

Respect and  
Recognition

Cultural Heritage  
Traditions and  
Values

Sharing and Caring  
for Land & Sea  
Country

Partnership and  
Enterprise  
Capacity Building

Obligations and  
Responsibility

# THE CULTURE OF OUR BUSINESS....

*Partnership in the development of  
cultural heritage caring for 'land and sea country'; Aboriginal tourism and enterprise,  
consistent with Ngaro and Gia Aboriginal peoples economic, cultural and environmental  
values.*

## Cultural Heritage Management - Plan Shute Harbour Marina Development EIS Consultation Report.

**Shute Harbour Marina Development Project**

**Shute Harbour Road, Shute Bay, Whitsunday Region.**

**In consultation with Gia and Ngaro/Gia Aboriginal Respondent Parties**

**July 2008**



**The Hornery Institute**

# CULTURAL HERITAGE MANAGEMENT AGREEMENT CONSULTATION REPORT

## Warranty

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This report has been based upon the most up to date readily available information at this point in time, as documented in this report. The Hornery Institute Pty Ltd has applied due professional care and diligence in accordance with generally accepted standards of professional practice in undertaking the Cultural Heritage Management Agreement negotiations and social enterprise models contained in this community consultation and community engagement report. The Hornery Institute Pty Ltd will not be liable for damages arising from any errors or omissions, which may be contained within the referenced information sources.

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## Explanatory Note

Within this report, The Hornery Institute Pty Ltd was responsible for community engagement and consultation services with Cultural Heritage Management Agreement respondent Aboriginal stakeholders. The consultation program included group meetings, direct respondent party Cultural Heritage Management Agreement communication, Aspirations modeling & social amelioration analysis. Consultation continued for the duration of the Terms of Reference and EIS investigation period.

Michele Bird from Northern Archeology Consultancies Pty Ltd, was responsible for the Cultural Heritage Survey study and development of the Cultural Heritage Report to inform the EIS and CHMA.

Three Plus Pty Ltd was responsible for broader stakeholder consultation and communications throughout the EIS process.

Shute Harbour Marina Development Pty Ltd, via the Shute Harbour Marina Development Project Team and the formation of a Core Project Group (with representation of several consultants) was responsible for agency and local government authority public sector professionals consultation.

The AEC Group was responsible for the Social Economic Impact Assessment(SEIA) study and specific stakeholder consultation to inform the SEIA Report and SHMD - Net Benefit Analysis Report for the Shute Harbour Marina Development EIS.

Cardno was responsible for the overall EIS.

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### NGARO WELCOME SPEECH

WADDA MOOLIE THULGARIE

"Gnia gnullingu youndu thulga nia bulloo bibina yulga nunnie bulgu goories gudjuda ngaringa ngaro goories nunnie gnialoo thulbin gootha thulga yumbagoo yulga gnialoo bulbin nia migaloo thulgarie bimbi wadja gudjuda goories thulgarie yallorin midtha migaloo thulgarie bimbi wadja gurra buddie budgen-burrie yubana yundu bundalla bulloo bibinna eungie bulbin."

ENGLISH

### WADDA MOOLIE!

"Greetings, we welcome everyone here today to our ancestors country, 'the canoe peoples of the Ngara Islands', today known as the Whitsunday Islands. We hope that everyone has a good time here in our homeland. We thank our white brothers and sisters from the bottom of our hearts, for including the traditional custodians in this great development. We have had many good meetings, and no one told lies or made things up, we all talk straight to one another. We hope our relationship continue to grow with SHMD [Shute Harbour Marina Development Pty Ltd] through our CHMA [Cultural Heritage Management Agreement], as we learn to respect each other towards a better understanding, and to show that Gia and Ngara/Gia's respondent and non Aboriginal Australians can work together in all things for our future generation may the spirit of our ancestors be happy, as we celebrate this great occasion."

By RENARTA 'GOOTHA' PRIOR;  
(Gootha means Sister)

### Acknowledgement to Country:

We acknowledge the traditional custodians of this land and sea country; and pay our respects to the elders both past, present and future for they hold the memories, the traditions, the culture and hopes of Ngara and Gia Aboriginal peoples. We also thank our Cultural Heritage Gia and Ngara /Gia respondent partners for their sharing of culture, values, aspirations and spirit of collaborative partnership. In our journey so far, we have learnt so much. We look forward to our long term partnership and the generational "care for land and sea country" opportunities this development has the potential to realise (if approved).

By Malcolm Hall-Brown  
Chairman Of the Board of Directors  
Shute Harbour Marina Development Pty Ltd

### Gia Welcome Speech

Eungella Murri - that means Good evening everyone in Birra Gubba language. My name is Raymond Wake and I'm a traditional owner of Gia country, and stand here before you today with the blessing of the Gia elders and ancestors to welcome you to our country.

The Gia people historically had extremely close ties with the Ngara people here in what is now known as the Whitsundays, as we had common lands, language, and familiar ties, and you would have heard / or will hear from the Ngara people tonight as well.

I've grown up on Gia and Ngara country and have been very blessed in being able to learn my traditional cultural heritage from my father, his father, and other elders, as this knowledge was passed down from my ancestors.

Some of my fondest memories of growing up on my traditional land have included hunting and fishing trips with my family, and I understand that I am very lucky in being able to learn about my cultural heritage on my country as many of my brothers and sisters throughout Australia have suffered the detrimental effects of past Government policies and were removed from their country of origin.

Although my country here continues to change to meet the needs of everyone who live in and visit the Whitsundays, I am hopeful that the stories and cultural lessons of the Gia ancestors do not disappear entirely. The establishment of a Aboriginal Cultural Centre at the new Marina will go a long way in making sure that our traditional way of life in this area is not forgotten, and people from all walks of life and from other nations can learn about our unique culture through our Dreamtime stories. The partnership between Ngara and Gia peoples and Shute Harbour Marina Development Pty Ltd is demonstrated through the development of an agreed Cultural Heritage Management Plan, which will bring enormous cultural, economic and social benefits to our people.

The Aboriginal Cultural Centre will also be pivotal in educating Australia's future generations. This will be a place where children can come and learn about the first peoples of our Country, and we will be able to carry on the cultural lessons of our ancestors to foster an atmosphere of acceptance and appreciation of Aboriginal peoples' place in society and the importance of our culture in our national identity.

I thank everyone for listening to my story and hope that we are able to heal some of the hurts for Aboriginal people and move forward together, making sure that we all respect each other, and learn from past mistakes.

Thank you on behalf of the Gia people and our ancestors.

# ACKNOWLEDGEMENTS

The Hornery Institute wish to sincerely thank the following participants who have contributed directly and indirectly to the consultation process detailed in this report.

Particular acknowledgement is made to Gia and Ngaro/Gia respondent parties. By sharing their culture, knowledge, Aspirations, and commitment to collaborative partnership; *The Culture of Our Business Report* has been made possible.

## The respondent parties:

- Gia respondent party representatives comprised the following individuals; Elsie Kyle, Raymond Wake, Patricia (Patsy) Brimble and Marie Coleman, representatives of Gia peoples.
- Raylene Van Veen (nee Wake); proxy Gia respondent representative. Vicky Toffetti & Agnes McAvoy.
- Ngaro/Gia respondent party representatives comprised the following individuals; Raymond Prior, Sandra Hero, Carol Prior, Diana Ross, Renarta Prior and Charmaine Koroi, representatives of Ngaro/Gia peoples.
- Cilla Prior; proxy Ngaro/Gia respondent representative. Mervyn Prior

## Organisational representatives:

- Gudjuda Reference Group Aboriginal Corporation representatives; Eddie Smallwood - Chairperson; Petula Heron - Administrator (Nathanial Surha - Administrator initial relationship consultation)
- Queensland Cultural Heritage and Native Title Management Services Pty Ltd representative; David Mailman - Director - Principal Consultant and Hope Wragge - Director- Company Secretary
- Wiri Cultural and Business Enterprises Pty Ltd; Graham Sauney ["Cookie"] (initial relationship consultation)

## Government Agency:

- State Department Natural Resources and Water; Brian McFayden - Senior Advisor; Cultural Heritage Coordinator

## Proponent and project staff:

- Shute Harbour Marina Development Pty Ltd; Board of Directors
- Port Binnli Pty Ltd; Jeff Smith - Chief Executive Officer, David Quinlan - Project Manager, Patrice Tirendi - Project Assistant

## EIS technical studies consultants:

- Northern Archeology Consultancies Pty Ltd; Michele Bird - Archaeologist
- Three Plus Pty Ltd; Susan Scott & Noel Harvey - Principal Consultants; Barton Green - Director; Isabel Bryce - Senior Consultant; Daniel Hockey - Consultant
- AEC Group; Ashley Page - Project Manager
- Cardno - EIS consultants



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## APPENDICES

Public Release Version - Voluntary Cultural Heritage Management Plan between Ngāro and Gija Aboriginal peoples and SHUTE HARBOUR MARINA DEVELOPMENT PTY LTD For the Shute Harbour Marina Project Area On and adjacent to Lot 2 (DP117389) And Lot 273 (HR1757) Thirteenth Day of April 2008

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# THE CULTURE OF OUR BUSINESS....



## PREAMBLE

*“Our challenge for the future is to embrace a new partnership between Aboriginal and non-Aboriginal Australians. The core of this partnership for the future is closing the gap between Aboriginal and non-Aboriginal Australians on life expectancy, educational achievement and employment opportunities.” Australian Prime Minister. Extract: Apology Speech; February 13 2008.*

The consultation and resulting CHMA exceeds the conventional standards of a CHMA, as it moves beyond merely providing practical measures to protect cultural heritage values of environmental harm in the vicinity of the proposed development. It proactively provides a model of long-term social, cultural and economic net benefit to Gia and Ngaro/Gia respondent parties and the Aboriginal communities generally.

This consultation report has been reviewed and endorsed by the Gia and Ngaro/Gia respondent parties as an accurate record of the consultation and intent of the CHMA and the partnerships fostered between respondent Aboriginal parties and SHMD. It is consistent with the traditions, heritage, social and cultural values of the community.

In accepting that each generation is responsible for the welfare of future generations, the proposed infrastructure project will provide, if approved - economic, social, cultural and environmental benefits for the community. The intent of the CHMA is to collaboratively partner with Ngaro and Gia Aboriginal communities who will actively contribute to destinational benefits on site for Aboriginal and non-Aboriginal peoples and share in the destination benefits this proposal anticipates.

Throughout the consultation to inform this report, it was recognised by all parties that:

- Tourism is a key economic driver for the Australian and Whitsunday economy.
- The Whitsundays is one of Australia’s most desirable domestic holiday destinations and an increasingly popular destination for international visitors.
- The SHMD site is in an ideal location to enhance the resort component of the development plan through the co-location of an integrated Cultural Centre and marine ecology interpretive centre and Aboriginal Performance Space - managed and operated by Aboriginal peoples.

In response to Gia and Ngaro/Gia respondents Aspirations, Shute Harbour Marina Development has formed a collaborative partnership with Ngaro and Gia Aboriginal peoples to potentially contribute to a key tourism industry opportunity for the Whitsunday by developing a strong, effective Aboriginal sector niche market.

The inclusion of a Ngaro and Gia Cultural Centre, Performance Space and eco-cultural tourism opportunities as an integral part of the proposed Marina Resort Development, is identified by the respondent parties as a catalyst to position and promote the Whitsundays as a unique and desirable holiday experience in domestic and international markets, while showcasing the rich cultures of Ngaro and Gia Aboriginal peoples.

The respondent parties identified that the Aboriginal consultation undertaken for this CHMA serves as an exemplar in CHMA negotiations. It demonstrates the fostering of long term relationships, collaborative partnerships between Aboriginal respondents and a Developer proponent (sponsor). It may also provide a model for future negotiated CHMA’s in Queensland.

It is also asserted by the Aboriginal respondent parties that the consultation and resulting CHMA provides a model consistent with Ngaro and Gia social, economic, cultural and environmental values and will realise generational ‘care for land and sea country’ Aspirations.

If the proposed development is approved, this CHMA embraces the challenge for the future through local partnerships and actively contributes to the Commonwealth and State governments’ agenda of closing the gap in employment and enterprise, and improving social-cultural wellbeing for Ngaro and Gia Aboriginal communities. This will also be achieved while fostering inter-cultural understanding and an appreciation for shared knowledge exchange between all partners to the CHMA as the *‘culture of our future business.’*



# EXECUTIVE SUMMARY

“Cultural heritage is based on aspects of our past that we want to keep, appreciate and pass on to future generations. These elements reflect our history, and can evoke special meaning for us as individuals or as members of a community.” Environmental Protection Agency; Queensland Department Natural Resources and Water.  
[http://www.epa.qld.gov.au/cultural\\_heritage](http://www.epa.qld.gov.au/cultural_heritage) accessed 8 July 2008.

## Introduction

This report contains details of the ‘best fit’ inclusive consultation process and methodology in consulting with Cultural Heritage Management respondent parties for the proposed Shute Harbour Marina Development (SHMD) as an integral component of the EIS process. Included are the outcomes of engaging with Cultural Heritage Respondent Parties and other Aboriginal community members.

The program and methodology were consistent with the Environmental Protection Agencies guidelines and demonstrates due diligence and compliance with the Queensland Aboriginal Cultural Heritage Act 2003; and is consistent with the Environmental Impact Assessment (EIS) Terms of Reference (ToR) for Shute Harbour Marina Development.

This report also records the agreed Cultural Heritage Management and Aspirations strategies (identified in the approved ‘*Shute Harbour Marina Development Cultural Heritage Management Agreement*’) assessed against key determinants or indicators of Aboriginal disadvantage; identified by the Council of Australian Governments’ (COAG) third edition of “*The Overcoming Aboriginal Disadvantage Report, 2007*”.

The key elements of the SHMD Cultural Heritage Management Agreement (CHMA), approved by the Queensland State Department of Natural Resources and Water - Cultural Heritage Branch are also detailed.

The CHMA and recorded consultation outcomes, which included the participants value in the inter-connection between the Developer Proponent and the Aboriginal communities are documented.

The Cultural Heritage Survey (CHS) Report has revealed that:-

***“No archaeological evidence for significant Aboriginal cultural heritage sites or materials was discovered during the cultural survey and site inspection of the Shute Harbour Marina development area.” SHMD Cultural Heritage Report (CHS) 2008.***

Consultation during the SHMD CHS studies have confirmed that the Shute Harbour coastal area (including the Shute Harbour Marina Development site) remains culturally significant to Ngaro and Gia peoples.

The SHMD CHS reported cultural significance for the following reasons:-

- The area is part of their traditional homelands (land and sea country) and as such retains immeasurable cultural and spiritual values;
- The Gia and Ngaro/Gia respondent parties believe that there is a possibility that intact Aboriginal cultural sites, artefacts or materials may remain in the project area (in the intertidal and subtidal zones, possibly buried within subsurface deposits of mud and other sediments);
- Some highly significant Aboriginal cultural sites (including burials, rock art, ceremonial sites, tidal fish traps, shell middens and stone artefacts) have been recorded in similar coastal settings (sheltered bays) in the Whitsunday region (on the mainland and offshore islands);
- The Gia and Ngaro/Gia respondent parties reported that coastal bays such as this one were economically important to the Ngaro and Gia Aboriginal peoples in traditional times, as fishing grounds, and for hunting and gathering both animal and plant resources. The marine, estuarine and riparian environments contained a plethora of birds, fish, shellfish, marine and terrestrial mammals and plant foods;

- Elders reported that they have continued to visit the Shute Harbour area and adjacent coastline in contemporary times, to fish, collect shellfish and collect bush tucker and medicines;
- The Gia and Ngaro/Gia respondents are today actively involved in 'caring for country' along the Whitsunday coastline (e.g.: through turtle conservation and monitoring programs, Coast Care and native plant revegetation programs);
- They maintain an active interest in land/sea management and development projects in their traditional homelands.

Notwithstanding the purely archaeological assessment undertaken as an integral component of the CHS, impacts identified by the respondent parties highlighted that:

- The Gia and Ngaro/Gia respondent parties maintained their concern that development operations for the proposed project may impact unrecorded surface or subsurface cultural sites or items (especially along the immediate or enhancing cultural heritage environmental values coastal fringe) and sought practical measures for protecting or enhancing cultural heritage environmental values to be incorporated into the CHMA.
- Amelioration actions included a cultural monitoring/site inspection program to be implemented for development operations, including any removal of fringing vegetation along the coastal margins, and the excavation of coastal deposits within the bay.
- The Gia and Ngaro/Gia respondent parties raised some queries and concerns relating to the potential long-term impacts of the proposed project on the natural environment of the Shute Harbour area (e.g.: mangrove and fringing coastal vegetation, turtle populations, fish habitat and other marine fauna, potential pollution and spillage of oil and diesel in the bay).

The CHS report also made several recommendations for follow-up work to address the issues raised (e.g.: revegetation of reclaimed land areas with local native plants with direction and involvement of Gia and Ngaro/Gia respondent parties, replanting of mangrove species and clean-up of pollution at the foreshore).

During the course of the Cultural Heritage Study (CHS) the respondent parties did not raise any major concerns, constraints or objections to the proposed development project, provided that the development proponent undertake to implement the recommendations of the Cultural Heritage Report.

The following principles were raised by the respondent parties and formed the foundation of agreement in the CHMA:

- Cultural Heritage
- Self Determination
- Respect and Recognition
- Sharing and caring for Land and Sea Country
- Partnership and social, business enterprise capacity building
- Obligations and responsibility

Included in the CHMA are:

- ✓ cultural heritage and environmental amelioration strategies
- ✓ duty of care compliance requirements
- ✓ the commitment to Aboriginal self determination
- ✓ social and business enterprise initiatives
- ✓ ethno-botanic advisory opportunities, and
- ✓ exchange of knowledge between Aboriginal and non-Aboriginal peoples.

The resulting CHMA addresses the issues raised by the respondent parties and the CHMA has provided a formal catalyst for agreement between all parties.

The CHMA has been formally approved by the Queensland Department of Natural Resources and Water - Cultural Heritage branch.

All parties identified the Shute Harbour Marina Development as a potential for a joint visionary infrastructure proposal for the development site.

# LAND AND SEA COUNTRY ....

*“Understanding the importance of sea country to Aboriginal Australians involves recognising that certain areas of land and sea are central to the identity, culture and social structure of particular groups of Aboriginal peoples. It involves recognising the significance of sacred sites, the contemporary importance of traditional hunting, fishing and gathering, and the need to secure an independent economic base while maintaining traditional associations with land and sea. It also involves recognising the importance of the present, recognising the effects of dispossession and the efforts to recognise, rebuild and strengthen links with traditional land and sea country.”* Extracted from Understanding Country. The importance of land and sea in Aboriginal and Torres Strait Islander societies. Key Issue Paper No.1. Council for Aboriginal Reconciliation. Commonwealth of Australia, Canberra, 1994.

## Project Site:

The project site is located in Shute Bay in the Whitsunday Shire Council Local Government Area (LGA), off Shute Harbour Road, Shute Bay, Shute Harbour.

The proposed Shute Harbour Marina Development site is described as Lot 2 on Plan SP 117389 and Lot 273 on Plan HR1757.

The site lies outside the boundary of the Great Barrier Reef Marine Park (GBRMP), Dugong Protection Areas and Fish Habitat Areas (FHA). Part of the site is within the outer margin of the World Heritage Area, and the proposed site abuts Conway National Park on the northern boundary. (AEC Group - SHMD SEIS Report, 2008)

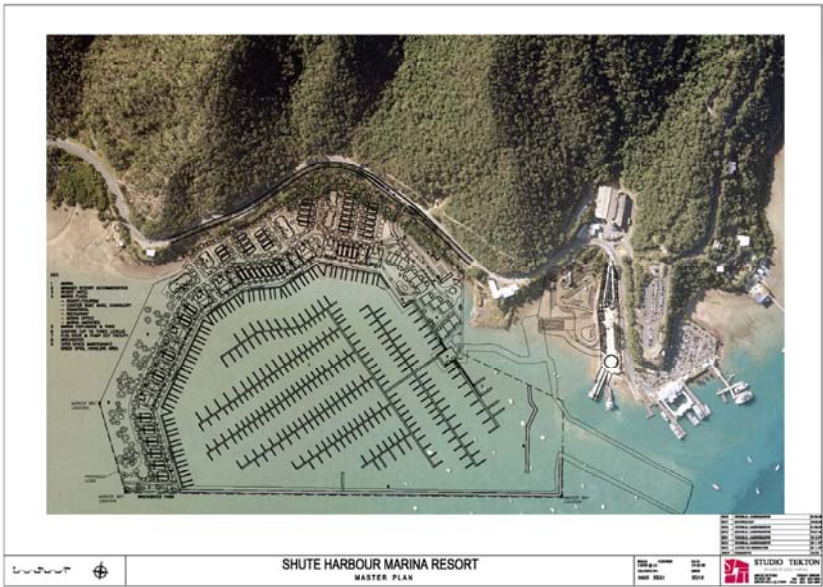
The cultural heritage surveys undertaken by Gia and Ngaro/Gia respondents supported by Northern Archaeology Consultancies; Michele Bird - Archaeologist in consultation with Ngaro and Gia Aboriginal peoples assessed the described site.

The site is identified as of interest to the Ngaro and Gia Aboriginal peoples and a voluntary Cultural Heritage Management Agreement has been developed and mutually agreed to preserve culture and maintain and maximise opportunities for generational “care for land and sea country” of Ngaro and Gia Aboriginal peoples homelands.

Diagram 1. Project Site Photo



Diagram 2. Project Site





# THE PROPOSED PROJECT

## Proposed Project Description

The concept master plan for the proposed Shute Harbour Marina Development incorporates water and land based components, which are summarised below and are shown in the concept site Master Plan. (Diagram 3.)

### Marina Facility

- A world class marina facility including: Marina providing 669 berths (including 193 multi hull berths) in a “good” wave climate constructed in accordance with Australian Design Standard AS3962-2001;
- Fixed break-wall for marina berths accommodating vessels of various sizes ranging from 11 metres to 35 metres in length and including berths for large catamarans in accordance with Australian Design Standard AS3962-2001;
- Charter boat base for a range of charter boats directly connected to the onshore facilities.

### Onshore Development

The onshore development will integrate Gia and Ngaro/Gia respondent parties business enterprises within the Commercial and Tourism Precincts.

The Commercial and Tourism Precincts will include:

- A 4½ star tourist resort up to 5 storeys comprising 109 family suites in a format designed to suit the site and the location with underground car parking;
- Managed Resort Accommodation, with the architectural design controlled through design covenants and guidelines to achieve a high quality, consistent and coordinated built form appropriate to the region and the marina setting;
- Maria office and amenities and car parking;
- An Aboriginal Cultural Centre managed and operated by Ngaro and Gia Aboriginal peoples - co-located in the Marina Office and Charter Boat base;

➤ Roof top cultural Performance Space as a signature Cultural Tourism destination - co-located in the development; managed and operated by Gia and Ngaro peoples.

➤ Charter boat base comprising a range of charter boat tenancies, administration and amenities;

➤ Retail space;

➤ Emergency services access and facilities;

➤ Replanting of mangroves via a cultural replanting program in partnership with Gia and Ngaro peoples; and

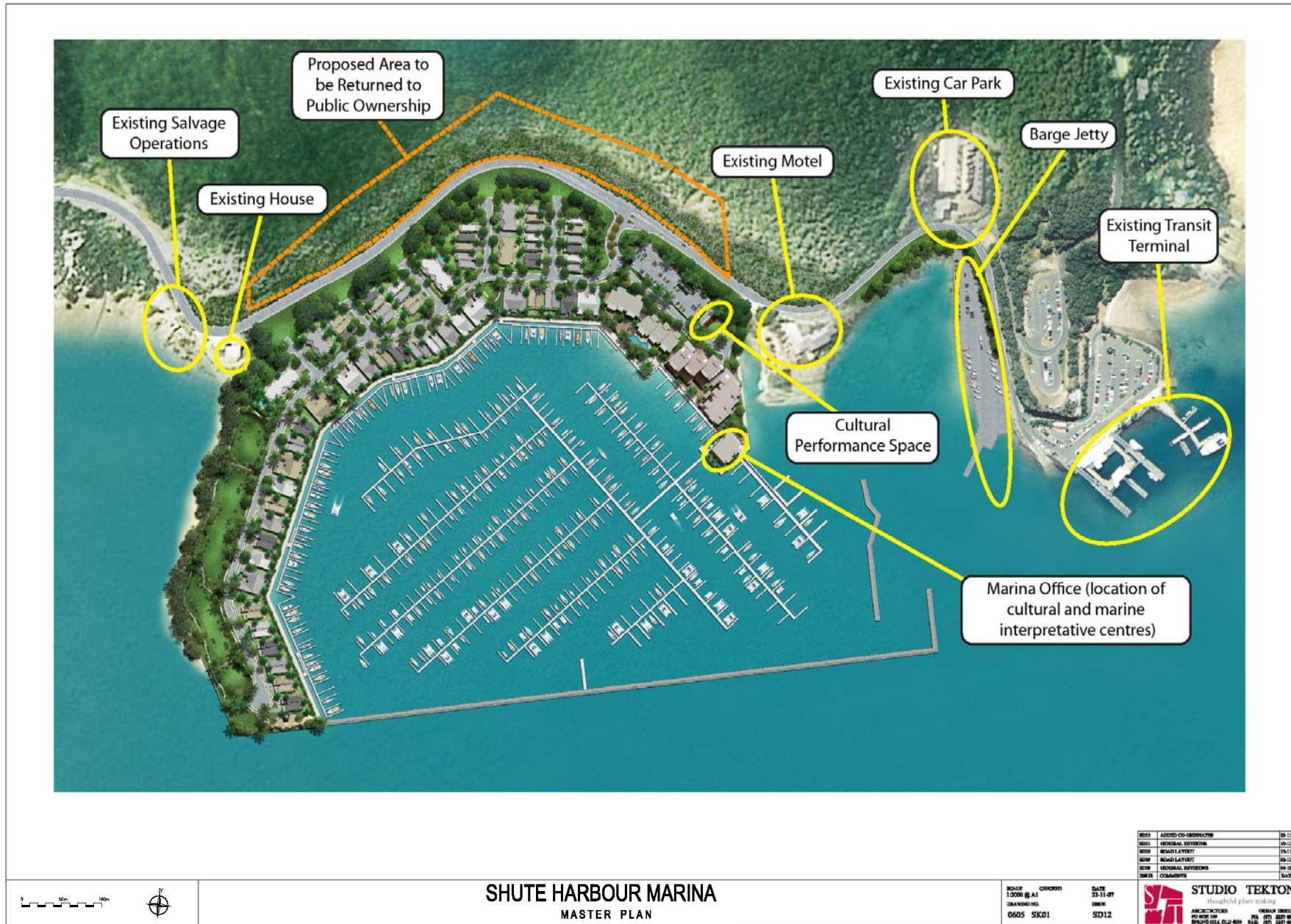
➤ Landscaped approach road, entry statement open space and gardens.

“SHMD Pty Ltd will develop the site from its current state to the point at which all site preparation work is complete including the preparation of the marina and the construction of the commercial, retail, tourism and resort lots. This is expected to result in expenditure of approximately \$253.4 million on labour and materials over 30 months, with activity anticipated to commence in 2008 and conclude in 2011.

SHMD Pty Ltd will then sell the resort lots to secondary developers who will undertake the construction phase for the Managed Resort Accommodation. Entities other than SHMD Pty Ltd may undertake other construction works and when complete operate the marina and commercial precincts. The tourism precinct is likely to be run in a similar model to the Mackay Marina where third parties operate and manage the hotel, marina and commercial precincts. The secondary construction activities (development of the Managed Resort Accommodation) are anticipated to result in expenditure of approximately \$104.5 million on labour and materials over approximately four years.” Extract AEC Group - SHMD SEIA Final Report 2008.



# Diagram 3. Concept Site Master Plan



Source: Studio Tektron. July 2008



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# THE CULTURE OF OUR BUSINESS....

Consultation, engagement  
and partnership

# CHMA CONSULTATION IN THE CONTEXT OF BROADER EIS CONSULTATION.

*"The Cultural Heritage Management Plan [CHMP or Agreement CHMA] a requirement of the ACH Act is recognized as an essential element of any EIS."* Co-ordinator General; Department of infrastructure - Terms of Reference for an Environmental Impact Statement - Shute Harbour Marina Project; Cultural Heritage.

An extensive Community Engagement exercise was undertaken between August 2007 and the present day - a component of this comprised the EIS consultation undertaken in two key phases.

By the close of the EIS process (lodgement) community issues and support for the project had been clearly identified through the exercise. (refer Three Plus Consultation Report Appendix F of the EIS report)

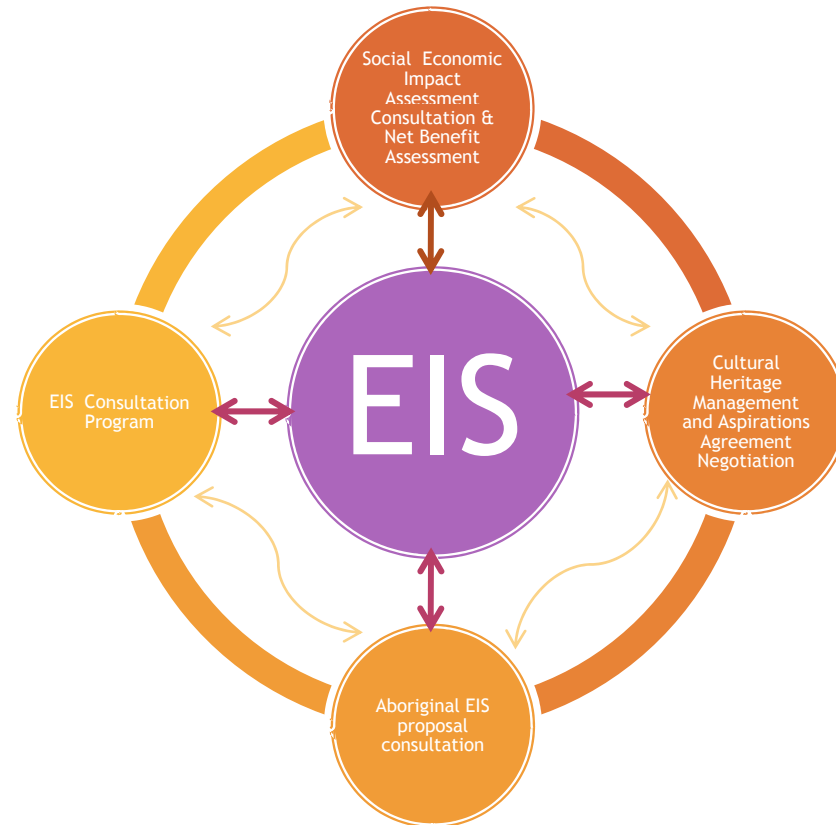
The broader stakeholder Community Consultation and Social Impact Assessment study was undertaken separately from the Aboriginal Community Consultation and by three different consultant teams. This was to enable an independent lens to be applied to the identification of Gia and Ngaro/Gia respondent parties and local Aboriginal and issues and opportunities.

The outcomes from each study were then shared between the consulting teams and remediation strategies were recommended based on the aggregated findings.

The outcomes from the Aboriginal Community Consultation (including Cultural Heritage Management Agreement outcomes and social benefit assessment) have been specifically referenced in the Community Consultation report (Section 2.26); in the Cultural Heritage Report (Section 4.2, p16); the Social Economic Impact Assessment Report (Section 6.4.6) and the SHMD - Net Benefit Assessment Final Report (Section 5.2.1).

Shute Harbour Marina Development Pty Ltd (SHMD Pty Ltd) has undertaken a consultation program with Aboriginal representatives, which included extensive negotiations as an integral process of the Environmental Impact Assessment (EIS) with three (3) Aboriginal groups who identified an interest in 'land and sea country'.

*Diagram 4: Consultation Lens Relationships*



# CULTURAL HERITAGE MANAGEMENT AGREEMENT CONSULTATION OVERVIEW.

*Best practice in Aboriginal decision-making, conflict management and agreement-brokering can be demonstrated by the following principles- “*

*❖ A good process which distinguishes between substantial and procedural elements holds the key to sustainable outcomes in negotiation processes;*

*❖ agreement-making is not the starting point of engagement with communities; it needs to be built up to in agreement-brokering processes; and*

*❖ effective processes incorporate capacity building as an integral aspect of design and build the ‘readiness’ of all parties”...*

Extract Critical IFaMP research findings - Building Aboriginal Capacity in Consultation, Negotiation and Agreement-Brokering: The Need for Procedural Expertise; Aboriginal Facilitation and Mediation Project (IFaMP), 2005

**A**n inclusive Cultural Heritage Management Agreement consultation program has been undertaken between September 2007 and July 2008. This report is in response to a request for *Cultural Heritage Management Agreement* respondent community consultation, conducted as an integral component of the proposed Shute Harbour Marina Development (the Project) Environmental Impact Statement (EIS), as described in the Terms of Reference (ToR) by the Coordinator General - Queensland Department of Infrastructure and Planning.

This report also details the consultation and negotiation methodology undertaken to achieve the Cultural Heritage Management Agreement, lodged and approved by Queensland’s Natural Resources and Water (NR&W) - Cultural Heritage Branch, 18 April 2008.

The consultation addresses Environmental Values and Management of Impacts - Cultural Heritage as described Section 4.1 of the ToR and reports on the social impact in the Aboriginal context - Section 4.11 as described in the ToR.

It also contributes to addressing Section 1.6 and recommended Appendices A5 Consultation Report of the Terms of Reference for the EIS.

A **seven step**, inter-cultural consultation program was implemented. (Diagram 5 - Our journey; Seven Phases)

During the consultation period there was an initial relationship fostering consultation, followed by community education of EIS processes, proposed development consultation, cultural surveys and aspirations discussions. The consultation program built the capacity of the respondent parties to participate in the consultation and CHMA development process.

A culturally inclusive, communication, participatory development (action) framework (CICPA) was selected as the ‘best fit’ consultation practice.

The program and methodology were consistent with the Environmental Protection Agencies Guidelines and Cultural Heritage Act 2003.

The consultation utilised an extensive range of tools including:

- face to face consultation;
- cultural protocol processes
- workshopping mitigation strategies to respond to identified impacts;
- phone and email contact with Respondent Parties;
- site tours and cultural surveys;
- think tank impact solution processes;
- participative decision making processes.

Engagement to protect and enhance cultural heritage environmental values took place throughout the consultation. This report describes nominated quantitative standards and indicators to be achieved for cultural heritage management. These included the identification of objectives of cultural monitoring, auditing, management, visioning workshops to capture community Aspirations were undertaken.

This report also describes qualitative outcomes achieved through the development of aspirations initiatives to close the gap on Aboriginal disadvantage.

Time allocation, mutually agreed equitable consultations, self determination, knowledge sharing and community endorsed agreement-brokering processes underpinned the consultation and CHMA development.





## DUE DILIGENCE; CULTURAL HERITAGE MANAGEMENT AGREEMENT DEVELOPMENT PROCESS

**K**ey elements of this CHMA development process, consistent with the ACH Act included:

- notification, as required by the ACH Act, to the Chief Executive of NR&W, Whitsunday Regional Council (formerly Whitsunday Shire Council)
- Public Notification for the required notification period requesting expressions of interest from Aboriginal Parties identifying an 'interest in land and sea country' relating to the site.
- endorsement of two Aboriginal Parties (initially three Aboriginal Parties self identified) who responded to the notification;
- consultation with the Aboriginal Parties about their involvement in the EIS and in development of a voluntary CHMA;
- compliance with the Duty of Care Guidelines and the CHMP Guidelines as gazetted;
- confirmed approvals of the CHMP from the Chief Executive, NR&W - Cultural Heritage branch, through the EIS process;
- liaison with the Aboriginal Parties concerning:
  - places of significance to that community (including archaeological sites, natural sites, story sites etc);
  - appropriate community involvement in field surveys;
- any requirements by communities and /or informants relating to confidentiality of site data highlighted. non-Aboriginal communities who may also have had relevant information;
- a search of both the Cultural Heritage register and the Cultural Heritage database;
- a systematic survey of the proposed development area to locate and record Aboriginal cultural heritage places;
- significant assessment of any cultural heritage sites/places located;
- the impact on the cultural heritage values as a result of the proposed development;
- a report of work completed, which included background research, relevant environmental data, and methodology, as well as results of field surveys, significance assessments and recommendations;
- the collective development of social, environmental, cultural and economic amelioration strategies to realise respondent parties Aspirations and inform concept Design Master Plan and the EIS.

## Diagram 6. CHMP Public Notice

**PUBLIC NOTICES**

**PUBLIC NOTICE:  
CULTURAL HERITAGE MANAGEMENT PLAN  
Aboriginal Cultural Heritage Act 2003**

Shute Harbour Marina Development Pty Ltd was declared a "significant project" under Section 26(1)(a) of the Queensland *State Development and Public Works Organisation Act 1971* by the Coordinator-General on 24 July 2006. This declaration initiates a statutory Environmental Impact Assessment (EIS) for the Proposal. Shute Harbour Marina Development Pty Ltd intends to develop a Cultural Heritage Management Plan for the proposed project, pursuant to Part 7 of the *Aboriginal Cultural Heritage Act 2003*. A requirement of the Act is that a Cultural Heritage Management Plan be developed for any EIS.

**Project:** The proposed Shute Harbour Marina development is an integrated marina development encompassing 733 marine berths, a commercial and tourism precinct with a four star tourist resort, a residential tourism precinct and landscaping adjacent to Shute Harbour Road.

**Sponsors name:** Shute Harbour Marina Development Pty Ltd  
**Contact Details:** Dave Quinlan (07) 3252 0999  
**Address:** PO Box 1001, Spring Hill, Qld 4006

**For the purpose of this Notice, the Notice Day is 6 September 2007**  
 The Cultural Heritage Management Plan will be conducted over the following area:  
**GPS Coordinates:** GPS Coordinates: 20° 17.4'S, 148° 46.5'E  
**Lot / Plan description:** Lot 2 plan SP117389, Lot 273 on plan HR 1757 and adjacent area covered by a short term permit to occupy  
**Shire:** Whitsunday Shire  
**Parish:** Conway  
**County:** Carlisle  
**Locality:** Shute Harbour  
**Nearest town:** Airlie Beach

**Other identifiable features:** adjacent to the Conway National Park.

If you are, or have been, nominated as an Aboriginal Party (as defined by Part 4 of the *Aboriginal Cultural Heritage Act 2003*) to act on their behalf and you wish to take part in the Cultural Heritage Management Plan, you must give a written notice to Dave Quinlan, Project Manager at Shute Harbour Marina Development Pty Ltd, advising that you wish to take part by 30 days after the Notice Date above.

Shute Harbour Marina Development Pty Ltd may elect not to endorse any Aboriginal party if not advised in writing within the required time.

**Note:** It is important to note that only one respondent party provided written advice within the required advertised time frame. However, during the initial consultation process it was determined that in the spirit of goodwill and in recognition of 'land and sea country' interest expressed by parties, all three respondent parties were included to be endorsed by Shute Harbour Marina Development for Voluntary Cultural Heritage Management Agreement Planning. During the 'business phase' of the consultation program, one respondent party - Wiri Cultural and Business Enterprises Pty Ltd withdrew their initial interest as a respondent opting to support the endorsement of Gia and Ngaro/Gia respondents.



The CHMP or CHMA as described in this report was negotiated and mutually agreed between all parties within a **Culturally Inclusive, Consultative, Participative Action Framework (CICPAF)**.

The Culturally Inclusive, Consultative, Participative Action Framework (The Framework) was developed by The Hornery Institute to ensure culturally inclusive and comfortable "Yarning" was possible to maximise full participation by respondent parties and their organisational support representatives in the EIS and CHMA negotiation process. This process resulted in the identification of social, cultural and economic priorities critical to the respondent communities. It was also important to arrange the initial combined meetings at a mutually agreed gathering space. This maximised input into the format of meetings, discussions and decision making process.

**Culturally Inclusive, Consultative, Participative Action Framework (CICPAF) broad objectives included:**

- Conduct a consultation process that aligns with the guidelines of the Environmental Protection Agency (EPA):
- Conduct a consultation process that forms an integral part of the socio-economic impact evaluation to inform the EIS.
- Build on the relationships Shute Harbour Marina Development and The Hornery Institute has developed with the identified communities.
- Base all communication on trust, mutual respect and appreciation of diverse values, appropriate communications protocols and approaches.
- Facilitate a consultation process, which balances the communities need for information, with opportunities to provide meaningful input and alternative solutions into the EIS process.
- Enhance collective understandings and diversity of approaches to realise mutually agreed solutions.
- Ensure Aboriginal community feedback and aspirations are included and considered in the study process and CHMA process.
- Ensure that opportunities for community input is maximised.

- Facilitate insightful, participative consultation processes, which recognise and honour cultural values and ways of 'caring for land and sea country'.
- Develop a collectively endorsed, negotiation framework in which to articulate principled long term, sustainable social amelioration and reconciliation.

*This framework transcends a pragmatic Cultural Heritage Agreement based primarily on archeological and /or anthropological reports on the survey area; and cultural information from the affiliated Aboriginal respondent parties.*

## Diagram 7. Group Photo

Ngaro/Gia respondent party representatives Left; Mervyn Prior with Shute Harbour Marina Development Project Officer - David Quinlan, Raymond Prior. Front; Cilla Prior, Sandra Hero, Renarta Prior



## Diagram 8. Group Photo

Gia respondent party representatives ; Centre left; Vicky Toffetti, Patricia (Patsy) Brimble, Agnes McAvoy with SHMD Project Officer Patrice Tirendi. Rear; The Hornery Institute consultant - Jane Delaney-John. Raymond Wake, with SHMD Project Manager - David Quinlan. Front left; Marie Coleman, with QCHMSS Director -David Mailman



# CULTURALLY INCLUSIVE, CONSULTATIVE PARTICIPATIVE ACTION FRAMEWORK....

## Our Relationship Influences.

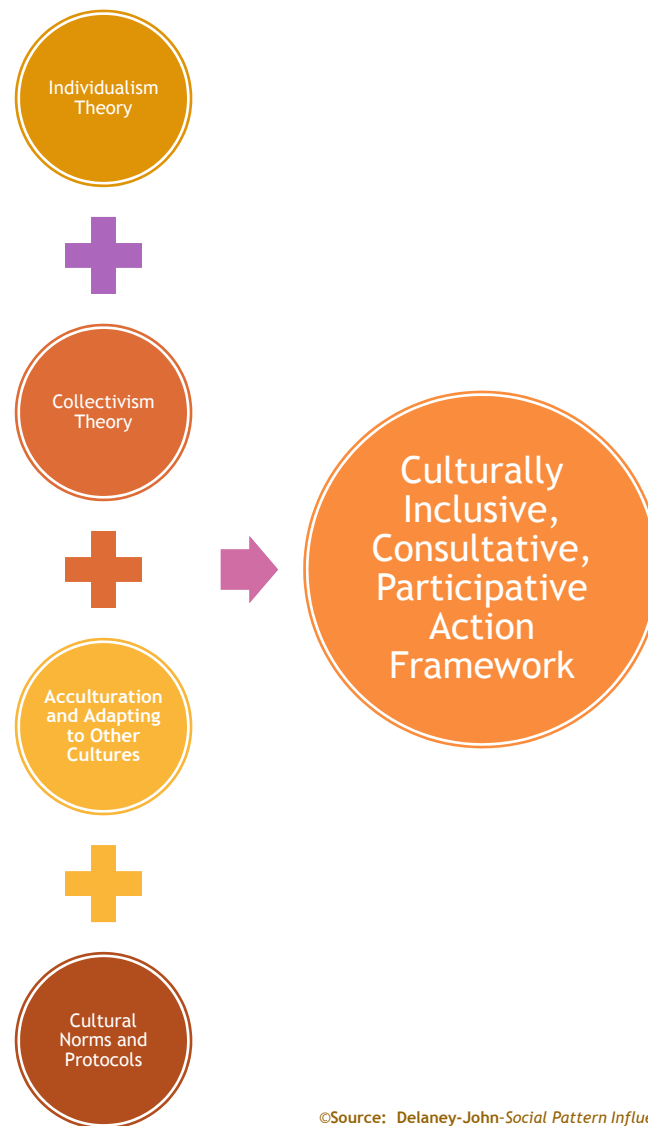
The Hornery Institute's approach to community relationship building and engagement has been strongly influenced by a considered approach to understanding social patterns, which shape the way in which individuals and groups interact and connect with each other intraculturally and interculturally. The approach was also influenced by the personal and professional experience of the respondent parties to the consultation brokered-negotiation process. The following four behavioral patterns underpinned the relationship building intent of the consultation throughout the EIS and CHMA reporting period:

- i. **Individualism** - is a social pattern that places the highest value on the interests of the individual.
- ii. **Collectivism** - is a social pattern that places the highest value on the interests of the group.
- iii. **Acculturation and Adapting to Other Cultures** - Ethnic identity is understood as a dynamic state, that is determined by three components:
  - (1) by the degree of inclusion in the group of one's cultural origin;
  - (2) the tendency to assimilate to the ethnic group of origin; and
  - (3) the complementary tendency to differentiate from one's own ethnic group.
- iv. **Cultural Norms and Protocols** - generally refers to patterns of human activity and the symbolic structures that give such activities significance and importance. Cultures can be 'understood as systems of symbols and meanings that even their creators contest, that lack fixed boundaries, that are constantly in flux, and that interact and compete with one another'. Culture can be defined as all the ways of life including arts, beliefs and institutions of a population that are passed down from generation to generation.

Culture has been called 'the way of life for an entire society'. As such, it includes codes of manners, dress, language, religion, rituals, norms of behavior such as law and lore, and morality, and systems of belief as well as the art.

