

INDIGENOUS CULTURAL HERITAGE MANAGEMENT GUIDELINES

for

SOUTH EAST QUEENSLAND FORESTS

Report for the Queensland South East Queensland Regional Forest Agreement

December 1999

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Disclaimer

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CONTENTS

| | |
|---|----|
| EXECUTIVE SUMMARY..... | 6 |
| Part A CONSULTATION PROCESS..... | 8 |
| 1. Introduction..... | 8 |
| 1.1 Background..... | 8 |
| 1.2 The Queensland Situation..... | 8 |
| 1.3 The day-to-day management | 9 |
| 1.4 The Indigenous Cultural Heritage Management Guidelines Project..... | 9 |
| 1.5 Methodology..... | 9 |
| 2 Stage 1 Consultation..... | 10 |
| 2.1 Consultation method..... | 10 |
| 2.2 Outcomes..... | 11 |
| 2.3 Problems/Barriers..... | 12 |
| 2.4 Follow-up round..... | 12 |
| 3. stage 2 consultation..... | 13 |
| 3.1 Consultation Method..... | 13 |
| 3.2 Stage 2 Outcomes..... | 13 |
| 4. Post Consultation Feedback..... | 14 |
| PART B DRAFT INDIGENOUS GUIDING PRINCIPLES FOR FOREST MANAGEMENT | 16 |
| 1. The nature of Aboriginal heritage | 16 |
| 1.1 Principle on holistic nature of aboriginal values..... | 16 |
| 2 Preserving Native Title Rights..... | 18 |
| 2.1 Principle on possible Native Title | 18 |
| 2.2 Principle on Preservation of Native Title | 18 |
| 3 Association with Non-Claimable Land..... | 19 |
| 3.1 Principle..... | 19 |
| 4. Access..... | 20 |
| 4.1 Principle on Access | 20 |
| 5. Aboriginal Involvement in Forests..... | 22 |
| 5.1 Principle on Involvement..... | 22 |
| 5.2 Principle on Local Government..... | 23 |
| 6 Maintenance of Forest Values and Resources | 25 |
| 6.1 Principle on Traditional Knowledge..... | 25 |
| 6.2 Principle on Integrated Planning | 25 |
| 6.3 Principle on Plantations..... | 26 |
| 7. Protection of Cultural Heritage..... | 27 |
| 7.1 Principle on Places as Part of Landscape | 27 |
| 7.2 Principle on Protection of Cultural Heritage | 27 |
| 7.3 Principle on Use of Clearance Models..... | 30 |
| 7.4 Principle on Cultural Heritage Legislation..... | 30 |
| 8. Consultation Mechanisms and Protocols | 31 |
| 8.1 Principle on Use of Consultation Protocols..... | 31 |
| Protocols | 31 |
| 9. Importance of Forests and Culture in Education..... | 34 |
| 9.1 Principle on Education about Cultural Heritage | 34 |
| 9.2 Principle on Promotion of Cultural Heritage | 34 |
| 10. Economic Development for Aboriginal Communities in Forests..... | 35 |
| 10.1 Principle on Economic Development..... | 35 |
| Appendix 1..... | 36 |
| Summary of all Issues raised in Seminars | 36 |
| Appendix 2..... | 40 |

| | |
|--|----|
| Guiding Principles for Indigenous Cultural Heritage Management | 40 |
| The Principles and the ESFM MIG Criteria to which they contribute | 40 |
| ESFM MIG Principles | 40 |
| Regional criteria and indicators | 40 |
| Appendix 3..... | 56 |
| Guiding Principles for Indigenous Cultural Heritage Management | 56 |
| 1. The Nature of Aboriginal Cultural Heritage | 56 |
| 2. Preserving Native Title Rights | 56 |
| 3. Aboriginal Association with Non-Claimable Land | 56 |
| 4. Access | 56 |
| 5. Aboriginal involvement in Forest Management | 57 |
| 6. Maintenance of Forest Values and Resources | 57 |
| 7. Protection of Cultural Heritage | 58 |
| 8. Consultation Mechanisms and Protocols | 60 |
| 9. Importance of Forests and Culture in Education | 61 |
| 10. Economic Development for Aboriginal Communities in Forests | 61 |

EXECUTIVE SUMMARY

This report has been prepared for the joint Commonwealth/State Steering Committee which oversees the Comprehensive Regional Assessment (CRA) study phase of forests in the South East Queensland biogeographic region.

The Comprehensive Regional Assessment provides the scientific basis on which the State and Commonwealth governments will sign a Regional Forest Agreement (RFA) for the forests of the South East Queensland biogeographic region. This agreement will determine the future of the region's forests and will define those areas needed to form a comprehensive, adequate and representative (CAR) reserve system and those available for ecologically sustainable commercial use.

The development of these Indigenous Cultural Heritage Management Guidelines was undertaken as part of a comprehensive regional assessment of the South East Queensland (SEQ) biogeographic region. The primary objective was to formulate conservation principles and guidelines for the protection and management of indigenous cultural heritage places and values in forested areas of the South East Queensland biogeographic region, including consultation and decision-making guidelines.

This report outlines the methods by which the development of the Management Guidelines has been undertaken, and the results of this project, including future recommendations.

PART A CONSULTATION PROCESS

drafted by Russell Simpson, Project Liaison Officer

1. INTRODUCTION

1.1 BACKGROUND

In 1992 the Commonwealth, State and Territory governments released a National Forest Policy Statement. This Statement forms the basis for Australia's policy for the future conservation and management of Australia's forests including an ecologically sustainable forest industry. All governments are committed to forming twenty year agreements, Regional Forest Agreements (RFAs), for the long-term management of the forest reserve systems. In addition to sustaining a competitive forest industry the agreements will provide for management and protection of other social and economic interests in each forest region, including cultural heritage. The proposed reserve systems were examined through a detailed assessment process called the Comprehensive Regional Assessment (CRA).

In South East Queensland (SEQ), the forest assessment process is managed through the South East Queensland Regional Forest Agreement Steering Committee, made up of State and Commonwealth government officials and representatives of non-government stakeholders. A Forest Reference Panel consisting of industry, local government, union, community, conservation and Indigenous groups provides advice to the SEQ/RFA Steering Committee. Many of the assessments have been done through Queensland government departments, ie Department of Environment and Heritage (DEH), Department of Natural Resources(DNR) and Department of Primary Industries (DPI - Forestry).

1.2 THE QUEENSLAND SITUATION

As part of the SEQ CRA, Environment Australia, with Environment Australia and DEH funding, contracted the Native Title Representative Bodies (NTRB), FAIRA Aboriginal Corporation, Gurang Land Council, and Goolburri Land Council, to undertake two projects on Indigenous cultural heritage. The projects consisted of a data audit of cultural heritage places and sites in SEQ and the development of a set of Management Guidelines and Principles for the protection and conservation of Indigenous cultural heritage places and values in the SEQ RFA region.

The Indigenous Cultural Heritage projects were designed to:

- identify sources of information on the known indigenous cultural heritage places in the forested areas of the South East Queensland biogeographic region;
- provide a broad overview of the location and types of indigenous cultural heritage places studied in the study area;
- provide an understanding of those cultural heritage places, themes, or related data not represented or under-represented in the sources; and
- ensure that any indigenous cultural heritage information used within this project is presented in a culturally appropriate and sensitive way, which does not compromise the confidentiality of the information or its source.

These projects were designed not to identify specific places or values or reveal secret or sacred information.

1.3 THE DAY-TO-DAY MANAGEMENT

The overall management of the projects for the Steering Committee, was undertaken by Environment Australia, with day-to-day management of both projects overseen by the Indigenous Cultural Heritage Project Steering Committee (ICHPC). The ICHPC consisted of the following people:

- Craig Darlington FAIRA Aboriginal Corporation
- Anjeanette Schimpf Gurang Land Council
- Brad. Lewis Goolburri Land Council
- Judy Powell Queensland Department of Environment and Heritage
- Marilyn Truscott Environment Australia

The Representative Bodies contracted the following as sub-consultants for the Management Guidelines:

- Kate Sullivan & Associates Pty Ltd consultant for the Management Guidelines
- Russell Simpson liaison officer to co-ordinate consultation and seminars

and the following for the Data Audit:

- Robyn Williams project consultant
- Desley Coolwell assistant with data loading

The Queensland Department of Environment and Heritage contracted:

- Shane Coghill assistant on behalf of DEH for both projects

1.4 THE INDIGENOUS CULTURAL HERITAGE MANAGEMENT GUIDELINES PROJECT

The main objectives of the project were to:

- Formulate conservation principles and guidelines for the protection and management of Indigenous cultural heritage places and values in forested areas of the South East Queensland biogeographical region, including consultation and decision-making protocols

In doing so, it was to build on the relevant results of CRA sub-project EH 5.2.1, Protecting Cultural Heritage Values and Places in Forests, which had:

- outlined the legislative framework (Commonwealth and State) for the protection and management of indigenous cultural heritage places and values in forested areas of the South East Queensland biogeographic region, including on public and private land; and
- assessed current levels of protection and threats to indigenous cultural heritage places and values.

The project was undertaken between August and November 1998. The main outcome of the project was the formulation of the conservation guidelines and principles for the protection and management of Indigenous cultural heritage places and values in the forested areas of the SEQ/RFA region, including consultation and decision-making protocols.

1.5 METHODOLOGY

The primary method used for the Management Guidelines project, were a series of seminars combined with a process of negotiation with the various Indigenous community members, ie Traditional Owners and other Indigenous community members that may have historical or social connections with the land.

Between 11 August and 31 October 1998, Kate Sullivan, Shane Coghill, and Russell Simpson travelled throughout the SEQ RFA region facilitating seminars and negotiating with the Indigenous communities of the region regarding their concerns about the management of cultural heritage places and values within forested areas. Members of the ICHPC also attended many of the meetings. During this time a total of twenty-one (21) seminars were held in various different towns and locations, in two rounds of consultation.

The seminars were conducted within the areas serviced by the three NTRBs. In the facilitation process of the seminars, the following people were the representatives of the three NTRBs:

- Goolburri Land Council Brad Lewis
- Gurang Land Council Ulai Baya, Anjeanette Schimpf
- FAIRA. Aboriginal Corporation John Holt, Sonja Schmid, Mary Graham, Craig Darlington

The seminars were held in the following locations:

| Town/City | Venue/Location |
|-------------------------|---|
| Brisbane | FAIRA Aboriginal Corporation Offices x 2 Inala Community Health Centre |
| Beaudesert | Mununjali Community Hall |
| Landsborough | Ewen Maddock Dam x 2 |
| Bundaberg | Sugar Country Motor Inn Tropical Gardens Motor Inn |
| Hervey Bay | Kondari Resort |
| Cherbourg | Nurunderi College of TAFE x 3 |
| Eidsvold | Eidsvold Community Hall |
| Gympie | Old Town Hall 'Centre Place' Community House |
| Rockhampton | Sun Palms Motor Inn Dreamtime Cultural Centre |
| Biloela | Kroombit Tourist Park |
| North Stradbroke Island | Quandamooka Land Council Office Stradbroke Island Junior Rugby League Club |
| Nerang | Kalwun Housing Cooperative |

These seminars were held as part of two rounds of consultation, twelve in Stage 1 and a further nine in Stage 2. The process in the seminars is outlined below for each round of consultation.

