

EVALUATION OF THE AURUKUN RESTORATIVE JUSTICE PROJECT



REVIEW OF IMPLEMENTATION

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List of Acronyms

ARJP	Aurukun Restorative Justice Project
CJG	Community Justice Group
DJAG	Department of Justice and Attorney-General
DATSIP	Department of Aboriginal and Torres Strait Islander Partnerships
FRC	Family Responsibilities Commission
PLO	Police Liaison Officer
QPS	Queensland Police Service

EXECUTIVE SUMMARY

This document reports on the first phase of the independent evaluation of the Aurukun Restorative Justice Project (ARJP), established in Aurukun in 2014. The independent evaluation is examining both the implementation of the Project and the outcomes achieved in the first three years. This report is primarily concerned with the implementation of the project. It is based on an examination of project-level data along with interviews with Project staff and a range of community, government and non-Government stakeholders during a visit to Aurukun in August 2016. The second part of the review will involve more extensive consultation with Aurukun community members and analysis of relevant quantitative data to draw conclusions about the impact of the ARJP to date. The key evaluation questions and the structure of this report are guided by a program logic that was developed in collaboration with ARJP staff and stakeholders (see Figure 2).

History of the Aurukun Restorative Justice Project

- The original plan for an extensive period of community consultation and co-design around an Aurukun peacemaking model did not eventuate due to an emergent need to start mediating.
- Limitations on the Project Manager's time and a lack of guaranteed ongoing funding also affected the scope for a comprehensive co-design phase. These are lessons for future implementation of similar projects.
- However, initial consultations revealed strong community support and demand for mediation in Aurukun and this has continued during implementation.
- The limited co-design phase has created some issues during the subsequent implementation of the project.
- Gaining further community input and reaching consensus on the Aurukun model of peacemaking remains 'unfinished business' that will need to be attended to.

The Aurukun peacemaking model

- The Aurukun peacemaking model has evolved through a process of ongoing practice of mediation and related peacemaking methods, influenced by the Mornington Island model and the standard 12-step facilitative mediation model.
- Important and unique features of the Aurukun model are:
 - the centrality of kinship as the basis for resolving conflict
 - the intent to involve elders and respected community members as co-mediators
 - the involvement of more family members through group-to-group mediations
 - co-mediation by a neutral 'outsider' and local community mediators
- Mediation appears to have a high degree of community acceptance as a pathway for non-violent dispute resolution. However, there is a lack of consensus about some aspects of the way mediation is being practised under the Aurukun model:
 - concerns by some that the group-to-group mediations are too large (contrasted with a belief by others that larger public mediations are essential)
 - whether it is essential in the longer-term for a non-local mediator to be involved
 - different expectations about whether mediators should play purely a facilitative role or should act as arbitrators of disputes and sometimes impose sanctions
 - concern that a broader range of people should be involved in co-mediating and that the mediation project should be formally linked to the CJG

- As it is conceived in its ideal form, the Aurukun model is consistent with prescriptions in the literature about best practice Indigenous dispute resolution. However, implementation of the model has not yet reached maturity in its ideal form.
- A further process of community consultation and co-design is required to discuss and resolve some of the issues listed above and to reach community consensus about the appropriate peacemaking model for Aurukun. This need is addressed in recommendation 1.

Operational matters

- There are some current weaknesses around the operational aspects of the Project that require further attention. The evaluation acknowledges that there have been staffing and resourcing constraints, that meeting demand for delivery of peacemaking services is understandably a priority over administration, that remote communities are a challenging operating environment (e.g. IT and communication difficulties) and that the Project has been in a developmental phase.
- The Project would benefit from further attention to operational planning, especially for activities such as community engagement, mediator training and process improvement.
- The Project has been able to function with minimal policies and procedures to date, but there is a need to document current practices (e.g. in a basic procedures manual) to assist with training more local mediators and in case of future staff turnover.
- Stakeholders have raised the need for the Project to enhance data collection and reporting. The current process does not adequately enable the Project to monitor trends, improve service delivery, and demonstrate output and impact to key stakeholders in government and the community. Key priorities are: tracking the time spent by staff on various output areas; introducing a basic participant feedback form; introducing a more sophisticated activity database that records additional data needed for monitoring and evaluation and quickly produces simple reports.
- There is currently no referral form for agencies to use in referring a matter to mediation.

Output 1 – Community and stakeholder engagement

- More engagement with the community is required around the further development of the Aurukun model for mediation (as discussed in Part 2.3).
- In establishing the Project, excellent work has been done in engaging with Aurukun families, leading to an apparently high level of awareness and community acceptance of the Project and a strong rate of referral direct from community members. There is, however, scope for the Project to undertake further promotion of the Project to community members.
- The Project has formed a close working relationship with police and has had some engagement with probation and parole services and the court, although there is more work to do in engaging court stakeholders (see Part 5.3.2).
- Engagement with other community organisations and government and NGO service providers has been more limited, which poses risks to implementation by first, limiting the awareness of the Project and therefore scope for referrals from these stakeholders, and second, by reducing the potential for service coordination.

Output 2 – Mediation and other peacemaking activities

- The Project conducted 161 dispute resolution processes between March 2014 and July 2016, an average of 1.3 processes per week, including a face to face mediation every 1.8 weeks. The rate of output has risen to 1.9 dispute resolution processes per week in 2016.
- Activity has been split 40% conflict coaching and shuttle diplomacy, 42% mediations, and the rest intake and assessment only, group facilitation and negotiated settlements.
- There are no accepted benchmarks to compare the ARJP's dispute resolution outputs – compared to the Mornington Island project, Aurukun is similar to the early years of output, but less than recent years.
- There was a divergence of views about whether the Project was responding in a timely enough way to demands for peacemaking. A few stakeholders raised concerns about the time it took to hold a mediation and that the Project Manager was not based full-time in the community. A focal point for these concerns was that the Project Manager and Mediation Coordinator were unavailable at a time of heightened community unrest in October to November 2015. This underlines an issue about the adequacy of staffing of the Project (see Part 6.2).
- The Project has played a central and constructive role in responding to significant community disharmony arising from the death of a community member in inter-clan fighting in November 2015. Fewer face-to-face mediations have been possible since that time as a result of tensions.
- There have been only nine victim-offender mediations and further work with justice stakeholders is needed to enhance this pathway.
- Stakeholders see greater scope for the Project to mediate with prisoners and assist in their reintegration to Aurukun.
- The success rate for the Project's peacemaking interventions is 68%, measured by whether a dispute is settled or parties reconciled. There is no relevant benchmark, but the Aurukun rate is below the Mornington Island rate of 83%. Despite this, stakeholders are overwhelmingly positive about the effectiveness of mediations in resolving disputes. Few concerns were raised about outcomes of mediations.
- No data is collected about parties' satisfaction with mediations. The community survey in early 2017 will measure this.
- Some agency stakeholders would like more information back about the outcomes of matters they refer.
- The type of dispute being dealt with by the Project is appropriate to Aurukun's needs. The Project focuses on conflict at the individual and family level, which has been an endemic and volatile feature of life in the Aurukun community for decades. Mediation is a very effective intervention for the particular sources of conflict in Aurukun, which are often about miscommunication, breach of cultural protocol and kinship and relationship issues.
- Stakeholders agree that mediation can play an important role in addressing family violence, not by replacing the legal process that deals with violence, but by assisting with mediating underlying issues in appropriate circumstances.
- There is unexplored scope for the Project to mediate conflict between non-Indigenous staff within service provider agencies.

Output 3 – Community education about dispute resolution

- The Project's output in general education of the community about dispute resolution has been limited to date, due to the other demands on the Project staff and the community tensions in the past year. Some

meetings have been held with community groups but planned community education workshops and larger meetings have not occurred as envisaged.

- The Project has instead relied on community members learning about dispute resolution through 'experiential learning', by participating in mediations as either parties or co-mediators.
- If staffing levels and the other demands for peacemaking permit, there is an opportunity for the Project to do much more in community education, including with school children.

Output 4 – Mediator capacity-building

- An achievement for the Project is that the local Mediation Coordinator has finished formal training and accreditation as a mediator. This has complemented her extensive on-the-job training during immersion in mediation practice in the past year.
- Recruiting more elders and respected community members as co-mediators has been a major challenge. Only a small group of four or five people have undertaken regular mediating during the past two years, and they do not represent all clans.
- Stakeholders consistently raised the need to expand the pool of local mediators. They emphasised the need for a full-time male mediator, a spread of co-mediators across the clans, strong leaders who could act impartially, and more younger people.
- Revitalising the CJG was frequently raised by community and agency stakeholders as a way to expand the pool of co-mediators.
- Formal mediation training for community people was not delivered until August 2016 and was poorly attended. The Project has relied on 'on-the-job' training of community co-mediators in preference to formal training.
- However, formal training in mediation remains an outstanding need for the Project to build an adequate pool of community co-mediators.

Adequacy of project inputs

- The staffing available for the Project in the past two years has been a Project Manager position based in Brisbane and on the ground in Aurukun for 54% of the time, and a local Mediation Coordinator from May 2015.
- This level of staffing available has proven inadequate for the Project's needs, in terms of undertaking the necessary developmental work (to run a co-design process, consult with the community, recruit and train co-mediators etc) and responding to emergent community demands for dispute resolution services.
- Most stakeholders suggested the need for an additional full-time local mediator, preferably a local man from a different clan group to the Mediation Coordinator.
- Although the level of staffing has been inadequate, the Project has been served by a high calibre of individual staff, in terms of the Project Manager position (both the former and current occupant) and the Mediation Coordinator position (since July 2015).
- The Project has been hampered by inadequate office and mediation room facilities and poor access to information technology.
- Key partners, especially State police and community police, have made very significant contributions to the Project, through referrals and through giving up their time to attend mediations.

Future implementation

- The unambiguous feedback from all stakeholders is that mediation needs to continue to be supported in Aurukun.
- In discussions with stakeholders about the best way forward for the Project, the consistent theme was the need to broaden local involvement (and ultimately ownership) in the mediation project through revitalising the Community Justice Group.
- This is seen by Aurukun people as building on an approach that worked in the past when elders from all the clans worked together on the CJG and were 'strong for the community'.
- Government can work with the community to facilitate a process of engagement with Aurukun clans that *both* revitalises the CJG *and* completes the ARJP's 'unfinished business' of further co-design and consensus-building about the Aurukun peacemaking model.
- Stakeholders agree that the Project is not yet ready to transition fully to community control, but further development of the mediation project through revitalising the CJG may make that possible within the next 3 years.

Progress findings about outcomes

- Although the sample of informants for this phase of the evaluation is small, there was encouraging evidence about the Project's success in achieving its intended short-and medium-term outcomes.
- The Project's work in engaging the community along with the word-of-mouth effect appear to have created a high level of awareness in the Aurukun community about the availability of peacemaking.
- Encouragingly, there is a high rate of referrals (66%) from community members (disputing parties and their families), which is an important medium-term outcome for the Project. Many stakeholders commented on the increasing willingness of Aurukun residents to self-refer, by proactively seeking out the ARJP staff for mediation.
- Stakeholders widely believe that mediation (and other forms of peacemaking such as shuttle diplomacy) are helping parties to settle disputes and preventing minor disputes from escalating into violence or property damage. This de-escalating effect is a central medium-term outcome sought by the Project and pivotal to bringing about the long-term impacts sought by the Project, such as a more peaceful community and reduced contact with the justice system.
- Anecdotally, the review was provided with examples of community members applying dispute resolution skills learned from participating in mediations. There was also anecdotal evidence of some people starting to practise peacemaking themselves in the community.
- There was less evidence available at this stage of the review about the extent that community mediators have developed skills in mediation and peacemaking. The impact to date could be expected to be limited due to the small number of elders involved in co-mediating to date and the difficulties encountered in delivering formal mediation training.
- It is too early, and not enough data are available, to make any observations in this report about progress in achieving the Project's long-term outcomes.

RECOMMENDATIONS

- 1) A further process of community consultation and co-design is required to discuss and resolve some of the contentious issues about mediation practice identified in this report and to reach community consensus about the appropriate Aurukun peacemaking model. A proposed process is set out below in Recommendation 12.
- 2) Community consultation should include discussion about an appropriate name for the peacemaking project, including the possibility of adopting a Wik language name.
- 3) The Project should work to address current weaknesses identified by the evaluation regarding operational matters, including:
 - a) planning for activities such as community engagement, mediator training and improvement of processes;
 - b) documented policies and procedures;
 - c) enhancing the data collection and reporting framework, paying particular attention to: tracking the time spent by staff on various output areas; introducing a basic participant feedback form; introducing a more sophisticated activity database that records additional data needed for monitoring and evaluation and quickly produces simple reports;
 - d) developing a simple referral form for use by agencies.
- 4) The Project should dedicate more time to promoting the availability of mediation to community members and organisational stakeholders, and track the success of efforts to engage with organisational stakeholders by monitoring changes in the number of referrals from organisations.
- 5) With a view to increasing the number of victim-offender mediations, the Project should coordinate a workshop with relevant stakeholders (Magistrates, prosecutors, defence lawyers, police, CJG) to devise a set of guidelines and procedures for identifying criminal matters that can be referred for mediation. This should include criteria for suitable matters, processes to coordinate vetting and diverting matters, and processes for reporting outcomes to the court. The workshop should also settle specific guidelines around mediation in domestic violence cases.
- 6) The Project should plan for more peacemaking interventions with prisoners, particularly when returning from prison. The Project should take advantage of video link facilities or seek resources to travel to prisons to conduct mediations if necessary.
- 7) The Project should plan to increase activities directed at community education about dispute resolution, including with school children. A starting point for this drive will be the process of community consultation and co-design of the Aurukun peacemaking model, as per Recommendation 1.
- 8) The training needs of the Project staff, both the Project Manager and the Mediation Coordinator, should be considered and catered for in future resourcing of the Project.
- 9) DRB should explore options for providing a mentor/peer supporter for the Mediation Coordinator to regularly de-brief over the phone (preferably an Indigenous mediator).
- 10) The pool of community co-mediators should be expanded through the process of revitalising the CJG set out in Recommendation 12.
- 11) Additional resources for delivering formal training to community co-mediators should be allocated, preferably enabling delivery outside the community.

12) Revitalise the CJG.

The State Government and Federal Government should partner with the community to run a consultation process to engage families to nominate representatives for the CJG. The statutory basis for the CJG is under the Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984. The Regulation permits the following recognised Indigenous social groupings at Aurukun to nominate between 1 and 5 representatives to the CJG: Archer, Watson and Top Kendall Rivers; Cape Keerweer; Kendall and Holroyd Rivers; Knox River; Love River; Ti Tree-Oonyawa; Upper Kirke River; Wik Way. Families should be encouraged to appoint younger members as well as established elders with a view to them becoming the peacemakers in the community. The new membership should be gazetted as per the legislation. Training should be offered to the new members about the statutory and non-statutory roles and responsibilities of the CJG.

13) Consult with the community to further co-design and reach consensus about the Aurukun mediation model.

In the same consultation process about the CJG membership above, discussions about the Aurukun mediation model should be facilitated, with particular attention to issues such as:

- how the co-mediator panel is chosen for a particular dispute (and how CJG members will have a central role as co-mediators);
- what the community expects of the role of co-mediators;
- how many family members should attend mediations (i.e. the appropriate size of the meetings);
- appropriate venue for mediations and when police should attend;
- an appropriate name for the peacemaking project.

After a series of consultations, the Aurukun mediation model should be drawn up in a document and signed off by key stakeholders (e.g. the Council and CJG). The project should be re-branded with a community name. A starting point for discussions might be 'Yuk Puink', which was a name adopted by the CJG in its early years, and is understood to refer to peacemaking in Wik Mungkan. Following sign-off, the model should then be marketed to the community through appropriate communication materials.

14) Provide adequate resourcing to the ARJP to further develop the model and meet community demand for peacemaking.

- a) The ARJP requires funding for an additional local full-time mediator, suggested to be a male person from a different family group to the current local mediator.
- b) There is a continued need for a Project Manager during the ongoing development of the Project, especially to manage the recommended community engagement (to revitalise the CJG and co-design the mediation model) and to build the capacity of the local mediators.
- c) Resources to enable backfilling of the Project Manager while on extended leave will be essential to address the past issues of continuity and responsiveness of service delivery.
- d) Additional resources will also be required for training for the CJG members in co-mediation, and for paying this larger pool of co-mediators on a casual basis.
- e) The inadequacy of the current office and mediation facilities, along with administrative support needs and access to IT, will also need to be addressed.

Additional staffing and resources will enable the Project to address some of the other implementation weaknesses identified in this report, such as:

- improving project planning and the documentation of policies and procedures;
- improving data collection and project monitoring and reporting;
- marketing the mediation service to the community and to service provider agencies;
- working with justice system stakeholders (police, prosecutors, defence lawyers, Magistrates, CJG and corrective services) to agree on a procedure for victim-offender mediations (e.g. eligibility criteria for diversion, suitable offences, process for vetting matters to identify ones suitable for mediation, format of report back to court following mediation etc);
- increasing efforts at community education about peacefully resolving disputes.

1 INTRODUCTION

1.1 Background

Aurukun is an Indigenous community of about 1300 residents on the west coast of Cape York peninsula in far north Queensland. The Aurukun Restorative Justice Project (ARJP) was conceived in late 2013 in response to requests from the Aurukun community for a peacemaking program to help mediate ongoing conflict between families and individuals.

Limerick & Associates was engaged by the Department of Justice and Attorney-General (DJAG) in April 2016 to conduct an independent evaluation of the ARJP. The scope of the evaluation is to review both the *process of implementation* (formative evaluation) and the *outcomes* (summative evaluation) of the Project. This document comprises the interim report of the evaluation, focusing primarily on the implementation review. The final report, due by 1 April 2017, will focus on the outcomes and overall impact of the Project. However, some preliminary findings about outcomes of the Project are contained in Part 8.

1.2 Evaluation objectives

DJAG's stated objectives and outcomes for the evaluation are as follows:

- a) measure the quality of the processes used to inform the design and implementation of the ARJP;
- b) compare the extent to which the program as implemented (and operating) is consistent with the culturally inclusive model of mediation developed in consultation with the community;
- c) determine whether the Project achieved its short term and medium term goals;
- d) identify factors that inhibited or facilitated implementation and operation of the ARJP, and the capacity of the ARJP to successfully achieve its goals;
- e) identify any unintended outcomes of the Project;
- f) provide guidance and recommendations to government and the Aurukun community to ensure the ARJP is fully equipped to achieve its long term goals, and transition to a community-run service where appropriate.

The Evaluation Steering Committee has also agreed that an additional objective of the evaluation, as proposed by Limerick & Associates, will be to actively involve the ARJP staff and local mediators in the evaluation process, with the intention of building their understanding and capabilities for monitoring and evaluation and refining their local data collection and monitoring practices.

As this interim report is primarily concerned with evaluating the process of implementation, it will address objectives (a), (b), (d), (e) and (f), while the final evaluation report in 2017 will address objective (c) relating to achievement of the Project's outcomes.

1.3 Intended use of findings

It is expected that the evaluation findings relating to the process of implementation of the ARJP will be used in the following ways:

- to adapt and improve the arrangements for further implementing the Project, taking account of the evaluation findings and any associated recommendations;
- to inform the implementation of future peacemaking projects in other Indigenous communities (including the upcoming initiative to build the capacity of Community Justice Groups), applying the lessons of Aurukun (and Mornington Island) to increase their prospects of success.

1.4 Key evaluation questions

For the *implementation evaluation*, the following key evaluation questions were developed by the consultant and endorsed by the evaluation Steering Committee:

1. Were appropriate processes employed to develop the ARJP program model?
2. Is the program model consistent with best practices identified elsewhere for Indigenous mediation and restorative justice programs?
3. Has the ARJP been implemented in accordance with the program model?
4. What success factors have enhanced the implementation of the ARJP?
5. What inhibiting factors or barriers have hindered the implementation of the ARJP?
6. What risk factors may affect the future implementation of the ARJP and how can they be mitigated?
7. What has been the level and quality of output of the ARJP service?
8. Have there been any unintended results from the implementation of the ARJP?

The above questions are examined in this interim report. The *outcome evaluation* will investigate the following further key evaluation questions:

9. Has the community's capacity to manage disputes without violence been enhanced by the ARJP?
10. Is the community safer and more harmonious as a result of the ARJP?
11. Has there been an increase in respect for elders and strengthened family authority as a result of the ARJP?
12. Has the community's reliance on the justice system to resolve disputes reduced as a result of the ARJP?
13. Has the ARJP resulted in reduced financial costs to society?

These latter questions will be addressed in the final evaluation report due in April 2017.

1.5 Evaluation plan

In consultation with the Evaluation Steering Committee, the consultants developed an evaluation plan setting out a draft program logic, the key evaluation questions, the proposed data collection methods, a list of stakeholders to be consulted and draft interview running sheets. A key feature of the evaluation plan was to incorporate the principles of participatory evaluation and empowerment evaluation, whereby frontline program staff are involved in the design and conduct of the evaluation in a way that ensures that:

- the evaluation is informed by the 'lived reality' of how the program is understood and actually delivered locally (rather than being framed merely by the external consultant's assumptions about programs of this type); and
- local staff gain skills and knowledge in monitoring and evaluation that they can apply to further improve the program delivery.

As part of this participatory approach, the consultants facilitated a workshop with ARJP staff and a small number of community members involved in mediation to develop a locally grounded program logic for the Project, to explore meaningful local performance indicators and to discuss the best process for conducting the evaluation.

The monitoring and evaluation workshop was held on 15 August 2016 with 10 participants, comprising two ARJP staff, a DJAG representative, the Community Justice Group coordinator, the consultants and four

community members. The workshop assisted the consultants to better understand the perspectives of local staff and volunteers involved in mediation about what the project actually delivers and how its impact can best be evaluated in contextually relevant ways. The key part of the workshop was to refine the program logic for the mediation project in terms that are meaningful to the local staff and participants. Through input from the workshop participants, the consultants identified the outputs of the Project (ranging from mediations to community education), and the immediate, medium-term and long-term outcomes of mediation and peacemaking for the community. The workshop also discussed the chain of causation between what the Project delivers (the outputs) and these short, medium and long-term outcomes. Importantly, this discussion confirmed that the range of outcomes posited in the draft program logic are largely consistent with the way that local staff and stakeholders perceive the Project. The workshop with local people generated issues that relate to all of the key outcomes identified in the draft program logic:

- Enhanced community capacity to manage disputes without violence;
- Safer and more harmonious community (including fewer offences against person);
- Increased respect for elders and strengthened family authority;
- Decreased reliance on the justice system through greater diversion;
- Reduced financial cost to society (e.g. justice and health services).

Workshop participants put forward a range of indicators that would suggest to them that mediation is having the desired effect, including:

- More people doing their own peacemaking and sorting out their own problems, especially younger people;
- Families going to their own elders to sort out problems;
- People socialising together more, attending more festivals and social functions, more prepared to attend funerals and generally more laughter, caring and sharing in the community;
- Less inconvenience to the community as a result of escalated conflict, such as damage to council assets, closure of the store, kids not attending school, damage to residential power boxes resulting in houses without electricity or having to be vacated.

Based on the workshop feedback, the program logic set out in Figure 1 has been developed for the ARJP. The project outputs, outcomes and performance indicators identified through the workshop guided the consultants in their enquiries with stakeholders during the field visit to Aurukun on 15-19 August 2016. They will also be used to formulate the community survey and interview questions for the further data collection about the Project's impact in February 2017.

As well as assisting the evaluation, the program logic is valuable for ARJP staff¹ in better articulating the way the Project is intended to work and in designing tools and processes for the ongoing monitoring of project delivery. For example, the consultants have been liaising with the ARJP staff to explore how the program logic can help refine data collection systems. This issue is explored further in Part 4.4.

¹ ARJP staff refers to the Project Manager (currently a DJAG employee) and local Mediation Coordinator (currently an employee of the CJG).

