

## Native Title and Cultural Heritage Policy

Policy Type	Governance Policy	Version:	2.0
Responsible Officer	Manager Development and Governance	Date Approved:	20/12/2023
Review Officer:	Manager Development and Governance	Review Due:	20/11/2027
Author:	Senior Compliance Officer	Commencement:	20/12/2023

### 1. PURPOSE

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To provide an overarching framework to guide conduct of any activity undertaken by Council which may hold a Native Title (NT) and/or a Cultural Heritage (CH) implication.

### 2. SCOPE

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This policy applies across Council for any project and activity within the Mareeba Shire Council jurisdictional boundary.

### 3. POLICY STATEMENT

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Council holds a statutory Cultural Heritage (CH) 'Duty of Care' in observing the requirement for protection of Indigenous CH under current State legislation.<sup>1</sup> Council additionally has in place a number of Indigenous Land Use Agreements (ILUA) that guide dealings impacting on the rights and interests of NT parties within the jurisdiction. To ensure that due diligence is applied to addressing NT and CH considerations, Council will:

- Embed a NT and CH assessment consideration into the initial concept and planning phase of all projects and activities holding a potential for works involving ground, water and/or vegetation disturbance; and
- Identify, initiate and maintain contact with Indigenous groups which may hold rights and interests in the relevant area, at the earliest phases of planning for activities and projects which may hold a potential NT and/or CH implication; and
- Ensure that relevant Council officers are appropriately qualified to make determinations on the application of NT extinguishment and non-extinguishment principles and the effect of validation of NT future acts,<sup>2</sup> CH identification, NT and CH risk assessments, site inspections and monitoring activities; and
- Conduct appropriate site assessment of NT and CH, consult relevant State NT and CH databases and any applicable ILUAs in accordance with current statutory requirements, best practice guidelines and Council's *Native Title and Cultural Heritage Procedure* as soon as is practicable after Council approval to commence any activity or project holding a potential NT and/or CH implication; and

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<sup>1</sup> See *Aboriginal Cultural Heritage Act 2003* (Qld) s 23.

<sup>2</sup> See *Native Title Act 1993* (Cth) ss 24JA and 24JB. See also *Native Title (Queensland) Act 1993* (Qld) pt 2.

- Ensure records are captured detailing all activities undertaken in relation to the conduct of CH identification, NT and/or CH impact risk assessment, site inspection and ongoing project monitoring activities.

#### 4. REPORTING

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- No additional reporting is required.

#### 5. DEFINITIONS

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**Council** - means all elected representatives, officers, employees, contractors and volunteers of the Mareeba Shire Council as well as committee members and to all Council activities, including entities which Council has direct ownership, management, sponsorship or financial control.

**Indigenous Cultural Heritage** - means anything that is:

- a significant Indigenous area in Queensland; or
- a significant Indigenous object; or
- evidence, of archeological or historic significance, of Indigenous occupation of an area of Queensland.

A significant Indigenous area or object must be particularly significant to indigenous people because of either or both of the following:

- Indigenous tradition;
- The history, including contemporary history, of any Indigenous party for the area.<sup>3</sup>

#### 6. RELATED DOCUMENTS AND REFERENCES

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- *Aboriginal Cultural Heritage Act 2003* (Qld)
- *Native Title and Cultural Heritage Procedure* (MSC)
- *Native Title Act 1993* (Cth)
- *Native Title (Queensland) Act 1993* (Qld)

#### 7. REVIEW

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It is the responsibility of the Manager Manager Development and Governance to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every four (4) years or as required by Council.

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<sup>3</sup> See *Aboriginal Cultural Heritage Act 2003* (Qld) ss 8-10. The generic term 'Indigenous' is used herein.