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## 1. DETAILS

Date: 15 March 2016

### Parties

Name	LEDA MANORSTEAD PTY LTD (“Developer”)
Short form name	Leda Manorstead
Notice details	Reg Van Rij Regional Manager – Residential Leda Developments Pty Ltd Level 1, 46 Cavill Avenue SURFERS PARADISE QLD 4217 Ph: 07 5570 5500 Fax: 07 5570 5050 Email: <a href="mailto:ledadev@ledagc.com">ledadev@ledagc.com</a>
Name	TWEED BYRON ABORIGINAL STAKEHOLDERS (“Registered Aboriginal Stakeholders”)
Short form name	See <i>Appendix 2</i>
Notice details	

## 2. RECITALS

Application has been made by Leda Manorstead Pty Ltd (the “Developer”) to the Director General, Department of Planning for consideration of a Concept Plan for the Cobaki Lakes Development Area as a residential community and associated retail, commercial, and recreation amenities. This Cultural Heritage Management Plan (“CHMP”) sets out the principles and processes the Developer will adopt for the identification, protection and management of Aboriginal Objects within the Development Area.

The terms of this CHMP have been drafted to reflect the findings of Everick Heritage Consultants Pty Ltd in their Preliminary Aboriginal Cultural Heritage Assessment (2009) and their Summary Excavation Report (2009). Their methodology and findings can be found in the reports submitted with this CHMP. In accordance with the assessment, this CHMP makes general recommendations for all Cultural Heritage of the Development Area and then allows for more detailed management and monitoring processes in an area identified as being of a sensitive nature.

It is envisaged that this CHMP will provide the general principles for Cultural Heritage management for the life of the Development, including where new Development Applications are lodged with the Tweed Shire Council. Should the Developer wish to undertake processes that vary from or are in addition to those in this document, they will consult with the Registered Aboriginal Stakeholders and produce a new or revised CHMP, in accordance with their legal obligations at the time.

A central principle of Cultural Heritage management is that items of heritage significance should be retained in an appropriate Setting (*Burra Charter*: Article 8). It is not considered appropriate to agree to detailed landscaping and signage practices at Concept Plan stage. However, the CHMP puts in place consultation practices that will ensure the ongoing participation of the Registered Aboriginal Stakeholders in these works.

### 3. OPERATIVE PROVISIONS

#### 3.1 Definitions

**“Aboriginal Cultural Heritage”** or **“Cultural Heritage”** means Aboriginal Objects and/or Aboriginal Places, as defined in Section 5 of the *National Parks and Wildlife Act 1974* (NSW).

**“Aboriginal Cultural Heritage Site(s)”** or **“Site(s)”** means areas exhibiting one or more attributes of Aboriginal Cultural Heritage.

**“Aboriginal Place”** has the same meaning as that provided in Section 5 of the *National Parks and Wildlife Act 1974* (NSW).

**“Aboriginal Object”** has the same meaning as that provided in Section 5 of the *National Parks and Wildlife Act 1974* (NSW).

**“CHMP”** means this Cultural Heritage Management Plan, all Appendices to this CHMP and any subsequent amendments to this CHMP from time to time as agreed by the Parties.

**“CHP”** means a Cultural Heritage Park as required by Paragraph 13 of this CHMP.

**“CHP General Area”** means the outer boundaries within which a CHP may be situated, as identified in *Appendix 1: Figures 5-7*.

**“Construction”** means any surface and sub-surface disturbance during the Construction works undertaken by the Developer within the Development Area.

**“Contractor”** means a contractor, including Sub-Contractors, employed by the Developer to provide Construction services for the Development.

**“Cultural Heritage Advisor”** means a person or organisation, independent from the parties, with specialised archaeological and/or anthropological training and appointed under Paragraph 10 of this CHMP.

**“Cultural Heritage Contact”** means a person or persons nominated by the Developer to act as the main point of contact between the Developer and the Registered Aboriginal Stakeholders.

**“Cultural Heritage Management Protocols”** are the specific recommendations for the management of each Aboriginal Place and Aboriginal Object which form part of the Cultural Heritage Survey Report.

**“Cultural Heritage Team”** means the person or persons appointed by the Registered Aboriginal Stakeholders as Monitor during Construction of the Development at the Sites identified in this CHMP.

**“DECCW”** means the former New South Wales Department of Environment, Climate Change and Water, subsequently superseded by the OEH.

**“DECCW Guidelines 2005”** means the former DECCW (now OEH) draft *Interim Community Consultation Requirements for Applicants* (2005) .

**“OEH Guidelines 2010”** means the current OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010) or such other guidelines or regulations issued by the OEH that may take their place.

**“Development”** means the Cobaki Lakes Development to which this CHMP applies

**“Development Area”** means the area detailed in *Appendix 1* and referred to in the **Recitals** on which Construction and associated works are taking place.

**“Developer”** means Leda Manorstead Pty Ltd, including All Staff, and such persons who shall come to own, lease, manage or otherwise exhibit control over the use of land within the Development Area.

**“DOP”** means the former New South Wales Department of Planning, at the time of publishing this CHMP the DPE.

**“DPE”** means the Department of Planning & Environment.

**“Exclusion Zone”** means the area, not less than twenty (20) metres, around an Aboriginal Cultural Heritage Site that the Developer may not enter for the purposes of any Construction until appropriate arrangements for the management of the Site have been made in accordance with this CHMP.

**“Find”** means an Aboriginal Object as defined in Paragraph 5 of the *National Parks and Wildlife Act 1974* (NSW).

**“Human Remains”** does not include –

- a) human remains buried under the authority of a law of the Commonwealth or any State or Territory; or
- b) human remains in or from a place recognized as a burial ground for internment of remains as referred to in paragraph (a).

**“Induction”** means Aboriginal Cultural Heritage induction training sessions developed by the Registered Aboriginal Stakeholders or its representatives in consultation with the Developer and presented by persons with knowledge and experience in Aboriginal Cultural Heritage and the obligations imposed by a CHMP.

**“Monitor”** means a representative of the Registered Aboriginal Stakeholders who shall perform the functions of a Monitor as outlined in Paragraphs 5 and 7 and **Appendix 3**, and when appropriate will work as part of a Cultural Heritage Team.

**“Monitoring”** means activities undertaken by Registered Aboriginal Stakeholders or their authorized representatives in accordance with Paragraph 7 of this CHMP, and may include Construction works as required by the Developer or Contractors provided such work does not unreasonably interfere with their abilities to identify Cultural Heritage.

**“Monitor Roster”** means the roster developed in order to effectively monitor the activities to be



performed by the Developer in carrying out the Construction.

“**OEH**” means the New South Wales Office of Environment and Heritage.

