

RIAA First Nations Peoples' Rights Working Group

7 Objectives

1. Collaborate with First Nations peoples to **increase their voices** in responsible investment and sustainable finance
2. Assist with facilitating First Nations peoples' **conversations** for the RI sector
3. Facilitate **education** on First Nations' peoples' rights, empowerment and leadership for the RI sector
 - Educating Indigenous investors on responsible investment markets
4. Collaborate with First Nations peoples to promote awareness about **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)** and develop guidance on **minimum standards** and application of frameworks/tools
5. Collaborate to support First Nations peoples' **investment markets** and **economic empowerment**
 - Support Indigenous investors in becoming members of RIAA
6. Support RIAA members to **challenge racism**, support **Truth Telling** and establish **inclusive culture**
 - RIAA developing and embarking their own Reconciliation Action Plan (RAP)
7. Advocate for **policy** that reduces gaps in wealth, income and wellbeing

RIA member Human Rights Working Group

- rules of engagement

Purpose

The HRWG is a forum for members to:

- exchange information and resources
- update on members' activity
- collaborate on policy and research, implementation and advocacy opportunities

on matters relating to human rights relevant to investors, researchers and advisers.

All this is aimed at building members' understanding and capabilities for assessing and respecting human rights, mitigating risks in investment and strengthening the companies in which funds are invested.

Principles of Participation

Sensitivity - Chatham House Rule

Humility - no self-promotion

Reciprocity - equal effort / equal reward

Ethical-ity - conflicts of Interest

When it may be necessary to ask members to leave the discussion

From time to time, there may be matters that the Group wishes to discuss that work counter to the intent of some members being party to that discussion.

In an event like this, the matter, once raised, shall be explored with the discussion and outcome formally noted in the minutes.

Based on the arguments presented, the Chair shall make the final decision as whether a member shall remove themselves from the room/forum for the duration of the relevant discussion.

StockWatch - when it implicates HRWG members

The intent of StockWatch is to hear from a RIAA member ESG research provider about recent company ESG allegations and stimulate discussion amongst the group about the implications of these, and possible joint collaborations to clarify information or provide remedy.

If StockWatch implicates a RIAA member, the HRWG is not the forum to provide defense to those claims. If the member wishes to defend the allegations, this should be done external to HRWG.

However if the member believes further discussion about the matter may bring light to improved management of human rights more broadly, the member may seek approval from the Chair to place discussion about the matter on a future meeting agenda.

Representation

Members of the HRWG (the Group) are not authorised to make representations on behalf of the Group or RIAA

nor does the Group authorise RIAA to make representations on behalf of the Group or members of the Group

unless specifically authorised by the particular member, the Group or a subset of the Group membership

in which case representation would only be on behalf of those members/that subset who has explicitly opted in



Media Statement
Attention: News Editor/Chief of Staff

Wednesday 10 March 2021

Traditional Owners to rate mining company performance

- First Native Title Holder in Australia to rate mining company performance
- Eastern Guruma Country is a focal point for mining activity with significant impacts from mining experienced.
- WGAC has experienced poor behaviour by mining companies where they have not complied with agreements or relevant environmental and heritage laws.
- The Mining Company Scorecard introduces greater transparency and accountability to the actions of mining companies and will assist them in their efforts to restore community confidence and trust.

Background

Wintawari Guruma Aboriginal Corporation (WGAC) holds the native title on behalf of the Eastern Guruma people for around 6,500 square kilometres of land around Tom Price, Karijini National Park and the Hamersley Ranges in the Central Pilbara region of WA.

The area is home to many culturally significant places and sites, with more than 70 rock art engraving sites, 40 ceremonial areas, 30 traditional burial locations, sacred sites where the Eastern Guruma Dreaming stories come from, and thousands of rockshelters and sites with stone and wood artefacts, spinifex resin, shells, bone and ochre.

The Corporation's key objective is the preservation of country and protection of our cultural heritage places and sites. However, preserving our country and our sacred sites is an increasingly challenging objective because over the last 40 years our country has become a focal point for mining activity.

More than 93% of Eastern Guruma country is covered by mining tenements, and it is one of the most heavily explored and minerally prospective locations in Australia.

Rio Tinto and FMG are the two main companies mining Eastern Guruma traditional lands. Rio operates six mines with three rail lines and FMG operate the large Solomon mine with the Eliwana rail line going across country. Both Rio and FMG are currently seeking approvals for significant expansions of their operations. There are also a large number of smaller mining and exploration companies with interests in the area.

Behaviour

WGAC has in the past, experienced poor behaviour by mining companies where they have not complied with agreements or relevant environmental and heritage laws and processes.

While mining companies generally understand that they have responsibilities to be a good corporate citizen and that meeting their environmental, social and governance obligations is important, there is often a disconnect between intention, expressed in a board room, and the actual experience on the ground.

Transparency and accountability is critical to a robust process necessary in building and restoring community confidence and trust. It is only through the scrutiny and feedback of investors, government and the public that Directors and senior executives of mining companies can ensure that the right culture and environment exists inside their organisation - from top to bottom.

The scorecard

The importance of greater transparency and accountability was recognised last week by the Minerals Council of Australia with the adoption of the TSM reporting standards.

To assist in this process, WGAC has developed a Mining Company Scorecard that will provide feedback on the performance of companies with mining projects on Eastern Guruma country. The Scorecard focuses on the following five important areas - Heritage Surveys, Regulatory Compliance, Caring for the Environment, Relationships with Native Title Holders and Environmental Social and Governance (ESG) Reporting.

