



Queensland Small Miners Council

The Hon. Jackie Trad MP
Deputy Premier
Minister of Aboriginal and Torres Straight Partnerships

Reference: Submission to Discussion Paper for Review of the Cultural Heritage Acts

Dear Ms. Trad

The Queensland Small Miners Council is a forum for the States, Small Scale Mining Industry representative groups to collaborate and provide Industry policy's to Government bodies which regulate these Gold and Gemstone producers

Your department DATSIP is currently conducting reviews into the Cultural Heritage Act and The Duty of Care Guidelines and collectively the QSMC member groups are very concerned about the direction the contents of this review and what impacts this may have on our industries.

Many of the proposals in this review if implemented will be seen as a direct threat to the survival of Small Scale Mining & our own Cultural Heritage, which has survived, but only just, despite any legislation, regulation or any Government support to help protect or preserve it.

You will note, that as yet Queensland Small Miners Representative Groups, their members and the general populous in regional Queensland have not yet been extended a fair opportunity for any consultation from DATSIP with regard to this Cultural Heritage Review, nor the previous review in 2106/17.

It is vital that rural communities which are suffering from population decline, drought and economic hardship, to be included in consultation processes, in particular when proposals if imposed will impose perilous costs and delays to these communities.

It seems to have become protocol for all of the State agencies, never to conducted any consultation further West of a "Ronald" McDonalds franchise.

This is not seen by the general public as fair and proper consultation.

The Aboriginal peoples, the Aboriginal Legal representative's, and "consultants", appear to have been well canvassed by DATSIP, and have an overwhelming participation level when compared to Land User's submission's participants in the 2016/17 Cultural Heritage Duty of Care guidelines review submission analysis document.

Collectively QSMC members are very concerned about the concepts that the DATSIP are proposing to advance in this Cultural Heritage Review including the submissions of the previous Review in 2106/17 which had been shelved due to the previous State election in 2016/2017.

Queensland's Small Miners Associations are supportive of the Cultural Heritage Act review and are appreciative of now being afforded the opportunity now to partake in this process.

So now, as a collective, and representing the 3,500 Small scale miners throughout Queensland the Queensland Small Miners Council (QSMC), provide this submission in earnest so you may understand our concerns, as small scale miners will again wear the brunt of many of these suggestions raised in the DATSIP Reviews if unchallenged and implemented, as we have experienced with Native Title processes of the Native Title Act, which is still inflicting onerous processes costs and delays, by poorly thought out or ill-considered legislation, which was imposed on our Small Scale Mining sectors without any consultation.

We therefore provide this submission attached and "insist" that the representatives of the Queensland Small Miners Council member groups be consulted from hereon in as this "Consultation Process" takes its course.

The Queensland Small Scale Miners Associations would require a detailed proposal of which amendments are being proposed by your government through DATSIP to the Cultural Heritage Act and the Duty of Care Guidelines six months prior to the next State election scheduled for 2020.

QSMC will be also seeking the policy position from the Opposition Minister for this DATSIP portfolio, The Hon Mr. Christian Rowan so we can compare these policy's' and ascertain what action the QSMC will need to take, if any, to preserve the interests of our members before the next election.

Kindly



Kev Phillips
Delegate
Queensland Small Miners Council

21.11.19

A list below provides you the details of these Mining Representative groups contact details

Association Name	Contact details		
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Queensland Small Miners Council

Comments to the

Discussion Paper for Review of the Cultural Heritage Acts

The Queensland Small Miner Council as the first point of call to start this review would like for the DATSIP Review team to clarify who is a Land User.

It would appear that the State is picking its mark when conducting this review as the Discussion Paper appears to be targeting only land developers, construction, mining and quarrying, or, to put it bluntly, where the perceived money is, without alarming the general public!

Under the Cultural heritage Act the Definition of "land user" means a person carrying out, or proposing to carry out, activities on land likely to "materially affect the land."

It is needless to say, and I'm sure the Aboriginal Parties would agree, DATSIP as failed to look at the following Land Users which should be included if DATSIP or government were not so reluctant as they too could be seen to "materially affect the land" and from our viewpoint, cannot see any valid reason why these Land users and others are excluded.

