Australia Pacific LNG Project

Volume 5: Attachments

Attachment 38: Indigenous Heritage Technical Report – LNG Facility

Australia Pacific LNG Facility

Laird Point, Curtis Island

Indigenous heritage

A report to Australia Pacific LNG

by

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1. Introduction

Australia Pacific LNG Pty Limited proposes to develop a project to enable the creation of a world scale, long-term industry, utilising Australia Pacific LNG's substantial coal seam gas resources in Queensland. Australia Pacific LNG holds significant interests in less developed areas across the Walloons Fairway in the Surat Basin, which together with the Talinga coal seam gas field constitutes the Walloons gas field development area.

The LNG facility will include up to four LNG trains with an installed capacity of approximately 18 MTPA, associated wharf and materials off-loading facilities to be located near Laird Point within the Curtis Island Industry Precinct of the Gladstone State Development Area and a ferry terminal to be located on the mainland. The LNG facility will utilise ConocoPhillips' proprietary Optimised Cascade® technology.

1.1 Study area

The study area for the LNG facility section is Curtis Island, in particular Laird Point. Laird Point is situated on the western side of Curtis Island, on the southern edge of Graham Creek. Curtis Island is approximately 40km long and 10-20km wide and is oriented in a north-south direction, parallel with the coast. It is the largest of the islands that enclose Gladstone Harbour and is one of the group of offshore islands included in the Great Barrier Reef World Heritage Area.

The LNG facility site occupies an area of modified open forest, mangroves and estuarine mud flats. Non-Indigenous impacts have come from pastoral activity, bushfire regeneration, and localised tree felling. The entire island has, because of its location and history of isolation, remained relatively wooded, in contrast to the heavy industrial development of Gladstone opposite. The island bedrock belongs to the Curtis Island Group, Wandilla Formation, comprising mudstone, quartz, greywacke and pale grey chert (Gladstone Strategic Plan 1974:12). Stone artefacts made from these local stone types form much of the archaeological record.

This study does not consider the effects of the development on marine areas not subject to Native Title claim. These areas will be evaluated once Aboriginal Parties with an interest in marine areas surrounding the island are identified. Mainland areas are also yet to be evaluated. An assessment of these areas will be undertaken when facility locations have been confirmed.

1.2 Purpose

Indigenous heritage in the project area has been investigated as part of the overall assessment of development impacts. This investigation provides an historical and archaeological context for assessing the likely Indigenous use of the area, documents the registered heritage places and potentially significant site locations, and proposes measures to mitigate any impacts that might result from the project. In combination with a Cultural Heritage Management Plan (Cultural Heritage Management Plan) being developed with the Port Curtis Coral Coast (PCCC) native title claim group, the purpose of this assessment is to document the process that will be undertaken to ensure that the Indigenous heritage values are preserved to the greatest extent possible. Other Aboriginal Parties with an interest in the marine portion of the LNG facility site will be discovered through the notification process. These interested parties will be invited to identify sites and areas of significance that may be affected by construction in the marine and estuarine environments, and will be involved in the process of managing these sites and areas. Figure 1 illustrates Native title claims within the area.

The aims of the Indigenous heritage assessment are to meet the Terms of Reference for the project and specifically to:

- Provide a context for assessing Indigenous occupation of the area proposed for the LNG facility
- Recognise the presence of Registered Indigenous heritage sites in the LNG facility area, through a review of sites on the DERM Indigenous Cultural Heritage Register and Database
- Propose a methodology, whereby Aboriginal heritage values are identified, their significance assessed and appropriate agreements reached, between Australia Pacific LNG and the approved Aboriginal Party (PCCC). These agreements would be in the form of an approved Cultural Heritage Management Plan recognised under the *Aboriginal Cultural Heritage Act*, 2003.

A Cultural Heritage Management Plan is presently being negotiated with the PCCC.

1.3 Scope of Works

This assessment examines potential construction impacts to Indigenous cultural heritage from the LNG facility, to be built at Laird Point, Curtis Island, one of the islands enclosing Gladstone Harbour. Separate assessments have been prepared for the Transmission Pipeline and Gas field components of the Project.

This assessment considers the legislative requirements in relation to Indigenous cultural heritage and reviews known Indigenous heritage and history in the study area. In keeping with the wishes of the Traditional Owners of the area, the locations of sites and items of cultural heritage significance are not identified in this, a public document, to ensure that Indigenous heritage sites are not exposed to threats posed by unauthorised visitation and disturbance.

Along with confidential information prepared for PCCC by their own Heritage Advisor following field investigations, and agreed measures to mitigated impacts in a yet-to-be formulated Cultural Heritage Management Plan, this assessment forms the basis for addressing the Indigenous heritage values for the LNG facility component of the Project.

1.4 Legislative framework

In Queensland, both Commonwealth and State legislation protects Indigenous heritage sites. These various State and Commonwealth Acts work in concert with planning instruments requiring consideration of heritage in the planning approval process.

1.4.1 Commonwealth legislation

Australian Heritage Commission Act, 1975

This legislation established the Australian Heritage Commission (AHC) whose responsibilities included the creation and administration of the Register of the National Estate (RNE). The RNE included places assessed as being significant for their natural, historical or Indigenous values. Listing on the RNE imposed no restrictions or responsibilities on the owners of those places, although it did require Commonwealth agencies to seek advice from the AHC concerning the management of listed places. The AHC Act was repealed in 2003 with amendments to the *Environmental Protection and Biodiversity Conservation Act*, 1999 (EPBC Act). The AHC was replaced by the Australian Heritage Council, which fulfils the same role as its predecessor: providing independent advice to the Commonwealth on heritage matters.

Environmental Protection and Biodiversity Conservation Act, 1999

The main objective of this legislation is to protect the environment, including nationally and internationally significant fauna, flora, ecological communities and heritage places, particularly where these can be considered as Matters of National Environmental Significance. Amendments to the EPBC Act in 2003 led to the inclusion of national heritage places as Matters of National Environmental Significance, and established the Commonwealth and National Heritage Lists.

The EPBC Act works in parallel with the State heritage system, providing another level of protection for sites that might otherwise be threatened by major developments. A determination from the Commonwealth Minister for the Environment, Heritage and the Arts is required when activities occur in areas of National or International significance, such as the Great Barrier Reef Marine Park. An Indigenous Advisory Committee was established to advise the Minister on Indigenous matters connected to the EPBC Act.

