



# BHP

## Cultural heritage

**Edgar Basto** – President Minerals Australia

**Colin Johnston** – Principal Indigenous Affairs

**Dave Bunting** – Manager Heritage

**Benjamin Proudfoot** – Superintendent Heritage Coal



# Cultural heritage: Strategy

## BHP Indigenous Peoples Policy Statement

BHP aims to be a partner of choice for Indigenous peoples through which our relationships contribute to their economic empowerment, social development and cultural wellbeing.

## BHP Indigenous Peoples Strategy

### Governance

Indigenous peoples will derive significant and sustainable benefit from BHP operations through the effective governance and management of land access, cultural heritage, agreement making and benefit distribution processes.

### Economic empowerment

BHP will contribute to the economic empowerment of Indigenous peoples through providing opportunities for employment, training, procurement and Indigenous enterprise support.

### Social and cultural support

BHP will contribute to improved quality of life for Indigenous peoples through voluntary social investment, promotion of Indigenous culture and building the Indigenous cultural awareness of our workforce.

### Public engagement

BHP will contribute to specific initiatives, programs and public policy processes that advance the interests of Indigenous peoples consistent with the BHP Indigenous Peoples Policy Statement.

Outcomes

## BHP Good Practice Guidance

# Cultural heritage: BHP Structure

## Organisational structure

- A dedicated Heritage Team is responsible for working with the project and production teams and Traditional Owners to understand where planned land disturbances may impact on heritage sites.
- If mine plans indicate that a heritage site is to be impacted, the Heritage team engages with the Traditional Owners and project team to consider ways to avoid or mitigate impacts, having regard to the views of Traditional Owners.
- The Heritage Team also manages Government approvals relating to heritage.
- Since 2019, the Heritage Team has been part of the Planning and Technical team and aggregated at the Minerals Australia level, as opposed to having separate teams within each Asset (as was previously the case).
- This structure ensures that the Heritage team is integrated with the mine planning processes, but maintains independence from the project and production teams and facilitates a consistent approach to heritage matters across Australia.
- There are 15 people in the Australian Heritage Team, six of whom identify as Indigenous.
  - Dave Bunting and Benjamin Proudfoot are part of this team.
- The Indigenous Engagement Team which develops BHP's policies relating to Indigenous peoples (such as BHP's Reconciliation Action Plan), negotiates and implements BHP's agreements with Traditional Owners.
- The Indigenous Engagement team is part of the External Affairs function. There are ten people within the team, seven of whom identify as Indigenous. Also part of External Affairs is the community team which oversees our group-wide implementation of our community standards.

# Cultural heritage: Policy

## Policy

- Driven by commitments made in BHP's Indigenous Peoples Policy Statement, the BHP Indigenous Peoples Strategy, our Reconciliation Action Plan and by BHP's support for the Uluru Statement From the Heart.
- Our commitments include:
  - Undertaking participatory and inclusive social and environmental impact assessments.
  - Seeking to agree on and document engagement and consultation plans with potentially impacted Indigenous Peoples.
  - Working to obtain the consent of Indigenous Peoples to BHP activities consistent with the ICMM Position Statement.
  - Seeking to minimise impacts on aspects of significant heritage value.
  - Supporting the preservation of cultural heritage through implementing a framework for identifying, documenting and managing aspects of cultural significance.
- Approximately 6,650 heritage sites have been recorded across all of BHP's Western Australia Iron Ore (WAIO) leases.
- These heritage sites have a wide spectrum of significance, age and rarity of cultural sites and archaeological items.
- The number and dispersion of these sites in the Pilbara is such that it is not feasible to operate in these areas without having some form of impact on heritage sites.
- This is one of the reasons that Traditional Owners are key long term stakeholders in BHP's business, and also makes it fundamental to develop long term relationships that are mutually beneficial and founded on respect and understanding.

# Cultural heritage: Agreements

## Agreements with Traditional owners

- Mining companies enter into agreements with native title parties with informed consent.
- These agreements document how native title rights and mining tenure rights will coexist over the lands of native title owners, enable native title owners to share in the economic benefits from the use of the land (such as through royalty payments, employment and commercial opportunities), and set out the agreed processes for the management of cultural heritage sites.
- These agreements do not override the statutory processes relating to cultural heritage sites, rather, they set out agreed processes for how the mining company and the native title party will cooperate. These processes go well beyond the statutory framework.
- Western Australia Iron Ore and Nickel West agreements identify areas of special heritage significance to Traditional Owners (referred to as “exclusion zones”). These exclusion zones include areas where the parties agree that no mining activities will occur and other areas that are afforded special protections.
- BHP’s agreements are intended to apply for the length of its activities on the land.
- However, they are not immutable. Some of BHP’s agreements require the parties to review the operation of the agreement at regular intervals (usually five years) and agree any changes required to reflect current circumstances.

