

Interim Evaluation Report

Mornington Island Restorative Justice (MIRJ) Project

Mark Browning 2010



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Phil Venables
MIRJ Project Manager

Mark Browning
Evaluator

Produced for:

Social Inclusion Division, Commonwealth Attorney-General's Department

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Junkuri Laka Justice Association Inc., Mornington Island

Moyenda (Council of Elders), Mornington Island

Mornington Island Shire Council

Author:

Mark Browning, Department of Justice and Attorney-General, Queensland Government,
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Acronyms

ADR	Alternative dispute resolution
ATODS	Alcohol, Tobacco and Other Drug Services (Queensland Health)
CJG	Community Justice Group
DRB	Dispute Resolution Branch (Queensland Department of Justice and Attorney-General)
DJAG	Queensland Department of Justice and Attorney-General
MIRJ	Mornington Island Restorative Justice Project
NGOs	Non government organisations
NILJF	National Indigenous Law and Justice Framework 2009-2015
QPS	Queensland Police Service

Glossary

Peacemaking	<p>Term used on Mornington Island to refer to mediation processes including mediation meetings. It is also used to refer to other informal conflict resolution processes.</p> <p>Other words for Peacemaking: Mediation, conflict resolution, dispute resolution, square-up or sorting out a fight.</p>
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Summary and findings

Purpose of this report

This report documents an interim evaluation of the Mornington Island Restorative Justice Pilot Project (MIRJ). The evaluation was designed to:

- Seek feedback from the Mornington Island community about the project;
- Make an interim¹ assessment of the service; and
- Determine the capacity of the community to operate a viable restorative justice service.

Background – what is MIRJ?

The Mornington Island Restorative Justice Project is a pilot project to develop and deliver restorative justice mediation on Mornington Island. Established in 2008, it is managed by the Dispute Resolution Branch (DRB) within the Queensland Department of Justice and Attorney-General (DJAG), and is jointly funded by the Commonwealth Attorney-General's Department and DJAG.

Mornington Island is a remote Indigenous community located in the lower Gulf of Carpentaria with a population of approximately 1,100 people. MIRJ aims to provide a dispute resolution service that is respectful of and consistent with Indigenous culture while conforming to the requirements of the Queensland justice system.

The progress towards achieving the objectives of MIRJ is a key focus of the evaluation. The stated objectives of MIRJ are to:

- Enhance the capacity of the community to deal with and manage its own disputes without violence by providing training, support, supervision and remuneration for mediators;
- Reduce Indigenous peoples' 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; and
- Increase satisfaction with the justice system for victims, offenders, their families, and the broader community.

Evaluation approach

The evaluation utilised a combination of: observation of practice, qualitative interviews (using semi structured questionnaires), quantitative analysis, reviews of Alternative Dispute Resolution related literature and reviews of MIRJ project documentation. The people interviewed were:

- Participants of a dispute resolution meeting – i.e. the main parties to a dispute;
- Elders, Community Justice Group members and other community members;
- Staff from government agencies with a professional interest in MIRJ services and its outcomes for example, the Queensland Police Service (QPS); and
- Mornington Island MIRJ staff.

¹ A further evaluation is planned when the project reaches a more mature stage.

Fifteen face-to-face interviews were conducted on Mornington Island from 14 September 2010 to 22 September 2010. One interview involving a Mornington Island MIRJ staff member was conducted by telephone.

The findings rely on a small survey size. However, it is important to note that the community people interviewed are respected senior members of the community, or were participants in a MIRJ event in some way. Their views and comments carry weight in the community.

MIRJ project documentation was used to aid in selecting interviewees for the evaluation as well as providing useful case study material. According to the documentation, three mediation events took place in November 2008 during the project consultation and design period. The project officially began mediation services in October 2009. Since then there have been 21 MIRJ mediations conducted (as at July 2010).

Findings

Significant progress in meeting objectives

The evaluation found that MIRJ, as a pilot project and in its current form of service delivery, has made significant progress in meeting its objectives. This progress is underpinned by providing a high level of support by using multi-skilled dispute resolution staff, and importantly, the strong partnership with Elders and respected members of the community.

Strong support for MIRJ

There is strong support for MIRJ from community members and officers representing justice agencies and the Magistracy.

Benefit/cost analysis

The evaluation found the project offers a positive return on investment.

Financial records show that expenditure for the MIRJ project began in May 2008. Total costs to June 2010 were \$582,000. The mediation service did not begin until October 2009. From May 2008 to September 2009, costs for the project related to:

A significant consultation and participatory design phase;
Project management related functions; and
Supporting other justice services².

The ancillary costs, i.e., costs for project management related functions and supporting other justice services continue after September 2009.

For the purposes of the benefit/cost analysis, the expenditure from October 2009 to June 2010 was used. Ancillary costs were excluded to arrive at a “true cost” of mediation services. The calculated cost of the service in its current form is \$26,900 per month.

² Due to their presence on the Island, MIRJ staff, who are Queensland Department Justice and Attorney-General staff, provide advice and assistance to community members on justice administration issues, for example, helping people access information about their court status, obtaining birth certificates etc.

The benefit/cost analysis uses alternative and plausible pathways to value the benefit of a successful mediation event. A plausible pathway described in this evaluation shows benefits totalling \$39,650 for one mediation event, i.e., the benefits from one successful mediation, exceed the cost of providing MIRJ services for one month.

However, the evaluation found that MIRJ is operating at a level below capacity³. It is concluded that there is a latent demand for the existing service capacity of MIRJ. There is an opportunity to source additional referrals to mediation from the Mornington Island Magistrates Court, NGOs and other Government agencies.

From a qualitative perspective, the evaluation found that MIRJ has a high degree of strategic alignment with national and state law and justice policy.

Program design, implementation and operation

The MIRJ policy and procedures in the form of the “8 steps to mediation” which includes the Elders’ Rules, and better practice guidelines for Indigenous ADR, was used as context for assessing the program design, implementation and operation.

It is concluded that MIRJ is a service culturally appropriate for its time. The project has been delivered according to the idea that MIRJ is a mix of “black fella” and “white fella” ways. Development and use of Elders’ Rules, knowledge of Elders’ Rules, support for the Rules and the involvement of Elders and respected members of the community in co-mediation support this conclusion.

The evaluation also found that Mornington Island MIRJ staff have an appropriate skill mix, cultural knowledge and experience to deliver MIRJ services, and to support and supervise local mediators.

Reducing conflict and disputes

The qualitative survey questions reveal there is a strongly held perception that the peacemaking process has reduced family conflict and prevented the escalation of violence. A review of publicly available hospital admissions data for assault-related admissions and police data for crimes against the person was conducted to test this perception. No conclusions could be drawn with the small numbers presented in these data sets.

Responses also indicated that there is a perception of improved support by families in resolving disputes.

Reducing contact with the formal criminal justice system

Elders and community members hold the view that MIRJ was helping to stop people going to prison and getting into trouble with the police. The perception that MIRJ assists in diversion from the justice system is supported by the documented mediation cases. MIRJ records show there is incidence of diversion from punitive forms of justice. This is manifested in police taking no (further) action, charges being dropped by the police prosecutor and reduced sentences being handed down.

However, diversion could be potentially greater. Referral to mediation from court represented six of a total 24 documented mediations. This is a low number given the throughput of the courts. A question arises as to the effectiveness of the MIRJ liaison

³ Assumptions indicate MIRJ is operating at less than 20% of capacity.

processes with the Magistrates and court partners (the QPS prosecutor and defence solicitors). While there may be a number of factors for this low result, it should be noted that correspondence received by the evaluator from two magistrates with knowledge of MIRJ indicate a high level of support. Also note, that for the six court referred mediations, QPS dropped charges in five of these as a result of successful MIRJ processes.

It could be argued that the current workload in a day long sitting of the Mornington Island Magistrates Court⁴ is not conducive to maximising the opportunities to consider referral of cases to mediation as an alternative to the formal justice process.

Community ownership of the program

MIRJ as a peacemaking process is seen as very important to the community supported by the perception of there being reduced community violence and incidence of diversion from more formal justice processes.

More tangible evidence of community awareness comes from the MIRJ documentation related to 24 mediation events. Eight matters were referred to mediation by community members or Elders. It can be concluded that a level of awareness of the Elders' Rules, and the practice of community referral implies an awareness of MIRJ as a distinct service to the community.

However, there is a view that younger people are not receptive to Elders "pulling them up". This presents an issue for the use of MIRJ services more widely in the community.

Responsiveness of and satisfaction with the justice system

The recognition by respondents of timely and appropriate service delivery, diversions from more punitive justice and the perceived reduction in conflict in the community, support the proposition that MIRJ has improved the responsiveness of and satisfaction with the justice system.

Potential barriers to the community operating MIRJ

Potential barriers to the community (other than a government organisation) operating a peacemaking service were considered in this evaluation.

Possible conflict of interest and impartiality issues stemming from kinship ties were recognised as the significant barriers.

Lack of local capacity was also identified. In talking about young people *stepping up* to take on some mediation roles, Cyril Moon, (Elder) observed "they [young people] come one day, then not – didn't want to do it".

Additional involvement of Elder ladies as co-mediators was also recognised as a need.

Opinions on ways to overcome barriers were sought. One Elder didn't seem to consider the question – he indicated that without support (from external dispute resolution services), it will return to the "old way". Another suggested that MIRJ staff and Elders had to be very clear role models for the next generation of leaders – indicating it will take years.

Building local capacity (including capacity of younger people) is a valid strategy. Further training of the right people is critical and the question of how long it would take to build local

⁴ Subsequent to the evaluation being conducted, DJAG increased the number of court sitting days.

capacity remains unclear. It is evident that the current level of external support will be required to be maintained during a capacity building period, after which, it is likely that a reduced level of external support will be required. Supporting this was the view that because MIRJ is a mixing of the laws, people representing both laws are needed if the service is to continue.

Regardless, the issue of conflict of interest from kinship ties will still remain. In these cases, an experienced outside person may be able to act as a “consulting” facilitator.

Conclusion

The evaluation found that MIRJ has made significant progress in meeting its objectives. This progress is underpinned by providing a high level of support by using multi-skilled dispute resolution staff, and importantly, the strong partnership with Elders and respected members of the community.

MIRJ is a culturally appropriate service for its time and it has a high degree of strategic alignment with national and state law and justice policy. There is strong support for MIRJ from community members and officers representing justice agencies and the Magistracy.

The estimated cost of the service in its current form is \$26,900 per month. The project offers a positive return on investment that can be improved as there is spare capacity to undertake additional mediations. There is an opportunity to source additional referrals to mediation from the Mornington Island Magistrates Court, NGOs and other Government agencies.

There is a strongly held perception that the peacemaking process has reduced family conflict and prevented the escalation of violence. MIRJ documentation show there is incidence of diversion from punitive forms of justice; however, diversion could be potentially greater, yielding further social and economic benefit.

MIRJ staff have an appropriate skill mix, cultural knowledge and experience to deliver MIRJ services, and to support and supervise local mediators, but there is and will be a heavy reliance on these (or similarly qualified) staff for continuing the service at this stage.

Barriers to the community operating MIRJ at this time include:

- Possible conflict of interest and 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.

Building local capacity is a valid strategy, but this will require careful recruitment and extensive training. It is evident that the current level of external support will be required to be maintained during a capacity building period, after which, it is likely that a reduced level of external support will be required.

Recommendations

This interim evaluation has identified a number of challenges for MIRJ if it is to transition from a pilot project to a permanent service. The following recommendations are proposed with the view of positioning MIRJ as a sustainable long term service. The recommendations are in no particular order of priority and are presented according to the sequence found in the report.

For context, the challenges, in summary are:

- General lack of local capacity to offer human resources with the expertise provided by the current MIRJ (DRB) staff;
- The use of local co-mediators in a small community such as Mornington Island gives rise to a risk of kinship based conflict of interest leading to perceived and real blockages in delivering independent and impartial mediations;
- Perceived under-representation of respected Elder ladies in the MIRJ peacemaking role;
- The view that younger people are not receptive to Elders “pulling them up” with the consequence that younger people may not fully participate in MIRJ processes;
- The view that younger people are reluctant to “step up” and take on mediation roles;
- The benefit/cost analysis showing that MIRJ is operating at a level below capacity;
- The conclusion that there is a latent demand for the MIRJ service;
- The need to source additional referrals to mediation in order to increase the social and economic benefits of the MIRJ service;
- Apparent low level of referrals to MIRJ from the court; and
- The workload of the Mornington Island Magistrates Court⁵ appearing to be not conducive to maximising the opportunities for referral of cases to mediation.

Recommendation 1

The risk of kinship based conflict of interest can be mitigated by having a larger pool of co-mediators from which to call on. The project needs to consider increasing the involvement of respected ladies as co-mediators, and increasing the number of suitable mediators more generally to improve the likelihood of independent and impartial mediations. (see p. 9)

Recommendation 2

MIRJ staff should conduct further training in peacemaking mediation for members of the community. This should be done as soon as practical and should be targeted particularly at possible future MIRJ employees, to further assess the capability of local people to conduct mediations. (see p. 16)

⁵ Subsequent to the evaluation being conducted, DJAG increased the number of court sitting days.

Recommendation 3

MIRJ staff and community mediators need to consider ways to improve engagement and participation of younger community members. A school based conflict management and mediation program could be considered as well as seeking out, training and employing younger leaders in the mediation process. (see p. 17)

Recommendation 4

MIRJ staff and community mediators should consider expanding follow up conflict management coaching, both at a one-on-one level and also in more formal group sessions. (see p. 18)

Recommendation 5

Consideration needs to be given to increasing the frequency of the Mornington Island court sittings as the current workload is not conducive to maximising the opportunities to consider referral of cases to mediation.⁶ (see p. 23)

Recommendation 6

Consideration needs to be given to establishing as a formal process, a pre-court conference between Elders, MIRJ staff and the Magistrate to review/discuss possible matters for referral to mediation. (see p.23)

Recommendation 7

There is capacity to undertake a larger number of mediations and conflict resolution counselling. MIRJ should consider marketing its services to NGOs and other government agencies to source increased referrals. (see p.33)

⁶ Subsequent to the evaluation being conducted, DJAG increased the number of court sitting days.