“**Parties**” means the Registered Aboriginal Stakeholders and the Developer.

“**Project Applications**” means Project Applications lodged with the DOP involving Construction within the Development Area under the Statutory framework of Part 3A Major Projects in the *Environmental Planning and Assessment Act 1979* (NSW).

“**Project Construction Manager**” means the on-site manager appointed by the Developer to oversee all matters of Aboriginal Cultural Heritage.

“**Registered Aboriginal Stakeholders**” means Aboriginal persons entitled under the laws and departmental guidelines of New South Wales to be consulted on the management of Aboriginal Cultural Heritage and who are a Party to this CHMP (as listed in *Appendix 2*).

“**Staff**” means all employees, Contractors and sub-contractors of the Developers involved in the Development.

## 3.2 Rules for Interpreting this Document

The following rules also apply in interpreting this CHMP, except where the context makes it clear that a rule is not intended to apply:

- (a) a singular word includes the plural, and vice versa;
- (b) a word which suggests one gender includes the other gender;
- (c) if an example is given of anything (including a right, obligation or concept), the example is for clarity and does not limit the scope of that thing;
- (d) the word “agreement” includes an undertaking or understanding, whether or not in writing; and
- (e) subject to this clause, the Appendices, whether or not completed at the date of this CHMP will be considered part of this CHMP for all purposes.

## 4. PRINCIPLES OF CULTURAL HERITAGE MANAGEMENT AND PURPOSE OF THIS CHMP

### 4.1 Principles of Cultural Heritage Management Plan

The principles of Cultural Heritage management in this CHMP are:

- (a) a practice of respect, understanding and value for Aboriginal traditions and Aboriginal Cultural Heritage should be conveyed to relevant employees, agents, consultants, Contractors and sub-contractors of the Developer through Induction training;
- (b) Aboriginal traditions should be respected and Aboriginal Cultural Heritage should be conserved and protected;
- (c) the Developer accepts that Construction has the potential to damage Aboriginal Places and Aboriginal Objects. Consequently, it is necessary to implement a series of actions and procedures to avoid or minimise the potential impact of Construction on these Aboriginal Places and Aboriginal Objects; and
- (d) the Developer accepts that particular care will be needed for Construction within the Archaeologically Sensitive Areas, requiring monitoring and special Induction training.

### 4.2 Purpose of this CHMP

With the Cultural Heritage management principles detailed above in mind, this CHMP seeks to:

- (a) encourage direct involvement of the Registered Aboriginal Stakeholders in the development and implementation of this CHMP and future agreements to manage Cultural Heritage within the Development Area;
- (b) provide an acceptable framework for implementing CHMPs or other agreements to identify and protect Cultural Heritage as part of future Project Applications to be submitted to the DOP for each stage of the Development;
- (c) set up a process through which Areas identified in **Appendix 1** are the subject of Traditional Owner consultation and further archaeological investigation as soon as possible;
- (d) ensure that, as much as possible, any items of Aboriginal Cultural Heritage that are unearthed during Construction are identified and appropriate procedures are in place to ensure that they are protected;
- (e) ensure direct involvement for the Registered Aboriginal Stakeholders in all management actions deemed necessary to manage Aboriginal Places and Aboriginal Objects located during Construction within the Development Area;

- (f) allow the Developer to fulfill its commercial and corporate obligations and objectives while protecting or otherwise managing Aboriginal Cultural Heritage which exist in the Development Area;
- (g) meet the Developer's obligation imposed on the Developer by the DOP and DECCW; and
- (h) provide a strong foundation for an ongoing, open and mutually beneficial relationship between the Parties.

### 4.3 Details of Prior Studies Conducted in the Development Area

Lilley conducted an archaeological survey of the Subject Lands in 1981. He found no sites of Aboriginal Cultural Heritage during his survey. However, he did note that this may have been due in part to poor surface visibility due to dense vegetation in many areas (Lilley 1981:5). Since 1981 there has been extensive clearing and earthworks in preparation for use of the land for agriculture and then as a residential development.

In 1990 the University of Queensland Archaeological Services Unit carried out a survey and prepared an Archaeological Report in respect of the Cobaki Lakes site (Hall 1990). That report acknowledges that clearing, farming and sand mining together with land reforming has been extensive and few places within the study area have been unaffected by European cultural impacts of some kind. The report states that nothing relating to past Aboriginal cultural heritage was found during the survey.

An Assessment (Robins 2009) has been conducted by Everick Heritage Consultants, incorporating fieldwork and the results of past studies, which forms the basis of this CHMP.

### 4.4 Details of Prior Studies Conducted on Lands Immediately Surrounding the Development Area

The following assessments have been carried out on lands immediately surrounding the development area. Most of these assessments identified significant deposits of Aboriginal cultural heritage, largely in the form of middens and artefact scatters. When viewed in conjunction with the results of the assessment of the Development Area (Robins 2009), it is evident that the Development Area was and still is part of a significant cultural landscape for the Aboriginal people of the Tweed.

BONHOMME, CRAIB & ASSOC. 2000	Tugun Bypass Environment Impact Statement Stage 2: Technical Paper Number 15: Cultural Heritage Assessment. Unpublished Report for the Department of Main Roads.
COLLINS, J.P. 1999	Pacific Highway, Tugun to Tweed Heads Bypass Route Selection Study: Cultural Heritage Assessment. Unpublished report to Connell Wagner Pty Ltd, Spring Hill QLD.
COLLINS, J.P. 2005	Proposed Country Energy Substation at Cobaki NSW. Far North Coast, Cultural Heritage Assessment. Unpublished report for Sinclair, Knight, Mertz.
CONVERGE 2009	Archaeological Excavation and CHA, Piggabeen Rd, West Tweed. Unpublished report for the Tweed Shire Council.
EASTERN YUGAMBEH LIMITED 2005	Eastern Yugamabah Limited in conjunction with the Tweed Byron Local Aboriginal Land Council Results of a Preliminary Cultural Heritage Survey of the Proposed C4 Tugan Bypass. Unpublished report for the Department of Main Roads.
FOX 1966	Coabaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan. Unpublished report prepared for the Tweed Shire Council.
HALL, J. 1990(a)	An Assessment of Aboriginal Sites at Coolangatta Airport. Unpublished report to Gutteridge Haskins & Davey Pty Ltd, Brisbane.
OZARK ENVIRONMENTAL HERITAGE MANAGEMENT PTY LTD 2006(a)	Geomorphological and Archaeological Assessment: The Tugan Bypass C4 Corridor (Stage 2- Cultural Heritage Management Plan). Unpublished report to QLD Department of Main Roads.

