

**INDIGENOUS CULTURAL HERITAGE INVESTIGATION
SHUTE HARBOUR MARINA DEVELOPMENT PROJECT
SHUTE BAY, WHITSUNDAY SHIRE**

MARCH 2008



Prepared by

**Michele Bird
Northern Archaeology Consultancies Pty Ltd
PO Box 118
Castletown, Hyde Park QLD 4812**

In Conjunction with

GIA AND NGARO/GIA ABORIGINAL PARTIES

For

**SHUTE HARBOUR MARINA DEVELOPMENT PTY LTD
292 Water Street
Spring Hill QLD 4006**

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1. INTRODUCTION

Shute Harbour Marina Development Pty Ltd (SHMD) proposes to construct an integrated marina, resort hotel and residential community at Shute Harbour in the Whitsunday Shire. Shute Harbour is a major port facility from which a range of commercial and marine vessels access the Whitsunday Islands and adjacent waterways. The development site is located at Shute Bay, Shute Harbour at Lot 2 SP 117389 and Lot 273 HR 1757 (Figure 1).

The concept master plan for the Shute Harbour Marina project incorporates water and land-based components (Figure 2). The water-based developments will include a marina basin with boat berths, floating breakwater, pontoons, and charter boat basin. The land-based developments will include a commercial and tourist precinct with a resort, tavern, retail outlets, marina office and administration and car parking. The residential component will include up to 115 lots with a range of appropriately designed dwellings to complement the marina and Shute Harbour setting.

On 24 July 2006, the Queensland Coordinator General declared the Shute Harbour Marina project a 'Significant Project' under Section 26 (1)(a) of the *Queensland State Development and Public Works Organisation Act 1971*. This declaration initiates the statutory environmental impact assessment procedure under Part 4 of this Act, which requires the proponent to prepare an Environmental Impact Statement (EIS) for the development proposal. Under the provisions of the *Aboriginal Cultural Heritage Act 2003 (ACHA)*, a Cultural Heritage Management Plan (CHMP) is a mandatory requirement for projects subject to an EIS. The development site has been subject to an earlier EIS (and cultural heritage investigations) for a previous marine development project that did not proceed (refer Bird 2004a).

[Postscript 24 April 2008:- SHMD has advised that the CHMP entered into between the proponent and the Aboriginal Parties for the Shute Harbour Marina development project is in fact a Voluntary CHMP].

This report presents the results of indigenous cultural heritage investigations for the Shute Harbour Marina project. One of the principal aims of this investigation has been to consult with Aboriginal Traditional Owners and stakeholders to identify and document the existing Aboriginal cultural values of the project area. This report also provides an assessment of the potential impacts of the proposed project on the Aboriginal archaeological record and indigenous cultural heritage values. The results and recommendations of this investigation will be incorporated into a CHMP for the project, as required under Part 7 of the *ACHA*. Northern Archaeology Consultancies Pty Ltd (Michele Bird) was commissioned by SHMD in August/September 2007. The main points of contact on behalf of the development proponent have been David Quinlan (Port Binnli Pty Ltd and SHMD) and Jane Delaney-John (Hornery Institute on behalf of SHMD).

The Shute Harbour Marina project area lies within the traditional homelands of the Gia and Ngaro peoples. Consultation with the relevant (endorsed) Aboriginal Parties has been coordinated directly by SHMD (mostly via their consultant Jane Delaney-John). The project archaeologist became involved in the consultation process in February/March 2008 to plan the timing and logistics of the cultural fieldwork. A meeting/workshop with Traditional Owner representatives, which included a field inspection of the project site, was held on 7 March 2008. Further meetings have subsequently been held between the proponent and Aboriginal Parties (in March/April 2008) to formulate, negotiate and sign a project CHMP.

1.1 Terms of Reference

The Terms of Reference (ToR) for the Shute Harbour Marina project were issued by the Queensland Department of Infrastructure in May 2007 (Coordinator General, Department of Infrastructure 2007).

Section 4.10.1.1 of the ToR relate specifically to requirements pertaining to Indigenous Cultural Heritage investigations. The ToR state:-

“An Indigenous Cultural Heritage study is a specific process under the ACHA 2003. A requirement of the Act is that a CHMP is an essential element of any EIS. All work must be conducted by a suitably qualified expert that is agreed upon between the parties and must include the following:-

- *Notification as required by ACHA to the Chief Executive of DNRW, Whitsunday Shire Council (only if owner or occupier of the subject land), and the registered Native Title claimants, who are the Aboriginal Parties under the ACHA;*
- *Endorsement of those Aboriginal Parties who respond to the notification;*
- *Consultation with the Aboriginal Parties about their involvement in the development of the CHMP and about outcomes;*
- *Compliance with the Duty of Care Guidelines and the CHMP Guidelines as gazetted;*
- *Seeking approval of the CHMP from the Chief Executive, DNRW, through the EIS process;*
- *Liaison with the Aboriginal Parties concerning:- a).places of significance to that community (including archaeological sites, natural sites, story sites, etc, and b). appropriate community involvement in field surveys;*
- *Any requirements by communities and/or informants relating to confidentiality of site data must be highlighted;*
- *A search of both the Cultural Heritage register and the Cultural Heritage database;*
- *A systematic survey of the proposed development area to locate and record indigenous cultural heritage places;*
- *Significance assessment of any cultural heritage sites/places located;*
- *The impact of the proposed development on cultural heritage values;*
- *A report of work done which includes background research, relevant environmental data and methodology, as well as results of field surveys, significance assessment and recommendations.*

Section 4.10.2 of the ToR sets out the requirements for a CHMP for the proposed development project (refer Coordinator General, Department of Infrastructure 2007:39).

2. PROJECT LOCATION AND DESCRIPTION

Much of the following background information relating to the Shute Harbour Marina project has been reproduced from the project's Initial Advice Statement (IAS), July 2006 (SHMD 2006).

SHMD proposes to construct a marina with associated residential and commercial components at Shute Bay, Shute Harbour in the Whitsunday Shire. The development site includes Lot 2 on SP 117389, Lot 273 on HR 1757 and a portion of Shute Harbour Road abutting the northwest corner of Lot 2 north of Shute Harbour Road (SHMD 2006:6).

The development site lies outside the boundary of the Great Barrier Reef Marine Park (GBRMP), State Marine Parks, Dugong Protection Areas and Fish Habitat Areas. However, part of the site is within the outer margin of the World Heritage Area. The site abuts Conway National Park on its northern boundary.

It is noted that no development work is proposed in the area north of Shute Harbour Road. It is proposed that this area will be surrendered to the Crown for inclusion in the adjoining Conway National Park.

The development site has been identified by government as being strategically located as a safe haven marina in the event of a cyclone, and as a gateway to the Whitsunday Islands. Given its strategic location to the nearby island resorts, Shute Harbour is a transport hub for the Whitsunday Island tourist resorts (SHMD 2006:4).

SHMD undertook a previous EIS in 2005. Substantial feedback was provided to the proponents with regard to proposed design elements. It was apparent from the EIS feedback that significant components of the project needed to be reviewed.

Ongoing negotiations between SHMD and statutory agencies indicated that elements of the project would require modification. The Coordinator General subsequently advised SHMD on 27 March 2006 that given the nature of the changes proposed, a new EIS process should be initiated.

Since the preparation of the IAS and original EIS, the Shareholders and Directors of SHMD have changed. Port Binnli Shute Harbour Pty Ltd has now taken over responsibility for project management and delivery of the project. SHMD Pty Ltd is a private company which owns a 'term lease under the *Land Act 1994*' over the proposed development site (SHMD 2006:4).

The concept master plan for the proposed Shute Harbour Marina project incorporates water and land based components, including:-

1). Marina:-

- A marina providing 733 berths;
- Excavation and dredging of the marina basin to achieve navigation depths to suit the types and sizes of vessels to be accommodated;
- A floating breakwater located at the eastern and southern edges of the site to control and dampen wave action and induce calm conditions within the marina basin;
- Floating pontoons supported by driven piles for marina berths;
- Charter boat basin;
- All required navigation aids, lights, signage to comply with Queensland Maritime Safety requirements.

2). Onshore Development:-

- The (current) revised development concept plan no longer proposes excavation of the northern part of the site, north of Shute Harbour Road, to win sufficient fill material. Instead, the proponents intend to import sand from the Don River at Bowen, which when blended with excavated material from the marina basin, will form the platform for the

onshore development. The waters edge will be retained with sheet piling.

- The Commercial and Tourism Precinct will include:-
 - 4 star tourist resort up to 5 storeys;
 - marina office and amenities and car parking;
 - charter boat base including amenities and administration;
 - retail outlets;
 - landscaped approach road, open space and gardens.

- The Residential Precinct will include:-
 - High quality residential environment comprising up to 115 lots;
 - These allotments will accommodate up to 3 storey dwellings;
 - Architectural design will be controlled through design covenants and guidelines to achieve built forms appropriate to the region and marina setting;
 - Landscaped entry statements with security gates for controlled access.

- Infrastructure Services will include:-
 - Full range of services such as power, water, sewage, storm water drainage and telecommunications;
 - A new intersection will be developed at Shute Harbour Road and the approaches landscaped in accordance with a Deed of Agreement with Main Roads.

Several phases of development work will be required to construct the Shute Harbour Marina marine works. Major preparation works for the reclamation will involve:-

- Installation of sheet piling wall and associated tension and compression piles and tie backs (this work to be completed prior to the major dredging of the marina basin);
- Importation of sand fill;

- Dredging of the marina basin and access channels and filling of the reclamation area behind the sheet pile wall;
- Installation of roads and services including upgrading of Shute Harbour Road;
- Installation of marina structures – piles, floating breakwater, marina pontoon, ancillary marine equipment (such as navigation);
- Construction of mixed-use facilities, car parks and tourist resort.

A detailed outline of reclamation and construction works for the development project is provided in the IAS document (SHMD 2006:14-20).

3. CULTURAL HERITAGE LEGISLATION

The term ‘cultural heritage’ includes, very broadly, all places and values of archaeological, traditional, historical or contemporary significance. Cultural heritage assessments investigate the value, or significance, of particular items, sites and places to the whole or particular sections of our society, and it is one of the steps in the process of management and conservation of cultural heritage values. The cultural heritage assessment process operates on the basis that indigenous and non-indigenous cultural heritage should be conserved and protected and that development proponents have a statutory responsibility to protect such values.

The guiding principles for the assessment of cultural significance in Australia are based on those originally laid down in the Australia ICOMOS *Charter for the Conservation of Places of Cultural Significance (The Burra Charter) 1977*. Under these guidelines the cultural heritage significance of a site or place refers to its “*aesthetic, historic, scientific or social significance, or other special value, to the present community and to future generations*” (Australia ICOMOS Inc. 1999:2) These principles are enshrined in all legislation, which protects cultural heritage in Australia.

At present the ownership of Aboriginal cultural heritage is vested in the State of Queensland but it is, as a general rule, acknowledged that custodianship of

Aboriginal places, and hence at least some of the responsibility for them, lies largely with the relevant Aboriginal Traditional Owners. All cultural and intellectual property rights associated with such places remains the property of the relevant Traditional Owners.

Below is a summary of the State and Federal Acts which deal specifically with the protection of indigenous cultural heritage.

Queensland State Cultural Heritage Legislation

New indigenous cultural heritage legislation came in to force in Queensland on 16 April 2004. The new legislation entitled the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003* replaces the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987*. An Indigenous Cultural Heritage Coordination Unit within the Department of Natural Resources and Water is responsible for administering this new legislation.

- ***Aboriginal Cultural Heritage Act 2003***

This Act has made major changes to the manner in which Aboriginal cultural heritage is recognised, protected and managed in Queensland. The following principles are fundamental to the operation of the Act:

- a) the recognition, protection and conservation of Aboriginal cultural heritage should be based on respect for Aboriginal, cultural and traditional practices;
- b) Aboriginal people should be recognised as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage;
- c) it is important to respect, preserve and maintain knowledge, innovations and practices of Aboriginal communities and to promote understanding of Aboriginal cultural heritage;

- d) activities involved in recognition, protection and conservation of Aboriginal cultural heritage are important because they allow Aboriginal people to reaffirm their obligations to 'law and country'
- e) there is a need to establish timely and efficient processes for the management of activities that may harm Aboriginal cultural heritage.

The Act defines '**Aboriginal cultural heritage**' as anything that is:

- (a) a significant Aboriginal area in Queensland;
- (b) a significant Aboriginal object;
- (c) evidence of archaeological or historical significance, of Aboriginal occupation of an area of Queensland (Section 8).

