“We Used to Get our Water Free…”

Identification and Protection of Aboriginal Cultural Values of the Pilbara Region

Contract No. 7-57044-3

A Study and Report prepared for the Water and Rivers Commission of Western Australia

by

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Foreword

The title of this report “We used to get our water free…” was a phrase used by one of the Aboriginal elders in the region in a general discussion about changes in access to and provision and quality of water in the Pilbara region. He was suggesting not only that water never used to cost anything in monetary terms, but also that it was previously free from contaminants, pollutants and salinity.
Executive Summary

Aboriginal people in the Pilbara region of Western Australia have strongly articulated cultural beliefs about water sources in their country based on their traditional religion. This religion, or cultural belief system, stems from the Dreaming when it is believed that the landscape and all geographical features within it, including surface water and groundwater sources as well as all species of flora and fauna, were formed by Dreamtime beings or Dreamings. All of these features are important to Aboriginal people in a variety of cultural, social and economic ways.

The Dreamings also created religious practices, rituals and laws to accompany these beliefs and to ensure the continuance of the land and water and all that they contained. Aboriginal people perform what are regarded as necessary religious rituals taught to them by members of previous generations. These rituals ensured the renewal and reproduction of the various landscape features, including water, species of flora and fauna on which Aboriginal people’s survival depended. Aboriginal people thus believe they have a continuing duty or obligation which was established in the Dreamtime to look after the country and its features through the performance of rituals and ceremonies for different places and species at appropriate times.

Aboriginal groups within the Pilbara believe that the Dreamtime beings left part of their mythical essence in all the features and flora and fauna which they created. As far as water sources in the Pilbara region are concerned, this mythical essence is believed to remain in all water sources, rivers, creeks, soaks, pools and springs and takes the form of a water snake or water serpent.

Historical changes brought about by the introduction initially of pastoralism and later mining and industrialization are discussed in the report, emphasizing the impact of these changes on Aboriginal people and their traditional relationships to water sources.
Industry and government began undertaking large scale mining, industrial and related infrastructural developments in the Pilbara region from the 1960s. These developments, which still proceed until today, did so until the mid-1990s without any consultation with Aboriginal people. This fact has left not only a strong sense of misuse of the country by outsiders among Pilbara Aboriginal people, but also caused degradation and destruction of many significant water sources and water-related places of cultural and economic importance to Aboriginal people of the area. This is a cause of much regret, sorrow and sadness for many Aboriginal elders who tried at various times to protest the changes which were occurring in their respective countries.

Since the 1990s, legislative requirements, both state and federal, have seen governments and the private sector being more responsive to Aboriginal concerns about land and water issues. Several government departments, as well as private sector organisations, have begun developing protocols, guidelines and native title agreements for working with Aboriginal people. The most relevant of these for the purposes of the Water and Rivers Commission (WRC) are outlined and discussed in the report.

The report contains a number of recommendations for the consideration of the WRC to assist it in developing its water management strategy for the Pilbara which will include consideration of the water needs and cultural values of Aboriginal groups and communities with rights and interests in the area. The recommendations also provide the WRC with some guidance on how to protect Aboriginal cultural values linked to water in the region and what direction the WRC could take to sensitively manage and protect Aboriginal communities’ water supplies.
Acknowledgments

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Acronyms

Acronyms used in the Report

ATSIC  Aboriginal and Torres Strait Islander Commission
CALM  Department of Conservation and Land Management
CHMP  Cultural Heritage Management Plan
DIA  Department of Indigenous Affairs
DOLA  Department of Land Administration
DMPR  Department of Mineral and Petroleum Resources
DOIR  Department of Industry and Resources
DRD  Department of Resources Development
EIS  Environmental Impact Statement
EME  Environmental Management Entity
EPA  Environmental Protection Agency
ERMP  Environmental Review and Management Programme
ILUA  Indigenous Land Use Agreement
MOU  Memorandum of Understanding
NNTT  National Native Title Tribunal
PDC  Pilbara Development Commission
PBC  Prescribed Body Corporate
PNTS  Pilbara Native Title Service
PWD  Public Works Department
TOs  Traditional Owners (Aboriginal people with rights and interests in the study area)
WA  Western Australia
WC  Water Corporation
WRC  Water and Rivers Commission
WPWS  West Pilbara Water Supply
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1. Introduction

1.1 Aims of the Study

The Water and Rivers Commission (WRC) is a Western Australian Government statutory body which was established on the 1st January 1996. It was set up under the Water and Rivers Commission Act 1995 and is responsible to the Minister for Water Resources. The WRC works closely with all levels of government, industry and the community to protect and manage Western Australia's water resources, including wetlands, rivers, estuaries, inlets and ground water. The WRC is currently developing a water management strategy for the Pilbara Region focusing on the appropriate allocation of water.

Relatively recent changes in the Rights in Water and Irrigation Act 1914, which governs water resource management in the State, have led the WRC to place greater emphasis on community consultation and consideration of social and cultural values when developing strategies to manage and allocate water resources.

The WRC’s plan to devise a water management strategy for the Pilbara region seeks to ensure that it includes consideration of the water needs and cultural values of Aboriginal groups and communities with rights and interests in the Pilbara region. The WRC understand that water sources of various types are significant in the Aboriginal culture of the region, although the WRC acknowledges that this is at present little understood by them.

One aim of this research project is to describe in general terms the importance and significance of these water sources to Aboriginal people in the Pilbara region. The results of this research can then be used both to provide the WRC with guidance on how best to ensure the protection of Aboriginal cultural values linked to water in the Pilbara region and to offer informed advice and recommendations to the WRC on the measures which could be taken to sensitively protect these cultural values.

An additional aim of the study is provide advice and guidance to the WRC on ways in which the water supplies of Aboriginal communities may be protected and managed.
1.2 The Project Objectives

This research project has the following specific objectives:

1. To provide an overview of water dependent environmental features and ecological processes regarded as culturally and socially important to Aboriginal communities within the region, including case studies to further expand on the above in key areas and/or where future development is proposed. The overview includes a map showing registered Aboriginal heritage sites.

2. To identify whether existing mechanisms have been introduced by other government agencies to protect water dependent Aboriginal cultural values.

3. To develop a set of management guidelines in collaboration with key Aboriginal groups and relevant others that aims to assist both proponents applying for a water allocation licence and WRC officers responsible for approving licences to minimise or avoid negative impacts on water dependent Aboriginal cultural values within the study area.

4. To review options and develop guidelines for possible approaches which the WRC may take to manage/protect indigenous communities' water supplies. The approaches should recognise the need for sensitivity and flexibility on the part of the WRC in meeting its requirements while being acceptable to Aboriginal communities.

5. To identify appropriate and practical mechanisms for Aboriginal involvement in managing and protecting water dependent Aboriginal cultural values.

6. To develop protocols for the provision of information and measures to protect the intellectual property rights of Aboriginal people providing the information. Cultural sensitivities of such information are also developed and included.
7. To integrate the findings in this report, having ensured that the outcomes of this study are understood and endorsed by the Aboriginal people involved.  

(Adapted from WRC Allocation Branch, Request for Tender Doc (RFT7-57044-3 (PILa) March 2001)

1.3 WA Government and ATSIC Agreement 2001

In October 2001, the Aboriginal and Torres Strait Islander Commission (ATSIC) of Western Australia signed an agreement with the State Government of Western Australia. This agreement formalised the State Government’s commitment to a:

...new and just relationship with Aboriginal and Torres Strait Islander people of W.A.”

The agreement recognised the role of ATSIC as the peak Aboriginal organisation in the state and was devised as a framework which encouraged state government agencies and departments to work in a way which would better address the needs of Aboriginal people. Consistent with this agreement and the WRC’s plan to devise a water management strategy for the Pilbara, the WRC sought to ensure that the management strategy included consideration of the water needs and cultural values of Aboriginal groups and communities with rights and interests in the Pilbara.

To do this, the WRC sought, by public tender, to hire suitably qualified anthropological consultants to conduct a study to provide the WRC with guidance on how best to protect Aboriginal cultural values linked to water in the region and what direction the WRC should take in sensitively managing and protecting Aboriginal communities’ water supplies. The anthropological consultants worked with and were assisted in carrying out this research by local Aboriginal people, ATSIC staff and others in the Pilbara region, as well as a number of relevant people in the Perth area.

2. The Study Area

2.1 Geography, Climate and Population Centers

The extent of the study area is vast, covering approximately 236,470 square kilometres of the mid north west of Western Australia. The climate of the Pilbara
region can be described as semi-desert tropical, experiencing extremes of summer heat, droughts and floods. The annual rainfall of about 300mm is derived mainly from summer cyclones, though winter rains sometimes occur. This vast, rugged area includes major river basins, impressive upland mountain ranges, extensive coastal plains and areas of coastal mangroves.

The water resources of the Pilbara are divided for WRC purposes into surface water and groundwater. Surface water occurs in pools along main the main drainage channels and permanent water sources occur at springs. (See Map 1)

There are five major drainage basins in the study area as described below (adapted from WRC 1996):

2.1.1 The Ashburton River Basin, which includes the main tributaries of Irregully Creek, Hardey Creek, Duck Creek and Henry River. The main pools on the Ashburton River are the Boolaloo, Barlyiunna and Mooline pools which in all but the most dry years exist on a perennial basis. Irregully Creek has several areas which fill up as lakes during very wet seasons.

2.1.2 The Onslow Coast River Basin which is drained by two main rivers, the Cane and the Robe. The major pool on the Cane River is Jabaddar Pool, downstream of the main coastal highway on the Onslow coastal plain. The Robe River has two major tributaries, the Mungarathoona and Jinnawurrada Creeks which lie either side of the Hamersley Range. The Robe River has a number of major pools along its course.

2.1.3 The Fortescue River Basin which above Bullinarwa is divided by natural features into three sections. The first section going upstream is from Bullinarwa to Gregory Gorge. The major tributaries in this first section of the river, which runs in a well defined channel, are the Portland River and the Booyema, Macklin and Nallanaring Creeks. There are a number of major pools in this section of the Fortescue River. Above Gregory Gorge to Goodiadarrie Crossing, the Fortescue River flows on flat country and the main channel is ill-defined. The third section of the Fortescue River basin extends from Goodiadarrie Crossing to the source of the river. Because of its poor drainage in this section, the Fortescue is here referred to as
the “Marsh area” (op.cit.16). Tributaries of the main river in this section are Weeli Wooli, Yandicoogina and Mindy Creeks.

Map 1. Pilbara Region, Surface Water

Map 2. Pilbara Region, Ground Water
2.1.4 The Port Hedland Coast River Basin contains six major rivers; the Maitland, Harding, George, Sherlock, Yule and Turner. There are also numerous smaller river and creeks such as the Nickol and Peawah. The Maitland River has its source in the Chichester Ranges and is joined by Munni Munni Creek. The Harding River is formed by the joining of three smaller tributaries. Other rivers and creeks which form part of the Harding River drainage include Fish and Springs Creeks.

The north flowing George River has a number of significant pools along its course, including Yanna, White Spring and Poogee Koontee Pools as well as a number of springs in the area of its headwaters.

There are numerous springs in the headwaters of the Sherlock River which also contains several major river pool systems. The Yule River is the longest and largest of the rivers in this river basin, being described as “…highly braided with a wide alluvial riverbed.” (ibid). There are a few pools along the course of the river and it has a number of tributaries.

The Turner River is somewhat similar to the Yule physiographically. In addition, “[T]here are a significant number of wells throughout the catchment.” (op. cit. 17).

2.1.5 The De Grey River Basin includes the main river itself, as well as the major tributaries of the Strelley, Shaw, Coongan, Nullagine and Oakover Rivers. All of these tributaries have wells and springs in their headwaters and numerous significant pools along their courses.

Most groundwater resources in the study area (see Map 2) are located in aquifers within the coastal plain close to the main river channels (op.cit. 27). These aquifers discharge water to the surface by outflows to the many river pools, springs and wells indicated above. Each of the five river basins noted has numerous aquifers, the most notable being the Millstream aquifer in the Fortescue River valley (op.cit. 25-40).

2.1.6 Towns and Communities. As well as the natural, physical geographical features outlined above, the study region also includes the major coastal towns and
population centres of Port Hedland, Karratha, Dampier, Onslow and Wickham. Other inland centres include Pannawonica, Tom Price, Newman and Paraburdoo. Most of these centres developed and grew as mining towns and service centres with the beginning of the iron ore mining boom in the 1960s. There are also a number of smaller, inland, longer established mining centres such as Nullagine and Marble Bar, as well as a significant number of Aboriginal, and pastoral communities in the Pilbara study area.

2.2 Aboriginal Groups with Rights and Interests in the Study Area

There are more than a dozen Aboriginal language groups in the Pilbara region. People belonging to the major language groups who have rights and interests in the study area include the Thalandji, Gurama, Innawongga, Bandjima, Indjibarndi, Ngaluma, Kariara and Nyiabali, most of whom now live in the coastal/coastal plain centres of Onslow, Karratha, Roebourne and Port Hedland, as well as in Tom Price, Paraburdoo and other smaller inland communities. All these groups of indigenous peoples have specific interests in and retain connections to particular tracts of land/country and water associated with their traditional language and culture.

Senior Thalandji, Gurama, Innawongga, Bandjima, Indjibarndi, Ngaluma, Kariara, and Nyiabali people are currently native title applicants and claimants (sometimes referred to as Traditional Owners (TOs)) for native title claims within the study area. A number of claimants have also indicated that they have traditional interests in a number of areas of the study region. Some of these TOs spoke directly to the researchers, contributing information and advice relevant to the study.
Map 3. Aboriginal Languages (Tribal Boundaries), Pilbara Region

Map 4. ATSIC Pilbara Region
Earlier Aboriginal heritage research in the study area revealed a considerable amount of information which indicated the significance of different water sources and water-related features in the traditional beliefs and practices of the people of the study area. (See below for further details).

2.3 Economic Development and Water

The study area has been identified by the government as an area of continuing and expanding economic development with several large mining and industrial projects already in existence and more proposed. Consequently, the WRC and other agencies (government and non-government) have indicated that pressure on the water resources in the region will undoubtedly increase. As noted, these water resources already support substantial mining, industrial and pastoral interests as well as a growing tourist industry. In addition, these water resources maintain numerous ecologically significant wetlands, waterways and other water sources.

3. Research Methodology and Process

In order to achieve the aims and objectives of the project, the following research methodology and process was followed by the researchers.