OZARK ENVIRONMENTAL HERITAGE MANAGEMENT PTY LTD 2006(b)	Archaeological Salvage Excavation Zone 7, Tugan Bypass. Unpublished report to QLD Department of Main Roads.
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OZARK ENVIRONMENTAL HERITAGE MANAGEMENT PTY LTD 2006(c)	Draft Protocol for the Management of a Stone Artefact Scatter. Unpublished Report to Gold Coast Airport Pty Ltd, QLD.
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OZARK ENVIRONMENTAL HERITAGE MANAGEMENT PTY LTD 2007	Archaeological Salvage Excavation Zone 7, Tugan Bypass. Unpublished report to QLD Department of Main Roads.
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## 5. OBLIGATIONS OF THE REGISTERED ABORIGINAL STAKEHOLDERS

In implementing this CHMP, the Registered Aboriginal Stakeholders will:

- (a) where employed by the Developer; work diligently to assist with the implementation of this CHMP and enable it to operate successfully;
- (b) provide any reasonable information required by Developer to implement this CHMP;
- (c) provide information as required by Monitors to carry out their obligations under this CHMP;
- (d) co-operate with the Developer to ensure that it is able to go about its activities in a timely and efficient manner;
- (e) assist the operations of the Developer's Staff where they are acting in accordance with this CHMP; and
- (f) distribute relevant information on Development Plans, Construction Works, Finds, Monitoring, Design Meetings, employment and business opportunities or other information related to the implementation of this CHMP to other members of the Tweed Aboriginal community who may have an interest in the cultural values of the Development Area..



## 6. RESPONSIBILITIES OF THE DEVELOPER

The Developer undertakes to apply the following practices in implementation of this CHMP:

- (a) provide progress reports to the Registered Aboriginal Stakeholders, at a frequency of one every 6 months;
- (b) ensure that breaches of this CHMP are managed in accordance with the breach procedures as agreed upon by the Parties;
- (c) provide the Registered Aboriginal Stakeholders with relevant drawings of the proposed Developments as soon as practicable;
- (d) keep the Registered Aboriginal Stakeholders informed as to the progress of the Development;
- (e) work diligently to make this CHMP operate successfully;
- (f) provide resources as necessary for the implementation of this CHMP;
- (g) mark the locations of known Aboriginal Cultural Heritage Sites and the Archaeologically Sensitive Area on working plans of the Development Area and these plans will then be displayed at the site office;
- (h) ensure any Contractors employed for any part of the Development are informed of the roles and duties of all Parties involved with the implementation of this CHMP and comply with the Developer's obligations under this CHMP;
- (i) ensure safety and first aid equipment are available for use by Monitors when required;
- (j) provide workplace health and safety and environmental management induction training to Monitors; and
- (k) adhere to the Specific Recommendations contained in Paragraph 12 of this CHMP.

## 7. CULTURAL HERITAGE MONITORS

### 7.1 Powers of Monitors

For areas agreed upon by the Parties under this or any subsequent agreement, the Monitors may have the authority to stop machinery working if that machinery is at risk of encroaching into a Cultural Heritage Protection Area or a Cultural Heritage Park where it has not previously been agreed that it may do so, or that the machine is likely to cause damage to Aboriginal Cultural Heritage.

## 7.2 Monitor Training

The Cultural Heritage Advisor will co-ordinate a Monitor training session whereby Monitor's are given instructions on:

- (a) their powers and responsibilities under this CHMP; and
- (b) how to identify a Find.

## 7.3 General Monitoring Procedures

Monitoring may be required from time to time during activities within the Cultural Heritage Protection Areas or the Cultural Heritage Parks (*Appendix 1: Figures 5-7*). The term Monitoring is used in this CHMP to describe a range of activities that may be undertaken by Registered Aboriginal Stakeholders or their representatives in managing Cultural Heritage within the Development Area. The full powers and responsibilities of Monitors are contained in the management procedures in *Appendix 3*.

The Monitor may be authorised by the Registered Aboriginal Stakeholders to make binding decisions on-site when dealing with Cultural Heritage that directly affects the Development, subject to any applicable statutory requirements.

## 7.4 Remuneration of Monitors

Remuneration for the services provided by the Monitors will be \$50 per hour (excluding any breaks from monitoring activities) plus superannuation. Prior to undertaking any Monitoring activities, Monitors will be required to provide the Developer with:

- (a) a completed and signed tax file number declaration form;
- (b) their superannuation fund name and membership number;
- (c) their date of birth; and
- (d) any other such information as required by the Developer under the applicable Commonwealth or State laws.

## 8. CULTURAL HERITAGE INDUCTIONS

### 8.1 Briefing on Duties under this CHMP

The Developer will:

- (a) ensure that the Developer's relevant staff and Contractors are aware of the Developer's responsibilities under this CHMP and the roles and responsibilities of the Cultural Heritage Team in implementing this CHMP; and
- (b) allow sufficient time before Construction commences for this briefing to occur.

### 8.2 Cultural Heritage Induction

All Construction Staff engaged in undertaking initial subsurface disturbance will undergo a Cultural Heritage Induction prior to Construction commencing. The Induction will be run by the Tweed Byron LALC and, if required, the Cultural Heritage Advisor. The purpose of the Induction will be to:

- (a) instruct Construction Staff on the basic principles of identifying Aboriginal Cultural Heritage;
- (b) instruct Construction Staff on areas which are considered potentially likely to contain Aboriginal Cultural Heritage;
- (c) familiarise all persons with the culture and traditions of the Registered Aboriginal Stakeholders;
- (d) promote an understanding and respect for the culture and traditions of the Registered Aboriginal Stakeholders;
- (e) foster good relationships between the Registered Aboriginal Stakeholders and others; and
- (f) instill understanding of the principles embodied in this CHMP.

## 9. COMMUNICATIONS

### 9.1 Developer's Cultural Heritage Contacts

The Developer will nominate a person within its organisation as Cultural Heritage Contact, who will be the main point of contact between the Developer and the Registered Aboriginal Stakeholders in relation to the implementation of this CHMP (*Appendix 2*). The Developer will also nominate a Cultural Heritage Advisor, who may act on the Developers behalf where requested by the Developer.

## 9.2 Aboriginal Contacts

The Registered Aboriginal Stakeholders will be requested to nominate their postal address and phone number where they permit the Developer to contact them.

## 9.3 Communication Protocol

Where possible, all communication between the Parties is to occur via the contact people defined in this Paragraph, unless otherwise agreed by the Parties.

# 10. INDEPENDENT CULTURAL HERITAGE ADVISOR

An appropriately selected and qualified independent Cultural Heritage Advisor will be used to provide advice to the Developer and the Registered Aboriginal Stakeholders on issues concerning Cultural Heritage:

- (a) during the Construction phase;
- (b) where there is any conflict or disagreement between the Registered Aboriginal Stakeholders and the Developer; and
- (c) at other times when agreed by the Registered Aboriginal Stakeholders and the Developer.

