



ABN: 54 169 57 92 75 Level 17, 95 North Quay Brisbane QLD 4000 1800 779 363 www.epicenvironmental.com.au

Appendix B.10 Cultural Heritage Memorandum

Date:	1 August 2023	
То:	David Krause, Chief Financial Officer - Kalfresh Pty Ltd 6206 Cunningham Highway Kalbar QLD 4309	
From:	Samuel Redman, Epic Environmental	
Client name:	Kalfresh Pty Ltd	
Project name:	Kalfresh Scenic Rim IAR Support	
Project number:	BAA220050.01	
Subject:	Scenic Rim Agricultural Industrial Precinct – Aboriginal Cultural Heritage	

1 PURPOSE

The purpose of this memorandum is to provide an initial due diligence assessment of the SRAIP project's potential to impact Aboriginal cultural heritage. This memorandum has been prepared with reference to the cultural heritage duty of care guideline which operationalises key obligations of the Aboriginal Cultural Heritage Act 2003 (ACH Act 2003).

The findings of this memorandum will inform the proposed development of the SRAIP and will assist with the site activity processes regarding minimising cultural heritage impact for the project.

2 BACKGROUND

Since 2019, multiple site visits have occurred with Epic and the previous consultant RPS. These site visits and preliminary assessments were undertaken with consideration of relevant cultural heritage legislation established under the ACH Act 2003. The results of these site visits have informed the findings of this information memorandum.

2.1 Location of Proposal Activity

The proposed SRAIP project occurs at 6200-6206 Cunningham Highway, Kalbar QLD within the Scenic Rim Regional Council area (Figure 1) comprising lots 1 RP216694, 2 SP192221, 2 RP20974, 2 RP44024, 3 SP192221 and 4 SP192221.

This cultural heritage memorandum is relevant to proposed SRAIP project activities within the proposal area as provided to Epic Environmental (**Figure 1**).





3 PROPOSAL

The proposed SRAIP will consist of a precinct with several freehold allotments ranging in size from a minimum lot size of 4000m2 to 5 hectares with a communal arrangement for a provision of utility services (**Figure 1**).

The project includes the following key features:

- 40 hectares of developable land for industrial allotments ranging from 4,000m2 to 20 hectares
- Internal roads, project office areas and perimeter fence
- Construction of access points to highway
- Onsite sewage and wastewater treatment
- Connection to power, telecommunications, and water utilities
- 2-10 megawatt (scalable) bioenergy facility, including an anaerobic digester, developed in the SRAIP industrial precinct
- 50,000 per annum composting facility to be developed in the SRAIP rural precinct

It is understood that approximately one metre of fill will be placed across the entirety of the developable area prior to commencement of proposed works.

4 MEMORANDUM OBJECTIVE

The objective of this memorandum is to inform the Coordinator-General's considerations of project impacts as part of the Impact Assessment Report process under the *State Development and Public Works Organisation Act 1971*. Kalfresh has been requested to:

- Describe the physical and environmental characteristics relevant to cultural heritage within the proposed activity area, addressed at Physical and environmental context in this memorandum;
- Outline the management measures and any further investigations required to assess potential impact to cultural heritage, specifically the following, addressed at **Table 1** in this memorandum;
 - whether the person searched the database and register for information about the area affected by the activity;
 - the nature and extent of past uses in the area affected by the activity;
 - the extent to which the person consulted with Aboriginal parties about the carrying out of the activity, and the results of the consultation;
 - the nature of the activity, and the likelihood of it causing harm to Aboriginal cultural heritage;
 - the nature of Aboriginal cultural heritage likely to be harmed by the activity;
 - the extent to which the person has complied with cultural heritage duty of care guidelines.

4.1 Limitation

The scope of this memorandum is limited to the proposed activity for the SRAIP development, as provided to Epic Environmental (**Figure 1**). It does not assess other elements or activities outside of this.



5 ABORIGINAL CULTURAL HERITAGE

5.1 Physical and Environmental Context

A search of the Cultural Heritage Database and Register was undertaken on 18 July 2023 (See **enclosure 1**). The reports confirmed that there are no Aboriginal or Torres Strait Islander cultural heritage site points or site polygons recorded in the specific search area. Nor were there any Designated Landscape Areas, Registered Cultural Heritage Study Areas or National Heritage Areas (indigenous values) recorded. The Yuggera Ugarapul People is the relevant Cultural Heritage Party for the area (Ref no. QC2017/005).

