

CHA Review

Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP)

PO Box 15397

CITY EAST QLD 4002

Email: CHA_Review@datsip.qld.gov.au

26 July 2019

Dear Madam or Sir

Review of the *Aboriginal Cultural Heritage Act 2003*

Thank you for the opportunity to comment on the review of the Queensland Government's *Aboriginal Cultural Heritage Act 2003* (ACHA 2003).

Reference is made to the issues or areas of concern, raised in the 2019 'Consultation Paper – Review of the Cultural Heritage Acts'.

Some of these issues, along with my own concerns and recommendations, are listed in the following eleven points:

1. That major project proposals (e.g. mining, exploration, construction, quarrying, land subdivision, infrastructure for aquaculture and water extraction, infrastructure for residential, industrial and water/energy/transport developments) requiring an EIS and/or are greater than one hectare in size, automatically trigger a need for a ACHA 2003 Part 6 (comprehensive) Cultural Heritage Study with the Aboriginal Party.
2. That the definition of *intangible heritage* within the ACHA 2003, in relation to the types or values of Aboriginal sites that can be submitted on the DATSIP database for site recording, must encompass the following:
 - stories, story-places and song lines
 - Dreaming tracks
 - Law grounds
 - Burials, reburials of ancestors and historical burials
 - Massacre sites, post-contact conflict sites (e.g. the Frontier Wars)
 - birthing places
 - traditional and historical pathways, and places with Aboriginal names

- traditional hunting grounds and sources and species of plants and animals used in traditional foods and medicines (e.g. cultural resource areas)
- waterways, springs, groundwater and surface water sources and their associated catchments
- cultural landscapes, including mountains, hills, waterways and wetlands and their visual amenity
- intellectual property
- oral histories
- constellations
- old-growth trees and old growth forests (considered as family members by many Traditional Owners)
- any type of marked (mature) tree or scarred tree and uniquely shaped or (naturally) marked rock (crevices or hollows) can present (at times) in an especially meaningful way to Traditional Owners, and be of spiritual heritage significance, particularly when set in or along a well-known, traditional and ancestral site or waterway

3. That the process of *self-assessment* be reviewed and improved, as substantial areas and objects of Aboriginal cultural heritage are being disturbed and destroyed. I believe that a more extensive overview with monitoring, is needed by Traditional Owners and their appointed heritage consultants. Land-users making use of tree clearing laws at local and state government levels, are probably in most cases, not even aware of their 'Duty of Care' and self-assessment obligations in relation to the ACHA 2003.

4. Self-assessment by a land-user or development proponent is of concern as well. It may take at least a decade or more for a Traditional Owner to learn from the oral histories of their family Elders in gaining extensive knowledge about Country, and for a non-Aboriginal archaeologist or heritage consultant, they would have had to complete at a minimum, a four-year university course and then complete at least 3 to 6 years of project work, before they become competent at undertaking cultural heritage assessments. It is not logical for the ACHA 2003 to assume that self-assessment by non-Aboriginal people or lay-people, is undertaken in a knowledgeable and sensitively informed approach.

5. With the ACHA 2003, it is crucial to revisit the notion of prior ground disturbance (e.g. farming and tree clearing practices) as to leaving an area devoid of any Aboriginal cultural heritage values or artefacts (traditional or historical), and which leaves the project area devoid of any consultation with Traditional Owners.

6. The ongoing issues for Traditional Owners of '**Sorry Business**' and saying '**Goodbye to Country**' needs to be discussed and visited during the Review process. Such experiences, which are occurring across Queensland, leave a broad collective of Traditional Owner communities and their members, in various stages of Post-Traumatic Stress. This is a process which reverses any progress made with the *Closing the Gap* initiatives.

7. I strongly support any initiatives to help raise awareness on and implement or administer the ACHA 2003, and especially support ideas to seek extensive resources and collaborations, and that give agency to and empower Traditional Owners in Caring for Country. There is a huge disparity in the number of funded non-Aboriginal Ranger/Landcare/Environmental Officer roles, in comparison to the small number of Traditional Owner Ranger roles.

8. The Queensland Government needs to provide incentives to local councils across the State, for such councils to provide on their websites and at workshops, awareness raising and educational resources on the ACHA 2003 and 'Duty of Care', and the need to consult with Aboriginal Parties.

