



SOUTH BALLINA SAND QUARRY EXPANSION FINAL CULTURAL HERITAGE MANAGEMENT PLAN

PREPARED FOR LAND & FIRE ASSESSMENTS PTY LTD



EVERICK HERITAGE CONSULTANTS

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1. INTRODUCTION

Application has been made by South Ballina Group ('the Proponent') to the Department of Planning and Environment, for a Modification Application for the proposed expansion to the South Ballina Sand Quarry ('the Project'). This Cultural Heritage Management Plan ('CHMP') outlines the methods that shall be used to manage potential impacts to Aboriginal cultural heritage should they arise during the course of undertaking the Project.

The lands subject to this CHMP comprise part of Lot 20 DP 1150395, at 260 South Ballina Beach Road, Keith Hall NSW. This project comprises a parcel of land approximately 2.68ha in size and will allow for extraction from an area with an estimated additional sand resource of 438,800 tons (LFA 2015: 8).

The South Ballina Quarry lies within an important cultural landscape to the Aboriginal people of the area. The Proponent has undertaken steps previously to meet their legislative requirements in regards to Aboriginal Cultural Heritage and community consultation, however it has been recognised that a CHMP is required in order to finalise meeting these requirements.

Previous steps undertaken include:

1. **Cultural Heritage Assessment:** Everick Heritage Consultants were commissioned by Land and Fire Assessments Pty Ltd ('LFA') on behalf of South Ballina Group to undertake an Aboriginal Cultural Heritage Assessment of the Project Area. The assessment included:
 - a) consultation with the Registered Aboriginal Parties ('RAPs') for the Project;
 - b) searches of applicable heritage registers;
 - c) review of ethnographic and historic resources relevant to the region;
 - d) review previous archaeological work and the landscape context;
 - e) summarise the local and regional character of Aboriginal land use and its material traces;
 - f) formulate a predictive model;
 - g) conduct an archaeological survey, archaeological testing excavations and undertake Ground Penetrating Radar; and
 - h) report on findings and recommended management strategies.
2. **Community Consultation Process:** In response to recommendations from the OEH, dated 27 April 2015, Everick completed preliminary consultation with Jali LALC regarding the Project and this CHMP. Jali LALC identified the need for archaeological testing prior to finalisation of this CHMP. Further consultation with the OEH regarding the matter resulted in the commencement of the community consultation process. Consultation, consistent with the OEH *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010) (ACHCRP Guidelines) included:
 - (a) formal notices sent to the following statutory and governing authorities, as previously nominated by the Office of Environment and Heritage in the ACHCRP guidelines on 02 December 2015;



- i. NSW Office of Environment and Heritage;
 - ii. The Office of the Registrar, Aboriginal Land Rights Act 1983;
 - iii. Ballina Shire Council; and
 - iv. Jali LALC;
- (b) a public notice was published in the Northern Star Newspaper on 5 December 2015;
- (c) letters sent to potential RAPs, as identified by the OEH, to notify them of the proposed Project and consultation process (08 December 2015); and
- (d) a preliminary inspection and meeting conducted by Everick Director Tim Robins on Thursday, 28 May 2015 with Jali LALC Sites Officer Marcus Ferguson and CEO Dave Brown in attendance.

The purpose of the preliminary inspection and meeting was to consider the Project Area against the Due Diligence Code and discuss whether a CHMP for the proposed SBSQ Expansion was appropriate. It was noted that a number of Aboriginal sites, including human burials, had been recorded within close proximity to the proposed Project Area. As such, it was the position of Jali LALC that the proposed Expansion would not be supported until further archaeological investigations had been conducted.

