

S18 Consultation
under the Aboriginal Heritage Act (1972)
of
King Bay East Industrial Area
at
Burru Peninsula, Western Australia
with representatives of
**the Yaburarra, the Mardudhunera,
the Ngarluma, & the Injibandi people**

Prepared for
Astron Environmental
by
Ronald T Parker BA (Hons) anthrop
on behalf of
Australian Interaction Consultants

PO Box 90, Osborne Park WA 6917
Tel: (08) 9440 0500 ☎ Fax: (08) 9440 0955

May 2003

CONTENTS

ABBREVIATIONS USED IN THIS REPORT	3
ACKNOWLEDGEMENTS	3
DISCLAIMER	3
GPS DATUM USED	3
LIMITATIONS	3
1 SUMMARY & RECOMMENDATIONS	4
2 PREAMBLE	6
3 BRIEF AND REASON FOR SURVEY	10
4 METHODOLOGY	11
INDIGENOUS PERSONS TAKING PART IN THIS CONSULTATION	11
5 REVIEW OF DIA DATABASE SEARCH RESULTS	12
6 PRECONSULTATION AND FIELDWORK	18
6 PRECONSULTATION AND FIELDWORK	18
6.1 Preconsultation	18
7 DISCUSSION	22
8 CONCLUSIONS	23
9 RECOMMENDATIONS	24
REGIONAL MAP OF THE SURVEY AREA	25
LOCAL MAP SHOWING THE SURVEY AREA	26
LOCAL MAP SHOWING EXISTING DIA SITES	27
MAP OF THE PROJECT AREA SHOWING ALL SITES IN THE VICINITY	28

ABBREVIATIONS USED IN THIS REPORT

AIC	Australian Interaction Consultants
Astron	Astron Environmental
ACMC	Aboriginal Cultural Materials Committee
BGC	BGC Contracting Pty Ltd
DIA	Department of Indigenous Affairs
The Act	Aboriginal Heritage Act (1972)
HI	Hamersley Iron Pty Ltd.
MPR	Department of Mineral and Petroleum Resources
NTC	Native Title Claim

ACKNOWLEDGEMENTS

AIC acknowledges the input and participation of the representatives of the Yaburarra, the Coastal Mardudhunera, the Ngarluma, and the Injibandi people who participated in this survey and have contributed by providing information about the cultural aspects of the survey area. All of the participating Indigenous informants agreed to have their names recorded within this report. Our appreciation for the input and participation of the staff of Astron Environmental is also expressed.

DISCLAIMER

AIC attempts to give voice to the Indigenous people who take part in surveys such as the one reported here. As such, we neither claim the knowledge revealed to us, nor can we necessarily vouch for the veracity of the information given. We do, however, consult with those people who we consider to have the best knowledge of the area subject to the enquiry. In those instances where no ethnographic information is presented, it should not be presumed that no heritage values are present. Often, we are told by Indigenous people of how they have not known the consultant sufficiently well, or they have not been in the appropriate company, and have claimed ignorance of places that they may assert as a site at a different time, under different circumstances.

GPS DATUM USED

The GPS datum used during this survey was WGS 84

LIMITATIONS

Whereas we endeavour to pin point geographical/site locations, the limitations of handheld GPS devices will create inaccuracies on occasion.

1 SUMMARY & RECOMMENDATIONS

- 1.1 BGC proposes a quarrying and industrial redevelopment project, to be known as the King Bay East Industrial Area, on the northern shores of King Bay, located to the west of Burrup Road on the Burrup Peninsula, in Western Australia.
- 1.2 Astron Environmental have been contracted by BGC to oversee and co-ordinate all preliminary feasibility planning, including all the necessary environmental, ethnographic and archaeological heritage assessments needed before any construction or works operation can commence.
- 1.3 As the planned project will entail ground disturbance activity, Astron Environmental engaged AIC to complete the necessary consultation under the Act. At least two previous surveys of the proposed project area have been completed.
- 1.4 Native Title claims covering the area include:
 - Yaburarra & Coastal Mardudhunera – WAG0127/97 (WC96/89)
 - Wong-Goo-TT-Oo – WAG6256/98 (WC98/40)
 - Ngarluma and Injibandi – WAG6017/96 (WC99/14)
- 1.5 AIC made arrangements with representatives of the Yaburarra, the Coastal Mardudhunera, the Ngarluma, and the Injibandi socio linguistic group representatives and explained details of the project to them and invited them to participate in a field inspection of the project area in order to assess the heritage values that might be present. The report of the archaeological assessment is contained in a separate document.
- 1.6 AIC engaged archaeologist Donald Lantzke to complete an archaeological inspection of the area, which was completed on December 13th, 2002. The report of that investigation is contained in a separate document.
- 1.7 AIC engaged anthropologist Ronald T Parker to complete the ethnographic consultation with the designated people from the Yaburarra, the Mardudhunera, the Ngarluma and the Injibandi representatives on December 13th, 14th and 15th 2002 and February 5th, 2003.
- 1.8 The ethnographic inspections of the King Bay project area preceded using an agreed methodology that focused on the existing sites in that area. Each site was to be relocated during the surveys, marked with flagging and then assessed by those individuals taking part in the inspections.
- 1.9 The various Indigenous informants inspected the known sites within the project area and identified several new ones. Their comments regarding the preservation of the various sites are contained within the text of the fieldwork section.
- 1.10 An additional survey was conducted on February 5th, 2003 in response to the sighting of a spiritual Yaburarra man during the December 13th and

14th ethnographic investigations. Three female and two male Ngarluma and Injibandi representatives accompanied AIC consultant Ron Parker back into the field to record the sighting and re-assess the situation. As a result of this additional inspection the informants expressed their opinion that the spirits of the area were communicating their wishes that the area be dealt with in the proper traditional way.

- 1.11 AIC recommends that the area around the Thalu associated features be left intact.
- 1.12 AIC recommends that the area holding the standing stones in the south western corner of the project area be preserved intact.
- 1.13 AIC recommends that the individual standing stones be left intact and quarried along with any other rock that is mined, rather than be relocated to another area.
- 1.14 AIC recommends that the engravings be removed only under supervision by the Aboriginal people as per a heritage management plan agreed to by all parties.
- 1.15 AIC recommends that BGC seeks permission from the minister to disturb the sites that will be impacted by the project, other than those referred to in 9.1 and 9.2 above, under s18 of the Act.
- 1.16 AIC recommends that BGC negotiates a Heritage Management Plan with the Ngaluma, the Injibandi, the Yaburarra and the Coastal Mardudhunera people whereby those groups agree to the conditions under which the various sites can be mitigated.
- 1.17 AIC recommends that all staff and contractors engaged on this project be made fully aware of their responsibilities and obligations under the Act.

2 PREAMBLE

In the conduct of consultation under the Aboriginal Heritage Act (1972), it should always be borne in mind that at least two cultures are being engaged with: the developmental culture of mainstream Australia on the one hand; and Aboriginal culture on the other.