The contact details for the nominated Cultural Heritage Advisor are contained in *Appendix 2*.

# 11. FIND PROCEDURE

The Developer acknowledges that further Aboriginal Objects, not already identified by past archaeological surveys or excavations, may be discovered during the course of the Construction. These potential discoveries fall into two (2) distinct categories: Aboriginal human remains and sub-surface Aboriginal Objects.

The Find procedures for Aboriginal Objects (Paragraph 11.2) will not apply to the areas identified as Exclusion Areas (Back Paddock, Front Paddock and Sand Ridge) in **Appendix 1: Figures 2-4**. These areas have been the subject of Archaeological excavations, and no further Cultural Heritage works are required, other than those required for Cultural Heritage Protection Areas (Paragraph 12) and Cultural Heritage Parks (Paragraph 13).

## 11.1 Aboriginal Human Remains

Aboriginal human remains will be dealt with as according to the Aboriginal Remains Procedure outlined in **Appendix 6**, with special regard to the following considerations:

- (a) in all cases suitable dignity is required in the handling of the issue;
- (b) the primary intention of this strategy is to avoid the unnecessary removal or disturbance of the human remains and to allow appropriate Aboriginal people the final decision-making powers, if the remains should prove to be those of an Aboriginal person; and
- (c) where this is not the case the discovery Site will be deemed a crime scene and Contractor and its Sub-Contractors will be subject to police direction.

## 11.2 Aboriginal Objects

In the event of a potential Cultural Heritage Find the following process will be carried out immediately by Construction Staff, Contractors and/or Monitors:

- (a) Construction work must cease in the immediate vicinity of the potential Find and an Exclusion Zone of at least twenty (20) metres radius be established around the identified Aboriginal Object(s). The Exclusion Zone may be established using flags, pins, tape or temporary fencing, as deemed appropriate by the Developer. All other Construction works may continue in other areas.
- (b) A Monitor or the Cultural Heritage Advisor must be called to inspect and identify the Find.
- (c) If the Monitor or Cultural Heritage Advisor is satisfied that the object is not Cultural Heritage, the Exclusion Zone may then be removed and Construction works may continue.
- (d) If the Monitor is unsure of whether the object is Cultural Heritage or not, they may elect to have a Cultural Heritage Advisor inspect the Find.
- (e) If the object is Cultural Heritage and:
  - a. is not part of a series of Aboriginal Objects of density of greater than five (5) per m<sup>2</sup>, the Monitor or the Cultural Heritage Adviser will:



- i. Fill out a Find Sheet; and
    - ii. Collect the Objects and store them in accordance with the Keeping Place requirements in Paragraph 15; or
  - b. is part of a series of Aboriginal Objects of density greater than five (5) per m<sup>2</sup>, the Monitor or the Cultural Heritage Adviser will:
    - i. Notify the Registered Aboriginal Stakeholders of the Find;
    - ii. Provide a brief report on the contexts of the Find; and
    - iii. agree to management strategies for the area surrounding the Find.
- (f) Any disputes as to the management of a Find will be dealt with in accordance with the Dispute Resolution Protocols (Paragraph 19).

## 12. CULTURAL HERITAGE PROTECTION AREAS

### 12.1 General Management Rational

Archaeological excavations in the Back Paddock (*Appendix 1: Figure 4*), have uncovered a range of Aboriginal stone artefacts scattered throughout the environment. The Parties acknowledge that it is not feasible to salvage all of these artefacts.

Archaeological modeling for the surrounding environment has led to the conclusion that the areas identified in this CHMP as Cultural Heritage Protection Areas will contain a representative sample of the type and distribution of artefacts within the Back Paddock. As many Aboriginal Objects within the Back Paddock will be lost during Construction, it is appropriate that particular care be taken when undertaking activities within the Cultural Heritage Protection Areas.

## 12.2 Construction Works within Cultural Heritage Protection Areas

The Cultural Heritage Protection Areas are Zoned Environmental Protection Areas within the Development Concept Plan (*Appendix 1: Figure 7*). These areas will generally be the subject of minimal ground disturbance. The type of Construction Works that may occur within Environmental Protection Areas may include:

- (a) pathways and walking tracks;
- (b) public amenities such as toilets, parks and shelters;
- (c) bushfire hazard reduction that is not exempt development;
- (d) business identification signs;
- (e) earthworks;
- (f) environmental facilities;
- (g) noxious weed control;
- (h) emergency service facilities;
- (i) roads;
- (a) urban stormwater water quality management facilities; and
- (b) works for drainage and landfill.

## 12.3 Activity Response Hierarchy

The following hierarchy of Construction works and activities and associated action will be used to guide heritage Monitoring within Cultural Heritage Protection Areas:

<i><b>Disturbance</b></i>	<i><b>Examples</b></i>	<i><b>Monitoring Activity</b></i>
No/Minimal Ground Surface Disturbance	<ul style="list-style-type: none"> <li>• Noxious weed control using poisons</li> <li>• bushfire hazard reduction</li> <li>• professional surveys or site investigation activities</li> </ul>	None Required
Minimal Ground Surface Disturbance	<ul style="list-style-type: none"> <li>• Pathways and walking tracks not requiring excavation</li> <li>• Erection of signage</li> <li>• Landfill (not Cut)</li> </ul>	Pre-Construction survey by one monitor
Ground Surface Disturbance and Minimal Subsurface Disturbance	<ul style="list-style-type: none"> <li>• Fencing</li> <li>• Paths and Walking Tracks requiring excavation</li> <li>• Construction of public amenities such as toilets and shelters.</li> <li>• Minor drainage or sewage works</li> </ul>	<p>Pre-Construction survey by one Monitor.</p> <p>Monitoring of initial subsurface disturbance by two Monitors.</p>
Significant Subsurface Ground disturbance	<ul style="list-style-type: none"> <li>• Roads</li> <li>• Clearing using a bulldozer</li> <li>• Ground surface modification involving removal of topsoil for the purposes constructing parks or building pads.</li> <li>• Large stormwater or sewage works.</li> </ul>	<p>Pre-Construction survey by one Monitor.</p> <p>Hand Test Pits by three Monitors and a qualified archeologist, in accordance with the Test Pit Procedure.</p> <p>Monitoring of initial subsurface disturbance by two Monitors.</p>

## 13. CULTURAL HERITAGE PARKS ('CHP')

### 13.1 The Purpose of Cultural Heritage Parks

CHPs will be located within the Development Area in areas which have significant concentrations of Cultural Heritage. The purpose of the CHPs will be to ensure that:

- (a) a representative sample of the Cultural Heritage within the Development Area is protected;
- (b) the Registered Aboriginal Stakeholders are consulted over the landscaping and appropriate ongoing use of these areas; and
- (c) appropriate interpretative works are undertaken that will commemorate the significance of the Development Area to its Traditional Owners.