Initial discussions were held with WRC project staff in Perth in order to clarify and, where necessary, modify the aims and objectives of the study in order to achieve what were considered to be more appropriate and realistic outcomes within the time frame and budget of the research.

Preliminary discussions and correspondence took place between the WRC, the consultants and the Pilbara Native Title Service (PNTS), the Native Title Representative Body for the region. Subsequent discussions were held with staff in the ATSIC regional office in South Hedland and senior members of the Aboriginal
communities in Roebourne and South Hedland. In this regard, the agreement discussed under section 1.3 above was of practical assistance.

The initial stages of the research involved identifying, interpreting and reviewing relevant background literature and documentary sources. This desktop literature review was used for a variety of research purposes. The WRC did not require that this study project would involve lengthy periods of fieldwork. For this reason, the researchers primarily utilised literature and documentary sources to provide both anthropological and historical background. In addition, information was gathered from existing materials to assist the researchers in advising the WRC on development of water management guidelines and water licensing recommendations. This stage of the research also included a review of a selection of relevant reports and a checking of the register of Aboriginal Sites held at the Department of Indigenous Affairs (DIA).

A limited research study such as this could only be undertaken with the involvement, assistance and support of Aboriginal people, groups and organisations in the area. Prior to fieldwork, approximately 51 Aboriginal organisations, agencies and community groups were contacted (See Appendix 9.2). This involved writing letters to Pilbara Aboriginal agencies and organisations (obtained from ATSIC’s client list) prior to contacting them directly when in the region. (See Appendix 9.1). As can be seen, this letter explained the nature of the research and included a request for assistance in the study. In addition, another letter was sent to private industry groups and public sector agencies also explaining the nature of the research and requesting any relevant information they could provide regarding existing protocols. (See Appendices 9.3 and 9.4). Replies and responses received from this part of the research were analysed and collated. They are incorporated in the research conclusions and recommendations.

The general fieldwork methodology involved the standard anthropological approach of interviewing small groups of people and individuals. This is how research was undertaken for this project during fieldwork in the study region (as well as in Perth). As research progressed, various lines of enquiry became evident or of particular significance and these were pursued as seemed appropriate.
It was not possible to program specific meetings before the fieldwork commenced. The availability and location of TOs and developing research concerns determined the timing and location of discussions. Fieldwork research was undertaken based primarily in Karratha, South Hedland and Roebourne.

The researchers commenced fieldwork in Karratha. Preliminary discussions and an orientation meeting were held with WRC staff of the Pilbara Regional office. In addition, phone call discussions were held with Karratha based staff of the public sector government agencies contacted previously by letter. Phone calls were made to those private sector industry groups also contacted previously by letter. Where possible, these phone call discussions were followed up by meetings arranged with relevant staff based either in the Pilbara or in Perth.

Phone calls were made to as many as possible of the Aboriginal groups and communities on ATSIC’s Pilbara Region client list. Initial meetings with Aboriginal groups and community members were organised in South Hedland and Roebourne to explain clearly the nature of the study and to ask for feedback from local Aboriginal people on the aims and objectives of the research. As noted, this was made possible with the assistance of the South Hedland Regional Office of ATSIC (See Section 1.3 above). The South Hedland meeting was organised by staff at ATSIC’s office and was held at Bunara Maya in South Hedland. Aboriginal people at the meetings were mainly Ngaluma, Indjibarndi, Gurama and Kariara. They were able to provide the researchers with a variety of cultural information, concerns, experiences and advice about topics and issues relating to water protection and management in their country. Senior Aboriginal TOs and group leaders were asked to advise the anthropologists on all aspects of the study. These senior TOs and group leaders were given the opportunity to articulate as much as they considered appropriate about their traditional cultural values linked to water in the region. This involved the researchers participating in informal consultations and interviews with senior Aboriginal TOs and group leaders to investigate relevant issues.

The researchers also met with linguists and other staff at the Wangka Maya Pilbara Aboriginal Language Centre based in South Hedland to explain the research study and seek their assistance and advice. Several of the Language Centre’s publications
proved useful to the researchers because they included oral histories from many Aboriginal elders belonging to different language groups. These oral histories often included references to stories about places relating to water sources in the region.

After several phone calls, a further meeting was organised by members of various Roebourne organisations. In one Aboriginal community centre location in Roebourne, several groups working on different projects (e.g., the Ngurra Wankamagayi Aboriginal group and the Juluwarlu group) jointly participated in this gathering. The meeting was attended by senior female and male TOs from different language groups now living in the Roebourne region as well as representatives from PNTS. The meeting was very well attended and was both animated and informative for the purposes of the project. Several senior TOs were able to provide relevant material for the researchers. This was, in part, helped by the fact that a member of the WRC Pilbara Regional office was at the time engaged with some of the TOs in writing oral histories relating to the Fortescue River.

The locations where people were consulted depended on their current commitments, movements and their availability at the time of the study. Individuals contacted and consulted included applicants for native title claims which are current in the study area. At the time of writing, there are some 22 native title claims covering almost all of the Pilbara Representative Area, including one in the southeastern part of the region (the Nharnuwangga Wajarri & Ngarlawangga Claim) which has already been determined.

This research methodology and process produced the qualitative criteria used to evaluate water-dependent Aboriginal cultural values (such as those of spiritual, social and economic significance) and enabled the consultants to obtain a broad overview of significant water dependent cultural values. This process also facilitated the development of guidelines on protecting these regional water-related values and “licensing” water supplies.

Following fieldwork, research continued in the form of follow-up interviews, either in person or by phone or email to clarify any outstanding issues. All the data obtained were collated and written up into a draft report which integrated the findings of the
literature review as well as information obtained from consultation with Aboriginal TOs and communities in the region. This draft report was presented to the WRC for distribution to other relevant stakeholders. After receiving feedback, the researchers incorporated any necessary revisions and wrote a final report for approval by Aboriginal groups and communities, the WRC and other stakeholders. A presentation of the findings, conclusions and recommendations was made to WRC staff and other interested stakeholders.

4. The Pilbara: An Anthropological and Historical Overview

In this section of the report, some of the relevant anthropological and historical material which was reviewed in the preliminary stages of the research is outlined and discussed, placing particular emphasis on references to Aboriginal beliefs and practices relating to water, water use and water-related features.

4.1 Archaeological and Historical Data

Clarke and Smith (1982) indicate that the archaeological record provides evidence of recurrent or continual Aboriginal occupation of sites on creek banks in the Pilbara region. Such evidence includes grinding stones and numerous grinding patches on exposed rock for food preparation. Fragments of baler shells which were used to carry water, found in caves, provide evidence that contact existed between inland and coastal groups.

Erosion along drainage channels has led to the formation of many rockshelters and valley side benches which appear to have been favoured site locations by Aboriginal people (op. cit.).

Rivers, creeks, waterholes and other water sources provided the major focus of traditional Aboriginal livelihood in the study area. While some of these pools may not have retained water all year, it is probable that soaks would have extended the number of reliable water sources for Aboriginal people in pre-contact times. (op. cit.).
John Withnell, who was in contact with Aboriginal people in the region from the 1860s, was of the view that Aboriginal people had names for every hill, river and its tributaries (1901:21). During fieldwork, Aboriginal informants gave the researchers the indigenous name for the Harding River as the Ngurin. The Fortescue River is known by local Aboriginal people as Yarnda-Nyirra-na and the Robe River as the Jaji-urra. Early reports generally describe the indigenous people of the Pilbara as river people whose lives were centred on the large drainage systems that dissect the region (See section 2.1 above).

Aboriginal people in the Pilbara region utilised water sources for a variety of needs, extending beyond the basic requirement for drinking water. They also procured foods which were water dependent such as birds and other fauna and flora.

John Withnell (mentioned above), a pastoralist who with his wife, Emma, had taken up land at Mt Welcome near Roebourne in 1863 wrote:

...the natives generally live in families at various intervals of a few miles down the course of each river and its creeks; while some journey down, others go up to the next waters...(1901: 8)

He further stated:

...[they] have no permanent place of habitation, and only stay a few days at each waterhole. They, however, do not go far off the rivers, and by means of this frequent moving about, they get game more readily. They have no shelter from the storms, except that found among the hills or caves. (op. cit. 16-17)

In mentioning the names of a few of the tribes of the North West district, Withnell specifically identified some by their river location. For instance, he noted that the Kyreara inhabited the Yule River area, the Namel were beside the Shaw River and the Pulgoe and Pedong were to be found at the head of the DeGrey, Oakover and Fortescue Rivers (op. cit. 32).

As noted earlier, the Pilbara region has witnessed considerable social, cultural and economic changes in both historic and more recent times. From the late 1840s to the
1860s, various expeditions into the region were organised by settlers in order to assess the potential of the country for pastoralism and other economic ventures. For example, in 1861, the Gregory brothers led an expedition into the area, giving European names to the Ashburton, Sherlock, Shaw, Oakover and Yule Rivers (Gregory & Gregory 1884). The Fortescue and De Grey Rivers had been given European names on earlier expeditions. The published journals of the Gregory brothers are significant to this study for the importance they place on locating water sources in the Pilbara, the descriptions they give of these, as well as water-related Aboriginal customs.

They noted for instance that the river they named the Ashburton was obviously seasonal. It was described as:

… a very fine river, containing permanent reaches of fresh water, lined with canes...(It was now barely running, but it was evident that it was very large (1884:67).

While in the Chichester Downs area, the Gregory brothers camped at various water-holes, noting that several pools were supplied by springs coming from under the superstratum of sandstone. The numerous channels of the Fortescue River in the area were characterised by extensive pooling (op. cit. 69-70). At the Sherlock River, they camped by a shallow pool of brackish water and noted:

Several natives were found here, employed capturing partridges by means of nets constructed out of the leaf of the triodia neatly twisted and netted... the mesh varying from one to five inches.... [T]hey induced the birds to enter the nets [by placing] ragged bushes all around the small pools... The birds first alight on the margin of the pool, but after drinking, do not take flight at once, but run up... into the net, which is then drawn in by the hunter lying in wait under a few bushes. In this way they must capture a large amount of game, judging by the quantity of feathers around some of the waterholes (op. cit. 71).

Along the coast around Roebourne, it was noted that Aboriginal people hand-paddled logs of wood, shaped like canoes, through the mangroves. Around the delta of the De Grey River, the expeditioners noticed many tracks of Aboriginal people around the salt water creeks and mangroves (op. cit. 87). They located numerous springs of clear water throughout the area they explored. Whenever they encountered the indigenous...
inhabitants, it was invariably beside a waterhole or a river. They recorded that at the junction of the Oakover and De Grey Rivers they:

...came upon a camp of natives who ... quickly dispersed.... The river here contains a fine reach of deep water, upon which was a large quantity of whistling ducks and other water fowl... Lower down [we] caught a quantity of fine fish (op. cit. 83-84)

And again, they encountered:

...a large party of natives encamped in a dry channel of the river...their supper... consisted of fish, rats, beans, grass-seed cakes, and a beverage made with some oily seed pounded... (op. cit. 84).

Down the Sherlock River, they met a party of about a dozen Aboriginal people near some large fish pools … of which they gave us the native names’ (op. cit. 90).

Withnell provides evidence of the detailed knowledge possessed by Aboriginal people in utilising water sources for food procurement. He noted that the men were experts in snaring birds and wild fowl. They placed a light frame of sticks over a water-hole. Then they fastened a net made from the reeds growing by the water’s edge over the frame, leaving an opening for the bird to enter. As soon as a bird entered, the hunters rushed from hiding places to capture the bird (op. cit. 19). Aboriginal men from the Shaw River used a similar technique to catch kangaroos in small water-holes (op. cit. 20). Fishing nets were made from coarse spinifex which was soaked in water, dried in the sun, then soaked again and beaten before being twisted into twine (op. cit. 21).

4.2 Pastoralism, Pearling and Early Mining

The Gregory brothers reported favourably on the pastoral potential of the area. The post-contact Aboriginal-European history of the Pilbara region thus began with the expansion of the pastoral industry north of the Tropic of Capricorn in the early 1860s. The De Grey and Harding River districts were settled in 1863 and during the same period, pearling operations were established at Cossack and Shark Bay. From 1868, settlement was established from Nickol Bay to the De Grey River area. (Battye 1915).
These developments attracted both Europeans and Asians to the area. Settlement of the sparsely vegetated coastal plain gradually proceeded northwards during the 1870s, until by about 1885 all the habitable areas were occupied (Biskup 1973: 16ff). Indigenous people inhabiting Crown lands north of the Murchison River were not officially dispossessed of their lands or removed to reserves. Thus Aboriginal people in the Pilbara region were able to maintain links and connection with traditional country for considerably longer than Aboriginal people further south in the state.

Another unique impact on Aboriginal people in the Pilbara region related to the labour situation. Convicts were banned from being employed north of the Murchison River. For that reason, pastoralists relied almost entirely on Aboriginal labour. This situation led to a rapid increase in the numbers of Aboriginal employees on pastoral stations during the 1860s and 1870s, often in what was their traditional country.

Mining began in 1872 when rich copper-ore deposits were found at Whim Creek. Soon after, other minerals were found at Nullagine; alluvial gold in 1878 and alluvial tin in 1892. Gold was also found in 1889 in the Ashburton region. This sparked a minor gold rush during which Marble Bar became the centre of the Pilbara goldfields. These discoveries brought increasing numbers of non-Aboriginal prospectors and miners into the region.

4.3 Yandying

The rapid growth in the European population in the region following the discovery of alluvial tin in the Pilbara around Marble Bar and at Nullagine in 1892 was however short-lived and was reduced following a slump in tin prices and a slowing of mining activity. When the price of tin rose again in 1899, miners returned. Local Aboriginal people participated in the early mining process in the region. This period saw the beginning of the process of extracting gold and tin by a method known as 'yandying' (Wilson 1979: 153). Considerable numbers of Aboriginal people became involved at this time in working the alluvial gold and tin deposits. Biskup (1973: 35) notes that
Daisy Bates passed through the area in 1900 and saw many Aboriginal people speaking out for gold or working the alluvial tin deposits.² Earnings were good for the time and Biskup (ibid) goes on to note that in 1904, police counted about 70 Aboriginal people ‘yandying’ on the Shaw field and two years later this number had more than doubled, with equivalent numbers of Aboriginal people yandying at Moolyella.

Landy records a number of references to Aboriginal women yandying for tin. In one brief account of ‘Mummy Yandying Tin’ she states:

*My mudda was handlin’ tin. ...My mudda done dat, do dat for us. Dat was da work. Right! When we getta one bag op tin... mummy, dad, took the tin down the store sellin’* (2002: 17).