Developmental culture has a vested interest in having the proposed project proceed with the minimum of encumbrance or delay, whereas the Aboriginal Cultural position is often more complex.

One of the most significant issues that require attention in the endeavour towards reconciliation between the Indigenous population and the colonising culture is that of the diversity between Aboriginal groups and individuals.

It is often the case that developers focus their heritage assessment endeavours on the registered native title claims over the project area. Whereas this strategy is endorsed by MPR in that it only includes registered NTC's in its Tendex database, it can be misleading in the extreme as to who the people are that hold the knowledge of the country in a traditional sense.

Even within a relatively intact Indigenous cultural group, the levels of knowledge can vary significantly, for a whole variety of reasons. In today's relatively mobile (both geographically and socially) communities, the levels of knowledge can be difficult to ascertain except by the trained and experienced ethnologist. Although the systematic practice of surveys of the project area under the Act is not yet 10 years old, the Aboriginal Heritage Act is now 30 years in existence. Prior to the proclamation of the Native Title Act (1993) few routine surveys were carried out.

Because of the tendency of Representative Bodies to support the Named Claimants, or applicants, of the claims within their jurisdiction area, their legal personnel have often insisted upon, and written, heritage conduct agreements that are biased towards the applicants rather than those Indigenous people who hold the traditional knowledge of the country.

In light of the above, it can be seen that one of the functions of the consultant in any survey or consultation under the Act is to focus on the identification of sites and to ensure that any site identified gets the full protection of the Act. The people who have identified any site should have control of the knowledge regarding that site as it may well be culturally inappropriate for the uninitiated, or the opposite gender, to gain access to that knowledge. In the larger context, both males and females who embrace the traditional ways have knowledge of the major songlines and stories that originated in the Dreamtime. Those songlines often extend across much of this continent, and some traverse it completely from both east and west as well as north and south.

Individuals, families or clan groups can be the traditional repositories of stories and traditions. Totems may also be influential in determining who should be consulted regarding a particular place.

Our present position is that we believe that Indigenous people may well belong to country, because of their level of knowledge of that country, rather than the country belonging to any person or group.

In the instance of the Burrup Peninsula and the area between the Nickol River and Peter's Creek, the Yaburarra and the Mardudhunera people have unchallengeable credentials for connection. Some Ngarluma people also have strong claims that demonstrate that they have knowledge of the country within the Burrup. Similarly, certain Injibandi people have demonstrated that they have knowledge of the islands in and around Dampier, even though their traditional country is said to be further inland and, therefore, should be included in the consultation process regarding heritage assessment in the Burrup Islands area. The tragedy is that, because of political and legal posturing and manoeuvring, many surveys are completed without all the proper people being included, and other people who are less knowledgeable and who are junior to the Elders are included in surveys to the detriment of the accumulated body of knowledge regarding sites in the various areas.

Indigenous people in Western Australia have been adapting, out of necessity, to the European culture for some seven generations. That adaptation has taken many forms and has, to a large extent, resulted in a myriad of synthesised, in the Hegelian sense, local systems of role and identity construction. Those evolving constructions, whilst based to varying degrees on the traditional beliefs of the old people, today have an emphasis on social strata based on age and experience, and the care and preservation of the environment, as well as that that persists of the knowledge of traditional spirituality

Pre-contact indigenous people had a well-developed system of kinship that located different responsibilities with various kinsfolk. These responsibilities included those that perpetuated and safeguarded all aspects of the pre-literate society, not the least of which were those relating to ceremony and places. Significant sites included those associated with conception, renewal, initiation, birth, camping, the majority of the physical terrain concerning Dreaming activities of the creation beings, and ceremonial locations generally. The people, both in the past and in the present, relate to the land in a spiritual and symbiotic manner that is difficult for non-Aboriginal people to comprehend or empathise with. Within that system it was (and in many places still is) usual for the responsibility, or "ownership", of the correct and full story of any place to reside with few, or even solitary, individuals. However, as people progress through the various stages of their initiation into the Law (as decree and established by the Dreaming Beings) they were made aware of the activities of the Creators or Earth Formers as they progressed throughout the countryside. As an example, men from Central Australian areas would be taught of the earth creating exploits of the various Dreaming Beings as they had journeyed across the "soft" earth forming ridges, hills waterways, claypans, lakes etc.

To gain information about any site it is proper and important to consult with the person or people who are the "proper" or "traditional" custodians of the country, and the knowledge surrounding it – even though many others would be familiar with the story, there were those that had prime custody of that place. Sometimes the traditional custodian of a place would perish and the story would not have been passed down to his,

or her, descendants and knowledgeable people from elsewhere would have to be consulted to revitalise the knowledge locally.

Under the Aboriginal Heritage Act (1972)[the Act] all sites that Aboriginal people consider important can be identified and protected. The draft *Guidelines for Aboriginal Heritage Assessment in Western Australia (1994)* suggests under its section *Ethnographic reporting requirements (2)*

All Aboriginal individuals and formal organisations which have a reasonable interest in the land in question or who might reasonably be expected to have an interest in the land that is subject to the survey, should be consulted and their views reported, or the reasons for their exclusion discussed.

This report tells of all who have been approached, both the groups and the individuals, in an attempt to include all those who might have knowledge of the country covered by the project in question. However, for a number of reasons it sometimes happens that our best efforts to make contact are to no avail and those people do not take part in the survey.

In an attempt to gain an understanding of the contemporary Aboriginal world view and circumstance, we take an extract from the foreword of Elkin's *Aboriginal Men of High Degree* (1994):

Changes that have been forced on the tradition of Aboriginal men of high degree have caused contemporary Australian Aboriginal society to adapt to the forceful powers of colonial oppression. The dominant white culture in Australia is based on a historical belief that Aborigines must be assimilated into the Australian culture. In 200 years we have seen Aboriginal religions, customs, languages, land management, and social cohesion calculatedly forced out of Australian Aborigine society. The view of whites has been, and continues to be, that Australians are one people and that Aborigines must be assimilated to remove the indigenous consciousness from the "new nation". The assimilation program has failed, but it is still a covert objective in the minds of the majority of Australians.

Aboriginal perspective's on spiritual knowledge in such areas as healing, death, punishment, magic, and interactive psychic and animistic beliefs are not clearly understood by white people. Even most Aboriginal people today do not understand them. Those who do have some grasp on Aboriginal spirituality to the depth of high degree are adapting that knowledge to a broader need in Aboriginal cultural maintenance.

Contemporary Aboriginal society is changing at an incredible pace. Its amalgamation with Western technologies and its yielding to social and cultural pressures create an immense threat to indigenous relationships with the world ecological order. Aboriginal people are in the throes of a political struggle to have their land and rights restored.

