

APPENDIX J

Draft Cultural Heritage Management Plan

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1.0 INTRODUCTION

This Cultural Heritage Management Plan (CHMP) is the result of a cultural heritage assessment concerning the potential areas of inundation undertaken as part of the investigation of the proposed construction of a dam on the Burnett River, a weir at Eidsvold and the raising of Walla Weir.

This plan details the proposed management of those sites or areas of significance identified during a desktop study and any subsequent surveys of the proposed inundation areas. Input from the relevant Traditional Owners¹ was facilitated through a series of meetings.

The CHMP sets out procedures for mitigating any negative impact from the construction of the dam and associated activities on areas of cultural significance to the Traditional Owners.

It also defines the roles and responsibilities of the parties concerned namely the Traditional Owners, Burnett Water Pty Ltd the construction contractor/s and the future owners and operators of the relevant water storage.

The CHMP includes:

- An outline of cultural heritage management principles
- The roles and responsibilities of the Traditional Owners, Burnett Water P/L and the construction contractor/s
- Management plans to protect identified cultural places during the construction phase
- Strategies for limiting the impact of the development on cultural places located during construction
- Channels for communication and dispute resolution.

¹ “Traditional Owner” refers to those members of the Aboriginal community who identify themselves though their family connections or historical association as Indigenous to that country. These people are usually recognised as Traditional Owners within their own communities.

1.1 Legislation

All Aboriginal sites are protected under the provisions of the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987 (The Cultural Record Act)*, the *Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984* and the *Native Title Act 1993*.

The *Coroners Act 1958-1977* and the *Criminal Code 1899* deal with human remains. Aboriginal human remains material is also covered by the *Cultural Record Act 1987*.

The *Queensland Heritage Act 1992* protects places of cultural heritage significance relating to Queensland's non-indigenous history since settlement. Protection is offered to places that have been entered on the Queensland Heritage Register, for which criteria for entry are listed in the Act.

The *Queensland Heritage Act 1992* now covers historical items and the *Cultural Record Act* is concerned with indigenous cultural material.

The Australian Heritage Commission Act 1975;

The Act established the Australian Heritage Commission as a Commonwealth Statutory body. The Commission maintains the Register of the National Estate, an inventory of places in Australia with 'aesthetic, historic, scientific or social significance or other special value'. Criteria were developed for the assessment of nominations to the Register of the National Estate and incorporated into the Act in 1990. Each criterion can be applied to the natural, Aboriginal and historical elements of the National Estate.

*The Aboriginal and Torres Strait Island Heritage Protection Act 1984
– 1986.*

The enactment of the *Aboriginal and Torres Strait Islander Heritage Protection Act* sought to acknowledge a special relationship between Aborigines and the Aboriginal heritage of Australia. Aborigines feel they have a legal and moral right to have a deciding voice in Aboriginal place management. Legal issues relating to Aboriginal place custodianship are bound up with arguments about land rights.

The major role of the Act is to preserve and protect areas and objects of significance to Aborigines and Islanders. The Act allows for immediate and direct action by a declaration from the Commonwealth Minister or authorized officers including emergency declarations (effective for 30 days). These provisions are applied in cases where State and Territory laws do not provide what is considered an adequate protection, either through the absence of legislation or unwillingness or inability to enforce legislative provisions.

Native Title Act 1993.

Amendments to the *Commonwealth Native Title Act 1993* came into effect on 30 September 1998. The provisions of the amended Act include the right for Native Title claimants and Native Title Representative Bodies to be notified about certain types of proposed development.

The representative body relevant to the proposed water storage is the Gurang Land Council

1.2 Cultural heritage principles

Aboriginal culture is an important resource to all Australians. To protect this resource and the interests and concerns of Traditional Owners, the principles, which form this CHMP, are as follows:

- 1) All reasonable precautions are to be taken to protect cultural places from damage caused by construction and associated activities.
- 2) Traditional Owners' beliefs and cultural knowledge remain their property.
- 3) Monitoring and cultural heritage management will involve Traditional Owners.
- 4) Respect for Aboriginal culture by all parties is fundamental to effective cultural heritage management. To facilitate an awareness of Aboriginal cultural heritage, a suitable induction program will be included for all personnel associated with and involved in the construction of the dam.
- 5) When it is culturally appropriate, professional expertise will be engaged to advise on archaeological matters.

