HERITAGE AND RECONCILIATION WITHIN A POST-COLONIAL SOCIETY, COCKATOO ISLAND AS A CASE STUDY

by

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SUMMARY

TITLE OF DISSERTATION OR THESIS

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Heritage conservation and management has its own challenges and opportunities. If done correctly, it has the potential to re-establish the thread of continuity with a previous time. Most prominently, heritage conservation and management has the ability to facilitate legislative change, promote reconciliation and social reconstruction in a sustainable manner. It is this research papers intention to re-imagine the conservation and management process at a postcolonial heritage site with a shared history and meaning. Keeping this objective in mind, Cockatoo Island is discussed as a suitable heritage site and case study for the paper. The investigation into the case study will be undertaken by taking inspiration from Roha W. Khalaf's publication of *Cultural Heritage Reconstruction after Armed Conflict: Continuity, Change, and Sustainability.* The study will reframe Khalaf's concepts of cultural continuity, change and sustainability, by investigating its application to the discussed heritage site's conservation and management processes. The synergies between Khalaf's conceptual ideas could strengthen the connections between indigenous communities and their heritage sites. Further, these synergies could also facilitate for the social reconciliation of post-colonial communities, especially in the context of shared history and meaning.

LIST OF ABBREVIATIONS

NSW	New South Wales
NTA	Native Title Act
UNESCO	United Nations Educational, Scientific and Cultural Organisation
SHFT	Sydney Harbour Federation Trust
ISP	Interpretation Strategy Plan
HIP	Heritage Interpretation Panel
RAP	Reconciliation Action Plan
SDG	Sustainable Development Goals
CMP	Conservation Management Plan
ICH	The Convention for the Safeguarding of Intangible Cultural Heritage
WHC	The Convention for World Heritage or World Heritage Conventions
EPBC	Environment Protection and Biodiversity Conservation Act
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
LNG	Liquified Natural Gas
JPP	James Price Point
WA	Western Australia
CURE	Culture in City Reconstruction and Recovery
GML	Godden Mackay Logan
GAO	Government Architect's Office
NRW	National Reconciliation Week
DEWHA	Department of the Environment, Water, Heritage and the Arts
CHL	Commonwealth Heritage List
NHL	National Heritage List

DEE	Australian Government Department of Environment and Energy
BBB	Build Back Better
SOH	Sydney Opera House

DECLARATION

I declare that the mini dissertation/thesis, which I hereby submit for the degree MSocSci Tangible Heritage Conservation at the University of Pretoria, is my own work and has not previously been submitted by me for a degree at this or any other tertiary institution.

ETHICS STATEMENT

The author, whose name appears on the title page of this mini dissertation/thesis, has obtained, for the research described in this work, the applicable research ethics approval.

The author declares that she has observed the ethical standards required in terms of the University of Pretoria's Code of Ethics for Researchers and the Policy guidelines for responsible research.

Emilia Eva Zambri

October 2020

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I am indebted to you both as my supervisors, mentors and friends.

I also want to thank my friends and family for their support during my studies. I especially want to acknowledge my late father-in-law's indirect contribution to the output of this paper up-until his death in September 2020. Although he may not get the opportunity to see the fruition of his selfless dedication to his family, I hope his contribution lives on through the future conversations generated by this paper.

Most notably, however, I cannot begin to express my unfailing gratitude and love to my husband, Roberto Zambri, who has supported me throughout this process and has constantly encouraged me when the tasks seemed arduous and insurmountable. Without his sacrifices and dedication to me, and my studies, this paper would not have been possible. Thank you for moving continents with me and making this study a reality.

Last, but certainly not least, I would like to acknowledge the Gadigal of the Eora Nation, the traditional custodians of the land and pay my respects to the Elders both past and present. I dedicate this paper to you.

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1.   GENERAL INTRODUCTION

1.1. BACKGROUND

The consequences of colonisation and armed conflict is evident in the destruction of cultural heritage places and the transformation of urban and social landscapes. As a consequence, the process of heritage conservation should be conducted in view of the benefits for the associated communities. With this said, Cockatoo Island is a site of many opportunities, several of which are; to facilitate indigenous cultural continuity and to reflect the changes of society's social values in the site's conservation and management frameworks. One of the ways in which to achieve these objectives is through, utilising Khalaf's concept of cultural continuity, change and sustainability. The study will reframe Khalaf's concepts and evaluate them in accordance to Cockatoo Island's current conservation and management processes. This evaluation is done in order to investigate the extent to which Cockatoo Island sustainably facilitates for indigenous cultural continuity and social reconciliation. The background of Cockatoo Island and the indigenous history surrounding the site contextualises the suitability and the need for the study.

Sydney, New South Wales (NSW) has the largest Aboriginal population of all the states and territories in Australia and is the site of first continuous contact with colonial settlers since 1788 (SHFT:2019:7). Aboriginal people were the first visitors at Cockatoo Island and have called Australia home for the last 65,000 years (SHFT:2019:7). As a result, Cockatoo Island has strong, continued ties to indigenous Australians and served as a meeting place for the Eora People prior to colonisation (SHFT:2019:7). The Eora People was the name given to the coastal Aboriginal people located around the Sydney region (Heiss and Gibson:2013).

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N. G. Bultin (1993) estimated that there were roughly 1 to 1.5 million indigenous people inhabiting Australia before British colonisation in 1788. However, by 1901 less than 100 000 indigenous people survived (Kieran:2007). Bultin (1993) suggests that the dramatic population decline was attributed to four major reasons: 1. societal destruction, 2. European diseases (i.e small pox, venereal disease, influenza, measles, pneumonia and tuberculosis), 3. the withdrawal of resources, and 4. mass scale genocide.

Any remaining indigenous Australian that survived the effects of colonisation would have continued to keep "their cultural heritage alive by passing their knowledge, arts, rituals and performances from one generation to another - through speaking and teaching languages, protecting cultural materials, sacred significant sites, and objects", says Natashia Corrigan, a proud Jinabara – Bundjalung Woman (University of Melbourne:2020).

Unfortunately, the forcible removal of Aboriginal and Torres Strait Islander children disrupted the continuation of cultural heritage values. The Human Rights and Equal Opportunity Commission conducted an inquiry into the forcible removal of Aboriginal and Torres Strait Islander Children from their families under Australia's forcible removal policies (Australia & Wilkie: 1997:31). The report, titled: Bringing Them Home, was released in May 1997 and identified that:

> "- The forcible removal policies saw the removal of between 1 in 3 and 1 in 10 Indigenous children, in the period 1910 to 1970;
> - The effects of such removal were, for most victims, negative, and profoundly disabling;
> - Removal laws were racially discriminatory, and genocidal in intent;
> - For many children removed there were breaches of fiduciary duty and duty of care, as well as criminal actions" (Australia & Wilkie: 1997:31).

The Bringing Them Home report noted that the crime of genocide is not restricted to the immediate physical destruction of a group (Australia & Wilkie: 1997:31). The 1948 Convention on the Prevention and Punishment of the Crime of Genocide, a. 2e, supported the report's findings by defining one of the acts of genocides as "the intention to "destroy a social behaviour of national, ethnic, racial or religious group" (United Nations, Treaty Series, vol. 78:1948:277). As such, the inquiry concluded that child removal policies were

genocidal in intent because the principal aim was the elimination of Australia's indigenous peoples' distinct identities" (Australia & Wilkie: 1997:31).

Despite the systematic implications of colonial rule, the intangible cultural heritage values of indigenous Australians continued to be transferred from one generation to another. In the Dharug language Cockatoo Island is known as Wareamah - 'war' meaning women and 'eamah' meaning land (Cockatoo Island:2020). This suggests that the island was an important site for women's ceremonies (Cockatoo Island:2020). According to Isabel Coe, before the displacement of indigenous Australians Cockatoo Island "would have been a very sacred site, as it is where the rivers join and is in the middle of where the sun rises and sets over the harbour. It is part of the milky way dreamtime stories[1]" (Cockatoo Island:2020).

In the year 2000, before the site opened to the public, an Aboriginal rights group, known as the Aboriginal Tent Embassy, set up camp on the island in protest. Led by Isabel Coe, The Tent Embassy submitted a land claim under the Native Title Act 1993 (NTA) and rejected the Commonwealth's sovereignty over the island (Cockatoo Island:2020). The group stated that when Captain Cook claimed Australia, he did not specify Cockatoo Island (Cockatoo Island:2020). If successful, the submission of the NTA 1993 claim would have established a framework for the protection and recognition of native title (1993: a. 110). Further the Australian legal system would have recognised the native title because;

> "- The rights and interests of a place are possessed under traditional laws and customs that continue to be acknowledged and observed by the relevant Indigenous Australians"; and
> "- By virtue of those laws and customs, the relevant Indigenous Australians have a connection with the land or waters" (1993: a. 110).

Unfortunately, after several appeals, the High Court refused the Tent Embassy's application on March 13, 2001, and the group peacefully left the island after four months of settling on

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[1] 'The Dreaming is many things in one. Among them, a kind of narrative of things that once happened; a kind of charter of things that still happen; and a kind of logos or principle of order transcending everything significant for Aboriginal man. ' (Stanner: 2003:58). See AIATSIS publication, Wierzbicka (2015) *What does Jukurrpa ('Dreamtime', 'the Dreaming') mean? A semantic and conceptual journey of discovery,* for a justified and detailed explanation for the Australian Aboriginal Jukurrpa concept ('Dreamtime', 'the Dreaming'), phrased exclusively in simple cross-translatable words.

the site (Cockatoo Island:2020). The protest showed Cockatoo Island's continued significance to Aboriginal people of Sydney, NSW. Unfortunately, the Tent Embassy's rejected application also demonstrated the lack of legal protection, and rights afforded to safeguarding the indigenous Australian's intangible cultural heritage values associated to the site.

In contrast, Cockatoo Island also has a continued significance to those descended from Australia's convict history, commencing the arrival of the first fleet in 1788 (Cockatoo Island:2020). The island's colonial heritage buildings and distinctive terrain offers a tangible insight into the complex and layered history of the island's former convict penal establishment, naval ship dockyard, industrial school for girls and reformatory (Cockatoo Island:2020). Unfortunately, the undocumented physical signs of the Eora's connection to Cockatoo Island vanished over time, likely commencing the 1839 blasting and manual excavation of the site before convict construction (Cockatoo Island:2020). Similarly, to other ceremonial areas in NSW, the undocumented physical signs of indigenous activity on Cockatoo Island would have likely constituted of bora or ceremonial ground[2], open camp sites, midden[3], engravings and artefacts.

Disregarding the lack of tangible evidence supporting indigenous activity at the site, the prevailing shared histories and meanings associated to the island is an opportunity to investigate the social changes in attitudes toward tangible and intangible cultural heritage values. Further, the case study also presents an opportunity on, how these changes have informed and have been reflected into the statutory guidelines that manage and protect the

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[2] Bora grounds are Aboriginal ceremonial places. These are where initiation ceremonies are performed and are often meeting places as well. A bora ground most commonly consists of two circles marked by raised earth banks and connected by a pathway. One of the rings would have been for everyone — uninitiated men, women and children. The second ring would have been for initiated men and the young men about to be initiated. Occasionally, one ring can be found that would have been used for corroborees and for the rare fight. Bora grounds are a reminder of the spiritual beliefs and ceremonial life of the Aboriginal people. They are most at risk from natural processes. The circles flatten over time and become overgrown with vegetation similar to the surrounding area. However, because the soil has been compacted, there will be slight changes in the vegetation, and these differences can often be detected from an aerial view. (Korff:2020) Source: Koff, J. 2020. *Guide to Aboriginal sites and places - Creative Spirits*. Viewed, 21 October. 2020. https://www.creativespirits.info/aboriginalculture/land/guide-to-aboriginal-sites-and-places#ceremonial-grounds-bora-rings

[3] A 'midden' is an occupation site where Aboriginal people left the remains of their meals. At some sites substantial deposits grew over generations of use of the same area, and some middens are a few metres deep. When Aboriginal people had visited a certain area, they sometimes intentionally left the waste remains of the food they had consumed as the top layer of the midden pile so that the next people to visit could see what had just been harvested and would choose something else to eat so they didn't over-use the resource. (Koorie Mail: 2011:499). Source: Koorie Mail. 2011. *Value of middens*. Issue 499.

cultural heritage site.

Following the Tent Embassy's protest in 2001, the island was eventually opened to the public in 2007 and was listed as a United Nations Educational, Scientific and Cultural Organisation (UNESCO) heritage site in 2010, under the stewardship of The Sydney Harbour Federation Trust (SHFT), (Cockatoo Island:2020).

Cockatoo Island's position in the public domain presents the SHFT with the opportunity to facilitate for indigenous cultural continuity. This could be achieved through conveying indigenous Australian's intangible cultural heritage associations within the site's Interpretation Strategy Plans[4] (ISP) and Heritage Interpretation Panels[5] (HIP). The paper will investigate the extent in which Cockatoo Island facilitates for indigenous cultural continuity in their ISP and HIP. The social benefits of this is reflected in the correct execution of heritage interpretation's at other heritage sites, which have shown to enhance the visitor's experiences. ISP's and HIP's can strengthen the relationship between the site and the visitor, as well as strengthen the relationships between those associated with that heritage place (Irish Walled Towns Network:1). However, if done badly, ISP's and HIP's can inaccurately communicate the meanings of the site and alienate those who visit them or have associations with them (Irish Walled Towns Network:1).

In addition to facilitating cultural continuity, the site is also an opportunity for the facilitation of social reconciliation. As a response to the historical disenfranchisement, displacement and human rights violations toward the Aboriginals people of Australia, the SHFT created the Reconciliation Action Plan (RAP) in conjunction with Reconciliation Australia (SHFT:2019). The RAP is an innovative action plan, implemented to engage staff and stakeholders in reconciliation actions across the SHFT's 10 urban parklands - totaling 145.9ha (SHFT:2019:8). These lands sit around the Sydney Harbour foreshore and feature a rich array of Aboriginal and Torres Strait Islander, defense, convict and maritime history

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[4] Interpretation plan is a document that provides the policies, strategies and detailed advice for interpreting a heritage item. It is based on research and analysis and plans to communicate the significance of the item, both during a conservation project and in the ongoing life of the item. (NSW Heritage Office: 2005:3)

[5] Heritage interpretation is the communication of the meaning or meanings of a place through a variety of media. According to the international charter that guides interpretation this 'can include print and electronic publications, public lectures, on-site and directly related off-site installations, educational programmes, community activities, and ongoing research, training, and evaluation of the process itself' (Ename Charter:2007:3).

(SHFT:2019:8). The SHFT's engagement with staff members and stakeholders was conducted by developing and piloting innovative strategies which empower Aboriginal and Torres Strait Islander peoples through a series of deliverable objectives and targets. These objectives are intended to promote a mutually beneficial relationship with Aboriginal and Torres Strait Islander peoples at Cockatoo Island and the other SHFT lands. This mutually beneficial relationship extends to the indigenous community involvement in day-to-day functions, business activities, planning, services and programs (SHFT:2019:7).

The implementation of a RAP into a heritage site with shared importance and meaning to both indigenous Australians and settler Australians is an innovative solution for facilitating reconciliation. The RAP presents an opportunity to utilise Cockatoo Island as a case study to contribute to international discussions directed at facilitating post-colonial societies into a new, sustainable, state of cohesion through conservation and management processes at heritage sites. This study is especially relevant in today's context since the classical views of conservation processes are often not considerate of indigenous protocols (Tran & Barchman: 2018:12).

Further, the study is also relevant in the context of creating sustainable heritage places. Reconciliation, legislative changes and integrating the concepts of indigenous cultural continuity are, but the first steps toward insuring for a place's sustainability. The move toward sustainability can further be secured if these concepts were to be aligned according to the 2030 Agenda for Sustainable Development Goals (SDG) and its associated 'pillars' of sustainability. However, the aim of the paper is to evaluate the use of cultural continuity and legislative change for the purpose of creating a sustainable social reconciliation at a heritage place of shared history and menacing. This investigation is done by considering its main target audience in a holistic manner. The target audience would consist of the: indigenous and settler communities, policymakers and heritage conservators. It is anticipated that the study will be of interest to all those who investigate, protect and manage the historic environment.