All of these Land Users listed below could be seen to "materially affect the land"

1. Fishers & boaters who's wake can disturb coastal or estuary middens and traditional fishing grounds
2. Kids and families making sand castles on the beach
3. 4x4 off roaders and trekker's who could disturb burials in Sand Dunes etc..
4. Bushwalkers & campers who burn firewood and clear areas for their trails & campsites.
5. Graziers who undertake land clearing, fencing, dam pushing.
6. Ma and Pa who dig up their garden planting tree's & peas,
7. Old mate next door putting in a below ground pool who's excavation could disturb cultural heritage,
8. Any extension were footings or concrete needs to be poured which covers ground and building activity which requires an extension.
9. Small and large scale agriculturists/horticulturists
10. Government back burning for fire control.
11. Government works including, rail, roads & bridges
12. Digging of graves and maintaining of parks and gardens

Whilst this not a comprehensive list but I think you get the point

If it's in the best interest of the community to administer Cultural Heritage laws- then enforce it on all of the community, not a selected few!



Mesolithic Rock art Kurnool, India



Neolithic Grinding stones and Quern-Northern Germany



Neolithic Flint tools from Denmark

Duty of Care Guidelines – Increase the Categories

The Qld Small Scale Miners and Prospectors are vehemently opposed to decreasing the Categories of the Duty of Care Guidelines, as suggested by participants in the DATSIP review 2016/2017.

Small Scale Miners would not be supportive of any changes to the Duty of Care Guidelines unless it is to increase the amount of categories to include our recommendations.

The current “Duty of Care Guidelines” fails to formally recognise that many people who live and work daily or on a regular basis on the land, be it for grazing, agriculture or mining purposes, by and large, have the experience to recognise most, if not all, of the tangible forms of Cultural Heritage and in many instances, even know where the intangible forms of Cultural heritage are or were.

This experience is either accumulated from general education or widely available open sources, field experience and /or by passed down knowledge from fore-bearers, their employee’s (including indigenous peoples), and prior land-users, who in Australian modern history, spend much more time in some instances on these lands connecting with country, conducting day to day work and leisure activities than many of the aboriginal peoples who may have once originated from these lands.

The Australian Aborigine’s tangible forms of Cultural Heritage are very much the same or similar to the rest of the world’s Palaeolithic history, “they are not that unique”, so most of these forms of Cultural Heritage including Australians botany are readily recognisable and/ or researchable, by the average person who has even a basic level of education and/or experience on the land.

This ability is not validated in the current duty of care guidelines and must be included as a valid qualification for assessing Cultural Heritage under the Duty of Care Guidelines. This must be corrected in this review, so land-user operations including High Impact Activities can be implemented after assessment by the land-user in areas where no Cultural Heritage values have been assessed to exist and avoid unnecessary consultation.

Below – Neolithic Tranchet Axe head –Suffolk England



From our collective experience, Aboriginal consultation will consequentially result in demands for negotiation costs, inspection clearance costs, monitoring regimes and associated costs, to merely name a few, and will inevitably cause the Land User associated time delays in managing the proposed project regardless of whether there is any Cultural Heritage on the land-users work area or not.

Given the many instances of aboriginal, dispossession, desertion and decimation of their peoples and their tribal lands since European settlement, oftentimes intangible Cultural Heritage sites cannot always be identified or relocated accurately by aboriginal peoples who have not maintained real connection to their lands and are sadly frequently lost to the aboriginal peoples because of these factors.

This can be true for both exclusive (freehold, GHPL) and those non-exclusive leasehold tenures, where Aboriginal Parties, to a large extent, have been excluded from these lands for long periods or even since European settlement and oftentimes, are only relatively recently returning to these lands now to perform Cultural Heritage Inspections for Mining Operations, since inception of the NT Act.

Aboriginal Land Claimants may have also included these “exclusive areas” within their Native Title land claim applications, however are “excluded areas”, from any Native Title Determination as the background - land tenure was freehold, GHPL, or some special lease which extinguishes Native Title.



The Fish-traps of Penghu, 1 of the 570 fish-traps that dot the coast of Taiwan and have operated since Qing Dynasty

Whilst acknowledging residual Cultural Heritage may still exist, it can be controversial who owns this Cultural Heritage as in many cases where the Exclusive Land portions of a Native Title Claim has not been legally proven nor decided or where no Native Title Determination has been made on “Non- exclusive” lands.

