



CONSERVATION AGREEMENT

between the

MINISTER FOR THE ENVIRONMENT AND WATER RESOURCES

on behalf of the

COMMONWEALTH OF AUSTRALIA

And

Hamersley Iron Pty Ltd

And

Dampier Salt Limited

in relation to the

National Heritage Values of the Dampier Archipelago (including Burrup Peninsula)

National Heritage Place

**UNDER THE *ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION*
*ACT 1999***

in relation to

Hamersley Land and DSL Land

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Date

2007

Parties

1. **Malcolm Bligh Turnbull**, Minister for the Environment and Water Resources on behalf of the Commonwealth of Australia, care of the Department of the Environment and Water Resources, John Gorton Building, King Edward Terrace, Parkes, ACT (the *Commonwealth*)
2. **Hamersley Iron Pty Ltd** (ABN 49 004 558 276) of Level 22, 152-158 St Georges Terrace, Perth, WA, 6000 (*Hamersley*)
3. **Dampier Salt Limited** (ABN 30 008 706 590) of 37 Belmont Avenue, Belmont, WA, 6104 (*DSL*)

Recitals

- A The Minister has decided to include part of the Dampier Archipelago (including the Burrup Peninsula) in the National Heritage List under the EPBC Act, such that it will be a National Heritage place (*Place*) recognised for its outstanding National Heritage values.
- B The Minister has recognised that the Place provides a secure and permanent recognition of the National Heritage Values of the Dampier Archipelago.
- C The Minister and the State are working to enter into an approvals bilateral agreement under section 45 of the EPBC Act for parts of the Dampier Archipelago which will provide for the protection of matters of national environmental significance (including National Heritage Values) and ensure an efficient, timely and effective process for environmental assessment and approval of actions. The Minister and the State have committed to each other to achieve that goal.
- D Hamersley, DSL and the Minister have agreed to enter into this conservation agreement under section 305 of the EPBC Act in relation to the Class of Actions of Hamersley and DSL.
- E Other land holders in or surrounding the area known as the Burrup Peninsula and Dampier Archipelago may also enter into conservation agreements or other arrangements with the Minister.
- F Section 305(1) of the EPBC Act provides that the Minister may, on behalf of the Commonwealth, enter into an agreement with a person for the protection and conservation of the National Heritage values of a National Heritage place.
- G The Minister, Hamersley and DSL have agreed that Hamersley and DSL can carry out and undertake the Class of Actions subject to measures to preserve the National Heritage Values.
- H In accordance with the Clause 5 (Net Benefit) of this Agreement, the Minister is satisfied that

- this Agreement will result in a net benefit to the protection and conservation of the National Heritage Values, and is not inconsistent with the National Heritage Management Principles.
- I The Minister is satisfied that the Class of Actions to which the declaration in clause 6 of this Agreement relates are not likely to have a significant impact on the National Heritage Values.
- J The Agreement has the effect of binding the Commonwealth, Hamersley and DSL, including any person that is a successor to the whole or any interest that Hamersley or DSL has in the whole or part of the Hamersley Land or DSL Land as appropriate when this Agreement is entered into.
- K The Parties also agree that Hamersley and DSL will provide protection of heritage values on the Hamersley Land and the DSL Land.

It is agreed as follows.

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Approvals Bilateral Agreement means an agreement under section 45 of the EPBC Act.

Associates in relation to Hamersley or DSL means:

- (a) Pilbara Iron Pty Ltd (ACN 107 216 535); and
- (b) any of the officers, employees, agents, contractors, subcontractors, advisors, representatives and consultants of Hamersley, DSL or Pilbara Iron Pty Ltd,

and **Associate** means any one of them.

Business Day means a day, not being a Saturday, Sunday or public holiday in Perth, Western Australia.

Class of Actions means the class of actions set out in Schedule 2.

Dampier State Agreement means the agreement between the State and DSL contained in the schedules to the *Dampier Solar Salt Industry Agreement Act 1967* (WA).

DSL Land means the land within and adjacent to the Place held by DSL pursuant to the Dampier State Agreement from time to time and, as at the date of this Agreement, is identified in Schedule 8.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Hamersley Land means the land within and adjacent to the Place held by Hamersley pursuant to the Hamersley Range State Agreement from time to time and, as at the date of this Agreement, is identified in Schedule 7.

Hamersley Range State Agreement means the agreement between the State and Hamersley contained in the schedules to the *Iron Ore (Hamersley Range) Agreement Act 1963* (WA).

Heritage Management Process means the process outlined in Schedule 4.

Minister means the Minister administering the EPBC Act or a delegate of the Minister under the EPBC Act.

National Heritage Management Principles means those principles in Schedule 5B of the *Environment Protection and Biodiversity Conservation Regulations 2000* and set out in Schedule 6.

National Heritage Values means the National Heritage values for the Place as listed in Schedule 5.

Parties means the parties to this Agreement.

Place means the National Heritage place included in the National Heritage List as Dampier Archipelago (including Burrup Peninsula).

Significant Impact Guidelines means the guidelines prepared by the Department of the Environment and Water Resources and attached as Schedule 3.

State means the State of Western Australia.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (e) A reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure to, this Agreement.
- (f) A reference to an agreement or document (including a reference to this Agreement is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document, and includes the recitals and schedules and annexures to that agreement or document.
- (g) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form but excludes a communication by electronic mail.
- (h) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (i) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (j) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (k) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes

an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.

- (l) A reference to *dollars* and \$ is to Australian currency.
- (m) Mentioning anything after *includes, including, for example,* or similar expressions, does not limit what else might be included.
- (n) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it.
- (o) The Recitals and the schedules form part of this Agreement. Where any conflict arises between the terms and conditions contained in the clauses of this Agreement and any schedule, the clauses of this Agreement prevail.

2. Commencement and Duration

- (a) This Agreement commences on the date on which the Place is entered onto the National Heritage List and continues until it is terminated in accordance with clause 9.
- (b) If an Approvals Bilateral Agreement is executed, the Commonwealth, Hamersley and DSL may elect to review the continuation of this Agreement and the Commonwealth, Hamersley and DSL agree to negotiate in good faith on this issue.

3. Protection and Conservation of the Area

- (a) Each of Hamersley and DSL agrees that they will:
 - (i) manage their actions within the Class of Actions in accordance with the Significant Impact Guidelines (Schedule 3) and the Heritage Management Process and the subsidiary policies and documents referred to therein (Schedule 4); and
 - (ii) manage their actions within the Class of Actions in accordance with any conditions specified for the Class of Actions as set out in Schedule 2.
- (b) The Commonwealth is satisfied that the actions listed in Item 1 of Schedule 2 are not likely to have a significant impact on the National Heritage Values of the Place if taken in accordance with the Heritage Management Process (Schedule 4).
- (c) Hamersley and DSL will undertake an audit of the actions listed in Item 1 of Schedule 2 for compliance with the Significant Impact Guidelines and provide a copy of the audit report to the Minister by 31 December 2007.

4. Past Actions

The Commonwealth acknowledges and agrees that the actions undertaken by Hamersley, DSL or their Associates prior to the inclusion of the Place on the National Heritage List have not had a significant impact on the National Heritage Values of the Place for the purposes of Sections 15B and 15C of the EPBC Act.

5. Net Benefit

- (a) Within three months of signing of this Agreement, and then on each anniversary of the signing of this Agreement, for a period of 10 years, Hamersley and DSL will contribute XXXX to a Separate Holding Account (*SHA*) to be spent by Hamersley and DSL, with the agreement of the Commonwealth, on:
- (i) identifying all sites with National Heritage Values;
 - (ii) presenting, and transmitting information about, the National Heritage Values;
 - (iii) managing National Heritage Values to ensure the Values are conserved for future generations; and
 - (iv) researching and monitoring the National Heritage Values, within the Place, and particularly the areas of the Place that lie within the Hamersley Land and the DSL Land.
- (b) The SHA will be an interest bearing account and any interest generated from the SHA will be retained in the SHA and used as agreed under paragraph (a).
- (c) In undertaking the activities under paragraph (a), Hamersley, DSL and the Commonwealth will use their best endeavours to apply the principles of:
- (i) coordination of funding and delivery of activities across the Place;
 - (ii) consultation with Indigenous people with rights and interests in the Place; and
 - (iii) consultation with the State.
- (d) Without limiting the activities within clause 5(a)(i)-(iv) examples of such activities include:
- (i) Establishment of conservation zones;
 - (ii) Development of comprehensive baseline assessments of National Heritage values within Rio Tinto leases, including providing training to facilitate Aboriginal participation;
 - (iii) Establishment of protection programmes for at risk sites;
 - (iv) Development and support for programmes for the presentation of the National Heritage Values;
 - (v) Implementation of a programme to assess, monitor and manage third party access to Rio Tinto leases and potential impacts upon National Heritage values;
 - (vi) Conduct of periodic external audits of performance against Rio Tinto Cultural Heritage Management Standard and Burrup Cultural Heritage Management Plan;
 - (vii) Continued collaboration with State and other parties on emissions study and monitoring; and
 - (viii) Contribution towards the funding of a comprehensive baseline assessment of the heritage values of the conservation lands within the Place.

