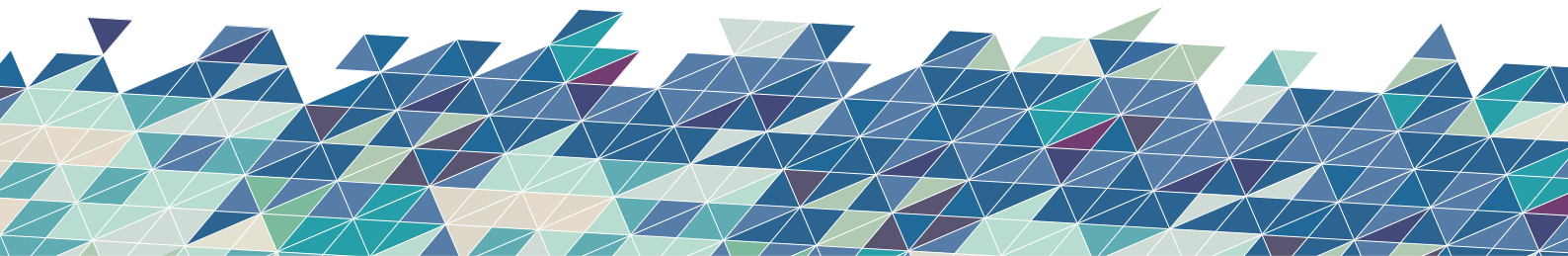


ALKIMOS COASTAL NODE

LOCAL STRUCTURE PLAN

Appendix 3

Aboriginal Heritage Inquiry



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Aboriginal Heritage

Draft Aboriginal Heritage Management Plan: Lot 101, Alkimos, Western Australia

*Prepared by Ethnoscience for Woodsome Management
and LandCorp*

August 2012

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Disclaimer

The results, conclusions and recommendations contained within this report are based on information available at the time of its preparation. Whilst every effort has been made to ensure that all relevant data has been collated, the authors can take no responsibility for omissions and/or inconsistencies that may result from information becoming available subsequent to the report's completion.

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Abbreviations

ACMC:	Aboriginal Cultural Material Committee
AHA:	<i>Aboriginal Heritage Act 1972</i>
AHIS:	Aboriginal Heritage Inquiry System
AHMP:	Aboriginal Heritage Management Plan
AIC:	Australian Interaction Consultants
DIA:	Department of Indigenous Affairs
DSP:	District Structure Plan
LSP:	Local Structure Plan
WWTP:	Waste Water Treatment Plant

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Aboriginal Heritage

Table of Contents

Introduction.....	1
Structure of the AHMP.....	1
Principles.....	2
Purpose and Objectives.....	2
Accountabilities	3
Life of Plan.....	3
Relevant Legislation	4
Extent of Activity Area Covered by the Management Plan.....	5
Summary of Heritage Work Conducted.....	6
Aboriginal Heritage Values Requiring Management	7
LSP Area Activity Description.....	8
Description of Works	8
Risk Assessment	8
Cultural Heritage Management Strategies and Commitments	9
Proposed Development Area.....	9
Aboriginal Heritage Protocols.....	10
Watching Brief for Aboriginal Cultural and Skeletal Material	10
Procedure in the event that Aboriginal archaeological material other than human skeletal remains is identified:.....	11
Procedure in the event that human skeletal remains are identified:.....	12
Monitor and Review	13
Contacts and Addresses.....	14
References	15
Appendix 1: Figures	17
Appendix 2: Aboriginal Heritage Protocol Flowchart	19
Appendix 3: Section 18 of the <i>Aboriginal Heritage Act 1972</i>	20
Appendix 4: Regulation 10 of the <i>Aboriginal Heritage Regulations 1974</i>	24

List of Tables

Table 1: Identified heritage risks and controls	9
-------------------------------------------------------	---

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Aboriginal Heritage

List of Figures

Figure 1: Lot 101 in relation to the wider Alkimos-Eglinton District Planning Scheme area (Source: Woodsome Management).....	17
Figure 2: Lot 101 subject to the AHMP (Source: Woodsome Management).....	18

DRAFT

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Aboriginal Heritage

Introduction

Woodsome Management and LandCorp are preparing a Local Structure Plan (LSP) for Lot 101, Alkimos, in accordance with the City of Wanneroo District Planning Scheme No. 2 and as part of the proposed development of the wider Alkimos-Eglinton area. The land is owned by the Water Corporation and is directly in front of the Waste Water Treatment Plant (WWTP). LandCorp has the development rights over the land (Figures 1 & 2).

Woodsome Management and LandCorp have commissioned Ethnoscience to prepare an Aboriginal Heritage Management Plan (AHMP) for the LSP area. The AHMP has been prepared in order to assist landowners, their contractors and the local authority in the ongoing management of Aboriginal cultural heritage that in future may be found within the LSP area (Figure 2).

Structure of the AHMP

The AHMP, which is based on the Department of Indigenous Affairs' (DIA) template and other relevant documentation, is structured as follows:

- ❖ Principles, purpose and objectives;
- ❖ Accountabilities and life of plan;
- ❖ Relevant legislation;
- ❖ Extent of activity area covered by the AHMP;
- ❖ Summary of heritage work completed;
- ❖ Aboriginal heritage values requiring management;
- ❖ Activity description including impact assessment;
- ❖ Summary of consultation;
- ❖ Cultural heritage management strategies and commitments;
- ❖ Aboriginal heritage protocols; and
- ❖ AHMP monitoring and review.