In many instances the land-users who operate on these lands can be at least equally qualified to assess Cultural Heritage in places where there has been little if any access by aboriginal peoples, and these regional land-users are able, in most instances, to mitigate and plan operations to avoid Cultural Heritage disturbance even in areas where High Impact activities are to be conducted.

The Queensland Small Scale Miners believe, in our context, that the Self-Assessment process of the “Duty of Care Guidelines” is adequate, and if through this self-assessment evaluation the proposed or planned activity is unlikely to cause harm to cultural heritage, then the Land User should be able to proceed with the project as assessed by them in all categories.

Should any residual Cultural Heritage be discovered then a land-user/ should immediately apply the Stop- Manage and/ Notify process should any cultural heritage be revealed.

This self-assessment regime should be encouraged and advanced, with its implementation being fostered as the least restrictive alternative for Land-users and would actually provide a more collaborative participation in Cultural Heritage protection & preservation if promoted by all parties.



Petroglyph engravings - Westwood Moor
Northumberland England

Konkan Rocks petroglyphs India

Dot painting Tassili n'Ajjer, Algeria

DATSIP Review Paper extractions - Land User Obligations

1. A land user may undertake a self-assessment by following the Duty of Care Guidelines (which were gazetted by the Minister in 2004).

Is their need for the State need to provide a greater level of oversight of self-assessment and voluntary processes e.g. reporting on self-assessment practices

QSMC Comments

The QSMC do not believe that there is evidence to support that there is a level of "Non-Compliance" with respect to Cultural Heritage Self-assessment process that would justify the need for the government to provide a greater level of oversight.

The QSMC are generally supportive of the self-assessment process and would not condone any member who wilfully destroyed or damaged any form of Cultural Heritage.

Whilst there is always a possibility that residual Cultural heritage could possibly be unearthed during excavations from our collective experience this would be a very rare case, and there are provisions in the CH Act and Duty of care guidelines to cater for this should it happen

The Small Miners do not believe that there is a need for legislative or policy requirements by government to provide a greater level of oversight of self-assessment, however a miner or explorer should be able to provide supporting evidence of these assessments to substantiate compliance, to quantify they have undertaken the self-assessment process if ordered by a court or tribunal.



Neolithic Carved Aztec Atlatl (Woomera) at the National Museum Mexico

DATSIP Review Paper extractions - Land User Obligations

2. CHMPs

(a) A land user may decide to develop a voluntary agreement with Aboriginal and Torres Strait Islander parties.

There are no prescribed requirements for these types of agreements.

QSMC Comments

If a Miner/ Explorer intends to express "goodwill" and wish to enter into a Voluntary Agreement the SSM believe that these agreements should be registered and recorded by the administering authority for Cultural Heritage (DATSIP) or its successor.

There should be no prescribed requirement if these agreements are to be "Voluntary", otherwise it's a prescribed document which may or may not be agreeable!

And that'd be the end of any good will!

(b) The Cultural Heritage Acts also set out statutory processes for the development of a Cultural Heritage Management Plan (CHMP).

A mandatory CHMP is required for projects that require an Environmental Impact Assessment unless there is an existing agreement or a native title agreement.

Victoria prescribes a list of high impact activities (e.g. mining, construction, residential development, subdivision of land, quarrying) that threshold the CHMP process - this has resulted in approximately 3000 CHMPs over the last five years.

QSMC comments

The vast majority of Small Scale Gem and Gold producers currently do not require an Environmental Impact Assessment (EIA) in Queensland.

Should the Hon. Minister Jackie Trad (DATSIP) propose to now introduce this Environmental Impact Assessment (EIA) process to provide a legislative avenue via the Environmental Protection Act (EP Act 2001) which legislates the criteria for EIA's, so as to provide a "backdoor entry" for unwarranted Cultural Heritage Management Plans being sought by the Native Title Parties, would be an unconscionable act, and be seen as a direct political threat to the survival of our industries

Queensland's Small Scale Miners who have been by and large exempt from this EIA process because of the smaller environmental impact that Small Scale Miners cause. To introduce the EIA process and associated costs as a backdoor manoeuvre to force compulsory cultural inspections will cause financial distress on the land-user to satisfy an unfounded pretence that Cultural Heritage even exists on the areas they operate.

