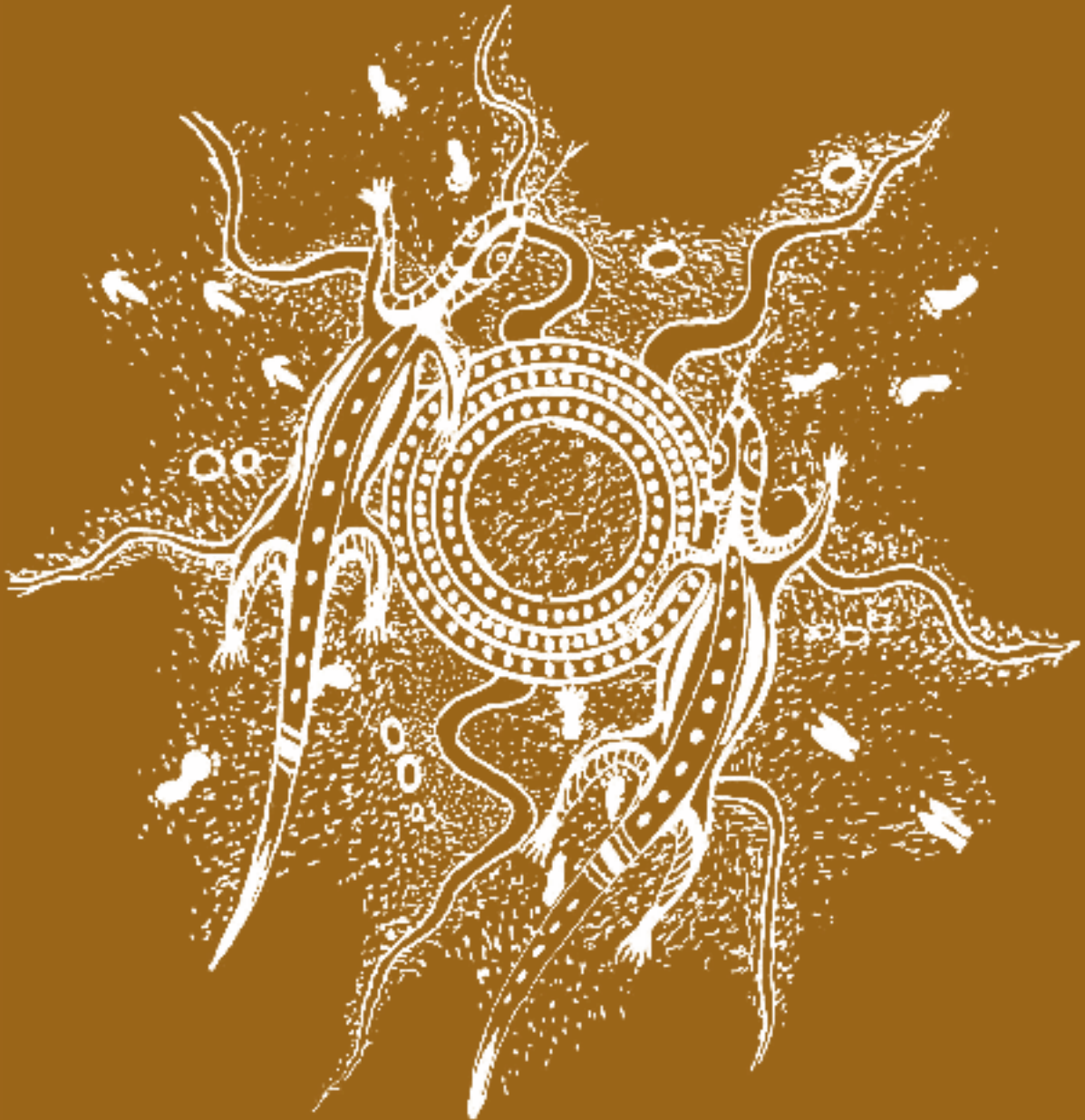




'Exchange of material is a two way thing and agencies must be open and frank as to why they would want to be consulting Aboriginal people. Trust must be engendered on both sides.'

*Brian Wyatt
Executive Director - Goldfields Land and Sea Council*

Where to from here?



Allowing opportunities for engagement.

Where to from here?

Allowing opportunities for engagement

Not all Aboriginal people choose to be involved in Aboriginal organisations. They nevertheless have interests in Government activity and their needs for engagement must be understood, and measures taken to create opportunities for their involvement in government decision making and to allow their feed back on how government programs might affect them.

A number of methods can be considered, which are also discussed in the first two booklets of the Citizens and Civics Unit Consulting Citizens series, *Consulting Citizens: A Resource Guide* (April 2002) and *Consulting Citizens: Planning for Success* (June 2003). These include:

- Establishing community information and feedback forums;
- Using the Aboriginal or mainstream media;
- Placing posters or flyers in local organisations and public places;
- Use of the Internet.

