

LAKE MOKOAN LAND USE
STRATEGY
EXISTING CONDITIONS REPORT
HERITAGE

Report prepared for Beca Pty. Ltd.
August 2005

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1.0 Introduction

This is an existing conditions report, which relates to the indigenous and non-indigenous cultural heritage of Lake Mokoan and assesses the potential for archaeological sites to be located within the area, which is currently Lake Mokoan and formerly, the Winton Swamp and the crown land, which surrounds it. Lake Mokoan is situated north of Benalla, in North East Victoria.

The Lake Mokoan Land Use Strategy has been commissioned by the Department of Sustainability and Environment. Heritage Insight is carrying out the assessment and review of the cultural heritage component of the overall study and is working with a team of multi-disciplinary and highly experienced professional consultants, under the umbrella of consultant group, Beca Pty. Ltd.

2.0 Objectives

A comprehensive 18-month study was carried out in 2002-2003 to investigate the potential for the decommissioning of Lake Mokoan (Lake Mokoan Study 2003). Following completion of the Lake Mokoan Study (LMS), the Victorian government made the decision to decommission the man-made Lake Mokoan and return it to a wetland system.

The objective of the current investigation (Lake Mokoan Land Use Strategy) is to identify the best options for land use following decommissioning of the lake, considering potential risks to heritage and environmental values, recreational values, tourism and other industries, which are now reliant on the existence of the lake.

The Lake Mokoan Land Use Strategy (LMLUS) will be undertaken in three stages and has been designed to optimise community inputs. The Project development stages are:

- ◆ Stage 1: Assess Community Values and Aspirations
- ◆ Stage 2: Formulation and Assessment of Strategic Options and Identification of a Preferred Option
- ◆ Stage 3: Prepare Final Report

This existing conditions report forms part of Stage 1. During Stage 1 of the study, the following tasks are required to be carried out:

- ◆ ***Heritage Review.***

The heritage review considers the results of the previous desktop archaeological investigation carried out for Lake Mokoan and makes any recommendations for further work, which may need to be undertaken.

- ◆ ***Draft Assessment Criteria.***

This aspect of the study is to identify any (draft) heritage criteria for the assessment of land use options.

◆ **Conduct Consultation with Indigenous Community Stakeholders.**

Consultation with indigenous community stakeholders is a vital part of the study. Issues for initial discussion are the results, conclusions and recommendations of the desktop archaeological assessment, and any cultural values, which were not identified in the desktop assessment. Continuing consultation with the communities include comments on the options for Lake Mokoan, which are advanced by the Steering Committee, and any specific concerns and issues, that the indigenous communities may have, associated with Lake Mokoan.

The Indigenous community stakeholders identified in the project brief for consultation are:

- North East Regional Aboriginal Cultural Heritage Program
- Rumbalara Aboriginal Co-operative Ltd.
- Yorta Yorta Nation Aboriginal Corporation
- Bangerang Cultural Centre Co-operative Ltd.
- Taungurong Clans Aboriginal Corporation
- Mungabareena Aboriginal Corporation

◆ **Community Workshop**

A community workshop will be held, designed to provide a forum for input on indigenous and non-indigenous cultural heritage (and other disciplines investigated in the Study) and to promote discussion on issues associated with cultural heritage values and Lake Mokoan.

3.0 Scope of Work

Lake Mokoan comprises an area of approximately 7,880ha with a catchment area of approximately 330km². It is fed primarily by diversion from the Broken River and Hollands Creek, although other tributaries (Seven Mile Creek, Winton Creek, Eleven Mil Creek and Show Creek) also feed into the system (LMS 2003 Vol.1).

The Lake occupies a natural depression, which was previously the location of a number of swamps or wetland systems, namely the larger Central and Western Wetlands, and Green Swamp (Tickell 1977; LMS 2003 Vol. 1). A dam wall was constructed, which assisted in retaining water flows within the wetland systems and increasing the general depth of the lake. The original focus for the lake development was for the purpose of irrigation. The main components of the existing development are the inlet channel from Winton Creek, the outlet channel towards Benalla, the dam wall, and the lake itself.

The Scope of Work for Stage One then, is to:

- (1) review the previous archaeological report,
- (2) identify any areas of potential sensitivity for archaeological sites within the study area,
- (3) make any recommendations for further archaeological works or investigations, which may need to be carried out, and
- (4) commence the indigenous community consultation with the idea of developing a framework for further consultation during the project.