# Cultural heritage: Recent developments

## *Existing section 18 approvals*

- BHP holds a number of section 18 approvals granted by the Western Australia Department of Planning, Lands and Heritage, which permit impacts to specific cultural heritage sites. These do not include any of the exclusion zones called for by Traditional Owners. Consistent with the approach BHP is taking with its section 18 approvals at South Flank, (and with pre-existing practice), we have also confirmed with Traditional Owners where we hold other existing section 18 consents that we will not act on those consents without first undertaking further extensive consultation with those Traditional Owners.

## *New information*

- We recognise that the understanding and management of cultural heritage must be a continuous process. Consistent with this intent, BHP confirmed with Traditional Owners, that if BHP becomes aware of new information that materially changes the significance of a heritage site, it will not undertake any activity that would disturb that site without agreement with the Traditional Owners.

## *Communications in relation to cultural heritage*

- BHP has confirmed to Traditional Owners that it does not regard any term of its agreements with them as preventing them from making public statements about cultural heritage concerns. If any provision in BHP's Agreements can be regarded as having this effect, then BHP will not enforce that clause.
- BHP will not enforce any clause that would require Traditional Owners to communicate through BHP when providing comments or opinions to government decision-makers in respect of cultural heritage matters.

# Cultural heritage: Recent developments (continued)

## Recent developments

- In the case of the South Flank project, BHP and Banjima have set up a Heritage Advisory Council and will speak to other Traditional Owners to understand the best approach for them.
- Requirement for approval from senior management including the relevant Asset President, Vice President Planning and Technical and the Head of Indigenous Engagement before a land disturbance takes place which will disturb a heritage site.

## Review processes

- Under some of BHP's agreements, there is a requirement for periodic reviews of the terms of the agreements and their operation. These reviews are an important opportunity to ensure that the terms of agreements continue to meet best practice. BHP and Traditional Owners are engaged in a number of these reviews currently.

## Artefacts

- We have also commenced a to ensure we continue to meet the expectations of Traditional Owners in relation to the preservation and storage of artefacts.

# Cultural heritage: Management

## Processes at WAIO related to heritage sites

- Ongoing and regular dialogue and engagement with (and feedback by) Traditional Owners in relation to cultural heritage, which occurs through both informal and formal mechanisms (e.g. Heritage Committee meetings).
- Ethnographic and archaeological surveys with Traditional Owners over any land that may be disturbed by BHP's operations in order to identify heritage sites and their significance.
- Consultation with Traditional Owners regarding ways to avoid, minimise, and mitigate impacts to heritage sites, including inspections of the heritage sites that involve Traditional Owners, BHP representatives and an anthropologist or archaeologist.

## Additional cultural heritage systems and processes

- Heritage information databases that record detailed information in relation to heritage sites and consultations with Traditional Owners. These databases are updated in real time to reflect new information and allow for up to date information to be shared with other teams that rely on heritage data.
- Requirement for an internal approval from the Heritage team before any land disturbance occurs (irrespective of prior consultation or legal approvals). Across our WAIO operations, this internal approval is only valid for a period of 12 months, after which it must be refreshed.
- Designation of sites of high significance as 'Internal Protected Areas' afford these sites greater protections. For example, we have declared a rock shelter and stone arrangement at Mining Area C as Internal Protected Areas, which has prevented access to 11 million tonnes of high grade ore. This process facilitates protection of sites that were not known at the time that the relevant agreement was entered into.



# Reform of the WA Aboriginal Heritage Act

## BHP is supportive of the following measures being incorporated into the new legislation

- **Statutory recognition of agreements:** the heritage legislation would be improved if it specifically recognised and accommodated agreements reached between land users and traditional owners on cultural heritage matters. Such agreements should require endorsement by the Minister.
- **Traditional owner consultation:** the right of the traditional owners to be consulted should be entrenched in the statutory provisions in the new legislation dealing with land disturbance (currently section 18).
- **Representative bodies:** the new legislation should provide for the establishment or recognition of the representative bodies with whom consultation will take place.
- **Appeal rights:** where a merits review or appeal right is open to a land user under the new legislation, the same right should be afforded to the traditional owners (through their representative body).
- **Determination of significance of cultural heritage:** supportive of amendments that enable a cultural group of Aboriginal people to determine that a particular place holds cultural importance for that group.
- **Penalties:** supportive of a material increase in the fines and penalties under the current Act to reflect public concerns, act as a deterrent to unlawful damage and to reflect the unique nature of some cultural heritage sites that are protected by the Act.
- **Limitation periods:** supportive of an increase to the current 1 year limitation period to a duration that is commensurate with analogous legislation (i.e. increasing to 3 years as per the Heritage Act 2018 (WA)).

**BHP**