A significant Aboriginal area or object must be significant to Aboriginal people because of either or both of the following:

- (a) Aboriginal tradition;
- (b) the history, including contemporary history, of any Aboriginal party for the area (Sections 9 and 10).

It is not necessary for an area to contain markings or other physical evidence indicating Aboriginal occupation or otherwise denoting the area's significance, for the area to be protected as a significant Aboriginal area under the *Aboriginal Cultural Heritage Act 2003* (Section 12 [2]).

Section 11 of the Act stipulates that '*if a particular object or structure is evidence of Aboriginal occupation, the area immediately surrounding that object is also evidence of Aboriginal occupation...the object or structure cannot be separated from its context without destroying or diminishing the object or structure's significance as evidence of Aboriginal occupation*'. Thus, there is acknowledgement under the Act that natural areas may have cultural significance and that the context of a cultural heritage object or structure is integral to the cultural heritage significance of that object or structure.

One of the main principles underlying the new legislation is the recognition of Aboriginal people as the *'primary guardians, keepers and interpreters of Aboriginal cultural heritage'*. As such they are the owners, custodians, etc of *'...certain human remains, secret and sacred material in State collections and items removed under the authority of the legislation. The State retains a residual ownership of cultural heritage generally to ensure effective protection and regulation....'* (Explanatory Notes).

The Act has been brought into line with the Commonwealth Native Title legislation in that the claimants to registered Native Title claims (or registered claims that have subsequently failed and there is no other registered claim in the area, or where the registered claim has been compulsorily or otherwise extinguished) become the *'Native Title parties'* for the area. Aboriginal cultural heritage values should not, however, be confused with Native Title. As with non-Aboriginal heritage values, Aboriginal cultural heritage can exist on an area regardless of the land tenure. The existence of Aboriginal cultural heritage in an area does not mean that Native Title exists over that area.

Indigenous Cultural Heritage Bodies are in the process of being set up as the initial contact points for cultural heritage issues within Native Title areas. These bodies will represent the registered Native Title claimant groups. An Aboriginal Cultural Heritage Body is a corporation that has been approved by the Minister of Department of Natural Resources and Water as an approved Cultural Heritage Body for an area. The function of this body is to identify the Native Title Parties for an area. A Cultural Heritage Body must have the written support of a significant proportion of the Native Title Applicants of an area.

The previous EPA permitting system (under the old *Cultural Records Act*) has been replaced by agreement-based arrangements including Cultural Heritage Management Plans (CHMP). Wherever an Environmental Impact Statement (EIS) is undertaken, a cultural heritage management plan is mandatory if the project requires some form of permit, approval or licence. This means that high-impact developments will be able to go ahead only when an effective

CHMP has been agreed between the proponent and the relevant Native Title party or parties. CHMP's may be formally reviewed by the State.

Like the previous legislation the new law will continue to provide blanket protection for all cultural heritage. The new Act is supported by a general *Duty of Care* to take all reasonable and practical steps to be aware of, and to avoid harming, Aboriginal cultural heritage (Section 23[1]). This is a pivotal part of the new legislation. Duty of Care Guidelines are provided with the Act and set out key indicators of compliance within the provisions of the Act. Proof of consultation, studies, searches of cultural heritage information (the cultural heritage register and database) and a CHMP (or other agreement-based arrangement with the registered Native Title applicants) are the main, but not the only, indicators that the Duty of Care has been addressed.

Maximum penalties for damaging registered cultural heritage have increased tenfold under the new legislation to \$75,000 for an individual and \$750,000 for a corporation.

The Land and Resources Tribunal is the relevant body for dispute settlement. Stop work injunctions can be issued by this Tribunal. The Minister can also issue stop work orders for an activity that is harming or is likely to harm Aboriginal cultural heritage or its cultural heritage value.

The new legislation ensures the validity of existing cultural heritage agreements and arrangements entered into before commencement of the legislation, as well as approvals obtained after the commencement of the legislation, where cultural heritage issues were addressed in order to obtain the approval, such as through an Environmental Impact Statement process.

Under the new legislation a register of Aboriginal Cultural Heritage will be maintained. This register will contain information that has been collated by the Environmental Protection Agency (EPA) since the 1930s.

Federal Cultural Heritage Legislation

- ***Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)***

A new Federal heritage system came into effect on 1 January 2004 to protect Australia's national heritage places. Nationally important heritage values will have legal protection under the *Environment Protection and Biodiversity Conservation Act 1999*.

Under the new system, national heritage joins six other matters of national environmental significance (NES matters) already specifically protected under the *EPBC Act*. By law, no one can take any action that has, will have, or is likely to have, a significant impact on any of these matters without approval from the Australian Government Minister for the Environment and Heritage. There are severe penalties for those who do. An action includes a project, development, undertaking, an activity, or series of activities.

If the Minister decides that the action is likely to have a significant impact on a matter of national environmental significance, then the action requires approval under the *EPBC Act*. If the Minister decides that the action is not likely to have a significant impact on a matter of national environmental significance, then the action does not require approval under the Act. If the Minister's decision is that an action does not require approval, a person will not contravene the Act if the action is taken in accordance with that decision. If the Minister's decision is that an action requires approval, then an environmental assessment of the action must be carried out. The Minister decides whether to approve the action, and what conditions (if any) to impose, after considering the environmental assessment.

The main elements of the new heritage system include:-

- the creation of a new advisory body, the Australian Heritage Council;
- the creation of both a National Heritage List and a Commonwealth Heritage List;
- retention of the existing Register of the National Estate.

The National Heritage List records places with outstanding natural and cultural heritage values that contribute to Australia's national identity.

The Commonwealth Heritage List will comprise natural, indigenous and historic heritage places owned or managed by the Australian Government. These include places connected to defence, communications, customs and other government activities that also reflect Australia's development as a nation.

The new laws also established the Australian Heritage Council, which replaces the Australian Heritage Commission as the Australian Government's independent expert advisory panel on heritage matters. The Australian Heritage Council consists of a Chair and six members, including two indigenous people with appropriate heritage experience or expertise.

When a place that may have indigenous heritage values is nominated to the National or Commonwealth Heritage Lists, the Australian Heritage Council must seek the views of indigenous people with rights or interests in the place as part of its assessment. The Council must present these indigenous views to the Minister so he/she can take these into account when making decisions as to the listing of the place.

Under the new laws there are penalties for anyone who takes an action that results, or will result in, a significant impact on the national heritage values, to the extent they are indigenous heritage values, of a place. The laws also enable indigenous people to seek Federal Court injunctions against any activities that have a significant impact on the national indigenous heritage values of a listed place.

Indigenous people will be involved in developing management plans for places with indigenous heritage significance on the National or Commonwealth Heritage List. National heritage places on indigenous land will be managed through conservation agreements, which will operate in the same way as Indigenous Protected Areas.

- ***Aboriginal and Torres Strait Islander Heritage Protection Act 1984***

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* provides for Aboriginal or Torres Strait Islander people to approach the Minister for Aboriginal Affairs to issue a declaration to protect a place of cultural heritage significance. This Act provides for the preservation and protection from injury or desecration of areas and objects in Australia that are of particular significance to Aboriginals in accordance with Aboriginal tradition. Section 9 (a temporary declaration) provides protection for 30 days, while Section 10 provides for a period of time as specified by the Minister. In each case the Minister must be satisfied that there is a significant threat to the place. Section 7 of this Act states that the operation of this Act does not limit or exclude the operation of state cultural heritage Acts, which can operate concurrently. Practically, the Minister would contact his/her state counterpart to determine what action is being undertaken and whether this could resolve the matter before seeking to intervene. Section 20 of the Act provides for the Minister to intervene in relation to the protection of Aboriginal skeletal material.

4. TRADITIONAL OWNER CONSULTATION

4.1 Identification of Aboriginal Parties

Identification of indigenous stakeholders and Aboriginal interest groups is a crucial first step in undertaking any level of cultural heritage investigations for a proposed development project.

In Queensland, the *Aboriginal Cultural Heritage Act 2003 (ACHA)* defines what constitutes a 'Native Title party', an 'Aboriginal party' and an 'Aboriginal Cultural Heritage Body' for the purposes of cultural heritage investigations (see especially Part 4, Sections 34 to 37 of *ACHA*).

Under the provisions of *ACHA* the lack of a Registered Native Title Claim in the Shute Harbour project area means that there is currently no 'Native Title Party' for the project area. This was confirmed via discussions with the Cultural Heritage Coordination Unit of DNRW on 12 July 2007 (John Richter, Townsville office).

Similarly, at the current time there is no registered 'Aboriginal Cultural Heritage Body' under the provisions of *ACHA* for the Shute Harbour/Airlie Beach region.

As a component of the Part 7 CHMP process under the *ACHA*, and as a means to identify the relevant Aboriginal Party/ies for the Shute Harbour Marina project, the proponent went to Public Notice on 6th September 2007. This Public Notice is reproduced in Appendix 1.

As a result of the Public Notice for the Shute Harbour Marina project there were twelve (12) Aboriginal respondents representing the Gia People and the Ngaro/Gia People. One of these respondents subsequently withdrew their response so that the project proceeded with eleven (11) respondents. These respondents and/or their representatives became the 'endorsed parties' under the *ACHA* for the cultural heritage study and the CHMP process.

4.2 Consultative Framework

Consultation with the Aboriginal Parties for the Shute Harbour Marina project was coordinated directly by SHMD (David Quinlan) and their consultant, Jane Delaney-John (Hornery Institute on behalf of SHMD). It is understood that the consultation process was initiated in November/December 2007 (after the public notification process), and it has continued over an extended period to April 2008. The first project meeting with the Aboriginal Parties was held in mid-December 2007. A series of meetings between the proponent's representatives and the Traditional Owner respondents have now been held over the period between December 2007 and April 2008.

The project archaeologist (M. Bird) became directly involved in consulting with the Aboriginal Parties in February/March 2008 to assist in coordinating a cultural site inspection and a cultural meeting/workshop in order to document the cultural heritage values of the Shute Harbour Marina project area. A cultural site inspection and meetings with the Aboriginal Parties were held on 7 March 2008.

The cultural site inspection and meetings/workshops on 7 March 2008 included two visits to the Shute Harbour Marina development area, one with the Gia group of respondents and a second visit with the Ngaro/Gia respondents. Each site visit was then followed up with a meeting/workshop with each of the groups to discuss issues relating to the cultural values of the project area, cultural heritage concerns, issues or constraints relating to the development project, and any other issues relevant to the Traditional Owners and the cultural heritage assessment process.

The Gia cultural site inspection and meeting was attended by:- Patricia Brimble, Marie Coleman, David Mailman, Agnes McAvoy, Vicky Toffetti and Raymond Wake.

The Ngaro/Gia cultural site inspection and meeting was attended by:- Sandra Hero, Petula Heron, Carol Prior, Cilla Prior, Mervyn Prior, Raymond Prior and Renarta Prior.

A combined/group meeting was then held in the evening with all Aboriginal respondents to 'workshop' the feedback, ideas, issues and resolutions of the day's site visits and discussions. This combined session was very constructive in compiling information on the enduring cultural values of the project area, as well as a comprehensive list of project recommendations relating to cultural heritage management and other wide-ranging cultural aspirations (see Sections 8 and 10 of this report).

Consultation with the Traditional Owner representatives has remained a priority over the duration of this cultural heritage study. The project recommendations outlined in this report were formulated in consultation with the Traditional Owner representatives, mostly during the site inspection and project discussions held on 7th March 2008. However, some Traditional Owners contacted the project archaeologist in the ensuing weeks to provide further thoughts and comment regarding cultural heritage issues for the project (particularly in relation to future cultural monitoring programs of development operations).

Draft project recommendations were compiled by the project archaeologist and forwarded to Traditional Owner representatives and the proponent for review and comment on 12 March 2008 (pending compilation of this cultural heritage report). It is understood that these draft recommendations were further discussed and endorsed by the Traditional Owners at subsequent meeting/s between the proponent and Traditional Owners in March 2008. Formulation and negotiation of the project CHMP then progressed in March/April 2008 (as coordinated by Jane Delaney-John and SHMD).

As per the usual cultural protocol in working with the Gia ad Ngaro Traditional Owner groups, a final copy of this cultural report will be forwarded to key spokespersons and respondents for their records.



Plate 1: Gia Aboriginal Party. From left:- Vicky Toffetti, Marie Coleman, Raymond Wake, Patricia Brimble and Agnes McAvoy.



Plate 2: Ngaro/Gia Aboriginal Party. From left:- Mervyn Prior, Sandra Hero, Renarta Prior, Cilla Prior, Carol Prior and Raymond Prior.

