

Report on Ethnographic Heritage Survey “Telstra Hill”

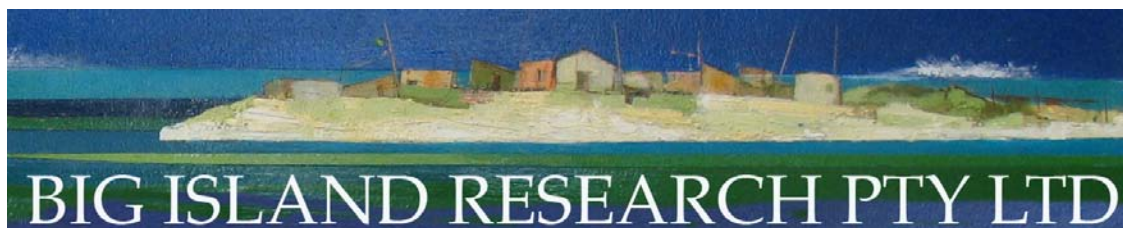
FerrAus Limited



Telstra Hill Consultation Team 2/10

January 2010

Guy Wright PhD



Ownership of Information

This report has been prepared for submission to FerrAus Limited. The report's purpose is to assist FerrAus in meeting its obligations in respect of Aboriginal heritage in its mining and exploration interests on the Jigalong Reserve, south of the community of Jigalong, Western Australia.

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Specific cultural information is not divulged in this report. However, any cultural information that may be inferred from the report is the property of the Aboriginal people who provided the information.

GPS Notes:

- *Locations recorded in this report are in geometric co-ordinates using datum WSG84 or GDA 94 between which there is understood to be little difference.*
- *Locations were taken with a Garmin GPS receiver in 3-D mode. Degree of error is approximately +/- 10 metres.*
- *All locations are in zone 51.*
- *Location are noted with the eastings first, and northings second.*
- *Times are noted in the 24-hour format.*

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Introduction

Big Island Research Pty Ltd (Big Island) has been providing research, advice and assistance to FerrAus Limited (FerrAus) projects on the Jigalong Reserve since 2006.

In June 2009, Big Island conducted heritage surveys in the Robertson Range and Davidson Creek project areas. The surveys comprised both archaeological and ethnographic work. The archaeological portion was conducted by Eureka Archaeological Research and Consulting, UWA (Eureka) and is reported by Carson (2010). The archaeological research and reporting is self-explanatory and does not have a significant effect on the ethnographic issues reported here, except that one of the ethnographic sites considered here also has an archaeological component.

The ethnographic portion of the June 2009 survey was conducted by anthropologist Mr Michael Reynolds and was reported in a letter of preliminary advice from Dr Guy Wright, Director of Big Island, to Mr John Berry, Project Director of FerrAus dated 29 June 2009 (see Appendix One). Among other things, a result of the 2009 survey was discussion of the cultural significance of the hill locally known as “Telstra Hill” due to the prominent Telstra communications tower at its summit. The 2009 survey team said that the entire hill, defined as the lowest contour in the land surrounding the hill, should be considered an ethnographic Aboriginal site to which the *Aboriginal Heritage Act 1972* would apply.

There were, however, problems inherent in the 2009 survey that were unable to be dealt with properly at the time. These problems are discussed below, but in summary there was insufficient time and energy available to properly consider the heritage values of the Telstra Hill during the June 2009 survey.

Subsequent to the June 2009 survey substantial progress has been made in clarifying the ethnographic status of the Telstra Hill. Much of this progress has been achieved in tandem with FerrAus’ developing relationship with the community at Jigalong. Other matters, such as the development of better understandings between the Niyaparli native title claim group, and the Martu people who make up a substantial portion of the Jigalong Community, which holds the reserve in which the FerrAus projects are located, have helped to promote more healthy discussion about heritage values in the FerrAus tenement areas.

A site visit and “consultation” occurred on 2nd February 2010, which was followed by a formal ethnographic survey on 18th April 2010. The result of the formal survey was the establishment of a boundary between an ethnographic and archaeological cultural site located on part of the Telstra Hill, and the proposed “King Brown” pit located to the east of this site.

This report provides background to each of the consultative elements that has resulted in the definition of the boundary between the site and the proposed pit. It concludes that an appropriate process for establishing this boundary has been followed. The report provides recommendations regarding the location of the boundary, and for future management of FerrAus’ responsibilities in respect of the heritage values of Telstra Hill

June 2009 Survey



Figure 1 - *June 2009 Survey Team - with Telstra Hill in background*

Photo: Mick Reynolds

Background to June 2009 survey

It had been agreed in advance between Big Island Research Pty Ltd (Big Island) and FerrAus that the survey methodology for the proposed pit site and associated camp site at Robertson Range – known as “King Brown” (G52/281) would be done to a “work area clearance” (WAC) model. This means that the areas contained within pre-agreed

boundaries would be thoroughly investigated to see if there are elements of Aboriginal heritage within them.

