

ABORIGINAL CULTURAL HERITAGE ASSESSMENT REPORT

The Former Empire Hotel

FINAL

February 2017

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Prepared by Umwelt (Australia) Pty Limited on behalf of The Trustees of the Catholic Church

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February 2017



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Executive Summary

The Diocese is proposing to re-develop the 2090m² study area, Lot 1 DP 1166015 located on the corner of Steel Street and Hunter Street, Newcastle. The re-development would include a 14 storey mix commercial and residential high rise building.

The construction of the high rise would involve the subsurface excavations for 61 pylons and caps approximately 1300 millimetres long, 600 millimetres wide with depths currently un-known. Other excavations would include three lift pits up to two metres below the existing ground surface. Construction would also include the implementation of compacted fill and concrete slabs across much of the study area.

The assessment of the previous Aboriginal cultural heritage investigations found that the foreshore of the Hunter Estuary contains a significant number of Aboriginal cultural material expressions. A search of the OEH administered AHIMS database found that two previously recorded sites were identified with midden material, both of which are located within 70 metres of the study area.

Previous investigations (AHMS 2004: AHMS 2011; Insite Heritage 2016) suggest that the two nearby midden sites and the PAD (AHIMS sites: 38-4-0772, 38-4-0831 and 38-4-0832) are likely to be three expressions of the same site. AHMS (AHMS 2011) suggested that the midden site (38-4-0831) likely extended 200 metres in all directions (except to the east). As such, the previously recorded and investigated midden site is likely to extend into the current study area boundary. Based on the nearby previous investigations, including the AHMS investigations of the midden, the study area is likely to retain, disturbed and in-situ, Aboriginal cultural heritage deposits.

This assessment has found that the study area is of high cultural significance. The study area is located on a foreshore sand dune along the Hunter Estuary, which is of high aesthetic significance. The study area is of high archaeological and cultural significance as the location of a midden and artefact distribution, which demonstrates a direct association with past Aboriginal land use of the Newcastle area and the Hunter Estuary. It demonstrates high research potential with the potential to provide further information about the use the region and potential scientific dates. The study area provides a tangible connection to past culture and land use along the Hunter River foreshore which has been identified during consultation with the Registered Aboriginal parties as a culturally significant landscape.

The assessment has found that the proposed works would involve the subsurface excavation of both historic fill and natural soil profiles. Therefore, the proposed works are likely to negatively impact upon the potential archaeological deposit. As such, a series of mitigation measures are required in order to manage the proposed impact on the potential subsurface in-situ archaeological midden site.



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- Appendix 2 AHIMS Results
- Appendix 3 Consultation Log



1.0 Introduction

1.1 Project Background

The Trustees of the Catholic Church (The Diocese) has commissioned Umwelt (Australia) Pty Limited (Umwelt) to undertake an Aboriginal Cultural Heritage Assessment Report (ACHAR) in consultation with registered Aboriginal parties for the project. This report is prepared in accordance with the requirements of the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010b), and details the relevant contextual information required for the completion of the Aboriginal Cultural Heritage Assessment as specified in clause 80D of the National Parks and Wildlife Regulation 2009 (NPW Regulation). It incorporates all Aboriginal community consultation undertaken in accordance with clause 80C of the NPW Regulation.

The level of previous archaeological assessment (see **Section 4.2**) undertaken within the project area and immediate surrounds has effectively characterised the archaeological values of the project area. In consultation with the relevant Aboriginal parties, the Trustees of the Catholic Church propose to proceed directly to an Aboriginal Heritage Impact Permit (AHIP) application for the project area.

1.2 Study Area

The proposed works location (the study area) is identified as the former Empire Hotel. The study area is situated within the Newcastle Local Government Authority (NLGA) and located within the suburb of Newcastle. The study area - Lot 1 DP 1166015 - is situated on the corner of Steel Street and Hunter Street, Newcastle (Figure 1.1).

The study area has a Hunter Street frontage of approximately 41 metres and a Steel Street frontage of approximately 51 metres and is approximately 2090m². The study area is currently vacant with concrete and bitumen surfaces.

1.3 Project Description

The Diocese is proposing to re-develop the 2090m² study area to include a 13 storey mixed commercial and residential high rise building. The proposal would include a ground floor for commercial and retail use, two car park levels above the commercial ground floor and 10 residential stories with a fourteenth level for plant machinery.

