



Management Challenges for Aboriginal Cultural Heritage in Peri-urban Queensland

Rachele Wilson & Tristan Pearce

To cite this article: Rachele Wilson & Tristan Pearce (2017) Management Challenges for Aboriginal Cultural Heritage in Peri-urban Queensland, Australian Geographer, 48:2, 203-217, DOI: [10.1080/00049182.2016.1254006](https://doi.org/10.1080/00049182.2016.1254006)

To link to this article: <http://dx.doi.org/10.1080/00049182.2016.1254006>



Published online: 24 Nov 2016.



[Submit your article to this journal](#)



Article views: 197



[View related articles](#)



[View Crossmark data](#)



Management Challenges for Aboriginal Cultural Heritage in Peri-urban Queensland

Rachele Wilson ^a and Tristan Pearce ^{a,b}

^aSustainability Research Centre, University of the Sunshine Coast, Sippy Downs, Queensland, Australia;

^bDepartment of Geography, University of Guelph, Guelph, Ontario, Canada

ABSTRACT

It is often assumed that places of cultural significance to Aboriginal and Torres Strait Islander peoples are protected under cultural heritage legislation such as the *Aboriginal Cultural Heritage Act 2003* in Queensland. Such Acts are improvements on previous policies, which all but neglected Aboriginal cultural heritage. Nevertheless, the aims of policies developed at wider geographic scales, such as States within the Australian system, continue to be disconnected from the experiences of some local Traditional Owners. In this paper, we examine conflicts between non-local policy and on-ground management decisions for Aboriginal cultural heritage in peri-urban Queensland. We focus on the challenges of local Traditional Owners in peri-urban landscapes, basing our discussion on recent experiences conducting research on Indigenous land management in southeast Queensland. We examine three case studies: one in which colonial heritage values were prioritised over existing Aboriginal cultural heritage values, a second where local government failed to support a private landholder's attempt to identify and protect a cultural heritage site, and a third where a cultural heritage site was protected but in a way that restricts the continuation of cultural practices. Developing more productive and equitable relationships between Traditional Owners and non-Indigenous decision makers, with regards to Aboriginal cultural heritage, requires new locally developed processes for engagement and we suggest how this could be achieved.



KEYWORDS

Traditional Owners; Australia; land management; Indigenous; Kabi Kabi; Gubbi Gubbi; cultural heritage management plan

Introduction

Australia is covered by a dense network of interconnected cultural landscapes, developed over thousands of years by Aboriginal and Torres Strait Islander peoples (Traditional Owners), and more recently with non-Indigenous peoples. Cultural landscapes are recognised as the interactions between people and place, including both physical interactions and non-physical associations (Fowler 2002; Plumwood 2006). Such landscapes contain cultural heritage sites, defined here as places of cultural significance to Aboriginal peoples.

Aboriginal cultural heritage that is nationally or internationally significant is governed by Commonwealth legislation such as the *Environment Protection and Biodiversity*

CONTACT Rachele Wilson  rwilson2@usc.edu.au  Sustainability Research Centre, University of the Sunshine Coast, Sippy Downs, QLD 4556, Australia

© 2016 Geographical Society of New South Wales Inc.

Conservation Act 1999 (EPBC Act); the *Native Title Act 1993* (Cth), which allows Traditional Owners to seek formal legal recognition of their entitlements to land (i.e. the ‘right to speak for Country’); and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (ATSIHP Act), which is designed to override inadequate approvals made under the EPBC, State or Territory legislation. In general, however, it is the State and Territory governments that are primarily responsible for the protection of Aboriginal cultural heritage sites. In Queensland, this protection operates under the *Aboriginal Cultural Heritage Act 2003* (Qld) (hereafter referred to as the ACHA).

The degree of Aboriginal participation in the design and implementation of the ACHA was and remains low. Such policy structures, though necessary, do not always reflect the needs and values of Traditional Owners. Incidences of conflict between such ‘non-local’ policies and on-ground management of cultural heritage sites have been widely reported across the country. For example, legislated protection that requires Aboriginal groups to share sensitive information about sites with State authorities, such as in South Australia under the *Aboriginal and Historic Relics Preservation Act 1965* (SA) was shown to discourage site registration—particularly for secret sites (Jacobs 1983; Lucas and Fergie 2016).

Progress in resolving Aboriginal land claims, essential for negotiating the management of cultural heritage sites, has also been limited. In the 50 years since the Wave Hill walk-off that sparked the Aboriginal land rights movement (Rose 1991), only a third of Australia has been reclaimed as Indigenous estate through Native Title determinations (Altman and Markham 2013). Furthermore, the majority of this area covers rural, remote, or degraded lands—despite most Aboriginal people living in regional or major city areas (ABS 2013). It was not until 2012 that the first Native Title claim among all applications in southeast Queensland was determined, a region which is home to one of the largest Aboriginal populations in the country (Murphy v State of Queensland 2012).

The social, economic and cultural consequences of urbanisation on Aboriginal peoples are well documented (Gale 1972). In addition to the dispossession of their traditional territories, many Aboriginal peoples in peri-urban or urban landscapes no longer speak their original languages, are only rediscovering their traditional mythologies, religions or other pre-contact practices, and have undergone severe social transformation (Keen 1988). Legislative definitions of what constitutes ‘traditional’ or ‘cultural heritage’ is problematic for Aboriginal peoples living in peri-urban and urban areas. Cultural heritage legislation and policy in Australia has long been tied to a conceptual model based on the stereotypes of ‘traditional’ and ‘non-traditional’ Aboriginal people (Jacobs 1983). This stereotype deprives people perceived as ‘non-traditional’, such as those living in urban areas, from due consideration in the protection and management of cultural heritage sites. As such, conflict has arisen over sites identified by some Aboriginal peoples as culturally important for spiritual or religious practices of the past, but which are excluded under cultural heritage legislation that is often restricted to the protection of demonstrable and continuing ritual or religious actions and practices (Weiner 1999).

