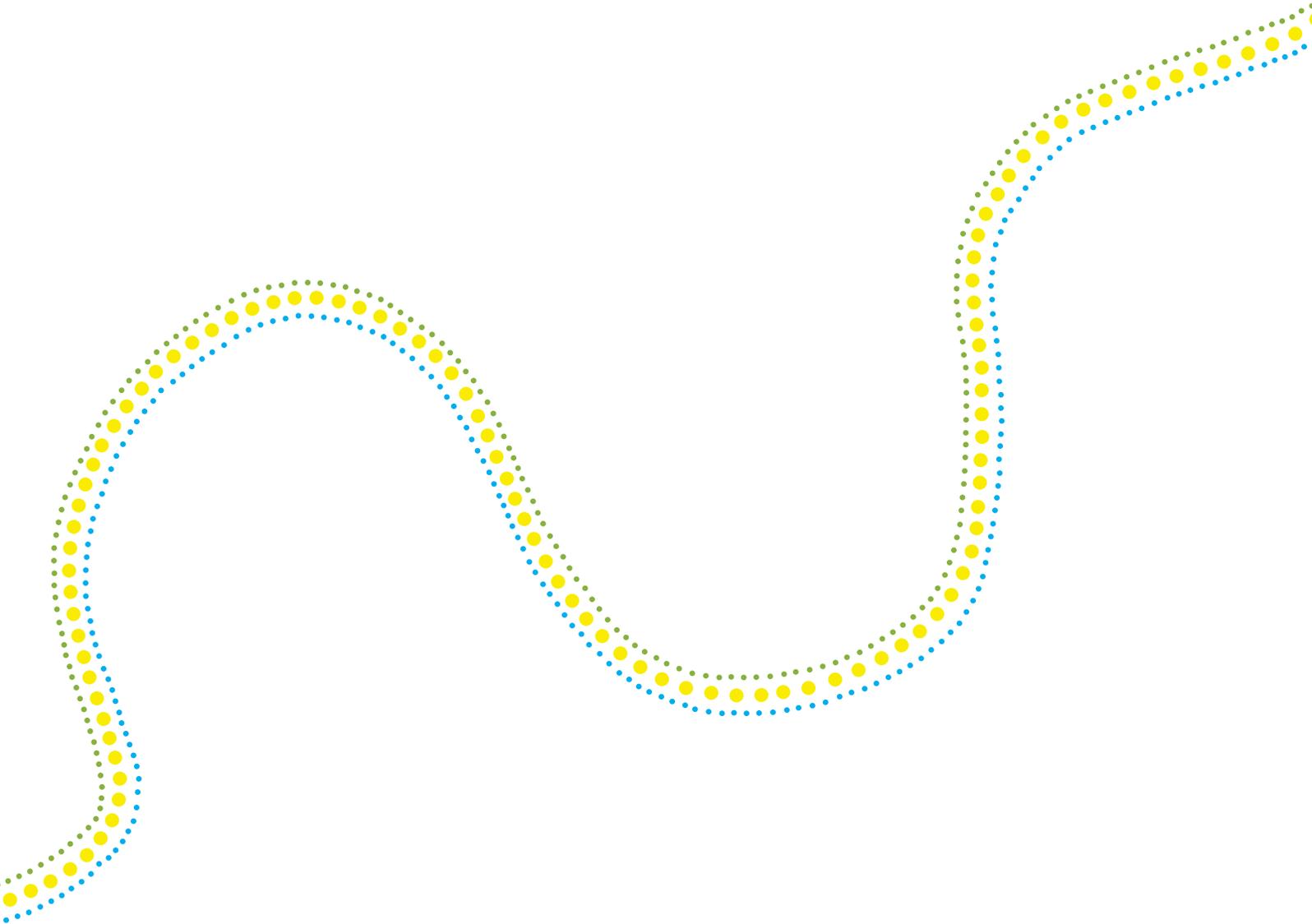
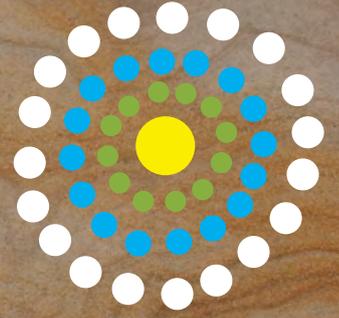


PART B
Developing the Toolkit



6. FORMULATING THE TOOLKIT, LIMITATIONS AND CONSTRAINTS

6.1 Formulating the Toolkit

Formulation of the Aboriginal Cultural Heritage Management Development Assessment Toolkit (“the Toolkit”) (undertaken by Gondwana Consulting Pty Ltd of Sydney) was overseen by a Steering Committee comprising representatives from the following organisations:

- the three participating councils – Shellharbour City Council (project sponsor), Wollongong City Council and Kiama Municipal Council;
- neighbouring councils – Shoalhaven City Council and Wingecarribee Shire Council;
- the Illawarra Local Aboriginal Land Council;
- Office of Environment and Heritage;
- Department of Aboriginal Affairs;
- Southern Rivers Catchment Management Authority;
- Roads and Traffic Authority (now Roads and Maritime Services); and
- the Local Government and Shires Association.

A smaller Project Team, comprising officers from Shellharbour City Council, provided input and direction between Steering Committee meetings.

The four major strands that came together in the Toolkit’s preparation, as shown in Figure 11, were as follows.

1. *Legislative Framework and Requirements*

Summarise the legislative framework and requirements – Commonwealth, State and Local – around Aboriginal cultural heritage consultation, planning and management/protection as applicable to local government and its planning and development control powers or responsibilities. Undertaken to establish the current legal operating framework, obligations and limitations within which the Toolkit must operate. Relevant Aboriginal cultural heritage legislation is further detailed in Section 5.

2. *Current approaches and best practice models in local government Aboriginal heritage planning*

Undertake a web-based investigation of current local government approaches to Aboriginal cultural heritage consultation, planning and management/protection across all New South Wales local government authorities – as well as targeted research into interstate approaches. Successful local government models and other examples showing potential for adaptation or incorporation into the Toolkit’s approach, as well as the “lessons learnt” by other councils, were followed up by e-mail and telephone. A selection of the more effective approaches that other local councils use to better address the consideration of Aboriginal cultural heritage values in the development assessment process are provided in Appendix I.



Figure 11 Four major strands in the Toolkit's preparation

3. *Community consultation, engagement and inputs*

Community consultation, engagement and input were identified as an important part of the Toolkit's preparation – to ensure that the approach developed was practical and met the “real world” needs of those stakeholders who were likely to have the greatest involvement with the Toolkit's implementation. The Aboriginal community, local developers/proponents, Council staff (notably planning, heritage and development assessment officers) as well as the wider community were all targeted for consultation and engagement efforts. The Community consultation and engagement measures undertaken during the Toolkit's preparation are described in Section 6.2 below.

4. *Aboriginal cultural heritage sites/values of the Shellharbour, Wollongong and Kiama areas*

Overview the readily available information regarding the known or documented Aboriginal cultural heritage assets/values of the study area (including known sites and landscape sensitivity analysis) – to gain an appreciation of the types of sites and cultural heritage features that the Toolkit must accommodate. Further discussion of the data sources used and an overview of the study area's Aboriginal cultural heritage assets/values are provided in Section 4.

6.2 Community Consultation and Engagement

Community consultation, engagement and input were seen as important elements in the Toolkit's preparation. Consequently considerable efforts were made to ensure that identified stakeholders and

the wider community were aware of the Toolkit project and had the opportunity to contribute their ideas, suggestions and concerns to its preparation.

At the outset of the project a “Consultation Plan” was prepared to set out the approach, and specific actions (including preferred methods of stakeholder consultation), to be followed to ensure engagement with stakeholders and the wider community during the Toolkit’s preparation. The Plan focused on the following consultation and engagement areas:

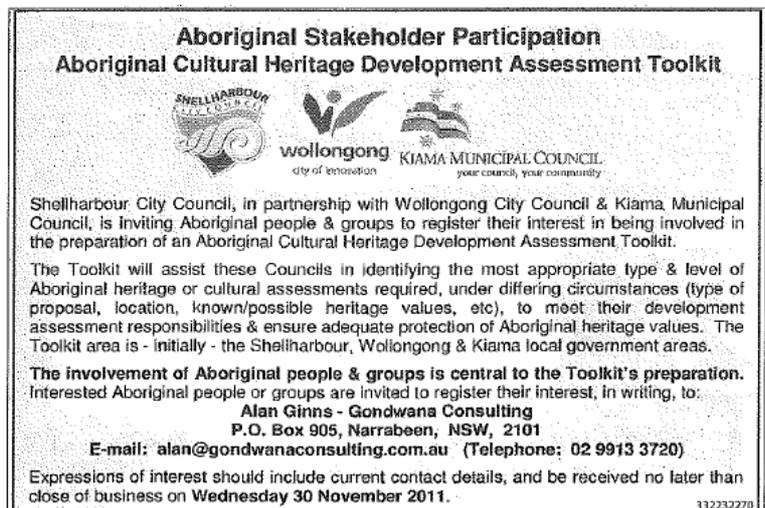
- informing stakeholders of the Toolkit’s development;
- seeking information from stakeholders to assist in the Toolkit’s preparation; and
- involving stakeholders in preparation of the Toolkit, where appropriate.

Consultation with the Aboriginal community, possible project proponents or developers, and the wider community was hoped to feed into the Toolkit’s development. Council staff were identified as a key stakeholder group. Several rounds of discussions were held with planning, heritage and development assessment staff from the three participating Councils – both as discussions with individual staff as well as in groups/meetings or workshops.

6.2.1 Awareness Raising Measures

The following measures were undertaken to promote awareness of the Toolkit project.

- ❑ “Project Pages” promoting and giving background information about the Toolkit project (objectives, intended function, potentially interested/affected parties and stages in its preparation) were placed on all three Councils’ websites (during November and December 2011).
- ❑ Advertisements promoting the Toolkit project and inviting Aboriginal people or groups to register their interest in the project were run in all local print media (“Illawarra Mercury”, “The Shellharbour Advertiser”, “The Kiama Independent” and “The Lakes Times”) as shown in Figure 12 (November 2011) and in “The Koori Mail” (November 2011).
- ❑ Media coverage, including – a media release and local print media article (November 2011), a WinTV news story (December 2011), and a feature on Koori Radio (December 2011).
- ❑ Availability of an “Information Sheet” (a double-sided colour A4 sheet, as included at Appendix J) setting out the Toolkit project background, what the Toolkit will do, how can people be involved in the Toolkit’s preparation, and where/how to get more information.
- ❑ A foyer display at Shellharbour City Council office, and promotional posters (A3) in Council and Aboriginal organisation venues (February and March 2012).



Kiama Independent, Wednesday, November 9, 2011 5

Figure 12 Project advertisement, “The Kiama Independent” (9 November 2011)

6.2.2 Aboriginal Community Consultation

Letters outlining the project, an invitation to be involved in the Toolkit's preparation plus background information were sent to all known Aboriginal groups across the Illawarra (during November and December 2011), including:

- the Illawarra Local Aboriginal Land Council;
- Tribal Elders Groups;
- Aboriginal Corporations;
- The Sandon Point Aboriginal Tent Embassy;
- selected Housing Corporations; and
- Aboriginal site managers/consultants.

Presentations or in-person briefings were also provided to the following Aboriginal groups, with feedback received as part of these briefings/discussions:

- the Illawarra Local Aboriginal Land Council;
- Illawarra Aboriginal Community Base Working Group (on two occasions);
- the Shellharbour City Council Aboriginal Advisory Committee; and
- the Wollongong City Council Aboriginal Reference Group.

The Shellharbour City Council Aboriginal Community Liaison Officer was also active in promoting the Toolkit among the Illawarra Aboriginal community.

Three Aboriginal people, one Aboriginal organisation and a local museum also responded to the Toolkit's media advertisements and call for interested Aboriginal people and groups.

Follow-up contact – by e-mail, telephone and mail – was made with all Aboriginal groups/organisations approached to contribute to the Toolkit's preparation as well as those people and groups who had registered an interest in the project.

6.2.3 Proponents/Developers Consultation

Advisory/information letters or e-mails and background information, outlining the project and inviting input to the Toolkit's preparation, were sent to selected property developers or businesses involved in the land development process (January and March 2012). Recipients were mostly selected by planning or development assessment staff at Shellharbour and Wollongong City Councils on the basis of being "medium size" developers or applicants who would be likely to have greatest contact with the Toolkit (based on previous development application/assessment dealings with these councils).

Similar letters or e-mails were sent to the Urban Development Institute of Australia (NSW) and Australian Institute of Architects (NSW Chapter) as peak industry bodies.

Only two expressions of interest to obtain updates or further information regarding the Toolkit, or to provide comment/input on its preparation, were received.

6.2.4 Wider/General Community

To support the A4 "Information Sheet" a more detailed 4 page project information paper (two double-sided colour A4 pages, as included at Appendix K) was prepared to use in promoting the project to interested community members/stakeholders. This longer paper set out why a Toolkit is needed, what the Toolkit will do, the Toolkit benefits, how the Toolkit is being prepared, community

consultation and involvement, a conceptual model of how the Toolkit could work, and how to have your say or get more information.

In addition to the foyer display in the Shellharbour City Council offices a series of three staffed information kiosks or displays were held at popular local markets during (February 2012). One information kiosk/display was held in each of the participating local Council areas, as follows:

- at the Kiama Seaside Markets, Sunday 19 February 2012 (Figure 13);
- at the Wollongong Produce and Creative Traders Markets, Friday 24 February 2012 (Figure 13); and
- at the Rotary Markets Shellharbour, Sunday 26 February 2012.

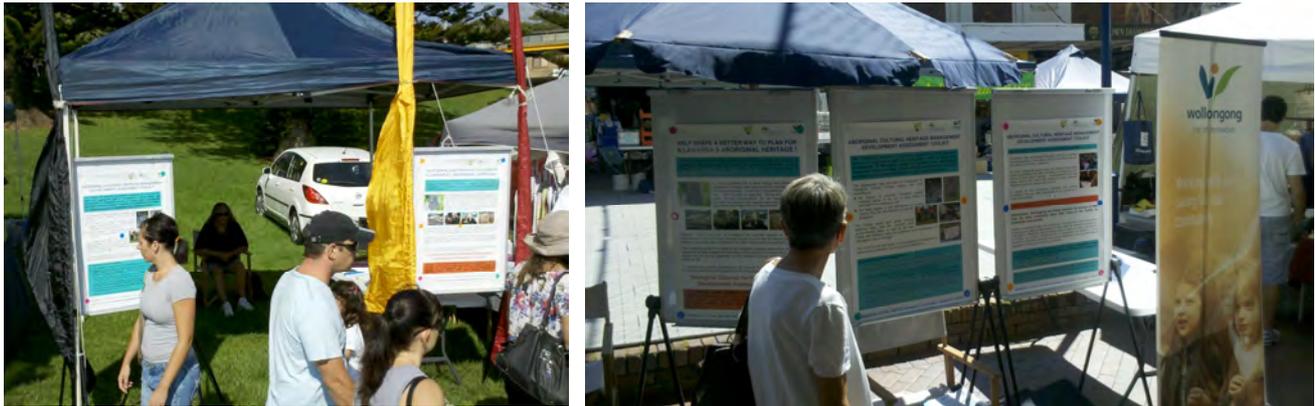


Figure 13 *Staffed information kiosks/displays promoting the Toolkit’s preparation at the Kiama Seaside Markets (left) and Wollongong Produce and Creative Traders Markets (right)*

Despite all three markets being well attended interest in the Toolkit was subdued, with only occasional inquiries from market-goers and just over 60 information handouts being taken in total.

6.2.5 Inviting Stakeholder Review of the Draft Toolkit Report

Following review and approval through the Steering Committee, the Draft Toolkit was provided to all stakeholders (organisations, companies and individuals) who had previously been contacted, advised of the project or received a briefing, or had expressed an interest in the project.

Copies of the Draft Toolkit Report (V4) – in CD format – as well as a covering letter inviting comments or feedback on the Draft were sent to the following 49 stakeholders in late November 2012:

- Aboriginal groups/organisations (12);
- mid-size local developers, and other land development sector stakeholders (14);
- community interest groups (18); and
- respondents (individuals and organisations) to the projects “registration of interest” advertising (5).

The Draft Toolkit was also reviewed, accepted and supported by the Shellharbour City Council Aboriginal Advisory Committee during this stakeholder comments period (with the exception of the representative from the Illawarra Local Aboriginal Land Council, who reiterated the LALC’s concerns regarding the Toolkit – see below).

Stakeholder comments or feedback were requested by close-of-business on Monday 17 December 2012. However no responses were forthcoming before this deadline, or prior to the Toolkit's finalisation (V5).

6.2.6 Outcomes of the Community/Stakeholders Engagement Efforts

Overall the level of interest, engagement and input to the Toolkit project from the Aboriginal community and organisations, property developers and the wider community was limited.

The notable exceptions to this were the internal Council stakeholders were actively involved in shaping the Toolkit and the Illawarra Local Aboriginal Land Council.

The Illawarra Local Aboriginal Land Council expressed its concerns regarding, and strong opposition to, any reduction in consultation with Aboriginal people or organisations – and any reduction in liaison with, and referrals to, the Land Council in particular – and their involvement in the development assessment process. The Land Council argued strongly for an expansion of its present role in providing advice, and when required site inspections and reports, for those development applications that Councils now refer to the organisation for comment regarding Aboriginal cultural heritage sites/values. The Land Council recommended that considerably more, if not all, development applications should ideally be referred to the Land Council who would act as a “one stop shop” for providing or arranging Aboriginal community input to the development assessment process.

In reviewing the Toolkit's stakeholder consultation measures, a number of possible reasons may be responsible for the overall limited levels of engagement. These might include:

- the Toolkit's implications for other stakeholders may not have been adequately explained, resulting in it being perceived only as an internal Council tool/process;
- the engagement measures were poorly targeted, particularly the wider community consultation and information efforts;
- potential participants had other, higher, priorities or were suffering consultation “burn-out”;
- the Toolkit concepts were too technical or “unapproachable”;
- the engagement efforts were premature, commenting on a draft product is easier than being involved in developing a methodology or concept from the outset; and
- the problem/issue that the Toolkit was intended to address were not made clear, so stakeholders saw no perceived problem (the “if it's not broken, don't fix it” viewpoint.)

6.3 Challenges, Limitations and Constraints

A number of fundamental challenges were encountered in the Toolkit's preparation, as well as other factors that acted as limitations or constraints on the final methodology developed and its applicability.

6.3.1 Defined Scope and Application

The Toolkit is intended to operate as part of the development assessment process – to aid councils to identify and apply the most appropriate type and level of consideration of Aboriginal cultural heritage values when assessing a development application.

This defined scope and application, targeted at the development assessment level only, means that many minor developments, works or activities are not “captured” by the standard development

assessment process and hence the Toolkit's guidelines will largely not be applied. Although there is some attempt in certain Toolkit steps to address "exempt" and "complying" developments, the practical likelihood is that most such works will not be subject to application of the Toolkit's recommended assessments.

The recommendation that the participating councils develop an information brochure regarding Aboriginal cultural heritage site identification, legislative protections for Aboriginal sites/objects, stop-work obligations and reporting procedures (as have been developed by several other councils) for distribution to people intending to undertake such minor or non-assessable works is an attempt to address this short-coming.

Designated developments (as listed in Schedule 3 Designated Development of the *Environmental Planning and Assessment Regulation 2000*) and major projects (such as broad-acre subdivision and residential development precincts) are typically subject to a separate/integrated assessment and approval process. Separate, often detailed, investigations of Aboriginal cultural heritage values are typically part of the planning and assessment process for such major proposals. This usually occurs outside the routine Council-driven development approval process, and hence is beyond the intended scope of this Toolkit. However the Toolkit does provide a mechanism for ensuring that Aboriginal cultural heritage values are addressed in subsequent site or development specific approval processes where these are devolved to a local Council within the overarching project approval framework.

6.3.2 Cultural Heritage Data Availability and Confidentiality/Sensitivity Constraints

The Toolkit is heavily reliant on access to Aboriginal cultural heritage information. As a planning tool it is very data dependent. In its "public" or first assessment/decision stage – that is, in determining if further Aboriginal cultural heritage investigations are warranted – the Toolkit is reliant on published or publicly available (and preferably mapped) information about the location and nature of Aboriginal cultural heritage features and values. This is a constraint common to all other procedures developed by local councils for addressing Aboriginal cultural heritage in the development assessment process.

Aboriginal cultural heritage information mapping, data confidentiality and information access/use limitations are key issues and constraints around the inclusion of Aboriginal cultural heritage values into the legislative land use planning and assessment process. There can exist varying levels of Aboriginal cultural heritage data sensitivity and confidentiality, such as:

- information acceptable for public use;
- information permitted for limited or controlled access/use;
- information not to be mapped;
- information that cannot (usually) be divulged to non-Aboriginal people; and
- withheld cultural information.

Some ways other local councils, and other agencies such as the Office of Environment and Heritage (OEH), have explored, and applied with varying degrees of success, to map or present sensitive Aboriginal cultural heritage data in the planning process include:

- differentiated map layers and accessibility – in-house Council use (specific) versus public data (generalised);
- secure GIS layers, with controlled access/use protocols for internal Council use only;
- "proximity mapping" (ie. plotting a radius, "halo" or zone containing the feature but not identifying a pin-point site) for listed heritage sites/areas and significant features;
- recording listed heritage sites and significant areas by lot/portion number only, in publicly accessible information;

- tiered or layered mapping of progressively diminishing refinement/detail – listed/known sites, sensitivity assessments and over-arching cultural significance areas or connections; or
- mapping confidential areas of significance as “Aboriginal community consultation required”, but not identifying discrete locations or values.

However divulging cultural heritage data can also be perceived as “removing” Aboriginal people from the planning process, or the loss of ownership and control of cultural information, and reducing the requirements for or importance of consultation with Aboriginal people or organisations (as demonstrated by the short-comings/criticisms of the OEH “due diligence” process).

Cultural heritage data confidentiality constraints also may not allow for early involvement by Aboriginal stakeholders or the inclusion of Aboriginal cultural heritage data at the plan-making stage. This can increase the prospect of Aboriginal cultural heritage issues only emerging at the development assessment (or development) stage – and hence risk being perceived as obstructionist or confrontational issues.