3. **Archaeological Test Excavations:** In response to recommendations made during the preliminary Site Inspection and Survey Everick undertook a Test Excavation Program with representatives of the RAPs, consistent with the OEH Code of Practice. The Test Excavation Program commenced on Wednesday, 17 February 2016 and concluded on Friday, 19 February 2016. No archaeological material, in situ or otherwise, was identified in any of the 17 Test Pits excavated as part of the Testing Program. However due to the limitations of the excavation strategy it was the position of the RAPs that further investigations were necessary in determining the potential for the Project Area to contain burials.
4. **Elders Meeting:** An on-site meeting was held between Everick and Jali LALC nominated Elders and Knowledge Holders Artie Ferguson and Lewis Cook on 10 May 2016. Mr Ferguson and Mr Cook were aware of numerous burials, campsites and other places of significance within the general region. However, both Mr Ferguson and Mr Cook were of the opinion that burials and campsites were unlikely to be located within the Project Area.
5. **Ground Penetrating Radar:** Consultation conducted with RAPs following the archaeological test excavation identified Ground Penetrating Radar (GPR) as a desired investigative technique to determine if cultural heritage, notably burials, existed within the Project Area. An on-site meeting was conducted on Monday 25 July 2016 to observe the activities associated with the GPR process and to discuss the terms of the CHMP.

The GPR identified three anomalies within the surveyed sand substrates. Two of these anomalies were identified as previous test pits, excavated by Everick during the Test Excavation Program. The third was in a cleared area and is believed to relate to the excavation of a tree stump. There was no indication of burials or potentially significant objects within the GPR results.



This CHMP has been developed according to, and in order to fulfil, the commitments made during the community meeting.

This CHMP sets out the processes and principles that the Proponent, proposes to adopt for the identification, protection and ongoing management of Aboriginal Objects within the South Ballina Quarry Extraction Area.

2. OPERATIVE PROVISIONS

2.1 Definitions

“Aboriginal Cultural Heritage” or **“Cultural Heritage”** means Aboriginal Objects as defined in Part 6 of the *National Parks and Wildlife Act 1974* (NSW).

“Aboriginal Cultural Heritage Site(s)” or **“Site(s)”** is an area exhibiting one or more attributes of Aboriginal Cultural Heritage such as Aboriginal Places.

“Aboriginal Object” has the same meaning as that provided in Part 6 of the *National Parks and Wildlife Act 1974* (NSW).

“AHIMS” means the Aboriginal Heritage Information Management System – the database kept by the OEH which registers Aboriginal Heritage sites and their details.

“All Staff” means all employees, Contractors and sub-Contractors of the Proponents involved in the Extraction Process.

“CHMP” means this Cultural Heritage Management Plan, all Appendices to this CHMP and any subsequent amendments to this CHMP from time to time as agreed by the Parties.

“Extraction” means any surface and sub-surface disturbance during the Expansion works undertaken by the Proponent within the Project Area.

“Contractor” means a contractor, including Sub-Contractors, employed by the Proponent to construct the Development.

“Cultural Heritage Advisor” means a professionally qualified person in the fields of archaeology or anthropology, engaged by the Proponent to assist in the identification of cultural heritage

“Cultural Heritage Contact” means a person or persons nominated by the Proponent to act as the main point of contact between the Proponent and the RAPs.

“Cultural Signage” or **“Signage”** means signage or other interpretive works designed to impart cultural knowledge and cultural significance to the broader community in areas required by Section 13.



“Extraction Process” means the South Ballina Quarry Expansion to which this CHMP applies.

“Project Area” means the area detailed in **Appendix 1 - Figure 1** and referred to in the **Recitals** on which Extraction and associated works are taking place.

“Proponent” means South Ballina Group, including all staff, agents, Contractors and sub-Contractors, and such persons who shall come to own, lease, manage or otherwise exhibit control over the use of land within the Project Area.

“DPE Means the New South Wales Department of Planning and Environment

“Due Diligence Code” means the OEH *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (2010).

“EP&A Act” means the *Environmental Planning and Assessment Act 1979* (NSW).

“Exclusion Zone” means the area, not less than twenty (20) metres, around an Aboriginal Cultural Heritage Site that the Proponent may not enter for the purposes of any Extraction until appropriate arrangements for the management of the Site have been made in accordance with this CHMP.

“Find” means an Aboriginal Object, as defined in Part 6 of the *National Parks and Wildlife Act 1974* (NSW).

“Find Procedure” means the procedure detailed in Section 9 of this CHMP.

“GPR” means Ground Penetrating Radar.