Ground disturbance works associated with the proposal would involve subsurface excavations for 61 pylons and caps approximately 1300 millimetres long, 600 millimetres wide with depths currently un-known. Other excavations would include three lift pits up to two metres below the existing ground surface. Construction would also include the introduction of compacted fill and concrete slabs across much of the study area.

1.4 Aims and Methodology

The purpose of this ACHAR is to:

- understand the archaeological potential of the proposal area
- understand the relationship between the existing and recorded site and the wider cultural and archaeological landscape



- prepare an archaeological significance assessment for all identified aspects of Aboriginal cultural heritage
- assess the impact of the proposal on Aboriginal cultural heritage
- develop appropriate management and mitigation measures and
- provide recommendations as to all further archaeological and consultation requirements.

This ACHAR report has been prepared in accordance with the following NSW Office of Environment and Heritage (OEH) guideline documents:

- *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* (DECCW 2010) (The Guide)
- Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010) (The Code) and
- Aboriginal cultural heritage consultation requirements for proponents (DECCW 2010).

1.5 Project Team

This report (including facilitating the recording of Aboriginal cultural input) was prepared by Joshua Madden (Umwelt Senior Archaeologist) and reviewed by Nicola Roche (Umwelt Manager Cultural Heritage).

1.6 Report Structure

Table 1.1 below, outlines the structure of this ACHAR.

Report Section	Section outcomes	
Section 1	Provides a summary of the project.	
Section 2	Outlines the relevant legislation and statutory context followed for this assessment.	
Section 3	Provides a summary of the Aboriginal community consultation undertaken in accordance with the relevant legislative requirements.	
Section 4	Summarises the environmental background of the study area.	
Section 5	Summarises the Aboriginal cultural heritage context, the historical background and the archaeological context of the study area and the wider region.	
Section 6	Outlines the results of the study area inspection and on-site meeting undertaken as part of the consultation process.	
Section 7	Provides an assessment of the cultural and archaeological significance of the study area.	

Table 1.1. Report Structure



Report Section	Section outcomes
Section 8	Assesses the potential impact to the proposed works to the identified Aboriginal cultural heritage material and objects.
Section 9	Outlines a series of mitigation measures and recommendations as part of the management of the cultural heritage resource.
Section 10	Is the methodology for the application of an Aboriginal Heritage Impact Permit (AHIP).
Section 11	Is a list of references used within the ACHAR.
Appendix 1	Is the proposed re-development plans.
Appendix 2	The AHIMS results.
Appendix 3	The complete to-date, consultation log for the project.





1:15 000

FIGURE 1.1

Study Area (643-651 Hunter Street)



2.0 Statutory Context

The following section provides an overview of the legislative frameworks relating to the protection and management of the Aboriginal cultural heritage within the study area. The management and conservation of Aboriginal cultural heritage is subject to a range of statutory provisions under the NSW state government legislation. In NSW archaeological remains and heritage items are afforded statutory protection under the following Acts:

- the Heritage Act 1977 (NSW) (the Heritage Act)
- the National Parks and Wildlife Act 1974 (the NPW Act) and
- the Environmental Planning and Assessment Act 1979 (the EPA Act).

2.1 National Parks and Wildlife Act 1974

The Office of Environment and Heritage (OEH, formerly the Department of Environment, Climate Change and Water - DECCW) is primarily responsible for regulating the management of Aboriginal cultural heritage in New South Wales under the *National Parks and Wildlife Act 1974* (the NPW Act). The NPW Act is accompanied by the National Parks and Wildlife Regulation 2009 (the Regulation), the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010a) and other industry-specific codes and guides.

The NPW Act defines an Aboriginal object as:

..any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales.

Under Section 84 of the NPW Act, an Aboriginal Place must be declared by the Minister as a place that, in the opinion of the Minister, is or was of special significance with respect to Aboriginal culture.

In accordance with Section 86(1) of the NPW Act, it is an offence to harm or desecrate a known Aboriginal object, whilst it is also an offence to harm an Aboriginal object under Section 86(2). Similarly, Section 86(4) states that a person must not harm or desecrate an Aboriginal place. Harm under the NPW Act is defined as any act that; destroys defaces or damages the object, moves the object from the land on which it has been situated, causes or permits the object to be harmed. Penalties relating to the harm of an Aboriginal object and/or place may include a fine of up to \$550,000 for an individual and imprisonment for two years and in the case of a corporation, a fine of up to \$1.1 million.