The Scorecard for the 2021 calendar year has been released today and is attached for your information. WGAC believes that it is the first Native Title Body to develop such a Scorecard.

The performance of mining companies will be assessed over the course of the year based on the 34 questions set out in the Scorecard. Early next year the Corporation will publish the results and provide feedback to the mining companies recognizing areas of excellence and identifying areas for improvement.

The Board of the Corporation is very proud of this initiative that seeks to engage with mining companies and the investment community in a positive proactive manner, providing a valuable feedback mechanism that will allow miners to ensure that they are meeting community expectations.

It will also be a useful assessment tool revealing the condition of the relationship that the mining company has with its local traditional owners.

Media Contact:

Tony Bevan
WGAC Non Member Director
T: 0421 072 165

MINING COMPANY SCORECARD



SECTION A. Heritage Surveys

Background Information

How many heritage surveys have occurred this year for this mining company?
How many days spent in the field on heritage surveys (and cultural heritage research)?
How much has been invested by the Mining Company in undertaking heritage surveys?

Performance

- 1 Were the survey scopes agreed with the mining company, complete and comprehensive?
Did the scope meet WGAC heritage expectations?
Was any restriction placed on the survey scopes by the mining company?
- 2 Were you satisfied with mining company conduct while in the field?
1. Always 2. Nearly Always 3. Mostly 4. Sometimes 5. Rarely
- 3 Was there any attempt by the mining company to restrict the survey reporting outcomes?
- 4 Rank the mining companies in terms of overall conduct and performance during the survey process.
1. Very Good 2. Good 3. Average 4. Poor 5. Very Poor
- 5 Has the Mining Company properly provided for the proper storage/keeping place for artefacts?
- 6 Have there been any incidents involving heritage sites (eg: trespass, damage etc)?
Were they appropriately managed and dealt with?

SECTION B. Regulatory Compliance - s16 and s18 Applications

Background Information

How many s18 applications have been made this year by this mining company
How many sites were covered in the s18 application(s)?
How large an area of land was the s18 application(s) for?
How many sites were subject to cultural salvage?
How many days were spent in the field per application(s)
How long did it take the Mining Company to get the s18 consent?
Has there been any s16 research work on tenements during the year - if so how many days in the field?
How much has been invested in cultural/heritage research outcomes (s16, rock art, other research)?

Performance

- 1 Has the Mining Company in consultation with WGAC agreed to a meaningful review of all historical s18 applications?
Is land use approval consistent with current standards, expectations? Does the heritage information need to be updated?
Has an audit been undertaken for compliance with all s18 Ministerial conditions?
- 2 Has the Mining Company committed to a stay on all unimpacted areas under currently held Section 18 permissions until a proper review has been undertaken?
- 3 Have all of the s18 Ministerial Conditions been complied with in the current year?
- 4 Did the mining company fully consult and discuss proposed land use before making the s18 application?
Was there appropriate notice? Was WGAC aware of mining company plans? Did WGAC have time to comment on plans?
- 5 Was the cultural value of the s18 area properly understood prior to the application?
Were comprehensive surveys undertaken? (eg: s16 research, adequate cultural investigation)
- 6 Did the mining company listen and act on any heritage concerns?
Did the mining company avoid heritage sites to WGAC's satisfaction? Was a management plan developed?
- 7 Did the mining company properly inform the ACMC of the cultural values of the area?
Was the s18 application sufficiently detailed and complete?

MINING COMPANY SCORECARD (Cont'd)



SECTION C. Relationships With Native Title Holders

Background Information

How committed is the mining company to having a good relationship with NT holders?

Does the mining company - walk the talk? Do the people who work for the mining company - live the values?

Performance

- 1 How many times has the WGAC Board met with the CEO of the mining company this year?
- 2 How many meetings occurred between WGAC Board and Mining Co Senior Management (GM and above) occurred this year?
- 3 Does WGAC have a constructive, respectful relationship with the Mining Company?
Are there positive outcomes and actions as a result of meetings?
- 4 How would you describe the relationship with this company?
1. Very Good 2. Good 3. Average 4. Poor 5. Very Poor
- 5 Does the Native Title Agreement reflect modern practice and allow for regular review?
- 6 Has the Mining Company complied with its Native Title Agreement?
- 7 Have any formal disputes occurred this year?
- 8 Have all royalties and other funding been paid on time?

SECTION D. Caring for the Environment

Background Information

Has the Mining Company adopted a socially responsible approach to the environment?

Has the Mining Company submitted an environmental application in the past two years?

What area of EG country did the EA cover?

What investment been made by the mining company in protecting the EG country/physical environment?

Performance

- 1 Has the Mining Company properly considered Social Surrounds (indirect impact) in its environmental applications?
Has WGAC been involved/consulted in the environmental approval process?
Was WGAC involved in the flora and fauna surveys undertaken?
- 2 Has the Mining Company properly considered and managed the impact of its operations on the creeks and rivers on EG country?
- 4 Is the Mining Company committing appropriate funds to the ongoing management and protection of the environment?
Is the Mining Company actively protecting the flora and fauna important to traditional owners?
Are they engaging with the WGAC Ranger Program to ensure the protection of the environment?
- 5 Has the Mining Company adequately addressed the issue of access to country for traditional owners?
- 6 Has the Mining Company fully complied with the conditions to its Environmental Approvals?
Has an audit been done of compliance with EA conditions and the results reviewed with WGAC?
- 7 Has WGAC been involved in the development of the rehabilitation and mine closure plans?
Are the plans adequate? Have the plans been well communicated?
- 8 Is the Mining Company genuinely working with WGAC to develop permanent conservation estates in EG country?