*Definitions source: Wikipedia*

Diagram 9. Social Pattern Influences





# CULTURALLY INCLUSIVE, CONSULTATIVE PARTICIPATIVE ACTION FRAMEWORK.... Continued

## Our Multifaceted Overlay.

For the consultation process to be regarded as successful by participants, the Hornery Institute moved the consultation process beyond pragmatic Cultural Heritage Management Agreement negotiation. The consultation actively promoted participation in the EIS process and contributed to the bridging of long term relationships and a genuine collaborative appreciation of the skills, values and thought leadership both *Aboriginal* and non-*Aboriginal* participants brought to the consultation 'table'.

Consultation in an intercultural context was central to the CICPAF. Accepted norms and an appreciation of equality in decision making and opinion, transparency and accountability were important. This approach included the differences in approaches to communication, variations in the ways of '*doing business*' and ways of relating to each other. These principles were fundamental to the consultation process.

The fostering of trust, appreciation, respect and openness to differences and shared '*visioning*' were also important.

The willingness of individuals and groups to challenge historic perceptions of relationship paradigms and experiences between Gia and Ngaro/Gia respondent parties and *Aboriginal* and non-*Aboriginal* parties, created the foundation for '*common ground - appreciative enquiry*'.

This '*common ground- appreciative enquiry*' moved the CHMA and Aspirations Agreement forward to a mutually agreed and celebrated outcome.

The importance of ensuring that Gia and Ngaro/Gia respondent parties were provided with the opportunity to provide direct feedback into the EIS process was paramount.

The respondents feedback identified potential impact areas of concern and provided personal and ethno botanical knowledge to mitigate adverse impacts, and ameliorate key areas identified. The areas identified included environmental concerns, cultural heritage values, the concept Master Plan design and potential positive community net benefits for the community.

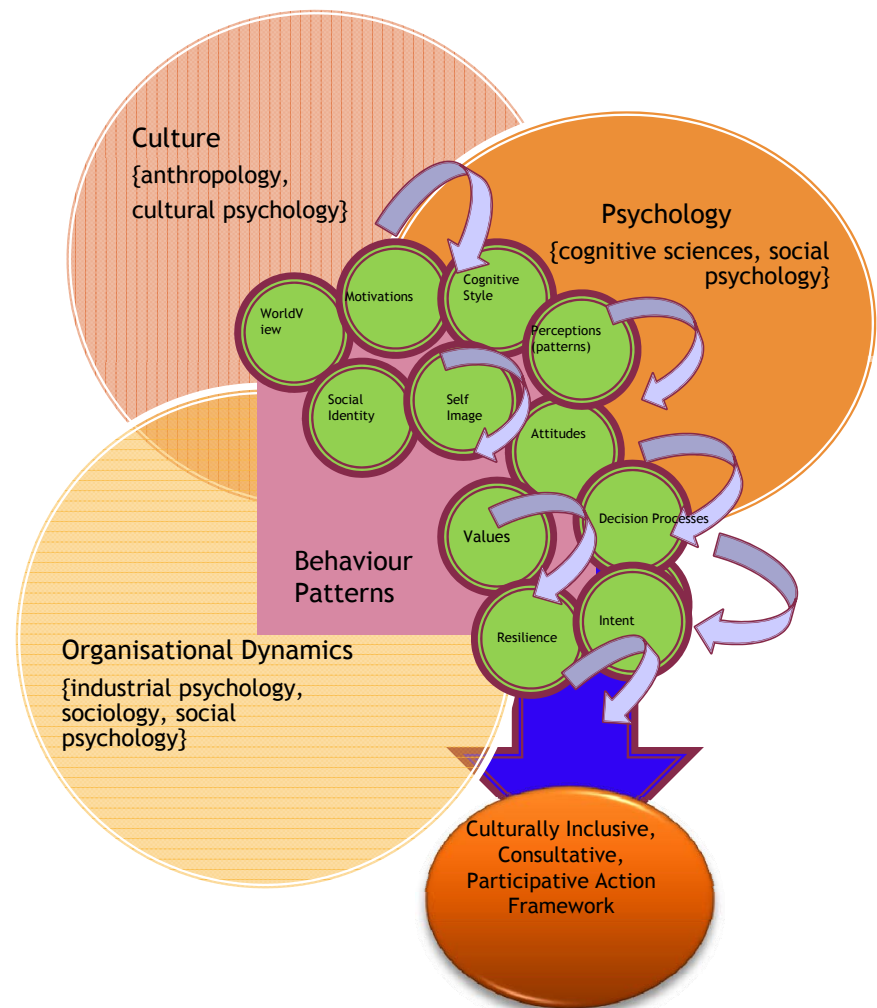
Opportunity to also undertake the consultation in the 'tempo' of the community was central to the consultation process and informed the consultation program to achieve 'readiness' by all parties to enter into agreement in a final CHMA.

As the process of consultation progressed, the '*divide*' based on differentiation devolved to '*unified*' appreciation of the strengths and benefits that a collaborative partnership can bring to:

- realise a joint visionary infrastructure proposal for the development site;
- articulate principled approaches to '*doing business*' and develop a framework to review intent of the SHMD CHM Agreement;
- create a partnership model in the development of cultural heritage '*caring for land and sea country*'; and
- develop potential Aboriginal tourism and enterprise benefits consistent with Ngaro and Gia Aboriginal peoples' social, economic, cultural and environmental values.

# CULTURALLY INCLUSIVE, CONSULTATIVE PARTICIPATIVE ACTION FRAMEWORK.... continued

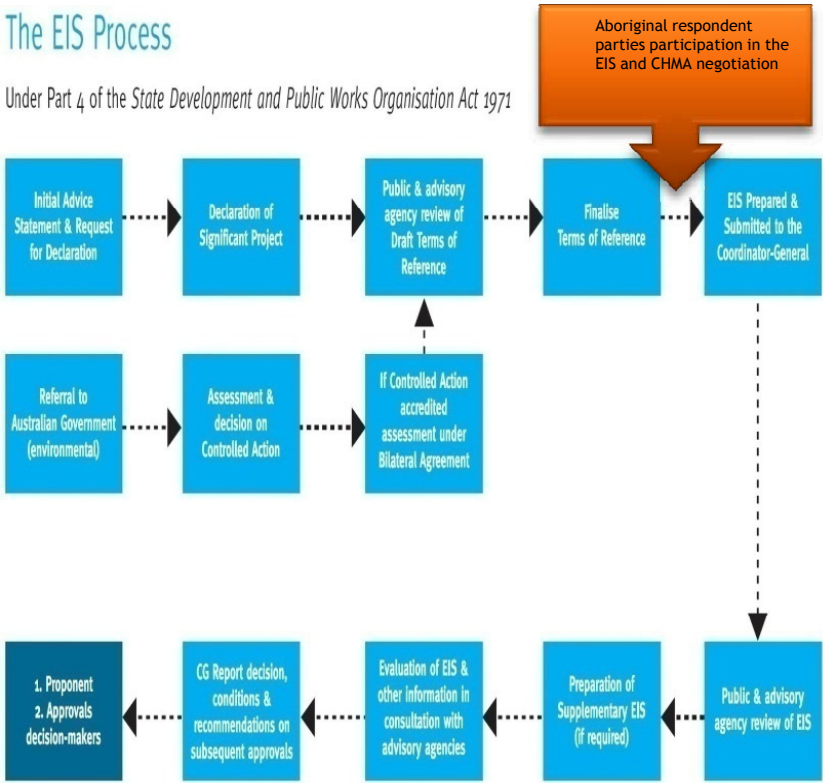
Diagram 10. CICPA Framework Influences And Overlay



Source: The Hornery Institute. July 2008

The CICPA framework also complimented the State governments' EPA consultation guidelines and was consistent with the EIS process detailed below. Throughout the consultation, the Queensland's Natural Resource and Water - Cultural Heritage branch, was kept informed of methods used and the progress of brokered negotiation. The consultation program and processes developed were also shared.

Diagram 11. EIS Process



Source: Adapted - Co-ordinator General; Department of infrastructure - Environmental Impact Statement Process. July 2008

Respect and  
Recognition

Cultural Heritage  
Traditions and  
Values

Sharing and Caring  
for Land & Sea  
Country

Partnership and  
Enterprise  
Capacity Building

Obligations and  
Responsibility

# THE CULTURE OF OUR BUSINESS....

Our journey.....



# OUR JOURNEY...

*“Much of the failure of service delivery to Aboriginal peoples and communities, and the lack of sustainable outcomes, is a direct result of the failure to engage appropriately with Aboriginal peoples and of the failure to support and build the capacity of Aboriginal communities. It is the result of a failure to develop priorities and programs in full participation with Aboriginal communities.”* Tom Calma - Aboriginal and Torres Strait Islander Social Justice Commissioner, Australian Human Rights and Equal Opportunity Commission, Native Title Conference speech; June 2008.

Seven key consultation steps or phases were undertaken to form the consultation program for the Shute Harbour Marina Development EIS *Aboriginal* peoples participation, and CHMA and Aspirations brokered negotiations. An intercultural context was applied.

The seven steps or consultation phases included:

- 1. Relations
- 2. Yarning
- 3. Cultural Heritage
- 4. Aspirations
- 5. Business
- 6. Agreement
- 7. Partnership

(refer Diagram 5)

A meeting was also arranged with the Central Queensland Land Council, at Level 1, 56 Gordon Street, Mackay on 15 August, 2007. The Central Queensland Land Council was identified as a key stakeholder in the EIS ToR. The consultation included details relating to the proposed development, the EIS process and the intention to publically advertise the intended Cultural Heritage Management Agreement Planning. The Central Queensland Land Council offered to assist in the CHMA process, if required. No issues were raised by the Council relating to the proposed development at the time of the meeting. Copies of the proposed development concept Master Plan were left with the Council.

- 1. **Relations** - Fundamental to the consultation process was the establishment and understanding of relationships and kin networks. The first step in the process of CICPAF was to meet with respondent parties who expressed an interest in ‘land and sea country’ and had stated an interest in entering into a *Voluntary Cultural Heritage Management Agreement* with Shute Harbour Marina Development Pty Ltd.

Critical to the process was the relationship centric purpose of the initial meetings. Individual meetings were held for each respondent group (3 in total) who responded to the advertised Public Notice (refer Diagrams 12 - 14).

Only one respondent party responded within the required time frame. The two other groups were invited to participate in the CHMA given the identified cultural heritage importance of the site by all parties. Some tensions existed at the time between respondent parties relating to ‘land and sea country rights’, which had to be sensitively mediated.

Individual meetings with each of the three respondent parties were undertaken within three weeks of receiving written expressions of interest (Refer Diagram 16).

Gia and Ngaro/Gia respondents identified for endorsement are dispersed throughout Northern and Central Queensland: Townsville, Bowen, Ayr, Proserpine, Rockhampton and Mackay.

An explanation of the proposed project, EIS process and opportunities to participate in the EIS were shared with all parties. Community values, other respondent party relationships, preferred consultation approaches and the general sharing of community and generational aspirations were also discussed.


Specific ‘business’ relating to the Cultural Heritage Management Agreement was not formally discussed at the initial relationship development meetings.

➤ Meeting dates

Date	Respondent Party/stakeholder	Location
15 August 2007	Central Queensland Land Council	Central Queensland Land Council Offices - Mackay
12 December 2007	Ngaro/Gia respondents; Gudjuda Reference Group Aboriginal Corporation	Gudjuda Reference Group Aboriginal Corporation - Ayr
13 December 2007	Gia respondents; Queensland Cultural Heritage and Native Title Management Services Pty Ltd	Shamrock Hotel - Mackay
13 December 2007	Wiri Cultural and Business Enterprises Pty Ltd	Wiri Cultural and Business Enterprises Pty Ltd - Mackay

# Expression of interest letters to Public Notice...

Diagram 12.  
QCHANTMS - Gia Respondents



**Qld Cultural Heritage & Native Title Management Services (QCHANTMS)** ABN: 67 126 281 041  
Ph: 07 49289569 Fax: 07 49286923 Mob: 0419 721 111  
P.O. Box 9523 Park Avenue QLD 4701  
Email: david.mallman@qchantms.com.au

Specialists in Facilitation and Management of Cultural Heritage requirements for Exploration, Mining and Future Acts in Qld

03 OCT 2007  
RECEIVED

Dave Quinlan  
Project Manager  
Shute Harbour Marina Development Pty Ltd  
P.O. Box 1001  
Spring Hill, QLD, 4006.

Dear Mr. Dave Quinlan,

RE: CULTURAL HERITAGE MANAGEMENT PLAN FOR PROPOSED MARINA DEVELOPMENT

We (QCHANTMS) act for the Gia People (QUD 6023/99), who wishes to register their interest in the developing of a CHMP for the proposed Marina development.

Please note, QCHANTMS should be your first point of contact when dealing with the Gia People.

Please do not hesitate to call on 0419 726443 if you would like to discuss this matter.

Regards,  
*David Mallman*  
David Mallman  
Director - Principal Consultant  
QCHANTMS Pty Ltd

- 1 -

QCHANTMS PTY LTD

Diagram 13. Wiri Cultural And Business Enterprises Pty Ltd - Gia And Ngaro Respondents

**WIRI CULTURAL & BUSINESS ENTERPRISES PTY LTD**  
ABN 99 120 945 333

09/08/07

ATTENTION: Dave Quinlan

The Wiri Cultural and Business Enterprises would like to be involved in the Shute Harbour Cultural Heritage Management plan

- Members of this body has an interest in the development area
- Consist of Giya and Ngaro people
- Have been in Cultural Heritage Management plans before
- Members of Wiri Cultural And Business Enterprise is solely owned by the members
- Members of Birra Gubba people include:
  - Wiri
  - Birri
  - Ngaro
  - Giya
  - Janga
  - Barna
  - Barada
  - Juipera

Yours sincerely  
Graham Sauney  
0427573135

*Graham Sauney*

P.O. Box 27, 50-52 Macalister Street  
MACKAY QLD 4740  
Phone (07)4957 7855 : Fax (07)4757 7053  
Email : gumbi@easynet.net.au

Diagram 14. Gudjuda Reference Group Aboriginal Corporation - Ngaro/Gia Respondents

**GUDJUDA REFERENCE GROUP ABORIGINAL CORPORATION**

Lot 123 Plantation Park AYR

Phone No: (07) 47 837 229  
Fax No : (07) 47 837 228

Email: gudjuda@bigpond.com  
PO BOX 255 AYR Q 4807

Attention Mr Dave Quinlan  
Project Manager  
Harbour Marine Development Pty Ltd

Dear Dave,

On behalf of the following recognised traditional people we wish to express our interest to take part in the Cultural Heritage Management Plan for proposed Shute Harbour Marina Development.

The representatives are

- Renata Pryor
- Carol Pryor
- Dianne Pryor
- Charmaine Koori
- Raymond Prior
- Sandra Hero

For further information please contact Eddie Smallwood or Nat Surha.

Regards,  
*Nat Surha*  
Nat Surha 0418 193 751  
Capacity Building Officer  
Gudjuda Reference Group Aboriginal Corporation

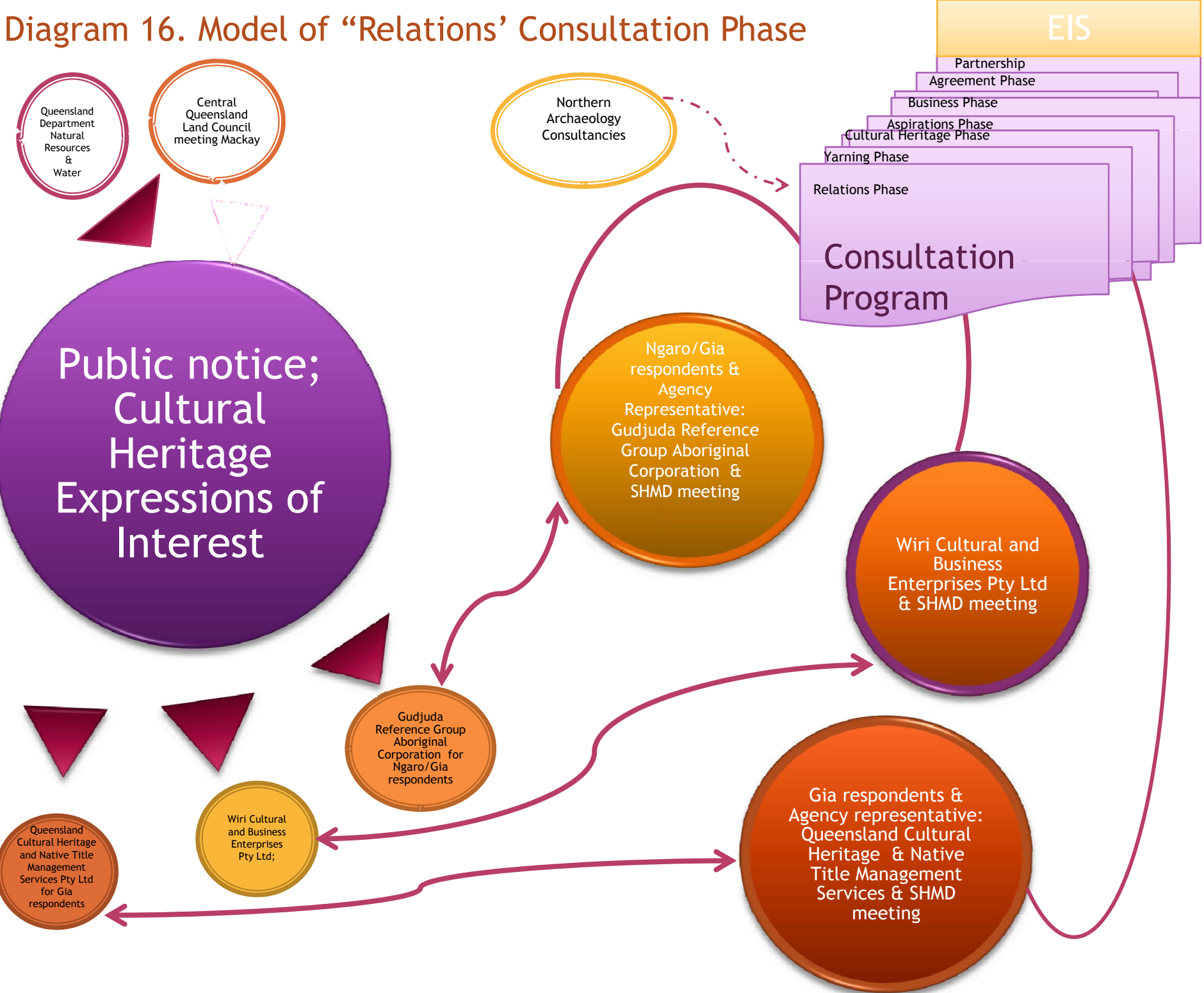
09 OCT 2007  
RECEIVED

Diagram 15. Department Natural Resources and Water - Cultural Heritage Branch





Diagram 16. Model of “Relations’ Consultation Phase



# Talking together...

## 2. **Yarning** - The second phase of the consultation program was held in two parts:

- **The first Yarning component;** built on initial relationships established in the first phase (Relations) of the consultation and was supported by follow-up informal discussions with each respondent party relating to the project. Clarification was sought regarding expressed community Aspirations and shared values during the "Yarning" phase.

Individual and collective social patterning were identified to inform the 'best fit' consultation approach for the next phase of the consultation program.

Informal discussions with organizational advisors and individual respondent parties took place throughout the "Yarning" phase.

All groups received the same communications to ensure consistency, transparency and equity.

- **The second Yarning component-** Cultural Heritage Management Agreement meeting arrangements, including the selection of a mutually agreed Archeologist took place during this phase. Northern Archeology Consultancies - Michele Bird, was nominated by the Sponsor (SHMD) and agreed by all parties.

Face to face communication, followed by regular email, facsimile and phone were used as effective communication tools. They were selected due to the dispersed geographic spread of respondent parties and their representative Agencies.

Increased communications clarity and a focus on collectivism to work through decisions and diminish individual tensions amongst parties was central to the overall engagement/consultation process of the consultation program.

Equitable representation, time for negotiation and respect for difference, kin tensions, culture, and non-Aboriginal and Aboriginal ways of communicating were all values, which underpinned the consultation.

Collaborative decision making and consensus on the way forward - including sponsor timeframe requirements for consultation and negotiation were highlighted.

At our initial meetings with interested respondent groups, a number of concerns and recommendations were identified by various parties, which included, but were not limited to:

- Concern over 'land and sea country';
- Exclusion and participation in Cultural Heritage Management Planning;
- Relationships between different members within various interested respondent parties;
- Identification of more similarities than differences - as one respondent party asserted all parties are representatives of Birri Gubba language peoples;
- The need for collaboration and acceptance of all parties as having an interest in the site;
- Timing of written responses to Public Notice - Cultural Heritage Management Agreement;
- Aspirations during both construction and operation of the marina (should the development proposal be successful (approved));
- The EIS and proposed project details;
- A commitment by all respondent parties to work with Shute Harbour Marina Development Pty Ltd to achieve Cultural Heritage Agreement/s between parties;

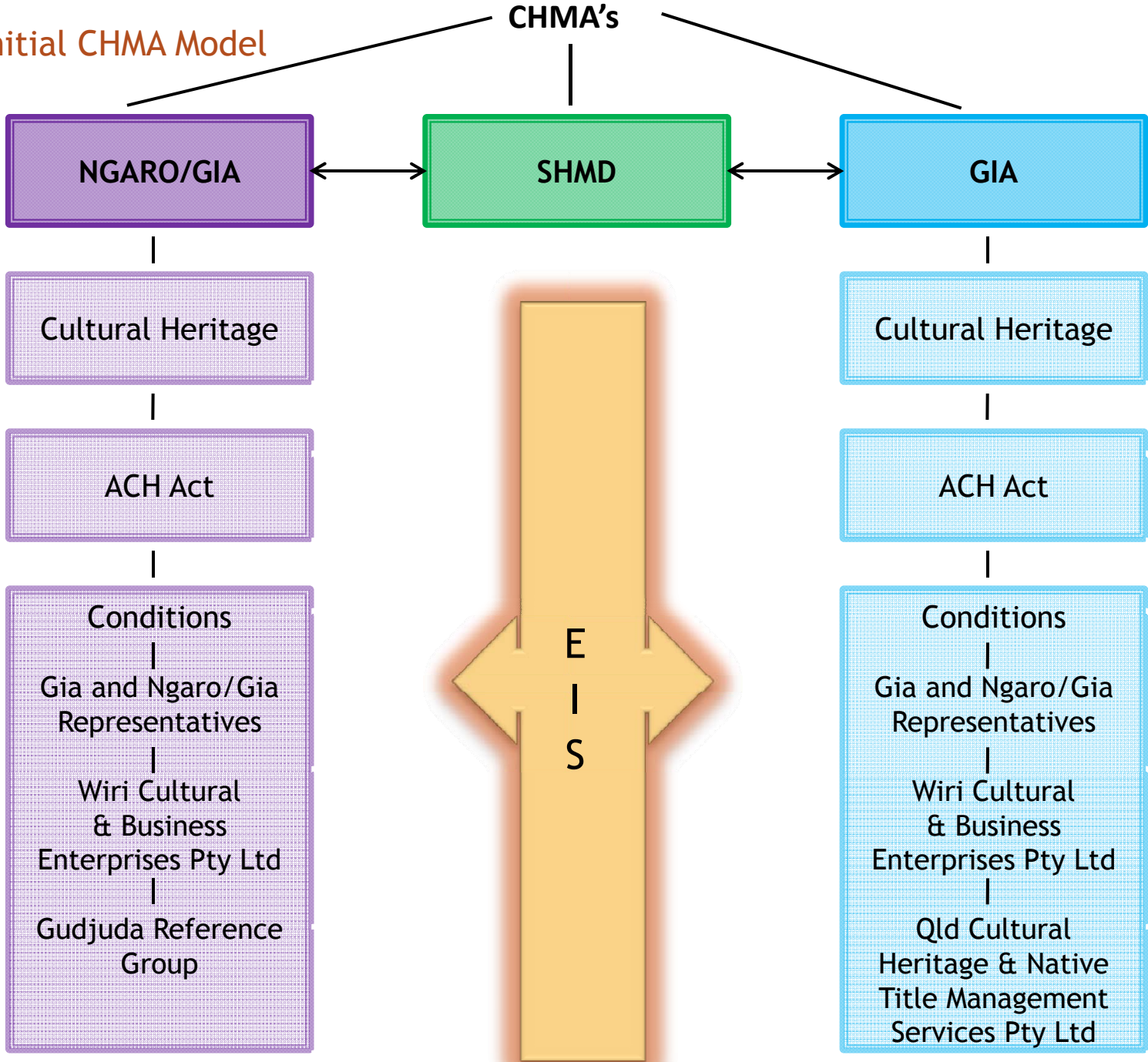
At this phase of the consultation, differences in opinion regarding the development of one or more Cultural Heritage Agreements arose.

Separate 'walk on country' and surveys were requested by respondent parties. Separate Cultural Heritage Agreements were also suggested at this phase in the consultation program (Refer Diagrams 17 & 18; models based on respondent feedback at the time of consultation).

Transparent communications processes and suggestions, which valued inclusive processes and actions were promoted in the "Yarning" phase - second component of the consultation program.

Diagram 17. Initial CHMA Model

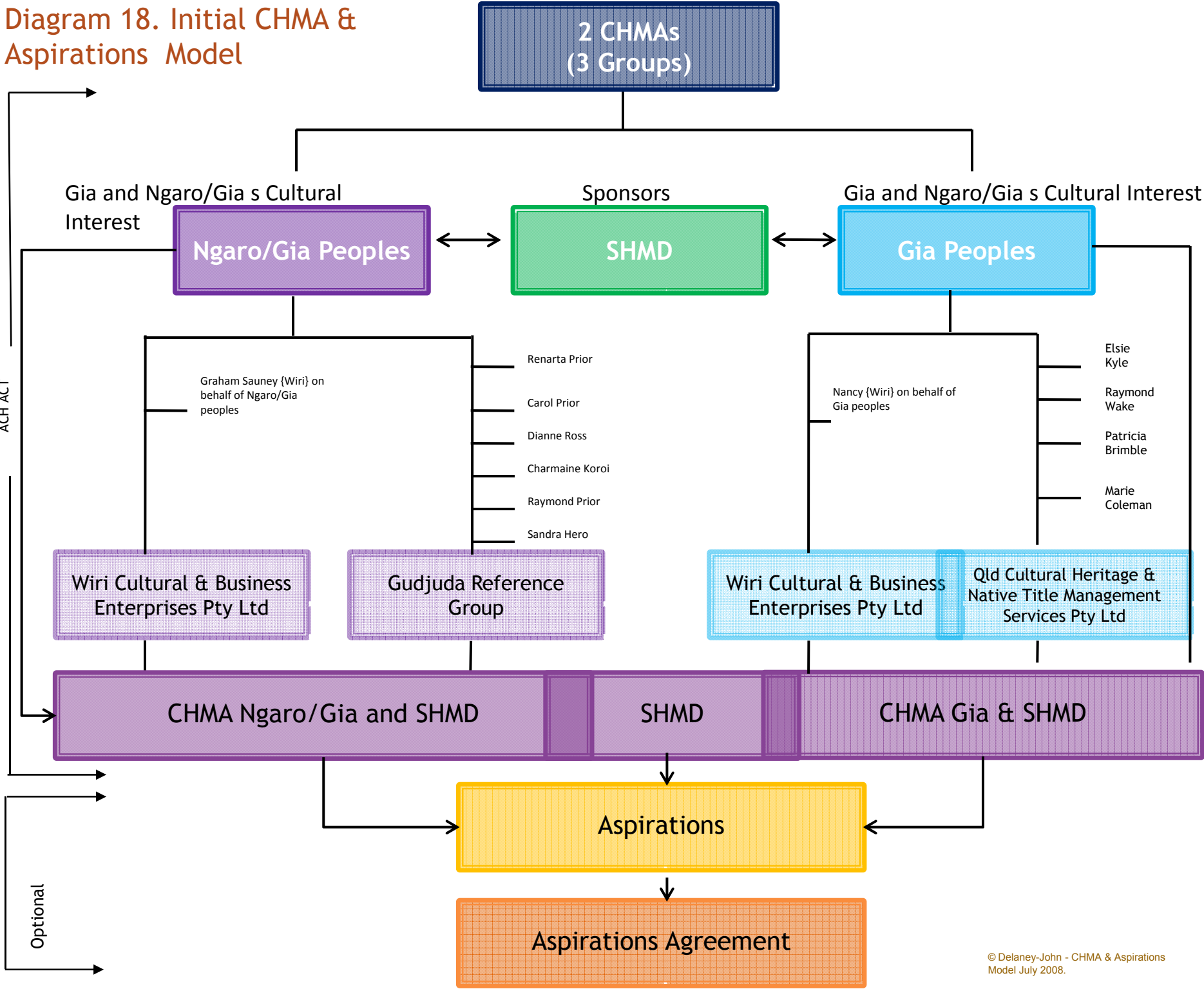
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# Cultural Heritage Management Agreement Planning- SHMD

Diagram 18. Initial CHMA & Aspirations Model



## The way forward. Walking together...

A letter was drafted to all respondent parties, which shared 'relations' phase discussions, where appropriate and identified the issues arising by the possible exclusion of an identified interested respondent party to the CHMA process.

*"This exclusion possibility is a cause of concern, as no formal claim over the area is currently registered... and this request is exacerbated by the factor that only one group (suggested for exclusion) tabled their expression of interest for Cultural Heritage Management within the required timeframe. Therefore the suggestion is extremely problematic and works against the intent of Cultural Heritage Management Planning.*

*After meeting with all respondent groups and considering discussions and initial aspirations, the following suggestions are raised.*

*It is hoped that these suggestions ensures respect for everyone concerned, fosters inclusion and allows for a suggested workable solution to initial challenges.*

*Shute Harbour Marina Development Pty Ltd seeks to endorse all respondent parties in voluntary Cultural Heritage Management Agreement/s and create if required one agreement for Gia peoples and one agreement for Ngaro peoples.*

*Shute Harbour Marina Development Pty Ltd however, welcomes further discussion to establish one agreement between all parties.*

*It is important to note that the option to undertaking separate agreements, separate surveys and management and protection of Aboriginal artifacts (should they be found) is challenging and may prove unworkable as it may prove too problematic, and risks adequate protection of Aboriginal cultural and spiritual interests, and may contribute to further anxieties within the community and between parties. This is further complicated by the actual development proposal whereby the actual site and comparative small land mark of proposed development requires reclamation of land processes and dredging to build the marina.*

*Shute Harbour Marina Development Pty Ltd seeks favourable consideration by all respondent parties as descendants of Birra Gubba language peoples to consider the benefits of and possible endorsement to one agreement, which clearly identifies and protects the interests of all respondents and cultural groups and recognizes the similarities rather than differences in coming together to develop a workable Cultural Heritage Management Planning process.*

*Shute Harbour Marina Pty Ltd recommends the formation of a committee or agreed working party with two representatives from each respondent group. Commercial administrative management of delegate representatives would remain with individual respondent groups acting on behalf of interested respondent parties. (i.e. Gudjuda Reference Group Aboriginal Corporation; Qld Cultural Heritage & Native Title Management Services Pty Ltd (QCHANTMS); and Wiri Cultural & Business Enterprises Pty Ltd would manage interests of their own respondent representatives)*

*Shute Harbour Marina Development Pty Ltd has limited resources to realize all aspirations and would like to maximize the benefits to the community. The current suggestions of separate agreements between two cultural groups (It is important to note that the third respondent party has endorsed joint agreement arrangements) will result in significant constraints for discussions on possible Aboriginal aspirations, ultimately affecting employment programs and scholarship possibilities long term and drain of resource capacity to support initiatives which may arise as part of the negotiated agreement.*

*Shute Harbour Marina Development Pty Ltd acknowledges the initial concerns of the three respondents parties and as a suggested way forward the following cultural site surveying opportunities and combined aspirations meeting is proposed*  
.....

**Extract Correspondence** - Jane Delaney-John, Consultant -The Hornery Institute, December 2007.

Respect and  
Recognition

Cultural Heritage  
Traditions and  
Values

Sharing and Caring  
for Land & Sea  
Country

Partnership and  
Enterprise  
Capacity Building

Obligations and  
Responsibility

# THE CULTURE OF OUR BUSINESS....

Wisdom and knowledge  
sharing



# WALKING TOGETHER...KNOWLEDGE SHARING

**3. Cultural Heritage** - Representatives from each respondent party were invited to join Shute Harbour Marina Development Pty Ltd at Shute Harbour, on Thursday, March 6<sup>th</sup> and Friday, March 7<sup>th</sup> 2008.

Accommodation for respondent parties members and their independently incorporated community representatives was provided at the Shingley Beach Resort, Shingley Drive, Shingley Beach by SHMD.

While representatives of the Wiri Cultural and Business Enterprises Pty Ltd were going to attend the 'cultural heritage' phase of the consultation, apologies were made and withdrawal from the process in support of the remaining two respondent parties was asserted by Graham Sauney, as representative of the Wiri Cultural and Business Enterprises Pty Ltd. This withdrawal was made by Graham Sauney via phone during the Cultural Heritage consultation meeting with Gia and Ngaro/Gia respondents and the sponsor.

The Gia and Ngaro/Gia respondents are represented by two independently incorporated community groups. Independent governance practices and policies apply and were recognised and incorporated in consultation and communications as important conduits to the process.

At this phase of the consultation, two CHMA's were suggested by the respondents.

Northern Archeaology Consultancies; Michele Bird - Archaeologist attended the Cultural Heritage phase of consultation.

Separate site visits and surveying for Gia and Ngaro/Gia respondent parties were arranged on the same day. Some initial anxieties regarding who walked on 'country' first were discussed and mediated.

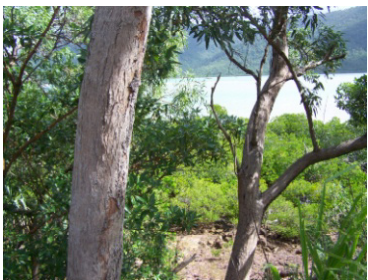
Meetings were also held immediately after the site assessments to identify Cultural Heritage Surveys issues, risks, mitigation strategies, and individual respondent party's recommendations and ethnographic information. This informed both the EIS and CHMA/s model.

Time and opportunity was made available for individuals and groups to discuss concerns. An opportunity was provided and accepted for a closed meeting to be held amongst respondent parties in order to create a workable way forward for all parties.

As a result, the respondent parties decided on an amicable way forward, which included the following resolutions:

- Personal and kin issues to be kept out of the consultation and negotiation process in the spirit of goodwill and focus on cultural heritage. This enabled cooperation to discuss possible collective long term benefits for both Ngaro and Gia peoples.
- Generational priorities to continue to care for and celebrate "land and sea country" were highlighted.
- All negotiated outcomes were to be equitable for both groups - equal representation, equal remuneration and equal governance, shared negotiation regarding recommendations and Aspirations.
- Cultural Heritage Survey 'walk on country' findings to be collated into one CH survey report.
- One CHM Agreement to be negotiated with respondent parties as the most appropriate way forward
- 'Business' discussions were to take place separately due to administration differences between respondent parties.
- Cultural Heritage matters compliant with the ACH Act and cultural communication protocols were central to the recommendations and CHMA planning.

## Cultural Heritage consultation findings.....



Gia and Ngaro/Gia respondent parties reported cultural significance for the following reasons:-

- The area is part of their traditional homelands (land and sea country) and as such retains immeasurable cultural and spiritual values;
- The Gia and Ngaro/Gia respondent parties believe that there is a possibility that intact Aboriginal cultural sites, artefacts or materials may remain in the project area (in the intertidal and subtidal zones, possibly buried within subsurface deposits of mud and other sediments);
- Some highly significant Aboriginal cultural sites (including burials, rock art, ceremonial sites, tidal fish traps, shell middens and stone artefacts) have been recorded in similar coastal settings (sheltered bays) in the Whitsunday region (on the mainland and offshore islands);
- The Gia and Ngaro/Gia respondent parties reported that coastal bays such as this one were economically important to the Ngaro and Gia Aboriginal peoples in traditional times, as fishing grounds, and for hunting and gathering both animal and plant resources. The marine, estuarine and riparian environments contained a plethora of birds, fish, shellfish, marine and terrestrial mammals and plant foods;
- Elders reported that they have continued to visit the Shute Harbour area and adjacent coastline in contemporary times, to fish, collect shellfish and collect bush tucker and medicines;
- The Gia and Ngaro/Gia respondents are today actively involved in 'caring for country' along the Whitsunday coastline (e.g.: through turtle conservation and monitoring programs, Coast Care and native plant revegetation programs).
- They maintain an active interest in land/sea management and development projects in their traditional homelands.





# Walking together...

The initial project scope of the consultation program was expanded to include the facilitation of a consultation model to assist the Whitsunday Regional Council (formerly the Whitsunday Shire Council) in its CHMA processes with Gia and Ngaro/Gia respondent parties, for a site very close to the SHMD development site.

This neighbouring site relates to the upgrade of the Shute Harbour Public Boat Ramp, which will require a degree of dredging of the navigational channel. A Cultural Heritage survey of the site was recommended after consultation with the DNRW due to its proximity to SHMD interests.

The negotiations were entered into with the respondent parties to ensure compatibility and mirrored referenced conditions for a separate CHMA between the Council as the sponsor, and the identified Gia and Ngaro/Gia /respondent parties. (refer Diagram 19. Mirrored CHMA Whitsunday Regional Council Model)

As a result, the SHMD Pty Ltd, (supported by the Hornery institute) initiated the establishment of a possible partnership arrangement with the Whitsunday Regional Council to negotiate a CHMA for the Shute Harbour Community Boat Ramp. Cultural surveys were undertaken separately for the area. These were undertaken by Northern Archaeology Consultancies -Michele Bird; Archeologist in consultation with the Gia and Ngaro/Gia respondent parties. A set of specific recommendations were drafted and approved by respondent parties. SHMD and The Hornery Institute tabled the Cultural Heritage Surveys to the Council for their consideration.

SHMD also presented in detail the proposed development concept Master Plan, discussed modifications to the initial concept plan and described the EIS consultation program and EIS process.

A combined recommendations record was discussed and ratified by all respondent parties.

The consultation for Cultural Heritage Planning was held over one day and proceeded into the evening, culminating in a supper meeting to commence discussions relating to respondent Aspirations.

SHMD invited all respondents and their organisational administrative representatives, to attend a combined dinner.

After the evening meal, all parties reconvened to discuss Aspirations and possible inclusion of these into the final Cultural Heritage Management Agreement.

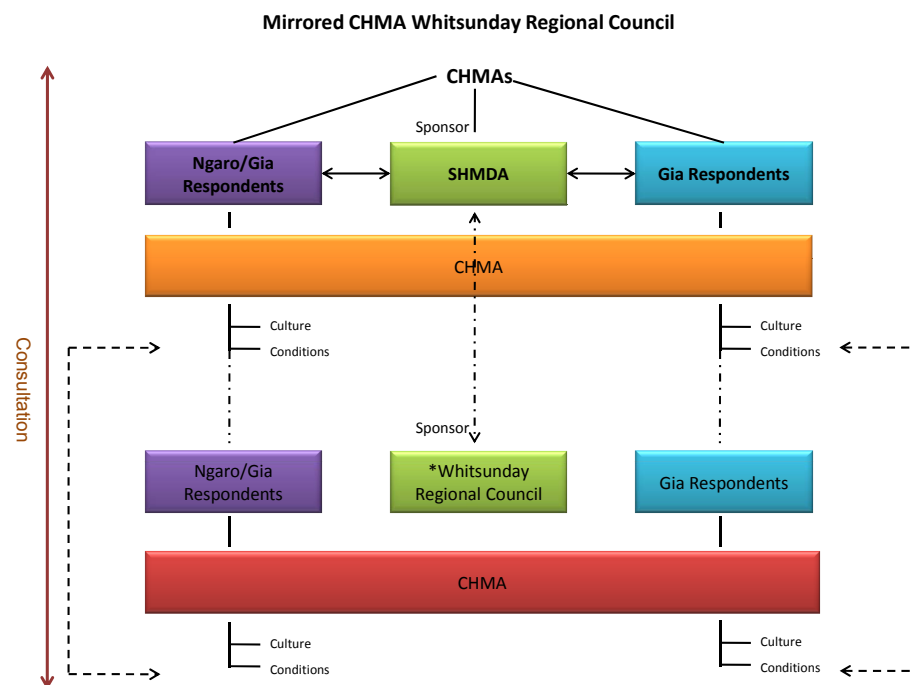
While the extended meeting timing was generously and graciously agreed to the consultation was lengthy, broken by frequent rest breaks and opportunities for respondent parties to meet as individual groups and as partners to the CHMA process.

The recommendations were drafted as an integral component of the Aboriginal Cultural Heritage study undertaken by independent consultant Northern Archaeology Consultancies - specific to the process under the **Aboriginal Cultural Heritage Act 2003 (ACH Act)**.

*A copy of the recommendations (in draft format) for both the SHMD Cultural Heritage study and Whitsunday Regional Council Public Boat Ramp CHMA were sent via email to all respondent parties to ensure accuracy. The details of the SHMD CHS recommendations are documented on the following pages.*

*Once approved, these recommendations were then included in a draft Cultural Heritage Management Agreement and played an important role in the 'Aspirations, Business and Agreement' phases of the consultation program.*

## Diagram 19. Mirrored CHMA Whitsunday Regional Council Model



Formerly Whitsunday Shire Council



# EIS Gia and Ngaro/Gia respondent guidance....

During the course of the Cultural Heritage study (CHS) and Cultural Heritage consultation phase, the respondent parties did not raise any major concerns, constraints or objections to the proposed development project, provided that the development proponent undertake to implement the recommendations of the Cultural Heritage Report.  
(CH Study 2008)

The CHS report formed the foundation to move CHMA consultations, as it captured cultural heritage values of the site as described by the respondent parties.

The following principles were raised by the respondent parties and formed the foundation of Agreement negotiation in the CHMA:

- Cultural Heritage
- Respect and Recognition
- Sharing and caring for Land and Sea Country
- Partnership and social, business enterprise capacity building
- Obligations and responsibility

Discussions with Gia and Ngaro/Gia respondent parties were central to the development of a CHMA for the project and led to the expanded discussions with the Proponent to incorporate a number of community identified Aspirations.

Broader discussions also took place to provide feedback into the EIS process relating to the proposed development in the context of social, environmental, lifestyle and economic impacts both adverse and positive.

The model of ‘knowledge sharing’ was developed in the collective advancement of strategies to respond to CH study recommendations and community Aspirations requests.

The resulting CHMA addresses the issues raised by the respondent parties. The CHMA has provided a formal catalyst for agreement between all parties and informed the EIS in the following ways:

- ✓ cultural heritage and environmental amelioration strategies
- ✓ duty of care - ACH Act compliance requirements
- ✓ the commitment to Aboriginal peoples ‘Self Determination’
- ✓ social and business enterprise initiatives
- ✓ ethno-botanic advisory opportunities
- ✓ exchange of knowledge between Aboriginal and non-Aboriginal peoples
- ✓ Cultural tourism as a niche market
- ✓ Generational “care for land and sea country”

The respondent parties identified a number of development impacts, which are similar to the feedback provided by non-Aboriginal community members feedback. (Three Plus Consultation Report, 2008) The community feedback and EIS technical studies recommended:

- modified designs and viewing corridors;
- reduced marina berth numbers and improved breakwater design;
- increased recreational and cultural areas proposed for community use; and
- initiatives to contribute to marine conservation and Aboriginal cultural heritage and celebration.

It is important to note that all respondent parties identified the Shute Harbour Marina Development as having a potential for a long term, joint visionary infrastructure proposal between the Developer Proponent and Ngaro and Gia Aboriginal peoples.

# Knowledge sharing...

## SHUTE HARBOUR MARINA PROJECT RESPONDENT ENDORSED CULTURAL HERITAGE RECOMMENDATIONS:-

The following Gia and Ngaro/Gia representatives and/or spokespersons have provided their input for these Recommendations:-

Gia - Patricia Brimble, Marie Coleman, Raymond Wake, Agnes McAvoy, Vicky Toffetti and David Mailman. (Elsie Kyle was unable to participate due to flooding up North Queensland, which impeded her attendance)

Ngaro/Gia - Sandra Hero, Carol Prior, Mervyn Prior, Raymond Prior, Renarta Prior, Cilla Prior, Petula Heron.

These Recommendations are subject to review and comment by Gia and Ngaro/Gia representatives and the development proponent.

**Recommendations 1 to 6** pertain to the management of cultural heritage and environmental aspects related to the proposed Shute Harbour Marina development project.

**Recommendations 7 to 11** pertain to broader 'aspirations' regarding cultural heritage and other matters related to the proposed development project. Some of these 'aspirations' have already been the subject of detailed discussions between Gia and Ngaro/Gia respondents and the development proponent.

## Cultural and Environmental Aspects:-

### Recommendation 1:

Gia and Ngaro/Gia respondents maintain some concerns that Aboriginal archaeological sites or cultural materials (such as stone artefacts) might exist in intertidal and/or subtidal deposits within the Shute Harbour Marina project area.

On this basis, they request that a cultural monitoring/site inspection program be implemented for development operations, including the removal of fringing vegetation and mangroves along the coastal margins, and the excavation of coastal deposits within the bay.

It is recommended that there be further discussions between Gia and Ngaro/Gia respondents and the proponent regarding the timing, duration, logistics, number of monitoring personnel and administrative arrangements for cultural monitoring, once the proponent and/or their contractors have devised a detailed (post approval) construction management plan.

