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## EARLY SOCIAL IMPACT MANAGEMENT OF AN OIL AND GAS DEVELOPMENT IN A NT ABORIGINAL SOCIETY— A CASE STUDY

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### ABSTRACT

In 2005 a draft Social Impact Management Plan (SIMP) for the Blacktip Project was prepared by James Kernaghan on behalf of the Blacktip Joint Venture. The SIMP was prepared for the purpose of providing a basis for consultation with the communities that would be potentially affected by the project and the means through which social impacts could be managed. After Eni Australia became 100% owner and operator of the project in December 2005, the SIMP was revised to reflect the values and practices of Eni globally.

This paper presents a case study of the early development of social impact management practice for the Blacktip Project in the southern Bonaparte Gulf, northern Australia, in the period from discovery to the middle of the construction phase (end 2001 to end 2007). The primary outcomes, so far, of the social impact management process for the Blacktip Project have largely been positive and work continues to ensure that this remains the case. From a management perspective, the key outcomes have been a Social Impact Assessment (SIA) report, a Social Impact Management Plan (SIMP) and the establishment of an Social Impact Advisory Committee incorporating representatives from the key external stakeholder groups.

The paper starts with descriptions of the project and affected communities and the law and policy context in which the project sits. This is followed by a detailed account and discussion about the land acquisition process and the social impact assessment and management plan development, including the scope, methodology and analytical framework used in the SIMP. The paper then provides an account and discussion of the nexus between project development and social impact management. The conclusion gives some observations about the experiences had in the SIMP implementation to date, during the first two construction phases of the project.

Often there are a very wide range of social and economic issues that get touched upon in the development of a social impact management plan for a resource project. The resolution of these broader issues is naturally beyond the scope and capability of any company or project and

there are often misconceptions in communities about what can be done. The best that a company can do is to approach the management of social impact in a way that tries to build a practical foundation for community development, through consultation with stakeholders in an open and participatory process.

The people and organisations that live and work in a region are responsible for the social and economic development of that region, as a part of that community. Some contributions can be made by resource developers, however it is up to the people themselves, the individuals and the families in any community to choose and then pursue their individual and collective destiny. Others cannot do it for them.

The paper attempts to provide some insight into the cultural, political, social and commercial realities associated with the development of the project in the particular society involved. In doing so, it is hoped that a useful early case study in the field of social impact management will emerge that may be useful for oil and gas developments and developing communities elsewhere in Australia and the world.

### KEYWORDS

Eni, Wadeye, Blacktip, Thamarrurr, Yak Maninh, Yak Diminhin, Bonaparte Gulf, Social Impact, Northern Territory, political, social, cultural, economic, development, Northern Land Council.

### INTRODUCTION

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## THE BLACKTIP PROJECT

The Blacktip gas field was discovered in September 2001 in the offshore exploration permit WA-279-P, situated some 100 km to the north of the town of Wyndham in far north Western Australia and about 110 km to the west northwest of the town of Wadeye (or Port Keats) in the Northern Territory (Fig 3).

Early thinking was that the field was not large enough to cater for an LNG development, but might be well suited to an onshore gas supply to industry or for power generation. A key difficulty was that the discovery was so remote from any

significant industry or population centre (Fig. 1). Darwin was the nearest sizeable population with any significant energy demand (100,000 population), 400 km distant (as the crow flies) and the only sizeable industrial customer was at Gove in northeast Arnhem Land, some 1,000 km away, via the only feasible onshore pipeline route.

With expected contingent resources of about 900 Bcf, however the Blacktip discovery had potential and so work began in earnest to achieve its commercialisation.

Early studies looked at four pipeline route options to shore. One was an all-seas route from the field northward and around the Cox Peninsula into the Darwin Harbour to where the Darwin LNG facility was being constructed. Another was a route that traversed north eastward and crossed the Cox Peninsula and then east toward the existing Amadeus Basin to Darwin gas pipeline. The third was a straight line shortest route to land about 14 km west southwest of Wadeye at a place called Yelcherr and the fourth was directly south to landfall in WA and then east northeast into the NT.

The Wadeye route was chosen as it was the most direct route toward market, either at Alcan's bauxite mine and alumina refinery at Gove or to Darwin and the NT Power Water Corporation's Channel Island Power Station. By mid November 2001 the first discussions were being held with the traditional Aboriginal owners of the land at Yelcherr, the Yak Maninh people, who lived at Wadeye (Fig. 2).

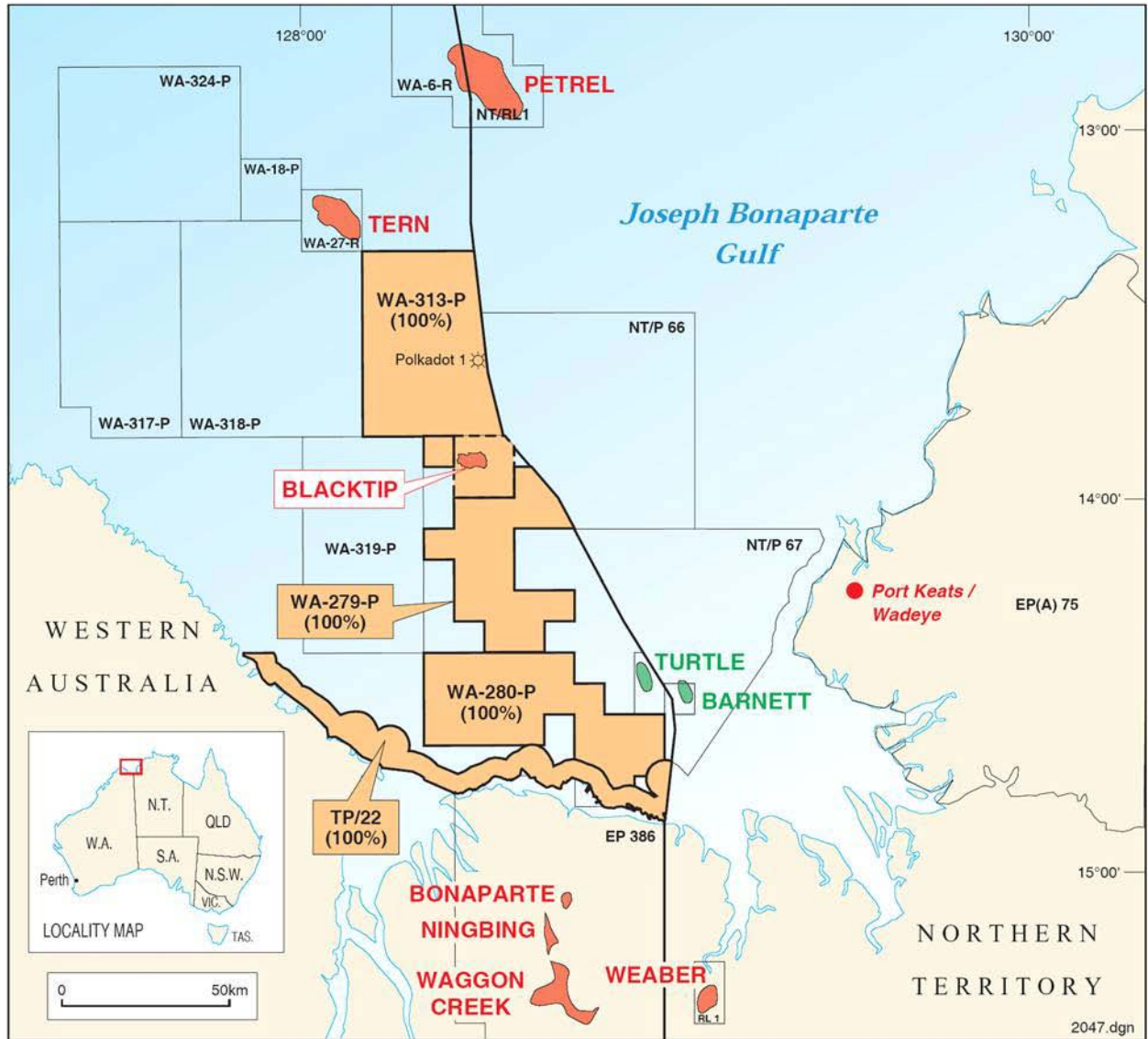
Thereafter began an immense effort to commercialise Blacktip firstly through a gas sale agreement with Alcan at Gove which was cancelled in June 2005 after all of the approvals work was just about completed and then finally, after the field was taken over by Eni in December 2005, through a gas sale agreement with the Power and Water Corporation for gas supply for power generation for 25 years starting early 2009. From discovery to delivery the commercialisation of the Blacktip field will have taken about 7-1/2 years.