In addition it was agreed that a set of 21 exploration drill lines in the Davidson Creek area (part of E52/1658) would also be surveyed. These were surveyed using a “work program clearance” (WPC) model. This means that the specific work program, i.e. the proposed drill pads and the connecting tracks between them, were surveyed to see if there are any elements of Aboriginal heritage that would be affected by them.

Both parts of the survey were to be conducted to a “site avoidance” level. This means that FerrAus would avoid disturbing any sites found, and therefore there would not be a need to engage the consent provisions in section 18 of the *Aboriginal Heritage Act* 1972 (the Act). If it were later found that s18 applications were necessary these could be dealt with as separate matters.

Conduct of the June 2009 survey

Mick Reynolds travelled to the Robertson Range operations on 10 June, arriving late in the afternoon. The following day he held preliminary discussions with Jigalong residents Melvin Farmer and Sammy Kelly who were assisting the archaeological portion of the survey that was being conducted by Annie Carson of Eureka (see Carson 2010).

As a result of these discussions, it was understood by Mick that further and wider discussions would be required. However, many of the senior men who needed to be involved in these discussions, and an inspection of the areas, were at a meeting at Parnngurr (Cotton Creek). These men were expected back from the meeting on Saturday the 13th June.

It was also suggested to Mick that two men with cultural understanding of this area, Tommy “B” Watson and Reggie Malana, may be in Newman and that they could be reached at the Parnpajinya Community there. Mick drove to Newman on Friday 12 June, only to find that these people were also at the Parnngurr Meeting. After returning to Jigalong in the afternoon, Mick held further discussions with Martu men Pincher Rubin and Tommy “J” Watson. They suggested returning to Jigalong the following day when the main group of Martu men were expected back from the Parnngurr meeting.

On Saturday 13th June, Mick Reynolds drove to Jigalong in the morning and met with several of the senior men there. They said they were tired following their meeting and initially proposed delaying the ethnographic survey by a couple of weeks. However, a group of senior men apparently changed their minds just as Mick was about to leave the community. A survey team was hastily put together and the group drove to the Roberston Range area for an inspection. The survey team members included:

Survey participants – 13 June 2009

- Timmy Patterson
- Nabbaru (Billy) Landy
- Mark Jefferies
- Brian Samson
- Paddy Tinker
- Baker Lane

Previous survey issues

It became apparent to Mick during interview with the survey team members that the “Telstra Hill” area had been considered by them in the past, though the dates of previous surveys were unclear, and appeared to extend back to the 1970s. They specifically recalled a survey with Michael Gallagher. Gallagher did conduct a survey in 1999. Working then for Hammersley Iron, it is reported as “Aboriginal Sites Work Area Clearance Survey Jigalong – Tenements E52/1208, E52/336 and E52/1207 Anthropological Report – Open.” However, there are no locations described in Gallagher’s report that are mapped within six kilometres of the Telstra Hill.

Telstra Hill inspection

The survey participants drove to the top of Telstra Hill, near the Telstra tower located on the western end of the hill on 13 June 2009. They said that they considered the hill to be culturally significant and were under the impression that surveys had been completed prior to the installation of the Telstra tower. However, they had not been among those consulted about the tower’s construction.

Mick Reynolds then discussed the appropriate boundaries for the ethnographic site. The Martu men discussed the nature of the site and it was agreed that the entire hill

constituted the site. Mick then estimated the extent of the site by using the contour shown on a large scale map. The survey team were of the view that the lowest contour shown on this map was an appropriate boundary for the site. The survey team members said that ground disturbance should not occur within the site boundaries. They then indicated that they were prepared to discuss the issue further with FerrAus if required.

The men complained that they were tired and that there were elements of the drilling program that were yet to be considered. This prevented more adequate discussion of the appropriate extent of the Telstra Hill area on the day. Following the WPC inspection of the drill lines in the Davidson Creek area, the survey team returned to Jigalong and dispersed. Although it had been agreed that Mick should follow up more detail about the site with Baker Lane and Brian Sampson, he was unable to locate them in the community and returned to the FerrAus camp at dusk. Mick returned to Perth the following day.



Figure 2. Mick Reynold's sketch of the extent of Telstra Hill "site" in June 2009

As a result of the June 2009 survey, Big Island Research's recommended course of action was that the survey team members, plus any other interested and relevant senior people

from Jigalong, revisit this site and map it with precision against FerrAus' mining and infrastructure requirements.