'As modern society intrudes into indigenous minds, introducing different values and directions, Aborigines can be expected to lose sight of certain principles in the process. "Aboriginal land rights" does not mean that the people are simply entitled to land. Nor does the term mean that the land owes anything to the people. Aborigines do not justify land rights in terms of economy, accommodation, or possession. Rather, Aboriginal land rights represent a whole set of responsibilities, among which is the obligation to preserve

the unique essence of their original law. Aborigines have the responsibility to be custodians of land, sea, and sky. They must remain accountable to the ecological world, which accepts indigenous intrusion and use of that ecology only on sound practices of interaction with the spirit of the land, manifested in strict rules of respect and protection.

Today, Aboriginal men and women of high degree, who understand their responsibilities as keepers of indigenous principles, can learn much from Professor Elkin's Aboriginal Men of High Degree—not about the tribal practice or mystical world of yesterday, but about the intangible accountability woven between the lines of this book. Elkin brings out the views but not the inner workings; Aboriginal people of high degree must seek the details for themselves, whether in the areas of healing, the law, the animistic meshing with people, or the rules of land management. In all those endeavours, the responsibilities of indigenous people of high degree can be carried with us as a symbol of human accountability in being allowed the right to participate in the planet's ecology.

Undoubtedly, failure to achieve recognition and practice of indigenous principles will end this era of human life on planet Earth.

Jim Everett
Aboriginal Writer in Residence
Riawunna
Aboriginal Student Services
University of Tasmania
June 1993

Because of the sensitivity, under the process of the Native Title Act (1993) and the Native Title Amendment Act (1998), of the ownership of spiritual, traditional, historical and other ethnographic knowledge we have endeavoured to keep the focus on whether any site currently exists within the survey area. In the instances where no site has been indicated in the immediate vicinity of the project, no ethnographic data has been solicited. Where a site has been identified and is in danger of interference from the project, full details are required to be collected and verified in order for that site to be extended the protection afforded by the Act.

This report is designed to identify, and indicate the presence of, any Aboriginal site within the project area that may require the project to be modified, if possible, and to allow sites to be registered with the DIA and thus be afforded protection under the Act. Should a S18 application be made, further consultation with the Ngarluma Injibandi people will not be necessary unless sites other than those inspected during this consultation are affected. The attitude of the Ngarluma Injibandi people regarding the BGC proposal to undertake mining operations and industrial redevelopment in an area where there are sites that may be disturbed by the project, will be ascertained and documented within the pages of this report.

3 BRIEF AND REASON FOR SURVEY

- 3.1 BGC has negotiated a twenty-year lease with the Dampier Port Authority of an area of land known as the King Bay Eastern Lease Area. It proposes to quarry the rock from the area to level it and to develop it as a light industrial area in line with a plan developed in the 1960's by Hamersley Iron. Woodside Petroleum assumed the HI portion of the balance of the area in 1976. In 1994 the whole of the area was vested in the Dampier Port Authority for the purposes of port activities. It is estimated that between 1 million and 2 million m³ of rock will be quarried, crushed, and sold from the area over a 20 year period.
- 3.2 Upon completion of the proposed mining operation the area will be levelled and cleared to make way for a commercial endeavour subdividing the land for sale as lots in a light industrial area.
- 3.3 Astron Environmental has been contracted by BGC to oversee and co-ordinate all preliminary feasibility planning, including all the necessary environmental, archaeological and heritage assessments needed before any construction or works operations can commence.
- 3.4 The proposed works would invariably disturb the project area and surrounding land, both below ground and above, thus sites of significance to Indigenous populations in proximity may be disturbed.
- 3.5 To comply with responsibilities stipulated within, and to avoid contravention of, the Aboriginal Heritage Act (1972), BGC engaged the services of AIC to conduct the required ethnographic and archaeological studies for the proposed works.
- 3.6 Field inspections of the project area were completed on December 13th and 14th, and 15th 2002, as well as 5th February, 2003, with representatives from the participating groups.
- 3.7 This report documents all proceedings of ethnographic and archaeological surveys conducted by AIC consultants. The report identifies any Aboriginal site requiring a Section 18 application with respect to activity/development that may disturb the site/s.

4 METHODOLOGY

In the completion of this project AIC will follow the methodology as outlined below

- Archival search including DIA sites records
- Analysis of those records
- Completion of an ethnographic inspection and consultation of the project areas highlighting the sensitive areas and recommending procedures to avoid those areas.
- Briefing by Astron Environmental staff and pre-consultative discussions with representatives of the Ngarluma, the Injibandi, the Yaburarra and the Mardudhunera peoples.
- Completion of an ethnographic inspection of the project area with all representatives of the different groups and in conjunction with the archaeologist noting all concerns, if any.
- Submission of a draft of the report to the participating people and the Client
- Editing and correction of the draft where, and if, necessary
- Submission of the final report to the client, to the participating indigenous groups and to the Perth office of DIA.

INDIGENOUS PERSONS TAKING PART IN THIS CONSULTATION

David Daniel, Trevor Solomon, Kenny Jerrold, Rodney Parker, Febian Smirk, Gary Daniel, Alec Ned, Robert Boona, Sandra Lockyer, Margaret Boona, Lawrence Kerr, Michael Boona, Tootsie Daniel, Pansy Hicks, and Lillian McKay.

All of the above persons either have qualification to speak for the area under Aboriginal law, or have direct connection to it by way of marriage or Native Title claim.

5 REVIEW OF DIA DATABASE SEARCH RESULTS

5.1 A review of the Site Register held by the Department of Indigenous Affairs by Donald Lantzke as presented below revealed that 28 previously recorded sites are located in or near the survey area. Details of these sites are synthesised in Table 1 and shown graphically in Figure 2.

5.2 Most, if not all of these sites were recorded during different phases of the Woodside Surveys (DAS 1984; Vinnicombe 1987). The area was subject to a re-examination in 1996 as part of the King Bay-Hearson Cove Study (Vinnicombe 1997b) and a number of the sites were re-examined and reassessed as part of the proposed Dampier Port Authority subdivision (1997).

