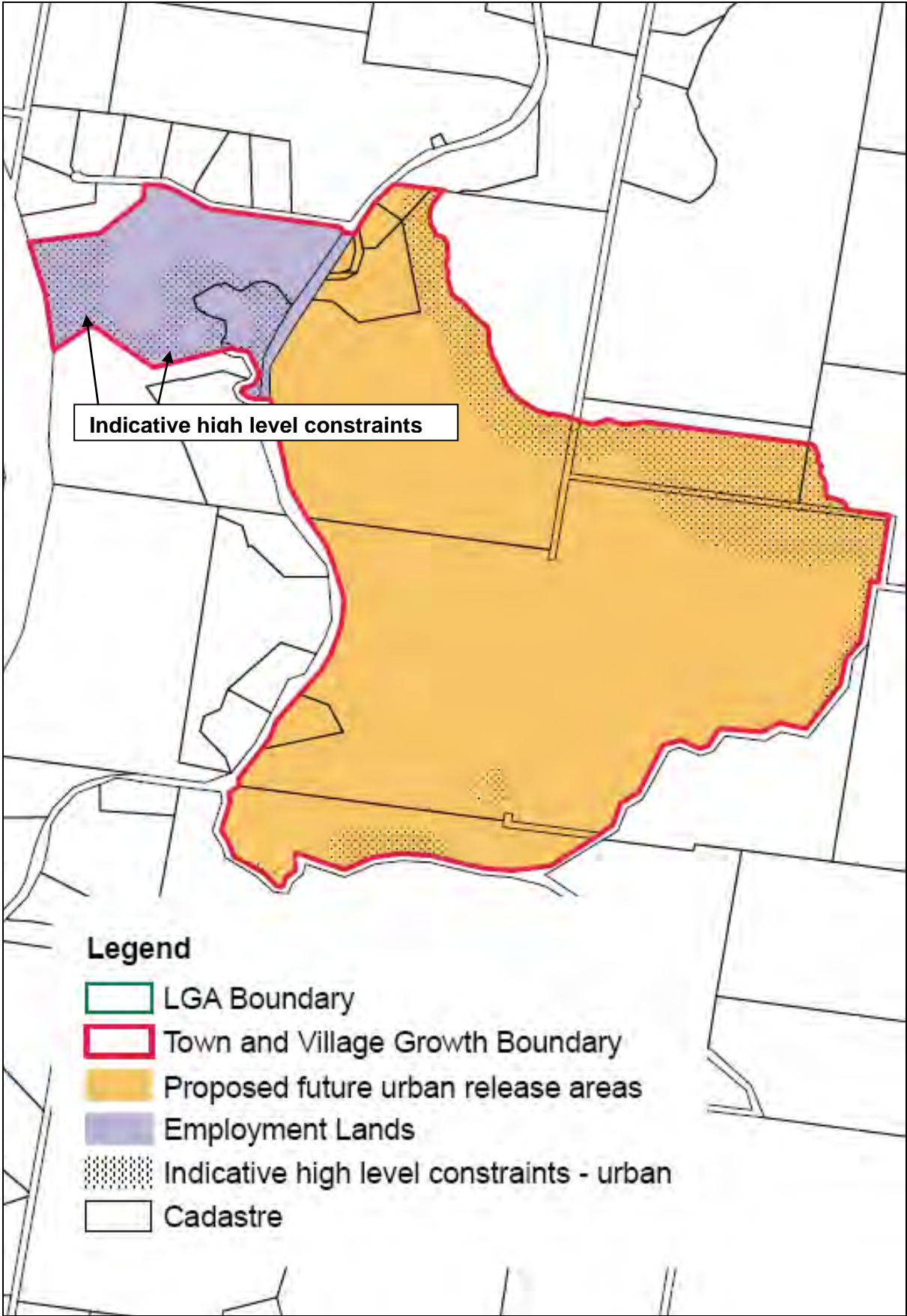


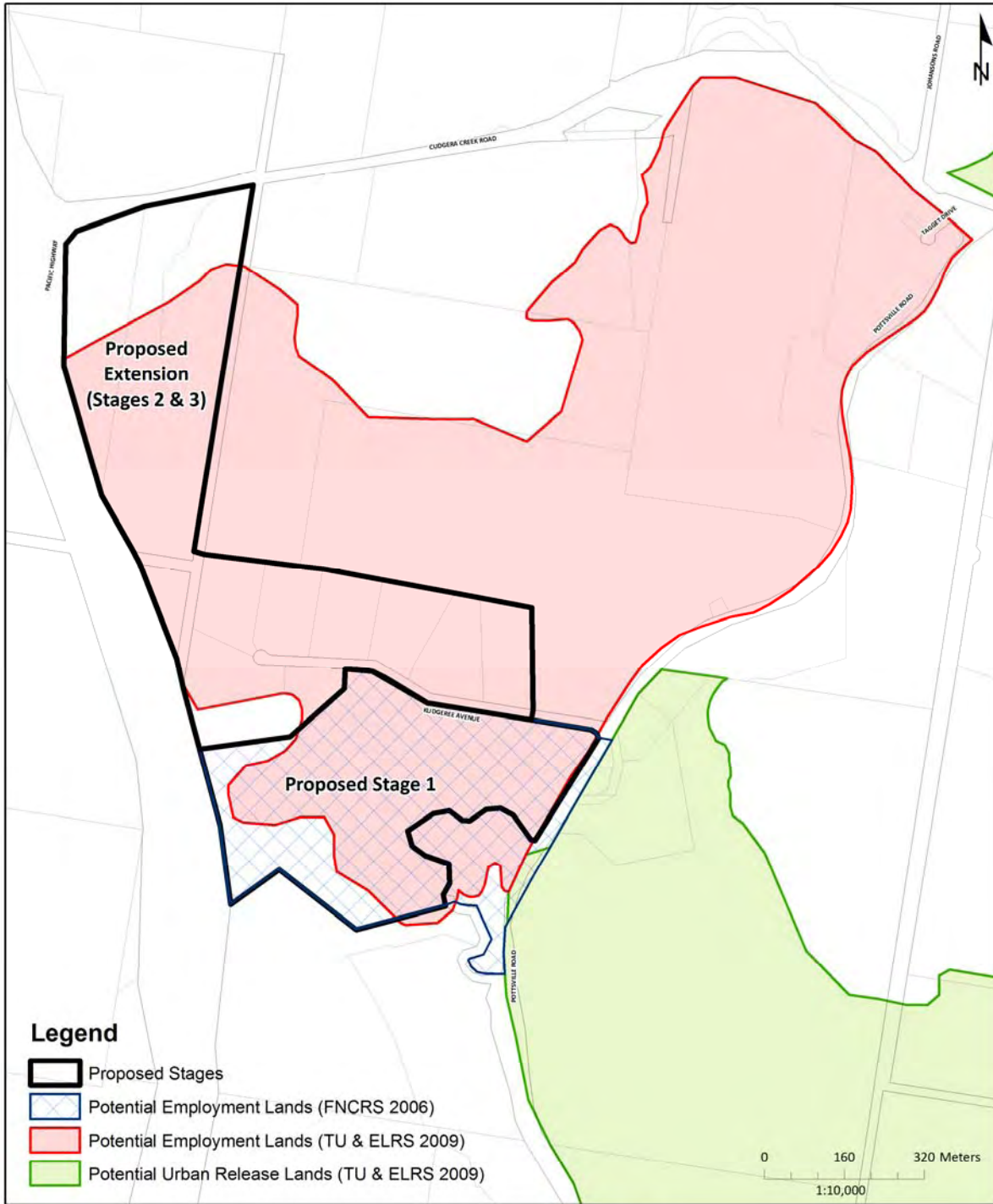
ATTACHMENT 1 – Extract from Tweed Urban and Employment Land Release Strategy 2009 (Figure 17) showing exclusion of vegetation on the south western portion of Lot 12 DP 1015369



ATTACHMENT 2 – Extract from the Far North Coast Regional Strategy 2006 showing “indicative high level constraints” on the southern and eastern boundaries of the site.



