



Browse LNG Precinct



Browse Liquefied Natural Gas Precinct Strategic Assessment Report

(Draft for Public Review)
December 2010

Appendix E-1

INDIGENOUS IMPACTS REPORT VOLUME 1:
Overview and Consolidated Recommendations
(Final Report to the Kimberley Land Council)



Kimberley LNG Precinct Strategic Assessments

Indigenous Impacts Report Volume 1:

Overview and Consolidated Recommendations Report

Kimberley Land Council

December 2010

Volume 1: Overview and Consolidated Recommendations Report

Volume 2: Report on Traditional Owner Consent and Indigenous Community Consultation: Final Report, 3 September 2010

Volume 3: Aboriginal Social Impact Assessment Report, September 2010

Volume 4: Report on Heritage Impact Assessment, 7 September 2010

Volume 5: Aboriginal Archaeological Site Avoidance Survey, James Price Point Final Report, August 2010

Volume 6: Ethnobiological Report, James Price Point (November 2010)

1. Introduction

This *Indigenous Impacts Report* has been prepared by the Kimberley Land Council (KLC) for the purposes of the strategic assessments being conducted by the governments of Australia and Western Australia into the proposed development of a common user liquefied natural gas hub precinct (LNG Precinct) to process gas from the Browse Basin located off the west Kimberley coast ('the Plan').

The KLC is the Native Title Representative Body (NTRB) for the Kimberley region of Western Australia pursuant to a determination under section 203AD of the *Native Title Act 1993* (Cth).

The strategic assessments to which this report relates are:

- (a) a strategic assessment under section 146 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act), in accordance with the agreement between the governments of Australia and Western Australia dated 6 February 2008 ('Commonwealth Strategic Assessment'); and
- (b) an assessment of a strategic proposal under section 38(3) of the *Environmental Protection Act 1986* (WA) ('State Strategic Assessment').

The *Indigenous Impacts Report* has been prepared to address Indigenous aspects of the Terms of Reference (ToR) for the Commonwealth Strategic Assessment. The *Indigenous Impacts Report* is comprised of six volumes, and volumes 2-5 set out in detail the specific ToR which each addresses, which can be summarised as follows:

The *Report on Traditional Owner Consent and Indigenous Community Consultation* (Volume 2) addresses:

- The question of 'whether the Traditional Owners have given informed consent, in a culturally appropriate manner' to the establishment of an LNG Precinct in the Kimberley region (ToR clause 7(h)).
- Details of any consultation about the proposed Precinct, including details of 'any consultation that has already taken place, including with Indigenous communities', and of 'any proposed consultation about relevant impacts of the

action [establishment of a LNG Precinct], including with Indigenous communities' (ToR clause 11(b), (c) & (d)).

The *Aboriginal Social Impact Assessment Report* (Volume 3) (**ASIA Report**) addresses in particular ToR clause 7(a) which requires 'a description of the potential impacts, including socio-economic impacts, of the Plan on Indigenous people'; clause 7 (b) which requires an assessment 'of whether any impacts on Indigenous people ... are likely to be unknown, unpredictable or irreversible'; clause 8, which requires identification of 'management arrangements, including the possible role of Traditional Owners in those arrangements ... that are intended to ensure that development and operation of the Precinct ... are undertaken in a manner designed to avoid impacts on significant environments ...' (clause 8); and clause 9, which requires the identification of "specific measures intended to prevent, minimise and compensate for" the environmental impacts of the Plan, which includes social, economic and cultural aspects.

The *Report on Heritage Impact Assessment* (Volume 4) (**HIA Report**) and the *Aboriginal Archaeological Site Avoidance Survey Final Report* (Volume 5) in combination address the requirement to include in the Strategic Assessment Report 'a comprehensive analysis of the potential impacts of the [Precinct] on Indigenous people and culture (including matters of NES [National Environmental Significance] and those prescribed under the WA Aboriginal Heritage Act 1972 and the WA EP Act)', including

- b) an assessment of whether any impacts on Indigenous people (including Indigenous heritage) are likely to be unknown, unpredictable or irreversible;

- c) an analysis of the significance of potential impacts on known listed and unlisted Aboriginal heritage sites, objects or landscapes and values of cultural significance with reference to the *Aboriginal Heritage Act 1972* (WA) sections 5 and 6 and Indigenous heritage values under the EPBC Act;

d) reference to the technical data and other information relied upon in assessing the Indigenous heritage impacts (ToR Clause 7).

These reports also address the associated requirements of ToR clauses 8 – 10 as these relate to development of safeguard and mitigation measures and management arrangements.

The *Ethnobiological Report, James Price Point* (Volume 6) specifically addresses ToR Clause 5(h) which requires, as part of a description of the environment likely to be affected by the Plan, an analysis of ‘Indigenous environmental values and Indigenous cultural heritage (environmental) values, including all values held by Traditional Owners in the area likely to be affected and including broader biological communities, habitats and environments in which species with Indigenous environmental/conservation values might live’. This volume also addresses, to the extent relevant to the ethnobiology of the area, the requirements of ToR clause 6, which requires an assessment of the potential impacts of the Plan on the environment, and clause 8(e), which requires information on specific management arrangements, including the possible role of Traditional Owners in those arrangements.

2. Overarching Themes and Issues

Each component report of the *Indigenous Impacts Report* identifies specific impacts potentially associated with the Kimberley LNG Precinct and develops recommended safeguard and mitigation measures and management arrangements to address these impacts. These recommended safeguard and mitigation measures and management arrangements are identified in the reports as ‘conditions’ which should be *included in the description of the approved or endorsed Plan*. In combination, the reports also highlight a series of key, overarching themes that must be recognised, and issues that must be addressed, by the Proponent, the State, the Commonwealth, private operators of LNG processing facilities, and the Kimberley Land Council if impacts of the LNG Precinct on Indigenous people and culture are to be minimised and if Indigenous people are going to be in a position to benefit from the economic and social opportunities the Precinct can generate. These overarching issues or themes include the following.

1. Indigenous people who will be affected by the LNG Precinct have considerable social, cultural and political resources that can help them absorb impacts and take advantage of opportunities, but they also face fundamental barriers arising from historical legacies of marginalisation and current social and economic disadvantage.
2. Experience in the Kimberley and internationally with large resource projects shows clearly that in the absence of robust and comprehensive project approval requirements or conditions which ensure government and company policies and practices to support Indigenous aspirations and deal with Indigenous disadvantage, the impacts of an LNG Precinct will inevitably be severely negative.
3. Fundamental change in approach by Governments and companies is required if negative impacts are to be avoided and Traditional Owners and other affected Indigenous people are to be in a position to take advantage of opportunities. Minor changes to existing approaches/policies will not be enough.
4. If appropriate policies and practices are to be developed, certain fundamental principles must underlie the approach of Governments and developers, including:
 - Indigenous free prior informed consent;
 - Respect for Traditional Owners and their cultural and social values.
5. The time frames imposed by Governments and developers have created and are creating great pressures and stresses for Traditional Owners and other affected Indigenous people. These time frames have not facilitated culturally appropriate and informed decision making, and have imposed considerable personal cost on Traditional Owners. They have also resulted in adverse

outcomes for governments and developers, including unnecessary delays in approval processes.

6. Affected Aboriginal people are connected in a complex web of social and cultural relations with each other and with land and sea country. This means that areas of impact cannot be defined in an arbitrary way in terms of physical or social space. It also means that the effects of a very large project like the LNG Precinct are far reaching.
7. ‘One off’ impact assessment and management exercises conducted in the lead up to government decisions on project approval will be entirely inadequate, and so appropriately-resourced institutional arrangements must be created to allow ongoing identification, monitoring and management of social, cultural, heritage, and environmental issues. This is so because:
 - Many key features of the proposed LNG Precinct are not yet defined, and so it is not currently possible to identify activities associated with the Plan that will or are likely to generate impacts, as required under the EPBC Act;
 - There are major gaps in existing base line data on Indigenous social, economic and cultural conditions;
 - The long life of the project (at least 30 years);
 - The fact that insufficient time has been available to allow the *Indigenous Impacts Report* to address many of the wider, regional impacts of a Kimberley LNG Precinct.

3. Consolidated list of recommended management and mitigation measures (‘conditions’)

Each of the component reports of the *Indigenous Impacts Report* develops recommended management and mitigation measures, or conditions, for the development and operation of the Plan. As the *Environmental Protection Act 1986*

(WA) and the EPBC Act (Cth) have different statutory processes for approval of strategic proposals, the use of the term ‘condition’ in the recommendations in the *Indigenous Impacts Reports* is not intended to identify a particular step or requirement in either the State or Commonwealth statutory processes, but is instead used as a term for those mechanisms (or safeguard and mitigation measures and management arrangements) which must form part of the description of and conditions by which the Plan will be developed and operate, regardless of whether they are made part of the approved strategic proposal as set out in the description of the Plan endorsed by the Commonwealth Minister under the EPBC Act or they become a condition on an approval granted by the Western Australian Minister under the *Environmental Protection Act 1986* (WA). The essential matter, and finding of the reports, is that these recommended conditions have been developed in order to address the Strategic Assessment ToR requirement for identification of management arrangements designed to minimise impacts of an LNG Precinct. The ASIA Report, in particular, also makes numerous recommendations designed to maximise the potential positive contribution of an LNG Precinct to Indigenous economic, social and cultural development. The recommendations from all of the component reports have been consolidated and are listed below.