1.2. CONCEPTUAL FRAMEWORK: CONTINUITY, CHANGE AND SUSTAINABILITY

The synergies between the individual concepts of cultural continuity, change and sustainability is defined to avoid ambiguity. However, it is the logical relation between these concepts rather than their individual meaning that is of importance in this study. For cultural heritage sites to remain relevant to the associated communities, a balance between the concept of cultural continuity and the concept of change needs to be integrated into the site's conservation and management processes to ensure its future sustainability. It is the opinion of this study that the social changes in attitudes in a place of shared meaning needs to be reflected in the statutory guidelines that manage and protect that site.

In the case of Cockatoo Island, the implementation of indigenous cultural continuity will be evaluated against the site's ISP, HIP and RAP. In contrast, the concept of change will be evaluated against the site's legislative framework's and the Conservation Management Plan's (CMP's) ability to adapt and protect the indigenous cultural heritage values at Cockatoo Island. Finally, the concept of sustainability will be discussed against the site's alignment to the SDG's three 'pillars' of sustainability, which include, Environmental Protection, Economic Growth and Social Equity. The combination of these three 'pillars' aid in the creation of the fourth 'pillar', known as cultural continuity. This not only ensures for a site's sustainability, but also provides the framework for an inclusive values based approach in the sites management and conservation processes. The symbiotic relationship between these concepts is especially relevant in ensuring the sustainable reconciliation and management of cultural heritage sites with shared histories and meaning.

The concept of cultural continuity is defined as the "endurance of the past into the present" through the transfer of intangible cultural heritage values (Lowenthal: 1985:62). Intangible cultural heritage values are transferred from the past into the present through UNESCO's Intangible Cultural Heritage (ICH) Convention's identified set of "practices, representations, expressions, knowledge, skills – as well as instruments, objects and artefacts" (2003: a. 2). Further, intangible heritage values can also be transferred through the "associated monuments", "groups of buildings" and "sites" as identified by the UNESCO's World Heritage Centre (WHC) Convention (1972: a. 1,3). Together, these elements provide people

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with "the continuity of culture and familiarity" across generations. This concept is termed by Roha W. Khalaf as cultural continuity (Khalaf: 2019:3).

However, the idea of cultural continuity is not a fixed phenomenon. Instead, cultural heritage, whether tangible or intangible, is "renewable, replaceable, constantly chosen, recreated and renegotiated into the present" (Harrison:2013:65). Simply put, cultural heritage is shaped by a "synergy between old and new, and between change and continuity". For cultural continuity to remain relevant to the associated society, it needs to be constantly changing.

Khalaf understands this change as a flexible and community focused concept. In his paper, the concept of change challenges the restrictions imposed on the conservation and the management of heritage fabric. In order to facilitate for the concept of cultural continuity, it is the opinion of this study that the social changes and attitudes need to be reflected in the statutory guidelines that govern, manage and protect those cultural heritage sites. Simply put, these frameworks need to be flexible if they are to incorporate social change, especially if the conservation and management of cultural heritage places are intended to meet the needs and values of the associated communities. This is the study's reframed approach to Roha W. Khalaf's concept of change (Khalaf: 2019:3).

The last concept is sustainability. Sustainability means "the ability to last or continue for a long time" (UNESCO, Policy for the Integration:1974:17). Sustainability is defined by Roha W. Khalaf as the "embracement of change, new development and continuity (especially in culture)" (Khalaf:2019:7). In other words, for cultural continuity and change to be perpetuated into the future, the concepts of cultural continuity and change need to be built upon the foundations of sustainability. Keeping this in mind, UNESCO's Warsaw Recommendation on Recovery and Reconstruction of Cultural Heritage recognises "the legitimate aspiration of communities to overcome the trauma of conflict [..] by reconstructing [..] their cities [..] as a means to [..] lay the conditions for a sustainable [..] recovery" (2018:2). As a result, guidelines surrounding conservation and management of cultural heritage, suggest the need to embrace sustainability goals in order to ensure the continued recovery of post-conflicted societies (Khalaf:2019:6).

In conclusion, the synergies between the individual concepts of continuity and change should operate in a symbiotic manner to ensure a site's future sustainability. The importance of these concepts and the synergies between them is especially relevant when working toward sustainably facilitating for social reconciliation and indigenous cultural continuity in sites of shared history and meaning.

1.3. AIMS OF THE STUDY

This research investigates the existing synergies between the concepts of continuity, change and sustainability from the case study's ISP, HIP, heritage guidelines and RAP's. The investigation is utilised to highlight ways in which heritage professionals can or cannot use post-colonial sites of shared meaning as a vehicle toward fostering change, promoting reconciliation and facilitating social reconstruction within a post-colonial society.

This investigation is achieved by referencing the views and needs of indigenous communities. The study is undertaken in order to measure the relevance and success of the existing conceptual frameworks that manage and protect the heritage site. The indigenous views are obtained from indigenous publications from institutes such as the Australian Institute of Aboriginal and Torres Strait Islander Studies and Reconciliation Australia.
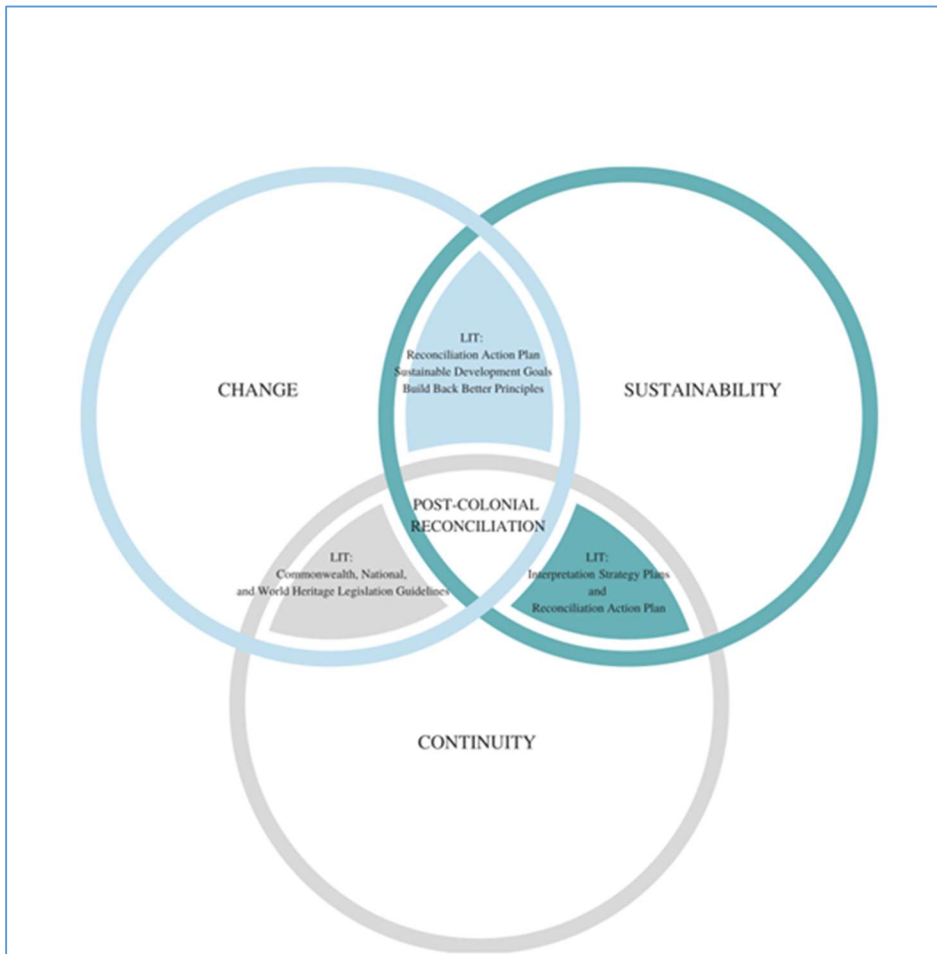
1.4.   METHODOLOGY

Figure 1. *Illustration of the synergies between conceptual Frameworks to be analysed in accordance to their associated heritage conservation and management frameworks and legislative guidelines.* 2020. Emilia Zambri.

The case study will investigate the site's current ISP, HIP, heritage legislation guidelines and its innovative RAP. This investigation is done in order to demonstrate how an inclusive conservation and management approach can be achieved through promoting cultural continuity and facilitating social and legislative change to ensure for the site's future sustainability.

The concept of cultural continuity is investigated in relation to Cockatoo Island's ISP and HIP. It is the ISP and HIP of a cultural heritage site that communicates the message of cultural continuity to its audience. Further, it is the concept of cultural continuity that provides people with a sense of place and belonging. Therefore, the ISP and HIP functions as an appropriate means to evaluate its integration of indigenous cultural continuity.

Further, the concept of change is investigated through evaluating Cockatoo Island's statutory and non-statutory guidelines, of which include: The Commonwealth Legislation, The National Heritage Legislation, The Environment Protection and Biodiversity Conservation Act of 1999 (EPBC), UNESCO's WHC Legislation and the rejected NTA application. These guidelines are investigated in order to evaluate the extent of change they have or have not been implemented to protect the bonds and roles that exists between indigenous communities and Cockatoo Island.

Finally, the concept of sustainability is discussed through evaluating the site's CMP, ISP, HIP, and RAP's alignment to the twenty-first century guidelines for sustainability. This alignment refers to the SDG's three 'pillars' of sustainability, which include, Environmental Protection, Economic Growth and Social Equity (UN, 2015). The combination of these three 'pillars' aid in the creation of the fourth 'pillar', known as cultural continuity. This not only ensures for a sites sustainability, but also provides the framework for a values based approach in the sites management and conservation processes.

The evaluation will be done in consideration of the needs and views expressed by indigenous Australian publications from institutes such as the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and Reconciliation Australia (SHFT, 2018). AIATSIS was chosen as they "are Australia's only national institution focused exclusively on the diverse history, cultures and heritage of Aboriginal and Torres Strait Islander peoples" (AIATSIS: 2020). In addition, this study has also chosen to use Reconciliation Australia's publications for their holistic approach and vision to facilitate national reconciliation using their "five critical dimensions: race relations, equality and equity, institutional integrity, unity and historical acceptance" (Reconciliation Australia:2020). Similarly, to Reconciliation Australia, this study comes from the viewpoint that these "five dimensions do not exist in isolation" and "full reconciliation" is conducted with the inclusion of all five (Reconciliation Australia:2020).

It is the intention of this research to re-imagine the current conservation and management process by taking inspiration from Roha W. Khalaf's publication of *Cultural Heritage Reconstruction after Armed Conflict: Continuity, Change, and Sustainability*. As far as this study is aware, Roha W. Khalaf's work is the only publication that studies the synergies between the concepts of continuity change and sustainability in cultural heritage policy and

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practice. This study is of the opinion that Khalaf's (2019) framework is suitable in its application in a post-colonial site of armed conflict.

1.5. ETHICAL CONSIDERATIONS

This research paper makes use of data that is already available within the public domain. The heritage guidelines of the site, CMP, ISP, HIP and its RAP is considered and evaluated against the objectives of the SDG principles as well as the needs and views expressed by indigenous communities through the form of publications. Such indigenous publications are derived from institutes such as the Australian Institute of Aboriginal and Torres Strait Islander Studies (Tran and Barchman, 2018) and Reconciliation Australia (SHFT, 2018).

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2. LITERATURE REVIEW: CONTINUITY

2.1. FIRST THEME OF THE LITERATURE REVIEW: CONTINUITY

The first theme of the literature study is to investigate how the current concept of cultural continuity can positively facilitate for social reconciliation and indigenous cultural continuity within a post-colonial society. The concept of cultural continuity discussed in the literature review will be applied to the case study of Cockatoo Island by evaluating the subject site's current frameworks in Section 3, below. These frameworks include, The SHFT's RAP and Cockatoo Island's current ISP in the CMP and the site's HIP. The investigation is done in order to contribute to ongoing international discussions directed at encouraging cultural continuity, which could facilitate a new, sustainable, state of inclusion and normalcy in a post-conflict society.

The following literature review includes the main guidelines, disagreements and gaps relating to UNESCO's WHC and ICH Convention's frameworks facilitation for indigenous cultural continuity at heritage places. A review of other relevant aspects of UNESCO's legislation, The Burra Charter, and, the publications from the AIATSIS will also be discussed. The inclusion of these guidelines is vital since their value for cultural continuity creates the legislative and conceptual frameworks which informs the future conservation and management of a historic site.

Going forward, it is important to note that this research perceives the concept of cultural continuity as an element that is not necessarily rooted in the reconstruction of physical assets, but is rather a process of facilitating and re-establishing the broken connections among people and between people and their environment (Khalaf:2019:3). Roha W. Khalaf states that it is both the tangible and intangible aspects of culture that provide communities with this sense of cultural continuity (Khalaf: 2019:3). It will be through this viewpoint that the following literature review will be conducted.

The term cultural heritage and cultural continuity is described by Kirmayer et al. "as something that is potentially enduring or continuously
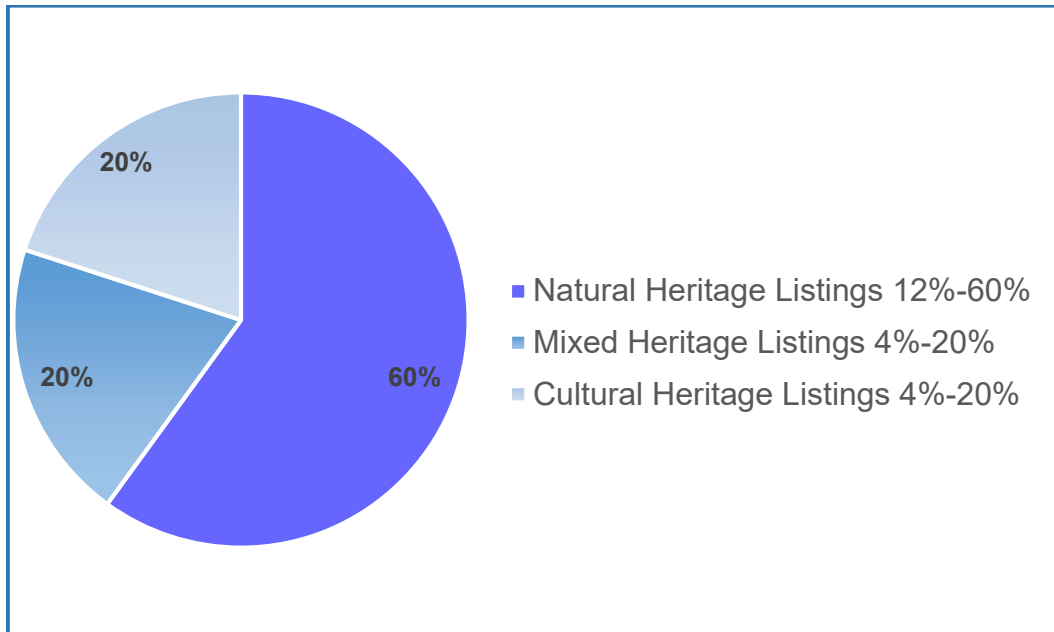

Figure 2. *Australian places inscribed on the World Heritage List. 2020.* Emilia Zambri. UNESCO WHC List.

linked through processes of historical transformation with an identifiable past of tradition" (Krimayer et al: 2007:77). However, UNESCO's WHC, limits the definition of cultural heritage to the identification of "groups of buildings" and "sites" (1973: a.1,3). The Convention's primary mission is to identify and protect the world's Natural and Cultural Heritage assets consisting of Outstanding Universal Value, which meets at least one of the WHC's six selection criteria (Appendix A). However, this approach often fails to **"**nominate, evaluate, protect and manage" the intangible cultural heritage significance associated with Natural and Cultural heritage sites (Khalaf:2019:12). This is problematic since "the identifiable past of tradition", otherwise known as the intangible aspects of a site, is what provides people with an identity and sense of place (Khalaf:2019:3). A sense of identity, in contrast, is conveyed to the associated community through the intangible and tangible aspects of an identifiable past of tradition through generations (Krimayer et al:2007:77). This is the concept we understand as cultural continuity.