4.0 Methodology

Previous Reports

In order to meet the objectives of the Stage One assessment, it was necessary to review the archaeological assessment produced by TerraCulture Pty. Ltd, during the initial investigation of Lake Mokoan in 2002/2003. Although a copy of the Lake Mokoan Study (2003) was posted on the Lake Mokoan website, which has no constraints on access, there was some uncertainty as to the completeness of the report (inclusiveness of maps), as the location of registered Indigenous archaeological sites are not to be made public. A copy of the original report, including maps and appendices could not be obtained from either TerraCulture Pty. Ltd., URS, Aboriginal Affairs Victoria or Heritage Victoria. The available report (posted on the website) is reviewed in Section 6 of this report.

Site Registries

As a copy of the complete archaeological report could not be obtained, a review was made of the site registries at Aboriginal Affairs Victoria and Heritage Victoria in order to ascertain the current status of indigenous archaeological sites and non-indigenous historic sites within the confines of the Lake Mokoan study area. A review was also carried out of the Shire of Delatite Heritage Overlay, the Register of the National Estate and the National Trust of Australia (Victoria) Register. This is discussed further in Section 7.

Historic Plans

The State Library Map Centre was also reviewed in order to obtain copies of pre-Lake topography. Feature Plans were often made by early surveyors, which would also assist in identifying potentially submerged landforms, which could potentially contain evidence of indigenous and/or non-indigenous archaeological sites.

Consultation with Indigenous Community Organisations

Consultation with relevant indigenous community organisations was commenced during Stage One. Community organisations were contacted and meetings arranged to introduce the project and the consultants. Initial consultation was aimed at developing a framework through which further consultation could take place. This is discussed further in Section 7.5.

5.0 Legislation and Policy

5.1 Indigenous Archaeological Sites

The Aboriginal and Torres Strait Islander Heritage Protection Act (1984)

The Commonwealth *Aboriginal and Torres Strait Islander Heritage Protection Act (1984)* (ATSIHPA) takes precedence over other Commonwealth and State legislation.

The ATSIHPA establishes a Commonwealth regime for protection of indigenous cultural heritage and negotiations of cultural heritage agreements with indigenous communities. An amendment to the Act passed in 1987 applies specifically to Victoria. For the purposes of administering the Act, the powers of the Commonwealth Minister for Aboriginal Affairs are delegated to the State Minister for Aboriginal Affairs.

The clause of the Act, which has the most direct bearing on activities, which may impact on indigenous cultural heritage, is Section 21(U) of the Act. Under Sub-section (1) of Section 21(U) of the Act, a person or organisation carrying out an act, which results in damage, or interference with an Aboriginal object (including an archaeological site) or an Aboriginal place, or who carries out an act which is likely to endanger an Aboriginal object or Aboriginal place, is guilty of an offence under the Act. Sub-section 2 of Section 21(U) states that (1) above, "...does not prevent an Aboriginal from entering on or interfering with an Aboriginal place or Aboriginal object in accordance with Aboriginal tradition".

Section 21(U) of the Act also sets out conditions for disturbing an Aboriginal site. Sub-section (3) allows a person to apply for a Consent in writing from the local Aboriginal community "...consent for the excavation of any Aboriginal place or Aboriginal object in a community area of that community or for the carrying out of scientific research on Aboriginal objects in that area". Sub-section (4) of Section 21(U) states that in issuing a Consent, an Aboriginal community "...may, in the consent, specify terms and conditions subject to which the consent is given."

The Aboriginal communities who have responsibility for specific areas of land in Victoria are defined in Schedule 4 of the Act, which has recently been amended. The study corridor is within the community boundary of the **Rumbalara Aboriginal Co-operative Ltd.**

Currently, Consent to disturb applications must be addressed to:

**Chairperson
Rumbalara Aboriginal Co-operative Ltd.
PO Box 614
Mooroopna VIC 3629**

An Aboriginal community has up to 30 days to determine a Consent application, after which the applicant may apply directly to the Minister. However, Sub-section (6) of Section 21(U) states that the Minister must not make a determination regarding a Consent unless "(a) the Minister has sought a recommendation on the matter from any person or body that in the Minister's opinion should consider the matter; and (b)

the Minister has considered any recommendations made and is of the opinion that, in all the circumstances of the case, consent should be granted. In this case, the Minister will seek the opinion of an Aboriginal community or traditional owner groups before making a determination on a Consent.