2 STAGE 1 CONSULTATION

2.1 CONSULTATION METHOD

The purpose of the first round of consultation was to elicit all the issues of concern to Aboriginal people about the future management of forests, to begin to develop principles from those issues, and to discuss consultation protocols. The following workshop outline was prepared and used flexibly to guide the structure in the seminars:

| Session | Process | Who |
|---|--|---|
| Tea and Coffee | | |
| 1. Introduction | <i>Introduction of project team by Rep body and appropriate Traditional Owner/s</i> | Rep body, TO |
| 2. Outline of the Day / Housekeeping | <i>Brief outline of day and housekeeping (Outline will include a generalised explanation why we are meeting - ie to find out what people think about looking after the cultural aspects of forested lands so as to feed this information to Governments)</i> | Kate Sullivan and Russell Simpson |
| 3. Issues Session | <i>Posing a question about current and future management including an explanation at the beginning about "What is Forested Lands and what sorts of land tenure are involved?" * (format will depend on numbers)</i> | Kate Sullivan Russell Simpson & Shane Coghill |
| 4. Cultural Values Discussion | <i>Discussion of "what are the cultural aspects of Forested Lands" (</i> | Sullivan Coghill |
| 5. Ranking of Issues | <i>Ranking the Issues in the light of the discussion about cultural values and the RFA</i> | Kate Sullivan |
| Break | <i>Break</i> | |
| 6. RFA process | <i>Explanation of RFA process, including presentation of a flow chart showing the process and showing how this consultation feeds in.</i> | Russel Simpson Marilyn Truscott |
| 7. Principles | <i>The Principles discussion will put together the issues that have been raised and the particular aspects in relation to Cultural values with the RFA process. We may develop new principles and/or review the principles from the National Guidelines as a starting point.. What is missing, what do you like, what don't like. the process followed will vary from Group to group</i> | Kate Sullivan Russell Simpson Shane Coghill |
| 8. Protocols | <i>Consultation protocols (Principles and practice) It is most likely that one of the principles will be about consultation and we will then work on this one in more detail, to ensure that all region concerns are identified.</i> | Kate Sullivan Russell Simpson Shane Coghill |
| 9. Summing up | <i>Summing up</i> | Kate Sullivan |
| 10. Finish | <i>Finish</i> | |

Notes:

* Possible questions to use in session 3 include:

- What are the Issues for the future management of Forested Lands and how might these affect cultural resources and values?
- What are the issues for cultural values in the future management of Forested Lands?
- How might (do you think) current and future management of Forested Lands impact upon the cultural heritage values of those lands? What are the issues that need to be considered?

The meeting outcomes were written on butcher's papers during the meeting and a summary of the outcomes of each meeting was immediately prepared by the consultant and forwarded to FAIRA for feedback to the other Representative Bodies and participants within one week of the meetings.

2.2 OUTCOMES

A number of major themes were raised by participants in the seminars and were later verified in follow-up discussions. These are:

1. The need for a broad definition of cultural heritage
2. Native Title Interests and other land interests
3. Access

4. Protecting and managing forest resources (natural and cultural)
5. Long-term integrated planning to protect resources
6. Aboriginal involvement and control
7. Recognition of Aboriginal land management expertise
8. Local Government involvement
9. Consultation Issues: representativeness and effectiveness
10. Need for better Indigenous Heritage legislation
11. Cultural heritage protection
12. Employment and economic development
13. Education
14. Consultation protocols
15. Representation on decision making body/ies

A full list of issues raised during the seminars and verified by subsequent meetings is attached at Appendix 1.

2.3 PROBLEMS/BARRIERS

Two main problems or barriers hindered the consultation process:

1. The time constraint of only four months for seminars was always going to be a problem for the project to be comprehensive. The time constraint also proved to be a problem in that there was only minimal notification time of seminar dates which resulted in poor attendance rates.
2. The limitation of resources (monetary) resulted in the logistical problem of transportation for **all** of the Traditional Owners to attend meetings, combined with the limitations of funding for the salary of project staff ensured problems with the comprehensiveness of the consultation process.

These underlying problems were contributing factors to the Stage 1 seminars being relatively poorly attended. Given this, the main concern at that point in time was whether the report could reflect comprehensive consultation.

2.4 FOLLOW-UP ROUND

At the completion of the first round of seminars it was decided by the Indigenous Cultural Heritage Project Steering Committee that, in addition to the twelve initial seminars, a follow-up trip was needed to verify the outcomes and the effectiveness of the first round of consultations. Shane Coghill and Russell Simpson, combined with the assistance of the staff members from Goolburri Land Council and the Gurang Land Council, conducted a series of informal discussions with the indigenous community of the SEQ/RFA about the cultural heritage aspects of the project. The follow-up field trip became important in that it:

- gave verification to the outcomes thus far
- highlighted the need for a refocus of the Cultural Heritage Management Guidelines project, both in terms of the number of seminars and the money being spent, towards the second round of negotiations
- enabled the RBs to update their list of contacts, to enhance the participation rates for the second round of negotiations

This follow-up work verified that all the major issues had been raised in the first round of seminars.

3. STAGE 2 CONSULTATION

3.1 CONSULTATION METHOD

The issues, suggested principles and protocol issues from Stage 1 were developed into a set of guiding principles with an explanation/rationale as to why these had developed. The ESFM MIG principles were analysed and the guiding principles were cross-referenced to these. A draft document was circulated to participants prior to the second round of consultation.

The program developed and used as a basis for the second round of workshops was:

- | | |
|--------------|---|
| Session 1 | Background |
| | <ul style="list-style-type: none"> • <i>RFA process</i> • <i>Consultation process to date</i> • <i>Today's program and next step</i> |
| Session 2 | Issues raised in round one |
| | <ul style="list-style-type: none"> • <i>Present summary list of issues</i> • <i>Any missing issues</i> |
| <i>Break</i> | |
| Session 3 | Draft Principles |
| | <ul style="list-style-type: none"> • <i>Read through and explain</i> |
| Session 4 | Small group work - part 1 |
| <i>Lunch</i> | |
| Session 5 | Small group work - part 2 |
| Session 6 | Feedback, Discussion, Conclusion |

The small group work consisted of participants breaking into small groups (participants were given the opportunity to choose their own groups according to family, sex, age, organisational affiliation etc).

Work Group Part 1 - The groups were asked to "Think of a forested area (and/or special places in that area in which you have interests. Agree as a group which one (or two) areas to use for the group to work with."

Work Group Part 2 - The groups were asked to work through the principles thinking of the future management of the examples that they had chosen and were asked to comment on:

- The content of the principle - what works and what was missing
- The wording of the principle

3.2 STAGE 2 OUTCOMES

During Sessions 3 and 6 many changes were made to the draft document. Also, at each meeting the modifications suggested by the previous group were presented.

Overall people were pleased with the document and thought that all issues had been covered. At some meetings (especially in the areas represented by the Gurang Land Council) some Traditional Owners were unhappy about the inclusion of places with historical association for people who were not "Traditional Owners". As a result Principle 8.1.6 was drafted to make it clear that only Traditional Owners could speak for country, but that others historical associations to particular places should be recognised and considered in managing those places.

4. POST CONSULTATION FEEDBACK

Following the second round of consultation the draft report was forwarded to FAIRA for circulation to the legal officers of each Representative Body. Comments were received from FAIRA in November 1998 and from Gurang in late January 1999. Not all suggested changes were made by the consultant. Where changes conflicted with the views expressed during consultation the changes were not made and a response report was forwarded to FAIRA for the steering committee to make the final decision on these matters. The major issues related to the inclusion of historical associations to cultural places.

PART B DRAFT INDIGENOUS GUIDING PRINCIPLES FOR FOREST MANAGEMENT

by Kate Sullivan and Associates Pty Ltd

It is important that these *Indigenous Cultural Heritage Management* principles be read together as a group. They moderate each other.

1. THE NATURE OF ABORIGINAL HERITAGE

1.1 PRINCIPLE ON HOLISTIC NATURE OF ABORIGINAL VALUES

Aboriginal cultural heritage values are holistic and evolving. Cultural heritage includes the spiritual, physical, social and economic environment and the inherent process of the teaching of Aboriginal culture. Forests are part of indigenous cultural landscapes.

Rationale

During consultations about the Regional Forest Agreement, Aboriginal people were asked "what is cultural heritage and what does it mean to you?" Some of the responses are summarised below :

Cultural heritage is:

- Land
 - Spiritual values of land
 - Relationship to land
 - Knowledge about the land and who is responsible for the various areas of land
 - Understanding the whole landscape and being able to understand direction and where we are in it, through our knowledge of it.
 - Seasonality (Nature's Calendar)
- Land management. Land management is the essence of Aboriginal cultural heritage. The names of places of the landscape encompass information about the places, why they are important and how they should be looked after.
- Spiritual understanding and the way we live
- Stories and oral history
- Respect for laws, traditions and protocols, (old lores and laws)
- Teaching children (education for the old and young)
- Hunting and fishing and gathering (including plants for food, artefacts and medicine).
- Living in the forest and using forest resources
- Sites (identification and protection), Sacred sites, Significant sites
- Dance and art related to forests and life in the forest

Aboriginal cultural heritage is inextricably linked to land (and water) and its management; knowledge and culture, laws and protocols, stories and dance, teach about the land and how it is (to be) used; the landscape and special places embody the information that is the culture.

The Indigenous Land Interest Model (ILIM) states:

it is important not to limit cultural heritage interests to places of cultural significance which can be conceptualised by European in terms of physical remains / materials (traditionally referred to by non-Aboriginal people as 'archaeological sites'.) 'Archaeological sites' are often incorporated into Aboriginal and Torres Strait Islander cultural interpretations of landscape.

These 'sites' often have ongoing cultural (ie religious, social, and economic) significance to Aboriginal and Torres Strait Islander people as well as being important remnants of earlier human occupation. They and other physical places of significance (places which are of historical significance, represent past or present activity or are geographical aspects of landscape with spiritual significance) are only one element of cultural heritage which, as stated above, is holistic and constantly evolving. Forests themselves are part of indigenous cultural landscapes.

Linkages

Regional ESFM MIG Criterion 6.6a *Indigenous participation and management*
See Appendix 2

Recommendations

- That the broad, holistic and evolving nature of Aboriginal culture be recognised in the approach taken to the Regional Forest Agreement and in revised and redrafted Cultural Heritage Legislation.
- That the cultural nature of forest landscapes be recognised in all land classification systems in use by DNR, DPI, DEH and Local Government.
- That all existing land classifications should be reviewed in consultation with Aboriginal people who have identified interests (see Principles 5 and 8) and classifications adjusted as appropriate.

2 PRESERVING NATIVE TITLE RIGHTS

2.1 PRINCIPLE ON POSSIBLE NATIVE TITLE

In the absence of a determination under the Native Title Act, all lands, waters and resources claimable under the Native Title Act, should be treated as if Native Title exists in relation to those lands and/or waters, and all claimants and potential determination beneficiaries should be involved in decision-making and forest management decisions.

Rationale

The Regional Forest Agreement process will be substantially complete before Native Title Claims are determined. In order for the Regional Forest Agreement to be finalised, registered Native Title Claimants and future claimants should be treated as though they were Native Title holders, until such time as claims are determined. The RFA should not curtail or adversely impact upon future Native Title claims. Unless Principle 2.1 is adopted then future Native Title claims have the potential to make parts of the RFA unworkable.

Examples of possible mechanisms

Where overlapping claims exist and input into forest planning and management is required from claimants, all claimants should be involved. If differing views emerge then mediation processes should be used to negotiate resolution.

Linkages

Regional ESFM MIG Criteria : 6.4a *Cultural, social and spiritual needs and*
 7.1a *Extent to which the legal framework (laws, regulations, guidelines)*
supports the conservation and sustainable management of forests
 See Appendix 2

2.2 PRINCIPLE ON PRESERVATION OF NATIVE TITLE

All native title rights (whether they might be in land or in resources) should be preserved by the RFA process and native title holders should be involved in decision making and forest management decisions, and where appropriate, compensation and royalties should be negotiated and agreed.

Rationale

Nothing in the RFA process should be allowed to lessen or remove Native Title rights and interests, and decisions about the use of Native Title lands should be made by Native Title beneficiaries (or potential beneficiaries of determinations of Native Title). Compensation should be payable for past and current use of resources on claimable lands and future agreed use of resources should attract royalty payments.

Examples of possible mechanisms

Decision making (see below 5.0)

Compensation

Where resource use occurs (or has occurred) on lands potentially subject to Native Title, determinations, processes must be developed as part of the RFA to provide compensation to the Native Title holders (and in line with Principle 2.1 to all future claimants and potential beneficiaries) for those resources.

Royalties

Where logging and other resource use on Native Title lands is to occur, royalties at least equivalent to royalties paid on Freehold Title lands should be paid

Linkages

Regional ESFM MIG Criteria 6.4a(i) *Cultural, social and spiritual needs and value*
 7.1a *Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests*
 See Appendix 2

3 ASSOCIATION WITH NON-CLAIMABLE LAND

3.1 PRINCIPLE

The association of Aboriginal people to non-claimable or non-granted forest lands should be identified, recognised and respected. Management arrangements, which recognise and respect those associations (both traditional and/or historic), should be put in place for cultural heritage places and landscapes within those lands (see Principle 8).