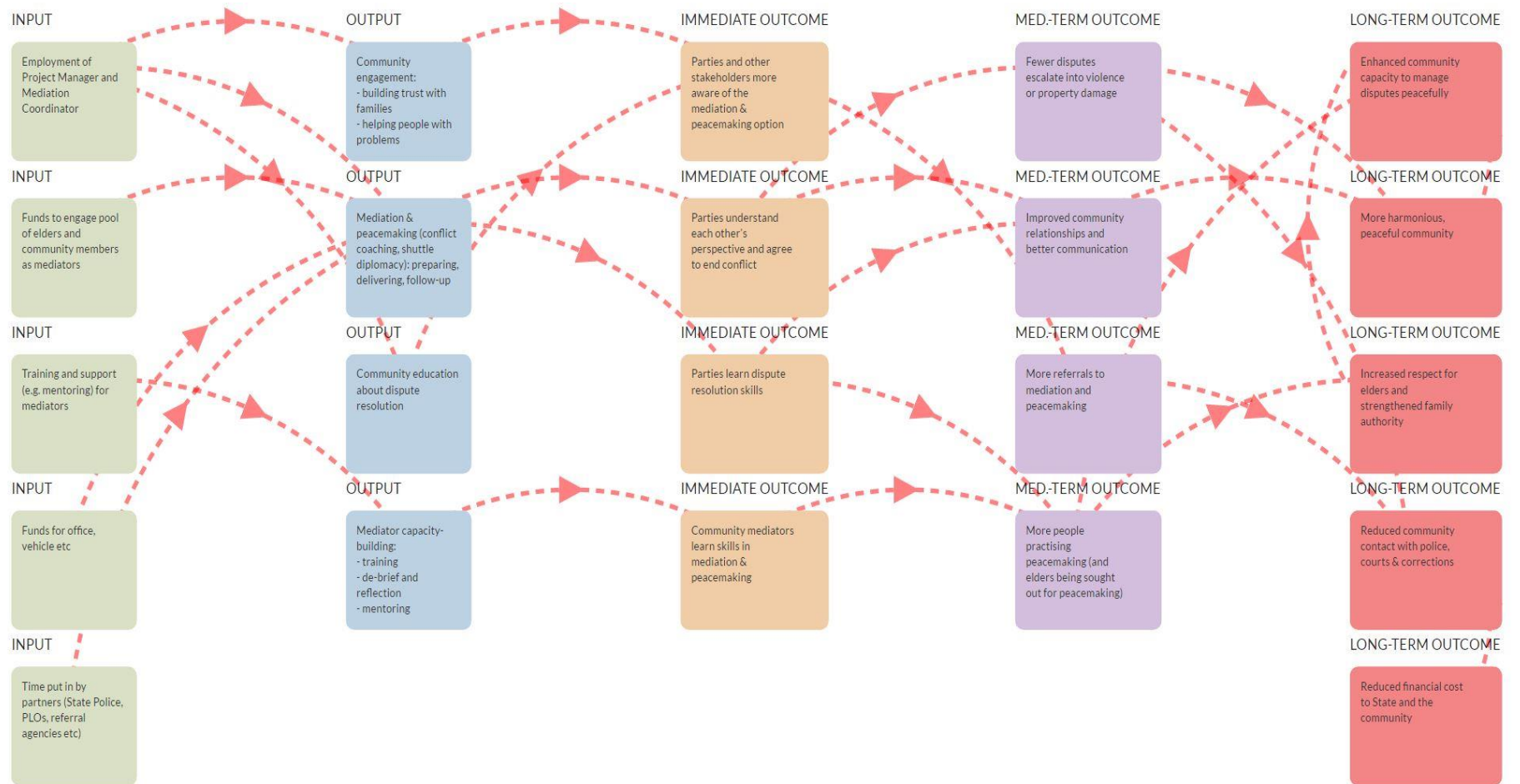


FIGURE 1. PROGRAM LOGIC FOR AURUKUN RESTORATIVE JUSTICE PROJECT

1.6 Method

The Evaluation Plan set out the key evaluation questions, sources of relevant data, and methods for collecting the data. For the first phase of the evaluation – the review of implementation of the ARJP – the principal data collection methods have been desktop review of relevant documents and interviews with stakeholders.

The desktop document review included:

- available Departmental documentation – program funding agreements, project plans, progress reports, etc;
- project-level documents – mediation guidelines, counting rules for data collection, progress reports, activity spreadsheets etc.

The interviews and focus groups focused on a range of stakeholders identified initially through consultation with ARJP staff and the members of the Steering Committee. Additional stakeholders were identified by asking participants to nominate other relevant people to interview. This ensured the participation of additional stakeholders who were not nominated by the ARJP staff.

Consultants Michael Limerick and Heron Loban visited Aurukun from 14-18 August 2016 to interview key stakeholders face-to-face. Other stakeholders were interviewed in Brisbane or by phone during July to October 2016. A Background Information Sheet (see Attachment 2) explaining the evaluation in plain English was provided to all participants and consent was obtained prior to all interviews. Commitments were given regarding the confidentiality of data collected, in accordance with the Australian Institute for Aboriginal and Torres Strait Islander Studies' (AIATSIS) *Guidelines for Ethical Research in Indigenous Communities*. An interview run sheet was prepared with question prompts exploring various elements of the key evaluation questions. Interviews were loosely structured in a way that enabled exploration of the focus questions in an informal manner, while still ensuring comparability of data.

Where appropriate or practicable, interviews were audiotaped and transcribed later. Where audio recordings were not possible, detailed notes were taken. Notes and transcripts of all interviews were entered into a database. This data was analysed and coded using qualitative data analysis software. This software permits the easy identification of patterns and common themes in qualitative data, enhancing the rigour of qualitative data analysis.

In all, for this first phase of the evaluation, 19 interviews and small focus groups were conducted, involving a total of 38 individuals. Of the 38 participants:

- 18 were women and 20 were men
- 20 were Indigenous persons and 18 were non-Indigenous persons.

Four interviews were conducted by phone and the rest of the interviews and focus groups were face-to-face.

The following breakdown indicates the types of organisations and groups consulted through the interviews and focus groups:

- DJAG – interviews with 2 relevant managers
- ARJP Project staff – interviews involving current and new Project Manager and Mediation Coordinator
- Aurukun Shire Council – focus group with 5 Councillors and CEO
- Women's group – focus group with 5 individuals

- Family Responsibilities Commission – interviews with Commissioner, Local Coordinator and Local Commissioners (who are also Councillors)
- Community Justice Group – interview with coordinator and focus group involving 3 members
- Queensland Police Service – interviews with current and former Officers in Charge for Aurukun, plus 2 local Police Liaison Officers
- Community Police – interview with Community Police officer
- Aboriginal and Torres Strait Islander Legal Services – interview with 2 solicitors
- Local service providers – interviews and focus groups with mental health staff, Wellbeing Centre and Opportunity Hub
- Queensland Corrective Services – interview with probation and parole officer.

The evaluation plan recognised that the consultations for the first phase of the review, focusing on implementation of the project, would be targeted at ARJP staff and key stakeholders involved in the delivery of the project, rather than seeking input from a representative sample of community members. The second phase of the review in early 2017 will be focused on outcomes of the mediation project, and a much broader level of community input will be critical for this. A community survey will be administered to elicit community feedback about key evaluation questions.

2 HISTORY OF THE AURUKUN RESTORATIVE JUSTICE PROJECT

Key findings:

- **The original plan for an extensive period of community consultation and co-design around an Aurukun peacemaking model did not eventuate due to an emergent need to start mediating.**
- **Limitations on the Project Manager's time and a lack of guaranteed ongoing funding also affected the scope for a comprehensive co-design phase. These are lessons for future implementation of similar projects.**
- **However, initial consultations revealed strong community support and demand for mediation in Aurukun and this has continued during implementation.**
- **The limited co-design phase has created some issues during the subsequent implementation of the project.**
- **Gaining further community input and reaching consensus on the Aurukun model of peacemaking remains 'unfinished business' that will need to be attended to.**

2.1 Aurukun

Aurukun is an Aboriginal community located on Western Cape York approximately 100 kilometres south of Weipa. The community was originally established as a mission by the Presbyterian Church in 1904 and transitioned to the control of a locally elected Shire Council in 1978. In July 2011, Aurukun's population was 1,295 and was 92% Aboriginal and Torres Strait Islander.

Aurukun and its surrounding clan estates are the home of the Wik People, whose traditional lands stretch from the Holroyd River region in the south, almost to Weipa in the north and inland up the tributaries of the various rivers flowing to the Gulf of Carpentaria. The residents of the community are drawn from five clan groups from the region: Wanam, Winchanam, Puch, Apalech, and Sara. Since the co-location of these clans in the Aurukun settlement, there has been a history of periodic conflict between the groups.² On occasions, disputes erupt into large-scale public conflict involving significant numbers of community members.³ Aurukun has one of the highest rates of contact with the justice system in Queensland.⁴

A report by Catholic Social Services Australia placed Aurukun as one of the six most disadvantaged localities in Queensland.⁵ Aurukun had some of the highest rankings of localities in Queensland on indicators such as unemployment (10th) and the number of young adults not engaged in work or study (5th).

² See Martin, D. 'Autonomy and relatedness: An ethnography of Wik people of Aurukun, western Cape York Peninsula', PhD Dissertation, ANU, 1993.

³ For example: 'Shot fired in Aurukun riot', *Courier Mail*, 9 January 2007; 'Up to 200 riot in Aurukun', *SBS News*, 20 September 2007; 'Shots allegedly fired as hundreds riot in Aurukun', *ABC News*, 6 March 2013; 'Eleven arrested after Aurukun riot', *Brisbane Times*, 1 October 2013; 'Aurukun riot triggers greater police presence', *Brisbane Times*, 27 April 2015.

⁴ A 2015 study found Aurukun was the locality with the highest rate of criminal convictions in Queensland. See Vinson, T. and Rawsthorne, M. *Dropping off the edge 2015: Persistent communal disadvantage in Australia*, Catholic Social Services Australia.

⁵ *Ibid.*

2.2 Establishment of the Aurukun Restorative Justice Project

The Aurukun Restorative Justice Project emerged out of the Mornington Island Restorative Justice (MIRJ) Project⁶, which has been running since 2008 and has been evaluated positively in recent years.⁷ The Mornington Island project was established by the Dispute Resolution Branch (DRB) within DJAG with the assistance of funding from the Australian Government. One of the DRB's goals from the Mornington Island project was to learn how to work with an Indigenous community to build a peacemaking service that was tailored to local circumstances, so the Department was interested in exploring opportunities to apply the learnings from this model elsewhere.

In 2013, Aurukun emerged as a site for a further mediation project due to a convergence of interests between Aurukun leaders and interested State and Australian Government agencies. Aurukun was a priority community for both levels of Government under the Cape York Welfare Reform trial and the Remote Service Delivery initiative. Both the Australian Government and the Queensland Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) were concerned to support responses to ongoing community disharmony in Aurukun.

At the same time, Aurukun leaders on the Aurukun Shire Council and the Family Responsibilities Commission were requesting government support for mediation in their community. Such requests need to be understood in historical context. The concept of mediation was not new to Aurukun. Starting in the late 1990s, the Aurukun Community Justice Group (CJG) conducted a localised form of 'mediation' for several years. Many interviewees for this evaluation recalled the CJG conducting several mediations a week during the 2000s, assisted by a very proactive CJG coordinator, Lee Williams. An activity report obtained by the consultants recorded that the Aurukun CJG conducted 321 mediations during 2003-2004, involving 1,230 people.⁸ While people referred to these as 'mediation', they were in reality a facilitated arbitration process to resolve disputes. Differences between this type of dispute resolution and the conventional mainstream model of mediation are discussed further in Part 3.2.1. By 2013, however, it seems that the level of CJG activity had fallen away and it had been several years since any of these dispute resolution activities had taken place.

In response to these community requests and the ongoing discussions with other State and Australian government agencies, in late 2013, the DRB and Courts Innovation Program (CIP) agreed to work with the community to develop an Aurukun peacemaking project. This was commenced with \$40,000 operational funding from CIP and the in-kind contribution by DRB of the experienced Project Manager from the Mornington Island project. A further advantage of Aurukun was that the Project Manager had well-established existing relationships from working previously in the community, which would enable an expedited process of community engagement to develop a mediation model. The original project plan⁹ stipulated that the Project Manager would:

- carry out a family and community consultation process over three months to establish a community-wide consensus on whether and how mediation should be conducted in Aurukun;
- develop a culturally inclusive mediation model and management protocols that meet the needs of Aurukun families and individuals in conflict as well as those agencies that may make referrals;
- provide training in peacemaking to respected family leaders and agency representatives identified as potential mediators;

⁶ Hereafter referred to as the 'Mornington Island project'.

⁷ Colmar Brunton, *Mornington Island Restorative Justice Project Evaluation*, 2014.

⁸ Aurukun Community Justice Group, *Activity and Statistics Report 2003-2004*.

⁹ Dispute Resolution Branch, *Aurukun Peacemaking Project Plan*, Version 2, 7 November 2013, p.6.

- establish an ongoing mediation service under community control from June 2014.

Essentially, this was intended to be a compressed version of the model for developing the Mornington Island Restorative Justice Project, which had involved seven months of community consultation, eight months to develop a local mediation model, followed by two years of support to the CJG to ultimately take control of managing the Project in 2011. Due to the learnings from Mornington Island, it was expected to be quicker to implement a project in Aurukun. The project plan did, however, identify the need to explore ongoing support needs for the Project beyond June 2014, including the need for ongoing funding from the State or Australian Government.

2.3 Early implementation of the Project

Figure 2 sets out a timeline of important milestones during the evolution of the ARJP. Following initial approval of the Project in late 2013, the Project Manager started consulting with community members and agencies in early 2014 to gain consensus on the mediation model. By mid-February 2014, about 200 community members had been consulted and the strong feedback was that there was an urgent need for mediation to address the endemic pattern of clan fighting in the community and the associated stress and anxiety for residents.¹⁰ Although this initial consultation confirmed community support for mediation, the planned phase of community engagement and consensus-building to develop an Aurukun model of mediation did not eventuate. This plan was derailed by a crisis in the community that required immediate response.

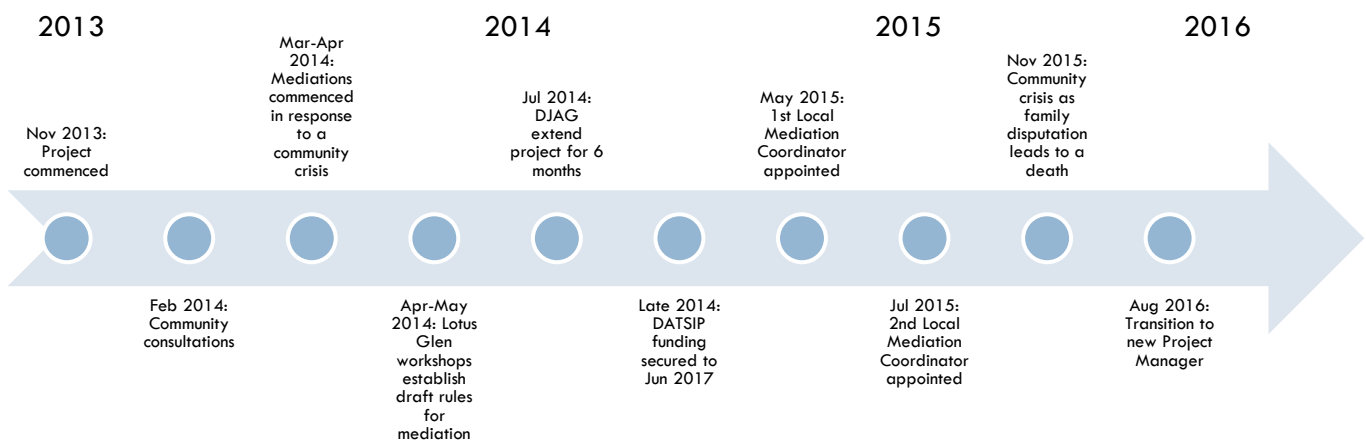


FIGURE 2. TIMELINE OF DEVELOPMENT OF AURUKUN RESTORATIVE JUSTICE PROJECT

In March 2014, the accidental death of a child led to accusations of sorcery between families and reignited inter-clan tensions. The QPS Officer-in-Charge feared an escalation of violence and approached the ARJP Project Manager to assist with mediating between the families. As the Project Manager recalled:

The way it happened in Aurukun was the Project was barely a month old and there were big fights and [the Officer in Charge] said to me, ‘if you’re here to do mediation then we need to do a mediation no later than the end of this week – are you prepared to help me to do this?’ So much for taking three months [to consult]. But I had interviewed about 200 people by then and they all said we want this. If I had said ‘no’, my credibility would have been shot. So we did it, and it was a raging success according to [the Officer-in-Charge] and the

¹⁰ Aurukun Mediation Project Progress Report, 1st February to 22nd April 2014.

community police. There was 100 people on Friday and 150 people on the Monday with a lot more elders turning up on the Monday because they could see that they were going to back a winner... Four months after that, people were coming up and giving me feedback and saying 'it was a good thing that you did'... And after that, mediation just took off and I got pulled along by the nose... (Project Manager)

Several stakeholders who were interviewed recalled this mediation in early 2014 and how it had quickly established the reputation of the new mediation project in the community.

However, it is clear that the quick ramp-up in demand for mediation precluded the planned phase of community engagement around developing a community-owned mediation model. The Project Manager was able to conduct four workshops with about 30 Aurukun inmates at Lotus Glen prison in April and May 2014, which led to a draft set of rules for conducting mediation. These rules, set out in Box 1, were later validated at a meeting with the men's group in Aurukun. However, because of the need to respond to the emergent need to start mediating, the level of engagement around co-design of the mediation model that had occurred at Mornington Island did not eventuate at Aurukun.

Two other factors may have contributed to the inability of the Project to engage more widely with the community about design of the mediation model. First, the Project Manager continued to have other responsibilities, including to the Mornington Island project, and was therefore not based permanently in Aurukun in the first half of 2014. With no other project staff engaged at that time and community demand to commence mediations, this reduced the time available to undertake developmental work. Second, with only six months of initial funding and no guarantee of ongoing funding, the Project was in limbo and the Project Manager did not feel he had the authority to engage the community with any guarantee that there would be an ongoing project. From these two issues, learnings for future implementation are that a community-based mediation project needs to:

- be resourced adequately in the early stages to enable the co-design phase to occur even as the expectations for service delivery ramp up; and
- have a secure commitment of ongoing funding to underpin engagement with the community.

In place of an extended consultation and development phase, the Project Manager's approach was for development of a mediation model and training for mediators to be "forged out of shared experience with local mediators and mediation participants".¹¹ In other words, the approach was to develop and refine the model through practice as it was being implemented.

By April 2014, the Project Manager was reporting that the original plan for the Project to establish a sustainable mediation service for handover to community control in June 2014 was not feasible. The Mayor was seeking at least 2 years' support for the Project and the CJG was not in a state of readiness nor sufficiently resourced to take over the Project. In the coming months, DJAG negotiated with Commonwealth and State agencies to secure ongoing funding for the Project. Ultimately, DATSIP agreed to provide \$150,000 per year for 3 years from 2014-15, DJAG agreed to the ongoing contribution of the Project Manager's time, and the Australian Government contributed use of a staff house in Aurukun for the Project Manager.¹² DJAG staff recalled this process as an excellent example of what could be done with inter-agency cooperation. The government agencies recognised the community need and worked together to pool their resources.

¹¹ Aurukun Mediation Project Progress Report, July 2014-June 2015, p.2.

¹² The Project Budget is set out in Table 2.

Box 1. Aurukun mediation rules developed with prisoners at Lotus Glen prison

Rules for holding mediation in Aurukun

- Respect the elders and respect each other
- Communicate properly-from your heart
- Don't say sorry unless you really mean it
- Bring a mentor to support you and support each other to speak properly
- Talk it over-get to the bottom of it before it gets worse and then you can walk away in peace
- Listen to the other person; understand each other (what is the truth and what is the lies)
- Mediation is for the main instigators of the trouble-they should attend
- No blaming-mediation is your chance to take responsibility for what you did
- Be careful in what you say or who you are blaming
- Sharing-caring. You must understand how you are related to everyone at the mediation
- Confidentiality. People's privacy must be respected. Agreement must be made on who needs to be told about what happened in the mediation
- No violence at mediation
- Mediation is not the place to bring weapons. Mediation is to be a safe place for everyone to speak
- No one can attend mediation if they are under the influence of alcohol or other drugs

Rules for Mediators

- Mediators can't be a judge
- Mediators can't take sides
- Confidentiality
- People coming to mediation have the right to choose who they want as mediators and mentors

Although commitments were secured for the ongoing funding in mid-2014, a delay of up to six months in the flow of funding affected the timely implementation of the Project. As mentioned above, until the funding was confirmed, the Project Manager felt constrained in raising community expectations about the Project's continuation. Until the funding was received, a budget was not available for employing a local mediation coordinator and for the payment of mediators on an hourly basis. Eventually, a CJG member was employed

as Mediation Coordinator on 18 May 2015. Unfortunately, after an extended absence from work, the first coordinator's employment had to be terminated in July 2015. A new Mediation Coordinator commenced on 21 July 2015.

With the Project funded 'and on a more stable footing' by mid-2015, the Project Manager was planning a series of workshops to complete the developmental work. The goal was to finalise the rules for mediation, hold an interagency workshop to enlist wider understanding and support, and hold a whole of community meeting with the support of the Aurukun Shire Council to formally launch the Project while providing community education.¹³ This work was not possible in the second half of the year, however, due to extended unavailability of the Project Manager and community unrest in November-December 2015.¹⁴ The finalisation of the rules for mediation and a further process of community engagement were deferred until February-March 2016, but whole-of-community engagement around mediation has not been possible in 2016 due to the ongoing community tensions arising from a death in the community in November 2015. Instead, the Project Manager has sought to engage with the community through smaller meetings with men's and women's groups in the community. Ultimately, however, the element of the project plan that envisaged co-design of the mediation model with the community has never occurred in the way intended:

Really, we've just kept on mediating and for various reasons we haven't been able to go back and do the consultations and develop a model. (Project Manager)

It is difficult to gauge the consequences for the Project arising from the limitations of the co-design phase. While government interviewees for this evaluation expressed a wish that there might have been more opportunity for community engagement in the Project design, community stakeholders did not raise concerns about the process for establishing the Project. Rather, they mostly seemed happy that dispute resolution had been revived after the hiatus since the time the CJG was actively involved in dispute resolution.

On the other hand, as discussed later in this report, the limited co-design phase has possibly contributed to the following implementation challenges:

- the struggle to engage more community members as mediators (discussed further in Part 5.5.3);
- lack of formalised systems for referral from other agencies, including the courts (discussed further in Parts 4.5 and 5.3.2);
- an ambivalent relationship between the Project and the Council;
- some divergent views in the community about how mediation should be conducted, particularly in relation to the size of mediations and whether they should be arbitratative or facilitative in nature (discussed further in Part 3.2).

For these reasons, engagement of the community in further co-design and gaining consensus on the Aurukun model for mediation remains 'unfinished business' that needs to be addressed for future sustainability. A proposed process for this to occur is discussed in Part 7.

¹³ Aurukun Mediation Project Progress Report, July 2014-June 2015, p.5.

¹⁴ Aurukun Mediation Project Progress Report, July – December 2015, p.6.

3 THE AURUKUN PEACEMAKING MODEL

Key findings:

- The Aurukun peacemaking model has evolved through a process of ongoing practice of mediation and related peacemaking methods, influenced by the Mornington Island model and the standard 12-step facilitative mediation model.
- Important and unique features of the Aurukun model are:
 - the centrality of kinship as the basis for resolving conflict
 - the intent to involve elders and respected community members as co-mediators
 - the involvement of more family members through group-to-group mediations
 - co-mediation by a neutral 'outsider' and local community mediators
- Mediation appears to have a high degree of community acceptance as a pathway for non-violent dispute resolution. However, there is a lack of consensus about some aspects of the way mediation is being practised under the Aurukun model:
 - concerns by some that the group-to-group mediations are too large (contrasted with a belief by others that larger public mediations are essential)
 - whether it is essential in the longer-term for a non-local mediator to be involved
 - different expectations about whether mediators should play purely a facilitative role or should act as arbitrators of disputes and sometimes impose sanctions
 - concern that a broader range of people should be involved in co-mediating and that the mediation project should be formally linked to the CJG
- As it is conceived in its ideal form, the Aurukun model is consistent with prescriptions in the literature about best practice Indigenous dispute resolution. However, implementation of the model has not yet reached maturity in its ideal form.
- A further process of community consultation and co-design is required to discuss and resolve some of the issues listed above and to reach community consensus about the appropriate peacemaking model for Aurukun. This need is addressed in recommendation 1.

3.1 Overview of the model

As discussed in Part 2, the model for delivery of peacemaking at Aurukun was not the product of a comprehensive process of co-design with community stakeholders as originally intended. Rather, the model emerged from the participatory practice of mediation and associated peacemaking methods by the Project Manager in concert with a small group of local elders and a local person in the Mediation Coordinator role. The Mornington Island model and DRB's standard 12-step model were useful starting points, but were adapted through practice at Aurukun.

A description by the former Project Manager of the typical peacemaking process at Aurukun is contained in Box 2.

Box 2. Description of a typical peacemaking process in Aurukun

A typical mediation process starts when someone comes through the door of the office and says 'I want mediation.' Usually that is a party to the conflict followed by family members.

So we get in the car and go to the other party and see if they are interested. We start shuttle diplomacy – for example, the other party say they want to come but only if so-and-so does not come, or they want to know what the issue is because they say they have no issue with the first party, so we go back to the first party and say this is what they said and this is what they want to know.

The idea to give people as much information as you can, to give people a clearer picture of how the mediation is going to go. The more information you give each party, the more ownership and control they have over the process – for example, the venue, who's going to be there, who the mediators are. Through prior arranged adherence to the rules, such as 'we want to have a respectful conversation, there will be no yelling', you build up predictability and confidence that the mediation is going to be a success.

That's the theory of it all, but in practice a few things may not work out – for example, we forgot to tell somebody something, or there's a last-minute pull-out, or more people turn up than expected, or someone says 'I'm not coming because last night their cousin insulted me.' But what I described is what you aspire to make every mediation a success. The literature says that it's all in the preparation.

To get people to come to the mediation is really hard – you drive around and pick people up, sometimes people walk there.

At the mediation, we say 'thank you for coming,' we might summarise the events that led to coming here and summarise the points of agreement that have already been reached. We talk about confidentiality and at the same time discuss that there might be people who aren't at this mediation who may need to be told – we talk about that at the end of the mediation. We get adherence to the rules.

We start by saying 'Fred, you are the one who came to us first so maybe you can start first' and then typically Fred will start talking and people start yelling at each other and standing up... And I will stand up and say 'whoa, whoa'... and that somehow defuses the fighting because I am the neutral person. But Keri [the Indigenous mediation coordinator] is the one who is the real communicator – they start in English but after a while they default into Wik Mungkan and Keri takes over.