Thus at the beginning of the century, alluvial mining provided an alternative form of employment to working in the pastoral industry for those Aboriginal people who were either unable to obtain such work, or who were dissatisfied with conditions on pastoral stations. The relative economic independence which some Pilbara Aboriginal people managed to retain through their ability to yandy for alluvial minerals indicates the importance of a suitable water source to enable the yandying process to be undertaken. Mining and pearl-shell collection along the coast, provided Aboriginal people with an alternative means of income from both pastoralism and traditional hunting and gathering.

### 4.4 Larger scale changes

The 30 year period between 1869 and 1899 brought significant change for Aboriginal people living in this region. The incursion of pastoralists and the leasing of land by the State Government for pastoral purposes caused an influx of sheep and cattle to the area, damaging the environment to such an extent that many traditional Aboriginal food sources were no longer available. Water sources, once freely available to Aboriginal people, were now used for the purpose of watering stock and often became too contaminated for Aboriginal people to use for drinking water.
Aboriginal people were further impacted upon by the introduction of European diseases, to which they had no immunity. Aboriginal populations in those areas most densely settled by Europeans were most affected.

During the 1920s, many Aboriginal people continued to live on stations that had been established on land they considered to be their traditional country and this, together with their extensive kin networks also living on the stations, helped them to retain their sense of identity with particular places.

It was not until the 1950s that some Aboriginal people living on the Hamersley plateau moved to coastal towns such as Onslow and Roebourne. The reasons for this are not entirely clear, although it is possible that changes within the pastoral industry, such as the use of a paddock system rather than open range where the cattle did not need to be constantly watched, meant that a large work-force was no longer required. This was the most likely reason in the West Pilbara for an increase in the movement of Aboriginal workers, their families and dependents off the stations to the coastal Pilbara towns.

In the East Pilbara, the movement of many Aboriginal people off stations came about as a result of a strike in 1946 for better pay and conditions. Those people involved moved to Marble Bar and Nullagine and later to Port Hedland. The major demographic consequences were that Aborigines whose traditional lands and water sources were in the East Pilbara or in the Great Sandy Desert moved generally to the north and west although they actively sought to maintain their interest in their traditional lands and water places through maintaining religious practices.
The movement of Aboriginal people into towns increased after the introduction of award wages in 1968. Whereas Aboriginal people had played a significant part in the development of the pastoral industry in the Pilbara, such was not the case in the large scale mining industry which began nearly a century later. Small scale Aboriginal mining activities (yandying) could not compete with large mining companies which had begun pegging exploration and mineral leases over large areas of Pilbara country. The discovery of rich deposits of iron ore in the 1950s and the establishment of industry and infrastructure to mine them rapidly increased the transformation of the economy and demographics of the Pilbara and heavily impacted upon Aboriginal culture and land and water sources. During this period, large-scale mining was established at the Mount Newman, Hamersley, Goldsworthy and Cliffs Robe River leases. This included the mining of Mount Whaleback, which is culturally significant to Aboriginal people. In this respect, much of the current mining development in the Pilbara occurred before the enactment of Aboriginal Heritage legislation in 1972.

Following the enactment of the *Aboriginal Heritage Act 1972*, Aboriginal groups moved to protect sites of significance within a number of areas in the Pilbara and elsewhere. With the declaration of the *Native Title Act (1993)*, Aboriginal groups...
lodged a series of native title claims covering a substantial area of the Pilbara. The first of these claims is currently before the Federal Court. In this context, a number of major companies sought to formalise their relationships with Aboriginal people. This, in part, led to the creation of protocols designed to protect Aboriginal interests encompassed by the *Aboriginal Heritage Act 1972* within the companies' tenements.

Anthropological material of particular and relatively recent relevance to this report is mostly to be found in site reports written in the 1970s and subsequently after the passing of the state’s *Aboriginal Heritage Act (1972)*.

As a result of the fact that the WRC does not require site specific information for this study, the authors of this report will discuss this topic in general terms, only providing information where it is already on the public record.

**Map 6. Pilbara Region, Registered Aboriginal Sites (as at November 2003) and Mining Tenements**
An article which describes Aboriginal sites along the Fortescue River was published by Palmer in 1977 (Appendix 9.6). In this article, he records myths, stories, rituals and significant sites along the Fortescue which show that the river is a continuing ‘site complex’ from above Millstream to the flat coastal plain. He stresses that individual sites, natural features, cannot be discussed in isolation because they form part of a unified complex of narrative and ritual practice based in Aboriginal tradition (1977: 4-8).

Most of the unpublished site or heritage reports found in the DIA register note the significance of numerous Aboriginal sites along the water courses in the Pilbara region (Palmer et. al. 1978). Authors of these reports generally noted that the densest concentrations of Aboriginal living areas and sites associated with Dreamtime, mythic ancestors were predictably to be found in the vicinity of rivers and creeks, pools and soaks. Areas where water remained during the dry season would naturally have been more attractive for the possibility of exploiting the associated plant and animal resources available.

More recent reports include references to traditional Ngarlawongga and Banjima songs relating the origin myths of the black-headed python which is believed to have emerged from Indabiddy Creek and the black river goanna which is believed to have been created in the Angelo River (eg O’Connor 1990: 35ff).

Nama holes occur in rock outcrops where there are reliable water supplies and are invariably associated with mythological stories and Dreamtime beings. Aboriginal informants from the Whim Creek area indicated that they objected to any disturbance to these namma holes.

A hill near Roebourne is believed by members of the Ngarluma community to be of significance because it contains the freshwater turtle (ngartawirri) story. The freshwater turtle is believed to have dispersed from this water source to other water places in the region.
In 2001, Green and McGrath noted in a site report that TOs expressed concerns about proposed disturbances to water holes. The authors noted that these:

... concerns stem from a sophisticated, culturally constructed understanding of the mechanisms of the local ecosystem, and an associated sense of responsibility towards its maintenance. (Green and McGrath 2001: 14).

The Ngarla, a coastal/riverine people in the De Grey River area, according to one author (Patterson 1984), objected to the Fisheries Department closing-off the coast for net-fishing between the Yule and De Grey Rivers as fishing was one of the Ngarla’s traditional means of obtaining a main food source.

5. Aboriginal Cultural, Social and Economic Values of Water Sources

“Everything is important and water is the main thing.”

As already noted, traditional Aboriginal beliefs assert that the entire landscape and all of its natural features, as well as the indigenous people themselves, were created by Dreamings during the Dreamtime. According to these beliefs, such phenomena as rivers, waterholes, hills, flora and fauna were created long ago by these Dreamtime spirits and all these features and living things continue to retain an essence of spirituality from this period into the present. Dreamtime myths and stories provide the basis for Aboriginal law which in turn places obligations and responsibilities upon living Aboriginal people to maintain and ‘look after’ the land and all that it contains.

Aboriginal people in the Pilbara region of Western Australia have strongly articulated cultural beliefs about water sources in their country based on their traditional religion. This religion, or cultural belief system, stems from the Dreamtime when it is believed that the landscape and all geographical features within it, including surface and groundwater sources as well as all species of flora and fauna, were created by Dreamtime beings. All these features are important to Aboriginal people in a variety of cultural, social and economic ways.
These Dreamtime beings also created religious practices, rituals and laws to accompany these beliefs and to ensure the continuance of the land and water and all that they contained for the benefit of the living descendants of the Dreamtime beings. Aboriginal people traditionally performed what are regarded as the necessary religious rituals taught to them by members of previous generations. These rituals ensured the renewal and reproduction of the various landscape features, including water, species of flora and fauna on which Aboriginal people’s survival depended. Aboriginal people thus see themselves as having a duty or obligation which was established in the Dreamtime to look after the country and its features through the performance of appropriate rituals at appropriate times for different places and species. They still regard themselves as part of this all-encompassing sacred landscape.

As indicated, it is traditionally believed that the Dreamtime beings left part of their mythical essence in all the features and flora and fauna which they created. As far as water sources in the Pilbara region are concerned, this mythical essence is believed to remain in all water sources, rivers, creeks, soaks, pools and springs and takes the form of a water snake or water serpent.

An example of traditional Aboriginal creation beliefs is provided by two senior Innawongga women, Joyce Injie and Mabel Tommy, who told and recorded the story of the snake that made the country around Millstream:-

JOYCE: “Nothing was there. Two little... I don’t know what sorta bird is. Them two went kill them, ‘cause they was in the bush. So they kill them, make a fire an’ eat it up. And after a while, they can hear all the birds comin’ now. Sit down near them two now, they hittin’ them an’ chuck them in the fire. They want some more meat now.

Same thing happen in everybody’s camp now. Next minute, see that big wind comin’, what that wirningarla [whirlwind], that a one, oh, everywhere now all the people in the river now, don’t know what to do. Every camp, can’t do nothing... That thing comin’ along, makin’ that big river then. All that people got killed there. That thing come out there. Tha’s what that name, nhangarr; snake came out. That’s was used to be dangers, that one. An’ he been tell me lotta story, my grandfather. Ol’ time story.”

MABEL: Tha’s a that story, as far as we know tha’s Fortescue, where that water snake that jumped over the seawater, that’s the time they made that
river. When you go on the plane, if you look from the plane how the river jus’ look like a snake. Like that right up to Millstream. When that snake comin’, well he smell the bird where they cookin’ them. He don’t like anybody touch them, because the bird belong to the water snake. All our mothers, an’ you know, everybody, and our grandfathers, they never used to go next them two,’ cause they still used to frighten’ in that day.

JOYCE: Yeah, those two birds. I dunno what, but thassa one started.

MABEL: And when they comin’, that water snake comin’, he got down an’ he travel again up. They get down, an’ he can smell it, an’ where this place they call ‘em Bulunybalunha, an’ two man was killing an emu. They cookin’ ‘em emu; they cut the guts inside too. Tha’s why they call ‘em Ngurrumyunjun. Guts an’ all. Three man, they sittin’ down, waitin’, an’, they seen this big snake come out of the ground, like that. No more; they jus’ grab the emu. But that guts part was still in then ashes, an’ they took off.

An’ they leave ‘em. That watersnake, he got up, an’ he went to eat that. Tha’s why they call that Bulumunyunj. Millstream Station, jus’ straight down thata way. And big mob was in that where that place they call Thunggawarnanyungu [Millstream], an’ big mob people was there. When he got up there, he jus’ turn around an’ start big whirlwind, an’ people can’t get out. You can still still see how he trail... An’ he turn aroun’ an’ he’s got his head back that away... water, river comin’, it justs drops down like that... Yeah, an’ when you in the plane, you see the river from other side Mardi, the river jus’ goin’ like that, that way that you believe, you know, ‘cause they can see the mark, that he made. Jus’ like a snake (Costenoble: nd: 24-6).

Another version of this myth contained in the documentary film ‘Exile and the Kingdom’ (Australian Film Commission 1993) recounts:

Long ago Yarnda-Nyirra-na [Fortescue] was dry, and Barrimindi – the great water snake – came from the sea chasing after two boys who broke the Law. He travelled under the ground and at each place where he burst out of the dry river to smell where those two Law breakers were, Barrimindi made living water (deep water pools).

He finally got up at Nunganunna (Deep Reach Pool) and lifted the Law breakers up in the sky in a willy willy. They were hit with flying sticks, breaking their arms so they were useless. Barrimindi got ready then, his thumbu (anus) opened wide and red to the sky and when they fell, he swallowed them through his thumbu and drowned the whole tribe in the biggest flood of water. Today Barrimindi rests deep down in the pool he made at Nunganunna. He is the protector of water places all along Yarnda-Nyiirma-na right up to Nunganunna. We don’t think Barrimindi is bad, we respect him because he’s a giver of water, of life. He only gets wild if the laws for water places are broken (op. cit. 1).
The creation spirits are called Maarga... In the early morning the mist over the water is smoke from their breakfast fires. In other places they call this the 'dreaming', but here we call it Njurra-njung-gamu – 'when the world was soft'. There are places all along the river that show the Maarga’s work. The most special is a ring that was worn into the soft world at a place called Kaniyanna (on a part of the river called Bilin-Bilin) by the Maarga women as they danced around the men who sang the very first Law ceremony. Later the world became hard, leaving the path of their dance in the river bedrock for all time. We call our Law Bidara, and this ring Bundut – the very first Law ground (op. cit. 2).

A number of other recently published oral histories of Pilbara Aboriginal people indicate the significance of the cultural, social and economic context and significance of different water sources.

For example, creeks and rivers were usually boundaries of tribal territories. This fact has been noted in many site reports. For example, Salt Creek is the eastern boundary of Ngarluma country. Peter Stevens and others provide a more detailed account of this phenomenon:

Peter Stevens: My father and uncles taught me about our boundaries, where they meet up, and where the other tribes come in. Minthi Springs that is a boundary for the Punjima and Kurrama tribes. Pelican, or wirlimarra in my language, is a creek near Camp Anderson. That is the boundary of the Yindjibarndi and Kurrama and another of their law grounds. Having law grounds on tribal boundaries enables peoples of both tribes to meet together without crossing other people’s lands. For this reason there were always some law grounds on their boundaries. At Marrina Spring, near Camp Anderson, there was another law ground. Yindjibarndi and Kurrama met there for the law...

You follow all of the ranges and hills, they’re often the boundaries... You follow the river it’s the same, a boundary. If we go to Coppin Pool (in the Karijini National Park) we call it Dharlibiri, that’s the river that runs into the pool. But as soon as you get to Coppin Pool the name of the river changes, it is now called the Turee. The different tribes have different names for their stretch of water. Like the one that runs through Rocklea they call it Yandiwogka. When you get to Carbery’s camp they change the name to Burlinkarnu. It’s the Ashburton River then. The Ashburton coming down from Mount Vernon to Turee Creek they call it Kabawarra. When it comes to Sport’s Creek they stop and call it Minderu. The name always changes when the river reaches a new boundary. There are a lot of names in that country, all of the hills, springs, rock holes and waterholes have names. They are important to our people, and have been for a long time.
At Bimbanha Springs, between the pipeline between Tom Price and Marandoo, you can see that the water is just about finished. There have been a lot of cattle there. It is now dirty when once it was always running. It has stopped running now. This is on Hamersley Station. And Bimbanha never used to go dry, that was the old people’s main camp. Now it’s dry, finished. There’s lots of carvings there, too. It is an important place. You can see where they used to grind them seeds all over the place.

