



Regional
Development
Australia

Fitzroy and Central West Inc.

The Palace
Scoping Study
2011 - 2012

Preamble

The purpose of 'The Palace' Scoping Study is to provide Regional Development Australia Fitzroy and Central West (RDAFCW) with a level of detailed information on the cultural significance, protocols and required statutory and legislative process that is necessary to assess the level of legal and cultural appropriateness of future development applications. This includes all or parts thereof the noted Aboriginal Rock Art site namely 'The Palace'.

Definition

This study is also concerned with more recent enquiry and related development activity of the Sandstone Belt which is a conglomeration of at least 25 separate mountain range clusters and includes Carnarvon, Dawson, Drummond, Expedition, Shot-Over, Staircase and Zig-Zag Ranges. These rugged areas arise some 600m above the surrounding areas exposing precipitous cliffs 60 - 350m high. They are the birthplace of some of our great rivers, including the Maranoa, Warrego, Dawson and Fitzroy.

This document and RDAFCW's interest relates the iconic cultural significance, critical mass, developmental potential and most importantly the preservation and protection of the Aboriginal Rock Art located on the so-named 'Sandstone Belt'.

To define RDAFCW's interests further - this document in the first instance intends to identify the recognised legal and culturally appropriate processes required to develop a template that will advance the preservation and protection mechanisms of the Aboriginal Rock Art sites. RDAFCW sees 'The Palace' Aboriginal Rock Art site, which by far is the largest of the many sites recorded and located in the Central Western Queensland sandstone belt as the site used in the development of the preservation and protection template.



Conclusions and Recommendations

The findings of this scoping study recommends RDAFCW to support the further development of the Sandstone Belt and the critical mass of Aboriginal Rock Art and varied cultural material as a National and State iconic region.

The scientific, economic and cultural significance of the so-named region has the potential to become recognised as significantly as that of the Great Barrier Reef with a wealth of outputs stretching across economic, environmental and social dimensions.

As noted within the entirety of this document – the complexity and stigma of the associated development processes have impeded progress and as a direct result the scoping study findings recommend that development be planned on two distinct horizons.

Horizon One (1) takes on an ethical approach in recognising the preservation and protection of the cultural materials as the primary objective of the development process.

The rationale to support the Horizon One (1) approach reflects on the dominance of the Native Title process and the impedimentary impacts associated with unresolved claims and determinations. Secondly and with an ethical forefront, the preservation and protection of relevant cultural materials requires an element of good-faith as far as ‘Duty of Care’ of such cultural materials is concerned. And thirdly, it will be vital for any future development aspirations to be accompanied by claimant currency, claimant determination/ resolution and evidence that cultural protection mechanisms exist.

Therefore RDAFCW in full support of development intent suggests that Regional Councils acknowledge the Horizon One (1) recommendation and pursue agreement from relevant stakeholder alignments to develop a cultural preservation and protection template (‘The Palace’ Aboriginal Rock Art site) with transferrable capability for future engagement of extended Sandstone Belt sites.

RDAFCW support for Horizon two (2) will be subject to and conditional upon, in the first instance, that all legislative compliance is maintained, Horizon One (1) preservation and protection template is developed and implemented and a primary, secondary and tertiary input/output analysis and economic model for the Sandstone Belt be executed. (Terms of Reference developed in conjunction with RAPAD and Outback Tourism).

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1.0 Introduction

1.1 Historical Background

Regional Development Australia Fitzroy and Central West Inc (RDAFCW) acknowledge the iconic significance of the Aboriginal Rock Art located within the Central Queensland sandstone belt that extends approximately from, Blackall in the West, Banana in the East, Injune in the South and Springsure and Dingo in the North.

It is a conglomeration of at least 25 separate mountain range clusters and includes Carnarvon, Dawson, Drummond, Expedition, Shotover, Staircase and Zig-Zag Ranges. These rugged areas arise some 600m above the surrounding areas exposing precipitous cliffs 60 - 350m high. They are the birthplace of some of our great rivers, including the Maranoa, Warrego, Dawson and Fitzroy.

This document and RDAFCW's interest relates the iconic significance of the so-named 'Sandstone Way' and to some of the largest and most distinct Aboriginal Rock Art sites ever recorded.

A century after its first dated visitation by Europeans, 'The Palace' Aboriginal art site complex in central western Queensland remains one of the largest Aboriginal art sites recorded in Australia. It is the single largest collection of stencilled art anywhere in Australia, and possibly the world. The complex is also a sacred burial site where numerous examples of distinctive bark cylinder coffins were discovered.

This iconic and unique heritage place provides a discrete example of visitor pressure on Queensland's remote minimally protected Indigenous heritage. A template such as that is proposed will enable the monitoring of this pressure, the condition of the fabric of the place, and the effectiveness of management actions will provide a clearer understanding of how the cultural heritage environment can be better managed.

1.2 Heritage Value

Aside from its critical mass, sheer scale and antiquity, 'The Palace' has unique heritage value because of its spiritual significance to Aboriginal people, as a burial ground and as a tangible link with the past.

The site also has substantial scientific value for the wealth of information it contains. Analysis of the artistic styles and the material culture such as the tools, weapons and dilly-bags depicted, can reveal much about traditional Aboriginal culture in the region. 'The Palace' is also an important aesthetic, educational, tourism and recreational resource.

1.3 Pressure

The greatest threat to conserving the site has been intentional damage as a result of un-controlled human visitation. Names dating from 1907 to 1986 have been carved into the soft sandstone. Local people, attempting to rectify some of the graffiti damage by erasing the names of forebears, have caused further damage.

Other damaging activities have included in-discriminate shooting at the art and attempts to hack out motifs and burial crypts were pillaged (early this century). High levels of visitation at 'The Palace' was due to its reputation as a spectacular art site. The site is well known locally and is indicated on tourist maps. It is accessible by conventional vehicles through a private property access.

Visitor book entries indicate that at least 2500 people visited the site from 1967 to 1989. Initially, 60% were local people, but by 1989 almost 60% of visitors were non-locals.

1.4 Management

In 1933, the Queensland Government declared 'The Palace' a Scientific and Recreational Reserve however no protection and monitoring mechanisms were initiated for issuing visitor permits or policing with vandalism of this iconic site increasing.

The Aboriginal Relics Preservation Act 1967 was the first legislation enacted to protect Aboriginal cultural material, and was one of the first examples of Aboriginal cultural heritage legislation in Australia. Under this Act, ownership of all relics, including art sites, was vested in by the Crown.

In July 1970 'The Palace' was cancelled as a Reserve for Scientific Purposes and gazetted as a permanent Aboriginal Site under section 13 of the Aboriginal Relics Preservation Act, with trusteeship vested in the Director of Aboriginal and Islander Affairs. From that time, a permit was required to visit the site, but no attempts were made to formally police the permit requirements. In 1971 the property owner was appointed as an honorary warden to manage the site.