5. ENVIRONMENTAL BACKGROUND

The Shute Harbour Marina project area is located approximately 40 km east of Proserpine and some 10 km from Airlie Beach. The development site includes a narrow strip of foreshore (along the southern margins of Shute Harbour Road) and extends seaward into Shute Bay, with the majority of the development site being sub-tidal. SHMD (2006:24) note that the land area for the proposed development site (above high water mark to the south of Shute Harbour Road) is less than one (1) ha. Shute Bay is a small v-shaped bay. The development site is located adjacent to the existing Shute Harbour ferry terminal and facilities. The well vegetated and rugged ranges of the Conway National Park and Mount Rooper (227 m) lie to the north of the project area. As previously noted, the land on the northern side of Shute Harbour Road directly adjoining the Conway National Park, will not be impacted by the development project as it is to be surrendered to the Crown for addition to the existing National Park.

Areas to the north of Shute Harbour Road (outside the developmental impact zone) consist of steep slopes and hillsides with predominantly dry sclerophyll vegetation. Eucalypts dominate the tree line with *E. tessellaris* (Moreton Bay ash) the dominant species. Stands of grass trees (*Xanthorrhoea sp.*) are located in the understorey. Small areas of rainforest exist in some of the deeper gullies and drainage lines. Geologically, this area is composed of Whitsunday Volcanics of Lower Cretaceous age. The bedrock typically comprises rhyolite, andesite, and a sequence of very similar lava flows, which in places have been intruded by steeply dipping dykes (SHMD 2006:23).

The land-based portion of the Shute Harbour Marina development site has undergone significant surface and subsurface disturbance as a result of the construction of Shute Harbour Road, a busy two-lane bitumen carriageway, as well as other infrastructure and services (eg: drainage pipes and culverts, water and sewage pipelines, optical fibre cable and transmission lines). Along the existing foreshore there has been substantial subsurface earthworks, including cut and fill operations for road construction, previous areas of reclamation,

existing boat ramp, access tracks, existing dwellings, etc (see Section 9 for a discussion on the implications of this high level of previous disturbance for long-term archaeological site preservation). In some places along the shoreline, particularly in the vicinity of the public boat ramp, there is a great deal of debris and pollution (eg: old tyres, fuel drums, car and boat batteries, rusted metal, old barges containing rubbish, machinery and boat parts, etc).

Much of the existing vegetation along the coastal margins is regrowth and this is impacted by wave erosion along the intertidal zone. According to SHMD (2006:24) this area “*does not provide quality habitat for terrestrial fauna*”. A number of invasive exotic plants are located in this area (eg: golden trumpet tree, frangipani, oleander, bouganvillea, etc). A narrow fringe of mangroves lines the upper shoreline with *Avicennia eucalyptifolia* the dominant species. SHMD (2006:24) note that “*the shore here is not sufficiently wide to enable the zonation characterising the mangrove communities of the western bay*”. In comparison, the western and southern shores of Shute Bay support dense and diverse mangrove forests.

A rocky shoreline with a muddy substrate is revealed at low tide. Rock oysters (*Saccostrea sp.*) were observed growing on many of the exposed rocks. Other molluscs such as *Telescopium telescopium* and *Terebralia sulcata* were observed on the mudflats. SHMD have reported that “*foreshore rocks are likely to support a moderately diverse flora and fauna, able to tolerate the commonly turbid waters of Shute Bay*” (SHMD 2006:24). Coral debris is found in wave-deposited beach cheniers along the shoreline. Substantial wave erosion is evident along the shoreline.

A small area of sea grass (about 10 m²) was located at Shute Bay in 1991, within the area of the development footprint. Beyond the development area, Shute Bay supports extensive sea grass meadows which have been assessed as having high regional significance (SHMD 2006:25). A fringing reef runs across the southern extent of the mouth of the bay. This reef supports diverse hard and soft corals, and a range of other marine invertebrates (sponges,

ascidians, hydroids, etc). Marine sediments in Shute Bay consist of soft, fine-grained clayey silt.



Plate 3: Narrow coastal fringe between Shute Harbour Road and Shute Bay (high tide on 7th March 2008).



Plate 4: Narrow coastal fringe between Shute Harbour Road and Shute Bay. Note the strip of regrowth vegetation along the shoreline.



Plate 5: Fringing mangroves along the Shute Bay intertidal zone.



Plate 6: Exposed mudflats (at low tide) near the existing public boat ramp.



Plate 7: Discarded drums and other rubbish near the existing boat ramp.



Plate 8: Tyres, old batteries and other rubbish on the mudflats near the existing boat ramp (below HWM).

6. HISTORICAL AND ARCHAEOLOGICAL BACKGROUND

6.1 Pre-and Post-Contact History

Information for this section has been compiled through historical research in readily available data sources such as local historical and ethnohistorical literature. Many of the earliest accounts of Aboriginal people in the wider Whitsunday and Proserpine region come from the journals and diaries of European explorers and early settlers.

Early maritime explorers along the North Queensland coast made the first documented observations of Aboriginal people in the Whitsunday region. Unfortunately, most sightings of Aboriginal people were fleeting and the descriptions provided are generally brief. Whilst passing through the Whitsunday's in June 1770, Captain James Cook observed several Aboriginal people on a sandy beach on one of the offshore islands. He noted that they had an outrigger canoe that appeared larger and differently built to any other yet seen on the North Queensland coast (Beaglehole 1955). In 1802, Matthew Flinders (1814) observed smoke from Aboriginal campfires on Whitsunday Island.

Captain Phillip King passed through the Whitsunday's in 1819 and reported evidence of numerous Aboriginal campfires on several of the offshore islands (King 1827). On Repulse Island he observed several recently occupied fires and sleeping places. On the north side of Cape Conway he observed "*tracks of natives.....and either a wrecked or worn out canoe made of bark, was lying near the ruins of two or three bark huts*" (King 1827:186).

During the HMS Fly expedition in 1843, J. Beete Jukes had several brief, but amicable encounters with Aboriginal people at Port Molle (Jukes 1847). In 1852, Macgillivray on board the HMS Rattlesnake sighted a small bark canoe with two Aboriginal people in the Whitsunday Passage (Macgillivray 1852) (see also Dalrymple 1860).

Henry Lamond, a European settler in the Whitsunday region, provides one of the most detailed ethnographic accounts of Aboriginal people in the early post-contact period (Lamond 1953, 1960). Lamond lived on South Molle Island from 1927 to 1937. His main informant was an Aboriginal elder named 'Percy' who was described as one of the last surviving members of the Whitsunday tribes. 'Percy' reported that Whitsunday Island was the only offshore island that was permanently occupied by Aboriginal people. A population of about 100 people lived on the island in a base camp opposite Cid Island. Ample supplies of fresh water, game and shelter existed on the island to support this population. Lamond noted that at different times of the year the group traveled to other islands for particular resources (eg: Long Island to hunt turtle, West Molle for Torres Strait pigeon and South Molle for basalt stone axe raw materials).

A recurrent theme in the ethnographic evidence for the wider Whitsunday region is the Aboriginal use of watercraft (Barker 2004). Lamond (1960) reported that well-made, water tight canoes were widely used throughout this region. Tindale (1974) reported that people regularly traveled between the mainland, offshore islands and reefs from St. Bees to Hayman Island, covering distances of more than 100 km in their sewn bark canoes. Bartley (1896:333) provides a detailed description of the canoes:-

".....they were made from a large sheet of bark, which was first flattened out, smooth side downwards. Then the rough outside was trimmed down, and the trimmings, with a quantity of dried leaves were spread evenly over the outside surface, and set on fire. When the sheet of bark was softened, by the heat, the canoes were turned up, each end was doubled on itself, holes were made with a sharks tooth awl, they were sewn together, and the canoe was made. In these little cockle shells, the blacks were accustomed to cross over from the mainland to the Percy and Northumberland Islands and even to the Barrier Reef".

Barker (1989) notes that Aboriginal people in the Whitsunday region were not only well adapted to water travel, but had also developed a specialized

material culture to suit their maritime economy. Specialized fishing spears, nets, fishing line and turtle shell fish-hooks have been described in the ethnohistorical literature (eg: Brownsey 1963; Lamond 1960; Ling Roth 1908; Morrill 1863; Roth 1898, 1904; Barker 2004).

The 1860's saw the eruption of violent conflict between the Aboriginal inhabitants of the Proserpine-Whitsunday region and European settlers. Loos (1982) has suggested that what could only be described as an all-out racial war erupted as Aboriginal people were rapidly dispossessed of their traditional homelands. There are innumerable sources that document examples of post-contact conflict (eg: Breslin 1992; Loos 1982; Reynolds 1975).

"In retaliation for heavy stock losses, Inspector Isley and six troopers swept south from Bowen 'dispersing' two 'mobs' of Aborigines on the Don River, through the Proserpine District to the Mackay District where Isley attacked at least five more 'mobs' several of which were termed very large". (Loos 1982:43).

McClements (1973, 1974) provides detailed accounts of conflicts at Crystalbrook and Lethebrook (near the mouth of the Andromache River) at Proserpine. Two examples are quoted below:-

"Mr. A.J. Setter and his assistant, a Kanaka, were camped in the Crystalbrook area when they were ambushed by wild blacks. Luckily, the spears missed them, so Setter and his mate had the team caught and harnessed by daybreak. They had not gone far when from the side of a ridge a whole tribe of blacks came up and from a distance showered them with spears and then disappeared. Some of the spears struck the horses; Setter got one in the arm and two in the leg, and the Kanaka was hit in the leg. This spear had to be chopped off with an axe and then pushed through the flesh to remove it. After removing the spears from himself and the horses, Setter lay the wounded man on top of the load and drove to some clay holes from which he obtained clay to fill the wounds of the horses and both men. He arrived at Bromby Park with 17 spears still sticking in the load. A messenger was dispatched to Bloomsbury

Telegraph Repeater Station, and in due course police arrived from Mackay and Bowen, and with station hands to swell the number, the tribe was located and a wholesale massacre ensued" (McClements 1974:74).

" Inevitably, clashes did occur and one such event took place at Lethebrook (on the O'Connell River). Late last century a Mr. Armhurst had large portions of land in the Bloomsbury and Lethebrook vicinity. He engaged Ben Toll, a timber merchant of Charters Towers to bring the Lethebrook land into production. Toll used to go to Bloomsbury once a week for rations and when he failed to turn up, a search party went to look for him. He was found hanging from a tree having been killed by the blacks. The Kanakas working on the property with him had also been slaughtered. The blacks were rounded up and killed in retaliation and the place was afterwards known as Slaughter Camp....." (McClements 1973:6).

Another violent clash is reported to have occurred on the Andromache River. In the late 1880's a German Lutheran missionary established a settlement on the Andromache - the Marie Yamba mission (Evans 1970). Local Aboriginal people apparently killed the missionary resulting in a detachment of Native Police being called in to hunt down and 'disperse' the offenders.

"..... Ferdinand Thompson was a high-ranking police officer. He moved in with a force of black troopers, who rounded up the Aboriginals of the Andromache and slaughtered almost all of them " (Smith 1996:102).

Delamonthe (quoted in Rowland 1986:76) described Aboriginal resistance in the wider Bowen-Mackay region as some the most tenacious ever put up by an Aboriginal community. He suggested that over a period of ten years or more, the number of Europeans killed or wounded exceeded the number of Aboriginal casualties. Such a claim is impossible to confirm, but seems unlikely considering the fact that the actions of the Native Police (who were often directly responsible for the indiscriminate slaughter of Aboriginal people) went almost completely unrecorded. Rowland (1986) provides many additional examples, particularly on the offshore islands and at sea, of Aboriginal people

defending themselves and their land with a determined ferocity. Loos (1982) notes:-

“The area half-way between Bowen and Mackay, especially near the present hamlets of Bloomsbury and Calen, but also near Proserpine and Nebo and along the Bowen River, were scenes of prolonged and often determined Aboriginal resistance till the early 1880s” (Loos 1982:59).

“.....The terrain suitable for Aboriginal resistance – rugged mountainous country, thick scrub and forest, or numerous islands off the coast – which had aided the earlier resistance of the 1860’s and early 1870’s was also an important factor in prolonging the conflict” (Loos 1982:59).