Australia currently contains four Cultural WHC Listings of Outstanding Universal Value, which provides an opportunity to facilitate the concept of cultural continuity into their management and protection processes (WHC:2020). The four Cultural WHC Listing's, in the pie chart (below), shows an inclusion of twelve Natural WHC Listings, and four Mixed

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WHC Listings. Three of these listings are built cultural heritage structures with colonial or architectural significance (WHC:2020). One of these three structures include eleven of Australia's Convict Sites (2010) - under Criteria (iv), (vi) (Appendix A), the Royal Exhibition Building and Carlton Gardens (2004) - under Criteria (ii) (Appendix A), and the Sydney Opera House (2007) - under Criteria (i) (Appendix A). Unfortunately, only one Cultural WHC Listing contains indigenous cultural significance (WHC:2020). This listing is the Budj Bim Cultural Landscape (2019) of the Gunditjmara people and was only included in 2019, within the last twelve months of writing this research paper. The Budj Bim cultural listing was listed under Criteria (iii) (Appendix A), - for the sites ability "to bear a unique or at least exceptional testimony to a cultural tradition which is living" and Criteria (v) (Appendix A), - for its "outstanding example of a traditional human settlement, land-use, or sea-use which is representative of a culture [..] or human interaction with the environment" (WHC:2020). This is a rather unique WHC listing since it acknowledges the sites intangible cultural heritage values and consequently contradicts the WHC's definition of what constitutes as cultural heritage. Further, it is also a unique listing for Australia, since the WHC Convention acknowledges the sites intangible values as well as the ongoing relationship between the Gunditjmara people, their land and their "transmission and continuity of cultural practices" by means of "knowledge systems that are retained through oral transmissions" (WHC:2020).

The Budj Bim listing demonstrates the WHC Convention's ability to be flexible and to celebrate intangible cultural heritage connections with the site. Therefore, cultural heritage criteria's and listings should not be approached in a 'one-size-fits-all' fashion, and some flexibility needs to be afforded to protect all the cultural heritage values at a site.
Further to the above, the small number of WHC listings from the Cultural and Mixed WHC Convention categories is significantly outweighed by the Natural WHC Convention Listings. This demonstrates a heritage 'hierarchy' in terms of what type of heritage is valued within the Australian context and what kind of value is projected into the future. This hierarchy shows that certain types of heritage favours Eurocentric and scientific ideas, which tend to 'value' natural or tangible forms of heritage over the cultural, traditional or intangible forms of heritage (Meskell and Van Damme:2007:146).

The comparative bar graph, below, shows that Natural Heritage places are valued under Criteria (vii), (viii), (ix) and (x) across the seven and eight heritage places (Appendix A). In contrast, only one Cultural Heritage place, and one Mixed Heritage place is valued under Criteria (v) and (iii) that acknowledges cultural traditions or civilisations (Appendix A).
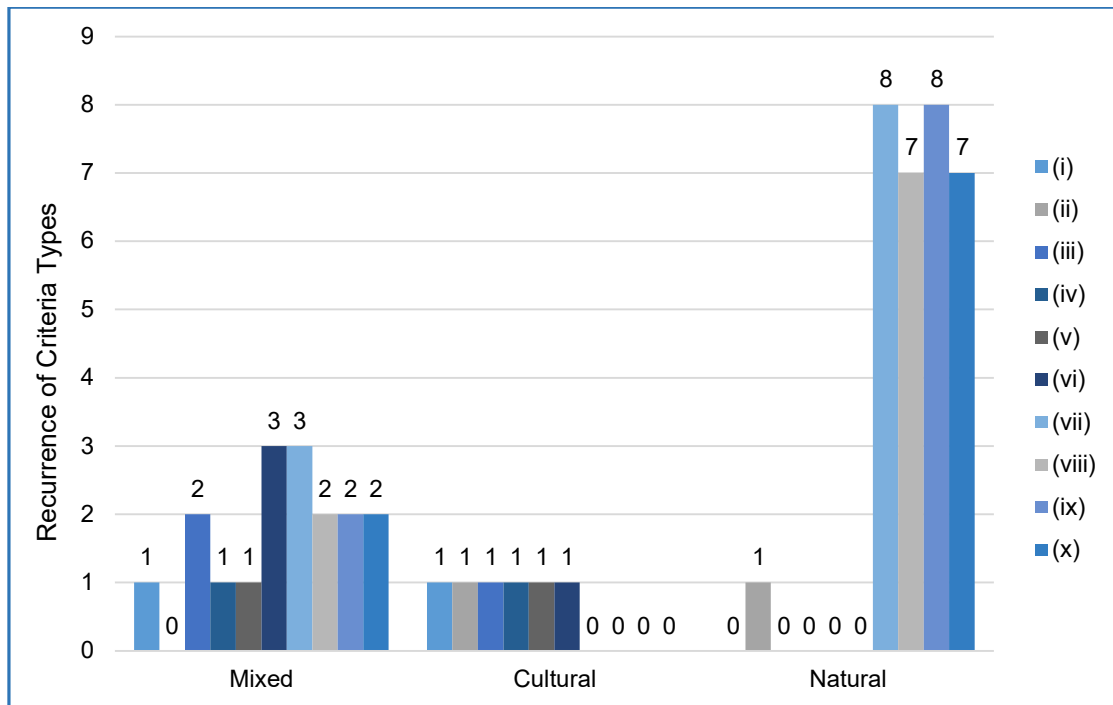

Figure 3. *Australian places inscribed on the World Heritage List According to Selection Criteria.* 2020. Emilia Zambri. UNESCO WHC List.

To bridge this evident divide and gap created between tangible vs intangible and natural vs cultural, the UNESCO's ICH Convention has acknowledged "practices, representations, expressions, traditional knowledge, skills - as well as instruments, objects, artefacts and cultural spaces" as part of what constitutes as cultural heritage (2003:a. 2). Unlike UNESCO's WHC, the inclusion of all these other constituents is what provides people with a sense of cultural identity (Khalaf:2019:3). Kevin Lynch stated that it is the intangible and "familiar connection(s), and not the old physical things themselves that people want to retain" in a place (Lynch:1972:39). Reason being, these intangible connections provide people with a sense of identity, ownership, belonging and social stability (Khalaf:2019:3).

Through the process nomination, evaluation, protection and management of intangible cultural heritage, the ICH Convention encourages the sharing and transfer of intangible cultural heritage to future generations through its facilitation of the concept of cultural

continuity. After all, culture "is a living past, bound up with the present, and relayed to future generations through the concept of cultural continuity" (Lowenthal:1985:62). Although the ICH Convention was adapted by the UNESCO General Conference in October 2003, Australia still does not have a site listed on the ICH Register of Good Safeguarding Practices.

This exclusion of intangible cultural heritage sites is a result of less value being placed on cultural heritage with indigenous cultural significance (Mortimer:2018). These attitudes are prevalent across Australia's mining context, in which development projects directly impact the intangible cultural heritage values of indigenous Australians (Mortimer:2018). Mortimer explored the power relations between the Western Australian State Government and the Goolarabooloo and Jabirr Jabirr people in the case of the proposed Liquefied Natural Gas (LNG) precinct development on James Price Point (JPP), in the Kimberley region of Western Australia (WA) (Mortimer:2016). The proposed development would cause irreversible damage to the Lurujarri Trail which is an 80-kilometre long songline[6] (Botsman: 2013:19). Further, the damage to the Lurujarri Trail could also disrupt the process of cultural continuity among indigenous Australian groups.

Unfortunately, the value of the songlines of the Lurujarri Trail were completely dismissed in the State Governments evaluations, suggesting the songlines were of little cultural value and therefore not worth protecting (Mortimer:2018). Instead, the fossilised dinosaur footprints discovered in the rocks of JPP and a humpback whale nursery in the surrounding waters were used by archaeologists and environmentalists as the defining arguments against the development of the region (Mortimer:2018). This case further demonstrates that cultural heritage in the Australian context is seen to be either 'natural', 'archaeological' or 'scientific' with little consideration left for intangible cultural heritage values (Mortimer:2018).

Further gaps arise when guidelines such as UNESCO's (1972) generalised frameworks for heritage conservation have an acclaim to universal validity (Kapelouzou: 2017:175). Universal validity or universality is based off the assumption that some heritage places are meaningful in the exact same way to all of mankind, regardless of their cultural, social,

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[6] The songlines that traverse the Australian landscape hold the unique knowledges of Aboriginal and Torres Strait Islander peoples. They tell of the law, history and culture of diverse groups across the country and have been created, maintained and practiced for thousands of years. This practice, however, has been dramatically disrupted by colonial pressures since European arrival. Additionally, many of the song men and women are aging, and there are concerns across the country that these people will pass without the opportunity to share their knowledge (AIATSIS:2018). See AIATSIS project, Songlines Cape York May-June 2018.

political, economic, or other differences (Kapelouzou:2017:175). The above example has illustrated that Australian cultural heritage legislation continues to remain under the definitional power of the state, rather than under the distinct groups that know their heritages in specific cultural terms (Smith, & Akagawa:2009:209). These inherent power imbalances are also perpetuated in international conventions and state-defined heritage legislation.

This notion is especially problematic when applied to UNESCO heritage sites that contain a shared history and meaning across different cultural groups within a post-colonial society. Cockatoo Island, NSW, Australia, is equally important to the indigenous community as it is for those with convict ancestry. However, the island is currently valued under Criteria (iv) (vi) (Appendix A) with no acknowledgement of Criteria (iii) (Appendix A),which would recognise Cockatoo Island's ability "to bear a unique or at least exceptional testimony to a cultural tradition which is living" (WHC:2020).

To further this argument, Kapelouzou also discusses how Western models, such as UNESCO's acclaim to universal validity is often not compatible with Eastern models. Reason being western models traditionally assume that heritage exists so long as its original constitutive material survives. In the case study, this extends to include the island's former convict penal establishment, naval ship dockyard, industrial school for girls and the reformatory (Cockatoo Island:2020). In contrast, indigenous Australian models, as determined by AIATSIS, highlights that the relationships between the tangible and intangible aspects of cultural heritage is symbiotic - meaning: "heritage can only exist through the continued practice of important social and cultural traditions within a heritage site" (Tran, & Barchman:2018:19).

In this case, research suggests that Cockatoo Island was an Aboriginal site for women's ceremonies, traditional fishing practices and is mentioned in the dream time stories (Cockatoo Island:2020). Therefore, this UNESCO site's indigenous cultural heritage values would only exist through the continued practice of social and cultural traditions. Since the intangible indigenous aspects are not valued under Cockatoo Island's selection criteria, the possibility of its continuity is not encouraged under UNESCO's WHC, Commonwealth or National legislation.

Albeit, Australia's Burra Charter encourages the "continuation and revival" of these intangible meanings, and, where appropriate, the charter advocates for the "continuation of activities and practices which contribute to the cultural significance of the place" (2013: a. 24, 7). Despite the Burra Charters encouragements, Western legislative models tend to favour the colonial and the tangible significance as opposed to the intangible values of the site. The overemphasis of one culture over another is particularly prevalent in the WHC Conventions three built heritage sites on Australia's WHC listings (WHC:2020). Neither one of these three built heritage sites adequately cover the indigenous history, and intangible values associated with the place. Consequently, there is a likelihood that not enough is done to ensure the cultural continuity of indigenous Australians in a site's ISP, HIP and day-to-day operations.

Considering these gaps, Khalaf's concept of cultural continuity can facilitate for the optimal nomination, evaluation, protection and management of the place's intangible cultural heritage values. The benefits of the concept of cultural continuity can facilitate the social reconstruction and reconciliation within a post-colonial society. In addition, cultural continuity can also facilitate a "favourable environment for the preservation of the subject site's authentic integrity" through its equal consideration of tangible and intangible cultural heritage values. (Lenzerini: 2011:119).

The SHFT's RAP has acknowledged the importance of cultural continuity and has begun the process of incorporating communities into the management of their cultural heritage sites. Through conducting an inclusive and representational, peoples-based approach, the SHFT could facilitate cultural continuity among the two communities. This inclusive process could encourage the recognition of previously ignored elements (such as the subject sites intangible values) and could inevitably shift the power dynamic and rhetoric within the heritage site. This approach could further develop existing knowledge in relation to how society understands and perceives the indigenous cultural group's tangible and intangible heritage values in relation to a subject site (Stacey, & Fardin:2011:9).

The literature review has discussed the main guidelines, disagreements and gaps inhibiting or facilitating for the concept of cultural continuity between UNESCO's WHC Convention, UNESCO'S ICH Convention, The Burra Charter, relevant local and international legislations, and, the views expressed by AIATSIS publications. In addition, the literature

review also discussed the types of WHC cultural heritage listings in Australia, and how these listing criteria are indicative of the type of heritage that is valued and protected within the Australian context.

In conclusion, the intangible and indigenous Australian values at a site are often overlooked. This is particularly prevalent in the WHC List, specifically sites containing shared history and meaning such as Cockatoo Island. This exclusion is problematic as it deems one type of cultural heritage more valuable and worth protecting than the other. As a result, only that acknowledged cultural heritage will be protected and perpetuated into the future through the concept of cultural continuity. This perpetuation of cultural continuity is facilitated through a variety of means, some of which include: the aid of legislative frameworks, ISP's, HIP's, and RAP's.

Further, the literature review has founded that, the lack of protection afforded to the indigenous Australian's intangible cultural heritage is also reflected in the country's absence on UNESCO's ICH Register of Good Safeguarding Practices. This is noted, despite Australia having one of the oldest surviving indigenous populations in the world, containing a wealth of intangible cultural heritage practices. The gaps and issues widen even further, when considering the incompatibility between UNESCO's Western model of universal validity and conservation, contrasted by the Eastern model and the indigenous Australian perspective. It will be through these contextual findings that will inform the interpretation of the case study below.

3. CASE STUDY: APPLICATION OF CONTINUITY AT COCKATOO ISLAND

3.1. INTRODUCTION

The context of Cockatoo Island presents an opportunity to integrate intangible and indigenous Australian cultural heritage values into the site of shared histories and meaning. UNESCO's WHC places have the opportunity to facilitate for social reconciliation in post-colonial communities, by integrating the concept of cultural continuity into the site's ISP's, HIP's and RAP's. Further, this integration of cultural continuity could also encourage for the development of new mechanisms to safeguard and protect indigenous cultural heritage knowledge. In addition, the incorporation of continuity into the site's ISP, HIP and RAP could potentially aid in the redefinition of authenticity and create a new criterion for significance based on the terms outlined by the communities involved. The case study will utilise the main guidelines, disagreements and gaps discussed in the literature review. This is undertaken to identify how Cockatoo Island's ISP, HIP and RAP inhibit or facilitate the concept of indigenous cultural continuity. The investigation will focus on evaluating the HIP's facilitation of cultural continuity through their communication of settler convict history, and indigenous Australian history. This analysis will be evaluated against the site's ISP and its adherence to the NSW Heritage Office Guidelines and Policies for Interpretation.

3.2. SETTLER CONVICT HISTORY ISP AND HIP

Cockatoo Island is a National Heritage Listing (2004), Commonwealth Heritage Listing (2007) and UNESCO World Heritage Listing (2009). There are two main CMP's governing Cockatoo Island, one covering the Convict Era, and the other the Dockyard Era. The CMP for the Convict Era Buildings and its associated Remains was completed by the NSW Government Architect's Office (GAO), in 2009. In contrast, the CMP for the Cockatoo Island

Dockyard was completed by consultants, Godden Mackay Logan (GML), in 2007.

The CMP's address the Statements of Significance on a National and Commonwealth level in preparation for the site's World Heritage Listing application in 2009. In addition to outlining the CMP, the documents also provide a summarised Statement of Significance and outlines the site's ISP (2009:199). For the purpose of the case study, the investigation will make reference to the GOA's CMP. The reason for this is attributed to the fact that the Convict Era Buildings and associated Remains overlaps with the Aboriginal peoples activities undertaken on the island. The GOA's Statement of Significance focuses on this period of convict history, which is then conveyed and communicated in the ISP, and the site's HIP. As a consequence, ISP's and HIP's facilitate for the concept of cultural continuity on this aspect of the island's history. The case study investigates the correlation between what is valued in the sites Statement of Significance and how this value facilitates for cultural continuity in the site's ISP and the HIP photographed below. The HIP is evaluated against three of the ISP's themes, these include the convict phase's "Law and Order", "Lower Island Technology", and "Penal Accommodation". The HIP's communication of these themes will be evaluated against the NSW Heritage Office Guidelines and Policies for Interpretation.