“Human Remains” are the physical remains (or part thereof) of human beings, and does not include

- a) human remains buried under the authority of a law of the Commonwealth or any State or Territory; or
- b) human remains in, or originating from, a place recognized as a burial ground for internment of remains as referred to in paragraph (a).

“Induction” means cultural heritage induction training sessions developed by the Proponent in consultation with the RAPs, or their representatives, and presented by persons with knowledge and experience in Aboriginal Cultural Heritage and the obligations imposed by a CHMP.

“NPW Act” means the *National Parks and Wildlife Act 1974* (NSW).

“NPW Regulations” means the *National Parks and Wildlife Regulations 2009* (NSW).

“OEH” means the New South Wales Office of Environment and Heritage.

“Parties” means the RAPs and the Proponent.



“RAPs” mean registered Aboriginal party who are Aboriginal persons entitled under the laws and departmental guidelines of New South Wales to be consulted on the management of Aboriginal Cultural Heritage (as listed in **Appendix 2**). These persons have registered their interest in being consulted in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010.

“Significant Ground Disturbance” means disturbance of the topsoil or surface rock layer of the ground or a waterway by machinery in the course of grading, excavating, deep ripping, digging or dredging.

“Undisturbed Areas” means areas where the ground has not previously been disturbed by works or activities.

2.2 Rules for Interpreting this Document

The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply:

- 1) a singular work includes the plural, and vice versa;
- 2) a word which suggests one gender includes the other gender;
- 3) if an example is given of anything (including a right, obligation or concept), the example is for clarity and does not limit the scope of that thing;
- 4) the word “agreement” includes an undertaking or understanding, whether or not in writing; and
- 5) subject to this clause, the Appendices, whether or not completed at the dates of this CHMP will be considered part of this CHMP for all purposes.

3. PRINCIPALS OF CULTURAL HERITAGE MANAGEMENT AND PURPOSE OF THIS CHMP

3.1 Principals of this CHMP

The principals of Cultural Heritage management in this CHMP are:

Respect: A practice of respect, understanding and value for Aboriginal traditions and Aboriginal Cultural Heritage should be conveyed to relevant employees, agents, consultants, Contractors and sub-Contractors of the Proponent through Induction training.

Conservation and Protection: Aboriginal traditions should be respected and Aboriginal Cultural Heritage should be conserved and protected.



Minimise Impact: The Proponent accepts that Extraction within the Project Area has the potential to damage Aboriginal Objects. Consequently, it is necessary to implement a series of actions and procedures to avoid or minimise the potential impact of Extraction on any Aboriginal Objects should they be located within the Project Area.

3.2 Purpose of this CHMP

With the Cultural Heritage management principals detailed above in mind, this CHMP seeks to:

- a) encourage direct involvement of the RAPs in the development, implementation and evaluation of this CHMP and future agreements to manage Cultural Heritage in the Project Area;
- b) ensure direct involvement for the RAPs in all management actions deemed necessary to manage the potential for any Aboriginal Objects in the areas identified in **Appendix 1** during Extraction;
- c) ensure that, as much as possible, any Aboriginal Objects that are unearthed during Extraction are identified and appropriate procedures are in place to ensure that they are protected. To this end, it is legally required that if Aboriginal cultural materials are uncovered as a result of development activities within the Project Area, they are to be registered as Sites in the Aboriginal Heritage Information Management System (AHIMS) managed by the OEH;
- d) allow the Proponent to fulfil its commercial and corporate obligations and objectives, while protecting or otherwise managing Aboriginal Cultural Heritage;
- e) meet the Proponent's obligation imposed on the Proponent by the DPE;
- f) provide a strong foundation for an ongoing, open and mutually beneficial relationship between the Parties; and
- g) in the unlikely and unanticipated event of a dispute between the Parties, provide workable options for dispute management and finding a mutually beneficial way forward.

4. OBLIGATIONS OF THE RAPs

In implementing this CHMP, the RAPs have agreed to:

- (a) where employed by the Proponent, work diligently to assist with the implementation of this CHMP and enable it to operate successfully;
- (b) provide any reasonable information required by Proponent to implement this CHMP;
- (c) co-operate with the Proponent to ensure that it is able to go about its activities in a timely and efficient manner; and
- (d) assist the operations of the Proponent's staff, agents and Contractors where they are acting in accordance with this CHMP; and
- (e) undertake and adhere to requirements in managing any Aboriginal heritage finds as described in Section 9 of this CHMP.