Penalties for breaches of Section 21(U) of the ATSIHPA, are \$10,000.00 for a natural person or imprisonment for 5 years or both, or \$50,000.00 for a body corporate.

Section 21(R) of the ATSIHPA also allows for the appointment of Inspectors under the Act, who have certain responsibilities and are issued with identity cards.

The ATSIHPA also contains provisions for mandatory search and access to property. Section 21(S) allows a Magistrate who is satisfied, upon an oath from a police officer, that Aboriginal objects or places are threatened with desecration, to issue a warrant for a police officer and Inspector to enter and search any land, premises or vehicle which may contain the Aboriginal place or objects.

Section 21(C) of the ATSIHPA also allows the Minister or an Inspector, to make an Emergency Declaration of Preservation in relation to an Aboriginal place or object under threat. An Aboriginal community may also apply to a magistrate for an Emergency Declaration of Preservation. If an Emergency Declaration is issued, no act or works which are likely to endanger the Aboriginal object or place may occur within a period of 30 days; the Emergency Declaration may remain in force for up to 44 days, at the discretion of the Minister. Under the ATSIHPA, an Aboriginal community may also request the Minister to make a Temporary Declaration of Preservation, which may be in force for up to 120 days, or a Permanent Declaration of Preservation.

The Victorian *Archaeological and Aboriginal Relics Preservation Act (1972)*

The other main body of legislation providing protection to Aboriginal archaeological sites and places in Victoria is the *Victorian Archaeological and Aboriginal Relics Preservation Act (1972)*.

It is an offence, under Section 21(1) of the *Victorian Archaeological and Aboriginal Relics Preservation Act (1972)* to commit an Act likely to disturb or destroy an Aboriginal place or object.

The Schedule of the *Victorian Archaeological and Aboriginal Relics Preservation Act (1972)* requires a Survey Notification Form to be lodged in advance of any archaeological ground survey. At present, AAV requires survey notification forms to be lodged ten days in advance of a survey, unless in exceptional circumstances.

A Permit to excavate land for the purposes of uncovering an Aboriginal archaeological site is required under Section 22 of the *Victorian Archaeological and Aboriginal Relics Preservation Act (1972)*. Permits must be issued by AAV. AAV will not issue a Permit unless a Consent in writing from the relevant Aboriginal community (letter of support) accompanies the Permit application. AAV charges an administrative fee of \$12.00 for the issue of an excavation permit.

This means that any archaeologist undertaking further investigation of an area of land for purposes of discovering Aboriginal cultural material using excavation of any form is required to obtain a Consent for the work under Section 21(U) of the ATSIHPA from the relevant Aboriginal community, and a Permit from AAV.

5.2 Non-indigenous Historic Archaeological Sites

Heritage Act (1995)

Victorian non-Aboriginal heritage legislation is encompassed within the Victorian *Heritage Act (1995)*. The Heritage Act provides protection for historic buildings, shipwrecks and archaeological sites. There are two categories of listing provided for under the *Heritage Act (1995)*; the **Heritage Register** and the **Heritage Inventory**. The Heritage Register is established under Section 18 of the Act and the Heritage Inventory under Section 120.

The Heritage Register is a register of all heritage places, relics, buildings, objects or shipwrecks deemed to be of outstanding cultural significance within the State of Victoria. Section 23 of the Act sets out procedures for nomination of a place or object to the Heritage Register. Section 23(4) of the Act states that nominations are required to clearly specify why the place or object must be included in the Heritage Register, and are to include an assessment of cultural significance against the criteria published by the Heritage Council. Nominations are assessed by the Executive Director of Heritage Victoria; and if accepted, the Executive Director may then recommend to the Heritage Council that the nomination be accepted for inclusion in the Heritage Register. The notice of the recommendation must be published in a newspaper within the area where the place or object is located. Submissions in relation to a recommendation for inclusion in the Heritage Register can be made within 60 days after notification of a decision by the Executive Director. A person with a specific interest in the place or object, such as a property owner or local historical society, may request a hearing by the Heritage Council into a recommendation by the Executive Director for nomination.