1.3 The cultural heritage of the study area

Considerable physical evidence of Aboriginal occupation of the banks of the Burnett River remains today. The Burnett region is traditionally an area of great significance to Aboriginal people. It is recognised as one of the pathways to the Bunya festivals and the general area is rich with ceremonial sites.

As non-indigenous settled the area, many Aboriginal families continued to work and live on the pastoral properties. In applying this CHMP, Burnett Water Pty Ltd will recognise that Aboriginal people have spiritual and cultural associations with the land but that they also played an important part in the development of the pastoral industry of the local area.

Non-indigenous activities and the sites created by development of the area may also have individual or cultural significance and certain sites may be protected under the *Queensland Heritage Act 1992*.

Aboriginal people involved in this project recognise their obligation to ensure that Aboriginal cultural sites are managed in a way that is consistent with the cultural values of the people, ensuring their spiritual and social ties to the land are not compromised. Consultation with Aboriginal groups who have historical and cultural associations with the Burnett region has been and will continue to be an important aspect of the management planning process for this project.

1.4 The responsibilities of all parties to the CHMP

1.4.1 Responsibilities of Burnett Water P/L.

- 1) Burnett Water P/L will meet all its obligations as specified to ensure the complete implementation of the CHMP.
- 2) Burnett Water P/L will ensure that the appropriate permits governing cultural heritage management are in place before the commencement of construction.
- 3) Burnett Water P/L will ensure that all areas that are likely to be impacted by the dam construction and resultant inundation are assessed for cultural heritage significance before commencement of activities. Examples of such areas include access tracks, clearing survey lines, sites for construction and hard stands for plant and equipment.
- 4) Burnett Water P/L will be responsible for consulting Traditional Owners about how they should be involved in the planning decisions affecting cultural heritage places.
- 5) Burnett Water P/L will ensure monitors on site are trained in construction site safety procedures in accordance with *the Workplace Health and Safety Act 1989*.
- 6) Burnett Water P/L will provide an archaeologist for specialist advice when required by the Cultural Officer or by Burnett Water P/L.
- 7) Burnett Water P/L will ensure that its staff and contractors have a full awareness of their responsibilities under the CHMP to protect Aboriginal cultural heritage sites within the construction sites and

inundation areas. Burnett Water P/L will ensure that all personnel on the site will attend an induction course covering the following topics:

- Workplace Health and Safety;
- Roles and Responsibilities of each party;
- Reporting procedure;
- Cultural awareness.

8) Burnett Water P/L will consult with Traditional Owners regarding relevant cultural heritage issues throughout the dam construction and operation life of the dam.

1.4.2 Responsibilities of the Traditional Owners

1) The relevant Indigenous communities will determine, through consultation processes, including consultation with the Gurang Land Council, their designated Traditional Owner representatives.

2) With the concurrence of the Traditional Owners, the Gurang Land Council will assume the role of communicating to Burnett Water Pty Ltd, community decisions regarding appointments of Cultural Officers and specific designated Traditional Owners who are able to speak on behalf of their respective communities.

3) One or more Cultural Officers will need to be appointed for the dam construction. The Cultural Officer/s is/are to be on site during relevant construction activities, with assistance to be provided from monitors in accordance with the CHMP as required. The number of monitors will be commensurate with the scale of the work to be undertaken. Monitors will be sufficiently skilled in the identification of cultural material, and will work alongside the survey or construction teams in the areas recommended as requiring monitoring as described in Appendix 1.

4) Each Cultural Officer's responsibilities will include the following:

- Being on site when relevant construction activities are scheduled to occur;

- Coordinating all phases of any cultural heritage monitoring;

- Arranging for monitors to be available on site when required based on the work schedules provided by Burnett Water P/L and the construction contractor/s and notify Burnett Water P/L in advance as to the names of the team members;

- Ensuring that all activities undertaken by the monitors comply with relevant legislation;
 - Ensuring that no cultural material is removed or disturbed except where stipulated in a negotiated agreement with Burnett Water P/L, EPA and other relevant agencies;
 - Ensuring that any material so removed is deposited in an agreed keeping place and that adequate records of the material are kept;
 - Keeping a daily diary describing the team's location and activities as a record for the Traditional Owners. A copy or a weekly summary will be forwarded to Burnett Water P/L Project Manager;
 - Maintaining open lines of communication with other Traditional Owners, Burnett Water P/L staff and construction personnel;
 - Attending regular project meetings.
- 5) All monitors will undertake their duties, obligations and responsibilities set out in the CHMP and the relevant legislation.
- 6) The Traditional Owners, through Gurang Land Council, may substitute the Cultural Officer/s, the nominees/s or the monitors/s
- 7) Cost reimbursement by Burnett Water Pty Ltd will be for work carried out under this CHMP by the Cultural Officer/s and the nominee/s and by monitors where these are necessarily employed, including expenses agreed in advance,

1.4.3 Responsibilities of the Construction Contractor/s.

1) All construction workers will participate in a cultural awareness induction program to encourage respect and understanding of traditional culture and the identification of cultural material, its protection and management.