Different and more specific conditions are likely to be required to manage and mitigate the impacts of the LNG facilities and other works that will be developed within the LNG Precinct. These further management arrangements or conditions will need to be considered at the time approval is sought for those facilities or works.

For reasons explained in detail in the ASIA Report and HIA Report, in an Indigenous context there are no clear boundaries between cultural, social, heritage, and environmental aspects of a large industrial project such as an LNG Precinct. A single ‘source of impact’, such as damage to the marine environment or an influx of non-Indigenous people, can simultaneously create impacts along all of these dimensions. There is thus inevitably and properly some overlap between recommended conditions arising from the component reports. In some cases, potential overlap has been minimised by cross referencing between reports. So, for instance, the HIA Report refers to the ASIA Report’s extensive recommended conditions designed to minimise the impacts of growth in Broome’s non-Indigenous population, and of growing non-

Indigenous use of marine resources by residents and visitors. In other cases recommended conditions developed in response to various impacts reinforce each other, and action on them can be coordinated by the responsible government authorities and Traditional Owners. A case in point is Recommendations 30 and 37 of the ASIA Report, which requires development of a permit system and an expanded Indigenous ranger program to address the social and economic impacts of a growing non-Indigenous population in Broome and the Dampier Peninsula, and Recommended Measure 10 of the HIA Report which also recommends creation of a ‘visitor pass system’ and of permanent and semi-permanent ranger stations to protect Aboriginal heritage and cultural values across a wider region.

4. Aboriginal Social Impact Assessment Report Recommended Management and Mitigation Measures

Capacity of key actors to address Indigenous issues and impacts

Recommendation 1

The Proponent, the State, the Commonwealth, and Precinct Operators must commit themselves to developing the capacity to hear, understand and respond to the aspirations of Traditional Owners and other Indigenous people affected by the LNG Precinct, and demonstrate that commitment in tangible ways.

Recommendation 2

As one such tangible demonstration, the Proponent, the State, the Commonwealth, and Precinct Operators must commit themselves to negotiating time frames for future or ongoing impact assessment and negotiation processes that balance a realistic assessment of commercial requirements with the need for culturally appropriate decision-making processes and Indigenous informed consent.

Recommendation 3

The KLC must reconsider its approach to the setting of time frames for impact assessment and negotiation processes related to major project developments. It must assess whether it is practical and desirable for the KLC and Traditional Owners to establish time frames they consider will allow for culturally appropriate consultation and decision-making and are also commercially realistic. If the State and private

developers reject these time frames, the KLC must reconsider its willingness to engage with the State and private developers in relation to approval of large-scale resource projects.

Ongoing social impact monitoring and management

Recommendation 4

The Proponent, the Commonwealth, the KLC and other relevant Indigenous regional organizations, and Traditional Owner representatives must establish an LNG Precinct Indigenous Social Impact Monitoring and Management Board ('the Board') immediately following any approval of the Plan, and must maintain the Board throughout the life of the LNG Precinct. The State and Commonwealth must, at the earliest possible opportunity, establish a legislative basis for the Board to ensure its continued existence and the ongoing availability of funds to support its operations.

The Board must be composed of senior management representatives from Indigenous groups affected by the LNG Precinct and relevant regional Indigenous organisations, who must constitute a majority of the Board, and of the Proponent and relevant State and Commonwealth agencies; and at least one independent expert in the field of Indigenous social impact monitoring and management. Board members must have the authority to commit their organisations to responding to cultural and social impacts.

The Board must:

- Monitor and report on implementation of all conditions attached to any approval of the Plan that relate to management of social, cultural and economic impacts
- Monitor cultural, social and economic impacts of the LNG Precinct and coordinate responses to and management of existing or expected impacts and opportunities
- Be provided by the Proponent, the Commonwealth and the State with sufficient resources to support its operations over the life of the Project
- Be able to coordinate, through its participating organisations, the application of substantial resources to support impact mitigation and maximisation of

opportunities associated with the LNG Precinct. These resources must include a specific, binding, commitment of ongoing funds by the Commonwealth to address socio-economic conditions in the Area of Impact and mitigate project impacts.

Survey of Indigenous households in the Area of Impact

Recommendation 5

- The Proponent must, immediately on the grant of any approval for the Plan, provide funding for a full household survey of Indigenous households in the Area of Impact, if such a survey has not already been conducted.
- The household survey must be commissioned by the KLC, which must ensure that Indigenous people are centrally involved in its design, administration and interpretation of the survey, and must retain appropriately qualified specialist staff to support this work. The survey instrument must be consistent with the Draft Household Survey developed by the ASIA and the TONC.

Recommendation 6

The ASIA strongly recommends that the household survey should be conducted regardless of the outcome of the Strategic Assessments and should commence as soon as possible.

Use of wild resources

Recommendation 7

The Proponent must, immediately on the grant of any approval for the Plan, provide funding to undertake a detailed analysis of the official unpublished IFSNA data from the region. The analysis must be conducted with input from relevant Traditional Owners, especially those from communities that provided survey data. The analysis must be conducted by an appropriate Indigenous organisation and overseen by the Social Impact Monitoring and Management Board.

Recommendation 8



The Proponent must fund a comprehensive regional harvest study within 12 months of any approval for the Plan. The study must be community-based, with Traditional Owners guiding its design (including the choice of specific study locations), implementation, and the analysis and reporting of data. The study must be conducted by an appropriate Indigenous organisation and overseen by the Board. Affected Traditional Owners may impose constraints on the use of the study information to the extent that the information may affect cultural interests or legal interests related to ongoing native title proceedings.

Recommendation 9

The Proponent must fund periodic regional harvest studies at 10-yearly intervals over the life of the LNG Precinct. These studies must be community-based, with Traditional Owners guiding their design and implementation and the analysis and reporting of data. The studies must be conducted by an appropriate Indigenous organisation and overseen by the Board. Affected Traditional Owners may impose constraints on the use of the study information to the extent that the information may affect cultural interests or legal interests related to ongoing native title proceedings.

Management of environmental impacts

Recommendation 10

Traditional Owners and other Indigenous users of country in the Area of Impact must play a central and ongoing role in identification and definition of environmental issues and impacts, and in environmental monitoring and management.

Recommendation 11

Any approval for the LNG Precinct must have as a condition the conclusion of an Indigenous Land Use Agreement between Woodside (to the extent Woodside remains the lead proponent), the State, the KLC and Traditional Owners, that guarantees to Traditional Owners substantive and effective participation in environmental management of the LNG Precinct and associated development. The endorsement of the Plan will be conditional on the ILUA containing provisions to ensure that Traditional Owners:

- Have decision-making, and not just advisory, roles in relation to environmental management through:
 - substantial representation on committees or boards with decision-making powers; or
 - a capacity to require suspension of any activity that is resulting in environmental damage, or appears likely to do so, until the danger of damage is removed; or
 - such similar mechanisms that meets this requirement to the satisfaction of Traditional Owners acting reasonably.
- Have access to independent technical advice that allows them to engage with and challenge Western scientific information, in part by reviewing technical documents compiled by proponents or government regulators
- Have the capacity to inspect, accompanied by their technical advisers, all industrial areas of the LNG Precinct as required
- Have automatic access to all environmental reports provided by the Proponent to State or Federal regulatory authorities
- Are able to comment on all applications for environmental approvals prior to the provision of those applications to the relevant regulatory authorities and have those comments included
- Are involved in design and review of environmental planning and management systems
- Are centrally involved in design and implementation of rehabilitation and decommissioning and rehabilitation plans.

Recommendation 12

Commencing within six months of any approval for the Plan, the Proponent, responsible State and Commonwealth authorities and the KLC must convene six-monthly Regional Environmental Forums with representatives of native title claim groups within the Area of Impact and of other affected Indigenous people. At these forums the Proponent and responsible Commonwealth and State authorities must report on the results of environmental monitoring and management programs, including reporting on any environmental incidents and measures taken to address them, and respond to environmental concerns or issues raised by Indigenous

participants, immediately or within time frames agreed at the Forum. The KLC and Indigenous representatives must share their perspectives on relevant environmental issues, report on any environmental monitoring activity in which they are involved, and express any concerns they have regarding specific environmental impacts or issues.

Recommendation 13

The Proponent must, in cooperation with responsible State and Commonwealth Authorities, the KLC and Traditional Owners, ensure a regular flow of accurate and comprehensive information regarding LNG Precinct environmental issues and impacts to affected Indigenous people. This must include at a minimum:

- Production and dissemination throughout the Area of Impact of a quarterly newsletter summarising, in plain English and with photographic illustrations, outcomes of environmental monitoring and management programs, and reporting on the reasons for, and action taken to address, any incidents that cause environmental harm or threaten to do so.
- Regular information bulletins in local newspapers and on radio and television. Particular care must be taken to provide information through the latter channels if environmental incidents occur, as soon as possible after the occurrence and at regular intervals until they are resolved.
- The form and content of the newsletter and information bulletins must be approved by the Board.