Various site visits undertaken by Epic Environmental to date has identified significant ground disturbance across much of the proposal area due to historic and modern agricultural activities.

While observed environmental conditions, soils, surface geology, vegetation, and topography likely provided suitable resources for use by Aboriginal people, it is considered that the disturbance footprint of the SRAIP project is mostly confined to areas that have previously been subject to significant ground disturbance. In this instance, the majority of land subject to the SRAIP project is considered to constitute a Category 4 activity under the duty of care guideline.

Where an activity is proposed (SRAIP) on land which has previously been subject to significant ground disturbance (Category 4 activity), it is generally considered unlikely the activity will harm Aboriginal cultural heritage. With regard to section 5.5 of the duty of care guidelines, it is considered reasonable and practicable that the activity proceeds without further cultural heritage assessment.

A Category 5 activity is defined as an activity causing additional surface disturbance that does not constitute a Category, 1,2,3 or 4 activity. Where an activity is proposed under Category 5 there is generally a higher risk that it could harm Aboriginal cultural heritage. In these circumstances, the activity should not proceed without cultural heritage assessment.

Although the majority of land in the proposed SRAIP disturbance footprint is observed to constitute Category 4 activities, there is a potential that some minor areas of the SRAIP project constitute a Category 5 activity. This might occur for example towards the far northwestern extent of the SRAIP property boundaries where remnant vegetation is observed in this portion of the site. Project activities that may constitute Category 5 in these instances include a small section of the proposed quarry access road and potentially some land on the periphery of the proposed earthworks for the composting activity.

5.2 Potential Finds During Proposed Works

If potential disturbance to Aboriginal Objects or Areas is identified during the proposed works, works must stop in the vicinity of the potential finds and the area must be protected from further impacts. A suitably qualified archaeologist and/or the Aboriginal Party for the area (in this instance, the Yuggera Ugarapul People) would be consulted to determine if the potential finds are of Aboriginal origin and to determine how best to manage the Object and potential future finds.

6 MANAGEMENT MEASURES AND FURTHER INVESTIGATIONS

In some cases, despite an area having been previously subject to Significant Ground Disturbance, certain features of the area may have residual cultural heritage significance such as ceremonial places, scarred or carved trees, burials or occupation sites.

It is important the proponent is informed about any cultural heritage significance that may attach to these features and extra care must be taken prior to proceeding with any activity that may cause additional surface disturbance to the feature, or the area immediately surrounding the feature. In these circumstances, section 5.7 of the duty of care guidelines states that it is necessary to notify the Aboriginal Party and seek advice as to



whether the feature constitutes Aboriginal cultural heritage. If it does, an agreement as to how best the activity may be managed to avoid or minimise harm to any aboriginal cultural heritage may be required.

Table 1 details the questions required to be addressed as part of the Coordinator-General's Impact Assessment Report process. These matters would be initially confirmed in consultation with the Yuggera Ugarapul People and may potentially underpin the preparation of an Aboriginal cultural heritage assessment if determined to be necessary between the parties.

Table 1. Response to consultation review questions

Review Questions	Response	Management Recommendations
Whether the person searched the database and register for information about the area affected by the activity;	A search of the database Cultural Heritage Database and Register was undertaken on 18 July 2023. No evidence of Aboriginal Cultural Heritage on any of the proposed lots for the SRAIP project is recorded.	
The nature and extent of past uses in the area affected by the activity	As per the findings of the site visit and in reference to the duty of care guideline – the majority of the site has been subject of previous clearing for various cropping and grazing uses. These represent significant ground disturbance constituting Category 4 activities.	Consultation with Yuggera Ugarapul People will occur to identify any residual cultural heritage in the first instance. Further investigations will occur during detailed design to identify any Category 5 activities. If they do exist, a Cultural Heritage Assessment will be undertaken.
Whether the person carried out a study or survey, of any type, of the area affected by the activity to find out the location and extent of Aboriginal cultural heritage, and the extent of the study or survey;	The desktop searches confirm there are no Registered Cultural Heritage Study Areas recorded in the specific search area.	Consultation with Yuggera Ugarapul People will occur to identify any residual cultural heritage in the first instance.
The extent to which the person consulted with Aboriginal parties about the carrying out of the activity, and the results of the consultation;	No consultation has occurred to date.	Consultation with Yuggera Ugarapul People will occur to provide details of the project and identify any residual cultural heritage prior to construction.
The nature of the activity, and the likelihood of its causing harm to Aboriginal cultural heritage;	The SRAIP project predominantly comprises a Category 4 activity and therefore it is unlikely harm will be caused to Aboriginal cultural heritage. The SRAIP project is not likely to constitute Category 5 activities – however if they are these will be localised.	If cultural heritage is identified following consultation, an agreement as to how to manage impacts will be required. Further investigations will occur during detailed design to identify any Category 5 activities.
The nature of the Aboriginal cultural heritage likely to be harmed by the activity;	Desktop searches do not identify any instances of cultural heritage within the study area.	If residual cultural heritage is identified following consultation with the Yuggera Ugarapul People, an agreement as to how to manage impacts will be required.
The extent to which the person has complied with cultural heritage duty of care guidelines;	This has been addressed within this memorandum.	This has been addressed within this memorandum.