As this CHMP has been developed at Concept Plan stage, a degree of flexibility has been incorporated into the Management Procedures in Paragraph 13.2.

### 13.2 Management Procedures: Back Paddock CHPs 1 to 7

All CHPs within the Back Paddock (CHPs 1 – 7) will be a minimum of 400 m<sup>2</sup>. The plan in **Appendix A - Figure 5** identifies the areas within which the CHPs will be located ('CHP General Areas'). All CHPs within the Back Paddock require adherence to the following procedures:

- (a) The CHP General Areas will be marked on all working plans as areas where Construction works are not to be undertaken.
- (b) The CHPs will be fenced with temporary fencing around their boundaries as shown in Figure A. At such time as final boundaries are known they fencing may be altered to reflect this.
- (c) The CHPs will not be impacted by any Construction works and the temporary fencing will remain in place until:
  - a. where CHPs will be covered in soil to a depth greater than 50cm, the Cultural Heritage Consultant and a Monitor is present to supervise the initial deposit and compacting of the fill; or
  - b. where the CHPs will be left uncovered or covered in soil to a depth of less than 50cm, at such times as the Signage and Landscaping procedures (Concept Plan CHMP Paragraph 14) have been implemented.

- (d) Prior to the Tweed Shire Council issuing any subdivision certificates for Precincts 13 and 16 of the approved Precinct Masterplan:
- a. the Developer shall be responsible for establishing CHPs within the relevant Masterplan precinct consistent with the agreed landscaping requirements developed through implementation of Clause 14 of this CHMP; and
  - b. the Developer shall prepare a Maintenance Management Plan, which shall include but may not be limited to:
    - i. details on how CHPs are to be maintained;
    - ii. a schedule of estimated costs associated with the establishment and maintenance of the CHPs;
    - iii. procedures for monitoring the ongoing public use of the CHPs and the condition of any plants and built infrastructure within them; and
    - iv. specifying when the ownership of CHPs shall be handed over to Council, being at time where the plants within the CHPs have reached a self-sustaining condition.

### 13.3 Management Procedures: Sand Ridge CHPs 8 and 10

All CHPs within on the Sand Ridge (CHPs 8 & 10) are of a fixed minimum size. The plan in **Appendix A - Figure 6** identifies the boundaries of CHPs 8 & 10. All CHPs on the Sand Ridge require adherence to the following procedures:

- (a) The CHPs will be marked on all working plans as areas where Construction works are not to be undertaken.
- (b) The CHPs will be fenced with temporary fencing around their boundaries as shown in **Appendix A - Figure 6**.
- (c) The CHPs will not be impacted by any Construction works and the temporary fencing will remain in place until such times as the Signage and Landscaping procedures (Concept Plan CHMP Paragraph 14) have been implemented.
- (d) Prior to the Tweed Shire Council issuing any subdivision certificates for Precinct 8 of the approved Precinct Masterplan:
  - a. the Developer shall be responsible for establishing CHP 8 and CHP 10 consistent with the agreed landscaping requirements developed through implementation of Clause 14 of this CHMP; and
  - b. the Developer shall prepare a Maintenance Management Plan, which shall include but may not be limited to:



- i. details on how CHPs are to be maintained;
- ii. a schedule of estimated costs associated with the establishment and maintenance of the CHPs;
- iii. procedures for monitoring the ongoing public use of the CHPs and the condition of any plants and built infrastructure within them; and
- iv. specifying when the ownership of CHPs shall be handed over to Council, being at time where the plants within the CHPs have reached a self-sustaining condition.

Following consultation with the Registered Aboriginal Stakeholders between November 2015 and March 2016, CHP 9 has been removed, and incorporated into CHP 10.

## 14. SIGNAGE & LANDSCAPING

### 14.1 The Purpose of Interpretative Signage and Landscaping

The Registered Aboriginal Stakeholders and the broader Aboriginal community of the Tweed Valley will be invited to participate in the design of open space/public park landscaping and interpretative cultural signage near known Aboriginal Sites and areas of cultural significance. This is viewed by the Registered Aboriginal Stakeholders as an important part of maintaining connections to Country.

Cultural signage can act as an educative tool. It can assist in creating an overall ‘story’ of Aboriginal occupation within the Subject Lands. It can demonstrate aspects of Aboriginal culture such as language, tools, story, song, dance and the connection between Aboriginal people and their environment. It can also assist in maintaining the connection of the Traditional Owners to the land.

Culturally sympathetic landscaping can serve to enhance the cultural values of an area. This is an important part of retaining an appropriate Setting in which the Cultural Heritage within Cobaki Lakes is to be located.

From the perspective of the Developer, cultural signage and landscaping can play a dual role of acknowledging past Aboriginal occupation of the area and establishing a sense of community for future residents of Cobaki Lakes. In this way, cultural signage and landscaping is viewed as a mutually beneficial partnership between the Developer and the Registered Aboriginal Stakeholders.

## 14.2 The Implementation of Cultural Signage

The following processes and principles will guide the implementation of cultural signage:

- (a) Cultural signage will occur in each of the CHPs.
- (b) Signage should be consistent with the general standards and design principles in the rest of the Development Area.
- (c) Traditional names or story will not be used where it is objected to by an Aboriginal Stakeholder. Where the Registered Aboriginal Stakeholders cannot agree on appropriate names or story to be used in cultural signage, the signage may detail the results of archaeological or ethnographic knowledge of use and occupation of the area.
- (d) Where agreement as to the final content and location of signage cannot be reached between the Registered Aboriginal Stakeholders, the final decision will rest with the Cultural Heritage Advisor, who may decide either:
  - a. the location and the content of the signage; or
  - b. that signage in that location should not be built.

## 14.3 The Implementation of Cultural Landscaping

The following processes and principles will guide the implementation of cultural landscaping:

- (a) The Registered Aboriginal Stakeholders will, through the holding of Design Meetings (Paragraph 14.4), be consulted over the landscaping of all CHPs.
- (b) The primary purpose of landscaping a CHP is to ensure the Cultural Heritage within that area is preserved. All other landscaping concerns shall be considered secondary.
- (c) Landscaping may involve burying artefacts under a suitable layer of topsoil/sand.
- (d) The Registered Aboriginal Stakeholders will provide input on appropriate flora species to be planted within CHPs.
- (e) Registered Aboriginal Stakeholders will be invited to nominate persons to participate in the cultural landscaping works, in accordance with Paragraph 16.2.