6. Declaration

The Class of Actions as specified in Schedule 2 undertaken by or on behalf of, or for the benefit of Hamersley, DSL or their Associates, in accordance with the conditions, procedures and criteria specified in Schedules 2, 3 and 4, do not require approval under Part 9 of the EPBC Act for the purposes of sections 15B and 15C of the EPBC Act.

7. Dispute Resolution

- (a) Any dispute arising during the course of this Agreement will be dealt with as follows:
- (i) The Party claiming that there is a dispute will send to the other parties a notice setting out the nature of the dispute;
 - (ii) The Parties will try to resolve the dispute by direct negotiation, including by referring the dispute to a person who may have authority to intervene and direct some form of resolution. For the avoidance of doubt, if the dispute is referred to a person under this paragraph, that person will act as an independent third party umpire, and not as a mediator or arbitrator.
 - (iii) The Parties have 10 Business Days from the date of the notice issued in paragraph (i) to reach a resolution or to agree that the dispute will be submitted to mediation or some other form of alternative dispute resolution procedure;
 - (iv) if:
 - (A) there is no resolution or agreement; or
 - (B) there is a submission to meditation or some other form of alternative dispute resolution procedure, but there is not resolution within 15 Business Days of the submission, or such extended time as the parties may agree in writing before the expiration of the 15 Business Days,then, any party may commence legal proceedings.
- (b) Despite the existence of a dispute, the parties will (unless requested in writing not to do so) continue to perform the Agreement.
- (c) This clause does not preclude either party from commencing legal proceedings for urgent interlocutory relief or otherwise under the EPBC Act.

8. Review of this Agreement

A review of the operation of this Agreement, including the Schedules, is to be undertaken by the Parties at least once every five years while the Agreement remains in effect.

9. Termination and Variation

- (a) This Agreement, including the Schedules other than Schedules 4, 7 and 8 may only be varied by written agreement between the Parties or otherwise in accordance with the EPBC Act.

- (b) This Agreement may be terminated in the manner specified in the EPBC Act or otherwise as agreed by the Commonwealth, Hamersley and DSL.

10. Access to Land

- (a) Subject to Hamersley or DSL operational and safety requirements, Hamersley and DSL agrees to give to the Minister, or any persons authorised in writing by the Minister, reasonable access to Hamersley and DSL Land for the purpose of:
 - (i) monitoring this Agreement; and
 - (ii) obtaining information necessary to provide advice to the Minister in relation to the implementation of this Agreement.
- (b) Such access does not give the Minister, or any persons authorised in writing by the Minister, any right to undertake works on Hamersley and DSL Land without written permission from Hamersley and DSL.
- (c) Nothing in this clause affects the Minister's rights under the EPBC Act.

11. Reporting

Hamersley and DSL will, within two months of each anniversary of the signing of this Agreement provide the Minister with a report that will include:

- (a) a summary of Hamersley's and DSL's compliance with the terms of this Agreement during the previous 12 month period;
- (b) a summary of the progress of implementation of clause 5 (Net Benefit) during the previous 12 month period;
- (c) a summary of the actions within the Class of Actions in Schedule 2 taken under this Agreement during the previous 12 month period; and
- (d) upcoming major activities to which this Agreement applies.

12. Notification

- (a) Hamersley and DSL must notify the Minister as soon as reasonably practicable after becoming aware of past or potential future material non-compliance with this Agreement.
- (b) Hamersley and DSL will respond promptly to any correspondence from the Minister about this Agreement.

13. Auditing

- (a) The Minister, or anyone authorised in writing by the Minister, may audit Hamersley and DSL's compliance with this Agreement.
- (b) Before conducting an audit under paragraph (a), the Minister must provide Hamersley and DSL with reasonable notice that the Minister intends to conduct the audit.

- (c) From time to time the Parties may agree to an independent audit of the application of this Agreement.
- (d) The appropriate auditor and the scope of the audit conducted under paragraph (c) will be agreed by the Parties.
- (e) Hamersley and DSL agree to fully cooperate with any audit conducted under this clause 13.
- (f) Nothing in this clause limits the Minister's powers under the EPBC Act.

14. Negation of employment, partnership and agency

- (a) Hamersley and DSL agree not to represent themselves and to ensure that their Associates do not represent themselves, as being an officer, employee, partner or agent of the Commonwealth, or as otherwise able to bind or represent the Commonwealth.
- (b) Neither Hamersley nor DSL, by virtue of this Agreement, are an officer, employee, partner or agent of the Commonwealth, nor do they have any power or authority to bind or represent the Commonwealth.

15. Notices

Any notice, demand, consent or other communication (a *Notice*) given or made under this Agreement:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender;
- (b) must be addressed and delivered to the intended recipient at the address or fax number below or the address or fax number last notified by the intended recipient to the sender after the date of this Agreement:

- (i) to the Commonwealth
The Department of the Environment and
Water Resources
GPO Box 787
Canberra ACT 2601
Attention: First Assistant Secretary, Heritage
Division
Fax No: +61 2 6274 1666;
- (ii) to Hamersley
C/- Pilbara Iron Pty Ltd
GPO Box A42
Perth WA 6837
Attention: David Smith
Managing Director
Fax No: +61 8 9327 2311;
- (iii) to DSL
Locked Bag 11
Belmont WA 6104
Attention: Denise Goldsworthy

Vice President Operations Asia Pacific

Fax No: +61 8 9270 9226;

- (c) will be taken to be duly given or made when delivered, received or left at the above fax number or address. If delivery or receipt occurs on a day that is not a business day in the place to which the Notice is sent or is later than 4pm (local time) at that place, it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

16. Entire Agreement

This Agreement contains the entire agreement between the Parties with respect to its subject matter. It sets out the only conduct relied on by the Parties and supersedes all earlier conduct and prior agreements and understandings between the parties in connection with its subject matter.

17. Assignment

- (a) Hamersley may assign or otherwise deal with any of its rights or obligations under this Agreement to any person who becomes a party to the Hamersley Range State Agreement.
- (b) DSL may assign or otherwise deal with any of its rights or obligations under this Agreement to any person who becomes a party to the Dampier State Agreement.
- (c) Notwithstanding any assignments under clauses 17(a) or 17(b) Hamersley and DSL retain full responsibility for their obligations in this Agreement.

18. No Waiver

A failure to exercise or a delay in exercising any right, power or remedy under this Agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

19. Further Assurances

At the reasonable request of another Party, each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transactions contemplated by it.

20. No Merger

The rights and obligations of the Parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

21. Costs

- (a) Each Party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All stamp duty (including fines, penalties and interest) payable on or in connection with this Agreement and any instrument executed under or any transaction evidenced by this Agreement must be borne equally by the Parties.
- (b) All relevant taxes, duties and government charges imposed or levied in Australia, now in or in the future, in connection with this Agreement will be borne by Hamersley and DSL jointly.

22. Severance

If any part of this Agreement is, or becomes, void or unenforceable, that part is or will be severed from this Agreement to the intent that all parts that are not, or do not become, void or unenforceable remain in full force and effect and are unaffected by that severance.

