



INVOLVMENT OF RAINFOREST ABORIGINAL PEOPLE IN WTMA POLICY, PLANNING, PERMITTING AND MANAGEMENT

1. Background

- 1.1** The Wet Tropics World Heritage Area (WTWHA) is the traditional home of 18 Rainforest Aboriginal tribal groups. It is recognised as a living cultural landscape with potential for listing on the National Heritage List and the World Heritage List for its cultural values.
- 1.2** The Wet Tropics World Heritage Protection and Management Act 1993 (the Act) provides:
- a)** It is ... the intention of the Parliament to acknowledge the significant contribution that Aboriginal people can make to the future management of cultural and natural heritage within the area ... (Preamble s.8)
- 1.3** The Act also requires that, in performing its functions, the Wet Tropics Management Authority (the Authority) must as far as practicable (s.10(5));
- a)** have regard to the Aboriginal tradition of Aboriginal people particularly concerned with land in the wet tropics area; and
 - b)** liaise, and cooperate with, Aboriginal people particularly concerned with land in the wet tropics area.
- 1.4** The Wet Tropics Management Plan 1998 (the Plan), Part 4 Division 2, principles and criteria for deciding permit applications, requires the Authority and other permit entities to have regard to the effects a proposed activity on (s.60),
- a)** any native title holder and any other Aboriginal persons particularly concerned with the land;
 - b)** any other relevant, social, economic and cultural effects.
- 1.5** The Plan (s.62) also provides for the Authority to prepare guidelines containing information relevant to the application of principles and criteria for deciding permit applications.
- 1.6** Consistent with policy commitments in the Authority's Protection through Partnerships (1997), a review of Aboriginal involvement in the management of the WTWHA produced the report "Which Way Our Cultural Survival? – The Review into Aboriginal Involvement in the Management of the Wet Tropics World Heritage Area" (1998). The Interim Negotiating Forum (INF) was established in order to negotiate a Wet Tropics of Queensland World Heritage Area Regional Agreement (Regional Agreement) to give effect to a range of Review recommendations that aim to achieve more effective and meaningful participation of Rainforest Aboriginal people in management of the WTWHA.

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1.7 The Regional Agreement provides the framework for cooperative arrangements between the Authority and other World Heritage management agencies and Rainforest Aboriginal people. It includes commitments to structural reform that will significantly enhance Rainforest Aboriginal participation in decision-making and obligations to implement specific operational protocols for involvement of Rainforest Aboriginal people in policy, planning, permitting and management.

2. Policy Position

2.1 The Authority acknowledges Rainforest Aboriginal people as the original owners of the WTWHA and recognises that they have legitimate rights and interests related to the WTWHA.

2.2 Legitimate rights and interests as they relate to the cultural domain of the WTWHA will be recognised and accommodated as far as possible by the Authority through having regard to the traditions of, and liaising and cooperating with Rainforest Aboriginal people.

2.3 The Authority is committed to working cooperatively with Rainforest Aboriginal people to protect and appropriately manage the values of the WTWHA. A cooperative partnership approach between the Authority and Rainforest Aboriginal people will be achieved through inclusion in decision making, early provision of information regarding proposals, culturally appropriate consultation and negotiation, employment and training opportunities, and 'in good faith' participation to meet agreed timelines and processes within statutory timelines.

3. Interpretation

3.1 The Authority as a signatory to the Regional Agreement has committed to conduct its activities in accordance with an agreed set of principles and guidelines for cooperative management. Central to these principles is mutual respect between Rainforest Aboriginal people and the Authority. Rainforest Aboriginal people will be afforded the opportunity, in good faith, and in the spirit of making decisions for their own future, to define and negotiate their own priorities, needs and aspirations for management of the WTWHA. The Authority will apply the following general principles and guidelines to all activities and projects involved in management of the WTWHA.

