

# **Australia Pacific LNG Project**

## **Volume 4: LNG Facility**

### **Chapter 18: Indigenous Cultural Heritage**

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## 18. Indigenous cultural heritage

### 18.1 Introduction

#### 18.1.1 Purpose

This chapter summarises the indigenous cultural heritage assessment of the liquefied natural gas (LNG) facility site near Laird Point on Curtis Island as part of the Australia Pacific LNG Project (the Project). It provides an historical and archaeological context for assessing the likely past Indigenous use of the area, documents registered heritage places and outlines consultations that have been undertaken to date with Aboriginal parties for the area. It documents the proposed measures to mitigate any impacts that might result from development of the LNG facility. Volume 5 Attachment 38 contains the full assessment report.

Australia Pacific LNG is guided by the Australia Pacific LNG sustainability principles when identifying potential impacts the Project may have on Indigenous cultural heritage, and in the development and implementation of cultural heritage management plans (CHMPs). Of the 12 sustainability principles, the most relevant for cultural heritage include:

- Minimising adverse environmental impacts and enhancing environmental benefits associated with Australia Pacific LNG's activities, products or services; conserving, protecting, and enhancing where the opportunity exists, the biodiversity values and water resources in its operational areas
- Respecting the rights, interests and diverse cultures of the communities in which Australia Pacific LNG operates
- Engaging regularly, openly and transparently with people and communities affected by Australia Pacific LNG's activities, considering their views in its decision-making and striving for positive social outcomes
- Working cooperatively with communities, governments and other stakeholders to achieve positive social and environmental outcomes, seeking partnership approaches where appropriate.

Under these principles, Indigenous cultural heritage values are reflected in a number of ways. The primary role of Indigenous people in custodianship of their heritage is recognised. The development of CHMPs will occur through negotiation and agreement with the identified and endorsed Aboriginal party.

Identification of unrecorded Indigenous cultural heritage within the Project areas will be undertaken during dedicated field surveys. Where practical, facilities will generally be sited to avoid locations of Indigenous cultural heritage. In instances where this cannot practically be avoided, measures to mitigate impacts will be undertaken with Aboriginal parties, in accordance with agreed CHMPs.

Through the CHMPs, procedures will be developed covering the management of cultural heritage sites and values. To promote an understanding of Indigenous cultural heritage in the workplace, Indigenous cultural heritage induction for site personnel will be developed.

### 18.1.2 Scope of works

Indigenous cultural heritage has been assessed in accordance with the specific requirements of the environmental impact statement (EIS) terms of reference for the Project. Specifically, the aims of the Indigenous cultural heritage assessment were to:

- Provide a context for assessing Indigenous occupation within the Project area
- Describe Indigenous cultural heritage in the Project area
- Develop CHMPs with endorsed Aboriginal parties regarding the proposed project works in accordance with the *Aboriginal Cultural Heritage Act 2003* (ACH Act) and CHMP Guidelines that were gazetted on 22 April 2005

The CHMPs will include, among other things:

- Defined process by which Indigenous cultural heritage is identified in the LNG facility site where it has not already been identified
- Mechanisms for the development of site management strategies to enable retention of Indigenous cultural heritage values.

It should be noted that a detailed Indigenous cultural heritage assessment has not been undertaken on the mainland and marine areas. Any further assessments will be completed when a CHMP has been prepared with the relevant endorsed Aboriginal parties. Approval of the CHMP will be sought from the Chief Executive of the Department of Environment and Resource Management (DERM).

### 18.1.3 Legislative framework

In Queensland, both Commonwealth and State legislation protect Indigenous cultural heritage. The following section discusses State and Commonwealth legislation of relevance to this assessment.

#### ***Commonwealth legislation***

Three pieces of Commonwealth legislation serve to protect Australia's heritage. These are the *Environment Protection and Biodiversity Conservation Act 1999*, the *Australian Heritage Council Act 2003* and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*. The Commonwealth authority responsible for the administration of this legislation is the Department of Environment, Water, Heritage and the Arts.

#### **Environment Protection and Biodiversity Conservation Act**

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides protection for items and places with world, national or Commonwealth heritage values. Natural, historical and Indigenous heritage sites, either nominated or approved, are protected under this Act. The EPBC Act provides for the National Heritage List and the Commonwealth Heritage List. The National Heritage List provides protection for areas that demonstrate outstanding heritage value to the nation and the Commonwealth Heritage List provides for protection of areas that have significant values that are on Commonwealth land or waters. The EPBC Act also provides protection for cultural heritage items and places on the World Heritage List. The criteria used for inclusion on the National (and Commonwealth) Heritage List are outlined within the EPBC Act.