Rationale

Some Aboriginal people have traditional and ongoing links with land which is not (or is no longer) claimable under Native Title mechanisms. Some Aboriginal people whose forbears were shifted and forcibly removed from their own country have established strong associations in the country into which they were shifted. The interests (traditional and or historical) of these peoples in cultural places and landscapes including any custodial roles, should be documented and recognised and their ongoing involvement in management decision making should be facilitated.

In some cases traditional owners for forested country may be identified even though Native Title may have been extinguished. In these cases, where the land belongs to the Crown, action should be taken to grant those lands to the traditional owners with arrangements in place to safeguards the interests of those with historical associations.

Examples of possible mechanisms*Cultural heritage surveys*

Local and regional cultural heritage surveys should document traditional and historical associations and heritage places and landscapes (see below 7.0 for how these should be conducted)

Access arrangements

Access (and other land use agreements) agreements should be negotiated with landholders (native title, freehold and government) to ensure that people can visit cultural places and at the same time safe guard landholders' rights (see below 4.0, and 7.0)

Consultation and Involvement

Where traditional or historical associations are documented (now or in the future), agreements should be developed to allow consultation about, and involvement in, management of specific cultural heritage places

by those for whom the place is significant. Provision should be made in cultural heritage legislation for formal heritage agreements. (see below 5.0, 7.0, 8.0)

Negotiated heritage agreements binding future landholders

Where possible, conservation and access agreements which bind future landholders (ie a statutory covenant) should be negotiated with current land holders. This may require new legislative provisions. (see below 7.4)

Linkages

Regional ESFM MIG Criteria: 7.1a *Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests*
 6.4a(i) *Cultural, social and spiritual needs and value*
 6.5c (ii) *Employment and community needs*
 7.1e (see Appendix 1)

Recommendations

- The Cultural Records and Landscapes Act should be revised in consultation with Aboriginal and Torres Strait Islander peoples to allow the development of heritage agreements or Indigenous land use agreements, including access arrangements.
- Funding should be provided to facilitate development of agreements about places which have demonstrated cultural importance for local Aboriginal people who may not be in a position to claim these places either because the places are not claimable (eg freehold land) or because the associations of people are historic and not traditional (eg State Forest No 12.)
- Places (such and State Forest No 12) which were once part of Aboriginal Reserve systems, should be the subject of immediate action to grant those lands to the traditional owners with arrangements having been put in place prior to the grant, to safeguards the interests of the persons with historical connections.

4. ACCESS

4.1 PRINCIPLE ON ACCESS

Access to places of cultural importance should be guaranteed to people who have rights and interests and/or access should be controlled by management arrangements which are determined by those who have rights and interests. Access may be for cultural purposes including:

- *men's and/or women's business*
- *spiritual ceremonies*
- *visits to sites (including historic camp sites)*
- *teaching young people*
- *gathering resources (eg wood, stone, plants,*
- *fishing and hunting*

On public lands which are claimable under the Native Title Act and/or on which there has been a Native Title determination and which has been leased back):

- Relevant native title claimants or holders should have appropriate access determined by them. (Access rights may be the domain of either women or men.)

- For other Aboriginal people (including those who have historical links) and for members of the wider community, access should be controlled by management arrangements which have had appropriate Aboriginal involvement and input (see Principles 2.1, 2.2 & 8) into their development.

On public lands not claimable or not granted under the Native Title Act:

- Access should be controlled by management arrangements which have had appropriate Aboriginal involvement and input. (See Principles 3, 5 and 8)
- Where access is decided to be culturally important roads and tracks should be maintained to facilitate access.

On freehold lands and on lands which there has been a Native Title determination:

- Access agreements should be negotiated with landholders to ensure that people can visit cultural places and at the same time, safeguard landholder rights (see Principle 7.4). (On freehold land, access agreements will be between Aboriginal people with traditional and/or historical associations and the landholder. On lands on which there has been a Native Title determination, the agreements will be between Aboriginal people (and/or others) with historic associations and the Native Title holders)

Rationale

Many Aboriginal people, whether Native Title claimants or not, have visited forested lands for hunting and gathering and other cultural purposes regularly over the past 200 years. In some areas crown reserves have increasingly become the focus of these visits (sanctioned or otherwise) as freehold title removed the ability for access.

Many Aboriginal people resent having to have a permit to visit forested lands especially where they may be Native Title claimants, Traditional Owners or where they have historical associations with the land. They also complain about what they see as current neglect of maintenance of access tracks by current forest managers.

Many Aboriginal people believe that their own access and behaviour should be limited by guidelines and protocols worked out at the community level with input from Native Title holders, Elders, those with traditional or historic links and local land councils and agreed with landholders or leaseholders.

Examples of possible mechanisms

See sections 2 above and 5 "Aboriginal involvement in forest management" below

Linkages

(Relevant legislation, enabling recommendations etc)

Regional ESFM MIG Criteria: 6.6a *Indigenous participation and management*
 7.1e *Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests,*
 6.5d *Employment and community needs*
 See Appendix 2

Recommendation

- Revised cultural heritage legislation should have provision for heritage agreements or Indigenous Land Use Agreements enabling agreed access arrangements. See also Recommendations under Principles 5 and 6 below.

5. ABORIGINAL INVOLVEMENT IN FORESTS

5.1 PRINCIPLE ON INVOLVEMENT

Aboriginal people and their organisations must have ongoing direct participation in planning for and management of forested land (including National Parks, State Forests, Timber Reserves and freehold land with cultural values) at State, Regional and Local levels. This participation must:

- involve the appropriate people from the area (see Principle 8)
- include involvement in decision making
- provide employment in land management agencies, protected areas and the forest industry, in a full range of positions, from decision-maker to forest worker
- be supported by funding and resources to establish organisational infrastructure, information and communication strategies and training.

Rationale

Land and culture are inseparable. Cultural heritage includes maintenance and use of forest resources as well as looking after special places and particular landscapes. It is appropriate and efficient for Aboriginal people to be involved in an ongoing way in forest management decisions rather than being consulted in a piecemeal fashion only at the last minute. The appropriate people should be involved in all levels of negotiations. Native title holders' rights for involvement need to be formalised. Others with rights and interests (traditional and historic), must be included.

Communities are interested in taking an active part in forest and park management from employment on the ground to employment in policy and decision making roles. Many Aboriginal people believe that it would be appropriate if Aboriginal people were employed as rangers and forestry workers in State agencies and private forest operations. This will allow their custodial responsibilities (to look after the land) to be fulfilled.

Communities are also interested in participating in regional and local advisory panels. Such involvement is time consuming and requires infrastructure support. Many groups are interested in setting up local land councils to be the point of contact for involvement in local decision making.

Examples of possible mechanisms

- Joint management arrangements for National Parks and State Forests
- Aboriginal involvement in policy making (by employment, local consultation and negotiation)
- Aboriginal involvement in local decision making structures (including Local Government planning and local forestry planing)
- On-the-ground employment
- Local Elders, traditional owners and/or land council or other organisation having a formal advisory role on forest management
- Use CDEP programs in helping to manage forests with the involvement of traditional people. Establish forest centred CDEP programs

Linkages

| | | |
|------------------------------|------|--|
| Regional ESFM MIG Criteria : | 6.6a | <i>Indigenous participation and management</i> |
| | 7.1e | <i>Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests</i> |

See Appendix 2; See below Principle 8.0

Recommendations

- That all DNR, DPI and DEH Environmental Management Systems and Land Management Planning Systems, be reviewed to incorporate the Principles outlined in this document particularly Aboriginal involvement in planning and Decisions making.
- That all legislation affecting the planning management or protection of forested lands be reviewed in line with the principles enunciated in this document, and specifically the Nature Conservation Act 1992 and the Coastal Management and Protection Act 1995.
- That all existing and proposed Protected Area Management Plans should be reviewed to ensure that appropriate Aboriginal people (see Principle 8) have been directly involved in the making of these plans (Placing ads in newspapers does not constitute adequate Aboriginal consultation or involvement).
- That all DPI, DNR and DEH codes of practice and management manuals be reviewed to incorporate this principle and develop and implement processes for traditional owners to be involved in forest planning and management on a place by place basis. Amongst others, the following should be reviewed:
 - Codes of Practice - taking and use of protected plants - (Nature Conservation Act 1992)
 - Code of Environmental Practice for harvesting of other Forest Products.
 - The Custodial Policy Management Manual (DNR)
 - Harvesting, marketing and Resources Management Manuals (DPI - Forests)
 - Code of Practice for Native Forest Timber Production
 - Code of Practice (Plantation for Wood Production),
 - The Fire Management Manual 1995 and
 - The Protected Area Policy Manual. (DEH)
- That DPI, DNR and DEH and Local Government develop Aboriginal employment targets across a full range of positions and begin to actively recruit Aboriginal employees; that some positions across the range of positions be identified as requiring the special talents of Aboriginal people and be reserved for them, and that appropriate training and support be provided for Aboriginal employees.
- That all DPI, DNR and DEH and Local Government Staff undergo cross cultural awareness training
- That key managers and supervisors in DPI, DNR and DEH and Local Government receive training in the principles of cultural heritage protection and management

5.2 PRINCIPLE ON LOCAL GOVERNMENT

Local governments should have a role in forest management planning, should be accountable for ensuring that indigenous cultural heritage is protected and should take an active role in representing community views about forests to State Government agencies. Local Aboriginal people (see further Principle 8) should have broad, structured and formalised relationships with local councils so that their views will be represented, their rights respected and their involvement guaranteed.

Rationale

To enhance the dialogue between Aboriginal communities and the wider community.

In some areas of South Eastern Queensland, Local Governments are seen as relevant points of contact by some Aboriginal community groups. Local Government understands local community needs and have standing to represent local people. Some local councils already have good liaison arrangements with local Aboriginal communities.

Many of the Aboriginal communities interviewed said that they wanted to use native title and future forest management processes to help build good relationships with the wider communities in which they live. They are keen for people with both traditional and historical associations to be involved. They want their rights

recognised and respected and they want the whole community to benefit from their involvement in forest management. They believe that Local Government is critical to building a dialogue between Aboriginal communities and the wider community. Involvement with local communities (and education about Native Title issues) may help dissipate fears and ignorance.

Examples of possible mechanisms

- Local Forest Reference panels with Aboriginal representation (See Principle 8)
- Local Government setting up Aboriginal standing or liaison committees to cover a range of issues including cultural heritage and forest management. These committees could have representation from those with traditional associations and those with historical associations to particular cultural places. One of their tasks could be to facilitate consultation with the appropriate people. (See further Principle 8)
- Local Elders councils or traditional owner organisations advising on forest management
- Agreements between Local Aboriginal communities and/or Native Title holders using either "Working Out Agreements - A practical guide to Agreements between Local Governments and Indigenous Australians", published by the ALGA and ATSIC) and/or the Indigenous Land Use Agreements (ILUA) process developed by the QWIG for binding agreements under the Native Title Act.
- Funding and infrastructure support for local Aboriginal organisations to facilitate their involvement and the reaching of agreements of this kind.
- Employment of Aboriginal cultural heritage officers by local council and the funding of ranger cadetships.

Linkages

Regional ESFM MIG Criteria : 6.6a *Indigenous participation and management*
 7.2 *Extent to which the institutional framework supports the conservation and sustainable management of forests*
 See Appendix 2

Recommendation

That Local Governments, in consultation with the appropriate Aboriginal people (see Principle 8), make active use of the Integrated Planning Act, to identify zones, areas or precincts of Aboriginal heritage significance and develop appropriate performance outcomes, Local Policies and conditions of approval for these areas.

6 MAINTENANCE OF FOREST VALUES AND RESOURCES

6.1 PRINCIPLE ON TRADITIONAL KNOWLEDGE

Traditional stories, knowledge and management practices should influence how the land and the forest resources are cared for as clean water, fauna and flora, medicine plants and other resources, are cultural resources.