February 2010 Consultation

Following further discussions with FerrAus, it was agreed to conduct another consultation about the ethnographic values of the Telstra Hill in February 2010. This consultation was designed to progress the Telstra Hill "issue" by determining whether there was *prima facie* cause to continue regarding the cultural site as constituting the entire hill, or whether it was possible to have separate considerations of portions of it, especially on its eastern slope. The Telstra Hill issue was significant for FerrAus because a substantial portion of the proposed "King Brown" pit extended into the hill and would therefore either need to be curtailed or abandoned, or s18 consent sought to use the land containing the intersection of the cultural site and the pit. Both FerrAus and Big Island understood that the February 2010 consultation was unlikely to result in a definitive answer about the nature of the ethnographic values at Telstra Hill. The fact that this was to be a "consultation" and not a "survey" was also explained to relevant people at Jigalong, and the survey team.

Background

In the intervening period between the June 2009 survey and the February 2010 consultation two key developments had occurred:

Firstly, the continuing development of FerrAus' ore discoveries and subsequent planning meant that some elements of infrastructure that had been planned for Telstra Hill were removed, leaving only the proposed King Brown pit itself, and the basic infrastructure required to service the pit. Therefore, the potential for impact to the hill was substantially reduced, and limited mainly to the impact related to the proposed pit itself and not the extensive associated waste stockpiles and other features that were first envisaged.

Secondly, the arrangements through which competing Indigenous interests in the Jigalong Reserve could be dealt with had been somewhat clarified. Jigalong Reserve was established many years ago as a reserve for the use and benefit of Aboriginal people who are members of the Jigalong Community. The Jigalong Community is primarily made up of Martu people who have “come in” off their desert homelands to the east. Martu people have stayed at Jigalong for several generations - occupying the former outpost on the Rabbit Proof Fence from the 1940s through the days of the Apostolic Mission that operated there into the 1960s, and to the present day. However, the land contained by the Jigalong Reserve is within the Nyiyaparli native title claim and is generally considered Nyiyaparli country, not Martu, although Martu have had the use of it for many years.

Nyiyaparli people had apparently given Martu people a custodial role in the 1940s. This role operated effectively for many years, and Martu carried the responsibility of looking after the cultural values in the reserve. However, the recognition of Native Title and the development of Nyiyaparli native title rights has resulted in a situation where Nyiyaparli people wish to re-establish authority and cultural understanding within the Jigalong Reserve.

As a result of the developing Native Title interests of the Nyiyaparli people there has been some tension between Nyiyaparli people and Jigalong based Martu people about the management of interests in the reserve. Nonetheless a series of meetings, and developing understandings, have resulted in a situation where the cultural authority in the reserve is effectively shared between the two groups. Complicating the issue of whether a person is “Martu” or “Nyiyaparli” is the fact that the two groups have lived in close proximity with each other for many years. Intermarriage combined with the prevailing ideology of multiple group affiliation in desert social organisation means that there are not always clear distinctions between the two groups.

Generally speaking, currently, the Nyiyaparli native title claimants take the lead in organising and managing heritage surveys, but they acknowledge that many of the older Martu men living at Jigalong have substantial cultural and religious understanding of the area. For these reasons the surveys are usually combined efforts.

Conduct of February 2010 Consultation

The ethnographic consultation occurred during the final three days of a seven-day archaeological survey being conducted by Annie Carson of Eureka. Guy Wright and Eddie Fry arrived at the FerrAus Robertson Range camp about mid-day on Monday 1 February. Shortly after arrival, personnel in the camp reported that a telephone call had been received shortly before from Jigalong, which expressed sentiments to the effect that any ethnographic “survey” conducted at this time would not be a legitimate survey. Although it was not possible to reconnect with the Jigalong Community immediately, it was made clear to those Aboriginal people taking part in the archaeological survey, which included senior Nyiyaparli man Billy Cadigan, that the February 2010 exercise was planned for “consultation” purposes and did not constitute a “survey” as such, which would be expected to result in a more definitive answer.

First meetings

At about 15:00 on 1 February, the archaeological survey team returned to camp from their fieldwork and Guy Wright took the opportunity to meet with the senior Aboriginal members of the team. The meeting established that Mr Billy Cadigan was the spokesman for the heritage group. He said that he had been nominated as “Applicant” on the Nyiyaparli native title claim (NNTT file # WC05/6 Federal Court file # WAD6280/98). It was widely understood among Nyiyaparli people, and people in Jigalong, that he was the appropriate person to coordinate heritage surveys in those sections of the Nyiyaparli claim area that contain FerrAus interests, including within the portions of the Jigalong Reserve that are affected by FerrAus mining, exploration, and other tenements and land interests.

During this initial meeting the complex cultural situation that affects the Jigalong Reserve and the FerrAus tenements was discussed. It was understood that a range of other senior people, many of whom live in Jigalong, have significant knowledge and understanding of the cultural significance of areas within the FerrAus tenements. Many of these people are Martu, some are Nyiyaparli, and some have qualifications relevant to both groups.

Billy Cadigan and the other senior members of the archaeological survey team agreed that any discussion of ethnographic heritage values in the FerrAus tenements located on

the Jigalong Reserve would benefit from input from senior Nyiyparli and Martu people based in Jigalong. They agreed to discuss the issue in the Jigalong Community that evening, to see if any senior people would be available to attend the consultation the following day.