Eni Australia B.V. is today the 100% owner and operator of the Blacktip Project which will extract natural gas and liquid hydrocarbons in the form of condensate from the gas field and transfer these products by a subsea and an onshore pipeline to an Onshore Gas Plant (OGP) located at Yelcherr, near Wadeye.

After treatment (dehydration and compression) the gas will be transported to Channel Island by the ≈280 km long Bonaparte Gas Pipeline (BGP) to be built, owned and operated by the APA Group. The Blacktip Project infrastructure may also be used to process and transport additional gas and condensate reserves from other fields in the Joseph Bonaparte Gulf, should commercially viable market opportunities emerge.

The Blacktip infrastructure includes:

- an offshore gas and condensate gathering system with capability for up to six wells in a normally un-manned wellhead platform;
- a 110.5 km subsea and onshore pipeline from the field to the OGP, taking the whole well stream to shore;
- the OGP located approximately 10 km due southwest of Wadeye;



**Figure 1.** Blacktip location.

- a condensate export pipeline to a mooring about 3 - 4 km offshore;
- a produced water pipeline for the discharge of treated water from the production process; and,
- an all weather access road from the Wadeye airstrip to the project area.

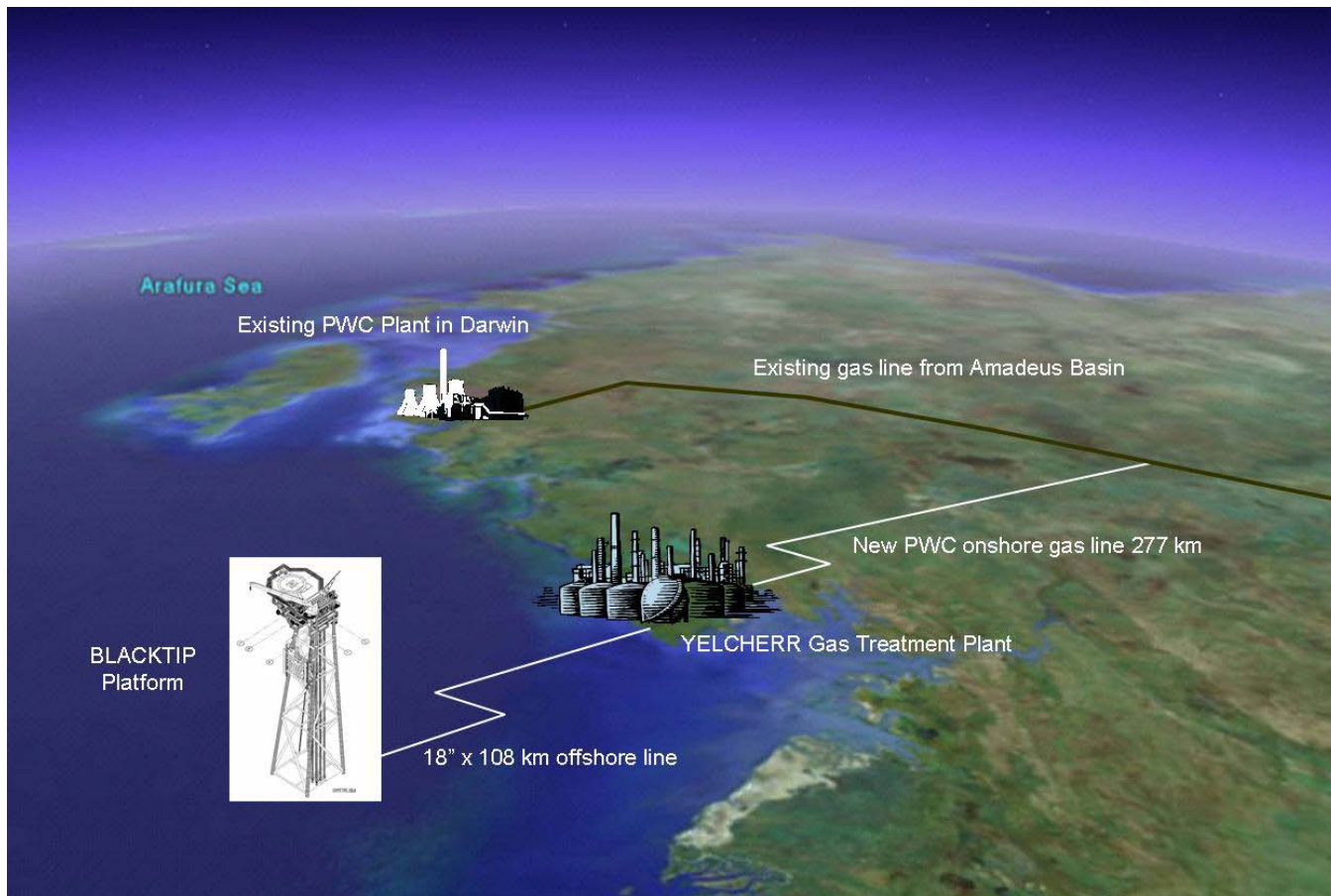
Initially two production wells will be drilled with a third well being installed in later years. The field has expected contingent resources of about 900 billion standard cubic feet of raw gas and 5.7 million barrels of condensate.

The project was subject to an Environmental Impact Statement (EIS) level of assessment pursuant to Northern Territory Environmental Assessment Act 1982 and the Environmental Protection and Biodiversity Conservation Act 1999. While the EIS addressed the (biophysical) environmental issues associated with the project the Guidelines for its preparation it also suggested that a Social Impact Assessment (SIA) be undertaken.



**Figure 2.** Yak Maninh Yelcherr Beach consultation.





**Figure 3.** Blacktip development configuration.

Environment and land approvals were received in January and May respectively, prior to final project sanction in June 2006. The supply of the Blacktip gas to the Power Water Corporation will be the first delivery of offshore gas to a domestic (onshore) customer in the NT and will provide energy security in the next two and a half decades.

The Blacktip Project will be significant catalyst for development in the NT and beyond as it will spur increased exploration and may underwrite the production of remote and stranded oil and gas reserves in the Joseph Bonaparte Gulf and the southern Timor Sea.

### WADEYE AND THE THAMARRURR REGION

The society most potentially affected is centred on the town of Wadeye, approximately 260 km southwest of Darwin in the Northern Territory, but includes the area in the Lower Daly River region and to a lesser extent, along the Daly River Road towards Adelaide River and the Stuart Highway, that will carry some of the construction traffic. The primary geographical focus of the social impact therefore has been the Daly River Region and in particular, the town of Wadeye (Fig. 4).

