

5.6. ABORIGINAL ARTEFACTS

REPORT AUTHOR Lisa Golding, Manager People and Community Services

MANAGER Rachel Brophy, Chief Executive Officer

DEPARTMENT People and Community Services

RECOMMENDATION

That Council resolves to:

1. **As prescribed by the Department of Seniors, Disability Services, Aboriginal and Torres Strait Islander Partnerships and *Aboriginal Cultural Heritage Act 2003* (Qld), repatriate the Aboriginal artefacts in the Jack Dwyer collection to the rightful Traditional Owners by liaising with Yalanji Aboriginal Corporation as the registered Cultural Heritage body to facilitate repatriation; and**
2. **Delegate authority to the Chief Executive Officer under s 257 of the *Local Government Act 2009* to finalise all matters in relation to the above.**

EXECUTIVE SUMMARY

For almost three decades, Douglas Shire Council has been the custodian of a collection of Aboriginal artefacts collected by Jack Dwyer, originating from across New South Wales, Northern Territory and Queensland.

Council has been approached by Kubirriwarra Yalanji Aboriginal Corporation requesting the artefacts be released into their care for culturally appropriate storage and safe keeping.

The *Aboriginal Cultural Heritage Act 2003* (Qld), dictates that Council is obliged to return artefacts to the Aboriginal peoples who have a traditional connection to them.

Council has been liaising with the Queensland Department of Aboriginal and Torres Strait Islander Partnerships' Cultural Heritage Unit within the Department of Seniors, Disability Services, Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP) to ensure the correct process is followed to determine the appropriate Traditional Owner groups to whom to repatriate the items. DSDSATSIP has confirmed that the Jabalbina Yalanji Aboriginal Corporation is the registered Cultural Heritage body to facilitate repatriation.

Officers have been liaising with relevant Traditional Owners groups of the Douglas Shire through Jabalbina Yalanji Aboriginal Corporation as the registered Cultural Heritage body to facilitate repatriation.

BACKGROUND

John Patrick Dwyer [Jack] was a registered collector of bird eggs and an ardent gatherer of shells and Aboriginal artefacts. Jack died in 1987, and his complete collection was donated to the Douglas Shire Council by his family in the mid-1990s. Much of the collection has been displayed in the Mossman Library.

No paperwork attached to the donation can be found however Jack's son, Daryl Dwyer, has confirmed this history.

The collection includes points, tula chisels and tula slugs, stone implements, polished axes, grinding stones, axe blanks before polishing, groove axes, pestles, knives, millstones, and percussion stones, collected from at least 19 locations across New South Wales, Northern Territory and Queensland. The dates of collection are unknown however some of the items have been marked with the place of origin. The items from the Douglas Shire include some collected from Cooya Beach, Daintree River, Newell Beach, Mossman, Mossman Gorge, and Wonga Beach.

In October 2022, Kubirriwarra Yalanji Aboriginal Corporation approached Council and requested the artefacts be repatriated to Kubirriwarra Yalanji Bama for culturally appropriate storage and safe keeping.

Council officers contacted the Regional Cultural Heritage Coordinator of the North Region Cultural Heritage Unit, Culture and Economic Participation Division, Aboriginal and Torres Strait Islander Partnerships in the Queensland Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships to ascertain the relevant legislation and correct process for repatriating the artefacts.

COMMENT

The Queensland legislation pertaining to the Jack Dwyer collection of Aboriginal artefacts held by Council is clear.

Under Part 2 of the *Aboriginal Cultural Heritage Act 2003* Aboriginal people are recognised as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage, including artefacts. Where Traditional Owners cannot be identified, items are deemed to be owned by the State.

The intent of the State's policies regarding administration of the Act is that wherever possible, Aboriginal cultural heritage that has been removed from its original location should be returned to the Aboriginal parties who have a traditional connection to the items. The legislation provides for penalties of up to \$143,750 for an individual and \$1,437,500 for a corporation regarding unlawful possession of Aboriginal cultural heritage.