Evans (1970:26) provides further evidence for the tenacity of Aboriginal people in this district:-

“In pre-European days, this area had held a large indigenous population. Even in 1870, after ten years of intensive Native Police activity, it still numbered 1,500. Police Magistrate G.E. Dalrymple had earlier commented upon the warriors of these tribes that ‘their numbersare larger, their physical force superior, their ideas of combination more perfect, than any I have met or heard of in this country’. Although by 1869 they were considered quiet enough to be ‘let in on the stations’, they had hardly been subdued, for in 1881 Sergeant Shea of Bowen could still testify that hundreds of blacks in the area are troublesome” (Evans 1970:26).

The impact of European settlement on the indigenous population of the wider Whitsunday-Proserpine region was dramatic. Curr (1887) estimates that between 1860 to 1870 about half of the Aboriginal people from Mackay to Bowen were either shot by the Native Police, forcibly taken to one of the newly established mission stations, or struck down by European diseases. Some of the Whitsunday Islanders were 'recruited' as divers and deckhands to work in the pearling industry in the Torres Strait. Many of the survivors of European settlement drifted to mainland settlements at Bowen, Mackay and Proserpine.

“By 1885 Aboriginal numbers around Bowen itself had dwindled drastically to 275. This catastrophic decline was not due simply to the presence of native troopers whose methods were described as the ‘massacre of unresisting human beings paralysed by terror’. John Ewan Davidson....remarked in 1867 that the Aborigines were ‘bad with boils’. Missionary Hansche of Marie Yamba, for instance, had seen the Aboriginal men die in their best years, of consumption, opium and whisky” (Evans 1970:26)

McClements (1973:6) notes that in post-contact times Aboriginal camps were located all along the Proserpine River, particularly near the site of the sugar mill. As land around the Proserpine township was rapidly taken up by European settlers, Aboriginal camps were moved to the opposite side of the Proserpine River and out to the Kelsey Creek area (1973:9).

During the early post-contact period Dent Island became a refuge for many Aboriginal people. Blackwood (1997) reports that about 50 people were living around the Dent Island lighthouse in the early 1880's. By the 1930's most of the offshore islands were almost completely depopulated of Aboriginal people, with the exception of those people who stayed on to work at islands occupied by European settlers (Blackwood 1997; Farr 1965).

Kerr notes that the small Aboriginal population that remained after the prolonged frontier conflict *“adapted to station life rather than agriculture”* (Kerr 1997:47).

“After the violent subjugation of the Aborigines for which the Bowen district was notorious, the survivors provided a useful workforce. They quickly became skilled horsemen and combined with their tracking ability, played a key role in managing livestock on the unfenced runs” (Kerr 1997:16).

6.2 Cultural Heritage Register and Database Searches

A search of the Queensland Department of Natural Resources and Water (DNRW) Cultural Heritage Register and Database is an established procedure for cultural heritage investigations in Queensland, and it is one of the criteria for addressing the Cultural Heritage Duty of Care Guidelines under the *ACHA*.

A search request for the Shute Harbour Marina project area was submitted to DNRW in June 2007. The search request included several parcels of land within and adjacent to the project area including:- Lot 2 SP 117389, Lot 273 HR 1757, Lot 252 HR 1717 and Lot 301 HR 1717.

In response to this search request, the DNRW advised that one (1) Aboriginal cultural site, a shell midden (site HJ:A37) is listed on the DNRW cultural heritage database (refer Appendix 2). Barker (1991a) originally recorded this midden site, during EIS investigations for an earlier marina development proposal at Shute Harbour (by Scotex Pty Ltd). Section 6.3 below provides more detailed discussion regarding this cultural site and some recent (failed) attempts to relocate it in 2002 and 2003 (Bird 2002a; 2004a).

In relation to the site location details for site HJ:A37, the DNRW provided some cautionary advice that it is not possible to conclusively guarantee the accuracy of their recordings (that is, longitude and latitude descriptions as listed on their database) and that extra diligence is required when operating in the vicinity of this recorded cultural site.

The DNRW also advised the following:-

“All significant Aboriginal cultural heritage in Queensland is protected under the Aboriginal Cultural Heritage Act 2003, and penalty provisions apply for any unauthorised harm. Under the legislation a person carrying out an activity must take all reasonable and practical measures to ensure the activity does not harm Aboriginal cultural heritage. This applies whether or not such places

are recorded in an official register, and whether or not they are located in, on or under private land”.

“Aboriginal cultural heritage which may occur on the subject property is protected under the terms of the Aboriginal Cultural Heritage Act 2003, even if Natural Resources and Water has no records relating to it”.

“In order to meet your duty of care, any land use activity within the vicinity of the recorded cultural heritage, should not proceed without the agreement of the Aboriginal Party for the area or a Cultural Heritage Management Plan undertaken pursuant to Part 7 of the Aboriginal Cultural Heritage Act 2003”.

The full advice from DNRW is provided in Appendix 2 of this report (Letter dated 5 July 2007).

Searches were also carried out of Federal cultural heritage registers and databases, including the Australian Heritage Database and the Register of the National Estate. There are no listings on the Australian Heritage Database for significant indigenous cultural heritage sites or places, specifically at Shute Harbour or Shute Bay.

A broader search for the Whitsunday Shire indicates that there are five (5) ‘Indigenous Places’ listed on the Register of the National Estate. These five sites include Aboriginal archaeological site complexes (including rock shelters with paintings and cultural deposits, shell middens, stone quarry sites and other significant cultural sites) on offshore islands such as Hook Island and South Molle Island (see Section 6.3 below).

The ‘Conway Range and Mount Dryander Area’ is also listed on the Register of the National Estate for its ‘natural and scientific values’, including rare and endangered flora and fauna.

6.3 Previous Archaeological Research

Much of the information relating to the Aboriginal cultural heritage of the wider Whitsunday region can be found in unpublished consultancy reports for EIS and other developmental impact assessment projects (eg: infrastructure and development projects such as roads, power lines, pipelines, telecommunications, residential, industrial and tourist developments, etc). A substantial amount of academic archaeological research has been conducted in the Whitsunday Shire over the past two decades, with pioneering archaeological research being undertaken during the late 1980's and early 1990's (eg: Rowland 1986; Barker 1989; 1991b; 2004).

A review of some relevant projects is provided below to provide a contextual framework for the current study at Shute Harbour. This review is intended to provide an indication of the types, density and distribution of known indigenous cultural sites and values in the wider Whitsunday-Proserpine region – the traditional homelands of the Gia and Ngaro peoples. Where possible, projects of particular relevance to the current study are reviewed and discussed (eg: the previous EIS projects at Shute Harbour and those studies focusing on areas along the Whitsunday coastline). However, this review also draws on other nearby coastal and island research, which has helped to establish a chronological framework for the Aboriginal occupation of the wider Whitsunday region. It is noted that the following literature review is by no means exhaustive.

A substantial number of significant Aboriginal cultural heritage sites have been recorded in the wider Whitsunday region. Rowland (1986) undertook pioneering archaeological research in the Airlie Beach and Whitsunday region in the early 1980's conducting field surveys on several islands including Hook Island, Lindeman Island, Whitsunday Island and Shaw Island. He described two significant Aboriginal archaeological sites, including a rock art site at Nara Inlet on Hook Island and a large stone axe quarry at South Molle Island. Anthropologist Dr. Walter Roth first recorded the stone axe quarry in 1904 (Roth 1904). It is now known that stone axes from this quarry were widely

traded by Aboriginal people throughout the Central Queensland region (cf. McCarthy 1949; Barker 2004).

Walsh (1985) and Barker (1989, 1991b, 1992, 2004) have undertaken detailed archaeological research at the Nara Inlet rock shelter. Walsh made detailed recordings of the rock art, noting up to 60 motifs in red, yellow, white and black ochre. The motifs are predominantly of geometric figures including lines, circles, crosses and arrows.

Barker (1989) conducted excavations of shell midden floor deposits within the Nara Inlet shelter. This research was carried out as part of a wider study to investigate prehistoric island use by Aboriginal people in the Whitsunday region, and to assess the archaeological evidence for late Holocene intensification (Barker 2004). Barker's research revealed that marine resources were exploited at Nara Inlet from the time of its initial occupation some 8,500 years BP, through to the late Holocene period. The archaeological data provided evidence that this site was occupied well before the mid-Holocene sea level transgression when Nara Inlet formed a peninsula. By about 6,500 years BP when this area had become a series of islands as a result of rising sea levels, there is clear evidence for the continuing Aboriginal occupation of this rock shelter. Remarkably, the Aboriginal occupation of the Nara Inlet site continued largely unchanged for some 3,000 to 4,000 years despite a marine transgression. The archaeological evidence suggests that the rise in sea level had little or no impact on either the availability or exploitation of marine resources, particularly shellfish.

The (current) Shute Harbour Marina development site and adjacent area has been the subject of several EIS investigations over a prolonged period. In 1991 Barker carried out a cultural survey and assessment for an initial EIS for a marina development project by Scotex Pty Ltd (Baker 1991a). While Barker recorded two cultural sites within the confines of the development area he assessed neither of these sites as culturally significant. Both sites were found within the 'littoral fringe'.

Barker's Site 1 was a European historical site consisting of two *"twisted railway lines and remnants of concrete slabs"* (1991a:8). Barker noted that these remains were likely to be from an old slipway for boats. He suggested that the remains might predate the development of the Shute Harbour Road (circa 1960's), but that they are *"unlikely to be of any great antiquity"* (1991a:8). Barker concluded that *".....the state of repair of the site is such that it is no longer viable to preserve the remains even if they had been historically significant"*.

Site 2 (as recorded by Barker) consisted of small quantities of shell eroding from the road bank (of Shute Harbour Road) along the shoreline. Barker noted that the type of shells represented in the deposit suggested that it might be the remains of a highly disturbed Aboriginal shell midden. The shell deposit was exposed along an erosion face approximately 4 m in length and 3 m in depth. Barker suggested that the possible midden site had been re-deposited in the course of road construction.

"The presence of large quantities of marine material such as pieces of coral, pumice and small shells unlikely to be of any resource value and the presence in the deposit of large amounts of European debris such as glass, plastic and wire attest to its disturbance. No artefacts were found either in the deposit or on the beach immediately adjacent to the site. That the construction of the road included the removal and replacement of metres of fill can be attested to from the presence of culverts running under the road some three metres below the current surface" (Barker 1991a:8).

Barker considered that further archaeological work at this site would not provide any important scientific information. On this basis he concluded that the site was not significant from an archaeological point of view.

Barker's 1991 investigation of the (then) Shute Harbour Marina study area concluded:-

“It became evident that much of the survey area had already been disturbed by construction of the road (including several cuttings above the present road) and by power cable construction. This factor combined with the unattractive nature of the terrain for occupation (extremely steep) ensured that no evidence of sites was found inland from the road” (Barker 1991a:8).

An attempt to relocate this shell deposit during subsequent (2002 and 2003) cultural heritage studies for a proposed Ergon Energy Substation and the (earlier) Shute Harbour Marina project were unsuccessful (Bird 2002a; 2004a). The shell midden could not be relocated using the grid coordinates as listed in Barker’s report or the DNRW database (Barker 1991a:8). During the 2002 and 2003 cultural surveys a number of eroding shell deposits were examined along the shoreline, but in all cases the cultural field team assessed these deposits as being natural, wave-deposited beach deposits (containing shells, coral fragments, shell grit, juvenile shells and pumice). It is highly likely that this cultural site has been further eroded and perhaps completely obliterated by ongoing erosion along the coastal fringe, as well as modern developments and impacts.

In 2003-04 cultural heritage investigations were carried out for an earlier development proposal by the current proponents (SHMD) for the Shute Harbour Marina project (Bird 2004a). Further cultural surveys along the coastal fringe and to the north of Shute Harbour Road, failed to locate any archaeological evidence for significant Aboriginal cultural sites. The apparent dearth of Aboriginal cultural sites (on the southern side of Shute Harbour Road) was mainly attributed to the very high level of previous landscape disturbance and modification.

Bird (2004a:31) concluded that the results of the 2003-04 cultural surveys at Shute Harbour confirmed the results of the earlier archaeological assessment by Barker (1991a), in that no definite archaeological evidence for Aboriginal cultural sites or materials had been discovered. Bird noted that a number of previous cultural heritage assessments along the Shute Harbour and Airlie Beach coastal fringe had consistently found that the overall conditions for

long-term archaeological site preservation were very poor, due mainly to the often dramatic disturbance, modification and development of the landscape (eg: cf. Bird 1998b at Muddy Bay; 1999 at Abel Point; 2001a at Airlie Beach; 2001b at Airlie Creek; 2002a and 2002b at Shute Harbour) (Bird 2004a:33).