Australian Heritage Council Act, 2003

This legislation established the Australian Heritage Council to replace the Australian Heritage Commission, as the principal advisory body to the Commonwealth Minister for the Environment, Heritage and the Arts on heritage issues. The Heritage Council is responsible for administering the Commonwealth Heritage List, for sites on Commonwealth land and the National Heritage List, for other sites. The Register of the National Estate remains as a statutory register until February 2012, by which time many of its sites will be included on national, state or local government heritage registers.

Aboriginal and Torres Strait Islander Heritage Protection Act, 1984

This is the principal Commonwealth legislation protecting Indigenous heritage in Australia. The Act complements state/territory legislation and is intended to be used only as a 'last resort' where state/territory laws and processes prove to be ineffective. The Commonwealth Minister for the Environment, Heritage and the Arts can make declarations protecting threatened sites. This legislation is being reviewed by the Commonwealth to improve its effectiveness in protecting Indigenous sites of outstanding heritage value.

1.4.2 State legislation

The primary piece of State legislation protecting Aboriginal cultural heritage sites is the *Aboriginal Cultural Heritage Act*, 2003. Indigenous sites may also be protected by the *Queensland Heritage Act*, 1992.

The Queensland Government Department responsible for Indigenous heritage protection is the Department of Environment and Resource Management (DERM). It keeps an Aboriginal and Torres Strait Islander Database and Register, and administers Queensland's *Aboriginal Cultural Heritage Act*, 2003 (ACHA). It also keeps a register of significant heritage places and sites, the *Queensland Heritage Register* (QHR), and administers the *Queensland Heritage Act*, 1992 (QHA).

Aboriginal Cultural Heritage Act, 2003

The main objective of Queensland's ACHA is to effectively recognise and protect Aboriginal cultural heritage and to establish a process whereby this can be achieved. It places the onus on anyone whose activities might disturb or destroy an Aboriginal place or site, to observe a 'duty of care'. It places the assessment of significance solely with the Aboriginal Parties involved, to be decided in a manner consistent with tradition, and emphasises that the definition of places and sites goes beyond archaeological sites to include those where there are no physical traces. It requires developers who

are obliged through other legislation to develop an Environmental Impact Statement, to also initiate the creation of Cultural Heritage Management Plans with the appropriate Indigenous groups. Major elements of the Act are:

- Blanket protection of areas and objects of traditional, customary, and archaeological significance;
- Recognition of the primary role of Traditional Owners in cultural heritage protection and management,
- Establishment of a Cultural Heritage Register and Cultural Heritage Database,
- The provision of Duty Of Care Guidelines to place site protection responsibilities with developers;
- Establishment of a cultural heritage management planning process;
- The mandatory requirement to prepare Cultural Heritage Management Plans in situations where an Environmental Impact Statement is required for development approval, and;
- Increased penalties for damaging Aboriginal and Torres Strait Islander cultural heritage or breaching the Duty Of Care Guidelines.

Duty of care is the guiding principle in the administration of the Act. *Section 23* (1) of the Act states that a person who carries out an activity *must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage* (the "cultural heritage duty of care").

Cultural heritage is defined as:

- A significant Aboriginal area or Aboriginal object (significant to Aboriginal people according to tradition or history).
- Evidence, of archaeological or historic significance, of Aboriginal occupation of an area.

The Act requires *consultation* as the foundation of Aboriginal cultural heritage management. Section 1.16 of the gazetted *Duty of Care Guidelines*, states "… the views of the Aboriginal Party for an area *are key in assessing and managing any activity* which is likely to harm Aboriginal cultural heritage".

Australia Pacific LNG is developing Cultural Heritage Management Plans with all Aboriginal Parties whose lands are affected by the Project.

Queensland Heritage Act, 1992

The *Queensland Heritage Act, 1992* primarily caters for non-Indigenous heritage places, but also for those with joint Indigenous and non-Indigenous values, namely post-contact sites.

1.4.3 Local Government Legislation

Inclusion on a local heritage register or planning overlay also protects Indigenous heritage. Amendments to the *Queensland Heritage Act* 1992 required local government agencies to establish their own registers of heritage places, unless they already had satisfactory measures in place to protect sites under existing planning instruments. This includes non-Indigenous sites and sites with joint Indigenous / non-Indigenous values.

A further 2008 amendment provided for the integration of State and local government assessment and approval processes under the Integrated Development Assessment System (IDAS) of the *Integrated*

Planning Act 1997 (section 121). Sites listed on local government heritage schedules are subject to assessment provisions specified under this Act.

Although the requirement for local heritage lists was established under the QHR and therefore would not apply to sites solely significant to Indigenous people, some local heritage overlays do include Indigenous sites. These sites could therefore be subject to provisions of the *Integrated Planning Act* 1997. Registered Indigenous heritage sites are however offered greater protection under Queensland's *Aboriginal Heritage Act,* 2003.

1.5 Cultural heritage significance assessment

Under Queensland's *Aboriginal Cultural Heritage Act* 2003, assessment of significance is a matter solely for the Aboriginal parties involved. Unless sites are listed on International or National Heritage Registers because of joint Indigenous/non-Indigenous values, in which case their significance can partially be assessed using principles in the Burra Charter (Marquis-Kyle and Walker 1992), significance of any Aboriginal site is assigned by the Aboriginal group. Indigenous sites and places at the LNG facility site on Curtis Island will be addressed in the Cultural Heritage Management Plan being developed with the PCCC.

2. Methodology

Assessing the potential impacts of LNG facility construction on Indigenous cultural heritage values has been a multi-stage process. The initial phase of this study was the collation of site information from the following sources:

- On-line resources, principally for heritage site databases and regional history
- Commonwealth Heritage lists (World Heritage List, National Heritage List, and Register of the National Estate) for sites of international and national significance
- Indigenous Cultural Heritage Register (ICHR) and Database
- The Queensland Heritage Register (QHR)
- Register of the National Trust of Queensland
- Data in heritage studies previously carried out in nearby areas
- Publicly available books and histories
- Targeted field inspections to test the validity of models of Indigenous site distribution developed from the literature review; and
- Initial field survey, conducted by the PCCC.