Site Id.	Site No.	Site Name	Easting	Northing	Site Type	Status	Notes
9,297	P03016	Screening Area 1	475414	7719434	3 Engravings, standing stone recorded in (1997)	Partially cleared	
9,298	P03017	Screening Area 2	475498	7719145	26 Engravings, Artefacts,	Partially cleared	2 boulders salvaged
9,299	P03018	Screening Area 3	475421	7719074	2 Engravings, artefacts	Partially cleared	2 boulders salvaged, all artefacts collected
9,300	P03019	Screening Area 4, King Bay	475580	7719200	88 Engravings, Artefacts core, flake scatter & retouched flake	Preserved in situ	
9,301	P03020	Screening Area 5, King Bay	475408	7719168	18 Engravings	Cleared	12 boulders salvaged
9,302	P03021	Screening Area 6, King Bay	475473	7719178	6 Engravings	Preserved in situ	
9,770	P02427	King Bay East	475478	7719331	Engravings	Cleared	
9,771	P02428	King Bay East	475276	7719185	18 Engravings	Cleared	17 boulders salvaged
9,772	P02429	King Bay East	475367	7719284	Structure, 9 engravings, artefacts	Partially cleared	3 boulders salvaged
9,773	P02430	King Bay East	475269	7719281	Structure - 1 pit, 1 engraving	Cleared	Engraving salvaged
9,774	P02431	King Bay East	475463	7719234	Structure - 1 pit, 11 engravings	Partially cleared	2 boulders salvaged
9,775	P02432	King Bay East	475513	7719217	Structure, 1 engraving	Preserved in situ	
9,776	P02433	King Bay East	475510	7719182	Structure, 24 engravings	Preserved in situ	
9,777	P02434	King Bay East	475476	7719083	Engravings, quarry, artefact, grinding	Preserved in situ	
9,778	P02435	King Bay East	475514	7719038	Structure, engravings	Preserved in situ	
9,779	P02436	King Bay East	475527	7718968	Structure, engravings	Preserved in situ	
9,780	P02437	King Bay East	475485	7718860	Engravings, artefact	Preserved in situ	
9,781	P02438	King Bay East	475355	7718769	Engravings, artefact	Preserved in situ	
10,360	P01832	King Bay Woodside 01	475647	7719072	Structure - 6 pits, 23 engravings	Preserved in situ	
10,361	P01833	King Bay Woodside 02	475588	7719072	Engravings	Preserved in situ	
10,362	P01834	King Bay Woodside 03	475575	7719118	Structure, 9 engravings, artefact	Preserved in situ	
10,363	P01835	King Bay Woodside 04	475599	7719147	13 Engravings	Preserved in situ	
10,364	P01836	King Bay Woodside 05	475607	7719174	Structure, engravings		Status not clear, probably preserved in situ
10,365	P01837	King Bay	475419	7719262	8 Engravings	Partially cleared	6 boulders salvaged

ABORIGINAL HERITAGE SURVEY OF KING BAY EAST INDUSTRIAL AREA - BURRUP PENINSULA

10,289	P01866	Woodside 06 King Bay Woodside 35	475258	7719142	Structure - 1 pit	Preserved in situ	
10,290	P01867	King Bay Woodside 36	475510	7718917	Structure - standing stone, artefact	Preserved in situ	
10,291	P01868	King Bay Woodside 37	475453	7718889	Engravings	Preserved in situ	
10,292	P01869	King Bay Woodside 38	475250	7718758	Artefact, midden	Preserved in situ	Engravings, grinding patches noted in 1997
9,551	P02649	Changed Site	475299	7718862	Artefact, grinding	Cleared	
9,833	P02377	Grinding Patch Site	475670	7718853	Engravings, artefact, midden, grinding	Cleared	

Table 1: Previously recorded sites in vicinity of proposed development area.¹

- 5.3 The Status Column in Table 1 refers to status (*Cleared, Partially Cleared, In Situ*) of the sites as a result of Section 18 applications submitted by Woodside in 1980. This status does not necessarily provide any indication of the current legal status of sites, however it does provide an indication of relative levels of physical disturbance that the area and the sites have sustained. Information relating to numbers of boulders, presumably containing engravings, that were salvaged from sites is derived from data provided in DAS (1984). It is not possible to ascertain from this information how many engravings were actually salvaged from specific sites. However, as is the case with Site Status it provides an indication of the current status of the sites.
- 5.4 The vast majority of previously recorded sites contain multiple components, with engravings comprising the main component (n = 26). Structures and artefact scatters comprise the next most frequent site component (n=12 respectively). Grinding patches occur in about 10% of the sites (n=3), a stone quarry occurs at one site and the component of shells occurs at two sites.
- 5.5 The current survey area was part of a larger area, subject to an archaeological review in 1997, when the Dampier Port Authority undertook a sub-division of the land (Lantzke 1997). The focus of this study was to relocate previously recorded sites and assess their status and significance for Section 18 applications.
- 5.6 The primary focus of the survey was on what was termed Lot 1.1, which Mermaid Marine is currently utilising, and Lots 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9 and 1.10, which collectively comprised Stage 1 of the Subdivision. With the exception of Lots 1.9 and 1.10, now defined as Lot 1 in the current maps, all of the then Stage 1 area now appears to have been developed (Figures 2 and 3).
- 5.7 The area defined as Stage 2 in Lantzke (1997) comprises the bulk of the current survey area. No systematic archaeological survey was undertaken in this area in 1997, although the report noted the presence of sites in this area and indicated that further archaeological investigations and

¹ Data obtained from Department of Indigenous Affairs Site Register.

assessments would need to be undertaken before any development could be contemplated in this area.

5.8 It must be emphasised that there are considerable problems with much of the available data for previously recorded sites. These problems include:

- Discrepancies between the plotted positions of sites according to the DIA register and their actual on-the-ground positions. Recourse to the Dampier Archaeological Project Map Folio which purports to plot the exact location of all the sites located during the Dampier Archaeological Project has also been shown to be inaccurate when showing the positions of sites;
- Site File descriptions referring to features and landmarks that no longer exist. As noted in Section 3 above, considerable alterations have been made to the landscape since these sites were originally reported and parts of the Burrup have become virtually unrecognisable;
- Sketchy details in the Site Files about what is actually located at the site, e.g. a number of engravings. It must be acknowledged that levels of site recording have varied somewhat according to the perceived risk of damage to those sites;
- Incomplete details about the current status of many sites. While the Dampier Archaeological Project notes the status of sites as a result of the Woodside development, details about subsequent projects in the area and their impacts on sites is not as readily available.

5.9 These types of problems have had the effect that many Archaeological Sites have often been recorded several times as a result of confusion over their exact positions. Archaeological surveys have covered overlapping terrain, resulting in conflicting reports over the archaeological signature of particular areas. For example, an archaeological survey of a proposed Water Tank facility undertaken for the Water Corporation located an engraving complex in the buffer zone around the proposed tank facility (Lantzke 2002). This buffer zone falls within the proposed Burrup Fertilisers Development area. An archaeological survey of Burrup Fertilisers project area, including the buffer zone, had previously been undertaken for Burrup Fertilisers and apparently located three archaeological sites (Quartermaine 2001). None of these three sites described in that report appear to resemble the one located during the later survey. Jackson *et al.* (2002) also noted similar discrepancies in relation to sites in this area.

5.10 Many areas of the Burrup, particularly around King Bay, have suffered from the effects of considerable physical disturbance that has inevitably affected the archaeological signature of these areas. As a result of these disturbances it seems almost inevitable that many Aboriginal sites on the Burrup have been destroyed and/or damaged both with and without Section 18 consents. Certainly allegations and complaints have been made

that unauthorised disturbances have occurred at King Bay (see for example, Astron Environmental 1998).