The Toolkit has been developed within the constraints of the available Aboriginal cultural heritage information for the three participating Council areas – as summarised in Section 4. Performance and effectiveness of the Toolkit will improve as Aboriginal cultural heritage data sets for the study area are combined, integrated and expanded/updated. A major initiative to support the Toolkit’s application, and effectiveness, would be for each of the participating Councils to draw together the available Aboriginal Heritage Information Management System (AHIMS) data, and combine this with the site records taken from the numerous disparate Aboriginal cultural heritage studies undertaken (for rezoning, development application and other purposes) across a Council area, to form a single integrated Aboriginal cultural heritage sites data set. Such an integrated data set would also benefit greatly from the review and inputs of the local Aboriginal community – especially with regard to site sensitivities and confidentiality requirements. (Ideally each Council should enter a data licence agreement with the OEH to have access to the AHIMS data for the respective Council area, with annual updates. Such broad-area AHIMS access requires the agreement of the Local Aboriginal Land Council for the OEH to provide this information.)

The amount and level of detail of information about known, and potential locations of, Aboriginal objects and tangible sites varies across the three Council areas – as discussed in Section 4. Shellharbour City Council has a reasonably recent (2000) and comprehensive Aboriginal Heritage Study which includes detailed predictive modelling about the likely occurrence of sites in different landscape settings. The Wollongong City Council area is covered by an older (1995) and more generalised Aboriginal Heritage Study with broader predictive modelling. Kiama Municipal Council has, to-date, only limited Aboriginal heritage data specific to that local government area. These variations in base data have been built into the Toolkit, as effectively as possible. However the tenet remains, the better and more reliable base data that can be applied then the more effective and reliable will be the Toolkit’s resulting assessments/directions. A precautionary approach can, and should, be applied in the absence of reliable data.

In this initial version of the Toolkit, data constraints have also meant that cultural landscapes and intangible heritage places have been able to receive cursory treatment only.

6.3.3 Aboriginal Community Involvement

A fundamental question in shaping the Toolkit was – at what stage to specify Aboriginal community involvement or input ?

The Toolkit identifies the value of liaison with local Aboriginal people or organisations, as an initial contact for advice, at the very outset of the process – at Step 1 to identify any known cultural places/landscapes, and at Step 2 to identify any Aboriginal cultural heritage sites/objects at the

proposed development site in question. These early approaches may be at the discretion, on a case-by-case basis, of the assessment or heritage officer dealing with the development application. However involving members of the local Aboriginal community as/when necessary early in the Toolkit process is recommended – to both increase the reliability of decision-making around the type and intensity of any cultural heritage investigations warranted, as well as to identify those sites considered by Aboriginal people to not warrant further cultural heritage investigation (enabling their “removal” early in the Toolkit’s application). Regular advice and input from Aboriginal people or organisations regarding when, where and what type of cultural heritage investigation is required will also help build a Council’s knowledge and data base of the sensitive locations where greater attention to Aboriginal cultural heritage sites/objects and values is warranted when processing future development applications.

The Toolkit specifies that consultation with local Aboriginal people or organisations is a requirement when undertaking a Level 1 Assessment (a Preliminary Aboriginal Cultural Heritage Investigation) and an essential part of a Level 2 Assessment (an Aboriginal Cultural Heritage Assessment) (refer to Section 2.3).

The Toolkit does not specify a single or preferred Aboriginal community contact point for development assessment cultural heritage advice/assistance. It was felt more appropriate to leave this open or generalised – referring only to “appropriate” local Aboriginal organisation/s or knowledge holders – to avoid being overly prescriptive and provide the opportunity for maximum involvement and input across the local Aboriginal community in the development assessment process overall. Not excluding individual Aboriginal knowledge-holders, who may not be part of an organisation or Aboriginal enterprise, from contributing to the Toolkit’s application was also seen to be desirable.

This approach is also consistent with the directions of the then Department of Environment, Climate Change and Water’s (now the Office of Environment and Heritage) *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*. This guideline promotes an extensive and inclusive approach to Aboriginal community consultation noting that, despite their “statutory functions relevant to the protection of Aboriginal culture and heritage under the NSW Aboriginal Land Rights Act 1983” Local Aboriginal Land Councils do not have “any additional or specific decision-making role in the assessment of significance of Aboriginal object(s) and/or place(s)”. Instead these guidelines suggest that Land Councils “may choose to register an interest to be involved in the consultation process, or may assist registered Aboriginal parties to participate in the consultation process established by these requirements” and encourages Land Councils “to identify and make contact with Aboriginal people who hold cultural knowledge in their area”.

6.3.4 Process Issues

As well as operating in compliance with the relevant State and Commonwealth legislation – as described in Section 5 – the Toolkit has to describe a practical approach that is compatible with Councils’ current development assessment procedures.

Significantly the Toolkit and its application has been shaped to not unduly extend the time required by a Council to process a development application (where no Aboriginal cultural heritage issues of note emerge during the assessment process).

The Toolkit also has to be “user friendly”, both for Council staff and more importantly for the general public – ensuring that the basic assessment steps, and the data and level of knowledge required, are accessible and suitable for the layperson and not onerous or expensive for entry level assessments. These requirements are further discussed in Section 3 in relation to designing the Toolkit in a format suitable for inclusion in a Council’s Development Control Plan.

6.3.5 Proposed Legislative Changes

The NSW Government is at present undertaking a broad reform of the State's Aboriginal heritage legislation with the prospect of developing stand-alone legislation for Aboriginal cultural heritage matters.

The objectives of the possible legislative changes are stated as to:

- recognise and delineate the role of Aboriginal people in the management of their culture and heritage as understood and culturally determined by them;
- protect and manage NSW Aboriginal culture and heritage through a streamlined and flexible regulatory system which balances the protection of Aboriginal culture and heritage with the economic development needs of Aboriginal communities and NSW generally;
- link Aboriginal culture and heritage protection with NSW natural resource management and planning processes;
- clearly delineate and streamline responsibilities for NSW government agencies and Aboriginal organisations with culture and heritage management and protection functions in NSW; and
- ensure that effective mechanisms are in place for the protection of Aboriginal culture and heritage with clearly defined roles and responsibilities for the Aboriginal community, heritage professionals, government and industry.

Such broad, but as yet unspecified, changes to the State legislative framework around the protection and management of Aboriginal cultural heritage will have possibly major implications for the Toolkit process and application.

Glossary

To ensure consistency with the primary legislation governing Aboriginal cultural heritage management (the *National Parks and Wildlife Act 1974*) and the respective guidelines published by the Office of Environment and Heritage (OEH) the definitions listed below, as relevant to the Toolkit's application, have been drawn from the following OEH publications:

- *Due Diligence Code of Practice for Protection of Aboriginal Objects in NSW* (2010);
- *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (2011);
- *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010);
- *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (2010); and
- *Applying for an Aboriginal Heritage Impact Permit: Guide for Applicants* (2011).

Aboriginal Heritage Impact Permit	A permit (statutory instrument) issued by the Director General of the Office of Environment and Heritage (or their delegate) allowing a person to desecrate or harm an Aboriginal Place or Aboriginal objects.
Aboriginal object (as defined in the <i>National Parks and Wildlife Act 1974</i>)	A statutory term, meaning any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises NSW, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. (s.5 <i>NPW Act 1974</i>).
Aboriginal owners	Aboriginal owner is a term used under the <i>Aboriginal Land Rights Act 1983</i> and the <i>National Parks and Wildlife Act 1974</i> . Aboriginal owners are defined as "persons whose names are entered on the Register of Aboriginal Owners because of the persons' cultural association with particular land" (<i>ALR Act 1983</i>). Registration as an Aboriginal owner under the <i>Aboriginal Land Rights Act 1983</i> provides statutory recognition of an Aboriginal person's cultural associations with land.
Aboriginal Place, or Declared Aboriginal Place, (as defined in the <i>National Parks and Wildlife Act 1974</i>)	A statutory term, meaning any place declared to be an Aboriginal place (under s.84 of the <i>National Parks and Wildlife Act 1974</i>) by the Minister administering the <i>NPW Act 1974</i> , by order published in the NSW Government Gazette, because the Minister is of the opinion that the place is or was of special significance with respect to Aboriginal culture. It may or may not contain Aboriginal objects.
Activity	a project, development, activity or work (this term is used in its ordinary meaning, and does not just refer to an activity as defined by Part 5 <i>EP&A Act</i>).
Archaeological survey, site survey, or on-site investigation	A method of data collection for Aboriginal heritage assessment involving a survey team walking over the land in a systematic way, recording information about how and where the survey is conducted, recording information about the landscape and recording any archaeological sites or materials that are visible on the land surface. The activities undertaken by a survey team do not involve invasive or destructive procedures, and are limited to note taking, photography and making other records of the landscape and archaeological sites (e.g. sketching maps or archaeological features).

Conflict site	Conflict site means a site where confrontation occurred between Aboriginal and non-Aboriginal people or between different Aboriginal groups.
Contact site	Contact site means a site relating to the period of first contact between Aboriginal and non-Aboriginal people.
Cultural knowledge	Cultural knowledge is directly associated with Aboriginal lore. Aboriginal people connect to their land through their lore, and through lore, people acquire knowledge of all aspects of their environment along with responsibilities, obligations and behaviours that are required to sustain their survival. Cultural knowledge has been passed on through the generations in a complex system of stories, language, art, songs, dance, ceremonies and customs that have been practiced since the time of creation (Dreamtime). The lore continues to govern all aspects of life for Aboriginal people on their traditional land/Country and waters. While cultural knowledge can be interpreted to mean something that is “in the past” or “fixed” and “unchanging” it is also considered as a living, dynamic force that is adaptive and innovative and belongs to living communities.
Culturally modified tree or Aboriginal culturally modified tree (as defined in the <i>National Parks and Wildlife Regulation 2009</i>)	<p>A tree that, before or concurrent with (or both) the occupation of the area in which the tree is located by persons of non-Aboriginal extraction, has been scarred, carved or modified by an Aboriginal person by:</p> <ul style="list-style-type: none"> • the deliberate removal, by traditional methods, of bark or wood from the tree, or • the deliberate modification, by traditional methods, of the wood of the tree.
Development area or development site	Area proposed to be impacted as part of a specified activity or development proposal.
Due diligence	Taking reasonable and practical steps to determine whether a person’s actions will harm an Aboriginal object and, if so, what measures can be taken to avoid that harm .
Harm an Aboriginal object (as defined in the <i>National Parks and Wildlife Act 1974</i>)	A statutory term meaning “... any act or omission that destroys, defaces, damages an object or place or, in relation to an object – moves the object from the land on which it had been situated” (s.5 <i>NPW Act 1974</i>).
Local Aboriginal Land Councils	Local Aboriginal Land Councils, or LALCs, are corporate bodies constituted under the <i>Aboriginal Land Rights Act 1983</i> . Under this Act, LALCs have defined boundaries within which they operate.
Native title	Native title refers to those rights and interests in land and water of Aboriginal and Torres Strait Islander people that are derived from the traditional laws and customs of their nations (see s.223 of the <i>Native Title Act 1993 (Commonwealth)</i> for a detailed statutory definition).
Potential archaeological deposit (PAD)	An area where sub-surface stone artefacts and/or other cultural materials are likely to occur.

Proponent	A person proposing a development or activity which requires approval from a consent authority(s), including activities that may harm Aboriginal objects or declared Aboriginal Places and may require an application for an Aboriginal Heritage Impact Permit under the <i>NPW Act 1974</i> .
Proposed activity	The activity or works being proposed.
Registered Aboriginal parties	Aboriginal people, Aboriginal organisations or their representatives who have registered an interest in being consulted in accordance with the requirements/procedures of the OEH <i>Aboriginal Cultural Heritage Consultation Requirements for Proponents</i> (2010).
Registered native title claimant(s)	A person or persons whose name or names appear in an entry on the Register of Native Title Claims (as administered by the National Native Title Tribunal) as the applicant in relation to a claim to hold native title in relation to the land and waters.
Sites	Sites is sometimes used as another name for Aboriginal objects and material traces of past Aboriginal land use. The term is commonly used in archaeological assessments and discourse.
Subject area	The area that is the subject of archaeological investigation. Ordinarily this would include the area that is being considered for development approval, inclusive of the proposed development footprint and all associated land parcels. To avoid doubt, the subject area should be determined and presented on a project-by-project basis.
Types of sites or types of features	Types of sites or types of features refers to the particular characteristics of material traces of past Aboriginal land use. For example, a rock shelter site is a type of site distinct from a scared tree. In addition, a rock shelter site (and indeed many sites) may contain multiple archaeological or cultural features: rock art, stone artefacts and/or archaeological deposits.

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- **Fact Sheet 3 - Cultural knowledge and its protection**
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 - **5 - Aboriginal Heritage Impact Permits (AHIPs)**
 - **6 - New Fines and Offences for the Destruction of Aboriginal Heritage**
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APPENDICES

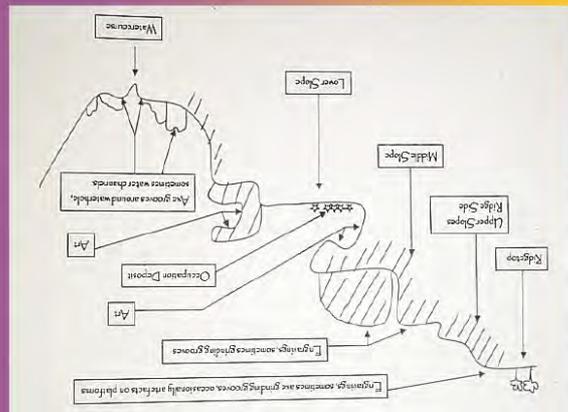
Appendix A

Examples of Local Government Aboriginal Cultural Heritage and Sites Brochures

- ▶ Ku-Ring-Gai Council
- ▶ Eurobodalla Shire Council
- ▶ Sutherland Shire Council
- ▶ Hornsby Shire Council

Potential Site Areas

This diagram is an idealised sandstone landscape in cross section with the location of common features and the types of sites which they are associated. Ridge tops and ridge sides have high potential for engravings. Middle and lower slopes, with cliffhines or isolated boulders have high potential for shelters with occupation deposit and art. Lower slopes and water courses have high potential for axe grinding grooves.



Other Sites Include:

Open Camp Sites: predominately artefact scatters, such as stone tools used for working, food preparation etc.

Isolated Find: A single stone artefact. The isolated find can be a flaked stone, core or any finished implement.

Bora or Ceremonial Ground: A ceremonial place where initiation ceremonies are performed and are often meeting places as well. A bora ground most commonly consists of two circles marked by raised earth banks, and connected by a pathway.

Burial: Burials are found where soft sediments are located e.g. sand or silty material. A number of burials have been found in middens and within shelters.

Scarred Tree: Trees with evidence of bark and wood being removed to make shields, shelters, coolamons and canoes.

Carved Tree: Carved trees have complex patterns cut into the tree that may have important ceremonial meaning.

Fish Trap: Rocks placed side by side to form an enclosed space in water – when the tide is high, fish swim into these pools and are trapped when the tide lowers.

Stone Arrangement: Areas where stones are placed in a certain way to form circles, semi-circles, lines and routes. Sometimes they identified ceremonial grounds and tribal boundaries, as well as other sorts of ownership boundaries.



Aboriginal Sites Awareness



The Sydney Basin is one of the richest provinces in Australia in terms of Aboriginal archaeological sites. There are approximately 4,500 sites registered by the Office of Environment and Heritage. This brochure provides you with the basic information required to identify the most common sites located in your local area, or even your backyard.



Art Work (Above) This is a photograph of an example of Hand Stencils. Stencils are produced by mixing ochre in the mouth into a wet paste, then spraying it over the hand. Other objects used for stenciling include human and animal feet, boomerangs, axes, woomeras, kangaroo tails and shields. The most common natural substances used for creating Aboriginal Art work include red and yellow ochre, white pipeclay, gypsum and charcoal.

Midden (Below) A midden is a place where remains from eating shellfish have accumulated. Rock oyster and Sydney cockle were the main types of shell eaten in Sydney Harbour. Apart from shells, other objects have been found in middens such as human bones, animal bones, artefacts and tools made from stone, shell or bone.



Rock Engraving (Below)
Engravings were made by drilling a series of holes, which were then connected to form a line. In the local area, designs include fish, animals, humans, wooden artefacts and mythological beings.



Rock shelter with Deposit (Right)
In this area sandstone is the rock from which rock-shelters are formed. Shelters are found in overhangs that form hollows, which allow good protection from the elements. The deposit which provides evidence of Aboriginal occupation in the shelter may include midden material, fire places, tools and sometimes burials.



Axe Grinding Grooves (Above)
The grinding grooves are made from Aboriginal people sharpening their stone axe heads. The axes were constructed from hard volcanic stone fastened to a wooden handle. To sharpen the axe, water is put on to the wet rock and the axe is rubbed backwards and forward until the stone is sharp. The water is used to clean and cool the stone as friction from the rubbing generates heat. The action of sharpening leaves these grooves.





ABORIGINAL HERITAGE IN THE EUROBODALLA

Oven, Camp Sites

These sites are mostly surface scatters of stone, sometimes associated with fireplaces. Recent studies have shown that these sites are important to build cultural value. It is important that artefacts are not removed from the position in which they are found.

Scattered Trees

Scattered trees are becoming rare in New South Wales as the trees decay and fall over or are burnt. Aboriginal people caused scars on trees by removing temporary shelters. They also cut back trees to make them easier to climb and allowed them to use the tree as a lookout, hunt for possums or beehives or cut bark higher up in the tree. These trees are still significant to particular Aboriginal groups. Advice on the preservation of these relics may be obtained from the Department of Environment and Conservation.

Ceremonial Grounds

These are sites where initiation ceremonies, marriage alliance ceremonies, tribal meetings and other important social functions were held. They are places of great significance to Aboriginal people. Some floodplain rings, which featured one or two raised earth rings were used for male initiations.

Aboriginal Reserves and Missions

Aboriginal Missions or reserves are important places to Aboriginal people. Although Aboriginal people were often moved to reserves by force and were restricted by harsh regulations and often insensitive white overseers, the reserves became home to many people, where their families were born, lived and died. The reserves were often the only reserves available for the local Aboriginal community, even if they no longer live at the reserve.

Burial Sites

A variety of methods to dispose of the deceased were used depending on particular practices of different groups. Aboriginal people were amongst the first people to cremate their deceased. Some cremation sites in New South Wales are known to be 26 000 years old. Burial sites are found in a variety of locations, including on hillsides and burial grounds are common in New South Wales. Burials may be marked by stone arrangements carved trees or other features.

Occupation Sites

These are places with evidence of past habitation. They include stone tools, fireplaces and occasionally food remains such as shells, bones and plant seeds.

Shell Middens

These sites occur on the coast and along the edges of rivers and lakes in both coastal and inland zones. A midden is a deposit composed of the remains of edible shellfish. It may also contain fish and animal bones, stone tools and charcoal from campfires. Midden sites show Aboriginal people used the surrounding habitat.

Rock Shelters With Archaeological Deposit

In outcrops of rock such as sandstone or granite, overhangs may form cave type shelters. Ashes from fires, sediments and material fallen from the roof accumulate in the protection of the shelter. Fireplaces, discarded tools and food remains become part of the archaeological deposit. The shelter is a valuable site in order to study the patterns of Aboriginal life. Their scientific value when undisturbed is high.

ABORIGINAL HERITAGE in the Eurobodalla

ABORIGINAL CULTURAL ASSOCIATIONS IN EUROBODALLA

The Eurobodalla Shire lies within the Yuin (Djuwim) tribal area. Yuin is an Aboriginal word meaning 'man' or 'people' and is also a term used to describe all Aboriginal people from the Shoalhaven River to the Victorian border. The Yuin people were part of many Aboriginal groups, including the Djaara, Wiradjuri, Dhawa and Dhurga. The Yuin area is also geographically divided by clan groups living by the sea, the 'Kattigall' or 'Guthaga' meaning sea people or coast dwellers and those living further inland, the 'Palendra' meaning tree climbers. Aboriginal people have occupied the south coast region of NSW for at least 20 000 years. Many recorded and unrecorded archaeological sites exist throughout the Eurobodalla Shire, each holding varying degrees of significance to Yuin people. These sites and places hold the remains of traditional (pre-contact) and historic (Aboriginal history) occupation by Aboriginal people. Areas that are important to Aboriginal people as part of their customary law, traditions, spiritual beliefs, history and living culture.

Aboriginal sites are the physical remains of a unique culture which could be more than 40 000 years old. There is evidence of this everywhere, in rock art, stone artefacts, large shell middens on the coast to small surface scatters of stone on the inland and semi-arid plains. They can be found in towns and cities, on beaches, along river banks, on open plains and in dense forests. This is because Aboriginal people lived and different practices resulted in different types of sites.

Aboriginal people lived in harmony with the environment and lived in mobs or clan groups, covering areas, which they travelled for hunting and gathering. Aboriginal people today retain a strong connection to their traditional living and land and culture. Many Aboriginal sites are of great significance to particular Aboriginal communities as they provide a direct link with their traditional culture.

The first recorded contact between Europeans and the Yuin people was in 1824 when James Hume of the 'Sydney Cove' shipwreck walked from Gippsland to Sydney. A few decades later the lives of Yuin people were radically changed as industries developed across the region and the colonial government imposed protectionist policies, suppressing their traditional way of life.

Aboriginal people's links to the land were maintained as Aboriginal families contributed to the development of the area and continued to use local natural resources for sustenance. Families travelled up and down the coast following work, mainly in the agricultural sector. Many families pursued a dual life for commercial and self-reliance purposes. The kinship links that were forged throughout the 20th Century have continued today.

Aboriginal cultural associations across the Eurobodalla Shire today reflect past practices. Spiritual links to landforms and waterways as established in the Dreamtime past continue to be of importance to local Aboriginal people. Traditional ecological knowledge of local plants and animals is held by Aboriginal people and is used in traditional practices. Aboriginal campsounds used by Aboriginal families today were also used in the past by their ancestors for the same purpose: for social gatherings, cultural exchange and for food collection.

PROTECTING AND CARING FOR ABORIGINAL HERITAGE

Today Aboriginal people are interested in identifying, recording, protecting and caring for Aboriginal heritage. Recognition and preservation of Aboriginal heritage aims to sustain the relationship in such a way that heritage values of each place are maintained for present and future generations of all Australians. We can all contribute to the protection of Aboriginal heritage by respecting its presence in the landscape and considering carefully how to minimise impact on the land.

The Department of Environment and Conservation (DEC) protects Aboriginal heritage through management planning, public education awareness and physical protection works. The Minister for the Environment may declare a site an 'Aboriginal place' when it is of special significance to Aboriginal culture, the only criterion for Aboriginal culture and heritage. The kinds of place-based associations that are typically recorded are:

- land containing Aboriginal burials;
- land celebrated by Aboriginal Stories or other post-settlement living aye;
- land known from archival or historical records to have been the site of an important historical event, such as a massacre;
- areas that contain one or more Aboriginal relics or a culturally important plant and animal species, including people requires special recognition; and
- land buildings or places significant to Aboriginal culture after 1788.

The DEC consults regularly with Aboriginal communities to ensure that as many Aboriginal sites are preserved as possible. Sections 86, 90 & 91 of the NSW National Parks and Wildlife Act, 1974 provides for the protection and preservation of all Aboriginal relics and places throughout NSW. The 'ownership' of Aboriginal relic is vested in the Crown, with the DEC being the responsible authority.

