

# Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan

Prepared for Tweed Shire Council

By

**Ian Fox** (B.App.Sc.Hon 1)

Researcher, Bundjalung Mapping Project  
School of Environmental Science & Management  
Southern Cross University

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Cobaki Broadwater – Photo: Ian Fox

Aboriginal Family Terranora Broadwater 1890 – Photo: Tweed River Regional Museum

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# **Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan**

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## Acronyms used in this management plan

AAC – Aboriginal Advisory Committee  
ACHMP – Aboriginal Cultural Heritage Management Plan  
AHIMS – Aboriginal Heritage Information Management System  
BMP – Bundjalung Mapping Project  
DCP – Development Control Plan  
DEC – Department of Environment and Conservation  
NPWS – National Parks and Wildlife Service  
SCU – Southern Cross University  
TBLALC – Tweed Byron Local Aboriginal Land Council  
TSC – Tweed Shire Council

## Acknowledgements

As is customary for all matters of Aboriginal cultural heritage I would like to firstly acknowledge Aboriginal Elders and the areas Aboriginal ancestors. I trust that cultural information in this Plan is respectfully treated and would meet with their approval.

Preparation of the Plan has been possible only with the support of many in the Aboriginal community including: Des Williams, Jackie McDonald, Aunty Joyce Summers, Clarence Phillips, Desiree Rotumah, George Scott, Lesley Mye, Laweena Williams, Anthony Randall, Carol Dawney, and Kyle Slabb on behalf of his father Kevin. These people, and others of whom I am not directly aware, have commented upon and endorsed inclusion of information in various sections.

Tom Alletson kindly provided statistical information for the area, Bill Bainbridge supported the historical research and Scott Newman prepared the maps to an exacting standard.

Thank you to all.  
Ian Fox

## **1. Introduction**

### **1.1 Project background**

The requirement for an Aboriginal Cultural Heritage Management Plan for Cobaki and Terranora Broadwater is an initiative of Tweed Shire Council (TSC) and was identified during a review of the catchment management policies for environmentally sensitive sub-catchments within the Shire. Council sought advice from the Aboriginal Advisory Committee (AAC) for the inclusion of Aboriginal culture in catchment management initiatives and this resulted in an endorsement from the AAC for the inclusion of a fully prepared plan.

The Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan (ACHMP) is a component plan and is to be read in conjunction with the Cobaki and Terranora Broadwater Catchment Management Plan.

Following advice from the AAC, Tweed Shire Council engaged Southern Cross University Researcher, Ian Fox, to prepare the plan in close consultation with members of the local Aboriginal community. A feature of the plan is the recording of Aboriginal Cultural information in a culturally appropriate way. Guidelines developed during the 'Bundjalung Mapping Project' (a major research initiative of Southern Cross University and the regional Aboriginal community) have been used to ensure that precise site location details are not disclosed within the plan. Should such information be required it is the expressed wish of Aboriginal traditional owner descendants and knowledge holders that they be contacted directly, so that they may specifically advise on the management and conservation of their particular sites. Accordingly, contact details are provided in Section 2.3 for those Aboriginal groups and individuals who wish direct involvement with the Implementation Strategies of Section 6.3.

### **1.2 Environmental context**

The Cobaki and Terranora Broadwaters form part of the Lower Tweed River Estuary and as such contain important fish breeding and estuarine habitat. The interconnected network of shallow embayments, mudflats, and mangrove islands, contain a diversity of both marine species and significant numbers of local and migratory birdlife. Although an integral part of the Lower Tweed River Estuary, the Cobaki Broadwater (26km<sup>2</sup>) is also fed from Cobaki Creek (11km<sup>2</sup>) and Piggabeen Creek (13km<sup>2</sup>), with a total catchment area of 50km<sup>2</sup>. There are areas of relatively pristine habitat that include wetland, wet sclerophyll and rainforest ecological communities. Terranora Broadwater (34km<sup>2</sup>) is fed by Bilambil Creek (22km<sup>2</sup>) and Duroby Creek (13km<sup>2</sup>), with a total catchment area of 69km<sup>2</sup>. In addition to the significant aquatic habitat there are areas of extensive wetland, seagrass, mangroves, saltmarsh and freshwater swamp ecological communities. Landuse within each creek sub-catchment is dominated by rural residential blocks and some small farm holdings with a mix of agricultural activities. Elevated ridges surrounding the Broadwaters, particularly Terranora in the east and Bilambil Heights in the centre,

contain extensive areas of urban residential development. Part of Cobaki Broadwater is within Commonwealth land and this portion also contains the Gold Coast Airport facility which is adjacent to the northern and eastern shoreline. The Commonwealth land and airport facility also straddle the New South Wales and Queensland State Border.

### **1.3 Aims and objectives**

The aims and objectives of the Cobaki and Terranora Aboriginal Cultural Heritage Management Plan are to:

- Enhance understanding of the natural environment by integrating values of both Aboriginal and natural heritage.
- Enable a systematic approach involving Aboriginal people for the assessment of heritage significance and management initiatives for protection of Aboriginal sites and places.
- Educate the broader community on traditional Aboriginal occupation of the area.
- Promote the maintenance of Aboriginal culture through a mechanism by which Council and the community can determine the likelihood of land with potential to contain a site of Aboriginal heritage significance.
- Directly involve the local Aboriginal community in the planning process and ensure their consultation for management and site conservation initiatives.
- Assist Tweed Shire Council to meet corporate objectives and statutory requirements.

### **1.4 Aboriginal participation and consultation**

Consultation and participation with local Aboriginal organisations and resident traditional owner descendants is considered to be an integral component of the plan. Procedural process and protocols have been established in accordance with the Department of Environment and Conservation (DEC) guidelines, listed in the NPWS document, *Northern Rivers Region Cultural Heritage Management Strategy 2003-2007*. The guidelines adopted include the following.

- Initial introduction of the concept and framework for an ACHMP with an appropriate community organisation (in this case the Tweed Shire Council Aboriginal Advisory Committee).
- Establishment of protocols and aims and objectives of the ACHMP with the Aboriginal Advisory Committee.

- Reviewing and updating the list of Aboriginal places and landscapes within the area of the ACHMP.
- Input from the identified Aboriginal community stakeholders for the conservation and management of Aboriginal places and landscapes.
- Review opportunity for the Aboriginal community of the ACHMP, as a draft document prior to completion.

The procedure and protocol for recording and reviewing cultural information has been adapted from the SCU Bundjalung Mapping Project. This procedure requires that detailed site information be obtained, in the first instance, from the Tweed Byron Local Aboriginal Land Council who will then contact an appropriate traditional owner or knowledge holder if necessary. The TBLALC has access to an electronic database of all known cultural sites and places within their Land Council area. An abridged level of cultural information is also available on the DEC (NPWS) Aboriginal Heritage Information Management System (AHIMS) database, which is cross-referenced to the TBLALC BMP database. Contact details for access to further cultural information and site detail is included in Section 2.3.

## **2. Methodology**

Methodology includes a review of existing data and records concerning Aboriginal sites and places within the catchment areas; a series of field inspections with knowledge holders and members of the local Aboriginal community; and identification of appropriate Aboriginal organisations and individuals who wish to be consulted for issues relating to this ACHMP.

### **2.1 Review of existing data**

Consulted documents and sources of information include:

- NSW Department of Public Works, River Management Plan, Lower Tweed Estuary, Archaeological Assessment Technical Report No.5, by Adrian Piper, September 1991.
- An Assessment of Aboriginal Sites at the Coolangatta Airport, a report to Gutteridge Haskins and Davey, by Dr J. Hall UQASU, 12 February 1990.
- Tweed Shire Council, Development Control Plan No.17, Cobaki Lakes, in force as at 15 September 1994.
- Pacific Highway Tugun to Tweed Heads Bypass Route Selection Study: Cultural Heritage Assessment, a report to Connell Wagner Pty Ltd, by Jacqueline Collins consultant archaeologist, October 1999.

