

B11

AIRPORT AND SURROUNDS

INDIGENOUS CULTURAL HERITAGE



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11.1 INTRODUCTION

This chapter provides details on Indigenous Cultural Heritage (ICH) associated with the Sunshine Coast Airport Expansion Project (the Project).

The development of appropriate ICH and native title compliance takes into account the requirements of various legislation. The minimum legislative requirement would be the development of a Cultural Heritage Management Plan (CHMP) with the relevant Aboriginal Party(ies). Any CHMP will generally require a cultural heritage survey and the development of appropriate management recommendations, and will guide the Sunshine Coast Airport (SCA) in meeting its cultural heritage duty of care.

The Environmental Impact Assessment (EIS) section provides a desktop assessment of ICH in the project area, which includes placing the project area into its heritage context, searches of relevant literature and State registers and databases, and an assessment of the landscape from a cultural heritage perspective. The development of CHMPs will continue after the finalisation of the EIS.

11.1.1 Methodology and assumptions

11.1.1.1 Methodology

An understanding of the landscape, especially in the pre-contact period, is essential to a discussion of the context of ICH. In order to inform our understanding of the landscape and its relationship to ICH, it is necessary to understand what is currently known about this area. The methodology for this study is therefore founded on contextual research which consists of searches of relevant State registers and databases, historical literature and other sources, such as previous cultural heritage reports of the area. The assessment will provide an analysis of the landscape context in which cultural and social events have occurred in the past and assists in understanding whether ICH is likely and what form it might take.

These contextual components will form an integral part of the preparation of the EIS. They will later be expanded by the results of a cultural heritage survey and reporting, and consultation with the Aboriginal Party(ies) as part of the development of the CHMP.

The final result will provide a detailed understanding of ICH in and near the project area, and will include a description of all ICH, significant Aboriginal areas and significant Aboriginal objects, appropriate recommendations for management, and other aspects that the Party(ies) to the CHMP may regard as important.

11.1.1.2 Assumptions and technical limitations

Archaeology and allied cultural heritage studies, as a science, are limited by the fact that the record of past activities is never complete. The possibility of finding cultural heritage material, short of conducting a full archaeological investigation, can never be completely excluded. Even in the context of a full excavation, only physical remains would be revealed and other aspects of cultural heritage, such as intangible places like sacred sites, would not necessarily be apparent. For this, as well as many other reasons, full archaeological excavations are only best practice when it is not reasonable or possible to provide protection for cultural heritage. Given this scenario, predictive modelling and landscape analysis provide a much more effective tool for analysing the likelihood of cultural heritage being encountered.

Standard assumptions about the archaeological record and cultural heritage landscape are therefore built into this analysis. These assumptions will be identified in the relevant sections of this chapter, in the context of the analysis itself. Examples of these assumptions include the fact that people behaved in an understandable manner in the past and would have made decisions similar to those that people would make today, e.g. it is considered unlikely that people would choose to camp in a location subject to regular inundations, although they may use such a landscape for other activities, such as procuring food or even ceremonial events.

11.2 POLICY CONTEXT AND LEGISLATIVE FRAMEWORK

11.2.1 Commonwealth legislation

11.2.1.1 *Environment Protection and Biodiversity Conservation Act 1999*

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the key national heritage legislation and is administered by the Commonwealth Department of Environment. The 2004 amendments to the EPBC Act established the Commonwealth and National Heritage Lists.

Following from the Burra Charter's ethics (see [Section 11.2.1.2]), Section 528 of the EPBC Act defines the 'heritage value' of a place as including the place's natural and cultural environment having aesthetic, historic, scientific or social significance, or other significance, for current and future generations of Australians. The EPBC Act covers both Indigenous and non-Indigenous cultural significance. Section 10.03A of the EPBC Regulation defines nine Commonwealth Heritage criteria for evaluating, identifying and assessing the Commonwealth Heritage values of a place.

11.2.1.2 The Burra Charter 1999

In 1999, Australian ICOMOS defined a Charter for Places of Cultural Significance, this became known as the Burra Charter. Although not codified in law, the Burra Charter is the foundation document upon which Australian cultural heritage management best practice is based.

Using the Burra Charter as a reference base, scientific significance of an area or object is assessed according to its research potential and representativeness. Archaeological research potential refers to a site's ability to provide information on past human activities, particularly everyday life, which more often than not is not available in documentary sources. Representativeness refers to the ability of one site or a sample of sites to represent as accurately as possible the range and frequency of site types in a particular area. The notion of representativeness is also related to the maintenance of site diversity: the rarer a site, the greater its significance.