Gia and Ngaro/Gia respondents have advised that it is important that future cultural monitoring and site inspection programs take into account the fact that two distinct Aboriginal groups, the Gia and Ngaro peoples, are involved in this cultural heritage project. On this basis, they request that field officer representation in cultural monitoring programs is always equally divided between these two groups.

It is noted that from a purely archaeological perspective the overall potential for locating intact Aboriginal archaeological sites or materials within the intertidal and subtidal project area is assessed as low.

On this basis, it is recommended that cultural monitoring of development operations and excavation works initially be carried out to a maximum depth of 1.5 m below the ground surface/seabed. If any significant cultural sites or materials are located during development operations then this recommended monitoring depth should be revised accordingly, in consultation with Gia and Ngaro/Gia representatives.

### Recommendation 2:

In the event that any Aboriginal cultural heritage sites, materials or values are discovered during development operations and /or cultural monitoring, the following recommendation should apply:-

# Knowledge sharing...

All development work and other activities at that location should cease, pending a thorough inspection of the find/s by Gia and Ngaro/Gia representatives. Optimally, the finds should be demarcated and protected from any potential impacts with pegs, flagging tape and/or other appropriate temporary barriers with a reasonable buffer area around them (the 'reasonable' buffer zone to be determined by the Cultural Monitors, Site Supervisor and/or other appropriate on-site personnel). Development work can continue outside the demarcated buffer zone.

Following their assessment of the find/s, Gia and Ngaro/Gia respondents will provide advice on appropriate management action. Depending on the cultural significance of the find/s, Gia and Ngaro/Gia respondents and/or the development proponent may wish to seek independent technical advice from the project archaeologist and/or the Cultural Heritage Coordination Unit, Department of Natural Resources and Water. Development work at the location of the finds should not recommence until appropriate cultural heritage management action has been implemented to the satisfaction of all stakeholders.

## Recommendation 3:

In the unlikely event that human skeletal material is discovered during development works, it is recommended that all development operations cease immediately within 100 m of the remains. Optimally, the finds should be demarcated and protected from any potential impacts with pegs, flagging tape and/or other appropriate temporary barriers. The Queensland Police, Cultural Heritage Coordination Unit of the Department of Natural Resources and Water, as well as Aboriginal Gia and Ngaro/Gia representatives should be contacted as a matter of urgency.

Currently, the Queensland Police, Department of Natural Resources and Water and Aboriginal Gia and Ngaro/Gia groups have established policy and procedures to ensure that confirmed Aboriginal burials are treated in a manner consistent with Aboriginal traditions.

Minimal disturbance to the remains should be a priority, and advice should be sought from Aboriginal Elders on ways to deal with the material in a culturally appropriate and sensitive manner. A copy of the Department of Natural Resources and Water 'Draft Burial Policy' is available from DNRW and/or the project archaeologist.

## Recommendation 4:

Personnel and contractors involved in the development project should undertake a cultural heritage induction prior to commencement of development operations. Workers must be provided with information on the types of Aboriginal cultural heritage sites likely to be found in the project area, along with specific guidelines to follow in the event of the discovery of cultural finds, or suspected cultural finds. Workers should be made aware of the provisions of the *Aboriginal Cultural Heritage Act 2003* and in particular, the 'Duty of Care Guidelines' under this legislation.

## Recommendation 5:-

Gia and Ngaro/Gia respondents request that the proponents undertake to vegetate the (reclaimed) development site with local native plant species (partly as a means to replace the existing fringing native coastal species now present along the Shute Harbour foreshore, but also to enhance the natural, cultural and aesthetic values of the development site).

Gia and Ngaro/Gia respondents wish to contribute their ethno botanical knowledge and expertise in selecting appropriate native plants (including traditional bush tucker and medicinal plants) and in designing and landscaping the project site, as well as providing hands-on labour for such works.



# Knowledge sharing...

## Recommendation 6:-

Mangroves currently located along the foreshore and intertidal zone in the Shute Harbour Marina development area are to be cleared and removed as part of the development project. Gia and Ngaro/Gia respondents have noted their preference for the proponent to implement works to replant mangroves along the margins of the (reclaimed) development land, in preference to waiting for the natural regrowth of this vegetation (which may take many years).

Gia and Ngaro/Gia respondents have indicated that they would like to be actively involved in mangrove replanting and revegetation works.

## Cultural Aspirations and Other Issues:-

### Recommendation 7:-

Gia and Ngaro/Gia respondents request that the proponent consider using appropriate interpretative signage within the proposed development as a means to recognize and acknowledge Gia and Ngaro/Gia respondents of the project area and the Whitsunday region. Gia and Ngaro/Gia respondents have suggested that interpretative signage might include language names for the project area and its natural features (e.g.: the bay, local plants, terrestrial and marine animals, etc). Signage might also include information on the cultural values of the project area and its place in the wider cultural landscape of the Whitsunday region. To this end, it is recommended that the proponent continue to consult with Elders and other knowledgeable Ngaro and Gia peoples regarding appropriate language names for incorporation at the project site.

### Recommendation 9:-

Gia and Ngaro/Gia respondents have entered into discussions with the development proponent regarding the establishment of a Cultural Interactive Centre and "Yarning' Circle' as part of the Shute Harbour Marina Development project. Discussion between the parties is continuing at the current time and outcomes will be incorporated into the Cultural Heritage Management Plan and associated agreements between the parties.

It is noted that all cultural and intellectual property rights associated with the establishment and operation of any such Cultural Interactive Centre will always remain with the Gia and Ngaro/Gia respondents.

The Cultural Interactive Centre will be a multi-functional space. Some intended uses may include the sale of Aboriginal arts and crafts, cultural displays, performance area for cultural dancers, meeting place, tourist interpretative centre, business/administrative base and a keeping place for significant cultural items and artefacts.

### Recommendation 10:-

Gia and Ngaro/Gia respondents have requested that the development proponent enter into further discussions with them regarding future employment, training, tendering and other potential economic opportunities for the construction and operational phases of the development project. In particular, Gia and Ngaro/Gia respondents would like to seek assistance/preferred opportunities from the proponent in tendering for future contracts associated with the project (e.g: landscaping and revegetation works, building works, cleaning contracts, security contracts, caretaking and management roles, etc).

### Recommendation 11:-

As per the provisions of Part 7 of the *Aboriginal Cultural Heritage Act 2003 (ACHA)* it is recommended that the above-listed recommendations are incorporated into a Cultural Heritage Management Plan (CHMP) for the proposed development project, to be signed by the 'endorsed Aboriginal parties' (or their nominated representatives) and representative/s of the development proponent.'

Compiled by Michele Bird (12/03/08), in conjunction with Gia and Ngaro/Gia representatives.

# Gia and Ngaro/Gia respondents EIS identified \*impacts and recommended amelioration/mitigation and opportunities.

Impact	Activity description	Impact/Feedback	Suggested Mitigation/Amelioration
Current polluted state of the foreshore: (tyres, rubbish, plastics, metals, petroleum canisters etc).	Development of the SHMD and Public boat ramp (separate to this development) has the potential to result in improved foreshore and removal of pollutants currently highly visible on site and evident on all foreshore in close proximity to site. (observed during 'walk on country')	<p>Cumulative *impact of boat ramp and SHMD development proposal' was identified as useful to providing a big picture view of the entire area and its linkages - Both CH surveys; 'walk on country' by both Gia and Ngaro/Gia respondents.</p> <p>Gia and Ngaro/Gia respondent parties expressed 'shock' at the degraded, polluted state of the foreshore.</p> <p>Current level of pollution impacting on cultural heritage values associated with the site to Gia and Ngaro/Gia s. (Gia and Ngaro/Gia respondents parties)</p> <p>Disregard of cultural heritage values by non-Aboriginal community was noted - evidenced by the level of rubbish and pollutants visible on the foreshore.</p>	<p>➤ Cultural heritage 'walk on country' conducted of this area at the time of the SHMD CH survey provided a wholistic assessment of impacts both adverse and positive of the site and placed the proposed development in the context of other planned amenity in close proximity.</p> <p>➤ Clean up of the polluted foreshore was identified as a positive impact, contributing to retaining cultural heritage values of the proposed development and public boat ramp sites.</p>
Loss of cultural heritage.	Development of the SHMD has the potential to result in a loss of cultural heritage values associated with the site to Gia and Ngaro/Gia s. (Gia and Ngaro/Gia respondents parties)	<p>Stated - refer Recommendations 1-5</p> <p>It is noted however, that from a purely archaeological perspective the overall potential for locating intact Aboriginal archaeological sites or materials within the intertidal and subtidal project area <u>is assessed as low.</u> (CH study, 2008)</p>	<p>➤ A cultural monitoring/site inspection program to be implemented for development operations, including the removal of fringing vegetation and mangroves along the coastal margins, and the excavation of coastal deposits within the bay.</p> <p>➤ Cultural monitoring of development operations and excavation works initially be carried out to a maximum depth of 1.5 m below the ground surface/seabed. If any significant cultural sites or materials are located during development operations then this recommended monitoring depth should be revised accordingly, in consultation with Gia and Ngaro/Gia representatives. (CHS 2008)</p> <p>➤ Provisions of the <i>Aboriginal Cultural Heritage Act 2003</i> and in particular, the 'Duty of Care Guidelines' under this legislation to be implemented</p> <p>➤ Gia and Ngaro/Gia respondents request that the proponents undertake to vegetate the (reclaimed) development site with local native plant species (partly as a means to replace the existing fringing native coastal species now present along the Shute Harbour foreshore, but also to enhance the natural, cultural and aesthetic values of the development site).</p>

## Gia and Ngaro/Gia respondents EIS identified impacts and recommended amelioration/mitigation.

Impact	Activity description	Impact/Feedback	Suggested Mitigation/Amelioration
Preservation of cultural heritage and artefacts (if found) during surface and subsurface disturbances.	Development of the SHMD has the potential to result in a loss of cultural heritage values associated with the site to Gia and Ngaro/Gia s, particularly during the surface and subsurface disturbances phase of construction (Gia and Ngaro/Gia respondents parties).	Stated - refer Recommendations 1-5 .	<ul style="list-style-type: none"> <li>➤ Personnel and contractors involved in the development project should undertake cultural heritage induction prior to commencement of development operations.</li> <li>➤ Workers must be provided with information on the types of Aboriginal cultural heritage sites likely to be found in the project area, along with specific guidelines to follow in the event of the discovery of cultural finds, or suspected cultural finds.</li> <li>➤ Workers should be made aware of the provisions of the <i>Aboriginal Cultural Heritage Act 2003</i> and in particular, the 'Duty of Care Guidelines' under this legislation.</li> <li>➤ A monitoring program be undertaken during this period of the developments construction.</li> <li>➤ Timing, duration, logistics, number of monitoring personnel and administrative arrangements for cultural monitoring to be determined, once the proponent and/or their contractors have devised a detailed (post approval) construction management plan.</li> </ul>
Improved access to areas for recreational and leisure activity.	<p>The proposed development will contribute to the development of lifestyle, recreation and leisure activities in the region (SHMD - Net Benefit Assessment 2008).</p> <p>It also provides opportunity for Aboriginal enterprise and employment. This will contribute significantly to the wellbeing of Aboriginal peoples, local residents and visitors to the development.</p>	<p>Statement shared during the relations consultation phase and confirmed at Cultural Heritage consultation phase.</p> <p>The Gia and Ngaro/Gia respondents concurred with the overall statement of net benefit (proximity of the marina and associated facilities, retail, café and restaurant precincts, open space and recreational infrastructure (boardwalk, etc.), as well as provision of a new four lane boat ramp (separate to this development).</p>	<ul style="list-style-type: none"> <li>➤ Recreation and leisure activity to incorporate cultural heritage and cultural tourism elements (to be considered as part of the Aspirations component of CHMA planning).</li> <li>➤ Ngaro and Gia Aboriginal peoples wish to contribute their ethno botanical knowledge and expertise in selecting appropriate native plants (including traditional bush tucker and medicinal plants) and in designing and landscaping the project site, as well as providing hands-on labour for such works (Recommendation 5).</li> <li>➤ Improved access to areas for recreation and leisure, which are designed incorporating ethno botanical knowledge and expertise to be promoted and profiled to Aboriginal and non-Aboriginal community.</li> </ul>



# Gia and Ngaro/Gia respondents EIS identified impacts and recommended amelioration/mitigation.

Impact	Activity description	Impact/Feedback	Suggested Mitigation/Amelioration
Natural environment.	<p>Reclamation and alteration of the shoreline is expected to result in the removal of approximately 1.84 hectares of mangroves along the Shute Harbour coast (FRC Environmental, 2007). I.e. Mangroves currently located along the foreshore and intertidal zone in the Shute Harbour Marina Development area to be cleared and removed as part of the development project.</p> <p>The fixed breakwater will provide 1.8 km of habitat capable of accommodating different aquatic species, for example mangrove jack, a common sport fish species in the region (FRC Environmental, 2007).</p>	<p>Stated refer Recommendations 1-6. Identified during consultation program.</p> <p>The Gia and Ngaro/Gia respondent parties raised some queries and concerns relating to the potential long-term impacts of the proposed project on the natural environment of the Shute Harbour area. (e.g.: mangrove and fringing coastal vegetation, turtle populations, fish habitat and other marine fauna, potential pollution and spillage of oil and diesel in the bay) (SHMD - Net Benefit Assessment 2008).</p> <p>Amelioration and mitigation strategies were workshopped during the Cultural Heritage phase.</p>	<p>➤ Gia and Ngaro/Gia respondents wish to contribute their ethno botanical knowledge and expertise in selecting appropriate native plants (including traditional bush tucker and medicinal plants) and in designing and landscaping the project site, as well as providing hands-on labour for such works.</p> <p>➤ Gia and Ngaro Gia respondents request that the proponent consider using appropriate interpretative signage within the proposed development as a means to recognize and acknowledge Gia and Ngaro/Gia respondents of the project area and the Whitsunday region.</p> <p>➤ Gia and Ngaro/Gia respondents have suggested that interpretative signage might include language names for the project area and its natural features (eg: the bay, local plants, terrestrial and marine animals, etc). Signage might also include information on the cultural values of the project area and its place in the wider cultural landscape of the Whitsunday region. To this end, it is recommended that the proponent continue to consult with Elders and other knowledgeable Ngaro and Gia Aboriginal peoples regarding appropriate language names for incorporation at the project site.</p> <p>➤ Gia and Ngaro/Gia respondents request serious consideration of suggested Aspirations to be incorporated into the CHMA as the Aspirations if realised, will provides an opportunity to empower Ngaro and Gia Aboriginal peoples to participate and share their knowledge of natural resource management for the benefit of the community, SHMD, local Aboriginal and non-Aboriginal community, State, National and International visitors.</p> <p>➤ Technical studies will be undertaken to examine environmental impacts including potential impact on the Great barrier Reef, marine ecology and land based habitat. The findings will be included in the EIS report and attached technical studies.</p>

# Gia and Ngaro/Gia respondents EIS identified impacts and recommended amelioration/mitigation.

Impact	Activity description	Impact/Feedback	Suggested Mitigation/Amelioration
Increased amenity from lease of marina berths provides a 'safe' berth for recreational marine craft during rough weather.	Third parties leasing the marina berths are expected to derive some recreational and amenity benefits from the access to and use of the marina and land-based aspects of the development, as well as the knowledge of a 'safe' berth in rough weather. (SHMD - Net Benefit Assessment 2008)	<p>Increased safe amenity from lease of marina berths.</p> <p>Reduced demand on moorings in reef from lease of marina berths.</p> <p>It is noted that the Gia and Ngaro/Gia respondent parties commented that the proposed marina was 'big'.</p> <p>However, then made further comment that planning for the future demand over time was important. When visioning and planning for the future; it was better to have one marina in Shute Harbour, than to have several smaller marinas in an area where there may be greater cultural heritage and environmental concerns.</p> <p>It is also noted that Gia and Ngaro/Gia respondents identified this particular site as being of less cultural heritage impact than other areas of the bay. Sighting the other side of the bay as being a highly significant sacred site, which would fail to be endorsed for development by Gia and Ngaro/Gia respondents, if suggested. (These comments did not however, detract from the cultural and spiritual significance this particular site held for respondent parties).</p> <p>The benefits of creating a safe haven via the lease of marina berths were identified as a positive benefit by respondent parties.</p>	<p>➤Third parties leasing the marina berths are expected to derive some recreational and amenity benefits from the access to and use of the marina and land-based aspects of the development, as well as the knowledge of a 'safe' berth in rough weather. (SHMD - Net Benefit Assessment 2008).</p> <p>➤Gia and Ngaro/Gia respondent parties agreed with the proposed reduction of berths from the initial mooted 733 to 669 berths.</p> <p>➤ A Marina providing 669 berths (including just under 200 multi hull berths) in a "good" wave climate constructed in accordance with Australian Design Standard AS3962-2001. (SHMD - Net Benefit Assessment 2008).</p>
Maintenance of the recreational value of the Great Barrier Reef World Heritage Area.	As part of the development the proponent will develop a "Reef Conservation Fund" to be operated as a charitable fund with the funds administered by the Great Barrier Reef Marina Park Authority. The fund will be funded from the sale of the marina berths, with an initial contribution, to be provided by the proponent upon the settlement of each marina berth, totalling approximately \$1.0 million, and an ongoing contribution of approximately \$150,000 per annum as part of the lease agreement. (SHMD - Net Benefit Assessment 2008)	<p>This fund will contribute to the ongoing sustainability of the reef by providing environmentally friendly moorings on the reef that minimise disruption to benthic communities and provide space for boaters to safely moor their boat away from environmentally sensitive sites without damaging the reef.</p> <p>Preservation of the reef will provide some benefit in terms of maintained recreational value into the future. (SHMD - Net Benefit Assessment 2008).</p> <p>Gia and Ngaro/Gia respondents supported the proposed model and recommended enhancements to this via the development of culture and heritage, marine ecology and conservation program developments.</p>	<p>➤Gia and Ngaro/Gia respondents wish to contribute their ethnobotanical and marine ecology knowledge and expertise in maintenance of the recreational value of the Great Barrier Reef World Heritage Area.</p>

# Gia and Ngaro/Gia respondents EIS identified impacts and recommended amelioration/mitigation.

Impact	Activity description	Impact/Feedback	Suggested Mitigation/Amelioration
Re-establishment of seagrass from removal of swing moorings.	<p>The proposed marina and access channel will necessitate the removal of approximately 50 swing-moorings. These moorings currently impact on the seabed through chronic physical disturbance as the vessel responds to changing winds and tides. The removal of swing moorings will enable approximately 950m<sup>2</sup> of seagrass to re-establish and a more stable benthic community to develop (FRC Environmental, 2008).</p>	<p>Gia and Ngaro/Gia respondent parties supported the removal of swing moorings and the potential to reduce the chronic physical disturbance by their removal and replacement with environmentally friendly moorings on the reef that minimise disruption to benthic communities and provide space for boaters to safely moor their boat away from environmentally sensitive sites without damaging the reef.</p>	<p>➤The development of "Reef Conservation Fund" to contribute towards establishing environmentally friendly moorings.</p> <p>➤ SHMD to consider opportunities to empower Ngaro and Gia Aboriginal peoples to participate and share their knowledge of natural resource management and marine ecology for the benefit of the community, SHMD, local by Aboriginal and non-Aboriginal community, State, National and International visitors.</p>
Removal of mangroves.	<p>Reclamation and alteration of the shoreline is expected to result in the removal of approximately 1.84 hectares of mangroves along the Shute Harbour coast (FRC Environmental, 2007).</p> <p>I.e. Mangroves currently located along the foreshore and intertidal zone in the Shute Harbour Marina Development area to be cleared and removed as part of the development project</p> <p>Mangroves play an important role in the overall ecosystem function of Shute Bay in terms of habitat, nutrient cycling, and erosion prevention. An increase in erosion and sedimentation may have an adverse effect on coastal water quality and associated seabed flora and fauna through a smothering effect within the marina basin and a decrease in flushing and intermixing from fresh water with marine waters in the project area. (SHMD - Net Benefit Assessment 2008)</p>	<p>Stated refer Recommendation 5 &amp; 6.</p> <p>Note: replanting program is expected to increase mangrove habitat along western fringe.</p> <p>The Shute Harbour Marina Development will include reclamation of land under water for development of the Managed Resort Accommodation and parkland along the western side of the development site.</p> <p>Consultation with FRC Environmental (authors of the Aquatic Ecology Report for the SHMD) suggests that mangrove communities may colonise along approximately 2 hectares of the western fringe (the non-marina side) of this parkland area. (SHMD - Net Benefit Assessment 2008)</p>	<p>➤Gia and Ngaro/Gia respondents have noted their preference for the proponent to implement works to replant mangroves along the margins of the (reclaimed) development land, in preference to waiting for the natural regrowth of this vegetation (which may take many years).</p> <p>➤ Gia and Ngaro/Gia respondents have indicated that they would like to be actively involved in mangrove replanting and revegetation works.</p> <p>➤This mangrove habitat will be accessible for viewing by the public including Ngaro and Gia Aboriginal peoples via the parkland area and will provide cultural heritage value and some recreational value.</p> <p>➤ Increased mangrove habitat along the western fringe was identified by Gia and Ngaro /Gia respondents as a positive offset to identified environmental and cultural heritage loss</p> <p>➤A revegetation program was also identified as resulting in employment opportunities for Gia and Ngaro peoples</p> <p>➤Gia and Ngaro/Gia respondents also identified the opportunity to provide ethno botanical advice would result in a positive impact.</p>



# Gia and Ngaro/Gia respondents EIS identified impacts and recommended amelioration/mitigation.

Impact	Activity description	Impact/Feedback	Suggested Mitigation/Amelioration
Additional social, community and recreational infrastructure and services.	The project will provide additional social, community and recreational infrastructure and services to facilitate the needs of the increased residential and workforce population of the Shute Harbour Marina Development.	Gia and Ngaro/Gia respondents identified the additional social, community and recreational and services as being a positive impact for the community and Shute Harbour generally.	<p>➤ Gia and Ngaro/Gia respondents identified the development of a Cultural Centre and Performance Space as a benefit the community to continue and showcase ‘care for land and sea country’ and requested the proponent consider the aspirations recommendations developed during the CH study.</p> <p>➤ The Cultural Centre will be a multi-functional space. Some intended uses may include the sale of Aboriginal arts and crafts, cultural displays, performance area for cultural dancers, meeting place, tourist interpretative centre, business/administrative base and a keeping place for significant cultural items and artefacts.</p>
Tourism support.	The project primarily targets the expanding tourism market on the Whitsunday Coast and provides much needed linkages between water and land based tourism activities supporting the regional tourism sector. (SHMD - Net Benefit Assessment 2008).	<p>Stated Recommendations 9 &amp; 10 Increased tourism was identified as a positive for the region by respondent parties.</p> <p>Throughout the consultation to inform this report, it was recognised by all respondent parties that:</p> <ul style="list-style-type: none"> <li>▪ Tourism is a key economic driver for the Australian and Whitsunday economy.</li> <li>▪ The Whitsundays is one of Australia’s most desirable domestic holiday destinations and an increasingly popular destination for international visitors.</li> <li>▪ Cultural tourism is a growing demand as a destination experience by international visitors.</li> </ul>	<p>➤ The Gia and Ngaro/Gia respondent parties identified that the SHMD site is in an ideal location to enhance the resort component of the development plan through the co-location of an integrated cultural marine ecology centre and Aboriginal Performance Space - managed and operated by Aboriginal peoples.</p> <p>➤ Recommendations were made by respondent parties to the Proponent to contribute to a key area of opportunity for the Whitsunday tourism industry by developing a strong, effective Aboriginal cultural tourism sector niche market.</p>

# Gia and Ngaro/Gia respondents EIS identified impacts and recommended amelioration/mitigation.

Impact	Activity description	Impact/Feedback	Suggested Mitigation/Amelioration
Increased business activity outside of SHMD.	In addition to expenditure undertaken at SHMD, visitors to and users of SHMD are expected to undertake expenditure on goods and services in the wider region, in particular in the surrounding service area of Airlie Beach, Cannonvale, Flametree and Jubilee Pocket. (SHMD - Net Benefit Assessment 2008).	Complimenting localized additional expenditure, the Gia and Ngaro/Gia respondent parties identified opportunities for increased business activity for Aboriginal peoples as a result of both construction and operation of the proposed development.	<p>➤Aboriginal agencies supporting the implementation of the CHMA will attract increased business activity outside of SHMD.</p> <p>➤The respondent parties identified opportunities to develop ancillary business activity outside of SHMD to service a proposed Cultural Centre and Performance Space (recommended to the development proponent e.g.; the creative industries sector - Aboriginal arts and crafts.</p>
Increased business activity at SHMD.	The Shute Harbour Marina Development is expected to result in increased business and economic activity at the SHMD site through operation of the marina, hotel, managed resort accommodation, retail and commercial areas. (SHMD - Net Benefit Assessment 2008)	<p>The Gia and Ngaro/Gia respondent parties identified opportunities for increased business activity for Aboriginal peoples as a result of both construction and operation of the proposed development.</p> <p>Refer Recommendations 6 - 10.</p> <p>It is noted that all cultural and intellectual property rights associated with the establishment and operation of any such social and business enterprise will always remain with the Gia/Ngaro peoples.</p>	<p>➤Gia and Ngaro/Gia respondents entered into discussions with the development proponent regarding the establishment of a Cultural Centre and 'Yarning Circle' as part of the Shute Harbour Marina Development project.</p> <p>➤The suggested Cultural Centre will be a multi-functional space. Some intended uses may include the sale of Aboriginal arts and crafts, cultural displays, performance area for cultural dancers, meeting place, marine ecology interpretative centre, business/administrative base and a keeping place for significant cultural items and artefacts.</p>

# Gia and Ngaro/Gia respondents EIS identified impacts and recommended amelioration/mitigation.

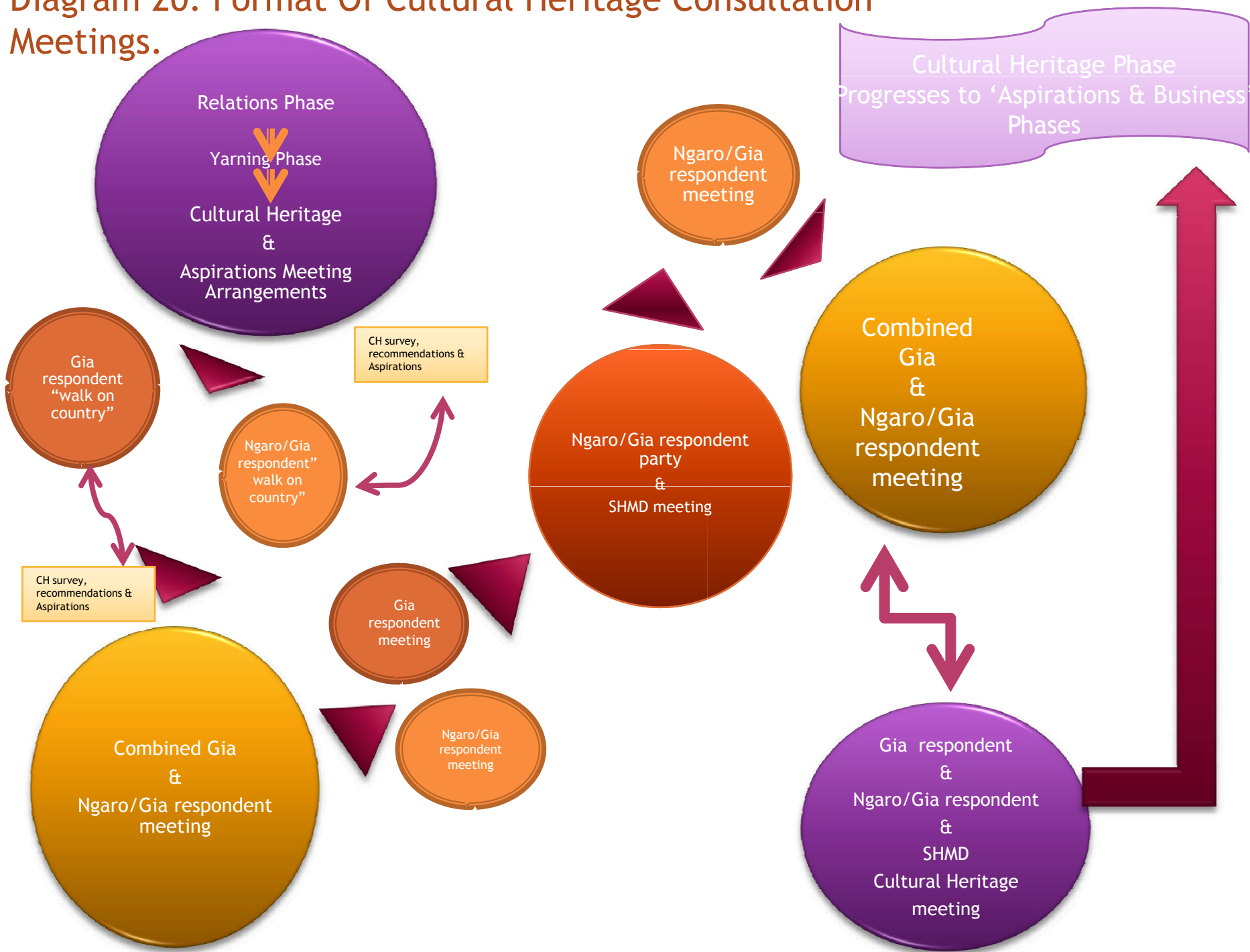
Impact	Activity description	Impact/Feedback	Suggested Mitigation/Amelioration
Visual Amenity.	The initial concept Master Plan has the potential to impact on the visual viewing corridor and enjoyment of the bay glimpses from the bay and recreational boating activities in the area, which is a key characteristic of the local community's lifestyle.	<p>The Gia and Ngaro/Gia respondent parties commented on the 'blocking' of the bay glimpses of the bay from the road as a result of the proposed concept master plan.</p> <p>These comments mirrored local community feedback. (Three Plus Consultation Report 2008).</p>	<p>➤ Gia and Ngaro/Gia respondent parties concurred with recommendations to modify the built form to maximise viewing corridors of the bay to be enjoyed by the community and visitors.</p> <p>➤ A landscaped roof top Performance Space on top of the proposed car park was discussed as an option to provide both cultural heritage, social and business enterprise and enhance the natural and built visual amenity and environment. Its placement also allowed for cultural traditions relating to both mountain and sea.</p>
Enhancement of community interaction and cohesion.	<p>SHMD will provide additional facilities in Shute Harbour and the surrounding service centre for community interaction and meeting places.</p> <p>The collective community use and benefit of the marina and land based aspects of the development has the potential to enhance community cohesion, interaction, vitality, wellbeing and prosperity. (SHMD - Net Benefit Assessment 2008)</p>	<p>Gia and Ngaro/Gia respondent parties identified a number of additional cultural heritage and social enterprise opportunities to maximise the potential to enhance community cohesion, interaction, vitality, wellbeing and prosperity for Aboriginal and non-Aboriginal community.</p> <p>Stated Recommendations 5-10.</p>	<p>➤ Gia and Ngaro/Gia respondents wish to contribute their ethno botanical and marine ethnobotanical knowledge and expertise in the maintenance of the recreational value of the Great Barrier Reef World Heritage Area.</p> <p>➤ Gia and Ngaro/Gia respondents identified the development of a Cultural Centre and Performance Space as a benefit the community to continue and 'showcase' 'care for land and sea country' and requested the proponent consider the Aspirations recommendations developed during the CH study.</p> <p>➤ The Cultural I Centre will be a multi-functional space. Some intended uses may include the sale of Aboriginal arts and crafts, cultural displays, performance area for cultural dancers, meeting place, tourist interpretative centre, business/administrative base and a keeping place for significant cultural items and artefacts.</p>
Enhanced networking and linkages in the marine sector.	The development of SHMD in close proximity to the existing transit terminal and salvage operation will provide opportunities for enhanced networking and linkages within the local and regional marine sector and local marine businesses. (SHMD - Net Benefit Assessment 2008)	Enhanced networking and linkages in the marine sector between Aboriginal and non-Aboriginal peoples was identified as important to Gia and Ngaro/Gia respondent parties.	<p>➤ The development of SHMD in close proximity to the existing transit terminal and salvage operation will provide opportunities for enhanced networking and linkages within the local and regional marine sector and local marine businesses. (SHMD - Net Benefit Assessment 2008).</p> <p>➤ SHMD has the potential to foster enhanced networking and linkages between the Aboriginal community and the marine sector. Particularly in the area of eco-cultural tourism and cultural advice relating to marine ecology.</p>



# Gia and Ngaro/Gia respondents EIS identified impacts and recommended amelioration/mitigation.

Impact	Activity description	Impact/Feedback	Suggested Mitigation/Amelioration
Additional employment opportunities.	<p>The development is expected to directly provide 78 FTE additional employment positions during construction on average, and 142 employment positions during operation.</p> <p>Additional employment positions are also expected to be generated as a result of additional expenditure and business activity outside of SHMD itself. (SHMD - Net Benefit Assessment 2008).</p> <p>The development is expected to directly provide one FTE Cultural Officer position, casual Cultural Training Officers, Cultural Heritage Monitoring personnel and a Mangrove replanting program during construction.</p> <p>Additional employment positions are expected to be generated as a result of business enterprise, native labour planting program, preferred tendering program and cultural tourism, governance management, events management and performance and arts initiatives for Ngaro and Gia Aboriginal peoples during operation.</p>	<p>Gia and Ngaro/Gia respondents strongly identified employment opportunities for Aboriginal people as a significant positive impact arising from the development and partnerships with the developer proponent.</p> <p>Employment was identified as both direct and indirect contract employment, and group and individual business development.</p>	<ul style="list-style-type: none"> <li>➤ A number of Gia and Ngaro monitoring personnel and administrative arrangements for cultural monitoring during surface and subsurface disturbance construction phase.</li> <li>➤ A full-time Cultural Officer is recommended for employment by the development proponent over 2 years.</li> <li>➤ Employment of Gia and Ngaro/Gia respondent parties to conduct cultural heritage induction training to be undertaken during construction.</li> <li>➤ Gia and Ngaro/Gia respondents wish to contribute their ethno botanical knowledge and expertise in selecting appropriate native plants (including traditional bush tucker and medicinal plants) and in designing and landscaping the project site, as well as providing hands-on labour for such works.</li> <li>➤ Gia and Ngaro/Gia respondents have requested that the development proponent enter into further discussions with them regarding future employment, training, tendering and other potential economic opportunities for the construction and operational phases of the development project.</li> <li>➤ In particular, the Gia and Ngaro/Gia respondents would like to seek assistance/preferred opportunities from the proponent in tendering for future contracts associated with the project (e.g.: landscaping and revegetation works, building works, cleaning contracts, security contracts, caretaking and management roles, etc).</li> <li>➤ Direct and indirect employment and business enterprise potential is supported by the incorporation of a Cultural Centre and Aboriginal Performance Space on site.</li> <li>➤ An audit to document employment opportunities to be conducted to maximize Aboriginal employment opportunities arising from the development.</li> </ul>

Diagram 20. Format Of Cultural Heritage Consultation Meetings.



Respect and  
Recognition

Cultural Heritage  
Traditions and  
Values

Sharing and Caring  
for Land & Sea  
Country

Partnership and  
Enterprise  
Capacity Building

Obligations and  
Responsibility

# THE CULTURE OF OUR BUSINESS....

Beyond dreaming.....



# Visioning.....

## 4. Aspirations - The next phase of the consultation moved the consultation between all parties, and the Cultural Heritage Management planning beyond a traditional CHMA conclusion.

To bring all parties together, an 'Appreciative Engagement Model' was adopted as a core component of the consultation meeting in this phase of the consultation. (Refer Diagram 21)

This model allowed for both SHMD - as the sponsor, and the Gia and Ngaro/Gia representatives - as respondents, to discuss community aspirations and their potentiality to become an integral part of the proposed development design and CHMA.

Critical to advancing the 'Aspirations' discussions, was the 'discovery' and 'dreaming' of shared Aspirations between Aboriginal respondent parties. These steps in perceptive participation, provided insight into the most important shared Aspirations and suggested initiatives to advance generational "care for land and sea country".

Building on established relationships agreement in the way in which the Aspirations model could be developed was underpinned by the following commitments:

- ❖ Shute Harbour Marina Development Pty Ltd adoption of a flexible and learning approach to working with and meeting mutually agreed Aspirations of Ngaro and Gia Aboriginal peoples.

Ngaro and Gia Aboriginal peoples adoption of a flexible and learning approach to working with each other and the developer proponent (sponsor) to work towards and meet the mutually agreed Aspirations of Ngaro and Gia Aboriginal peoples and possibility of realisation in the development context. Commitment towards commercial sustainability, management policies and processes, including compliance requirements relating to the site.

The Aspirations consultation took place after a shared evening meal and continued until 10pm - making the day a long one.

Consultation outcomes for the day included;

- Completion of two cultural heritage 'walk on country' and cultural heritage values recommendations for the SHMD site;
- Completion of two cultural heritage 'walk on country' and cultural heritage values recommendations - Whitsunday Regional Council Public Boat Ramp site;
- EIS environmental, economic and social impacts both adverse and positive, and the development of amelioration/mitigation strategies;
- CHMA model and inclusive participation commitments; and
- Aspirations visioning and general discussions

The 'Aspirations' meeting concluded with a commitment from SHMD to discuss the recommended Aspirations with the SHMD Board to determine possible resourcing and commitment to adopting any/all of the Aspirations.

A commitment to reconvene a meeting to discuss the possible further development of these Aspirations during the 'business' phase of the consultation program was made by all parties.

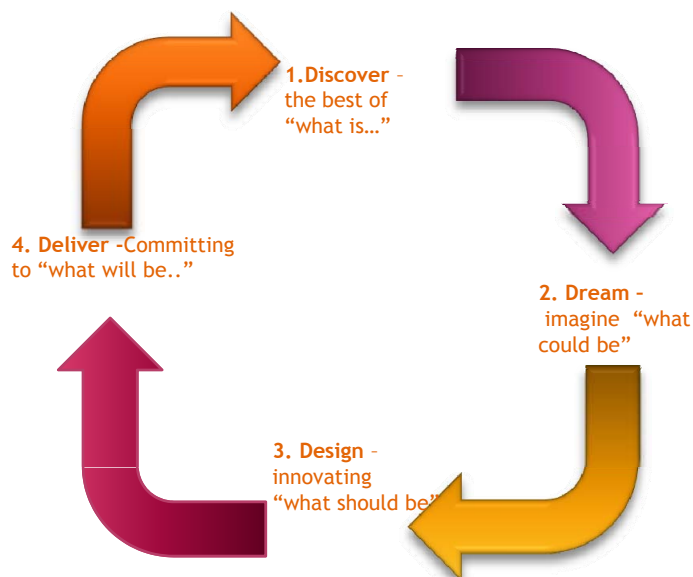
At the end of the 'Aspirations' meeting, agreement was made by all parties to have negotiated and finalised a CHMA for SHMD within a six week period.

Arrangements were made to meet with Gia and Ngaro/Gia respondents separately (as requested) to discuss the 'business phase' of the consultation, respecting the independence of representatives agencies providing governance and administrative support for respondents.

A draft copy of the CHMA, Cultural Heritage Survey, Recommendations and Aspirations were to be forwarded to the respondents within a fortnight to assist in the next phase of discussions.

The meeting ended with a genuine feeling of collective anticipation and an improved movement towards partnership and alliance.

Diagram 21. Appreciative Engagement Model

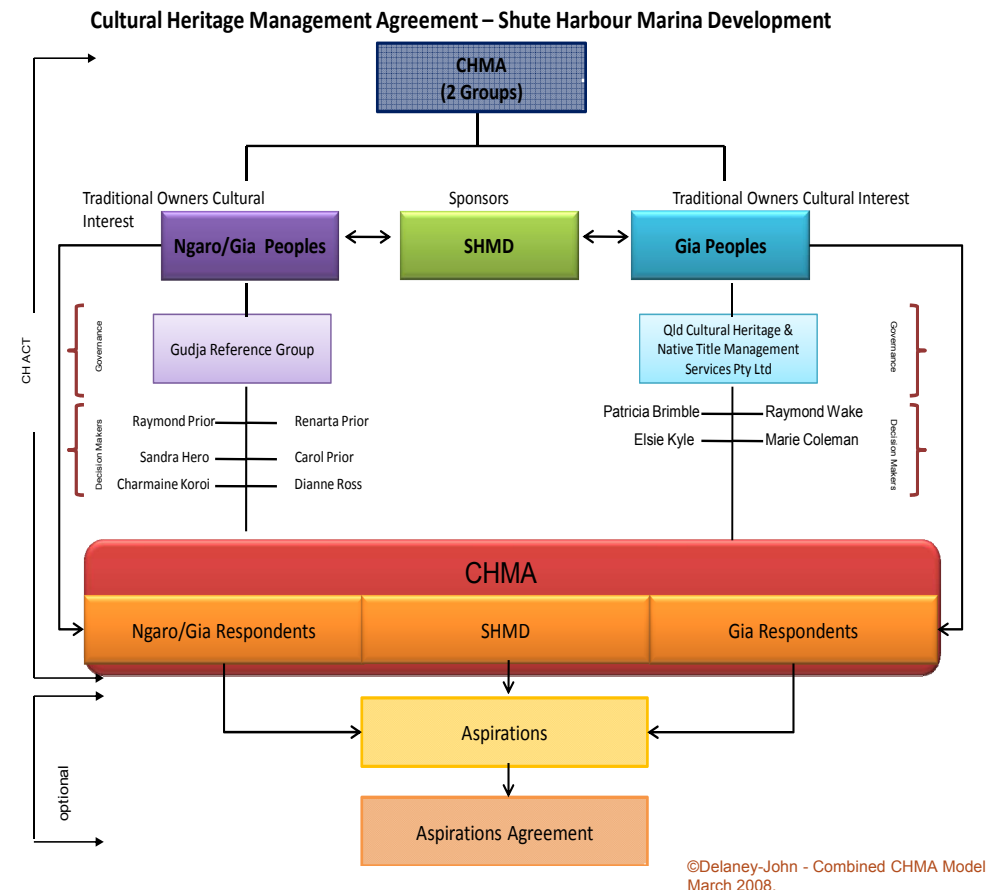


Source - Methods Manual: Engaging Communities in Perceptive Action Research - Qld Health 2002

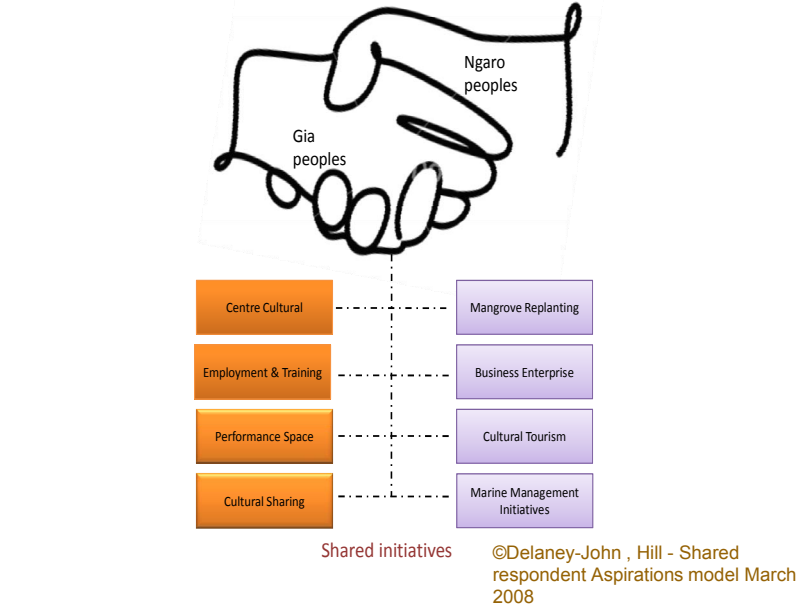
# Relations, Yarning, Cultural Heritage And Aspirations Consultation Phase Outcomes:

The following models informed the next phase of consultation and the development of a draft CHMA for respondent party consideration. Significant work was undertaken to collate all the discussions and recommendations made throughout the four of the seven consultation phases undertaken. The next phase of the consultation process required a consultation and negotiation strategy to respond to the complexity of relationships between the identified groups to continue to foster trust based equitable and transparent interaction. The goodwill, openness and shared vision of each party, set the foundation for continued dialogue and engagement.

## Diagram 22. Combined CHMA Model



## Diagram 23. Shared Respondent Aspirations



It was important to have a confirmed position and offer by the Board of SHMD, in order to commence the commercial or 'business' component of the negotiations. Decisions were required relating to CHMA, ACH Act compliant monitoring and the Cultural Heritage management.

Potential resource allocation for Aspirations infrastructure to realise the communities long term social, cultural, economic and environmental goals were also agenda items for discussion.

To facilitate the decision making process, The Hornery Institute developed a briefing paper, which captured the key findings of the consultation program to date, and included Cultural Heritage requirements as described by the ACH Act.

A proposed CHMA model, which integrated an Aspirations model for SHMD Board consideration was included.

The model and approach outlined in the briefing paper was approved by the SHMD board and assisted the development of formal draft documents, which informed the next phase of brokered negotiation - the 'business' phase.

Respect and  
Recognition

Cultural Heritage  
Traditions and  
Values

Sharing and Caring  
for Land & Sea  
Country

Partnership and  
Enterprise  
Capacity Building

Obligations and  
Responsibility

# THE CULTURE OF OUR BUSINESS....

‘Deadly’ business.....



# Deadly Business...

5. **Business** - Governance and remuneration for CHMA cultural heritage monitoring during surface and sub-tidal disturbances was discussed as a separate, yet inter-related process of the CHMA implementation agreement.

