

Lake Macquarie City Council

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**Sustainable Management of Aboriginal  
Cultural Heritage in the Lake  
Macquarie Local Government Area:  
Lake Macquarie Aboriginal Heritage  
Management Strategy**

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August 2011

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Lake Macquarie Aboriginal Heritage  
Management Strategy**

**Prepared by  
Umwelt (Australia) Pty Limited  
on behalf of  
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# **Sustainable Management of Aboriginal Cultural Heritage in the Lake Macquarie Local Government Area: Lake Macquarie Aboriginal Heritage Management Strategy**

## **Executive Summary**

Lake Macquarie City is part of the traditional country of the Awabakal people. Today, approximately 4250 residents of Lake Macquarie City identify as being of Aboriginal descent, giving the city the second largest Aboriginal population in NSW. The Lake Macquarie Aboriginal community includes people whose traditional country is in many different parts of NSW. They all contribute to the cultural diversity of the City.

In 2002, Lake Macquarie City Council (LMCC) and representatives of Local Aboriginal Land Councils signed a Statement of Commitment that recognised the contribution of Aboriginal culture to the City's landscape and to its social and cultural diversity. This commitment was made to all Aboriginal people in the City – those who are descendents of the Awabakal people, and those who have come here after generations of displacement and cultural disruption.

This Aboriginal Heritage Management Strategy sets out how LMCC and the local Aboriginal community will work as partners to implement the Statement of Commitment.

Council will work with local Aboriginal people and the broader community to help protect and maintain the City's distinct Awabakal cultural heritage for future generations. Council will also support the continuation of the cultural heritage values of the City's diverse Aboriginal population.

The Lake Macquarie Aboriginal Heritage Management Strategy has been prepared over a number of years under the supervision of a working group of Council staff, Councillors, representatives of the City's Aboriginal community and the Office of Environment and Heritage. The Strategy addresses five important aspects of Council's operations that interact with Aboriginal cultural heritage values:

- communication and consultation about Aboriginal cultural heritage;
- strategic planning and conservation;
- streamlined and inclusive development assessment;
- managing public land; and
- respect and support for community cultural initiatives.

The Strategy provides the background information, describes proposed initiatives and explains why Council proposes new actions in relation to these areas of responsibility.

Aboriginal people have a strong and enduring spiritual attachment to country, which is expressed in all aspects of traditional knowledge and culture. Work on the Strategy included extensive consultation with Aboriginal community representatives about culturally significant places as well as stories about Aboriginal history and a review of known archaeological information for the City.

Based on this information, the Strategy introduces the concept of Sensitive Aboriginal Cultural Landscapes. These more sensitive landscapes are defined and mapped from known archaeological evidence; the predicted extent of archaeologically significant areas; places associated with records of traditional Awabakal stories and practices; places that conserve important traditional resources; and places that are important in the shared history of the City since European settlement.

Particular attention to Aboriginal cultural heritage values is required in sensitive landscapes when undertaking strategic planning and development assessment processes.

The Strategy identifies places of high conservation value and reviews the representation of these places in existing conservation reserves. Land parcels managed by both public and private land managers are recommended as priority locations for enhanced conservation management. These places include reserves at Swansea Heads and Mount Sugarloaf, and land in the catchments of Cockle Creek and Dora Creek. The Strategy proposes that LMCC will promote strategic cultural heritage conservation at regional planning forums.

Council is currently preparing a new Local Environmental Plan (LEP), making its local planning system consistent with the state-wide template issued by the Department of Planning and Infrastructure (DP&I). Sensitive Aboriginal Cultural Landscapes across the City will be specifically recognised in an Aboriginal Heritage map layer in the LEP and accompanying Development Control Plan (DCP). The Aboriginal Heritage Map layer in the LEP will appear slightly different from the Strategy's Sensitive Aboriginal Cultural Landscape map. The Aboriginal heritage map layer in the LEP will identify where a development application will be necessary, based on the Aboriginal Cultural Landscapes that are mapped in the Strategy and information about existing development and cultural heritage assessments that have been submitted with previous development applications and where not further assessment is therefore required by Council. The cultural heritage layer in the LEP will be updated regularly.

In the meantime, it is proposed that Council amend current planning documents to incorporate reference to Sensitive Aboriginal Cultural Landscapes. Section 149 certificates for properties across the City will continue to be annotated to inform landowners of the possibility that their property may contain evidence of traditional Awabakal peoples' occupation of the land.

Under the *Environmental Planning and Assessment Act 1979*, LMCC is the consent authority for most development in the City. To ensure that the local Aboriginal community has an opportunity to comment on cultural heritage issues associated with new development, Council proposes a more rigorous referral and notification process than has previously been in place. New guidelines will assist proponents to submit the required information. Council understands the importance of consultation occurring in a timely and efficient manner. To assist a streamlined process, Council proposes to continue the employment of its Aboriginal Community Worker and the Strategy recommends a new position of Aboriginal Heritage Assessment Co-ordinator. The person in this position will work with Council and the local Aboriginal community to simplify and facilitate cultural consultation relating to development applications.

Council itself is an important land manager in the City and is responsible for multiple reserves on both Crown Land and Community Land, which contain Aboriginal sites or have other significance to local Aboriginal people. Council proposes to improve its management of these reserves with new training and planning initiatives for its outdoor staff and for Landcare volunteers working on public land. Council will work with local Aboriginal people who have information about cultural values. Plans of Management will include measures to protect archaeological sites, information about culturally valuable plants that can be used for landscaping, opportunities to design public artwork with Aboriginal themes, and

recommendations for new signs and brochures that tell about the cultural importance of reserves on headlands, foreshores and ridgelines.

Respect for the culture of the City's Aboriginal people will also be shown in a symbolic way. The Aboriginal flag will be flown at Council Chambers and Council will acknowledge the Awabakal people on whose land the City now stands, at its meetings. Council will continue to support local Aboriginal community events that showcase the talents and cultural values of the local Aboriginal community.

Broad community appreciation of the richness of LMCC's Aboriginal cultural heritage is constrained by the limited availability of public information. Council will work with appropriate Aboriginal people to prepare booklets, brochures, signs and news stories that tell about the traditional Awabakal cultural heritage. Council will also support the continuing vibrant Aboriginal culture of the City, strengthening the identity of local Aboriginal people.

In accordance with the NSW Government policy, Two Ways Together, Council will work with other employers in the region to assist local Aboriginal people to increase their participation in the workforce.

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# PART 1: WHY PREPARE AN ABORIGINAL CULTURAL HERITAGE STRATEGY FOR LAKE MACQUARIE?

## 1.0 Introduction

Aboriginal culture is a living culture, valued by Aboriginal people living in communities across NSW. It is strongly linked to the spiritual relationship between people and the land (country) and includes Aboriginal sites, places, cultural knowledge passed between generations through oral traditions, language, stories, traditional customs, values and beliefs. Cultural heritage also includes the history of Aboriginal people, from the time that European settlers arrived in Australia and the history of Aboriginal families through the nineteenth and twentieth centuries. Many cultural values and traditional obligations are active and current despite the separation of many Aboriginal people from their traditional country for many years.

All of Lake Macquarie City Council (referred to in this document as either LMCC or the City) lies within the traditional country of the Awabakal people. Today, more than 4250 people of Aboriginal descent live in the Lake Macquarie Local Government area, many of them far from their traditional country. The landscape of the City has important traditional Awabakal spiritual and cultural meanings and values, which are respected by local Aboriginal people. Across the City's landscape are more than 500 archaeological sites and places which demonstrate the relationship between Awabakal people and their country over thousands of years. At a more general level, these sites and places and the unique Awabakal stories and traditions associated with them also illustrate the resilience of Aboriginal culture and the cultural value of the landscape that is fundamental to all Aboriginal people.

Since 1983, members of three Local Aboriginal Land Councils have worked to protect the evidence of traditional Awabakal culture in the Lake Macquarie landscape. Members of the Aboriginal community, including the two Traditional Owner Corporations, have also worked to maintain and enhance Aboriginal community cultural identity and to encourage respect for the value that diverse Aboriginal cultural practices bring to the City.

LMCC is responsible for a range of decisions and on the ground activities, which have the potential to influence and impact on the sustainability of the City's Aboriginal cultural heritage values. Council has roles and responsibilities in relation to traditional Awabakal cultural heritage and the city's Aboriginal cultural diversity. Council's roles include strategic planning, development assessment, management of public land and support for a vibrant and inclusive economic, social and cultural life in the city.

LMCC has prepared the Lake Macquarie Aboriginal Cultural Heritage Management Strategy (LMACHMS) to guide its activities that influence or affect the City's Aboriginal cultural heritage values. The Strategy has been prepared in consultation with a working group comprising representatives of the local Aboriginal community and Council staff, with input from the Office of Environment and Heritage (formerly Department of Environment, Climate Change and Water (DECCW)).

The strategy establishes a framework for showing respect for the Awabakal cultural heritage values and the diverse Aboriginal culture of the City in all aspects of Council's operations, including communication, planning, development assessment and day to day field based programs. LMACHS includes recommendations for Council policies, guidelines, protocols for communication and information management and referral processes. It also recommends amendments to local statutory planning instruments, as well as a range of awareness raising

activities for Council staff, Councillors and the general community. The LMACHMS is for all of the Lake Macquarie community.

LMACHMS strongly supports a consistent regional approach to the management of Aboriginal cultural heritage values in the traditional lands of the Awabakal people, enhancing clarity of requirements and certainty of outcomes for the Aboriginal community, Councils, land owners and developers.

The LMACHMS is the culmination of six years of studies and consultation about the Aboriginal cultural heritage values of Lake Macquarie City. Progress reports during the project have documented and reviewed the available information about Aboriginal archaeological sites and community knowledge about traditional stories and important places. New field surveys have been conducted with local Aboriginal people to better assess the location and condition of Aboriginal sites in areas with little previous survey coverage. A Discussion Paper, outlining important issues and Council's proposed approach, was distributed to Council, State Agencies and Aboriginal community stakeholders in 2005.

Information about the ways in which the local Aboriginal community groups have been involved throughout the preparation of the Strategy is included in **Appendix 1** and is summarised in **Section 2.4**.

## 1.1 Council's Responsibilities and Obligations

Recognition of the Aboriginal cultural heritage values of the landscape and traditional spiritual attachment to country are now primary objectives of planning, natural resource and social, economic and cultural management legislation and policy in NSW.

The Department of Local Government (DLG) (2007) has prepared a guideline for all councils about the scope of their responsibilities for engagement with Aboriginal people in their communities, and strategies for positive and effective engagement.

DLG (2007) identifies four key responsibilities for councils in relation to Aboriginal people (residents and ratepayers) in their community. These responsibilities apply across all council functions, including environmental services, development control, tourism, culture, public health and sport:

- consult and negotiate comprehensively with Aboriginal communities about their needs and aspirations;
- ensure that council services are adequate and equitable in meeting the needs of Aboriginal people and their communities;
- ensure that services are developed in a way that is culturally appropriate and develops the potential of Aboriginal people; and
- promote a partnership approach with local Aboriginal communities.

Appendix 4 of the DLG (2007) guideline (reproduced in **Appendix 2** of this report) provides a checklist for councils, to assist in developing a strategic approach to engaging with Aboriginal communities. Although much of the consultation and involvement for the development of LMCC's Aboriginal Heritage Strategy was conducted well before the publication of the DLG guideline and checklist, LMCC has taken the checklist into account in finalising the strategy (see also **Appendix 1**).

## 1.2 Key Legislation and Policy

Several policies and statutes establish obligations and provide a framework and context for LMCC's approach to the management of cultural heritage values in the city, in carrying out its day to day responsibilities for planning, land and environmental management, community development and communication. These policy and statutory requirements are considered in the LMACHMS.

Key elements of the Aboriginal cultural heritage management context within which LMCC operates include:

- *Local Government Act 1993* (LG Act 1993);
- *Aboriginal Land Rights Act 1983* (ALR Act 1983);
- *National Parks and Wildlife Act 1974* (NPW Act 1974);
- *Environmental Planning and Assessment Act 1979* (EP&A Act 1979);
- *NSW Heritage Act 1977*; and
- *Australian Government Native Title Act 1993*.

*The Australian Government Aboriginal and Torres Strait Islander Heritage Protection Act 1984 and Environment Protection and Biodiversity Conservation Act 1999 may also be relevant to decision making in LMCC, in very specific circumstances.*

- Two Ways Together – NSW Aboriginal Affairs Plan 2003-2012. Culture and heritage is one of the seven key areas covered by Two Ways Together. Goal 5 of the Hunter Region Action Plan for Two Ways Together addresses the values of Aboriginal diversity, identity and culture. The Regional Engagement Group will liaise with local government and Catchment Management Authorities about involvement in the development and implementation of a cultural respect framework.
- NSW Social Justice Statement (2000) – Supporting People and Strengthening Communities.
- Local Government and Shires Association (LGSA) Policy Statements on Aboriginal Affairs. The LGSA provides information to members on topics such as land rates for Aboriginal Land (former reserves and land granted under the ALR Act 1983); processes for consulting Aboriginal communities when considering the zoning of land (previously vacant Crown land) that was granted to an LALC under the ALR Act 1983; formal agreements and liaison arrangements between councils and Local Aboriginal Land Councils (LALCs).
- LMCC is located within the NSW coastal zone. The NSW Coastal Policy refers to the importance of understanding and accommodating Aboriginal cultural heritage values and care for country into coastline (coastal zone) management.
- Outcomes of two projects completed as part of the NSW Comprehensive Coastal Assessment. These relate to cultural heritage landscape mapping and an overview of cultural heritage items and values along the NSW coast.

DECCW (now OEH) sponsored a coastal assessment program, including intensive studies of historical archives referring to early contact period interaction between traditional Aboriginal people and European settlers, as well as consultation with Elders

and Traditional Owners to obtain oral histories. The results of this project provide valuable information to assist in assessing the impact of development on Aboriginal cultural values, particularly as these values are reflected in Aboriginal Cultural Landscapes.

At the same time, DECCW (now OEH) conducted a full audit of information about Aboriginal sites, held on the Aboriginal Heritage Information Management System (AHIMS) and other institutional sources. Some parts of the AHIMS can be searched free of charge on the OEH website.

- The 10 year Catchment Action Plan (CAP) prepared by the Hunter Central Rivers Catchment Management Authority (HCRCMA), whose natural resource management responsibilities include the area of LMCC, identifies a guiding principle '*maintain and improve the culture and heritage values of culturally significant landscapes.*' The CAP provides an extensive suite of guiding principles for respecting, consulting, stewardship, protection, funding, appreciating and involving Aboriginal people and Aboriginal cultural values in natural resource management decisions and actions. The CAP focuses on partnerships to maintain and extend the custodianship that is part of Aboriginal spiritual and cultural responsibility to country.
- The Lower Hunter Regional Strategy (Department of Planning (DoP) 2006) refers to Aboriginal cultural heritage values in its statement of principles and objectives for the future development of the region. The Lower Hunter Regional Strategy includes the following objectives:
  - *ecological and culturally significant landscapes are valued, and protected; and*
  - *protects areas of Aboriginal cultural heritage value (as agreed by DECCW (now OEH)).*

The Lower Hunter Regional Strategy acknowledges that the richness of Aboriginal cultural values and archaeological sites contribute to the cultural diversity and environmental value of the region. There is an ongoing cumulative loss of Aboriginal cultural sites and values, and an increasing demand from Aboriginal groups and from the public for their consideration and protection. The reference to culturally significant landscapes recognises that the protection of Aboriginal heritage values within a landscape context is much more important than the conservation of individual sites in isolation.

Following from the Lower Hunter Regional Strategy and other strategic planning reforms, the standard Local Environmental Plan (LEP) template for new council LEPs contains provisions relating to land identified as being of high Aboriginal cultural significance.

### **1.2.1 Ecologically Sustainable Development and Cultural Heritage**

LMCC has a statutory responsibility (under the LG Act 1993) and is committed to plan and implement actions that put the principles of ecologically sustainable development (ESD) into practice. Council is working towards conservation of natural, social and cultural values, as well as economic values in its decisions. Aboriginal cultural heritage values combine physical objects (archaeology), places and other elements of the landscape that are associated with, or explained by, traditional lifestyles or community stories. Much of this physical Aboriginal cultural heritage is fragile and has already been heavily fragmented or destroyed.

More than 40 per cent of the known Awabakal Aboriginal sites in the city area have been registered with OEH as 'destroyed' and the status of many other sites in, or adjacent to, developed areas is not known. The character and landscape context of places and

resources of value in Aboriginal culture has been seriously impacted and continues to be threatened by ignorance and by decisions that favour other societal values. Once this physical evidence of continuity from the traditional past to the present is lost it cannot be replaced.

Of the principles of ESD, the Precautionary Principle and Principle of Intergenerational Equity are critical to the sustainable management of Aboriginal cultural heritage resources. Action to protect remaining elements of the City's Aboriginal cultural heritage is urgent and cannot be deferred, pending more accurate site location or other information.

Protecting and supporting Aboriginal cultural heritage values can be considered to contribute to each of the main aspects of sustainability:

- **Natural/Scientific Values.** A very small number of archaeological sites in the City now retain the potential to contribute significantly to scientific research into the relationship between traditional people and the landscape in which they once lived. Aboriginal places and customs were associated with the resources and form of the natural landscape and many of these resources still exist, being more resilient than archaeological stratigraphy. Some local elders retain important knowledge of how Aboriginal people used and managed the resources of coastal landscapes.
- **Social and Cultural Values.** Archaeological sites and other places identified in Aboriginal stories are important to members of the local Aboriginal community, because these stories and sites demonstrate a connection to country that has been lost for many people. Aboriginal people see the archaeological sites as evidence supporting their continuing association with and custodianship of the land.

Some places are also important because they are associated with historical events. The value of both archaeological sites and cultural places is enhanced when intact landscape context is present. Aboriginal sites and places also provide opportunities for Elders in the community to teach young people about cultural traditions and values, when they are located in places that are accessible to the Aboriginal community. Good accessibility involves locations on public land, or on Aboriginal land, or access agreements with private landholders, as well as suitable vehicle or pedestrian access for the elderly.

Sustainable management of Aboriginal cultural heritage values requires a mixture of measures to facilitate and celebrate continuity of cultural diversity and measures to protect and conserve examples of features, or objects that cannot be replaced.

- **Economic Values.** Although not their primary value, Aboriginal sites and places can contribute to the economic diversity of the City, as places that can attract and engage visitors. Any cultural tourism programs would need to be developed by, or in consultation with, the local Aboriginal community, following culturally sensitive and appropriate engagement procedures.

### 1.3 Statement of Commitment to Aboriginal People in Lake Macquarie City

LMCC established a Statement of Commitment with the local Aboriginal community in 2002. The statement was jointly signed by the Mayor and the Chairpersons of Awabakal, Bahtabah and Koombahtoo LALCs (Koombahtoo LALC has now ceased to operate). Copies of the Statement are on display at Council Chambers and at each of the LALCs that represent the Aboriginal community in different parts of the City.

**Figure 1.1** shows the Statement of Commitment and the LALC boundaries at the time that it was signed.

Key elements of the LMCC Statement of Commitment, which define Council's intent to work towards cultural reconciliation and sustainable management of Aboriginal cultural resources in the City's landscape include:

- recognise the vital importance of the Indigenous contribution to strengthening and enriching the city and region;
- respect and conserve Aboriginal cultural practices, traditional sites and significant places;
- promote activities which increase cultural sensitivity and awareness of Aboriginal people's values;
- support an agreement between the local Aboriginal community and other community members for the care of the local environment;
- work towards the recovery of Indigenous language, health, cultural practices and lost kinship;
- look towards Aboriginal culture for practical knowledge which could help to secure a sustainable future;
- support reconciliation between Aboriginal and non Aboriginal Australians;
- denounce all forms of racism directed at Aboriginal people; and
- promote the employment of Aboriginal people.

The LMACHMS sets out the mechanisms by which Council will achieve these outcomes, in partnership with the local Aboriginal community.

In accordance with the LMCC Statement of Commitment to Aboriginal People, the LMACHMS draws on the following principles:

- Lake Macquarie and the LMCC LGA are part of the traditional country of the Awabakal people;
- Aboriginal people and the broader community can contribute to the protection and maintenance of Aboriginal cultural heritage values;
- Aboriginal people have a respect for and spiritual attachment to country;
- Aboriginal cultural heritage values are not just sites (artefacts) but places/landscapes, knowledge, values, resources, relationships and stories that tell about the attachment and responsibility of Aboriginal people. The large and diverse Aboriginal population of Lake Macquarie adds significant cultural diversity to the City by bringing the continuing culture of many different Aboriginal groups to the community;
- sustainable management of Aboriginal cultural heritage values implies protection of diverse community cultural values, not just archaeological objects;
- physical elements of Aboriginal cultural heritage are fragile and irreplaceable. Delayed action to protect archaeological sites and the culturally valued landscape context of sites and places should not be justified on the basis of insufficient scientific information;





# A Commitment by Lake Macquarie City Council

to Aboriginal people of the City of Lake Macquarie

## Acknowledgments

The Council of the City of Lake Macquarie acknowledges that the Aboriginal people in this area, the Awabakal, were the first people of this land, and are the proud survivors of more than two hundred years of continuing dispossession.

Lake Macquarie City Council recognises that European occupation brought massive changes to the land and its people.

As a vital step towards building a just and common future, Lake Macquarie City Council recognises the sense of loss and the grief held by Aboriginal people for the alienation from their traditional land, the loss of their freedom, their lives, their languages, their health and the disruption of their cultural practices.

Council respects the right of Aboriginal Australians to pursue their own values and culture.

## Commitments

**Lake Macquarie City Council, in consultation with local Aboriginal people :**

- Denounces racism directed at Aboriginal Australians and will take action to combat racism within its capacity.
- Recognises the vital importance of the Aboriginal contribution to strengthening and enriching our city and region.
- Respects and conserves Aboriginal cultural practices, traditional sites and significant places.
- Promotes activities which increase cultural sensitivity and awareness of Aboriginal people.
- Supports an agreement between the local Aboriginal community and other community members for the care of the local environment.
- Work towards the recovery of Aboriginal language, health, cultural practices and lost kinship.
- Looks towards Aboriginal culture for practical knowledge which could help to secure a sustainable future.
- Supports reconciliation between Aboriginal and non Aboriginal Australians.
- Promotes the employment of Aboriginal people.

Lake Macquarie City Council, in co-operation with local Aboriginal people will develop an action plan to redress disadvantages for Aboriginal people of this Community.

The Council recognises the positive contribution made by the Aboriginal people & look forward to a future of mutual respect and harmony.

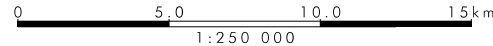
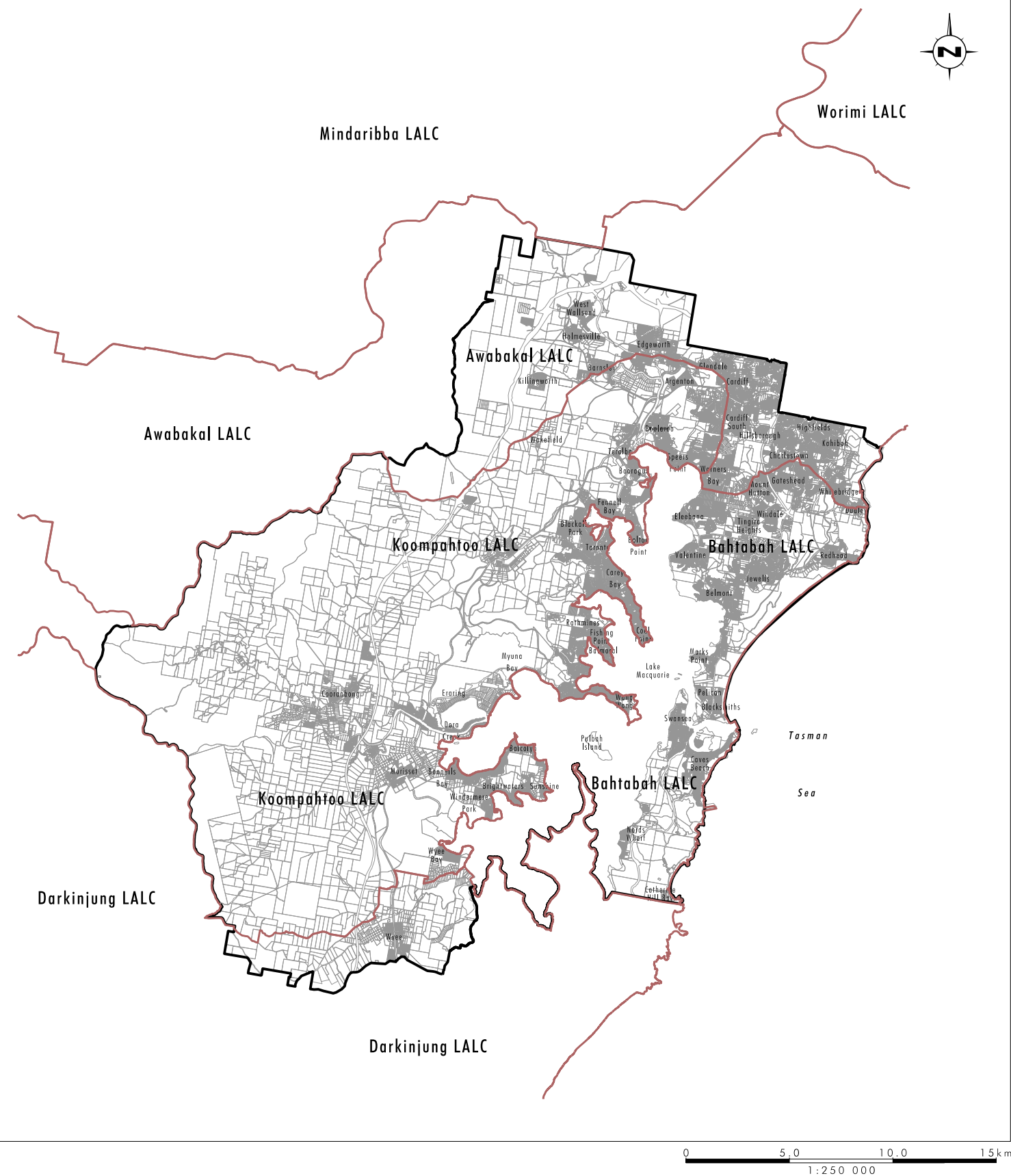
\_\_\_\_\_  
Awabakal Local Aboriginal Land Council

\_\_\_\_\_  
Bahtabah Local Aboriginal Land Council

\_\_\_\_\_  
Councillor Greg Piper Mayor

\_\_\_\_\_  
Koompahtoo Local Aboriginal Land Council

*Regardless of change in election to the Councillors of Lake Macquarie City Council and the Aboriginal Consultative Committee, the Commitment stands and will be reviewed at the commencement of the new term of Council or mid-term when requested by the Aboriginal Consultative Committee.*



Source: LPI NSW  
Note: Koompahtoo LALC no longer operates. Awabakal LALC is looking after cultural heritage issues in this area

**Legend**  
— Local Aboriginal Land Council Boundary  
— Lake Macquarie City Council Boundary

FIGURE 1.1  
LMCC Statement of Commitment, Council Boundaries  
and Local Aboriginal Land Council Boundaries

- Council believes that Aboriginal citizens have a right to continuing knowledge about the city's Awabakal Aboriginal culture. Members of the Aboriginal community have a right to experience their cultural heritage first hand. This right extends also to future generations. It is important that other people in the community learn about the meaning of Awabakal and Aboriginal attachment to country.
- LMCC accepts accountability to the Aboriginal community and the broader community for decisions that it makes in relation to protecting, conserving and enhancing the city's Aboriginal cultural heritage values;
- Council's decision making processes in relation to Aboriginal cultural heritage values will be consistent and transparent; and
- Council will manage the Aboriginal cultural heritage assets and values of the city in partnership with the local Aboriginal community, and will consult Aboriginal citizens about new policies and planning decisions that affect their culture.

## 1.4 Scope and Intent of the Aboriginal Heritage Management Strategy

The LMACHS aims to achieve the sustainable management of LMCC's Aboriginal cultural heritage values. It uses a cultural landscape approach that links archaeological evidence and ecological attributes of the landscape to Aboriginal cultural and spiritual beliefs and practices. The LMACHMS considers the natural/scientific values of archaeological sites, the Aboriginal cultural values of places, stories, traditional knowledge and resources and the continuing contribution of Aboriginal heritage to the diversity and richness of the city's culture.

The objectives of the Strategy are set out below.

### Aboriginal Sites and Objects

- To contribute to sustainable conservation of a sample of Aboriginal sites which have sufficient integrity and landscape context to provide continuing physical evidence of the Aboriginal community's attachment to country.

### Aboriginal Places

- To protect culturally significant places on land managed by LMCC from destructive development activities – i.e. some places with important cultural associations are retained as features in the landscape.
- To facilitate access for members of the Aboriginal community to Awabakal cultural places that are on land managed by LMCC.

### Aboriginal Culture

- To give effect to the Statement of Commitment to the Aboriginal people of Lake Macquarie, signed by the Mayor of LMCC and the Chairpersons of the Local Aboriginal Land Councils (see **Section 1.3**).
- To improve communication, awareness, understanding and respect for traditional and continuing Aboriginal cultural heritage values across the Lake Macquarie community, as well as celebrating Aboriginal community cultural achievements.

- To facilitate within the LMCC organisation a culture of respect and partnership with Aboriginal people.
- To support events and programs, which restore and maintain Aboriginal cultural identity.
- To encourage the participation of local Aboriginal people in projects which have a stewardship role, caring for the natural resources and cultural values of country.

### Policy, Regulation and Process

- To develop and implement culturally appropriate consultation processes (for Aboriginal people) for strategic planning and development assessment within Council.
- To incorporate quality information about Aboriginal cultural heritage values in the development of planning instruments and policy requirements in the City.
- To identify and clearly communicate Aboriginal cultural heritage conservation priorities in the city to all stakeholders.
- To prepare clear, outcome-based development assessment requirements and decision making processes for Aboriginal heritage issues, which also meet the requirements of the EP&A Act 1979, NPW Act 1974, ALR Act 1983, LG Act 1993 and Commonwealth heritage legislation.
- To make LMCC's management of the heritage values of for public/community lands in its control consistent with the requirements of the EP&A Act 1979, NPW Act 1974, *Aboriginal Land Rights Act* and *Native Title Act*, *Crown Lands Act 1989* and LG Act 1993. LMCC's land management practices will also be consistent with the heritage requirements of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act 1999), where relevant. The EPBC Act 1999 protects places identified in the National Heritage Database as having high or exceptional Aboriginal cultural heritage significance, (including places listed on the National Heritage List, Commonwealth Heritage List or Register of the National Estate).
- To improve development application preparation and processing with respect to Aboriginal cultural heritage values in LMCC.
- To foster a consistent approach to Aboriginal cultural heritage management across Lake Macquarie and adjacent LGAs (as a minimum, Newcastle, Wyong and Cessnock LGAs).

#### 1.4.1 Five Key Management Themes

The LMACHS has been developed around five key management themes, representing the main areas in which LMCC has management responsibilities relating to Aboriginal cultural heritage values (see **Section 1.1**). These are noted below and are detailed in **Sections 4.0** to **8.0**.

- **Section 4.0: Communication.** This section sets out LMCC's policy for the management of culturally sensitive information, in terms of access, updating and quality control. It establishes guidelines for consultation with the Aboriginal community about a range of management decisions. Also included in this section are guidelines for the preparation of Aboriginal cultural heritage awareness material for the general public.
- **Section 5.0: Strategic Planning.** This section particularly addresses the application of the precautionary principle and intergenerational equity principle to land use planning in culturally sensitive landscapes in LMCC (with implications also for adjacent LGAs). It

identifies culturally sensitive landscapes that are at risk from ongoing development pressure and from a lack of awareness of the importance of these landscapes to the conservation of Aboriginal cultural heritage values. This section identifies land that is currently managed for conservation, and land that should be recognised and managed for its conservation values at the regional scale. Conservation can be achieved through land use zoning, specific management plans and conservation areas, offset agreements, rehabilitation of vegetation and landscapes having cultural values, acquisition, Aboriginal Place nominations and Voluntary Conservation Agreements.