According to the CMP's Statement of Significance, Cockatoo Island is a "site of national and international significance, a unique maritime setting on an island in Sydney Harbour, with a rich and fascinating history" (GOA:2009:171). Cockatoo Island is the only surviving convict penal establishment in NSW, retaining the majority of its complex structures that originate from its early construction (GOA:2009:132). Further, Cockatoo Island is also the only place in the convict system that was established for the purpose of hard labour (GOA:2009:132). These factors, combined with the physical and documentary records, location, natural features and surviving structures, "make it a place of unusual character and memory" (GOA:2009:171). In addition, these elements also provide a "rare opportunity to understand the hierarchy and working of a secondary place of incarceration for convicts" (GOA:2009:171).

In light of Cockatoo Island's significance, the ISP in the CMP was developed to communicate and enhance the community's understanding of and appreciation for the history and cultural significance of Cockatoo Island (GOA:2009:171). The focus was on the site's early

history from 1839-1909, with an emphasis on the interpretation of the convict period 1839-1869 (GOA:2009:171). In summary, the interpretation on Cockatoo Island aimed to raise awareness of its penal and institutional history and communicate the following:

- "the significance of Cockatoo Island;
- the history of Cockatoo Island, using both its chronological development and the themes and messages arising from its multi-layered history;
- the context and relevance of the island's history in understanding the present;

  and
- the philosophy of strategies used on Cockatoo Island to interpret its significance" (GOA: 2009:174).

The manner in which this is communicated was developed by the GOA in accordance to the NSW Heritage Office Guidelines and Policies for Interpretation. These practices namely included:

- "Respect for the special connections between people and items;
- Understanding the item(s) and convey its(their) significance;
- Using existing records of the item, research additional information, and make these publicly available (subject to security and cultural protocols); Exploring, respecting and responding to the identified audience;
- Making reasoned choices about themes, stories and strategies; Stimulating thought and dialogue, provoking response and enhancing understanding;
- Researching the physical, historical, spiritual and contemporary context of the item, including related items, and respect local amenity and culture;
- Developing interpretation methods and media which sustain the significance of the items, its character and authenticity;
- Integrating interpretation in conservation planning, and in all stages of a conservation project;

- Including interpretation in the ongoing management of an item; provide for regular maintenance, evaluation and review;
- Involving people with relevant skills, knowledge and experience; and
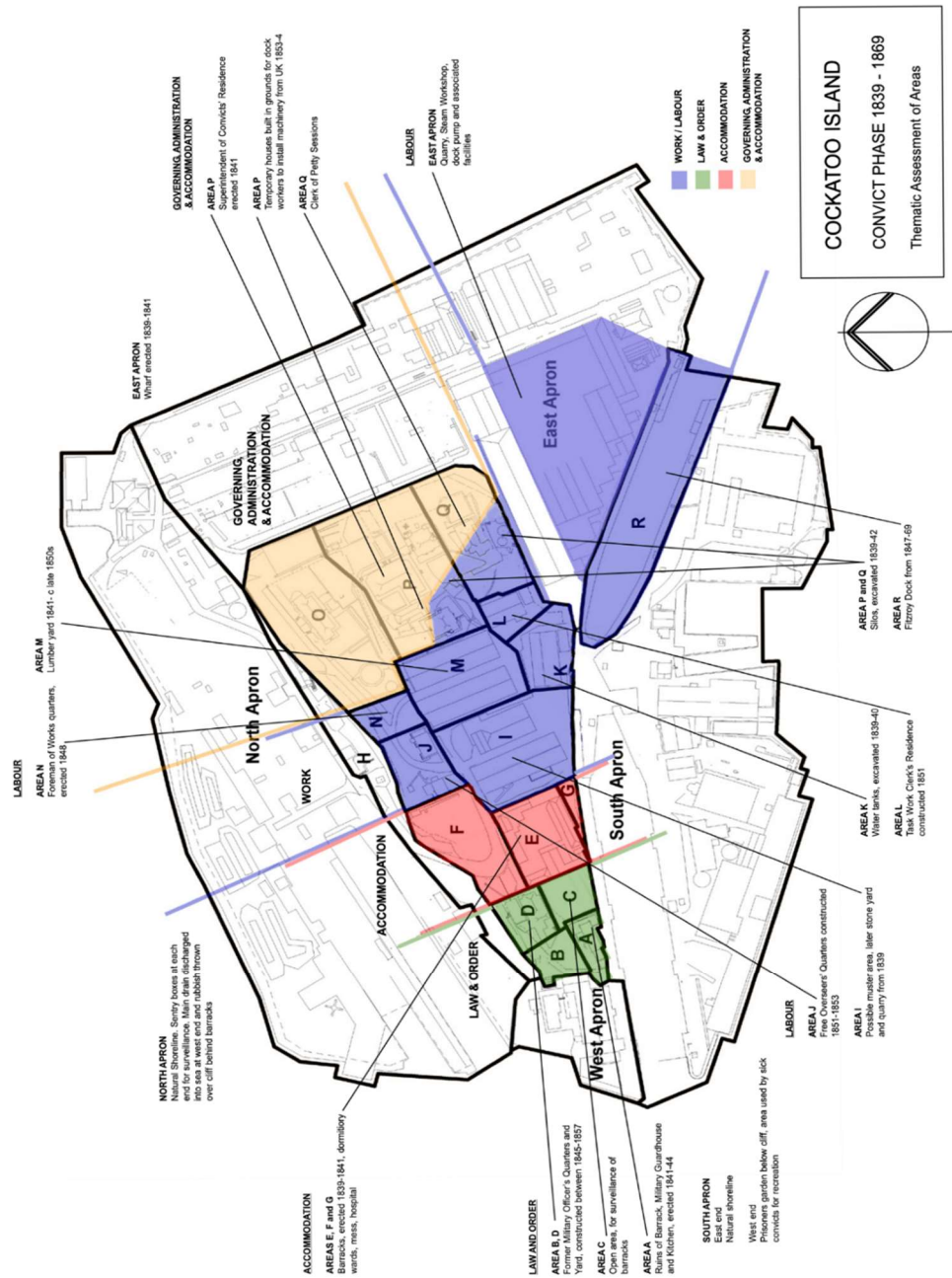- Collaborating with organisations and the local community" (GOA: 2009:173).

Figure 4*, Cockatoo Island's Convict Phase 1839-1869 Interpretation. 2005, Government Architect's Office, Department of Commerce.*

Figure 5, *Cockatoo Islands Biloela Industrial School 1871-1886 Interpretation.* 2005, Government Architect's Office, Department of Commerce.

The CMP's Statement of Significance, ISP and the HIP, all address the theme of "Law and Order" in relation to the Barracks, Military Guardhouse and Kitchen Ruins (GOA:2009:182). The manner in which this is communicated in the HIP was conducted in line with the NSW Heritage Office Guidelines and Policies for Interpretation (GOA:2009:173). More specifically, the HIP addressed the NSW guideline of communicating the items "physical, and historical context" to the public (GOA:2009:173). Similarly, to the CMP's Statement of Significance, and the ISP's identified themes, the HIP discussed the Barrack, Guardhouse and Kitchen's function during the first period of convict occupation (Figure 7: 2020).

Figure 6, *Ruins of Barrack, Military Guardhouse and Kitchen, erected 1841-44, Area A.* Emilia Zambri. 2020. Cockatoo Island

Figure 7, *Ruins of Barrack, Military Guardhouse and Kitchen, erected 1841-44, Area A. HIP referencing the themes of law and order.* Emilia Zambri. 2020. Cockatoo Island

Further, the HIP also mentioned the significance of the item's concentration on the upper heights of the island (Figure 7:2020). The structure's elevated position, on the Western end of the plateau, above the escarpment, offered good lines of sight for surveillance to the convicts who were confined together nearby (GOA:2009:181). The significance of this in relation to the ISP's theme of "Law and Order", provided the general public a clear distinction between the security of convicts and military (later police) surveillance (GOA:2009:182). Similarly to the ISP, the HIP discussed the item's close proximity to the dormitory wards, and its offer of good sight lines to

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ensure the living, congregating and mess areas were kept under close supervision at all times (GOA:2009:181).

The communication of the Barracks, Military Guardhouse and Kitchen Ruin's history and significance to the convict establishment conveys the ISP's theme of "Law and Order" to the general public (GOA:2009:185). This consequently facilitates for the cultural continuity of penal law enforcement systems and structures within a penal establishment (GOA: 2009:185).

In contrast, the two HIPs located at the Fitzroy Dock and the Steam Workshop adheres to the NSW Heritage Office Guidelines and Policies for Interpretation, by using "existing photographic records, research, and additional information" (GOA:2009:173). This integration consequently assists in conveying the ISP's theme of "Lower Island Technology" (GOA:2009:183). Similarly to the CMP's Statement of Significance and ISP guidelines, the Fitzroy Dock's HIP communicates that the Fitzroy Dock is the first work of its kind in the colony and hewn out of solid rock, by convict labour (Figure 9:2020).
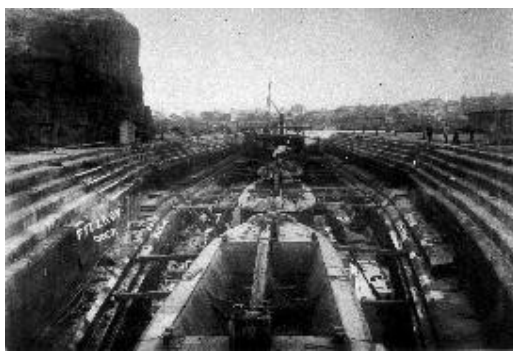

Figure 8, *Fitzroy Dock, Area R,* James Mills. 1888. State Library of New South Wales – At Work and Play BCP 04392. Cockatoo Island

Figure 9, *Fitzroy Dock, Area R. HIP referencing the engineering technologies and techniques used in the dry dock.* Emilia Zambri. 2020. Cockatoo Island

In addition, the HIP also introduced the site as the first dry dock to be planned in Australia, using advanced engineering technology and techniques (Figure 9:2020). The significance of this was mentioned in the dock's and steam workshop's development and changing application of steam technology to shipping and ship repairs (Figure 11:2020). In addition, the HIP also discussed Fitzroy's significant contribution to the rapid spread of information, ideas and technology throughout the British Colonies (Figure 11:2020). The Fitzroy Dock and Steam Workshop's of "developing local, regional and national economies" through "transport" and "technology" is clearly outlined in the ISP and carried through the HIP (GOA:2009:179). This communication consequently conveys these themes to the public and facilitates for the cultural continuity of convict era transport and technology.
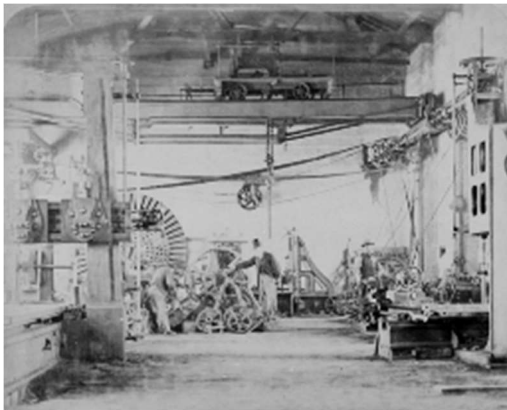

Figure 10, *Steam Workshop. East Apron.* 1869. State Library of New South Wales, Mitchell Library - PICMAN GPO1 24668	**Figure 11,** *Steam Workshop. East Apron. HIP referencing the stone construction and the sites applications of steam technology to shipping and ship repairs.* Emilia Zambri. 2020. Cockatoo Island

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In addition to the island's renowned maritime history, the CMP's Statement of Significance and ISP mentions the high quality masonry construction, detailing and features on the buildings located on the site (GOA:2009:132). This architectural appreciation is said in particular reference to Biloela House. In accordance with the NSW Heritage Office Guidelines and Policies for Interpretation, the HIP located at Biloela house discussed the "item's history" and conveyed its "significance" and the theme of Penal Accommodation (GOA:2009:173). The HIP included the construction date of Biloela House 1839, and it's function as a residence for the administrative and governing officials of the convict penal establishment until 1841 (Figure 13: 2020). Further, the HIP also noted its commanding location overlooking the the convict Barracks and quarry. As per the ISP's guidelines, the HIP noted that, between 1871-1886, the building was repurposed as an accommodation and adjoining open space for the Boys' and Girls' Industrial School and Girls' Reformatory (Figure 12:2020). As per the CMP's Statement of Significance, the re-use of the former convict penal establishment was noted to be significant for Cockatoo Island's ongoing legacy as a

Figure 12, *Biloela House. Area EFG Accommodation. Exterior Quarters for Female Warders & single officers.*1898. Dept of Corrective Services – Album H.M Gaol Biloela P22

Figure 13, *Biloela House. Area EFG Accommodation. View to Exterior Quarters for Female Warders & single officers's ISP referencing the sites direct association with convict administration.* Emilia Zambri. 2020. Cockatoo Island

place of work and incarceration (GOA: 2009:132). Further, the readapted use of the site in general also reflected the inadequate financial infrastructure for purpose-built accommodation and care for juvenile girls during the later nineteenth century (GOA:2009:132). The communication of Biloela House's history and its significance to the reformatory and convict establishment conveys the ISP's theme of "penal accommodation" and "law and order" to the general public (GOA:2009:185). This consequently facilitates for the cultural continuity of penal accommodations within a penal establishment (GOA: 2009:185).

From the annotated extraction above, Cockatoo Island's Statement of Significance in the site's CMP is valued according to the sites Eurocentric, Imperial Convict History. This focus is evident in the HIP's celebration of British "Law and Order", "Lower Island Technology" and "Accommodation". The 'values' as outlined by the ISP's identified themes, tend to focus on scientific ideas that 'value' the tangible forms of heritage ie. the technologies of the time.

The CMP's Statement of Significance and ISP guidelines value the Island's convict and institutional uses, and is well communicated through the island's HIP. More specifically, these defined sets of 'values' ensure the continuation of cultural heritage by focusing on the "1. the chronological sequence of occupation on Cockatoo Island from 1839-1909; and, 2. the thematic framework arising from the activities associated with each phase of occupation" (Goa: 2009:174).

The HIP's examples discussed in this section demonstrates a clear communication of the CMP's identified Statement of Significance, and adherence to the ISP and he NSW Policies for Interpretation guidelines. Cockatoo Island's location, manipulated landform, array of buildings, and works contribute to a significant period of Australia's cultural landscape and history. This significance of these 'values' is conveyed to the general public through the HIP and adds to both the Commonwealth, National and World heritage significance. This, in turn, facilitates for the concept of cultural continuity among the settler community with convict or industrial associations with the site.

3.2. INDIGENOUS AUSTRALIAN HISTORY ISP AND HIP

In contrast to the wealth of information relating to Cockatoo Island's Convict Era Buildings and associated Remains, there are no known records of the pre-European settlement environment of the island predating 1839 (GOA: 2009:161). The lack of evidence pertaining to indigenous Australian activity was most likely destroyed during European construction, convict quarrying, and land reclamation on the island (Cockatoo Island:2020). Research has, however, indicated the presence of Aboriginal peoples and 'aboriginal use' on Cockatoo Island during the site's convict and industrial school operations. This section of the case study aims to identify the recognition of tangible indigenous connections in the HIP's at the site and the CMP's ISP's framework.