The following important principles of practice underpinned the 'business' consultation phase:

- ❖ Aboriginal decision-making, conflict management and agreement-brokering is paramount;
- ❖ A process which distinguishes between substantial and procedural elements holds the key to sustainable outcomes in negotiation processes;
- ❖ agreement-making is not the starting point of engagement with communities; it needs to be built up to in agreement-brokering processes; and
- ❖ effective processes incorporate capacity building as an integral aspect of design and build the 'readiness' of all parties".

(Process influenced by: Critical IFaMP research findings - Building Aboriginal Capacity in Consultation, Negotiation and Agreement-Brokering)

The 'business' consultation phase was undertaken in five parts:

**The first 'business phase' component** - included the circulation of draft Cultural Heritage study findings and respondent recommendations. It also included draft elements of the proposed CHMA which included key elements collated from consultation and Cultural Heritage elements as described in the ACH Act. Remuneration and conditions were not developed at this stage.

Aspirations were not included in the core draft CHMA documentation although they were acknowledged as inter-related to ongoing "care for land and sea country" and the underlying intent of the ACH Act.

This initial exclusion in the core draft CHMA was undertaken to ensure that the administrative and financial arrangements for the CHMA monitoring and ACH Act compliance requirements could be dealt with as one component of the consultation. The potential to include Aspirations initiatives will be determined by resource capability post ACH Act requirement allocation, and therefore formed the second component of the CHMA 'business' consultation.

**The second 'business phase' component** - included face to face meetings. Once the Cultural Heritage report and survey recommendations were approved by respondent parties. The second 'business phase' of consultation was progressed.

The negotiations, which included Monitoring fees and potential Aspirations economic sustainability requirements were discussed at the separate meetings with respondent parties. Meetings were organised with administrators and respondent parties.

The CHMA draft was workshopped over several hours each session.

Consultation with Gia respondents took place at Shute Harbour Marina Development shop front, Shute Harbour Bay, Shute Harbour. Consultation with Ngaro/Gia respondents took place at the Seagulls Resort, Townsville.

'Hope value' was included in the consultation/negotiations including SHMD business realities.

A final model and agreed remuneration settlement was not reached at this stage of the consultation - governance workshops as an estimate of construction works, and final model for the delivery of Cultural Heritage preservation required further discussion and development.

Affordability of suggested monitoring remuneration models required further examination.

Deadly Business...

Leaving the meetings open - ended was important to allow for continued negotiation. Agreement-brokering processes, which built on relationships and community were outcome focused, while ensuring the ACH Act was demonstrated in the Agreement was important.

Discussions regarding impacts of and capability to, meet both suggested remuneration ‘hope value’ and to realise community Aspirations required open discussion, and communications clarity.

The third ‘business phase’ component - included the compilation of all suggested remuneration models to inform the next component of this business phase of consultation.

While separate governance and remuneration meetings were held between the respondents and their agency administrators; and SHMD (facilitated by The Hornery Institute); all key discussion elements and preferred remuneration models were shared between all parties in response to models of equity and decision making protocols previously negotiated and agreed to during the ‘Yarning’ and cultural heritage’ engagement phases.

SHMD provided (in consultation with Cardno) The Hornery Institute with an estimated schedule of works for surface and subsurface works. This informed both the Cultural Heritage Plan, and ‘business’ negotiation processed, which in turn informed remuneration requirements to fulfill ACH Act compliance requirements.

(Diagram 24 - 24a-24h)

Diagram 24. Draft Schedule Of Works (24.a - 24.h)

7600/41 – SHMD	
3.4.1 General Construction Methods and Program	
Construction drawings are provided in the 'Engineered Drawings' section, attached to this EIS. Construction drawings provided are listed below:	
Drawing No.	Description
7900/48/01-100	Cover Sheet
GENERAL	
7900/48/01-101	Locality Plan, Notes and Schedule of Drawings
7900/48/01-102	Master Layout Plan
7900/48/01-103	Boundary and wall location plan
7900/48/01-104	Proposed future boat access ramp
BULK EARTHWORKS	
7900/48/01-105	Design surface levels
7900/48/01-106	Cut and fill volumes layout plan
7900/48/01-107	Cut and fill site sections – Sheet 1 of 4
7900/48/01-108	Cut and fill site sections – Sheet 2 of 4
7900/48/01-109	Cut and fill site sections – Sheet 3 of 4
7900/48/01-110	Cut and fill site sections – Sheet 4 of 4
7900/48/01-111	Boreholes and marine clay contours layout plan
7900/48/01-112	Boreholes and residual clay contours layout plan
SHUTE HARBOUR ROAD	
7900/48/01-200	Road layout plan
7900/48/01-201	Typical road cross sections
7900/48/01-202	Shute Harbour Road longitudinal section
7900/48/01-203	Shute Harbour Road proposed two lane cross sections – Sheet 1 of 5
7900/48/01-204	Shute Harbour Road proposed two lane cross sections – Sheet 2 of 5
7900/48/01-205	Shute Harbour Road proposed two lane cross sections – Sheet 3 of 5
7900/48/01-206	Shute Harbour Road proposed two lane cross sections – Sheet 4 of 5
7900/48/01-207	Shute Harbour Road proposed two lane cross sections – Sheet 5 of 5
7900/48/01-208	Drainage layout plan
7900/48/01-209	Drainage culvert section – Sheet 1 of 3
7900/48/01-210	Drainage culvert section – Sheet 2 of 3
7900/48/01-211	Drainage culvert section – Sheet 3 of 3

Cardno MARINA	
7900/48/01-300	Layout plan
7900/48/01-301	Sheetpile revetment wall 1 longitudinal section – Sheet 1 of 2
7900/48/01-302	Sheetpile revetment wall 1 longitudinal section – Sheet 2 of 2
7900/48/01-303	Sheetpile anchor wall 2 longitudinal section
7900/48/01-304	Revetment wall 3 longitudinal section
7900/48/01-305	Breakwater wall 4 longitudinal section – Sheet 1 of 2
7900/48/01-306	Breakwater wall 4 and 5 longitudinal section – Sheet 2 of 2
7900/48/01-307	Revetment wall details
7900/48/01-308	Sheet pile anchorage system
7900/48/01-309	Typical road cross section
7900/48/01-310	Typical cross section
7900/48/01-311	Drainage layout plan
CONSTRUCTION	
7900/48/01-400	Construction Master Plan
7900/48/01-401	Construction Phase 1
7900/48/01-402	Construction Phase 2
7900/48/01-403	Construction Phase 3
7900/48/01-404	Construction Phase 4
7900/48/01-405	Sediment and erosion control plan – Standard notes and details
7900/48/01-406	Sediment and erosion control plan – Phase 1
7900/48/01-407	Sediment and erosion control plan – Phase 2
7900/48/01-408	Sediment and erosion control plan – Phase 3
7900/48/01-409	Sediment and erosion control plan – Phase 4
Construction Program	
The construction staging plan is illustrated in Drawing number 7900/48/01-400, provided within the 'Engineered Drawings' section of this EIS. More information on the construction phases and timing is outlined in following Table.	

Table Construction Phases		
Stage & Timeframe	Construction Activity	Description
One (Month 1 to 3)	Preliminary site works and earthworks.	<ul style="list-style-type: none"><li>Preliminary site works will include site setup to define the boundary of the project works and recording of pre-construction site conditions.</li><li>Monitoring for Cultural Heritage purposes will be implemented in line with the registered Cultural Heritage Management Plan for the project.</li><li>Environmental control measures will be installed prior to construction works.</li><li>A temporary site access will be constructed, above the tidal zone.</li><li>Silt fences will be installed around the site access track.</li><li>Temporary fencing will be constructed to clearly define the extent of the site works and restrict access to the construction site.</li><li>Existing mangroves on the site between the shoreline and Shute Harbour Road will be cleared and disposed of off site prior to earthworks commencing.</li><li>Earthworks will commence with the establishment of a construction compound on a level platform approximately 20m wide using in-situ cut materials. The construction compound will be located on the seaward side of Prosperine-Shute Harbour Road. The construction compound will provide a centralised point for construction activities, storage for plant and equipment, a delivery point for construction materials such as sheet piles and the provision for truck turn around.</li><li>Earthworks will include the construction of a stormwater diversion channel parallel to Prosperine-Shute Harbour Road to the east of the site. This channel will be lined with geo-textile and will include rock checks for erosion control.</li></ul>
Two (Months 3 to 8)	Construction of walls to enclose Area 1 including: <ul style="list-style-type: none"><li>temporary sheet pile wall (wall 6), and</li><li>temporary bund wall.</li></ul>	<ul style="list-style-type: none"><li>The first 80m of the temporary sheet pile wall (wall 6) will be constructed using an excavator to install the sheet piles.</li><li>The continuation of wall 6 from chainage 80 to chainage 700 will be constructed from a piling rig mounted on a barge. The sheet piles will be transported to site by truck.</li><li>Imported material is required to be placed behind the sheet piles to provide the required resistance to design loads. This material will be transported to site by trucks. (50,000 m<sup>3</sup> of material is required)</li><li>A temporary bund will be constructed south from the shoreline to connect to wall 6 using imported material transported to site by trucks. (100,000 m<sup>3</sup> of material is required)</li></ul>

(Months 9 to 14)	Construction of Area 1 earthworks to excavate marina basin, fill development area, and construct revetment wall (wall 1)	<ul style="list-style-type: none"><li>The area enclosed by wall 6 and the temporary bund, Area 1, will be defined and dewatered.</li><li>The marina basin in Area 1 will be excavated in the dry. Excavation to the finished basin level of RL -5.2m AHD requires approximately 232,900 m<sup>3</sup> of earthworks over an area of 8.9 ha.</li><li>The top 1.5 metres of the surface will be stripped in stages to enable monitoring for Cultural Heritage purposes to be carried to be carried out.</li><li>All soft material excavated will be stockpiled adjacent to Shute Harbour Road.</li><li>Earthworks operations will include the overexcavation of the marina basin area to provide suitable material for filling to the development platform. The excavation will be bench cut at 2.5m intervals to a level of RL -12.5m AHD.</li><li>The construction of the revetment wall (wall 1) will be completed in the dry. The materials required to construct this block wall will be imported by trucks.</li></ul>
Three (Month 9 to 14)	Construction of walls to enclose Area 2 including: <ul style="list-style-type: none"><li>temporary sheet pile wall (wall 6), and</li><li>rock faced bund (wall 3).</li></ul>	<ul style="list-style-type: none"><li>Phase 3 will proceed similar to Phase 2.</li><li>50,000 m<sup>3</sup> of imported material is required behind wall 6 for the construction of the wall from chainage 700.</li><li>150,000 m<sup>3</sup> of material is required for the construction of wall 3.</li></ul>
(Month 15 to 20)	Construction of Area 2 earthworks to excavate marina basin, fill development area, and	<ul style="list-style-type: none"><li>Excavation of the marina basin in Area 2 to the finished basin level of RL -5.2m AHD requires approximately 224,000 m<sup>3</sup> of earthworks over an area of 8.2 ha.</li><li>The fill in the peninsula on the western side of the development will be placed to a level 2.5m below finished surface level.</li><li>Geo-textile liners will then be installed along the length of the peninsula to provide a suitable volume for containment of future maintenance dredging material.</li></ul>
(Month 19 to 23)	Construction of revetment wall (wall 1)	<ul style="list-style-type: none"><li>The construction of the revetment wall (wall 1) will be completed in the dry. The materials required to construct this block wall will be imported by trucks.</li></ul>
(Month 12 to 23)	Construction of breakwater (walls 4 and 5)	<ul style="list-style-type: none"><li>Construction of the breakwater walls 4 and 5, will commence with the construction of wall 6 from chainage 700. The construction of the Breakwater is expected to take 12 months to complete.</li></ul>
Four (Month 24 to 30)	Dredging of marina basin beyond temporary sheet pile wall (wall 6)	<ul style="list-style-type: none"><li>Following the construction of walls 4, 5 and 6 all curtains will be installed across the two openings at the eastern end of the site.</li><li>Once the marina basin is enclosed, de-fishing operations will be carried out within the basin to remove any marine animals prior to dredging operations commencing.</li><li>The marina basin will be dredged using a 400mm cutter suction dredge. The quantity of dredge material to achieve the design depth in the marina basin is estimated to be 220,000 m<sup>3</sup> over an area of 9.7 ha.</li><li>The dredge material will be placed on the reclaimed area. This material will be spread, dried and mixed with excavated and dried clay materials, before being placed and compacted as fill material within the reclamation areas.</li><li>Dredging of access channel at the entrance of the marina requires the dredging of 54,000m<sup>3</sup> of material over an area of 3.1 ha.</li></ul>

Four (Month 24 to 30)	Dredging of marina basin beyond temporary sheet pile wall (wall 6)	<ul style="list-style-type: none"> <li>- Following the construction of walls 4, 5 and 6 silt curtains will be installed across the two openings at the eastern end of the site.</li> <li>- Once the marina basin is enclosed, de-fishing operations will be carried out within the basin to remove any marine animals prior to dredging operations commencing.</li> <li>- The marina basin will be dredged using a 400mm cutter suction dredge. The quantity of dredge material to achieve the design depth in the marina basin is estimated to be 220,000 m<sup>3</sup> over an area of 9.7 ha.</li> <li>- The dredge material will be placed on the reclaimed area. This material will be spread, dried and mixed with excavated and dried clay materials, before being placed and compacted as fill material within the reclamation areas.</li> <li>- Dredging of access channel at the entrance of the marina requires the dredging of 54,600m<sup>3</sup> of material over an area of 3.1 ha.</li> </ul>
Five (Internal Works)	Roadworks, services, infrastructure and fitout.	<ul style="list-style-type: none"> <li>- On completion of the earthworks to the reclamation areas, the roadworks and services will be constructed. This will include: <ul style="list-style-type: none"> <li>o Construction of roadworks and services to Area 1;</li> <li>o Construction of Roadworks and services to Area 2; and</li> </ul> </li> <li>- On completion of the dredging operations within the marina basin, a piling barge will install the piles to locate the pontoons and associated catwalks within the marina.</li> </ul>
Five (External Works)	Upgrading of Shute Harbour Road	<ul style="list-style-type: none"> <li>- Construction of Shute Harbour Road will be constructed in a period of approximately 4 months. This work be staged to enable required traffic access to be maintained and will require the import of materials by trucks.</li> </ul>

**Note:**  
*\* The quantities of imported materials for the earth bund walls and the fill behind the sheetpile wall 6 include an allowance of 50% for displacement of insitu mud under the fill.*

development platform on removal of the temporary works. The temporary works are summarised below.

- The construction of the temporary sheet pile wall (wall 6) requires 100,000m<sup>3</sup> of imported material to be placed behind the wall to resist the design loads. This material will be removed for placement within the site as fill as part of the removal of the temporary sheetpile wall (wall 6).
- The construction of the temporary bund wall to enclose construction Area 1 requires 100,000 m<sup>3</sup> of imported material and 9,700 m<sup>3</sup> of rock armour. This material will be reused within the site as fill following the removal of the temporary bund.

The construction of the rock faced bund (wall 3) requires 150,000 m<sup>3</sup> of material and 12,000 m<sup>3</sup> of rock armour. The quantity of material to be imported for the construction of wall 3 is 100,000 m<sup>3</sup> of fill and 5,500 m<sup>3</sup> of rock. This imported material will be required to construct the initial portion of the wall. The additional fill material will be won from the excavation of Area 1 and the additional rock armour material will be recovered from the temporary bund.

The upgrading of Proserpine-Shute Harbour Road requires additional fill material of 26,100 m<sup>3</sup> for the road embankment and 7,300 m<sup>3</sup> for the filling of the existing detention basin.

Imported fill materials will be trucked to site and are likely to be sourced from a quarry within the Whitsunday Shire near Gregory River, approximately 65 kilometres north-west of the site.

The majority of the earthworks within development will be constructed in the dry using conventional excavation and placement methods. This will be made possible by the temporary works to construct a sheet pile wall and earth bund to protect the work from total inundation. The earthworks will include the excavation, drying out and treatment of in-situ materials from the marina basin area for placement as fill material within the reclamation area.

The temporary sheet pile wall (wall 6) will be installed using a vibratory hammer. Where the required toe level is not achieved by vibratory hammer, a conventional hammer will be used to drive the piles to the required toe level.

Two alternative structures are included for the solid breakwater structure, both include steel pile structure to support precast concrete units. The construction of the solid breakwater will include driving of steel piles and the installation of precast concrete units. The steel piles will be driven using a conventional hammer pile driving rig mounted on a barge. The steel piles and precast concrete units will be delivered to site on semi-trailers and an onsite crane will be used to transfer the piles from the trucks to a barge for transport to the piling barge.

The wet excavation of the marina basin will be undertaken using a cutter suction dredge. The dredging of the marina basin will not commence until the marina is enclosed by the revetment wall, breakwater, temporary sheet piling and silt curtain.

The floating pontoons and catwalks for marina fitout will be transported to site by road and unloaded into the water using site cranes. They will then be located in position using small work boats and connected to the piles. Installation of services including power, potable water and fire water services will be required to complete the marina.

#### Construction Methodology

A CEMP has been prepared to support the EIS and is provided in Appendix XX. The CEMP identifies mitigation measures to manage potential impacts associated with construction works, in particular:

- bulk earthworks;
- dredging;
- erosion and sedimentation;
- water quality;
- Acid Sulfate Soils;
- terrestrial and aquatic flora and fauna;
- air quality;
- noise and vibration;
- waste management;
- dangerous and hazardous materials;
- cultural heritage;
- traffic; and
- visual amenity.

Establishment of the marina will involve excavation of the marina basin to -3.2m AHD. Fill obtained from the excavation of the marina basin will be used as fill material to reclaim land for the Managed Resort Accommodation and Marina development at Shute Harbour. No blasting will be undertaken during construction.

The proposed construction phases are illustrated in drawings .....

The total area of cut for the development is approximately 29.9 hectares, and the total volume is 732,000 m<sup>3</sup>. The cutting and excavation of the material in the marina basin will be completed using both dry excavation and wet dredging methods, as summarised below.

- The portion of the marina basin to be excavated in the dry covers an area of 17.1 hectares and requires the excavation of 456,900 m<sup>3</sup> of material to achieve a basin level of RL -5.2m AHD.
- The portion of the marina basin to be dredged covers an area of 9.7 hectares and requires dredging of 220,500 m<sup>3</sup> of material.
- The access channel will also be dredged and covers an area of 3.1 hectares and requires dredging of 54,600 m<sup>3</sup> of material.

The area requiring fill for the development is approximately 13.5 hectares and requires 840,000 m<sup>3</sup> of fill.

The proposed phasing of the construction works includes temporary works to enclose Areas 1 and 2 to enable majority of the earthworks to be completed in the dry. These temporary works require the importation of fill material which will be utilised within the

Work on site will be limited to 10 hours a day during daylight (normally between 6:30am to 6:30pm), and 6 days a week with the exception of the dredging work which at times may be required on a continuous 24 hour 7 days a week basis.

All construction for the development will be undertaken on the seaward side of Proserpine-Shute Harbour Road. There will be no road traffic restrictions to Proserpine-Shute Harbour Road and no marine traffic restrictions to the adjacent boat ramp and jetty. However, no marine traffic will be allowed within the construction footprint of the marina until completion.

The upgrading of Proserpine-Shute Harbour Road will require road traffic restrictions which will be completed in accordance with the Department of Main Roads conditions for road works.

#### Methods of Transport

The proposed construction access to the site is in the form of an unsignalised T intersection, which has been designed to allow access by an Articulated Vehicle. No upgrade of the intersection is required for construction access. Arrangements for access of any indivisible loads or oversized vehicles, should these be required, would be detailed in due course by the appointed contractor as part of a construction traffic management plan.

The sheet piles will be transported to site on semi-trailers and lifted from the trucks to the piling barge using an onsite crane which will be located on the reclaimed land adjacent to Proserpine-Shute Harbour Road.

The materials required for the sheet pile revetment wall will be delivered to site by road. It is estimated that 185 truck loads will be required to deliver the sheet piles to site. The longest pile is expected to be 24 metres, but depending on the construction methodology standard 12 metre piles may be used and spliced together.

The materials required for the block revetment wall will be transported to site by road and it is estimated that 135 truck loads will be required to deliver the blocks to site.

The materials required for the breakwater will be delivered to site by road. The numbers of deliveries for the two alternative structures are described below.

- Alternative 1 – Steel Pile & Precast Facing Panels  
It is estimated that 175 truck loads will be required to deliver the steel piles and frames to site and approximately 590 truck loads to deliver the concrete units to site.
- Alternative 2 – Steel Pile & Gravel Filled Concrete Boxes  
It is estimated that 145 truck loads will be required to deliver the steel piles, 810 trucks to deliver the material for the boxes, 45 truck loads to deliver the reinforcement and 1,200 to deliver the gravel fill material to site.

The number of trucks required to import fill material have been estimated based on a need to import approximately 300,000m<sup>3</sup> of placed material using vehicles with an average payload of 28 tonnes. The material is required to be delivered to site over a period of 12 months.

Movement of materials will therefore be spread across the construction period with limited numbers in peak hours and is not expected that deliveries will impact the external road network. A summary of the truck movements required for delivery of construction materials is outlined in Table XX. The peak number of daily truck deliveries to site for construction is estimated to be 81 and this occurs during months 12 to 14.

An average of 78 full time equivalent workers will be employed during the construction period, with a peak of 192 positions at the end of the construction period. Due to the limited area available within the Construction Compound the majority of construction workers will be transported from Airlie to the site by bus, to minimise the number of vehicles requiring parking on site.

More information on construction traffic impacts is provided in the Traffic Impact Assessment by Cardno Eppell Olsen (Appendix XX).

Source: Cardno; General Construction Methods and Program - SHMD Pty Ltd; S4 1 v4.doc; 17 January 2008



## “Deadly Business”...

The Hornery Institute, revisited the key values, cultural heritage, decision making to date and respondent Aspirations to develop a suggested way forward in ‘business’ CHMA negotiations.

The CHMA model was created based on the following principle guidelines:

- ❖ Respect and Recognition
- ❖ Self Determination
- ❖ Cultural Heritage Traditions and Values
- ❖ Caring for Land & Sea Country
- ❖ Partnership and Enterprise Capacity Building
- ❖ Obligations and Responsibility

The CHMA’s Aspirations component of the Agreement’s guiding principles included:

- ❖ **Principle 1: Respect and Recognition**
- ❖ **Principle 2: Caring for Country**
- ❖ **Principle 3: Partnership and Capacity Building**
- ❖ **Principle 4: Cultural Heritage**

These principals were underpinned by a commitment to partnership and collaboration, knowledge sharing, Aboriginal self determination, & obligation and responsibility to advance generational sharing and caring for ‘land and sea country’.

**The fourth ‘business phase’ component** - included a combined meeting with all respondent parties. Shingley Beach Resort, Shingley Beach was the selected meeting venue due to its facilities, which allowed for break out areas for confidential discussions as well as providing an area for combined discussions.

An allowance for accommodation, travel and meals was provided by SHMD to all attendees. This enabled respondents to meet family commitments and attend a two day consultation program, held over two days.

The meeting was held as a component of a two day meeting, Saturday 12<sup>th</sup> and Sunday 13<sup>th</sup> April, 2008.

The first day was allocated to discuss general ‘business’, negotiate and broker a mutually agreed remuneration and governance model and discuss final details of the CHMA including potential to adopt Aspirations initiatives as an integral component of the Agreements.

The second day was scheduled for final CHMA Agreement (dependent on reaching consensus between all parties).

# Deadly Business...

## Self determination.

### DAY ONE

An initial combined meeting commenced the day's discussions.

The Hornery Institute tabled of a 'self determination' model, which included Cultural Heritage monitoring and remuneration options (Approved by SHMD) for respondent consideration.

#### Self-determination model explained

- Self-determination is a complex concept, with its roots in human rights. Wehmeyer (2002) states that *'self-determined peoples are actors in their own lives instead of being acted upon by others'*.

The model based its principles of the following considerations:

For many Aboriginal peoples, self-determination has close links with issues of customary lore, land rights and economic development.

In the suggested model, the focus is on Ngaro and Gia Aboriginal communities and their representative organisations having the right and ability to determine their own priorities and design their own instruments of governance, within broad 'external' governing conditions (compliant to the relevant requirements of the development site and related Acts) and requirements SHMD are bound by.

Draft documentation of all discussions was made available to the respondent parties and this draft was also presented to the combined group using PowerPoint.

While the proposed remuneration offer did not meet the initial 'hope value' of one of the respondent party, the remuneration for negotiation was based on the remuneration formulas provided by respondents during 'business' consultations held with respondent parties.

The employment of a full-time Cultural Officer was recommended and adopted as an integral component of the CHMA - heritage values management model.

Time allocation and opportunity for clarification and discussion was made available for individuals and groups to discuss concerns, benefits and conditions. These elements in the consultation were important to ensure ethical standards of informed consent were demonstrated in the process.

Respondent parties undertook a series of closed separate and collective discussions. SHMD and The Hornery Institute personnel remained available to be 'called upon' by either respondent party or their representatives as required.

The proposed **Self Determination Model** made an upfront fixed contract payment arrangement to the Administrative agencies and for all Cultural Heritage Planning to be managed independently by the respondent parties. This included the scheduling of monitors etc, and allowed for Ngaro and Gia Aboriginal peoples to enter the construction site at any time in the construction process in order to conduct; "care for land and sea country" (subject to completed site induction)

Equal conditions, representation and remuneration for the Self determination model was demonstrated.

The model also held benefits for the developer proponent as it held assuredly in relation to budget forecasting and increased the capacity for the developer proponent as sponsor of the CHMA to contribute towards the longer term Aspirations of the respondent parties.

Clarity in communication and understanding was essential to moving the negotiations forward.

Two areas of concern were identified by the respondents at this stage of the consultation.

These related to:

1. The need for a skills transfer program to train the next generation of Ngaro and Gia young peoples to undertake Cultural Monitoring and maintain cultural practices in compliance with the ACH Act and traditions of the communities they represent.
2. While the respondent parties were highly supportive of the Self determination model and employment of a Cultural Officer concerns related to managing a significant cultural find and the additional financial costs this may require to ensure that cultural heritage was preserved and traditional practices observed.

# “ Deadly Business”

## Resolutions:

Discussions were held with all parties and agreement to include a skills transfer initiative with equal remuneration to each respondent party was agreed.

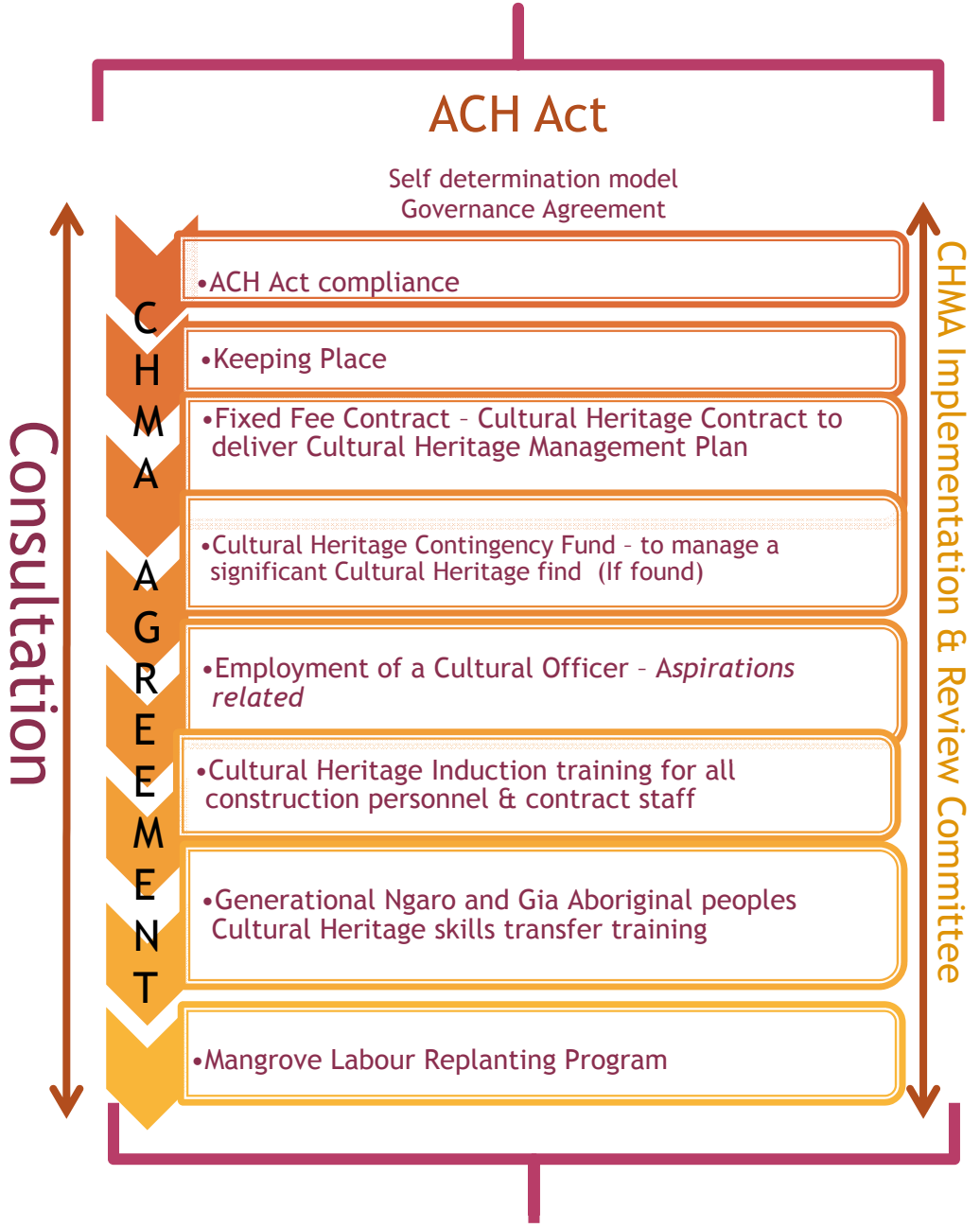
A solution was also mooted by one respondent party and agreed by all parties to establish a cultural heritage contingency fund, which will be set aside for respondents, in the occurrence of a significant cultural heritage find during the monitoring program requiring additional cultural heritage preservation and ‘additional ‘care for land and sea country’ obligations.

The model of self determination for the compliance components of the CHMA was adopted by the respondent parties after several hours of discussion.

While the process was exhaustive, it was highly productive and fostered strengthened goodwill, valued understanding and underpinned ‘Self Determination’ in the CHMA process for Gia and Ngaro/Gia respondent parties.

Importantly it built the ‘readiness’ for all parties as signatories to enter into a formal Agreement the following day.

Diagram 25. CHMA Agreement





# “Deadly Business”

## Aspirations

The fifth ‘business phase’ component - included negotiation and agreement for the implementation of Aspirations initiatives as a formal component of the CHMA.

In this phase of the ‘business’ consultation, all parties discussed Aspirations and conditions and invitations to be included in the CHMA.

### Governance; CHMA Implementation and Review Committee

Central to the discussions were also the conditions and governance expectations, mutual obligations and voluntary contributions to the success of the Aspirations initiatives by all parties.

This included financial and in-kind contribution by SHMD and in-kind contribution by respondent parties.

Discussions also included the establishment of a CHMA Implementation and Review Committee, which comprised two representatives from each party including the sponsor.

It was agreed by all parties to form the CHMA Implementation and Review Committee (CHMAI&RC) to assist in the delivery, decision making process and review of the Agreement over the life of the CHMA.

Integral to the concept of the CHMAI&R was to also ensure that the intent of the Agreement is administered and the principles of collaborative partnerships are fostered and further enhanced throughout the life of the CHMA. The formation of the Committee was also identified as a practical way in which to quickly resolve issues as they arose, providing a ‘health check’ regarding relationships; while ensuring the integrity and commitment to the CHMP agreement by all parties.

The election of representatives from both respondent parties to the CHMA Review and Implementation Committee was undertaken during the ‘business’ consultation phase and delegates nominated for inclusion in the CHMA governance record.

### A Strengths Weaknesses Opportunities and Threats Governance analysis (SWOT analysis)

SHMD recognized that the design and development of community governance will need to be supported and agreed to provide; in consultation with the Aboriginal Respondent Parties the following:

- A Strengths Weaknesses Opportunities and Threats analysis of National and International successful governance models for sustainable commercial and cultural tourism development. It was agreed that this will be undertaken by SHMD to assist Aboriginal Respondent Parties in their governance decision making.

A maximum 20 hours funded from the SHMD REEF FUND was agreed to implement this initiative

The emphasis on the model analysis will include:

- key principles of fairness and equity;
- legally delegated community financial authority;
- development of a realistic timetable for a measured incremental transition - actively working in partnership with government, departments and the private sector to fully design and implement the model that is financially sound, efficient, and accountable (internally and externally);
- exercises powers through local policies, processes and organisational structures that are widely seen as legitimate and effective;
- a compatible governance model, which reflects community values, priorities and participation; reproduces and is sustained by stable leadership; and
- displays the authority and capacity, and possesses the resources necessary, to solve problems locally and to sustain the social, cultural and economic well-being of Aboriginal Respondent Parties and their community members. (SHMD CHMA 2008)

The CHMA Review and Implementation Committee was identified as an interim arrangement model to progress the CHMA during the construction phase of the development and developmental phase of the Aspirations Cultural Centre and Performance Space planning. At the conclusion of the construction phase, SWOT analysis was proposed to identify potential governance models and ‘best fit’ quality governance practices. The committee model included as a mechanism to further build community capability to self manage cultural tourism and business cluster initiatives. (as identified in the CHMA Aspirations Agreement).

Documentation, which ensured that nominated parties were novated to the CHMA were tabled during consultation and included in the formal agreement.

The interim governance arrangement of representative agencies were also novated to the Agreement. Formal letters of acceptance were attached and appended to the CHMA.

A model of governance decided by respondent parties for the CHMA Review and Implementation Committee was based on intergenerational representation. This model supported the ethos of developing the next generation of leaders in a specific aspect of succession planning.

This model also establishes systems for committee continuity and skill retention; including cultural legitimacy – cultural succession planning and kin relations/representation.

### SHMD Board and staff mentoring program

The SHMD Board also agreed as a part of the CHMA Aspirations to provide approximately 200 hours mentoring assistance utilising the Boards personal and professional skills to the CHMAI&RC committee and Gia and Ngaro/Gia respondents.

Key areas of mentoring included:

- Development of potential business hubs;
- Development of competency in the areas of business acumen and governance management for Aboriginal respondent parties and their delegates; and

## “Deadly Business”...

- The nurturing of future leaders by providing respondent parties and young Aboriginal peoples with communication skills, self-confidence, business planning, mentoring and experience.

The mentoring program model also provided opportunity for reciprocal learning - i.e. the SHMD Board and staff, through the partnership will have the opportunity to enhance their current practices and undertake alternative ways of ‘doing business’. Their understanding of cultural heritage values and opportunity to build on their inter-cultural communication competence can be enhanced through the process.

### Potential Joint Venture Leverage

SHMD also identified and agreed to facilitate during the initial eighteen (18) months of CHMA Aspirations implementation. Gia and Ngaro Gia respondents potential for commercial joint ventures will be supported to enhance cultural enterprise opportunities between Aboriginal Respondent Parties and mainstream tourism enterprises in the Whitsundays.

### Development of an Aboriginal Respondent Parties and SHMD Partnership Framework

#### Empowerment Principles

Agreement to empower Aboriginal Respondent Parties to participate and share their knowledge of natural resource management for the benefit of the community, SHMD, local Aboriginal and non-Aboriginal community, State, National and International visitors were discussed. The development of an Aboriginal Respondent Parties Partnership Framework to guide the way in which SHMD and respondents parties work together was developed.

The aim of the Shute Harbour Marina Development Aboriginal Respondent Parties Partnership Framework is to explore meaningful ways for Aboriginal Respondent Parties to equitably participate in decision-making, training activities, employment and business tourism enterprises.

SHMD demonstrated their commitment to facilitating real partnering opportunities for Gia and Ngaro/Gia Respondent Parties; to share their knowledge and aim to give Aboriginal Respondent Parties the chance to reconnect with their culture and interest in ‘land and sea country’.

In this spirit of partnership, Aboriginal Respondent Parties perspectives will be integrated into SHMD’s land and water management and initiatives; and cultural and heritage values will be included in planning and operations.

### Commercial Cultural Tourism

Aboriginal peoples from both the Gia and Ngaro cultural groups sought opportunities to develop enterprise based **commercial tourism promotion** of their cultures and language and generational “care for land and sea country”.

Operating examples of requested commercial tourism and cultural retention included:

- a Cultural Centre
- Performance Space
- marine ecology and conservation,
- employment and scholarship programs and
- Aboriginal cultural eco tours.

### Cultural Centre

The Cultural Centre initiative was identified as an opportunity for visitors and the local community utilising the SHMD amenities to increase their understanding of reef conservation as well as experience Gia and Ngaro Aboriginal culture and traditional dreamtime stories; art, crafts and traditional knowledge of their local homelands. Enhancing visitors reef and destination experience, while fostering greater social and cultural cohesion between Aboriginal and non- Aboriginal Australians and International visitors was valued by the respondents.

It was also identified that the Cultural Centre has the potential to house artefacts found on site during the surface and sub surface disturbances during construction.

“Identifying high value niche markets (such as National and International cultural heritage tourism) that offer premiums for Aboriginal origin and establishing strategies for servicing them are particularly important to Gia and Ngaro peoples” (Gertrude Stotz for CQLCAC, 2007)

For the Cultural Centre initiative to be realised, acknowledgement of challenges and solutions to developing this facility required serious consideration by all parties.

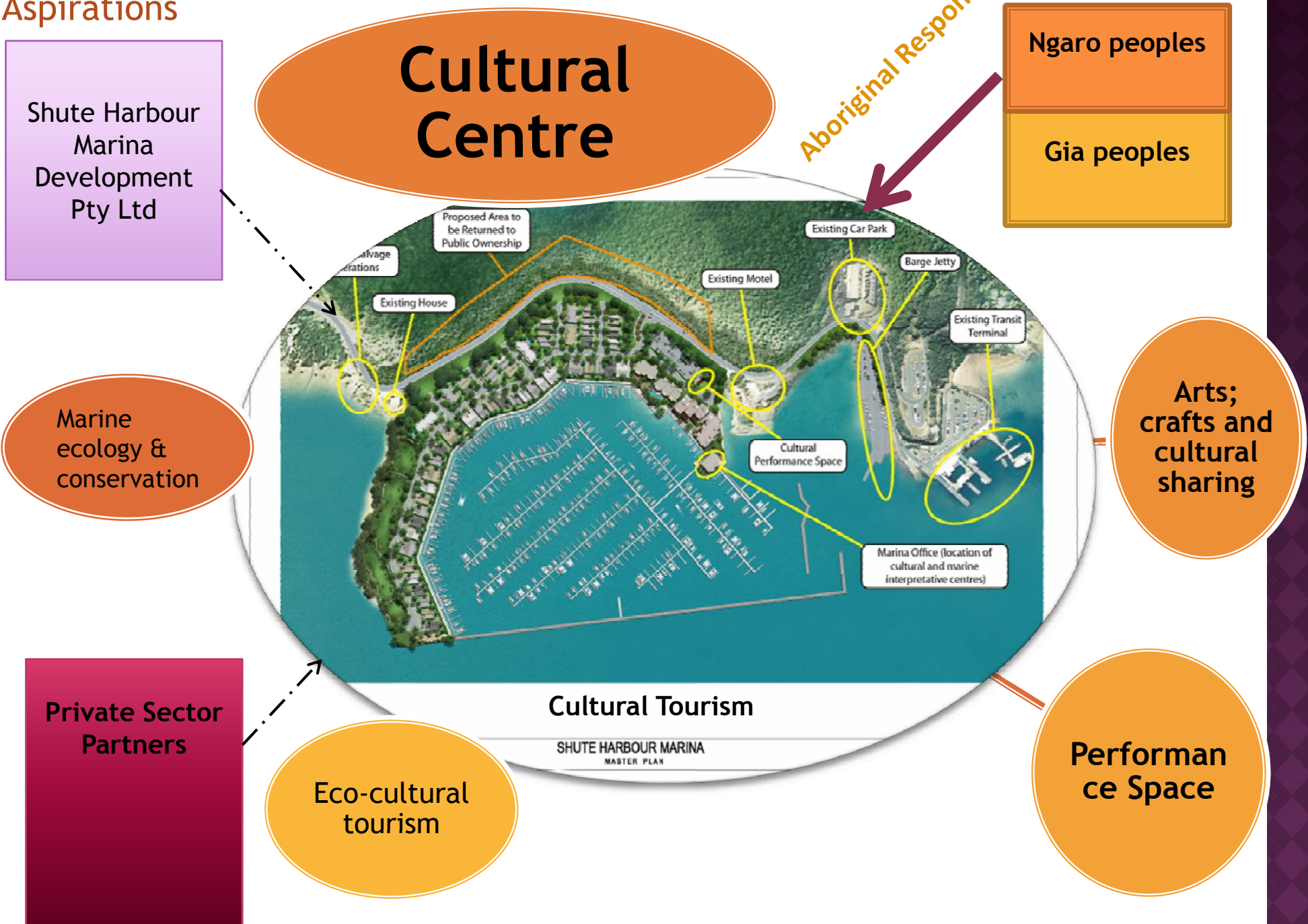
The identified commercial enterprise initiatives were recognised as further constrained by Aboriginal groups having very little financial capital for initial setup and interim running costs during the commercial establishment of the Cultural Centre.

In response to this potential barrier, SHMD contributed to the development of the Cultural Centre and Performance Space concept as part of the CHMA via:

- ✓ Provision of highly desirable space, which maximised the potential for ‘ready made audiences’ within the proposed development site for these Aboriginal community amenities;
- ✓ Lease waiver arrangement to allow for the respondent parties to build self-sustainability in their commercial ventures. (i.e. -SHMD will provide ten(10) years lease paid from the SHMD Reef Fund for the Cultural Centre, with a further ten (10) years lease option at a 50% reduced rate of scheduled Rental Fee. (SHMD CHMA 2008)
- ✓ It was important to establish that the lease contract will be made under the development sites proposed Community Title arrangements and that the details contained within the lease agreement must comply with the conditions contained in the CHMA and be fair and reasonable for all parties.

Diagram 26. CHMA  
Cultural Tourism  
Aspirations

Aspirations Plan  
CHMA SHMD





# “ Deadly Business” ...

- ✓ Viability of the Cultural Centre was also discussed in the context of sustainable commercial planning. An agreement was reached, which included conditions of lease of the space to establish the centre was reliant on a viable business plan.
- ✓ Fit out establishment funds to contribute towards the establishment of the cultural spaces were committed;
- ✓ An audit of potential government, philanthropic and corporate sponsorship - including potential resource contribution to build the enterprise capability and self sustainability of commercial and business incubator initiatives was also agreed;
- ✓ Initial support and networking assistance to enter into competitive tendering and grant funding rounds was recognised as advantageous to the sustainability work; and
- ✓ The Cultural Officer’s role (as discussed in Component Four of the ‘business’ consultation phase of this report. The Cultural Officer’s role also included assistance to the respondent Aboriginal parties in their governance and business sustainability strategic planning.

## Tourism and Aboriginal Arts and Crafts Initiative

*In response to the CH Survey Aspirations recommendations, all parties discussed and included the concept of developing a Tourism and Aboriginal Arts and Crafts Initiative as an integral component of the Business Plan development.*

- All parties recognised and were committed to working towards a sustainable, commercially viable Cultural Tourism Plan which has the potential to realise/establish :
- Employment, training and skills development for young peoples in the tourism and hospitality industries
  - Stand-alone Aboriginal owned cultural tourism enterprises
  - Cultural tourism services attached to mainstream and other tourism enterprises
  - Potential Joint ventures between Gia and Ngaro/Gia Aboriginal peoples and mainstream Tourism Enterprises

## Cultural Performance Space

Two options were tabled for respondent parties consideration relating to the provision of a Cultural Performance Space.

Two areas were identified as potential locations for the cultural Performance Space.

### Option One:

A small public space area co-located with the Cultural Centre. This area if agreed to as the most suitable space has a multifunctional capacity. The first being a space or “Yarning” circle dance space utilised for public performance by Ngaro and Gia Aboriginal peoples and then used as an open green space when Aboriginal performances are not being showcased. It was identified that this option had limitations in that it would not have been viable for a commercial enterprise to be developed, as control of access to the space would not have been possible. The multi-use potential of the space also held elements of risk in terms of misunderstandings over cultural heritage values, the significance of the space, cultural performance and ‘welcome to land and sea country sharing.’

### Option Two

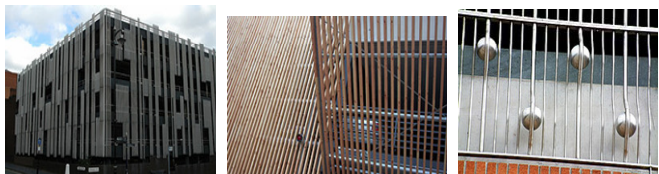
The roof top of the proposed car park within the development was also ‘put on the table’ for discussion. This option allowed for development of a ‘signature’ space. The roof top option also enabled viewing of both ‘mountain and sea country’ for cultural sharing and continued ‘care for land and sea country’ practices. The space also allowed for the control of audiences, thereby allowing for ticketing and commercial enterprise activity. This supported the establishment of employment, training and business enterprise development for both individuals and groups.

To assist in the decision making process, The Hornery Institute collated a number of rooftop and global Aboriginal Performance Space images to assist in the visualisation of the potential space. The options were discussed initially with individual respondent parties, then all parties met to discuss the two options as a combined group. Option two was preferred and agreed to for inclusion on the CHMA.

BUSINESS PHASE.....  
ROOF TOP IDEAS TO STIMULATE DISCUSSION...