Rationale

The ILIM (Indigenous Land interest Model) model states "In keeping with Aboriginal ... cultural and religious beliefs, Aboriginal people have a vested interest in the protection and management of the environment. How a proposed project impacts on the environment should be considered part of the indigenous social impact." It is important that long-term plans take into account how land use and management affect the religious and cultural beliefs regarding landscape and special places as they will affect the ability of Aboriginal people to continue to use forested areas for cultural purposes, including hunting, fishing and gathering food and resources.

Aboriginal cultural heritage is inextricably linked to land (and water) and its management; knowledge and culture, laws and protocols, stories and dance teach about the land and how it was and is (to be) used; the landscape and special places embody the information that is the culture. The land will dictate the management processes.

Examples of possible mechanisms

Ensure ESFM MIG principles incorporate this principle

Linkages

Regional ESFM MIG Criteria: 6.6a *Indigenous participation and management*

7.1 *Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests*

See Appendix 2

Recommendation

That all DPI, DNR and DEH codes of practice and management manuals be reviewed to incorporate this principle and develop and implement processes for traditional owners to be involved in forest planning and management on a place by place basis.

6.2 PRINCIPLE ON INTEGRATED PLANNING

Long-term integrated planning and active management, incorporating environmentally sustainable forest management principles, must safeguard the natural and cultural heritage of forests for all future generations and achieve an appropriate balance between environmental protection and economic development. Forests should be used for cultural purposes, employment, resource production, eco tourism and education and preserved in perpetuity for future use.

6.3 PRINCIPLE ON PLANTATIONS

Plantation forestry should be expanded in preference to logging original native forests providing this can be done in cleared or degraded land in areas where cultural heritage will not be damaged.

Rationale

There is strong support for long-term and integrated planning and achieving a balance in the way forests are managed.

Many Aboriginal people have a keen interest in integrated planning because of their experience of the Water Appropriation and Management Planning (WAMP) process, because of the holistic view they take, and because they are tired of being asked about overlapping, regional, coastal, water and/or forest planning.

One underlying issue is that some forest reserves are seen as being neglected and not actively managed. People are concerned about weeds and stock damage and about overgrown access tracks.

There is also a strong sense that Aboriginal employment in forests would assist the long-term conservation of forests. Aboriginal employment in forests is a cultural response and integral with preserving traditional and contemporary forest values.

Examples of possible mechanisms

Use CDEP programs in helping to manage forests under the direction of appropriate Aboriginal people.

Linkages

Relevant legislation, enabling recommendations etc

Regional ESFM MIG Criteria: 6.6a *Indigenous participation and management*
 7.1 *Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests*
 See Appendix 2

Recommendations

- All levels (State, Regional and Departmental) of strategic, business and operational planning should be reviewed to ensure that cultural heritage issues (including Aboriginal involvement) are an integral part of this planning.
- DNR, DPI and DEH operational codes of practice and operational planning should be reviewed to incorporate the principles set out in this document.
- Planning for forested lands should evolve to incorporate a catchment management approach and should address and acknowledge linkages to environmental and other planning taking place in the region.
- That Chapter 3 Implementation of the *"Background to Assessment of Queensland's Ecologically Sustainable Forest Management Systems and Processes"* July 1998, be revised to reflect need for the adoption of the principles and recommendations of this document. (Especially but not exclusively, pages 76, 85 and 86.

7. PROTECTION OF CULTURAL HERITAGE

7.1 PRINCIPLE ON PLACES AS PART OF LANDSCAPE

Cultural heritage places should be managed as part of the whole forest landscape, and the spiritual, social and economic environment in which they exist. Forests are cultural assets. (See Principle 1)

Rationale

See: 1 - The Nature of Aboriginal Cultural Heritage, above.

Examples of possible mechanisms

ILIM model adapted to a proactive (forward planning) context, rather than a reactive (EIS) situation alone.

Linkages

Regional ESFM MIG Criteria : 6.6a *Indigenous participation and management* (Appendix 2)

Adoption of the Indigenous Land Interest Model (ILIM) and appropriate revision of heritage legislation

7.2 PRINCIPLE ON PROTECTION OF CULTURAL HERITAGE

The cultural heritage of forests should be identified and protected as part of the long-term planning for forested areas, with appropriate Aboriginal involvement. Cultural heritage surveys should be conducted as part of long-term land use decision making and land use decisions must protect and be consistent with the cultural significance of landscapes and places. The following mechanisms should be used:

Identification Funding should be provided for broad cultural heritage surveys of forested lands to be undertaken progressively over the next five years. These should be undertaken first in areas where a change of land use or tenure is envisaged and/ or where active logging, pastoral or other activity will disturb forest resources. They should form part of land management planning. Cultural surveys need to identify:

- which peoples have traditional, historic and/or contemporary links with country,
- what stories exist (formally or informally) and
- what landscapes or particular places are important (either from a contemporary, historic, archaeological or anthropological view point) to which people (including the wider community)

The following principles are basic to the conduct of cultural surveys:

- government funding of relevant Aboriginal organisations to undertake an agreed and negotiated survey program
- appointment of researchers, by relevant Aboriginal organisations who are acceptable to relevant Aboriginal people
- survey information remains the property of indigenous people
- indigenous ownership and control of cultural information
- funding of appropriate data bases systems for storing and accessing information
- at the completion of the survey regional negotiation of a final agreement about regional forest resource use and about future management arrangements and ongoing Aboriginal involvement (see Principle 5.0)

- negotiation about specific heritage place or landscape protection (see below), and
- appropriate Aboriginal participation and consultation (see Principle 8.0)

Protection There must be guaranteed protection of Aboriginal cultural places and landscapes, including provision for:

- cultural survey
- training
- adequate resources for survey, protection, and training
- Aboriginal involvement in policy development and management decisions about cultural heritage

Legislation to protect cultural places should be effective on all land tenures (including freehold, leasehold, crown and native title lands) It should be strong, enforceable and acknowledge Aboriginal interests and guarantee Aboriginal involvement in decision making and provide mechanisms for heritage agreements on freehold land which include access arrangements.

Protection of particular cultural heritage places should incorporate the following principles: Aboriginal involvement in decisions affecting their cultural heritage, and in the on-going management of their cultural heritage.

- Protection of heritage places should stem from the *significance* of the place/or landscape and actions to protect heritage places should be consistent with the context and features which make the place or landscape important .
- The *significance* of a place or landscape describes the value or importance the place or landscape has to a community and includes the "spiritual, social, aesthetic, historic, or scientific value of the place or landscape for present, past or future generations". The cultural significance of a place or landscape can change over time.
- Protection of heritage places should involve a planning process which:
 - is guided by and maintains the *cultural significance* of the place or landscape,
 - takes into account all the management issues affecting the place or landscape and
 - identifies the objectives and outcomes which have been agreed for the place or landscape by the relevant Traditional Owners or (where no Traditional Owners are identified) by the Aboriginal community and
 - produces a plan of management which documents these things
- Records of places, records of decisions made about them and records of actions taken at heritage places should be made, kept, stored and accessed in a culturally appropriate way. In some cases making records may not be appropriate. Ownership of, storage and use of, and access to information should be openly agreed at the outset of a project with the people who own, provide or have rights to the information.
- Physical intervention or other actions are taken to support *cultural significance* and should be the minimum required to achieve this aim. Actions which preserve cultural significance have top priority.

Access

Access to places of cultural heritage significance is an integral part of protecting cultural heritage. For many sorts of Aboriginal cultural heritage places visiting the places, whether for social, economic or spiritual activity is an integral part of the significance of the place or landscape. Maintenance of access is sometimes the best or even the only way to maintain the significance of the place or landscape. Sometimes, access for some groups of people may be restricted by cultural protocols (eg at men's or women's special places) It is important that the relevant people are involved in developing and managing access policies. See Principle 4.0 above.

Rationale

Protection of cultural heritage requires systematic identification of that heritage before protection can be planned.

It is insufficient to undertake cultural surveys only after broad planning has been done and only just before any activity disturbing land and environment takes place. A piecemeal approach is not appropriate (or efficient) especially when whole landscapes are of cultural significance. The results of cultural surveys need to be factored into the Forest Options paper. If this is not possible in the time frame the ensuing Regional Forest Agreement must be an Interim Agreement until such time as cultural surveys are undertaken, and a timetable established for these surveys.

Protection of Aboriginal cultural heritage must be under the control of appropriate Aboriginal people, be supported by adequate resources and legislation and should support established and agreed principles

Protection of cultural heritage must include the protection of the information about the heritage and protection of the rights of the people who own that information. There are three issues here related to intellectual property rights, protecting sensitive or significant material and the right of Aboriginal people to control the interpretation of their culture.

Linkages

Revision of relevant legislation

Regional ESFM MIG Criteria: 7.1e *Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests.*

See Appendix 2

Enabling recommendations

- Funding and resources be provided for cultural heritage surveys of forested lands to be undertaken progressively over the next five years. These should be undertaken first in areas where a change of land use or tenure is envisaged and/ or where active logging, pastoral or other activities will disturb forest resources.
- The Commonwealth/State Agreement will be an Interim agreement which will need revision when the outcomes of the cultural surveys are available.
- Funding be provided to set up locally managed data bases (controlled by appropriate local Aboriginal people) to hold information.
- Funding be provided to train Aboriginal people to conduct and assist in cultural survey, heritage management and data base management.
- Funding be provided to support local Aboriginal land interests infrastructure to manage the survey, the data bases, the training and future heritage management.

7.3 PRINCIPLE ON USE OF CLEARANCE MODELS

In the (short term) absence of joint management arrangements, or long-term planning instruments developed with appropriate Aboriginal participation, (or in concert with these arrangements or plans where appropriate) no activity disturbing land or resources should take place unless a cultural clearance has been given for that particular development. Mechanisms, such as The Indigenous Land Interest Model's "Work Area Clearance Model", which do not require the disclosure of cultural information and which incorporate an assessment of social as well as physical impacts on land interests, should be used.

Rationale

Ideally long-term planning incorporating cultural survey as part of the planning process (see 7.2) will either remove the need for piecemeal site clearance work or will highlight the areas where it will be especially necessary in particular circumstances.

Examples of possible mechanisms

The Indigenous Land Interest Model's (ILIM) "Work Clearance Model" Chapters 4 and 5.

Linkages

Regional ESFM MIG Criteria 6.6a *Indigenous participation and management* (Appendix 2)
ILIM; Revised Cultural Heritage legislation; State Planning and Development legislation

7.4 PRINCIPLE ON CULTURAL HERITAGE LEGISLATION

Cultural heritage legislation should exist to:

- *provide strong, enforceable, protection for Aboriginal cultural heritage values, places and landscapes on all land tenures (freehold, leasehold, crown and native title lands), recognising the holistic nature of Aboriginal culture,*
- *recognise indigenous heritage and its management as the legitimate province of appropriate indigenous people, and*
- *provide for appropriate indigenous participation in cultural heritage management and decision making. This participation should occur at state, regional and local level and be supported by resources for organisational infrastructure, communication and information systems, training and employment.*
- *provide mechanisms for binding heritage agreements with landowners to support heritage protection, including appropriate and agreed access arrangements. These agreements should flow with the land.*

Rationale

Current legislation does not sufficiently recognise the legitimate interests of Aboriginal and Torres Strait Islander peoples in indigenous heritage places. The legislation is not specifically directed towards the protection of Aboriginal heritage, and consultation about development is not automatically required. There is insufficient emphasis upon the significance of heritage places to Aboriginal people. The legislation could provide mechanisms for heritage agreements with freeholders to support heritage protection, including appropriate and agreed access arrangements.

Linkages

Regional ESFM MIG Criteria 7.1e *Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests.*

See Appendix 2

Recommendations

- The Cultural Records (Landscapes Queensland and Queensland Estate) Act 1987 should be reviewed and revised in line with these principles.
- Strategic, business and operational plans, planning processes and policies of the DNR, DPI, DEH and Local Governments should incorporate the principles outlined in principle 7 to adequately identify, protect and make access arrangements for cultural heritage places and landscapes. All existing policies and plans should be reviewed and amended to make appropriate provisions for Aboriginal cultural heritage issues.

