

DATED 16<sup>th</sup> day of January 2003

THE STATE OF WESTERN AUSTRALIA

and

**BETTY DALE, TIM DOUGLAS, WILFRED HICKS, ERNIE RAMIREZ AND CANE  
HICKS ON BEHALF OF THE WONG-GOO-TT-00 NATIVE TITLE PARTY**

and

**DAVID DANIEL, DAISY MOSES, ROGER BARKER, JILL CHURNSIDE, TREVOR  
SOLOMON AND LES HICKS ON BEHALF OF THE NGARLUMA PEOPLE AND  
BRUCE MONADEE, KENNY JERROLD, MARY WALKER, BRUCE WOODLEY,  
MICHELLE ADAMS, JIMMY HORACE, LINDA RYDER AND JUDY ALBERT ON  
BEHALF OF THE YINDJIBARNDI PEOPLE**

and

**VALERIE HOLBOROW, KEVIN COSMOS AND ROBERT BOONA ON BEHALF OF  
THE YABURARA MARDUDHUNERA NATIVE TITLE PARTY**

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**BURRUP AND MAITLAND INDUSTRIAL ESTATES AGREEMENT  
ADDITIONAL DEED**

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CROWN SOLICITORS OFFICE  
141 St George's Terrace  
PERTH WA 6000

Tel: (08) 9264 1888

Fax: (08) 948 17169

5/19 8 17/03

THIS DEED is made on the 16<sup>th</sup> day of January 2003

for Commissioner of State Revenue

BETWEEN

THE PREMIER FOR AND ON BEHALF OF THE STATE OF WESTERN AUSTRALIA ("STATE")

AND

THE WONG-GOO-TT-OO NATIVE TITLE PARTY, the persons described in Item 1.3 of Schedule 1, acting for and on behalf of themselves and all persons included in their native title claim group (set out in Schedule 3) ("WGT")

DEE 17/01/03 11:54 002015087-002  
FEE \$ \*\*\*\*\*0  
SD \$ \*\*\*\*\*.00 PEN \*\*\*\*\*.00  
EXEMPT 100 %

AND

THE NGARLUMA YINDJIBARNDI NATIVE TITLE PARTY, the persons described in Item 1.1 of Schedule I, acting for and on behalf of themselves and all persons included in their native title claim group ("NY")

AND

THE YABURARA MARDUDHUNERA NATIVE TITLE PARTY, the persons described in Item 1.2 of Schedule I, acting for and on behalf of themselves and all persons included in their native title claim group ("YM")

RECITALS

- A. If the Wong-Goo-Tt-Oo Native Title Party enters into this deed then, in accordance with clauses 2.2(a) and 2.2(e) of the Implementation Deed, the State will issue a written offer to the Wong-Goo-Tt-Oo Native Title Party to enter into ~~the Implementation Deed and to become a Contracting Party.~~
- B. The Wong-Goo-Tt-Oo Native Title Party wishes to enter into the Implementation Deed in accordance with clause 2.2(c) of that deed and will do so on the basis that it agrees to the conditions set out in this deed.
- C. The State agrees to additional conditions in respect of the compulsory acquisition of native title pursuant to the Implementation Deed, as set out in this deed.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions in the Implementation Deed

In this deed, words and phrases have the same meaning as those defined in the Implementation Deed, subject to the additional and substituted definitions in clause 1.2 below.

## 1.2 Additional and substituted definitions

In this deed, unless the contrary intention appears –

**Ancillary Agreements** means agreements entered into by the WGT for compensation or other benefits to the WGT in relation to the grant or transfer of an interest in land within the Area, the Additional Land and the Karratha Land (but not including De Witt Location 399 and the Burrup Fertiliser Land).

**Approved Body Corporate** means the Approved Body Corporate to be established in accordance with clause 17 of the Implementation Deed.

**Cowie Cove Track Heritage Area** means the land in the north eastern corner of the proposed Methanex lease area as shown on the map which is Schedule 4.

**Deed Party** means a Native Title Party who has entered into this Deed and **Deed Parties** means all of them.

**Implementation Deed** means the Burrup and Maitland Industrial Estates Agreement Implementation Deed made on 1 November 2002.