11.2.1.3 Native Title Act 1993

The *Native Title Act 1993* (NT Act) provides statutory protection for native title wherever it continues to exist over land or waters. It is a blanket protection created by rendering any activity affecting native title after 23 December 1996 invalid at law unless the activity is covered by one of provisions in Part 2, Division 3 of the NT Act. The NT Act also contains a statutory process to enable the formal recognition of native title rights wherever they exist. That process involves a traditional owner group filing a native title claim with the Federal Court of Australia. Hence the claim process is a legal proceeding of the Court, albeit with a range of special features specific to native title proceedings. At the end of what can be a long and complex statutory process (the "claim process"), the Court may finally determine the extent of native title rights by deciding whether native title in respect of the claimed area exists or not and the extent of rights associated with it.

Where a traditional owner group makes a native title claim, the group is technically referred to as the "native title claim group". At the beginning of the claim process, at the 'authorisation meeting', the native title claim group authorises specific persons from its number to be listed as the applicants for the claim and who are to undertake the claim on group's behalf. For the purposes of the claim process, those persons are called the "applicant". Under the NT Act, it is the task of the National Native Title Tribunal (NNTT) to consider at an early stage in the claim process whether the claim is to be "registered" (i.e. entered on the NNTT's register of native title claims). Where a claim is registered, the claim is called a "registered native title claim" and the applicant, when referred to in the context of native title, is technically called the "registered native title claimant".

Until a native title claim is determined by the Court one way or another, it is generally assumed that native title could continue to exist (and hence could be affected by activities). Only in respect of a particular parcel of land where it can be shown that native title has previously been completely extinguished at law, can it be said with absolute legal certainty that native title does not exist. Hence activities that may affect native title in non-extinguished areas require assessment irrespective of whether the location is currently subject to a native title claim or not.

Sunshine Coast Council (SCC) may in future undertake activities with respect to land which may affect native title. Third parties (including the State of Queensland and other government authorities), may undertake activities at the request of, or for the benefit of, a proponent which also affect native title. These activities are termed 'future acts' under the NT Act. The NT Act creates certain statutory notice and/or procedural or other rights which the proponent of a future act may need to satisfy depending on which of the native title compliance options applies. Different rights apply to different options.

In Queensland, the registration of a native title claim pursuant to the NT Act is used by the *Australian Cultural Heritage Act 2003* (ACH Act) to determine who the Aboriginal party is for an area of land. This is discussed in Section 11.2.2.

In addition to the above-mentioned legislation, the following national legislation is relevant to heritage:

The ACH Act provides for the establishment of the Australian Heritage Council, which is the principal advisory group to the Australian Government on heritage matters. This Act also provides for registration of places, including those of Indigenous origin, considered of national significance on the Australian Heritage Places Inventory, the National Heritage List and the Commonwealth Heritage List.

11.2.2 State legislation

In Queensland, the assessment of significance for ICH is guided by the ACH Act and its gazetted guidelines. The ACH Act acknowledges in its fundamental principles that 'recognition, protection and conservation of Aboriginal cultural heritage should be based on respect for Aboriginal knowledge, culture and traditional practices' (Section 5(a)) and that 'Aboriginal people should be recognised as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage' (Section 5(b)). These principles are implied in the ACH Act's definition of Aboriginal cultural heritage, which is defined as anything that is 'a significant Aboriginal area in Queensland; or a significant Aboriginal object; or evidence, of archaeological or historic significance, of Aboriginal occupation of an area of Queensland' (Section 8). A significant Aboriginal area or object is defined as an area or object of 'particular significance to Aboriginal people' because of Aboriginal tradition or the history, including contemporary history, of any Aboriginal party in the area (Sections 9 and 10).

A registered native title claimant is given special legal status as the party to be dealt with in respect of ICH, known as Aboriginal cultural heritage under the ACH Act, and is deemed by law to be the “Aboriginal Party” in respect of all land and waters within the external boundaries of the registered native title claim.

The application of significance is ultimately the responsibility of the Aboriginal Party, who may have regard for ‘authoritative anthropological, bio-geographical, historical and archaeological information’ provided by a person with skills in that area. For this reason, the assessment of significance may be achieved by an amalgamation of both scientific and cultural approaches.

Under the ACH Act, Aboriginal cultural heritage includes areas and objects where there may be no physical manifestation of human use, but that are culturally significant to Indigenous people. It also includes places of archaeological or historical significance. Notably, under the ACH Act significant cultural places are not restricted to the period prior to contact with non-Indigenous people and may include places and events that date from contemporary history. In particular, if such events relate to a specific place in the landscape, then that place (i.e. a site in archaeological terms, or an area or object in accordance with the ACH Act) may become significant to the Indigenous communities connected to it.

Importantly, an assessment of the levels of scientific significance of a particular object or place is not always consistent with Indigenous people’s cultural evaluations, and as such, under the ACH Act, Indigenous cultural values of an area or object override other forms of significance assessment.