3.2 *Recognition*

- (a) Recognise and respect the Rainforest Aboriginal perspective that natural and cultural values are inseparable.
- (b) Recognise that the wet tropics area is a diverse set of living cultural landscapes.
- (c) Recognise that Rainforest Aboriginal rights and interests are likely to continue to exist within the WTWHA.

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- (d) Recognise and respect the significant contribution that Rainforest Aboriginal people can make to the management of cultural and natural heritage within the WTWHA.
- (e) Respect Rainforest Aboriginal cultural and intellectual property (including oral history, land management practices, sacred and culturally significant places, and secret information).
- (f) Have regard to the Aboriginal traditions of Rainforest Aboriginal people particularly concerned with land in the WTWHA.
- (g) Consistent with the Regional Agreement, the Authority understands that the Aboriginal Rainforest Council agrees to recognise and respect that the Authority has specific legislative responsibilities and are obliged to treat all landholders and users of the WTWHA in a fair and equitable way.

3.3 *Involvement*

- (a) Involve the relevant Rainforest Aboriginal people throughout the spectrum of policy, strategic planning, permitting, operational management and monitoring and reporting. Relevant Rainforest Aboriginal people will be identified by the appropriate Native Title Representative Body (NTRB) and their involvement facilitated by the ARC, the Authority and contracted Community Liaison Officers. The level of Rainforest Aboriginal involvement needs to be acceptable to all parties and to focus particularly on social, cultural, environmental and economic issues of concern to Rainforest Aboriginal people.
- (b) Rainforest Aboriginal people should be afforded the opportunity to determine their desired level of involvement following initial discussions on the task or issue. Non-involvement in any aspect is a valid response.
- (c) Subject to negotiated timelines, but consistent with statutory requirements where applicable, Rainforest Aboriginal people should have the opportunity to suggest ways to structure their involvement to best meet their needs.
- (d) Consistent with s.10(5) of the Act and s.40 of the Plan, recognise and facilitate the right of Aboriginal people particularly concerned with the WTWHA to negotiate with the Authority regarding management, land use and other relevant issues affecting their traditional lands.
- (e) Establish, through negotiation, appropriate arrangements that facilitate effective Rainforest Aboriginal participation in accordance with these principles and guidelines. This may include employment, provision of specialist knowledge or attendance at meetings removed from the community. Out of pocket expenses such as travel costs should be considered in accordance with established Government policy, or loss of wages to attend meetings on a case-by-case basis. Payment for specialist cultural heritage advice should be formalised through consultancy

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contracts or fee for services. The standard government fee structure should apply with regard to meetings and out of pocket expenses.

3.4 *Right People for the Right Country*

Ensure as far as possible that the appropriate people for the country involved are identified early in the project. This is best achieved through consultation with the Aboriginal Rainforest Council (noting that Native Title Representative Bodies have responsibility for native title claims and determination processes).

Ensure that any existing legal rights and interests are not adversely affected and the relevant groups are involved. The appropriate Native Title Representative Body should be contacted at an early stage.

3.5 *Policy Development and Strategic Planning*

- (a) Ensure that Rainforest Aboriginal people have a clear, upfront understanding of what the project is about including the broader context and planning framework of the project.
- (b) Terms of Reference should consider the need to include environmental, social, economic and cultural issues.
- (c) Rainforest Aboriginal people providing agreed specialist advisory services should be paid for their involvement and be formalised through consultancy contracts or fee for services in accordance with Government guidelines.
- (d) Regular feedback should be provided to Rainforest Aboriginal people about how the project is progressing. This feedback is essential to facilitating and informing the progress of the project from one stage to the next. For long-term projects a regular review mechanism that enables traditional custodians to provide ongoing feedback and advice should be developed.
- (e) When determining planning boundaries take into account Rainforest Aboriginal economic, social and cultural considerations in addition to biophysical values.
- (f) Make provision for Rainforest Aboriginal peoples' involvement in monitoring and review procedures.