- **Section 6.0: Streamlined Development Assessment.** This section presents revised clauses to address Aboriginal cultural heritage in the Lake Macquarie LEP (2004) and DCP (2004, amended 2009). It considers options for addressing Aboriginal cultural heritage values in the new Lake Macquarie LEP, expected to be completed in 2011. It provides guidelines for Council officers and proponents to provide a streamlined, fair, efficient and consistent development assessment service, in relation to Aboriginal cultural heritage issues.
- **Section 7.0: Managing Public Land.** Council manages diverse parcels of community land and Crown Land for conservation, recreation and other community infrastructure. Public land in the Lake Macquarie LGA is also managed by OEH, NSW Lands Department and the Regional Land Management Corporation. This section of the Strategy identifies priority land parcels for the preparation of detailed Plans of Management under the *Local Government Act 1993* and *Crown Lands Act 1989*, where protection of Aboriginal cultural heritage values is a significant issue. Consultation with Aboriginal community groups is a key part of these Plans of Management.
- **Section 8.0: Partnerships and Community Support.** This section reinforces the importance of Aboriginal community participation in management decisions that affect Aboriginal cultural heritage values, considering both the negative impacts of poor communication and the benefits of positive support. It considers Council and regional resources to assist local Aboriginal communities with cultural initiatives.
- **Section 9.0:** of this document is an **Implementation Statement.** This section presents a summary of all recommended actions in three priority classes. It also identifies organisations that need to be involved in implementing each action.

## PART 2: THE LAKE MACQUARIE ABORIGINAL COMMUNITY

### 2.0 The Lake Macquarie Aboriginal Community – Organisation and Consultation Structures

LMCC is part of the traditional country of the Awabakal people. Some families who are descendents of the Awabakal people continue to live in the City. However, as is the case for most Australian cities, the majority of the contemporary Aboriginal population of the City are from families whose traditional country is elsewhere in NSW. This diversity of Aboriginal cultural background means that there are different valid perspectives on many issues.

The Aboriginal population of LMCC has grown strongly over the last decade (**Table 2.1**). The City has the second largest Aboriginal population in NSW (DEWR 2007: web site).

#### LGAs with the largest Indigenous population in NSW

Blacktown	7058
<b>Lake Macquarie</b>	<b>4280</b>
Penrith	4085
Dubbo	3909
Wyong	3798

The Aboriginal population comprises 2.2 per cent of the total population of Lake Macquarie. This is a significant increase in recent years. In 2001, approximately 1.9 per cent of the population of Lake Macquarie identified themselves as Aboriginal people. Aboriginal people also comprise approximately 1.8 per cent of the population of adjoining Newcastle City Council.

Note that Lake Macquarie is also one of the largest local government areas, by population, in NSW. Blacktown, which has the largest Aboriginal population in NSW, also has the largest total population. Lake Macquarie City Council has the fifth largest total population by local government area.

**Table 2.1 - Aboriginal population growth in LMCC, 1991 to 2006**

Total LMCC Aboriginal Population	Number	Percentage Growth
1991	1720	
1996	2774	+1054, 61%
2001	3409	+685, 25%
2006	4280	+871, 26%

Based on these statistics, the Aboriginal population has grown rapidly over the last 10 years.

The Bureau of Statistics attributes the apparent rapid rates of growth of the Aboriginal population to three factors:

- Better data collection techniques in the census.
- More people identifying their Aboriginal heritage for the first time.
- Natural population increase, with high birth rates and improvements to life expectancy.

### 2.1.1 Organisations Representing the Local Aboriginal Community

There are multiple organisations that represent the interests of Aboriginal citizens in the Lake Macquarie LGA. A full list of contacts for various groups providing support for Aboriginal health, education, legal affairs, housing and culture is included in **Appendix 3**. OEH also maintains a list of Aboriginal community groups who have interests in the Lake Macquarie area. The list is provided to proponents who approach OEH about the formal consultation processes required by the OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010) (see also **Section 2.3**).

Until recently, three LALCs, established under the *ALR Act 1983* had territory within LMCC (see **Figure 1.1**). These are:

- Awabakal LALC. Part of Awabakal LALC area, including Mount Sugarloaf, is within the northern part of LMCC.
- Koombahtoo LALC. Koombahtoo LALC covered much of the western catchment of Lake Macquarie, including the catchments of Cockle Creek and Dora Creek. This area is now administered by the NSWALC except for cultural issues, which are dealt with by the Awabakal Local Aboriginal Land Council.
- Bahtabah LALC. Bahtabah LALC covers the eastern part of the lake Macquarie catchment, the coastline and the lake itself. Bahtabah LALC also extends into the south west part of the LMCC area.

Darinyinjung LALC is not within LMCC, but has an extensive border with the southern lake shoreline. All four Land Councils have been members of the Lake Macquarie Aboriginal Consultative Committee during the preparation of this strategy, and all four have also contributed to the drafting of regional natural resource management plans (through the Hunter Aboriginal Consultative Committee, and in future through the Hunter Central Rivers Aboriginal Cultural and Environmental Network). Any Aboriginal person who lives within the boundaries of a LALC may become a member of the Land Council. Further information about the roles of LALCs is provided in **Appendix 3**.

Each of the LALCs has an Elders Group, whose members are respected for their knowledge, wisdom and leadership in the community.

Two families are in the process of applying for formal registration as Awabakal Traditional Owners under the Native Title Act, *separate to the right of the Land Councils to make claims under the Aboriginal Land Rights Act*. These families are represented by the Awabakal Traditional Owners Aboriginal Corporation and the Awabakal Descendents Traditional Owners Aboriginal Corporation. Both Corporations have contributed to the development of the Lake Macquarie Aboriginal Heritage Study and Strategy.

There are many other individuals and groups who may have information about Awabakal cultural heritage values that would assist sustainable management decisions and practices. Groups which may have an interest in the sustainable management of Aboriginal culture and heritage in Lake Macquarie LGA include:

- LMCC Aboriginal Community Worker;
- Newcastle City Council Aboriginal Liaison Officer (because of the shared interests in Awabakal community culture across the two LGAs);
- Lake Macquarie Aboriginal Consultative Committee (Currently being restructured and not operational);

- Newcastle University Wollotuka Aboriginal Studies Centre;
- Arwarbukarl Cultural Resource Association Inc.;
- OEH Hunter Region Aboriginal Natural Resource Officer(s) and Aboriginal Community Support Officers;
- Hunter Central Rivers CMA – Catchment Officer, Aboriginal Community Support Officers and the Aboriginal Cultural and Environmental Network;
- Department of Trade and Investment, Regional Infrastructure and Services (NSW Forests section) Aboriginal liaison staff;
- Sydney/Newcastle Regional Land Council;
- NSW Aboriginal Land Council;
- Commonwealth Department of Environment, Heritage, Water and the Arts (in relation to sites or places listed on the National Heritage Database); and
- Multiple other Aboriginal community organisations in the LMCC area that support specific projects (such as public art projects).

Many of these groups have contributed to the preparation of the Lake Macquarie Aboriginal Cultural Heritage Strategy (see **Section 2.4**).

## **2.2 Guidelines for Consultation and Participation**

This section outlines the guidance available to local government and proponents about involving local Aboriginal people in planning and land management decisions that affect Aboriginal cultural heritage values.

### **2.2.1 DLG and LGSA Resource Kit**

A resource kit prepared by the Department of Local Government (DLG) and Local Government and Shires Association (LGSA) (2007) encourages Councils across NSW to engage with Aboriginal members of their communities in many different contexts, including:

- Active participation in council affairs, such as by Aboriginal people becoming elected representatives, employees and members of Council committees.
- Getting permission from Aboriginal people for Council projects that involve or impact on Aboriginal people's culture.
- Consulting and involving Aboriginal people in decisions about the management of community land.
- Consultation about the preparation of land use plans and in development assessment.
- Consultation about the location of community infrastructure that is built and operated by Council.
- Supporting the involvement of Aboriginal people in the economic development of the City.

- Using dual naming (traditional local Aboriginal languages as well as English) for places in the City.
- Display of Aboriginal flags, Welcome to Country, acknowledgement of Traditional Owners, Memoranda of Understanding, staff awareness training.

## 2.3 OEH Guidelines for Aboriginal Consultation in NSW

OEH has statutory responsibility for protecting Aboriginal sites (objects) in NSW. The NPW Act 1974 requires that OEH make decisions about the protection or disturbance of Aboriginal sites.

Council will ensure that its consultation practices in relation to the management of Aboriginal sites are in accordance with the OEH requirements.

OEH (2010) identifies the objective of consultation as ensuring that Aboriginal people have the opportunity to improve assessment outcomes by:

- 'providing relevant information about the cultural significance and values of the Aboriginal object(s) and/or place(s)
- influencing the design of the method to assess cultural and scientific significance of Aboriginal object(s) and/or place(s)
- actively contributing to the development of cultural heritage management options and recommendations for any Aboriginal object(s) and/or place(s) within the proposed project area
- commenting on draft assessment reports before they are submitted by the proponent to OEH.'

The focus of consultation is providing opportunities for people who hold cultural knowledge relevant to determining the (cultural) significance of objects and places.

OEH (2010) states that:

'Proponents are responsible for ascertaining, from reasonable sources of information, the names of Aboriginal people who may hold cultural knowledge relevant to determining the significance of Aboriginal *objects* and/or *places*. Reasonable sources of information could include (a) to (g) below. Proponents must compile a list of Aboriginal people who may have an interest for the proposed project area and hold knowledge relevant to determining the cultural significance of Aboriginal *objects* and/or *places* by writing to:

- a) the relevant DECCW EPRG regional office
- b) the relevant Local Aboriginal Land Council(s)
- c) the Registrar, *Aboriginal Land Rights Act 1983* for a list of Aboriginal owners
- d) the National Native Title Tribunal for a list of registered native title claimants, native title holders and registered Indigenous Land Use Agreements
- e) Native Title Services Corporation Limited (NTSCORP Limited)
- f) the relevant local council(s) – LMCC in this area
- g) the relevant catchment management authorities for contact details of any established Aboriginal reference group.



The Registrar of Aboriginal Owners maintains a list of those people whose name is entered in the Register of Aboriginal Owners, *NSW Aboriginal Land Rights Act 1983*. The Act requires that the Registrar gives priority to registering people for lands listed in Schedule 14 of the *National Parks and Wildlife Act 1974* (these people are eligible to enter into joint management agreements for National Parks), or subject to a land claim under section 36A of the *Aboriginal Land Rights Act 1983*. Several National Parks in NSW are managed under Joint Management. Two parcels of land (including Stockton Bight) are subject to agreements under Section 36A. No joint management agreements are currently in place for any land in LMCC.

Since 2007, Native Title Services has been known as NTSCORP. Its purpose is to assist Traditional Owners in NSW and the ACT to achieve cultural, social and economic benefits through native title and related processes (NSW Native Title Services Limited Annual Report 2003-2004).

Once the proponent has obtained a list of relevant people and organisations, it must write to them, and also notify others in the Aboriginal community who may have relevant cultural knowledge via a notice published in newspapers.

After the notification is complete, proponents must provide information to all the relevant registered Aboriginal parties so that they can contribute to the design of the assessment process. The consultation continues through field investigations, discussion of results and management options, and review of draft reports.

Proponents should read the full current OEH guidelines, which are available on the OEH website.

## 2.4 Aboriginal Community Consultation During Strategy Preparation

Council acknowledges and respects that members of the Aboriginal community in Lake Macquarie have worked for decades to protect the physical evidence of past occupation of the Awabakal country, and to maintain traditional cultural practices.

Much of the consultation with local Aboriginal community representatives about the preparation of the LMACHMS took place long before the current guidelines were published. Council followed the best available practice guidance from the then relevant government agencies, including NPWS (DECCW) and Department of Local Government.

The preparation of the LMACHMS has been guided and co-ordinated through a Project Steering Committee, established at the commencement of the project and drawing on the members of the Lake Macquarie Aboriginal Consultative Committee.

The core Project Steering Committee has comprised:

- The Coordinators and Site Officers of each of the three LALCs in the City – Awabakal, Bahtabah and Koopahtoo (see **Figure 1.1** and **Appendix 3**). Darkinjung LALC, which has boundaries around the southern shores of LMCC, has also contributed to the Project Steering Committee;
- Representatives of Elders Groups such as Keepa Keepa Elders (Koopahtoo LALC); and
- LMCC Aboriginal Community Worker.

The Awabakal Descendents Traditional Aboriginal Owners Corporation and Awabakal Traditional Aboriginal Owners Corporation have also participated in many meetings of the Project Steering Committee and have provided advice on Awabakal cultural heritage values across the city.

**The valuable contributions of knowledge and advice by all members of the local Aboriginal community are acknowledged.**

Members of LMCC's strategic planning staff and LMCC's Heritage Officer have also been members of the Project Steering Committee, as have several Councillors. The Mayor has also attended a number of project steering committee meetings.

This group has met to discuss aspects of the project over five years.

The project consultants and members of the Project Steering Committee jointly presented a paper on the assessment and management of Aboriginal Cultural Landscapes in LMCC to the NSW Coastal Conference, when it was hosted by LMCC in November 2004.

#### Consultation with Local Aboriginal Land Councils and Awabakal Descendent Families

In addition to the regular Project Steering Committee meetings at key stages of the project, the project team conducted separate meetings and briefings with the members of each of the three LALCs in the City, about specific issues of concern to them.

Separate meetings and briefings were also conducted with members of the families who are applying for registration as Awabakal descendents and Traditional Aboriginal Owners.

Members of each LALC and other Aboriginal community groups in the City were also briefed about the draft strategy for exhibition, and approved the materials to be used to raise awareness of the issues during the exhibition period.

Representatives from all LALCs participated in field studies conducted in Stage 1B of the project to clarify the location and condition of Aboriginal sites in some landscapes within the City.

As part of Stage 1B of the project, each LALC hosted a community field day with representatives of all three LALCs, community Elders and Awabakal descendent families. These field days allowed members of the community to highlight special values associated with places in the Lake Macquarie landscape, to share information about how some sites and places have been managed in the past and to discuss how management could be improved in the future.

#### Lake Macquarie Aboriginal Community Consultative Committee

Members of the Project Steering Committee have also been members of the Lake Macquarie Aboriginal Consultative Committee. There were four presentations to the Consultative Committee during the final stages of the preparation of the Strategy, to seek broader Aboriginal community feedback about the scope of the management issues, Council's responsibilities and potential responses.

Project consultants and members of the Project Steering Committee also met with HCRCMA and (then) DNR and DECCW (now OEH) Aboriginal project officers and liaison officers, to discuss consistent approaches to important concepts such as Aboriginal Cultural Landscapes.

## Discussion Paper

A Discussion Paper, drawing together the cultural heritage information for the area and suggesting potential strategies for Council to better manage its cultural heritage obligations, was prepared in 2005. A series of briefings and discussion sessions for Council staff, Aboriginal community members (separately for each Local Aboriginal Land Council and other Aboriginal community groups, and also at meetings of the Consultative Committee) and State Agency representatives was conducted at that time, to seek feedback on the suggested strategies. Information provided during this consultation has been taken into account in preparing the LMACHMS.

## **Draft Lake Macquarie Aboriginal Cultural Heritage Management Strategy**

Work on the draft Strategy commenced late in 2005, after a round of consultation about the Discussion Paper. Regular meetings were conducted with the Project Steering Committee and representatives of local Aboriginal community groups, over a period of six months. At these meetings, representatives of the various groups discussed with the consultants and with Council's planners, how the objectives of the Strategy could best be achieved. There was detailed discussion of:

- potential sites for nomination as Aboriginal places;
- how best to protect remaining sites in foreshore locations;
- how local Aboriginal community groups could best contribute to or support Landcare activities so that sites and cultural landscapes are protected;
- how the requirements of the LEP and DCP could be amended to achieve greater scrutiny of potential impacts on Aboriginal cultural heritage values during assessment of development applications;
- the logistics of Aboriginal community participation in large numbers of development assessments – how Aboriginal community groups would develop the resources) personnel and office systems) necessary for timely responses; and
- the importance of interpretative information about Aboriginal cultural heritage values and how this information would be prepared and circulated.

Further details about the opportunities for Aboriginal community groups to be involved in the project are noted in **Appendix 1**.

After a working draft of the LMACHMS had been prepared, LMCC provided all local Aboriginal community groups with further opportunities for comment and discussion. This included meetings with individual groups (both at Council and at the office of each group), informal liaison by Council's Aboriginal liaison officer, meetings and briefings to the Aboriginal Community Consultative Forum and formal written invitations to provide comments.

All local Aboriginal community groups were also welcome to provide further written comments on the draft Strategy during the exhibition period.

Comments received from Aboriginal, community groups and from other stakeholders were collated, reviewed and discussed with the project Steering Committee and Council staff, before a final draft Strategy was recommended to Council for adoption.

## 2.5 Other Key Players in the Management of Aboriginal Cultural Heritage in Lake Macquarie City

Whilst Council has significant responsibilities for the management of Aboriginal heritage in Lake Macquarie City, there are multiple other organisations having separate statutory responsibilities for culturally appropriate and sustainable land management. The LMACHMS outlines Council's particular responsibilities, but also identifies opportunities for partnerships between LMCC and other state and local organisations and the local Aboriginal community, to jointly contribute to effective and sustainable management of the City's Awabakal and Aboriginal cultural heritage.

Key organisations with interests and responsibilities in Aboriginal cultural heritage protection and management in and around the margins of LMCC include:

- Department of Environment and Climate Change (DECCW), now the Office of Environment and Heritage (OEH);
- Hunter Central Rivers Catchment Management Authority (HCRCMA);
- Regional Land Management Corporation (RLMC);
- Department of Trade and Investment, Regional Infrastructure and Services (former responsibilities of NSW Forests, Mineral Resources and NSW Fisheries);
- NSW Land and Property Management Authority. NSW Land and Property Management Authority conducts land assessments and also prepares Plans of Management for land managed under the *Crown Lands Act 1989*. Crown Land assessments and Plans of Management (for Crown Land and also Council Community Land) are prepared in accordance with the Crown Lands Guidelines. The Land and Property Management Authority manages the Belmont Wetlands State Park, approximately 500 hectares of former coastal dune and wetland landscape, now much degraded, between Redhead and Belmont. The Land and Property Management Authority and Council share management of public land at Swansea Heads;
- NSW Department of Aboriginal Affairs (within the Department of Human Services);
- Registrar of Aboriginal Owners; and
- Newcastle City Council, Wyong Shire Council and Cessnock City Council, each of which has an extensive boundary with LMCC. Newcastle Council lies primarily within the traditional lands of Awabakal people. Parts of Cessnock and Wyong Councils are also believed to be traditional Awabakal country, but multiple other traditional and community groups are also involved in these areas.

## PART 3: ABORIGINAL CULTURAL HERITAGE VALUES – WHY THEY ARE IMPORTANT

### 3.0 Aboriginal Community Cultural Heritage Values in Lake Macquarie Local Government Area

The following sections describe the places, stories of traditional cultural association and historical events that make up a map of the Awabakal cultural features of the Lake Macquarie landscape. The information draws on historical published records and on input from members of local Aboriginal community groups. The features of this Lake Macquarie cultural landscape and the Aboriginal community's values in this landscape are the assets which Council seeks to help to protect and sustain through this cultural heritage strategy. Council also seeks to support the continuation of diverse Aboriginal cultural practices across the City.

#### 3.1 The Country of the Awabakal People

All of LMCC is understood to be part of the traditional country of the Awabakal people. The traditional boundaries of the Awabakal tribe were wider than the current LGA boundary or the boundary of the Awabakal LALC.

Whilst Lake Macquarie was clearly central to Awabakal people (as was the Hunter River estuary), there are several different versions of the detailed boundaries of the country of the Awabakal. The approximate boundaries of the traditional Awabakal tribal country, as interpreted by the Australian Institute of Aboriginal Studies, are shown in **Figure 3.1**. The Awabakal appear to have been people of the coast, estuaries, lakes and wetlands, but also with attachment to the rugged sandstone country through the Sugarloaf and Watagan Ranges. The traditional country of the Awabakal people was bounded to the north by the Worimi, to the west by the Wonnarua, to the south west by the Darkinjung and to the south along the coast by the Kuring-gai people.

Threlkeld (1828) described the boundaries of Awabakal (people of the plain (Lake) surface) country as:

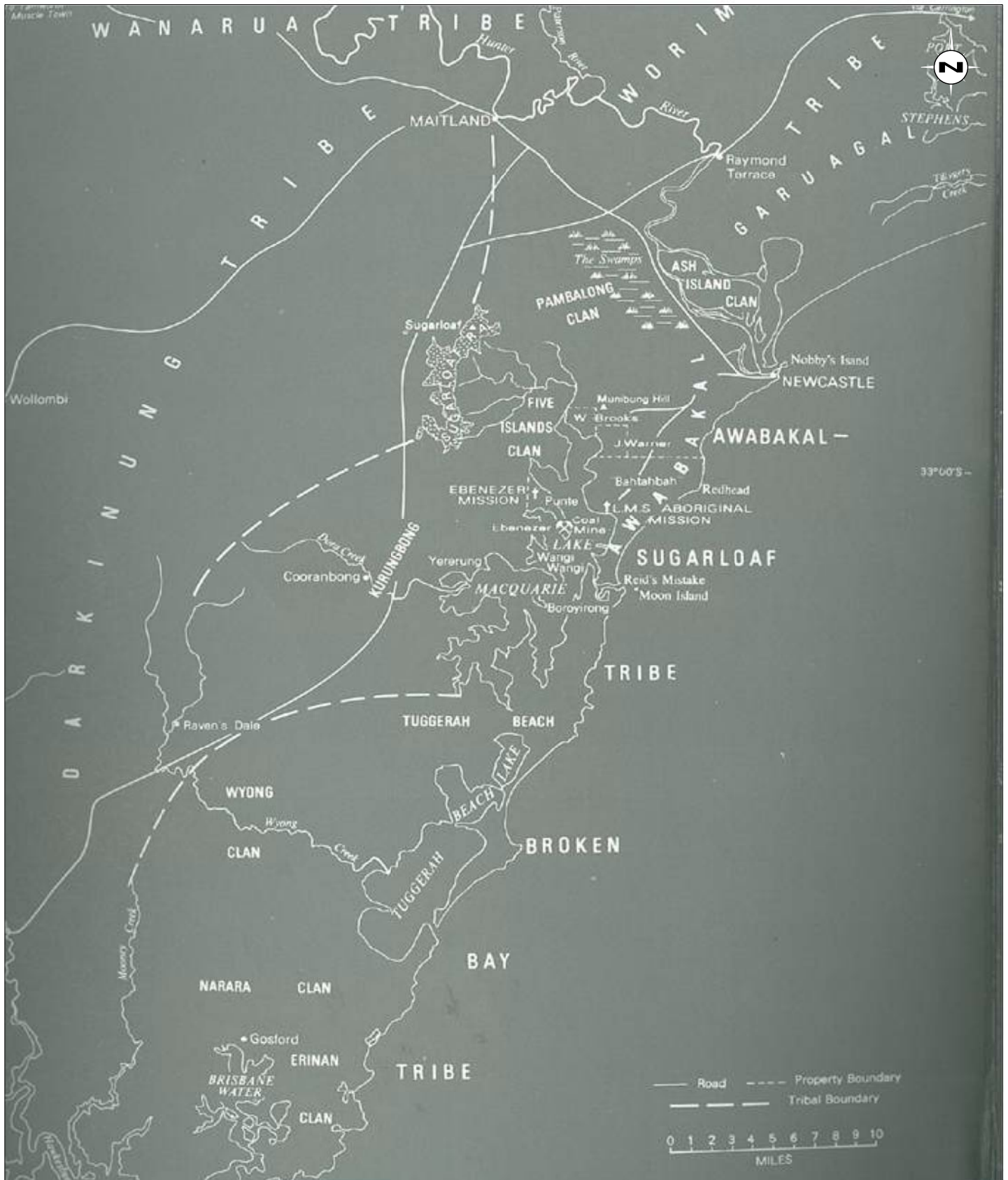
'The land bounded by south Reids Mistake, the entrance to Lake Macquarie and north by Newcastle and Hunters River. West by Five Islands at the head of Lake Macquarie.'

Threlkeld (1825) also stated that:

'the natives here (i.e. the people around Lake Macquarie, where his mission was located) are connected in a kind of circle extending to the Hawkesbury and Port Stephens.'

This would extend the boundary of Awabakal activity and interactions north and south well beyond Lake Macquarie and the Hunter River, although this does not necessarily imply that traditional Awabakal tribal country extended to these areas. The exact western extent of Awabakal country is also difficult to define.

Some early ethnographic reports suggest that the Awabakal people may have been the largest clan of several groups in the coastal part of the lower Hunter region. Related clans were the Pambalong, Ash Island and Cooranbong groups. Awabakal was the largest group in the area and was concentrated on Lake Macquarie.



Source: AIAS, 1974

FIGURE 3.1

Interpretation of Boundaries of  
Awabakal Tribal Territory  
according to AIAS, 1974

As can be seen from Threlkeld's comments (above) the Awabakal people may also have occupied (or travelled through) much of the Central Coast, with a direct connection to the Darkinjung and Kuring-gai people to the south, as well as to the Wonnarua to the west and the Worimi to the north. Wollotuka School of Aboriginal Studies (University of Newcastle) web site quotes documents from the Rita Smith Collection in the University Archives that report an annual corroboree at Nords Wharf (Kanangra) involving large numbers of Aboriginal people from Awabakal and Darkinjung country. People were reported to travel for days to get to this event. There are also suggestions that the Awabakal occasionally invited people from further afield to share coastal resources with them, for instance, sharing with Wonnarua and Darkinjung people if a whale was stranded on the beach.

Although there appear to be some distinct archaeological boundaries associated with the Sugarloaf Range, there is also historical reference to Awabakal people visiting the Range regularly and to language associations as far west as the Wollombi area. Although Mount Sugarloaf is visible from much of the lower Hunter valley, the Wonnarua people from along the Hunter River do not appear to have the same range of cultural stories associated with Mount Sugarloaf as the Awabakal people. Haslam (University of Newcastle archives and quoted on the Wollotuka School of Aboriginal Studies web site) suggests that the Awabakal people were fierce defenders of their coastal territory and that some sites in the upper Watagans may be evidence of attempted, but unsuccessful incursions by people from the west (for instance, Kamilaroi people, moving down the Hunter Valley through Wonnarua country).

The University of Newcastle (Wollotuka School of Aboriginal Studies) web site also suggests, based on the records of Percy Haslam, that Awabakal descendents 'survived' around Lake Macquarie well into the twentieth century. Haslam refers to a group of Aboriginal people (Awabakal) living in the mountains west of Martinsville until the NSW Forestry Commission began more formal management of the area, perhaps around the 1920s.

Various reports also refer to Margaret and Ned White, who lived at Swansea in the late nineteenth century (probably with other Aboriginal people) as being Awabakal people. In 1863, a very small number of Aboriginal people remained as part of the fishing settlement at Swansea Heads and Swansea Flats, sharing their country with a group of Chinese fishers and farmers and a small group of European sea farers. Ned (after whom Black Ned's Bay is named) and Margaret were part of this fishing community. Margaret, who was born at 'Waiong', lived on a reserve at Black Ned's Bay until late in the nineteenth century. The Swansea and Pelican Flat settlements were developed over the top of former Aboriginal midden deposits and it was reported in 1869 (see Clouten 1967), that lime diggers were excavating the old cockle shell deposits and sending them to Sydney by sea as supplies for the building boom in the city.

After about 1920, there are few references to Awabakal descendents living in the local area and for some time, it was thought that the Awabakal people had disappeared. Although it is possible that most local Aboriginal people may have left Lake Macquarie by the 1920s, it is now understood that some descendents of Awabakal people continued to live in or have interests in the Lake Macquarie area throughout the twentieth century and right up to the present time. Turner (1995) suggests that in the early 1930s, some Aboriginal people began to return to the region, working on the construction of the railway. A large group of Aboriginal people later lived in the 'Platt Estate' at Waratah (Newcastle local government area). How many of these people were descendents of the Awabakal or other specific traditional Aboriginal tribes is not known.

## 3.2 Awabakal Sites and Records of Traditional Culture

In NSW, the NPW Act 1974 provides statutory protection for Aboriginal objects and for some specifically gazetted Aboriginal Places. In the Lake Macquarie local government area there are more than 500 known Aboriginal sites. Only Pulbah Island is currently gazetted as an Aboriginal Place under the NPW Act 1974.

### 3.2.1 Awabakal Archaeological Sites

The Awabakal archaeological sites include middens, artefact scatters, rock shelters with art, scarred trees, ceremonial stone arrangements, grinding grooves and burials (see **Plates 3.1 to 3.5** for examples). The number of grinding groove sites in the city (more than 60 sites are registered in the OEH AHIMS database, in creek beds across the entire city) is considered to be a large assemblage of this distinctive site type and is archaeologically significant. Grinding groove sites are also culturally valuable; they imply an intimate understanding of the landscape and have a strong sense of social groups working together on country.

Aboriginal archaeological sites are known from all the major terrain units of the City – from the coastal dunes and headlands, the lake shore, hillslopes, ridges, creek valleys and the escarpment of the Sugarloaf and Watagan Ranges. The patterns of archaeological sites reflect the distribution of resources valued by traditional Awabakal people, the routes they used to move around their country and to meet up with people from other tribal groups and places used for campsites or chosen or valued for special ceremonies or spiritual associations.

### 3.2.2 Records of Awabakal Culture

In Lake Macquarie, much of what is now known about the non-archaeological culture of Aboriginal people has been passed down through the records of Reverend Threlkeld, a missionary to the Awabakal Aboriginal community from about 1820 to 1840. Records of other people (such as early government officials and settlers) who moved around the region in the early nineteenth century also provide valuable written insights. In his letters and diaries, Threlkeld described many events and activities that he was privileged to observe. From this same period, there are drawings and paintings by Joseph Lycett and others, which show traditional Aboriginal fishing activities and equipment and a perspective of the landscape in which people lived, (e.g. see **Plates 3.6, 3.7 and 3.8**).

With the help of The Awabakal man Biraban, Threlkeld recorded and translated the Awabakal language (see Fraser 1892), primarily through the Gospel of St Luke and other religious texts. The Awabakal Cultural Resource Association Inc., based in Newcastle, has been working since 2002 to revitalise the Awabakal language and increase the number of people who can understand and speak the language as part of their culture.

The eagle hawk was of great ceremonial importance to the Awabakal people, who referred to it as 'Koun'. Threlkeld (reported in Gunson 1974) refers to stone structures on the hills around Lake Macquarie, up to 1 metre high and nearly 2 metres in diameter, which Biraban told him were brought there by the eagle hawk.

Some examples of Awabakal place names and stories recorded by Threlkeld in the first decades of the nineteenth century are provided below. The Awabakal descendent corporations and each of the LALCs in the Lake Macquarie area have records of many stories and place names from traditional language, as well as places that were valued by many generations of Aboriginal people in the community.