11.3 EXISTING CONDITIONS

11.3.1 Bio-geographical context

This section describes the project area including the coastal land component surrounding the existing SCA and the area pinpointed for expansion. The geomorphology of this area includes Quaternary and Holocene dunes and swales. From a cultural perspective, the geology of the project area would not have provided good resources for the manufacture of stone tools. This does not discount the significance of local natural features. For example, Mount Coolum is the obvious exception to the sandy landscape, being composed of a rhyolite intrusion through sandstone from a volcanic episode in the Oligocene (about 26 million years ago). Mount Coolum has very high levels of cultural significance to Aboriginal people of the district, being identified with a Dreamtime ancestor and story (see **Section 11.3.2.2**).

Vegetation of the region includes *Melaleuca quinquenervia*, *Banksia integrifolia*, *Banksia robur*, *Acacia spp*, *Livistona spp* and some eucalypts with an understorey of sedges and ferns, including the “bungwall” fern or swamp water fern, *Blechnum indicum*. Some wallum communities are also found in the immediate vicinity of the airport. Several endangered plant species occur in the area. These include the Mt Coolum she-oak *Allocasuarina thalassoscopica*, Emu Mountain she-oak *Allocasuarina emuina*, Mt Coolum *Bertya Bertya sharpeana* and *Lepidosperma spp*. Fauna includes a range of animals, birds, reptiles and amphibians usually associated with swales and swampland, including several species of frog including the Wallum Sedge Frog (*Litoria olongburensis*), Wallum Rocketfrog (*L. freycineti*), and Wallum froglet (*Crinia tinnula*), ground parrot (*Pezoporus wallicus wallicus*), Australian wood duck (*Chenonetta jubata*), Eastern Grey kangaroo (*Macropus giganteus*), echidna (*Tachyglossus aculeatus*), yellow-footed antechinus (*Antechinus flavipes*), grassland melomys (*Melomys burtoni*), northern brown bandicoot (*Isodon macrourus*) and flying fox (*Pteropus poliocephalus*) (Wildlife Online 2012).

The large range of plants and animals listed in this area reflects the biodiversity and rich swamp/swale environment. Environments such as these are known to have been a focus for people in the past, because they provided a wide range of resources. Although not necessarily comfortable places to live, at the least the wetland areas were important and rich resource areas. In addition, the proximity of the mainland part of the project area to the beach would have provided rich seafood resources at specific times of the year. For example, mullet fish runs in the early months of winter were a reliable source of vast quantities of seafood for local Indigenous people.

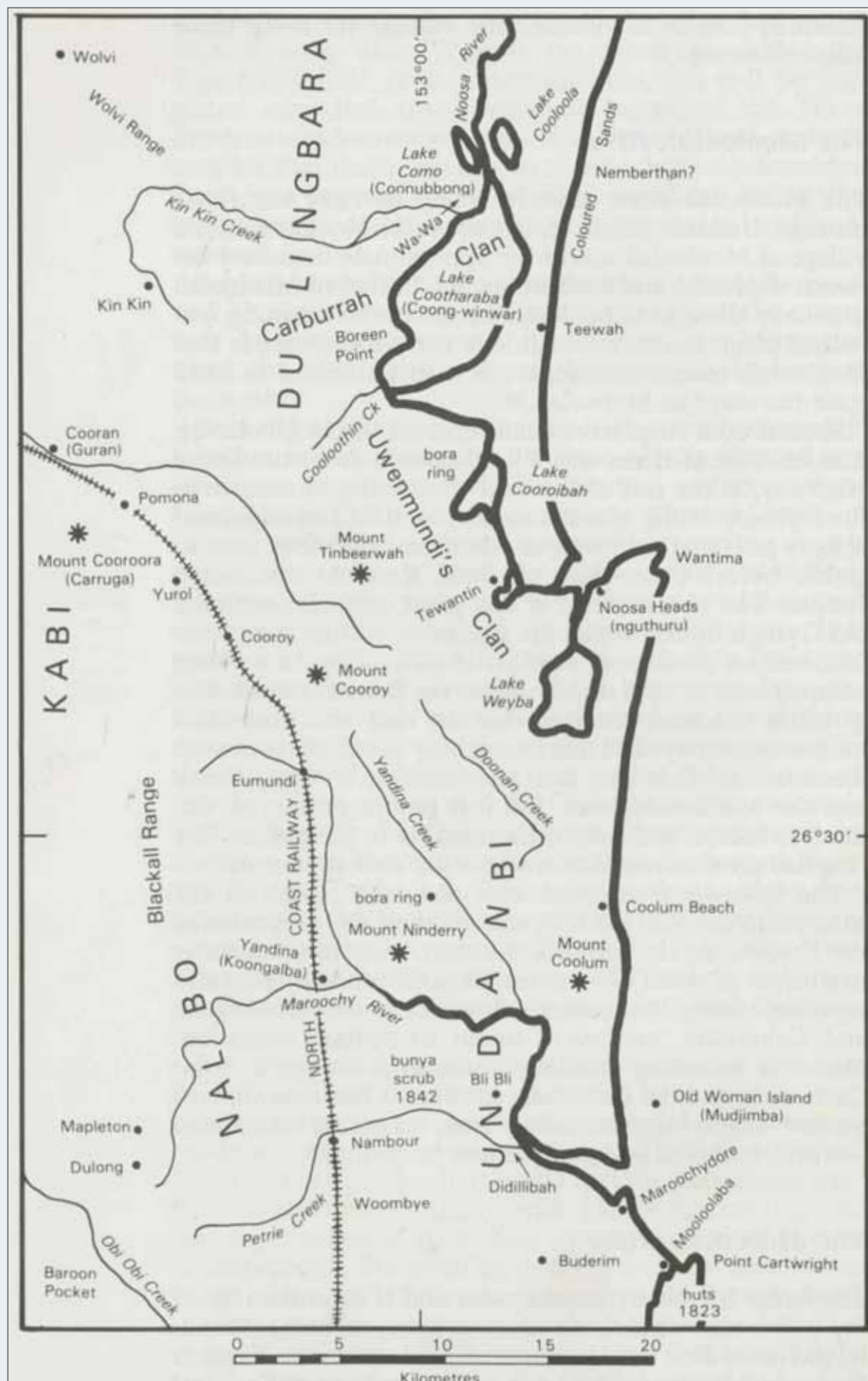
11.3.2 Indigenous cultural heritage in the onshore Project area