The CMP written by the GOA, uncovered documented Aboriginal prisoners during the Convict Era and Aboriginal girls at the island's Industrial school era. More specifically, the formalised documents also covered topics relating to Aboriginal incarceration. In this case, it appears that separate rooms were made for Aboriginal prisoners. By November 1842, this room appeared to be used by the constables due to over crowding conditions.[7] Not surprisingly, the health of Aboriginal prisoners was documented as a particular concern owing to the indigenous Australian's high mortality rate in custody - apparently for no obvious cause.[8] Governor Fitz Roy asked a small committee of health officers to meet for the purpose of considering "some alternative, which would be less destructive to the lives of the Aborigines than confinement" at Cockatoo Island. There were few alternatives, the Committee reported, as "Aboriginal prisoners do not bear captivity but pine and die in any situation".[9] "If circumstances permitted, then consideration should be given to their liberation, if at all possible".[10]

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[7] Letter No. 42/8458 dated 11 November 1842, Colonial Secretary, Correspondence received from Colonial Engineer 1842, 4/2571.2 (State Records NSW)

[8] Government Medical Adviser to Colonial Secretary, Copies of correspondence and reports 1849-1851, 2/676 (State Records NSW)

[9] Government Medical Adviser to Colonial Secretary, Copies of correspondence and reports 1849-1851, 2/676 (State Records NSW)

[10] Government Medical Adviser to Colonial Secretary, Copies of correspondence and reports 1849-1851, 2/676 (State Records NSW)

James Kerr and John Jeremy's thematic presentation of Cockatoo Island mentioned the inclusion of "Aboriginal Use" as one of the themes (Kerr and Jeremy:2003). As a result, the CMP's ISP included "Peopling Australia" and "Aboriginal incarceration" as part of the identified themes to be integrated into the site's HIP. The significance of this theme's inclusion is especially relevant since the Tent Embassy's protest brought to light the intangible cultural heritage values indigenous Australians associate with the site. However, cases such as the proposed LNG precinct development on JPP, in the Kimberley region of WA and the Tent Embassy's rejected NTA application, shows that intangible cultural heritage, particularly of indigenous Australians, is not expected to be valued.

Irrespective of the ISP's themes relating to "Aboriginal incarceration [..] on Cockatoo Island from 1839-1909", and, despite their "activities associated within each phase of occupation", indigenous Australians were not acknowledged in the site's permanent HIP at the time of survey. This statement is said with the exception of the HIP relating to the murals left behind by the Tent Embassy's three month occupation on the island in 2003 (Figure 15:2020). The reason for the exclusion could be attributed to the fact that "the Aboriginal history of the island was not included in the ISP" (GOA: 2009:4). Therefore, it cannot come as a surprise when indigenous Australian history appears to be glossed over or poorly considered in the island's current permanent HIP.

Figure 14, *Tent Embassy Mural.* Emilia Zambri. 2020. Cockatoo Island.

Figure 15, *HIP of the Tent Embassy Mural's relating to the Tent Embassy's three month occupation on the island in 2003.* Emilia Zambri. 2020. Cockatoo Island

Figure 16, *Tent Embassy Mural with the view of Quarters for Female Warders & single officers in the background.* Emilia Zambri. 2020. Cockatoo Island.

Figure 17, *Tent Embassy Mural with the view of Quarters for Female Warders & single officers in the background..* Emilia Zambri. 2020. Cockatoo Island

Upon comparing Kerr and Jeremy's themes to the NSW Heritage Office Guidelines of Interpreting Heritage Places, the island's HIP did not convey the indigenous Australians "physical, historical, spiritual and contemporary context of the item" to the general public (GOA:2009:173). In addition, the CMP's Statement of Significance did not cover indigenous activity prior or during the colonial occupation. Nor was there any reference to the site's importance to indigenous Australians today. The absence of equal representation in a site of shared meaning may likely be attributed to the absence of indigenous community involvement in authoring the site's ISP and HIP. Simply put, the site's CMP, Statement of Significance, ISP and HIP focuses on the convict and penal stories told from the colonial perspective.

Unfortunately, the impact of this exclusion, is the presentation of a singular rhetoric, which cannot possibly embody UNESCO's concept of universality. By simply considering this exclusion, how can Cockatoo Island possibly be meaningful in the exact same way to all of mankind, regardless of their cultural, social, political, economic, or other differences? (Kapelouzou: 2017:175). In conclusion, the lack of integrating indigenous Australian associations in the ISP and HIP does not facilitate for indigenous cultural continuity. Not only does this perpetuate the historical marginalisation of indigenous communities, it also disables the facilitation of social reconstruction and reconciliation in a post-colonial society.

3.3. CULTURAL CONTINUITY RAP

Cockatoo Island's permanent HIP fails to facilitate the concept of indigenous Australian cultural continuity. However, it is the opinion of this study that the targets set out by the SHFT's RAP does a better job at facilitating for the concept of indigenous Australian cultural continuity at a grass root level. This section will evaluate how this concept of cultural continuity has been used in the RAP to facilitate for social reconstruction.

The RAP's first target is to "build active Aboriginal and Torres Strait Islander community engagement" at Cockatoo Island through building relationships with the indigenous communities (SHFT: 2019:8). This was to be achieved by convening a group of four senior Aboriginal subject experts who would provide independent advice on Cockatoo Island's various programmes, place management systems and engagement processes. The approach sets a precedence on how the SHFT can respect and integrate Aboriginal and Torres Strait Islander people's intangible values in their daily operations.

Aided by the guidance of the Aboriginal subject experts advice, the SHFT would also engage Aboriginal and Torres Strait Islander stakeholders and organisations to develop guiding principles for future engagements and opportunities between the communities. Finally, the outputs of such a collaboration would be relayed to the public in the form of new indigenous community participations, temporary HIP, or performances during the yearly occurrence of National Reconciliation Week (NRW).

One such performance in 2019 included the celebration of indigenous cultural practices, music and rituals. The following year, NRW took place during the COVI-19 pandemic from the 27 of May 2020 - 3 June 2020 and saw the inclusion of temporary ISP for the Sydney Biennale and NRW. Although the NRW program largely took place online, it is still available in the DigiTalks Archive and discusses important intangible heritage values, which can be found in the talk discussing Aboriginal Trackers (Cockatoo Island:2020). The accessibility of the DigiTalks Archive and temporary HIP aligns to the NSW Heritage Office Guidelines of Interpreting Heritage Places. Both forms of the interpretations convey the indigenous Australian's "physical, historical, spiritual and contemporary context of the item" to the general public (GOA:2009:173).

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Figure 18, *Temporary HIP for Sydney Biennial and NRW 'waterholes turn to pubs, ceremonial areas become missionaries.* Emilia Zambri. 2020. Cockatoo Island.

Figure 19, *Temporary HIP for the Sydney Biennial and NRW 'My grandmother was one of the last first people untouched by colonisation'.* Emilia Zambri. 2020. Cockatoo Island

To date, these implementations were successfully demonstrated by several of the RAP outputs relating to Cockatoo Island. These outputs include:

> "1. Cockatoo Island supported Bangarra Dance Theatre with in-kind venue hire to assist them during the filming of their feature film SPEAR in 2005; and
> 2. Partnered with Performance Space to conduct Nura Nula a week-long residency program for Aboriginal and Torres Strait artists on Cockatoo Island in June 2015;"

It is the opinion of this study that this inclusive approach better facilitates for the continuity of indigenous cultural heritage. The collaborative participation of both communities is invited to contribute to land-use matters in addition to conserving, enhancing and promoting the intangible indigenous Australian values associated with SHFT lands (SHFT:2019:8). Through the introduction of more inclusive guideline practices at UNESCO world heritage sites, stakeholders have the capability to add to the existing knowledge on how indigenous tangible and intangible heritage values are understood and interpreted at the subject site (Stacey & Fardin:2011:9). More importantly, this inclusive system could also encourage the development of new mechanisms which safeguard and protect indigenous Australian knowledge by building awareness, appreciation and respect for Aboriginal and Torres Strait Islander cultures (SHFT:2019:8).

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3.4. CONCLUSION

The HIP's discussed in this Section demonstrates a clear coloration between the CMP's Statement of Significance and the CMP's ISP. Unfortunately, the Statement of Significance and ISP only focuses on the values surrounding the Convict Era's Buildings and Remains. This specific focus facilitates for the concept of cultural continuity among the community with convict or industrial associations to the site.

The impact of such an exclusion results in the presentation of a singular rhetoric, which cannot possibly embody the site's concept of universality. The lack of integrating indigenous Australian associations in the ISP and HIP does not facilitate for indigenous cultural continuity, nor does it facilitate for the social reconciliation at this post-colonial heritage site of shared history and meaning.

In contrast, the RAP does a better job at facilitating for the concept of indigenous cultural continuity at Cockatoo Island. This is simply achieved through acknowledging and incorporating the multiple cultures and histories that exist within the site of shared meaning. Owing to this incorporation, indigenous communities are empowered to retain a sense of belonging, ownership and social stability within Cockatoo Island's multicultural community.

4. LITERATURE REVIEW: CHANGE

4.1. SECOND THEME OF THE LITERATURE REVIEW: CHANGE

The second theme of the literature study is to investigate the broader theories and policies that apply to the National and Commonwealth Heritage listed sites in Australia. Cockatoo Island is governed by the statutory requirements within the Commonwealth Legislation, The National Heritage Legislation and the World Heritage Legislation. In addition, Cockatoo Island also saw a land claim application under the NTA in the year 2001. The literature review will explore the modern concept's and attitudes directed at tangible and intangible indigenous Australian heritage values, and how this translates into the protection of significant indigenous sites. In order to sustainably facilitate cultural continuity, it is the opinion of this study that the social changes in attitudes need to be reflected in the statutory guidelines that govern, manage and protect cultural heritage places. The legislative changes and flexibility afforded to the efficient protection of indigenous cultural heritage places will be discussed. As a result, this literature review hopes to contextualise the gaps in the present National, and Commonwealth legislative guidelines that protect and govern the indigenous Australian's cultural heritage values.

Up till the present, the protection afforded to indigenous cultural heritage has been piecemeal, often ineffective and has undergone very little legislative changes (Pepper:2014:1). According to Hon. Justice R. Pepper of the Land and Environment Court of NSW, "the protection of indigenous cultural heritage is afforded under the legislative guidelines whose principal objective is the conservation of parks and wildlife rather than built cultural heritage sites" (Pepper:2014:1). As a result, the current legislation guidelines pertaining to the continual preservation and protection of indigenous Australian cultural heritage, both built and intangible, is an opportunity for further development and change. The significance of current indigenous cultural heritage values contextualises the need for this change.

Aboriginal peoples of Australia maintain one of the oldest and continuous living cultures in the world. As a result, the protection of cultural and spiritual landscapes, materials, sacred sites and artefacts are vital to the group's concept of cultural continuity in the past and into the present. With this said, the modern concept of Aboriginal cultural heritage values has changed to acknowledge the present and continued relevance sacred sites and objects have for Aboriginal groups. The significance of the Jukurrpa 'The 'Dreaming'[11] or 'Dreamtime' to Aboriginal people has secured its place in the national consciousness of Australia (Pepper: 2014:3). Creation or the Dreaming is a "richly complex and integrated body of sacred knowledge" in the form of stories of ancestors that are passed on from generation to generation over millennia (Geissler: 2013:1).

All aspects of traditional life are permeated by the Dreaming and is integral to the application of ancient tribal law. Further, the complex Dreaming narratives are regarded as a "system that continues to operate powerfully into the present Aboriginal community" (Pepper:2014:4). The Dreaming also has a present and profound connection to the landscape, sites, objects, and memories which populate that landscape. In addition, the Dreaming also "reflects Indigenous peoples' spiritual relationship with the holistic concept of 'country'" (Pepper:2014:4). The destruction of cultural heritage, together with the lack of cultural continuity, and the lack of legislative change could have a profound emotional and intellectual effect on Aboriginal people.

To quote one elder from a National Aboriginal and Torres Strait Islander newspaper, Koori Mail, Q. Aguis, Chairperson of Adjahdura/Narungga Heritage Group:

> "When our sites are destroyed or desecrated, the physical and spiritual connection we have with our country is destroyed...The mental anguish we go through because of the lack of respect and dignity shown to us and our ancestors' ancient sites and burial grounds, is unbearable". (Aguis: 5 Nov 2008: 28)

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[11] 'The Dreaming is many things in one. Among them, a kind of narrative of things that once happened; a kind of charter of things that still happen; and a kind of logos or principle of order transcending everything significant for Aboriginal man. ' (Stanner: 2003:58). See AIATSIS publication, Wierzbicka (2015) *What does Jukurrpa ('Dreamtime', 'the Dreaming') mean? A semantic and conceptual journey of discovery,* for a justified and detailed explication for the Australian Aboriginal Jukurrpa concept ('Dreamtime', 'the Dreaming'), phrased exclusively in simple cross-translatable words.

Presently, Aboriginal cultural heritage encompasses all things tangible and intangible and gives a place its significance in the stories of the local Aboriginal group. Tangible objects would extend to include spearheads, rock engravings, burial grounds and bark painting to sites of ancient or recent history, including post-colonial massacre sites (Chief Executive: 2013:51). In contrast, intangible elements include specific cultural associations which tell a story about the area and the people that existed at birthing sites, traditional routes and song-lines with connected sacred places 'like railway lines' (Smith: 2013). In addition, intangible connections could also be found in association with specific plants and animals (DECCW: 2011: 1249).

Unfortunately, recent legislative rulings in Australia tend to disregard the indigenous intangible cultural values in proposed development projects. An example of this was discussed in the case of the proposed LNG precinct development on JPP, in the Kimberley region of WA. The case of JPP saw the Western Australian State Government (under the leadership of former Premier Colin Barnett, for a period of over 7 years), attempt to establish a liquefied natural gas processing precinct on JPP (Mortimer:2018). The actions taken by the State Government were challenged by the local community and environmental organisations, based on the fact that the State Government failed to acknowledge the natural and environmental significance of the region (Mortimer:2018).

Upon examining the case of JPP in s. 2.1, it became evident that cultural heritage legislation in Australia fails to protect indigenous Australians cultural heritage, particularly in the context of state-sanctioned mineral development (Mortimer:2018). This ruling is not surprising when s. 18 of the Aboriginal Heritage Act 1972 WA allows for registered cultural heritage sites to be used for other 'purposes' if decided by the Heritage Minister and the Premier (Mortimer:2018). The other 'purpose' is typically mining, which has often resulted in the site's destruction (O'Faircheallaigh:2008:33).

The development on JPP saw the "disregard for the intangible cultural heritage" value of the 80-kilometre long songline at the Lurujarri Trail (Mortimer:2018). The fact that the songlines of the Lurujarri Trail were not widely regarded as culturally significant can be linked to the arguments proposed by Harrison and Hughes (2009:238). Harrison and Hughes suggest that it is common for the leaders of settler societies to proclaim intangible cultural heritage as inferior, to justify their own interests and authority as invading outsiders

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(2009:238). The lack of acknowledgment of the role intangible heritage plays for the cultural practices and identity of indigenous Australians is just one example of how cultural heritage discourse tends to portray indigenous Australians as invalid 'knowers' (Hall:2014:378) and institutions such as governments as 'experts' (Chilisa:2012:8). This attitude continues the colonial project through a widespread failure to recognise indigenous knowledges, experiences and history (Marsh:2013:178).

In addition, legislative rulings in Australia also tend to disregard the indigenous tangible cultural values at risk, in proposed development projects (Gregoire:2020). An example of this can be seen in the case of the Chinese mining giant, Shenhua, who won conditional approval in 2015 to build an open-cut coal mine south of Gunnedah, NSW, despite having Aboriginal sacred sites on the land (Gregoire:2020). The eight sites include two rare grinding grooves burial grounds and male ceremonial areas. The Gomeroi Traditional Custodians first lodged an application for protection of the Significant Areas in April 2015 under s.10 of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (ATSIHP Act) (Gregoire:2020).

A Commonwealth review of the ATSIHP Act in 2009 by the then Department of the Environment, Water, Heritage and the Arts (DEWHA), found that:

> "The ATSIHP Act has not proven to be an effective means of protecting traditional areas and objects. Few declarations have been made: 93% of approximately 320 valid applications received since the Act commenced in 1984 have not resulted in declarations." (DEWHA: 2009:4)

As a result, it is of little surprise that the Minister noted that the mine's potential economic and social benefits outweighed their heritage value, despite acknowledging that the development of the mine would destroy or desecrate the Significant Areas of indigenous Australians (Mortimer:2018).