The DEC maintains a register of recorded Aboriginal sites across NSW within the Aboriginal Heritage Information Management System (AHIMS). The sites (source: Cery, Curney DEC March 2008) of these approximately 1 500 are recorded within the Eurobodalla Shire boundary.

Note: There are many unrecorded Aboriginal heritage objects that have been absent onto the register. Many of these heritage objects will not be known until a formal Aboriginal Cultural Heritage Assessment or Archaeological survey has been undertaken.

The number of sites being registered is increasing as a result of improved ability of the community, Service staff and Aboriginal people to recognise and report Aboriginal sites and places to the DEC registry. Access to the register is restricted due to the confidential nature of most of this information, however you are able to view the DEC register community members to register sites that may exist on private and crown land.

The primary purpose of Aboriginal Sites Officers is to care, protect and manage Aboriginal sites as part of the statutory responsibilities of DEC under the National Parks and Wildlife Act, 1974. Aboriginal Sites Officers are also responsible for teaching visitors about Aboriginal sites and Aboriginal culture so that the community is made aware of and develops an appreciation of the issues relating to Aboriginal cultural heritage.

Aboriginal sites and places are fragile and subject to weathering and natural erosion. You can help preserve them by following these guidelines:

- do not try to re-grow the site;
- do not place water or sand on the site; and
- leave any artifacts, vegetation or rocks as they are.

Aboriginal sites and places are dynamic as they include ongoing and changing experiences of people over time. The protection and preservation of Aboriginal heritage provides Aboriginal people with the opportunity to be involved and consulted in the conservation of their heritage ensuring their heritage values are respected and provides the opportunity to pursue sustainable, social and economic outcomes through the control and management of their culture.



Aboriginal Heritage



Aboriginal people have lived in Sutherland Shire for thousands of years. The evidence of occupation is present throughout the landscape in the form of Aboriginal heritage places and in the histories of Aboriginal people themselves.

Examples of Aboriginal heritage places include rock art, artefact scatters, scarred trees, stone arrangements, middens, burial sites, places of spiritual significance, camp sites and sites on which significant events in early Aboriginal and non-Aboriginal relations took place.

Aboriginal heritage is an integral part of Sutherland Shire's history and environment. The effective protection and management is important to Aboriginal people and the broader community.

A large number of development applications will require a preliminary assessment to determine the potential for items of Aboriginal objects and places to be found on a property. The identification of potential objects may be unfamiliar to some. The purpose of this information is to provide general information as to some of the things you should be looking for when doing a preliminary assessment.

Sutherland Shire
COUNCIL



Aboriginal Heritage

Aboriginal Heritage

Shell Middens

Shell middens are places where the debris from eating shellfish and other food has accumulated over time. Middens range from thin scatters of shell to deep, layered deposits which have built up over time. Shell middens tell us a lot about Aboriginal activities of the past. The types of shells in a midden can show the type of marine environment that was used, and the time of year when Aboriginal people used it. Shell middens are usually found on sandy beaches and dunes, on headlands, estuaries, swamps and the tidal stretches of creeks and rivers.



Grinding Grooves

Grinding grooves are dents where stone axes, spears, and other tools have been sharpened. They are mostly found near creek beds and water. There are usually more than one groove and they are smooth, shallow depressions in the rock surface.



Rock Engravings

Engravings are outlines or filled-in figures, created on rock surfaces by pecking, hammering or scraping. They are most commonly found on cliff tops, ridgelines, in creek beds and in rock shelters. The engravings show many different outlines, including humans, weapons, fish, animals and birds.



Aboriginal Heritage

Scarred Trees

Scarred trees show unique marks left when large pieces of bark were removed, sometimes by up to ten men, using stone or wooden wedges and stone axes. Scarred trees show evidence of removal of slabs of bark for a wide variety of purposes including the building of canoes, shelter and containers. They are usually close to permanent water and commonly of the box or red gum eucalypt species.



Rock Art

Aboriginal rock art is part of a tradition of painting and engraving that stretches back thousands of years. Some of the oldest surviving examples found so far are 40,000 years old. The symbols and motifs painted on rock also appear in other forms of expression such as painting on bark or canvas. Although all Aboriginal people shared a similar way of life and similar religious beliefs, they belonged to separate groups that had their own languages, country, legends, histories and ceremonies; hence there is a wide variety of styles and subject matter in the rock art found throughout the continent.



Aboriginal Heritage



Stone Arrangements

Stone arrangements are areas where stones are placed in a certain way to form circles, semi-circles, lines and routes.

The arrangements sometimes identified ceremonial grounds and tribal boundaries. There are very few stone arrangements left in the Sydney area. Those remaining are thought of as sacred to Aboriginal communities and are often home for wildlife.

Further Information

This information is provided to Sutherland Shire residents as a guide to help understand Aboriginal heritage.

For further information please contact Council or:

Office of Environment and Heritage
Country, Culture and Heritage Division

Ph: 02 9585 6470

Email: info@environment.nsw.gov.au

Web: www.environment.nsw.gov.au

dure, carrying baskets. The trees were carefully chosen for their pliability and strength. Eucalypts seem to be the most common scarred tree.

Scarred trees face the same problems as carved trees with their existence threatened by the environment and human action.

AXE-GRINDING GROOVES

Axe-grinding grooves are found on flat soft rock near water, which is needed for the tool sharpening procedure. The grooves were made by the Aborigines scraping a stone back and forth to sharpen or shape it. This often took hundreds of hours.

The grooves are superficial and are generally 20-40 cm long. Deep grooves can also be found where bone or wood was ground or where spears were made.

ROCK SHELTERS with occupational deposits

A rockshelter is a naturally formed overhang or hollow in a cliff, boulder or part of a rock formation (outcrop), which provide protection from wind, rain cold or the heat. The main purpose was to shelter the Aborigines from the cold wind through the night and the searing

heat during the day. The Aborigines slept, ate and made tools in shelters and as such food remains, stone tools and charcoal are often found inside. Various forms of rock art, paintings & stencils are also found in rock shelters.

ROCK ART

Rock art is a statement of Aboriginal beliefs. It is an important part of all ceremonies. Some of the art is private and sacred while some is meant for public viewing.

Rock art takes on many forms including:

- + Engraving
- + Painting
- + Stencilling
- + Symbolic

It is believed that only the Aboriginal men did the rock art, although the women were artists in their own right making decorative implements and hair and body ornaments.

For further information please contact

Hornsby Shire Council
Heritage Planner
PO Box 37
Hornsby NSW 1630



ABORIGINAL SITES GUIDE

Brochure No. 1 of 3

: OCCUPATION SITES

- : Middens
- : Open camp sites
- : Carved trees
- : Scarred trees
- : Axe-Grinding grooves
- : Rock shelters with deposits
- : Rock art

OCCUPATION SITES

Occupation sites provide evidence of Pre-European settlement. They are most often found in rockshelters and cave mouths. They are not often found deep inside caves as conditions would be dark, cold and damp - not a suitable living environment.

Occupation sites most often possess:

- * stone artefacts
- * food remnants
- * stone tools
- * baked clay
- * charcoal

MIDDENS

As middens are built up over hundreds of years due to the result of countless meals of shellfish, they are found along sea coasts, estuaries and beside rivers and inland lakes.

They primarily contain mature specimens of edible species of shellfish, but may also have pieces of clay, bird, fish and animal teeth and bones, campfire charcoal, stone flakes and the remains of tools. Less commonly found in middens are remains from human burials.

A natural shell deposit will consist of mature and immature, edible and inedible shellfish. There is little charcoal and no stone tools. Wave action sorts shells with the larger ones at the top and the smaller ones at the bottom.

Middens differ immensely in shape and size, from a few shells scattered on the surface to deposits which are metres thick and buried beneath vegetation. Middens are the most common and the most visible Aboriginal site along the Australian coast.

OPEN CAMPSITES

An open campsite can be identified by surface scatters of stone artefacts or bone fragments, exposed by erosion, associated with Pre-European settlement. They are found predominantly along creeks and rivers but larger open campsites can be found. They vary in density and size from a few stone artefacts to thousands of hectares scattered with artefacts. Occasionally these sites, built up over time, have successive layers which can be one metre deep.

CARVED TREES

Carved trees have complex patterns cut into the tree, where a piece of bark is removed and the underlying wood is carved. When a carved tree is found next to a grave it is usually a sign of family connections or the totem of the deceased person. The designs are often intricate spirals, diamonds or circles and were carved using a stone hatchet or, more recently, a steel axe.

Carved trees are important because of the ceremonial meaning to Aboriginal people. They are probably the most naturally threatened Aboriginal site due to the occurrences of bushfires, environmental deterioration and tree regrowth. They are also at risk from clearing.

SCARRED TREES

Scarred trees show unique marks left when large pieces of bark were removed, sometimes by up to ten men, using stone or wooden wedges and stone axes. The bark was then used to make canoes. Smaller pieces of bark were removed and made into shields, containers (coolamons) and, using a different

Appendix B

What is Aboriginal Cultural Heritage ?

- ▶ Definition/description of Aboriginal cultural heritage as used in the Department of Environment, Climate Change and Water (now the Office of Environment and Heritage) *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*.

Aboriginal cultural heritage consists of places and items that are of significance to Aboriginal people because of their traditions, observances, lore, customs, beliefs and history. It provides evidence of the lives and existence of Aboriginal people before European settlement through to the present.

Aboriginal cultural heritage is dynamic and may comprise physical (tangible) or non-physical (intangible) elements. It includes things made and used in traditional societies, such as stone tools, art sites and ceremonial or burial grounds. It also includes more contemporary and/or historical elements such as old mission buildings, massacre sites and cemeteries. Tangible heritage is situated in a broader cultural landscape and needs to be considered in that context and in a holistic manner.

Aboriginal cultural heritage also relates to the connection and sense of belonging that people have with the landscape and with each other. For Aboriginal people, cultural heritage and cultural practices are part of both the past and the present and that cultural heritage is kept alive and strong by being part of everyday life.

Cultural heritage is not confined to sites. It also includes peoples' memories, story-lines, ceremonies, language and 'ways of doing things' that continue to enrich local knowledge about the cultural landscape. It involves teaching and educating younger generations. It is also about learning and looking after cultural traditions and places, and passing on knowledge. It is enduring but also changing. It is ancient but also new.

Aboriginal cultural heritage provides crucial links between the past and present and therefore represents an essential part of the identities of Aboriginal people and all Australians.

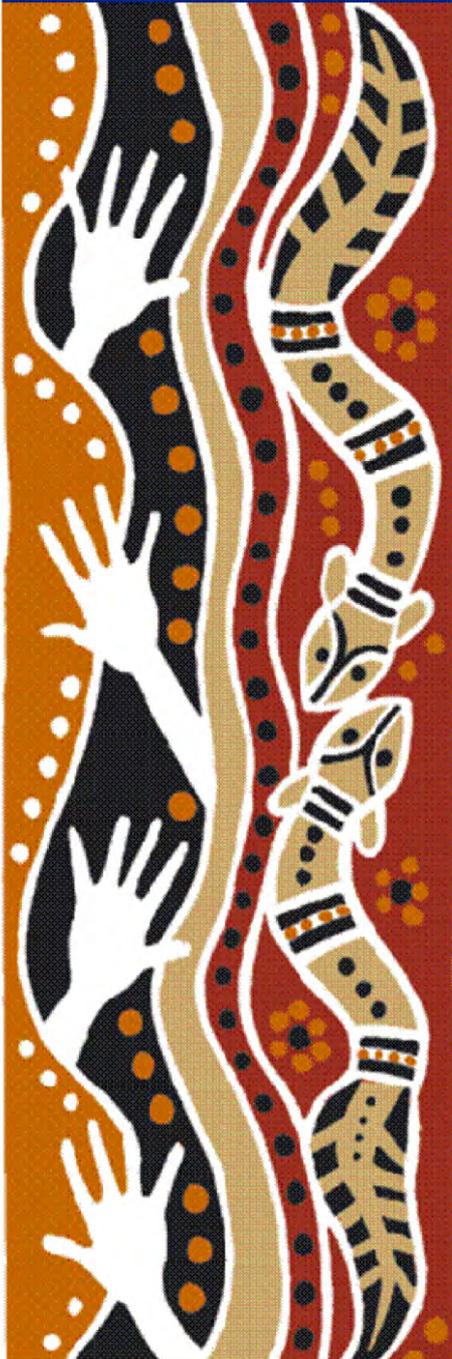
Appendix C

Examples of Local Government Brochures Addressing Aboriginal Cultural Heritage/Sites and the Development Application and Assessment Process

- ▶ Parramatta City Council
- ▶ Eurobodalla Shire Council
- ▶ Sutherland Shire Council
- ▶ Hornsby Shire Council



Information booklet



Artwork by Danny Eastwood

Protection of Aboriginal Heritage in Parramatta

June 2004

PARRAMATTA
CITY COUNCIL

1. HOW IS ABORIGINAL HERITAGE PROTECTED IN PARRAMATTA?

Aboriginal heritage is protected in Parramatta under the Parramatta Heritage and Conservation Local Environmental Plan 1996 and the Parramatta Regional Environmental Plan (Sydney Regional Environmental Plan No. 28 - Parramatta). These planning controls require the Council to consider the impact of development on known or potential Aboriginal archaeological sites or sites of cultural or historical significance to Aboriginal people.

When development applications are lodged for such sites, the Council must also consider an Aboriginal Heritage Assessment along with advice from the National Parks and Wildlife Service and local Aboriginal communities.

2. WHAT IS AN ABORIGINAL HERITAGE ASSESSMENT?

An Aboriginal Heritage Assessment is usually carried out by an archaeologist, to determine the impact of a proposed development on a known Aboriginal site and/or to survey of the land to locate any aboriginal sites.

Assessments are carried out in consultation with local Aboriginal communities. Some sites may not contain a relic but may be of social, cultural or historical significance to the Aboriginal community. The impact of the proposed development in this context is considered in assessments for such sites.

A preliminary assessment, also carried out by a suitably qualified person, may indicate that the development proposal will not impact on a known or potential Aboriginal site, so a full site survey and/or impact assessment is not required.

Aboriginal Heritage Assessments should be undertaken before the lodgment of a development application and the proposed development should take into account the findings of the assessment. The assessment is then submitted with the development application and will be referred by Council to local Aboriginal communities and the National Parks and Wildlife Service for review.

3. HOW DO I FIND OUT IF MY PROPERTY CONTAINS AN ABORIGINAL SITE?

Council has a database of known Aboriginal archaeological and historic/cultural sites and information about the location of land that could contain Aboriginal sites. An Aboriginal site may contain physical evidence of surface or sub-surface Aboriginal heritage, including items and remnants of occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and carved trees or sharpening grooves. There are also areas and places that are of social/historical association to Aboriginal people. These sites may not contain any surface or sub-surface physical evidence of Aboriginal heritage, but have associations and historical significance to Aboriginal people living within the area or with a connection to the area.

Properties likely to contain Aboriginal sites have been identified on a 'sensitivity map' and this information is available on the Council's Geographical Information System. The sensitivity mapping identifies the potential of an area to contain Aboriginal sites, that is, sites that retain physical evidence of Aboriginal heritage. The relative sensitivities include high, medium, low and no sensitivity. Sites with high sensitivity that are known to contain an Aboriginal site are also mapped to within a 50 metre radius. The mapping also identifies areas that are of social/historical association to Aboriginal People.

High sensitivity =	known sites (within 50m radius), areas with high archaeological potential, undisturbed natural landscape
<hr/>	
Medium sensitivity landscape =	some archaeological potential, partially disturbed landscape
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Low sensitivity =	largely disturbed landscape
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No sensitivity =	totally disturbed landscape, reclaimed area
<hr/>	
Areas of social/historical association =	areas identified as having some significance to present day Aboriginal people through current social or historical connections

Protection of Aboriginal Heritage In Parramatta

Before lodging a development application for development that may have an impact on known or potential Aboriginal sites, you need to find out the sensitivity classification of your property to determine if you need to submit an Aboriginal Heritage Assessment. You can do this by contacting Council's Customer Service Centre on 9806 5000.

4. HOW DO I KNOW IF I HAVE TO SUBMIT AN ABORIGINAL HERITAGE ASSESSMENT?

Once you have found out about the sensitivity classification of your property, you should follow the guidelines below.

Properties identified with No Sensitivity

No Aboriginal Heritage Assessment required.

Properties identified with Low Sensitivity

No Aboriginal Heritage Assessment required unless:

1. Your land is within 100m metres of a creek or river foreshore and
2. Your property contains uncleared bushland, sandstone outcrops or exposed sandstone platforms and;
3. Your proposed development affects any of the above features.

Properties identified as Medium Sensitivity or High Sensitivity

Aboriginal Heritage Assessment required.

Properties within 50 metres of a known Aboriginal site

Sites containing an identified Aboriginal site or place of significance are mapped to within a 50m radius. All land within this radius is identified as high sensitivity under the Sensitivity mapping. These sites are based on the National Parks & Wildlife Service Site Register (Aboriginal Heritage Information Management System). More information on these sites can be obtained from National Parks and Wildlife Service Ph: (02) 9585 6470, Fax: (02) 9585 6325, email: ahims@NPWS.nsw.gov.au.

If you wish to carry out development on a property within the 50m high sensitivity radius of a known site, an Aboriginal Heritage Impact assessment of your property may have to be carried out before you lodge a development application. You should contact the National Parks and Wildlife Service Site Register (see above contact details) to determine whether the Aboriginal site is located on your property.

- If the known Aboriginal site is located on your property, your development becomes Integrated Development. This means there are specific processing requirements for your application that will involve the National Parks and Wildlife Service. You can find out more information about this process from Council's Development Assessment staff.
- If the known Aboriginal site is not on your property, you may still need to have an Aboriginal Heritage Assessment undertaken for your property. You should consult Council's Duty Planner on 9806 5108 to determine the sensitivity of the surrounding land outside the 50 metre radius area. If the surrounding land has high or medium sensitivity, it will be necessary to have an Aboriginal Heritage Assessment undertaken for your property. If the surrounding land is of low sensitivity, then an Aboriginal Heritage Assessment is not required unless the criteria outlined above for low sensitivity areas are met.
- If the Site Register records are insufficient to determine the precise boundaries or size of the known Aboriginal site, any parcel within the 50m radius will require an Aboriginal Heritage Assessment.

Properties within an area of Aboriginal social/historical association

Land within an area of social/historical association will require an Aboriginal Heritage Assessment that investigates the impact of a development proposal in relation to the social/historical association. Council's information document on the Arts and Cultural Plan Process explains how the social/historical/cultural significance of the site can be taken into account in the development of the land.

5. HOW DO I GET AN ABORIGINAL HERITAGE ASSESSMENT PREPARED?

The Australian Association of Consulting Archaeologists has a register of consultants on its web site www.aacai.com.au or ph:(02) 4267 4547.

In the region of Parramatta there are three Local Aboriginal Land Councils whose boundaries include parts of Parramatta and two Native Title Claimant groups. These groups should be consulted and can provide advice on the preparation of an Aboriginal Heritage Assessment.

The Metropolitan Local Aboriginal Land Council

PO Box 1103
STRAWBERRY HILLS NSW 2012
Ph: (02) 8394 9666 Fax: (02) 8394 9733
Covers the area north and east of Victoria Rd, James Ruse Drive and Windsor Rd; and east of Silverwater Road.

Deerubbin Local Aboriginal Land Council

Attention: Mr Frank Vincent, Chairperson
PO Box 3184
MOUNT DRUIT VILLAGE NSW 2770
Ph: (02) 9832 2457 Fax: (02) 9832 2496
Covers the areas west of Windsor Rd, bounded by James Ruse Drive, Victoria Rd, Silverwater Rd and the Great Western Highway.

Gandangara Local Aboriginal Land Council

PO Box 1038
LIVERPOOL DC NSW 2170
Ph: (02) 9602 5280 Fax: (02) 9602 2741
Covers the area south of the Great Western Highway and west of Silverwater Rd.

Darug Tribal Aboriginal Corporation

PO Box 441
BLACKTOWN NSW 2148
Covers all of the Parramatta LGA.

Darug Custodian Aboriginal Corporation

81 Andrew Thompson Drive, McGraths Hill, NSW 2756
Ph: (02) 4577 5181 Fax: (02) 4577 5098
Covers all of the Parramatta LGA.

6. WHAT HAPPENS IF MY PROPERTY CONTAINS A KNOWN ABORIGINAL PLACE OR RELIC OR I FIND A RELIC ON MY PROPERTY?

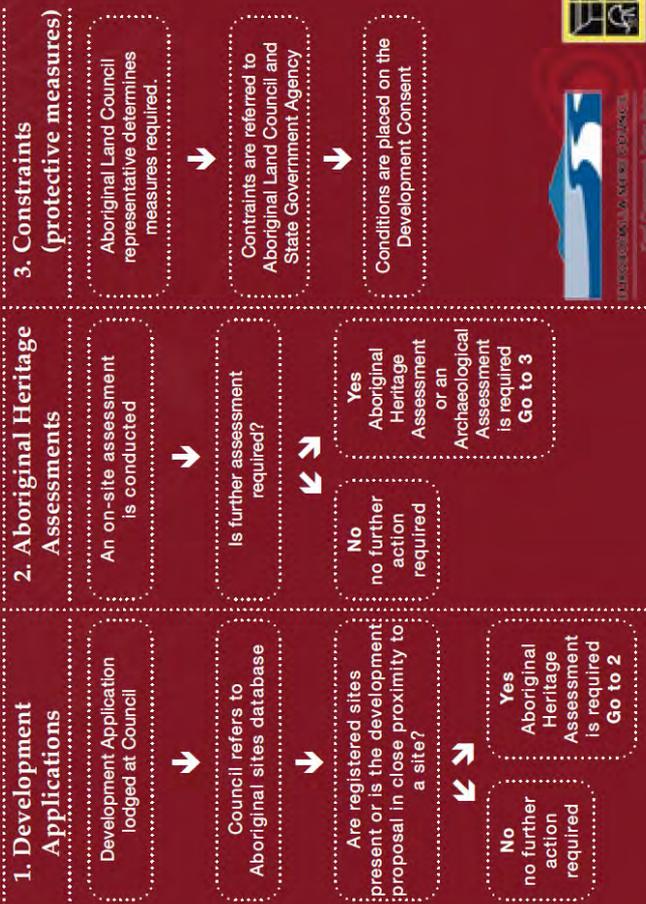
It is an offence to knowingly destroy, deface or damage a relic or Aboriginal place without the consent of the National Parks and Wildlife Service.

When a relic or Aboriginal place is known to exist on the land to which the Development Application applies and the development proposal will destroy, deface or damage the relic or Aboriginal place, the development becomes Integrated Development, whereby the National Parks and Wildlife Service becomes involved in the assessment and approval process.