MINING COMPANY SCORECARD (Cont'd)

SECTION E. ESG Reporting

Background Information

Is the Mining Company a member of the Minerals Council of Australia, which is phasing in TSM reporting?
How does the Mining Company report on its sustainability (ESG) performance?

Performance

- 1 Does the Mining Company adequately evaluate, manage and communicate its sustainability performance.
- 2 Does the Mining Company's ESG reporting have an appropriate focus on Indigenous relationships and concerns?
- 3 Do we agree with what the Mining Company says about its sustainability performance as it applies to WGAC concerns?
- 3 Is the Mining Company's sustainability performance independently verified
- 4 Does the Mining Company demonstrate a commitment to obtain Free, Prior and Informed Consent of directly affected Indigenous peoples before proceeding with development and maintaining FPIC throughout the life of the project?
- 5 Does the Mining Company demonstrate a commitment to enhancing the awareness of the history, traditions and rights of the Eastern Guruma people.

Wintawari Guruma

ABORIGINAL CORPORATION



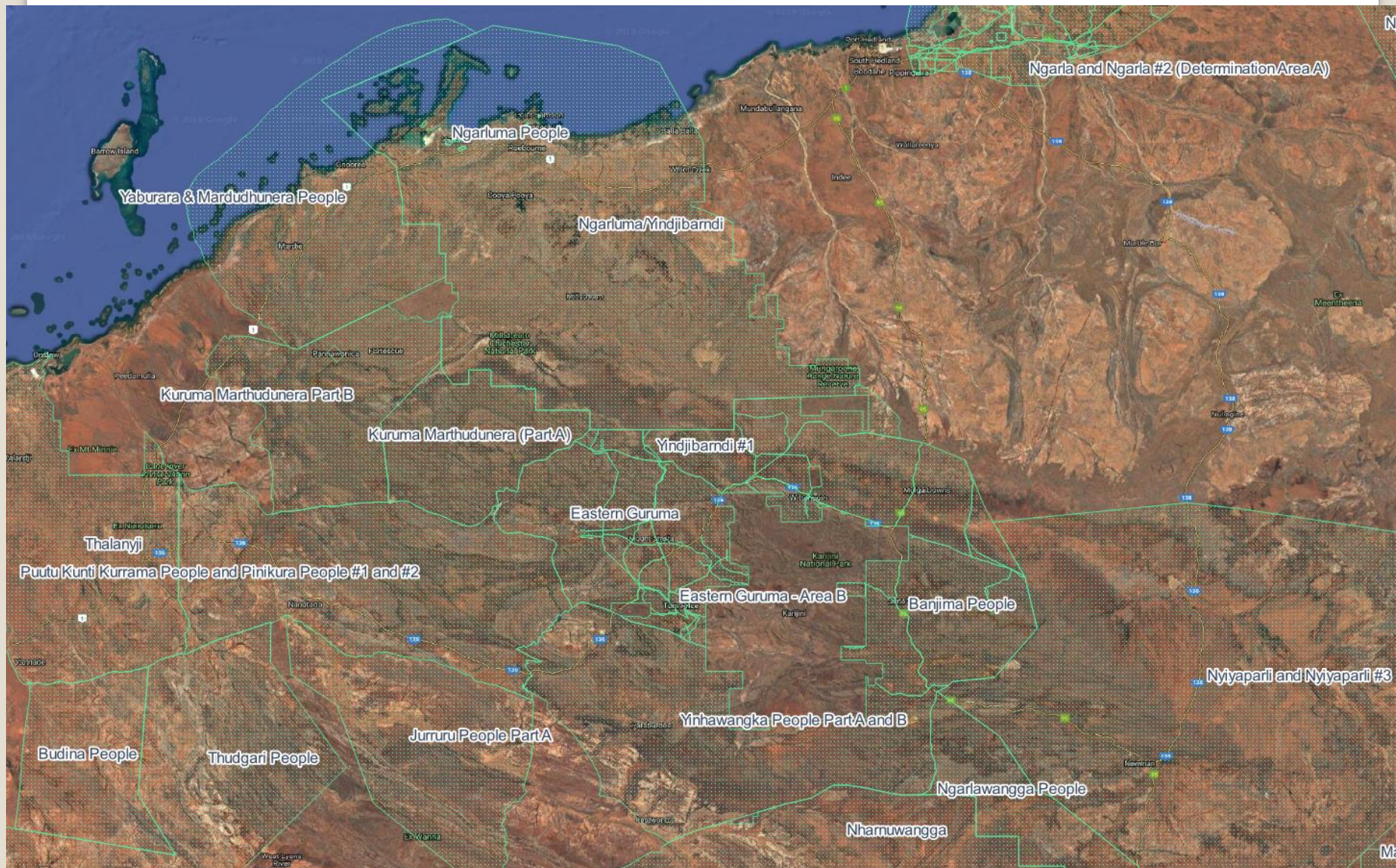
**Presentation to RIAA
First Nations Peoples' Rights Working Group
10 June 2021**