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Principles

An AHMP is a document that sets out the significant heritage aspects of a place and details the appropriate policies to manage it so that its values are retained for future use and appreciation (Department of the Environment and Heritage 2003). This AHMP is based on the following broad principles:

Woodsome Management and LandCorp will:

- ❖ strive for best practice in relation to managing any Aboriginal heritage values that may be found to be associated with the LSP area and will work within the provisions of the *Aboriginal Heritage Act 1972* (AHA);
- ❖ avoid and/or minimise impacts on Aboriginal Sites that may be located wherever possible;
- ❖ conduct mitigative work and undertake additional research (e.g., site recording) and community consultation where necessary;
- ❖ ensure that all contractors and sub-contractors comply with the principles of the AHMP by making it a condition of contract;
- ❖ establish programs to monitor earthworks in areas that may be determined to be culturally sensitive and in any areas deemed to be of high archaeological potential in order to avoid inadvertent impact on hitherto unrecorded Aboriginal Sites; and
- ❖ establish a mechanism to review and evaluate the implementation and effectiveness of the AHMP.

Purpose and Objectives

The purpose of this document is to provide Woodsome Management, its staff and contractors with the information and tools necessary to ensure that Aboriginal Site(s) located within the LSP area are managed in accordance with company principles and legal requirements, and that any potential impacts resulting from development activities are minimised. Specifically, the purpose of the AHMP is to:

- ❖ ensure Woodsome Management and LandCorp meet their statutory obligations with regards to the AHA;
- ❖ ensure Woodsome Management and LandCorp appropriately manage any Aboriginal Site(s) found within the LSP area; and

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ABN 47 065 099 228

Aboriginal Heritage

- ❖ allow Woodsome Management and LandCorp's personnel and contractors to work within the vicinity of Aboriginal Site(s) with the confidence that they are not unlawfully disturbing any sites.

The objectives of this AHMP are to:

- ❖ collate and compile available information and data relating to the known Aboriginal heritage values of the LSP area; and
- ❖ provide protocols and action plans for the management of any previously unidentified Aboriginal Sites or skeletal remains.

Accountabilities

The following personnel are accountable for the implementation of this AHMP:

Woodsome Management and LandCorp's Project Managers – accountable for implementing the AHMP and ensuring that all employees and contractors working on the LSP area development understand their obligations under this AHMP.

Superintendent Works – responsible for ensuring that all employees, contractors and sub-contractors are inducted with regard to the AHMP and for ensuring compliance with the AHMP by all parties on site.

Site Supervisor – responsible for the execution of the AHMP on a day-to-day basis.

All employees, contractors and sub-contractors – responsible for complying with the relevant protocols, procedures and conditions within this AHMP.

Life of Plan

This plan will come into effect immediately on the commencement of the project until the completion of the development of the LSP area and the sale of all the land.

The AHMP will be reviewed and updated when:

- ❖ significant project variations or changes occur which may alter the scope of this document;

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Aboriginal Heritage

- ❖ new information comes to light about the Aboriginal heritage values of the land, which means that the basis for the plan has changed and new objectives and strategies to protect the site are required;
- ❖ previously unrecorded Aboriginal cultural material is located within the LSP area;
- ❖ there are changes to any of the relevant legislations; or
- ❖ on an annual basis.

Relevant Legislation

All Aboriginal Sites and objects are protected by the AHA. Section 5 of the AHA defines an Aboriginal Site as follows:

5. This Act applies to

- a. *any place of importance and significance where persons of Aboriginal descent have, or appear to have, left any object, natural or artificial, used for, or made or adapted for use for, any purpose connected with the traditional cultural life of Aboriginal people, past or present;*
- b. *any sacred, ritual or ceremonial site, which is of importance and special significance to persons of Aboriginal descent;*
- c. *any place which, in the opinion of the [Aboriginal Cultural Material] Committee, is or was associated with Aboriginal people and which is of historical, anthropological, archaeological or ethnographic interest and should be preserved because of its importance and significance to the cultural heritage of the State;*
- d. *any place where objects to which this Act applies are traditionally stored, or to which, under the provisions of this Act, such objects have been taken or removed.*

Section 15 of the Act requires anyone with knowledge of an Aboriginal Site to report it:

15. *Any person who has knowledge of the existence of anything in the nature of Aboriginal burial grounds, symbols or objects of sacred, ritual or ceremonial significance, cave or rock paintings or engravings, stone structures or arranged stones, carved trees, or of any other place or thing to which this Act applies or to which this Act might reasonably be suspected to apply shall report its existence to the Registrar, or to a police officer, unless he has reasonable cause to believe the existence of the thing or place in question to be already known to the Registrar.*

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ABN 47 065 099 228

Aboriginal Heritage

Section 17 of the AHA states that damage to a site or cultural material is an offence under the Act:

17. *A person who -*
- a. excavates, destroys, damages, conceals or in any way alters any Aboriginal site; or,*
 - b. in any way alters, damages, removes, destroys, conceals, or who deals with in a manner not sanctioned by relevant custom, or assumes the possession, custody or control of, any object on or under an Aboriginal site,*
- commits an offence unless he is acting with the authorisation of the Registrar under section 16 or the consent of the Minister under section 18.*

Aboriginal heritage is also protected by Commonwealth legislation (*Aboriginal and Torres Strait Islander Heritage Protection Act 1984*) and the *Environmental Protection Act* (EPA 2004).

Extent of Activity Area Covered by the Management Plan

This AHMP covers Lot 101, Alkimos, and consisting of all land contained within the inner edge of the line denoting the lot boundary on Figure 2.

Lot 101 is situated on the northern edge of the Greater Perth Metropolitan area, approximately 45km northwest of the Perth CBD, in the South West region of Western Australia. The LSP area is located on the Swan Coastal Plain in the Quindalup dune system. The LSP area is bounded by the Alkimos WWTP to the east, north and south. The ocean, which is buffered from the proposed development by the Foreshore Reserve (Parks and Recreation), forms the western boundary (Figures 1 and 2).