Recommendation 14

The LNG Precinct Environmental Management Plan must contain provisions that explicitly recognise the value and importance of Indigenous environmental knowledge, and specific measures to ensure that Traditional Owners can apply this knowledge to environmental monitoring and management systems, in a manner that is consistent with their cultural values. These measures must include, but may not be limited to:

- provision by the Traditional Owners of cross-cultural awareness training for Proponents' environmental staff and consultants
- conduct of specific environmental monitoring and management activities jointly by the Proponent's environmental specialists and Traditional Owners
- training of Traditional Owners in environmental monitoring to ensure real and effective participation and skills development
- use of information from customary resource use surveys in environmental monitoring activities.

Recommendation 15

Representatives of the Proponent and of responsible State and Commonwealth authorities attending Regional Environmental Forums must undertake cross cultural awareness training provided by Traditional Owners that includes information on Indigenous understandings of country, environmental knowledge, and use of wild resources.

Recommendation 16

It must be a condition of any approval that:

- The Proponent must employ 'world's best practice' in ensuring that the impacts of dredging and blasting on sea country are minimised;
- The Proponent must involve Traditional Owners in decisions that help determine the location and duration of impacts on sea country from blasting and dredging;
- The Proponent must closely monitor the conduct of blasting and dredging and its environmental impacts must be closely monitored, with the participation of Traditional Owners;
- The Proponent must regularly inform Indigenous people who use sea country affected by dredging and blasting about its impacts (see Recommendation 13).

Recommendation 17

Prior to commencement of dredging, the Proponent must undertake an assessment of the potential impacts of the dredging program on marine and terrestrial environments ('Dredging Assessment'). The Assessment must:

- address the degree of certainty of the identified impacts and the significance of those impacts
- include an analysis of the impact of the proposed dredging program on wild resources and their use by Traditional Owners and Indigenous communities (see recommended conditions 7 - 9)
- include a period of consultation with Indigenous communities and Traditional Owners
- generate a 'Dredging Assessment Report' which must be approved by the Board.

Following its approval by the Board the Dredging Assessment Report must be provided to the Minister. The Minister may accept the Dredging Assessment Report if, in accordance with clause 7.3(e) of the Strategic Assessment Agreement, the Minister is satisfied that it addresses the impacts of the actions.

Within 2 years of commencement of dredging, and every three years thereafter, the Proponent must undertake a review of the impacts of the dredging program on the marine and terrestrial environment ("Dredging Impact Review"). The Dredging Impact Review must:

- include an assessment of whether the projected significance of impacts in the Dredging Assessment Report was accurate
- identify any new or unanticipated impacts
- include an analysis of the impact of the dredging program on wild resources and their use by Traditional Owners and Indigenous communities
- include a period of consultation with Indigenous communities and Traditional Owners and
- the Dredging Impact Review Report must be approved by the Board.

Following its approval by the Board, the Dredging Impact Review Report must be provided to the Minister and the EPA. The Dredging Impact Review Report must also

be made publicly available on the internet and hard copies must be made available to Traditional Owners and Indigenous communities on the Dampier Peninsula.

Recommendation 18

In order to ensure that any oil or gas spills or similar incidents are addressed quickly and effectively, the Proponent must maintain an insurance policy in favour of Traditional Owners and Indigenous communities on the Peninsular to pay for any remediation that is required as a result of oil and gas spills. The value of the policy must reflect the likely cost of dealing with a major shipping accident or oil or gas leak and the impact of such an incident on Traditional Owners and Indigenous communities having regard to matters such as reliance on wild resources, reliance on cultural and nature based tourism, and existing vulnerabilities associated with lack of infrastructure, access to health care, and limited transport.

Recommendation 19

The Proponent, including any party who is responsible for management of port facilities and movements, must not permit shipping movements into or out of the Precinct, and must require vessels to stand no less than 30km off the coastline, if a cyclone is imminent.

Recommendation 20

The Proponent must work with responsible State or Commonwealth authorities to prepare an upgraded and comprehensive disaster management strategy for Broome and the Dampier Peninsula, to reflect the additional risks and responses required as a result of the presence of an LNG Precinct.

Recommendation 21

The following conditions are recommended to minimise the risk that shipping activity associated with the LNG Precinct might result in the introduction of exotic species. The Proponent, including any party who is responsible for management of port facilities and movements, must not permit any ships to enter into the waters of the LNG Precinct unless these conditions are fully implemented.

- The Proponent and responsible State and Commonwealth authorities must ensure that all ships travelling to the LNG Precinct site are inspected prior to

departing their country of origin to ensure that no exotic marine life is attached to their hulls.

- The Proponent and responsible State and Commonwealth authorities must ensure that ships' ballast water is tested prior to departure from country of origin and again prior to its discharge to ensure it does not contain any organisms or toxins that might threaten marine life. Reports on testing must be provided to Traditional Owners on a regular basis (see also Recommendation 13 above).
- The Proponent and responsible State and Commonwealth authorities must ensure that measures to deal with the potential introduction of exotic species comply with relevant Australian policies and standards.
- Responsible State and Commonwealth authorities must maintain a presence in overseas ports and on board ships to ensure these requirements are complied with.
- Traditional Owners must, in advance of the commencement of shipping movements to the LNG Precinct site, develop and implement a program to monitor sea country for any indications of exotic species. The program must be developed and implemented in conjunction with AQIS. The program costs must be met by the Proponent.

Recommendation 22

The Proponent must manage the LNG Precinct so as to minimise the impact of waste from the Precinct on the water resources of the Dampier Peninsula, and so as to minimise use of water in the development and operation of the LNG Precinct.

Recommendation 23

Prior to the commencement of activities under the Plan, the Proponent must undertake a thorough assessment of water resources on the Dampier Peninsula ("Water Resources Assessment"). The Water Resources Assessment must include the following.

- Availability of water resources on the Dampier Peninsular, and an evaluation of their adequacy to meet the long-term demands of Broome, the Dampier Peninsula communities, nature and culture based tourism and other existing

commercial operations, the LNG Precinct, and other potential commercial activities.

- An assessment of existing water quality, in particular whether existing resources are likely to provide sufficient amounts for domestic use by residential communities on the Dampier Peninsular.
- An assessment of the potential impacts of the Plan on the availability of water for other uses, including as a result of competing allocations, reduction of quality, and changes to water table levels.
- A draft plan for the allocation of water over the life of the LNG Precinct to ensure that the needs of Traditional Owners and other Indigenous residents of the Peninsula, including commercial needs for activities such as nature and culture based tourism and environmental allocations, are met into the future.

A report on the Water Resources Assessment (“Water Resources Assessment Report”), which includes the draft plan, must be approved by the Board. Following its approval by the Board, the Water Resources Assessment Report must be provided to the Minister. The Minister may accept the Water Resources Assessment Report if, in accordance with clause 7.3(e) of the Strategic Assessment Agreement, the Minister is satisfied that it addresses the impacts of the actions.

Recommendation 24

Within 2 years of commencement of activities under the Plan, and every three years thereafter, the Proponent must undertake a review of the impacts of those activities on water resources on the Dampier Peninsular (“Water Resources Impact Review”). The Water Resources Review must:

- include an assessment of whether the projected significance of impacts in the Water Resources Assessment Report was accurate
- identify any new or unanticipated impacts
- include an analysis of the impact of activities done under the Plan on other users of water resources on the Dampier Peninsular
- include a period of consultation with Indigenous communities and Traditional Owners

- include an assessment of the effectiveness of the plan included in the Water Resources Assessment Report in managing and mitigating the impacts of activities under the Plan on water resources and other users of those resources and
- the Water Resources Review Report must be approved by the Board.

Following its approval by the Board, the Water Resources Review Report must be provided to the Minister and the EPA. The Water Resources Review Report must also be made publicly available on the internet and hard copies must be made available to Traditional Owners and Indigenous communities on the Peninsula.

Recommendation 25

The State must provide adequate resources to Dampier Peninsula communities to mount effective fire prevention and fire management programs. The State will afford communities the degree of control over allocation of these resources required to deal with fire risks in a timely and effective manner.

Recommendation 26

Responsible State authorities must, in cooperation with the Dampier Peninsula communities, develop a single and coordinated fire management plan for the Peninsula.

Impacts from growing influx of outsiders, including tourism

Recommendation 27

The State must, in cooperation with the Traditional Owners and with community councils and other Indigenous organisations in Broome and the Dampier Peninsula, act to limit the numbers of, and effectively manage the activities of, the growing number of Broome residents and of short-term visitors attracted to the Peninsula as a result of the LNG Precinct and developments likely to be associated with it, including the sealing of the remainder of the Broome - Cape Leveque road.