Queensland Small Scale Mining has historically been a bastion of local investment, employment and regional development and provided a means of income for those repatriated from two world wars and other conflicts and provided for those who sought these Gem and Gold as a means of income through recessions, which the world economy is perilously once again close too, and would only serve to assist to exclude this possibility for future generations by now imposing more unnecessary costs and procedures.

The Impositions and additional costs of EIA's

The Department of Environment apply upfront cost recovery fees to proponents for Environmental Impact Assessments which are adjusted annually with the CPI .

In addition to the above fees, proponents may be required to pay the costs associated for,

- public notifications during the relevant stages of the EIS or IAR processes
- Independent studies or reports the Coordinator-General commissions to examine a specific aspect of a project.
- the proponent must develop a comprehensive and inclusive consultation plan for the stakeholder groups identified under 'Audience' above.
- the consultation plan should identify broad issues of likely concern to local and regional community and interest groups



The Red Lady of Paviland remains buried about 29000 years ago



Clearwell Caves- Ochre mines Gloucestershire England mined for over 4000 years Discovered in Wales. UK.

In Victoria, where the DATSIP draws its example above, the costs to the Land user are first to engage a Cultural Heritage advisor, then "fees" are paid to the organization who approves the CHMP (the Registered Aboriginal Party (RAP) for the area or Aboriginal Victoria if a RAP hasn't yet been appointed.

These "fee's" from both the "EIA process and consultation" and CHMP's process will contribute significant onerous costs and untimely delays to miners operations which jeopardize their livelihoods.

It is the collective experience of many of our miners that Mining Activities are unlikely to disturb or displace Cultural Heritage even during Mining or Exploration Activities if a Miner or Explorer undertakes the self-assessment model that already exists with the current Cultural Heritage Duty of Care Guidelines

In our context (mining for Gems & Gold) the effects of the State legislating that all Mining Activities, including Gem and Gold producers must undertake compulsory CHMPs will only serve to delay the grant and renewal of Mining Tenures, as has been the case in areas which are subject to Native Title.

In areas subject to Native Title where small gem and gold miners can operate, it is not unusual for many of these tenure applications being processed through the RTN process to take up to between 2 and 5 years, to be granted with still many referred to Mediation and Determination in the processes of the Native Title Act with the National Native Title Tribunal.

As the DATSIP review Consultation Paper stated about parties negotiating voluntary agreements - raised in the 2013 Australian Government Productivity Commission Inquiry Report, "Mineral and Energy Resource Exploration" noting that facilitation should be affordable, independent and not unnecessarily increase timelines.

From our collective experience there is nothing timely nor affordable about negotiating Cultural Heritage agreements at least under the NT Act provisions, we can't imagine anything DATSIP would be design would be any better.

Small Scale Miners are not supportive and reject the need of reconsidering the threshold for formal cultural heritage assessments for Land Users and believe that this proposal is disproportionate and inappropriate given the minor amount of Cultural Heritage that has been historically discovered or disturbed on Small scale mining tenures.



Paleolithic Maccasan Stone arrangement Salawesi Indonesia

DATSIP Discussion Paper Extract-

Land Court & Tribunal for Dispute Resolution & Voluntary agreements

Is there a need for dispute resolution assistance for parties negotiating voluntary agreements – if yes, who should provide these services and what parameters should be put around the process

QSMC Comments

For any agreements outside the authority of the National Native Title Tribunal (NNTT) the Small Scale miners perceive that the Qld. Land Court and Tribunal are the proper authority for assisting in Voluntary agreements.

The parameters should be that the process is “voluntary not compulsory” and each party should meet its own costs with regard to voluntary agreements.

That a time frame is set of no longer than 3 months to achieve the agreement

That the Land-User (Miner or Explorer) can undertake activities after the 3 month period using the Duty of Care Guidelines if parties fail to reach an amicable agreement



5000 year old Neolithic stone carving Northumberland England



6000 year old Carved Oak found in Rhondda Valley Wales

DATSIP Discussion Paper Extract.

