

## Indigenous groups deserve proper consultation on marine parks



*WAFIC Chief Executive, Darryl Hockey says DBCA's flawed consultation has deprived Indigenous groups of having a seat at the negotiating table*

THE flawed Department of Biodiversity, Conservation and Attractions (DBCA) consultation process for the proposed South Coast Marine Park not only fails to address the serious socio-economic impacts of sanctuary zones, it also falls well short of genuine engagement.

It especially fails to consider the creation of shared economic opportunities for the indigenous people who have a close association with the coastline.

### **WAFIC a strong supporter**

Firstly, WAFIC has been upfront from the very start of the consultation process in standing up for the right of indigenous people to be properly engaged, not only throughout the planning and development phases, but also for future park management.

We experienced first-hand the lost opportunities from the Buccaneer

Archipelago Marine Park, where WAFIC had proposed to work alongside local indigenous groups to create genuine economic opportunities for them through training, partnering and mentoring activities, using the knowledge and experience of the commercial fishing sector to assist their best interests.

However, DBCA made sure this was never going to happen, and by the time the Indigenous Protected Areas Management Plan and Healthy Country Plans were completed (we were advised these plans were paid and supported by the US eco-lobbyists, the Pew Charitable Trust), WAFIC was then informed there would be no further engagement.

So, the indigenous people were thereby excluded from the opportunity of jointly exploring with WAFIC some wonderful potential economic prospects.

### **A lost chance**

The process for the South Coast Marine Park was concerning from the very start.

Firstly, DBCA stated that the indigenous groups would be an equal Project Partner, which was openly supported by our industry.

WAFIC also formally offered to become a Project Partner, to work constructively to design a marine park, which not only protected key areas, but also identified value-adding opportunities to benefit indigenous people and the health of coastal communities. In particular, the commercial fishing industry had the true underwater knowledge which could have been utilised to great effect.

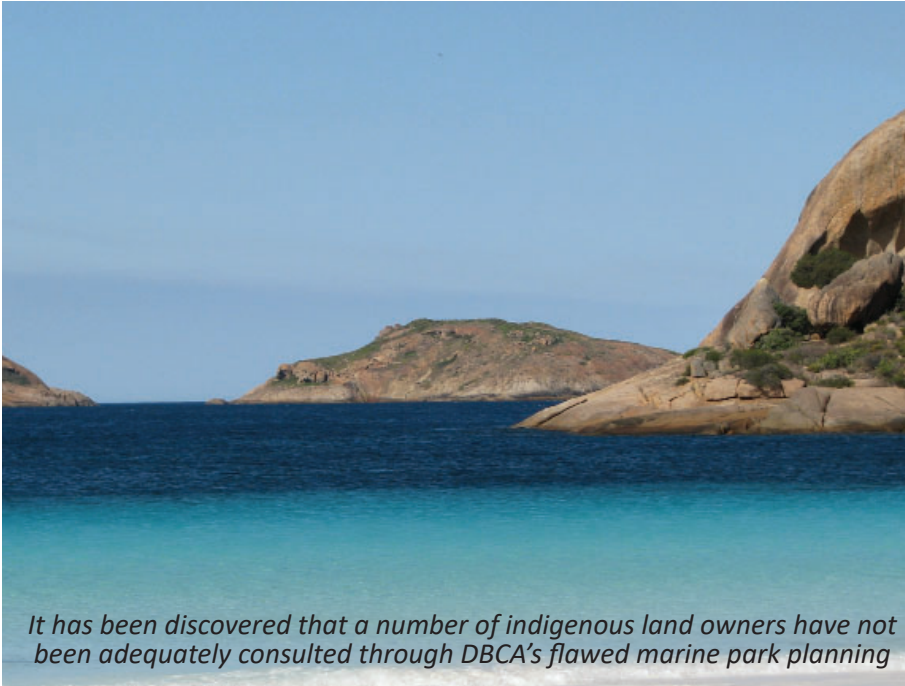
However, this offer was flatly rejected and the chance flew out the window.

Then there were a number of meetings held in Perth, attended by DBCA, DPIRD, WAFIC, Recfishwest and a number of environmental groups.

At each and every meeting, WAFIC called for the presence of indigenous people, as we were concerned that all sorts of discussions were proceeding without their knowledge or input, which is hardly due respect from DBCA for an equal Project Partner. Like all key stakeholders, they deserved to have a say.

Then it was the same story at the community consultation sessions which were undertaken, with the presentations delivered by DBCA without essential indigenous involvement.

# Indigenous groups deserve proper consultation



*It has been discovered that a number of indigenous land owners have not been adequately consulted through DBCA's flawed marine park planning*

Then DBCA set up a Community Reference Committee (CRC) with 12 representatives of south coast communities. None of these were indigenous. Interestingly the Marmion CRC has an indigenous Chair, but the south coast missed out altogether.

Following this, the CRC process began (with quarterly two-day meetings) and the first two CRC meetings had no representatives present from three of the four indigenous groups, meaning that about 800 kilometres of coastline was unrepresented.

## Who are these groups?

To explain, there are four indigenous groups who speak for the land and sea country influenced by the south coast marine park.