9. Staff of organisations such as the Queensland Parks & Wildlife Service need to be better trained in recognising the cultural heritage values of places like Mount Coolum on the Sunshine Coast. The recent draft (visitor and land-use) management plan for Mount Coolum National Park on the Sunshine Coast, failed to make any mention of the ACHA 2003 as an important legislative measure in land-use planning. While over \$900,000.00 has been spent recently in the construction of walking track and signage upgrades, no specific Traditional Owner consultation or Cultural Heritage Management Plan was undertaken for this project. The CAVE (major cave shelter) at Mount Coolum is currently defaced by over 300 carabiners (bolts and hooks for rock climbing), yet is a recorded site under the ACHA 2003. In effect QPWS have breached their 'Duty of Care' under the ACHA 2003.

10. That places like Ban Ban Springs (near Gayndah) having been subject to a ACHA 2003 Part 6 Cultural Heritage Study, need to have supporting legislation and programs in place to ensure that the local ground and surface water is not depleted or disturbed to the extent that the Ban Ban Springs remain dry for the majority of time i.e. cultural flows of water are required by law to be sustained, and it becomes unlawful for surrounding land-uses to deplete the water sources of significant Aboriginal sites. This situation also applies to the Bunya Mountains and Maidenwell Springs area and surrounds, under threat from mining and fracking proposals.

11. *State of the Environment Reporting*, which includes reporting on the *State of Aboriginal Cultural Heritage*, needs to periodically produce and provide an **inventory** of recorded, intact and disturbed and destroyed sites together, with a statistical breakdown of values and data, and made available to the relevant Traditional Owners.

The attached Appendix offers a number of case studies illustrating some of the issues raised in the above.

Yours sincerely

A large black rectangular redaction box covers the signature and name of the sender. Below the signature, there are four horizontal black redaction bars of varying lengths, likely covering contact information such as phone number, email, and address.

CASE STUDIES

a) Section 9 of Review Paper – Land user obligations

Muller Park on Maroochy Estuary at Bli Bli



Reference is made to the Maroochy River Rowing Club (MRRC operator is Russell Muller who works with students and school groups) on leased State land at the Kabi Kabi site of Muller Park, David Low Way Bli Bli on the Maroochy River. Councillor Steve Robinson of the Sunshine Coast Council and Russell Muller failed to respectfully work in accordance with sound protocols in communicating with Kabi Kabi Elders and respect the intent of the ACHA 2003. A group of Kabi Kabi Traditional Owners were verbally abused and bullied by Russell Muller and his wife, on site at Muller Park in 2016. This is an unfortunate example of where the Act needs to be changed to better provide oversight mechanisms and provide dispute mechanisms and education to land-users, on Aboriginal cultural heritage and management practices.

Photos above: The *Maroochy River Rowing Club* is built on an Aboriginal site where stone tools and shell midden are located. Russell Muller never consulted with Kabi Kabi before appropriating and exploiting the place name 'Maroochy' for his own purposes and building a very large shed on a recorded Aboriginal site. The Turnbull Federal Government and Ted O'Brien helped the club access \$100,000 in funds in 2016 to build on an Aboriginal site. The State and SCC also provided funds. Project total was \$225,000.00.



Kabi Kabi interpretive signage at Muller Park, on the Maroochy River at Bli Bli where Aboriginal sites continue to be built over by infrastructure. A number of burials sites are within close proximity. Are the loss of these sites being recorded and will they be reflected in any State of Aboriginal Heritage Report, as a part of the larger State of the Environment reporting process?



b) Case studies (cont.) Old Bli Bli Shop and Project Urban

The Old Shop at Bli Bli on the Maroochy River and alongside the southern side of the David Low Way Bridge is on a recorded traditional and historical Kabi Kabi site. In 2017 Project Urban (town planners) and the developer and the archaeological service, were asked in person and in writing to research and report on the historical values of the site. The Sunshine Coast Council was also notified of this request. Despite the Old Shop and the former public swimming pool (still buried in part at the site) having been used for many generations back by local Kabi Kabi people, this request for a cultural heritage assessment and historical CHMP was ignored. This scenario could be seen as a breach of the ACHA 2003 'Duty of Care' requirements in relation to a recorded historical Aboriginal area. The site now has a new development, without any Kabi Kabi oral histories having been recorded.

Do private town planners and archaeological and heritage consultants need to be educated and re-trained in how to better deal with Aboriginal historical sites and their assessments and management? Can the ACHA 2003 be amended to help better manage these situations?

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Thank you for the opportunity to comment on the review of the Queensland Government's *Aboriginal Cultural Heritage Act 2003* (ACHA 2003).

Reference is made to the issues or areas of concern, raised in the 2019 'Consultation Paper – Review of the Cultural Heritage Acts'.