The second stage used the mapped site locations to identify patterns in the data and from these identify zones of high site occurrence and high site potential (Site Provinces) (See Figure 2, Appendix 1). These zones informed the planning of facilities on the Laird Point LNG facility site. The third stage of the assessment process was for the Aboriginal Party (PCCC) to conduct field investigations of the LNG facility site, to identify cultural heritage landscapes, sites and items. The information derived from this field study will allow a full assessment of potential construction impacts to cultural heritage, will identify further measures necessary to fully document the cultural heritage of the LNG facility site. The final stage of the site protection process will be the formulation of a Cultural Heritage Management Plan with the PCCC, to specify how heritage values will be protected before, during and after construction.

The present report documents the first two stages of this process; the site mapping and research and the constraints analysis. While the preliminary site survey has been conducted, revealing the presence of archaeological sites and isolated stone artefacts, the results have not been fully documented by the Aboriginal Party nor potential impact mitigation measures proposed. The confidential nature of the site information would, in any case, prevent detailed reporting in this, a public document.

The first stage in the assessment process is the examination of the raw site data that provided evidence of patterns in site distribution.

2.1 Site information

Most information on Indigenous cultural heritage has been collected during heritage assessments associated with the preparation of Environmental Impact Statements. These studies have been carried out to fulfill obligations under the operating heritage legislation and results of these studies have in the past been provided to the relevant Government agencies. This information was until recently maintained by the Cultural Heritage Coordination Unit of the former Queensland DNRW under Part 5 of Queensland's *Aboriginal Cultural Heritage Act,* 2003. It is now maintained by DERM.

Queensland site information comes from three main sources: a site card catalogue, a report catalogue (collectively designated the "Aboriginal and Torres Strait Islander Cultural Heritage Database") and a compilation of this information in the form of layers in a Geographic Information System (GIS) database.

The site card catalogue contains detailed information on individual sites recorded since the 1960s, with most dating since the mid-1970s when legislation was enacted requiring the preparation of Environmental Impact Statements. The report catalogue contains the reports prepared as part of those assessments and also those produced from archaeological research projects. These are available with written permission of the relevant Indigenous groups. The database is a synthesis of this data and is accessible as layers in a GIS. It is used as a research and management tool, allowing selective retrieval of information based on site type or location.

Information from some of these data sources is available to meet Duty of Care obligations, or to *bona fide* researchers, although access is controlled and the data can only be disseminated in a form that protects the location of the sites.

Indigenous data for Laird Point is contained in confidential reports owned by the PCCC and has not been submitted to the database. Relevant material from these reports will be included in the Cultural Heritage Management Plan being developed for the area, in a form that identifies the significance of the sites, without necessarily disclosing their location.

Some indigenous site information is also contained in the QHR established under the *Queensland Heritage Act,* 1992*.* Although this is primarily a register of non-Indigenous heritage places, some locations also have Indigenous heritage values. The QHR is maintained by the Queensland Heritage Council and administered by DERM. Many of the details are available through on-line searches. More detailed information on the registered and nominated sites is obtained on application directly from DERM.

Heritage sites of national or international significance are recorded on Commonwealth heritage lists and registers. These are primarily the National Heritage List, the Commonwealth Heritage List, the Register of the National Estate and the World Heritage List. These lists are the responsibility DEWHA, and site information can be requested through the Department. Site information on locations of National or International significance can be obtained through on-line searches, which reveal a predominance of sites registered for their natural values (Great Barrier Reef, Wet Tropics, Fraser Island), or palaeontological values (Riversleigh, Dinosaur stampede national monument) and only a few cultural heritage sites deemed to be of national significance.

Some information obtained during heritage studies and site clearances undertaken for different companies has been kept in their own databases. Other reports are found in libraries, particularly the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) in Canberra, public libraries and archives, the libraries of the Traditional Owner groups who conducted or supervised the site clearances, or in the collections of the archaeologists who undertook site clearance or research. These databases are less accessible but often more comprehensive.

2.2 Site mapping

Indigenous site information collated from diverse sources was mapped in a Geographical Information System (GIS) database. With layers for each site type, geological information, native vegetation, water sources and topography, it was possible to observe patterns in site distribution. This was subsequently used in the constraints analysis to highlight site provinces and zones of high heritage sensitivity.

Collated data was placed in the Geographic Information System (GIS) built for the constraints analysis.

A wide buffer around the project area led to the inclusion of sites well distant from the location of any planned development. This was necessary as many aspects of the project were still being planned at time the site mapping was being undertaken, and importantly, it provided a large sample of sites to investigate site distribution patterns that may apply in areas where no systematic survey had been undertaken.

2.3 Constraints analysis

Patterns of site distribution and heritage site sensitivity were sought from the sites mapped in the GIS. These assisted with the evaluation of factors potentially affecting the selection of location of facilities in the LNG facility site.

By examining the environmental setting of previously located sites and comparing these with Indigenous land use patterns found elsewhere in the region, it was possible to develop a model of pre-contact Indigenous settlement in the area to explain site distribution. This allows site patterning to be predicted in areas where no sites had previously been found, based on the distribution of key resources (food, water, raw materials for tool manufacture).

A similar investigation of site distribution in the wider Southeast Queensland Bioregion was undertaken by Rowland and Connelly (2002) using a larger data set. The types of sites and the distribution patterns they detected have direct relevance to the present study. They observed that near the coast, between 50% and 75% of recorded sites are shell middens, while stone artefact scatters and scarred trees are the site types that predominate in inland land systems (Rowland and Connolly 2002:51).

Generalised models of site distribution tally with the patterning of known sites recorded in the LNG facility site, suggesting the models have widespread application. It is possible to observe clustering of sites and the presence of further resource-rich zones in the site provinces. The coastal portion of the LNG facility site occupies the Coastal Fringe Site Province, and sites containing evidence of the exploitation of marine and estuarine resources can be expected. Mainland sites in this zone include shell middens, stone artefact scatters and scarred trees, and a similar suite of sites can be expected at the LNG facility site.