Is there a need to reconsider the threshold for formal cultural heritage assessments– if yes, what assessment and management processes should be considered?

During the review of the Duty of Care Guidelines in 2016–17, DATSIP received feedback from some stakeholders suggesting that:

- :- government should provide a greater regulatory presence and be adequately resourced to do so, including auditing of developers and being more active in prosecuting non-compliance*
- :- penalties paid for breaches should go to the communities whose cultural heritage was destroyed.*

- :-Other jurisdictions have provided for similar mechanisms to Queensland to protect cultural heritage.*

Examples of additional mechanisms adopted by other jurisdictions include interim protection orders for up to three months or an ongoing protection declaration over an area, improvement notices served on land users to remedy the contravention of a CHMP and cultural heritage audits undertaken if the Minister believes there may be contravention of a CHMP.

Question

Is there a need to bolster the compliance mechanisms designed to protect cultural heritage – if yes, what needs to be improved and what additional measures should be put in place?

QSMC Comments

Too much emphasis by this Labour Government is on compliance to the point where even socialists don't want to move to Qld.

Auditing and prosecuting of only developers would appear unjust, there are other Land users.

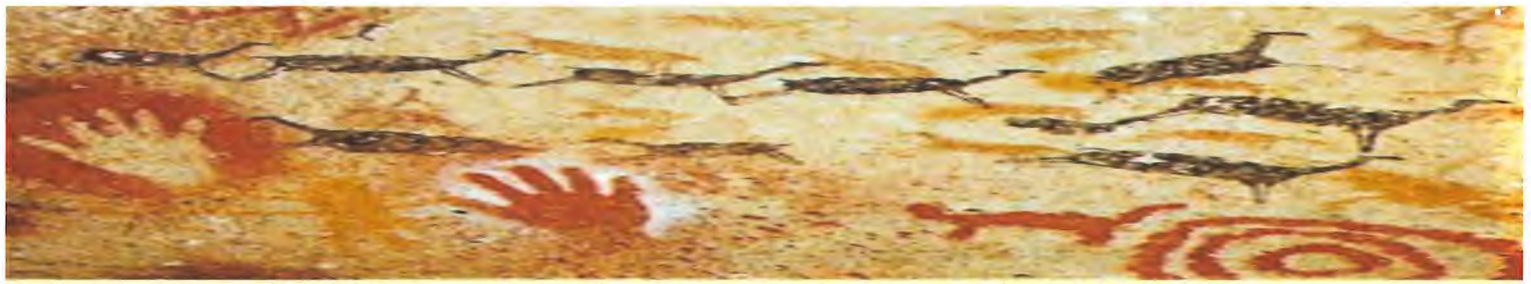
Additionally, the Aboriginal Parties should also be audited as well to ensure that they have provided the documentation for reporting surveys and special places is accurate and within timelines expected which should be legislated and that the Cultural Heritage Survey reports are not mischievous.

There are instances where Native Title Parties have introduced "Cultural Heritage artefacts" to a site prior to and during survey's to ensure that the Land User was excluded from an area by reporting these introduced Cultural Heritage items in the Survey Report.

Only the courts should adjudicate if a company or individual is found negligent in its "Duty of Care", it is up to the courts then to decide whether to impose improvement notices and award costs to either party.

This process allows parties to present their cases, and for the Courts to examine the evidence and adjudicate their findings.

Government should be more involved in helping promote the Cultural Heritage Act including the Duty of Care Guidelines so all parties co-operate to preserve Cultural Heritage.



:- Rock painting Altamira Caves Spain 16500- 12500 BC

DATSIP Consultation Paper extraction

**Is there a need to revisit the 'last claim standing' provision – if yes, what alternatives should be considered?
Is there a need to revisit the identification of Aboriginal and Torres Strait Islander parties – if yes, who should be involved and what roles, responsibilities and powers should they have?
Should there be a process for Aboriginal and Torres Strait Islander parties to apply to be a 'Registered Cultural Heritage Body' to replace the current native title reliant model?**

QSMC comments

Connection to country or being the traditional owner cannot always be seriously proclaimed by aboriginals on "exclusive land tenures" and even many "Non- Exclusive" land areas. There are many examples of Native Title application claim area's that have been dismissed by the NNTT through the registration or determination process of the NT Act., through dubious Native Title land claims.