Diagram 27  
Collage; roof top samples to inform preferred  
location of cultural Performance Space 27a-  
27c



## “ Deadly Business”...

Given the level of unemployment in the community and the opportunity to create generational “care for land and sea country” initiatives using arts, culture, dance and language to pass on traditions made the decision regarding preferred location for the Performance Space an easy decision for all parties. Option two was chosen as providing the most opportunities for Ngaro and Gia peoples.

### Business Program Development -

Employment and business development was identified as critical to community wellbeing, and individual and collective economic prosperity. Both to be able to contribute to the development of economic growth in the region and by the direct benefit of increasing income capacity to make more life choices for Aboriginal peoples.

### Marine Ecology and Conservation

SHMD and Gia and Ngaro/Gia Respondents, indicated that tourists visiting Australia are unable to satisfy their desire to experience Aboriginal culture and interact with Aboriginal peoples. To advance opportunities for Ngaro and Gia Aboriginal peoples to share their culture and 'care for land and sea country', the development of a **Marine Ecology Social Enterprise** will be included for consideration in the potential business program model.

### Preferred Tenders Model

Respondent Parties sought assistance from SHMD in the Agreement to develop a Preferred tender model.

SHMD in discussions with The Hornery Institute developed a model for preferred tendering, which valued Self determination, planning to maximise employment and training opportunities, and was underpinned by access and equity strategies in the tendering process. The model also considered ways in which to maximise the success rate for Ngaro and Gia Aboriginal peoples to be successful in their tenders. The development of a detailed pre-tender interview initiative was also suggested and agreed to between all parties.

### Business Incubators'

The concept of business incubators to provide training and business development planning was discussed. This initiative was identified as important to assist Aboriginal Respondent Parties in developing skills to manage and sustain commercially operable enterprises. A model was developed, discussed and adopted by all parties.

### Interpretive Sign Strategy

In response to the CHS Aspirations recommendations - SHMD in consultation with the respondent parties agreed to develop an **Interpretive Sign Strategy** during the construction phase of the project. This initiative will optimize the use of community language names for the project area and its natural features.

Discussions also included the role of the CHMA Implementation and Review Committee. It was agreed that the Committee will undertake an advisory role in relation to the inclusion of information on the cultural values relating to the project area and its place in the wider cultural landscape of the Great Barrier Reef Cultural Heritage region.



## 'Business Phase'

To move the Cultural Heritage Management Agreement (CHMA) negotiations process forward, an Aspirations model and SHMD contributions option based on respondent parties priorities was proposed for 'business' consideration.

The Aspirations model also offered a number of opportunities to enhance community relations and provide a generational commitment to 'care for land and sea country' for Ngaro and Gia communities.

Implementation of key aspects of the identified Aspirations, provided a greater opportunity to move groups to the negotiations table to achieve an agreed CHMA with SHMD Pty Ltd.

Corporate commitment by SHMD to support the proposed Aspirations model initiative was pivotal to ensuring that brokered negotiation could take place and allow for some flexibility in the conditions and arrangements.

David Quinlan, Project Manager for SHMD represented the conditions and terms of offer on behalf of the SHMD Board in consultation with Jeff Smith, Chief Executive Officer.

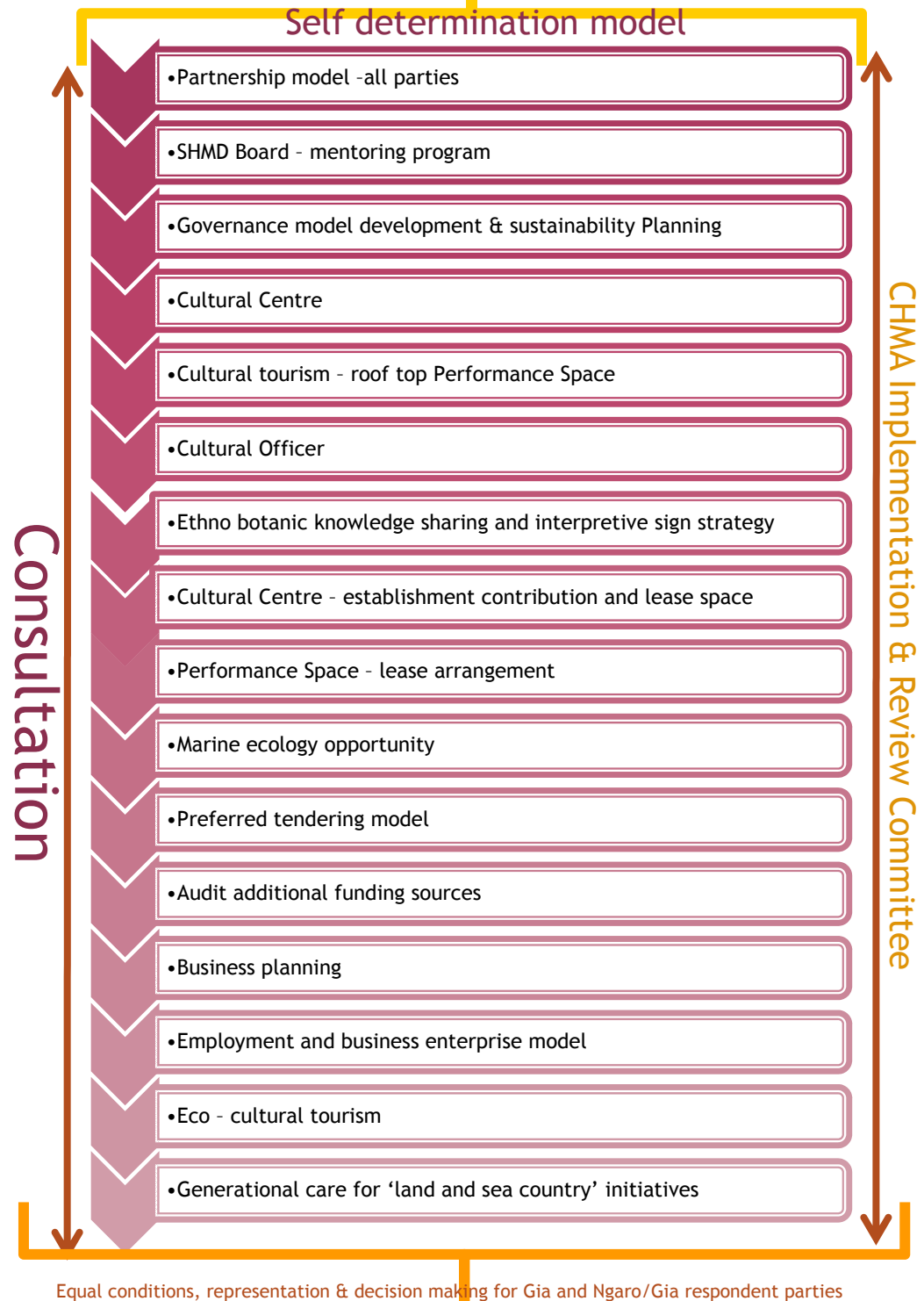
This allowed for the negotiations to reflect the views of the SHMD Board and inform the constraints and opportunities within the Aspirations framework from the sponsors perspective. This also reduced delays in the decision-negotiation process.

While this 'business phase of consultation had a number of Aspirations initiatives developed for discussion. Resolutions to adopt the Aspirations recommendations, governance and partnership models, including conditions, rights and obligations were made within a couple of hours of discussions.

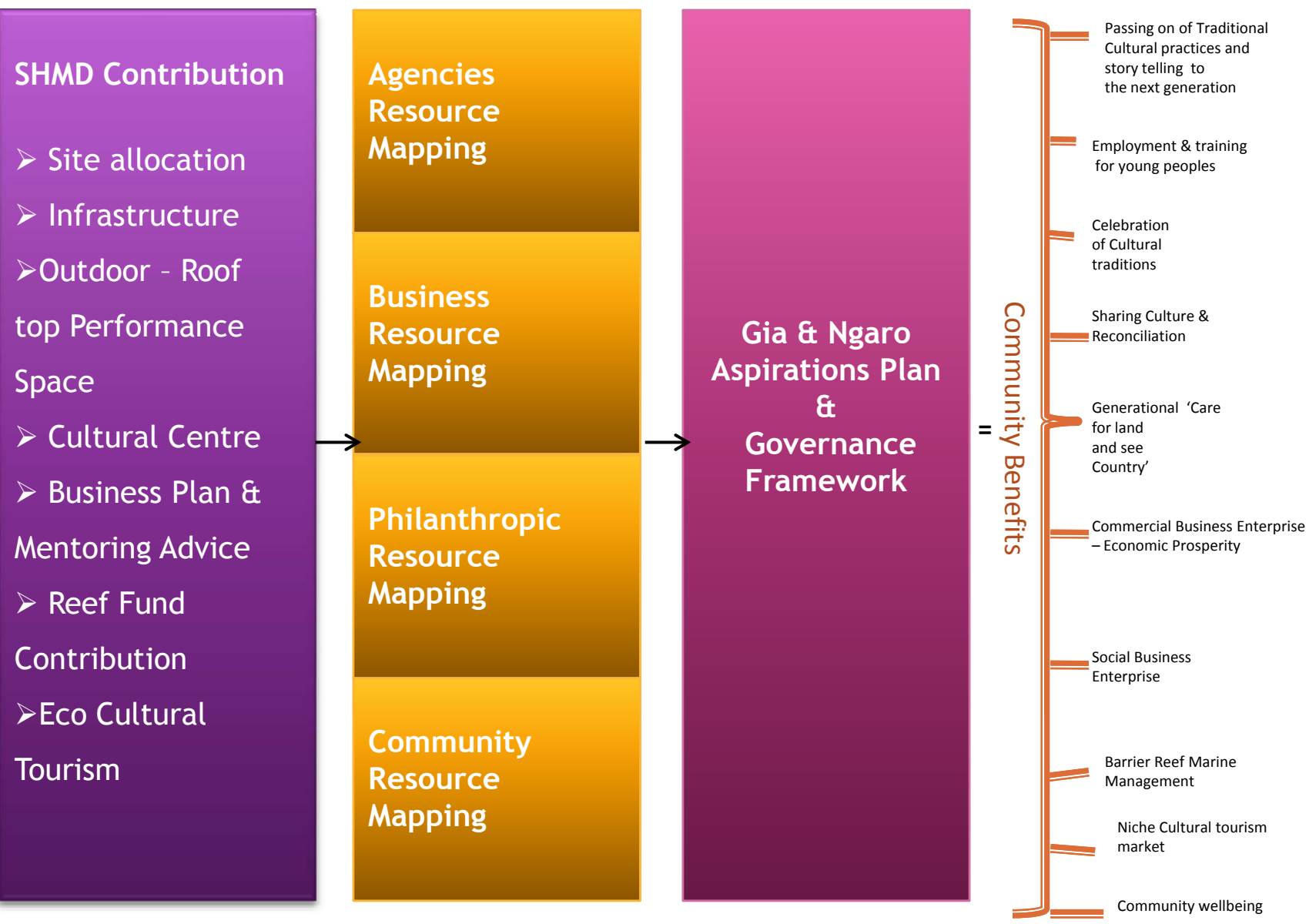
This reflected the depth and level of agreement between all parties relating to the Aspirations Agreement. The Agreement discussion captured the initial Aspirations listed in the CH Survey recommendations and expanded on these in a deliberate framework to ensure that the adoption of Aspirations would have the best possible Strategic framework to ensure its long term sustainable 'success and tangible economic, social, cultural and environmental benefit for Ngaro and Gia Aboriginal peoples reflecting of their values and priorities.

Intrinsic to the CHMA development was the enculturation of the document to integrate Aboriginal community values and cultural norms, while embracing non-Aboriginal approaches to agreement and planning for transitional commercial business realities.

Diagram 28. CHMA Aspirations

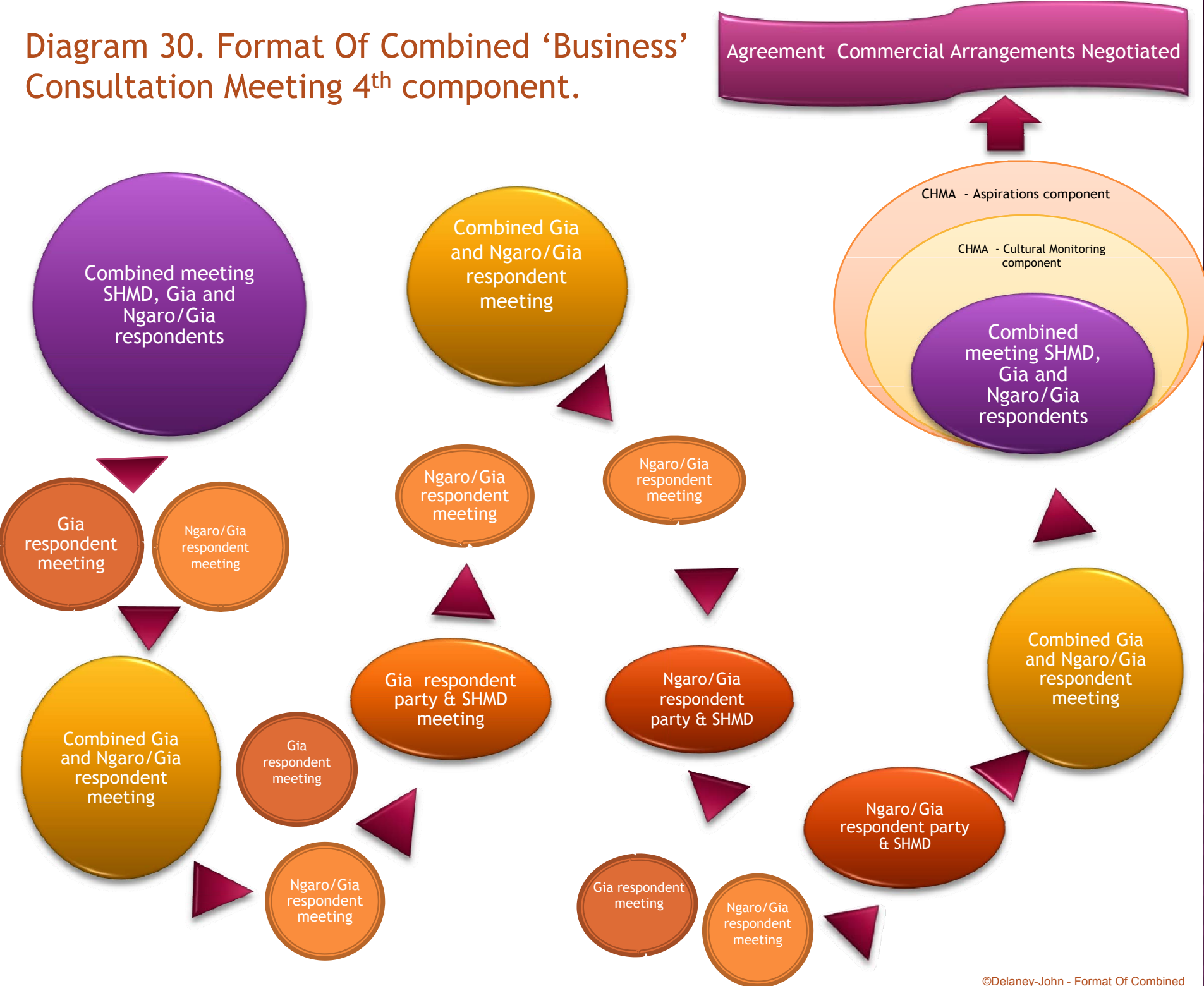


# Diagram 29. CHMA Aspirations



**Cultural Centre Potential Benefits**

Diagram 30. Format Of Combined 'Business' Consultation Meeting 4<sup>th</sup> component.





Respect and  
Recognition

Cultural Heritage  
Traditions and  
Values

Sharing and Caring  
for Land & Sea  
Country

Partnership and  
Enterprise  
Capacity Building

Obligations and  
Responsibility

# THE CULTURE OF OUR BUSINESS....

Culture and business; old  
knowledge and new  
knowledge.....

## 6. Agreement

- ‘Agreement’ consultation was undertaken over a consecutive two day period. The first day was spent finalising the terms and conditions of the Agreement. (described as components four and five - ‘business phase’).

Several opportunities were provided and were drawn on by individual groups for individual and collective respondent parties discussions and collective sponsor party negotiations and communications clarity.

This assisted all parties to discuss in detail the CHMA Agreement content and conditions obligations and responsibilities. This also enabled participative, creative innovations to develop supportive models and processes to support the final Aspirations initiatives.

**Day Two**

The second day provided for final discussions and culminated in the formal signing of the CHMA.

While this process took several hours to complete, the process ensured all parties entered into an Agreement with informed consent and endorsement of the content contained within the CHMA.

Cultural Heritage Management compliant with the ACH Act and the development of Aspirations in response to identified CH study recommendations formed the foundation for future partnerships, exchange of learning and knowledge and the CHMA.

The entire day was spent working through the final draft of the CHMA. The agreement was presented to the group via Powerpoint. This process worked well as all respondents could see the changes to the draft included in the report at the time of discussion and agreement.

Gia and Ngaro/Gia respondent parties in partnership with SHMD agreed to voluntarily and actively work collaboratively to seek economic and voluntary philanthropic investment to contribute to the business enterprise model.

Gia and Ngaro/Gia respondent parties endorsed the SHMD development proposal and included a satisfaction advocacy statement in the closing of the CHMA Agreement.

*“ Aboriginal Respondent Parties endorse the SHMD development proposal, as it provides long term generational benefits for their community and will provide a world class mainland destination place to maximize Cultural Tourism Enterprise which offers to the community opportunity for cultural, social environmental ‘care for land and sea country’ and waters and economic benefits for their community who have generally low socio-economic status in the broader community.”*

Gia and Ngaro/Gia respondents and signatories to the CHMA Agreement 13 April 2008.

Critical to the process were the processes undertaken to ensure ethical standards of informed consent and time allocation to ensure group and individual ‘readiness’ to sign the Agreement. The number of small group and combined group meetings, which excluded SHMD from the discussions allowed for individuals and groups to work through the document as their own pace and seek representative agencies advice.

Also critical was the understanding by all parties that the development is subject to an EIS and the CHMA Aspirations agreement can only be realised if the development is approved.

Once approved later that afternoon, SHMD printed four copies of the CHMA and all respondent parties signed all four Agreements and initialed every page of each document. One original was tabled with the State Department of Natural Resources and Water - Cultural Heritage branch, One original was made available to each of the respondent parties and one original was provided to SHMD.

Copies were then printed so that all respondents received a copy of an original for their records within a fortnight of the official signing - 13 April 2008. The State Department of Natural Resources and Water - Cultural Heritage branch, formally approved the Agreement - 18 April, 2008.

## 7. Partnership

- the final and continuing phase of the consultation program, is both a reflective and celebratory one.

The respondent parties agreed that the implementation phase of the CHMA will require joint effort and sharing of skills and knowledge. While all parties are aware that the CHMA and the key Aspirations are subject to an approved EIS and development approval, respondent parties have worked closely with SHMD to develop a range of Aspirations which have the potential to provide highly demonstrable social cultural and economic benefits to the two Aboriginal communities.

Respondent parties also made comment regarding the relationship fostered between themselves and SHMD and have asserted that this form of partnership is a tangible example of how Aboriginal and non-Aboriginal people can ‘do business’.

**Commercial in confidence arrangements:**

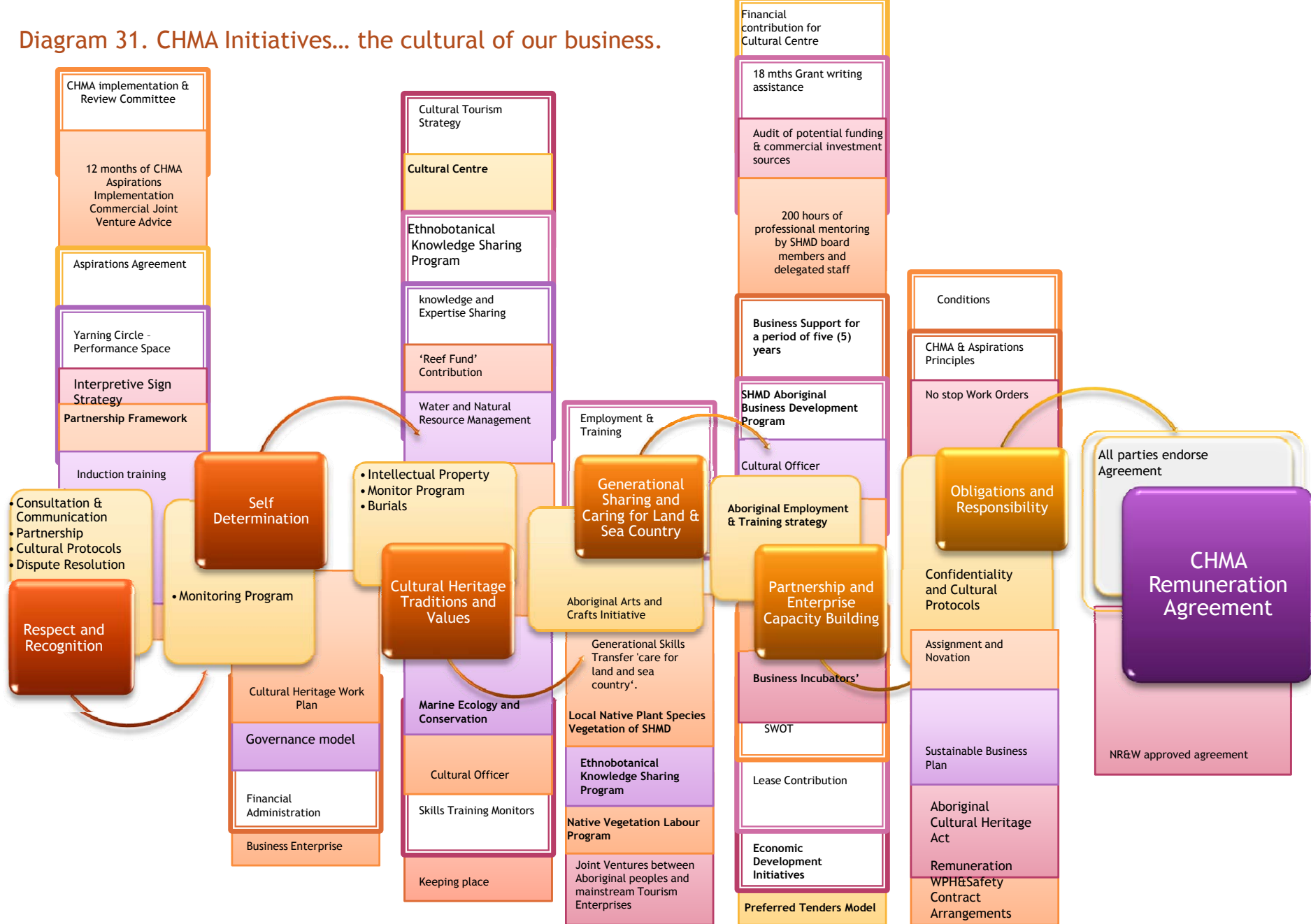
A non-commercial in confidence CHMA was drafted for respondent parties ratification, as the Gia and Ngaro respondent parties requested that the specific commercial arrangements contained within the CHMA remain confidential and that a non commercial in confidence CHMA document be made available for inclusion in the EIS and other public distribution, as described in the confidentiality clause, included in the CHMA.

The respondent parties were provided with a copy of a modified CHMA for public distribution for approval. This was reviewed and endorsed by all parties and is attached to this Report - Appendix 1.

**Celebration and opportunity to ‘care for land and sea country’:**

A celebration of the partnership formed with SHMD and between the respondent parties is planned. Central to the celebration will be the opportunity for all Gia and Ngaro community members to participate in a ‘smoking ceremony over both land and sea’. This celebration will be conducted as a tangible example of Ngaro and Gia Aboriginal peoples being welcome to “care for land and sea country”, and commence the healing of dispossession and limited access to homelands.

Diagram 31. CHMA Initiatives... the cultural of our business.



CHMA includes:

- ✓An outline of cultural heritage management principles;
- ✓The roles and responsibilities of Gia and Ngaro/Gia respondents, Shute Harbour Marina Development Pty Ltd and the construction contractor/s;
- ✓Management plans to protect identified cultural places during the construction phase;
- ✓Strategies for limiting the impact of the development on possible cultural artifacts located during construction;
- ✓An aspirations social enterprise model during construction and operation; and
- ✓Channels for communication and dispute resolution.



Respect and  
Recognition

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# THE CULTURE OF OUR BUSINESS....

Culture and business; closing  
the gap on Aboriginal  
disadvantage

# The culture of our business... closing the gap on Aboriginal disadvantage

*"Social, economic and cultural values are not as easily separated as physical and ecological values."... "In regard to affected Indigenous and non-Indigenous communities respectively, particular attention should be paid to the effects on: - the ability of both Aboriginal and non-Indigenous peoples, to live in accordance with their own values and priorities; - the use of and access to culturally important areas and landscapes; - the access to existing human and commercial services and housing; - the ability to participate in regional and local employment and training opportunities; and - the new project workforce and their families."*

Co-ordinator General; Department of infrastructure - Terms of Reference for an Environmental Impact Statement – Shute Harbour Marina Project; Social Environmental Values Section 4.11

In 2003, when heads of Australian governments commissioned 'a regular report against key indicators of Indigenous disadvantage', they made a commitment to be held accountable for improving outcomes for Indigenous Australians. In April 2008, the Council of Australian Governments reaffirmed its commitment to 'closing the outcomes gap between Indigenous peoples and other Australians over a generation'.

Against these objectives, *Overcoming Indigenous Disadvantage: Key Indicators* is like a report card, showing how much progress has been made, and how much further governments, communities and the private sector have to go.

The *Overcoming Indigenous Disadvantage: Key Indicators* Report focuses on the disadvantage experienced by many Indigenous peoples, arising from historical, social and economic causes. However, it is important to note that most Indigenous Australians live constructive and rewarding lives, contributing to their families and wider communities. (Steering Committee for the review of Government Service Provision - *Overcoming Indigenous Disadvantage - key indicators 2007*).

The vision, outlined in the 'Overcoming Indigenous Disadvantage – key indicators 2007' report (the Report) detailing 'priority outcomes', is that Indigenous peoples will one day enjoy the same opportunities as other Australians, together with a strong cultural identity. The information presented in the Report provides policy makers with a broad view of the current state of Aboriginal disadvantage and where things need to change if the Report's vision is to be achieved.

The Report is influencing how governments address Indigenous disadvantage. Implementation of the *Overcoming Indigenous Disadvantage* framework by all Governments. The report identifies the intrinsic role developers, extraction companies and the corporate sector can play in contributing to these objectives.

In July 2006, COAG agreed that a long-term generational commitment is needed to overcome Aboriginal disadvantage:

*"COAG agreed the importance of significantly closing the gap in outcomes between Indigenous peoples and other Australians in key areas for action as identified in the Overcoming Indigenous Disadvantage: Key Indicators Report ... (COAG 2006)"*

The Report further recognises that many factors bear on change – no one action is going to eradicate Indigenous disadvantage.

This **SHMD Culture of our business** report has used the guiding principles and rationale of COAG's *Overcoming Indigenous Disadvantage - key indicators 2007* Report to explore the determinants of net social benefit, which are aligned to the proposed Shute Harbour Marina Development and the Aspirations initiatives and agreed to in the CHMA.

The *Overcoming Indigenous Disadvantage - key indicators 2007* Report, provides a robust 'roadmap' for actioning change to address disadvantage and contribute to 'closing the social, economic, environmental and wellbeing gap' between Indigenous and non-Indigenous Australians.

While the SHMD does not address all indicators of disadvantage for Gia and Ngaro/Gia communities, it is closely aligned to three of the twelve priority areas. This alignment is demonstrated through the potential positive impact on Ngaro and Gia Aboriginal peoples through the opportunity to:

- participate in and share economic prosperity and cultural tourism opportunities,
- support the intrinsic benefits of governance and culture in community capacity building,
- maintain generational celebration and learning of cultural heritage traditions, language and expression,
- contribute to functional and resilient families and communities, and
- provide generational 'care for land and sea country, while showcasing Aboriginal pride and knowledge to local, regional and international tourists.

It is therefore strongly asserted that the CHMA will contribute to positive long term outcomes for at least two Aboriginal peoples - the Gia and Ngaro communities at a local community level.

The priorities have been identified by Gia and Ngaro peoples as the areas most critical to their cultural and spiritual wellbeing. As well as their participation and share in economic, social and environmental benefits in their homeland.

Closing the gap on Aboriginal disadvantage

THE REPORTING FRAMEWORK

The *Overcoming Indigenous Disadvantage: Key Indicators Report* developed a reporting framework in which to examine disadvantage and the importance of measuring multiple disadvantage.

At the top, three priority outcomes reflect a vision for how life should be for Aboriginal peoples, endorsed by governments and Indigenous peoples. These outcomes are linked and should not be viewed in isolation – they all need to be pursued in order to overcome Aboriginal disadvantage. (Steering Committee for the review of Government Service Provision - *Overcoming Indigenous Disadvantage – key indicators 2007*; The Framework).

Prevention and early intervention lie at the heart of the framework.

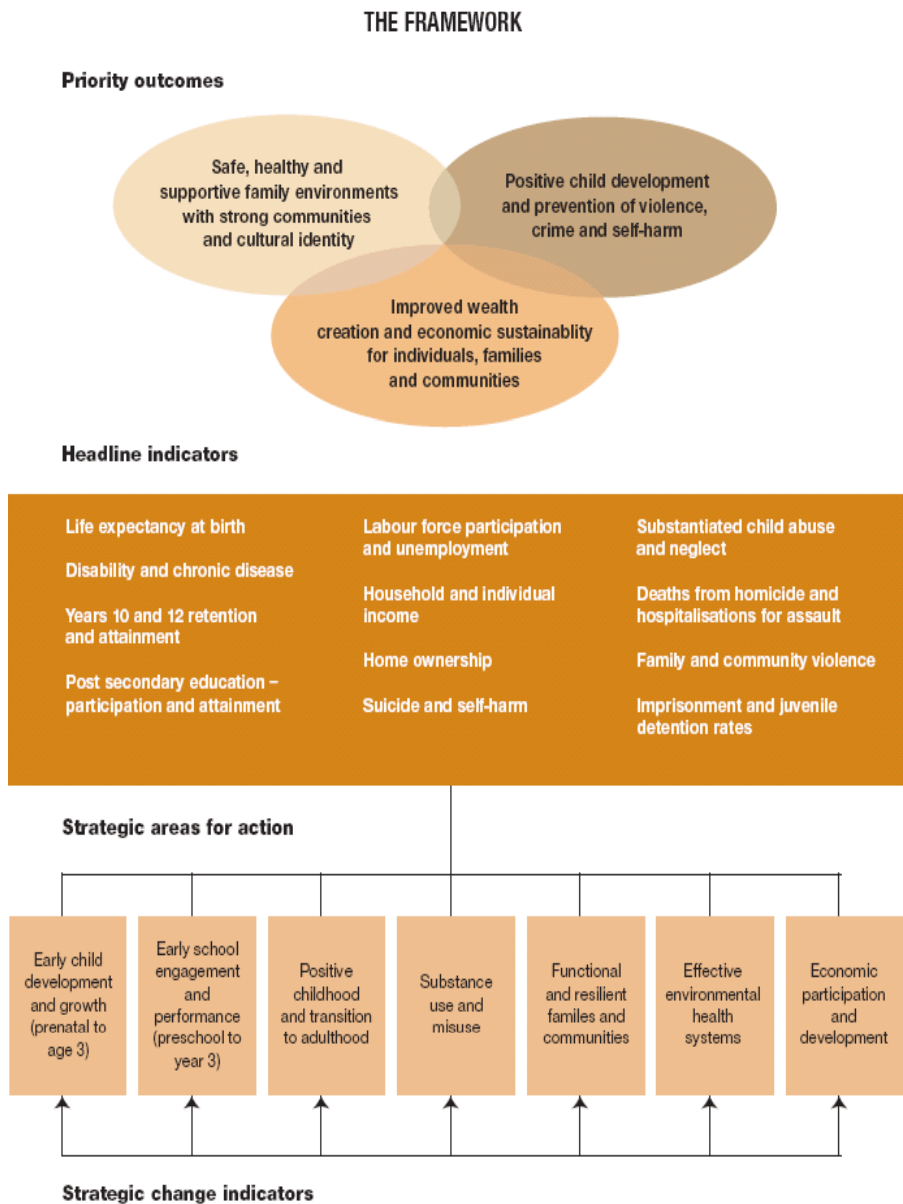
The framework explained:

Governments and Indigenous peoples have endorsed a set of headline indicators that are closely linked to the priority outcomes. Improvements in these indicators would provide strong evidence of progress toward the priority outcomes. However, many of the headline indicators (such as life expectancy) are long term measures that are not expected to change rapidly.

Sitting beneath the priority outcomes and headline indicators are seven ‘strategic areas for action’. Research shows that focusing efforts in these areas can make a difference in the shorter term. Each strategic area for action is linked to a set of strategic change indicators.

These indicators are designed to show whether actions are making a difference and to identify areas where more attention is needed.

Diagram 32. The Framework



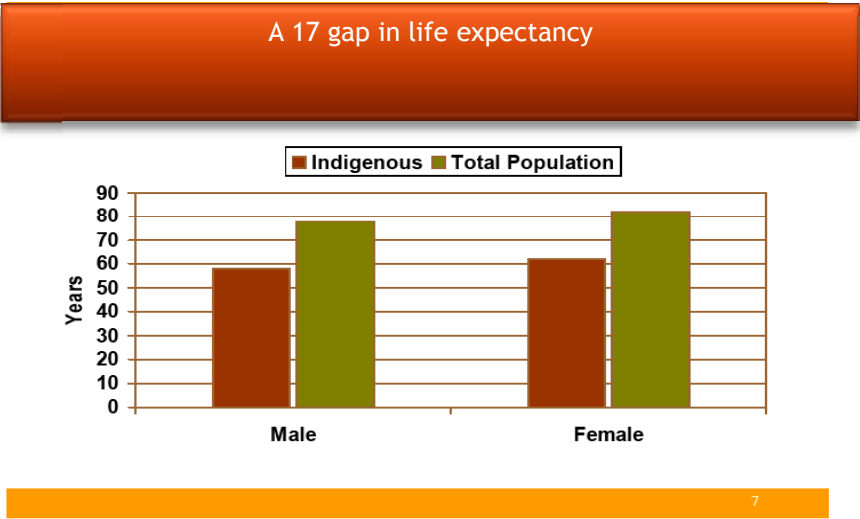
Source: Steering Committee for the review of Government Service Provision - *Overcoming Indigenous Disadvantage – key indicators 2007* ; The Framework)



## Closing the gap on Indigenous disadvantage

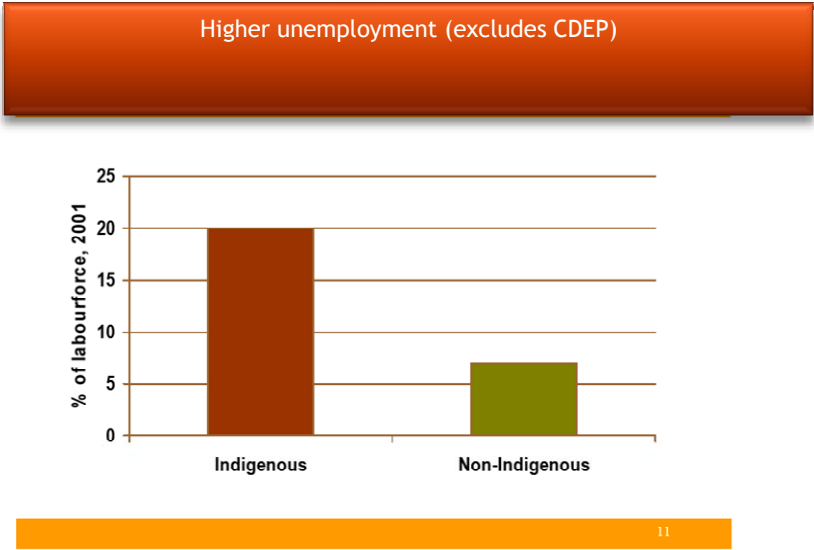
- The logic behind the framework is that improvements in the strategic areas for action (measured by the strategic change indicators) will, in time, lead to improvements in the headline indicators. Improvements in the headline indicators will show progress toward the priority outcomes.
- The elements of the framework are highly interrelated. Actions across a range of areas might be required to improve a single indicator. But in other cases, a single, well-targeted action can lead to improvements in many indicators.
- While disadvantage can have multiple causes; initiatives such the SHMD CHMA and Aspirations can have multiples impacts to reduce these multiple disadvantages experienced by Aboriginal people. (Albeit benefits flowing to two Aboriginal communities represented by the respondent parties to the Agreement.)
- Included in the Overcoming Indigenous Disadvantage Report is the recognition that not everything that matters can be captured in broad indicators.
- Changes occurring at a community level may not show up in state or national data recorded in the report, and some information is better presented in words, rather than in numbers. The main body of The Report includes many case studies of **‘things that work’** - examples of activities that are making a difference at the community level. Similarities can be drawn for the section in The Report on ‘things that work’ and Shute Harbour Marina developments Cultural Heritage Agreement - Aspirations initiatives.
- SHMD is actively contributing the Commonwealth and State governments agenda to:
- *Forge greater links between the business sector and Indigenous communities to help promote economic independence* (COAG 2000; appendix 1).
- The Report also illustrates the factors that contribute to successful programs.
- Life expectancy (a long term measure of change over time) and higher unemployment (excluding Community Development, Employment Program - CDEP) are two of the twelve indicators which all indicate disadvantage, for Indigenous persons compared to non- Indigenous Australians. While the data has been recorded at a National and State level in the Report, and some variation may apply at the local level, the gap in life expectancy and the over-representation of Aboriginal persons identified as unemployed is also reflected in the Ngaro and Gia Aboriginal communities experience. The CHMA includes tangible examples of well-targeted actions identified as important to Gia and Ngaro/Gia Aboriginal respondents.

Diagram 33. Gap in Life expectancy



Source: Presentation paper; **Overcoming Indigenous Disadvantage: Indicators of policy impacts**; Gary Banks Chairman, Productivity Commission

Diagram 34. Higher unemployment



Source: Presentation paper; **Overcoming Indigenous Disadvantage: Indicators of policy impacts**; Gary Banks Chairman, Productivity Commission

# Closing the gap on Aboriginal disadvantage

The Report has documented the analysis of the ‘things that work’, together with wide consultation with governments and Indigenous peoples who identified the following ‘success factors’ to measure action for positive change:

- cooperative approaches between Indigenous peoples and the private sector;
- community involvement in program design and decision-making - a ‘bottom-up’ rather than ‘top-down’ approach;
- good governance; and
- on-going government and private sector support (including human, financial and physical resources).

Many of those consulted to inform the Report felt that the lack of these factors often contributed to program failures. (Overcoming Aboriginal Disadvantage - key indicators 2007; The Framework)

These ‘success factors can be compared to SHMD’s CHMA initiatives for Ngaro and Gia peoples.

It is also recognised in The Report that:

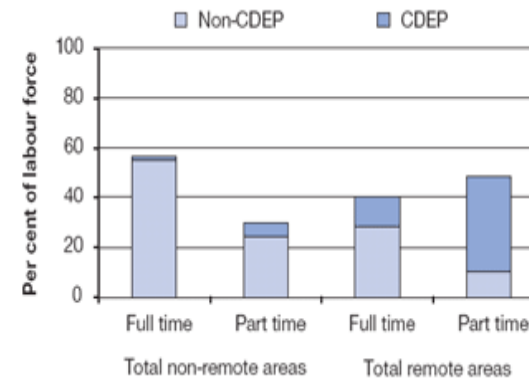
“Where possible, broader programs demonstrating sustained success have been reported. However, programs that are successful in individual communities or for short periods are frequently only funded as pilot projects. Even when evaluated as successful, such programs are not always continued or expanded. The need for greater sustainability of successful programs was a common theme in consultations.”

Extract: Overcoming Indigenous Disadvantage - key indicators 2007 ; The Framework)

A key “success” factor of the SHMD CHMA is the long term commitment to sustainability and social enterprise partnerships with Ngaro and Gia Aboriginal peoples and SHMD as proponent sponsor.

## Diagram 35. Unemployment of Indigenous persons aged 18 to 64 years, 2004-2005; National statistical data

EMPLOYMENT OF INDIGENOUS PEOPLE AGED 18 TO 64 YEARS, 2004-05



Source: ABS 2004-05 NATSIHS (unpublished); table 11A.1.4.

### Employment indicator

Employment is an important indicator of Indigenous economic participation.

Outcomes commonly associated with employment, include increased income levels, better health and improved education outcomes, leading to enhanced self esteem and increased social integration.

The types of employment that peoples are engaged in may influence their wellbeing, by affecting remuneration and job satisfaction. Employment in certain industries and occupations could also provide an indication of people’s skill levels and education attainments. High levels of part time employment could mask high levels of underemployment. Underemployment has been found to be particularly common among Aboriginal employees (Hunter 2002). SHMD provides direct intervention to increase employment and training opportunities.

#### Business development

Self employment is an important part of the economic participation and development of self employment and participation in ownership of enterprises. It can allow peoples to reduce reliance on government welfare and improve self sufficiency. It also can improve the overall level of economic participation, which affects many aspects of the Indigenous and non- Indigenous peoples. people’s wellbeing. The IBA (2003) noted that the number of Indigenous peoples who are self employed as a proportion of the Indigenous labour force is significantly lower than for the rest of the population.

Australia’s Indigenous peoples also lag behind New Zealand’s Maori peoples in terms of self employment. Those Indigenous peoples who are self employed tend to be employed in trade and lower skilled occupations such as plant and machinery operators and labourers (Hunter 1999). SHMD CHMA has developed a range of innovative Business Enterprise initiatives underpinned by a range of community and individual capacity building strategies.

