

## **APPENDIX 4**

# **Prediction of Aboriginal Archaeological Site Types and Probability in Different Landscapes**

## Appendix 4 - Prediction of Aboriginal Archaeological Site Types and Probability in Different Landscapes

Terrain Unit	Predicted Site Types	Likelihood of sites occurring, likely site condition
<b>Lake Shoreline and Immediate Catchment</b>		
Foreshore bench.	<p>Midden, with or without flaked stone artefacts.</p> <p>Open campsite/artefact scatter (no shell).</p> <p>Scarred tree.</p>	<p>Midden deposits are very common (almost continuous in some areas), but likely to be heavily disturbed and may not be distinguishable from natural wave deposited shell.</p> <p>Artefact scatters are relatively uncommon (more common on lower slopes and side slopes). They will also be disturbed in most cases.</p> <p>Scarred trees were probably once common, but nearly all examples have died or been removed.</p>
Steep bedrock ramp or bluff.	<p>May have mythological significance or be associated with stories about the past.</p> <p>Artefact scatters and midden material may occur on the crest of the bluff.</p> <p>Rock shelters (with deposit and occasionally with art) may occur within the bluff/cliff.</p>	<p>Several bluffs are associated with community stories and these should be discussed with local Aboriginal community groups.</p> <p>Low to medium density scatters of artefacts are likely to occur on the crests of bluffs, particularly if fresh water is available nearby.</p> <p>Rock shelters at the lake shore are relatively rare, but do occur in appropriate geological conditions.</p>
Gentle footslope.	<p>Midden, with or without flaked stone artefacts.</p> <p>Open campsite/artefact scatter (no shell).</p> <p>Scarred tree.</p>	<p>Middens are common in natural areas and may remain beneath older residences.</p> <p>Artefact scatters are common (moderate density), but likely to be disturbed.</p> <p>Scarred trees may once have been common, but are now very rare.</p>

Terrain Unit	Predicted Site Types	Likelihood of sites occurring, likely site condition
<b>Lake Shoreline and Immediate Catchment</b>		
Alluvial deposit/delta	<p>Middens and flaked artefacts are possible, particularly on levees along the deltas of major creeks (e.g. Cockle Creek and Dora Creek).</p> <p>Burials possible.</p>	<p>Very large midden deposits once occurred in this terrain, with a diversity of estuarine shell species.</p> <p>The substrate is appropriate for burials in some locations, but none are known to occur. Generally low preservation potential.</p>
Mangrove or saltmarsh wetlands.	Middens possible, as are scarred trees.	<p>Some very old mangroves may have been used to obtain wood for bowls etc, but unlikely that these now remain.</p> <p>Midden shell is possible, but more likely to be natural deposits. Current distribution of these habitats should be checked against earlier records – conditions have often changed.</p>
Mid slopes overlooking lake shore.	<p>Scattered artefacts and middens.</p> <p>Scarred trees.</p> <p>Ceremonial sites.</p>	<p>Low density scatter of flaked stone artefacts, with edge ground implements also possible (but very rare).</p> <p>Scarred trees may have once occurred, but now unlikely.</p> <p>Ceremonial sites have been reported from this terrain, but archaeological evidence is no longer in existence.</p>
Upper slopes overlooking lake shore.	<p>Scattered artefacts and midden material.</p> <p>Scarred trees.</p> <p>Ceremonial sites if not too steep.</p>	<p>Low density scatters of artefacts are possible (generally less than five artefacts at any location). The site area is likely to have been disturbed by erosion, clearing, tracks and development.</p> <p>Scarred trees are possible, but more likely to have been removed by past land clearing.</p> <p>Ceremonial sites are possible but unlikely (check with Aboriginal community).</p>

Terrain Unit	Predicted Site Types	Likelihood of sites occurring, likely site condition
<b>Lake Shoreline and Immediate Catchment</b>		
Ridge crests of immediate lake catchment/peninsulas.	Artefact scatters.	Low density artefact scatters are possible (less than five artefacts within a site area). Likely to have been disturbed by erosion, tracks, old quarries/borrow pits.
	Scarred trees.	Scarred trees are possible but unlikely because of the extent of past clearing/pit prop logging.
	Rock shelters with deposit.	Rock shelters may occur on the steepest slopes, but are very rare.
Bed and banks of small tributary streams draining to the lake shore.	Artefact scatters.	Small scatters of flaked stone artefacts are possible, but likely to have been disturbed.
	Grinding grooves if suitable sandstone is present.	Grinding grooves (small sets) are probable if appropriate sandstone is present.
	Scarred trees.	Scarred trees possible but very unlikely.
<b>Coastal Dunes and Headlands</b>		
Lake entrance.	Ceremonial and spiritual sites.	The Lake entrance area is highly valued by the local Aboriginal community. There are good historical records of the interaction between settlers and Aboriginal people in early contact times.
	Middens. Artefact scatters.	Midden deposits are the most likely form of archaeological evidence along the shores of the entrance channel, although the entire area has been heavily disturbed, and some shorelines have been filled and reclaimed. It is possible that scatters of flaked stone artefacts will also occur in this landscape.

Terrain Unit	Predicted Site Types	Likelihood of sites occurring, likely site condition
<b>Coastal Dunes and Headlands</b>		
Swansea Heads.	Ceremonial and spiritual sites.  Burials.  Scarred trees.  Middens. Open campsites.	<p>As for the entrance area, Swansea Headland is a highly valued location, with several stories about features in the landscape.</p> <p>Several burial sites have been uncovered in elevated sand deposits. Some of the ancestral remains have now been reburied at a site in the Swansea Heads Reserve.</p> <p>Scarred trees may have occurred in this area, but no original canopy vegetation remains.</p> <p>Midden material is the most likely archaeological evidence. Stratified deposits with numerous flaked stone artefacts have been excavated in the past, but most remaining deposits can be expected to have been disturbed by development or erosion. Artefact scatters without shell are also possible.</p>
Long sandy beaches (e.g. Nine Mile Beach, Caves Beach).	Middens.        Burials.	<p>The most common archaeological evidence along sandy beaches is midden deposit, with or without stone artefacts. Originally middens may have been more extensive close to sources of freshwater, or at the mouths of estuarine creeks offering greater resource diversity. The beach and foredune country of the Lake Macquarie coastline has been subject to a range of disturbance, including sand mining and quarrying, plus four wheel drive tracks, ongoing aeolian erosion, weed invasion (and removal) and development of community facilities.</p> <p>Burials are possible in the sand deposits at the rear of beaches, if pockets of less disturbed terrain remain.</p>
Pocket beaches (e.g. Wallarah Peninsula).	Middens.        Burials.	<p>As for larger beaches, midden deposits with or without stone artefacts are the most likely site type. Some of the smaller beaches are less disturbed than the long beaches (e.g. not sand mined).</p> <p>Burials have been recorded in the sand deposits behind small beaches.</p>