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## **Australian Heritage Council Act**

The *Australian Heritage Council Act 2003* established the Australian Heritage Council to administer the National Heritage List and Commonwealth Heritage List. The Australian Heritage Council is the principal advisory body to the Australian Government on heritage matters, particularly in relation to administering the lists now created under the EPBC Act. It replaced the Australian Heritage Commission, the authority previously responsible for assisting in the administration of Commonwealth Heritage Legislation. The Australian Heritage Council maintains an online searchable database of the National Heritage List and Commonwealth Heritage List.

## **Aboriginal and Torres Strait Islander Heritage Protection Act**

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* was enacted for "...the preservation and protection from injury or desecration of areas and objects in Australia and in Australian waters, being areas and objects that are of particular significance to Aboriginals in accordance with Aboriginal tradition."

This gives Indigenous people the right to request the responsible Federal Minister to intervene to protect cultural sites and places that Indigenous people believe to be at risk.

### **18.1.4 Queensland legislation**

#### **Aboriginal Cultural Heritage Act**

The primary piece of Queensland legislation protecting Aboriginal cultural heritage sites is the *Aboriginal Cultural Heritage Act 2003* (ACH Act). The intent of the ACH Act is to effectively recognise and protect Indigenous cultural heritage and to establish a process whereby this can be achieved. It places onus on project proponents, or anyone whose activities might harm Indigenous cultural heritage, to observe a duty of care. It provides for assessment of significance to be undertaken by identified Aboriginal parties, to be decided in a manner consistent with tradition and emphasises that the definition of areas and objects goes beyond archaeological sites to include those where there are no physical traces. It requires that a CHMP be developed when a project is required to develop an EIS. Major elements of the ACH Act are:

- Protection of areas and objects of traditional, customary and archaeological significance
- Recognition of the primary role of Aboriginal parties in Indigenous cultural heritage protection and management
- Establishment of a cultural heritage register and cultural heritage database
- The provision of a general duty of care with the onus on developers to manage their duty of care
- The mandatory requirement to prepare CHMPs in situations where an EIS is required for any project approvals
- Substantial penalties for harming Indigenous cultural heritage in breach of the ACH Act.

#### **Queensland Heritage Act**

The *Queensland Heritage Act 1992* primarily provides for the protection of non-indigenous heritage places, but also for those with joint Indigenous and non-Indigenous values.

The *Queensland Heritage Act 1992* requires local government agencies to establish their own registers of heritage places. These places may have Indigenous or non-indigenous values.

Although the requirement for local heritage lists was established under the Queensland Heritage Register and therefore would not apply to sites solely significant to Indigenous people, some local heritage overlays do include Indigenous sites. This is the case with the Calliope Shire, which includes Curtis Island. These sites could therefore be subject to provisions of the *Sustainable Planning Act 2009*. Indigenous cultural heritage sites are however offered greater protection under Queensland's ACH Act.

#### 18.1.5 Study area

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

The LNG facility site will occupy an area of modified open forest, mangroves and estuarine mud flats. Non-indigenous impacts have come from pastoral activity, bushfire regeneration, and localised tree felling. The entire island has, because of its location and history of isolation, remained relatively wooded, in contrast to the heavy industrial development of Gladstone opposite. The island bedrock belongs to the Curtis Island Group, Wandilla Formation, comprising mudstone, quartz, greywacke and pale grey chert (Gladstone Port Authority and Department of Environment and Heritage 1994). Stone artifacts made from these local stone types form much of the archaeological record.

The study area also includes marine areas adjacent to Curtis Island where various works including the construction of ship loading and unloading facilities are proposed. Mainland facilities will provide logistical support to construction and operations. Figure 18.1 outlines the Project area.

#### 18.1.6 Methodology

Assessing the potential impacts of the construction of the LNG facility on Indigenous cultural heritage has been a multi-stage process. This involves:

- A technical assessment which includes a background literature review, consultation with identified Aboriginal parties and a field survey of the land component of the LNG facility site area
- The development of a CHMP in accordance with part 7 of the ACH Act.

In accordance with part 7 of the ACH Act, a CHMP is being developed for the LNG facility site. Section 34 of the ACH Act provides a framework for the identification of an Aboriginal party or parties for particular areas. These identified Aboriginal parties are required to be consulted with regard to developing CHMPs. Section 18.2.4 provides an update relating to the progress of the CHMP development.