Despite the introduction of the legislation, vandalism doubled across sites in the Central Queensland Highlands for about five years after 1967. 'The Palace' contains 30 % of all dated vandalism recorded in a sample of 12 sites for which such data have been collected (Godwin 1992b). It was five times more likely to be vandalised than any other site in the Central Queensland Highlands.

The site was declared a designated landscape area under the Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987. The Queensland Department of Environment and Heritage took responsibility for the site in 1989 but trusteeship was not transferred. A site management plan involved Aboriginal people from the region. Its strategy was to restrict visitor access to formal guided tours conducted by an operator adhering to guidelines, with an Aboriginal person on each tour, and with a maximum of 30 people a week. Fencing, gates and viewing points were provided.

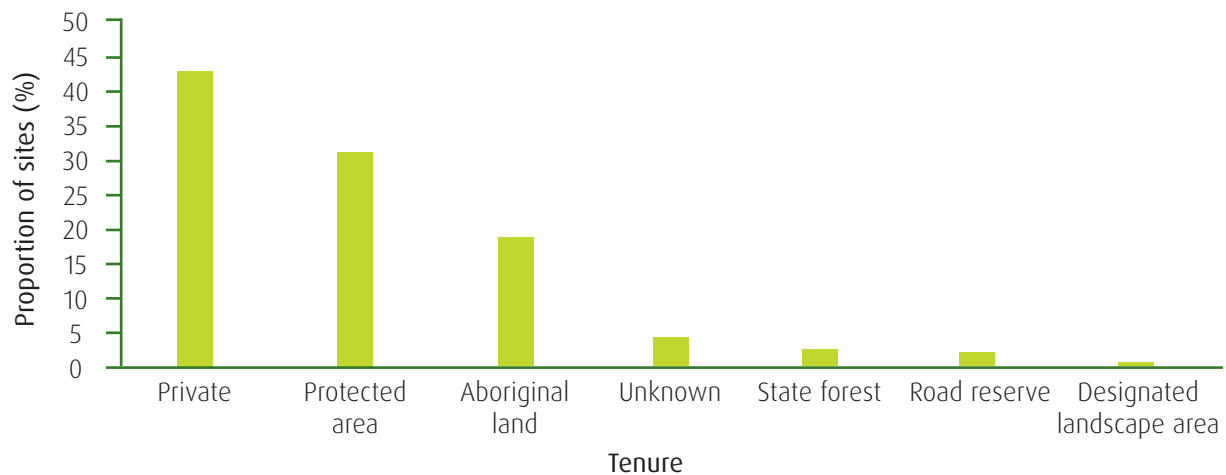
Management issues including trusteeship, traditional custodianship and provision of a gazetted access road and resources for continuing management are unresolved.

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The Aboriginal Land Act 1991 provided for the return of land in the form of reserves such as 'The Palace' to Aboriginal people however Native title issues arose and development in that regard diminished.

A major factor contributing to the continuing conservation of 'The Palace' is the goodwill of the interested parties, including the landowner, the Aboriginal community, the Environmental Protection Agency as cultural heritage management agency, the tourist operator and the public. The common view is that this work of art must be preserved for posterity. (By Dr Luke Godwin).



Source: Cultural Heritage Pressure 9.17- 9.19

The figure above shows the tenure of Aboriginal Rock Art sites in Queensland that are known to be visited regularly. Landholders taking tourists to see sites on their own land facilitate most of the known visitation in north Queensland (Horsfall, N., pers.comm.). While private landowners encourage visitation, cultural heritage managers can do little to police it. Small-scale tours on private land are conducted with little or no contact with management agencies or Aboriginal groups.

1.5 Current Background

In 2009 during an RDAFCW delegation through the Central Western Queensland district discussions took place that included exploring the potential commercial tourism potential of the so-named Sandstone Belt and more specifically 'The Palace' Aboriginal Rock Art site.

Although motivation to pursue developmental processes were high RDAFCW recognised that in the first instance the cultural appropriateness of process and legislative compliance was paramount and deferred further development until such time as such the cultural and legislative considerations could be clearly defined.

1.6 Indigenous Rock Art Issues - Native Title - Current Status

Issues paper prepared by Blackall-Tambo Regional Council.

Economic Development Officer – Blackall-Tambo Regional Council - April 2011

The Blackall-Tambo Regional Council (BTRC), and others, has had a long term interest in the protection of and the tourism potential of the so-named rock art in the region. Any development would of course be executed in accordance with legislative compliance, culturally appropriate protocols and cooperation with the rightful Indigenous community.

It is understood that the first step in any such development depends on the resolution of native title issues so that the relevant native title owners were clearly identified.

The Bidjara Native Title Claimant Group have a Native Title claim that extends from Charleville to include those parts of Blackall-Tambo and Barcaldine Regional Council areas that include the Aboriginal rock art areas of the sandstone belt along the north-east boundaries of these two Councils. The original Bidjara Native Title Claim was made some years ago, but was amended in 2009 or 2010 to include the Aboriginal rock art areas, and, until the middle of 2010, no challenge had been made to this claim.

During 2009 and early 2010 negotiations took place between the Bidjara Native Title Group and Blackall-Tambo Regional Council, Murweh Regional Council and others with the aim of identifying a long term solution to native title issues in towns in these Council areas. The proposal was that:-

- » The Bidjara would give up Native Title within a circle with a 5km radius around Blackall, Tambo and Yalleroi in exchange for freehold title over several house blocks in each town.
- » The owner of the pastoral lease for Marston Station, where much of the Aboriginal rock art is situated, was keen to have a significant area (at least 1,000 ha) where the rock art was located excised from his pastoral lease and given to the High Court determined Native Title group or possibly Queensland National Parks.

Relevant Indigenous Land Use Agreements had been negotiated and Bidjara community meetings arranged to consider these in mid-2010.

Advertisements required to advise on these community meetings led to a number of other native title claimants registering their interest. These other groups include:

- » Iningai (from Blackall, Barcaldine and Jericho regions)
- » Karingbal (from Springsure)
- » Gunggari (from Mitchell, Muckadilla, Morven regions)

Negotiations are underway to resolve these issues. The other three communities assert that their areas overlap the area claimed by the Bidjara.

The situation has been hindered as the Bidjara have changed their legal representatives for these negotiations from Queensland South Native Title Services to Creevy Russell Lawyers.

The Federal Court sat on 10 March 2011 to hear arguments from the Bidjara and the Karingbal people regarding an extension of time to gather information prior to a trial scheduled for 10 October 2011 on their conflicting native title claims.

An anthropologist has been engaged by the Karingbal to gather material in support of their claim. This anthropological study may also assist in identifying issues between the Iningai and the Bidjara.

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Representatives of the Bidjara claim that the other three groups as above are really part of the Bidjara people. Representatives of the Karingbal dispute this claim of the Bidjara however, as these groups were not mentioned in the original Bidjara Native Title claim, this may cause problems with the validity of the Bidjara claim.