- Eastern Guruma Country
- Impact of Mining
- Mining Company Behaviour
- Juukan – Changed Everything
- Agreement modernisation
- Mining Company Scorecard
- What can you do?
- Discussion

Agenda

- Eastern Guruma
 - Approx 6,500 sq km (size of Perth Metro area)
 - Land around Tom Price, western side of Karijini NP in Hamersley Ranges in Pilbara
- Rich in Culture
 - Occupation well beyond last Ice Age
 - Over 80 rock art sites - some going back 40K+ yrs
 - Unique rock art precinct - research involving UWA
 - 40 ceremonial areas, 30 known burial sites
 - Important spiritual sites
 - Thousands of rock shelters – some 45K+ yrs

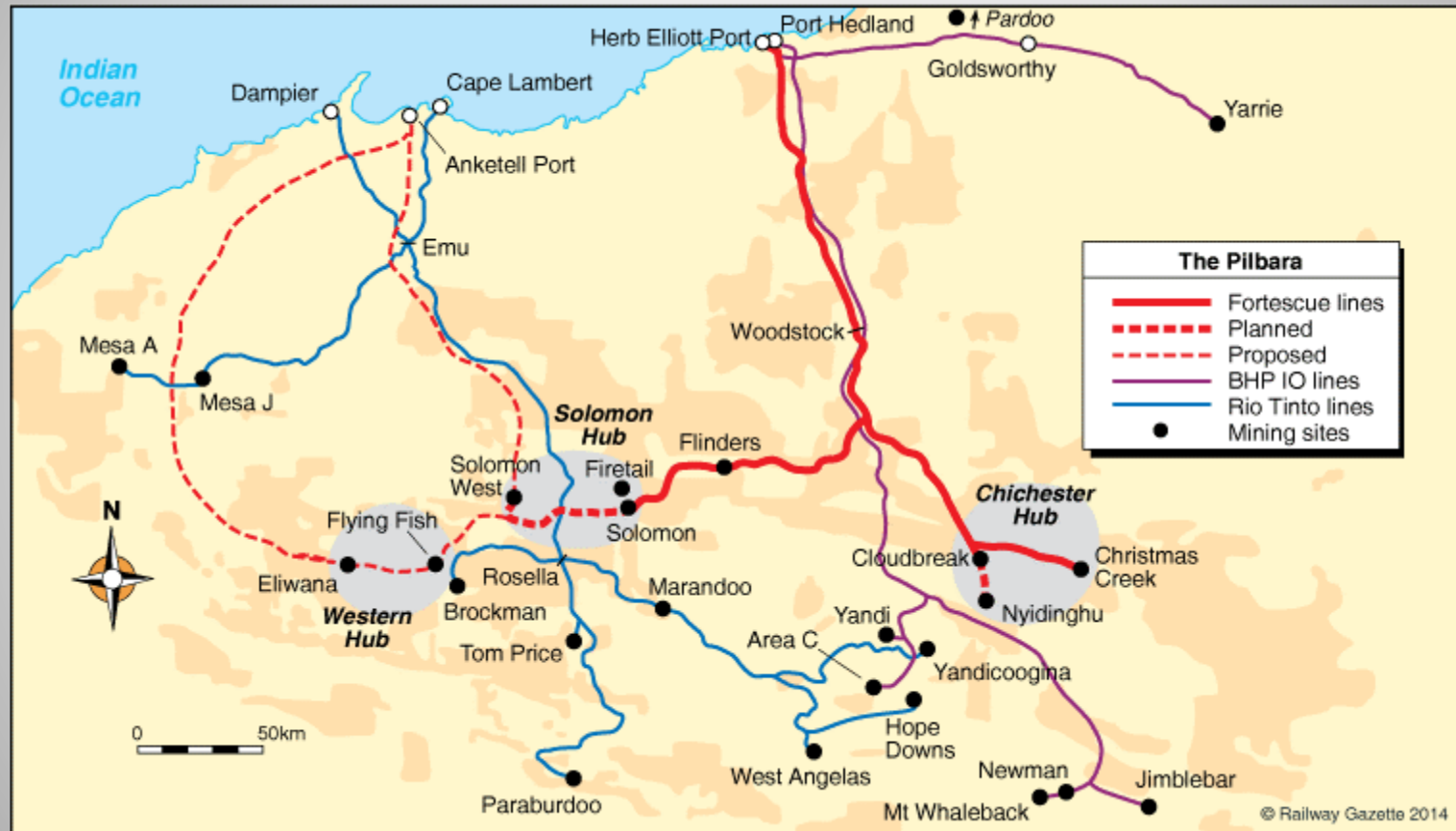
Eastern Guruma People



- One of the most heavily explored & mined areas in Australia
- 6 RTIO mines, 1 FMG mine, 4 railway lines, more mines coming
 - Estimated 20,000 drill holes drilled, 434 heritage sites destroyed
 - 285 sites in close proximity to mining operations
 - 93% of country covered in mining tenements
 - Large expansions proposed - Brockman (RTIO) & Solomon (FMG)
- Significant Cumulative Impact on EG country, heritage & culture
 - Destruction of heritage, sites
 - Impacting waterways – dewatering, water not replaced into aquifers, long term impacts
 - Responsibility to other groups for water/creeks
 - Impact on flora & fauna – no kangaroos, emus, reducing bush medicine
 - Restriction of access – mining areas, rail crossings, fencing, station gates
 - Impact on native title rights – eg: hunting, travel
- Marandoo mine exempt from State Heritage Act (only place in Australia)
- RTIO does not pay NT compensation on 3 out the 6 mines.
 - Affecting country & native title rights for 55 years – no payment
- FMG pay reduced NT compensation (much lower rate, cap)

