



POLICY 6-6

VERSION 4

OBLIGATIONS OF PCQ WITH RESPECT TO INDIGENOUS PEOPLES AND THEIR CULTURES

Approved: Brad Fish
Chief Executive Officer

Date: 1 / 11 / 2006

Considered by the Board at the July 2006 Board meeting (Board minute 4869).

PURPOSE:

To ensure that the best business outcomes are achieved by PCQ through the effective and timely consideration of the obligations of PCQ with respect to indigenous peoples and their cultures.

POLICY FRAMEWORK:

The location of PCQ's ports means that the obligations of PCQ with respect to indigenous peoples and their cultures are significant. Primarily, these may be characterised legally as relating to native title or cultural heritage. There are significant bodies of law on both these topics. These include:

- Common law rulings on native title
- Native title legislation (State and Commonwealth)
- Applicable State policies
- Cultural Heritage legislation (State and Commonwealth)

Native title rights have been recognised within our legal system. Native Title Holders' legal rights, and/or culturally significant sites and/or relics may coexist with PCQ's legal rights on PCQ land. PCQ is committed to complying in good faith with legal requirements. Beyond the requirements of law, with which this policy seeks to ensure PCQ's compliance by identifying appropriate responsibilities and instituting effective procedures, PCQ seeks to build a relationship of understanding and cooperation with indigenous peoples so that the legitimate interests and aspirations of all parties can be recognised.

APPLICATION:

This policy applies to all PCQ employees.

POLICY:

PCQ will at all times comply in good faith with the law in relation to the obligations of PCQ with respect to indigenous peoples and their cultures.

Dealings in Land

All dealings in land held by PCQ will be assessed for their impact on the obligations of PCQ with respect to indigenous peoples and their cultures. "Land" includes water (land below the highwater mark).

"Dealings in land" include both physical actions such as clearing and development, and administrative actions.

Dealings in land include, but are not limited to:

- Construction
- Granting of leases, licenses or permits
- Any act that has impact on land eg agreement to store material, clearing of vegetation
- Sale of land or interests in land
- Transfer of an interest in land to a third party

Development Assessment

Consideration of native title and cultural heritage issues is included in PCQ's development assessment process. These issues are to be fully considered before signing off in the appropriate place on the development forms.

The possible impact of any development on cultural heritage must be addressed and included in the relevant environmental impact assessment or environmental management plan for the development (Refer Environmental Management Manual).

Third Party Assessment

Where other bodies take responsibility for performing acts relevant to the obligations of PCQ with respect to indigenous peoples and their cultures – for example, the Environmental Protection Agency undertaking notification for a section 86 approval – written confirmation of this must be placed on the relevant file for future reference.

Cultural Heritage Database

PCQ will, over time, develop a database of information with respect to cultural heritage for its landholdings. PCQ will accept primary responsibility for the conduct of inspections and related reports. Responsibility for ensuring that third parties acting for or on behalf of PCQ, such as contractors or licensees, act in accordance with cultural heritage legislation, may be devolved to those third parties.

PCQ's Status as a GOC

As a government owned corporation, the interests of PCQ with respect to indigenous peoples and their cultures are often represented by the State, through bodies such as the Native Title Services Unit. PCQ reserves the right to seek representation by other third parties where it considers it appropriate.

PCQ can, in specific circumstances, be required to comply with government policies. In the absence of such specific directives, PCQ will continue to consult the Native Title Services Unit in respect of the obligations of PCQ with respect to indigenous peoples and their

cultures. PCQ will usually adhere to the general intent of government advice on these issues. However, it reserves the right to act in accordance with commercial imperatives.

Relationships with indigenous peoples.

Where considered appropriate and productive, PCQ will proactively seek to build positive relationships with relevant indigenous bodies and/or communities. This may include involvement in the planning processes of PCQ and in the development of resources such as the cultural heritage database.

PCQ will consider all options when seeking to address issues of mutual interest to PCQ and indigenous peoples, including the possibility of developing Indigenous Land Use Agreements over its landholdings.

PROCEDURAL IMPLICATIONS:

Related policies:

- Anti-discrimination

REVIEW DATE:

This policy should be reviewed by July 2011.