# Closing the gap on Aboriginal disadvantage

## Key areas of economic impact

Economic	Economic participation and development	Key indicators to measure disadvantage	SHMD CHMA action for social and economic cultural and environmental transformation
<p><i>The extent to which peoples participate in the economy is closely related to their living standards, and affects many aspects of their wellbeing.</i></p> <p><i>This Report - 'Overcoming indigenous disadvantage' examines economic participation and development through employment opportunities, influence over land and sea resources, and aspects of good governance and the capacity to govern.</i></p> <p><i>Many aspects of work affect people's wellbeing, such as hours worked, job satisfaction and security, levels of remuneration, opportunities for self development and interaction with peoples outside the home.</i></p> <p><small>(Overcoming A Indigenous disadvantage report 2007)</small></p>	<p><b>Employment:</b> Having a job or being involved in a business activity leads to higher incomes for families and communities, with positive effects on health, education of children, etc.).</p> <p>It also enhances wellbeing and reduces social alienation.</p> <p>Well governed communities and organisations play a key role in achieving a wide range of outcomes for Indigenous peoples. <small>(Overcoming Indigenous disadvantage report 2007)</small></p>	<p>▪<b>Employment</b> (full-time/part-time) by sector (public/private), industry and occupation.</p> <ul style="list-style-type: none"> <li>• Self employment and Aboriginal business.</li> <li>• Aboriginal owned or controlled land.</li> <li>• Governance capacity and skills.</li> </ul> <p><b>Governance and culture</b> Several aspects of Aboriginal governance and culture are intrinsic to all of the indicators of disadvantage.</p> <p>Governance was seen as an issue, which had the capacity to affect peoples at the individual, community and organisational level.</p>	<ul style="list-style-type: none"> <li>✓Employment of a Cultural Officer;</li> <li>✓Revegetation labour market program;</li> <li>✓Cultural heritage monitoring training program - generational skills transfer of 'caring for land and sea country';</li> <li>✓Induction trainers for SHMD construction and contractor personnel;</li> <li>✓Business incubator initiatives; social and commercial enterprise; and</li> <li>✓Preferred tender model with training and employment and self employment outcomes.</li> </ul> <p>By helping Aboriginal peoples access jobs, cultural tourism and business enterprise, SHMD development can become an instrument of social transformation, achieving a shift in self-perception and wellbeing.</p> <p>SHMD CHMA maintains a commitment to an Aboriginal Cultural Officer and Cultural trainers for the delivery of cross cultural awareness training. This ensures that culturally appropriate staff support services are available to Aboriginal staff and that cultural heritage values are protected during the construction phases of the proposed project.</p> <p><b>Commercial business</b> May lead to greater autonomy and economic independence, increased commercial leverage and political influence. It can also deliver commercial benefits like increased income, employment and profits <small>(Altman and Dillon 2004).</small></p> <p>SHMD CHMA's Cultural tourism, self determination models to create employment and business ownership demonstrates commitment to contributing to improving the level of economic disadvantage experienced by Ngaro and Gia peoples. Through business development, employment strategies it is anticipated that Ngaro and Gia Aboriginal peoples will be provided a broad range of opportunities across income levels; not just at the lowest income quintile. This will contribute to breaking the poverty cycle for Aboriginal peoples in the Whitsundays region, particularly those who identify 'interest in land and sea country'.</p>



# Closing the gap on Aboriginal disadvantage

## Key areas of cultural impact

Cultural	Cultural Enterprise;	Key indicators	SHMD CHMA action for social and economic cultural and environmental transformation
<p>The representation of culture in the framework has been a constant topic of discussion during consultations with Indigenous peoples.</p> <p>Many comments have been made and many suggestions for new indicators have been proposed.</p> <p>One of the messages that came through clearly during consultations in 2002 and 2003 was that no single indicator could adequately reflect the place of culture in the lives of Aboriginal peoples. (Overcoming Indigenous disadvantage report 2007)</p>	<p>Culture was so important that it pervaded every aspect of the lives of Indigenous peoples, and where there was a breakdown in culture, (for example, loss of traditional ways or language) disadvantage was likely to be greater. (Overcoming Indigenous disadvantage report 2007)</p>	<p>■ <b>Learning about culture</b></p> <p>■ Indigenous cultural studies in school curriculum and involvement of Indigenous peoples in development and delivery of Indigenous studies.</p> <p>■ <b>Participation in Indigenous cultural activities.</b> (Ideas for indicators in this area reflect the diversity of Indigenous culture.</p> <p>Suggestions for this indicator covered a range of activities, including festivals and cultural events; kinship, hunting, gathering and initiation; sport and recreation; art and ceremony.</p> <p><b>Spirituality</b> The point was made that art and ceremony are significant markers of a society's spiritual and cultural strength in both western and Indigenous contexts.</p> <p>■ <b>Land</b> There has been widespread support for the inclusion of land as a cultural indicator.</p> <p>However, many Indigenous organisations and individuals also stressed the importance of land as an economic indicator.</p> <p><b>Language, heritage and lore</b> A language indicator attracted widespread support. Indigenous language is fundamentally linked with Indigenous culture and lore, and all are intrinsically linked with Indigenous wellbeing.</p>	<p>Over the past 200 years, many Indigenous peoples have moved or have been moved from the traditional country of their ancestors. In some cases, Indigenous peoples may have negotiated access to, or derived benefits, from their traditional land without owning or controlling that land.</p> <p>SHMD CHMA addresses :</p> <ul style="list-style-type: none"> <li>✓ access to and commercial cultural tourism opportunities to celebrate 'care for land and sea country' on homelands;</li> <li>✓ the provision of a keeping place;</li> <li>✓ establishment of set up funds for a Cultural Centre including lease waiver and reduced lease arrangements to support business enterprise sustainability;</li> <li>✓ Language Interpretive Signage Strategy;</li> <li>✓ Self determined monitoring and cultural heritage management model; and</li> <li>✓ Provision of a roof top Performance Space, which will facilitate the sharing of cultural traditions, language, visual and performance and cultural maintenance.</li> </ul> <p>The SHMD CHMA Agreement can yield economic, cultural and other benefits, including monetary payments; support for community services, facilities and infrastructure; employment and training programs; and protection of cultural sites.</p>

# Closing the gap on Aboriginal disadvantage

## Key areas of environmental impact

Environmental management	Key indicators	Key indicators	SHMD CHMA action for social and economic cultural and environmental transformation
<p><i>Eco-services</i></p> <p>Eco-services are aimed at supporting sustainable natural resource management and include feral animal control, quarantine inspection, bush fire management and weed eradication programs (Altman and Dillon 2004).</p> <p>Marine ecology and conservation are also examples of eco services.</p>	<p>There has been widespread support for the inclusion of land as a cultural indicator.</p> <p>However, many Indigenous organisations and individuals also stressed the importance of land as an economic indicator.</p> <p>Suggestions for this indicator covered a range of activities, including native vegetation and habitat conservation and cultural traditions; kinship, hunting, gathering and initiation; sport and recreation; art and ceremony.</p>	<ul style="list-style-type: none"> <li>▪Land</li> <li>• whether allowed to visit homelands.</li> <li>•Eco- services</li> </ul>	<p>SHMD CHMA :</p> <ul style="list-style-type: none"> <li>✓access to and development of commercial cultural tourism;</li> <li>✓opportunities to celebrate 'care for land and sea country';</li> <li>✓the provision of a keeping place;</li> <li>✓Native vegetation labour market program;</li> <li>✓Replanting of mangrove program;</li> <li>✓Removal of pollutants from the foreshore;</li> <li>✓Marine ecology and conservation;</li> <li>✓Reef Conservation Fund;</li> <li>✓Regular 'care for land and sea country' access; and</li> <li>✓Co-located cultural and heritage facilities on development site, including Marine Interpretive Centre and ethno botanical advisory services.</li> </ul>

# Closing the gap on Aboriginal disadvantage

## Key areas of social impact

Functional and resilient families and communities'	Key indicators	SHMD CHMA action for social and economic cultural and environmental transformation
<p><b>Family resiliency</b></p> <p>There is strong anecdotal evidence that these activities can foster self-esteem, social interaction, and the development of skills and teamwork, leading to outcomes such as a reduction in juvenile crime.</p> <p>(Overcoming Indigenous disadvantage report 2007)</p>	<p>• <b>Participation in organised sport, arts or community group activities.</b></p> <p>• <b>Proportion of peoples with access to their traditional lands.</b></p> <p>• The ABS 2004-05 National Aboriginal and Torres Strait Islander Health Survey (NATSIHS) for peoples in non-remote areas identified key principles to health and resiliency.</p> <p>These factors include:</p> <ul style="list-style-type: none"> <li>• recognition of homelands/traditional country;</li> <li>• whether currently living on homelands; and</li> <li>• whether allowed to visit homelands.</li> </ul>	<p>SHMD CHMA addresses :</p> <ul style="list-style-type: none"> <li>✓ access to and development of commercial cultural tourism opportunities to celebrate 'care for land and sea country';</li> <li>✓ the provision of a keeping place;</li> <li>✓ establishment of set up funds for a Cultural Centre including lease waiver and reduced lease arrangements to support business enterprise sustainability;</li> <li>✓ Language Interpretive Signage Strategy;</li> <li>✓ Self determined monitoring and cultural heritage management model; and</li> <li>✓ Provision of a roof top Performance Space, which will facilitate the sharing of cultural traditions, language and visual and performance maintenance.</li> <li>✓ The Performance Space will encompass arts, cultural heritage and performing arts. Training programs will support the successful implementation of cultural tourism to not only build skills, but assist in the generational handing down of traditions, culture and heritage values to improve long term resiliency and wellbeing for families, individuals and communities.</li> </ul>
<p><b>Heritage</b></p> <p>Many Indigenous peoples and organisations expressed the view that government had a role in ensuring that cultural heritage was protected and maintained. However, it was not possible to identify a measurable outcome indicator that met the selection criteria. (Overcoming Indigenous disadvantage report 2007)</p> <p>The identification of 'what works well' was drawn on to identify strategic actions, which enhance Heritage.</p>	<p>The community development approach is concerned with the empowerment of communities so that they can participate in their own policy-making and implementation, in the development of their own effective and culturally informed governance structures, and in developing the skills to take effective responsibility and control over their own issues and futures (Gerritson 2001).</p> <p>This approach is closely linked with the 'self-determination' aspect of good governance and cultural heritage values retention.</p>	<ul style="list-style-type: none"> <li>✓ Agreed CHMA;</li> <li>✓ Integrated Aspirations programs and initiatives;</li> <li>✓ Heritage preservation ;</li> <li>✓ Marine conservation and ecology;</li> <li>✓ Ethno botanical knowledge sharing;</li> <li>✓ Cultural tourism development;</li> <li>✓ Self determination model to implement monitoring and cultural heritage management;</li> <li>✓ Due diligence and duty of care - ACH Act;</li> <li>✓ Places of significance to that community (including archaeological sites, natural sites, story sites etc; and</li> <li>✓ appropriate community involvement in field surveys.</li> </ul> <p>The intent of the Aboriginal Cultural Heritage Act has been central to the development of cultural heritage initiatives.</p>



# Closing the gap on Aboriginal disadvantage

## Key areas of social impact

Governance	Key indicators	Key indicators	SHMD CHMA action for social and economic cultural and environmental transformation
<p>The effective exercise of governance effects all levels of society and plays an essential part in people's personal lives and their communities.</p> <p>Governance generally refers to the way that a society formally structures decision making, distributes authority and rights, and organises individual and collective behaviours.</p> <p>It consists of the structures and institutions that guide individual, group and corporate behaviour, and describes who has the authority to make decisions in a community, how those decisions are to be carried out and how different members of the community are included in the making, implementation and communication of those decisions.</p> <p>(Overcoming Indigenous disadvantage report 2007)</p>	<p><b>Organisational Governance</b> The capacity of peoples, groups, organisations and whole societies to govern consists of governance skills, abilities, knowledge, behaviours, values, motivations, institutions, resources, powers and so on, which are determined by a combination of human, social, cultural, infrastructure and resource capital. Without an effectively resourced capacity for governance, there is unlikely to be sustained community or regional development. For example, sound organisational governance requires access to professional expertise. An understanding of financial management, and corporate and administrative systems is a basic ingredient of effective governance (Dodson and Smith 2003; Sanders 2004; Smith and Armstrong 2005).</p> <p><b>Leadership</b> Leadership has been described as 'the process through which an individual influences group members to attain group or organisational goals' (Smillie and Hailey 2001). Leadership is closely related to other determinants of good governance. Effective leadership depends on governing institutions that provide leaders with legitimacy and authority. In turn, effective leaders contribute to communities' and organisations' scope for self-determination. Sustained leadership also requires capacity building to build leadership skills, and is reliant on adequate resources for implementing decisions.</p>	<p>Six determinants of good Indigenous governance:</p> <ul style="list-style-type: none"> <li>• governing institutions;</li> <li>• self- determination;</li> <li>• leadership;</li> <li>• capacity building;</li> <li>• cultural match; and</li> <li>• resources.</li> </ul>	<p>SHMD CHMA:</p> <ul style="list-style-type: none"> <li>✓CHMA Implementation and Review Committee ;</li> <li>✓Development of an Aboriginal Respondent Parties and SHMD Partnership Framework;</li> <li>✓A Strengths Weaknesses Opportunities and Threats Governance analysis (SWOT analysis );</li> <li>✓SHMD Board and staff mentoring program;</li> <li>✓Cultural Officer resource ;</li> <li>✓Set up establishment funds and inkind sustainability support;</li> <li>✓Aboriginal and non-Aboriginal partnerships and exchanged knowledge programs;</li> <li>✓Best practice governance modeling; and</li> <li>✓Sustainable business planning.</li> </ul>

## THE CULTURE OF OUR BUSINESS.

The SHMD CHMA provides a multi-targeted range of initiatives to close the gap between Aboriginal and non-Aboriginal communities and businesses in the Whitsundays.

It also provides a serious opportunity to foster a unique destination experience, which provides a niche cultural tourism market ; and honours the intent of cultural heritage "care for land and sea country".

If approved, the SHMD proposed development will offer all members of the community increased community amenity.

For Gia and Ngaro peoples, it offers the potential to provide a direct intervention to the multiple disadvantages experienced by the communities.

As evidenced by Governance and decision-making in Indigenous community governance is shaped by multiple historical, cultural and political relationships..... the family connections, land ownership relationships and governance histories associated with particular communities and sets of regionally linked communities are fundamental to community governance dynamics and arrangements (Hunt and Smith 2006, p. 1).

Research by Hunt and Smith (2006), analysing thirteen case studies of Aboriginal community governance, found that:

- The development of governance capacity does appear to be a fundamental factor in generating sustained economic development and social outcomes.
- Economic outcomes appear to be best achieved where effective Aboriginal and non-Aboriginal governance coexist.

SHMD in partnership with Gia and Ngaro/Gia respondents have embraced the intent of Queensland's Cultural Heritage legislation and the commonwealth's strategy and policy guidelines to address Indigenous disadvantage.

The agreement between parties extend beyond minimum Cultural heritage compliance requirements by actively working towards tangible ,cultural, economic and environmental benefits which positively affect the lifestyle and wellbeing of Aboriginal communities.

This CHMA is an example of a private sector contribution to reducing the gap in Aboriginal disadvantage. It models a collaborative partnership that can be effectively fostered between Aboriginal communities and SHMD as developer sponsor, to work together towards positive social, economic change and intercultural understanding.

This CHMA sets the foundations for **"THE CULTURE OF OUR BUSINESS."**

It is therefore asserted that SHMD will provide significant social lifestyle and economic benefits for Ngaro and Gia Aboriginal peoples who are identified as experiencing greater disadvantage than Non-Indigenous members of the Whitsunday regional community.

It is estimated that there are over 2,000 members of the two cultural groups. (population estimates provided by Gia and Ngaro/Gia respondents after internal kin consultation)

*"The number of people in the Gia group (potential number of people to benefit) has been estimated at 1000 + people, taking in to consideration the large families in the Gia group." David Mailman –Director; QCH&NTMS; email 21 July 2008.*

*"The Ngaro Aboriginal community have more than 1,000 people represented, with over 800 Aboriginal people represented by just one family group. The CHMA between our community and SHMD provides the opportunity to realise both direct and indirect improvement to the lives of families and our children." Renarta Prior, Elder representative, phone call 21 July 2008.*

**Queensland's cultural heritage places are not only valuable in their own right for what they offer peoples in the way of culture and enjoyment, but also for the significant contribution they make to the economy by creating opportunities for skilled jobs, urban and rural regeneration, education and lifelong learning, and the foundations for cultural heritage tourism.**

Ian Walker (Chair) on behalf of the Cultural Heritage Ministerial Advisory Committee, Final report 2005.

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**Attachment 1.**

**VOLUNTARY CULTURAL HERITAGE MANAGEMENT PLAN**

**between**

**Gia People**

**and**

**Ngaro/Gia People**

**and**

**SHUTE HARBOUR MARINA DEVELOPMENT PTY LTD**

**For the Shute Harbour Marina Project Area**

**On and adjacent to**

**Lot 2 (SP117389)**

**And**

**Lot 273 (HR1757)**

**Thirteenth Day of April 2008**

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# **1 PREAMBLE**

This Cultural Heritage Management Plan (CHMP) is the NON COMMERCIAL IN CONFIDENCE VERSION OF THE AGREED CHMA BETWEEN ALL PARTIES AND IS THE result of: a cultural heritage assessment and consultation with concerning the potential areas of land reclamation undertaken as part of the investigation of the proposed construction of a Marina development and mixed use development project and aspirations of Gia and Ngaro/Gia in relation to culture and traditions, which are inherited from past generations, maintained in the present and bestowed for the benefit of future generations.

This plan details the proposed management of the site identified during an onsite survey assessment and any subsequent surveys of the proposed land reclamation areas.

Input from the relevant Aboriginal parties was facilitated through a series of meetings.

The CHMP sets out procedures for mitigating any negative impact from the construction of the proposed Marina Development and associated activities on areas of cultural significance to the Aboriginal Parties.

It also defines the roles and responsibilities of the parties concerned namely the Aboriginal Parties, Shute Harbour Marina Development Pty Ltd the construction contractor/s.

The CHMP includes:

- An outline of cultural heritage management principles;
- The roles and responsibilities of the Aboriginal Parties, Shute Harbour Marina Development Pty Ltd and the construction contractor/s;
- Management plans to protect identified cultural places during the construction phase;
- Strategies for limiting the impact of the development on possible cultural artefacts located during construction;
- An Aspirations Social Enterprise model to be implemented both during construction and operation; and
- Channels for communication and dispute resolution

The CHMP is subject to an approved Environmental Impact Assessment process and development approvals to proceed with the proposed development.

## **2 The Aboriginal Respondent Parties**

### **2.1 Gia Respondent Party**

Elsie Kyle, Raymond Wake, Patricia Brimble and Marie Coleman represent the Gia respondent party who assert cultural connection, based on ancestry and tradition, to the Designated Area described in this CHMA

### **2.2 Ngaro/Gia/Gia Respondent Party**

Raymond Prior, Sandra Hero, Carol Prior, Diana Ross, Renarta Prior and Charmaine Koroi represent Ngaro/Gia respondent party who assert cultural connection, based on ancestry and tradition, to the Designated Area described in this CHMA

### **2.3 Cultural Heritage Area**

Shute Harbour Marina Development Pty Ltd recognises the cultural connection of the Gia and Ngaro/Gia People to the Designated Area.

Shute Harbour Marina Development Pty Ltd proposes to develop on and adjacent to Lot 2 (SP117389) and Lot 273 (HR1757) (referred to hereafter as the Project Area), Shute Harbour, Queensland **(See Map Appendix A)**.

### **2.4 Obligations to address in Cultural Heritage Management Agreement**

The Cultural Heritage Management Agreement (CHMA) should address and include but not be limited to, the following:

- The obligations of each party (e.g. Aboriginal group, construction company);
- The resources required to implement the CHMA and the responsible group or organisation nominated;
- A section defining the specific terms used so there is no confusion or misunderstanding during the implementation phase;
- An agreed conflict resolution process.
- This process should be fully described so that an agreed process to deal with all potential problems is adequately defined for all parties and covers all phases of the development
- A schedule of project activities and the processes required to implement mitigation option for Aboriginal cultural heritage sites that are located within the project area as well as within areas of Archaeology potential (i.e. auguring and, where applicable, test excavations to determine the nature and extent of the Archaeological material that may be contained within the identified areas);The

- processes required to implement management options for any Aboriginal cultural heritage sites;
- The timing of the implementation of these processes (e.g. allowing adequate time prior to construction activities commencing); Procedures to be followed in the case of accidental discovery of Aboriginal cultural material during the construction phase of the project; and
  - Any other matters reasonably necessary for successfully carrying out activities under the plan or agreement.
  - The CHS Reports have formed the basis for the preparation of this Cultural Heritage Management Plan (CHMP) or Cultural Heritage Management Agreement (CHMA).

## ***2.5 Cultural Heritage Survey***

The CHS survey report has revealed that: -No archaeological evidence for significant Aboriginal cultural heritage sites or materials was discovered during the cultural survey and site inspection of the Shute Harbour Marina development area. This result was not unexpected for two main reasons:

The vast majority of the study site is intertidal and sub-tidal (well below high water mark).

Pedestrian access for the cultural inspection was therefore largely limited to the (elevated) coastal margins of the development area, immediately adjacent to Shute Harbour Road. High tide on the morning of the cultural survey (7<sup>th</sup> March 2008) precluded access to the intertidal zone. Attempts to traverse the intertidal areas at low tide (pm) were not successful due to deep deposits of mud (which generally limited pedestrian access to the most landward margins of the development area).

Previous detailed archaeological surveys of the coastal fringe of the Shute Harbour project area have revealed a very high level of previous surface and subsurface ground disturbance and landscape modification (Barker 1991; Bird 2004).

The most dramatic disturbance has occurred as a result of the construction of Shute Harbour Road and other existing infrastructure (road drainage networks, transmission lines, optical fibre cable, water pipeline, dwellings

and businesses, land reclamation, boat ramps, etc). Barker (1991) noted that development work for Shute Harbour Road has "*completely altered the profile of the shoreline*".

Whilst Barker (1991) located a possible Aboriginal shell midden along the margins of Shute Harbour Road in 1991, he noted that this site was highly disturbed as a result of cutting and filling operations for the construction of Shute Harbour Road. Subsequent attempts to relocate this midden site in 2003/04 have found no evidence of the site within a wide vicinity of the listed GPS coordinates (Bird 2004).

Based on the high level of past disturbance and landscape modification, this current report and several previous archaeological investigations have assessed the overall potential for locating intact Aboriginal cultural sites or materials along the coastal margins of the project area (in both surface and subsurface deposits) as very low to negligible (Barker 1991; Bird 2001, 2002a, 2002b, 2004).

Despite the apparent dearth of tangible Aboriginal archaeological sites or remains in the Shute Harbour Marina project area, the Aboriginal Parties have noted that this coastline retains a high level of cultural significance to them.

Consultation with Gia and Ngaro/Gia Aboriginal Parties has clearly demonstrated that they view the project area as a significant component of the cultural landscape of their traditional homelands. It is important to note that for the Aboriginal Parties, the significance of their homelands is not just manifested in tangible archaeological sites or artefacts. Rather, the cultural significance is manifested in their enduring spiritual 'connection to country'. This connection has not diminished despite the historical dispossession of land. Ngaro/Gia and Gia people are today actively involved in revitalizing their cultural connections to their homelands.



Further to this, the Aboriginal Parties see the natural environment and the cultural landscape as integral parts of the Aboriginal heritage concept. Indigenous cultural values are viewed as being inextricably linked to the natural attributes of the landscape (cf. Ross 1996). 'Sites' of significance to Aboriginal people may include natural features of the landscape or components of the landscape, such as mountain ranges, bays, coastal headlands, river systems, stands of vegetation and rock outcrops. Burke *et. al.* (2000:38) notes that "*generally speaking, virtually all of the land has some inherent significance for Aboriginal people, although sacred and secular sites can possess special Aboriginal significance*".

Ngaro/Gia and Gia Aboriginal Parties have confirmed that the Shute Harbour coastal area (including the Shute Harbour Marina development site) remains culturally significant to them for the following reasons:-

- The area is part of their traditional homelands (land and sea country) and as such retains immeasurable cultural and spiritual values;
- The Aboriginal Parties believe that there is a possibility that intact Aboriginal cultural sites, artefacts or materials may remain in the project area (in the intertidal and subtidal zones, possibly buried within subsurface deposits of mud and other sediments);
- Some highly significant Aboriginal cultural sites (including burials, rock art, ceremonial sites, tidal fish traps, shell middens and stone artefacts) have been recorded in similar coastal settings (sheltered bays) in the Whitsunday region (on the mainland and offshore islands);
- The Aboriginal Parties report that coastal bays such as this one were economically important to the Gia and Ngaro/Gia peoples in traditional times, as fishing grounds, and for hunting and gathering both animal and plant resources. The marine, estuarine and riparian

- environments contained a plethora of birds, fish, shellfish, marine and terrestrial mammals and plant foods;
- Elders report that they have continued to visit the Shute Harbour area and adjacent coastline in contemporary times, to fish, collect shellfish and collect bush tucker and medicines;
  - The Aboriginal Parties are today actively involved in 'caring for country' along the Whitsunday coastline (e.g.: through turtle conservation and monitoring programs, Coast Care and native plant revegetation programs, etc). They maintain an active interest in land/sea management and development projects in their traditional homelands.
  - The results of this current study and previous cultural heritage investigations in the Shute Harbour Marina project area would suggest that the proposed development project is unlikely to have any major detrimental impacts to the Aboriginal archaeological record.
  - However, notwithstanding this purely archaeological assessment, the Gia and Ngaro/Gia Aboriginal Parties maintain their concern that development operations for the proposed project may impact unrecorded surface or subsurface cultural sites or items (especially along the immediate coastal fringe).
  - On this basis, they request that the development proponent appoint Gia and Ngaro/Gia representatives to monitor development operations during dry-land works.

The Aboriginal Parties have raised some queries and concerns relating to the potential long-term impacts of the proposed project on the natural environment of the Shute Harbour area (egg: mangrove and fringing coastal vegetation, turtle populations, fish habitat and other marine fauna,

potential pollution and spillage of oil and diesel in the bay, etc). Feedback on these issues is being provided to Aboriginal Parties as data is gathered during the EIS process.

The cultural report makes several recommendations for follow-up work to address the issues raised (egg: revegetation of reclaimed land areas with local native plants with direction and involvement of Aboriginal Parties, replanting of mangrove species and clean-up of pollution at the public boat ramp).

During the course of this cultural heritage study the Aboriginal Parties did not raise any major concerns, constraints or objections to the proposed development project, provided that the development proponent undertake to implement the recommendations of the cultural heritage report.

## ***2.6 Cultural and Environmental Aspects:-***

### **2.6.1 Recommendation 1:**

The Aboriginal Parties maintain some concerns that Aboriginal archaeological sites or cultural materials (such as stone artefacts) might exist in intertidal and/or subtidal deposits within the Shute Harbour Marina project area.

On this basis, they request that a cultural monitoring/site inspection program be implemented for development operations, including any removal of fringing vegetation along the coastal margins, and the excavation of coastal deposits within the bay.

It is recommended that there be further discussions between the Aboriginal Parties and the proponent regarding the timing, duration, logistics, number of monitoring personnel and administrative arrangements for cultural monitoring, once the proponent and/or their contractors have devised a detailed (post approval) construction management plan.

The Aboriginal Parties have advised that it is important that future cultural monitoring and site inspection programs take into account the fact that two distinct Aboriginal groups, the Gia and Ngaro/Gia peoples, are involved in this cultural heritage project.

On this basis, they request that field officer representation in cultural monitoring programs is always equally divided between these two groups.

It is noted that from a purely archaeological perspective the overall potential for locating intact Aboriginal archaeological sites or materials within the intertidal and subtidal project area is assessed as low.

It is also noted that the cultural monitoring program will be influenced by practical logistical issues such as gaining access to the development site for monitoring and inspection purposes (given that the site must be drained prior to development works and it has deep deposits of mud and sediments).

On this basis, it is recommended that cultural monitoring of development operations and excavation works be targeted to dry-land development works (once the work site is drained).



### **2.6.2 Recommendation 2:**

In the event that any Aboriginal cultural heritage sites, materials or values are discovered during development operations and /or cultural monitoring, the following recommendation should apply:-

- All development work and other activities at that location should cease, pending a thorough inspection of the find/s by Aboriginal Parties representatives. Optimally, the finds should be demarcated and protected from any potential impacts with pegs, flagging tape and/or other appropriate temporary barriers with a reasonable buffer area around them (the 'reasonable' buffer zone to be determined by the Cultural Monitors, Site Supervisor and/or other appropriate on-site personnel). Development work can continue outside the demarcated buffer zone. Following their assessment of the find/s, the Aboriginal Parties will provide advice on appropriate management action. Depending on the cultural significance of the find/s, the Aboriginal Parties and/or the development proponent may wish to seek independent technical advice from the project archaeologist and/or the Cultural Heritage Coordination Unit, Department of Natural Resources and Water. Development work at the location of the finds should not recommence until appropriate cultural heritage management action has been implemented to the satisfaction of all stakeholders.

### **2.6.3 Recommendation 3:**

In the unlikely event that human skeletal material is discovered during development works, it is recommended that all development operations cease immediately within 100 m of the remains. Optimally, the finds should be demarcated and protected from any potential impacts with pegs, flagging tape and/or other appropriate temporary barriers. The

Queensland Police, Cultural Heritage Coordination Unit of the Department of Natural Resources and Water, as well as Aboriginal Parties representatives should be contacted as a matter of urgency. Currently, the Queensland Police, Department of Natural Resources, Water, and Aboriginal Parties have established policy and procedures to ensure that confirmed indigenous burials are treated in a manner consistent with Aboriginal traditions. Minimal disturbance to the remains should be a priority, and advice should be sought from respondent Party Aboriginal Elders on ways to deal with the material in a culturally appropriate and sensitive manner. A copy of the Department of Natural Resources and Water 'Draft Burial Policy' is available from DNRW and/or the project archaeologist.

#### **2.6.4 Recommendation 4:**

Personnel and contractors involved in the development project should undertake a cultural heritage induction prior to commencement of development operations. Workers must be provided with information on the types of Aboriginal cultural heritage sites likely to be found in the project area, along with specific guidelines to follow in the event of the discovery of cultural finds, or suspected cultural finds. Workers should be made aware of the provisions of the *Aboriginal Cultural Heritage Act 2003* and in particular, the 'Duty of Care Guidelines' under this legislation.

#### **2.6.5 Recommendation 5:-**

The Aboriginal Parties request that the proponents undertake to vegetate the (reclaimed) development site with local native plant species to enhance the natural, cultural and aesthetic values of the development site.

The Aboriginal Parties wish to contribute their ethnobotanical knowledge and expertise in selecting appropriate native plants (including traditional

bush tucker and medicinal plants) and in designing and landscaping the project site, as well as providing hands-on labour for such works.

#### **2.6.6 Recommendation 6:-**

Mangroves currently located along the foreshore and intertidal zone in the Shute Harbour Marina development area are to be cleared and removed as part of the development project. The Aboriginal Parties have noted their preference for the proponent to implement works to replant mangroves along the margins of the (reclaimed) development land, in preference to waiting for the natural regrowth of this vegetation (which may take many years). The Aboriginal Parties have indicated that they would like to be actively involved in mangrove replanting and revegetation works.

#### **2.6.7 Recommendation 7:-**

The Aboriginal Parties request that the development proponent make a commitment to clean up rubbish and pollution along the Shute Harbour foreshore and the margins of the Shute Harbour Marina development area.

### ***2.7 Cultural Aspirations and Other Issues:-***

#### **2.7.1 Recommendation 8:-**

The Aboriginal Parties request that the proponent consider using appropriate interpretative signage within the proposed development as a means to recognize and acknowledge the Aboriginal Parties of the project area and the Whitsunday region. The Aboriginal Parties have suggested that interpretative signage might include language names for the project area and its natural features (e.g.: the bay, local plants, terrestrial and marine animals, etc). Signage might also include information on the cultural values of the project area and its place in the wider cultural landscape of the Whitsunday region. To this end, it is recommended that

the proponent continue to consult with Elders and other knowledgeable Aboriginal Parties regarding appropriate language names for incorporation at the project site.

#### **2.7.2 Recommendation 9:-**

The Aboriginal Parties have entered into discussions with the development proponent regarding the establishment of a Cultural Centre and 'Yarning Circle' as part of the Shute Harbour Marina Development project. Discussion between the parties is continuing at the current time and outcomes will be incorporated into the Cultural Heritage Management Plan and associated agreements between the parties.

It is noted that all cultural and intellectual property rights associated with the establishment and operation of any such Cultural Centre will always remain with the Gia and Ngaro/Gia Aboriginal Parties.

The Cultural Centre and Yarning Circle will be a multi-functional space. Some intended uses may include the sale of indigenous arts and crafts, cultural displays, and performance area for cultural dancers, meeting place, tourist interpretative centre, business/administrative base and a keeping place for significant cultural items and artefacts.

#### **2.7.3 Recommendation 10:-**

The Aboriginal Parties have advised that they wish to have further discussions with the development proponent, the Whitsunday Shire Council and any other relevant stakeholders (as required) regarding the future use of the strip of land on the northern side of Shute Harbour Road (land currently proposed to be returned to public ownership). Specifically, the Aboriginal Parties have noted that they intend to seek support from the development proponent in acquiring ownership and/or use of the land at Lot 273 on HR1757 (currently zoned commercial), with a view to establishing an art and craft workshop and cultural workspace, to support



the planned Cultural Centre identified and agreed with the proposed Shute Harbour Marina Development Project and Shute Harbour Marina Development Pty Ltd. Should the identified land not be available an alternative, suitable area is requested.

#### **2.7.4 Recommendation 11:-**

The Aboriginal Parties have requested that the development proponent enter into further discussions with them regarding future employment, training, tendering and other potential economic opportunities for the construction and operational phases of the development project. In particular, the Aboriginal Parties would like to seek assistance/preferred opportunities from the proponent in tendering for future contracts associated with the project (e.g.: landscaping and revegetation works, building works, security contracts, caretaking and management roles, etc).

#### **2.7.5 Recommendation 12:-**

As per the provisions of Part 7 of the *Aboriginal Cultural Heritage Act 2003 (ACHA)* it is recommended that the above-listed recommendations are incorporated into a Cultural Heritage Management Plan (CHMP) for the proposed development project, to be signed by the 'endorsed Aboriginal parties' (or their nominated representatives) and representative/s of the development proponent.

### **2.8 This Cultural Heritage Management Agreement (CHMA)**

This Cultural Heritage Management Agreement (CHMA) addresses and includes but is not limited to, the following:

- The obligations of each party (e.g. Aboriginal groups, construction company);
- The resources required to implement the CHMA and the responsible group or organisation nominated;

- A section defining the specific terms used so there is no confusion or misunderstanding during the implementation phase;
- An agreed conflict resolution process. This process will be fully described so that an agreed process to deal with all potential problems is adequately defined for all parties and covers all phases of the development;
- A schedule of project activities;
- The processes required to implement mitigation options for Aboriginal cultural heritage sites that are located within the project area as well as within areas of Archaeology potential (i.e. auguring and, where applicable, test excavations to determine the nature and extent of the Archaeological material that may be contained within the identified areas);
- The processes required to implement management options for any Aboriginal Cultural Heritage sites;
- The timing of the implementation of these processes (e.g. allowing adequate time prior to construction activities commencing);
- Procedures to be followed in the case of accidental discovery of Indigenous cultural material during the construction phase of the project; and
- Any other matters reasonably necessary for successfully carrying out activities under the Cultural Heritage Management Plan or Cultural Heritage Management Agreement.

The CHS Report and Aboriginal Parties consultation has formed the basis for the preparation of this Cultural Heritage Management Plan (CHMA) or Cultural Heritage Management Agreement (CHMA)

### 3 TERMINOLOGY

Where items in this Section are italicised, they are further defined in this listing.

**Aboriginal Party:** Refers to the Gia and Ngaro/Gia peoples represented by the respondents as listed in this CHMA.

**Aboriginal Tradition:** Means the body of traditions, observances, customs, values and beliefs of Aboriginal people generally or of a particular community or group of Aboriginal people, and includes any such traditions, observances, customs or beliefs relating to particular persons, areas, objects or relationships.

**Act:** Means the *Aboriginal Cultural Heritage Act 2003 (QLD)*.

**Archaeologist:** Refers to the Archaeologist appointed for the project (in accordance with **Section 31**).

**Artefact Scatter:** Means an isolated artefact.

**Aspirations:** Means a desire or ambition to maintain, celebrate and share Aboriginal Parties culture through social enterprise opportunities and programs during the construction and operation of SHMD.

**Business Day:** Means any day, other than a Saturday, Sunday or Public Holiday

**CHMA:** Means this Cultural Heritage Management Agreement.

**CHS:** Refers to the Cultural Heritage Surveys of the Project Area undertaken by Northern Archaeology Consultancies Pty Ltd.

**CHS Report:** Refers to the reports prepared by Northern Archaeology Consultancies Pty Ltd following the completion of the Cultural Heritage Surveys referred to in **Section 2.5** of this CHMA.

**Commencement Date:** Refers to the date on which this *CHMA* is signed by the Respondent and Sponsor (Development Proponent) *Parties*.

**Confidential Information:** means the following:

- a) All anthropological or ethnographic information, and information concerning indigenous law and custom, cultural heritage and areas of traditional significance relating to the respondent Aboriginal groups; and
- b) Any commercial information of a confidential nature relating to business and financial activity of the sponsor, including but not limited to information about the sites inspected under cultural heritage conditions; which is received in writing or acquiring writing, orally or through observation, and is identified as being confidential or is received or acquired in circumstances which the recipient ought reasonably to have known that the information should be confidential;

**Construction:** Refers to all construction activities associated with the *Project* by contractors or sub-contractors employed by Shute Harbour Marina Development Pty Ltd.

**Construction Personnel:** Refers to senior construction personnel nominated by Shute Harbour Marina Development Pty Ltd involved in initial ground clearing / earthworks within the Project Area.

**Complete Documentation:** means authorisation to sign formal CHMA Agreement on behalf of Sponsor Development Proponent (**Refer Appendix B**)

**Cultural Heritage:** Has the same meaning as that under the Act;

**Cultural Heritage Activities:** Means the training, monitoring and assessment activities including Cultural Heritage Management Plan Implementation and Review Committee.

**Cultural Heritage Management Plan (CHMP):** Refers to this Cultural Heritage Management Plan or Cultural Heritage Management Agreement.

**Cultural Heritage Monitoring Program (CHMOP):** Refers to the planning scheduling and reporting program to guide the delivery of Cultural Heritage monitoring

**Cultural Heritage Site:** refers to the following:

- a) an object (including Aboriginal burial remains) of significance to Aboriginal people in accordance with *Aboriginal tradition* including objects, natural or artificial, that were used for, or adapted for, any purpose connected with traditional cultural life of Aboriginal people past or present;
- b) an area that is of particular significance to Aboriginal people in accordance with Aboriginal tradition; or



c) an area which is or was associated with the Aboriginal people and, which should be preserved because of its significance.

**Cultural Heritage Team:** Refers to a **equally represented** from the Gia respondent party and the Ngaro/Gia respondent party and an *Archaeologist* Elders and Coordinators who will undertake further cultural heritage work if required within the *Project Area* as outlined in this CHMA. Monitoring will be undertaken as per the Self-determination fixed price contract arrangement contained within.

**Cultural Officer:** Refers to the Cultural Officer responsible for cultural heritage coordination appointed by Shute Harbour Marina Development Pty Ltd for the project in accordance with **Section 26**.

**Dispute:** means a dispute between Parties with respect to this CHMA or any of its provisions

**Dispute Notice:** Means a notice given by either Party under **Clause 18.2**.

**End Date:** Means the date on which all construction activities by Shute Harbour Marina Development Pty Ltd within the *Project Area* have ceased, or a date specified by way of written notice from Shute Harbour Marina Development Pty Ltd to the Aboriginal Parties representing Gia and Ngaro/Gia people, whichever is the earlier.

**Environmental Impact Assessment (EIS):** Means the EIS for Shute Harbour marina Development declared by the Coordinator-General declared as a 'significant project' for which an Environmental Impact Statement (EIS) is required in accordance with Part 4 of the *State Development and Public Works Organization Act 1971*.

The EIS also refer to The Commonwealth Minister for the Environment and Heritage decision that the project is a 'controlled action' and subject to assessment under the provisions of the *Environment protection and Biodiversity Conservation Act 1999 (Commonwealth)*.

It also refers to matters arising from The Commonwealth Minister's decision, that the project constituted a controlled action under Section 75 of the EPBC Act.

An EIS is an assessment of the likely positive and/or negative influence a project may have on the environment. "Environmental Impact Assessment can be defined as: The process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made." The purpose of the assessment is to ensure that decision-makers consider environmental impacts before deciding whether to proceed with new projects. This CHMA is subject to EIS approval and development Approvals by the Whitsunday Regional Council

**Execution Date:** means the day on which this CHMA is executed by the parties and if executed on different days, the later of those days.

**Find:** Means any artefact that Shute Harbour Marina Development Pty Ltd and the Aboriginal Parties suspect is cultural heritage other than suspected human remains.

**GST:** has the meaning given to the Australian Taxation System (Goods and Services Tax)

**Keeping Place:** Means a secure place for the storage of any cultural heritage to be provided by Shute Harbour Marina Development Pty Ltd during the surface disturbance works as described in this CHMA.

**Lease:** means the grant of a term lease under the Shute Harbour Marina Development Community Title arrangements for the Cultural Centre and Yarning Circle; performance space.

**Monitor:** Refers to representatives from the Aboriginal Respondent Parties who will perform the services of a *Monitor* during the surface disturbance phase of the *Construction* phase of the *Project* as outlined in this CHMA.

**Monitoring Roster:** Refers to the Monitoring Roster for the nominated *Monitors*.

**NR&W:** Means the Queensland State Department of Natural Resources and Water, formerly the State Department of Natural Resources, Mines and Water.

**Parties:** Means Shute Harbour Marina Development Pty Ltd and the Aboriginal Parties representing Gia and Ngaro/Gia People.

**PPE :** means Personal Protection Equipment

**Pre-Construction:** Means all activities undertaken prior to the commencement of *Construction*.

**Project:** Refers to all activities, including pre-construction and construction and operation within the *Project Area* by the Shute Harbour Marina Development Pty Ltd or its agents or sub-contractors.

**Project Area:** Refers to on and adjacent to Lot 2 SP117389 and Lot 273 HR 1757, Shute Harbour, Queensland.

**Public Holiday:** has the meaning given in the Acts Interpretation Act 1954 (QLD)

**Receipt date:** means the day on which a Dispute Notice is taken to have been received in accordance with **Clause 18.2**

**SHMD:** Refers to Shute Harbour Marina Development Pty Ltd.

**SHMDABDP:** Means Shute Harbour Marina Development Aboriginal Business Development Program detailed in the Aspirations Section of this CHMA. **Refer Clause 54.3**

**Shute Harbour Marina Development Pty Ltd:** Refers to the Shute Harbour Marina Development Pty Ltd including its employees, contractors, agents, subsidiaries, invitees from time to time or assignees or successors.

**Significant Aboriginal Area:** Has the meaning given to it in the *Aboriginal Cultural Heritage Act 2003*.

**Significant Aboriginal Object:** Has the meaning given to it in the *Aboriginal Cultural Heritage Act 2003*.

**Site Manager/Officer:** Refers to a person nominated by Shute Harbour Marina Development Pty Ltd who will fulfil the role of Site Manager/Officer as outlined in **Section 27**

**Sponsor:** means Shute Harbour Marina Development Pty Ltd or Developer Proponent

**State:** means the State of Queensland

**Supplier:** has the meaning given in the Australian Taxation System (Goods and Services Tax) Act 1999 Commonwealth

**Tax Invoice:** has the meaning given in the Australian Taxation System (Goods and Services Tax) Act 1999 Commonwealth

**Work Schedule:** Refers to the Work Schedule prepared by Shute Harbour Marina Development Pty Ltd, which outlines the timing of, and activities associated with the *Project*.

### **3 INTRODUCTION TO THIS CHMA**

- 3.1** The Project Area is on land and water, which has cultural heritage significance to the Aboriginal Parties representing Gia and Ngaro/Gia People.
- 3.2** This Cultural Heritage Management Agreement commences on the Commencement Date, and ends on the End Date.
- 3.3** The Parties, by mutual agreement, may amend in writing the CHMA to remedy provisions that have been found to be unsatisfactory.
- 3.4** This CHMA provides information on the roles and responsibilities of the Shute Harbour Marina Development Pty Ltd and the Gia respondent party and Ngaro/Gia respondent party to facilitate co-operation between the parties and address cultural heritage issues within the Project Area and any issues, which may arise during both the Project's construction and operation.
- 3.5** This CHMA comprises five distinct elements:
- (1) Objectives of the CHMA;
  - (2) Principles of Cultural Heritage Management;
  - (3) Responsibilities of each party to this CHMA; and
  - (5) Aspirations social enterprise for long-term partnerships with SHMD and Aboriginal Parties sustained culture inherited from past generations, maintained in the present and bestowed for the benefit of future generations.
- 3.6** Headings in this CHMA are for convenience only, and do not affect interpretation.
- 3.7** A singular word includes the plural and vice versa.
- 3.8** A word, which suggests one gender includes the other gender;
- 3.9** If a Party to this document is made up of more than one person, or a term is used in this document to refer to more than one Party:
- (a) an obligation of those persons is joint and several; and
  - (b) a right of those persons is held by each of them severally.
- 3.10** This CHMA is being undertaken under Part 7 of the *Aboriginal Cultural Heritage Act 2003*. It covers Shute Harbour Marina Development Pty Ltd Indigenous cultural heritage compliance obligations in relation to all Aboriginal Cultural Heritage including all Significant Aboriginal Objects and Significant Aboriginal Areas in the



Project Area. This CHMA covers all Shute Harbour Marina Development Pty Ltd activities in the Project Area;

**3.11** The respondents representing Gia and Ngaro/Gia people warrant that they constitute the Aboriginal Party for the purposes of the *Aboriginal Cultural Heritage Act 2003* in relation to all parts of the Project Area which this CHMA relates, and further that they:

- (a) have particular knowledge about traditions, observances, customs or beliefs associated with the Project Area; and
- (b) either they:
  - (i) have responsibility under Aboriginal tradition for some or all of the Project Area, or for Significant Aboriginal Objects located or originating in the Project Area; or
  - (ii) are members of a family or claim group that is recognised as having responsibility under Aboriginal tradition for some or all of the Project Area, or for Significant Aboriginal Objects located or originating in the Project Area.

## 4 STATUTORY REQUIREMENTS

- 4.1** This CHMA is agreed between the parties on the basis that it is in conformity with the *Aboriginal Cultural Heritage Act 2003*;

The Act defines Aboriginal Cultural Heritage as anything that is:

- (a) a significant Aboriginal area in Queensland; or
  - (b) a significant Aboriginal object; or
  - (c) evidence, of Archaeology or historic significance, of Aboriginal occupation of an area of Queensland.
- 4.2** Should human remains be uncovered during the project then legal provisions as laid down in the Coroner's Act, Police requirements and policies as well as the *Aboriginal Cultural Heritage Act 2003* would apply. This requires the Police and Department of Natural Resources and Water to be contacted **(see Section 34 of this CHMA)**

## 5. COMPLIANCE WITH THE ACT

- 5.1.** The parties acknowledge that:

- a) Shute Harbour Marina Development has a duty of care with respect to Cultural Heritage pursuant to the Act;
- b) The Aboriginal Parties and their representatives will participate in the Cultural Heritage Activities in accordance with obligations arising from their asserted traditional laws and customs.

- 5.2** The Parties have:

- a) consulted and negotiated about issues to be addressed in the CHMA's development about the terms of the CHMA; and
- b) made every reasonable effort to reach agreement about the contents of the CHMA.

- 5.3** Cultural Heritage Activities maximise the suitability of the management arrangements for the effective protection and conservation of cultural heritage in the CHMA Area.

## **5 Aboriginal Respondents Bound in this Cultural Heritage Management Agreement**

### ***5.1 Gia Respondent Party***

This CHMA binds parties:

Elsie Kyle, Raymond Wake, Patricia Brimble and Marie Coleman, representatives of Gia people as listed as respondent party, acknowledge and agree that:

- a) they are authorised as a representative of Gia People to enter into the CHMA and by entering this CHMA bind the Gia People.
- b) prior to signing this CHMA, they received independent advice in respect to this CHMA.
- c) Queensland Cultural Heritage and Native Title Management Services Pty Ltd (QCHANTMS) ABN: 67 126 281 043 / ACN 126 281 043 is authorised to manage the administrative and financial arrangements during the construction monitoring phase detailed in this CHMA and by entering this CHMA bind this organisation;
- d) Raymond Wake respondent to this agreement has tabled a proxy permitting Raylene Van Veen (nee Wake) to be bound by this Agreement of his behalf (**Refer Appendix I**)

### ***5.2 Ngaro/Gia Respondent Party***

CHMA binds parties:

Raymond Prior, Sandra Hero, Carol Prior, Diana Ross, Renarta Prior and Charmaine Koroi, representatives of Ngaro/Gia people as listed as respondent party, acknowledge and agree that:

- a) they are authorised as a representative of Ngaro/Gia peoples to enter into the CHMA and by entering this CHMA bind the Ngaro/Gia People.
- b) prior to signing this CHMA, they received independent advice in respect to this CHMA.
- c) Gudjuda Reference Group Aboriginal Corporation ABN: 65 884 273 677 is authorised to manage the administrative and financial arrangements during the construction phase detailed in this CHMA and by entering this CHMA bind the Ngaro/Gia People;
- d) Diana Ross responded to this Agreement has tabled a proxy to Cilla Pryor to be bound to this CHMA on her behalf (**Refer Appendix K**)

### **5.3 Shute Harbour Marina Development Pty Ltd Sponsor Party**

3.3.1 Shute Harbour Marina Development Pty Ltd acknowledges and agrees that it is authorised to enter into and is bound by this CHMA.