1 Introduction

The Mornington Island Restorative Justice Project

The Mornington Island Restorative Justice Project (MIRJ) is a pilot project to develop and deliver restorative justice mediation on Mornington Island. This includes court referred victim/offender mediations for the purpose of diversion from the criminal justice system.

MIRJ was established in 2008. Initially funded by the Commonwealth Attorney-General's Department under the Indigenous Justice Program, as part of the National Petrol Sniffing Strategy, it is managed by the Dispute Resolution Branch (DRB) within the Queensland Department of Justice and Attorney-General (DJAG). Since July 2009 the Commonwealth and DJAG have jointly funded the project. The objectives of the MIRJ pilot project are to:

- enhance the capacity of the community to deal with and manage its own disputes without violence by providing training, support, supervision and remuneration for mediators;
- reduce Indigenous peoples' 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; and
- increase satisfaction with the justice system for victims, offenders, their families, and the broader community.

The Mornington Island Community

Mornington Island is a remote Indigenous community located in the lower Gulf of Carpentaria with a population of approximately 1,100 people (at 30 June 2009). The community is made up of four main Aboriginal groups:

- Lardil (the original people of Mornington Island, who formerly occupied the North Wellesley Islands);
- Yungkal (people who came from the islands between Mornington and the mainland);
- Kaiadilt (people from the South Wellesley Islands); and
- Gangalidda (people removed from the nearby mainland to Mornington Island).

The majority of the people live in the township of Gununa which was established in 1914 by Presbyterian missionaries.

Mornington Island itself comprises four major land owning groups:

- Barlumbenda (West);
- Jirrurumbenda (Leeward-North);
- Lilumbenda (East); and
- Larlumbenda (Windward-South).

The town proper is a mix of peoples from off the island as well as different groups from the island. Mornington Island is referred to as a "Dry Community". No alcohol, home brew or home brew equipment is allowed on Mornington Island. (Sources: OESR, 2010; Venables, 2010a)

The challenge for MIRJ is the operation of a dispute resolution service that is respectful of and consistent with Indigenous culture while conforming to the requirements of the Queensland justice system.

Purpose of this evaluation

To properly consider the establishment of MIRJ as a permanent service, an evaluation was proposed to assess the benefits and costs of the project. This evaluation was commissioned to establish the level of community support for MIRJ and also provide material for assessing the possible expansion of alternative dispute resolution services to other Aboriginal and Torres Strait Islander communities.

Due to the project being in an early stage of delivery, this evaluation was not intended to be a full and robust evaluation. Rather, it was intended to be an interim⁷ evaluation.

The evaluation was designed to:

- Seek feedback from the Mornington Island community about the project;
- Make an interim assessment of the service; and
- Determine the capacity of the community to operate a viable restorative justice service.

2 Literature concerning Indigenous ADR

The public literature documenting practice and research related to alternative dispute resolution for Indigenous people is limited. Most of the literature concerns negotiation and practice related to native title issues. Two publications relating more specifically to alternative dispute resolution and conflict management are of most interest to this evaluation. They are:

Federal Court of Australia 2009, *Solid Work You Mob Are Doing: Case Studies in Indigenous Dispute Resolution & Conflict Management in Australia*, Federal Court of Australia, Melbourne.

National Alternative Dispute Resolution Advisory Council (NADRAC) 2006, *Indigenous Dispute Resolution and Conflict Management*, NADRAC, Barton.

The “lessons and practice issues” and “principles” related to Indigenous dispute resolution and conflict management included in these publications informed the development of the research questions used in this evaluation.

3 Evaluation approach

3.1 Comments on method and findings

There is a range of information presented in this report. Some research questions did not elicit the level of response as planned, and consideration was given to excluding some of the weaker material in order to make the report more concise. However, a decision to include the material was made so that the person or persons conducting the next review of the MIRJ pilot will have background from which to improve the evaluation method.

The words “black fella” and “white fella” are used within this report. Of course it is not intended to offend anyone with the use of these words. They are used in the context

⁷ A further evaluation is planned when the project reaches a more mature stage.

provided, and to faithfully reflect the information conveyed in open and honest conversation with the people who kindly consented to be interviewed.

This report refers to participants and community members interchangeably depending on the research question. This is done to maintain anonymity where necessary.

3.2 Research questions

The evaluation attempted to address both process and outcome aspects of the project. The main areas of enquiry were:

- Has the project been implemented as planned?
- Is the project achieving its objectives? If not, what progress has been made?
- What is the capacity of the community and community organisations to operate a viable peacemaking service?

Project specific research questions were developed to consider these areas of enquiry, progress in meeting the defined objectives of the project and assessing benefits to date. The project specific research questions included:

- Has the project been delivered according to the design?
 - Is it a culturally appropriate model of managing conflict and restoring relationships?
 - Have there been any unforeseen problems? If so, how were they addressed? What are the impacts?
 - Were there any changes made to the project during implementation? If so, why and what are the impacts?
 - Have policy and procedures been prepared for the project?
 - To what extent do current practices reflect the documented policy and procedures?
 - Have the Elders' Rules been followed?
 - Have Commonwealth standards for accessibility and cultural relevance been achieved?
- Has the capacity of the community to deal with and manage its own disputes without violence been enhanced?
 - What training was provided?
 - What is the level of support and supervision?
 - Does the remuneration for mediators promote proper engagement and effort?
 - What is the level of family involvement in managing disputes?
 - Do individuals feel they can manage conflict better?
- To what extent has the project reduced Indigenous people's contact with the formal criminal justice system?
 -
 - Is there evidence of reduced family conflict?
 - Is there evidence of preventing escalating violence?
 - Is there evidence of diversion from punitive forms of justice?

- How important is MIRJ to the community?
 - What is the level of awareness?
 - Do people know who to contact to arrange a mediation/get advice?
 - What is the level of referral by community members to the project?
 - Where issues are resolved, is it a lasting resolution?
 - Are participants satisfied with the process and outcome?
 - What barriers exist to the community (rather than a government organisation) operating a peacemaking service? If they exist, how can these barriers be overcome?
- How has the project improved the justice system's responsiveness to the needs of the community?
 -
 - Have individual/groups gained a higher degree of control over resolving their disputes?
 - What is the level of referral by the courts, police, community services and other organisations to the project?
 - Is assistance timely and appropriate?
 - Has the project changed the way people feel or think about the justice system?
 - Are agencies and stakeholders collaborating in different ways to meet the needs of the community?

Appendix A shows the evaluation design approach to obtaining data for answering these questions.

The research questions are best answered at a time when the project has reached a more advanced state. This interim evaluation has not been able to address all of these questions (see findings in section 5).

3.3 Methodology

The evaluation was conducted cognisant of:

- *Guidelines for Ethical Research in Indigenous Studies*, published by the Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra
- *National Statement on Ethical Conduct in Human Research 2007*, Australian Government, Canberra.

Data collected under this evaluation of a personal nature is protected according to Queensland State Government privacy laws. Data related to cases and individuals within the jurisdiction of the State's dispute resolution process is protected by the legislation and policies governing the Dispute Resolution Branch in Queensland. The evaluator (an officer of the Queensland Department of Justice and Attorney-General) has taken an oath of compliance with legislation and policies governing the Dispute Resolution Branch in Queensland.

The evaluation utilised a combination of: observation of practice, qualitative interviews (using semi structured questionnaires), quantitative analysis, reviews of ADR related literature and reviews of MIRJ project documentation. Quantitative data has been sourced from:

- simple Likert type⁸ questions asked in the questionnaires and
- published data.

The evaluator had the opportunity to observe the day-to-day work activities and community interaction activities of a MIRJ staff member over a period of 8 days (14 September 2010 to 22 September 2010). Also, the evaluator observed Magistrates Court proceedings during the morning and afternoon sessions of the Mornington Island Court on 21 September 2010. The period observed totalled approximately three hours.

The evaluation approach used four semi-structured survey questionnaires to guide the interviews. Four questionnaires were used to seek information from four categories of respondents.

The categories of respondents were:

- Participants of a dispute resolution meeting – i.e. the main parties to a dispute;
- Elders, Community Justice Group members and other community members;
- Staff from government agencies with a professional interest in MIRJ services and its outcomes for example, the Queensland Police Service; and
- Mornington Island MIRJ staff.

The four questionnaires contained many similar questions and opportunities for respondents to put forward issues of importance (see Appendix B for sample of questionnaire).

The interviews themselves varied in structure, from being fluid to reasonably well structured. Responses sometimes covered a number of questions, and sometimes the question was not relevant due to the circumstance.

In all but one, the interviews delivered a reasonable basis to make observations about many of the questions asked. Parts of the questionnaire used a Likert type scale augmented by opportunities to comment. Others elicited a more free style response.

The weaknesses to the evaluation approach are the small number of interviewees and the possibility of acquiescent response.

The possibility of acquiescent response was mitigated by not having a MIRJ staff member present at the interviews. The subject of mediation involving community and inter-family disputes is a highly sensitive issue. It is the perception of the evaluator that the thoughtful responses provided, with at times deep feeling, indicated an absence of acquiescence.

Fifteen face-to-face interviews were conducted on Mornington Island over a period from 14 September 2010 to 22 September 2010.

Interviews were conducted at the interviewee's home (7), the office for MIRJ (5), other government offices (2), and on one occasion at the interviewee's place of work. One interview involving a Mornington Island MIRJ staff member was conducted by telephone.

⁸ "Likert type" because the method used could not be regarded as a robust Likert approach. The intention was to elicit a sense of level, degree, importance, without confounding the issues with a more technical approach.

Sixteen interviews were conducted in total and these were in such a way that only the evaluator and the respondent were privy to the conversation. The shortest interview was 20 minutes and the longest was 115 minutes. The average interview time was 43 minutes.

In the evaluation planning stage, it was intended to use a cultural adviser to facilitate introduction to potential Indigenous interviewees and to assist in administering the questionnaire and interview. However, with the exception of one interview, the presence of a cultural adviser was not required.

With the exception of the interviews with the MIRJ staff⁹, consent forms were completed for every interview. The forms included information about the evaluation and its purpose. There was an information and consent form for participants in a mediation, and a variation of that form for interviewees who were not direct participants in mediation.

Consent forms included a clear election to remain anonymous or to be quoted according to role in the community. (For example, Appendix C shows the information and consent form used for participants in a mediation.) Ten people elected to remain anonymous.

The evaluation plan proposed a case study approach. This was to be subject to confidentiality issues and anonymous reporting. The information and consent forms included an election by interviewees to have information presented in a case study format. However, it transpired that it was not possible to obtain consent for a case study approach. As an alternative, some case information is presented where confidentiality is maintained and a hypothetical pathway approach is used in the benefit/cost analysis.

4 Context for the qualitative and quantitative evaluation process

4.1 Qualitative data

From a sample population perspective, the evaluation was constrained by the need to maintain confidentiality and by the relatively small number of mediations conducted.

A primary source of information on MIRJ mediation events is a word document that summaries the events, including date of mediation, participant details, and a précis of the dispute and resolution.

This MIRJ document was used to aid in selecting interviewees for the evaluation as well as providing useful case study material.

The document covered mediations conducted late in the consultation and design phase – November 2008, and the period from the official commencement in October 2009, to the most recent entry in July 2010. Note that these are the mediations recorded by MIRJ staff. It is possible that other mediations took place that did not involve MIRJ staff or did not come to the attention of MIRJ staff. With the exception of two events, all mediations were attended by MIRJ staff.

Three mediation events took place in November 2008. Twenty mediation events took place from October 2009 to June 2010, two of which were conducted by community members

⁹ Verbal consent was obtained.

without MIRJ staff being present. One mediation event was recorded for July 2010. This makes a total of 24 recorded mediations.

As mentioned previously, sixteen interviews were conducted in total. One interview record was discarded due to a lack of content. Of the remaining fifteen, two interviewees worked for state government agencies, one being the Acting Officer in Charge of the Mornington Island Police Station, and the other elected to remain anonymous. Neither of these government employees had direct roles in or experience with the mediations documented by the MIRJ staff.

All but one of the remaining 13 interviewees had some involvement with the documented mediations. Their respective involvement was coded according to the following type:

- Participant in a mediation (i.e., the party in a dispute);
- Elder/co-mediator; or
- Co-ordinator/mediator.

It should be noted that other people may be involved in mediation in a less direct role such as an observer or support person. Given the dynamics of some mediation processes, it is possible for a person to have a number of roles, that is, to swap between roles.

In the following table, for the purpose of counting involvement, a person is counted once for each main role shown for each mediation event.

The table shows data for the type of main role and frequency of main role for only those interviewees identified as having some involvement with the documented mediations. Although some interviewees elected to have comments attributed to them in this report, this table is presented using anonymous data.

Table 1:
Roles and frequency of roles in 24 mediations conducted in November 2008 and from October 2009 to July 2010

	Frequency of role played in mediation			Total
	Participant	Elder/Co-mediator	Co-ordinator/Mediator	
Interviewee 1	2	5	0	7
Interviewee 2	1	1	0	2
Interviewee 3	0	2	0	2
Interviewee 4	0	4	0	4
Interviewee 5	0	1	0	1
Interviewee 6	0	3	0	3
Interviewee 7	1	1	0	2
Interviewee 8	2	2	0	4
Interviewee 9	0	5	0	5
Interviewee 10	0	12	0	12
ADR staff member	0	0	19	19
ADR staff member	0	0	17	17
Total	6	36	36	78

4.2 Quantitative data

Mornington Island has comparatively high offending rates for offences against the person. At this stage of the project, it is unlikely that quantitative crime data will be useful in demonstrating a positive and causal relationship between the project and reducing this

statistic. If it is possible at all, a longer term analysis would be required to establish robust conclusions. Accordingly, the interim evaluation considers quantitative data (for completeness) however, a greater focus is placed on qualitative findings.

5 Findings

5.1 Has the project been delivered according to the design?

Is MIRJ a culturally appropriate model of managing conflict and restoring relationships?