Those carvings can tell you many stories. They can tell you what food is in that area, and what you can eat in that land. The same things happened down not far from the Channar mine near Paraburdoo. The mud springs there was a permanent source of water. It is now finished, all dry. There was also a night spring there which would run every night; it’s finished, too.

These two springs have gone dry since the Channar mine started operations. The mining is sucking away all of the waters from these natural springs. The springs were never properly protected from the cattle and this made the springs dirty. But the cattle will be finished now it’s dry, because there is no water (Olive 1997: 75-7).

Dulcie Congdon: My country is the other side of Minthacoogina (a spring in the Karijini National Park), out near Paraburdoo. Bellary Creek is part of Yinhawangka country… Some of the medicines I remember are jilaarn, that’s a green tree, a medicine bush in the water country. You boil it and use the water to wash the skin to heal the sores (op. cit.: 23).

Nellie Jones: We used to go out in the bush at Christmas time and stop down by the creek at Ashburton Downs for a holiday. There we’d have a corroboree. …About this Wakuthuni block, I think the Shire should come and bulldoze the spinifex, and put up a couple of houses and water tank on the hill. We’ve got a bore and small tank that Karijini has helped us with, but it’s not big enough for the mob (op. cit.: 30-1).

Judy July: I was born at July Springs on Duck Creek Station and called Judy July, whitefella name(op. cit.: 32).

Henry Long: I was born on the top end of the Shaw River near Hillside Station, not far from Marble Bar… We used to stop around the Shaw River, all of us, that’s our country (op. cit.: 37-38).

Mabel Tommy: The springs down from Murimamba had beautiful water, down in the silver grass place. That country was really rich. In those days my grandmother and old uncle used to take me along the hill to show where the waterholes were. We came down the range to the water at the end of the top creek, Kardajirri, or Duck Creek (op. cit.: 54).
Joyce Injie: *I was born in the bush not too far from Hamersley Station, Marlumarlunha Springs. It was clean water. Mabel (Tommy) was born not far from there, the same creek we call Jirridinku.*

Alice Smith: *And when we finished work we all used to go out bush. Sometimes we’d go to Juna Downs Station and all around Turee Creek... Sometimes we’d go from the station down this other river, Turner River, and we’d have our holidays there. Sometimes we’d go right up past Marandoo to that palm spring, Minthacoogina. Really Yihawangka country is Turee Creek area up to the other side of Coppin Pool (op. cit.: 85).*

Female informants noted that babies used to be born beside rivers because of the availability of water for washing and cleaning up. Particular places were favoured and were recognised as women’s sites where other women’s business was also able to be carried out. There are still well recognised gender restrictions relating to different water holes with some for men only and some for women only.

Contemporary informants also stated that pools in respective traditional countries are special particularly for older people who spent most of their lives there and also for those who have moved out from town settlements to re-establish communities in the bush.

### 6. Water Use Issues

Since the development and expansion of the mining industry in the Pilbara, the construction of mining towns and the subsequent expansion of the regional population, availability of water has become an issue of increasing concern to both providers and users. As Turner (1990: 151) indicates, agreements between mining companies and the state government were integral to the rapid industrialisation of the Pilbara. In the early 1960s, these included an agreement for the state’s Public Works Department (PWD) to provide water facilities. Turner (*ibid*) goes on to note that the government created the West Pilbara Water Supply (WPWS) to service the new mining towns of Dampier, Cape Lambert, Karratha and Wickham.

#### 6.1 Dams

“We never gave permission to the government or water agencies to build dams and pipe lines.”
In the late 1960s, a water supply was developed based on the Millstream aquifer, an underground source approximately 130 km south-east of Dampier in the Fortescue River Basin (op. cit. 152). By the early 1970s, because of problems of replenishment rates and environmental considerations, the PWD proposed that the WPWS be supplemented by the combined use of both surface and underground water. It was proposed that a dam be built on the Fortescue River in Indjibarndi country at either Gregory or Dogger Gorge.

In mid-1975, in response to this proposal, a Pilbara Bush Meeting was convened at one of the proposed Fortescue River dam locations. Aboriginal people from throughout the Pilbara region in attendance at the meeting strongly opposed the building of a dam which would lead to the destruction or inundation of culturally significant sites. PWD engineers were informed that the whole of the Fortescue River was significant to the Aboriginal people whose country it ran through and that it formed part of their ritual and law. Those who attended the meeting told the PWD engineers that for this reason no dams should be built on the Fortescue River.

Palmer’s 1977 article, based on anthropological work undertaken a few months after the Bush Meeting, was the first to involve consultation with relevant Aboriginal people about the issue. Palmer, while working for the state government’s Aboriginal Sites Branch of the Department of Aboriginal Affairs, investigated six possible dam locations including the two mentioned on the Fortescue River, as well as one at Cooya Pooya on the Harding River.

Acknowledging Aboriginal opposition to any dams on the Fortescue River as articulated by Palmer, as well as objections based on environmental and aesthetic concerns voiced by many non-Aboriginal people, the PWD abandoned its proposals in late 1976.

In 1981, the PWD eventually decided to build a dam at Cooya Pooya on the Harding River, despite opposition by environmental lobby groups and Palmer’s explicit recommendation that:-
If a dam is to be built at Cooya Pooya, additional research would be required to safeguard the interests of an as yet politically voiceless minority, and some very real negotiations would have to take place with Aboriginal people (Palmer et al. 1978: 13).

In August 1982, the choice of Cooya Pooya as the site for a dam on the Harding River was endorsed by the government. Despite the concerns of local Aboriginal elders and rumours circulating in Roebourne about PWD activities at Cooya Pooya, no adequate consultation took place with traditional owners about significant anthropological sites in the area (Turner op. cit. 156). Some salvage archaeology was undertaken and construction of the dam began in early 1983. In his report for the Aboriginal Land Inquiry, Commissioner Paul Seaman stated that:

Aboriginal people at Roebourne... say that the West Pilbara Water Supply investigation was incompetently conducted by the Sites Department in that there was an over-concentration of energy and resources on archaeological considerations and no proper investigation of the interests of living Aboriginal people in sites of traditional significance... (1984: 146-7).

It is the case that some consultation was undertaken with the Pilbara Bush Meeting at the regional level and with the Ieramugadu Group Inc. at the local level. According to Turner (op. cit.) however, this consultation was ineffective for a number of reasons which she goes into in detail. Even though there was initial opposition to the building of a dam on the Harding River by Indjibarndi people whose country would be damaged, factional differences of opinion regarding political priorities (among other things), meant that, in the end, the construction of the dam on the Harding River proceeded unopposed.

Subsequent efforts were directed at obtaining compensation and continued access to the dam’s catchment area for hunting, gathering and fishing (Turner op. cit.: 177).

In a 1983 submission to the Seaman Land Inquiry, Roebourne Aboriginal people expressed concern for the protection of the sacred Fortescue River and grief at the destruction of sites on the Harding River:

Our Law derives from the Millstream area and stretches throughout the Pilbara and into parts of the Kimberley. Clearly this very important area
must be protected… The Aboriginal Heritage Act must be made stronger and more effective so that events such as the Harding River Dam will not occur again (Edmunds, 1989: 72).

At the time of the hearings of the Aboriginal Land Inquiry in Roebourne in June 1984, the dam construction was well advanced. By this time, cross-factional divisions in the Aboriginal community had become far less significant and a more united voice was being articulated about issues of concern to Aboriginal people in the area. During the hearings of the Seaman Inquiry in Roebourne in 1984, opposition to the ongoing construction of the dam was repeated. Turner (op. cit.: 181-82) notes that elders spoke of their inability to uphold their traditional responsibilities of ‘looking after country’ and some quietly expressed the view that one senior man had recently died because of his perceived failure to protect his country and its associated law. Some people referred to the blatant disregard of Aboriginal opinion by developers, whether they were the government or mining companies.

We don’t like the Government putting the pipeline like a road across the land… our country is being destroyed and we get nothing out of it (Seaman 1984: 199).

Local Aboriginal activists, though the Aboriginal Legal Service of WA (ALS) proceeded to seek an injunction under s.9 of the newly proclaimed Aboriginal and Torres Strait Islanders (Interim) Protection Act 1984 (Commonwealth) to stop further dam construction. This move was more to do with the aim of obtaining a speedy compensation offer from the state than with the hope of preventing the dam’s construction, which by this time was nearly three-quarters complete. The claim for compensation was based upon the loss of a considerable amount of land, the destruction of Aboriginal sites and restrictions on access for traditional activities over a large portion of Indjibarndi land (Turner op. cit. 183).

While this episode represented the first time Aboriginal people in the Pilbara had registered their objections to loss of their land and destruction of sites of significance, they only received modest compensation and their application under the Federal legislation was rejected (Turner ibid.).
The impact of the development of the Harding River from the site of the dam to the coast is still a difficult issue for the local Aboriginal to come to terms with. People expressed concerns to the authors about the change of water flows and the lack of opportunities to exploit traditional resources below the dam site. According to informants, this area of the lower Harding River used to be the best country for hunting and gathering traditional tucker and bush food, but Aboriginal people don’t go there any more because it’s dying. People are still bitter about the construction and existence of the Harding Dam. They said that their elders tried to have their say at the time, but the government took no notice of their wishes and that there was no meaningful consultation. Informants told the researchers that the lake created by Harding Dam submerged many sacred sites. They see the country is all dying now because there is no water even in the wet season. There is just dead vegetation and the country is dry and barren. There used to be a special tree where rituals were carried out to ensure the start of the rains but this is now under the lake and they can’t do that any more. Because of the loss of important water-related sites, they cannot perform the rituals necessary for looking after and caring for the country. For this reason, informants believe that the country is dying.

In their 1996 review and plan for the water resources of the Pilbara region, the WRC noted that the:

[d]evelopment of surface water sources is likely to have a significant impact on Aboriginal sites. This is as a result of the inherent natural features associated with potential dam sites (1996: 51).

The WRC continued by stating that any further dam construction in the Pilbara would require extensive consultation and research. In addition, account would need to be taken of native title claims in the area (ibid.).

At the time this review was published, some 43 Aboriginal communities in the region were supplied with drinking quality water by the Water Corporation (WC), funding for this work being provided by ATSIC.

6.2 Water Licensing
Under the *Rights In Water and Irrigation Act 1914*, the WRC is required to issue licences to water users who take surface water in proclaimed, prescribed areas and irrigation districts. The WRC is also required to issue licences for users of artesian and underground water in a proclaimed groundwater area.

The intention of this licensing requirement of the Act is to enable the WRC to protect the water supplies of water users and to monitor and regulate the quantities of water being consumed. No fee is involved in the application for such a licence. The WRC uses the licensing system as a way of managing water use, monitoring water quality and regulating its use for all users as well as the environment. Being “on the WRC system”, by having obtained a notional free licence, enables water users to have their water quality freely monitored on a regular basis to check salinity and contamination levels and to safeguard their supply of water from competition from other water users.

In Aboriginal communities, however, this method of licensing has not always been seen as appropriate nor accepted.

The reasons for applying for and the benefits to be derived from obtaining a water users’ licence are not clear to many Aboriginal people in the Pilbara region. The traditional rights and interests of Aboriginal people in their water sources are in conflict with the implication that through licensing, the WRC owns the water. Many Aboriginal communities have not bothered to apply for water licences because they regard water as one of their own (‘free’) resources. In addition, the idea of applying for a licence carries, for many Aboriginal people, historical connotations of Native Welfare days when Aboriginal people had to apply for a licence or permit (often called a ‘dog-licence’) to drink in public places or gain other citizenship rights.

There has been some discussion in the WRC about a more appropriate way of licensing Aboriginal communities’ water use. From the perspective of the WRC, however, licensing is a means by which to protect water users from competing allocation demands and secondarily to influence water use efficiency and water quality management.
For the above reasons, the WRC realises that it is likely to be counter-productive to require its usual licensing approach in Aboriginal communities. The WRC has already recognised that it may be possible to achieve its objectives of regulating and monitoring water supplies relating to issuing water licences when dealing with Aboriginal communities. It has considered a number of alternatives to what it sees as the current ad hoc system by which some communities are licensed and others not.

For example, it has considered:

- waiving the need to license those water users who take low quantities of water by issuing a ‘dummy licence’ for internal administrative purposes only
- developing some form of MOU or shared management agreement with Aboriginal communities in place of a licence. This could be part of the allocation planning process.
- continuing to involve Aboriginal representatives in local and sub-regional allocation planning.
- promoting and supporting a “Remote Waterwatch” programme aimed at addressing some water quality management and water use efficiency objectives.

6.3 Access

There is a general issue of access to rivers and other water locations for Aboriginal people in the Pilbara region as a significant amount of river-side land is not open to the public because of the existence of different types of leases (e.g. CALM, pastoral, mining and exploration leases). Access to rivers and other water places is also difficult in many locations because of the construction of railway lines and water pipe lines.

A particular example of difficulty of access to water for Aboriginal people is at Millstream, which is in Injibandi country. The WC takes water from Millstream for Karratha’s water supply. CALM has restricted access to areas adjacent to this stretch
of water. This restriction effectively prevents Aboriginal people camping and visiting places of traditional significance to them.

6.4 Water Pollution
Informants expressed anxiety about bores used for drinking water being located too close to evaporating ponds and other developments associated with mining and industrial sites. They were worried that drinking water from bores was at risk of contamination by industrial waste, toxins, chemicals and excessive salt. The WRC, for example, noted that there has been “significant mining” adjacent to the Robe River near Ngaloooin Pool (WRC 1996 Vol 1: 15).

Informants were also concerned that water being pumped out of the aquifer to supply the mining towns is killing the country. They stated that the main water supply from Millstream “tastes funny. It doesn’t taste like it did before”. They thought chemicals might be responsible for this problem with the drinking water.

Informants also pointed out that after the first rains, the Shaw River is full of animal excrement which then flows into the de Grey River and then out to sea. In their view, cattle should be kept away from rivers by having them fenced off. Furthermore, other animals including sheep, goats and camels have polluted many springs in the Pilbara in the same way.

Aboriginal informants suggested that because industry, including mining, is a big water user it should help fund the cost of carting water into remote Aboriginal communities where bores are no longer useable.

6.5 Erosion
According to an employee of CALM in Karratha, erosion was extensive at Crossing Pool in about 1996 after a big flood. The base of the Pool was eroded by about 2 metres and it is not possible to re-establish it. There has also been gullying of the river at Crossing Pool near the homestead. The erosion and gullying are now, according to the same CALM employee, becoming environmentally disastrous, with pools being washed away because of flooding, which is exacerbated by the old road. There is erosion at all the pools along the river. Deep Reach & Palm Pool are likely
to be eroded in the same way. It appears that this erosion is caused by the overgrazing of river banks.