Terrain Unit	Predicted Site Types	Likelihood of sites occurring, likely site condition
<b>Coastal Dunes and Headlands</b>		
Transgressive dune fields.	Middens.  Open campsites.  Burials.	Almost all of the Holocene dune deposits have been disturbed by sand extraction activities and other development. Prior to these impacts, numerous midden deposits, with a mixture of open beach and rock platform shell species are known to have existed.  Scatters of flaked stone artefacts remain possible in less disturbed parts of the sandy barrier system, particularly in association with coastal wetlands, springs and creeks.  Burials may occur in this landscape, but none have been recorded.
Coastal wetlands.	Middens.  Open campsites. Story sites.  Burials.	Coastal wetlands, particularly fresh water habitats, provided diverse food and fibre sources for Aboriginal people. Scatters of stone artefacts are known to occur around the margins of wetlands, sometimes associated with midden shell.  Some of the wetlands/freshwater supplies are associated with traditional stories.  Burials are possible in this country.
Small tributary creeks.	Middens.  Open campsites.  Grinding grooves.	May occur where the creek discharges to the sea.  As above.  As above for parts of the creek system that flow through sand based terrain. Where the creeks drain bedrock catchments, grinding grooves are possible if appropriate sandstone outcrops in the bed.

Terrain Unit	Predicted Site Types	Likelihood of sites occurring, likely site condition
<b>Coastal Hinterland (East Lake Macquarie)</b>		
Drainage lines and banks (predominantly 1 <sup>st</sup> to 3 <sup>rd</sup> order catchments).	Grinding grooves.	These creeks drain steep low order catchments. Small rock shelters are known to occur high in these catchments, and sandstone outcrops in creek beds may have been used for grinding implements, particularly if associated with a semi permanent pool.
	Artefact scatters.	Scatters of flaked artefacts and occasional ground implements may occur in this landscape. However, ground implements are very rare (most having been collected in the past).
	Scarred trees.	Scarred trees are possible on creek banks, although clearing makes this relatively unlikely.
	Rock shelters.	Small shelters occur rarely on steep upper slopes.
Slopes (generally moderately steep).	Artefact scatters.	As above. Artefact scatters are likely to be sparse and rare on steep slopes (less than five artefacts, and often only very low densities of isolated artefacts).
	Rock shelters.	Very rare.
	Scarred trees.	May have occurred in the past, now extremely rare.
Ridge crests.	Artefact scatters.	As above
	Rock shelters.	Low probability
<b>Major Creek Catchments (Lower Reaches – Estuarine &amp; Wetland Floodplains)</b>		
Floodplain wetlands – estuarine and freshwater.	Artefact scatters.	Artefact scatters, in shallow soil units, are the most likely site type. Many of these wetlands have been extensively disturbed.
	Scarred trees.	Scarred trees would have been a likely site type in this landscape but few if any remain following logging and clearing.
	Story sites.	Some of these wetlands are associated with community stories about the landscape.
Low, extended ridges and spurs.	Artefact scatters.	Scatters of artefacts are the most likely archaeological evidence in this landscape type, varying from isolated fragments to dens scatters. High density deposits are more likely to occur where low spurs are in close proximity to freshwater wetlands or creeks.

<b>Terrain Unit</b>	<b>Predicted Site Types</b>	<b>Likelihood of sites occurring, likely site condition</b>
Creek beds.	Grinding grooves.	Many creek beds in this landscape are depositional (sands and muds). However, if sandstone outcrop does occur, grinding groove sites are possible.
<b>Major Creek Catchments (Lower Reaches – Estuarine and Wetland Floodplains)</b>		
Levees and terraces.	Artefact scatters.	Levees and terraces provide slightly elevated, level terrain in this landscape, adjacent to freshwater. Artefact scatters of varying density can be expected on these terrain units where they have not already been intensively developed.
	Scarred trees.	Scarred trees are possible, but unlikely due to past logging and clearing.
<b>Major Creek Catchments (Middle and Upper Reaches)</b>		
Large scale “alluvial fan” units at base of Watagan Ranges.	Artefact scatters.	This landscape comprises steep ridges descending from the escarpment country and dissected by deeply incised valleys with accumulations of coarse alluvial sediments (gravels and coarse sands). Channels appear to accrete and incise within deeply weathered footslope units.  Artefact scatters are the most likely form of archaeological evidence. There is some potential for buried soil surfaces in this landscape.
	Ceremonial or story sites.	There are a number of community stories about pathways along major ridgelines in this landscape, plus reports of ceremonial activities on ridges and deep valleys in the footslopes of the Sugarloaf and Watagan Ranges.
Active floodplain, including floodplain wetlands.	Artefact scatters.	Streams in this area change morphology from deeply incised into footslope units to accreting alluvial fills. Artefact scatters are the most likely form of archaeological evidence. Floodplain units may now be abandoned with smaller inset deposits in some subcatchments. Some artefact scatters may be stratified.
Terraces.	Artefact scatters.	Alluvial terraces occur in some subcatchments. Artefact scatters of varying frequency and density are the most likely form of archaeological evidence, and may be stratified.
	Scarred trees.	Scarred trees (and carved trees) may have occurred in this landscape, but are now likely to be very rare.
	Burials. Ceremonial sites/story sites Ceremonial sites/stone arrangements.	It is possible that burials could have occurred in the alluvial deposits, and a large burial site was formerly reported in the West Wallsend area.  There are some traditional community stories about all elements of the landscape in the upper reaches of catchment streams. Stone arrangements have been reported in this landscape, but generally appear to have been destroyed by subsequent development.