- Tugun Bypass Environmental Impact Statement, Technical Paper Number 15 Cultural Heritage Assessment, a report to Parsons Brinckerhoff, by Bonhomme Craib and Associates, October 2004.
- Eastern Yugambah and Tweed Byron Local Aboriginal Land Council, Preliminary cultural heritage survey of the proposed C4 Tugun Bypass, a report for QLD DMR, April 2005.
- Tweed River Regional Museum research facility, Kennedy Drive West Tweed Heads. Literature review of historical records and interview transcripts.
- Bundjalung Mapping Project computer database of Aboriginal sites and places. Access permission via the TBLALC and Southern Cross University Project Director, Dr Bill Boyd.

## **2.2 Field activity and site validation**

A series of site inspections have been undertaken in conjunction with the Bundjalung Mapping Project. Access permission, where necessary, was with the consent of private landholders. Known Aboriginal sites and places within the Cobaki and Terranora Broadwater catchments were visited and assessed for significance values as well as protection and management issues. Local traditional owners, knowledge holders and the TBLALC were consulted prior to site visits and participated in site inspections where deemed appropriate. TBLALC nominees, Des Williams (Community Support Officer), George Scott (Sites Officer), Jackie McDonald (Traditional Owner Descendant), and Joyce Summers (Community Elder), have validated and endorsed the site record for the area and ensured that gender issues and cultural protocols were appropriately considered.

## **2.3 Contact list of Aboriginal organisations and knowledge holders**

It is acknowledged that a number of organisations and many individuals within the Aboriginal community may hold cultural knowledge and information, either general, or specific to certain sites and places. Some knowledge holders may no longer be resident in the area. Accepted protocol is that resident traditional owner descendants be contacted, in the first instance, and they will decide if further action is necessary on matters of cultural interest.

The following local organisations and resident traditional owner descendants have expressed an interest in providing information and maintaining the recommendations and implementation strategies of the Cobaki and Terranora Broadwater ACHMP.

- TSC Aboriginal Advisory Committee  
Contact: Lesley Mye (TSC Aboriginal Liaison Officer)  
P.O. Box 816, Murwillumbah, NSW, 2484  
Phone: 02 66702492

- Tweed/Byron Local Aboriginal Land Council  
Contact: Clarence Phillips (Coordinator)  
P.O. Box 1410, Kingscliff, NSW, 2486  
Phone: 02 66743600
- Minjungbal Resource Museum & Study Centre  
Contact: Desiree Rotumah (Director)  
P.O. Box 6231, Tweed Heads South, NSW, 2486  
Phone: 07 55242109
- Knowledge holder and resident traditional owner descendant:  
Ms Jackie McDonald  
Tringa Street, West Tweed Heads, NSW, 2485  
Phone: 07 55369629
- Knowledge holder and resident traditional owner descendant:  
Mr Kevin Slabb  
Letittia Road, Fingal Head, NSW, 2487  
Phone: 07 55241488 or 07 55232119
- Knowledge holder and resident traditional owner descendant:  
Ms Carol Dawney  
Blundell Boulevarde, South Tweed Heads, NSW, 2486  
Phone: 07 55131219
- Knowledge holder and resident traditional owner descendant:  
Mr Anthony Randall  
Darlington Drive, Banora Point, NSW, 2486  
Phone: 07 55244921

### **3. Ethno-historical context**

The following historical documents and sources contain information relevant to the Cobaki and Terranora Broadwater ACHMP. The referenced documents provide a history of regular large gatherings of traditional Aboriginal people along the Tugun sand plain, Lower Tweed Estuary, and adjacent Broadwater shorelines. The significant number of remaining middens and campsites within the area support the historic record. (Copies of source documents are held with the Tweed River Regional Museum library and/or the Bundjalung Mapping Project database).

- The journals of Joseph Banks, on Wednesday 16 May 1770, referred to “*many fires on an extensive plain in which we supposed there to be a lagoon*” when the *Endeavour*, under the command of James Cook, was abreast of the coast and

north of Point Danger. The fires are thought to be indicative of a large Aboriginal camp behind the fore dune close to the Cobaki Broadwater shoreline.

- In 1823 the explorer John Oxley sighted “*natives collecting along the shore in great numbers*” as his vessel, the *Mermaid*, was near Point Danger. Journals also record “*about 200 Aborigines (armed with spears) assembled on Fingal Head*” as the *Mermaid* departed. Oxley surveyed some portions of the Lower Tweed and describes the presence of Aboriginal shelters and campsites.
- In an official letter to the Surveyor General on 3 August 1840, Robert Dixon, during his survey from South Passage to the Richmond River, wrote of his sighting of “*a very large encampment of natives....whose numbers must be above 300.....and they had a corobery the night before.*” Dixon’s location at the time was between Tallebudgera Creek and Point Danger, in the vicinity of Cobaki Broadwater.
- The Tweed Daily Centenary Supplement of 1923 describes the arrival of the first “*Pioneer cedar cutters of the Tweed.....The party from Sydney entered the river in 1844 and found Burgess and party (from Moreton Bay) recently arrived and surrounded by 400 Aborigines.*” The further arrival of Europeans was enough to avoid confrontation at that time, and heralded permanent European settlement of the area.
- The notes and official communication of surveyor Roberts, who in 1864 surveyed the NSW/Queensland border, record his preference for local Aboriginal people to assist his work. Roberts used local Aboriginal names for topographic features along the survey route. These names are still recognised and identify the catchment boundaries as well as the border route.
- In 1885 JG Appell gives a first hand account of the “favourite” Aboriginal camp at Tugun and identifies its Aboriginal name, “Murraba” (also spelt “Murawba”), when describing his observations (Logan Witness, 25 July 1885). This is the same name given by surveyor Roberts to a nearby topographic feature along the NSW/Queensland border.
- The recollections of Captain Joe Kirkwood describe an Aboriginal camp north of Kirra and near the mouth of Coolangatta Creek in 1869. Kirkwood tells of “*boomerang throwing, feasting, and war dances, plus the mysterious disappearance of a tribal member in the nearby lagoon*” (Queenslander Newspaper, 10 July 1924). In more recent years the lagoon has been filled to make way for the airport and runway construction.
- Members of the Farrell family, an original European family who settled the Tugun/Currumbin area, have provided first hand accounts to the Tweed River Regional Museum. They speak of their close association and contact with individuals from the local traditional Aboriginal community. In particular they

speak of the location and disturbance of Aboriginal burials in the area and their deep respect and recognition of cultural displacement, which came with the arrival of greater numbers of Europeans.

- Several interview transcripts held by the Tweed River Regional Museum describe contact and association with the areas traditional Aboriginal people. One interview conducted with the late Teddy Telford, in June 1999, describes an important Aboriginal ceremonial site within the Cobaki and Piggabeen Creek sub-catchments.

In addition to the written record of Aboriginal use and occupation of the area is an oral history record which is known to some members of the Aboriginal community. Oral history traditions are a feature of Aboriginal culture and should be included in any research and ethnographic record. The oral history record as told by the traditional owner descendants (listed in Section 2.3), includes knowledge of cultural customs including hunting and food gathering techniques, spiritual beliefs, special site or location stories, and knowledge of significant sites such as burial grounds. General disclosure of such information can be at odds with cultural tradition and therefore advice from the knowledge holders and traditional owner descendants has been sought prior to any inclusion in this ACHMP. It should be recognised that some traditional owner descendants continue to visit sites and express cultural traditions to the present day. Their views concerning the recording of certain sites have been respected, although general elements of their oral history have been included in the following two sections.