The area to the north of Shute Harbour Road was the subject of a 2002 cultural heritage investigation for a proposed Ergon Energy Substation (Bird 2002a). Whilst this investigation did not locate any definite archaeological sites, the Traditional Owners did identify some culturally sensitive vegetation on the hill slopes. Five old growth trees were recorded (*Eucalyptus sp.*), one with a large scar that is possibly of Aboriginal cultural origin. Deep deposits of coral rubble and shell located adjacent to the Ergon development area were found to be dredge spoil (refer Bird 2002a for details). The proposed Ergon Substation development project did not proceed as planned and this facility was eventually relocated elsewhere.

Also in 2002 a cultural heritage survey was undertaken for a proposed expansion of the Shute Harbour Parking and Storage Facility at Shute Harbour Road (Bird 2002b). Field surveys of the coastal margins and hill slopes on the western side of Shute Harbour Road did not locate any archaeological evidence of Aboriginal occupation. The development area included a very small parcel of land less than 0.5 hectare in size. This area was found to be highly disturbed and modified, with up to 6 m of fill having been placed in low-lying parts of the site. The history of the development site indicated that dramatic landscape disturbance had occurred over an extended period (since the 1960's). Developer representatives indicated that periodic cyclones have had devastating impacts on this section of the coastline (eg: Cyclone 'Ada' in 1970). Whilst no archaeological evidence was detected in this study, the Traditional Owners identified several old growth rainforest trees on the margins of the development site, which they felt should be preserved and protected from developmental impacts. A botanical survey of the development land suggested that several of the largest (hinterland) trees might be up to 100 years old.

Cultural surveys of other bays and inlets in the wider Shute Harbour region have been carried out for residential and tourist resort development projects. Two surveys at Castaway Bay in an area abutting Dryander National Park have not located any archaeological evidence for Aboriginal cultural sites and materials (Bird 1997; 2006b). The lack of cultural sites was considered to be a direct result of the high degree of landscape disturbance in the development area, as a result of existing residential dwellings, extensive land clearing and earthworks.

Also in 2006, a cultural survey at Funnel Bay failed to locate any definite Aboriginal archaeological sites or materials (Bird 2006a). Several surface exposures of shell on the beach ridges and within creek bank profiles (on Flame Tree Creek) were carefully examined and found to be non-cultural shell beds or cheniers. The vast majority of the shell at Funnel Bay consists of tiny juvenile bivalves and gastropods. The number of edible shell species of an edible size range is very low. A high proportion of non-edible estuarine and marine material is also present, in the form of coral, pumice and shell grit. No Aboriginal cultural materials such as stone artefacts, animal bones or charcoal was observed at any of the exposures. These natural (non-cultural) shell deposits were considered to be shell beds deposited by spring tides and/or storm surge (Bird 2006a).

In 1999 Bird undertook an archaeological survey for the proposed Abel Point Marina Expansion at Cannonvale, Airlie Beach. The study area for the Abel Point development included the narrow coastal strip on the southern shores of Pioneer Bay. No cultural heritage sites were located during this investigation (Bird 1999). Further surveys at Cannonvale were carried out in 2001 for a proposed tourist resort development site (Bird 2001a). The study area included the coastline and a vegetated hillside immediately south of the (now constructed) Abel Point Marina complex. Whilst the study area was highly disturbed, several lenses of possible shell midden material were exposed in hillside cuttings. One European historical site was recorded, the remains of an old well and pump at a freshwater spring.

In 1996 Morgan and Hatte recorded several isolated stone artefacts and low-density artefact scatters during hinterland surveys for a proposed road deviation at Airlie Beach. These sites were located on hilly and sloping terrain to the south of the Shute Harbour Road (Morgan and Hatte 1996).

Between 1996 and 1998 several surveys were undertaken in the Airlie Beach-Proserpine region for proposed development corridors for Telstra optical fibre cables (eg: Bird 1998a; Mardaga-Campbell and Bird 1997; Morgan and Bird 1996). The Telstra investigations were located primarily in highly disturbed road reserve corridors and as a result no significant archaeological materials were discovered. Recent surveys for an optical fibre cable route between Proserpine township and Airlie Beach (including a crossing of the Proserpine River) also found a dearth of Aboriginal archaeological evidence (Bird 2004b).

Two archaeological surveys have been conducted on the Airlie Beach foreshore (Bird 1998b, 1998c). In October 1998 surveys were conducted along the coastal fringe at Boathaven Bay (Muddy Bay) for a proposed marina development project. Boathaven Bay is a large embayment located east of the Airlie Beach CBD. Surveys were also conducted at proposed extraction sites in the Jubilee Pocket area in the Airlie Beach hinterland (Bird 1998b). Further surveys of the Airlie Beach foreshore were conducted in October 1998 for a proposed swimming lagoon and parkland development (Bird 1998c).

No significant Aboriginal or European cultural heritage sites were recorded during these 1998 investigations at Airlie Beach. The dearth of cultural heritage sites was attributed to the very high degree of previous development and environmental disturbance within the foreshore and intertidal study areas. Additional more recent inspections of the coastline and inter-tidal areas on the Airlie Beach foreshore (at Airlie Creek) have generally confirmed a dearth of cultural heritage sites and materials in this area (Bird 2001b).

In 1986, Horsfall carried out an archaeological survey of a proposed 13-kilometre transmission line route between Cannonvale and The Beak (near Shute Harbour). Two cultural sites were located, a small scatter of shell and a low-density scatter of stone artefacts (Horsfall 1986). Horsfall's Site 1 consisted of a small scatter of rock oysters in association with a grindstone and unmodified pebbles. This site was found at the northeastern end of Shute Bay. Site 2 contained stone artefacts only, including two small stone flakes from fine-grained chert. This site was found to be highly disturbed and it was evident that the artefacts were unlikely to be *in situ*. Site 2 was found at Coral Beach.

To the north of Proserpine archaeological surveys on the coast at Edgecumbe Bay have located a substantial number of Aboriginal shell middens associated with low-density stone artefact scatters (Bird 1995). The majority of these sites are located adjacent to mangrove forests along the channel of the Gregory River. Coastal shell middens have also been recorded at Woodwork Bay (Hall and Barker 1989). An Aboriginal burial was discovered in 1996 in sandy deposits along the shores of Clark's Cove.

A review of the available archaeological evidence indicates that a substantial number of coastal Aboriginal sites have been recorded in the wider Whitsunday-Proserpine region. A diversity of archaeological site types has been identified including shell middens, tidal fish traps, rock shelters with paintings, stone artefact scatters, stone quarries, burial places, stone arrangements and ceremonial places. Substantial numbers of shell middens have been recorded in bands of Holocene sand dunes to the north and south of Cape Upstart (eg: Bird 1987, 1992; Campbell 1983; Small 1992). Stone-wall tidal fish traps have sometimes been recorded in association with shell middens along the North Queensland coast (eg: Barker 1990). A complex stone arrangement, reported to be the remains of an Aboriginal ceremonial (initiation) ground, is located inland of Cape Upstart at Mine Island (Milne 1990).

Archaeological research in the wider Proserpine-Whitsunday region indicates a general pattern in Aboriginal site distribution. Most Aboriginal archaeological sites are located along the coastal fringe in relatively dynamic environments such as mobile sand dunes and beach ridges. The existing archaeological information suggests that the coast was a focus for Aboriginal activity, at least within the late Holocene period, between the last 2,000 to 3,000 years. At this stage it remains unclear whether the substantial number of archaeological sites along the coast is an accurate representation of Aboriginal subsistence strategies, or a result of archaeological visibility, site survey bias, and/or site preservation factors. So far, the vast majority of archaeological investigations have been skewed to the coastal fringe; this being a direct result of the rapidly increasing population density in these areas and the resultant increase in development and infrastructure projects.

6.4 Aboriginal Oral History

There is a wealth of extant oral history amongst the Gia and Ngaro peoples regarding the past use and occupation of the wider Whitsunday area. Oral history pertaining to the region has been recorded during this current study and some previous cultural heritage assessment projects (eg: Bird 1998b; 1998c; 2004a; 2006a). A general summary of this information is outlined below.

Much of the information provided by Traditional Owners relates to the exploitation of marine and estuarine resources along the Airlie Beach-Whitsunday coastline. Most people confirmed that the local embayments and inlets once contained a plethora of coastal resources. Elders noted that their traditional homelands consisted mainly of 'sea country' and included the mainland and offshore islands. According to several people, there were well-established walking tracks through the dense mountain ranges of the Conway Range, which facilitated travel between the coast and hinterland. Several 'native wells' and natural 'springs' (ready supplies of fresh water) are still well known to the Traditional Owner community, both along the coastline and in the hinterland ranges.

Several Elders noted that Pioneer Bay and other bays in the Whitsunday's have long been used by Aboriginal people for fishing, gathering and hunting a variety of marine and terrestrial resources. According to some Elders, parts of this coastline once had a fringing reef, while other areas had extensive sea grass beds that supported populations of turtle and dugong. Some parts of this coastline had wide expanses of mud flats that were targeted by Aboriginal people for food resources. Shellfish were reported as plentiful 'in the old days' and many different varieties were collected (eg: 'mud oysters', 'rock oysters', 'periwinkles', 'mussels' and 'whelks'). Other common foods included mangrove worms, stingray and mullet. Mullet and stingray were speared in the shallow muddy waters along the coastal fringe. Fish traps of stone or vegetation were sometimes constructed to trap fish on the receding tide. Turtle and dugong were hunted in the open sea around several of the offshore islands. One Elder reported that one of the richest areas to collect foods was within Muddy Bay, where there were dense stands of mangrove forest. Several people recalled making regular visits to Airlie Beach and Shute Harbour during their childhood to collect bush tucker and other foods.

Traditional Owner representatives reported that whilst the Whitsunday area continues to be utilised by Aboriginal people for fishing and gathering, there are no longer plentiful supplies of food resources. Shellfish supplies are now depleted and the area has largely been 'fished out'. Discharge of sewage into several of the bays and sediment build-up is thought to account for the diminishing quantities of natural resources in recent times. Several areas once used for fishing and gathering are now no longer accessible to Aboriginal people, as they have become part of private property or special lease areas with restricted access.

Elders reported that a diversity of terrestrial resources was exploited in 'the old days'. Common foods included sand goanna, flying fox, Torres Strait pigeon and grubs. A large number of plant resources were exploited and a great deal of ethnobotanical information (regarding food plants and medicinal plants) exists in the local indigenous community. Common coastal food plants

included Burdekin plum, cocky apple, cabbage palms, wild passionfruit, wild ginger, emu berry, quandong and lilly pilly.

Some Elders have described 'old camping places' on several of the Whitsunday Islands. The Nara Inlet rock shelter and the South Molle stone axe quarry are well known to the Aboriginal community. Some unconfirmed reports were provided about the remains of stone-wall tidal fish traps on some of the Whitsunday Islands. One Elder noted that as a young man he had seen many old campsites containing large piles of shellfish along the coastal fringe around Bowen-Proserpine. He noted that most of these sites 'would not be there now' as the areas have been substantially altered by modern developments.

7. CULTURAL FIELDWORK: METHODS AND RESULTS

The methodology and approach of the cultural fieldwork was of course influenced by the fact that the Shute Harbour Marina study area is predominantly sub-tidal. A detailed and systematic cultural survey of the entire site is impossible. It was therefore considered by the cultural team that the best approach for carrying out cultural fieldwork would be to inspect the study site from various vantage points along Shute Harbour Road.

As noted, a cultural site inspection of the Shute Harbour Marina project site was undertaken on 7 March 2008 with the Gia and Ngaro/Gia Aboriginal Parties. The site visit with Gia respondents was carried out in the morning, followed by the Ngaro/Gia site visit in the afternoon. Each field session was followed by a meeting/workshop to discuss cultural heritage values and management issues.

Each group traveled to the project site via minibus or other vehicles. A slow vehicle traverse was carried out along Shute Harbour Road with the parties stopping to view the project site at various vantage points along the way. At each stopping place, David Quinlan (SHMD) provided background and technical information on the project. The group viewed concept master plans

of the development and the Traditional Owners were invited to ask questions and seek feedback from the proponent. At some stopping points, some short pedestrian traverses were made along the coastal fringe to inspect truncated shoreline profiles, eroded areas, earthworks, creek crossings, culverts, etc. At several places, the Traditional Owners inspected the (regrowth) vegetation along the shoreline and provided information pertaining to bush tucker and medicinal plants (see Section 8 below). Short pedestrian traverses were carried out in the area of the public (council) boat ramp to inspect existing development, disturbance and pollution in this area. During the site inspection the project archaeologist noted several points for further discussions as raised by the Traditional Owners.