If you find an Aboriginal relic when you undertake development with or without approval, you are required by law to cease work and inform National Parks and Wildlife Service, Ph: (02) 9585 6444.



ABORIGINAL HERITAGE ASSESSMENT PROCESS



ABORIGINAL HERITAGE

in the Eurobodalla





DEVELOPMENT APPLICATIONS

When submitting a Development Application to Eurobodalla Shire Council applicants must ensure Aboriginal sites of significance are considered. Eurobodalla Shire Council's Local Environmental Plans (LEPs) require an Aboriginal Heritage Assessment if a development is proposed at a place of known or potential Aboriginal heritage significance. If required an Aboriginal Heritage Assessment must be submitted with the Development Application.

The objective of these assessments is to ensure that significant Aboriginal sites have been identified and are protected, managed and respected in accordance with the wishes of local Aboriginal people.

ABORIGINAL HERITAGE ASSESSMENTS

When a Development Application is lodged at Eurobodalla Shire Council the Aboriginal Heritage Officer will:

Determine the need for an Aboriginal Heritage Assessment by referring to the Aboriginal sites register. If further investigation is necessary Council's Aboriginal Heritage Officer, with a representative from the Local Aboriginal Land Council (LALC) will conduct a preliminary assessment of the land to be developed to determine the level of assessment required. The Aboriginal Heritage Officer will then advise the applicant if further assessment is required.

If further assessment is required the applicant must then commission an Aboriginal Heritage Assessment or an Archaeological Assessment and include the results with the Development Application. Where a development application

is the subject of an Aboriginal heritage or Archaeological Assessment Council may place conditions on the development consent in relation to the protection and preservation of any sites identified.

Prior to consent of the Development Application, Aboriginal Sites Officers will determine how best to protect sensitive sites and areas.

The NSW Aboriginal Land Rights Act 1983 recognises that the State of NSW was traditionally owned and occupied by Aboriginal people and that land is an integral aspect of Aboriginal culture. There are many recorded and unrecorded places of vital importance to Aboriginal people. The Eurobodalla Shire Council and Aboriginal people are interested in preserving sites, not in interfering with the rights of landholders. The presence of Aboriginal sites on land does not provide the basis for an Aboriginal land rights claim. However, in accordance with State legislation, it is illegal to disturb, damage, deface, or destroy an object or Aboriginal place without consent from the Department of Environment and Conservation.

Aboriginal Heritage & the Development Application Process

What is Aboriginal Heritage?

Aboriginal heritage is the physical and cultural evidence of the use of land by Aboriginal people. Such physical evidence may include objects such as scarred trees, material deposited on land, such as a midden, rock engravings or ancestral remains of Aboriginal people, knowledge songs, art and pathways. Aboriginal Heritage also includes those elements of the landscape with which Aboriginal people have a cultural association. Council's brochure entitled "Aboriginal Heritage" provides more information about types of Aboriginal heritage.

Aboriginal objects and places have legal protection under the *National Parks and Wildlife Act 1974*. It is an offence to desecrate or harm Aboriginal objects and places without the consent of the Chief Executive of the Office of Environment and Heritage. Aboriginal objects and places must be taken into consideration when any development is proposed. This brochure provides information on the requirements relating to Aboriginal heritage when submitting a Development Application.

Where is Aboriginal Heritage found?

In the Sydney area there are many Aboriginal sites within people's front and back yards. Sutherland Shire Council has commissioned studies to identify areas with low, medium and high sensitivity for Aboriginal heritage. Council's Customer Service Centre can assist with information relating to the sensitivity of particular properties.

Preliminary Aboriginal Assessment

Under *Sutherland Shire Local Environmental Plan 2006* any development application must include information about the existence of Aboriginal objects and places. The purpose of this information is to enable Council staff to determine whether a more detailed assessment is required to protect Aboriginal objects and places. The information required by Council is:

- Whether the proposed development will affect land which has not been previously used or is undisturbed. Generally, areas of bushland or areas that have not been affected by development would constitute undisturbed land.
- Whether the proposed development encroaches on any sandstone formations.
- Whether there are any known Aboriginal objects and places on the land.

It is important to provide photographic evidence of the site to demonstrate whether land is disturbed and/or whether any significant natural features are present on the site.

Aboriginal Heritage & the Development Application Process

Aboriginal Heritage & the Development Application Process



This information should form part of the Statement of Environmental Effects.

If an Aboriginal Heritage Assessment has previously been conducted for the property, it is advisable to submit this study together with the Preliminary Aboriginal Assessment. If Aboriginal objects and places are known on the land, it is advisable to undertake an Aboriginal Heritage Assessment prior to lodging your development application and submit this study as part of the application.

Exceptions to a Preliminary Assessment

There may be some circumstances where a preliminary assessment of the existence of Aboriginal objects and places is not required. This is largely dependent on the scale of development and the extent of the site it intends to disturb. For example, minor development such as an awning is unlikely to require this assessment. Council development assessment staff will advise if a preliminary assessment is not needed.

Assessment of your Development Application

Once your development application is submitted, Council will commence assessment. If an Aboriginal object or place is known to exist on the land when the development application is lodged, and the proposed development will unavoidably desecrate or harm the object or place, the application will be referred to the Office of Environment and Heritage.

Council staff will conduct a site visit to assess the preliminary information submitted with your application. Should any natural features which suggest the existence of a previously unknown Aboriginal object or place be identified during the site visit, you will be notified in writing that an Aboriginal Heritage Assessment is required.

Aboriginal Heritage Assessment

An Aboriginal Heritage Assessment outlines the cultural significance of a site, examines importance of the object or place and provides a management strategy for the item in the context of the proposed development.

The assessment must be carried out by a qualified archaeologist and involve local Aboriginal people with knowledge of the cultural significance of the area. The Australian Association of Consulting Archaeologists maintains a register of consultants. Archaeologists may also be listed in the Yellow Pages.

Aboriginal Heritage & the Development Application Process



The assessment should include:

- Ground survey or surface inspection of the property and identification of the appropriate areas on the site for development which may require a permit under section 90 of the *National Parks and Wildlife Act 1974* to disturb or excavate land for the purpose of discovering Aboriginal objects.
- Identification of any Aboriginal objects or places and any areas which may have potentially buried sites that are not visible on the surface.
- An assessment of the importance or significance of the Aboriginal object or place.
- The view of relevant Aboriginal groups and individuals and the Office of Environment and Heritage about the significance of the object or place and acceptable levels of impact.
- An assessment of the impact of development on any Aboriginal object or place located during the survey or ground inspection.
- Preparation of a cultural heritage management strategy. This could include site conservation, site investigation, and consideration of alternative design solutions or as a last resort site destruction with appropriate permits. The strategy should be prepared in consultation with the Aboriginal groups and individuals and the Office of Environment and Heritage.

Consultant archaeologists will be familiar with the type of Aboriginal Heritage Assessment required for a development application. The information specified should be provided in a formal report as part of your Application. The report submitted must include:

- Details of objects and places identified (including photographs) and the impacts of development on these objects and places.
- Details of the consultation undertaken and how comments received were considered.
- A copy of the OEH's Aboriginal Heritage Information System Standard Site Recording Form, if relevant.
- Management and mitigation recommendations based on the cultural and archaeological assessment and the outcomes of consultation with interested groups and individuals; there may be scope, depending on the recommendations to make application for consent under the *National Parks and Wildlife Act 1974* to the Office of Environment and Heritage to destroy or remove the Aboriginal object or place.

Aboriginal Heritage & the Development Application Process



Further Information

Council's duty officers answer enquiries related to the development process.

The duty officer is available Monday to Friday between the hours of 8.30 am and 1.00 pm, either by telephone on (02) 9710 0333 or in person at council's Customer Service Centre.

If you have an enquiry relating to an existing development application, it is suggested that you contact the assessing officer directly.

Information regarding Aboriginal heritage, can also be obtained from:

Office of Environment and Heritage
Country, Culture and Heritage Division

Ph: 02 9585 6470

Email: info@environment.nsw.gov.au

Web: www.environment.nsw.gov.au



ABORIGINAL HERITAGE IN THE HORNSBY SHIRE

INFORMATION FOR DEVELOPERS

Council is the consent authority for the majority of developments within the Hornsby Shire. Proposed development of land requires the submission of a development application (DA) to Council for its approval. Smaller projects, may also require Council approval. Under Council's Draft Hornsby Shire Local Environmental Plan (HSLEP) any land subject to development proposal that contains specified areas of bushland or estuarine areas, sandstone outcrops or cliff lines requires an Aboriginal heritage assessment to be provided for Council's consideration. The objective of the assessment is to demonstrate that Aboriginal heritage issues have been properly considered during the planning process and that Aboriginal heritage constraints have been identified and appropriate management options provided for the site.

When you are planning to develop a site or area, there a number of things to consider with regard to Aboriginal heritage. Firstly, what is the likelihood of Aboriginal sites being present on the land? Secondly, is an assessment necessary? Thirdly, what kind of an assessment is required?

Why would I need to worry about Aboriginal heritage that may exist on my land?

Aboriginal sites are important to Aboriginal people today, as well as to the broader community. There are a large number of sites in the Hornsby Shire. Many sites have been recorded, and there are likely to be many more that have yet to be identified.

Aboriginal sites and places of significance have legal protection under the *National Parks and Wildlife Act, 1974*. Developers are required to consider Aboriginal heritage issues as well as other environmental impacts under the *Environmental Planning and Assessment Act, 1979*.

As a developer, if your land contains features identified in Council's HSLEP or other planning instruments (including draft instruments) you are required to provide Council with information assessing the Aboriginal heritage potential of your land.

(for further details see Councils brochure titled "Aboriginal Heritage in the Hornsby Shire - Legislation")

How will I know if there are Aboriginal heritage issues associated with my land?

First, find out whether there are any recorded sites on your land. Contact Council to see whether they have a site listed on its records. Council recently commissioned a study of the Shire to assist in identifying sensitive landscapes, as well as identifying all recorded Aboriginal sites. You can also contact the NPWS Aboriginal Sites Register (Note: site searches on the NPWS database attract a small fee) or the Metropolitan Local Aboriginal Land Council (MLALC). Not all sites have been registered with Council and the NPWS, and locations where there has not been systematic archaeological survey may contain unrecorded sites.

Secondly, if your land contains any of the features listed below, there is higher potential for Aboriginal sites to be located on your land. Council will require you to provide information assessing the Aboriginal heritage potential for land containing:

- bushland
- an estuarine foreshore;
- a creekline or drainage line with a sandstone base;
- sandstone exposures at ground level which are larger than 5m²
- sandstone cliffines or isolated boulders higher than 2m

How can I confirm whether my land contains Aboriginal heritage sites or places?

If there is a recorded site, or one or more of the features listed above are located on your property, you will need to have an Aboriginal heritage assessment carried out. Depending on the scale of your proposed development and the types of landscapes present, you may either provide the information yourself, and have Council and the Sites Officer of the MLALC inspect the area, or commission a comprehensive Aboriginal heritage assessment (including an archaeological survey and MLALC assessment). An assessment will be able to confirm whether Aboriginal heritage constraints will apply to the proposed development, as well as providing management options for any sites identified.

Initially, you should contact Council's Aboriginal Heritage Advisor who can inform you of the most appropriate scale of assessment. You should complete Council's Development Application Form, and identify the Aboriginal site or sensitive feature, the proposed development, potential impact zones, mitigative measures that could be taken to avoid the sensitive area, and photographs to assist Council in determining possible constraints. It is most important that you have preliminary discussions

with Council's Heritage Planner PRIOR TO LODGING THE DA.

Can my Land Claim be the subject of a Native Title Land Claim?

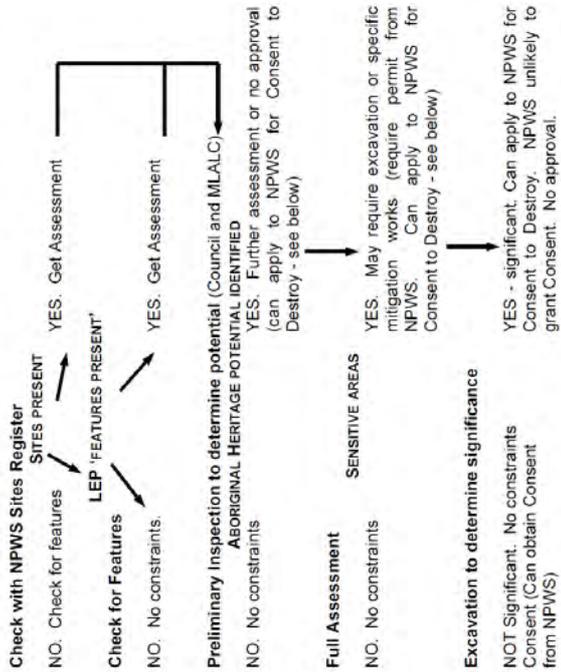
The Native Title Act generally does not affect freehold land or most leases.

The NSW Aboriginal Land Rights (ALR) Act is applicable to vacant Crown land only. If you are proposing to develop private (freehold) or leased land, a Land Claim under the ALR Act will not be involved.

(for further details refer to Council's brochure titled "Aboriginal Heritage in the Hornsby Shire - Legislation")

What is the whole planning and assessment process?

Prior to lodging your development application with Council, you should check as to whether there are any recorded Aboriginal sites or sensitive features on your land. If so, complete Council's Development Application Form ensuring you have provided photographs and an outline of how the development will affect the site/sensitive area. If Council advises that it requires further assessment, you should commission a study to comply with this request.



Appendix D

Aboriginal Cultural Heritage Site Types and Locations – Shellharbour City Council

- ▶ Profiles of Aboriginal cultural heritage site types and locations, as taken from the *Shellharbour City Council Area Aboriginal Heritage Study* (2000) (pages 52-5).

Artefact Occurrences may occur as **Surface scatters of artefacts** and/or as **subsurface deposits** containing artefacts. These site types may occur almost anywhere that Aboriginal people have travelled and may be associated with hunting and gathering activities, domestic camps, or the manufacture and maintenance of stone tools. The density of artefacts represented in these scatters can vary considerably between and across individual sites. These sites are classed as 'open', that is, occurring on the land surface unprotected by rock overhangs, and are sometimes referred to as 'open camp sites'.

Within the Shellharbour City Council area artefact scatters occur mainly along the crests of ridgelines and spurs, river terraces, relic dunal features, and elevated areas fringing minor creek banks or wetland contexts. Common stone artefact materials are red and brown cherts, quartz, silicified wood, indurated mudstone and to a lesser extent, silcretes. The location of artefact scatters on major ridges may be related to Aboriginal use of ridgelines as convenient travel routes.

Isolated finds are artefacts that occur without any associated evidence for prehistoric activity or occupation. They are defined here as single artefacts located more than 60 m from any other artefact. Isolated finds may occur anywhere in the landscape and may represent the remnants of dispersed artefact scatters, or simply lost or discarded material.

Artefact Scatters with some shell occur most frequently within the broad vicinity of coastal and estuarine resource zones. They are less predictable in terms of their specific topographic location. The small amount of shell visible at these sites may indicate the remnants of an eroded, but originally larger, shell midden, or may indicate more extensive subsurface shell. Alternatively, the combination of shell and stone artefacts may be coincidental.

Coastal Middens are defined as a concentration of artefactual debris that includes a significant percentage of marine shellfish species. They are usually the result of interim or base camp activity and are normally located close to the littoral environment. Coastal midden sites are most likely to occur on locally elevated ground adjacent to estuarine and coastal resource zones, particularly adjacent to rock platforms and at the junction of freshwater, estuarine and marine resources. Midden sites are unlikely to have survived in dune deposits that have been grossly impacted by erosion, sand mining or reconstruction as part of soil conservation works.

Coastal middens have been recorded on Windang Island, at Pur Pur Beach, Shellharbour and Bass Point.

Estuarine Middens are defined as a concentration of artefactual debris that includes a significant percentage of estuarine shell species. They are located mostly in close proximity to estuarine environments. Numerous estuarine and intermediate middens have been located around Lake Illawarra. These sites occur on headlands, levee banks, on the primary lake bench and on the islands in the lake. These middens generally contain a restricted range of shell species and limited stone and faunal material. Many of these sites have undergone some degree of disturbance.

Burials are generally found in soft sediments such as sand or alluvial silts. They may also occur in

rockshelters and are mentioned in historic accounts as being placed in hollow trees. Burials are generally only visible where there has been some disturbance of sub-surface sediments or where some erosional process has exposed them. Burials are unlikely to have survived in dune deposits which have been grossly impacted by erosion, sand mining or reconstruction as part of soil conservation works.

Both documented and oral information about Aboriginal burials indicate that they frequently occur in association with midden material. To date, six of the archaeologically recorded burials located in the Illawarra area have been found in midden deposits on the northern foreshore and lake entrance area of Lake Illawarra. A burial has also been reported from Warilla.

Scarred trees are the result of the Aboriginal removal of bark (and possibly also wood) from a living tree. Bark was used in the manufacture of various structures, implements and materials such as living shelters, shields, canoes, coolamons, sculptures and twine. Scars may also be the result of making footholds in a tree to collect food or facilitate the removal of bark. This site type occurred wherever suitable trees within the region's extensive prehistoric forests were exploited by Aboriginal people.

Some scarred trees may date to the historic period when bark was removed by Aborigines for both their own purposes and for roofing and cladding material on early European houses. Consequently the distinction between European and Aboriginal scarred trees is sometimes blurred. Scarring which does not relate to European-motivated removal probably dates to before the 1830's, and certainly the 1850's. Criteria for distinguishing Aboriginal scars are presented in Appendix 4.

Extensive forestry, vegetation clearance and urban development have substantially reduced the potential occurrence of this site type within the coastal plain. Aboriginal scarred trees are a diminishing component of the archaeological resource and surviving examples are limited to suitable tree species of mature age.

Only one scarred tree has been listed on the NPWS Site Register for the Shellharbour City Council Area.

Ceremonial Grounds and Stone Arrangements are defined by arrangements of placed stones or earth embankments that can be reasonably assigned to Aboriginal ceremonial activity.

Traces of these types of sites would be unlikely to survive in an area that has been subject to extensive disturbance, such as is evident for the entire Lake Illawarra, Dunmore and Minnamurra region. However Silcox, has recorded a possible stone arrangement on a steep southwest facing slope at Minnamurra, near Jamberoo. These features may also be the result of European land clearance.

Rock shelter sites consist of rock overhangs which contain evidence of Aboriginal occupation. Evidence of occupation may be in the form of an archaeological deposit, grinding grooves or other ground or pecked features, and **pigment or engraved art**. Some shelter deposits have been found to contain burials. Rock shelter sites tend to have relatively dry and level sediment floors and may be situated close to a water source and/or a major ridgeline. Rock shelter sites may occur wherever the suitable bedrock and weathering conditions exist to support rock overhangs. Within the study area the sandstone and conglomerate facies of the mid to upper slopes of the Illawarra Range are the most likely areas for shelter sites. Paradoxically, the only shelter site recorded for the Shellharbour City Council Area is on the Bass Point coastline within the Bumbo Latite. Suitable overhangs formed in Latite are rare.

Grinding groove sites consist of single or grouped occurrences of abraded grooves which have been created through the manufacture of ground edges on tools such as hafted stone hatchets. Water is a desirable part of an efficient grinding method and most grooves are found in close proximity or within a local water source such as a streamline or pothole. Sandstone is nearly always

utilised for grinding and only fine grained and even-surfaced platforms tend to be used. Areas most likely to contain grinding grooves in the study area are upper catchment streamlines in which sandstone platforms are exposed.

Potential Archaeological Deposit (PAD) PADs are deposits, usually associated with rock shelters or actively aggrading landform features. They exhibit no identifiable archaeological material on the surface but may contain sub-surface material. Potential deposits are usually identified by their context within, or associated with, a landscape feature that was likely to have been exploited in prehistory.

A Site Complex is usually a geographically discrete group of sites which can be shown to be interrelated according to their locational determinants. Site complexes are commonly identified in association with valuable sources of raw materials, food, and/or places of ceremonial significance.

Traditional story place or other ceremonial place are categories for any locality which manifests, or is associated with, a traditional Aboriginal story or ceremony. Most sites consist of natural landscape features that relate to stories about the dreaming or resident spirits and cosmological figures. These places are also sometimes known as 'natural mythological' sites. However, places which relate to historical events including ceremonies, battles and massacres may fall into this category and do not necessarily correspond to significant landscape features. Many of these sites will have no archaeological manifestation and their identification is dependent on oral or written evidence of Aboriginal lore.

'Contact' Sites relate to sites that contain evidence of Aboriginal occupation during the period of early European occupation in a local area. The term 'contact' is a general description which refers to the generally poorly defined or documented time period when traditional Aboriginal society made initial contact with Europeans and subsequently changed their social, economic and occupational patterns in response to European incursion. Evidence of this period of 'contact' could potentially be Aboriginal flaked glass, art motifs depicting European people or objects, burials with historic grave goods or markers, and debris from 'fringe camps' where Aborigines who were employed by, or who traded with, the White community may have lived or camped. The most likely location for such contact period Aboriginal occupation sites would be camp sites adjacent to permanent water, and located away from the focus of European town occupation or landuse.

Appendix E

Aboriginal Archaeological Site Sensitivity – Shellharbour City Council

- ▶ Landscape zones of differing “archaeological sensitivity” across the Shellharbour City Council area, as taken from the *Shellharbour City Council Area Aboriginal Heritage Study (2000)* (pages 56-8).

The Shellharbour City Council Area can be divided into a series of landscape zones which present differing archaeological sensitivity. Archaeological sensitivity is defined as the potential for encountering Aboriginal archaeological sites.

It is important to make the distinction here between archaeological sites and other places of Aboriginal cultural significance. Places in the latter category may have no archaeological manifestation and their significance may rest in a location only, or a variety of natural elements or modified landscape features. The sensitivity categories outlined below refer only to sites and places with an artefactual archaeological component.

Nine landscape zones have been identified, each corresponding to a distinct combination of potentially occurring archaeological sites and occurrences. Some of the Zones are not mutually exclusive and overlap. The Zone classifications are outlined below (*also refer to Table 6 and Map 4 in the Shellharbour City Council Area Aboriginal Heritage Study*).

Grossly Disturbed Landscapes

This landscape category includes areas of gross landsurface disturbance where the original landsurface and soil profile has been obliterated through subsequent landuse. Most of the identified areas are landscapes modified by open cut quarrying, mining and landfill.

This landscape has nil potential to contain archaeological sites.

Urban Landscapes

This category includes all of the predominantly urban landscapes within the study area. These are characterised by relatively small residential allotments, a relatively dense road network, and the full range of associated retail, business, recreation and service easement land divisions. The mapping of this category has been based on the interpretation of late 1990s aerial photography.