The Wadeye cultural context is characterised almost entirely by its Aboriginal nature and the land required for

the project lies within the Yak Maninh and Yak Diminhin traditional Aboriginal owner clan estates within the Daly River/Port Keats Aboriginal Land Trust. The Yak Diminhin and Yak Maninh people are part of a broader, clan or tribal-based society represented by a local governance group in the region, the Thamarrurr Regional Council (TRC), that comprises the original indigenous groups of the region. There are seven different languages spoken by the 16 different language groups: Murrinh-Patha, Murrinh-Nuwanh, Marti-Ke, Amor, Marringarr, Murrinh Kura and Marri Jabin. The lingua franca in Wadeye today is Murrinh-Patha, although the various clans speak their own language at home<sup>1</sup>. While English is the language of governance and commerce and is taught in schools, it remains a second or third language for most people. For some years, education at the primary level has been provided in both Murrinh-Patha and English; a bilingual approach to education.

Prior to contact with European society the tribal groups lived on their own lands, spread across the region, coming together for trade, ceremony, the use of natural resources and law and justice matters, in a forum called Thamarrurr<sup>2</sup>. At the request of the Government, the Catholic Church established a mission at Port Keats in 1935 under the leadership of Fr. Richard Docherty of the Missionaries of

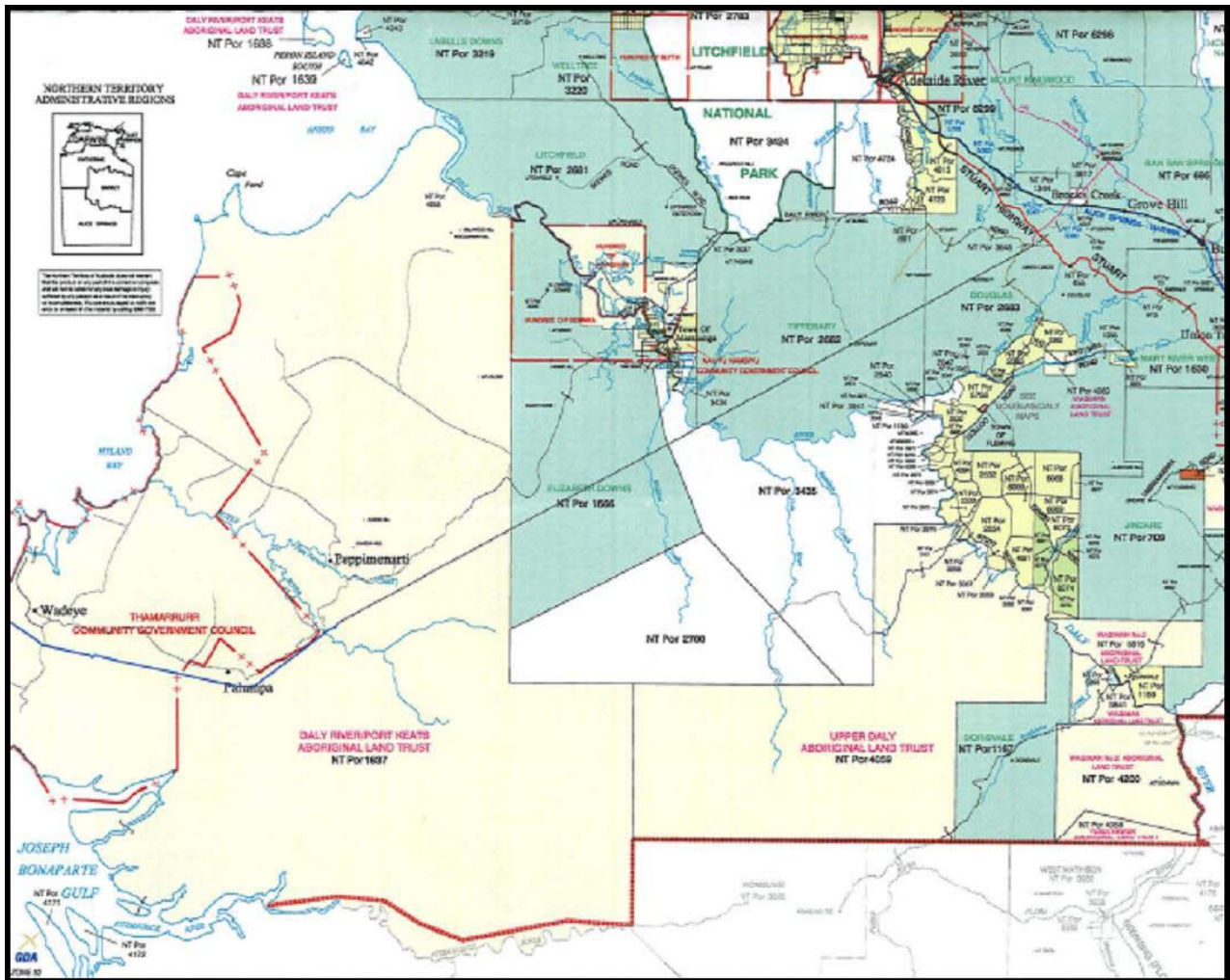


Figure 4. Daly River Land Trust map.

the Sacred Heart. The mission was first established at a place called Werntek Nganayi, now known as ‘old mission’, but not long after was moved to a place called Wadeye, or ‘Waderr’ (pronounced *Wod-air*) to take advantage of the good water and soil for gardens and the availability of a good boat landing<sup>3</sup>. The Port Keats Mission was established on the traditional lands of the Yak Diminhin people.

Between then and the early 1970s the town of Port Keats grew as more and more people from the outlying regions moved in to take advantage of the food, clothing and other benefits from the mission. In early 1970s and particularly after the referendum in 1967 giving the Commonwealth rights to make laws about Aboriginal people, national policy on Aboriginal matters changed significantly. Australian Government policy moved from assimilation to self-management and as a result at Port Keats, the Kardu Numida Council was established in 1975.

In 1976, the Land Trust was established with the enactment by the Commonwealth under the Aboriginal Land Rights (Northern Territory) Act (ALRA). The area roughly, is bounded by the Fitzmaurice River in the south, the Macadam Ranges and the Wingate Mountains in the east

and the Daly River in the north. To the west lies the Joseph Bonaparte Gulf and the Timor Sea. Between the years of 1992 and 1999/2000, the Kardu Numida Council underwent administrative and financial restructuring which culminated in the establishment of a new Council, the Thamarrurr Regional Council (TRC), in 2003.

Socio-economically, Wadeye has a low base and is represented negatively in most social indicators. The work undertaken by Taylor<sup>4</sup> in 2003 provides a detailed analysis and presentation of the baseline social indicators, originally intended for the purpose of measuring change as a result of a Council of Australian Government (COAG), Indigenous Communities Coordination Pilot (ICCP)—a Shared Responsibility Agreement. The ICCP and project development process ran in parallel and as a result, with appropriate linkages and future data collection this work may provide an excellent basis for measuring the broader and longer term social impact of the Blacktip project.