11.3.2.1 Background

The SCA is situated at Marcoola near Coolum beach on the North Coast. Research throughout the twentieth century has concluded that the inhabitants of the Sunshine Coast were members of the Kabi language group (Wells 2003, Steele 1984, Watson 1946, Mathew 1910) (refer **Figure 11.3a**). Thus, the Kabi language area is known as the area along the coast around the Burrum, Mary, Noosa, Maroochy, Mooloolah and Caboolture Rivers and out to Maryborough, and included the area from Gympie out to west of Kilkiven (Tainton 1976:16). A persistent theme in ethno-historical accounts is a distinction between coastal and inland people. For example, Winterbotham (1957:8-9) states that Gaiarbau (a Jinibara man who knew of and interacted with Kabi Kabi people) informed him that:

‘the coastal tribes collectively called themselves Bugarnuba, but that to him they were known as Mwoirnewar, or salt water people. This term is applied to the Gabi Gabi, Undumbi, and Dulingbara’.

Figure 11.3a: Map from Steele (1984:176)



Although group names have been disputed, it is possible to say that there was a similarity of culture for Indigenous groups occupying the coastal strip east of the Great Dividing Range, from northern New South Wales to the Wide Bay area (Whalley 1987; Godwin and Creamer 1984).

11.3.2.2 Indigenous cultural history

Areas within the Sunshine Coast have significance and spiritual meaning to the local Indigenous people. The legends of the formation of significant landforms within the project area are known to be of fundamental spiritual and cultural value to traditional indigenous groups throughout the Kabi speaking area, and indeed South East Queensland (Steele 1984:178).

The legend of Maroochy has several different versions. The most commonly referenced version begins with two children Marutchi and Coolum, who grew up together and were to be married (McBurney 1979:19). However Ninderry, an older rival from within the clan, planned to steal the beautiful young woman, Marutchi from Coolum. Ninderry, jealous of Marutchi and Coolum's love, cut off Coolum's head which rolled into the sea (McBurney 1979:23). Coolum's head became Mudjimba Island and his body Mt Coolum. Angry with Ninderry, the spirits turned him into a menacing and evil-faced mountain, while, full of grief, Marutchi fled inland to the Blackall Range (McBurney 1979: 28). Her tears flowed down the mountain to form the Maroochy River (McBurney 1979:27). The name Maroochy means swan (Steele 1984:175). Some versions of the Maroochy legend end with Marutchi turning into a black swan, which are commonly seen on the river (see **Figure 11.3b**).

Stories such as this demonstrate the intangible significance of the landscape to Indigenous people. Landscape features such as mountains, rivers and islands were associated with beings in the stories and thus have high levels of cultural significance.

