

# 18 | Indigenous Cultural Heritage



## Section 18 Indigenous Cultural Heritage

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### 18.1 Introduction

This section presents a description of the processes utilised for the identification and management of Indigenous cultural heritage associated with the Kevin's Corner Coal Mine Project (hereafter referred to as the Project).

Indigenous cultural heritage has been organised in a phased approach, commencing with the development of Cultural Heritage Management Plans (CHMP), and proceeding into cultural heritage surveys and the development of management plans that will encapsulate survey results and provide direction on management.

### 18.2 Description of Environmental Values

#### 18.2.1 Historical Background

Leichhardt's expedition was the first European exploratory party to pass through the region in the 1840s. While Leichhardt's path was well to the east, his encounters with groups of Indigenous people are relevant to the Wangan & Jagalingou people, the Aboriginal Party for the Project. Leichhardt recognised the signs of hostilities to come, as he wrote to his friend David Archer at Durundur: "The time of hostility and war is approaching fast and I fear you shall have your share of it" (Leichhardt 1846). Leichhardt provided glowing reports of the pastoral possibilities of the area through which he passed, resulting in land being tendered for, and runs first leased in about 1854.

Leichhardt's predictions were correct, and almost immediately after non-indigenous settlement commenced, hostilities broke out. By June 1862, native police troopers were brought into the area, and by the mid-1860s a police barracks had been established at Fort Cooper station north of Nebo, at North Creek, and according to oral accounts, also on the Isaac River. The death of any non-indigenous person was always widely reported, e.g. in March 1866 both the local 'Peak Downs Telegram' and 'Brisbane Courier' drew their readers' attention to the deaths of some shepherds at 'Cotherstone', a landholding towards modern-day Peak Downs. In July and August 1870, the Native Mounted Police, stationed at Belyando, patrolled over a thousand miles of country and would have most likely impacted directly on the study area (O'Donnell 1989).

The attrition rate of Aboriginal people in these years is not documented but some evidence was supplied by George Bridgeman, manager of Fort Cooper Station from the early 1860s. He reported to Curr (1887) that during the first 10 years of non-indigenous occupation in the greater Nebo area alone '... about one half of the Aboriginal population was either shot down or perished from loathsome diseases --- the black troopers, however, being the chief destroyers...' (Evans 1971). Evans records that other local squatters also wrote of massacres, mass poisonings and dispersals in which they had participated. An example pertinent to the Wangan & Jagalingou people was the massacre that happened at 'Wolfang', a station just north of modern-day Clermont that was first taken up by Oscar de Satge (D. King and J. Diver pers. comm.).

Some squatters realised that Indigenous people were a valuable labour force. For example, George Bridgeman is reported in the Mackay 'Mercury' in 1869 as allowing 90 Aborigines to shelter on Fort Cooper and had '...engaged 40 males, mostly boys, to clear the scrub, ringbark and cut wood in return



for an occasional sheep, a plug of tobacco or some other trifling article' (Evans 1971). By the 1880s, a number of the stations in the area employed Indigenous people, effectively providing an opportunity for the Wangan & Jagalingou people to remain in their traditional lands. Fringe camps started appearing near settlements and townships, e.g., Sandy Creek camp near Clermont (see photographs in Stringer, n.d.).

The Aboriginal Protection and Restriction of the Sales of Opium Act 1897 resulted in a policy of forcible removals of many Indigenous people into reserves and missions, and strict regulation of the employment of those who were not shifted. Subsequent removals continued until the late 1960s, and many people from the area were removed to Taroom, Cherbourg, Woorabinda and Palm Island Aboriginal Reserves, causing massive dislocation of families and societies. Of particular importance to the study area is the Bogantungan rail siding, where many people being removed were loaded into rail wagons for their journey (J. Barnes and J. Diver pers. comm.). A number of Indigenous people remained working on properties in their traditional lands, and there are also numerous examples of people under the Act returning from Reserves, when permission was granted, to work in their traditional country, thus retaining their connection.

## 18.3 Consultation

### 18.3.1 Cultural Heritage Management Plan Process

The *Aboriginal Cultural Heritage Act 2003* (ACH Act) imposes a cultural heritage duty of care on development proponents with respect to Aboriginal cultural heritage. As the Project requires an environmental impact statement, Hancock Galilee Pty Ltd (HGPL) is required under Part 7 of the ACH Act to prepare an approved CHMP to meet its cultural heritage duty of care. The CHMP manages all aspects of Indigenous cultural heritage matters for the Project, including mitigation measures.