5. RESPONSIBILITIES OF THE PROPONENT

In implementing this CHMP, the Proponent undertakes to apply the following practices:

- (a) ensure all practices are undertaken so as to avoid breaching this CHMP;
- (b) ensure that, should breaches of this CHMP occur, that they are managed in accordance with the Breach Procedures as agreed upon by the Parties;
- (c) provide the RAPs with relevant plans as part of their bi-annual progress reports;
- (d) work diligently and consistently to make this CHMP operate successfully;
- (e) provide the RAPs with resources as necessary for the evaluation and implementation of this CHMP;
- (f) ensure that any Contractor employed for any part of the Extraction Process complies with the Proponent's obligations under this CHMP to protect Aboriginal Cultural Heritage Sites in the Project Area and that the Contractor is informed of the roles and duties of all Parties involved with the implementation of this CHMP;
- (g) ensure that safety equipment and first aid equipment are available for use by Field Officers or RAPs when they are onsite; and
- (h) provide workplace health and safety and environmental management Induction training to Field Officers or RAPs.

6. CULTURAL HERITAGE MONITORING

Archaeological testing has demonstrated that the Project Area has a very low potential of containing subsurface Aboriginal Objects. It is anticipated that if subsurface Aboriginal Objects of significance are located within the Project Area, a cultural heritage monitoring program of the first extraction cell would be sufficient to identify such Aboriginal Objects.

Cultural Heritage Monitoring will take place during the clearing of surface vegetation within the Monitoring Areas as shown in Appendix 1, being:

- (a) the first cell; and
- (b) the cell containing the likely tree stump anomaly identified during the GPR.

The Proponent will:

- (a) ensure that the RAPs are notified about the commencement of works at least 7 days prior to the start date. The notice must provide the date of commencement;
- (b) invite and meet the reasonable costs of one representative Monitor for each of the three RAPs;
- (c) ensure that all RAP Monitors have undergone workplace health and safety and environmental management Induction training prior to the commencement of monitoring works; and



- (d) ensure that safety equipment and first aid equipment are available for use by the Registered Aboriginal Stakeholder Field Officers.

The RAPs will:

- (a) respond within seven days of receiving notice from the Proponent advising their availability to cultural heritage monitoring activities and the details of only one Monitor; and
- (b) the Monitor must be present at the Project Area on the date of commencement specified by the Proponent in the notice of works.

Clearing of the relevant quarry cells can occur where one or more RAPs is present on site, or in the event that no RAPs are available to attend site within 7 days of being provided notice, under the supervision of a qualified archaeologist.

7. CULTURAL HERITAGE INDUCTIONS

7.1 Briefing on Duties under this CHMP

The Proponent will:

- (c) ensure that the Proponent's relevant staff and Contractors are aware of the Proponent's responsibilities under this CHMP and the roles and responsibilities of the Cultural Heritage Team in implementing this CHMP; and
- (d) allow sufficient time before Extraction commences for this briefing to occur.

7.2 Cultural Heritage Induction

All Staff engaged in undertaking initial subsurface disturbance will undergo a Cultural Heritage Induction prior to Extraction commencing. The Induction will be run by a representative of the Jali LALC. The purpose of the Induction will be to:

- (a) instruct Staff on the basic principles of identifying Aboriginal Cultural Heritage;
- (b) instruct Staff on areas which are considered to retain potential to contain Aboriginal Cultural Heritage;
- (c) familiarise all persons with the culture and traditions of the RAPs;
- (d) promote an understanding and respect for the culture and traditions of the RAPs;
- (e) foster good relationships between the RAPs and others; and
- (f) instil understanding of the principles embodied in this CHMP.



8. COMMUNICATIONS

8.1 Proponent's Cultural Heritage Contacts

The Proponent will nominate a person within its organisation as Cultural Heritage Contact, who will be the main point of contact between the Proponent and the RAPs in relation to the implementation of this CHMP (**Appendix 2**). The Proponent will also nominate a Cultural Heritage Advisor, who may act on the Proponents behalf where requested by the Proponent.