Quite often there is no agreement. We do a lot of mediation where no one owns up – for example, to who sent the [offensive] text message. But people yell and carry on and over three quarters of an hour, it starts with anger then people settle down and listen to each other, and you can see it takes its course and the energy to keep going round in circles dies off. And at that stage I'll come in – when I can see that the energy to keep the argument up has died – and I will summarise what happened: 'we came here, people are angry, people have talked, there were two stories, what is the story that people are going to go out with now?' And so sometimes people admit wrong and say sorry and sometimes they won't because it's too hard but they will all want to sort it out anyway because they have spent all this energy in here and they don't want to keep fighting.

(ARJP Project Manager, December 2013 to August 2016)

As practised at Aurukun, the peacemaking process involves the following general steps:

- *Referral.* Referral is typically by one of the parties to a dispute or a family member, but also in many cases by police.

- *Intake.* This phase involves negotiation and ‘shuttle diplomacy’ between the parties to lay the groundwork for a successful face to face mediation. Important matters are agreed, such as the timing, venue, mediators (ARJP staff plus any other elders who will co-mediate), parties to the dispute who will attend, support persons who will attend, whether police attendance is required, the ground rules, the issues at dispute and the issues where there is agreement. The process is explained and expectations are managed. Sometimes, disputes are resolved at this stage without the need for a mediation meeting.
- *Mediation.* This is the mediated face-to-face meeting of the disputing parties to facilitate communication between the parties and resolution of the conflict.
- *De-brief.* In this phase, the mediators debrief about the way the mediation went and what can be learnt for future practice.
- *Follow-up.* The mediators follow-up with the parties approximately 2 weeks later to determine if they have adhered to the agreement (if any), or whether there has been a lasting resolution or the conflict has otherwise ended.

While mediation is the core activity under the ARJP, the ARJP staff also employ other forms of peacemaking such as shuttle diplomacy and conflict coaching. Shuttle diplomacy involves the process of acting as an intermediary, carrying messages between two disputing parties. As indicated above, this is employed as part of the intake process and will often resolve a dispute without the need for a mediation.

Conflict coaching can be employed by the mediators where one or both parties do not want to engage in a mediation process. Instead, the mediators assist the parties individually to think through the conflict and devise strategies for ensuring it can be managed without escalation.

In this report, the term ‘peacemaking’ refers to all of the various dispute resolution tools from conflict coaching to shuttle diplomacy to facilitated mediation. ‘Mediation’ is the term mostly used to refer to the face-to-face mediation meeting, but in some contexts it refers to other forms of peacemaking too. Stakeholders often use the term mediation to refer to the entire range of peacemaking activities.

3.2 Distinctive features of the mediation model

In broad terms, the way mediation is practised under the ARJP mirrors the conventional 12-step facilitative co-mediation model practised by the DRB around Queensland.¹⁵ There are some key differences, however:

- the process is less structured and more organic;
- the mediators do not employ the step of holding a private session with each party – the mediators take the view that complete transparency of all discussions is preferable to having private sessions, which would heighten parties’ concerns about mediators acting impartially (especially where mediators are local community members);
- much of the discussion is conducted in the local language of Wik Mungkan, rather than English;
- the mediators ‘tolerate more expressed anger between the groups and more vociferous talking’;
- police attend many mediations in an observer role, in case they are needed to keep the peace;

¹⁵ Broadly, the steps are: Preparation of the environment; Introductions; Statement from first party; Statement from second party; Summaries of each party’s statement; Agenda setting; Exploration of the issues; Private session with first party; Private session with second party; Negotiation about the issues; Agreement writing; Feedback and de-brief for mediators.

- the size of the mediations is larger – rather than individual-to-individual, the mediations are group-to-group;
- local elders and community members participate as co-mediators and may not be disinterested neutral parties (insofar as they may be related to participants), but they do strive for impartiality;
- the focus of the mediation tends to be more on kinship and relationships than substantive interests that are supposedly the subject matter of the dispute.

3.2.1 Kinship-based mediating

The fundamental difference about the mediation model in Aurukun (and other Aboriginal communities) is the centrality of kinship as the basis for resolving conflict. This feature was a constant theme in interviews with stakeholders, both local community members and external stakeholders. In Aurukun, successful resolution of conflict occurs when parties are reminded of their shared family histories and their kinship duties, and hence persuaded of the need to resolve the conflict. For example:

Parties will be reminded that your grandfathers used to work together on building that airstrip and every afternoon they used to come in and yarn together. So that relationship – that history of connection, what that history of connection means for your behaviour towards each other now, the telling of narrative stories like parables – that all makes Aurukun mediation different to the 12 step process. (Mediator)

Community members described it as follows:

When people go to the mediation and talk to each other, or sometimes they explain the family line, by saying that you are my grandfather's family on the other side, then they talk about the family line so people can understand this is my right family, so why are we fighting? And they talk in language to each other and then they will understand that this is my mum's family or my uncle's or my dad's family. (Community member)

It might be pointing out that in the family tree you are related this way, so it's trying to put out the practical realisation about why you are fighting when you really should be acknowledging the family connection and supporting it – for example, by saying 'your father and his father used to be so close'. (Community member)

Some stakeholders pointed out that this kinship approach to mediation is not unique to Aurukun, but is also practised in other remote Aboriginal communities. It is consistent with the Mornington Island mediation model.

3.2.2 Role of elders and community members as mediators

If calling on kinship duty is the key to successful conflict resolution in Aurukun, then it follows that a critical ingredient in the model is co-mediators who understand and can facilitate these kinship-focussed discussions. For this reason, the model seeks to involve local elders or respected community members as co-mediators. The Mediation Coordinator position is filled by a respected local person who understands family relationships and histories and can invoke this during mediations. However, the Project also seeks to strengthen this aspect of the mediation model by involving elders or respected family members as paid co-mediators. There is a small pool of reliable community members who can be called upon to assist, provided the parties agree to their participation. During the intake, the ARJP staff ask the parties to nominate people to co-mediate, or to choose from the pool of available people:

A lot of the hard work done before the mediation – the cultural component of it – is asking people who they want as mediators and who they want to attend and why. People immediately know who they want and it is the ritual of naming kin that gives local ownership and allows it to get traction at a local level. (Mediator)

To establish a sustainable, community-owned and run mediation model, the intent of the ARJP (and the Mornington Island project) has been to establish a broad pool of elders and respected persons to use as co-mediators. As will be discussed in Part 5.5.2, this has been a key challenge in the implementation of the ARJP.

3.2.3 Family participation in mediations

A distinctive feature of mediations at Aurukun is that there are more participants than the typical one-on-one mediations conducted in mainstream settings. This reflects the nature of conflict in Aurukun, where kinship relationships and duties draw in a larger number of disputants even where a dispute starts with only two protagonists. So the parties on each side of a conflict might comprise several family members, all of whom have an interest in being at the mediation.

In addition, the Aurukun peacemaking process seeks to engage elders or key family members to assist in the resolution of the conflict, even if not as actual mediators. Therefore, during the intake, parties are asked whether they want key people from their family to attend as ‘support persons.’ As one stakeholder pointed out, it may be very important to identify and involve the powerbrokers in a family:

It’s not just elders, you might also have a middle-aged person who’s very powerful at controlling the group, so you want them in that mediation – you need them to have their say and you need to have all the followers listening to how it eventuates. So... you need to know who’s the boss of the group... (Government stakeholder)

While the group-to-group dimension is an important feature of the kinship model of mediation at Aurukun, it does create significant challenges. There is a tendency for many people to want to attend the mediations, which can make the process difficult to manage. According to the mediators, ‘90% of mediations have had 10 people or more, about one mediation in ten have had 30 people, while the first mediation we had had 80 people at the first meeting then 100, then 150 people.’

The appropriate size of mediations was the aspect of mediation practice that attracted the most divergent views in the interviews with stakeholders at Aurukun. Several community members and agency stakeholders raised concerns that mediations were too large, with too many family members involved and a tendency to degenerate into heated arguments and even physical confrontation.

They need to focus on those three or four prime people and leave the family out. Because if you bring everybody in, everybody’s talking and you won’t get your word across and things escalate – I’ve seen that happen a few times. They need to identify those key players and talk to them. (Community leader)

Last time we had mediation it was too much, people shouting and you couldn’t listen to the one side because normally the other family have to be quiet and listen to this family then they can start. (Community member)

People just all start screaming over the top of each other and you can’t control who is talking... They all start screaming and yelling at each other and it just gets out of hand and

the police have to start arresting people. I've seen some of them down there end up in a big brawl. (Community organisation stakeholder)

Not too much, not the whole tribe... Only those two people who are involved should be there. (Community member)

The ARJP staff are conscious of this risk and would generally prefer smaller mediations. They report getting chastised by family members for not being invited. In the intake process, a lot of the negotiation is about who really needs to attend the mediation and why:

They normally want witnesses and all that. We keep working on them, talking to them, saying we just want the main people there, can you tell us who the main people are, and most of the time that works. (Mediator)

However, the mediators are also conscious that sometimes larger mediations are effective in resolving conflict:

The bigger the mediation, the harder it is to discuss the issues. But when there is reconciliation at a big mediation, there's a bigger body of what [anthropologist] Peter Sutton calls the 'jural public', so a bigger group of people are there to witness the emotion of the fight being squashed. And so the body of family opinion is moved by that emotional experience of reconciliation, and that makes the agreement stronger – if anybody else tries to sabotage the mediation, they can't because the body of family opinion says 'no, you weren't there to see it, we've sorted it' and so you can't get any takers to come and fight with you. (Mediator)

A government stakeholder agreed, arguing that large public mediations were essential to resolving ongoing clan conflict, even though they were more boisterous. A community member commented that it is 'generally better not to have big ones, but sometimes they want to do it down at the police station and lay it all on the table because they are sick of fighting.' The aforementioned government stakeholder noted that police had for many years been using large public 'mediations' as an effective way of managing conflict. His view was that both small, private mediations and large public ones were required for conflict resolution in Aurukun, although he conceded that larger ones might not be required in the longer term if community behaviour around conflict changed.

The significant differences of opinion about the appropriate size of mediations is a central issue that requires more consultation and discussion with community leaders and residents. It would be helpful for the future implementation of the Project if a consensus could be reached regarding this element of the Aurukun model of peacemaking.

3.2.4 Confidentiality

The principle of confidentiality is a central tenet of mediation practice. This is also the case in the Aurukun model, and it is part of the spiel by the mediators at the beginning of mediation meetings. However, due to the number of family members that might have an interest in a dispute at Aurukun, in practice, confidentiality is managed slightly differently at Aurukun. One of the important matters discussed at the end of mediations is who needs to be told about the outcome of the mediation. If there is a resolution or an agreement, it is critical that the word goes out to others who are involved in the dispute so they do not continue hostilities. Community members who have assisted in mediation described it as follows:

Afterwards, normally they apologise, and make sure that message goes past to the rest of the community, the other family, so they know what's been said in the justice centre. So the family just go out and say 'you're not going to cause problems, we already sorted this out.' This is what we tell them before we leave: 'make sure that the families know that you already sorted this out.' (Community member)

In practice, there is a tension between the need to let extended family know that a matter has been sorted and the requirement to keep matters discussed at the mediation confidential. As a mediator pointed out, privacy is very important to people at Aurukun:

We still have that confidentiality requirement here and I think it's a very important requirement in Aurukun – because people trust you. There's outbursts with people here in public but they like keeping things private, especially when it gets to mediation. And I just say to them, 'it's totally up to you if you're going to go home and discuss this mediation, especially if it settles, you can talk to your family about it.' (Local mediator)

One community member involved in mediation was concerned that parties to mediations were not respecting confidentiality of proceedings.

3.2.5 Role of police

At Aurukun, the Queensland Police Service have been very supportive of mediation since the ARJP's establishment. The longstanding Officer in Charge at Aurukun in 2013 had already been conducting a form of mediation with disputing parties for several years. He welcomed the formalised mediation process. Fourteen referrals (9%) were received from police in the two years to July 2016.

Parties often request that police attend mediations, to provide them with assurance that the situation will be controlled. The mediators sometimes request police presence if they think there will be a chance of escalation – in these cases, the parties' agreement is sought for police attendance. Most mediations are held in the court room, which is attached to the police station.

It is likely that some people may refuse to attend a mediation if no police are present to guarantee participants' safety. However, one stakeholder raised the concern that the police presence at the mediations could compromise the process.

When you do mediation, there's a lot of things that come out that people don't like to say in front of the police and when you have the police involved in these things we don't really get to a lot of the stuff we need to get to because people are not gonna say what they need to say. (Community organisation stakeholder)

The appropriate role of police in mediations will be explored further in the second phase of the evaluation, during the survey of community members. It should also be discussed in the recommended further consultation and co-design phase involving community.

3.2.6 Role of the 'outsider' mediator

A feature of most mediations at Aurukun is that the co-mediation team comprises the Project Manager, who is a non-Indigenous 'outsider', and the Mediation Coordinator, who is a local Indigenous community member, and sometimes a local elder or respected person. There have been very few mediations conducted by the Project Manager by himself or by the local Mediation Coordinator by herself. Figure 5 in Part 5.3. of this report

illustrates that the level of peacemaking output of the project has been linked to the availability of the Project Manager in the community, at least during the first two years of implementation.

This begs the question whether co-mediation by an outsider/local team is a key requirement of the Aurukun model. Most stakeholders, including both locals and outsiders, expressed the view that the outsider plays a very important role in the mediation process as a neutral person. This is understood by the non-Indigenous mediators, who see their role as taking a back seat while providing impartiality:

We need local people who have knowledge and skills that we will never have. [But] what we have is impartiality, because we are not linked by kinship and that makes people feel okay... I have to be in the background... I am just the emblem of impartiality on the wall.
(Non-Indigenous mediator)

It was suggested to the evaluators that the strength of family allegiances affecting local mediators meant that the outsider/local co-mediator combination would always be an essential feature of the model:

A party not connected by kinship and a party connected by kinship working together is the model. (Mediator)

Other stakeholders said that the non-Indigenous mediators are needed to provide professionalism and a level of oversight of the mediations while the local mediators learn the process and build their experience. However, some of these stakeholders believed that once local people built up the experience and skills, it would not be necessary to have a non-local mediator as part of the service. This view was shared by some local residents and government stakeholders. For example, a government stakeholder commented:

[The non-local position] is called 'Project Manager' because it's managing a project until it becomes a service and gets on its feet and we don't need to be there. So the role as a mediator is an early part of the role – while you're showing how it gets done, train people in the game, build confidence – but it's not something that needs to be there forever.
(Government stakeholder)

In general, however, there was no consensus on whether having a non-local mediator is a key requirement of the mediation project in the long-term. This is another matter that should be explored through further engagement with the community to co-design and build consensus about the Aurukun mediation model.

3.2.7 Links to past practice

It is often assumed that contemporary models of facilitative mediation can be a vehicle to revive Aboriginal traditions of restorative justice-type conflict resolution processes that pre-date colonisation. The Project Manager, who worked on both the Mornington Island and Aurukun mediation projects, observed that people at Aurukun had not 'drawn threads from past practice' from many decades ago in the same way they had at Mornington Island. Rather, at Aurukun, community members recalled mediation-like dispute resolution that as 'individual initiatives of important past leaders', particularly through the CJG.

As discussed in Part 2, the CJG was conducting dispute resolution activities that some people referred to as 'mediations' in the 1990s and up to the mid-2000s. It should be noted that those dispute resolution activities differed in very important ways from the current mediation practice under the ARJP.¹⁶ Most significantly, CJG

¹⁶ The CJG Coordinator's report from 2004-05 observes the following:

'The Justice Group has its own style of mediation, which is truly unique and works for Aurukun. The major differences from other styles are that:

dispute resolution was more directive and interventionist than facilitative in nature. Individuals who were in conflict were often compelled to attend CJG meetings for ‘mediation’, whereupon the elders would ‘growl’ them – in other words, forcefully remind them of their responsibilities to kin and the community. Rather than simply facilitating communication between the parties, the CJG leaders might also arbitrate the dispute by determining who was right and who was wrong. The CJG imposed sanctions on individuals, including banishment to an outstation or, most effective, suspending the person’s right to enter the alcohol canteen for a period of time.¹⁷ In this way, the CJG played the role of a de facto ‘community court’.

Apparently, a consequence of this past practice of dispute resolution is that many community members expect the ARJP’s mediations to be more like arbitration. For this reason, they ask to bring ‘witnesses’ to attest to their side of the story, and there is a tendency to be pleading their case to the non-Indigenous mediator. It is possible that this expectation is not helped by the fact that most mediations take place in the courtroom and are attended by police.

The mediators suggested that overcoming this expectation of arbitration was a matter of community education about mediation. However, it is also an issue that would be worth exploring further in community engagement about the Aurukun mediation model.

3.3 Assessment of the ARJP model for mediation

Part 2.3 described the process for establishing the ARJP and noted that the planned process of consultation and co-design of the peacemaking model with the community had not occurred to the extent envisaged. Instead, mediation commenced early and the model has evolved as it has been practised since then.

3.3.1 Community acceptance of the model

Further key questions for the review of the implementation of the ARJP are the extent to which the model that has been developed is widely supported and accepted by the community – in particular, whether it is seen as consistent with the community’s cultural preferences about peacemaking. In general terms, the high rate of community referrals to the Project (discussed further in Part 5.2) is evidence of a strong level of acceptance of the Project. At the very least, it indicates a high level of demand for conflict resolution and a view in the community that the mediation project can assist in responding to this. The evaluators heard consistent feedback that mediation is needed in Aurukun and that people want to see the Project continue.

However, whether the ARJP model is broadly accepted by the Aurukun community as the most appropriate way to do mediation is a more nuanced question. The sample of interviewees for the first phase of the evaluation is not large enough to draw definitive conclusions. However, some observations can be made from the feedback about the model. Most community members interviewed supported the main features of the way mediation is being delivered, especially the use of local language, the use of local people as mediators

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- *It is rather immediate – there is no sending of formal letters or planning a date weeks in advance*
 - *It is not necessarily voluntary*
 - *It is not restricted to immediate parties – family members and anyone with a valid interest may attend*
 - *It may involve a very large number of people (sometimes 2, sometimes 10, sometimes 100 for a major argument between families)*
 - *It can be outdoors*
 - *It is not usually in English¹⁷*

¹⁷ A breakdown of statistics in the CJG Coordinator’s report from 2004-05 lists the ‘Major types of outcomes from mediations’ and includes the following: growling/warning/apology 38%; ban from tavern 19%; court report 17%; placement/reorganisation of living arrangements 4%; agreement to pay 2%.

and the emphasis on invoking kinship duties to resolve conflict. However, as highlighted in the discussion of the model in Part 3.2, there are a few areas where there is a lack of consensus. These are:

- concerns by some stakeholders about the appropriate size of mediations, with a belief that some mediations have been too large and public in nature;
- a concern that the model needs to involve a broader range of local people as co-mediators;
- lack of agreement whether it is crucial for the model in the longer term that a non-local co-mediator continue to be engaged to sit with local mediators;
- differing expectations about whether mediators should play a purely facilitative and non-interventionist role, or whether they should act more as arbitrators to decide disputes and impose sanctions on occasions, as was the practice with the CJG.

The differing views on these issues does not appear to have affected the overall legitimacy of the Project in the eyes of stakeholders. Nobody is saying that the mediation model is manifestly inappropriate and does not meet a pressing community need. However, the difference of opinion about some key issues does reinforce the need for further community engagement to discuss and gain consensus about the appropriate mediation model to be delivered in Aurukun.

3.3.2 The Aurukun model's consistency with best practice

A further question considered by the evaluation is whether the mediation model practised at Aurukun is consistent with best practices identified elsewhere for Indigenous mediation and restorative justice programs. A literature review was undertaken to enable this assessment.

An initial observation is that the Aurukun Restorative Justice Project delivers very little of what the literature would normally consider 'restorative justice'. In the literature, the term 'restorative justice' typically refers to the context where an offence has been committed and the intervention is one of victim-offender mediation.¹⁸ At Aurukun, the Project has mostly dealt with disputes between residents that have not involved any criminal offence. There were only 9 victim-offender mediations up to July 2016. It is therefore suggested that the Project should not be described as a 'restorative justice project', as this term is misleading. 'Peacemaking' and 'mediation' are the more appropriate terms, but local language name might also be worth exploring following community consultation.¹⁹

In her book on Indigenous dispute resolution, Behrendt²⁰ advocates for dispute resolution in Aboriginal communities to reflect Aboriginal cultural values and traditional Aboriginal dispute resolution practices. She argues that the core criteria for a model to be considered to meet these requirements are that the procedure is facilitated by a council of Aboriginal elders, the proceedings take effect in a place within the community, and the Aboriginal elders are in control of the proceedings. The Aurukun model partially meets these criteria in that mediation takes place in the community and there is involvement of a few elders. However, it could not yet be said to be run by a 'council of elders'. The Aurukun model partly complies with the third criterion in that an effort is made for the local Mediation Coordinator to lead the proceedings in conjunction with a participating elder as co-mediator, with the non-local co-mediator taking a back seat. The intent of the model

¹⁸ In an overview of restorative justice in Australia, Strang writes that 'Restorative justice is a term which has recently emerged to refer to a range of informal justice practices designed to require offenders to take responsibility for their wrongdoing and to meet the needs of affected victims and communities' (Strang, H. 'Restorative Justice Programs in Australia,' A Report to the Criminology Research Council, 2001).

¹⁹ For example, the Aurukun CJG has previously used the name 'Yuk Puink,' which is understood to refer to peacemakers.

²⁰ Behrendt, L. *Aboriginal Dispute Resolution: A Step Towards Self-Determination and Community Autonomy*, Federation Press, 1995.

is that a larger number of local co-mediators will drive the model as the Project develops, so it is on its way to meeting Behrendt's conception of best practice Indigenous dispute resolution.

In its focus on kinship duties and its use of stories of connectedness to transform and resolve a conflict, the Aurukun model of mediation has echoes of what has become described as 'narrative mediation'.²¹ Narrative mediation recognises that the sources of conflict are not necessarily tied up in individual interests but rather in the way people construct who they are and how they engage and behave with others. Thus, mediation can work most effectively by creating a space for parties to tell their personal stories of their understanding and relationship to the conflict, to deconstruct the conflict and explore new options and alternatives. This enables the parties to author a new set of stories about the conflict and their relationship to it, transforming it into something new that can be dealt with. Parties can move beyond the conflict to form a new story built on understanding, respect and collaboration rather than individualism, disrespect and closed-mindedness. An example of how the Aurukun model harnesses this form of narrative mediation is contained in the following anecdote:

A [community mediator] was helping me a lot with mediation. A bloke was accused of coming into someone's yard at three in the morning and snooping around – that carries a connotation of sorcery or maybe just coming into steal something. A big family fight erupted, it was a police referral, and we did the mediation with the rest of the family waiting outside. The young man said 'it wasn't me, I was just walking past.' And [the community mediator] said 'when I was a little girl and we got to a certain point on someone's land, grandad would shout out 'hello, it's me, I'm just going this way and when I come back I will come past and say hello.'" And she recast the whole thing by the telling of that story – instead of being one of suspicion about sorcery, it was one of social etiquette. And the young man just looked up at these people and said 'I'm sorry'. So that is an example of mediation that I cannot do [as a non-Indigenous person]. (Mediator)

A 2009 report identified critical factors for effective practice in dispute resolution in Indigenous communities.²² Attachment 1 contains this evaluation's assessment of the ARJP model against these best practice elements. The assessment indicates that the Aurukun model meets most of these elements. There are a handful of critical factors where the Aurukun model has been assessed as not meeting the requirement yet – these are all part of the intended model but are not yet fully developed.

In summary, the Aurukun peacemaking model as conceived in its ideal form appears consistent with current frameworks for best practice Indigenous dispute resolution. However, the implementation of the model has not yet reached maturity in its intended ideal form. As indicated in the assessment in Attachment 1, the most significant issues, to be discussed further later in this report, are: the limited pool of community members currently trained and engaged in mediating; the need for further community engagement and consultation to embed the model as community-owned; the need to improve processes for court-ordered mediations; and the inadequacy of current staffing levels to ensure demand for dispute resolution can be met in a timely manner. However, the Project is building towards a fully implemented best practice model.

²¹ Winslade, J. and Monk, G. *Narrative Mediation: A New Approach to Conflict Resolution*. San Francisco, CA: Jossey-Bass, 2000

²² Bauman, T. *Solid Work You Mob Are Doing: Case studies in Indigenous Dispute Resolution & Conflict Management in Australia*, Report to the National Alternative Dispute Resolution Advisory Council by the Federal Court of Australia's Indigenous Dispute Resolution & Conflict Management Case Study Project), 2009.

Recommendations:

- (1) A further process of community consultation and co-design is required to discuss and resolve some of the contentious issues about mediation practice identified in this report and to reach community consensus about the appropriate Aurukun peacemaking model. A proposed process is set out below in Recommendation 12.*
 - (2) Community consultation should include discussion about an appropriate name for the peacemaking project, including the possibility of adopting a Wik language name.*
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4 OPERATIONAL MATTERS

Key findings:

- There are some current weaknesses around the operational aspects of the Project that require further attention. The evaluation acknowledges that there have been staffing and resourcing constraints, that meeting demand for delivery of peacemaking services is understandably a priority over administration, that remote communities are a challenging operating environment (e.g. IT and communication difficulties) and that the Project has been in a developmental phase.
- The Project would benefit from further attention to operational planning, especially for activities such as community engagement, mediator training and process improvement.
- The Project has been able to function with minimal policies and procedures to date, but there is a need to document current practices (e.g. in a basic procedures manual) to assist with training more local mediators and in case of future staff turnover.
- Stakeholders have raised the need for the Project to enhance data collection and reporting. The current process does not adequately enable the Project to monitor trends, improve service delivery, and demonstrate output and impact to key stakeholders in government and the community. Key priorities are: tracking the time spent by staff on various output areas; introducing a basic participant feedback form; introducing a more sophisticated activity database that records additional data needed for monitoring and evaluation and quickly produces simple reports.
- There is currently no referral form for agencies to use in referring a matter to mediation.