Action by the Karingbal and Gunggari people do not affect the BTRC area as their areas are to the south of the BTRC area.

The Indigenous community that is relevant to BTRC interests re 'The Palace' apart from the Bidjara is the Iningai who as of July 2011 do not have a registered claim. Iningai however, have engaged Queensland South Native Title Services to gather evidence in support of a Native Title Claim.

The Report on the 10 March 2010 Court hearing supplied by MacDonnell Law, representing Councils on this issue, did not make any mention any legal action taken by the Iningai or Gunggari peoples.

Interestingly, the book 'Belle of the Barcoo', a history of the Tambo region, lists the following as being tribal groups in the region:

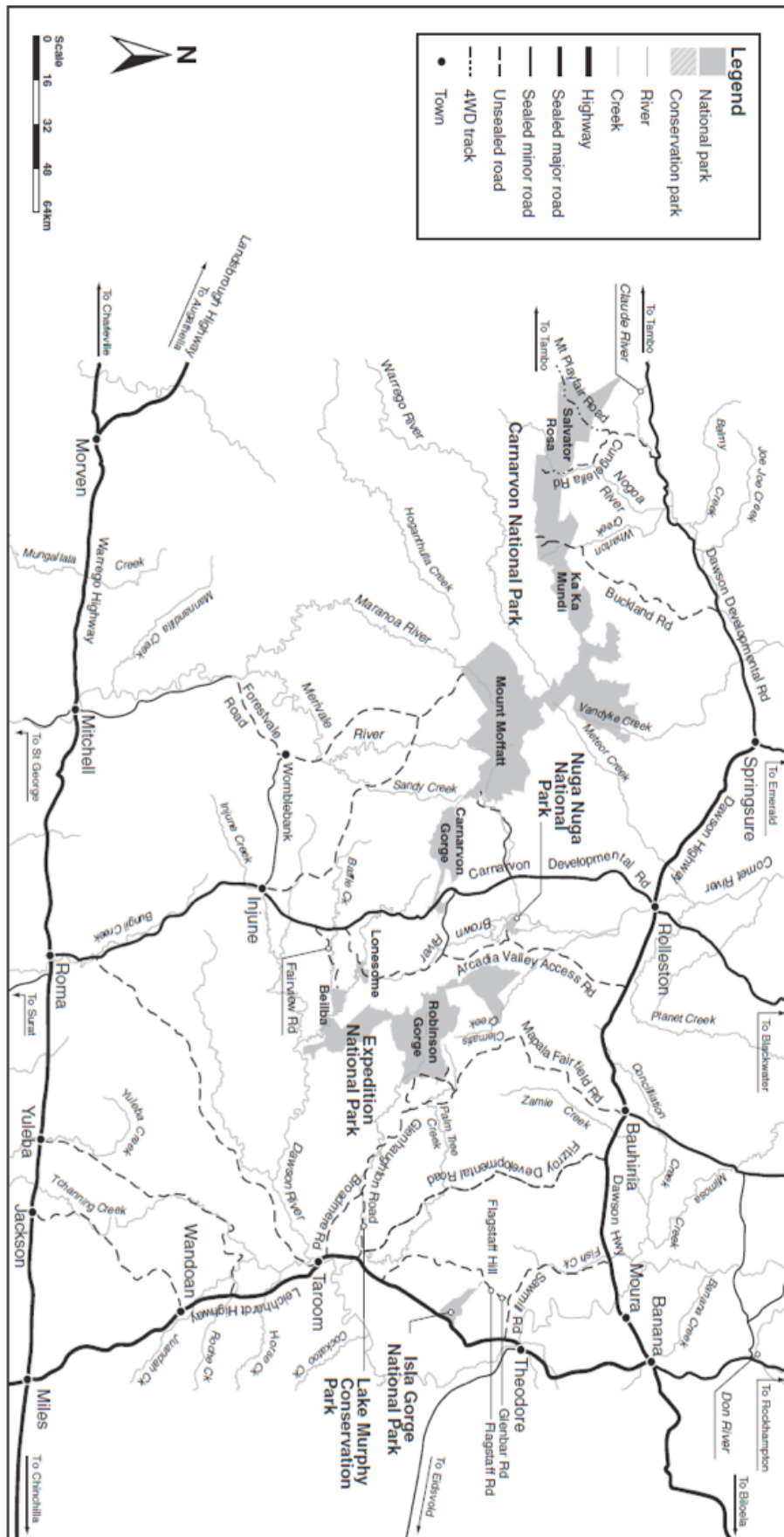
- » Wadjalang/Wadjalad
- » Kuungkari
- » Kunja
- » Pitjara/Bidjara
- » Torraburri
- » Koparburri
- » Peepinburri
- » Onderleburri

It is not known how these 'tribal' groups relate to each other or what evidence was used to identify these tribal groups and their links to the region.

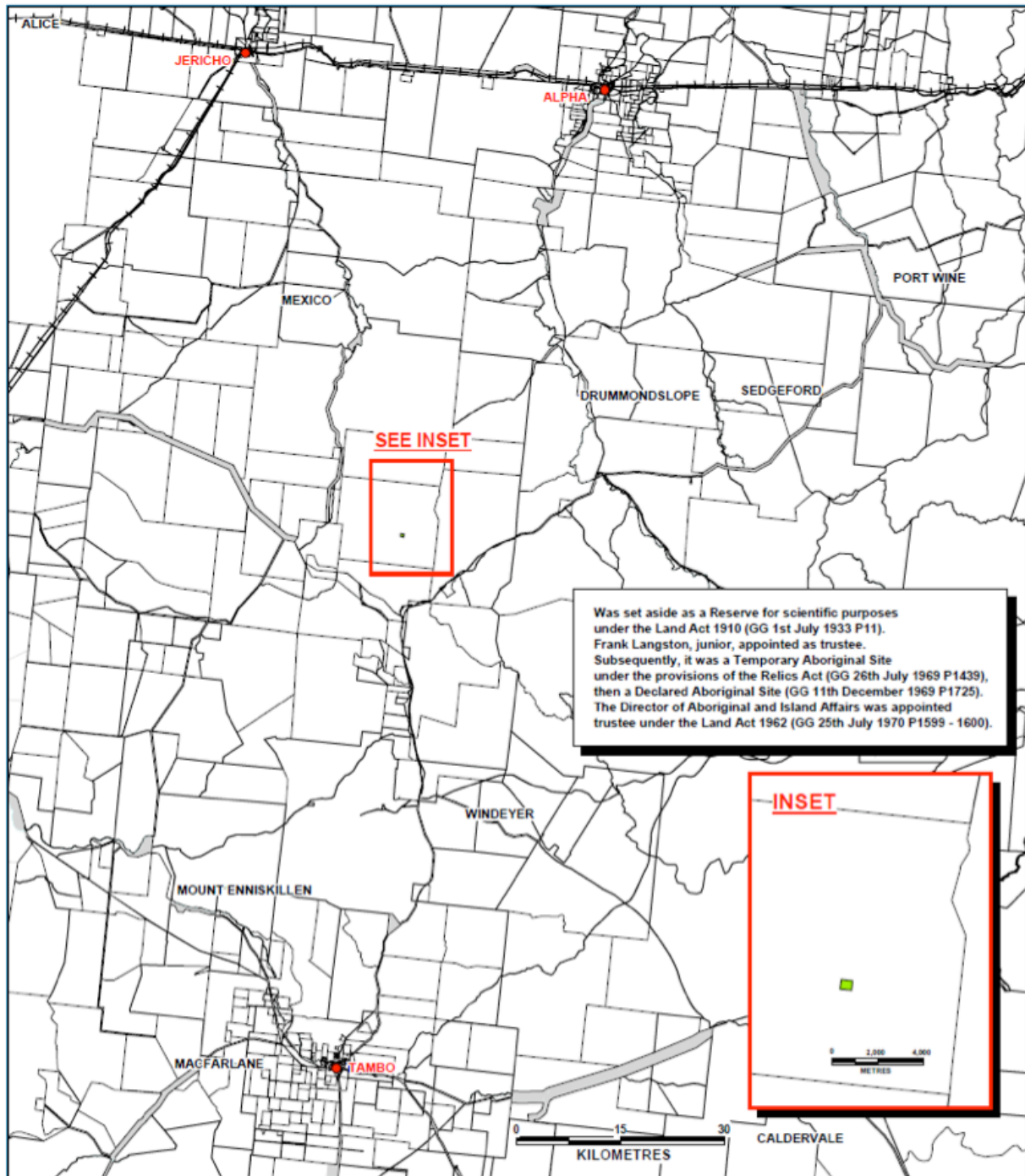
Representatives who are responsible for Native Title issues in Queensland State Department Environment and Resource Management (DERM) advises that the ILUA between the Bidjara and BTRC is on hold as is the ILUA with the owner of Marston Station regarding the area of land on which 'The Palace' and other rock art is located.