### **3.1 Tribal boundaries and traditional groupings**

The historic record provides a confusing account of tribal names and traditional groupings for the area<sup>1</sup>. This reflects a lack of understanding of Aboriginal culture and traditions by many of the areas early European settlers. However, the recollections of one of the early cedar getters, Ned Harper<sup>2</sup>, are regarded as accurate by both later historians and today's traditional owner descendants. Harper was among the first Europeans to enter the Tweed in 1844 and became a fluent speaker of local Aboriginal language dialects. He also married an Aboriginal woman and remained in the area of the Tweed River for many years. Describing his early days on the Tweed, Harper, in the *Queenslander* newspaper of 1 September 1894, identifies the name for traditional Aboriginal people along the North Arm of the Tweed River as the *Tul-gi-gin tribe*.

The Tul-gi-gin people were one of three groups of the Tweed Valley. Their country probably included the Cobaki and Terranora Broadwaters and connected sub-catchments, as the northern boundary is believed to have been Tallebudgera Creek and inland to the

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<sup>1</sup> Author of this ACHMP, Ian Fox, has previously undertaken a review of historic references to traditional Aboriginal people of the area which supports this statement and identifies more than 50 group names. A reference for the review is included in Section 7.

<sup>2</sup> Ned Harper's stories were featured in the Journal of the Tweed Heads Historical Society, The Log Book, Number 69 December 2004.

Springbrook plateau<sup>3</sup>. The southern boundary was the Tweed River inland to Tumbulgum and along the northern bank of the Rous River to the Border Range and Springbrook escarpments. This circumscribes a comparatively narrow stretch of country, from the coast to the inland ranges that was occupied by a distinctive Aboriginal group, who according to Ned Harper, were of both impressive physical stature and aggressive manner.

The two other groups of the Tweed Valley were the Cooginburra people, who occupied the coastal strip south from the Tweed River to around Pottsville and inland to the Condong Range, and the Moorung-Moobar who occupied the balance of the valley around Wollumbin (Mt Warning). Some historic records, for example, that of Police Magistrate during the 1860's, Joshua Bray<sup>4</sup>, place the Moorung-Moobar in the same location as the Tul-gi-gin. Bray names another group, the *Murwillumbah tribe*, for the area of the Moorung-Moobar. The view of traditional owner descendants<sup>5</sup> is that Bray is less likely to be correct because he came to the Tweed some 18 years after Harper, and records his observations at a time when Aboriginal social organisation and group structure was increasingly impacted by European settlement.

The recognised language name for traditional Aboriginal people of the Tweed is Ngandowal, which is regarded as a dialect of the greater Bundjalung – Yugambeh language chain<sup>6</sup>. However a second language dialect, Minyungbal, is also recorded for the area but it is more widely accepted that this dialect was spoken in the Brunswick Valley and along the Tweed Coast in the area of the Cooginburra people. Although some historic sources identify Minyungbal spoken as far north as Southport, Ngandowal is more often identified as the Tweed language. It should be noted that adjacent dialects of the Bundjalung – Yugambeh language chain generally have around 70% to 80% common word usage.

Oral history and family connections of today's traditional owner descendants point to a strong social connection between the Beaudesert region and the Gold Coast Hinterland for people of the Tweed<sup>7</sup>. There are numerous records of marriages and social gatherings between people of these areas in historic accounts but less so between the southern neighbouring groups of the Brunswick and Richmond River Valleys.

Population records for traditional aboriginal people vary greatly across the region. In 1844 the first European sawyers to enter the Tweed were met by around 400 Aboriginals; Ned Harper records around 200 men and women for the Tul-gi gin people in 1845; explorer John Oxley sighted about 200 men assembled on Fingal Head in 1823; and Robert Dixon, in an official letter to the Surveyor General in 1840, records a very large

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<sup>3</sup> Personal communication with traditional owner descendant, Jackie McDonald, and the unpublished reminiscences of Bill Hanlon referenced in Section 7.

<sup>4</sup> Joshua Bray kept a daily diary, copies of which are held at the Tweed River Regional Museum library. Bray also published articles in journals of the day including *Science of Man* referenced in Section 7.

<sup>5</sup> Jackie McDonald and Kevin Slabb.

<sup>6</sup> Accepted by both the TBLALC and traditional owner descendants as well as published authors, Keats, Steele, and Crowley referenced in Section 7.

<sup>7</sup> Personal communication Des Williams, Jackie McDonald, and Aunty Joyce Summers.

encampment numbering above 300, in the vicinity of the Cobaki Broadwater and the present day Airport. It is likely that total population figures from early European records remain understated because there is no record of the devastation caused by the rapid spread of smallpox among the regions Aboriginal people around 1831, prior to permanent European settlement. It has been estimated by researcher Judy Campbell<sup>8</sup> that up to one half of the areas Aboriginal population perished as a result of this one epidemic.

### **3.2 European impacts**

The most immediate impact on Aboriginal people was the rapid spread of European sourced illness and disease to which the areas traditional owners had no natural immunity. In addition to the 1831 smallpox epidemic, which spread through most of Eastern Australia, the Tweed and Richmond Aboriginal people suffered markedly through two further epidemics of influenza and dysentery in 1858 and 1865. The Tweed Daily Centenary Supplement of 1923<sup>9</sup> records that nearly one third of all Aborigines along the coast died in 1858 and hundreds succumbed to dysentery in 1865.

Permanent European settlement on the Tweed from 1844 heralded the rapid breakup of social structure for Aboriginal people, through not only death from illness, disease and confrontation (involving poisonings and massacres), but loss of access to traditional sites and places. The arrival of the first pastoralists in 1863 lead to land selection from 1866 and exclusive land use over large areas of the Tweed by Europeans<sup>10</sup>. A timber cutters camp was set up on the banks of Terranora Creek from 1844 and this became a central base for timber getters, merchants, and a fledgling boat building industry in the early years.

An account attributed to historian N.C. Hewitt in 1929 records the fact that the Aboriginal population recorded during the 1876 census was 149 and by 1887 numbers had decreased to 97, 15 of whom were of mixed ancestry<sup>11</sup>. The Tweed River census of 1891 and 1901 gives a breakdown of family names and a total of 48 and 81 individuals respectively. A copy of these census records, which are regarded as indicative only, is held with the Tweed River Regional Museum.

Impacts upon the Cobaki and Terranora Broadwaters centred on the timber industry and the movement of logs to sawmills, prior to latter practices of full scale land clearance and pastoral activity. Traditional Aboriginal campsites close to the Broadwaters were progressively impacted as access to favoured sites was denied and the once abundant supply of fish and shellfish was exploited by the growing demands of European settlement. A photograph of a traditional Aboriginal family of this time, camped on the

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<sup>8</sup> Judy Campbell published her research on the spread of smallpox in Aboriginal Australia during the 1830's, referenced in Section 7.

<sup>9</sup> The 1923 Tweed Daily Centenary Supplement contains a significant amount of original source information. A supplement copy is held with the Tweed River Regional Museum library and a photocopy is included in the BMP database.

<sup>10</sup> Joanna Boileau provides a detailed account of European history on the Tweed in her recently published book, *Caldera to the Sea*, referenced in Section 7.

