Mornington Island Restorative Justice (MIRJ) Project

Report on its Development, Implementation and Transition to Community Management 2012

Working towards a mediation model, responsive to the needs of extended families in discrete, remote Aboriginal communities in Queensland

Phil Venables 2012
The Dispute Resolution Branch (DRB) within the Queensland Department of Justice and Attorney General (DJAG) manages the Mornington Island Restorative Justice (MIRJ) Project.

DRB provides civil and criminal mediation services under the Dispute Resolution Centres Act 1990 through six Dispute Resolution Centres located in Brisbane, Hervey Bay, Rockhampton, Mackay, Townsville and Cairns. It also provides training in mediation and conflict management to the community.

DRB promotes mediation as a timely, non-adversarial and effective means of resolving disputes such as business disagreements, family conflicts, neighbourhood differences, workplace issues, minor civil disputes and suitable criminal offences.

In its 22 years DRB has mediated approximately 43,500 disputes. In 2011-12 its 30 staff and 150 mediators conducted approximately 3,000 civil mediations and 300 criminal mediations and 60 training programs.

DRB is also a Recognised Mediator Accreditation Body (RMAB) – with Griffith University – under the National Mediator Accreditation Standards (NMAS).

Acknowledgements

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  • DRB staff including (but not limited to) Diane Gurnett, Susan Griffin, Jennifer Sofronoff, Dean Corless, Anna Temple, Jayde Redgen and Andrew Brayne and mediator, Marilyn Goodwin.
Executive Summary

Mornington Island is located in south east Gulf of Carpentaria. It is home of the Lardil people who share it with the Kaiadilt people of Bentinck Island, the Yungkal people of islands to the south and the ‘Historic people’ who were forcibly removed from the mainland. These cultures enjoy a national and international reputation for their art and dance traditions. Family relationships and a strong identity are maintained through ongoing links to land and sea country and the maintenance of these traditions. There is one township, Gununa, with a population of approximately 1200.

The future of the growing youth population and their ability to maintain these traditions is of great concern to the decreasing population of Elders who report the erosion of their authority and concern for their young people’s increasing contact with the criminal justice system.

The MIRJ Project has worked with families to establish a community-based alternative dispute resolution (mediation or peacemaking) service inclusive of Island culture and conforming to the requirements of the criminal justice system.

The project was principally staffed by a Brisbane-based Project Manager, appointed in May 2008, who spent most of the following four years living on the Island. He was supported by five local Cultural Advisors who were employed on a casual basis during the consultation phase; an Indigenous Mediation Coordinator who was seconded from another Department from September 2009 to June 2011 to assist with implementation and nine Elder mediators who were nominated by families.

In 2007, the project was initiated after the Dispute Resolution Branch (DRB) received requests from visiting magistrates, police and community justice groups for assistance to provide mediation services to remote communities experiencing high levels of conflict. In the same period the Commonwealth Attorney-General's Department (AGD) offered to partner with DRB in a project on Mornington Island which had been identified as a project location in the Restorative Justice Action Plan with funding sourced through the National Petrol Sniffing Strategy. Due to its fragility and remoteness Mornington Island was also identified in the Commonwealth Remote Service Delivery Strategy.

In 2008, after initial scoping conducted by the Commonwealth with local stakeholders, the MIRJ Project Manager commenced working with the Mornington Island community: consulting with families, negotiating and developing a peacemaking model, creating a mediation service and mediating disputes.
## Table 1: Timeline of Significant Steps

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tbody>
<tr>
<td>2007</td>
<td>October – Project initiated</td>
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| 2008 | May - Project Manager commenced  
| | July - January - consultation phase |
| 2009 | May - June - consultation feedback to community  
| | July - September - mediation model developed  
| | September - Mediation Coordinator commenced - mediation service started |
| 2010 | October - Interim Evaluation conducted |
| 2011 | July - Department of Justice Staff Excellence Award for Reconciliation  
| | October - Junkuri Laka started managing mediation service.  
| | Project Highly Commended in Premier’s Awards for Excellence in the Fair category |
| 2012 | February - Junkuri Laka management formalised through Service Delivery Agreement  
| | October – Service Delivery Agreement for 2012-13 sign off |

During the consultation phase, from July 2008 to January 2009, the Project Manager spent 16 weeks consulting some 200 residents representing all family groups on the Island. Being such a sensitive issue much time was taken to develop credibility and trust. The Cultural Advisors’ participation improved the quality of discussions and led to effective working relationships.

Unanimous support for establishing the project was provided by families, community agencies and justice system stakeholders. Elders viewed their involvement in this as a means to address ongoing community violence and high incarceration rates and to re-establish their leadership. Families expressed their need for a fair process with clear rules and lines of authority to have confidence in the process.

Feedback on the consultation was given to all participants in May - June 2009 to ensure confidence in the accuracy of reporting and to enable everyone to move to the next stage.
The thoroughness of the consultation – with 200 members representing all family groups over a period of 7 months – allowed time for trust to be built through developing relationships and laid the foundation for Elders’ involvement in developing a model of Island peacemaking and its successful delivery.

The mediation model was developed in July - September 2009. The Project Manager was invited to meet with the Elders and others in a series of ten meetings and workshops at the Festival Grounds (the traditional meeting place). This produced the 11 Elders Rules for mediation and an eight step process covering all stages from assessing a referral, to consulting the parties and holding the meeting. In the final stage debriefing provides on-the-job learning for mediators.

Cultural and emotional components of traditional conflict resolution are maintained in this model. Kinship is seen as a strength and a resource necessary for resolving conflict. The model is based on a high degree of participant input and is informed by cultural and individual needs. Consulting within, and between, the generations of participating families builds a ‘momentum’ or confidence towards resolution of the conflict. The model also includes the support of a coordinator not connected to families by kinship.

Justice system stakeholders and local agencies also provided input. Magistrates provided their support and met with Elders on three occasions in the Festival ground.

In August 2009 the mediation service was launched at a public meeting with mediations commencing in October. 157 interventions were completed in the two years and nine months between October 2009 and June 2012 with a successful outcome rate of 95%. Wherever possible mediations were guided by the Elders’ rules and eight step processes. They were most effective when families were worried that a conflict was getting out of hand and participated in the preparation for mediation. 66 mediations were carried out using the Elders’ process. 44 were satisfactorily settled and 21 achieved reconciliation.

Other intervention processes such as conflict coaching and shuttle diplomacy were used when parties to a conflict did not want mediation or when the holding of mediation was assessed as counter productive or not suitable.

53 referrals were potentially diversionary from the criminal justice system. In 15 cases diversionary mediation was inappropriate because of the victim or the offender’s unwillingness or motivations to attend. In 38 cases outcomes included the granting of bail, police not laying charges or withdrawing charges or in sentence mitigation by the court. The decisions of police or the court were made after considering a report indicating successful
mediation and the fulfilment of an agreement. In four cases the offender was diverted from a custodial sentence as indicated by the sentencing Magistrates’ comments.

82 referrals were for conflict management purposes. Mediations were often held at short notice to address the likelihood of escalating violence. Most were held in front of the police station or in the courthouse. Consultation with extended family members was brief, though appropriate Elders always participated and were a key influencing factor in settling 72 of the 82 matters.

The high rate of resolution is a strong indicator of mediation’s preventative value in reducing grief, community disruption, diversion from police and court intervention, incarceration, hospital admissions and emergency evacuations as well as increasing community safety. However, the benefits are not easily quantified.

The high success rate of peacemaking interventions must be read in the context of participation being voluntary and mostly entered into in good faith with the aim of resolution. When time permits intensive preparatory work is carried out, sometimes over a period of weeks, to support families to prepare for mediation. Most interventions achieved ‘Settlement’ rather than ‘Reconciliation’. Settlement is a realistic and positive outcome in societies whose traditions lie in the ongoing public nature of conflict as matter between groups.

In 2010 an interim evaluation found that the project:

- Had made significant progress in meeting its objectives;
- Was underpinned by a strong partnership with Elders;
- Had strong community support and justice system stakeholder support especially from the Magistracy.
- The report noted that there was a strongly held community perception that the project had reduced family conflict, prevented the escalation of violence and diverted offenders from the justice system.
- The project was also shown to have close alignment with national and state, law and justice policy. (Browning 2011, pp v-viii).

Importantly, it noted that the project offers a positive return on investment with increased mediations. At the time only 23 mediations were available for cost benefit analysis. A final
evaluation planned for 2013 will have more than 160 interventions available for cost-benefit analysis.

All seven of the evaluation’s recommendations have been implemented. (See Appendix 1)

In the first two years of operation 99 peacemaking interventions (4.125 / month) were delivered in a partnership between Elders, the MIRJ Mediation Coordinator and Project Manager. This momentum was built upon with the project’s transition to local management by the Junkuri Laka Justice Association from October 2011. It is significant to note that the transition to local management increased the momentum rather than decreased it. Operating within the same framework Junkuri Laka completed 58 peacemaking interventions in the nine months to June 2012 (6.44 / month). Interventions are now conducted by 15 Elders, employed casually as co-mediators and the Junkuri Laka Coordinator.

In 2012, the MIRJ Project remains a partnership between ADG as the major funding body, DJAG who manage the project through DRB and the Wellesley Islands Aboriginal Law Justice and Governance Association (Junkuri Laka) which now provides the mediation or peacemaking service through a Service Delivery Agreement. The project is funded to June 2013.

Until recently formal training had been provided twice at considerable cost with poor attendance. Formal training was never a high priority for Elders and emerging younger leaders. On-the-job action learning at post mediation debriefing sessions has provided significant, culturally appropriate skills development. More formal training is now being provided on a four monthly basis in half day workshops. Twelve Elders attended the first session in June 2012 and judged it to be highly valuable. Feedback suggests that the use of highly relevant and real cases allowed participants to appreciate the universal nature of the conflict in their community and to feel more confident in relation to their own effective processes.

Mediation delivered over time will be influenced by the 18-30 age groups who mostly comprise the current participant population. While Elders have placed emphasis on kinship duty and relationships and therefore the need to ensure all the right kin are present, younger people expressed their need for smaller mediations to discuss the specific issues.

Mediations attended by 30 or more participants have been harder to manage with fewer opportunities for the issues to be fully discussed. However, when they are successful, large mediations carry the weight of family support. More people witness to the emotional process of reconciliation makes rekindling a conflict much harder.
Smaller mediations provide greater opportunity for exploring the issues but strategies have to be put in place to inform relevant kin of the outcome to gain support and preserve the accord. The long term relevance and sustainability of peacemaking on the Island will depend upon Elders working on these issues with emerging younger leaders to adapt and refine the process.

Building local capacity to manage conflict remains the goal of the MIRJ project. Handing over service delivery to Junkuri Laka was only made possible when they managed to fill a long-standing vacancy for their Coordinator’s position with an experienced lawyer and mediator. The transition was enhanced by their chairperson being the most experienced mediator throughout the life of the MIRJ project and other Justice Group Elders having considerable involvement in the project. The project remains fragile to the extent to which it continues to rely on the employment of an effective Coordinator. Local capacity has been built in relation to mediation skills but not yet in management of the service. This risk will be managed in the coming year by exploring options with Junkuri Laka for identifying and training local people in coordination skills.

Junkuri Laka was the logical choice to manage the peacemaking service on Mornington Island. Their current role in court and in the community is closely aligned to the MIRJ objectives. The existence of two agencies in a small community running separate but similar programs presents a high likelihood of conflict, confusion and wasted resources. Economies of scale are provided through existing infrastructure and Junkuri Laka’s recurrent funding for their traditional role.

The transition to Junkuri Laka was made on the basis of their maintaining the current model in partnership with all Elders rather than Junkuri Laka Elders doing it all.

The Banbaji Student Service is a small but highly significant initiative of the Mornington Island PCYC in response to the concerning level of teasing and fighting in the school, much of which escalates into the adult parent population. It was included in the peacemaking service agreement in early 2012 and at June 2012, 11 school mediations had been conducted by a highly respected PCYC local Youth Worker.

The model of service developed out of the MIRJ project has seen high rates of family participation and broad community support and has enjoyed success rates comparable to mediation services in the wider community. It is reasonable to conclude that the model will be of immense value in assisting other communities with similar cultural and social make up, interested in developing a similar initiative.
Particular care must be taken however to recognise each community’s independent identity, their culture, their particular circumstances and their right to self determination in seeking resolution of their conflicts.

The expenditure of the MIRJ project has been used to estimate the cost of future projects in similar communities. The cost of consultation and development calculated from time spent on the Island undertaking this work was $180,000. Expenditure in the first two years delivering the service was $568,161. Expenditure in the nine month period (October 11 – June 12) after the project was transitioned to Junkuri Laka fell to $215,258. With the phasing out of intensive DRB support costs are expected to reduce by a further 50%.

Should similar projects be developed in other communities, Community Justice Groups seem to be the most appropriate agencies to manage them. Their role is closely aligned to conflict resolution and their recurrent funding provides cost efficiencies. Based on current cost projections for Junkuri Laka, top up funding for Justice Groups to run a comparable dispute resolution service would be approximately $115,000 per annum. Funded on a fee-for-service basis actual costs are tied to the level of service provided.

The Courts Innovation Program within DJAG confirms that these arrangements are consistent with their model of funding for Community Justice Groups.
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Acronyms

AGD      Australian Attorney General’s Department
CJG      Community Justice Group (Generic term for all Justice Groups in Queensland)
DJAG     Queensland Department of Justice and Attorney General
DRB      Dispute Resolution Branch
JLJA     Junkuri Laka Justice Association (Formal Title - Junkuri Laka Wellesley Islands Aboriginal Law, Justice and Governance Association Inc)
          Most often referred to in this report as Junkuri Laka.
MIRJ     Mornington Island Restorative Justice Project

Definition of terms – As used in this project

Peacemaking

A generic term for those activities which address significant conflict. It includes the holding of mediation meetings, engaging in shuttle diplomacy between parties in conflict and providing conflict coaching. “Peacemaking” and “Mediation” are used as interchangeable terms on Mornington Island.

Mediation

A meeting facilitated between parties in significant conflict according to agreed rules, processes and required cultural or kinship protocols.

Kinship Consultation Mediation

The term for the mediation model developed on Mornington Island with Island Elders. The process, set out in 8 theoretical steps, observes kinship and cultural protocols and involves family consultation and shuttle diplomacy between families in planning mediation. Families have a high degree of input into the time, place, agenda and people to run their mediation. The Elders have established 11 rules for participants and mediators to guide the meeting.
Conflict Management

Peacemaking activities called (often at short notice) in response to the likelihood of escalating violence. Such interventions typically occur with minimal planning or consultation with family members. Many are referred by police.

Restorative Justice Mediation

Mediations which address the needs of the victims, offenders and their families. They support active victim input while encouraging offenders to take responsibility for their actions by demonstrating their remorse through an apology and other agreed rehabilitative and restorative activities.

Referrals may be made at any stage of the criminal justice process. Police may refer a matter before deciding on charging, prosecutors may withdraw a charge if satisfied that mediation has been effective and courts may refer as part of sentencing. In this regard restorative justice mediation is an important initiative in diverting offenders from the formal criminal justice system.

Shuttle Diplomacy

The process when a mediator works as an intermediary between the families in conflict. It often involves the transfer of information and ideas between the parties to clarify misunderstandings, highlight points of agreement and establish an agenda for a mediation meeting. Shuttle diplomacy is used to reduce anxiety about attending mediation by establishing confidence in attaining successful outcomes.

Shuttle diplomacy is also used where parties are unwilling to attend mediation or if bringing parties together where there is serious conflict and it is assessed to be counter-productive at that time. Shuttle diplomacy in these cases most often manages or settles conflict rather than resolves conflict.

Conflict Coaching

Working with individuals or families in conflict to express their feelings and think through the issue and consequences of their responses and to develop strategies to manage the situation.

It most often occurs in tandem with shuttle diplomacy and may also be used to better prepare people for mediation or where mediation cannot be held.
Successful Interventions

These include:

- Matters resolved at intake\(^1\) during the assessment stage – e.g. when initial discussions with parties sufficiently clarify issues / misunderstandings;

- When mediation achieves reconciliation – reported or demonstrated by restoration of relationships;

- Or the matter is settled – i.e. when there is no pre-existing relationship to be restored and parties agree to cease the conflict.

- Where mediation was not possible other interventions including conflict coaching and shuttle diplomacy also led to the above successful outcomes.

\(^1\) Appendix 2 sets out the descriptive parameters of mediation cases and their use for reporting purposes. These were drafted by Junkuri Laka in collaboration with the DRB and define the above categories and rules for data collection in compliance with our Service Delivery Agreement.
1 Introduction

1.1 Context and setting

Mornington Island in the Gulf of Carpentaria is the largest of the Wellesley Island group and the traditional home of the Lardil people. For social and ceremonial purposes they comprise four major land owning groups; Barlumbenda (West), Jirrurumbenda (Leeward-North), Lilumbenda (East) and Larlumbenda (Windward-South). Other land owners include the Kaiadilt people of Bentinck and Swears Islands and the Yungkal people whose lands extend through islands to the south and onto the mainland.

The Gununa Township was established in 1914 by Presbyterian missionaries when the Lardil people and Yungkal people were brought together. The Kaiadilt people were brought into Gununa in 1948, following the devastation of their water supply. People displaced and disbursed on the mainland were sent to Mornington Island with children going into the dormitory. They and their descendents are referred to as Historical People.

Wellesley Island cultures enjoy a national and international reputation for their art, dance and storytelling traditions. Mornington Island identity is maintained by ongoing resistance to external forms of control and through continuing links to land and sea country. Hunting and fishing are important activities in the domestic economy.