Terrain Unit	Predicted Site Types	Likelihood of sites occurring, likely site condition
<b>Major Creek Catchments (Middle and Upper Reaches)</b>		
Major ridgelines.	Artefact scatters.	Major ridgelines provided the best routes from the mountains/escarpment to the lowlands around Lake Macquarie (and Hexham Swamp to the north). Relatively low density scatters of artefacts are the most common form of archaeological evidence. In many areas, unsealed tracks and major regional roads follow the traditional routes along ridgelines, and any archaeological evidence in such situations will have been heavily disturbed or destroyed.
	Ceremonial sites.	Ceremonial sites (stone arrangements), particularly associated with initiations, may have occurred in this terrain in the past, but little if any evidence remains.
Middle and upper slopes.	Rock shelters with deposit.	Slopes in this landscape are generally steep and rocky. It is possible that rock shelters will occur within small cliff lines or large boulder debris.
	Artefact scatters.	Isolated artefacts and occasional scatters of artefacts are the most likely form of archaeological evidence.
Creek beds.	Grinding grooves.	Multiple grinding groove sites have been recorded in sandstone creek beds, particularly where there are associated pot holes or deep pools.
<b>Mountainous Areas (Sugarloaf and Watagan Ranges)</b>		
Highest peaks (e.g. Mount Sugarloaf).	Ceremonial or spiritual story sites.	Mount Sugarloaf is associated with several important Awabakal stories and is a very significant natural feature in the landscape.
Steep sandstone debris slopes.	Rock shelters.	Rock shelters, with or without archaeological deposits and some with art, may occur in cliff lines and in large boulders on steep debris slopes. The forests of this steep country provided diverse plant and animal resources for Aboriginal people.
	Artefact scatters.	Artefact scatters may also occur, but will generally be difficult to detect.
Sandstone creek beds.	Grinding grooves.	Some very extensive suites of grinding grooves are known from sandstone creek beds in this area.
Cliff lines.	Rock shelters (with or without deposit).	As for debris slopes, rock shelters are known to occur, some with deposit and some with art.
	Rock shelters with art.	
<b>Mountainous Areas (Sugarloaf and Watagan Ranges)</b>		

Terrain Unit	Predicted Site Types	Likelihood of sites occurring, likely site condition
Lookout/vantage points (to east and west).	Artefact scatters.  Story or ceremonial sites.	The escarpment edge provides several expansive views across Awabakal territory and into the lands of other groups to the west. These lookouts are above high cliff lines. There are stories about many of these features in the landscape. Ceremonial sites and stone arrangements may have occurred in association with some locations. Otherwise, scatters of artefacts are the most likely form of archaeological evidence.  Most of this country is in National Park or State Forest management.

## **APPENDIX 5**

### **Draft Concept – Community Information Brochure**



Statement of Commitment to the Aboriginal People of Lake Macquarie City, originally prepared in 2002, the commitment was confirmed with the signing of this version in March 2008.



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.*

## Would you like to comment on the draft Lake Macquarie Aboriginal Heritage Strategy?

Council's draft Aboriginal Cultural Heritage Strategy is being exhibited for community comment during November and December 2009. 'Drop In' Information days about the strategy will also be held during that period. The locations will be advertised on the city website [www.lakemac.com.au](http://www.lakemac.com.au) and in local newspapers.

Copies of the draft Strategy can be viewed at Council offices and Council libraries across the City. A full electronic copy is also available on Council's website [www.lakemac.nsw.gov.au](http://www.lakemac.nsw.gov.au)

Your comments on the draft Lake Macquarie Aboriginal Cultural Heritage Strategy are welcome.

All comments will be considered by Council before finalising the Strategy.

Comments should be submitted in writing to:



Lake Macquarie City Council  
126-138 Main Road, Speers Point  
PO Box 1906  
Hunter Region Mail Centre, NSW 2310  
Mark your comments "Attention Mary Loder, Heritage Support Officer"

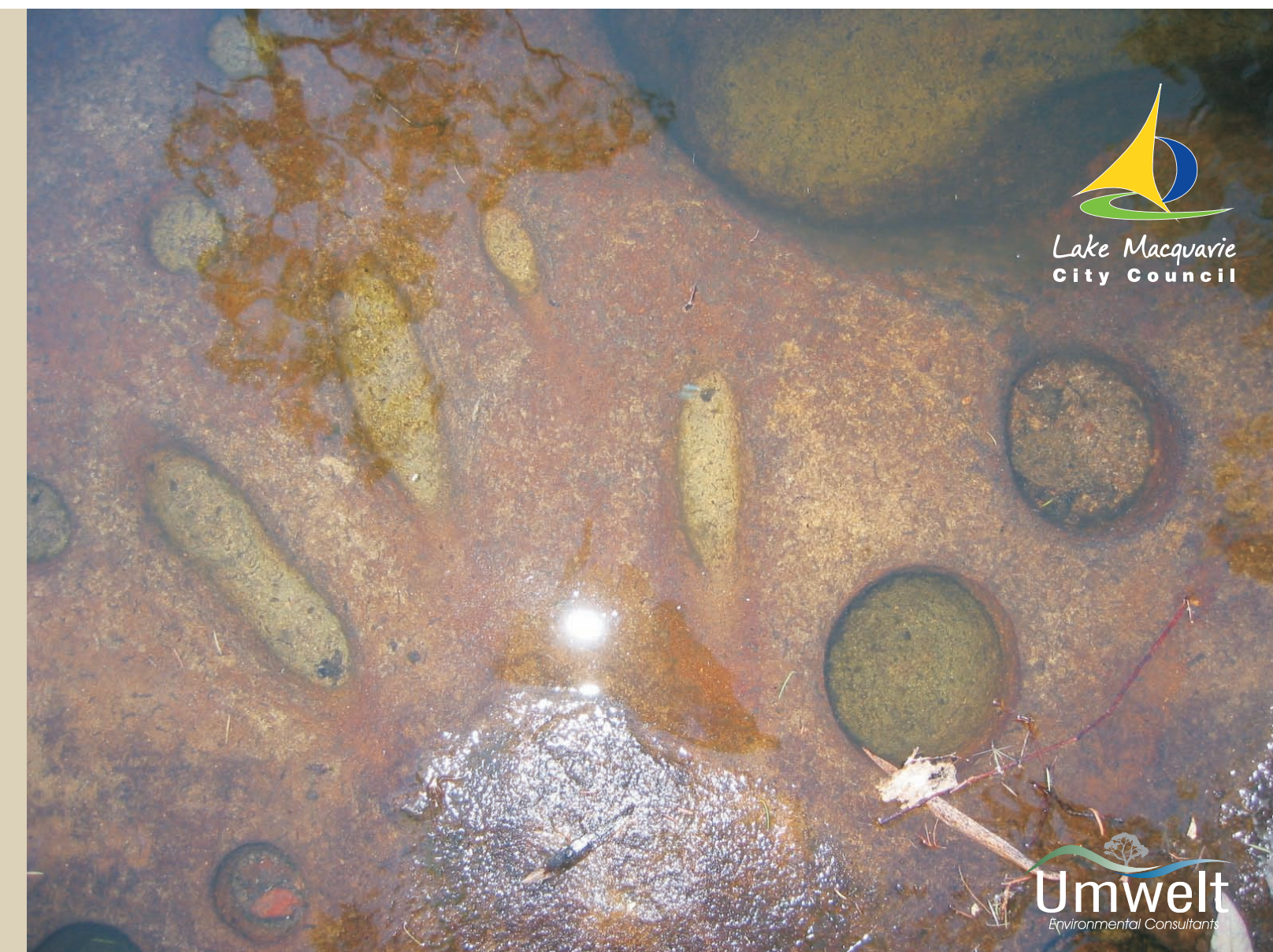
Comments should be received before 4 January 2010.