ATTACHMENT 3 – Boundaries of the Pottsville Employment Land Rezoning Submission & Other Studies



Pottsville Employment Land Rezoning Submission & Other Studies

Filename: z:\esr\planning\mxd\Pottsville\Pottsville Employment Land2.mxd

Author: J.Batchelor - Planning Reforms Unit

Date Printed: 12 October, 2009

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Cadastral 12 October, 2009
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Coordinate System - MGA Zone 56
Datum - GDA 94

DO NOT SCALE
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Tweed Shire Council

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Murwillumbah
NSW 2484

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ATTACHMENT 4 - Chronology of Events

Date	Comments
21 June 2006	Council notified the Department of Planning (DOP) under s 54 of the Act of the resolution to rezone certain land.
16 July 2007	Director General of the DOP requested that the proposal to rezone the land not proceed at that time and that discussions occur between Council and the Department, and following closer assessment of the then Draft Far North Coast Regional Strategy, among other relevant policies and guidelines.
21 July 2006	Letter to Brown & Haan Surveyors requesting that they arrange for their client to discuss future cost sharing arrangements for an Environmental Study.
28 July 2008	Meeting with Planit Consulting re the submission of a rezoning application and process for expediting the rezoning of the land.
24 September 2008	A rezoning application was received from Heritage Pacific Pty Ltd seeking the rezoning of the land from Rural 1(a) to "suitable industrial and /or commercial zones" (generally 4(a) Industrial) under the Tweed LEP 2000. Heritage Pacific and their planning consultant were advised prior to and post the submission of the application that the application could not be resourced at that time, that it would likely be early 2009 and may require Council contracting a consultant at their cost. The latter is consistent with the Council's 2006 resolution.
1 December 2008	Meeting with Heritage Pacific and Council Engineers to discuss sewer servicing issues.
5 March 2009	Further Meeting with Heritage Pacific and Council Engineers to discuss sewer servicing issues.
26 March 2009	Meeting with Planit Consulting, Heritage Pacific, the Mayor and Director of Planning and Regulation re progressing the rezoning application.
8 May 2009	On-site meeting between Council staff and Heritage Pacific.
14 May 2009	An amended sewer engineering report submitted.
18 May 2009	Meeting with Planit Consulting and Heritage Pacific re progress of rezoning application, request for proponent to address Council resolutions.
22 May 2009	State Agency consultation under s 62 commenced.
25 May 2009	The proponent advised that they wish to proceed with Stage 1 only
28 May 2009	Email correspondence with DoP in relation to the need to prepare an LES following earlier discussions of 22 May 2009.
3 June 2009	Formal request for the need for an LES sent to DoP.
16 June 2009	A further meeting between Council staff and Heritage Pacific is scheduled to follow up on the progress of the rezoning application.
25 August 2009	Proponent submitted amended documentation addressing Council's response to an initial assessment of the rezoning submission and focus on Stage 1.
25 September 2009	A preliminary response was sent to the proponent raising a number of outstanding matters, and raised issue with the way in which consultants had presented their information and the ability of Council staff to expeditiously review the document, distil the

Date	Comments
	nature and detail of the proposal and have certainty as to the outcome of any rezoning of the subject land.
15 October 2009	Meeting with proponent at Council offices

ATTACHMENT 5 - Ecologist report 20 July 2009

On 6 July 2009 I attended a site visit with Steve Bishop Compliance Officer at Lot 12 DP 1015369 at Kudgerie Avenue, Cudgera Creek after being notified (initially by Mark Kingston of NRM unit and subsequently Stuart Russell of Planning Reforms unit) that the property was subject to a rezoning application (from 1(a) Rural to 4(a) Industrial) and clearing appeared to have been undertaken in a 2004 Tree Preservation Order (TPO) area without approval (noted when recent aerial photographs submitted with the application were compared with Council's 2007 aerial photograph).