The future of the burgeoning youth population on Mornington and their ability to carry on these traditions is of greatest concern to the ever decreasing population of Elders. This concern is increased by the high levels of substance abuse and violence. With a population of approximately 1,005 people, 50% are aged 24 years and under with 10% aged 55 years and over. (ABS Census: 2011) Elders report their authority being severely eroded. However many young people maintain the traditions of their Elders and extend their talents into music and sport.

1.2 Overview

The MIRJ Project has worked with the Mornington Island community and families since 2008 to develop a community-based peacemaking service, inclusive of Island culture and conforming to the requirements of the criminal justice system. It provides civil mediation for disputes within extended families and the community; diversionary victim offender mediation and other interventions in response to serious conflict where mediation is not possible.
The objectives of the MIRJ project are to:

- Enhance the capacity of the community to deal with and manage its own disputes without violence by providing ongoing training, support, supervision and remuneration for mediators;
- Reduce Indigenous people’s contact with the formal criminal justice system;
- Encourage community ownership of the program;
- Improve the justice system’s responsiveness to the needs of the community;
- Increase satisfaction with the justice system for victims, offenders, their families, and the broader community.

Annual funding has been provided by the Commonwealth Attorney General’s Department in partnership with the Queensland Department of Justice and Attorney General who manage the MIRJ Project. It is due for completion in 2012-13.

Consultations commenced in May 2008 and negotiations to develop a mediation model began in 2009. Implementation of the service commenced in October 2009 and ran until October 2011 when it transitioned to community ownership and control by the Junkuri Laka Justice Association through a service Delivery Agreement signed in February 2012. Appendix 3 summarises the project's phases and key events.

1.3 Staffing

The project was staffed by a Brisbane based Project Manager for the duration of the project. Five Cultural Advisors were employed on a casual basis for the consultation. A Townsville based Indigenous Mediation Coordinator, well known to the Mornington community, was seconded from the Department of Communities to work with the Project Manager from September 2009 - June 2011 to assist implementing the service.

The Project Manager and the Mediation Coordinator spent periods of 3 weeks to three months on the island, returning to their bases for periods of a few days to two weeks. Nine Elders were employed as co-mediators on a casual basis when nominated by parties to the conflict to be their mediators.

Junkuri Laka now employs a Coordinator and, at 30 June 2012, the number of casual mediators had risen to eight Elder women and seven Elder men.

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2 See Consultation Report - Venables, P 2009 - for more details
2 Consultation

An inter-departmental steering committee established the project's scope and objectives and provided initial support to the Project Manager who was appointed in May 2008. Local approval to proceed followed initial discussions with the Junkuri Laka Justice Association, Mornington Island Shire Council, and other service providers. However, from the outset nearly all people consulted sought justification for this initiative before being prepared to discuss it. An undertaking was provided at the beginning of each consultation meeting on how the meeting would be conducted in terms of respect, listening and accurate reporting and the use of information, including permission to use quotes. See Appendix 4.

Scepticism and mistrust remained a feature of the consultation:

“They (government visitors) take up your time talking, go away and write their report and nothing ever changes”. Chicko Toby

‘How do we know this is not just going to be another program that the government sets up and then lets fall on its backside’. Councillor Allan Seckington.

“People come in here starting an organisation and build it up then leave it. We need to get support right through. Programs happen only for a little while and as soon as the money runs out they leave us and forget about it. We need to stop so many people coming in here – people come in to train themselves” (to enhance their career). Cecil Goodman (Mayor and Lardil Elder)

In response, the level of mistrust was acknowledged as a feature of the relationship until outcomes became more demonstrable. It was put strongly to participants that, for these very reasons, success was dependant upon family involvement more so than on Government involvement, especially as it concerned a topic central to kinship.

The consultation occurred over 16 weeks between July 2008 and January 2009. Some 200 community members representing all social groupings engaged in detailed discussions on the nature of and responses to Island conflict. When five casual cultural advisors were employed to work with the non-Indigenous Project Manager, participation improved significantly.

Unanimous family support for establishing a peacemaking project followed as did the support of agencies including the Magistracy. Evidence of need was demonstrated by the ongoing levels of conflict and repeated requests to mediate fights.
Participants were also unanimous on the need to make mediation inclusive of Island traditions and locally managed through the involvement of appropriate kin:

“When outsiders come in they want us to do things their way. I just go along and do it my way. If we want to do it our way then you have to give (us) respect…. We want to run it (peacemaking) the way we want to. Too many people coming in here telling us what to do”. Cecil Goodman (Mayor and Lardil Elder) speaking at an Elders meeting

“We know the right place and we know the right people to get… the (maternal) uncles from both families….. And we know what they have to do before they get together.’ ‘It doesn’t happen because of interference – there should be no interference from outside (government or other families) – we know how to do it but we need support…. support without interference.’” Leon Roughsey, Larlumbenda clan member

“Find the strongest heart and the strongest mind and build them up and keep building them up. Get a brother and sister and father from each clan to go around and ask them who is the best one to get the family thinking about how they are going to do this peacemaking. Find the best person to speak for them. Get their names and keep it. Get the movement in the family.” Chicko Toby, cultural advisor to the project

“You need rules (for peacemaking) just like the rules for sharing out a turtle. Everyone knows what they are. The way to get back those rules for peacemaking is by doing it every day. Then talk about it and get better at it. You just do it and do it and people will get used to it.” Ashley Gavenor

A younger woman indicated that people had lost confidence to address conflict even though they knew how to do it. In the presence of her Elders she spoke softly:

“They should just try it and see they can do it – they could surprise themselves”. Kerry Roughsey, Larlumbenda clan member

Mediation by utilising the social and cultural capital of kinship is evident in the above statements. As with other Indigenous communities, Mornington Island people devote much time to “building social capital centred on kinship rather than community (which) occurs in ways that don’t match mainstream criteria of ‘good governance’”. (Memmott and Meltzer 2005, p105)

Many people, nominated as potential peacemakers, self reported their alcohol abuse, criminal histories and involvement in conflicts themselves. However more crucial to their
nomination was their kin relationships and interpersonal skills to be the mediator for particular parties in dispute.

Using such people as mediators runs counter to the DRB notions of ‘good governance’ and some local people argued that not being of good character brought the risk of being abused by a party if mediation didn’t go their way.

While these views are necessary to consider, few other options acceptable to families are available. Strengthening family capacity to manage the process and developing kin based social capital therefore became a basis for developing the model as did the perspectives of participants cited above.

There was strong consensus that mediation no longer be facilitated by Police or the Junkuri Laka3. Notions of mainstream service delivery (provided externally or locally from an office) were also rejected by the families. There was no need therefore to consider permanent remote service delivery infrastructure and human resource costs. There was little interest shown for skills based mediation training but rather learning “by doing it every day and then talk about it and get better at it”.

In the end there was unanimous family support for a peacemaking service to be established. However people expressed the need to feel safe and confident to participate in mediation and be supported in a fair process where procedural rules and lines of authority are clear and accepted.

The long-term future of the project was uncertain at this stage with little indication of how an economically sustainable model based on community ownership would be achieved in the near future.

The Consultation Report was presented back to the families, community agencies and other stakeholders for their feedback and endorsement in a series of individual and group meetings in May and June 2009.

3 At the time Junkuri Laka was without a Coordinator and unable to perform its functions. It had been ostracised by a large section of the community who held its membership responsible for alcohol restrictions.
3 Development of the mediation model

The findings of the consultation were also reported to the Elders over 10 meetings and workshops between July and October 2009 in the Festival Grounds\(^4\). Police attended two meetings but were non-committal at this stage. Three visiting Magistrates attended\(^5\) and spoke of the need to find alternatives to the court system and their willingness to support local diversionary initiatives. The views they expressed to the Elders were repeated on the interim evaluation:-

“The process [MIRJ] both preserves authority in, and returns authority to, the Elders and respected persons in the community and encourages them to be involved in the resolution of disputes. In that way, it upholds traditional community values which is important not only for that reason but because the courts can do only so much by way of facilitating settlement of disputes”. Magistrate Osborne (email sent to the interim Evaluation dated 4 October 2010). (2011:15)

The meetings highlighted the agreement within families\(^6\) on how to proceed: -

- Peacemaking to be guided by kinship and other cultural protocols with Elders playing a central role.
- Family or individual self determination to participate and choose mediators
- Support – “without interference” - from a worker not connected by kinship.
- Action learning to further develop the process and the skills.
- Mediation between offenders and victims to address the high number of people going to court and into the prison system.

\(^4\) Many meetings were also held individually with Elders to talk over the findings of the consultation.

\(^5\) Elders viewed meeting at the Festival Ground and not the Court House as an endorsement of their legitimacy and authority to conduct peacemaking

\(^6\) Every opportunity was taken to report the high level of agreement on how to resolve conflict in a community that self-reported a high degree of it.
A suggestion was made at the first meeting with Police: “(You) Show us your rules (for mediation) and we show you ours, then we mix them up and make them strong”. *Darryl Williams, Elder*

This led to development of the Elders Rules and an eight step process for holding mediations. They were endorsed and signed by 20 Elders and emerging younger leaders in late December 2009 after seven mediations had been successfully finalised. Appendix 5 sets out the Elders Rules and the Process.

### 3.1 Diversionary victim offender mediation

The community expressed an all pervading view of too much reliance placed on the Police to resolve conflict and on the courts to deal with offenders. Much discussion focused on addressing the high numbers of younger people appearing in court. In 2010-11, 478 defendants, from a population of 1,000 people, appeared in the Magistrates Court on 656 charges (Annual Report 2011, p65).

There is a view expressed by all families, based on these consistent numbers, high rates of recidivism and incarceration that the criminal justice system is ineffective. With up to 80 court appearances per month, defendants have minimal understanding of or participation in the process.

Families also pointed out that a court may punish someone for assault by way of sentence but this has no effect. Importantly it does not result in settlement of the conflict that caused the offence and victim and offender have to continue living together in the small community. Diversionary victim-offender mediation was therefore seen as addressing this issue and is reflected in the Elders Rules.

### 3.2 Outcomes of the consultation and development phases

Early project planning had suggested a 12 month consultation, development and implementation of a community owned mediation model. Local mediators would be trained and supported in the following six months of operation. The project would then be evaluated. Community ownership of mediation was implied once local mediators had been trained and providing the service sustainably.

In practice the consultation ran its course over seven months with the development of the model taking a further eight months. The project was delayed between January and June 2009 due to unforeseen absences of the Project Manager.
The extension beyond the original time-frame arose in response to:

- The sensitive topic of conflict in a small, inter-related community demanding that trusting relationships be developed for meaningful discussions to occur.
- The imperative to consult properly with all family groups rather than with more prominent community members.
- Sceptical attitudes to new initiatives and the need to show a long term-commitment to project sustainability.
- The need for two way learning and to enlist a community wide understanding of the process and endorsement to proceed.
- The paucity of information or precedent projects to guide the process.
- The self-reported diminished authority of Elders and the need for them to demonstrate over time solidarity and leadership in guiding community peacemaking.

With the project widely discussed and supported the Elders saw their opportunity to take responsibility and regain some authority. After not meeting for many years leaders resumed holding Moyenda meetings to discuss how mediation should work. To the surprise of the community the rules and processes for mediation were established.

There were no surprises to participants or wider family groups when mediation commenced in October 2009.

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7 Every opportunity was taken to report the high level of agreement on how to resolve conflict in a community that self-reported a high degree of it.
4 Implementation of the “kinship consultation model”\(^8\) of peacemaking

4.1 The model negotiated with Elders and justice system stakeholders

The model developed out of the family consultation and discussions with Elders. They established 11 rules for mediation and an eight step process referred to here as a “Kinship Consultation” model of peacemaking. See Appendix 5.

This approach maximises opportunities for the parties to a dispute to guide the process towards a resolution with much shuttle diplomacy and conflict coaching occurring to prepare the parties for a successful mediation meeting. The rules and process were developed to apply in civil interfamily and individual disputes as well as diversionary victim-offender mediations. Disputes involving land issues were to be managed through another community organisation with the legitimate mandate for this.

When preparing for mediation points of agreement are conveyed between the parties such as agreement on voluntarily participation, agreement on who attends, who is to act as mediators, preparedness of the parties to adhere to the Elders Rules and agreement on the time and venue. Preparation reduces anxiety and increases confidence to participate and to reach resolution. Working in this way a ‘momentum’ towards resolution may be built within and between the parties. This momentum has prevented attempts to stop mediation taking place and to rekindle fighting afterwards.

The model relies on kinship, cultural and local family knowledge as an essential resource. The primary authority to run the project was provided in the consultation and by the Elders who established their rules and endorsed the process. The authority for mediators to act in their role is provided by the families through their leaders or spokespeople or the individuals involved themselves.

As the Project Manager and Mediation Coordinator were mediators appointed under the Dispute Resolution Centres Act 1990 and the project was managed by the DRB, this provided participants with privilege and confidentiality safeguards and DRB mediators with

\(^8\) A language name was never conferred on the project or the process despite known terms. To request this may have been seen as an attempt to invoke a false sense of legitimacy or cultural appropriateness.
confidentiality responsibilities. For the two years of implementation by the DRB this “mediating under two laws” was reported as a significant to participants.

However, now that the project is community based and mediations no longer occur under the Dispute Resolution Centres Act, this is not reported as a significant disincentive to participation and open discussion.

4.2 Peacemaking in practice

The mediation service was launched at a public meeting in late August 2009 with mediation commencing in October. From October 2009 to September 2011, some 99 significant peacemaking interventions were finalised. Approximately half the Island population has participated. Mediations have ranged in size from 100 participants to individuals only. Most extended family mediations have been attended by 12 – 30 participants with people mostly preferring to limit the size of the mediation meeting to those most central to the conflict, their nominated co-mediators and support people.

In this period the ‘Kinship Consultation Model” was further refined and other peacemaking responses utilised. In practice the model was followed especially in contentious matters where families actively sought resolution. For most matters it served as a useful and effective guide in working with and between the generations of the parties in conflict. While it was necessary to widely survey extended family opinion it was not always necessary or helpful to involve everyone.

The two project staff members, who were not connected by kinship, were most involved in the initial stages of negotiating with parties to attend mediation. Their presence in these delicate stages provided an outward sign of impartiality which paved the way for other family leaders to become more involved once broad intentions become known. There were however a number of instances where Elders informally and independently intervened at critical stages in planning to save a mediation from failure. Their role here came by way of kin connection and could not have been performed by mediators not connected by kinship. In this way the “impartiality contribution” of DRB staff and the role of Elders with strong kinship ties made a workable partnership. In the final analysis the role of Elders, even their presence without saying anything on occasion, was the factor most critical to success.

Out of necessity “conflict management mediations” occurred typically on the same day of referral, in response to the likelihood of escalating violence. Most of these were referred by police and occurred in the more controlled environment of the front of the Police station or in the court room. To this extent less attention was paid to the concept of voluntary
participation though wherever possible, and on the advice of Elders, quick consultations were undertaken with family members.

There were many situations where mediation was not accepted by one or both parties even where there was an expressed desire for the conflict to end. In a number of other conflicts including more serious matters such as a death and the laying of murder charges, mediation was inappropriate given the high level of grief, anger and anxiety for affected families.

These and other situations were responded to through intensive, and in some cases longer-term, conflict coaching. Parties were supported when expressing their grief and their grievances and to think through the consequences of their possible responses to it. Shuttle diplomacy between parties in conflict occurred with their consent, to communicate issues of mutual concern or regret, or to clear up miscommunication.

Table 2: Outcomes October 2009 – June 2012 by the peacemaking process used

<table>
<thead>
<tr>
<th>No. of mediation files by process ▼ and outcome ▶</th>
<th>Resolved at intake</th>
<th>No show</th>
<th>Walk out</th>
<th>Inconclusive</th>
<th>Settlement</th>
<th>Reconciliation</th>
<th>TOTALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conflict coaching</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
<td>7</td>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td>Shuttle diplomacy</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>38</td>
<td>3</td>
<td>47</td>
<td></td>
</tr>
<tr>
<td>Kinship consultation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>44</td>
<td>66</td>
</tr>
<tr>
<td>Interest based</td>
<td></td>
<td>1</td>
<td>1</td>
<td>8</td>
<td>3</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>Circle conferencing</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>9</td>
<td>9</td>
<td>18</td>
</tr>
<tr>
<td>TOTALS (21 groups)</td>
<td>4</td>
<td>2</td>
<td>1</td>
<td>5</td>
<td>106</td>
<td>39</td>
<td>157</td>
</tr>
</tbody>
</table>

Successful outcomes are measured by including: - “Resolved at Intake” (four cases), “Settlement” (106 cases) and “Reconciliation” (39 cases). A total of 149 (95%) of the 157 interventions were assessed as having a successful outcome.

It is not unusual for mediation in the wider community and other forms of mediation such as Youth Justice Conferencing to achieve similar high success rates. The 95% success rate must be assessed in light of the following contributing factors:-

- Cases where a referral was made but parties did not engage are not counted here. Figures were not initially kept for this “No Engagement” category. An informed estimate suggests that some 40% of all referrals resulted in no engagement.

- The success rate is enhanced by participation being voluntary. Thus only those wishing to resolve matters participate.

- Much care is taken in preparing parties for mediation to avoid further conflict or violence in mediation. Matters resulting in successful resolution are often those where participants have engaged well in preparation.
It should be noted however that care was taken to avoid intervening in matters where the parties could resolving the conflict without assistance. In accordance with the Elders Rules, formal intervention only occurred in significantly serious matters.

Successful outcomes are assessed on the agreements reached, the feedback of participants and Elders as mediators and no evidence of further conflict in the following weeks. Reconciliation was achieved in 39 cases (25%). Reconciliation was also indicated by a reported or demonstrated restoration of relationships.