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Summary of Heritage Work Conducted

Lot 101 Alkimos has been the subject of a number of Aboriginal heritage surveys:

- ❖ O'Connor, Quartermaine and Bodney's ethnographic and archaeological survey of the Alkimos WWTP site (O'Connor, Quartermaine & Bodney 1990);
- ❖ Macintyre Dobson & Associates & O'Reilly's ethnographic and archaeological resurvey of the Alkimos WWTP project area (Macintyre Dobson & Associates & O'Reilly 2005).

In addition, a number of heritage investigations have been undertaken in the immediate vicinity of Lot 101 including, among others:

- ❖ Australian Interaction Consultants' ethnographic survey and archaeological inspection of the Alkimos Eglinton DSP area during which portions of the proposed Alkimos WWTP project area were also apparently inspected (AIC 2006);
- ❖ O'Connor, Quartermaine and Bodney's ethnographic and archaeological survey of the proposed Clarkson, Eglinton and Alkimos housing developments, which surveyed the land surrounding Lot 101 to the north, east and south (O'Connor, Quartermaine and Bodney 1990);
- ❖ Tempus Archaeology & Trident Archaeological Services' archaeological survey of Lots 1005 and 1006, Alkimos (Tempus Archaeology & Trident Archaeological Services 2010);
- ❖ McDonald & Coldrick's ethnographic survey of the Alkimos LSP area to the south (McDonald & Coldrick 2007). McDonald and Coldrick also undertook an archaeological inspection of an area within what has been designated the 'South-west Village' where spoil from the proposed Alkimos WWTP was to be deposited;
- ❖ O'Connor's survey of the Quinns Main Sewer route located to the south (O'Connor 2006);
- ❖ McDonald & Coldrick's study of the Eglinton LSP area, comprising Lots 1008, 1007, 15450 and 15451 approximately 2km to the north of Lot 101 (McDonald & Coldrick 2010);
- ❖ McDonald & Coldrick's ethnographic survey and Edwards' archaeological survey of the Marmion Avenue extensions to the east of Lot 101 (McDonald & Coldrick 2008; Edwards 2008); and

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ABN 47 065 099 228

Aboriginal Heritage

- ❖ Coldrick & McDonald's ethnographic survey and Thomson's archaeological survey of Lot 3 Romeo Road to the southeast of Lot 101 for LWP Property Group (Coldrick & McDonald 2008; Thomson 2008a).

The LSP area has also been covered by a number of broad scale surveys such as O'Connor, Bodney and Little (1985) and McDonald, Coldrick, and Villiers (2005).

Aboriginal Heritage Values Requiring Management

A search of the online Aboriginal Heritage Inquiry System (AHIS) indicates that there are no Aboriginal Sites or 'Other Heritage Places' currently listed within Lot 101 that require management.

The ethnographic and archaeological survey of the WWTP area undertaken by O'Connor, Quartermaine and Bodney (1990) had reported no sites of Aboriginal significance and no archaeological material was identified during the 1990 archaeological survey. The 2005 archaeological survey by O'Reilly had the same result (O'Reilly 2005). This finding is consistent with archaeological research in the Alkimos-Yanchep area. The absence of archaeological sites cannot be explained simply by the presence of extensive ground cover but reflects the limited past Aboriginal use of the coastal zone.¹

In contrast, the 2005 ethnographic survey of the area reported the presence of a number of topographic features including limestone ridges, cliffs, overhangs, reputed gnamma holes, prominent sand dunes, depressions in the landscape and groves of tuart and Christmas trees, which collectively were known as the 'Alkimos Waugal' site (Macintyre Dobson & Associates 2005). These were perceived as constituting part of a larger Indigenous site which is said to follow the coastal dune system from Two Rocks to Fremantle/Augusta (Macintyre Dobson & Associates 2005:3). The recorded features were subsequently listed as DIA Site ID 23053 Alkimos Waugal. However, they were assessed by the Aboriginal Cultural Material

¹ Edwards 2008; Thomson 2008a and 2008b and 2011 provide a useful analysis of the archaeological survey results in the Alkimos/Yanchep areas.

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Aboriginal Heritage

Committee (ACMC) and determined not be an 'Aboriginal site' within the meaning of Section 5 of the AHA.

As noted, AIC also inspected portions of the Water Corporation's Wastewater Treatment Plant and identified what are essentially some of the same topographic features reported by Macintyre Dobson & Associates (2005), including limestone ridges, prominent sand dunes, depressions in the landscape and groves of tuart trees. As mentioned, these places have already been determined not be Aboriginal sites.

However, hitherto unidentified Aboriginal heritage values may exist on the property. For example, Aboriginal cultural material including burials or skeletal material may be unearthed in the course of earthworks or construction activities. Although not mentioned by O'Reilly, traditional burials are frequently uncovered among the Quindalup dunes in the South West. Care therefore needs to be taken when undertaking ground works in the immediate vicinity of the coast. This AHMP makes provisions for dealing with this eventuality (see below for further discussion and advice).

LSP Area Activity Description

Description of Works

The main types of activities to be undertaken within the LSP area include (but are not limited to) vegetation clearance and topsoil removal, excavation of soil and sand, construction of surface and subsurface infrastructure including roads, footpaths, cycle paths, stormwater drains, utilities and telecommunications, construction of retaining walls, construction of public and private buildings, houses, sporting and recreation facilities.

Risk Assessment

The following risks to the potential Aboriginal heritage of the LSP area have been identified. The potential consequences and likelihood are also identified and controls recommended for reducing the risk of impacts.