On 2 February, senior members of the archaeological survey team, plus a number of senior people from the Jigalong Community participated in the consultation.

Participants in the consultation were:

1. Billy Atkins
2. Billy Cadigan
3. John Cadigan
4. Walter Dalbin
5. Kennedy Finlay
6. Fred Jeffries
7. Colin Peterson

Junior Landy and Craig Sailor continued to assist the archaeological survey team while the ethnographic consultation was taking place, but they were included in the final discussions following the site inspection.

Eddie Fry represented FerrAus Limited. Donnelle Utley and John Berry provided information and advice by telephone from Perth on an as-needs basis.

It was agreed that two areas should be considered during the consultation: the “Telstra Hill” which had been nominated as an ethnographic site in the 2009 report by Reynolds, and the portion of the Davidson Creek project area where Reynolds’ survey team found that a set of proposed drill lines apparently extends into an area of ethnographic significance. This area is now called “Viper” and has since been considered in a July 2010 ethnographic survey. The outcomes of this survey will be reported separately.

Telstra Hill

Prior to departing for Telstra Hill, it was agreed that the main purpose of the trip would be to familiarise the participants in the consultation with the location of the “King Brown” open pit that is planned to be developed near the eastern slopes of a portion of the hill. Maps were obtained from the Perth office that showed the current design of the pit.

The pit, as designed, is located relatively near to two small archaeological sites that were located by Eureka archaeologists during the June 2009 survey and are named King Brown RH-0209, and King Brown AS-0309 in the Eureka report (Carson 2010). One of these archaeological sites, RH0209, was said to have an ethnographic as well as an archaeological component.

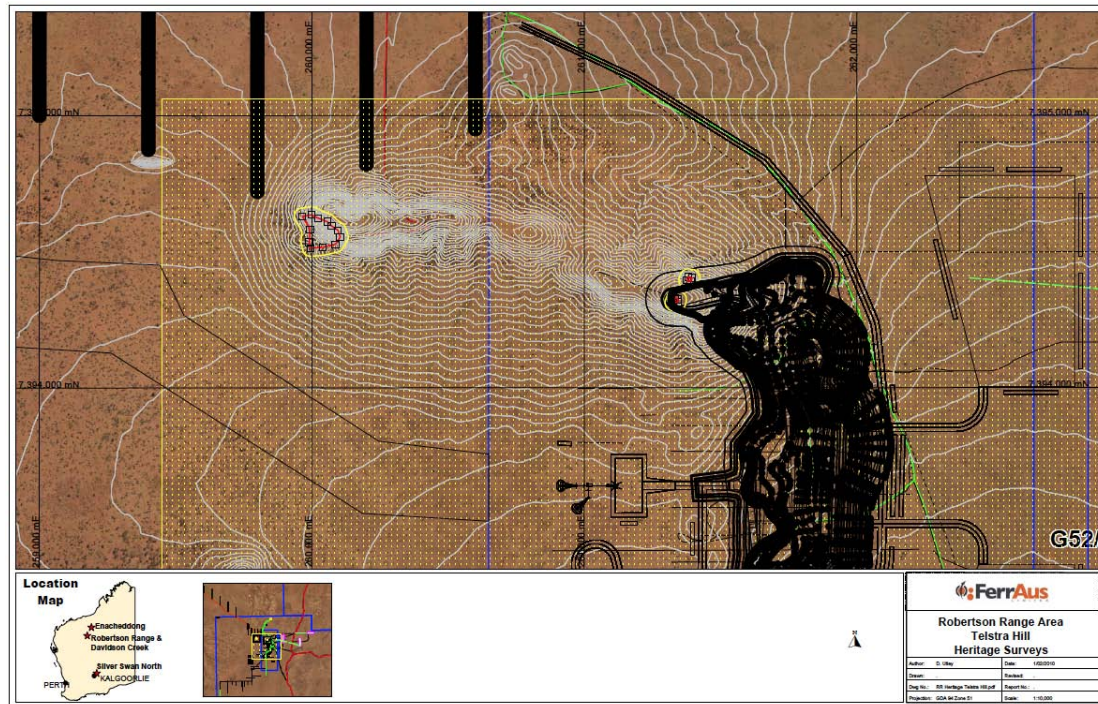


Figure 3. Map showing proposed pit in black, and archaeological sites in red and yellow – provided by FerrAus prior to the Telstra Hill visit. The site that is the focus of this report is the most easterly site shown. The black lines in the NW are drill lines.