For those readers unfamiliar with the socio-economic status of indigenous communities in Australia, the following are key statistics of the Thamarrurr region, determined from Taylor’s work (in 2003):



- Today there are about 2,100 people resident in the Thamarrurr region.
- It is estimated that by 2023 there will be 3,800 people resident in the region, an 88.5% increase from 2003.
- The average life expectancy for women is 63 and for men it is 56.
- The mortality ratio is 3.6, almost three times the national figure.
- The median age at death is 46, as opposed to 78 nationally.
- Nearly 46% of the population is under the age of 15.
- There is a total fertility rate of 4.4, compared to 2.9 for the Aboriginal population of the NT.
- The unemployment rate is 40.7%, 12.1% of the working age cohort is on the CDEP scheme and there is about 4.1% of these people employed in non-CDEP employment.
- Forty three per cent of the working age population is not in the labour force and only 2% of 15–24 year olds are in the labour force.
- The child burden ratio is 5.2, that is, there are 5.2 children for each employed adult.
- The economic burden ratio is 10.4, meaning the number of economically inactive adults for each employed adult. In the NT, this ratio is 3.9.
- Education is provided by the Catholic Education Office at Our Lady of Sacred Heart School and at the time of Taylor's study there was no secondary school however some students board at Batchelor or Darwin and some work was being undertaken by correspondence. In November 2007 a new high school was opened.
- In 2003, there was a school-age population of 626 and enrolments ranged between 55 and 70% of this number. The attendance rate is between 45 and 60%.
- In 2001 the Multilevel Assessment Program (MAP) rate for literacy in Years 3 and 5 was 0%. For numeracy it was nearly 17% for Y3 and 0% for Y5.
- While it can be expected that the existing labour force has a lot of practical skills learned in time in areas such as civil and construction works, there is few people with vocational and trade qualifications.
- In 2002 there were 44 people enrolled in TAFE courses, not all of which were accredited. There are significant moves presently to establish a training and employment strategy supported by the TRC, the NTG and the Australian Government.
- The housing occupancy rate now is between 11 and 16 however the TRC target is to have a rate of seven per house. To do this another 465 houses will need to be built between now and 2023, and 122 if the current occupancy rate of 16 per house is to be maintained.

It could be said that the Thamarrurr region is typical and perhaps toward the poorer end of socio-economic conditions in Aboriginal communities in remoter parts of northern Australia.

## LAW AND POLICY CONTEXT

### Law

The key administrative approvals associated with the social and cultural aspects of the project are governed under the following legislation:

- Aboriginal Land Rights (Northern Territory) Act 1976, (ALRA)—a lease on Aboriginal land was obtained through negotiations with the traditional Aboriginal owners and the Northern Land Council (NLC).
- Native Title Act 1993 (Cth), (NTA)—an agreement was made involving land and waters through an Indigenous Land Use (Area) Agreement (ILUA).
- Environmental Assessment Act 1982 (NT), (EA) and Environment Protection and Biodiversity Conservation Act 1999, (EPBC)—environmental approval for the project, refer Blacktip EIS.
- Northern Territory Sacred Sites Act 1989, (NTSSA)—protection of sacred sites under an Authority Certificate.
- Heritage Conservation Act 1991, (HCA)—management of heritage site protection and disturbance under the conditions of a Ministerial permission.

All of the above approvals are in place for the project and are being implemented through the SIMP and other project management plans. It is important to note here that there is a process conflict between the socio-cultural approval processes (land rights, native title, cultural heritage etc) and the biophysical approval processes (environment protection acts). As mentioned previously the EIS Guidelines suggested that a Social Impact Assessment (SIA) be undertaken and that, like other environmental risks, a framework management plan be submitted with the draft EIS (DEIS). This was done and in the response to the DEIS there was significant comment about the socio-economic aspects of the project and what should and should not be done by the proponent in relation to project interaction with the community.

To the extent that these matters could be, they were addressed in the EIS Supplement document, to meet the environmental approval process and timeline, but before a full draft SIMP could be prepared. This resulted in recommendations being carried over into the NTG's Environmental Assessment Report #50<sup>5</sup> that sought additional approval of the SIMP, by third parties, after the environmental approval was given.

The two processes do not sit well together as unlike the physical sciences where plans can be made and approved in the knowledge that the physical environment is generally fairly constant and known, the social sciences are far more liable to change in the dynamic social relationships between resources companies, communities and the varying levels of Government. Dialogue between industry and Government is required to develop clarity around the processes of social impact assessment and management within the environmental approval processes in Australia.

### Policy

The development of the project sits in a particular policy context that arises from the policies of the local, Northern Territory and Australian Governments and the policies of the NLC. The following attempts a policy summary.

The overall government policy context in Australia is generally very supportive for indigenous community development, in comparison to many other places on the globe. Ongoing legislative reform, though, is required to keep up with the policy setting and in particular, needs to balance

the rights basis of legislation, with a capacity development focus, to allow for real progress in the social and economic development of Australia's indigenous people.

### THAMARRURR REGIONAL COUNCIL

Wadeye is part of the Thamarrurr Regional Council (TRC) area, a large component of the Port Keats/Daly River Land Trust area, in which there are 20 traditional tribal groups, all of who are represented on the TRC. The TRC represents a new regional governance structure based on regional traditional representation that it is hoped can work more effectively with the mainstream. While Thamarrurr is a new organisation in the sense that it was established in 2003, it is very old in its structure, given its underlying representation.

The TRC held workshops with the NT Government in November 2004 to identify opportunities that might arise from the development of the Blacktip Project and the Trans Territory Pipeline and at the same time to develop the scope of their individual (clan group) and collective aspirations.

The key vision arising from this process was to achieve normalisation, i.e. be on par with the rest of Australian society and it sought to work collaboratively with Governments at national and Territory level, and with the private sector, in achieving this. Focus areas for development include housing (the development of a construction industry) and training and employment (giving-every-kid-a-job). They prepared a very sensible and clear basis for an economic development strategy to support their aspirations<sup>6</sup>.

The Thamarrurr Council and the communities behind it have clearly and collectively articulated and sought to pursue their social and economic development goals and if they achieve them in a sustained way, it could be well expected that in time the indicators of the quality of life described earlier will become significantly better. They will however, need both support and direction from outside the region to achieve this.

The SIMP was written in a manner that attempted to support the aspirations that were articulated from that workshop and in the scoping document in the hope that a shared view of the future could be developed.

### NORTHERN TERRITORY GOVERNMENT

The source of NT Government policy on indigenous affairs is the Office of Indigenous Policy (OIP) which sits in the Department of the Chief Minister. Throughout the project development and until very recently the NT government was the Martin Labor Government. In November 2007, Clare Martin resigned as Chief Minister and was replaced by Paul Henderson. The Labor Party has historically had a large support base in the NT indigenous community and so the policy setting should be very supportive of indigenous development.

The key policy elements of the NT Government might be described as follows<sup>7</sup>:

- there is strong support for a whole of Government (Australian and Territory) approach to service delivery



Figure 5. TRC map.

- to indigenous communities;
- there is focus on pursuing training and employment opportunities for indigenous people in the private sector;
- the Government sees that there are real employment outcomes for indigenous people in natural resource management, for example, in joint management of national parks;
- the Government has sought to undertake or support legislative reform aimed at making land management legislation more workable between Government, land councils and industry;
- the promotion of partnerships between the private sector and indigenous organisations;
- the promotion of indigenous land use agreements; and
- the support of new ways forward in local and regional indigenous governance.

A further primary policy element, shared by Neil Westbury (formerly Executive Director of the OIP), in his April 2004 speech to the Institute of Public Administration, is that the Government sees ‘... that responsibility must be shared by all parties ... and that there needs to be a commitment for the long haul if tangible results are to be achieved.’

This was a very similar policy position to that espoused by the Australian Government at the time, with whom the NT Government was a key partner in the COAG ICCP project with the Thamarrurr Regional Council at Wadeye.

## AUSTRALIAN GOVERNMENT

At the time of writing the SIMP and throughout the whole of the project development the Australian Government was the Howard Liberal government. The Government sets policy to do with Aboriginal people on a range of issues the more pertinent of which are mentioned below.

The policy approach taken at the time is well captured in the statement by the then Minister for Indigenous Affairs, Senator Amanda Vanstone<sup>8</sup>:

‘The new approach is based on us all accepting responsibility. We all need to do better—the Australian, State and Territory Governments and the indigenous people themselves.’

Since that time there have been some significant changes to the management of indigenous affairs at the national level of Government. There was a cabinet reshuffle and Senator Mal Brough was given responsibility for indigenous affairs as Minister for Family, Community Services and Indigenous Affairs (FACSIA). The approach taken by Senator Brough sought to bring a significant element of shared responsibility into indigenous affairs and then when the Little Children Are Sacred report<sup>9</sup>, into the status of Aboriginal children in the NT was released, the approach took a radical turn.