**Liquigaz Lease Area** means portion of De Witt location 591 as shown on the plan which is Schedule 5 to this deed.

**party** means a party to this deed and **parties** means all of them.

**Schedule** means a schedule to this deed.

**Scheduled Proponent** means those persons listed in Schedule 2.

**site** has the same meaning as under the Aboriginal *Heritage* Act 1972 (WA).

**State** includes the Western Australian Land Authority established under the *Western Australian Land Authority Act 1992* (WA) or its successor.

**Survey Area** means that part of the Area and the Additional Land which forms the Burrup South industrial precinct, the Burrup West industrial precinct, the Withnell East industrial precinct (not including the Liquigaz Lease Area), the Conzinc South industrial precinct, the South West Burrup industrial precinct and the West Intercourse Island industrial precinct.

**Water Tanks Heritage Area** means the land in the north western portion of the King Bay / Hearson Cove industrial precinct which is above the 30 metre contour line near the western boundary of the proposed Methanex lease area as shown on the map which is Schedule 4.

**WGT Claim Group Members** means the members of the native title claim group in respect of the Wong-Goo-Tt-Oo claim referred to in Item 1.3 of Schedule 1, as set out in Schedule 3.

### 1.3 Interpretation

In this deed, unless the contrary intention appears:

- (a) the word person includes a firm, body corporate, statutory corporation, an unincorporated association or an authority and a reference to a gender includes each other gender;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a person includes a reference to a person's executors, administrators, successors, substitutes (including but not limited to persons taking by novation), transferees and assigns;
- (d) an agreement representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally;
- (e) a reference to any thing is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them; and
- (f) a reference to a grant of any right or interest includes the exercise of the rights or the discharge of obligations by the parties in respect of such grant.

### 2. EXECUTION AND WHEN THIS DEED TAKES **EFFECT**

2.1 Other than clause 2.2, this deed shall have no force or effect unless and until all of the following events have occurred:

- (a) the Premier has executed this deed for and on behalf of the State; and
- (b) the WGT have executed this deed.

2.2 The NY or the YM or both may enter into this deed and become a Deed Party.

### 3. AUTHORITY TO ENTER INTO DEED

The Deed Parties represent and warrant that:

- (a) all necessary authorisations have been obtained to enter into this deed, and
- (b) this deed is valid and binding and enforceable in accordance with its terms against the Deed Parties and all persons included in their respective native title claim groups.

**4. AGREEMENT THAT THERE SHALL BE NO ENTITLEMENT TO ADDITIONAL BENEFITS BY THE WGT**

4.1 The Deed Parties acknowledge and agree that it would not be equitable for benefits arising under clause 9 of the Implementation Deed in respect of Scheduled Proponents to be distributed to WGT Claim Group Members.

4.2 The State may withhold its approval to the terms and conditions upon which the Approved Body Corporate is established, and to any proposed amendment to the rules and objects of the Approved Body Corporate, unless the rules and objects provide that with respect to any monies received from Scheduled Proponents pursuant to clause 9 of the Implementation Deed:

- (a) those monies shall not be allocated in any way whatsoever for the benefit of the WGT Claim Group Members; and
- (b) those monies are to be allocated only for the benefit of the members of the NY and YM native title claim groups and, with the agreement of the NY and YM, for the general welfare of the Contracting Claim Groups as contemplated in clause 17.5(c)(iv) of the Implementation Deed.

4.3 If approval is withheld as provided for in clause 4.2 above, then the State will not be in breach of its obligations under the Implementation Deed, and approval could not be said to be unreasonably withheld.

4.4 This clause may be pleaded by the State as a bar to any proceedings by the Deed Parties challenging the validity of the State's refusal to approve the terms and conditions upon which the Approved Body Corporate is to be established, or to approve any proposed amendments to the rules and objects of the Approved Body Corporate.

4.5 The WGT represent and warrant to the State that they have disclosed to the State all Ancilliary Agreements.

4.6 If the WGT have not disclosed to the State an Ancilliary Agreement, then the WGT agree that any monies or other benefits due to the WGT under that Ancilliary Agreement shall be payable to the Approved Body Corporate.

**5. NO FURTHER COMPENSATION FOR THE WGT**

For the avoidance of doubt, the WGT agree that the monetary payments and other benefits provided by the Scheduled Proponents under the Ancilliary Agreements with those Scheduled Proponents, and the benefits under the Implementation Deed (provided in a manner consistent with clause 4 of this deed), constitute full and final settlement of any claim for compensation in respect of the extinguishment or impairment, as the case may be, of the WGT's native title rights and interests in the land the subject of the Ancilliary Agreements with the Scheduled Proponents.