2) The contractor will ensure that all construction personnel are fully aware of their obligations under the CHMP.

3) Where cultural material is at risk, construction personnel will follow the directions from the Cultural Officer.

1.4.4 Disclosure of information

- 1) Burnett Water P/L will provide all relevant information to the Traditional Owners, about the proposed development.
- 2) Aboriginal people will be involved in the assessment of potential impacts on culturally significant areas.
- 3) There is no requirement in this process for Traditional Owners to impart sensitive cultural knowledge. This information is restricted and remains the intellectual property of the Aboriginal community members. However, the Traditional Owners will ensure that no place or artefact is identified without a bona fide cultural significance.
- 4) The identification of the location and details of any recorded sites in this report in any document other than Burnett Water P/L documents is considered culturally inappropriate by the Traditional Owners and should be avoided.

1.4.5 Notification and Reporting

1) The Traditional Owners and Burnett Water P/L will provide each other with all necessary information to carry out the CHMP and this information will be provided in a timely manner.

2) The Traditional Owners in agreement with the Cultural Officer and the Project Manager will nominate the number of monitors reasonably necessary to complete the work efficiently. The monitors will be experienced in the type of work to be undertaken.

3) Burnett Water P/L and the contractors will endeavour to provide the Cultural Officer with daily briefings of work schedules at least 2 days prior to the implementation of the work schedule to allow coordination of any monitoring arrangements. (It is expected that the necessity for these briefings will reduce as construction on site becomes established).

4) The Cultural Officer will be informed of any substantial alterations to the work schedule as soon as is practicable and in sufficient time to allow the arrangement of the presence of the required monitors.

5) Provided Burnett Water P/L has given sufficient notification of work schedules, arrangements and alterations the construction is not to be suspended in the case of monitors not arriving on site.

6) Burnett Water P/L recognises that Aboriginal community protocols may occasionally require the Cultural Officers and the monitors to temporarily relinquish their positions. In such cases, the Cultural Officer will ensure that any cessation of monitoring activities or disruption of the work schedule is avoided by arranging for a replacement Cultural Officer to be in attendance.

7) In the event of wet weather, industrial action, equipment unavailability or other factors halting construction, the Project

Manager or other designated person shall notify the Cultural Officer without delay that work is to be suspended and when resumption is expected.

- 8) The Cultural Officer will maintain the following records:
- Daily work reports for Cultural Officer and monitors;
 - Site inspection reports, including reports on discovery and disposition of material during monitoring;
 - Incident reports relating to any breach of the CHMP.

9) Reports on fieldwork during construction will be prepared on a weekly basis by the Cultural Officer. Copies will be forwarded to Burnett Water P/L and the Traditional Owners. Monitors will maintain a schedule of sites visited if relevant. This schedule will be given to the Cultural Officer on a weekly basis. Monitors will submit a formal incident report to the Cultural Officer as soon as they become aware of any possible breach of the CHMP. Copies will be given to the Project Engineer as soon as possible.

1.4.6 Review Process

There will be a three-monthly review of the implementation of the CHMP.

The review committee will consist of:

- The Cultural Officer;
- Burnett Water P/L Environmental Officer;
- An appointed representative of each of the traditional owners groups;
- Burnett Water P/L Project Manager.

The committee will examine all aspects of the implementation of the CHMP and prepare a report. All parties will consider in good faith all recommendations of the review committee and implement them as part of the CHMP.