Section 87(1) of the NPW Act specifies a series of defences to prosecution under Section 86(1) and Section 86(2) if the proponent can demonstrate 1) due diligence was exercised to reasonably determine that the activity or omission would not result in harm to an Aboriginal object or if the activity or omission constituting the offence is a low impact act or omission and 2) if the harm or desecration of an Aboriginal object was authorised by an Aboriginal Heritage Impact Permit (AHIP) and the activities were carried out in accordance with that AHIP.



2.1.1 National Parks and Wildlife Regulation 2009

The NSW National Parks and Wildlife Regulation 2009 (NPWR 2009) provides a framework for undertaking activities and exercising due diligence in respect to Aboriginal cultural heritage. The NSW NPWR 2009 outlines a series of recognised legislative guidelines for the assessment of Aboriginal cultural heritage.

The investigation and assessment of Aboriginal cultural heritage is undertaken to explore the harm of a proposed activity on Aboriginal objects and places. There are a number of guidelines and procedural publications governing archaeological practice relating to Aboriginal cultural heritage. The publications relevant to this investigation and assessment include:

- Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (OEH 2011).
- The Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (the Code) (DECCW 2010).
- The Aboriginal cultural heritage consultation requirements for proponents (ACHCR) (DECCW 2010).

Other procedures outlined by the NPWR 2009 are the procedures for obtaining an Aboriginal Heritage Impact Permit (AHIP).

2.2 Heritage Act 1977

The *Heritage Act 1977* provides protection for environmental heritage within NSW. The Act provides protection of historic places, structures, relics, moveable objects and landscapes of significance. The Act also affords protection to Aboriginal places of State heritage significance included on the State Heritage Register (SHR) or subject to an Interim Heritage Order.

2.3 Environmental Planning and Assessment Act 1979

The EP&A Act is the main system of land use planning and development regulation legislation in NSW. The EP&A Act requires that consideration be given to the environmental impact during the planning process including the potential impact on Aboriginal cultural heritage. As such, the EP&A Act provides protection for Aboriginal objects or places. This is done through the control and the development of Environmental Planning Instruments (EPIs). EPIs cover either Local Government Areas (LGAs), in the form of Local Environment Plans (LEPs) or areas of State and/or regional environmental planning significance, in the form of State Environmental Planning Policies (SEPPs).

The proposed works are covered by the Newcastle LGA LEP 2012. The LEP provides protection of Aboriginal cultural heritage through the requirement of development consent for the:

(2) (a)demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):

•••

(ii) an Aboriginal object,

•••



(c) disturbing or excavating 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,

(d) disturbing or excavating an Aboriginal place of heritage significance,

(e) erecting a building on land:

•••

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,

(f) subdividing land:

•••

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

Prior to granting development consent where works will be undertaken within an Aboriginal place of significance, the authority must:

(8) (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and

(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

This ACHAR has been undertaken in consideration with the Newcastle LGA LEP conditions.



3.0 Aboriginal Party Consultation

Consultation regarding the Aboriginal cultural values associated with the project area has been undertaken in accordance with Part 8A, Clause 80C of the Regulation as summarised in **Table 3 1** and documented in **Appendix 1**. All notifications listed in **Table 3.1** were developed with reference to the requirements of Clause 80C Sub-clause (4), and the registration of Aboriginal parties was completed in accordance with Clause 80C Sub-clause (5). As a result of this process, nine Aboriginal parties registered an interest in ongoing consultation regarding the project.

The registered Aboriginal parties are:

- Awabakal Descendants Traditional Owners Aboriginal Corporation
- Awabakaleen Elder
- Awabakal Local Aboriginal Land Council
- Awabakal Traditional Owners Aboriginal Corporation
- Gimbay Gatigaan Aboriginal Corporation
- Lower Hunter Aboriginal Incorporated
- Murrawan Cultural Consultants
- Smith Dhaggaans Cultural Group and
- Trevor Powell.

The draft methodology for the Aboriginal cultural heritage and archaeological assessment (ACHAR) was provided to all registered Aboriginal parties on 14 September 2014. It was requested that all Aboriginal parties provide comment on the proposed assessment methodology, particularly in relation to the Aboriginal cultural values of the project area and the way in which the assessment may or may not contribute to documenting these values and assisting in their management.

A summary of the consultation process is provided in **Table 3.1** below. A comprehensive consultation log is found in **Appendix 3**. A summary of the comments received during consultation are outlined below and further outlined in **Section 7.1** and **Section 10.5**.