7 CONSULTATION QUESTIONS ADDRESSED

During the IAR process, questions were raised with the project team regarding how Aboriginal cultural heritage would be likely to be managed by the proponent. An overview of these questions and the relevant response is provided below.



- Outline how the proponent will comply with the ACH Act 2003?
 - As the majority of the site is classified as a Category 4 activity under the Duty of Care Guidelines, the Yuggera Ugarapul People will be notified of project works and consulted to confirm any residual cultural heritage significance that may remain on the lands subject to construction works.
 - If a feature of cultural heritage significance is identified, an agreement will be reached with the Yuggera Ugarapul People as to how best the activity can minimise, manage or avoid potential impacts.
 - Prior to construction, any project component potentially constituting a Category 5 activity will be investigated further. If it is determined to be a Category 5 activity, the proponent must undertake a cultural heritage assessment prior to any ground disturbance occurring.
- How will the proponent determine the cultural heritage significance of the site in order to comply with the cultural heritage duty of care as defined by the ACH Act 2003?
 - As outlined above, determination of cultural heritage significance was obtained through desktop assessment and site visits with reference to the duty of care guidelines. Subsequent consultation with the Yuggera Ugarapul People will occur prior to construction to ensure any residual cultural heritage significance is identified and managed accordingly if necessary.
 - Further site investigations will occur, specifically targeting potential Category 5 areas. These areas will also form part of the consultation with the Yuggera Ugarapul People with specific cultural heritage assessment/s undertaken if this Category is triggered.
- Specify reasonable and practicable measures the proposal can comply with to ensure its activities
 do not harm Aboriginal cultural heritage regardless of whether or not it has been identified or
 recorded in a database.
 - As above, Kalfresh is committed to consulting the Yuggera Ugarapul People prior to construction to ensure residual cultural heritage can be identified and managed appropriately. If an inadvertent discovery of an artifact or item of cultural heritage significance is discovered during site works, works would stop with notification occurring with the Yuggera Ugarapul People. A cultural heritage assessment will be required for any project area/s constituting a Category 5 activity.
- How the proponent has taken reasonable and practical measures to avoid harm to cultural heritage
 - As above, the Proponent will manage, avoid, and minimise harm to Aboriginal cultural heritage in accord with the duty of care requirements under Section 23 of the ACH Act 2003. This includes consultation and investigations to confirm categorisation of project activities.

8 CONCLUSION

8.1 Summary of Key Outcomes of this Memorandum

This memorandum has identified and addressed matters relating to Aboriginal cultural heritage including duty of care requirements of the ACH Act 2003, specific to the proposed activity.

Site visits undertaken by RPS and Epic since 2019 have identified physical and environmental contexts that would likely have supported resources suitable for use by past Aboriginal people. Undocumented tangible Aboriginal heritage may be present in the proposed activity area, and as such, summary advice for avoiding or minimising impact to Aboriginal cultural heritage during the proposed works, has been provided.

8.2 Recommendation

Under the Duty of Care Guidelines of the ACH Act 2003, it has been determined that the proposed SRAIP project predominantly constitutes a Category 4 activity. This means that the proposed development footprint has been subject to significant ground disturbance in the past and is therefore considered unlikely that Aboriginal cultural heritage is contained on the project site.



This aside, small areas of the SRAIP project may constitute Category 5 activities whereby project disturbance may occur in previously undisturbed areas. Cultural heritage assessments are needed to be undertaken when Category 5 activities are triggered.

In all areas of the proposal area, however, the Aboriginal Party may attribute residual cultural heritage significance to ceremonial places, burials, scarred or carved trees and/or occupation sites, regardless of the severity of previous ground disturbance or existing desktop reports. Consultation with the Aboriginal Party is the only way to determine if such heritage is present in the proposal area.