The underpinning design element of MIRJ is the cultural appropriateness of the service. A good starting point for understanding this is considering the responses to the question “Is it (MIRJ) a culturally appropriate model of managing conflict and restoring relationships?”

This question was put to 10 people – six Elders or community representatives, two MIRJ representatives and two representatives of government agencies with one of these being unable to indicate a view.

Nine respondents indicated that MIRJ could be recognised as being culturally appropriate. Most comments indicated that MIRJ was a mixture of black and white ways and that good practice comes from a mix of the both worlds.

“Black ways/white ways – good way to do it” – Cyril Moon, Elder.

Another comment indicated that it is a mix of ways, that it seems to be the only alternative, and it is a good alternative. (Roger Kelly, Chair of Junkuri Laka Justice Association Inc.)

The Project Manager for MIRJ observed that it gives people a choice in participating in a process they are comfortable with, and working through the kinship system sets it on the right path.

To elicit further information, a number of subsidiary questions were asked, the first – “What pointers are there that lead you to that view (i.e., if MIRJ is culturally appropriate)?”

A response to this, and it is a consistent message coming through elsewhere, nominated the participation of Elders and respected members of the community in the process as a key feature.

Improved respect was also put forward.

“People have respect - for the man doing his job – respect for everyone’s way – black fella/white fella way.” Cyril Moon, Elder.

The Project Manager for MIRJ commented that kinship is at the heart of Mornington Island Culture and this model is a kinship based model. It includes ritualistic elements in the process such as identifying and naming kin and kin obligations and in some cases holding meetings on traditional ground where disputes have always been resolved. According to MIRJ documentation, two of the 24 documented mediations were held on traditional ground. One community member commented on the process and the location of the mediation:

“It is working alright with some rules. Some [mediations] are real traditional, where you go to the festival grounds [traditional site for square up] or for safety, out front of the police station. Sometimes it is better for a quiet mediation at a home”. Delma Loogatha, Community member.

The subsidiary question, “What are the strengths of the current operation?”, was asked. Responses from people other than MIRJ staff for this question (and supported by responses elsewhere) indicated:

- Skilled MIRJ staff
- Increasing awareness by the community that there is a “peacemaking way”, that is, an alternative to violence
- MIRJ staff at times acting as a liaison point with lawyers and police.

The mix of ways was reinforced along with the notion of shared responsibility:

“I said [to the MIRJ Project Manager] ‘you white fella, me black fella – you listen to me – we need to do it equally’.” Community member.

The MIRJ staff suggested the strengths included:

- Information provision about process
- The choices offered to participate
- How mediations are to be run
- Participation of Elders and emerging young leaders
- Success to date – to build on.

To a subsidiary question, “Do you think there are any weaknesses or risks with the current operation?”, two elders were most emphatic that there were no weaknesses.

The limited availability of ladies to facilitate/support mediations was raised here and elsewhere in the data gathering, as well as the need to involve younger people in the process.

In terms of risks, however, responses indicated the need for continued external support. One reason for the need for external support is to eliminate the potential for conflict of interest a local person may have in some mediation cases. This potential is heightened by the strong kinship ties on the island.

A different take on the need for external support was put forward by Roger Kelly - *“Elders could do it in our law/custom, but because of white fella law, need white fella too.”*

Conclusion

The MIRJ process has a number of strengths including the key involvement of Elders and respected people. Kinship based potential conflict of interest for co-mediators is a risk to the local people operating the service without external support.

Recommendation 1

The risk of kinship based conflict of interest can be mitigated by having a larger pool of co-mediators from which to call on.

The project needs to consider increasing the involvement of respected ladies as co-mediators, and increasing the number of suitable mediators more generally to improve the likelihood of independent and impartial mediations.

The two MIRJ staff working on Mornington Island were asked to self rate their skills in the peacemaking process overall and for other elements in order to assess cultural competency specific to delivering MIRJ services. The following details the questions and responses.

For their skills in the peacemaking process overall, they were asked to rate themselves on the following scale. My skills are:

Rating	In early development	Developing	Average	Good	Excellent
Count	-	-	-	-	-

A position on the scale was not indicated. A qualified response was given by both staff. One officer described the process as unique and so it is hard to conclude. He reported that “post mortems” of mediations showed good feedback. However, one participant expressed a view that the process was not appropriate for a particular mediation – this implies that cultural processes may be contextual.

Despite having maturity and experience, the other officer explained that his skills were “developing”. This is because “*new things happen every day here*”. For example, “*I learn from older women*”. He observed the need for particular care when dealing with people with “*strong culture*”.

MIRJ staff were asked “How would you rate your skills in culturally appropriate language and communication style?” The scale used was - My skills are:

Rating	Poor	Average	Good
Count	-	-	1

One officer did not rate due to contextual reasons, the other rated himself “good” because of his culture and background.

MIRJ staff were asked “How would you rate your skills in recognising and managing differences in influence or power among participants to a peacemaking?” The response scale was - My skills are:

Rating	Need improving	Good	Excellent
Count	-	2	-

Additional comments included: “*It is paramount in the assessment process and thereafter – I pay a lot of attention to it. I talk to Elders about it [seeking feedback]*”.

The role and importance of the Moyenda (Council of Elders) was also stressed. “*We need them – they hold the power*”.

Further subsidiary questions were asked of the Elders/community people in order to ascertain views on the project and specifically on developing the Elders’ Rules. This aided in assessing the cultural appropriateness of MIRJ.

The question “Did you help develop the Elders’ Rules for peacemaking?” was asked of six Elders/community representatives. Three of the six claimed that they were part of the development. Roger Kelly commented that he had worked with MIRJ staff “*to fit our law and white fella law – good job at it*”. Mr Kelly (and others) observed that peacemaking rules existed before these rules.

The questions “Were you involved in helping to design the project?” and “Has it turned out the way you thought it would?” were asked of seven Elders/community representatives. It was clear from responses from four people that they played a key role in the design. Two had no involvement and for the other, it was not clear as to the level of involvement.

The notion of the actual design of MIRJ is problematic. One person observed that he didn’t think what it would be like – *“but it has turned out alright”*. Another stated he *“didn’t really think what it might be”*. Another person said that peacemaking existed before (implying the notion of designing something else is not a concept to acknowledge).

Roger Kelly noted he was involved from the planning phase and that he had doubts about how good it could be (implying his expectations have been exceeded).

Have there been any unforeseen problems? If so, how were they addressed? What are the impacts?

There were no clear findings relating to unforeseen problems worth documenting for this question.

Were there any changes made to the project during implementation? If so, why and what are the impacts?

The questions “Were there any changes made to the project during implementation? If so, why and what are the impacts?” were put to the two MIRJ staff.

The responses indicated that the project is evolving and the design was not perfectly clear at the outset. Given the responses of the Elders to the former question, it seems that evaluating the project delivery against a clear project design was not possible. This evaluation question must be considered from the perspective of community involvement and acceptance of the project. Also, the existence of a document (policy and procedure) detailing mediation process and Elders’ Rules is the best context for assessing design versus actual delivery. See sections to come.

Have policy and procedures been prepared for the project?

The findings for this question are that policy and procedures have been prepared, evidenced by the existence of:

Elders’ Rules (there are 11 rules) contained within a document providing guidance on mediation and also describing “8 steps” for peacemaking on Mornington Island Guidelines for court referrals (Court referred mediation).

To what extent do current practices reflect the documented policy and procedures?

The general question to what extent do current practices reflect the documented policy and procedures has been considered within the domain of the peacemaking document referred to above. This document is the principal policy and practice document for MIRJ. For this evaluation, the document is referred to as the Elders’ Rules. (Refer to Appendix D for a copy of the document). In addition, some principles and better practice aspects from the reports previously mentioned - Solid Work You Mob Are Doing: Case Studies in Indigenous Dispute Resolution & Conflict Management in Australia and Indigenous Dispute Resolution and Conflict Management – are considered.

Compliance with court referral guidelines has not been considered due to the small number of court referred mediations (six mediations out of 24 were court referred).

The following section addresses the question “To what extent do current practices reflect the documented policy and procedures?” and due to the nexus, the question, “Have the Elders’ Rules been followed?”

A number of subsidiary questions were asked.

“Did the mediator clearly explain the rules of the mediation, roles and responsibilities?” For this subsidiary question, there were eight responses from Elders/community members and mediation participants and two responses from a related question for MIRJ staff.

Seven of the Elders/community members and mediation participants indicated that the rules were explained to people participating in the mediation. One of the eight was not aware of the rules.

MIRJ staff explained that there are 11 Elders’ Rules.

“I hold them up and sometimes discuss the main rules for the meeting – gain agreement who controls the meeting etc. It is usually me that does it – explain the rules that is - and I explain the legal position.” Phil Venables (MIRJ).

“When it gets calm, I go through the rules. For large scale meetings, I go through all the rules, for small scale meetings, just the basics. I go through step 1 – 7, back to 5 etc, depends on the dynamics – but always cover them before the end of the mediation.” Monty Stubbings (MIRJ).

In terms of actual practice, people were asked to reflect upon the peacemakings that they had observed and/or participated in, and to make comments on a range of matters.

The first was “The mediator being neutral, avoiding taking a side” (relates to MIRJ staff as mediator).

Responses were recorded from nine Elders/community members, two agency workers in addition to responses from the two MIRJ staff. It was clear that the mediators were considered to be neutral with only one interviewee providing a slightly different view. Comments included:

- “They never take sides, they are there to help”
- “Easy to talk to, good communicators”
- “They talk to people – act as go between”
- “I think both are neutral”
- “Yeah neutral, never seen to take sides. If someone talks over somebody or is loud – they calm them down”.

The variation to these views was a statement indicating that the mediators start off neutral, then, depending on advice from Elders, they take a particular tack.

The MIRJ staff recognised the difficulty in remaining neutral.

“People expect me to be more impartial than anyone else. I have no history of involvement. People recognise that I don’t have the impediments that local people involved have. The issue is around me being able to suspend judgment. Feedback once suggested I was taking sides and this surprised me, but on reflection, I could see why.” Phil Venables (MIRJ).

“I’m neutral as much as I can be. ...these events are stressful. The approach is to let them talk about the past, then come back to core issue – sometimes it is difficult not to step in and propose an answer or solution.” Monty Stubbings (MIRJ).

The next question related to the mediator facilitating an equal time for people who want to have their say (again relates to MIRJ staff).

Responses were recorded from eight Elders/community members plus responses from the two MIRJ staff. All eight of the Elders/community members were clear in their responses that the mediators facilitated an equal time for people who wanted to have their say.

“Monty had a level of authority in his communication. Not overbearing – people knew – ‘keep it down’ – ‘listen to this fella’. People listened and let people have their say.” Community Member.

A MIRJ staff member noted that *“the crowd tends to self censure – ‘you are talking too much’ – or the Elders might say – ‘thank you for that we haven’t heard from x’. I try to stay back and let others do it [facilitate/mediate]. With court referred mediations you have to explain the legal situation.” Phil Venables (MIRJ).*

“It is very hard with large group – a lot of conflict management is required first. Then, after an hour we can get on to the mediation. Once started, it is fine – most of the time everyone gets time to talk – but get them calm first. People are warming to the idea of each having a say, accepting of it as the right thing to do. Sometimes you need to prompt to get someone to talk.” Monty Stubbings (MIRJ).

The next question was about the mediator being able to respond to the dynamics of the process and modifying their approach to suit the needs of the mediation.

It was difficult to elicit a clear response to this question. The few comments received indicated that the mediators were responsive to tension within the mediation and therefore let time pass for things to settle.

“Yes, time to settle down – [It’s about] finding the right time for the mediation.” Community Member.

The MIRJ staff acted as go-betweens to smooth things and also let Elders take the lead as appropriate.

“Often, there are too many people speaking Aboriginal English and it gets away from you. You pick up on a thread. Elders can follow it, that way when they do the mediation, Elders know who are the main players and follow that conversation and flow. There is no hard and fast rule, it generally happens that way”. Phil Venables (MIRJ).

The next question asked “What did the mediator do to gain commitment from the parties in dispute?” There were six responses from Elders/community members to this query. The responses varied from the style MIRJ staff used, to practical measures such as documenting

the agreement for parties to sign, visiting people after the mediation to clarify issues, and explaining things in different ways to make sure people understand.

MIRJ staff explained that commitment is obtained through participation and respect; by reassuring participants they have choice and control. Their own commitment to an end without out violence is a powerful driver. Also, constant interaction between the community and MIRJ staff every day builds trust.

The question “Does the mediator handle confidentiality and privacy matters appropriately?” was put to eight Elders/community members. All answered clearly in the affirmative.

Ten Elders/community members and two government agency staff were asked to rate on a scale, the level of trust MIRJ staff have in the community. The responses are shown in the following table.

Rating	They are trusted	They are trusted but need to build more trust	They are not trusted	Qualified response
Count	7	4	-	1

The qualified response indicated a high level of trust. The statement that “They are trusted but need to build more trust”, is generally interpreted as meaning that this is more about building on trust as the project continues to establish itself in the community.

MIRJ staff were rated on their level of understanding about culture and kinship by ten Elders/community members and two government agency staff. The question was: “For the people that help with peacemaking, would you say that they understand culture and kinship, very well, pretty well or not very well?” The responses were as follows:

Rating	Very well	Pretty well	Not very well	Qualified response
Count	5	2	2	3

The qualified responses can be regarded as “Pretty well” from the comments provided.

The “Not very well” responses relate to the reliance on Elders and the possibility of the need to use more ladies in mediation/facilitation roles.

MIRJ staff were asked a similar question: “How would you rate your knowledge of the kinship ties and community relationship issues?” using the scale - I need to learn more, I have a good understanding, I have a complete understanding.

One staff member indicated he thought he had a good understanding and the other, a complete understanding. Qualifying remarks included: *“I have good understanding to get by – I ask the right questions – know who to go to ask. For example, my name is _____ and I need help with mediation. I know who is the best facilitator/mediator/Elder/senior respected person for the situation”.*

Both staff have some form of long association with the Island, one going back to 1968.

