

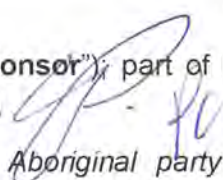
Appendix O

Cultural Heritage Management Plan

MT EMERALD WIND FARM PROJECT

CULTURAL HERITAGE MANAGEMENT PLAN

AGREEMENT DATED 24 January 2013/14

BETWEEN Mt Emerald Wind Farm Pty Ltd (the "Sponsor"); part of RATCH Australia Pty Ltd Corporation Limited 

AND John Wason (the "Endorsed Party"), an *Aboriginal party* for the Project Area

AND Bar-Barrum Aboriginal Corporation RNTBC

RECITALS

- A. The Sponsor proposes to develop the Project in the Project Area.
- B. On 10 December 2010, the Sponsor notified its intention to develop a *cultural heritage management plan* in relation to the Project.
- C. On 9 January 2011, John Wason of the Bar-Barrum People responded to the notification stating that he was an *Aboriginal party* to the Project Area as defined under section 35(7) of the Act. Mr Wason was subsequently endorsed by the Sponsor as an *endorsed party* under Part 7 of the Act.
- D. The Endorsed Party wishes to take part in the development of a *cultural heritage management plan*.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Plan, where necessary and unless the contrary intention appears or the context otherwise requires, words and phrases used in this Plan are defined in Schedule 4.

2. COMMENCEMENT AND DURATION

- 2.1 This Plan commences on the Commencement Date and terminates on the earlier of:

- (a) the completion of the Project; or
- (b) the parties agreeing in writing to terminate the Plan,

unless otherwise extended, terminated or amended subject to the terms of this Plan.

- 2.2 For the avoidance of doubt, in the event that a person who is a Bar-Barrum Person becomes a *native title party* for all or part of the Project Area, this Plan will continue with full force and effect, unless otherwise agreed between the parties.

3. PRINCIPLES OF CULTURAL HERITAGE MANAGEMENT PLAN

3.1 The principles of this Plan are to:

- (a) establish a timely and efficient process to recognise, protect, manage and conserve *Aboriginal cultural heritage* within the Project Area, and
 - (b) provide for each party to use its best endeavours to seek agreement with the other party:
 - (i) to avoid *harm* to *Aboriginal cultural heritage*; and
 - (ii) to the extent that *harm* can not reasonably be avoided, to minimise harm to *Aboriginal cultural heritage*; and
 - (iii) to provide help and advice in a way directed at maximising the suitability of the Plan for the effective protection and conservation of *Aboriginal cultural heritage*.
- 3.2 The parties will cooperate in good faith and in a genuine effort to apply the Plan in the exercise of the *cultural heritage duty of care* to ensure activities do not *harm significant Aboriginal areas* and *significant Aboriginal objects*.
- 3.3 The parties acknowledge and agree that any Project Activities undertaken by Mt Emerald Wind Farm or any Associated Entity must be undertaken in accordance with this Plan. Project Activities undertaken in accordance with this Plan are compliant for purposes of the *cultural heritage protection provisions* once this Plan constitutes an *approved cultural heritage management plan*.
- 3.4 During the time between the Commencement Date and the date that the Chief Executive approves this Plan in accordance with section 107 of the Act, the parties must take all reasonable and practicable measures to avoid *harm* to *Aboriginal cultural heritage* under sections 23(1), 24(2)(a)(v), 25(2)(a)(v) and 26(2)(a)(v) of the Act.

4. APPROVAL OF CULTURAL HERITAGE MANAGEMENT PLAN

4.1 The parties have agreed to submit this Plan to the Chief Executive for approval pursuant to section 107 of the Act. The Endorsed Party agrees, as contemplated in section 107(1)(b) of the Act, that the Chief Executive may approve the Plan, and that it will (if the Sponsor requests) confirm that agreement in writing to the Chief Executive.

5. THE PROJECT AREA

5.1 This Plan will extend to and cover the Project Activities in the Project Area.

6. THE PROJECT

6.1 This Plan will extend to and cover the Sponsor's Project Activities as identified in Schedule 6.

6.2 Even if not expressly mentioned in this Plan, this Plan will extend to and cover all of the Sponsor's activities necessary for and ancillary to the Project within the Project Area.

6.3 The Sponsor will as project owner build into its tender process specific requirements to provide for employment opportunities for the Bar Barrum People through the Nominated Body. Opportunities will be sought both during construction and through the long term operation of the project.

7. COORDINATING COMMITTEE

7.1 As soon as practicable after the Commencement Date, and in any case no later than 20 Business Days after the Commencement Date, the parties must set up a Coordinating Committee for the purposes of the implementation, management and future conduct of all matters arising out of this Plan.

7.2 The Coordinating Committee will be made up of:

- (a) at least two, and a maximum of three, members appointed by the Sponsor;
- (b) The Endorsed Party or an appointed representative of the Endorsed Party;
- (c) and at least one, and a maximum of two, members appointed by the Nominated Body.

7.3 Meetings and decision making of the Coordinating Committee will be as follows:

- (a) A quorum for a meeting of the Coordinating Committee must be two combined members appointed by the Endorsed Party and/or the Nominated Body and two members appointed by the Sponsor;
- (b) Unless this Plan states differently, all decisions, approvals, advice, directions and recommendations of the Coordinating Committee must be made unanimously.

7.4 The Coordinating Committee will review, monitor and coordinate the implementation of the Plan, and in particular, must:

- (a) meet at least once per year until the completion of the Project;
- (b) make recommendations for the identification, assessment, protection and management of *Aboriginal cultural heritage* in the Project Area;
- (c) nominate a Technical Advisor as required under clause 7.5;
- (d) develop a communications protocol pursuant to clause 8;
- (e) develop a set of understandings regarding delay in accordance with clause 20.2;
- (f) continuously evaluate how this Plan is working;
- (g) receive and respond to notices from the Sponsor;
- (h) develop, oversee and implement any Cultural Heritage Survey, Cultural Heritage Survey Report and any Cultural Heritage Management Strategy;
- (i) provide ongoing advice and guidance to the parties on *Aboriginal cultural heritage* matters in relation to all aspects of any Project Activities;

- (j) assist the Sponsor to meet its schedules, deadlines and timetables under any Work Program;
 - (k) assist the Sponsor to comply with the requirements of all Laws governing *Aboriginal cultural heritage*;
 - (l) provide a forum for the parties to discuss opportunities for the Endorsed Party and the Nominated Body to educate the community about the Bar-Barrum People and their cultural heritage;
 - (m) discuss ideas about how the Bar-Barrum People might be involved in some aspects of Project's design, place naming and land management.
- 7.5 The Coordinating Committee must, within 20 Business Days of the establishment of the Coordinating Committee under clause 7.1, nominate a Technical Advisor who will assist Cultural Heritage Survey Teams if requested under clause 10.7.
- 7.6 If the Coordinating Committee fails to nominate a Technical Advisor in accordance with clause 7.5, the Sponsor may appoint a Technical Advisor of its choice.
- 7.7 The Coordinating Committee may change the Technical Advisor from time to time.
- 7.8 The Coordinating Committee will ensure all written records and reports (including but not limited to any daily work reports, salvage and excavation reports, and detailed analytical reports required pursuant to a Cultural Heritage Management Strategy) generated under this Plan are kept for review by the parties, and that a copy of those written records and reports are given from time to time to the Sponsor and appropriate persons authorised to receive them by the Endorsed Party or the Nominated Body.
- 7.9 If a Coordinating Committee has not been established or is dissolved at any stage, the Nominated Body will fulfil any role that would have been undertaken by the members appointed by the Nominated Body on the Coordinating Committee as required to implement this Plan.
- 8. COMMUNICATIONS PROTOCOL**
- 8.1 Communications between the parties must occur in accordance with a communications protocol that will be developed and agreed by the Coordinating Committee at its first meeting ("Approved Communications Protocol").
- 8.2 Unless and until otherwise agreed in the Agreed Communications Protocol:
- (a) the members of the Coordinating Committee appointed by the Sponsor under clause 7.2(a) will communicate decisions of the Coordinating Committee to the Sponsor; and
 - (b) the members of the Coordinating Committee appointed by the Nominated Body under clause 7.2(c) will communicate decisions of the Coordinating Committee to the Bar-Barrum People.
- 8.3 Until the Coordinating Committee develops the Approved Communications Protocol:

- (a) the persons listed in clause 19.3 are the contact persons in relation to all matters under this Plan; and
- (b) the communications protocol in Schedule 8 applies.

9. WORK PROGRAMS

9.1 Subject to clause 9.4, the Sponsor must give the Coordinating Committee a Work Program before Project Activities are carried out in a Work Area.

9.2 Each Work Program must contain:

- (a) the proposed time frame and commencement date for the Project Activities;
- (b) sufficient detail to identify the proposed Project Activities; and
- (c) a map of the Work Area.

9.3 A Work Program may include:

- (a) a topographic map at a scale of 1:100 000 or other appropriate scale of the Work Area, and/or aerial/satellite images showing with reasonable accuracy the Work Area; and
- (b) with respect to the Work Area, details of:
 - (i) the nature and extent of the proposed Project Activities;
 - (ii) the estimated duration of the proposed Project Activities;
 - (iii) the means of access to undertake the proposed Project Activities;
 - (iv) any other information considered relevant by the Sponsor.

9.4 The Sponsor is not required to provide a Work Program pursuant to clause 9.1, and may undertake Project Activities without a Cultural Heritage Survey being undertaken or a Cultural Heritage Management Strategy being prepared, where the Project Activities:

- (a) are in areas where there is existing infrastructure;
- (b) are necessary for, or incidental to, the conduct of soil testing and other geotechnical investigations;
- (c) are associated with the repair and maintenance of existing roads;
- (d) do not cause Significant Ground Disturbance, including:
 - (i) the use and maintenance of existing roads, tracks and powerlines within the existing infrastructure alignment or other infrastructure footprint;
 - (ii) the use, maintenance and protection of services and utilities (such as electricity infrastructure, water or sewerage disposal) on an area where such services and utilities are currently being provided;

(iii) the use, maintenance and protection of services and utilities (such as electricity infrastructure, water or sewerage disposal) on an area immediately adjacent to where such services and utilities are currently being provided, providing the activity does not involve additional surface disturbance; and

(e) are in areas which were subject to Significant Ground Disturbance before the Commencement Date.

9.5 For the avoidance of doubt, nothing in clause 9.4 releases the Sponsor from otherwise complying with its obligations under this Plan.

10. CULTURAL HERITAGE SURVEYS

10.1 Within 20 Business Days of the Sponsor's provision of the first Work Program to the Coordinating Committee under clause 9.1, or as otherwise agreed, the parties must ensure that a meeting of the Coordinating Committee is convened.