## 6. SITE IDENTIFICATION SURVEYS

- 6.1 The State must ensure that within 5 years of the date of this deed, site identification surveys, to a standard set by the Department of Indigenous Affairs (which standard shall be consistent with the Heritage Policies), have been conducted over the Survey Area with each of the Deed Parties.
- 6.2 The State must ensure that the reasonable costs, fees and disbursements of up to 4 members of each Deed Party, and if requested an anthropologist and archaeologist engaged by each Deed Party, are paid to conduct the surveys. For the avoidance of doubt, each Deed Party may conduct separate surveys or may conduct joint surveys.
- 6.3 Each Deed Party must provide the State with a report of the results of the surveys within 90 days of conducting the surveys.
- 6.4 Unless otherwise agreed by the relevant Deed Party, reports provided to the State under clause 6.3 above are to remain confidential and may only be disclosed to a bona fide prospective proponent of land within the Industrial Estate (subject to a requirement of confidentiality) or to the Aboriginal Cultural Material Committee or other body for the purposes of the *Aboriginal Heritage Act 1972 (WA)*, the *Aboriginal and Torres Strait Islander Heritage Protection Act (Cth)*, the *Environmental Protection Act 1986 (WA)*, or other similar legislation.
- 6.5 If a report of the results of a survey conducted under this clause 6 recommends that:
- (a) some or all of the **Burrup Peninsula** should be nominated for inclusion on the Register of the National Estate on the grounds of its Aboriginal heritage values; or
  - (b) some or all of the **Burrup Peninsula** should be declared a protected area under the *Aboriginal Heritage Act 1972 (WA)*,

then the State will provide a written response to the relevant Deed Party to that recommendation within six (6) months of it being presented with the report and recommendation.

- 6.6 Nothing in this clause 6 precludes the need for heritage surveys required by law in any other area.

## 7. DISTURBANCE OF **ABORIGINAL** SITES

- 7.1 The State must ensure that the Deed Parties are notified of any notice under section 18 of the *Aboriginal Heritage Act 1972 (WA)* with respect to sites within the Industrial Estate.
- 7.2 Prior to the disturbance of any rock art by reason of industrial development within the Industrial Estate, the State must ensure that the following information ("Information") is recorded and provided to the State:

- (a) the location of the rock art in situ, including a map of its location;
- (b) a description of the characteristics of the rock art;
- (c) a photograph of the rock art; and
- (d) any gender or cultural restrictions applying to the rock art

7.3 The Information is to be stored by the State in a secure location and is to be accessible to the public; except in relation to rock art which is culturally sensitive or gender restricted, in which case the information is to be accessible only to the Deed Parties or persons with the permission of the Deed Parties or in a manner consistent with the cultural or gender restriction.

## 8. **ACCESS**

8.1 Subject to clause 8.2 below, the State must permit access by the Deed Parties to land in the Industrial Estate which is not the subject of an interest granted or transferred by the State to another person.

8.2. The State may give a direction to the Deed Parties (orally or in writing), limiting or prohibiting access to land in the Industrial Estate to the extent reasonably necessary:

- (a) to enable the development of the Industrial Estate and to permit the conferral of interests in the land on persons other than the State; or
- (b) for reasons of safety or security.

8.3 The Deed Parties must comply with any direction given by the State in accordance with this clause. In the case of a direction given orally, the State shall confirm the direction in writing as soon as practicable after it is given.

8.4 Nothing in clauses 8.1 to 8.3 above binds successors in title to the State to any part of the Industrial Estate.

## 9. **WATER TANKS HERITAGE AREA AND COWRIE COVE TRACK HERITAGE AREA**

9.1. The State will not undertake, nor permit any other person to undertake, ground disturbing activities in the Water Tanks Heritage Area or the Cowrie Cove Track Heritage Area except to the extent reasonably necessary for reasons of safety and security.

9.2. The State will ensure that any proponent who obtains a lease or other interest within the Water Tanks Heritage Area or the Cowrie Cove Track Heritage Area shall construct a fence to separate the Water Tanks Heritage Area or the Cowrie Cove Track Heritage Area (as the case may be) from any industrial activities in the

vicinity of the Water Tanks Heritage Area or the Cowrie Cove Track Heritage Area (as the case may be).

