Mark Lamont demonstrated a prototype of IPWEAQ’s portals for native title and cultural heritage to assist those delivering projects - not just public works - that may inadvertently infringe on these titles. There is separate legislation governing these two areas and as a result, the portals offer two separate assessment processes covering compliance requirements under each law.

The central work of the native title section is to assist councils in establishing if the project being assessed constitutes a ‘valid future act’. A ‘future act’ is any activity that impacts upon native title. This applies to physical acts such as the laying of a pipeline or the building of a road, or non-physical activity such as the issuing of a lease or permit by council which could impact upon the legal rights of a native title party. Any future act must be assessed as valid if it is to go ahead without being in contravention of native title law.

The cultural heritage section provides detailed assistance in helping councils ensure no harm is done to Aboriginal cultural heritage through the work projects they undertake. Among other things, the portal offers a step-by-step process to:

- Assessing possible levels of harm
- Providing a guide to duty of care obligations
- Developing cultural heritage management plans

- Linking to resources that enable council to identify and negotiate with the relevant indigenous party.

The law around native title and cultural heritage is enormously complex. It has proven to be an area of considerable difficulty for councils and other public works sector organisations for a number of reasons. One is that the acts themselves are substantial, comprising about 600 and 100 pages of legislation respectively. Any council officer tasked with establishing if a specific project contravenes the laws contained within those acts, needs to sift through a great deal of information to find what is relevant to their particular purposes. The other major stumbling block has been the fact that the resources required to undertake a self-assessment for native title and cultural heritage for any project are contained in a wide variety of sources, all of which need to be accessed at some point along the process.

The tool IPWEAQ is developing does the work of refining the area of the acts relevant to your particular project, and gathers all the required resources in one place, so assessment can be done without the need to link to any other sites. The portal is designed around a series of consecutive ‘yes/no’ questions that establish the nature of the project and send the user to the appropriate areas of the law, providing the necessary resources to answer each question accurately along the way. The aim is to work through these questions, utilising the resources provided on the same page until you can confidently assess the project as valid.

This is a general overview and more detail is available from the conference presentation which can be viewed at: https://webcast.gigtv.com.au/Mediasite/Play/c95747382cca4f8b9dc6537a0ce1bef31d

A number of councils at the conference, volunteered to be part of the final trial process. It is envisaged that we’ll have the tool ready to test in the field very early in 2019.

If you would like to be part of the IPWEAQ native title and cultural heritage discussion group, please send your contact details to: Mark.Lamont@ipweaw.com.