101 artefacts in the collection have been identified as belonging to Eastern Kuku Yalanji peoples of the Douglas Shire, while others originate from New South Wales, Northern Territory and across Queensland.

Under advice from the Regional Cultural Heritage Coordinator with the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP), Council Officers have been liaising with Yalanji Traditional Owner groups through Jabalbina as the Registered Native Title Bodies Corporate, to facilitate a viewing and claiming of the local artefacts prior to their return. DSDSATSIP advises Jabalbina is the body authorised to approve Traditional Owner claims in the Douglas Shire.

Jabalbina is working closely with Council to ensure all interested Eastern Kuku Yalanji groups have the opportunity to view the artefacts before they are repatriated to the Traditional Owners. Several groups including Kubirriwarra have viewed and laid claim to some of the artefacts and other viewings have been organised. Jabalbina is happy to confirm all uncontested Eastern Kuku Yalanji claims to artefacts.

Council could request that the State Government take custodianship of the artefacts and manage the process of returning items to the rightful custodians. DSDSATSIP's Regional Cultural Heritage Coordinator advised that if Council was to make this request, then DSDSATSIP would request that Jabalbina collect the artefacts from Council and manage the process of distributing the items. This is due to Traditional Owners prefer artefacts are not moved away from the site of origin and as many of these artefacts are confirmed as belonging to this region.

DSDSATSIP has recommended that the artefacts originating from outside the Douglas Shire remain where they are, stored by Council, until contact is made, and consultation occurs with Traditional Owners for those areas. The Department will assist in identifying and providing contact details of Traditional Owners from the other 12 locations in Queensland, New South Wales, Western Australian and the Northern Territory.

The Queensland Government recommends the following process be followed in returning the artefacts to Traditional Owners after claims are supported by Jabalbina:

- prepare two copies of a list of the artefacts to be returned
- have a Council representative and the Traditional Owner recipient sign each copy to confirm transfer of the artefacts
- each party to keep an original signed copy for their records

PROPOSAL

That Council resolves to:

1. As prescribed by the Department of Seniors, Disability Services, Aboriginal and Torres Strait Islander Partnerships and *Aboriginal Cultural Heritage Act 2003* (Qld), repatriate the Aboriginal artefacts in the Jack Dwyer collection to the rightful Traditional Owners by liaising with Yalanji Aboriginal Corporation as the registered Cultural Heritage body to facilitate repatriation; and
2. Delegate authority to the Chief Executive Officer under s 257 of the *Local Government Act 2009* to finalise all matters in relation to the above.

FINANCIAL/RESOURCE IMPLICATIONS

Wages for staff who are working with Jabalbina to facilitate first nations people to view the artefacts.

When repatriating artefacts to traditional owners not from this region, the wishes of the traditional owners will be followed. Some may wish to travel here to collect items, others may request the items be packaged up and sent via freight services. DSDSATSIP and Qld Museum will assist with identifying resources to identify and assist in the repatriation of artefacts originating from outside this region to traditional owners.

RISK MANAGEMENT IMPLICATIONS

If sufficient care is not taken to follow the legal process Council may be in breach of the law.

SUSTAINABILITY IMPLICATIONS

Economic: Nil

Environmental: Nil

Social: Community members who have viewed the artefacts thus far, have expressed an interest in some or all the local artefacts. There are different ideas as to what should become of the collection.

If any artefacts are released before Jabalbina has been given the opportunity to work with members of the different clan groups, this could trigger unrest in the local Indigenous community and cause stress and angst among Elders and Traditional Owners.

There is an opportunity for repatriation of these artefacts to be a positive and educational experience for Indigenous and Non-Indigenous members of the community if done correctly.

CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

Corporate Plan 2019-2024 Initiatives:

Theme 1 - Celebrating Our Communities

Douglas Shire Council embraces the diversity of our communities and values the contribution that all people make to the Shire. We recognise that it is a core strength of the region. We acknowledge our past so that it may guide us in the future. We recognise the wrongs done to our Indigenous community and we actively seek to reconcile so that we may all benefit from and enjoy our Shire. We acknowledge early European settlers who forged an agricultural base for our economy and we welcome all new arrivals as part of our broader community.

Goal 1 - We will celebrate the diversity of our community and ensure that all infrastructure, programs, and services are underpinned with inclusiveness and accessibility.

Theme 5 - Robust Governance and Efficient Service Delivery

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

Goal 1 - We will conduct Council business in an open and transparent manner with strong oversight and open reporting.

Operational Plan 2022-2023 Actions:

New project arisen during the financial year.

COUNCIL'S ROLE

Council can play several distinct roles in certain circumstances, and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

Custodian Council owns and manages infrastructure, facilities, reserves, resources and natural areas. In fulfilling its role as custodian, Council will be mindful of the community, the economy, the environment, and good governance.

CONSULTATION

Internal: Internal consultation undertaken with Library Officers and Manager People and Community Services.

The process of returning artefacts to Traditional Owners was discussed with Councillors on 22 November 2022.

External:

- Agnes Birchill
- Alexis Sheldrick-Port, Project Officer Jabalbina
- Alfie Diamond
- Andrew Kerr, Native Title lawyer
- Bennett Walker
- Branden Walker
- Bree Schonenberger
- Damian Britnell
- Dan O'Shane
- Dany Williams, Repatriation Officer, First Nations Team, Queensland Museum Network
- Daryl Dwyer, Jack Dwyer's son
- John Diamond
- John Hartley
- Josh Paterson, General Manager, Jabalbina
- Juan Walker
- Judith Hickson, Social History, Queensland Museum
- Judy Coulthard, former Librarian at Douglas Libraries
- Lauren Schonenberger
- Leigh Preston, Regional Cultural Heritage Coordinator, Aboriginal Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships
- Lenice Schonenberger
- Linc Walker
- Mick O'Shane
- Mr. Davis
- Sheryll Birchill
- Pamela Salt and daughters, Eleanor, and Tiana
- Roy Gibson

COMMUNITY ENGAGEMENT

Various community members, refer to External consultation.

ATTACHMENTS

1. List of Local Artefacts [5.6.1 - 3 pages]

YALANJI ARTEFACTS

No	Description	Location
1	Stone Implement	Wonga
2	Stone Implement	Wonga
3	Axe	Yalanji - exact location unknown
4	Stone Implement	Yalanji - exact location unknown
5	Stone Implement	Mossman
6	Stone Implement	Mossman
7	Stone Implement	Yalanji - exact location unknown
8	Stone Implement	Yalanji - exact location unknown
9	Stone Implement	Yalanji - exact location unknown
10	Stone Implement	Yalanji - exact location unknown
11	Stone Implement	Yalanji - exact location unknown
12	Stone Implement	Yalanji - exact location unknown
13	Small Grinding Pad for making poisons	Yalanji - exact location unknown
14	Stone Implement	Mossman
15	Sharpening / Cutter	Yalanji - exact location unknown
16	Axe Head	Yalanji - exact location unknown
17	Stone Implement	Wonga
18	Cutter	Yalanji - exact location unknown
19	Cutter	Mossman
20	Cutter	Yalanji - exact location unknown
21	Cutting / Sharpening	Yalanji - exact location unknown
22	Cutting / Sharpening	Yalanji - exact location unknown
23	Grinding stone	Yalanji - exact location unknown
24	Nutcracker	Yalanji - exact location unknown
25	Grinding rock	Yalanji - exact location unknown
26	Stone Implement	Mossman
27	Stone Implement	Mossman
28	Grinding Stone	Wonga - Pebbly Beach ?
29	Hand Grinder	Yalanji - exact location unknown
30	Fossilised	Yalanji - exact location unknown
31	Small Grinding Pad for making poisons - men's tool	Yalanji - exact location unknown
32	Nutcracker	Yalanji - exact location unknown
33	Nutcracker	Yalanji - exact location unknown
34	Nutcracker stone	Yalanji - exact location unknown
35	Grinding	Yalanji - exact location unknown
36	Sharpener	Yalanji - exact location unknown
37	Nutcracker	Yalanji - exact location unknown
38	Grinding Pad	Yalanji - exact location unknown
39	Spear Sharpener	Yalanji - exact location unknown