- 9.3.** The State will ensure that the Deed Parties' access to the Water Tanks Heritage Area and the Cowrie Cove Track Heritage Area is not prohibited except on such occasions as, and to the extent it is reasonably necessary that, access must be restricted for reasons of safety or security.

**10. COWRIE COVE ACCESS**

- 10.1.** The State will ensure that the development of the Industrial Estate does not prevent public access to Cowrie Cove.

- 10.2** Nothing in clause 10.1 prohibits the State or any other person from preventing or restricting access to Cowrie Cove for reasons other than the development of the Industrial Estate.

**11. ROCK ART STUDY**

- 11.1** The State will organise and fund a minimum 4 year study into the effects of industrial emissions on rock art within and in the vicinity of that part of the Industrial Estate which is on the Burrup Peninsula.

- 11.2** In order to keep the Deed Parties fully informed as to the progress and results of the study referred to in clause 11.1 above, the State will, not less than once a year, meet with the Deed Parties who wish to do so, in Roeboume or Karratha or a place otherwise agreed upon, to discuss the progress and results of the study.

**12. WORLD HERITAGE**

- 12.1** Within three (3) months of the date that the Commonwealth Government formally requests the views of the State to some or all of the Dampier Archipelago and the Burrup Non-Industrial Land being nominated to the World Heritage List, the State will establish a committee ("**Burrup Heritage Committee**") to consider and report to the State (including making recommendations) as to whether a recommendation should be made to the Commonwealth Government for some or all of the Dampier Archipelago and the Burrup Non-Industrial Land to be nominated to the World Heritage List.

- 12.2** The Burrup Heritage Committee shall comprise one representative of each of the Deed Parties and such other persons as the State considers appropriate.

- 12.3** The State shall provide the venue for meetings of the Burrup Heritage Committee, provide administrative support to the Burrup Heritage Committee, and shall meet the reasonable out-of-pocket expenses of the Deed Party representatives referred to in clause 12.2 to attend meetings of the Burrup Heritage Committee.

- 12.4** The State must use its best endeavours to ensure that the Burrup Heritage Committee completes its report and recommendations within 12 months of the establishment of the Burrup Heritage Committee.



12.5 The State will:

- (a) publish the report and recommendations of the Burrup Heritage Committee on the matters referred to in clause 12.1 as soon as possible after it is presented to the State; and
- (b) publish a response to that report and recommendations within six (6) months of it being presented with the report and recommendations.

13. NO WAIVER OF CLAIM TO NATIVE TITLE

13.1 By entering into this deed and the Implementation Deed the WGT do not waive any right they may have to be recognised as a separate native title claim group with their own traditional laws and customs.

13.2 For the avoidance of doubt, the entry by a Deed Party into this deed and the Implementation Deed is without prejudice to their claim to hold native title independently of the other Native Title Parties.

14. OPERATION OF IMPLEMENTATION DEED

14.1 Subject to clause 4 of this deed, in approving the terms and conditions for the establishment of the Approved Body Corporate, the State will require that the rules and objects of the Approved Body Corporate provide that the principle of equitable distribution specified in clause 17.5(c)(vi) of the Implementation Deed shall apply fairly, and without discrimination between its members by reason of membership of a Contracting Claim Group.

14.2 The State supports the principle, and will use its best endeavours to facilitate, each Contracting Party having one of its members appointed (if they so wish) to the Management Council to be established under clause 6 of the Management Agreement.

14.3 Nothing in clause 14.2 is intended to:

- (a) derogate from the powers and discretions of the Approved Body Corporate;  
or
- (b) fetter the discretion of the Minister for Indigenous Affairs,

under the Implementation Deed.

15. GENERAL

15.1 Each party agrees, at its own expense, on the request of another party, to do everything reasonably necessary to give effect to this deed and the matters contemplated by it.