During the on-site consultation meeting, members of the RAPs confirmed that the Hunter River foreshore is culturally significant and that the project area is situated within a significant and complex cultural landscape. The extensive archaeological investigations undertaken adjacent to the project area boundary are seen as a confirmation of the cultural significance and indicate that the project area is likely to contain physical remains of the cultural significance of the area.

Comments on the draft ACHAR were received which indicated that some of the RAPs would prefer to temporarily store any recovered artefacts and cultural heritage material at the Awabakal Local Aboriginal Land Council offices.



Table 3.1 Record of Aboriginal Party Consultation

Date	Type of Consultation	Agencies/Aboriginal Parties Contacted	
03/05/16	Provision of project notification letter requesting identification	Office of Environment and Heritage	
	of any parties who may hold knowledge relevant to Aboriginal cultural heritage within the project area.	Awabakal Local Aboriginal Land Council	
		National Native Title Tribunal	
		NSW Native Title Services	
		Office of the Registrar: Aboriginal Land Rights Act 1983 (NSW)	
		City of Newcastle	
		Hunter Central Rivers CMA (Now Local Land Services-Hunter)	
28/05/16	Public advertisement providing notification of assessment and opportunity to register interest for on-going project consultation.	Advertisement placed in Newcastle Herald	
26/05/2016	Letter to known Aboriginal parties (as identified by OEH) to invite registrations of interest in the project	Indigenous Learning	
		Arwarbukarl Cultural Resource Association	
		Awabakal Local Aboriginal Land Council	
		Awabakal Newcastle Aboriginal Co-op	
		Awabakal Traditional Owners Aboriginal Corporation	
		Biraban Local Aboriginal Land Council	
		Cacatua Culture Consultant	
		Daniella Chedzey, Jessica Wegener	



Date	Type of Consultation	Agencies/Aboriginal Parties Contacted
		Gimbay Gatigaan Aboriginal Corporation
		I & E Aboriginal Culture and Heritage
		Kauma Pondee Inc.
		Arthur Fletcher
		Lower Hunter Aboriginal Incorporated
		Myland Cultural & Heritage Group
		Smith Dhagaans Cultural group
		Wurrumay Consultants
		Yamuloong Group Initiatives Ltd
17/06/2016	Provision of list of registered parties to OEH and the Awabakal Local Aboriginal Land Council	OEH
		Awabakal Local Aboriginal Land Council
14/09/2016	Provision of assessment methodology to RAPs for comment and request for onsite meeting.	To all RAPs
28/09/216	Meeting with RAPs to discuss project	Awabakal Local Aboriginal Land Council
		Gimbay Gatigaan Aboriginal Corporation
		Lower Hunter Aboriginal Incorporated
		Awabakal Descendants Traditional Owners Aboriginal Corporation
		Smith Dhagaans Cultural group



Date	Type of Consultation	Agencies/Aboriginal Parties Contacted
05/12/2016	Provision of draft ACHAR report for review and comment To all RAPs	
16/01/2017	Response to draft ACHAR	Lower Hunter Aboriginal Incorporated
24/01/2017	Response to draft ACHAR	Awabakal Local Aboriginal Land Council
	Response to draft ACHAR	Gimbay Gatigaan Aboriginal Corporation



4.0 Environmental Context

The decisions that people make regarding such things as where they live, the range of resources they use and other aspects of daily life may be influenced by the environment in which they live. The preservation and visibility of sites is also affected by environmental factors such as vegetation cover, past land-use and disturbance. A review of the environmental context of the project area is therefore integral to considerations of site visibility, preservation and occurrence within the project area.

4.1 Soil Landscape

The study area is located within the residual Hamilton soil landscape (Matthei L.E., 1995). The Hamilton soils are deep with well-drained weak Podzols with some deep well-drained Brown Podzolic soils on fans. The soil profile is composed of a brownish black speckled loamy sand A_1 horizon to a maximum depth of 500mm which overlies a loose, pale coarse sand A_2 horizon to a maximum depth of 800mm. The A_1 and A_2 horizons are underlain by a brown to orange soft sandy pan B Horizon to approximately 1200mm which in turn is underlain by estuarine clay.