Aboriginal beliefs about the existence of water snakes in water sources was confirmed during fieldwork by an officer from CALM who had taken a Senior TO to Crossing Pool on the Fortescue River where flooding had created the major erosion problems noted above. The CALM officer was told that the flooding and erosion resulted from “...the snake shaking its tail”.

6.6 WRC Reports

The WRC’s own recent reports relating to water source protection, allocation and planning (1996, 1999 (a), 1999(b), 1999(c), 1999(d), 2000) in the Pilbara region provide little discussion about Aboriginal cultural values relating to water or the need to protect and manage any Aboriginal water-related places of significance. All of these reports, however, indicate significant degrees of water problems in different areas of the Pilbara region, such as contamination and water quality problems from sources such as rubbish tips, leach pads used for mineral processing, fuel storage, diesel spillage from rail trains and other sources, stray cattle and livestock grazing, inappropriate land uses as well as the use of herbicides around bore compounds.

Numerous stakeholders in the region were consulted by the WRC in the preparation of these reports, including the WC, the Ministry for Planning (now the Department for Planning and Infrastructure), EPA, DOLA, CALM, local shires, the Pastoralists and Graziers Association as well as the Conservation Council. No Aboriginal agencies or organisations in the region appear to have been consulted prior to the present study.

Only the 1996 Report, in considering potential future dam locations, referred to the possible impact on Aboriginal sites on the Robe, Fortescue, Sherlock and Maitland Rivers under a heading of ‘Cultural Values’ in a section on Environmental/Social Issues (pp12-13). The WRC’s 1999(d) report on the Millstream Water Reserve contained two recommendations which referred to Aboriginal communities:
A positive outcome of the first of these recommendations has been the 10 year lease agreement between the WRC, the WC and the Ngurawaana Group (Aboriginal Corporation) (NG) of 2001. The lease area is adjacent to the Millstream Chichester National Park on a stretch of the Fortescue River which, as already indicated, is culturally very significant to Aboriginal people, containing as it does a number of sites of great importance. Under the terms of this lease, members of NG can use the land as a living area, to practise their traditional way of life as well as several other specified uses including some enterprise activities and initiatives. There is also a management plan for land use on the Ngurawaana lease which involves joint responsibility between the WRC and NG to safeguard their mutual interests in this particular water place.

6.7 Existing Mechanisms of Government Agencies and Private Sector Organisations Protecting Water Dependent Aboriginal Cultural Values and Relating to Aboriginal People and Communities

Responses elicited from government agencies and private sector organisations to the researchers’ written question about whether they had introduced any protocols, measures, guidelines or mechanisms to guide employees or contractors when dealing with or relating to Aboriginal people/communities in the course of the work of their agency or organisation ranged widely. Many of those contacted did not reply and the researchers were not able, because of the lack of time and resources, to follow these up.

One private mining sector company stated that:

*It is company policy not to release any information regarding employees and internal protocols/procedures regarding the matters in your letter... [they] are not public documents...”*

Another private sector company, Ove Arup (Arup), provided a considerable amount of documentation both useful and relevant to this report (See 6.7.6 below).
At present, there are only a limited number of mechanisms introduced by government agencies to protect water dependent Aboriginal cultural values. Under the State’s Aboriginal Heritage Act 1972, it is an offence to damage or destroy an Aboriginal site, whether registered or not. This Act thus affords in law a degree of protection to water dependent sites of significant cultural value to Aboriginal people in the Pilbara region, but in practice is not a guarantee of protection for such sites, as was demonstrated in the case of the Harding River Dam discussed in 6.1 above.

Correspondence and discussions held during the research for this study revealed a surprising lack of other government mechanisms to specifically protect water dependent Aboriginal cultural values anywhere in the state. Some government ministries, corporations, commissions and departments are developing general guidelines for all aspects of their work which relate to Aboriginal people in the state by following, adopting or modifying those guidelines already circulated by the DIA.

Most government ministries, corporations, commissions and departments have, in relatively recent years, been attempting to come to terms with the requirements of the Native Title Act which necessitates involving native title claimants of registered claims as stakeholders in any discussions about proposed future developments over native title claim areas as well as in the negotiation of any particular claim. The whole of the Pilbara is covered by native title claims, some overlapping, thus government agencies need to deal directly with their legal representatives as key stakeholders. In this region, the PNTS represents most of the claimant groups in the region.

6.7.1 Water Corporation (WC)

For example, the Water Corporation of WA does not, as yet, have any written guidelines for protecting water dependent Aboriginal cultural values relating to sites, but has employed a manager for native title matters. This manager is currently developing policy, procedures and guidelines with a view to reaching agreements about relationships with Aboriginal people throughout the state, including the Pilbara
region. The same situation essentially is the case with the Main Roads Department, Telstra and some other government agencies.

6.7.2 Pilbara Development Commission (PDC)

Another example is provided by the Pilbara Development Commission (PDC). In a letter in response to the researchers, the PDC stated that it:

... has no formal guidelines in place assisting employees or contractors on dealing with Indigenous people, [but] the Commission has long established relationships with the various Indigenous agencies in the Pilbara region.

As many of the projects that the Commission participates in involve Indigenous groups, a process of consultation and facilitation occurs in which they have the opportunity to partake and contribute. This is a process that the Commission commences with all key stakeholders on all projects.

In instances where more specific knowledge is needed, particularly with regards to sensitive cultural information, the Commission works closely with the relevant Indigenous agencies and corporate bodies (31 May 2002).

The researchers were also referred by the PDC to the ATSIC Regional Office in Kalgoorlie where an Aboriginal member of the Pilbara Development Commission Board worked. Time constraints, however, meant that the researchers were unable to follow up on this particular contact.

6.7.3 Conservation and Land Management (CALM)

In managing some National Parks, Nature Reserves and Conservation Parks in the Pilbara region, CALM works with some Aboriginal groups. For example, the Karijini National Park has a Council which meets up to four times a year and includes a number of senior TOs. However, during fieldwork, an officer from CALM stated that in general, CALM’s dealings with Aboriginal groups and individuals in the Pilbara are on an ad hoc basis. There are no Aboriginal liaison officers to assist CALM in locating and gaining direct access to relevant senior TOs to discuss issues of mutual concern including water-related matters, although at the time of research there was discussion of such a position being funded. It seems that in the 1980s, four Aboriginal rangers were employed by CALM at Karijini and Millstream National Parks, but these positions no longer exist.
The CALM officer also pointed out that water-related problems regarding Aboriginal cultural values were apparent at Millstream, but as yet there was no Management Plan for the National Park and hence no Park Council which could include relevant Senior TOs for the area. He indicated that CALM was attempting to set up a Bush Meeting at Millstream at the earliest possible opportunity. After a Millstream Management Plan has been drawn up, it is CALM’s intention to do the same for Rudall River National Park.

6.7.4 Department of Mineral and Petroleum Resources (DMPR)

As at February 2003, the then Department of Industry and Resources (DOIR) published a short document entitled ‘Guidelines for Aboriginal Consultation by mineral and petroleum explorers’. This document was at that time under review. It contains guidelines on how to communicate with Aboriginal communities and recommends a typical and necessary consultation process, indicating when, who and how this should be done with and by. The DMPR (formerly the Department of Industry and Resources, DOIR) has a Native Title Branch with a manager for the Pilbara (who also covers the Gascoyne-Murchison, the South West and the Perth metropolitan area). This manager is assisted by up to four case managers/assistants/ liaison officers whose background may be anthropological, environmental, legal or other relevant profession. The manager for the Pilbara (plus managers for other regions in the state) meets with the Department of Premier and Cabinet’s Office of Native Title’s Heritage Protocol Working Group, which is chaired by a member of the NNTT. This working group also includes mining industry representatives, native title representative bodies (eg PNTS), as well as departmental staff from both Indigenous Affairs and Minerals and Energy.

One of the aims of this group is to reduce the cost of heritage clearances by jointly clearing all mining tenements in one area. If a water issue is raised which relates to the mining sector, then it was the view of DMPR’s manager of Native Title for the Pilbara that the WRC should liaise with the Aboriginal liaison officer of DOIR. The DOIR website lists the WRC as one of the State Government departments with which it works closely. Some others include CALM and the EPA.
6.7.5 Shire of Roebourne

One of the local government authorities in the Pilbara region, the Shire of Roebourne, responded to the researchers as follows:

... this Council has recently set up an Indigenous Advisory Committee which includes representation of council staff and also elders from the native title claimants of the Shire. The purpose of this committee is a two way street. It allows staff to discuss issues with representatives of the aboriginal community that may affect them and in turn it provides an opportunity for the aboriginal community to discuss issues they see as important to their community, and by working together issues can be progressed or resolved – it opens the lines of communication.

Council also has guidelines associated with commencing works in areas of land which are subject to native title i.e. we may want to re-align a road which crosses over an area of land that is subject to native title. In such circumstances we pay the native title claimants to undertake a heritage survey of the area in order to ascertain whether there are any sites which we need to consider, this may include an archaeologist being flown up to verify the sites.

In circumstances where a site is identified the claimants will either record the site with the Aboriginal Affairs Department or if it is not significant enough it will simply be recorded with the Shire. When the all clear is given by the claimants, by way of signing our pro-forma inspection reports, then work can commence. Again, if the site is considered significant then the native title claimants may request to be present while works are undertaken (30 May 2002).

This particular example provided by a local government illustrates good intentions, but a misunderstanding of the way in which the Heritage Act should be complied with, as well as providing no clear indication of how the ‘representatives’ of the Aboriginal community are appointed or selected.

6.7.6 Ove Arup

While most of the guidelines and protocols discussed come from government agencies, one set of documents brought to the attention of the researchers has been developed by a private company, Ove Arup (Arup) in connection with its work in the Remote Area Essential Services Program (RAESP). Ove Arup (Arup) provided the best example of a private sector company which has developed a number of protocols
and guidelines in working in remote Aboriginal communities both in the Pilbara and elsewhere. The most relevant of these are included in the Appendices (9.7, 9.8 & 9.9). In addition, a lengthier document with the title *Code of Practice for Housing and Environmental Infrastructure Development in Aboriginal Communities in Western Australia*, prepared in 2000 for the Environmental Health Needs Coordinating Committee of the Inter-Governmental Working Group, was provided to the researchers and is included in the Bibliography (Ove Arup *et. al.* 2000). It is worth highlighting some of the main points from these documents here.

Ove Arup considers that it is essential for Aboriginal communities to have control over, and involvement in, the design of environmental infrastructures from an amenity viewpoint. Ove Arup also recognises the importance of, among other things, the social and cultural environment in which work is being undertaken, as well as the cultural diversity which exists between and among Aboriginal communities.

The main principles underlying the Code of Practice are outlined as follows:

**Equity:** Aboriginal people living in communities in Western Australia are entitled to the provision of services and infrastructure that provide an environment that facilitates a healthy lifestyle; one that is on par with non-Aboriginal people.

**Participation:** Aboriginal people living in communities in Western Australia must be encouraged to become involved in the design, building and maintenance of infrastructure, and delivery of services to their community. The involvement by Aboriginal people in the delivery of these services will help to ensure that lifestyle and cultural requirements are neither disregarded nor downplayed.

**Communication:** Exchange of information must be open and honest between all stakeholders, government agencies, private industry and Aboriginal representative bodies, communities and individuals, to enable informed decision making and shared understanding.

**Collaboration:** Collaboration and co-operation between all levels of government, Aboriginal organisations and Aboriginal communities is necessary to establish priority needs and maximise the use of scarce resources.

**Holistic Approach:** While the key goal is to improve health status, this outcome cannot be achieved in isolation from educational achievement and advancement, improved economic status and social and cultural health. Wherever possible activities and strategies must encompass and support these aspects.
**Flexibility:** The application of the Code of Practice must include a level of flexibility such that unique and evolving situations can be accommodated. This may include situations where people make an informed decision to occupy locations, at which the environmental health standards described in this document cannot be provided, for example water quality. However, whilst each case will be considered in relation to its particular circumstances, and in accordance with the relevant approval processes, there should not be any compromise to the protection of life-safety and health.

**Normalisation:** The provision of infrastructure and associated services to Aboriginal people in W.A. must meet the standards available to non-Aboriginal people and should seek to resolve long term management and maintenance issues in negotiation with mainstream service providers (e.g. Local Government, power and water utilities where appropriate). (2000:3)

Regarding appropriate “standards” relating to water supply to Aboriginal communities (op. cit. 53 ff), it is noted that the objective of finding a suitable water supply source is to provide sufficient reliable potable water to the community. It is stated that sources of water should be from the following, in preference order: bore, creek, pond or the ocean. A supplementary source may be from roof runoff (ibid).

Ove Arup places a very strong emphasis on training Aboriginal community members in the routine maintenance of bores and other work connected with water supply, storage, treatment, reticulation and disposal of excess, regarding this training as essential.

The importance placed by Ove Arup (Arup) on training local, Aboriginal community members in the repair and maintenance of essential service assets within their own communities is outlined in further detail in the document “Essential Service Operator - Employment & Training Initiative” (See Appendix 9.7 Ove Arup Document (a)). Aboriginal involvement in the Remote Area Essential Services Program (RAESP) is considered as one of the criteria when Ove Arup (Arup) assesses the suitability of contractors to undertake any work.

Ove Arup’s (Arup’s) Code of Conduct requires consultants, contractors and other persons working in an Aboriginal community to comply with nine conditions. First among these is that:

*All local Community regulations and protocols shall be observed particularly in relation to alcohol, speed limits, safety and
7. Existing Guidelines and Protocols

In addition to the examples cited above, there are in existence several generic management guidelines and recommended protocols for working with Aboriginal people in Western Australia. Earlier in this report (1.3), reference was made to the WA Government and ATSIC Agreement 2001. Many points from these existing guidelines and protocols could readily be adapted by the WRC for its specific needs and requirements in the Pilbara region.

7.1 Statement of Commitment

The WA Government and ATSIC Agreement 2001 was followed in 2002 by a:

Statement of Commitment to a New and Just Relationship between The Government of Western Australia and Aboriginal Western Australians: A Commitment to a New and Just Relationship (see Appendix 9.10).