Conclusion

The Mornington Island MIRJ staff have an appropriate skill mix, cultural knowledge and experience to deliver MIRJ services.

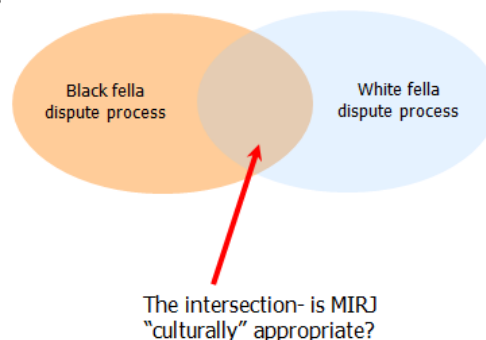
Have Commonwealth standards for accessibility and cultural relevance been achieved?

During the design of this evaluation, the above question was drafted for consideration. This section addresses cultural relevance more broadly based on the finding presented thus far. Accessibility is considered later in the report. See section headed “Is assistance timely and appropriate?” on page 28.

There has been some discussion thus far on the idea of a mix of laws. The following diagram is a graphical representation of that view. It is presented as an idea that there is a mix, rather than emphasising the dimensions of the mix.

Each mediation event has its own set of issues and complexities. The mediation response to these adjusts accordingly within certain boundaries. In the case of MIRJ, the boundaries are defined by the “8 steps for peacemaking” document which includes the Elders’ Rules. The foregoing findings from the research questions demonstrate the use of and acceptance of the Elders’ Rules. A partnership is recognised in the responses to the research questions. The evident goodwill indicates a partnership is established.

Figure 1:
Graphical representation of “mix of laws”



It is arguable, that cultural relevance or, cultural appropriateness, can only be considered from a point of reference, and these points of reference can be different. Has the culture of peacemaking changed on Mornington Island? One Elder considered the above diagram and observed that the mediation culture/practice is weighted in favour of the white man’s laws. Anecdotal evidence indicates traditional peacemaking or “square up” continues on Mornington Island. So both ways continue to exist, and the mix of ways operates also. The findings thus far show that, the mix of ways (MIRJ), depending on the context, is an accepted way for this time.

“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 dated 4 October 2010).

Conclusion

MIRJ is a service culturally appropriate for its time and is context dependant. The project is being delivered according to the idea that MIRJ is a mix of black fella and white fella ways and is consistent with many better practice guidelines for Indigenous ADR. Development and use of Elders' Rules, knowledge of Elders' Rules, support for the Rules, the involvement of Elders and respected members of the community and the use of skilled MIRJ staff, support this conclusion.

5.2 Has the capacity of the community to deal with and manage its own disputes without violence been enhanced?

What training was provided?

MIRJ records indicate that training was provided to members of the community in mediation processes. It was planned to ask questions of people trained about the quality and cultural appropriateness of the training. This did not take place because a sufficient number of people who were trained were unable to be interviewed.

A report by a MIRJ staff member Andrew Brayne showed training was provided on Mornington Island over 5 days in June 2010. It was the first and only formal training conducted thus far. The purpose of the training was twofold: to provide additional mediation skills and to increase participants' knowledge of the peacemaking model. Three trainers were used and all trainers were experienced in working with Indigenous people. The training format included discussions, activities and role plays.

It was reported that 21 people had expressed interest in attending training however actual attendance was 14. There was a mix of Indigenous and non-Indigenous participants. Attendance on the various training days also varied so maximum benefit from the training could not be achieved.

Despite this, it was reported that participants engaged well and appeared to learn new skills. "All participants reported verbally that their understanding of mediation had significantly deepened."

In addition to this training, the MIRJ Project Manager advised that it was practice to apply "on-the-job" or "action learning" training of co-mediators. The quality of this training was not assessed in this evaluation.

What is the level of support and supervision?

The MIRJ project is managed by the Dispute Resolution Branch of the Queensland Department of Justice and Attorney-General. Two fulltime staff work in the township on the Mornington Island and generally operate on a roster basis over a period of 5 weeks. For a three week block, both staff are on duty and relief from duty is provided by each working on their own on either the first or fifth week of the roster. Results from a question regarding the availability of staff are discussed later in this report.

Conclusion

There has been some training for members of the community in mediations processes although not to the desired level of participation.

There is a high level of support and supervision for co-mediators by MIRJ staff.

Recommendation 2

MIRJ staff should conduct further training in peacemaking mediation for members of the community. This should be done as soon as practical and should be targeted particularly at possible future MIRJ employees, to further assess the capability of local people to conduct mediations.

Does the remuneration for mediators promote proper engagement and effort?

This question was not specifically addressed in this interim evaluation. However, it should be noted that the community members who work on the project as mediators or co-mediators are paid for their time on a casual basis.

What is the level of family involvement in managing disputes?

A subsidiary question “Thinking about the peacemaking events that you have seen or heard about, have family members been supportive in resolving disputes?” was put to eight Elders/community members, two staff from government agencies and the two MIRJ staff. The responses were recorded as per the following scale.

Rating	Generally no	Mixed yes and no	Generally yes	Don't know	Qualified response
Count	-	-	8	-	4

The qualified responses indicate there is improved support by the families. Two responses suggested that it was more likely for the older people rather than the younger people to become involved.

“Families are more supportive of its use - young people not so. For people aged 17 to 30, Elders are seen as a nuisance. People 40 years and older are more receptive to the process.” Monty Stubbings (MIRJ).

The view that younger people were not receptive to Elders “pulling them up” was raised elsewhere in at least two other interviews.

Recommendation 3

MIRJ staff and community mediators need to consider ways to improve engagement and participation of younger community members. A school based conflict management and mediation program could be considered as well as seeking out, training and employing younger leaders in the mediation process.

Do individuals feel they can manage conflict better?

A subsidiary question “When talking to people you know who have been involved with a peacemaking process, have you formed an opinion that the individuals are better equipped to manage conflict better in the future?” was put to ten Elders/community members, two staff from government agencies and the two MIRJ staff. The responses were recorded as per the following scale.

Rating	Generally no	Mixed yes and no	Generally yes	Don't know	Qualified response
Count	-	1	4	-	6

Two answers were not clear and another could be interpreted as “Generally yes”. Two people indicated that there are examples of people being able to deal with conflict.

For the qualified responses, one person suggested it is the family support that makes the difference. Another indicated that it depends on the situation and context.

Another comment suggested that people tend to think more now about repercussions and they go away feeling more positive about resolution. The same person suggested that the strength of MIRJ is that it provides for a longer lasting process due to the level of formality and it being coordinated by a neutral person.

“I don't know if they are better equipped, but they are more confident with what they have got. Their own confidence is developed from being involved and the community has confidence there is a way if they so choose”. Phil Venables (MIRJ).

Conclusion

The responses tend to indicate that MIRJ does help some individuals manage conflict better. In other cases, it may be more the process that supports the person rather than the skills the person can acquire and use.

Recommendation 4

MIRJ staff and community mediators should consider expanding follow up conflict management coaching, both at a one-on-one level and also in more formal group sessions.

5.3 To what extent has the project reduced Indigenous peoples' contact with the formal criminal justice system?

Is there evidence of reduced family conflict?

Nine Elders/community members, two staff from government agencies and the two MIRJ staff were asked “Do you think peacemaking has made an impact on reducing family conflict?” The responses were recorded as per the following scale.

Rating	Not at all	Some	Has helped a lot	Don't know	Qualified response
Count	-	2	12	-	-

The responses strongly indicate that the peacemaking process has helped reduce family conflict.

“People have learned that there is a process to help, with help of Elders, Monty & Phil”.
Roger Kelly.

Is there evidence of preventing escalating violence?

This is a similar question to the previous but with an emphasis about escalating violence.

“Do you think the peacemaking events that you have seen or heard about has helped in preventing escalating violence?” was asked of nine Elders/community members, two staff from government agencies and the two MIRJ staff. The responses were recorded as per the following scale.

Rating	Not at all	Some	Has helped a lot	Don't know	Qualified response
Count	-	1	11	-	1

The qualified response came from the Acting Officer-in-Charge of the Mornington Island Police Station: *“I can think of examples where this is true”.*

The responses (including the qualified response) strongly indicate that the peacemaking process has helped in preventing escalating violence.

Review of quantitative data - assaults

The Office of Economic and Statistical Research (OESR) publishes a quarterly report on key indicators in Queensland's discrete Indigenous communities. The most recent publication for Mornington Island shows data up to the January – March 2010 quarter for:

- Admissions to hospital for assault-related conditions; and
- Reported Offences Against the Person.

Table 2:

Count of admissions to hospital for assault-related conditions for the quarters June 2009 to March 2010

	Apr - June 2009	Jul - Sept 2009	Oct – Dec 2009	Jan – Mar 2010
Number of residents admitted to Mornington Is. hospital	4	5	10	13

Table 2 shows admissions to hospital for assault-related conditions, by quarter, for the period April 2009 to March 2010. The data is sourced from the Queensland Hospital Admitted Patient Data Collection (unpublished data).

Notes to the OESR report advise that the data from 1 July 2009 to 31 March 2010 are preliminary and subject to change. The notes also advise that these data represent the number of hospital admissions for each condition. This means they are not a count of distinct individuals, as it is possible for some patients to have several hospitalisations for the same injury episode. The notes also recognise the possibility of double counting and an admission for assault in a particular period does not necessarily mean that an assault occurred in that period.

Recall that three mediation events took place in November 2008 and 20 mediation events took place from October 2009 to June 2010. A further review of the MIRJ records show that 18 mediation events took place from October 2009 to March 2010. Mindful of the caveats above, the hospital admissions data show an increase in assault related admissions over this time.

Table 3:

Count of reported offences against the person for the quarters June 2009 to March 2010

	Apr - June 2009	Jul - Sept 2009	Oct – Dec 2009	Jan – Mar 2010
Serious offences	16	15	12	9
Other offences	16	19	13	8
Total	32	34	25	17

Table 3 shows reported offences against the person, by quarter, for the period April 2009 to March 2010. The data is sourced from the Queensland Police Service (unpublished data).

The notes to the OESR report advise that ‘Offences against the person’ does not count the number of victims or the number of offenders. It is a count of offences reported to the police. For example, one person could commit many offences or one offence, involving many victims or one victim. In other words, it is not a unique count of an event. Also it is possible offences may be reported months after they have occurred. Offences related to police assaults and sexual related offences would be included, however there is no disaggregating available from the OESR report.

Contrary to the hospitalisations data, the offence data indicates a reduction on the offence activity against the person for the period October 2009 to March 2010.

Conclusion

While no conclusion can be drawn with the small numbers being considered, the above hospital admission data runs contrary to what is the perception of violence in the community, whereas the police data tends to support it.

Is there evidence of diversion from punitive forms of justice?

During the interviews with the Elders and community members, general observations were made that MIRJ was helping to stop people going to prison and getting into trouble with the police. If MIRJ is helping to reduce family violence and the escalation of violence, then these observations are plausible. A test of this, as a result of mediation, is where court records or MIRJ records show:

- charges being dropped by the police prosecutor;
- charges being dismissed by the Magistrate; or
- reduced sentences being handed down.

Diversion from the justice system completely is also a valid outcome from the MIRJ process. MIRJ records indicate the nature of mediated disagreements showing involvement with the courts, police or neither.

The MIRJ documented 24 mediation events show the following.

Eight matters were referred to mediation by community members or Elders. Of these seven matters were resolved and one remained unresolved. There was no documented involvement of the police in these eight matters. The mediations related to disputes over:

- relationships
- mobile phone/chat line abuse
- rumour mongering
- family tensions.

Seven matters were referred to mediation by police officers (three of these were jointly referred, that is, family or participants also made the referral). All matters were reported to be resolved. The mediations related to disputes over:

-
- abusive behaviour (verbal)
- mobile phone/chat line abuse
- rumour mongering
- family tensions.

Three matters were referred to mediation by family members or participants to the dispute.

The first of these matters related to an argument that resulted in an alleged assault, with a complaint being made to police subsequently. A mediation reached resolution and the assault complaint did not proceed. The second matter resulted in an agreement on a strategy between families and police to deal with further phone texting and chat line abuse. The third was reported to be resolved without the involvement of the police.

Six¹⁰ matters were referred to mediation by court solicitors. The following is a summary.

Three mediated agreements related to charges of public nuisance. In each case, the person agreed to go to drug and alcohol counselling. Charges were withdrawn from court upon receipt of the mediation report and confirmation of attendance at counselling.

The fourth matter was for a person being charged with one count of assault occasioning bodily harm whilst armed in company. The mediated agreement was for the person to attend five anger management sessions and this was fulfilled. The prosecutor pursued charges and asked for a conviction. The court sentence was a 12 month good behaviour order with \$600 surety.

The fifth matter concerned two people being charged. The first person was charged with public nuisance, obstructing police and possession of home brew. The second person was charged with going armed to cause fear (not referred to mediation). Alcohol abuse and ongoing tensions between the parties was said to be the cause of the fight which involved the police. Reconciliation occurred soon after the fight and formal apologies were given and accepted between both. Both agreed to drug and alcohol counselling. The public nuisance charge was withdrawn by police prosecutor. The Magistrate took the successful mediation into account when sentencing on the other charges. A conviction was recorded with no punishment for the charge of obstructing police. A sentence of nine months probation was handed down for possession of home brew – a charge not readily amenable to mediation. (The court result for the second person was not recorded.)

¹⁰ The MIRJ Project Manager advised that there were an additional five matters referred as a result of court processes however these referrals were subsequently assessed as being unsuitable for mediation.

The sixth matter was for one count of assault occasioning bodily harm and was related to a fight within a family. The perpetrator later felt embarrassed and remorseful for the violence. Reconciliation was achieved shortly after the mediation, however, formal apologies were again given and accepted. The charge was withdrawn by the police prosecutor due to the success of the MIRJ process.

Conclusions

There is both a perception that MIRJ assists in diversion from the justice system and a small number of documented cases of diversion or reduced impact.