Under the ACHA, the management of cultural heritage sites depends on stakeholders upholding their duty of care during high-risk activities that could disturb the sites (e.g. earthworks and construction), sometimes through the development of cultural heritage management plans (CHMPs). Like similar legislation in New South Wales, the duty to report evidence of Aboriginal cultural heritage is placed on developers who are expected to exercise caution and due diligence (DECCW 2010). This is not always the case, and the

destruction of Aboriginal cultural heritage during development has been documented, with the culprits going unpunished (e.g. Biamanga Mountain (the ‘Father Mountain’), NSW and Yuin people’s cultural heritage) (Hunt and Ellsmore 2016). Furthermore, the process of developing a CHMP rarely involves local Traditional Owners, particularly in areas where Native Title has not been determined.

This paper builds upon the broader geographic literature on Aboriginal cultural heritage management in Australia. This includes scholarship on Aboriginal cultural landscapes and conceptualisations of borders and space (Howitt 2001; Lloyd et al. 2010; Carter 2010b), land rights (Jacobs 1988; Howitt 2009), exclusion in natural resource management (NRM) (Howitt 2001; O’Faircheallaigh 2006), mineral development (Howitt 1989; O’Faircheallaigh 2008; Howlett 2010; Marsh 2013) and cultural heritage management (Gale and Jacobs 1987; Jones 2007). Some authors focus on the participation of Indigenous stakeholders in resource, environmental and heritage governance (Jackson 2006; O’Faircheallaigh and Corbett 2005; Suchet-Pearson and Howitt 2006; Greer 2010; Smith et al. 2003). Others highlight the contrast between Aboriginal perspectives on the environment and the dominant Eurocentric viewpoint, which often leads to conflicts (Jones 2007; Lloyd et al. 2010). Overall, Aboriginal peoples continue to be marginalised in decision making and authors advocate for the decolonisation of the regulatory interfaces between non-Aboriginal and Aboriginal stakeholders in resource, environmental and heritage governance (Marsh 2013). This paper responds to this marginalisation and examines conflicts between non-local policy and on-ground management decisions for Aboriginal cultural heritage in Queensland. This research is distinct from other cultural heritage studies in that it documents the exclusion of Kabi Kabi Traditional Owners’ interests in cultural heritage management in a setting that is peri-urban in location and land use, and where Native Title has yet to be determined.

We focus on the challenges of local Traditional Owners in peri-urban landscapes, basing our discussion on recent experiences conducting research on Indigenous land management in southeast Queensland. We examine three case studies: one in which colonial heritage values were prioritised over existing Aboriginal cultural heritage values, a second where local government failed to support a private landholder’s attempt to identify and protect a cultural heritage site, and a third where a cultural heritage site was protected but in a way that restricts the continuation of cultural practices. We describe each site and its value to Traditional Owners, the management or mismanagement of these sites over time, the actors involved and the relevant policy narratives. We then focus on identifying considerations within cultural heritage policy to better engage Traditional Owners for the protection and management of Aboriginal cultural heritage. We intend for our work to contribute to the development of more productive, equitable relationships between Traditional Owners and non-Indigenous decision makers that better reflect and support the needs, concerns and aspirations of Traditional Owners.

Case studies

We present three case studies from the Sunshine Coast in southeast Queensland to illustrate some of the challenges experienced by Traditional Owners in managing Aboriginal cultural heritage. The Sunshine Coast area is known to have been permanently settled by Aboriginal peoples for thousands of years and remains a rich cultural landscape (Davies and Salmon 1995). Though each case is unique, overall the experiences represent some situations that

have commonly occurred across Australia. Note that these examples describe places with physical evidence of cultural heritage; however, according to the ACHA, such areas do not actually have to contain physical markings or features to be considered significant. To respect the wishes of Traditional Owners, only sites accessible to the public are discussed. It is important to note that all three sites were included in a local mapping project of Aboriginal sites and artefact areas (completed 2010), the data from which were known to the local governments described (K. Greenwood, pers. comm., May 14, 2014).

Case study 1

Case study 1 is an example of colonial heritage values being prioritised over existing Aboriginal cultural heritage values. In the suburb of Bli Bli, an old Aboriginal village or ‘camp’¹ by the Maroochy River featuring multiple shell middens² approximately 10 000 years old was significantly disturbed by development activities. The site was historically used by coastal Kabi Kabi (Gubbi Gubbi) people and their guests to access fishing and hunting grounds and continues to be culturally significant to Kabi Kabi today.

From the mid-1800s, European settlers constructed dirt and then lime roads over existing Aboriginal pathways using shell material extracted from the middens despite strong objections by local Kabi Kabi. Starting in the 1950s, nearby land was cleared and a railway was constructed along the river for housing and the growing sugar and tourism industries. Kabi Kabi families, along with South Sea Islanders who were lured to Australia to cut sugarcane, continued to live at their camp upstream until the 1970s when the last remaining house was burnt down.