4.1 Introduction

A key aspect of effective implementation of any program is the maturity of the operational framework that underpins the program delivery. The key matters here are planning, policies and procedures, financial management, data collection and referral processes.

4.2 Planning

Apart from the initial Project Plan for establishing the Aurukun peacemaking project in November 2013, there does not appear to have been any other strategic or operational plans produced in relation to project implementation. The regular six monthly reports by the Project Manager do indicate some broad strategic directions for the upcoming period, and occasionally mention specific activities that are planned, such as workshops, mediation training and community consultations. The ARJP project staff report that they do not have formal planning sessions or produce written plans but instead have weekly Monday morning staff meetings to discuss priorities coming up. There is also a whiteboard in the ARJP office that lists upcoming activities and tasks.

The extent and sophistication of operational planning is less than might be expected for a community-level service with an annual budget of about \$250,000. Apart from the whiteboard, there was no evidence of written plans for upcoming training activities or indeed the evaluation field visit. There are several likely reasons for this:

- Planning and scheduling activities is undoubtedly difficult in the context of a reactive-type service like mediation, which requires immediate short-term responses to emergent conflict at times that cannot be predicted.
- The externalities that affect service delivery in remote Indigenous communities make it very difficult to do reliable planning for upcoming activities – for example, scheduling can be affected by 'sorry business', community conflict, weather events, telecommunication outages etc.
- The Project does not have administrative support, so the Project Manager and Mediation Coordinator are responsible for all their own administrative tasks as well as the core service delivery.
- The level of staffing of the Project does not appear to have been adequate for the demand for mediation and peacemaking (see Part 6.2).
- The ARJP staff have been selected for their people skills and their expertise in community engagement and mediation, rather than their administrative process skills.

It is not clear the extent to which planning issues have affected the Project's implementation. The periodic project reports offer credible reasons why various planned activities such as community workshops or training of mediators did not take place as intended. Nevertheless, additional attention to, and resourcing of, operational planning would assist in future implementation of the Project. Robust planning will be especially important in the next phase of the Project, to undertake the recommended community consultation and co-design exercise and attend to the various service improvement measures recommended by this evaluation.

4.3 Policies and procedures

There are few documented policies and procedures relating to the operations of the ARJP. There is a one-page Intake Sheet that lists: referrer, parties, family relationships, conflict and intervention type, summary of issue, follow-up/interventions, outcome, mediator hours. These matters are categorised according to a set of definitions for peacemaking interventions developed for the Mornington Island project.

The evaluators were told that the mediators follow a broad 6-step process first written up for the Mornington Island project, but in reality the process is flexible and adaptive to circumstances. The mediators have a clear idea in their heads of the process for intake, facilitation of the mediation and debriefing. The Mediation Coordinator and Project Manager are trained in the 12-step standard DRB mediation model, but this is adapted to the Aurukun context (as described in Part 3.2). The Elders Rules (see Box 1) are referred to during mediations as ground rules.

Given the practical experience of the current ARJP staff in organising and facilitating mediation, documented procedures for the ARJP operations might not add much value to their work. However, if new staff are recruited in the future and a larger pool of community mediators are to be recruited and trained, then documenting the Aurukun mediation model would be valuable. It is suggested that the staff set aside some time, perhaps during a quiet week, to draw up a basic procedures manual for the delivery of peacemaking and mediation activities under the ARJP. This will be a valuable training tool for the new mediators and would ensure continuity of practice in the event of turnover in the full-time staff positions. It would also be a useful reflective exercise for the ARJP staff and it could be updated from time to time as practice evolves and improves.

4.4 Financial management

The principal resources for the Project are received through two channels:

- The Project Manager's position and ancillary expenses are managed through DJAG, with some of the funding sourced through a contribution by DATSIP;
- The Mediation Coordinator and other project expenses are sourced from DATSIP funding and are auspiced by the community organisation that manages the CJG, the Aurukun Community Indigenous Corporation. This funding is managed by the CJG Coordinator, who is the Contact Officer for that corporation.

No issues were raised about the financial management of the Project. A Cairns auditor conducts an annual audit of the funding provided to the Aurukun Community Indigenous Corporation.

There is, however, some complexity and potential for confusion in the way the Project is resourced. It would make sense to align the funding through a single grant at some point in the future.

4.5 Data collection and reporting of outputs

Data collection for the ARJP consists of a table of the peacemaking activities undertaken by the Project, recording the following information:

- Start date and end date (and more recently, date of mediation)
- Referral source
- Engagement type (planned, unplanned, conflict management) – although this is no longer recorded
- Process (intake, conflict coaching, shuttle diplomacy, kinship consultation, facilitative mediation, etc)
- Names of Elders/Mediators/Co-mediators
- Issues conflict type
- Summary
- Outcome (settlement, unwilling to mediate, unable to mediate, walk out, resolved at intake, reconciliation, inconclusive, no-show)

Some of the information for this is collected on a one-page intake form, while some of it is entered later based on the mediators' notes or recollections.

The categories for responses are mostly based on a set of definitions developed for the Mornington Island project. However, some data set out in the Mornington Island project are not collected at Aurukun. The definitions contain categories for "dispute type" and "conflict nature", but the Project Manager believes that these categories are not meaningful because of the complex nature of conflict. For example, a conflict could be recorded as "alcohol" but the root cause could be "jealousing". These categories have apparently never been reported on at Mornington Island, so they are not being collected at Aurukun. Some of the Mornington Island categories have also been further adapted at Aurukun, such as including "unsuccessful" and "unable to mediate" in the list of outcomes, and replacing "no engagement" with "unwilling to participate". The table records the main parties to the conflict but does not record the number of people who attend a mediation.

The table of project activities is a Microsoft Word document, which means any analysis of the data must be done manually. In the quarterly reports, the Project Manager collates and reports on the following data for the previous period:

- Number of referrals and sources
- The breakdown of processes used to settle conflicts
- The way parties are engaged

- The rate of successful outcomes (% of matters reconciled or settled)

The reports contain a significant amount of narrative detail, with perceptive qualitative insights into the issues affecting the community. As the Project Manager points out, ‘the stats tell you nothing without explanation’. The high quality of the reports was commented on by one stakeholder.

On the other hand, several stakeholders expressed the view that more comprehensive data collection would be helpful for the ARJP. For example, a government stakeholder said it would be useful to have more reporting of trends in the data. Another community-based stakeholder said it would be useful to have graphical reporting of the data, such as pie charts, which could be provided to organisations such as the Council. It is understood that the new Government Coordinator at Aurukun is developing a reporting framework for all community services to report against, including the mediation project.

There is certainly scope for further enhancement of the data collection and reporting frameworks for the ARJP. Putting in place a robust monitoring and evaluation framework for the Project means collecting data about the key outputs and outcomes that the Project intends to deliver. Because it maps out the outputs and outcomes, a program logic is an excellent guide to the sort of data needed. The monitoring and evaluation workshop with ARJP staff and stakeholders on 15 August 2016 developed a draft program logic and started a discussion about performance indicators for the key outputs and outcomes and the data that could be collected for each. The evaluators met with ARJP staff later during the field visit to further discuss these issues.

The following table indicates the four identified outputs in the program logic, the types of data that could measure the output and the extent to which it is currently being collected.

Output	Data needs	Current data collection
1. Community engagement: <ul style="list-style-type: none"> • Building trust with families • Helping people with problems 	<ul style="list-style-type: none"> • Amount of time spent by ARJP staff on general community engagement • A record of significant engagement activities (e.g. presentation to council) • The number of people engaged in specific activities (e.g. assisted with paperwork) 	<ul style="list-style-type: none"> • Not currently collected • Not currently collected • Not currently collected
2. Mediation & other peacemaking (conflict coaching, shuttle diplomacy, preparing, delivering, follow-up)	<ul style="list-style-type: none"> • Amount of time spent by ARJP staff on these activities • Number of mediations and other peacemaking activities • Number of people attending a mediation or involved in a peacemaking activity • Category of conflict that is referred to the ARJP • Satisfaction of participants with the mediation process 	<ul style="list-style-type: none"> • Not currently collected • Collected in Word table • Not currently collected • Not currently collected • Not currently collected
3. Community education about dispute resolution	<ul style="list-style-type: none"> • Amount of time spent by ARJP staff on these activities • Number of community education activities • Number of people educated 	<ul style="list-style-type: none"> • Not currently collected • Some activities recorded in table as ‘Group facilitation’ • Not currently collected

4. Mediator capacity-building: enlistment, training, debrief and reflection, mentoring

- | | |
|--|---------------------------|
| • Amount of time spent by ARJP staff on these activities | • Not currently collected |
| • Number of training days | • Currently collected |
| • Number of people attending training | • Currently collected |

There is clearly scope for improving the collection (and therefore the reporting) of data about the Project's key outputs. It would be useful to collect data about:

- The proportion of time that the ARJP staff are spending on each of the four output areas, and a breakdown of the time spent on the different activities within the peacemaking category (e.g. intake, shuttle diplomacy, conflict coaching, preparation, facilitating mediation, follow-up with parties, follow-up with court or other stakeholders);
- Record of any major community engagement activities undertaken (e.g. visit to Council, meeting with service providers/courts to discuss referrals, projects to assist residents with paperwork etc);
- The number of people in the community who the ARJP staff engage during specific community engagement activities – for example, the number of people who are provided with assistance not related to peacemaking, such as paperwork;
- The number of people who attend a mediation or activity – this will be useful in tracking trends regarding the contentious issue of the size of mediations, and is also an indicator of the number of people who have been exposed to mediation and peacemaking and therefore who have potentially learnt dispute resolution skills;
- The category of conflict for disputes – although this may be subjective and there may be multiple dimensions to a conflict, a data collection system can allow for identifying multiple categories and it would be useful to track changes over time to be able to target community education responses (for example, if the data showed a rise in bullying or social media conflict, programs could target these problems);
- The number of activities for community education about dispute resolution, and the number of people who participate in these activities.

Participant satisfaction is a typical measure for the quality of outputs of any human service. How to collect such data is a challenge for the ARJP. Participant feedback forms used by mainstream mediation projects would be difficult to use in a remote Indigenous community. As ARJP staff noted, the heightened emotion of the mediations means that parties are usually exhausted and leave the mediation very quickly. Staff tend to follow up with parties after an interval of about two weeks to check whether the matter is resolved. This is the point at which it might be possible to also seek feedback about the participants' experience of the mediation process. It would be especially useful to hear feedback about critical mediation process issues such as:

- Was the mediation process explained to you well beforehand?
- Did you feel you had the opportunity to have your say?
- Did the mediators treat you fairly?
- Were the mediators impartial (not taking sides)?
- Overall, how satisfied are you with how the mediators ran the mediation?

During the community survey for the second phase of the evaluation, the evaluators will put these questions to participants who have attended mediations as parties to a conflict. This will be useful data for the evaluation, but it would be more useful if the feedback were collected regularly and able to be used by the mediators

for continuous improvement. For example, if new local co-mediators are trained and brought on board, feedback about whether participants feel they are impartial will be critical to know sooner rather than later. It will give the Project an opportunity to address such concerns before the community started to lose faith in the process. It is therefore recommended that the ARJP give participants a simple participant feedback form following mediations. Various options should be considered for administering this survey – for example:

- the form could be given to parties as they leave mediations with an invitation to them to anonymously fill it out later if they wish and to post in a secure box at the community store; or
- the mediators could give the form to the participants at the time of the mediation follow-up after two weeks; or
- as neutral persons, the PLOs or community police could be asked to administer the survey with mediation participants in the days or weeks following the mediation.

As for the *outcomes* mapped out in the program logic, collecting data about these will be a central task for the independent evaluation. Nevertheless, there is still an opportunity for the Project to collect some data on an ongoing basis for use in measuring progress in achieving these outcomes. For example:

- data about which elders are requested as co-mediators by parties during intake would be useful in measuring the long-term outcome, *increased respect for elders*;
- community members who act as co-mediators could be asked to self-assess their performance on a rating scale after each mediation – over time, if their self-assessed performance improves, this is one indicator of the desired outcome that community mediators are developing skills in mediation and peacemaking.

More sophisticated data collection tools are required for the Project than the current Microsoft Word table that records each mediation and peacemaking activity. The Project should investigate the options for data collection tools that are simple to use and therefore not too demanding on resources, but are able to collect a range of useful data and export it into graphical reports that can be used for project monitoring and continuous improvement as well as reporting to stakeholders. For the Mornington Island project, paid database software is used for collecting and reporting data. The DRB has data collection systems for mediation but due to telecommunication constraints, it has not been possible for the Project Manager to access the DJAG system from Aurukun. Given that the Mediation Coordinator is not a Departmental employee, this would not be appropriate in any event. There are likely to be existing database solutions suitable for collecting case information for a dispute resolution project.

Simple data collection tools can be developed for purposes such as the participant feedback form and the mediator self-assessment form. The evaluators will work with ARJP staff during the second field visit in early 2017 to develop simple tools for the Project to implement.

4.6 Referral process

A well-run community-level project requires an efficient process for matters to be referred. Two thirds of conflicts dealt with by the ARJP are referred by either the parties themselves or their families (see Figure 3). This occurs in person through people visiting the ARJP office, when the staff fill out the intake form.

The remaining matters dealt with by the Project are referred by the police, other community agencies (such as the FRC and CJG), and the court. There is no formal process for these agency referrals to take place. Rather, the referring person just calls, emails or visits the ARJP staff. The Project Manager reported that he had visited the various agencies and advised them to get in contact if they wanted to refer someone to mediation,

and the ARJP staff would then follow up. A more formal referral process, such as a referral form, has not been considered necessary to date.

Some stakeholders interviewed for the review, however, suggested the need for better referral processes for the mediation project. Two justice agency stakeholders suggested that a referral form would enable the referring party to include some relevant case history about the matter. On the other hand, another justice system stakeholder preferred an informal approach and was concerned that additional paperwork would be a deterrent to making a referral.

In Queensland, the previous system for police referrals to community services using the SupportLink gateway has been replaced by the new electronic Police Referrals system. This system integrates with QPS case management and enables police to send referrals containing relevant case information electronically to community service providers, who are required to follow up within 48 hours. However, both police and ARJP staff reported that the ARJP had not yet been properly set up on this system, so police were just referring matters by getting in contact directly with the ARJP staff. A police stakeholder said that it would be useful if the formal referral system could be used so that they were able to better track matters and finalise them on their police systems. The referral system enables the service to enter the outcome of the referral (i.e. in the case of the ARJP, the outcome of the mediation or other peacemaking activity), which is then automatically recorded on the police system. Police said that this would be very useful for their purposes. Registering and using the Police Referrals system should be explored further by the ARJP.

Further, it is suggested that a simple referral form should be developed for the ARJP and circulated to other community agencies. While it is appropriate that most referrals are walk-ins by community members themselves, a referral form available to other agencies would raise their awareness about the mediation option and streamline the process for sharing information relevant to a matter.

Recommendations:

(3) The Project should work to address current weaknesses identified by the evaluation regarding operational matters, including:

- a. planning for activities such as community engagement, mediator training and improvement of processes;***
 - b. documented policies and procedures;***
 - c. enhancing the data collection and reporting framework, paying particular attention to: tracking the time spent by staff on various output areas; introducing a basic participant feedback form; introducing a more sophisticated activity database that records additional data needed for monitoring and evaluation and quickly produces simple reports;***
 - d. developing a simple referral form for use by agencies.***
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5 ASSESSMENT OF THE PROJECT'S OUTPUTS

5.1 Introduction

A central task of a review of the implementation of a project is to assess whether the outputs intended from the Project have in fact been delivered. This is a different question to whether the Project has achieved its intended outcomes. However, it is an essential preliminary step for the outcomes evaluation, because no judgment can be made about a project's outcomes until it is established that the outputs that are assumed to lead to the outcomes have in fact been delivered by the Project. As indicated in the program logic in Figure 1, there are four key outputs that are central to the ARJP. Each of these will be assessed in this Part. The next Part will consider the adequacy of the Project's inputs and how these might have affected the ability to deliver the intended outputs.

5.2 Output 1 – Community and stakeholder engagement

Key findings:

- **More engagement with the community is required around the further development of the Aurukun model for mediation (as discussed in Part 2.3).**
- **In establishing the Project, excellent work has been done in engaging with Aurukun families, leading to an apparently high level of awareness and community acceptance of the Project and a strong rate of referral direct from community members. There is, however, scope for the Project to undertake further promotion of the Project to community members.**
- **The Project has formed a close working relationship with police and has had some engagement with probation and parole services and the court, although there is more work to do in engaging court stakeholders (see Part 5.3.2).**
- **Engagement with other community organisations and government and NGO service providers has been more limited, which poses risks to implementation by first, limiting the awareness of the Project and therefore scope for referrals from these stakeholders, and second, by reducing the potential for service coordination.**

The program logic highlights that a key activity for the Project is to engage with the Aurukun community and the agency stakeholders. The purpose of this engagement is to:

- develop the Aurukun peacemaking model;
- build trust and rapport with community members and service providers; and
- build awareness that the peacemaking project is available.

5.2.1 Engagement with community members

Because accessing peacemaking assistance is voluntary, it is crucial for the Project that residents are aware of the availability of the assistance and have trust in the staff delivering it. Furthermore, as discussed in Part 2, a key element of the project plan from the start was to engage and consult with the community to develop an 'Aurukun model' of peacemaking that would be accepted as culturally legitimate and appropriate to the community's circumstances. Part 2 concluded that while there had been some positive early engagement with the community to develop the model, this co-design process for the Project had not occurred to the extent

planned. There were a range of reasons for this, most notably the pressure to immediately start mediating combined with limited resourcing of the Project, especially during the establishment phase.

Despite the curtailed engagement around the model design, the evaluation team found that the mediation project enjoys a strong level of awareness and apparent acceptance in the Aurukun community. Stakeholders commented on the excellent work that the Project Manager had done in engaging with families to build trust and rapport and embed the Project as part of the community.

He did a good job getting it grounded, getting to know people... he did a lot of preparatory work. (Agency stakeholder)

The Project Manager explained that this required investing a lot of time in informally engaging families, including giving people lifts and assisting people with issues unrelated to the Project, such as historical government compensation claims.

I give people lots of lifts when they are doing their shopping and when you're in the car the cone of silence comes down. I talk to people and I'm friendly to people. As a public servant when you come into their yard they see you with a mask on and they want you to take off that mask and show them who you really are. (Project Manager)

The engagement with the community has been further embedded since mid-2015 with the appointment of a local Mediation Coordinator who is from a respected family in the community. The Mediation Coordinator spoke of the importance of constantly engaging with people in the street and at the community store, to ensure the mediation service is connected into the community.

All stakeholders, whether from community or from agencies, agreed that there is a high level of community awareness of the mediation project and the staff. A good indicator of both the awareness and the level of trust in the mediation project is that two thirds of the referrals come directly from community members, either parties to a conflict or their families (see Figure 3).

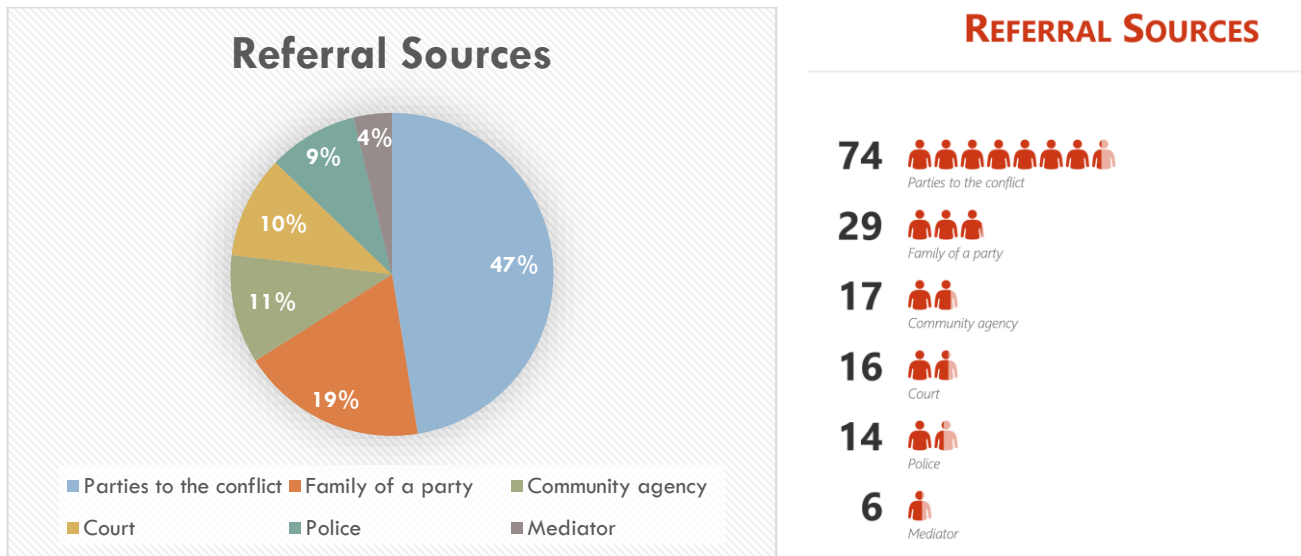


FIGURE 3. SOURCES OF REFERRALS TO ARJP

Although the level of community awareness appears high, some stakeholders indicated that they thought the Project could be doing more promotion of the availability of peacemaking. Suggestions included publishing a

flyer, printing the mediation phone number on the back of the CJG bus, or having staff wear clearly identified shirts. Some people recalled the CJG members wearing a uniform when dispute resolution was strong under the CJG. Another stakeholder recalled that the Project had established a stall promoting mediation at a community market day, which attracted a lot of positive interest. On the other hand, an alternative view put was that a uniform and promotion material would make the mediation seem like any other government service in the community, whereas the Project is trying to create a sense that it is a community-led, grassroots initiative. The evaluation takes the view that it is possible to publicly promote the peacemaking project as a community-led initiative, and this should occur after the further community consultation and co-design work recommended in this report.

5.2.2 Engagement with organisational stakeholders

The other aspect of this output is engagement with community organisations, and government and non-government agency service providers in the community. This engagement raises awareness about the mediation project in case these organisations want to refer clients to mediation. The engagement also ensures these stakeholders have input into the development of the program model and enhances inter-agency coordination.

The ARJP's strongest engagement with organisational stakeholders has been with police. As reported in Part 3.2.5, police have been very supportive of mediation from the inception of the Project. Figure 3 indicates that police account for 9% of all referrals to mediation, but they are also active in encouraging community members to self-refer. Police representatives or PLOs also attend the majority of mediations to provide support and security.

Engagement with the court – which in practice means the Magistrate, the police prosecutors and the defence lawyers – has occurred to a limited degree. The Project Manager has visited the courthouse on some court days to liaise with the defence lawyers and other agencies such as Queensland Corrective Services (QCS). Figure 3 shows that 10% of referrals have been from the court. The scope for more court-ordered mediations is discussed in Part 5.3.2.

The ARJP has formed a good working relationship with the QCS probation and parole service in Weipa.

The Project Manager visited the Aurukun Shire Council, the FRC and other community agencies in 2014 during the establishment of the Project. Unfortunately, the relationship between the Council and the Project is not currently strong. There is some ongoing engagement through occasional visits to Council meetings, monthly visits to Cape York Employment to talk to the men's group, and occasional engagement with the women's group. Generally, however, the Project Manager indicated that there was not a high priority on regular engagement with these stakeholders as the Council, FRC and other agencies are considered to be part of the 'service system', whereas the mediation project operates more at the grassroots, in the domain of families and individuals. As a result, the Project has not spent significant time engaging organisational stakeholders. Another factor in this is the limited time available to do so. Understandably, ARJP staff have prioritised delivering peacemaking services.

There are, however, risks to the Project's implementation if there is limited engagement with the various organisational stakeholders in the community. For instance, the consultants found that most staff at the Wellbeing Centre, the key service provider for families in the community, knew nothing of the mediation service, even though they indicated incidents frequently came up where mediation would be a very useful intervention. A key reason for this lack of awareness is that there has been a very high level of turnover in the Wellbeing Centre staff in recent years, with few having worked there for more than a year. However, it is notable that the community directory of phone numbers available to staff did not list the mediation project.

Clearly, some promotion of the Project to agencies like this – even through leaflets left in their office or a ARJP referral form that is included in new staff’s induction packages – would help ensure that more people who need mediation are referred by service providers. As Figure 3 indicates, only 11% of referrals to the Project have been from community organisations.

The other risk of lack of engagement with organisational stakeholders is that opportunities are missed for improved coordination that will make the service system as a whole operate better. Poor coordination is a perennial problem in remote Indigenous communities and was raised as a key problem in Aurukun by several stakeholders. As all services are dealing with the same clients suffering from high needs and multiple causes of disadvantage, it is imperative that services work together to share knowledge that will enhance service delivery and reduce the burden on individuals (for example, where different services’ client case plans duplicate or operate at cross-purposes). Some stakeholders expressed a hope that the new Government Coordinator position would improve service coordination, including better integrating the mediation project.

Project dedicate more time to promoting the availability of mediation to community members and organisational stakeholders, and track the success of efforts to engage with organisational stakeholders by monitoring changes in the number of referrals from organisations.