The initial phase of the technical assessment included collation of site information from the following sources:

- Online resources (principally for heritage site databases and regional history)
- Commonwealth Heritage Lists (World Heritage List, National Heritage List and Register of the National Estate) for sites of international and national significance
- The Indigenous cultural heritage register and database administered by the DERM
- The Queensland Heritage Register
- Register of the National Trust of Queensland
- Data in heritage studies previously carried out in nearby areas
- Publicly available books and histories.

Following this, a systematic survey of the proposed Curtis Island site was conducted with the Aboriginal party; the Port Curtis Coral Coast registered claimants. A systematic survey of the marine areas or the mainland area has not yet been undertaken, but will be in the near future as required by the relevant Aboriginal party or parties.

## **18.2 Indigenous cultural heritage values**

Included in this section is an evaluation of the archaeological context for Indigenous use of Curtis Island, the results of register searches and an update on CHMP negotiations with the identified Aboriginal parties. A detailed outline of the historical context of Indigenous use of Curtis Island can be found in the Indigenous technical report in Volume 5 Attachment 38.

### **18.2.1 Archaeological context**

There has been a substantial concentration of fieldwork on the Curtis Coast in recent years by researchers conducting investigations as part of the Gooreng Gooreng Cultural Heritage Project. This interdisciplinary study has sought to examine Indigenous sites and associated histories in coastal and hinterland settings in the region between Gladstone and Bundaberg. A number of reports have emerged from these investigations, including a series of archaeological, ethnographic, ethno-historical and linguistic studies. More recently, Ulm (2006) undertook detailed investigations of the South Curtis Coast reporting detailed research that examined a series of coastal shell midden sites.

### **18.2.2 Regional site distribution**

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

- Few substantial shell middens
- Sites were mostly located on rocky headlands or in sheltered estuaries
- Small shell scatters were found along sections of open beach.

The studies carried out as part of the Gooreng Gooreng project initially revealed similar results (Lilley and Ulm 1999). Shell middens were common on estuaries, but few were found along the beach. Furthermore, few traces of Aboriginal habitation were found on the margins of swamps behind the



beach-ridge systems. These results were also duplicated in studies conducted by Burke (1993), to the northwest of Rodds Peninsula. Burke found that while sites were common on estuaries and the beaches of the sheltered stretches of the Curtis Coast northwest of Rodds Peninsula, the sites were rare on the open coast between Agnes Water and Bustard Head on Middle Island.

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

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

### 18.2.3 Results of register searches

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

A search of the Aboriginal and Torres Strait Islander Cultural Heritage database and register identified that there are no registered Indigenous cultural heritage sites within the LNG facility study area. There are some registered sites on other portions of Curtis Island and on the mainland, opposite the Curtis Island site (refer to Figure 18.1).

The Gladstone Regional Council's local heritage overlay identified several sites with Aboriginal significance locally. These sites are located on the western side of Curtis Island, although not near the proposed Curtis Island site. There is a large artefact scatter at Ramseys Crossing; a shell midden and two linear shell middens on East Beach; and a quarry on Monte Christo Creek. The Gladstone Port Authority and Department of Environment and Heritage (1994) were the source of this information for the Council.

### 18.2.4 Cultural heritage management plan development

Australia Pacific LNG has undertaken appropriate steps to identify correct Aboriginal parties in accordance with the ACH Act. Aboriginal parties for land based areas are the Port Curtis Coral Coast registered claimants (PCCC) (NNTT number QC01/29 and Federal Court number QUD6026/01). Because there are no Aboriginal parties who are native title parties for the marine areas of the Project, Part 7 of the ACH Act requires that public notification be undertaken to identify Aboriginal parties. Public notices seeking to identify Aboriginal parties were placed in the Courier Mail, the Gladstone Observer and the Koori Mail in early December 2009. As required by legislation, any respondents may be endorsed by Australia Pacific LNG as Aboriginal parties to take part in the development of a CHMP. Australia Pacific LNG has endorsed the PCCC to participate in the development of the CHMP.

for this area and is assessing other responses that have been received prior to finalising the Aboriginal parties to be endorsed. It is expected that an agreed CHMP will be developed with the PCCC by May 2010. Negotiations with endorsed Aboriginal parties for the marine component of the Project are expected to commence in February 2010 and be completed by May 2010.

Figure 18.2 outlines the PCCC Registered Native Title Claim and the LNG facility study area.