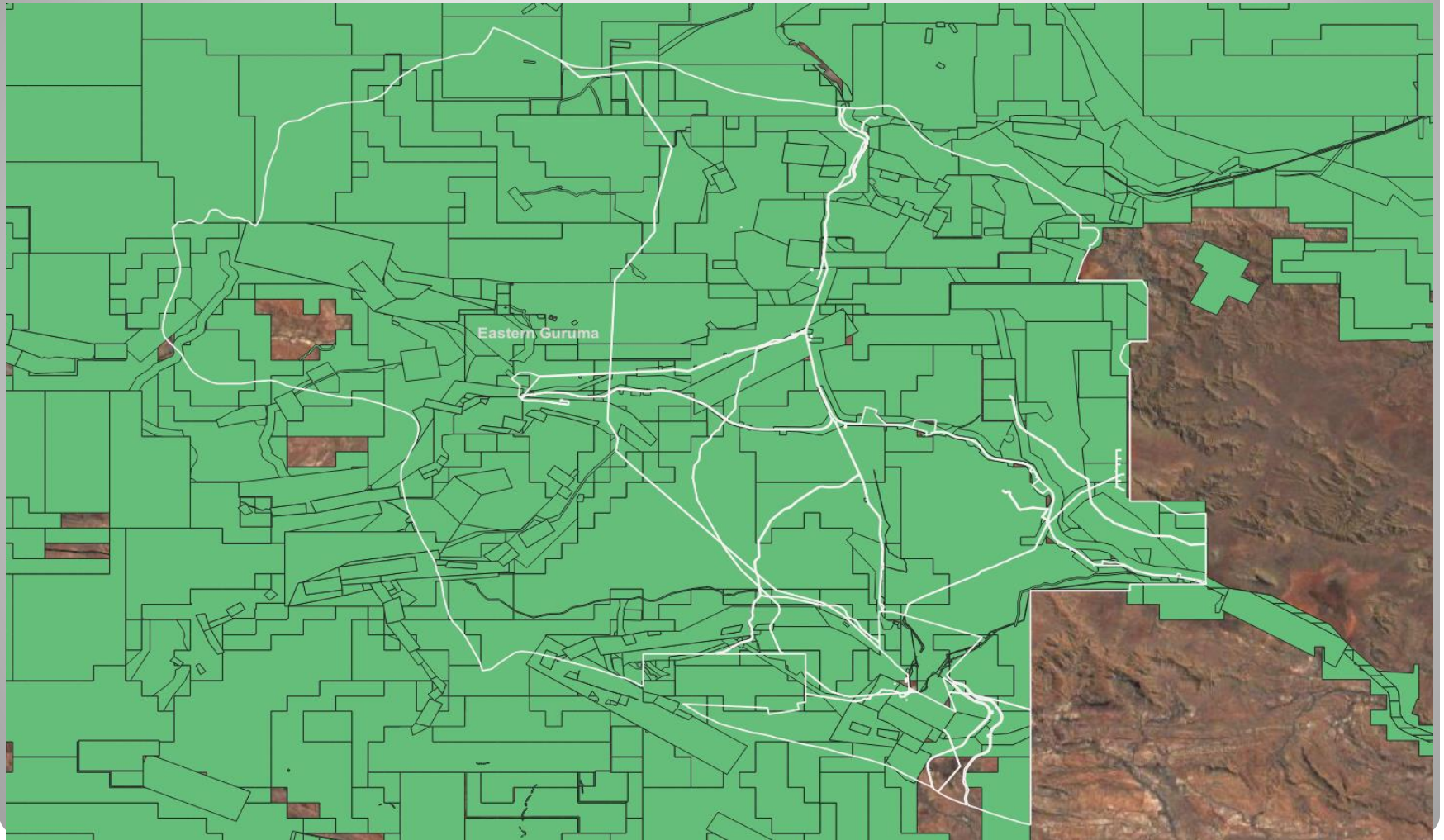
Impact of Mining

• Mines & Railways in the Pilbara



Impact of Mining

- Mining tenements on EG Country



Impact of Mining

Tom Price mine



Impact of Mining

Recent Examples of Poor Behaviour

- Speech to WA Parliament by Hon Robin Chapple MLC
 - 31 October 2018
 - <https://www.youtube.com/watch?v=xEj64gCpDrs>
- WGAC Appearance & Submissions to Juukan Inquiry (x3)
 - Appeared Tuesday 13 October 2020 – refer transcript pages 12 - 21
 - Submissions #50 [Submissions – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au/submissions)
 - Members visited Spear Hill & Queens/Weelamurra Creek sites in April 2021
- Major Mining Company #1
 - On 1 February 2021 - cleared Aboriginal Site (Weelamurra Creek) contrary to Ministerial conditions in S18
 - [Fortescue's 'deep regret' amid new indigenous heritage bungle \(afr.com\)](https://afr.com)
- ASX Listed Junior Explorer – July 2019
 - Exploration activities – no notice/no agreement (required by NTA)
 - Drove around on quad bikes taking soil samples
 - Rock art on tenement
 - Holes dug in artefact sites
 - Complaints made to ASX, ACCC, ASIC – no interest
 - WGAC choices – court action (difficult) or media (coming soon)