Excavations undertaken at 700-710 Hunter Street and at the former Palais Royale opposite the current study area identified a level of disturbances, to various depths, which overlay the natural soil profile (AHMS 2004; AHMS 2005: AHMS 2011). Despite the level of historic and modern disturbances identified, both archaeological investigations recorded various natural soil profiles. Excavations at 700-710 (the Ibis Accor Hotel site) identified a truncated natural profile on the southern side of the site which, was found to be characteristic of a swamp dune depression. Excavations at the former Palais Royale identified historic and modern deposit to a maximum of 300mm overlying the natural soil profiles consistent with the Hamilton soil landscape.

4.2 Landform

The study area is underlain by the confluence of two primary geologies. The southwestern portion of the study area is underlain by man-made fill. The fill is likely to be associated with the historic in-fill of a large swamp identified in 1797 mapping of the region. The north eastern portion of the study area is underlain by the Permian Lambton Sub-Group of the Newcastle Coal measures. The Sub-Group is composed of coal, sandstone, shale and minor conglomerate.

The study area and immediate surrounds are underlain by well-drained Quaternary deposits which are characterised by a level to gently undulating landform. Local relief across the locality is <1 metre with elevation up to 12 metres and slope gradients <2 per cent.

Prior to the historic development of the area in the early nineteenth century and the later landscape modification and remediation of the Hunter Estuary Foreshore, the study area was situated within a stabilised fore-dune system (AHMS 2004; 2011). Estuarine swamps and inundation zones were located across the fore-dune system within depressions and swales. Previous investigations along the northern side of Hunter Street have found evidence of both swampy swales (AHMS 2001: AHMS 2004) and stabilised dune systems below a thin historic and modern fill lens.



4.3 Resource Availability

Distance from water is an important factor affecting the available local resources as well archaeological potential of an area. White and McDonald (2010:33) considered distance from water in relation to stream order:

In first order landscapes, there is no significant difference in artefact distribution with distance from water. In second order landscapes, artefact density is highest within 50 metres of water and decreases with increasing distance from water. In fourth order landscapes, artefact density is highest 51-100 metres from water, lower closer to water and declines with increasing distance more than 100 metres from water.

The current study area is located approximately 200 metres from the existing Hunter Estuary foreshore. It is likely that, prior to the reclamation works within the area during the late nineteenth century and the early twentieth century, the study area was approximately 150 metres from the original shoreline. A variety of local watercourses are situated within close proximity to the study area with the now altered Cottage Creek located approximately 100 metres to the west of the study area. This creek line was originally associated with a large swamp upstream of the current study area (Lt. Shortlands 1797 map) which was subsequently filled in during the historic development of the region.

Prior to European contact the vegetation community across the study area and the surrounds would have included Hunter-Macleay Dry Sclerophyll Forests. In general, the dry sclerophyll forests have open canopies with common tree species including spotted gums, iron barks, grey gums and turpentines (Keith 2006:124-125). The understorey would have included shrubs, herbs, ferns and grasses including, silver-stemmed wattle, forest oak, coffee bush, gorse bitter pea, narrow-leaved geebung and mutton wood (Keith 2006:124-125).

The dry sclerophyll forest vegetation community would have provided habitat for a variety of fauna which would have been utilised by past Aboriginal peoples as food and raw material sources. Terrestrial faunal food sources would have included kangaroos, wallabies, sugar gliders, possums and a variety of small animals including lizards, snakes and birds. Marine and estuarine resources would have included oysters and various other molluscs, fish and larger marine mammals.



5.0 Cultural Context

In order to adequately understand the nature of archaeological resources within an area, it is necessary to also understand the cultural context of the area. The term cultural context encompasses both ethnohistoric information regarding how Aboriginal people lived in the region during the period of non-Aboriginal settlement, the historical context and the archaeological context.

5.1 Ethnohistoric Context

Ethnohistoric accounts can be of use in gaining an understanding of how the Awabakal and other Aboriginal people lived in the Newcastle area at the time of early contact. However, in reviewing ethnohistoric accounts, it must be noted that the many of these document Aboriginal society from the perspective of non-Aboriginal men who would not have had access to all aspects of Aboriginal society. As such these accounts are often written by those who viewed Aboriginal people from an entirely non-Aboriginal perspective. In addition, most ethnohistoric accounts date from a period when introduced diseases had already had an impact upon Aboriginal society (refer to Butlin 1982). These limitations must be considered with reference to all of the information presented below.