As discussed above, the ethnographic survey team that accompanied Mick Reynolds in June 2009 comprised: Timmy Patterson, Nyaperu (Billy) Landy, Mark Jeffries, Brian Samson, Paddy Tinker, and Baker Lane. These Martu men were unable, within the context of that survey, to fully consider the ethnographic cultural values of the Telstra Hill, or to properly map the proposed FerrAus infrastructure and pit against the extent of the ethnographic site. As an interim measure they said they considered that the whole of the hill, down to the lowest contour, constituted an area that was ethnographically significant to them. The June 2009 report recommended that the issue be revisited with a wider group of people, including better Nyiyaparli representation, in order to better define, and more precisely map, the relationship between the site and the requirements for FerrAus infrastructure, including the mine pit (see Appendix One below).

The Telstra Hill is a long and narrow hill that is oriented basically east-west. It has a Telstra communications tower located on its western end, which is the highest part of the hill.

There is no reference to the Telstra Hill site on the Department of Indigenous Affairs (DIA) database. This is not unusual or unexpected. The Martu people who would have been expected to nominate the hill as a cultural site have a long and consistent history of refusing to place cultural sites on the DIA database, unless there is a compelling reason to do so.

The western end of the Telstra Hill contains a large archaeological site that was located by the Eureka archaeological team that was part of the June 2009 survey (see Figure 3 above). The site contains a rockshelter with signs of occupation and a wide scatter of artefacts. The archaeological values of the site are reported by Carson (Carson 2009). On the eastern end of the hill are the two small artefact scatters. These are substantially smaller and contain fewer elements. However, one of these sites, King Brown RH-0209, also contains a circular depression about a metre deep and about three metres across. The Aboriginal people participating in the archaeological survey led by Annie Carson in June 2009 said this site was of ethnographic as well as archaeological significance.

At the time of the June 2009 survey it was thought that FerrAus would want to use the southern slope of the hill for use as a waste dump. However, plans have changed and this is no longer required.

FerrAus does need to use the eastern end of the Telstra Hill for its King Brown open pit. The current pit design is mostly to the east of the two archaeological and one ethnographic site. However, much of the pit also falls within the area delineated as part of the Telstra Hill ethnographic site as reported in June 2009, which was described as extending to the lowest contour of the hill.

Discussion

The ethnographic consultation provided an effective way to alert both Niyiyaparli and Martu concerns for the cultural integrity of the Telstra Hill area. Although the specific discussions cannot be reported here because they were confidential, it was understood by the consultation team that there were, in fact, cultural concerns regarding the use of Telstra Hill, and that these related to specific regional mythology. The concerns were of

a character that they would have an impact on the King Brown pit as it was then proposed, although the extent of the cultural concern that was acknowledged by the consultation team would probably not preclude development of the pit altogether.

Ultimately, the consultation resulted in the view that a full ethnographic survey should be conducted on the eastern end of the hill, which focused on the specific feature that was highlighted during the June 2009 archaeological survey. The purpose of this survey would be to define the limit of the area that FerrAus should be permitted to use for the purpose of mining.

April 2010 Survey

Prior to the formal survey of the eastern end of Telstra Hill, a substantial list of senior men who would be appropriate people to assess the significance of the eastern end of the hill was compiled. FerrAus expressed willingness to engage anyone who might have significant knowledge of the area, but several people listed needed to be reconsidered because of age, health and availability reasons. Ultimately, the formation of the survey team required input from Billy Cadigan, as the key Nyiyaparli person with specific responsibilities for the area.

Background to the survey

Guy Wright and Eddie Fry arrived at the FerrAus camp on Saturday afternoon 17th April, and immediately drove to Jigalong. A funeral had occurred in the community that morning and many people were leaving following the funeral. It had also rained heavily in the preceding days and the Jigalong Creek was flowing.

FerrAus had been liaising with community members, including the Jigalong Community Council Inc. (JCCI) for some time, and relevant people were aware that the ethnographic survey, and the accompanying archaeological survey led by Annie Carson, were planned.

Billy Cadigan was in the community and the survey proposed for the following day was discussed with him. These discussions resulted in his proposal that a suitable group of senior men be notified that evening of the survey the following day. The list of people was discussed and it was agreed that a team of at least six men, who were in the

community and willing to take part, could be organised, and that Billy would have discussions with people that evening.

Although discussions were attempted with JCCI on the day, and telephone discussions had taken place between JCCI and FerrAus previously, it was difficult to have any level of formal notification of JCCI of the survey on the day, given that it was a Saturday and that a funeral had been held. Nonetheless, Eddie and Guy met JCCI chairman Melvin Farmer in the Jigalong Creek, operating a backhoe and pulling a vehicle out of the mud. The proposal for the survey was communicated to Melvin, who came to the FerrAus camp the following day as part of the archaeological survey team. An opportunity also presented itself to meet with former JCCI chairman and prominent Jigalong community member Brian Sampson. He was notified about the survey in an informal discussion outside his house.

The flooded Jigalong Creek also facilitated a meeting with Colin Peterson, a prominent Martu elder and chairman of the Western Desert Lands Aboriginal Corporation (WDLAC), who had been a member of the “consultation team” in February. He was cleaning his vehicle in the water. Eddie and Guy reminded Colin of the coming survey and said that Billy Cadigan would be contacting him that evening about it.