Discussions with the Traditional Owners indicated that a cultural survey of the land on the northern side of Shute Harbour Road was unwarranted, as this area is to be surrendered to the Crown for addition to the Conway National Park. On this basis, it is not expected that this land will be impacted by the development project.

The cultural heritage site inspections found no archaeological evidence for significant Aboriginal cultural heritage sites or materials along the coastal fringe of the Shute Harbour Marina project site. This result was not unexpected for two main reasons:-

- Quite simply, the vast majority of the study site is intertidal and sub-tidal. As noted, pedestrian access for the cultural inspection was largely limited to the (elevated) coastal margins of the development area, immediately adjacent to Shute Harbour Road. High tide on the morning of the cultural survey precluded access to the intertidal zone. Attempts to undertake pedestrian traverses at low tide (in the afternoon) were not successful due to deep deposits of soft mud. Pedestrian traverses proved very difficult and any further attempts to inspect the intertidal area on foot were largely abandoned.

- Several previous archaeological surveys along the coastal fringe of the Shute Harbour project area have revealed a very high level of previous surface and subsurface ground disturbance and landscape modification (Barker 1991a; Bird 2002a, 2004a). The most dramatic disturbance has occurred as a result of the construction of Shute Harbour Road and other existing infrastructure (road drainage networks, transmission lines, optical fibre cable, water pipeline, dwellings and businesses, land reclamation, boat ramp, etc). Barker (1991a) noted that development work for Shute Harbour Road has “*completely altered the profile of the shoreline*”.

While Barker (1991a) located a possible Aboriginal shell midden along the margins of Shute Harbour Road in 1991, he noted that this site was highly disturbed as a result of road cutting and filling operations for road construction. As noted, subsequent attempts to relocate this midden site in 2002 and 2003 have no evidence of the site within a wide vicinity of the listed grid coordinates (Bird 2004a).

Based on the high level of past disturbance and landscape modification, this current study and several previous investigations have assessed the overall potential for locating intact Aboriginal cultural sites and materials along the coastal margins of the project area (in both surface and subsurface deposits) as very low to negligible (Barker 1991a; Bird, 2001a, 2002a, 2002b; 2004a) (see Section 9 below).

Despite the apparent dearth of tangible Aboriginal archaeological sites or materials in the Shute Harbour Marina project area, the Traditional Owners have confirmed that this coastline retains a high level of cultural significance to them (refer Section 8 below).

There is no doubt that cultural heritage studies such as the current one would benefit greatly from concurrent anthropological investigations. In a project area where developmental impacts will largely occur in the sub-tidal zone, there is obviously a limited opportunity to carry out effective, systematic pedestrian

cultural surveys in the attempt to locate and record archaeological sites and values. Detailed anthropological work on the other hand, might elicit important ethnographic information and oral history pertaining to a project area. Unfortunately, the time constraints associated with EIS investigations are not conducive to long-term anthropological research. More importantly though, the output of anthropological investigations is now used increasingly by Aboriginal Traditional Owners in establishing Native Title connection to country. For this reason, much of this information is now considered as highly confidential by the Traditional Owner community, especially in areas where there is ongoing discussion regarding territorial boundaries and traditional affiliations to land.



Plate 9: Cultural site inspection in progress with Gia Aboriginal Party.



Plate 10: Cultural site inspection in progress with Ngaro/Gia Aboriginal Party.

8. ABORIGINAL CULTURAL VALUES OF THE PROJECT AREA

8.1 Feedback from Aboriginal Stakeholders

As noted, most of the feedback from Traditional Owners regarding cultural heritage matters for the Shute Harbour Marina project was collected during the site inspections and project meetings on 7 March 2008. A summary of the main discussion points, concerns and issues relative to cultural heritage and other matters is presented below. The project recommendations outlined in Section 10 of this report reflect and address these various issues.

- Aboriginal Cultural Values of the Project Area

The Traditional Owners reported on the enduring cultural significance of Shute Bay and the Shute Harbour Marina project area. They noted that this coastline has been an integral part of important coastal fishing and hunting grounds in pre-contact and post-contact times. Despite the prolonged impacts to the physical and cultural integrity of the coastline in modern times, the Traditional Owners asserted that they maintain an active interest in land management and land development issues in their homelands (incorporating both land and sea country).

- Potential Impacts to Flora/Fauna

Some Traditional Owners raised concerns about potential impacts to the local environment and specifically flora and fauna within Shute Bay as a result of the proposed project (eg: removal of mangroves, impacts to sea grass beds, turtle and dugong populations, fish habitat and fish species, offshore reefs, fringing native vegetation, etc).

During the cultural site inspection the Traditional Owners identified a variety of bush tucker along the coastline including marine and estuarine shellfish (rock oysters, mud mussel, pipis, periwinkles, etc), as well as a variety of food plants and medicines (eg: Burdekin plum, macaranga, ironbarks and other Eucalypts,

crinum lily, wattles, grass trees, pandanus, swamp mahogany, cocky apple, soap tree, sandpaper fig, white yam and native hibiscus).

There was much discussion in the project meetings/workshops regarding the removal of existing mangroves along the shoreline. The Traditional Owners felt that mangroves should be replanted along the margins of the (reclaimed) land by the proponent, rather than waiting for natural regeneration of this vegetation (which might take many years).

The Traditional Owners also noted that they would like to see the (reclaimed) development site landscaped and vegetated with local native plant species to enhance the natural and cultural values of the development site.

Feedback from the proponent at the meeting/s was that these various potential environmental impacts are to be included and addressed as part of the broad-ranging EIS for the development project. As an important stakeholder group, the Traditional Owners will have the opportunity to review and provide their feedback on the various environmental reports compiled during the EIS process.

- Pollution of the Environment

Some concerns were raised about the existing pollution at Shute Bay (mainly surrounding the public boat ramp) and also the potential future impact of pollution within the bay as a result of the Shute Harbour Marina project and associated residential development and increased (marine) traffic. Traditional Owners noted concerns about potential spillage of oil and diesel within the bay. They noted their concerns regarding long-term impacts to waterways, fish habitat and marine species such as dugong and turtle. Some questions were raised regarding disposal of sewage and waste within the residential and commercial components of the development.

The Traditional Owners noted that the existing pollution at the public boat ramp should be cleaned up as a matter of priority (eg: old barges, fuel drums, car and truck tyres, rusted metal, car and boat batteries, discarded boats, etc).

- Cultural Monitoring Program

Most Traditional Owners feel that there is considerable potential for locating archaeological sites or finds within the Shute Harbour Marina development site. The Traditional Owners feel that there is some (residual) archaeological potential in intertidal and sub-tidal deposits, and that cultural monitoring of the development operations is warranted (when current sub-tidal areas are drained and exposed at the time of construction). There was considerable discussion at the meetings/workshops regarding the best means to undertake cultural monitoring, where it should be targeted, and the timing and logistics of implementing a monitoring program.

- Recognition and Acknowledgement of Traditional Owners

The Traditional Owners noted that they would like to be acknowledged and recognized as the original inhabitants of Shute Harbour in some appropriate way as part of the development project (such as interpretive signage within the tourist and retail precincts, or Aboriginal art in parklands and open space areas, etc.). Some Traditional Owners noted that they would like tourists visiting the marina to “learn something about Traditional Owners and Aboriginal culture”.

- Employment, Training, Tendering and Other Opportunities

The Traditional Owners indicated that they would like to enter into discussions with the development proponent regarding future opportunities in employment and training as part of the construction and operational phases of the development project. They also indicated that they would like to have the opportunity (and receive assistance from SHMD where appropriate) to tender

for contracts associated with the project (eg: landscaping and revegetation works, security, building works, management positions, etc).

- Other Cultural Aspirations

Prior to the cultural site inspection on 7th March 2008 the Aboriginal Parties had already entered into discussions with the development proponent regarding various broad-ranging 'aspirations'. Such aspirations include the development of a multi-functional Cultural Interactive Centre and 'Yarning Circle' as part of the development project.

The Traditional Owners raised the issue about further discussions with the proponent, Whitsunday Shire Council and other relevant stakeholders regarding the future use of the land on the northern side of Shute Harbour Road. The Traditional Owners noted that Lot 273 on HR 1757 might be an appropriate parcel of land (currently zoned commercial) for establishing an art and craft workshop to support the above-mentioned Cultural Interactive Centre.

8.2 Identified Aboriginal Cultural Values

This cultural heritage study has provided clear evidence that the Shute Bay coastline, including the Shute Harbour Marina project area, has significant Aboriginal cultural heritage values. This evidence comes from various sources including ethnohistory, oral history, the Aboriginal archaeological record, and most importantly, from the Aboriginal Traditional Owners themselves.

The criteria Aboriginal people use to assess cultural significance is usually quite different from that used to make scientific significance assessments. Significance assessments by Aboriginal people may be based on traditional, historical, contemporary and other cultural values. In some instances the scientific significance assessment of a site may not be consistent with Aboriginal people's perceptions and evaluations of a site. The Aboriginal cultural heritage values of a site or place may override other forms of

significance assessment. Aboriginal people's perception of a site's significance may have no relationship to the size or complexity of the site. That is, sites considered as highly significant to Aboriginal people may include single artefacts, small, diffuse sites, or large complex sites.

In addition to tangible archaeological sites, sites of significance to Aboriginal people may include natural features or other components of the landscape (eg: mountain ranges, river systems, particular stands of vegetation, story places, ceremonial sites and Dreaming tracts). It is important to note that the Traditional Owner's perception of 'cultural heritage' extends beyond just the physical or tangible archaeological record. To Aboriginal people, the significance of their homelands is most often manifested in their enduring 'connection to country', rather than tangible archaeological sites or artefacts. Burke *et. al.* (2000:38) note that "*generally speaking, virtually all of the land has some inherent significance for Aboriginal people, although sacred and secular sites can possess special Aboriginal significance*" (cf. Ross 1996).

Under the Federal *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act) the 'indigenous heritage significance' of a place refers to a "*heritage value of the place that is of significance to indigenous persons in accordance with their practices, observances, customs, traditions, beliefs or history*".

Gia and Ngaro Traditional Owners have confirmed that the Shute Harbour coastal area (including the Shute Harbour Marina development site) remains culturally significant to them for the following reasons:-

- The area is part of their traditional homelands (land and sea country) and as such retains immeasurable cultural and spiritual values. The Traditional Owners retain an enduring 'connection to country'. This 'connection' has not diminished despite the historical dispossession of land and despite the often dramatic alterations to the physical and cultural integrity of the landscape since European settlement;

- The wider Shute Harbour project area was used traditionally for fishing, foraging, camping and for other cultural purposes. The Traditional Owners report that coastal bays such as this one were economically important to the Gia and Ngaro peoples. The marine, estuarine and riparian environments of Shute Bay contained a plethora of birds, fish, shellfish, mammals and plant foods;
- Areas in the vicinity of the Shute Harbour project area (on the mainland as well as offshore islands) contain tangible archaeological evidence for the Aboriginal use and occupation of the Whitsunday coastline, in the form of shell middens, stone artefacts, scarred trees, rock shelters with paintings and cultural deposits, ceremonial sites and burial places. It is reasonable to assume that much archaeological evidence has been obliterated by the prolonged European settlement and alteration of this landscape (especially along the coastal fringe) and that many more archaeological sites once existed along the shores of Shute Bay and other bays in the Whitsunday region;
- The Traditional Owners believe that there is a possibility that intact Aboriginal cultural sites, artefacts or materials might remain in the project area (in the intertidal and sub-tidal zones, possibly buried within subsurface deposits or mud and other sediments);
- Elders report that they have continued to visit the Shute Harbour area and adjacent coastline in contemporary times, to fish, collect shellfish and bush tucker and medicines;
- The Traditional Owners are today actively involved in 'caring for country' along the Whitsunday coastline (eg: through turtle conservation and monitoring programs, Coast Care, and native plant revegetation programs, etc). As noted, they maintain an active interest in land/sea management and development projects in their homelands.

9. ASSESSMENT OF POTENTIAL CULTURAL HERITAGE IMPACTS

This cultural heritage investigation has provided clear evidence that the Shute Harbour Marina development site is located within a broad area that retains significant Aboriginal cultural heritage values. As assessment of the potential impacts of the proposed project on these identified cultural heritage values is outlined below. The assessment of impacts is based on two main criteria:- i). potential impacts to Aboriginal cultural values, and ii). potential impacts to the Aboriginal archaeological record.

- Impacts to Aboriginal Cultural Values

Consultation with Traditional Owner representatives during the course of this investigation has generally indicated that they have no major cultural heritage objections to the Shute Harbour Marina development project. This is despite the fact that this project will significantly alter the current configuration of the coastline with reclamation of land and construction of breakwaters and residential areas.