Executed in Perth

Signed by **Malcolm Bligh Turnbull**, Minister
for the Environment and Water Resources in the
presence of:

Witness

Print Name

Signed for **Hamersley Iron Pty Ltd** by its
authorised representative in the presence of:

Authorised Representative Signature

Witness Signature

Print Name

Print Name

Position

Signed for **Dampier Salt Limited** by its
authorised representative in the presence of:

Authorised Representative Signature

Witness Signature

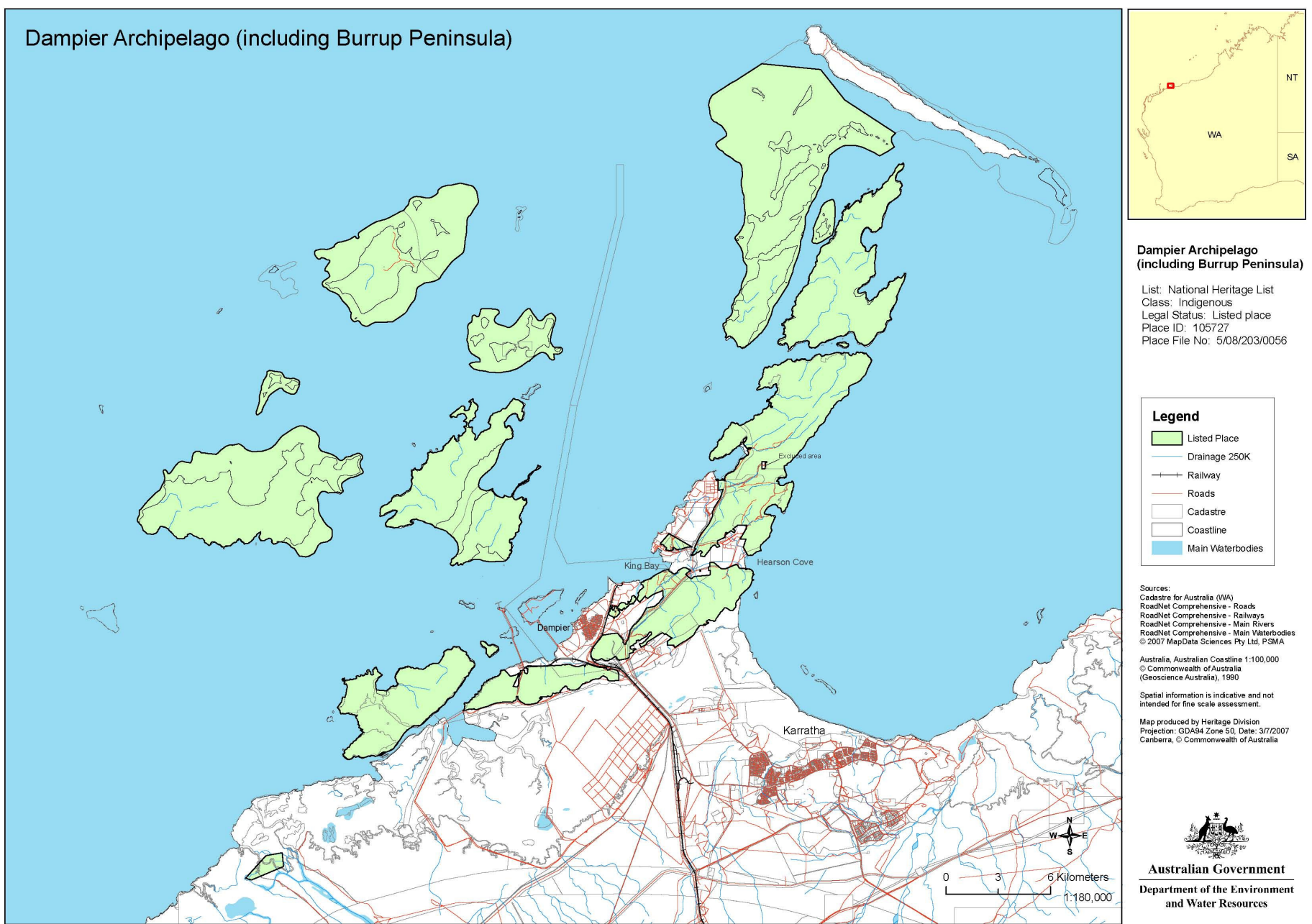
Print Name

Print Name

Position

Schedule 1

Map



Schedule 2

Class of Actions

1. Activities carried out on Hamersley Land and DSL Land as at and from the date of this Agreement

Rail

- (a) Rail movement of iron ore
- (b) Movement of fuel train (bulk fuel movement)
- (c) Maintenance of rail system (including but not limited to rail grinding and ballast reforming)
- (d) Non-routine maintenance of rail system (eg emergency situation where time frames are much shorter than routine maintenance works)
- (e) Car dumping (ore product) operation
- (f) Dust generation due to rail and rail support vehicle movement

Iron ore product storage and movement

- (g) Stockpiling, haulage, conveying, processing (eg washing, screening, crushing), blending and shiploading of product
- (h) Stockpiling, haulage, conveying and ship-loading/unloading of bulk materials

Salt product storage and movement

- (i) Stockpiling, haulage, conveying, processing (eg washing, screening) and shiploading of product
- (j) Maintenance of sea walls/pond levees

Administration and infrastructure

- (k) Operation and people/vehicle movement of administrative support functions
- (l) Operation of existing Supporting Infrastructure. Supporting Infrastructure includes water, power (transmission, distribution), communications, sewerage, defined drainage channels, gas pipelines
- (m) Maintenance of Supporting Infrastructure (eg replacing equipment)
- (n) Operation and maintenance of existing rock and raw material quarries
- (o) Operation and use of roads, including maintenance
- (p) Maintenance of designed drainage and natural drainage systems
- (q) Authorised activities carried out by third parties (eg Customs, National Security personnel, providers)
- (r) Waste disposal; including disposal of treated and liquid waste
- (s) Ship movement (eg tugs, Customs, AQIS)
- (t) Training activities eg Emergency Management

- (u) Movement of bulk material/supplies/equipment through the Service Wharf and distribution around Hamersley Land or DSL Land
- (v) Storage of explosives and dangerous goods
- (w) Unplanned environmental incident eg fuel spill
- (x) Management of fire

2. ***Activities carried out on Hamersley Land and DSL Land from the date of this Agreement involving the enhancement or expansion of activities in Item 1.***

Rail

- (a) Construction of rail system

Iron ore product storage and movement

- (b) Expansion of stockpile area or creation of new stockpiles
- (c) Enhancement or expansion of product conveyor facilities, including extended or new conveyor structures
- (d) Enhancement or expansion of shiploading facilities, including construction of new facilities

Salt product storage and movement

- (e) Expansion of stockpile area or creation of new stockpiles
- (f) Enhancement or expansion of product conveyor facilities, including extended or new conveyor structures
- (g) Enhancement of sea walls / pond levies
- (h) Enhancement or expansion of shiploading facilities, including construction of new facilities

Administration and infrastructure

- (i) Enhancement or expansion of Supporting Infrastructure
- (j) Enhancement or expansion of rock and raw material quarries
- (k) Enhancement or expansion of roads
- (l) Expansion of designed drainage and natural drainage systems
- (m) Rehabilitation activities; eg closure of roads, stockpiles, borrow pits
- (n) Land reclamation

Schedule 3

Significant Impact Guidelines for National Heritage Values



Australian Government
Department of the Environment and Water Resources

Significant Impact Guidelines for the Dampier Archipelago National Heritage Place

Introduction

The Western Australian Government, under the Aboriginal Heritage Act 1972, provides for the preservation, on behalf of the community, of places and objects customarily used by or traditional to the Aboriginal people of Western Australia. This includes the sites found on the Dampier Archipelago. Under section 17 of the Aboriginal Heritage Act 1972, a person who excavates, destroys, damages or conceals or in any way alters any Aboriginal site commits an offence. It is also an offence to alter, damage, remove, destroy, conceal or deal with or assume possession of any object on or under a site.

In addition to the Aboriginal Heritage Act 1972 many land owners, including industry located on the Burrup Peninsula, have developed policies and procedures to manage Aboriginal heritage in accordance with legislative requirements.

Some of the Aboriginal heritage sites found on the Dampier Archipelago have National Heritage values. The National Heritage values of the Dampier Archipelago, and not necessarily the entire place itself, are protected under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