## 14.4 Cultural Signage and Landscape Design Meetings

All Registered Aboriginal Stakeholders will be invited to attend a minimum of three (3) Design Meetings. Also in attendance will be qualified landscape and graphic designers, a representative of the Developer, and (only if

requested by the Parties) the Cultural Heritage Advisor. Should they be unable to attend a landscape design meeting, they will be forwarded on the minutes and the results of any discussions for comment.

The meetings will be staged through the life of the Development to ensure the Registered Aboriginal Stakeholders are consulted at appropriate times over the landscaping and Cultural Signage of CHPs.

## 15. KEEPING PLACE

Aboriginal Objects originating from the Development Area must at all times be kept in the care and control of the Tweed Byron LALC. The Developer will continue to consult with the Registered Aboriginal Stakeholders and the Land Council over alternative arrangements for the artifacts should they be requested. Aboriginal Objects originating from the Development Area must at all times be kept in the care and control of the Tweed Byron LALC, until such time as a Native Title Claim is determined over the Development Area.

## 16. BUSINESS AND EMPLOYMENT OPPORTUNITIES

### 16.1 Landscaping Employment

The Developer will provide employment for a minimum of four (4) Aboriginal persons to undertake landscaping works within the CHPs.

The Registered Aboriginal Stakeholders will be asked to nominate interested Aboriginal persons capable of undertaking these works. The final decision on who is employed to undertake these works will rest with the Developer.

### 16.2 General Employment Opportunities

The Developer, during the course of the Development, will look to employ Registered Aboriginal Stakeholders, as is practicable, where they are capable of carrying out in a satisfactory manner the particular work or services required, at a competitive price and to the Contractor's usual standards. The Developer will communicate with the Registered Aboriginal Stakeholders, to ensure this takes place.

The Developer will request that the Registered Aboriginal Stakeholders nominate several people as potential employees to be assessed by the Developer. The Developer will select and offer employment to the person or people who are most suitable to the skill mix requirements of the Developer.

The Developer commits that:

- (a) except as otherwise agreed between the Parties, general working standards, including rates of pay, hours of work and roster period requirements for Aboriginal employees, will be as for other employees; and
- (b) they will consider whether there are areas in which an Aboriginal person(s) or an incorporated Aboriginal body might successfully be employed or contracted for the supply of goods and services; and they will look to provide tenders to these persons or Aboriginal bodies.

### 16.3 Aboriginal Business Opportunities

The Registered Aboriginal Stakeholders will, at their earliest convenience, provide the Cultural Heritage Contact with a list of local Aboriginal businesses interested in providing services during Construction of the Development. The Developer will invite these businesses to tender for undertaking Construction works that the Developer considers the nominated businesses are capable of fulfilling to a sufficient standard.

## 17. REMUNERATION

Remuneration of the Registered Aboriginal Stakeholders for services provided under this CHMP, excluding Monitoring services, will be the subject of further negotiations between the Developer and the Registered Aboriginal Stakeholders, having regard to the nature of the work and its duration.

## 18. OWNERSHIP OF INFORMATION

The Developer will own all information, reports or other documents generated or compiled in the implementation of this CHMP (“the reports”), except where such information is the property of another person or is already in the public domain.

The Registered Aboriginal Stakeholders will be requested to provide any information to the Developer, which is required to meet any requirements of law, including for the purpose of applying for any permits, licences, approvals or other authorities required by law for the Development or for the purpose of any programs associated with this CHMP.

Where information generated in the course of implementing this CHMP is of a confidential nature to the Registered Aboriginal Stakeholders and where the Registered Aboriginal Stakeholders have informed the Developer of this fact, then that information:

- (a) may not be used for any purpose other than in fulfillment of the Parties’ obligations under this CHMP; and
- (b) cannot be supplied to or used by any third Party, or used for any other purpose, other than as required by law, without the express written permission of the Registered Aboriginal Stakeholders.

The Developer, with the consent of the Registered Aboriginal Stakeholders, will look to use traditional names wherever practical and appropriate. Names could be used for streets and parks in the Development Area.

The Registered Aboriginal Stakeholders must be consulted about the appropriateness and spelling of any language names. The Parties agree that traditional names may be used solely for these purposes.

## 19. DISPUTE RESOLUTION

During the implementation of this CHMP, if disputes occur in relation to the management of CHP, Cultural Heritage Protection Areas or Aboriginal Objects, the following principles and procedures will apply:

- (a) wherever possible, issues will be negotiated directly between the Registered Aboriginal Stakeholders and the Cultural Heritage Advisor, with minimum disruption to Construction;
- (b) failing resolution under (a), an on-site meeting at a time convenient to the Parties, will be convened between the Developer’s Staff, the Registered Aboriginal Stakeholders and the Cultural Heritage Advisor; and

- (c) if resolution under (b) is not achieved, a permit under Paragraph 87 or Paragraph 90 of the *National Parks and Wildlife Act 1974* (NSW) will be sought by the Developer.

## 20. NOTICES

The Developer will, where practicable, provide any notices, consents or other communication under this CHMP in writing, signed and either left at the Registered Aboriginal Stakeholder's address or sent to the Registered Aboriginal Stakeholders by mail or fax.

## 21. TERM

This CHMP will start at a date to be agreed upon by the Parties, and will continue until alternative agreements or CHMPs are entered into between the Developer and the Registered Aboriginal Stakeholders, and approved by the relevant determining authorities.

## 22. REVIEW

The Developer and the Registered Aboriginal Stakeholders will review the implementation of this CHMP, either in meetings or through correspondence, on an annual basis.

## 23. SAFETY ISSUES

The Developer may not direct Monitors to do any act or thing, except in relation to specific issues of workplace health and safety, or other administration issues, as agreed between the Parties from time to time.

The Developer will provide (if required) hard hats, safety glasses, hearing protection, safety vests and sunscreen to the Monitors while the Monitors are in the Development Area. The Monitors must supply their own steel capped boots.

## 24. COSTING

Costs of the investigation, salvaging and storage of any Aboriginal Cultural Heritage are to be borne by the Developer.

## 25. APPROVAL OF THE DIRECTOR-GENERAL

The Developer will lodge this CHMP with the Director-General of the Department of Planning for approval.