Fees apply to applications for Permits under the Heritage Act. The fee is determined by the cost of works.

Section 64 of the *Heritage Act (1995)*, states that it is an offence under the Act to disturb or destroy a place or object on the Heritage Register. Under Section 67 of the Act, a person may apply to the Executive Director for a "Permit to carry out works or activities in relation to a registered place or a registered object." Permit applications within the classes of works identified in Section 64 must be referred to the Heritage Council. They must also be publicly advertised and formal notification provided to local government authorities by the Executive Director. The Heritage Council will state, within 30 days of receiving a permit application, whether it objects to the issue of a permit. If approved by the Heritage Council, the Executive Director may issue a permit after a period of 30 days.

The Heritage Inventory is a listing of all "places or objects identified as historic archaeological sites, areas or relics", areas where archaeological relics are found and private collections which include archaeological relics. Under Section 127 of the Act, it is an offence to disturb or destroy an archaeological site or relic, irrespective of whether it is listed on the Heritage Register or the Heritage Inventory. An application may be made to the Executive Director for a *Consent* to disturb or destroy an archaeological site or relic listed on the Heritage Inventory under Section 129.

Consent application fees apply. An application for Consent to uncover or expose an archaeological site or relic or to excavate land for the purpose of uncovering a site or

relic is \$225.00. An application for Consent to disturb or destroy an archaeological site is \$635.00.

6.0 Literature Review

TerraCulture Pty. Ltd. carried out a desktop cultural heritage investigation of the Lake Mokoan study area as part of the Lake Mokoan Study during 2002/2003. The aim of the Lake Mokoan study was to address options for the future management of Lake Mokoan. Six options were identified, ranging from full decommission of the lake (Option 1) to permanent or annual storage, either deep or shallow (Options 2B1, 2B3, 3B1, 3B3) and revising the operating rules for Lake Mokoan (Option 4).

The aim of the archaeological and cultural heritage aspect of the Lake Mokoan Study was to:

- (1) provide data on known archaeological and historic sites, and
- (2) assess the potential impact of each of the six options put forward by the Department of Sustainability and Environment, on the known archaeological sites or areas of archaeological sensitivity.

A review was undertaken of the major site registries, maintaining records of known indigenous and non-indigenous sites and places of cultural significance (Aboriginal Affairs Victoria site registry, Victorian Heritage Register and Heritage Inventory, Shire of Delatite Heritage Overlay, National Trust Register, Register of the National Estate). A review was also carried out of previous archaeological investigations, which had been undertaken in the wider region of the study area.

The results of the desktop investigation indicated that inland watercourses (rivers and creeks) and waterbodies (lakes and swamps) have a high potential to contain evidence of both indigenous and non-indigenous archaeological sites, as these provide a source of water and other resources required for survival. They are also natural barriers, which may necessitate the construction of bridges and/or fords to facilitate human movement or transportation of goods, and have also been used as natural drains used for the disposal of waste products, an incentive for development.

The research showed that at the time of the study, a total of 34 indigenous archaeological sites were currently known within 5km of Lake Mokoan, comprising scarred trees, rock wells, artefact scatters and mounds. No post-contact Indigenous places were identified, nor were there any non-indigenous historic archaeological sites registered within 5km of Lake Mokoan.

The majority of the previous archaeological investigations carried out in the vicinity of Lake Mokoan have been for the Warby Ranges, to the north of Lake Mokoan. This is a significantly different landform to the former wetland system of Lake Mokoan (Winton and Green Swamps), and one, which contains a different set of site types. However, as a complete cultural landscape, some extrapolation can be carried out and TerraCulture Pty. Ltd. developed the following site prediction model:

- Historic site types may occur around the boundaries of the lake, with material related to past pastoral and farming areas.

- Aboriginal site types likely to be present include scarred trees, stone artefact scatters, mounds and burials. Rock wells and quarries are likely to occur within the hills surrounding the lake, but not associated with the lake itself.
- Stone artefact sites and mounds are most likely to have originally been located around the margins of the former swamps, particularly near creek inlets or rises, which may indicate more diverse micro-environments. Many of these sites will have been covered by the waters of Lake Mokoan. Such occupation sites are also highly likely to occur on the lunette that marks the spit through the centre of the lake. The northern end of the spit (now submerged) is the likely location of the large stone scatter noted by Massola, but never registered (see Bird 1992).
- Cultural scarring is likely to occur on mature trees, particularly on Red Gum and Box, throughout the study area. Again, many of these sites are likely to be flooded by the waters of Lake Mokoan.
- Burials are quite likely to occur within the dune sands of the lunette and the dune at the western end of Lake Mokoan.