- 5.11 Many of these problems are suspected to be a result of changes in technology used to position the sites (e.g. the use of Global Positioning Technology), changes in the standard mapping datum (e.g. transferring from AMG84 to GDA94 and in some instances changing from Imperial Grid References to Metric Grid) and limited dialogue between DIA and consultants about these issues. A number of Heritage consultants have noted these discrepancies and problems in the course of undertaking work on the Burrup (e.g. Draper 2002a, 2002b; Parker 2001a, 2001b; Lantzke 2001, 2002).
- 5.12 It must be noted that the identification of these problematic issues does not detract from the quality and value of the large-scale research programmes undertaken in the past (i.e. DAS 1984; Vinnicombe 1987). The problems are more a reflection of subsequent developments and their related heritage management practises that seem to have had little managerial input from relevant government agencies such as the Department of Indigenous Affairs. This situation is not assisted by the DIA only having limited funding and personnel available to address such issues. However, as the government agency responsible for managing Aboriginal Heritage in the State, it is a matter of some urgency that the Department of Indigenous Affairs begin to address some of these issues and implement appropriate heritage management strategies for the Burrup Peninsula.
- 5.13 In addition to relocating most of the previously recorded sites, a number of apparently unrecorded archaeological sites were also identified. Details of the apparently new finds are presented in Table 6, below.

Site Id.	Site No.	Site Name	Comments	Status	Zone
9,297	P03016	Screening Area 1	Only Standing Stone remains	Highly disturbed	Near Coastal Uplands
9,298	P03017	Screening Area 2	Engravings located over 50 m by 60 m area on western slope	Undisturbed	Near Coastal Uplands
9,299	P03018	Screening Area 3	Engravings 10 m by 20 m area	Heavy vehicle tracks in area	Near Coastal Uplands
9,300	P03019	Screening Area 4, King Bay	same as 10,363, 40+ engravings in 80 m by 100 m area on eastern slope, 2 engravings located on western slope	Undisturbed, track at base of eastern slope	Inland Plain
9,302	P03021	Screening Area 6, King Bay	Engravings located on knoll over 20 m by 25 m area	Adjacent to power line, old fence also present	Inland Plain
9,770	P02427	King Bay East	One engraving located	Highly disturbed, adjacent to power line	Near Coastal Uplands
9,772	P02429	King Bay East	5 engravings and one grinding patch identified	Heavy vehicle track running around base	Near Coastal Uplands
9,774	P02431	King Bay East	3 engravings noted	Heavy vehicle track around base	Near Coastal Uplands
9,776	P02433	King Bay East	12 engravings located over 40 m by 50 m area. Stone pit present. May overlap with	Heavy vehicle tracks in area	Near Coastal Uplands

ABORIGINAL HERITAGE SURVEY OF KING BAY EAST INDUSTRIAL AREA - BURRUP PENINSULA

9,777	P02434	King Bay East	9298 Noted, not examined in detail	Undisturbed	Near Coastal Uplands
9,778	P02435	King Bay East	Standing stones, engravings, grinding patch, pit	Undisturbed	Near Coastal Uplands
9,779	P02436	King Bay East	Engravings noted	Undisturbed	Near Coastal Uplands
9,780	P02437	King Bay East	Engravings, artefact	Undisturbed	Near Coastal Uplands
10,360	P01832	King Bay Woodside 01	4 engravings and pits	Undisturbed	Near Coastal Uplands
10,361	P01833	King Bay Woodside 02	6 features noted in 10 m by 10 m area on north eastern side; 25+ engravings in 50 m by 70 m area on southern and eastern slopes, standing stone and engravings on northern western margins	Undisturbed	Near Coastal Uplands
10,362	P01834	King Bay Woodside 03	6 engravings in 40 m by 30 m area, 1 pit	Undisturbed	Near Coastal Uplands
10,363	P01835	King Bay Woodside 04	Part of complex comprising 9300 and 10,364. 6 engravings in 30 m by 40 m area	Undisturbed	Near Coastal Uplands
10,364	P01836	King Bay Woodside 05	Part of complex comprising 9300 and 10,363	Undisturbed	Near Coastal Uplands
10,365	P01837	King Bay Woodside 06	5 engravings noted	Heavy vehicle tracks in vicinity	Near Coastal Uplands
10,289	P01866	King Bay Woodside 35	Pit not identified, Engravings located here	Partially disturbed, adjacent to existing developments	Near Coastal Uplands
10,290	P01867	King Bay Woodside 36	Engravings	Undisturbed	Near Coastal Uplands
10,291	P01868	King Bay Woodside 37	Engravings	Undisturbed	Near Coastal Uplands

Table 2: Previously recorded sites located during the archaeological inspection.

Site Id.	Site No.	Site Name	Comments	Status
9,301	P03020	Screening Area 5, King Bay	Apparently situated in vicinity of power line.	Presumed destroyed
9,771	P02428	King Bay East	On edge of developed area	Presumed destroyed
9,773	P02430	King Bay East	On edge of developed area	Presumed destroyed
9,775	P02432	King Bay East	In area adjacent to old power line	Not located, presumed destroyed.

Table 3: Synthesis of information about previously recorded sites not located during the inspection.

ABORIGINAL HERITAGE SURVEY OF KING BAY EAST INDUSTRIAL AREA – BURRUP PENINSULA

Site Id.	Site No.	Site Name	Comments	Status
9,300	P03019	Screening Area 4, King Bay	same as 10,383, 40+ engravings in 80 m by 100 m area on eastern slope, 2 engravings located on western slope	Undisturbed, track at base of eastern slope. Outside survey area
10,360	P01832	King Bay Woodside 01	4 engravings and pits	Undisturbed. Outside survey area
10,362	P01834	King Bay Woodside 03	6 engravings in 40 m by 30 m area, 1 pit	Undisturbed. On margins of survey area
10,363	P01835	King Bay Woodside 04	Part of complex comprising 9300 and 10,364. 6 engravings in 30 m by 40 m area	Undisturbed. Outside survey area
10,364	P01836	King Bay Woodside 05	Part of complex comprising 9300 and 10,363	Undisturbed. Outside survey area
10,290	P01867	King Bay Woodside 36	Engravings	Undisturbed. On margins of survey area
10,291	P01868	King Bay Woodside 37	Engravings	Undisturbed. On margins of survey area
9,780	P02437	King Bay East	Noted during survey	On margins of survey area

Table 4: Synthesis of previously recorded sites outside survey area that were identified during the survey.

Site Id.	Site No.	Site Name	Comments	Status
9,781	P02438	King Bay East	Not examined	Outside survey area
10,292	P01869	King Bay Woodside 38	Not examined, area was intact in 1997	Outside survey area
9,551	P02649	Changed Site	Not located in 1997 inspection, listed as cleared	Outside survey area, presumed destroyed
9,833	P02377	Grinding Patch Site	Not examined, listed as cleared	Outside survey area

Table 5: Synthesis of previously recorded sites outside survey area that were not examined during the survey.