The purpose of this statement of commitment was/is for the parties (i.e. the Government of Western Australia, Western Australian ATSIC State Council, the Western Australian Aboriginal Native Title Working Group, Western Australian Aboriginal Community Controlled Health Organisation and the Aboriginal Legal Service of Western Australia) to agree on a set of principles and a process for them to negotiate a State-wide framework that could facilitate negotiated agreements at the local and regional level. The parties agreed to eight specific principles based on what was termed a ‘New and Just Relationship between the Government of Western Australia and Aboriginal Western Australians’ (see Appendix 9.10).

Of particular relevance among a number of points in the Statement of Commitment are the following:

- Aboriginal people have continuing rights and responsibilities as the first people of Western Australia, including traditional ownership and connection to land and waters. These rights should be respected and accommodated within the legal, political and economic system that has developed and evolved in Western Australia since 1829;
• ... security for Aboriginal people's cultural heritage and values must be equally respected within the overall development of the State;
• ...Regional and local approaches are required to address issues that impact on Aboriginal communities, families and individuals;
• To achieve improvement Government and Aboriginal people need to work together in partnership and share responsibilities.

In addition, the document stresses the need for equity and inclusiveness in, among other things, dealing with issues which have arisen from past acts of displacement. Aboriginal people are to be treated as equal partners and stakeholders in reaching regional or local agreements. To achieve the agreed objectives and ensure the implementation of partnership agreements, the parties agreed to adopt a …whole of Government/community approach … and where necessary to …reform … government and Aboriginal organisational infrastructure … (op.cit.).

7.2 ‘Consulting Citizens: Engaging with Aboriginal Western Australians’

At the time of writing this report, a draft document entitled ‘Consulting Citizens: Engaging with Aboriginal Western Australians’ has been prepared jointly by the Citizens and Civics Unit of the Department of Premier and Cabinet, the Department of Indigenous Affairs and ATSIC. It is intended to be both a guide to improving engagement with Aboriginal Western Australians by both public and private agencies and to implementing the W.A. Statement of Commitment. This draft document is currently available for public comment and can be found at the DIA’s website (http://www.aad.wa.gov.au/) by following the links to ‘Consulting Citizens’.

The document provides practical information which can be adapted and used by the WRC in managing its work in relation to Aboriginal people and their cultural values relating to water in the Pilbara region of W.A. It outlines points from Aboriginal history which contribute to understanding aspects of the present situation. It also discusses indigenous policy in W.A., including the W.A Statement of Commitment outlined above with its emphasis on recognising Aboriginal people as the custodians of their own culture with rights, among other things, to negotiate regional agreements.
It is stated that good protocols and guidelines which will enable effective consultation and engagement with Aboriginal people need, *inter alia*, to be based on trust and respect; to involve women and young people, as well as men and elders and to involve Aboriginal people in “decision making and policy formulation processes to ensure that culturally appropriate decisions can be made.” The draft document details some ten principles for effective consultation and engagement with Aboriginal communities, including the need for clear communication and understanding, Aboriginal self determination, informed consent and confidentiality.

It is stressed that the two features of most importance for effective consultation and engagement with Aboriginal people are:-

- *Involving and/or employing appropriate and suitable Aboriginal people in the planning, preparation and conducting of any consultation and engagement process*
- *acknowledging, respecting and adhering to cultural protocols practiced by the Aboriginal Western Australians they are engaging with (op. cit. 21).*

The draft document discusses what is meant by ‘cultural protocols’ and the need for cross cultural awareness. Included in cultural protocols and awareness are such things as ‘welcome to country’ and ‘acknowledgement of country’. Key factors which should be considered by both public and private sector agencies for successful engagement with Aboriginal people are noted as including:-

- identifying the purposes of the consultation
- establishing what information should be provided
- scoping the community (who are they?)
- planning the engagement process
- determining what engagement activities are appropriate (*op. cit. 25*).

Practical details of planning a community visit are also provided in ‘*Consulting Citizens: Engaging with Aboriginal Western Australians*’ (*op. cit. 26*) as well establishing rapport and identifying common goals. The significance of clear expression to facilitate meaningful communication, body language, listening and
observing cultural cues at meetings are raised and discussed (op. cit. 29). It is suggested that Aboriginal facilitators may need to be employed at community meetings and the importance of talking to the appropriate people for particular country is also stressed (op. cit. 30). The draft document provides a number of other practical tips for meeting protocols and other ways of engaging with Aboriginal people.

In the last section of the draft (op. cit. 33-4), the importance of providing feedback to Aboriginal people is emphasized, as is evaluation.

8. Recommendations

As a result of the research findings outlined in this report and bearing in mind specific objectives 3, 4, 5 and 6 noted in Section 1.2 above, the following recommendations are made:-

1. The WRC on behalf of the State Government acknowledge past insensitivities to Aboriginal cultural values relating to water in the Pilbara region.

2. The WRC acknowledge the lack of past consultation with Aboriginal people of the Pilbara region over the use of water in their country.

3. The WRC on behalf of the State Government apologise to Aboriginal people of the Pilbara region for damage inflicted to water-related sites and places of significance to them.

4. The WRC appoint Aboriginal liaison officer/heritage officer positions within the WRC who, among other activities, can liaise with Aboriginal communities and equivalent others in government and non-government agencies/organizations re issues relating to water. Eg resolving misunderstandings, issues and disputes; explaining the
business of the WRC to clarify its role and functions vis a vis other government and non-government agencies and organisations

5. The WRC establish Indigenous Land Use Agreements (ILUAs) with Pilbara Regional Organisations and Agencies (eg local government authorities, industry groups, Aboriginal organisations/Representative Bodies) for heritage clearance procedures. These procedures would establish suitable guidelines for the protection of areas of water-related cultural significance as well as other areas and also protect Aboriginal intellectual property.

6. With the assistance of the local ATSIC Regional Council (or its replacement), DIA and the NNTT, the WRC support the establishment of an Aboriginal Native Title Reference Group which can consider all relevant issues such as heritage agreements, water quality, access, commercial and recreational use. This Reference Group would be provided with appropriate technical and administrative support.

7. The WRC establish committees within the WRC which would include at least 2 TOs from the Aboriginal Native Title Reference Group. These committees would consider and make decisions on matters of common interest to the WRC, TOs, and other stakeholders.

8. The WRC rename water allocation ‘licences’ to ‘Water Agreements’. The WRC consider renaming the system of water licensing to one which is more culturally acceptable and neutral, such as “water recording” or “water monitoring”.

9. The WRC explain more fully and carefully to Aboriginal individuals and communities the reasons for and the benefits of entering a Water Agreement.

10. The WRC and the WC work together to explain and clarify to Aboriginal organisations and communities in the Pilbara the differences between their respective responsibilities regarding water supply issues.

11. The WRC require all of its employees working in the Pilbara region to attend cross cultural awareness induction/training courses. This could involve the Ngurra
Wakamagayi Aboriginal Organisation based in Roebourne, the ATSIC Regional Office in South Hedland (or its replacement) and/or local TAFE centres.

12. The WRC work with CALM and Aboriginal TOs to resolve water access issues.

13. The WRC work more closely with CALM and appropriate Aboriginal organisations to allow Aboriginal people with connection (rights and interests) to significant water-related sites and places adequate access to these sites.

14. The WRC work more closely with CALM and appropriate Aboriginal organisations to implement measures to protect riparian areas from erosion and damage by animals.

15. In consultation with TOs, the WRC commence a process of collating/documenting the indigenous names of all water sources in the Pilbara region with a view to renaming these water sources thereby acknowledging and recognising their significance to different groups of Aboriginal language speakers in the region. Assistance with this recommendation could be obtained from TOs, the Pilbara Language Centre and linguists.

16. The WRC ensure that the intellectual property rights of Aboriginal people are protected through recognition that cultural material and information belongs to those who provided it.

17. The WRC, in association with local Aboriginal associations/communities (eg Juluwara), and the Natural Heritage Trust, produce a publication(s) which describes the cultural significance of river systems in the whole environment of the Pilbara region via oral histories and other sources (similar to the existing publications “Stories of the Oldfield River” and “Stories of the Bremer”).

18. The WRC examine the generic guidelines and protocol documents discussed in this report with a view to adopting culturally appropriate procedures.
9. Appendices

Appendix 9.1 Letter written to Aboriginal Organisations and Communities in the Pilbara

Dear Sir/Madam
May 17th 2002

Re: Water and Aboriginal Cultural Values of the Pilbara Region

This letter is to let you know that we hope to be doing some work with Aboriginal communities in the Pilbara region in the next few months. The objective is to understand the cultural value of water to Pilbara Aboriginal communities and the communities’ perspective on how these values can be studied, identified, protected and acknowledged.

The Water and Rivers Commission (WRC) has engaged Pointnorth Pty Ltd, through a competitive tendering process, to carry out this work. The purpose is to provide information to the development of the Pilbara Regional Water Resource Management Strategy. The objective of this Strategy is to ensure at a regional scale that the use of water is sustainable and appropriately managed to protect its ecological, economic and social (including cultural) values.

The WRC is a State Government Agency with the responsibility of managing the water resources of Western Australia for the benefit of the Western Australian community. We hope to provide advice to the WRC as to how to protect water-related Aboriginal cultural values in the Pilbara Region while balancing the demands of present and future water users.

The Pilbara region is obviously very large and we will mainly try to talk to people in meetings in communities. In this way we will explain more details of the study and ask people about the importance of water use and water sources, both now and in the past. We hope that Senior Aboriginal traditional owners and group leaders will be able to advise us on all aspects of the study. In the event that we are unable to visit your community or you are unable to come to a meeting, we would be pleased to have any written comments you may wish to send us.

We have told the WRC that we will ensure that information provided by Aboriginal people during this study will be protected in a culturally sensitive way and will remain as the intellectual property of Aboriginal people providing the information.

It is hoped that this research will help to develop guidelines for protecting and managing these water-related cultural values which will involve recommendations from Aboriginal people as well as water users. Also, it is expected that options can be reviewed for managing and protecting indigenous communities’ water supplies.
We will write a report which reflects the information given to us by the Aboriginal people involved.

We will be contacting you again as soon as possible to let you know when we expect to be in the Pilbara. Then we can make arrangements for meetings in different communities. If anyone wants to get in touch with us, please phone Kim Barber on 9228 9372 or Hilary Rumley on 9384 0628.

Thanks and best wishes

Kim Barber & Hilary Rumley
Appendix 9.2 List of Aboriginal Agencies, Corporations & Communities sent letter re study

Agencies

ATSIC (WA), Karratha office
Karijini Aboriginal Corporation
Gumala Aboriginal Corporation
Pilbara Native Title Service
Yamatji Land and Sean Council
NNTT (Jo-anne Franz, Pilbara Regional Manager)
Indigenous Land Corporation
Department of Indigenous Affairs
Aboriginal Advisory Council
Indigenous NGOs
Pilbara Language Centre

Communities

Pilbara Aboriginal Communities:-
Abydos
Billinooka
Bindi Binbi
Callawa
Carlindie
Cheeditha
Coongan
Goodabinya
Gunowaggi
Gurra Bunjya
Iermugadu
Innawongga
Irrungadjji
Jigalong
Jindina
Kinyu
Kurta Kurta
Lallah Rookh
Mijijimaya
Millyalkiri
Ngurawaana
Pangurr
Pangurr (Cotton Creek)
Petermarra
Pundawarrie
Punmu
Robertson Range
Strelley
Three Mile Reserve
Tjalka Boorda
Tjalkawara
Wakalba
Walgun
Warralong
Well 61
Woolshed
Yandeyarra
Yartharia
Yule River
Yulga Jinna
Wallal-Punmu Access Track
Punmu-Well 33 Access Track
Well 33-Kidson Airstrip Access
Appendix 9.3 Letter written to Government Agencies and Private Sector Organisations

Community Relations Officer,
Govt Agency/Organisation
Date

Dear Sir/Madam,

Re: Water and Rivers Commission Research Project to Protect Aboriginal Cultural Values of the Pilbara Region and to Manage the Water Supplies of Aboriginal Communities

We are writing to you in connection with the above research.

The aims of this study are firstly, to provide the Water and Rivers Commission with guidance on how to sensitively protect the Aboriginal cultural values linked to water in the Pilbara region that may be impacted upon by the Commission’s activities and secondly, to indicate what direction the Commission should take to manage and protect Aboriginal communities’ water supplies.

We would appreciate it if you could provide us with written details of any existing protocols, measures, guidelines or mechanisms which your agency has introduced to guide your employees or contractors when dealing with or relating to Aboriginal people/communities in the course of the work/business of your agency. These measures may include protocols or policies designed to comply with the Aboriginal Heritage Act (1972) and/ or the Native Title Act 1993.

We would also appreciate any information you could provide on mechanisms which your agency may have introduced to facilitate Aboriginal involvement in the work/business of your agency.

Lastly, we would be grateful if you could provide any information, if relevant, on what your agency does to protect the information and the intellectual property rights of Aboriginal people.
If possible, we hope to be able to contact you by phone to talk about some of these matters. If you could provide us with the name of the appropriate person(s) to talk to, that would be much appreciated.

With thanks,

Yours faithfully,

Kim Barber & Hilary Rumley
Appendix 9.4 List of Government Agencies and Private Sector Organisations to which relevant letter sent:-

Office of Native Title, Ministry of Premier & Cabinet: Attn:- Anne De Soyza
CALM – Pilbara, Karratha office
Dept of Local Government
Department of Mineral and Petroleum Resources
Office of Major Projects, Department of Mineral and Petroleum Resources
Dept for Planning & Infrastructure
Shire of Ashburton
Shire of East Pilbara
Town of Port Hedland
Shire of Roebourne
Pilbara Development Commission
Water Corporation – Karratha Office
Main Roads Department- Pilbara
Department of Mineral and Petroleum Resources – Karratha
WRC:-
North West Regional Manager – Susan Worley
Pilbara District Manager – Ross Doherty
Declan Morgan – to assist in identifying current licensing issues raised with dealing with proponents who may impact on Aboriginal sites

Industry Groups
Rio Tinto
Hamersley Iron
Robe
BHP
Ove Arup
INVITATION TO MEET
AT
BUNARA MAYA

9 HAMILTON, SOUTH HEDLAND

WEDNESDAY 29th MAY, 2.00 PM

Water is an important part of Aboriginal peoples
lives in the Pilbara.

My name is Hilary Rumley and I have been
contracted by the State Government, Water and
Rivers Commission to find out YOUR VIEWS
AND SUGGESTIONS about PROTECTING and
MANAGING water resources in Aboriginal
communities and elsewhere in the Pilbara.