Accordingly, to manage potential impacts to Aboriginal cultural heritage and adhere to the duty of care provisions of the ACH Act 2003, it is recommended that Kalfresh:

- 1. confirm land categorisations associated with final disturbance footprints during detailed design to confirm the extent that Category 4 activities and Category 5 activities apply to the SRAIP project.
- 2. For project works constituting Category 4 activities Consult with the Yuggera Ugarapul People to notify of project works in the first instance and to identify any instances of residual cultural heritage significance that might exist within the project area
- 3. If project works constitute Category 5 activities prepare a cultural heritage assessment as required under the *cultural heritage duty of care guideline* and ACH 200 for those specific instances.

9 REFERENCES

Heritage Branch (2015). Carrying out a heritage survey, Department of Environment and Heritage Protection Brisbane, State of Queensland: 1-16.

Queensland Government (2004). Aboriginal Cultural Heritage Act 2003: Duty of Care Guidelines.



ENCLOSURE 1 – CULTURAL HERITAGE DATABASE AND REGISTER SEARCH RESULTS

Search report reference number: 138713

The Aboriginal and Torres Strait Islander Cultural Heritage Database (cultural heritage database) and Aboriginal and Torres Strait Islander Cultural Heritage Register (cultural heritage register) have been searched in accordance with the location description provided, and the results are set out in this report.

The cultural heritage database is intended to be a research and planning tool to help Aboriginal and Torres Strait Islander parties, researchers, and other persons in their consideration of the cultural heritage values of particular areas.

The cultural heritage register is intended to be a depository for information for consideration for land use and land use planning, and a research and planning tool to help people in their consideration of the Aboriginal cultural heritage values of particular objects and areas.

Aboriginal or Torres Strait Islander cultural heritage which may exist within the search area is protected under the <u>Aboriginal Cultural Heritage Act 2003</u> and the <u>Torres Strait Islander Cultural Heritage Act 2003</u> (the Cultural Heritage Acts), even if the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (the Department) has no records relating to it.

The placing of information on the database is not intended to be conclusive about whether the information is up-to-date, comprehensive or otherwise accurate.

Under the Cultural Heritage Acts, a person carrying out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal or Torres Strait Islander cultural heritage. This applies whether or not such places are recorded in an official register and whether or not they are located on private land.

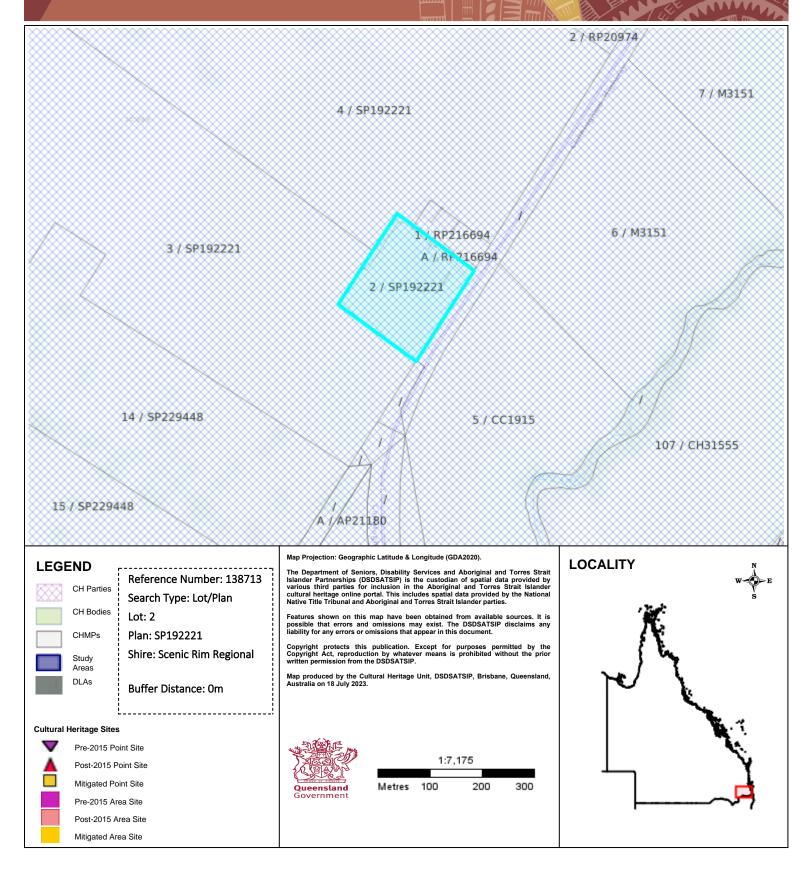
Please refer to the Department website https://www.qld.gov.au/firstnations/environment-land-use-native-title/cultural-heritage/cultural-heritage-duty-of-care to obtain a copy of the gazetted Cultural Heritage Duty of Care Guidelines, which set out reasonable and practicable measure for meeting the cultural heritage duty of care.