Areas of archaeological sensitivity within this zone tend to be limited to remnant undisturbed subsurface deposits which may survive within the littoral zone (defined as 200 m from the bank or shoreline). Such deposits are unlikely to occur in shallow soil profiles formed on bedrock slopes. Archaeological deposits are most likely to survive within relatively deep but locally elevated deposits of Quaternary sediment, such as aeolian sand bodies and terraces (refer Littoral Zone below).

The potential for surviving sites in this zone is generally low. There is low to moderate potential for midden sites and possibly also burials within low gradient, but locally elevated, sedimentary contexts within the littoral zone. Scarred trees may also survive where old-growth trees survive, either as isolated trees or remnant forest or woodland.

Littoral Zone

The Littoral Zone is defined as all land occurring within 200 m of the marine coastline or shoreline of Lake Illawarra and waters of tidal influence.

Areas of archaeological sensitivity within this zone are generally level locally elevated landforms which are relatively undisturbed, especially when close to a freshwater source, adjacent to rock platforms, or on a relatively deep sedimentary deposit.

The potential for sites such as middens, artefact scatters and burials is moderate or moderate to high. Burial sites are most likely to occur within this zone and especially in or near middens, near creek or estuary mouths, and on landforms with relatively deep sedimentary deposits. The potential for other site types is generally low.

Valley Floor Alluvium and Estuarine Infill Deposits

This zone encompasses the sedimentary landforms of the valley floors. They include most of the depositional and aggrading landforms within the study area and are therefore the most likely to contain stratified sites with significant time depth (with the exception of rock shelter sites on the slopes of the Illawarra Ranges). The valley floor topographies have formed on sediments of Quaternary age and include fluvial, estuarine and marine depositional sequences.

Areas of archaeological sensitivity within this zone are locally elevated, generally level landforms such as terrace edges, spurline crests, remnant dunes and other sand bodies, the banks of drainage lines and wetland basins.

The potential for artefact occurrences in these contexts is moderate (especially given the potential for subsurface deposits). The potential for burials and scarred trees is low to moderate. Reported burials of Aboriginal people in the historic period have occurred along the banks of the Macquarie Rivulet. The potential for rock based sites such as rock shelters and grinding grooves is nil, given the lack of bedrock exposures.

Basal valley slopes and associated low spurlines

This Zone consists of the low relief bedrock slopes and crests situated on the margins of the valley floor sedimentary landforms. Typically this landscape consists of low spurlines or colluvial fans extending into the valley floor, often associated with tributary streamlines. Their archaeological potential is derived from their locally elevated and ecotonal context adjacent to the resources of the valley floor and adjacent slopes.

Areas of archaeological potential within this zone are generally level spurline crests and low rises, and locally elevated and/or generally level ground adjacent to drainage lines.

Artefact occurrences are the most likely site type within this zone and have a moderate potential. Grinding grooves may occur on the rare instances that sandstone bedrock is exposed in streambeds. There is a low to moderate potential for scarred trees where remnant vegetation survives. Burials may survive within the sedimentary deposits of small tributary valleys, although this is classed as a low to moderate potential only. The potential for middens is low.

Coastal Plain Slopes and Low to Mid Valley Slopes Fringing the Coastal Plain

This classification includes most of the slopes and hill topography of the coastal plain, together with the low to mid-valley slopes which make up the lower third of the Illawarra Ranges. This Zone includes the latite bedrock topographies and those formed on the softer rocks underlying the Illawarra Coal Measures. As a consequence, the potential for rock based sites such as rock shelters and grinding grooves is generally low.

Areas of archaeological potential within this zone are generally level ground on ridge and spurline crests and benches, especially locally elevated landforms adjacent to freshwater.

The most likely site type in this zone is artefact occurrences which are unlikely to occur outside of the

sensitive landforms identified above. Scarred trees may also occur given the increasing forest cover of this landscape, especially on the Illawarra Range. Some small areas of sandstone based topography occur within this zone and the potential for grinding grooves is correspondingly higher. In addition, the upslope boundary of this zone may abut sandstone exposures and shelters may therefore be present on dislocated tors which have moved downslope.

Illawarra Escarpment and Mid to Upper Valley Slopes

This zone consists of the escarpment and mid to upper valley context slopes of the Illawarra Range. The landscape is dominated by forested moderate to steep slopes, with more level areas occurring on ridge and spurline crests and benches. Continuous and discontinuous rock escarpments occur frequently.

Areas of archaeological sensitivity are:

- generally level ground on ridge and spurline crests and benches, especially locally elevated
- landforms adjacent to freshwater,
- all rockshelters >1m high with relatively dry and level sediment floors, and
- relatively level sandstone platforms.

The potential for rock shelter sites to occur within this zone is considered to be moderate to high. These sites represent the greatest potential for surviving Aboriginal rock art within the Shellharbour City Council Area. The most likely form of rock art is pigment art using either a drawn or painted technique. Engraving sites are likely to be very rare. The potential for grinding grooves is moderate, given the density of tributary streams flowing over sandstone bedrock. The potential for scarred trees is also greatest within this zone, given the potential for old-growth trees remaining in inaccessible or less frequently logged forests. The potential for open context artefact occurrences remains moderate on relatively level spurline crests.

Relatively level ground on elevated and major watershed crests

This is a finer scale landform classification which occurs within all the rangeland and hills zones. This category consists of significant areas of relatively level ground on major ridgeline crests. The archaeological potential of this landform category rests in the probable use of the watershed crests as access routes across and through the rangelands, and possibly also across the coastal plain.

Areas of archaeological sensitivity are relatively level ground, especially close to water sources such as small springs or soaks, and in saddles.

The potential for artefact occurrences is moderate, as are grinding grooves, provided suitable sandstone exposures occur. Scarred trees may also occur although these areas were often heavily logged due to their accessibility, and old-growth trees may be rare. Due to the limited potential for agriculture on some of these areas, more fragile site types such as stone arrangements may conceivably survive in uncleared contexts.

Sandstone drainage lines

This is a fine-scaled classification and consists of mostly upper catchment drainage lines which flow over sandstone bedrock topographies. The main justification for differentiating this landform is the potential for grinding grooves, and the less likely potential for engraving sites.

Bedrock exposures may not necessarily be present within these identified areas. In some agricultural land contexts, grinding grooves may be concealed due to siltation from the downslope movement of sediments.

Appendix F

Aboriginal Archaeological/Cultural Heritage Site Types and Locations – Wollongong City Council

- Likely occurrence of the Aboriginal archaeological/cultural heritage sites within differing land systems, and sub-units, in the Wollongong City Council area – as taken from the *Wollongong City Aboriginal Heritage Planning Study* (1995) (Table 3.1).

Land System	Archaeology	Landuse	Zoning*
COAST			
Coastal Islands gw ◦ Slopes 3-25% ◦ tall wet sclero, dry sclero ◦ Soils 50-100cm	Unknown	◦ Unknown	6a/8a
Wollongong Beaches & foredunes wg ◦ Slopes <10% ◦ herbland grassland	Midden/Open camp/ Contact/Burial	◦ Much original vegetation disturbed. Revegetation.	6a/7a
Seven Mile Dune ridges, swamps, swales sm ◦ Slopes <5% ◦ open scrub, open forest	Midden/Open camp/ Contact/Burial	◦ Recreation, residential, caravan parks, golf courses ◦ Industrial ◦ Mostly Cleared ◦ Residential, recreational	2a/2b/5a/6a/6b/6c/9b
ALLUVIAL PLAIN			
Fairy Meadow fa Undulating alluvial plains ◦ Slopes <5% ◦ open forest/woodlands ◦ Soils 100-150cm	Midden/open camp/Scarred Trees	◦ Almost all cleared. Dairy farming/other agriculture ◦ Developed for commercial, industrial, residential, playing fields in drainages, Albion Park aerodrome ◦ Minor areas of filling and reclamation	7b/6a/6b/5a/4a/4b/1
FOOTHILLS			
Gwynneville gw Gentle rises ◦ Slopes 3-25% ◦ tall wet sclero, dry sclero ◦ Soils 50-100cm	Open Camp sites/ Scarred trees	◦ Extensively cleared for dairying ◦ Mainly residential; dairying; some native timber ◦ Prev. widespread mass movement; localised moderate gully & sheet erosion	2a/2b/4a/4c/6a/6b/6c
Berkeley bk Low volcanic hills & valleys ◦ Slopes 10-50% ◦ wet sclero, rain forest ◦ Soils 50-100+ cm	Open camp sites/ Scarred trees	◦ Partially to extensively cleared ◦ Dairying, some residential, coal mining ◦ Lantana common in drainage lines ◦ Highly erodible	1/2a/6a/7a/7bb/7c/8b
Cambewarra ca Steep hills ◦ Slopes >30% ◦ Rainforest ◦ Soils 200-250cm	Open camp sites/ Scarred trees	◦ Mostly uncleared ◦ Cattle grazing and hobby farms on cleared areas ◦ Minor gully erosion	7b

FOOTHILLS cont				
Wattamolla Road	wt	Open camp sites/ Scarred Trees	<ul style="list-style-type: none"> ◦ Extensively cleared ◦ Cattle grazing ◦ Slumping, minor gully erosion 	1/7a/7b
Undulating hills				
<ul style="list-style-type: none"> ◦ Slopes 5-15% ◦ dry sclerophyll open forest ◦ Soils 100-120cm 				
Shellharbour	sh	Open camp sites/ Scarred trees	<ul style="list-style-type: none"> ◦ Extensively cleared ◦ Dairying and horse agistment, urban subdivison ◦ Moderate gully 	1/5a/6a/7b
Rolling low hills				
<ul style="list-style-type: none"> ◦ Slopes <20% ◦ Wet sclero, rainforest ◦ Soils 100-200cm 				
ESCARPMENT				
Illawarra Escarpment	ie	Scarred trees/possible shelter art/occupation axe grinding grooves	<ul style="list-style-type: none"> ◦ Mostly uncleared ◦ Undisturbed forest, some mine entrances, some residential (urban fringe) ◦ Mass movement, minor gully/sheet erosion 	2a/4c/6a/7a/7b
Quaternary tallus				
<ul style="list-style-type: none"> ◦ Slopes <20-50% ◦ Wet sclero, rain forest ◦ Talus soil >200cm ◦ 100cm on drainage lines 				
Watagan	wn	Possible shelter art/occupation/axe grinding grooves/scarred trees	<ul style="list-style-type: none"> ◦ Mostly uncleared ◦ Mostly National Park or water catchment ◦ Sheet eriosion on steep slopes ◦ Slips 	1/7d/8a/8b
Slopes with tallus boulders				
<ul style="list-style-type: none"> ◦ Slopes 25-70% ◦ Wet sclero, rainforest ◦ Soil 30-200cm 				
PLATEAU				
Warragamba	wb	Sheltered art/occupation deposit/engraving	<ul style="list-style-type: none"> ◦ Mostly uncleared ◦ Undisturbed forest. ◦ Mostly NP and water catchment ◦ Prev. landslip and rockfall ◦ Moderate sheet erosion 	7a
Ridges and steep slopes				
<ul style="list-style-type: none"> ◦ Slopes >35% ◦ Wet sclero, rain forest ◦ Soil <100cm 				
Hawkesbury	ha	Shelterart/deposit/ Engravings Open sites Stone arrangement	<ul style="list-style-type: none"> ◦ Mostly uncleared ◦ Undisturbed forest. ◦ Mostly NP and water catchment. ◦ Severe sheet erosion after rain, gully erosion 	7a/7b/8b
Rugged and steep ridges				
<ul style="list-style-type: none"> ◦ Slopes >25%, rock 50% ◦ dry sclero, wdland, pockets of wet sclero, occasional rain forest ◦ Soil 50-70cm 				
Bundeena	bu	Open sites Scarred trees Stone arrangements Engravings	<ul style="list-style-type: none"> ◦ Mostly uncleared NP ◦ Severe sheet erosion after fires 	1/2a/2b/6a/7a/7d/8a/8b
Rolling plateau surface on Hawkesbury's st				
<ul style="list-style-type: none"> ◦ Slopes 5-20% ◦ Heath and scrub, patches of woodland ◦ Up to 50cm sand clay loam 				
Lucas Heights	lh	Open sites Scarred trees Stone arrangements Engravings	<ul style="list-style-type: none"> ◦ Extensively cleared ◦ Orchard, market gardens, poultry farms, dairying, horse grazing\ ◦ Minor gully and sheet erosion 	7a
Gently undulating plateau surface				
<ul style="list-style-type: none"> ◦ Slopes <10% ◦ dry sclero w'land and open forest ◦ Soil <100cm, valley flats 100-200cm 				

* Zonings cited are no longer applicable/current

Appendix G

Significant Aboriginal Places in the Illawarra

- Significance of Aboriginal heritage places in the Illawarra, as identified in *A History of Aboriginal People of the Illawarra 1770 to 1970* (2005) (Appendix 1).

Name of site	Significance criteria according to the Burra Charter and rank of significance	Themes	Themes from NSW Heritage Office	Level of significance
1. Five Islands	Historic Social High to exceptional	The Illawarra Landscape as Wadi-Wadi Country Caring for Country Knowledge of Country and culture	(a) historic significance, (d) social significance	Local

Name of site	Significance criteria according to the Burra Charter and rank of significance	Themes	Themes from NSW Heritage Office	Level of significance
2. Red Point/ Hill 60/ Djillawarra	Historic Social Moderate to high	Country as Provider Caring for Country Using the lake, lagoons, creeks and rivers The continued reliance on the sea and shoreline Fighting for tenure at Tom Thumb Lagoon, Hill 60 and Coomaditchy Defending family life and identity Adopting European work practices	(a) historic significance, (d) social significance	Local State
3. Windang Island	Historic, Social Scientific/ Archaeological High to exceptional	The Illawarra Landscape as Wadi-Wadi Country Caring for Country	(a) historical significance, (d) social significance, (e) scientific significance	Local
5. Gooseberry Island	Historic Social Scientific/ Archeological Moderate to high	Using the lakes, lagoons creeks and rivers	(a) historical significance, (d) social significance, (e) scientific significance	Local

Name of site	Significance criteria according to the Burra Charter and rank of significance	Themes	Themes from NSW Heritage Office	Level of significance
6. Hooka Island	Historic Social Scientific/ Archeological Moderate to high	Using the lakes, lagoons, creeks and rivers Battles with Charley Hooka	(a) historic significance, (d) social significance	Local
7. Mt Keira	Historic Social Exceptional to high	The Illawarra Landscape as Wadi-Wadi Country Caring for Country Ongoing use of the escarpment and forests Movement	(a) historic significance, (d) social significance	Local
8. Mt Kembla	Historic Social Exceptional to high	The Illawarra Landscape as Wadi-Wadi Country Caring for Country Ongoing use of the escarpment and forests Movement	(a) historic significance, (d) social significance	Local

Name of site	Significance criteria according to the Burra Charter and rank of significance	Themes	Themes from NSW Heritage Office	Level of significance
9. Coomaditchy	Historic Social Scientific/ Archeological Exceptional to high	Country as provider Using the lakes, lagoons, creeks and river systems The continued reliance on the sea and the shoreline Fighting for tenure at Tom Thumb Lagoon, Hill 60 and Coomaditchy Defending family life and identity Joining the broader fight for Aboriginal Rights Adopting European work practices	(a) historic significance, (d) social significance, (e) scientific significance	Local
10. Fig Tree Site	Historic Social Exceptional to high	The Illawarra landscape as Wadi-Wadi Country Continuing other historic cultural traditions	(a) historic significance, (d) social significance	Local State

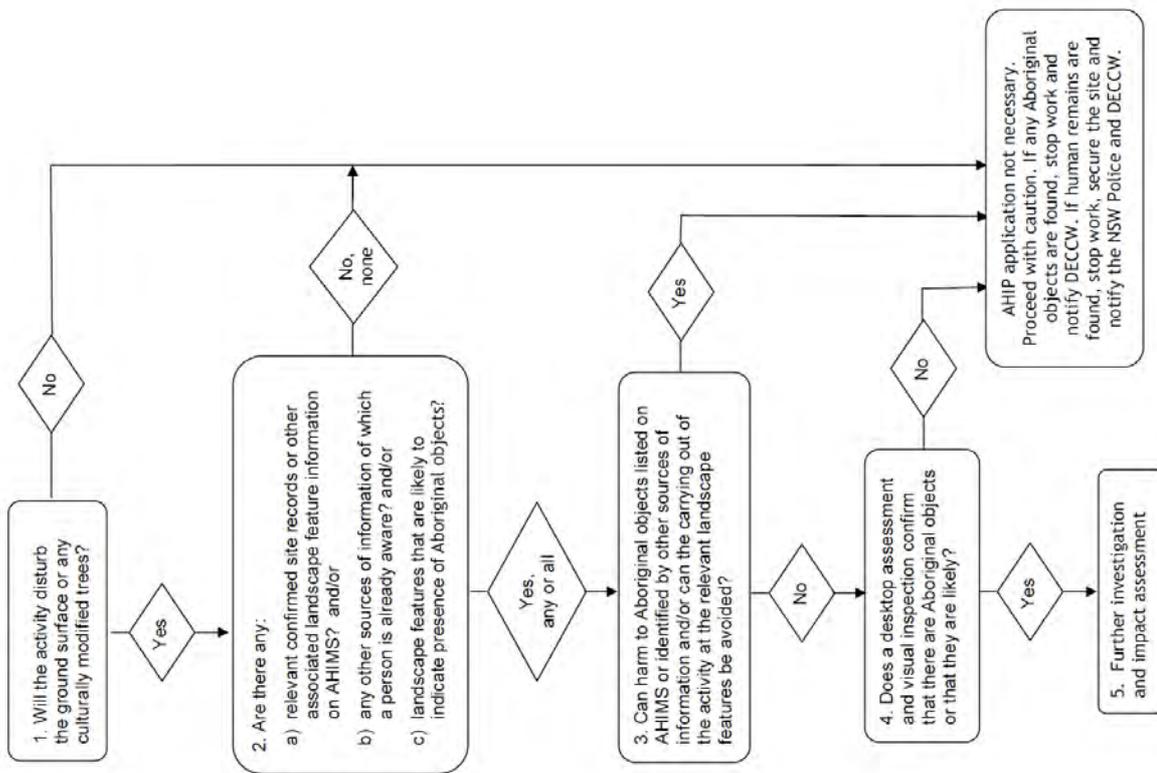
Name of site	Significance criteria according to the Burra Charter and rank of significance	Themes	Themes from NSW Heritage Office	Level of significance
11. Sandon Point	Historic Social Scientific/ Archaeological Moderate to high	The Illawarra Landscape as Wad-Wadi Country The continued reliance on the sea and the shoreline Burials	(a) historic significance, (d) social significance, (e) scientific significance	Local
12. Shores and swamps of and watercourse conjunctions with Lake Illawarra	Historic Social Scientific/ Archaeological Exceptional to high	Country as provider Using the lakes, lagoons, creeks and river systems The continued reliance on the sea and the shoreline Using other historic cultural traditions Wearing Breast Plates	(a) historic significance, (d) social significance, (e) scientific significance	Local
13. Bulli Pass	Historic Social Exceptional to high	Caring for Country Movement	(a) historic significance, (d) social significance,	Local
14. Golf Links	Historic Social Exceptional to high	Country as Provider Using the lakes, lagoons' creeks and rivers Fighting for tenure at Tom Thumb Lagoon, Hill 60 and Coomaditchy	(a) historic significance, (d) social significance,	Local

Appendix H

Office of Environment and Heritage Generic Due Diligence Process

- ▶ Office of Environment and Heritage “generic due diligence process”, as taken from *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (2010) (pages 10-14).

8 The generic due diligence process



Step 1. Will the activity disturb the ground surface?

The first question to ask in the due diligence process is, Will the activity disturb the ground surface or any culturally modified trees? If an activity will disturb the ground surface there is a higher likelihood that Aboriginal objects will be harmed.

Disturbance of the ground surface is often significant when machinery is used to dig, grade, bulldoze, scrap, plough, or drill the ground surface for the purpose of, for example, building a structure or removing vegetation.

If your activity will not disturb the ground surface or any culturally modified trees then you can proceed with caution without applying for an AHIP.

If the activity will disturb the ground surface or any culturally modified trees then check the AHIMS database – step 2a.

Step 2a. Search the AHIMS database and use any other sources of information of which you are already aware

You should search the AHIMS database and check whether any Aboriginal sites have been recorded in the area where you are proposing to carry out your activity. There may also be additional landscape or other contextual information, relevant to the area of your proposed activity on AHIMS.

Information on AHIMS searches is available on DECCW's website.⁶

The initial web-based search of AHIMS is free and you will be able to print the results of your search for record keeping purposes. For the purposes of due diligence you may rely on the search results for 12 months. (See section 10 for record keeping recommendations for the due diligence process.)

If the results of the initial AHIMS search indicate that AHIMS contains information about recorded Aboriginal objects in the area of your proposed activity you must obtain copies of those records. Contact the AHIMS registrar by faxing the request form or submitting the request form over the internet. Costs may apply depending on the type of information you are asking for. There may also be restrictions in providing culturally sensitive information.

After obtaining records from AHIMS of any recorded Aboriginal objects you should confirm that these objects can be located in the area where your activity is proposed. If you think the information on AHIMS is not up to date or is inaccurate you should contact the AHIMS registrar on 02 9585 6471, 02 9585 6345 or 02 9585 6157 for further advice.

If you are aware of any other sources of information, you need to use these to identify whether or not Aboriginal objects are likely to be present in the area. Other sources of information can include previous studies, reports or surveys which you have commissioned or are otherwise aware of.

Go to step 2b.

Step 2b. Activities in areas where landscape features indicate the presence of Aboriginal objects

Regardless of whether your AHIMS search indicates known Aboriginal objects, you still need to consider whether Aboriginal objects are likely to be in the area of the proposed activity having regard to the following landscape features.

⁶ www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm

Aboriginal objects are often associated with particular landscape features as a result of Aboriginal people's use of those features in their everyday lives and for traditional cultural activities. Examples of such landscape features are rock shelters, sand dunes, waterways, waterholes and wetlands. Therefore it is essential to determine whether the site contains landscape features that indicate the likely existence of Aboriginal objects.

Consequently, if your proposed activity is:

- within 200m of waters⁷, or
- located within a sand dune system⁸, or
- located on a ridge top, ridge line or headland, or
- located within 200m below or above a cliff face, or
- within 20m of or in a cave, rock shelter, or a cave mouth

and is on land that is not disturbed land (see Definitions) then you must go to step 3. If after completing steps 2a and 2b it is reasonable to conclude that there are no known Aboriginal objects or a low probability of objects occurring in the area of the proposed activity, you can proceed with caution without applying for an AHIP.

Step 3: Can you avoid harm to the object or disturbance of the landscape feature?