Any progress on the Marston ILUA depends on settling the native title issue between the Bidjara and the Iningai. DERM said that it may be possible to prompt resolution of the Marston issue by proceeding with an ILUA for an Indigenous Art Interpretive Centre for both Blackall and Tambo. Such a Centre had been proposed in 2010.

The action required would involve meetings between representatives of the Bidjara and the Iningai to discuss the issues. Engaging a facilitator for this and the likely subsequent meetings that would be necessary would be advantageous given the complexity of the issues. It may be possible to seek heritage or other funding for such a facilitator and the associated meeting costs.



Designated Landscape Area



DESIGNATED LANDSCAPE AREA DLA003

THE PALACE DLA
See "Aboriginal Cultural Heritage Act 2003"
Part 11 Section 162

DESCRIPTION :-  Lot 7 on Plan MX86

Map Projection : Geographical latitude and longitude GDA84.

Compilation : Land Tenure information obtained from the Digital Cadastre Data Base Dept of Environment and Resource Management Brisbane. The Land Registry in the Dept of Environment and Resource Management should be consulted for verification of tenures.

Feature names shown on this map have been obtained from available information.

It is possible that errors and omissions may exist.

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MAP PRODUCED BY CULTURAL HERITAGE COORDINATION UNIT,
DEPARTMENT OF ENVIRONMENT AND RESOURCE MANAGEMENT, BRISBANE.

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LOCALITY MAP



1.7 Aim

The aim of 'The Palace' Scoping Study is to provide RDAFCW with a level of detailed information necessary to assess the legal and cultural appropriateness of future development applications that include all or parts thereof the noted Aboriginal Rock Art site namely 'The Palace'.

For example, the extent of detailed and relevant information is not known, nor is the nature and status of current Native Title claims, and what alignments exist. Without some understanding of what is required, it is difficult to address the questions that may arise as a result of interest of any particular stakeholder group/groups. This report is, therefore, based on mapping valid options available that met prescribed requirements and considerations.

1.8 Scope of the Research

RDAFCW commissioned the so-named study to include:

- » Definition of what processes are required, in the first instance, to preserve and protect the Aboriginal Rock Art site known as 'The Palace'
- » What knowledge transfer exists
- » Review historical activity – categories of engagement, examples in each category
- » Indication of the extent of this activity
- » Commentary on how these activities are supported and might be enhanced to achieve the realisation of preservation and protection mechanisms and future commercial activity

1.9 Approach

The Study has undertaken the following tasks:

- » Desk top research – a review of definitions employed in relation to existing knowledge transfer and cultural engagement
- » Survey – of all recognised stakeholder groups to identify the current status of what currently is happening in this area – this will be executed by a review of all websites followed by a process of verification
- » Interviews – with key individuals (the cultural sector and economic development areas) to review in more depth, the knowledge transfer and status of cultural engagement and to identify barriers to development of good practice in this area
- » Analysis of findings and report writing

2.0 Definitions

The first step is to define what is meant by knowledge transfer, recognised cultural engagement and legislative process by reviewing and mapping existing policy documents and legitimate information available. For a definition of 'knowledge transfer' we looked mainly at National Native Title Tribunal findings, Claims and other relevant culturally significant documentation. For definitions of culture and the related area, the study identified publications such as the Aboriginal Cultural Heritage Act 2003 and existing examples of Cultural Heritage Management.

2.1 Knowledge Transfer

There are several definitions of knowledge transfer.

RDAFCW uses a broad definition of knowledge transfer across all facets of the organisations core-business functions. It regards knowledge transfer in this instance as: 'the dissemination and exploitation of the potential outputs surrounding the preservation, conservation and commercial development intentions of the so-named Aboriginal Rock Art site known as The Palace.

In previous sections the Study explains the background (1.1 and 1.2) to its review of knowledge transfer in the following terms:-

'Knowledge transfer' has traditionally taken place through on-going activity associated with the same intentions. In the context of the increased expectations of such intentions RDAFCW's role in transferring knowledge is to ensure that all knowledge is relevant, current, legal and culturally compliant.

In this study, therefore, we looked at activity which has taken place previously. This of course, does not preclude previous attempts being for the benefit of learning and teaching or research but there has to be some kind of external remit/benefit.

The key point about this approach to defining knowledge transfer in these broad terms is that it moves the thinking beyond knowledge transferred only from research into other areas of experience.

2.2 Cultural Engagement

This study is intended to identify the cultural engagement activities thus far and proposed future engagement activities, which demonstrate broad engagement across what is deemed recognised and culturally appropriate.

The definitions of 'culture' employed in official circles tend to take a broad view. For the purposes of this study, we are working with a narrower 'everyday' definition, which is based on efficiency whilst at the same time recognising appropriate levels of sensitivity and cultural appropriateness.

In summary this includes activities initiated and facilitated by RDAFCW in an effort to better understand the circumstances surrounding relevant cultural interests in the so-named site. The RDAFCW definition also includes published and relevant data reviewed. We are not including these areas in this study except in as much as they support another area of cultural activity with a focus on broad cultural engagement.