In order to meet your duty of care, any land-use activity within the vicinity of recorded cultural heritage should not proceed without the agreement of the Aboriginal or Torres Strait Islander Party for the area, or by developing a Cultural Heritage Management Plan under Part 7 of the Cultural Heritage Acts.

The extent to which the person has complied with Cultural Heritage Duty of Care Guidelines and the extent the person consulted Aboriginal or Torres Strait Islander Parties about carrying out the activity – and the results of the consultation – are factors a court may consider when determining if a land user has complied with the cultural heritage duty of care.

Should you have any further queries, please do not hesitate to contact the department via email: cultural.heritage@dsdsatsip.qld.gov.au or telephone: 1300 378 401.





There are no Aboriginal or Torres Strait Islander cultural heritage site points recorded in your specific search area.

There are no Aboriginal or Torres Strait Islander cultural heritage site polygons recorded in your specific search area.

Cultural Heritage Party/ies for the area:

Reference No.	Federal Court No.	Name	Contact Details
QC2017/005		People	Yuggera Ugarapul People Parallax Legal PO Box 461 MORNINGSIDE QLD 4170
			Mobile: 0400 880 773 Email: cassie.lang@parallaxlegal.com.au

There are no Cultural Heritage Bodies recorded in your specific search area.

There are no Cultural Heritage Management Plans recorded in your specific search area.

There are no Designated Landscape Areas (DLA) recorded in your specific search area.

There are no Registered Cultural Heritage Study Areas recorded in your specific search area.

There are no National Heritage Areas (Indigenous values) recorded in your specific search area.

Glossary

Cultural Heritage Body: An entity registered under Part 4 of the Cultural Heritage Acts as an Aboriginal or Torres Strait Islander cultural heritage body for an area. The purpose of a cultural heritage body is to:

- identify the Aboriginal or Torres Strait Islander parties for an area
- serve as the first point of contact for cultural heritage matters.

Cultural Heritage Management Plan (CHMP): An agreement between a land user (sponsor) and Traditional Owners (endorsed party) developed under Part 7 of the Cultural Heritage Acts. The CHMP explains how land use activities can be managed to avoid or minimise harm to Aboriginal or Torres Strait Islander cultural heritage.

Cultural Heritage Party: Refers to a native title party for an area. A native title party is defined as:

- Registered native title holders (where native title has been recognised by the Federal Court of Australia).
- Registered native title claimants (whose native title claims are currently before the Federal Court of Australia).
- Previously registered native title claimants (the 'last claim standing') are native title claims that are no longer active and have been removed from the Register of Native Title Claims administered by the National Native Title Tribunal. Previously registered native title claimants will continue to be the native title party for that area providing:
 - o there is no other registered native title claimant for the area; and
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The native title party maintains this status within the external boundaries of the claim even if native title has been extinguished.

Cultural heritage site points (pre 2015): Aboriginal and Torres Strait Islander cultural heritage sites and places recorded in the database as point data **before** 1 July 2015.

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Indigenous Protected Areas (IPA): Areas of land and sea managed by Indigenous groups as protected areas for biodiversity conservation through voluntary agreements with the Australian Government. For further information about IPAs visit https://www.environment.gov.au/land/indigenous-protected-areas

National Heritage areas: Places listed on the National Heritage List for their outstanding heritage significance to Australia and are protected under the Environment Protection and Biodiversity Conservation Act 1999. For further information about the National Heritage List visit https://www.environment.gov.au/heritage/about/national

National Heritage Areas (Indigenous values): Places listed on the National Heritage list (Indigenous values) are recognised for their outstanding Indigenous cultural heritage significance to Australia and are protected under the Environment Protection and Biodiversity Conservation Act 1999. These areas are now included in the cultural heritage

register.