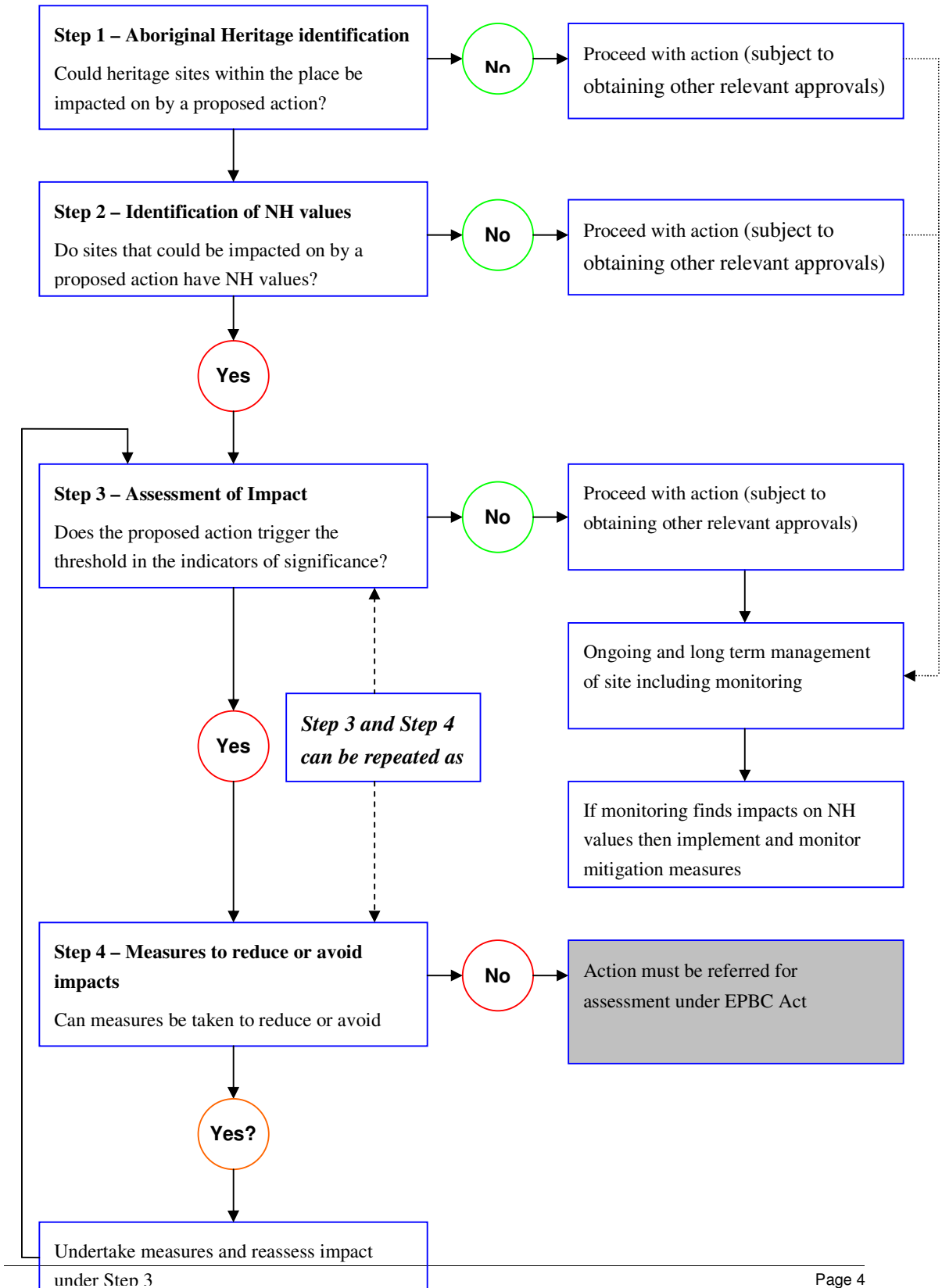
This means that a person cannot take an action that has, will have or is likely to have, a significant impact on the National Heritage values of the Dampier Archipelago without the approval of the Australian Government Minister for the Environment and Water Resources.

This document has been developed as a way of assessing whether actions have, will have or are likely to have a significant impact on the National Heritage values of the Dampier Archipelago. This process must be followed in addition to existing policies, procedures and other regulatory requirements.

The Significant Impact Guidelines will be subject to regular review.

National Heritage Management Process

[Under a Conservation Agreement] specified actions are not to have a significant impact on NES matters if they are not to require EPBC approval.



Step 1 - Aboriginal Heritage identification

Recognising current practices and Western Australian legislative requirements, including Indigenous people's involvement in any Aboriginal heritage identification process, the following will be undertaken to meet Objective 1.

Objective 1

To identify Aboriginal heritage sites within the National Heritage place that could be impacted on by a proposed action.

Performance indicators

- A process is completed to identify Aboriginal heritage sites within the place which may be directly or indirectly impacted on by an action.

To ensure an action will not have a significant impact on the National Heritage values of the place, an Aboriginal heritage identification process should be used to determine if an action will have any direct or indirect impacts on any Aboriginal heritage sites within the place.

The area over which an action may have an impact must be determined, and an Aboriginal heritage identification process undertaken, to identify if any heritage sites within the place will be directly or indirectly impacted on by the proposed action. Actions taken inside or outside of the place may have a direct or indirect impact on National Heritage values.

The Aboriginal heritage identification process undertaken will depend on the level of risk associated with the action having an impact on Aboriginal heritage sites within the place (see table 1). The level of risk of the action impacting on an Aboriginal heritage site within the place will be determined by factors such as a) the degree to which the area has been previously disturbed; b) the geology and topography of the area; and c) the type of action proposed (e.g. does it include ground disturbance, will it increase use or access to an area).

Table 1 – Levels of heritage identification

	High risk of action impacting on heritage sites in the place	Medium risk of action impacting on heritage sites in the place	Low risk of action impacting on heritage sites in the place
Accurate and comprehensive site data exists	Desktop assessment and if required purposive heritage survey	Desktop assessment and/or purposive heritage survey	Desktop assessment
Partial and/or imprecise site data exists	Comprehensive heritage survey	Desktop assessment and purposive heritage survey	Desktop assessment and purposive heritage survey
Inaccurate or no site data exists	Comprehensive heritage survey	Comprehensive heritage survey	Desktop assessment and purposive heritage survey

Comprehensive Aboriginal heritage surveys must be conducted where there is a high risk of an action having an impact on Aboriginal heritage sites within the place and accurate and comprehensive site data does not already exist.

Partial (purposive) surveys or a desktop assessment may be sufficient where there are low levels of risk or where accurate site data is available. A comprehensive and exhaustive review of relevant sources must be undertaken as part of any desktop assessment.

Individual sites¹ must be comprehensively recorded during any survey undertaken within the place, including any research or baseline surveys, in order to determine if that site contains National Heritage values. The level of detail recorded for each site must be sufficient to complete accurately the form at Annex 1 (see Step 2).

If the Aboriginal heritage identification process determines that no heritage sites within the place will be directly or indirectly impacted on by the proposed action, the Minister will be satisfied that the action will not have a significant impact on the National Heritage values of the place.

Step 2 - Identification of National Heritage values

Recognising current practices and Western Australian legislative requirements, including significance assessments, the following will be undertaken to meet Objective 2.

Objective 2

To identify if sites that could be impacted on by a proposed action have National Heritage values.

Performance indicator

- Identify if sites to be impacted on by an action contain National Heritage values and information on sites with National Heritage values submitted to the Department of the Environment and Water Resources using the form at Annex 2.

If the Aboriginal heritage identification process determines that sites within the place may be directly or indirectly impacted on by an action, these sites must be assessed to identify if they contain National Heritage values. Annex 2 identifies the types of sites that contain National Heritage values.

Any baseline or research surveys undertaken by the proponent within the National Heritage place should also identify if sites contain National Heritage values. Information obtained during any surveys within the place on sites identified as having National Heritage values must be provided to DEW. Information on each site identified as having National Heritage values should be submitted using the form at Annex 1.

These forms should also be included as part of any information on the site provided to the Registrar of Aboriginal Sites in the Department of Indigenous Affairs.

If it is determined that the action will not impact on any sites that contain National Heritage values, the Minister is satisfied that the proposed action will not have a significant impact on the National Heritage values of the place.

Step 3 - Assessment of impacts

Recognising current practices and Western Australian legislative requirements, the following will be undertaken to meet Objective 3.

Objective 3

To establish whether a proposed action could have a significant impact on any National Heritage values.

Performance Indicators

¹ For the purpose of this document and its Annexes, a site is defined as one or more cultural features less than 25 metres apart.

- The indicators of significant impact (Annex 3) are used to establish the number and types of National Heritage values that could be significantly impacted on by the proposed action.

The indicators of significant impact (Annex 3) will be used to identify whether the proposed action could have a significant impact on any sites with National Heritage values identified in Step 2. Actions that could result in significant impacts include, but are not limited to the following:

- Constructing new facilities or expanding existing facilities where required ground disturbance could result in destruction, alteration or disturbance of National Heritage values;
- Construction of facilities or maintenance of existing facilities (e.g. ground levelling for new buildings and/or facilities, sewage, water reticulation) that require rubble or excess soil from ground disturbance to be deposited within the place could result in concealment of National Heritage values; and
- Blasting required for construction of new facilities or expansion of existing facilities could result in damage, disturbance or alteration of National Heritage values.

Monitoring of emissions on rocks and rock art has been undertaken by the CSIRO. Studies to date have not reported that emissions are having an impact on rocks or rock art. This is an area of ongoing scientific study and monitoring.

A record of the nature of possible impacts on each site with National Heritage values will be kept. A form for recording potential impacts must include the components in the draft form at Annex 4.

If the process for assessment of impacts determines that the proposed action will not have a significant impact on the National Heritage values of the place, the Minister will be satisfied that the action will not have a significant impact on the National Heritage values of the place.

