

# Policy

## Aboriginal Cultural Heritage and Native Title

Responsible Manager (Title)	Development and Land Use Planning		
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Document(s) this policy Supersedes	V1.0 – 18/09/2018 – 15.149/18		
Community Plan Linkage	<b>1.2 Society - A community that supports, encourages and celebrates the rich cultural heritage of the Bundjalung, Gumbaynggirr and Yaegl people and provides space for active community participation and strong relationships with local Traditional Owners</b>		

### 1 Purpose

The purpose of this Policy is to guide Council in its statutory requirements and to effect a coordinated and timely approach to Aboriginal cultural heritage and native title consideration and compliance for all Council activities and projects.

### 2 Definitions

**Aboriginal cultural heritage** - Is any object or place that is significant to the Bundjalung, Gumbaynggirr or Yaegl people and includes evidence of archaeological or historic significance, of each nation's occupation of an area within the Clarence Valley Local Government Area (LGA).

**Native title** - The communal, group or individual rights of the Bundjalung, Gumbaynggirr or Yaegl people in land and waters according to their traditional laws and customs as recognised by Australian law.

### 3 Background/legislative requirements

In its decision-making and actions regarding Aboriginal cultural heritage and native title matters, Council is required to comply with the relevant provisions of the:

- *Aboriginal Land Rights Act 1983*
- *Clarence Valley Local Environmental Plan 2011*
- *Crown Land Management Act 2016*
- *Environmental Planning and Assessment Act 1975*
- *National Parks and Wildlife Act 1974*

- *Native Title Act 1993 (Cth)*
- *Native Title (New South Wales) Act 1994*
- *Racial Discrimination Act 1975 (Cth).*

In doing so, Council may consult with First Nations representatives of one or more of the eleven Local Aboriginal Land Councils with boundaries within the LGA and one or more of the three traditional owner groups that have had native title claims determined within the LGA to ensure the rights and interests of the First Nations people of the Clarence Valley are considered and statutory requirements complied with.

The Local Aboriginal Land Councils (LALC) represented in the LGA include:

- LALCs with offices in the Clarence Valley LGA:
  - Baryulgil Square Local Aboriginal Land Council
  - Birrigan Gargle Local Aboriginal Land Council
  - Grafton Ngerrie Local Aboriginal Land Council
  - Jana Ngalee Local Aboriginal Land Council
  - Yaegl Local Aboriginal Land Council
- LALCs with offices outside of the LGA:
  - Armidale Local Aboriginal Land Council
  - Bogal Local Aboriginal Land Council
  - Coffs Harbour Local Aboriginal Land Council
  - Dorrigo Plateau Local Aboriginal Land Council
  - Glen Innes Local Aboriginal Land Council
  - Jubullum Local Aboriginal Land Council.

The boundary areas of the eleven LALCs represented in the Clarence Valley LGA are shown at Figure 1 in the Attachments.

The Registered Native Title Body Corporate (RNTBC) organisations representing traditional owners of native title determination areas are:

- Bandjalang People native title areas – Bandjalang Aboriginal Corporation Prescribed Body Corporate RNTBC
- Yaegl People native title areas – Yaegl Traditional Owners Aboriginal Corporation RNTBC
- Western Bundjalung People native title areas – Ngullingah Jugun (Our Country) Aboriginal Corporation RNTBC.

The areas where a native title claim have been determined in the Clarence Valley LGA are shown at Figure 2 in the Attachments.

Council also acknowledges future native title claimants and will liaise with them accordingly on Aboriginal cultural heritage and native title matters in the implementation of this policy.

## 4 Policy statement

Council acknowledges the Bundjalung, Gumbaynggirr and Yaegl peoples as the traditional owners and custodians of the lands and waters that lie within the boundaries of the Clarence Valley LGA.

Council also acknowledges the role of Local Aboriginal Land Councils to protect, maintain and enhance Aboriginal culture, identity and heritage within the LGA.