8. CONSULTATION MECHANISMS AND PROTOCOLS

8.1 PRINCIPLE ON USE OF CONSULTATION PROTOCOLS

It is important that the appropriate Aboriginal people from an area (people with traditional and/or historical associations) are involved in management of forests and other cultural places. Suitable formal, interactive and ongoing mechanisms should be established, and resourced to facilitate appropriate consultation and participation. The following principles and protocols should be adopted when land management agencies, land managers and owners and graziers and forestry operators are undertaking planning, land use decision making, and activities on forested lands.

Protocols

1. Land management agencies and individual land managers have a responsibility to consult, negotiate with and involve all those who have traditional interests (including potential Native Title determination beneficiaries) and to identify others who may have associations with particular historical cultural places in an area. It is the responsibility of land management agencies to **find** all of the people who have an interest.
2. The identification process should begin broadly and all organisations and individuals who might have an interest should be canvassed. Consultation to find all those with an interest must canvass the views of:
 - community people as well as Aboriginal officials
 - people with historical connections as well as with traditional interests, including Native Title claimants and persons who have been the subject of Native Title determinations
 - women as well as men
 - young as well as old
 - community based groups as well as tribal or language groups
 - all local organisations
3. Care should be taken to make sure people are not badgered or pestered, and consultation should be undertaken in a timely fashion, well in advance of decisions needing to be made. Consultation should take place during planning not just when development is happening. Adequate notice of meetings and visits must be given. First approaches should be through Land Councils, Native Title Representative Bodies and other community organisations. These organisations will be able to provide advice about appropriate protocols and sensitivities.

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4. Where a Native Title determination has been made in relation to an area the determination will specify who the appropriate Native Title holders are; the Native Title Prescribed Body will be the appropriate Body to contact. In the absence of a determination all interested parties must be consulted. (see Principle 2.1) Although Native Title Representative bodies have a statutory function to facilitate communication with traditional owners, not all traditional owners may wish to work through their local representative body and this should be respected. Rep bodies can progress the question of how traditional owners wish to have their interests represented.
 5. For forested freehold land or land where it is likely that no Native Title claim will be favourably determined, those proposing to carry out works or activities which may affect cultural heritage have a responsibility to consult, negotiate with, and involve all those who have traditional or historical associations with the area.
 6. People with identified traditional associations to country have the right to speak for that country, and their involvement should be the primary Aboriginal involvement in decision making about that country. The association of other people to particular cultural places should be one of the issues considered in assessing the significance of a cultural place and in decision making decision about the future management of that place. (See 7.2 *Protection*)
 7. Funding and infrastructure support should be provided to either help set up appropriate land interest organisations and/or support the work of existing organisations. Some communities will want to establish land councils or other organisations to be a point of focus for forest and site management. This is especially important where no Native Title determination exists and/or where land may not be granted to or claimable by Traditional Owners and/or community members.
 8. Formal mechanisms and processes to ensure ongoing, two way communication with all appropriate Aboriginal interest groups about the future management of forested lands, should be funded by forest management organisations and agencies, state and local governments. These mechanisms should be at state, regional and sub-regional levels. The form of these mechanisms and processes should be worked out with the local communities, organisations and native title holders. They should be used in long-term planning as well as in one-off environmental clearance work. Mechanisms might include:
 - Rep bodies acting as facilitators of contact (eg WAMP model)
 - Aboriginal forest management committees set up at region or subregional levels
 - A Forest Reference Panel at local government level which would include Aboriginal representation and have as one of its tasks involvement of appropriate Aboriginal people.
 - Joint management arrangements
 - Regional agreements using the ILUA model

Rationale

That the "right" (appropriate or relevant) people are involved in ongoing management and are consulted about particular issues is of vital importance to Aboriginal people. Identifying the "right" people can be a complex and time consuming process especially where there is no sufficient Aboriginal organisational infrastructure to assist. Ensuring that this aspect of land management is handled competently, is fundamental to the success of long-term planning and the RFA process. Aboriginal organisations (with assistance of professional expertise) are the most appropriate agencies to assist in the identification of native title holders (traditional owners) and historical associates.

If people feel that they have been excluded from consultation (directly or indirectly) this is likely to result in conflict and disputes. It is essential that and consultation takes place and that Aboriginal groups are able to

play a vital role in establishing consultation and negotiation structures and in ensuring that there is a two way flow of information.

The range of people who may need to be involved or consulted can be very wide. Associations with cultural places can be traditional, social, legal, historic, economic, scientific, contemporary, political or professional.

In many regions of Queensland there is an ongoing process where Aboriginal and Torres Strait Islander people are self-identifying with their traditional and custodial roles and cultural responsibilities. This process includes developing an awareness of their responsibilities and legitimate rights to be involved in processes that affect their social-cultural interests. Therefore time and resources need to be invested to facilitate traditional owners and other community members self-identifying themselves into coherent groups.

It is important that consultation is broad so that everyone who might have an interest is consulted and involved. If there is disagreement about who has an interest, this needs to be discussed and negotiated, not ignored.

It is best that communities are approached through community organisations in the first instance. These organisations can ensure that proper protocols are observed. In some cases it may be necessary to consult different interests separately. For instance, in any one area men and women may have quite different knowledge and interests. People with historical associations to the country may hold different knowledge from those people whose association is through a language group association.

The ILIM guidelines recommend that either the Native Title Representation Body (Rep Body) or regional land council /or land interest groups be the first point of contact.

Currently some Aboriginal people, both native title claimants, and people with historical associations to land, feel that they are not adequately represented by Rep bodies or land councils.

Linkages

See 5.0 above.

Regional ESFM MIG Criteria: 6.6a *Indigenous participation and management*
7.2 *Extent to which the institutional framework supports the conservation and sustainable management of forests*
See Appendix 2

Recommendations

- That Government fund establishment of infrastructure (in parallel with cultural survey) to establish regional and/or local Aboriginal land interest groups including Traditional Owners from the area, one of whose roles would be to advise on appropriate local consultation.
- That these principles and protocols be integrated into the client consultation policies of DPI, DNR, DEH and Local Governments.

9. IMPORTANCE OF FORESTS AND CULTURE IN EDUCATION

9.1 PRINCIPLE ON EDUCATION ABOUT CULTURAL HERITAGE

Forests are important in educating children and others about Aboriginal cultural heritage. Aboriginal cultural studies should be integrated in the mainstream school curriculum and also into teaching about natural heritage. These curricula should be developed and taught by appropriate people.

Rationale

Education is an integral part of Aboriginal culture.

Linkages

Regional ESFM MIG Criteria: 6.6 *Indigenous participation and management.* (see Appendix 1)

Recommendation

- That the Queensland Department Education hold discussions with the QWIG and provide funding to begin the adoption and implementation of the Principle 9.1 as soon as possible.

9.2 PRINCIPLE ON PROMOTION OF CULTURAL HERITAGE

Develop general education and promotion programs to inform landholders and the general public of the legislation which protects cultural heritage, indigenous rights and the rights and obligations of landholders. This should be accompanied by a general education program to inform everyone of the cultural value of forests.

Rationale

Aboriginal people have to live within the wider community in which there is widespread misunderstanding about Native Title legislation and cultural heritage legislation. An appropriate information campaign about these matters and the RFA has the potential to promote understanding and good will in the community.

Linkages

Regional ESFM MIG Criteria: 6.6 *Indigenous participation and management.*
See Appendix 2

Recommendation

- That the Premier be asked to take personal responsibility for implementing an appropriate public education and promotion program, and that DPI, DNR, DEH and Local Government take an active part. this program.

10. ECONOMIC DEVELOPMENT FOR ABORIGINAL COMMUNITIES IN FORESTS

10.1 PRINCIPLE ON ECONOMIC DEVELOPMENT

Aboriginal people must be empowered through employment creation and economic development opportunities (including supporting education and training) at all levels in the RFA process and in future management.

Rationale

Aboriginal people have been disempowered through dispossession of lands and subsequent forced reliance on welfare; forest related employment will be culturally meaningful.

Aboriginal and Torres Strait Islander communities expressed a desire to minimise the negative effects of forestry development. Historically Aboriginal and Torres Strait Islander communities have been excluded or marginalised from the positive economic impacts of resource development. Aboriginal people are interested in being active participants in the positive aspects of forest development especially via employment and training opportunities.

Examples of possible mechanisms

Component of forest profits to fund Aboriginal involvement. Approach Forest Industry for funding assistance for employment, education training and research which might take the form of an ongoing payment into a regional program.

- Fund eco-tourism pilot projects and/or use CDEP to set up embryonic industries at community level.
- See Also 5.00 above. Employment at all levels
- Development of appropriate TAFE training programs
- Development of partnerships between DEH and/or DNR to develop eco tourism or other businesses to allow Aboriginal people to begin developing businesses and also taking on some of the functions currently conducted by DEH and DNR.
- Structural and other support provided by existing land management agencies to assist in the development of Aboriginal managed programs and businesses. eg, funding of feasibility studies for Aboriginal initiated and run forest based businesses.

Linkages

Regional ESFM MIG Criteria: 6.5 *Employment and community needs.*
See Appendix 2

Recommendations

- That the Queensland Eco-tourism Plan be reviewed in the light of this document and that the Principles outlined above be adopted and integrated into it.
- DPI, DEH, DNR and Local Government Corporate and business planning identify appropriate areas and targets for Aboriginal employment in line with Principles 10 and 5.
- That DPI, DEH, DNR and Local Government in liaison with TAFE or other appropriate Educational institutions, provide appropriate training to support Aboriginal employees.

APPENDIX 1

SUMMARY OF ALL ISSUES RAISED IN SEMINARS

1. The Need for a Broad Definition of Cultural Heritage

Recognition of holistic and living nature of cultural heritage

Indigenous ownership and management of cultural heritage (including food resources, medicine plants, wildflowers and other resources)

Compensation and royalty issues

2. Native Title Interests and Other Land Interests

Native Title holders must be consulted about activities on their land, and until claims are determined claimants must be similarly consulted.

Protection and preservation of all Native title rights to the forests and its resources. Claimants should be involved as though the claims had been granted, until they are determined.

Resolution of the Deeds Of Grant In Trust (DOGIT). Under the DOGIT community members are only caretakers. They have no certainty and no rights to own the resources. Native Title has added uncertainty for people whose families were moved here. People see the DOGIT and the forest ownership as one and the same issue.

Ownership of particular forests. The community used to own the forest nearby. Now they only have a grazing lease on part of it. The community should have the forest back.

3. Access

- Guaranteed access for appropriate people and Aboriginal control of access policies.
- We need access to the forests for education to support our identity. Forests are part of our cultural identity.
- Access for:
 - fishing
 - gathering (resources and plants for foods, medicine and artefacts)
 - hunting
 - cultural purposes (men's and women's)
 - spiritual ceremonies

4. Protecting and Managing Forest Resources (Natural and Cultural)

- Impacts on water is a major issue - Water quality
- Control of tourism (People, rubbish, wildlife, etc.)
- Fauna and flora protection
- Cattle and weed management

- Even small scale logging has the potential to severely damage cultural values. For example Cyprus pine logging impacts on particular cultural markers.
- Logging and planning can have long-term effects and there is a need for revegetation and weed control.
- Opposed to the granting to gun clubs of general and blanket shooting rights in state forests.
- There should be monitoring and control of all gathering to protect rare and endangered species.
- There is conflict between the dollar (\$) value and the cultural values of particular trees and landscapes. It is impossible to place a value on cultural aspects.
- There are not enough DEH staff to fulfil their management obligations. The government is not providing sufficient funds to manage National Parks. (Aboriginal people want to be involved but there is more funding needed. We don't want to take on management responsibility without adequate funding)
- The planting of hardwood plantations should be encouraged.
- The need for spiritual healing (by appropriate traditional owners) and the revegetation and rehabilitation programs in forest areas - employing Aboriginal Traditional Owners to conduct the work and monitor and manage it.
- Balance between environment and economic development

5. Long-term Integrated Planning to Protect Resources

- There needs to be long-term planning to achieve sustainability and safeguard forests for the long-term.
- Need to look after the timber cutters' interests and Aboriginal interests.
- Protection of the Aboriginal cultural landscape (including story place) is critical.
- Maintenance of the forests for all people is important. There should be weed and animal control programs and planned use of the forests. There should be Aboriginal involvement in the of maintenance and monitoring of forest resources.