It is controversial who owns this Cultural Heritage if particularly as the Exclusive Land portions of a Land Claim has not been legally proven or decided, and even if so, It is more likely than not the Traditional Movement of Aboriginal clans was quite fluid even up to and during European settlement along with tribal warfare common and the displacement of the losers of Tribal battles succumbing these areas to the stronger tribe.

That is too say that the Traditional Owners of today in any area at a previous time in history where unlikely the descendants of traditional owners of the same area in any previous point in history due to these factors above.

This displacement is not unique to Australia, the quantification of "country" by aboriginals is an unenviable position.

Small miners are generally supportive of the "Native Title Reliant Model" though we are even justifiably sceptical of this process, given Native Title "Consent determinations" which are sometimes manipulated by the State's engagement, by pacifying leaseholders of non-exclusive (leasehold) lands and their objections to a Native Title Claim or Determination.

This has and is done by the State asserting that the Leaseholders pending renewal of their "lease hold tenures" will be assured, should they not object to a Native Title Claim or Determination, under the NT Act processes.

Whilst the States complicity in this behaviour is an abomination, as it perversely provides pressure on the willingness of a Leaseholder proponent from candidly contesting Native Title, and by default, perhaps the Cultural Heritage ownership of those lands.

The ramifications of the leaseholder proponent being unsuccessful against a Native Title Claim determination hearing would essentially imperil the Leaseholders tenure renewal and is an overwhelming incentive not to engage in this Native Title process.

This is barely a just and ethical practice, as it circumvents full and fair opportunity for one to candidly present their case and allows others to manipulate and coerce.

This practice is likely to lead to legal challenges to Native Title Claims & Determinations in the future.

Regardless of this fact, Native Title Determinations should be the principle process which recognises whether an aboriginal party has rights on non-exclusive lands.

Additionally, if a person's native title has been compulsorily acquired or has otherwise been extinguished then the Small Miners are supportive of these instances to recognize the aboriginal party.

Whilst it has been acceptable practice for Native Title Claimants to be treated as Aboriginal Parties, it is questionable that there is legitimacy to their Land Claim, and should not be included as an Aboriginal Party unless a Native Title determination is made, and only over the lands where the determination was made.

As previously stated, there have been many instances of Land Claims made by aboriginals which have failed the Registration or Determination tests (NT Act), and to the point where the Land claim applicants application were "dubiously questionable" to say the least.

The practice by the State support of utilising the "Last Man standing" principle is remiss, and could possibly lead to legal proceedings against the State from a Land-user proponent or future Native Title claimant, if either were wronged from this legislation.



Above :- Neolithic Rock paintings in the Bhimbetka caves (India)

Queensland Small miners would be supportive of independent "local boards" being established to examine and review supporting evidence supplied by Aboriginal Representative Bodies or aboriginal parties to consider whether a Cultural Heritage applicant quantifies being recognised as a "Registered Cultural Heritage Custodian".

These unstacked "Local boards" should consist of community groups, so a broad spectrum of the community is represented to evaluate the application.

Locals are more readily able to evaluate the bona fides of an applicant and know or have access to the local history of an area rather than outsiders and boffins who are far removed from the district where the claimant group are making claim to be the rightful custodians.

The design and implementation of this idea could be drawn from the funding from the interest earned from the Environmental bonds of Prescribed EA's (EP Act) or diverted the money that the Hon. Premier, Annastacia Palaszczuk's is intending to use to graft up the Public Servants before the next election.



Culleenamore shellfish Middens 3000 years old. Sligo, Ireland



Remains of ancient stone fish traps in the tidal Menai Strait in Wales

Recording cultural heritage.

DATSIP - What the Cultural Heritage Acts say (extract)

The Cultural Heritage Acts provide for a register and a database that are important research and planning tools for Aboriginal and Torres Strait Islander parties, land users, researchers and planners in assessing and managing cultural heritage.

The register is publicly available and includes information about Aboriginal and Torres Strait Islander parties, registered Aboriginal and Torres Strait Islander cultural heritage bodies, Cultural Heritage Studies, Cultural Heritage Management Plans and designated land use areas.