General comments, predictions and recommendations from the constraints analysis of the LNG facility site are as follows:

a) Of the 11 registered Indigenous cultural heritage sites found within a 10km radius of the facility site, six are stone artefact scatters, two are scarred trees, one is a shell midden and two are isolated stone artefacts. These sites are all located on the mainland.
Further sites of these types were found during the preliminary field survey of the LNG facility site conducted by the PCCC. Mitigation measures to manage site impacts during construction of the LNG facility will be specified in the Cultural Heritage Management Plan being developed with this Aboriginal Party.

b) Stone artefacts found in scatters and as isolated occurrences, are the main evidence of prior Aboriginal habitation and reflect the durability of this form of evidence. Isolated stone artefacts may represent the discard or loss of maintenance tools during foraging expeditions or may result from incomplete exposure of larger sites formed during more intensive activity. Although important in themselves, these traces may point to the location of other, more substantial cultural heritage sites, namely, stratified occupation deposits.

c) Site densities decline with distance from water sources and from the coastline. The decrease reflects the concentration of Indigenous domestic activities near water sources and the reliance upon marine and estuarine resources by coastal people. Beyond 200m, sites with stone artefacts are usually smaller (unless they comprise raw material sources), reflecting shorter periods of continuous use.

d) While cultural heritage sites and places were anticipated for the LNG facility site, in the site analysis and mapping stages of the heritage assessment, the opportunities for avoiding the Coastal Fringe Site Province and therefore the sites it may contain, were limited. The field investigations of the LNG facility site has confirmed that the expected sites do occur, and their management will be addressed in a negotiated Cultural Heritage Management Plan with the PCCC.

Much of the assessment will refer to the Cultural Heritage Management Plans to be developed for the LNG facility site. Confidential results of the field investigation will be combined with the results from earlier studies to help inform the Cultural Heritage Management Plan process.

2.4 Limitations

There are limitations in the data collected for this assessment. One of the main limitations was the absence of systematic field investigations on the western side of Curtis Island, to provide evidence of site distribution in the LNG facility site. A further limitation was the quality and coverage of the site data for the neighbouring coastline, which provided an analogue for site patterning on Curtis Island. There have been regional studies along the Southern Curtis Coast, mainly to the south of the project area (Ulm 2006), although these only touch on the Port Curtis area.

3. Existing Environment

Included in this section is an evaluation of the historical and archaeological context for Indigenous use of Curtis Island, and the results of register searches.

3.1 Historical context

Aspects of the pre-contact period of Indigenous occupation of Curtis Island can be inferred to some degree from archaeological studies (see next section, 3.2) and through oral history transmitted by past Aboriginal people to their descendants according to tradition. Written historical sources in this area provide only a fleeting account of Aboriginal life at the time of European contact. Despite biases in the written account, it is a valuable resource that can set the context in which we evaluate the nature of the heritage sites in the LNG facility site.

Captain James Cook sailed past Curtis Island in 1770, missing the entrances at either end of Facing Island, and did not land. While whalers or other mariners may have arrived much earlier, it was Matthew Flinders who was the first recorded European visitor. He found the entrance to Port Curtis in 1802 and a member of his party had the first recorded encounter with the Byellee people. There are records of two encounters. The first was on the southern end of the island:

> *The naturalist and his companions landed at the west side of the entrance [the entrance north of Facing Island], where some Indians had assembled to look at the ship; but they retired at the approach of our gentlemen, and afterwards taking advantage of a hillock, began to throw stones at the party; nor would they desist until two or three muskets were fired over their heads, when they disappeared. There were seven bark canoes lying on the shore, and near them hung upon a tree some parts of a turtle; and scoop nets, such as those at Hervey bay, were also seen. [Flinders 5th August 1802]*

After exploring and mapping the port, past Graham Creek to the Narrows, Flinders turned back and sailed around via the coast of Curtis Island to the northern entrance, anchoring near Sea Hill, having landed at various points along the way. The second record describes the scene that awaited the explorers:

> *Traces of inhabitants were found upon all shores where we landed, but the natives kept out of sight after a little skirmish on the first day of our arrival; they subsist partly on turtle, and possess bark canoes and scoop nets … Fish seemed to be plentiful… [Flinders 1802 (1966:20)]*

After naming Sea Hill, Flinders continued in a small boat to the northern end of the Narrows about a kilometre north of the present Ramsey's Crossing, again landing on Curtis Island. There is no mention of indigenous people at this landing (Loveday 1999:21). Later however, he returns to Sea Hill where he boarded the larger vessel. As he had had no further encounters with Indigenous people he gave the sailors shore leave. They went ashore at Sea Hill where a party of twenty Aboriginal people brandished their spears. However:

> *… finding them inclined to be friendly [they] laid aside their arms and accompanied the sailors to the ship in a good natured manner [Flinders, cited in Loveday 1999:21]*

Two of the crew became lost and were found by the Aboriginal people who fed them duck and led them back to the ship. Some of the crew then went back to meet the Aboriginal people with presents before returning to the ship (Loveday 1999:22).

Loveday goes on to provide an account of the rich supply of food resources that Flinders noted on the Island:

> *Around the [Aboriginal people's] fireplaces the explorers found large crab shells, turtle and porpoise bones. The crew found it easy to catch large numbers of fish… [the Aboriginal people] used cast nets so frequently as to produce a tumour on the outer bone of the wrist. Flinders thought they would have also hunted the kangaroo, turkey and duck which abounded. With rich diet, supplemented by the plentiful oysters, they had developed into 'stout muscular men' … [Loveday 1999:22]*

There is much recorded about the fierce conflict that occurred on the mainland with deaths of white people and even more deaths of Aboriginal people. Little is written of Curtis Island however. A few brief glimpses are as follows.

> *The country of the Byelee tribe stretches from Keppel Bay to the Calliope River and includes Curtis Island. It was occupied by the Whites in 1855. The tribe at that time numbered about 300 persons, and is now (1882) reduced to 32. [Curr 1887:114]*

The second is a description by the novelist Rosa Praed, who lived on Curtis Island for three years from 1872 and later wrote thinly disguised descriptions of it:

> *[Curtis] Island is divided from the mainland by a straight called the Narrows, four miles wide thereabouts at its northern and southern ends, and differing at the middle, according to tidal changes, from two miles to less than a mile. At this narrowest portion [they] are able to swim their cattle across to the mainland. At the opening of this story the greatest part of the island was merged in a large cattle station called [Monte Christo], upon which grazed the herds of [Campbell Praed] … [his] predecessor … had been, fourteen years previously, the first pioneer of civilisation upon this northern shore. He had, by the terror of his firearms, driven the aborigines onto the mainland … [Praed 1890:11]*

The third is a description by Loveday (1999) of a canoe chase. It occurred in 1857 after two fatal attacks by Aboriginal people near Miriam Vale and the burning down of a sheep station:

> *Second Leiutenant Walker of the Native Police was deputised to lead a party in pursuit … he believed [they] would make for Curtis Island. As they left Gladstone at midnight, Walker told the coxwain to take them on a scrubby point on Curtis Island. It was not until they had landed and the boat had returned to Gladstone that they realised they were stranded on a small island separated from Curtis by about half a mile of water … [in sight of] numerous Aboriginal fires on Curtis Island … they saw a group of Aboriginals in a canoe paddle to within a hundred yards [and believing they were the culprits] the troopers fired at the canoe … [Loveday 1999:30]*

After this period the focus was away from Curtis Island as gold was found at Canoona and the ensuing rush of thousands of prospectors from Sydney and Melbourne sparked intense conflict on the goldfields.