## For more information

Would you like to learn more about the Aboriginal cultural heritage of Lake Macquarie?

- ▲ Contact a local Aboriginal community group; LMCC or DECCW can provide contact details.
- ▲ Visit the display at Lake Macquarie City Council, Main Road, Speers Point.
- ▲ Contact Council's Heritage Planner.
- ▲ Contact Council's Aboriginal Community Liaison Officer.
- ▲ Watch for periodic exhibitions at Lake Macquarie City Art Gallery.
- ▲ Check the program during NAIDOC week, in July each year.

For general information about Aboriginal cultural heritage in NSW, see the Department of Environment Climate Change and Water website at [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)



OCTOBER 2009

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

## Lake Macquarie Aboriginal Cultural Heritage MANAGEMENT STRATEGY



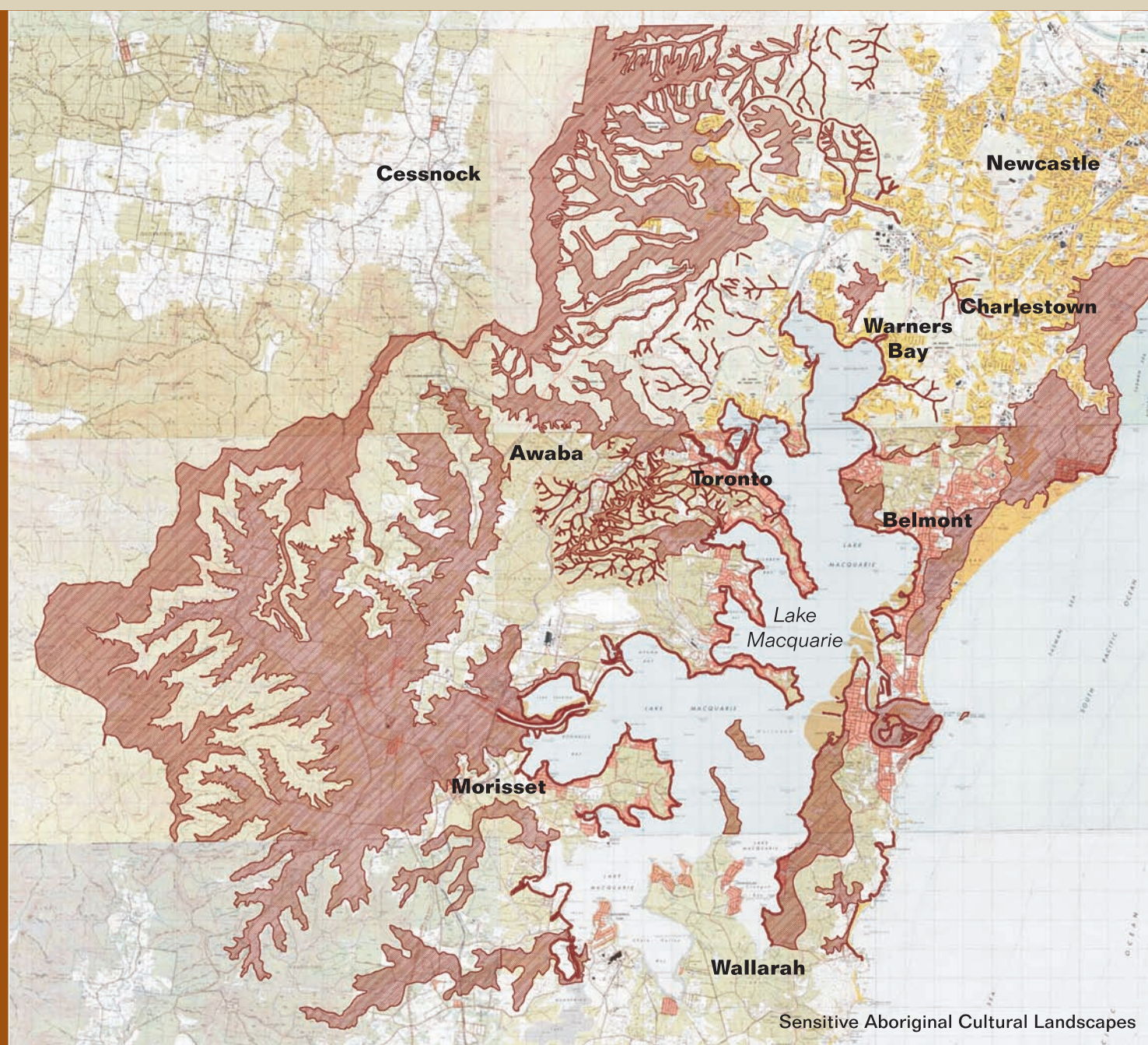
## About the Lake Macquarie Aboriginal Heritage Strategy

Lake Macquarie City Council is proud of the Aboriginal culture and heritage of the City. Council prepared a Statement of Commitment to the local Aboriginal community in 2002. Council has worked with representatives of the local Aboriginal community, through the Lake Macquarie Aboriginal Consultative Committee, to prepare a comprehensive plan to give effect to the Statement of Commitment across all of Council's activities.

The Lake Macquarie Aboriginal Cultural Heritage Strategy provides an overview of the Aboriginal cultural heritage of the City. The strategy sets out how Council will fulfil its statutory roles and will act to respect the cultural heritage values of local Aboriginal people, under the broad headings of:

- ▲ Communication about Aboriginal cultural heritage values
- ▲ Strategic planning
- ▲ Streamlined development assessment
- ▲ Managing public land
- ▲ Partnership and support

Council has mapped Sensitive Aboriginal Cultural Landscapes across the City, in consultation with Aboriginal community groups. This mapping takes into account historical records, Aboriginal community stories, traditional Aboriginal cultural knowledge about plants and animals and archaeological evidence.



## Protecting Aboriginal heritage on public land

Public land in the Lake Macquarie area is managed by Council, the NSW Land & Property Management Authority, Department of Environment Climate Change and Water (DECCW), and other public authorities, to provide for community recreation and/or conservation of important natural or cultural values.

Council recognises that land in its management, such as lakeshore reserves, often contains Aboriginal sites or culturally valuable places. Council plans to provide opportunities for increased involvement of Aboriginal people in decisions that affect the cultural heritage values on this public land. Detailed consultation protocols have been developed; Council will ensure that its outdoor staff is well trained in cultural awareness issues; Council will support the involvement of Aboriginal people in Landcare projects and Council will work with Aboriginal people to prepare signage and public artwork that interprets cultural values in reserves or along popular walking paths.