Historical accounts strongly suggest that the coastal groups around and on the North Coast were relatively mobile. The lifestyle of the coastal groups was underpinned by varied food resources available from both land and marine environments. The use of "bungwall" (*Blechnum indicum*) fern root as a staple part of the Indigenous diet at the time of contact with Europeans has been well documented (Hall 1982). An indication of the processing of fern root is found in the specific artefact, the "bungwall basher" or chopper, characteristic of SE Queensland (Gillieson and Hall 1982; Kamminga 1982). The bungwall fern root is found in coastal swamps, such as those in the National Parks surrounding the SCA.

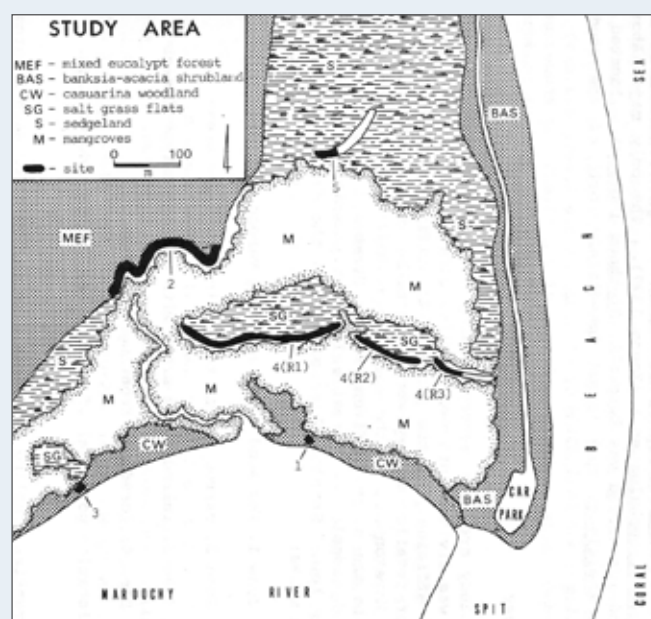
Figure 11.3b: Black swans on the Maroochy River, Maroochydore, 1965 (Sunshine Coast library)



People travelled in order to take part in social gatherings, and also to access particular resources. Large social gatherings were a feature of Indigenous life in South East Queensland. Indigenous people came together for the winter mullet runs along the coast and the bunya nut harvests in summer. Mullet fishing practices were intricate and involved many different people. The hand signals and groups working together to lure the fish into shallow water is another example of different groups interacting with each other and working together (Winterbotham 1957:80-82).

Trade and exchange of materials and goods was an important aspect of these social gatherings. Petrie (1983:56) comments on this on several occasions, including: “the inland blacks would give weapons, opossum rugs, dogs, etc., to the coast blacks for dillies made of rushes that grew only on the coast, shells for ornaments, and reed necklaces”. The focus of these gatherings often appeared to be an earthen circle or “bora ring”, of which over 120 are documented in the Moreton Region (Satterthwait and Heather 1987). A number of bora rings have been previously reported in the Sunshine Coast area, including one with two rings at Landsborough, a single ring on the junction of Old Gympie Road and Mooloolah Road, one at Ninderry west of Coolumb, one at Picnic Point, Maroochydhore and a two-ringed bora at the junction of Sippy Creek and the Mooloolah River. Other rings on both Goats Island and on the northern banks of the Maroochy River have also been reported. The ring at Mooloolah has been destroyed. The position of the ring reported on the north shore of the Maroochy River is currently unknown.

Figure 11.3c: Sites at the mouth of the Maroochy River (McNiven 1989)



11.3.2.3 Archaeological evidence

In 1988 Ian McNiven conducted a preliminary archaeological survey of the proposed Twin Waters Resort at the mouth of the Maroochy River. During the survey, McNiven located three sites and two site complexes (McNiven 1988:12). All sites consisted of varying proportions of shell and stone artefacts. In 1989 McNiven examined these sites in detail. They consisted of a series of shell midden and stone artefact sites (5 in total) located at the mouth of the Maroochy River (Figure 11.3c) (McNiven 1989). McNiven found that shellfish remains dominated both sites, suggesting that Aboriginal people were choosing particular areas to process and collect shellfish material. Oyster, cockle and club whelk were found to be the most common shellfish types at the sites indicating that collections were focused on the tidal estuarine mudflats and mangrove forests that border the Maroochy River (McNiven 1989, 1990).

A range of stone raw materials were processed at the sites. Significantly, bevel-edged tools dominated the stone tool assemblages, indicating that plant foods, particularly the starchy root of the bungwall fern, found in the project area, were processed at the sites (McNiven 1989).

In 1996 Davies and Salmon conducted a Cultural Heritage Assessment (CHA) in parts of the eastern portion of the Maroochy Shire (Davies and Salmon 1996). A large artefact scatter (MS48) containing an estimated 360 artefacts was defined in a paddock that had been used for sugar cane cultivation for a number of years. Whilst the integrity of the site was low, some scientific value still remained due to the large number and variety of artefacts represented at the site. The assessment indicated that artefactual material might still be discernible in areas that have been cultivated over a long period.