This took the form of an emergency intervention into indigenous communities in the NT and amendments to the ALRA which gave control of Aboriginal communities in the NT to the Australian Government. The process was very controversial, but did not play out fully as it was interrupted by the Federal election in November 2007 that saw the new Rudd Labor Government elected. It remains to be seen how the new Government will approach indigenous policy, however, given that there is a Labor Government in at both the Territory and Federal level it is reasonable to expect some positive collaboration.

## NORTHERN LAND COUNCIL

The NLC was established in 1973, ahead of the enactment of the ALRA, to represent the interests of Aboriginal land in the Top End of the Northern Territory. The NLC policy influence is significant in this jurisdiction as they are the trustees of Aboriginal Land Trust land on behalf of the traditional Aboriginal owners in the Top End of the NT. Aboriginal land areas cover approximately 44% of the land in the NT and in excess of 80% of its coastline.

The NLC is also the Native Title Representative Body (NTRB) for the Top End area under the Native Title Act 1993 (Cth) (NTA) and are therefore involved in representing native title interests where developers seek access to and acquisition of land in the NT. As a consequence, the NLC have a major influence on development generally in the NT and a so short discussion of their influence on the policy setting is warranted here.

NLC policy arises from the Council’s obligations to Aboriginal people and more specifically its dual roles in the administration of the ALRA and NTA. According to the Council’s website<sup>10</sup>, the primary responsibility of the NLC is to consult with traditional owners and other Aborigines who have interests in the land about proposals for the use of Aboriginal land. Under the ALRA, the NLC needs to ensure that the landowners, as a group, give their informed consent before the Land Council or a Land Trust enters into any agreement, or takes any action affecting their land. They also need to ensure that any affected Aboriginal communities and groups have the chance to express their views and that land use agreements entered into are reasonable.

Key policy aspects are reflected in the NLC’s strategic plan, which includes:

- ‘getting country back’—refers to the processes of land and sea acquisition: making claims (either under the ALRA or NTA) to land and sea areas on behalf of traditional Aboriginal owners or groups who claim to or hold native title;
- ‘caring for country’—refers to a section of the NLC set up in 1995 to help landowners manage land and sea areas in terms of weeds and introduced animals, fire management and in commercial enterprises that are environmentally sustainable;
- ‘bringing the NLC to the people’—refers to the Council’s aspirations of accountability and representation;
- ‘talking strong for our people’—refers to the Council’s approach to advocacy and networking;
- ‘making our own decisions’—refers to the aim of self determination;
- ‘letting people know’—refers to the Council’s program for education and awareness among its constituents; and,
- economic development.

The NLC control access by all others to Aboriginal land both physically, through the Aboriginal Land Act (NT), as distinct from (but empowered through) the ALRA, which involves a permit to enter system and in terms of the acquisition of land on legal and commercial terms for land development, e.g. infrastructure, industrial and mining projects. In relation to private sector development, the traditional owners have the right of veto and in relation to all development, the NT Government is generally unable to deal in land that is under claim or has been granted under the ALRA, unless the traditional owners and the NLC agree.

So, the NLC has a significant level of influence on development in more than half of the NT and given its existence since 1973, has become a well established institution in the land use and resource politics in this jurisdiction.

## LAND ACQUISITION

Key to the project development is the acquisition of land and it is from this and the implementation of the project that all social impact arises. Thus it is relevant to provide some discussion here on the matter.



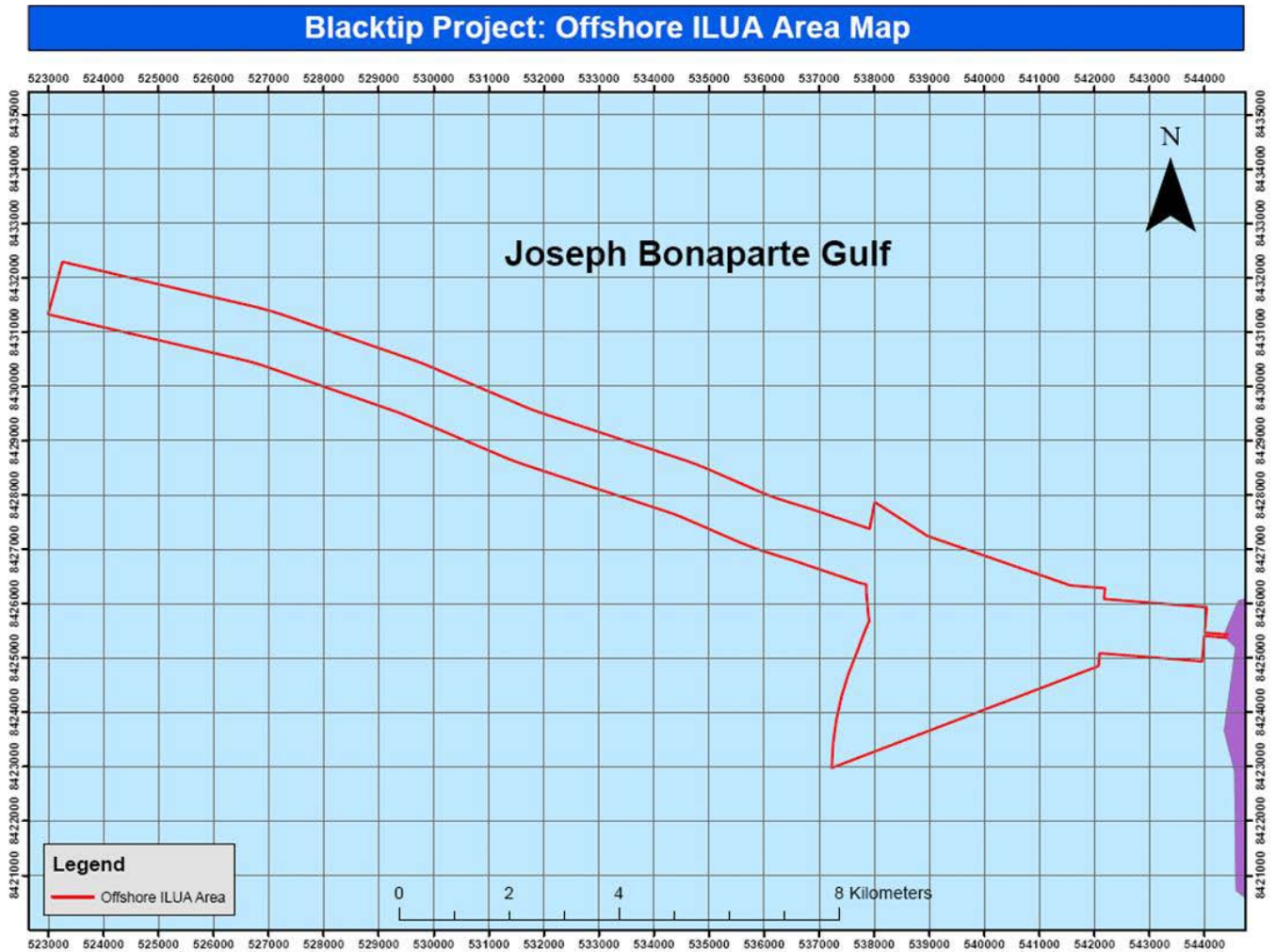


Figure 6. Offshore Zone.

## Aboriginal land

Land for the Blacktip Project was sought under section 19 of the ALRA, which is the section that allows for (non-mining) dealings with interests in land by the Land Trusts. The ALRA is designed to protect the interests of the traditional Aboriginal landowners as it requires a negotiation process to be undertaken with the NLC, acting on behalf of traditional Aboriginal owners.