Council is also working with other councils in the lower Hunter to make sure that Aboriginal heritage issues are managed consistently.

### Is it likely there is an Aboriginal site on your property?

Aboriginal sites are the physical evidence of past Aboriginal land use and cultural activities. In the Lake Macquarie area, archaeological sites reflect the activities and spiritual beliefs of the Awabakal people. They include scatters of flaked stone artefacts (open campsites), deposits of estuarine and/or marine shells, sometimes with fish or bird bone and flaked stone artefacts (middens), grinding grooves in sandstone creek beds, scarred trees, stone arrangements, rock shelters (with artefacts, shells and/or art) and burials. Grinding grooves are common in creeks in the City, but in most areas, the most likely type of archaeological site is either an open campsite or a midden. Both site types are likely to have been disturbed by previous land use, erosion or fire.



Information about many Aboriginal sites is held in a database managed by the DECCW. Council does not currently hold information about the locations of Aboriginal sites throughout the City but is discussing options for restricted local access to the database with DECCW and local Aboriginal community groups. Council does have information about sites that are on public land, and can confirm whether your property is within a Sensitive Aboriginal Cultural Landscape. Council is considering improved notation on section 149 certificates to advise landowners that their property may have important Aboriginal cultural heritage values (archaeological sites or other aspects of Aboriginal culture).

If you think that an Aboriginal site may be present on your land, you can ask DECCW for information from their database. There is a small charge for this search. If your property is in a Sensitive Aboriginal Cultural Landscape, you should also check with Council for Aboriginal Community group contacts details.

## Information to accompany Development Applications

All known Aboriginal sites are protected by the National Parks and Wildlife Act 1974. This means that if an Aboriginal site is present on your land, you must not dig in it, remove it or otherwise disturb it without consulting local Aboriginal community groups and obtaining a permit from DECCW. DECCW has prepared guidelines about required consultation when Aboriginal sites will be affected by development.

Council is the consent authority for most new development in the City. When a development application is submitted to Council, it must show how Aboriginal sites and other cultural values of the land have been taken into account. Amendments to LEP 2004 and DCP1 will make it clear when an assessment of Aboriginal cultural values must be prepared and the types of information that must be provided. New guidelines will assist proponents.

A new Lake Macquarie LEP, due for completion in 2011, will also contain clauses to protect Aboriginal cultural heritage values.

Local Aboriginal people value the evidence of cultural continuity that is provided by archaeological sites. They are keen to have archaeological objects protected wherever possible. The presence of artefacts does not mean that a Land Rights Claim can be made. However it may mean modifying a proposed development to avoid impact on an important site, or providing an opportunity for collection of artefacts by community representatives or it may mean that the site can be temporarily buried beneath a protective cover (eg to prevent damage by vehicle traffic during construction). Solutions will be site specific, and will usually require discussion with DECCW, Aboriginal community representatives, Council and for certain developments, with Department of Planning.

## Respect for Traditional Owners of Awabakal Country

Council recognises that the Lake Macquarie area is the traditional country of the Awabakal people. Connection to the country is important to all Aboriginal people. Council appreciates the contribution that Aboriginal people make to the City's cultural diversity. Council has implemented or is considering a number of actions to show respect for Aboriginal cultural heritage values, including:

- ▲ Ongoing participation of Aboriginal people in planning and development assessment;
- ▲ Displaying the Aboriginal flag at the Council Chambers;
- ▲ Displaying the Statement of Commitment at the Council Chambers, together with a display showcasing examples of Aboriginal cultural heritage items;
- ▲ A brief statement recognising Traditional Owners at the start of Council meetings;
- ▲ Placing signage explaining Aboriginal cultural associations with 'country' in places where it will enhance the general community's understanding of Aboriginal heritage, such as in lakeshore reserves;
- ▲ Ongoing support for special events held in the Aboriginal community, which continue spiritual, cultural and social traditions;
- ▲ Involving Aboriginal community artists in the landscape design and public art in city parks. Council's Art Gallery has already established an award winning reputation for its Aboriginal art programs; and
- ▲ Employment of Aboriginal people in accordance with the 'Two Ways Together' program.





**APPENDIX 6**

**Planning Standards**

# Appendix 6 - Planning Standards

Council is currently preparing a new draft LEP in accordance with the State-wide template.

## 1.0 Preparation of New Lake Macquarie LEP (2011) – State-wide Template

Recent planning reforms in NSW require all local councils to prepare a new LEP following a standard State-wide template. In the mean time, any amendments to LEP 2004 are required to be consistent with the State-wide template.

### 1.1 Conservation Zones Refer to Protection of Aboriginal Heritage

The State-wide template includes four environmental zones:

- E1 (National Park and Nature Reserve). The objectives of this zone relate to the management of land for purposes under the *National Parks and Wildlife Act 1974*. This may include protection of Aboriginal cultural landscapes, sites and places.
- E2 (Environmental Conservation). The objectives of this zone include protect, manage and restore areas of high cultural values. Many activities are prohibited in this zone and no activities are permitted without consent. Environment protection works must be permitted in the zone.
- E3 (Environmental Management). The objectives of this zone include protect, manage and restore areas with specific cultural values.
- E4 (Environmental Living). The objectives of this zone do not refer specifically to cultural values.

No other zones have objectives that refer specifically to conservation of cultural heritage values.

### 1.2 Provisions for Heritage Conservation and Management of the Coastal Zone

Part 5 of the State-wide LEP template includes:

- Compulsory provisions for development within the coastal zone. A large part of LMCC is situated within the defined coastal zone. The objectives of the coastal zone provisions are stated to include the protection and conservation of the cultural attributes of the coast, protection of Aboriginal cultural places, values and customs and protection of items of heritage, archaeological or historical significance. Although protection of Aboriginal heritage is included as an objective, it is not specifically listed as an issue that Council must consider and be satisfied about before granting development consent.

- Compulsory provisions for heritage conservation. The objectives of this provision include conservation of *places of Aboriginal heritage significance*. The template states that development consent is required for disturbing or excavating a *heritage conservation area* that is a place of Aboriginal heritage significance.
  - A *place of Aboriginal heritage significance* is defined as an Aboriginal site (with one or more objects) or a place that has the physical remains of pre European occupation by Aboriginal people or is of contemporary significance to Aboriginal people. It can include any type of Aboriginal site (engravings, grinding grooves, middens, scared trees etc.), any natural Aboriginal sacred site or sacred feature (creeks, mountains, initiation, ceremonial sites), story places or places of contemporary significance.
  - A *heritage conservation area* is defined as an area of land shown on a Heritage Map (i.e. a map attached to the LEP) as a heritage conservation area or as a place of Aboriginal heritage significance, and listed in Schedule 5 of the LEP. It refers to any heritage items situated on or within that area.