Recommendations:

- (4) The Project should dedicate more time to promoting the availability of mediation to community members and organisational stakeholders, and track the success of efforts to engage with organisational stakeholders by monitoring changes in the number of referrals from organisations.*
-

5.3 Output 2 – Mediation and other peacemaking activities

Key findings:

- The Project conducted 161 dispute resolution processes between March 2014 and July 2016, an average of 1.3 processes per week, including a face to face mediation every 1.8 weeks. The rate of output has risen to 1.9 dispute resolution processes per week in 2016.
- Activity has been split 40% conflict coaching and shuttle diplomacy, 42% mediations, and the rest intake and assessment only, group facilitation and negotiated settlements.
- There are no accepted benchmarks to compare the ARJP’s dispute resolution outputs – compared to the Mornington Island project, Aurukun is similar to the early years of output, but less than recent years.
- There was a divergence of views about whether the Project was responding in a timely enough way to demands for peacemaking. A few stakeholders raised concerns about the time it took to hold a mediation and that the Project Manager was not based full-time in the community. A focal point for these concerns was that the Project Manager and Mediation Coordinator were unavailable at a time of heightened community unrest in October to November 2015. This underlines an issue about the adequacy of staffing of the Project (see Part 6.2).
- The Project has played a central and constructive role in responding to significant community disharmony arising from the death of a community member in inter-clan

fighting in November 2015. Fewer face-to-face mediations have been possible since that time as a result of tensions.

- There have been only nine victim-offender mediations and further work with justice stakeholders is needed to enhance this pathway.
- Stakeholders see greater scope for the Project to mediate with prisoners and assist in their reintegration to Aurukun.
- The success rate for the Project's peacemaking interventions is 68%, measured by whether a dispute is settled or parties reconciled. There is no relevant benchmark, but the Aurukun rate is below the Mornington Island rate of 83%. Despite this, stakeholders are overwhelmingly positive about the effectiveness of mediations in resolving disputes. Few concerns were raised about outcomes of mediations.
- No data is collected about parties' satisfaction with mediations. The community survey in early 2017 will measure this.
- Some agency stakeholders would like more information back about the outcomes of matters they refer.
- The type of dispute being dealt with by the Project is appropriate to Aurukun's needs. The Project focuses on conflict at the individual and family level, which has been an endemic and volatile feature of life in the Aurukun community for decades. Mediation is a very effective intervention for the particular sources of conflict in Aurukun, which are often about miscommunication, breach of cultural protocol and kinship and relationship issues.
- Stakeholders agree that mediation can play an important role in addressing family violence, not by replacing the legal process that deals with violence, but by assisting with mediating underlying issues in appropriate circumstances.
- There is unexplored scope for the Project to mediate conflict between non-Indigenous staff within service provider agencies.

The core output of the ARJP is, of course, the delivery of mediation and associated peacemaking activities aimed at resolving conflicts between families and individuals in Aurukun. Delivery of a sufficient quantity of these activities at a high level of quality is crucial to achieving the Project's immediate, medium-term and long-term desired outcomes. The measures of this output are therefore both quantitative and qualitative – the evaluation has assessed delivery of this output through an analysis of the Project's service delivery data and reports, and through interviews with stakeholders in Aurukun. Further data about the quality of the outputs, particularly the level of participant satisfaction, will be available following the community survey in early 2017.

5.3.1 Number of mediations and other peacemaking activities

The first question to address is: what has been the level of output of the ARJP in terms of mediations and other peacemaking activities? The evaluation has analysed the project-level data about the range of dispute resolution interventions. The project categorises these dispute resolution processes as:

- Intake and assessment only – in these cases, the mediators' only response has been to conduct the intake process and an assessment relating to the dispute, but for various reasons, no further action has been taken (e.g. the dispute could be resolved during the intake, or it could be out of scope for the Project)

- Conflict coaching – this involves the mediators talking to the party to express their feelings, think through the conflict management options and potentially prepare for a mediation where that is possible
- Shuttle diplomacy – this involves the mediators helping two parties to communicate with each other indirectly by carrying messages between them to clarify misunderstandings, highlight points of agreement and potentially establish an agenda for a mediation meeting where that is possible
- Facilitative mediation – this is the classic form of mediation where the mediators facilitate a structured process of face to face communication between the parties to understand each other’s perspectives and move towards a shared understanding of the dispute and the options for resolution
- Kinship consultation mediation – this is the form of mediation that involves a process, prior to mediation, of extended family consultation and input in preparation to meet and resolve the conflict
- Victim-offender mediation – this is a mediation that involves a criminal offence that has been referred by the criminal justice system (either by police or the court)
- Group facilitation – this is a further activity conducted by the mediators where they facilitate a group (such as workers at an organisation experiencing conflict) to discuss conflict and work through conflict management strategies
- Negotiated settlements – this category represents situations where the mediators assist an agency (e.g. police or housing authorities) to negotiate settlement of an issue arising from service delivery

The project logged a total of 161 of these dispute resolution processes from March 2014 to July 2016. The number and breakdown of activities is illustrated in Figure 4. The chart shows that the activities of conflict coaching and shuttle diplomacy, which have been counted together because they tend to occur as part of the same process, have been used to resolve disputes almost as often (40%) as the three face-to-face mediation categories (42%). This is similar to the trend on Mornington Island, where the evaluation found 42% of matters were dealt with by shuttle diplomacy and conflict coaching.²³

Averaged over the period of 120 weeks from March 2014 to July 2016, the total of 161 dispute resolution processes represents about 1.3 dispute resolution processes per week. In terms of mediations alone, the data indicate a mediation roughly every 1.8 weeks (every 9 working days). In 2016, the level of output has increased. In the first 27 weeks of 2016, a total of 51 dispute resolution processes were delivered, representing about 1.9 per week. A mediation was delivered every 8 working days during this period.

Given the uniqueness of the ARJP, it is difficult to assess whether this rate of output is above or below benchmarks. The only comparator is the Mornington Island Restorative Justice project, although there are significant differences in the projects. The rate of output of the ARJP appears similar to the early years of operation of the Mornington Island project, which handled 55 dispute resolution processes per year in 2010 and 2011, or an average of just over 1 per week. At Mornington Island, these rates of activity rose significantly in 2012 (119 processes, or 2.3 per week) and 2013 (166 processes, or 3.2 per week).²⁴ These increased rates are likely attributable to the fact that the Mediation Coordinator at Mornington Island is a full-time resident, has a ready source of referrals through his role with the CJG and the courts, and takes an energetic and proactive approach to organising mediations.

²³ Colmar Brunton, *op cit*, p.185.

²⁴ *Ibid*, p.191.

Dispute resolution process	#
Conflict coaching and shuttle diplomacy	64
Facilitative mediation	40
Intake and assessment only	19
Kinship consultation / mediation	19
Victim offender mediation	9
Group facilitation	8
Negotiated settlement	2
TOTAL	161

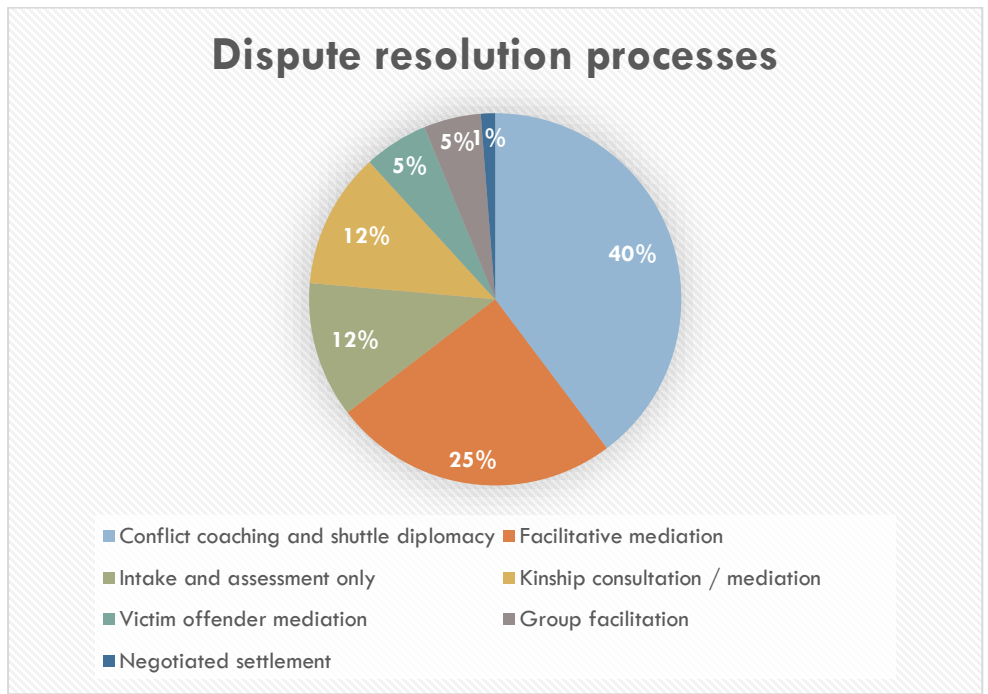


FIGURE 4. ARJP DISPUTE RESOLUTION PROCESSES MARCH 2014 - JULY 2016

Other factors that need to be considered in interpreting the data about the rate of dispute resolution processes delivered at Aurukun are:

- the recorded instances of dispute resolution procedures do not capture all the dispute resolution efforts of the ARJP staff – progress reports indicate that ‘Parties to conflict are often approached informally without a referral and decline any suggestion of mediation. Incidences of this are not recorded as they often occur away from the community and/or out of working hours’;²⁵
- a mediation in fact includes significant preparation time that involves conflict coaching and shuttle diplomacy – so a complex mediation may take several days to organise.

In assessing the level of the Project’s output, it is also important to keep in mind that the number of dispute resolution processes is of course dependent on the number of referrals for dispute resolution. Hence, if there are periods of relative peace in the community, then there will be fewer dispute resolution processes required. A stakeholder suggested that the success of the police in stemming the flow of alcohol at Aurukun in the past year had reduced the level of conflict, in contrast to Mornington Island where alcohol-related fighting remained common. There was no suggestion by stakeholders, however, that periods of reduced conflict meant that full-time access to a mediation service was not required at Aurukun.

Given the potential for the rate of referrals to wax and wane, a better measure of the Project’s output is the extent to which the community considers it responsive to emergent needs for dispute resolution. The evaluators asked this question in interviews with stakeholders. The response was variable. For example, an agency stakeholder was impressed that the ARJP staff seemed on top of the various conflicts in the community and were able to mediate a fight that occurred on a Friday by the following Monday. Other community stakeholders commented on the fact that community members knew they could go directly to the justice office and obtain timely assistance with dispute resolution.

²⁵ ARJP Progress Report, July-December 2015, p.4

People always say that they want it quicker, but it's a hell of a lot quicker than before [the ARJP] got here. And pretty much most people know they can get mediation within a few days. (Government stakeholder)

There were a handful of stakeholders, however, who said that project was not responding in a timely enough manner.

The process over the past 12 months has been inadequate. Notwithstanding requests, few mediations have been attempted. Sometimes, people come to the mediators and the mediators say they are doing other stuff. Matters must be attended to as soon as possible after requests. (Community stakeholder)

Some of these stakeholders were suggesting that mediation needed to be done the same day, within a few hours. The ARJP staff indicated that depending on the preparation required, mediation can be done the same day, but often it is better to wait until emotions have cooled, and so schedule mediation on a subsequent day. It is difficult to make a judgment about the merits of the concerns raised by these stakeholders without knowing the broader community opinion about the mediation project's perceived responsiveness. This question will be asked in the community survey in early 2017.

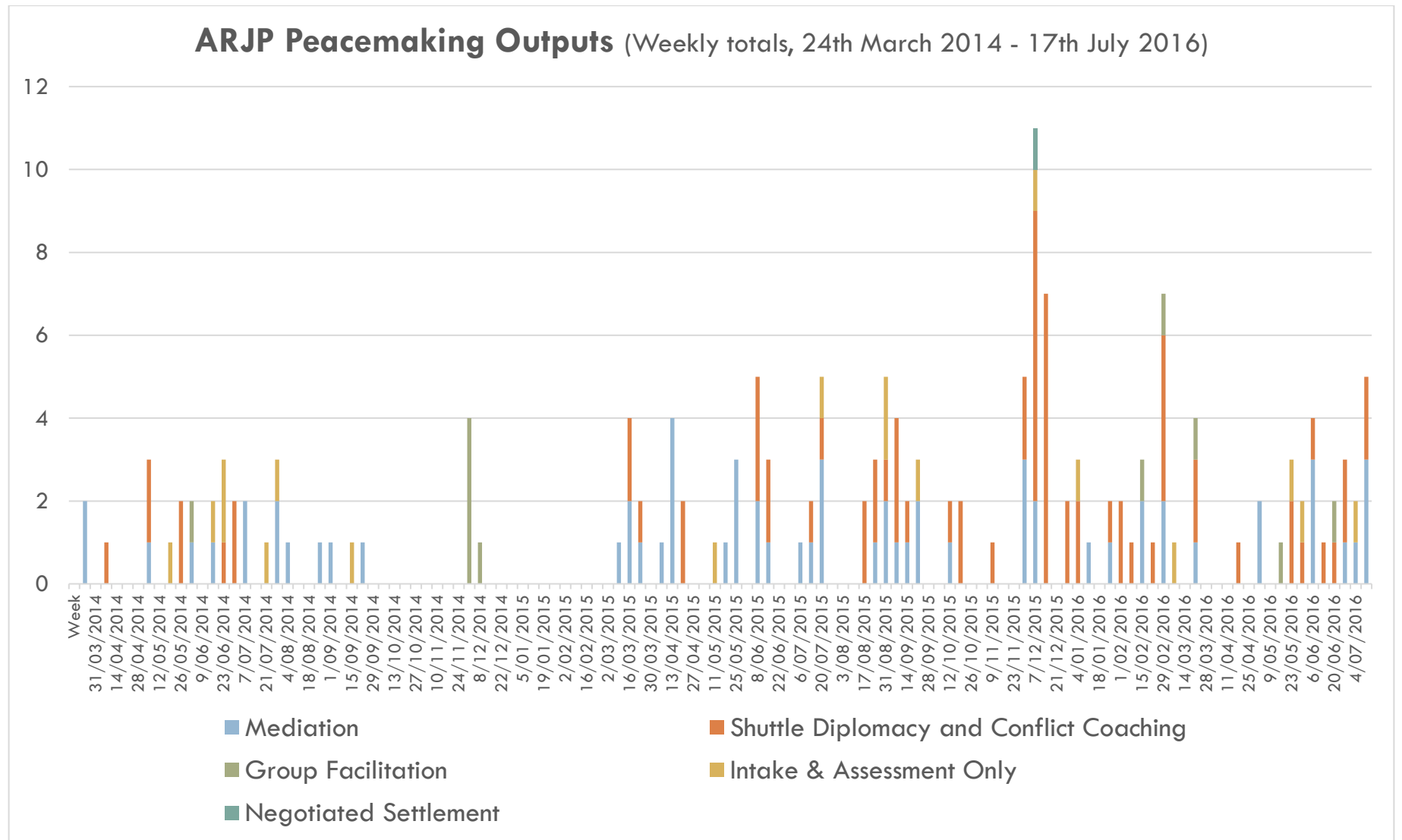
Part of the concern of the critics seems to be driven by a divergent view of the way mediators should operate. These stakeholders argue that mediators need to be forceful in pushing parties into mediation and they should not be risk-averse in dealing quickly with matters that are highly charged. The former Project Manager, on the other hand, expressed the view that mediation is fundamentally a voluntary endeavour – so shuttle diplomacy and conflict coaching may be the only possible responses if people do not want mediation – and many situations require cooling off before mediation can be attempted. He conceded that some stakeholders may see this approach as not forceful enough.

The biggest issue raised by critics of the ARJP's responsiveness, however, was that the Project Manager had not been based full-time in the community. As a result, there was a concern that the mediation project was not always able to respond quickly to emergent conflict. The Project Manager agreed that not being based full-time in Aurukun was a 'vulnerability' for the Project, and recalled instances where mediations had been unsuccessful because he was due to fly out.

Figure 5 illustrates the level of activity of the Project on a weekly basis from March 2014 to July 2016. The timeline confirms that there have been periods of weeks when no dispute resolution processes have been undertaken. These correspond closely to the periods where the Project Manager was not based at Aurukun. From the inception of the Project until May 2015, there was no local Mediation Coordinator position in place. Activity levels picked up from mid-2015 when the Project Manager had the assistance of a local Mediation Coordinator. However, no mediations took place when the Project Manager was not in the community, as the local Mediation Coordinator was not yet accredited and was not prepared to run a mediation without the support of the Project Manager as a person who is neutral and trained in mediation procedure. Since the Mediation Coordinator has achieved accreditation as a mediator and grown in confidence and experience during 2016, she has been able to deliver mediations and other dispute resolution activities on her own. This is evident in the more regular weekly activity levels throughout 2016. In the first six months of 2016, 51 dispute resolution procedures were logged, an average of about 2 per week.

Criticisms by a few stakeholders about the ARJP's responsiveness were focused particularly on an eight-week period when the Project Manager was unavailable, from 25 September to 24 November 2015. The end of this period coincided with a rise in community conflict culminating in a community-wide disturbance that led to

FIGURE 5 TIMELINE OF ARJP PEACEMAKING OUTPUTS 2014-2016



Note: prior to July 2015, ARJP records did not indicate the date of mediation, only the date of referral and the date of finalisation. For the above chart, it has been assumed that mediations were held in the same week as the referral.

the death of a community member on 21 November 2015. At the time that the disturbance was escalating, the Project Manager was away. The Mediation Coordinator was also away for a two-week period around this time, which included formal mediation training in Brisbane. Some prominent community members have suggested that the mediation project could have played a role in preventing this conflict from escalating. Views about this were divided amongst the stakeholders interviewed for this evaluation. Two stakeholders expressed the view that the primary instigators of the unrest were not people who could be persuaded to attend mediation even if the mediators had been available. On the other hand, a stakeholder suggested that a miscommunication that sparked initial family fighting could have been cleared up with mediation.

Whether the ARJP could have assisted in dealing with the November 2015 community unrest will always remain a moot point, but the debate has highlighted the issue of resourcing the Aurukun mediation project so that a response is always available to meet emergent needs. The adequacy of resourcing for the ARJP is discussed in Part 6 below.

Stakeholders agree that the ARJP has played an important role in responding to the aftermath of November 2015, although again there are differences of opinion about the timeliness of the response. As indicated in Figure 5, the ARJP was very active in December 2015, working with families in conflict coaching and shuttle diplomacy to ensure a respectful funeral for the deceased. The ARJP progress report indicates that the mediators assisted with negotiations to get people to attend their bail hearings, and also assisted police in their engagement with the community at this time. Debriefing was provided for those in shock and conflict coaching provided for the parties central to the conflict.

From December 2015 through the early months of 2016, the ARJP conducted mostly shuttle diplomacy and conflict coaching.

[The November 2015 incident] had the potential to cause a major disaster again but the mediation side has been responding, not by conducting mediation where they'd sit down and talk, [but] basically a lot of shuttle diplomacy to the point where if we keep on top of that like that, there won't be any major incidents. (Government stakeholder)

According to ARJP staff, because of the high level of tension between families, parties to disputes were 'too scared to put their hand up for mediation'.

We've done a lot of shuttle diplomacy recently simply because the community has been that volatile that to bring parties together even on issues peripheral or not even related to the main fight in the community at the moment... the people themselves have not been willing to come together. And we as mediators have not been willing to bring them together, because just the mere act of bringing people together can spark the fight. (Mediator)

The ARJP staff suggested to the police an approach for engaging the 'top end' and 'bottom end' of town separately in public meetings to explain the justice process and take the heat out of the inter-clan tensions. The police agreed and the mediators assisted with convening these meetings successfully in early 2016.

Most stakeholders agreed that feelings between the families of those involved in the November 2015 incident were 'too raw' to enable mediation in the months that followed. The community remained 'on hold' to some extent while justice system processes took their course. A significant mediation eventually took place in August 2016 between two of the key leaders from the families concerned. All stakeholders interviewed in late

August 2016 were aware of the success of this mediation and commended the ARJP. Some stakeholders expressed the view, however, that this mediation should have occurred months earlier.

5.3.2 Victim-offender mediations

There is an opportunity for a community-based mediation service to assist the justice system by providing victim-offender mediations (VOMs). The distinguishing factor with mediation in these instances is that it involves a matter that has been or could be the subject of a criminal charge, such as assault or wilful damage. There are a few points in the justice process where mediation can play a role:

- a) *Pre-court diversion.* An alleged criminal event (e.g. an assault) comes to the attention of police or the mediation project. Mediation provides resolution of the conflict for the parties. The police elect to not take the matter further (i.e. no charges are laid).
- b) *Court diversion.* An offender has been charged and the matter is listed to be heard by the court. The victim and the offender agree to mediation prior to the court hearing and this is organised so that the outcomes of the mediation are provided to the prosecutor, defence and Magistrate on the court date. Alternatively, on the court date, if the prosecution and defence agree that the matter is suitable for mediation and the victim and offender agree, the Magistrate can be asked to adjourn the matter to a new court date to allow mediation to take place. The outcomes of the mediation are provided to the prosecutor, defence and Magistrate. The prosecutor may choose to drop the charges (discontinue the prosecution) or, if the prosecution continues, the court takes the mediation outcome into account and applies a reduced penalty.
- c) *Pre-sentence.* A matter progresses to the court hearing. If the prosecution and defence agree that it is suitable for mediation and the offender and victim agree to mediation, the offender pleads guilty and the court can adjourn the matter for one to two months and make an order to refer the matter for mediation. The outcomes of the mediation are provided to the prosecutor, defence and Magistrate and the court takes this into account when sentencing by applying a reduced penalty.

In a little over two years of operation, the ARJP has conducted only 9 VOMs, representing about 5% of the dispute resolution processes or 14% of mediations conducted. By comparison, the evaluation of the Mornington Island project found that VOMs represented 25% of all dispute resolution processes and 53% of mediations conducted.²⁶

ARJP staff agreed that they expected to be doing more VOMs. There are a range of apparent reasons for the low number of VOMs. For the most part, it seems to be a lack of coordination and communication amongst the stakeholders. Organising a matter to be diverted from court for mediation requires coordination of the various people involved in court (the police prosecutor, the defence lawyers, the CJG coordinator and the Magistrate), the victim and the offender, and the mediators. Because court lists are very long for the Aurukun court sittings, court is very busy and no one has taken the lead in vetting cases for possible referral to mediation. It is not the clear responsibility of any stakeholder to consider and organise mediation. Justice system stakeholders as well as the mediators conceded in interviews that opportunities for matters to be diverted to mediation were regularly missed. Another stakeholder reported that a Magistrate had said he was reluctant to order mediations because there was no guarantee that the mediation service would be available, due to staff being away from the community.

There was no consensus who should take the lead in identifying matters for VOMs. One suggestion was that police prosecutors need to be more active in proposing it. Others suggested the defence lawyers from ATSILS

²⁶ Colmar Brunton, op cit, p.180. VOMs at Mornington Island are categorised as various types of Restorative Justice mediations (Court diversion, Pre-court diversion, Pre-sentence, Case management).

should be identifying suitable cases. It was also suggested that the CJG coordinator should vet the court list to identify what can be mediated and advise the prosecutor and defence lawyers of such. However, the CJG coordinator does not always currently receive the necessary details about the matters to come before the court (i.e. the QP9s). Defence lawyers told the evaluators that their understanding was that only minor assaults involving family members were suitable for mediation. They suggested the need for guidelines about what offences are suitable. They also requested that fuller information about the success or otherwise of mediation processes be provided in the mediators' post-mediation reports. For example, defence lawyers need to know the reason why a mediation was unsuccessful – was it because the offender didn't engage or the victim didn't engage.

The evaluators recommend that the ARJP coordinate a workshop with the relevant stakeholders to devise a set of guidelines and procedures for identifying matters for diverting to mediation. This workshop should involve mediators, police, prosecutors, defence lawyers, the Magistrate and the CJG. The project should set a goal of increasing the number of VOMs. Resolving conflict around matters before the justice system is an area where the ARJP can improve the outcomes for community members in the justice system and also generate demonstrable cost savings for government by reducing the need for justice system intervention. For example, resolving a dispute and facilitating a victim and offender to reach a restorative agreement without the need for a court hearing and a sentence to be administered by corrective services is a significant saving to the Government, while still achieving the objective of offenders being held to account and victims gaining satisfaction.

5.3.3 Engagement with prisoners

A further potential domain for the Project's dispute resolution outputs is work with prisoners. A significant number of Aurukun community members are incarcerated at Lotus Glen prison near Mareeba and at Townsville prison at any one time. In 2014, the Project Manager held workshops with 20 to 30 Aurukun prisoners at Lotus Glen to discuss peacemaking.

During interviews for this evaluation, numerous stakeholders raised the need for the mediation project to engage with prisoners. There is particular concern about fighting resuming in the community following the upcoming release of the individuals jailed as a result of the late 2015 community unrest.

And it would be best too, with the inmates before they are released that they have the mediation in jail. They could be the main instigators coming back to the community and causing all the problems again. Because sometimes they miss out on the mediation. And we don't know if they do the anger management program in prison. (Community stakeholder)

While they've got all those boys in jail they should get them all together, sit down and do a mediation. Ask them 'what are youse going to do when you get home?' (Community stakeholder)

Those people in Lotus Glen haven't been brought along all with the work that's been done here in the community since last year in relation to that incident. There is not enough being done with people in Lotus Glen to mediate their disputes with people back here in the community. (Mediator)

There is a new prisoner reintegration project being coordinated by government agencies in Aurukun and the role of the mediation project has been discussed in this context. Video link facilities are now available in the court house for families to connect with prisoners in Lotus Glen to discuss issues around reintegration.

In the further development of the Project, the evaluators recommend that the mediators plan for some peacemaking efforts with prisoners returning from prison, taking advantage of the video link facilities or travelling to the prisons to conduct mediations if necessary.