The efforts made by traditional owners, non-governmental organisations, and academics, have led to a greater public understanding about the nature and content of Aboriginal cultural heritage values. Despite the legislative shortcomings there is a recognition of indigenous cultural heritage and has come to encompass more than just 'archaeological relics' in its

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definition (Pepper: 2014:4). Although heritage guidelines are intended to protect heritage sites; the above examples show that heritage guidelines are not always executed for the accessibility and the benefit of the current communities associated with the site. Therefore, the lack of change undertaken by statutory guidelines creates a dissonance between the social changes in attitudes toward cultural heritage values. As a result, the legislative frameworks that govern, manage and protect cultural heritage places do not ensure for the sites facilitation of cultural continuity for the benefit of the associated communities.

5. CASE STUDY: APPLICATION OF CHANGE AT COCKATOO ISLAND

5.1. INTRODUCTION

The literature review in Section 4 discussed the modern concepts and attitudes pertaining to the tangible and intangible cultural heritage values of indigenous Australians. This investigation was furthered, by evaluating the dissonance between these attitudes and the legislative framework's that protect places of indigenous significance. Cockatoo Island presents an opportunity to consider the intangible indigenous cultural heritage values in the site's legislative frameworks. This integration is intended to facilitate for the social reconciliation in post-colonial sites of shared histories and meaning. In order to remain relevant to the associated communities, the integration of indigenous cultural continuity in the site's ISP and HIP need to be reflected in the statutory guidelines that govern, manage and protect the indigenous cultural heritage values at Cockatoo Island. By using Cockatoo Island as a case study, this section aims to challenge the lack of change legislative frameworks have undergone to protect indigenous Australian's cultural heritage values.

Cockatoo Island is governed by the statutory requirements within the Commonwealth Heritage Legislation (CHL), The National Heritage Legislation (NHL) and World Heritage Conventions (WHC) Legislative guidelines. In addition, Cockatoo Island also saw a land claim application under the NTA in the year 2001. The application of these legislative positions to the subject site is discussed in the Sections below. The efficiency of the aforementioned legislative guidelines and NTA applications is evaluated by their ability to protect the indigenous cultural heritage values at Cockatoo Island for the social reconciliation and the benefit to indigenous Australian communities. This investigation will be undertaken by evaluating Cockatoo Island's National, Commonwealth Legislation, the EPBC Act, UNESCO's WHC Legislative frameworks and rejected NTA application.

5.2. NATIONAL LEGISLATIVE FRAMEWORKS: COMMONWEALTH & NATIONAL HERITAGE LEGISLATION

Cockatoo Island falls under two national legislative frameworks that protect the Convict Era Buildings and Remains, as well as the Industrial Conservation Area. These two legislative frameworks include the CHL and the NHL (SHFT: 2017:73). Like all other listed places, the CHL and NHL listing process is conducted by the Australian Heritage Council who assesses the site in order to advise on the site's values (SHFT:2017:73). Heritage sites included on the NHL have outstanding heritage values, meeting one or more criteria (SHFT:2017:73). Places on the CHL are sites managed by the Commonwealth and also contain significant heritage values that meet one or more criteria (SHFT: 2017:73). The table in Appendix B shows how the attributes of Cockatoo Island – either tangibly in the physical fabric, or intangibly in the site's associations and uses, contribute to the NHL and CHL Statements of Significance and values. The text is taken from the citations published by the Department of the Environment and Energy (DEE) and investigates the alignment between the values of this site and how legislative guidelines change in order to facilitate the concept of indigenous cultural continuity at Cockatoo Island.

As with the case of the CMP's Statement of Significance, ISP and the island's HIP's, Cockatoo Island's CHL and NHL heritage values are not considerate of the site's indigenous significance. Cockatoo Island's CHL includes nine buildings on Commonwealth land, all of which are listed under their own Place ID's and valued in accordance with three or more criteria's (SHFT:2017:185-194). The criteria were assessed according to the nine item's outstanding contribution to the: events, processes (Criteria a), rarity (Criteria b), principle characteristics of class of places (Criteria d) and significant people (Criteria h) from the island's Convict Era. Inclusions on the list are protected under the EPBC Act 1999.

In addition, Cockatoo Island is also listed as a Historic Place No.105928 on the NHL, (Place File No. 1/12/022/0089). As in the case with the subject site, some Commonwealth-owned properties are included on both lists. The NHL includes places, or groups of places, with exceptional cultural, historic and indigenous heritage value to the Australian nation (National Heritage:2003). These listed places are protected by Australian Government laws and special agreements with state and territory governments as well as indigenous or private owners (National Heritage:2003). Similarly, to the CHL, the NHL's criterion were assessed

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according to the items outstanding contribution to the Industrial Era of the island's events, processes (Criteria a), research (Criteria c) contributions, and principle characteristics of class of places (Criteria d). Similarly, to the CHL, any action that could have a significant impact on the National or Commonwealth heritage values of the listed place requires prior approval (National Heritage:2003). Further, to ensure the on-going protection of a national heritage place, both the CHL and the NHL require a CMP to be produced in order to set out how the heritage values of the site will be protected or conserved (National Heritage:2003).

Unfortunately, neither the CHL nor the NHL assessed Cockatoo Island's cultural significance for indigenous Australians. As a consequence, no prior approval would be needed for any action that would have a significant impact on the indigenous Australian intangible heritage values. Further, the CMP does not set out how the indigenous Australians intangible heritage values of Cockatoo Island should be protected or conserved. Bearing the statutory frameworks of the CHL and the NHL in mind, the Commonwealth's Indigenous cultural heritage regime has a scheme intended to provide a safety net of protection when other legislation fails to protect the relevant heritage item (Pepper:2014:4). The scheme exists within two Acts, between which is a substantial overlap (Pepper:2014:4). These schemes include the 1984 Aboriginal and Torres Strait Islander Heritage Protection (ATSIHP) Act and the aforementioned 1999 EPBC Act (Pepper: 2014:4). However, all 'actions' on the Harbour Trust land, undertaken by either the Harbour Trust or on behalf of the Harbour Trust, are controlled by the EPBC Act (SHFT:2017:14).

5.4. EPBC ACT

The second major limb of the Commonwealth Indigenous cultural heritage protection scheme is the EPBC Act 1999, that provides protection to places listed on the NHL and the CHL, which are deemed to be of "national environmental significance" (DEWHA: 2009). Any action that would have notable impact within or outside National Heritage places or Commonwealth Areas requires approval under the EPBC Act (EPBC:1999: s. 341D). The application of this act and its ability to be flexible in favour of facilitating indigenous cultural continuity will be investigated.

Such as in the case with Cockatoo Island, NHL "places require approval under the EPBC Act if owned or leased by the Commonwealth" (EPBC:1999: s. 341C). However, the criticisms of the EPBC Act's operations are many. Firstly, critics have noted the vague strategic importance and purpose of the NHL by observing the overabundance of CHL's. The associated statutory and non-statutory frameworks of the two lists were concluded to serve the same purpose to little effect on the protection of heritage places (National Trust: 2008:35). Secondly, indigenous heritage is managed under the EPBC Act in such a broad scope, with a primary focus directed at the protection of the environment and not the intangible or tangible indigenous values associated to the heritage sites (National Trust:2009). Consequently, the EPBC Act's primary focus does not facilitate for the level of active engagement with indigenous communities and restricts the indigenous Australian's ability to protect and manage their cultural heritage (National Trust: 2008).

The lack of community engagement, and the exclusion of intangible or tangible indigenous cultural heritage values in the EPBC Act does not facilitate for cultural continuity in the present or in the future. As a possible solution, the EPBC Act was reviewed in 2008 in accordance to s. 522A of the act (Pepper:2014:4). The concluding recommendation was that the provisions of the ATSHIP Act is to be incorporated into the EPBC Act to mitigate overlaps in heritage authorisation processes (Hawke: 2009:294). The government agreed to consider this alternative in response to the review in 2011, however, no further action or commitment to reform has been taken since (DEWHA:2011:105).

Despite the lack of commitment in ensuring for the protection of intangible cultural heritage values, s. 26 and 28 of the EPBC Act could still be used to protect a listed place's intangible ecosystems, including people and communities, as well as the social, economic and cultural aspects of the listed site. In addition, s. 528 (and several other State Acts), would also give Aboriginal people ownership of the definition of their cultural heritage. (EBPC:1999: s. 528) Meaning, a place with "indigenous cultural value" would be defined as a place indigenous people themselves believe to be of cultural heritage significance, and would be managed according to this significance (EBPC:1999:s. 528). Unfortunately, the process of not assessing the indigenous cultural heritage values associated with Cockatoo Island translates into the lack of protection afforded by s. 26, s. 28 and s. 528 of the EPBC Act. As a result, there remains a lamentable lack of legal protection afforded to the indigenous intangible cultural heritage values at Cockatoo Island.

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If the indigenous cultural heritage values were to be acknowledged in Cockatoo Island's NHL and CHL statements of significance, then s. 26 of the EPBC Act would have protected Cockatoo Island, from actions that may have a significant impact on the indigenous cultural environment. In addition, s. 28 would have also protected the indigenous cultural environment from actions taken by the Commonwealth or a Commonwealth agency, like the Harbour Trust. The term environment in these sections is defined to include and protect:

a) ecosystems and their constituent parts, including people and communities; and

b) natural and physical resources; and

c) the qualities and characteristics of locations, places and areas; and

d) heritage values of places; and

e) the social, economic and cultural aspects of a thing mentioned in paragraph (a), (b), (c) or (d) above.

As a result, the aforementioned sections of the EPBC Act could have been used to protect potential actions impacting the indigenous social, economic and cultural heritage values associated with Cockatoo Island. Further, the support of a legal governing body would have provided a greater sense of accountability to ensure the RAP's continual promotion of Cockatoo Island's mutually beneficial relationship with indigenous Australians. Unfortunately, the foundations upon which the EPBC Act is built upon and the lack of inclusive changes undertaken, renders a lamentable lack of legal protection afforded to the indigenous intangible cultural heritage values at Cockatoo Island.

5.5. UNIVERSAL LEGISLATIVE FRAMEWORK: WORLD HERITAGE CONVENTION LEGISLATION

Cockatoo Island is one of four Cultural WHC Listings of Outstanding Universal Value and is included among eleven of Australia's Convict Sites (2010) - under Criteria (iv) (vi) (Appendix A), (WHC:2020). As a result, the Australian Government has an international obligation to protect, conserve, present and transmit to future generations the World Heritage values of Australia's Convict Sites (Appendix C), (Australian Government Department of Environment and Energy: 2008:6).

Cockatoo Island's legislation, associated planning and protection instruments all act in a holistic manner to recognise and complement the tiered statutory planning and management processes for this WHC listing (DEE:2008:6). However, the CMP's and statements of significance of Cockatoo Island were prepared to meet the EPBC Act's standards for National and World Heritage management plans and was used to accompany Cockatoo Island's World Heritage nomination. Therefore, the representations of indigenous cultural heritage values were not addressed under the WHC listing either and the same issues relating to the CHL and NHL, above would apply in the instance of the WHC as well.

The various case studies and court rulings discussed in this section has demonstrated the inherent power imbalances perpetuated by the NHL and CHL's exclusionary outcomes. If these legislative frameworks, were prepared to meet the EPBC Act's standards for National and World Heritage management plans, then how can Cockatoo Island, as a WHC listing meet UNESCO's (1972) acclaim to universal validity?

As discussed in the Section 1 of this thesis, universal validity is simply based off the assumption that heritage places are meaningful in the exact same way to all of mankind, regardless of their cultural, social, political, economic, or other differences (Kapelouzou:2017:175). This section has clearly illustrated that Australian cultural heritage legislation continues to remain under the definitional power of the state, rather than under the distinct nations that know their heritages in specific cultural terms (Smith, & Akagawa:2009:209). Before a site can even have an acclaim to universal validity, all cultural heritage values associated with the place need to be acknowledged, protected, and conserved foremost for the benefit of the associated communities.

Cockatoo Island, NSW, Australia, is equally important to the indigenous community as it is for those with convict ancestry. As a result, legislative changes need to take place in order to ensure the equal representation of both communities from the onset of the listing process. It is the opinion of this paper that although the concept of cultural continuity can be facilitated by an inclusive ISP, HIPs and RAP's, it is the legislative changes used to address the gaps discussed in this section that can achieve a greater sense of accountability and impact.

5.6. REFUSAL OF NATIVE TITLE APPLICATION

Unfortunately, the island's lack of recognition afforded to the indigenous Australians intangible cultural heritage values in the site's CHL, NHL, WHC and sections of the EPBC Act cannot be chalked down to human error or ignorance. Prior to Cockatoo Island's listing under the NHL, CHL, or the UNESCO's WHC Listing, an Aboriginal rights group submitted a land claim under the NTA 1993 (Cockatoo Island:2020). The Aboriginal rights group, known as the Tent Embassy, rejected the Commonwealth's sovereignty over the island by stating that, when Captain Cook claimed Australia, he did not specify Cockatoo Island (Cockatoo Island:2020). As discussed in Section 1.1, the High Court refused the Tent Embassy's application on March 13, 2001, and the group peacefully left the island after four months of settling on the site (Cockatoo Island:2020).

The land claim was most likely resolved through the presentation of evidence in court proceedings, which fit under the native title and land rights legislative frameworks (Tran & Barchman:2018:7). More specifically, these rights and interests would have likely been based on s. 223 of the NTA. 1993. However, the recognition of indigenous knowledge within the native title context is incidental. As stated by Justice French (as his Honour was then), the principles of Mabo[12] "embody the rules of what is said to constitute legal 'recognition' of indigenous relationships to land defined by traditional law and custom" but "[t]hey do not operate directly upon those relationships or the traditional laws and customs from which they are derived" (French:2002:145). However, Justice French fails to mention that "the indigenous knowledge reflected in song, ceremony and other means is evidence of those relationships to land and forms the basis of native title recognition" (Tran & Barchman:2018:15). As a result, these legislative acts seem to be fundamentally "reliant on non-indigenous understandings of legitimacy and proof" (Tran & Barchman:2018:7). Meaning, the protection of "a physical place or piece of knowledge requires more than a legal right" (Tran & Barchman:2018:7). The shortcomings of the NTA is an opportunity for further change and development based off its reliance on non-indigenous understandings of legitimacy and proof. Since the undocumented physical signs of the Eora's connection to

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[12] The Mabo decision altered the foundation of land law in Australia by overturning the doctrine of terra nullius (land belonging to no-one) on which British claims to possession of Australia were based. This recognition inserted the legal doctrine of native title into Australian law. See AIATSIS NTRU Mabo v Queensland, https://aiatsis.gov.au/sites/default/files/products/research_outputs_statistics_and_summaries/overturning-the-doctrine-of-terra-nullius_0.pdf

Cockatoo Island vanished over time, it is of little surprise that the High Court refused the Tent Embassy's application of native title in 2001.

In contrast, Australia has other instances where NTA applications were recognised based on the indigenous understanding of legitimacy and proof. In the instance of *State of Western Australia v Ward*,[13] Justices Beaumont, von Doussa and North recognised the secular and spiritual aspects to connection to country, with the obligations to care for country (FCA:2000:191). Similarly to the case Isabel Coe presented for Cockatoo Island, Peter's evidence testimony, quoted below, addresses the "interconnected nature of physical places, cultural practice and identity that cannot always be separated into discrete forms of legal protection" (Tran & Barchman:2018:15). These secular and spiritual aspects are evident in Cockatoo Island's significance "in the milky way dreamtime stories" (Cockatoo Island:2020). In contrast to the case of Cockatoo Island, the spiritual connection between place and indigenous communities was a fundamental motivating factor in approving the NTA application in the case of *Forrest on behalf of the Ngurrara People v State of Western Australia* (FCA:2018:289). Peter Murray explains:

> "Country has been our *Ngurrara*, our home *and* country since the time of the Dreaming…as a young person I walked across our *Ngurrara* country with the old people. They showed me special places…there are many other places I now look after these placed and visit them often. Through the Ranger work I do, it makes it easier for me to take the younger boys out and teach them about these places…this helps keep these placed strong, helps keep the stories strong, and this keeps our culture strong. I have a responsibility both as a *Ngurrara* Ranger and a traditional owner to protect and care for these places that are special to us. That is why our old people tell us about these places, the paintings, the songs and the stories. They tell us so we know what to protect and how to protect it." (FCA: 2018:289)

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[13] FCA: 2000: State of Western Australia v Ward. FCA 191, [866], where they note:
the secular and spiritual aspects of the aboriginal connection with the land are twin elements of the rights to the land. Thus, the obligation to care for country has a secular aspect – burning the land – and a spiritual aspect – acquiring knowledge of ritual. The protection of ritual knowledge is required by traditional law. Traditional law treats both elements as incidents of native title. There is no reason why the common law recognition of native title should attach to one incident and not the other. Because common law recognition is accorded to the entitlement to land as defined by traditional laws and customs the contrary conclusion should follow.

