

SUBMISSION IN RESPONSE TO INDIGENOUS VOICE CO-DESIGN REPORT AND PROCESS

DELILAH MACGILLIVRAY (NEE DOMIC) _ 29 APR 21

POSITION (*Where we are now.*)

Personal and Professional Context

I was born and grew up on Darumbal Country Rockhampton, Central Queensland (CQ) strongly identifying with my mother's Kalkutungu and my father's South Sea Islander ancestry.

I am still traumatised today when I think of my Mother's stories of living under the *Aboriginal Protection of Opium Act 1897 (QLD)* having to be taken off her traditional lands in north-west Queensland to Palm Island as a nine year old; having to go to the Police Station in Hughenden as an 18 year old to order her clothes because she didn't get paid her wages; and then as a 65 year old not having a birth certificate to prove who she was so that she could get the pension. She said, "Delilah I'm not a number, I knew my parents". It feels almost as if it was yesterday.

My diverse 32 years in the public service included working in a combination of mainstream and Indigenous identified positions with Federal and State agencies in urban, regional and remote locations across Australia. Portfolios and functions included education, housing, defence, accommodation, human and community services, transport, Aboriginal and Torres Strait Islander Affairs, sport and recreation, child safety, women, seniors, multicultural affairs, homelessness, regional planning and community recovery, whole of government coordination, project and contract management and research. This work also required working with the non-government and corporate sectors. I travelled extensively across Australia, working centrally from Canberra and then regionally from CQ in Aboriginal communities and Torres Strait Islander communities, therefore, I feel qualified to provide a considered response.

Government Context

Despite significant investment in public institutions, policies, programs and research in the past thirty years, governments have failed to reduce high levels of disadvantage in Aboriginal and Torres Strait Islander communities and the trend continues.

History shows that we have seen the creation of many institutions set up to provide a combination of strategic advice, programs and services to meet the needs of Aboriginal and Torres Strait Islander peoples, only to be abolished at the whim of consecutive governments of the day. We have also seen legislation written overnight as with the Northern Territory Emergency Response (NTER) and COVID. Both seemingly in response to community and national interest. The NTER's discriminatory legislation had no consultation with Aboriginal or Torres Strait Islander peoples and with COVID, parties such as GPs claimed they were also being left out of the process and that their voices weren't being heard. By contrast, showing the value of Indigenous managed and controlled responses, Aboriginal and Torres Strait Islander health services are leading the way in keeping their communities safe from COVID.

As a public servant I saw different iterations of legislation, policies, programs, including vast numbers of pilots which came and went with no commitment to achieving sustainable outcomes.

Indigenous Voice Co-Design

At the Rockhampton 8 Apr 21 National Indigenous Australians Agency (NIAA) Voice Co-Design consultation which Mick Gooda facilitated, I reminded attendees of the many government-driven processes (both Federal and State) that had gone before, particularly impacting on Aboriginal and Torres Strait Islander peoples on the ground. Examples include, but are not limited to, Partnerships Queensland; Meeting Challenges, Making Choices; bi-lateral agreements; Local Indigenous Partnership Agreements (LIPA); whole of government coordination; CQ Aboriginal and Torres Strait Islander Commission (ATSIC) Regional Council Plan; Mutual Obligation Agreements; and the Office of Indigenous Policy Coordination (OIPC) Engagement Maps.

The Engagement Maps undertaken between Nov-Dec 2004 are of interest because the Federal Government asked, "When the government comes to talk to you, who do you want to represent you?". George Vilaflor (a lawyer) facilitated the processes across CQ and Wide-Bay Burnett from Rockhampton to Winton in the west and south to Eidsvold. (See attached CQ Community Engagement Maps.) Surprise, surprise, ATSIC was abolished

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in June 2005. The writing was on the wall. These government-driven processes which I witnessed first-hand between 2000 and 2012, were mirrored across Australia. If nothing else, it reflects stories being told over and over to no avail.

One might ask what the government, mostly driven through the Federal government and the Council of Australian Governments (COAG) has learnt from these processes. It is important not to forget that these government-driven processes involved intensive engagement with Aboriginal and Torres Strait Islander peoples who gave up many hours to provide information about their issues, needs and aspirations (always voluntary, never paid for their time). Many of the reports from these consultations are lost in the bowels of public sector archives, never to be seen again. Nothing learnt. Elders who contributed to these processes gone. Newer generations treading water and drowning from the weight of government compliance and incompetent leadership. Voices not being heard or acted upon. Groundhog Day.

Benefits and Disbenefits of Local, Regional and National Voice in Co-Design Report

- There are benefits to local and regional voices, however, there should be a clear 'line of sight' to the national voice and back to the ground.

The 13 First Nations culturally mandated regional dialogues say Aboriginal and Torres Strait Islander community controlled and led organisations and peak bodies do not represent their voices on the ground.

The attached Engagement Maps provide evidence of how Aboriginal and Torres Strait Islander peoples want to be heard and represented which reflects the strength and diversity of those communities.

- Many of the models from the past (ATSIC) and present (Empowered Communities) are resource intensive with significant financial investment and take time, both of which governments tend not to factor into upfront planning of legislation, program, policy and budgetary design. Urban, regional, remote and cultural factors also need to be budgeted. Hence the need for a systemic mechanism such as constitutional reform to drive the process ensuring full implementation and learning is not impeded by ad hoc change of government decisions.
- The proposed national voice lacks rigour and authority. The proposed model is like the advisory committees set up to drive the Indigenous Voice Co-Design process, providing advice only, with the government making final decisions. Excluding the constitutionally enshrined First Nations Voice from the committees' Terms of Reference lacked transparency and integrity and silenced many voices, including those on the committees. Further to this, there should be no issues off the table where government can determine what gets discussed and silences local, regional and national voices, including youth who should be at the table not represented through an advisory committee.
- There should be opportunities for the constitutionally enshrined First Nations Voice to be heard and to have the government's support to influence globally e.g. economic development, climate change and their intersections as they apply to Aboriginal and Torres Strait Islander (First Nations) peoples in Australia and across the world.
- Finally, the view that Aboriginal and Torres Strait Islander people will one day transition to a homogenous state where everyone agrees or can opt in or out or has the capacity to negotiate on an ongoing basis is discriminatory, naïve and misses the point. No other Australian community or group is required to go to these lengths to be heard. A constitutionally enshrined First Nations Voice would allow for formal and informal community governance structures to organically evolve over time with the support of government enabling processes (as identified by community) rather than debilitating government-driven legacy processes of the past.

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Constitutionally enshrined First Nations Voice

Over 1,000 Aboriginal and Torres Strait Islander people were involved in 13 dialogues across Australia which culminated in a First Nations National Constitutional Convention at Uluru in May 2017. The Uluru Statement from the Heart is the first time there has been a national consensus on what constitutional change is desired by Aboriginal and Torres Strait Islander peoples. The Uluru Statement rejects symbolic constitutional recognition in favour of substantive constitutional reform and calls for a First Nations Voice enshrined in the Constitution and a Makarrata Commission to supervise a process of agreement-making and truth-telling. These reforms are known as “Voice. Treaty. Truth”.

I, like many others was not involved in the regional dialogues but I respect the voices of those who were and the considered decisions they made in the best interest of all Aboriginal and Torres Strait Islander peoples and wider Australia. It is now being promoted that the Indigenous Co-Design process is reflective of the voices of Aboriginal and Torres Strait Islander peoples across Australia. This not only denies the cultural authority of those who were involved in the regional dialogues but misrepresents the numbers of participants involved in the Indigenous Voice Co-Design process. For example, ABS Census 2016 shows Rockhampton’s population of Indigenous peoples at 5,867 Indigenous (5,143 Aboriginal, 359 Torres Strait Islander, 375 both Aboriginal and Torres Strait Islander). Only 17 people attended the Rockhampton consultations with a small representation of Aboriginal and/or Torres Strait Islander peoples. Anecdotal evidence suggests that this has been the case across Australia, with many of those voices calling for a constitutionally enshrined First Nations Voice.