10.2 At the meeting referred to in clause 10.1 the Coordinating Committee will develop and agree on standard Terms of Reference ("ToR") for the conduct of all Cultural Heritage Surveys.

10.3 The ToR must include the following:

- (a) a requirement that the relevant Work Program be annexed to the ToR;
- (b) proposed dates and timeframes for Project Activities, Cultural Heritage Surveys, Cultural Heritage Survey Reports and other arrangements;
- (c) how Cultural Heritage Surveys will be carried out, in accordance with the requirements of this Plan;
- (d) the personnel required to undertake Cultural Heritage Surveys which, unless otherwise agreed, will be up to four representatives of the Bar-Barrum People ("Cultural Heritage Survey Team");
- (e) how collected information will be reported and managed;
- (f) occupational health and safety requirements and other site specific workplace policies, including relevant inductions, required by the Sponsor, which will comply with clause 15;
- (g) communications while a Cultural Heritage Survey Team are conducting activities within the Project Area;
- (h) accommodation, meals and vehicle hire, which will comply with the Sponsor's obligations in Schedule 10;
- (i) hours of work and payment, which will comply with Schedule 10;
- (j) a list of equipment and assistance to be provided by the Sponsor;
- (k) contact details for each work program; and
- (l) an outline of the parties' responsibilities under clause 20.

- 10.4 Within the timeframes provided under the ToR, or at an alternative date as agreed between the parties, the Nominated Body must ensure that a Cultural Heritage Survey Team undertakes a Cultural Heritage Survey in accordance with the ToR for each Work Area the subject of a Work Program. The objectives of the Cultural Heritage Survey are:
- (a) to provide an opportunity for the members of Cultural Heritage Survey Teams to inspect Work Areas and to consider the *Aboriginal cultural heritage* values in Work Areas; and
 - (b) to identify, document, determine the geographical coordinates of and report upon any *Aboriginal cultural heritage* within Work Areas.
- 10.5 If requested by the Nominated Body and agreed by the Sponsor, a Cultural Heritage Survey Team may be assisted by the Technical Advisor nominated under clause 7.5 or appointed under clause 7.6 whose role will be to:
- (a) provide technical assistance to a Cultural Heritage Survey Team and the Nominated Body during the Cultural Heritage Survey;
 - (b) to collate all information recorded by a Cultural Heritage Survey Team; and
 - (c) to assist the Nominated Body to prepare a Cultural Heritage Survey Report and Cultural Heritage Management Strategy.
- 10.6 The costs of the Technical Advisor who undertakes work pursuant to clause 10.7 will be met by the Sponsor in accordance with Schedule 10.
- 10.7 The Sponsor may appoint a representative to accompany each Cultural Heritage Survey Team while it performs a Cultural Heritage Survey.

11. CULTURAL HERITAGE SURVEY REPORTS AND CULTURAL HERITAGE MANAGEMENT STRATEGIES

- 11.1 Within 20 Business Days or as otherwise agreed after the completion of a Cultural Heritage Survey, the Nominated Body must provide the Coordinating Committee with a complete report about the Cultural Heritage Survey ("Cultural Heritage Survey Report").
- 11.2 A Cultural Heritage Survey Report must detail, in relation to the relevant Work Area:
- (a) any *Aboriginal cultural heritage* identified ("Reported Site");
 - (b) the location, described by geographical co-ordinates, of any Reported Sites;
 - (c) an assessment of the *Aboriginal cultural heritage* values of any Reported Sites;
 - (d) mitigation measures and management recommendations for the avoidance or the minimisation of *harm* to any Reported Sites during the conduct of Project Activities, including but not limited to flagging, pegging, fencing and removal recommendations; and

- (e) if no Reported Sites were identified and no mitigation or management measures recommended, advice to that effect.
- 11.3 Within 20 Business Days after the receipt of a Cultural Heritage Survey Report, a meeting of the Coordinating Committee will be convened for the purpose of seeking agreement over:
 - (a) the contents of the Cultural Heritage Survey Report; and
 - (b) a Cultural Heritage Management Strategy for the relevant Work Area that gives effect to the mitigation measures and management recommendations recorded in the Cultural Survey Report and the Avoidance Principle.
- 11.4 If the Coordinating Committee cannot reach agreement over the contents of a Cultural Heritage Report or a Cultural Heritage Management Strategy, the Sponsor may refer the issues in question to an Expert to assist the parties in reaching agreement on the contents of the Cultural Heritage Report and Cultural Heritage Management Strategy for the relevant Work Area. The Expert must take into account the Cultural Heritage Survey Report and the activities required under the relevant Work Program and provide an opinion.
- 11.5 If, taking into account the Expert's opinion, and following a further meeting of the parties, the Coordinating Committee have not agreed on the terms of a Cultural Heritage Report or the Cultural Heritage Management Strategy within 20 Business Days of the delivery of the Expert's opinion, the parties will request the Expert to determine the terms of the a Cultural Heritage Report or Cultural Heritage Management Strategy or any part thereof that may be in dispute. The parties agree to be bound by those terms determined by the Expert except where other terms are settled prior to the Expert tendering a determination.
- 11.6 The final Cultural Heritage Survey Report and Cultural Heritage Management Strategy agreed pursuant to clause 11.3 or as determined pursuant to clause 11.5 will be provided to the Coordinating Committee and the Cultural Heritage Management Strategy will be implemented by the Sponsor during the conduct of the Work Program to which it relates.
- 11.7 The Cultural Heritage Management Strategy will give effect to the Avoidance Principle and must include:
 - (a) measures to avoid physical contact with any Reported Sites and to leave the Reported Sites in the state in which they existed before any Project Activities; or
 - (b) measures relating to the relocation or removal of Reported Sites within and from the Project Area respectively as a last resort; and
 - (c) measures to deal with New Cultural Heritage Sites.
- 11.8 The Coordinating Committee may vary a Cultural Heritage Management Strategy that has previously been agreed pursuant to clause 11.3 or determined pursuant to clause 11.5:
 - (a) upon receipt of a further Work Program in relation to the same Work Area; and

- (b) where the relevant Work Area was the subject of a Cultural Heritage Survey,

or as otherwise agreed by the Coordinating Committee.

12. ABORIGINAL HUMAN REMAINS

- 12.1 If human remains are identified in the course of undertaking the Project Activities, the parties agree to apply the procedures contained in Schedule 9.
- 12.2 If either the Sponsor, the Nominated Body or the Endorsed Party knows or ought to reasonably know that the human remains are *Aboriginal human remains* it will:
 - (a) as soon as practicable, advise the Chief Executive, of the existence and location of the *Aboriginal human remains*; and
 - (b) provide the Chief Executive with details about the nature and location of the *Aboriginal human remains* that the Chief Executive reasonably requires.

13. INFORMATION PROTECTION PROVISION

- 13.1 The Sponsor agrees that any knowledge or information provided by the Endorsed Party or the Nominated Body which is identified as being of a secret and sacred nature:
 - (a) will remain the property of the Endorsed Party or the Nominated Body, as appropriate; and
 - (b) will not be included in any report or other document unless agreed to by the Endorsed Party or the Nominated Body, as appropriate.

14. INTELLECTUAL PROPERTY, CONFIDENTIAL INFORMATION

- 14.1 Any intellectual property or confidential information disclosed by a party to another or discovered by another remains the property of the disclosing party.
- 14.2 Subject to legal and cultural considerations, the parties will exchange all intellectual property and confidential information necessary to achieve the principles of this Plan.
- 14.3 Any intellectual property or confidential information supplied by a party to another will be kept confidential by the other party, except where such information is:
 - (a) already in the public domain,
 - (b) disclosed as required by law, or
 - (c) disclosed as part of seeking approval and registration of the Plan under the Act or for the purpose of giving effect to this Plan or of undertaking the Project.

15. HEALTH AND SAFETY

- 15.1 The Sponsor will have the responsibility for health and safety of persons in the Project Area as already exists under the Safety Laws and any other applicable Laws and industry codes.
- 15.2 The Sponsor will be responsible for the provision of any induction or training required by the Endorsed Party, the Nominated Body or the Bar-Barrum People that relates to Project Area work procedures and any workplace health and safety requirements, with all associated costs to be borne by the Sponsor.
- 15.3 The Nominated Body, must use their best endeavours to ensure that their officers, employees, contractors, subcontractors and agents and all members of the Cultural Heritage Survey Team comply with the Safety Laws and the directions and requirements of the Sponsor's site senior executive while on the Project Area.

16. ACCESS TO LAND

- 16.1 The Sponsor agrees that it has all necessary approvals and authority for it to access the Project Area.

17. CULTURAL HERITAGE AWARENESS TRAINING

- 17.1 The Sponsor undertakes to ensure that all employees, contractors and subcontractors employed or engaged by the Sponsor in relation to the Project undertake cultural heritage awareness training in accordance with this Plan prior to their commencement of work within the Project Area.
- 17.2 Cultural heritage awareness training is designed to provide:
- (a) the Bar-Barrum People with an opportunity to explain the nature and significance of its *Aboriginal cultural heritage*;
 - (b) the Sponsor with an opportunity to better understand and appreciate the Bar-Barrum People's concerns;
 - (c) an opportunity for each party to establish a more substantive relationship;
 - (d) satisfaction to the Bar-Barrum People that the Sponsor's employees, contractors and subcontractors know what items or attributes they need to bear in mind in the course of the Project Activities and throughout the Project's operations.
- 17.3 Cultural heritage awareness training will be conducted by at least two [2] BarBarrum people at a time and place to be agreed by the Coordinating Committee, acting reasonably, and where possible will be conducted as part of the full site induction. Cultural heritage awareness training will be provided to existing employees, contractors and subcontractors before the commencement of the Project Activities, and then periodically as new employees, contractors and subcontractors are employed or engaged.
- 17.4 The Nominated Body undertakes to provide the cultural heritage awareness training by persons duly authorised or approved by the Nominated Body to the reasonable acceptance of the Sponsor.

- 17.5 Payment for cultural heritage awareness training will be made in accordance with Schedule 10.
- 17.6 The parties agree that part of the cultural heritage awareness training will be conducted by way of the viewing of a visual presentation aid. The Coordinating Committee will discuss the format and production of a visual presentation aid for this purpose. The Sponsor agrees to pay reasonable costs for the production of this visual presentation aid.
- 17.7 To avoid any doubt, the visual presentation aid remains the intellectual property of the BarBarrum People.