Aboriginal places and objects are an important part of the rich heritage of the LGA, providing links to culture, environment and knowledge for local Aboriginal communities.

Council in its role as a public authority and as a land manager is committed to consulting and working with First Nations people and native title holders within the LGA to protect objects and places of cultural significance.

## 5 Policy implementation

Council is committed to incorporating Aboriginal cultural heritage and native title considerations in its corporate, strategic, and operational decision-making processes. To achieve this, Council will:

1. Regularly review and consult with Aboriginal community groups, LALCs and RNTBCs to determine the most appropriate engagement framework for discussion and to inform/advise Council on matters that impact on the Aboriginal communities within the Valley, and to make recommendations to Council on programs and strategies that promote greater awareness and understanding of Aboriginal culture within the broader community. The engagement framework to include, but not limited to, community 'round table' and individual meetings at designated meeting locations and/or 'on country'.
2. Establish a senior liaison/negotiation team, consisting of the Mayor, the General Manager and the Director Environment, & Planning and/or Director Works & Civil (or their delegates) and such other officers as needed to meet and liaise with RNTBC and LALC boards with traditional lands within the Clarence Valley LGA on cultural heritage and native title matters, as required. Meetings are to be held on a case-by-case basis and may consist of a single meeting to discuss and resolve a particular matter or comprise of regular meetings to inform and discuss Council's works program.
3. Designate a Council work unit (or units) to coordinate and manage organisational activities relating to Aboriginal cultural heritage and native title statutory requirements.
4. Establish an internal working group, to meet as required but not less than quarterly, consisting of such officers as needed to advise and ensure Council's compliance with Aboriginal cultural heritage and native title legislation. The working group to be led by the Manager of the Council work unit designated to coordinate and manage organisational activities relating to Aboriginal cultural heritage and native title statutory requirements.
5. Continue to review and update corporate policies and documents in line with statutory requirements and to acknowledge the traditional custodians of the lands within the Clarence Valley LGA.
6. Develop and establish a framework/Memorandum of Understanding (MOU) for communication, consultation and negotiation between Council and the Boards of the various RNTBCs and LALCs with traditional lands in the Clarence Valley LGA as a transitional step to the development and registration of Indigenous Land Use Agreements (ILUA).

7. Develop specific Aboriginal cultural heritage and/or native title policies and work procedures, including the development of cultural protocols in relation to networking, communicating, and consulting with traditional owners, as required.
8. Develop and conduct appropriate and targeted training in Aboriginal cultural heritage and native title identification and reporting, and in cross-cultural awareness to the different sections of Council, as required but not less than yearly.
9. In the interim, and in the absence of any formal arrangement (MOU, ILUA, etc), implement the recommendations and procedures detailed in the documents listed in the Attachments regarding Aboriginal cultural heritage and native title matters, as required.

## 6 Review Period

This policy to be reviewed within 12 months of the election of each new Council or more frequently in the event of any legislative changes or change in circumstances.