Although consultation regarding the project began in November 2001, negotiations commenced formally in June 2003, when the Blacktip Joint Venture (BJV) reached a Heads of Agreement (HoA) with Alcan for gas supply from Blacktip. The Trans Territory Pipeline (TTP) project was then formed with Alcan and the BJV as co-sponsors, to progress the development of an agreement for land for the pipeline to Gove. These early discussions culminated in agreement being reached about the terms of some interim agreements with the NLC, such as a Reconnaissance Permit and a Funding Agreement, outlined below, to allow access to the land to undertake detailed engineering, environmental and cultural heritage studies.

Final agreement on land for the Blacktip Project was reached in May 2006 and was endorsed by the Full Council of the NLC.

## Native title

While it would seem that native title would exist on Aboriginal land there are unlikely to be any native title claims lodged across such land as it is all Aboriginal freehold, arguably a much stronger title than that which might be afforded under the NTA. As a consequence a native title agreement was not sought over the Aboriginal land area.

Native title may also exist over the areas of sea as far as the 12 nautical mile limit which is the extent of common law in Australia and so an Indigenous Land Use Agreement was agreed to cover the project's facilities in this area.

## Land requirements

Figures 6 and 7 depict the land and waters associated with the project.

## Agreements

### RECONNAISSANCE

A Reconnaissance Agreement was agreed with the NLC prior to commencing survey works and consultations in 2003. It was revised again prior to commencing works in 2004, to pick up any learning from 2003 and to include a broader range of activities and renewed work scopes. This agreement included:

- Entry onto Aboriginal land.
- Protection of sacred Sites and objects.
- Environmental protection.
- Communications, data gathering and information sharing.
- Traditional owner involvement in the surveys.
- The scopes of works required for the surveys.

### FUNDING

Funding Agreements were made with the NLC, initially in 2003, then again in 2004 and 2005. These provided funds for the NLC to carry out its responsibilities under the ALRA, consultations regarding environmental impact and social impact management. The funding agreements also provided the resources, including a range of consultants, for the NLC to negotiate the terms and conditions of the grant of land. They also provided for the significant in-

volvement and participation of traditional owners in all of the surveys and consultations.

It should be noted that there is no progress possible with the NLC unless such user-pays funding arrangements are made. There are also no specific guidelines on what is to be funded and what is not, nor in relation to what is a reasonable level of costs. Significant funding of the NLC ceased when the agreement was concluded, however, further provision was made to support a NLC Project Officer to work with the project during the construction period.

### NEGOTIATIONS AND COMMUNICATIONS PROTOCOLS

The proponent proposed a Negotiations Charter that set out guidelines about how negotiations would be conducted, primarily the promise to ‘negotiate in good faith’ with each other and some specific principles in relation to the project and the ALRA and NTA processes. The NLC proposed a draft Communications Protocol that was a set of guidelines about how communications with traditional Aboriginal owners and affected communities would be controlled.

Agreement was not reached on either document, however despite this negotiations and communications progressed generally positively and the activities within these processes were negotiated and agreed as needs arose and activities were undertaken.



Figure 7. Onshore Zone.



## Land agreement

The substantive commercial negotiations for the land effectively began in May and were concluded to the first stage by December 2004. Final consultations about the Blacktip and TTP projects commenced with traditional Aboriginal owners in March 2005 and were completed in the second quarter of 2005. The TTP consultations involved the coordination of meetings with about 64 traditional owner clans along the TTP pipeline route about the agreement proposal.

These meetings involved the project proponents presenting the proposed agreement offer and then the Land Council holding further discussions with the traditional owners to discuss the offer with them to take their instructions about it. Project representatives remained on hand to answer questions and participate in discussions with traditional owners as requested. The Blacktip project consultations were also conducted in this way.

In late June 2005 Alcan terminated the Gas Sales Agreement with the BJV and so no further progress was made at that time. In July 2005, the BJV proposed a land option agreement with the NLC and traditional owners that honoured the agreement in principle reached in April of that year and allowed for an option period so that the BJV could pursue alternative customers for the Blacktip gas with the knowledge of land certainty. In November 2005, Eni became 100% owner and operator and took on discussions with the NLC. In May 2006 Eni concluded negotiations in relation to the land agreement and this was endorsed by the Full Council of the NLC.

## Land acquisition impacts

The following is a list of some of the potential impacts that might arise directly from the process of the acquisition of land.

- impact of the land consultations and negotiations process;
- loss of land: e.g. for hunting and gathering;
- benefits of agreements;
- poor money management and resultant social problems (this has occurred); and,
- rich and poor—the creation of haves and have nots. Each of these was analysed in the SIMP.

## BLACKTIP SOCIAL IMPACT ASSESSMENT

The assessment and management of social impacts arising from the development of oil and particularly gas projects, of necessity, must follow the development process of the project itself. This is to say that the identification of impacts and strategies to manage them become more defined as the project itself becomes more defined. This process is in turn driven by the process of commercialisation of the resource, that is, successful engagement with customers through to the unconditional completion of sales agreements.

Early in project development there is limited information upon which to consult about, but is also the time

that developers are often engaging with communities to gain access to land to undertake studies to determine the information which in turn, is needed to develop and mature the project definition—and by extension, a mature understanding of the impacts and so the development of social impact management strategies.

The primary documents (in the subject jurisdiction) for the definition of the project are the Draft Environmental Impact Statement (DEIS), in conjunction with the DEIS Supplement and eventually the Environmental Management Plans that underwrite the conditions and licences applied to environmental and other approvals. The initial social impact assessment (SIA) consultation process also contributes significantly to community understanding to the extent that information is available. The resultant social impact management plan (SIMP) proposes and provides the framework for solutions.

A further impact on the SI process is the legal context in which the project is being developed, particularly in relation to land access and acquisition. It is important that the formal negotiation process for land (under the legislation) is not compromised by the SI process or the land surveys, or vice versa. Certainty here could be provided through the formulation and establishment of protocols for both negotiations and communications with traditional Aboriginal owners and affected communities, either directly or through their representative bodies. This requires the parties to the negotiation to invest a level of trust and allow transparent and open communications to occur between all parties involved in the process.

Land and sea surveys, SI consultations and land and sea negotiations need to occur in parallel during the project development process. These processes certainly impact on the lives of traditional Aboriginal owners and to a lesser extent, the broader communities in which they live. There is a certain pace that communities can be involved in this range of activities and also carry on the rest of their lives and this in turn affects the pace at which further information can be gathered to develop a meaningful SIMP.

Social impact management is as much about relationship development over the long term as it is about developing the right strategies to manage any potential impacts. Strong relationships based on a good mutual understanding of each other's concerns, aspirations and ways of working and communicating helps avoid mis-communication about issues as they arise and make them easier to resolve when they inevitably do.

Without the contribution of all the parties involved: the project proponent, the traditional Aboriginal owners, the broader communities, their representative organisations and all levels of Governments the successful development and implementation of SIMPs will be unlikely.

Successfully managing these relationships throughout a project's life suggests that social impact management is a process, rather than an event.

## Scope

The primary geographic focus of the social impact is the town of Wadeye, the Thamarrurr region and then to a



lesser degree, the wider Daly River region. In this sense, potential impacts arise and are identified and managed at the following levels.

- Landowner;
- Closest community;
- Region and sub-region; and,
- Territory.

The geographic scope is depicted in Figure 8

Impacts were identified across a spectrum of areas relating to health, community and project safety and security, sacred sites and cultural heritage, indigenous conservation values, social interaction, economic development and communications about the project among others. These tended to arise from two areas:

- the adverse impact of an event associated with a risk arising from a project activity; and/or,
- the beneficial impact of an event associated with an opportunity arising from a project activity.