2.3 Link between Knowledge Transfer and Cultural Engagement

This study is an exercise in scoping what has taken place and what is proposed as future intentions in the area of cultural engagement.

2.4 Link between Stakeholders

The study will nominate a facilitation process that links the interests of all related stakeholders including:

- » Broader Indigenous Community
- » Recognised Native Title Claimant Groups
- » Local Government
- » Recognised Title Holders (Cultural/Crown/Freehold/Leasehold)
- » National Native Title Tribunal

3.0 Layer One – Surface Progress

RDAFCW through the assistance of the findings will nominate a preferred and appropriate option that will enhance the progression of intended development applications.

It appears to be so, that the complexity of the issues surrounding the sustainable development of the so-named site has been impedimentary to progress. It appears on the surface that the site as significant as it is, has stimulated interest that would otherwise remain dormant due to progression complexities.

Regional Councils bordering on the location have maintained a close eye and cautious interest however view the task of unravelling such complexities as well beyond their core-business functions of Local Government with minimal input/output yields.

The quintessential culture of 'people of the bush' have at the same time respected the cultural significance of the site/sites and through nothing more than a level of social responsibility have, as previously noted, maintained a close eye on the site and implemented by their very nature, protection mechanisms that minimise disruption and in some case desecration.

Most recently, the Blackall-Tambo Regional Council have taken up the challenge to identify steps in the very first instance, to preserve, protect and encourage the development of a management plan that will enable the full potential of the site.

RDAFCW in a follow-up capacity, have met with the Blackall-Tambo Regional Council (April 2011) to discuss that which would be required in order to meet future government funding due diligence requirements.

RDAFCW – Blackall-Tambo Regional Council Workshop (April 2011)

The purpose of the workshop was in response to an on-going interest from the Blackall-Tambo Regional Council (BTRC) in pursuing the developmental potential (Tourism) of the so-named Aboriginal Rock Art site – 'The Palace'.

BTRC initiated dialogue with RDAFCW with the aim of identifying funding that was/would be available to progress developmental intentions.

Given the complexity of the environment surrounding the developmental intention RDAFCW emphasised from the outset, that all forms of government funding would be subject to and conditional upon what was deemed, culturally appropriate process and legislative compliance and that, all subsequent intentional documentation relevant to 'The Palace' Aboriginal Rock Art site should include evidence that such criterion has been given the due consideration.

The resolve of the discussion clearly recognised that as an imperative to progress, further consideration in the first instance should be given to the preservation and protection of the cultural material, given the increased level of exposure the site will endure during developmental processes.

As noted previously, unravelling the complexity and ambiguity of the environment surrounding Cultural Heritage and Aboriginal Rock Art and Native Title has been impedimentary to progress and responsible for the caution and lack of action demonstrated by bordering Regional/Shire Councils and landowners.

The initial discussion was dominated by the developmental intentions for the so-named 'Palace' site however it became clear that although 'The Palace' site was by far the most significant other Aboriginal Rock Art and cultural material sites extended further across the entirety of the Sandstone Belt as in 1.1 of this document.

Such a revelation highlighted that although 'The Palace' site was the integral element of intent the extended geographical cultural material locations added several dimensions to the original intention and provided the rationale to further extend relevant stakeholder alignments and most importantly the in-principal support required to justify Local Government investment.

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RDAFCW / Blackall-Tambo Regional Council – Queensland South Native Title Services

On the fourteenth of July 2011 representatives from RDAFCW and Blackall-Tambo Regional Council (BTRC) met with Queensland South Native Title Services (QSNTS).

The aim of the meeting was to validate relevant knowledge transfer details made available to RDAFCW and BTRC, request the cooperation of QSNTS to act as a conduit for further validation of information flows and provide guidance in relation to what processes were deemed necessary to effectively negotiate a preservation and protection agenda with rightful Native Title Claimant Groups.

QSNTS demonstrated support for the primary objective of developing the horizon one preservation and protection template and agreed in principal to act as a conduit to validate information flows that were a direct result of progressing a preservation and protection template for the so-named Aboriginal Rock Art site – ‘The Palace’.

Although confidentiality impeded information flows on the day, QSNTS concurred with the knowledge transfer details made available to RDAFCW and BTRC thus far.

Both RDAFCW and BTRC recognised QSNTS as providing the already extended stakeholder alignment with independent and non-bias guidance.

QSNTS recommended that negotiating commercially driven land use agreements be postponed until such time as Native Title Claims were determined (anticipated 2014) however encouraged negotiating land use agreements with the Native Title Claimant Group Bidjara to the effect of preserving and protecting the cultural material of the site.

QSNTS outlined that such negotiations would initiate the establishment of stakeholder relationships that would continue and benefit the horizon drive once Native Title determination was resolved.

Horizon One (1)

‘The Palace’ Aboriginal Rock Art and Cultural Material

Horizon Two (2)

The Sandstone Belt (refer 1.1) Aboriginal Rock Art and Cultural Material.

The extended dimensions of the initial intent has progressed the initiative from a regional cross border alliance to an initiative with State and National significance. This is in recognition of the contribution such a critical mass of Aboriginal Cultural material would make to science, national tourism and the surrounding remote communities.

The difficult question dominating the discussions was how would the initiative gain the in-principal support and future investment of the extended stakeholder network who previously filed such complexities into the too-hard basket?

Such a consideration was valid with the daunting evidence suggesting that the initiative should clearly isolate progress to only include ‘The Palace’ with Horizon Two (2) progressing with the successful completion of Horizon One (1) which is to develop a transferrable preservation and protection template. This would have the potential to garnish commercial realisation once Native Title determination was resolved.

It was agreed that Horizon Two (2) momentum however needed to be maintained in parallel to the developmental efforts of Horizon One (1).

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Horizon Two (2) developments will include the mapping of primary, secondary and tertiary stakeholder alignments and the defining interconnectedness of each stakeholder classification.

- » The primary stakeholder alignment would include those stakeholders with primary vested inputs and outputs
- » The secondary and tertiary stakeholder alignments would obviously include stakeholders whose vested inputs and outputs would be in accordance with extent of connectedness and actual alignment categorisation

For example: The Winton Shire Council would recognise the extended tourism benefits of increased visitation to the Central West but would not directly benefit from the increased visitation to the aligned Aboriginal Rock Art sites. The benefits of the overall increased visitation to the Central West however has the potential to stimulate Winton Shire investment in the developmental process as a secondary stakeholder with tertiary yields and outputs directed at the broader national economy.

It was a general consensus of the workshop to initiate discussion with the Remote Area Planning and Development Board (RAPAD) to gauge a level of support in developing a relevant cross-border economic model outlining input/output forecasts that would be used to solicit investment in progressing horizon two.