Blake, who wrote a local history of the Targinnie area, describes the conflict that occurred in the hinterland but notes that throughout the next century the remnant of the Port Curtis group managed to survive and maintain their identity (Blake 2005:11).

3.2 Archaeological context

There has been a substantial concentration of fieldwork on the Curtis Coast in recent years by researchers conducting investigations as part of the Gooreng Gooreng Cultural Heritage Project. This interdisciplinary study has sought to examine Indigenous sites and associated histories in coastal and

hinterland settings in the region between Gladstone and Bundaberg. A number of reports have emerged from these investigations, including a series of archaeological, ethnographic, ethno-historical and linguistic studies. More recently, Ulm undertook detailed investigations of the South Curtis Coast (Ulm 2006) reporting detailed research examining a series of coastal shell midden sites.

Regional site distribution

Rowland (1987) conducted a broad investigation of the archaeological resources along the coastline from Bundaberg to Round Hill Creek. He made observations that are relevant to the southern portion of Curtis Island. He found:

a) Few substantial shell middens

b) Sites were mostly located on rocky headlands or in sheltered estuaries, and

c) Small shell scatters were found along sections of open beach.

The studies carried out as part of the Gooreng Gooreng project initially revealed similar results (Lilley and Ulm 1995:13). Shell middens were common on estuaries, but few were found along the beach. Furthermore, few traces of Aboriginal habitation were found on the margins of swamps behind the beach-ridge systems. These results were also duplicated in studies conducted by Burke (1993), to the northwest of Rodds Peninsula. Burke found that while sites were common on estuaries and the beaches of the sheltered stretches of the Curtis Coast northwest of Rodds Peninsula they were rare on the open coast between Agnes Water and Bustard Head on Middle Island.

Further investigation, particularly in areas that had been subject to testing by sand mining companies, showed in contrast to earlier studies, that sites were widespread, but were *more visible* around estuaries than along the sections of open beach. Active erosion along the ocean beaches is also likely to have led to the removal of shell middens. Most sites were recent, dating from the period after the stabilisation of sea levels, approximately 5-6,000 years ago. Sites excavated by Ulm revealed habitation sites predominantly used around 3,000 years ago.

Sea levels stabilised approximately 6,000 years ago, after a period of slow rising (Morwood 1986) so the estuarine habitats only date from after this time. Morwood (1986) argues that the seasonal patterns of Indigenous people in Southeast Queensland, described in historical accounts, reflects patterns established after the sea level stabilised and coastal estuaries developed. He considers that, as with Central Queensland, the most intensive Indigenous occupation has been within the last 4,000 years, when people took advantage of the resource gluts, including those associated with the coastal fish runs

3.3 Results of Register Searches

Table 1 provides a summary of the results of register searches for Indigenous cultural heritage sites located in the vicinity of the LNG facility site.

Table 1 Registered sites on and around the Australia Pacific LNG facility site.

Register	Site
World Heritage List	Great Barrier Reef World Heritage Area (WHL ID 105060)
National Heritage List	Great Barrier Reef (NHL ID 105709)
Commonwealth Heritage List	Great Barrier Reef (CHL ID 105573)

Register	Site
Register of the National Estate	Great Barrier Reef (RNE ID 103284)
National Trust of Queensland	None
Queensland Heritage Register	None
Aboriginal Cultural Heritage Database and Register	None submitted for Laird Point. The PCCC has its own record of sites for Curtis Island.
Gladstone Regional Council Local Heritage Overlay	There are no sites on the local heritage overlay for Laird Point. Several sites with Aboriginal significance on the local heritage overlay are located on the western side of Curtis Island, although not near the proposed Australia Pacific LNG facility site. These are a large artefact scatter at Ramseys Crossing; a shell midden and two linear shell middens on East Beach; and a quarry on Monte Christo Creek. The source for this information to the Council was the Gladstone Port Authority and Queensland Department of Environment and Heritage (1994).

The whole of Curtis Island is within the Great Barrier Reef World Heritage Area. This World Heritage Site is divided into World Heritage Area (Marine) and World Heritage Area (Land). Curtis Island is the largest of the islands included in the World Heritage Area (Land). The criteria in support of its listing relate to evolutionary history, geological processes, biological diversity, rare phenomena, exceptional natural beauty, and habitat for endangered plant and animal species. There are no criteria specifically relating to the cultural heritage values of Laird Point.

While register searches provide a small catalogue of sites on the mainland, none have been listed for Laird Point. The field inspection undertaken by the PCCC showed the absence of sites on the site register was no indication of the actual distribution of sites.

3.4 Site survey

PCCC representatives conducted a preliminary field survey at the proposed LNG facility site from 19-23 October 2009. Although conditions of ground surface visibility and exposure were poor in many areas, numerous sites were found. The highest site and artefact densities were found in areas where disturbance had revealed the ground surface, and it is likely that other sites and artefacts were obscured by dense ground cover vegetation. Shell middens and stone artefact scatters were found along the coastline and mud flats, and stone artefact scatters and isolated stone artefacts were found in hilly inland settings, up to 600m from the coast. There was also clustering of sites near inland water sources. The stone artefacts have been made from a wide range of raw materials, some local and others brought from sources on the mainland, confirming the connection between the people using the island and adjacent mainland. The results of this preliminary study reveal that the entire LNG facility site is part of the site-rich Coastal Fringe Site Province, supporting findings of the earlier site-modeling phase of the project. Importantly, it also stresses the need for further, detailed site investigations to be conducted as part of the management of development impacts. These further measures will be specified in the Cultural Heritage Management Plan being developed with the PCCC.

Field surveys to identify sites in marine areas of the facility site will take place once the notification process has been completed and Aboriginal Parties with an interest in these areas are identified. These marine surveys were not carried out as part of the assessment of terrestrial sites undertaken with the PCCC.