On arriving at the site, we viewed a number of burning log piles and a tractor with a long hose with an operator spraying bracken, grass and regrowth seedlings. The operator finished and left the site shortly after our arrival. In addition, spray drift appeared to have impacted upon the adjoining property (along the fence line on the southern boundary). Most of the felled trees were not distinguishable as to species due to their advanced burnt state but their form indicated that they were most likely Eucalypts. The timber appeared dry as the wood was burning with little smoke, indicating tree removal may have been undertaken some time ago. The piles had clearly been alight for some time with substantial coal beds present. One Hoop Pine (*Araucaria cunninghamiana*) greater than 20m long was evident due to the bark type in one of the fire piles.

In total some ten or more piles of burning or burnt trees were present with five or six piles still alight and one placed at the base of a live Brushbox tree (see photographic plates below). This tree had caught alight and the bark and heartwood appeared substantially damaged and burning internally such that death of the tree is likely. A number of root balls covered in clay and dirt were visible, apparently indicating that trees had been removed through pushing over with earthmoving machinery. Many other standing dead and dying trees were evident on the north-facing slope. Where the 2007 aerial photographs indicates a canopy estimated at some 70% canopy cover, trees have been thinned such that the canopy cover now present is estimated at 10 to 20%.

The vegetation on the site is covered by Council's 2004 TPO, is mapped as Brushbox Open Forest in the majority with a small area of Blackbutt Open Forest complex in the south west (see Figures below) where Hoop Pine is a clear emergent species on neighbouring immediately adjoining the property boundary. The site is mapped as part of a regional fauna corridor and as Secondary Koala Habitat Class A and B. Portions of the site are also mapped as being steep at over 18 degrees slope.

Conclusion

Removal of trees on this property has clearly breached Council's 2004 Tree Preservation Order.

Removal of vegetation was also done in the absence of a Property Vegetation Plan or other approval required under the Native Vegetation Act 2003. It is not possible to assess whether Koala food tree species were amongst those cleared but both mapped vegetation communities have potential to include such species, thus the Threatened Species Conservation Act may have also been breached. Finally under the Pesticides Act, use of pesticides must be limited to the owners property, yet herbicide has clearly drifted off the property to impact vegetation along the neighbouring boundary, constituting an offence under this Act.

Recommendation:

That the matter be reported to Council to seek approval to commence Class 4 legal proceedings in the Land and Environment Court against the landowner for a breach of Council's 2004 Tree Preservation Order and that restoration, maintenance and protection of the significant vegetation be part of the outcome sought.



Plate 1: Burn piles extended to kill native seedlings



Plate 2: Hoop Pine visible by bark



Plate 3: Large root balls and coals evident



Plate 4: Boundary cleared and spray-impacted adjacent vegetation – red and white peg could signify boundary? This area covered by TPO and vegetation removed



Plate 5: Early regrowth following clearing to south of roadway



Plate 6: Area adjacent roadway all cleared where previous canopy evident – background vegetation is neighbours



Plate 7: The nature of the steep slope looking from top of property down to cattle grazing adjacent drainage line



Plate 8: Large root balls with soil remaining indicate trees pushed over with machinery



Plate 9: Occasional trees remain where canopy once dense



Plate 10: Thinned tree cover across northern slope



Plate 11: Further dead and dying trees on edges



Plate 12: Previous burn piles evident



Plate 13: Few tree remain on northern hillslope



Plate 14: Rootball size can be compared with Compliance Officer



Plate 15: Burn pile



Plate 16: Greatly thinned tree canopy looking upslope



Plate 17: Looking down to car on roadway. Vegetation along roadway (background) all gone.