A proposal with sound economic modelling and primary, secondary and tertiary investment, when coupled with a horizon one cultural protection template would be deemed favourable in attracting both State and Australian Government funds to progress horizon two.

The workshop concluded with the ratification to approach RAPAD with the aim of soliciting support in developing an economic model in supporting the progression of horizon two.

3.1 Historical Impetus

Year	Description
1933	Queensland Government declared The Palace as a Scientific and Recreational Reserve.
1967	The Aboriginal Relics Preservation Act 1967 was first legislation enacted to protect Aboriginal cultural material.
1970	The Palace was cancelled as a reserve for scientific purposes and gazetted as a permanent Aboriginal site under Section 13 of the Aboriginal Relics Preservation Act.
1971	The Property owner was appointed as an Honorary Warden to manage the site.
1987	The Palace site was declared a designated landscape area under the Cultural records (Landscapes Queensland and Queensland Estate) Act 1987.
1989	The Department of Environment and Heritage has responsibility for the site however Trusteeship was not transferred.
1991	The return of the land to Aboriginal people in the form of Reserves – Aboriginal Land Act 1991.
2004	Aboriginal Cultural Heritage Act 2003 enacted.

3.2 Historical Impetus Recommendations

RDAFCW as part of the consultation phase have met with Dr Luke Godwin who for over ten years has demonstrated clear links to the so-named site and mechanisms put forth for the preservation and protection of this culturally significant icon.

Dr Godwin made it clear from the outset that, historical efforts had not progressed as a direct result of the complex nature of Native Title determinants not being confirmed and has suggested that all future progress concentrate in the first instance on establishing Indigenous Land Use Agreement that would enable stage one – namely the development of a cultural heritage management plan aimed specifically at preservation principals.

The current Aboriginal Cultural Heritage Act 2003 clearly outlines that all ‘persons’ including the State - shall provide effective recognition, protection and conservation of Aboriginal cultural heritage as that in The Palace Aboriginal Rock Art site.

The principles underlying the Act will act as a guide for the purposes of this document.

RDAFCW and relevant associations and alignments base all included definitions and intentions contained herewith on respect for Aboriginal Culture traditional practices. RDAFCW will maintain that Aboriginal people will be recognised as the primary guardians, keepers and knowledge holders of connected Aboriginal cultural heritage.

RDAFCW recognises knowledge transfer as critical in optimising intellectual capital thereby acknowledging the importance of maintaining and preserving relevant knowledge in the promotion of Aboriginal cultural heritage.

The activities involved will accurately contribute to existing and new found knowledge transfer repositories which will allow Aboriginal people to reaffirm their obligations to ‘law and country. RDAFCW will work in prudent cooperation with all aligned stakeholder groups to establish a timely process for the management of activities that may harm Aboriginal cultural heritage.

To avoid confusion, Aboriginal cultural heritage can exist on an area regardless of tenure – Freehold, leasehold, Crown, Native Title. *Native title does not have to extend over an area to gain cultural heritage classification.*

RDAFCW recognise that even in its capacity as scoping agent all precautions and diligence must be considered when exposing the location of the site.

In an effort to accurately identify the rightful and legal Aboriginal party to ‘speak for country’ RDAFCW will make contact with the recognised Cultural Heritage Body who defined in legislation, can speak on behalf of a designated area.

RDAFCW will liaise with the Department of Environment and Resource Management (DERM) who are responsible for administering this legislation.

Dialogue between RDAFCW and representatives from the Department of Environment and Resource Management revealed:-

- » As of June 2011 there was no recognised and registered Cultural Heritage Body for the so-named area
- » DERM representative recommended discussion take place with Queensland South Native Title Services to accurately identify the current issues surrounding the so-named area
- » The definition of ‘current issues’ above refers to a general overview of the Indigenous landscape status (defined area encompassing The Palace Aboriginal Rock Art Site) meaning: determined Native Title Claims; Registered Native Title Claims; Recognised Trustees/Custodians; Current Indigenous Land Use Agreements

4.0 Aboriginal Cultural Heritage Act 2003

The Aboriginal Cultural Heritage Act 2003 commenced on 16 April 2004. The Act binds all persons, including the State, and is intended to provide effective recognition, protection and conservation of Aboriginal cultural heritage.

4.1 Principles Underlying the Aboriginal Cultural Heritage Act 2003

The following fundamental principles underlie the Act's main purpose:

- » The recognition, protection and conservation of Aboriginal cultural heritage should be based on respect for Aboriginal cultural and traditional practices
- » Aboriginal people should be recognised as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage
- » It is important to respect, preserve and maintain knowledge, innovations and practices of Aboriginal communities and to promote understanding of Aboriginal cultural heritage
- » Activities involved in recognition, protection and conservation of Aboriginal cultural heritage are important because they allow Aboriginal people to reaffirm their obligations to "law and country"
- » There is a need to establish timely and efficient processes for the management of activities that may harm Aboriginal cultural heritage

4.2 Distinction between Aboriginal Cultural Heritage and Native Title

Aboriginal cultural heritage values should not be confused with Native Title. As with non-Aboriginal heritage values, Aboriginal cultural heritage can exist on an area regardless of the nature of land tenure. The existence of Aboriginal cultural heritage in an area does not mean that Native Title exists over that area.

4.3 Definition of Aboriginal Cultural Heritage

The Act defines Aboriginal cultural heritage as anything that is:

- » A significant Aboriginal area in Queensland
- » A significant Aboriginal object
- » Evidence, of archaeological or historic significance, of Aboriginal
- » Occupation of an area of Queensland

A significant Aboriginal area or object must be particularly significant to Aboriginal people because of either or both of the following:

- » Aboriginal tradition
- » The history, including contemporary history, of any Aboriginal Party for the area

4.4 Aboriginal Cultural Heritage areas do not have to contain physical markings

In the same way as non-Aboriginal heritage values are capable of protection, it is not necessary for an area to contain markings or other physical evidence indicating Aboriginal occupation or otherwise denoting the area's significance for the area to be protected as a significant Aboriginal area under the Aboriginal Cultural Heritage Act 2003.

4.5 Due Diligence – The Precautionary approach

The Aboriginal Cultural Heritage Act 2003 requires that a person must exercise due diligence and reasonable precaution before undertaking an activity which may harm Aboriginal cultural heritage.

4.6 Role of the Aboriginal Party

The views of the Aboriginal Party for an area are vital in assessing Aboriginal cultural heritage and managing any activity likely to excavate, relocate, remove or harm Aboriginal cultural heritage.

In assessing a significant Aboriginal area the legislation provides that regard may also be had to authoritative anthropological, bio-geographical, historical and archaeological information.

Before an area can be registered on the Aboriginal Cultural Heritage Register, the person seeking to register the area must be able to demonstrate that the application is consistent with this information.

Appropriately qualified persons such as anthropologists, archaeologists and historians can also provide valuable assistance in this regard.

4.7 Aboriginal Cultural Heritage Duty of Care

Section 23(1) of the Aboriginal Cultural Heritage Act 2003 states that a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").