3.6 *Permitting*

- a) Recognise and respect the concepts of cultural landscape and Aboriginal domain. Consistent with s.60 of the Plan, ensure that all permitted activities take into consideration the likely effect of activities on any Native Title holder, Aboriginal persons particularly concerned with the land, and any other relevant social, economic and cultural effects.

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- b) Assess applications in accordance with the Plan's s.62 guideline No.3 'Consulting Aboriginal People Particularly Concerned with Land in the Wet Tropics Area.'

3.7 *Protection of Intellectual and Cultural Property*

- a) Ensure that the relevant people agree to the reproduction of any Rainforest Aboriginal cultural information and respect requests for confidentiality, copyright or any other particular process.
- b) Any documentation of Rainforest Aboriginal cultural values should occur under Rainforest Aboriginal guidance and direction.
- c) Recognise and respect the wishes and rights of Rainforest Aboriginal people to protect their oral history and traditions by facilitating their ability to manage and control the use of their intellectual and cultural property.
- d) Collaboratively determine with Rainforest Aboriginal people the methodology for cultural heritage projects.

3.8 *Operational Management*

- a) Recommend that all operational activities and projects, such as walking tracks and fire management, recognise and incorporate measures to respect and protect Rainforest Aboriginal cultural heritage and traditional management.

3.9 *Research*

- a) Ensure that all researchers and research institutions associated with WTWHA projects are fully aware of the connection between Rainforest Aboriginal people and the wet tropics area environment and their special place in its management, and the need to protect any rights and interests.
- b) Sponsored and endorsed research projects would be managed through collaborative processes based on these principles and guidelines.

3.10 *This policy is not intended to:*

- a) pre-empt any formal recognition of Native Title rights and interests by the Commonwealth or the State of Queensland; and
- b) affect the nature and practice of any Native Title right that currently or may exist in relation to the WHA.

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4. Implementation

4.1 To meet the Authority's responsibilities under the Act, Plan and Regional Agreement the Authority will conduct its activities in accordance with the following protocols.

4.2 Policy Development and Strategic Planning Protocol

Authority staff will consult with and involve Rainforest Aboriginal people in policy development and strategic planning in the WTWHA in accordance with the steps set out below.

a) The Authority will:

- i. Notify the ARC in writing of the intent to draft policy or undertake strategic planning once the Authority decides that a new policy, strategic plan or amendment to an existing policy/strategic planning, is required. The notice should include:
 - An explanation of the broad purpose of the policy/strategic planning.
 - An explanation of how the policy/strategic planning is expected to impact on the WTWHA.
 - A description of expected timelines for policy/strategic planning development.
 - Contact details of the key officers.
 - An invitation for ARC input to the policy/strategic planning development process and to provide initial comments.
- ii. Forward the draft policy/strategic plan to the ARC for preliminary comment and input, allowing at least 28 days for a written response.

b) Consistent with the Regional Agreement, the Authority understands that the ARC will:

- i. Respond to the Authority with preliminary comments on the draft policy/strategic plan and advise that there may be other Rainforest Aboriginal people who seek to be involved.
- ii. Identify the relevant Native Title Representative Body(s), or following a determination, the relevant Native Title Prescribed Body Corporate and:
 - Seek formal advice, including contact details and protocols, on Native Title holders, Native Title claimants and/or other known Rainforest Aboriginal people, or other parties, with rights or interests in the area.
 - Seek permission to share contact information with the Authority.

c) The Authority will:

- i. Arrange a meeting, if requested, with ARC representatives and identified Rainforest Aboriginal people (if appropriate) at a mutually agreed time and venue, to workshop the policy/strategic plan and any issues raised by the ARC.
- ii. Forward the final policy/strategic plan to the ARC, including a report on how their submission has been dealt with in the policy/strategic plan.

