

Bulwai Cultural Heritage Lions Club

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To: Queensland Government, Department of Aboriginal and Torres Strait Islander Partnerships

Email: cultural.heritage@datsip.qld.gov.au

CC: Kuranda Region Planning Group

SITE: BARNWELL 12 RURAL TITLES/ KUR-World Integrated Eco-resort/ KUR-COW, KURANDA

I am reporting the following five (5) actions, resulting in breaches of Cultural Heritage Duty of Care on the SITE:

A	EARTHWORKS SITE1	16°49'1.65"S 145°36'5.83"E
	Dam earthworks is a deep disturbance of earth extending at least 8m into clay 'natural ground'. 7,625m ³ earth cut-to-fill, on seasonal rainforest creek, within 1km of Barron River. *Category 5 - Activities causing additional surface disturbance. 7,625m ³ major earthworks > 50m ³ illegally constructed. Sustainable Planning Act 2009 578 Carrying out assessable development without permit.	
B	EARTHWORKS SITE2	16°49'12.47"S 145°36'3.46"E
	Site2 earthworks is a cut, grading and smoothing of earth extending at into top soil, clay 'natural ground' visible. Approx. 1,000m ² within 50m permanent rainforest creek, within 1km of Barron River. *Category 5 - Activities causing additional surface disturbance. Earthworks > 50m ³ illegally constructed. Sustainable Planning Act 2009 578 Carrying out assessable development without permit.	
C	EARTHWORKS SITE3	16°49'9.34"S 145°36'7.01"E
	Site3 earthworks is a deep disturbance of earth extending at least 4m into clay 'natural ground'. Unknown volume of earth cut-to-fill, disturbed material from dam used for fill, within 50m permanent rainforest creek, within 1km of Barron River. *Category 5 - Activities causing additional surface disturbance. Earthworks > 50m ³ illegally constructed. Sustainable Planning Act 2009 578 Carrying out assessable development without permit.	
D	EARTHWORKS SITE4	16°49'8.55"S 145°36'5.96"E
	Site4 earthworks is a cattle yard built with fill on top of natural ground, disturbed material from other earthworks used for fill. Within 50m permanent rainforest creek, within 1km of Barron River. *Category 5 - Activities causing additional surface disturbance. Earthworks > 50m ³ illegally constructed. Sustainable Planning Act 2009 578 Carrying out assessable development without permit.	
E	UP TO 200HA FOREST CLEARING / SCRAPING LAND	Northern 6 rural titles
	<p>Published map 'The Boundaries of the DJABUGAY – YIDINY Speaking BAMA of the Cairns Rainforest Region' demonstrates Cultural Heritage footpad as a main thoroughfare through the SITE extending from the south of the property at The Billabong up through to the north of the SITE where it carries on through to the Barron River.</p> <p>Up to 200ha of historical cattle property (family owned) cleared of recovering rainforest species, earth scraped, deep ripping machines for improved pastures (not previously necessary for historical Barnwell family). Kilometres of permanent creeks to within 50m. *Category 5 - Activities causing additional surface disturbance. Nature Conservation Act 1992 Clearing in designated high risk area without a Flora Survey or permit to clear.</p> <p>SOURCE: https://www.youtube.com/watch?v=nHsc8gruPIY</p>	

This land was not settled by Europeans until the late 1800's. It has only been 100 years since the removal of all my people – through death or incarceration - including the site of the historically zoned rural Barnwell property / KUR-World project area. We have not had a chance to re-enter the land to retrieve artifacts and to note sacred sites and areas of cultural significance to the original people, and its descendants, for future references to our heritage, our history, and our connection to Bulwai country.

Along with the in-forest Bora Rings some very fine river side campsites were to be found all along the Mighty Barron River and tributaries – and we fought to the death for this land. When it started we were 90,000 strong on this land... and within a short 30 years our population was decimated to less than 100. We were massacred by guns, poisons, fire, herded over cliffs, raped and tortured and whoever survived... they were converted to religion in 1913 when Mona Mission was established.

The recent ABC News article (24 Nov 16) cited below demonstrates excavations turning up Cultural Heritage that needs to be documented and understood for historical purposes. This duty of care is now enshrined in law.

*The team also found teeth and limb bones from the Macropus Titan, a giant extinct kangaroo, and **Aboriginal artefacts.***

*"In the 1970s it was thought that some of the fossils may have been quite young — around the 25,000 year-old mark — but more recently some people have surmised **they might be 50,000 to 80,000 years old,**" Dr Garvey said.*

SOURCE: <http://www.abc.net.au/news/2016-11-24/teeth-of-rhinoceros-sized-wombat-found-at-lancefield-swamp/8053196>

My people have a legal right to the Cultural Heritage Duty of Care of others on this SITE, as inscribed in Aboriginal Cultural Heritage Act 2003 (*my notes in italics*):

Part 3 Protection of Aboriginal cultural heritage

Division 1 Key cultural heritage protection provisions

23 Cultural heritage duty of care

(2)	Without limiting the matters that may be considered by a court required to decide whether a person has complied with the cultural heritage duty of care in carrying out an activity, the court may consider the following—	
(a)	the nature of the activity, and the likelihood of its causing harm to Aboriginal cultural heritage;	<i>High, Category 5</i>
(b)	the nature of the Aboriginal cultural heritage likely to be harmed by the activity;	<i>Cultural campsites and artefacts</i>
(c)	the extent to which the person consulted with Aboriginal parties about the carrying out of the activity, and the results of the consultation;	<i>Nil</i>
(d)	whether the person carried out a study or survey, of any type, of the area affected by the activity to find out the location and extent of Aboriginal cultural heritage, and the extent of the study or survey;	<i>Nil</i>
(e)	whether the person searched the database and register for information about the area affected by the activity;	<i>Yes, desktop search</i>
(f)	the extent to which the person has complied with cultural heritage duty of care guidelines;	<i>Nil</i>
(g)	the nature and extent of past uses in the area affected by the activity.	<i>High likelihood of campsites within 50m of permanent creeks, within 1km from Barron River.</i>

		<i>Mapped Bama walkpad from south of SITE heading north, through middle of SITE, to Barron River.</i>
(3)	A person who carries out an activity is taken to have complied with the cultural heritage duty of care in relation to Aboriginal cultural heritage if—	
(a)	the person is acting—	
	(i) under the authority of another provision of this Act that applies to the Aboriginal cultural heritage; or	<i>Nil</i>
	(ii) under an approved cultural heritage management plan that applies to the Aboriginal cultural heritage; or	<i>Nil</i>
	(i) under a native title agreement or another agreement with an Aboriginal party, unless the Aboriginal cultural heritage is expressly excluded from being subject to the agreement; or	<i>Nil</i>
	(ii) in compliance with cultural heritage duty of care guidelines; or	<i>Nil</i>
	(iii) in compliance with native title protection conditions, but only if the cultural heritage is expressly or impliedly the subject of the conditions; or	<i>Nil</i>
(b)	the person owns the Aboriginal cultural heritage, or is acting with the owner's agreement; or	<i>n/a</i>
(c)	the activity is necessary because of an emergency, including for example, a bushfire or other natural disaster.	<i>n/a</i>

Your urgent reply on this matter would be greatly appreciated.

Yours sincerely



William Brim

Bulwai Cultural Custodian

Bulwai Cultural Heritage Lions Club

Djabugay-Bulway-Yirrgay-Nyakali-Guluy People (QC2015/005)