MIRJ records show there are incidences of diversion from punitive forms of justice. This is manifested in police taking no (further) action, charges being dropped by the police prosecutor and reduced sentences being handed down.

The subject of court referrals to mediation¹¹

As can be seen from above, the number of referrals to mediation from court was six¹² of a total of 24 mediations. This is a low number given the throughput of the courts¹³. A question arises as to the effectiveness of the MIRJ liaison process with the Magistrates and court partners (the QPS prosecutor and defence solicitors).

The receptivity of prosecutors and magistrates to mediation as a restorative and alternative justice process arises as a possible factor in the low use of mediation. Any program can be positively or negatively influenced by the behaviours and attitudes of individual players. However, it should be noted that correspondence received by the evaluator from two magistrates with knowledge of MIRJ indicated a high level of support. Also note that for the six court referred mediations, QPS dropped charges in five of these as a result of successful MIRJ processes.

Limited opportunity for connection between the magistrate and the community was raised as a possible impediment.

"The court only sits once a month and, prior to the introduction of this process, it had limited sentencing options available to it. The present arrangement is that the Magistrate comes from Townsville. Each Magistrate sits for 3 months on rotation so there is the issue of the community regularly having to come to grips with different styles and manners of different Magistrates." Magistrate Osborne (email dated 4 October 2010).

The evaluator observed some of the court sitting on Tuesday 21 September 2010. The court commenced at 9.30 am and concluded at 8:30 pm. A long day by any gauge and this is due to the length of the court list, not the complexity of cases. The court operates on a same day fly-in, fly-out basis. During this court sitting, compared to previous sittings, a high number of referrals were made to MIRJ for mediation. The Project Manager advised that eight referrals were made.

¹¹ Subsequent to the evaluation being conducted, DJAG increased the number of court sitting days.

¹² The MIRJ Project Manager advised that there were an additional five matters referred as a result of court processes however these referrals were subsequently assessed as being unsuitable for mediation.

¹³ A review of sample court data over a three month period showed the number of people appearing in court averaged around 33 persons per month.

An email sent to the evaluator from the presiding magistrate for the court sitting on the 21st of September advised that:

"I found it very useful in such a busy list, for Phil [MIRJ Project Manager] to pipe up during court to draw my attention to matters that he was aware were suitable and where a party had agreed to the process. It is easy for us to overlook the opportunity, as the work is fairly overwhelming." Magistrate Tonkin (email dated 30 September 2010).

Conclusion

The current workload in a day sitting of the Mornington Island Magistrates Court is not conducive to maximising the opportunities to consider referral of cases to mediation as an alternative to formal justice process.

Recommendation 5

Consideration needs to be given to increasing the frequency of the Mornington Island court sittings as the current workload is not conducive to maximising the opportunities to consider referral of cases to mediation. **(Subsequent to the evaluation being conducted, DJAG increased the number of court sitting days.)**

Recommendation 6

Consideration needs to be given to establishing as a formal process, a pre-court conference between Elders, MIRJ staff and the Magistrate to review/discuss possible matters for referral to mediation.

Diversion pathways

While there are many possible pathways, the above analysis indicates the primary scenarios are:

1. Mediation prevents a non-criminal dispute from escalating to violence. It might have been referred by a community member, the police or come to the attention of MIRJ.
2. An alleged criminal event (e.g., an assault) comes to the attention of police and/or MIRJ. Mediation provides resolution for the parties (might prevent further escalation). The police elect to not take the matter further.
3. A matter is listed to be heard by the court. The parties agree to mediation prior to court hearing. The mediation agreement influences the court favourably and the matter is subsequently dismissed or a reduced penalty is applied.
4. A matter progresses to the court. It is referred to mediation by the Magistrate. Subject to successful mediation, the matter is subsequently dismissed by the court or a reduced penalty is applied.

These pathways are used as background in the benefit/cost analysis section that follows.

5.4 How important is MIRJ to the community?

What is the level of awareness?

Establishing the level of awareness of MIRJ was approached by asking a series of questions relating to the Elders' Rules.

The question "Did you know the Elders have established rules for peacemaking?" was put to two participants, one community member and two staff from government agencies. It was clear from the responses that the participants, community member and one person from the government agencies knew of the rules.

"How important do you think the rules are to the community?" was asked of eight Elders/community members, one person from a government agency and the two MIRJ staff. The responses were recorded as per the following scale.

Rating	Not important	They have some importance	They are very important	Qualified response
Count	-	2	8	1

The Elders and community members (except one) were very clear in that the rules are very important.

Others considered the importance was contextual. *"They are guiding hand, not a law – can be broken depending upon the circumstances."* Phil Venables (MIRJ).

"They are only important when we do mediation. They may not remember the explicit rules, as they were doing this a long time before MIRJ. This is what is said. I explain we need these rules to fit with the government way of things." Monty Stubbings (MIRJ).

"They are very important. Work by the new rules and the old rules. When need old rules, use them." Roger Kelly

Eight Elders/community members, one person from a government agency and the two MIRJ staff were asked "Do you think many people know about the rules?" The responses were recorded as per the following scale.

Rating	Nobody knows them	Some people know them	A lot of people know them	Qualified response
Count	-	5	5	-

One response was not clear and the remainder is split between some people knowing and a lot of people knowing. Comments indicated that it is reasonable to expect that those connected with the mediations conducted to date know of the Elders' Rules to some degree.

The MIRJ Project Manager estimates that around 400 people have been involved in mediation in some way thus far. This is a sizable proportion of the population.

The question "How important are the rules to you?" was put to two participants, one community member and the two MIRJ staff with possible responses of "Not important", "They have some importance" or "They are very important".

One community member and one participant indicated that they are very important. The response from the other participant was not clear.

Both MIRJ staff indicated the rules are very important. *“It is very important to be able to refer to them as rules set by the Elders and not by MIRJ. Twenty or so people representing the major clans...helped write them.” Phil Venables (MIRJ).*

“They are very important but it depends on the structure of the mediation – I always keep them in the back of my mind.” Monty Stubbings (MIRJ)

Conclusion

Responses to the variations in questions related to the Elders’ Rules, produce a consistent message that there is a level of awareness of the Elders’ Rules. A level of awareness of the Rules implies an awareness of the MIRJ as a distinct service to the community.

The questions “Do people know who to contact to arrange a mediation/get advice? and “If you are looking for help in peacemaking, who do to see?” was put two participants and one community member. The options were: MIRJ staff member, Member of CJG, An Elder or Someone else (who?)”.

The responses were: two people said an Elder would be approached in the first instance and then MIRJ would be approached. Another indicated the police would be contacted first, then MIRJ staff.

Comments made by one Elder during the course of the research indicated that people go to him in the first instance. Another Elder said they go to him or MIRJ staff in the first instance.

Conclusion

Given the variance in the response and the small number of people asked, a supported conclusion is difficult to draw. The tendency to approach an Elder almost certainly has a historical foundation. The idea that MIRJ staff can be approached is promising.

What is the level of referral by community members to the project?

The questions “Have you referred people to a peacemaking? If so, how many referrals, what was the nature of the dispute(s)? Was the dispute addressed in a timely fashion?” were asked during the research conducted with Elders and community members.

The questions did not generate any useful information. In hindsight, the questions may have been confounding as the idea of referral to a “peacemaking” is influenced by historical traditions. Had people been asked about making referrals to MIRJ in particular, i.e., to Monty or Phil, the responses may have been more enlightening. According to the MIRJ documented 24 mediation events, eight matters were referred to mediation by community members or Elders.

The next question asked was “In what circumstances would you be reluctant to refer someone to a peacemaking session?” Five Elders provided comments.

Two suggested some family disputes should not be mediated. Another suggested caution where violence is possible, which is supported by two Elders who commented it is more about timing, that is, letting trouble settle down before starting a mediation.

Where issues are resolved, is it a lasting resolution?

A question was designed to ask participants if they were involved in a subsequent dispute. Due to the small number of participants interviewed and the responses provided, no conclusion was drawn.

A review of the MIRJ documentation summarising the 24 mediated disputes, shows that at least four people had subsequently participated in a mediation for reasons unrelated to their prior experience.

Are participants satisfied with the process and outcome?

A global process and outcome question was asked of ten Elders/community members. The question was: "Overall, would you say the peacemaking service is: A good thing, A good thing but it still needs work to make it better, Not a good thing.

Rating	A good thing	A good thing but it still needs work to make it better	Not a good thing	Qualified response
Count	1	9	-	-

Most of the views could be summed up as that there is always room for improvement. One Elder indicated that more young men were needed to come forward to help. Also increased participation of respected ladies is also desirable.

"It is a good thing, but needs to keep going to get the community better". Roger Kelly.

What barriers exist to the community (rather than a government organisation) operating a peacemaking service? If they exist, how can these barriers be overcome?

The question "What do you think are the barriers to the community (rather than a government organisation) operating a peacemaking service?" was asked of six Elders/community members, two persons from a government agency and the two MIRJ staff.

Kinship ties (i.e., possible conflict of interest, impartiality issue), was recognised as the most significant barrier.

Lack of local capacity was also identified. In talking about young people stepping up to take on some mediation roles, Cyril Moon observed *"they [young people] come one day, then not – didn't want to do it"*.

As discussed previously, Roger Kelly reiterated that because MIRJ is a mixing of the laws, people representing both laws are needed.

"A local mediator can't do it when up against their own mob. They can do it themselves with guidance. It won't work from a government perspective without support". Monty Stubbings (MIRJ).

A follow on question was asked of the same people: "If they exist, how can these barriers be overcome?"

One Elder didn't seem to consider the question – he indicated that without support, it will return to the "old way".

Another suggested that MIRJ staff and Elders had to be very clear role models for the next generation of leaders – indicating it will take years. “Take years” was also the view of a few other people.

The idea of bringing in an Indigenous person from another community was raised (without prompting) as not being an option.

Building local capacity (including capacity of younger people) is a theme and this is a pathway indicated by the MIRJ staff. It seems a question of how long to get there and what level of external support will be required at that future time when more responsibility can be taken by the community.

It was suggested that there is a lot of resentment “*out there*” about training people then leaving. “*It is often more about the trainers training themselves – not the community*”.

During a related conversation with another community member, a more positive view was put forward. It was suggested that there were a lot of potential young leaders. A local person could be a mediator with training. It would bring other benefits also: employment for a local and better linking up of the communities. It was indicated that “all black rules are not the same”, hence a local person is the ideal.

Conclusion

Even if the answer lies in building capacity of younger leaders to “step up”, the issue of conflict of interest from kinship ties will no doubt still remain. In these cases, an experienced outside person may be able to act as a “consulting” facilitator.

5.5 How has the project improved the justice system’s responsiveness to the needs of the community?

Have individual/groups gained a higher degree of control over resolving their disputes?

The above subsidiary question assumes that the MIRJ process (a justice system response) can contribute to individual/groups gaining more control over resolving their disputes.

There is limited data to investigate this specific question.

A research question put to participants about their capacity to manage future conflict was positive but the responses related to two people only. One indicated clearly that the experience helped a lot.

MIRJ mediation records show that of the 24 recorded mediations, two were conducted without a MIRJ staff member being present. Of course, there is no way of knowing how many mediations have been conducted that have not come to the attention of MIRJ staff.

The question can be considered from other aspects canvassed thus far. See for example the findings around better management of family conflict and diversion from more formal justice processes. These were positive findings that support the idea that the justice system’s responsiveness to the needs of the community has improved.

What is the level of referral by the courts, police, community services and other organisations to the project?

This question was addressed above. In summary, MIRJ has documented 24 mediation events. Seven matters were referred to mediation by police officers (three of these were jointly referred, that is, family or participants also made the referral). Six referrals were initiated by court solicitors. There are no recorded referrals from other community services or organisations.

Is assistance timely and appropriate?

To assess this question, a subsidiary question: “For the people that help with peacemaking, would you say that they are available when they are needed: Just about all the time, Sometimes, or Rarely was asked of ten Elders/community members and two persons from a government agency.

Rating	Just about all the time	Sometimes	Rarely	Qualified response
Count	10	-	-	1

One response was inconclusive and the qualified response was more around the timing of the intervention rather than availability of the staff.

“They are 24 hour on-call. They have mediated at 9.00pm with 1 hour or couple of hours to prepare.” Delma Loogatha (Community member).

Conclusion

In terms of timely availability, it is clear that the service is performing highly.

To further consider the appropriateness of service delivery, a question related to having adequate time to prepare for mediations was asked of the MIRJ staff.

It was clear from the responses that for every court referral, there is adequate time to properly prepare for the mediations.

For other mediations, such as crisis mediations, it was reported that there was only one that wasn't properly prepared for in the short space of time available. Others were considered to be “OK” given the timeframe.

Has the project changed the way people feel or think about the justice system?

The findings in this report collectively support the idea that MIRJ has changed the way people think about peacemaking.

Anecdotal evidence indicates there is a change for the better by some in the way they think about their relationship with the police.

The incidence of diversions from more punitive justice resulting from mediated agreements shows that there are other ways to achieve justice and this has been recognised by people interviewed for this evaluation.

Are agencies and stakeholders collaborating in different ways to meet the needs of the community?