4. Potential Impacts

The preliminary survey of the proposed LNG facility site identified widespread cultural heritage traces, particularly along the coastline, around the estuarine mud flats, and in the northern portion of the lease. These are all locations where significant sites were found. When these site locations are overlaid on the LNG facility footprint it becomes clear that there will be substantial construction impacts to sites. Loading berths and marine terminal buildings will impact upon stone artefact scatters and shell middens near the coastline. Shell middens and stone artefact scatters around the estuarine mud flats will be impacted by land reclamation and the siting of LNG tanks and trains. Sites in the northern portion of the lease will be affected by construction of pipelines, roads and sewerage treatment facilities. Some areas where sites have been found in the LNG facility will be affected by construction activities.

In addition to the impacts to identified sites and isolated stone artefacts, that can be foreseen, is the potential for previously undetected heritage sites to be revealed during further site investigations and impact mitigation work prior to construction. Unrecorded items of Indigenous cultural heritage will certainly occur in unexamined areas of the facility site and without appropriate site management would be lost through construction impacts.

Despite 150 years of non-Indigenous occupation on Curtis Island, the landscape in the Australia Pacific LNG Project area is relatively unscarred by human activity. Pastoral use of the Laird Point area resulted in the construction of fences and some clearing, however, forest regeneration has returned the land to a state approximating the one that existed prior to European settlement. Construction of the Australia Pacific LNG facility will also have indirect impacts to the Traditional Owners, restricting their access to this portion of the island, an area that was used traditionally as a resource zone, and which still contains Indigenous food plants and provides access to traditional foods including dugong.

4.1 Cumulative impacts

In addition to impacts that will arise from construction of the LNG facility, additional infrastructure will occur on Curtis Island, in the form a transmission pipeline, to be built to the north and east of the facility. Flexibility in placement of these facilities will minimise the impacts to identified Indigenous heritage sites and places, and any potential impacts will be managed through the mechanism of the negotiated Cultural Heritage Management Plan with the PCCC.

In addition, to the effects on Indigenous heritage sites of construction of this pipeline, are the potential effects of several other pipelines planned by other proponents that parallel this pipeline route. These other pipeline projects could potentially place other Indigenous heritage sites at risk, however, these proponents are also managing the heritage in a similar manner, through avoidance of identified sites.

Through avoidance of identified Indigenous heritage sites, management of development impacts in the vicinity of these sites, formulation of procedures to deal with sites detected during construction, detailed archival recording of threatened sites, and recovery of information on Indigenous land use, it will be possible to minimise the cumulative effects of development on Indigenous sites in this region.

4.2 Matters of National Environmental Significance

No items with strictly Indigenous heritage values are recorded on the World, National or Commonwealth Heritage lists at the proposed LNG facility site. Indigenous heritage values are,

however, recognised in the listing and management of the Great Barrier Reef as a national and world heritage area and must therefore be considered in the context of the EPBC Act.

The Cultural Heritage Management Plan being prepared with the PCCC will ensure that Indigenous heritage concerns are addressed for the land component of the LNG facility site. Specific measures to further investigate Indigenous heritage sites in the LNG facility site area are to take place following consultation with the PCCC. It is likely that these additional studies will include excavation of identified sites and collection of surface scatters of artefacts. These further studies will ensure that Aboriginal heritage values are protected, to the greatest extent possible during construction of the LNG facility.

Further investigation of the marine and estuarine components of the project are still to take place. These will identify Indigenous cultural heritage values in the off-shore portions of the LNG facility site. These further studies will also ensure that Aboriginal heritage values in the marine environments are protected, to the greatest extent possible during construction.

5. Mitigation and management

Measures to manage impacts to Indigenous cultural heritage items and sites in the Laird Point area are being discussed by Australia Pacific LNG and the PCCC. A number of meetings have already been held, and further meetings are planned. As the potential impacts to Indigenous heritage sites will be considerable, the nature of the mitigation measures will also be comprehensive and will entail a number of possible procedures that may include (but not be limited to): avoidance of certain highly sensitive areas; further field investigations including sub-surface testing; recovery of datable occupation material; collection and relocation of cultural heritage items. These measures will be outlined in a Cultural Heritage Management Plan being negotiated between the proponent and the PCCC.

Sites in marine and tidal areas will be sought out during forthcoming field investigations with recognised Aboriginal Parties identified as a result of the notification process being undertaken at the time of writing in late November 2009.

6. Cultural Heritage Management Plans

Site protection in the Australia Pacific LNG facility site will be undertaken through the mechanism of a Cultural Heritage Management Plan, recognising the primary role of Indigenous people in the custodianship of their heritage. The Aboriginal Party with connections to Curtis Island, demonstrated through their status as Native Title Claimants, have been notified of the proposed development and have participated in a preliminary survey of the LNG facility site.

Negotiations will continue with the PCCC over the formulation of a Cultural Heritage Management Plan to direct how items and places with Indigenous cultural heritage values will be managed before, during and after construction of the proposed Australia Pacific LNG facility.

6.1 Consultation/ Negotiation

To date, a number of formal meetings have been held with the PCCC. The outcome of these meetings is described in Table 2.

Table 2

Aboriginal Party	Meeting Details	Status
Port Curtis Coral Coast	3 meetings	Negotiations over the Cultural Heritage Management Plan have progressed and a field survey of the Australia Pacific LNG Plant on Curtis Island has been conducted by PCCC representatives.

Although Cultural Heritage Management Plans have not yet been finalised, and when completed, will be subject to a confidentiality agreement precluding its public release, the general contents of the plan is presented here. The Cultural Heritage Management Plan will address issues relating to the identification and management of cultural heritage at the LNG Plant site. It will cover all aspects of Indigenous site identification and protection, before, during and after construction.

Issues to be addressed by the Cultural Heritage Management Plan to be presented for approval under Part 7 of the Aboriginal Cultural Heritage Act, 2003, will include:

Cultural Heritage Ownership

The Cultural Heritage Management Plan will affirm the principles espoused in the *Aboriginal Cultural Heritage Act*, 2003, that the Traditional Owners are the rightful guardians, keepers and knowledge holders of Aboriginal cultural heritage (Section 1.2). As a consequence, the recognised Aboriginal Party, the PCCC, will retain ownership and control of sensitive site information, providing to Australia Pacific LNG information on site locations in sufficient detail for those sites to be protected from development impacts.

The Cultural Heritage Management Plan will outline the responsibilities of Australia Pacific LNG and the PCCC in relation to the discovery and reporting of significant cultural heritage sites. It will specify how sensitive cultural material, particularly human remains, will be managed.