<sup>11</sup> Personal communication Bill Bainbridge, Tweed Heads Historical Society.

eastern foreshore of Terranora Broadwater, is included on the cover of this document. This is the oldest known photographic evidence (1890) of traditional Aboriginal people who lived at the Broadwater, and is supplied courtesy of the Tweed River Regional Museum.

#### **4. Record of Aboriginal archaeological sites and significant places**

A survey of the Aboriginal Heritage of NSW, conducted during the mid 1980's by Howard Creamer of the National Parks and Wildlife Service<sup>12</sup> noted that by reference to survey records it was possible to demonstrate that the main cause of interference and destruction of all Aboriginal sites was, in order: agricultural development; housing/urban development; deliberate vandalism; mining; recreational interest; natural causes; and road making. It is therefore important to recognise the range of Aboriginal cultural sites and places which may remain within the geographic boundary and catchment area of this ACHMP.

The following descriptions of site types and their usual landscape locations are adapted from the published texts of author and archaeologist Josephine Flood<sup>13</sup>. They are also consistent with site descriptions used by the National Parks and Wildlife Service Aboriginal Heritage Information Management System (AHIMS). Profiles and locations are supplemented with personal observations gained from field surveys and site visits undertaken in conjunction with the Bundjalung Mapping Project. It is possible for evidence of one or more site types to be present at specific locations. Aboriginal people may also regard two or more site locations to be connected, or linked, in a spiritual or cultural sense and this connection should be regarded as a very real feature of Aboriginal belief systems.

##### **4.1 Profile of site types and locations**

###### Open campsites

Open campsites or surface artefact scatters are areas within the open landscape which show a concentration of debris associated with human occupation. Stone artefacts are the most common indicators and they may occur at surface or subsurface levels, almost anywhere that Aboriginal people have travelled and engaged in activities such as camping, gathering or manufacturing and maintenance of tools.

This ACHMP identifies ten open campsites, of which almost all are located on elevated level areas of ridgelines or sand ridges adjacent to the Cobaki and Terranora Broadwaters. A common location factor is that all the sites are close to a permanent fresh water source such as a spring or small stream.

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<sup>12</sup> The NPWS is now incorporated into the Department of Environment and Conservation and Howard Creamer's survey role was published in a journal referenced in Section 7.

<sup>13</sup> Josephine Flood has written extensively on the subject of Aboriginal site types and their landscape relationship, a relevant text is referenced in Section 7.

### Isolated artefacts

Isolated artefacts occur at surface or subsurface levels without other evidence for associated human activity. They are single artefacts, usually stone, which are greater than 50m from any other Aboriginal artefact or place, and may occur anywhere in the landscape. While isolated artefacts may be in their original places of deposition, they may also have been transported or relocated due to fluvial processes or during any mass movement of the land surface.

One isolated artefact site was identified for this ACHMP. The random nature of an isolated artefact location does not provide enough evidence to suggest a preferred landscape position. However, it is not uncommon to locate further artefacts in proximity to isolated finds with continuing archaeological investigation.

### Occupational deposits in rockshelters and caves

Occupational deposits refer to any debris that remains in caves, rockshelters, cliff overhangs or boulder outcrops as a result of human occupation for shelter. Rock shelter sites tend to have relatively dry and level sediment floors and may be situated close to a water source and/or major ridgeline. They are important archaeologically because they may contain well preserved stratified material which can be analysed and dated to determine the nature and duration of prehistoric use. Shelters protected from the elements can also contain cultural expression in the form of drawings and/or paintings, and some rockshelters have been found to contain burials.

One rockshelter which may contain significant occupational deposits was identified within this ACHMP area. The shelter is within rhyolite and pyroclastic bedrock close to the upper reaches of the Piggabeen Creek catchment. Personal observation of similar shelters identify common features for their location in that they tend to be at the base of exposed escarpments, where there is an occurrence of significantly different geological substrate material which is readily eroded, such as pyroclastic rock types.

### Middens

Middens are deposits or refuse heaps which largely consist of mainly marine, estuarine and/or freshwater shells. They are the remains of numerous Aboriginal meals of shellfish and can be distinguished from natural deposits of shell due to the concentration of selected mature specimens of edible species, rather than a mix of immature and non-selected species which can occur in natural accumulations. The occurrence of middens is usually within coastal littoral environments in dune deposits, or around headlands and elevated ridges in estuarine environments. Middens may also contain stone and bone artefacts, charcoal, and in some locations human burials, and can vary from shallow surface scatters of shell to deep stratified deposits.

Twenty midden sites were identified within the area of study of this ACHMP. All are located close to coastal and estuarine marine resources and many contain features typical of an open campsite location. One site is directly associated with ceremonial activity. A group of sites known collectively by the Aboriginal name “Murraba” is located partly within Commonwealth land on the northern shore of the Cobaki Broadwater.

### Quarries

Both stone and ochre quarries may be found, although ochre quarries are relatively rare. A stone quarry can usually be recognised by the large amount of manufacturing debris such as waste flakes and utilised cores, and the presence of partly shaped artefacts. Quarries are located at points where siliceous rock types or ochre are exposed and accessible. High quality ochre was a sought-after resource, and could be traded over hundreds of kilometres. Quarries provide information on Aboriginal technology and exchange networks as the origin of stone tools and artefacts may be determined.

No quarries were identified within this ACHMP study area. However, a midden and campsite for stone tool manufacture is located within Commonwealth land and the “Murraba” complex, on the northern shore of Cobaki Broadwater. Quantities of ochre brought to the area have also been noted at this location<sup>14</sup>. Further archaeological investigation is required for the site which is currently under threat from proposed Airport construction activity.

### Grinding grooves

Artefact grinding grooves are a by-product of manual rubbing of an artefact, such as a stone axe, to grind and sharpen its surface. They are found singularly or in groups on generally flat areas of soft rock, particularly sandstone, near upper catchment creek beds or other sources of water which is required during the manufacturing or resharpening process. The shape of grinding grooves are usually characteristic of their purpose for tool shaping, but other grinding patches may be the result of food preparation, such as seed grinding, or crushing ochres used for painting and ceremonial purposes.

No sites of this type have been identified in the area of this ACHMP.

### Scarred trees

Scarred trees (also known as marked trees) are the result of bark removal from a living tree to make various artefacts such as canoes, shields, and containers. Scars can also result from cutting toe holds to facilitate climbing or from carving designs which may be associated with ceremonial practices. Scarred trees were once very common all over Australia, but are becoming increasingly rare because of loss through natural decay, bush fires and land clearing. Due to the possibility of scarring by natural (e.g. fire) or other non-Aboriginal means, such as bark removal by early European settlers, scarred trees can be difficult to conclusively identify.

Two possible scarred trees were identified at separate locations within the study area. They were visited by an Aboriginal sites officer in order to seek identification advice and significance values, and both were concluded to be probable Aboriginal scars.

### Fish traps

Fish traps consist of barriers of stone walls, sometimes surmounted by wood or reed fences, which form enclosures to trap fish as waters recede. They are usually located in

<sup>14</sup> Personal communication Anthony Randall and Jackie McDonald.

tidal areas such as coastal river or creek estuaries, but have also been identified on inland creeks and rivers.

No sites of this type were identified in this ACHMP area although it is likely that such sites existed within the Broadwater estuaries or the permanent creeks of adjacent catchments.