18. **DISPUTES**

- 18.1 In the event that a party considers that the Plan is not being adhered to or that the rights and obligations of a party are being infringed (the "Dispute"), that party may give notice of the Dispute (the "Dispute Notice") to the other party or its representative and the Coordinating Committee.
- 18.2 The Dispute Notice should, as far as possible, identify the:
- (a) exact nature of the dispute,
 - (b) date and location of the activity or omission giving rise to the Dispute,
 - (c) names or positions of any persons involved in the activity or omission giving rise to the Dispute, and
 - (d) suggested manner or means to resolve the Dispute.
- 18.3 Within five Business Days of the Dispute Notice the Coordinating Committee must use best endeavours and take all reasonable and practical steps to resolve the dispute, including conducting all meetings, communications and negotiations in good faith and in keeping with principles of the Plan.
- 18.4 If there is no resolution within five Business Days of the Dispute Notice, then without limiting the rights available under the Act the parties to the Dispute must seek during 14 days, to agree on a process for resolving the Dispute through means other than litigation or arbitration (including further negotiations, mediation, conciliation or independent expert determination).
- 18.5 If the parties to the Dispute fail to agree on a process, any party to the Dispute can apply for the appointment of a mediator to the:
- (a) Dispute Resolution Centre (Mediation Service),
 - (b) Bar Dispute Resolution Centre,
 - (c) the Institute of Arbitrators & Mediators or the Queensland Law Society, or
 - (d) another body/organisation as agreed between the parties.
- 18.6 If the parties to the Dispute do not agree to refer the matter to formal mediation, each party to the Dispute retains the rights to have the matter referred to an appropriate court or tribunal.

18.7 Provided that the nature of the Dispute does not allege that the Project will *harm Aboriginal cultural heritage*, the Sponsor may continue with Project Activities in the area the subject of the Dispute Notice and the parties will continue to perform their rights and obligations under the Plan until the Dispute is resolved or a determination/agreed result/order is made directing the parties to resolve the Dispute.

18.8 If the nature of the dispute alleges the Project will or is threatening to *harm Aboriginal cultural heritage*, the Sponsor must ensure that Project Activities are suspended in the area subject of the Dispute Notice until the Dispute is resolved or a determination/agreed result/order is made directing the parties to resolve the Dispute. The Sponsor may continue Project Activities in the remainder of the Project Area in accordance with this Plan.

19. NOTICES

19.1 A notice, consent or other communication under this Plan is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered;
 - (ii) sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address;
 - (iii) transmitted by electronic mail; or
 - (iv) transmitted by facsimile to that person's facsimile number and the machine from which it is sent produces a report that states that it was sent in full.

19.2 A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered, transmitted by facsimile or transmitted by electronic mail:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day; and
- (b) if it is sent by pre-paid mail, on the day that is three Business Days from the day the notice, consent or other communication is posted.

19.3 A person's address and facsimile number are those set out below, or as the person notifies the sender:

The Sponsor

Address: Level 4, 231 George Street Brisbane 4000

Electronic mail: Terry.Johannesen@ratchaustralia.com
 Attention: Terry Johannesen
 Project Development Manager

Endorsed Party

Address: 37 Tait Street, Mutchilba Qld 4872
 Electronic mail: johnwason@skymesh.com.au
 Attention: John Wason

Bar-Barrum Aboriginal Corporation RNTBC

Address: 37 Tait Street, Mutchilba Qld 4872
 Electronic mail: johnwason@skymesh.com.au
 Attention: John Wason

20. DELAY

- 20.1 Each party must use reasonable endeavours to avoid delay in administering the protocols of this Plan including attending meetings, responding to correspondence and being available for agreed activities.
- 20.2 The Sponsor must promptly notify the Nominated Body by telephone in the event that a member of the Cultural Heritage Survey Team:
- (a) does not attend within one hour of the scheduled commencement of a Cultural Heritage Survey; or
 - (b) is to be removed because the member fails to comply with the requirements in clause 15.3.
- 20.3 The Nominated Body must appoint a substitute member of the Cultural Heritage Survey Team to attend the Cultural Heritage Survey within two hours (or such other reasonable period agreed) of receiving telephone notice from the Sponsor under clause 20.2. During this time the Cultural Heritage Survey may continue.
- 20.4 If no alternative member of the Cultural Heritage Survey Team is appointed and attends the Cultural Heritage Survey within the timeframe set out in clause 20.3 or as otherwise agreed, the Sponsor may direct that the Cultural Heritage Survey continue.
- 20.5 The rights and obligations in clauses 20.2 and 20.3 apply equally where a Bar-Barrum Person has been engaged to undertake work pursuant to a Cultural Heritage Management Strategy. If no alternative person is appointed and attends to undertake the work, the relevant Project Activities may continue, subject at all times to the Sponsor complying with its obligations under the Act.

21. REASONABLENESS AND EXERCISE OF DISCRETION

- 21.1 The parties will do all that is reasonable and practicable to fulfil the purposes of and determine any matter under this Plan.
- 21.2 If a party is granted discretion or the ability to determine any matter under this Plan, that discretion or ability must be exercised reasonably.

22. AUTHORITY TO ENTER INTO PLAN AND WARRANTY

- 22.1 The Sponsor warrants that it has the authority to enter into this Plan.

22.2 The Endorsed Party warrants that it has the authority to enter into this Plan:

- (a) for and on behalf of all Bar-Barrum People, and
- (b) in accordance with the traditional law, custom and responsibility of the Bar-Barrum People.

23. NO AGENCY

23.1 The parties agree that nothing contained in this Plan constitutes any of them as agent or partner of any of them, or creates any agency or partnership for any purpose whatever or represents the views of another party.

23.2 Any undertaking, comment or statement by a party is not binding on any course of conduct or promise undertaken or given by any party.

23.3 No party has the right or authority to represent the rights and obligations of any other party.

24. AMENDMENT AND VARIATION

24.1 The parties agree that the suitability and applicability of this Plan will be reviewed at the end of the first year following the Commencement Date.

24.2 The parties may agree to amend or vary this Plan at any time in writing executed by the parties.

24.3 The Sponsor will notify the Chief Executive of any agreed amendment within a reasonable time of the amendment being executed.

25. ASSIGNMENT

25.1 Subject to clause 25.2, no party may assign their rights under this Plan to any other party.

25.2 The Sponsor may assign its rights and obligations under this Plan to a person to whom it transfers an equivalent proportion of its interests in the Project in the Project Area, provided it executes a deed whereby the assignee agrees to be bound by the obligations of this Plan, to the extent of the rights and obligations assigned, from the date of the assignment.

25.3 The Sponsor must provide written notice to all other parties to this Plan and the Chief Executive at least 14 days before the date of assignment, and must provide the parties with a copy of the deed of assignment as soon as reasonably practicable after the date of the assignment.

25.4 With effect from the date of the assignment, the Sponsor will no longer be bound by the obligations of this Plan to the extent of the rights and interests assigned.

26. APPLICABLE LAW

26.1 This Plan will be governed by and construed according to the law of the State of Queensland, and the parties agree to submit to the jurisdiction of the courts of Queensland.

27. FORCE MAJEURE

- 27.1 No party will be liable for any delay or failure to perform its obligations to the extent that the failure or delay is due to a Force Majeure Event.
- 27.2 A party claiming a Force Majeure Event must use its reasonable endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible.

28. SEVERANCE

- 28.1 If any provision of this Plan is prohibited, void, invalid or unenforceable, the provision will be ineffective and severed from this Plan to that extent without affecting any other provision of this Plan.

29. WAIVER

- 29.1 No failure to exercise nor any delay in exercising any right, power or remedy under this Agreement operates as a waiver.
- 29.2 No right under this Plan is to be taken as being waived except by notice in writing signed by the party waiving the right.
- 29.3 The waiver by a party of a breach of a clause by another party will not be a waiver of any other clause or subsequent breach of that clause.

30. ENTIRE PLAN

- 30.1 This Plan constitutes the entire agreement between the parties with respect to its subject matter and supersedes all previous negotiations, commitments and writings with respect to that subject matter.

31. INSURANCE

- 31.1 The Nominated Body will take out and maintain all appropriate workers' compensation, public liability and motor vehicle insurance as required by law in respect of all Bar-Barrum People who participate as;
 - a. members of a Cultural Heritage Survey Team,
 - b. the Coordinating Committee,
 - c. providers of cultural heritage awareness training or
 - d. those engaged to undertake work pursuant to a Cultural Heritage Management Strategy.
- 31.2 If the Nominated Body is unable to, or otherwise does not, meet the requirements of clause 31.1, the Sponsor may take out the relevant insurance policies on behalf of the Nominated Body, and the Sponsor will be entitled to set-off the costs of taking out such insurance policies against any payments which become due to the Nominated Body under this Plan.
- 31.3 A Technical Advisor must hold their own professional indemnity insurance.

32. COSTS

- 32.1 Subject to clauses 32.2 and 32.3, each party shall bear its own costs of and incidental to the preparation, negotiation and signing of this Plan.
- 32.2 The Sponsor shall be responsible for any duty assessed on this Plan.
- 32.3 The Parties acknowledge that the Sponsor has contributed to the reasonable costs of the Endorsed Party and the Nominated Body obtaining independent legal advice in respect of this Plan.

33. GOODS AND SERVICES TAX

- 33.1 If GST is payable on a Taxable Supply made under, by reference to or in connection with this Plan, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration provided it receives a valid Tax Invoice including the GST Amount such that the party providing the Consideration is eligible to claim Input Tax Credits equal to the amount of GST. This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly stated to be GST inclusive.
- 33.2 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 33.3 The GST Amount is payable on the date 20 Business Days after the date on which a Tax Invoice is issued in relation to the Taxable Supply.
- 33.4 Any reference in this Plan (other than in the calculation of Consideration) to cost, expense or other similar amount (**Cost**), is a reference to that Cost exclusive of GST.
- 33.5 This clause will continue to apply after expiration or termination of this Plan.
- 33.6 In this clause:
- (a) **Adjustment Event** has the meaning given by the GST Law;
 - (b) **Adjustment Note** has the meaning given by the GST Law;
 - (c) **Consideration** has the meaning given by the GST Law.;
 - (d) **GST** has the meaning given by the GST Law but for the avoidance of doubt does not include penalties or interest;
 - (e) **GST Amount** means in relation to a Taxable Supply the amount of GST payable in respect of that Taxable Supply;
 - (f) **GST Group** has the meaning given by the GST Law;
 - (g) **GST Law** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), or, if that act does not exist means any act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act;

- (h) **Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a Party includes an Input Tax Credit for an acquisition made by that Party but to which another member of the same GST Group is entitled under the GST Law;
 - (i) **Representative Member** has the meaning given by the GST Law;
 - (j) **Supplier** means the party that provides the Taxable Supply to the Recipient and includes the Representative Member of the GST Group if the Supplier is a member of a GST Group;
 - (k) **Tax Invoice** means a document that constitutes a tax invoice under the GST Law;
 - (l) **Taxable Supply** has the meaning given by the GST Law excluding the reference to section 84-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- 33.7 If the Sponsor is required to withhold any amount in respect of tax from a payment to be made to the Supplier under this Plan, it is entitled to do so and such withholding and payment to the relevant taxing authority will be a good discharge of its obligation to pay the relevant amount to the Supplier. In the event that the Sponsor pays an amount to the Supplier without withholding an amount in respect of tax, the Sponsor will be indemnified by the Supplier for any loss suffered by it as a result of failing to withhold.