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- d) Consistent with the Regional Agreement, the Authority understands that the ARC will:
- i. Document on completion of the policy/strategic planning, the success of the consultation process, including recommendations for future improvement.
 - ii. Forward a copy to the Authority and/or any appropriate Rainforest Aboriginal people for feedback.
- e) The Authority will:
- Endeavour to keep the ARC informed of opportunities for involvement in changes to existing policies, and other relevant projects radiating from the Authority.

4.3 *Consultation Protocol*

The Consultation Protocol is to be applied to all activities and projects that are identified as requiring involvement of Rainforest Aboriginal people.

4.3.1 New And Proposed Activities

- a) The Authority will:
- i. Identify the appropriate Rainforest Aboriginal communities, groups or individuals to be consulted by liaising verbally and/or in writing with the ARC, and agree on the timeframe for a response from the ARC. The Authority considers that a 28 day time limit is reasonable for the submission of a response from the ARC.
- b) Consistent with the Regional Agreement, the Authority understands that the ARC will:
- i. Contact the relevant Native Title Representative Body(s), or following a determination, the relevant Native Title Prescribed Body Corporate and:
 - Seek formal advice, including contact details and protocols on Native Title holders, Native Title claimants and/or other known Rainforest Aboriginal people, or other parties, with rights or interests in the area.
 - Seek permission to share contact information with the Authority.
 - ii. Respond to the Authority within the agreed timeframe outlining the appropriate people to be consulted and a process for contacting them.
- c) The Authority will:
- i. Inform the ARC of the activity and consult with the ARC on its desired level of involvement.
 - ii. Establish a process with the ARC to monitor and provide feedback on the progress and effectiveness of consultation for the life of the activity.
 - iii. Arrange a meeting (refer Attachment 14.1) with the identified Rainforest Aboriginal communities, groups or individuals and ensure the following objectives are met:

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- Define and outline clearly the proposed activity and the purpose and nature of the need for consultation.
 - Discuss and clarify what kind of community, group and individual participation is sought.
 - Identify clearly what participation may involve for participants being particularly aware of the need to accommodate cultural obligations.
 - Identify, clarify and mutually agree on issues and positions, negotiation methods and decision-making processes.
 - Identify and clarify any substantially opposing points of view, documenting any which cannot be resolved.
 - Mutually agree on documentation of consultation outcomes, regular review, feedback and discussion procedures.
 - Explain comprehensively and mutually agree to methods of information collection, storage, access and presentation.
 - Obtain written consent for the use of any culturally sensitive information.
 - Ask whether anyone has registered any intellectual cultural property that should be protected and obtain prior, informed consent for its use.
 - Mutually agree on the way to conduct the activity, including any statutory timing and phasing of the project.
 - Discuss any relevant cultural, political and legislative circumstances and issues, both local and broad ranging.
 - Identify and share contact details for Rainforest Aboriginal participants, ARC members and responsible Authority staff, including a key contact for each.
 - Provide a comprehensive assessment of the risks and potential adverse impacts of the activity.
 - Identify and explain the potential benefits of the activity, including those that may apply to the broader Indigenous community and the general public.
 - Discuss financial, technical and human resources available for the activity.
 - Mutually agree on time requirements for the discussion and consideration of proposals.
 - Develop collaboratively the scope, aims and methods for the activity prior to undertaking the activity.
- iv. Document, on completion of the activity, the outcomes of the consultation process, including recommendations for future improvement.
- v. Forward documentation to the ARC and/or Rainforest Aboriginal participants and relevant World Heritage management agencies for feedback.

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4.3.2 Existing and On-Going Activities

All practical steps need to be made to involve Rainforest Aboriginal people in a manner consistent with Clause 4.3.1 New and Proposed Activities above, recognising that some steps may not be relevant.

a) The Authority will:

- i. Summarise and explain the purpose, rationale and methods for undertaking existing activities.
- ii. Ensure that the following objectives are met:
 - Provide a forum for feedback on existing activities.
 - Identify and discuss opportunities for consultation, participation in and review of existing activities.
 - Outline any resources available to complete activity and facilitate Rainforest Aboriginal involvement in the activity.