Recommendation 28

The Proponent must operate the LNG Precinct accommodation complex as a ‘controlled access’ facility. Construction and operations employees and contractors from outside the Area of Impact (‘Precinct workers’) must all be accommodated at this facility, and it must be a condition of their employment that they do not leave the facility to engage in recreation or other activity. The Proponent must enforce a prohibition on Precinct workers taking any form of wild resources from land or sea country.

Recommendation 29

The Proponent must, in conjunction with the Traditional Owners, provide cross cultural training for all Precinct workers, including information on land ownership, restrictions on movement and use of wild resources, the permit system (see below), and Indigenous cultural values.

Recommendation 30

The State, in cooperation with relevant Indigenous organisations including Indigenous ranger groups and community councils, must introduce a permit system that limits travel to the Dampier Peninsula by people who are not Traditional Owners and do not reside there. Permits granted to visitors to the Area of Impact or to Broome residents must specify locations in the Dampier Peninsula where the permit holder is allowed to visit and camp. The permit system must be accompanied by the establishment of visitor centres at appropriate locations, including the turn-off to the LNG Precinct from the Cape Leveque Road, which would issue permits and provide maps indicating information on land ownership and locations open to visitors and a visitor code of behaviour.

Recommendation 31

The State must provide visitor facilities including camping grounds, ablution blocks and waste disposal facilities in areas permit holders are allowed to visit.

Recommendation 32

Responsible State authorities must establish, in cooperation with relevant native title claim groups, ‘exclusion zones’ where only Indigenous residents of the Dampier peninsula are permitted to harvest wild resources.

Recommendation 33

The Board and responsible State authorities must monitor the number of boat and fishing licences issued for use in the Area of Impact. Should numbers increase significantly and/or should stocks of wild resources appear to be under increased pressure (see Recommendations 7 - 9 on monitoring of wild resource use), responsible State authorities must impose restrictions on the issue of additional licences designed to address those impacts.

Recommendation 34

Responsible State authorities must introduce fees for fishing licences; licences must specify maximum catch levels; and the proceeds of licence fees must be used to fund relevant management initiatives, including Indigenous rangers (see below).

Recommendation 35

Responsible State authorities must effectively enforce existing regulatory controls on the activities of commercial fishers and the use of fish traps, gill nets and pots must be more effectively enforced. Fines must be imposed for breaches of relevant laws or regulations, and the proceeds utilised to help fund Indigenous rangers and other management initiatives.

Recommendation 36

Responsible State and Commonwealth authorities must provide support for Traditional Owners, other native title holders and Indigenous communities in the Area of Impact to live on their outstations and play an active role, in conjunction with Indigenous rangers, in monitoring and managing the activities of tourists and other visitors.

Recommendation 37

Responsible State and Commonwealth authorities must fund a substantially expanded and adequately resourced Indigenous ranger system, including female rangers, for Broome and the Dampier Peninsula, to assist in managing growing visitor numbers and pressures on wild resources. Rangers must be granted the authority to enforce relevant laws and regulations in relation to restrictions on access to areas of land and

sea country, including cultural sites of significance, and on the use of wild resources. This authority must include powers to inspect boats, vehicles and fish catches and to detain individuals suspected of acting unlawfully. Indigenous Rangers must work with the support and direction of senior Traditional Owners, and in close partnership with relevant State Authorities including the WA police and fisheries and land management agencies.

Impacts from the Strategic Assessment and related negotiation processes

Recommendation 38

Taking into account the need for protection of confidential information, parties to the negotiation of the ILUA and related agreements must ensure that information on negotiation processes and outcomes is communicated on a regular basis to Indigenous people and groups affected by the LNG Precinct. Channels similar to those suggested for dissemination of environmental information must be utilised in disseminating this information (see Recommendation 13).

Recommendation 39

The responsible Commonwealth authorities must, as a matter of urgency, address the issue of funding for PBCs established as a result of native title determinations in the Area of Impact. The Commonwealth and the KLC must facilitate dissemination of information regarding the roles and functions of PBCs to native title claimants in the Area of Impact, and must ensure provision of relevant governance training for members of the PBCs.

Recommendation 40

Responsible State authorities must, as a matter of urgency, facilitate the establishment of a local governance structure at Beagle Bay. In doing so it must offer relevant governance training to Indigenous office holders and potential office holders, and the Beagle Bay community generally.

Recommendation 41

The Commonwealth and the State must provide material support to the KLC and Traditional Owners in establishing effective Indigenous governance structures that

maximise the impact of benefits provided for in an LNG Precinct ILUA(s) and enhance the quality of service delivery to Indigenous communities in the Area of Impact. The KLC and Traditional Owners must disseminate information on such governance structures to Indigenous people in the Area of Impact to promote transparency and understanding.

Minimising growth in alcohol and drug abuse

Recommendation 42

The Proponent must apply a ‘no drugs’ policy to the LNG Precinct and the accommodation complex. Possession or sale of illicit drugs by Precinct workers must be grounds for summary dismissal.

Recommendation 43

The Proponent must operate the LNG Precinct accommodation complex as a ‘controlled access’ facility, with access by Precinct Workers to the Area of Impact limited to travel to and from the LNG Precinct, and no public access to the camp. Traditional Owner access to the camp for environmental monitoring or other Precinct management activities will be governed by specific arrangements set out in a Precinct Management Plan or equivalent document.

Recommendation 44

The State must supplement the resources available to WA police in the Area of Impact to enable them to address any increase in illegal activity, including sale of drugs and illicit trading of alcohol.

Recommendation 45

Responsible State and the Commonwealth authorities must provide additional funding to drug and alcohol education programs in schools and colleges, and to alcohol and drug abuse rehabilitation facilities, in the Area of Impact.

Social impact of Fly In Fly Out or long work rosters

Recommendation 46

The Proponent must make provision in the employment arrangements of Indigenous workers for variations to standard rosters, and for grants of leave, that recognises their cultural and family obligations.

Recommendation 47

The Proponent must ensure that Precinct Workers who supervise Indigenous workers are provided with cross-cultural training that gives them an understanding of the family and cultural obligations of Indigenous workers.

Recommendation 48

The Proponent must, on an ongoing basis, make available counselling, including advice on financial management, to workers and their families to assist them in dealing with the pressures created by FIFO and long work rosters

Minimising inappropriate sexual relations and spread of STIs

Recommendation 49

The Proponent must operate the LNG Precinct accommodation complex as a 'controlled access' facility, with no access by workers to the Area of Impact and no public access to the camp.

Recommendation 50

The Proponent must provide cross-cultural training for Precinct workers, which includes material alerting them to the personal and social costs that can result from inappropriate sexual relations.

Recommendation 51

Schools, colleges and health facilities in the Area of Impact must offer educational material on the risks involved in inappropriate sexual relations with workers and in unprotected sex.

Housing and the cost of living

Recommendation 52

Responsible State and Commonwealth authorities must inject substantial additional funding into construction of public housing in Broome and the Dampier Peninsula, upgrading of the existing housing stock, provision of hostels to accommodate Indigenous youth, and emergency and short-term accommodation to help address homelessness in the short term. To gain maximum value for money, Indigenous community members and their governing bodies must be closely involved in the design and management of housing programs.

Recommendation 53

Responsible State and the Commonwealth authorities must support Indigenous people to establish and develop businesses to build houses and other forms of accommodation.

Recommendation 54

Responsible State and Commonwealth authorities must review housing and related policies to ensure that these maximise Indigenous access to housing. This policy review must recognise the need for housing policies to be regionally based and in particular recognise regional differences in cost of living. Policies that result in loss of access to housing when people gain employment and higher incomes must be changed, for instance by permitting tenants to retain their public housing but at a higher rent.

Recommendation 55

Responsible State and Commonwealth authorities must act to increase the supply of Indigenous people skilled in the construction trades, for instance by funding additional Indigenous apprenticeships in the building industry.

Recommendation 56

The Proponent must provide accommodation for all of their workers and contractors. The Proponent must also contribute to the cost of constructing additional housing to meet the demand associated with indirect employment created by the LNG Precinct.

Recommendation 57

The Board, discussed in Chapter 4.4.2, must establish and maintain monitoring of prices for key components of Indigenous living costs in the Area of Impact, building on price data contained in Chapter 2.3.11 above.

Recommendation 58

The Proponent, State and Commonwealth Authorities, and Indigenous organisations must encourage the establishment of Indigenous enterprises that produce food and other consumables for the local market, and that supply transport and communication services to the LNG Precinct.