5.3.4 Outcomes of dispute resolution processes

It is important to measure the output of the ARJP not only in terms of the number of dispute resolution processes conducted, but also the extent to which those processes were successful in treating the dispute. The ARJP has developed categories for the outcomes of dispute resolution, based on the Mornington Island categories:

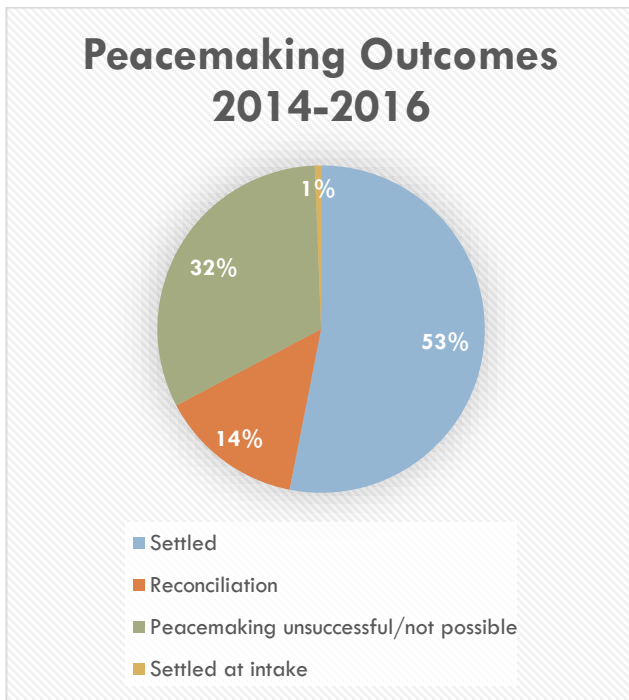
- Settled – the disputes is settled and there is agreement to end the fighting, but the relationship between the parties may not have been reconciled and differences may remain
- Reconciliation – parties have gained insight and are truly sorry, enabling a close relationship to be healed and a return to a previous state of harmony
- Walk out – one or both parties terminate the mediation without an agreement or settlement or reconciliation, with the conflict usually continuing
- Unsuccessful – the mediation does not succeed in settling the dispute or bringing about a reconciliation
- No show – one or both parties do not attend a mediation as agreed
- Unwilling to participate – one or both parties refuse to participate in the process altogether
- Unable to mediate – it is not possible to mediate the dispute (for example, because a party has left the community or been remanded in custody)
- Settled at intake – the matter is resolved before mediation takes place, through the discussions with the parties while organising the mediation

An assessment of the outcome is a subjective judgment of the mediators, which may be made at the time of the mediation or dispute resolution process, but is confirmed by checking in with the parties about two weeks later.

Figure 6 illustrates the outcomes of the dispute resolution processes from March 2014 to July 2016. It shows that 68% of disputes referred to the ARJP have had a successful outcome. Excluding the 16 referrals where mediation is not possible for reasons beyond the Project's control (e.g. a party has left the community), the success rate is 75%. The mediators report that, in practice, even where parties do not show up for mediations or walk out of the mediation, the processes often contribute to the dispute being resolved shortly thereafter.

The uniqueness of the Aurukun community and the Aurukun mediation project mean that there is no existing benchmark for an acceptable success rate for peacemaking. The Mornington Island project has had 83% of matters resolved successfully.²⁷ At Mornington Island, more matters are finalised with reconciliations (33%) and are resolved at intake (13%). The rate at which parties are unwilling to participate in Aurukun (13.5%) is about the same as the level of non-engagement (12%) at Mornington Island.

²⁷ Colmar Brunton, op cit, p.183.



PEACEMAKING OUTCOMES 2014-2016

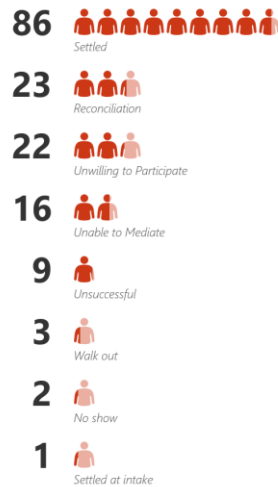


FIGURE 6. OUTCOMES OF PEACEMAKING PROCESSES 2014-2016

Notwithstanding the differences of opinion reported above about the adequacy of the number of mediations being delivered by the ARJP, there was strong consensus amongst all stakeholders that the mediations and other forms of peacemaking were an effective way to resolve disputes in Aurukun. People spoke of the transformative effect of mediations, with disputing parties moving from heated exchanges to apologies and a return to civil relations.

In the last couple of weeks, I've seen a good mediation – people coming here and talking and shaking hands and walking out. And just in the last couple of months. That's why I said to Phil, 'are you taking notice now? it's going pretty good – they're coming here, and they're really pleased to do the mediation and they are trying to sort it out here. (Community stakeholder)

If the town's more peaceful, a big part of it is mediation. And you can say, the major blues haven't continued as much after mediation. And the big fights have been dropping since mediation. (Government stakeholder)

It has made a difference, but I think it could be done better. (Agency stakeholder)

ARJP staff as well as some stakeholders observed that judging the success of peacemaking at Aurukun can sometimes be difficult, because even where there is highly vocal conflict and even physical confrontation at a mediation and parties walk away with the matter seemingly unresolved, this will commonly end the fighting without further escalation.

Some mediations that we have done have been screaming matches. We have considered them failures, but it has brought an end to the fighting... [By yelling], people can validate the worth of their family in public and the other party validates there's. So it's a moot point whether we can call those successful, but they settle the fight. It is certainly not

reconciliation, but reconciliation often comes later – parties go off having yelled and shouted, but we hear two days later that the parties have reconciled. (Mediator)

5.3.5 Satisfaction of parties

Participant satisfaction is a key indicator of the quality of mediation outputs. This is difficult to measure as the ARJP does not collect any formal participant feedback.²⁸ ARJP staff report that they regularly receive positive anecdotal feedback from parties about how well they thought a mediation went. Participant satisfaction will be tested in the community survey in early 2017.

In the interviews for this report, stakeholders were asked about any views they had heard from parties about mediations. Most stakeholders said parties seemed generally very happy with the process:

Yes, they are comfortable. They have the family members on this side and on that side. They are all there. And then everybody just walks away happy. (Community stakeholder)

An agency stakeholder who works with many community members in conflict observed that people seemed happy that they had access to an avenue to deal with a dispute that was causing them stress and making their life difficult. By proactively seeking mediation, they could take control of the situation and remove the anxiety of having to avoid certain people.

Another government stakeholder said that although most parties to mediations seemed happy, occasionally someone would raise the issue that the mediator would not be impartial as a local person. Concern about a mediator's lack of impartiality during a particular mediation was also raised by some community stakeholders. However, this was not a widely held view and other community stakeholders praised the local Mediation Coordinator's performance in remaining impartial despite having family connections in the community. Given the small sample size of informants for this first phase of the evaluation, it will be important to raise this question in the community survey.

As discussed in Part 3.2.3, another concern raised by some stakeholders about the way mediations were being delivered was that too many people were involved in some mediations. This is an issue the mediators are conscious of and striving to manage.

5.3.6 Satisfaction of agency stakeholders

Service providers with an interest in mediations generally expressed their satisfaction with the way mediations were being conducted. Stakeholders from police, legal services and corrections all spoke in positive terms about the mediation project. For probation and parole services, the mediation project has been very helpful in ensuring that offenders on orders have an avenue to sort out disputes in a way that does not lead to them breaching their orders and potentially being sent to prison.

The only suggested improvement by agencies was for the ARJP to better communicate the outcome of a mediation back to relevant agency stakeholders. For example, police and courts would like fuller information about the outcome of a mediation.

5.3.7 Types of disputes being dealt with

Another dimension of the dispute resolution output of the Project is the type of conflict being responded to. The key question here is whether the Project is addressing the range of needs of the Aurukun community for a responsive peacemaking service.

²⁸ See discussion in Part 4.5.

The predominant form of conflict in Aurukun derives from the historical antagonism between clans from different regions who were co-located in the community during the mission period. This conflict is said to re-date colonisation,²⁹ but has been exacerbated by the cramped living conditions in the Aurukun settlement and factors such as alcohol and boredom. There are patterns of conflict at the family and individual level in Aurukun that have been endemic across generations. Key amongst the causes of conflict at Aurukun are³⁰:

- the high value in Wik culture placed on assertiveness and defending one's rights, described as being *kulliy*, which means being strong and willing to aggressively stick up for individual or kin interests;
- anger prompted by having a demand for resources denied by kin;
- perceived imbalances in resources between families and individuals, which threatens the high cultural value placed on parity in Aurukun;
- the pain of grief and loss sometimes being expressed through anger and confrontation;
- conflict arising where a person 'swears' the name of a deceased person, which is considered highly offensive in Aurukun;
- 'swearing' to belittle or 'shame' someone, which provokes anger and retribution;
- divulging information about someone without the right to do so;
- conflict caused by jealousy and sexual innuendo;
- retaliation or payback for past wrongs against kin;
- allegations of sorcery, which are especially prevalent where someone dies or is ill, and are often directed at a particular marginalised clan group.

The combination of this wide range of potential sparks for conflict, living in overcrowded circumstances, the intermittent availability of alcohol or drugs, and the high value placed on assertiveness and aggression, make regular flare-ups of interpersonal conflict inevitable at Aurukun. Catalysts as minor as comments on social media (such as the ubiquitous DivaChat app) or throwaway comments made in the street can quickly transform into serious confrontation. The nature of kin networks and the reciprocal obligations to support kin then act to escalate the conflict between extended families in a self-perpetuating cycle. Participants may not even be aware of the original cause of the conflict. Miscommunication is a common factor underpinning conflict – for example, where someone has perceived an affront that was not even intended or was directed at someone else. Rumours about things that people are reported to have said, known as 'carry yarn', are enough to spark serious conflict.

From this characterisation of common disputes, it is clear how interventions such as mediation and shuttle diplomacy can be highly effective responses. Facilitating better communication between parties enables miscommunications to be cleared up and parties to express their feelings of anger and hurt to each other, which can lead to apologies or acknowledgment of the effects of one's actions in a way that defuses further conflict. Given the Wik imperative to aggressively assert and defend their individual and family honour, mediation (or shuttle diplomacy) also provides an avenue to satisfy this obligation in a way that does not involve physical violence. It is no surprise, however, that mediations tend to involve more vocal confrontation as parties seek this satisfaction of asserting their interests.

A review of the ARJP case summaries reveals that a high proportion of the disputes relate to the types of inter-familial conflict described above. Stakeholders consistently agreed that the value of mediation is that it

²⁹ Martin, D., 'Autonomy and Relatedness: An ethnography of Wik people of Aurukun, Western Cape York Peninsula', PhD Dissertation, ANU, 1993, p.143.

³⁰ Ibid, pp.143-199.

can 'nip in the bud' these forms of conflict before they escalate into larger scale confrontation between clan groups.

The evaluation also posed the question whether the mediation project has a role in dealing with domestic violence. In the sense that current legislation defines domestic violence widely to include conflict between non-partner family members, such as siblings, then the Project is already dealing with a large number of these matters. In terms of spousal conflict, however, the Project has only dealt with one or two cases to date. The general view amongst stakeholders was that it would not be appropriate to mediate between partners in relation to violence that has been referred to police and is subject to legal proceedings. In other words, a matter that needs to be dealt with by the police and courts should not be diverted for mediation.

However, a majority of stakeholders thought there was a role for mediation to deal with underlying family or relationship issues that are sometimes associated with spousal conflict. For example, if the source of conflict between spouses is that their extended families do not want them living together, then that is an issue that mediation could address.

Domestic violence is a strong factor in the high rate of imprisonment of Aurukun residents and there is potentially a greater role for the mediation project to play. However, the issues raised above reinforce that there would need to be clear guidelines about matters that could be referred to mediation. The accepted criterion is that mediation should not occur if there is a continuing power imbalance between the partners and therefore the risk of re-victimising the victim either during the mediation or afterwards as a result of things said in the mediation. Guidelines also need to be clear about how mediation will sit with the court process. For example, in one case of spousal conflict that was referred to mediation, the report to the court following the mediation specifically recommended that domestic violence charges should not be dropped, yet the charges were dropped. This evaluation suggests that the recommended process to negotiate the criteria and procedure for court-ordered mediation (see Part 5.3.2) should include negotiation of specific guidelines around domestic violence cases.

The evaluation also investigated the scope for the mediation project to be responding to conflict at the Aurukun school. Most stakeholders took the view that issues between children at the school were appropriately dealt with by the school through its behaviour management practices rather than mediation. However, it was acknowledged that school-related issues can spill over to conflict between parents and that these conflicts were appropriate for mediation. The Mediation Coordinator is liaising with the school to explore the scope for the Project to assist.

For good reason, the mediation project has focused primarily on conflict within local families. There is, however, unexplored scope for the Project to make a contribution to dealing with conflict between staff of service provider agencies in Aurukun.³¹ Disagreements and personal animosities between staff within the service system are common in the 'fishbowl' environment of remote Indigenous communities and can have highly detrimental effects on service coordination. The evaluation suggests that the Project markets the availability of mediation to service providers for these sorts of issues.

Recommendations:

- (5) With a view to increasing the number of victim-offender mediations, the Project should coordinate a workshop with relevant stakeholders (Magistrates, prosecutors, defence lawyers, police, CJG) to devise a set of guidelines and procedures for identifying criminal matters that***

³¹ The ARJP has mediated workplace conflict, but mainly involving local residents, not non-Indigenous service provider staff.

can be referred for mediation. This should include criteria for suitable matters, processes to coordinate vetting and diverting matters, and processes for reporting outcomes to the court. The workshop should also settle specific guidelines around mediation in domestic violence cases.

- (6) The Project should plan for more peacemaking interventions with prisoners, particularly when returning from prison. The Project should take advantage of video link facilities or seek resources to travel to prisons to conduct mediations if necessary.*
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5.4 Output 3 – Community education about dispute resolution

Key findings:

- **The Project's output in general education of the community about dispute resolution has been limited to date, due to the other demands on the Project staff and the community tensions in the past year. Some meetings have been held with community groups but planned community education workshops and larger meetings have not occurred as envisaged.**
- **The Project has instead relied on community members learning about dispute resolution through 'experiential learning', by participating in mediations as either parties or co-mediators.**
- **If staffing levels and the other demands for peacemaking permit, there is an opportunity for the Project do much more in community education, including with school children.**

One of the activities performed by ARJP staff is delivering education to the community about dispute resolution. This output is contrasted from the first output in the program logic in that this activity is not focused on engaging the community to raise awareness of the mediation service (although that might be part of the reason for engaging), but specifically to educate people about non-violent ways of dealing with conflict.

As discussed in Part 4.5, the Project does not collect data about the proportion of staff time spent on community education activities, so it is difficult to precisely quantify the delivery of this output. ARJP progress reports indicate that 'Community education on the mediation process will be a long-term initiative involving the process itself as well as facilitating discussions on conflict and its resolution with the men's and women's groups over an extended period.'³² The central strategy for community education has been to expose people to mediation processes as parties, support people or co-mediators.

We've relied upon community education through experiential learning... We just kind of figure that community education is going to come from doing it. (ARJP staff member)

The program logic assumes that community members will learn dispute resolution skills by participating in mediations as both parties and as community co-mediators. This will be assessed during the outcome evaluation in 2017. However, in this report, the review of implementation needs to consider to what extent the Project has been explicitly delivering community education about dispute resolution, separate to the experiential learning that people pick up during mediations.

³² Aurukun Mediation Project Progress Report, July 2014-June 2015, p.2.

The main incidences of targeted community education about dispute resolution appears to have been periodic meetings with the women's group and men's group and groups of jobseekers. For example, from July 2014 to June 2015, four meetings on community education were held with about 20-30 employees at Cape York Employment.³³ The Project Manager also attended many of the weekly Men's Shed meetings.

However, the regular progress reports emphasise that community education about dispute resolution has been an ongoing challenge due to the demand for mediations, limited staff availability and episodes of community upheaval. For example, planned workshops and community meetings in late 2015 did not occur due to unplanned absence of the Project Manager and community unrest in November-December 2015.

One of the issues identified in the progress reports is the need for community education about the difference between facilitative mediation, where parties are assisted to work through and resolve conflict themselves, and arbitration or court-like processes that might have been used by the CJG previously and incorrectly referred to as 'mediation'. In discussions with community representatives, other issues that were suggested as priorities for the mediation project to educate the community about included:

- the importance of confidentiality in mediations and CJG meetings;
- educating people about avoiding confrontation and just 'walking away';
- reinforcing the need to not 'swear someone's deceased family', and to respect cultural lore;
- 'educating the tale-titters' about not carrying untrue tales around the community;
- reinforcing the community protocol to respect elders.

The review notes that many of these issues are appropriately roles for the CJG to demonstrate leadership, as much as the mediation project. The potential for mutually reinforcing activities of the CJG and mediation is discussed further in Part 7.2.

Another potential area for future community education is with school children. The local Mediation Coordinator has been exploring this area and is keen to do more in the future:

I don't see the mediation as only for the adults – I do want to work with the children, I do want to work with the school, because I believe if I am mediating with the children, just imagine what happens at home if there is a dispute and the little kid goes to the adults and says 'you know what, you should mediate'. (Mediator)

In summary, there is considerably more that could be done by the Project in boosting its output around community education activities. More effort in this area can be achieved during the recommended increase in attention to the first output, concerning community engagement to co-design the Aurukun mediation model and raise awareness of the mediation project.

Recommendation:

(7) The Project should plan to increase activities directed at community education about dispute resolution, including with school children. A starting point for this drive will be the process of community consultation and co-design of the Aurukun peacemaking model, as per Recommendation 1.

³³ Aurukun Mediation Project Progress Report, July 2014-June 2015, p.2.

5.5 Output 4 – Mediator capacity-building

Key findings:

- An achievement for the Project is that the local Mediation Coordinator has finished formal training and accreditation as a mediator. This has complemented her extensive on-the-job training during immersion in mediation practice in the past year.
- Recruiting more elders and respected community members as co-mediators has been a major challenge. Only a small group of four or five people have undertaken regular mediating during the past two years, and they do not represent all clans.
- Stakeholders consistently raised the need to expand the pool of local mediators. They emphasised the need for a full-time male mediator, a spread of co-mediators across the clans, strong leaders who could act impartially, and more younger people.
- Revitalising the CJG was frequently raised by community and agency stakeholders as a way to expand the pool of co-mediators.
- Formal mediation training for community people was not delivered until August 2016 and was poorly attended. The Project has relied on 'on-the-job' training of community co-mediators in preference to formal training.
- However, formal training in mediation remains an outstanding need for the Project to build an adequate pool of community co-mediators.

A central feature of the original project plan for peacemaking at Aurukun was to build up a pool of capable local mediators to make community-owned and run peacemaking sustainable in the longer term. As discussed in Part 2.3, the original project plan was for this to occur in six months, but there seems to have been a recognition from the start that, given that this took several years at Mornington Island, external support would be required at Aurukun for a transitional, capacity-building phase of a few years.

The capacity-building output in the program logic has three elements: development of the ARJP staff, especially the local Mediation Coordinator; training local co-mediators to assist the Project; and enlisting additional people to grow the co-mediator pool.

5.5.1 Development of ARJP staff

The ARJP staff consists of the Project Manager, who is a trained mediator employed through DJAG, and the Mediation Coordinator, who is a local community member. After a brief unsuccessful term in the Mediation Coordinator position by a male CJG member, a respected female community member was recruited to the position in July 2015. Since that time, the Mediation Coordinator has attended two mediation courses in Brisbane (one for 5 days and one for 3 days), achieving her formal accreditation as a mediator in May 2016.

The Mediation Coordinator has also benefited from considerable on-the-job training by co-mediating with the Project Manager during 2015 and 2016. This learning occurs through practice and observation, but also through a structured process of de-briefing and critical self-reflection following each mediation.

The Mediation Coordinator's role encompasses a range of project management and administrative tasks in addition to mediating. The evaluator recommends that relevant training be identified to support her to develop her skills around these other aspects of the role.

The Project Manager from 2014 to September 2016 received professional supervision and peer support from the Director of the DRB in Brisbane by telephone once a week. Apart from on-the-job mentoring from the Project Manager, there is no mechanism in place for the Mediation Coordinator to receive independent peer support. Given the high stress nature of the role, it is recommended that the DRB explore options for providing a mentor/peer supporter for the Mediation Coordinator to regularly de-brief with over the phone, preferably an Indigenous mediator.

The new Project Manager appointed in August 2016 is an accredited mediator, but may benefit from training in relation to other aspects of the Project. The Project Manager's training needs should be identified and addressed during future implementation.

5.5.2 Recruiting more community members as co-mediators

While the plan both at Mornington Island and Aurukun has been to develop a large pool of elders and respected community members as co-mediators, this has proven challenging in practice. As the Project Manager explained:

There are some parallels falling into place in Aurukun as have in Mornington Island. You aim for it to be all-inclusive, bring the elders in, make it a tight little unit of peacemakers who support each other and who are trained in all this kind of stuff and then withdraw and they will run it. But the reality is that a tiny number of people end up doing it and everyone else steps back and then it takes on the characteristics of a service, rather than a community-owned and controlled initiative. (Project Manager)

In addition to appointing a local Mediation Coordinator, the Project Manager has made efforts to engage more local people as co-mediators since the beginning. Co-mediators receive a casual payment of \$40 per hour for their time. As Table 1 shows, a total of 26 community members are recorded as attending mediations as co-mediators since 2004, but more than half of these have attended only one or two mediations. Five community members have co-mediated on more than four occasions, and account for more than half of the community participation as co-mediators. Two people in particular have been relied upon heavily: Harriet Pootchemunka and Aelan Woolla. It is not possible for such a small core to have representation across all the clans in the community. The five individuals who have done most of the co-mediating are all drawn from two of Aurukun's five clan groups (Winchinam and Applich). While the Mediation Coordinator is from the Sara clan, no reliable mediators have emerged from the Putch and Warnum groups. Furthermore, only one of the regular co-mediators is male, and he has health issues that limit his availability.

Analysis of the Project record data also indicates that the frequency of community members participating as co-mediators has not increased over time. In fact, only four community members participated in mediations in the first half of 2016.

TABLE 1. PARTICIPATION BY COMMUNITY MEMBERS AS CO-MEDIATORS

Local co-mediator	Number of mediations
Harriet Pootchemunka	17
Aelan Woolla	10
Roxanne Yunkaporta	9
Maureen Karyuka	8
Ada Woolla	6
Bill Koo'Oila	4
Sandra Bowenda	4
Gerald Tamwoy	4
Vera Koomeeta	3
Martha Koowarta	3
Ann Woolla	3
Kevin Sigai	3
Teddy Koonutta	2
Leith Kawangka	2
Jonathan Korkatain	2
Dorothy Wolmby	2
Dorothy Koothemunka	2
Bernard Pootchemunka	1
Maxine Pambegen	1
Fred Kerindun	1
Stanley Ahlers	1
Lyll Kawangka	1
Jim Koongotema	1
Dorothy Pootchemunka	1
Leo Yunkaporta	1
Janine Chevathen	1

A consistent theme in interviews with stakeholders for this evaluation was that the Project needed to expand the pool of local people involved in mediating. Four requirements emerged from these interviews.

First, several stakeholders said that the Project needed to have a second local full-time mediator position, preferably filled by a male as a counterpart to the female Mediation Coordinator.

Second, stakeholders suggested that the pool of co-mediators needed to be drawn from across the different clan groups in the community.

Like last time, when Lee Williams was here [coordinating mediations], it was people from different clans. (Community stakeholder)

They need to be talking to all the clans – each family, the elders – and ask if they want to be a mediator to sit with Phil and Keri. (Community leader)

Third, people emphasised that the mediation project should enlist strong leaders who are willing to put aside partisan family interests and act impartially to sort out disputes:

I know Kerry and Phil, they're pretty good doing the mediation, but I think we need more people from the community – really strong members – not standing with one side but being in the middle and sorting both families out... We need more people stepping up and supporting the community. (Community stakeholder)

Some elders will sit there [in mediation] but sometimes they will be there for the wrong reason... If some fellow is going to be sitting there when his family is involved then they are sticking up for their families – they won't be there talking to their family, saying 'you shouldn't be doing this sort of thing'. So that's the struggle we face sometimes – elders don't have that respect from young people. (Community leader)

Finally, another consistent theme was the need to involve more younger people.

There needs to be Justice group members, especially younger ones, get them involved, we would like to see Aurukun become a better place to live. (Community leader)

Asked about what sort of younger people are needed, one stakeholder spoke of people in their 30s and 40s. Another talked about targeting 'the next generation of elders'. There was acknowledgment that it would take time to develop the skills of younger mediators and for them to build respect in the community.

There's a couple of fellas out there who are blocking fights quite openly, but they're young – they're in their 20s. That's what will drag them down, because their obligation to family is too important if the pressure is really put on. And they're not old enough to stand strong... Maybe [the Project should be] employing some of those younger ones and planning that in 5 years' time they will be the mediator... (Agency stakeholder)

In Mornington Island, it's taken six years to get young people coming and stepping up to the mediation. You want it to happen, but you can't engineer it – [it takes] a long grind of mediating and mediating and mediating. (Mediator)

We need more representation from men and representation from families and to identify a group of young people and nurture them over time which means we need more money for training. (Mediator)

Given that the Project has sought to enlist more community members but has struggled to grow the pool to more than a handful, there are clearly challenges in attracting local people as co-mediators. Stakeholders mentioned a range of reasons for this. Some suggested that elders were reluctant to put themselves in the

middle of conflict, or were simply tired. Others suggested that people would expect to be paid for this – in fact, they are entitled to a mediator payment of \$40 per hour. It was noted that many respected persons in the community already have full-time jobs with other organisations.