In 1959, a bridge was built across the river near the site to connect the developing coast road north to Noosa. As the Sunshine Coast population grew, a park, picnic shelters, wash-room facilities and a boat ramp were constructed at the site by local government, despite the area being registered as an Indigenous place of local significance in 1986 on the Register of the National Estate under the then *Australian Heritage Commission Act 1975* (Cth). The State government later sealed and upgraded the adjacent road and connecting motorway in 1990. Both the road and park were named after European settlers and a steam locomotive put on display at the park to remind visitors of its sugar history. In contrast, only some sections of midden, those still visible through the grass, were fenced off for their protection. No signage indicated the significance of the site to Traditional Owners.

Today the site is used by Kabi Kabi descendants for family purposes, to access traditional land upstream, and to facilitate cultural heritage awareness training as part of a developing ‘cultural economy’. Other local people and visitors also use the site for fishing, boating and picnicking. In 2011, a new landscape plan for the park was adopted by local government, which included improved signage and portrayal of Aboriginal cultural heritage. However, this involved one section of midden being re-graded and another near the boat ramp filled in for car parks, pathways and a new Aboriginal-themed playground, which further disturbed the site (Plate 1).

Traditional Owners submitted comments to local government on the new plan, where they provided clear evidence of the area’s cultural and environmental significance and recommended appropriate planning and management of known and unknown cultural resources, with specific protection of Aboriginal and South Sea Islander sites. However, in its response, the local government claimed that ‘further investigation is required to



Plate 1. Exposed section of Shell Midden at Bli Bli that was disturbed during road construction (left); rowing club shed and carpark (top right) and playground (bottom right) newly constructed at the site (photos by G. Jones).

confirm the cultural heritage significance of the Bli Bli local plan area and surrounding land on the Maroochy River' (J. Winsbury, pers. comm., December 12, 2013). Soon afterwards a large shed was constructed at the contested site for a rowing club, which is the first stage of a three-stage development to cater for the projected club membership (Plate 1).

Case study 2

Case study 2 describes residential development on a cultural heritage site known to Traditional Owners, residents, and previous local governments that was approved by local government without a cultural heritage management plan.³ The site was recorded in 1969 and transferred to the Aboriginal Cultural Heritage database under the ACHA. The site features several large grinding rocks, a tree engraving and a Bora⁴ (Plate 2). The engraving, which most likely depicts the creator spirit Biral (also known as Baiame,⁵ the Sky Father), is one of very few remaining pre-contact Aboriginal art sites in any part of southeast Queensland (R. Kerkhove, pers. comm., April 21, 2016).

Some of these features were damaged during construction of a private driveway. The property was previously owned by people respectful of Aboriginal cultural heritage and the owners co-managed the site (weed management, mitigating damage) for two generations including erecting a sign to identify that there was Aboriginal cultural heritage present. The property was then sold to new owners who soon after applied to construct a new driveway. Although the sign was no longer there, they suspected there was 'something special' about the rock features and sought advice from local government about whether or not it was an Aboriginal cultural heritage site and if so what would be required of them if they went ahead with building their driveway. It should be noted that this is no ordinary driveway, as the land is very uneven and required cutting through raised ground to meet with the lower road adjacent to the property.

Local government informed the new owners that no such registered sites were present on their property and that there would be no need for a CHMP. At no time were the new



Plate 2. Some features of cultural significance at case study 1 site: traditional grinding rocks; and close up of tree with engraving depicting a creator spirit, most likely Biral, the Sky Father (inset).

owners, their solicitors or property conveyancers referred to the State government Cultural Heritage Unit (CHU) for appropriate advice. As such, the ground was cut through, removed and compacted to create the unsealed driveway. When Traditional Owners came to visit the site and found it damaged, they respectfully approached the new owners to ask what had happened. When the new owners described the events, the Traditional Owners informed them that indeed there was Aboriginal cultural heritage present, which should have shown up in the register, and construction should not have been approved without a CHMP. The new owners relayed this information back to local government to prevent further mistakes and asked why they were misinformed. Local government representatives repeated that they were correct to carry out construction and advised the new owners not to talk to the Traditional Owners again. The property has again been sold and transferred to new owners in the last 2–3 years and part of the grinding rocks has been chipped away to make room for a pool fence, and the adjacent area is used as a children's play area by the new residents.

Case study 3

Case study 3 describes the registration and protection of an Aboriginal cultural heritage site in a way that threatens the continuation of traditional practices. The site includes rock features (Plate 3) used for stone tool-sharpening and is protected under the ACHA. The site itself is relatively intact but lies adjacent to a sealed road (constructed on an old Aboriginal pathway) and a community venue. Interpretive signage at the site describes its use and significance to Aboriginal and local peoples, and Traditional Owners often visit the site with school children and tourists for educational purposes. However, some Traditional Owners also visit the site to continue the traditional practice of stone tool sharpening. As this involves grinding stone in what are considered historical



Plate 3. Stone tool grinding grooves at case study 2 site.

grinding grooves, such use is technically a violation of the ACHA and is regarded as a threat to keeping the site physically intact.

Indigenous peoples worldwide have a universal right to uphold traditional knowledge and practices (United Nations 2007). In Queensland, however, it is an offence for a person or corporation to harm Aboriginal cultural heritage, with a maximum penalty of 10 000 penalty units. The only exception in this case would be if: (a) the person is acting under an approved CHMP that applies to the Aboriginal cultural heritage; or (b) the person owns the Aboriginal cultural heritage, or is acting with the owner's agreement (Section 24). This is problematic because, although those person(s) using the site for stone tool sharpening do, in part, own the Aboriginal cultural heritage, not all Traditional Owners are in agreement about whether to allow or disallow traditional use of the grinding grooves.