1.4.7 Communication and Dispute Resolution

Communication between all parties may include

- 1) The Cultural Officer reporting to the Traditional Owner groups and to Burnett Water P/L
- 2) Appropriate channels for review of the process and protocols which have been developed including meetings between the Cultural Officer and Burnett Water P/L representatives
- 3) Representatives of the Traditional Owners will undertake discussions with Burnett Water P/L to negotiate and resolve disputes.
- 4) Burnett Water P/L will undertake reasonable costs to resource the Cultural Officer and representatives of the Traditional Owners to reach an agreed settlement.
- 5) Where agreement is not reached on a matter where the agreement of the Traditional Owners is required, Burnett Water Pty Ltd will notify in writing the nominee of the Traditional Owners of its proposed action and will proceed with that action not earlier than one (1) month after notice is given to such nominee.
- 6) Any action to be taken under clause 5 must satisfy all statutory duties of care and responsibility including those under the *Queensland Heritage Act 1992*, the *Cultural Record (Landscapes Queensland and Queensland Estate)Act 1987* and the *Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984* or any other relevant heritage legislation which becomes effective during the course of the project.

1.4.8 Personnel issues

1) The Cultural Officer and the monitors are appointed by the Traditional Owners to oversee the implementation of the CHMP.

2) Burnett Water P/L and its contractors do not have the authority to direct these appointees to undertake any action except in relation to the specific issues of Work Place Health and Safety.

3) The Traditional Owners will establish a policy of formal disciplinary procedures for the Cultural Officer and monitors. The Cultural officer and monitors will be informed of these procedures during the induction process. (see1.5.2)

4) The Cultural Officer will also inform the Burnett Water P/L Project Engineer of the procedures in sufficient detail for an understanding of the arrangements.

5) Burnett Water P/L's Project Manager and the Cultural Officer may invite each other to any meetings with third parties regarding the CHMP or the activities of the Cultural Officer or any monitor, where the attendance of both parties may facilitate resolution of any issues.

1.5 Protection of indigenous sites

All site details are listed in Appendix 1 (*to be inserted*)

Each site location will be assessed by Burnett Water P/L to determine its location in relation to full storage levels (FSL). Some sites might be found to lie above or outside the proposed full storage levels. Management of these sites is covered in the procedures for known sites, in the event that these sites are in any way likely to be impacted upon by the dam construction and/or operations activities.

1.5.1 Known sites

1) Management practices will follow the recommendations of the Cultural Heritage Report which has been prepared following the survey and the CHMP, both in general principles and as indicated for particular sites.

2) Burnett Water P/L will ensure that contractors and all personnel are provided with a Cultural Heritage Induction Program. People approved of and identified by the Traditional Owners would conduct this program. This should help to ensure the adherence to relevant legislation protecting sites in the construction and use and maintenance phases of the dam operation.

3) The known sites recorded in this survey will be recorded on all work plans and maps. Copies of these maps will be provided to the Cultural Officer.

4) Before any activities begin near a recorded site, the site/s will be identified and flagged by the Cultural Officer or archaeologist as appropriate. Protection of the site may include the erection of temporary barriers or fences on advice from the archaeologist and the Traditional Owners.

5) Access to sites should be restricted to essential personnel and contractors should adjust activities to ensure avoidance of any culturally significant sites during their activities.

6) Where it is unavoidable that known cultural material will be affected during construction, the material will be moved to an agreed distance from the activity or collected by or under the supervision of the Traditional Owners before construction. Such material will be stored and dealt with subject to the Cultural Record Act, in accordance with the wishes of the Traditional Owners.

1.5.2 Sites at or below FSL

1. Recommendations regarding these sites will be made in Appendix 1 once surveys have been undertaken.

1.6 Inadvertent Discovery

Places and items of cultural significance may be uncovered throughout the construction phase and during the life of the dam. The material may be:

- Burials, and
- All other cultural material.

1.6.1 Burials

Human remains³ are controlled by the following legislation,

- *The Coroners Act 1958-1977 and*
- *The Criminal Code 1899.*
- *The Cultural Record Act 1987* covers Aboriginal human remains.

Should human remains be found during construction or subsequent use and maintenance of the dam, the following procedure should be adopted in accordance with the EPA draft policy document for the management of Aboriginal and Torres Strait Islander burial remains. A copy is attached as Appendix 2.

On discovery of the material the following actions should occur as soon as practicable

a) all work should cease at the location and if necessary, the Cultural Officer should be notified, if not already present at the location. Construction workers and operational personnel will comply with the instructions of the Cultural Officer. Construction may continue at an agreed distance away from the site.