106 cases (67%) resulted in settlement. In most of these cases participants had no pre-existing close relationships to be restored. As such cessation of the conflict was a realistic goal. In many of these cases full exploration of the issues was not achieved nor responsibility taken by the parties for their contribution to the conflict. Responsibility was however taken by both parties for ending the conflict.

The 13 interest based mediations (11 successful) represent 8% of total interventions. These cases involved conflict defined by the participants as theirs alone requiring resolution without extended family input. This compares with 44 (kinship consultation) cases where the conflict was between family groups.

Of 47 shuttle diplomacy cases 38 resulted in settlement, seven of 13 conflict coaching cases resulted in settlement with two resolved at intake. Interestingly 6 such interventions resulted in reconciliation.

The service was delivered in a partnership between Elders and the DRB from October 2009 to September 2011 when it was transitioned to Junkuri Laka. Consistency in service delivery was achieved by Junkuri Laka maintaining this partnership with the Elders working as co-mediators and cultural advisers. Consistency was further enhanced by Roger Kelly, who was the Elder and mediator most involved in the project, also being the Chairperson of Junkuri Laka. Case consultations were held in the transition period between October 2011 and February 2012. Junkuri Laka also incorporated the Elders Rules and the eight step “Kinship Consultation” process into their Protocol and Rules of Ethics.

The DRB Mediation Coordinator left the project as planned in June 2011 with the DRB Project Manager no longer providing direct service delivery from October 2011 as the project transitioned to Junkuri Laka. Junkuri Laka had been reinvigorated in August 2011 with the appointment of a Junkuri Laka Coordinator who is a lawyer and experienced in mediation.
Junkuri Laka increased the momentum of the project, conducting 58 peacemaking interventions from October 2011 to June 2012 (20 interventions / quarter) whereas the Elder / DRB partnership did 99 interventions in the period October 2009 to September 2011 (12 interventions / quarter). The increase is attributable to Junkuri Laka being a community based organisation which, through its role in court, works closely with community members at risk of involvement in conflict and the justice system. Because Junkuri Laka is working on a fee for service basis, there is also an incentive to record and report on all cases, even relatively modest interventions.

53 victim offender mediations were finalised. In 11 cases diversionary mediation was inappropriate because of the victim or the offender’s unwillingness or motivations to attend. In 38 cases outcomes included the granting of bail, police not laying charges or withdrawing charges or in sentence mitigation by the court. The decisions of police or the court were made after considering a report indicating successful mediation and the fulfilment of an agreement. In four cases the offender was diverted from a custodial sentence as indicated by the sentencing Magistrates comments.

Of the 60-80 offenders appearing in court each month only a very small proportion are referred for diversionary mediation. This remains an underutilised area of referral.

15 (28%) referrals resulted in no engagement or diversion from the Justice System. Victim offender mediation was not possible as:-

- Either party was not wishing to mediate or was unable to be contacted.
- The complainant wanted a more onerous outcome than a court may order or sought retribution or punishment.
- The defendant did not demonstrate remorse or take responsibility for their action.

In ten of these cases settlement of ongoing conflict was nonetheless achieved through shuttle diplomacy and conflict coaching at intake.

Successful mediation resulted in four offenders diverted from a custodial sentence as evident in the sentencing Magistrates comments. In 13 cases that went to sentence, successful victim-offender mediation was a mitigating factor in passing sentence.

From 53 victim-offender referrals 29 (55%) were between closely related parties often living in the same household who wanted to reconcile and maintain their relationship. No party living in the same household failed to participate. Victim offender mediation not being possible was highest among those not closely related.
Local police referred 12 matters for formal diversionary mediation resulting in no charge being laid when mediation was reported as successful. No referrals were made by Police Prosecutions who did however elected to withdraw the charge(s) in 12 cases, upon receipt of advice that mediation had been successfully completed.

### Table 3: Diversion from the criminal justice system by quarter and diversionary outcome

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>No engagement</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>4</td>
<td></td>
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<td>1</td>
<td>1</td>
<td>1</td>
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<td>1</td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Complaint withdrawn</td>
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<td>3</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Bail given (Court or Police)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>Not Charged (local Police)</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td></td>
<td>1</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>Charge withdrawn (Pros)</td>
<td>1</td>
<td></td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7</td>
</tr>
<tr>
<td>Sentence mitigation</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td>1</td>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>TOTALS</td>
<td>2</td>
<td>8</td>
<td>2</td>
<td>4</td>
<td>9</td>
<td>6</td>
<td>4</td>
<td>5</td>
<td>8</td>
<td>2</td>
<td>2</td>
<td>53</td>
</tr>
</tbody>
</table>

82 interventions were made in situations of escalating conflict with a high likelihood of violence or further violence if left unaddressed. 30 of these were held on the same day of referral in response to a crisis with little time for preparing the parties.

The majority were held in front of the Police Station or in the Courthouse. They were characterised by having multiple parties to the conflict (most often aged 17-30). Extended family participation was high because of the urgent need to sort out the conflict. Between 10 and 30 family members would often attend. They were tense meetings with much anger and blame initially expressed. The process was managed by gaining adherence to basic rules of mediation, allowing the expression of high emotion, clearing up misunderstandings leading to a more considered approach to the conflict and its resolution. 61 of the 82 matters resulted in settlement with 11 achieving reconciliation. As with all interventions the presence of Elders and significant family members contributed to a satisfactory resolution.
Table 4: Interventions to address the likelihood of escalating violence

<table>
<thead>
<tr>
<th>No. of mediation files by engagement process and outcome</th>
<th>No engagement</th>
<th>Crisis</th>
<th>Planned</th>
<th>TOTALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>No engagement</td>
<td>3</td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Resolved at intake</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>No show</td>
<td>1</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Inconclusive</td>
<td></td>
<td>3</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Settlement</td>
<td>24</td>
<td>37</td>
<td></td>
<td>61</td>
</tr>
<tr>
<td>Reconciliation</td>
<td>5</td>
<td>6</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>TOTALS</td>
<td>5</td>
<td>30</td>
<td>47</td>
<td>82</td>
</tr>
</tbody>
</table>

Parties and family members made 26 such conflict management referrals including 13 in crisis situations. Police made 33 referrals including 14 in crisis situations. Police also conducted smaller but similar mediations as situations arose in the course of their duties. No figures are available on how many of these are carried out. While police were prepared to refer fights involving many people without charging anyone, they most often chose to charge one or two people involved in smaller fights with Public Nuisance or Assault.

The situations giving rise to conflict management mediations, the intensity of feeling expressed in them and the cessation in the violence which has followed, suggests they have a strong element of prevention. In the past, large disturbances have disrupted community life. Families have experience the grief of their young people being hospitalised, evacuated by Flying Doctor, being charged with some remanded in custody. It is reasonable to conclude that the 82 conflict management cases and other mediated conflicts have contributed significantly to preventing these consequences. The extent to which it has cannot be easily quantified.

Court appearances between October 2009 and June 2012 led to a very small proportion of matters referred for victim-offender mediation. There is potential for many more matters to be dealt with by way of conflict management mediation as an alternative to laying charges or by diversionary victim-offender mediation after charges have been laid. Experience from mediators elsewhere and from this project indicates that police have been initially sceptical of referring to mediation with referrals increasing only after mediation is demonstrably successful or if police have prior experience of mediation in other locations.
5.1 Referral sources resulting in a formal intervention

Graph 1 provides a breakdown of 157 referrals made in a period of two years and nine months that resulted in a peacemaking intervention. Accurate figures of Court and solicitor referrals were kept in the first two years of service delivery though referrals from other sources were not.

68 referrals originated from the parties themselves, their family or community members or local agencies. This is an indicator of the accessibility of the service and the confidence held in its processes. 89 referrals recorded from Courts, Police and Solicitors represent a tiny proportion of all matters of conflict which come before them.

Graph 1: Referral sources for mediations on Mornington Island from October 2009 to June 2012
6 Changes informed by practice and an interim evaluation

6.1 Interim evaluation

An interim evaluation conducted in 2010 found that the project had made significant progress in meeting its objectives (and) was underpinned by … (a) strong partnership with Elders and respected members of the community. There was also strong support … from community members and officers representing justice agencies and the Magistracy. It also found that the project offers a positive return on investment with increased mediations especially diversionary Court referrals. There was a strongly held community perception that peacemaking has reduced family conflict, prevented the escalation of violence and diverted offenders from punitive forms of justice. The project was shown to have close alignment with national and state, law and justice policy. (Browning 2010, pp v-viii)

Importantly the project was shown to offer a positive return on investment if mediations were increased. At the time 23 mediations were available for cost benefit analysis. A final evaluation planned for 2013 will have more than 160 interventions available for cost-benefit analysis.

The high dependence on external support staff for continuing the service was identified along with barriers to the community operating the service themselves:-

- Possible conflict of interest / impartiality issues stemming from kinship ties;
- Lack of local capacity;
- Belief it could return to the “old way” without external support; and
- Lack of involvement by younger people and Elder ladies.

Careful recruitment and extensive training was required to build local capacity.

Seven recommendations made in the Interim Evaluation and the actions taken to complete them are listed in Appendix 1.
6.2 Training

In 2008, DJAG’s Courts Innovation Program offered a 3 day training course entitled “Managing Community Relations” to all Community Justice Groups. Developed in consultation with DRB the training was presented by two experienced DRB mediators – an Indigenous man and a non-Indigenous woman. The Mornington course in November 2008 attracted five participants who participated well.

In July 2010 DRB presenters, experienced in Indigenous mediations, delivered a 5 day mediation training course which had been specifically adapted for Indigenous trainees. Despite widespread advertising and networking little interest was shown in formal training. The session was poorly attended with only 3 local people consistently attending. A review of the week recommended that future training sessions be half or full-day and with practical application through hands-on facilitating.

Neither training session attracted the participation of Elders or emerging younger leaders who reported not needing to be trained. Until recently an on-the-job action learning approach has been the only other form of training and has had greater impact as it was able to target those most involved in mediation sessions. De-briefing sessions were held regularly following family visits, in preparation for mediation, when conducting conflict coaching or shuttle diplomacy and following mediation sessions. De-briefing was couched within a strengths based learning framework of “What went well?” and “What could we have done better?”

Action learning is continuing in this current form. Under the Service Delivery Agreement with Junkuri Laka DRB also provides quarterly half day training sessions to the regular mediators. The first of these was held on 14th June 2012 and attended by 12 Elder mediators. Training took the form of case discussion of a recent mediation in a community with cultural links to Mornington Island. Permission was granted to discuss this case which contained no identifying information. Feedback suggests that the use of highly relevant and real cases allowed participants to appreciate the universal nature of the conflict in their community and to feel more confident in relation to their own effective processes. A Departmental DVD made in the 1990 was also shown and discussed. It featured the neighbouring Doomadgee leaders, exploring their conflict issues and Indigenous singer and songwriter Kevin Carmody providing a concise explanation of mediation. This highly successful morning provided a strong indicator of the process and content of further training.
6.3 Context and nature of conflict and fighting

Conflict resolution services delivered in the wider community strive to be inherently non-judgmental, respectful, empowering of participants and responsive to their needs. The parties’ autonomy in reaching their own resolution is valued. To this extent mainstream mediation can be a cross-culturally transferable process and the DRB and other mediation services have produced successful outcomes in Indigenous communities. However the nature of conflict and violence between extended families in remote Indigenous communities must be understood if mediation is to make an effective long-term contribution to addressing current levels of violence. The unique nature of Mornington Island fighting in classical times, traditional mechanisms for resolving it and the weakening of these traditions is well documented along with the impact of colonisation and the consequent high incidence of community violence. (See McKnight 2005)

People in their late 20’s have clear memories of traditional dispute resolution. The following depiction of ‘square-up from before’ is provided by Ossie Escott a Gungalida Elder and mediator with Junkuri Laka. The quote which follows that describes current problems:-

“Those old people - they used to do it. Come together down there - festival grounds or a place near the old village – two noisy mobs singing out (at each other); have a big fight – they knew how to do it. A peacemaker was there (to moderate the fight). Women and children would go away. Throw spear, boomerang, block him, (deflect) fight with nulla nulla – blood! - no one would really get hurt, not bad. Then everyone would finish up; the peacemaker would say “see your cousin there (hurt) - you finished now?” everyone would say ‘oh what I gotta fight you for?’ you my cousin, you my brother, you my uncle - Cry, hug’. They would have a big feast; give each other presents and everything would be ok then, friends again – square up”. Ossie Escott, a Gungalida Elder and mediator with Junkuri Laka

“Nowadays people just go and go. A big crowd will stand around and watch. Who knows where it ends up – fighting for a week – it spreads – people go to jail – no one to stop it.” Ashley Gavenor, Yungkal man and Cultural Advisor

Public displays of anger and fighting are a regular and frequent occurrence in many remote Indigenous communities and are viewed from within as an intrinsic part of life. Fighting is a way of changing relationship dynamics, restoring them, strengthening
them or ending them. For many communities fighting has its origins in ancestral
times, referred to in communities as originating “from before” (Martin 2012).

Conflict and its resolution developed over the millennia in the absence of police,
judges, solicitors and prisons. Conflict today remains a public matter involving
extended family responsibilities if it is to be managed successfully. Grievances made
public inform nearby kin of the nature of the matter and accordingly their roles and
responsibilities in relation to it. Particular kin could restrain combatants without fear
of harm to themselves. While elements of this remain on Mornington Island they are
inconsistently applied.

In contrast conflict and violence in the wider community is viewed, perhaps by most,
as essentially destructive; something to be avoided or at least kept private and if
made public becomes embarrassing.

While mediation as a formal process must be seen as an important (but neglected)
response to community violence, false expectations of what a mediation program
may achieve may also arise.

The number of successful mediations on Mornington Island is only a small proportion
of the number of conflicts. In many instances a fair fight is viewed as a legitimate
and effective way to end a matter and offers of mediation are viewed as
unnecessary, counter productive or even interfering. While popular attention is given
to the practice of ‘pay-back’ less attention has been paid to the more pervasive
practice of forgiveness and unassisted reconciliation or at least the normalising of
relations. Many conflicts do properly resolve themselves while others may go
unresolved and remain submerged until reignited by later events.

Mediation is seen as important only in matters that threaten to escalate out of hand;
have been carried on for too long; need resolution for cultural reasons (such as the
need for reconciliation prior to the holding of a funeral); where important relationships
are at risk of being lost or for other personal reasons.

Mediation also occurs within the wider context of social disadvantage caused by the
lack of education and economic opportunity, high unemployment and attended by
high levels of boredom, alcohol and other drug abuse in a rapidly changing
community. While peacemaking initiatives make an important contribution to a more
stable community life they do not alter these structural underpinnings. There is also
uncertainty about the outcomes or impacts of the Alcohol Management Plan review.
For these reasons “settlement” of a conflict is regarded as a successful and realistic aim of mediation that may be the most frequent outcome. “Full reconciliation” may be a more desirable outcome to work towards in all cases but is impractical to achieve in small communities where everyone knows and relates to each other through kinship while striving to maintain their identity and their immediate family allegiances.

Appendix 6 suggests how mediations in Indigenous communities might differ from mediation in the wider community.

6.4 Where, who and what - responding to tradition and change

Peacemaking on Mornington Island is best understood as an evolutionary process which was initially strongly shaped by ongoing cultural and kinship traditions but which, in practice, is changing to meet the needs of participants - particularly young adults who are most often involved in mediation.

Mornington Island is changing rapidly, influenced by the growing youth population and declining adult population. Elders frequently refer to their diminished authority. They intended to hold mediation in the Festival Grounds as the traditional place for ‘square-up’. They expressed disappointment that only three mediations have been held there in the past two and a half years. Younger people prefer more private or semi-private venues such as family homes or the courthouse in the case of volatile situations.

The Festival Ground was viewed as no longer workable because of the likelihood of people attending without legitimate reason. Experience has shown that the bigger the mediation the harder it is to control. However, resolution achieved in mediations, attended by all the right kin, tends to be stronger. There is also less likelihood of the resolution being undermined by any dissatisfied parties.

Conversely smaller mediations come with lower risk of getting out of hand and are therefore more confidently attended. (Appendix 7 sets out the risk management strategies for conducting mediation) There is increased opportunity to bring the parties together to explore each other’s grievances and address them. This tends to be more a need of younger people in mediation than older people who focus more on the need to reconcile through kin connection obligation.
Numerous calls have been made by Elders to enter into mentoring partnerships with younger leaders. Peacemaking is an important opportunity through which this can be achieved. Further work needs to be done on engaging younger people in this partnership.

One possible process to integrate both is one where Elders sit in a mediation meeting more in the role of a ‘senate’\(^9\). They might open the meeting; explain kin and other cultural matters and then support the younger leaders to mediate the substance of the conflict. Elders might address any behavioural issues in the meeting and speak at the end to give their views on how it went and congratulate the participants on any achievements they have made.

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\(^9\) This concept was first presented by Kurt Noble, an experienced Indigenous mediator who has for years worked in Pormpuraaw on Cape York.
7 Transition to local ownership and control

7.1 The fit with Community Justice Groups

From the outset the MIRJ project had the intention of building local capacity to manage local conflict: in keeping with developmental projects in such remote communities. The cost of externally provided services is prohibitively high and, in the case of peacemaking services, carries with it the likelihood of failure without a high degree of local ownership and control.

During the years when the MIRJ project was being developed and implemented, the Justice Group, Junkuri Laka, did not enjoy community and family support for their perceived role in the alcohol restrictions on the Island and it was unable to recruit or function without a Coordinator. Junkuri Laka had held only three mediations in the year prior to the MIRJ project commencing. Based on unanimous community and family advice the MIRJ project developed separately from Junkuri Laka, though their members advised the Project and their Chairperson, Roger Kelly, was one of the most influential Elders contributing to the success of the MIRJ project.