6. Aboriginal Involvement and Control

- There should be on the ground management of forests by Aboriginal people. Use trained Aboriginal people to pick which trees to select for logging.
- There should be adequate Aboriginal involvement in policy and decision making. This will need to be formalised and funded.
- There should be local Aboriginal involvement in private forest management and in National Parks, State Forests (DPI and DNR) and Local government forest management and forest management structures. This should include both employment and involvement in decision making.
- Aboriginal people should check the impacts of activities on sites and the environment before things are approved to go ahead.
- Appropriate and effective Aboriginal representation on Forestry Management decision making bodies. The representation must be by people from that country and not be token. Participation in policy and legislative development.
- There should be regular communication between Aboriginal people and land managers about what can be done
- There should be indigenous control over hunting. In some areas the elders say there should be no hunting, in other place indigenous people should have rights to hunting. Opposed to there being hunting allowed everywhere by everybody.
- Aboriginal people need to be informed about what agencies are responsible ie., Who deals with What. Kept informed all the time, not just at the end.

7. Recognition of Aboriginal Land Management Expertise.**8. Local Government Involvement**

- Local government should be involved in the RFA process and local Aboriginal people should have broad, structured and formalised relationships with the local council.

9. Consultation Issues: Representativeness and Effectiveness

- Recognition of contemporary Aboriginal resource management, knowledge and practice.
- Concern was expressed about the track record of the Land Council in representing people and in providing appropriate lead times for consultation with people. There are issues of who is on the board of the Land Council, who its members are, and how good its contact lists are (is it representative), and about the effectiveness of its consultation and administrative processes.

10. Need for Better Indigenous Heritage Legislation

- Better legislation to protect cultural places on all land tenures (freehold, leasehold, crown and native title lands) The legislation needs to be stronger, enforceable and to acknowledge Aboriginal interests and guarantee Aboriginal involvement in decision making.

11. Cultural Heritage Protection

- There is a need for funding for the protection of cultural heritage on private land as well as public land. To fund such things as:
 - surveys
 - (local) data bases
 - management
- Cultural heritage includes all the things that you have learnt. It is a call or a pull back to your country. It is the stories about the country and the spiritual pull of the land.
- Protect the information and the rights of people who hold cultural information.

12. Employment and Economic Development

- There should be more local employment. The land council needs funding so it can get involved.
- There should be a long-term employment strategy including traineeships.
- It would be good to have a regional eco-tourism plan which could start slowly and develop a business in the tourism industry with Aboriginal ownership. For example, Pine Ridge is a Conservation Park which DEH doesn't have the funds to manage properly. This could be an eco-tourism pilot program with 'seed' money to get it established.
- Use of Community Development Employment Program (CDEP) programs in helping to manage forests under the direction of traditional people.

13. Education

- Mainstream education curricula must include Aboriginal heritage and Aboriginal management procedures and these should be taught by appropriate people.
- Need to inform the general public about native title so they understand.

14. Consultation Protocols

- It is the responsibility of Land Management Agencies to make sure that they contact **all** of the appropriate people, and they should work through the Native Title Representative Bodies Aboriginal Land Councils, local Aboriginal organisations, etc.
- Funding is needed to ensure that "land interest "organisations exist and have the infrastructure to represent the interests of traditional people and people with historical associations.
- Not everyone feels well represented by the Rep. Bodies and Land Councils.

15. Representation on RFA Decision-Making Body/s

- Representative should be a Traditional Owner.
- The Aboriginal & Torres Strait Islander Commission (ATSIC) Commissioners, together with the Queensland Indigenous Working Group (QWIG) members, should be involved in the process and be kept informed of the meeting outcomes and the community demands that they take a supporting and negotiating role.

APPENDIX 2

GUIDING PRINCIPLES FOR INDIGENOUS CULTURAL HERITAGE MANAGEMENT

The Principles and the ESFM MIG Criteria to which they contribute

This is an attachment to a longer document which provides the background and rationale for *Indigenous Cultural Heritage Management* principles. **It is important that these *Indigenous Cultural Heritage Management* principles be read together as a group. They moderate each other.** Appendix 2 shows the *Indigenous Cultural Heritage Management* principles and the Ecologically Sustainable Forest Management (ESFM MIG) performance criteria, which their adoption will meet.

ESFM MIG Principles

The seven guiding principles which underline the ESFM MIG are:

- Maintaining and enhancing long-term multiple socio-economic benefits to meet the needs of societies
- Protecting and maintaining biodiversity
- Maintaining the productive capacity and sustainability of forest ecosystems
- Maintaining forest ecosystem health and vitality
- Protecting soil and water resources
- Maintaining forest contributions to global carbon cycles, and
- Maintaining natural and cultural heritage values.

These principles were developed as a result of the 1992 Rio de Janeiro United Nations Conference on Environment and Development, which produced a number of agreements to which Australia is a signatory. The Commonwealth, States and Territories developed a National Forest Policy Statement (NFPS) in 1992 which committed signatories to the ESFM MIG principles. The NFPS and the Inter-Governmental Agreements on the Environment (IGAE) led to the development of Regional Forest Agreements (RFA) and the associated Comprehensive Regional Assessment (CRA). Queensland agreed to conduct a CRA leading to an RFA for South Eastern Queensland.

The ESFM MIG principles are integral to the RFA process. As part of the RFA, the Commonwealth will accredit the State's forest management systems and processes according to whether they constitute an ESFM MIG system.

Regional criteria and indicators

The RFAs provide a basis for measuring the progress towards sustainable forest management, but it is also recognised that they are not in themselves a surrogate for sustainable forest management. The Montreal Process criteria and indicators provide a basis for the ongoing assessment of the state of Australia's forests, and their contribution to society over time.

The Ministerial Council on Forestry, Fisheries and Aquaculture (MCFFA) endorsed the use of the Montreal Process criteria and indicators as the basis for assessing sustainable forest management at the national level and the development of a regional framework of indicators based on the Montreal Process to be used at the regional level and in the Regional Forest Agreement (RFA) process. The framework is intended to promote consistency in reporting at all levels and to avoid duplication in data collection.

In Australia, the Montreal Process indicators have been adapted for application at a regional level to provide:

- a basis for assessing progress towards the achievement of sustainable forest management at a regional (sub-national) scale, with the specific purpose of progressively improving forest management on all land tenures;
- information at a scale which can be aggregated to a national level in a transparent and credible way for reporting against the Montreal Process criteria and indicators; and
- direction to the RFA processes concerning data collection and reporting with respect to sustainable forest management.

Any one use of forest, be it conservation, recreation or timber production, is unlikely to deliver all community requirements for sustainable management. It is only the mosaic of forest uses found in a region that can deliver the environmental, economic, cultural and social values required of sustainable forest management.

These performance indicators have been developed in the context of contemporary Commonwealth and State legislation, international agreements and current national and State policies, such as the National Forest Policy Statement (NFPS). Principles recognised in the development and implementation of the indicators include: the precautionary principle, inter-generational equity, public participation, transparency and access to information, international good citizenship, user pays, and industry and regional development.

| Principle | | Ecological Sustainable Forest Management MIG Regional Monitoring Criteria | |
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| 1.0 | THE NATURE OF ABORIGINAL CULTURAL HERITAGE | | |
| 1.0 | Aboriginal cultural heritage values are holistic and evolving. Cultural heritage includes the spiritual, physical, social and economic environment and the inherent process of the teaching of Aboriginal culture. Forests are part of indigenous cultural landscapes. | 6.6a | <i>Extent to which the management framework maintains and enhances Indigenous values including customary, traditional and native title use by Indigenous peoples and for Indigenous participation in forest management.</i> |
| 2.0 | PRESERVING NATIVE TITLE RIGHTS | | |
| 2.1 | In the absence of a determination under the Native Title Act, all lands, waters and resources claimable under the Native Title Act, should be treated as if Native Title exists in relation to those lands and/or waters and all claimants and potential determination beneficiaries should be involved in decision making and forest management decisions. | 7.1a 6.4a | <i>Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests, including the extent to which it: Provides mechanisms to clarify property rights and establish appropriate land tenure arrangements that recognise traditional management practices and self management as well as the existence of native title and the customary and traditional rights of Indigenous peoples</i> <i>Cultural, social and spiritual needs and value</i> <i>(i) Area and per cent of forest land in defined tenures, management regimes and zonings which are formally managed in a manner which protect Indigenous peoples’ cultural, social, religious and spiritual values, including non-consumptive appreciation of country.</i> |

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| 3.0 | ABORIGINAL ASSOCIATION WITH NON-CLAIMABLE LAND | | |
| 3.1 | <p>The association of Aboriginal people to non-claimable or non-granted forest lands should be identified, recognised and respected. Management arrangements, which recognise and respect those associations (both traditional and/or historic), should be put in place for cultural heritage places and landscapes within those lands. (See Principle 8)</p> | 7.1 | <p><i>Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests, including the extent to which it:</i></p> <p>(a) <i>Provides mechanisms to clarify property rights and establish appropriate land tenure arrangements that recognise traditional management practices and self management as well as the existence of native title and the customary and traditional rights of Indigenous peoples</i></p> <p>6.4a (e) <i>Provides for the management of environmental, cultural, social and/or scientific values in forests and ensures the participation of Indigenous peoples in all aspects of forest planning and management processes</i></p> <p>6.5 <i>Cultural, social and spiritual needs and value .</i></p> <p>(i) <i>Area and per cent of forest land in defined tenures, management regimes and zonings which are formally managed in a manner which protect Indigenous peoples' cultural, social, religious and spiritual values, including non-consumptive appreciation of country.</i></p> <p><i>Employment and community needs</i></p> <p>c(ii) <i>Viability and adaptability of forest dependent Indigenous communities</i></p> |

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| <p>6.2</p> <p>6.3</p> | <p>Long-term, integrated planning and active management, incorporating ecologically sustainable forest management principles, must safeguard the natural and cultural heritage of forests for all future generations and achieve an appropriate balance between environmental protection and economic development. Forests should be used for cultural purposes, employment, resource production, eco tourism and education and preserved in perpetuity for future use.</p> <p><i>Principle or mechanism?</i> Plantation forestry should be expanded in preference to logging original native forests providing this can be done in cleared or degraded land in areas where cultural heritage will not be damaged.</p> | <p>6.6</p> <p>7.1</p> | <p><i>Indigenous participation and management</i> (a) <i>Extent to which the management framework maintains and enhances Indigenous values including customary, traditional and native title use by Indigenous peoples and for Indigenous participation in forest management</i></p> <p><i>Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests, including the extent to which it:</i> (a) <i>Provides mechanisms to clarify property rights and establish appropriate land tenure arrangements that recognise traditional management practices and self management as well as the existence of native title and the customary and traditional rights of Indigenous peoples</i> (b) <i>Provides for periodic forest-related planning, assessment, and policy review that recognises the range of forest values, including coordination with relevant sectors</i></p> |
| <p>7.0</p> | <p>PROTECTION OF CULTURAL HERITAGE</p> | | |
| <p>7.1</p> | <p>Cultural heritage places should be managed as part of the whole forest landscape, and the spiritual, social and economic environment in which they exist. Forests are cultural assets. (See Principle 1)</p> | <p>6.6</p> | <p><i>Indigenous participation and management</i> (a) <i>Extent to which the management framework maintains and enhances Indigenous values including customary, traditional and native title use by Indigenous peoples and for Indigenous participation in forest management</i></p> |

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| 7.2 | <p>The cultural heritage of forests should be identified and protected as part of the long-term planning for forested areas, with appropriate Aboriginal involvement. Cultural heritage surveys should be conducted as part of long-term land use decision making and land use decisions must protect and be consistent with the cultural significance of landscapes and places. The following mechanisms should be used: <i>(see following)</i></p> | <p>ESFM MIG Criteria 7.1</p> | <p><i>Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests, including the extent to which it:</i> <i>(e) Provides for the management of environmental, cultural, social and/or scientific values in forests and ensures the participation of Indigenous peoples in all aspects of forest planning and management processes</i></p> |
| <p><i>Identification</i></p> <p>Funding should be provided for broad cultural heritage surveys of forested lands to be undertaken progressively over the next five years. These should be undertaken first in areas where a change of land use or tenure is envisaged and/ or where active logging, pastoral or other activity will disturb forest resources. They should form part of land management planning. Cultural surveys need to identify:</p> <ul style="list-style-type: none"> • which peoples have traditional, historic and/or contemporary links with country, • what stories exist (formally or informally) and • what landscapes or particular places are important (either from a contemporary, historic, archaeological or anthropological view point) to which people (including the wider community) <p>The following principles are basic to the conduct of cultural surveys:</p> <ul style="list-style-type: none"> • government funding of relevant Aboriginal organisations to undertake an agreed and negotiated survey program • appointment of researchers, by relevant indigenous organisations who are acceptable to relevant indigenous people • survey information remains the property of indigenous people • indigenous ownership and control of cultural information • funding of appropriate data bases systems for storing and accessing information • at the completion of the survey regional negotiation of a final agreement about regional forest resource use and about future management arrangements and ongoing Aboriginal involvement (see Principle 5.0) • negotiation about specific heritage place or landscape protection (see below), and • appropriate Aboriginal participation and consultation (see Principle 8.0) | | | |

Protection

There must be guaranteed protection of Aboriginal cultural places and landscapes, including provision for:

- cultural survey
- training
- adequate resources for survey, protection, and training ,and
- Aboriginal involvement in policy development and management decisions about cultural heritage

Legislation to protect cultural places should be effective on all land tenures (including freehold, leasehold, crown and native title lands) It should be strong, enforceable and acknowledge Aboriginal interests and guarantee Aboriginal involvement in decision making and provide mechanisms for heritage agreements on freehold land which include access arrangements.