Executed as an Agreement on the date written on page 1 of this Agreement

Signed for and on behalf of Mount)
Emerald Wind Farm Pty Ltd by its)
duly authorised officer)
)
)

Andy Johnston
.....
Witness

Andy Johnston
.....
Full Name of Witness

Level 7, Ill Pacific
.....
Address of Witness

Highway, North Sydney
NSW 2060

Geoffrey Dutton
.....
Officer

GEOFFREY DUTTON
.....
Full Name of Officer

Signed for and on behalf of Mount)
Emerald Wind Farm Pty Ltd by its)
duly authorised officer)
)
)

Andy Johnston
.....
Witness

Andy Johnston
.....
Full Name of Witness

Level 7, Ill Pacific
.....
Address of Witness

Highway, North
Sydney NSW 2060

P. Utford
.....
Officer

Patricia Utford
.....
Full Name of Officer

SIGNED

by John Wason on his own behalf and on behalf of the BarBarrum People

this 11th day
of DECEMBER 2013

in the presence of:

.....
.....

(signature)

..... Ricardo Martinez (Solicitor)

(print name of witness)

.....
.....

(signature)

Under Section 99-5 of the Corporation
(Aboriginal and Torres Strait Islander) Act 2006

Bar-Barrum Aboriginal Corporation RNTBC

this 11th day
of DEC 2013

by Doreen P. Duong
.....
(full name)

.....
.....
(signature)

Director Archie

and by (CONRAD) KYNNUNA
.....
(full name)

.....
.....
(signature)

Director

SCHEDULES

Schedule 1 Copy of public notice

Schedule 2 Copy of written notice to the Chief Executive

Schedule 3 Copy of response from Endorsed Party

Schedule 4 Dictionary

Schedule 5 Project Area

Schedule 6 Project Activities

Schedule 7 Aboriginal Cultural Heritage Database/Register Search Result

Schedule 8 Communications Protocol

Schedule 9 Human Remains

Schedule 10 Rates for services

Schedule 11 Invoicing

SCHEDULE 1 COPY OF PUBLIC NOTICE

PUBLIC NOTICE
CULTURAL HERITAGE MANAGEMENT PLAN
Aboriginal Cultural Heritage Act 2003 (Queensland)
Aboriginal Party

Transfield Services intends to develop a Cultural Heritage Management Plan for the Project pursuant to Part 7 of the Aboriginal Cultural Heritage Act 2003.

Project: Arriga Wind Farm. The project will include construction of approximately 74 wind turbines across the top of the escarpment which forms the Great Dividing Range in the Springmount area, a network of underground cables to an onsite substation, connection to the Powerlink 132 kV concrete tower line, and a system of access and service roads.

Sponsor's name: Transfield Services
Contact details: Karen Townrow Ph 07 4031 2355
Address for service: c/- Converge Heritage + Community
 PO Box 2666
 Cairns, Q, 4870

For the purpose of this notice, the Notice Day is: **8 January 2011.**

The Cultural Heritage Management Plan will be conducted over the following area:

Extent of lot bounded by the following co-ordinates:

| Point | Easting | Northing | Point | Easting | Northing | Point | Easting | Northing |
|-------|---------|----------|-------|---------|----------|-------|---------|----------|
| 3 | 145.380 | -17.134 | 22 | 145.405 | -17.198 | 41 | 145.361 | -17.144 |
| 4 | 145.380 | -17.133 | 23 | 145.395 | -17.196 | 42 | 145.362 | -17.141 |
| 5 | 145.380 | -17.135 | 24 | 145.389 | -17.193 | 43 | 145.367 | -17.142 |
| 6 | 145.379 | -17.140 | 25 | 145.378 | -17.186 | 44 | 145.371 | -17.142 |
| 7 | 145.383 | -17.143 | 26 | 145.374 | -17.185 | 45 | 145.376 | -17.147 |
| 8 | 145.390 | -17.140 | 27 | 145.362 | -17.173 | 46 | 145.379 | -17.145 |
| 9 | 145.391 | -17.141 | 28 | 145.358 | -17.167 | 47 | 145.390 | -17.147 |
| 10 | 145.396 | -17.144 | 29 | 145.356 | -17.160 | 48 | 145.401 | -17.154 |
| 11 | 145.397 | -17.146 | 30 | 145.355 | -17.154 | 49 | 145.403 | -17.151 |
| 12 | 145.398 | -17.148 | 31 | 145.356 | -17.155 | 50 | 145.402 | -17.151 |
| 13 | 145.400 | -17.150 | 32 | 145.358 | -17.154 | 51 | 145.400 | -17.150 |
| 14 | 145.402 | -17.151 | 33 | 145.360 | -17.154 | 52 | 145.398 | -17.148 |
| 15 | 145.403 | -17.151 | 34 | 145.362 | -17.154 | 53 | 145.397 | -17.146 |
| 16 | 145.404 | -17.151 | 35 | 145.363 | -17.154 | 54 | 145.395 | -17.144 |
| 17 | 145.403 | -17.151 | 36 | 145.365 | -17.153 | 55 | 145.390 | -17.142 |
| 18 | 145.401 | -17.155 | 37 | 145.365 | -17.152 | 56 | 145.390 | -17.140 |
| 19 | 145.412 | -17.168 | 38 | 145.363 | -17.147 | 57 | 145.383 | -17.143 |
| 20 | 145.410 | -17.184 | 39 | 145.363 | -17.146 | 58 | 145.379 | -17.140 |
| 21 | 145.409 | -17.196 | 40 | 145.361 | -17.144 | 59 | 145.380 | -17.135 |

Located within the Tablelands Regional Council, the Project Area lies within freehold lot 7 on Crown Plan SP235244. The Project area lies approximately 18.5km southwest of Mareeba and comprises the top of the escarpment which forms the Great Dividing Range in the Springmount area which lies generally to the south side of the Springmount Road on the west side of the Kennedy Highway in the vicinity of Walkamin.

If you are or have been nominated as an Aboriginal Party (as defined by Part 4 of the Aboriginal Cultural Heritage Act 2003) to act on their behalf and you wish to take part in the Cultural Heritage Management Plan, you must give written notice to Transfield Services advising that you wish to take part by Tuesday, 8 February 2011.

Transfield Services may elect not to endorse any Aboriginal Party if Transfield Services is not advised in writing within the required time.

SCHEDULE 2 COPY OF WRITTEN NOTICE TO THE CHIEF EXECUTIVE

22 December 2009

The Chief Executive
Department of Natural Resources and Water,
C/- Cultural Heritage Coordination Unit
Locked Bag 40
Coorparoo DC. QLD 4151

Dear Sir,

Transfield Services are proposing to develop a wind farm in the area of the Springmount/Arriga Tablelands (The Project Area -see attached map). The current proposed project is to establish a wind farm within Lot 7 on Crown Plan SP235244 which lies approximately 18.5km southwest of Mareeba in the Walsh Bluff area.

Project: Arriga Wind Farm. The project will include construction of approximately 74 wind turbines across the top of the escarpment which forms the Great Dividing Range in the Springmount area, a network of underground cables to an onsite substation, connection to the Powerlink 132 kV concrete tower line, and a system of access and service roads.

Transfield Services intends to prepare a Cultural Heritage Management Plan (CHMP) for the Project pursuant to Part 7 of the *Aboriginal Cultural Heritage Act 2003*.

Sponsor's name: Transfield Services

Contact details: Karen Townrow Ph 07 4031 2355

Address for service: c/- Converge Heritage & Community
PO Box 2666
Cairns, Q, 4870

Notification sent to: 1. Barbarrum People
c/- Mr John Wason, 37 Tait St, Mutchilba Qld 4872
2. Muluridji People
C/-North Queensland Land Council Aboriginal Corporation

For the purpose of this notice, the Notice Day is: 8 January 2011

The CHMP will be conducted over the following area:

Bounded by the following co-ordinates:

| Point | Easting | Northin g | Point | Easting | Northin g | Point | Easting | Northin g |
|-----------|---------|--------------|-----------|---------|--------------|-----------|---------|--------------|
| 3 | 145.380 | -17.134 | 22 | 145.405 | -17.198 | 41 | 145.361 | -17.144 |
| 4 | 145.380 | -17.133 | 23 | 145.395 | -17.196 | 42 | 145.362 | -17.141 |
| 5 | 145.380 | -17.135 | 24 | 145.389 | -17.193 | 43 | 145.367 | -17.142 |
| 6 | 145.379 | -17.140 | 25 | 145.378 | -17.186 | 44 | 145.371 | -17.142 |
| 7 | 145.383 | -17.143 | 26 | 145.374 | -17.185 | 45 | 145.376 | -17.147 |
| 8 | 145.390 | -17.140 | 27 | 145.362 | -17.173 | 46 | 145.379 | -17.145 |
| 9 | 145.391 | -17.141 | 28 | 145.358 | -17.167 | 47 | 145.390 | -17.147 |
| 10 | 145.396 | -17.144 | 29 | 145.356 | -17.160 | 48 | 145.401 | -17.154 |
| 11 | 145.397 | -17.146 | 30 | 145.355 | -17.154 | 49 | 145.403 | -17.151 |
| 12 | 145.398 | -17.148 | 31 | 145.356 | -17.155 | 50 | 145.402 | -17.151 |
| 13 | 145.400 | -17.150 | 32 | 145.358 | -17.154 | 51 | 145.400 | -17.150 |
| 14 | 145.402 | -17.151 | 33 | 145.360 | -17.154 | 52 | 145.398 | -17.148 |
| 15 | 145.403 | -17.151 | 34 | 145.362 | -17.154 | 53 | 145.397 | -17.146 |
| 16 | 145.404 | -17.151 | 35 | 145.363 | -17.154 | 54 | 145.395 | -17.144 |
| 17 | 145.403 | -17.151 | 36 | 145.365 | -17.153 | 55 | 145.390 | -17.142 |
| 18 | 145.401 | -17.155 | 37 | 145.365 | -17.152 | 56 | 145.390 | -17.140 |
| 19 | 145.412 | -17.168 | 38 | 145.363 | -17.147 | 57 | 145.383 | -17.143 |
| 20 | 145.410 | -17.184 | 39 | 145.363 | -17.146 | 58 | 145.379 | -17.140 |
| 21 | 145.409 | -17.196 | 40 | 145.361 | -17.144 | 59 | 145.380 | -17.135 |

Located within the Tablelands Regional Council, lies within freehold lot 7 on Crown Plan SP235244:

The Project area lies approximately 18.5km southwest of Mareeba and comprises the top of the escarpment which forms the Great Dividing Range in the Springmount area which lies generally to the south side of the Springmount Road on the west side of the Kennedy Highway in the vicinity of Walkamin.