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Table 1: Identified heritage risks and controls

	Risk	Consequence(s)	Likelihood	Recommended Controls
1	Mechanical ground disturbances including bulldozing, grading and excavating	Unearthing of previously undetected or sub-surface archaeological material	Low	<ul style="list-style-type: none">• Earthworks operator inductions• Watching brief• Procedure for discovery of archaeological material
2	Mechanical ground disturbances including bulldozing, grading and excavating	Unearthing of previously undetected or sub-surface human skeletal remains	Moderate	<ul style="list-style-type: none">• Earthworks operator inductions• Watching brief• Procedure for discovery of human skeletal remains

It should be noted that the above identified risks are not exhaustive and that additional potential risks may be identified in the future. In this case, the above table should be updated and controls developed to minimise or mitigate the risks.

Cultural Heritage Management Strategies and Commitments

Proposed Development Area

Based on the recommendations contained within previous heritage survey reports, Woodsome Management will implement a watching brief during ground disturbance works to monitor for any previously obscured cultural material or potential human skeletal material. The procedure for the watching brief is outlined in the Aboriginal Heritage Protocols section below.

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Aboriginal Heritage Protocols

Watching Brief for Aboriginal Cultural and Skeletal Material

When undertaking vegetation clearing and earthworks, project personnel and contractors will need to be on the lookout for two things:

1. Archaeological sites: A collection of cultural material (stone tools and artefacts, non-human bones, a collection of shell, etc.) found together in a relatively small area that is the product of human activities. If the site is stratified (i.e., has evidence of layers in the earth), archaeological excavation may need to be undertaken as it is these sites which can give a high level of information concerning the prehistory of Aboriginal people in the area. Isolated artefacts may also be found.

2. A burial or skeletal material: Burials are of great importance to the Aboriginal community and are specifically protected by State and Commonwealth law. If skeletal material is uncovered, the area becomes a crime scene and the Police must be contacted to check that it is not a suspicious death.

Once the Police identify the skeleton as the remains of a prehistoric Aboriginal person and not a crime scene, an archaeologist will examine the remains and consult with the Aboriginal community and the relevant authorities – the DIA and the Western Australian Museum.

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Procedure in the event that Aboriginal archaeological material other than human skeletal remains is identified:

The following procedures shall be affected should any person (staff, contractor, sub-contractor) have reason to suspect the presence of any previously unreported non-skeletal archaeological material (see Appendix 2):

- a. If a suspected Aboriginal site is encountered, work must cease immediately within a notional 30m radius of the discovery. The area is to be demarcated with caution tape/flagging material to locate the site and discourage unauthorised entry.
- b. The Site Supervisor (or other designated responsible person on the work site) is to be informed immediately. The Site Supervisor will then contact the Works Superintendent who will notify Woodsome Management's Project Manager who in turn will contact the Aboriginal heritage consultant.
- c. The Works Superintendent will ensure that the relevant protocols are in place.
- d. The Project Manager will arrange for the Aboriginal heritage consultant to undertake an inspection and evaluation of the site/feature in consultation, as appropriate, with the relevant Aboriginal community(s). A report of the findings of the evaluation should be prepared in good order and submitted to the DIA.
- e. Any archaeological mitigation recommended as a result of the evaluation should be undertaken by a suitably qualified archaeologist in consultation, as is deemed necessary, with the relevant local Aboriginal community(s).
- f. No further work at the location should be undertaken until all relevant parties have been consulted and the necessary clearances obtained from the Minister for Indigenous Affairs.

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Procedure in the event that human skeletal remains are identified:

The following procedures shall be affected should any person (staff, contractor, sub-contractor) have reason to suspect the presence of human skeletal material (see Appendix 2):

- a. If suspected human skeletal material is encountered, work must cease immediately within a notional 150m radius of the discovery, as by law the area becomes a crime scene until otherwise determined. The area is to be demarcated with caution tape/flagging material to locate the site and discourage unauthorised entry.
- b. The Site Supervisor (or other designated responsible person on the work site) is to be informed immediately. The Site Supervisor will then contact the Works Superintendent who will notify Woodsome Management's Project Manager who in turn will contact the Aboriginal heritage consultant.
- c. The Works Superintendent will ensure that the relevant protocols are in place.
- d. The Aboriginal heritage consultant will then contact the Police and the relevant section of the DIA at their Head Office in East Perth. If the human skeletal material is deemed to be modern, the appropriate law enforcement officials shall assume jurisdiction and the Aboriginal heritage management process shall be concluded.
- e. If the human skeletal material is deemed to be not modern, the Aboriginal heritage consultant will undertake an inspection and evaluation of the skeletal material. A report of the findings of the evaluation should be prepared in good order and submitted to the DIA.
- f. The relevant Aboriginal community(s) should be consulted regarding the management of the skeletal material once the inspection and evaluation have been completed. No further work at the location should be undertaken until all relevant parties have been consulted and an agreement has been reached and the necessary clearances obtained from the Minister for Indigenous Affairs under Section 18 of the AHA.
- g. The location of the skeletal material should be recorded in accordance with DIA's published guidelines.

Should a decision be reached to relocate the skeletal material, the following procedures should be affected:

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- a. A data recovery programme, planned in consultation with the relevant local Aboriginal community(s) and the DIA, should be developed and implemented. This will include, but not be limited to, recording the location of the skeletal material, compilation of a photographic archive, collection of samples, and recovery and recording of skeletal material and any accompanying cultural material.
- b. Representatives of the relevant local Aboriginal community(s) should be present during the recovery phase of the operation.
- c. The skeletal remains shall be transferred to a suitable keeping-place or re-internment location to be negotiated between the proponent, relevant local Aboriginal community(s) and relevant government agencies.
- d. The proponent shall respect any reasonable request made by the relevant Aboriginal community(s) to undertake appropriate ceremonies.