Murray's story is one of the few approved native title determinations that have been made since the passing of the NTA in 1993 (Tran & Barchman: 2018:15). From the NTA example above, it has become evident that the significance of 'The 'Dreaming' or 'Dreamtime' to Aboriginal people has its place in the legislative frameworks of Australia. Unfortunately for Cockatoo Island, the indigenous Australian values were not secured, protected or acknowledged in The Tent Embassy's NTA application in 2001. Further the intangible indigenous Australian cultural heritage values at Cockatoo Island continue to be overlooked in the site's CMP's Statement of Significance, ISP, HIP, CHL and NHL legislative frameworks as well.

5.7. CONCLUSION

Cockatoo Island is equally important to the indigenous community as it is for those with convict ancestry. However, Cockatoo Island's legislative frameworks has clearly illustrated the manner in which Australia's heritage legislation continues to operate under the definitional power of the state, rather than under the distinct nations that know their heritage in specific cultural terms.

This inequality is especially evident in how the CHL and the NHL did not assess Cockatoo Island's cultural significance for indigenous Australians. The consequence of this exclusion enables custodians to undertake actions that could have a significant impact on the indigenous Australian's intangible heritage values. In addition, the Commonwealth's Indigenous cultural heritage regime's EPBC scheme also fails to provide a safety net of protection, when the NHL or CHL fail to protect Cockatoo Island's associated indigenous values. Lastly, the site's CMP fails to specify how the indigenous Australian's intangible cultural heritage values should be protected or conserved.

The evident absence of inclusive legislative changes, renders a lamentable lack of legal protection afforded to the indigenous intangible cultural heritage values at Cockatoo Island. This is especially problematic since the site's rejected NTA application in 2001 raised the significance of 'The 'Dreaming' or 'Dreamtime' to the Aboriginal peoples associated with Cockatoo Island. As a result, this significance should have had its place in the site's legislative frameworks. Unfortunately, Cockatoo Island's indigenous Australian's cultural heritage values were not secured, protected or acknowledged in The Tent Embassy's NTA

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application in 2001. Further the intangible indigenous Australian cultural heritage values at Cockatoo Island continue to be overlooked in the site's CMP's Statement of Significance, ISP, HIP, CHL, NHL, EPBC and UNESCO's WHC legislative frameworks as well.

6.   LITERATURE REVIEW: SUSTAINABILITY

6.1.   INTRODUCTION

The concept of sustainability means "the ability to last or continue for a long time" (UNESCO:2015: a.17). By facilitating for the concepts of cultural continuity and legislative change, custodians can ensure a heritage place's continued sustainability. However, the concept of cultural continuity is only the fourth 'pillar' of the SDG's framework for sustainability. Although Cockatoo Island's ISP's, HIP's, legislative changes and RAP's can facilitate for the concept of indigenous cultural continuity, cultural heritage values can only really be sustainable if "it is planned, designed, and constructed based on thoughtful decisions that correctly address the three 'pillars' of sustainability" (Rodwell:2011:9). The SDG's three 'pillars' of sustainability include: "1. environmental protection, 2. economic growth, and 3. social equity" (Rodwell:2011:9). Cultural continuity is merely the combined product of the three pillars, which together form a "fourth 'pillar' known as cultural continuity" (Khalaf:2019:6).

6.2.   THIRD THEME OF THE LITERATURE REVIEW: SUSTAINABILITY

The correct formation of the fourth 'pillar', has the potential to be a distinct thread that runs through the economic, social and environmental dimensions of a heritage site (Bandarin & Van Oers:2012:13). UNESCO and The Culture in City Reconstruction and Recovery, (CURE) Framework has recognised the intricate link between cultural continuity and sustainability. UNESCO believes that cultural continuity can "enable sustainable development[..]when a values-based approach is integrated into development programs and peace-building initiatives" (UNESCO:2013: a. 5.9). The CURE Framework has taken this a step further by including a target dedicated to ensuring cultural continuity at heritage places by calling on "cities and human settlements to be inclusive, safe, resilient and sustainable" (UNESCO:2018: SDG 11)

The relevance of the CURE objective is outlined in the World Bank and the SDG's Agenda for 2030, which aims to strengthen the "efforts that protect and safeguard the world's cultural and natural heritage" (UNESCO:201: SDG 11). In order to achieve this, conservation and management processes cannot disassociate the fourth 'pillar' of cultural continuity from the overall needs of the associated communities. In order to effectively facilitate this concept, heritage sites need to address the three 'pillars' of environmental protection, economic growth, and social equity with the input of the associated communities. If not integrated correctly, or at all, the lack of alignment between these pillars and the overall needs of the people will not lead to the fourth 'pillar' of cultural continuity. As a result, this lack of alignment could inevitably cause the site's lack of sustainability in the future (Khalaf:2019:7).

In addition to the above, the UN supports the notion that sustainable development needs to materialise at a "local level, which is why they have incorporated localisation in their SDG, making it a key factor for its successful implementation" (UN, 2015). Similarly, to the SDG's three 'pillars' of sustainability, "the concept of localisation is a bottom-up approach starting with the existing physical, social, and economic conditions of communities and works toward meeting their needs and priorities" (Khalaf:2019:7). In order to achieve SDG's, governments need to "understand the reality on the ground and identify local needs: and priorities of the community in the development of legislative frameworks and conservation processes (Khalaf:2019:7). Stakeholders, capacities and resources, whether technical, institutional, financial or natural should also be identified (Khalaf:2019:7). Through this approach, heritage sites can effectively facilitate a form of cultural continuity and change that "runs through the economic, social and environmental dimensions of sustainable development" (Bandarin & Van Oers:2012:13). The application of the SDG's three 'pillars' of sustainability at Cockatoo Island will be discussed in depth in Section 7, below.

The benefits of a sustainable heritage conservation and management process can also help accelerate the recovery of indigenous communities and mitigate their dependency on external grant support (Khalaf: 2019:8). However, it is difficult to facilitate recovery for a group of people after prolonged periods of colonisation. This is mostly owed to how globalisation and city migrations 'transform' people, which inevitably makes them vulnerable (Khalaf:2019:7). Cockatoo Island's RAP has identified this need by ethically

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incorporating best-practice principles that encourage the recruitment of Aboriginal and Torres Strait Islander people in the management of the site. The need for this aspect in the recruitment process is the most effective way to sustainably build resilience, enable for facilitating cultural continuity and to change social conditions and legislation protocols for the better (Khalaf:2019:8). Although not so obvious, this social approach encapsulates the fundamental principles of Build Back Better (BBB).

BBB aims to improve the socio-economic conditions of a previously disadvantaged group of people through regenerating livelihoods, establishing stronger heritage governance systems, and improving physical conditions to create "a new state of normalcy that is resilient and sustainable" (Mannakkarra:2013:108). With this said, BBB does not mean abandoning local or traditional knowledge, nor does it mean imposing systems or abandoning resources. BBB simply means strengthening resilience, which can be done through traditional and/or modern knowledge and resource systems (Khalaf:2019:8). The use of SGD or BBB principles can build resilience. In addition, a values-based approach in development programs and peace-building initiatives can potentially enable "sustainable development and ensure the continuity of culture" (UNESCO:2013: a. 5,9).

In conclusion, the sustainability of heritage places can be facilitated by incorporating the indigenous cultural continuity and legislative changes in a site's ISP's, HIP's and RAP's. However, the SDG's framework provided by the three 'pillars' of sustainability can function as an added resource in achieving sustainability at cultural heritage sites. The reason for this is attributed to the conceptual underpinning of the SDG, BBB, CURE, UNESCO and UN frameworks. All these frameworks are aligned to achieving sustainability through a values-based approach, which are focused on benefiting the associated communities. The application of the SDG's three 'pillars' of sustainability and its values-based approach at Cockatoo Island will be discussed in depth in Section 7, below.

7. CASE STUDY: APPLICATION OF SUSTAINABILITY AT COCKATOO ISLAND

7.1. COCKATOO ISLAND'S THREE PILLARS OF SUSTAINABILITY

The consideration of indigenous communities in Cockatoo Island's legislative frameworks, CMP, ISP, HIP's and RAP, can better facilitate for the cultural continuity of the indigenous Australian's heritage values. This values-based approach echoes the foundations on which the SDG's three "pillars" of sustainability, BBB, CURE, UNESCO and UN principles are built. Not only can the inclusive precedence of indigenous communities combat the effects of a predeceasing exclusionary colonial rhetoric but can also facilitate for the social reconciliation of post-colonial communities at Cockatoo Island as a site of shared history and meaning. Further, this community driven approach can also significantly contribute to advancing local and global knowledge of the indigenous cultural heritage values associated with Cockatoo Island. In addition, this approach could also facilitate for the sharing of traditional cultural knowledge and spiritual practices.

The foundations of a values based, and community driven approach is evident in the SDG's three 'pillars' of sustainability. The first 'pillar' of sustainability being, Environmental Protection, which can be applied to the protection of Cockatoo Island's historic environment. In this case, the conceptual underpinning of the first 'pillar' is evident in the tangible and intangible aspects of Cockatoo Island's historic environment and the site's physical and social changes. These physical and social changes are protected by the island's CMP and associated legislative frameworks. As discussed in Section 5 and 3, the site's legal protection, ISP and HIP fail to represent and change to protect the indigenous Australian values at Cockatoo Island. As a result, the sustainability of the first "pillar" can only be applicable to the community the environmental protection recognises. The inclusion of indigenous Australian participation in outlining the site's Statement of Significance and protection guidelines in the CMP, could have resulted in a more inclusive system of protecting the intangible indigenous Australian associations to Cockatoo Island. Further, this community driven involvement could also facilitate for the sharing of traditional cultural

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knowledge and spiritual practices, which could have possibly resulted in its better integration into the site's ISP, and HIP.

The communication of indigenous cultural heritage values in Cockatoo Island's ISP and HIP could have also facilitated for a more contextualised visitor experience, and provided the opportunity to attract a wider audience. The increased foot traffic, public interest, possible funding and engagement is what creates the second 'pillar' of sustainability, this being, Economic Growth. In the case of Cockatoo Island, the second 'pillar' of sustainability is evident in the SHFT Annual Report 2018-2019. Aside from project-specific grant funds from government, the SHFT's Annual Report 2018-2019 revealed that Cockatoo Island retains a sizeable foot traffic. This foot traffic is expressed in the self-generated income services made available at the site, which include venue hire, accommodation, tours, merchandise and bank interest. Since its opening to the public, Cockatoo Island has emerged as an iconic contemporary arts and live performance venue (SHFT Annual Report: 2019). Cockatoo Island offers the world's first urban waterfront campground as well as picnic spots, BBQ facilities, accommodation and cafes (SHFT Annual Report: 2019). Further to this, these income streams have also provided the SHFT with the opportunity to ethically incorporate best-practice principles that encourage the recruitment of Aboriginal and Torres Strait Islander people into the day-to-day management and services offered at the site.

The interlinking relationship between these two 'pillars' is what provides room for the third 'pillar', being Social Equity, which is defined as the "fairness or justice in the way people are treated" (Webster:2020). The Environmental Protection of Cockatoo Island, combined with the sites continued Economic Growth is what adds to the general public's awareness of social issues, and ensures for some level of social liability in Cockatoo Island's management processes. This awareness is encouraged and facilitated by having Cockatoo Island's Annual Report's, CMP's, HIP's and RAP's, which are made available within the public domain. Unfortunately, the value provided by social equity is limited by the common knowledge of the time. Cockatoo Island's CMP, ISP, HIP and other legislative frameworks overlook the indigenous Australian associations at the site. As a consequence, the site's indigenous Austrian significance, and refusal of NTA does not form part of the general public's consciousness, thus rendering the sites social equity as piecemeal at best.

In addition to the above, Cockatoo Island's RAP presents an opportunity to be underpinned by the United Nations SDG's. Unlike Cockatoo Island's RAP, the Sydney Opera House's (SOH) RAP is committed to acting on a series of SDG's. The SOH committed to the goals in October 2019 with the release of their Reconciliation, Accessibility and Environment community action plans (SOH:2020). Underpinned by the SOH's new strategic commitment to the United Nations SDG's, their fifth RAP sets out clear actions to inspire positive change (SOH:2020). This commitment attests to a UNESCO WHC Listings ability to collaborate with the community, staff, donors and partners, by fostering and celebrating a shared sense of belonging and cultural continuity for all Australians in accordance to the SDG's objectives (SOH:2020). Despite the SOH's RAP not containing any legal accountability, its alignment with the SDG does a better job at ensuring for the site's effective facilitation of sustainable reconciliation and cultural continuity. This continuation is owed to the RAP's values-based ethos and promotion of "respect for diversity, the transmission and continuity of values, and inclusiveness" (UNESCO:2013: a. 5,9).

7.2.   CONCLUSION

Cockatoo Island's conservation and management processes at heritage sites cannot be disassociated from the SDG's 'pillars' of sustainability. By aligning a heritage place's legislative framework's, CMP's, ISP's, HIP's and RAP's to the SDG's values-based approach, custodians can better consider the overall needs of all the associated communities. Thorough this alignment, cultural heritage sites could inclusively address the pillars of environmental protection, economic growth, and social equity in the conservation and management processes. The correct and inclusive integration between the three 'pillars', will lead to the fourth "pillar" of cultural continuity and could also ensure for the sites sustainability in the future. In addition to facilitating for Cockatoo Island's sustainable reconciliation in the future. This approach could also facilitate for the sharing of traditional cultural knowledge and spiritual practices. This values-based approach can also facilitate for the social reconciliation of post-colonial communities at Cockatoo Island as a site of shared history and meaning.

8.   CONCLUSION

The case study of Cockatoo Island's HIP's demonstrates a clear correlation between the CMP's Statement of Significance and the CMP's ISP. Unfortunately, the Statement of Significance and ISP only focuses on the values surrounding the Convict Era's Buildings and Remains. As a result, this focus only facilitates for the concept of cultural continuity among the community with convict or industrial associations to the site. The lack of integrating indigenous Australian associations in Cockatoo Island's ISP and HIP does not facilitate for indigenous cultural continuity, nor does it facilitate for the social reconciliation at this post-colonial heritage site of shared history and meaning. In addition, the impact of such an exclusionary and singular rhetoric, also prevents Cockatoo Island from embodying UNESCO's concept of universality. Therefore, the lack of integrating indigenous Australian values does not facilitate for indigenous cultural continuity. Not only does this exclusion perpetuate the historical marginalisation of indigenous communities, it also disables for the facilitation of social reconstruction and reconciliation in a post-colonial society.

In contrast to the HIP and ISP, the RAP had done a better job at facilitating for the concept of indigenous cultural continuity at Cockatoo Island. This is simply achieved through acknowledging and incorporating the multiple cultures and histories that exist within the site of shared meaning. Owing to this incorporation, indigenous communities are empowered to retain a sense of belonging, ownership and social stability within Cockatoo Island's multicultural community. This is especially pertinent since the continuum of cultural heritage values and the reinstatement of familiarity, could facilitate for the concept of cultural continuity. This implementation could also facilitate for the social reconciliation and reconstruction of a post-colonial community at a site of shared history and meaning.

The study has found that Cockatoo Island is equally important to the indigenous community as it is for those with convict ancestry. However, Cockatoo Island's legislative frameworks has clearly illustrated the manner in which Australia's heritage legislation continues to operate under the definitional power of the state, rather than under the distinct nations that know their heritage in specific cultural terms.