The risk for the proposed legislated Voice is that, without the constitutionally enshrined First Nations Voice driving the process, it will become another short-lived strategy with the capacity to be abolished after the next government election and become yet another archived document and result in more unfinished business.

PROBLEM (*Why we can’t stay here.*)

There is a legacy that has been embedded constitutionally since federation where all sides of government have neglected to show **leadership** to right the wrongs of the past. It will take a significant multi-level government paradigm shift and people movement to **change State structures and behaviours**, including **leadership from Prime Minister Scott Morrison**.

The current government strategies are not sustainable because they are designed on legacy thinking and data; and colonially constructed racist ideologies and narratives based on enforcement and compliance that do not meet the needs of Aboriginal and Torres Strait Islander (First Nations) peoples.

A constitutionally enshrined First Nations Voice provides the **opportunity for a paradigm shift on the notions of enforcement, compliance and behaviour change** in relation to decisions on the design of future legislation, budgets, programs, policies and procedures.

It is time to create a future preferred state with Aboriginal and Torres Strait Islander (First Nations) individuals, family and community voices expressing and defining self-determination on matters that are important to them. Where all levels of government listen to ‘hear and understand’ First Nations **voices** and **act** on them.

It is time for redesign and to use the **constitutionally enshrined First Nations Voice** to gather local data to create and design **‘fit for purpose’ products and services** to meet holistic social, emotional, economic, physical, environmental, spiritual and cultural needs of First Nations peoples that will *benefit* all Australians.

It is time to redesign the constitution to move from enforcement and compliance to a future state as determined by Aboriginal and Torres Strait Islander (First Nations) peoples. To use the culturally mandated First Nations regional dialogue Voices and other data to design and create a **‘fit for purpose’ constitutionally enshrined First Nations Voice to Parliament and complementary legislation embedded in cultural lore** to meet the needs of First Nations peoples that will *benefit* all Australians.

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It is time to invert the pyramid to allow Aboriginal and Torres Strait Islander peoples (First Nations) to enforce Federal, State and Local government **accountability and compliance** through a constitutionally enshrined First Nations Voice to ensure their needs are met.

It is time to listen to the people of Australia to whom the Uluru Statement from the Heart was gifted. Majority of Australians support a constitutionally enshrined First Nations Voice that only the people can change through referendum. Many Australians are wanting Aboriginal and Torres Strait Islander (First Nations) peoples to be recognised in the constitution **so that they can also find their place** as an Australian.

(See attached Triple E Framework – QPS Delilah MacGillivray Interpretation 2020.) I created this framework when I worked with Centrelink to try to educate non-Indigenous senior decision-makers who ‘just didn’t get it’ when it came to understanding the impact of legislation and policies affecting Aboriginal and Torres Strait Islander individuals, families and communities. I credit my previous colleague from North Queensland for introducing the green frog and the bike metaphor, where the **green frog is culturally and environmentally friendly and flexible** whereas **the bike is inflexible not easily bent** reminding us to always ask, “Where are the green frog strategies?”

POSSIBILITIES

Option 1

Support the Uluru Statement from the Heart regional dialogues’ consensus on substantive constitutional reform calling for a First Nations Voice enshrined in the Constitution and a Makarrata Commission to supervise a process of agreement-making and truth-telling. These reforms are known as “Voice. Treaty. Truth” and the sequencing is imperative so that past legacy systems, ideologies and narratives as outlined in this document do not continue.

Advantage:

Aboriginal and Torres Strait Islander (First Nations) peoples are recognised in the Constitution. All Australians benefit.

Disadvantage:

None

Option 2

Use lessons learnt from the past to inform and strengthen an enabling legislation for the Voice to Parliament not Government.

Advantage:

Only if passed after a referendum has been held in the next term of Parliament.

Disadvantage:

Legislating a Voice only without a referendum to constitutionally enshrine a First Nations Voice to Parliament.

Option 3

Do nothing.

Advantage:

None

Disadvantage:

Nothing changes.

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PROPOSAL *(Where we should go to instead.)*

Option 1 is the preferred option.

1. The government must honour its election commitment to a referendum once a model for the Voice has been settled to ensure that a First Nations Voice to Parliament is protected by the Constitution.
2. Enabling legislation for the Voice must be passed after a referendum has been held in the next term of Parliament; and
3. The membership model for the National Voice must ensure previously unheard Aboriginal and Torres Strait Islander people have the same chance of being selected as established leadership figures.

Option 2 – Legislating a Voice only without a referendum is not a preferred option. Option 1 (2) is preferred.

Option 3 – Doing nothing is not a preferred option. The status quo is unsustainable. There is too much unfinished business which needs a response driven through a constitutionally enshrined First Nations Voice.

Community Engagement) Maps)

Results of Regional Forums)

Nov – Dec 2004)

Eidsvold .

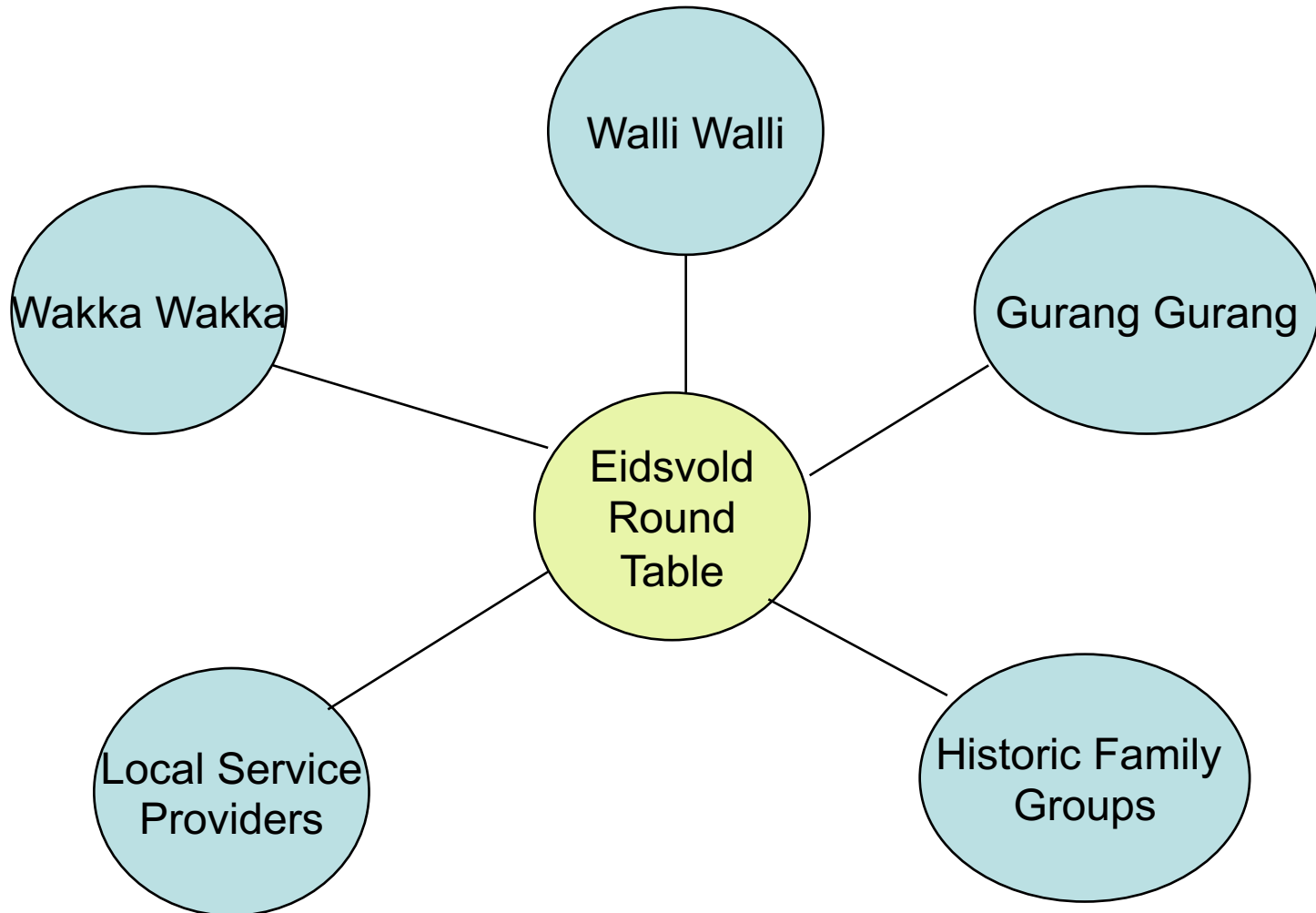
Engagement Process

- Eidsvold Round Table .
- Established by invitation to . participants. .
- 2 Representatives of each group for decision making but many may attend discussion.