The report recommended that a systematic field survey be carried out by a suitably qualified archaeologist, and representatives of the Rumbalara Aboriginal Co-operative Ltd. and Yorta Yorta Nations, once a preferred option has been identified.

7.0 Existing Conditions

As part of the White Paper, 'Our Water, Our Future' water reform package, the government announced the decision to decommission Lake Mokoan and return the man-made lake to a wetland.

In accordance with the Stage One objectives, the existing conditions of the study area in relation to the cultural heritage values are as follows.

7.1 Indigenous Archaeological Sites

There are two registered indigenous archaeological sites within the boundaries of the Lake Mokoan study area. These are two scarred trees in the northeast portion of the study area (AAV sites 8125/0001 and 8125/0002). Discussions with Mr. Neville Atkinson (the Natural Resources Manager Indigenous Facilitator for the Goulburn Broken Catchment Management Authority), Mr. Allan Murray (Mungabareena Aboriginal Corporation) and Mr. Andrew Costello (Aboriginal Affairs Victoria) have revealed that a substantial amount of indigenous cultural material has been identified in the area of the spit, between the former Winton and Green Swamps, including what appears to be flaked glass, indicating that the area may have been used in the post-contact period as well as the pre-contact period. Comments from the general public at the community consultation workshops held in early August have also suggested that indigenous archaeological sites are located on a sandy spit between the Sargents and Winton Swamp systems in the southern portion of the study area.

7.2 Non-Indigenous Historic Sites

There are no non-indigenous historic sites registered within the boundaries of the Lake Mokoan study area, however Mr. Neville Atkinson indicated that during a site inspection of the main spit between Winton and Green Swamp, he identified the remains of an historic structure (timber stumps) associated with earthenware/pottery fragments (historic artefact scatter). Consultation with Jeremy Smith, Senior Historical Archaeologist with Heritage Victoria (HV) indicates that HV have no prior knowledge of this site. The community consultation workshops also resulted in the potential identification of 'blaze trees,' made by early surveyors around the perimeter of the lake and the potential locations of former buildings (schools, post office, houses) which were removed, partially removed or submerged prior to and during construction of the lake. Furthermore, the community consultation workshops also raised the possibility of an earlier trenching period of the original wetland system of Winton Swamp around the turn of the century, well before the creation of Lake Mokoan.

7.3 Identified Areas of Potential Sensitivity for Archaeological Sites

The study area generally consists of a low-gradient floodplain, 'consisting of material deposited from the Warby Ranges to the east, the Victorian Uplands to the south and the Goorambat Hills to the north... shallow depressions in the floodplain have formed wetlands of various depths and varying degrees of permanency' (LMS 2003). This knowledge coupled with a review of historic plans (SLV 1860 Featr 76), indicate that areas of potential sensitivity for archaeological sites will be located around the margins of the more permanent wetland areas (Central and Western Wetlands and Green Swamp), although this does not preclude the indigenous use of the more ephemeral wetland systems in the past. Furthermore, the lunette (dune system), which separated the main wetland systems is identified as a highly sensitive area for both indigenous (including burials) and non-indigenous archaeological sites (see above), as it represents high ground above three separate swamps and is shown to have a post and rail fence running across it on an 1860 plan. This area was partly under occasional license from at least this period, as well as comprising some freehold land (SLV 1860 Featr 76).

It is likely that scarred trees will be located within the stands of the remaining mature Eucalypts, especially the Red Gum and Box species, which would have ringed the swamp margins, but are now located within the inundated areas of Lake Mokoan (especially the former Green Swamp).