PLATE 3.1  
Midden deposits on the Lake Macquarie coast



PLATE 3.2  
Examples of flaked stone artefacts from  
open campsites in Lake Macquarie LGA



PLATE 3.3  
Midden and Open Campsites are widespread on the lake foreshore



PLATE 3.4  
Examples of grinding groove sites  
in the Lake Macquarie LGA



PLATE 3.5  
Local Aboriginal community members visiting the  
Awabakal reburial site at Swansea Heads



PLATE 3.6  
Mount Sugarloaf, with Awabakal people in the foreground

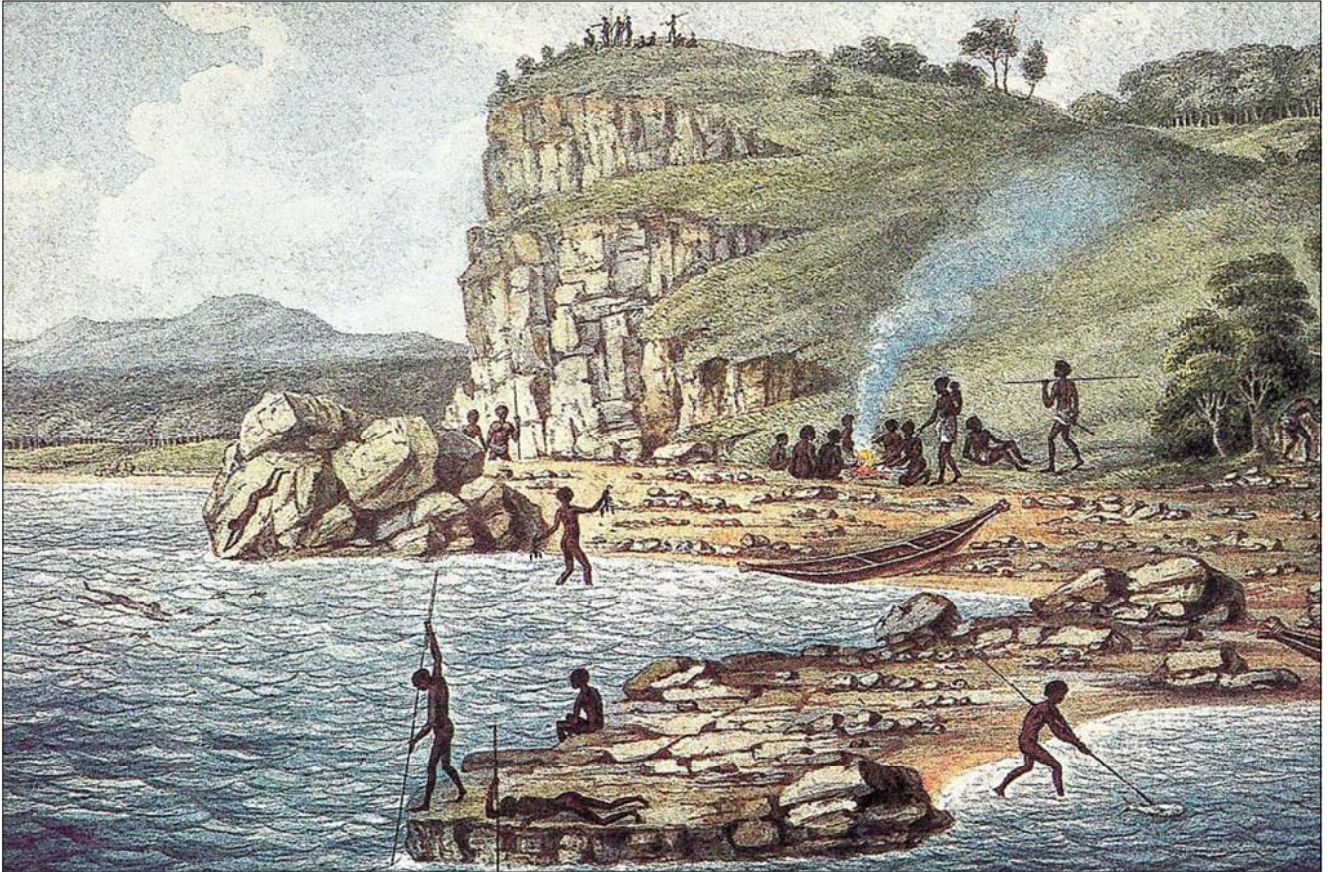


PLATE 3.7  
Awabakal people fishing - possibly at Croudace Bay  
in Lake Macquarie or at Little Redhead



PLATE 3.8  
Joseph Lycett's 'Fishing by moonlight on Lake Macquarie',  
possibly Crangan Bay



Mul-lung-bu-la:	Two large near vertical rocks at Swansea Heads, believed to be two women who were transformed into rocks in consequence of their being beaten to death.
Nir-rit-ti-ba	Moon Island – a place where mutton birds abounded.
Yirri-ta-ba	Swansea Heads – an important spiritual place. Several Aboriginal burials were found there in the 1970s and the remains have now been buried within the reserve at Swansea Heads (see <b>Plate 3.5</b> ).
Ky-yee-bah	Pelican Flat – a place for games, canoe races and corroborees.
Wa-ra-wol-lung	A flat topped peak on the crest of the Watagan Ranges, behind Watagan Creek. The peak was partly cleared at the order of Surveyor General Mitchell in the late 1820s and was visible from a great distance.
Ko-na-ko-ina-ba	Munibung Hill, a place where a special stone was found, making a yellow substance for paint.
Bo-ro-yi-rong	The place inhabited by the water monster who guarded the deep water to the east of Pulbah Island. The monster was said to swallow canoes and their crew whole. The monster could also come up anywhere else where there was water.
Kur-rur-kur-ran	A petrified forest at Fennell Bay made from a single large rock that fell from the sky where people had previously been speared to death by a 'long reed from heaven' (according to Threlkeld's version of the story).

Mount Sugarloaf is the home of the supernatural demon Puttikan. **Plate 3.6** is an early nineteenth century illustration of Mount Sugarloaf and shows Aboriginal people in the foreground. Mount Sugarloaf is a landmark that is visible from many parts of traditional Awabakal territory.

**Plate 3.7** reproduces a Lycett drawing of Awabakal people fishing (using spears) and collecting lobsters. An Awabakal canoe is pulled up on the shore. The site of this drawing is not known definitely. It has some similarities with the Croudace Bay area, with Munibung Hill in the background. An alternative is the Little Redhead/Dudley Tops area on the coast.

### 3.2.3 The Threlkeld Mission Sites

Threlkeld is believed to have first cleared a small area near the northern shore of the lake before establishing his mission station near Victoria Street in Belmont (Bahtabah) in 1826. Threlkeld subsequently took up a grant of 1280 acres at 'Derahbambah' (Coal Point) and 'Punte' (Toronto), extending as far as LT (Lancelot Threlkeld) Creek at Fassifern, in about 1830. The Toronto Hotel, built in the 1890s, is on the site of the Threlkeld Mission at Toronto.

As early as 1837, Threlkeld reported a dramatic decline in the local Aboriginal population, partly due to disease and disruption of traditional Aboriginal society by ill treatment and partly by the migration of remaining Aboriginal people to camps around the more established settlements (in this case Newcastle, still within the traditional Awabakal lands). Threlkeld commented on the poor conditions in which people lived in these camps.

### 3.2.4 Land Granted under the NSW Aboriginal Land Rights Act

Some lands in Lake Macquarie LGA are owned by the LALCs, having been granted under the ALR Act 1983. These grants are not necessarily made because of the cultural heritage values of the land, but because a purpose of the Act is to permit LALCs to make claims over vacant Crown land which is not needed for any other specific purpose. This recognises the traditional occupation of the land by Aboriginal people.

When a land claim is granted, the land reverts to freehold title in the name of the LALC. Since 1990, LALCs have been able to sell parcels of land obtained through claims made under the ALR Act 1983, providing an independent source of income for the Aboriginal community. In accordance with the intent of the ALR Act 1983, land grants obtained under the ALR Act 1983 may be very significant to the economic welfare and independence of the Aboriginal community.

Land which is owned by the Aboriginal community should not, therefore, be assumed to have high cultural heritage values although some land parcels will be in culturally sensitive landscapes. By supporting the economic independence of the Aboriginal community, land grants obtained under the ALR Act 1983 provide significant opportunities to support the sustainability of the Aboriginal community and culture.

## 3.3 Culturally Sensitive Landscapes in Lake Macquarie Local Government Area

The concept of a cultural landscape, that is, a landscape incorporating complex and evolving interactions of natural features, cultural values and culturally driven landscape change, is widely used in modern heritage management to encapsulate heritage values at the landscape scale. Definitions of cultural landscapes assume that landscape is, in fact, a cultural construct. Communities modify and interpret the landscape in which they live, to meet their physical, social, cultural and aesthetic needs and values and many of these created landscapes survive for generations. Cultural landscapes incorporate not only individual structures or sites, but the links between sites, places and their broad local and regional context.

This section describes the application of the cultural landscape concept to the Aboriginal heritage of Lake Macquarie.

The discussion firstly focuses on the definition and distribution of individual Aboriginal archaeological sites (Awabakal sites) around Lake Macquarie, according to types of terrain (**Section 3.3.1**) in which they occur. This approach embodies the precautionary principle in that it highlights that the surface expression of Aboriginal sites is often much less than the actual extent of the archaeological material, which is most often below the ground surface. Strategic management decisions need to take this uncertainty into account.

The concept of a terrain based definition of individual Aboriginal archaeological sites can be incorporated into a broader concept that links groups of associated Aboriginal sites, stories, traditional and contemporary cultural practices and contact history to describe the cultural attachment to country. The cultural landscape approach stresses that Aboriginal cultural heritage values are not just attached to artefacts, but to an understanding of attachment to country. Traditionally and in continuing Aboriginal culture, Aboriginal people looked after country (the plants and animals and what they needed to prosper) and the country would look after them. People would also have a totemic relationship with specific plants, animals or places. This approach gives wide ranging areas in the landscape significant Aboriginal

cultural heritage values. This broader concept of cultural significance leads to the identification of Sensitive Aboriginal Cultural Landscapes.

OEH (2005) defines an Aboriginal Cultural Landscape as:

‘...a location, area or region valued by an Aboriginal group (or groups) because of their long and complex relationship with that land. It expresses their unity with the natural and spiritual environment. It embodies their traditional knowledge of spirits, places, land uses, and ecology. Material remains of the association may be prominent, but will often be minimal or absent.’

This definition is maintained in the 2010 DECCW Fact Sheet (available on OEH web site). Whilst only Aboriginal sites (objects) are protected by the NPW Act 1974, OEH also considers broader Aboriginal community values for the landscape in its decision making processes. In addition, both landscape based mapping of Aboriginal archaeological sites and the broader concept of Sensitive Aboriginal Cultural Landscapes are relevant to the planning process (under the EP&A Act 1979) and to other aspects of land management. The concept of a culturally created and valued landscape that retains integrity and extends across broad areas and many natural features of the City is also important for factor influencing how Council can show respect for Aboriginal community cultural values.

Aboriginal cultural heritage values at a landscape scale incorporate:

- known archaeological sites and archaeological potential;
- places gazetted as Aboriginal Places under the NPW Act 1974;
- Aboriginal land including some land gained under the *Aboriginal Land Rights Act 1983*, former mission sites and any land gained under Native Title legislation;
- lands that retain a diversity of natural vegetation and traditional cultural resources;
- land associated with inherited stories from traditional times and the places that they describe, particularly where the story relates to ceremonial or spiritual activities;
- places identified as being important during the contact period, when Aboriginal people were displaced from the traditional lands; and
- places that are associated with ongoing cultural knowledge or obligations or ongoing ‘attachment’ (following the terminology of Byrne and Nugent 2004).

Places that meet these criteria in LMCC were mapped with representatives of the local Aboriginal community groups during Stages 1A, 1B and 2A of this project and are further described and refined in **Sections 3.3.1** and **3.3.2**.

### **3.3.1 Terrain Based Mapping of Aboriginal Sites**

Terrain based mapping of Aboriginal sites defines the boundaries of archaeological sites not by the distribution of archaeological objects that are visible on the surface, but by the potential extent of a site across local landforms. It is particularly relevant to open campsites (artefact scatters) and middens, which frequently include subsurface deposits. Both of these site types are very common in the Lake Macquarie LGA. Terrain based mapping draws on the following assumptions:

- archaeological objects that are observed on the ground surface are only the exposed portion or sample of the actual site;
- the archaeological site has a potential subsurface distribution that will usually be much wider than its surface expression;
- sites are the archaeological reflection of the local Aboriginal activity in the landscape. People's past activities would have functionally linked various individual archaeological objects and places;
- if part of an archaeological site is associated with a particular terrain unit, then it has an equal potential to continue across any part of that terrain unit which presented similar opportunities for traditional Aboriginal occupants; and
- in the absence of other information, it is therefore assumed that the boundary of the archaeological site is the boundary of the terrain unit that presents a similar landform context. In practice, these terrain units are derived from the breaks of slope between assemblages of landform or topographic features. Some sites may extend across more than one individual terrain element. Some examples are presented in **Figures 3.2a** and **3.2b**.

**Figures 3.2a** and **3.2b** show typical assemblages of local terrain units that can be expected to occur in parts of the Lake Macquarie LGA:

- the coastal hinterland;
- the lower, alluvial reaches of tributary catchments;
- upper catchment areas;
- the escarpment country of the Sugarloaf and Watagan Ranges;
- lake shore contexts;
- the deltas of major creeks where they enter Lake Macquarie; and
- coastal dunes and headlands.

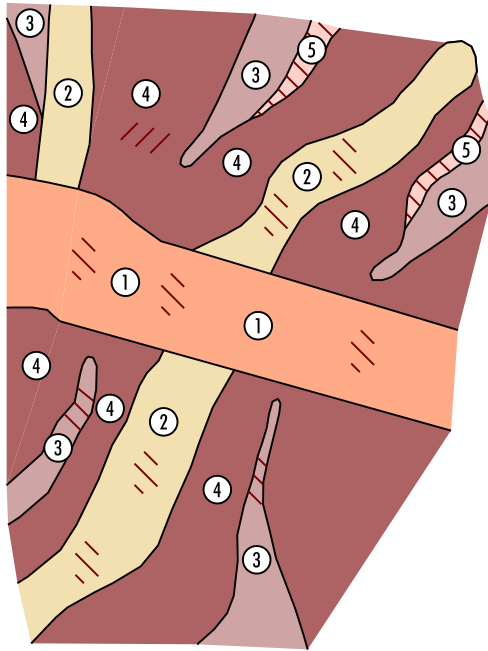
In each of these figures, terrain units that have high Aboriginal archaeological potential are indicated. Some terrain units have a relatively consistent potential across their entire surface; for others, archaeological potential is likely to be in discrete locations (e.g. rock shelters in sandstone cliffs or boulders, or isolated artefacts scattered along elevated ridgelines).

**Appendix 4** summarises the types of landscape units analysed and assessed for this project. It also notes the types of sites that are known to occur, or could be predicted to occur in each landscape.

### 3.3.1.1 Archaeological Sites in their Landscape Context

A brief description of typical relationships between archaeological sites and landscape elements is provided below.

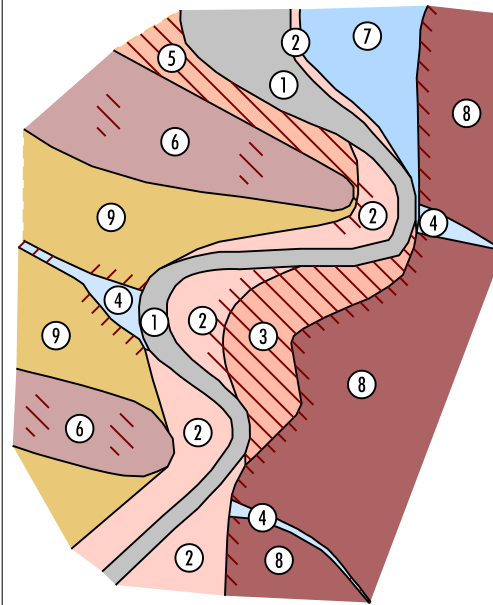
### Coastal Hinterland



1. Main ridge crest, separating lake and ocean subcatchments. skeletal light textured soils, occasional outcrop or rock float.
2. Spur crest, steep and often rocky, shallow soils.
3. Creek bed. Rocky in upper reaches (conglomerate or sandstone), with increasing accumulation of alluvial sediments downstream, intermittent flows.
4. Side slope with moderate to steep gradients and local relief of up to 10-20m. Rock outcrop common on upper slopes, with potential for small cavernous overhangs.
5. Alluvial bench grading to low angle footslope - gentle gradient, accretionary surface. Width varies with valley size.

Indicative Scale 1cm = 100m

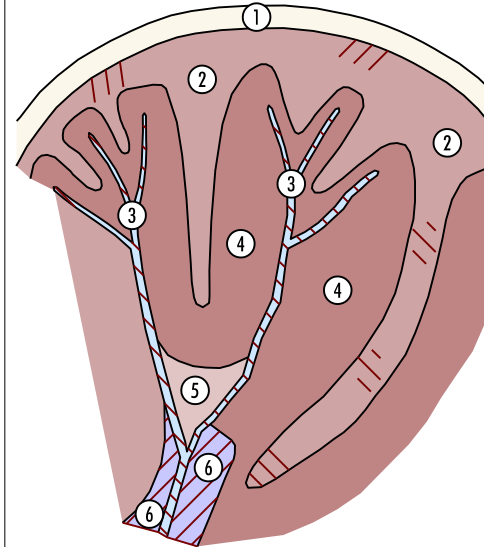
### Alluvial Valleys



1. Creek bed in alluvial fill with rare sandstone and conglomerate outcrop. Channel often incised in alluvial deposits with banks up to 3m high.
2. Floodplain, stratified alluvial deposits, including sand, gravel and clay.
3. Terrace; High level of alluvium of up to 5m above creek bed. May include buried former soil surface.
4. Tributary creek channel, generally with alluvial bed, grading to rock outcrop upstream.
5. Low gradient footslope, up to 10m local relief, extent variable.
6. Spur crest and steep upper slopes. May have rock outcrop.
7. Backswamp on floodplain, between valley side and low levee on floodplain margin.
8. Valley side slope, gradient moderate to steep, shallow duplex soils and local relief of 20-40m.
9. Tributary valley side slope, often rocky, local relief of up to 30m, gradient variable.

Indicative Scale 1cm = 150m

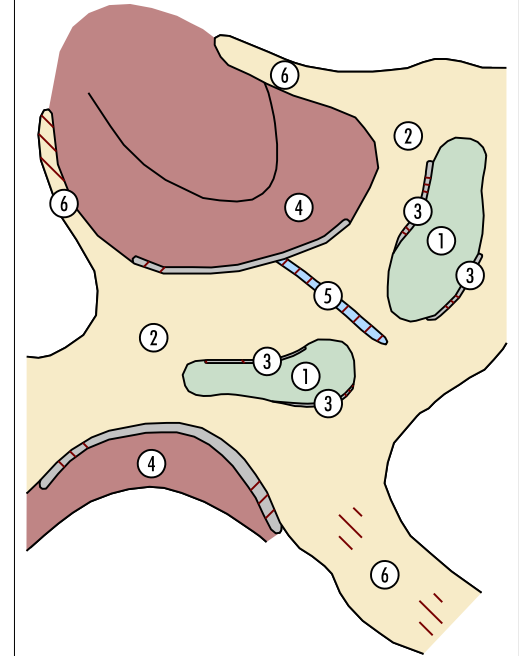
### Upper Catchment



1. Major catchment divide, elevation to 70m, rocky ridge crest may have large cavernous overhangs in sandstone cliff.
2. Spur Crest - narrow tributary spurs with rocky crests and very steep rocky upper side slopes.
3. Low order drainage line. Creek bed with extensive sandstone or conglomerate outcrop/boulders, steep gradient, intermittent flows.
4. Upper valley side slope, moderate to steep gradient, shallow duplex soil profiles, occasional rock outcrop.
5. Footslope, low gradient bench at creek junction.
6. Narrow alluvial bench/floodplain.

Indicative Scale 1cm = 200m

### Mountains - Sugarloaf, Watagan Ranges



1. Mountain Peak - rocky bluff set above plateau surface. May also have non archaeological cultural sensitivity.
2. Plateau Surface - undulating moderate slope.
3. Cliffline - sandstone cliff to 30m, may include cavernous overhangs. Clifftops have wide vistas over the surrounding landscape.
4. Boulder debris slope below cliffline, with intervening areas of steep slope with shallow duplex soils (sandy).
5. Tributary Creek on Plateau Crest - moderate gradient, bedrock confined.
6. Major ridge crest providing linkage to the lake catchment, or into the lower Hunter Valley. Narrow crest with steep rocky side slopes.

Indicative Scale 1cm = 200m

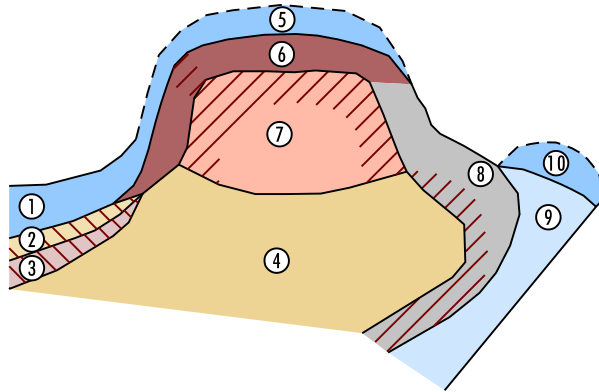
### Legend

- /// Indicative distribution of Aboriginal archaeological material

FIGURE 3.2a

Indicative Archaeological Sensitivity of Landscape Elements

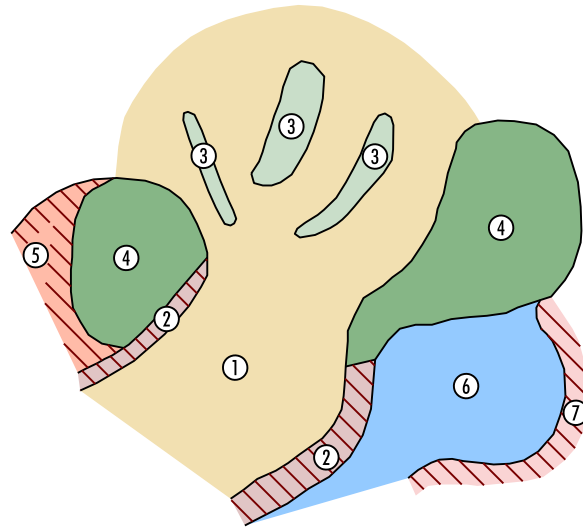
### Lake Macquarie Foreshore



1. Active wave zone and lake 'beach' sediments, sand and gravel, gentle gradient.
2. Lake shore bench, up to 2m above MHW, flat to gently sloping and comprising weakly stratified gravel, sand and shell.
3. Low gradient bedrock based footslope.
4. Moderate footslope to midslope, duplex soils.
5. Rock platform - conglomerate or sandstone.
6. Steep to vertical slope of bluff. Sandstone or conglomerate outcrops may contain cavernous overhangs.
7. Flat or gently sloping bluff crest.
8. Footslope ramp to lake shore.
9. Small estuarine tributary creek, with unconsolidated alluvial bank beds, bank tops and less than 0.5m above MHW, soft organic sediments in bed.
10. Low wave deposited berm across mouth of creek, maybe breached by flows from catchment, forming delta in near shore.

Indicative Scale 1cm = 100m

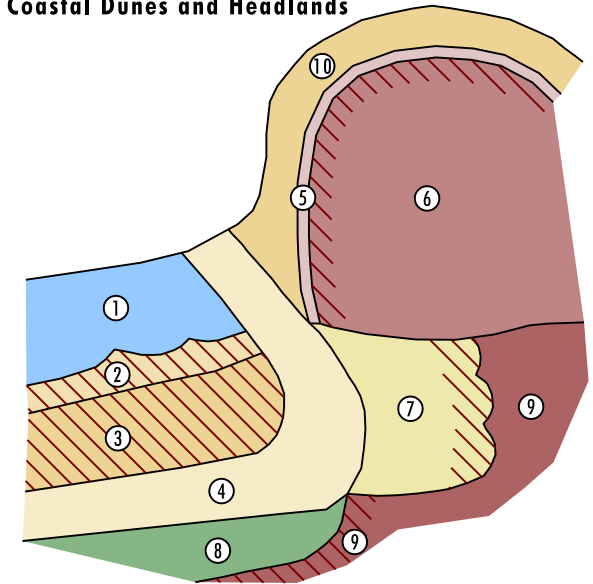
### Lake Macquarie Foreshore - major creek deltas



1. Creek bed, estuarine, terrestrial sand and mud, no rock outcrop; may include exposures of older Pleistocene clays. Often shallow/shoaling.
2. Levee - elevated alluvial deposit - 1m above MHW.
3. Wetland Islands - saltmarsh and/or mangroves, local relief of up to 0.5m above MHW.
4. Estuarine Wetland - saltmarsh or melaleuca/casuarina wetland, local relief of up to 0.5m above MHW.
5. Low gradient footslope.
6. Fresh water wetlands.
7. Medium gradient footslope, insitu duplex soils.

Indicative Scale 1cm = 75m

### Coastal Dunes and Headlands



1. Open active beach.
2. Frontal or foredune - up to 2-3m above beach level, may erode or accrete intermittently at seaward margin.
3. Transgressive dune field, previously stable, may now be mobile due to disturbance.
4. Shallow sandy estuarine creek bed.
5. Steep slopes from headland crest to rock platform or beach.
6. Headland - 10-20m above sea level.
7. High level transgressive dunes.
8. Estuarine Wetlands.
9. Bedrock Slopes - gentle to moderate gradient, duplex soils.
10. Rock platform.

Indicative Scale 1cm = 100m

#### Legend

- Indicative distribution of Aboriginal archaeological material

FIGURE 3.2b

Indicative Archaeological Sensitivity  
of Landscape Elements

## Lake Shore Landscapes- Archaeological Site Types

Middens and/or artefact scatter sites adjacent to the shoreline of Lake Macquarie may occur on several local terrain units, in part reflecting the local geology and the long term shoreline processes. Archaeological substrates include:

- A low bench along the foreshore of embayments exposed to lake waves and formed of wave deposited materials. This low bench is rarely more than 15 metres wide, and is 2 to 3 metres above lake level.
- Very low relief (less than 1.5 metres above sea level) estuarine floodplain or shoreline deposits in sheltered embayments, often with nearby creek mouths (e.g. Crangan Bay). These shorelines do not include gravel deposits.
- Lower slopes underlain by mudstone and sandstone units.
- Low rocky bluffs, sometimes with small rock shelters.

At any given location around the lake foreshore, one or more of these terrain units may be considered to define the boundaries of archaeological sites.

The identification of Aboriginal sites around the lake shore is often problematic because of the mixture of natural processes and development impacts on the local terrain. Disturbed Aboriginal midden deposits may be very difficult to distinguish from wave deposited shell and gravel units or material placed by people using the shoreline in historical or recent times. For instance, in many locations, it is possible that the materials exposed on lake shore benches incorporate a mixture of:

- wave deposited gravel and shell of indeterminate age. These deposits are up to 2 to 3 metres above current lake levels, but include reworked unconsolidated rounded gravels (originally derived from conglomerate outcrops, but redeposited in stratified units by wave action), shell fragments (principally robust *Anadara* and mussel) with a low proportion of finer sand sized material;
- midden shell may be interbedded with, deposited above or mixed with these gravelly units. Middens can be expected to include food species such as *Anadara*, *Pyrazus*, Sydney Rock oyster, float oyster (*Ostrea*) and mussel, either in densely packed lenses or in stratified deposits. Midden deposits may include flaked stone artefacts. Weathering and disturbance of these deposits means that the shell is often highly fragmented; and
- some gravel and shell is a recent deposit, removed from the lake shore with sea grass wrack and re-spread by local residents.

It is important to distinguish as much as possible the combinations of these materials that are present at specific locations when considering management decisions.

## Coastal Landscapes – Archaeological Site Types

Midden deposits and associated artefact scatters may occur within coastal dune systems that have not been affected by mineral sand mining or sand extraction (e.g. at Swansea Heads and Pinney Beach). Similarly, midden material or artefact scatters may occur on coastal headlands. Several headlands in LMCC include outcrops of geological units (tuffs in most cases), which have supplied traditional Awabakal people with raw materials for the manufacture of flaked stone implements. Aboriginal burial sites have been reported in coastal dunes, including cliff top dunes at Swansea Heads, but are now likely to be very rare.

## Riverine or Riparian Landscapes – Archaeological Site Types

Archaeological sites along riverine corridors may be associated with the creek bed (grinding grooves), or with alluvial deposits (artefact scatters on creek terraces) or with bedrock based footslopes (open campsites/artefact scatters). These are three separate terrain units. For any riparian corridor, combinations of these three terrain units may define the boundaries of Aboriginal archaeological sites. It is also possible that stratified Aboriginal sites will occur in creek terrace deposits, where old land surfaces have been buried by more recent material.

## Upper Catchment Landscapes – Archaeological Site Types

Archaeological sites may be associated with ridge crests or with various side slope elements. Individual landscape units may be quite large. The most likely site type is an open artefact scatter with a low density of objects. Grinding groove sites are a frequent occurrence in sandstone creek beds. Both artefacts and rock art may be located in rock shelters on steep slopes. The density of flaked stone artefacts on open slopes in steep terrain is predicted to be very low, based on previous survey results.

Ceremonial sites may also be present on high ridge crests, although it is likely that most have been irreparably damaged by subsequent land uses. For instance, no evidence appears to remain of the ceremonial stone arrangements on the tops of landmark hills around Lake Macquarie, described by Biraban and Threlkeld in the nineteenth century.

For any specific location, consultation with the Aboriginal community may provide further details about Aboriginal sites, gazetted Aboriginal Places and other places of cultural heritage value. Protocols for referral and consultation about settlement planning, rezoning proposals and development applications are discussed in **Section 6.0**.