- 15.2 Each party will pay its own legal and other costs and expenses in connection with the preparation and completion of this deed, except as otherwise agreed. The State must pay all stamp duty (including fines or penalties) payable on or with respect to this deed.
- 15.3 This deed is governed by the law in force in the State of Western Australia.
- 15.4 Where under this deed there is an obligation on the State to ensure that a particular thing does or does not happen in circumstances where the thing is to be or may be done by, or involves, another person or persons:
- (a) the State may satisfy its obligation under this deed by obtaining or imposing a legally binding commitment or prohibition on that person or persons to do or not to do that thing; and
  - (b) the State is not in breach of this deed if the thing does or does not happen for reasons beyond the control of the State (including because of the unreasonable conduct of a Deed Party).
- 15.5 The parties acknowledge that neither the State nor its officers, employees or agents have any obligation or liability whatsoever in connection with the rights and obligations of the WGT under any Ancilliary Agreement with a Scheduled Proponent.
- 15.6 Clauses 6 to 14 (inclusive) of this deed are contractual terms between the parties and are not conditions precedent nor conditions subsequent to the agreement of the Deed Parties to anything in the Implementation Deed.
- 15.7 The parties acknowledge that, except for clauses 4 and 5, the provisions of the Implementation Deed prevail over this deed.
- 15.8 This deed may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.
- 15.9 Notices under this deed shall be given in the same manner as under clause 30.2 of the Implementation Deed.

**SCHEDULE 1****PARTY DETAILS**

<b>1.1 Ngarluma Yindjibarndi - Native Title Party</b> (Registered native title claimants)	
Name:	David Daniel, Daisy Moses, Roger Barker, Jill Chumside, Trevor Solomon and Le:3 Hicks on behalf of the Ngarluma People; and Bruce Monadee, Kenny Jerrold, Mary Walker, Bruce Woodley, Michelle Adams, Jimmy Horace, Linda Ryder and Judy Albert on behalf of the Yindjibamdi People
For:	Ngarluma Yindjibarndi Native Title Claim Group
Address:	C/- Principal Legal Office, Yamatji Barna Baba Maaja Aboriginal Corporation Level 14,256 Adelaide Terrace PERTH WA 6000 Facsimile: (08) 9225 4633
Native title determination application number:	National Native Title Tribunal Number WC99/14 Federal Court Action Number WAG 6017/96
Date entered on Register of Native Title Claims:	14 July 1999
<b>1.2 Yaburara Mardudhunera - Native Title Party</b> (Registered native title claimants)	
Name:	Valerie Holborow, Kevin Cosmos and Robert Boona
For:	Yaburara Mardudhunera Native Title Claim Group
Address:	C/- Williams & Co Level 1,477 Hay Street SUBLACO WA 6008 Facsimile: (08) 9388 1352
Native title determination application number:	National Native Title Tribunal Number WC96189 Federal Court Action Number WAG 127/97
Date entered on Register of Native Title Claims:	1 August 1996

<b>1.3 Wong-Goo-Tt-Oo - Native Title Party (Registered native title claimants)</b>	
Name:	Betty Dale, Tim Douglas, Wilfred Hicks, Ernie Ramirez and Cane Hicks
For:	Wong-Goo-Tt-Oo Native Title Claim Group
Address:	PO Box 156, Roeboume WA 6718
Native title determination application number:	National Native Title Tribunal Number WC98/40 Federal Court Action Number WAG 6256/98
Date entered on Register of Native Title Claims:	9 April 1999
<b>1.4 State</b>	
Authorised Representative:	Executive Director, Office of Native Title, Department of the Premier and Cabinet
Address:	197 St George's Terrace Perth WA 6000 Facsimile: (08) 9222 9877

SCHEDULE 2

SCHEDULED PROPONENTS

1. Liquigaz Pty Ltd, ACN 100 656 666 of Level 23, St Martin's Towers, 46 St Georges Terrace, Perth, Western Australia.
2. Methanex Australia Pty Ltd, ACN 092 470 105 of Level 8, QV1 Building, 250 St George's Terrace, Perth, Western Australia,

**SCHEDULE 3**

**WGT CLAIM GROUP MEMBERS**

**Douglas Family**

Tim Douglas  
Ross Douglas  
John Douglas  
Mickey Douglas  
Elizabeth Douglas  
Betty Dale  
David Dale  
Doris Norman  
Len Norman

**Hicks family**

Wilfred Hicks  
Dallas Hicks (deceased)  
Cane Hicks  
Joan Hicks  
Michael Hicks  
Allan Hicks  
Gerard Hicks  
Diane Hicks  
Sharon Hicks  
Peter Hicks  
Robert Hicks