From a landscape context, given that indigenous archaeological sites have been recorded in the hills and on the plains surrounding the existing lake, it is not unlikely to expect that the existing dry land surrounding the lake and within the margins of the Crown land will contain evidence of past Aboriginal land use. It is unreasonable to suggest, as has been generally stated in the past, that sites will be situated within 50m of a source of water. This is far too restrictive and limiting given that indigenous people are known to have roamed over a wider area, living their semi-nomadic lifestyle. People are likely to have camped or left material evidence of their existence in the sheltered foothills of the Warby Ranges and the Glenrowan Hills, and on the plains leading down to Benalla. People are also likely to have camped on the high ground overlooking the former wetland systems and along the margins of the wetlands, which would have altered as the water receded or risen due to local climatic conditions.

7.4 Summary

7.4.1 Expected Site Types

In summary, the potential site types likely to be identified within the Lake Mokoan study area are:

Indigenous Archaeological Sites

- Scarred trees
- Stone artefact scatters
- Mounds
- Burials
- Rock wells and quarries are likely to occur within the hills surrounding the lake, but not associated with the lake itself.

Non-Indigenous Historic Sites

- Structures associated with the past pastoral and farming periods, such as post and rail fences and gates,
- footings associated with early outbuildings or huts
- historic artefact scatters
- sites associated with the early survey of the area, such as survey marks on trees ('blazes')

7.4.2 Identified Areas of Potential Sensitivity

Areas of potential sensitivity for archaeological sites are likely to be located in the following areas:

Indigenous Archaeological Sites

- Around the margins of the former swamp and wetland systems, although these may well be currently inundated
- Around the margins of the existing lake system
- On (or in the case of burials, contained within) the high ground associated with the former wetland systems, especially but not limited to the spit (sandy lunette) through the centre of the existing lake
- At the junction of creeks with the former swamp and wetland systems

Non-Indigenous Historic Sites

- May occur around the boundaries of the existing lake
- May occur in areas of high ground between the former wetland systems.

7.5 Indigenous Community Consultation

Legislation

Part IIA (Schedule 4) of the Commonwealth *Aboriginal and Torres Strait Islander Heritage Protection Act (1984)* sets out the local indigenous community organisations

in Victoria with statutory authority under the Act. These indigenous community organisations exercise decision-making responsibilities within a defined community area, the boundaries of which are specified in the Regulations to the Act. It must be noted that the Commonwealth legislation did not come into effect until 1984 and does not reflect traditional boundaries, nor does it reflect the location of traditional owner groups or organisations representing traditional owner groups. It is merely a vehicle for the management of cultural heritage sites, places and areas within Victoria. Furthermore, the Commonwealth cultural heritage legislation was amended in 2003 to include further indigenous community organisations on the Schedule, but without providing them with the responsibility of a cultural heritage area. Initial consultation with each of the indigenous community stakeholders identified for the current study is described below.

Rumbalara Aboriginal Co-operative Ltd.

For the purposes of the Commonwealth legislation, Lake Mokoan falls within the cultural heritage area of the Rumbalara Aboriginal Co-operative Ltd.

Initial consultation has taken place with Mr. Neville Atkinson, from the Goulburn Broken Catchment Management Authority. Mr. Atkinson is also Chairperson of the Rumbalara Aboriginal Co-operative Ltd. Mr. Atkinson intimated a preference for the project to be run through the Rumbalara Aboriginal Co-operative Ltd. with the Co-op used as a vehicle for all consultation. The strategy behind this was to (1) facilitate the consultation process once all initial consultation has taken place, and (2) the study area is situated within the cultural heritage boundaries, which is the responsibility of the Rumbalara Co-op. Since the project aim is to identify cultural heritage values and potential areas where cultural heritage values will be located within the Lake Mokoan area, this seemed a natural progression.

Further consultation was carried out with Ms. Felicia Dean, the Chief Executive Officer for the Rumbalara Aboriginal Co-operative Ltd. Ms. Dean indicated that Rumbalara have two board members who also sit on the North East Region Aboriginal Cultural Heritage Program Board (NERACHP). Ms. Dean also indicated that the consultation process could be facilitated through the Rumbalara Co-operative with the two board members acting as spokespeople and disseminating information relating to the LMFLUS to the other indigenous organisation stakeholders at the NERACHP board meetings. Alternatively, Rumbalara could send out letters informing other indigenous organisation stakeholders of updates relating to the project. Ms. Dean was also happy to accommodate the wishes of the Taungurong Clans Aboriginal Corporation in their request to be seen as a key indigenous organisation contact.