Starting from the west and moving east, these are: the Wagyl Kaip group; the Tjaltjraak; the Ngadju; and the Mirning. Each of these are in various stages of developing full governance arrangements to manage their own affairs, following the finalisation of the South West Native Title Settlement, or Indigenous Land Use Agreements (ILUAs).

The Tjaltjraak, who represent the Esperance Wudjari people, are in an advanced state with a corporation in place since 2016, and they not only

have structured internal consultation processes to engage over cultural heritage matters, there have staff and offices and vehicles to support their activities. They have been publicly engaged in the development of the south coast marine park from the first CRC meeting.

The Wagyl Kaip group represent the marine park area roughly from Hopetoun to Bremer Bay, with their area also extending west and north beyond the coastline under consideration.

They have been going through a process of setting up a body corporate, working out the governance arrangements, identifying who their individual members are and setting up engagement processes for cultural heritage.

They have certainly come a long way in a short time, but the DBCA rush to fast-track the marine park saw the Wagyl Kaip people excluded until the third CRC meeting.

Disappointingly, the Ngadju group from the east of Esperance were also not fully included from the start, however fortunately, some representatives were able to attend subsequent meetings.

The Mirning mob are from the area

east of the Ngadju through to Eucla (in fact right through to Streaky Bay in SA) and they had a single representative at each of the last two CRC meetings.

Their other members have therefore not been given the chance to engage with key stakeholders, such as the commercial fishing industry.

## WAFIC supports indigenous engagement

To be absolutely clear, WAFIC has been the strongest and most vocal advocate for indigenous involvement in the marine park planning processes.

We see that it is essential that the groups be given every opportunity for engagement with key stakeholder representatives throughout the planning processes. However this has not occurred.

Under the DBCA Community Engagement Strategy (on the DBCA website) it says: "DBCA will provide opportunities for key stakeholders to engage and consult with Traditional Owners in relation to developing the proposed management arrangements."

This has certainly not occurred, so WAFIC contends that another key, pre-agreed DBCA consultation commitment has not been delivered and the opportunity for indigenous groups to explore partnering opportunities, before the sanctuary zones are forever permanently decided, has sadly not been grasped.

## But things get worse!

Given the Ngadju and Mirning groups are still getting their governance arrangements in place, DBCA has decided to run ahead without them.

Yes, that's right! The outcomes were always pre-determined by DBCA from the very start and they certainly aren't waiting around for anybody.

Their consultation process is guided by a calendar, not whether or not proper consultation has occurred.

When WAFIC raised its concerns with a senior DBCA official

# Indigenous groups deserve proper consultation



*The flawed marine park planning and consultation process has largely ignored many Indigenous stakeholders and the socio-economic impacts of expansive sanctuary zones*

that members of these groups were missing out on having a proper say, he responded saying “we can work those things out later, we’re good at doing that in DBCA.”

Yes, they are prepared to draw up final sanctuary zone boundaries without providing adequate opportunity for broadscale cultural heritage consideration by everybody affected. Yet another example of a badly flawed consultation process.

## **What is proper consultation?**

The issue of what constitutes true consultation is a hot topic at the moment.

There has been a recent case in the Federal Court (known as Santos v Tipakalippa) where a landmark decision was made which invalidated the approval for a Santos oil & gas project, because the Federal Government regulator failed to ensure traditional owners were properly consulted.

The ABC reported Munupi clan leader, Dennis Murphy Tipakalippa, who led the challenge, said that proponents “must take note that this is our country and we must be consulted.”

So, this determination has certainly created some challenges for those project developers who wish to demonstrate that they have undertaken proper due diligence in engaging with what are termed “relevant persons.”

Proponents are now required to allow anybody who considers themselves to be a ‘relevant person’ to be given the opportunity to be consulted and have their say.

The definition of a ‘relevant person’ includes:

*a person or an organisation whose functions, interests or activities may be affected by an activity proposed to be carried out under an environment plan. Such functions, interests or activities may include those arising in relation to spiritual or cultural connections to land and sea country, tourism, recreational and commercial fishing...*

Now some may argue as to whether or not this has application more broadly than discrete oil & gas approvals, but at the very least it is an interesting test as to the essence of what proper modern-day consultation should look like.

One can only wonder if someday in the future there will be a legal challenge to DBCA over their tawdry attempts to set up the south coast marine park, especially from hundreds of traditional owners who have not yet had a seat or proper voice at the discussion table.

And who knows, there may be other affected groups as well.

## **Where’s the money?**

WAFIC has previously pointed out the open failing of DBCA to properly

plan for the South Coast and Marmion and Kimberley marine parks.

Cabinet was never told from the start just how much it was all going to cost, with no budget ever tabled for scientific research, compensation or compliance, a decision that is now leaving the Premier with an immediate billing surprise of well over \$100 million.

But there’s more. What about the funding for the indigenous groups to be able to properly fulfil their roles as equal Project Partners?

Their meeting costs, their senior management costs, their internal communication and engagement costs, their on-country costs, their training and capacity building costs, their cultural heritage protection and development costs, their boats and vehicles and office costs?

Take a look in the recent State Budget and see what’s there – zero!

One can only assume that DBCA has its eyes on the South West Native Title Settlement funds, and if this becomes fact, then you can be confident it will raise broader concerns among the community.

**Darryl Hockey**  
**Chief Executive Officer**  
**WA Fishing Industry Council**