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This inequality is especially evident in how the CHL and the NHL did not assess Cockatoo Island's cultural significance for indigenous Australians. The consequence of this exclusion enables custodians to undertake actions that could have a significant impact on the indigenous Australian's intangible heritage values. In addition, the Commonwealth's Indigenous cultural heritage regime's EPBC scheme also fails to provide a safety net of protection, when the NHL or CHL fails to protect Cockatoo Island's associated indigenous values. Lastly, the site's also CMP fails to specify how the indigenous Australian's intangible cultural heritage values should be protected or conserved.

The evident absence of inclusive legislative changes renders a lamentable lack of legal protection afforded to the indigenous intangible cultural heritage values at Cockatoo Island. This is especially problematic since the site's rejected NTA application in 2001 raised the significance of 'The 'Dreaming' or 'Dreamtime' to the Aboriginal peoples associated with Cockatoo Island. As a result, this significance should have had its place in the site's legislative frameworks. Unfortunately, Cockatoo Island's indigenous Australian's cultural heritage values were not secured, protected or acknowledged in The Tent Embassy's NTA application in 2001. Further the intangible indigenous Australian cultural heritage values at Cockatoo Island continue to be overlooked in the site's CMP's Statement of Significance, ISP, HIP, CHL, NHL, EPBC and UNESCO's WHC legislative frameworks as well.

By aligning a heritage place's legislative framework's, CMP's, ISP's, HIP's and RAP's to the SDG's values-based approach, custodians can better consider the overall needs of all the associated communities. This consideration consequently better facilitates for the concept of cultural continuity, change and sustainability. Cockatoo Island's conservation and management processes at heritage sites cannot be disassociated from the SDG's 'pillars' of sustainability. Through this alignment, cultural heritage sites could inclusively address the pillars of environmental protection, economic growth, and social equity in the conservation and management processes. The correct and inclusive integration between the three 'pillars', will lead to the fourth "pillar" of cultural continuity and could also ensure for the sites sustainability in the future. This approach could also facilitate for the sharing of traditional cultural knowledge and spiritual practices. This values-based approach can also facilitate for the sustainable social reconciliation of post-colonial communities at Cockatoo Island as a site of shared history and meaning

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In conclusion, for cultural heritage site to remain relevant to the associated indigenous communities, a balance between the concept of cultural continuity and the concept of change needs to be integrated into the site's conservation and management processes to ensure its future sustainability. It is the opinion of this study that the social changes in attitudes in a place of shared meaning needs to be reflected in the statutory guidelines that manage and protect that site. The synergies between the concepts of continuity, change and sustainability from the case study's CMP, ISP, HIP, heritage guidelines and RAP's has shown a need for a more inclusive approach. This investigation has highlighted the gaps heritage professionals need to address in order to better incorporate tangible and intangible indigenous Australian values at a post-colonial sites of shared meaning. The intention behind this is to use it as a vehicle to foster change, promoting reconciliation and facilitating social reconstruction within a post-colonial heritage site.

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APPENDIX A

WORLD HERITAGE LIST - THE CRITERIA FOR SELECTION

To be included on the World Heritage List, sites must be of outstanding universal value and meet at least one out of ten selection criteria.

These criteria are explained in the Operational Guidelines for the Implementation of the World Heritage Convention which, besides the text of the Convention, is the main working tool on World Heritage. The criteria are regularly revised by the Committee to reflect the evolution of the World Heritage concept itself.

Until the end of 2004, World Heritage sites were selected on the basis of six cultural and four natural criteria. With the adoption of the revised Operational Guidelines for the Implementation of the World Heritage Convention, only one set of ten criteria exists.

Selection criteria

(i)

to represent a masterpiece of human creative genius;

(ii)

to exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design;

(iii)

to bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared;

(iv)

to be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history;

(v)

to be an outstanding example of a traditional human settlement, land-use, or sea-use which is representative of a culture (or cultures), or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change;

(vi)

to be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance. (The Committee considers that this criterion should preferably be used in conjunction with other criteria);

(vii)

to contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance;

(viii)

to be outstanding examples representing major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiographic features;

(ix)

to be outstanding examples representing significant on-going ecological and biological processes in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals;

(x)

to contain the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of outstanding universal value from the point of view of science or conservation.

Operational Guidelines (year)	Cultural criteria						Natural criteria			
2002	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(i)	(ii)	(iii)	(iv)
2005	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(viii)	(ix)	(vii)	(x)

APPENDIX B

COMMONWEALTH & NATIONAL HERITAGE LIST SUMMARY
STATEMENT OF SIGNIFICANCE

National Heritage Listed Values	Commonwealth Heritage Listed Values
Criterion a: Events, Processes	**Criterion a: Events, Processes**
Cockatoo Island is a convict industrial settlement and pre and post Federation shipbuilding complex. It is important in the course of Australia's cultural history for its use as a place of hard labour, secondary punishment, and for public works, namely its history and contributions to the nation as a dockyard.	Cockatoo Island is important for its association with the administration of Governor Gipps who was responsible for the establishment on the Island of an Imperially funded prison for convicts withdrawn from Norfolk Island in the 1840s.
Fitzroy Dock is outstanding as the only remaining dry dock built using convict and prisoner labour and it is one of the largest convict-era public works surviving in Sydney. The dock was the earliest graving dock commenced in Australia and was one of the largest engineering projects competed in Australia at that time. Convicts excavated 580,000 cubic feet of rock creating 45 foot (15m) sandstone cliffs that extended around the site just to prepare the area for the dock, a huge technical achievement in itself.	The establishment of maritime activities during the 1840s culminating in the construction of Fitzroy Dock 1851-57 under Gother Kerr Mann, one of Australia's foremost nineteenth century engineers; and the construction of twelve in-ground grain silos following a government order that provision would be made to store 10,000 bushels of grain on the island.
The dockyard's lengthy 134 years of operation and its significance during both world wars, and in Australia's naval development and service as the Commonwealth dockyard, all contribute to its outstanding value to the nation. It is the only surviving example of a 19th century dockyard in Australia to retain some of the original service buildings including the pump house and machine shop. The powerhouse, constructed in 1918, contains the most extensive collection of early Australian electrical, hydraulic power and pumping equipment in Australia.	The subsequent development of shipbuilding and dockyard facilities has clearly been in response to Federation in 1901, when the New South Wales government took over management of the island; the formation of the Royal Australian Navy in 1911; and the Commonwealth Government's purchase of the island in 1913. The first steel warship built in Australia, HMAS Heron, was completed on the island in 1916.

The surviving fabric relating to convict administration which includes; the prisoners' barracks, hospital, mess hall, military guard and officers' room, free overseers' quarters and the superintendent's cottage. Evidence of convict hard labour includes the sandstone buildings, quarried cliffs, the underground silos and the Fitzroy Dock.	During World War Two, Cockatoo Island became the primary shipbuilding and dockyard facility in the Pacific following the fall of Singapore. Post war development of the facility reflects the importance of the island facility to the Commonwealth Government.
Cockatoo Island's dockyard, through its contribution to Australia's naval and maritime history, demonstrates outstanding significance to the nation. Fitzroy Dock is the oldest surviving dry dock in Australia operating continuously for over 134 years (1857-1991). The dockyard has direct associations with the convict era, Australia's naval relationship with its allies (particularly Britain during the nineteenth and early twentieth centuries) and Australia's naval development, especially during the First and Second World Wars. Cockatoo Island's development into Australia's primary shipbuilding facility and Australia's first Naval Dockyard for the RAN (1913-1921) further demonstrates its outstanding importance in the course of Australia's history.	
Criterion b: Rarity	**Criterion b: Rarity**
N/A	
	Cockatoo Island is the only surviving Imperial convict public works establishment in New South Wales. Individual elements of the convict Public Works Department period include the rock cut grain silos, the Prisoners Barracks and Mess Hall 1839-42, the Military Guard House, the Military Officers Quarters and Biloela House c1841.
	The range of elements associated with the shipbuilding and dockyard facility date from the 1850s and include items of remnant equipment, warehouse and industrial buildings and a range of cranes, wharves, slipways and jetties which illustrate the materials, construction techniques and technical skills

	employed in the construction of shipbuilding and dockyard facilities over 140 years.
	Individual elements within the dockyard facility include Fitzroy Dock and Caisson 1851-57, Sutherland Dock 1882-90 the Powerhouse 1918, the Engineer's and Blacksmith's Shop c1853 and the former pump building for Fitzroy Dock.
Criterion c: Research	**Criterion c: Research**
There has been considerable archaeological investigation on Cockatoo Island by the Sydney Harbour Federation Trust. This has indicated that it has significant research potential in terms of enhancing the knowledge of the operation of a convict industrial site and a long running dockyard.	N/A
The surviving archaeological elements of now demolished or obscured structures and functions of the dockyard, in particular the remains of the docks, equipment, warehouse and industrial buildings and a range of cranes, wharves, slipways and jetties, have potential to illustrate and reveal the materials, construction techniques and technical skills employed in the construction of shipbuilding and dockyard facilities that are no longer available through other sources in Australia. The archaeological resources also have importance in demonstrating changes to maritime and heavy industrial processes and activities in Australia from the mid- nineteenth century. The dockyard contains the earliest, most extensive and most varied record of shipbuilding, both commercial and naval, in Australia. This is supported by extensive documentary evidence in the National Archives.	
Criterion d: principal characteristics of class of places	**Criterion d: principal characteristics of class of places**

Cockatoo Island represents some of the principal characteristics of Australian convict sites including: hard labour as a means of punishment and deterrence to the British 'criminal class'; use of convict labour for the establishment of the colony through public works; and secondary punishment for re-offending convicts.	The industrial character of the cultural landscape of the Island has developed from the interaction of maritime and prison activity and retains clear evidence of both in a number of precincts. The cultural landscape is articulated by man made cliffs, stone walls and steps, docks, cranes, slipways and built forms.
Cockatoo Island is of outstanding importance to the nation as a site of severe punishment. The level of severity if expressed through the policy to extend convicts with 'no indulgence beyond the strict Government ration'. The fundamental purpose of Cockatoo Island was to be the worst possible place imaginable and the ultimate deterrent and it is a fine example as a symbol of the harsh treatment used to deter the 'criminal class' in Britain.	Extant structures within the precincts are important for their ability to demonstrate: the functions and architectural idiom and principal characteristics of an imperial convict public works establishment of the 1840s; and the functions and architectural idiom and principal characteristics of the range of structures and facilities associated with the development and processes of the dockyard and shipbuilding industry over a period of 140 years.
Fitzroy Dock and its associated excavation and buildings are outstanding examples of the use of convict and prisoner labour for public works. The underground silos, remaining evidence from quarrying and the group of convict built structures on the island are also testament to public works undertaken by the convicts. Although convicts under various sentences ended up at Cockatoo Island, it was established specifically as, and primarily was a place of secondary punishment for re-offending convicts. Cockatoo Island critically represents the principal characteristics of a dual use convict site, one that both incarcerates convicts and provides them with hard labour. The values expressed at Cockatoo Island are important for their ability to demonstrate the function, planning layout and architectural idiom and principal characteristics of an imperial convict public works establishment of the 1840s; and the functions, planning layout and architectural idiom and principal characteristics of a range of structures and facilities associated with the development and process of the dockyard and shipbuilding industry over a period of 134 years.	The range of elements associated with the shipbuilding and dockyard facility date from the 1850s and include items of remnant equipment, warehouse and industrial buildings and a range of cranes, wharves, slipways and jetties which illustrate the materials, construction techniques and technical skills employed in the construction of shipbuilding and dockyard facilities over 140 years. Individual elements within the dockyard facility include Fitzroy Dock and Caisson, Sutherland Dock, the Powerhouse, the Engineer's and Blacksmith's Shop and the former pump building for Fitzroy Dock. Individual elements of the convict Public Works Department period including the rock cut grain silos, the Prisoners Barracks and Mess Hall, the Military Guard House, the Military Officers Quarters and Biloela House.
Criterion h: Significant people	**Criterion h: Significant people**

N/A	Cockatoo Island is important for its association with the administration of Governor Gipps in the 1840s, the construction of Fitzroy Dock from 1851-57 under Gother Kerr Mann, Federation in 1901, the formation of the Royal Australian Navy in 1911 and the construction of the first steel warship built in Australia, HMAS Heron.

APPENDIX C

WORLD HERITAGE LIST - SUMMARY STATEMENT OF SIGNIFICANCE

List: World Heritage Listing
Class: Historic
Legal Status: Listed place
Place ID: 1306-010

Outstanding Universal Value

Brief synthesis

The property consists of eleven complementary sites. It constitutes an outstanding and large-scale example of the forced migration of convicts, who were condemned to transportation to distant colonies of the British Empire; the same method was also used by other colonial states.

The sites illustrate the different types of convict settlement organized to serve the colonial development project by means of buildings, ports, infrastructure, the extraction of resources, etc. They illustrate the living conditions of the convicts, who were condemned to transportation far from their homes, deprived of freedom, and subjected to forced labour.

This transportation and associated forced labour was implemented on a large scale, both for criminals and for people convicted for relatively minor offences, as well as for expressing certain opinions or being political opponents. The penalty of transportation to Australia also applied to women and children from the age of nine. The convict stations are testimony to a legal form of punishment that dominated in the 18th and 19th centuries in the large European colonial states, at the same time as and after the abolition of slavery.

The property shows the various forms that the convict settlements took, closely reflecting the discussions and beliefs about the punishment of crime in 18th and 19th century Europe, both in terms of its exemplarity and the harshness of the punishment used as a

deterrent, and of the aim of social rehabilitation through labour and discipline. They influenced the emergence of a penal model in Europe and America.

Within the colonial system established in Australia, the convict settlements simultaneously led to the Aboriginal population being forced back into the less fertile hinterland, and to the creation of a significant source of population of European origin.

Criterion (iv):

The Australian convict sites constitute an outstanding example of the way in which conventional forced labour and national prison systems were transformed, in major European nations in the 18th and 19th centuries, into a system of deportation and forced labour forming part of the British Empire's vast colonial project. They illustrate the variety of the creation of penal colonies to serve the many material needs created by the development of a new territory. They bear witness to a penitentiary system which had many objectives, ranging from severe punishment used as a deterrent to forced labour for men, women and children, and the rehabilitation of the convicts through labour and discipline.

Criterion (vi):

The transportation of criminals, delinquents, and political prisoners to colonial lands by the great nation states between the 18th and 20th centuries is an important aspect of human history, especially with regard to its penal, political and colonial dimensions. The Australian convict settlements provide a particularly complete example of this history and the associated symbolic values derived from discussions in modern and contemporary European society. They illustrate an active phase in the occupation of colonial lands to the detriment of Aboriginal peoples, and the process of creating a colonial population of European origin through the dialectic of punishment and transportation followed by forced labour and social rehabilitation to the eventual social integration of convicts as settlers.

Integrity and authenticity

The structural and landscape integrity of the property varies depending on the site, and on the type of evidence considered. It has been affected by local history, at times marked by reuse or lengthy periods of abandonment. The integrity varies between well preserved groups and others where it might be described as fragmentary. Apart from certain visual perspectives in urban settings, the level of the property's integrity is well controlled by the site management plans.

Despite the inevitable complexity of a nomination made up of a series of eleven separate sites with more than 200 elements that convey the value of the property, the authenticity of the vast majority of them is good.

Protection and management requirements

All the sites forming the property are inscribed on the National Heritage List. They are also protected by the Environment Protection and Biodiversity Conservation Act 1999.

There is no direct major threat to the sites forming the serial property.
The general protection and management of the property are satisfactory. Conservation is articulated around a positive dynamic driven by the application of the conservation plans at each of the sites. The Brickendon and Woolmers Estate domains are an exception, and require ongoing assistance, both in terms of protection and conservation.

The management systems of the sites forming the property are appropriate, and they are adequately coordinated by the Strategic Management Framework for the property and its Steering Committee. For the sites involving the participation of private stakeholders for visitor reception, improved interpretation is however necessary; that includes the common objectives outlined in the Strategic Management Framework. It is also important to consider visitor reception facilities and their development in a way which respects the landscape conservation of the sites.