However, it was always stated that the sustainability of this initiative lay in strengthening the Justice Group to the point where the service could be handed over to them. The factors influencing this include:-

- Many Justice Groups in Queensland already mediate disputes. In small communities the existence of another organisation providing a closely aligned justice program is likely to lead to confusion and conflict over respective roles.

- A locally managed project is likely to be more sustainable under the operation of local people. Workers from outside rarely stay more than two years and momentum and direction is often lost with changing personnel.

- A locally managed peacemaking project is more likely to be effective under the operation of local people who are intimately in touch with and understand the nature of local conflict and its resolution.

- The peacemaking service project managed by Junkuri Laka is the only economically sustainable option available to Mornington Island. This is likely to be the case for many other communities with established and funded Justice Groups.
The infrastructure and human resource costs of establishing government provided services is prohibitively high and not easily justified for an individual mediation program. In 2011-12, Junkuri Laka was funded $104,000 to provide cultural and support services to courts and those attending court. Efficiencies are made by the sharing office infrastructure and equipment, motor vehicles and other resources.

In mid 2011 Junkuri Laka finally succeeded in hiring a highly competent Coordinator. Combined with the fact that the Junkuri Laka had as their Chairperson the most experienced and respected mediator on the Island, this paved the way for the project to be transitioned to local ownership and control.

In October 2011 the project entered the transition to local ownership and control which resulted in signing of a Service Delivery Agreement with the Wellesley Islands Law, Justice and Governance Association Inc. (Junkuri Laka) in February 2012. Junkuri Laka finalised 61 mediations between October 2011 and June 2012 indicating a successful transition of the project to the community.

7.2 The Banbaji\textsuperscript{10} Student Service

This school based peacemaking project is an initiative of the Mornington Island PCYC in partnership with the Mornington Island School and its staff. It was a response to concerning level of teasing and fighting at the school, much of which escalates out of the school and into the adult parent population. A range of youth work, counselling and culturally inclusive activities and strategies are used to address fighting in the school. Mediation is a key strategy within the initiative. $2,000 was made available through the Junkuri Laka Service Delivery Agreement in 2011-12 and $10,000 in the new agreement for 2012-13.

At May 2011 Banbaji had finalised 11 mediations in the school which were all conducted by a highly respected Mornington Island PCYC Youth Worker. PCYC staff are now included in the ongoing mediation training workshops for Elder mediators. A protocol has been developed for the Elders and Banbaji project workers to work together if conflict moves out of the school and families become involved. Appendix 8 provides a project outline.

\begin{flushright}
\cite{banbaji}
\end{flushright}

\textsuperscript{10} Banbaji is the large Torres Strait pigeon which migrates to the Island in the wet season. Named here in the Lardil language as the biblical symbol of Peace.
8 A model with applicability to other remote Aboriginal communities

8.1 Issues to consider in applying the model with another community

The MIRJ project was intended as a pilot to develop an effective model of service capable of introduction into other remote Indigenous communities. The experience gained from the consultation, development, implementation and transition phases has produced a model of service with a practice framework that could be seen as capable of transfer to other communities.

The MIRJ project may inform work in other communities in the following ways:-

- It is preferable that development of a peacemaking project arises out of local initiative as a request for assistance rather than going in to 'sell a good idea'.

- New initiatives need to be explicit at the outset in the level of human and financial support they can provide.

- Surveying family opinion and enlisting widespread community support provides the authority to proceed with implementation.

- Elders and other family representatives' input is needed to shape how things will be done.

- Existing community knowledge, skills strengths, resources and initiatives in relation to peacemaking must be supported and built upon.

- Justice Groups are to be worked with closely and supported so that separate justice related initiatives, incapable of economic sustainability, are not developed.

- The Kinship Consultation Model of mediation, as developed on Mornington Island, may be a core starting point to develop mediation models in other communities but local input may make significant changes. For example, families may provide authority for Elders or their Justice Group to conduct all mediation and remove the right of families to choose.

- Peacemaking services can be adapted to accommodate cultural and kinship needs.
There are reasons to be confident that peacemaking can make a significant contribution to peace in community life.

Peacemaking will only be effective with the support and involvement of families, their Elders and other respected persons including younger people.

From an outside observer’s perspective it is logical to view remote Indigenous communities as similar in their social and cultural make up with similar social problems requiring similar solutions. However, while mediation can be developed in other communities with the benefit of the Mornington Island experience, the MIRJ model will be of critical value only if adapted in the context of each community’s independent identity and culture, their particular circumstances and their right to self determination.

The MIRJ project has highlighted the importance of proper consultation and development leading to successful implementation for other communities. It is reasonable to suggest that developing peacemaking services in other communities can be informed by the Mornington Island experience and could occur more effectively within a shorter timeframe.

Community Justice Groups across the state report that they have traditionally provided mediation in their communities and that they have made repeated requests for mediation training. In 2010 the DRB training unit provided a five day training course in Mossman Gorge, Wujal Wujal, Hopevale, Coen and Aurukun at the request of the Family Responsibilities Commission. The training introduced concepts from the MIRJ model and was consistently well received. Feedback from all communities indicated the need for further training and for many others in the community to also be trained.

Training should not be the primary driver of developing mediation services but its importance should not be diminished either. Training provided by DRB in the early 1990’s in Cairns, Doomadgee and Hopevale was not accompanied by complimentary developmental processes. (See O’Donnell 1992 and Nolan 1992) This initiative in isolation from building widespread community support and providing ongoing intensive support did not produce sustainable outcomes.

Chapter 8 of the “Solid work you mob are doing” report also points to the need for:

- awareness raising and education within communities;
• professional support;
• appropriate remuneration for mediators;
• education which takes in recognition of prior learning; and
• whole of community approaches.

It also calls for support of Indigenous dispute management services from National to State, Regional and local levels. (2009, p119 plus Ch 8 for a wider discussion)

Interestingly, participants from Tiwi Islands suggested that “other communities may find it useful to observe their intervention processes and operations” so that they may adapt them to their meet their own mediation needs. (2009, p124) Mornington Island Elders have suggested a similar process of visiting suitable neighbouring communities to expand mediation into a regional coalition.

8.2 Estimating costs of a similar project in a remote community

8.2.1 Budget based on MIRJ expenditure

This estimate of costs to develop and deliver a similar project in a similarly remote community is based on actual costs of establishing and implementing the MIRJ project from the time work got underway on the Island in July 2008 to June 2012. In this period total ADG and DJAG expenditure was $1,243,368. To estimate the cost of establishing the project in another community this total figure has been adjusted down to $963,770 to account for the unplanned circumstances over the life of the project which significantly delayed progress and added to total project costs.

There were two main unplanned and unavoidable circumstances. Firstly, there was a need for the project workers to take on additional roles and undertake tasks outside of MIRJ project work. This became necessary to meet community demand created when Junkuri Laka was without a Coordinator from 2009 to August 2011. Project workers spent 1-2 days per week supporting community members to access services and negotiate their way through the legal system and other government agencies. To refuse this role would have seen a loss of credibility with the community. Secondly, both project workers had health issues which unavoidably required them to be off the island for treatment.
The costs shown in Appendix 9 for the four project phases from consultation to transition to Junkuri Laka include the Project Manager’s salary and on-costs, funded by DJAG. The AGD funded the temporary Mediation Coordinator’s salary and on-costs, travel costs from Brisbane and Townsville, the local mediator and cultural advisor pays, allowances, vehicle lease, fuel and maintenance and Island accommodation. Significant one-off costs included mediator training and the engagement of an Indigenous theatre troupe to work with young people on conflict resolution. Office set-up costs were minimal. The project operated from a desk in accommodation shared by both workers for a year before free office accommodation was found in a disused demountable building.

The following MIRJ expenditure provides an indication of possible costs:

- Consultation and development of a peacemaking model of mediation acceptable to the community - $180,000;
- Implementation in the first two years with the support of DJAG - $570,000;
- Implementation in the transition to community phase over 9 months - $215,000.

These costs are a starting point and will vary significantly. Costs to develop a project could be expected to increase if the community chosen for another project:

- Experienced high levels of conflict with diminished capacity to address it requiring extended levels of support;
- Was a remote community with high travel, accommodation and transport costs;
- Had high cost or very limited availability of office and staff accommodation.

Costs could be expected to decrease significantly for any of the following:

- A desire on the part of community leaders to implement a peacemaking project and willingness to work in a partnership with DJAG.
- The existing capacity and preparedness of a local Community Justice Group or other appropriate agency to include the project in their current operations.
• The experience of the MIRJ project and the degree to which the model is embraced will significantly shorten the consultation and development periods if family input and a sense of local ownership are not compromised.

• In all cases intensive support for a significant period will be needed to ensure family acceptance and agency confidence and expertise to manage peacemaking sustainably.

8.2.2 Recurrent costs of a community managed mediation service

The approximate ongoing costs of a sustainable community based peacemaking service developed in the favourable circumstances described above are $115,000 per year. An estimate of costs drafted prior to the finalisation of the 2012-13 Service Delivery Agreement with Junkuri Laka sets out a probable cost profile of such a service. Funding is based on a fee for service basis with an estimated maximum of 75 interventions conducted per annum with 50 additional matters being referred and assessed but not going to mediation. Mediators are paid $40 per hour which is approximately the same as mediators on the DRB Mediator Panel. See Appendix 10 for a more complete breakdown.

A fledgling program may not achieve full capacity in the early stages of operation as was the case on Mornington Island for the first two years of service delivery before the Justice Group employed a Coordinator with extensive legal and mediation experience.
9 Conclusion

The MIRJ project has forged an innovative partnership between a government agency and Elders representing their extended families on the Island. It is unique to the extent that it is a working partnership with family representatives, and not community representatives, which was borne out of necessity and a very real recognition of kinship and culture.

The subject of conflict among family groups and its resolution is one of central concern to families on the Island and to their culture itself. There was much scope for government agents operating from very different government frameworks to get it wrong. However, to a large degree, consultation and development were undertaken on the terms and the direction of families through their Elders and other representatives. Working in this way, on a subject of importance, led to proper consultation. Two way challenges and learning took place. It paved the way to engage with the Elders to develop their model of mediation and to successfully deliver it with them.

The project has taken a strengths-based approach to empowering the kinship system to resolve the very conflicts that occur within it. In doing so it has created a forum where Elders re-engage with their young people and where younger leadership can emerge. This remains a critical and hidden outcome of the project not easily lending itself to short term evaluation.

This partnership has now produced more than 160 mediator assisted interventions with 95% successfully managing the conflict. This has made significant inroads into preventing violence and diverting people from the criminal justice system. Yet MIRJ has operated in a community most often portrayed as lacking capacity to address its deeply entrenched social problems.

However the number of people appearing in court has not decreased. This is because most appearances are for breaches of the alcohol restrictions or other alcohol related offences. Mediation is designed to assist people manage their conflict more effectively but should not be seen as an effective response to prevent or address alcohol abuse within individuals. More appropriate and wide ranging responses are required here.

The conclusion drawn is that mediation has demonstrated its effectiveness as described in this report but should be seen only for the contribution it has made and
can yet make. The PCYC’s Banbaji Project teaching school aged children to resolve their conflict without fighting is critical to achieving real change if delivered long-term. The importance of other initiatives fostering economic and other social and structural changes must also be recognised.

Mediation, still in its infancy, has already found an important place in family life without being the answer to all social ills. It has the potential to have more far reaching benefits but remains underutilised.

The experience gained from Mornington Island provides a practice framework to guide development of mediation services in other similar Indigenous communities. The successful transition of MIRJ to Junkuri Laka has demonstrated the strategic effectiveness of services delivered from a community based organisation with accompanying economic efficiencies.

It should be noted however that this transition occurred not just out the developmental processes of the MIRJ project but also out of the random, fortuitous arrival of an experienced Coordinator. This led to Junkuri Laka becoming capable of fulfilling the non-kin Mediation Coordinator role. This highlights an underlying fragility of the project, still dependent on external support. This risk will be managed in the coming year by exploring options with Junkuri Laka for identifying and training local people in the coordination skills. However, it does not detract from the achievements of Elders which continue to be built upon.

There are many critical factors in the success of the MIRJ project which will be tested through the external evaluation to be undertaken in 2013. These include:

- Extensive consultation with all family groups over an extended period;
- Building from the ground up – incorporating local wisdom and DRB’s extensive mediation experience;
- Engaging the right project personnel with strong community development skills and considerable experience working in remote Indigenous communities;
- Prioritising relationship building and maintenance through project staff living in the community for extended periods;
- The Community Justice Group engaging an experienced Coordinator; and
• Forming partnerships and building trust by working together;
  o Between project staff and families and their cultural advisors during the consultation and development phases;
  o Between project staff and Elders as co-mediators working on mediations together and learning by doing during the implementation phase;
  o Between DRB and Junkuri Laka negotiating how the peacemaking service would be locally managed and supported during the transition phase;
  o And, throughout the project, between representatives of Commonwealth (AGD) and State (DJAG - DRB) agencies collaborating to enable good governance of the project and sharing a willingness to support and manage the project with the flexibility required for such a remote location.

A concluding word is needed to indicate the impact of the Mornington Island community on the Dispute Resolution Branch which started the project with no recent organisational memory of work in Indigenous communities. It was perhaps this lack of experience which led to a willingness to trust and support field staff with few other options but to be guided by the processes required by Mornington Island families. The Dispute Resolution Branch, its mediators, administrative staff and management have been professionally enriched by it.
10 References

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Appendices

Appendix 2: Junkuri Laka - Descriptive Parameters of mediation cases and their use for reporting purposes
Appendix 3: Overview of the MIRJ project phases / key events
Appendix 4: Undertakings given to the community during consultation and development
Appendix 5: Elders rules for Peacemaking and the eight step process
Appendix 6: Mediations may differ to mediations in the wider community
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Appendix 8: Banbaji Student Service - Program outline
Appendix 9: Approximate costs of four phases of the MIRJ Project
Appendix 10: Estimated annual costs of a peacemaking service
## Appendix 1 - Recommendations of Interim Evaluation (2010)

<table>
<thead>
<tr>
<th>No.</th>
<th>Recommendations</th>
<th>Subsequent actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The risk of kinship based conflict of interest can be mitigated by having larger pool of co-mediators. Increase involvement of women and general mediator pool to improve likelihood of independent and impartial mediations.</td>
<td>The mediator pool now includes seven women and three younger people. All family groups on the Island are now represented in the mediator pool.</td>
</tr>
<tr>
<td>2.</td>
<td>Conduct further training in peacemaking mediation for community members.</td>
<td>Under the Service Delivery Agreement the DRB provides training sessions to mediators during four monthly visits.</td>
</tr>
<tr>
<td>3.</td>
<td>MIRJ and community mediators need to improve participation of younger people.</td>
<td>Funds have been allocated to support the Banbaji Peacemaking project for young people developed by PCYC with the school.</td>
</tr>
<tr>
<td>4.</td>
<td>MIRJ staff and community mediators should expand follow up conflict management coaching: 1-on-1 level and more formal group sessions.</td>
<td>Conflict coaching is now used with parties and / or disputes not suitable for mediation.</td>
</tr>
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<td>5.</td>
<td>Increase frequency of the Mornington Island court sittings. Current workload is not conducive to maximising the opportunities to consider referral of cases to mediation.</td>
<td>Magistrate Court sittings have increased from monthly to fortnightly visits of 1 -2 days depending upon workload.</td>
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<td>6.</td>
<td>Establishing a pre-court conference between Elders, MIRJ &amp; Magistrates to review and discuss possible matters for referral to mediation.</td>
<td>Pre and post court meetings (Elders and Magistrate) are held as needed.</td>
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<td>7.</td>
<td>There is capacity to undertake larger number of mediations and conflict resolution counselling.</td>
<td>Increased numbers of mediations are being conducted since Junkuri Laka took over mediation services in October 2011.</td>
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Descriptive parameters of mediation cases and their use for reporting purposes

INTRODUCTION

A structured system of reporting on mediation/peacemaking cases is desirable for several reasons. First and foremost it will assist in evaluating the development of alternative dispute resolution in the cultural context of a remote aboriginal community which has been subject to increasing levels of more conventional means of justice intervention. Ultimately, the evaluation will have to shine light on the question whether alternative means of conflict resolution not only find a footing in that cultural context, but whether they actually reduce the need for criminal justice activities.¹

Secondly, a structured system of reporting will assist in analysing and improving the processes that can be used for peacemaking in this setting, i.e. systematic and structured reporting will assist in understanding what type of interventions are helpful and why, and it will allow to base such developments on reasonably objective and quantitative information.

Thirdly, a sound system of reporting will allow a level of economic analysis that will assist in developing economic and budget models for this type of activity.

Fourthly, structured reporting is essential where that function is part of a funding arrangement and where there is therefore a need for quality management and comparison between those delivering mediation services. Included in that objective is of course the possibility for collation of information from different project sites. This will in turn require a solid understanding of the terminology that will be used, which then also lead to a better grasp of the differences between types of disputes, and how different processes may be applied successfully.

It is important to develop this structure at this point in time because the people that have been involved in the process thus far are still available and can still be relied on to make accurate determinations on how to categorize peacemaking processes for the purpose of this structured analysis. In other words, there remains a window of opportunity to build a significant research database and this opportunity needs to be taken advantage of.