8.2 Aboriginal Contacts

The RAPs are requested to nominate their postal address and phone number where they permit the Proponent to contact them. Appendix 2 gives the contact details for the RAPs

8.3 Communication Protocol

Where possible, all communication between the Parties is to occur via the contact people defined in this Section, unless otherwise agreed by the Parties.

Communication between the Parties will be written, and may take the form of email, letter through Australia Post, or fax. Phone calls may be used as a communication tool, however a written file note of the conversation will be kept on file.

9. FIND PROCEDURE

The Proponent acknowledges that further Aboriginal Objects, not already identified by past archaeological surveys, may be discovered during the course extraction works. These potential discoveries fall into two (2) distinct categories:

- a) Aboriginal human remains; and
- b) sub-surface Aboriginal Objects, not being human remains.

9.1 Aboriginal Human Remains

Burials are known to occur throughout the region, particularly in sandy substrates such as the Project Area. Whilst all reasonable efforts have been made to attempt to identify burials within the Project Area



(Archaeological testing and GPR), the nature of archaeological testing is such that it cannot conclusively rule out the presence of burials within the Project Area.

Aboriginal human remains will be dealt with as according to the Aboriginal Remains Procedure outlined in **Appendix 3**, with special regard to the following considerations:

- (a) in all cases suitable dignity is required in the handling of the issue;
- (b) the primary intention of this strategy is to avoid the unnecessary removal or disturbance of the human remains and to allow appropriate Aboriginal people the final decision-making powers, if the remains should prove to be those of an Aboriginal person; and
- (c) where this is not the case the discovery Site will be deemed a crime scene and Contractor and its Sub-Contractors will be subject to police direction.

9.2 Aboriginal Objects

In the event of a potential Cultural Heritage Find, the following process will be carried out immediately by Staff and /or Contractors:

- a) a qualified archaeologist and representatives of the RAPs will be invited to attend the site within 24 hours;
- b) if the Aboriginal artefacts are of a density of less than 5 per m², or shell less than a density of 40 per m², and the archaeologist and RAPs agree the site is of low heritage significance:
 - a. the material should be salvaged by the Cultural Monitors, and provided to a qualified archaeologist to record, which by law involves the submission of completed site cards to AHIMS, after which the RAPs will deposit the Aboriginal Objects at the agreed keeping place; and
 - b. a record of any finds must be provided to all RAPs within 7 days of the find being first identified by the Cultural Monitors; or
- c) if the Aboriginal Objects are of a density of more than 5 per m², or the archaeologist and/or RAPs are of the opinion that the finds are of moderate or high heritage significance:
 - a. a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;
 - b. an appropriate archaeological salvage strategy, consistent with the usual scientific archaeological standards for such a find shall be developed between all parties;
 - c. archaeological salvage works will be commenced within 96 hours of the find being identified consistent with the agreed salvage plan, and must include representatives of the RAPs;
 - d. extraction works can proceed within the buffer zone at the completion of the archaeological salvage program; and



In the event that an Aboriginal Stakeholder(s) cannot inspect a potential find under requirement 9.2(a) above the results of the emergency meeting and archaeological salvage strategy will be communicated to the RAPs within 24 hours.

Any disputes as to the management of a Find will be dealt with in accordance with the Dispute Resolution Protocols (Section 13).

10. KEEPING PLACE

Any artefacts found within the South Ballina Quarry Project Area during the course of construction will be kept at an agreed Keeping Place within Lot 20 DP 1150395. An appropriate Care and Control Agreement will be required from the OEH should the RAPs wish to subsequently move the Aboriginal Objects off Lot 20 DP 1150395.

Aboriginal Objects originating from the Project Area will be kept at all times in the care and control of the RAPs.

11. RENUMERATION

Remuneration of the RAPs for services provided under this CHMP, will be the subject of further negotiations between the Proponent and the RAPs, having regard to the nature of the work and its duration.

12. OWNERSHIP OF INFORMATION

The Proponent will own all information, reports or other documents generated or compiled in the implementation of this CHMP ("the Reports"), except where such information is the property of another person or is already in the public domain.