The lands associated with the Project area are within the registered native title claim area of the Wangan & Jagalingou People (QUD85/04). Given these circumstances, the Wangan & Jagalingou native title claimants as the recognised Aboriginal party have negotiated a CHMP with the Proponent across the lands associated with the Project area.

Notification that the Proponent intended to develop a CHMP were sent to the service address for the Wangan & Jagalingou People in September 2009. A timely response was received to indicate that the Wangan & Jagalingou People wished to take part in the development of the CHMP, and nominated that the applicant for the registered Wangan & Jagalingou native title claim were the Aboriginal parties for this purpose.

Meetings between the Aboriginal parties and representatives of the Proponent to develop the CHMP were held in Rockhampton on 16 October 2009, Brisbane on 29 October 2009, Rockhampton on 11-12 November 2009, and Brisbane on 1-2 December 2009. A final meeting was held in Bundaberg on 16 December 2009 at which time the parties agreed on and executed the final CHMP agreement. After finalisation, the CHMP agreement was delivered to the Cultural Heritage Coordination Unit of the Department of Environment and Resource Management (DERM) for their consideration and formal registration by the Chief Executive. Registration was subsequently granted on 18 January 2010. On registration the CHMP agreement became the guiding document on the way in which Aboriginal cultural heritage will be managed throughout the life of the Project.

Table 18-1 provides the current status of CHMP negotiations with the Aboriginal Party.

Table 18-1: Status of Cultural Heritage Management Plan (CHMP) negotiations

Aboriginal Party	CHMP Status		
	Parties Endorsed	Agreement Executed	Approval granted by DERM
Wangan & Jagalingou People	1 November 2009	23 December 2009	18 January 2010

### 18.3.1.1 Hancock Galilee Pty Ltd Policies

In addition to arrangements for cultural heritage protection and management that are documented in the CHMP, the Proponent and the Wangan & Jagalingou People have developed an agreed process, called the Indigenous Peoples Policy, in respect to the Proponent's engagement with Indigenous people. During negotiations and interactions with Indigenous people, the Proponent has worked diligently to afford Indigenous people respect for their connection to the country and have ensured that Indigenous people are well equipped to resource and negotiate agreements.

### 18.3.2 Environmental Values

The nature and distribution of many forms of Indigenous cultural heritage in a landscape is in part associated with environmental factors such as geology, climate and landforms which affect the availability of plants, animals and water, the location of suitable camping places and suitable surfaces upon which rock art could be performed. Such environmental factors also affect the degree to which cultural remains have survived natural and human-induced processes. In addition, non-Indigenous land-use practices often disturb or destroy cultural heritage.

The extent of vegetation and the nature of erosion and deposition regimes also affect the visibility of cultural remains and hence the chances of their detection during ground surveys. Likewise, non-indigenous land-use practices can disturb cultural material from its original context of deposition.

In accordance with the CHMP, Wangan & Jagalingou representatives have been conducting focused surveys for all areas where initial geotechnical or exploration works have been planned. Cultural heritage surveys are being undertaken by Wangan & Jagalingou representatives accompanied by technical advisers (archaeologists) as part of the cultural heritage processes established in the CHMP. Cultural heritage surveys have commenced in April 2011, and include both field assessment and thorough consultation with Aboriginal Parties. It is expected that cultural heritage surveys will potentially define areas and objects of cultural significance that occur within the Project area. These may include areas containing physical evidence or objects, such as artefact scatters and scarred trees (known as "sites" in archaeological terms). In addition, areas that contain no physical evidence of human occupation may also be defined. For example, these may include ceremonial and special areas, or may consist of varieties of native food plants.

Detailed cultural heritage survey reports will be prepared for the Wangan & Jagalingou People. Each report will culminate in a management plan established through consultation between the endorsed parties and their technical advisers, and accepted by the Proponent, which will provide guidance for the way in which Aboriginal cultural heritage defined by the cultural heritage survey will be managed before construction commences and during the Project.

### 18.3.2.1 Desktop Review

#### Register Searches

Desktop searches of the following registers and databases were undertaken: the DERM register and database; the (former) Register of the National Estate; World Heritage List; National Heritage List, the Commonwealth Heritage List and the Queensland Heritage Register.