Registered Cultural Heritage Study Areas: Comprehensive studies of Aboriginal and or Torres Strait Islander cultural heritage in an area conducted under Part 6 of the Cultural Heritage Acts for the purpose of recording the findings of the study on the register.

Traditional Use of Marine Resources Agreement (TUMRA): Areas subject to agreement between Great Barrier Reef Traditional Owners and the Australian and Queensland governments on the management of traditional use activities on their sea country. For further information about TUMRAs visit https://www.gbrmpa.gov.au/our-partners/traditional-use-of-marine-resources-agreements

World Heritage Areas: Places inscribed on the World Heritage List pursuant to the World Heritage Convention adopted by the United Nations Education, Scientific and Cultural Organisation (UNESCO) and are protected under the *Environment Protection and Biodiversity Conservation Act 1999*. For further information about World Heritage places in Queensland visit https://parks.des.gld.gov.au/management/managed-areas/world-heritage-areas

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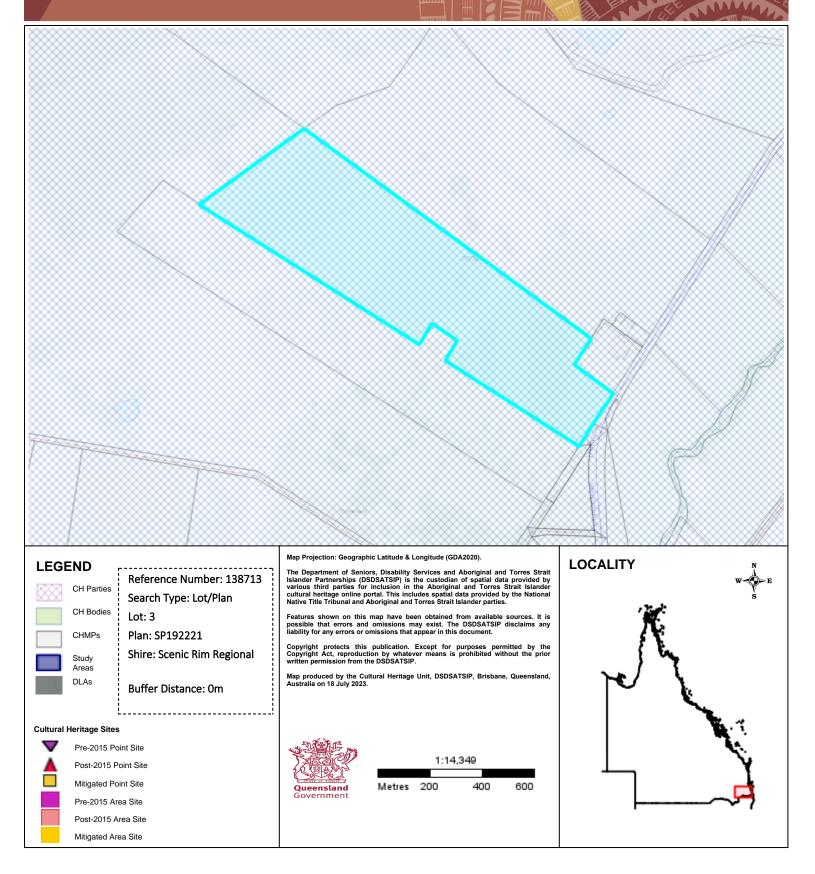
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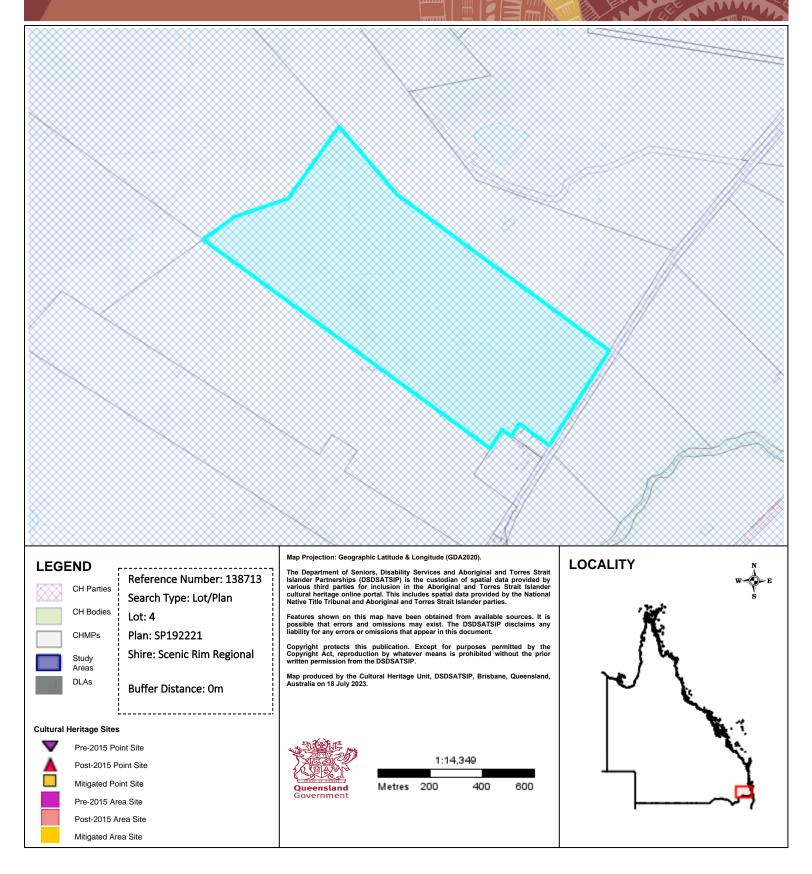
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QC2017/005		People	Yuggera Ugarapul People Parallax Legal PO Box 461 MORNINGSIDE QLD 4170
			Mobile: 0400 880 773 Email: cassie.lang@parallaxlegal.com.au