Perhaps the single-most important source of ethnohistoric information for the Awabakal people was the missionary, Lancelot Threlkeld, who established a mission at Belmont and subsequently at Toronto on Lake Macquarie and collated a large body of information on the Awabakal people and their language between 1825-1841. Threlkeld's account included the story of Yi-ra-na-li, which he described as a sacred place 'near Newcastle on the sea-beach, beneath a high cliff'. He implied that this was connected to his Aboriginal informant's belief that Nobbys Island was the dwelling place of a giant kangaroo who, after breaching totemic rules was chased by flocks of wallabies and hid in Nobbys Island. From here he periodically shakes himself, resulting in the collapse of rocks from the cliff faces around Newcastle. While records also exist of corroborees or ceremonial events being undertaken in the Newcastle area (refer to Umwelt 2010), there are very few other records of spiritual beliefs and practices of the Awabakal people.

Records from the earliest European explorers and settlers within the Newcastle region, although limited, record the early interactions between the Awabakal and the newly arrived Europeans. These early accounts include descriptions of encounters with Aboriginal people during Lieutenant Grant's expedition to the Hunter River in 1801. At this time Patterson wrote of the large quantity of oyster shell built up in middens along the Hunter River, writing to the King 'they are in some places for miles. These are four feet deep, without either sand or earth (Patterson to King, 25th June 1801 in *HRNSW* IV), quoted in Dallas 2004: 48). More extensive interactions logically followed the establishment of the second penal settlement in 1804, including records of Awabakal people returning escaped convicts to settlement officials, possibly in retribution for the manner in which escaped convicts attacked Awabakal families. This is typified by an account in the 1821 of Commissioner Bigge (as quoted in AHMS 2008:63):

Many attempts are made by the prisoners to escape, and the natives who inhabit the Hunter River and Port Stephens Districts, have become very active in re-taking fugitive convicts. They accompany the soldiers sent in pursuit, and by their extraordinary site (sic) they can trace to a great distance with accuracy the imprint of a human foot. Nor are they afraid of meeting with the convicts in the woods, when sent in pursuit without the soldiers. By their skill in throwing the long painted darts, they wound and disable them, and bring them back prisoners, by unknown roads and paths, to the Coal River. They are rewarded for these enterprises by presents of blankets and maize, and not withstanding the apprehension of revenge from the convicts whom they bring back, they continue to live in Newcastle and its neighbourhood, but they are observed to prefer the company of soldiers to that of the convict.



Records exist of Awabakal people receiving gifts of blankets, tobacco and other supplies in thanks for their involvement (Roberts 2003a). Accounts from 1819 and 1820 record the punishment of non-Aboriginal men for the mistreatment of Aboriginal men, including the execution of John Kirby (refer to Umwelt 2010). In addition, early artworks from the period by T.R. Browne, Joseph Lycett, Walter Preson and Joseph Cross all show Aboriginal camps bordering the developing settlement between 1812 and 1828. This does not in any way imply that the ongoing development of Newcastle was positive for the Awabakal people. Rather as Newcastle expanded following the closure of the penal settlement in 1823, the Awabakal were increasingly struggling to access their land and resources within the settlement itself. This is demonstrated by the records of violent clashes between the Awabakal and the European settlers in the 1830s in the Lake Macquarie area (Umwelt 2010).

A newspaper account in 1830 (in Turner 1997) indicated that the number of Aboriginal people within the Newcastle settlement at the time was equal too (if not greater than) the non-Aboriginal population and that Aboriginal people provided services to the 'lowest classes' such as carrying wood and water and received 'small pieces of tobacco or a cob of corn' in return. Records show that, with the continuation of European settlement within the Newcastle area, a decrease in Awabakal people was noted. This can be seen in the blanket distribution records from 1833 that lists 117 Aboriginal people in the Newcastle district. However by, 1846 only 29 Aboriginal people were listed on a blanket return list (Umwelt 2010) This may indicate a significant decrease of the Awabakal population in the area although it must be noted that these records may not be directly comparable.

This decrease in the Awabakal population was evidenced by Threlkeld who noticed that the number of Aboriginal people occupying the Belmont and later Toronto missions, significantly decreased. Threlkeld attributed this decline as a result of both the effects of disease and the ongoing attraction of employment in Newcastle. Threlkeld stated that Aboriginal people were 'employed' in the Newcastle settlement as fishermen, water carriers, messengers, servants and ship hands (in Umwelt 2010). He also noted that while Aboriginal people were living in camps at Newcastle, it was 'being sold out from under their feet, and only the sea-beach, one hundred feet from the high water mark, is the place on which they may rest their heads beneath burning sun or pitiless storm' (refer to Umwelt 2010).