Step 4 - Measures to avoid or reduce impacts

Recognising current practices and Western Australian legislative requirements, the following will be undertaken to meet Objective 4.

Objective 4

To avoid significant impacts on National Heritage values.

Performance Indicators

- Evidence that all practicable steps have been taken to ensure that an action does not have a significant impact on any National Heritage values;
- When a significant impact is unavoidable, refer project proposal under the EPBC Act.

If the proposed action could have significant impacts, all practical steps will be taken to redesign the action to ensure that such impacts do not eventuate. This could include but is not limited to:

- Redesign the footprint of any new facilities or the footprint of the expansion of existing facilities to ensure there are no impacts on National Heritage values;
- Ensure that spoil from the construction of facilities or maintenance of existing facilities (e.g. sewage, water reticulation) is moved to an area outside the place or where it will not obscure National Heritage values;

- Where blasting or ground disturbance work is underway, options such as temporary protection through cladding or sandbagging could be considered to prevent disturbance or alteration from flying rocks, tremors or inadvertent accidents.
- Where there are no other feasible measures to reduce the impact, salvage (relocation) to avoid a significant impact on National Heritage values may be an option in a limited number of cases (see Annex 3).

If an impact is avoided or reduced by any mitigation measures, the revised impact should be reassessed under Step 3. If the assessment of impacts process determines that the action will not have any of the types of impacts described in Annex 3, the Minister will be satisfied that the action will not have a significant impact on the National Heritage values of the place.

Where it is unavoidable that an action will have the type of impact indicated in Annex 3, the project will require referral under the EPBC Act. Information on sites with National Heritage values that are destroyed or relocated to an area outside of the boundary of the place, must be provided to the Department of the Environment and Water Resources. This information will be used to inform any review of these Guidelines, including the graphs in Annex 3.

Long term management of National Heritage values, including monitoring

Objective

To manage and monitor the condition of National Heritage (NH) values.

Performance indicators

- The condition of sites with National Heritage values is subject to regular monitoring and reporting.
- Management measures for sites with national Heritage values, including provisions for post-project monitoring, are in place.

Monitoring and Management

The objective of monitoring the condition of National Heritage values is to ensure these values are sustained into the future.

Monitoring the condition of sites with National Heritage values should be conducted regularly and at a statistically sound number of sample sites to enable any change to be recorded. The methods for undertaking monitoring, including how the frequency of monitoring was determined, must be documented, and data on the outcome of the monitoring program provided as part of a review of these guidelines.

There may be change in the condition of National Heritage values over time. The Department of the Environment and Water Resources is aware of the CSIRO studies undertaken on behalf of the Burrup Rock Art Monitoring Management Committee researching the impact of emissions on rock art. While the 2006 Burrup Peninsula Air Pollution Study: Final Report did not indicate that emissions were having an impact on rocks or rock art, understanding the effects of emissions depends on ongoing monitoring.

The Department must be informed promptly if there is evidence of widespread or localised change to National Heritage values and the attributional cause of change, if known.

The objective of management is to ensure the long-term protection of National Heritage values. This may be day-to-day site management or the development of management plans.

The risk assessment framework at Table 2 may be used to inform site management to minimise unintended impacts from actions on National Heritage values. An unintended impact on sites with National Heritage values could include, but is not limited to, the following:

- Increased access to an area resulting in vandalism
- Transportation of hazardous materials resulting in spillage of harmful chemicals if a vehicle is overturned in an accident
- Storage of hazardous materials that could potentially detonate or spill
- Blasting or drilling resulting in destabilisation or rock movement

Management arrangements should include procedures to identify the mitigation measures, and reporting requirements to be followed, should unintended impacts on sites with National Heritage values occur.

Table 2 – Risk Assessment Framework indicating how unintended impacts on sites with National Heritage values will be managed

		High possibility of unintended impact occurring	Medium possibility of unintended impact occurring	Low possibility of unintended impact occurring
Unintended Impacts	High impact on National Heritage value/s	Company must have a plan to minimise likelihood of occurrence and the mitigation measures to be used if unintended impacts occur. It must also notify DEW if an impact occurs.	Company must have a plan to minimise likelihood of occurrence and the mitigation measures to be used if unintended impacts occur. It must also notify DEW if an impact occurs.	Company must have a plan to minimise likelihood of occurrence and the mitigation measures to be used if unintended impacts occur. It must also notify DEW if an impact occurs.
	Medium impact on National Heritage value/s	Company must have a plan to minimise likelihood of occurrence and include mitigation measures if unintended impacts occur.	Company must have a plan to minimise likelihood of occurrence and include mitigation measures if unintended impacts occur.	Company must have a mitigation plan and record unintended impact in its internal reporting structure.
	Low impact on National Heritage value/s	Company must record unintended impact and any mitigation measures used in its internal reporting structure.	Company must record unintended impact and any mitigation measures used in its internal reporting structure.	Company must record unintended impact and any mitigation measures used in its internal reporting structure.

The methods for determining the level of risk in Table 2, including how high, medium and low risk is defined, must be documented.

It is important that the risk assessment framework considers all actions regardless of whether they occur within or outside company land, as either may have unintended impacts on the National Heritage values.

Significant Impact Guidelines - Annexes

Annex 1: National Heritage Site Reporting Form

Annex 2: Sites with National Heritage value

Annex 3: Indicators of Significant Impact

Annex 4: Impact Assessment Form

Schedule 4

Heritage Management Process

Heritage Management Process: RTIO & RTM Recognition of National Heritage Values, Heritage Management Policies and Procedures, and Intended EPBC Referrals Process

1. Overview

The Rio Tinto leased lands at Dampier contain areas of highly significant cultural heritage. These form a small part of the Dampier Archipelago (Burrup Peninsula and islands), which are recognised to have National Heritage significance for their Aboriginal rock art and stone structures. The Federal Minister for Environment and Water Resources (with responsibility for heritage) placed the Dampier Archipelago (including the Burrup Peninsula) on the National Heritage List in July 2007. The National Heritage values of the listed place are protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Rio Tinto Iron Ore (RTIO) and Rio Tinto Minerals (RTM)* have over the long-term been implementing leading practice cultural heritage management standards. RTIO and RTM are committed to continue to implement these standards in the context of National Heritage listing, including identifying and mitigating any potential significant impacts on the National Heritage and other cultural heritage values within their leases at Dampier, on the southern portion of the Burrup Peninsula. In particular, RTIO will continue to have a dust suppression program and to operate a dust suppression system in relation to its activities at Dampier.

* The operations of RTIO include those of Hamersley Iron Pty Ltd at Dampier and the operations of RTM include those of Dampier Salt Limited at Dampier. A reference to Rio Tinto in this Schedule includes both RTIO and RTM.

RTIO and RTM acknowledge the significance of the cultural heritage of the Dampier Archipelago to local Aboriginal people, and their ongoing obligation to consult with them regarding its management.

RTIO and RTM have in place a range of interconnected policies, standards and procedures to ensure they can achieve leading practice management, in partnership with the Ngarda-ngarli, of the cultural heritage values of its Dampier leases. This involves complying with or exceeding legislative requirements under the *EPBC Act*, the Western Australian *Aboriginal Heritage Act 1972 (AHA)* and other relevant statutes in relation to cultural heritage management. These documents include:

- 1) The Rio Tinto *Communities Policy*;
- 2) The Rio Tinto *Communities Standard*;
- 3) The Rio Tinto *Cultural Heritage Management Standard for Australian Businesses*;
- 4) The Rio Tinto *Cultural Heritage Management Guidance Note for Australian Businesses*;
- 5) The Rio Tinto Iron Ore *Aboriginal Heritage Policy*;
- 6) The Rio Tinto Iron Ore *Aboriginal Heritage Procedures Guide*;
- 7) The Rio Tinto Iron Ore *Ground Disturbance Authorisation Procedures*; and,
- 8) The Rio Tinto Minerals *Land Disturbance Permit Procedures*.

Rio Tinto believes their past and proposed activities have and will continue to contribute to the conservation of the National Heritage Values of the Dampier Archipelago. These include: a) a contribution to the knowledge base through survey, detailed recording programmes and funded research, b) commissioning work on dust, emissions and their possible impacts on rock art, c) active engagement with Traditional Owners in survey and research work, d) a commitment to conduct comprehensive baseline assessment of cultural heritage values of the leases, e) development of interpretive materials and publications, and f) third party controls such as fencing and signage.

2. National Heritage Values within Rio Tinto Leases

The National Heritage values of the Dampier Archipelago are found in the outstanding concentrations of rock engravings and associated archaeological occupation deposits, some individual type engravings such as anthropomorphs, as well as some stone features which together are considered to be of national importance (see Schedule 5 of this Agreement).