There are no Cultural Heritage Bodies recorded in your specific search area.

There are no Cultural Heritage Management Plans recorded in your specific search area.

There are no Designated Landscape Areas (DLA) recorded in your specific search area.

There are no Registered Cultural Heritage Study Areas recorded in your specific search area.

There are no National Heritage Areas (Indigenous values) recorded in your specific search area.

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Search report reference number: 138713

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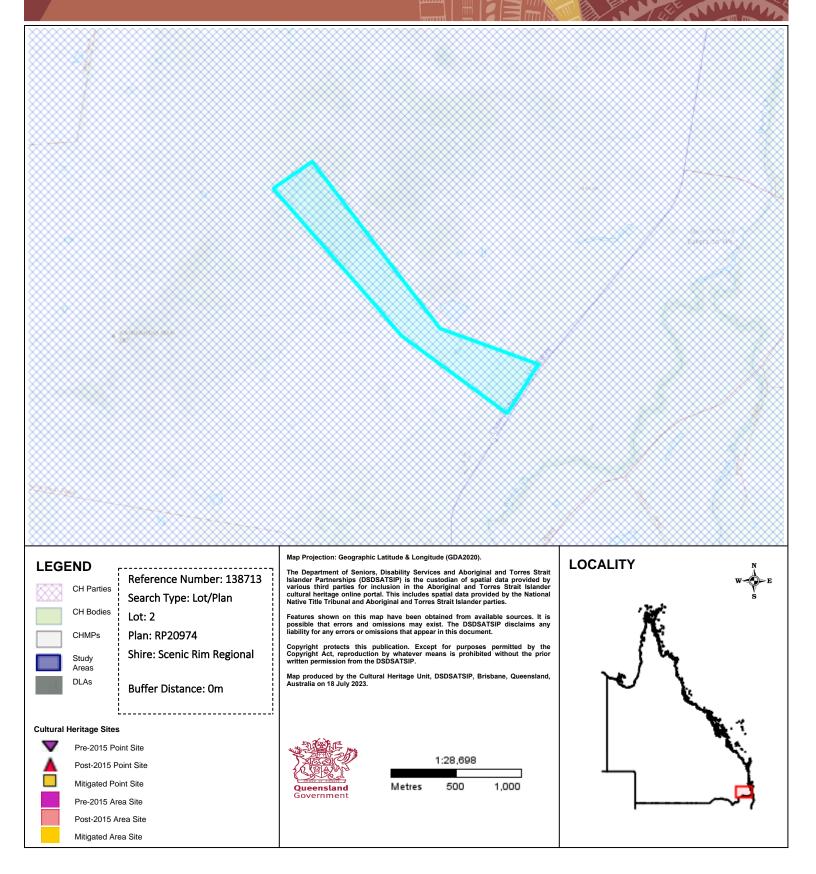
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There are no Aboriginal or Torres Strait Islander cultural heritage site points recorded in your specific search area.