Education and training

Recommendation 59

The State, the Commonwealth, the Proponent and relevant Indigenous organisations must develop a program which will operate for 30 years and may be extended to the life of the project if that life exceeds 30 years, to raise the quality and effectiveness of Indigenous education in the Area of Impact and in the Kimberley generally. This program must include:

- a strong and sustained focus on numeracy and literacy from early education onwards
- initiatives to enhance parental involvement in education
- specific incentives to reduce staff turnover and retain experienced teachers
- provision of additional student accommodation in Broome and the Dampier Peninsula
- design and delivery of school, TAFE and university courses that are relevant to Indigenous students and to the employment opportunities available to them,

and are readily accessible to students in the Dampier Peninsula, including on-site delivery on the Dampier Peninsula, and through distance learning

- provision of reliable IT facilities and services in the Dampier Peninsula communities to enable Indigenous students to access on-line education and training programs
- initiatives to enhance literacy and numeracy skills among adults
- major public investment to help meet the housing and health needs of Indigenous students
- a substantial scholarship scheme, funded by the Proponent and Responsible State and Commonwealth authorities, to enhance Indigenous access to university and VET education
- Child care support and services to permit Indigenous students of any age to access formal education.

Recommendation 60

The Proponent, the State and the Commonwealth must make substantial and sustained investment, *starting immediately*, in training and training facilities to permit the program to be effectively implemented. This investment must include:

- development of suitable training facilities in the Area of Impact, and improved access to specialist facilities in Perth or elsewhere
- building on existing training resources, programs and organisations in the Area of Impact, development of training programs which prepare Indigenous trainees for employment in skilled as well as semi-skilled positions, in construction, operation of the LNG Precinct and related industries. These programs must include on-the-job training at existing LNG facilities in the Pilbara or Darwin
- specific training initiatives that focus on allowing former and current CDEP workers to make a successful transition to ‘mainstream’ employment
- a focus on skills development for governance and community development and employment opportunities in areas other than the LNG Precinct
- a concerted effort to recruit and retain high-calibre trainers, recognising the keen competition that exists for such skills

- legally-binding commitments by the Proponent to provide specified training outcomes throughout the life of the LNG Precinct and to apply a preference in favour of Traditional Owners and other Indigenous people living in the Area of Impact in providing access to training opportunities.

Employment

Recommendation 61

The Proponent must establish employment programs that operate throughout the life of the LNG Precinct and include, at a minimum, the following components.

- an employment preference for Traditional Owners and other affected Indigenous people in the Area of Impact
- allocation of specific financial and other resources to employment programs
- targets for local Indigenous employment that increase over time and apply to all areas of LNG Precinct operations
- mechanisms that ensure that any failure to meet these targets automatically requires additional allocation of resources and enhanced training and recruitment efforts
- specific initiatives to aid retention of Indigenous workers, including measures to make the workplace a positive environment for Indigenous people; training on anti-discrimination legislation and human rights; establishment of clear paths for career and professional development; and use of work rosters that recognise cultural and family and social obligations
- provision of transport between communities in the Area of Impact and the LNG Precinct site
- employment initiatives aimed specifically at recruiting and retaining Indigenous women
- initiatives to overcome 'threshold' issues that can prevent Indigenous people from entering the industrial workforce, including limited English language skills, lack of a driver's licence, convictions for minor criminal offences, and absence of formal qualifications. Such initiatives must include recognition of prior learning and skills

- the establishment of career pathways and the provision of ongoing professional and skills development for indigenous workers
- periodic reporting on compliance with this condition to the Board and the Minister. The reports must be made publicly available. Non-compliance with this condition will result in penalties.

Recommendation 62

Proponents and their contractors must offer their employees access to, and encourage them to participate in, personal financial counselling, and support them in efforts to channel a portion of their wages into savings.

Enterprise development

Recommendation 63

The Proponent must support local and Kimberley Indigenous enterprises by implementing a Business Support program which includes measures as follows:

- Assisting them to obtain access to capital, for example by providing documentation regarding potential contracts to financial institutions, establishing joint ventures, or creating a revolving loan fund.
- Helping them develop relevant business skills, including planning and management skills, by sharing technical and financial expertise and appointing Indigenous business development officers.
- Assisting them in overcoming the barriers they face in seeking to compete with large, established suppliers, for instance by allocating certain types of contracts to Indigenous businesses; applying a preference clause to Indigenous businesses; offering them right of first refusal on specific contracts; waiving standard tendering procedures; unbundling large contracts into smaller ones that are within the capacity of Indigenous businesses.

Recommendation 64

The Proponent and State and Commonwealth must help address the particular difficulties facing small Indigenous businesses in the Area of Impact, and in particular must:

- address land tenure issues on the Dampier Peninsula that deny potential businesses secure tenure and so the capacity to raise loan finance
- provide specific assistance to potential business operators who previously drew on CDEP for support and/or have no credit history
- recognise the difficulty that Indigenous people can face in accessing business support services, facilitate their access to government services that support and promote newly-formed businesses or assist small businesses to expand their operations.

Health and well-being

Recommendation 65

Prior to the commencement of activities under the Plan, the State and Commonwealth Departments of Health and other relevant agencies, in conjunction with local health organisations shall:

- review and consolidate existing data relating to Indigenous health in the Area of Impact, and develop and maintain a single data base of relevant information
- identify any gaps in available health information, and undertake health surveys of relevant populations required to fill these gaps
- on the basis of this enhanced information, expand funding for relevant health and social welfare programs, including those currently provided by NGOs and Indigenous organisations, and place funding on a more secure and long-term footing.

Recommendation 66

The Commonwealth and State Departments of Health must commit funding on a long-term basis, and at a higher level, to developing services for people suffering from mental illness in the Area of Impact.

Recommendation 67

The Commonwealth and State Departments of Health must commit additional funding to enable expansion of regional dialysis services in the Area of Impact.

Youth

Recommendation 68

Responsible Commonwealth and State authorities must expand funding for recreation and other youth activities in the Area of Impact and place funding on a more secure and long-term footing.

Recommendation 69

The KLC and Traditional Owners must develop measures to provide greater support to and recognition to youth. The Proponent will meet the cost of these measures which will include:

- using communication channels that will reach young people in providing information on the LNG Precinct
- sponsoring and promoting cultural, sporting and other events for youth;
- making specific provision for liaison with young people
- providing opportunities for work experience at the LNG Precinct and in their own organisations.

Impact on land tenure

Recommendation 70

- The State must act to resolve uncertainty in relation to land tenure in the Dampier Peninsula as a matter of urgency, and within 3 years of any endorsement of the Plan.
- In the event that any land transfer within the area of a native title determination remains outstanding at that anniversary, then (except in relation to the area of the Beagle Bay Community or outstations), the State will transfer unconditional freehold title, under an ILUA which provides for no extinguishment of native title as a result of that future act, to the relevant Registered Native Title Bodies Corporate.

- The State will pay a bond of \$100 million or some other amount negotiated between the State, the KLC and Traditional Owners, to fund a process to resolve any outstanding tenure issues in the area of the Beagle Bay Community or outstations which remain unresolved at the third anniversary of any endorsement of the Plan.

Recommendation 71

The KLC and Traditional Owners must maintain a flow of relevant and timely information regarding land tenure and other aspects of ILUA and related negotiations that have implications for other native title groups and affected Indigenous communities, employing both face-to-face meetings and regular updates via newsletter and electronic media.

Culture and heritage

Recommendation 72

Any endorsement of the Plan must be subject to the conclusion of an ILUA which allows the Traditional Owners to ensure that any impact of the LNG Precinct and associated developments on their cultural heritage is avoided where possible and, where avoidance is not possible, is minimised. Recognising the principle of Indigenous Free Prior Informed Consent, no damage to Indigenous cultural heritage must be permitted without the informed consent of Traditional Owners.

Recommendation 73

All Precinct Workers and State and Commonwealth employees and consultants required to interact with Traditional Owners in a substantive manner should undergo cross-cultural training provided in conjunction with the Traditional Owners.

Recommendation 74

The Proponent and relevant State and Commonwealth authorities must take specific measures to support the practice of Indigenous culture in the Area of Impact, for example by supporting:

- oral history projects conducted by organisations such as Goolarri media
- cultural festivals and other activities conducted by KALACC

- Indigenous language programs offered in schools
- women's law groups
- establishment of an interpretative display on the history of Jabirr Jabirr people, possibly as part of a Visitor's centre established on the Cape Leveque Road (see Recommendation 30)
- flexible work practices, particularly in the period December – February.

Social conflict around LNG development

Recommendation 75

The Proponent, the State, the Commonwealth, the KLC and Traditional Owners must:

- promote transparency and the free flow of information in relation to LNG development, so that misunderstandings regarding processes and decisions relating to gas development are minimised.
- promote adherence to values of mutual tolerance and respect, through a public information campaign using local media, and stressing the benefits to all of maintaining such values in the fact of conflict over gas development.

5. Report on Heritage Impact Assessment ('HIA Report') Recommended Management and Mitigation Measures

A 'Aboriginal Heritage'

1. For the purposes of these conditions, "Aboriginal Heritage" means the cultural values, beliefs, and obligations, and places, objects and other material manifestations of heritage and cultural values, of the relevant common law holders of native title and those persons who may have obligations in relation to the common law holders, as recognised by those common law holders.