³ The term 'human remains' is used as it applies in the legislation and government policy statements. No disrespect to the Traditional Owners, their relatives or other people of Aboriginal or Torres Strait Islander descent is intended or implied in its use.

b) the Works Manager or Supervisor and the Burnett Water P/L Project Manager and EPA should be notified.

c) all personnel and contractors on site should be advised that it is an offence under the *Coroners Act* and the *Cultural Record Act* to interfere with the material, and

d) The Police must be notified.

The EPA policy states: “the discovery of any human remains must be reported to the Police. Police Officers are then required to establish the area of discovery as a potential crime scene and are responsible for preserving and securing the area. The Environmental Protection Agency will attend the scene as a priority and along with the Police scientific officers will collect appropriate data on ethnicity, antiquity and evidence or otherwise of criminal activity for submission to the Police investigators. In all cases a second opinion will also be sought from forensic osteologists/pathologists.”

e) Reasonable efforts to protect the remains shall be made if required. Note that the material should not be removed or disturbed further but buffer zones or temporary barriers may be appropriate.

f) At the same time as other individuals and agencies are contacted, the Cultural Officer will notify the Traditional Owners of the discovery, the steps which have been taken and make appropriate arrangement for nominated Traditional Owners to attend the site, if required.

g) The Traditional Owners should be consulted as to the management of the material once Aboriginal origin has been determined.

h) No further work at the locations should be undertaken until all parties have been consulted and agreement has been reached.

i) The material should remain undisturbed in place if possible and if the remains are uncovered remedial works should be undertaken to ensure the remains are recovered and secure.

The location of the burial should be recorded in sufficient detail for its future protection. Any remedial works should be undertaken in consultation with the Cultural Officer and the Traditional Owners.

The Cultural Officer should monitor any works associated with recovering of the skeletal material.

Should a decision be reached to relocate the material the following should occur:

a) a data recovery program, planned in consultation with the Traditional Owners, a qualified archaeologist and the EPA, should be developed and implemented. This will include recording of the location of the burial and other features as required by the Traditional Owners;

b) an EPA permit under the Cultural Record Act should be obtained, if necessary after consultation with EPA;

c) representatives of the Traditional Owners should be present during the recovery phase;

d) a suitable keeping place or re-interment location should be negotiated between Burnett Water P/L, the Traditional Owners and the appropriate government agencies.

e) Reasonable efforts should be undertaken by Burnett Water P/L to ensure that Traditional Owners can undertake the appropriate spiritual ceremonies necessary

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1.6.2 Discovery of all other surface or buried cultural material

The potential for surface and buried cultural deposits is high in those areas of the high plain overlooking the river. If surface or buried material is uncovered during construction or subsequent maintenance and use of the dam, the following procedures should be undertaken:

a) All work in the immediate vicinity of the find must cease and reasonable efforts to secure the discovery should be made. Work can continue at an agreed upon distance from the site. Note that the material should not be removed or disturbed further but barriers or temporary fences may be erected as a buffer around the remains if required;

b) The Cultural Officer and appropriate Burnett Water P/L managers should be notified;

c) EPA should be contacted and advised of the situation;

d) The Cultural Officer will create accurate records, including map references and photographs of the material or an in situ evaluation of the resources can be made by a qualified archaeologist if required;

e) A written statement of the Cultural Officer/archaeologist's findings and recommendations should be provided to the Traditional Owners for their consideration;

f) Based on the recommendations from the Cultural Officer/archaeologist, decisions regarding the treatment of the resources shall be made in consultation with the Traditional Owners and the EPA.

If the resources cannot be evaluated without further archaeological work, then the following procedure should be undertaken:

a) a data recovery program planned in consultation with the Traditional Owners, a qualified archaeologist and the EPA should be developed and implemented;

b) an EPA permit under the Cultural Record Act should be obtained;

c) representatives of the Traditional Owners should be present during the data recovery phase;

d) based on the results of the data recovery program the resources shall be evaluated in consultation with the Traditional Owners, archaeologist and the EPA.

e) Should burials be located, refer to burials policy procedure

1.6.3 Remedial activities

The Cultural Officer and the Traditional Owners will oversee repairs to any sites damaged during construction. Such repairs will be undertaken by Burnett Water P/L. Repairs will be in accordance with Traditional Owner instructions and only include those measures approved by the designated Traditional Owners in writing beforehand.

Burnett Water P/L will not undertake any remedial activities without the written consent of the Traditional Owners. Such consent will not be unreasonably withheld and will be provided by the Traditional Owners in a timely manner to minimise delays to work schedules without compromising cultural values or sensitivities.