¹ To some extent, this may also be seen as a retrospective attempt at avoiding the sort of problems that occurred when a formal evaluation of another DJAG program (the Community Justice Group Program) took place. See KMPG report 2011.
REPORTING STRUCTURE

The current reporting structure is mainly derived from the system that was put in place for the purpose of the SDA between DRB and Junkuri Laka, which in turn is partly based on the structure of case management reporting used by the DRB branch. Whilst therefore certainly not unfounded, it was created in some haste and a number of issues had perhaps not quite received the attention they ought to have had. This document attempts to resolve this omission, and will act as the reference standard for reporting, particularly in respect of the different classifications that will be used to categorise various dispute parameters.

An online database can be constructed that will allow convenient reporting and access to records whilst restraining confidential information only to those eligible to it. Such an online database has been built by Junkuri Laka for its own administration and for DRB reporting purposes. The reporting structure will have to include several practical parameters that are necessary for administrative purposes. For the sake of completeness and consistency, these are also detailed in this document, so that it can function as one document detailing the administrative process for case management and reporting.

The case details that are reported in this structure are referred to as “parameters”, which may be seen as the “variables” defining each mediation case that is reported. Each parameter will attain a value when each case is recorded. Those values can have a different nature. Some are dates, others involve categories or a series of tick boxes and there will also be parameters that will consist of text entries. Each parameter is described below, together with the nature of the values it may attain and any restrictions or categories that apply to those possible values. Where that is considered relevant and helpful examples are provided.

1 CASE NUMBER (CASE#)

This will be a simple 5 digit sequential integer. The integer will consist of two digits indicating the year, starting at “00” for the year 2000, followed by three digits starting each year at “001”. Numbering re-starts with the first case with a “File open date” in any new year. It was initially proposed that there would be a two-letter prefix identifying the dispute resolution centre, this will not be implemented until necessitated by the project including more peacemaking centres, and only if the information system used requires it.

The case # field will be used as an identifier and must therefore be a unique number that is always required for each file.

2 CASE NAME

This is a short descriptive name for the case that does not reveal the names of parties or any confidential information. A standard way of doing this is using initials and a “legal” case name referral plus some identifying words or a short phrase for recollection purposes.

Example: “J v S custody” or “N v E murder allegation”.

3 FILE OPEN

The date the file is opened, i.e. the day of first referral of the conflict to the mediation group, or the first date the mediation group becomes aware of the conflict and the potential need
for intervention. (The system will need functionality to ensure that worked hours on days prior to the file open date cannot be booked on that case number.)

4 **FILE CLOSED**
The date the file is closed. In principle, no changes in the record shall be made after this date. One consequence is that there shall NOT be further hours reported against a closed file. Where significant additional events take place, a new file must be opened.

5 **MEDIATION DATE**
This is the date on which the core process takes place. If mediation takes place over more than one day in a contiguous fashion, use the first day. If there are discreetly different parts of the process taking place on different dates, then contemplate recording the process as two separate processes, and thus two separate case records. Relationships between such cases can be recorded in the case notes.

6 **REFERRER**
This is the organisation or person that refers the conflict to mediation. The following categories will be used:

6.1 **Parties**
If one or both parties refer the dispute to mediation

6.2 **Family**
This applies where close relatives from one or both parties refer the matter to the mediation group. (For example parent, grandparents, a partner or spouse)

6.3 **Community member**
This applies where a referring individual is NOT a close relative. (For example a concerned witness)

6.4 **Police**
The Queensland Police Service front line organisation.

6.5 **Prosecution**
The Queensland Police Service Prosecution department.

6.6 **Court**
This applies where the matter has been mentioned and is referred by the court to the mediation group.

6.7 **Solicitor**
This typically means the solicitor for defence in criminal matters. In exceptional cases this could be a lawyer in a civil matter.
6.8 CJG
Referral by the Community Justice Group. This separate category emphasises the distinction between the mediation and CJG entities within Junkuri Laka.

6.9 Agencies
An agency or organisation that is providing services or that is involved in government administration. Because there are many such entities, it is not possible to categorise this any further. Further details must be given in the short case notes.

6.10 Other
Any referrer not categorised under the above. Further details must be given in the short case notes.

7 ENGAGEMENT PROCESS (ENG-PROCESS)
This parameter describes the way the peacemaking/mediation process is planned and organised. There are three possible values:

7.1 No engagement
One or both parties refuse to engage. Note that in this case, the outcome parameter must also default to the “no engagement” value.

7.2 Crisis
The intervention is organised with an inability to plan typically because the conflict is escalating and immediate intervention is deemed necessary. This will typically be within 12 hours of the dispute being referred.

7.3 Planned
The intervention is organised with some reasonable planning and discussion with the parties about the objectives of the intervention and the logistics surrounding it. Typically, there is more than 12 hours between the dispute being referred and the main intervention event taking place. There may have well been some “crisis type” shuttle diplomacy, but eventually the main event takes on a planned character.

8 DISPUTE / PROCESS IDENTIFIER (DISP/PROC ID)
This parameter identifies the nature of the dispute from the perspective of the process that is applied to attempt to resolve it. Because this parameter can be somewhat ambiguous, or open to complicated and uncertain interpretation, a decision tree is used to identify the appropriate category. A flowchart is provided below. Whilst in some instances multiple categories may apply, only one can be chosen, i.e. the most applicable category must be used. Any additional comments about applying the correct category can be provided in the comments field. (Note: not in the case notes).

It is also noted that in some cases there can be more than one mediation process in one matter. This can occur where there are more victims, a multitude of charges, or where separate efforts are undertaken in respect of bail applications. In all such cases two or more separate files must be opened.
There are two main streams relating to whether the dispute is located in the civil or criminal sphere. Whilst there is of course an area of possible overlap, a clear distinction can be made on the basis of the question whether charges have been laid or not. In all cases where there have been charges, the dispute / process is termed to be in the sphere of restorative justice. This is then further specified into detail categories that are based on where the matter is in its process through the criminal justice system.

In the civil stream there is a further distinction which revolves around the question whether the conflict has the potential to transgress into a matter that will potentially enter into the
criminal justice system. The intervention will in those cases be aimed at preventing that from happening. In such cases the category used to identify the “Disp/Proc ID” variable is “Conflict management”.

Where that is not the case the matter is purely civil in the legal meaning of that word, but also often in the demeanour of the parties.

The following categories will be used:

8.1 Conflict management
An intervention frequently held to respond to the likelihood of escalating conflict and high likelihood of violence if the conflict goes unchecked. Criminal boundaries may have already been crossed or are likely to be crossed if the conflict goes unchecked. Charges have NOT been laid.

8.2 Civil mediation
Disputes about civil issues are resolved in a civil manner using any of the available processes that are specified elsewhere. There are a number of sub-categories based on the main issues in the conflict. The following sub-categories will be used:

8.2.1 Family
*Intra- or inter-family conflict.*

8.2.2 Workplace
*Dispute arising from workplace issues including employment contracts.*

8.2.3 Neighbour
*Dispute arising from proximity of parties, who have no direct family relationship*

8.2.4 Resources
*A specific category of conflict arising from resource issues.*

8.2.5 Other
*This can be anything from torts to general liability, contracts etc.*

8.3 Restorative Justice Mediation
These are mediations between aggrieved complainant and defendant about an offence and its circumstances. The defendant typically accepts responsibility for their actions before a restorative process can be engaged in. The objective is to restore relationships between the parties or to address the victim’s grievances and may sometimes be a diversion from the criminal justice system. To some extent a justification of mediation activities may be found in the capacity to divert, which is considered beneficial in social terms and in respect of community cohesion, whilst there are also clear economic benefits. For the sake of completeness, it is noted that some civil mediations in the category “Conflict management” may have diversionary value, but this is of course harder to gauge as the laying of charges is merely a probability at the point of undertaking the intervention. Restorative interventions can occur at any stage of the legal process, and this is the defining characteristic for the following sub-categories.
8.3.1 RJ – Pre-court diversion
Here the matters remain typically within the jurisdiction of the police (depending on internal police guidelines, which apparently differ from area to area). Successful mediation may result in the police not pursuing charges, or the complainant withdrawing their complaint, which typically has the same effect.

8.3.2 RJ – Court diversion
The matter has been mentioned and is therefore under case management of the court. No plea has been entered. This means that formally police prosecutions have control on the police side of things, whilst a solicitor will have been engaged for the defendant. Therefore more parties become involved in possible referral and the effect of any mediation outcome.

8.3.3 RJ – Case management
In the case of a not guilty plea, prosecution is held to proof. Nevertheless, mediation may impact on case management.

8.3.4 RJ – Pre-sentence
After a guilty plea the outcome of any mediation effort can have an effect on the sentencing process or substance.

9 PARTY RELATIONSHIP
This parameter provides insight in the conflict dynamics and a context for understanding the nature of the conflict and the decisions about the process used. The following categories will be used:

9.1 Individual
Where the mediation has comparatively few participants and occurs with little or no reference to kinship structures. The issues are resolved by participants individually. They see their relationship in terms of friends, work colleagues, associates, contract parties, or of course victim-offender. Where the dispute/process identification is in the civil category, the techniques used will often be “Interest based”.

9.2 Group
The mediation involves groups, which can be intra-family and Inter-family, or without specific relevance of family structures. For instance school based conflict, community based conflict between adolescents and young people. The dispute/process identification will often be “conflict management” and the technique used “Kinship Consultation”.

9.3 Organisational
These may include conflict with an agency or employer or workplace disputes between employees. The conflict takes place against an organisational context or derives from organisational circumstances. This therefore includes conflicts between organisations and customers, contract disputes not between individuals etc. Complaints or grievances against Police that are not dealt with formally through the CMC are included here.
10 KEY PARTIES
This field contains the names of the main parties in the dispute. Where larger groups are involved use only the names of the main antagonists, and indicate how multiple parties form groups. Example: Jones & Wilson v O’Keefe & Walden. This field will be security protected and only accessible by the person who created the case file. This field can also contain the acronyms or abbreviations or initials used for parties in the case notes or comments, so that these may be read without identifying the parties and still keeping the descriptions concise.

11 CASE SUMMARY
This is a multi line field in which a case summary is recorded. Note that these must be anonymous in nature, and they should not disclose material facts or details of what occurred in the mediation which could identify parties or issues.

12 CASE NOTES
This field will contain a record of subsequent case notes, entered as the matter progresses. These will not be part of the reporting process and can therefore contain confidential or identifying information. They are kept to assist the mediators and mediation group to deliver quality processes, especially in matters that run over an extended time. Note that the nature of these notes must at all times comply with the confidential character of the mediation process.

13 CONFLICT NATURE (1)
This parameter and the next two will be used to provide some insight into the nature of the conflict. The variables describe conflict characteristics by way of a drop-down selection. Three of such characteristics can be selected in these three fields. This assessment is of course highly subjective, but provides an insight that may be compared to the “concept analysis” in qualitative research. The characteristics that may be selected are described below.

14 CONFLICT NATURE (2)
See above

15 CONFLICT NATURE (3)
See above, the following categories will be available for these three aspects of this parameter.

15.1 Alcohol
Conflict that would probably not have occurred without the effects of alcohol, i.e. any fighting that is immediately alcohol related and where alcohol is a causative factor.

15.2 Fighting
This characteristic is used to indicate that substantial fighting has actually taken place.
15.3 Miscommunication
Whilst some level of miscommunication is always present in any dispute, this characteristic is used where there are significant levels of miscommunication that are causally related to the origins of the dispute.

15.4 Insults
This includes the popular phrase “swearing” and “swearing to relatives” as in “he was swearing me to my mother”.

15.5 Rumours
This includes the popular dispute source of “yarn carting”.

15.6 Bullying
Any conflict arising from sustained abuse of power differences.

15.7 Cyber
This can be an additional aspect to some of the other categories. Use this to indicate that contemporary communication technology plays an important role in the source or development of the conflict. E.g. by using “bullying” and “cyber” together the often encountered Diva’s Chat problems may be captured. The case notes can be used to provide further detail.

15.8 Jealous
This involves the behaviour of using sexual advances or activities to disturb other peoples’ relationships, including flirtatious behaviour that is used to or perceived as, destabilising a relationship. It is an activity that is very common on Mornington, and the word is used in that specific context, as well as describing that activity between partners.

15.9 Parenting
Dispute where care and custody arrangements (parenting plans) play a role.

15.10 Elderly
All aspects of care for the elderly, including financial arrangements, care and custody, wills and inheritance.

15.11 Paternity
Where matters of procreation are concerned.

15.12 Relationship
Relationship conflict between individuals.

15.13 Kinship & Culture
This can involve kinship obligations or etiquette, particularly kinship in cultural context. Also included specific cultural issues, such as black magic.

15.14 Household
Conflict that arises as a result of household tensions, i.e. within the sphere of a nuclear family.
15.15 Resources
Other than money per se.

15.16 Property
Including native title conflict.

15.17 Financial
Matters pertaining to the allocation of funds.

15.18 Tenancy
Issues arising out of tenancy and lease arrangements.

15.19 Criminal
Use this where criminal matters are part of the conflict.

15.20 Criminal process
Use this where the issue is about process, for instance where it is alleged the police is not even handed, abuse of police powers etc.

16 CHARGE ACT
In the case of restorative justice, i.e. where the dispute/process identifier is in the “Restorative justice” group, this parameter will provide a variable where the most significant charge can be entered. It will be chosen from a drop-down menu starting with the relevant Act. In many cases there will be more than one charge. Only the most important one is used for this parameter (typically the “gravest” one. Further details can be provided in the case notes.

17 CHARGE OFFENCE
See above, this variable specifies the offence within an Act.

18 OUTCOME
This parameter is used to categorise whether the process has concluded the conflict and in what way. Note there is a separate parameter for diversionary outcomes which can in many circumstances be different from the outcome simpliciter. The following choices will be available:

18.1 No engagement
One or both parties refuse to participate in the process altogether. Whilst there may have been work involved in talking with the parties and in convincing the refusing party (/lies) or their relatives or associates, there is no substantive engagement in a dispute resolution process, whether that is in a formal session in substantive shuttle diplomacy (i.e. where the mediators travel between the parties with substantive comments/proposals, not just process matters).

18.2 Resolved at intake
The matter is resolved prior to mediation taking place, typically in the assessment phase or in talking to the parties whilst organising a mediation session. There is no actual
meeting between parties taking place where the matter is formally acknowledged to exist and to have ended in a resolution.

18.3 No-show
Either or both parties do not attend a session that has in fact been organised and the process is thus discontinued. Note that this differs from the “no engagement” because in this scenario the parties initially agree to engage, which is not the case in the “no engagement” category.

18.4 Walk out
Either or both parties terminate the mediation process without an agreement or substantial settlement or reconciliation having been reached. Note that in this scenario the parties have commenced a resolution process where they meet face to face and one or both decide to terminate that session without anything of substance having been achieved. Typically, the conflict continues in some way.

18.5 Settlement
Following the intervention the “hostilities” have stopped and parties have acknowledged this. They will have typically apologised to one another and shook hands on this, or they will have made this clear in no uncertain terms to the mediators. There may or may not be a formal document or acknowledgement that the underlying issues have been addressed and that a compromise has been created. Note that in many cases such a formal acknowledgement is impossible or even inappropriate. This outcome category is likely to be the one occurring most, if only for the fact that it can be clearly distinguished from the previous options. Note also that the determination that things have settled does not involve the much more subjective determination that there has been a reconciliation of previously significant relationships, which is the nature of the next category within this parameter.

18.6 Reconciliation
The term reconciliation emphasises the central attention for the healing of relationships. This in turn may or may not be a required precursor for attending to substantive aspects of the conflict. The terminology also refers to a return to a status quo in terms of relationship quality. Reconciliation includes a stage where harms and their associated emotions are recognised, and an effort is made to heal this effect of the conflict.

18.7 Inconclusive
The process does not result in a discrete intervention taking place, or the shuttle diplomacy or conflict coaching efforts have no distinct results. The consequences of the work will be that the matters are restrained and escalation has often been prevented, but there is no clear settlement outcome or reconciliation between the parties. In other words, there is a variably and small, but nevertheless significant possibility that the same argument may flare up again in the short to medium term.
19 DIVERSIONARY OUTCOME
This is an indicator of the diversionary impact of mediation, i.e. has the mediation achieved that the matter is excluded from the criminal justice system. This parameter will only be used for RJ matters.

19.1 No engagement
One or both parties refuse to participate in the process altogether. Whilst there may have been work involved in talking with the other party and in convincing the refusing party (ies) or their relatives or associates, there is no substantive engagement whatsoever, whether that is in a formal session or in the discussions attempting to organise a process.

Note that this diversionary outcome is exactly the same as the “no engagement” outcome under the general outcome heading when there was no engagement. It is possible however that there was another outcome under the general heading, but no engagement under the diversionary outcome heading, i.e. the parties engaged for instance in shuttle diplomacy, but there was no engagement in the diversionary sense. In effect therefore, there is no divisionary effect either, but this one must be distinguished from the next option, where there has been engagement, but where this does not lead to a discernible diversionary outcome.

19.2 No diversionary outcome
The intervention, whilst it has taken place in some shape or form, and has been identified and reported as such, does not have a discernible effect on the outcome in the criminal justice process.

19.3 Complaint withdrawn
The consequence of the compliant being withdrawn depends on the nature of the offence and the stage to which the police had advanced the matter. These different outcomes are not a part of this parameter, as they depend on factors that are external to the parties. Any specific details can be noted in the case summary, whilst comments about communication with police or other process matters can be noted in the case comments.

19.4 Bail granted (court or police)
The mediation took place in the context of a bail application, which is ultimately successful. Included in this category are situations were bail conditions are varied or where the process is aimed at temporary relief of bail conditions, for instance to attend funerals.

19.5 Charge withdrawn (police)
This captures the situation where a charge had been made, but is withdrawn by Police before the matter is mentioned or listed for mention. I.e. prosecution has not been involved yet.