Monitor and Review

Monitoring of this AHMP and its implementation will be undertaken through periodic review and update. The AHMP will be updated in accordance with the findings of the review.

The effectiveness of this AHMP and its implementation can be monitored against the following key performance indicators.

- ❖ no instances of incorrect or no Aboriginal Heritage Protocols being applied in the event of Aboriginal archaeological material being encountered;
- ❖ completion of remedial or proactive actions identified during review and in-field monitoring processes;
- ❖ minimisation of the number or severity of incidents and near misses.

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References

- Australian Interaction Consultants (2006) Report on a Heritage Assessment for the District Structure Plan at Alkimos-Eglinton, Western Australia. Unpublished report prepared by AIC for Woodsome Management.
- Coldrick, B. & McDonald, E. M. (2008) Report of an Ethnographic Survey of Lot 3 Romeo Road, Alkimos, Western Australia. Unpublished report prepared by Ethnoscience for LWP Property Group.
- Department of the Environment and Heritage (2003) Fact Sheets for Australia's New Heritage Laws.
- Edwards, K. (2008) Report on a Phase I Archaeological Survey, Proposed Marmion Avenue Extension, Eglinton, W.A. Unpublished report prepared by Tempus Archaeology for Woodsome Management on behalf of Ethnoscience.
- Macintyre Dobson & Associates and O'Reilly, T. (2005) Report on an Ethnographic Survey of the Proposed Wastewater Treatment Plant Project Area at Alkimos, City of Wanneroo, Western Australia. Unpublished report prepared for the Water Corporation.
- McDonald, E. M. & Coldrick, B. (2007) Report of an Ethnographic Consultation Regarding the Aboriginal Heritage Values of the Alkimos Eglinton Local Structure Plan Area, Alkimos, Western Australia. Unpublished report prepared by Ethnoscience for Woodsome Management Pty Ltd.
- McDonald, E. M. & Coldrick, B. (2008) Report of an Ethnographic Survey of the Proposed Marmion Avenue Extension, Alkimos/Eglinton, Wanneroo, Western Australia. Unpublished report prepared by Ethnoscience for Woodsome Management Pty Ltd.
- McDonald, E. M. and Coldrick, B. (2010) Report of an Ethnographic Consultation and Archaeological Inspection Eglinton Local Structure Plan Area, Eglinton, Western Australia. Unpublished report prepared by Ethnoscience for Woodsome Management.
- McDonald, E., Coldrick, B. and Villiers, L. (2005) Study of Aboriginal Cultural Values Associated with Groundwater-Related Environmental Features on the Gnangara Mound. Unpublished report prepared by Estill & Associates Pty Ltd for Department of Environment.
- O'Connor, R. Bodney, C. & Little, L. (1985) Preliminary Report on the Survey of Aboriginal Areas of significance in the Perth Metropolitan and Murray River Regions. Unpublished report prepared for the Department of Aboriginal Sites.

*Ethnoscience*s

ABN 47 065 099 228

Aboriginal Heritage

- O'Connor, R., Quartermaine, G. & Bodney, C. (1990) Report on a Survey for Aboriginal Sites at the Proposed Clarkson, Eglinton and Alkimos Housing Developments. Unpublished report prepared for LandCorp.
- O'Connor, R. (2006) Report on an Ethnographic Survey of the Proposed Quinns Main Sewer Route. Unpublished report prepared by R. & E. O'Connor Pty Ltd for the Water Corporation.
- O'Reilly, T. (2005) Report on an Ethnographic Survey of the Proposed Wastewater Treatment Plant Project Area at Alkimos, City of Wanneroo, Western Australia. Unpublished report prepared on behalf of Macintyre Dobson & Associates for the Water Corporation.
- Tempus Archaeology & Trident Archaeological Services (2010) Report on a Phase I Archaeological Survey, Lots 1005 And 1006, Alkimos, Western Australia. Unpublished report prepared for Peet on behalf of Ethnoscience
- Thomson, J. R. (2008a) A Report on an Archaeological Inspection: Lot 3 Romeo Road, Alkimos, WA. Unpublished report prepared by Thomson Cultural Heritage Management for Ethnoscience and LWP Property Group.
- Thomson, J. R. (2008b) Report on an Archaeological Monitoring Program: Lot 102 Yanchep Beach Road, Yanchep, Western Australia. Unpublished report prepared for Ethnoscience and Australand Holdings Ltd.
- Thomson, J. R. (2011) Report on an Indigenous Archaeological Survey: Lot 609 Yanchep Beach Road, Yanchep, Western Australia. Unpublished report prepared by Thomson Cultural Heritage Management on behalf of Ethnoscience for Peet Limited.