Issues Identified

- Youth activities and employment.
- Strong culture
- Children and families. .
- Healthy living.
- Parental involvement in education.

Eidsvold Community Engagement (Map (



Hervey Bay &

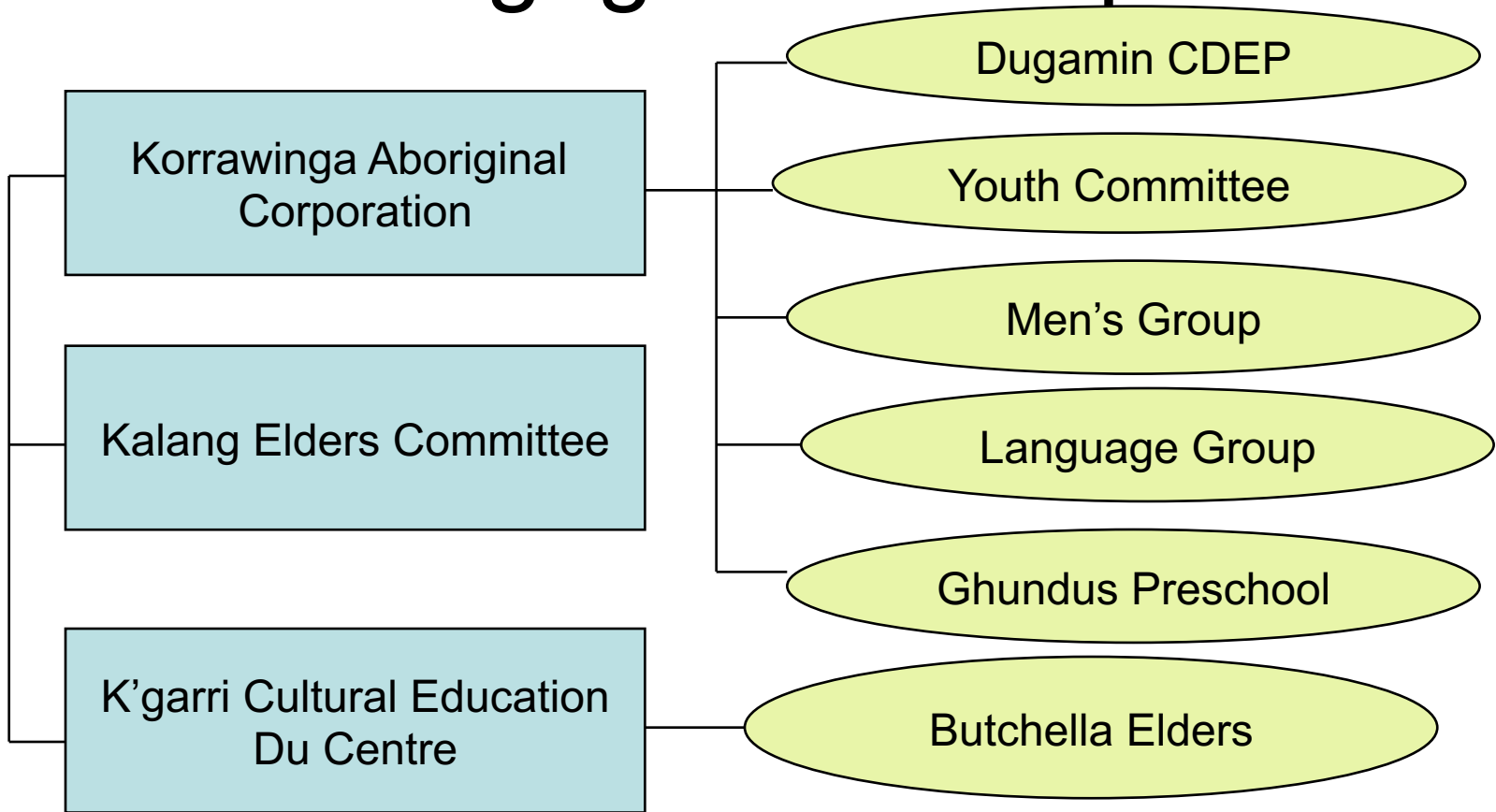
Engagement Process &

- Forum
- Entry point through organisations.
invitation to participants.

Issues Identified

- Youth support – education, sport, accommodation.
- Elders complex.
- Families – single and low income.
- Transport to traditional land.