19.6 Charge reduced (police)
A charge had been made and is sustained, but changed for one for a lesser offence.
19.7 Charge withdrawn (prosecution)
The charge had been made and the matter has been mentioned, but prosecution withdraws it entirely.

19.8 Charge reduced (prosecution)
A charge had been made, it was mentioned. Following mediation the charge is reduced by prosecution to a lesser offence.

19.9 Sentence mitigation
This occurs where the matter has proceeded to a guilty plea or a finding of guilt and where the mediation outcome is relevant to the sentencing process. Sentence mitigation occurs where there is a discernible effect of the reported intervention outcome on the sentence that is ultimately imposed.

20 TECHNIQUES
This parameter indicates the main techniques or intervention model that has been used. The following categories are available.

20.1 Kinship consultation
This is the approach that was formerly referred to as the MIRJ model; it refers to the process, prior to conducting mediation, of extended family consultation and input in preparation to meet to resolve their conflict.

20.2 Interest based
This involves the “traditional” Uri-Fisher approach, but also including those cases where participants want to exclude extended family from their business /the process. On objective of this distinction is to see whether over time this may show any changes to how young people construct their social relations and conflicts.

20.3 Shuttle diplomacy

20.4 Conflict coaching
One or both parties do not wish to engage in a resolution process, or such a process is impossible for other reasons. But parties are assisted to channel the conflict so that violence is reduced or excluded. This technique can also be applied when one party is assessed as not acting in good faith or where logistics or emotions prevent a resolution process, or where the nature of the conflict makes meeting and even indirect communication counterproductive.

20.5 Circle conferencing
The technique mostly used in restorative justice, where the objective is to give parties to say what they want and express their emotions, without necessarily aiming for any specific outcome.

20.6 Caucusing
Switching between mediation and shuttle diplomacy.
21 VENUE
The place where the core process takes place. If there has been no one identifiable place, use the "none" option. When "other" is selected details can be provided in the case notes. The following choices will be available:

21.1 Courthouse
Where the core part of the process takes place in the court house.

21.2 JL office
Where the core part of the process takes place in the JL offices (or in the previous MIRJ offices).

21.3 PCYC
Where the core part of the process takes place at the PCYS premises.

21.4 Festival ground
Where the core part of the process takes place in the court house.

21.5 Private house
Where the mediation takes place in the dwelling of a party or of another community member or elder.

21.6 Other
Where none of the above applies, but a specific venue can be recognised, details can be provided in the case notes or comments.

21.7 None
Where there is no specific venue, for instance where the technique is shuttle mediation covering various places, talking with parties on the street or in the shop etc.

22 MEDIATION HOURS (MEDIATION HRS)
This variable will display the number of mediation hours recorded on the file. The value will be generated on the basis of the administrative section of the mediation files application.

23 ADMINISTRATION HOURS (ADMIN HRS)
This variable will display the number of administration hours recorded on the file. The value will be generated on the basis of the administrative section of the mediation files application.

24 COMMENTS
This parameter field is a text box that allows comments on process matters. This field must not be used for substantive information about the conflict or the parties.

25 MEDIATORS / TIME ENTRIES
In this parameter the mediators that have been involved with a file will be recorded. The information is retrieved from the time administration application and there will therefore be
links to that application so that it is possible to see the involvement of the different mediators as well.

26 DOCUMENTS ATTACHED
This field will contain the links to documents that are related to this mediation file, and which are contained in a separate encrypted database. This field will not be accessible to others than the “record owner”.
Appendix 3 - Overview of the MIRJ project phases / key events

1. Consultation

- Surveying family opinion July 2008 – January 2009
  - 200 adults and young people representing all family groups on the Island participated in lengthy discussions over 16 weeks.
  - Two community-based and eight Mount Isa based agencies were consulted.

- Consultation feedback: May - June 2009
  - Consultation report widely distributed formally and informally discussed.
  - All agencies and most of the 200 participants provided with feedback on what had been reported in the consultation.

2. Development of the local mediation model: July – September 2009

- Ten meetings in the Festival Grounds were called by the Moyenda (Council of) Elders to develop a model of family peacemaking (See Appendix 4)
- Negotiations were also held with police based in the community and three meetings were held between the Elders and visiting Magistrates to exchange perspectives on how it might work.
- A public meeting to endorse implementation of peacemaking was held on 26 August 2009. 67 people attended.

3. Implementation of mediation service: October 2009 – September 2011

- Indigenous Mediation Coordinator seconded from the Department of Communities from 7th September – 30th June 2011 to assist in the initial stages of implementation.
- First mediation held in response to a crisis on Friday 16th October 2009.
- 99 peacemaking interventions conducted from October 2009 to September 2011
- Formal mediator training provided June 10th-11th and 15-17th 2010.
- Interim Evaluation conducted September 2010. Report finalised November 2010. (See Appendix 5 Implementation of Recommendations)

4. Transition of the service to local management: From October 2011

- Junkuri Laka Coordinator appointed in August 2011
- Junkuri Laka take on mediation with Project Manager on leave October 2011
- 1st Service Delivery Agreement finalised and signed 28th February 2012.
- Junkuri Laka completed 61 peacemaking interventions October 2011 – June 2012
- 2nd Service Delivery Agreement finalised and signed 1st November 2012.
- Final Evaluation of MIRJ project planned for 2013.
Appendix 4 - Undertakings given to the community during consultation and development

This is to ensure participants are treated with respect; understand that participation is voluntary; that confidentiality is maintained and that they feel confident to speak freely. Ethical responsibilities to all stakeholders involved in the consultation and development of a service model will be considered and maintained.

It is acknowledged that discussions about family and community disputes may be stressful. Being asked to talk about these issues can increase stress for some participants.

Therefore before conducting interviews or entering into discussions, participants will be informed on:

- The purpose of the consultation;
- How their information will be used and who will see it;
- Their right not to participate in any discussions and that their decision not to participate will be respected;
- The form of reporting on personal information;
- Arrangements about safeguarding identities and confidentiality and anonymity (e.g. by writing the discussion paper in a general way that only reflects specific information);
- The manner in which any quotes might be used (if at all).

Those involved in the consultation and privy to consultation information will not:

- Get involved in personal or organisational conflict or views;
- Make judgements on the beliefs or opinions being expressed;
- Disregard information that project workers do not agree with;
- Identify participants (by name) in your consultation report unless specifically given permission to do so;
- Prioritise one or two dominant people’s viewpoints over others.

Consultation workers will undertake to:

- Listen carefully to the range of perspectives and viewpoints;
- Respect the rights of people to participate or not;
- Protect participant’s confidentiality and anonymity as agreed;
- Respect sensitive information that participants share with you but do not want included in a report or shared with others;
- Speak to and survey a range of people and listen to criticism.

Should anyone wish to make a complaint of require further information they can phone Lindsay Smith, Executive Manager, Dispute Resolution Branch, Department of Justice and Attorney General on (07) 32396278.

Lindsay Smith Is the Line Manager of the Project Manager, Phil Venables
Preparing with families for peacemaking on Mornington Island. (Working DRAFT)

*Getting ready for a peacemaker meeting*

Step 1. Get asked to sort out a trouble

Step 2. Consult both families

Step 3. Go ahead or call off a Peacemaker Meeting?

Step 4. Help families get ready for peacemaking.

*Holding a peacemaker meeting*

Step 5. Set up the Meeting

Step 6. Meeting procedure

*After the Meeting*

Step 7. Learning from Experience

Step 8. Keeping to the agreement
Preparing with families for Peacemaking
(Words for Peacemaking: Mediation, conflict resolution, dispute resolution, square-up or sorting out a fight)

Mornington Island Peacemaking will be run by respected Elders in partnership with the Mediation Coordinator for Mornington Island, Dispute Resolution Branch of the Department of Justice and Attorney-General (Justice Department).

It will be run according to the rules of mediation established by the Elders and the cultural protocols of the families who live on Mornington Island.

If a mediator\(^1\) from the Justice Department is running the meeting with the Elders it has the protection of a law called the *Dispute Resolution Centres Act*. This law allows the Justice Department to run mediations in Queensland.

**What is Peacemaking?**
Peacemaking is a meeting between two people or two families in conflict. Elders and the right family members help them talk respectfully to each other to sort it out between themselves.

It is *not* a community court where people are found innocent or guilty or get punished. It is where conflict is put right by agreement, where hurt is healed and relationships are restored.

**What conflicts can go to peacemaking?**
(Conflict can mean a disagreement, dispute, argument, trouble or a fight).

Most people sort out their own conflicts and don’t need help. Peacemaking is for two people or two families who are in conflict and need help to sort it out.

Most conflicts can go to peacemaking if both families are willing to sort out their conflict and put it right. However, when people are charged with serious offences or there is domestic violence, the Elders and the Police agree that these are best dealt with by the courts and not by peacemaking.

However people who want to make their relationship better may agree to go for peacemaking to sort out other problems but violence in a relationship is dealt with by the court.

Peacemaking or mediation can help sort out disputes or fights over money, when property had been damaged, when people have been assaulted (but not seriously) or when there is jealousy and harmful talk being spread.

Step 1 explains how a conflict can get to go for peacemaking.

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\(^1\) Mediator from the Justice Department refers to a mediator appointed under the *Dispute Resolution Centres Act 1990*
**Step 1. Get asked to sort out a conflict**

Elders or the Coordinator are asked to sort a conflict by:

- Families who need help to sort out an argument or fight.
- Someone in a community agency (like the school, shire council, or probation and parole) if they think mediation will help.
- Police who ask Elders to sort out a fight if they think this could be better than charging people.
- Courts can send people to peacemaking before they pass sentence or as part of the sentence.
- Elders may be asked to get involved when someone is to be released from prison and people are worried that this could cause conflict.
Step 2. Consult both families

The right elders go with the mediation coordinator to talk to both families. (See attached diagram as a suggested way of going to the families)

- Explain why the elders have been asked to help sort it out.

- Ask what the conflict is about.

- Explain why peacemaking may be a better way to sort out a conflict than being charged by police or going to court. If the fight can’t be sorted out by peacemaking then people may have to go to court.

- Ask the families what they need to have trust in those running the meeting and feel safe to say their part.

- Ask the families to say what support they need to sort out their problem.

- Ask the families if they want to come to peacemaking. Some may not want to take part if they are too upset or angry or if there is still no trust to sort it out. People cannot be forced to come if they don’t want to come.

Some families might need time to settle down to think about it and talk to each other about it.

To give them time a second meeting might be organised for later to help get them ready to take part.
Step 3. Decide to go ahead or to call off the Peacemaker Meeting

It is important that everyone coming to mediation is supported and that all attending come prepared to do the right thing. The Elders or the Coordinator can call off a meeting at any time if they think people are not ready to come to put things right.

A Peacemaking meeting will be called off for the following reasons:

- If people don’t agree to keep to the rules of peacemaking
- If people are still angry and want to keep fighting
- If anyone who doesn’t want to come is being forced to come
- If anyone is coming because they only want to escape going to court
- If people are still blaming others and don’t really want to say sorry.

If the Police or the Magistrate have asked for peacemaking and the meeting is called off, then the Coordinator lets the Police or Magistrate know about this.

If peacemaking sent by the court or police does not go ahead then someone may have to go to court instead.
Step 5. Set up the Meeting

If the Elders and the Coordinator are satisfied that people are ready then a suitable time and place to hold the meeting is negotiated with the families.

The police may be requested to be on hand if people feel the need to be safe but police will not run the meeting unless they are invited by all the families.

People who are not family (such as community agency workers) may be invited if they have important information.

Elders will work out with the families the order of speaking and people will speak when invited by the elders.

Uncles and other family will be asked to get their family to the meeting on time, to support their families and keep them to the rules.
Step 6. Meeting procedure

Open the meeting

1. The Elders open the meeting.
2. The Coordinator reads out any information from court or the police.

Speak to each other about the problem

3. Elders will invite speakers from each family to take turns to speak.
4. Families take turn to discuss what happened and what the problem has been for each side and how this has affected them. Talking about it may make people feel angry, sad or even feel better for saying something important.

Sorting out and agreement

5. When everyone has had their say the Elders will ask them what they can do to put it right.
6. The families then talk in turn about what they think is proper to make an agreement to put things right. An agreement may include:
   - an apology,
   - or making amends by paying for damage done
   - or agreeing to straighten out their life by going to a dry out centre
   - Someone may agree to live on their outstation for a while.

Keep it fair and keep it real.

7. The Elders and the coordinator help the families reach agreement. For an agreement to work people must think carefully about it. It must be fair. People must be able to do what is agreed to.
8. Once the agreement is sorted out it is written down and signed by the right people from each family.

Confidentiality and speaking after the meeting.

9. The families can give permission about who can be told what happened at the meeting.

Saying sorry, shake hands, square off

10. The Elders will then congratulate the families for their hard work and thank them for their effort in becoming families again.
Step 7. Learning from Experience

After the meeting, the mediation coordinator will discuss with all who took part how the meeting was for them and how meetings could be run better in future.

Advice provided by Elders indicates that this will provide an opportunity for some to start fighting again. Care must therefore be taken not to intrude on families who were involved in the mediation soon after the mediation by asking them questions.

Any approach to families will be made in consultation with the elders who ran the mediation.

By doing this we want to learn how to make peacemaking stronger and keep it going into the future.

Step 8. Keeping to the Agreement

If the police or court sent the conflict to mediation then the mediation coordinator must let them know that an agreement has been made and they need to know when the agreement has been kept.

It is up to those who made the agreement to keep to it. The mediation coordinator makes sure the agreement is carried out and lets the court or police know if it has been finished or not.

If the court or police have sent the dispute for peacemaking, failure to carry out an agreement may mean that a person has to go to court to be dealt with there.

Families need to know that if they decide by themselves to have peacemaking and the police or courts are not involved, then no information at all can go to them unless the families want this.
Rules for peacemaking

The Muyenda Elders have set up the rules so peacemaking meetings can run properly and respectfully. Everyone must agree to abide by the rules before taking part.

1. Peacemaking is for everyone who lives on this country Gununa.

2. People should sort out their own conflicts first and only come to their Elders when they really need to.

3. Elders working together are the rightful people with authority to run a peacemaking meeting, called Mediation.

4. The Elders must be fair, not take sides or join in the argument.

5. Elders can sort out with the family who attends and who are the right people to speak from both sides.

6. No one is allowed to come to Mediation drunk or if affected by drugs.

7. At the Mediation one person talks and everyone should listen to them. People involved have the right speak and to be heard but no one can take over the meeting.

8. When the conflict is sorted out, both families are asked to make an agreement to put things right. This agreement is written down and signed by those involved.

9. Both parties must stick to their agreement. If they break the agreement it can go to the Police and Courts to be dealt with.

10. What is spoken at the peacemaking meeting must stay there unless both families agree on what to tell others who need to know.

11. If people don't accept the Elders' peacemaking, then they can go to the Police and Court to have it dealt with.

These rules were set up by the Moyenda Elders
We the Elders and young leaders of Gununa support peacemaking on this Island and the rules for Peacemaking.

Signed:

Cecil GOODMAN

Graham TOBY

Cyril MOOON

Roger KELLY

Rev Richard ROUGHSEY

Teddy MOON

Hugh BEN

Edgar WILSON

Darryl WILLIAMS

Matthew PETERS

Daryl Williams

Gordon WATT

Cedric SCOLES

Gordon WATT

Cedric Scholes

Reggie ROBINSON

Ashley GAVENOR

Rodney NARANATJIL

Christopher LOOGOTHA

Frank WATT

Chicko TOBY

Clement HILLS

Kenneth JACOB LINN
Appendix 6 - Mediations may differ to mediations in the wider community

- Mediation may involve the vociferous public airing of grievances, accusations and blaming prior to resolution.
- Obligations imposed by kinship may result in family members other than the main parties to a dispute, having a more prominent role in mediation.
- Peacemaking conducted by Elders may involve an emphasis on their authority to reinforce cultural and kinship duties, to elicit reconciliation with less attention being paid to addressing the issues of the disputing parties.
- In some situations a mediation meeting may serve primarily to publicly affirm what has already been reconciled in private.
- The omission of important family members from participating in mediation (unavoidably or by choice) may result in ineffective agreements.
- Cultural values around kinship and violence may conflict with justice system constructions of how serious a matter may be. In some instances, who did what to whom may be more important than the harm caused.
- A mediation referred by a court for a specific offence may be of secondary importance to other underlying matters which must be dealt with first.
- Some mediations need to occur at short notice to address the threat of escalating violence. Other mediations take much shuttle diplomacy between the parties to gain consensus on attendance and the roles of appropriate kin.
- Elders may provide counselling in the course of conducting mediation or other kin may provide support to help their relatives through the process.
- ‘Managing’ family conflict may be a more realistic goal in many situations than ‘resolving’ it, given the nature of relationships in small communities.

These findings are consistent with the writings of Kelly and the findings of the final report of the Indigenous Facilitation and Mediation Project. Both provide a comprehensive discussion on elements of good practice (Kelly 2006 pp 189 – 1940) and principles and guidelines in Indigenous dispute management. (Bauman 2006, Report No. 6 pp 28 - 36)
Appendix 7 - Identification and management of risk of violence at mediation meetings

Factors contributing to risk

- Seriousness, duration and currency of conflict and responses of the aggrieved
- Relationship between the parties, history of their conflict and of violence
- Crisis driven mediations held to prevent further violence. Limited time to assess appropriateness of mediation proceeding or to provide families with information and enlist their input into managing the process
- Persons attending without sufficient supports
- Others attending without a mandate to attend
- Not all participants attending in good faith
- Unidentified risks emerging at mediation
  - Attendance of persons affected by alcohol or other drugs
  - Emergence of other disputes not related to matters at hand
  - Failure to gain sufficient prior commitment on adherence to behaviour rules
  - Persons attending whilst experiencing other unidentified stressors

Responses to minimise risk

Work on the principle that well informed prepared and engaged participants are likely to be more confident and less anxious about attending. Wherever possible plan mediations according to agreed process set out in procedures document, especially the participation of appropriately nominated Elders and other family.