3.3.2 David Quinlan, Project Manager, Shute Harbour Marina Development Pty Ltd has been authorised by Shute Harbour Marina Development Pty Ltd for the Shute Harbour Marina Projects Designated Area.

## **6 OBJECTIVES**

The objectives of this CHMA are:

1. To provide procedures to implement recommendations contained within Northern Archaeology Consultancies' (2008) report on a Cultural Heritage Survey of the Project Area of Lot 2 Sp117389 and Lot 273 HR 1757;
2. To provide procedures to identify protect and / or manage cultural heritage sites that are or may be uncovered within the Project Area;
3. To involve the Aboriginal Respondent Parties and their nominated Cultural Heritage team (monitors) in the management of Aboriginal cultural heritage sites, including those within or that may be uncovered within the Project Area;
4. To provide procedures to satisfy all relevant statutory requirements;
5. To set Agreements in place in relation to work required as outlined in this CHMA; and
6. To allow Shute Harbour Marina Development Pty Ltd to fulfil its commercial obligations and objectives.
7. SHMD voluntarily seeks to actively support the respondent Aboriginal Parties identified Aspirations in this CHMA by actively contributing to their realisation and including guiding principles and opportunities in this CHMA.
8. The Aboriginal Respondent Parties acknowledge that the SHMD 's voluntary support and active contribution towards assisting the Aboriginal Parties attain their Aspirations as defined in this CHMA is beyond the legislative requirements and obligations of Duty of Care as a sponsor as defined under the Queensland Cultural Heritage Act and acknowledges the collaborative partnerships fostered in this Agreement.



## 7 PRINCIPLES OF CULTURAL HERITAGE MANAGEMENT

To achieve the objectives in **Section 6.0**, the following principles of Aboriginal Cultural Heritage Management are to be adopted:

1. An attitude of respect, understanding and value for cultural heritage materials specifically and of Aboriginal culture in general. This attitude is fundamental to effective cultural heritage management. To facilitate an awareness of Aboriginal Cultural Heritage, a suitable induction program will be included for all construction personnel associated with and involved in the Project;
2. Acknowledgment by all parties that the project has the potential to damage Aboriginal cultural heritage sites that are or may be present in the Project Designated Area and hence the necessity to implement a series of actions and procedures to minimise or manage the potential impact of the Project on any cultural heritage sites that are or may be uncovered during the Project;
3. Aboriginal cultural traditions will be acknowledged and cultural heritage values will be conserved, protected and / or managed in accordance with statutory requirements (**Refer Section 6.0**);
4. The impact of the Project on any Aboriginal cultural heritage sites that are or may be present within the Project Designated Area will be managed through Cultural Heritage Management procedures as agreed between the Parties and as outlined in this CHMA;
5. Acknowledgement of the cultural significance of Aboriginal Cultural Heritage sites to the Gia and Ngaro/Gia People;
6. Acknowledgement that the cultural heritage management strategies must be practical and realistic and take account of commercial realities; and
7. Acknowledgment that cultural and intellectual property rights associated with Aboriginal Parties cultural heritage sites remains the property of the Gia and Ngaro/Gia People bound by this Agreement through the respondent parties.

With these principles in mind, this CHMA seeks to:

- a) Ensure direct involvement of the Gia and Ngaro/Gia People through the respondent Aboriginal parties in the development and implementation of this CHMA;

- b) Ensure direct involvement of Gia and Ngaro/Gia People through the respondent Aboriginal parties in all actions deemed necessary to identify, protect and / or manage any cultural heritage sites that are within or may be uncovered in the Project Designated Area during surface disturbances construction activities; and
- c) Engage, when appropriate, professional expertise such as an Archaeologist.

## 8 RESPONSIBILITIES

It is important that all parties understand and accept their responsibilities under the CHMA.

Detailed **Sections 24 & 25** are those responsibilities as they relate to Shute Harbour Marina Development Pty Ltd and the Gia and Ngaro/Gia People through the respondent Aboriginal parties.

## 9 THE PROJECT

This CHMA covers all activities associated with the construction of the Project that will cause surface disturbance.

This CHMA also covers activities associated with the principles and implementation of agreed Aspirations/Social Enterprise Arrangements contained within this CHMA - **Refer Section 55.**

To be clear, the CHMA does not cover any activities:

- a) that do not cause surface disturbance along coastal margins as per recommendations detailed in the cultural heritage survey report; or
- b) that are not associated with the construction of the Project.

To be clear, the CHMA has an attached set of guiding principles and Social Enterprise arrangements to advance described Aboriginal Parties Aspirations. The CHMA does not cover any activities:

- c) that are not associated with the development and implementation of agreed Aspirations/Social Enterprise Arrangements outlined in this CHMA

## **10 IMPLEMENTATION OF THE CHMA**

The CHMA sets out all the arrangements that exist between the Parties with respect to the management of Cultural Heritage in the CHMA Designated Area. Any such amendment will be effective only if the amendment is:

- a) made in writing and signed by all the Parties; and
- b) recorded by way of replacement of, addition to or subtraction from, the land marked as the CHMA Designated Area on the maps contained in this CHMA refer

## **11 Release and Waiver**

By undertaking the Cultural Heritage Activities set out in the CHMA, the Aboriginal respondent party agree that they will not attempt to obtain stop orders or injunctions to prevent the Project from being undertaken provided that SHMD complies with the guidelines set out by Cultural Heritage Act .

Shute Harbour Marina Development Pty Ltd will carry out the project in accordance with the provisions of this CHMA.

However, if

- a) either Parties are in dispute; or
- b) either Party do not fulfil some or all of their obligations under this CHMA, the other Party agrees to continue to carry out the Project in accordance with its obligations under this CHMA, to the extent that is reasonable or practicable to do so.

## **12 COMMENCEMENT OF TERM**

### **12.1.1 Commencement**

This CHMA commences from the date that it is signed by all identified Parties.

### **12.1.2 CHMA Operational Period**

This CHMA will continue to operate until all activities associated with the Construction that cause surface disturbances have been completed and the Aspirations Implementation phase of the Project as detailed in this Agreement.

### **12.1.3 Phases of CHMA**

**To be clear,** this CHMA has two distinct phases in its implementation:

- a) Activities associated with construction that causes surface disturbances.
- b) The Governance partnership and business planning to realise Aspirations as described in this CHMA
- c) The implementation of the Aspirations to independent commercial management of business enterprises by Gia and Ngaro/Gia people as defined in this CHMA

## **13 INTELLECTUAL PROPERTY**

1. The intellectual property of any information regarding the Cultural Heritage clause of the CHMA Designated Area will not pass to Shute Harbour Marina Development Pty Ltd.

## **14 CONFIDENTIALITY**

Each Party undertakes not to disclose 'Confidential' information without the written consent of each of the Parties unless:

- (a) It is required by law; or
- (b) It becomes public knowledge (other than in breach of this clause);
- (c) it was received from another person having unrestricted legal right to disclose the information
- (d) It is disclosed to the Parties accountants, financiers, financial institutions, legal advisors, or employees on their undertaking to keep the information confidential in accordance with this agreement.
- (e) to enable the carrying out of the Project; or
- (f) as agreed in writing by all parties.
- (g) any information that is provided by a Party to another Party that is not available on the public record and that is identified as being "confidential" will not be disclosed

## **15 Release of Public Information**

The Parties agree to release details of the CHMA negotiations process and cultural aspirations model to advance the sustainability of the Aspirations Social Enterprise Arrangements, Development Approvals and Environmental Impact Assessment purposes, economic viability requirements, and profile the positive partnership arrangements developed and as described in this CHMA.

## **16 Media**

All parties endorse mutually agreed proactive media whereby the Aspirations, partnerships and community relations may promote or profile the guiding principles and partnership activities in this CHMA including the Aspirations Agreement as described in this CHMA

## **17 AMENDMENT**

This CHMA may only be amended by a written agreement between all the Parties.



## **18 ASSIGNMENT AND NOVATION**

1. SHMD may assign or novate its rights and obligations under this CHMA in whole or in part to any other party, or related body corporate to such party, who requires or holds an interest in the Project and who agrees to be bound by SHMD's obligations under the CHMA:
  - (a) other than its rights and obligations and
  - (b) without the consent of Gia and Ngaro/Gia Peoples through the respondent Aboriginal parties.
- 2 Once the other Parties have agreed to accept such obligations, SHMD will no longer be bound by those obligations.
- 3 SHMD will ensure that any other Party to whom this CHMA is assigned is aware of its obligations under the CHMA and will monitor the implementation of the CHMA by that other Party.
- 4 SHMD will ensure that the other party formal enters into a written agreement as is bound to this agreed CHMA between all parties
- 5 SHMD will notify the Aboriginal Parties within fourteen working days of their intent to novate its rights and obligations (in whole or in part) to any other party.

## **19 DISPUTE RESOLUTION**

### ***19.1 Dispute Procedures***

If a dispute arises in the course of implementation of this CHMA the following procedures will apply:

- (a.1) Wherever possible, issues will be negotiated directly between the Cultural Heritage Team and / or Monitor and Shute Harbour Marina Development Pty Ltd Site Manager/Officer or Cultural Officer during the surface disturbance construction phase and
- (a.2) Wherever possible, issues will be negotiated directly between the Cultural Heritage Team and / Monitor and Shute Harbour Marina Development Pty Ltd Marina Manager during the operational phase
- (b) If these discussions are unsuccessful, the issues will be referred to the CHMA Implementation and Review Committee.
- (c) A dispute will be deemed to exist only after those discussions have failed to resolve the matter.

### ***19.2 Dispute Notice:***

If a dispute arises under this CHMA, the Party alleging the dispute will send a written Dispute Notice to all other Parties, setting out the terms of the dispute.

### ***19.3 Dispute Resolution Meeting:***

The parties will then convene a meeting within three (3) business days of receipt of the Dispute Notice to attempt to resolve the dispute.

### ***19.4 Mediation:***

If the Parties are unable to convene a meeting(s) within three (3) business days of receipt of the Dispute Notice and/or are unable to reach agreement at such meeting(s) within five (5) business days of receipt of the Dispute Notice, the Parties may appoint a mutually agreeable mediator, or either Party may request that the Department of Natural Resources and Water appoint a mutually agreed mediator to provide mediation assistance to resolve the dispute between the Parties.

### ***19.5 Participation in Meetings:***

The Parties agree to participate in any agreed dispute resolution meeting(s) or mediation in an open and conciliatory manner and to endeavour to reach a mutually acceptable compromise to the issues in dispute.

## **20 CONTRACT OFFICERS**

### ***20.1 Nominated Contract Officers***

- a) The Aboriginal Parties have each appointed a Contract Officer to whom all administrative communications required under this CHMA are to be directed.
- b) The nominated Aboriginal Parties Contract Officers are:
  - i. Contract Officer Eddie Smallwood as the representative of the Gudjuda Reference Group Aboriginal Corporation ABN 65 884 272 677 (Refer Appendix D)
  - ii. Contract Officer David Mailman as the representative of the Queensland Cultural Heritage and Native Title Management Services Pty Ltd (QCHANTMS) ABN: 67 126 281 043/ ACN: 126 281 043. (Refer Appendix F)
- c) All Parties are entitled to rely upon advice provided by the Contract Officers as the informed and final decision of the respondent Aboriginal Party the Contract Officers are nominated to represent, and any advice provided by an approved Contract Officer will bind the relevant Party to act in accordance with the terms of the advice provided consistent with the conditions detailed in this CHMA.

## 21 General

### **21.1 Full Effect CHMA**

Each Party must do all things reasonably necessary to give full effect to this CHMA

### **21.2 Waiver**

A right given under this CHMA may only be waived in writing, executed by the party giving the waiver

This CHMA can only be varied by written agreement executed by each party

### **21.3 Provisions**

22.3.1 If part or all of any clause of this CHMA is void, illegal or enforceable, that part may be severed from this CHMA and the remaining provisions of this CHMA continue to bind all parties to the CHMA

22.3.2 This CHMA constitutes the entire agreement between the parties and may only be superseded by varied agreement by written agreement by each party and mutually agreed through the CHMA Implementation and Review Committee (Refer Section 20)

## **22 Non-Indigenous Heritage Management Plan**

- a) While this CHMA compliments the overall cultural heritage objectives of the site, SHMD will also develop a **non-Indigenous Heritage Management Plan for the site.**
- b) Shute Harbour Marina Development Pty Ltd will acknowledge that this CHMA is a separate agreement between the Aboriginal Parties and SHMD to that of a non-Indigenous Heritage Management Plan.

## **23 NOTICES**

### ***23.1 Execution of Notices***

All notices to be given under this CHMA are deemed to have been properly given to the other Party if those notices are signed by the nominated Contract Officer or CHMA Implementation and Review Committee representative and provided to the other Party's Contract Officer or CHMA Implementation and Review Committee representative in writing:

- (a) if delivered by registered post the relevant Party's address/es (Refer Appendix L-) two (2) business days after posting; or
- (b) if delivered by fax – upon receipt of a fax transmission report that indicates the fax has been received; or
- (a) if delivered by email – the following business day after sending, if no email delivery error message has been received in that time; or
- (b) if delivered in person – immediately upon delivery.

## **24 RESPONSIBILITIES OF SHUTE HARBOUR MARINA DEVELOPMENT PTY LTD**

Shute Harbour Marina Development Pty Ltd will:

### ***24.1 Employment of a Cultural Officer***

24.1.1 Shute Harbour Marina Development Pty Ltd will employ a full-time Cultural officer for the proposed two year construction period for the purposes of cultural heritage coordination and preparatory Aspirations realisation work in consultation with the CHMA Implementation and Review Committee.

24.1.2 The position will be advertised and selected based on merit

24.1.3 The CHMA Implementation and Review Committee will provide advice in relation to the development of the advertised position description and interview for successful recruitment of an agreed identified (Gia/Ngaro will be strongly encouraged to apply) position-Cultural Officer.



24.1.4 The Cultural Officer will be the point of contact between the CHMA Implementation and Review Committee, Respondent parties and Contract Officers, Cultural heritage Team and Shute Harbour Marina Development Pty Ltd personnel and contractors.

## **24.2 Comply with Obligations and Notification to Construction Personnel**

SHMD will undertake all obligations as outlined in this CHMA and advise all Construction Personnel of:

- a) Construction personnel responsibilities outlined in this CHMA;
- b) Shute Harbour Marina Development Pty Ltd responsibilities under this CHMA; and
- c) The roles and responsibilities of the Cultural Officer, Cultural Heritage Team and/or Monitors in implementing this CHMA;
- d) Construction personnel will not impede or obstruct the operations of the Cultural Officer, Cultural Heritage Team and/or Monitors where they are acting in accordance with this CHMA and any Workplace Health and Safety policies established for the Project;
- e) Provide induction for the Cultural Officer, Cultural Heritage Team and/or Monitors compliant with Work Place Health and Safety in accordance with the *Workplace Health and Safety Act 1989*;
- g) Provide any reasonable information required by the Aboriginal Respondent Parties and their representatives on the CHMA Review and Implementation Committee to implement this CHMA.

## **25 RESPONSIBILITIES OF ABORIGINAL RESPONDENT PARTIES**

### ***25.1 Nomination of CHMA Implementation and Review Committee***

The responsibilities of the Aboriginal Respondent Parties are to:

- a) Nominate two (2) representatives from their respondent party with the appropriate skills and/or experience to act as CHMA Implementation and Review Committee Members.
- b) The nominated Respondent Parties Contract Officers shall be the delegated liaison for communication between Shute Harbour Marina Development Pty Ltd and the Aboriginal respondent Parties as agreed in this CHMA. Shute Harbour Marina Development Pty Ltd is entitled to rely on the CHMA Implementation and Review Committee Aboriginal respondent Parties representatives as having the authority of the Gia respondent party and Ngaro/Gia respondent party to act on their behalf.
- c) The names and contact details of the CHMA Implementation and Review Committee are included in this CHMA
- d) Nominate alternative CHMA Implementation and Review Committee and Contract Officers from each respondent Aboriginal Parties in the event that the selected CHMA Implementation and Review Committee Member or nominated Contract Officer is unable to fulfil the obligations and commitments of the CHMA Implementation and Review Committee or Contract Officer/s outlined in this CHMA.
- e) Endeavour to realise the Cultural Heritage Objectives in accordance with this CHMA.
- f) Endeavour to realise the Aspirations and Cultural Heritage Objectives in accordance with this CHMA.

### ***25.2 Adhere to the obligations outlined in this CHMA***

- (a) The agreed nominated Gia respondent party and Ngaro/Gia respondent party representatives will identify, prior to any cultural heritage work commencing, appropriate people to perform the role of Cultural heritage team member including Monitor as set out in this CHMA. It is the responsibility of Respondent Aboriginal parties through their nominated Contract Officers to have a sufficient number of Monitors nominated to undertake the cultural heritage work so that Monitors are always available when required.

**To be clear:** failure by a Monitor to be available for work will not affect the Work Schedule proposed by Shute Harbour Marina Development Pty Ltd.

- b) All Parties must to this Agreement must Comply with the Work Schedule in accordance with this CHMA, consistent with the Cultural Heritage Act guidelines.

**To be clear:**

An approved work schedule must be made available to the CHMA Implementation and Review Committee Members and their nominated Contract Officer/s within thirty days of commencement of construction surface disturbances and within fourteen (14) days of reviewed or varied scheduled works and at commencement of duty.

- i) Ensure protection and / or management of all cultural heritage sites identified in the Project Area in accordance with this CHMA and NR&W guidelines;
- j) Provide any information as appropriate, required by Shute Harbour Marina Development Pty Ltd to implement this CHMA; and
- k) Not impede, prevent, hinder or disrupt the operations of Shute Monitors, Harbour Marina Development Pty Ltd staff, contractors and sub-contractors within the Project Area when they are complying with their obligations under this CHMA

## **26 RESPONSIBILITIES OF THE CHMA IMPLEMENTATION AND REVIEW COMMITTEE RESPONDENT PARTY REPRESENTATIVES AND THEIR NOMINATED CONTRACT OFFICERS**

### ***26.1 Nomination***

The Gia respondent party and Ngaro/Gia Respondent Party Contract Officers, in consultation with nominated Gia respondent party and Ngaro/Gia respondent party CHMA Implementation and Review Committee Representatives, will:

- a) Nominate or novate two members from each Respondent Aboriginal Party to represent their interests on the CHMA Implementation and Review Committee
- b) Representatives to the CHMA Implementation and Review Committee have been nominated by both Gia and Ngaro/Gia respondent parties and are listed in this CHMA.

### ***26.2 Nominated respondent Aboriginal Party Representatives:***

- a) Gia Respondent Party nominated Elsie Kyle and novated Vicky Toffetti (**Refer Letter of nomination by Aboriginal Respondent Party and Vicky Toffetti acceptance to CHMA Implementation and Review Committee Appendix G**) Refer to Appendix M Nominated Representatives listing
- b) Ngaro/Gia respondent Party nominated Carol Prior and Charmaine Koroi to be their representatives on the CHMA Implementation and Review Committee

### ***26.3 Membership Representation***

Unless otherwise agreed by all the Parties, the Committee is constituted of the following members:

- (a) 2 Gia People (from the respondent party listed or their nominated representative) nominees;
- (b) 2 Ngaro/Gia People (from the respondent party listed or their nominated representative) nominees; and
- (c) 2 SHMD nominees.
- (d) In the event that this CHMA is assigned to another party or novated under **Clause 15**, the CHMA Implementation and Review Committee is to include nominees of that Party.

### ***26.4 Key role of CHMA Implementation and Review Committee***

The role of the CHMA Implementation and Review Committee is to consider and make recommendations to the Parties with respect to:

- (c) any issues that may arise regarding implementation of the CHMA; and
- (d) any amendments that may be made to the CHMA to improve its operation.

### ***26.5 Meetings***

The Committee may meet at such intervals as the Parties consider necessary to enable the effective implementation of this CHMA.

The contract details a suggested, effective implementation of this CHMA.

### ***26.6 Member Vacancy or Replacement***

Either Party to this CHMA may replace their Contract Officers and/or their members of the CHMA Implementation and Review Committee and/or the contract details of those persons by providing written notice of such changes to the other Parties

## **26.7 Amendments to CHMA**

- a) Changes will be effective from the date that such changes are read and mutually agreed by the other Party's bound by this CHMA.
- b) The contract will be amended to reflect any changes as above and SHMD will provide a copy of the amended contract to the Gia respondent party and Ngaro/Gia respondent party within five (5) business days.

## **26.8 Committee Representatives Responsibilities**

CHMA Implementation and Review Committee Representatives will:

- I. Consult with the Site Manager/Officer and Cultural Officer to present the Cultural Heritage Induction Program;
- II. Compile a list of Monitors nominated from their group to undertake monitoring ten (10) weeks prior to works commencing on surface disturbance construction works as described in this CHMA
- III. The compiled list of Monitors will be nominated **equally** from Gia respondent party and Ngaro/Gia respondent party to undertake cultural heritage work within the Project Area during surface disturbance during Construction.
- IV. The Respondent Aboriginal Parties have self determination over the number, schedule and attendance of Cultural Heritage Team including monitors during the surface disturbance construction phase.
- V. The respondent Aboriginal Parties identified A minimum of 2 Monitors (1 Gia respondent party and 1 Ngaro/Gia respondent party Monitor) are required when scheduled to undertake this task, a maximum of 4 Monitors (2 Gia People's and 2 Ngaro/Gia respondent party Monitors are required during excavation of mangrove and coastal vegetation and in the instance of an artefact scatter find);
- VI. Organise with the Cultural Officer and nominated Contract Officer, a Construction Cultural Heritage Work Plan providing details of schedule time and reporting requirements prior to commencing construction.
- VII. Provide the Cultural officer charged with the responsibility for cultural heritage coordination with a report detailing the results of the cultural heritage work and an assessment of any cultural heritage sites located as defined under Section 10 of the *Aboriginal Cultural Heritage Act 2003*.
- VIII. This report must be provided to Shute Harbour Marina Development Pty Ltd within two (2) weeks of the completion of the cultural heritage work;



- IX. Provide Shute Harbour Marina Development Pty Ltd with a report/s of any other cultural heritage work to be undertaken within the Project Area based on the recommendations arising from the cultural heritage work during surface disturbance construction scheduling.
- X. All reports must be provided within two (2) weeks of the completion of the cultural heritage work being undertaken;.
- XI. Provide the Cultural Officer or the Site Manager with the names of the nominated Monitors and monitoring roster ten (10) weeks prior to commencing works;
- XII. Brief the Monitors of their responsibilities and tasks under this CHMA;
- XIII. Advise the Site Manager/Cultural Officer of any changes to the monitoring roster, including substitutions.
  - a. Substitution Monitors will only be permitted on site to work upon completion of mandatory Workplace Health and Safety Induction;
  - b. Monitors will only be permitted on site to work with the appropriate Personal Protection Equipment including steel capped boots.
- Xiv Maintain an accurate record of all work undertaken;
- XV Arrange for the assessment and documentation of any Aboriginal cultural heritage material uncovered within the Project Area during surface disturbances to the recommended depth of 1.5 m during the proposed Project Construction Phase as described in this CHMA.
- XVI Undertake Aspirations preparatory work to progress their realisation as described in this CHMA

### ***26.9 The role and structure of the SHMD Implementation and Review Committee***

The role and structure of the SHMD Implementation and Review Committee will be subject to ongoing internal review.

- 1)** SHMD may review the structure and role of the SHMD Implementation and Review Committee in consultation with both Aboriginal respondent parties by the end of the Construction phase and during the transitional and operations phases of Aspirations realization from the date of establishment.
- 2)** The review period shall be mutually agreed minimum 30 days maximum 90 days.
- 3)** In conducting a review Annual Reports prepared by the respondent parties may be taken into account

- 4) The Review at the conclusion of the surface disturbance phase of construction will assist to inform future governance models, which may be required to better respond to the commercial and operational phases of the Aspirations principles.

## **27 RESPONSIBILITIES OF THE CULTURAL OFFICER IN THE DELIVERY OF CULTURAL HERITAGE COORDINATION DURING SURFACE DISTURBANCE CONSTRUCTION PHASE**

### ***27.1 Cultural Officer Responsibilities and Authority***

- 1 Shute Harbour Marina Development Pty Ltd will nominate the Site Cultural Officer for Cultural Heritage Coordination and Aspirations development for the Project and respondent parties.
- 2 The Respondent Aboriginal Parties are entitled to rely on Shute Harbour Marina Development Pty Ltd's Cultural Officer having the authority of Shute Harbour Marina Development Pty Ltd to act on its behalf where appropriate and consistent with position description and project brief.
3. The name and contact details of the recruited Cultural Officer for cultural heritage coordination will be provided to the Respondent Aboriginal parties prior to the Construction phase of the proposed project as described in this CHMA.

#### **27.1.1 Cultural Coordination Role**

The responsibilities of the Cultural Officer for cultural heritage coordination are:

- (a) To be the point of contact between Shute Harbour Marina Development Pty Ltd and the respondent Aboriginal Parties for onsite cultural heritage during the surface disturbance component of the Construction phase of the project as described in this CHMA;
- (b) To provide the nominated Contract Officers for both Respondent Aboriginal Parties with a detailed Work Schedule for the project as soon as practicable after development approvals and thirty days (30) prior to commencement of construction.
- c) Work schedules will be regularly reviewed and amendments to schedules will be provided within fourteen (14) working days prior to any surface disturbance Construction activities in the Designated Area commencing. The Work Schedule will clearly outline dates and times of Project activities.

d) Any substantial and urgent alterations to the Work Schedule shall be notified in writing to the Respondent Aboriginal Parties.

e) Shute Harbour Marina Development Pty Ltd will take all reasonable actions to provide such notice at least five (5) business days before or if urgent at least three (3) business days prior to the commencement of the activity to allow coordination of the Cultural Heritage Team and / or Monitors in accordance with this CHMA.

### ***27.2 Cultural Heritage Induction Planning and Organisation***

- 1 To ascertain from the CHMA Implementation and Review Committee if unavailable, the appropriate Company or Indigenous representatives to undertake the Cultural Heritage Induction Program;
2. To organise a suitable time for agreed Company or Gia and Ngaro/Gia Aboriginal representatives to undertake a Cultural Heritage Induction Program for Shute Harbour Marina Development Pty Ltd.

### ***27.3 CHMA Aspirations Preparatory work***

To undertake Aspirations development and planning research work to progress the CHMA aspirations and report findings and recommendations to the CHMA Implementation and Review Committee

### ***27.4 Administrative Service Delivery***

To arrange payment from Shute Harbour Marina Development Pty Ltd to the nominated Contract Officers upon receipt of a Tax Invoice based on the agreed Schedule of Fees for the required cultural heritage work;

### ***27.5 Wet weather and schedule of work impacts***

The Cultural Officer will manage the Cultural Heritage team reporting on the Projects Designated Area and will manage wet weather notification requirements in a timely and efficient manner

The Cultural officer will:

- (a) Notify the Respondent Aboriginal Parties nominated Contract Officers if weather conditions will prevent work from commencing or will increase delays for more than one day and will prevent the schedule of work from commencing or continuing

### ***27.6 Timesheet management and correspondence to Respondent Aboriginal Parties nominated Contract officers***

Monitors must complete a time sheet/log sheet upon arriving and departing the Project. These time sheets, a copy of which will be given to and kept

by the Cultural Officer, who will provide these to the Respondent Aboriginal Parties on a weekly basis to process.

### ***27.7 Cultural Heritage Coordination***

- a) The Cultural Officer will liaise directly with the Police, NR&W, Cultural heritage team and the CHMA Implementation and Review Committee and Contract officers, if human remains are uncovered within the Project Area and comply with the Cultural heritage guidelines as described in the Cultural Heritage Act;
- b) The Cultural Officer will inform the Contracts Officers in the first instance CHMA Implementation and Review Committee of any disputes and/or issues raised by the Cultural Heritage Team or construction personnel;
- c) The Cultural Officer will notify the Aboriginal Respondent Parties to discuss possible assessment and documentation of any Indigenous cultural heritage material uncovered within the Project Area during construction activities or at any other time during the Project.
- d) If required by CHMA Implementation and Review Committee arrange for the assessment and documentation of any Aboriginal cultural heritage material uncovered within the Project Designated Area during soil disturbances to the recommended depth of a further 1.5 m if artefact scatters are found during the proposed Project Construction Phase.
- e) Liaise with the nominated Archaeologist in consultation with Respondent Aboriginal Parties and NR&W in relation to appropriate management strategies to be implemented consistent with NR&W cultural heritage guidelines and contract arrangements.
- f) Advise the Site Manager/Officer when management measures on any uncovered Aboriginal cultural heritage material have been completed so that construction activities can commence or recommence.

### ***27.8 Liaison and support role***

- a) The Cultural Officer will be the direct contact person for the Aboriginal parties nominated Contract Officers, Cultural Heritage team including Monitors, while they are within the Project Area during the surface disturbance component of the Construction Phase of the proposed Project
- b) The Cultural Officer will also be responsible for advising where appropriate and liaising with the CHMA Implementation and Review Committee for the purposes of cultural heritage management (i.e. should cultural heritage material be uncovered within the Project Area during the soil disturbances of the Construction phase of the proposed Project),

- c) The Cultural Officer will also be responsible for undertaking preparatory Aspirations realisation work as described in this CHMA and for liaising with the CHMA Implementation and Review Committee for the purposes of and to advance planning and preparations for the realisation of the Aspirations as described in this CHMA.

### ***27.9 Cultural Officer Name and Contact Details***

The name and contact details of the nominated Cultural Officer will be determined after development approval and prior to the construction works.

## **28 RESPONSIBILITIES OF THE SITE MANAGER**

Shute Harbour Marina Development Pty Ltd will recruit an Employee/s or Contractor as the Site Manager/Officer for the Project Area.

### ***28.1 The responsibilities of the Site Manager in relation to this CHMA:***

1. Liaise with the Cultural Officer to ensure timely notification occurs to the CHMA Implementation and Review Committee members should human bone and/or Indigenous cultural heritage material is uncovered within the Project Area and implement the NR&W guidelines;
2. Flag and / or fence the area of any Indigenous cultural heritage material uncovered (e.g. including bones and / or other suspected Aboriginal cultural heritage material)
3. Ensure that the Monitors present within the Project Designated Area have completed a Workplace Health and Safety Induction prior to commencing duty on site;
4. Ensure that the Monitors comply with Personal Protection Equipment requirements prior to commencing duty at the Project Area;
5. Ensure that all construction staff associated with this Project are informed of their responsibilities under this CHMA;
6. Inform the nominated Gia respondent party or Ngaro/Gia respondent party contractors within two (2) hours if a Monitor does not arrive at the Project Area at the agreed time; and



7. Forward signed time sheets/log sheets to the nominated Respondent Aboriginal Parties Contract Officers at the end of each working week if required.

## **29 RESPONSIBILITIES OF THE CULTURAL HERITAGE TEAM INCLUDING MONITORS**

### **29.1 *Identification and Roster of Cultural Heritage team Including Monitors***

The agreed nominated Gia respondent party and Ngaro/Gia respondent party representatives will identify, prior to any cultural heritage work commencing, appropriate people to perform the role of Cultural Heritage team members including Monitors as set out in this CHMA. It is the responsibility of Gia respondent party and Ngaro/Gia respondent party through their nominated Contract Officers to have a sufficient number of Monitors nominated to undertake the cultural heritage work so that Monitors are always available when required.

#### **29.1.1 Monitoring during surface disturbances**

For the Surface Disturbance Construction Phase of the Project, the Cultural Heritage team including Monitors will:

- (a) Undertake a Workplace Health and Safety Induction Program prior to commencing cultural heritage work within the Project Designated Area;
- (b) Undertake a Cultural Heritage Monitoring Induction Program prior to commencing cultural heritage work within the Project Designated Area
- (b) Provide their own transport to and from (or as negotiated with Aboriginal parties contract arrangements) the Project Designated Area as well as all meals, drinks and steel capped boots, as per Fixed fee payment arrangements;
- (c) Contact the Site Manager/Officer upon entering and departing the Project Area to complete and sign Time Sheets/log sheets and collect Personal Protection Equipment (PPE) as required.
- (d) The Cultural Heritage team including Monitors will only be paid by and according to the Contracted arrangements between themselves and the respondent Aboriginal Parties Contract arrangements

- (d) All Cultural Heritage Team Members including Monitors will wear steel-capped boots (provided by themselves) and other safety equipment (provided by Shute Harbour Marina Development Pty Ltd) as required while within the Project Designated Area;
- (e) Undertake monitoring duties as outlined in this CHMA and contracted by the Aboriginal Parties contract arrangements;
- (f) Notify the equipment operator that all work in the immediate vicinity of any significant cultural heritage material uncovered during construction must cease immediately;
- (g) Immediately inform the Site Manager/Officer or Cultural Officer of the location of the cultural heritage material;
- (h) Inform the Site Manager/Officer or Cultural Officer immediately of the progress of monitoring activities being undertaken within the Project Designated Area; and
- (i) Advise the Site Manager/Officer or Cultural Officer when all management measures for any cultural heritage material uncovered during construction have been completed so that construction activities can recommence.
- (j) Cultural Heritage Management measures are to be implemented consistent with NR&W guidelines.

## **29.2      *Workplace Health and Safety***

**29.2.1**      Prior to participating in any monitoring, the Cultural Heritage Officers will undertake the Project's Workplace Health and Safety Induction Program.

**29.2.2**      At all times that the Cultural Heritage team are participating in any monitoring, the Cultural Heritage Officers will:

- (a) Dress appropriately for the conditions by wearing long sleeved shirts, long legged pants and steel capped boots, hard hats, safety glasses etc. as required. Personal Protection Equipment (PPE) other than steel-capped boots will be provided by SHMD.
- (b) Take all reasonable precautions to ensure that they and all other persons participating in the Cultural Heritage Activities remain free from injury;
- (c) Observe all reasonable directions given to them by relevantly authorised Project personnel; and

- (d) Remain completely free of the effects of illegal drugs and alcohol and submit to any drug and/or alcohol tests carried out in accordance with the Project's established drug and alcohol policies for all personnel and contract/subcontract personnel.

## **30 Cultural Heritage Induction Program for Cultural Heritage team including Monitors**

### ***30.1 Generational Cultural Monitoring Skills Transfer Program***

SHMD recognises the needs and opportunities that Cultural Heritage Management and Cultural Monitoring can bring for Aboriginal Elders to pass on cultural heritage monitoring skills to younger Gia and Ngaro/Gia peoples thereby providing generational cultural legacy and cultural skills.

a)

### ***30.2 Satisfaction Cultural Heritage Monitoring Induction***

The Aboriginal Parties on their own behalf and on behalf of the Gia and Ngaro/Gia People agree that the benefits provided to the respondent Aboriginal Parties for Cultural Heritage Induction Monitoring Program are:

- i. In full and final satisfaction of any Cultural Monitoring Induction Program

## **31 RESPONSIBILITIES OF THE ARCHAEOLOGIST**

### ***31.1 Engagement Process***

Shute Harbour Marina Development Pty Ltd in consultation with Respondent Aboriginal parties will engage an Archaeologist to be on call during the Construction Phase of the Project. Contact details of the Project Archaeologist will be provided after development approvals and prior to construction.

### ***31.2 Archaeologist Responsibilities***

The responsibilities of the Archaeologist are:

- a) As part of the Cultural Heritage Team, to implement agreed cultural heritage management recommendations for all cultural heritage sites or areas of high Archaeology potential identified within the Project Area;
- b) To provide Shute Harbour Marina Development Pty Ltd and the Respondent Aboriginal Parties with a report detailing the results of cultural heritage work undertaken on any Aboriginal material uncovered within the Project Designated Area, however while maintaining "Confidentiality" as per the Cultural Heritage requirements described in this CHMA
- c) To assist where appropriate in Cultural Heritage Induction and Cultural Awareness Programs as required and advised by the CHMA Implementation and Review Committee;
- d) Undertake a Workplace Health and Safety Induction Program prior to commencing cultural heritage work within the Project Designated Area during the surface disturbance component of the Construction Phase;
- e) To be on call if a potentially significant find, or any bone, which could potentially be human remains, are found during any phase of the Project;
- f) To be on call should Shute Harbour Marina Development Pty Ltd and / or either of the Respondent Aboriginal Parties require advice on any Archaeology and / or cultural heritage matters or issues in relation to the Project and agreed by SHMD; and
- g) Generally undertake Archaeology work as required by this CHMA.

## **32 RESPONSIBILITIES CONSTRUCTION PERSONNEL INVOLVED IN THE PROJECT**

### ***32.1 Construction Personnel Responsibilities***

The responsibilities of the construction personnel are:

- a) To organise in consultation with the Cultural Officer Work Place Health and Safety Induction for the Cultural Heritage Team including Monitors; and Archaeologist.
- b) To contact the Site Manager/Officer or Cultural Officer should weather conditions or other factors beyond the control of Shute Harbour Marina Development Pty Ltd delay any construction activities where monitoring is required;
- c) To inform the Site Manager/Officer or Cultural Officer if any Indigenous cultural heritage material is observed during Construction activities within the Project Area.

## **33 Cultural Heritage Induction Program**

### ***33.1 Cultural Heritage Induction Training***

All personnel will attend Cultural Heritage Induction Training prior to commencing surface disturbance construction works

All contactors and sub-contractors engaged by Shute Harbour Marina Development Pty Ltd that are working within the Project Area must comply with all obligations as specified in this CHMA.

33.1.1 In the instance of Respondent Aboriginal representatives presenting Cultural Heritage Program. Equal representation and equal remuneration shall apply as described in this CHMA.

### ***33.2 Surface Disturbance Construction Timing***

- a) SHMD preliminary planning has identified approximately five (5) blocks of ten (10) days of Monitoring required on the site over a two year period.
- b) SHMD has set aside a further block (1) of ten (10 days) to allow for project over-runs in terms of works
- c) SHMD will provide a detailed schedule of works after project development approvals and prior to construction.



- d) Monitoring may take place in stages over the various areas as determined by the Respondent Aboriginal Parties.

### **33.3 Notice of Construction Works Schedule**

SHMD will provide notice of the date/s of surface disturbance construction works and a schedule showing the area(s) to be monitored pursuant to the notice, to CHMA Implementation and Review Committee; and nominated Contract Officers at least thirty (30) days initial advice; and fourteen (14) days for any variance prior to commencement of monitoring in those areas, or such shorter period as agreed between the Parties.

### **33.4 Preparation for On-site Monitoring**

- a) The nominated Contract Officers in consultation with CHMA Implementation and Review Committee members will provide the names and contact details of Cultural Heritage team including Monitors that will take part in monitoring of the area(s) at thirty (30) days initial advice; and fourteen (14) days for any variance prior to its commencement.
- b) All Cultural Heritage Monitors must have completed Workplace Health and Safety Induction Training provided by SHMD.

### **33.5 Monitoring Process**

#### **33.5.1 Commencement of Monitoring day**

At the commencement of each monitoring day, the Cultural Heritage Team and Monitors will meet with the Site Manager/Officer or Cultural Officer and develop a work plan for the day.

In the areas to be monitored, the Cultural Heritage Officers will:

- a) Carry out a visual ground inspection of the areas for evidence of cultural heritage;
- b) Collect and relocate any identified cultural heritage to the Keeping Place; and
- c) Keep records of any cultural heritage collected and relocated in accordance with their collection record sheets.

### **33.6 Keeping Place**

SHMD will provide a Keeping Place for cultural heritage collection (locked storage area within the worksite, located in an agreed place by the CHMA Implementation and Review Committee).

**To be clear**, it is not necessary that the Cultural Heritage Team/ Monitors agree that a particular artefact is cultural heritage for it to be collected and relocated to the Keeping Place.

## **34 Department of Natural Resources & Water Guidelines (previously *DNRN&W*) for Management of Human Remains**

All Parties will comply with the following guidelines

*DNRN&W Guidelines – The Discovery, Handling and Management of Human Remains under the Provisions of the Act 2003*

*NR&W Guidelines – Reburial & Management Options*

### **34.1 REBURIAL AND MANAGEMENT OPTIONS: - General information sheet**

#### **34.1.1 Aboriginal and Torres Strait Islander Burials and Police Notification**

If you find bones and suspects that they are human it is ***essential that you do not disturb the material.***

***Your must report the findings to the Queensland Police Services.***

The Police will determine if the remains represent a crime scene. If it is established that the remains are not a crime scene and the Coroner is satisfied that the remains are Aboriginal or Torres Strait Islander the Department of Natural Resources and Mines procedure on *The Discovery, Handling and Management of Human Remains under the Provision of the Aboriginal Cultural Heritage Act 2003 and Torres Strait Cultural Heritage Act 2003* will apply.

#### **34.1.2 Managing the remains**

The following options should be discussed with the Respondent Aboriginal Parties:

- Should remains be left where they are?

While this is generally the preferred options consideration needs to be given to the possibility that the remains might be disturbed at a later date.

Leaving the remains where they are will require the support of the landholder especially if the Aboriginal or Torres Strait Islander community wishes to visit the site at a later date.

If the decision to remove remains is made, protocols need to be developed regarding the removal

- Should the remains be reinterred nearby?

Arrangement should be made for the Aboriginal or Torres Strait Islander community to visit the location.

Is any sort of marking required by the Aboriginal or Torres Strait Islander community?

- Should the remains be reinterred at a nearby cemetery?

Conditions under the *Land Act 1994* may apply.

Arrangements may be made with Queensland National Parks & Wildlife Services regarding burial on parks.

- Should the remains be held somewhere for safe-keeping?

Aboriginal or Torres Strait Islander 'keeping places' may already exist. Consideration also needs to be given to:

- Whether or not further analysis should be undertaken on the remains?
- How the remains should be handled?
- Who is going to remove the remains?

In all cases of reburial the location should be accurately recorded even if it is kept confidential.

## **35 THE DISCOVERY, HANDLING AND MANAGEMENT OF HUMAN REMAINS UNDER THE PROVISIONS OF THE ABORIGINAL CULTURAL HERITAGE ACT 2003 AND TORRES STRAIT ISLANDER CULTURAL HERITAGE ACT 2003**

If you find bones and suspect that they are human it is **essential that you do not disturb the material. You must report the findings to the Queensland Police Service.** The Police will determine if the remains represent a crime scene. If it is established that the remains are not a crime scene and the Coroner is satisfied that the remains are Aboriginal or Torres Strait Islander the Department of Natural Resources and Mines procedure on the *Discovery, Handling and Management of Human Remains under the Provisions of the Aboriginal Cultural Heritage Act 2003 and Torres Strait Cultural Heritage Act 2033* will apply.

### **35.1.1 1 General Guiding Principles**

Death in all human societies is a significant event. It occurs on a regular but unpredictable basis, removing individuals from family, close relations and friends. Death is often associated with complex rituals. This was and is still the case with Aboriginal and Torres Strait Islander people. Disturbance to burials and human remains is therefore of major concern to them, as it is for all members of Australian society.

Aboriginal and Torres Strait Islander people have been in Australia for more than 40,000 years. In that time they have buried hundreds of thousands of their ancestors in a variety of ways. In some cases people were cremated; in others their bones were placed in hollowed-out logs or trees or wrapped in bark cylinders and placed in rock shelters. Many were also buried in the ground with grave goods. Burials commonly occurred in sand dunes and alluvial deposits, which were easy to dig. However, wind and water easily erode such locations and frequently these natural processes expose remains. Other common burial locations are rock shelters, rocky overhangs and hollow trees. All are vulnerable to human disturbance. The close proximity of scarred or carved trees and stone arrangements and the remains of fireplaces, stone artefacts and food refuse may be suggestive to an Aboriginal or Torres Strait Islander burial.

In view of possible natural or human disturbance to Aboriginal or Torres Strait Islander places the Queensland Government has in place a legislative

framework that will ensure such burials are treated in a manner consistent with legal requirements and Aboriginal and Torres Strait Islander traditions.

There is also provision for Aboriginal or Torres Strait Islander people who have traditional or familial links with human remains to seek ownership of these remains regardless of who claimed previous ownership.

### **35.1.2        2        Desired Outcomes**

This procedure has a number of general desired outcomes: -

- While natural or human process can inadvertently expose Aboriginal or Torres Strait Islander human remains, all attempts will be made to limit further disturbance.
- If further investigation and disturbance is required, procedures are in place for the proper handling of such remains.
- All such procedures are sensitive to the wishes of the Aboriginal or Torres Strait Islander owners of the remains.
- That Aboriginal or Torres Strait Islanders who have traditional or familiar links with human remains are able to claim ownership of those remains.

### **35.1.3        3        Legislative Framework**

#### ***Criminal Code Act 1899***

All persons **must** be aware that under the ***Criminal Code Act 1899*** (s236) it is an offence to improperly or indecently interfere with a human body or human remains, whether buried or not. An offence under this provision can result in imprisonment for up to two years.

#### ***Coroners Act 2003***

Provisions of the ***Coroners Act 2003*** provide that when human remains are located it is the duty of the person finding the remains to report the findings to a police officer or Coroner (Part 2 s7 and 8). (**NB** Part 4, Division 4 Section 82 (1) defines every magistrate as a Coroner (a "local Coroner").