Hervey Bay Community Engagement Map



Maryborough /

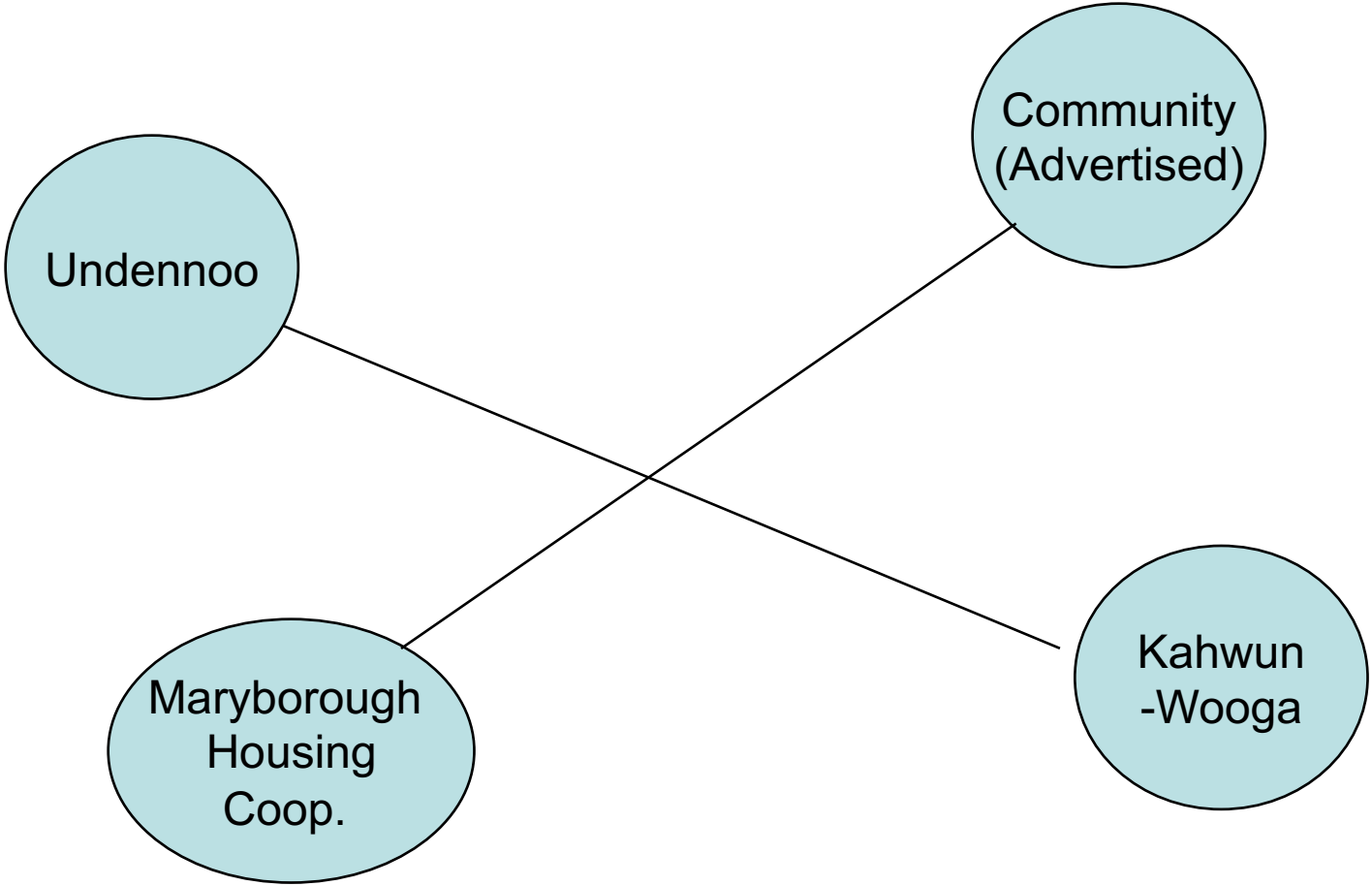
Engagement Process /

- Forum
- Community working together.
- Notification through organisations and advertisement.
- .

Issues

- Short term accommodation.
- Youth programs – diversionary and employment (small business).
- Health and drugs

Maryborough Community Engagement Map *



Bundaberg -

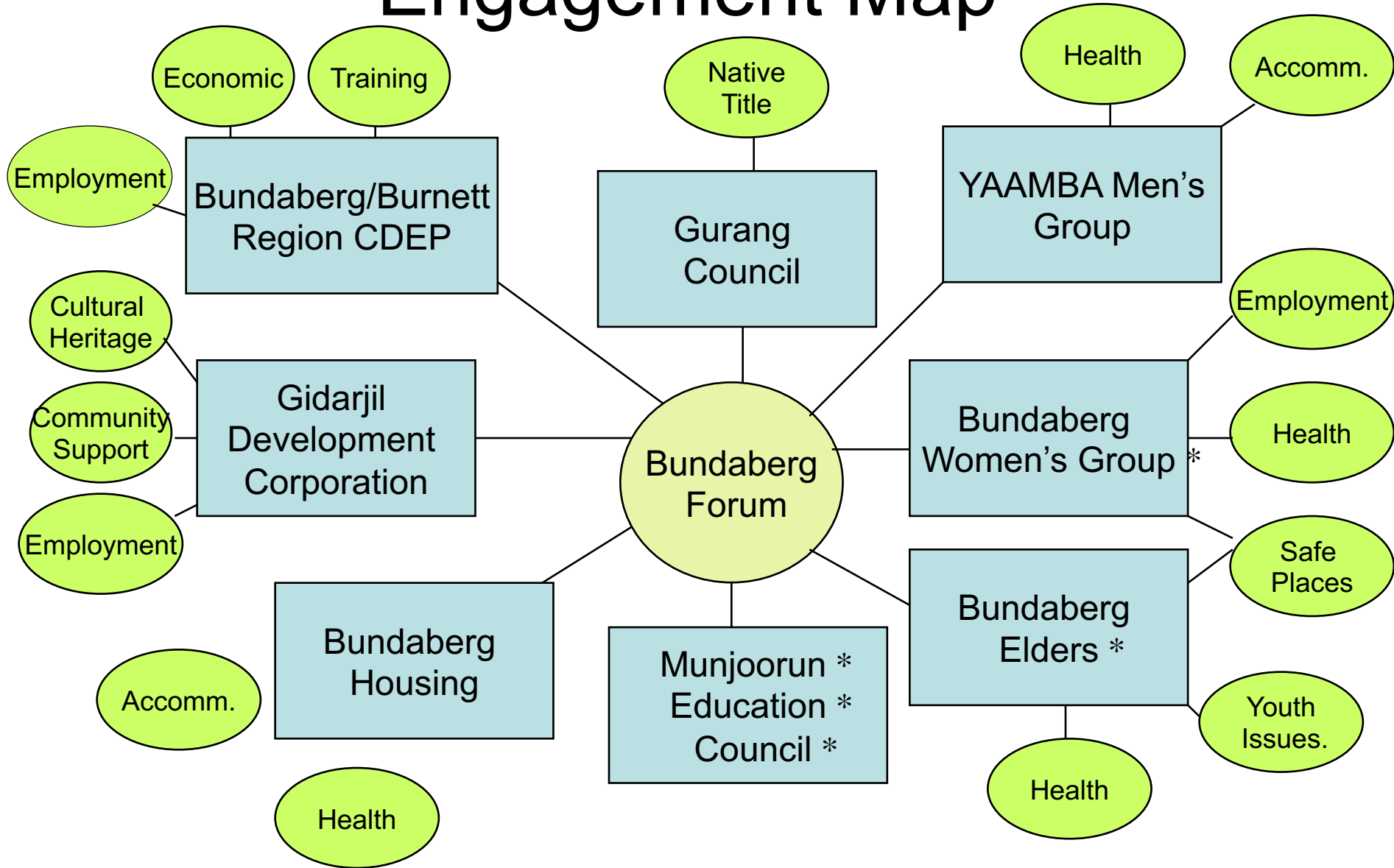
Engagement Process -

- Bundaberg Forum
- Community working together.
- Notification through organisations and advertisement.
- Agreement by discussion. -

Issues

- Programs for youth -
– diversionary.
- Stronger Families. -
- Access to Health Services.
- Self Esteem –
culture and identity.