Mining Company Behaviour

Destruction of Juukan Gorge by RTIO - Changed Everything

- Juukan Gorge – Commonwealth Inquiry
 - WGAC Submissions (x3)
 - Board appeared before Inquiry in October
 - Committee visited sites on EG country in April
 - Significant media coverage
- Public Interest in Protecting Indigenous Heritage
 - Investor Groups – wanting to discuss issues
 - Media – wanting stories. National & international coverage (AFR, Reuters, Australian, Guardian)
 - Previously WGAC had to pay to get stories published
- Political Interest
 - State Government changed approach (s18 approvals)
 - Review of AHA – Indigenous voices now being listened to
- Mining Company
 - Having to change engagement approach
 - Behaviour is being scrutinised (media, investors, public)
 - Having to demonstrate social licence
- WGAC has responded
 - Actively engaged with media/investor groups
 - Speaking to government
 - Mining Company Scorecard

Juukan – Changed Everything

- Mining Company A – Land Access Agreement
 - Not as rosy as one might believe
 - Not even thinking about reviewing agreement
 - Agreement not working – impacting approval timeframes
 - No working group meetings in last 2 years
 - Ongoing breaches. Parties not complying.
 - No ability to review/update agreement
 - No end date to agreement
 - No ability to terminate
- Mining Company B – 20 Year Old Agreement
 - Talking about modernising agreement
 - Slow progress - No real outcomes to date
 - Uncertain whether really committed to change
 - Disconnect between Board statements & reality at ground-level
 - Proof will come in next 3 months
- Agree with Senator Dodson (Juukan Inquiry)

**Aboriginal groups need an Independent umpire.
Power imbalance is too great (and is ongoing)**

Agreement Modernisation

- Scorecard
 - 34 questions, Possible 1,250 Points
 - Questions & scores tailored to suit WGAC circumstances & priorities
 - Five important Areas of Focus
 - Heritage Surveys
 - Regulatory Compliance
 - Relationship
 - Caring for the Environment
 - ESG Reporting
- Performance of FMG & RIO assessed for CY2021
- Results released February 2022.
- Wanting to engage proactively with miners
 - Meeting to explain scoring process
- Valuable feedback mechanism
- Can assist them with ESG performance

Mining Company Scorecard

- Hold regulators accountable
 - Follow up issues with ASX, ASIC
 - Show them that there is a public interest
- Hold Mining Companies accountable
 - Get behind the board/CEO corporate spin. Be sceptical.
 - Develop Policy, Communicate Expectations (eg: Hesta Statement)
 - Develop your own (RIAA) scorecard for mining companies
 - Questions could include
 - Does the Mining Company have an agreement with all PBC's in the areas that they mine?
 - Has the CEO met face to face with the PBC Board in last year?
 - Has the full Board met with PBC Board in the last 2 years?
 - How do they obtain feedback from NT Holders? (Independent survey?)
 - Is this feedback considered by the Mining Co Board?
 - Has the NT agreement be reviewed / modernised?
 - What is the process for reviewed/modernised? Is it real?
 - Has a dispute notice been issued in the last year?
 - If so, how was it resolved?

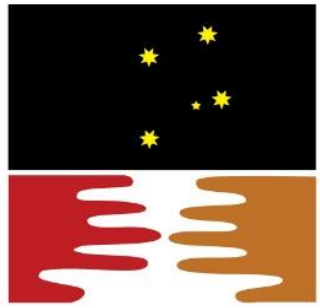
What can Investors & the RIAA do?

- Hold Mining Companies accountable
 - Develop your own (RIAA) scorecard for mining companies (Cont'd)
 - Questions could include
 - Has all compensation been paid to NT Holders?
 - Do they pay appropriate compensation? (ie: All mines, No cap)
 - How do they measure sustainability performance?
 - Does the Company belong to the Minerals Council of Australia?
 - Is the Company going to implement TSM reporting?
 - Does the Company obtain FPIC before proceeding with new projects or expansions?
 - What governance arrangements are in place to ensure compliance with FPIC principles/ Board expectations
- Promote feedback from NT Groups
 - Promote the Mining Company Scorecard
 - Encourage others to adapt/adopt
 - Develop a Regional or National PBC scorecard?
 - Promote NT Investor Group forums
 - Establish direct contact with impacted NT Groups
 - Engage with contacts before Company Investor Sessions
- Read Juukan Gorge transcript, submissions & interim report

What can Investors & the RIAA do?

- Questions
- Can be contacted on tonybevan@wintawariguruma.com.au

Questions



National
Native Title
Council

Western Australian cultural heritage legislative reform

Ju-Lin O'Connor, Senior Legal Policy Adviser

National Native Title Council

Overview

- The peak body for the native title sector. Set up to fill the advocacy vacuum left by the demise of ATSIC
- Members comprise native title representative bodies (the organisations under the Native Title Act set up to represent Traditional Owners in their native title claims and related matters) and Prescribed Bodies Corporate (Traditional Owner Corporations set up by Traditional Owners to hold native title rights and interests on their behalf)
- Native title, simply put, is western legal recognition and articulation of Traditional Owners rights and interests that have existed in accordance with traditional laws and customs for tens of thousands of years prior to colonisation
- NNTC advocates a rights based agenda that elevates the voices of Traditional Owners in relation to cultural strength and integrity; protection of Country, self-determination, economic and social prosperity.