**Ramirez family**

Ernie Ramirez  
Phyllis Ramirez  
Arnold Ramirez  
Lawrence Ramirez

**Others**

Teresa Coppin  
Cindy Coppin  
Jimmy Dhu  
Phyllis Harris  
Norman King  
Mylene Todd  
Margaret Todd  
Terence Todd  
Betty Toby  
Barbara Wills  
Alice Wunida

TOGETHER WITH such other persons who acknowledge themselves and who are accepted by the WGT in accordance with the traditional laws and customs of the Wong-Goo-Tt-Oo native title claim group to be members of the Wong-Goo-Tt-Oo native title claim group

AND the children, grandchildren and future generations of all those people who acknowledge themselves and are accepted by the WGT to be members of the Wong-Goo-Tt-Oo native title claim group.

**SCHEDULE 4**

**MAP OF COWRIE COVE TRACK HERITAGE AREA AND WATER TANKS  
HERITAGE AREA**



METHANEX SITE

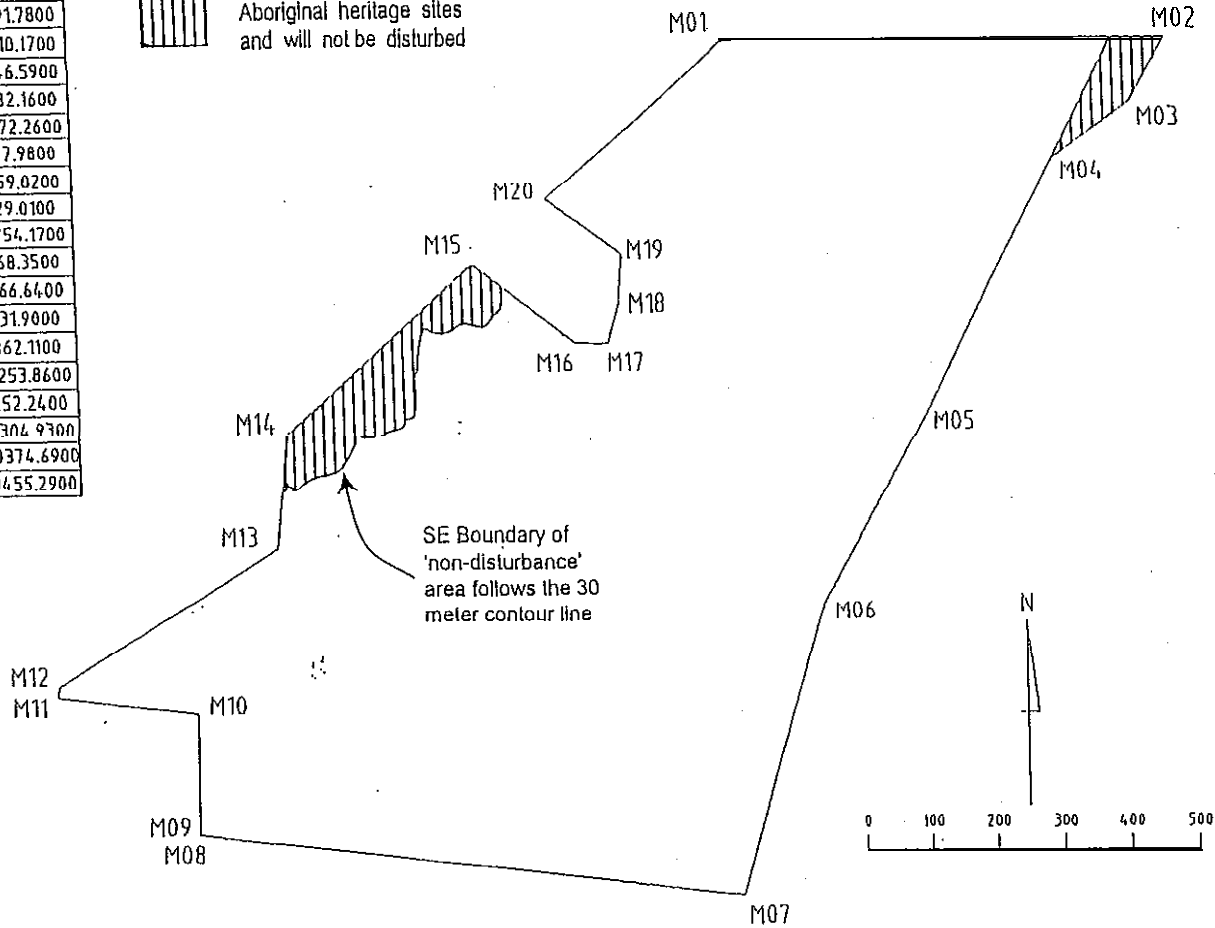
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M15	477947.5000	7720362.1100
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M17	478154.7300	7720252.2400
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M19	478179.4900	7720374.6900
M20	478064.4200	7720455.2900