1.6.4 Keeping place

It may be necessary to establish a keeping place for the storage of cultural material. Any material, which is recovered as part of a mitigation plan, should be held in a safe keeping place in perpetuity. Burnett Water P/L will begin discussions prior to commencement of construction with the Traditional Owners about creating a suitable keeping place (permanent or temporary) and the nomination of suitable representatives who could be consulted on the material. The keeping place may be:

a) a keeping place within an existing Burnett Water P/L facility held in trust for Traditional Owners with access to the material provided on request. This will be a temporary measure until the Traditional Owners nominate a suitable permanent place. Burnett Water P/L should investigate if suitable storage facilities are already available to them in a regional centre. Any such facility should only be approved after consultation with the Traditional Owners.

b) a permanent keeping place at the dam location where the material was found. Burnett Water P/L will be responsible for resourcing and maintaining the facility. Procedures for access by nominated representatives should also be developed.

c) a keeping place at a location nominated by the Traditional Owners. Burnett Water P/L should resource the Traditional Owners to ensure the material is adequately stored and maintained permanently.

d) The EPA and the Queensland Museum should be consulted and kept informed during discussions regarding the location of material as they have legislative responsibilities in this matter.

1.7 Protection of European historical sites

Management of historic sites in Queensland is controlled primarily under *the Queensland Heritage Act 1992*. The Burra Charter provides guidelines for the management of historic sites.

The general area has a long pastoral history that is significant in the development of the region.

1.7.1 Known sites

1. Management practices will follow the recommendations of the CHR and the CHMP, both in general principles and as indicated for particular sites.
2. Burnett Water P/L will ensure that contractors and all personnel are provided with a Cultural Heritage Induction Program. This should help to ensure the adherence to relevant legislation protecting sites in the construction and use and maintenance phases of the dam operation.
3. The known sites recorded in this survey will be recorded on all works plans and maps. Copies of these maps will be provided to the Project Manager.
4. Before any activities begin near a recorded site, the site/s will be identified and flagged by the archaeologist. Protection of the site may include the erection of temporary barriers or fences on advice from the archaeologist.
5. Access to sites should be restricted to essential personnel and contractors should adjust activities to ensure avoidance of any sites during their activities.

6. Where it is unavoidable that known cultural material will be affected during construction, the material will be moved to an agreed distance from the activity or collected. A salvage plan for such material will be prepared by the archaeologist in consultation with the relevant authority. Such material will be stored and dealt with subject to the *Queensland Heritage Act 1992*

1.7.2 Sites at or below FSL

Recommendations regarding these sites will be made in Appendix 1 once surveys have been undertaken.

1.7.3 Inadvertent discovery

1. All work at the location must cease and reasonable efforts to secure the site should be made. Note that the material should not be removed or disturbed further but barriers or temporary fences may be erected as a buffer around the remains if required;
2. Appropriate Burnett Water P/L managers should be notified;
3. EPA should be contacted and advised of the situation.
4. An in situ evaluation of the resources should be made by a qualified archaeologist/heritage architect as appropriate;
5. Based on the recommendations from the archaeologist decisions regarding the treatment of the resources shall be made in consultation with the EPA.
6. If the resources cannot be evaluated without further archaeological work then the following procedure should be undertaken:
 - A data recovery program planned in consultation with the EPA should be developed and implemented
 - An EPA permit should be obtained, if required
 - Based on the results of the data recovery program the resources shall be evaluated in consultation with the EPA.
7. Should burials be located refer to Appendix 2

APPENDIX 1 Recorded sites and recommendations

The contents of this appendix will be generated once the surveys have been undertaken.

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APPENDIX 2 EPA BURIAL POLICY

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Indigenous places management policy No.

***Management of Aboriginal and Torres Strait
Islander burial remains***

Status: draft

Date: 22/9/98

1. Guiding Principles

Death in all human societies is a significant event. It occurs on a regular, but unpredictable basis, removing individuals from family, close relations and friends. Death is often associated with complex rituals. This was and is still the case with Aboriginal and Torres Strait Islander people. Disturbance to burials is therefore of major concern to them, as it is for other people in the community.