Studies in the area include two undertaken in 1998, one to examine the cultural heritage issues associated with a proposed Optus mobile phone transmission site, located at Airport Drive, SCA, Maroocha (Wallin 1998a) and the other examining cultural heritage issues with regards to a proposed water pipeline corridor between Landers Shute and the Mooloolah River (Wallin 1998b). No Indigenous cultural heritage was identified on those occasions, however other studies have identified further archaeological sites in the region. These include two artefact scatters and a shell midden identified during a study of cultural heritage issues associated with the proposed Multi-Modal Transport Corridor within the area between Intersection Number 4 and the Mooloolah River, Sunshine Coast, South East Queensland (ARCHAEO 2001).

Eighteen Indigenous cultural heritage sites were located during a cultural heritage survey and assessment for a proposed mixed use development at Plaza Parade, Maroochydhore (ARCHAEO 2003). The 2003 survey area is approximately 4 km away from the airport project area. These including ten isolated stone artefacts, five stone artefact scatters, a shell scatter, an artefact and shell scatter and a cultural resource area (ARCHAEO 2003). Many other studies conducted in the area highlight the importance of the area in terms of its Indigenous cultural heritage significance.

These include assessments conducted by ARCHAEO in the surrounding areas of Coolum Beach, Maroochydore, Mudjimba and Bli Bli (ARCHAEO 1996, 2001a, 2001b, 2003a, 2003b, 2004a, 2004b, 2004c, 2004d, 2004e, 2005a, 2005b, 2008).

A large number of sites and Indigenous cultural heritage material has been identified through both consultancy based and academically based projects. However, no known sites or places of Indigenous cultural heritage have been identified within the area of SCA itself.

11.3.2.4 Contact and post-contact periods

In April 1842, the Colonial Secretary's Office in Sydney under the direction of Governor Gipps, proclaimed a district around the Mooloolah/Maroochy Rivers westwards to the Blackall Ranges as a Crown Land Reserve for the use of Indigenous people. In an effort to maintain stands of Bunya trees, in recognition of their considerable economic importance to Indigenous people of the Moreton Region, the Proclamation directed that no licences to cut timber be granted (Alcorn 1991:32). At the time, the country held little interest to pastoralists, and the ban on timber cutting effectively kept European commercial interests at bay. It has been argued that the Proclamation created an Aboriginal Reserve, staving off the impact of European settlement for the coastal groups of the North Coast for over a decade (Heap 1965:4).

On separation in 1859, Queensland assumed full control of the alienation and administration of land. As one of its first acts, the new Queensland Parliament passed the *Unoccupied Crown Lands Occupation Act 1860*, which repealed Gipps' 1842 Proclamation of Crown Reserve for Indigenous use, and provided for squatters' and timber-getters' licences in the area (Heap 1965:5).

After European settlement and the development of the area, the numbers of Indigenous people living in the Sunshine Coast region decreased dramatically. For example, June Bond (Sunshine Coast Council 1985) described how a friend of her mother, Mrs McGowan, shared stories with June about life and the movement of Aboriginal families to Cherbourg. In order to free up land and remove the presence of Indigenous people on the leased land mass shootings of Indigenous groups by Europeans were reported (Sunshine Coast Council 1985). European diseases were also a major contributing factor in the decrease of Indigenous populations at this time. Smallpox, leprosy, measles, influenza, and syphilis had a dramatic affect on indigenous populations (Adams 2000).

Throughout the nineteenth century, various missions and Aboriginal reserves were created in the region. Most of these closed and after 1887, most of the people were removed to Barambah (today known as Cherbourg), although some Kabi people were also sent to far-away missions such as Hopevale near Cairns.

Within relatively close proximity to the Project area exist a few places where massacres and killings were believed to have occurred. There was an incident at Murdering Creek, now named, where numerous Indigenous people were ambushed and murdered. It is reported by Tom Petrie that a Kabi man, Karal, told Petrie that Indigenous people were given poisoned flour at "Nindery" (Canando) cattle run in the 1850s, the exact date being unknown (Heap 1966:10). Some Indigenous people became fringe-dwellers around townships, working as stockmen or selling fish and stripped bark in exchange for rum and tobacco (Davis and Salmon 1995:35).

However, there are also positive stories from this period, which demonstrate how the Kabi people were able to maintain continuous connection to their country and their laws and values. For example, Daniel Skyring named his property Mumbeanna after an Indigenous person named Mumbeah with whom he was friendly (Gregory 1991:6). The early timber-getters followed Petrie's example and employed Indigenous labour. Ivan Guy said that his family, pioneers in the Buderim area, never had any trouble with the local Indigenous people "If they were kind and respectful to the native people they never worried them" (Tutt 1995:192).