#### Burial sites

Aboriginal people feel very strongly that the remains of their ancestors should not be disturbed and that all burial sites should be both protected and respected<sup>15</sup>. Generally, burial sites are not subject to public visitation and no Aboriginal skeletal remains are displayed in Australian museums. Burial sites may be associated with soft sediments such as sand or alluvium, middens, rockshelters or caves, and locally have also been recorded in hollow trees or tree forks at certain locations. Burials may be located during site survey only if they have been exposed through erosion or when some disturbance of sub-surface sediments has occurred. There are severe penalties for interfering with human remains in any way and any remains which may be exposed through natural processes, or during development works, are subject to government controls and are subsequently returned to the Aboriginal community for immediate re-burial.

There is considerable anecdotal and historical evidence that Aboriginal burial sites are located in what is now an urban area close to Philp Parade and adjacent to Terranora Creek, and within the “Murraba” complex on the northern shore of the Cobaki Broadwater. A former sand quarry on land between Anconia Avenue and Piggabeen Road is rumoured to have contained Aboriginal burials. A registered burial site is located within Commonwealth land at the eastern end of the Airport. Reflecting the long period of Aboriginal history in the region burial sites can sometimes be located in areas where there is no record or knowledge of their presence.

#### Rock art

The subjective term ‘art’ is more correctly described as ‘cultural expression’ in reference to traditional Aboriginal culture, but is used with approval in this ACHMP to minimise confusion with a word description that is more widely understood. Throughout Australia Aboriginal rock art sites are more open and accessible to visitors than any other site type. However, only one recorded site is known to exist in the Tweed Shire, and therefore it is very significant to local Aboriginal people. Rock art deteriorates through natural agencies such as algal growth in moist conditions, erosion and exfoliation of rock surfaces. Art medium can consist of ochre, charcoal or blood which is fixed with resin or bees’ wax. Rock surfaces may also be engraved by abrasion or pecking techniques. Art styles are varied and may be either drawings, paintings, petroglyphs, stencils, tally marks or any combination of these styles.

No art sites are recorded in this ACHMP study area. However, rockshelters containing surface visible artefact material may potentially be located in remote and inaccessible

<sup>15</sup> Personal communication Des Williams.

areas of the upper catchments and it is possible that some may also contain art sites yet to be rediscovered.

#### Ceremonial sites

Ceremonial sites occur widely across the landscape and can take many forms. Some contain structures and in the wider region these comprise either stone arrangements or circular earth arrangements known as bora grounds. They are defined by arrangements of placed stones or constructed earthen embankments that can be associated with any Aboriginal ceremonial activity and are usually part of a complex of two or more rings linked by paths. Bora grounds have social, cultural, spiritual, and political values attached to them. They are particularly vulnerable to destruction during land clearing and farming practices, as they are usually low mounded circles of earth on level ground which is also suitable for agricultural cultivation. Stone arrangements vary widely in form and can consist of simple cairns, or piles of stones, to complex groupings of stone circles, single lines, corridors or other designs. Stone arrangements were sometimes constructed in conjunction with bora grounds but may also occur in relatively inaccessible places, such as mountain tops or topographic features. Ceremonial sites are very significant to Aboriginal people and consequently the location of some sites remains confidential.

One ceremonial site of earthen rings and associated midden deposits is located in an elevated location of the Cobaki Creek catchment. The location is known to traditional owner descendants<sup>16</sup>, but is located on private property, and was not able to be accessed during field inspections for this ACHMP. A second ceremonial site is located just over the Queensland Border at Tugun and is regarded as part of the “Murraba” complex which extends along the northern shore of Cobaki Broadwater.

#### Natural sacred sites

Although geographical and natural features of the landscape contain no material evidence of Aboriginal ownership or use, some are of considerable traditional significance to Aboriginal people. These sacred sites which may be a rock formation, mountain, waterhole, cave, or other natural feature, represent a direct link between contemporary Aboriginal custodians and their traditional culture. The whole landscape can represent physical proof of spiritual belief in the Dreamtime, the era of creation. Stories, songs, dances, rituals and sacred objects may be associated with such sites. The places of ancestral beings are believed to be linked together in a Dreaming Track or Songline, along which a connecting pathway would be used by traditional people, where food and water could be found and where rituals must be performed. Many natural sacred sites have a story which is for general public information. However, there may be deeper levels of meaning and knowledge which are restricted to senior traditional owners.

One important site is located on elevated ground at the eastern catchment extremity. It should be recognised for this ACHMP that many topographic features along the New South Wales and Queensland border (and catchment boundary), are identified by their original Aboriginal name as given by Surveyor Roberts during the Border Survey of

<sup>16</sup> Personal communication Jackie McDonald.

1864<sup>17</sup>. These names have cultural significance to Aboriginal people and are associated with access pathways used by traditional Aboriginal people when moving from the coastal plains and the Tweed River Estuary to the upland ridges and beyond the Springbrook Plateau and Border Ranges.

## 4.2 Information sources and current site record

There are currently two electronic databases of Aboriginal cultural information that include site details for the Cobaki and Terranora Broadwater and surrounding catchment areas. Sites and places on each database are cross referenced but the Bundjalung Mapping Project (BMP) database contains additional information for many sites which is endorsed, and maintained, by members of the local Aboriginal community. The second database is the Aboriginal Heritage Information Management System (AHIMS) maintained by the Department of Environment and Conservation (formally NPWS).

The AHIMS database meets the legislative requirements of the *NPWS Act 1974 (as amended)* and certain information is available upon payment of an access fee to DEC. The BMP database continues to be a resource primarily for the Aboriginal community however certain information is also available on request, which should be directed in the first instance to representative groups, such as Aboriginal Advisory Committees and/or Local Land Councils. With continued development cultural information contained in the BMP database may also be subject to an access fee but such a decision remains the prerogative of Aboriginal communities who protect, manage, and maintain their own cultural knowledge.

A Map Sheet Index and eight individual maps, labelled Map A to H, is included at the rear of this ACHMP. Each map identifies significant cultural sites within the Cobaki and Terranora Catchments which are marked as either a 'Location of Cultural Significance which contains Registered Sites' or 'Locations with a higher probability for containing sites of Cultural Significance'. The resulting hatched areas on each map meet this Plans objective of recording Aboriginal sites and places in a culturally appropriate way. They also provide a predictive ability to determine the likelihood of land with potential to contain a site of Aboriginal heritage significance.

## 4.3 Predictive site types and locations

Based on the spatial position of known sites throughout the Tweed Valley which have common landscape elements, it is possible to predict location elements for further sites which provide cultural evidence of a traditional Aboriginal presence within the area of this ACHMP<sup>18</sup>. The following predictive statements can be applied to corresponding

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<sup>17</sup> Sections of Roberts survey report and maps identifying traditional Aboriginal names for topographic features are held by the Tweed River Regional Museum library.

<sup>18</sup> The author of this ACHMP, Ian Fox, with the support of local Aboriginal community members has previously located a significant number of unregistered Aboriginal cultural sites within the Tweed and surrounding regions. A reference to earlier studies is included in Section 7.

landforms that are broadly identified in Maps A to H (included at the rear), as locations where there is a greater potential for archaeological evidence to be discovered. Note that this can be a subjective assessment and landscape areas which have been heavily modified by patterns of urban and rural settlement have generally been omitted.