Bundaberg Community Engagement Map *



Gladstone -

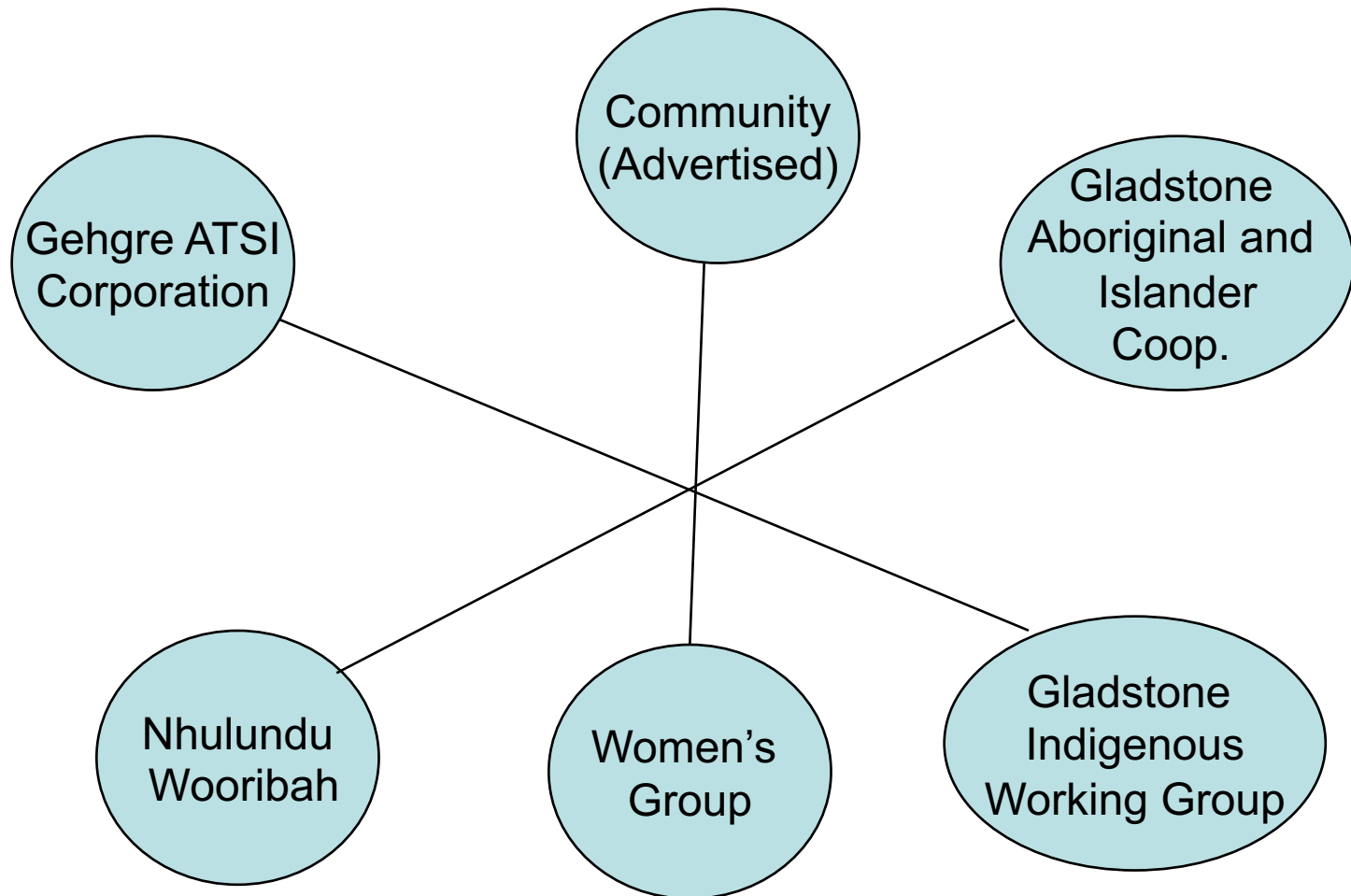
Engagement Process

- Open forum for - consultations. -
- Community members and organisations. -
- Notification through organisations and advertisement.

Issues

- Safer places.
- Economic development and employment.
- Young children and families.
- Strong culture.

Gladstone Community Engagement Map *



Mount Morgan &

Engagement Process

- Community meetings. &
- Invitation to participants through organisations and advertising.

Issues Identified

- Youth activities and employment.
- Health (Substance Abuse).
- Employment opportunities.

Mount Morgan Community Engagement Map &

Mount Morgan &
Aboriginal Cooperative &

Calliungal Youth Centre

Community Members &
(Advertisement) &

Rockhampton .

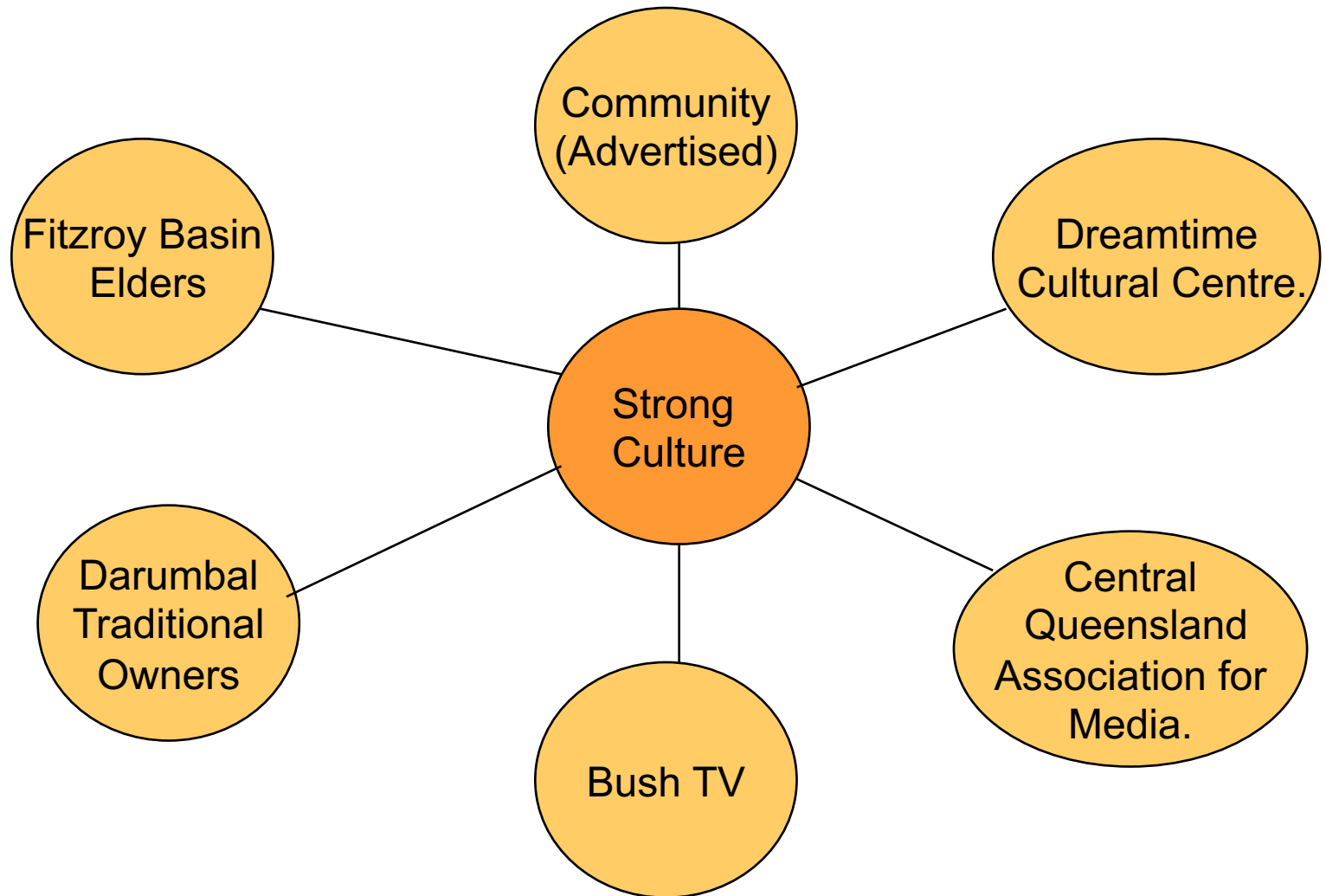
Engagement Process

- Issues based forum . for consultations. .
- Organisations identified for representation.
- Community members invited to attend through advertisement.