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Aboriginal Heritage

Appendix 1: Figures

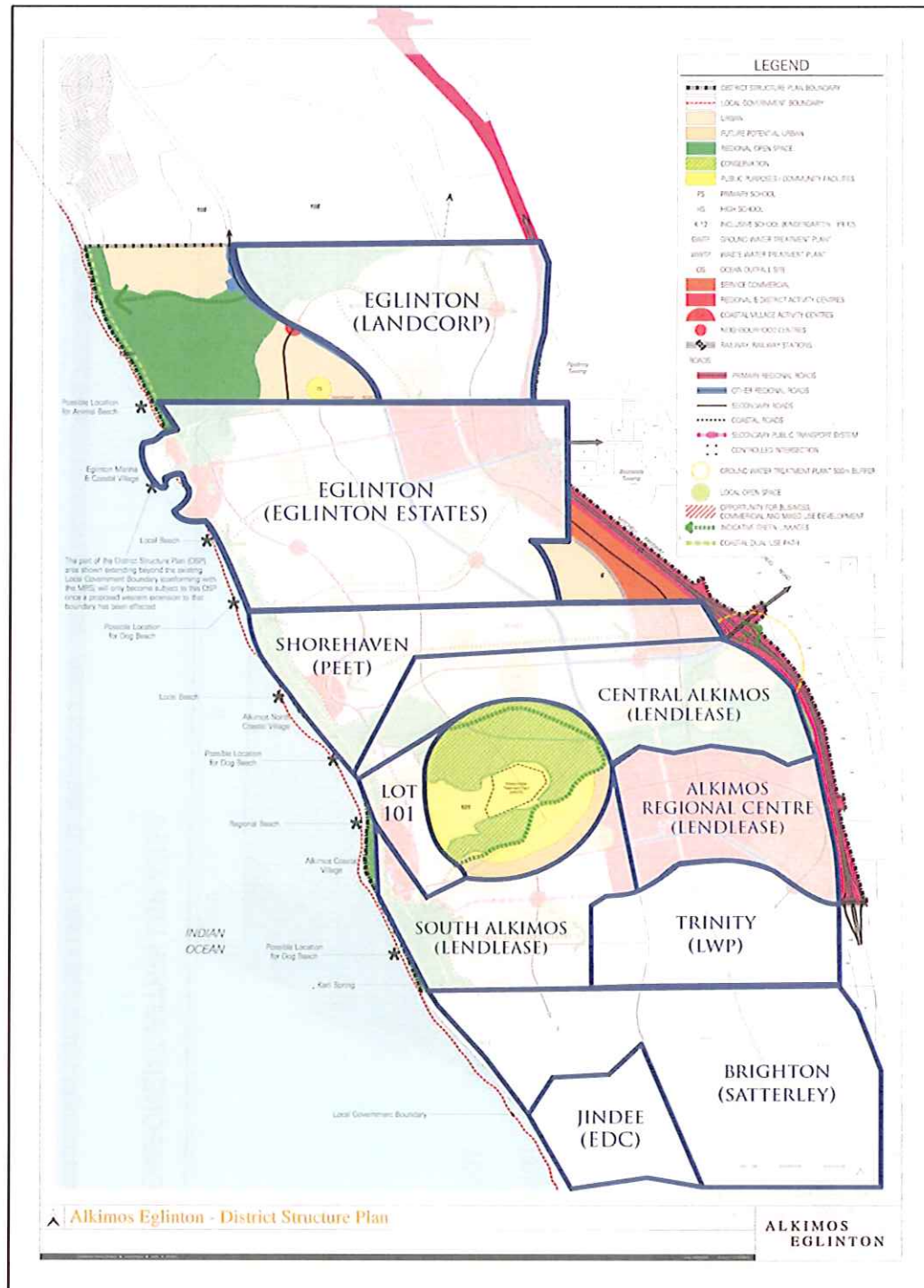
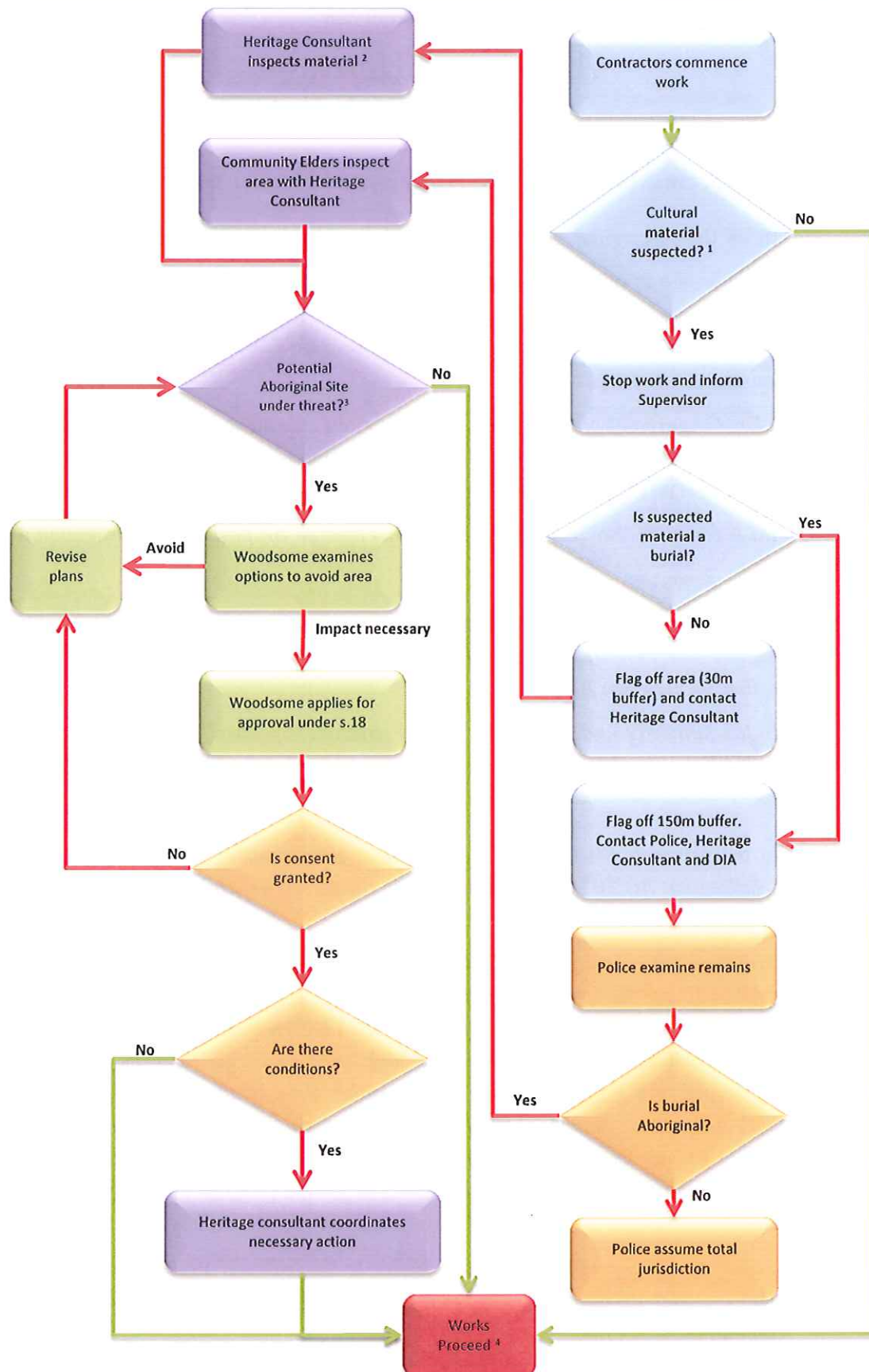