The information in **Figures 3.2a** and **3.2b** and **Appendix 4** allows the following distinctions to be made about the **archaeological** sensitivity of parts of the landscape:

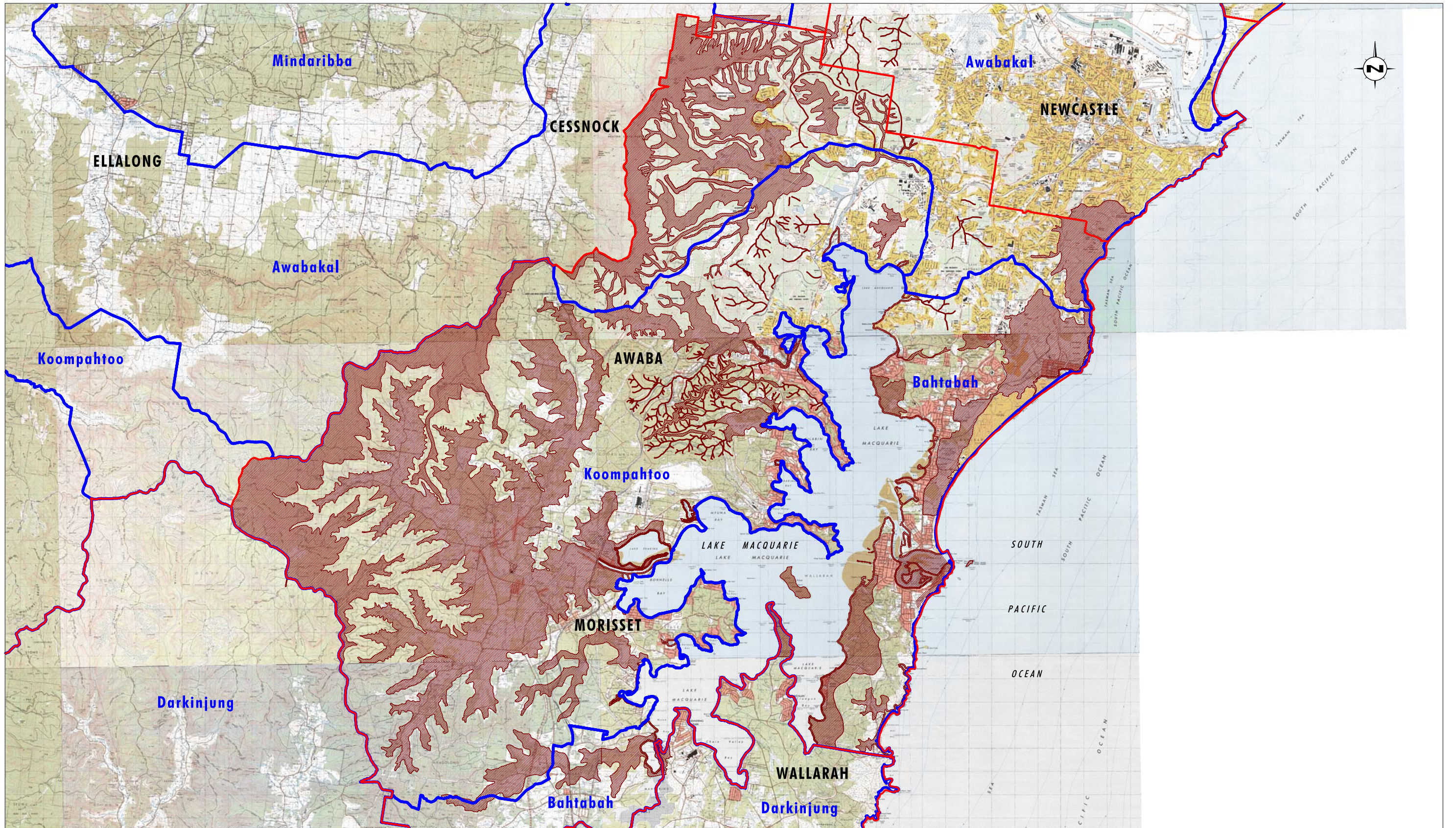
- the extent of archaeological sensitivity will depend on the extent of specific assemblage of terrain units and is not a consistent or standard width around any natural feature;
- it is possible to qualify the probability that an actual archaeological site or deposit will occur within part of a terrain unit, using information about the type of evidence that is generally associated with that terrain (i.e. archaeological terrain modelling); and
- a combination of terrain character and modelling of archaeological associations can be used to inform decisions about the type of archaeological assessment that is necessary to satisfy the requirements of the NPW Act 1974.

### 3.3.2 Sensitive Aboriginal Cultural Landscapes

As noted in **Section 3.1**, the concept of an Aboriginal Cultural Landscape incorporates community cultural values and archaeology, to define landscape scale places that are culturally important. The sensitivity of these spaces depends on the value attached to them by Aboriginal people, and by the resilience of the landscapes to impacts and change.

**Figures 3.3a** and **3.3b** summarise Sensitive Aboriginal Cultural Landscapes in the Lake Macquarie LGA, which have been identified on the basis of Aboriginal archaeological evidence, landscape features that have been described in historic records of traditional Awabakal culture and other Aboriginal community cultural values. The Sensitive Aboriginal Cultural Landscapes mapped in these figures recognise traditionally important places and places of importance to the contemporary Aboriginal community regardless of the condition of those landscapes.





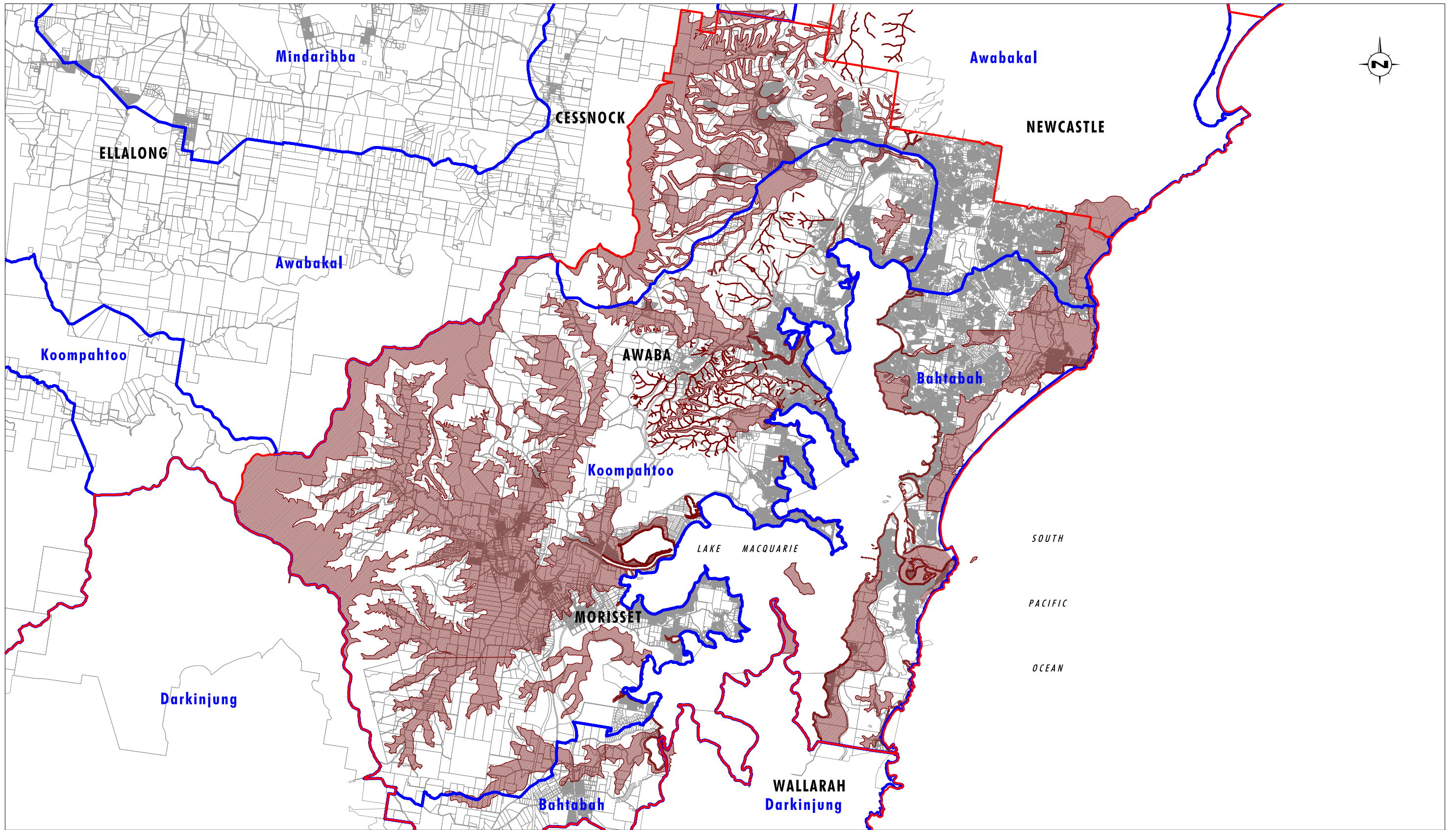
Source: LPI NSW, 2000  
 Note: Koopahtoo LALC no longer operates. Awabakal LALC is looking after cultural heritage issues in this area

0 3.0 6.0 9km  
 1:160 000

- Legend**
- Council Boundaries
  - LALC Boundaries
  - Sensitive Aboriginal Cultural Landscape

FIGURE 3.3a

Sensitive Aboriginal Cultural Landscapes,  
 with general topographic information



Note: Koompahtoo LALC no longer operates. Awabakal LALC is looking after cultural heritage issues in this area

0 3.0 6.0 9km  
1:160 000

- Legend**
- Council Boundaries
  - LALC Boundaries
  - Sensitive Aboriginal Cultural Landscape

FIGURE 3.3b  
Sensitive Aboriginal Cultural Landscapes,  
with cadastre

**Figures 3.3a** and **3.3b** do not show individual Aboriginal sites and LMCC does not hold records of known Aboriginal sites across the whole of the City. The maps are intended to provide a level of accuracy that is relevant to identifying sensitive cultural places in the landscape for local and regional planning processes.

The landscape units identified in **Figures 3.3a** and **3.3b** are drawn from base mapping at 1:25,000 scale. The base maps of Sensitive Aboriginal Cultural Landscapes are held by LMCC and by each of the LALCs in the City.

The ethnographic information (e.g. see **Section 3.1**) makes it very clear that ancestral Awabakal people moved through diverse local landscapes, as part of seasonal and annual economic and spiritual traditions. The diversity of the landscape would have helped ancestral Awabakal people to manage seasonal and longer term variability in the environment (droughts and floods), as would their relationships with adjoining groups. Awabakal people created valued associations with:

- coastal landscapes;
- estuarine landscapes – Awabakal people are people of the ‘flat waters’;
- freshwater (creek, floodplain and ridge line) landscapes;
- mountain landscapes; and
- historic landscapes.

Based on the available scientific archaeological information and discussion with local Aboriginal groups, the following Sensitive Aboriginal Cultural Landscapes have been identified in the Lake Macquarie area:

#### Coastal Landscapes

These coastal places are associated with archaeological sites, burials, traditional stories, extensive cultural resources, and records of sharing occasional marine bounty with neighbouring groups. The coast has always been a place of significant environmental variability (e.g. the long term effects of early Holocene sea level rise).

- Swansea Heads and adjacent dunes, rock platforms and bluffs, extending south to Hams Beach. The ocean beaches and dunes south of Caves Beach, along the Wallarah Peninsula, are also considered important.
- Awabakal Nature Reserve lands to the north of Redhead.
- The Jewells Wetland/Crokers Creek/Tingira Heights area to the east of Lake Macquarie, including sandstone creek beds, Bangalow Reserve, the western shoreline of Jewells Wetland and any natural remnants of former coastal dunes (noting that the dunes in this area have been reworked by sand mining). Parts of this area (former BHP lands) have now been included in a Conservation Reserve.

#### Estuarine Landscapes

These estuarine places are associated with archaeological sites, important traditional resources, many traditional stories and many records of traditional Awabakal life from the early contact period.

- The Lake entrance channel area, including Pelican Flat, Swansea Channel and Black Neds Bay areas, extending around the Lake Macquarie shoreline to Galgabba. This area is reported to have been the home of Aboriginal people (including Ned and Margaret), as part of the fishing community, in the mid nineteenth century, as well as a place valued for estuarine resources for thousands of years.
- Pulbah Island and adjacent waters. This rocky island is the site of traditional Awabakal stories and several archaeological sites.
- The Lake Macquarie foreshore, except for reclaimed areas, and including slightly elevated land adjacent to the shoreline of wetland areas that are directly linked to the lake shoreline. In this context, foreshore refers to land whose origin is directly related to lake processes (the wave deposited bench), other estuarine flats, low gradient bedrock footslopes, low bluffs, the mouths of tributary creeks draining small local catchments, and relatively undisturbed parts of the deltas of major creeks (e.g. Dora Creek and the Five Islands area). In general, these foreshore lands are considered to extend a maximum of 100 metres landward of mean high water, with the maximum width associated with large creek deltas. In most areas, the foreshore lands are less than 50 metres wide and extend up to twenty metres into the lake. The lake foreshore is associated with many records and archaeological sites with material from traditional fishing and shellfishing.

#### Freshwater (Creek Corridor) Landscapes

The creek corridor places are distinguished by more reliable freshwater than most of the rest of Awabakal country. They are places of abundant traditional resources in their own right but are also 'passing through' places as people moved from the lake to the mountains. Some parts of the creek corridor country would also have been the waiting place for members of the community not eligible to participate in ceremonies higher in the mountains.

- The middle reaches of catchments draining towards the north and west of Lake Macquarie. Of particular interest are the sandstone creek beds, terraces and lower slopes adjacent to Cockle Creek, Slatey Creek, Burkes Creek, Stony Creek and Dora Creek (and associated tributaries). The focus is on the freshwater reaches, upstream of the tidal limit, but below the eastern scarp of the Watagan and Sugarloaf Ranges. Ridgelines that provide passage through this landscape are also considered to be important. Steeper side slopes are considered to have lesser Aboriginal cultural sensitivity.

#### Mountain Landscapes

These mountain places are associated with important archaeological sites that are rare elsewhere in the Lake Macquarie region, ceremonial activities, traditional Awabakal stories and historical events (early contact period) involving Awabakal people. Mountain places also offer important lookouts and communication sites, across Awabakal traditional lands and into the lands of adjoining groups.

- Sandstone rock shelters, creek beds and rocky look out points in the Watagan Ranges and Sugarloaf Range.
- Mount Sugarloaf and adjacent upper slopes, ridges and creeks.
- The ridge crest and some slopes at Munibung Hill.

## Historic Landscapes

The Threlkeld Mission sites overlooked the Lake at Belmont (Bahtabah) and Toronto (Punte), although historical sketch maps suggest that Threlkeld may have initially and briefly occupied land at the northern end of the lake. The best available information suggests that the Bahtabah Mission House was established in the vicinity of what is now Victoria Street in Belmont, but was abandoned and subsequently demolished after only a few years. The site of the Threlkeld residence at Toronto is believed to be the site of the late nineteenth century (and still extant) Toronto Hotel. Both of these sites are within the lake shore landscape and may contain remnants of pre European archaeological material as well as being important sites from the early contact period.

### **3.4 Threats to the Integrity of Aboriginal Sites and Cultural Landscapes**

The condition of physical evidence (as sites and at cultural landscape scale) of traditional Awabakal occupation of the country around Lake Macquarie is fragile and vulnerable to both natural surface processes and disturbance of the land associated with all types of development.

LMCC is aware that many of the Aboriginal cultural heritage values of the City have been affected and continue to be threatened by a combination of natural processes and land use impacts. The condition of some Sensitive Aboriginal Cultural Landscapes has been severely degraded.

#### **3.4.1 Natural Destructive Processes**

The land surface is not static. Aboriginal sites and places are modified over time by natural land surface processes such as:

- fire - destruction of scarred trees and reduction of the quality of individual archaeological objects, as well as changes to vegetation communities and associated landscapes and plant resources;
- weathering and abrasion (erosion) of sandstone in creek beds and in rock shelters can gradually wear away art sites and grinding grooves; and
- erosion of soil materials on hillslopes (e.g. sheet erosion, rilling and gullyng), creek banks (channel change and high magnitude flood events), the lake shoreline (wave action) and coastal dunes (erosive waves and wind erosion). The intensity of these erosive processes varies with short term and longer term climatic patterns.

#### **3.4.2 Climate Change and Sea Level Rise – Potential Threats to Aboriginal Cultural Landscapes**

Council's City Strategy division prepared a briefing paper (May 2008) on the impact of potential climate change scenarios on coastal erosion, coastal inundation and estuary flooding hazards in the council area. The briefing recognised that there is a range of climate change scenarios for the NSW coast, affecting sea level rise, storm frequency and intensity, extreme hot weather events, fire frequency and other aspects of the local environment. Council has subsequently prepared more detailed studies of ecological resilience for the open coast and wetlands and will prepare a fully updated coastal processes and hazards study in 2011/2012.

The NSW Sea Level Rise Policy (2009) adopts a sea level rise of 40 centimetres (above 1990 levels) by 2050 and 90 centimetres above 1990 levels by 2100 for planning purposes, although higher rates of rise cannot be excluded. These figures draw on data published by IPCC 2007 and CSIRO 2007. Actual impacts of sea level rise in estuarine situations will also be forced by storm surge set up and catchment driven flooding.

Council recognises the implications of climate change induced sea level rise and other changes to the magnitude of erosion and inundation events for the planning provisions in its LEP and DCP, for estuarine and coastal biodiversity, for the well being of the community and for council's financial and insurance risks.

The potential sea level rise and associated erosion and inundation of coastal and lake shore terrain also have implications for the sustainable management of culturally significant landscapes in the Council area. The likely impacts include erosion and inundation of low lying land around the lake shore, and erosion of coastal dunes. The extent of potential lake shoreline erosion is not currently known.

The Department of Planning (2008) released high resolution digital terrain mapping for the Central Coast and Hunter Coast, including Lake Macquarie, allowing mapping to 0.5 metre contours or better. Preliminary analysis of this digital information indicates significant parts of LMCC that are less than 1.5 metres above AHD. The very preliminary analysis also shows that archaeological sites (primarily middens) are frequently located less than 1 metre above AHD and would be at high risk of inundation or erosion as sea level rises.

LMCC is investing in further work to better understand how climate change will affect a wide range of environmental processes, assets and values in the City, including Aboriginal cultural heritage values.

### **3.4.3 Cultural Landscapes Affected by Specific Development in the Lake Macquarie City Area**

The following examples illustrate the scope of historical and contemporary land use impacts on Sensitive Aboriginal Cultural Landscapes in Lake Macquarie City.

#### Coastal Dunes and Lake Entrance Area

- Sand mining and/or sand extraction from coastal dune landscapes (for instance along Nine Mile Beach and in the Jewells-Redhead area) has in the past removed multiple midden sites from frontal dunes and transgressive dunes along the coast.
- Historically, it is reported that collection of shell deposits for lime making around the Swansea Channel area destroyed both natural shell beds (oyster and cockle) and Aboriginal midden deposits.
- Urban development at Swansea Heads is known to have destroyed Aboriginal burial sites, as well as open campsites and culturally important vegetation and landforms.

#### Lake Macquarie Foreshore

- Historical use of the lake foreshore and lower reaches of estuarine creeks and wetlands for rail, power generation, sewerage and other infrastructure has destroyed middens and open campsites.
- Filling and formalisation of lake shorelines with sea walls, construction of slip ways, boat sheds and residences. All these activities have transformed the lake shore landscape, as well as damaging middens close to the lake shore. Some archaeological material

remains in less formal foreshore reserves and where old houses or boat sheds are on piers rather than slab foundations.

- Foreshore and nearshore reserve management, including filling of low lying areas, mowing, installation of playing fields and parkland equipment has destroyed middens and open campsites. Scarred trees have also been lost from foreshore locations.

#### Lower reaches of major creeks and their catchments – such as Dora Creek and Cockle Creek

- Land clearing for agricultural, industrial and urban uses has removed scarred trees and disturbed the structure and context of open sites. Stone arrangements have also been damaged or destroyed by land clearing activities.
- Land management within urban subdivisions has changed flows in creeks, increased erosion or sedimentation and encouraged invasion of culturally valued vegetation communities by weeds. Transport, water, sewerage and power infrastructure to support urban development can cause significant disturbance of long corridors across the landscape.
- Poor control of access within lake shore and bushland reserves (Crown Land, Community land and private land) has contributed to erosion, rubbish dumping and damage to vegetation associated with illegal four wheel drive and trail bike activity.
- Industrial development along major tributary creeks (for instance in the lower freshwater and estuarine reaches of Cockle Creek) has removed or damaged surfaces which would once have been associated with diverse Aboriginal community resources and archaeological evidence of past occupation.
- Coal mining (both open cut and underground) has contributed to the loss of Aboriginal sites and changes to cultural landscapes, either directly through extraction or indirectly due to subsidence impacts. It should also be noted however, that the existence of the underground mining industry in the western part of the City has clearly helped to maintain some relatively natural landscapes in this area.

## **PART 4: COUNCIL'S PROPOSALS FOR SUSTAINING ABORIGINAL CULTURAL HERITAGE VALUES**

### **4.0 Communication about Aboriginal Cultural Heritage Values**

This section discusses how LMCC proposes to manage information about Aboriginal cultural heritage that is used in Council's decision making and communication activities.

#### **4.1 LMCC Aboriginal Heritage Information Policy**

##### Issue and Background

LMCC frequently receives requests for information about Aboriginal sites. In fulfilling its roles in strategic planning, development assessment and managing community land, Council may need to provide information to the community that enhances the community's awareness of the cultural heritage of the City. LMCC wishes to ensure that its communication respects the cultural sensitivity of information that is important to Awabakal descendents and the local Aboriginal community.

The Statement of Commitment signed by LMCC and LALCs refers to awareness of and respect for sensitive cultural values:

Respect and conserve Aboriginal cultural practices, traditional sites and significant places; and

Promote activities which increase cultural sensitivity and awareness of Aboriginal people's values.

LMCC recognises that descendents of the traditional Awabakal people and others in the local Aboriginal community are the custodians of information about archaeological sites and places of cultural or spiritual significance to Aboriginal people in the Lake Macquarie local government area. Aboriginal people are concerned that poorly managed information about specific culturally important locations may increase the threat to cultural values at those locations, for instance, opening them to vandalism.

In addition to information about places, some information about cultural or spiritual beliefs and practices is gender specific or culturally sensitive and Aboriginal people may not wish to share details about sensitive cultural knowledge with the general public.

Information about the distribution, context and condition of individual archaeological sites will vary over time. LMCC does not have full knowledge of the value of individual Aboriginal sites in the City. This knowledge rests firstly with the Aboriginal people and in some information is also held in controlled OEH records.

LMCC intends to respect the sensitivity of some cultural heritage information in its management of information about Aboriginal cultural heritage values. The following policy will guide Council's decisions and practices in relation to the public release of cultural heritage information.



## Policy Statement

**LMCC respects the values and concerns of the Aboriginal community and the rights of traditional cultural knowledge holders in the Aboriginal community to withhold sensitive information from general circulation.**

**Council officers and Councillors will consult with nominated representatives of the Aboriginal community and obtain their approval prior to the publicly releasing information about Aboriginal cultural values in the City.**

## Implementing the Policy

LMCC will work with the local Aboriginal community groups to prepare protocols about the public release of Awabakal cultural heritage information.

The proposed protocols for provision of information about Awabakal cultural heritage places, issues and consultation will include (but not be limited to) the following situations:

- LMCC will not release information about specific Aboriginal sites or Places (i.e. registered in the OEH AHIMS data base) to the public without the consent of representatives of the agreed local Aboriginal community groups. Note that it is now possible to obtain general information about the presence or absence of sites in specified localities on line from the OEH AHIMS data base.
- When responding to inquiries Council officers will, in the first instance, refer to a map which shows agreed areas that have been assessed as culturally sensitive to the Aboriginal community (see **Section 3.0**). Council will not provide maps or specific information about site locations or context to development applicants or the general public unless there is specific prior written consent from representatives of agreed Aboriginal community groups to this taking place.
- Council will consult with representatives of agreed Aboriginal community groups about the wording, design and placement of signage about Aboriginal values, sites or places on public land in its care and control.
- Council will obtain approval from the appropriate representatives of agreed Aboriginal community groups prior to placing specific Awabakal or more general Aboriginal cultural heritage information on its web site.
- Council will consult with representatives of agreed Aboriginal community groups about the wording and design of brochures, booklets and guidelines, which address Awabakal or more general Aboriginal cultural heritage values and issues.
- Council will consult with representatives of agreed Aboriginal community groups about appropriate wording on section 149 certificates, which indicate whether a land parcel is affected by Awabakal cultural heritage issues (objects or Places). Council will also consult with the representatives of the agreed Aboriginal community groups about routine updates to the information shown on section 149 certificates (i.e. adding new sites and terrain units to the register of archaeologically sensitive areas).
- Council will refer requests from the general community for specific Awabakal site information or about other specific cultural heritage values to the local Aboriginal community groups and to the OEH AHIMS website. Depending on the circumstances, the DECCW Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010) which set out required consultation processes, may be relevant.

- Where there is doubt about the sensitivity of other information not referred to above, Council will consult with the representatives of agreed Aboriginal community groups prior to publicly releasing the information.

## 4.2 Council Consultation Procedures

### 4.2.1 Register of Local Aboriginal Community Groups

In accordance with the best practice guidance provided by the Department of Local Government, Department of Aboriginal Affairs and OEHL, Council intends to offer opportunities for consultation to any relevant Aboriginal community groups or individuals with an interest in and knowledge of the management of Awabakal and broader Aboriginal culture and heritage issues in the City.

Council has consulted with OEHL, Hunter Central Rivers CMA, NTSCORP Limited, Local Aboriginal Land Councils and the Registrar of the Aboriginal Land Rights Act. Through this process, Council is aware that there are several Aboriginal groups and individuals in the City with cultural knowledge and well established interest in the management of Aboriginal cultural heritage values in relation to development applications, strategic planning and management of public land. It is intended that most of these groups will be represented on Council's restructured Aboriginal Community Consultative Committee.

As noted in **Section 4.2.2**, the Aboriginal Community Consultative Committee is not the appropriate entity for consultation about day to day assessment and management matters. For clarity and timeliness of consultation about these day to day matters, Council will establish a Register of Local Aboriginal Groups and Individuals for Consultation. The Register will be established in consultation with OEHL and Department of Aboriginal Affairs and will be regularly updated. The Register will include (but not be limited to):

- Local Aboriginal Land Councils; and
- other groups who are acknowledged by OEHL as having knowledge and interest in the management of Aboriginal cultural heritage in the coastal part of the Hunter region (traditional Awabakal land). Currently, this would include the two Awabakal descendants/Traditional Aboriginal Owners Corporations (ATOAC and ADTOAC).

**Section 6.0** sets out protocols for referral of development applications to the groups and individuals on the Register of Local Aboriginal Groups and Individuals for Consultation.

**Section 7.0** sets out protocols for consultation with the groups and individuals on the Register, in relation to the management of the Aboriginal cultural heritage values of public land in the City.

### 4.2.2 Consultation and Referrals

In relation to its own activities and responsibilities, LMCC will follow the following protocols:

- Council will continue to support and work with a restructured City-wide Aboriginal Consultative Committee. The future membership of the Lake Macquarie Aboriginal Consultative Committee is yet to be decided. Past membership is listed in **Appendix 1**. In the past, the Aboriginal Consultative Committee met quarterly, with a large agenda. Council will refer strategic planning and policy matters that affect the whole City to the restructured Aboriginal Consultative Committee for its consideration and feedback. The scope of the Committee's responsibilities and its infrequent meeting schedule mean that

the Committee is not the appropriate consultation forum for day to day management decisions.

- Where Council is planning works (including construction) that are Part 4 or Part 5 matters under the EP&A Act 1979, which may impact on known Aboriginal sites or places, Council will follow the OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010).
- Where Council is preparing or updating a Plan of Management for community land or Crown land in Council's care and control, it will follow the Department of Local Government Practice Note 1 (revised 2000). Details of proposed consultation procedures and other matters relating to Plans of Management for these community lands are discussed in **Section 7.0**.
- When Council receives development applications relating to land on which Aboriginal archaeological objects (sites) are present (see **Section 6.2.6**), it will refer the application to the relevant local Aboriginal community groups, as identified in a Register managed by OEH (see **Section 4.2.1**).

### 4.3 Section 149 Certificates

Aboriginal sites are present on many private land holdings across the City. Aboriginal sites are protected under the NPW Act 1974. It is an offence to knowingly disturb, damage or deface an Aboriginal site (i.e. a place containing Aboriginal objects) without first obtaining a Section 90 (Heritage Impact) permit from the Director General of OEH. Private land holders have an obligation to protect Aboriginal sites on their land, unless they have first obtained a s90 Heritage Impact Permit from the Director General of OEH. The presence of an Aboriginal site on private land therefore constitutes a controlled planning constraint.

Section 149 Certificates are issued under the EP&A Act 1979 and are the standard notification system for landholders to advise them of planning controls that affect their property within any LGA. There are two levels of section 149 Certificate.

LMCC wishes to advise land holders of their responsibilities under the NPW Act 1974, using the section 149 Certificate as the mechanism. Council will annotate s149 certificates for affected properties with a statement about the likelihood of an Aboriginal archaeological site being present, based on the best information available to Council. **Sections 4.3.1** and **4.3.2** discuss measures to make information on s149 certificates as up to date, reliable and accurate as possible.

#### 4.3.1 Accuracy of Site Location and Condition Data

Information about the locations of Aboriginal sites in LMCC has been collected over a period of more than 80 years and is highly variable in its accuracy. Very little information collected prior to the last five years can be considered to have reliable or quality controlled spatial co-ordinates that provide suitable accuracy to distinguish between individual residential allotments. In addition, a single co-ordinate may be used to refer to the location of a site, which may consist of an individual artefact or which may contain thousands of artefacts and extend perhaps hundreds of metres over an entire terrain unit. This issue is compounded because much archaeological material is subsurface and the full extent of a site could not be determined at the time that it was recorded.

In recent times, some Aboriginal archaeological sites have been recorded using Geographic Positioning System (GPS), providing greater co-ordinate accuracy. Some sites continue to

be recorded as spot locations and the extent of others has been identified by a terrain boundary.

Many Aboriginal archaeological sites have not been inspected by a qualified archaeologist since original observations and records were made tens of years ago and database information on site condition (or continuing existence) has not been updated.

As a result of these factors, the level of accuracy of Aboriginal site location information is not suitable for definitive association with individual lot and DP numbers. The location information will not be suitable until all sites are recorded with a reliable GPS and using a consistent site boundary definition.

Council now has access to high resolution digital terrain data for a large part of the city (including nearly all of the urban development area). This digital terrain data has the potential to be used to identify and map terrain units with accuracy, contributing to greater resolution and accuracy of archaeological site boundaries.

#### **4.3.2 Using Terrain Units and Sensitive Aboriginal Cultural Landscapes with s 149 Certificates**

Terrain based mapping of archaeological potential is considered to be the best currently available option for identifying, on section 149 certificates, properties that are likely to be affected by Aboriginal archaeological sites.

The information that is available about the archaeological aspects of cultural heritage sensitivity of the landscape is not static. New Aboriginal sites may be recorded or additional information about existing archaeological sites may be revealed over time as surveys, studies and incidental observations proceed.

Council's register of section 149 certificate information should therefore be linked to a database of known archaeological site information and updated as new sites/terrain units are notified. This process must be conducted in consultation with the local Aboriginal community groups and OEHL should also be involved. An annual routine review is recommended and could be conducted as part of the agenda of Council's Aboriginal Community Consultative Committee, or a specialist working group appointed in consultation with this committee.

A full review of the Aboriginal archaeological information reported on section 149 certificates should be conducted every five years. This would ensure good quality control on the information and that any major changes in the data compilation and assessment process are taken into account.

The limitations of referrals to Aboriginal sites on section 149 certificates must be clearly stated on the section 149 certificate. This would include:

- the date of the most recent update;
- the type of terrain unit that is the basis of archaeological sensitivity;
- the importance of confirming actual site data with the Aboriginal community, or with OEHL when the likelihood of disturbance of a site is considered to be moderate to high; and
- whether the cultural heritage sensitivity attributed to the area also derives from broader community cultural values, such as stories, or traditional knowledge.

Maps of Sensitive Aboriginal Cultural Landscapes can be used to identify properties that are considered likely to be culturally sensitive to Aboriginal people, for reasons other than, or in

addition to, their archaeological potential. The application of Sensitive Aboriginal Cultural Landscape concept to the Lake Macquarie LGA is discussed in detail in **Section 3.3**.

#### **4.4 Communicating with the Public – Awareness Raising and Information Sharing**

As noted in **Section 2.0**, Lake Macquarie City has the second largest Aboriginal population of all local government areas in NSW. Aboriginal culture and the traditional attachment of the Awabakal people to the lake landscape are important parts of the city's cultural diversity. However, there is limited general community awareness of the ways in which Aboriginal culture contributes to the cultural diversity of Lake Macquarie LGA.

There is currently only limited information (e.g. posters, brochures or booklets) about Awabakal cultural heritage available to the general public in the Lake Macquarie LGA or other parts of traditional Awabakal country, although there have occasionally been media features in the past. Some written material is available on internet sites, such as the Wollotuka School of Aboriginal Studies at Newcastle University.

On some Council community lands (for instance Green Point pathway), signage has been installed that refers to Aboriginal cultural values and the presence of archaeological objects.

In consultation with the agreed Aboriginal community groups, Council proposes the following actions to help raise community awareness and appreciation of the Aboriginal cultural heritage assets of the City and the value placed on these assets by the Aboriginal community. In each case, **wording, content and design will be developed in consultation with the local Aboriginal community, through Council's Aboriginal Community Worker and the restructured Aboriginal Community Consultative Committee.**

Wherever possible, suitably qualified Aboriginal people will be contracted to provide art, design and other input and advice to the interpretation of Awabakal and wider Aboriginal cultural heritage in the City.