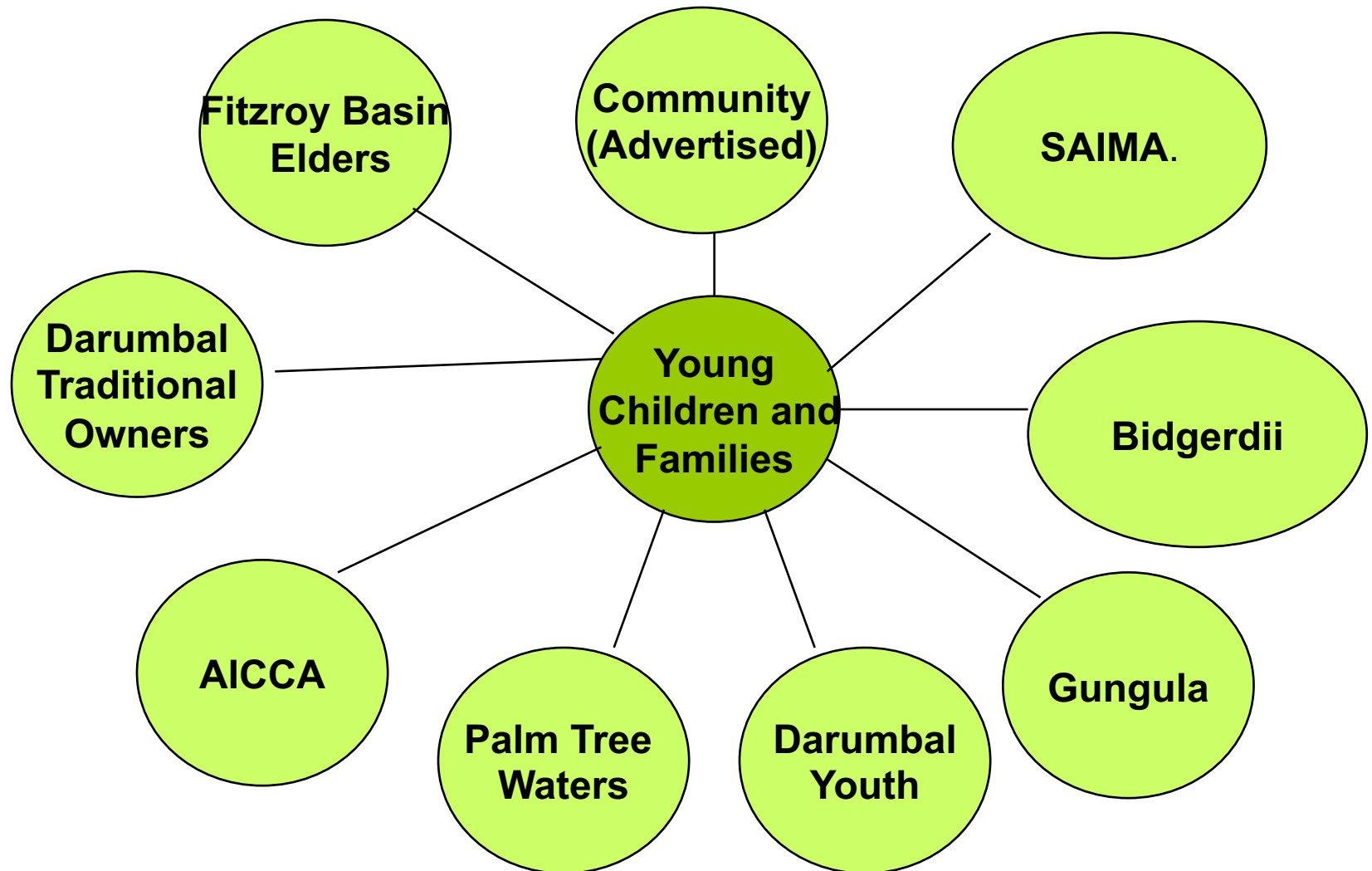
Issues

- Strong culture.
- Young children and families.
- Healthy living.
- Economic development.
- Safer communities. .

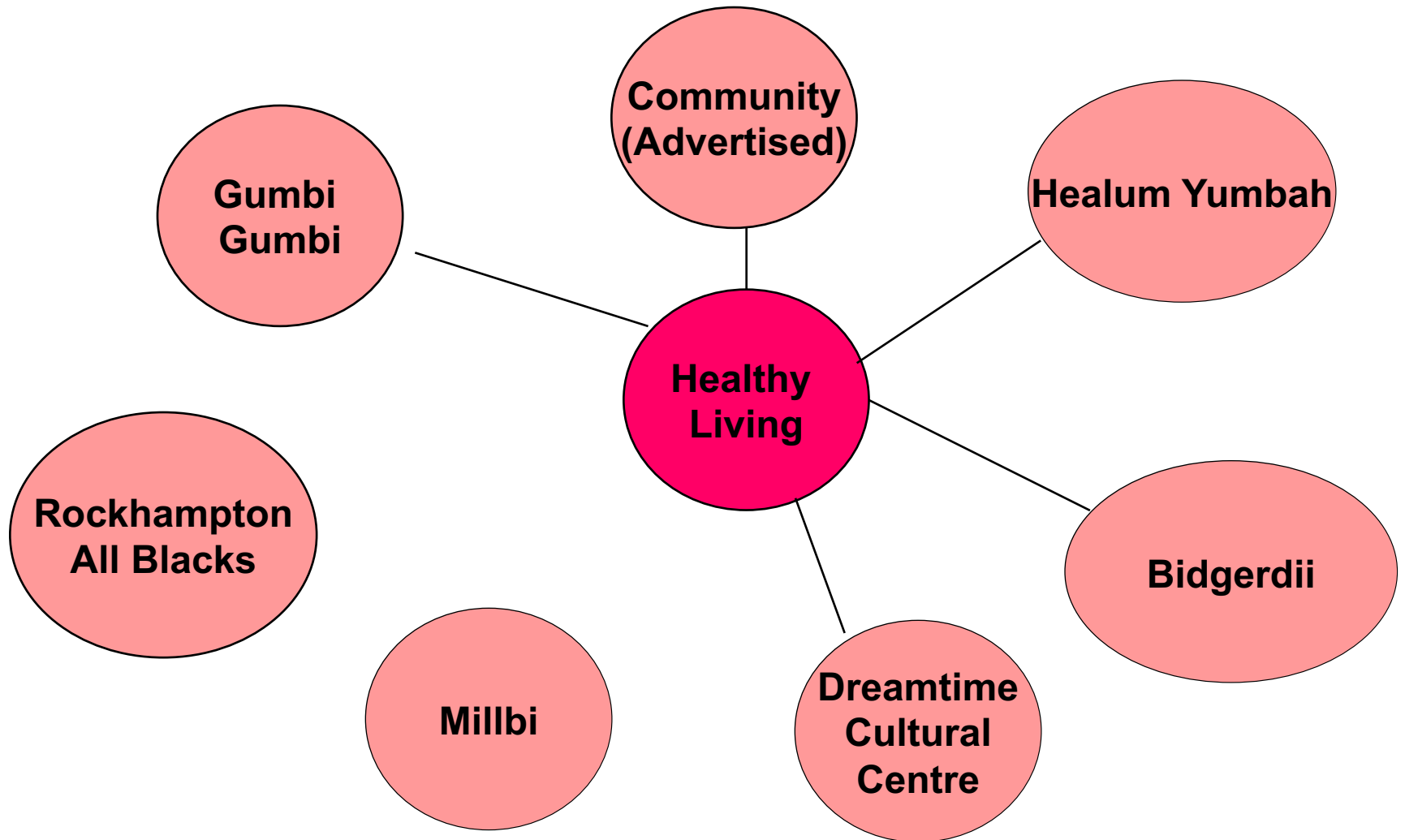
Issues Based Community Engagement Map- Rockhampton %