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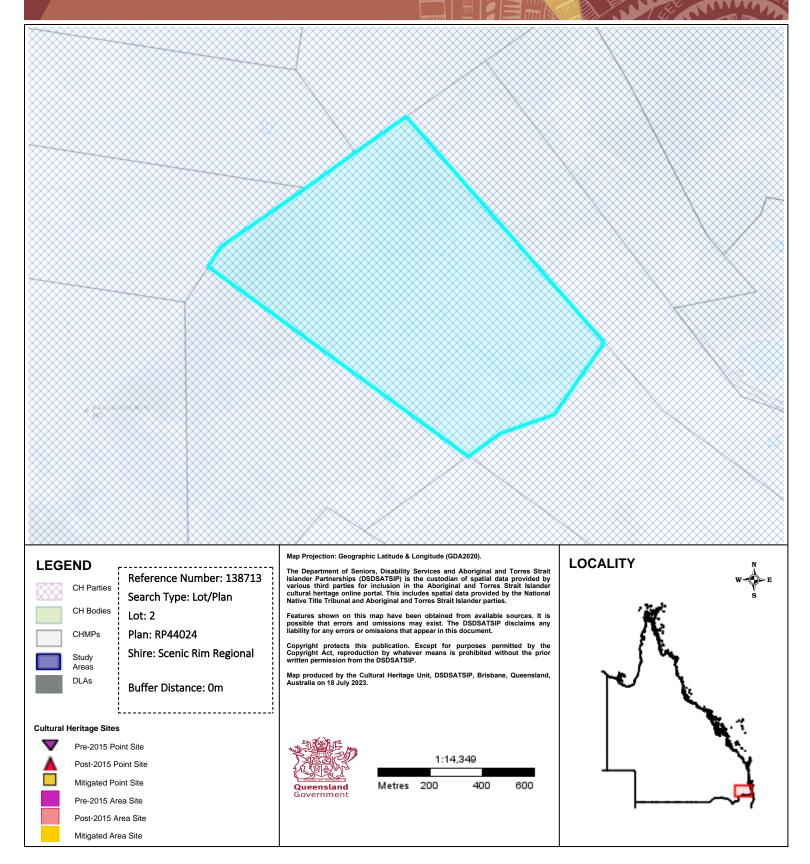
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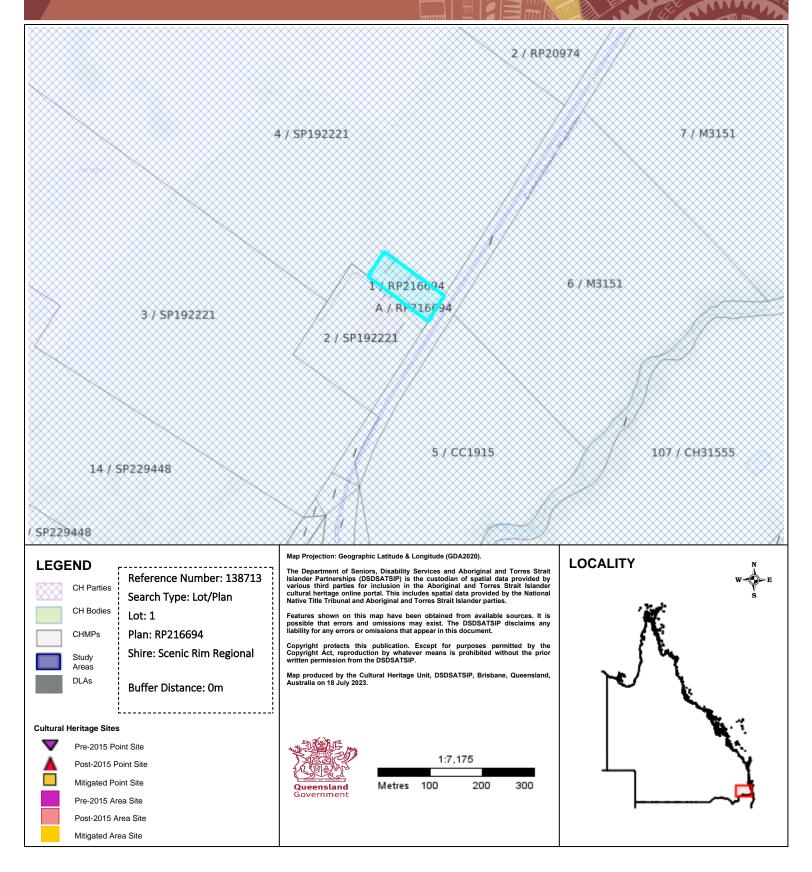
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