Potential activities to raise awareness and appreciation of Aboriginal cultural heritage values include:

- review and reaffirm Council's Statement of Commitment to the Aboriginal people of the City, and to the City's traditional Awabakal cultural heritage;
- maintain and expand the permanent display of Aboriginal cultural objects, stories, art work etc. in the foyer of the Council Chambers (note there is already a display in the foyer, developed in consultation with the LALCs, but this could be augmented with further art work or other interpretative material over time);
- Council meetings will open with a statement recognising the traditional country of the Awabakal people;
- where possible, dual language (English and Awabakal) signage will be used for important public places;
- Council's Annual Report will include a statement of progress in relation to the Statement of Commitment to Aboriginal people and the implementation of the Aboriginal Cultural Heritage Management Strategy;

- Council will prepare a booklet scale publication (approximately 10 pages, or a series of information sheets totalling a similar amount of information) highlighting the Aboriginal cultural heritage values of the City. This could also be available electronically (on CD-ROM) and would form the basis of information to be available on Council's web site. The information and design would be prepared in consultation with the agreed local Aboriginal community groups;
- Council will include articles about the achievements of Aboriginal residents in its general community publications;
- Council will work with the Aboriginal community and the Land and Property Management Authority to provide new signage about the Aboriginal culture of the city at key locations, such as the Great North Walk; and
- Council will introduce a bush tucker garden with appropriate signage in the gardens surrounding the Council Chambers and as part of the landscaping of 'icon' regional parks in the City (for instance as part of the landscaping of Speers Point Reserve).

## 5.0 Strategic Planning

The LMCC Statement of Commitment to the City's Aboriginal people states that Council will:

Respect and conserve Aboriginal cultural practices, traditional sites and significant places.

LMCC proposes to use its strategic land use and land management tools to contribute to the protection of important Aboriginal cultural landscape values. Strategic land use planning is a key tool by which LMCC can demonstrate the implementation of the Intergenerational Equity Principle of ESD.

LMCC is committed to a planning process that recognises Aboriginal community cultural heritage at the landscape scale and strategic level. Council does not propose to rely on achieving multiple small (often disconnected) conservation outcomes from individual development assessment processes as its main strategy for achieving sustainable conservation of Aboriginal cultural heritage values in the City.

The principal strategic planning tools available to Council are:

- the Lake Macquarie LEP 2004 and the new LEP which Council is preparing for gazettal in 2011 (see **Section 6.1**);
- the Lake Macquarie DCP, also proposed to be updated by 2011 (see **Section 6.1**);
- Plans of Management for community land and Crown land in Council's care and control (see **Section 7.0**); and
- partnerships with OEH and/or Land and Property Management Authority for consistent management of contiguous parcels of land.

Council will also work with Aboriginal community groups and landholders to achieve voluntary conservation agreements and other property based conservation, where appropriate.

### 5.1 Regional Conservation Context

Some decisions about conservation of Aboriginal cultural landscapes within the boundaries of LMCC are made at a larger scale. For instance, important Aboriginal cultural landscape values are recognised in the HCRCMA CAP and in the Lower Hunter Regional Strategy (DoP 2006) and in declarations of National Parks in the region.

The Hunter Central Rivers CMA CAP is the strategic natural resource management plan for the region. It presents a management target for Aboriginal cultural landscapes of the region: that an additional 52,000 hectares of landscapes (in the Hunter Central Rivers CMA region) having physical, cultural or spiritual significance to Aboriginal people are managed to protect these values. The CAP identifies a variety of actions that could contribute to achieving this target, with priority locations to be determined from a range of sources, including the CMA's Aboriginal Cultural and Environmental Network. LMCC is a potential partner for many of these activities. The CAP positions Hunter Central Rivers CMA to coordinate the cultural heritage conservation activities of private and public landholders.

The Lower Hunter Regional Strategy (DoP 2006) refers to strategic preferences for regional development areas with a view to valuing and protecting culturally significant landscapes.

The Lower Hunter Regional Strategy is supported by a Lower Hunter Regional Conservation Plan (DECC 2006) which focuses on biodiversity values in the region. The Conservation Plan has resulted in large parcels of land along the Sugarloaf Range, and extending across the foothills to Hexham Wetland, and a significant area of the Wallarah Peninsula being added to OEH conservation lands. Although these land use decisions were made primarily on the basis of the biodiversity conservation value of the land, the areas that have been added to the OEH estate also have significant Aboriginal cultural heritage values. They are mapped as Sensitive Aboriginal Cultural Landscapes in **Figures 3.3a** and **3.3b**.

**Figure 5.1** shows the relationship between Sensitive Aboriginal Cultural Landscapes (from **Figures 3.3a** and **3.3b**) and the existing conservation management framework, including:

- Places listed on the Register of the National Estate or National Heritage List (protected under the EPBC Act 1999). In LMCC, only Swansea Heads has this listing.
- National Parks, Nature Reserves and State Conservation Areas, managed by OEH.
- State Forest Special Protection, Special Management and some Harvesting Exclusion/Special Management Areas.
- Aboriginal Places (gazetted by the Minister for Climate Change and the Environment). In Lake Macquarie LGA, only Pulbah Island is currently gazetted as an Aboriginal Place under the NPW Act 1974.

Other tools that are available to achieve conservation of regionally significant heritage or biodiversity values include Voluntary Conservation Agreements (part of the OEH Conservation Partners Program) and special conservation covenants.

Many landholders across NSW currently manage parts of their properties to contribute to the conservation of natural and cultural values through a Voluntary Conservation Agreement (VCA), made between the landholder and the Minister for the Environment. VCAs provide for permanent conservation of special cultural heritage values in the landscape (on public or private land). There are currently no Voluntary Conservation Agreement Areas in the Lake Macquarie LGA where protection of Aboriginal cultural heritage is the primary objective.

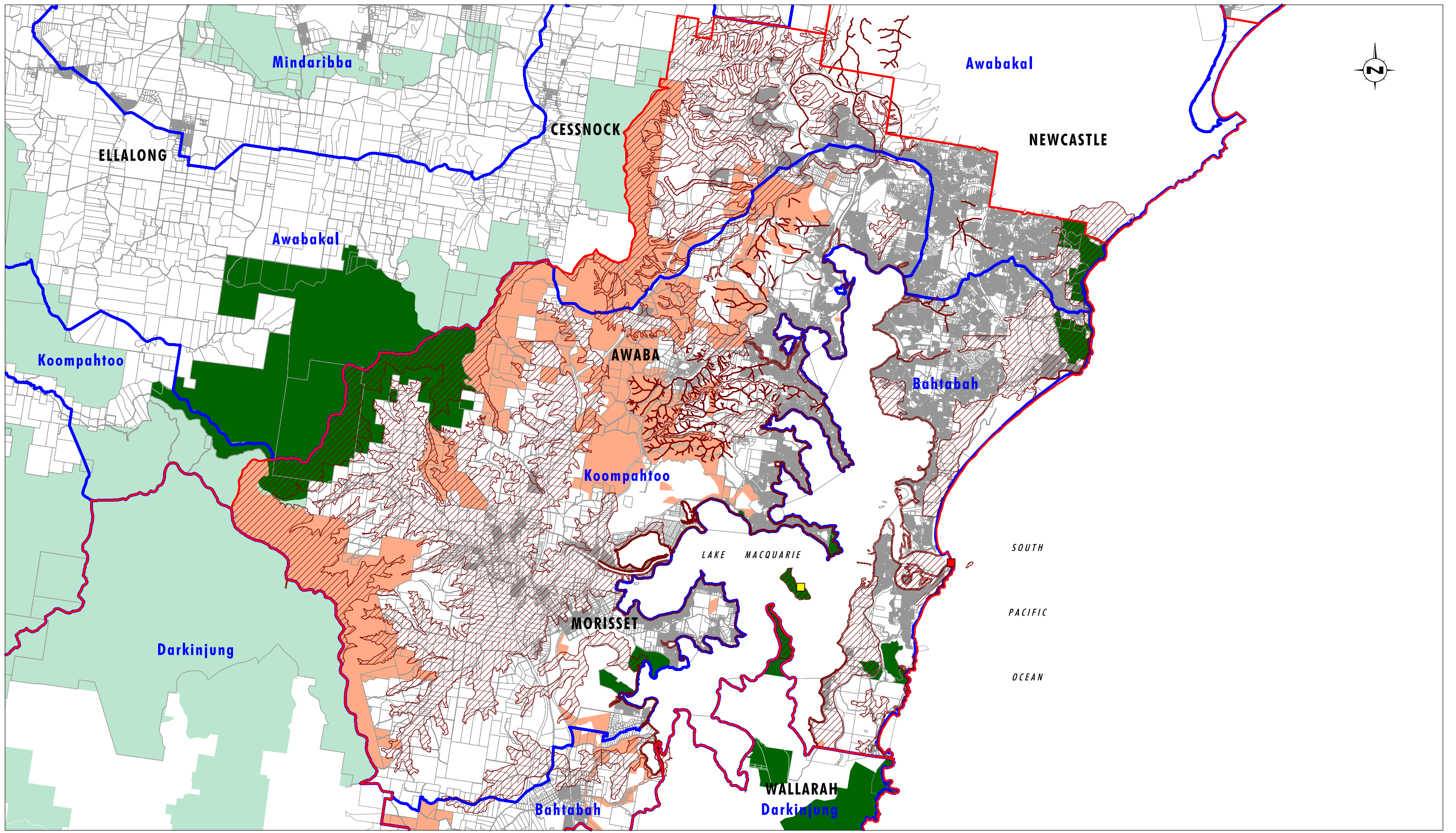
### 5.1.1 Register of the National Estate

Swansea Heads is identified as an Indicative Place (Indigenous Place) on the Register of the National Estate (Place ID 16036). However, the Register provides no details about the listing. The Indicative Place listing means that data provided to or obtained by the Heritage Division of the Australian Heritage Council has been entered into the database. However, a formal nomination has not been made and the Australian Heritage Council has not received the data for assessment. The Register of the National Estate has now been closed (from February 2007) and by February 2012, the Commonwealth Government will determine which items will be formally transferred to the National Heritage Register. Until that time, the EPBC Act 1999 will continue to refer to the Register of the National Estate. After February 2012, all references to the Register of the National Estate will be removed from the EPBC Act 1999, although the Register will remain publicly available as an archive of information about Australian heritage.

### 5.1.2 Lands Managed by OEH

Land managed by OEH, as National Park, Nature Reserve, or State Conservation Area now extends over a large part of LMCC, focused on the cultural landscapes discussed below. Plans of Management have been prepared for each of these OEH managed conservation areas, with protection of Aboriginal heritage values identified as a key objective.





**Legend**

- Council Boundaries
- LALC Boundaries
- Sensitive Aboriginal Cultural Landscape
- National Park/Nature Reserve or State Recreation/Conservation Area (land managed by DECC)
- State Forest
- Natural Resource Zone (Zone 9)
- Gazetted Aboriginal Place
- Places noted in the Register of the National Estate

0 3.0 6.0 9.km  
1:160 000

FIGURE 5.1

**Current Conservation Management of Sensitive Aboriginal Cultural Landscapes**

- The escarpment country with sandstone cliffs, rock shelters and deep valleys, as well as heavily timbered ridgelines, which forms the western part of the City. A large area of the Watagan Ranges, formerly part of the Watagan State Forest, is currently managed as Watagans National Park. Parts of the Park provide extensive views both to the east over Lake Macquarie and to the west over the lower Hunter Valley.
- Sections of relatively natural foreshore of Lake Macquarie. The Lake Macquarie State Conservation Area was established in 1996. It encompasses 16 kilometres of Lake Macquarie foreshore, in six sections, four of which are within the Lake Macquarie LGA. These are Awaba Bay, Wangi Point, Morisset Hospital and Myuna Bay. OEH also manages the Pulbah Island Nature Reserve, which is the only gazetted Aboriginal Place in the City. The Lake Macquarie State Conservation Area protects rocky bluff lakeshore terrain. Low lying creek delta country and the floodplains and wetlands of the major creek catchments are not represented in the State Conservation Area.
- The coastline and offshore islands (Moon Island Nature Reserve) and Glenrock State Recreation Area. OEH manages the Wallarah National Park south of Caves Beach, which connects with the Munmorah State Recreation Area to the south of Lake Macquarie LGA.

These lands managed by OEH are all mapped as Sensitive Aboriginal Cultural Landscapes and conserve valuable examples of some types of cultural landscape. The mountain range landscape is particularly well represented. The combination of Glenrock, Awabakal, Wallarah and Munmorah National Park/Nature Reserves/State Recreation Areas presents a strong sample of the coastal bluff country and short sandy beaches (see **Figure 5.2**).

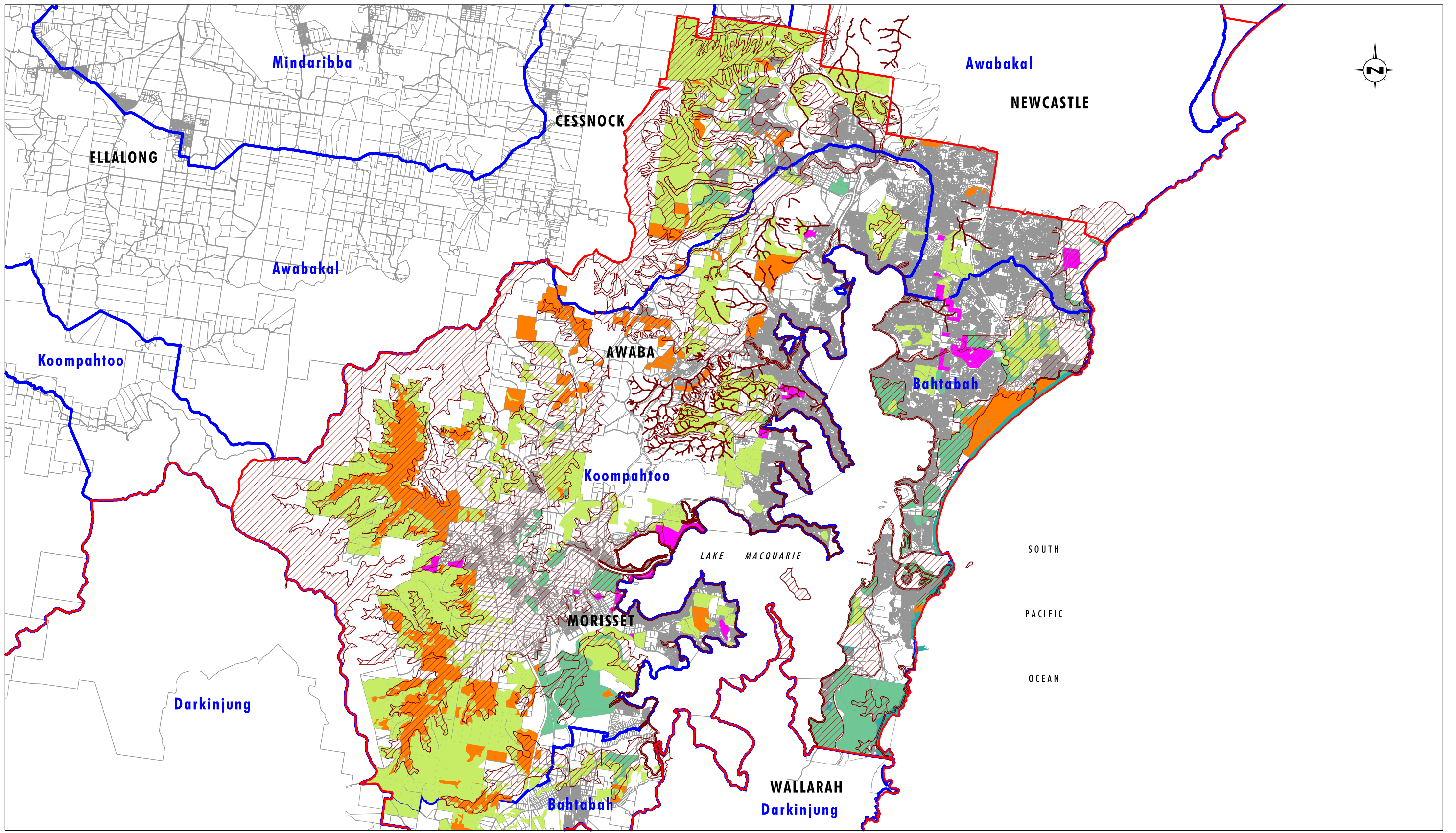
The middle reaches of major creeks in the Lake Macquarie catchment, including extensive lengths of sandstone creek beds and alluvial landscapes (terrace and floodplain), have been extensively developed for residential, industrial and recreational uses and are not represented in any lands managed by OEH.

### **5.1.3 Lands Managed by Department of Trade and Investment, Regional Infrastructure and Services**

Outside the lands managed by OEH, State Forest covers much of the Watagan and Sugarloaf Ranges, extending into the undulating foothill country only in the Awaba area. State Forest Areas are managed under a zoning system, recognising that forested lands have multiple values beyond their timber harvesting potential. Three forest zones (Special Protection, Special Management and Harvesting Exclusion/Special Prescription) specifically recognise the Aboriginal cultural heritage values of forested landscapes and are managed for conservation purposes.

Details about these zones are included in Regional Forest Management Plans and changes must be made only after extensive consultation. All new zones and changes to boundaries must be notified in the Parliamentary Gazette.

NSW State Forests (Hunter Region) entered into a co-management agreement with the Keepa Keepa Elders Committee to manage a parcel of land in the Heaton State Forest. The land supports a wide range of bush tucker species (Keepa Keepa is said to mean place of many Grass Trees), and has extensive views across traditional Awabakal country. The Watagan and Sugarloaf Ranges are believed to have been an important feature of the seasonal cycle of Awabakal people, providing shelter and hunting through the winter months. Several traditional ceremonial and initiation sites were located along the ranges. The co-management agreement will facilitate the use of the Keepa Keepa site for reconnecting young Aboriginal people with traditional culture and spiritual values.



0 3.0 6.0 9.km  
1:160 000

**Legend**

- Council Boundaries
- LALC Boundaries
- Sensitive Aboriginal Cultural Landscape
- Conservation (secondary - 7[2]) (LEP 2004 Zones)
- Environmental (general - 7[3]) (LEP 2004 Zones)
- Environmental (coastline - 7[4]) (LEP 2004 Zones)
- Environmental (living - 7[5]) (LEP 2004 Zones)
- Conservation (primary - 7[1]) (LEP 2004 Zones)

FIGURE 5.2

Environmental Protection Zoning of Sensitive Aboriginal Cultural Landscapes

The State Forest protection areas clearly contribute to sustainable conservation of Aboriginal cultural heritage values in the mountainous country forming the western margin of Lake Macquarie LGA.

#### 5.1.4 Areas managed by the Land and Property Management Authority

The Land and Property Management Authority manages the Belmont Wetlands State Park (declared in 2006), more than 500 hectares of ocean frontage land between Redhead and Belmont. Whilst a significant part of this Park has been heavily disturbed by past land use (such as extractive industries and mining), some areas around the wetlands retain reasonable landscape integrity. The Land and Property Management Authority is also responsible for Swansea Heads, the bed of Lake Macquarie (associated with important Awabakal stories and places) and multiple small parcels of Crown land in the City. The Authority classifies the principal values and prepares Plans of Management for land in its control. Any Aboriginal heritage issues concerning Crown Lands should first and foremost be referred to the LPMA for consultation and approval.

## 5.2 LEP Zoning of Sensitive Aboriginal Cultural Landscapes

Land use planning requirements in LMCC are currently established in the Lake Macquarie LEP 2004. Where conservation of natural values and assets is the primary objective, LEP 2004 applies an Environmental Protection Zone. With careful management, cultural heritage conservation management may also be achieved in some Open Space zones (e.g. when specified and enforced in Plans of Management).

### 5.2.1 Environmental Protection zones

There are five Environmental Protection Zones in Lake Macquarie LEP 2004. These are:

- Zone 7(1) (primary conservation);
- Zone 7(2) (secondary conservation);
- Zone 7(3) (general);
- 7(4) (coastline); and
- 7(5) (environmental living).

The zoning establishes the types of land use which are prohibited on the land, and the proposed uses/activities for which development consent is required (see also **Section 6.0**). The objectives of Environmental Protection Zones focus on conserving, enhancing and protecting natural values of the landscape.

There is currently no reference to conservation of Aboriginal cultural heritage values in the objectives of the 7(1) or 7(2) zoning in LEP 2004. The objectives of zone 7(3) refer to the protection of natural, rural and heritage landscapes. It is not clear from LEP 2004 whether these landscapes were intended to include the heritage values of Aboriginal cultural landscapes (as opposed to historic landscapes). The objectives of land zoned 7(4) also refer to cultural heritage values. The land zoned 7(3) and 7(4) is highlighted in **Figure 5.2**.

**Figure 5.2** shows that Environmental Protection Zones (whether or not they currently refer to cultural heritage values) are associated with particular landscape types. The entire coastline of the city is included in 7(4) zoning, with some parts of the coastal hinterland in 7(1) zoning.

These zonings augment the conservation of coastal landscapes that is achieved through lands managed by OEH (**Figure 5.1**).

Extensive areas of 7(2) and 7(3) zoning traverse the upper catchment of the Dora Creek system and the headwaters of the Cockle Creek system. In the Dora Creek catchment, the 7(3) zoning in particular aligns well with the mapped Sensitive Aboriginal Cultural Landscape. In the north-western part of the LGA, the 7(2) zoning includes parts of the Sugarloaf Range, including Mount Sugarloaf itself. The 7(2) zoning includes steep slopes and rocky creek beds beneath the escarpment, but does not extend downstream beyond this terrain.

The landscape type that is least well represented in any Environment Protection zone is the middle reaches of the major creek systems. This Sensitive Aboriginal Cultural Landscape extends from the tidal limit upstream to the base of the steep slopes on the eastern face of the Watagan and Sugarloaf Ranges and includes a variety of sandstone and alluvial creek beds, floodplains, terraces and wetlands surrounded by footslope benches. In the Cockle Creek catchment area, this landscape contains diverse Aboriginal cultural heritage evidence and is associated with many traditional stories, often associated with approaches to the ceremonial areas on the Sugarloaf Range.

It should be noted that a variety of land use is permitted in land zoned for Environment Protection, provided it meets the general objectives of the zone. Achieving real conservation of Aboriginal cultural heritage values in the Environmental Protection zones depends on rigorous consideration of the values of specific areas and would benefit from a review or audit process to ensure that where development consents require specific management activities, they are actually implemented.

### **Natural Resources and Investigation Zones**

The Natural Resources zone (zone 9 in LEP 2004) covers a range of terrain that has been identified as Sensitive Aboriginal Cultural Landscape, particularly in the catchments of Stony Creek and Cockle Creek. Although many short steep slopes in these areas are not considered sensitive, the sandstone which outcrops in creek beds make them culturally sensitive; ridgelines providing easy passage through the rugged country are culturally sensitive; and alluvial terrain such as floodplains and terraces is also likely to be culturally sensitive.

The presence of longstanding active underground coal mining leases has contributed to the current extent of bushland across the surface of the Natural Resources Zone. Choices about surface land uses following mining will provide an important opportunity to maintain or enhance the conservation of cultural landscape values that has been achieved to date. For instance, at the completion of mining, consideration could be given to rezoning examples of Sensitive Aboriginal Cultural Landscape in the middle reaches of the catchments of Cockle Creek and Stony Creek to Environmental Protection (Environmental Conservation under the new LEP, as discussed in **Section 6.1**) to provide for long term conservation of the values of these Sensitive Aboriginal Cultural Landscapes that are regionally under conserved (see **Section 5.3**).

## **5.3 Strategic Conservation Gaps and Issues**

The information presented in **Section 5.2** indicates that whilst many elements of the Sensitive Aboriginal Cultural Landscapes of Lake Macquarie are represented in permanent conservation management, there are some significant omissions. In addition, the conservation of some Sensitive Aboriginal Cultural Landscapes is at risk because the terrain associated with the landscape is affected by long term erosion hazards, driven by climate

change (see **Section 3.4.2**). These two factors highlight the following landscapes as strategic priorities for conservation management in the City:

- The Sensitive Aboriginal Cultural Landscapes in the middle reaches of the major catchments of Lake Macquarie are not adequately protected by any form of conservation oriented controls or land management.
- Sensitive Aboriginal Cultural Landscapes in lake and ocean frontage positions may be at risk from climate change impacts, such as erosion and inundation, whether or not they are currently managed for conservation.

## 5.4 Measures to Enhance Strategic Conservation of Aboriginal Cultural Heritage

### 5.4.1 Zoning to Enhance Conservation Management

Opportunities for enhancing the representative conservation management of the Sensitive Aboriginal Cultural Landscape include:

- Council could give a high priority to enhancing Aboriginal cultural heritage conservation when considering appropriate future zoning for current 'investigation' zonings. The best opportunities in this regard would be part of the land around Cooranbong, or part of the land straddling the long ridgeline in the Cockle Creek catchment, which connects the mountain and lake components of traditional Awabakal country (see **Figure 5.2**). In making this decision, Council would also consider which parcels of land would also contribute to enhanced strategic biodiversity conservation.
- Council could work with the Aboriginal community, Department of Trade and Investment, Regional Infrastructure and Services NSW, OEH, Hunter Central Rivers CMA and mining companies who manage Sensitive Aboriginal Cultural Landscapes in the Cockle Creek and Stony Creek catchments, to identify land that could be managed in the short to medium term as a Voluntary Conservation Agreement Area, and/or that could be zoned for Environmental Conservation or Environmental Management (in the new LEP) when mining has been completed (see **Sections 6.1.4** and **6.2.2** in relation to the objectives of these zones). As with the Investigation zones, the best outcome would be achieved if the land also contributed to biodiversity conservation outcomes. Biodiversity and cultural heritage offset/conservation areas are currently required as part of many major developments.
- Council could work with Department of Trade and Investment, Regional Infrastructure and Services NSW, OEH, Hunter Central Rivers CMA and the local Aboriginal community to encourage other rural land owners in the Sensitive Aboriginal Cultural Landscapes that have been mapped in the middle reaches of lake catchments to manage some land as a Voluntary Conservation Agreement Area, with the objective of conserving specific localities that are of very high value to the Aboriginal community. This is likely to be more appropriate in the Dora Creek catchment area than Stony Creek or Cockle Creek. Land that is subject to a Property Vegetation Plan developed with Hunter Central Rivers CMA may also provide cultural heritage conservation benefits. Hunter Central Rivers CMA project management requires evaluation of Aboriginal heritage benefits and impacts.
- A fourth option that is relevant to land owned by the Aboriginal community is conservation management linked to the Biobanking scheme, under the Land Alive program. This scheme was introduced in 2008 and provides LALCs with training in land management as well as assistance with BioBanking Assessments of bushland owned by them. Land

Alive provides opportunities for local Aboriginal communities to protect biodiversity and landscape aspects of cultural heritage values, but may also protect archaeological aspects of cultural heritage. BioBanking requires in-perpetuity conservation agreements and cannot be developed for other purposes.

#### 5.4.1.1 Adoption of an Aboriginal Cultural Heritage Objective in LEP 2011

As noted in **Section 5.0** and **6.1**, LMCC will prepare a new LEP by 2011, in accordance with the State-wide LEP template.

Whilst zoning contributes to conservation on private and public land, it will not, by itself, be sufficient to protect vulnerable cultural heritage landscapes. Specific and proactive management controls will also be required. For public land, these will be contained in a Plan of Management (see **Section 7.0**). For private lands, sustainable conservation requires a commitment for the landholder to manage culturally sensitive areas in certain ways, some of which can be specified in development controls and development consents.

#### 5.4.2 Managing Foreshore Lands

Foreshore lands include land with ocean frontage and land with frontage to Lake Macquarie and the estuarine reaches of tributary creeks. All of these areas are considered to be Sensitive Aboriginal Cultural Landscapes, with multiple terrain features that are associated with archaeological sites or cultural stories.

Whilst elements of these coastal and estuarine landscape types are relatively well represented in conservation management, high recreational usage and hazards associated with long term climate change are both significant threats to the conservation of Aboriginal cultural heritage values in these parts of the City.

This section considers other opportunities to either enhance the representativeness or the robustness of conservation management in foreshore landscapes. Actions to protect Aboriginal cultural heritage values in foreshore lands will complement other actions to enhance the sustainability of foreshore management by Council and the community.

##### 5.4.2.1 Ocean Frontage

The entire coastline of Lake Macquarie LGA is managed as National Park or is in public (Crown)/community land, currently zoned 7(4) (Coastal) under LEP 2004, with adjacent zonings including 7(3) (General), 7(1) (Primary). Thus the cultural heritage values of the coastline are relatively well protected in terms of statutory conservation frameworks. However, ongoing review of threats and additional vigilance are needed to ensure that new threats are recognised and addressed and that the details of land management are consistent with the conservation intent.

For public land, this can be achieved by the preparation and implementation of detailed Plans of Management (LG Act 1993 and *Crown Lands Act 1989*) (see **Section 7.0**).

Plans of Management for ocean frontage land should take into account hazards associated with climate change and sea level rise, using the best available information on the extent of shoreline erosion and options for strategic protection of important cultural values.

Threats and management options affecting Aboriginal sites and cultural values will be evaluated in a risk based framework.

### 5.4.2.2 Lake Frontage

The lake shoreline includes a mix of public and private land, in zonings under LEP 2004 that include Rural (1), Residential (2(1) and 2(2), Commercial (3), Open Space (6) and Environmental Protection (7), as well as areas managed by OEH.

OEH lands (National Park, State Conservation Area) provide representative coverage of several of the archaeologically sensitive terrain units within the Sensitive Aboriginal Cultural Landscape, most notably rocky foreshore. However, other important elements are less well represented. For instance, none of the estuarine floodplain and delta terrain of the major tributary creeks of Lake Macquarie (Cockle Creek, Dora Creek, Stony Creek, North and South Creeks, Wyee Creek) is included in conservation management and only limited areas of low angle footslope or lake shore bench are in National Park land. These low lying lands are likely to be affected by inundation and/or erosion over the next 50 to 100 years as sea level rises and other aspects of climate change take effect. The risk is greatest for lands that are less than 1.5 metres AHD.

Significant lengths of lake foreshore land are in private residential ownership. Council does not propose that major conservation outcomes should be the target for management of individual private residential properties on the foreshore of Lake Macquarie. Council will contribute to strategic conservation of the cultural heritage values of the lake foreshore by working closely with OEH and the Land and Property Management Authority to ensure consistent approaches across public land tenure boundaries (OEH, Land and Property Management Authority and Council community land).

LMCC will also work with OEH and the Aboriginal community groups, to develop proactive risk management measures such as:

- Taking impacts on Aboriginal sites and cultural landscapes into account when evaluating the risks of foreshore erosion and inundation, as well as potential structures or other controls to protect foreshore areas.
- Enhance Aboriginal community participation in the management of Council Community Land or Crown Reserves in foreshore locations (see also **Section 7.0**).

### 5.4.2.3 Lake Macquarie Foreshore Management Policy

LMCC recognises that the ocean and lake foreshores of the City are very significant environmental and community assets. Council does not currently have a policy which specifically states the cultural importance of these two landscapes and requires these values to be taken into account in the assessment of all development applications for foreshore land.

In 2009 Council adopted an Integrated Foreshore Management Action Plan to address various foreshore issues around Lake Macquarie and recognised the need for an Integrated Foreshore Management Strategy. Some actions in the Action Plan include the need to address sea level rises, protection for vegetation communities and area planning. Council intends to consult with the Aboriginal Community in the making of area plans for the Lake foreshore.