National Heritage values exist in and adjacent to Rio Tinto leases. Significant rock art site complexes within the leases include Gum Tree Valley (RTM lease), and Happy Valley, Midden Creek Ridge and Muddy Pools (RTIO lease). In close proximity are Skew Valley (RTM) and Hunters Valley (RTIO). Extensive shell middens also occur at these locations, involving stratified sites potentially covering many thousands of years of occupation. Concentrations of significant stone arrangements occur on the RTIO leases in the areas know as Gum Tree Valley, Happy Valley, Salt Water Access Road and King Bay South. Throughout the rest of the Rio Tinto leases, engravings, stone arrangements, scatters of flaked stone artefacts, quarried outcrops and reduction areas and grinding patches occur in varying degrees of density and diversity.

National Heritage values retain high integrity on the Rio Tinto leases due to the companies' well developed Cultural Heritage Management Systems (CHMS). The following table summarises the above site complexes in regard to the listed National Heritage values.

Key Locations within and adjacent to Rio Tinto Leases, Burrup Peninsula

	Gum Tree Valley	Skew Valley	Hunters Valley	Happy Valley	Midden Creek Ridge	Muddy Pools	Saltwater Acc. Rd	King Bay South	HI Lease General
Threshold Value									
Value a									
Sea level record		■		■		■		■	■

Archaic faces		■	■			■			
Value b									
Diversity Human forms	■	■	■	■	■	■		■	■
Antiquity complex scenes		■	■	■		■			
Rare concentrations	■	■	■	■	■	■	■	■	
Stone features	■			■	■		■	■	■
Value c									
Relative chronology	■	■	■	■	■	■			■
Association of archaeological material	■	■		■	■	■			
Connections coast / Western Desert			■			■			
Value d									
Wider Pilbara characteristic	■			■					■
Diverse functions of stone features	■			■	■		■	■	■
Value f									
Species level identification	■	■	■	■	■	■		■	■
Complex & dynamic panels	■		■			■			■

3. RTIO / RTM Heritage Management Policies and Procedures

RTIO/RTM heritage management procedures and policies will be consistent with National Heritage Management Principles (refer Schedule 6 of this Agreement).

Heritage management guiding principles and policies are outlined in full in the company documents listed in *Section 1. Overview*. The following sections provide a précis of the core policies and procedures as these relate to heritage management within the RTIO/RTM leases, in particular with regard to the new considerations of the National Heritage listing and the operation of the EPBC Act in relation to the National Heritage values.

To ensure that RTIO/RTM can best address the new EPBC Act requirements, a draft Cultural Heritage Management Plan (CHMP, May 2007) has been developed for the two companies to jointly address the management of the National Heritage values on their leases. This is a live document that at the date of this Agreement requires consultation with the Ngarda-ngarli, in line with the Rio Tinto policy for thorough and rigorous consultation involving all associated Aboriginal groups.

As part of its Communities Department, RTIO has in place a large team of professional heritage staff to implement the company's heritage management requirements across the Pilbara. This includes a dedicated senior heritage advisor for the Burrup leases where there is overlap with the National Heritage place boundary. The RTIO Heritage Team also provide a formal heritage management service for RTM and this work is conducted in accordance with the RTIO and RTM policies, standards and procedures.

The RTIO/RTM policies and procedures include clear accountabilities for cultural heritage management outcomes. The Managing Director, Pilbara Iron, RTIO and the Vice President Operations Asia Pacific RTM are accountable for the development and implementation of their respective Cultural Heritage Management Systems, including policy, standards, procedures and systems.

The *Rio Tinto Iron Ore Aboriginal Heritage Policy* states that RTIO will maintain and protect the value and integrity of places of cultural significance to Aboriginal people consistent with the principles of Community partnership. This means that RTIO and RTM recognises the special connection to country intrinsic to Aboriginal culture and specifically, the West Pilbara groups.

As set out in this Policy, in recognising their overall obligations to heritage values RTIO and RTM undertake to:

- Meet all statutory and legal requirements with regard to Aboriginal heritage sites and values;
- Adopt higher standards where necessary to protect Aboriginal heritage sites and values;
- Develop and implement in partnership with Aboriginal people a comprehensive heritage management program to minimise any impacts of activities upon heritage sites with cultural significance to them;
- Supply clear and consistent guidelines on procedures and practices which may have an impact on Aboriginal heritage sites;
- Implement ongoing monitoring and review of heritage performance to ensure continual improvement and maintenance of consistently high standards;
- Provide training to employees on cultural heritage issues that may arise in the course of carrying out their duties. Ensure that all contractors are aware of their heritage responsibilities in relation to our business; and
- Give cross-cultural training to employees in partnership with Aboriginal stakeholders.

RTIO and RTM encourage each employee to develop an ongoing commitment toward ensuring the protection of heritage places of significance. All employees are expected to operate responsibly and respectfully toward Aboriginal heritage sites.

The RTIO *Aboriginal Heritage Procedures Guide* (2005) outlines relevant policies, procedures and guidelines with particular attention paid to the robust 'ground disturbance requests and approvals system' and 'heritage ground disturbance permit system'. The Guide also details various supporting tools to be used, including the heritage filing systems, heritage GIS and database system, heritage libraries, project management including survey standards, Traditional Owner liaison protocols, contractor performance measurement and review standards, site audits and monitoring standards, Section 18 consents (to use land) and 16 (excavation/removal) permits under the AHA, safety systems and heritage compliances (under State and Commonwealth Heritage acts). They

will now also incorporate specific guidelines for identification of National Heritage values and significance assessment for the purpose of meeting obligations under the EPBC Act with respect to the National Heritage listing of the Burrup Peninsula.

The RTIO/RTM cultural heritage management documents outlining their policies and principles with reference to the National Heritage Listing (most significantly the newly drafted Dampier CHMP) explicitly set out how National Heritage values will be mapped on the leases, protected, conserved, presented and monitored.

These documents also outline how RTIO/RTM's Heritage Programme will facilitate meaningful Aboriginal consultation, engagement and partnership in site surveying, monitoring, public presentation (including signage) and in the management of heritage sites.

Representative groups and individuals of Ngarda-ngarli (possibly through the Murujuga Aboriginal Corporation) will be engaged by RTIO/RTM in effective management of places with National Heritage values. Any reasonable requests from Ngarda-ngarli for access to visit heritage sites will be granted.

There will be ongoing audits of reporting against both the Conservation Agreement and the Cultural Heritage Management Plan (likely in tandem), in accordance with Rio Tinto's *Cultural Heritage Management Standard for Australian Businesses*.

4. Undertaking Actions

In all instances where RTIO or RTM intend to conduct new ground disturbing activities within their leases, these are subject to the RTIO Ground Disturbance Authorisation (GDA) Procedures and RTM Land Disturbance Permit Procedures (LDP) respectively. These procedures provide the trigger for following Steps 1-4 as set out below.

The GDA system includes an automated GDA request and authorisation database system with supporting GIS links (RTIO). This authorisation system aims to ensure that there is

compliance with relevant legislation and that both natural and cultural heritage is not impacted. Authorisation is required prior to any new disturbance or construction activity.

The GDA and LDP systems are designed to ensure that any ongoing works associated with existing infrastructure and facilities, or with development projects, will not have adverse impact on the cultural heritage values (including National Heritage values) of the Burrup Peninsula nor on heritage sites and features within Rio Tinto leases.

Step 1 and 2: Surveying and significance assessment of sites and places.

RTIO/RTM will employ a strategy of comprehensive survey coverage of all areas where any impacts may occur in the first instance. It is intended that the total area coverage of all Rio Tinto leases within the Dampier Archipelago will also be completed over the medium term. The surveys will address the needs of relevant heritage statutes, however will additionally employ site recording systems specifically designed to identify sites with National Heritage values within the listed place.

Only qualified and accredited anthropologists, archaeologists and heritage specialists will be employed to carry out this survey work. Uniform Consultancy Standards Guidelines are being developed for the Pilbara for all RTIO operations, which will exceed statutory heritage requirements. Representatives of recognised Aboriginal groups (as detailed in the CHMP) will be fully consulted and engaged in all surveys.

Reporting on surveys, Aboriginal consultations and information on sites identified as containing National Heritage values will all be logged on RTIO's MapInfo Heritage database. Annual reports by RTIO/RTM on the Conservation Agreement and CHMP will be audited (on a periodic/as needs basis) – and preferably in a linked fashion – by an independent Cultural Heritage Specialist with the standing of an Expert Witness in the Federal Court of Australia.