- Ridgelines and spurs, which provide effective through-access across the surrounding landscape, will tend to contain more sites than neighbouring slopes and valley floors. The predominantly east-west orientation of major ridgelines in the area highlights the most direct route from coastal to upland resources.
- Flat areas on low relief spurs and saddles are likely to be a focus for occupation, due to their well drained and elevated location, their proximity to exploitable environments, and their role as vantage points for observation. Flat areas on saddles often contain archaeological evidence and demonstrate the preference for campsites within the inland ridge and coastal range landforms of this ACHMP area.
- In any type of vegetation or topographic zone, locally-elevated and well-drained ground, close to a freshwater source, is likely to contain open campsite evidence such as artefact scatters. This element is demonstrated at many of the identified sites because the availability of a reliable freshwater source is an integral part of campsite choice.
- Sites tend to be situated within ecotones, the areas at which different environmental zones meet. Identified sites are often in close proximity to contrasting environmental zones and would therefore provide a range of resources for campsite occupation and food supply. Ecotones may be identified by changing patterns in vegetation, contrasting soil and geological substrates or significant topographical variation.
- All rockshelters are likely to contain evidence of Aboriginal occupation, provided they are relatively dry and have a level floor. Preferred shelters are those which are at least 1m high, are situated on a major ridgeline, and are close to a water source. Rockshelters are most likely to occur along elevated and upland sections of the connecting creek catchments where numerous incised ridges and gullies are located.
- Estuarine midden sites are usually in slightly elevated ground, close to both the estuarine environment and sources of fresh water. Potential sites of this kind are likely to be found at any location surrounding the Cobaki and Terranora Broadwaters, particularly on elevated sand ridges which are part of the geomorphic history of the area.
- Older open sites and middens may be located on coastal terminating ridge spurs, which may once have been closer to the ocean and estuary shoreline during past

times of elevated sea levels. Sites of this type are likely on the many lesser elevated ridge spurs which surround the Terranora Broadwater.

- Burial sites may be found in occupation sites such as middens, or in landforms characterised by relatively deep and soft sediments, such as aeolian sand and alluvium. Soft sediments considered suitable for burial sites occur mainly within the fringing terraces of the Broadwaters, and to a lesser extent the alluvial terraces of connecting creek catchments.
- Scarred, or marked, trees may occur in any location where old growth trees survive, usually as part of a remnant or in uncleared continuous forest. Scarred trees may occur in conjunction with a campsite location and known examples are often species of Eucalypt.
- Grinding grooves usually occur in groups, and are typically situated close to, or are within, an upper catchment streamline containing flowing or pooled water. Relatively level sandstone substrate platforms are preferred, but other suitable abrasive rock exposures may be utilised.
- Many upland sites, including stone arrangement ceremonial sites, are positioned with direct lines of sight to mythological and geographic features of higher elevation. Sites may occur at locations which combine several of the predictive elements, and it is therefore important to have knowledge of local places which have focussed cultural practices and spiritual beliefs attributed to them. Such sites may potentially be rediscovered at any location within this ACHMP area, but particularly in areas of upper elevation where uninterrupted observation of both the coastal zone and the Mount Warning (Wollumbin) volcanic complex is possible.
- Pathways connecting ceremonial sites and coastal and upland resources tend to follow catchment watershed ridgelines, particularly those aligned in an east-west direction for the local region. Pathway location is assisted by identifying major watersheds, and to some extent other main ridgelines which divide sub-catchments. Within this ACHMP area the inland ridge divide that leads to the Springbrook Plateau provides a good example.
- Isolated artefacts can be found in any location, and may result from dispersal by natural means, such as fluvial processes, or, may represent deliberate or accidental discard. Due to the steepness of the connecting creek catchment terrain potential exists for rediscovery of isolated artefacts down slope of other known or potential sites within this ACHMP area, particularly where sites are known to be upstream on stream bank or watercourse terraces.

## **5. Conservation and management issues**

In New South Wales, the Department of Environment and Conservation (which now includes the National Parks and Wildlife Service) has the legislative responsibility for conservation and management of Aboriginal heritage. This legislative responsibility requires that Aboriginal heritage must be considered as part of land management. For the Northern Rivers region, the DEC/NPWS has prepared a *Cultural Heritage Management Strategy 2003-2007*, which remains current despite organisational changes within the department. The Strategy identifies a vision to involve local Aboriginal communities and the broader community in decision making about cultural heritage management. Six key issues are identified: pro-active action; community consultation; increased heritage surveys; tourism initiatives; risk management; and timeline urgency related to cultural heritage places and landscapes.

Tweed Shire Councils Aboriginal cultural heritage management initiatives and policy directions should be in accordance with the *Cultural Heritage Management Strategy 2003-2007*, to ensure compliance with legislative responsibilities, and to support the framework for heritage management across the Northern Rivers region.

### **5.1 Problems identified from past and contemporary practice**

There is currently no Council document which specifically addresses the issue of Aboriginal cultural heritage, or provides a policy framework for the management of Aboriginal sites and places within Tweed Shire. The following points can be regarded as generic issues which apply locally to problems of conservation and management.

- The present statutory processes of cultural heritage assessment encourage a site-based approach to conservation and management rather than a landscape-based approach. The consequence of focussing on only sites is that the real or hidden significance of a landscape suite of sites may not be known, or may be misunderstood. There is a risk of unacceptable loss by attrition when only individual sites are assessed.
- Despite the formation of the Aboriginal Advisory Committee (AAC), the perception among some members of the local Aboriginal community is that consultation, when heritage policy issues are being considered; with broader representative community groups, has been lacking or limited.
- Non-archaeological places of significance to Aboriginal people have been overlooked or remain unidentified, due to limited research and a lack of recording of this type of site on site registers. This also stems from the emphasis on archaeological sites and lack of consultation with Aboriginal communities.
- Due to a reliance on surface-only archaeological surveys, subsurface archaeological deposits may not be detected during any cultural heritage assessment. The convention has been that such evidence is largely assessed by science based archaeological assessment, which often excludes oral history that is

a cultural feature of Aboriginal people. Oral history may provide further information which affects significance assessment. Surface only surveys also lack a geoarchaeological perspective which would include an understanding of depositional processes and landscape change/evolution.

- Places of significance to Aboriginal people have not been identified during local government planning and environmental management. Consequently, cultural heritage assessments have not been systematically required as part of some development application and consent processes. For example, the proposed Cobaki Lakes DCP makes no reference to Aboriginal cultural heritage.
- There is often a perception that Aboriginal culture is only pre-historic, particularly among some scientists involved in site assessment, despite the fact that descendants of traditional owners remain a part of today's community and maintain cultural connections to their sites and places.

## 5.2 Relevant heritage and planning legislation

The protection and management of Aboriginal sites and culturally significant places is addressed in the following State and Commonwealth Government statutory provisions.

### New South Wales legislation

*National Parks and Wildlife Act 1974.*

The *National Parks and Wildlife Act 1974* (as amended) provides the primary basis for the legal protection and management of Aboriginal sites within NSW. It is the responsibility of the Department of Environment and Conservation, Environment Protection and Regulation Division, to implement the Aboriginal heritage provisions of the Act, ensuring the prevention of unnecessary or unwarranted destruction of relics, and the active protection and conservation of relics which are of high cultural significance. Any previously unrecorded or unlocated relics must be reported to the Director General as soon as practicable following their identification. To assist the Department in recording and managing Aboriginal sites and places a computer database has been developed, called the Aboriginal Heritage Information Management System (AHIMS).

The Act, together with the policies of the NPWS (now a Division within DEC), provide the following constraints and requirements on land owners and managers.

- It is an offence to knowingly disturb an Aboriginal artefact or site without an appropriate permit.
- Prior to instigating any action which may conceivably disturb a 'relic' (any deposit, object or material evidence, not being a handicraft made for sale, relating to indigenous and non-European habitation of an area), an archaeological survey and assessment is required.
- When the archaeological resource of an area is known, or can be reasonably predicted, appropriate land use practices should be adopted which will minimise the necessity for the destruction of sites or relics, and prevent destruction to sites or relics which warrant conservation.