No	Description	Location
40	Stone Implement	Yalanji - exact location unknown
41	Stone Implement	Yalanji - exact location unknown
42	Stone Implement	Yalanji - exact location unknown
43	Grinding Pad	Yalanji - exact location unknown
44	Nutcracker	Mossman
45	Starting to become nutcracker	Mossman
46	Stone Tool	Mossman
47	Grinding Stone	Mossman
48	Grinding stone	Mossman
49	Grinding Pad	Yalanji - exact location unknown
50	Grinding Stone	Yalanji - exact location unknown
51	Grinding	Mossman
52	Small grinding tool for poisons	Mossman
53	Small grinding tool for poisons	Mossman
54	Potential Axe / Story Rock	Yalanji - exact location unknown
55	Small grinding tool for poisons	Mossman
56	Grinding Stone	Mossman
57	Cutting Stone	Wonga
58	Nutcracker	Yalanji - exact location unknown
59	Chisel	Shannonvale / Mossman
60	Grinding	Yalanji - exact location unknown
61	Axe Head which has snapped - broken	Yalanji - exact location unknown
62	Triangle Axe Head	Yalanji - exact location unknown
63	Small Axe Head	Yalanji - exact location unknown
64	Grinding Pad	Yalanji - exact location unknown
65	Cutting Axe	Yalanji - exact location unknown
66	Nutcracker	Yalanji - exact location unknown
67	Nutcracker	Yalanji - exact location unknown
68	Repurposed Chisel from mortar/pestle	Yalanji - exact location unknown
69	Cutter (small)	Yalanji - exact location unknown
70	Small grinder for making poisons	Yalanji - exact location unknown
71	Small grinder for making poisons	Yalanji - exact location unknown
72	Pestle (from mortar)	Yalanji - exact location unknown
73	Tool for making jewellery (men's)	Yalanji - exact location unknown
74	Small grinder for making poisons	Yalanji - exact location unknown
75	Small grinder for making poisons	Yalanji - exact location unknown
76	Pestle	Yalanji - exact location unknown
77	Grinding stone	Mossman
78	Nutcracker	Yalanji - exact location unknown
79	Grinding stone	Pebbly Beach
80	Speartip Head	Yalanji - exact location unknown

No	Description	Location
81	Ceremonial Stone - men's rock	Yalanji - exact location unknown
82	Men's Rock	Yalanji - exact location unknown
83	Finishing Rock (multi purpose, like a leatherman)	Yalanji - exact location unknown
84	Grooved Axe	Daintree River, opposite Kilkerry Point
85	Grooved Axe	Cooya Beach
86	Grooved Axe	Newell Beach
87	Grooved Axe	Newell Beach
88	Grooved Axe	Yalanji - exact location unknown
89	Grooved Axe	Cooya Beach
90	Axe	Mossman Gorge
91	Axe	Newell Beach
92	Axe	Mossman Gorge
93	Stone Implement	Old Camp Site at Syndicate Rd, Mossman
94	Grinding Stone - mortar and pestle	Mossman
95	Nutcracker	Yalanji - exact location unknown
96	Grinding Stone	Mossman
97	Grinding Stone	Mossman
98	Percussion Stone	Daintree Road
99	Percussion Stone	Daintree Road
100	Percussion Stone	Daintree Road
101	Grinder	Mossman