The following are comments and recommendations in regard to Section 9 of the Review Paper 'Land-user obligations', and the need for better oversight mechanisms to raise awareness of and better manage the 'Duty of Care' requirements by all land-users, under the *Aboriginal Cultural Heritage Act 2003*.

The Queensland Government should encourage and provide incentives for all local governments and councils to consult with Traditional Owners across the State, in working to provide information pages and weblinks (e.g. to DATSIP's Cultural Heritage Unit), to more widely inform and promote the ACHA 2003 'Duty of Care' guidelines and processes. The attached Appendix offers images taken from council websites, that provide examples on how two councils are attempting to extend such a service. The remaining three examples from other council websites, show the need for such councils to incorporate a weblink and webpage about the requirements of the ACHA 2003 for land-users and developers, in relation to land-use changes.

Yours sincerely



Genevieve Jones



APPENDIX

1) Central Highlands Regional Council website provides a well set out page about local Traditional Owners and Aboriginal cultural heritage, including a weblink to the ACHA 2003.

The screenshot shows the website for Central Highlands Regional Council. The page is titled "Indigenous support" and features a large background image of a young girl smiling next to a bunch of grapes. The navigation menu includes: About council, About Central Highlands, Building, planning & projects, Trade, waste & Litter, Facilities & Recreation, Community support, and Reports & present.

Indigenous support

Central Highlands Regional Council respectfully acknowledges the traditional custodians of the lands and waters of the Central Highlands.

We value and celebrate our diverse and rich Aboriginal and Torres Strait Islander traditions and heritage as central to our regional identity. We have strong connections to local industry and vibrant communities.

Our commitment to the people we serve is supported by a range of services and programs that are designed to support and enhance the wellbeing of our community.

As our recognition journey evolves new information will be added

Further Recognition Areas
File

Indigenous Cultural Heritage
Information

Our commitment to the recognition of Aboriginal and Torres Strait Islander people and their traditions and heritage is central to our regional identity. We have strong connections to local industry and vibrant communities.

Aboriginal and Torres Strait Islander people are the traditional custodians of the land and waters of the Central Highlands.

- recognition of the traditional custodians of the land and waters of the Central Highlands
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Aboriginal cultural heritage in the Redlands

Redlands has many significant sites of Aboriginal cultural heritage. This heritage may take the form of physical artefacts, such as spearheads and middens, or significant places of ceremony.

As with all significant heritage of our city, Aboriginal cultural heritage must be protected and preserved.

For more information on Aboriginal cultural heritage, visit the [Department of Aboriginal and Torres Strait Islander Partnerships \(DATSIP\)](#).

Types of Aboriginal cultural heritage

Some forms of Aboriginal cultural heritage seen in the Redlands include:

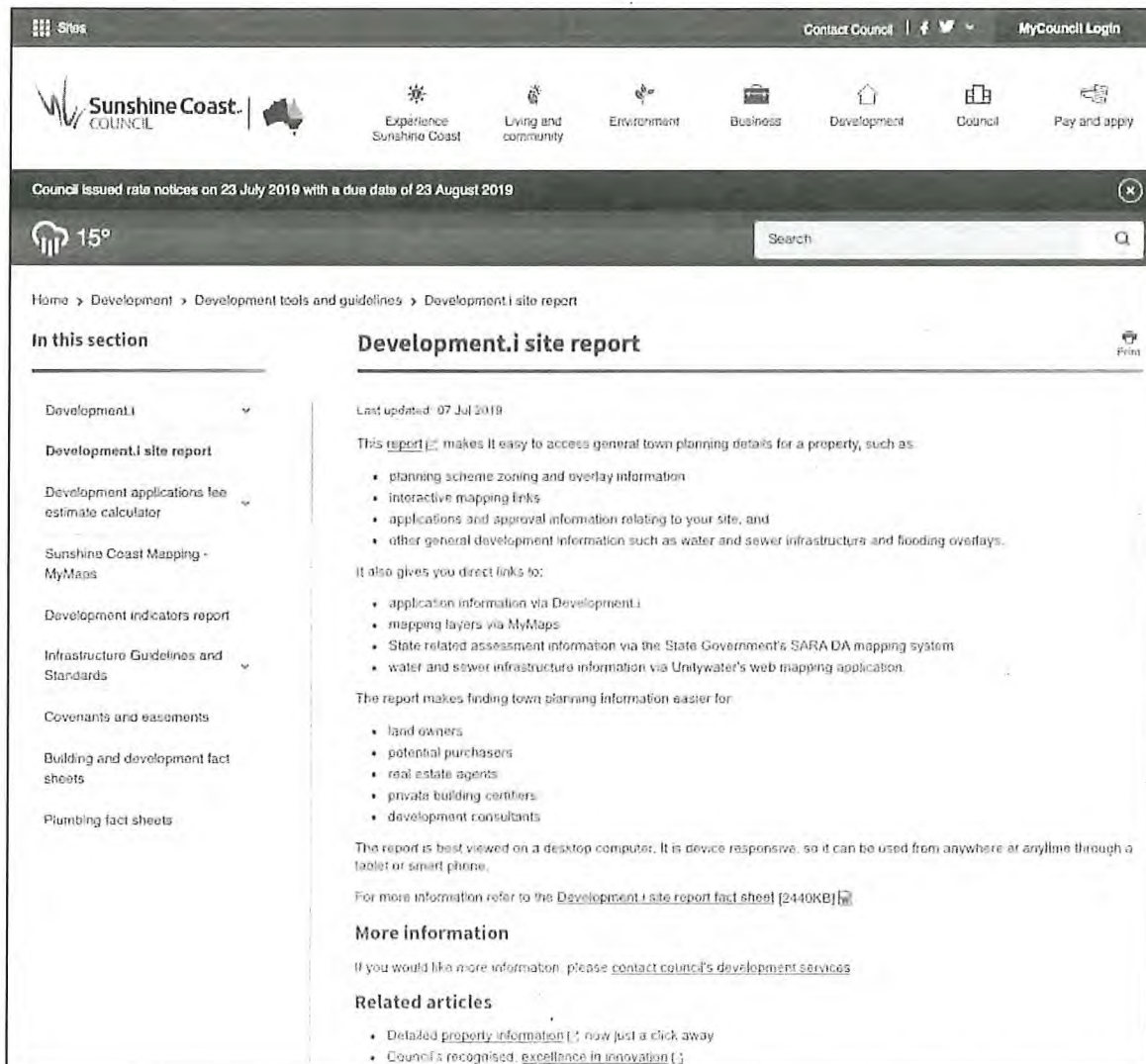
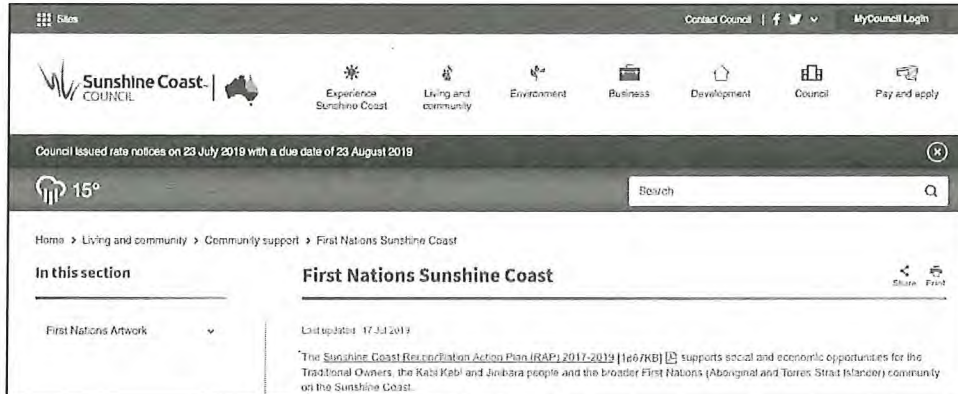
Stone artefacts: Aboriginal People used stones for a variety of purposes. Artefacts can include grinding stones, axeheads, spearheads.