### *NSW Heritage Act 1977*

The purpose of the *NSW Heritage Act 1977* is to ensure that the non-Aboriginal cultural heritage of NSW is adequately identified and conserved. The Act is concerned with all aspects of conservation, including protection against damage and destruction, to restoration and enhancement. Some key provisions of the Act are the establishment and functions of the Heritage Council, criteria for Interim Heritage Orders, maintaining the State Heritage Register, and environmental planning instruments.

The Act specifically provides protection for any item classed as a relic, and some aspects of Aboriginal sites which relate to occupation following European colonisation may fall under the relic category. The Act also requires that the discovery of a previously unknown relic be reported to the Heritage Council within a reasonable time of its discovery.

### *Environment Planning and Assessment Act 1979*

Under the *Environment Planning and Assessment Act 1979* the Minister responsible for planning may make planning instruments such as Regional Environmental Plans (REPs) and Local Environment Plans (LEPs). In addition, the Director of Planning or a Council may prepare a Development Control Plan (DCP), where it is considered that more detailed provisions are required over any part of land covered by a REP, LEP or their drafts.

These planning instruments may identify places and features of cultural heritage significance and define various statutory requirements regarding the potential development, modification and conservation of these items. Places of identified significance, or places requiring further assessment, should be listed in the heritage schedules of the LEP and REP and are then protected from certain defined activities, unless consent has been gained from a consent authority, usually a local government authority. In determining a Development Application (DA), a consent authority, such as a local government authority, must take into consideration a range of protection issues as defined in Section 79C(1).

### *NSW Aboriginal Land Rights Act 1983*

The Act recognises that land in NSW was traditionally owned and lived on by Aboriginal people, and that land is particularly important to Aborigines for spiritual, social, cultural and economic reasons. The Act was designed to give control over land, where possible, to local Aboriginal communities. It provides for a three-tiered structure of Aboriginal Land Councils at the local, regional and state level. The aim of the Land Council system is to provide local Land Council representation across the whole of NSW.

The Land Council system of representation was originally to be complemented by an Aboriginal Heritage and Cultural Commission with responsibility for the protection and management of Aboriginal sites. However, this never eventuated, and the legal responsibilities with site management remain with the NSW NPWS (now a Division of DEC). A criticism of the system has been the lack of formal representation for people

with local tribal and cultural affiliations, as Land Council office bearers need not have traditional ties to the Council area. Also, Land Council boundaries do not necessarily relate to tribal or traditional boundaries, with the consequence that additional Aboriginal organisations have formed to more specifically represent a local Aboriginal community's interests.

#### Commonwealth legislation

##### *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* provides for the protection of areas and objects that are of significance to Aboriginal people in accordance with Aboriginal tradition. The Act allows Aboriginal people to apply to the Minister to seek protection for significant Aboriginal areas and objects. The Minister has broad powers to make a 'declaration' if he or she is satisfied that an Aboriginal area or object is under immediate threat of injury or desecration. Offence provisions apply for any contravention of a 'declaration' which is made with a defined time period.

##### *Australian Heritage Commission Act 1975*

The *Australian Heritage Commission Act 1975* established the Aboriginal Heritage Commission as the Commonwealth Government's advisor on the protection of Australia's National Estate. The National Estate includes those places in the natural, historic or Aboriginal and Torres Strait Islander environments listed on a Register of National Estate places. Under the Act, obligations are placed on Commonwealth Ministers, Departments and Authorities to protect the National Estate, although no legal constraints or controls are placed over State or Local Governments or private owners. The Heritage Commission has the right to consider and comment on any Commonwealth actions which might affect a place on the Register.

##### *Environmental Protection and Biodiversity Conservation Act 1999*

The *Environmental Protection and Biodiversity Conservation Act 1999* makes it a criminal offence to undertake actions which have a significant impact on any matter of national environmental significance without the approval of the Environment Minister. The Act adopts a broad definition of the environment which includes general cultural heritage values.

##### *Native Title Act 1993*

The main purpose of the *Native Title Act 1993* is to recognise and protect Native Title, which can be defined as "the rights and interests in land and waters that Aboriginal and Torres Strait Islander people have under laws and customs and that are recognised by the Common Law" (Section 223). The Act contains a process for determining whether Native Title exists, what rights and interests Native Title holders have, and whether people who have Title have 'exclusive possession'. Under the Act, registered Native Title holders and registered Native Title claimants have a right to negotiate before certain 'permissible future acts' happen. However, the right to negotiate is not a veto or right to reject, as an arbitrated decision must be made in accordance with the Act's provisions.

### **5.3 Issues raised by Aboriginal stakeholders**

Consultation with traditional owner descendants for this ACHMP identified the following conservation and management issues:

- There is a systematic failure of Government authorities, private development groups, and those contracted for scientific assessment, to acknowledge cultural values which connect Aboriginal sites and places. Aboriginal heritage is consistently assessed in isolation and little attempt is made to consider both spiritual and physical connections in accordance with an emphasis of cultural value that is often placed on landscapes by Aboriginal people. It should be recognised that expressions of traditional Aboriginal culture may value a site or landform for the meaning imbedded within it, not just for the scientific value of cultural objects which remain on it.
- When seeking advice from the Aboriginal community it is very important that a thorough search is made to identify who in the community is entitled to speak for “country”. There are sometimes different levels of community knowledge about cultural sites and places. Under customary Aboriginal “lore” it is offensive for people, other than recognised traditional owner descendants, to speak or provide advice on cultural sites and places to which they have no recognised connection.
- Within the Tweed Aboriginal community there are a number of Aboriginal groups and organisations that have a legitimate interest in matters of cultural heritage. Correct protocol is an important feature of Aboriginal culture and contact with the Aboriginal Advisory Committee (AAC), in the first instance, is encouraged.
- When consulting individuals and Aboriginal community organisations it is also important to recognise and apply an appropriate timeframe. Seeking early advice via the AAC can ensure that cultural protocols are maintained and appropriate information is provided, or consideration to issues is forthcoming.
- The Tweed Aboriginal community now has access to a comprehensive cultural database, named the Bundjalung Mapping Project (BMP), which has recently been developed as part of a joint initiative with Southern Cross University. In order to maintain levels of cultural confidentiality access to the data is strictly controlled. Certain information is available publicly, but in order to further assist Local Government staff, such as the Planning Section of TSC, access via request to the AAC and TBLALC is encouraged. The BMP database is recognised by the local Aboriginal community as more culturally appropriate and comprehensive in detail than the DEC (NPWS) AHIMS database, although all registered Aboriginal sites are cross-referenced between both databases.
- The “Murraba” complex, located to the north of the Cobaki shoreline, is an example of an Aboriginal landscape in this ACHMP that has not been assessed

according to the wishes of the vast majority of community members. There are many registered stakeholders whose views have been ignored by successive cultural assessments and development outcomes for the area. Some traditional owner descendants feel that there has been no meaningful attempt to conserve and manage what they regard as an important cultural landscape and the last of its type on the Tweed and Gold Coast.

## **6. Recommended heritage policy and strategies**

The following recommended heritage policy and strategies are developed to provide appropriate recognition, protection, conservation, and management of Aboriginal sites and places of the Terranora and Cobaki Broadwaters and their connected water catchments. Policy objectives and strategies reflect the views and cultural values of local Aboriginal stakeholders and descendant traditional owners.