Current process for developing a cultural heritage management plan

The case studies highlight some of the core challenges experienced by Traditional Owners in managing Aboriginal cultural heritage. The main policy instrument for the management and protection of Aboriginal cultural heritage sites in Queensland is the development of CHMPs, as per the ACHA. However, not all sites are adequately protected by this instrument, as shown in the case studies. We suspect poor management outcomes to be related to the exclusion of Traditional Owners and custodians at several key stages in the process for developing a CHMP.

In Figure 1, we outline the current process for consultation with Traditional Owners and custodians in Queensland for the management of Aboriginal cultural heritage sites and identify stages in the process that could be altered to improve consultation. Note that consultation is required only if information in the database or register is sufficient.

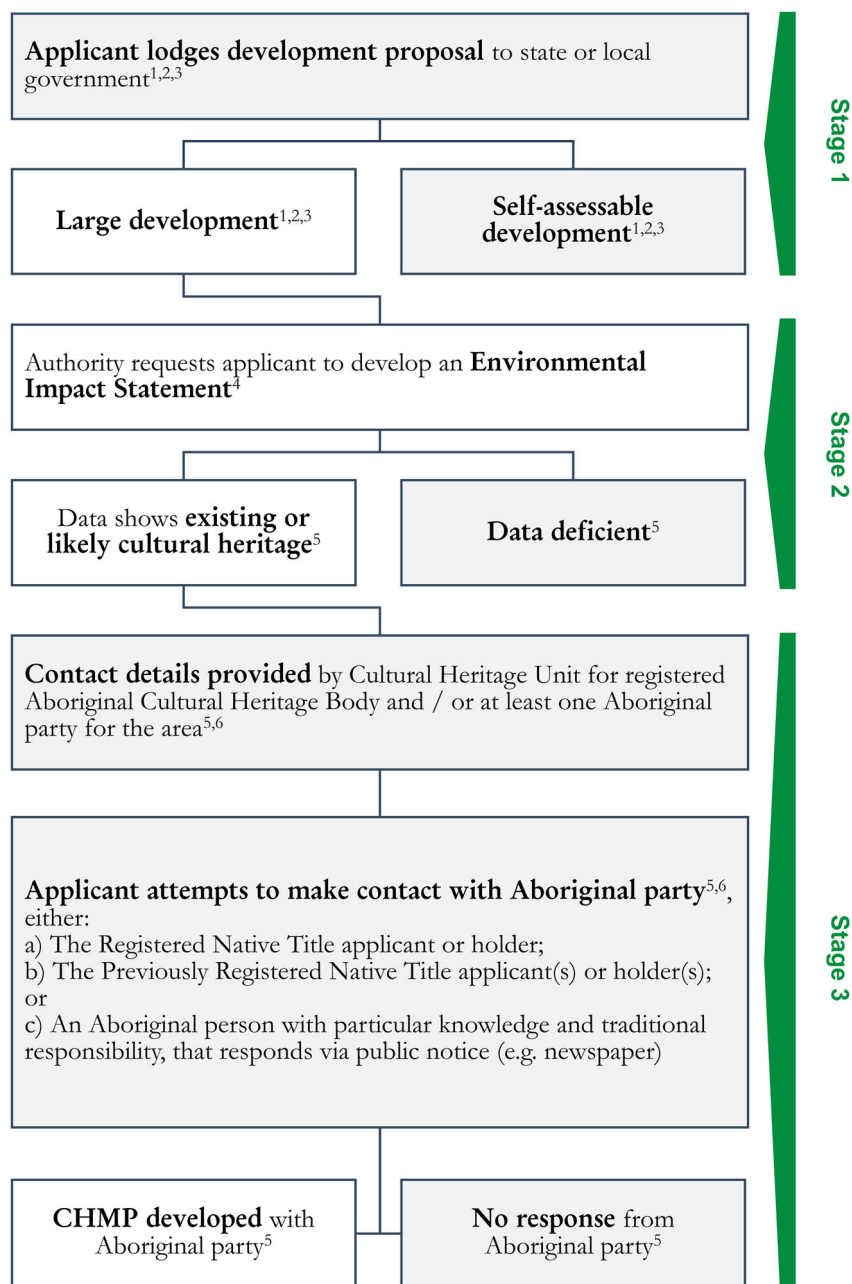


Figure 1. Current process for consultation with Traditional Owners and custodians in Queensland for the management of Aboriginal cultural heritage sites. Boxes shaded grey indicate stages in the process that could be altered to improve consultation. Superscript numbers indicate corresponding policy: (1) *Sustainable Planning Act 2009* (Qld); (2) *State Planning Policy* (Queensland Government 2015); (3) *Local Planning Scheme*; (4) *Environmental Protection and Biodiversity Conservation Act 1999* (Cth); (5) *Aboriginal Cultural Heritage Act 2003* (Qld); and (6) *Native Title Act 1993* (Cth).

In some cases, consultation with several parties may be necessary, as one party may only speak for part of the actual work area (e.g. works that cross traditional boundaries).