Attached, are copies of the notices that have been sent to the Aboriginal parties and the relevant landowners.

Yours faithfully,



Karen Townrow

Converge Heritage + Community
Cairns

Encl. - Figures 1 and 2: Locality Maps

SCHEDULE 3 COPY OF RESPONSE FROM ENDORSED PARTY

Barbarrum People
c/- Mr John Wason
37 Tait St
Mutchilba Q 4872

9 January 2011

Karen Townrow
Converge Heritage + Community
PO Box 2666
Cairns, Q 4870

Dear Ms Townrow

Re: Mount Emerald Wind Farm CHMP

In response to your notification of 8 January 2011, I wish to inform you that I am an Aboriginal person for the Barbarrum People, and am an Aboriginal Party pursuant to Sections 35 (7) of the *Aboriginal Cultural Heritage Act 2003*. I am responding to your notification before 10 February 2011, the date you advised as the time by which you require written notice that I wish to take part in developing the Cultural Heritage Management Plan for the Mount Emerald Wind Farm.

I request that you endorse me as an Aboriginal Party, and look forward to hearing from you. My contact number is (07) 4093 1233.

Yours sincerely,



John Wason

SCHEDULE 4 DICTIONARY

34. DEFINITIONS

34.1 In this Plan, unless the contrary intention appears or the context otherwise requires:

"**Act**" means the *Aboriginal Cultural Heritage Act 2003* (Qld).

"**Associated Entity**" has the meaning given to that term in the *Corporations Act 2001* (Cth).

"**Avoidance Principle**" means, collectively, the principles outlined in clause 3.1(b).

"**Bar-Barrum People**" means the common law holders of native title referred to in the Native Title Determination, in accordance with the traditional laws acknowledged and traditional customs observed by them. In defining Bar-Barrum People in this way, it is acknowledged that, as at the Commencement Date, there is no native title determination application registered over the Project Area.

"**Business Day**" means a day that is not a Saturday, Sunday, public holiday or bank holiday in a place where a notice is sent.

"**Chief Executive**" means the chief executive of the Queensland Government agency with responsibility for the administration of the Act, which at the Commencement Date is the Queensland Department of Aboriginal and Torres Strait Islander and Multicultural Affairs.

"**Commencement Date**" means the date on which this Plan was executed by the last of the parties.

"**Cultural Heritage Management Strategy**" means the management strategy for a particular Work Area agreed pursuant to clause 11.3 or determined pursuant to clause 11.5.

"**Cultural Heritage Survey**" means a survey undertaken pursuant to clause 10.4.

"**Cultural Heritage Survey Report**" means a report drafted pursuant to clause 11 and agreed pursuant to clause 11.3 or determined pursuant to clause 11.5.

"**Cultural Heritage Survey Team**" has the meaning given in clause 10.3(d).

"**Expert**" means a suitably qualified and experienced anthropologist or archaeologist agreed to by the Coordinating Committee or, in the absence of such agreement, a person who is nominated for the purpose by the President for the time being of the Australian Archaeological Association Inc and who has not previously been contracted by any of the parties in relation to the Project.

"**Force Majeure Event**" means anything outside a party's reasonable control including, but not limited to, fire, storm, flood, earthquake, explosion, war, invasion, rebellion, sabotage, epidemic, labour dispute, labour shortage, failure

or delay in transportation, cultural obligations of the Bar-Barrum People (including obligations to attend funerals or other meetings due to deaths of friends or relatives), and act or omission (including Laws, regulations, disapprovals or failures to approve) of any third person (including, but not limited to, subcontractors, customers, governments or government agencies).

"**Law**" means any law (including subordinate or delegated legislation or statutory instruments of any kind) of Australia or the state of Queensland.

"**Native Title Determination**" means the approved determination of native title made in the Bar-Barrum People's claimant application (Federal Court File No. QUD6222/98) made by the Federal Court of Australia on 28 June 2001 and which came into force and effect on the same day.

"**New Cultural Heritage Site**" means any *Aboriginal cultural heritage* identified within a Work Area that is not a Reported Site and was not identified as part of a Cultural Heritage Survey.

"**Nominated Body**" means, at the Commencement Date, Bar-Barrum Aboriginal Corporation RNTBC ICN 3362 and otherwise an incorporated body that:

- (a) is established by or on behalf of the Bar-Barrum People to be the Nominated Body under this Plan;
- (b) executes, and agrees to be bound by, a deed of assumption; and
- (c) is joined as a party to this Plan upon the commencement of the deed of assumption.

"**Plan**" means this *cultural heritage management plan*.

"**Project**" means the undertaking of the Project Activities within the Project Area.

"**Project Activities**" means the activities listed in Schedule 6.

"**Project Area**" means the area described in Schedule 5, and which for the purposes of the Act is taken to be the *study area*.

"**Reported Site**" has the meaning given in clause 11.2.

"**Safety Laws**" means the *Work Health and Safety Act 2011* (Qld), as applicable.

"**Schedule**" means a Schedule, named as such, to this Plan.

"**Significant Ground Disturbance**" means:

- (a) disturbance by machinery of the topsoil or surface rock layer (excluding consolidated rock or solid sheet rock) of the ground, such as by grading, bulldozing, trenching, ploughing, drilling or dredging; and
- (b) the removal of vegetation by disturbance of the root systems and exposing underlying soil.

"**Technical Advisor**" means a person nominated under clause 7.5 or appointed under clause 7.6 possessing sufficient knowledge of *Aboriginal cultural heritage* and the requisite skills to identify and assess *Aboriginal cultural heritage*, and may include and anthropologist or archaeologist.

"**Work Area**" means the area in which Project Activities will be undertaken pursuant to a Work Program.

"**Work Program**" means a program drafted pursuant to clause 9 that outlines the Project Activities proposed to be undertaken in a Work Area.

1.2 In this Plan, except to the extent the context otherwise requires:

- (a) the singular includes the plural and vice versa and a gender includes other genders,
- (b) a reference to a party is to be construed as a reference to a party to this Plan,
- (c) a reference to a party to this Plan or any other document or agreement includes its successors and permitted assigns,
- (d) references to this Plan include its schedules and any annexures,
- (e) a reference to "AUD", "dollars" or "\$" is a reference to Australian currency,
- (f) where a word or phrase is given a particular meaning, other parts of speech or grammatical forms of that word or phrase have corresponding meanings, and
- (g) a reference to a document or agreement including this Plan includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time.

1.3 In the interpretation of this Plan, headings are to be disregarded.

1.4 In this Plan, the following terms where stated in italics *like this* have the meaning given in the Act:

- (a) Aboriginal cultural heritage;
- (b) Aboriginal human remains;
- (c) Aboriginal party;
- (d) approved cultural heritage management plan;
- (e) cultural heritage duty of care;
- (f) cultural heritage management plan;
- (g) cultural heritage protection provisions;
- (h) database;
- (i) harm;

- (j) register;
- (k) significant Aboriginal area;
- (l) significant Aboriginal object;
- (m) study area.

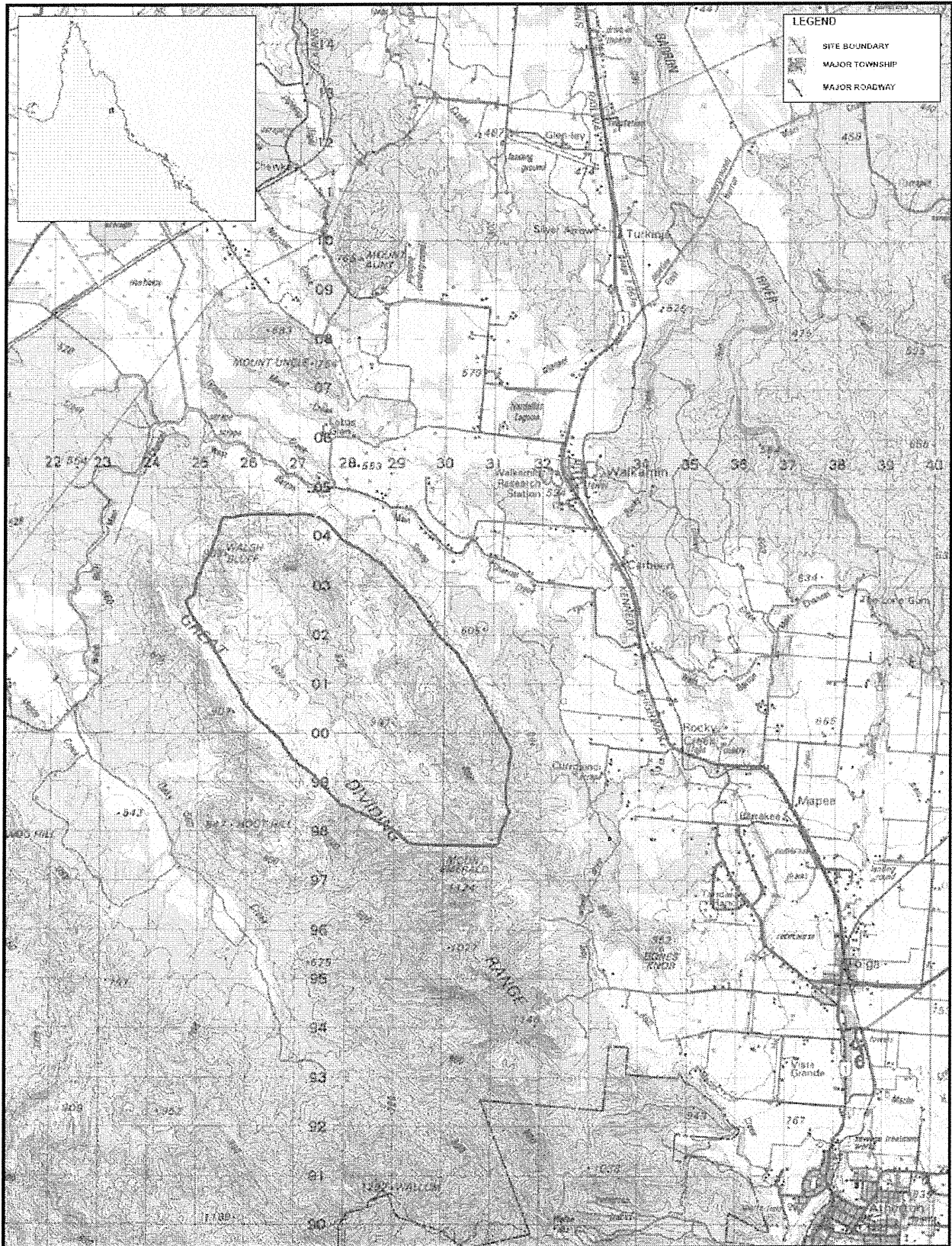
SCHEDULE 5 PROJECT AREA

Mount Emerald Wind Farm Pty Ltd are proposing to develop a wind farm in the area of the Springmount/Arriga Tablelands. The current proposed project is to establish a wind farm within Lot 7 on Crown Plan SP235244 which lies approximately 18.5km southwest of Mareeba in the Walsh Bluff area.