### **6.1 Objectives**

- To conserve and appropriately manage Aboriginal cultural heritage sites and places that are identified and registered on the DEC (NPWS) AHIMS database and the Bundjalung Mapping Project database.
- To continue community consultation in relation to future landscape surveys and subsequent site identification.
- To record and register any new Aboriginal cultural sites and places on appropriate databases such as the AHIMS and BMP registers.
- To achieve, in consultation with local Aboriginal community representatives and the DEC (NPWS), greater control and pro-active management of Aboriginal sites and places.
- To identify, in consultation with local Aboriginal community representatives, Aboriginal sites and places that are currently threatened and require remedial measures to ensure their conservation.
- To promote awareness and understanding of Aboriginal cultural heritage and to encourage community values and attitudes which are consistent with the conservation of Aboriginal cultural sites and places.

### **6.2 Preferred Aboriginal restoration and protection policy**

- Any Aboriginal site or place known to contain burials, or likely to do so, should not be disturbed. Aboriginal people feel very strongly that ancestral remains must never be disturbed and that locations containing burials are sacred and should be treated with great respect.

- Local traditional owner descendants requested direct involvement in the management and conservation of their sites and places. This includes assessment and application of remedial conservation measures at known threatened and damaged sites.
- Certain sites along the public foreshore of Terranora Creek, for example, are considered appropriate for interpretive and information signage which provides an opportunity for public awareness and understanding of Aboriginal cultural values.
- In order to avoid damage during maintenance activities all sites on public reserves should be the subject of specific management protocols negotiated between TSC and the local traditional owner community.
- All sites on private land remain subject to the protection provisions of the *National Parks and Wildlife Act 1974 (as amended)* not-with-standing any appropriate and specific management agreement between the land owner and the local traditional owner community.
- TSC staff directly involved in planning and land management, including operators of plant equipment, should be provided with cultural awareness training such that they may better recognise Aboriginal cultural sites and places.
- Special consideration by TSC planning staff should be given to any development or maintenance activity in the vicinity of the eastern shoreline of Terranora Broadwater (from Champagne Drive around to Dry Dock Road), and the northern shoreline of Cobaki Broadwater (from West Tweed around through the Airport to the proposed Boyd Street connection with the Cobaki Lakes Development). Both these areas contain a high concentration of Aboriginal sites (Maps B and E), and are recognised by the Aboriginal community as containing significant cultural values.

### **6.3 Implementation strategies**

It is recommended that:

- TSC in consultation with local Aboriginal community representatives and traditional owner descendants, as listed in Section 2.3 of this ACHMP, compile a heritage schedule of Aboriginal sites and places which are to be listed on the Tweed Local Environmental Plan and managed according to stated conservation provisions to be listed in the LEP.
- Through the TSC development approval process ensure, for both designated and non-designated developments, that an appropriate Aboriginal cultural heritage study and assessment be conducted for all developments which will cause land surface disturbance within culturally sensitive landforms, such as those mapped

and identified in the attached Map Sheets A to H. Such assessments should include geomorphologic analysis and below surface survey where recommended by traditional owner descendants and Aboriginal community knowledge holders.

- Through the Aboriginal Advisory Committee (AAC) TSC should establish a formal policy of appropriate consultation protocols with the local Aboriginal community, ensuring efficient communication and pro-active participation for the conservation and management of their cultural sites and places within Council managed land.
- Through the establishment of a consultation protocol with the AAC ensure that Council planning and works/operations personnel have timely access to appropriate information on cultural sites and places that are recorded on the Bundjalung Mapping Project and DEC (NPWS) AHIMS databases. Such access to information should include other local environmental agencies working in conjunction with TSC, such as the NSW Rural Fire Service, who may require knowledge of culturally sensitive areas during their operational activities.
- With the concurrence of Councils Water and Recreation Services Units, develop a public campaign focussed on increasing public awareness of Aboriginal heritage values around the Terranora and Cobaki Broadwaters. An outcome of the campaign is to improve public acceptance and recognition of responsible behaviour towards Aboriginal heritage sites by placement of interpretive signs at selected locations. This initiative would include direct involvement of the local Aboriginal community to identify appropriate sites and to assist with written information.
- TSC through the AAC should ensure that adopted conservation and management strategies and public Aboriginal site information remains relevant, effective, and reflects current issues. This should include the public availability of this ACHMP and an undertaking by Council to periodically review the Plan on the advice of the AAC.

## **7. References**

Boileau, J., 2006, *Caldera to the Sea*, a History of the Tweed Valley, published by Tweed Shire Council, Tweed Heads.

Bonhomme, T., Craib, J., and Associates, 2004, Tugun Bypass Environmental Impact Statement, Technical Paper Number 15 Cultural Heritage Assessment, a report to Parsons Brinckerhoff.

Bray, J., 1901, Tribal Districts and Customs, *Science of Man*, **4(1)**, p. 9-10.

Campbell, J., 1985, Smallpox in Aboriginal Australia, the early 1830's. *Historical Studies*, volume 21(84), p336-358.

Collins, J., 1999, Pacific Highway Tugun to Tweed Heads Bypass Route Selection Study: Cultural Heritage Assessment, a report to Connell Wagner Pty Ltd.

Creamer, H., n.d., The Aboriginal Heritage in New South Wales and the role of the New South Wales Aboriginal Sites Survey Team, in *Parks and Wildlife*, volume 2 number 5, NSW National Parks and Wildlife Service, NSW Government publication.

Crowley, T., 1978, *The middle Clarence dialects of Bandjalang*, Australian Institute of Aboriginal studies, Canberra.

Eastern Yugambah Limited, 2005, Draft Results of a Preliminary Cultural Heritage Survey of the Proposed C4 Tugun Bypass – A report for Queensland Department of Main Roads, South Coast Hinterland District, prepared by EYL in conjunction with the TBLALC, 29 April 2005.

Flood, J., 1990, *The Riches of Ancient Australia, an Indispensable Guide for Exploring Prehistoric Australia*, University of Queensland Press, St Lucia, 3<sup>rd</sup> edition 1999.

Fox, I.D., 2002, Geoarchaeological Modelling for Indigenous Cultural Heritage Site Management, Mt Jerusalem National Park, New South Wales, unpublished BAppSc Integrated Project, Southern Cross University.

Fox, I.D., 2003, A Review of Historical References to Traditional Aboriginal People of the Tweed/Byron Areas, Northern NSW, unpublished report, BAppSC (Hons), Southern Cross University.

Fox, I.D., 2003, An Aboriginal Heritage Study of a Traditional Pathway, Linking Coastal and Upland Resources, Northern New South Wales, unpublished report (in press), BAppSC (Hons), Southern Cross University.

Hall, J., 1990, An Assessment of Aboriginal Sites at the Coolangatta Airport, a report to Gutteridge Haskins and Davey.

Hanlon, W.E., 1951, Reminiscences of Mr W.E. Hanlon, unpublished manuscript, Fryer Library, University of Queensland, St Lucia.

Harper, N., 1894, The Sketcher – Early Days on the Tweed, Queensland newspaper, 1 September 1894.

Keats, N.C., 1988, *Wollumbin – the creation and early habitation of the Tweed Brunswick and Richmond Rivers of NSW*, self published, Point Clare, NSW.

NSW National Parks and Wildlife Service Northern Rivers Region Cultural Heritage Management Strategy, 2003, prepared by the Cultural Heritage Division and Northern Rivers Region for the period 2003 – 2007.

Piper, A., 1991, NSW Department of Public Works, River Management Plan, Lower Tweed Estuary, Archaeological Assessment Technical Report No.5.

Steele, J.G., 1983, *Aboriginal Pathways in Southeast Queensland and the Richmond River*, University of Queensland Press, St Lucia.

Tweed Shire Council, 1994, Development Control Plan No.17, Cobaki Lakes, original research by various consultants on behalf of land owners, In force as at 15 September 1994.