The RAPs will be requested to provide any information to the Proponent that is required to for meeting requirements of law, including for the purpose of applying for any permits, licences, approvals or other consents required by law for the Modification or for the purpose of any programs associated with this CHMP.

The information supplied by the RAPs will be used solely for purposes relating to this CHMP.

Where information generated in the course of implementing this CHMP is of a confidential nature to the RAPs and where the RAPs have informed the Proponent of this fact, then that information:



- (a) may not be used for any purpose other than in fulfilment of the Parties' obligations under this CHMP; and
- (b) cannot be supplied to or used by any third Party, or used for any other purpose, other than as required by law, without the express written permission of the RAPs.

13. DISPUTE RESOLUTION

During the implementation of this CHMP, if disputes occur in relation to the management of Aboriginal Objects, the following principles and procedures will apply:

- (a) wherever possible, issues will be negotiated directly between the RAPs and the Cultural Heritage Advisor, with minimum disruption to Extraction;
- (b) failing resolution under (a), an on-site meeting at a time convenient to the Parties, will be convened between The Proponent's Staff, the RAPs and the Cultural Heritage Advisor; and
- (c) If resolution under (b) is not achieved, Everick Heritage Consultants, as an independent cultural heritage advisor, will provide an opinion on the appropriate resolution to the dispute, with regard being had to this CHMP and any relevant legislative requirements or government Departmental directions;
- (d) if resolution under (c) is not achieved, the proponent will investigate as to whether there are any other options available to them; and
- (e) if resolution under (d) is not achieved, a permit under Section 90 of the *National Parks and Wildlife Act 1974* (NSW) will be sought by the Proponent where required.

14. NOTICES

The Proponent will, where practicable, provide any notices, consents or other communication under this CHMP in writing, signed and either left at the RAPs address or sent to the RAPs by mail, email, or fax.

The Proponent may engage another party (such as the Cultural Heritage Advisor) to undertake the providing of Notices.

15. TERM

This CHMP will commence upon approval from the Department of Planning and Environment, and will continue until alternative agreements or CHMP's are entered into between the Proponent and the RAPs, or until such time as Extraction by the Proponent ceases within the Project Area.



16. REVIEW

The Proponent and the RAPs will review the implementation of this CHMP, either in meetings or through correspondence, on a bi-annual basis.

17. SAFETY ISSUES

It is understood that Field Officers will comply with The Proponents site specific Occupational Health and Safety practices and procedures, and will not undertake to carry out any unsafe acts whilst on site. In good faith, Field Officers will conduct themselves in accordance with their own nominated stakeholder procedures in regards to undertaking Monitoring activities; however will be guided by The Proponent in relation to specific issues of workplace health and safety, or other administration issues, as agreed between the Parties from time to time.

The Proponent will provide (if required) hard hats, safety glasses, hearing protection, safety vests and sunscreen to the Field Officers while the Field Officers are in the Project Area. The Field Officers must supply their own steel capped boots and hi – visibility long sleeved work shirts.