It was difficult to assess this question directly. Less directly, the foregoing findings and commentary show that the Elders, respected leaders, the Community Justice Group, the police, other agencies and the Magistracy are all collaborating in ways to meet the restorative justice needs of the community. The flow on effects of MIRJ, and the less tangible benefits are summed up well by Magistrate Osborne:

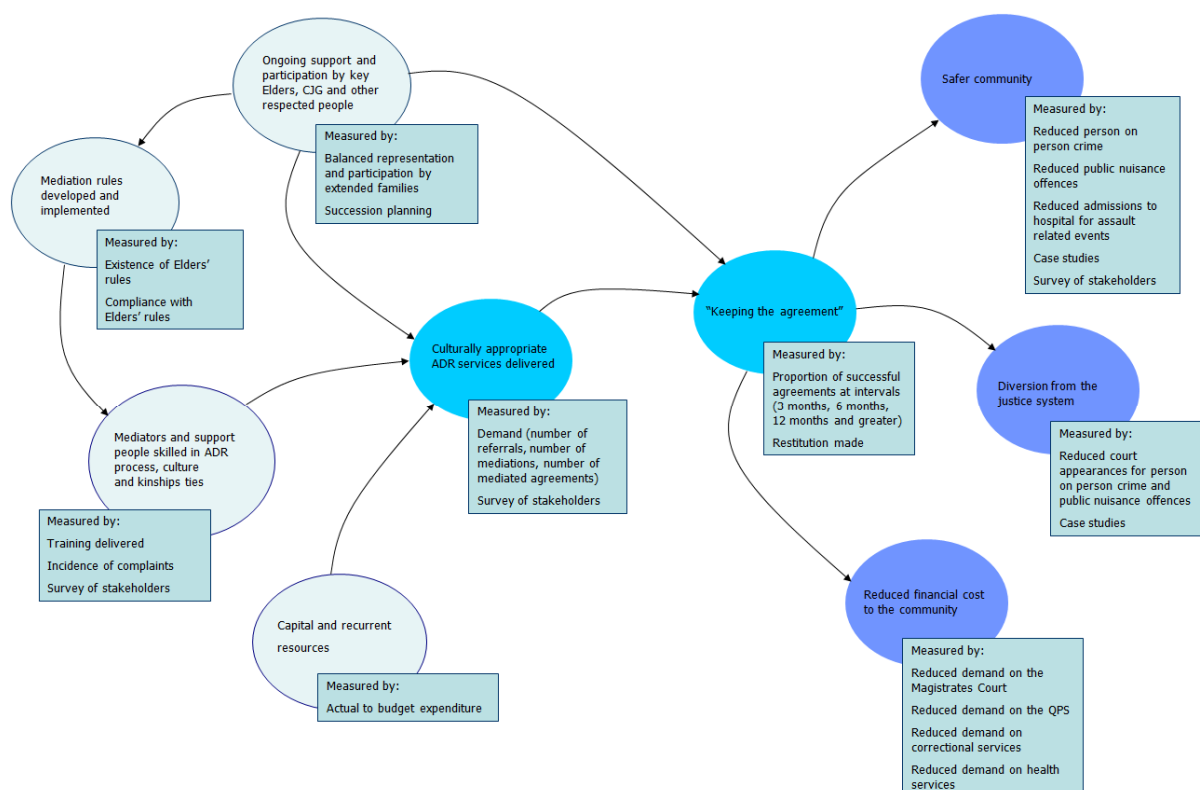
“Another important feature of the project is that it encourages relationships, be it family or individual, to be mended where they are broken which in turn promotes a strengthening of the fabric of the community”.

6 Benefit/cost analysis

6.1 Program logic for MIRJ

During the course of this evaluation, a program logic model (see figure 2) was developed for MIRJ. This model assists in designing a future performance framework for MIRJ, and also is a basis for understanding benefits from which to construct a benefit/cost analysis. (The diagram is reproduced in Appendix E.)

Figure 2:
Diagram showing program logic for MIRJ



Starting from the left hand side, the logic model shows the inputs: mediation rules (policy, practices and procedures in place); support and participation by key Elders, CJG and other respected people; skilled practitioners and financial resources contribute to a culturally appropriate alternative dispute resolution services (MIRJ).

From this, we expected to see mediated agreements that work. In the logic model, this is illustrated by the words “keeping the agreement” as per the “8 steps” document. Following from this, although the cause and effect is less tenuous, the logic model shows the outcomes: safer community, diversion from the justice system and reduced financial cost to the community.

At each of these points in the logic model, measurements of change are proposed.

The benefit/cost analysis will focus on the benefits of reduced financial costs to the community, that is, the costs avoided are benefits.

6.2 Strategic alignment

The direct social benefits of the program are not considered in this analysis. One useful method of assessing benefits of a program is the alignment with the organisation's or government's strategy.

At the national level, the *National Indigenous Law and Justice Framework 2009-2015* (NILJF), prepared by the Standing Committee of Attorneys-General Working Group on Indigenous Justice, articulates five goals:

1. Improve all Australian justice systems so that they comprehensively deliver on the justice needs of Aboriginal and Torres Strait Islander peoples in a fair and equitable manner
2. Reduce over-representation of Aboriginal and Torres Strait Islander offenders, defendants and victims in the criminal justice system
3. Ensure that Aboriginal and Torres Strait Islander peoples feel safe and are safe within their communities
4. Increase safety and reduce offending within Indigenous communities by addressing alcohol and substance abuse
5. Strengthen Indigenous communities through working in partnership with governments and other stakeholders to achieve sustained improvements in justice and community safety

Such goals are consistent with State and Territory ambitions, and the Queensland Government is a party to NILJF. The objectives of MIRJ are closely aligned with the national framework.

Conclusion

MIRJ has a high degree of strategic alignment with national and state law and justice policy.

6.3 Discussion on benefits

As mentioned, the benefit/cost analysis will focus on the benefits of reduced financial costs to the community, that is, the costs avoided are benefits.

The following are estimates of service costs that could be avoided with successful mediation. They are sourced from Mason and Robb, 2010 and are derived from costing information published in State and National reports about government service delivery.

The costs of services at Mornington Island are likely to be higher due to its remoteness. Also, the costs presented in the table are in 2008-09 dollars. The methodology used in the following benefit/cost analysis is to select from the following “menu of costs” according to an alternative and plausible pathway. The costs are indicative for the purposes of illustration in absence of other public government costing data at the activity, marginal or average cost level. This evaluation does not purport that these savings can be realised in the quantum shown.

Table 4:
Menu of avoidable costs (estimated, 2008-09 dollars)

Cost that could have been avoided	Amount
QPS call out to incident	\$570 per case
Issuing warrants and summons, laying charges	\$1,300 per case
Police prosecutor	\$550 a day – assume 20 cases in a court sitting: \$28 a case
Legal aid	\$450 a day– assume 20 cases in a court sitting: \$22 a case
Magistrate Court event	\$165 per case
SPER processing for fine default	\$200 per case
Watch house detention	\$180 per day per case
Imprisonment	\$180 per day per case
Community Corrections Order	\$9.50 per day per case
Ambulance service	\$600 per case
Hospital treatment (emergency) not admitted	\$420 per case
Hospitalisation	\$4,450 per case

6.4 Discussion on costs

DRB financial records show that expenditure for the MIRJ project began in May 2008. Total costs to June 2010 were \$582,000 (see appendix F for details).

As discussed previously, the formal operation of the mediation service did not begin until October 2009. From May 2008 to September 2009, costs for the project related to:

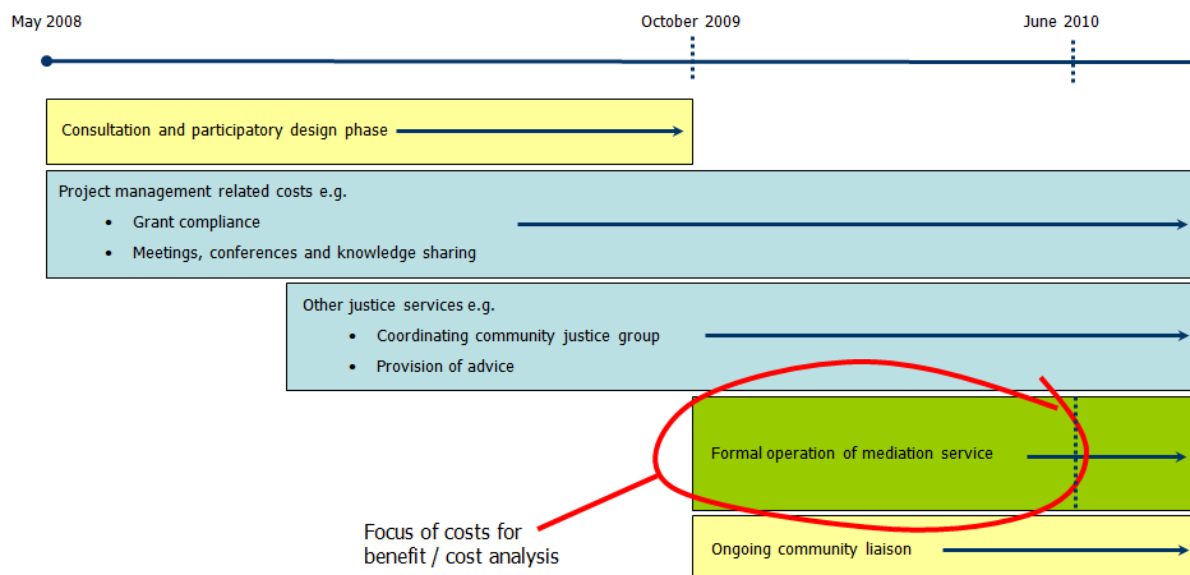
- A significant consultation and participatory design phase;
- Project management related functions; and
- Supporting other justice services¹⁴.

Costs for project management related functions and supporting other justice services continue after September 2009.

¹⁴ Due to their presence on the Island, MIRJ staff, who are Queensland Department Justice and Attorney-General staff, provide advice and assistance to community members on justice administration issues, for example, helping people access information about their court status, obtaining birth certificates etc.

This cost breakdown over time is shown in figure 3. For the purposes of the benefit/cost analysis, the expenditure from October 2009 to June 2010 will be the focus as this period can be considered an early phase of service provision stability. (The diagram is reproduced in Appendix G.)

Figure 3:
Diagram showing cost breakdown logic for MIRJ benefit/cost analysis



In addition to the costs for project management related functions and supporting other justice services that continue post September 2009, (such as with the first consultation and design phase), continued investment of time is required in community liaison. These ancillary costs must be excluded to arrive at a “true cost” of mediation services from which to undertake the benefit/cost analysis. The MIRJ Project Manager estimates that 25% of time and resources are consumed by undertaking work outside the formal mediation service.

DRB financial records show that for the period October 2009 to June 2010, a total of \$323,000 was spent. By reducing this figure by 25%, we arrive at the estimated cost of mediation services for the period. The estimated cost is \$242,000 or on average, \$26,900 per month.

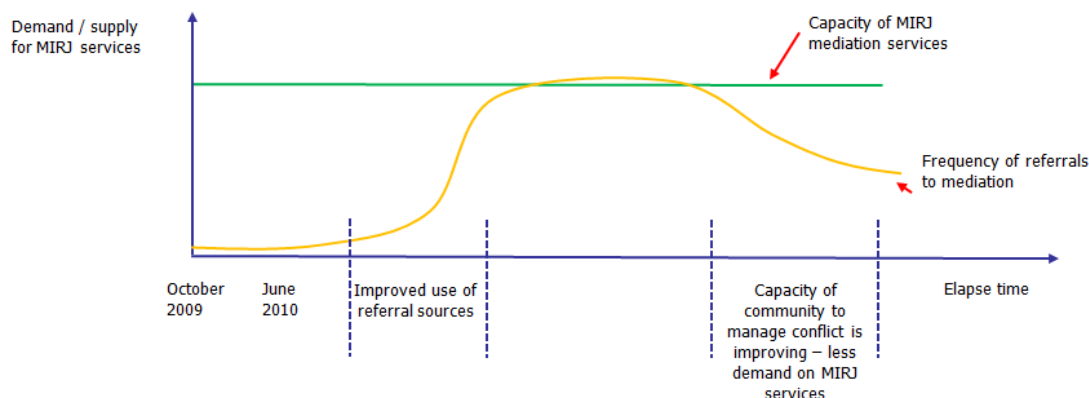
As discussed previously, 20 mediation events took place from October 2009 to June 2010, two of which were conducted by community members without MIRJ staff being present. This means that there were 18 MIRJ managed mediations conducted during the period when expenditure for mediation services was estimated at \$242,000. Based on this, the average cost per mediation by MIRJ staff for the period was \$13,450.

6.5 Discussion on demand for and capacity of MIRJ services

Given that there were 18 MIRJ managed mediations conducted during the period October 2009 to June 2010, this means that, on average, MIRJ conducted two mediations per month.

The demand for services of MIRJ can be considered similar to a product lifecycle. Low demand in the establishment phase is followed by a period of growth reaching a maturity plateau, followed by a decline in the demand for services. The conceptual demand for the services of MIRJ is depicted in figure 4 and is reproduced in Appendix H.

Figure 4:
Diagram showing conceptual lifecycle demand for MIRJ services



The MIRJ Project Manager estimates that it takes 2-3 days (say 3 days) of effort to conduct a large mediation process and around 1 day for a small mediation.

In every four week period, there are two MIRJ officers for three weeks and one officer for one week on duty on Mornington Island. In a mature state for MIRJ operation, assume one day in every week is consumed in administration for each officer. This means there are 28 days available for mediation in a four week period (say a month for comparison with costs).

The frequency of large mediations versus small mediations cannot be determined from the information gained during this evaluation. Assume for simplicity a frequency split of 50/50.

Given the above assumptions, the estimated capacity for MIRJ services is seven large mediations per month and seven small mediations per month. A total of 14 mediations per month is theoretically possible with the current supply of MIRJ services (i.e. this is the capacity of MIRJ).

At capacity therefore, the average cost of a mediation is the estimated cost MIRJ services at \$26,900 per month, divided by 14 mediations, equals \$1,900 per mediation.

Going a step further, the average cost of a large mediation is estimated at \$2,900 and the average cost of a small mediation is estimated at \$960.

The question arises: Is there demand for 14 mediations per month? The answer lies in where the demand for MIRJ presently is, and where it can be. While demand appears to be below capacity, are all opportunities for referral being maximised? Perhaps not when on one court sitting day in September 2010, eight referrals were made. If this was replicated on a regular basis, add to this referrals from the community and other agencies (particularly from the police), then 14 mediations a month is plausible.

Recommendation 7

There is capacity to undertake a larger number of mediations and conflict resolution counselling. MIRJ should consider marketing its services to NGOs and other government agencies to source increased referrals.

6.6 Hypothetical pathways – benefit/cost scenarios

The section describing mediation process and outcomes above, paints many possible scenarios for cost avoidance benefits. The following describes one hypothetical event, with a three plausible pathways (based on the MIRJ experience to date). The latter two pathways describe costs that could be avoided.