The Coroner starts having control of human remains when the Coroner starts investigating the deceased person's death (s26(1)). The Coroner must stop investigating a death if the Coroner's investigation shows that the body is Aboriginal or Torres Strait Islander traditional burial remains (Part 3 s12(2)(a)). Where this occurs, a Coroner will authorise for the remains to be released to the Minister responsible for administering the



*Aboriginal Cultural Heritage Act 2003 and Torres Strait Islander Heritage Act 2003.* (See s26(2) (a) and form 12 version 1- Order for release of Traditional remains pubd gaz 21 November 2003 p995-6).

To ensure best practice in the coronial system, the State Coroner must develop guidelines in respect to certain matters, including those dealing with investigations of deaths involving human remains found in suspected traditional burial site, and in particular, must provide for the early notification and involvement of the Aboriginal or Torres Strait Island community having a connection with the burial site (Part 3 s14(3) (b)).

### **36 Aboriginal Cultural Heritage Act 2003 and Torres Strait Islander Cultural Heritage Act 2003**

The basic intent of the ***Aboriginal Cultural Heritage Act 2003*** ('the Acts') is that Aboriginal or Torres Strait Islander cultural heritage should be protected.

It is also the intent of the Acts that (as far as practicable) Aboriginal or Torres Strait Islander cultural heritage should be owned and protected by Aboriginal or Torres Strait Islander people with traditional or familiar links to the cultural heritage if it is comprised of any of the following-

- (a) Aboriginal human remains;
- (b) Secret or sacred objects; or
- (c) Aboriginal heritage lawfully taken away from an area.

It is further intent of the Acts that Aboriginal and Torres Strait Islander cultural heritage that is in the custody of the State, including the Queensland Museum, should continue to be protected by the State until it can be transferred into protection of its Aboriginal or Torres Strait Islander owners (Part 2 Division 1 s14 (1-4)).

Under the Acts Aboriginal or Torres Strait Islander people who have a traditional or familiar link with Aboriginal human remains are the owners of those remains before commencement of the Act (Part 2 Division 2 s15 (1-2)).

An Aboriginal or Torres Strait Islander persons who owns human remains may at any time ask the State (or an entity that represents the State) who holds custody of the remains to continue to be the custodian of the human remains or return the human remains to them (Part 2 Division 16 (1-4)).

If a person, other than the State has in their possession Aboriginal or Torres Strait Islander human remains to which they do not have traditional or familial links then the person must take all reasonable steps to ensure that the human remains are taken into the custody of the chief executive as soon as practicable. Penalties apply if a person fails to do this (Part 2 Division 2 s17 (1-2)).

If a person knows of the existence and location of Aboriginal human remains and is not the owner of those remains, or knows or ought reasonably to know the human remains are Aboriginal or Torres Strait Islander human remains or knows or suspects the chief executive does not know of the remains, the person must as soon as practicable (and after advising the Police or Coroner) advise the chief executive of the extent of the human remains and provide all the details about the nature and locations of the human remains the chief executive reasonably requires. Penalties apply if a person fails to do this (Part 2 Division 2 s18).

### ***36.1 Procedures for dealing with Aboriginal and Torres Strait human remains***

In all cases when human remains are located it is important to remember that:

- The discovery of any human remains must as soon as possible be reported to the nearest police.
- It is an offence to interfere with human remains, whether buried or not.

The Police or Coroner must be advised of the presence of any human remains. An appropriate officer or officers will then establish the area of discovery as a potential crime scene and are responsible for preserving and securing the area.

If a determination is made that satisfies the Coroner that the remains are not a crime scene and that the remains could constitute an Aboriginal or Torres Strait Islander burial site, Police will contact the Cultural Heritage Coordination Unit (or their Department of Natural Resources and Mines. Officers of the Cultural Heritage Coordination Unit (or their representatives) may attend the scene and along with the Police scientific officers and collect appropriate data on ethnicity, antiquity and evidence of criminal activity or otherwise for submission to the Coroner. Further advice maybe sought from forensic osteologists/pathologists or physical anthropologists.

If the remains are thought to be neither Aboriginal nor Torres Strait Islander, nor related to criminal activity or are of doubtful determination, Officers of the Department of Natural Resources and Water (or their representatives) may assist the Police in further determinations. This may require controlled removal and analysis by suitable forensic experts as ordered by the Coroner. In all cases of possible criminal activity the requirements of the Police and Coroner for data collection and site security will have priority. If the remains are determined, to the satisfaction of the Police and Coroner, to be Aboriginal or Torres Strait Islander, Officers of the Department of Natural Resources and Water will then take responsibility for liaison and reburial with the appropriate Aboriginal or Torres Strait Islander community.

At all stages minimal disturbance to the remains will be a priority and they will be dealt with in a sensitive manner. Advice and guidance from Aboriginal or Torres Strait Islander elders will be taken as soon as the possibility of criminal activity is dismissed.

When an offence under provisions of the *Aboriginal Cultural Heritage Act 2003* or *Torres Strait Islander Heritage Act 2003* is suspected to have occurred then the Regional Compliance Team of the Department of Natural Resources and Mines must be advised. Where an offence is suspected the scene must be kept secure until handed over to Department of Natural Resources and Mines compliance officers.

### ***36.2 Self Determination Contract Model***

SHMD will contract as a Fixed Fee Arrangement for all goods and services and pay equally the Aboriginal Respondent Parties to deliver monitoring and cultural heritage management as detailed in this CHMA This SELF DETERMINATION model will be **equally** shared between the two Aboriginal Respondent Parties to this CHMA for all monitoring and cultural heritage management and consultation services)

Administrative charges as described in this CHMA during the construction phase of the proposed development

## **37 ACCEPTANCE**

### ***37.1 Acceptance of Standard Conditions***

The performance of the Self determination model will be deemed to be acceptance of the Standard Conditions of Contract stated herein.

**38 Satisfaction of Self Determination Model 44.1. The Aboriginal Respondent Parties on their own behalf and on behalf of the Gia and Ngaro/Gia People agree that the benefits provided to the respondent parties**

**39 Contingency Funds for Cultural Heritage Management**

While there are indications that the Designated Area has been significantly disturbed over time (Refer Cultural Survey Report) and the report indicated low likelihood of finding intact cultural heritage artefacts in the subtidal and tidal areas of the proposed development, funds as described in the agreed CHMA will be shared **equally** between the two Aboriginal Respondent Parties should an artefact of significance be found. SHMD will hold in reserve the allocated funds to enable duty of care and processes according to NR&W guidelines for Cultural Heritage Artefact finds to be appropriately and respectfully managed.

**40 CULTURAL HERITAGE MANAGEMENT**

This section of the CHMA is divided into two sub-sections with each sub-section addressing the processes to be followed during that particular period of the project.

***40.1 Sub-section A – Pre-Construction***

**40.2** Shute Harbour Marina Development Pty Ltd will nominate and appoint employee or contractor as Site Manager/Officer Cultural Officer for the Project to coordinate cultural heritage onsite and manage Cultural Heritage obligations.

**40.3** Upon the provision of the CHMA Implementation and Review Committees names the Site Manager/Officer and Cultural Officer, will forward the work schedule for the Project to the nominated respondent party Contract Officers.

**46.4** The CHMA Implementation and Review Committee will nominate the Company or Indigenous representatives that will conduct the Cultural Heritage Induction Program and advise the Site Manager/Officer that person/s name (maximum 1 Gia respondent party and 1 Ngaro/Gia respondent party representative will deliver an induction session).

- 46.5** The Site Manager/Officer will arrange for the nominated Company or Indigenous representatives (maximum 1 Gia respondent party and 1 Ngaro/Gia respondent party representative will deliver an induction session) to present a Cultural Heritage Induction Program for all construction personnel involved in the project.
- 46.6** The CHMA Implementation and Review Committee will compile a list of the approved names of people who will perform the role of Monitors for the Project and provide the list to the Site Manager/Officer.
- 46.7** The Site Manager/Officer or Cultural Officer will arrange for an induction for the Monitors so that they meet all necessary Workplace Health and Safety requirements in accordance with the *Workplace Health and Safety Act 1989*.
- 46.8** The main cultural heritage activity during construction is monitoring initial vegetation clearance / earthwork activities. The time frame for these activities will be outlined in the work schedule.
- 46.9** The purpose of monitoring would be to ensure that encroachment into or disturbance of any protected cultural heritage sites does not occur and that should previously undetected cultural heritage sites be uncovered they are managed in an appropriate manner consistent with NR&W Guidelines.
- 46.10** The monitoring roster will be finalised during the Pre-Construction Phase, the Site Manager/Officer Cultural Officer will advise the appropriate Monitor of the date and time of commencement of cultural heritage work.
- 46.11** The rostered Monitor must arrive at the Project Area by the appointed time and sign his/her time sheet/log sheet. The time sheet/log sheet must also be signed before leaving the Project Area.
- 46.12** In the event that a rostered Monitor is not available, the Monitor will contact the Contract Office to arrange a substitute Monitor. The Contract Office will advise the Site Manager/Officer of the substitution.
- 46.13** In the event that a rostered Monitor does not arrive at the Project Area at the appointed time, construction will proceed as scheduled. The Cultural Officer will advise the appropriate Contract Office of the unavailability of the Monitor.
- 46.14** In the instance of Indigenous Archaeology material being uncovered during construction activities while the Monitors are present, the following procedures will take place:



- The Monitor will notify the equipment operator that all work in the vicinity of the find must cease immediately;
- The Monitor will inform the Site Manager/Cultural Officer of the find;
- The Site Manager or Cultural Officer will contact the CHMA Implementation and Review Committee and Contracts Office of the find and the Site Manager/Officer will contact the respondent party Contract Officer in the absence of a Monitor and Archaeologist so that the find can be fully assessed;
- The area of the find should be fenced or flagged by the Monitor and access restricted until the find is documented and assessed;
- Work may recommence 30m or an agreed distance from the find or elsewhere as mutually agreed by the Monitor, Archaeologist and Cultural Officer Site Manager/Officer;
- If such a resumption of work occurs and material is still being encountered, and subject to consultation between the Monitor, Archaeologist and Cultural Officer and Site Manager/Officer, the procedure should be repeated until no further material is encountered;
- The Archaeologist will record the location of the find and analyse, document and record all Archaeology material uncovered;
- Construction activity must be halted for a period necessary to allow the material to be evaluated and to determine and implement suitable management techniques;
- The Archaeologist and/or Site Manager/Officer, Cultural Officer must inform SHMD in writing within twenty four (24 hours) anticipated delay in works and respond consistent with NR&W's guidelines mitigate management technique; and
- The Archaeologist and/or Monitor will inform the Cultural officer or Site Manager/Officer in writing within twenty four (24 hours) if any further action is required and when work can recommence in the area of the find.

**46.15** In the instance that Aboriginal Archaeology material be uncovered during construction activities when a Monitor is not present, the following procedures will take place:

- The Site Manager/Officer or Cultural Officer will advise the CHMA Implementation and Review Committee and Contracts Officers of the find;
- The area of the find will be fenced or flagged by the Cultural Officer or Site Manager/Officer and access restricted until the find is documented and assessed;
- The Aboriginal Parties will organise for the uncovered material to be inspected and assessed by a Monitor and the Archaeologist;
- Work may recommence 30m, or an agreed distance from the find or elsewhere as mutually agreed by the Monitor, Archaeologist and Site Manager/Officer and Cultural Officer;
- If such a resumption of work occurs and material is still being encountered, and subject to consultation between the Monitor, Archaeologist and Site Manager/Officer and Cultural Officer, the procedure will be repeated until no further material is encountered;
- The Archaeologist and Monitor will record the location of the find and analyse, document and record all Archaeology material uncovered;
- Construction activity must be halted for a period necessary to allow the material to be evaluated and to determine and implement suitable management techniques consistent with a CHMA mitigation plan;
- The Cultural Heritage Team will keep the Cultural Officer and Site Manager/Officer informed of the progress of the work and advise when all management strategies have been completed; and the Archaeologist and/or Monitor will inform the Site Manager/Officer and Cultural Officer if any further action is required and when work can recommence in the area of the find.
- A mitigation plan will be included in this CHMA.

**46.16** A report detailing the results of monitoring work must be provided to Shute Harbour Marina Development Pty Ltd by the nominated Contract Officers within two (2) weeks of the cessation of monitoring activities.

## **41 FURTHER CULTURAL HERITAGE WORK**

- 47.1** Based on the results of the cultural heritage work being undertaken within the Project Area further archaeology work may be required.
- 47.2** The recommendations of all reports documenting cultural heritage work undertaken within the Project Area must clearly outline the processes required in order to implement all recommendations.
- 47.3** All reports, once completed, will form part of this CHMA.

## **42 NOTIFICATION AND REPORTING**

- 48.1** Shute Harbour Marina Development Pty Ltd and the CHMA Implementation and Review Committee will provide each other with all necessary information to carry out this CHMA, and this information will be provided in a timely manner;
- 48.2** Shute Harbour Marina Development Pty Ltd and the CHMA Implementation and Review Committee will keep written records of all cultural heritage work undertaken under this CHMA;
- 48.3** The Archaeologist will provide the Site Manager/Officer and Cultural Officer and CHMA Implementation and Review Committee with a report detailing the results of the cultural heritage work undertaken within the Project Area. The report will contain a significance assessment of any sites located as well as management recommendations. The report from the Cultural Heritage Team member must be included as an Appendix to the Archaeological report. The report must be provided within two (2) weeks of the completion of the survey; and
- 48.4** Reports detailing any other cultural heritage work undertaken within the Project Area must be provided to Shute Harbour Marina Development Pty Ltd by the Cultural Heritage Team and/or Archaeologist. All reports must be provided within two (2) weeks of the completion of the cultural heritage work detailed in the report.

## **43 Schedule 7:**

### **43.1 Explanation of procedures**

- (1) Police Officers maintain authority and responsibility for a potential crime scene at all time.
- (2) Cultural Heritage Coordination Unit Officers (or their representatives) may attend the scene and provide advice as required by Police or crime scene officers.
- (3) Police will nominate a person to provide a second opinion if appropriate. Such opinion may be available on-site if a suitable forensic expert is available. However, if a suitable forensic expert is unavailable to travel to the site, digital images may be sent to them to provide an opinion. All data required for first and second opinions is to be collected in site.
- (4) Final decision of this rests with Police, on advice from the Coroner.
- (5) Officers of the Cultural Heritage Coordination Unit will, on request, assist Police in technical aspects of evidence retrieval.
- (6) Advice on handling may be sought from appropriate sources where this does not compromise integrity of crime scene or quality of evidence.

### **Additional procedures and information**

Where the remains are determined to be Aboriginal or Torres Strait Islander the Coroner will authorise for remains to be released and will complete *Form 12 Order for the Release of Traditional Remains*. This provides for the remains to the Minister responsible for administering the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Heritage Act 2003*.

Should any Police Officer or Officer of the Department of Natural Resources and Mines (or their representative) be in any doubt as to the requirements of the relevant Coroner for their region, then it is essential that the Coroner be directly consulted. Alternatively, as the State Coroner is responsible for all Coroners any perceived difficulties in implementing the policy/procedure should be referred to him/her.

The excavation of human burial remains for whatever reason is not encouraged. However, should this occur in the process of excavating a site, excavations should immediately stop. The remains should be covered

and the Site Manager/Officer should be contacted who will then follow the procedures set put in this document.

If a researcher acting under an authority or agreement from the Cultural Heritage Coordination Unit and with the Aboriginal or Torres Strait Islander Body for an area discovers burial remains in the process of excavating a site, they shall immediately stop excavation, cover the remains and contact an Officer of the Cultural Heritage Coordination Unit, who will then follow the procedures set out in this document.

The Queensland Museum acquired human remains from the 1870's to 1972 including some legally recovered under the *Aboriginal Relics Preservation Act* 1967. However, by 1972 it was no longer considered appropriate to deposit human remains with the Queensland Museum (except in exceptional circumstances) and with permission of the relevant Aboriginal or Torres Strait Islander community. The Museum has now developed a repatriation policy for human remains still in its collection (see - *Queensland Museum Policy on Ancestral Remains and Burial Goods* – May 2004, *Queensland Museum Policy on Secret Sacred Objects* – May 2004). These policies commit the Queensland Museum to returning to Aboriginal and Torres Strait Islander communities, family groups, and individuals, ancestral remains and burial goods, and secret sacred objects held in Museum collections.

## **44 Voluntary Aspirations Agreement**

The Respondent Aboriginal Party have identified a number of Aspirations which are included in this CHMA.

### ***44.1 Completion of Surface Disturbance Construction CHMA arrangements and Commencement of CHMA Aspirations Guiding Principles and partnerships.***

This CHMA will formalize the respondent Aboriginal parties involvement in the management of the designated areas post SHMD development approval and during SHMD's operations.

#### **To be clear:**

All CHMA agreements and conditions are subject to development approval process.

#### **44.1.1 Sustainable Partnerships Commitment**



This CHMA will facilitate the development of a sustainable partnership based on recognition, mutual respect and agreed goals to realize respondent Aboriginal party Aspirations.

44.1.2 The Shute Harbour Marina Development Pty Ltd will adopt a flexible and learning approach to working with and meeting the Aspirations of the Gia and Ngaro/Gia respondent parties detailed in this CHMA.

44.1.3 The Respondent Aboriginal Parties and their nominees will adopt a flexible and learning approach to the development Project and commercial sustainability practices, management policies and processes and compliance requirements of SHMD designated area.

#### ***44.2 The purpose of the Aspirations Agreement***

The purpose of the Aspirations Agreement Section of this CHMA is to set out the terms and conditions reached between Shute Harbour Marina Development Pty Ltd and Aboriginal respondent parties, including potential governance models and initiatives mutually agreed.

- 1) Shute Harbour Marina Development Pty Ltd recognizes the right of the two Aboriginal respondent parties to retain their identity and intellectual property; and
- 2) Both Aboriginal respondent parties recognize the right of Shute Harbour Marina Development Pty Ltd in its on-going responsibilities for the sustainable, environmentally supportive, commercially viable management of the designated area.

### **45 Objectives of the Aspirations CHMA Agreement**

The objectives of the Aspirations included in this CHMA are to facilitate:

1. The active resourcing to the extent possible as described in this CHMA the involvement of the Aboriginal respondent parties in decisions about the management of the agreed Designated Areas including the integration of the Gia respondent party and Ngaro/Gia respondent party knowledge, internal decision making processes and perspectives into management, planning and works planning.

#### ***45.1 Mutual Recognition and Trust***

The development of mutual recognition and trust between the Aboriginal respondent Parties and SHMD and the identification and promotion of

employment, training and economic development opportunities of the as Aboriginal respondent Parties as defined in this CHMA.

- 1) SHMD shall assist and to the extent possible, require of the Aboriginal respondent Parties representatives responsible for managing and or providing advice regarding the management of the agreed Designated Areas to develop communication protocols and working relationships with the Aboriginal Respondent Parties and their nominees.

In the process of decisions regarding the management of designated areas, SHMD will take into account relevant advice and recommendations received from:

- The CHMA Implementation and Review Committee in accordance with this Agreement; and
- The approved organization/s responsible for managing and providing advice approval regarding the development and management of the designated area.
- The approval for such organization/s by Aboriginal Respondent Parties must be provided in writing to SHMD.

#### ***45.2 Decision Making and Response Protocols***

If SHMD in making a decision in relation to a matter on which the Aboriginal Respondent Parties represented by their CHMA Implementation and Review Committee has provided advice or a recommendation, decides to act otherwise than in accordance with that advice or recommendation, the SHMD may provide to the CHMA Implementation and Review Committee with written reasons for the decision.

#### ***45.3 Affect of the Aspirations Agreement on rights and obligations***

45.3.1 **To be clear** nothing in this component of the Aspirations CHMA compromises the legal rights or political aspirations of the Gia respondent party and Ngaro/Gia respondent party relative to any of their social, cultural or economic goals.

45.3.2 **To be clear** nothing in this component of the Aspirations CHMA compromises the legal rights or responsibilities detailed in the Cultural Heritage Act.

45.3.3 **To be clear** nothing in this component of the Aspirations CHMA affects any rights that the Aboriginal Respondent Parties may have to their intellectual or cultural property.

45.3.4 **To be clear** nothing limits SHMD prerogatives under any relevant laws and policies;

45.3.5 **To be clear** nothing affects any rights, duties or obligations arising from the operation of the SHMD proposed development and its operations

45.3.6 **To be clear** Aboriginal respondent Parties will comply with SHMD Body Corporate Rules pertaining to the SHMD and the Marina Management Plan.

45.3.7 **To be clear** nothing will limit the capacity of SHMD responsibilities for managing the Designated Area to continue to perform their established functions including , as applicable , in relation to the management of the lease or waters and the provision of advice; or

45.3.8 **To be clear** Nothing affects the valid rights of other parties and interested parties on the SHMD site nor members of the public both Indigenous and non-Indigenous.

45.3.9 The Indemnity clause included in this CHMA (during surface disturbance construction phase) binds parties during the Aspirations phase

## **46 The development of a governance model to realize the SHMD Aspirations of the Aboriginal Respondent Parties**

### ***46.1 Governance Model Principles***

A sound governance model will be critical to the success of the Gia and Ngaro/Gia communities, community capacity building success in realizing their Aspirations at the SHMD site.

#### **46.1.1 A Strengths Weaknesses Opportunities and Threats analysis**

- 1) SHMD recognizes that the design and development of community governance will need to be supported and will provide in consultation with the Aboriginal Respondent Parties the following:
  - A Strengths Weaknesses Opportunities and Threats analysis of successful governance models for sustainable commercial and cultural tourism development will be undertaken by SHMD to assist Aboriginal Respondent Parties in their governance decision making
- 2) A maximum 20 hours funded from the SHMD REEF FUND
- 3) The emphasis on the models will include
  - key principles of fairness, equity;
  - legally delegated community financial authority;

- developing a realistic timetable for a measured incremental transition;
- actively working in partnership with government, departments and the private sector to fully design and implement the model;
- is financially sound, efficient, and accountable (internally and externally)
- exercises powers through local policies, processes and organizational structures that are widely seen as legitimate and effective;
- is compatible with community values, priorities and participation;
- reproduces and is sustained by stable leadership; and
- Displays the authority and capacity, and possesses the resources necessary to solve problems locally and to sustain the social, cultural and economic well-being of Aboriginal Respondent Parties and their community members.

## ***46.2 Transitional sustainability***

Transitional sustainability and Aspirations work be discussed and planned for between SHMD and voluntary committee members of the CHMA Implementation and Review Committee

## **47 Development of an Aboriginal Respondent Parties and SHMD Partnership Framework**

### ***47.1 Empowerment Principles***

This Aspirations section of the CHMA provides an opportunity to empower Aboriginal Respondent Parties to participate and share their knowledge of natural resource management for the benefit of the community, SHMD, local Indigenous and non-Indigenous community, State, National and International visitors.

47.1.1 The aim of the Shute Harbour Marina Development Aboriginal Respondent Parties Partnership Framework is to explore meaningful ways for Aboriginal Respondent Parties to equitably participate in decision-making, training activities, employment and business tourism enterprises.

47.1.2 SHMD is committed to facilitating real partnering opportunities for Aboriginal Respondent Parties to share their knowledge and aim to give Aboriginal Respondent Parties the chance to reconnect with their culture and interest in country and on waters.

47.1.3 In this spirit of partnership, Aboriginal Respondent Parties perspectives will be integrated into SHMD's land and water management and initiatives; and cultural and heritage values will be included in planning and operations.

47.1.4 The framework establishes the base on which the SHMD's business and activities align with SHMD's commitment to:

- Work inclusively with Aboriginal Respondent Parties relating to the Designated SHMD Area and ensure Aboriginal Respondent Parties can contribute in the future management of Shute Harbour's biodiversity, water and land; and contribute to the realization of Gia and Ngaro/Gia peoples Aspirations.

## **48 CHMA ASPIRATIONS GUIDING PRINCIPLES**

### ***48.1 Four Guiding Principles***

This CHMA's aspirations guiding principles include:

- **Principle 1:** Respect and Recognition
- **Principle 2:** Sharing and Caring for Country
- **Principle 3:** Partnership and Capacity Building
- **Principle 4:** Cultural Heritage

## **49 Connection to Country and Waters**

SHMD's approach to Aboriginal Respondent Parties will be with an understanding that Ngaro/Gia and Gia people have a continuous connection to Country and waters, and that Aboriginal Respondent Parties have a valuable contribution to make

- in land, water and natural resource management
- can fulfill a uniquely integrated role in land, water and resource management practices
- cultural heritage tourism

## **50 Principle 1: Respect and Recognition**

### ***50.1 Consultation***

57.1.1 SHMD will consult with the CHMA Implementation and Review Committee in the use of appropriate interpretative signage within the



proposed SHM development as a means to recognize and acknowledge the Aboriginal Parties of the project area and the Whitsunday region.

## ***50.2 Respect and Recognition- Interpretive Sign Strategy***

### **50.2.1 Interpretive Sign Strategy**

SHMD in consultation with the CHMA Implementation and Review Committee will develop an **Interpretive Sign Strategy** during the construction phase of the project to optimize the use of community language names for the project area and its natural features. Examples include but are not limited to: the Shute Harbour Bay, local plants, terrestrial and marine animals.

The CHMA Implementation and Review Committee will be consulted on the inclusion of information on the cultural values of the project area and its place in the wider cultural landscape of the Great Barrier Reef region.

## ***50.3 Respect and Recognition- YARNING CIRCLE- PERFORMANCE SPACE***

### **50.3.1 Rooftop location**

SHMD will provide a 'Yarning Circle' performance space proposed for a rooftop location (on top of the Car Park) for Aboriginal Respondent Parties with the intention to facilitate the showcasing and public promotion of Gia and Ngaro/Gia cultural heritage, dance, music and storytelling to the general public and local State, National and International tourists visiting the proposed project area.

57.3.2 The Yarning Circle Performance space will be incorporated into the business planning framework to ensure commercial viability and agreement is subject to viable business planning standards as described in this CHMA.

57.3.3 The Business Plan will identify possible funding sources including funds for kitout, operation and training for performers and technical and events staff as described in this CHMA

## **51 Principle 2: Sharing and Caring for Country:**

SHMD will facilitate and support opportunities for Gia respondent party and Ngaro/Gia respondent party to connect and Care for Country as defined in this CHMA

## ***51.1 Local Native Plant Species Vegetation of SHMD***

### **51.1.1 Vegetation Initiatives and Ethnobotanical Knowledge**

SHMD will undertake to vegetate the (reclaimed) development site with local native plant species partly as a means to replace the existing fringing native coastal species now present along the Shute Harbour foreshore, but also to enhance the natural, cultural and aesthetic values of the development site.

51.1.2 SHMD will provide opportunity for Aboriginal Respondent Parties to contribute their ethnobotanical knowledge and expertise in selecting appropriate native plants (including traditional bush tucker and medicinal plants).

### ***51.2 Ethnobotanical Knowledge Sharing Program***

An Ethnobotanical Knowledge Sharing Program will be developed in consultation with the CHMA Implementation and Review Committee to inform SHMD's landscape design and planning and children's recreational areas, including outdoor public realm.

### ***51.3 Native Vegetation Labour Program***

The Ethnobotanical Knowledge Sharing Program will maximize opportunity for Gia and Ngaro/Gia people through the Aboriginal Respondent parties to participate in the designing and landscaping of the project site and will include a **Native Vegetation Labour Program** initiative for vegetation works to be incorporated into an **Indigenous Employment and Training Strategy**

## **52 CHMA Aspirations Principle 3: Partnership and Capacity Building**

### ***52.1 Partnership and Capacity Building Strategies***

The activities and strategies to realize the Aspirations of the Aboriginal Respondent Parties as detailed in this CHMA will specifically:

- include Aboriginal Respondent Parties' consultation and equal representation in partnerships component that reflects a meaningful engagement process

- identify opportunities for Aboriginal Respondent Parties and their communities to gain the skills required to be better placed as partners and commercial operators.

In this CHMA capacity building relates to a range of activities by which Gia and Ngaro/Gia individuals, respondent parties and governance structures improve their capacity to achieve sustainable natural resource management and commercial and cultural tourism.

#### **52.1.1 Capacity in this CHMA context includes awareness, skills, knowledge, motivation, commitment and confidence.**

### ***52.2 Partnership and Capacity Building- Employment and Training***

#### **52.2.1 An Indigenous Employment and Training Strategy**

An **Indigenous Employment and Training strategy** will be developed in partnership with SHMD in consultation with the CHMS Implementation and Review Committee to maximize employment and training opportunities for Gia and Ngaro/Gia peoples during the construction and operational phases of the SHMD development project.

### ***52.3 Partnership and Capacity Building- SHMD Aboriginal Business Development Program (SHMDABDP)***

52.3.1 SHMD recognizes that the identified commercial enterprise CHMA aspirations are constrained by Aboriginal Respondent Parties having little financial capital for the initial setup and interim running costs during the commercial establishment of an cultural centre and yarning circle as described in this CHMA. In response to this barrier to Aspirations realisation commitment to assist the Aboriginal Respondent Parties to realise their aspirations is made as detailed in this CHMA.

59.3.2 SHMD will develop in consultation with Aboriginal Respondent Parties a **Gia and Ngaro/Gia Business Development Program** for the SHMD site which will include:

#### **52.3.3 Business Support for a period of five (5) years:**

Gia and Ngaro/Gia business development, which includes facilitated access to professional and marketing advice, contributory support to develop a business idea/plan, audit, access to sources of and application

writing/mentoring for government funding and philanthropic funding to start or acquire business, infrastructure and governance capacity building, training and development of business skills and other services such as product development, assistance with business growth, feasibility studies and the provision of ongoing mentoring services.

#### **52.3.3.1      *Board members Voluntary Mentoring***

SHMD board members and delegated staff will commit approximately 200 hours of profession mentoring to assist Aboriginal Respondent Parties in their business development strategic planning and feasibility studies

#### **52.3.3.2      *Funding audit assistance***

SHMD will assist the Aboriginal Respondent Parties to undertake an audit of potential funding and commercial investment sources to inform the development of a business plan to realize the a cultural centre and yarning circle performance space.

### **52.3.4          *Funding Application Assistance***

SHMD will in the first eighteen (18) months assist the Aboriginal Respondent Parties on behalf of their community members apply for hard and soft infrastructure, governance and business development, equipment and sustainability funding from a range of funding sources and investment partnerships to establish but not limited to the Cultural Centre and Yarning Circle performance space as defined in this CHMA Aspirations agreement

## **52.4 *Business finance at commencement of the proposed Cultural Centre***

### **52.4.1          *Contribution to set up costs for Cultural Centre***

SHMD will provide from the SHMD's "Reef Fund" to contribute to the set up costs of the Cultural Centre on the SHMD Project development site.

59.4.1.1      The provision of set up funds from the proposed SHMD REEF FUND is subject to the development of a mutually endorsed sustainable Business Plan, which includes cultural heritage principles, commercial viability, operational sustainability, governance management system and structure and a detailed feasibility study according to best practice Business Standards.

59.4.1.2      A Business Plan will be developed which incorporates a legal plan reflecting the Designated Area will be drawn up prior to the implementation of the Aspirations principles

## ***52.5 Partnership and Capacity Building- SHMD Aboriginal Business Development Program (SHMDABDP) - Business Incubators'***

52.5.1 Aboriginal Respondent Parties with the facilitated assistance of SHMD will take advantage of existing enterprise models in the community to build on the concept of 'business incubators'<sup>1</sup> and the establishment of 'enterprise hubs' where relevant which perform business incubation functions.

52.5.2 Mentoring and business development planning to assist Aboriginal Respondent Parties with skills to manage and sustain a commercially operable enterprise will be provided and or facilitated by other funding agencies to develop Gia and Ngaro/Gia peoples business development and governance management skills.

52.5.3 SHMD will provide when possible in kind contribution to Social Enterprise for Gia and Ngaro/Gia Aboriginal Respondent Parties. There are two main categories of community volunteering which SHMD has considered They involve company employees and board members:

- Sharing their existing knowledge and expertise with community groups to assist with their management and development.
- Obtaining new knowledge and skills to enable employees and board members to participate as community volunteers.

## ***52.6 Partnership and Capacity Building- SHMDABDP Cultural Centre***

52.6.1 SHMD will provide ten(10) years lease paid from the SHMD Reef Fund for the Cultural Centre, with a further ten (10) years lease option at a 50% reduced rate of scheduled Rental Fee.

52.6.2 A detailed lease contract will be provided and mutually agreed during the construction phase of the project subject to EIS and local government Council Approvals and sustainable business plan

52.6.3 The lease contract will be made under the development sites Community Title arrangements

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<sup>1</sup> Incubator skills models accessed 18/2/08 <http://www.wet tropics.gov.au/res/downloads/Cultural.pdf>

52.6.4 The details contained within the lease agreement must comply with the conditions contained in this CHMA and be fair and reasonable for all parties.

### ***52.7 Partnership and Capacity Building- SHMDABDP- Yarning Circle Performance space***

52.7.1 SHMD will provide twelve (12) months lease paid for the SHMD Reef Fund for the Yarning Circle.

52.7.2 The Lease Agreement is subject to a mutually agreed viable business plan

#### **52.7.3 Economic Development Initiatives:**

Economic development initiatives foster the development of Aboriginal Respondent Parties business by improving the capacity of Gia and Ngaro/Gia people to start and operate a business.

These initiatives aim to provide practical guidance on how to develop or implement business ideas and give access to tailored information and products.

### ***52.8 Partnership and Capacity building- Preferred Tenders Model***

Aboriginal Respondent Parties seek assistance/preferred opportunities from SHMD in the construction phases and operational phases of SHMD development.

Interest includes but is not limited to landscaping and revegetation works, building works, cleaning contracts, security contracts, and caretaking and management roles.

#### **52.8.1 Access and Equity Strategies in Tendering Processes**

SHMD will incorporate access and equity strategies in tendering processes to maximize Aboriginal Parties opportunity to tender for the delivery of goods and services.

#### **52.8.2 Detailed Pre-tender interviews**

SHMD will provide a detailed interview to the Aboriginal Respondent Parties relating to impending tenders to assist in the capacity of Gia and Ngaro/Gia people to bid in the tender process.

52.8.3 Where appropriate a preferred tender process may apply.



52.8.4 Determination of applicable preferred tender categories will be determined via consultation with the CHMA Implementation and Review Committee to identify areas or categories of interest to Gia and Ngaro/Gia people

52.8.5 Preferred tender processes do not limit statute requirements and assessment on merit of tenders.

52.8.6 Aboriginal Respondent Parties as tenders will be required to meet all requirements and standards including skills, specialist skills where required, workplace health and safety and duty of care, accountability requirements detailed in tender documents

52.8.7 **To be clear:** SHMD rights to determine successful tenderer against tender requirements will not be limited, however will be consistent to fair and reasonable and legal tender conditions

## **53 Principle 4 -Culture and Heritage**

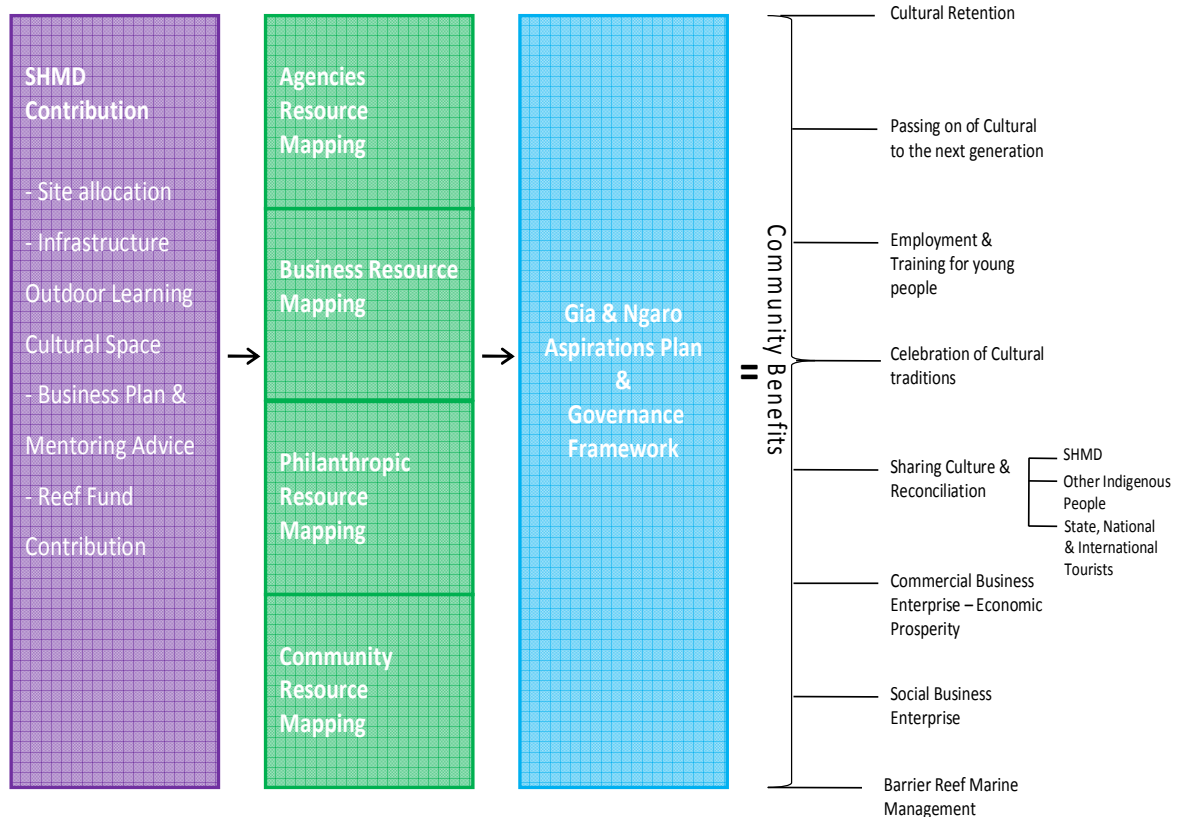
### ***53.1 Principle 4 Culture and Heritage - The Cultural Centre***

53.1.1 It is the intent of this CHMA to provide the proposed Cultural Centre will be incorporated with a Charter Boat waiting lounge for charter tourists on the proposed SHMD site, whereby visitors to the site can enjoy air-conditioned comfort, while waiting to board to just after disembarking from cruise charters subject to a viable business plan.

53.1.2 The parties agree that this commercial and cultural tourism strategy will maximise and enhance visitor's commercial reef and destination experience. When realised visitors will be able to increase their understanding of reef conservation as well as experience Aboriginal culture and Gia and Ngaro/Gia traditional dreamtime stories, art crafts and traditional exchange and other activities as determined by the Aboriginal Respondent Parties on behalf of Ngaro/Gia and Gia people

## 54 CHMA ASPIRATIONS MODEL

### GIA & NGARO Interactive Cultural Centre Potential Community Benefits



### 54.1 Principle 4- Culture and Heritage- Marine Ecology and Conservation

54.1.1 SHMD and Aboriginal Respondent Parties recognise that there is a growing body of evidence, which indicates that tourists visiting Australia are unable to satisfy their desire to experience Aboriginal culture and interact with Aboriginal people. To advance opportunities for Gia and Ngaro/Gia people to share their culture and care for land and waters, the development of a **Marine Ecology Social Enterprise** will be included for consideration on the potential business program model

## ***54.2 Principle 4- Culture and Heritage- Aboriginal Cultural Tourism***

54.2.1 This CHMA Aspirations Agreement will maximize the potential for Aboriginal Respondent Parties to showcase their culture through the development of **Aboriginal Tourism Enterprises** to supply this market through appropriate forms of tourism involving care of country and culture.

54.2.2 Aboriginal Respondent Parties will work in partnership with SHMD to promote Cultural Heritage sharing in a highly desirable tourist destination at the SHMD project site.

## ***54.3 Tourism and Indigenous Arts and Crafts Initiative***

54.3.1 Aboriginal Respondent Parties will develop a Tourism and Indigenous Arts and Crafts Initiative to be incorporated in an agreed Business Plan

54.3.2 All parties recognise and committed to working towards a sustainable, commercially viable Cultural Tourism Plan which has the potential to realise/establish the following:

1. Employment, training and skills development for young people in the tourism and hospitality industries
- 2 Stand-alone Aboriginal owned cultural tourism enterprises
- 3 Cultural tourism services attached to mainstream and other tourism enterprises
- 4 Potential Joint ventures between Gia and Ngaro/Gia Aboriginal people and mainstream Tourism Enterprises

## ***54.4 Potential Joint Venture Leverage***

SHMD will facilitate in the first eighteen (18) months of CHMA Aspirations implementation commercial joint venture advice to foster potential joint ventures between Aboriginal Respondent Parties and mainstream tourism enterprises.

## **55 Satisfaction Statements**

55.1.1 The Aboriginal Respondent Parties on their own behalf and on behalf of the Gia and Ngaro/Gia People agree that the benefits provided to the respondent parties are:

- a) In full and final satisfaction to progress the principles and intent of the aspirations agreement

b) For the benefit of all Gia and Ngaro people  
55.1.2 The Aboriginal Respondent Parties agree to maximize leverage from the aspirations and intended principles detailed in this CHMA.

55.1.3 Aboriginal respondent Parties will voluntarily and actively work collaboratively to seek economic and voluntary philanthropic investment to realize the aspirations contained in this CHMA for the long term benefits of the Gia and Ngaro/Gia peoples

55.1.4 Aboriginal Respondent Parties identify and endorse the development proposal as it provides long term generational benefits for their community and will provide a world class mainland destination place to maximize Cultural Tourism Enterprise which offers to the community opportunity for cultural, social environmental care for country and waters and economic benefits for their community who have generally low socio-economic status in the broader community.

## **56 Exclusion Cultural Heritage Management Agreement between Whitsunday Regional Council and Aboriginal Respondent Parties**

This Cultural Heritage Management Agreement does not include any agreement negotiations nor conditions of the Whitsunday Regional Shire Council as sponsor for the Designated Area between the existing Shute Harbor Motel and the existing Barge Jetty (proposed new Shute Harbour Public Boat Ramp) and the Aboriginal Registered Parties in their negotiations for Cultural Heritage Management Agreement.

## Signature Copies of Formal Agreement

### 57 Executed as deed by the parties on the dates appearing below

Signed Sealed and Delivered for and on behalf of Shute Harbour Marina Development Pty Ltd

By ELSIE KYLE

*E. Kyle*

This 13<sup>th</sup> day of APRIL 04 2008  
In the presence of :

*D.A. Mailman*

.....  
Signature of witness )

*DAVID A. MAILMAN*

.....  
(Name of witness)

Signed Sealed and Delivered by

on behalf of the Gia People

By RAYLENE VAN VEEN

*Raylene*

This <sup>thirteenth</sup> day of April 2008  
In the presence of :

*D.A. Mailman*

.....  
Signature of witness )

*DAVID A. MAILMAN*

.....  
(Name of witness)

**Signed Sealed and Delivered by**

*MARIE COLEMAN*  
**By** *Marie Coleman*

**on behalf of the Gia People**

*THIRTEENTH APRIL*

**This day of 2008**

**In the presence of :**

*[Signature]*  
.....  
**Signature of witness )**

*Vicky Toffetti*  
.....  
**(Name of witness)**

**Signed Sealed and Delivered by**

*PATRICIA M. BRIMBLE*  
**By**

*Patricia M. Brimble*

*THIRTEEN APRIL*  
**This day of 2008**

**In the presence of :**

*[Signature]*  
.....  
**Signature of witness)**

*DAVID A. MAILMAN*  
.....  
**(Name of witness)**

**on behalf of the Gia People**



Signed Sealed and Delivered by

Sandra Hero

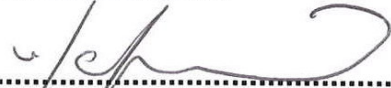
By

Sandra Hero

on behalf of the Gia People

This <sup>thirteen</sup> day of April 2008

In the presence of:



Signature of witness)


Vicky Toffetti

(Name of witness)

Signed Sealed and Delivered by

RAYMON ARON

By



on behalf of the Ngaro and Gia People

This <sup>THIRTEEN</sup> day of <sup>APRIL</sup> 2008

In the presence of:



Signature of witness)

Vicky Toffetti

(Name of witness)

Signed Sealed and Delivered by

CHARMAINE KOROI

By

Charmaine Koro

on behalf of the Ngaro and Gia People

This <sup>thirteenth</sup> day of <sup>APRIL</sup> 2008

In the presence of:



Signature of witness)

Vicky Toffetti

(Name of witness)

Signed Sealed and Delivered by

RENARTHA PRIOR

By

*RPrior*

*13 THIRTEENTH APRIL*

This day of 2008

In the presence of:

*[Signature]*

Signature of witness)

*Vicky Toffetti*

(Name of witness)

on behalf of the Ngaro and Gia People

Signed Sealed and Delivered by

CAROL PRIOR

By

*Carol Prior*

This *13* day of *April* 2008

In the presence of:

*[Signature]*

Signature of witness)

*OWEN KYLE*

(Name of witness)

on behalf of the Ngaro and Gia People

Signed Sealed and Delivered by

CILLA PRIOR

By

*Cilla Prior*

This *thirteenth* day of *April* 2008

In the presence of:

*[Signature]*

Signature of witness)

*OWEN KYLE*

(Name of witness)

on behalf of the Ngaro/Gia People

**Signed Sealed and Delivered by**

*DAVID QUINLAN*

**on behalf of the Shute Harbour Marina  
Development Pty Ltd**

**By**

*[Signature]*

*THIRTEENTH APRIL*  
**This      day of      2008**  
**In the presence of:**

*[Signature]*

.....  
**Signature of witness)**

*OWEN KYLE*

.....  
**(Name of witness)**