B Finalisation of the Master plan

2. The Proponent will ensure that the master plan for the LNG Precinct the subject of the Plan does not have significant impacts on Aboriginal heritage or cultural values, including environmental values, and that any impacts are acceptable to the relevant Traditional Owners, including through management,

avoidance and mitigation measures committed to under agreements with those Traditional Owners. When the master plan is finalised the Proponent will provide a copy of the finalised master plan to the Minister administering the EPBC Act and the Environmental Protection Authority of Western Australia, together with:

- (a) an explanation of how the finalised master plan manages, avoids or mitigates impacts on Aboriginal heritage and cultural values;
- (b) a description of any management arrangements that will be implemented in relation to management, avoidance or mitigation of these impacts;
- (c) confirmation that the management arrangements referred to in (b) will include an annual audit by an independent expert, and provision of the results of that audit to the Minister administering the EPBC Act, the Environmental Protection Authority of Western Australia, Traditional Owners, the Kimberley Land Council, and (subject to any cultural constraints) publication on the internet or other publicly accessible medium; and
- (d) confirmation that the impacts of the Plan, as provided for through the master plan, on Aboriginal heritage and cultural values are acceptable to Traditional Owners and the process by which this acceptability was determined. This confirmation should be supported by a written statement from the Kimberley Land Council. If a statement from the Kimberley Land Council is not provided, the Proponent must provide a statement indicating the reasons why, including a statement outlining any concerns of Traditional Owners and / or the Kimberley Land Council and the Proponent's responses as to how it will address those concerns.

Jabirr Jabirr Country

C Compliance with HPA and ILUA (or other agreement with Traditional Owners)

3. The Proponent is required to fulfil the undertakings to Traditional Owners in accordance with the Heads of Agreement between the Proponent, Woodside Exploration Ltd and the Kimberley Land Council dated 21 April 2009. The Proponent is also required to finalise an agreement or agreements in relation to the matters provided for in the Heads of Agreement and comply with the terms of that agreement or agreements.
4. Activities under the Plan must be undertaken in compliance with:
 - (a) the Heritage Protection Agreement between the Proponent, Woodside Exploration Ltd and the Kimberley Land Council dated 13 November 2009, including any replacement agreement;
 - (b) heritage protection, management, mitigation and rehabilitation obligations in any agreement or agreements which relate to the Plan, including ancillary activities; and
 - (c) the agreement provided for in clause 3 above.

D Cultural Heritage Management Committee and Plan

5. The Proponent will develop a Cultural Heritage Management ('CHM') Plan within 12 months of the endorsement of the Plan. The CHM Plan will be developed with Traditional Owners, as set out in clause 6 below, and will address impacts in the area of the LNG Precinct, immediate surrounds, the Dampier Peninsula, the location and surrounds of ancillary infrastructure, and traditional lands and waters of other Aboriginal communities who may be impacted by activities of the Plan as identified in the HIA Report.
6. The Proponent will establish a Cultural Heritage Management ('CHM') Committee as part of the management arrangements for the LNG Precinct. Membership of the CHM Committee will be:
 - (a) five representatives of Traditional Owners; and
 - (b) one representative each from the Proponent and Operators, up to a maximum of four non-Traditional Owner representatives.

The number of representatives on the CHM Committee may be greater than those provided in (a) and (b) above, provided that Traditional Owners comprise a majority of the committee members.

7. The CHM Committee will prepare, develop, implement and monitor compliance with, including through regular audit, of the CHM Plan. The CHM Plan will provide for the identification, protection and management of Aboriginal heritage and cultural values within the LNG Precinct and its surrounds during the life of activities under the Plan and for 20 years after those activities cease.
8. The Proponent must ensure that activities under the Plan comply with, and must ensure any contractors, subcontractors, operators, and future proponents comply with:
 - (a) the HPA;
 - (b) all heritage survey reports, Section 18 Conditions, and Cultural Directions prepared under the HPA, the CHM Plan, and any other agreement, plan or instrument relevant to protection of Aboriginal heritage;
 - (c) other State and Commonwealth laws relevant to the implementation of the CHM Plan; and
 - (d) the agreement provided for in clause 3 above, including any management obligations.

Regional Measures

E Regional CHM Plan

9. The Proponent must develop, in conjunction with relevant Traditional Owners, a Regional CHM Plan to identify, assess, manage and monitor impacts of direct and indirect activities (including anticipated population increases) under the Plan on the geographic region around the site of the LNG Precinct likely to be affected by increased population and visitor numbers as a result of the

implementation of the Plan, and nominally set at one day's vehicular or sea craft travel from Broome and Derby unless another area is reasonably identified.

10. The Regional CHM will include a Heritage Protection Agreement for identification, survey and extraction of construction materials not taken from the area subject to, or otherwise dealt with by, the HPA referred to in Measure 4(a) above.
11. The Regional CHM Plan will include provision for Aboriginal heritage and cultural values research and surveys and the preparation of effective long-term management and implementation plans and mitigation strategies, including:
 - (a) the creation and funding of a local and regional Visitor Pass Systems including:
 - (i) permit system for visitor management and access to country – land and sea – within the HIA Area;
 - (ii) establishment of semi permanent and permanent Ranger Stations (based on consultation and research with the relevant Traditional Owners and PBCs) in targeted locations, including:
 - (A) entry point to Dampier Peninsula.
 - (B) Sunday Island.
 - (C) Horizontal Waterfall, approximately one day by water craft and daily flights from Derby/Broome;
 - (D) Cone Bay / Widjinarri Bart Bart;
 - (E) Mowanjum – Art and Culture Centre;
 - (F) Broome (Rubibi determination area); and
 - (G) Bidyadanga (Karajarri determination area).

- (b) biannual audit, public reporting on compliance, and assessment of impacts, including new or unanticipated impacts, on Aboriginal heritage and cultural values, and audit of performance of management and mitigation programs in conjunction with independent expert(s) in the field of Indigenous heritage management approved by Traditional Owners; and
- (c) the development, in conjunction with relevant programmes such as the Kimberley Ranger Initiative, of a programme for training and capacity building for Traditional Owners in relation to heritage asset inventorying, assessment, monitoring and management processes and implementation practices.

F Governments of Australia and Western Australia – addressing regional impacts

12. Relevant departments of the Australian and Western Australian governments with responsibilities for the implementation of the Plan in accordance with the terms of the Plan, management of National Heritage places, and management of lands reserved for conservation purposes, will meet regularly (at least quarterly) with Traditional Owners affected by the implementation of the Plan to review, assess and monitor all issues of concern to Indigenous people and communities regarding direct and indirect impacts of the Plan on Aboriginal heritage and cultural values and to provide feedback to the Western Australian Environmental Protection Authority, the Australian Department of Environment, Water, Heritage and the Arts, any other relevant regulatory authority, the Kimberley Land Council, and Indigenous people and communities within the Heritage Impact Assessment Area on matters pertaining to those impacts and assessment/mitigation and community support programs.
13. The Commonwealth of Australia and the State of Western Australia will take all reasonable steps, including in relation to resource allocation, prioritisation, and commitment to mediated outcomes, so that all native title claims in the HIA Area, at least, can be resolved in as expeditious manner as possible, given

that most claims were filed 10 – 15 years ago. This condition is imposed because:

- (a) activities under the Plan, including indirect impacts such as population increases, are likely to lead to increased development and land use demands in the Kimberley region; and
 - (b) native title holders are better placed to deal with these pressures and competing land use demands if native title claims are fully determined and the relevant Traditional Owner governance bodies adequately resourced.
14. The Commonwealth of Australia and the State of Western Australia will, having regard to the inconsistent approach to heritage and heritage protection in the AHA, ATSIHP Act, EPBC Act, EP Act and NTA, jointly fund a process of consultation with Kimberley Traditional Owners on appropriate mechanisms for heritage protection.

G Matters on the National Heritage List, including potential and prospective values

15. Within 12 months of the Plan being accepted by the Minister, the Proponent, the Commonwealth of Australia, the State of Western Australia, and relevant Traditional Owners and representative organisations will enter into an agreement which provides for management of the potential and prospective National Heritage values (Indigenous values) identified and supported by Traditional Owners through the Kimberley Land Council National Heritage Project (**‘Indigenous Values’**). The agreement will provide for the integrated management of the Indigenous Values, including as follows.
- (a) A program for monitoring dispersal patterns of emissions from the LNG Precinct and potential impacts of those emissions on Indigenous Values.
 - (i) The program will operate for a minimum period of five years from commencement of operations at the LNG Precinct, and a

further five years in the event that emissions are detected in the vicinity of rock art sites that are Indigenous Values or are within the HIA Area.

- (ii) In the event that emissions are detected in the areas identified in (i), the program will continue to operate for the life of operations under the Plan and for a further five years after operations cease.
- (iii) The Proponent must conduct operations under the Plan so as to ensure that:
 - (A) emissions do not have a significant impact on the areas identified in (i); and
 - (B) any impacts of emissions on the areas in (i) are managed, mitigated and rehabilitated so that they are less than significant.
- (b) An integrated and adaptive management plan for management of Indigenous Values will be developed and implemented. The management plan must be:
 - (i) developed jointly with Traditional Owners and their representative bodies in a culturally appropriate process;
 - (ii) integrated with existing land and cultural management programs in the region such as the Kimberley Ranger Initiative, Indigenous Protected Area management arrangements, any joint management arrangements between native title holders / claimants and the Australian or Western Australian governments, and the land management activities of registered native title bodies corporate; and
 - (iii) be jointly and adequately funded by the Proponent, the Commonwealth of Australia, and the State of Western Australia to meet these requirements.