The Queensland Heritage Register may list sites that hold cultural significance to both Indigenous and non-indigenous people such as contact sites and massacre sites. There were no sites listed on the Queensland Heritage Register for the area.

One site was found to be located within Mining Development Licence (MDL) 333 (see Table 18-2). This was a ceremonial area (sometimes called a bora ring) on Wendouree Station. In line with the process developed to manage all cultural heritage impacted on by the Project, a management plan is being developed for the site in conjunction with appropriate representatives of the Wangan & Jagalingou People, and the site will be protected from direct impact from planned mining.

Table 18-2: Location data for Department of Environment and Resource Management (DERM) registered sites within Mining Development Licence (MDL) 333.

Tenement	Site ID	Datum: Geocentric Datum of Australia 1994 Datum WGS84	Attribute
MDL 333	FF:A05	55 K 443032 7445534	Ceremony

#### Previous Reports

Representatives of the Wangan & Jagalingou People have conducted focussed surveys of all areas where initial geotechnical or exploration works have been planned. Findings are logged on clearance forms, which are being collated and entered into cultural heritage mapping for the Project area. The results of these inspections indicate the presence of a complex cultural landscape comprised of some sites including stone artefact scatters, isolated stone artefacts, and scarred trees. As cultural heritage surveys expand understanding of the archaeological record across the Project area, a similar pattern of sites including stone artefact scatters, scarred trees and isolated stone artefacts is predicted. Management of the cultural heritage to date has followed the avoidance principle where possible, resulting in the majority of drill holes being moved to avoid cultural heritage. .

In addition to the work described above, a targeted cultural heritage survey involving Wangan & Jagalingou representatives and their technical adviser (archaeologist) has been done on selected survey drill pads and access routes (ARCHAEO 2009). Where this survey was carried out, results support the prediction of a cultural landscape. Of particular note is the presence of a ceremonial area on Wendouree Station, located within MDL333 (ARCHAEO, 2009), which has been identified by Wangan & Jagalingou elders as holding particularly high significance to the Wangan & Jagalingou People (pers. comm. Applicants Meeting, September 2010).Currently, further investigation, consultation and management of this site are being undertaken in conjunction with appropriate representatives of the Wangan & Jagalingou People.

### 18.3.3 Assessment of Significance

In Queensland, the assessment of significance for Aboriginal cultural heritage is guided by the ACH Act and the Australian ICOMOS (International Council on Monuments and Sites) Charter for Places of Cultural Significance (The Burra Charter) 1999.

The ACH Act acknowledges in its fundamental principles that 'recognition, protection and conservation of Aboriginal cultural heritage should be based on respect for Aboriginal knowledge, culture and traditional practices' (Section 5[a]) and that 'Aboriginal people should be recognised as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage' (Section 5[b]). These principles are implied in the ACH Act's definition of Aboriginal cultural heritage, which is defined as anything that is 'a significant Aboriginal area in Queensland; or a significant Aboriginal object; or evidence, of archaeological or historic significance, of Aboriginal occupation of an area of Queensland' (Section 8). A significant Aboriginal area or object is defined as an area or object of 'particular significance to Aboriginal people' because of Aboriginal tradition or the history, including contemporary history, of any Aboriginal party in the area.

The application of significance is ultimately the responsibility of the Aboriginal party, who may have regard for 'authoritative anthropological, bio-geographical, historical and archaeological information' provided by a person with skills in that area. For this reason, the assessment of significance is achieved by an amalgamation of both scientific and cultural approaches.

#### 18.3.3.1 Scientific (Archaeological) Significance

Although not codified in law, the Burra Charter is the foundation document upon which Australian cultural heritage management best practice is based. The Burra Charter was first adopted in 1979 by Australia ICOMOS and was initially designed for the conservation of and management of historical heritage. However, after the addition of further guidelines that defined cultural significance and conservation policy, use of the charter was subsequently extended to Aboriginal studies.

The Burra Charter defines conservation as 'the processes of looking after a place so as to retain its cultural significance' (Article 1.4). A place is considered culturally significant if it possesses aesthetic, historic, scientific, social or spiritual value for past, present or future generations (Article 1.2).

Article 5 of the Burra Charter states that:

*Conservation of a place should identify and take into consideration all aspects of its cultural and natural significance without unwarranted emphasis on any one value at the expense of others.*

Every place has a history, aesthetic value or a social meaning to some member of a community. Most places therefore meet some of the criteria prescribed above. It is, however, neither possible nor desirable to conserve every place. Some measures must be applied to these broad criteria in order to determine the degree of significance. The degree to which a place is significant will determine the appropriate conservation management for that place.