Site Name	Site Number	Easting ²	Northing	Site Type	Notes
KBS01	Nil	475419.0	7719346.0	Grinding patch	One feature identified
KBS02	Nil	475439.3	7719039.7	Engravings	4 features in 10 m by 10 m area
KBS03	Nil	475407.9	7718874.5	Grinding patches	5 features in 15 m by 15 m area
KBS04	Nil	475455	7718928	Standing stone	Associated with KBS05
KBS05	Nil	475452	7718910	Engravings	Possibly part of Site 10,291
KBS07	Nil	475409	7718965	Enigmatic engraving	
KBS08	Nil	475398	7719015	Engravings, grinding patch, stone feature	

Table 6: Details of apparently unrecorded archaeological sites located during the survey process

² Co-ordinates presented GDA 94 Datum

6 PRECONSULTATION AND FIELDWORK

6.1 Preconsultation

- 6.1.1 The groups with whom AIC was to consult regarding the proposed King Bay East Industrial Area project were the Yaburarra, the Coastal Mardudhunera, the Ngarluma, and the Injibandi people.
- 6.1.2 The contact person for the Yaburarra and Coastal Mardudhunera people is Mr Robert Boona and the contact person for the Ngarluma people is Mr David Daniel. Mr Daniel also undertook, on this occasion, to inform Injibandi Lawman Mr Kenny Jerrold.
- 6.1.3 The above people were contacted and the King Bay East Industrial Area project was explained to them. Arrangements were made for representatives from the groups to conduct a field inspection of the project area with AIC consultants.

6.2 Fieldwork

The Ngarluma and the Injibandi representatives

- 6.2.1 On Friday 13 December 2002 AIC heritage consultants Donald Lantzke and Ron Parker travelled to Karratha where they made contact with John Nicolson from Astron Environmental and arranged to meet on King Bay road the Burrup Peninsula.
- 6.2.2 The informants from the Ngarluma and the Injibandi peoples also met at that project area. Present were David Daniel, Trevor Solomon, Kenny Jerrold, Alec Ned, Rodney Parker, and Fabian Smirk. Several women were also present, however, they stayed in the vehicles during the area inspection.
- 6.2.3 After introductions were completed, maps of the area were examined and the project discussed. John Nicolson explained that BGC planned to level the area and sell the rock that was to be removed, and then develop the cleared area as a light industrial area to service the Burrup generally.
- 6.2.4 The agreed methodology was to examine the maps to ascertain the project area and then, by using an overlay of recorded sites, the known cultural values of the area could be inspected. The informants agreed that the area had been surveyed at least twice in the past and that they were familiar with the area generally.
- 6.2.5 It was further agreed that the group would separate into smaller units and each of the known sites would be inspected and the general area would be examined for further sites. Each site was to be marked with flagging and the whole team could then examine all sites and, after a group discussion, make their wishes and concerns known to the consultants.

- 6.2.6 During the course of the project area inspection, the archaeologist, the anthropologist and the Aboriginal lawmen inspected the sites as marked on the maps from the DIA database information. Where ever possible the sites and their various elements were confirmed and the opinions of the Ngarluma and the Injibandi lawmen noted.
- 6.2.7 The first area to be looked at is that nominated on the map as site ID 9297. There are said to be 3 engravings and they have been partially cleared by previous development under a s18 application permission from the minister.
- 6.2.8 In AMG zone 50, at 475418e, 7719432n, at the location identified as site ID 9297, is a standing stone. This standing stone was identified by Kenny Jerrold 4 or 5 years ago when he was doing a survey with Donald Lantzke. Kenny explained that the stone was the signifier of the presence of the spirit of an old Yaburarra man and that the marker stone cannot be removed without creating trouble for, and from, that spirit. If the hill has to be quarried, then the stone is to be treated the same as the rest of the hill. The stone should not be separately removed from the country on which it lies.
- 6.2.9 There is evidence of bulldozing on the road at the side of this stone and the rock pile it rests upon. It is thought that the road was constructed to complete the salvage of some of the engravings in the area. It is unclear why only some of the original engravings in the area were cleared and it is apparent that some that were adjacent to the removed originals are still in situ. This made the inspection of the existing sites more difficult as there was no reliable mode to ascertain when to stop the search for sites that were only partially present.
- 6.2.10 The entire area was covered by the survey team with the known sites being confirmed, where practicable, and new sites being recorded. The advice from the Lawmen was that the engravings could all be relocated to other agreed-upon areas and the standing stones and the grinding patches and tool archaeology could be destroyed with the quarrying. The exceptions being the fish Thalu and the standing stones in the south west corner of the project area.
- 6.2.11 The fish Thalu area is at 475513e 7719028n, and extends for some forty metres to the north and east from that point. The law men were strongly of the opinion that the area could not be disturbed. They asked that the area be registered with the Sites Department and not be subject of a s18 application.
- 6.2.12 Many other sites were inspected as the area was covered. The cultural features identified were all archaeological and were discussed with the archaeologist and the anthropologist present.
- 6.2.13 The team were then directed to a pile of stones in the south western corner of the project area. There at 475382e 7718904n, is an apparently natural jumble of oblong wafers of stone of various

lengths. The pile is about forty metres square. This feature, according to Kenny Jerrold, represents the Yaburarra men and women that were killed in the massacres a long time ago, and these stones are all standing here are the spirits of those people still. He said that this area needs to be fenced off and not disturbed or developed in any way.

6.2.14 From that point the team completed the survey of the archaeological features of the area, noting and commenting on the various sites as described above.

6.2.15 The survey came to a close and the informants returned home.

The Yaburarra and the Mardudhunera Representatives

6.2.16 On 14th December 2002, AIC heritage consultants Ron Parker and Donald Lantzke met with representatives of the Yaburarra and Coastal Mardudhunera people on King Bay Road on the Burrup Peninsula.

6.2.17 The project was described in detail and maps of the project area were examined that showed the known sites contained within the project area.

6.2.18 The people explained that they knew the area and said that they had previously taken part in surveys of that area.

6.2.19 The methodology agreed upon was for them to go around to the various sites that had already been flagged by the Ngarluma and Injibandi people the previous days. Comments would be made and any additional sites would be noted.

6.2.20 The area was examined over a period of two days and no further sites were identified.

6.2.21 The Yaburarra and Coastal Mardudhunera people also wanted the Thalu site protected and the standing stone complex in the south west corner of the area protected. The remainder of the sites, especially the engravings, they wanted removed to another area to be decided by the groups. The Yaburarra and Coastal Mardudhunera people expressed some concern that, if the sites at that block were to be removed, there would be no more engravings in place along King Bay. However, they did not express any strong opposition to the project proceeding.