Plate 18: Fire pile burnt against live Brushbox causing internal burning – this tree is a “scarred tree” and of cultural heritage significance



Plate 19: Property (in background) with smoke from fire piles viewed from Kudgerie Ave approach



Plate 20: Burn pile on lower section may indicate clearing also in the section along the drainage line

ATTACHMENT 6 - Extract from Cultural Heritage Assessment (Everick Heritage Consultants, August 2008)



Figure 14: View north – Area 6 Aboriginal Scarred Tree Site



Figure 15: Scarred Tree Site – Proposed Pottsville Industrial Estate

8. RESULTS OF THE CULTURAL HERITAGE ASSESSMENT

8.1 Indigenous Cultural Heritage

There was one Aboriginal site, a scarred tree, identified within the Subject Lands at Lot 12 DP 1015369 Kudgerie Avenue, Pottsville (Figures 14 and 15).


A tree scar was identified in Area 6 on the eastern slope of a spur extending to the north. The tree is the centre tree of a line of three brush box (*Lophosiemum confertus*) (Figure 14). The slope falls east to the narrow valley that carries the south to north watercourse through the property. A light timber frame carport is below the site to the east. The site card to the scarred tree is shown in Appendix C.


DESCRIPTION

Site name:	Kudgerie Avenue 1	Species:	Brush Box
Type:	Aboriginal tree scar	Girth:	c 1.9m
Location:	Grid: easting 551975 northing 6858410 Map: Pottsville 9641-3S 1:25 000 GPS: 28° 23.975 south, 153° 31.830 east.	Orientation:	South
Dimensions:	Height 1.44m, Width 0.32 m, Bark thickness 0.15 m Base height above ground: 0.24 m	Tool Marks:	None visible
		Preservation:	Some termite activity Generally solid/stable
		Overgrowth:	0.15m

APPENDIX B. AHIMS site card for Scarred Tree site (Kudgeree Avenue 1)

New recording Additional info

 National Parks and Wildlife Service Box 1987, Hurstville NSW 2220, Tel: (02) 585 6444 Standard Site Recording Form XXXXXX RR Revised 12/92	
1:250,000 map sheet: <u>TWEED HEADS</u>	NPWS Code: <u>1044</u>
AMG Grid reference: <u>561970</u> mE <u>685840</u> mN <small>Full reference - please include leading digits</small>	HEAD OFFICE USE ONLY: NPWS Site no: _____ Site type: _____ Accessed by: _____ Date: _____ Data entered by: _____ Date: _____ Director/Manager: _____ Address: _____
Scale of map used for grid reference: <input checked="" type="checkbox"/> 25K, 50K <input type="checkbox"/> 100K <input type="checkbox"/> 250K <small>Please use larger scale available</small>	1:25K, 100K map name: <u>POTTSVILLE 9641-35</u>
Site name: <u>KUDGEREE AVENUE 1</u>	Locality/property name: <u>SOUTH POTTSVILLE</u>
NPWS District: <u>LISHORE</u>	Region: <u>NORTHERN</u>
Reason for investigation: <u>A REZONING PROPOSAL & DEVELOPMENT OF AN INDUSTRIAL ESTATE.</u>	
Portion no: _____ Parish: <u>MOOBALL</u>	Photos taken? _____ How many attached? _____
How to get to the site (refer to permanent features, give best approach to site eg. from above, below, along cliff). <small>Draw diagram on separate sheet.</small> <u>FROM POTTSVILLE TAKE ENDGERA CH RD BY POTTSVILLE ROAD & FROM TAKE RIGHT TURN INTO KUDGEREE AVE. GO TO CULVERT. GATE ON LEFT FOLLOW DIRT TRACK TO TIMBER FRAME CARPORT ON THE RIGHT. (CATTLE WARDS ON THE LEAD) TREE ON SPUR ABOVE ON RIGHT IN LINE OF THREE BARN BOY TREES.</u>	
Other sites in locality? <u>YES</u>	Site Types include: <u>HIDDEN, ARTEFACT SCATTER</u>
Are sites in NPWS Register? <u>YES</u>	<u>BOON CARPENTRIAL</u>
Have artefacts been removed from site? <u>NO</u>	When? <u>N/A</u>
By whom? <u>N/A</u>	Deposited where? _____
Is site important to local Aborigines? <u>YES</u>	
Give contact(s) name(s) + address(es): <u>TWEED BYRON LRLC</u>	
Contacted for this recording? <u>YES</u>	
Attach additional information separately if not, why not? _____	
Verbal/written reference sources (including full title of accompanying report): <u>CULTURAL HERITAGE ASSESSMENT BY LOT 12 JP 1015369 POTTSVILLE, N.S.W. REPORT FOR PLANIT PTY LTD. KINGSGARIE NSW.</u>	
Checklist: surface visibility damage/disturbance threat to site	Condition of site: <u>GOOD</u>
Recommendations for management & protection (attach separate sheet if necessary): <u>TREE BE OBTAINED WITHIN DEVELOPMENT. SHEET 2 AND 3 BE REPLACED.</u>	
Site recorded by: <u>EVERICK HERITAGE CONSULTANTS 29. 1. 2008.</u> Address/institution: <u>PO BOX 146 RED HILL, Q. 4059.</u>	