This step only applies if your activity is on land that is not disturbed land or contains known Aboriginal objects.

Where as a result of step 2a you think it is likely that there are Aboriginal objects present in the area of the proposed activity, you need to decide whether you can avoid the harm to those objects.

Where as a result of step 2b you have concluded that the landscape features listed are present, you need to decide whether you can move your activity away from the area with the landscape feature(s) so as to avoid disturbing any Aboriginal objects which may be present.

Possible solutions may include reducing the area of a building footprint, changing its orientation, re-positioning built elements, re-routing infrastructure trenching or incorporating a no-development area into the site design.

If you can't avoid harm to the object or disturbance of the landscape feature(s) you must go to step 4.

If you can avoid harm to the object and disturbance of the landscape feature(s) you can proceed with caution without applying for an AHIP.

Step 4: Desktop assessment and visual inspection

This step only applies if your activity is on land that is not disturbed land or contains known Aboriginal objects.

⁷ 'Waters' means the whole or any part of: any river, stream, lake, lagoon, swamp, wetlands, natural watercourse, tidal waters (including the sea). Note: the boundary or tidal waters is defined as the high water mark.

⁸ Refers to sand ridges and sand hills formed by the wind, usually found in desert regions, near a lake or in coastal areas. In areas of western NSW, windblown dunes can occur along the eastern edges of ephemeral lakes (called lunettes dunes). They can also occur along the banks of rivers.

The assessment process is primarily a desktop exercise that involves examination and collation of the readily available information. The assessment must consider the area of the proposed activity as a whole, not just particular areas where any Aboriginal objects have been recorded on AHIMS or areas where landscape features are located.

At a minimum the information reviewed as part of the desktop assessment should include existing knowledge of Aboriginal cultural heritage gleaned from previous heritage studies or reports for the area, including any archaeological studies on AHIMS. There may be some restrictions in providing culturally sensitive information to you. Where this is the case DECCW will provide advice on how to proceed.

You must undertake a visual inspection of the area to see if Aboriginal objects can be identified or are likely to be present below the surface. This visual inspection must be done by a person with expertise in locating and identifying Aboriginal objects. This person with expertise could be an Aboriginal person or landholder with experience in locating and identifying Aboriginal objects or a consultant with appropriate qualifications or training in locating and identifying Aboriginal objects.

Where either the desktop assessment or visual inspection indicates that there are (or are likely to be) Aboriginal objects in the area of the proposed activity, more detailed investigation and impact assessment will be required. This will need to be done by a person with expertise in Aboriginal cultural heritage management. Go to step 5.

Where the desktop assessment or visual inspection does not indicate that there are (or are likely to be) Aboriginal objects, you can proceed with caution without an AHIP application.

Step 5: Further investigations and impact assessment

DECCW's website has further information about how to do a detailed investigation and impact assessment and the procedures for applying for an AHIP.

If after this detailed investigation and impact assessment you decide that harm will occur to Aboriginal objects then an AHIP application must be made.

For information that is required to support an application for an AHIP (including impact assessment and community consultation) and other relevant information see www.environment.nsw.gov.au/conservation/aboriginalculture.htm#whatfodo.

All AHIP applicants must undertake consultation in accordance with clause 80C of the NPW Regulation. These requirements may also be followed where there is uncertainty about potential harm and you are undertaking a cultural heritage assessment.

If you decide an AHIP application is not necessary

If you have followed this code and at any point have reasonably decided that an AHIP application is not necessary either because Aboriginal objects are not present or, if they are present, harm to those objects can be avoided, you can proceed with caution.

If however, while undertaking your activity you find an Aboriginal object you must stop work and notify DECCW and you may need to apply for an AHIP. Some works may not be able to resume until you have been granted an AHIP and you follow the

conditions of the AHIP. Further investigation may be required depending on the type of Aboriginal object that is found.

If human skeletal remains are found during the activity, you must stop work immediately, secure the area to prevent unauthorised access and contact NSW Police and DECCW.

The NPW Act requires that, if a person finds an Aboriginal object on land and the object is not already recorded on AHIMS, they are legally bound under s.89A of the NPW Act to notify DECCW as soon as possible of the object's location. This requirement applies to all people and to all situations, including when you are following this code.

If a person finds an Aboriginal object which is not recorded on AHIMS, they should contact DECCW as soon as practicable. Notification procedures can be found at: www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm

The due diligence process is shown diagrammatically at the beginning of this section.

Appendix I

Selected NSW Local Councils' Approaches to Addressing Aboriginal Cultural Heritage Values in the Development Assessment Process

As part of the Toolkit's preparation the website of each local Council throughout NSW was searched for any publicly available information regarding the consideration of Aboriginal cultural heritage values in the development assessment process. This included measures contained in local environmental plans, development control plans and policies as well as information for proponents such as development application checklists, guidelines, pre-lodgement advice and brochures. Information provided by Councils regarding Aboriginal cultural heritage sites and values, legislative protections and requirements and site management were also sourced.

This search was largely limited to public information that was readily available through Council websites, so it is by no means comprehensive or complete. It is likely that many Councils hold more detailed or specific information and development assessment procedures that are not made publicly available via their websites. This was subsequently found to be the case in several instances – most notably for Greater Taree City Council, which has a detailed internal manual *Aboriginal Cultural Heritage Guidelines for Consultation, Planning and Assessment* (as included below). However the Toolkit's web research did demonstrate the general scarcity of detailed information, for both proponents and Councils, in this important area.

The following are some examples of how selected local Councils in NSW, mainly those with the most readily publicly available/accessible information, approach the issue of addressing Aboriginal cultural heritage values in the development assessment process. No doubt there are other working and effective approaches.

► Greater Taree City Council

Website Information for Proponents

Greater Taree City Council website has a suite of guides, application forms and checklists to “improve the development lodgement/assessment process” and assist proponents in submitting completed and correct development applications with all necessary supporting information.

As part of the Development Application Lodgement Checklist (available on Council’s website) in section “4 Heritage Impact Statement”, under the heading “Indigenous Heritage”, proponents are asked:

Is your development:

- A new dwelling or structure;
- A subdivision; or
- Works involving clearing or ground disturbance ?

If so, please complete the Greater Taree City Council Aboriginal Cultural Heritage Checklist and lodge with this application.

The *Greater Taree City Council Aboriginal Cultural Heritage Checklist* is also available on-line. A copy of this checklist (which includes hyperlinks to relevant legislation, guidelines or websites) is provided on the following pages.

The “Development - Application Forms” webpage site also includes *A Guide to Preparing A Statement of Environmental Effects* in support of development applications. The Statement of Environmental Effects template provided also includes the following question and advice:

Will your development cause known potential harm and/or disturbance to Aboriginal objects?

- No
- Yes

If Yes, please include measures proposed to avoid harm and/or disturbance and include written confirmation from Purfleet-Taree Local Aboriginal Land Council (PTLALC).

Note: Ensure that Council’s Aboriginal Cultural Heritage Checklist for Development Applications is lodged with your Development Application.

GTCC Aboriginal Cultural Heritage Checklist for Development Applications

Please fill this form in electronically as hyperlinks exist in the coloured text to assist you in answering each of the questions.

Sections 7 and 8 of the NSW Government's [Due Diligence Code of Practice \(DDCP\)](#) for the Protection of Aboriginal Objects in New South Wales can be used to assist applicants to complete this checklist.

Yes	No	Aboriginal Cultural Heritage
		<p>1. Is the development proposed in an Aboriginal Place (Declared by the Minister) or are you aware of Aboriginal objects on the land?</p> <p>If "No" proceed to 2. If "Yes" proceed to 6.</p>
		<p>2. Is the development determined to be of "low impact" in accordance with Clause 80B of the National Parks and Wildlife Regulation?</p> <p>If "No", proceed to 3. If "Yes", no further assessment required.</p>
		<p>3. Will there be ground disturbance or land clearance on previously undisturbed or uncleared land? Refer to Clause 80B of the National Parks and Wildlife Regulation for a definition of disturbed land.</p> <p>If "No" no further assessment required. If "Yes", proceed to 4.</p>
		<p>4. Conduct an Aboriginal Heritage Information Management System (AHIMS) Basic Search, using a 200m radius through the NSW Office of Environment and Heritage. Did the AHIMS Basic Search return any results indicating the existence of artefacts on the property or within a 200m radius? Please include a copy of your search results with this form.</p> <p>If "No", proceed to 5. If "Yes":</p> <p>(a) Contact the Purfleet-Taree Local Aboriginal Land Council (PTLALC) in writing (contact details for PTLALC are provided at the bottom of this checklist) and request written information about any known Aboriginal cultural heritage issues within the study area. Please include a copy of the PTLALC correspondence with this form.</p> <p><i>(Note: the PTLALC has 28 days to respond in writing to your request. If no response is received within 28 days, attach a copy of correspondence to the PTLALC with your application).</i></p> <p>(b) Request the AHIMS site card/s from the NSW Office of Environment and Heritage to gain further information about the identified object; and Proceed to 6.</p>

ABN 45 851 497 602

2 Pulteney Street Taree | PO Box 482 Taree NSW 2430

T 02 6592 5399 F 02 6592 511

www.gtcc.nsw.gov.au

Yes	No	Aboriginal Cultural Heritage
<input type="checkbox"/>	<input type="checkbox"/>	<p>5. Investigate Landscape Features. Is the project site within a landform or area that has potential for Aboriginal Cultural Heritage as follows:</p> <p>Within 200m of a natural body of water; or Located within a sand dune system; or Located on a ridge top, ridge line, or headland; or Located within 300 m below or above a cliff face; or Within 20m of or in a cave, rock shelter, or a cave mouth? If "No", no further assessment required. If "Yes", proceed to 6.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>6. Determine in conjunction with the Purfleet-Taree Local Aboriginal Land Council (PTLALC) if harm and/or disturbance to the Aboriginal object/s can be avoided.</p> <p>If "No" proceed to 7. If "Yes", ensure that the statement of environmental effects (SEE) lodged with the development application includes the measures proposed to avoid harm to Aboriginal Heritage, and includes written confirmation on this from Purfleet-Taree Local Aboriginal Land Council (PTLALC). (Note: The PTLALC has 28 days to respond in writing to your request. If no response is received within 28 days, attach a copy of your correspondence to the PTLALC with your application.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>7. Employ an archaeological consultant to prepare an Aboriginal Cultural Heritage Assessment and Aboriginal Heritage Impact Permit (AHIP) application in accordance with the NP&W Act 1974. Contact Council's Regulatory Services Department and the NSW Office of Environment and Heritage for more information before proceeding.</p>

Contact Details for Purfleet-Taree Local Aboriginal Land Council:

Telephone: 6552 4106
 Address: Lots 1-3 Old Pacific Highway
 Purfleet 2430
 website: www.ptlalc.com.au

For assistance in completing this form, please contact Council's Customer Service Centre
 between 8.30 am and 4.30 pm Monday to Friday

Greater Taree City Council Internal Aboriginal Cultural Heritage Guidelines

Greater Taree City Council has prepared a very comprehensive step-by-step guide or manual for internal use to ensure compliance with the relevant legislative requirements around Aboriginal cultural heritage.

The *Aboriginal Cultural Heritage Guidelines for Consultation, Planning and Assessment* is primarily intended to guide Council operations and Council initiated projects. However many of its steps could apply equally to the consideration of Aboriginal cultural heritage matters in the development assessment process (although the guide itself goes well beyond the standard development assessment process to issues such as community consultation and the Aboriginal Heritage Impact Permit application process).

The introduction to the Guidelines states:

These guidelines have been prepared to assist the staff and management of Greater Taree City Council (GTCC) in the implementing the correct methods for integrating Aboriginal Cultural Heritage (ACH) planning and procedure into GTCC's current processes and procedures. The planning for and understanding of ACH matters is fundamental to ensuring the ongoing success and implementation of GTCC's many projects. Managers, project managers, site supervisors and staff, all need to be aware of their obligations under the NSW Parks and Wildlife Act 1974 (NP&W Act), and to ensure that they undertake the correct procedures during planning and works to ensure that GTCC builds a strong understanding and appreciation of the LGA's ACH whilst seeking to preserve and protect that heritage in conjunction with the local Aboriginal Peoples.

The Guidelines set out “the steps planners and managers will need to follow in order to ensure that they meet the legislative requirements for dealing with Aboriginal Cultural Heritage in NSW”. The Guidelines also provide some background information for Council officers “who do not have experience in Aboriginal Cultural Heritage matters”.

This comprehensive manual runs to 54 pages (including appendices). The Guidelines' table of contents, as well as the “Aboriginal Cultural Heritage Procedural Checklist” (Appendix K) and “Aboriginal Cultural Heritage Process Flow Chart” (Appendix L) are reproduced on the following pages (courtesy of Greater Taree City Council).

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Appendix K – ACH Procedural Checklist

This checklist is designed to assist planners and managers in ensuring that the ACH process is followed correctly and that supporting documentation is readily accessible.

Step no.	Step	Circle YES or NO below				Staff Member	Date Complete	Associated Documents
4	Initial Project Planning and Due Diligence							
4.1	Is the Project Exempt	YES	Go to 4.9	NO	Go to 4.2			
4.2	Will there be negligible impact?	YES	Go to 4.9	NO	Go to 4.3			
4.3	Will there be ground disturbance or land clearance?	YES	Go to 4.4	NO	Go to 4.9			
4.4a	Have you conducted an AHIMS Search and spoken to the relevant LALC regarding sites	YES	Go to 4.4b	NO	Complete before progressing			
4.4b	Did the AHIMS search return any results?	YES	Go to 4.5	NO	Go to 4.9			
4.5	Have you obtained relevant AHIMS Site Cards	YES	Go to 4.6	NO	Complete before progressing			
4.6	Is the project site within a landform or area that has potential for ACH and/or sites were found using AHIMS?	YES	Go to 4.7	NO	Go to 4.9			
4.7	Can disturbance be avoided?	YES	Go to 4.9	NO	Go to 4.8			
4.8	Has the Desktop ACHA determined that further investigation required for an AHIP application	YES	Go to 5	NO	Go to 4.9			

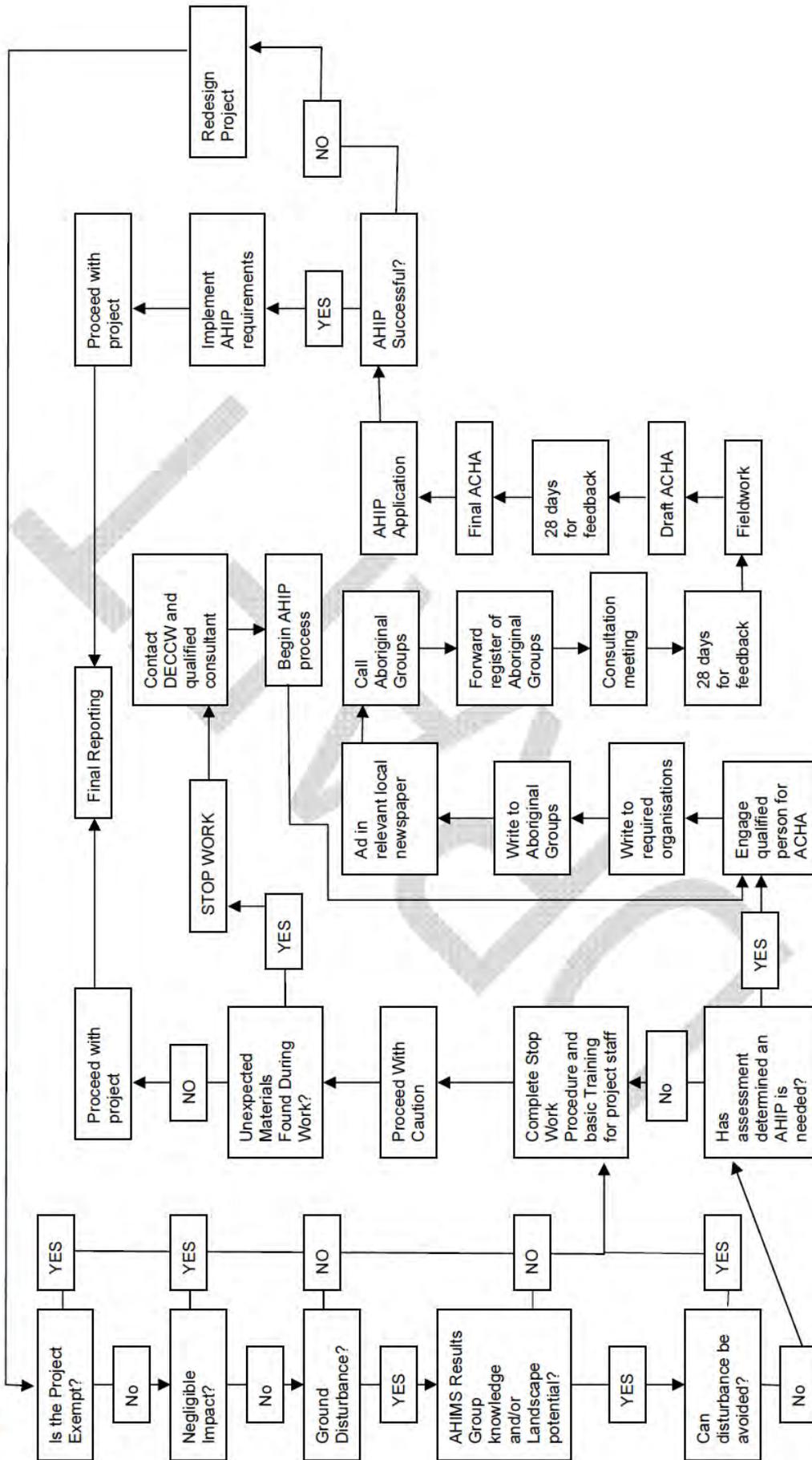
Step no.	Step	Circle YES or NO below				Staff Member	Date Complete	Associated Documents
4.9	Has Training been implemented and the Stop Work Procedure Provided to GTCC Staff, sub-contractors or any one else (volunteers included) working on the project site?	YES	Go to 8	NO	Complete before progressing			
5	Community Consultation and Aboriginal Cultural Heritage Impact Assessments							
5.1	Has a consultant who satisfactorily meets the requirements of the project been engaged?	YES	Go to 5.2	NO	Complete before progressing			
5.2	Have all the required organisations been written to and their responses received?	YES	Go to 5.3	NO	Complete before progressing			
5.3	Have all known local Aboriginal Groups been written to?	YES	Go to 5.4	NO	Complete before progressing			
5.4	Has an advertisement been placed in the Manning River Times or other relevant newspaper?	YES	Go to 5.5	NO	Complete before progressing			
5.5	Have all known local Aboriginal Groups been phoned?	YES	Go to 5.6	NO	Complete before progressing			

Step no.	Step	Circle YES or NO below			Staff Member	Date Complete	Associated Documents
5.6	Has the Register of Interested Aboriginal Parties been completed and forwarded to DECCW and the LALC	YES	Go to 5.7	NO	Complete before progressing		
5.7	Has each registered Aboriginal Groups attended the consultation meeting/s and been given the opportunity to air their views and provide information for the project over the 28 day period?	YES	Go to 5.8	NO	Complete before progressing		
5.8	Has all feedback and advice been recorded and included as part of the Draft Cultural Heritage Assessment and where necessary discussed further with the groups in question?	YES	Go to 5.9	NO	Complete before progressing		
5.9	Has:						
	Fieldwork been undertaken in conjunction with the local Aboriginal groups:	YES	Go to next	NO	Complete before progressing		
	All sites and potential archaeology recorded and mapped according to DECCW standards; and	YES	Go to next	NO	Complete before progressing		
	Has each Group provided an invoice for fieldwork and been paid?	YES	Go to 5.10	NO	Complete before progressing		
5.10	Has:						
	A draft ACHA been completed to the required standards?	YES	Go to next	NO	Complete before progressing		

Step no.	Step	Circle YES or NO below			Staff Member	Date Complete	Associated Documents
	Has all feedback and advice been recorded and included as part of the Cultural Heritage Assessment and where necessary discussed further with the Groups in question and has a minimum of 28 days been provided to do this?	YES	Go to 5.11	NO	Complete before progressing		
5.11	Has a final report been produced that:						
	Includes all of the comments that were received as part of the draft responses;	YES	Go to next	NO	Complete before progressing		
	Either incorporate these comments as part of the report or state why the recommendations of information has been rejected;	YES	Go to next	NO	Complete before progressing		
	Has a confidential accompaniment should one be needed, detailing site location and cultural information; and	YES	Go to next	NO	Complete before progressing		
	Has been provided to GTCC, DECCW, each of the registered local Aboriginal Groups and any other designated recipient authorised by the Aboriginal Groups.	YES	Go to 6	NO	Complete before progressing		
6	AHIP Process						
6.1	Have you determined the type of AHIP necessary for your project?	YES	Go to 6.2	NO	Complete before progressing		
6.2	Has all the supporting information been compiled?	YES	Go to 6.3	NO	Complete before progressing		
6.3	Was a Care Agreement required for this Project	YES	Go to next	NO	Go to 6.4		

Step no.	Step	Circle YES or NO below			Staff Member	Date Complete	Associated Documents
	If YES has one been negotiated and completed?	YES	Go to 6.4	NO	Complete before progressing		
6.4	Was the AHIP application successful?	YES	Go to 7	NO	Return to 6 and redesign project for compliance		
7 Undertaking the Project							
	Have all requirements of the AHIP been implemented throughout the Project including staff training and Stop Work Procedures?	YES	Go to 8	NO	You are in breach of the Act. Ensure compliance before continuing		
8 Final Reporting							
	Has all reporting and supporting documentation been filed?	YES	Process complete	NO	Do so now		

Appendix L – ACH Process Flow Chart



► **Armidale Dumaresq Council Development Control Plan 2007**
Chapter C5 Development Involving Places of Heritage Significance

page C5-1

PART 1 - PRELIMINARY

1.1 Objectives

The Objectives of this Chapter are as follows:

- (a) To provide detailed controls and guidelines which will assist in protecting, conserving and enhancing places with heritage significance in Armidale Dumaresq, for the benefit of its citizens, the community generally and for future generations.
- (b) To assist in the implementation of the Council's LEP, the 1990 Armidale Heritage Study, the 1997 Dumaresq Heritage Study, the 2008 Armidale Dumaresq Aboriginal Site Management Report and the 2008 Armidale Dumaresq Aboriginal Potential Areas Report.

page C5-2

Note:

Armidale Dumaresq Council is continuing to identify places of Heritage Significance which may be included in an updated DCP or LEP.