### **18.2.5 Consultation**

Consultation with representatives of the PCCC regarding the Project commenced in April 2009. Ongoing consultation and negotiation have been undertaken with the PCCC regarding the Project and the development of a CHMP for relevant parts of the LNG facility study area. Consultation with PCCC is ongoing regarding these matters.

Should other Aboriginal parties be identified through the public notification process, they will be consulted with regarding the development of the CHMP in the marine component of the LNG facility study area.

### **18.2.6 Site survey**

Representatives of the PCCC conducted a field survey of the land based portions of the LNG facility site from 19-23 October 2009. Although conditions of ground surface visibility and exposure were poor in many areas, a number of objects were found. The highest artefact densities were found in areas where disturbance had revealed the ground surface and it is possible that other objects were obscured by dense ground cover vegetation. Shell midden scatters and stone artefact scatters were found along the coastline and mud flats. Stone artefact scatters and isolated stone artefacts were found in hilly inland settings, up to 600m from the coast. There was also a cluster of objects near inland water sources. The stone artefacts were made from a wide range of raw materials, some local and others brought from sources on the mainland, which confirms the connection between the people using the island and adjacent mainland. The results of this study reveal that the Curtis Island site is part of the site rich Coastal Fringe Site Province, which supports findings of the earlier site modelling phase of the Project (refer to the technical report in Volume 5 Attachment 38). Importantly, it also stresses the need for further, detailed site investigations to be conducted as part of the management of development impacts. These further measures will be specified in the CHMP being developed with the PCCC.

## **18.3 Potential impacts**

The Project will not cause any impacts to registered Indigenous cultural heritage. However, the preliminary survey of the proposed LNG facility site identified widespread Indigenous cultural heritage traces, particularly along the coastline, around the estuarine mud flats and in the northern portion. These locations are likely to be impacted by the LNG facility.

In addition to the impacts to identified objects, including isolated stone artefacts, there is the potential for previously undetected objects to be revealed during the construction phase and during further site investigations to be undertaken prior to construction. In accordance with the wishes of the PCCC the exact location of Indigenous cultural heritage located will remain confidential. The CHMP will contain management strategies to appropriately manage the identified Indigenous cultural heritage as well as strategies for managing any Indigenous cultural heritage that is identified during construction.



### 18.3.1 Cumulative impacts

In addition to impacts that will arise from construction of the LNG facility, additional infrastructure will occur within and near the site, in the form of a transmission pipeline, to be built to the north and east of the facility. Flexibility in placement of this pipeline will minimise the impacts to identified Indigenous heritage area, and any potential impacts will be managed through the mechanism of the negotiated CHMP.

In addition to the effects on Indigenous heritage area associated with construction of this pipeline, are the potential effects of several other LNG facilities and pipelines planned by other proponents located on Curtis Island. These other projects could potentially place other Indigenous heritage area at risk, however, Australia Pacific LNG understands that the respective proponents are managing Indigenous cultural heritage in a similar manner to Australia Pacific LNG, through the development and implementation of CHMPs.

## 18.4 Mitigation and management

Measures to manage (avoid and/or minimise) harm to Indigenous cultural heritage in the LNG facility site will be addressed by the development of a CHMP under Part 7 of the ACH Act. As previously outlined, a number of meetings have already been held between the PCCC and Australia Pacific LNG. Further meetings are planned and it is expected that a CHMP will be agreed by May 2010. Negotiations with the endorsed Aboriginal parties for the marine areas of the project are ongoing and are expected to be completed in May 2010.

The mitigation, management and protection measures in the CHMP will be comprehensive and entail a number of possible procedures that may include (but not be limited to):

- Avoidance of Indigenous cultural heritage, where practical
- Recovery and/or recording of materials from Indigenous cultural heritage sites. This may include recovery of charcoal or other material that may be able to be dated to establish the age of the site
- Relocation of Indigenous cultural heritage objects prior to construction.

The CHMP will:

- Outline how and when any further Indigenous cultural heritage investigations are to be conducted
- Describe the timing and format of the information provided by the PCCC to the Project in relation to further investigations to facilitate redesign of facilities where necessary and if practical
- Describe management measures during and following construction which may include:
  - Indigenous cultural heritage induction for the workforce and monitoring of specific construction activities where there is a high potential of sub surface finds
  - Procedures for unexpected finds
- Outline post-construction Indigenous cultural heritage management following completion of the construction of the LNG facility (if any).