Stage 1—the process for developing a CHMP depends on legislation for planning, environmental protection and Native Title in the subject location. Any land user can voluntarily develop and seek to have a CHMP approved, even when there is no legal requirement to do so; however, the process generally begins when an applicant lodges a development application, either to the State or local government. Projects deemed to be of significance to the State and/or Commonwealth governments such as large development proposals (usually mining and petroleum projects) are more likely to require a CHMP than smaller projects, which at this stage are excluded from the following stages and deemed ‘self-assessable developments’ as per the local planning scheme (Queensland Government 2015). Large projects may also choose to develop an Indigenous Land-use Agreement (ILUA) with Traditional Owners, such as (in the study area) for the former Traveston Dam Crossing proposal (see Carter 2010a).

Stage 2—proposed projects deemed to be significant to the State and/or Commonwealth governments are then required to submit an Environmental Impact Statement (EIS) as per the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). It is this triggering of an EIS that legally requires the applicant to undertake a cultural heritage assessment and subsequent development of a CHMP if the assessment shows the presence or likely presence of Aboriginal cultural heritage in the proposed work area. This assessment involves searching the State’s database⁶ of Aboriginal cultural heritage sites, administered by the CHU of the Department of Aboriginal and Torres Strait Islander Partnerships, to identify whether any cultural heritage sites are recorded for the subject property (Queensland Government 2013).

Stage 3—if the CHU’s assessment shows evidence of cultural heritage in the proposed development area, the applicant is then required to consult with the appropriate Aboriginal party by way of a series of ‘contact points’ (Figure 1). If the first contact point, an Aboriginal Cultural Heritage Body,⁷ either does not exist or is not responsible for all of the area, the applicant is required to consult with the next contact point in the hierarchy (and so on) for any area where that contact point is not available (i.e. the Registered Native Title applicant or Holder, then the Previously Registered Native Title applicant(s) or Holder(s), then an Aboriginal person with particular knowledge and traditional responsibility for the area who responds via a public notice such as a newspaper). Provided the Aboriginal party(ies) respond(s) to the applicant’s request, arrangements are then made between the parties to develop an appropriate CHMP and submit this with the applicant’s EIS to the relevant department for approval. The plan should provide information about how Aboriginal cultural heritage will be managed (e.g. avoidance of areas, relocation of objects), whether provisions will be made for the monitoring of land-use activities and access to sites during and after the project, and protocols for how to respond to new cultural heritage finds, among other considerations (Queensland Government 2005).

Issues with consultation in cultural heritage management planning

There are several issues with the consultation component of the CHMP development process, as shown in the case studies. First, the only legislated consultation with Traditional Owners required for cultural resource management in land-use planning

processes is that required for projects significant to the State and/or Commonwealth governments. However, arguably the most destructive form of urban development on traditional lands today is residential developments. As the South East Queensland Traditional Owners Land and Sea Management Alliance (SEQTOA) states:

Only when Traditional Owners gain input to the approval process for the range of regular, relatively small developments that councils approve will it be possible for some influence to be exerted on what is, in sum, the largest form of development. (SEQTOA 2008, 27)

Second, many residents and non-Indigenous landowners are either unaware of their duty of care for Aboriginal cultural heritage, or uninformed, as in cases where access to spatial data about significant sites is insufficient. The only time when advice about potential impacts of residential works on local Aboriginal cultural heritage is given during the planning process is during the approval stage by local governments, but only if a search of the State Cultural Heritage Register and Database is conducted and shows that a significant site is nearby. In practice, it is not uncommon for sites to be overlooked due to lack of data or communication breakdowns. Officers at the State's CHU reiterate this when a search shows no sites recorded in the area, stating that:

it is probable that the absence of recorded Aboriginal cultural heritage places reflects a lack of previous cultural heritage surveys of the area. Therefore, our records are not likely to reflect a true picture of the Aboriginal cultural heritage values of the area. (C. Anderson, pers. comm., October 1, 2014)

Therefore, in many cases, information about potential impacts will not be available or given unless residents or developers consult with Traditional Owners directly during planning stages, or the approvals process requires Traditional Owners to provide input.

Third, under the ACHA, consultation with Traditional Owners to co-develop a CHMP is required only if information in the register and database is sufficient to show evidence of cultural heritage. However, many Traditional Owner groups lack adequate funding and resources to register and monitor all cultural heritage sites (Wilson 2015), hence much of this information is missing from the database. For example, over 500 known sites are waiting to be formally located and recorded with the CHU in the case study local government area and nearby Biosphere reserve areas alone (G. Jones, pers. comm., May 4, 2016). As one Traditional Owner describes:

[The *Queensland Act* is] based on Traditional Owners having to respond to development proposals (if they are aware of them) and demonstrating that cultural heritage places or objects exist—which often requires funding and/or resources that they don't have. (Schnierer 2010, 18)

Fourth, the hierarchy of contact points to identify the appropriate Aboriginal party assumes that the first, second, or third contact point will inform the applicant when they are not traditionally responsible for works in that area. However, there are no provisions in the ACHA requiring internal consultation within and among Aboriginal parties (Schnierer 2010). Unfortunately, in some cases it is in a contact point's personal or financial interest not to inform the applicant of other Aboriginal parties that are responsible for all or part of an area affected by the works proposal. For example, in a scenario where there is currently no registered Native Title applicant or holder, the previously registered Native Title applicant—even if not local to the area (i.e. 'on Country')—has

the authority to negotiate a CHMP over another party such as a locally recognised Traditional Owner or custodian (who may well have yet to register their application for Native Title). In the given scenario, the non-local, previously registered Native Title applicant may permit works that will damage a site, which is culturally significant to local custodians, living on Country, without that custodian's knowledge and/or permission. Such scenarios are not uncommon: at least 300 such cases were reported in Southeast Queensland alone (K. Greenwood, pers. comm., May 14, 2014). Finding the Aboriginal party when there is no Native Title claim can be quite complex and some suggest that the ACHA should be decoupled from Native Title completely (Schnierer 2010). Instead, Native Title contact points (e.g. determinations, registered claims and failed claims) should be used as a *starting point* for determining who speaks for Country (Schnierer 2010).