Statutory provisions also exist under the NSW Heritage Act and National Parks and Wildlife Act, relating to items of State Heritage Significance and to ensure that European and Aboriginal archaeological "relics" are protected and conserved. For further details see:

**<http://www.heritage.nsw.gov.au/> and
<http://www.nationalparks.nsw.gov.au>**

pages C5-4 and C5-5

2.2 What are Council's Requirements for Proposals affecting Buildings or Works?

In summary, the Council's LEP requires owners/developers of properties in Heritage Conservation Areas, or those which are individually listed as Heritage Items, to consult with Council before carrying out the following types of work:

- External alterations or additions;
- Structural alterations to the interior of a heritage item;
- New development, excavation or subdivision on the property;
- Total or partial demolition or dismantling, defacement, removal/moving of a heritage item or of a building, work, tree, relic or place in a Conservation Area;
- Non-structural changes to the exterior of a building or work, including significant changes to exterior decoration, detail / fabric (e.g. a new exterior colour scheme or new front fencing).
- Disturbing or excavating a place of Aboriginal heritage significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed

2.3 What Special Information should be provided with Development Applications?

Council requires Development Applications involving places of heritage significance and places within Heritage Conservation Areas under the LEP to be accompanied by a Heritage Impact Statement.

Moreover, where Council believes that specific policies and management mechanisms are necessary to ensure that the heritage significance of a place is protected in connection with proposed development and into the future, it may also require that a Conservation Management Plan be prepared. Such documents should be prepared by a competent person in accordance with NSW Department of Planning – Heritage Branch requirements.

See <http://www.heritage.nsw.gov.au/> for further details and in particular part 6 of the NSW Department of Planning - Heritage Branch *Local Government Heritage Guidelines* on how to assess heritage significance.

After appropriate research of documentary evidence (old photographs and other records, etc) and investigation of the physical fabric of a place, significance and appropriate management strategies should be addressed in a heritage impact statement, as follows:

- (c) For development that is likely to have an impact on a place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site. Refer to Part 5 of this DCP for further details.

pages C5-7

2.4 Council's Heritage Advisor and Referral of Matters to other Agencies (cont)

Property owners and intending developers should note that any proposed excavation work on an archaeological site or for the purposes of locating or removing "relics" or remains of European settlement which are 50 or more years old requires an "excavation permit" from the Heritage Council under the provisions of the Heritage Act 1977.

The **NSW National Parks and Wildlife Service** (part of the Department of Environment, Climate Change and Water) must also be notified under the National Parks and Wildlife Act 1974 of any application which would involve destroying, damaging or otherwise harming an Aboriginal relic or if the land is identified as an Aboriginal place. Such proposals are assessed as 'Integrated Development' for the purposes of the *Environmental Planning and Assessment Act 1979* and would not normally be approved without the concurrence of the Service. Refer to Part 5 of this DCP for further information.



PART 5 – ABORIGINAL HERITAGE

5.1 Introduction

The Armidale Dumaresq local government area (LGA) has a long history of Aboriginal occupation dating back thousands of years prior to European settlement. During this time, the traditional custodians of the region now known as the New England Tablelands included people of the Anaiwan, Gumbaynggirr and Dhunghutti tribes who engaged in a rich and complex ritual life with language, customs, spirituality and law - the heart of which was connection to Country.

Significant places in the landscape such as bora grounds, open sites, rock shelters, art, scarred and carved trees have survived to today and warrant appropriate protection from the pressures of development.

While a number of sites of Aboriginal archaeological and heritage significance are known and have been recorded within the Armidale Dumaresq LGA, specific surveys for Aboriginal objects have not been done over much of the area. Therefore, there is potential for Aboriginal objects to exist in many locations even though they have not been formally recorded.

The Aboriginal Heritage Office (North Sydney) has prepared a report for the LGA outlining broad potential areas of Aboriginal archaeological heritage significance. While the information contained in this report is confidential and subject to a licensing agreement in force between the Culture and Heritage Division of the NSW Department of Environment, Climate Change and Water (DECCW) and the Aboriginal Heritage Office, details of a predictive model that can be used to determine the likelihood of Aboriginal sites occurring and being detectable in our area are outlined below.

5.2 Assessing the Potential for Aboriginal Heritage Items

When assessing development applications, Council must consider the likely impact of proposed development on any known or potential Aboriginal archaeological or heritage sites. A predictive model is used to determine the potential for sites of Aboriginal significance to occur in a particular location.

The three main issues that affect the likelihood of Aboriginal sites occurring and being detectable in an area are:

1. landscapes / land units or the physical setting;
2. the likely range of cultural evidence associated with the landscape; and
3. the landscape history.

PART 5 – ABORIGINAL HERITAGE (cont)

5.2 Assessing the Potential for Aboriginal Heritage Items (cont)

The **predictive model** for Armidale Dumaresq is as follows:

- (a) sites associated with rock outcrops will be found wherever rock is outcropping, in particular:

- engraving sites on ridge tops, on flat rock surfaces above cliffs and scarps and on isolated outcrops and boulders;
- rock shelters (with art and/or archaeological deposits) on slopes below ridges, cliffs and scarps, and beneath or part of fallen boulders or isolated boulders;
- grinding grooves on fairly level rock surfaces in creeks, swampy areas or isolated areas adjacent a water source (or former source) or associated with other sites;
- stone quarries in areas of exposed bedrock, particularly at silcrete deposits.



- (b) Archaeological deposits, including artefact scatters, will be found within rock shelters as well as level areas near to rivers or creek lines, and in level areas throughout Armidale Dumaresq. Artefact densities will generally be low, but will increase where well-drained, level areas are situated in proximity to diverse environments, larger waterways, sources of raw materials, known cultural sites such as bora grounds and so on. Site and artefact density will be higher on flats, terraces, lower slopes, ridge tops and crests and will be lower on mid-slopes and upper slopes. Site density will increase in flatter country and decrease in steep country. Localised influences that will affect the location of sites include frost hollows or where cold air flows, land subject to inundation and dampness, protection against seasonal winds and weather, outlook over hunting grounds and so on.

- (c) Scarred trees will be present where there has been less vegetation clearance and less disturbance, such as bushland and travelling stock reserves. Carved trees will be very rare due to their general rarity and their fragility. Other sites, such as fish traps, will be present in areas of minimal previous disturbance and would be very rare. Misidentification of an early colonial or more recent non-Aboriginal activity as an Aboriginal site is possible.



PART 5 – ABORIGINAL HERITAGE (cont)

5.2 Assessing the Potential for Aboriginal Heritage Items (cont)

- (d) Bora grounds and ceremonial grounds will be more common on the tablelands in flatter lands. They are more likely to be found below hills or peaks and above valleys or low lands subject to inundation. They are likely to be associated with carved or scarred trees or other sites. They will be very rare and difficult to detect if in areas subject to clearance and ploughing.
- (e) Burials will be found in shelter deposits, archaeological deposits and places where the ground is soft, such as sandy banks. They may also be associated with carved or scarred trees or ceremonial sites. It is unlikely that there will be any visible signs of a burial unless there is active and deep erosion to a deposit.

Generally speaking, sites will be relatively common in bushland areas, with the condition of sites improving with distance from roads, walking tracks and more accessible areas. Sites will decrease in frequency in cleared areas and surviving sites will be more disturbed. In built-up areas, sites will be more common where properties adjoin bushland or undeveloped pasture, and less common where the land has been more heavily modified. Artefact scatters will be difficult to detect without sufficient archaeological visibility, which requires erosion or some disturbance to the soil profile to allow stone artefacts to sit on the ground surface above other sediments. Areas where land disturbance has been most intensive will have the lowest frequency of sites.

Note: The predictive model is effective at a general level. Individual and location specific features allow for the presence of sites in places that would otherwise seem quite unlikely. It is therefore important to consider individual developments in their specific environmental context.

Using this predictive model, an assessment can be made of the following matters to determine the potential for Aboriginal objects or sites to exist at a particular location. The following items are also outlined in a Checklist in Appendix 2.

- (a) the presence / absence of recorded sites;
- (b) the site potential of the broader landscape;
- (c) the presence / absence of specific landscape features;
 - creek lines / watercourses (even if ephemeral)
 - shorelines of water bodies and former water bodies
 - cliff lines / boulders (higher than 1m)
 - overhangs in any of the cliff lines / boulders
 - deep sandy deposits
 - old growth trees
- (d) the extent of previous land modification and disturbance; and
- (e) whether there has been any previous Aboriginal archaeological survey in the area and what the visibility / access conditions were at that time.

Depending on the particular characteristics of a proposed development site and its potential to contain items of Aboriginal archaeological heritage significance, further assessment of Aboriginal Heritage may be required.

PART 5 – ABORIGINAL HERITAGE (cont)

5.3 How can you find out if there are recorded Aboriginal objects or places on your land ?

DECCW keep a register of all recorded Aboriginal objects and Aboriginal places in NSW. The register is called the Aboriginal Heritage Information Management System (AHIMS).

You can search the AHIMS to discover if an Aboriginal object has been recorded, or an Aboriginal place declared, on a parcel of land. As indicated above, surveys for Aboriginal objects have not been carried out in many parts of NSW, so Aboriginal objects may exist on a parcel of land even though they have not been recorded in AHIMS. Further details can be obtained by contacting the Department's Aboriginal Heritage Information Unit (ahims@environment.nsw.gov.au).

5.4 Proposed development that will impact on items of Aboriginal Heritage

The *National Parks and Wildlife Act 1974* protects all Aboriginal objects and Aboriginal places in NSW. Under provisions of the Act it is an offence to:

- disturb or move an Aboriginal object;
- excavate land for the purpose of discovering an Aboriginal object;
- knowingly destroy, damage or deface an Aboriginal object or Aboriginal place; or
- knowingly cause or permit the destruction, damage or defacement of an Aboriginal object or Aboriginal place.

If you are going to disturb or excavate land to discover an Aboriginal object, or disturb or move an Aboriginal object, you may need to apply for an Aboriginal Heritage Impact Permit (AHIP) from DECCW. The AHIP application and determination process requires an assessment (by the applicant) and evaluation (by DECCW) of the Aboriginal heritage values of Aboriginal objects and places potentially affected by impacts.

5.5 Aboriginal Heritage Assessment – Consultation Requirements

DECCW have produced a document titled *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (the Consultation Requirements) which focuses on the requirements for consultation with Aboriginal people as part of the heritage assessment process.

The Consultation Requirements apply to all activities throughout New South Wales that have the potential to harm Aboriginal objects or places and that require an AHIP. It is also recommended that the Consultation Requirements be used where a proponent may be uncertain on whether or not their proposed activity may have the potential to impact on Aboriginal objects or places, and where the proponent is required to undertake a cultural heritage assessment to establish the potential impact that their proposal may have on Aboriginal cultural heritage.

Details of the Consultation Requirements can be obtained from the DECCW web site.

APPENDIX 2

ABORIGINAL HERITAGE POTENTIAL - Desktop Assessment -	
Proposed Development:	
Address:	
Property Description (Lot/DP):	
<u>Items for Consideration</u>	<u>Comments</u>
1. Recorded Sites	
What category of potential is the proposed development in ? (check Potential Area Maps if available) very high / high / moderate / low / very low	
Are there recorded sites in the area or nearby ? Immediate vicinity Within 100-200m Not recorded nearby	
2. Landscape Features	
Are any of the following features in the area impacted by the development ? <ul style="list-style-type: none"> • creek lines / watercourses • shoreline of waterbody (past or present) • cliff lines / boulders (higher than 1m) • overhangs in any of the cliff lines / boulders • deep sandy deposits • old growth trees 	
What is the landscape history ? Heavily modified Moderately modified Only limited modification No known modification	
3. Additional Information / Comments: (e.g. previous Aboriginal archaeological survey)	
4. Assessment: (your conclusion on why an assessment is / is not necessary)	

► North Sydney Development Control Plan 2002 Section 8.6 Cultural Resources and Heritage

North Sydney Development Control Plan 2002

8.6 Aboriginal Sites



Aborigines have lived in the area known as New South Wales for at least 60,000 years. Many traces of their occupation remain as Aboriginal Relics. It is important that artifacts at sites are not removed from the position in which they are found.

The north shore of Sydney was inhabited by a number of Aboriginal bands including the Cammeraygal, the Wallumedegal and the Gayamil, who were part of the larger Kuringgai tribe. Of these, most is known through historical documentation of the Cammeraygal people who occupied the area now known as North Sydney.

North Sydney contains some of the finest examples of Aboriginal cultural sites on the lower north shore. Many of the sites are related to Aboriginal law and the Dreaming of the Sydney region. European development has destroyed many sites. The sites which remain need to be protected with respect for the culture and history of the Aboriginal people.

Occupation Sites

These are places with evidence of past habitation. They include stone tools, fireplaces and occasionally food remains such as shells, bones and plant seeds. There are three main types of occupation sites:

Shell middens

These sites occur on the coast and along the edges of rivers and lakes in both coastal and inland zones. A midden is a deposit composed of the remains of edible shellfish, animal bones and human burial.

Rock shelters with archaeological deposit

In outcrops of rock such as sandstone or granite, overhangs may form cave type shelters. Ashes from fires and sediments accumulate in the protection of the shelter.

Open camp sites

These sites are mostly surface scatters of stone, sometimes associated with fireplaces. Recent studies have shown them to have significant cultural and scientific value.

** may be required as a condition of consent*

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Paintings

Aboriginal paintings which survive today are located on walls and ceilings of rock shelters, eaves and overhangs. Red and yellow ochre, white pipeclay and charcoal were used to make stencils of hands, fish and objects and to paint or draw animals, animal tracks, people and people-like figures.

Quarries and axe grinding grooves

Quarries may be found where outcrops of siliceous or igneous rock have been used as a source of stone tools. Siliceous rock is relatively easy to flake and was used for making most of the stone tools. Igneous rock was preferred for edge-ground tools (mainly axes) because it is very hard. The axes were made and sharpened by rubbing a roughly shaped igneous 'blank' on sandstone. This left broad flat grooves in the rock. Narrow grooves were made by sharpening smaller implements, such as chisels. Rubbing grooves usually occur on flat sandstone surfaces near water. Sandstone was also quarried for use as portable grinding stones for grain and for making axes.

Ceremonial grounds

These are sites where initiation ceremonies, marriage alliance ceremonies, tribal meetings and other important social functions were held. They are places of great significance to Aborigines.

Engravings

Rock engravings are usually found where a suitable outcrop of fairly flat, soft rock occurs or in rock overhangs. These are usually significant Dreaming sites. People, animal shapes and tracks and people shapes are common subjects. Abstract or non-figurative designs, such as circles and geometric figures are also common.

Scarred trees

These are trees from which a section of the bark and/or wood has been removed for making canoes, shields, containers, weapons and utensils, or having toeholds cut in them for hunting possums or gathering honey.

Carved trees

Carved trees are becoming rarer in New South Wales as the trees decay and fall over, or are burnt. The Aborigines used carved trees to mark burial and ceremonial sites. These trees are still significant to particular Aboriginal groups.

Burials

A variety of practices were used for dead members of a band or tribe, this was dependant on the particular practices of the different groups and the status of the person. Burials are very important to Aborigines and are regarded as a significant part of their heritage. Disturbed burials are usually reburied by Aboriginal people.

Natural sacred sites

Many features of the landscape, such as mountains, rocks, waterholes etc. are regarded as sacred sites by Aborigines. They are places created by Dreamtime ancestors or associated with them. They can usually only be identified by Aborigines and are highly significant to them.

** may be required as a condition of consent*

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Legislation

Aboriginal sites are a very important part of Australia's cultural heritage. Equally important is the significance these sites have for Aboriginal communities. To Aborigines, the sites provide a direct link with their traditional culture. It is important to preserve as many of them as possible.

The Metropolitan Local Aboriginal Land Council are the custodians of Aboriginal sites. The National Parks and Wildlife Service is responsible for the protection and preservation of all Aboriginal relics in New South Wales. It is illegal to disturb, damage, deface or destroy a relic or Aboriginal Place under the [National Parks and Wildlife Act 1974](#) without a permit from the Director of the National Parks and Wildlife Service. Aboriginal sites in N.S.W. are not the basis for a land-rights claim. The Service and Aborigines are interested in recording and preserving sites, not in interfering with the rights of land holders.

Preservation and protection

- a. **Known and potential Aboriginal sites are preserved and protected when development occurs.**
 - i. There is no excavation of ground surface surrounding a known or potential Aboriginal site;
 - ii. Locate building or landscaping works, paths and driveways away from Aboriginal sites, allowing for in-situ preservation of artifacts;
 - iii. Minimise disturbance and exposure of areas along the foreshore, including excavations for swimming pools, jetties and boat sheds. Site new structures away from the foreshore where possible;
 - iv. Minimise disturbance of surrounding rock outcrops and overhangs;
 - v. Prior to proposing excavation get the advice of a Metropolitan Local Aboriginal Land Council Officer, North Sydney Council Aboriginal Heritage Manager or contact the National Parks and Wildlife Service.

8.7 Archaeology



This component deals with Non-Aboriginal Archaeology; it refers to sites of known or potential cultural significance, both below and above-ground, which have the potential to increase our knowledge of earlier human occupation, activities and events. It does not relate to Aboriginal sites.

** may be required as a condition of consent*

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► **Pittwater 21 Development Control Plan 2012 (and 2007)**

Where a development is integrated development it must be accompanied by an additional fee of \$250 payable to the referral agency.

Council's responsibilities:

Council must forward a copy of the application to the authority required to give approval under the other legislation within two days after receiving the application. The approval body may request additional information through Council. The approval body must provide Council with the general terms of any approval, which that body proposed to grant, within 40 days of receiving the application.

Variations

Nil

Advisory Notes

For more information see the *National Parks and Wildlife Act 1974*, and the cultural heritage on private land private land factsheet prepared by the NSW Department on Environment and Climate Change at <http://www.environment.nsw.gov.au> under Culture and Heritage Publications.

This is a control which only applies to a very small number of Applications. (See above for details). If unsure seek advice from a Planning Consultant or Council prior to progressing.

4.5 Integrated Development: Aboriginal Objects and Places

Land to which this control applies

- All Land

Uses to which this control applies

- Attached Dual Occupancy
- Attached dwellings in non-urban areas
- Business Development - New Construction or Alterations and Additions
- Demolition
- Detached Dual Occupancy
- Dwelling House - Alterations and Additions
- Dwelling House - New
- Earthworks/Landfill
- Group Building
- Hospital/Nursing Home
- Industrial Development - New Construction or Alterations and Additions
- Jetty, ramp, pontoon (ancillary to a dwelling)
- Multi-Unit Housing
- Other Development/Land Use
- Pool (ancillary to a dwelling)
- Residential Flat Building (2 storey)
- Residential Flat Building (3 storey)
- Rural Industry
- Secondary Dwelling
- Seniors Housing - SEPP (Housing for Seniors or People with a Disability) 2004
- Subdivision (Additional Lots - Excludes Dual Occupancy)
- Telecommunication Facility
- Tennis court (ancillary to a dwelling)
- Warriewood Valley Sector Development/Subdivision

Outcomes

Compliance with the requirements of the *Environmental Planning and Assessment Act 1979*.
Adequate assessment of the environmental impacts of a proposal.

Controls

Would the development or works you propose disturb, damage or destroy a known Aboriginal object?
Would the development or works you propose involve land that has been declared to be an Aboriginal place?
If the answer to these questions is YES then the development is Integrated Development and must be referred to the NSW Department of Environment & Climate Change (DECC).

Applicant's responsibilities:

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P21 DCP Part Preliminary
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Adopted: 21 May 2012
In Force From: 14 July 2012

Adopted: 21 May 2012
In Force From: 14 July 2012

B1.4 Aboriginal Heritage Significance

Land to which this control applies

- All Land

Uses to which this control applies

- All Uses

Outcomes

Provide protection for 'Aboriginal Places and Objects'. (S)
Potential Aboriginal Places and Objects are identified and protected. (S)

Controls

If a property, the subject of a development application is identified as possibly meeting any of the criteria for being a potential Aboriginal place or containing an Aboriginal Object then additional independent information on the potential heritage significance may be requested.

If a property, the subject of a development application, is in the vicinity of an identified Aboriginal Place or Object then additional independent information on the potential heritage significance may be requested.

Development must conserve the significance of any aboriginal place or object.

Variations

Nil

Advisory Notes

[Refer to Appendix 2](#) for additional information on Aboriginal Heritage in Pittwater. There is an increased potential for Aboriginal sites to be present if the landscape features any element such as

- creek line/watercourse or
- foreshore, or
- a cliff line higher than 1 metre, or
- an overhang in any of the cliff lines, or
- level sandstone outcrops greater than 2 square metres

C6.2 Aboriginal Heritage - Warriewood Valley Land Release Area

Land to which this control applies

- Land identified as being within the Warriewood Valley Land Release Area - P21DCP-BCMDCP055

Uses to which this control applies

- Warriewood Valley Sector Development/Subdivision

Outcomes

Heritage items and places of Aboriginal culture are conserved.

Controls

A report prepared by a suitably qualified archaeologist including consultation with the National Parks and Wildlife Service and appropriate aboriginal groups must be obtained and submitted to Council regarding the existence and/or preservation of any heritage items and places of Aboriginal culture on the land.

If an Aboriginal site or relic is discovered, it must be reported to NSW Department Environment and Climate Change (National Parks and Wildlife Service) and all works stopped.

Variations

Nil.

Advisory Notes

1. See [Appendix 2 - Heritage Conservation](#) for additional information on heritage.
2. See [Appendix 3 - Warriewood Valley Urban Land Release Planning Context & Criteria](#) for background information.

5. Aboriginal Heritage



Ridge Track and Rock Outcrop - Western Foreshores

Heritage does not only include evidence of European settlement and development but also remnants of Aboriginal settlement and culture. The Pittwater area is particularly rich in Aboriginal culture, which needs to be recognised and conserved.

Aboriginal relics and artefacts are protected under the provisions of the National Parks and Wildlife Act 1974, which sets out regulations for the protection and preservation of all Aboriginal relics and places throughout N.S.W.

An Aboriginal archaeology study has been carried out for the Ingleside/Warriewood land release however future investigations need to be undertaken, particularly with regard to the identification of areas within built-up areas of Pittwater which have potential for Aboriginal relics and sites.

In the interim, it is important that the general community are aware of the nature of Aboriginal relics and sites, so that they can identify such sites, if they happen to come across one on their land.

There are a number of main types of Aboriginal relics and sites, with some types of sites being more likely in certain areas of the State. The major types are:

✧ Occupation sites:
(a) deposits in rock shelters or overhangings - Aboriginal people used rock shelters and overhangs to make campsites, as they were sheltered from the rain. They are often therefore well preserved, however the evidence is not greatly visible to the casual observer.

(b) middens or deposits consisting mainly of shells - these sites are composed mainly of shells and are therefore found near sea coasts, beside estuaries and on the banks of inland lakes and rivers. They are built up as a result of many meals of shellfish and can be distinguished from natural shell deposits as they contain predominantly mature specimens of a limited range of edible species.