The Mt Emerald Wind Farm Project will include construction of up to 70 wind turbines across an area of land which forms part of the Great Dividing Range in the Springmount area, a network of underground cables to an onsite substation, connection to the Powerlink transmission line, and a system of access and service roads.

The Project Area covers all of the turbine areas, their access roads and cable routes.

The Project Area is shown in the figures below.



 Springmount Wind Farm, Arriga
Location Map

CONICS
CONSULTING
ENGINEERING
ENVIRONMENTAL CHANGE
MANAGEMENT

PRELIMINARY FOR DISCUSSION PURPOSES ONLY

2016-07-01 10:00 AM

Mt Emerald Wind Farm

Location of Turbines within Lot7 on Crown Plan SP235422

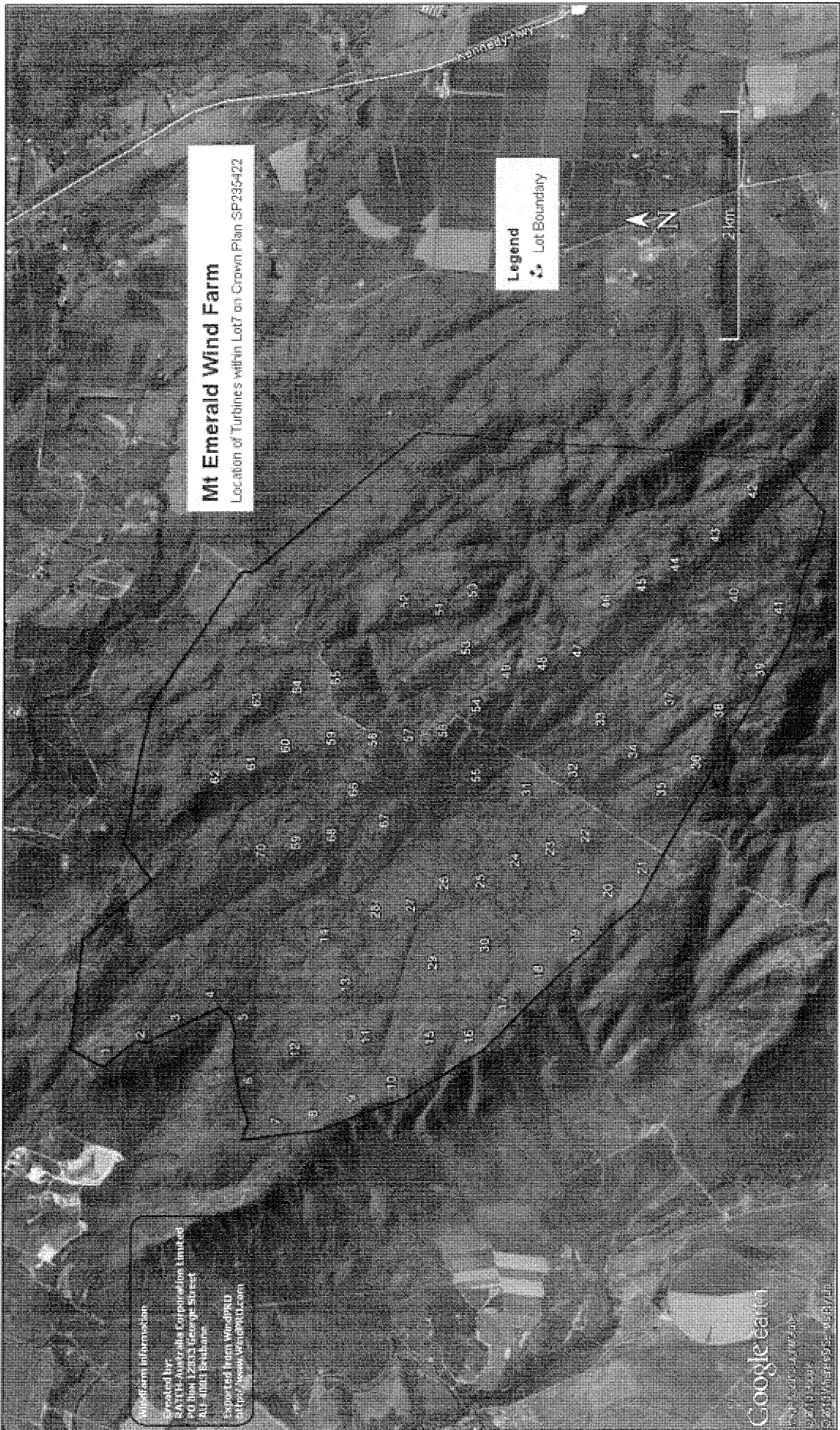
Legend
⬇️ Lot Boundary



2 km

Windfarm information
Created by:
SATEL-POWER-ASA Corporation Limited
PO Box 12800 George Street
AUS 4001 Brisbane
Supported from Windpark AU
http://www.windpark.com

Google earth
Copyright 2011 Google
2011/11/18 15:56:15 S. 17.41



SCHEDULE 6 PROJECT ACTIVITIES

Proposed civil works at the project site comprises:

- Wind turbine generators (up to 75) including foundation and hardstand area
- Access tracks/roads
- Underground electrical connections
- Operations and maintenance building
- Up to four(4) permanent meteorological monitoring towers of lattice type structure
- Temporary construction and batching plant
- Transmission line connecting the proposed wind farm development to the established electricity grid
- Substation and compound comprising various support buildings

**SCHEDULE 7 ABORIGINAL CULTURAL HERITAGE
DATABASE/REGISTER SEARCH RESULT**

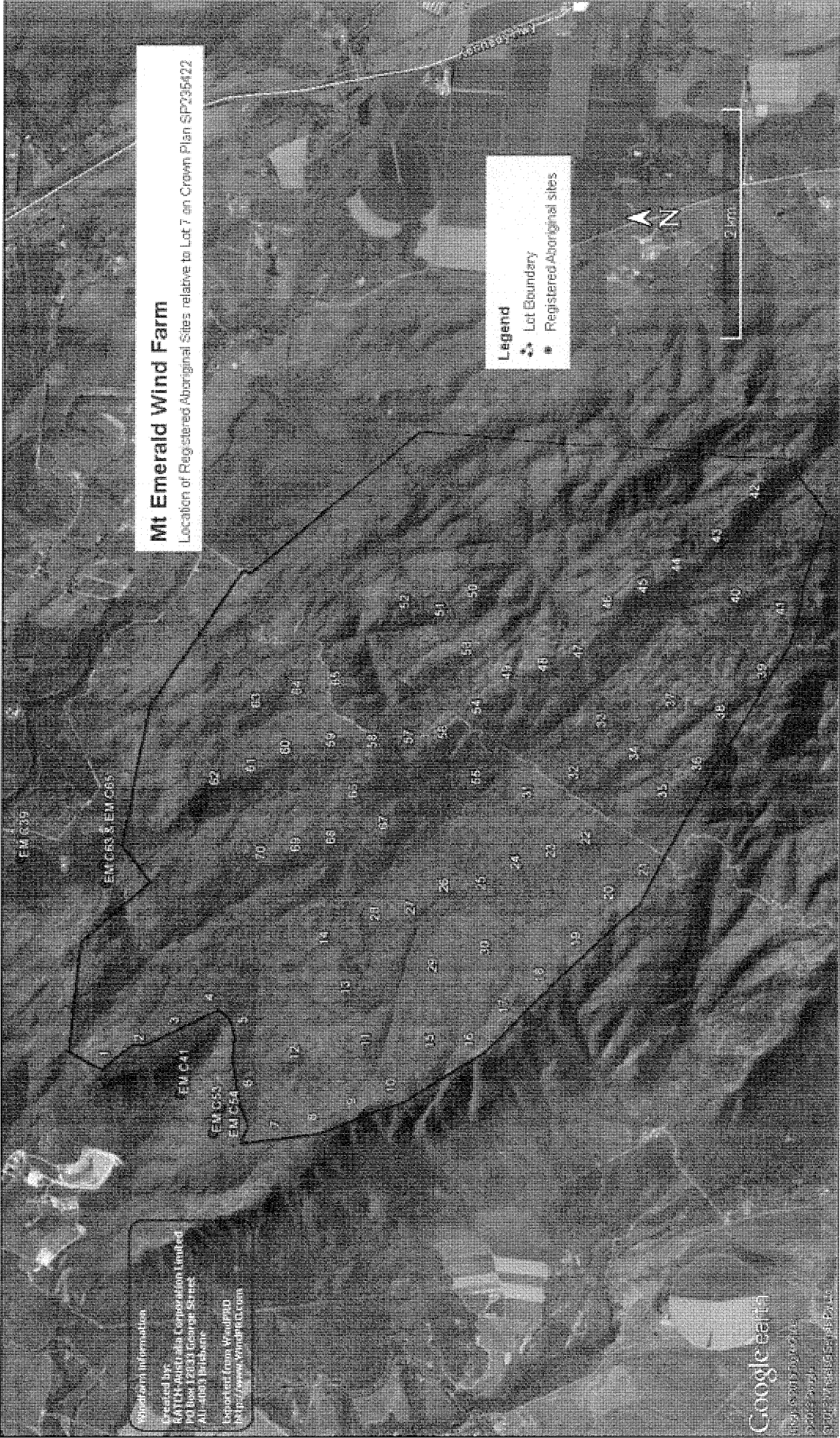
A search of the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs (DATSIMA), Cultural Heritage Coordination Unit's register and the database undertaken in 23 October 2013. This search included a 500m buffer around Lot 7 on Crown Plan SP235422. This indicated that six (6) sites, located in close proximity to Lot 7 on Crown Plan SP235244, are entered into the Register. The sites comprised a landscape feature, two artefact scatter engravings, and painting. The location of these sites is indicated in the following figure.

No sites have been recorded within the Project Area.

Details:

| Site Id | Latitude | Longitude | Record Date | Attribute | Aboriginal Party |
|-------------------------------------|--------------|------------|-------------|------------------------|---------------------|
| EM:C39 | -17.136926 | 145.377635 | 1/10/1993 | Engraving, Painting | No Registered Party |
| EM:C63 | -17.14347 | 145.375548 | 1/07/2000 | Painting | No Registered Party |
| EM:C64 | -17.143189 | 145.37666 | 1/07/1995 | Painting | No Registered Party |
| EM:C65 | -17.17.14347 | 145.375548 | 1/07/1995 | Artefact Scatter | No Registered Party |
| EM:C41 | -17.149423 | 145.358635 | 20/05/1998 | Landscape Feature | No Registered Party |
| EM:C53 | -17.152112 | 145.355886 | 1/05/1998 | Artefact Scatter | No Registered Party |
| EM:C54 | -17.152579 | 145.357762 | 1/05/1998 | Artefact Scatter | No Registered Party |
| Part of area without recorded sites | | | | | No Registered Party |

Data as supplied by the Cultural Heritage Coordination Unit, DATSIMA, 23 October 2013.