Possible pathway 1 (optimal case)

The first pathway is a successfully mediated agreement.

The costs incurred by MIRJ are those estimated for a small mediation (average cost when at capacity) i.e., \$960.

Description of conflict

Events around an alleged street fight between two girls from different families showed signs of the likelihood of escalating violence. It was suspected that the girls from both families and a number of family members were preparing for a “big fight”.

The conflict reportedly started over a mobile phone that went missing. One girl was accused of taking the mobile phone.

A resolution was reached through mediation and the young women shook hands and hugged. They agreed to return to their families and inform all those preparing for a fight that it was resolved.

Plausible alternative pathway 2

Action / event	Cost that could have been avoided
Police investigate alleged fight	
Call out to girls’ homes (one car)	\$570
Police find no evidence of fight – no action taken	
Girls subsequently fight – it does not come to the attention of police	
One person treated in Emergency and goes home	\$420
The matter remains unresolved	
Costs potentially avoided (at that stage)	\$990

Conclusion

The breakeven point for an average cost small mediation (at capacity is \$960) is bettered by a small margin if the costs of alternative pathway 2 are avoided.

Plausible alternative pathway 3

Action / event	Cost that could have been avoided
Police investigate alleged fight	
Call out to girls' homes (one car)	\$570
Police find no evidence of fight – no action taken	
Girls subsequently fight – does not come to the attention of police	
One person treated in Emergency and goes home	\$420
Brother of one of the girls visits opposing family	
Fight breaks out	
Police called out to scene of disturbance (two cars)	\$1,140
One person arrested for assault	
One person arrested for obstructing police	
Offenders spend one night in watch house x 2	\$360
Issuing warrants and summons, laying charges x 2	\$2,600
Magistrate Court event x 2	\$330
Police prosecution event x 2	\$56
Legal aid representation x 2	\$44
The person on the assault charge has a prior criminal history and is sentenced to 6 months prison	\$33,000
The person on the obstructing police charge receives a 6 months community supervision order	\$1,700
The matter remains unresolved	
Costs potentially avoided (at that stage)	\$39,650

Conclusion

The breakeven point for the average cost of maintaining MIRJ services at current capacity for one month is more than bettered if the costs of alternative pathway 3 are avoided. (Current capacity is costed at \$26,900 per month.)

7 Conclusion

The evaluation found that MIRJ has made significant progress in meeting its objectives. This progress is underpinned by providing a high level of support, by using multi-skilled dispute resolution staff, and importantly, the strong partnership with Elders and respected members of the community.

MIRJ is a culturally appropriate service for its time and it has a high degree of strategic alignment with national and state law and justice policy. There is strong support for MIRJ from community members and officers representing justice agencies and the Magistracy.

The estimated cost of the service in its current form is \$26,900 per month. The project offers a positive return on investment that can be improved as there is spare capacity to undertake additional mediations. There is an opportunity to source additional referrals to mediation from the Mornington Island Magistrates Court, NGOs and other Government agencies.

There is a strongly held perception that the peacemaking process has reduced family conflict and prevented the escalation of violence. MIRJ documentation show there is incidence of diversion from punitive forms of justice; however, diversion could be potentially greater, yielding further social and economic benefit.

MIRJ staff have an appropriate skill mix, cultural knowledge and experience to deliver MIRJ services, and to support and supervise local mediators, but there is and will be a heavy reliance on these (or similarly qualified) staff for continuing the service at this stage.

Barriers to the community operating MIRJ at this time include:

- Possible conflict of interest and 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.

Building local capacity is a valid strategy, but this will require careful recruitment and extensive training. It is evident that the current level of external support will be required to be maintained during a capacity building period, after which, it is likely that a reduced level of external support will be required.

8 References

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Appendices

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Appendix A – Proposed data sources per evaluation plan

The following matrix lists planned data sources to provide material to answer the evaluation questions and subordinate areas of inquiry.

Research questions	Proposed data source					
	Survey / semi-structured interviews				Policy, procedures and other documentation	Court's database
	DRB staff	MIRJ participants	Elders/CJG	Govt. Agencies including Council		
Has the project been delivered according to the design?	√	√			√	
<ul style="list-style-type: none"> Is it a culturally appropriate model of managing conflict and restoring relationships? 	√	√	√		√	
<ul style="list-style-type: none"> Have there been any unforeseen problems? If so, how were they addressed? What are the impacts? 	√		√	√		
<ul style="list-style-type: none"> Where there any changes made to the project during implementation? If so, why and what are the impacts? 	√				√	
<ul style="list-style-type: none"> Have policy and procedures been prepared for the project? 					√	
<ul style="list-style-type: none"> To what extent do current practices reflect the documented policy and procedures? 	√	√	√	√		
<ul style="list-style-type: none"> Have the Elders' Rules been followed? 	√	√	√		√	
<ul style="list-style-type: none"> Have Commonwealth standards for accessibility and cultural relevance been achieved? 	√	√	√		√	

Interim evaluation of the Mornington Island Restorative Justice (MIRJ) Pilot Project

Research questions	Proposed data source					
	Survey / semi-structured interviews				Policy, procedures and other documentation	Court's database
	DRB staff	MIRJ participants	Elders/CJG	Govt. Agencies including Council		
Has the capacity of the community to deal with and manage its own disputes without violence been enhanced?	√	√	√	√		√
• What training was provided?	√		√	√		
• What is the level of support and supervision?	√	√	√			
• Does the remuneration for mediators promote proper engagement and effort?	√					
• What is the level of family involvement in managing disputes?	√	√	√			
• Do individuals feel they can manage conflict better?		√	√			
• To what extent has the project reduced Indigenous peoples' contact with the formal criminal justice system?	√	√	√	√		√
• Is there evidence of reduced family conflict?	√	√	√	√		√
• Is there evidence of preventing escalating violence?	√	√	√	√		√
• Is there evidence of diversion from punitive forms of justice?	√	√	√	√		√

Interim evaluation of the Mornington Island Restorative Justice (MIRJ) Pilot Project

Research questions	Proposed data source				Policy, procedures and other documentation	Court's database
	Survey / semi-structured interviews					
	DRB staff	MIRJ participants	Elders/CJG	Govt. Agencies including Council		
How important is MIRJ to the community?	√	√	√			
• What is the level of awareness?	√	√	√	√		
• Do people know who to contact to arrange a mediation/get advice?		√	√	√		
• What is the level of referral by community members to the project?	√	√	√	√		
• Where issues are resolved, is it a lasting resolution?		√	√			
• Are participants satisfied with the process and outcome?		√	√	√		
• What barriers exist to the community operating a peacemaking service? If they exist, how can these barriers be overcome?	√	√	√	√		
• How has the project improved the justice system's responsiveness to the needs of the community?	√	√	√	√		
• Have individual/groups gained a higher degree of control over resolving their disputes?		√	√	√		
• What is the level of referral by the courts, police, community services and other organisations to the project?	√			√		
• Is assistance timely and appropriate?		√	√	√		
• Has the project changed the way people feel or think about the justice system?		√	√	√		
• Are agencies and stakeholders collaborating in different ways to meet the needs of the community?	√	√	√	√		

Appendix B – Sample survey instrument

I thank you for agreeing to participate in the interim evaluation of MIRJ, the peacemaking project for Mornington Island.

My name is Mark Browning and I am talking to:

- people who have participated in a peacemaking
- people who have supported the peacemaking process (for example, Elders);
- DRB staff; and
- other people who have an interest in the process (for example, people from government departments).

It is planned that the findings from the evaluation will be presented to the community and peacemaking staff in the latter part of this year.

If after this meeting you want further information about the work I am doing, or you want to talk to me again about something you may have forgotten today, please feel free to contact me anytime while I am visiting the community. I am here until Wednesday. Or you can also see Phil Venables.

..... is here with me today to help with the research.

As a reminder, there is no requirement for you to participate in the evaluation process – it is completely voluntary. During the interview if you change your mind, then you can stop the interview at anytime.

We will go through some questions, but sometimes if we get off track, we just need to remember that the questions are intended to show:

- How peacemaking helps the person, family and community.
- If the peacemaking process should continue.
- How the peacemaking process can be made better.

Date:

Start time

Location:

Name:

Age:

Gender:

Organisation:

Relationship map (Roles and organisations)

Background questions

How long have you been involved with MIRJ?

Comment

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Were you involved in helping to design of the project? Has it turned out the way you thought it would?

Comment

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Do you identify with a particular group in the community?

Comment

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How many mediations have you been involved with? What was your role (mediator, observer, support person etc.?)

Comment

This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the entire width of the page, providing a guide for handwriting practice. There are no margins, text, or other markings on the page.

Questions about the mediator(s)

Reflecting upon the peacemakings you have observed, what comments can you make about for the following:

The mediator being neutral, avoiding taking a side –

Comment

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The mediator facilitating an equal time for people who want to have their say –

Comment

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The mediator being able to respond to the dynamics of the process and modifying their approach to suit the needs of the mediation –

Comment

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Did the mediator clearly explain the rules of the mediation, roles and responsibilities?

Comment

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What did the mediator do to gain commitment from the parties in dispute?

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Does the mediator handle confidentiality and privacy matters appropriately?

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For the people that help with peacemaking, would you say that:

They are trusted They are trusted but need to build more trust They are not trusted

Comment

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For the people that help with peacemaking, would you say that they understand culture and kinship:

Very well Pretty well Not very well

Comment

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For the people that help with peacemaking, would you say that they are available when they are needed:

Just about all the time Sometimes Rarely

Comment

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Questions relating to training of mediators

Are you aware of the training provided to the mediators? If so, can you comment on the following?

Would you agree that the training was culturally appropriate?

No, I disagree

Yes, I agree but it could be improved

Yes, I agree

Comment

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Are there any things the training should have covered but didn't? If so, what?

Comment

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Questions about MIRJ generally

Is MIRJ a culturally appropriate model of managing conflict and restoring relationships?

Yes/No Comment

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What pointers are there that lead you to that view?

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What are the strengths of the current operation?

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Do you think there are any weaknesses or risks with the current operation?

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Have there been any unforeseen problems? If so, how were they addressed? What are the impacts?

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Did you help develop the Elders' rules for peacemaking?

Yes/No Comment

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How important do you think the rules are to the community?

Not important

They have some importance

They are very important

Comment

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Do you think many people know about the rules?

Nobody knows them

Some people know

A lot of people know them

Comment

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Thinking about the peacemaking events that you have seen or heard about, have family members been supportive in resolving disputes?

Generally no

Mixed yes and no

Generally yes

Don't know

Comment

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When talking to people you know to have been involved with a peacemaking process, have you formed an opinion that the individuals are better equipped to manage conflict better in the future?

Generally no Mixed yes and no Generally yes Don't know

Comment

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Do you think peacemaking has made an impact on reducing family conflict?

Not at all Some Has helped a lot Don't know

Comment

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Do you think the peacemaking events that you have seen or heard about has helped in preventing escalating violence?

Not at all Some Has helped a lot Don't know

Comment

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Do you know of any examples where a peacemaking event influenced the courts and or police to divert people from fines, community based orders or prison?

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What do you think are the barriers to the community (rather than a government organisation) operating a peacemaking service?

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If they exist, how can these barriers be overcome?

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Have you referred people to a peacemaking? If so, how many referrals, what was the nature of the dispute(s)? Was the dispute addressed in a timely fashion?

Comment

This image shows a full page of white paper with horizontal dotted lines, typical of primary school writing paper. The lines are evenly spaced and run across the entire width of the page. There are no margins, text, or other markings present.

In what circumstances would you be reluctant to refer someone to a peacemaking session?

Comment

A series of horizontal dotted lines for writing.

Last three questions

Overall, would you say the peacemaking service is:

A good thing A good thing but it still needs work to make it better Not a good thing

Comment

[illegible]

As a result of MIRJ being in operation, have you seen any examples of how agencies and stakeholders are collaborating in different ways to meet the needs of the community? (E.g. spin offs.)

Comment

[illegible]

What other benefits do you see from the project other than dispute resolution? (How else does it help the community?)

[illegible]

Other notes

[illegible]

End time

Appendix C – Sample consent form

The Mornington Island Restorative Justice Project (MIRJ) is a pilot project to develop and deliver restorative justice mediation. It is intended to be a culturally appropriate 'peacemaking' approach to dispute resolution.

The stated 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 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; and
- increase satisfaction with the justice system for victims, offenders, their families, and the broader community.

It is proposed to conduct an interim evaluation of the MIRJ project. The evaluation seeks to:

- make an early assessment of the development and implementation of the service to date, making observations where necessary on possible areas for improvement;
- provide opportunities for community members to provide feedback on the project; and
- collect and document information on the capacity of the community and community organisations to operate a viable peacemaking service.

The person undertaking the evaluation is Mark Browning from the policy unit of the Queensland Department of Justice and Attorney-General. Mark will be in the community from Tuesday 14th of September for a week and will be talking to:

- people who have participated in a peacemaking;
- people who have supported the peacemaking process (for example, Elders); and
- other people who have an interest in the process (for example, people from government departments).

The target audience for the evaluation report includes:

- Dispute Resolution Branch, Department of Justice and Attorney-General
- Australian Government Attorney-General's Department
- Courts Innovation Program and Indigenous Justice Program of Work staff, Department of Justice and Attorney-General
- Mornington Island Shire Council
- Moyenda (Council of Elders)
- Junkuri Laka Justice Association Inc.
- Mornington Island judicial officers and court staff
- Officer in Charge, Mornington Island, Queensland Police Service
- Staff from the Regional Operation Centre, Mornington Is.

It is planned that the findings from the evaluation will be presented to the community in the latter part of 2010. For more information please contact:

Mark Browning – telephone XXXX XXXX

Phil Venables - telephone xxxx xxxx

Do you want to participate in the evaluation?

There is no requirement for you to participate in the evaluation process – it is completely voluntary.

This means you don't have to answer any or all the questions if you choose not to.

If you feel comfortable about participating in the evaluation, we are very interested in your views and comments.