SITE POSITION & ENVIRONMENT		OFFICE USE ONLY; NPWS site no:
1. Land form a. Beach/rim slope/edge top, etc: RIDGE/SPUR		b. direction: 360°
c. mark on diagram provided or on your own sketch the position of the site:		c. slope: LEVEL
		d. Describe briefly: CANYON OF SPUR.
<p>SCARRD TREE THE MIDDLE OF A LINE OF THREE ALIGNED NORTH/SOUTH ON EAST SIDE OF SPUR. CLIMBABLE SURROUNDING FLATS.</p>		
1. Local rock type: ANDYDASE.	g. Land use/effct: GARDING.	
2. Distance from drinking water: 6100m.		Source: CREEK.
3. Resource Zone associated with site (estuarine, riverine, forest etc):		
4. Vegetation: SELEARNYLL FOREST ON SPUR LINED. NOT SELEARNYLL IN FOREST IN GRANTY FLATS BELOW.		
5. Epibiotic plants noted:		
6. Faunal resources (include shellfish):		
7. Other exploitable resources (river pebbles, corals, etc): PEBBLES.		
Site type: SCARRD TREE.	DESCRIPTION OF SITE & CONTENTS Note state of preservation of site & contents. Do NOT disturb/damage site or contents. SPECIES: BROWN FOX. CONDITION: GOOD (LIVING) GIRTH: 1.9m. SCAR DIMENSIONS: 1.44m (H) 0.32m (W) AT CENTRE. 0.24m Above ground. OVERGROWTH: 0.05m. ORIENTATION: SOUTH SCAR TYPE: BARK REMOVAL. SCAR PRESERVATION: GENERALLY SOLID AND STABLE. SOME TERMITTE ACTIVITY IN SCAR AREA. TRAIL MARKS: NONE VISIBLE.	
CHECKLIST TO HELP: length, width, depth height of site, shelter, deposit, structure, element eg. tree scar, grooves in rock. DEPOSIT: colour, texture, estimated depth, stratigraphy, contents - shell, bone, stone, charcoal, pottery & distribution of these, stone types, artefact types. ART: area of surface decorated, motifs, colours, wet, dry pigments, technique of engraving, no. of figures, sites, orientation. BURIAL: S: number & condition of bone, position, age, sex, associated artefacts. TREES: number, alive, dead, many age, local species, position, size, patterns, and marks, regrowth. QUANTITIES: rock type, artefacts, recognizable artefacts, percentage queried. OTHER SITES DO: Structures (high mounds, stone arrangements, bone rings, etc. sites), mythological sites, rock holes, engraved grooves (shelters, contact sites, ritual sites) Items listed as appropriate	Attach sketches etc. eg. plan & section of shelter, show relation between site contents, indicate north, show scale. Attach annotated photos (dated where useful) showing scale, particularly for art sites.	