SCHEDULE 8 COMMUNICATIONS PROTOCOL

1. The Endorsed Party and the Nominated Body reserve their right to discuss information which is of a secret or sacred nature on their own terms in private without the presence of the Sponsor or its agents.
2. The Endorsed Party and the Nominated Body reserve the right to set their own procedures regarding the intervention in and discussion of places which are of significance to one or other gender within the group, and will set its meeting and monitoring procedures with due regard to these issues.
3. The Endorsed Party and the Nominated Body warrant that they will discuss with the Sponsor the impact on Project Activities caused by the existence of places that are of a secret or sacred nature but may choose not to reveal the detail of the sensitive nature of the place.
4. The Endorsed Party and the Nominated Body must be allowed to take decisions back to the Bar-Barrum People for discussion, confirmation or further instructions on the nature and outcome of any decisions. Costs of establishing and holding a meeting of the relevant Bar-Barrum People in accordance with this clause should be borne by the Sponsor.
5. The Endorsed Party and the Nominated Body reserve the right to establish which of the Bar Barrum People 'speaks for country' for certain areas. The Sponsor should respect the determination.
6. Initial communications between parties will be made by telephone or email to the North Queensland Land Council and followed up by a confirmatory telephone or email whichever was not used first.
7. When applicable, the parties agree to provide a full explanation of any technical-industry specific terms or any cultural paradigms/sensitivities, with due regard to the sensitivity of the information.
9. Communications between the parties should always be mindful of the expectations of the other parties, including that:
 - The Sponsor expects that it will be able to communicate and cooperate with the Endorsed Party and the Nominated Body to achieve a successful wind farm project which is devoid of unnecessary delays and will include the Bar-Barrum People as an important stakeholder in this process.
 - The Bar-Barrum People expect that their *Aboriginal cultural heritage* values will be respected and that they will be welcomed to participate as an important stakeholder in the project.

SCHEDULE 9 HUMAN REMAINS

THE DISCOVERY, HANDLING AND MANAGEMENT OF HUMAN REMAINS UNDER PROVISIONS OF THE *ABORIGINAL CULTURAL HERITAGE ACT 2003* AND *TORRES STRAIT ISLANDER CULTURAL HERITAGE ACT 2003*

If you find bones and suspect that they are human it is **essential that you do not disturb the material. You must report the findings to the Queensland Police Service.** The Police will determine if the remains represent a crime scene. If it is established that the remains are not a crime scene and the Coroner is satisfied that the remains are Aboriginal or Torres Strait Islander the Department of Environment and Resource Management procedure on *The Discovery, Handling and Management of Human Remains under Provisions of the Aboriginal Cultural Heritage Act 2003 and Torres Strait Cultural Heritage Act 2003* will apply.

1 General Guiding Principles

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 is still the case with Aboriginal and Torres Strait Islander people. Disturbance to burials and human remains is therefore of major concern to them, as it is for all members of Australian society.

Aboriginal and Torres Strait Islander people have been in Australia for more than 40,000 years. In that time they have buried hundreds of thousands of their ancestors 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 occurred in sand dunes and alluvial deposits, which were easy to dig. However, 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. All are vulnerable to human disturbance. 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 or Torres Strait Islander burial.

In view of possible natural or human disturbance to Aboriginal or Torres Strait Islander places the Queensland Government has in place a legislative framework that will ensure such burials are treated in a manner consistent with legal requirements and Aboriginal and Torres Strait Islander traditions.

There is also provision for Aboriginal or Torres Strait Islander people who have traditional or familial links with human remains to seek ownership of these remains regardless of who claimed previous ownership.

2 Desired Outcomes

This procedure has a number of general desired outcomes:-

- While natural or human processes can inadvertently expose Aboriginal or Torres Strait Islander human remains, all attempts will be made to limit further disturbance.
- If further investigation and disturbance is required, procedures are in place for the proper handling of such remains.
- All such procedures are sensitive to the wishes of the Aboriginal or Torres Strait Islander owners of the remains.
- That Aboriginal or Torres Strait Islanders who have traditional or familial links with human remains are able to claim ownership of those remains.

3 Legislative Framework

Criminal Code Act 1899

All persons **must** be aware that under the *Criminal Code Act 1899* (s236) it is an offence to improperly or indecently interfere with a human body or human remains, whether buried or not. An offence under this provision can result in imprisonment for up to two years.

Coroners Act 2003

Provisions of the *Coroners Act 2003* provide that when a person becomes aware of a reportable death it is the duty of the person finding the reportable death to report the findings to a police officer or coroner (Part 2 s7). A reportable death is defined in Part 2 s8 and would include Aboriginal and Torres Strait Islander human remains (NB Part 4, Division 4 Section 82 (1) defines every magistrate as a coroner (a "local Coroner").

The Coroner starts having control of human remains when the Coroner starts investigating the deceased person's death (Part 3 s26 (1)). The Coroner must stop investigating a death if the Coroner's investigation shows that the body is Aboriginal or Torres Strait Islander traditional burial remains (Part 3 s12(2)(a)). Where this occurs, a Coroner will authorise for the remains to be released to the Minister responsible for administering the *Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Heritage Act 2003* (See Part 3 s26(2) (a)) and Form 12 version 2- Order for release of Traditional remains. Published Queensland Government Gazette 23 October 2009 p586.

To ensure best practice in the coronial system, the State Coroner must develop guidelines in respect to certain matters, including those dealing with investigations of deaths involving human remains found in a suspected traditional burial site, and in particular, must provide for the early notification and involvement of the Aboriginal or Torres Strait Islander community having a connection with the burial site (Part 3 s14 (3) (b)).

Aboriginal Cultural Heritage Act 2003 and Torres Strait Islander Cultural Heritage Act 2003

The basic intent of the *Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Cultural Heritage Act 2003* ('the Acts') is that Aboriginal and Torres Strait cultural heritage should be protected.

It is also the intent of the Acts that (as far as practicable) Aboriginal and Torres Strait cultural heritage should be owned and protected by Aboriginal and Torres Strait Islander people with traditional or familial links to the cultural heritage if it is comprised of any of the following-

- (a) Aboriginal human remains;
- (b) Secret or sacred objects; or
- (c) Aboriginal heritage lawfully taken away from an area.

It is a further intent of the Acts that Aboriginal and Torres Strait Islander cultural heritage that is in the custody of the State, including the Queensland Museum, should continue to be protected by the State until it can be transferred into the protection of its Aboriginal or Torres Strait Islander owners (Part 2 Division 1 s14 (1-4)).

Under the Acts, Aboriginal or Torres Strait Islander people who have a traditional or familial link with Aboriginal human remains are the owners of those remains regardless of who may have owned the Aboriginal or Torres Strait Islander human remains before commencement of the Act (Part 2 Division 2 s15 (1-2)).

An Aboriginal or Torres Strait Islander person who owns human remains may at any time ask the State (or an entity that represents the State) who holds custody of the remains to continue to be the custodian of the human remains or return the human remains to them (Part 2 Division 2 s16 (1-4)).

If a person, other than the State has in their possession Aboriginal or Torres Strait human remains to which they do not have traditional or familial links then the person must take all reasonable steps to ensure that the human remains are taken into the custody of the chief executive as soon as practicable. Penalties apply if a person fails to do this (Part 2 Division 2 s17 (1-2)).

If a person knows of the existence and location of Aboriginal human remains and is not the owner of those remains, or knows or ought reasonably to know the human remains are Aboriginal or Torres Strait Islander human remains or knows or suspects the chief executive does not know of the remains, the person must as soon as practicable (and after advising the Police or Coroner) advise the chief executive of the extent of the human remains and provide all the details about the nature and location of the human remains the chief executive reasonably requires. Penalties apply if a person fails to do this (Part 2 Division 2 s18).

Procedures for dealing with Aboriginal and Torres Strait Islander human remains

In all cases when human remains are located it is important to remember that:

- **The discovery of any human remains must as soon as possible be reported to the nearest police.**
- **It is an offence to interfere with human remains, whether buried or not.**

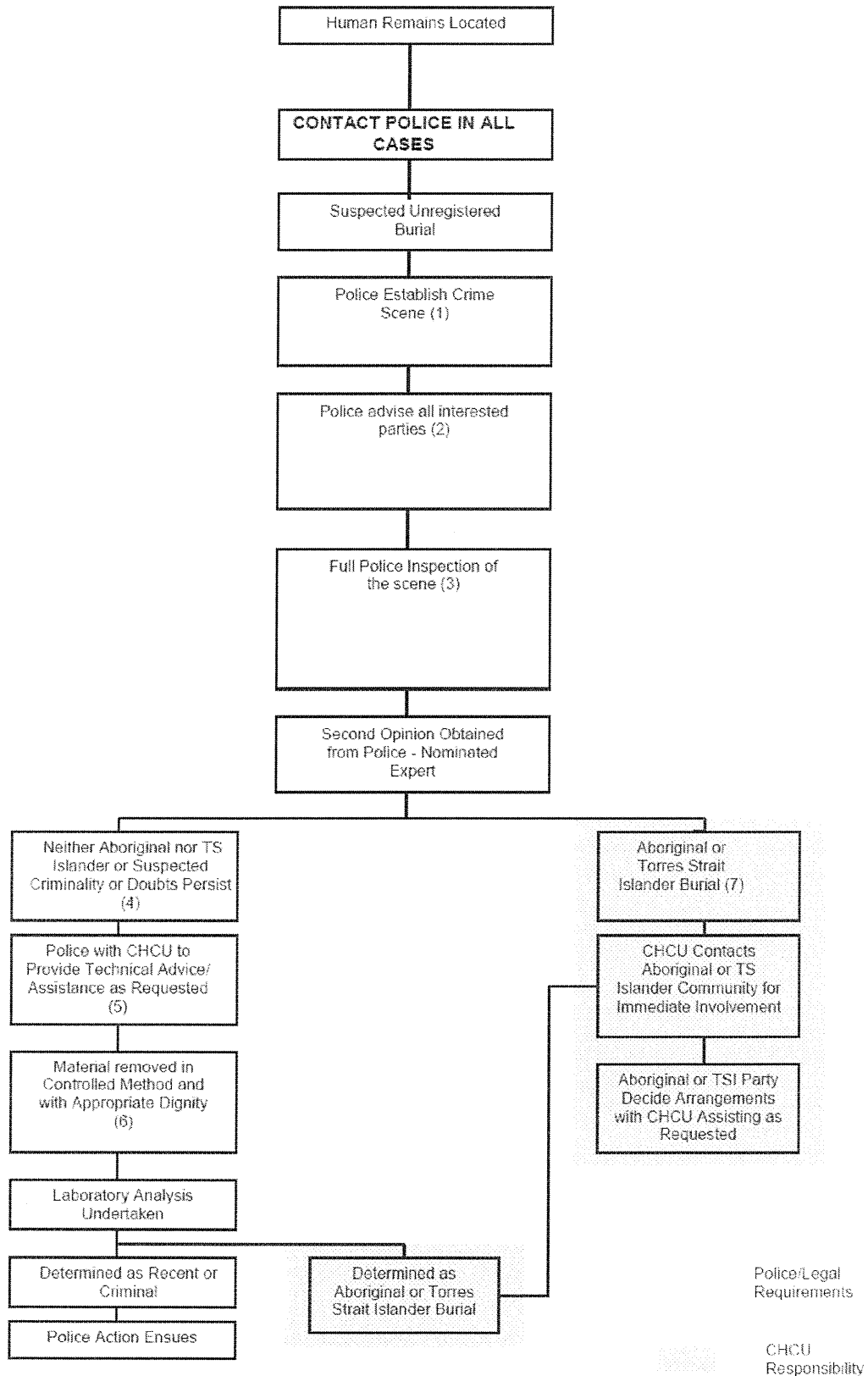
The Police or Coroner must be advised of the presence of any human remains. An appropriate officer or officers will then establish the area of discovery as a potential crime scene and are responsible for preserving and securing the area.