In the Lake Macquarie City Council area, Places of Aboriginal Heritage Significance are considered to include:

- areas shown on the maps of Sensitive Aboriginal Cultural Landscapes that are part of this Aboriginal Heritage Strategy; and
- any Aboriginal site or place (whether inside or outside a Sensitive Aboriginal Cultural Landscape) that is registered in the DECCW AHIMS data base.

### **1.3 Requirements before Consent is Granted**

For Places of Aboriginal Heritage Significance, the consent authority must, before granting consent to a development:

- Consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place. The archaeological terrain maps included in this strategy (and the discussion in **Appendix 4**) show local terrain units that are likely to contain Aboriginal archaeological objects.
- Notify the local Aboriginal communities (in an appropriate manner) about the application and take into consideration any response received within 28 days after notice is sent. Notification procedures that could be included in the new LEP to meet this requirement are set out in the Aboriginal Cultural Heritage Management Strategy.

### **1.4 Exclusions from Exempt or Complying Development**

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 identifies a range of minor development activities and development types that are either permitted without consent or for which consent will be granted providing the development complies with Standard Codes.

The State-wide LEP template identifies lands where classifications of exempt or complying development do not apply. These include:



- Land that comprises or includes an item of environmental heritage (listed on the State Heritage Register or in Schedule 5 of the LEP (an inventory of properties having environmental heritage items), or subject to an interim heritage order under the *Heritage Act 1977*).
- Environmentally sensitive areas, including lands with a range of specified natural and cultural values. Land which is identified in the LEP as being of high Aboriginal cultural significance or high biodiversity significance is considered to be environmentally sensitive. Land mapped in **Figures 3.3a** (with the topographic map) and **3.3b** (with the cadastre) of the Lake Macquarie Aboriginal Cultural Heritage Management Strategy as a Sensitive Aboriginal Cultural Landscape is therefore considered to be environmentally sensitive.

## **APPENDIX 7**

# **SEPP (Exempt and Complying Development Codes) 2008**

# Appendix 7 - SEPP (Exempt and Complying Development Codes) 2008

The activities and structures listed in **Table 1**, Column 1 are considered to Exempt and Complying development in relation to the assessment of Aboriginal cultural heritage values in the Lake Macquarie City Council area, unless they are specifically excluded by a note in Column 2 .

**Table 1 - Application of Exempt and Complying Development Codes**

Column 1: Exempt Development	Column 2: Comment
Access Ramps	Acceptable as Minor Work, inclusive of zone exemption requirements.
Aerials and Antennae	
Air-Conditioning Units	
Aviaries	
Awnings, blinds and canopies	
Balconies, decks, patios, pergolas, terraces and verandahs	
Barbeques	
Bed and breakfast accommodation	
Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses	
Carports	
Clothes hoists and clothes lines	
Communications dishes (radio and satellite)	
Demolition	
Driveways	
Earthworks and retaining walls	
Farm Buildings and structures	Acceptable as Minor Work, inclusive of zone exemption requirements.
Fences (non rural) – behind the building line	
Fences (non rural) – forward of the building line	
Fences (rural)	
Flagpoles	
Fowl and poultry houses	
Home businesses, home industries and home occupations	
Home-based child care	
Landscaping structures	
Letterboxes	
Minor building alterations (internal)	
Minor building alterations (external)	
Pathways and paving	
Playground equipment	

**Table 1 - Application of Exempt and Complying Development Codes (cont)**

Column 1: Exempt Development	Column 2: Comment
Portable swimming pools and spas and child-resistant barriers	Acceptable as Minor Work, inclusive of zone exemption requirements.
Privacy screens	
Rainwater tanks (above ground)	
Rainwater tanks (below ground)	
Scaffolding	
Screen enclosures (of balconies, decks, patios, pergolas, terraces and verandahs)	
Shade structures of canvas, fabric, mesh or the like	
Skylights roof windows and ventilators	
Temporary builder's structures	
Water features and ponds	
Windmills	

**Table 2** sets out how council proposes to apply exempt and complying development in Sensitive Aboriginal cultural Landscapes, to provide a streamlined process that is consistent with the State-wide LEP template.

**Table 2 - Exempt development criteria for development in Sensitive Aboriginal Cultural Landscapes in LMCC**

Development	Zones	Caveat
All Development on Lots less than 800 m <sup>2</sup> .	<p>All zones subject to all consents including standard conditions as follows:</p> <p><i>Excavation – Aboriginal Relics</i>  <i>Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area are to stop immediately and the Office of Environment and Heritage 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>• Not within 100 metres of AHIMS site nor significant locations within the SACL.</li> <li>• Setback from DP High Water mark exceeds 50 metres.</li> </ul>
Development on lots greater than 800 m <sup>2</sup> , permit Minor Works (as per exempt works under SEPP Exempt & Complying list in <b>Table 1</b> ).	<p>All zones subject to:</p> <ol style="list-style-type: none"> <li>i. 75% site area disturbed; or</li> <li>ii. does not exceed existing disturbed footprint; or</li> <li>iii. parent lot assessed Aboriginal heritage, i.e. post 1997 consent.</li> </ol> <p>And all consents impose the following standard condition:</p> <p><b><i>Excavation – Aboriginal Relics</i></b>  <i>Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area are to stop immediately and the Office of Environment and heritage 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>• Not within 100 metres of AHIMS site nor significant locations within the SACL.</li> <li>• Setback from DP high water mark exceeds 50 metres.</li> </ul>

## **APPENDIX 8**

# **Sample Response Forms for Planning Referrals**

# **Appendix 8 - Sample Response Forms/Checklists: Referral of Development Applications to Local Aboriginal Community Groups as Listed on the LMCC Register of Groups for Consultation, or Required by OEH**

The forms presented here are indicative of the type of response from local Aboriginal community representatives that would be adequate to meet Council's requirements in relation to evidence of consultation about development applications.

These indicative forms are **not intended to be implemented without further development and review**. Refining these tools will be an early task for the proposed Aboriginal Referrals Coordinator, in consultation with Aboriginal community stakeholders, to assist with streamlined implementation of the consultation aspects of the Lake Macquarie Aboriginal Cultural Heritage Management Strategy.

# Indicative Form 1

## Request for further information after notification about a development application

### Who should use this form?

Aboriginal community groups can use this form to ask Council for more information about a development application.

### When to use this form

When Council receives a development application and Council considers that an assessment of Aboriginal cultural heritage is **not** required, (because of the location of the proposal and the exclusions noted in LEP 2004 and Exempt and Complying Development SEPP), it will **notify** relevant groups in the local Aboriginal community. Council will include the development proposal in a **list of development applications** that is forwarded to the relevant Aboriginal groups.