Section 23(2) of the Aboriginal Cultural Heritage Act 2003 states that without limiting the matters that may be considered by a Court required to decide, whether a person has complied with the cultural heritage duty of care in carrying out an activity, the Court may consider the following:-

- » The nature of the activity, and the likelihood of its causing harm to Aboriginal cultural heritage
- » The nature of the Aboriginal cultural heritage likely to be harmed by the activity
- » The extent to which the person consulted with Aboriginal parties about the carrying out of the activity, and the results of the consultation
- » Whether the person carried out a study or survey, of any type, of the area affected by the activity to find out the location and extent of the Aboriginal cultural heritage, and the extent of the study or survey
- » Whether the person searched the database and register for information about the area affected by the activity
- » The extent to which the person complied with cultural heritage duty of care guidelines
- » The nature and extent of past uses in the area affected by the activity

4.8 Meeting the Duty of Care

Section 23 of the Act provides that a person who carries out an activity is taken to have complied with the cultural heritage duty of care in relation to Aboriginal cultural heritage if:

- » The person is acting under the authority of another provision of this Act that applies to the Aboriginal cultural heritage; or
- » Under an approved Cultural Heritage Management Plan that applies to the Aboriginal cultural heritage; or
- » Under a native title agreement or another agreement with an Aboriginal Party, unless the Aboriginal cultural heritage is expressly excluded from being subject to the agreement; or
- » In compliance with gazetted cultural heritage duty of care guidelines; or
- » In compliance with native title protection conditions, but only if the cultural heritage is expressly or impliedly the subject of the conditions; or
- » The person owns the Aboriginal cultural heritage, or is acting with the owner's agreement; or
- » The activity is necessary because of an emergency, including for example, a bushfire or other natural disaster

4.9 Duty of Care Guidelines

Section 28 states that the Minister may by gazette notice notify guidelines ("cultural heritage duty of care guidelines") identifying reasonable and practicable measures for ensuring activities are managed to avoid or minimise harm to Aboriginal cultural heritage.

There is no offence in not complying with the cultural heritage duty of care guidelines. However, complying with the guidelines affords strict compliance with the cultural heritage duty of care. Where Aboriginal cultural heritage is harmed by an activity, and the activity is not otherwise covered by sections 23(3), 24(2), 25(2) or 26(2) of the Aboriginal Cultural Heritage Act 2003, failure to have complied with the guidelines may result in prosecution under the Act. Maximum penalties for contravening the cultural heritage duty of care are \$75,000 for an individual and \$750,000 for a corporation.

4.10 Another Option for Legal Protection

The Aboriginal Cultural Heritage Act 2003 expressly recognises that the views of the Aboriginal Party for an area are key in assessing and managing any activity which is likely to harm Aboriginal cultural heritage. Under the Act, there is provision for voluntary agreements and Cultural Heritage Management Plans with the relevant Aboriginal Party. You have a complete defence under the Act in relation to any activity undertaken in accordance with such agreements or Cultural Heritage Management Plans.

4.11 Other Information

Ask First – A guide to respecting Indigenous heritage places and values, released by the Australian Heritage Commission, provides a practical guide to consulting and negotiating with Aboriginal people about their cultural heritage. Available from the Australian Heritage Commission website:

<http://www.ahc.gov.au/publications/indigenousheritage/index.html>

The Land and Resources Tribunal can assist in the provision of mediation in relation to Aboriginal cultural heritage matters.

Persons and organisations involved in activities likely to impact on Aboriginal cultural heritage may wish to consider strategic planning in relation to cultural heritage as well as training, monitoring, audit and review of their cultural heritage management systems.

Should you require assistance in determining your responsibilities under these guidelines, you should contact the Cultural Heritage Coordination Unit.

5.0 Cultural Heritage Management Plans

Cultural Heritage Management Plan Guidelines were gazetted on 22 April 2005.

These guidelines provide:

- » Basic information relating to cultural heritage management plans and the statutory process
- » Help for land users deciding whether they should develop a plan
- » Where applicable, help in working out a suitable structure for a plan, and a way of carrying it out

Having an approved cultural heritage management plan will ensure that you are complying strictly with the duty of care required by the Aboriginal Cultural Heritage Act 2003 and the Torres Strait Islander Cultural Heritage Act 2003. To comply, your plan must be:

- » Directed at how to manage and conduct activities that may harm cultural heritage
- » A record of the methods and management practices agreed to by the relevant parties

It must also include:

- » A statement that all relevant parties have been consulted and that all relevant issues have been identified and addressed

You should develop a cultural heritage management plan if:

- » After your proposed activity has been assessed against the Duty of Care Guidelines, it is evident that there is a high risk that it could harm cultural heritage
- » You want to ensure that you have done all that is practical and reasonable to comply with the duty of care
- » Under the Act you are obliged to develop a plan

Forms approved for use when initiating a Cultural Heritage Management Plan under the Act are:

- » Written Notice
- » Public Notice

Please ensure that you include as much information as possible in each notice to clearly identify the project and the project area. This will enable the Aboriginal or Torres Strait Islander party to clearly determine any potential impact on cultural heritage and whether they need to respond to the Notice requesting to become an endorsed party.

5.1 Cultural Heritage Registered Areas

Each of the areas indicated has been recorded on the Cultural Heritage Register as part of the findings of a study undertaken in accordance with Part 6 of the Aboriginal Cultural Heritage Act 2003. The Register is intended to be a depository for information for consideration for land use and land use planning, and a research and planning tool to help people consider the Aboriginal cultural heritage values of particular objects and areas.

Under the Aboriginal Cultural Heritage Act 2003 and the Torres Strait Islander Cultural Heritage Act 2003, important Aboriginal and Torres Strait Islander places can be listed on the Cultural Heritage Register.

The listing of important Aboriginal and Torres Strait Islander places:

- » Allows us all to appreciate, respect and enjoy Queensland's unique Aboriginal and Torres Strait Islander heritage
- » Ensures that these important places can be fully protected against future harm
- » Provides Aboriginal and Torres Strait Islander people who are traditional owners of the area (the 'Aboriginal party' or the 'Torres Strait Islander party') the opportunity to be fully involved in the process of assessing their cultural heritage

The results of the assessment are registered by the State so long as they are consistent with anthropological, bio-geographical, historical or archaeological information.

Importantly, however, assessment of traditional/historical significance of cultural heritage is the responsibility of the 'Aboriginal party' or 'the Torres Strait Islander party'.

Mount Mulligan Aboriginal Cultural Heritage Area

Area description: Part Lot 5112 on HG 843453

Ngarrabullgan contains the oldest known archaeological site in Queensland and one of the oldest in Australia (Ngarrabullgan Cave), one of the densest known concentrations of Pleistocene and early Holocene rock-shelters with cultural materials in Queensland and in Australia. It is to date the only example of a landscape whereby the history of Aboriginal spirituality has been archaeologically tracked back in time. It is today at the heart of Djungan country and cultural identity. Refer pp 13 – 39, Review of Scientific Research at Ngarrabullgan (Mt. Mulligan) and Statement of Significance.