Reaffirm with parties agreement for mediator authority to run the meeting and intervene early to de-escalate angry exchanges becoming violent.

Clearly establish commitment to behavioural rules at all stages prior to and at mediation meetings, including meetings called at short notice.

Provide information and enlist family input to managing their mediation at every opportunity. Prior to the meeting gain permission to use “shuttle diplomacy” to maximise points of agreement, including time and venue, acceptability of using Elders/co-mediators, family spokespeople and enlistment of family support people to control behaviour.

Choice of venue to accommodate participants’ comfort and feeling safe and secure

Maximise time and opportunity to assess for suitability preparedness and where indicated call off or postpone mediation meeting at earliest opportunity.

Promptly refer matters to police where violence cannot be addressed by mediation.

Ensure that if police support is requested all parties (including police) agree to the nature and reasons for this.

Ongoing promotion of community awareness of mediation process including behavioural rules
BANBAJI STUDENT SERVICE

On the Mornington Island Community, it is not uncommon for minor conflicts between students to escalate into major community violence and unrest. This disruption has both long term and short term effects upon the criminal vulnerability of community members.

In the short term, the disruption caused by community [and school] violence increases the likelihood of victimisation of innocent parties and the commencement of the criminal justice procedures against the offenders. In the long term, the prolonged disruption to the children’s education and extended school absences due to hurt feelings and/or unresolved threats, places these children at higher risk of entering into the criminal justice system at a later date in their lives due to prolonged periods of truancy and further, an eventual inability to gain meaningful and productive employment in their adult lives. [Vold & Bernard 1986]

In the past, dispute issues amongst students have included;

- Name calling
- Teasing
- Exclusion
- Friendship & Family problems
- Rumours
- Property issues
- Fighting

Measures are needed to be taken to minimise the impact of minor altercations and disputes upon the schooling opportunities of the children of Mornington Island. The introduction of a culturally-sensitive approach in the initial stages of any student dispute will go a long way to minimise any immediate adverse impact or interruption, prevent the potential escalation into community-wide unrest and have the disputing students remain engaged in their education.
From a long term perspective, there are many crime prevention benefits to indigenous children remaining engaged in education with a minimum of interference and interruption. Lance Lochner [2002] maintained that in addition to being able to obtain more rewarding employment, education also makes individuals less impatient or more risk averse, further reducing the propensity to commit crimes. And as such, it is difficult to imagine a better reason to develop initiatives that prevent and minimise any disruption to school life.

**Aim & Objective**
The objective of the *Banbaji* Student Service is to assist the Mornington Island State School, Junkuri Laka Justice Group and the local community to manage the conflicts between students with cultural insight and in a timely manner and provide other activities, education and services that would assist in keeping the peace on the community. The *Banbaji* Student Service is designed to be part of a whole school approach to the management of conflict, aggression and anger; and serve as an example of a local community organisation [Mornington Island PCYC] engaging in a partnership with the Junkuri Laka Justice Group and Mornington Island State School to develop approaches to the resolution and prevention of conflict. The *Banbaji* Student Service has clear conflict management policies and procedures that uphold and reinforce the school policy areas of equal opportunity, anti-harassment/bullying, student welfare and discipline. Of utmost importance, the Staff involved in the service would model positive, co-operative and collaborative relationships with staff and students.

There are five key components of the *Banbaji* Student Service program. Each of them serves a purpose in delivering the overall program objectives with differing needs and requirements for time and resources. The key components of the *Banbaji* Student Service are:
1. The Provision of a Mediation Service to assist disputing parties to assess their options realistically and reach mutually and culturally acceptable solutions in full confidence acting as an independent third party.

2. “We’re all Family” Ad Campaign to promote future co-operation and peaceful existence between individuals and families

3. Participation in aggression management, anti-bullying and team-building activities to provide a legitimate outlet to curb and suppress violent behaviour

4. Monitoring Role of the FaceBook & Divas Chat Networks to overview the communication on available local social media networks in an ethical & professional manner

5. Reinforcement of Positive Traditional Roles provide opportunities for the understanding and respect of traditional law and roles prevent student issues and misunderstandings from becoming protracted and destructive disputes

**Program Partnership**

The program is formed form a partnership with the Mornington Island State School, the Junkuri Laka Justice Group and the Qld Police Service Personnel attached to the Mornington Island PCYC. The Program is intended to work collaboratively with all agencies that have responsibility for resolving the local youths’ difficulties and in harmony with any other program with similar aims and objectives. So as to avoid any duplication or confusion, all service requests and referrals came from the Junkuri Laka Justice Group, the Mornington Island State School or Police Station to the Branch Manager of the Mornington Island PCYC for initial assessment and activation.

**Delivery of Key Components**

A more detailed description of the five key program components is provided. Each component addresses itself to the major focus of the entire Banbaji Student Services program and each could, if required, operate as a stand-alone program with a degree of success. However, when it is combined with all the other components, it offers a more holistic approach to the problems at hand and thus, a far better result for the community.

1. **The Provision of Mediation Service**

   Through expert training provided through Junkuri Laka and with the wide-spread acceptance and encouragement of the community, the mediation service is delivered directly by Banbaji Project Staff to disputing students and their families at a range of venues.
The issues of conflict and student unrest are dealt with by the *Banbaji* Student Service in the following process:

1. Providing a rapid response to reports of student unrest. The program has set the goal of responding to any report or referral in relation to students in conflict situation within 60 minutes in order to stop misinformation spreading through the community.

2. Providing a comfortable and private space at the School, Court House or PCYC and sufficient uninterrupted time for the concerned students to discuss their issue. It is anticipated that a majority of the service will be delivered at the Mornington Island State School, Court House or Mornington Island PCYC. This is not to exclude other locations that may prove appropriate to the given situation.

3. Briefly explaining and discussing the service process to the concerned students and their family members by a known and trusted Community Elder and/or Member. With the success of the mediation process of the program being reliant upon the conduct and behaviour of participants as well as the community in general; it was important to adopt a set of simple rules broad enough to cater for the different activities and services offered in the program. It was decided that the existing club rules at the Mornington Island PCYC were sufficient to serve that purpose regardless of the location of the mediation. Accordingly, a copy of the rules was on display at all aspects of program delivery. In particular, they were referred to at the beginning of all dispute resolution and mediation sessions. There was now an expectation upon the behaviour of all parties involved in all aspects of this program. A quick review of these rules can demonstrate that they are based on self and mutual respect for community members especially the school-aged children.

4. All students are enabled and encouraged to tell their story in turn and without interruption as supervised by the Community Elder and/or Member. [For the purposes of the program, both of the Police Liaison Officers attached to the Mornington Island PCYC are well qualified to act as the Community Elder/Member]

5. Defining the real underlying problems and concerns with assistance from the Community Elder and/or Member. Through the training provided by Junkuri Laka, particular attention is paid to identify the core interests in the dispute.
6. Focusing on culturally-based solutions that suit all concerned parties coming from the parties themselves. Often due to the nature of the initial source of the dispute, resolution could be found by referral to family relationships and traditional expectations.

7. Concluding with a shared agreement is confirmed and sometimes written down. For all parties, PCYC Staff, Justice Group Members and School Staff / Students to be satisfied with the way an issue or problem has been resolved, they need to feel that:
   - The process was fair, i.e. their issues were heard and understood
   - The agreement or decision reached was reasonable and fair
   - The relationship between parties has been helped by the process
   - They can manage their relationship in the future

8. A continued period of mentoring by the Community Elder and/or Member for a period of time after the agreement. Continual support is provided to subject students in the after-school and evening periods through involvement in the PCYC activities in order to suppress further flare-ups and enforce conditions agreed upon in the mediation process

9. Recording details of each mediation process on a confidential data base only accessible by the Justice Group Co-ordinator for the purpose of being reviewed processes, successes or failures and most importantly, to provide a general overviewing role for the mediation process.

2. **We’re all Family” Ad Campaign**

   In order to promote a peacemaking and peacekeeping role in the community and to positively and proactively support the long term aims and objectives of the Banbaji Student Service program, an anti-violence promotional program titled “We are Family” was strongly promoted in the School, PCYC and the Community. With permission from Imparja TV and the authors of the original program, exclusive access was granted to the “Real Families don’t Fight” TV advertisement. This strong anti family violence video was shown during the State of Origin matches in 2010 and its 8 second message is simple and practicable. The “We’re all Family” promotion was delivered in a series of 90 second video presentations showing photographs of the local young people
with their family. These videos were then “topped and tailed” with the “Real Families don’t Fight” clip to emphasise the need for peace, happiness and belonging in the family. It was the aim of these videos reinforces the fact that in such a small and remote community, all members of the community are family and as such, deserve to be treated fairly and kindly. This, in turn, would lead to a more peaceful and happier community. These video presentations were then shown move nights and discos. Further, They were posted on YouTube for public viewing and sharing.

3. Participation in Aggression Management, Anti-Bullying & Team-Building Activities

Under the strict supervision of PCYC staff, targeted students are able to participate in activities that safely allow them “let off a bit of steam” and other activities that encourage team-building. With the strict restrictions upon contact sport being strenuous enforced in schools, there are fewer and fewer of legitimate and controlled avenues for students, in particular teenage boys, to participate in robust and boisterous play needed for them to safely manage their aggression and assertion needs.

On Mornington Island, it was noted that the youth had a natural and almost irresistible attraction to boxing, however, because it is a small and remote community, it didn't have a boxing club. This meant that the youth/children often participate in 'play fighting' or 'sparring' with no adult supervision or control. Due to any number of reasons, these play fights often erupt into real fights sending ripples of family discontent throughout the community.

With no prospect of attracting a long term boxing coach to such a remote location, careful and considered communication was commenced between the PCYC Branch Manager, Mornington Shire Council, State School and the Elders of the Junkuri Laka Justice Group directed at addressing this activity shortfall in the community. One particular consideration put forward was the introduction of 'bouncy boxing'. Bouncy Boxing is a popular party activity that involves two participants donning headgear and gloves and participating in a boxing tournament under adult supervision. The biggest catch is that both combatants are wearing massively over-sized boxing gloves which have the actual feeling of tying a tontine pillow around each hand. In attack, the gloves have the effect of slowing down and greatly dissipating the force of the intended punch, whilst in defence, the combatant has the advantage of hiding and protecting themselves behind the two massive gloves attached to their hands.

The bouncy boxing sessions were then offered to the school under the Banbaji Student Service Program and the High School Students attended the Mornington Island PCYC in their classes where the sessions were closely supervised and refereed by a PCYC staff member.
The immediate results of the implementation of bouncy boxing were the marked decrease in play-fighting, teasing and bullying. A most unexpected result was the vastly improved class participation and behaviour that occurred for the rest of the day after the sessions. With an increased time allocation from the School as a consequence of such immediate results, the bouncy boxing was combined with team-building and anti-bully activities to further reinforce the objectives and goals of the Banbaji program. These particular activities were closely based upon the 'Team Up' activities recorded in the second appendix of this book.

Miss Alyss Jose is a dedicated teacher at the Mornington Island State School with a reputation of being innovative and creative in the classroom. On her fourth year of teaching on Mornington Island, she willingly accepted the challenge of reengaging a class of 12 – 13 year boys in the education process.

From the onset, she observed and expressed a concern that her students were frequently threatening and hitting each other which caused major disruptions in the classroom.

“In 2012, I was given the Thuwathu class to teach. This class was made up of 12 to 13 year old boys who had disengaged from their education, mainly due to a learning and/or behavioural issue. They were a tough bunch of boys and were easily distracted. I found that they were particularly susceptible to bullying and teasing behaviours that regularly erupted into threatening or violent confrontation between themselves. I had to teach in very small sessions whilst the students were calm. Hearing about the Banbaji Student Service, I enrolled my class to attend the anger management sessions at the Mornington Island PCYC.

The effect of these sessions was almost immediate. Providing a legitimate outlet for their pent-up frustration and anger, the boys returned to class calmer and quieter and remained so for the rest of the school day. It was amazing to see their newfound ability to sit still and be taught and our class attendance was at an all time high. Our entry into the Banbaji program coincided with our preparation for the NAPLAN testing. After two weeks of sessions, my class was excelling beyond previous expectations which I believe was largely due to the fact that they were calmer, more respectful to me as their teacher and more responsive to the education process.”

4. Monitoring Role of the FaceBook & Divas Chat Networks
As observed in the April 2012 edition of the Land Rights News – Central Australia, improper use of mobile phone technology and social networks is hitting some Aboriginal communities hard. Social networking is causing social chaos in some Indigenous communities and is
being used for ‘sexting’, cyber-bullying and fanning bitter family feuds. With community consent, the program monitors these networks to suppress the incidence of “carting yarns” and cyber-bullying which has been a major blight on community life in the past.

This is achieved by logging onto the Divas Chat and FaceBook networks under the Banbaji name. This is done openly and overtly so that all local persons on those networks are aware that their comments and communications can be seen. The fact that the networks are being monitored is publicly advertised and the Police Liaison Officer performing the monitoring role was amazed at the number of requests that were so readily offered to the Banbaji network sites. A large number of young people stated that they were glad of the Banbaji presence on the networks as they had been the victims of bullying and undesirable comments in the past and they could see that this measure would offer them protection from these unsavoury practices.

As an immediate result, it was noted by police and the community that there was a marked reduction in the disputes that were emanating from the Divas Chat and FaceBook networks. It would appear that the mere presence or perception that there was a presence on the networks able to monitor the origins of bullying and incivility discouraged those individuals from their previous communication habits and routines.

In order of this process to remain transparent and to the highest ethical standard, the work of the Police Liaison Officer is supervised by a Sergeant. This is achieved by setting up the FaceBook and Divas Chat account so that any communication from the monitoring officer is replicated in the secure email account of the Sergeant. The Sergeant then reports to the Junkuri Laka Justice Group and enters details onto their database so that organisation can play an overviewing role in relation to the program.

This monitoring role has been welcomed by the parents of our youth and children

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**Playground Duty Analogy**

When explaining the intended role of the Banbaji program to concerned parents and community members. The analogy of a teacher performing lunchtime playground duty is often employed. The Teacher stands on the playground and does not participate in the games or conversations of the school children. However, if an argument or fight breaks out or the game becomes too rough and dangerous, the teacher is able to step in and remedy the situation. But, for the most part, the mere presence of the Teacher is enough to discourage these incidences from occurring in the first place.

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**Carting Yarns on Divas Chat**

Following an unkind comment on Diva’s Chat, two high school students decided to fight with each other. It didn’t take long for the matter to spread to other class members as sides were taken over the dispute. Upon being notified by the School Principal, PCYC staff reviewed the recent Divas Chats between the class members and isolated to two individuals at the centre of the issue, gathered their families and held a peaceful mediation session in the court house. Because the matter had been intercepted so quickly, both families were most positive in their communications with each other. Both girls were admonished by their respective families to stop their “bitching” and both the girls and the heads of the families shook hands.
involved in disputes and they regularly request that the children’s social media is included and monitored by the Banbaji program. With the community’s consent, the Banbaji Student Service program has monitored local social media networks and successfully suppressed the incidence of “carting yarns” and cyber-bullying which has been a major blight on community life in the past.

It is of further interest to note that once community assent had been attained to monitor the social networks, the PCYC staff immediately started promoted the service to the youth they were coming into contact with on a daily basis. Even though Banbaji was not logged onto Divas Chat for another month, all disputes involving social media ceased noticeably and dramatically. It would appear that even the threat of a responsible adult presence on Diva Chat was enough to discourage its misuse.

5. **Reinforcement of Positive Traditional Roles**

Through participation in traditional hunting/fishing and camping opportunities in bush locations the imparting of traditional knowledge by trusted Elders is facilitated assisting young men to better understand their role in a modern society. Students having anger and/or conflict issues have responded positively to one-on-one relationships with mentors as it provided an additional avenue of trust which is often lacking in their family, educational and peer relationships.

As identified earlier with the Nundili Cultural Workshop program, providing young indigenous men with opportunities to reengage and identify with their culture is of paramount importance in the avoidance of anti-social behaviours such as fighting and bullying. This aspect of the Banbaji Student Service program is a strategy based around the delivery of traditional Aboriginal culture coupled with the guidance and mentoring of a respected elder figure. Aimed at 'going back in order to move forward' this strategy must remain community based driven by a grass roots understanding of the issues. The diversion from continued involvement in peace-disturbing behaviours can only be achieved by building the individual young man's self belief and confidence through strengthening identity, building self dignity and pride thus eliminating the future need for the individual to be involved in the morass of anti-social behaviours.
**D goes Hunting**

*D is a 13 yo energetic and intelligent boy who is going through a life stage where he is disengaging from school and finding it hard to abide by the rules set down for him by his teacher. With D’s latent capacity to organise and lead others around him and threat of this valuable asset going to waste, Uncle Frank, a PLO attached to the Mornington island PCYC was assigned and readily took up the assignment to take D away on a day of hunting on his traditional lands. Throughout the day, Uncle Frank was able to instruct and remind D of his cultural, traditional and family leadership responsibilities (and caught a ton of mud crabs in the process) D returned home a much happier and settled boy and has fully reengaged in his schooling.*

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**Service Evaluation**

The service is regularly assessed and monitored by a consultation group made up of the School Principal, Junkuri Laka Justice Group Members and the PCYC Branch Manager. The evaluation is based on the following performance indicators:

- Response time
- Number of Requests/Referrals for service
- Frequency of use
- Effectiveness of Service

Reference to three of these performance indicators gives a statistical value that a number of conclusions as to the success (or failings) of the Banbaji Student Service program can be measured. However, the effectiveness of the program as the most important indicator can only be gauged through the medium of community comment and anecdotal evidence.