Protection of particular cultural heritage places should incorporate the following principles:

- Aboriginal involvement in decisions affecting their cultural heritage, and in the on-going management of their cultural heritage.
- Protection of heritage places should stem from the *significance* of the place/or landscape and actions to protect heritage places should be consistent with the context and features which make the place or landscape important.
- The *significance* of a place or landscape describes the value or importance the place or landscape has to a community and includes the "spiritual, social, aesthetic, historic, or scientific value of the place or landscape for present, past or future generations". The cultural significance of a place or landscape can change over time.
- Protection of heritage places should involve a planning process which
 - is guided by and maintains the *cultural significance* of the place or landscape,
 - takes into account all the management issues affecting the place or landscape and
 - identifies the objectives and outcomes which have been agreed for the place or landscape by the relevant Traditional Owners or (where no Traditional Owners are identified) by the Aboriginal community and produces a plan of management which documents these things
- Records of places, records of decisions made about them and records of actions taken at heritage places should be made, kept, stored and accessed in a culturally appropriate way. In some cases making records may not be appropriate. Ownership of, storage and use of, and access to information should be openly agreed at the outset of a project with the people who own, provide or have rights to the information.
- Physical intervention or other actions are taken to support *cultural significance* and should be the minimum required to achieve this aim. Actions which preserve cultural significance have top priority.

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| | <p><i>Access</i></p> <p>Access to places of cultural heritage significance is an integral part of protecting cultural heritage. For many sorts of Aboriginal cultural heritage places visiting the places, whether for social, economic or spiritual activity is an integral part of the significance of the place or landscape. Maintenance of access is sometimes the best or even the only way to maintain the significance of the place or landscape. Sometimes, access for some groups of people may be restricted by cultural protocols (eg at men's or women's special places) It is important that the relevant people are involved in developing and managing access policies. See Principle 4.0 above.</p> | | |
| 7.3 | <p>In the (short term) absence of joint management arrangements, or long-term planning instruments developed with appropriate Aboriginal participation, (or in concert with these arrangements or plans where appropriate) no activity disturbing land or resources should take place unless a cultural clearance has been given for that particular development. Mechanisms, such as <i>The Indigenous Land Interest Model's "Work Area Clearance Model"</i>, which do not require the disclosure of cultural information and which incorporate an assessment of social as well as physical impacts on land interests, should be used.</p> | 6.6 | <p><i>Indigenous participation and management</i></p> <p>(a) <i>Extent to which the management framework maintains and enhances Indigenous values including customary, traditional and native title use by Indigenous peoples and for Indigenous participation in forest management</i></p> |

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| <p>7.4</p> | <p>Cultural heritage legislation should exist to</p> <ul style="list-style-type: none"> • provide strong, enforceable, protection for Aboriginal cultural heritage values, places and landscapes on all land tenures (freehold, leasehold, crown and native title lands), recognising the holistic nature of Aboriginal culture, • recognise indigenous heritage and its management as the legitimate province of appropriate indigenous people, and • provide for appropriate indigenous participation in cultural heritage management and decision making. This participation should occur at state, regional and local level and be supported by resources for organisational infrastructure, communication and information systems, training and employment. • provide mechanisms for binding heritage agreements with landowners to support heritage protection, including appropriate and agreed access arrangements. These agreements should flow with the land. | <p>7.1</p> | <p><i>Extent to which the legal framework (laws, regulations, guidelines) supports the conservation and sustainable management of forests, including the extent to which it:</i></p> <p><i>(e) Provides for the management of environmental, cultural, social and/or scientific values in forests and ensures the participation of Indigenous peoples in all aspects of forest planning and management processes</i></p> |
| <p>8.0</p> | <p>CONSULTATION MECHANISMS AND PROTOCOLS</p> | | |

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| 8.1 | It is important that the appropriate Aboriginal people from an area (people with traditional and/or historical associations) are involved in management of forests and other cultural places. Suitable formal, interactive and ongoing mechanisms should be established, and resourced to facilitate appropriate consultation and participation. The following principles and protocols should be adopted when land management agencies, land managers and owners and graziers and forestry operators are undertaking planning, land use decision making, and activities on forested lands: (<i>see following</i>) | 6.6 7.2 | <p><i>Indigenous participation and management</i></p> <p>(a) <i>Extent to which the management framework maintains and enhances Indigenous values including customary, traditional and native title use by Indigenous peoples and for Indigenous participation in forest management</i></p> <p><i>Extent to which the institutional framework supports the conservation and sustainable management of forests, including the capacity to Develop and maintain human resource skills across relevant disciplines.</i></p> |
| 8.1.1 8.1.2 8.1.3 | <p>Protocols</p> <ul style="list-style-type: none"> • Land management agencies and individual land managers have a responsibility to consult, negotiate with and involve all those who have traditional interests (including potential Native Title determination beneficiaries) and to identify others who may have associations with particular historical cultural places in an area. It is the responsibility of land management agencies to find all of the people who have an interest. • The identification process should begin broadly and all organisations and individuals that might have an interest should be canvassed. Consultation to find all those with an interest must canvass the views of: <ul style="list-style-type: none"> - community people as well as Aboriginal officials - people with historical connections as well as with traditional interests, including Native Title claimants and persons who have been the subject of Native Title determinations - women as well as men - young as well as old - community based groups as well as tribal or language groups - all local organisations • Care should be taken to make sure people are not badgered or pestered, and consultation should be undertaken in a timely fashion, well in advance of decisions needing to be made. Consultation should take place during planning not just when development is happening. Adequate notice of meetings and visits must be given. First approaches should be through Land Councils, Native Title Representative Bodies and other community organisations. These organisations will be able to provide advice about appropriate protocols and sensitivities. | | |

| 8.00 Continued | |
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| 8.1.4 | <ul style="list-style-type: none"> • Where a Native Title determination has been made in relation to an area the determination will specify who the appropriate Native Title holders are; the Native Title Prescribed Body will be the appropriate Body to contact. In the absence of a determination all interested parties must be consulted. (see Principle 2.1) Although Native Title Representative bodies have a statutory function to facilitate communication with traditional owners, not all traditional owners may wish to work through their local representative body and this should be respected. Rep bodies can progress the question of how traditional owners wish to have their interests represented. |
| 8.1.5 | |
| 8.1.6 | <ul style="list-style-type: none"> • For forested freehold land or land where it is likely that no Native Title claim will be favourably determined, those proposing to carry out works or activities which may affect cultural heritage have a responsibility to consult, negotiate with and involve all those who have traditional or historical associations with the area. |
| 8.1.7 | <ul style="list-style-type: none"> • People with identified traditional associations to country have the right to speak for that country, and their involvement should be the primary Aboriginal involvement in decision making about that country. The association of other people to particular cultural places should be one of the issues considered in assessing the significance of a cultural place and in decision making decision about the future management of that place. (See 7.2 Protection) |
| 8.1.8 | <ul style="list-style-type: none"> • Funding and infrastructure support should be provided to either help set up appropriate land interest organisations and/or support the work of existing organisations. Some communities will want to establish land councils or other organisations to be a point of focus for forest and site management. This is especially important where no Native Title determination exists and/or where land may not be granted to or claimable by Traditional Owners and/or community members. • Formal mechanisms and processes to ensure ongoing, two way communication with all appropriate Aboriginal interest groups about the future management of forested lands, should be funded by forest management organisations and agencies, state and local governments. These mechanisms should be at state, regional and sub-regional levels. The form of these mechanisms and processes should be worked out with the local communities, organisations and native title holders. They should be used in long-term planning as well as in one-off environmental clearance work. Mechanisms might include: <ul style="list-style-type: none"> - Rep bodies acting as facilitators of contact (eg WAMP model) - Aboriginal forest management committees set up at region or subregional levels - A Forest Reference Panel at local government level which would include Aboriginal representation and have as one of its tasks involvement of appropriate Aboriginal people. - Joint management arrangements - Regional agreements using the ILUA model |

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| 9.0 | THE IMPORTANCE OF FORESTS AND CULTURE IN EDUCATION | | |
| 9.1 | Forests are important in educating children and others about Aboriginal cultural heritage. Aboriginal cultural studies should be integrated in the mainstream school curriculum and also into teaching about natural heritage. These curricula should be developed and taught by appropriate people. | 6.6 | <i>Indigenous participation and management</i> (a) <i>Extent to which the management framework maintains and enhances Indigenous values including customary, traditional and native title use by Indigenous peoples and for Indigenous participation in forest management</i> |
| 9.2 | Develop general education and promotion programs to inform landholders and the general public of the legislation which protects cultural heritage, indigenous rights and the rights and obligations of landholders. This should be accompanied by a general education program to inform everyone of the cultural value of forests. | 6.6 | <i>Indigenous participation and management</i> (a) <i>Extent to which the management framework maintains and enhances Indigenous values including customary, traditional and native title use by Indigenous peoples and for Indigenous participation in forest management</i> |
| 10.0 | ECONOMIC DEVELOPMENT for Aboriginal communities in Forests | | |
| 10.0 | Aboriginal people must be empowered through employment creation and economic development opportunities (including supporting education and training) at all levels in the RFA process and in future management. | 6.5 | <i>Employment and community needs</i> c(i) Viability and adaptability to changing social and economic conditions, of forest dependent communities. c(ii) Viability and adaptability of forest dependent Indigenous communities. d Area of land available and accessible for Indigenous peoples to exercise their inherent rights to meet subsistence or individual and family cultural and spiritual needs. |

APPENDIX 3

GUIDING PRINCIPLES FOR INDIGENOUS CULTURAL HERITAGE MANAGEMENT

This is an extract from the above Part B report, which provides the background and rationale for these principles. **It is important that these principles be read together as a group. They moderate each other.**

1. The Nature of Aboriginal Cultural Heritage

1.1 Aboriginal cultural heritage values are holistic and evolving. Cultural heritage includes the spiritual, physical, social and economic environment and the inherent process of the teaching of Aboriginal culture. Forests are part of indigenous cultural landscapes.

2. Preserving Native Title Rights

2.1 In the absence of a determination under the Native Title Act, all lands, waters and resources claimable under the Native Title Act, should be treated as if Native Title exists in relation to those lands and/or waters and all claimants and potential determination beneficiaries should be involved in decision making and forest management decisions.

2.2 All native title rights (whether they might be in land or in resources) should be preserved by the RFA process and native title holders should be involved in decision making and forest management decisions, and where appropriate, compensation and royalties should be negotiated and agreed.