Figure 1: Lot 101 in relation to the wider Alkimos-Eglinton District Planning Scheme area (Source: Woodsome Management)

[illegible]

DRAFT Woodsome Management Lot 101 Alkimos Aboriginal Heritage Management Plan

Aboriginal Heritage Management Plan



Notes:

1. Cultural material may include possible stone artefacts, skeletal material etc.
2. Such inspections should be carried out with Aboriginal community participation where practicable.
3. An 'Aboriginal Site' is a place to which the Aboriginal Heritage Act (1972) applies as defined by s.5.
4. Personnel are reminded that unauthorised disturbance of an Aboriginal Site is an offence under s.17 of the AHA.

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Appendix 3: Section 18 of the *Aboriginal Heritage Act 1972*

Section 18 of the *Aboriginal Heritage Act 1972* (AHA) provides a mechanism for a landowner or lessee to obtain permission to use the land on which an Aboriginal site is located, as outlined below.

Consent to certain uses

1) For the purposes of this section, the expression "the owner of any land" includes a lessee from the Crown, and the holder of any mining tenement or mining privilege, or of any right or privilege under the Petroleum Act 1967, in relation to the land.

(1a) A person is also included as an owner of land for the purposes of this section if –

(a) the person –

(i) is the holder of rights conferred under section 34 of the Dampier to Bunbury Pipeline Act 1997 in respect of the land or is the holder's nominee approved under section 34(3) of that Act; or

(ii) has authority under section 7 of the Petroleum Pipelines Act 1969 to enter upon the land;

or

(b) the person is the holder of a distribution licence under Part 2A of the Energy Coordination Act 1994 as a result of which the person has rights or powers in respect of the land.

(2) Where the owner of any land gives to the Committee notice in writing that he requires to use the land for a purpose which, unless the Minister gives his consent under this section, would be likely to result in a breach of section 17 in respect of any Aboriginal site that might be on the land, the Committee shall, as soon as it is reasonably able, form an opinion as to whether there is any Aboriginal site on the land, evaluate the importance and significance of any such site, and submit the notice to the Minister together with its recommendation in writing as to whether or not the Minister should consent to the use of the land for that purpose, and, where applicable, the extent to which and the conditions upon which his consent should be given.

(3) Where the Committee submits a notice to the Minister under subsection (2) he shall consider its recommendation and having regard to the general interest of the community shall either –

(a) consent to the use of the land the subject of the notice, or a specified part of the land, for the purpose required, subject to such conditions, if any, as he may specify; or

Ethnoscience

ABN 47 065 099 228

Aboriginal Heritage

(b) wholly decline to consent to the use of the land the subject of the notice for the purpose required,

and shall forthwith inform the owner in writing of his decision.

(4) Where the owner of any land has given to the Committee notice pursuant to subsection (2) and the Committee has not submitted it with its recommendation to the Minister in accordance with that subsection the Minister may require the Committee to do so within a specified time, or may require the Committee to take such other action as the Minister considers necessary in order to expedite the matter, and the Committee shall comply with any such requirement.

(5) Where the owner of any land is aggrieved by a decision of the Minister made under subsection (3) he may, within the time and in the manner prescribed by rules of court, appeal from the decision of the Minister to the Supreme Court which may hear and determine the appeal.

(6) In determining an appeal under subsection (5) the Judge hearing the appeal may confirm or vary the decision of the Minister against which the appeal is made or quash the decision and substitute his own decision which shall have effect as if it were the decision of the Minister, and may make such order as to the costs of the appeal as he sees fit.

(7) Where the owner of any land gives notice to the Committee under subsection (2), the Committee may, if it is satisfied that it is practicable to do so, direct the removal of any object to which this Act applies from the land to a place of safe custody.

(8) Where consent has been given under this section to a person to use any land for a particular purpose nothing done by or on behalf of that person pursuant to, and in accordance with any conditions attached to, the consent constitutes an offence against this Act.

The ACMC comprises, among others, an anthropologist and archaeologist and Indigenous Affairs Departmental and Crown Law representatives along with Aboriginal community representatives. In practice, the Committee's work involves consideration of such applications to disturb land on which Aboriginal sites are known to be located, either by development (governed by Section 18 of the Act) or scientific investigation (governed by Section 16 of the Act).