If you cannot attend the meeting and would like to talk to me please contact
me on the following number 0419 197 392. Thanks – Hilary Rumley.
Appendix 9.6 ‘Aboriginal Sites and the Fortescue River, North West of Western Australia,’ Palmer, K. 1977 Archaeology and Physical Anthropology in Oceania, Vol X11, No. 3, pp 4-8

This article is reprinted from Archaeology and Physical Anthropology in Oceania, Volume XIII, No. 3, October 1977, with the permission of the author, and the publisher, the University of Sydney.

ABORIGINAL SITES AND THE FORTESCUE RIVER,
NORTH WEST OF WESTERN AUSTRALIA

By Kingsley Palmer*

A sequence of Aboriginal myths is associated with the Fortescue River in the area from a little above Millstream Station to the flat coastal plains by Marlie and Balmoral Stations. Elements of the myths are enacted in rituals which are of contemporary importance to Aboriginal people, while the content of the traditions supplements our knowledge of a previously poorly documented area. I propose firstly, to describe the general nature and content of the myths as collected in the field from Aborigines, and secondly to show that the relationship between the myths and the associated geographical sites, implies that the part of the river, as defined above, is a continuing site complex.

I recorded mainly on tape the mythology and associated rituals from various informants on several occasions during field-work in 1974 and 1975. Extracts appear below.

I am dealing here with two main stories. The first and more substantial follows the travels of the heroes of the Two Men myth down the river in the Dreaming while they were establishing the ritual practice and belief that it is still followed by the Aborigines in the region. The second is an anthropological myth about one pool in the river and apparently not connected with the first story.

The Two Men were brothers called Doweramada and Balindjamada and they had a short tailed dog called Dystrandli. They are described as Marga men, ancestors of the Dreaming who were very tall and thin, but human in other respects. They appear to have come out of the ground.

* Department of Anthropology, University of Western Australia.
That's when they first started. And they came up to a proper, like a proper human being, sort of coming up.

The myth is preoccupied with the establishment of the circumcision procedure and associated ritual. Dowaramad'S and Balidjamad'S first activity was to establish the material source for the circumcision cutting stone. The reef of fine-grained rock that the Two Men left behind is generally referred to as a *duka*, a term used generally for sites associated with the myth.

The site was so prized traditionally that men from other areas would visit the region in order to trade artefacts for the *duka*.

The next site associated with the institution of the Fortescue tradition was another material source site, known as murti *duka*, a red ochre mine in the banks of the river a few kilometres down-stream. Murti according to the informant meant 'blood' and the ochre was used to decorate the Two Men prior to their initiation. The ochre is first ground, and then mixed with fat.

Dripping nowadays, years ago it was the kangaroo fat, that's what they used... and you put it in this one and rub it up like that, he's very soft and nice... no colour only just that red, he look pretty, dress him up like that, smell good too, somehow.

Some kilometres further down the river there occurs a circular dome-shaped rock formation several metres across in the flat stratum of the river bed. At its periphery is a smooth shallow groove 'like a wheel rut' said to have been caused by the dancing foot during the first initiation ceremonies for Dowaramad'S and Balidjamad'S. This is *Guna*, the major site of the complex and of fundamental importance in the established circumcision ritual of the region.

The dancing circle, known as the *bundal*, is the centre for activity. For some weeks prior to the initiation dancing takes place clockwise round the circle, and a variety of songs are sung. The dance, circle and songs are known collectively as the *bundal*. These depend upon relationships to the initiands, there being two major groups which form a basis for local Aboriginal social organization. The contemporary blood relations, including brothers and sisters, and the grandparent generation are known as the *dyndja*, or the workers. The girls of this group perform the dancing and as a whole they are subservient to the parental kinship sections, which include aunts and uncles, being known as the *gunja* mob, or the 'boomers'. Age also confers status amongst the latter, while the closer blood relations take a more prominent role in the proceedings. During the ritual the *gunja* may sit inside the circle and beat time with a stick or a yam. Meanwhile the initiands, known as the *bundal* or more exactly as the *marda*, have spent time away in the bush, cared for by the *mungga*, a male chosen with special privileges which include his being allowed to dance, an otherwise female prerogative. The initiand is strictly a prisoner, since he will have been 'grabbed' by the *gunja* men and forcibly marched away. The manner in which he is then treated will probably depend on his record for good behaviour previously. Since misdemeanours are considered by ill treatment at this time. The *bundal* is 'open law' until the last night or nights when a warming song tells the women and children to leave. The remaining men then sing the 'big' (i.e. sacred) song for the rest of the night until a little before sunrise when they go to the boys and sing secret circumcision songs known as *munga* prior to the operation.

They then return to the *bundal* place, with the initiands, encircling them in a circle and singing. The rest of the group forms two converging lines down which the men process; the whole movement is called the *bundal*. A bough shed is prepared nearby for the initiands who must rest in its shade, and the *gunja* sit nearest to them. It is traditional for the relations to cry for
the boys as they return in the bidara. The ritual food, the *ditir*, is also displayed at the bidara, and the gangu have proprietary rights over its distribution.

**Gawya**, in the Fortescue, was where the *bidara* rituals were first laid down, and their validity is verified by the rocks that bear the marks of the *bundad*. Informants point to footprints and also to marks made in the centre of the circle by kicked backside, where the gangu sat. During the creative period, the rock was soft and the peripheral groove shows where the *disindawu* danced. Two hollows adjacent to the site are marked as being the house shell for the two boys. One set of footprints leads away from the *bundad*, and is said to be the marks left by a man who took a girl off into the bush on illicit business, but the connection with the *bundad* was not explained. Nearby is a *duku* for the men (women) and this is associated with the kangaroo (*marru*), and consists of a small circular patch of white quartz in the horizontal rock. While the *duku* was not specifically a part of the *bundad* mythology, informants claimed that it was placed there by the Two Men as they "lay down the law" in the river. The *marru* was made to shine brightly in the Dreaming by the kangaroo, who urinated on it to clean off the grease and dirt. The kangaroo was thus assured of safety at night when he could see his enemies more clearly. The practice was repeated traditionally to ensure a bright *marru*, ironically for kangaroo hunting, though water from a yaridi was used in preference to urine.

There was also an associated sun *duku*, but little or no information was available about its function.

The final site of the complex is located some distance down-stream at a place known as Dillan. Here two hollows in the hillside are said to have been the resting place of the Two Men after they left *Gawya* and travelled down the river. They fed on cat fish, the fat of which is metamorphosed in the form of greyish rocks adjacent to the hollows.

Numerous of petroglyph sites are found along the banks of the Fortescue River. Many have representations of thin stick-like human figures and are said to be *marru*, and were drawn during this creative period by the *marru* themselves, or sometimes specifically by the Two Men (who were *marru*), who "laid the law for us". They are part of the great creative process and represent that spirit time. Therefore they must not be interfered with. In some instances ceremonial decorations have been recognized by informants who explain them as another aspect of the ritual ordained in the Dreaming and vouched for by the rock record. In this sense the rock circle of *Gawya* can be seen to serve a very similar function to the petroglyphs.

Several kilometres upstream from *Gawya* is the place where the Two Men disembarked the ritual practices amongst the Aboriginal groups from a much wider area. One informant mentions 13 different people who first came to the place to be circumcised. Those that fell short were deemed unworthy to "carry the law", and were just given the songs for the fun of it.

Traditionally several tribes in the area did not practise circumcision. The place, known as *Gunma Hill* now stands at the side of the river as the *metamorphosed Djuwa*, or ritual food collected at the time. Today this is collected for the initiation ritual and laid out adjacent to the dancing area. Only those in charge of the proceedings (the *bussa*) are allowed to touch it, through a general distribution at the end of the ritual ensures all get a share. Today the *bussa* consists of many bags of *djuwa*, *djuwa* of *djuwa* and *marru*, but traditionally was made up of plant seed from which the damper was prepared, and fresh meat. The size of the unassayed food indicated the prestige of the occasion: the archaeological contributions are accordingly massive, being now metamorphosed and appearing as a huge block of rock at the side of the river, some twenty-two metres in height. Some of the boulders at the foot of the hill are formed of conglomerates, and the small, smooth pebbles are said to be grass seed. Several different sorts of seed are there represented.
It was mix up food too. It used to be... yambolia [that] is a run of weeds growing in the bit... another one, gouldi, that's another native name, weed, a little seed. Barinya, grows out of one of them trees, and he's very oily, he's a black seed, and the gawarna, is a great grow like the buffalo grass... very rich stuff gawarna. And blin, he's a very rich food, grows on the gravel country.

The meat was made up from tagaroon, scammans, emus and even turkey when they could be obtained. The transformation to stone was not explained by a particular event, though one informant felt that "something went wrong". His second version, however, was more typical.

I told 'em (the old people), 'Why turn into stone?' They say, 'Well, that's the law of the country years ago.' And that's why they put the evidence there, and you've just got to believe it like that.

The hill is formed from a sedimentary type rock, and it is in noticeable contrast to the surrounding cliffs.

There remains one myth, not directly connected with the Gnangara complex of sites, that explains the formation of Deep Reach Pool, a large permanent pool a few kilometres above Millstream Homestead. The story in outline runs as follows:

Two boys were out in the bush, waiting their turn to be initiated. A mannoya was looking after them. He was however a little negligent, and on one occasion took rather longer than he should teaching the boys their food. The boys grew impatient, and seeing a bird, stoned it, plucked it, cleaned it, cooked it and ate it. Nearby was a water snake, a Barimidi. He smelt the food cooking, and got very excited. He caused a cock-eyed boll to start, and it whistled all sorts of whistles and birds toward the boys, who were naturally very pleased, and eagerly went about trying to catch the birds in the confusion. Meanwhile the Barimidi grew closer to the boys. The mannoya saw what was happening, and tried to warn everybody, but alas it was too late. The Barimidi turned round and made a great suction through his arm, and drew them all inside of him.

And it was because of this that there is now a huge pool at Ngangurnda (Deep Reach).

Informants from Strelley station told Aborigines at Yandandara that Millstream was the main place in a song line for an associated rain making ritual. A water snake controlled this law, and if the snake was upset there would be a huge flood. The information was confirmed by Inland people from Roebourne who talked of a snake and a huge flood which would result from any disturbance to the river. Close to Millstream homestead are two trees, growing either side of the permanent spring which gave the homestead its name. One belongs to the Bunaga-Gurnara moiety, the other to the Barinya-Millangga moiety. They are "increase" places for rain. Mud from the spring is smeared on the trees in the design of a snake and a goanna, and on the arms and bodies of the patrilineal descent group that had current ownership of the sites. There is no indication at present that the rainmaking ritual and associated designs are connected with the Barimidi story, but the similarities are too obvious to ignore.
To discuss any of these sites in isolation is wrong because the river constitutes a unity over and through which the great mythic ancestors were believed to have travelled. Their function as creators, instigators and founders of traditional ritual practice is inextricable from the natural features that proclaim their validity. There are at present plans to build a dam on the Fortescue River, downstream from Millstream homestead. The project is still under review, but if the scheme were to go ahead some of the sites discussed in this paper would be inundated. Considerable opposition to the desecration of the sites has already been voiced by the Aborigines who have traditional rights to the Fortescue and Millstream areas. This paper outlines the enormous richness of the area and the traditions which are vitally relevant to the feelings and emotions of large numbers of Aboriginal people.

REFERENCES

Wright, R. J. (1958): Rock Art of the Pilbara Region, North West Australia. A.I.A.S., Canberra.
ESSENTIAL SERVICE OPERATOR - EMPLOYMENT & TRAINING INITIATIVE

[A KEY COMPONENT OF THE REMOTE AREA ESSENTIAL SERVICES PROGRAM (RAESP)]

Objective: To create an organic community-based capability to undertake the ‘day to day’ operations and maintenance of community-based, communal essential service assets (power and water supply and wastewater treatment and disposal infrastructure) within nominated Aboriginal communities.

Background

The WA State Government provides funding for the ongoing repair and maintenance of community-based, communal essential service assets for 71 Aboriginal communities in WA. The Commonwealth, through ATSIC, has provided additional funding to extend the provision of these services to a further 16 communities. These funded responsibilities are discharged through three contracted Regional Service Providers (RSPs). Arup has been engaged as the Contracted State Program Manager (CSPM) to manage the three RSPs’ contracts.

Under the terms of the RSP contract each ‘serviced’ community is responsible for undertaking the basic ‘day to day’ operations and maintenance of the essential service assets. Currently few communities possess the capability (trained and confident personnel) to effectively discharge these responsibilities.

Approach

The approach to overcoming this deficiency has been to develop and implement a coordinated community-based training and employment initiative. The initiative is being implemented in phases with the initial pilot phase involving the delivery of the initiative within 25 of the ‘serviced’ communities. Subsequent rounds have drawn on the results and lessons from the pilot phase with the intention to expand the initiative to involve all 87 regularly serviced communities.

The initial pilot-phase (Round One) has been successfully delivered and Round Two has commenced in two of the three RSP regions with completion expected by April 2003. Round Two will commence in the third region in May 2003 and Round Three will commence in the other two regions in May/June 2003.

The initiative has involved developing the strongest possible model for achieving significant, effective and sustainable outcomes. The strength of the model comes from including provision for the following:

- Training which is linked to an employment outcome.
ATSIC and the WA Department of Housing and Works (DHW) agreed to jointly fund 25 Essential Service Operators (ESOPs) as part of the pilot phase. The funding came from a combination of ATSIC CDEP and CHIP funds and DHW funds. This has now been extended to cover a further 28-30 communities.

- The use of an accredited training course able to be delivered in communities by mobile training teams.

Certificates I and II of the NT Remote Community Essential Service Operations curriculum have been selected for delivery and have been accredited for delivery in WA by the WA Training Accreditation Council. Certificate I incorporates all the core modules whilst Certificate II consists of the technical modules grouped into two streams; power or water/wastewater. This Course has recently been revamped as part of a National program to change to competency-based training packages and is now known as Certificate II in Electrotechnology Remote Area Essential Services Operations.

Each RSP delivers all the technical modules within a community setting. This minimises the needs of community trainees to attend off-site training and maximises their familiarity with their essential service assets.

- The use of a primarily ‘hands-on’ training package able to be delivered within a reasonable timeframe.

The original curriculum incorporates a modular approach with a total training delivery time of either 430 hours or 500 hours depending on the stream chosen or 620 hours for both streams. Delivery takes approximately 15-18 months on a part-time basis. The change to the new course has maintained the 620 hours.