6. Aboriginal Archaeological Site Avoidance Survey Report Recommended Management and Mitigation Measures

In consultation with Goolarabooloo Jabirr Jabirr Native Title Claimants and their representatives, the following recommendations are made:

The Proponent:

1. Must ensure that its employees and contractors are advised that registered site Walmadany (DIA Site ID 13076) is an Aboriginal archaeological site to which the *Aboriginal Heritage Act, 1972* applies and must be avoided;
2. Must avoid undertaking any ground disturbing work in the proposed James Price Point LNG Precinct until the full extent of registered site Walmadany (DIA Site ID 13076) is established and archaeological materials recorded in detail; and
3. Is advised that further archaeological survey must be undertaken to establish the site boundaries of Registered DIA sites 12902 (Kundandu), 12684 (Inballal Karnbor), 12427 (Pidirakundjunu Creek) and 12900 (Ngarrimarran Junu Quarry), located within or in close proximity to the proposed James Price Point LNG Precinct.

Should the Proponent develop plans to disturb Walmadany (DIA Site ID 13076):

4. The Goolarabooloo Jabirr Jabirr Native Title Claimant Group and its representatives must be consulted on any plans to disturb the site and subsequently grant their consent as provided for by the Heritage Protection Agreement dated 13 November 2009 between the State of Western Australia, Woodside Energy Limited, and the Kimberley Land Council, or as provided for by any agreement that replaces the Heritage Protection Agreement; and
5. In consultation with the Goolarabooloo Jabirr Jabirr Native Title Claimant Group and its representatives, detailed recording and analysis of Walmadany

(DIA Site ID 13076) must be undertaken and an archaeological site significance assessment made by a suitably qualified archaeologist as required under Section 18 of the AHA. Detailed recording and analysis should include:

- 5.1. Systematic detailed recording and analysis of archaeological material at Walmadany (DIA Site ID 13076);
 - 5.2. Collection of selected surface archaeological material at Walmadany (DIA Site ID 13076) for radiocarbon dating;
 - 5.3. Shovel test-pit excavation to establish the eastern boundary of Walmadany (DIA Site ID 13076);
 - 5.4. Archaeological test excavation of stratified areas at Walmadany (DIA Site ID 13076) to determine the nature and timing of human occupation at this site; and
 - 5.5. Following further discussion with the Goolarabooloo Jabirr Jabirr Native Title Claim Group, salvage of selected shell and stone artefacts at Walmadany (DIA Site ID 13076) for further detailed recording, analysis (including comparison with specimens held at the Western Australian Museum) and preservation.
6. The Proponent must develop a management plan for Walmadany (DIA Site ID 13076) in consultation with Goolarabooloo Jabirr Jabirr Native Title claimants. This should address ongoing and anticipated increased disturbance to the site by visitors and workers.
 7. Goolarabooloo Jabirr Jabirr Native Title Claimants should consider seeking funding from the Proponent to establish an appropriate "Keeping Place" for storage of salvaged artefacts.
 8. Goolarabooloo Jabirr Jabirr Native Title Claimants must be engaged to monitor ground surface disturbance undertaken in the proposed James Price Point Precinct, particularly in proximity to water sources and coastal dunes.
 9. If any archaeological material is encountered during ground disturbing work,

the Proponent must stop all work and the Goolarabooloo Jabirr Jabirr Native Title Claim Group and its representatives must be notified immediately. Archaeological material must be left *in situ* until Native Title Claimants, with professional assistance as required, have assessed and agreed on its management.

10. If human skeletal material is uncovered the proponent must stop all work and notify the police immediately, as required by law. The Department of Indigenous Affairs and the Goolarabooloo Jabirr Jabirr Native Title Claimant Group must also be notified to enable culturally appropriate management of buried material.
11. A full ethnographic survey of the Project Area must be undertaken.

7. Ethnobiological Report Recommended Management and Mitigation Measures

The identified impacts and recommended mitigation and management measures are dealt with separately for each of the three environmental zones identified within the *Ethnobiological Report*.

- **Marine**, including associated near-shore buffer zones;
- **Shoreline & Dunes**, including fencing boundary and buffer zones; and
- **Mainland**, including behind dunes, east to Cape Leveque Road, associated support infrastructure such as the industrial precinct; temporary/permanent accommodation; boundary fencing, buffer zones and road access.

Separate management and mitigation measures are recommended for the impacts identified in the report, and for each of the construction / operational phase and decommissioning phase. The numbering used in the *Ethnobiological Report*, starting at number 7.2, is used here for ease of cross-reference.

In addition to mitigation conditions recommended in the *Ethnobiological Report*, it is assumed that the LNG proponents will adhere to Federal and State environmental legislation and standards.

7.2 Marine Zone

7.2.1 Restricted Access

Construction/operational mitigation

- (a) Appropriate graded road access such as continuation of Manari Road is to be established around the perimeter of the LNG precinct so that access can continue to Flat Rock, Manari and ethnobiologically significant places north of the subject site. This is to be established and approved by the TOs;
- (b) Environmentally appropriate sites for small craft landing points are to be identified north and south of the LNG precinct. These boat launching areas are to be designed to protect the surrounding environment with regard to parking and turnaround areas through possible use of bollards etc. In addition shoreline access is to be suitable with regard to marine protection and ease of launching small recreational boats;
- (c) Small craft access between the Materials Off-loading Facility (MOF) break wall and near-shore LNG loading facilities is to be provided to allow small craft north south lineal access through this site;
- (d) TOs affected by the LNG Precinct shall establish conditions through the LNG Precinct Indigenous Social Impact Monitoring and Management Board (“**Board**”) to control access to the coast and place fishing restrictions on waters surrounding the LNG Precinct; and,
- (e) Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and consolidated Recommendations (Recommendation 27-37) that relate to population growth, LNG Precinct worker activities and use of wild resources, travel permits for non TOs, ‘exclusion zones’, fishing licences and Indigenous ranger systems.

Decommissioning mitigation

- (f) The Proponent must fund a detailed study on altered ethnobiological practices

due to effects of LNG Precinct construction/operation use within the marine area. The study shall be managed by the Board. Affected Traditional Owners may impose constraints on the use of the study information to the extent that the information may affect cultural interests or legal interests related to ongoing native title proceedings. Noted impacts to ethnobiological practices are to be ameliorated according to study recommendations and mitigation conditions. (Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and Consolidated Recommendations (Recommendation 10 -15) for information regarding the TOs role in the management of environment impacts, monitoring and management); and,

- (g) The LNG Precinct and associated facilities are to be returned to a condition agreed upon by TO representatives of the Indigenous groups affected by the LNG Precinct. Decommissioning will include but not be limited to the removal of infrastructure, re-vegetation, and the reinstating of customary access and will be carried out to a minimum (baseline) standard according to WA EPA coastal standards/best practice www.epa.wa.gov.au.

7.2.2 Disturbance or Removal of Flora/Fauna

Construction/operational mitigation

- (h) Construction of all LNG infrastructure including support industry, and temporary and permanent accommodation is to be approved by Traditional Owner representatives of the Indigenous groups affected by the Precinct and occur according to strict Environment Protection Authority (EPA) standards/best practice, including current Building Codes of Australia (BCA) Standards;
- (i) Construction development zones are to be minimised to reduce associated impacts to all flora/fauna habitat;
- (j) Detailed study and on-going monitoring on construction/operational effects on culturally significant species is to be undertaken with mitigation recommendations/conditions to be strictly adhered to. The Proponent must fund an appropriate Indigenous organisation to undertake these studies and

continuous monitoring on an ongoing basis or as recommended by the Board. Affected TOs may impose constraints on the use of the study information to the extent that the information may affect cultural interests or legal interests related to ongoing native title proceedings. Noted impacts to ethnobiological practices are to be ameliorated according to study recommendations and mitigation conditions; (Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and consolidated Recommendations (Recommendation 10 -15) for information about TOs role in the management of environment impacts, monitoring and management); and,

- (k) Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and consolidated Recommendations (Recommendation 16 &17) in relation to environmental impact management of blasting and dredging and the participation of TOs.

Decommissioning mitigation

- (l) Refer decommissioning mitigation conditions 7.4.1.

7.2.3 Alteration of Physical Landform

Construction/Operational mitigation

- (m) Refer post LNG operation mitigation conditions 7.4.2. (h, i & j)

Post LNG operational mitigation

- (n) Refer post LNG operation mitigation conditions 7.4.1.