If a determination is made that satisfies the Coroner that the remains are not a crime scene and that the remains could constitute an Aboriginal or Torres Strait Islander burial site, Police will contact the Cultural Heritage Coordination Unit of the Department of Environment and Resource Management. Officers of the Cultural Heritage Coordination Unit (or their representatives) may attend the scene and along with the Police and Scenes of Crime Officers collect appropriate data on ethnicity, antiquity and evidence of criminal activity or otherwise for submission to the Coroner. Further advice might be sought from forensic osteologists/pathologists or physical anthropologists.

If the remains are thought to be neither Aboriginal nor Torres Strait Islander, related to criminal activity or are of doubtful determination, Officers of the Department of Environment and Resource Management (or their representatives) may assist the Police in further determinations. This may require controlled removal and analysis by a suitable forensic expert as ordered by the Coroner. In all cases of possible criminal activity the requirements of the Police and Coroner for data collection and site security will have priority. If the remains are determined, to the satisfaction of the Police and Coroner, to be Aboriginal or Torres Strait Islander, Officers of the Department of Environment and Resource Management will then take responsibility for liaison and reburial with the appropriate Aboriginal or Torres Strait Islander community.

At all stages minimal disturbance to the remains will be a priority and they will be dealt with in a sensitive and caring manner. Advice and guidance from Aboriginal or Torres Strait Islander elders will be taken as soon as the possibility of criminal activity is dismissed.

Where an offence under provisions of the *Aboriginal Cultural Heritage Act 2003* or *Torres Strait Islander Heritage Act 2003* is suspected to have occurred then the Regional Compliance Team of the Department of Environment and Resource Management must be advised. Where an offence is suspected the scene must be kept secure until handed over to Department of Environment and Resource Management compliance officers.



Explanation of procedures

- (1) Police Officers maintain authority and responsibility for a potential crime scene at all times.
- (2) Cultural Heritage Coordination Unit Officers (or their representatives) may attend the scene and provide advice as required by Police and Scenes of Crime Officers.
- (3) Police will nominate a person to provide a second opinion if appropriate. Such opinion may be available on-site if a suitable forensic expert is available. However, if a suitable forensic expert is unavailable to travel to the site, digital images may be sent to them to provide an opinion. All data required for first and second opinions is to be collected on site.
- (4) Final decision on this rests with Police, on advice from the Coroner.
- (5) Officers of the Cultural Heritage Coordination Unit will, on request, assist Police in technical aspects of evidence retrieval.
- (6) Advice on handling may be sought from appropriate sources where this does not compromise integrity of crime scene or quality of evidence.

Additional procedures and information

Where the remains are determined to be Aboriginal or Torres Strait Islander the Coroner will authorise for the remains to be released and will complete *Form 12 Order for the Release of Traditional Remains*. This provides for the release of the remains to the Minister responsible for administering the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Heritage Act 2003*.

Should any Police Officer or Officer of the Department of Environment and Resource Management (or their representative) be in any doubt as to the requirements of the relevant Coroner for their region, then it is essential that the Coroner be directly consulted. Alternatively, as the State Coroner is responsible for all Coroners any perceived difficulties in implementing the policy/procedure should be referred to him/her.

The excavation of human burial remains for whatever reason is not encouraged. However, this may occur if directed by the Coroner or if requested in writing by an Aboriginal or Torres Strait Islander Body.

If a researcher acting under an authority or agreement from the Cultural Heritage Coordination Unit and with the Aboriginal or Torres Strait Islander Body for an area discovers burial remains in the process of excavating a site, they shall immediately stop excavation, cover the remains and contact an Officer of the Cultural Heritage Coordination Unit, who will then follow the procedures set out in this document.

The Queensland Museum acquired human remains from the 1870's to 1972 including some legally recovered under the *Aboriginal Relics Preservation Act 1967*. However, by 1972 it was no longer considered appropriate to deposit human remains with the Queensland Museum except in exceptional circumstances and with the permission of the relevant Aboriginal or Torres Strait Islander community. The Museum has now developed a repatriation policy for human remains still in its collection (see – *Queensland Museum Policy on Ancestral Remains and Burial Goods* – May 2004, *Queensland Museum Policy on Secret Sacred Objects* – May 2004). These policies commit the Queensland Museum to returning to Aboriginal and Torres Strait Islander communities, family groups, and individuals, ancestral remains and burial goods, and secret sacred objects held in Museum collections.

SCHEDULE 10 RATES FOR SERVICES

The parties acknowledge that the Sponsor will pay to the Nominated Body (or as directed), other than payments to be made directly to the Technical Advisor, fees calculated at the following rates

1 Cultural Heritage Rates

| <u>Role</u> | <u>Rates (\$)</u> |
|--|-------------------|
| Bar-Barrum People who are members of a Cultural Heritage Survey Team | \$660 per day* |
| Bar-Barrum People who are engaged to undertake work pursuant to a Cultural Heritage Management Strategy | \$660 per day* |
| The Endorsed Party and/or members nominated by the Nominated Body participating in Coordinating Committee meetings | \$700 per day* |
| Bar-Barrum People conducting cultural heritage awareness training | \$700 per day* |
| * the daily base rate includes a \$60 per day travel allowance. | |

- 2 A working day comprises an eight hour period (generally 8:30am to 4:30pm) inclusive of short breaks and a half hour lunch break. A full days rate will be payable on completion of the full working day. If less than a full eight hours work is undertaken then a half days rate is payable.
- 3 If the Sponsor requests work be undertaken exceeding eight hours in one day, an overtime rate of \$100 per hour (or part thereof) will apply.
- 4 Where a Cultural Heritage Survey Team has presented for previously arranged work and is prevented from carrying out this work by circumstances beyond their control, such as wet weather or a matter attributable to the Sponsor, each member of the team will be paid half the daily rate listed above.
- 5 Miscellaneous Rates

| <u>Activity</u> | <u>Supplementary Information on Payments</u> | <u>Rates (\$)</u> |
|-----------------|--|--|
| Vehicle hire | Vehicle hire where reasonably necessary for Cultural Heritage Surveys, inclusive of fuel and insurance | \$250 per day Amounts over \$250 will be paid on receipt of a tax invoice |
| Accommodation | Actual costs of accommodation with receipts and not to exceed Government Accommodation Rates as determined by the ATO for the relevant town or region. If there is no accommodation available at the ATO rate in the relevant town or | Actual costs |

| <u>Activity</u> | <u>Supplementary Information on Payments</u> | <u>Rates (\$)</u> |
|---|--|-------------------|
| | region, then the actual costs of accommodation will be paid. | |
| Meals Allowance & Incidentals # | Breakfast, lunch, dinner and incidentals | ATO Rates |
| Administration Fee | On the total amount of all the above items (excluding GST) | 20% |
| <p># Meals Allowance and Incidentals:</p> <ol style="list-style-type: none"> 1. If the individual is required to leave home before 6.30am because of the work they are doing for the Sponsor an allowance for breakfast is reasonable. 2. If the individual is away from home for at least six hours because of the work they are doing for the Sponsor then an allowance for lunch is reasonable. 3. If the individual does not get home until after 6.30pm because of the work they are doing for the Sponsor then an allowance for dinner is reasonable. 4. Incidentals are payable when the individual is working away from home. | | |

SCHEDULE 11 INVOICING

1. PROVISION OF BUDGET ESTIMATES

1.1 Where the Nominated Body responds to:

- (a) a Work Program;
- (b) a notice of a meeting of the Coordinating Committee;
- (c) a request for members of the Bar-Barrum People to undertake work pursuant to a Cultural Heritage Management Strategy; or
- (d) a request for the provision of cultural heritage awareness training,

the Nominated Body must include in the response an itemised budget in relation to the costs associated with the relevant activity, the rates in any such budget to be in accordance with Schedule 10.

1.2 If the Sponsor accepts the draft budget, the Sponsor will notify the Nominated Body within two Business Days from the date of receiving the draft budget and the budget will be an **Approved Budget**.

1.3 If the Sponsor does not accept the draft budget then the provisions of clause 18 of the Plan will apply. If the Parties reach agreement on the draft budget through either one of these processes, the draft budget will be an **Approved Budget**.

2. TIMING OF PAYMENTS

2.1 The Sponsor will pay to the Nominated Body the fees for attendance, travel expenses, meals, accommodation and incidentals in accordance with Schedule 10 and the Approved Budget.

2.2 Monthly correctly rendered tax invoices shall be forwarded to the Sponsor and will be paid within 20 Business Days of receipt of the invoice.

2.3 The Nominated Body may submit an initial invoice for up to 50% of an Approved Budget, in accordance with this clause, prior to the commencement of activities outlined in the Approved Budget.

2.4 The Nominated Body shall compile a record of attendances and provide that record to the Sponsor on a monthly basis to accompany the payment claim.

2.5 The Sponsor acknowledges that there may be costs associated with the preservation and management of culture and heritage sites, objects or remains as a result of the works or in the follow-up works consequent to the completion of the Project, and undertakes to meet the reasonable costs of such preservation and management as may be agreed between the Parties.

2.6 All amounts referred to are exclusive of GST.

2.7 Despite anything else in this agreement all payments made are subject to due performance of the services. If the Nominated Body fails to perform the services to an adequate standard then the Sponsor is relieved of all payment obligations.