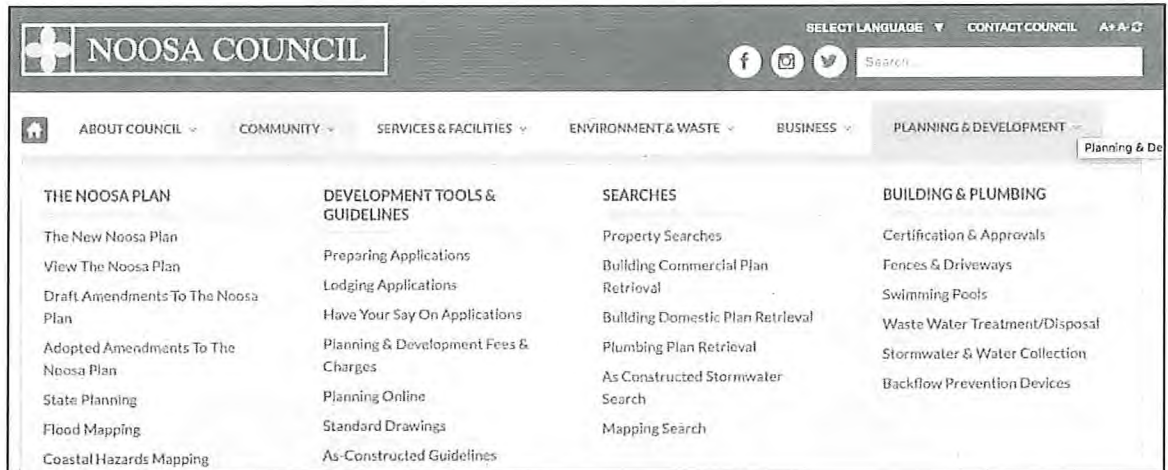
Middens: These are found in sites across the Redlands and are the remains of campsites where Aboriginal People gathered. They typically show the remains of shells and animal bones, gathered over thousands of years, but may also contain stone tools and other items of significance.

2) Redland City Council has a dedicated webpage to local Aboriginal cultural heritage, including a weblink to the website of DATSIP.

3) The Sunshine Coast Council has a webpage with a brief reference to local First Nations People, yet **no reference** to local Aboriginal cultural heritage or ACHA 2003 'Duty of Care' obligations in the comprehensive Development section of its website.



4) The Noosa Council has a webpage with a brief reference to local First Nations People, yet **no reference** to local Aboriginal cultural heritage or ACHA 2003 'Duty of Care' obligations in the detailed Development section of its website.



5) The South Burnett Regional Council area has many towns with place names derived from the Wakka Wakka Country and language. This council's website makes many references to non-Aboriginal heritage places and conservation mechanisms, yet offers little recognition of the local Wakka Wakka Traditional Owners and their cultural heritage, despite this local government area including the highly significant Bunya Mountains, which played a substantial role in south-east Queensland, in traditional times and historically, during the Frontier Wars as Aboriginal laws were upheld. The 'Planning & Development' information webpages make **no reference** to local Aboriginal cultural heritage or ACHA 2003 'Duty of Care' obligations in the detailed Development and heritage section of its website.

PH: 07 4189 9100 | EMAIL | FACEBOOK

Council Economic Development

SOUTH BURNETT REGIONAL COUNCIL

Search...

HOME ABOUT COUNCIL ROADS & DRAINAGE WATER & WASTEWATER PLANNING, BUILDING & PLUMBING ENVIRONMENT, HEALTH & WASTE LAWS, FORMS & POLICIES FACILITIES & RECREATION COMMUNITY INFORMATION

Planning & Development

HOME > PLANNING & DEVELOPMENT

Enquiries
Can't find what you are looking for or need some planning assistance? Send a general enquiry to our Planning Branch Team. [more](#)

Fees & Charges
Peruse Council's current Fees and Charges. [more](#)

Planning Searches
Conduct a search on your property to obtain information about zonings, planning scheme provisions, infrastructure charges and development approvals. [more](#)

Planning Schemes
A Planning Scheme is a legal instrument that sets out the provisions for land use, development and protection. [more](#)

DA Rules
Development Assessment Rules (DA Rules) process under the *Planning Act 2016*. [more](#)

Development Applications
In this area you will have access to Decision Notices and Negotiated Decision Notices and any Development Application subject to Public Notification. [more](#)

Local Heritage Register
Council is required to keep a local heritage register under Part 11 of the Queensland Heritage Act 1992 of places of cultural significance in its area. [more](#)

Maps Online
Access a variety of mapping information and aerial imagery. [more](#)

Resources
Helpful links when preparing a Development Application. [more](#)

Temporary Home Permit Application and Checklist
A Temporary Home can only be occupied whilst the permanent residence is under construction. [more](#)

Approving Plan of Subdivision
Schedule 18 of the *Planning Regulation 2017* prescribes the process for approval of plans of subdivision by Council. [more](#)

Public Notifications
Public Notifications [more](#)

Local Government Infrastructure Plan

Planning & Development

- Planning & Development
- Enquiries
- Fees & Charges
- Planning Searches
- LG Infrastructure Plan
- Local Heritage Register
- Development Assessment Rules
- Planning Scheme
- Development Applications
- Statement of Reasons
- Public Notification
- Maps Online
- Resources
- Temporary Home Permit Application and Checklist