Fifth, the time period stipulated in a public notice by a sponsor (applicant) to identify a fourth contact point is potentially exclusive of all Aboriginal people with a traditional responsibility. The public notice requests that an Aboriginal party contacts the sponsor with written notice of their intention to develop a CHMP within 30 days from the date of notice, or a later date given by the sponsor on the form. The form⁸ approved for use when initiating a CHMP under the Act permits the sponsor to refuse endorsement of the Aboriginal party *if they do not respond in writing within the required time*. Arguably, a sponsor that elects to make the required time only 30 days from the date of notice is less likely to receive written intent from an Aboriginal party in that time when compared to a notice that stipulates a longer response period. Indeed, according to the North Queensland Land Council, many Traditional Owners never see the public notice in the newspaper and are not consulted (Schnierer 2010).

Conclusions

This paper contributes to the growing body of geographic scholarship that works to advance the inclusion of Aboriginal interests in resource, environmental and heritage management. We examine conflicts between non-local policy and on-ground management decisions for Aboriginal cultural heritage in peri-urban Queensland and identify deficiencies in heritage governance. Our findings highlight a core issue affecting the identification and protection of Aboriginal cultural heritage: whether and how local Traditional Owners are engaged in the development of CHMPs. Aboriginal cultural heritage occurs and is valued at the local scale, yet policies designed to protect this heritage operate in ways that often exclude local Traditional Owners from decisions that threaten such places. There is a need for local governments to include and support the inclusion of local Traditional Owners in their planning and approvals processes for all proposals that are likely to impact Aboriginal cultural heritage, including residential works.

One example of local governance that recognises and attempts to address this need can be found in the Illawarra region of NSW. Local governments in Illawarra, in collaboration with Dharawal peoples, have developed an Aboriginal Cultural Heritage Management Development Assessment Toolkit to establish a process and guidelines for appropriate consideration of Aboriginal cultural heritage values during assessments of development applications, without unduly extending the time required to process a development application (Ginns, Hindmarsh, and Fletcher 2013). Unfortunately, minor or non-assessable

works such as residential works are not normally captured by development assessments, which the toolkit is designed for. Recognising this, some local governments in NSW have developed information brochures regarding Aboriginal cultural heritage site identification, obligations and reporting procedures for distribution to people intending to undertake such minor or non-assessable works (e.g. Greater Taree City Council 2015). Others have developed their own database of properties likely to contain Aboriginal cultural heritage (e.g. Parramatta City Council 2004). Perhaps a similar approach that builds on the efforts being made in NSW can be developed for use by local governments and Traditional Owners in Queensland.

This paper seeks to further promote, with evidence, the need for better consultation and engagement with Traditional Owners and custodians to identify, manage, and protect Aboriginal cultural heritage. At present, the operationalisation of cultural heritage policy is leaving some Aboriginal cultural heritage sites vulnerable to degradation and misuse. A renegotiation of how Traditional Owners are consulted in cultural heritage management planning is needed, and we offer these case studies and analysis as a starting point for this discussion.

Acknowledgements

We respectfully acknowledge the Kabi Kabi and Jinibara peoples, and their Elders both past and present, who are the Traditional Owners and custodians of the Country on which this research was conducted. We thank those members and friends of Bunya Bunya Country Aboriginal Corporation who generously contributed to this research, and key informants who shared their knowledge and advice in this project. In particular, we thank Genevieve Jones, Kerry Jones, Sean Fleischfresser, Beverly Hand, and Alex Bond for their intellectual contributions to this research. We also thank Dr Ray Kerkhove for sharing his insights on Aboriginal histories and significant sites mentioned in case studies.

Disclosure statement

No potential conflict of interest was reported by the authors.

Funding

The research was funded by the University of the Sunshine Coast Faculty of Science, Health, Education and Engineering, Faculty of Arts, Business and Law, the Vice Chancellor (Honours scholarship), and the Sustainability Research Centre.

Notes

1. Long-term Aboriginal camping grounds in resource-rich areas that can be likened to traditional villages (500 m to 2 km across) and included special-use areas such as a women's area, men's area, Bora/ceremonial rings, shell midden sites, fresh water and elevated lookout points nearby (Kerkhove 2015).
2. German word for 'kitchen refuse' given to a feature formed over many years from discarded shells. Sometimes used as an indicator of historical resource use, environmental conditions and shellfish species diversity and abundance.