**Conclusion**

The Banbaji Student Service was in its implementation stage at the time of writing this chapter. As the program is in its initiatory stages, it is expected that precise and more detailed policies and procedures will be formed and adopted as the program continues. In particular, it should be viewed as an Action Learning Model in its first years of operation. However, there is ample anecdotal evidence to show the immediate and positive effect that the service is having upon the students of the Mornington Island State School. Indeed, perhaps the most positive feedback is the continued willingness for the students and community to actively participate in the program and the enthusiastic support from the Junkuri Laka Justice Group, Mornington Island State School and the local police.
In an Education Queensland report titled “Mornington Island Attendance Program - Every day, in every classroom, every student is learning and achieving” [Ruler : 2012] prepared in relation to the vastly improved attendances for the 2012 school year, Mrs Prue Ruler, Deputy Principal, credits the influence of the Banbaji Student Service as being a primary strategy supporting student attendance by providing mediation and problem solving assistance that creates a safe and supportive school environment. This observation confirms the success of an initial program aim of minimising teasing and bullying.

The Banbaji Student Service has a long way to go to solve the serious social problems it seeks to address. However, its initial foray into the peace making and peace keeping realms as a community policing strategy have been met with promising results.
On the Mornington Island Community, it is not uncommon for minor conflicts between students to escalate into major community violence and unrest. This disruption has both long term and short term effects upon the criminal vulnerability of community members.

In the short term, the disruption caused by community [and school] violence increases the likelihood of victimisation of innocent parties and the commencement of the criminal justice procedures against the offenders. In the long term, the prolonged disruption to the children’s education and extended school absences due to hurt feelings and/or unresolved threats, places these children at higher risk of entering into the criminal justice system at a later date in their lives due to prolonged periods of truancy and further, an eventual inability to gain meaningful and productive employment in their adult lives. [Vold & Bernard 1986]

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Measures are needed to be taken to minimise the impact of minor altercations and disputes upon the schooling opportunities of the children of Mornington Island. The introduction of a culturally-sensitive approach in the initial stages of any student dispute will go a long way to minimise any immediate adverse impact or interruption, prevent the potential escalation into community-wide unrest and have the disputing students remain engaged in their education.
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*Image of children and a symbol with text:*
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The word, “Banbaji” means dove in the Lardil language. In local culture as well as western culture, doves are associated with the concept of peace.
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1. The Provision of a Mediation Service to assist disputing parties to assess their options realistically and reach mutually and culturally acceptable solutions in full confidence acting as an independent third party.

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On Mornington Island, it was noted that the youth had a natural and almost irresistible attraction to boxing, however, because it is a small and remote community, it didn't have a boxing club. This meant that the youth/children often participate in 'play fighting' or 'sparring' with no adult supervision or control. Due to any number of reasons, these play fights often erupt into real fights sending ripples of family discontent throughout the community.

With no prospect of attracting a long term boxing coach to such a remote location, careful and considered communication was commenced between the PCYC Branch Manager, Mornington Shire Council, State School and the Elders of the Junkuri Laka Justice Group directed at addressing this activity shortfall in the community. One particular consideration put forward was the introduction of 'bouncy boxing'. Bouncy Boxing is a popular party activity that involves two participants donning headgear and gloves and participating in a boxing tournament under adult supervision. The biggest catch is that both combatants are wearing massively over-sized boxing gloves which have the actual feeling of tying a tontine pillow around each hand. In attack, the gloves have the effect of slowing down and greatly dissipating the force of the intended punch, whilst in defence, the combatant has the advantage of hiding and protecting themselves behind the two massive gloves attached to their hands.

The bouncy boxing sessions were then offered to the school under the Banbaji Student Service Program and the High School Students attended the Mornington Island PCYC in their classes where the sessions were closely supervised and refereed by a PCYC staff member.
The immediate results of the implementation of bouncy boxing were the marked decrease in play-fighting, teasing and bullying. A most unexpected result was the vastly improved class participation and behaviour that occurred for the rest of the day after the sessions. With an increased time allocation from the School as a consequence of such immediate results, the bouncy boxing was combined with team-building and anti-bully activities to further reinforce the objectives and goals of the Banbaji program. These particular activities were closely based upon the 'Team Up' activities recorded in the second appendix of this book.

Bouncy Boxing in Action

Miss Alyss Jose is a dedicated teacher at the Mornington Island State School with a reputation of being innovative and creative in the classroom. On her fourth year of teaching on Mornington Island, she willingly accepted the challenge of reengaging a class of 12 – 13 year boys in the education process.

From the onset, she observed and expressed a concern that her students were frequently threatening and hitting each other which caused major disruptions in the classroom.

“In 2012, I was given the Thuwathu class to teach. This class was made up of 12 to 13 year old boys who had disengaged from their education, mainly due to a learning and/or behavioural issue. They were a tough bunch of boys and were easily distracted. I found that they were particularly susceptible to bullying and teasing behaviours that regularly erupted into threatening or violent confrontation between themselves. I had to teach in very small sessions whilst the students were calm. Hearing about the Banbaji Student Service, I enrolled my class to attend the anger management sessions at the Mornington Island PCYC.

The effect of these sessions was almost immediate. Providing a legitimate outlet for their pent-up frustration and anger, the boys returned to class calmer and quieter and remained so for the rest of the school day. It was amazing to see their newfound ability to sit still and be taught and our class attendance was at an all time high. Our entry into the Banbaji program coincided with our preparation for the NAPLAN testing. After two weeks of sessions, my class was excelling beyond previous expectations which I believe was largely due to the fact that they were calmer, more respectful to me as their teacher and more responsive to the education process.”

4. Monitoring Role of the FaceBook & Divas Chat Networks
As observed in the April 2012 edition of the Land Rights News – Central Australia, improper use of mobile phone technology and social networks is hitting some Aboriginal communities hard. Social networking is causing social chaos in some Indigenous communities and is
being used for ‘sexting’, cyber-bullying and fanning bitter family feuds. With community consent, the program monitors these networks to suppress the incidence of “carting yarns” and cyber-bullying which has been a major blight on community life in the past.

This is achieved by logging onto the Divas Chat and FaceBook networks under the Banbaji name. This is done openly and overtly so that all local persons on those networks are aware that their comments and communications can be seen. The fact that the networks are being monitored is publicly advertised and the Police Liaison Officer performing the monitoring role was amazed at the number of requests that were so readily offered to the Banbaji network sites. A large number of young people stated that they were glad of the Banbaji presence on the networks as they had been the victims of bullying and undesirable comments in the past and they could see that this measure would offer them protection from these unsavoury practices.

As an immediate result, it was noted by police and the community that there was a marked reduction in the disputes that were emanating from the Divas Chat and FaceBook networks. It would appear that the mere presence or perception that there was a presence on the networks able to monitor the origins of bullying and incivility discouraged those individuals from their previous communication habits and routines.

In order of this process to remain transparent and to the highest ethical standard, the work of the Police Liaison Officer is supervised by a Sergeant. This is achieved by setting up the FaceBook and Divas Chat account so that any communication from the monitoring officer is replicated in the secure email account of the Sergeant. The Sergeant then reports to the Junkuri Laka Justice Group and enters details onto their database so that organisation can play an overviewing role in relation to the program.

This monitoring role has been welcomed by the parents of our youth and children.

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**Playground Duty Analogy**

When explaining the intended role of the Banbaji program to concerned parents and community members. The analogy of a teacher performing lunchtime playground duty is often employed. The Teacher stands on the playground and does not participate in the games or conversations of the school children. However, if an argument or fight breaks out or the game becomes too rough and dangerous, the teacher is able to step in and remedy the situation. But, for the most part, the mere presence of the Teacher is enough to discourage these incidences from occurring in the first place.

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**Carting Yarns on Divas Chat”**

Following an unkind comment on Diva’s Chat, two high school students decided to fight with each other. It didn’t take long for the matter to spread to other class members as sides were taken over the dispute. Upon being notified by the School Principal, PCYC staff reviewed the recent Divas Chats between the class members and isolated to two individuals at the centre of the issue, gathered their families and held a peaceful mediation session in the court house. Because the matter had been intercepted so quickly, both families were most positive in their communications with each other. Both girls were admonished by their respective families to stop their “bitching” and both the girls and the heads of the families shook hands.
involved in disputes and they regularly request that the children’s social media is included and monitored by the Banbaji program. With the community’s consent, the Banbaji Student Service program has monitored local social media networks and successfully suppressed the incidence of “carting yarns” and cyber-bullying which has been a major blight on community life in the past.

It is of further interest to note that once community assent had been attained to monitor the social networks, the PCYC staff immediately started promoted the service to the youth they were coming into contact with on a daily basis. Even though Banbaji was not logged onto Divas Chat for another month, all disputes involving social media ceased noticeably and dramatically. It would appear that even the threat of a responsible adult presence on Diva Chat was enough to discourage its misuse.

5. Reinforcement of Positive Traditional Roles
Through participation in traditional hunting/fishing and camping opportunities in bush locations the imparting of traditional knowledge by trusted Elders is facilitated assisting young men to better understand their role in a modern society. Students having anger and/or conflict issues have responded positively to one-on-one relationships with mentors as it provided an additional avenue of trust which is often lacking in their family, educational and peer relationships.

As identified earlier with the Nundili Cultural Workshop program, providing young indigenous men with opportunities to reengage and identify with their culture is of paramount importance in the avoidance of anti-social behaviours such as fighting and bullying. This aspect of the Banbaji Student Service program is a strategy based around the delivery of traditional Aboriginal culture coupled with the guidance and mentoring of a respected elder figure. Aimed at 'going back in order to move forward' this strategy must remain community based driven by a grass roots understanding of the issues. The diversion from continued involvement in peace-disturbing behaviours can only be achieved by building the individual young man’s self belief and confidence through strengthening identity, building self dignity and pride thus eliminating the future need for the individual to be involved in the morass of anti-social behaviours.
D goes Hunting
D is a 13 yo energetic and intelligent boy who is going through a life stage where he is disengaging from school and finding it hard to abide by the rules set down for him by his teacher. With D’s latent capacity to organise and lead others around him and threat of this valuable asset going to waste, Uncle Frank, a PLO attached to the Mornington island PCYC was assigned and readily took up the assignment to take D away on a day of hunting on his traditional lands. Throughout the day, Uncle Frank was able to instruct and remind D of his cultural, traditional and family leadership responsibilities (and caught a ton of mud crabs in the process) D returned home a much happier and settled boy and has fully reengaged in his schooling

Service Evaluation
The service is regularly assessed and monitored by a consultation group made up of the School Principal, Junkuri Laka Justice Group Members and the PCYC Branch Manager. The evaluation is based on the following performance indicators:

- Response time
- Number of Requests/Referrals for service
- Frequency of use
- Effectiveness of Service

Reference to three of these performance indicators gives a statistical value that a number of conclusions as to the success (or failings) of the Banbaji Student Service program can be measured. However, the effectiveness of the program as the most important indicator can only be gauged through the medium of community comment and anecdotal evidence.

Conclusion
The Banbaji Student Service was in its implementation stage at the time of writing this chapter. As the program is in its initiatory stages, it is expected that precise and more detailed policies and procedures will be formed and adopted as the program continues. In particular, it should be viewed as an Action Learning Model in its first years of operation. However, there is amble anecdotal evidence to show the immediate and positive effect that the service is having upon the students of the Mornington Island State School. Indeed, perhaps the most positive feedback is the continued willingness for the students and community to actively participate in the program and the enthusiastic support from the Junkuri Laka Justice Group, Mornington Island State School and the local police.
In an Education Queensland report titled “Mornington Island Attendance Program - Every day, in every classroom, every student is learning and achieving” [Ruler : 2012] prepared in relation to the vastly improved attendances for the 2012 school year, Mrs Prue Ruler, Deputy Principal, credits the influence of the Banbaji Student Service as being a primary strategy supporting student attendance by providing mediation and problem solving assistance that creates a safe and supportive school environment. This observation confirms the success of an initial program aim of minimising teasing and bullying.

The Banbaji Student Service has a long way to go to solve the serious social problems it seeks to address. However, its initial foray into the peace making and peace keeping realms as a community policing strategy have been met with promising results.
**Appendix 9 - Approximate costs of four phases of the MIRJ Project**

<table>
<thead>
<tr>
<th>Phase</th>
<th>Details</th>
<th>Dates</th>
<th>Costs</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Consultation</strong></td>
<td>Meetings with stakeholders</td>
<td>Jul 2008 – Jan 2009*</td>
<td>$115,339</td>
<td></td>
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<tr>
<td></td>
<td>Feedback to stakeholders</td>
<td>May – Jun 2009</td>
<td>$32,635</td>
<td></td>
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<tr>
<td><strong>Development</strong></td>
<td>Of mediation model</td>
<td>Jul – Sep 2009</td>
<td>$32,377</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Less 25% adjusted**</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total Establishment Phases</strong></td>
<td></td>
<td><strong>$180,351</strong></td>
<td></td>
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<tr>
<td><strong>Implementation A</strong></td>
<td>MIRJ Project staff*** working with Elders</td>
<td>Oct 2009 – Sep 2011</td>
<td>$568,161</td>
<td></td>
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<tr>
<td></td>
<td>Less 25% adjusted**</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Implementation B</strong></td>
<td>Junkuri Laka working with Elders</td>
<td>Oct 2011 - 27</td>
<td>$90,006</td>
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<tr>
<td>and Transition</td>
<td></td>
<td>Jun 2012</td>
<td>$125,252</td>
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<tr>
<td></td>
<td><strong>Total Implementation and Transition Phases</strong></td>
<td></td>
<td><strong>$783,419</strong></td>
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<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>$963,770</strong></td>
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</tbody>
</table>

**Explanatory notes**

Source: Departmental SAP system for the given periods.

Figures include AGD and DJAG funding and comprise of employee costs and the cost of supplies and services.

* The project manager was unavailable for medical reasons in the period from February to April 2009.

** A deduction of 25% was made from the total costs to reflect work undertaken outside the MIRJ project’s role. This work undertaken filled the gap created by Junkuri Laka not having a coordinator. Tasks included referring people to other agencies, providing support to negotiate with other agencies, assisting people with SPER matters, providing brief counselling assistance with court attendance and access to legal representation and communications with police.

*** In the early implementation period costs increased when the project gained a temporary position of Mediation Coordinator from September 2009 to June 2011. Once established in the community the project is to operate with one Coordinator in partnership with a pool of family appointed mediators / Elders.
Appendix 10 - Estimated annual cost of a peacemaking service: funding on a fee for service basis additional to Community Justice Group recurrent funding

Fees negotiated in the 1st Service Delivery Agreement – Feb 2012

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Rate</th>
<th>Hours</th>
<th>Mediators</th>
<th>Mediations</th>
<th>Months</th>
<th>Total</th>
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<tr>
<td>Files that proceeded to mediation</td>
<td>75 per year</td>
<td>Mediator Pays</td>
<td>$40.00</td>
<td>5.5</td>
<td>3</td>
<td>75</td>
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<td>Admin Support</td>
<td>50 per year</td>
<td>Admin Support</td>
<td>$35.00</td>
<td>4.5</td>
<td>75</td>
<td></td>
<td>$11,812.50</td>
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<td>Monthly rates</td>
<td>16 hrs per month</td>
<td>Fixed admin fee</td>
<td>$35.00</td>
<td>3</td>
<td>50</td>
<td></td>
<td>$6,720.00</td>
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<td>Additional costs</td>
<td>$50 per month</td>
<td>Telephone, fax, printing</td>
<td>$50.00</td>
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<td>$250 per month</td>
<td>$250.00</td>
<td>Fuel &amp; vehicle maintenance</td>
<td>$250.00</td>
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<td>$3,000.00</td>
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<td>Superannuation</td>
<td>As needed per ATO</td>
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<td><strong>Total</strong></td>
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<td><strong>$78,382.50</strong></td>
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<td><strong>GST</strong></td>
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<td><strong>$7,838.25</strong></td>
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<tr>
<td><strong>Other fees as agreed</strong></td>
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<td><strong>$86,220.75</strong></td>
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<tr>
<td>Meeting fees</td>
<td>2 per year / 2 hours</td>
<td>Mediator Pays</td>
<td>$40.00</td>
<td>4</td>
<td>10</td>
<td></td>
<td>$1,600.00</td>
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<tr>
<td>Training sessions</td>
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<td>Mediator Pays</td>
<td>$40.00</td>
<td>8</td>
<td>10</td>
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<td>$3,200.00</td>
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<tr>
<td>Bi-annual review</td>
<td>2 per year / 2 hours</td>
<td>Mediator Pays</td>
<td>$40.00</td>
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<td>10</td>
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<td>$1,600.00</td>
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<tr>
<td><strong>Total</strong></td>
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<td><strong>$7,040.00</strong></td>
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<tr>
<td><strong>GST</strong></td>
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<td><strong>$640.00</strong></td>
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<tr>
<td><strong>Predicted total for 12 months</strong></td>
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<td><strong>$93,260.75</strong></td>
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<td><strong>GST</strong></td>
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<td><strong>$8,478.25</strong></td>
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</table>

Possible average per month $7,771.73

Note: In the 2nd SDA for 2012-13, the reimbursement of overheads was increased to half of actual audited expenses in acknowledgement of actual workload for Junkuri Laka. The predicted total for a year has therefore increased to approximately $115,000.