## BIBLIOGRAPHY

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- Hall, J. 1990. An Archaeological Assessment of a Proposed Development Site at Cobaki, South Tweed Heads NSW. University of Queensland Archaeological Services Unit, Report No. 148. Unpublished report to Prodap Services, Qld.
- Lilley, I. 1981. Cobaki Village Assessment. Unpublished report to Cameron McNamara, Qld.
- Robins, R. 2009. Preliminary Aboriginal Cultural Heritage Assessment for the proposed Community Residential Development at Cobaki Lakes, Tweed Heads, NSW. Unpublished report for Leda Manorstead Pty Ltd, Surfers Paradise, prepared by Everick Heritage Consultants Pty Ltd.
- Robins, R. 2009. Summary Excavation Report for Cobaki Lakes Residential Development. Unpublished report for Leda Manorstead Pty Ltd, Surfers Paradise, prepared by Everick Heritage Consultants Pty Ltd.



## APPENDIX 1



Figure 1: Development Area





Figure 2: Sand Ridge Finds Exclusion Area





Figure 3: Front Paddock Finds Exclusion Area





Figure 4: Back Paddock Finds Exclusion Area





Figure 5: Back Paddock Cultural Heritage Park General Areas





Figure 6: Sand Ridge Cultural Heritage Parks





Figure 7: Cultural Heritage Protection Areas

## APPENDIX 2

### Registered Aboriginal Stakeholders (on behalf of their families):

<b>Name</b>	<b>Address</b>	<b>Phone Number</b>
Bartie, John	15 Turpentine Place, Tyalgum, NSW, 2484	
Boyd, Harry	C/O Bo Lourey PO Box 862, Murwillumbah, NSW, 2484	
Browning, Marcia	4 Letitia Road, FINGAL HEAD NSW 2487	
Cora, Mark	218 Kirkwood Road, Tweed Heads South, NSW, 2486	
Currie, Deidre	11 Flamingo Place, West Tweed Heads, NSW, 2485	
Dawney, Carol	3 / 2 Seymour Street, Tweed Heads South, NSW, 2486	
Ford, Maxwell	21 Hector Road, HOLLAND PARK QLD 4121	
Lena, Kathleen	18 Water Street, TWEED HEADS SOUTH NSW 2486	
Logan, Russell	C/O WICEEDO 9 Tathra Street, Pottsville Beach, NSW, 2489	
McDonald, Jackie	On behalf of Jason McDonald, Levi McDonald, Adam Mazzarella, Peter Buxton and Paul Buxton. 63 Tringa Street, Tweed Heads West, NSW, 2485	
Morgan, Christine	3 Duffy Street, TWEED HEADS SOUTH, NSW 2486	
Mye, Lesley	Lot 4 Birrigan Close, NOBBY'S CREEK NSW 2424	
Slabb, Kyle	C/O Tweed Byron LALC PO Box 1410, Kingscliff, NSW, 2487	



Summers, Joyce	26 Brier Crescent, Varsity Lakes, QLD, 4227	
Tweed Aboriginal Co-op	C/O Desare Rotumah PO Box 6231, Tweed Heads South, NSW, 2486	
Tweed Byron LALC	21/25 Ourimbah, Road, Tweed Heads, NSW, 2485 PO Box 1410, Kingscliff, NSW, 2487	
Williams, Doug	6/45 Mirrabooka Cr, LITTLE BAY NSW 2036	
Yuke, Kym	PO Box 1233, COORPAROO DC QLD 4151	

### Developers Cultural Heritage Contact:

<b>Name</b>	<b>Address</b>	<b>Phone Number</b>
Mr Reg van Rij	PO Box 1914, Gold Coast Surfers Paradise, QLD, 4217	(07) 5570 5500

### Cultural Heritage Advisor:

<b>Name</b>	<b>Address</b>	<b>Phone Number</b>
Tim Robins Everick Heritage Consultants	47 Arthur Terrace, Red Hill, QLD, 4059 PO Box 146, Red Hill, QLD, 4059	0432 816 460 (07) 3368 2660

## APPENDIX 3

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### PROPOSED MONITORING PROTOCOLS

#### Monitors will:

- Participate in Cultural Heritage Monitoring and sub-contract works.
- Assist in Construction works as directed by the Development Construction Manager, provided it does not interfere with their Monitoring duties.
- Report to the Development Construction Manager at a brief daily meeting to discuss all work to be undertaken by them during that day, completed by them on the previous day, and otherwise relating to their performance of the duties of Monitors in accordance with this CHMP.
- Provide preliminary determination of the extent of any previously unidentified Finds and approximate determination of the appropriate Exclusion Zone for any identified Aboriginal Cultural Heritage Object or Site.
- Report back to the Project Construction Manager and Registered Aboriginal Stakeholders with regard to Monitoring activities and any Finds.
- Attend the Site within 4 hours of an Aboriginal Cultural Heritage Object or Site being discovered.
- Undertake the Developers specific Workplace Health and Safety Induction training.
- Wear safety clothes and equipment as required by the Developer, including but not limited to steel capped boots (to be provided by the Monitor) and safety vest and hard hat (to be provided by the Developer).
- Not impede the operations of Construction Staff.
- Complete time sheets at the beginning and end of each day or part day that the Monitor is on Site as reasonably required by the Developer.
- Comply with any protocols and procedures for visitation to the Development Area.
- Immediately inform the Development Construction Manager of the location and nature of any Cultural Heritage Find during Monitoring.
- In the event that skeletal material is found, follow procedures detailed in *Appendix 6*.
- At the end of each relevant working day, finalise a Monitoring Clearance Sheet which will be provided by the Developer.
- Ensure that they arrive at the designated part of the Development Area at the designated time.
- Collect Monitors Kit at the beginning of each day and return them at the end of each day (See below).
- Undertake Monitoring Activities as required in Paragraph 7.3.
- Be available to work on 96 hours' notice.

- Remain at their assigned locations except in an emergency.

#### **On-site Monitoring Procedure**

- If the Monitors are late on-site, work will proceed whether they are present or not.
- The Development Construction Manager will inform the Monitors of the type of work that will be carried out during the day.
- Once this has been established, the Monitors will begin monitoring for Cultural Heritage (e.g. stone artefacts, shell material, bone, etc) unearthed during the clearing work.
- Monitors will stay at the designated Monitoring location unless the Development Construction Manager advises or requests otherwise.
- Monitors will be introduced to the driver(s) of the earthmoving equipment who will be undertaking the clearing. The driver and Monitor are to come to a mutual arrangement regarding procedures they will follow (e.g. hand signals) when the Monitor wishes the driver to temporarily stop so that he can inspect any suspected Cultural Heritage material that may have been exposed.
- When working in proximity to large earthmoving equipment, such as bulldozers, graders or excavators, stringent safety rules are to be observed.
- Monitors will check-in any Cultural Heritage (e.g. stone artefacts, shell material, bone etc) collected during the day's work, along with the Collection Record Sheets, any completed Clearance Sheets and their Monitoring Kits. Cultural Heritage Objects will be stored by the Developer until such time as it can be handed into the care and control of the Tweed Byron LALC.