Using the Burra Charter as a reference base, scientific significance of an area or object is assessed according to its research potential and representativeness. Archaeological research potential refers to a site's ability to provide information on past human activities, particularly everyday life, which more often than not is not available in documentary sources. Specifically, archaeological areas or objects (what archaeologists refer to as sites) can supplement other information on local histories by identifying physical relics of human activities, past climates, vegetation patterns and past diets and



resources through processes such as the analysis of pollen grains and by the identification and analysis of plant, shell and bone remains within archaeological deposits. Such information may provide insight into local cultural history spanning hundreds or even thousands of years or to even more general questions relating to the evolution of cultures.

Representativeness refers to the ability of one site or a sample of sites to represent as accurately as possible the range and frequency of site types in a particular area. The notion of representativeness is also related to the maintenance of site diversity: the rarer a site, the greater its significance. In areas not well represented by physical, archaeological remains, all sites must be considered significant until proven otherwise. Older sites, those that contain particular attributes, or a mixture thereof, that are not found elsewhere, or those in which the archaeological material is unusually well preserved would potentially fall within the category of unique.

The scientific significance of a site generally increases as its potential to provide information increases. For any given place the significance will be greater where evidence of its association of the event that created it survives in situ then where it has been changed or evidence of context does not survive.

#### **18.3.3.2 Areas and Objects of Significance to Traditional Owners**

Under the ACH Act, Aboriginal cultural heritage includes areas and objects where there may be no physical manifestation of human use, but that are culturally significant to Aboriginal people. It also includes places of archaeological or historical significance. Notably, under the ACH Act significant cultural places are not restricted to the period prior to contact with non-indigenous people and may include places and events that date from the contact period and the more recent past.

In particular, if such events relate to a specific place in the landscape, then that place, (i.e. a site in archaeological terms, or an area or object in accordance with the ACH Act), may become sacred or highly significant to the Aboriginal communities connected to it. Importantly, an assessment of the levels of scientific significance of a particular object or place are not always consistent with Aboriginal people's cultural evaluations, and as such under the ACH Act Aboriginal cultural values of an area or object override other forms of significance assessment.

#### **18.3.4 Findings**

As per the CHMP agreement, the Indigenous cultural heritage survey of the mine site commenced in April 2011, and it is predicted that this survey will result in the identification of a variety of Indigenous cultural heritage areas and objects.

Considering the landscape context of the Project (Section 18.2.3) and the desktop review (Section 18.2.2.1), it may be extrapolated that the study area, when intensively surveyed, will contain a number of areas and objects of Aboriginal cultural heritage. The types of areas and objects predicted to be contained within the study area may include:

- isolated stone artefacts consisting of individual find spots of a single artefact that have been assessed by the archaeologist and the survey team as being separated and unrelated to other artefacts and/or archaeological features.
- stone artefact scatters incorporating a group of 2 or more artefacts located on the ground surface within an arbitrary linear distance nominated by the archaeologist that is subject to factors such as

artefact type, environment, visibility, integrity and previously recorded site characteristics occurring within the larger study area.;

- scarred trees incorporating trees where the bark has been removed for a variety of reasons including for use in the preparation of bark sheets for shelters, making canoes, shields and coolamons (containers), or to gain access to possums, honey and other food sources. Due to extensive historic clearing combined with bushfires scarred trees are becoming an increasingly rare cultural resource, and living scarred trees are even rarer;
- carved trees featuring carvings that were often associated with burial and ceremonial areas. As so many trees have been lost to bushfires, clearing and natural attrition, any carved trees should be regarded as having high levels of both cultural and scientific significance;
- camp sites incorporating archaeological features such as hearths (fireplaces) and stone artefact scatters that represent occupation areas. Hearths are not common in most areas, but where located have the potential to contain important datable organic material (charcoal, burnt seeds, etc) which may assist in determining the age of the campsite. If a number of fireplaces are found, then the potential to find dates through periods of time is potentially of scientific significance;
- natural features in the landscape that hold cultural significance for the Wangan & Jagalingou People. These may include creeks or billabongs carrying permanent water, mountains or rock features;
- quarries and stone resource areas where stone utilised in the production of stone tools were being sourced; and,
- ceremonial areas in addition to the known ceremonial area at Wendouree Station.