WA Aboriginal Cultural Heritage Bill 2020 - timeline

- 2018 - work commences on Dhawura Ngilan, Best Practice Standards in Indigenous Cultural Heritage Management and Legislation with the Heritage Chairs of Australia and New Zealand
- May 2020 Rio Tinto destroys Juukan Gorge
- September 2020 Dhawura Ngilan is endorsed by NNTC members and other Indigenous organisations across the country and adopted by the Australian Heritage Council
- October 2020, upon the request of the Senate Committee for the Inquiry to the destruction of Juukan Gorge, NNTC provides an analysis of the proposed WA Aboriginal Cultural Heritage Bill 2020 against Dhawura Ngilan

2021 – campaigns by WA representative bodies and Traditional Owners to stop the WA Bill in its current form and calls for support.

WA Aboriginal Cultural Heritage Bill 2020

The model of legislation provides that cultural heritage (broadly defined) is protected if it fits that definition and can only be disturbed or impacted with a statutory authorisation.

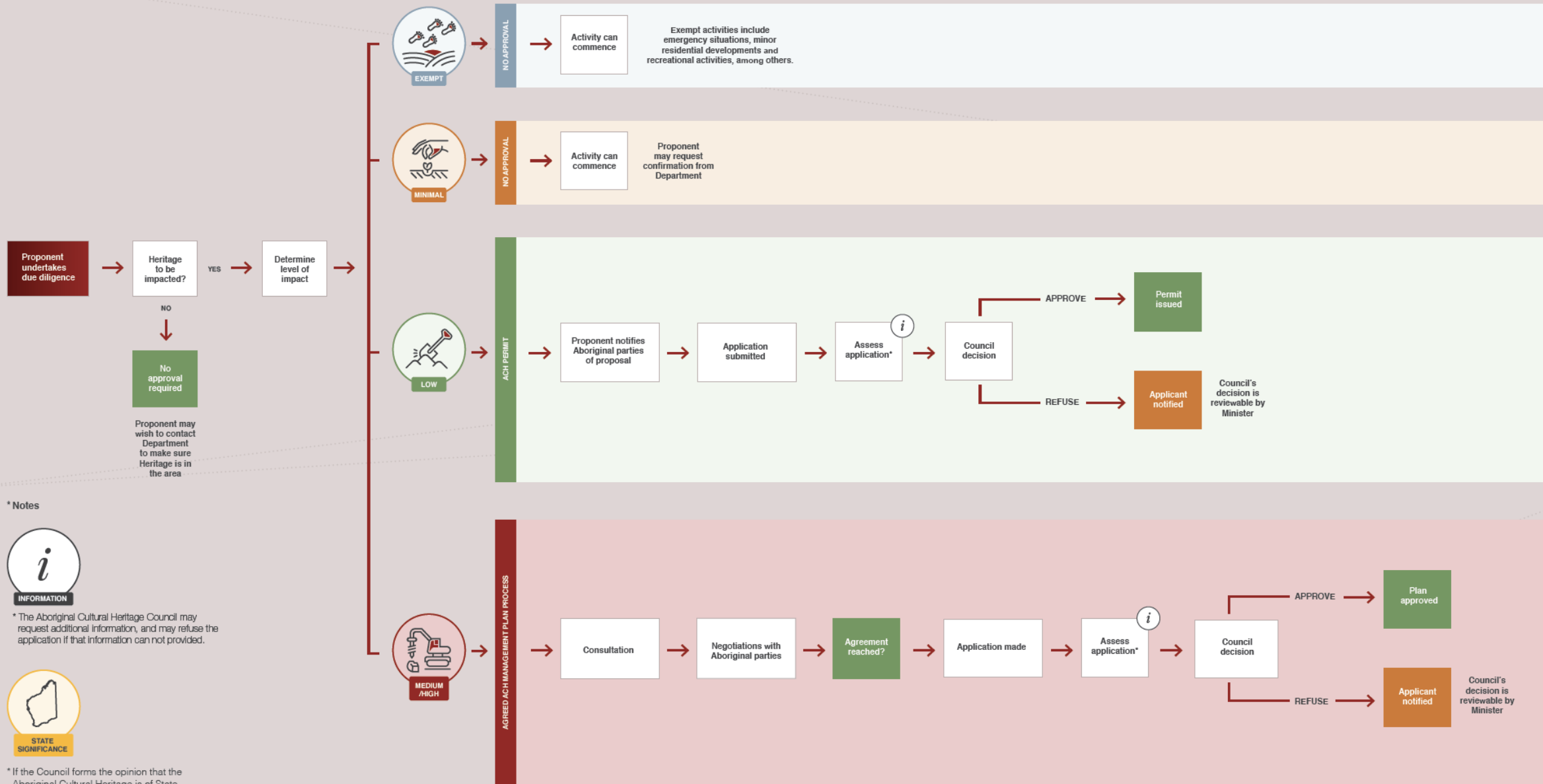
The bill provides for recognition and appointment of Traditional Owner representative organisations to undertake the cultural heritage consultations under the bill. These are called “Local Aboriginal Cultural Heritage Services” (**LACHS**).

Does not require the statutory authorisation to be by the affected Traditional Owners (through LACHS, or otherwise) for the disturbance or harm to their cultural heritage.

Does not resource LACHS to undertake any of their statutory functions.