## 5.4.3 Achieving a Consistent Strategic Planning Approach across the Region

LMCC is one of several LGAs in the lower Hunter and Central Coast region that are within the traditional lands of the Awabakal people. Some important Aboriginal cultural landscapes cross council boundaries. To achieve the best sustainable management outcomes for the



cultural landscapes of value in traditional Awabakal country, it is preferable that the approaches of LMCC and other local councils or the NSW State government are well aligned. The best results will be achieved if local government and State government interests work together with the Aboriginal community to achieve coordinated decisions about conservation management at the regional scale.

LMCC will contribute to a strategic regional approach in the following ways:

- Work with OEH, Hunter Councils, Hunter Central Rivers CMA and local Aboriginal community groups to develop a consistent Aboriginal cultural landscape assessment methodology for all LGAs in traditional Awabakal country, in the Hunter/Central Coast region.
- Contribute to the preparation of consistent guidelines for the sustainable management of Sensitive Aboriginal Cultural Landscapes that are not adequately represented in some form of statutory conservation management. A consistent policy position, across multiple LGAs, could also be considered.
- Foster a partnership with Newcastle City Council, Wyong Shire Council and Cessnock City Council to achieve consistent zoning (under the new LEP), where Sensitive Aboriginal Cultural Landscapes cross the council boundaries.
- Promote and support the participation of Aboriginal community representatives in regional scale strategic land use forums. Well trained and properly resourced Aboriginal community representatives in these forums can greatly enhance the capacity of organisations to understand and respect Aboriginal cultural values and encourage organisations with responsibilities for managing cultural heritage values to act in a coordinated manner.

Whilst achieving this level of regional co-ordination and co-operation is not directly in Council's control, the Council does have a role in promoting and supporting regional level coordination.

Options that would contribute to consistent and strategic management of Aboriginal cultural heritage across the lower Hunter include:

- an inter council forum for Aboriginal community liaison officers, coordinated through Hunter Councils;
- collaboration between Council Aboriginal Community Workers and the Hunter Central Rivers CMA Cultural and Environmental Network which is intended to be representative of Aboriginal community interest throughout the Hunter Central Rivers CMA region; and
- LMCC will work with OEH, other land managers and the local Aboriginal community groups to facilitate a regional scale conservation offset strategy that would highlight lands that are a priority for including in conservation offsets for development. In many cases, such priority lands will combine Aboriginal cultural heritage values and biodiversity values or scenic values.

## 5.5 Proposed Aboriginal Place Nominations

Section 84 of the NPW Act 1974 defines an Aboriginal Place:

'The Minister may, by order published in the Gazette, declare any place specified or described in the order, being a place that, in the opinion of the Minister, is or was of special significance with respect to Aboriginal culture, to be an Aboriginal place for the purposes of the Act.'

When a location is gazetted as an Aboriginal Place under section 84 of the NPW Act 1974, it gains statutory protection under section 90 of the Act. It is an offence to damage, deface or destroy an Aboriginal Place, without the specific consent of the Director General of DECCW, obtained following consultation with the local Aboriginal community. An Aboriginal Place may be in public or private land tenure.

This would have significant management implications for locations which currently have limited, if any, proactive management to protect Aboriginal cultural heritage values.

There are several locations within the Lake Macquarie LGA which are considered by the local Aboriginal community groups to meet the criterion of '*special significance with respect to Aboriginal culture.*'

These are identified in **Table 5.1**, together with a brief summary of the significance of the location to the Aboriginal community. **Table 5.1** also indicates land tenure over the locality.

**Table 5.1 - Places Considered for Nomination as Aboriginal Places  
under the NPW Act 1974**

Location	Significance Features	Land Tenure
<b>Mountain Landscapes</b>		
Mount Sugarloaf Reserve (Wa-ra-wol-lung)	Very highly valued for both mythological and ceremonial attachments, as well as availability of key plant resources, and some reports of trading route with other groups further west. Linked to the coast via traditional pathways along ridges extending towards Minmi, and to Lake Macquarie via ridges extending into the Cockle Creek catchment.	Formerly a Crown Reserve (care and control of LMCC) and State Forest. Now included in Sugarloaf State Conservation Area.  Note, despite the significance of Mount Sugarloaf, it would be very difficult to manage the heavy recreational use of the area as a gazetted Aboriginal Place, without a breach of the NPW Act 1974.
Grinding groove site immediately to the south of Mount Sugarloaf, with its context in a rocky cascade in the creek bed.	This site is a large assemblage of grinding grooves within a sandstone cascade in the creek bed. The grinding grooves are surrounded by bushland containing abundant Aboriginal plants. It is highly valued as a teaching place by the Aboriginal community.	Part of Sugarloaf State Conservation Area.  This site is one of the best examples of grinding grooves in the region and is already protected under the NPW Act 1974. Recognition of the area as an Aboriginal Place would provide an opportunity to further protect the context of the grinding grooves. The entire upper slope terrain of the Sugarloaf Range is associated with traditional stories and ceremonial activity.
Keepa Keepa Site, Watagan Ranges	Important teaching place for Aboriginal community Elders, abundant resource plants, rock formations and outlook over Awabakal lands.	State Forest (Industry and Investment NSW). Zoned 9 (Natural Resources). Currently the subject of an agreement between Industry and Investment NSW and Aboriginal community Elders.

**Table 5.1 - Places Considered for Nomination as Aboriginal Places  
under the NPW Act 1974 (cont)**

<b>Location</b>	<b>Significance Features</b>	<b>Land Tenure</b>
Parts of Munibung Hill (Ko-na-ko-ina-ba)	Threlkeld (in Gunson 1974) and Miles (1854) refer to mystic circles or circular arrangements of stones on top of hills in the Lake Macquarie area. Originally, these locations were marked by carved trees with images of insects, snakes and marsupials. Whilst many of these stone arrangements were in the Sugarloaf Ranges, one at least was reported from the ridge crest at Munibung Hill, described as arrangements of stones in a ring 5 to 6 metres in diameter and 0.75 metres high.	Private land. Zoned 7(2) (Conservation – Secondary). The stone rings on Munibung appear to have been destroyed, but the spiritual value of the Hill and its outlook over much of the southern part of Awabakal country continue to give cultural value to the ridge crest. Careful research would be needed to identify specific locations.
<b>Coastal and Estuarine Landscapes</b>		
Moon Island (Nir-rit-ti-ba)	Known as Nir-rit-ti-ba because of the mutton birds that abound there seasonally.	Nature Reserve (OEH). Zoned 8 in LEP 2004. The Aboriginal heritage values of the area can be incorporated into the Nature Reserve Plan of Management without a separate Aboriginal Place listing.
<b>Coastal and Estuarine Landscapes</b>		
Swansea Heads and coastal lands south to Hams Beach. (Mul-lung-bu-la and Yirri-ta-ba)	Mythological stories associated with the area. An Aboriginal burial (8000 years old) was found in a residential development in the area and the human remains are now reburied in the Crown Reserve at Swansea Heads. Large midden sites and knapping floors were formerly located around the entire ocean and lake frontage.	Crown Reserve, in care and control of LMCC. Zoned 7(4) Environmental Protection – Coastline. An Aboriginal Place nomination would not apply to private land in this area. The area is widely used by fishermen and walkers. A specific part of the Crown Reserve, potentially around the reburial site, could be included in the Aboriginal Place nomination. Note that Swansea Heads is identified as an Indicative Place (ID 16036, File Number 1/09/061/0010) in the Register of the National Estate, but no information about the listing is available.
Petrified forest, mythological site, Fennell Bay. (Kur-rur-kur-ran)	Threlkeld records a complex story about the origin of the petrified tree stumps (one large rock fell from the heavens). The site is also registered as a Natural Heritage (geological) area.	Crown Waters. Zoned 11 (Lake and Waterways) in LEP 2004. The area has been much disturbed over many years, with many rocks removed and now located on properties in the general area. Gazettal of the formation as an Aboriginal place would add significantly to the current level of protection.

**Table 5.1 - Places Considered for Nomination as Aboriginal Places  
under the NPW Act 1974 (cont)**

<b>Location</b>	<b>Significance Features</b>	<b>Land Tenure</b>
Parts of Awabakal Nature Reserve and Glenrock State Recreation Area (also in Newcastle City Council).	The Nature Reserve contains diverse Aboriginal sites and resources. A Plan of Management has been prepared for these areas, and addresses Aboriginal cultural heritage values. A Conservation Management and Cultural Tourism Plan has also been prepared.	Nature Reserve (OEH) and zoned National Park in LEP 2004. Declaration of all or part of the area as an Aboriginal Place would not add significantly to the level of protection of Aboriginal values in the landscape.

The two sites occupied by Reverend Threlkeld as Missions to the Aborigines of Lake Macquarie for periods between 1825 and 1840 (Belmont (Bahtabah) and Toronto (Punte) could also be considered. Both locations are mapped within Sensitive Aboriginal Cultural Landscape boundaries for LMCC. Both places are, however, on private land and are now fully developed for other purposes. These two locations can best be protected by listing as heritage places (Aboriginal cultural heritage as well as historic heritage) in the Lake Macquarie LEP or State Heritage Register.

### **5.5.1 Priorities for Aboriginal Place Nomination**

Based on currently available information, the four highest priority locations for further research and consideration for gazettal as Aboriginal Places in the Council area are therefore considered to be the following. Only one of these places is on land for which LMCC has tenure and direct management responsibility:

- part of Swansea Heads – this area is in Council’s care and control;
- part of Mount Sugarloaf, incorporating highly valued grinding groove sites and their landscape context;
- the petrified forest in Fennell Bay (NSW Land and Property Management Authority); and
- part of the ridge crest of Munibung Hill, linked to past ceremonial activities and outlooks across Lake Macquarie.

All of these locations require more detailed research and consultation with the Aboriginal community groups of the area, as well as with land managers (LMCC, NSW Land and Property Management Authority and private land owners).

## **5.6 Other Opportunities for Conservation**

### **5.6.1 Integrated Ecology and Cultural Heritage Offset Planning**

A number of recent planning decisions for major development have utilised the concept of conservation offsets as part of a package of measures to achieve conservation outcomes at the same time as allowing new development which creates jobs and other community benefits, to proceed. Whilst conservation offset planning is more advanced in relation to biodiversity, similar principles and strategies are relevant to the conservation of Aboriginal cultural heritage. The major difference between ecological or biodiversity offsets and Aboriginal cultural heritage offsets is that Aboriginal archaeological values in the landscape

cannot be restored once they have been destroyed. Biodiversity offsets may be agreed for areas where land management will focus in the short to medium term on the restoration of important but degraded habitat.

Aboriginal cultural heritage offsets are only appropriate where landscapes of similar cultural heritage value have not previously been impacted by development and can be managed to maintain their archaeological value and other Aboriginal heritage values in the long term. Where biodiversity offset areas are on land where ecological values are in good condition, it is possible to achieve joint conservation objectives – biodiversity and Aboriginal cultural heritage.

As noted in **Section 5.4.1** in relation to VCAs, the outstanding area within LMCC for the mitigation of development impacts on areas of high cultural heritage conservation value is in the catchments of the western tributaries of Lake Macquarie, and particularly in the middle to upper reaches of these catchments (upstream of the tidal limit and including the foothills of the Watagan/Sugarloaf Ranges).

The development of an integrated conservation offset policy and offsetting rules or mechanisms is a matter for the NSW Government. However, LMCC supports the concept of integrated conservation offsets, whether in formal VCA areas or informal conservation management, as a component of the City's strategy to achieve long term (in perpetuity) conservation of the City's Aboriginal heritage values.

LMCC will contribute to achieving sustainable conservation of Sensitive Aboriginal Cultural Landscapes by seeking the identification and implementation of conservation offsets in relation to development applications which have significant impacts on the values of Sensitive Aboriginal Cultural Landscapes that are not currently adequately represented in long term conservation management. Whilst offsetting for conservation is not necessarily the first option (in situ conservation is preferred where this is achievable), it can be a valuable component of conservation planning.

LMCC will work with OEH, Department of Planning and Infrastructure and the local Aboriginal community to develop a practical and sustainable offsetting process, as part of the set of options to protect important Aboriginal cultural landscape values in the City.

## 5.7 Summary of Long Term Conservation of Aboriginal Cultural Landscapes

**Table 5.2** summarises the conservation status, threats and prospects of each of the areas identified as a Sensitive Aboriginal Cultural Landscape in LMCC.

**Table 5.2 - Conservation Management of Aboriginal Cultural Landscapes**

<b>Sensitive Cultural Landscape</b>	<b>Conservation Status</b>	<b>Potential Threats</b>	<b>Is this Cultural Landscape Adequately Protected to Meet Intergenerational Equity Principle of ESD?</b>	<b>Recommendations for Improved Protection of Important Cultural Heritage Values</b>
Swansea Heads and adjacent dunes, rock platforms and bluffs, extending south to Hams Beach.	Swansea Heads is a Crown Reserve, but the Plan of Management does not focus on the Aboriginal cultural landscape values of the area (only archaeology). Adjacent reserves to the south (towards Hams Beach) are part of a Landcare project conducted with Bahtabah LALC.	Uncontrolled access and ongoing non focused management of Swansea Heads. Climate change impacts on shoreline stability.	Swansea Heads has very high cultural landscape value, with stories, a reburial site, and remnants of midden, plus remnants of the coastal landscape and resources. The current management will not achieve sustainable conservation of these values.	Review the Plan of Management in consultation with relevant Aboriginal community groups. The review should address protection of the broad range of Aboriginal cultural heritage values associated with this landscape. It should also address any additional risks to Aboriginal cultural heritage associated with the impacts of climate change and sea level rise on this coastal landscape (LMCC).
Ocean beaches and dunes south of Caves Beach, along the Wallarah Peninsula.	Included in the Wallarah National Park.	Increased general community access as development extends adjacent to this area.	Management of National Park should protect the values of the area, provided OEH can control damage from ongoing access through the National Park.	Consult with relevant Aboriginal community groups about the protection and interpretation of Aboriginal cultural heritage values in this coastal landscape. Consider the impacts of climate change on specific Aboriginal heritage sites and places when preparing/reviewing the Plan of Management for the Park.
Pelican Flat and Swansea Channel areas, extending around the shoreline to Galgabba.	Not managed for conservation. Some foreshore reserve (grassed open space).	Urban intensification, high recreational usage of the foreshore and waterway. High potential for inundation of this area with projected sea level rises.	Limited archaeological potential remains because of extensive existing development. The broader cultural heritage/cultural history aspects of this area are poorly known and not protected.	Consider Aboriginal cultural heritage when making long term planning decisions and preparing community interpretative material for this area (LMCC).
Pulbah Island and adjacent waters.	Gazetted Aboriginal Place and part of Lake Macquarie State Conservation Area.	Recreational boating – rubbish, waste etc, trampling by visitors.	Appropriate management framework for conservation/protection. Regular clean ups by OEH.	Continue to involve the local Aboriginal community groups in management of the island (OEH).

**Table 5.2 - Conservation Management of Aboriginal Cultural Landscapes (cont)**

Sensitive Cultural Landscape	Conservation Status	Potential Threats	Is this Cultural Landscape Adequately Protected to Meet Intergenerational Equity Principle of ESD?	Recommendations for Improved Protection of Important Cultural Heritage Values
Awabakal Nature Reserve and Glenrock State Recreation Area lands to the north of Redhead.	Managed by OEH and subject of Plans of Management.	High fire frequency. High usage by locals (mostly on tracks).	Generally appropriate management of a mix of landscape resources, plus midden sites, open campsites, grinding grooves.	OEH will continue to implement Plans of Management and to monitor the condition of Aboriginal sites/places in vulnerable locations.
Sandstone rock shelters, creek beds and rocky look out points in the Watagan Ranges and Sugarloaf Range.	Most of the scarp lands are within Watagan National Park and State Forest, and are managed for conservation. The Keepa Keepa site is specifically managed for its values to Aboriginal community Elders.	Generally limited access except along main tracks, however, there continues to be a risk of vandalism.	Conservation management framework is generally adequate, provided there continues to be close liaison with the Aboriginal community.	Involve the Aboriginal community in preparing and updating Plans of Management and interpretation material for the new National Parks and other conservation lands.
Mount Sugarloaf and adjacent upper slopes, ridges and creeks.	Mount Sugarloaf has been gazetted as a Flora and Fauna Reserve for many years, with a high usage for passive recreation. There is some interpretative information on the peak. The Reserve and ridges surrounding the peak have recently been added to the Lower Hunter National Park and Sugarloaf State Conservation Area. Other areas remain in private ownership, and are also traversed by power easements and tracks.	Very high visitor usage in the Sugarloaf Reserve. Also trail bikes on tracks and rubbish dumping off bush tracks (often in private land).	Mount Sugarloaf has general protection as a Flora and Fauna Reserve, but the area is heavily utilised and stronger cultural heritage protection may be required to ensure that values survive.	It is suggested that Council and the local Aboriginal community consider applying to OEH for gazettal of Mount Sugarloaf as an Aboriginal Place. Inclusion in the National Heritage List could be considered, but the site may not meet criteria for significance at a National level.

**Table 5.2 - Conservation Management of Aboriginal Cultural Landscapes (cont)**

Sensitive Cultural Landscape	Conservation Status	Potential Threats	Is this Cultural Landscape Adequately Protected to Meet Intergenerational Equity Principle of ESD?	Recommendations for Improved Protection of Important Cultural Heritage Values
The ridge crest and some slopes at Munibung Hill.	Munibung Hill is private land, zoned 7(2).	The entire area has been cleared in the past. There is severe sheet/rill erosion on side slopes, and some areas have also been quarried. Potential for further development of slopes, post Pasminco is being considered.	Currently low visitation due to poor access. Limited statutory protection, which should be enhanced and this should occur prior to final decision about land use in the area.	The ridge crest should be retained in an Environmental Conservation Zoning in the new LEP. Investigate gazettal as an Aboriginal Place.
The Lake Macquarie foreshore, except for reclaimed areas, and including slightly elevated land adjacent to the shoreline of wetland areas that are directly linked to the lake shoreline.	Some sections are part of the Lake Macquarie State Conservation/State Recreation Area. Large areas also have private land to mean high water. The northern foreshore area (Five Islands/Speers Point to Eleebana) is mostly reclaimed land.	Foreshore community land is in very high demand for recreation purposes, and demand is expected to continue to grow, with ongoing intensification of urban and commercial development areas. Principal risks are to remaining midden sites, as most other site types for this environment have been destroyed.	Sites in reserves and heavily used park areas are not protected in practice. Broader cultural landscape values are rarely protected. Significant climate change impacts are anticipated on lands less than about 1.5 metres AHD, which includes large sections of the lake shoreline.	In preparing or updating Plans of Management for Foreshore Reserves, consult with local Aboriginal community groups in accordance with DLG 2000 to determine whether the land meets specific criteria for cultural significance. Planning to protect Aboriginal heritage sites in foreshore reserves will also need to take into account risk associated with the potential impacts of sea level rise and climate change. Detailed planning for all foreshore reserve areas having significant Aboriginal cultural heritage values is needed; examples of decisions to be made include whether remaining midden sites should be buried for protection, signage etc. Address Aboriginal cultural heritage values in the LMCC Foreshore Policy. The gazettal of the petrified forest in Fennell Bay as an Aboriginal Place should be further investigated (Land and Property Management Authority).



**Table 5.2 - Conservation Management of Aboriginal Cultural Landscapes (cont)**

Sensitive Cultural Landscape	Conservation Status	Potential Threats	Is this Cultural Landscape Adequately Protected to Meet Intergenerational Equity Principle of ESD?	Recommendations for Improved Protection of Important Cultural Heritage Values
<p>The middle reaches of catchments draining towards the north and west of Lake Macquarie. Of particular interest are the sandstone creek beds, terraces and lower slopes adjacent to Cockle Creek, Slatey Creek, Burkes Creek, Stony Creek and Dora Creek (and associated tributaries). Ridgelines that provide passage through this landscape are also considered to be important.</p>	<p>Partly zoned 7 (Environmental Protection), partly zoned 10 (Investigation), partly zoned 1 (rural) and partly zoned for natural resource management. None of this area (in LMCC) is in formal conservation management, although some similar landscapes in Newcastle City Council are now in new conservation lands in the Regional Green Corridor (Watagans to Port Stephens).</p>	<p>There is potential for significant urban expansion and commercial development in parts of this landscape. In the mean time, much of this area is accessible to four wheel drive vehicles, trail bikes and horse riders, all using unsealed access tracks originally established to facilitate maintenance of mining and power infrastructure. The tracks follow ridge crests and along valley floors, as well as directly up and down steep slopes.</p> <p>Erosion, rubbish dumping and fire are all issues.</p>	<p>Current management is leading to ongoing degradation of landscape and cultural heritage values.</p> <p>This landscape is poorly represented in conservation in Lake Macquarie.</p>	<p>Review opportunities to increase representation of this cultural landscape in conservation management, both on private land and public reserve.</p> <p>The Lower Hunter National Park and Sugarloaf State Conservation Area now conserve some cultural landscape similar to those in the middle reaches of catchments in the Lake Macquarie Council area. However, the coastal creeks (Cockle Creek and Dora Creek) which drain to the lake from the Watagan Ranges, are a quite distinct landscape from the Hunter estuary and some local scale conservation should still be considered.</p>

**Table 5.2 - Conservation Management of Aboriginal Cultural Landscapes (cont)**

Sensitive Cultural Landscape	Conservation Status	Potential Threats	Is this Cultural Landscape Adequately Protected to Meet Intergenerational Equity Principle of ESD?	Recommendations for Improved Protection of Important Cultural Heritage Values
<p>The Jewells Swamp/Crokers Creek/Tingira Heights area to the east of Lake Macquarie.</p>	<p>A combination of existing urban area, bushland reserve and land controlled by Land and Property Management Authority (Belmont Wetlands State Park). Zonings include 7(1), 7(2) and 7(3).</p> <p>Much of the coastal dune landscape has been sand mined in the past. Remaining relatively undisturbed areas have potential value as conservation corridor linking the coastal conservation areas with Lake Macquarie.</p> <p>At the regional scale, some broadly similar terrain is included in conservation land such as Munmorah State Recreation Area, Wallarah National Park and Lower Hunter National Park.</p>	<p>Possible threats include rezoning to permit further industrial, commercial or residential land uses. Uncontrolled recreational access is also an issue for some parts of this land.</p>	<p>Current zoning is generally appropriate, providing land owners actively manage their property to respect the cultural heritage values that are present. Other than land owners with a recent Development Consent with specific conditions attached, there is no requirement on land owners on Environmental Protection Zones to manage land (rather than land use) with a conservation orientation.</p>	<p>Local scale conservation could be enhanced by providing landholders with information that highlights the significant cultural landscape values of the area.</p> <p>The Plan of Management for Belmont Wetlands State Park should take into account the Awabakal archaeological and cultural values of the land, and be prepared in consultation with local Aboriginal community groups.</p>
<p>The locations of the Threlkeld Mission sites at Belmont (Bahtabah) and Toronto (Punte).</p>	<p>These are fully developed urban sites, and some have established historic (nineteenth century) buildings. There is potential for redevelopment of high value commercial sites close to existing urban centres.</p>	<p>None of the sites has been investigated in any detail in relation to Aboriginal heritage materials or European heritage materials (i.e. archaeology, not history or standing buildings).</p>	<p>The Threlkeld Mission sites are very important to the history of Aboriginal and European interaction in the early years of contact. Existing recognition and documentation is not appropriate, given how much of what is known about the contact period in this area comes from the occupation of these properties.</p>	<p>Prepare community information about the Threlkeld Mission sites and their significance to the heritage of Lake Macquarie.</p>

## 6.0 Streamlined Development Assessment

Council's management objectives relating to the assessment of Aboriginal cultural heritage issues in development assessment contexts include:

- Clear development assessment requirements and decision making processes, so that proponents, the Aboriginal community and other members of the community know what to expect. The development assessment process is the avenue where many people first encounter issues about the value of Aboriginal cultural heritage in the City. It is also the process through which many archaeological sites are recorded and is therefore an opportunity for:
  - ongoing review of the condition of the city's Aboriginal cultural heritage;
  - sharing information about the value of the city's Aboriginal cultural heritage; and
  - open discussion of how those values are taken into account in planning decisions. This open discussion facilitates greater understanding by all parties – Council, developer and Aboriginal community, of the complexity of pressures involved in development assessment.
- The assessment reflects the requirements of the NPW Act 1974 and *Heritage Act 1977* as well as the EP&A Act 1979, but also meets Aboriginal community needs.
- Conservation priorities are clearly identified and communicated to all stakeholders, so that they can be taken into account when planning a development proposal. However, the development assessment process is not Council's preferred option for achieving substantive conservation management for the city's Aboriginal cultural heritage assets (see **Section 5.0**).
- Timely, thorough and efficient assessment of impacts on Aboriginal cultural heritage values.
- A culturally appropriate consultation process, which ensures that Aboriginal community groups have a real opportunity to comment on proposals that may affect their heritage, but which is also consistent with achieving efficiency and timeliness. Opportunities to comment must relate to Aboriginal sites and to places of cultural or spiritual importance to the local Aboriginal community groups.

**Appendix 6** discusses the standards that Council will consider when amending LEP 2004 and in preparing its new LEP, in relation to:

- assessment of Aboriginal cultural heritage issues in development applications; and
- a proposed protocol for ensuring that the local Aboriginal community groups have an opportunity to contribute effectively and efficiently to the assessment process.

The Department of Planning and Infrastructure has advised that future amendments to LEP 2004 must be consistent with the proposed clauses and provisions of the State-wide LEP template.

### 6.1 Assessment of Development Applications

LMCC is the consent authority for most development that occurs in the city. Projects of State significance are determined by the Minister for Planning whilst those of Regional significance are assessed by the Hunter Joint Regional Planning Panel.

Council's requirements and decision making process are currently set out in LEP 2004 and DCP1 (as amended). Council will continue to apply the requirements of these planning instruments (subject to amendments) until the new LEP is gazetted in 2011. Amendments made to LEP 2004 and DCP 1 will, wherever possible, be consistent with the clauses and provisions of the State-wide LEP template.

This section sets out Council's proposed requirements and processes for assessing development applications on land that has Aboriginal cultural heritage values. It addresses:

- the circumstances in which Council will require an assessment of impacts on Aboriginal cultural heritage values, including Objects, Places and other values of importance to the Aboriginal community;
- the information that Council requires in an assessment of impacts on Aboriginal cultural heritage values, which is to be submitted with the development application, so that Council can be confident that the risks of an impact on Aboriginal cultural heritage values have been properly assessed and mitigated. Proponents should also refer to the OEH codes and guidelines for cultural heritage reports and for applications for Aboriginal Heritage Impact Permits. These documents are available on the OEH web site;
- how and when Council will notify and refer development applications to the Aboriginal community for their comments;
- timeframes for consultation feedback;
- how Council will use the information or comments provided by the Aboriginal community; and
- how Council's guidelines for applicants relate to the OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents (April 2010), or subsequent new OEH guidelines (see **Section 2.3**).

The requirements are proposed to apply to proponents submitting rezoning proposals or development applications. They also apply to land use planning and proposals for activity by Council, which would be considered under Part V of the EP&A Act 1979 (see also **Section 7.0**).

### **6.1.1 Integrated Development Assessment Processes**

OEH has prepared guidelines to advise applicants about its requirements when a proposed development is integrated development (under Part 4 of the EP&A Act 1979). Integrated Development Assessment applies when a development which is not a Major Project under Part 3A of the EP&A Act 1979, requires development consent and also requires one or more permits or consents or approvals from State agencies. A section 90 permit from OEH (for impacts on Aboriginal sites) is one of the additional approvals that triggers the Integrated Development Assessment processes.

When a development application involves impacts on a known Aboriginal site or gazetted Place, development consent should not be granted until Council has consulted OEH about their requirements. These requirements are then incorporated into the development consent, should it be granted. OEH will specify whether or not they are prepared to issue a section 90 permit for objects/sites that will be affected by the proposed development. A separate application for a section 90 permit must still be made to OEH.

## 6.1.2 Development which was a Major Project under Part 3A of the EP&A Act 1979

Part 3A of the EP&A Act 1979 was introduced in May 2005 and was discontinued in May 2011. For specified developments of State significance, the Minister for Planning was the determining authority. Part 3A removed the requirement for some subsequent permits and approvals, including a section 87 or 90 permit under the NPW Act 1974.

Consent conditions for development which was approved under Part 3A set out implementation requirements in relation to Aboriginal cultural heritage.

## 6.1.3 When is an Aboriginal Heritage Impact Assessment Required in LMCC?

For Local and Regional Development, an Aboriginal Heritage Impact Assessment is required in certain circumstances where:

- An Aboriginal site or Place (as listed in the OEH AHIMS data base) is identified within 100 metres of the proposed development area. The land may or may not be within a Sensitive Aboriginal Cultural Landscape.
- For those developments within the Sensitive Aboriginal Cultural Landscape that do not satisfy the 'exempt development criteria' an Aboriginal Heritage Impact Assessment is required to accompany a development application.

**Figure 6.1** shows how decisions will be made about requirements for an Aboriginal Heritage Impact Assessment (AHIA).

### 6.1.3.1 Exempt Development Criteria

The following Exempt Criteria apply to development in SACLs where an AHIA is required.