Conflict resolution

The Cultural Heritage Management Plans will provide guidelines to resolve disputes, should these arise, between the parties. If no resolution of the conflict can be obtained, mediation will be sought between the parties.

Identifying Cultural Heritage

The Cultural Heritage Management Plan will specify how further cultural heritage studies are to be conducted, the expected outcomes of these studies and the timing and format of the information provided by the PCCC to Australia Pacific LNG to facilitate redesign of facilities to avoid heritage items or to recover scientifically and cultural valuable material, should avoidance be impossible. Results of further studies will include documentation and identification of significant areas, sites and objects and evaluation of their significance.

Managing Cultural Heritage

On the basis of findings of the Cultural Heritage study, procedures for the management of cultural heritage objects, areas and values will be negotiated. While a major objective of the Australia Pacific LNG Indigenous site strategy is to avoid detrimental impacts to significant cultural heritage places, sites and items, this will not be possible given the nature of the proposed development. The Cultural Heritage Management Plan will mandate further negotiations to follow the Cultural Heritage studies, concerning identified cultural heritage items on the LNG facility site and agree upon appropriate measures to protect their heritage values or recover significant information that might otherwise be lost. Pre-construction measures may include further field investigations, collection of significant objects and/or test pitting and open area excavation to investigate significant heritage sites and recover significant heritage items before construction.

Measures during construction may include:

Construction monitoring

Construction monitoring may be required in sensitive locations (Potential Archaeological Deposits) to recover exposed heritage items. This will be a last resort option as this has proven to be an ineffective management tool. If significant items are present, these are usually destroyed or displaced during construction activities, diminishing their significance. If areas have a very high potential to yield significant heritage items, the preferable option is to have them investigated prior to construction. Before the commencement of construction, located items of considerable significance can be fully assessed and if necessary, project plans may be modified to ensure their survival.

Unexpected finds

Procedures for dealing with unexpected finds will also be specified. These procedures will identify the methodology should cultural heritage items be uncovered during construction. Activities will cease in the vicinity of suspected heritage items but may recommence away the suspected items. Cultural heritage items will be reported to the Cultural Heritage Coordination Unit, the approved Aboriginal Party or their designated technical advisor for assessment.

Burials

In the case of burials, procedures to be followed are specified in the Human Remains Guidelines under the Aboriginal Cultural Heritage Act, 2003. Under these guidelines, the police will first be notified, as will the Cultural Heritage Coordination Unit, the approved Aboriginal Party and/or their

designated technical advisor, in accordance with the *Aboriginal Cultural Heritage Act*, 2003, the *Coroners Act*, 2003 and the *Criminal Code Act*, 1899. Procedures for the management of burials will be clearly outlined in construction documentation. In those areas where burials are thought likely to occur, previous site examinations will have taken place prior to construction.

Induction of workers and contractors

The Cultural Heritage Management Plan will specify that all workers on the construction of the Australia Pacific LNG project will receive cultural awareness training and cultural heritage identification and education on all workers' responsibilities in reporting of cultural heritage items, should they be uncovered during construction.

Post-construction heritage management

Following completion of the project, significant cultural heritage items recovered prior to construction and items identified and salvaged during construction will require management and curation. Issues relating to the storage of significant items of cultural heritage will be agreed upon and specified in the Cultural Heritage Management Plan.

7. Conclusions

Aboriginal people have an acknowledged interest in the Indigenous cultural heritage of Curtis Island. The process of engaging with Aboriginal Party concerning their heritage has commenced, in accordance with guidelines specified by the *Aboriginal Cultural Heritage Act*, 2003, with the view to affording the Traditional Owners the right to exercise control over their heritage. While the ultimate goal of the Cultural Heritage management procedure for the Australia Pacific LNG project is the successful negotiation of a Cultural Heritage Management Plan with the PCCC, this process has not yet been completed. This document has outlined the measures that have been undertaken to date to achieve this goal. The engagement with the PCCC will continue..

The procedures followed as part of the Indigenous Cultural Heritage management for the Australia Pacific LNG project have been designed to minimise any impacts to Indigenous cultural heritage. This has included collation of site data through the project area from a range of sources including the Aboriginal Heritage Register and Database, published and unpublished sources, preliminary studies undertaken with the PCCC on Curtis Island, and modeling of site distribution as part of a constraints analysis. The facilities may still be modified to minimise impacts to sites. Nevertheless, there are significant risks to the integrity of Indigenous cultural heritage sites at Laird Point. Mechanisms for dealing with these sites have been anticipated in the preparation of Cultural Heritage Management Plans being negotiated. Further work will continue to identify these sites and deal with them in a manner consistent with the desires of the Aboriginal parties to exercise control of their heritage.