It should be noted that since May 2002, Rumbalara Aboriginal Co-operative Ltd. have maintained an Agreement in Principle with Yorta Yorta Nation Aboriginal Corporation for the management of cultural heritage matters within the Rumbalara community cultural heritage boundary.

North East Region Aboriginal Cultural Heritage Program

Aboriginal Affairs Victoria has set up a Regional Aboriginal Cultural Heritage Program across Victoria. This program divides Victoria into five main regions for the purpose of overseeing cultural heritage management within the State. Management bodies for each region have been established consisting of a Board of Directors with members drawn from each of the Aboriginal communities defined by the

Commonwealth Act, a Regional Co-ordinator and several Cultural Officers. Lake Mokoan falls within the North Eastern Region Aboriginal Cultural Heritage Program. The position of Manager (Regional Co-ordinator) has recently been advertised. Currently, the Acting Manager is Mr. Kevin Atkinson. Mr. Kevin Atkinson is also a member of the Bangerang Cultural Centre Co-operative Ltd, and until recently, was their Senior Cultural Officer.

Initial consultation has been undertaken with Mr. Kevin Atkinson. Mr. Atkinson indicated that from the perspective of the Bangerang Cultural Centre Co-operative Ltd., and the North East Region Cultural Heritage Program, he would prefer that any consultation relating to the project be co-ordinated through the Rumbalara Aboriginal Co-operative Ltd. Mr. Kevin Atkinson indicated the same reasons for this as did Mr. Neville Atkinson.

Consultation with the other identified stakeholders (as set out in the project brief) however, has identified a number of Agreements in Principle between the various stakeholder groups, which need to be observed in the consultation process with respect to the Lake Mokoan study area.

Yorta Yorta Nation Aboriginal Corporation, Taungurong Clans Aboriginal Corporation and Bangerang Cultural Centre Co-operative Ltd.

The desktop investigation identified that the Lake Mokoan subject area was on the boundary of two individual language groups – the *Daung wurrung* (now represented by the Taungurong Clans Aboriginal Corporation) and the *Joda Joda* (now represented by the Yorta Yorta Nation Aboriginal Corporation). According to Clark (1995) however, the *Joda Joda* (Yorta Yorta) and the Bangerang (now represented by the Bangerang Cultural Centre Co-operative Ltd) were one and the same, although early ethnographers infer somewhat different locations for each group and there may be some evidence that they may have been separate groups.

Although Mr. Neville Atkinson is a Yorta Yorta person, Mr. Lee Joachim is the Yorta Yorta delegate with whom consultation should take place. When approached by the consultant regarding the Lake Mokoan Land Use Study, Mr. Joachim stated that he would be satisfied for all consultation relating to the Study, to run through Rumbalara and for correspondence to be disseminated by the Co-op.

Furthermore, following the recent, but ultimately unsuccessful Native Title Claim made by the Yorta Yorta, DSE have negotiated an Agreement in Principle for waterways (Crown Land) in the claim area. Lake Mokoan is included in this Agreement. Although the Agreement has not been viewed by the consultant, it is understood that it includes a requirement for consultation with the Yorta Yorta in relation to cultural heritage site management within waterways in the claim area.

The Taungurong Clans Aboriginal Corporation is an indigenous community organisation listed in the Schedule to the Commonwealth Act, although they have not been allocated a cultural heritage area for which they are responsible. The Taungurong Clans Aboriginal Corporation represents descendents of the traditional Taungurong (*Daung wurrung*) people. The project was discussed with Ms. Trish Terry, the contact person for the Taungurong. Ms. Terry intimated that as the former Winton Swamp area was located in traditional Taungurong land, the Taungurong Clans Aboriginal Corporation have a definite interest in the region. Furthermore, Uncle Brian Patterson (Taungurong Elder) has indicated that the region was used for ceremonial purposes by Taungurong people in the past. As such, the Taungurong

have negotiated an Agreement in Principle with the Yorta Yorta, agreeing that the Lake Mokoan area should be shared between both the Yorta Yorta and the Taungurong.

The Bangerang Cultural Centre Co-operative Ltd. is an indigenous community organisation listed in the Schedule to the Commonwealth Act, although their cultural heritage boundary is situated further to the north of Lake Mokoan. The Bangerang Cultural Centre Co-operative Ltd. also represent descendants of the Bangerang people. The Bangerang choose not to be affiliated under the banner of the Yorta Yorta Nation Aboriginal Corporation and although their legislated community boundary is north of Lake Mokoan, there is some debate as to the exact location of traditional people and their affiliations (see discussion above on Yorta Yorta).