A community stakeholder suggested that more people might be attracted to the role if there were incentives like a uniform, training and a better office set-up for the mediation project. In other words, if the role had some a greater level of status in the community.

Many stakeholders spoke of the need for the Community Justice Group to be revitalised as a way of strengthening the mediation project. The CJG membership was last gazetted in January 2009 with the names of 22 elders nominated by 8 different clan groupings from the Aurukun region. This list is now out of date, with some members passing on and some elderly members no longer active in community affairs. The CJG program is funded through a community organisation and a full-time coordinator is employed. The coordinator works with a small core of CJG members who remain active, focusing on the justice system-related CJG functions, such as providing input to the Magistrates Court on sentencing.

Stakeholders recalled times in the past two decades when the Aurukun CJG has had periods where it was very effective in managing community conflict and providing leadership through its broad clan representative structure.³⁴ However, in recent years, its influence has dwindled. Some put this down to the creation of the Family Responsibilities Commission in 2009, which recruited key CJG members, providing a higher rate of pay and more legislative powers than the CJG (e.g. the ability to place people on compulsory 'income management' of their welfare benefits). The CJG coordinator recalled that the CJG members were paid CDEP wages and Council 'top-up' wages, which provided more impetus for people to put the hours in.

To revitalise the CJG, stakeholders suggested a new round of community consultation to ask the 8 recognised family groupings under the CJG legislation to confirm their nominated representatives or to nominate new, younger representatives. This process could occur at the same time as a further community consultation process to refine and consolidate the Aurukun mediation model (see Recommendations 1 and 12). A formal role for the CJG members to be trained and to sit as co-mediators could be discussed in this process. For example, parties to mediations could be asked to choose who they would like to be co-mediators from a list of CJG members. The CJG co-mediators would be paid the usual hourly rate for their involvement in training and co-mediating.

One of the reasons the pool of co-mediators has not expanded to date is the ARJP policy dictating that only people chosen or agreed to by the parties will be co-mediators. This is based on the principle that the parties need to feel in control and completely comfortable about the process. In practice, this has led to the same small number of respected people being repeatedly chosen, or parties opting only to involve the Project Manager and the Mediation Coordinator. To ensure involvement of members of the reconstituted CJG as co-mediators, it might require diverging from this principle that the parties choose the co-mediators. One option is to require that the parties must choose or agree to at least one CJG member co-mediating at the mediation, but can also choose another co-mediator. Such options need to be explored and agreed during the consultations with the community to refine the Aurukun mediation model.

5.5.3 Training community people as co-mediators

To develop the pool of community mediators, the intent was to identify people to undertake mediation training. The former Project Manager's concern was that this approach was largely unsuccessful at Mornington Island, with few community members of any note attending the training delivered there at significant expense.

³⁴ For example, see the discussion in Part 2.2.

The Project Manager pointed out that to be an effective mediator in a remote Indigenous community, a person has to already have respect of the community, which is not something that can be bestowed by formal training. Instead, the preferred approach to development of community mediators has been through 'on-the-job' training – involving 'experiential learning' by participating as co-mediators alongside the trained mediators, and participating in de-briefing after the mediation.

Nevertheless, it remained a project objective to deliver some formal training for community mediators at some stage following the establishment phase. A progress report from mid-2015 indicated that formal training would be organised 'after a pool of mediators has been identified and received sufficient on-the-job training'.³⁵ Progress reports in late 2015 indicated that the on-the-job training would provide a good introduction to the formal block training to be delivered in the first half of 2016.

Mediation training was eventually scheduled for late May 2016 but had to be postponed to 29 August-2 September 2016 due to unavailability of the training venue. Rather than deliver the standard 5-day mediation training, 2-day 'introduction to mediation' training was scheduled, with separate 2-day blocks for men and women. Invitations were sent to a large number of community members, targeting younger people. The training for women was attended by 6 women on the first day and 3 on the second day. The training for men was attended by 1 man on the first day and 4 on the second day. The training was delivered by the Project Manager and Mediation Coordinator. The patchy attendance highlights the difficulty of delivering formal mediation training in the community.

Formal mediation training for community members is an ongoing need that has not been adequately met to date. The former Project Manager indicated his view about the value of formal training has shifted as he now believes it can play an important role in community education about mediation and conflict resolution more generally. An option the Project is exploring is to collaborate with the employment services provider, Cape York Employment, to include mediation training as an activity that meets jobseekers' participation requirements. Another option that should be explored is collaboration with the FRC, which has a training budget and has previously extended an invitation to CJG members when delivering mediation training for commissioners. The evaluators suggest that once the CJG is reconstituted following community consultation, the new members should be offered formal mediation training. Delivering the training outside the community should be considered. This acts as an incentive to the participants, and although the travel cost is higher, it may represent better value for money because it guarantees a higher level of participation.

Recommendations:

- (8) The training needs of the Project staff, both the Project Manager and the Mediation Coordinator, should be considered and catered for in future resourcing of the Project.***
- (9) DRB should explore options for providing a mentor/peer supporter for the Mediation Coordinator to regularly de-brief over the phone (preferably an Indigenous mediator).***
- (10) The pool of community co-mediators should be expanded through the process of revitalising the CJG set out in Recommendation 12.***
- (11) Additional resources for delivering formal training to community co-mediators should be allocated, preferably enabling delivery outside the community.***

³⁵ ARJP Progress Report 2014 and January-April 2015.

6 ADEQUACY OF PROJECT INPUTS

Key findings:

- **The staffing available for the Project in the past two years has been a Project Manager position based in Brisbane and on the ground in Aurukun for 54% of the time, and a local Mediation Coordinator from May 2015.**
- **This level of staffing available has proven inadequate for the Project's needs, in terms of undertaking the necessary developmental work (to run a co-design process, consult with the community, recruit and train co-mediators etc) and responding to emergent community demands for dispute resolution services.**
- **Most stakeholders suggested the need for an additional full-time local mediator, preferably a local man from a different clan group to the Mediation Coordinator.**
- **Although the level of staffing has been inadequate, the Project has been served by a high calibre of individual staff, in terms of the Project Manager position (both the former and current occupant) and the Mediation Coordinator position (since July 2015).**
- **The Project has been hampered by inadequate office and mediation room facilities and poor access to information technology.**
- **Key partners, especially State police and community police, have made very significant contributions to the Project, through referrals and through giving up their time to attend mediations.**

6.1 Introduction

Part 5 has assessed the adequacy of the outputs delivered by the ARJP to date. A project's capacity to deliver outputs of adequate quantity and quality is of course dependent on the adequacy of the available inputs. As the program logic in Figure 1 indicates, there are five categories of input for the ARJP. The adequacy of each of these is discussed below.

6.2 Staffing

The first and most important input for delivering a mediation project is its human resources. In the case of the ARJP, this consists of the Project Manager and Mediation Coordinator.

- The Project Manager position is based in the DRB in Brisbane but dedicates 90% of the role's time to the ARJP and 10% to the Mornington Island project.
- The Mediation Coordinator is full-time based in Aurukun and funded through the Aurukun CJG from a DATSIP allocation made to JAG.

6.2.1 Adequacy of staffing level

As discussed in the assessment of the Project's quantity of output in Part 5, the availability of staff has been a significant constraint on the implementation of the Project. The fact that the Project Manager has not been based in Aurukun, but rather visiting on a regular basis, affected the Project's ability to respond in a timely manner to community demands for mediations. Figure 5 illustrates that there have been periods of a few

weeks over the past two years where no mediations have been conducted. The ARJP progress reports indicate the amount of time that the Project Manager was in Aurukun:

- 21 of 52 weeks from July 2014 to June 2015
- 13 of 26 weeks from July to December 2015
- 11 of 13 weeks from January to March 2016
- 11 of 13 weeks from April to June 2016

Hence, in the 2 years (104 weeks total) from July 2014 to June 2016, the Project Manager was based in Aurukun for 56 weeks (54% of the time). This is not a reflection on the former Project Manager, whose position was never intended to be based full-time in Aurukun and who had good reasons to be away from the community for extended periods, including attending to other duties and taking medical leave. Rather, the uneven delivery of dispute resolution outputs has been an inevitable consequence of the level of staffing of the Project. The former Project Manager has been conscious that coming and going from the community has been 'disruptive' and a source of 'vulnerability' for the Project, as it has made it hard to manage the flow of mediations. His reflection is that to have a significant impact, the Project would need to be resourced to deliver multiple mediations each week, which has not been possible with current staffing arrangements.

The under-staffing of the Project was commented upon in interviews with several stakeholders.

It's a lot of work, so it's almost two full-time [local] people, and that's the bare minimum. (Government stakeholder)

There is a lot of pressure on a couple of people. [The Mediation Coordinator] does seem pretty busy. (Government stakeholder)

I definitely get the sense that they are flat out because there have been times that try to get [the staff] but they have both been really busy. (Government stakeholder)

Obviously with everything involved, for one or two persons it is a massive task. (Police officer)

After 12 months of delivering the Project solo, the Project Manager was able to appoint a local Mediation Coordinator in May 2015. The first person appointed finished after two months, but a capable and committed replacement was appointed in July 2015. However, during the period of development and training of the local person employed in this position, it was not reasonable to expect them to undertake mediations in the Project Manager's absence. As Part 3.2.6 explained, a core feature of the Aurukun model has been the involvement of a neutral non-Indigenous co-mediator. Some stakeholders argue that it is always necessary to have a non-local/local co-mediation team, which would mean a non-local would always need to be available before a mediation could take place.

The Mediation Coordinator is a female, so you definitely need another mediator and I would suggest a male representing some of the different clans. Ideally you'd want a lot more mediators. But looking at the bare minimum, a male and female, from two different areas. How well they get along will be a reflection on the way everyone else gets along. [The Project Manager's] job is as that independent person who doesn't have ties with anyone. If you don't have that, the other two lose out on support and they don't have their guidance. They're still a long way away from being able to run the show themselves. (Agency stakeholder)

The suggestion for a male counterpart to the Mediation Coordinator positions was consistent feedback by most stakeholders. Although one stakeholder suggested that two full-time local coordinators might have the confidence to conduct mediations without the non-local person, this would seem to be a longer-term goal, and might also depend on the development of a larger local pool of co-mediators to assist. For the medium-term, the non-local Project Manager is a critical ingredient for the Project's development.

To ensure continuous availability of a non-local Project Manager to assist with mediations, the evaluators suggest that options for back-filling this position while the incumbent is on leave should be explored. For example, this could be a developmental opportunity for a staff member from the Dispute Resolution or Courts Innovation areas of DJAG. It would be a challenge for a non-local person to gain an understanding of the local community during a short period, but they would nevertheless be able to fulfil the almost 'symbolic' role of the independent co-mediator during mediations. At Aurukun, the practice has evolved that the non-local mediator opens the meeting and sets ground rules, and the local co-mediators soon start leading the process in the local Wik-Mungkan language.

The other issue for the Project is administrative staff. The mediators currently perform their own administration and organisational tasks, such as transporting people to mediations. If the Project is to ramp up its capacity to respond to emergent dispute resolution requirements, there is a case for providing part-time administrative support. This role could be shared across the CJG.

6.2.2 Quality of staff

The adequacy of staffing is not just a matter of quantity but also the quality of the staff engaged. For its establishment, the Project was fortunate to have a Project Manager who is an experienced mediator, has extensive experience working in remote Indigenous communities, and brought the experience of several years of working to establish the Mornington Island mediation project. The Project Manager was recognised for his efforts in community development and peacemaking in remote Indigenous communities with the awarding of the Public Service Medal in 2016. Community stakeholders generally spoke in very positive terms about the contribution of the Project Manager in delivering mediation at Aurukun. Criticisms were more related to the fly-in, fly-out nature of his position, and the stakeholders who raised this also acknowledged his skill as a mediator and in working with families. The former Project Manager retired in August 2016 and was replaced by a former policeman with a vast experience of peacemaking in remote Indigenous communities. The new Project Manager is well-known to many in the Aurukun community as a result of previous service there and in other Cape communities. A wide range of stakeholders, both government and community, expressed confidence that the new Project Manager would perform very well in the role.

The first Mediation Coordinator, who served from May to July 2015, was a respected member of the CJG who had been involved in peacemaking for many years. Unfortunately, for personal reasons, he did not continue in the role. The current Mediation Coordinator was appointed in July 2015 and comes from a respected family in Aurukun. She has successfully undertaken her accredited mediator training and has clearly grown in confidence in the role over the past year. As a local person from a community that is firmly divided along clan lines, leading mediations is an extremely difficult role and will inevitably attract critics who question one's ability to be impartial. Despite that, stakeholders were generally very positive about the performance of the Mediation Coordinator.

She's really stepped up to mark. (Government stakeholder)

She has done a really good job, she is getting quite good at it... I think the [Project Manager] has had to put a great deal of weight on her... [Maybe] she should have had a more gentle introduction (Government stakeholder)

She is going pretty good, but I think she needs more support from the elders. (Community stakeholder)

6.3 Funds to pay community members as co-mediators

The Project is able to supplement the full-time mediation staff by engaging elders and respected community members as co-mediators on a casual rate. Like mediators in the mainstream dispute resolution services, they are paid \$40 per hour for co-mediating. Although they are not accredited mediators, the payment recognises their cultural knowledge and skills.

The project has a budget allocation of \$6240 set aside annually for co-mediator expenses. This equates to 3 hours per week. This has been adequate to date due to the small number of community members who have participated as co-mediators. If the pool of co-mediators is to be expanded and the level of mediation activity increases, a higher allocation will be required for this work.

6.4 Training and support for mediators

Training and support such as mentoring is required for both the full-time mediator staff, and the community members engaged as co-mediators. Regarding the full-time staff, the Mediation Coordinator has travelled to Brisbane on two occasions in 2015-16, once for 5 days and once for 3 days, and has achieved her accredited mediator status.

In relation to local co-mediators, as Part 5.5.2 discussed, it has been challenging to recruit and develop an adequate pool to draw on. Some training funding has been available, but the Project was holding off on formal training until a sufficient pool of individuals had been inducted and given some on-the-job training. When this training was delivered in August 2016, the level of attendance was poor. The evaluators suggest funding should be made available for more regular training for a pool of co-mediators, recognising that training might need to be delivered regularly to range of people before a pool of reliable co-mediators emerge. Even where people who attend training do not become paid co-mediators, they will be learning skills that they can apply in their everyday life to peacemaking. As illustrated in the program logic in Figure 1, more people practising peacemaking in the community is a medium-term goal for the Project. Funding for training community co-mediators should occur away from the community. If additional funding is not available to cover this, the Project should consider approaching the Western Cape Communities Trust or Rio Tinto for support.

In addition to training funding, the other input into developing the full-time mediators and casual co-mediators will be the mentoring and on-the-job training delivered by the Project Manager position. This has reportedly been a very effective approach for mediator capacity-building to date. Continuation of this will require the ongoing funding of the Project Manager position, as discussed in Part 6.2.

6.5 Resources for office, vehicle and expenses

The resources available for the Project's facilities and operational expenses are indicated in Table 2. They comprise:

- Funding managed by DJAG for the Project Manager's car lease, travel and administration costs

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- Funding managed by the Aurukun CJG for administrative and office expenses such as rent, IT, phones, electricity, bookkeeping, insurances, fuel, vehicle repair
- In-kind provision of a house for the Project Manager to use when in Aurukun.

Some stakeholders raised concerns about the adequacy of these resources. First, the office facilities for the Project are extremely limited. The Project occupies only one small corner office in the Justice Centre, with barely enough space for the two current staff.

There is also no dedicated mediation room, with mediations having to be held at the courthouse, in the FRC meeting room in the Justice Centre, or if both of those are being used, in a private home. Better office facilities and reliable access to a mediation room is essential for the Project. Some stakeholders indicated that the court house may not be an appropriate place for mediation because of its connection to the police station. It was observed that the Justice Centre was a quiet place away from the community for mediations to take place – however, it currently houses the FRC and CJG offices and Centrelink staff.

The information technology facilities for the Project are also inadequate. Access to email and internet is unreliable at the current office, making basic administration difficult.

TABLE 2. ARJP RESOURCING 2013-2016

Financial Year	Dispute Resolution Branch, DJAG ¹	Courts Innovation, DJAG	Aurukun Community Justice Group ³	Total Resources for Project	Other in-kind contributions
2013/14 (Nov-Jun)	\$69,936	\$40,000 ²	-	\$109,936	<ul style="list-style-type: none"> • DJAG provide Project Manager with access to office facilities in Brisbane and Cairns • Project Manager’s accommodation provided by Australian Government (DPMC) • DJAG provided Executive Manager and Manager, North QLD Indigenous Justice Program support during the Project
2014/15	\$104,904	\$52,544 ⁴	\$97,446	\$254,904	
2015/16	\$104,904	\$52,544 ⁴	\$97,446	\$254,904	
2016/17	\$104,904	\$52,544 ⁴	\$97,446	\$254,904	
TOTALS	\$384,648	\$197,632	\$292,338	\$874,648	

NOTES:

1 Project Manager’s salary cost (not funded and provided in kind). 0.9FTE is dedicated to the ARJP and 0.1FTE is dedicated to the ongoing oversight of the Mornington Island Restorative Justice Project.

2 Travel and accommodation, vehicle hire, laptop, phone, administration, training & mentoring.

3 Funds provided by DATSIP to DJAG and auspiced under a service agreement with the Aurukun Community Indigenous Corporation. Part of DATSIP funding of \$150,000 per year.

4 Funds for car lease, travel expenses and administration costs. Part of DATSIP funding of \$150,000 per year.

6.6 Time put in by partners

The final category of input indicated on the program logic is the time and effort put into the Mediation Project by partners. Key to this has been the involvement of the Queensland Police Service, both uniformed officers and the Police Liaison Officers. Police have been a key point of referral for mediations, and officers and PLOs have made themselves available for many mediations as observers and to provide a safe environment for the participants. This highlights the value that police put on mediation as an effective tool for peacemaking. Community police employed by the Council have also attended many mediations. The efforts of these partners should be acknowledged and commended as important contributors to the success of the ARJP.

Recommendations:

NOTE: Recommendations about resourcing of the Project are addressed under Part 7.2 (The way forward)

7 FUTURE IMPLEMENTATION

Key findings:

- **The unambiguous feedback from all stakeholders is that mediation needs to continue to be supported in Aurukun.**
- **In discussions with stakeholders about the best way forward for the Project, the consistent theme was the need to broaden local involvement (and ultimately ownership) in the mediation project through revitalising the Community Justice Group.**
- **This is seen by Aurukun people as building on an approach that worked in the past when elders from all the clans worked together on the CJG and were ‘strong for the community’.**
- **Government can work with the community to facilitate a process of engagement with Aurukun clans that both revitalises the CJG and completes the ARJP’s ‘unfinished business’ of further co-design and consensus-building about the Aurukun peacemaking model.**
- **Stakeholders agree that the Project is not yet ready to transition fully to community control, but further development of the mediation project through revitalising the CJG may make that possible within the next 3 years.**

7.1 The importance of continuing the mediation project

The firm feedback of all stakeholders, from both community and government, was that mediation was vital in Aurukun and the mediation project needed to continue and develop. Even the minority of stakeholders who raised issues with the way the ARJP has been delivered were adamant that it needed to continue as there was an urgent need for ongoing peacemaking support.

Mediation is essential for our community... Our community are united in their acceptance of mediation as an integral part of community life. Without it, we would have more injury and violence. (Councillor)

I think if mediation is done properly this community will be hunky-dory. (Councillor)

There’s no two ways about, we need mediation here, we really do. People need to be able to say ‘we can go to that person and get it done’. (Community organisation stakeholder)

I think it’s something so crucial in the community and whilst it is still a fairly new scheme for Aurukun and can only be improved, it’s a really good thing and definitely something they need. (Government stakeholder)

What I would like to see is this project continue because I believe it’s done good for my community. For any two young men to resolve the issue by talking and not fighting you know is a good thing. If this project can keep families from clashing horribly with one another well this project is a good thing. (Community stakeholder)

Mediation has done heaps here – a massive amount of change... If the town's more peaceful, a big part of it is mediation. And, you can say, the major blues haven't continued as much

after mediation. And the big fights have been dropping since mediation. (Government stakeholder)

[Mediation is about] people taking pride in doing something right for community. And getting recognised for solving problems in the community. The police would much rather have community make a stand with the Justice group taking a stand with the mediators and then community resolving these issues. Police want to let community take control of their problems so that they are just bystanders. (Community stakeholder)

7.2 A way forward

It is clear from this review and from the feedback from stakeholders, however, that there are important areas where the Project needs to improve. The interviews for this review explored stakeholders' views about the best way forward to address the Project's weaknesses and embed it as a sustainable and community-owned peacemaking initiative. One theme emerged from many of the suggestions about the way forward. This was the need to broaden the number of local people involved in mediation through revitalising the Community Justice Group.

The local Justice Group should work together with the mediation. (Councillor)

But I think if [the Project Manager and Mediation Coordinator] are going to have struggles then they might want to lean towards the Justice Group because they have elders there on that team to sit with them in support and talk to the people on the other side of the table. Working collaboratively. (Councillor)

There are some simple steps like getting the Justice Group functioning more fully and getting that Wik women's group to involve more women, because we could talk to all the sides and they want exactly the same thing – they want the fighting in the street to stop, they want the drunkenness to stop. (Agency stakeholder)

Unless you have the Justice Group involved, who know what's going on out there, I just don't think [the mediation project] is workable. (Agency stakeholder)

If you are able to utilise as many Justice Group members to be mediators and be in that arena of facilitators you are holistically splicing the two things together. (Community organisation stakeholder)

In many ways, people see this not as a new direction, but returning to and building on something that has worked for the community in the past. In discussion about mediations, most community members referred back to a time in the 2000s when the CJG involved all the clans working together and was providing strong leadership and an arbitrated form of dispute resolution (see Part 2.2).

It was widely acknowledged that the CJG was no longer strong. Few members are attending meetings and there is no longer a diversity of participation across the clans. The official membership, drawn from eight Wik regional groups, was last gazetted in 2009 and is out of date, with some of those members passed on or retired from public life. The CJG coordinator position is still funded and the work advising the court continues with the assistance of a small group of active members, but engaging broader participation has been a challenge.

It was clear that in community stakeholders' minds, the ARJP and the CJG are seen as inextricably linked, as people often referred to the mediators and the justice group interchangeably. Yet, in reality, the mediation project has run in parallel to the CJG for the past two years. The funding for the Mediation Coordinator is auspiced by the CJG corporation and some current or former CJG members have participated as co-mediators for the Project, but the ARJP and the CJG program are not integrated in any operational way.

Several stakeholders put the CJG forward as a potential solution to the ARJP's struggle to attract a broad and representative pool of co-mediators. Conversely, the ARJP represents a potential solution to the disengagement of the community in the CJG. Through integration of the CJG and mediation projects, mediation might once again provide a tangible focus for the CJG, as well as a level of status, community respect, training and modest remuneration (through co-mediator payments) to attract people to re-engage in the CJG.

The process of re-engaging respected community members in the CJG would also provide an opportunity to address the major 'unfinished business' from the implementation of the ARJP – that is, the process of further co-design and consensus-building around the Aurukun model of mediation. The reason the CJG has not been structurally integrated with the mediation project is precisely because of the way that the mediation model has evolved. As discussed in Part 3.2.2, although participation of elders or respected persons is central to the model, a key principle to date is that parties have absolute choice over who those people should be. In practice, this has meant that parties have often not chosen current CJG members. This is a significant divergence from the way mediation was practised at Aurukun in the mid-2000s, when parties came before the CJG (not always entirely voluntarily) and did not have a choice about the makeup of the CJG panel who mediated. There was acceptance, however, that the CJG had broad cross-representation and authority from the community, so people accepted their 'jurisdiction' as mediators.

The way co-mediators are chosen is a central unresolved issue in the Aurukun mediation model. As discussed in Part 3.2, the extent to which mediators' role is to facilitate dispute resolution or arbitrate and settle disputes is also a point of contention for Aurukun residents. The process of re-engaging families in the CJG is an opportunity to facilitate discussions and reach community consensus about these issues. For example, options for selecting co-mediators that could be explored include:

- the CJG determines which CJG member/s will co-mediate with the full-time mediators for a particular dispute – the parties have no choice;
- during the mediation intake, parties may choose and agree on the co-mediator/s, but must choose from a list of available CJG members;
- during the mediation intake, parties may choose and agree on the co-mediator/s and are not restricted to choose from CJG members (the current situation).

Recommendations:

(12) Revitalise the CJG.

The State Government and Federal Government should partner with the community to run a consultation process to engage families to nominate representatives for the CJG. The statutory basis for the CJG is under the Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984. The Regulation permits the following recognised Indigenous social groupings at Aurukun to nominate between 1 and 5 representatives to the CJG: Archer, Watson and Top Kendall Rivers; Cape Keerweer; Kendall and Holroyd Rivers; Knox River; Love River; Ti Tree-Oonyawa; Upper Kirke River; Wik Way. Families should be encouraged to

appoint younger members as well as established elders with a view to them becoming the peacemakers in the community. The new membership should be gazetted as per the legislation. Training should be offered to the new members about the statutory and non-statutory roles and responsibilities of the CJG.³⁶

(13) Consult with the community to further co-design and reach consensus about the Aurukun mediation model

In the same consultation process about the CJG membership above, discussions about the Aurukun mediation model should be facilitated, with particular attention to issues such as:

- *how the co-mediator panel is chosen for a particular dispute (and how CJG members will have a central role as co-mediators);*
- *what the community expects of the role of co-mediators;*
- *how many family members should attend mediations (i.e. the appropriate size of the meetings);*
- *appropriate venue for mediations and when police should attend;*
- *an appropriate name for the peacemaking project.*

After a series of consultations, the Aurukun mediation model should be drawn up in a document and signed off by key stakeholders (e.g. the Council and CJG). The project should be re-branded with a community name. A starting point for discussions might be ‘Yuk Puink’, which was a name adopted by the CJG in its early years, and is understood to refer to peacemaking in Wik Mungkan. Following sign-off, the model should then be marketed to the community through appropriate communication materials.