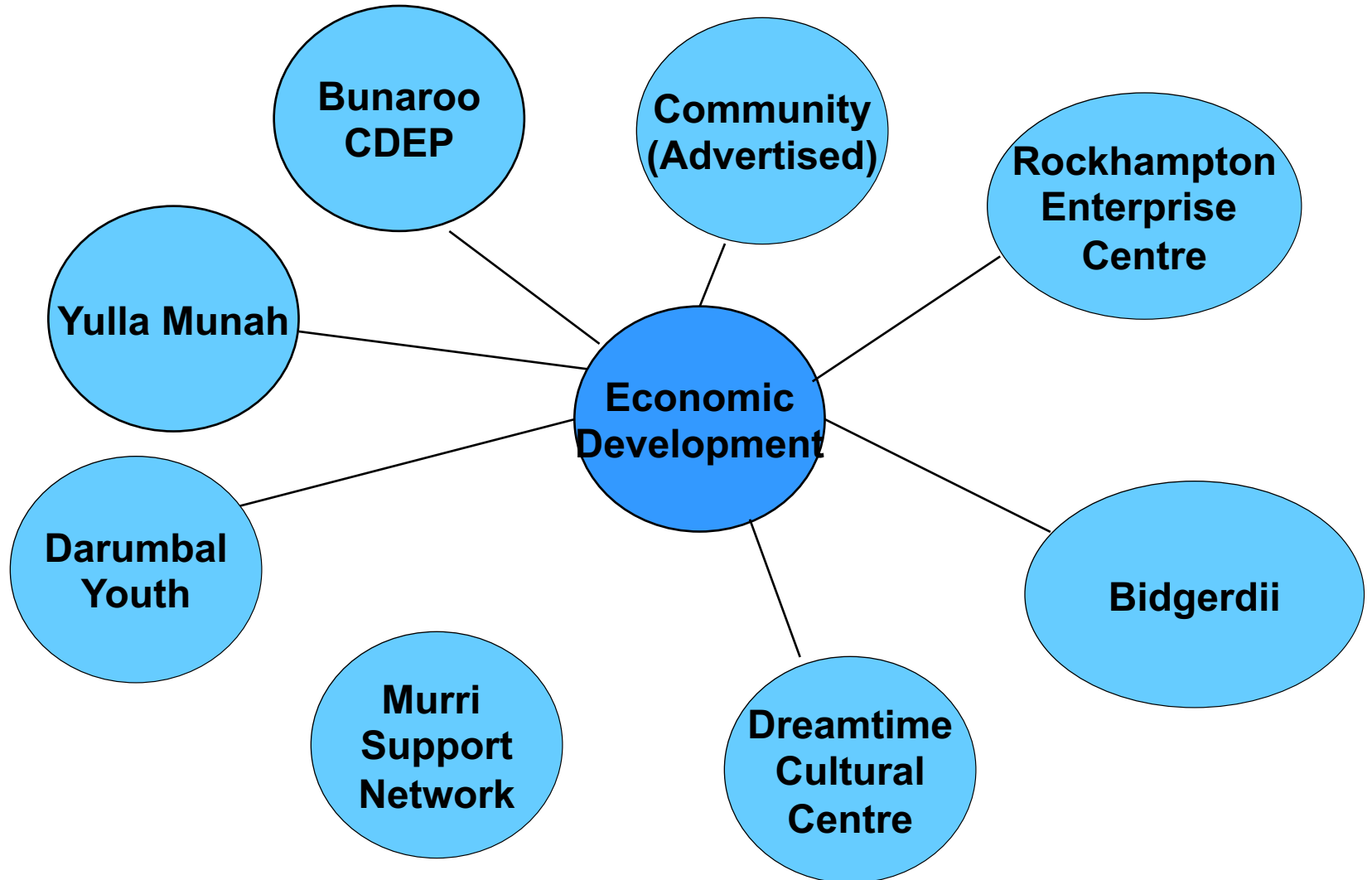
Issues Based Community Engagement Map- Rockhampton %



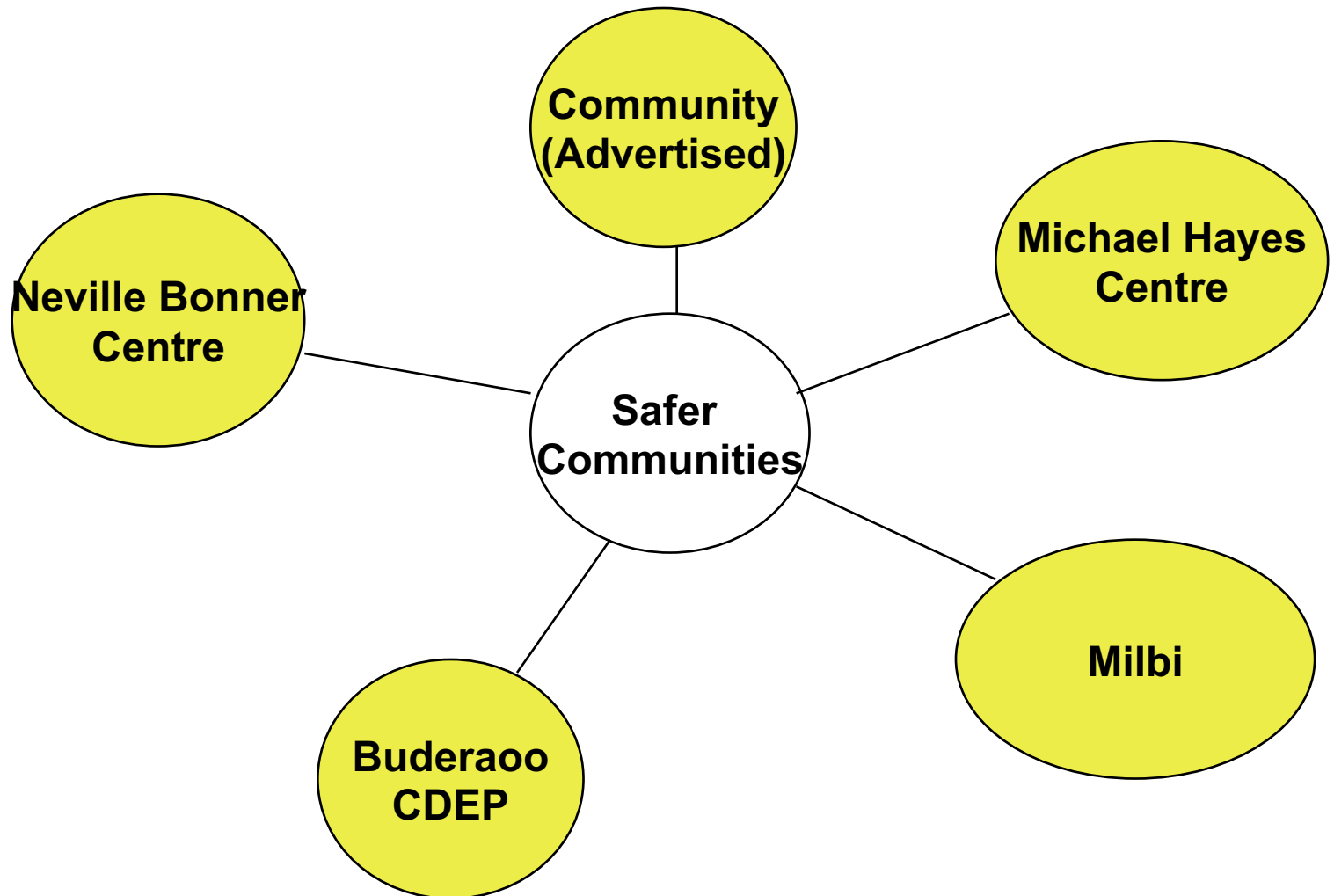
Issues Based Community Engagement Map- Rockhampton %



Issues Based Community Engagement Map- Rockhampton %



Issues Based Community Engagement Map- Rockhampton %

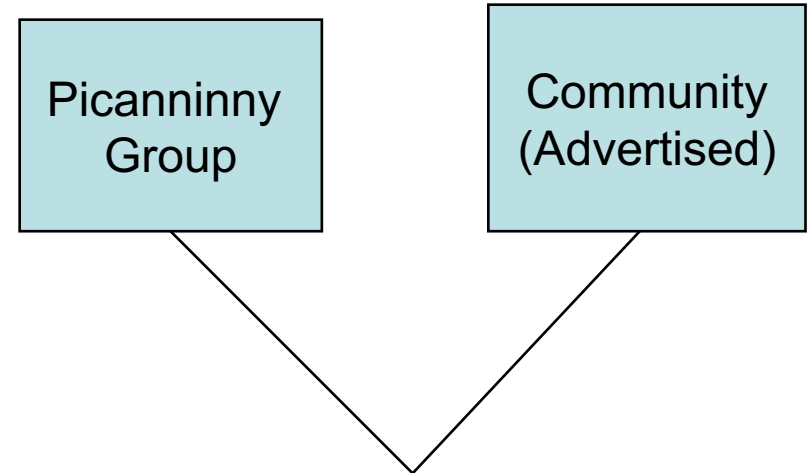


Emerald +

Engagement Process

Emerald Community Engagement Map (

- Community members invited to attend through + advertisement. +



Issues

- Families and culture.

Clermont ,

Engagement Process

- Community members invited to attend. ,
- , Contact point is Sandy Creek.

Issues

- , Young Children and Families.
- , Healthy Living.
- , Economic Development. ,

Clermont Community Engagement Map)

Sandy Creek
Aboriginal ,
and Torres Strait ,
Islander ,
Corporation ,

Blackwater .

Engagement Process

- Community members invited to attend.

**Blackwater Community
Engagement Map ***

Issues

- Strong culture.
- Education and families.
- Safe places.