Conduct of the survey

The ethnographic survey team accompanied members of the archaeological survey team to the FerrAus camp on the morning of 18th April. The men making up the ethnographic survey team were:

- Billy Atkins
- Mitchell Biljabu
- Billy Cadigan
- Baker Lane
- Colin Peterson

Billy Atkins, Mitchell Biljabu, Baker Lane, and Colin Peterson are well known senior Martu elders with considerable ethnographic understanding of the area. Billy Cadigan is an applicant on the Nyiyaparli native title claim and has been given authority by the

wider Nyiyaparli group for organising and supervising heritage matters in this area of the native title claim.

The meeting began with an introduction to the issue, in which Eddie Fry and Guy Wright explained the history of the engagement about the cultural status of Telstra Hill. Eddie then explained FerrAus' wish to develop the King Brown pit, and the changes to the wider mining program that had resulted in fewer infrastructure arrangements than had been previously planned, because the iron ore would be trucked for processing at the Davidson Creek infrastructure area.

Guy Wright then met privately with the survey team and discussed cultural aspects of the ethnographic values inherent in Telstra Hill. The members of the survey team related portions of the Telstra Hill to a particular cultural story that is linked to other places in the area and the region. Guy assured the survey team that the specific cultural information would be kept confidential and private and would not be provided to FerrAus, or provided to the Department of Indigenous Affairs unless specifically instructed by the survey team to do so. The survey team did not provide such an instruction.

Led by Eddie Fry and accompanied by Todd Tuffin of FerrAus, the survey team then drove to site on the northeast flank of Telstra Hill that had been previously described by the June 2009 archaeological survey as "King Brown RH-0209" it is described by Carson as

"...a small circular rock hole that has formed naturally in the [banded iron formation] BIF outcrop of the ridge. The formation measures approximately 2.7 m x 3.4 m (EW/NS) and has a maximum height of 1.6 m (Plate 8). The rockhole is shallow, and would only retain water to a depth of about 30 cm" (Carson 2010:48).

Nyiyaparli and Martu survey participants in the archaeological survey described this naturally occurring rockhole "... as an intermittently exploitable source of fresh water" (2010:87). The site is located on the northeastern flank of the easternmost portion of Telstra Hill.

After leading the Nyiyaparli and Martu members of the survey team to it, Guy Wright again met privately with the survey team members and discussed the ethnographic meaning of the particular site. He then asked the survey team to define an area that they considered appropriate for providing protection to the site. It was agreed that so long as FerrAus' King

Brown pit and its associated infrastructure did not encroach within 50 metres of the feature that had been identified, the site would not be disturbed. Survey team members discussed other mining operations that they knew about, and noted that mining companies had shown that they were capable of respecting boundaries to sites set by traditional owners. The survey team members noted that they felt they could trust FerrAus to respect their wishes.

A “3-D” GPS coordinate, on a Garmin 76 GPS used by Todd Tuffin, was taken in the centre of the rock hole. It showed the centre at Zone 51 0261388mE / 7394399 mN, in WGS 84 or GDA 94. The survey team then walked 50 metres away from the rock hole to the east-south-east towards the area that the King Brown pit is expected to be developed. They were asked to consider whether this distance offered sufficient protection for the site; they said that so long as no development took place within the 50 metre zone the site would be protected to their satisfaction. They also suggested that some fencing should be established to help ensure the site’s integrity.

Remainder of Telstra Hill

Although the areas to the east of the rock-hole described above appear to be clear of ethnographic heritage values, there remain significant ethnographic heritage values in the Telstra Hill, and in other places in the area. The mythological story that is relevant to the rock-hole also features in other sections of Telstra Hill. In addition there may be other mythologies associated with the land in this area. The long-established policy for the consideration of heritage issues in this area is that no cultural information should be provided to the various proponents who seek to use land for development purposes. There are significant cultural reasons for this position. For these reasons there was no further examination of the ethnographic values inherent in the remainder of Telstra Hill.

Conclusions

The whole of the area known as Telstra Hill that is to the west of GDA 94 location: Zone 51 0261388mE / 7394399mN should continue to be considered to contain areas and sites of ethnographic value that mean that the Aboriginal Heritage Act 1972 (the Act) may apply to them. However, the area beyond 50 metres from the east of this point, and the rock-hole that has been described above in this report – should be

considered to be free of ethnographic heritage constraints – to the extent that an open pit mine should be permitted.

Three significant opportunities have been provided to senior men, with cultural understanding, knowledge and authority in this area, to evaluate the location of the proposed open pit mine known as “King Brown.” They have considered this location in the context of a formal ethnographic survey and have found that if the rock-hole feature, as described above, is avoided by a margin of at least 50 metres, there will be no ethnographic cultural impact.