However, there may be a number of reasons why you may not like to participate in the evaluation. For example:

- If talking or thinking about the peacemaking makes you feel emotions you would rather not feel, or are difficult to deal with, then do not participate.
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- If you feel that the past is best left in the past, then please do not think you have to talk about it.
-
- If you think it will cause you problems by talking about the peacemaking then do not participate in the interview.

Your right to not participate is respected and understood.

Should you wish to participate and during the interview you change your mind, then you can stop the interview at anytime.

During the interview, it may seem there are a lot of questions, but the questions are intended to show:

- How peacemaking helps the person, family and community.
- If the peacemaking process should continue.
- How the peacemaking process can be made better.

How your information will be used

The information you provide will be analysed and included in a report. Unless otherwise agreed with you, the information will not identify you in the report. The notes made by the evaluator are confidential and will only be used in connection with evaluating the project. After this evaluation is complete, the notes will be securely stored and may be used as part of future evaluations of the project.

Often, a person's comment or statement is used in a report. A statement can be anonymous or it can be attributed (that is, the person agrees to put their name to the statement). Before the interview starts, discuss with the interviewer if you want to remain anonymous or consent to be quoted for agreed quotations. Complete the consent form accordingly.

In evaluations such as these, it is useful to document an actual event in order to explain and understand the process. Pseudonyms are used to provide a level of anonymity, however in small communities, there is a risk that some readers of the report will draw conclusions as to the identity of the participants. Accordingly, the information obtained in the interview will only be presented in a case study format if there is consent by all parties to the peacemaking.

Name:

I consent to be interviewed by the evaluator of the Peacemaking (MIRJ) project and understand that the information provided by me will be analysed for the purposes of:

-
- making an assessment of the development and implementation of the service to date, making observations where necessary on possible areas for improvement;
- providing opportunities for community members to provide feedback on the project; and
- collecting and documenting information on the capacity of the community and community organisations to operate a viable peacemaking service.
-

The notes made by the evaluator are confidential and will only be used in connection with evaluating the project. The notes are the property of the Queensland Department of Justice and Attorney-General. After this evaluation is complete, the notes will be securely stored and may be used as part of future evaluations of the project.

Cross out the following as applicable

I consent to having particular comment/statements in the report attributed to me as an anonymous member of the community (that is, my name is not used).

I consent to having particular comment/statements in the report attributed to me as an identified individual.

I do not give my consent to having particular comment/statements attributed to me in the report.

I do / do not give my consent to having information provided by me presented in a case study format.

A cultural adviser engaged by MIRJ explained this consent form to me.

Signed: Date

Witness: Date

Appendix D – 8 Steps for mediation and Elders' Rules

Preparing with families for peacemaking on Mornington Island.

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 mediator¹⁵ 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.

¹⁵ 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 4. Help families get ready for peacemaking.

Families decide with the Elders:-

- Who will be the best Elders to run the meeting?
- What family such as uncles, big sisters or brothers or grandparents are best to support them through the meeting?
- Who can come to speak and who can come to listen.
- What might need to happen to put things right? Families get time to think and talk about their ideas to put it right in an agreement.

Everyone should know what the conflict is about and have an idea about what they need to say at the meeting before they come.

Read the rules of Peacemaking out to the families and make sure they know what they mean.

Make sure families agree to abide by the rules before a meeting can go ahead.

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 Moyenda 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.

We the Elders and young leaders of Gununa support peacemaking on this Island and the rules for Peacemaking.

Signed;

Cecil GOODMAN

Graham TOBY

Cyril MOON

Roger KELLY

Rev Richard ROUGHSEY

Teddy MOON

Hugh BEN

Edgar WILSON

Darryl WILLIAMS

Matthew PETERS

Cedric SCOLES

Gordon WATT

Reggie ROBINSON

Ashley GAVENOR

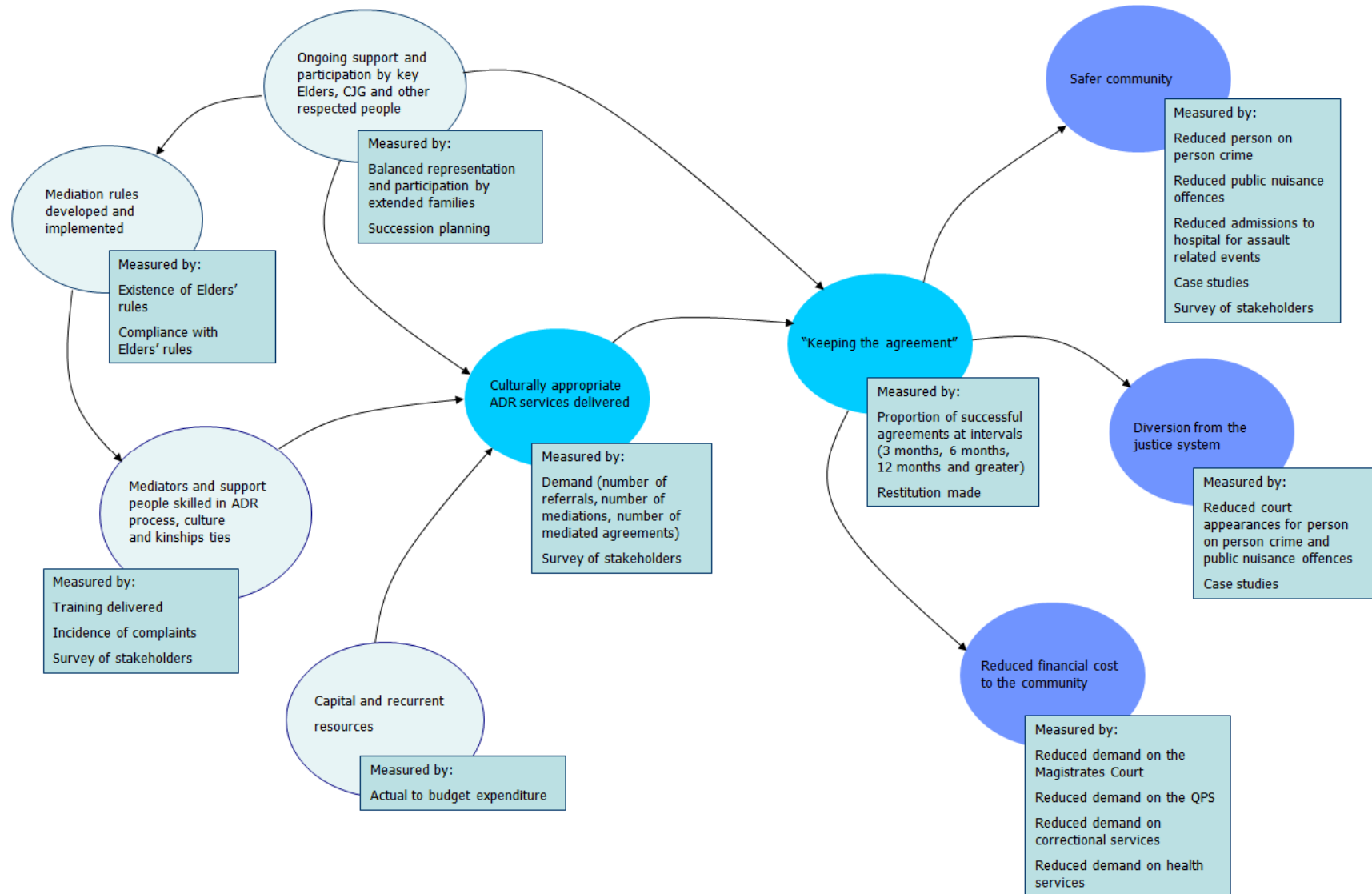
Rodney NARANATJIL

Christopher LOOGOTHA

Frank WATT

Chicko TOBY

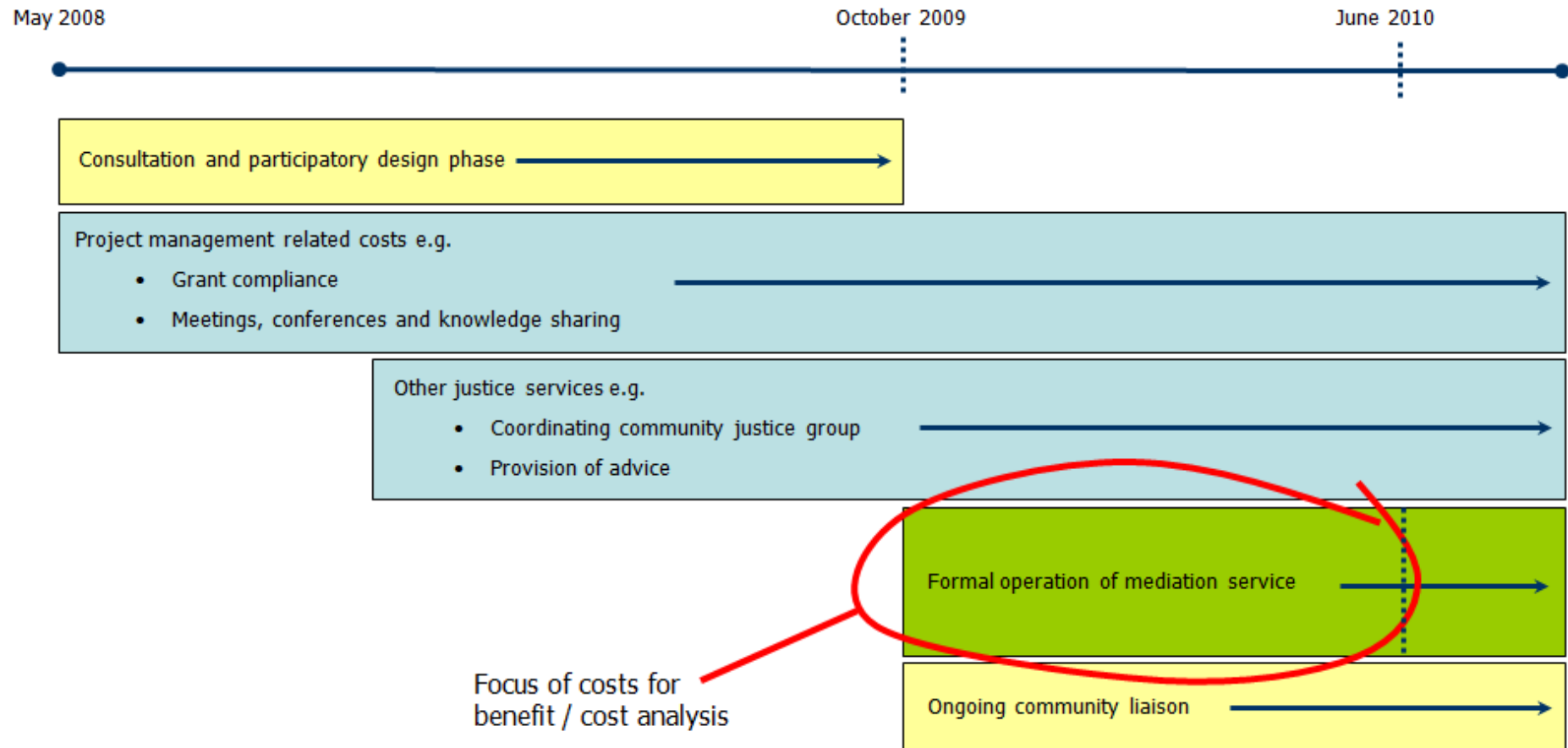
Appendix E – Program logic



Appendix F – MIRJ project costs

Peacemaking on Mornington Island													
Interim evaluation October 2010													
Costs of project 2007/08 to 2009/10													
Source: SAP extract Sept 2010													
Costs 2007/08	July	August	September	October	November	December	January	February	March	April	May	June	Total
Employee & related expenses												12,563	12,563
Information and communications												309	309
Motor vehicle												58	58
Other expenses											57	2,100	2,157
Travel airfares											791	910	1,702
Travel, accom., meals & allow.											68	3,256	3,325
Total 2007/08											917	19,197	20,114
Costs 2008/09	July	August	September	October	November	December	January	February	March	April	May	June	Total
Employee & related expenses	16,992	7,205	10,401	9,435	16,973	13,851	8,304	8,627	18,448	7,531	7,548	11,649	136,964
Information and communications	45	619	55	124	2,228	56	677	183	464	197	672	639	5,959
Motor vehicle	71	509	655	634	69	170	218	500	145	1,527	657	1,102	6,256
Other expenses	775	-775	0	42	2,998	24	391	2,415	5	0	0	1,946	7,821
Travel airfares	2,506	606	2,165	66	4,822	643	485	1,290	534	0	1,109	2,522	16,750
Travel, accom., meals & allow.	1,020	2,221	-89	1,950	457	2,716	3,023	5,783	136	71	1,021	3,770	22,080
Total 2008/09	21,410	10,386	13,186	12,251	27,547	17,461	13,099	18,798	19,731	9,326	11,006	21,629	195,830
Costs 2009/10	July	August	September	October	November	December	January	February	March	April	May	June	Total
Employee & related expenses	10,393	8,425	15,256	19,426	17,526	21,571	16,908	16,085	19,459	19,340	19,971	43,734	228,094
Information and communications	-158	291	804	299	1,788	3,595	1,250	423	1,039	312	61	846	10,550
Motor vehicle	86	267	2,467	2,061	2,176	537	3,064	519	4,653	2,081	2,412	4,651	24,975
Other expenses	0	39	0	882	523	1,318	2,205	3,144	273	147	873	956	10,361
Travel airfares	276	1,363	1,429	2,295	2,898	4,623	2,145	4,111	2,822	3,836	2,597	3,573	31,968
Travel, accom., meals & allow.	201	110	1,919	4,825	5,735	5,627	26,098	4,228	3,282	1,655	2,299	4,097	60,077
Total 2009/10	10,798	10,496	21,874	29,789	30,646	37,272	51,670	28,511	31,526	27,371	28,213	57,858	366,024

Appendix G – Cost breakdown logic for MIRJ



Appendix H – Lifecycle demand for MIRJ services