(14) Provide adequate resourcing to the ARJP to further develop the model and meet community demand for peacemaking.

- a. *The ARJP requires funding for an additional local full-time mediator, suggested to be a male person from a different family group to the current local mediator.*
- b. *There is a continued need for a Project Manager during the ongoing development of the Project, especially to manage the recommended community engagement (to revitalise the CJG and co-design the mediation model) and to build the capacity of the local mediators.*
- c. *Resources to enable backfilling of the Project Manager while on extended leave will be essential to address the past issues of continuity and responsiveness of service delivery.*
- d. *Additional resources will also be required for training for the CJG members in co-mediation, and for paying this larger pool of co-mediators on a casual basis.*
- e. *The inadequacy of the current office and mediation facilities, along with administrative support needs and access to IT, will also need to be addressed.*

Additional staffing and resources will enable the Project to address some of the other implementation weaknesses identified in this report, such as:

³⁶ An astute observer of Aurukun politics suggested to the review that because of the level of tension between families, currently disengaged families would need to be supported by an independent facilitator to re-engage in the CJG process: *‘They should make a concerted effort and get a [independent facilitator] to sit down with those families and say ‘come on, I’ll sit down with you and make sure no one has a go at you’ and hold that meeting until they’re comfortable.’ (Stakeholder)*

- *improving project planning and the documentation of policies and procedures;*
 - *improving data collection and project monitoring and reporting;*
 - *marketing the mediation service to the community and to service provider agencies;*
 - *working with justice system stakeholders (police, prosecutors, defence lawyers, Magistrates, CJG and corrective services) to agree on a procedure for victim-offender mediations (e.g. eligibility criteria for diversion, suitable offences, process for vetting matters to identify ones suitable for mediation, format of report back to court following mediation etc);*
 - *increasing efforts at community education about peacefully resolving disputes.*
-

7.3 Transition to community control

The objective of the ARJP from the outset has been to develop a peacemaking model that can transition to community ownership and control. The first three years of the Project have demonstrated that mediation is a widely supported intervention for managing endemic family conflict in Aurukun and there is a strong desire for it to be embedded as a fixture of community life. The Project has built strong foundations by beginning to develop a unique Aurukun model, demonstrating the efficacy of mediation, and starting the long process of building up local mediator capacity.

However, all stakeholders told the evaluators they did not believe that mediation was ready yet for complete transition to community control. Both community and government stakeholders felt there was more work to do to engage and build the capacity of a wider range of local people, especially younger people.

I don't see the mediation project as community owned. That's where the justice group needs to come in. (Agency stakeholder)

Locals want to see community organisations get trained and it is a recognised entity and a not-for-profit organisation then the mediation could go to that. (Community stakeholder)

What should happen is, the local justice group are a registered body, so [the CJG and mediation] should be together not separate things. (Councillor)

I think with a bit of refinement, [it will] come to the point where community do embrace it and the justice group and the community are able to take control of the Project like it is envisaged. I don't think it will be by the end of next year but it's achievable with a little bit more support. As a pilot project of three years, if it was to get another triennial phase of funding, I think it would be at the stage at the end of that three years where it could be comfortably and confidently looked at to be community owned. (Agency stakeholder)

Ultimately, community stakeholders saw the further development of the mediation project and the reinvigoration of the CJG as part of a single process of encouraging people to 'step up' and 'be strong' for the community. The following comment is illustrative of many of the comments from community stakeholders.

I think [the mediation project] needs more people involved like the FRC and the Council and the Justice group together. The community need to see that it's not someone from outside doing this, so everyone can understand, this is our strong people, the law and order.

Otherwise, if we don't be standing up, [the troublemakers] will just be running through us saying 'I don't worry about this, I can do this, I can do that.' (Community stakeholder)

8 PROGRESS FINDINGS ABOUT OUTCOMES

Key findings:

- Although the sample of informants for this phase of the evaluation is small, there was encouraging evidence about the Project's success in achieving its intended short-and medium-term outcomes.
- The Project's work in engaging the community along with the word-of-mouth effect appear to have created a high level of awareness in the Aurukun community about the availability of peacemaking.
- Encouragingly, there is a high rate of referrals (66%) from community members (disputing parties and their families), which is an important medium-term outcome for the Project. Many stakeholders commented on the increasing willingness of Aurukun residents to self-refer, by proactively seeking out the ARJP staff for mediation.
- Stakeholders widely believe that mediation (and other forms of peacemaking such as shuttle diplomacy) are helping parties to settle disputes and preventing minor disputes from escalating into violence or property damage. This de-escalating effect is a central medium-term outcome sought by the Project and pivotal to bringing about the long-term impacts sought by the Project, such as a more peaceful community and reduced contact with the justice system.
- Anecdotally, the review was provided with examples of community members applying dispute resolution skills learned from participating in mediations. There was also anecdotal evidence of some people starting to practise peacemaking themselves in the community.
- There was less evidence available at this stage of the review about the extent that community mediators have developed skills in mediation and peacemaking. The impact to date could be expected to be limited due to the small number of elders involved in co-mediating to date and the difficulties encountered in delivering formal mediation training.
- It is too early, and not enough data are available, to make any observations in this report about progress in achieving the Project's long-term outcomes.

8.1 Introduction

This report is focused on the first phase of the evaluation of the Aurukun Restorative Justice Project, which concerns a review of the implementation of the Project. The second phase will be a review of the Project's outcomes, and will be conducted in the first few months of 2017. Nevertheless, during field work for the review of implementation, the evaluators have collected some feedback about outcomes to date, so it is possible to present some preliminary findings about progress in this report.

An important caveat is that the sample size on which these preliminary findings are based is very small, and informants for the first phase were chosen for their ability to inform the review about implementation issues, not outcomes. The review of outcomes in 2017 will include a wider range of stakeholders, particularly community members, and a survey of community attitudes about the outcomes of the mediation project. It will also include an analysis of relevant statistics.

Following the monitoring and evaluation workshop with ARJP staff and stakeholders in August 2016, the evaluators identified a set of immediate, medium-term and long-term outcomes for the Project, set out in the program logic in Figure 1. Preliminary findings about progress against these outcomes is outlined here.

8.2 Immediate outcomes and medium-term outcomes

Output 1 (community engagement) and output 3 (community education about dispute resolution) are intended to achieve the immediate outcome that **disputing parties and other stakeholders (e.g. police, agencies etc) are more aware of the mediation/peacemaking option for dealing with disputes**. Word of mouth about successful mediations occurring will also contribute to this awareness. In the medium-term, the intended result of this awareness is **more referrals to mediation/peacemaking**. Based on feedback from stakeholders, the evaluation has found that there is a very high level of awareness amongst families in Aurukun that there is a mediation option available. There is also a high level of awareness amongst police. The evaluation found less awareness amongst service providers such as the Wellbeing Centre staff (see Part 5.2.2), and this report has recommended more effort regarding engagement with agencies.

As a result of this high level of community awareness of mediation, the medium-term outcome of increased referrals is being achieved. As Figure 3 illustrates, 66% of referrals are made by parties to disputes and their families. The fact that police are aware of the mediation option is illustrated by the solid rate of police referrals (9%).

The most positive outcome is the preliminary finding that community members are actively seeking out mediation through self-referrals and referring family members. This illustrates not only an awareness of mediation but a level of confidence in its ability to help resolve disputes. For example, a police officer reported:

Some people almost marched themselves down to mediation because they think that's the way to go... More people are open to saying we will go to mediation and talk this through. When I first got here, it was 'nope, nope, nope,' now it's more, 'yeah, we will go to mediation, we will talk to Phil, we will talk to Keri, we will talk this through.' So there is more acceptance for the program now in town than there was originally. (Police officer)

The second immediate outcome desired by Project is that, through participating in mediation or peacemaking, **parties understand each other's perspectives and their kinship relationships and agree to end their conflict**. This outcome essentially relates to the impact of the 'mediation intervention', and the mechanism by which mediation works, as described in Part 3.1. The main evidence that this outcome is being achieved is that parties say they are gaining insight through the mediations and are agreeing to end disputes. The Project appears to be succeeding in ending disputes – as Figure 6 shows, 67% of disputes are settled or end in reconciliation. Anecdotal feedback is that parties appreciate mediation and see it as a way to resolve their conflict.

The first medium-term outcome sought from the 'mediation intervention' is that **fewer disputes escalate into violence or property damage**. This outcome is difficult to assess as it involves speculation about whether a dispute that is not mediated would otherwise have led to violence or property damage. The consistent feedback of stakeholders in the review is that mediating small disputes does prevent escalation into violence or damage. Stakeholders described how the pattern for many years in Aurukun has been for small family disputes to escalate into much larger scale conflict. They also described a tendency for individuals with disputes to resort to physical fights. The outcomes review will investigate evidence that mediations are

preventing disputes escalating into violence or property damage – this is certainly the widely held view of stakeholders interviewed to date.

The second medium-term outcome sought from the ‘mediation intervention’ is **improved community relationships and better communication**. Again, anecdotally stakeholders report that this is a direct outcome of people attending mediations at Aurukun. Many disputes are reported to be the result of miscommunications, so mediation is providing the opportunity for face-to-face communication that clears these matters up. The contribution of mediation to this outcome is summed up in the following comment:

Even though it’s not good that all the ladies were fighting with this problem, after that mediation now they’re socialising through playing card games and gambling. Which is good because then they also sit around without playing games and talk. That gives me butterflies in my stomach because it makes you think that from those things it connects the families back again. (Community stakeholder)

The third immediate outcome listed in the program logic is that **parties learn dispute resolution skills**. This is intended to be a direct result of their participation in mediation and peacemaking (output 2). It is also a result of community education about dispute resolution (output 3). Interviewees were asked whether they saw evidence that parties who attend mediations are learning how to resolve disputes. Some people gave anecdotes about how they saw people choosing communication over physical fighting, while others lamented that too many people still resort to violence to ‘resolve’ disputes.

I know one lady who came to mediation, a few weeks later she came back in with her cousin and said ‘I brought her in, she needs mediation.’ So she told her cousin ‘let’s go and see Keri for mediation.’ And it’s good that other family members are telling them about mediation, and that that’s a better option than getting angry. (Local mediator)

The potential for mediation to teach people new ways of resolving conflict is illustrated by the following anecdote.

There’s a chap who is about to finish his court-ordered parole, and his performance whilst at times has been rocky, he has been one of these ones that has been quite closely involved in mediation. Whereas historically he may have gone down a different avenue – he may have entered a physical fight – now he is actually trying to resolve things so that he doesn’t have to hide in the community. He can still make his way down to see [the probation and parole officer]. So he is probably one of the most positive stories that I’ve seen. He is going to finish his order any day now, which is great. I know he has been involved in probably three mediations during the year. (Government stakeholder)

As a result of learning how to resolve disputes through communication and negotiation, it is hoped that the medium-term outcomes will be **more people practising peacemaking**, as well as improved community relationships and better communication, as discussed above. The evaluators also heard anecdotes about individuals who have attended mediations starting to do peacemaking themselves.

At the CYE, there were 30 to 40 workers getting ready for work and they were telling me ‘see this guy here, he is one of the major ones stopping fights’ and he was pretty embarrassed, but they were all commending him. (Government stakeholder)

My younger brother is a fiery man and will bash anyone, but over the last 18 months, he's been involved in some mediations and has started to become the mediator. For a young fellow he seems to have grasped and instilled those leadership qualities, where he can see the value of mediation because he's been part of a few mediations. And now he's got some capacity to reflect on ways of dealing with things... (Community organisation stakeholder)

The fourth immediate outcome in the program logic is **community mediators developing skills in mediation and peacemaking**. This is intended as a result of the mediator capacity-building discussed in Part 5.5 (output 4). The hope is that as community members gain experience as co-mediators and undertake formal training and on-the-job training by the ARJP staff, these people will increasingly practise peacemaking within their own families and out in the community, contributing to the medium-term outcome of **more people practising peacemaking**. Because there have only been a handful of community members assisting with co-mediating to date (see Part 5.5.2) and the amount of training delivered has been limited, it is expected that there will only have been limited progress in creating this 'army of peacemakers'. However, stakeholders did mention how some of the regular co-mediators were practising peacemaking within their own families and in public areas.

8.3 Long-term outcomes

These direct and medium-term outcomes of the mediation project are intended over a period of years to contribute to the broader desired changes in the Aurukun community, represented in the program logic as the long-term outcomes. These are:

- Enhanced community capacity to manage disputes peacefully
- More harmonious, peaceful community
- Increased respect for elders and strengthened authority
- Reduced community contact with police, courts and corrections
- Reduced financial cost to State and the community

It would be unrealistic to expect strong evidence of these outcomes linked to the mediation project after only a little over two years of operation. Furthermore, given the Project's patchy level of mediation and peacemaking output due to its limited staffing and resourcing over the past two years, it is unlikely that it could have contributed sufficiently to the changes in community attitudes and behaviour necessary to bring about these long-term changes.

The outcomes review in early 2017 will take place almost three years since the Project's commencement and will try to gauge residents' perceptions of these changes through interviews and a community survey. Even then, the influence of other factors will make it difficult to draw links between mediation and broader changes in the community. Factors such as alcohol and drug use, availability of employment, and the offending behaviour of particular individuals and groups are likely to have more significant impacts on community peace and levels of offences against the person over the medium-term than a mediation project.

Nevertheless, the evaluation will attempt to establish how the measurable immediate and medium-term outcomes of mediation described above can contribute to broader social change over a period of several years. In particular, it should be possible to link mediation activity to outcomes such as increased respect for elders and strengthened family authority, greater community capacity to manage disputes and greater feelings of safety due to the ability to seek mediation. Even at the current stage of the Project, many stakeholders hold the belief that mediation does contribute to community harmony and to people feeling safer. The potential of mediation to improve community safety is exemplified by the following comment:

Aurukun is such a small community, and you really do hear the stress and concern in some people's voices when they know they have to avoid a particular part of town or a particular person. And then you hear them talk about this option of wanting to go to mediation so that they don't have to feel like that. It's great that they do have that option – that they can all sit in that room and kind of feel comfortable and not afraid in that moment. That they can then walk out into the street and feel comfortable again, which is great.
(Government stakeholder)

9 CONCLUSION

Mediation in Aurukun has very strong local support as a way the community can proactively manage the high levels of conflict and disharmony that have affected community life over many years. Since starting in 2014, the Aurukun Restorative Justice Project has demonstrated the potential contribution that mediation and related peacemaking activities can make to bring about peace and harmony in Aurukun. As a project in its developmental phase with limited resources and confronted by a challenging community environment, the ARJP has not yet evolved to fully meet the community's needs for dispute resolution. It has, however, created a foundation to build a sustainable, community-led peacemaking initiative. To achieve this will require an enhanced level of support by State and Federal government in the short to medium term, to further develop community peacemaking capacity and embed a community-owned Aurukun peacemaking model. With the right support, as identified in this evaluation of implementation to date, it is feasible for the Aurukun community to assume full control over the peacemaking enterprise within the next period of three years.

ATTACHMENT 1 – ASSESSMENT OF ARJP AGAINST BEST PRACTICE

The following table outlines the “critical factors for effective practice” in Indigenous dispute resolution identified in *Solid Work You Mob are Doing* (Report to the National Alternative Dispute Resolution Advisory Council by the Federal Court of Australia’s Indigenous Dispute Resolution & Conflict Management Case Study Project), 2009.

Critical factor for effective practice	Assessment of ARJP program model
The role of ‘culture’ in Indigenous dispute management	
<ul style="list-style-type: none"> • Recognise that cultural issues are inseparable from other issues affecting Indigenous peoples’ lives, including historical and contemporary issues. 	<ul style="list-style-type: none"> ✓ ARJP model has strong cultural basis
<ul style="list-style-type: none"> • Ensure that local services include staff members from each relevant cultural group in the community to enable greater local ownership of the service. 	<ul style="list-style-type: none"> ~ ARJP is trying to build a pool of co-mediators representative of the Aurukun family groups but has not succeeded yet
<ul style="list-style-type: none"> • Manage conflicts in negotiation with parties in ways that are congruent with the parties’ cultural values, priorities and governance structures – including kinship protocols, respect for Elders and traditional owners, use of ceremony, and approaches to gender. 	<ul style="list-style-type: none"> ✓ ARJP’s kinship-focused mediation model is strongly congruent with Aurukun cultural values
<ul style="list-style-type: none"> • Assist the community to develop processes that are owned by the community. 	<ul style="list-style-type: none"> ~ Further consultation is required with Aurukun community to embed the model as community-owned
<ul style="list-style-type: none"> • Evolve processes and services in response to local needs and issues. 	<ul style="list-style-type: none"> ✓ ARJP model is being evolved in response to local needed – for example, shuttle diplomacy was used in place of mediation when parties were too fearful to meet
<ul style="list-style-type: none"> • Adapt and modify approaches according to the context in which they are employed. 	<ul style="list-style-type: none"> ✓ ARJP approach is flexible – a variety of dispute resolution processes are used according to context
The importance of preparation	
<ul style="list-style-type: none"> • Design the preparation phase thoroughly, allowing sufficient time and resources to implement specialised intake procedures as appropriate. 	<ul style="list-style-type: none"> ✓ ARJP model involves extensive family consultation, conflict coaching and shuttle diplomacy at preparation phase
<ul style="list-style-type: none"> • Ensure that people who conduct intake and pre-mediation are trained in preparation techniques which are complementary to dispute management. 	<ul style="list-style-type: none"> ✓ Mediators undertake intake themselves

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<ul style="list-style-type: none"> • Map relationships to identify whose dispute it is and appropriate support people. The dispute may be 'owned' by individuals, or small or large groups, depending on the nature of families and communities involved. 	<ul style="list-style-type: none"> ✓ Local Mediation Coordinator has strong understanding of disputes and how kin relationships determine size of conflict
<ul style="list-style-type: none"> • Build the parties' willingness to participate by fostering goodwill, instilling confidence and trust, and explaining the process to them in clear language. 	<ul style="list-style-type: none"> ✓ Mediators do a lot of preparatory work to explain the process and build trust
<ul style="list-style-type: none"> • Support local people to take responsibility for fixing their own problems, by initiating dispute management processes themselves. 	<ul style="list-style-type: none"> ✓ Mediators do conflict coaching to support people to resolve their own problems if possible
<ul style="list-style-type: none"> • Prepare thoroughly for court ordered or annexed processes, ensuring that timeframes are appropriate for the parties as well as the court and practitioners. 	<ul style="list-style-type: none"> ~ ARJP needs to do more work in liaising with the court and practitioners and developing proper processes
Process design	
<ul style="list-style-type: none"> • Build on work carried out in preparation to design effective processes. 	<ul style="list-style-type: none"> ✓ Mediators tailor processes to needs identified in intake and preparation phase
<ul style="list-style-type: none"> • Engage with, and respond to, the parties' preferred ways of doing things and confirm the appropriateness and acceptability of the approach with the parties. 	<ul style="list-style-type: none"> ✓ Parties' preferences (such as who will mediate and who will support) are taken into account
<ul style="list-style-type: none"> • Use team, co-mediation or panel approaches to: 	
<ul style="list-style-type: none"> - better account for the broad range of interests and needs in multi-party disputes; 	<ul style="list-style-type: none"> ✓ Mediators seek to include multiple co-mediators to bring different perspectives
<ul style="list-style-type: none"> - offer parties a choice of mediators including Indigenous practitioners that allows for matching their gender, cultural background, and other relevant factors such as localness; and 	<ul style="list-style-type: none"> ✓ Parties are given choice of co-mediators
<ul style="list-style-type: none"> - provide practitioners with mutual support and debriefing and offer opportunities for developing the skills of emerging practitioners. 	<ul style="list-style-type: none"> ✓ Structured debriefing process occurs after all mediations to assist the full-time and casual mediators to improve skills
<ul style="list-style-type: none"> • Establish local and regional infrastructure to facilitate access to services and to enable quick responses to referrals or requests for assistance to avoid disputes escalating to the point of 	<ul style="list-style-type: none"> ~ Current staffing level of ARJP has not always been adequate to enable quick responses to requests for dispute resolution

intractability.	
<ul style="list-style-type: none"> • Work cooperatively with other agencies to deliver complementary interventions in cases where parties are experiencing a range of problems. 	~ ARJP has not fully developed working relationships with service providers to be able to refer parties
<ul style="list-style-type: none"> • Consider who should be invited to attend any events or meetings after extensive discussion with parties. Bringing everybody together in ‘big meetings’ without adequate preparation will be ineffective. 	~ ARJP still struggles with negotiating who should attend mediations without them getting too big
<ul style="list-style-type: none"> • Ensure that all parties agree to the venue. 	✓ Mediators seek agreement about venue
<ul style="list-style-type: none"> • Create physically safe places in which people feel comfortable to express their feelings, including the venting of strong emotions. 	✓ Police are invited to attend when required to make parties feel safe. Many mediations are held in the court house as police are next door.
<ul style="list-style-type: none"> • Create culturally safe places which: 	
<ul style="list-style-type: none"> - use language and communication styles that are understood; 	✓ Mediations are largely done in Wik Mungkan not English
<ul style="list-style-type: none"> - involve appropriate support people for Indigenous parties, including interpreters; and 	✓ Parties are encouraged to bring support people, especially elders from their family.
<ul style="list-style-type: none"> - are located in casual environments, and childcare facilities and playgrounds. 	NA – Aurukun people often request mediations at the courthouse
<ul style="list-style-type: none"> • Promote and model effective non-violent ways of managing conflict. 	✓ Conflict coaching about avoiding violent confrontation is central to mediators’ engagement with parties
<ul style="list-style-type: none"> • Respect the importance and complexity of relationships in the Indigenous context and design processes to build positive relationships between the parties. 	✓ ARJP’s kinship-based model of mediation places kinship and relatedness at the centre of dispute resolution
<ul style="list-style-type: none"> • Allocate sufficient time to reduce the risk of repeated interventions which increase the overall cost of processes. 	✓ Plenty of time is allocated to mediations
<ul style="list-style-type: none"> • Negotiate confidentiality and witnessing protocols with the parties. 	✓ Confidentiality rules are discussed and negotiated at the beginning and end of all mediations
Implementation and sustainability of agreements	

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<ul style="list-style-type: none">• Assist the parties to reach an agreement that is made voluntarily and genuinely, thereby ensuring that agreements will be more likely to 'stick'.	<ul style="list-style-type: none">✓ Parties are assisted to reach voluntary agreements
<ul style="list-style-type: none">• Check whether the parties wish to have their agreement formally documented.	<p>N/A In the ARJP model, written agreements are not considered essential</p>
<ul style="list-style-type: none">• Assist the parties to consider how they wish to implement and monitor their agreements and manage changes and contingencies, including whether they wish to meet to review how their agreements are progressing.	<ul style="list-style-type: none">✓ How to stick to the agreement is discussed and negotiated at the end of the mediation
<ul style="list-style-type: none">• Establish local services staffed with local people to offer the greatest opportunity for independent monitoring and prompt response in the instance of agreement breakdown.	<ul style="list-style-type: none">✓ There is a local Mediation Coordinator and a pool of local co-mediators are being developed – these local people can monitor whether parties stick to agreements

ATTACHMENT 2 – BACKGROUND INFORMATION SHEET

EVALUATION OF MEDIATION IN AURUKUN

(The Aurukun Restorative Justice Project)

Dr Michael Limerick and Heron Loban have been asked by the Queensland Government to evaluate the Aurukun Restorative Justice Project. Michael is an independent consultant who has done many evaluations in Aboriginal communities in Queensland. Heron is a lecturer in the law school at Griffith University who has previously worked for Aboriginal and Torres Strait Islander legal services.

The Aurukun Restorative Justice Project has been going since 2014. It helps the community to sort out disputes by organising mediations and working with families who are involved in disputes. Keri Tamwoy and Phil Venables currently run the service with the help of several community members.

There are three main questions for the review:

1. Is mediation being done the right way for Aurukun?
2. Has mediation been good for the community – for example, by helping people sort out disputes and keeping the peace?
3. Can we make mediation work even better for the community?

The evaluation is a **chance for everyone to have a say** about how mediation is going in Aurukun. It's important that lots of people speak up so we can find out what difference mediation is making in Aurukun and how it can be improved. The results will also help the government decide whether funding for mediation in Aurukun should continue after June 2017 and whether similar mediation services should be set up in other Aboriginal communities.

Michael and Heron will visit Aurukun during 2016 and early 2017 to interview community residents and service providers about the Aurukun Restorative Justice Project. This might involve talking about disputes or events that you find it difficult to talk about. You **do not have to** talk to Michael and Heron if you do not want to. You do not have to answer any questions if you do not want to.

The information you provide will be kept **private and confidential**. It will be used to help Michael and Heron understand everyone's views about the Aurukun Restorative Justice Project. In his evaluation report, Michael may use quotes to show the sorts of things people have said, but these will not be linked to anyone's name.

Michael and Heron may use an audio recorder so they can make better notes later. The recording and the typed notes will be securely stored and kept confidential. Please let Michael or Heron know if you have any concerns about your interview being recorded.

If you have questions or want to provide further comments for the review, please contact either:

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