Aboriginal and Torres Strait Islander people have been in Queensland for more than 40,000 years. In that time they have buried hundreds of thousands of their dead in a variety of ways. In some cases people were cremated, in others their bones were placed in hollowed-out logs or trees or wrapped in bark cylinders and placed in rockshelters. Many were also buried in the ground with grave goods. Burials commonly occur in sand dunes and alluvial deposits that were easy to dig. Wind and water easily erode such locations and frequently these natural processes expose remains. Other common burial locations are rockshelters, rocky overhangs and hollow trees. The close proximity of scarred or carved trees and stone arrangements and the remains of fireplaces, stone artefacts and food refuse may be suggestive of an Aboriginal and Torres Strait Islander burial.

In view of possible disturbance to such burials the Police, Coroner, Environmental Protection Agency and Aboriginal and Torres Strait Islander communities have established policy/procedures contained herein that will ensure burials are treated in a manner consistent with legal requirements and Aboriginal and Torres Strait Islander traditions.

2. Desired Outcomes

The desired outcome of this policy is that Aboriginal and Torres Strait burials will not be unnecessarily disturbed. Where disturbance does inadvertently occur procedures are in place for the proper legal handling of such remains and that these procedures are sensitive to the wishes of Aboriginal and Torres Strait Islander owners of the remains.

3 Procedures

The discovery of any human remains must be reported to the Police. Police Officers are then required to establish the area of discovery as a potential crime scene and are responsible for preserving and securing the area. They will then advise the Cultural Heritage Branch of the Environmental Protection Agency who will attend the scene as a priority and along with the Police scientific officers will collect appropriate data on ethnicity, antiquity and evidence or otherwise of criminal activity for submission to the Police investigators. In all cases a second opinion will also be sought from forensic osteologists/pathologists.

3.1 Explanation of procedures

- (1) Designated Police Officer maintains authority and responsibility for crime scene at all times.
- (2) Cultural Heritage Officers of the Environmental Protection Agency will have received training in determination of racial origin, assessment of antiquity, and in identifying some forms of criminal action. The Environmental Protection Agency will treat skeletal material investigation as a high priority at all times, and will resource accordingly. A Cultural Heritage Officer will endeavour to be available within twenty-four (24) hours.
- (3) Police nominate person to provide second opinion. Such opinion may be available on-site if Forensic Osteologist/Pathologist is available. All data required for first and second opinion is to be collected on site.
- (4) Final decision on this rests with Police, on advice from the Coroner.
- (5) Cultural Heritage Officers will, on request, assist Police in technical aspects of evidence retrieval.
- (6) Advice on handling may be sought from appropriate sources where this does not compromise integrity of crime scene or quality of evidence.

3.2 Additional procedures and information

Should any Police Officer or Cultural Heritage Officer be in any doubt as to the requirements of the relevant Coroner for their region, then it is essential that the Coroner be directly consulted. Alternatively, as the Chief Stipendiary Magistrate is the principal administrative officer of all Coroners any perceived difficulties in implementing the policy/procedure should be referred to him/her. The Environmental Protection Agency will not issue permits under the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987* to undertake excavation of burial sites. The only exception will be if an Aboriginal community directly requests this. If a researcher acting under permit from the Agency discovers burial remains in the process of excavating a site, they should immediately stop excavation, cover the remains and contact the Agency's Regional Cultural Heritage Officer, who will then follow the procedures set out in this document. The Queensland Museum acquired skeletal remains from the 1880's to 1972 including some legally recovered under the *Aboriginal Relics Preservation Act 1967*. However, by 1972 it was no longer considered appropriate to deposit skeletal material with the Queensland Museum except in exceptional circumstances and with the permission of the relevant Aboriginal community. The Museum has now developed a repatriation policy for skeletal remains still in its collection (see *Some Information for Aboriginal People Concerning Human Remains held in the Queensland Museum* - obtainable from the Queensland Museum).

4. Legislation

Sections of legislation applying to the handling of Aboriginal and Torres Strait Islander human remains include:

Coroners Act 1958-1977

Section 12 It is the duty of every person to report a dead body forthwith to a member of the Police force at the nearest police station who then reports to the Coroner.

Criminal Code Act 1899

Section 236[2] It is an offence to improperly or indecently interfere with a human body or human remains.

Cultural Record (Landscapes Queensland and Queensland Estate Act) 1987

Section 33 All evidence of occupation of any part of Queensland by indigenous persons are the property of the State.

Section 34 Where familial or traditional links between burial remains and a group can be established that group owns them.

Section 35 Burial remains must be reported to the Minister.

Section 56 Penalties are provided for interference with items of the Queensland Estate.