Regional principles of engagement

It is possible that Aboriginal people and organisations may want to enter into a process of developing a formal document of 'agreed principles of engagement' between an officer and a community, an agency and a community or a collection of agencies and a region.

This guide offers a framework from which to develop agreed principles of engagement that are specifically designed to build sustainable relationships between Government and Aboriginal people at a grass roots level.

Further resources for effective engagement with Aboriginal communities

This select list of resources is designed to further the principles and guidelines outlined in this report. A short annotation is provided as a guide only where the title is not self-explanatory.

Aboriginal and Torres Strait Islander Commission <http://www.atsic.gov.au>

This website has valuable information about national and regional representative councils, organisations and issues, and a wide range of statistical, educational and economic information.

Australian Institute of Aboriginal and Torres Strait Islander Studies Guidelines for Ethical Research in Indigenous Studies <http://www.aiatsis.gov.au/corp/docs/EthicsGuideA4.pdf>

Ask First, A Guide to Respecting Indigenous Heritage Places and Values, Australian Heritage Commission, Canberra, 2002

<http://www.ahc.gov.au/infores/publications/indigenousheritage/index.html>

This guide contains some step-by-step information on negotiating and consulting with Aboriginal communities over heritage places.

Consulting Citizens: A Resource Guide Citizens and Civics Unit, Department of the Premier and Cabinet, Perth, WA April 2002 <http://www.citizenscape.wa.gov.au>

Consulting Citizens: Planning for Success Citizens and Civics Unit, Department of the Premier and Cabinet, Perth, WA June 2003 <http://www.citizenscape.wa.gov.au>

Department of Indigenous Affairs www.dia.wa.gov.au

This site offers advice, databases, maps and guidelines about regional offices and Aboriginal heritage, policies and family history in Western Australia.

Handbook of Aboriginal Languages South of the Kimberley

<http://coombs.anu.edu.au/WWWVLPages/AborigPages/LANG/WA>

Kimberley Interpreting Service

PO Box 3599

Broome WA 6725

National Native Title Tribunal www.nntt.gov.au

Regional Development Commissions Western Australia <http://www.regional.wa.gov.au/links/wa.asp>

Offers a wide range of information about each region in Western Australia.

Registrar of Aboriginal Corporations <http://www.orac.gov.au/>

Lists corporations and provides information on how to incorporate.

Working With Aboriginal Communities: A Practical Approach

<http://www.doir.wa.gov.au/documents/mineralsandpetroleum/WorkingWithAbComs2.pdf>



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Mary Anne Jebb

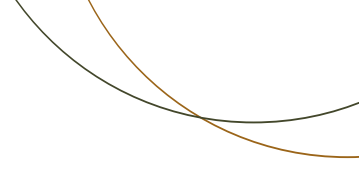
Rhonda Murphy

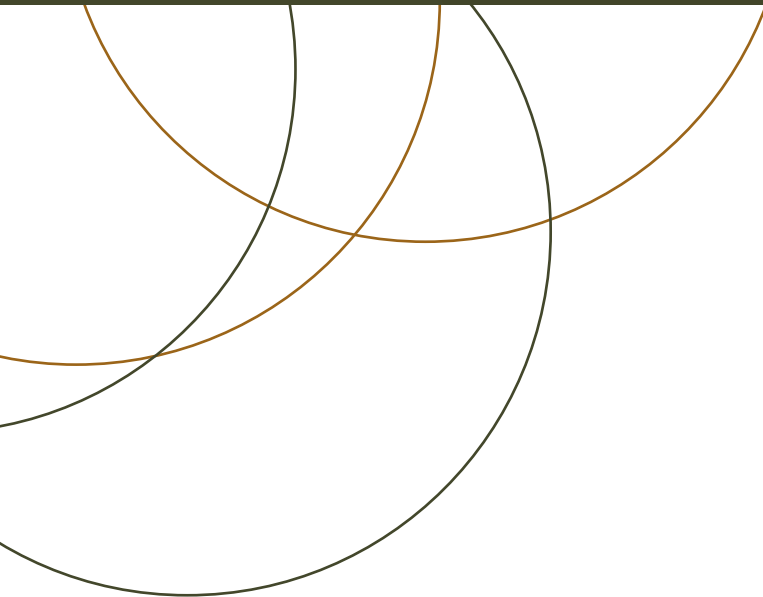

Phil Narkle – [for design and artwork presented in this guide]

Australian Bureau of Statistics

Indigenous Consultation Reference Groups

Members of the CCU's Inter-agency Consultation Reference Group





Department of Indigenous Affairs
197 St Georges Terrace
Perth WA 6000



Department of
Indigenous Affairs

An electronic version of this document is available on the DIA website <http://www.dia.wa.gov.au>
and on the Citizens and Civics Unit's *Citizenscape* website <http://www.citizenscape.wa.gov.au>