The Traditional Owners generally feel that the current project will have no greater impact on cultural values than the many previous development projects which have resulted in considerable alteration of the coastline and the natural and cultural landscapes. Despite the relatively rapid development of the wider Shute Harbour and Airlie Beach area, Aboriginal people maintain their 'connection to country'. In short, the development of the Shute Harbour Marina project will not diminish the enduring cultural significance of Shute Bay and Shute Harbour to the Traditional Owners.

Throughout this investigation the Traditional Owners have reiterated that they maintain an active interest in 'caring for country'. On this basis, they wish to take an active role in managing the cultural heritage and environmental values of the project area (eg: involvement in revegetation programs with native plants, replanting of mangroves, clean up of pollution at public boat ramp, etc).

- Impacts to the Aboriginal Archaeological Record

During this cultural heritage investigation some Traditional Owners have raised concerns about the potential impacts of the project on any Aboriginal archaeological sites that might remain in intertidal and sub-tidal deposits. It must be said that from a purely archaeological point of view, the potential for intact archaeological sites or materials to occur in the sub-tidal zone within the boundaries of the project area is assessed as extremely low. The reasons for this archaeological assessment are outlined below:-

- It is reasonable to deduce that the shores of Shute Bay and (fringing) intertidal and sub-tidal areas in the bay have been subjected to prolonged disturbance and modification since European settlement of the region. The land area has undergone significant modification through the reclamation of land, construction of the existing Shute Harbour ferry terminal, car parks and buildings, other dwellings and industries along the coastline, etc. In addition, the regular deposition and build up of sediments in the bay means that some parts of the bay are periodically dredged to maintain a navigable access channel for vessels;
- Long-term preservation of inorganic archaeological materials (such as stone artefacts) in sub-tidal deposits is problematic, especially given the taphonomic history of the bay (its susceptibility to past cyclones and storm surge) and the considerable level of previous disturbance from reclamation, dredging, boating, etc (cf. Bird 1992);
- Apart from the preservation and taphonomic factors, there is also the issue of visibility and the sheer difficulty of detecting archaeological remains or deposits in this sub-tidal context. This is assuming that archaeological remains have survived sea level rise over the past 6,000 years and local fluctuations in sea level. While Barker (1989) has demonstrated that the wider Whitsunday region continued to be occupied by Aboriginal people during the marine transgression, the

archaeological evidence for this occupation is located in a very different context (that is, in well elevated coastal rock shelters with dry floor deposits, protected from the natural elements);

- Since relative sea level stabilization some 6,000 years ago there seems no doubt that Aboriginal people occupied and utilized the coastal fringes of Shute Bay. As already noted, the inherent difficulty in locating traces of this early occupation along the present shoreline is the high degree of disturbance which has occurred from both modern developments (over the past 150 years), and ongoing natural geomorphic processes. Areas we know to have been frequented by Aboriginal people, at least in the early settlement period, were the immediate coastal fringe, the mouth of watercourses and associated sand bars, mangrove forests, sand dunes and beach ridges. All of these areas have been subject to dramatic change over time;
- Because the Traditional Owners are concerned about the possibility for archaeological sites and remains to occur in the sub-tidal area, SHMD has advised that it will work in conjunction with the Aboriginal Parties to implement a cultural monitoring program for the development project. Further discussions regarding the proposed monitoring program are to be undertaken between the proponent and the Traditional Owners once a detailed (post-approval) development plan is formulated;

In conclusion, from a purely archaeological perspective it is predicted that it is highly unlikely that the proposed Shute Harbour Marina development project will have any major detrimental impacts to the Aboriginal archaeological record of Shute Bay and Shute Harbour (either along the coastal fringe, or within the intertidal and sub-tidal marine areas).

During the course of this cultural heritage study, the Aboriginal Traditional Owners did not raise any major constraints or objections to the proposed development project, provided that the proponent undertake to implement the

recommendations of this cultural heritage report, and incorporate them into a CHMP for the proposed project.

10. PROJECT RECOMMENDATIONS

The following Recommendations are made as a result of the cultural heritage investigations for the Shute Harbour Marina development project at Shute Bay:-

10.1 Cultural and Environmental Aspects:-

Recommendation 1:

The Traditional Owners maintain some concerns that Aboriginal archaeological sites or cultural materials (such as stone artefacts) might exist in intertidal and/or sub-tidal deposits within the Shute Harbour Marina project area.

On this basis, they request that a cultural monitoring/site inspection program be implemented for development operations, including any removal of fringing vegetation along the coastal margins, and the excavation of coastal deposits within the bay.

It is recommended that there be further discussions between the Traditional Owners and the proponent regarding the timing, duration, logistics, number of monitoring personnel and administrative arrangements for cultural monitoring, once the proponent and/or their contractors have devised a detailed (post approval) construction management plan.

The Traditional Owners have advised that it is important that future cultural monitoring and site inspection programs take into account the fact that two distinct Aboriginal groups, the Gia and Ngaro peoples, are involved in this cultural heritage project. On this basis, they request that field officer representation in cultural monitoring programs is always equally divided between these two groups.

It is noted that from a purely archaeological perspective the overall potential for locating intact Aboriginal archaeological sites or materials within the

intertidal and sub-tidal project area is assessed as low. It is also noted that the cultural monitoring program will be influenced by practical logistical issues such as gaining access to the development site for monitoring and inspection purposes (given that the site must be drained prior to development works and it has deep deposits of mud and sediments). On this basis, it is recommended that cultural monitoring of development operations and excavation works be targeted to dry-land development works (once the work site is drained).

Recommendation 2:

In the event that any Aboriginal cultural heritage sites, materials or values are discovered during development operations and /or cultural monitoring, the following recommendation should apply:-

All development work and other activities at that location should cease, pending a thorough inspection of the find/s by Traditional Owner representatives. Optimally, the finds should be demarcated and protected from any potential impacts with pegs, flagging tape and/or other appropriate temporary barriers with a reasonable buffer area around them (the 'reasonable' buffer zone to be determined by the Cultural Monitors, Site Supervisor and/or other appropriate on-site personnel). Development work can continue outside the demarcated buffer zone. Following their assessment of the find/s, the Traditional Owners will provide advice on appropriate management action. Depending on the cultural significance of the find/s, the Traditional Owners and/or the development proponent may wish to seek independent technical advice from the project archaeologist and/or the Cultural Heritage Coordination Unit, Department of Natural Resources and Water. Development work at the location of the finds should not recommence until appropriate cultural heritage management action has been implemented to the satisfaction of all stakeholders.

Recommendation 3:

In the unlikely event that human skeletal material is discovered during development works, it is recommended that all development operations cease immediately within 100 m of the remains. Optimally, the finds should be demarcated and protected from any potential impacts with pegs, flagging tape and/or other appropriate temporary barriers. The Queensland Police, Cultural Heritage Coordination Unit of the Department of Natural Resources and Water, as well as Aboriginal Traditional Owner representatives should be contacted as a matter of urgency. Currently, the Queensland Police, Department of Natural Resources and Water and Aboriginal Traditional Owner groups have established policy and procedures to ensure that confirmed indigenous burials are treated in a manner consistent with Aboriginal traditions. Minimal disturbance to the remains should be a priority, and advice should be sought from Aboriginal Elders on ways to deal with the material in a culturally appropriate and sensitive manner. A copy of the Department of Natural Resources and Water 'Draft Burial Policy' is available from DNRW and/or the project archaeologist.

Recommendation 4:

Personnel and contractors involved in the development project should undertake a cultural heritage induction prior to commencement of development operations. Workers must be provided with information on the types of Aboriginal cultural heritage sites likely to be found in the project area, along with specific guidelines to follow in the event of the discovery of cultural finds, or suspected cultural finds. Workers should be made aware of the provisions of the *Aboriginal Cultural Heritage Act 2003* and in particular, the 'Duty of Care Guidelines' under this legislation.

Recommendation 5:-

The Traditional Owners request that the proponents undertake to vegetate the (reclaimed) development site with local native plant species to enhance the natural, cultural and aesthetic values of the development site.

The Traditional Owners wish to contribute their ethnobotanical knowledge and expertise in selecting appropriate native plants (including traditional bush tucker and medicinal plants) and in designing and landscaping the project site, as well as providing hands-on labour for such works.

Recommendation 6:-

Mangroves currently located along the foreshore and intertidal zone in the Shute Harbour Marina development area are to be cleared and removed as part of the development project. The Traditional Owners have noted their preference for the proponent to implement works to replant mangroves along the margins of the (reclaimed) development land, in preference to waiting for the natural regrowth of this vegetation (which may take many years). The Traditional Owners have indicated that they would like to be actively involved in mangrove replanting and revegetation works.

Recommendation 7:-

The Traditional Owners request that the development proponent make a commitment to clean up rubbish and pollution along the Shute Harbour foreshore and the margins of the Shute Harbour Marina development area. Council lands in particular are polluted with litter (plastic bags, bottles, cans, etc), old barges, rusting metal, car/boat batteries, old tyres, fuel drums and fuel spillage.

10.2 Cultural Aspirations and Other Issues:-

Recommendation 8:-

The Traditional Owners request that the proponent consider using appropriate interpretative signage within the proposed development as a means to recognize and acknowledge the Traditional Owners of the project area and the Whitsunday region. Traditional Owners have suggested that interpretative signage might include language names for the project area and its natural features (eg: the bay, local plants, terrestrial and marine animals, etc). Signage might also include information on the cultural values of the project area and its place in the wider cultural landscape of the Whitsunday region. To this end, it is recommended that the proponent continue to consult with Elders and other knowledgeable Traditional Owners regarding appropriate language names for incorporation at the project site.

Recommendation 9:-

The Traditional Owners have entered into discussions with the development proponent regarding the establishment of a Cultural Interactive Centre and 'Yarning Circle' as part of the Shute Harbour Marina development project. Discussion between the parties is continuing at the current time and outcomes will be incorporated into the Cultural Heritage Management Plan and associated agreements between the parties.

It is noted that all cultural and intellectual property rights associated with the establishment and operation of any such Cultural Interactive Centre will always remain with the Gia/Ngaro Traditional Owners.

The Cultural Interactive Centre will be a multi-functional space. Some intended uses may include the sale of indigenous arts and crafts, cultural displays, performance area for cultural dancers, meeting place, tourist interpretative centre, business/administrative base and a keeping place for significant cultural items and artefacts.

Recommendation 10:-

The Traditional Owners have advised that they wish to have further discussions with the development proponent, the Whitsunday Shire Council and any other relevant stakeholders (as required) regarding the future use of the strip of land on the northern side of Shute Harbour Road (land currently proposed to be returned to public ownership). Specifically, the Traditional Owners have noted that they intend to seek support from the development proponent in acquiring ownership and/or use of the land at Lot 273 on HR1757 (currently zoned commercial), with a view to establishing an art and craft workshop and cultural workspace, to support the planned Cultural Interactive Centre identified and agreed with the proposed Shute Harbour Marina Development Project and Shute Harbour Marina Development Pty Ltd. Should the identified land not be available an alternative, suitable area is requested.

Recommendation 11:-

The Traditional Owners have requested that the development proponent enter into further discussions with them regarding future employment, training, tendering and other potential economic opportunities for the construction and operational phases of the development project. In particular, the Traditional Owners would like to seek assistance/preferred opportunities from the proponent in tendering for future contracts associated with the project (eg: landscaping and revegetation works, building works, security contracts, caretaking and management roles, etc).

Recommendation 12:-

As per the provisions of Part 7 of the *Aboriginal Cultural Heritage Act 2003 (ACHA)* it is recommended that the above-listed recommendations are incorporated into a Cultural Heritage Management Plan (CHMP) for the proposed development project, to be signed by the 'endorsed Aboriginal parties' (or their nominated representatives) and representative/s of the development proponent.