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Appendix A Figures

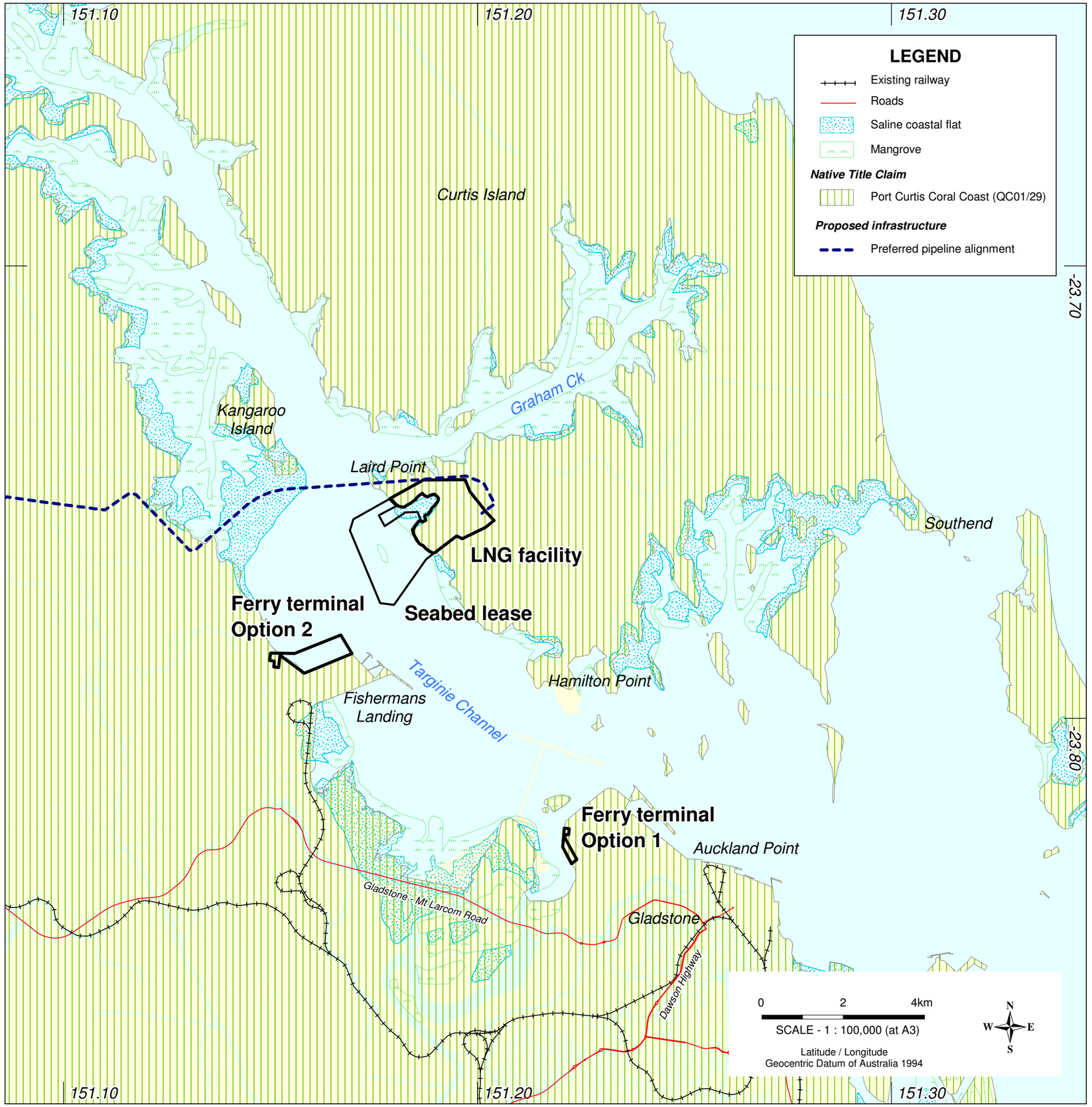

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Figure 1 - Native Title Claims

Project No: 301001-00752	Figure: 00752-00-EN-DAL-109	Rev: 0

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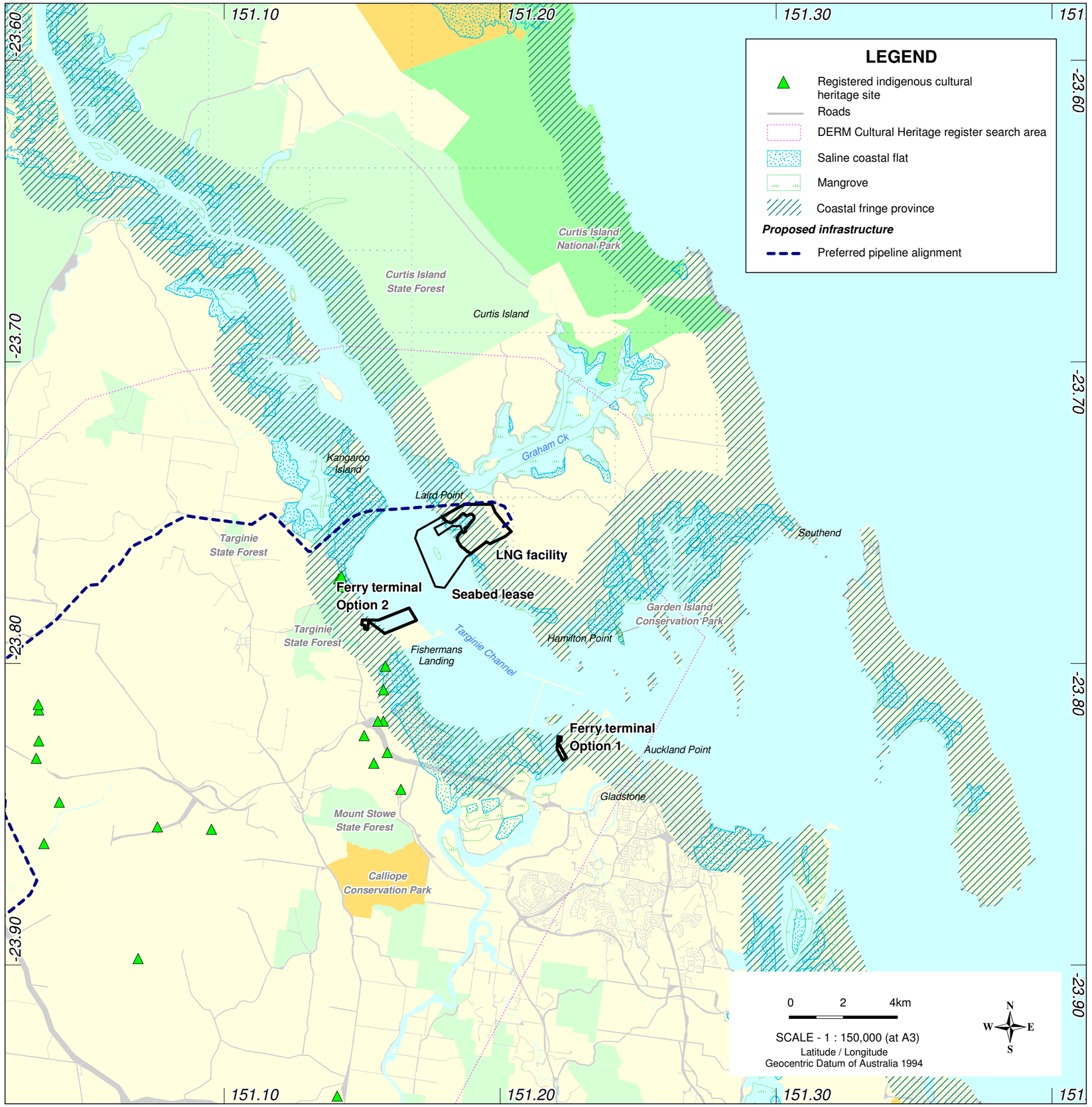

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Figure 2 - Registered Indigenous Cultural Heritage Sites

Project No: 301001-00752	Figure: 00752-00-EN-DAL-0110	Rev: 0

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