18. COSTS

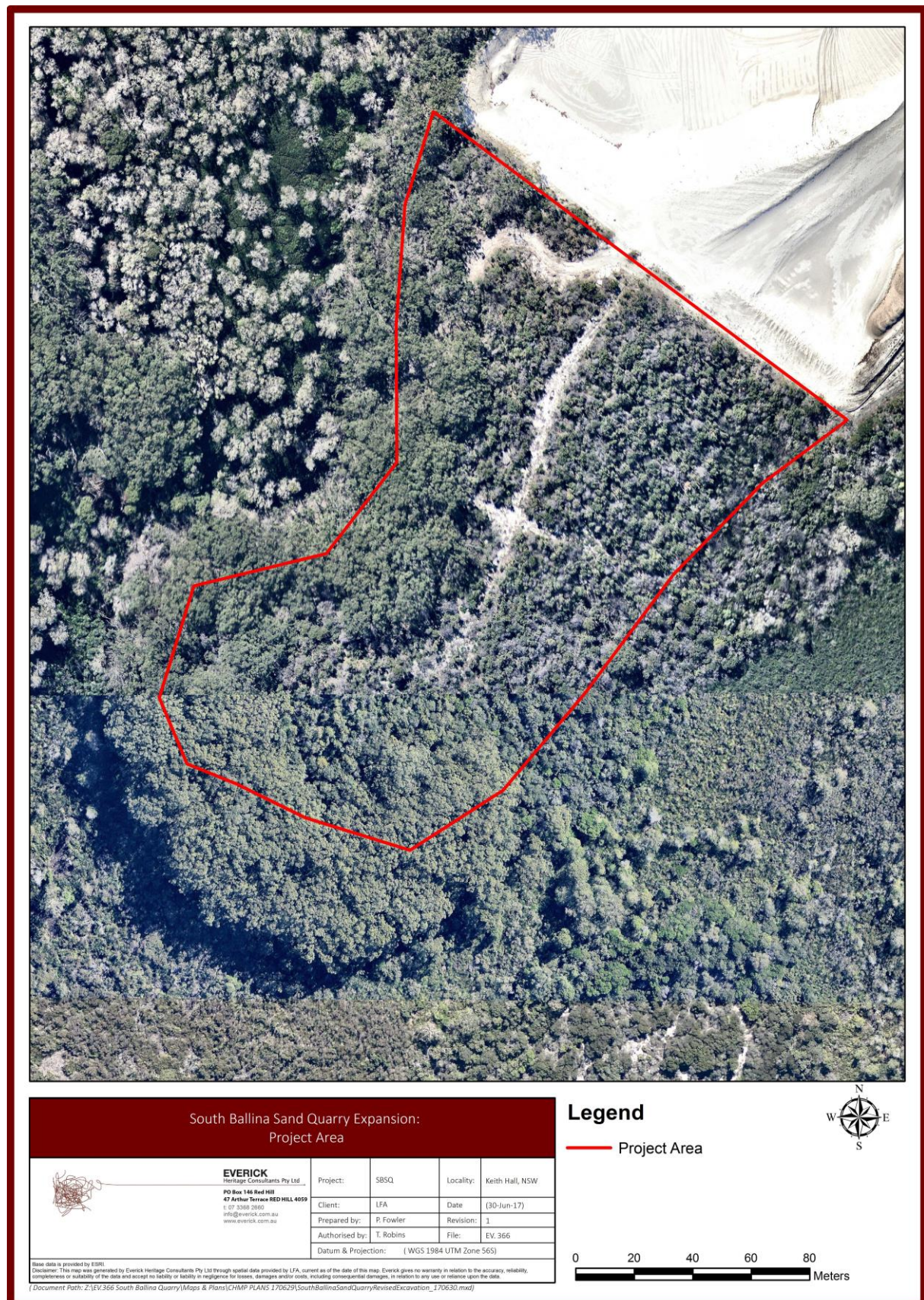
Costs of any regulatory compliance are to be borne by the Proponent.

19. APPROVAL OF THE MANAGEMENT PLAN

The Proponent will lodge this CHMP with the NSW Department of Planning and Environment for approval.



APPENDIX 1 – PROJECT AREA





South Ballina Sand Quarry Expansion: Monitoring Areas



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Project:	SBSQ	Locality:	Keith Hall, NSW
Client:	LFA	Date:	[08-Sep-16]
Prepared by:	P. Fowler	Revision:	1
Authorised by:	T. Robins	File:	EV. 366
Datum & Projection:	(WGS 1984 UTM Zone 56S)		

Base data is provided by ESRI.
Disclaimer: This map was generated by Everick Heritage Consultants Pty Ltd through spatial data provided by LFA, current as of the date of this map. Everick gives no warranty in relation to the accuracy, reliability, completeness or suitability of the data and accept no liability or liability in negligence for losses, damages and/or costs, including consequential damages, in relation to any use or reliance upon the data.
(Document Path: Z:\EV.366 South Ballina Quarry\Maps & Plans\SHP and MKD\Monitoring Areas_160908.mxd)

Legend

- Project Area
- Monitoring Areas





APPENDIX 2 - RAPS:

Registered Aboriginal Stakeholder	Primary Contact	Contact Details
Jali Local Aboriginal Land Council	Dave Brown	PO BOX 1677, BALLINA, NSW 2478 ceo@jalilalc.com.au
Cultural Concepts	Lois Cook	PO BOX 123, WARDELL, NSW 2477; OR 4/12 CLAIR CIRCUIT, WEST BALLINA, NSW 2478 culturalconcepts@bigpond.com
Numbahjing Native Title Group (John Cook Foundation)	Troy Anderson & Sue Anderson	suriajean@yahoo.com.au t.fred.anderson@gmail.com

Proponents Cultural Heritage Contact:

Name	Address	Phone Number

Cultural Heritage Advisor (Everick Heritage):

Name	Address	Phone Number
Tim Robins Director	Everick Heritage Consultants 47 Arthur Terrace, Red Hill, QLD, 4059 PO Box 146, Red Hill, QLD, 4059	0432 816 460 (07) 3368 2660



APPENDIX 3 - HUMAN REMAINS POLICY: MANAGEMENT OF ABORIGINAL BURIAL REMAINS

The following principles have been developed to conform with the National Parks and Wildlife Service “*Standards for Archaeological Practice in Aboriginal Heritage – Aboriginal Ancestral Remains*” published in September of 1997.

1.1 Guiding Principals

Death in all human societies is a significant event. It occurs on a regular, but unpredictable basis, removing individuals from family, close relations and friends. Death is often associated with complex rituals. This was and still is the case with Aboriginal people. Disturbance to burials is therefore of major concern to them, as it is for other people in the community.

Aboriginal and Torres Strait Islander people have been in New South Wales for more than 40,000 years. In that time they have buried hundreds of thousands of their dead in a variety of ways. In some cases people were cremated, in others their bones were placed in hollowed-out logs or trees or wrapped in bark cylinders and placed in rock shelters. Many were also buried in the ground with grave goods. Burials commonly occur in sand dunes and alluvial deposits which were easy to dig. Wind and water easily erode such locations and frequently these natural processes expose remains. Other common burial locations are rock shelters, rocky overhangs and hollow trees. The close proximity of scarred or carved trees and stone arrangements and the remains of fireplaces, stone artefacts and food refuse may be suggestive of an Aboriginal burial.

When acting under this CHMP, the Cultural Heritage Advisor will follow the following Principles and Rules contained in the *Code of Ethics of the Australian Archaeological Association*:

Principle 3: ‘To acknowledge the special importance of indigenous ancestral human remains, and Sites containing and/or associated with such remains, to the indigenous people.’

Rule 5: ‘Members shall not interfere with and/or remove human remains of indigenous peoples without the written consent of representatives authorised by the indigenous people whose cultural heritage is the object of investigation.’

1.2 Legislation and Regulations Background

The *National Parks and Wildlife Act 1974* (NSW) gives protection to all ‘Aboriginal remains’ except those occurring within cemeteries in which non-Aboriginals are also buried and those being dealt with in a forensic or related context (e.g., by a Coroner). The relevant section of the Act [Part 1 Section 5(1)] reads:

“**Aboriginal remains** means the body or the remains of the body of a deceased Aboriginal, but does not include:

- a) a body or the remains of a body buried in a cemetery in which non-Aboriginals are also buried, or



- b) a body or the remains of a body dealt with or to be dealt with in accordance with a law of the State relating to medical treatment or the examination, for forensic or other purposes, of the bodies of deceased persons”

The NSW Police Force Handbook (2016) includes protocols to help police deal sensitively with the skeletal remains of Aboriginal people and states:

If apparent ancient Aboriginal remains are uncovered:

- secure the site
- contact the regional office of the National Parks and Wildlife Service and advise the location, features of the site, your name and phone number
- arrange for an archaeological expert to examine the site
- advise the ACLO, attached to the LAC in which the remains were found.

1.3 Procedure for when Aboriginal remains are Located

In the event that human remains are located following surface disturbance, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until the NSW Police provide written notification to the proponent. If the skeletal remains are identified as ancestral Aboriginal, the proponent must contact DPE, OEH's Environment Line on 131 555 and representative of the RAPS. No works are to continue until DPE provides written notification to the applicant.