The Committee is required first to determine whether a place referred to in any such application is indeed an Aboriginal site (under Section 5 of the Act), then assess the

Ethnoscience

ABN 47 065 099 228

Aboriginal Heritage

relative significance of the place if it is considered to be within the ambit of the Act. The legislation is silent, however, on precisely how this significance should be attributed, although a series of guidelines are offered (Section 39[2] and [3]), giving primacy to sites of 'mythological', 'ceremonial and ritual significance'. Dependent upon the degree to which the ACMC believes a site to be of importance, any application can be recommended for consent (i.e., permission is given for disturbance), consent with conditions or refusal.

The listing of conditions on an approval usually mirrors recommendations made by heritage consultants and/or Aboriginal people. Conditions typically listed include further archaeological recording, archaeological monitoring of ground disturbance, the recognition of Aboriginal heritage values through the use of information displays, naming of streets and public open space etc., and/or further consultation.

Any decision made by the Committee is presented to the Minister for Indigenous Affairs in the form of a recommendation and he/she makes the final decision on any matter. Ministerial decisions in general reflect the recommendations of the ACMC except in exceptional circumstances. If aggrieved by Ministerial decisions, a proponent has the right of appeal. Similarly, members of the Aboriginal community have the right to make a common law appeal through the court system.

As a consequence of the Act's drafting, it is only possible for landowners to apply for permission to use land under Section 18 of the Act. However, those who are actually the registered proprietors do not necessarily undertake development. Consequently, there are mechanisms for a limited power of attorney to be provided by landowners to proponents to enable them to act as agents for the purposes of the *Aboriginal Heritage Act (1972 as amended)*. The "authority to act as an agent" pro-forma, which is the only instrument acceptable to the ACMC, specifically limits the scope of the agency to the operation of the Act. As a result, landowners are not in danger of assigning any broader rights or responsibilities to proponents.

Ethnoscience

ABN 47 065 099 228

Aboriginal Heritage

All Section 18 notices must include a description of the subject land, Aboriginal sites for which permission is sought and a detail of the land use/activities which are likely to disturb the identified sites. Any permission subsequently granted is phrased in similarly specific terms, especially the land use envisaged. Thus, a proponent can only obtain consent to use the land for the purposes they request. Should either the purpose or proponent change, then the permission obtained effectively lapses, as does any agency associated with earlier applications. Thus the landowner's proprietary rights are ensured additional protection.

Because consent given under the Act does not run with the land but with the applicant and is specific to the land use/purpose stated in the application, the agent could/should be a person or body corporate that will either control or have a long-term involvement in the development. Under normal circumstances, Section 18 consent functions as though it was granted in perpetuity. However, there have been cases where a radical change in land use from that outlined in a Section 18 submission has resulted in a need to reapply for Ministerial consent (e.g., residential LSP area to industrial use). In addition, consent is not technically given to disturb or destroy an Aboriginal site. As a consequence, once the Committee defines a place as a site, its legal status is not actually altered by the Ministerial consent to use the land. It is important, therefore, that any application is framed as widely as possible (e.g., residential LSP area, commercial and retail and related infrastructure – services, roads and so on) to ensure that it operates under the widest possible parameters.

In the absence of specific conditions, the Section 18 consent allows a proponent to proceed without further reference to the Act. However, there may be circumstances where further action is necessary. For example, new archaeological material may be discovered, the presence of which could not be determined by standard survey techniques (such as a subsurface deposit or an Aboriginal burial which would require further management). However, reports are usually prepared with these contingencies in mind. In other words, a development area is assessed not only on

Ethnoscience

ABN 47 065 099 228

Aboriginal Heritage

the actual research findings, but also on its potential with regards to burials and subsurface deposits and appropriate recommendations are presented.

Prior to the Committee reviewing an application and supporting documentation, a Departmental officer assesses both and prepares briefing notes. If problems are encountered, they routinely contact the proponent and/or the heritage consultants and seek clarification. The key point with regard to an application for Ministerial consent under Section 18 of the Act is that hundreds of such applications are handled annually and without major problems by the DIA and the ACMC.

Appendix 4: Regulation 10 of the Aboriginal Heritage Regulations 1974

Regulation 10 of the *Aboriginal Heritage Regulations* (1974) outlines activities that can and cannot be undertaken on or at an Aboriginal site without Section 18 approval.

Under Regulation 10, a person shall not, without the written consent of the Minister or the Registrar or a person authorised in writing by the Minister or the Registrar,

(a) alter, damage, or destroy any notice, boundary, fence, shelter, grille, cutting, drain, protective work or other thing which the Registrar or any officer of the Department has, or has caused to be, erected, constructed, made or placed thereon or therein;

(b) dig any hole or otherwise disturb the surface of the ground, or remove or disturb any stone, soil, sand, rock or gravel, or any other natural object;

(c) cut, pick, pull, break, remove, take, injure, poison, strip or destroy any tree, shrub, herb, grass or other plant or part thereof whether living or dead;

(d) post, stick, stamp, stencil, paint, draw or otherwise affix or make any mark, symbol, lettering, notice, advertisement poster, sign or document of any description;

(e) except in a place approved or provided for the purpose:

(i) drive, tow, operate or park any vehicle;

(ii) camp, erect tents or shelters, light fires or make fireplaces;

(iii) deposit or leave any refuse, rubbish or litter; or

Ethnoscience

ABN 47 065 099 228

Aboriginal Heritage

(iv) take, ride or drive, graze or agist any horse, cattle, sheep, goat, camel, donkey or pig, or allow any such animal to remain;

(f) sell any food, beverage or other article;

(g) unlock, unfasten or leave open any gate unless duly authorised to do so; or

(h) except with the prior written approval of the Minister, or the Registrar, and in accordance with such requirements as he may impose, take any photograph or make any recording for the purpose of commercial reproduction or publication.

Note: It is recommended that clarification be sought from a heritage consultant and/or the Registrar of Aboriginal Sites before undertaking any activities on an Aboriginal site.