7.2.4 Invasive Species

Construction/operational mitigation

- (o) LNG Precinct Proponents to strictly control ballast discharge and boat quarantine in accordance with minimum (baseline) standards meeting the international standards set by International Maritime Organisation (refer www.imo.org);

- (p) Detailed study of present invasive species and appropriate management criteria for existing species and precautionary management for prevention of introduction of new threatening species. The Proponent must fund an appropriate Indigenous organisation to undertake these studies and continuous monitoring on an ongoing basis or as recommended by the Board. Affected TOs may impose constraints on the use of the study information to the extent that the information may affect cultural interests or legal interests related to ongoing native title proceedings.
- (q) Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and consolidated Recommendations (Recommendation 21) regarding disposal of ballast and other quarantine issues and the participation of TOs.

Decommissioning mitigation

- (r) Detailed study to advise on post development invasive species. Study findings/conditions to be rectified to pre-development conditions or as required by the Board. Table 2 within accompanying Appendix A is a short list of aquatic bio-invasion species recorded causing major international impact to coastal flora/fauna. Ref. www.globallast.imo.org/poster4english.pdf; and,
- (s) Refer decommissioning mitigation conditions 7.4.1.

7.2.5 Construction/Operational Impacts

Construction/operational mitigation

- (t) Ongoing studies are required to establish the impacts the construction and operational phases of the LNG Precinct will have on turtle species and other significant fauna. The study will inform management measures to minimise found impacts and monitoring shall be carried out on an ongoing basis or as recommended by the Board. The Proponent must fund an appropriate Indigenous organisation to undertake these studies at minimum ten (10) yearly intervals over the life of the LNG Precinct. The affected TOs may impose constraints on the use of the study information to the extent that the information

may affect cultural interests or legal interests related to ongoing native title proceedings;

- (u) LNG infrastructure shall be designed in accordance with minimum standards meeting the requirements of relevant legislation (Environment Protection (Noise) Regulations 1997 under (EPA) 1986) and occupational noise standards; and,
- (v) Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and consolidated Recommendations (Recommendation 18-20) in relation to environmental impact management of oil and gas spills; shipping movement when cyclones are imminent; and, disaster management strategy.
- (w) Refer construction/operational mitigation conditions 7.4.2.

Decommissioning mitigation

- (x) Refer decommissioning mitigation conditions 7.4.1.

7.2.6 Increased Worker/Social Activity

Construction/operational mitigation

- (y) Refer construction/operation mitigation conditions 7.4.1 regarding conditions of access and 7.4.4. relating to ballast and shipping control.;
- (z) The Proponent must fund continuous monitoring and reporting on social impact due to increased construction/operational worker impact on surrounding coastal environment, including culturally significant marine species. This monitoring and reporting will be managed by the Board. Report mitigation conditions and controls to be adhered to on an ongoing basis; and
- (aa) Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and consolidated Recommendations (Recommendation 10 -15) for specific requirements in relation to the TOs participation in environmental management.

Decommissioning mitigation

- (bb) Refer decommissioning mitigation conditions 7.4.1.

7.3 Shoreline & Dune Zone

7.3.1 Restricted Access

Construction/operational mitigation

- (a) Restricting north south access within the LNG Precinct requires appropriate alternate walking and travelling access routes to be established and approved by the Board.
- (b) Provision of fenced access corridor within the shoreline environment (particularly where base of dunes meet shoreline, above high-water mark) to be explored to allow safe north south lineal access through the site by Traditional Owners, as well as ethnographically important fauna. This may require LNG Precinct infrastructure and worker access underpass/overpass; and,
- (c) Refer construction/operational mitigation conditions

Decommissioning mitigation

- (d) Refer decommissioning mitigation conditions 7.4.1

7.3.2 Disturbance or Removal of Flora/Fauna

Construction/operational mitigation

- (e) Disturbed vegetation must be reinstated through best practice means as soon as construction has been completed (refer to Appendix A for clearing and rehabilitation revegetation approach in the Dampier Peninsula);
- (f) Soil and Dune stabilisation practices to be used where appropriate, such as wind & erosion fences, contouring swales, bank stabilisation, vegetation rehabilitation and ongoing revegetation;
- (g) Topsoil must be carefully protected where possible or otherwise removed,

stored and re-used where appropriate (refer to Appendix A; sect 3.2 for topsoil management in the Dampier Peninsula);

- (h) The Board will manage and oversee design and implementation of all rehabilitation, re-vegetation, stabilisation and rehabilitation and maintenance plans; and,
- (i) Refer construction/operational mitigation conditions

Decommissioning mitigation

- (j) Refer decommissioning mitigation conditions 7.4.1

7.3.3 Alteration of Physical Landform

Construction/operational mitigation

- (k) Construction and earthwork boundaries to be kept to a minimum with strict controls on consolidated lay down areas including dedicated fenced construction zones;
- (l) Construction/operational access through dunes is to occur where potential erosion is best controlled (re. recommendations from shoreline/dunal study). Pipelines and associated infrastructure running east west through the dunal system must be bored rather than excavated to maintain integrity of dunes;
- (m) Overland drainage volumes that feed significant catchment areas, such as the monsoon vine thicket are to be maintained as per pre-development flows; and,
- (n) Refer Construction/operational mitigation conditions 7.4.2(h-j) & 7.5.2.

Decommissioning mitigation

- (o) Refer decommissioning mitigation conditions 7.4.1.

7.3.4 Invasive Species

Construction/operational mitigation

- (p) Refer Construction/operational mitigation conditions 7.4.2.(j), 7.4.4.(p & q)

Decommissioning mitigation

- (q) Refer decommissioning mitigation conditions 7.4.1 & 7.4.4.

7.3.5 Construction/Operational Impacts

Construction/operational mitigation

- (r) Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and consolidated Recommendations (Recommendation 18) for specific requirements in relation to remediation as a result of oil and gas spills; and,

- (s) Refer construction/operational mitigation conditions 7.4.2 & 7.4.5.

Decommissioning mitigation

- (t) Refer decommissioning mitigation conditions 7.4.1

7.3.6 Increased Worker/Social Activity

Construction/operational mitigation

- (u) Refer construction/operational mitigation conditions 7.4.1(e-d), 7.4.4 (p-q) & 7.4.6 (z-aa)

Decommissioning mitigation

- (v) Refer decommissioning mitigation conditions 7.4.1

7.4 Mainland Zone

7.4.1 Restricted Access

Construction/operational mitigation

- (a) Refer construction/operational mitigation conditions 7.4.1(a, b, d, e) & 7.5.1(a).

Decommissioning mitigation

- (b) Refer decommissioning mitigation conditions 7.4.1

7.4.2 Disturbance or Removal of Flora/Fauna

Construction/operational mitigation

- (c) Refer construction/operational mitigation conditions 7.4.2 & 7.5.2.

Decommissioning mitigation

- (d) Refer decommissioning mitigation conditions 7.4.1

7.4.3 Alteration of Physical Landform

Construction/operational mitigation

- (e) The Proponent must fund a program of constant monitoring and reporting on the impact of groundwater abstractions on surrounding and associated fauna and flora. This monitoring and reporting will be managed by the Board. A management strategy approved by the Board shall be implemented.
- (f) The LNG proponent(s) are to minimise the occurrence and impact of erosion and run-off through monitoring, rehabilitation and minimising operation/construction areas within and surrounding the subject site to a standard that is acceptable to the Board;
- (g) Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and consolidated Recommendations (Recommendation 22-24) for specific requirements in relation to water use and management; and,
- (h) Refer construction/operational mitigation conditions 7.5.2 & 7.4.2.

Decommissioning mitigation

- (i) Refer decommissioning mitigation conditions 7.4.1.

7.4.4 Invasive Species

Construction/operational mitigation

- (j) Refer Construction/operational mitigation 7.4.2 and 7.4.4(p + q).

Decommissioning mitigation

- (k) Refer decommissioning mitigation condition 7.4.1.

7.4.5 Altered Fire Regimes

Construction/operational mitigation

- (l) Monitor and establish a fire management strategy for the LNG Precinct, surrounding buffer zone and associated land uses that outline appropriate procedures for organised burn-off, maintenance and continuous surveillance. This management strategy will be managed by the Board throughout the life of the LNG Precinct.
- (m) Refer to Kimberley LNG Precinct Strategic Assessments, Indigenous Impacts Report Volume 1: Overview and consolidated Recommendations (Recommendation 25-26) in relation to fire management.

Decommissioning mitigation

- (n) Ongoing Mainland rehabilitation shall adhere to the established fire management strategy and in accordance to the TO's recommendations.

7.4.6 Construction/Operational Impacts

Construction/operational mitigation

- (o) Refer construction/operational mitigation conditions 7.4.2.

Decommissioning mitigation

- (p) Refer decommissioning mitigation conditions 7.4.1

7.4.7 Increased Worker/Social Activity

Construction/operational mitigation

- (q) Refer construction/operational mitigation conditions 7.4.1(a, b, d, e), 7.4.4(p -

q) & 7.4.6(z-aa) with regard to inclusion of controlled access.

Decommissioning mitigation

(r) Refer decommissioning mitigation conditions 7.4.1.