11.3.2.5 Twentieth century

Most of the Aboriginal people from the Maroochy region had been removed to Barambah Aboriginal Settlement (Cherbourg) by the early years of the twentieth century. They were joined by people from tribes all over Queensland. According to June Bond (Sunshine Coast Council 1985), the older people at Cherbourg kept strictly to their own camp areas at Cherbourg and would only associate with people to whom they were related. Thus she recalls her mother and grandmother associating with people from Noosa and the Maroochy River, as they were all Kabi Kabi people. Bond relates that she remembers young people often trying to walk "home", away from Cherbourg and back to the lands their families had come from. She also recalls that Aboriginal people were no longer moved to Cherbourg from around the time of the Second World War.

Further views with regards to Aboriginal people's perspectives of this background will be considered during the CHMP program with the Aboriginal Party, should additional information be provided.

11.4 DESCRIPTION OF SIGNIFICANCE CRITERIA

It should be re-stated that the ultimate determination of ICH significance lies with the Aboriginal Party. While ICH may be determined by scientific (archaeological) significance or by the assigning of tangible or intangible heritage values by the Aboriginal Party, ultimately the Aboriginal Party's evaluations take precedence.

Preliminary conclusions may be drawn from the desktop study reported here. However, the final assessment will require both consultation with the Aboriginal Party and a field survey and report conducted by the Aboriginal Party.

Protection, management and mitigation measures will be discussed and incorporated into the cultural heritage survey report, following completion of the survey. The CHMP will give directions on agreed and appropriate protection, management and mitigation measures for ICH.

Scientific criteria of significance include the nature of the site, using measures such as extent, time depth and activities present. In all cases the criteria defined by the Burra Charter, described in **Section 11.2.1.2**, are the starting point for assigning scientific significance.

11.5 POTENTIAL IMPACTS AND MITIGATION MEASURES

11.5.1 Consultation

Following Converge's assessment of ICH in the project area, it was apparent that ICH issues could arise during the course of the Project. In addition, Part 7 of the ACH Act requires the development of a CHMP with the relevant Aboriginal Party(ies) if a project is conducting an EIS process.

For the purposes of developing a CHMP, registration of the Kabi Kabi First Nation Claim provides certainty as to the Aboriginal party for those lands and waters falling within the registered claim area and are therefore deemed to be the Aboriginal Party for this area in accordance with Section 34 of the ACH Act. The Kabi Kabi First Nation Claim area does not include areas below the low water mark that fall within the Project Area. Consequently, for offshore areas it was necessary to publicly notify SCA's intention to develop a CHMP in order to determine who should be endorsed for the purpose of developing the CHMP (in relation to offshore areas, only, refer Chapter C6 – Other Considerations).

Given this scenario, the most appropriate course of action was to initiate consultation with the Kabi Kabi First Nation with a view to negotiating a CHMP for the mainland section of the project area, and separate CHMPs for the areas where the dredge material pipeline passes offshore together with potential spillage area, and the area in the Spitfire Channel where dredging will occur, both of which are outside the Kabi Kabi First Nation Claim. This process is now underway.

Consultations have also taken place with the Quandamooka People. It is anticipated that the Kabi Kabi People will seek endorsement for the CHMP over the area offshore of the airport, and both the Kabi Kabi People and the Quandamooka People will seek endorsement for the CHMP over Spitfire Channel.

It is expected that a cultural heritage survey will be undertaken by the Aboriginal Party. This survey will be used to inform the development of each CHMP. It will be the responsibility of the Aboriginal party to identify ICH significance within the project area and to assess the impact on the cultural heritage values that the Project will produce.

Each survey will be conducted in accordance with the formal requirements of Part 6 of the ACH Act.

The CHMP(s) will contain the following, in accordance with Part 7 of the ACH Act:

- A process for including Indigenous people associated with the development areas in protection and management of Indigenous cultural heritage
- Approaches that will manage avoidance of harm to Aboriginal cultural heritage, or if harm cannot reasonable be avoided, to minimise harm
- The reasonable requirements and methodologies for carrying out cultural heritage surveys and preparing cultural heritage survey reports
- Processes to achieve acceptable protection, management or mitigation of potential harm to Aboriginal cultural heritage during both the construction and operational phases of the development will be included
- Arrangements to ensure workplace health and safety requirements are observed during cultural heritage surveys and management or mitigation work programmes
- Arrangements for notification about Project activities and work programmes, including Project area access
- A conflict resolution process
- A new finds process, incorporating a clear recording process, will cover procedures for managing accidental discoveries of ICH
- A cultural heritage induction for Project staff
- A process for developing a cultural heritage awareness program, to be incorporated into the contractor/ employee manual and induction manual. This will be in the form of a plain language, short document that is easy for contractors and staff 'on the ground' to understand.