3. A cultural heritage management plan is an agreement between a land user (sponsor) and Traditional Owner (endorsed party) under the ACHA. The plan explains how land-use activities can be managed to avoid or minimise harm to Aboriginal cultural heritage.
4. An earthen feature sometimes surrounded by trees and normally constructed by Aboriginal women for use in ceremonies such as initiation of young men.
5. Biral is the image most often placed in Bora grounds either as a sand mound or carved into trees (see, for example, Mathews 1894; Steele 1984). All over southeast Australia where Biral figures are known, they are always depicted as larger-than-life (to show how great he is) and as a splayed figure with one good leg and one bad leg (often a stump). Being the Eaglehawk, he had very long arms that doubled as wings. He was said to have lived on earth at the dawn of time as a great hunter who became a great elder or medicine man. He created the Bora ceremonies and much of the landscape. The 'Sky Father' cult was known only to occur in southeast Australia—from Victoria, north to about Bundaberg, and west to around Broken Hill.
6. The register contains information about cultural heritage studies, CHMPs, designated landscape areas, details of registered cultural heritage bodies and Aboriginal parties for an area. Information in the register is available to any member of the public and is included in an online public map. The database contains information about cultural heritage sites and places (location, reports, images and other documentation). Information in the database is not available to the general public but can be provided to land users seeking to satisfy their duty of care by submitting a search request form.
7. The function of an Aboriginal cultural heritage body for an area is to identify, for the benefit of a person who needs to know under the Act, the Aboriginal parties for the area or for a particular part of the area.
8. Public notice for a cultural heritage management plan under the *Aboriginal Cultural Heritage Act 2003*, Section 96, available from: <https://www.datsip.qld.gov.au/resources/datsima/people-communities/cultural-heritage/chmp-public-notice.pdf>.

ORCID

Rachele Wilson  <http://orcid.org/0000-0002-2567-3151>

Tristan Pearce  <http://orcid.org/0000-0002-5384-5870>

References

- ABS (Australian Bureau of Statistics). 2013. "Estimates of Aboriginal and Torres Strait Islander Australians, cat. no. 3238.0.55.001." Accessed May 12, 2016. <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/3238.0.55.001Main+Features1June%202011?OpenDocument>.
- Altman, J., and F. Markham. 2013. "Values Mapping Indigenous Lands in Australia: An Exploration of Development Possibilities." In Native title conference 2013, Alice Springs Convention Centre, Alice Springs, Australia: Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and the Central Land Council (CLC).
- Carter, J. 2010a. "Protocols, Particularities, and Problematising Indigenous "Engagement" in Community-Based Environmental Management in Settled Australia." *The Geographical Journal* 176 (3): 199–213.
- Carter, J. 2010b. "Displacing Indigenous Cultural Landscapes: the Naturalistic Gaze at Fraser Island World Heritage Area." *Geographical Research* 48 (4): 398–410.
- Davies, S. J., and M. Salmon. 1995. *An Aboriginal Cultural Heritage Assessment of the Eastern Portion of the Maroochy Shire*. Brisbane: Archaeological Services Unit, University of Queensland.
- DECCW (Department of Environment, Climate Change and Water NSW). 2010. *Due Diligence and Code of Practice for the Protection of Aboriginal Objects in NSW*. Sydney: DECCW NSW, 10 September.

- Fowler, P. 2002. "World Heritage Cultural Landscapes, 1992–2002: A Review and Prospect." *World Heritage Papers* 7: 16–32.
- Gale, F. 1972. *Urban Aborigines* (No. 8). Canberra: Australian National University Press.
- Gale, F., and J. Jacobs. 1987. "Aboriginal Art—Australia's Neglected Inheritance." *World Archaeology* 19 (2): 226–235.
- Ginns, A., J. Hindmarsh, and P. Fletcher. 2013. "Aboriginal Cultural Heritage Management Development Assessment Toolkit." Prepared for Shellharbour, Wollongong and Kiama Councils by Gondwana Consulting, Accessed June 22, 2015. <http://www.shellharbour.nsw.gov.au/Documents/Live/My-Community/Aboriginal-Torres-Strait/AboriginalToolkitPartB.aspx>.
- Great Taree City Council. 2015. "Aboriginal Cultural Heritage Checklist for Development Applications." Accessed May 12, 2016. <http://www.gtcc.nsw.gov.au/assets/Main-Site/Files/SD-RegulatoryServices-Forms/Aboriginal-Cultural-Heritage-Checklist-Published.pdf>.
- Greer, S. 2010. "Heritage and Empowerment: Community-Based Indigenous Cultural Heritage in Northern Australia." *International Journal of Heritage Studies* 16 (1–2): 45–58.
- Howitt, R. 1989. "A Different Kimberley: Aboriginal Marginalization and the Argyle Diamond Mine." *Geography* 74 (3): 232–238.
- Howitt, R. 2001. *Rethinking Resource Management: Justice, Sustainability and Indigenous Peoples*. London: Routledge.
- Howitt, R. 2009. "Getting the Scale Right? A Relational Scale of Politics of Native Title in Australia." In *Leviathan Undone? Towards A Political Economy of Scale*, edited by R. Keil, and R. Mahon, 141–158. Vancouver, British Columbia: University of British Columbia Press.
- Howlett, C. 2010. "Indigenous Agency and Mineral Development: A Cautionary Note." *Studies in Political Economy* 85 (1): 99–123.
- Hunt, J., and S. Ellsmore. 2016. "Navigating A Path Through Delays and Destruction: Aboriginal Cultural Heritage Protection in New South Wales Using Native Title and Land Rights." In *The Right to Protect Sites: Indigenous Heritage Management in the era of Native Title*, edited by P. McGrath, 77–111. Canberra: Australian Institute of Aboriginal and Torres Strait Islander Studies. Chapter 4. 365 pp.
- Jackson, S. 2006. "Compartmentalising Culture: the Articulation and Consideration of Indigenous Values in Water Resource Management." *Australian Geographer* 37 (1): 19–31.
- Jacobs, L. 1983. "Aboriginal Land Rights in Port Augusta." MA thesis., University of Adelaide.
- Jacobs, L. 1988. "Politics and the Cultural Landscape: the Case of Aboriginal Land Rights." *Geographical Research* 26 (2): 249–263.
- Jones, E. 2007. "Three Management Challenges for Protection of Aboriginal Cultural Heritage in A Tasmanian Multiple-use Conservation Area." *Australian Geographer* 38 (1): 93–112.
- Keen, I. 1988. *Being Black: Aboriginal Cultures in 'Settled' Australia*. Canberra: Aboriginal Studies Press.
- Kerkhove, R. 2015. "Aboriginal Camps: Foundation of our Towns, Suburbs and Parks? Evidence From South-Eastern Queensland." In Foundational histories conference of The Australian historical association, University of Sydney, July 6–10, 2015.
- Lloyd, K., S. Suchet-Pearson, S. Wright, and L. L. Burarrwanga. 2010. "Stories of Crossings and Connections From Bawaka, North East Arnhem Land, Australia." *Social & Cultural Geography* 11 (7): 701–717.
- Lucas, R., and D. Fergie. 2016. "Aboriginal Heritage in South Australia: Protection, Knowledge, Power." In *The Right to Protect Sites: Indigenous Heritage Management in the era of Native Title*, edited by P. McGrath, 187–220. Canberra: Australian Institute of Aboriginal and Torres Strait Islander Studies. Chapter 8. 365 pp.
- Marsh, J. 2013. "Decolonising the Interface Between Indigenous Peoples and Mining Companies in Australia: Making Space for Cultural Heritage Sites." *Asia Pacific Review* 54 (2): 171–184.
- Mathews, R. H. 1894. "'Aboriginal Bora Held at Gundabloui in 1894'." *Royal Society of New South Wales* 28: 98–129.
- Murphy on behalf of the Jinibara People v State of Queensland. 2012. Federal Court of Australia.