Second meeting with the Ngarluma people

6.2.22 Several days after the consultants had returned to Perth Ron Parker received a telephone call from David Daniel expressing concern regarding something that had happened to the Ngarluma and Injibandi women that had been awaiting the return of their men during the survey and consultation of the project area. Tootsy Daniel had told of how, as the women were leaving the area, a strong spiritual presence centred on one of the standing stones within the project area had manifested itself. The women were convinced that one of the Yaburarra men had made himself felt to them and they wanted the men to check the matter out further.

- 6.2.23 A conversation between Parker and Astron representative John Nicholson resulted in an approach being made to BGC to agree to make the necessary arrangements for Lawmen to accompany the women back to the area in the company of the consultant in an attempt to resolve the matter.
- 6.2.24 That meeting was agreed to and, on Wednesday 5th February 2003, AIC heritage consultant Ron Parker met on the Burrup Peninsular at King Bay next to the Schlumberger works. The representatives of the Ngarluma people were Trevor Soloman, Tootsy Daniel, Pansy Hicks, Lillian McKay and Gary Daniel.
- 6.2.25 Tootsy told of the experiences of the group and indicated the area where the manifestation had occurred. Tootsy said:

On that Saturday when you did your survey, Ron, with the boys, with the men, us girls came out here and he came looking for one of the men, so we found them and we were talking to them and while we were driving back it was, myself, Pansy, Josie and Lillian...we saw this familiar figure of a man shape on stone, so as we were driving along it is like it gets beamed on us and showed the reflection on us...and so, and we thought it was something in, we think it is something significant around this area. We strongly believe because when we got home we forgot all about it until Josie raised it up again and we thought that is right, we have to do something about that. We will show you Ron and point out the spot where it is.

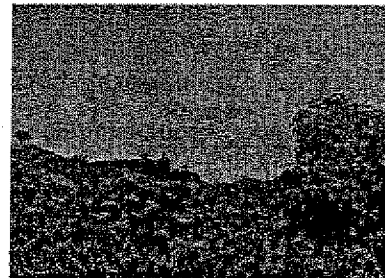


Photo showing a close-up and distant view of where the women had their experience

- 6.2.26 The conversation turned to what the manifestation might have meant and to the fact that an earth tremor had been felt on the Burrup the previous day. Trevor expressed the view that the spiritual happening and the tremor was the spirits of the people on the Burrup letting it be known that they wanted the country left alone.
- 6.2.27 The consultant asked if it changed the support of the people for the project as previously discussed and Trevor and Gary both asserted that, as long as the instructions that were given during the survey were carried out, the project would be alright to proceed.

7 DISCUSSION

- 7.1 As is usual with surveys on the Burrup, sites additional to those that had been identified during earlier surveys were recorded during this consultation and field inspection.
- 7.2 It is significant that all groups including the Ngarluma, the Injibandi, The Yaburarra and the Coastal Mardudhunera, agreed that the Thalu complex and the standing stones in the south west corner were to remain intact. They were likewise in agreement in regard to all the engraving being able to be relocated under proper arrangements -normally agreed before hand through a signed Heritage Management Plan agreement.
- 7.3 The spiritual manifestation of the "old Yaburarra man" is also consistent with related experiences recorded around the state associated with spirit people, little people, marmu's and the like. These instances generally have an interpretation regarding the wishes of the [spirit] people. In this instance it appears that the interpreted message is that the spirits of the Yaburarra people are letting it be known that they insist that the development on the peninsula is allowed only under proper observance of the traditional law.
- 7.4 The experience of Tootsy and her female companions and the resultant inspection of the area by lawmen to interpret the situation raises the need to re-iterate the dictates of traditional law regarding speaking for country.
- 7.5 From Central Australia to the West Australian Coast from (at least) the Pilbara southwards there is generally accepted that there is only one law. The dictates of that law were made apparent during the exploits of the beings that lived, and live, during the Dreamtime.
- 7.6 One of those laws is that only people qualified in law can speak for country. Even then, when any person, male or female, speaks for country he or she should always be accompanied by at least one other, similarly qualified person. The preferred position is that the person whose county is being spoken about does the talking in front of others who know the stories.
- 7.7 In the instance of this survey, the Ngaluma people re-asserted their association with the country of the Burrup through their connection through the Yaburarra people. They say that the Yaburarra people are Ngarluma from the west or north.

8 CONCLUSIONS

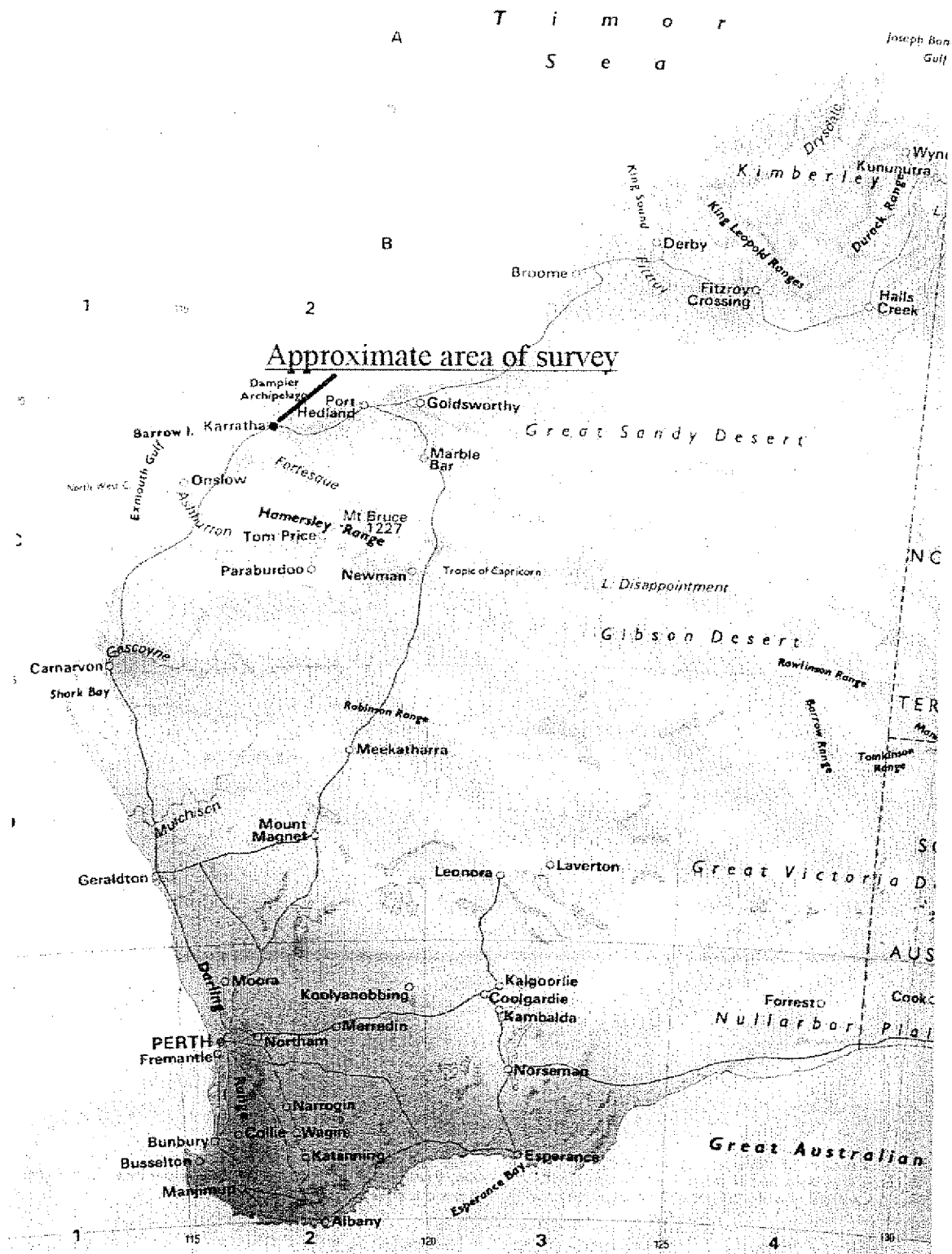
- 8.1 Having consulted with the two groups comprised of representatives of four of the socio-linguistic sets in the area, AIC concludes that the project should be allowed to proceed conditional on the wishes of the people being met.
- 8.2 Those wishes include the removal of all engravings under supervision of monitors working to a pre-agreed heritage, or cultural, management plan.
- 8.3 Other sites such as the standing stones should be left in situ. The individual standing stones could be left and quarried with the remainder of the rock along with the artefacts and the grinding patches.
- 8.4 The whole area of the Thalu and the Massacre standing stones should be left intact and not quarried.