Indigenous cultural heritage objects recovered prior to construction and Indigenous cultural heritage objects identified and salvaged during construction may require management. If so, issues relating to the storage of such objects will be agreed upon and specified in the CHMP.

## **18.5 Conclusions**

### **18.5.1 Assessment outcomes**

This assessment of Indigenous cultural heritage for the Project and the proposed management strategy has been designed to avoid and/or minimise any impacts to Indigenous cultural heritage. This includes collation of site data through the LNG facility study area from a range of sources including the Aboriginal heritage register and database, published and unpublished sources, preliminary studies undertaken with the PCCC on Curtis Island, and modelling of site distribution as part of a constraints analysis. The studies have identified a number of Indigenous cultural heritage areas on Curtis Island that may be impacted. Mechanisms for managing these sites are being and will be considered in the preparation of CHMPs being negotiated with the PCCC (and any other relevant Aboriginal party or parties for the marine area). Further work will continue to identify any other Indigenous cultural heritage areas and deal with them in a manner consistent with the desires of the Aboriginal parties.

The process of engaging with the Aboriginal parties concerning their heritage has been and will continue to be undertaken in accordance with the ACH Act and with guidelines specified by the ACH Act, with the view to affording Aboriginal parties the right to exercise control over their Indigenous cultural heritage. While an initial goal for the Project is the successful negotiation of a CHMP this process has not yet been completed. This document has outlined the measures that have been undertaken to date to achieve this goal with respect to the LNG facility study area. The engagement with the Aboriginal parties will continue throughout the Project.

A summary of the values, sustainability principles, potential impacts, mitigation measures and subsequent residual risk levels, in relation to Indigenous cultural heritage, is presented below in Table 18.1 Further details on the risk assessment methodology are provided in Volume 1 Chapter 4.

**Table 18.1 Summary of values, sustainability principles, potential impacts and mitigation measures**

Values	Sustainability principles	Potential impacts	Possible causes	Mitigation and management measures	Residual risk level
Indigenous cultural heritage values - (design construction and operation)	Minimising adverse environmental impacts and enhancing environmental benefits associated with Australia Pacific LNG's activities, products or services; conserving, protecting, and enhancing where the opportunity exists, the biodiversity values and water resources in its operational areas	<b>Design</b> – Harm to Indigenous cultural heritage associated with facility design or site investigations	Design process does not adequately consider Indigenous cultural heritage issues  Disturbance to Indigenous cultural heritage from site investigations	CHMP to detail process for the assessment and management of Indigenous cultural heritage. Avoidance principle to be implemented where practical	Low
Respecting the rights, interests and diverse cultures of the communities in which Australia Pacific LNG operates  Engaging regularly, openly and transparently with people and communities affected by Australia Pacific LNG's activities, considering their views in its decision-making and striving for		<b>Construction</b> - Harm to Indigenous cultural heritage arising from construction activities	Project personnel not aware of Indigenous cultural heritage management procedures  Project personnel not following appropriate Indigenous cultural heritage management procedures	CHMP to include procedures for the management of Indigenous cultural heritage. This will include: <ul style="list-style-type: none"> <li>• Inductions for employees</li> <li>• Procedures in case of a find of cultural material</li> <li>• Procedures in the event human remains are found</li> <li>• Procedures for the management of identified areas or objects</li> </ul>	Low





Values	Sustainability principles	Potential impacts	Possible causes	Mitigation and management measures	Residual risk level
	positive social outcomes Working cooperatively with communities, governments and other stakeholders to achieve positive social and environmental outcomes, seeking partnership approaches where appropriate.	<b>Operation</b> - Harm to Indigenous cultural heritage arising from operational activities	Operations personnel not aware of Indigenous cultural heritage management procedures  Operations personnel not following appropriate Indigenous cultural heritage management procedures	CHMP to include procedures for the management of Indigenous cultural heritage. This will include: <ul style="list-style-type: none"> <li>• Inductions for employees</li> <li>• Procedures in case of a find of Indigenous cultural heritage</li> <li>• Procedures in the event human remains are found</li> <li>• Procedures for the management of identified areas or objects</li> </ul>	Low

### **18.5.2 Commitments**

Australia Pacific LNG commits to continued engagement and negotiations with endorsed Aboriginal Parties and developing and implementing an approved CHMP for the Australia Pacific LNG facility study area.

Australia Pacific LNG is seeking to develop long-term relationships with Aboriginal parties and broader Indigenous communities through implementing an Indigenous engagement strategy.

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