WA Aboriginal Cultural Heritage Bill 2020 - Authorisation regime

- Proponent use a “ACH Management Code” to assess their own activities.
- Proponent’s assessment determines the procedural rights of LACHS, whether they are notified at all or whether they have a right to negotiate a cultural heritage management plan.
- The assessment is made on the level of ground disturbing impact not on whether the activity will impact cultural heritage (only Traditional Owners can assess this. Activities such as entering an area can impact cultural heritage).
- Authorisation for low impact activities is via a permit granted by the ACH Council.
- Medium to high impact activities: proponent negotiates with the LACHS for a CH management plan within a prescribed timeframe. Proponent may apply to the ACH Council authorisation of the plan.



*** Notes**

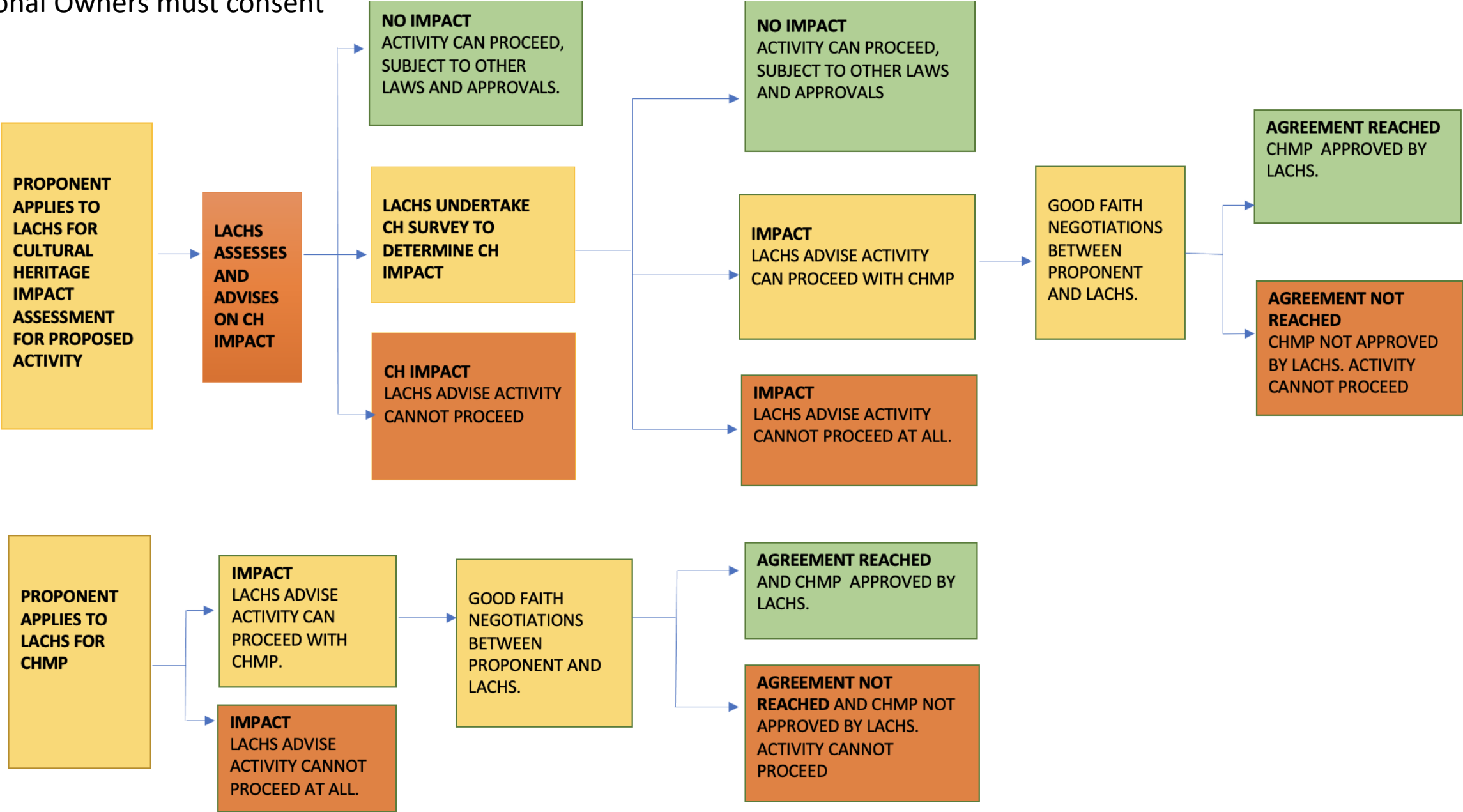


* The Aboriginal Cultural Heritage Council may request additional information, and may refuse the application if that information can not be provided.



* If the Council forms the opinion that the Aboriginal Cultural Heritage is of State significance, it must refer the plan to the Minister for authorisation.

Alternative approvals process –
Traditional Owners must consent



WA Aboriginal Cultural Heritage Bill 2020 – Other issues

- Aboriginal Cultural Heritage Council appointed by the Minister to advise the minister and has decision making powers. The Council appoints the LACHS.
 - Council to have an Aboriginal chair with the remainder to have the “relevant knowledge, experience and skills” preferencing Aboriginal appointments “as far as practicable”.
 - Submissions request that this be reviewed to a majority or exclusively WA Traditional Owner membership
- The bill provides significantly higher penalty provisions. However, the Department has a poor track record of enforcing the existing *Aboriginal Heritage Act 1972 (WA)*, with low rates of prosecution for offences.
- Much of the detail of how the new regime will work has been left to the regulations and ancillary documents that have not been drafted or released.