At the time of writing the initial SIMP there were some 57 potential impacts that were identified and in order to make sense of these they were allotted to one of four focus areas:

- community health and safety;
- social and cultural life;
- economic development; and.
- communications about the project.

The focus areas represent the broad scope across which risk and opportunities and therefore social impacts, are assessed and managed.

## Methodology

When approaching social impact for the Blacktip Project a three-phase methodology was adopted.

The first phase was to undertake a social impact assessment study, which, among other things, was to assist in the dissemination of project information, obtain baseline information and identify the perceived potential impacts, both negative and positive. At this point, no solutions were to be developed or proffered. The SIA<sup>11</sup> was undertaken by Dr Annie Holden of ImpaxSIA Consulting and her team, supported by the project and the NLC. The appointment of ImpaxSIA and the terms of reference for the SIA study were both agreed between the NLC and the project.

The NLC controlled and managed access to communities for these consultations which was both useful and restrictive in many ways. They (the NLC) have an obligation to consult with affected communities under the ALRA, however they are not independent in the process (as a party to the land negotiation) and restrict the ability of the consultant to undertake their work in an independent way.

This situation reflects a conflict between policy and practice, that is, where the influence of the land process impacts on the SI management process. It has a negative impact on the openness and transparency of the process and restricts the responses that individuals in the community may wish to give as they have no choice about their method of communication.

The second phase intention was to discuss the outcomes of the SIA study with key stakeholders and workshop the



Figure 8. Geographical scope of potential social impact

potential impacts that were identified so that possible risk mitigation and opportunity enhancement strategies could be developed collaboratively. A draft Social Impact Management Plan would then be prepared for further consultation and finalisation ahead of project commencement.

This process was proposed to the NLC and key stakeholders in the last quarter of 2004 but did not occur as the NLC refused to facilitate this discussion in the community, until the BJV agreed to fund an orientation visit for traditional owners to similar gas plants elsewhere in Australia. An important principle in SI management is to respect the way that communities wish to be consulted and the organisations that are in place to represent them, however, this can often have a significant impact on the cost, efficiency and quality of the process that is undertaken.

In February 2005, a delegation of traditional Aboriginal owners visited the Otway region of south west Victoria to visit a number of gas projects, i.e. BHP's Minerva plant, TXU's gas storage plant at Port Campbell and Woodside's Otway's project. This event was well received and gave the traditional owners first hand experience with a plant that had been in operations for some time, a plant that had been operating for less than three years and a plant that

was at the commencement of construction. The traditional owners also saw a pipeline being installed, that which was being constructed by Santos to transport gas from the Casino field to the TXU gas plant at Port Campbell. The gas plant and facilities were not dissimilar in size and production processes to that which was destined for Blacktip.

Further consultations were undertaken with Government and non-Government agencies and organisations in March 2005 in relation to the SIMP and the original draft SIMP was submitted for comment to the NTG, the NLC and the Australian Government in June 2005. Then, as previously mentioned, the project went into hiatus.

The third phase is the implementation of the SIMP throughout the project execution through a process of ongoing consultation and in response to the impacts that actually arise.

### Analytical framework

The 57 potential impacts (or risks and opportunities) were identified through a range of sources:

- the preliminary SIA study—the SIA Report;
- key stakeholder responses to SIA report;
- the EIS process;
- the land acquisition process;
- individual consultations with community organisations and government agencies;
- interactions from consultations through the NLC and during detailed land surveys; and
- project commercial risks.

It was considered that some of the impacts were more likely than others to occur and some would have a greater or lesser impact than others and they all potentially, would have either a negative or positive impact, or both. The actual impact (or consequence) would of course be dependent upon the extent a risk is controlled and managed and/or the extent to which an opportunity is taken up. The take up of opportunities being dependent upon the affected society’s interest, willingness and various capacities.

After allotment to a focus area each was given an impact ID number, a brief description of the risk and/or opportunity was provided and the probability of its occurrence predicted, defined simply as Low, Medium or High. A suggested priority rating is given, rated 1–3 and is defined as:

1. Impact is of major consequence, either adversely or beneficially, and requires a key mitigation or enhancement plan and the prime focus of contributors.
2. Impact is of medium consequence, either adversely or beneficially, and requires a mitigation or enhancement strategy that can be captured within key impact management plans.
3. Impact is of minor consequence, either adversely or beneficially, and can be captured within mitigation or enhancement strategies but primarily monitored to avoid or allow for the impact events to occur.

While the probability of occurrence should seem to influence priority in that the lower the probability, the lower the priority rating should be, the consequences of some impacts, either adverse or beneficial, are such that they still called for a priority rating of one. Table 1 provides an example.

This preliminary analysis served as a mechanism to capture and organise potential impacts into logical and manageable chunks. It was intended to be a useful guide for consultations, recognising that there are many ways that this task can be done, but that this is one basis that might be useful to work from. The proposed consultation workshops would then use a variety of more detailed and fit for purpose analysis techniques as required.

The complete secondary analysis process is not set out in this document however the overall process is summarised in Table 2.

The processes used in the SIMP were designed to be used to analyse and develop plans or strategies for any other potential impacts that arose during the project. A communications plan was also developed to identify and anticipate any further impacts that may arise.

### Project development and social impact management

It was noted previously that early in project development there is limited information with which to consult communities about and so a problem arises as this is the time when developers need to engage with communities, to gain access to land to undertake the studies necessary to determine the information which in turn, is needed to develop project information, and by extension, through further consultation, the appropriate social impact management strategies.

**Table 1.** Preliminary impact analysis table.

Focus Area	ID No.	Potential Impact	Risk and Probability of Occurrence (L/M/H)	Opportunity and Probability of Occurrence (L/M/H)	Consequences A: Adverse B: Beneficial	Priority 1-3
Society & Culture	2.1	Sacred sites.	That a project activity or project employee or contractor disturbs a sacred site. (L-M)	For traditional Aboriginal owners and site custodians to be involved in the monitoring of sacred site protection and use the opportunity to teach the younger generation about their cultural property. (H)	A: Potential injury to cultural property and hurt to traditional owners. B: Younger generation traditional education and culture is enhanced.	1

**Table 2.** SIMP analysis and planning process.

<b>Impact identification</b>
Potential impacts identified from the various sources of consultation and study.
<b>Preliminary analysis</b>
Impacts are listed, allotted a focus area, the risk or opportunity is described, the probability of occurrence is estimated, the adverse and/or beneficial consequences are predicted and a priority rating is suggested.
<b>Secondary analysis and impact management planning</b>
Key risks and opportunities are discussed further and mitigation or enhancement plans or strategies are proposed for each. The key impact management plans are identified and described, including where they are linked to other social impact or project management plans and finally, both qualitative and/or quantitative measurements are proposed.
<b>Consultation and peer review</b>
The draft SIMP undergoes internal peer review by the proponent and joint venture partners and then is released to key stakeholders in the community and government for consultation. The proponent will then facilitate a participatory process of consultation, comprising initial briefings about the SIMP and a workshop process on each focus area for stakeholders who can contribute to the implementation of the plan.
<b>Finalisation and implementation</b>
The proponent and key stakeholders and contributors to the initial SIMP together finalise the impact management plans and strategies and put the resources in place for their implementation. The draft SIMP is then rolled out across the geographical scope of the project through a longer term consultation and implementation process in the community.

Table 3 suggests an appropriate nexus between project development and social impact management and how it happened for Blacktip.

## CONCLUSIONS

The experience with the development of the Blacktip Project was instructive for all parties concerned. It was the first time that Eni has undertaken a development on Aboriginal land in the NT. It was the first time the NLC had undertaken a successful negotiation involving a development of this nature and it was the first time that the traditional Aboriginal owners, the Yak Maninh and Yak Diminhin people have experienced industrial development on their lands. It was the second time a prospective social impact assessment and management plan had been undertaken for a project in the NT. From the author's perspective there are a number of key observations from the process.