9 RECOMMENDATIONS

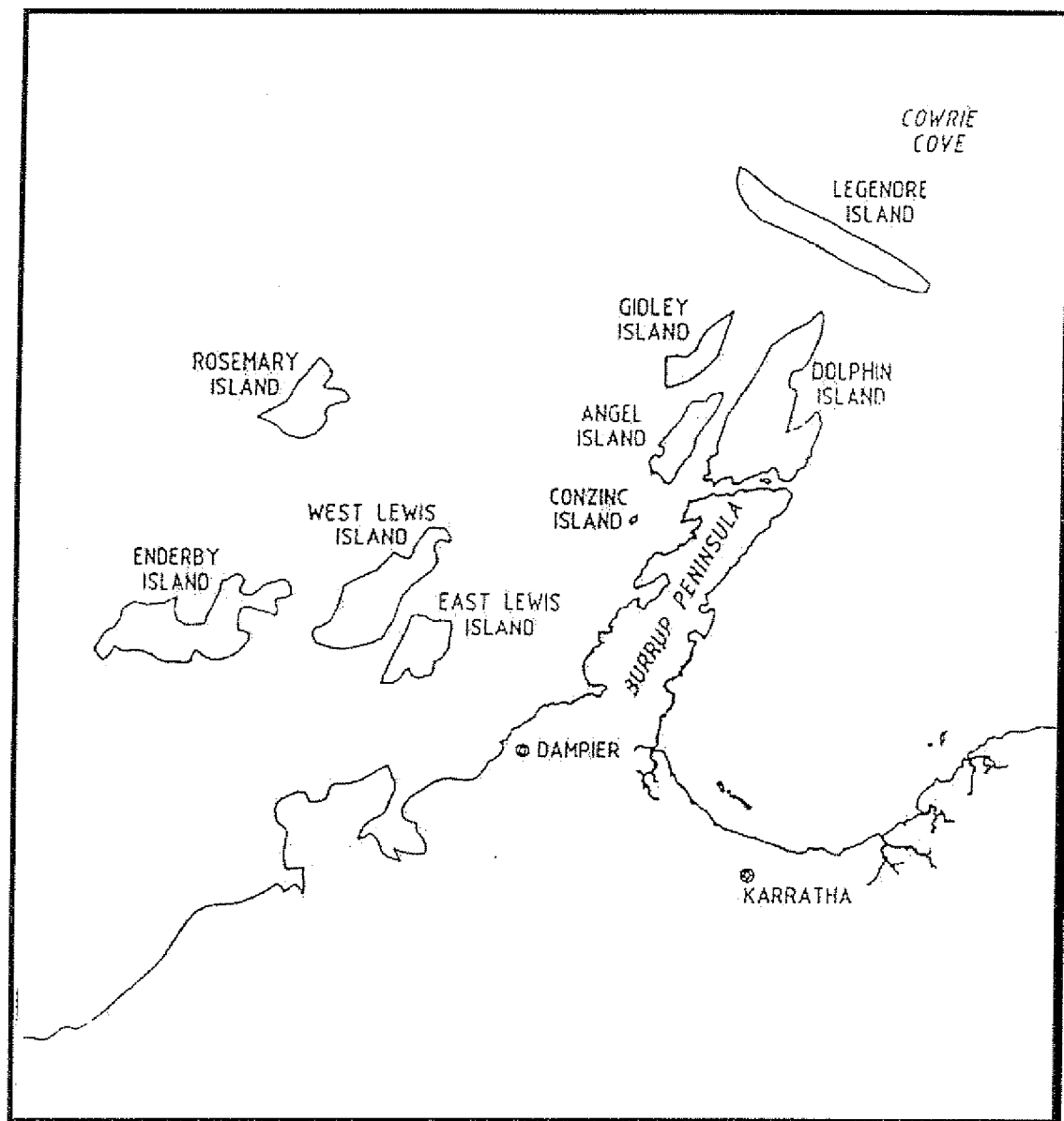
- 9.1 AIC recommends that the area around the Thalu associated features be left intact.
- 9.2 AIC recommends that the area holding the standing stones in the south western corner of the project area be preserved intact.
- 9.3 AIC recommends that the individual standing stones be left intact and quarried along with any other rock that is mined, rather than be relocated to another area.
- 9.4 AIC recommends that the engravings be removed only under supervision by the Aboriginal people as per a heritage management plan agreed to by all parties.
- 9.5 AIC recommends that BGC seeks permission from the minister to disturb the sites that will be impacted by the project, other than those referred to in 9.1 and 9.2 above, under s18 of the Act.
- 9.6 AIC recommends that BGC negotiates a Heritage Management Plan with the Ngaluma, the Injibandi, the Yaburarra and the Coastal Mardudhunera people whereby those groups agree to the conditions under which the various sites can be mitigated.
- 9.7 AIC recommends that all staff and contractors engaged on this project be made fully aware of their responsibilities and obligations under the Act.

ABORIGINAL HERITAGE SURVEY OF KING BAY EAST INDUSTRIAL AREA - BURRUP PENINSULA

REGIONAL MAP OF THE SURVEY AREA



LOCAL MAP SHOWING THE SURVEY AREA



MAP OF THE PROJECT AREA SHOWING ALL SITES IN THE VICINITY