**Table 6.1 - Exempt Development Criteria for Development in SACLs**

Exempt Development	Applicable Zones	Land on which exempt development may not be carried out
All Development on sites having a combined/total area less than 800 m <sup>2</sup>	All zones subject to all consents including the following standard condition: <b>Excavation – Aboriginal Relics</b> <i>Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area are to stop immediately and the Department of Environment, Climate Change and Water shall be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.</i>	<ul style="list-style-type: none"> <li>• Within 100 m of an AHIMS site.</li> <li>• Setback from DP High Water mark does not exceed 50 m.</li> </ul>

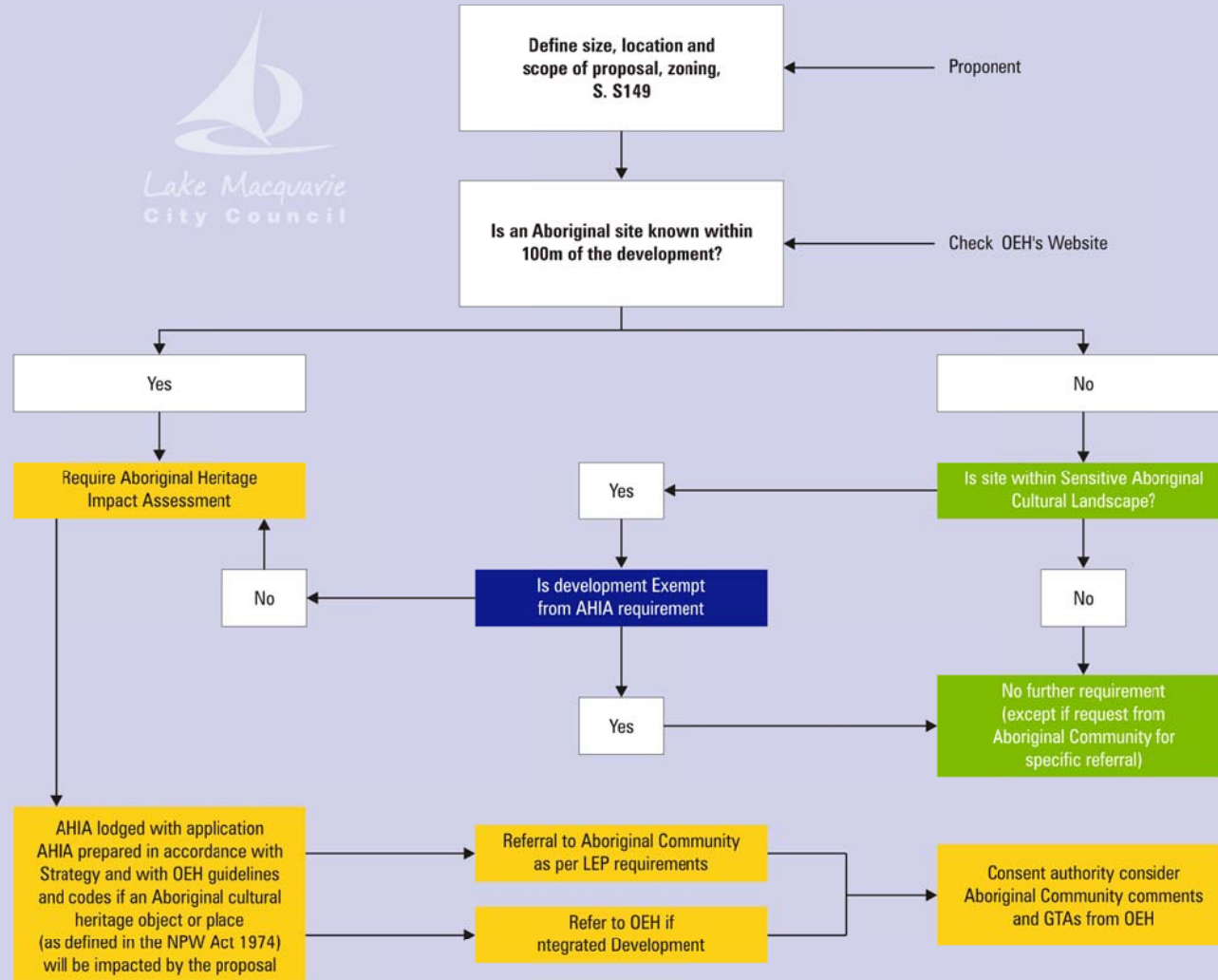


FIGURE 6.1

Flow chart for decisions about  
Aboriginal Heritage Impact Assessments

**Table 6.1 - Exempt Development Criteria for Development in SACs (cont)**

Exempt Development	Applicable Zones	Land on which exempt development may not be carried out
<p>Minor Works , as set out in <b>Appendix 7</b>, on sites having a Combined/Total area greater than 800 m<sup>2</sup> subject to:</p> <ul style="list-style-type: none"> <li>i. 75% of combined/total site area already disturbed; or</li> <li>ii. Works do not exceed existing disturbed footprint; or</li> <li>iii. Site previously assessed Aboriginal heritage, i.e. post 1997 consent, rezoning, etc.</li> </ul>	<p>All zones subject to all consents including the following standard condition:</p> <p><b>Excavation – Aboriginal Relics</b></p> <p><i>Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area are to stop immediately and the Department of Environment and Climate Change shall be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.</i></p>	<ul style="list-style-type: none"> <li>• Within 100 m of an AHIMS site.</li> <li>• Setback from DP high water mark does not exceed 50 m.</li> </ul>

#### 6.1.4 What is involved in an Aboriginal Heritage Impact Assessment in LMCC?

This section provides advice to applicants on the process to be followed and the level of information that is acceptable in development applications, for proposals that have potential impacts on Aboriginal sites, places or Sensitive Aboriginal Cultural Landscapes in the LMCC area.

In preparing the advice in this section, Council has taken into account:

- the requirements of the NPW Act 1974;
- OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010)';
- OEH Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW;
- OEH Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW, and Fact Sheet 2: Providing certainty for the protection of Aboriginal heritage through due diligence;
- OEH Code of practice for Archaeological Investigation in NSW;
- OEH Applying for an Aboriginal Heritage Impact Permit, Guide of Applicants
- DP&I standard State-wide templates and practice notes for new LEPs and DCPs.

The protocols and guidelines that are presented here are intended to:

- ensure that the Aboriginal community has an opportunity to comment on any development application **for Local and Regional development**, that has potential to affect Aboriginal community values;
- ensure that the determining authority is aware of relevant aspects of Aboriginal cultural heritage that need to be considered when determining a development application or approval for works; and
- ensure that relevant applications are referred to OEH (as integrated development, see **Section 6.1.1**).

### 6.1.5 Acceptable Information to Include in an Aboriginal Heritage Impact Assessment

When an Aboriginal Heritage Impact Assessment is required, Council will expect the development application to be accompanied by the information that is identified in **Table 6.2**. **Table 6.2** also shows how the information should be obtained.

**Table 6.2 - Information to be Provided about Aboriginal Heritage Issues, for Development that does not meet the 'Exempt Development Criteria'**

Information to be Provided in Assessment	How this Information can be Obtained
<b>1. Development in Sensitive Aboriginal Cultural Landscapes</b>	
Is the proposed development area within the Sensitive Aboriginal Landscape map?	Check the information on the s149 Certificate for the property. Consult with LMCC, about maps included in the amendments to LEP 2004.
What is the zoning of the land on which the proposed development will be located?	Check LEP 2004.
What is the size of the property (for residential zones) and the extent of the proposed development?	Check LEP 2004. The dimensions of the property and the proposed development must be provided in the application, together with a site (property) plan.
What evidence is there of previous development impacts on the land surface? How much of the development area has previously been impacted?	Provide a clear statement about whether this information indicates an assessment is required or not. Evidence of the extent of ground surface disturbance can be provided in the form of photographs and a site plan.
For land within a Sensitive Aboriginal Cultural Landscape, for which an assessment is required (but where there are <b>no</b> known Aboriginal sites or Places):  Does the land on which the development is proposed have specific non archaeological cultural values to the local Aboriginal community? Is it part of a story site or a traditional pathway etc?	Consult with representatives of the local Aboriginal community.  Appropriate groups for consultation will be listed on a Register held by LMCC and developed in consultation with OEH and the Department of Aboriginal affairs.  If an Aboriginal site or gazetted Place is on the land, consultation must follow the OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents (20100– see <b>Item 2</b> , below.



**Table 6.2 - Information to be Provided about Aboriginal Heritage Issues, for Development that does not meet the 'Exempt Development Criteria'**

Information to be Provided in Assessment	How this Information can be Obtained
<p>For land within a Sensitive Aboriginal Cultural Landscape, and development that is not exempt according to the criteria in <b>Table 6.1</b> and where there are no known Aboriginal sites or Places:</p> <p>How has any non archaeological cultural value been taken into account in the proposed development? Are there opportunities for interpretative material, or other recognition of the traditional value of the land to the Awabakal people?</p> <p>Have potential management options been discussed with the local Aboriginal community?</p>	<p>Provide information about the outcomes of discussions with the Aboriginal community.</p> <p>In relation to all consultation activities involving the local Aboriginal community, provide a summary of what opportunities were provided, who was involved, as well as what was agreed. A written statement from the Aboriginal community representatives should be provided to confirm agreed outcomes. If you have consulted, but no written statement is available within the set time frames, information about how the consultation opportunities were provided is very important.</p>
<p><b>2. Development which may impact on Aboriginal Sites</b></p>	
<p>Is an Aboriginal site (objects) known to occur within 100 metres of the proposed development area?</p> <p>What is the nature of Aboriginal archaeological objects/sites that are present on the land:</p> <ul style="list-style-type: none"> <li>• site type (e.g. midden, scarred tree, grinding groove);</li> <li>• a description of the site(s) – dimensions, types of artefacts, number of grooves etc; and</li> <li>• is the visible site within a Potential Archaeological Deposit – if so, what is the extent of this deposit?</li> </ul>	<p>Check the information on the s149 Certificate for the property.</p> <p>Seek advice from OEH (on line AHIMS) or LMCC as to whether a known Aboriginal site may be affected by the proposed development (Council cannot currently provide this advice but preliminary advice about the presence of an Aboriginal site may be available from Council in the future).</p> <p>Obtain a site register search from OEH Searches are free of charge on-line. However, if a property is affected a fee is charged for further information. Where a site is present (or is likely to be present) on the land and may be affected by the proposed development, you should also obtain a copy of the Site Card from OEH and copies of any previous assessment reports should be reviewed.</p> <p>Where the site is likely to be within the proposed development area, you should arrange for a site inspection to be conducted by a qualified archaeologist.</p> <p>When a site is likely to be impacted by the proposed development, you must also show evidence that you have consulted with the local Aboriginal community, in accordance with the OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010.</p>

**Table 6.2 - Information to be Provided about Aboriginal Heritage Issues, for Development that does not meet the 'Exempt Development Criteria'**

<b>Information to be Provided in Assessment</b>	<b>How this Information can be Obtained</b>
<p>The condition of any Aboriginal archaeological objects/sites. For instance:</p> <ul style="list-style-type: none"> <li>• What is the substrate (soil or rock) or the site?</li> <li>• Has the ground surface been disturbed and in what way (e.g. erosion type and extent, previous development type and severity)?</li> <li>• Are visible artefacts or shell broken/fragmented/abraded?</li> <li>• Are grinding grooves intact, abraded etc.</li> </ul>	<p>The OEH document 'Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW' sets out the requirements for archaeological reports.</p> <p>As above, this information is obtained from a survey of the site by a qualified archaeologist.</p> <p>Where archaeological material is visible on the surface, you should provide photographs of the material in its context.</p> <p>A sketch plan showing the extent of Aboriginal archaeological material (including Potential Archaeological Deposits) in relation to the footprint of the proposed development should be provided.</p>
<p>What is the scientific significance of the archaeological deposit?</p> <p>This depends on the nature of the material and the extent of previous disturbance. It also depends on the archaeological context of the objects/sites – are they rare or common?</p>	<p>This information is provided by a qualified archaeologist. The archaeologist will apply the criteria listed in the OEH 2010 and 2011 codes and guidelines</p> <p>A cultural significance assessment is also required (see below).</p>
<p>What are the views of the Aboriginal community about the significance of the objects/sites?</p>	<p>Either the proponent or the archaeological consultant must consult with the Aboriginal community. The OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 set out specific requirements for who must be consulted and how, when advice is needed about the Aboriginal significance of a known site.</p>
<p>How has the significance of the objects/sites been taken into account in designing the proposed development?</p> <ul style="list-style-type: none"> <li>• Is it possible to avoid impact? If not, why not?</li> <li>• Can the objects/sites be protected by placing a protective layer of soil/sediment over the top?</li> <li>• Is it appropriate to collect the visible material?</li> <li>• Is further investigation, such as through an archaeological excavation necessary/recommended?</li> </ul>	<p>Provide information about how impacts on the site will be avoided wherever possible. For instance, will the Aboriginal site be fenced during construction? Will construction workers be advised about the sensitive area? Will the site be covered and how?</p> <p>These matters should be discussed with relevant Aboriginal stakeholders.</p> <p>Note that if the site will be disturbed in any way – by collecting archaeological material or by excavation, or movement of machinery across the site, you will need to obtain a section 90 (Aboriginal Heritage Impact Permit - AHIP) from OEH before work commences. Excavation for the purpose of obtaining additional information about an Aboriginal archaeological deposit must not be conducted until a section 87 permit (s87 AHIP) has been obtained from OEH.</p>

### 6.1.6 Referral Procedures for Development Applications for Local and Regional Development

If an applicant approaches LMCC to seek advice about its requirements prior to preparing a development application, Council will provide information about whether the subject land is within a Sensitive Aboriginal Cultural Landscape and will refer the applicant to the AHIMS Register (for a site search) and to the OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010), where an object is likely to be disturbed.

When a development application is received by Council as the consent authority:

1. Council will check whether the application includes a statement about the need for an Aboriginal Heritage Impact Assessment.
2. If Council agrees that **no assessment** is required, the Aboriginal community groups will have 14 days from lodgement to request a referral. The local Aboriginal community will obtain information concerning applications from Council's application tracking website to develop an electronic notification process for these development applications.

#### If an Aboriginal Heritage Impact Assessment is Required

3. If Council determines that an Aboriginal Heritage Impact Assessment is required, Council will check the application to confirm that the information set out in **Table 6.2** has been provided. In particular, Council will confirm whether the Heritage Impact Assessment relates to a Sensitive Aboriginal Cultural Landscape and/or an Aboriginal site/Place. Council will check that that an archaeological site search has been obtained from OEH and that the local Aboriginal community has been provided with an opportunity to comment on significance, impacts and management if a site/Place will be affected by the proposed development.
4. If the development application refers to impacts on an Aboriginal site, Council will refer the application to OEH (as Integrated Development). The application will be forwarded to OEH within fourteen days of it being submitted to Council. OEH will then have 28 days to respond with any further comments or requirements for general terms in Consent Conditions.
5. If Council agrees that an Aboriginal Heritage Impact Assessment is required, Council will refer the relevant parts of the application to the registered Aboriginal community groups. This referral will be made within fourteen days of the application being received. The referral will include an invitation to the Aboriginal community groups to comment on whether the information provided in the development application identifies and addresses any issues associated with significant impacts on Aboriginal community cultural heritage values. This referral will be made whether or not the documentation accompanying the development application includes written evidence of consultation with local Aboriginal community groups.
6. The LALC and other local Aboriginal groups on the Register have 28 days from when the referral is made to provide a response. They may:
  - confirm that they have previously been consulted and maintain the position expressed in correspondence in the DA; or
  - state that no further consultation is necessary; or
  - request further consultation about appropriate development consent conditions; or

- request further Aboriginal cultural heritage investigation and assessment; or
- request an extension of time to comment. An extension of time of up to seven working days may be allowed.

One of these responses must be forwarded to Council within 28 days. Council will use a standard form that can be filled in by the Aboriginal groups and returned (see **Appendix 8** for an example of the referral response form). If no response is received within 28 days, Council will assume that the relevant Aboriginal community group has no further concerns or comments and process the Development Application accordingly.

7. If no further consultation is requested by the local Aboriginal community groups, the consent authority may apply standard precautionary conditions in the development consent in relation to unexpected finds of Objects (under the NPW Act 1974). It may apply conditions required by OEH. In addition, Council may apply conditions that take into account the comments made by the Aboriginal community groups in the assessment accompanying the development application.
8. If an Aboriginal community group requests further consultation, a time frame will be agreed between the relevant Aboriginal community group, Council and the proponent. Initially this will be a maximum of 15 working days. If Aboriginal sites are involved, OEH will also be invited to participate in this additional consultation, as they will subsequently be required to issue general terms under Integrated Development Approvals (IDA).
9. Further cultural heritage investigation and assessment requirements must be determined in consultation with OEH.

## 6.2 Managing Referral Workload and Timeframes

LMCC recognises the importance of ensuring that the Aboriginal community has an opportunity to comment on the management of Aboriginal cultural heritage values in the City, whether in the development assessment process or in relation to Council's own activities. LMCC also understands that the organisations and individuals within the Aboriginal community often have limited administrative and other resources to facilitate rapid processing of large numbers of requests for information or comment.

LMCC is therefore carefully considering how best to achieve the dual aims of participation of the Aboriginal community in decisions about Aboriginal cultural heritage and a manageable workload and practical, timely administrative system for all involved.

Council proposes the following actions to facilitate a streamlined and effective consultation process that does not make unreasonable demands on Council performance targets or on the resources of the local Aboriginal community:

- Council will continue to support its restructured Aboriginal Community Consultative Committee as a forum for discussing strategic planning issues relating to Aboriginal cultural heritage in the City and Council's communication about Aboriginal cultural heritage values. Council will also use the Consultative Committee as a forum to discuss any changes that should be made to statements about cultural heritage values on section 149 certificates. The Aboriginal Community Consultative Committee will also review the performance of the consultation process for development applications, based on an annual report from Council's planning staff.

- Council will develop, in consultation with the Aboriginal community groups, a set of simple checklists, referral and response forms for use in the development assessment process. These will be designed to streamline the communication process and limit the time needed to provide a response. Examples of draft referral and response forms are included in **Appendix 8**.
- Council is considering the appointment of an Aboriginal Heritage Information Co-ordinator, subject to funding. The role of this position will be to assist Aboriginal community groups to respond to requests for information, comments, or concurrence with Aboriginal heritage impact assessments prepared to accompany development applications. The position is separate from the Aboriginal Community Worker, who provides general consultation on a diverse range of issues – legal, education, health, etc. The position is also separate from the role of the Heritage Planner. The role is one of facilitation and management, not assessment.

There are a number of possible options for funding this position. Whilst there are clear administrative benefits from a position funded by and situated at LMCC, this is not essential. Other options could involve funding through NSW Aboriginal Land Council, OEH, NSW Premier's Department and Hunter Councils (in the longer term).

Whilst Council at this stage proposes to appoint an Aboriginal Heritage Information Coordinator to work within LMCC, Council would also support, in principle, a cross Council role for this position.

### **6.3 Guidelines for Proponents and Residents**

**Appendix 9** includes Indicative Guidelines for proponents of new development in LMCC, to assist them to prepare the appropriate information about Aboriginal cultural heritage issues when submitting a development application to Council.

## 7.0 Managing Public Land

LMCC manages some land in all Sensitive Aboriginal Cultural Landscapes as community land or Crown land under the care and control of Council. A number of Crown Reserves that are managed by the Land and Property Management Authority are also located in Sensitive Aboriginal Cultural Landscapes.

Council's objectives for the management of Aboriginal cultural heritage values on public land are as follows:

- contribute to sustainable conservation of a sample of sites which have sufficient integrity and landscape context to provide a meaningful window on the past;
- ensure that Aboriginal people have an opportunity to contribute to the planning, management and ongoing maintenance of Sensitive Aboriginal Cultural Landscapes that are within public lands in LMCC;
- achieve community recreational and landscape outcomes without compromising important Aboriginal cultural heritage values;
- facilitate access to important cultural places for Awabakal descendents, Aboriginal community Elders and other LALC and community members;
- improve communication, awareness, understanding and respect for Awabakal cultural heritage and contemporary Aboriginal culture across the Lake Macquarie community; and
- provide quality information about Aboriginal cultural heritage resources and Sensitive Aboriginal Cultural Landscapes across the City.

To achieve these objectives, Council proposes the following activities:

- Council will establish protocols for the role of the Aboriginal community in the design and wording of interpretative materials/structures and public art that may be placed in Council managed reserves (see also **Section 3.0**);
- Council will review the existing Plan of Management for Swansea Heads to ensure that it provides adequate recognition of the Aboriginal cultural heritage values of the headland and adjacent coastal cliffs, bluffs and beaches. The revised plan could include:
  - a new plaque and interpretative information about the Aboriginal reburial site that is within the Reserve;
  - improved linkages to coastal walking paths, with appropriate signage;
  - new interpretative information about the traditional Awabakal stories relating to Swansea Heads (prepared in consultation with Bahtabah LALC and other relevant Aboriginal community groups);
  - involvement of the Aboriginal community in Landcare and Coastcare activities in the area (see also below);
  - liaison with the Commonwealth Department of Environment and Heritage about the potential for inclusion of Swansea Heads in the National Heritage List (if it meets National significance criteria), and implications for management;
  - implications of a potential gazettal as an Aboriginal Place under the NPW Act 1974.

- Council will prepare and encourage the application of guidelines for Landcare and Coastcare groups about the involvement of the Aboriginal community in the planning and implementation of Landcare projects. Note that LMCC has prepared an example of this material for a Landcare project at Hams Beach;
- Council will establish and maintain a record of all known Aboriginal sites and cultural heritage values in Council managed public land, and ensure that operational personnel are aware of the presence of known Aboriginal sites in any Council managed public land. This information is for Council use only and will not be made publicly available without authorisation from the relevant Aboriginal community groups and individuals. The information is intended to reduce the risk that day to day operations in reserves will detrimentally impact on the integrity of remaining Aboriginal heritage sites. It also means that proactive measures (such as covering sites or changing the ground surface management to mulching rather than mowing) can be put in place as part of the Plan of Management for each reserve, to reduce the risk of further damage to sites by vehicles, mowing etc;
- in consultation with local Aboriginal community groups, Council will provide field staff with cultural awareness training (regularly updated), to broaden awareness of the cultural perspectives of Aboriginal people about local landscapes. Council will also train field staff in the recognition of Aboriginal archaeological sites and the responsibilities arising from the NPW Act 1974. This will include training about what needs to be done when a previously unknown site is discovered/uncovered;
- Council will identify key reserves that are within Sensitive Aboriginal Cultural Landscapes, for which a detailed Plan of Management needs to be prepared as a priority. Green Point and Wyee Point Reserves are two examples of high priority reserves for which Plans of Management have been prepared with strong Aboriginal heritage components. New surveys for Aboriginal sites will be conducted in the high priority reserves prior to the preparation of each Plan of Management, to ensure that Plans of Management address all known Aboriginal sites and Potential Archaeological Deposits; and
- prepare a planting guide for reserve areas that incorporates culturally important plants, together with information where appropriate about the traditional cultural uses of plants.

When preparing or updating a Plan of Management for community land in its care and control, Council will follow the following steps:

- Council will determine, in consultation with the LPMA, whether parcels of land in its care and control should be declared 'an area of cultural significance' in accordance with Clause 20 of the Local Government (General Regulation) and s.36D of the LG Act 1994. Clause 20 requires consultation with the 'Aboriginal community traditionally associated with the land', following a specified procedure. This consultation must occur before Council determines whether the land is of (Aboriginal) cultural significance under s36D.
- Land that is considered to be an area of Aboriginal cultural significance must be categorised as such in the Plan of Management and Council must follow several steps in preparing, implementing and amending the Plan of Management, including incorporating the requirements of OEH (in relation to the NPW Act 1974).
- Council will notify and consult with local Aboriginal community groups. The DLG Practice Note 1 (2000) sets out the requirements for notification and consultation with local Aboriginal people. The requirements are very similar to the OEH Community Consultation Guidelines, and require written notice to the LALC(s), advertisement in a state-wide newspaper primarily concerned with Aboriginal issues and placement of a notice on the land. In addition, the Practice Note recommends that councils contact the

Native Title Tribunal, Native Title Unit of the NSW Aboriginal Land Council, the Registrar of the Aboriginal Land Rights Act at the Department of Aboriginal Affairs, the Registrar of Aboriginal Sites at OEH and the Department of Aboriginal Affairs itself, for other advice on appropriate contacts.

- Council will establish a protocol for ongoing involvement of Aboriginal community groups in the management of community land which has been identified as being of Aboriginal cultural significance and for which a Plan of Management has been prepared.

In addition to these actions which relate to Council's own activities, LMCC will raise the issue of conservation management of Aboriginal sites on public land (outside National Park and Nature Reserve) in broader regional forums, in an effort to achieve an integrated and consistent approach to conservation across the lower Hunter Region.

Council will liaise with Department of Trade and Investment, Regional Infrastructure and Services NSW (NSW Forests section) and the Land and Property Management Authority in particular, to achieve a high level of co-ordination in the conservation management of Aboriginal sites and values.

In relation to Swansea Heads which is listed on the closed Register of the National Estate, Council will consult with Bahtabah LALC and other relevant Aboriginal community groups and liaise with DSEWPC about whether the site is likely to meet the criteria for inclusion on the National Heritage List. DSEWPC proposes to transfer relevant items to the National Heritage List by 2012 and the EPBC Act 1999 will not refer to items on the Register of the National Estate after that time.



## 8.0 Partnerships and Support

Several of the key themes of LMCC's Statement of Commitment to Aboriginal people in the City highlight the importance that Council places on a co-operative partnership between Council and the Aboriginal people of Lake Macquarie, including:

- recognising and promoting the contribution of Aboriginal culture to the diversity, richness, strength and environmental sustainability of the City;
- respecting and conserving Aboriginal cultural practices, traditional sites and significant places; and
- promoting the employment of Aboriginal people.

This section discusses how Council will proceed in relation to these themes. The actions discussed in this section build on the actions discussed in **Section 3.0** (communication) and complement a number of initiatives that are already in place.

Council has already adopted the following practices to show respect for the Awabakal cultural heritage and the Aboriginal people of the City:

- the Aboriginal flag is flown and/or displayed with other flags within the Council chambers; and
- a statement of respect for the traditional owners of Lake Macquarie is made at the beginning of some Council ceremonies and functions.

### 8.1 Symbolic Recognition of the Traditional Country of Awabakal People

As noted in **Section 1.0**, the Statement of Commitment to Aboriginal people is currently displayed in a cabinet in the Council foyer, with some introductory information about Awabakal culture and a small display of selected items of Aboriginal culture (art and artefacts). Council plans to expand and update this display in consultation with the Awabakal descendents and local Aboriginal community groups, giving it greater prominence in the foyer, so that visitors to the Council offices would be exposed to impressive and quality information about the traditional Awabakal culture of the City and the continuing vibrancy of Aboriginal cultural activity.

To raise the profile of Council's commitment to respect for the Awabakal cultural heritage of the City, the opening reflection statement at regular Council meetings will include a statement of recognition and respect for the Awabakal people on whose land the city now stands.

### 8.2 Employment of Aboriginal People

There is potential for ongoing employment development in two distinct areas. Council has employed an Aboriginal Community Worker on a part-time basis for several years, with funding assistance from NSW Department of Community Services. The position became full-time in 2009. People working in this position have been of great benefit to Council in terms of improved communication with all sections of the local Aboriginal community,

enhanced understanding of Aboriginal community perspectives on diverse issues and improved community understanding of Council policies and statutory responsibilities.

The continuation of this position, is an important step in the implementation of the Aboriginal cultural heritage strategy and further progress in implementing the Statement of Commitment.

Council is considering the creation of a Cultural Heritage Information Co-ordination position (see **Section 6.0**). This role, like the Liaison position, would be reserved for Aboriginal people. The co-ordination role will assist with timely and effective contribution from the Aboriginal community to Aboriginal heritage aspects of planning issues throughout the City, as well as maintaining sound records about sites, places and other Aboriginal community values.

As noted in **Section 6.0**, the introduction of a more comprehensive consultation and referral system for development assessment will function more smoothly if resources are available for a co-ordinator's position. The referral and consultation process also provides possible opportunities for skill development within the Aboriginal community, for instance in terms of administrative and records management training within the LALCs.

In addition to these positions to be filled by Aboriginal people, LMCC is a major employer in the Lake Macquarie LGA and indeed in the whole lower Hunter region. Council has a clear Equal Employment Opportunity Policy, which makes all employees responsible for preventing harassment and discrimination in the workplace.

Council also acknowledges that there is a relatively high unemployment rate amongst the Aboriginal citizens of the LGA and that Aboriginal people are under-represented in terms of qualifications, skills and employment experience.

In addition to continuing to implement its Equal Employment Opportunity Policy, Council could develop a program with the Aboriginal community to foster skill development and increase the job competitiveness of Aboriginal citizens. Such a program would be consistent with the NSW Government Two Ways Together Program. The nature of this program would be determined in consultation with the Aboriginal community leaders (e.g. through the Aboriginal Community Consultative Committee), education and training providers (e.g. NSW Technical and Further Education and University of Newcastle), State agencies (particularly NSW Premiers Department and Department of Aboriginal Affairs, and agencies which already have specialist Aboriginal community employment programs), other local Councils in the region and potentially the Lake Macquarie business sector. Options include traineeships or apprenticeships, a scholarship program, specialist work experience programs etc.

### 8.3 Aboriginal Involvement in Landcare

One of the key elements of the Statement of Commitment establishes a role for Aboriginal people in caring for the local environment and contributing to a sustainable future for the City.

As noted in **Section 7.0**, one way to do this is to encourage Aboriginal people to be involved in Landcare activities throughout the city. In this way, Landcare projects and groups have the benefit of Aboriginal community knowledge about culturally important places (both sites and places associated with cultural stories or traditions). They also have potential benefits from input about Aboriginal community concepts of care for country and looking after the connected aspects of the environment which then benefit the community. At the same time, Aboriginal community participants can hone their skills in a range of land management activities and take satisfaction from seeing the restoration of the natural landscape of parts of the City.

As discussed in **Section 7.0**, Council proposes that Aboriginal people will also contribute to the design and wording of interpretative signage where Landcare projects are in locations that have Aboriginal cultural heritage significance.

The LALCs own some parcels of land in the LMCC area with important environmental values (e.g. biodiversity values). OEH has a land management program (Land Alive) which supports Aboriginal land owners to manage their land for conservation and business opportunities by being involved in the BioBanking market. LMCC has city wide targets for biodiversity conservation and will support Aboriginal community groups managing their land for this purpose.

## **8.4 Cultural Interpretation: Signage, Landscape Planning, Brochures, Public Art**

As noted in **Sections 3.0** and **7.0**, there are many opportunities across the City where Council can work with the Aboriginal community to enhance the visibility of Aboriginal cultural activity. Good examples can already be seen at the Lake Macquarie Art Gallery and along some walking paths, where Aboriginal people have contributed to public art works.

Opportunities to extend and enhance the partnerships that have led to existing achievements include:

- including Aboriginal community art work in signs that welcome visitors to the City of Lake Macquarie (e.g. on the Freeway and Pacific Highway);
- including bush tucker or textile gardens in public parks around the city, with landscaping at the Council Chambers and at icon parks such as Speers Point a high priority;
- signage along the Great North Walk and north Lake Macquarie pathway (Booragul to Croudace Bay), highlighting the Aboriginal cultural heritage of the lake foreshore and bushland areas. There is potential to introduce a system of 'cultural pathways' across the public land in the city, in consultation with the Aboriginal community, OEH and LPMA and
- interpretative signage of Landcare (as noted above) and other community projects will complement signage along walking paths.

## 9.0 Schedule of Proposed Actions

**Table 9.1** provides a summary of recommended actions and responsibility to implement the Aboriginal Cultural Heritage Management Strategy. Brief explanatory comments are also provided for key actions. The Table provides an indication of the relative priority of each action, based on the following criteria:

**Priority 1** means that this action must be implemented before other actions can reasonably progress. Generally, this implies that the action should be implemented as soon as possible after the adoption of the Aboriginal Cultural Heritage Management Strategy.

**Priority 2** means that this action is important to consolidate a new approach to Aboriginal cultural heritage management in the City.

**Priority 3** means that this action is dependent on the successful implementation of other actions and will help to sustain improved management of Aboriginal cultural heritage by LMCC.

**Responsibility** indicates actions for which LMCC has the lead role in implementation and which section of Council would have primary responsibility. It also indicates actions where Council will need to be part of an implementation team.

**Table 9.1 - Implementation**

Action	Priority	Responsibility	Supporting Comments
<b>COMMUNICATION</b>			
Endorse an Aboriginal heritage information policy that stresses the importance of consultation with the Aboriginal community about the potential release of sensitive cultural information to the general public.	1	LMCC – community planning, publicity, web site manager. Consult with Aboriginal Community Consultative Committee.	Inadvertent release of sensitive cultural information may cause considerable distress to Aboriginal people, and greatly hinder the development of a trusting and co-operative working relationship between Council and the Aboriginal community.
When opportunities arise, Council will include information about positive outcomes in Aboriginal heritage management in Council's Annual Report and other community information, to show progress towards implementation of the Statement of Commitment. Seek positive media coverage for Council's activities that support Aboriginal culture in the City.	3	LMCC Mayor, General Manager, media or publicity officer. Aboriginal Community Consultative Committee.	Direct implementation of the Statement of Commitment, in terms of recognition of the contribution of Aboriginal people to the culture of the City.
Prepare a booklet scale publication about the Aboriginal cultural heritage values of the City.	1	LMCC (Heritage Planner, media or publicity officer). Aboriginal community – initially through Aboriginal Community Consultative Committee.	Well designed and easy to read information about cultural heritage raises the profile of Aboriginal heritage values in the City, and may also contribute to cultural tourism initiatives.