If the Aboriginal groups **do not agree** that no assessment of Aboriginal cultural heritage issues is required for a development, they can use this form to advise Council:

- that they would like an opportunity to comment; and
- that they would like the full application referred for their consideration.

This form must be returned to Council within 14 days of receiving it. Please provide the following information:

1. Name of Aboriginal community group
2. Name and number of development application (*this will be written on the referral from Council*)
3. Date on which notification was received.

We request a copy of the above development application, so that we can provide further comments on the Aboriginal cultural heritage values of the land.

Signature (*on behalf of the group*)





8. Are there any additional comments that you would like to make about the impact of the proposal on an Aboriginal site?

Yes

No

*If yes, please write your comments here (or attach them):*

9. Are there any other Aboriginal heritage matters that in your view should be addressed by this project

Yes

No

*If yes, please write your comments here (or attach them):*

# Indicative Form 3

## Referral of Development Applications in Sensitive Aboriginal Cultural Landscapes

### Who should use this form?

Council will send this form to local Aboriginal community groups on its register for consultation.

These groups can use the form to advise Council whether they are satisfied that they have been consulted about the assessment and management of Aboriginal sites and other cultural heritage values. Any important issues that the groups would like Council to consider in its determination of the development application can be noted on the form.

### When to use this form:

Council will send the form with a copy of the development application after it receives a **development application for land that is wholly or partly within a Sensitive Aboriginal Cultural Landscape**. (These landscapes are shown in the **Aboriginal Cultural Heritage Strategy**). The Sensitive Aboriginal Cultural Landscapes are gazetted as part of LEP 2004 (as amended).

An assessment of Aboriginal cultural heritage issues is not required for some specific development, even when it is located within a Sensitive Aboriginal Cultural Landscape. If Council considers that no assessment is required, it will notify your group about the development application, but will not refer the documents unless requested to do so (see **Indicative Form 1**).

Please return your comments to Council within 28 days of receiving the referral. You may ask for more time (see *Question 6*), but you must do so within 28 days.

If Council does not receive a response within 28 days it will assume that there are no further concerns or comments.

1. Name of Aboriginal group making this submission.
2. Name and number of the development application (*this will be written on the documents sent to you by Council*).
3. Who should Council contact if it needs to discuss your submission (*name of coordinator, chairperson etc*).
4. Date on which the referral was received.
5. Have you been consulted about this development application by the proponent or their consultant?

Yes

No

6. Has your organisation previously provided written comments about your views?

Yes

No

7. Please select one of the following:

- We are satisfied that our issues that are of concern to us have been addressed and we have no further comments.
- We require further consultation about how our concerns will be addressed in the consent conditions and as the development is implemented.
- We do not consider that Aboriginal heritage issues have been properly documented or assessed (if this is the case, **please go to Question 8**)
- We would like more time to consider this application before we provide comments. *(This will usually be an additional seven days)*

8. We do not think that the following issues have been properly addressed in the application *(from Question 7 above)*. Please select from the items below. Council, the proponent or OEHL may discuss these matters with you after your comments are received.

- An Aboriginal site known to us is located within or very near to the proposed development and has not been identified in the assessment.
- We consider that there is a high probability that an Aboriginal site (not previously recorded, or an extension of a known site) is located within or very near to the proposed development. We do not think that this potential has been properly investigated.
- We are aware of important Aboriginal cultural values relevant to this land, which have not been considered in the development application.

9. We have other comments about the impacts or benefits of this proposal for local Aboriginal people. *Please note any other comments here (or attach them)*.

## **APPENDIX 9**

# **Indicative Guidelines for Applicants**

# **Appendix 9 - Indicative Guidelines for Applicants Lake Macquarie City Council Aboriginal Heritage and Development Assessment**

This brochure provides a guide to the Aboriginal cultural heritage information that Council needs in your development application.

## **Legal Context**

All physical evidence of the Aboriginal culture of NSW is protected by the *National Parks and Wildlife Act (1974)*. The *Environmental Planning and Assessment Act 1979* requires that Council considers impacts on Aboriginal cultural heritage when assessing development applications.

## **1. What is Aboriginal Cultural Heritage and where does it occur in Lake Macquarie City?**

Aboriginal cultural heritage includes:

- The physical evidence (archaeology) of past Aboriginal occupation of the land. In Lake Macquarie, this evidence includes scatters of flaked stone artefacts, accumulations of midden shell, scarred trees, grinding grooves, rock shelter deposits and rock art and ceremonial sites. More information about each type of archaeological evidence can be found on the internet site of the NSW Office of Environment and Heritage (OEH).
- Traditional stories about places in the landscape, or the activities of ancestral Aboriginal people.
- Natural landscapes that conserve the traditional resources of Aboriginal people, or where Aboriginal people may still practice their traditional obligations to country or to elders in their community.
- Other places which are associated with the history of interactions between Aboriginal people and European settlers. In Lake Macquarie, the sites of the original Threlkeld missions to Aborigines at Belmont (Bahtabah) and Toronto (Punte) are important places.

Lake Macquarie City Council, in consultation with local Aboriginal people and the Office of Environment and Heritage, has prepared a map of Sensitive Aboriginal Cultural Landscapes. This map can be viewed at Council offices. The map shows the parts of the landscape that are considered to most likely to contain important aspects of Aboriginal cultural heritage. Individual Aboriginal archaeological sites may occur in other parts of the landscape. Information about the locations of individual Aboriginal sites can be obtained from OEH. Basic information is available on line for free, but there is a charge for more detailed information. Council may be able to provide some of this information in the future.

## 2. When is an assessment of Aboriginal cultural heritage required as part of your development application?

The Lake Macquarie Local Environmental Plan (LEP 2004, as amended) requires that an assessment of Aboriginal cultural heritage is required as part of the Statement of Environmental Effects for development applications for land which:

- is known to contain or be in close proximity to one or more Aboriginal sites; or
- lies wholly or partly within a Sensitive Aboriginal Cultural Landscape.

LEP 2004 sets out specific circumstances in which a development application in these locations would not need to include an assessment of Aboriginal heritage. These exceptions apply to Sensitive Aboriginal Cultural Landscapes and depend on the extent of previous disturbance of the land and the scale of the development. The exemptions are largely consistent with the list in the State Environmental Planning Policy (SEPP) Exempt and Complying Development (2008). Generally, all new development on bushland sites will require an assessment of Aboriginal cultural heritage, unless it is of a very minor nature.

Check the requirements of LEP 2004 and DCP 1. Council development assessment staff will advise about whether your proposed development would be exempt from an assessment of Aboriginal cultural heritage (see also **Appendix 7** of the Aboriginal Cultural Heritage Management Strategy).