Significance assessment will include considerations of archaeological values, Indigenous knowledge and belief systems and the social value of heritage to the wider community (e.g. Byrne² et al. 2001; Harrington³ 2005).

Significance assessments for RTIO/RTM surveys will evaluate, amongst other considerations, whether:

- Engravings and associated sites can inform on Aboriginal occupation during periods of climate and environment change (e.g. sea level rise);
- Cultural materials can elucidate the unique long-term occupation of interior desert ranges which become arid island landscapes with sea level rise;
- Engravings specifically depict change in species over the Archipelago;
- Engravings may be stylistically linked to other Aboriginal culture areas;
- Specific art sites form an integral part of the record of artistic diversity and complexity for which the Archipelago's art has been Listed;
- Specific placement and association of engravings informs on economic and social spatial patterning across the Dampier Archipelago;
- Standing stones and arrangements are representative of this site type on the Burrup;
- The engravings can be dated, either by TL (thermoluminescence), radiometric methods or analysis of superimposed styles towards relative or absolute chronologies;
- Specific art sites can inform on stylistic development, change or heterogeneity;
- The uniqueness of the diversity and complexity of engraving complexes which are known to vary by catchment across the Archipelago is represented by any given art site/complex (issues of uniqueness/rarity and representativeness); and
- The engravings provide evidence of high creative achievement, exceptional diversity and/or clarity.

² Byrne, D., Brayshaw, H. and T. Ireland 2001 *Social Significance: A discussion paper*. Hurstville: NSW National parks and Wildlife Service.

³ Harrington, J. 2005. Being here: heritage, belonging and place making. A study of community and identity formation at Avebury (England), Magnetic Island (Australia) and Ayutthaya (Thailand). PhD thesis, James Cook University, Townsville.

Step 3: Assessment of Impacts.

One of the principal aims of any development planning will be to avoid interference with known cultural heritage sites or places. This includes the immediate visual setting of the particular feature as well as the feature itself.

A comprehensive recording and evaluation of any proposed development area is an integral part of the RTIO/RTM initial planning process. In partnership with the project planners, and using the DEW Significant Impact Guidelines (Schedule 3, Annex 3), the RTIO/RTM heritage manager will assess all potential impacts upon National Heritage values. This assessment will include both direct and indirect impacts.

All major site complexes (as set out in Section 2, above) will be protected as far as practicable from any deleterious impact.

Step 4: Measures to avoid or reduce impacts.

It is Rio Tinto policy that its businesses should design and situate their activities to avoid damage to cultural heritage sites wherever possible. For RTIO/RTM this means that cultural heritage site protection and management are given priority and that projects are designed, and subsequently modified as required, where ever it is reasonably practical, to protect sites. Involvement of the RTIO/RTM staff heritage professionals in the earliest stages of project planning allow for heritage values to be given planning priority.

These planning requirements apply to all cultural heritage places, including those of National Heritage value.

Disturbance approvals and mitigation are considered only after thorough investigation of alternative project designs and consideration of the significance of sites which may be impacted. Any mitigation measures are taken in consultation with the Aboriginal community, relevant heritage professionals and statutory regulators.

If the situation arises where impact on Aboriginal sites or places needs to be mitigated due to unavoidable proposed development RTIO/RTM would apply to the DIA (section 18

notifications) for permission to impact the site or place. Impact on significant cultural material will only be considered when all other options have been fully explored and circumstances leave no feasible alternative.

For such an outcome the following steps are critical:

- Document evidence that all reasonable options have been considered and that in the final design it should minimise impact to the cultural heritage;
- Consult with recognised Aboriginal groups and receive confirmation that an action is acceptable to them; and
- Obtain consent under section 18 of the AHA from the WA Minister for Indigenous Affairs and ensure that any conditions of the s.18 consent are adhered to.

In these situations, in addition to any consent conditions, RTIO/RTM prepare a management plan setting out required mitigation, protection and management measures and accountabilities including post-project monitoring.

If measures to reduce or avoid impacts on National Heritage values cannot be found then the action will be referred to DEW for assessment and possible approval under the EPBC Act.

Prior to a referral, RTIO/RTM would ensure the following:

- That it has documented evidence that all practicable steps have been taken to avoid or reduce any potential significant impact on any National Heritage values;
- That they have liaised with DEW on the project proposal and options to avoid or reduce impacts; and
- That where a threshold case is assessed internally then the precautionary approach will be to refer the impact to DEW for evaluation.

Long term management of National Heritage values, including monitoring

The RTIO/RTM CHMS includes ongoing monitoring of site conditions. For the long term management of the National Heritage values on the RTIO/RTM leases this will include:

- Undertaking a risk assessment to determine sites that may be at risk of direct or indirect impact to their National Heritage values from the actions of RTIO/RTM or third parties;
- Implementing a management programme to minimise any such risks, including the assessment and monitoring of third party impacts, and mitigate where required;
- Monitoring of the condition, and any management requirements, of currently known sites with National Heritage values, and such sites recorded through the comprehensive baseline assessments, through physical inspection on a regular basis (e.g. annual, or more frequently if required);
- Physical monitoring of all ground disturbing works within the vicinity of cultural heritage sites or places with National Heritage values by a suitably qualified person(s); and
- Conducting post-project monitoring.

5. Concluding Statement of Commitment to EPBC Act Heritage Provisions

RTIO/RTM acknowledges the duty of care that comes with operating a business on a landscape with National Heritage values. It commits to:

- Identifying places that have National Heritage values on its leases;
- To recognising these values and effectively managing them up to and beyond statutory requirements (specifically the AHA and EPBC Act);
- To carrying out comprehensive surveys of heritage sites on all its leases;
- Proactive engagement of Traditional Owners employing a partnership model in both survey and management initiatives;
- Development of interpretive and educational materials and third party controls;
- Regular reporting and auditing of the Conservation Agreement and CHMP; and,
- A precautionary approach to any potential impacts on National Heritage values – whereby the highest levels of survey data and literature review will inform the process of referral to DEW.

Schedule 5

National Heritage Values

On 3 July 2007, the Australian Government Minister for the Environment and Water Resources determined that parts of the Dampier Archipelago should be included in the National Heritage List pursuant to section 324JJ of the EPBC Act.

The listed place has the following values:

WESTERN AUSTRALIA

Roebourne Shire

Dampier Archipelago (including Burrup Peninsula):

Criterion	Values
(a) the place has outstanding heritage value to the nation because of the place's importance in the course, or pattern, of Australia's natural or cultural history.	<p>The engravings on the Dampier Archipelago include finely executed images of a wide range of terrestrial, avian and marine fauna many of which can be identified to genus or species level (Vinnicome 2002; McDonald and Veth 2005). Most of the engravings, particularly the images of marine fauna, are slightly or moderately weathered and were produced following the rise of sea levels about 8,000 years ago. There are a number of deeply weathered images of terrestrial fauna, particularly kangaroo, which date to the time when the sea was much lower (Lorblanchet 1992). The different degrees of weathering of particular types of faunal engravings on the Dampier Archipelago provide an outstanding visual record of the course of Australia's cultural history through the Aboriginal responses to the rise of sea levels at the end of the last Ice Age.</p> <p>There are a large number of deeply weathered, engraved 'Archaic Faces' in the Dampier Archipelago including some images that are unique to the area (McDonald and Veth 2005). 'Archaic faces' are widely distributed through arid Australia and are found in the Calvert ranges, the Cleland Hills, the Victoria River District, South Australia and Queensland (McDonald and Veth 2005). The 'Archaic Faces' on the Dampier Archipelago demonstrate the long history of contact and shared visual narratives between Aboriginal societies in the Dampier Archipelago and inland arid Australia and are exceptional in the course of Australia's cultural history.</p>
(b) the place has	The Pilbara has been described as '... without doubt the richest and most exciting

outstanding region of rock engravings in Australia' McCarthy (1968: vi). It is the diversity of heritage value to representations of the human form (anthropomorphs), many of which are in dynamic the nation because attitudes, and the way in which they are sometimes arranged in complex scenes that of the place's makes the Aboriginal engravings in the Pilbara exceptional. Although there are a possession of number of distinct regional engraving styles in the Pilbara (Wright 1968), the greatest uncommon, rare or diversity in depictions of the human form, which also include representatives of endangered aspects human figures characteristic of the other Pilbara style provinces, occurs in the of Australia's Dampier Archipelago (McDonald and Veth 2005: section 4.6). There are a number of natural or cultural complex panels showing groups of people engaged in both mundane and sacred history. activities,

- (b) continued including hunting scenes, ceremonial activity and images of human figures climbing or hanging from lines. At a national level, the Dampier Archipelago is outstanding for its diversity of engraved human forms and the antiquity of depictions of complex scenes showing human activity, which are rare at the national level.