Advertisement .
placed to bring .
community together. .

Barcaldine .

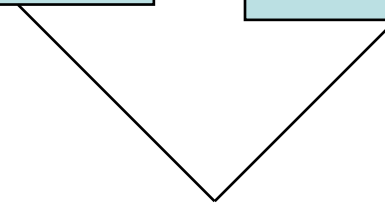
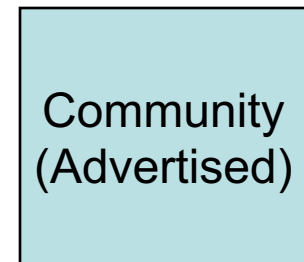
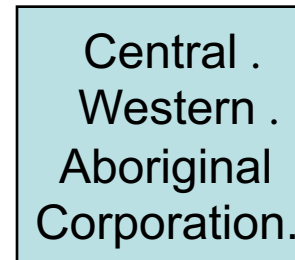
Engagement Process .

- . Community members invited to attend.
- . Contact through Central Western Aboriginal Corporation.



Issues

- . Education – self development .
- . Economic development and employment.
- . Substance Abuse.
- . Engaging with youth.



Tambo+

Engagement Process

- Community members invited to attend.

**Tambo Community
Engagement Map &**

Issues

- Housing
- Education

Community +
(Advertised) +

Winton +

Engagement Process

- + Community members invited to attend.
- + Contact through Winton District Aboriginal Corporation.

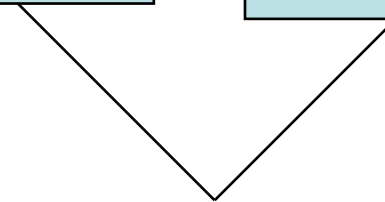
**Winton Community
Engagement Map &**

Issues

- + Education Outcomes
- + Health – substance abuse.
- + Employment for school leavers.
- + Culture – respect and self esteem.

Winton +
District +
Aboriginal
Corporation.

Community
(Advertised)



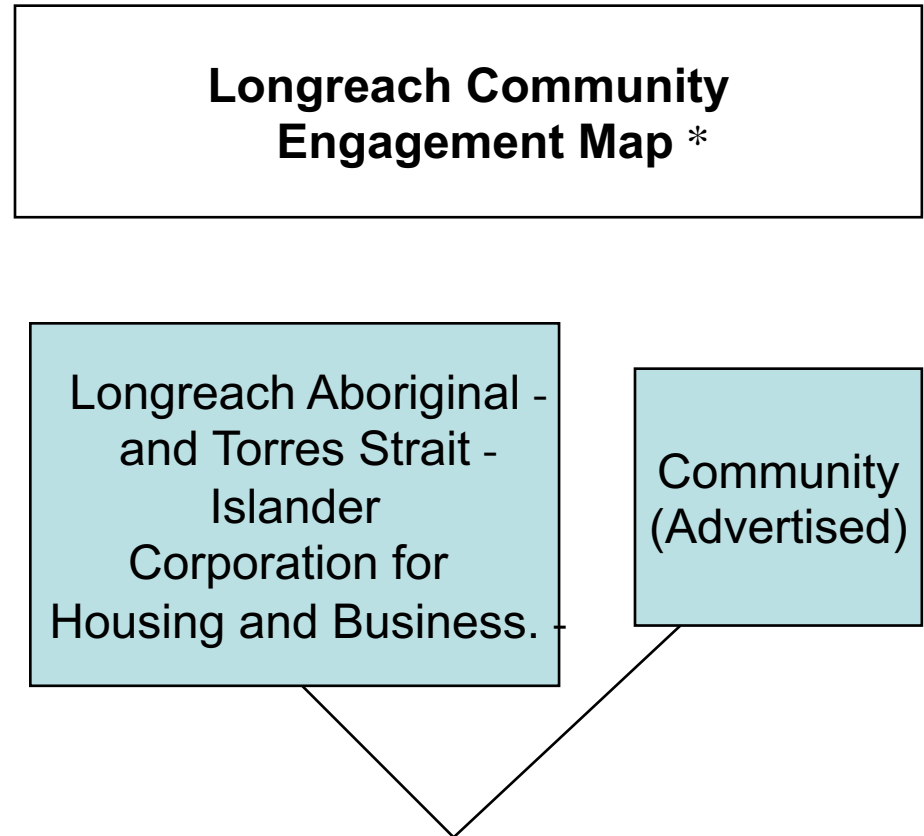
Longreach -

Engagement Process



- - Community members invited to attend.
- - Contact through Longreach Aboriginal and Torres Strait Islander Corporation for Housing and Business.

Issues

- - Employment.
- - Young children and families. -
- - Safer communities.
- - Employment.
- - Economic development.



CONSTITUTIONALLY ENSHRINED FIRST NATIONS VOICE TO PARLIAMENT

EDUCATION 	ENGINEERING	ENFORCEMENT 
<p>Current Design</p> <p>Old data and information (<i>legacy thinking and data</i>)</p> <p>Aboriginal and Torres Strait Islander community controlled and led organisations and peak bodies.</p> <p>The 13 First Nations culturally mandated regional dialogues that led to the Uluru Statement from the Heart and a call for a First Nations Voice enshrined in the Constitution and a Makarrata Commission to oversee a process of agreement-making and truth-telling. (Voice, Treaty, Truth) say these organisations and peak bodies do not represent their voices on the ground.</p>	<p>Current Design</p> <p>Federal, State, Local Government, non-government, corporate and other private and public institutions, legislation, programs, services, funding models and decision-making designed from a colonial enforcement ideology and narrative that do not meet the needs of First Nations peoples.</p> <p>Aboriginal and Torres Strait Islander Commission (ATSIC) set up to represent First Nations people able to be abolished at the whim of the government of the day. Racist legislation like the Northern Territory Emergency Response (NTER) that breached the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) written and implemented overnight without consultation.</p> <p>A legacy that has been embedded constitutionally since federation where all sides of government have neglected to show leadership to right the wrongs of the past. It will take a significant multi-level government paradigm shift and people movement to change State structures and behaviours, including leadership from PM Morrison.</p>	<p>Current Design</p> <p>Constitution (based on a colonial ideology without First Nations)</p> <p>State systems designed on the same ideology, with a flow on effect to the design of ineffective:</p> <ul style="list-style-type: none"> • Legislation, Regulations, Acts, Standards • Policies and Procedures • Budgets and constraints • Funding allocations and contractual arrangements • Front line and back-office systems • Compliance and Evaluation frameworks • Decision-making dominated by a mainstream, hierarchical decision-making matrix without First Nations peoples sitting at the table • Unethical and/or inappropriate decision-making behaviour. <p>(<i>the bike – inflexible not easily bent – Kathy Lakatos</i>)</p>
<p>Future preferred state</p> <p>User Experience data (new ways of thinking and working together locally – co-designing)</p> <p>Aboriginal and/or Torres Strait Islander (First Nations) individuals, family and community voices expressing and defining self-determination on matters that are important to them. Listening to 'hear and understand' First Nations voices and acting on it.</p> <p>(<i>green frog – culturally and environmentally friendly and flexible – Kathy Lakatos</i>)</p>	<p>Redesign – Green Frog Strategies</p> <p>Use the constitutionally enshrined First Nations Voice to gather local data to create and design 'fit for purpose' products and services to meet holistic social, emotional, economic, physical, environmental, spiritual and cultural needs of First Nations peoples that will <i>benefit</i> all Australians.</p>	<p>Redesign – Green Frog Strategies</p> <p>Use the culturally mandated First Nations regional dialogue Voices and other data to design and create a 'fit for purpose' constitutionally enshrined First Nations Voice to Parliament and complementary legislation embedded in cultural lore to meet the needs of First Nations peoples that will <i>benefit</i> all Australians.</p>

Source: Triple E Framework – QPS Delilah MacGillivray Interpretation 2020

CHANGED BEHAVIOURS