Therefore, it should be unnecessary for FerrAus Limited to apply for consent to disturb any land associated with development of the King Brown pit.

Recommendations

1. No ground disturbance should occur within 50 metres of the feature rock-hole feature located at approximately GDA 94 location: Zone 51 0261388mE / 7394399mN.
2. With assistance of Nyiyaparli and Martu people, an appropriate fence should be constructed that delineates a boundary at least 50 metres from the above location.

References

Carson, Annie June 2010, “Archaeological Work Area and Work Program Clearance Survey, Robertson Range, East Pilbara, Western Australia, Trips 1 and 2”
Big Island Research Pty Ltd and FerrAus Limited.

Gallagher M 1999, “Aboriginal Sites Work Area Clearance Survey Jigalong: Tenements E52/1208, E52/336, and E52/1207”

Appendix One – Letter from Guy Wright to John Berry



PO Box 490
Fremantle WA
Australia 6959

p: + 61 (08) 9335 3733
f: + 61 (08) 9335 9419
m: 0417 941 909

Mr John Berry
Project Director
FerrAus Limited
Suite 10, 100 Mill Point Road
South Perth WA 6951

Dear John,

Preliminary advice: heritage surveys: Robertson Range and Davidson Creek

This letter and the attached “Preliminary Advice” (PA) from Eureka Archaeological Research and Consulting UWA (Eureka) form an initial report on the archaeological and ethnographic heritage surveys recently conducted at Robertson Range (“King Brown”) and Davidson Creek. They are designed to provide FerrAus with basic information so that you can progress relevant matters while the full reports are being prepared.

It was agreed in advance that the survey methodology for the proposed minesite and associated camp site at Robertson Range – known as “King Brown” would be done to a “work area clearance” (WAC) model. This means that the areas contained within pre-agreed boundaries would be thoroughly investigated to see if there are elements of Aboriginal heritage within them.

Because there was some extra time available, it was agreed that a set of 21 exploration drill lines in the Davidson Creek area could also be surveyed. It was agreed that these would be surveyed using a “work program clearance” (WPC) model. This means that the specific work program, i.e. the proposed drill pads and the connecting tracks between them, would be surveyed to see if there are any elements of Aboriginal heritage that would be affected by them.

Both parts of the survey were to be conducted a “site avoidance” level. This means that FerrAus would avoid disturbing any sites found, and therefore there would not be a need to engage the consent provisions in section 18 of the *Aboriginal Heritage Act 1972* (the Act).

The archaeological PA is self explanatory. Four stone artefact scatters and a rockhole were recorded to a “site avoidance” level. It is understood that FerrAus can alter its planning to avoid these sites.

The ethnographic survey was somewhat more complex and there remain some uncertainties. Mr Mick Reynolds, who conducted the survey for Big Island Research, on 13th June, has reported that the hill known locally as the “Telstra Hill” is ethnographically significant and is likely to be protected by the Act. He was told by the survey team members that the hill is of ethnographic significance. Consequently, an interim boundary for the site was established as the lowest contour at the base of the hill. This is likely to cause a planning issue for the waste dumps as planned, and possibly for the pit design. However, given the time available, and the mapping that he had with him, only a crude estimation of the boundary was possible.

The survey team was made up of the following men:

- Timmy Paterson,
- Nyaparu (Billy) Landy,
- Mark Jeffries,
- Brian Samson,
- Paddy Tinker, and
- Baker Lane.

These are senior Martu men who have a long association with the Jigalong Community, and are known to hold significant knowledge of traditional Law in the areas around Jigalong. All the areas surveyed are on the Jigalong Reserve. Although this is in Nyiaparli country, and is subject to a Nyiaparli native title claim, it is understood that discussions between Nyiaparli people and Jigalong residents about the cultural status of the Jigalong reserve have taken place over the years, and that these are ongoing.

Site One – Telstra Hill

The Martu survey team members were under the impression that the Telstra Hill had been previously surveyed, though the dates of previous surveys were unclear, and appeared to extend back to the 1970s. They specifically recalled a survey with Michael Gallagher. Gallagher did conduct a survey in 1999. Working then for Hammersley Iron, it is reported as “Aboriginal Sites Work Area Clearance Survey Jigalong – Tenements E52/1208, E52/336 and E52/1207 Anthropological Report – Open.” However, there are no locations described in Gallagher’s report that are mapped within six kilometres of the hill.

The Martu survey team members were under the impression that surveys had been completed prior to the installation of the Telstra tower on the hill. However, they had not been consulted about the tower’s construction.

On 13 June 2009, the survey team drove to the top of Telstra Hill, where Mick Reynolds discussed the appropriate boundaries for the site. The Martu men discussed the nature of the site and it was agreed that the hill constituted the site. Mick then estimated the extent of the site by using the contour shown on a large scale map. The survey team

were of the view that the lowest contour shown on this map was an appropriate boundary for the site. The survey team members said that ground disturbance should not occur within the site boundaries. They then indicated that they were prepared to discuss the issue further with FerrAus if required. For a variety of reasons there was insufficient time on the day to map the site with greater precision.