- O'Faircheallaigh, C. 2006. "Aborigines, Mining Companies and the State in Contemporary Australia: A new Political Economy or "Business as Usual"?" *Australian Journal of Political Science* 41 (1): 1–22.
- O'Faircheallaigh, C. 2008. "Negotiating Cultural Heritage? Aboriginal-Mining Company Agreements in Australia." *Development and Change* 39 (1): 25–51.
- O'Faircheallaigh, C., and T. Corbett. 2005. "Indigenous Participation in Environmental Management of Mining Projects: The Role of Negotiated Agreements." *Environmental Politics* 14 (5): 629–647.
- Parramatta City Council. 2004. "Protection of Aboriginal Heritage in Parramatta." Accessed May 6, 2015. http://www.parracity.nsw.gov.au/__data/assets/pdf_file/0003/2199/Aboriginal_Heritage.pdf.
- Plumwood, V. 2006. "The Concept of A Cultural Landscape: Nature, Culture and Agency of the Land." *Ethics & the Environment* 11: 115–150.
- Queensland Government. 2005. "Aboriginal Cultural Heritage Act 2003: Cultural Heritage Management Plan Guidelines." Department of Aboriginal, Torres Strait Islander and Multicultural Affairs. Accessed May 12, 2016. <https://www.datsip.qld.gov.au/resources/datsima/people-communities/cultural-heritage/chmp-guidelines.pdf>.
- Queensland Government. 2013. "Aboriginal Cultural Heritage Act 2003. Revised version (31 March 2013)." Accessed May 12, 2016. <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/A/AborCultHA03.pdf>.
- Queensland Government. 2015. "State Planning Policy." Department of Infrastructure, Local Government and Planning. Accessed May 12, 2016. <http://www.dilgp.qld.gov.au/resources/policy/state-planning/state-planning-policy-jul-2014.pdf>.
- Rose, D. B. 1991. *Hidden Histories: Black Stories From Victoria River Downs, Humbert River and Wave Hill Stations*. Canberra: Aboriginal Studies Press.
- Schnierer, E. 2010. *Caring for Culture: Perspectives on the Effectiveness of Aboriginal Cultural Heritage Legislation in Victoria, Queensland and South Australia*. Parramatta: Watego Legal and Consulting for the Policy and Research Unit of the NSW Aboriginal Land Council.
- SEQTOLSMA (South East Queensland Traditional Owners Land & Sea Management Alliance). 2008. "Our Plan: The South East Queensland Aboriginal Traditional Owner Cultural Resource Management Plan." Accessed May 12, 2016. www.seqcatchments.com.au/_literature_183430/SEQ_Traditional_Owner_Cultural_Resource_Management_Plan.
- Smith, L., A. Morgan, and A. van der Meer. 2003. "Community-driven Research in Cultural Heritage Management: the Waanyi Women's History Project." *International Journal of Heritage Studies* 9 (1): 65–80.
- Steele, J. G. 1984. *Aboriginal Pathways: In Southeast Queensland and the Richmond River*. Brisbane: University of Queensland Press.
- Suchet-Pearson, S., and R. Howitt. 2006. "On Teaching and Learning Resource and Environmental Management: Reframing Capacity Building in Multicultural Settings." *Australian Geographer* 37 (1): 117–128.
- United Nations General Assembly. 2007. "United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)." Accessed May 12, 2016. <http://undocs.org/A/RES/61/295>.
- Weiner, J. F. 1999. "Culture in A Sealed Envelope: the Concealment of Australian Aboriginal Heritage and Tradition in the Hindmarsh Island Bridge Affair." *The Journal of the Royal Anthropological Institute* 5: 193–210.
- Wilson, R. 2015. "Indigenous Land Management in Urban and Peri-urban Landscapes." Hons thesis., University of the Sunshine Coast.