## 3. What to do first

- Consider the relevant clauses of LEP 2004 and DCP 1 (these can be viewed on Council's internet site or at Council offices).
- Ask Council for advice or clarification about the location of the proposed development site in relation to Sensitive Aboriginal Cultural Landscapes.
- Look up basic site information on the OEH web site.
- If sites are within 100 metres, apply to for a more detailed Aboriginal site record search covering the proposed development site and an area up to 500 metres around it. In the future, Council may be able to provide some information.
- Check the following:
  - **Is a known Aboriginal site located on or close to (within 100 metres) of the proposed development site?** If yes, you must include an Aboriginal cultural heritage impact assessment in the Statement of Environmental Effects that accompanies your development application.
  - **Is the proposed development site wholly or partly within a Sensitive Aboriginal Cultural Landscape?** Note that a setback of 50m from the entire foreshore of Lake Macquarie is mapped as a Sensitive Aboriginal Cultural Landscape. If the proposed development is within a Sensitive Aboriginal Cultural Landscape, then consider:
    - Is an Aboriginal site known to be present? If so, an assessment of Aboriginal cultural heritage is required (see **Item 4** below). **If a known site is not present, then consider:**

- Is the development exempt development? To confirm this, check:
  - o The size of the allotment on which the development is proposed. If the allotment is less than 800 square metres, an Aboriginal cultural Heritage Impact Assessment is not required.
  - o The schedule of exempt development for Aboriginal heritage assessments
  - o The extent of disturbance – has more than 75% of the proposed development site been significantly disturbed by existing development? If so, then an assessment of Aboriginal cultural heritage is not required. You should include photographs of the development area in support of your claim.
  - o Does the development exceed the existing development footprint – if not, then an Aboriginal Heritage Impact Assessment is not required.
  - o Has an assessment of Aboriginal cultural heritage already been conducted for this land and approved by OEH (e.g. for a subdivision application preceding the development application for the individual allotment)?

Provide a clear statement in the development application about whether or not an assessment of Aboriginal Cultural Heritage is required, and the basis of that decision.

#### **4. What to include in an assessment of Aboriginal cultural heritage**

Lake Macquarie City Council has three aims when considering Aboriginal cultural heritage information in development applications:

- to ensure that the relevant Aboriginal people in the city have had an opportunity to comment on the potential impacts of the development on Aboriginal cultural heritage values;
- to ensure that Council has sufficient information about the significance of any Aboriginal site or other value to make a proper determination and apply appropriate consent conditions; and
- to ensure that development applications that affect known Aboriginal sites are referred to OEH as Integrated Development Approvals, so that OEH can provide advice about its requirements before consent is granted.

OEH provides detailed guidelines about how an assessment of Aboriginal cultural heritage should be conducted (these can be obtained from OEH's website, [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)). These assessments are usually conducted by a qualified archaeologist. Qualified Consultants with local experience can be found in the Yellow Pages.

As a guide, if an assessment of Aboriginal cultural heritage is required as part of your development application, it should include the following information. A qualified archaeologist can provide specific and detailed advice.

- A description of the location, nature and condition of any Aboriginal site that is situated within or adjacent to the proposed development area. This description must also consider Potential Archaeological Deposits (places where Aboriginal artefacts are likely to be present beneath the ground surface). This is based on a surface survey, which may be supplemented by subsurface investigation (a permit is required from OEH before this can occur). The assessment will include a statement of the significance of the site(s).



- A clear statement about whether and how the development will impact on any known Aboriginal sites or deposits. Will a s90 (Aboriginal Heritage Impact Permit - AHIP) application be required from OEH?
- A description of how consultation with the relevant representatives of the local Aboriginal community has been done and the views expressed during that consultation. Generally, the development application should be accompanied by letter from the relevant Aboriginal people/groups (or as a minimum clear evidence of the consultation opportunities that have been provided). OEH has issued detailed guidelines about best practice consultation requirements. Council requires evidence of consultation with relevant Aboriginal community groups in accordance with the OEH guidelines. Within Sensitive Aboriginal Cultural Landscapes, your documentation must address the management of both archaeological issues and other aspects of Aboriginal cultural heritage values.
- A clear statement about how potential impacts on Aboriginal cultural heritage values will be avoided or mitigated. These management measures must be discussed during consultation with local Aboriginal people.

## 5. Assessing your application

When Council receives your development application, the planner will check the following:

- whether a known Aboriginal site will be affected (damaged, defaced or destroyed). If so, Council will refer the application to OEH for their comments and requirements. This is Integrated Development;
- whether the application relates to a place wholly or partly within a Sensitive Aboriginal Cultural Landscape;
- the justification of your statement about whether an Aboriginal cultural heritage assessment is required. If you have not submitted an Aboriginal cultural heritage assessment, and Council does not agree with your statement of justification, Council will provide written advice that an assessment is required. The assessment must be submitted before Council will process your development application; and
- whether the application includes evidence of consultation with the relevant local Aboriginal community groups.

Council will then do the following:

- Council will notify or refer the application to the local Aboriginal community, depending on whether or not an assessment of Aboriginal cultural heritage is required. The notification or referral will include a standard response form, to assist a timely response, that meets Council's information needs;
- the planner may inspect your development site; and
- Council will consider advice from OEH and the relevant local Aboriginal community representatives when determining the development application. Council may seek additional information from you to clarify how any issues of concern will be addressed.

## 6. Timeframes

When a development application is referred to OEH as Integrated Development, OEH has a maximum of 40 days to respond (Council will explain the relevant time frame if a referral is required). If OEH has not responded within this period, Council may proceed to determine the application.

When Council **notifies** the local Aboriginal community groups about a Development Application (provides a list of Development Applications that Council considers **do not** require an assessment of Aboriginal cultural heritage values), the groups have 14 days to respond, using a standard form, if they require more information.

When Council refers a Development Application to local Aboriginal community groups, Council requests a response, using a standard form:

- within 28 days of the group receiving the referral and form, if the development **is not in** a Sensitive Aboriginal Cultural Landscape; and
- within 28 days of the group receiving the referral and form, if the development **is within** a Sensitive Aboriginal Cultural Landscape.

Council will then proceed to determine the development application.

## 7. Further information

Council provides a Duty Officer to assist applicants with their inquiries about development assessment matters. The Duty Officer is available at the Customer Service counter during business hours, Monday to Friday. For inquiries about applications after they have been submitted, contact the relevant assessment planner at Council, on 02 4921 0333.

Information about Council plans, policies and guidelines can be obtained from Council's internet site, [www.lakemac.com.au](http://www.lakemac.com.au). Other information about Aboriginal heritage management issues can be obtained from the OEH internet site, [www.environment.nsw.com.au](http://www.environment.nsw.com.au).

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