## 7 References

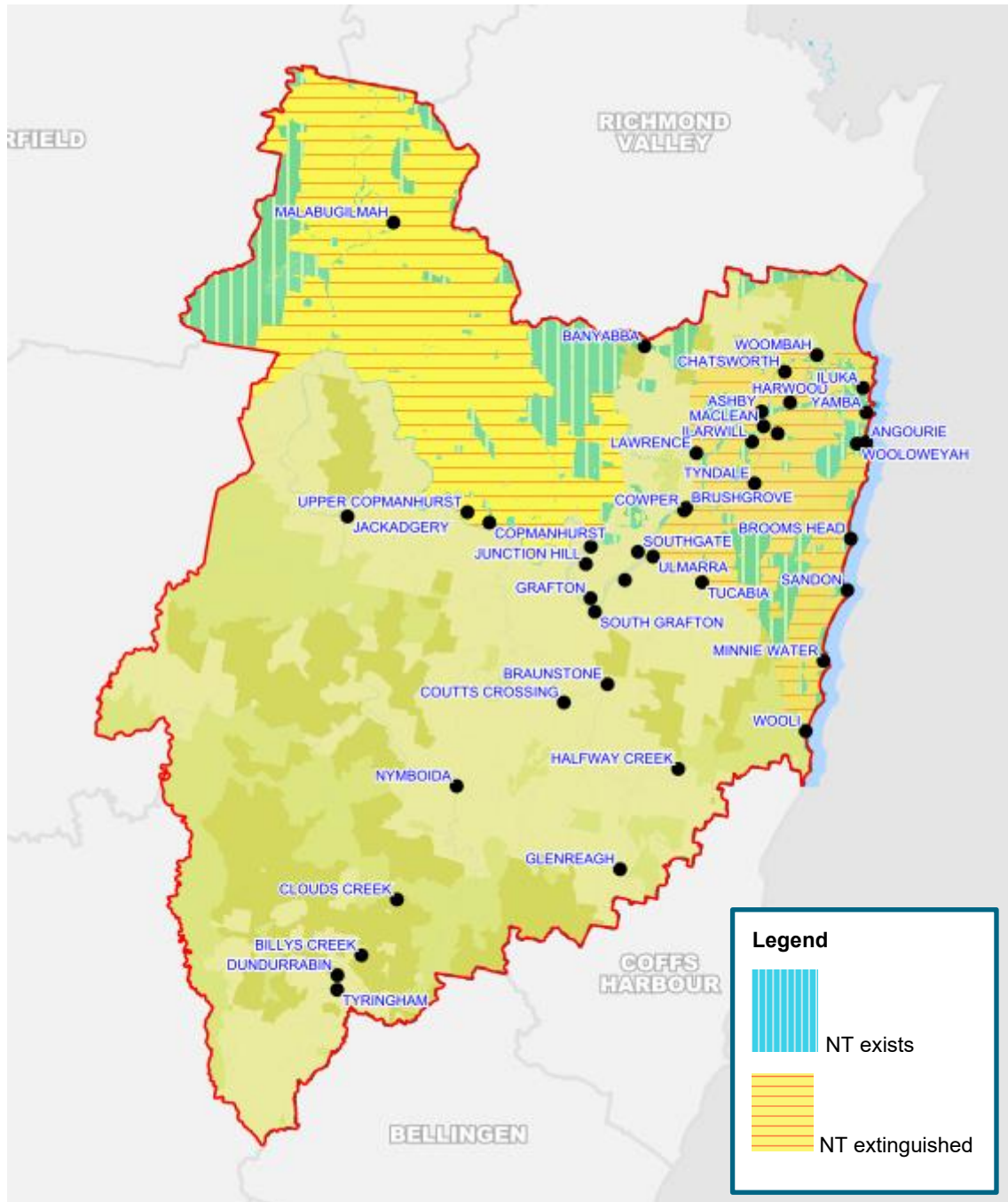
- Aboriginal cultural heritage consultation requirements for proponents*, (2010), State of New South Wales and the Department of Environment, Climate Change and Water, NSW
- Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, (2010), State of New South Wales and the Department of Environment, Climate Change and Water, NSW
- Native title in the Clarence Valley: Part 1 – Project Management Protocol*, (2017), Lands Advisory Services, Newcastle, NSW
- Native title in the Clarence Valley: Part 2 – Status Searching Protocol*, (2017), Lands Advisory Services, Newcastle, NSW
- Working with native title: A practical guide for local government*, (1999), 2<sup>nd</sup> Ed, Prepared by the Australian Local Government Association in cooperation with the Aboriginal and Torres Strait Islander Commission and the National Native Title Tribunal, Deakin, ACT

## 8 Attachments



Figure 1: Local Aboriginal Land Council Boundaries within Clarence Valley





**Figure 2: Areas where native title has currently been determined within Clarence Valley**