#### **Raising Issues**

If the Monitors wish to raise any issues, or report incidents or accidents that may have occurred while they were monitoring that day, they should contact the Development Construction Manager or the Cultural Heritage Advisor.

#### **Monitoring Kits**

Monitors will receive Monitoring Kits when undertaking their work. It is their duty to ensure that the Monitoring Kits are complete with the required contents each day.

The Cultural Heritage Advisor will prepare the Monitoring Kits and deliver them to the site office. The Development Construction Manager will be responsible for issuing the kits and having available in the site office additional materials required for restocking them.

Monitoring Kits will contain at least the following:

- Collection Record Sheets x 3
- Clearance Sheet x 1
- Collection Bags x 3
- CHMP x 1
- Daily Time Sheet
- Stop Work Forms x 2
- Contact Details Form x 1
- Back pack/carry bag x 1
- Clipboard / ring binder x 1
- Pen x 1
- Marker x 1
- Safety Vest
- Hard Hat

The Developer will also provide the lead Monitor with a camera and a GPS as required.

Monitors are to ensure that these kits are stocked sufficiently, and that they are returned at day's end in an appropriate state. Cameras are to be only used for photographing Cultural Heritage Objects and Sites.

**Monitors must wear prescribed safety equipment and abide by the following rules:**

- Never walk in front of a moving or operating machine.
- Never be in the close vicinity when trees are being felled or pushed or pulled.
- Observe a safety zone distance of at least twenty (20) metres between the Monitor and the machine.
- Machinery such as bobcats can be approached reasonably safely, provided that the bobcat operator is aware at all times of the position of the Monitor and that eye contact is maintained between the Monitor and the operator.

## APPENDIX 4

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### CONDITIONS OF EMPLOYMENT FOR ABORIGINAL MONITORS

- Monitors shall be employed by the Developer. The Developer will oversee the employment, management, administration and remuneration of the Monitors, including the provision of workers compensation, superannuation, tax contributions and insurance cover.
- Monitors must comply with all relevant legislation including all Workplace Health and Safety Regulations.
- Monitors shall be nominated by the Registered Aboriginal Stakeholders based on their qualifications, experience and availability.
- Taxation provisions will govern the net dollar figure paid for every Monitor engaged in Monitoring the Development. The Remuneration as outlined in Paragraph 7.4 is to be made clear to the Monitors before the commencement of the Cultural Heritage Monitoring.
- Time sheets must be signed by each Monitor before payments are processed. It is not necessary for the Developer to provide a copy of the time sheet to the Monitor unless he/she requests it.
- Transport to and from the relevant Site will not be provided by the Developer.
- No alcohol or non-prescription drugs will be allowed in the Development Area. Persons found in possession of, or on reasonable grounds suspected of being under the influence of alcohol or non-prescription drugs, will be summarily dismissed and not paid for that day.
- Monitors will work only as required by the Developer under the terms of this CHMP.

The Developer recognises that certain protocols or cultural events may exist or occur within the Registered Aboriginal Stakeholders' community (particularly in relation to family issues and bereavement) that may within reason affect the ability of the Monitors to perform in accordance with the terms of the CHMP. In such cases the Registered Aboriginal Stakeholders will communicate with the Contractor as soon as possible, and use their best endeavours to avoid any cessation of Monitors' activities and thereby avoid disruption of Construction. Failure of the Monitors to be on site at an agreed time without prior notification will not constitute a reason for the Developer to cease work. The Developer will assume that the Registered Aboriginal

Stakeholders has decided that no monitors are required on that day or at that location. Where notification is provided, the Developer accepts that operations if Monitors are required will cease where necessary for the period agreed between the Parties.

## APPENDIX 5

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### MONITOR LIST:

Name:	Group/Organisation:	Address:	Contact Numbers:

## APPENDIX 6

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### HUMAN REMAINS POLICY:

#### MANAGEMENT OF ABORIGINAL BURIAL REMAINS

The following principles have been developed to conform with the National Parks and Wildlife Service “*Standards for Archaeological Practice in Aboriginal Heritage – Aboriginal Ancestral Remains*” published in September of 1997.

##### 1.1 Guiding Principals

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 still is the case with Aboriginal 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 New South Wales 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 rock shelters. Many were also buried in the ground with grave goods. Burials commonly occur in sand dunes and alluvial deposits which were easy to dig. Wind and water easily erode such locations and frequently these natural processes expose remains. Other common burial locations are rock shelters, 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 burial.

When acting under this CHMP, the Cultural Heritage Advisor will follow the following Principles and Rules contained in the *Code of Ethics of the Australian Archaeological Association*:

Principle 3: ‘To acknowledge the special importance of indigenous ancestral human remains, and Sites containing and/or associated with such remains, to the indigenous people.’

Rule 5: ‘Members shall not interfere with and/or remove human remains of indigenous peoples without the written consent of representatives authorised by the indigenous people whose cultural heritage is the object of investigation.’



## 1.2 Legislation and Regulations Background

The *National Parks and Wildlife Act 1974* (NSW) gives protection to all ‘Aboriginal remains’ except those occurring within cemeteries in which non-Aboriginals are also buried and those being dealt with in a forensic or related context (e.g., by a Coroner). The relevant paragraph of the Act [Part 1 Paragraph 5(1)] reads:

**“Aboriginal remains** means the body or the remains of the body of a deceased

Aboriginal, but does not include:

- a) a body or the remains of a body buried in a cemetery in which non-Aboriginals are also buried, or
- b) a body or the remains of a body dealt with or to be dealt with in accordance with a law of the State relating to medical treatment or the examination, for forensic or other purposes, of the bodies of deceased persons”

The Police Commissioner’s Instruction 120.08 is intended to help police deal sensitively with the skeletal remains of Aboriginal people. It states:

If any material is suspected of being of Aboriginal origin and there are no suspicious circumstances, then the Site must be secured and a National Parks and Wildlife Officer contacted to identify the remains. Police are also asked to contact the nearest Aboriginal Community Liaison Officer (ACOL).

## 1.3 Procedure for when Aboriginal remains are Located

Where human remains are found, the Site should be cordoned off and the remains themselves should remain untouched. Efforts should then be made to notify the New South Wales Police Service.

The remains should be examined by a physical anthropologist or medical practitioner in order to establish their ancestry (as Aboriginal or European). The antiquity of the remains should also be determined by a physical anthropologist.

The Find should then be reported to the Registered Aboriginal Stakeholders. Any report should use respectful language, treating them as the remains of Aboriginal people rather than as scientific specimens, and be written in plain English.