- The establishment and maintenance of a trainee support framework.
The mobile trainer, RSP maintenance teams and qualified community members, if available, provide the support framework for the trainees. This support continues following the completion of the training.

**Funding Framework**

The development and implementation of the ESOP initiative has required the involvement and cooperation of a wide range of agencies and organisations. The principle agencies and organisations involved in the initiative, together with their various responsibilities and requirements are:

- **ATSIC** – provides both CDEP and CHIP funding. Funding is for trainee and qualified ESOP salaries, equipment and uniform costs and administrative costs associated with the initiative.

- **WA Department of Housing and Works (DHW)** – provides funding for qualified ESOP salaries, the costs associated with the recruitment and registration of the trainees as well as equipment and uniform costs and administrative costs associated with the initiative.

- **Western Australian Department of Education and Training and (DET)** – provides funding for the delivery of the training. That is, they fund the trainers.

- **Commonwealth Department of Employment and Workplace Relations (DEWR)** – provides funding for trainee wage supplementation. That is, they partly fund the trainees.

- **Commonwealth Department of Education, Science and Training (DEST)** – provides employer incentives which are used to offset trainee equipment costs.

- **RSPs** – deliver the training through Registered Training Organisations (RTOs) and may act as the employer for both the trainee and qualified ESOP.

- **Communities and CDEP Organisations** – provide CDEP funds to the RSPs to cover base salaries and related ‘on-costs’. They may also act as the employer for both the trainee and qualified ESOP.

**Requirements**

In order to obtain both DEWR and DET funding support it was necessary to achieve a ‘real’ employment outcome, hence the RSPs being seen to be the employer and not the CDEP Grantee Organisation. DEWR funding support was contingent upon the training being an accredited Traineeship as they only provide funding to support accredited, workplace ‘entry-level’ training being delivered to a minimum number of trainees. DET can and does provide funding support for a range of training, both workplace ‘entry-level’ training and skills upgrading training.

**Training**

- **Delivery Models**
The ESOP training is being delivered through Registered Training Organisations (RTO) accredited to deliver the curriculum. Each RSP was responsible for selecting an RTO. There are three separate models being utilised; one RSP has become accredited as an 'enterprise' RTO and is delivering the training through it's organic resources, one has selected a Community College as it’s RTO whilst the third has engaged a TAFE College. Each model incorporates a combination of community delivered modules and ‘block release’ modules. In essence the technical modules are delivered within the communities utilising community-based essential service assets whilst the broader, non-technical core modules are delivered centrally, in block release periods.

- **Timeline**

The training is delivered on a part-time basis. Training for the pilot round has been completed and training for the second round, in two regions, is expected to be progressively completed by Apr 2003. Round Two training in the third RSP region is expected to commence in May 2002. Round Three training in two regions will commence in May/Jun 2003.

- **Outcomes**

58 trainees commenced the initial round of training with 29 completing the course. 14 of these are continuing in employment as ESOPs. 43 trainees commenced the second round with 19 being expected to complete the course with employment positions being available. A further 50 trainees are expected to commence either Round Two or Three training over the three regions with 20-25 expected completions.

- **Costs**

The all-up costs for the pilot phase of the initiative was approximately $2.06M. Contributions by the various funding providers were:

- **ATSIC** = $0.851M (CDEP = $0.718M, CHIP = $0.133M) or 42%
- **DHW** = $0.155M or 8%
- **DET** = $0.771M or 37%
- **DEWR** = $0.241M or 12%
- **DEST** = $0.041M or 2%

It is expected that Round Two and Three costs will be similar.

- **Career Structure**

In order to ensure the long-term success of this initiative an ESOP career structure is being developed. It is intended that the career structure involve a progression through a number of skill levels. Funding for the training is possible through existing DET programs. Further development of models and options is being undertaken and negotiations have commenced with both DET and DEWR.
There are currently two employment grades with different salary rates depending on qualifications. The current salary rates are:

Grade 1 ESOP  
- First 18 hours per week at current applicable CDEP rate and then $12.50 per hour for either 10 hours per week (Part-time) or 20 hours per week (Full-time)

Grade 2 ESOP  
- First 18 hours per week at current applicable CDEP rate and then $15.00 per hour for either 10 hours per week (Part-time) or 20 hours per week (Full-time)

**Conclusion**

The ESOP initiative is seen as the one component of RAESP that has the greatest potential for achieving long-term, sustainable benefits for Aboriginal communities. The initiative has involved a significant degree of cooperation and commitment by all agencies and organisations. It has only been operating for a reasonably short period but initial results have been very positive.

R.A. Coote  
Arup  
Mar 2003
Appendix 9.8 Ove Arup Document (b) Remote Area Essential Services Program (RAESP) Summary

Background

- Arup, formerly Ove Arup & Partners, were appointed as the Contracted State Program Managers (CSPM) for the Remote Area Essential Services Program (RAESP) in October 1997. The CSPM is responsible for managing capital works projects for water, wastewater and power in remote Aboriginal communities funded by the Commonwealth through its responsible agency, ATSIC. In addition the CSPM is also responsible for managing the repairs and maintenance of these assets in communities funded by the State Department of Housing and Works [Aboriginal Housing and Infrastructure Unit (AHIU)] and ATSIC.

- Arup’s contract with ATSIC and the DHW was renewed on 1 July 2001 for a further three years with two possible 12 months extensions following an open tender process.

- The CSPM is required to:
  
  - prepare and manage the annual Capital Works Programs (Annual value of approx $8.5M), including the setting of standards and specifications and the review of performance of these works. These programs are developed in consultation with a co-ordinating committee comprising ATSIC, the State Department of Indigenous Affairs (DIA), DHW, the Office of Energy (OOE) and the Office of Water Regulation (OOWR) and with the respective indigenous regional representative bodies. These representative bodies are the Regional Councils elected within each of the ATSIC Regions.
  
  - administer the repair and maintenance contracts and to monitor and report on the performance of the service delivery contractors. (Annual value of approx $6.5M)

Intent

- The intent of the program is to provide a coordinated approach to the provision of essential services to remote Aboriginal communities in order to increase the sustainability of the communities and to achieve improved health-related outcomes. This approach is underpinned by the engineering rigour provided by Arup. The program’s establishment and maintenance of a strong capacity building component and adherence to the principles of self-determination assists the achievement of this intent.

Overall Role

- The role of the CSPM is to:
  
  - act on behalf of the DHW and ATSIC to oversee the repair and maintenance and capital works programs;
...oversee the implementation of the repair and maintenance contracts and to monitor and report on the performance of contractors;

...administer separate Trust Accounts for the capital works and repair and maintenance programs.

**Repair and Maintenance Role**

- The CSPM’s role in the repairs and maintenance program is to:
  
  - arrange contracts for the Regional Service Providers (Ngaanyatjarra Services for the Goldfields/Central Reserves Region, Pilbara Meta Maya Regional Aboriginal Corporation for the Pilbara/Gascoyne Region and Kimberley Regional Service Providers [KRSP] for the Kimberley Region) via an open tender process. These contracts are in force until Jun 2003 with a possible two-year extension;
  
  - monitor the performance of the Regional Service Providers (RSP);
  
  - liaise with other agencies to gain support and assist in the co-ordination of services;
  
  - assist in the development of employment and training opportunities for indigenous people. The Essential Service Operator (ESOP) Training and Employment Program is a key component of this role.

**Capital Works Role**

- The CSPM’s role in regard to the Capital Works program includes:
  
  - evaluating communities for essential services needs;
  
  - developing a program of priority projects for Regional Council consideration and endorsement;
  
  - advising Regional Councils on the impact on essential services of other infrastructure programs;
  
  - arranging for delivery of the endorsed projects; and
  
  - establishing and operating a trust account.

**Repair and Maintenance Program**

- The State-funded Repair and Maintenance Program includes the provision of routine maintenance of essentials service assets, the provision of an emergency call-out service and the provision of a water sampling, testing and reporting service. There are currently 71 communities receiving these services.

- ATSIC has provided funding for the extension of these routine repair and maintenance services to 16 additional communities.
Capital Works Program - Outline

- The Capital Works Programs were annual two or three year rolling programs. The requirement for these will be reviewed following the development of RHIPs.

- At present each Regional Council receives an annual funding allocation for these works and each Council then allocates the funding to regional communities on a prioritised needs basis. Again the future of this process is yet to be determined but it is expected that the RHIP process will replace this process.

Other Projects

- **Energy Monitoring.** An Energy Monitoring program is undertaken by the CSPM. The program was based on the findings of an Energy Audit Program conducted in late 1999. This program is designed to monitor the energy consumption patterns in all serviced communities and to provide information to assist and inform resource allocations, technical design parameters and operational processes and procedures.

- **Energy Efficiency Education Program.** This program aimed at increasing the awareness of efficient energy consumption practices in order to optimise the use of diesel fuel in communities. The Program was delivered by the Remote Area Development Group from Murdoch University throughout 2000. This Program was evaluated by Arup in early 2002.
Consultants, contractors, subcontractors, suppliers and agents working in a Community for related RAESP projects are required to read and sign the following Code of Conduct form and forward to CSPM.

1. Applicable to contractors, subcontractors, suppliers and agents (the ‘Contractor’). All local Community regulations and protocols shall be observed particularly in relation to alcohol, speed limits, safety, and sacred/ceremonial areas.

2. There shall be no direct contact or liaison by the Contractor with elected representatives of the Council or Grantee in relation to this contract unless initiated by the Council or Grantee, and then shall only be conducted in the presence of the CSPM Representative.

3. No loan or gift of equipment, vehicles, food or beverages shall occur to any member of the Community (including elected representatives), unless as part of employment by the Contractor, under award or over award conditions.

4. Services not included in the Contract shall not be provided to Community (including elected Council members) without specific prior approval of the CSPM.

5. The Contractor shall not seek employment within the Community during the entire term of the contract.

6. There shall be no initiation or maintenance of sexual or close contact relationships by the Contractor, with any Community members. In the event of such an occurrence, instant dismissal and/or removal from the site and the Community will occur.

7. Any racially discriminatory behaviour by the Contractor will result in dismissal and/or removal from the site and the Community.

8. In the event of a dispute arising in relation to the requirements or application of this clause an independent Adjudicator, nominated by the Grantee Organisation Representative and agreed by the Community, will consider representations from the Contractor and the CSPM. The determination of the Adjudicator shall be adhered to by all parties.

9. The costs for removal of Contractor personnel from the site and replacement by other suitable personnel shall be borne by the Contractor.

I/We have read this Code of Conduct and agree to abide by the Conditions whilst on site.
Appendix 9.10 Statement of Commitment to a New and Just Relationship between The Government of Western Australia and Aboriginal Western Australians

A Commitment to a New and Just Relationship

There is a need for a new and just relationship between the Government of Western Australia and Aboriginal Western Australians.

- Aboriginal people and their culture are a unique and invaluable part of our State;
- Dispossession, settlement and the cumulative acts of colonial and State governments since the commencement of colonisation have left an enduring legacy of economic and social disadvantage that many Aboriginal people experience;
- Aboriginal people have continuing rights and responsibilities as the first people of Western Australia, including traditional ownership and connection to land and waters. These rights should be respected and accommodated within the legal, political and economic system that has developed and evolved in Western Australia since 1829;
- Wealth creation in the general Western Australian community is fundamentally important in the process of addressing problems facing Aboriginal people. Certainty for industry's development proposals and security for Aboriginal people's cultural heritage and values must be equally respected within the overall development of the State;
- Circumstances of Aboriginal people can differ significantly between regions and localities. Regional and local approaches are required to address issues that impact on Aboriginal communities, families and individuals;
- To achieve improvement Government and Aboriginal people need to work together in partnership and share responsibilities.

Statement of Commitment

This agreement commits the parties to work together to build a new and just relationship between the Aboriginal people of Western Australia and the Government of Western Australia.

Parties

The parties to this agreement are the Government of Western Australia and the Western Australian ATSIC State Council, supported by the following Aboriginal Peak Bodies:

Western Australian Aboriginal Native Title Working Group;

Western Australian Aboriginal Community Controlled Health Organisation; and
Aboriginal Legal Service of Western Australia.

Objective/Purpose

The purpose of this statement 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.

Principles

In achieving these objectives the parties are committed 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.

Agreement in Good Faith

This is an agreement made in good faith based on the commitment of the parties to effective and sustainable partnership.

Partnership Framework

The Parties agree that the most effective means of translating the above principles into meaningful action and outcomes is by way of regional agreements, based on partnerships.

The parties agree that between Aboriginal people and the Western Australian Government there will be negotiated partnerships which:
• will be based on shared responsibility and accountability of outcomes;
• should be formalised through agreement;
• should be based on realistic and measurable outcomes supported by agreed benchmarks and targets;
• should set out the roles, responsibilities and liabilities of the parties; and
• should involve an agreed accountability process to monitor negotiations and outcomes from agreements.

The Partnership Framework will establish State-wide policies and administrative arrangements to support negotiations and agreements at the regional and local level.

The Partnership Framework will support Aboriginal people to negotiate regional and local agreements according to the priorities of Aboriginal people in partnership with other stakeholders.

The Partnership Framework should incorporate and be informed by separate agreements in the health, housing, essential services, native title, justice and other issues that impact on Aboriginal people in this State.

The Partnership Framework will address:

• a whole of Government/community approach based on negotiated policy benchmarks and targets;
• regional negotiated agreements incorporating integrated planning involving ATSIC, community organisations and State and local government;
• agreed processes for audit and evaluation of negotiations and outcomes;
• reform of government and Aboriginal organisational infrastructure where required to ensure the implementation of the partnership agreement.

Structure for Continuing Dialogue

The basic structure for continuing dialogue will be based on:

• Regular liaison between the Cabinet Standing Committee on Social Policy and the ATSIC State Council supported by the Aboriginal Peak Bodies;
• Regular meetings of the Indigenous Affairs Advisory Committee that will consist of the Minister for Indigenous Affairs, Directors General of other Government Departments, the ATSIC State Council supported by Aboriginal Peak Bodies to provide advice and to monitor progress being made;
• Regional plans using existing statutory processes for planning in Indigenous affairs; and
• Agreements applied at the local level.

Signed by

• The Honourable Dr Geoff Gallop MLA
  Premier for Western Australia

Signed by

• Mr Ian Trust,
  Chairperson, ATSIC WA State Council

Witnessed by

• The Honourable Alan Carpenter MLA,
  Minister for Indigenous Affairs

Witnessed by

• Mr Geoff Clark,
  ATSIC National Chairman
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 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
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