**Table 9.1 – Implementation (cont)**

<b>Action</b>	<b>Priority</b>	<b>Responsibility</b>	<b>Supporting Comments</b>
Expand a formal exhibition, including the Aboriginal flag, Statement of Commitment and recognition of Awabakal people in the Council Chambers. The statement of respect will be part of the opening of all regular Council meetings. Enhance the exhibition with additional short term displays promoting the Aboriginal cultural heritage values of the City.	1	LMCC (General Manager), Mayor and Councillors.  Wording to be determined in consultation with Aboriginal community (involve Traditional Aboriginal Owners).	Direct implementation of the Statement of Commitment – recognising the connection of Aboriginal people to country.
Include Awabakal artwork/design on signage welcoming visitors to LMCC, for instance – where main transport corridors cross the City boundaries.	2	LMCC (tourism and community relations) with Aboriginal community and RTA.  Consult with Aboriginal Community Consultative Committee about wording and design.	Demonstration of the value of Aboriginal culture in the City. Will need careful consideration in terms of the positioning of Lake Macquarie City as a destination for visitors – messages about beaches, lake, bush and culture.
Include Aboriginal plants in ‘bush tucker’ gardens at Council offices and in important Council reserves.	3	LMCC - Parks and Reserve staff, in consultation with Aboriginal community and Landcare where relevant.	The presence of bush tucker plants and other economic plants in the landscape is an important part of the ongoing cultural value of the area.
Provide new signage about the cultural heritage values associated with key City locations and walking paths (e.g. Great North Walk, Coastal Walk, Lake shore reserves).	2	LMCC – Community Programs.  Consult with Aboriginal community (about concept, wording and design), Land and Property Management Authority, Landcare.	Many of the popular recreational locations around the City are associated with significant cultural heritage values, or are part of a traditional pathway linking places of importance. This signage provides an opportunity for modern residents and visitors to appreciate aspects of the landscape beyond its visual value. Potential tourism benefits.
Establish and maintain a register of Aboriginal Community Groups and Individuals for Consultation, with interests in the Aboriginal cultural heritage of the city. The Register will be developed in consultation with OEH, Department of Aboriginal Affairs and the local Aboriginal community.	1	LMCC staff, with advice from OEH, Department of Aboriginal Affairs and in consultation with the Aboriginal Community Consultative Committee.	The intent is to ensure that Council refers development applications to appropriate groups and individuals in the community, in accordance with OEH and DLG best practice.
Consider a review of the wording of section 149 certificates to refer to both Aboriginal sites and other cultural heritage values that may affect a property.  Over time update the accuracy of s149 annotations using new site data and high resolution digital terrain mapping.	1  2	LMCC staff, with Aboriginal Community Consultative Committee.	The intent is to provide landholders with the best available information about controls affecting their property, both in relation to NPW Act 1974 and EP&A Act 1979, whilst recognising the limitations of the existing Aboriginal site information.

**Table 9.1 – Implementation (cont)**

Action	Priority	Responsibility	Supporting Comments
Prepare and circulate maps showing Sensitive Aboriginal Cultural Landscapes as the basis for management of Aboriginal cultural heritage values across the city. These maps draw on both Aboriginal site information, archaeological prediction and other cultural values such as stories, natural resources and ceremonial activity.	1	LMCC staff - strategic planning, development assessment planners, heritage planner, GIS staff. OEH and DP&I. Local Aboriginal community groups.	This action underlies other strategic planning and development assessment actions/protocols. It is consistent with the cultural landscape planning being promoted by OEH and DP&I.
<b>STRATEGIC PLANNING AND CONSERVATION</b>			
Work with the Aboriginal community, the LPMA and OEH to prepare nominations for the gazettal of Aboriginal Places (for land in Council's care and control) under the NPW Act 1974, for instance, potentially Swansea Heads, parts of Sugarloaf Range and other locations.	2	LMCC staff (Community Programs, Heritage Planner), with OEH, Land and Property Management Authority, Department of Trade and Investment, Regional Infrastructure and Services NSW and Aboriginal community (initially through Aboriginal Community Consultative Committee).	Note that OEH has recently conducted significant research on contact period for coastal communities, which may help to progress this action and also the Commonwealth listing (see below). The Aboriginal community has stated strong values for Swansea Heads, including the presence of a reburial site.
Liaise with the Commonwealth Department of Environment, Heritage, Water and the Arts about the possible inclusion of Swansea Heads on the National Heritage List. Swansea Heads is listed on the Register of the National Estate because of its Aboriginal heritage values.	2	LMCC staff (Heritage Officer, Parks and Reserves section). Land and Property Management Authority, OEH. Aboriginal community- Bahtabah LALC and Awabakal descendents. Commonwealth Department of Sustainability, Environment, Water, Population and Communities.	Swansea Heads also has non Indigenous values. Swansea Heads is currently listed as an Indicative Place on the Register of the National Estate. This Register is now closed and DSEWPC is considering whether items on the Register meet the criteria for inclusion in the National Heritage List – the listing should be clarified prior to 2012, so that Council's management responsibilities under the <i>EPBC Act 1999</i> are clear and can be properly implemented.

**Table 9.1 – Implementation (cont)**

Action	Priority	Responsibility	Supporting Comments
<p>Review the objectives of Environmental Protection Zones in LEP 2004, to raise the profile of Aboriginal heritage values as a driver for conservation management.</p> <p>(Note, further review will occur with the preparation of the new LEP, anticipated in 2011.)</p>	1	LMCC planning staff	<p>The objectives of Environmental Protection zones in the City do not currently refer to the cultural heritage values of the landscape. Identifying conservation of cultural heritage values for these zones is consistent with the Statement of Commitment. It also has synergies with biodiversity conservation.</p> <p>Inclusion of Cultural heritage values in the objectives of this zone would be consistent with the objectives of Environmental Protection/Conservation zones in the new LEP template.</p>
<p>Reinforce the Aboriginal heritage value of foreshore lands (ocean and lake) in a foreshore management policy and plan.</p>	2	<p>LMCC staff such as Integrated Planning, Community Programs, Landscape Planning.</p> <p>Local Aboriginal community groups.</p>	<p>These foreshore lands are highly valued by the entire community and detailed management planning is needed to provide an informed balance between recreational uses and facilities, commercial uses, other types of development and protection of heritage conservation values. A Foreshore Management Plan has direct links with the Premiers Taskforce plan for improving the health of Lake Macquarie (implemented by the Office of lake Macquarie and Coordinator until July 2009 and now the responsibility of Council's Sustainability Unit).</p>
<p>As opportunities arise, encourage both mining companies and rural land owners to manage parts of their land holdings as Voluntary Conservation Agreement Areas, particularly in Sensitive Aboriginal Cultural Landscapes that are not currently in adequately represented in conservation management.</p>	2	<p>LMCC staff (Integrated Planning), but OEH would have primary carriage for liaison with the Aboriginal community and land owners.</p> <p>HCRCMA should also be involved.</p>	<p>Council cannot require land holders to enter these agreements, but can provide information about the benefits, as part of an overall conservation strategy for the City and region.</p>

**Table 9.1 – Implementation (cont)**

Action	Priority	Responsibility	Supporting Comments
Consider rezoning some lands currently zoned 9 (Natural Resources) and 10 (Investigation) to 7 (Environmental Protection), to enhance the conservation management of lands in the middle catchments of major lake tributaries.	2	LMCC Integrated Planning would represent Council in discussions with other organisations, such as DP&I, OEH, DTIRIS NSW, mining companies, Regional Land Management Corporation. The Aboriginal community must be consulted about these rezoning considerations.  Council is preparing a new LEP consistent with the State-wide template and due to be completed in 2011.	The middle catchment lands have significant Aboriginal heritage values, but unlike other parts of the City landscape, are poorly represented in conservation management. Opportunities may arise over time for changes to existing zonings, based on both cultural heritage values and biodiversity values. These opportunities will be affected by other regional level planning processes (such as the DP&I Lower Hunter Regional Strategy).
Encourage Hunter Councils and NSW Premier's Department Regional Forums to consider the consistent and sustainable management of Aboriginal cultural heritage values across the region as a routine agenda item.	2	Senior LMCC staff and Councillors who represent Council at these regional scale forums.	Council has an opportunity as a member of these groups to contribute to a consistent regional approach to Aboriginal cultural heritage management, particularly for traditional Awabakal country.
Promote the preparation of regional scale guidance on the joint management of conservation offsets for biodiversity and Aboriginal cultural heritage conservation outcomes.	3	OEH, DP&I, with contributions from LMCC as a local government stakeholder.  Regional Aboriginal Community.	This is primarily an issue for the State agencies to resolve, but LMCC may be able to offer good experience to help develop a reasonable and practical policy.
<b>DEVELOPMENT ASSESSMENT</b>			
Amend LEP 2004 to clarify development for which an Aboriginal heritage assessment is not required (exempt and complying development) and development for which an assessment of impacts on Aboriginal heritage values is required.	1	LMCC Integrated Planning and Development Assessment staff.  Department of Planning.	Clarifies Council's position and makes a strategic approach to conservation, Aboriginal community participation and management relevant to day to day decisions.
Amend DCP No. 1 to clarify the scope of Aboriginal heritage impact assessment that Council will consider acceptable in various situations.	1	LMCC Strategic Planning and Development Assessment and compliance staff.  DP&I.	As above. The DCP sets out the information that must be supplied with DAs to facilitate a rapid assessment process.
Prepare guidelines for applicants to ensure clear advice is available about Council's requirements.	1	LMCC staff such as Integrated Planning, Development Assessment and communications staff.  Involve Aboriginal community.	These guidelines will support the DCP, plus enhance awareness of the Aboriginal cultural value of land in the city.



**Table 9.1 – Implementation (cont)**

<b>Action</b>	<b>Priority</b>	<b>Responsibility</b>	<b>Supporting Comments</b>
Prepare guidelines or information packages for the general community highlighting the important Aboriginal cultural heritage values (sites, Places and landscapes) that are present in the City.	1	LMCC Heritage Officer and communications staff, in consultation with Aboriginal community.	As above. There is a poor understanding of the Aboriginal heritage of the City in the general community. Aboriginal citizens wish to share information about important places.
Appoint an Aboriginal Heritage Information Co-ordinator to assist the Aboriginal community to review and comment on development applications which are referred to them or about which they are notified.	1	LMCC, in consultation with OEH, DP&I, HCRCMA, Department of Aboriginal Affairs, NSW Premiers Department, other Councils and Aboriginal Community Consultative Committee.	Council is moving towards a process that offers significant opportunities for local Aboriginal people to comment on development applications, but recognises the demands that referrals may place on community resources. The appointment of a co-ordinator at Council will assist with administrative capacity, data management etc that are required to ensure that advice is timely and that the results are positive for the reputation of local Aboriginal people.
Prepare standard forms and checklists to assist the Aboriginal community to respond rapidly to referrals of development applications.	1	LMCC – coordinator's position, in consultation with Integrated Planning, Development Assessment and Compliance and Aboriginal community.	Examples of the type of form that could assist a streamlined process are provided in <b>Appendix 8</b> . Trialling this system would be an early responsibility of the Co-ordinator, involving consultation, training, implementation and review.
Train Council development assessment and compliance staff in Aboriginal cultural awareness, the use of Sensitive Aboriginal Cultural Landscape maps, referral and notification processes and information requirements to satisfy Council assessment processes.	1	LMCC, with Aboriginal community, potentially Aboriginal staff of HCRCMA or OEH.	Council planners and customer service staff will be the first point of contact for many applicants, so they need to be well briefed on the cultural background to Council's policy and requirements.

**Table 9.1 – Implementation (cont)**

Action	Priority	Responsibility	Supporting Comments
<p>Investigate the option for Council to have on line or regularly updated access to the AHIMS data base (with limited and controlled staff use), so that applicants can seek direct advice from Council about the potential for Aboriginal sites to be on their land (but not their exact location). This would involve specific agreements with OEH and local Aboriginal community groups. A site search is now available on OEH website..</p>	1	LMCC, OEH, local Aboriginal community groups on the register prepared in OEH.	<p>This is a critical action to facilitate streamlined development assessment. This would simplify the assessment process for many applicants, and would reduce work load for OEH officers in relation to site searches. Will require consultation with local Aboriginal community groups and OEH about controls on access to sensitive information.</p>
<b>MANAGING PUBLIC LAND</b>			
<p>Establish protocols for the involvement of the Aboriginal community in planning and implementing actions on Crown land and Community Land managed by Council.</p>	1	LMCC and Landcare, with Land and Property Management Authority and the local Aboriginal community groups.	<p>Council has already progressed this action for specific locations. Some Crown Reserves and council community land have significant cultural value; participation of Aboriginal community representatives in projects on public land will protect these values and enhance awareness.</p>
<p>Prepare a protocol/checklist to enhance Aboriginal community participation in Landcare and Coastcare projects (as team members or as advisors on cultural heritage issues).</p>	1	LMCC and Landcare, with Aboriginal community.	<p>As above. The checklist/flow chart will help project managers to consult in a culturally appropriate way. Note that model guidelines were prepared for local Landcare projects in 2005. Some Aboriginal community groups also own land with biodiversity values and they are working with OEH through the Land Alive program to better manage these biodiversity values and contribute to community income through BioBanking. This permanent conservation management will also protect Aboriginal cultural heritage values of the land.</p>

**Table 9.1 – Implementation (cont)**

<b>Action</b>	<b>Priority</b>	<b>Responsibility</b>	<b>Supporting Comments</b>
Review the Plan of Management for Swansea Heads, incorporating potential National Heritage List status, potential nomination as an Aboriginal Place and the importance of the Aboriginal reburial site in the Reserve.	2	LMCC and Land and Property Management Authority, in consultation with Aboriginal community, following Department of Local Government and OEH guidelines. Council will liaise with DSEWPC about whether Swansea Heads would meet the criteria for inclusion on the National Heritage List (currently on the closed Register of the National Estate).	The Swansea Heads reserve has been degraded by uncontrolled use, but still retains significant cultural values. It is an important place for local Aboriginal people, with stories, a reburial site and middens, as well as direct access to coastal resources.
Train council operational staff in cultural awareness, the nature of Aboriginal archaeological materials and Council's responsibilities under the NPW Act 1974.	2	LMCC in consultation with Aboriginal community.	Training will reduce the risk of outdoor staff impacting on Aboriginal sites in their day to day activities.
Prepare a planting guide for Aboriginal plants to be used in Council reserves (an addendum to Council's existing coastal planting guide).	3	LMCC in consultation with Landcare and Aboriginal community.	Many local plants were economically important to Aboriginal people. A planting guide can contribute to twin goals of biodiversity conservation and cultural heritage conservation.
Prepare and implement a schedule of high priority Plans of Management where Aboriginal heritage will be a significant issue, based on Sensitive Aboriginal Cultural Landscapes and level of usage/demand.	2	LMCC and Land and Property Management Authority, in consultation with local Aboriginal community groups, Landcare and OEH.	Preparing or updating Plans of Management in order of the risks to cultural values will facilitate actions to protect important sites/places from inadvertent disturbance.
<b>COLLABORATION AND CO-ORDINATION</b>			
Aboriginal flag is flown at LMCC Council Chambers each day and/or is displayed in the Council Chambers.	1	LMCC, Councillors, in consultation with local Aboriginal community groups.	Shows respect for the Traditional Aboriginal Owners of the City.
Council meetings commence with a brief statement recognising Traditional Awabakal country.	1	LMCC, councillors, in consultation with local Aboriginal community groups.	As above

**Table 9.1 – Implementation (cont)**

<b>Action</b>	<b>Priority</b>	<b>Responsibility</b>	<b>Supporting Comments</b>
Maintain and support the Aboriginal Community Consultative Committee.	1	LMCC, in consultation with local Aboriginal community groups.	The Consultative Committee is a valuable forum for discussion of a wide range of issues affecting local Aboriginal people – cultural, social, legal, employment etc. in Lake Macquarie. Key consultative group for Council policy development affecting Aboriginal people.
Support inter-Council collaboration about Aboriginal cultural heritage issues.	2	LMCC, through Hunter Councils.	Council is keen to achieve a consistent approach to issues that are common to all local government areas in the region.
Continue and enhance existing programs with Aboriginal artists and support for major Indigenous community events.	1	LMCC community development and communications staff.	This continues Council's past commitments to Aboriginal art in public parks and support for events such as NAIDOC Week.
Maintain the position of Aboriginal Community Worker.	1	LMCC, with potential funding contributions from other State and local government organisations.	The liaison officer has an important role in smoothing communication about difficult issues.
Establish an Aboriginal cultural information co-ordinator position to facilitate smooth development assessment processes that respect the importance of Aboriginal community participation.	1	See above.	Key role for early stages of implementation of the Strategy. This role will support both council and local Aboriginal community groups during the implementation of the new assessment processes and referral, notification requirements.
Establish and implement an Aboriginal employment policy and program, extending beyond positions specifically targeted to be filled by Aboriginal people.	2	LMCC, in consultation with Aboriginal community and other State and local government organisations (Two Ways Together).	Provides encouragement for skill development in the community.

## 10.0 References

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## 11.0 Glossary

**Aboriginal community and Aboriginal community groups:** The Aboriginal community of LMCC includes a population of more than 4250 people. For the purpose of the LMCC Aboriginal Heritage Strategy, Aboriginal community groups are those which are registered with the Office of Environment and Heritage as Aboriginal stakeholders for this area.

**Aboriginal Consultative Committee:** Lake Macquarie City Council has a committee made up of representatives of the Aboriginal community in the City. The Committee meets quarterly to discuss a broad range of issues of interest and concern to an effective partnership and working relationship between Council and the Aboriginal community. The Committee's structure and membership is under review and the committee is currently not operational.

**Aboriginal Cultural Heritage Values:** The traditional values of Aboriginal people, handed down by knowledge holders in spiritual beliefs, stories and community practices. This includes local plant and animal species, places that are important and ways of showing respect for other people.

**NSW Aboriginal Land Rights Act 1983:** The *NSW Aboriginal Land Rights Act 1983* established a system of Aboriginal Land Councils in NSW. The Land Councils have responsibility to deliver a wide range of social, housing, health, legal and cultural services to Aboriginal communities in the State. The Act also provides the legal framework for Aboriginal Land Councils to make claims over parcels of unused Crown Land. Once title to this land has been granted, Aboriginal Land Councils may manage the land in the interests of the community (e.g. sell, develop or use the land to provide capital for other important services and projects).

**Aboriginal Place:** Aboriginal Places are locations that have been recognised by the Minister for the Environment (and gazetted under the *National Parks and Wildlife Act 1974*) as having special cultural significance to the Aboriginal community. An Aboriginal Place may or may not include archaeological materials. Apart from Places that have been gazetted, there are many other localities (places), which are also considered to be important by local Aboriginal communities but which have no specific protection under the *National Parks and Wildlife Act 1974*. Many of these places require consideration under the *Environmental Planning and Assessment Act 1979* when assessing the values of the land (a development site) during a development assessment process.

**Aboriginal protocols:** There are a number of important protocols about engaging Aboriginal community groups in a culturally appropriate manner. These relate to matters such as: who should be consulted in specific circumstances; how to show respect for cultural values; how to respect the traditional owners of an area; and the process to be followed. Examples of how to interact in ways that are culturally appropriate are provided in the Commonwealth Government's publication 'Ask First' and in guidelines prepared by Office of Environment and Heritage (OEH) or the Department of Aboriginal Affairs in NSW.

**Aboriginal Site:** an Aboriginal site is the location of one or more Aboriginal archaeological objects, including flaked stone artefacts, midden shell, grinding grooves, archaeological deposits, scarred trees etc.

**AHIMS:** This acronym stands for Aboriginal Heritage Information Management System. The database of known Aboriginal sites in NSW is maintained by the NSW Office of Environment and Heritage (OEH).

**Artefact scatter:** One or more pieces of flaked or edge ground stone on or within an open ground surface. Flaked stone fragments (percussion flaking) are far more common than edge ground implements such as axes. Artefact scatters may include hundreds or even thousands of stone fragments, utilising raw materials such as tuff, indurated mudstone, silcrete, chert, etc., which flake to give a sharp edge.

**Awabakal:** The traditional Aboriginal people of Lake Macquarie, the Lower Hunter River and parts of the Central Coast. Some early ethnographic reports suggest that the Awabakal people may have been the largest clan of several groups in this area. Other related clans were the Pambalong, Ash Island and Cooranbong groups. The Awabakal people (those linked to the plain (Lake or estuary)) surface) were the largest group in the area and were concentrated around Lake Macquarie and the lower Hunter River estuary. Threlkeld (1828) described the boundaries of Awabakal country as:

‘The land bounded by south Reids Mistake, the entrance to Lake Macquarie and north by Newcastle and Hunters River. West by Five Islands at the head of Lake Macquarie.’

However, other historical records and traditional stories suggest that the Awabakal people occupied much of the Central Coast and a corridor west to the Wollombi area.

**Ceremonial Sites:** Included in the Office of Environment and Heritage (OEH) AHIMS database are sites which were associated with the spiritual beliefs and activities of Aboriginal people. They may be natural places in the landscape, or they may be places where structures were made as part of particular ceremonies. Structures include bora rings, stone arrangements etc. Where there is physical evidence of the cultural structures, they may be registered and listed in the AHIMS data base. Some ceremonial sites are gazetted as Aboriginal Places, and have specific protection under the *National Parks and Wildlife Act 1974*.

**Cultural Heritage Sensitivity:** This term is used to denote not just the value of a place in the landscape to Aboriginal people, but also the vulnerability of the value. For instance, places with important spiritual values may be very sensitive because the rocks, pools or trees are easily damaged by the activities of others, or only a very few examples remain.

**Descendents of Awabakal Traditional Owners:** There are at least two families who are descendents of the traditional Awabakal people. One family is descended from Margaret and Ned, Aboriginal people who lived at Swansea and after whom Black Neds Bay and Margarets Bay are named and the other family lived and worked in the forests west of Lake Macquarie for generations.

**Development Control Plan (DCP) No. 1:** Like the Local Environmental Plan, the current DCP No. 1 for the City was adopted by Council in 2004 and revised in 2009. A new DCP is being prepared and is expected to be adopted in 2011. The DCP sets out in greater detail the processes to be followed in assessing development applications, information to be provided, consultation that must take place, etc. Whilst adopted by Council, it is used primarily as a guideline to support the Local Environmental Plan.

**DECCW:** Acronym for the Department of Environment, Climate Change and Water (now disbanded). Most of the statutory functions of the department, including administration of the *National Parks and Wildlife Act* which protects Aboriginal objects and Places in NSW, are now responsibilities of the Office of Environment and Heritage.

**DP&I:** Acronym for the NSW Department of Planning and Infrastructure (formerly NSW Department of Planning), which oversees administration of the Environmental Planning and Assessment Act 1979.



**DSEWPC:** Acronym for the Commonwealth Government Department of Sustainability, Environment, Water, Population and Communities. This Department was formerly known as Department of Environment, Water, Heritage and the Arts. DESEPC administers the Environment Protection and Biodiversity Conservation Act, which protects matters of national environmental significance.

**Elders:** Aboriginal people in the local community for whom there is great respect because of their knowledge, dignity or communication skills. These people are not necessarily the descendents of traditional Aboriginal people from the area.

***Environmental Planning and Assessment Act 1979:*** This is the principal land use planning legislation in NSW. Part 3 of the Act deals with strategic land use planning, Part 4 with general development assessment and Part 5 with development for which state or local government is the proponent (and consent is not required). Parts 3, 4 and 5 all identify Aboriginal cultural heritage values and Indigenous community issues as matters to be considered when assessing land use proposals.

**Flaked Stone Artefacts; Open Campsites or Artefact Scatters:** Percussion flaking is a method of producing small pieces of stone with sharp, utilitarian edges that can be used for a variety of purposes, including cutting and scraping, spear barbs etc. Individual flaked stone artefacts are protected under the *National Parks and Wildlife Act 1974*. Open Campsites are Aboriginal sites comprised of an assemblage of flaked stone artefacts. The artefacts may have been discarded during tool manufacturing processes, because they were broken or had lost their useful edge during use, because they were stored for safekeeping or because they were lost.

**Grinding Grooves:** Aboriginal people made a range of edge ground implements such as 'axes' and 'hatchets' (some of which were hafted – attached to a handle). The sharp edge of these tools was maintained by grinding it on sandstone outcrops, most often in stream beds where pools of water were available to wet the grindstone. Spear shafts were also sometimes shaped by grinding. The grinding sites can be identified by elongated grooves in the sandstone surface in sets of 2 to more than 100. Some portable grindstones are also reported from Aboriginal sites.

**Hunter - Central Rivers Catchment Management Authority (HRCMA):** Since 2004 Catchment Management Authorities have been the organisations with responsibility for implementing actions to ensure a sustainable future for the catchments of NSW. The HRCMA consists of seven (7) Board members and a number of staff working across the region to deliver a diverse range of services. The HRCMA has established an Aboriginal Cultural Environmental Network and also employs three (3) Aboriginal staff members.

**Hunter Councils – formerly known as Hunter Regional Organisation of Councils (HROC):** This organisation is made up of representatives of the local councils in the Hunter Region and aims to enhance communication between regional local government organisations, foster consistent approaches to issues that affect multiple councils and improve the efficiency of council operations. Lake Macquarie City Council, Newcastle City Council, Cessnock City Council and Wyong Shire Council are all members of Hunter Councils.

**Keepa Keepa:** This is the name given to a part of the Heaton State Forest that is managed under a co-management agreement by local Aboriginal community elders and State Forests NSW.

**Indigenous Land Use Agreement:** An indigenous land use agreement is an agreement between a native title group and others about the use and management of land and waters. These agreements allow people to negotiate flexible, pragmatic agreements to suit their particular circumstances. An indigenous land use agreement can be negotiated over areas where native title has, or has not yet, been determined to exist. They can be part of a native title determination, or settled separately from a native title claim.

**Integrated Development Approvals (IDA):** A development application for a proposal that requires not only development consent but a permit or licence under other pieces of NSW legislation, is processed by the consent authority as an Integrated Development Application, following procedures set out in the Environmental Planning and Assessment (EP&A) Regulations 2000. There are specific referral responsibilities and timeframes required, and the development consent will reflect the consolidated approval of all relevant agencies or authorities, through General Terms of Approval. Under IDA, separate licences or permits must still be applied for but the consent indicates that the agency is prepared to issue such a permit or licence to allow the development to operate.

**Intergenerational Equity:** One of the principles of Ecologically Sustainable Development, Intergenerational Equity requires that future generations have access to the same or better natural and cultural resources as those available to the current generation.

**LEP 2004:** The current Lake Macquarie Local Environmental Plan was gazetted in March 2004 and relates to the entire City except for the lands covered under the North Wallarah LEP 2000. LEP 2004 sets out the zoning of land in the City and the types of activities that are permitted in the various zones with or without development consent. It replaced LEP 1984, except for several parcels of 'defined' land.

**Local Aboriginal Land Councils:** Local Aboriginal Land Councils (LALCs) were established in 1983 under the *Aboriginal Land Rights Act 1983*. The Act intends to compensate Aboriginal people for loss of connection to the land, brought about by past Government actions. Land Councils are an administrative unit established to represent the interests of local Aboriginal people. They have had responsibilities for assisting local Aboriginal communities with housing, education, health, legal issues, maintenance of culture, contributions to development assessment and strategic planning etc. LALCs may make applications under the *Aboriginal Land Rights Act 1983* to have the title of unused Crown Land transferred to the Land Council. This process has resulted in the tenure of many small parcels of land (and some much larger ones) being returned to Aboriginal community ownership. Land ownership through the Land Rights Claims can provide LALCs with capital to assist Aboriginal communities to become economically self sufficient.

**Midden:** a type of archaeological site that is dominated by shell deposits. The shells may have been sourced by Aboriginal people from fresh water, estuarine or open coastline habitats. In the Lake Macquarie Local Government Area (LGA) middens show the use of estuarine and open ocean shellfish species.

**National Parks and Wildlife Act 1974:** This is the primary legislation in NSW for the protection of Aboriginal sites (almost always made up of archaeological objects) and gazetted Aboriginal Places. Section 87 of the Act requires a permit from the Director-General of Office of Environment and Heritage prior to any intrusive investigation of an Aboriginal site (e.g. test excavation). Section 90 of the Act requires a permit issued by the Director-General of Office of Environment and Heritage prior to the damage, destruction or other impacts on Aboriginal sites. This permit is generally referred to as an Aboriginal Heritage Impact Permit (AHIP).

**Native Title Act 1993:** The Commonwealth *Native Title Act 1993* was created to address the issues raised in the 1992 High Court Mabo decision. This decision recognised formally that Australia was not an empty land when European settlers arrived here, and that Aboriginal and Torres Strait people were rightful prior owners. The Act establishes a mechanism by which certain Aboriginal people, who have a direct family association with the land, may make Native Title claims over Crown Lands, provided that Native Title rights to that land have not been extinguished by other land use or legislation.

**Office of Environment and Heritage:** As of April 2011, most of the functions of the DECCW have been transferred to the new Office of Environment and Heritage within the Department of Premier and Cabinet.

**Plan of Management:** A Plan of Management is required to be prepared for Crown Land and Community Land under the *Local Government Act 1993* and the *Crown Lands Act 1989*. The Plan of Management sets out the purpose of the land, identifies any specific values or constraints associated with it and provides guidance about management to ensure that those values are sustainably managed. The NSW Land and Property Management Authority (now within the Department of Trade and Investment, Regional Infrastructure and Services) has published guidelines for the preparation of Plans of Management. The Department of Local Government has prepared a Best Practice Note on Public Land Management.

**Potential Archaeological Deposit (PAD):** Not all Aboriginal sites (scatters of artefacts) are visible on the ground surface. A PAD is an area where it is predicted that Aboriginal archaeological evidence will be present below the ground surface, in a relatively intact form, so that the vertical and horizontal distribution of artefacts reflects the ways in which they were discarded. If an area is recorded in the Office of Environment and Heritage AHIMS register as a PAD, it is protected under the *National Parks and Wildlife Act 1974*.

**Section 87 and Section 90 permits:** Approval from Office of Environment and Heritage under these sections of the *National Parks and Wildlife Act 1974* is required prior to disturbance of any known Aboriginal site (see also further information above under *National Parks and Wildlife Act 1974*).

**Spiritual Significance:** The importance of a place in the landscape that is valued by Aboriginal people because it is part of their spiritual culture. Examples include places associated with totem species or places that are the subject of traditional cultural stories (e.g. for the Awabakal people, Mount Sugarloaf (home of Puttikan) and Pulbah Island).

**Stratified Archaeological Deposits:** Aboriginal archaeological objects may be observed on the ground surface, in soil deposits and within rock shelters or caves. Where layers can be detected within the soil or sediments, which are attributable to separate depositional events in the past, the deposit is said to be stratified. In general, in the Lake Macquarie LGA, stratified deposits are now restricted to sediments accumulated in the floors of sandstone rock shelters in the Watagan Ranges. In the past, midden sites around the lake shore and along the ocean coast may have contained stratified deposits, as might open campsites along some major creeks. The integrity of these sediments and soils has been affected by 200 years of European settlement and activities such as land clearing, cultivation and construction of industrial, commercial and residential developments.

**Threlkeld:** The Reverend Lancelot Threlkeld was a Missionary to the Aborigines in the Lake Macquarie and Newcastle area in the 1820s. He lived at Belmont and Toronto, as well as operating the Ebenezer Colliery at Coal Point. His records provide diverse information about Awabakal culture in the early contact period. With Biraban, Threlkeld recorded many Awabakal words and names for places in their country and prepared an Awabakal dictionary. He also translated the Gospel of St Luke into the Awabakal language.

**Traditional Aboriginal Owners:** Aboriginal people who are listed in the Register of Aboriginal owners pursuant to Division 3 of the *Aboriginal Land Rights Act 1983*. The Registrar must give priority to registering Aboriginal people for lands listed in Schedule 14 of the *National Parks and Wildlife Act 1974* or land subject to a claim under 36A of the *Aboriginal Land Rights Act 1983*. Traditional Aboriginal (Worimi) owners of Stockton Bight are an example.

**Traditional Knowledge:** Information about the roles, responsibilities and practices set out in the cultural beliefs of the Aboriginal community. Only certain individuals have traditional knowledge and different aspects of traditional knowledge may be known by different people, e.g. information about men's initiation sites and practices, women's sites, special pathways, proper responsibilities of people fishing or gathering food for the community, ways of sharing and looking after others, etc.