The database records cultural heritage and may be made available to Aboriginal and Torres Strait Islander parties if the information relates to the party's area of responsibility, to land users if the information is necessary for them to satisfy their duty of care and to researchers.

Question - Is there a need to make improvements to the processes relating to the cultural heritage register and database – if yes, what needs to be improved and what changes should be considered?

QSMC Comments

Native title Holders and Aboriginal Custodians have a Duty of Care to accurately record areas which have been surveyed and provide descriptions of any cultural heritage and locations

All areas that have been, or will be in the future, be subject to a Cultural Heritage Inspection/survey, in accordance with a Cultural Heritage or Native Title agreement should be recorded on the Register and DATSIP's Cultural Heritage Data base.

All Cultural Heritage finds should be recorded on the Register and the DATSIP database.

This must become a legislated requirement under the CH Act, and be retrospective legislation.

It is difficult for any Land User to facilitate their Duty of Care if the Aboriginal peoples and their representative bodies or their legal representatives do not provide information & updates of Cultural heritage Surveys to the Register of DATSIP.

It is hard for anybody to protect something if you aren't informed where it is.

These conditions must be also included in the Duty of Care Guidelines

The Small Scale Miners believe that all Cultural Heritage Inspection areas & sites should be recorded on the DATSIP database, this will assist in providing Land Users and Aboriginal Parties access to this information and, in time, provide maps of Cultural Surveyed areas which would no longer require resurvey by aboriginal parties

DATSIP Review Discussion Paper

Question

Do you have any other input, ideas or suggestions on how the Cultural Heritage Acts could be improved to achieve their objectives of recognising, protecting and conserving cultural heritage?

QSMC Comments

Cultural Heritage protection of Mining sites and Areas

The Queensland small Miners would like to know what steps are being taken to preserve the States Small Scale Miners and our Culture and heritage.

That is, how the State proposes to afford to record & manage all the historical mining sites of significance in Queensland and how does the State intend to preserve the rights and aspirations of Small Scale Mining so future generations can experience the unique vocational opportunities that these industries can afford so current and future generations can enjoy and experience these vocations and make their own mark on contemporary history.

Duty of Care Guidelines.

The Duty of Care Guidelines could be redrafted to include better descriptions and photographs of Cultural Heritage items help with Land Users particularly those less experienced identifying Cultural Heritage.

The Duty of Care Guidelines should include the duty of care obligations of both the Land User and the Aboriginal custodians.

These handbooks could then be distributed to Land Users by either DATSIP or Regulating authorities (DME or EHP) when tenure applicants apply for a Future Act tenures.

Educating the general public on Cultural Heritage and the protocols is also the responsibility of the State.

The Native Title Protection Conditions - Expedited Procedure

The Expedited Procedure is a Cultural Heritage process outcome negotiated by the then Queensland Indigenous Working Group, the State the then and Queensland Mining Council (now QRC), who represent the Big end "Oil and Gas Miners," in 2002- 2003.

The NTPC's which were designed for low impact activities for Oil and Gas Industries, which basically provided a fast-track for Cultural heritage regime so seismic operations could proceed with pre-set conditions and was negotiated between these parties above under Section 237 of the NT Act 2003

This negotiation "excluded small miners" from participating and was designed and agreed specifically between these parties above.

By and large small-scale miners cannot afford the processes and costs of the NTPC's which the Oil and gas companies can dispense from their shareholders, with the actual negotiators, impervious to the costs that they had committed their shareholders to foot.

Recently some Native Title Parties Representative Groups have been touting the Expedited Procedure process as the associated costs as the “minimum Industry standard for Cultural Heritage Protection for Mining, including Small Scale Mining.

This is not the case, as Small Scale Miners were not included in the consultation, and in fact deliberately excluded.

Most small scale mining and exploration is “High Impact” and hence progressed under the Right to Negotiate (RTN) Process.

The States Small Mining Representative Groups categorically repudiate any connection to this agreement and would not support this Native Title Protection Conditions or the costs associated of this agreement being used as a model agreement for small scale miners for any form of Cultural Heritage Agreements for our Industries.