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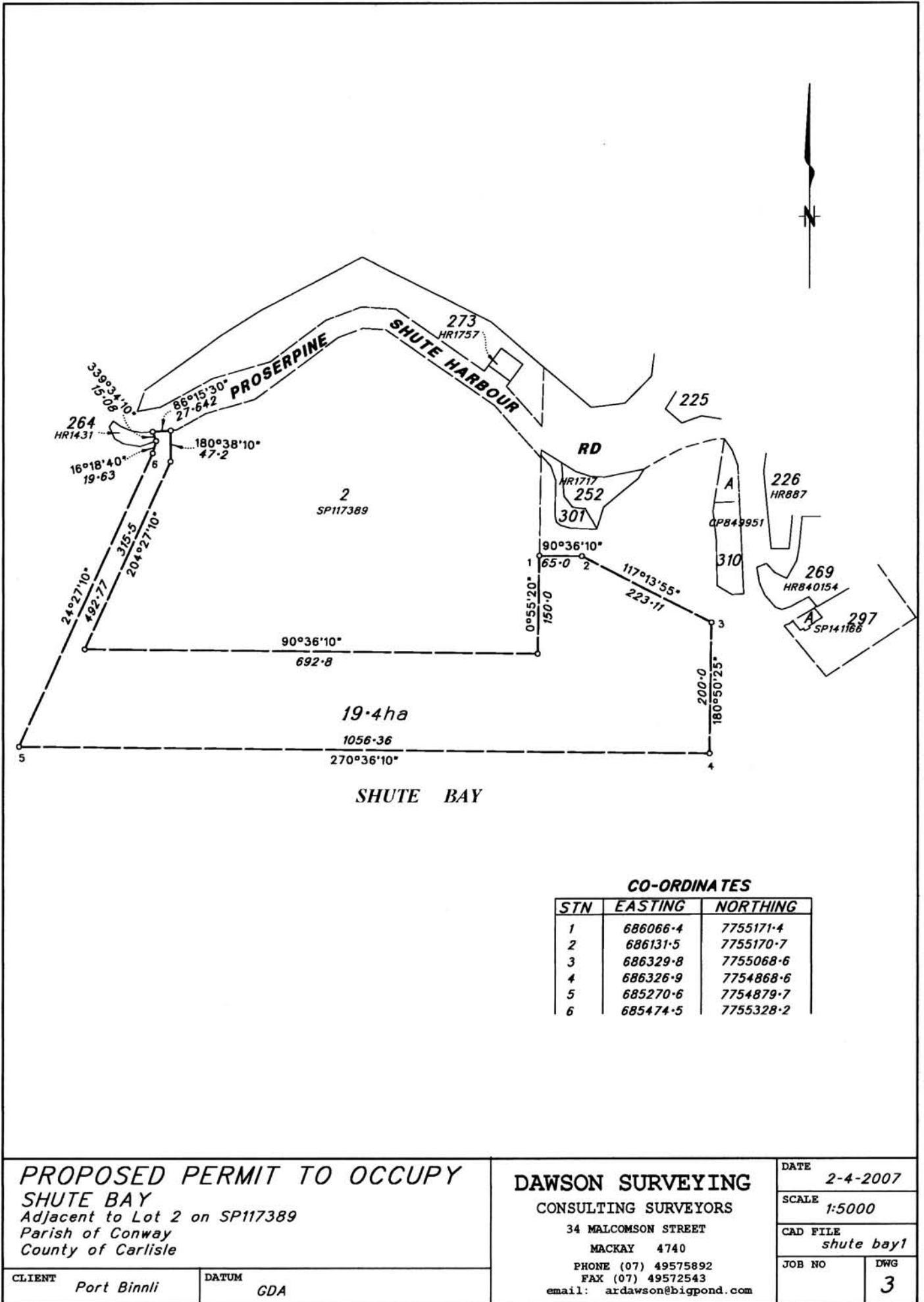
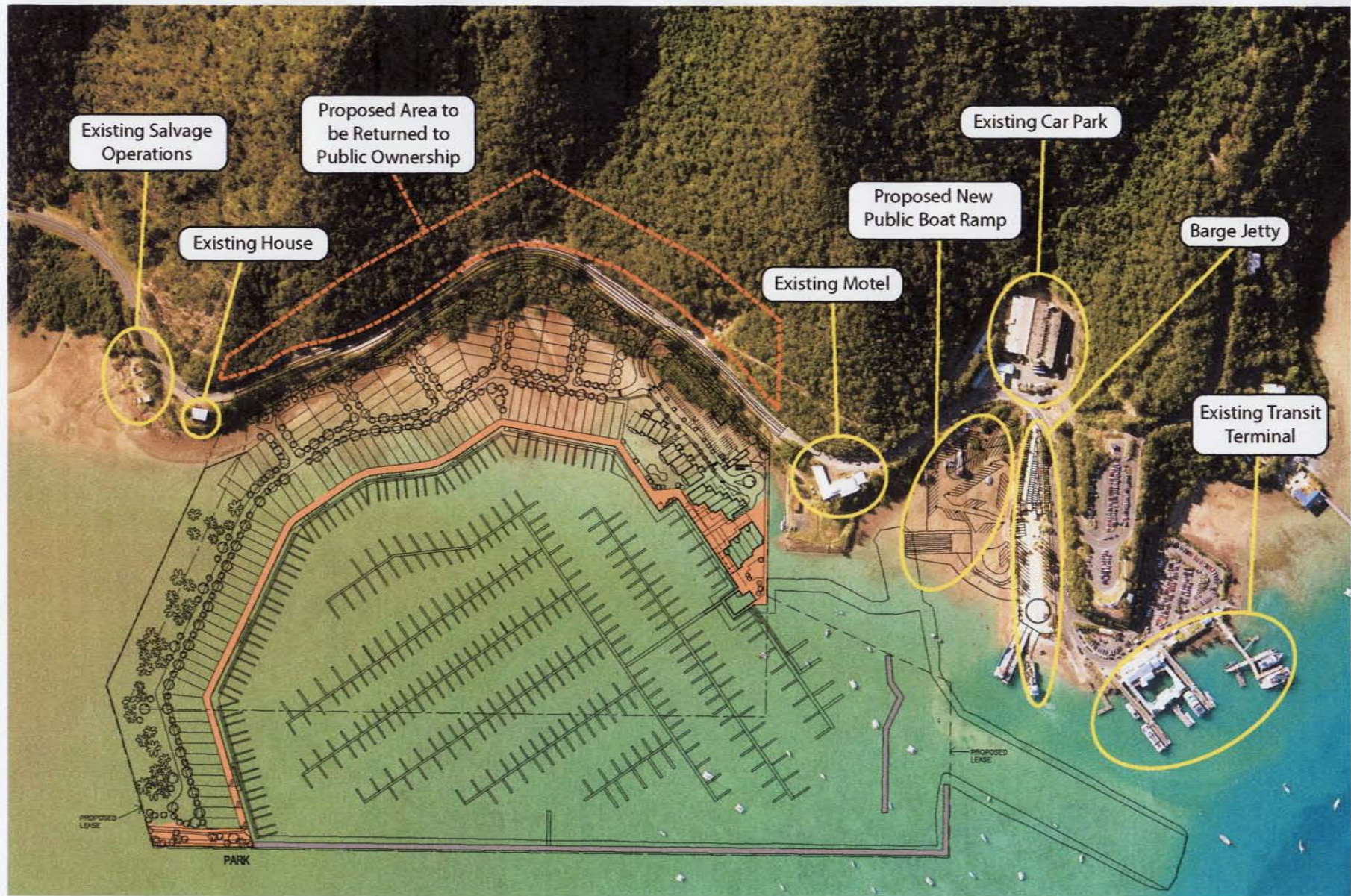


Figure 1: Cadastral map showing the Shute Harbour Marina project area.



Existing Salvage Operations

Proposed Area to be Returned to Public Ownership

Existing House

Existing Car Park

Proposed New Public Boat Ramp

Barge Jetty

Existing Motel

Existing Transit Terminal

PROPOSED LEASE

PARK

PROPOSED LEASE



SHUTE HARBOUR MARINA

SCALE 1:2000 @ A1
 DRAWING NO. 05 SK01
 CHECKED
 DATE 20-11-07
 SD12

REV 0	ADDENDUM OBSERVATIONS	20-11-07
REV 1	GENERAL REVISIONS	08-11-07
REV 2	ROAD LAYOUT	13-11-07
REV 3	ROAD LAYOUT	06-11-07
REV 4	GENERAL REVISIONS	24-10-07
REV 5	COMMENTS	DATE

STUDIO TEKTON
thoughtful place making
 ARCHITECTURE PLANNING INTERIOR DESIGN
 105 SPENCE STREET, SUITE 100, MELBOURNE VIC 3000
 TEL: (03) 2297 4900 FAX: (03) 2297 4903

Figure 2: Concept Master Plan showing the Shute Harbour Marina project.

PUBLIC NOTICES

PUBLIC NOTICE: CULTURAL HERITAGE MANAGEMENT PLAN Aboriginal Cultural Heritage Act 2003

Shute Harbour Marina Development Pty Ltd was declared a "significant project" under Section 26(1)(a) of the *Queensland State Development and Public Works Organisation Act 1971* by the Coordinator-General on 24 July 2006. This declaration initiates a statutory Environmental Impact Assessment (EIS) for the Proposal. Shute Harbour Marina Development Pty Ltd intends to develop a Cultural Heritage Management Plan for the proposed project, pursuant to Part 7 of the *Aboriginal Cultural Heritage Act 2003*. A requirement of the Act is that a Cultural Heritage Management Plan be developed for any EIS.

Project: The proposed Shute Harbour Marina development is an integrated marina development encompassing 733 marine berths, a commercial and tourism precinct with a four star tourist resort, a residential tourism precinct and landscaping adjacent to Shute Harbour Road.

Sponsors name: Shute Harbour Marina Development Pty Ltd

Contact Details: Dave Quinlan (07) 3252 0999

Address: PO Box 1001, Spring Hill, Qld 4006

For the purpose of this Notice, the Notice Day is 6 September 2007

The Cultural Heritage Management Plan will be conducted over the following area:

GPS Coordinates: GPS Coordinates: 20° 17.4'S, 148° 46.5'E

Lot / Plan description: Lot 2 plan SP117389, Lot 273 on plan HR 1757 and adjacent area covered by a short term permit to occupy

Shire: Whitsunday Shire

Parish: Conway

County: Carlisle

Locality: Shute Harbour

Nearest town: Airlie Beach

Other identifiable features: adjacent to the Conway National Park.

If you are, or have been, nominated as an Aboriginal Party (as defined by Part 4 of the *Aboriginal Cultural Heritage Act 2003*) to act on their behalf and you wish to take part in the Cultural Heritage Management Plan, you must give a written notice to Dave Quinlan, Project Manager at Shute Harbour Marina Development Pty Ltd, advising that you wish to take part by 30 days after the Notice Date above.

Shute Harbour Marina Development Pty Ltd may elect not to endorse any Aboriginal party if not advised in writing within the required time.

Francis Vanessa

From: Francis Vanessa
Sent: Thursday, 5 July 2007 11:36 AM
To: 'Michelle Bird'
Subject: Cultural Heritage Search - Shute Harbour Marina Development

I refer to your application in which you requested advice on Aboriginal cultural heritage places recorded on the above location.

I wish to advise that the search has been performed on the inventory of recorded Aboriginal sites as per your description. Attached is a list which highlights the identified Aboriginal cultural heritage sites, as recorded for the search area. However, it is not possible to conclusively guarantee the accuracy of these recordings (in particular, the longitude and latitude location description for each site) and extra diligence is required when operating in these locations.

Site ID	Latitude	Longitude	Attribute
HJ:A37	-20.29045	148.776533	SHELL MIDDEN

All significant Aboriginal cultural heritage in Queensland is protected under the *Aboriginal Cultural Heritage Act 2003*, and penalty provisions apply for any unauthorized harm. Under the legislation a person carrying out an activity must take all reasonable and practical measures to ensure the activity does not harm Aboriginal Cultural Heritage. This applies whether or not such places are recorded in an official register and whether or not they are located in, on or under private land.

Aboriginal cultural heritage, which may occur on the subject property, is protected under the terms of the *Aboriginal Cultural Heritage Act 2003* even if Natural Resources & Mines has no records relating to it.

Please refer to our website www.nrm.qld.gov.au/cultural_heritage/index.html for a copy of the gazetted Cultural Heritage duty of care guidelines, which set out reasonable and practical measures for meeting the duty of care. In order to meet your duty of care, any land use activity within the vicinity of the recorded cultural heritage, should not proceed without the agreement of the Aboriginal Party for the area or a Cultural Heritage Management Plan undertaken pursuant to Part 7 of the *Aboriginal Cultural Heritage Act 2003*.

For further queries including advice regarding the contact details for the Aboriginal party for the area, please contact me on (07) 3238 3839.

Kind Regards



Vanessa Francis
 A/Policy Officer | Cultural Heritage Coordination Unit
 Department of Natural Resources and Water

Level 5 Landcentre | Cnr Main & Vulture Sts | Gabba Q 4102
 P 323 83839 | F 323 83842 | www.nrw.qld.gov.au

5/07/2007