The Department of Aboriginal and Torres Strait Islanders and Multicultural Affairs will be informed of the CHMP at its commencement, and the Chief Executive will be requested to approve it upon completion and execution. If the CHMP have not been approved when the EIS is submitted to the Coordinator-General, an outline of the draft CHMPs that addresses management and protection strategies for cultural heritage, subject to confidentiality provisions, outlining the

position of the relevant parties, as well as details of the proposed steps and timeframes for finalising each CHMP may be provided.

11.5.2 Impact assessment

All potential impacts will be assessed with regard to the value or significance of ICH that is identified during consultation and the cultural heritage surveys undertaken for each CHMP. Cultural heritage significance relates to people's perspective of place and sense of value, within the context of history, environment, aesthetics and social organisation.

The scientific and Indigenous cultural assessments of significance and impacts will be carried out as part of the cultural heritage surveys. Protection, management and mitigation measures will be discussed and incorporated into cultural heritage survey reports, following completion of each cultural heritage survey. In addition, the cultural heritage survey reports will go through a period of review by the parties to the CHMP, and if required, the parties can meet to finalise agreed management approaches.

If ICH additional to that found during cultural heritage surveys is found during project works, the CHMP will have a new finds section that provides the parties with guidance on what courses of action to follow in the event that this occurs. This process, in conjunction with cultural awareness training, seeks to provide appropriate management of all new finds of Aboriginal cultural heritage during all project works.

11.5.3 Mitigation measures

The CHMP will seek to manage all aspects of ICH matters for the Project, including mitigation measures. The development of mitigation measures will be informed by the field surveys conducted by the Aboriginal Party. These surveys will identify any areas of ICH significance and the likelihood of potential harm to the ICH during project activities.

In order to mitigate the risk of harm to ICH a range of mitigation measures will be developed. These may range from avoidance of particularly sensitive ICH through to monitoring of project works in some areas with recording, collection and removal of ICH, where appropriate.

Avoidance of harm to ICH will always be the first option to be examined, and will be practised where practicable. Where avoidance is not practicable, other mitigation measures will be implemented. In parts of the project area identified as having a low risk of harm to ICH, a new finds process will be implemented to prevent harm in the event of unexpected finds of ICH.

It is possible that the Aboriginal Party may wish project staff to undergo cultural heritage awareness inductions. Such inductions would train people involved in the Project in avoidance and protection of known cultural heritage sites, what cultural heritage may reasonably be in the landscape, and what to do in the event of a find of cultural heritage not previously defined during cultural heritage surveys.

11.6 NATIVE TITLE

11.6.1 Native title extinguishment analysis and future Act options

An assessment of the potential for the ongoing existence of native title within the Project area has been conducted. The results of this assessment are as follows:

- Native title is extinguished over the majority of the Project area
- Native title extinguishment is reflected by various current tenures over much of the area. In some other lots within the Project area where current tenure itself is not reflective of native title being extinguished, native title has been extinguished by prior tenure grants (namely an historical special lease and an historical development lease)
- In other areas, including the airfield reserve, native title is extinguished by the construction or establishment of valid public works, including in areas adjacent to such public works which is or was necessary for, or incidental to, the construction, establishment or operation of the public work
- Areas within the Project area where native title may continue to exist include:
 - That part of Marcoola Beach where the dredge pipeline will be located, which is the subject of a reserve for esplanade
 - Areas offshore of Marcoola Beach where the dredge pipeline will be located
 - Spitfire Channel, where dredging will take place.

Further consideration is being given to the applicable native title future Act provisions in relation to these matters, and the procedural or other obligations arising from these.

11.6.2 Native title determinations and registered native title determination applications

There are no determined native title holders over any land or waters within the Project Area.

The entirety of the onshore parts of the Project Area is the subject of the Kabi Kabi People's registered native title determination application (QC2013/003; QUD280/2013).

Offshore parts of the Project Area are not the subject of any registered native title determination. That part of the Project Area where the offshore dredge material pipeline and sand spillage areas is located is directly to the east of the Kabi Kabi People's registered native title determination application. That part of the Project Area in Spitfire Channel lies to the east of the Kabi Kabi People's registered native title determination application (on Bribe Island) and to north-west of where the Quandamooka People are the determined holders of native title (on North Stradbroke Island).

11.6.3 Aboriginal representative body

The Aboriginal representative body for the entirety of the Project area is Queensland South Native Title Services (QSNTS). Any native title future Act procedural obligations in relation to the Project area will be directed to QSNTS and the Kabi Kabi People as applicable.

11.7

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