Mungabareena Aboriginal Corporation

Although Mungabareena Aboriginal Corporation was identified in the project brief as an indigenous community stakeholder, discussion with Mr. Kevin Atkinson indicated that this was only through the involvement of the Bangerang Cultural Centre. Mr. Atkinson suggested that any issues relating to the project could be brought up at the North East Region Board Meetings by the Rumbalara representatives. However, consultation with Mr. Russell Ellis from the Steering Committee has indicated that Mr. Allan Murray and Mr. Ray Ahmat from Mungabareena Aboriginal Corporation have carried out some site work around Lake Mokoan and may have information pertinent to the current study.

Mr. Allan Murray was then contacted by the consultant. Mr. Murray suggested that he was invited by local landholders, to examine some areas around the lake for evidence of indigenous cultural heritage. Although a formal survey was not carried out, a brief site inspection, in the presence of AAV Project Officer, Mr. Andrew Costello identified a large scatter of indigenous stone artefacts and post-contact flaked glass on the lunette between the former Winton and Green Swamps. Mr. Murray indicated that he was happy for the consultation process for the Land Use Study to be run through the Rumbalara Aboriginal Co-operative Ltd.

Initial consultation with representatives from each of the above indigenous community groups has indicated that a protocol needs to be developed for the continuing consultation process for the remainder of the project.

8.0 Key Issues / Conclusions

Development of this existing conditions report on the cultural heritage values of the Lake Mokoan study area has highlighted a number of issues, which relate to the general cultural heritage process. Firstly, since completion of the initial Lake Mokoan Study (2003), no final cultural heritage reports have been submitted to the government bodies (Aboriginal Affairs Victoria or Heritage Victoria), nor to the relevant indigenous communities for comment, which has made the consultation process during the current study increasingly difficult.

Furthermore, the consultation process is a lengthy process and cannot be expected to be completed within the Stage One assessment phase. To assist in the continuing consultation process with the indigenous community organisations, a protocol will need to be developed for the remainder of the project, which sets out the process for

the dissemination of information at each stage of the project, to the indigenous communities.

The Lake Mokoan study area has not previously been the subject of a formal field survey for archaeological sites, and the heritage values of the study area are therefore, largely unknown.

It must be noted that the results of this report are based solely on what research and consultation has taken place. The recommendations and key issues may alter as a result of further consultation with both indigenous community organisations and local landholders, and further research, including field investigations.

The following recommendations are made based on the review of the previous report, review of the indigenous and historic site registries, review of historic mapping and the results of the indigenous and general community consultation processes undertaken so far.

- A protocol should be developed for the continuing consultation process with indigenous community organisations for the remainder of the project.
- The protocol must meet the needs of all indigenous community organisations and must be signed off by all relevant community organisations prior to implementation.
- A field survey of the Lake Mokoan study area and associated assets should be carried out by a suitably qualified archaeologist and a representative of the Rumbalara Aboriginal Co-operative Ltd. and a representative of any other community organisation from the identified stakeholder list, who wishes to be involved. The aim of the field survey will be:
 - to validate the location of existing indigenous archaeological sites registered within the study area,
 - to identify and record the location of any new indigenous archaeological and non-indigenous historic sites within the study area,
 - to identify any areas of potential sensitivity, which it may not be possible to adequately survey or examine during the field assessment (these areas may be identified as currently inundated, provide no ground surface visibility for examination, have difficulties of access, or be a landform, which has the potential to contain sub-surface cultural material e.g. the spit).
- The field survey, or at least a preliminary field inspection in which areas of potential sensitivity for archaeological sites can be identified, should be carried out PRIOR to the development of FINAL future land use options. The location of archaeological and cultural heritage values may have a significant impact on the potential land-use options, which may be developed for the Lake Mokoan locality. Therefore, it would be prudent for at least a preliminary field inspection to be carried out during Stage 2 of the current study. The field inspection could assess the potential for sites to be located and their potential condition and integrity, providing a mapping overlay for the potential cultural heritage values of the study area, which will have a direct impact on the development of future land use options within the study area.