## 18.4 Potential Impacts and Mitigation Measures

As outlined in Section 18.2.2.1 above, as the Project requires an environmental impact statement (EIS), the Proponent is required under Part 7 of the ACH Act to prepare an approved CHMP to meet its cultural heritage duty of care. The CHMP manages all aspects of Indigenous cultural heritage matters for the Project, including mitigation measures. Specifically, the CHMP states that avoidance of harm to cultural heritage is the preferred form of management, but in the event that this is not reasonably possible, management through a mitigation programme will be necessary.

Importantly, the CHMP also provides an effective dispute resolution process that the Wangan & Jagalingou People and the Proponent have both accepted as an appropriate way in which to negotiate outcomes in the event of disagreement.

### 18.4.1 Potential Impacts

All potential impacts are assessed in regards to the value or significance of the cultural heritage place. Cultural heritage significance relates to people's perspectives of place and sense of value, within the context of history, environment, aesthetics and social organisation, as discussed in Section 18.2.3.1. The scientific and Aboriginal assessments of significance and impacts will be carried out as part of the CHMP process. Protection, management and mitigation measures will be discussed and incorporated into the cultural heritage survey report, following the completion of cultural heritage surveys, which will



include Wangan & Jagalingou representatives and archaeologists to ensure that all areas of significance are identified, commencing in April 2011.

The proposed Project will have capacity to produce 30 Mtpa from concurrent open-cut and underground longwall mining operations.

Potential impact on recognised and potential cultural heritage sites by the project will generally be in the nature of limited removal of ground surface in the vicinity of the two open pits, development of tailings dam, overburden emplacement areas, and the potential for subsidence from the three underground mine areas to the west, resulting in varying degrees of disturbance of most sites of interest.

It is also reasonable to predict that during the Project, further Aboriginal cultural heritage will also become apparent. "The CHMP has a New Finds section that provides the Wangan & Jagalingou People and Hancock with guidance on what courses of action to follow in the event that this occurs. This process, in conjunction with cultural awareness training, will provide appropriate management of all new finds of cultural heritage during construction and mining operations.

#### **18.4.2 Mitigation Measures**

Measures for the management of potential impacts range from avoidance and total protection through to a number of different mitigation methods that include the systematic recording, collection, removal and analysis of identified artefactual material from development areas. Avoidance of direct impact and long-term protection is the preferred form of management for the Wangan & Jagalingou People, and also offers the best way in which scientific significance can be preserved. However, the development of concurrent open-cut and underground longwall mining operations by implication suggests that avoidance and protection of many of the areas and objects that will be found during the cultural heritage survey will not be possible.

The Wangan & Jagalingou People have already recognised this situation in the Cultural Heritage Management Plan (CHMP) that exists between them and the Proponent. Section 5 within the CHMP states that the parties agree that the principles of effective recognition, protection and conservation of Aboriginal cultural heritage depend on avoidance where possible, but if it cannot reasonably be avoided, minimisation of harm through mitigation measures will be acceptable. The CHMP also accepts that disturbance of the ground during the development of the Project is a necessary component of the Project.

Under these circumstances, scientific advice to the Wangan & Jagalingou People will be to undertake mitigation methods that maximise protection of the values of Aboriginal cultural heritage found during the cultural heritage survey of the study area. Protection of values in this situation is dependent on a combination of cultural and archaeological approaches that may include:

- Detailed recording of areas and objects;
- Systematic collection and removal from the area of disturbance;
- Collection of any information (inclusive of archaeological excavation where appropriate) from the context of the area or object, e.g., material that could lead to more information through dating, pollen, residue and use wear analysis;

- Where potential exists for sub-surface cultural heritage, the development of a monitoring program during earth disturbance;
- Preparation of detailed site-specific management plans prepared by the archaeologists to the Project that may recommend other measures such as sub-surface investigation through test-pitting or excavation and analysis of outcomes.

In addition, where avoidance is possible, the preparation of site-specific management plans that provide clear directions and processes for protection of the area or object will be drawn up so that accidental harm during project activities is avoided.

Cultural awareness training as provided for by the CHMP will be an important element of management, with the intention of training people involved in the Project in avoidance and protection of known cultural heritage sites, what cultural heritage may reasonably be in the landscape, and what to do in the event of a find of cultural heritage not previously defined during the cultural heritage survey.