Contains significant  
Aboriginal heritage sites  
and will not be disturbed

Product  
pipeline  
corridor also  
forms part of  
the Site

SE Boundary of  
'non-disturbance'  
area follows the 30  
meter contour line



Source: Department of Mineral & Petroleum Resources,  
Drawing No. 22277-C-0003, 8.5.02

X:\Wves-00\W-02216\WV02216\_000\AV Data\methanex site layout

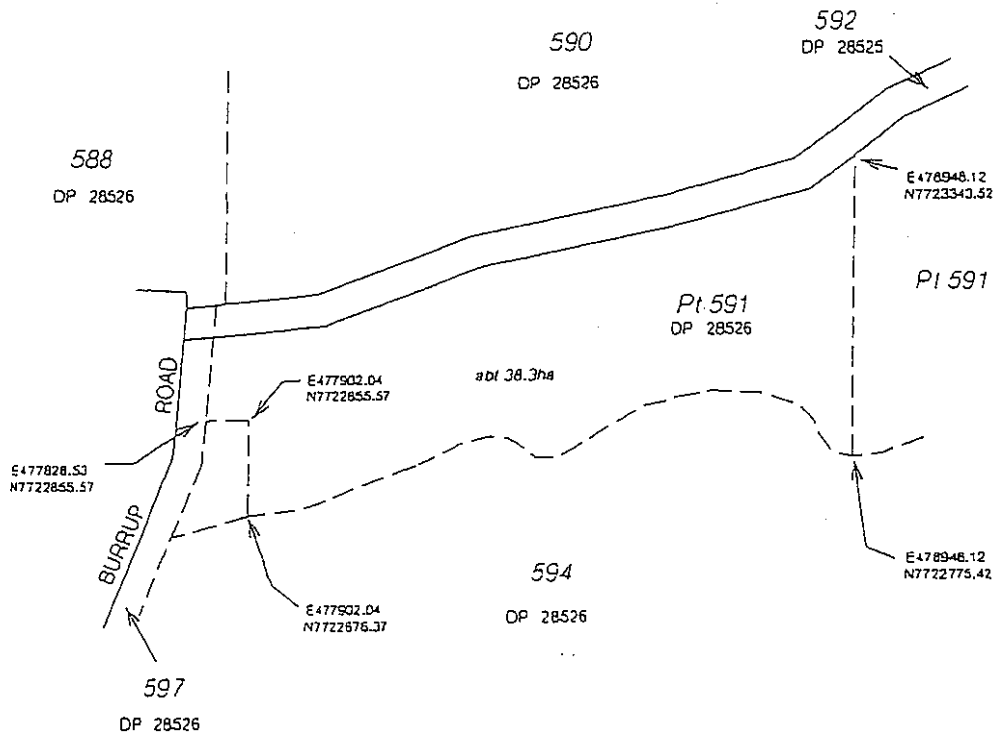
**SCHEDULE 5**

**MAP OF THE LIQUIGAZ LEASE AREA**

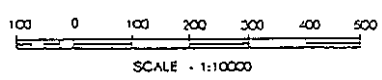


PROPOSED LEASE TO LIQUIGAZ PTY LTD  
AND ASSOCIATED INFRASTRUCTURE LAND

BURRUP  
CORR.878/2002



Department of  
Land Administration



PRODUCED BY STATUTORY SERVICES GROUP 1  
OUR REF: FA MSP/FILE/S/ARCHIVE/CONCEPT/08/burrup/878/2002  
CADASTRE DERIVED FROM DOLA SPATIAL CADASTRAL DATA BASE (SCDB) - 11/2002  
DATUM: GDA94, MGA zone 50  
DRAWN BY: MB