There is a very high density of rock engraving sites on the Dampier Archipelago. Although the majority of these sites contain relatively few engravings (Vinnicombe 1987a; Veth *et al* 1993;) there are some sites with hundreds (Virili 1977; Vinnicombe 1987a: Fig 6; Veth *et al* 1993: Fig 7.1), thousands (Dix 1977; Virili 1977; Vinnicombe 1987a) or tens of thousands of engravings (Lorblanchet 1992; Veth *et al* 1993). An analysis of site locations demonstrates that large concentrations of engravings in the Dampier Archipelago are found on inland plateaus, steep valley inclines bordering watercourses and on rock platforms next to the ocean (Vinnicombe 2002; McDonald and Veth 2005). The Dampier Archipelago contains concentrations of rock engravings, which when compared with other similar sites in Australia are rare (McNickel 1985; Wright 1968; Stanbury and Clegg 1990).

There is a high density of standing stones, stone pits and circular stone arrangements on the Burrup Peninsula (Veth *et al* 1993). The stone pits on the Burrup Peninsula have been interpreted as hunting hides and the standing stones may be either ceremonial sites (*thalu* sites), or markers for resources such as potable water. There is also a high diversity in the standing stones and stone arrangements across the Dampier Archipelago, including some with unusual components (Vinnicombe 1987a). The density of standing stones, stone pits and circular stone arrangements on the Burrup Peninsula, and the diversity of these stone features across the Dampier Archipelago are rare at the national level (Vinnicombe 1987a).

- (c) the place has outstanding heritage value to the nation because of the place's The distribution of engraved motifs across the Dampier Archipelago reflects economic and cultural variability (Green 1982; Vinnicombe 2002; Veth *et al.* 1993). Previous work on the Dampier Archipelago provides an outstanding demonstration of the way in which a detailed analysis of archaeological remains (middens, grinding patches, quarries) and associated rock engravings can contribute to an understanding

potential to yield information that will contribute to an understanding of Australia's natural or cultural history.

of the cultural and economic meaning of the rock engravings (Lorblanchet 1992). The analysis demonstrated a close association between animal motifs and midden contents in one area of Skew Valley and the way in which some motifs (tracks) are placed in inconspicuous positions while other motifs (anthropomorphs) are publicly displayed. This work demonstrates that on the Dampier Archipelago, areas where archaeological remains are associated with large numbers of engravings have outstanding potential to yield information that will contribute to an understanding of the nation's cultural history.

Archaic Faces' occur on the Dampier Archipelago and are found in many parts of arid Australia (McDonald and Veth 2005; Dix 1977). The distribution of these engravings indicates there were shared representations across the area in the deep past. There is evidence that at the time of European contact Western Desert peoples were actively

(c) continued

moving towards the coast (Tindale 1987). The 'Archaic Faces' in the Dampier Archipelago have outstanding potential to yield information contributing to an understanding of the long history of connections between the coast and the Western Desert.

The Dampier Archipelago contains engravings of human figures (anthropomorphs) characteristic of most of the major art provinces in the Pilbara as well as a number of forms unique to the area (McDonald and Veth 2005). It has the potential to become a key site for establishing the sequence of engraved motifs in the Pilbara, an area described as without doubt the richest and most exciting region of rock engravings in Australia (McCarthy 1968: vi). The different degrees of weathering and the large number of super-positioned engravings provides an outstanding opportunity to establish a relative chronology for motifs characteristic of the major style provinces in the Pilbara (Lorblanchet 1992; Vinnicombe 2002; McDonald and Veth 2005).

(d) the place has outstanding heritage value to the nation because of the place's importance in demonstrating the principal characteristics of:
(i) a class of Australia's natural or cultural places;
or (ii) a class of

The rock engravings on the Dampier Archipelago include an extraordinarily diverse range of animal and human figures which are characteristic of regional styles that occur elsewhere in the Pilbara. Images of terrestrial and marine animals and birds in the Dampier Archipelago are similar to the range of images found at other coastal sites in the Pilbara such as Depuch Island and Port Hedland while the range of land animals is similar to those depicted in inland areas (cf Wright 1968; Ride *et al* 1964). A slightly simpler version of *Kurangara* figures, characteristic of the Upper Yule, is found in the Dampier Archipelago, only differing in the exaggeration of genitalia and intricacy of headdresses (McDonald and Veth 2005: Section 4.6). Similarly, a type of *Minjiburu* figure characteristic of Port Hedland also occurs in the Dampier Archipelago. Large birds or macropods with spears in their backs, images of turtles and hunting scenes characteristic of Sherlock Station and Depuch Island are found in the Dampier Archipelago, as are examples of stylised figures with exaggerated hands

Australia's natural and cultural environments. and feet, stylised stick figures with small human figures positioned under both arms. There are a number of images central to the style found on the Dampier Archipelago (McDonald and Veth 2005). They include: solid-bodied human figures with disconnected circular infilled heads and sinuous arm positions; profile figures with solid bodies and thin arms (often with an erect penis), occasionally positioned in rows; profile figures with the disconnected heads, grouped with each other or around a central line (as if climbing); groups of figures positioned beneath lines, as if hanging; the use of infilled circles to indicate joints (elbows, knees) or body parts (genitalia, stomachs, hands, feet); and therianthropes with various mixed human and animal characteristics, particularly lizard and bird. The Dampier Archipelago is outstanding as a place where engravings of human forms representative of all of the style provinces in the Pilbara, the richest and most exciting region of rock engravings in Australia, are found (McDonald and Veth 2005: Section 4; McCarthy 1968: vi).

(d) continued Standing stones on the Dampier Archipelago range from single monoliths through to extensive alignments comprising at least three or four hundred standing stones (Vinnicombe 2002). While some standing stones are associated with increase ceremonies, *thalu*, others were used to mark particular places with scarce resources, such as seasonal rock pools, and were also used to mark sites of traditional significance. The standing stones in the Dampier Archipelago are outstanding in a national context for the number of purposes they are known to have served.

(f) the place has outstanding heritage value to the nation because of the place's importance in demonstrating a high degree of creative or technical achievement at a particular period. The rock engravings in the Dampier Archipelago show exceptional creative diversity when compared with the other art provinces in the Pilbara or rock engravings elsewhere in Australia (McDonald and Veth 2005: Section 4.6). They include examples of the types of human figures characteristic of the other art provinces in the Pilbara as well as having unique human forms and figures indicating activity. The engravings on the Dampier Archipelago include detailed and finely executed examples of water birds, crabs, crayfish, kangaroos, turtles and fish, some of which, because of their detail, can be identified to species level. The finely executed animals identified to species level, the diversity of human forms and the panels of engravings showing scenes of human activity exhibit a high degree of creativity, particularly during the Holocene, that is unusual in Australian rock engravings.

For a description of any references quoted above, and more information on each of the places please search the Australian Heritage Database at <http://www.deh.gov.au/cgi-bin/ahdb/search.pl> using the name of the place.

Schedule 6

National Heritage Management Principles

1. The objective in managing National Heritage places to identify, protect, conserve, present and transmit, to all generations, their National Heritage values.
2. The management of National Heritage places should use the best available knowledge, skills and standards for those places, and include ongoing technical and community input to decisions and actions that may have a significant impact on their National Heritage values.
3. The management of National Heritage places should respect all heritage values of the place and seek to integrate, where appropriate, any Commonwealth, State, Territory and local government responsibilities for those places.
4. The management of National Heritage places should ensure that their use and presentation is consistent with the conservation of their National Heritage values.
5. The management of National Heritage places should make timely and appropriate provision for community involvement, especially by people who:
 - (a) have a particular interest in, or association with, the place; and
 - (b) may be affected by the management of the place.
6. Indigenous people are the primary source of information on the value of their heritage and the active participation of indigenous people in identification, assessment and management is integral to the effective protection of indigenous heritage values.
7. The management of National Heritage places should provide for regular monitoring, review and reporting on the conservation of National Heritage values.

Schedule 7

Hamersley Land

Mining Leases:

L47/20

Leases:

L 3116/3469

L 3116/3471

L 3116/4596

L 3116/6037

LGE I123646

LGE I195323

L 3116 - 3807

L 3116 - 3468

L 3116 - 5503

L 3116 - 5552

L 3116 - 3907

L 3116 - 4600

Schedule 8

DSL Land

Mining Leases:

AML 70/253

M 47/77

M 47/76

L 47/26

M 47/229

M 47/197

G 47/24

Leases:

LGE I123409

L 3116 - 4976