Middens can also contain bones, animal teeth, stone flakes and tools and charcoal and ash. They vary in size, depending on their exposure to erosion by wind and water.

(c) open campsites are found throughout the State, often along rivers and creeks. Surface scatters of stone, charcoal or bone fragments can indicate a campsite, they may also consist of slightly raised hearths, composed of burnt clay and rocks and sometimes contain charcoal at the centre.

- Canoe, shield, container and carved trees
- Quarries and axe-grinding grooves
- Paintings
- Rock Engravings
- Burials

The nature of these sites determine their location and this then gives a clue to owners and prospective developers as to what they should look out for when carrying out works.

Scarred trees are unlikely to be found, given the degree of clearing which has occurred this century. Middens and shell deposits could be common given the proximity to both the sea and to the inland waters of Pittwater and the number of valley floors throughout the Pittwater area. Rock engravings and rock shelters are also probable, given the landforms prevalent in the area.

Disturbance of a site does not necessarily mean that it has lost all of its significance. It may be of symbolic significance to the Aboriginal population. If an Aboriginal site or relic is discovered, it should be reported as soon as possible to the National Parks and Wildlife Service and all work stopped. An archaeologist from the Service will then inspect the site and make an assessment as to the significance of the site or relic - in consultation with the Local Aboriginal Land Council.

Element	REQUIRED DOCUMENTATION		
	Rezoning application	Development application for whole of sector	Development application for built form
Aboriginal Heritage	Report from a suitably qualified archaeologist, including consultation with DEC (NPWS) and appropriate aboriginal groups, re the existence and/or preservation of any heritage items and places of Aboriginal culture on the land.	As for rezoning application.	-
European Heritage	Report from a suitably qualified heritage consultant addressing the impact of the proposed development on the heritage significance of items on the subject land or in the vicinity.	As for rezoning application.	As for rezoning application (where applicable).
Provision of Infrastructure in the Public and Private Domain	Supporting documentation to recognise the developers' responsibility to provide all infrastructure required to satisfy the needs of the incoming population.	As for rezoning application.	-
Site Assessment Plan	-	Site Assessment Plan meeting objectives and controls of this DCP.	Site Assessment Plan meeting objectives and controls of this DCP.
Ecologically Sustainable Development	Masterplan and supporting documentation to take into account and ensure that the objectives and controls can be achieved.	As for rezoning application.	Site and architectural plans and supporting documentation showing compliance with objectives and controls of this DCP, NatHERS certification.
Solar Access	Masterplan and supporting documentation to take into account and ensure that the objectives and controls can be achieved.	As for rezoning application.	Shadow diagrams showing compliance with the objectives and controls of this DCP.
Building Lines and Setbacks	Masterplan and supporting documentation to take into account and ensure that the objectives and controls can be achieved.	As for rezoning application.	Plans and supporting documentation showing compliance with the objectives and controls of this DCP.
Side Boundary Setback and Spatial Separation	Masterplan and supporting documentation to take into account and ensure that the objectives and controls can be achieved.	As for rezoning application.	Plans and supporting documentation showing compliance with the objectives and controls of this DCP.

► **Liverpool Plains Shire Council, Policy No. 3.31 - Aboriginal Archaeological Survey Requirements**

POLICY TITLE: ABORIGINAL ARCHAEOLOGICAL SURVEY Policy No. 3.31 REQUIREMENTS

POLICY STATEMENT

Liverpool Plains Shire Council recognises that the area occupied by the Kamilaroi people and this policy is aimed at dealing with Aboriginal archaeology, in particular those areas which are likely to be significant from an archaeological perspective and where approval to disturb an Aboriginal artefact is likely to be required.

Aboriginal heritage comprises two distinct elements i.e.

- (i) **Aboriginal archaeology**
 - Concerned with archaeological relics and artefacts associated with Aboriginal occupation of a place.
- (ii) **Aboriginal culture**
 - Concerned with the social attachment to a place.

Areas of importance for Aboriginal culture are probably best dealt with by a local heritage planning control or similar rather than any statutory controls relating to the disturbance of artefacts.

The following criteria has been identified as being of a site/area in which Aboriginal artefacts are likely to occur.

The criteria is based on land form, known sites and remnant vegetation areas. For rural areas the criteria is narrowed to ridge tops and watercourses. For remnant vegetation in rural areas there are separate controls that minimise works in these areas (i.e. threatened/endangered species, vegetation clearing controls). These controls will assist in minimising any adverse impacts on artefacts in these areas.

Criteria

1. Proximity to a watercourse, lake or lagoon
 - These are identified as a "blue line" on the 1:2500 Topographic Map Series.
 - These areas were an important source of food and travel routes.
 - Water is also considered to be culturally valuable and significant.
- Note** – Works within 40m of a watercourse (i.e. "blue line") also requires an approval under the Rivers and Foreshores Improvement Act. Depending on the watercourse this distance may increase to 100m or 150m.
2. Major watercourse (Quirindi – Jacob and Joseph Creek and Mooki River)
 - Artefacts more likely on the alluvial flats.
 - An important source of food for Aboriginal Communities.
3. Lower slopes of undulating hills (especially in close proximity to water features)
 - Higher land in close proximity to a food source/watercourse and possible camping area.

LIVERPOOL PLAINS SHIRE COUNCIL

POLICY REGISTER Policy No. 3.31

POLICY TITLE: ABORIGINAL ARCHAEOLOGICAL SURVEY REQUIREMENTS

File Reference No: 18.5.3
Date Adopted: 26th April 2007
Minute No: 10936
Last Updated: New Policy

OBJECTIVE

To identify the areas of circumstances in which an Aboriginal Archaeological Survey will be required as part of any Development Application or rezoning request.



POLICY TITLE: ABORIGINAL ARCHAEOLOGICAL SURVEY Policy No. 3.31 REQUIREMENTS

4. Ridge Lines/Hilltops
- These sites may have been an observation point or defensive position.
- Note** – Development activity is restricted on land with a slope >18 degrees (i.e. "protected land") due to the potential for slope instability.
5. Site is a declared Aboriginal Place under the National Parks and Wildlife Act
- These are sites of known Aboriginal significance. Unfortunately Council has limited access to the database – contact National Parks and Wildlife Service (NPWS) for details.

Note – NPWS offer a service to search their database for known Aboriginal sites that can be assessed via the website.

Procedure

1. For an area or site not identified by the above criteria a preliminary assessment for artefacts for an Archaeological Survey will not be necessary.

This is not to say that Aboriginal artefacts do not/will not occur at the site. In these areas a precautionary approach should be taken during any works activity, with works ceasing immediately an artefact is found to enable it to be assessed and the necessary approvals obtained.

2. For an area or site within an identified area the following procedure is to apply:

(a) A preliminary assessment to determine the likelihood of artefacts at the site. This assessment to include:

- Review of the site history
- Identification of the level of disturbance.
- Literature review and consultation with NPWS on information they hold.
- Site inspection by a person skilled in identifying Aboriginal artefacts.
- Any consultation with the local Aboriginal community.
- A statement as to the likelihood of artefacts being found and the need, if any, for a more detailed Archaeological survey.

(b) An Archaeological Survey undertaken by an appropriately accredited person/organisation in accordance with relevant guidelines on the preparation of such documentation.

► **Liverpool Development Control Plan 2008**
Part 1.1 - General Controls for All Development

16. Aboriginal Archaeology

Applies to

This section applies to land:

1. In which Aboriginal sites, places or relics have been previously identified.
2. Within an identified cultural landscape.
3. That has not been cleared.

Background

The Liverpool LGA was occupied by Aboriginal people prior to European settlement. Relics of this still remain.

Objectives

To identify and where possible preserve relics of the occupation of the land by Aboriginal communities.

Controls

Initial Investigation

An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology. If any of the above features apply then the relevant Aboriginal community must be consulted, as part of the initial investigation to ensure that the potential for the land to contain Aboriginal sites, places or relics has not been overlooked by previous studies.

Detailed Investigation

1. If any of the features apply, then an Aboriginal Heritage Impact Assessment (AHIA) must be prepared in accordance with the *NSW Department of Environment and Climate Change Draft Guidelines for Aboriginal Heritage Impact Assessment* and submitted with the initial investigation report.
2. An AHIA will also be required if the relevant local Aboriginal community provides sufficient information to the Council that leads it to conclude that the site may have Aboriginal heritage significance.
3. Once the AHIA is submitted, the Council will send copies to representatives of the relevant local Aboriginal communities and the *NSW Department of Environment and Climate Change* for comment.

► Hornsby Shire Council Heritage Development Control Plan 1995

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Management of Aboriginal sites, relics and places

- (9) The Council may grant consent to the carrying out of development on:
- (a) an archaeological site or a potential archaeological site that is the location of an Aboriginal place or relic, within the meaning of the National Parks and Wildlife Act 1974; or
 - (b) on land containing bushland and zoned:
 - (i) Rural AA, AE, AR, BA or BR, where the area to be disturbed is greater than 0.1ha; or
 - (ii) Residential A, AA, AM, AR, AS or AT, with a site area greater than 1 ha; or
 - (iii) Open Space A, B or C, where the area of land to be disturbed is greater than 0.1ha; or
 - (iv) Environmental Protection A, B, C, D or E with a site area greater than 1ha or where the area of land to be disturbed is greater than 0.1ha; or
 - (c) on land which contains any or all of the following locations or features:
 - (i) estuarine foreshore;
 - (ii) a creekline/drainage line with sandstone base;
 - (iii) sandstone exposures at ground level which are larger than 5m² in area; or
 - (iv) sandstone cliffline or isolated boulder higher than 2m,

only if the Council has considered an assessment of Aboriginal heritage which includes an assessment of how the proposed development would affect the conservation of the site and any relic known to be located at the site and identifying conservation policies and management mechanisms that are appropriate to enable conservation of both the site and any such relic.

► Nambucca Development Control Plan 2010

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A3.5 NOTIFICATION TO LOCAL ABORIGINAL COMMUNITY

A3.5.1 Development referred to LALCs and Aboriginal Representatives/Groups.

Council shall notify the relevant Local Aboriginal Land Councils (LALC) in accordance with this DCP and/or any other Aboriginal Representatives/Groups identified in any consultation protocols agreed to by Council and the LALCs. The following types of development shall be notified:

- major commercial or retail development where more than 250m² of new floor space is proposed;
- development for new educational, health, recreational or community purposes;
- development on land identified as a heritage conservation area;
- development on land identified as being of Aboriginal cultural significance;
- major development of rural land;
- extractive industries;
- attached dwellings, multi dwelling housing and residential flat buildings, where 3 or more dwellings are proposed;
- urban subdivision where more than 3 lots are to be created (excluding strata subdivision, subdivision for lease purposes or subdivision of existing built development)
- tourist accommodation; and
- rural and large lot residential subdivisions (excluding boundary adjustments).

A3.5.2 Submissions from LALCs and Aboriginal Representatives/Groups

Council's notification to an LALC and/or and Aboriginal Representatives/Groups shall indicate a period of no less than 28 days for the receipt of submissions. Any submissions received during this period are to be considered by Council prior to determining any development application. Council may, solely at its discretion, consider submissions received after the end of above period.

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A5.6 ABORIGINAL CULTURAL HERITAGE

Clause 5.10 of NLEP 2009 outlines the restrictions that apply to development that may impact on Aboriginal heritage conservation.

Any proposal on land that has, or has the potential to contain Aboriginal cultural heritage values or heritage items will be referred to the Department of Environment Climate Change and Water (DECCW) and the relevant Local Aboriginal Land Council (LALC) for comment.

An archaeological survey, prepared by a suitably qualified person, may be required if it is considered that that there may be an impact on potential Aboriginal Cultural Heritage values.

Applicants are encouraged to consult with the LALC and/or submit a copy of the archaeological survey for their consideration. Details of any such consultation should be provided with the DA.

Appendix J

Information Sheet (2 page)



Aboriginal Cultural Heritage Management Development Assessment Toolkit

Background

Shellharbour City Council, in partnership with Wollongong City Council and Kiama Municipal Council, is in the early stages of developing an Aboriginal Cultural Heritage Management Development Assessment Toolkit.

This work is being funded by a grant from the NSW Department of Family and Community Services, and Shellharbour City Council (as project sponsor) has engaged Gondwana Consulting Pty Ltd to assist in the Toolkit's development.

What will the Toolkit do ?

The Toolkit's purpose is to set out agreed guidelines and a workable process, to identify the type and level of Aboriginal heritage/cultural assessments required when the Councils carry out their development assessment responsibilities.

The Toolkit will assist Councils in focusing an appropriate level of Aboriginal heritage/cultural assessment on the development applications they receive. The 'appropriate' level of assessment will vary according to the known or potential Aboriginal cultural heritage values of the site or area in question, and the type and likely degree of site disturbance/impacts arising from the development or activity being proposed.

As an example – a builder approaches Council with a development application for, say, a group of six townhouses on an existing house site and adjoining vacant block. The Toolkit will provide Council with the framework, guidelines and information to determine that because the house site and vacant block has '*these*' known or possible Aboriginal heritage/cultural values and the expected impacts of the townhouse development will probably be '*those*', then the most suitable type and level of heritage/cultural assessment needed for Council to make sure that Aboriginal cultural values have been adequately considered in determining the application is '*this*'.

The Toolkit would work within existing planning laws, and the Councils' local environmental plans, as well as the laws around the protection and management of Aboriginal cultural heritage.

Importantly the Toolkit would also apply to works being undertaken by the Councils themselves.

The Toolkit's intended framework or approach would provide a greater degree of certainty and reasonableness in the consideration of development applications for all stakeholders – the Aboriginal community, Councils, developers and the general community.

How can I be involved in the Toolkit's preparation ?

Community involvement is central to the Toolkit's preparation.

Consultation with the Aboriginal community, possible project proponents or developers and the wider community will be undertaken during the preparation and review stages.

The Aboriginal heritage/cultural assessment triggers or thresholds and the assessment measures or requirements that the Toolkit recommends under differing circumstances will require discussion and agreement between all key interest groups. The following stakeholder and community input opportunities are planned.

- ▶ All known Aboriginal groups or stakeholders in the Illawarra region are being invited to participate in the Toolkit's development, through a series of individual meetings and discussions.
- ▶ A selection of known project proponents or developers will be approached to discuss and contribute to the project.
- ▶ Opportunities will be provided for interested people or groups from the wider general community to have their say during the Toolkit's preparation. These opportunities for involvement will be advertised on the Councils' websites, and elsewhere, as the project progresses.

Staff from the three participating Councils will be involved in the Toolkit's development, and input will also be provided by the Office of Environment and Heritage and other relevant government agencies.

More information ?

To discuss the Toolkit, and opportunities to be involved in its preparation - contact Alan Ginns from Gondwana Consulting at e-mail: alan@gondwanaconsulting.com.au or on 9913 3720 or mobile 0429 913 300.

For further information about the Toolkit project generally - contact Ms Veronica Bird, Aboriginal Community Liaison Officer, Shellharbour City Council, on 4221 6170 or e-mail: Veronica.bird@shellharbour.nsw.gov.au.

Appendix K

Information Sheet (4 page)



Aboriginal Cultural Heritage Management Development Assessment Toolkit

Background – Why is a Toolkit Needed ?

Planning laws generally require local councils to consider the impacts of proposed developments on known or possible Aboriginal cultural heritage sites, or on places of cultural or historical importance to Aboriginal people.

For most proposals this is done through the **development assessment process**, when land owners or developers lodge their plans/proposals – known as a Development Application (DA) – with Councils for approval. (Some minor proposals, called Exempt Development, do not require consent.) Councils then assess a DA against applicable planning laws, regulations and other criteria or requirements.



However when, and how, to investigate the possible impacts of a proposed development on the Aboriginal heritage values of a site are not always clear or well defined – especially when compared with other development assessment criteria. Often decisions around the need for an Aboriginal heritage assessment, the type or degree of heritage assessment required, and the extent of involvement of Aboriginal people are left to the judgement of the individual Council officer dealing with a particular development or activity proposal.



To address this problem Shellharbour City Council, in partnership with Wollongong City Council and Kiama Municipal Council, is developing an “Aboriginal Cultural Heritage Management Development Assessment Toolkit”

The Toolkit will provide guidelines, which have the broad support of the Aboriginal community and other stakeholders, to assist councils in providing the most appropriate type and level of consideration of Aboriginal cultural heritage values when assessing development applications.



What will the Toolkit Do ?

The Toolkit will describe a consistent approach to help Councils ensure an appropriate type of investigation, level of detail, and involvement of Aboriginal

people or groups when considering Aboriginal cultural heritage values during assessment of the many and varied development applications they receive each year.

The “appropriate” type and detail of investigation of Aboriginal cultural heritage values may vary according to:

- the known, or potential, Aboriginal cultural heritage values of the site or area where a development is proposed; and
- the likely degree of site disturbance or impacts arising from the development or activity proposed.

As an example – a builder approaches Council with a development application for, say, a group of six townhouses on an existing house site and adjoining vacant block. The Toolkit will provide Council with the framework, guidelines and information to determine that because the house site and vacant block has ‘these’ known or possible Aboriginal heritage/cultural values and the expected impacts of the townhouse development will probably be ‘those’, then the most suitable type and level of detail of heritage/cultural assessment needed for Council to make sure that Aboriginal cultural values have been adequately considered in determining the application is ‘this’.

The Toolkit would work within existing planning laws, and the Councils’ local environmental plans, and other laws (State and Federal) about the protection and management of Aboriginal cultural heritage. It would also apply to the assessment and approval of works being undertaken by the Councils themselves.



The Benefits of Having a Toolkit

The Toolkit will provide a greater degree of certainty and reasonableness in the consideration of development applications for all stakeholders – the Aboriginal community, Councils, developers and the general community.

The benefits of the Toolkit will be:

- ▶ better protection of Aboriginal cultural heritage sites/values;
- ▶ heritage sites and values are better addressed at the planning and approvals stage – before works commence – with less likelihood of inadvertent site damage or conflict over site protection during construction;
- ▶ improved clarity for planners, developers and land owners about the heritage investigations and consultation needed to support development applications;
- ▶ more assurance for the Aboriginal community that sites and values, once identified, will be considered in the planning and development process;
- ▶ greater community, and developer, awareness and appreciation of Aboriginal cultural heritage sites and values; and
- ▶ efficiency and consistency outcomes for all parties.



How the Toolkit is being Prepared

Shellharbour City Council, as the project sponsor, has appointed Gondwana Consulting to assist the three Councils in developing the Toolkit. Work in preparing the Toolkit will draw together the following 4 strands.

Preparing the Toolkit



Community Consultation and Involvement

Community involvement is central to the Toolkit's preparation.

Consultation with the Illawarra Aboriginal community, possible project proponents or developers, and the wider community are vital parts of the Toolkit's preparation.

All known **Aboriginal groups** across the Illawarra have been invited to contribute their views and ideas to the project through one-on-one discussions or small group meetings (a total of 10 groups invited to-date). Advertisements in all local papers, and the "Koori Mail", also called for any other interested Aboriginal people or groups to be involved. Briefings are also being given to the Aboriginal "Advisory Committees" or "Reference Groups" of the three Councils.

A sample of **local developers, architects and building companies** have also been approached to be involved via a series of workshops. Opportunities are also being provided for **interested people or groups** from the **wider Illawarra community** to have their say during the Toolkit's preparation.

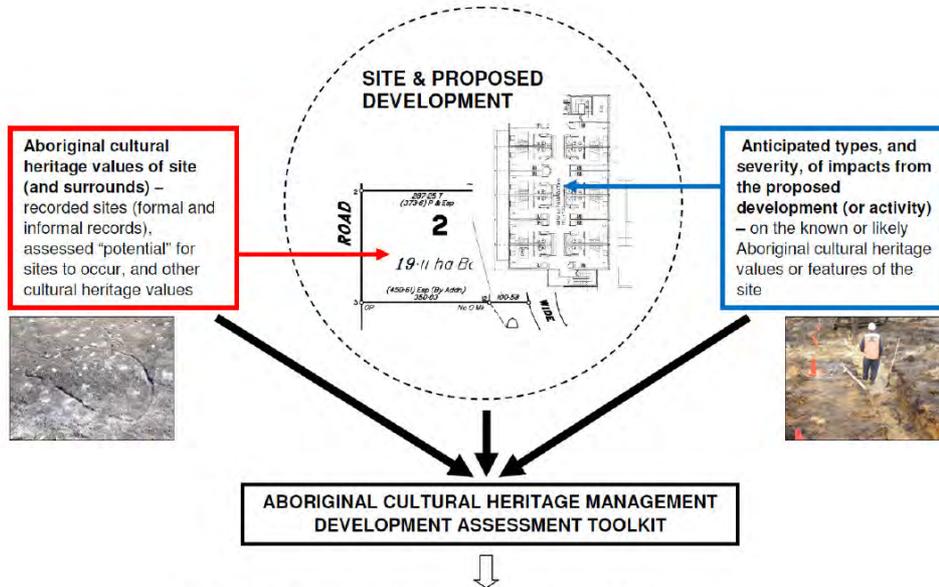
Staff from the three participating Councils will be involved in the Toolkit's development, and input will also be provided by the Office of Environment and Heritage and other government agencies.



How the Toolkit Might Work

Below is a draft model (preliminary concept, for discussion only) of how, in simplified terms, the Toolkit might work. The Aboriginal heritage/cultural assessment "triggers" or "thresholds" for

differing heritage features or values, under differing degrees of impact, will require discussion and broad agreement between all key interest groups as will the assessment measures or requirements that the Toolkit recommends under differing circumstances.



- Guidance for Council's development assessment procedures:**
- appropriate type of investigation, and level of detail, required to assess a proposal (in relation to Aboriginal heritage values);
 - requirements for the involvement of Aboriginal people or groups;
 - possible heritage protection measures required during development/works;
- and
- ▶ advice to landholder/developer about the type of Aboriginal heritage assessment, reports and consultation necessary to support DA (where discussions are held at the pre-lodgement stage).

Have Your Say !

Shellharbour, Wollongong and Kiama Councils are anxious to hear from the wider community about their views on the Toolkit, its preparation and content.

People are welcome to offer their views about – the issues the Toolkit should cover, the priorities to address, past problems it might solve, the measures and protection to be given to Aboriginal cultural heritage sites or values, the types of development to address, the advice it should provide for proponents, the guidance it should provide Councils when assessing development applications, and any other ideas or suggestions that people would like to contribute.

To contribute your views and ideas to the Toolkit's preparation, please contact the consultant team assisting the three Councils on this project, via:

- Alan Ginns, at Gondwana Consulting
- phone: 9913 3720 or 0429 913 300 e-mail: alan@gondwanaconsulting.com.au

For further information about the Toolkit project generally – please contact Ms Veronica Bird, Aboriginal Community Liaison Officer, Shellharbour City Council, on 4221 6170 or e-mail: Veronica.bird@shellharbour.nsw.gov.au.