5. Approval

Wet Tropics Board

Meeting No: 65 Date 19 June 2006

Disclaimer

This policy does not necessarily reflect the views of the Australian and Queensland Governments.

Attachment 14.1 - Meeting Guidelines

There are a number of aspects to be aware of and to consider when planning and conducting a consultation meeting with Rainforest Aboriginal people.

1. Prior to the meeting:
 - Logistics
 - Information about the meeting
 - Attendance
 - Agenda / personal preparation
2. During the meeting:
 - Conduct
 - Procedure
 - Concluding the meeting
3. After the meeting:
 - Evaluation

1. Prior to the meeting*(a) Logistics*

- Transport to meetings –
 - > Determine how many people need transport each way.
 - > Check on availability and type of transport required.
 - > Inform CLOs if assistance is required in getting people to a meeting.
 - > Always give as much notice as possible to IEU/ARM or other relevant staff so they can make the necessary arrangements.
 - > Arrangements for people using their own transport should be negotiated.
- Consider your budget (venues, transport, catering, accommodation etc).
- Choice of venue is an important consideration -
 - > Advice on selection of the venue should be sought from the groups involved.
 - > Make sure the venue has the appropriate number of seats and facilities to operate a meeting.
 - > Ensure the venue is accessible for disabled people.
 - > Check on room layout; atmosphere, ventilation etc.
 - > Obtain a quote for the cost of hiring the venue and determine the method of payment.
 - > If the venue is outdoors and ‘on country’, be guided by your networks and Rainforest Aboriginal contacts as to the best location e.g. by a river or under a tree etc.
 - > Make sure the appropriate facilities are available e.g. computers, projectors, screens, whiteboards, extension cords. Take pens, paper, nametags, attendance list etc.

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- Catering for the meeting:
 - > Find out if anyone in the community would be interested in being contracted for the function to provide meals. If not arrange for catering to be delivered to the meeting.
 - > Obtain a quote for the cost of the catering and agree on the method of payment (cash on the day/ invoice or purchase order/ half payment up front).
- Ensure you cover anyone with special dietary needs e.g. diabetics.
- Reimbursement (optional) –
 - > Establish early on how reimbursement will be done, how much, by whom and who will organise it.
 - > Ideally have a set rate that you operate from e.g. a set amount for accommodation, travel reimbursement, meals and incidentals. Agencies / researchers etc may be expected to cover these costs as people may not have access to their own transport and may need to take time off from work.
 - > Pre-organise financial documents to sign prior to the meeting taking place.
- Organise, if required:
 - > Minute takers
 - > Interpreter
 - > Mediator (check that the community endorses the proposed person)
 - > Facilitator (check that the community endorses the proposed person)

(b) Information about the meeting

- Contact the relevant Rainforest Aboriginal organisations before arriving. Follow up in writing outlining the agreed time and place of the meeting/s. Seek prior permission from the Council when visiting a DOGIT community.
- Explain the expected date of arrival, departure, how long you expect to talk, number of visits required, where you will be staying, why you need to visit, who else you might talk to while in the community, who is travelling with you, and ask permission to advertise your visit (if appropriate). Give plenty of notice.

(c) Attendance

- Allow time to identify who the main participants/ decision-makers are. Ensure the main groups are going to be represented at the consultation e.g. formally elected representatives, community groups, Elders etc. Utilise the knowledge of the CLO's, the IEU, Indigenous Park Services staff and the ARC to identify the appropriate people to liaise with in the community and talk to people about the upcoming meeting
- Request that the appropriate Traditional Owner does a "Welcome to Country" at the opening of the meeting. This is a sign of respect of the Traditional Owner group's country.