3. Aboriginal Association with Non-Claimable Land

3.1 The association of Aboriginal people to non-claimable or non-granted forest lands should be identified, recognised and respected. Management arrangements, which recognise and respect those associations (both traditional and/or historic), should be put in place for cultural heritage places and landscapes within those lands. (See Principle 8)

4. Access

4.1

Access to places of cultural importance should be guaranteed to people who have rights and interests and/or access should be controlled by management arrangements which are determined by those who have rights and interests. Access may be for cultural purposes including:

- men's and/or women's business
- spiritual ceremonies
- visits to sites (including historic camp sites)
- teaching young people
- gathering resources (eg wood, stone, plants)
- fishing and hunting

On public lands which are claimable under the Native Title Act and/or on which there has been a Native Title determination and which has been leased back):

- Relevant native title claimants or holders should have appropriate access determined by them. (Access rights may be the domain of either women or men.)
- For other Aboriginal people (including those who have historical links) and for members of the wider community, access should be controlled by management arrangements which have had appropriate Aboriginal involvement and input (see Principles 2.1, 2.2 & 8) into their development.

On public lands not claimable or not granted under the Native Title Act:

- Access should be controlled by management arrangements which have had appropriate Aboriginal involvement and input. (See Principles 3, 5 and 8)
- Where access is decided to be culturally important roads and tracks should be maintained to facilitate access.

On freehold lands and on lands which there has been a Native Title determination:

- Access agreements should be negotiated with landholders to ensure that people can visit cultural places and at the same time, safeguard landholders' rights (See Principle 7.4). (On freehold land, access agreements will be between Aboriginal people with traditional and/or historical associations and the landholder. On lands on which there has been a Native Title determination, the agreements will be between Aboriginal people (and/or others) with historic associations and the Native Title holders)

5. Aboriginal involvement in Forest Management

5.1 Aboriginal people and their organisations must have ongoing direct participation in planning for and management of forested land (including National Parks, State Forests, Timber Reserves and freehold land with cultural values) at State, Regional and Local levels. This participation must:

- involve the appropriate people from the area (see Principle 8)
- include involvement in decision making
- provide employment in land management agencies, protected areas and the forest industry, in a full range of positions, from decision-maker to forest worker
- be supported by funding and resources to establish organisational infrastructure, information and communication strategies and training.

5.2 Local governments should have a role in forest management planning, should be accountable for ensuring that indigenous cultural heritage is protected and should take an active role in representing community views about forests to State Government agencies. Local Aboriginal people (see further Principle 8) should have broad, structured and formalised relationships with local councils so that their views will be represented, their rights respected and their involvement guaranteed.

6. Maintenance of Forest Values and Resources

6.1 Traditional stories, knowledge and management practices should influence how the land and the forest resources are cared for as clean water, fauna and flora, medicine plants and other resources, are cultural resources.

6.2 Long-term integrated planning and active management, incorporating environmentally sustainable forest management principles, must safeguard the natural and cultural heritage of forests for all future generations and achieve an appropriate balance between environmental protection and economic development. Forests should be used for cultural purposes, employment, resource production, eco tourism and education and preserved in perpetuity for future use.

6.3 Plantation forestry should be expanded in preference to logging original native forests providing this can be done in cleared or degraded land in areas where cultural heritage will not be damaged.

7. Protection of Cultural Heritage

7.1 Cultural heritage places should be managed as part of the whole forest landscape, and the spiritual, social and economic environment in which they exist. Forests are cultural assets. (See Principle 1)

7.2 The cultural heritage of forests should be identified and protected as part of the long-term planning for forested areas, with appropriate Aboriginal involvement. Cultural heritage surveys should be conducted as part of long-term land use decision making and land use decisions must protect and be consistent with the cultural significance of landscapes and places. The following mechanisms should be used:

Identification

Funding should be provided for broad cultural heritage surveys of forested lands to be undertaken progressively over the next five years. These should be undertaken first in areas where a change of land use or tenure is envisaged and/ or where active logging, pastoral or other activity will disturb forest resources. They should form part of land management planning. Cultural surveys need to identify:

- which peoples have traditional, historic and/or contemporary links with country;
- what stories exist (formally or informally); and
- what landscapes or particular places are important (either from a contemporary, historic, archaeological or anthropological view point) to which people (including the wider community).

The following principles are basic to the conduct of cultural surveys:

- government funding of relevant Aboriginal organisations to undertake an agreed and negotiated survey program;
- appointment of researchers, by relevant indigenous organisations who are acceptable to relevant indigenous people;
- survey information remains the property of indigenous people;
- indigenous ownership and control of cultural information;
- funding of appropriate data bases systems for storing and accessing information;
- at the completion of the survey regional negotiation of a final agreement about regional forest resource use and about future management arrangements and ongoing Aboriginal involvement (see Principle 5.0)
- negotiation about specific heritage place or landscape protection (see below); and
- appropriate Aboriginal participation and consultation (see Principle 8.0).

Protection

There must be guaranteed protection of Aboriginal cultural places and landscapes, including provision for:

- cultural survey;
- training
- adequate resources for survey, protection, and training ,and
- Aboriginal involvement in policy development and management decisions about cultural heritage

Legislation to protect cultural places should be effective on all land tenures (including freehold, leasehold, crown and native title lands) It should be strong, enforceable and acknowledge Aboriginal interests and guarantee Aboriginal involvement in decision making and provide mechanisms for heritage agreements on freehold land which include access arrangements.

Protection of particular cultural heritage places should incorporate the following principles:

- Aboriginal involvement in decisions affecting their cultural heritage, and in the on-going management of their cultural heritage.
- Protection of heritage places should stem from the *significance* of the place/or landscape and actions to protect heritage places should be consistent with the context and features which make the place or landscape important.
- The *significance* of a place or landscape describes the value or importance the place or landscape has to a community and includes the "spiritual, social, aesthetic, historic, or scientific value of the place or landscape for present, past or future generations". The cultural significance of a place or landscape can change over time.
- Protection of heritage places should involve a planning process which
 - is guided by and maintains the *cultural significance* of the place or landscape,
 - takes into account all the management issues affecting the place or landscape and
 - identifies the objectives and outcomes which have been agreed for the place or landscape by the relevant Traditional Owners or (where no Traditional Owners are identified) by the Aboriginal community and
 - produces a plan of management which documents these things
- Records of places, records of decisions made about them and records of actions taken at heritage places should be made, kept, stored and accessed in a culturally appropriate way. In some cases making records may not be appropriate. Ownership of, storage and use of, and access to information should be openly agreed at the outset of a project with the people who own, provide or have rights to the information.
- Physical intervention or other actions are taken to support *cultural significance* and should be the minimum required to achieve this aim. Actions which preserve cultural significance have top priority.

Access

Access to places of cultural heritage significance is an integral part of protecting cultural heritage. For many sorts of Aboriginal cultural heritage places visiting the places, whether for social, economic or spiritual activity is an integral part of the significance of the place or landscape. Maintenance of access is sometimes the best or even the only way to maintain the significance of the place or landscape. Sometimes, access for some groups of people may be restricted by cultural protocols (eg at men's or women's special places) It is important that the relevant people are involved in developing and managing access policies. See Principle 4.0 above.

7.3 In the (short term) absence of joint management arrangements, or long-term planning instruments developed with appropriate Aboriginal participation, (or in concert with these arrangements or plans where appropriate) no activity disturbing land or resources should take place unless a cultural clearance has been given for that particular development. Mechanisms, such as *The Indigenous Land Interest Model's "Work Area Clearance Model"*, which do not require the disclosure of cultural information and which incorporate an assessment of social as well as physical impacts on land interests, should be used.

7.4 Cultural heritage legislation should exist to:

- provide strong, enforceable, protection for Aboriginal cultural heritage values, places and landscapes on all land tenures (freehold, leasehold, crown and native title lands), recognising the holistic nature of Aboriginal culture,
- recognise indigenous heritage and its management as the legitimate province of appropriate indigenous people, and
- provide for appropriate indigenous participation in cultural heritage management and decision making. This participation should occur at state, regional and local level and be supported by resources for organisational infrastructure, communication and information systems, training and employment.

- provide mechanisms for binding heritage agreements with landowners to support heritage protection, including appropriate and agreed access arrangements. These agreements should flow with the land.

8. Consultation Mechanisms and Protocols

8.1 It is important that the appropriate Aboriginal people from an area (people with traditional and/or historical associations) are involved in management of forests and other cultural places. Suitable formal, interactive and ongoing mechanisms should be established, and resourced to facilitate appropriate consultation and participation. The following principles and protocols should be adopted when land management agencies, land managers and owners and graziers and forestry operators are undertaking planning, land use decision making, and activities on forested lands.

Protocols

- 8.1.1 Land management agencies and individual land managers have a responsibility to consult, negotiate with and involve all those who have traditional interests (including potential Native Title determination beneficiaries) and to identify others who may have associations with particular historical cultural places in an area. It is the responsibility of land management agencies to **find** all of the people who have an interest.
- 8.1.2 The identification process should begin broadly and all organisations and individuals that might have an interest should be canvassed. Consultation to find all those with an interest must canvass the views of:
- community people as well as Aboriginal officials
 - people with historical connections as well as with traditional interests, including Native Title claimants and persons who have been the subject of Native Title determinations
 - women as well as men
 - young as well as old
 - community based groups as well as tribal or language groups
 - all local organisations
- 8.1.3 Care should be taken to make sure people are not badgered or pestered, and consultation should be undertaken in a timely fashion, well in advance of decisions needing to be made. Consultation should take place during planning not just when development is happening. Adequate notice of meetings and visits must be given. First approaches should be through Land Councils, Native Title Representative Bodies and other community organisations. These organisations will be able to provide advice about appropriate protocols and sensitivities.
- 8.1.4 Where a Native Title determination has been made in relation to an area the determination will specify who the appropriate Native Title holders are; the Native Title Prescribed Body will be the appropriate Body to contact. In the absence of a determination all interested parties must be consulted. (see Principle 2.1) Although Native Title Representative bodies have a statutory function to facilitate communication with traditional owners, not all traditional owners may wish to work through their local representative body and this should be respected. Rep bodies can progress the question of how traditional owners wish to have their interests represented.
- 8.1.5 For forested freehold land or land where it is likely that no Native Title claim will be favourably determined, those proposing to carry out works or activities which may affect cultural heritage have a responsibility to consult, negotiate with and involve all those who have traditional or historical associations with the area.
- 8.1.6 People with identified traditional associations to country have the right to speak for that country, and their involvement should be the primary Aboriginal involvement in decision making about that country. The association of other people to particular cultural places should be one of the issues considered in assessing the significance of a cultural place and in decision making decision about the future management of that place. (See 7.2 *Protection*)

- 8.1.7 Funding and infrastructure support should be provided to either help set up appropriate land interest organisations and/or support the work of existing organisations. Some communities will want to establish land councils or other organisations to be a point of focus for forest and site management. This is especially important where no Native Title determination exists and/or where land may not be granted to or claimable by Traditional Owners and/or community members.
- 8.1.8 Formal mechanisms and processes to ensure ongoing, two way communication with all appropriate Aboriginal interest groups about the future management of forested lands, should be funded by forest management organisations and agencies, state and local governments. These mechanisms should be at state, regional and sub-regional levels. The form of these mechanisms and processes should be worked out with the local communities, organisations and native title holders. They should be used in long-term planning as well as in one-off environmental clearance work. Mechanisms might include:
- Rep bodies acting as facilitators of contact (eg WAMP model)
 - Aboriginal forest management committees set up at region or subregional levels
 - A Forest Reference Panel at local government level which would include Aboriginal representation and have as one of its tasks involvement of appropriate Aboriginal people.
 - Joint management arrangements
 - Regional agreements using the ILUA model

9. Importance of Forests and Culture in Education

9.1 Forests are important in educating children and others about Aboriginal cultural heritage. Aboriginal cultural studies should be integrated in the mainstream school curriculum and also into teaching about natural heritage. These curricula should be developed and taught by appropriate people.

9.2 Develop general education and promotion programs to inform landholders and the general public of the legislation which protects cultural heritage, indigenous rights and the rights and obligations of landholders. This should be accompanied by a general education program to inform everyone of the cultural value of forests.

10. Economic Development for Aboriginal Communities in Forests

10.1 Aboriginal people must be empowered through employment creation and economic development opportunities (including supporting education and training) at all levels in the RFA process and in future management.