1. Social impact assessment and management does not sit easily within defined land and environmental approval processes. It is a process, not an event.
2. Land acquisition negotiation processes need to occur

in parallel with social impact assessment processes, but these need to be managed so that they are not allowed to compromise each other.

3. Land Councils have an obligation to consult with affected communities under the ALRA, however they are not independent in the process (as a party to the land negotiation) and restrict the ability of the consultant to undertake their work in an independent way.
4. The dynamic social environment between resources companies, communities and the varying levels of Government demands that social impact management processes need to be flexibly applied, particularly as the identification of impacts and strategies to manage them become more defined as projects themselves become more defined.

Finally, dialogue is required between industry, Government and other stakeholders to develop clear guidelines about how social impact is best fit with land and environment approval processes.

## ACKNOWLEDGEMENTS

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## NOTES

1. Wadeye Aboriginal Community: [www.indigenet.com.au/wadeye](http://www.indigenet.com.au/wadeye).
2. Thamarrurr Regional Council, submission to HORSCATSIA, Aug 2002.
3. Ibid, 1.
4. Taylor, J. Baseline Profiles for Social and Economic Development Planning in the Thamarrurr Region. A report to Thamarrurr Regional Council and the Northern Territory Office of Indigenous Policy, CAEPR, December 2003.
5. NTG Assessment Report #50, for the Blacktip Gas Project, [www.nt.gov.au/nreta/environment/assessment/register/blacktip/index.html](http://www.nt.gov.au/nreta/environment/assessment/register/blacktip/index.html).
6. TRC Scoping paper, "Building our Future, Approaches to Normalising the Economy of the Thamarrurr Region", Thamarrurr Regional Council, Feb 2005.
7. Westbury, N. , Office of Indigenous Policy, NT Government, speech to the Institute of Public Administration (IPA), April 2004.



**Table 3.** The nexus between project development and social impact management.

Phase	Project development	Social impact management
1	<p><b>Concept selection</b>—this is the time when the proponent examines a range of options for the development of the oil and gas resource and may be consulting with a broad range of stakeholders in a variety of locations about the project. Often, more than one development concept is taken forward for further development into the next stage.</p> <p>In Blacktip’s case, this commenced in 2001 immediately after the discovery of the Blacktip gas reserves and a variety of preliminary ground surveys were conducted between then and 2003. In 2003, activity stepped up with the signing of the Heads of Agreement (HoA) with Alcan.</p>	<p><b>Baseline studies and preliminary consultations</b>—during this time social and economic (or capacity) baseline studies are undertaken to determine the existing social and economic context in which the project needs to be managed. Initial consultations are held with affected people, communities, their representative organisations and other key stakeholders to identify any potential social impacts.</p> <p>In Blacktip’s case this work was commenced in November 2001, shortly after the discovery of the reserves, when initial discussions over land access and shore crossing studies commenced. In the period March to May 2004 a formal consultation was undertaken by an independent consultant and a SIA report provided. Development of the Terms of Reference for the report and the selection of the consultant were undertaken in consultation with the NLC.</p> <p>The Blacktip Project was extremely fortunate that the COAG trial was being undertaken at the same time and in particular that John Taylor from ANU was preparing the baseline social and economic indicators for the region.</p>
2	<p><b>Concept development</b>—this is the time when the final project development concept is selected and a range of activities are undertaken to refine the cost estimates for the project, and when detailed surveys are undertaken to gather the information required for project approvals, in particular, environmental and land approvals, including cultural heritage.</p> <p>In Blacktip’s case, all of the offshore, near shore and onshore surveys were undertaken and negotiations over land were commenced with the NLC.</p>	<p><b>Research, analysis and planning</b>—during this time a broad range of information is sourced through existing literature searches and discussions with key stakeholders. This is then analysed and a draft Social Impact Management Plan (SIMP) is developed in consultation with, or for consultation with key stakeholders.</p> <p>For Blacktip, the second phase consultation was constricted by the NLC land acquisition process and had the original project commercialisation been successful, the initial SIMP would not have been ready ahead of project commencement. The hiatus between the BJV and Eni ownership and development of the project allowed for the completion of the initial SIMP.</p>
3	<p><b>Final Investment Decision (FID) and project execution</b>—this is the time when, if all approvals are in place, or imminent (and definite) and the commercial arrangements are confirmed and unconditional, then the project proponents take their FID and trigger the major contracts required for the construction of the project.</p> <p>In Blacktip’s case this occurred during the second quarter of 2006 and construction work commenced at the beginning of the fourth quarter.</p>	<p><b>Initial SIMP finalisation and preparation for implementation</b>—during this time the initial SIMP is confirmed in that all key stakeholders have discussed the plan and have made comment on the initial strategies. Agreement is in place between the stakeholders who need to make contributions to specific SIMP strategies to manage the immediate issues.</p> <p>In Blacktip’s case the Social Impact Advisory Committee (SIAC) was established in last quarter 2006, and discussions commenced about the establishment of the relevant sub-committees and the terms of reference for the SIAC, after commencement of construction.</p>
4	<p><b>Construction</b>—this is the time when the highest level of project activity is experienced. Offshore and onshore facilities are fabricated, installed and commissioned. The workforce numbers are at their peak and potential impacts at their highest.</p> <p>In Blacktip’s case, 80% all of the site preparation works were completed by the end of 2007. The gas processing facilities will be installed and commissioned during 2008 with first gas delivery due early in 2009.</p>	<p><b>SIMP implementation</b>—this is the period when the SIMP is put into practice directly by the project team with ongoing advice from the SIAC.</p> <p>This is now in place for the Blacktip Project.</p>
5	<p><b>Operations</b>—this is the time when the processing facilities are settled into a steady operational state.</p> <p>The Blacktip operations phase is expected to be from 2009 to at least 2034.</p>	<p><b>SIMP implementation, evaluation and review</b>—this is the time when strategies are put into place to manage and measure social impact during the long term operations period. Also, at a sensible time ahead of the end of the operations phase a Social Impact Decommissioning Plan must be prepared in consultation with the relevant external stakeholders.</p>
6	<p><b>Decommissioning and Closure</b>—the time when the resources is depleted and the plant is decommissioned, deconstructed and the land rehabilitated. The Social Impact Decommissioning Plan is implemented.</p>	

8. Dept. of Immigration, Multicultural and Indigenous Affairs (DIMIA), Indigenous Coordination Centres Website, [www.icc.gov.au](http://www.icc.gov.au) (updated 08-05-05).
9. Wild, R. & Anderson, P. "Little Children Are Sacred", Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, NT Government, 2007 (ISBN 978-0-9803874-1-4).
10. See [www.nlc.org.au](http://www.nlc.org.au).
11. Holden, A. et ors "Social Impact Assessment, Blacktip Project, Wadeye, Northern Territory", ImpaxSIA Consulting, Oct 2004. Refer Blacktip EIS on [www.nt.gov.au/nreta/environment/assessment/register/blacktip/index.html](http://www.nt.gov.au/nreta/environment/assessment/register/blacktip/index.html).

## THE AUTHOR



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for the Blacktip Project and has been involved in the Blacktip Project from prior to its discovery in 2001 through to the current day. He successfully negotiated the land agreement for the Blacktip project. Prior to joining Eni, James was with Woodside Energy for 10 years in a variety of corporate affairs roles associated with a number of projects including, Pluto, Blacktip and the Trans Territory Pipeline, Sunrise, Otway Gas and the NWSV. He has some 20 years experience in the mining and oil and gas industries in north and west Australia and Timor-Leste.