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- Ensure that agency representatives are able to answer questions and evaluate requests as they arise, and if the topic of your visit covers one or more agencies' areas of responsibility, ensure they are aware of your meeting.
- Ensure you have an appropriate spread of representation of both genders and age groups to ensure equity. If this is not possible then see if another meeting may be required. (This may vary from group to group. Most Rainforest Aboriginal groups will ensure that the right people attend). Men cannot speak about women's business and vice versa. If there are issues that are gender specific, a separate meeting should be considered.

(d) Agenda / personal preparation

- Be flexible with the agenda and how it is presented.
- Think about ways to deal with potential barriers e.g. fixed budgets, government policy, environmental constraints, legislative constraints and potential areas of conflict with other groups.
- Always wear appropriate dress when engaging with Rainforest Aboriginal people. Do not wear revealing clothing as this may be seen to be disrespectful. Neat casual business attire demonstrates a professional approach to the meeting.

2. During the meeting*(a) Conduct*

- Arrive on time, but be prepared to be flexible about the starting time of the meeting.
- Avoid direct criticism, causing someone loss of personal dignity or 'shaming people'.
- Show respect for Elders on country. Direct eye contact may make people feel uncomfortable (check with CLOs or the IEU on this matter).
- Use appropriate language and avoid overuse of acronyms and jargon. These can confuse and complicate people's understanding of the topic you are discussing.
- Always give a brief overview of why you are there and summarise the outcomes you hope to achieve for the day. Don't assume everyone is aware of the issues and always explain the background to the discussions taking place.
- Avoid putting people on the spot to make a decision there and then. Put forward suggestions and work through their responses so everyone is clear about what is being discussed. Clarifying issues as you go along will assist in achieving negotiated outcomes.

(b) Procedure

- Welcome to country: Introduce the Traditional Owner.

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- In reply thank the Traditional Owner group for allowing this meeting to take place on country.
- Allow everybody to introduce themselves. (This is important as some people in the community wear many hats and clarification regarding who they are representing at the meeting may be necessary).
- Clarify the presence and speaking rights of observers and acknowledge apologies.
- Ask if it's okay to take photographs, explain how they may be used and seek permission for that use.
- Determine early on in proceedings if any information from this meeting is considered confidential or culturally sensitive, so that appropriate steps can be taken regarding the distribution of reports and materials.
- If issues arise where further clarification is required, allow time out to break into groups giving everyone an opportunity to explain their position and negotiate a way forward.
- Diagrams, maps and pictures are useful in explaining points of view.
- If a dispute arises and cannot be resolved call for a break in proceedings and allow people to cool down, regroup and clarify the issues. If you need to correct or deal with direct criticism, avoid using names and shaming people as this is seen as disrespectful. Address the situation indirectly and move on.
- Usually, decisions are made outside of or after the meeting. Allow time for people to get back to you with relevant information, as the appropriate decision-makers may not be present at the meeting.

(c) Concluding the meeting

- Review and agree on actions and recommendations at the end of the meeting.
- Not all issues may be resolved at the meeting and may require more formal consideration.

3. After the meeting

- Evaluate, follow up and report back on outcomes. This can be achieved through verbal communication, a mailout or a community newsletter etc.
- The report should include the main points made at the meeting, information about the scope of the consultation and diversity of opinions obtained, analysis of how that information relates to input from other consultations processes, government agendas etc. Where possible, the same staff should be involved in reporting outcomes to maintain continuity.

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- In evaluating the meeting, consider these points:
 - > The most effective means of information sharing and gathering and communication.
 - > The best way to use financial, human and time resources, and further investigate and solve identified problems.
 - > Whether the outcomes correspond with the objectives.
 - > Any factors which caused trouble at the meeting/consultation.
 - > The benefit to participants including how their views were taken into account.
 - > The skills or knowledge gained by participants.
 - > The implementation of decisions.
 - > Check that intellectual cultural property sensitivities have been properly managed.