(View of Scientific Research at Ngarrabullgan (Mt. Mulligan) and Statement of Significance, August 2004 - Dr Bruno David, Programme for Australian Indigenous Archaeology - School of Geography and Environmental Science, Monash University, Clayton, Victoria, 3800 and Dr Glen Ingram, Dr Mike Olsen and Gaven Renfrey - Biodiversity Assessment and Management Pty Ltd).

5.2 Designated Landscape Areas

Each of the areas indicated were declared a 'designated landscape area' in accordance with the Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987.

Under the provisions of the now repealed Act, an area was declared a 'designated landscape area' if it was necessary or desirable for it to be preserved to prevent or regulate access. No further areas will be declared designated landscape areas.

Areas identified as designated landscape areas are recorded on the Cultural Heritage Register as required by the Aboriginal Cultural Heritage Act 2003, section 162.

The Cultural Heritage Register is intended to be a depository for information for consideration for land use and land use planning, and a research and planning tool to help people in their consideration of the Aboriginal cultural heritage values of particular objects and areas. The following have been declared designated landscape areas:

- » DLA001 - Stanbroke Pastoral Development Holding DLA
- » DLA002 - Gresley Pastoral Holding - Crocodile Station DLA
- » DLA003 - The Palace DLA
- » DLA004 - The Granites DLA
- » DLA005 - Morven DLA
- » DLA006 - Wallaroo DLA
- » DLA007 - Toorbul Point Bora Ring DLA
- » DLA008 - Gatton Rock Art Site DLA
- » DLA009 - Meringandan Arrangement DLA

5.3 Role of Cultural Heritage Bodies

The role of a cultural heritage body (CHB) is to identify who is the right Aboriginal or Torres Strait Islander party to 'speak for country'. It is the first point of contact for identifying the Aboriginal or Torres Strait Islander party for an area.

Under the Aboriginal Cultural Heritage Act 2003 and the Torres Strait Islander Cultural Heritage Act 2003 traditional owners (defined in the legislation as the 'Aboriginal party' or the 'Torres Strait Islander party') can seek Queensland Government recognition of a corporation as a CHB for an area.

The Department of Environment and Resource Management (DERM) is responsible for administering this legislation.

5.4 What are the advantages of becoming a cultural heritage body?

The advantages of becoming a cultural heritage body (CHB) are that it:

- » Ensures recognition of the CHB within traditional country as being the first point of contact for matters relating to your cultural heritage
- » Ensures land users, and others, will come to you for advice about who they should talk to in addressing cultural heritage issues in your traditional country
- » Allows you to manage your cultural heritage matters differently to any native title claim you may have registered in the Federal Court (e.g. you may wish to have different addresses for service for your cultural heritage and native title issues)
- » Ensures you are involved in managing your cultural heritage even though you may not have a registered native title claim for the area (provided your CHB application is supported by any other group that already has a native title claim registered over the area subject to your application)

5.5 How do you register as a cultural heritage body?

In order to become registered as a CHB, you must:

- » Apply in writing to Queensland State Department Environment and Resource Management
- » Provide evidence of incorporation
- » Provide evidence of your capacity to carry out the functions of a CHB, outlining, for example, your current office set up, staff numbers, phone and facsimile numbers and email address
- » Provide a written description of the area subject to your application and, where possible, a map showing the area

In addition, if the area of your application is subject to a registered native title claim, evidence that the registered native title claimant(s) for the area agree with your application must be provided.

5.6 Is there a limit on the size of the land area in my application?

There are no limits on the size of the land area that may be included within your application to become a CHB.

5.7 What types of incorporated organisations are acceptable?

A body incorporated or registered under one of the following pieces of legislation will satisfy the incorporation requirements of the cultural heritage legislation:

- » Corporations Act 2001 (Commonwealth)
- » Aboriginal Councils and Associations Act 1976 (Commonwealth)
- » Associations Incorporation Act 1981 (Qld) or the Cooperatives Act 1997 (Qld)
- » Native Title Act 1993 (Commonwealth)

Under Section 37(2) of the Aboriginal Cultural Heritage Act 2003 the Minister may provide funding for a CHB to undertake its functions.

5.8 Further information

For further information on the role of cultural heritage bodies, visit the DERM website www.derm.qld.gov.au or contact:

Cultural Heritage Coordination Unit Department of Environment & Resource Management

GPO Box 2454 Brisbane QLD 4001

Telephone 07 3239 3647 Fax 07 3238 3842

Darumbal Enterprises Pty Ltd

Darumbal Enterprises Pty Ltd

133 Dee Street North Rockhampton Qld 4701

Phone: 07 4926 0026 Fax: 07 4926 7457

Email: doug.hatfield@bigpond.com

The external boundary of the area subject to the Darumbal People's registered native title claim (QC97/21).
Registration date: 13 February 2008.

Karingbal Traditional People Aboriginal Corporation

Director

PO Box 8225 Allenstown Qld 4700

Phone: 07 4922 0838 Fax: 07 4921 0698

Email: yumbagira@bigpond.com

Area: The external boundary of the area subject to the Karingbal People registered native title claim (QC06/19).
Registration date: 1 May 2007.

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Kirrendirri Cultural Resources & Family Research Aboriginal Corporation

Kirrendirri Cultural Resources & Family Research Aboriginal Corporation

PO Box 426 Winton Qld 4735

Phone: 07 4657 0044

Area: For and covering the external boundary of the area subject to the Maiawali and Karuwali Peoples' registered native title claims QC96/95 and QC99/11, excluding the area overlapping with the Mithaka native title claim QC02/35 as identified in the attached map. Registration date: 16 June 2008

Moonda Gudda Aboriginal Corporation

President

135 Kent Street Rockhampton Qld 4700

Phone: 0408 834 430 Fax: 07 4921 0100

Email: jonno_malone@msn.com

Area: Covering part of the previously registered Kangoulu People native title claim (QC98/25) as well as part of the previously registered Kangoulu People #2 native title claim (QC99/6). Registration date: 15 April 2010

Queensland Cultural Heritage & Native Title Management Services Pty Ltd

PO Box 462

Rockhampton Qld 4700

Phone: 07 4922 2883 Fax: 07 4922 2838

Email: admin@qchantms.com.au

The external extent of the registered native title claim application Gia People QC99/24.
Registration date: 26 March 2008.

Yumba Burin Heritage Association Inc.

President

Yumba Burin Heritage Association Inc.

9 Zamia Street Springsure Qld 4722

Phone: 07 4984 1644 Fax: 07 4984 1644

The area as depicted in the map is, generally, located with: Emerald to the north, Springsure to the south, the Nogoa River to the north-west and the Comet River to the east. Registration date: 13 February 2008.



**Regional
Development**
Australia

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