Mick Reynold's sketch of the extent of Site One.

Big Island Research's recommended course of action is that the survey team members, plus any other interested and relevant senior people from Jigalong, revisit this site and map it with precision against FerrAus infrastructure requirements. During this future survey, FerrAus should be represented by people with sufficient authority and technical knowledge, so that decisions can be made on the day regarding the placement of mine infrastructure.

Sites Two and Three – Mirrin Mirrin / Davidson Creek

FerrAus requested that a set of 21 drill line be surveyed for ethnographic and archaeological sites. The archaeological preliminary advice reports on these, and notes that the archaeological site: *Davidson Creek QAS-0209* extends into an area of ethnographic significance.

The ethnographic survey team located the site of ethnographic significance and noted that the following drill lines are affected by it:

- Drill-line 11 – drill pads 1, 2, 3, and 4
- Drill-line 12 – drill pads 1, 2 and 3

- Drill-line 13 – drill pads 1 and 2
- Unnumbered drill line located between lines 13 and 14 – drill pads 1 and 2
- Drill-line 14 – drill pad 1 (affected by Site Three)
-

The drill pad numbers refer to the northernmost numbered drill pad on each line. Deleting these drill-pads from the exploration program will ensure adequate protection of Site Two and Site Three.

Site Four

A fourth ethnographic site was located to the south of Site Three. There were no elements of infrastructure proposed to affect this site so there is no need to further identify it. However, the survey team were concerned that FerrAus should not disturb it by accident. The team was unable to map the site appropriately in the time available.

Discussion

It is clear that the Martu people at Jigalong are less than clear about the status of the ethnographic and archaeological sites that exist in the areas that FerrAus wishes to operate in. They thought that the areas had been surveyed in the past, and that sites would have been registered as a result of these past surveys.

For convenience I have attached a list of DIA registered sites within a wide area which has FerrAus' proposed minesite near the centre. There are only twelve sites shown in this large area, which is roughly 40 kilometres square. None of the sites shown are within five kilometres of the Telstra Hill or the FerrAus proposed mine.

The mapping of these sites is not good, especially by today's standards. Many appear to have been mapped in pre-gps times. The report by Michael Gallagher was apparently misunderstood to have included the Telstra Hill, but the nearest site included in that report is at least six kilometres to the east. The poor understanding of where the various elements of heritage are located is likely to cause ongoing frustration between the relevant cultural custodians and FerrAus as the company develops its interests in the area. However, Martu and Nyiaparli people with responsibilities for this heritage will also have a need to maintain levels of confidentiality about the locations and meaning of various features of cultural significance.

In my view, the best way forward in this situation is for FerrAus to have clear discussions with the Martu and Nyiaparli people responsible for the cultural landscape in the area within which FerrAus wishes to work in the coming years. The Martu men on the 13th June survey said they were willing to discuss the heritage at the Telstra Hill with FerrAus. This offer should be taken up.

The discussions should begin with a more conclusive mapping exercise relevant to the site at Telstra Hill. At least one full day should be set aside for the discussion. FerrAus and the relevant cultural custodians may also want to consider developing a heritage protocol which would set out the expectations of each party about heritage matters as the development of infrastructure in the area progresses.

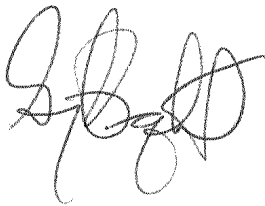
Recommendations

1. FerrAus should enter discussions with appropriate members of the Jigalong Community, and the Nyiaparli native title claim group, with the intention of

forming an appropriate team to give specific and authoritative advice about where FerrAus may place elements of mining infrastructure adjacent to Site One, located on the “Telstra Hill.”

2. FerrAus should meet with this team, on site, and map out the locations of the various elements of mining infrastructure that will be required.
3. Discussions should be held with Nyiaparli people to ensure that Nyiaparli native title claimants are appropriately represented at the meeting proposed in Recommendations One and Two, and generally in respect of heritage issues associated with FerrAus developing the Roberston Range deposit.
4. The drilling program of 21 drill lines proposed for Davidson Creek should proceed, with the exception that the following drill pads and connecting tracks should not be established:
 - Drill-line 11 – drill pads 1, 2, 3, and 4
 - Drill-line 12 – drill pads 1, 2 and 3
 - Drill-line 13 – drill pads 1 and 2
 - Unnumbered drill line located between lines 13 and 14 – drill pads 1 and 2
 - Drill-line 14 – drill pad 1

Yours sincerely

A handwritten signature in black ink, appearing to read 'Guy Wright', with a stylized, cursive script.

Guy Wright PhD

Anthropologist

29 June 2009