The historic accounts demonstrate the ongoing presence of Aboriginal people within proximity to the project area. However, subsequent records of Aboriginal people living or working within the Newcastle CBD are relatively rare until the modern period. This does not demonstrate the absence of Awabakal people or Aboriginal people more broadly from the area but is probably symptomatic of the increasing marginalisation of Aboriginal people resulting from the expansion of the settlement.

5.2 Historical Context

Whilst much of the historical context of the settlement of Newcastle has been briefly described above, there are specific aspects that have direct implications for the project area. This information is presented in the *Historic Archaeological Assessment: The Former Empire Hotel Site, Newcastle* (Umwelt 2016). A summary is outlined below.

The study area has been in near continuous use since the early period of European settlement. In 1812 the study area was part of the 'Commandant Farm'. The Commandant Farm was the government farm worked by the convict labour force of Newcastle until 1823, when the penal colony was moved to Port Stephens.

After the penal colony was moved to Port Stephens the A.A. Company purchased 2000 acres directly west of Newcastle in order to mine the extensive coal resources. The study area was part of this original land purchase. However, by the 1850s the first hotel was erected on the site which began almost 150 years of licensing on the site. Much of the study area to the east and south of the hotel was subdivided with various shop fronts, industries and a lane way covering the area until the construction of one premise and parking



across this entire area in the 1950s. In 2011 the existing shop front and hotel were demolished for the redevelopment of the site.

5.3 Aboriginal Archaeological Context

A search of the OEH administered Aboriginal Heritage Information Management System (AHIMS) was undertaken on 1 June 2016 (Client Service ID: 245233). The coordinates of the search were between Latitude -32.9301 Longitude 151.7575 and Latitude -32.9224 Longitude 151.7696.

The search identified 19 previously recorded Aboriginal sites within 500 metres of the study area. The AHIMS search indicates that there is one previously recorded Aboriginal site (AHIMS 38-4-0832) located within the study area and two additional sites located directly opposite the study area. These sites are discussed further below. The results of the extensive search are found in **Table 5.1** below and shown in **Figure 5.1**.

Site Type	Site Frequency (#)	Valid Sites	Per Cent (%) of Site Frequency
Open Camp Site (isolated find/artefact scatter)	13	13	68.4
Potential Archaeological Deposit (PAD)	4	4	21.1
Potential Archaeological Deposit (PAD) with midden material	2	1 (1 partially destroyed)	10.5
Total	19	18	100

Midden site: AHIMS 38-4-0772 & 38-4-0831

These midden sites are located in adjacent properties and directly opposite the current study area. Archaeological investigations at Palais Royal (38-4-0831) (AHMS 2011) concluded that the midden site likely stretched a few hundred metres in all directions (except east where the Hunter estuary was located). As such, these two separate sites (located within 50 metres of each other) are likely the same site. The results of the AHMS investigations (AHMS 2011) indicate that this site is likely to extend into the current study area (see below).

Potential Archaeological Deposit: AHIMS 38-4-0832

In 2004 AHMS undertook an assessment of the current study area. The assessment concluded that the project area was likely to be part of the 700-710 Hunter Street midden site (AHIMS number 38-4-0772) and as such, was recorded as a Potential Archaeological Deposit (PAD). Should the current study area contain subsurface deposits, it is likely that they will represent a continuation of the subsurface deposits identified within sites 38-4-0772 and 38-4-0831.



5.3.1 Previous Archaeological Investigations in the Local Area

The Convict Lumber Yards. 92 Hunter Street, Newcastle.

A range of historical archaeological excavations have been carried out within the former convict lumber yards (refer to Bairstow 1989 and Higginbotham 1998, 1999), located approximately 1.9 kilometres west of the current study area. During the excavation programs, Aboriginal cultural heritage material was recovered in association with deposits of mixed fill and sandy topsoil. Whilst the stratigraphy of the lumber yard excavations is relatively complex and indicative of varying disturbance factors, Higginbotham (1999:75) concluded that at least a proportion of the Aboriginal objects were indicative of in situ Aboriginal occupation but that this evidence had been disturbed and mixed with remains of early nineteenth century historical occupation (Higginbotham 1999:75).

Douglas Tuck and Steel Partners. 2001. Accor Ibis Hotel site 700 Hunter Street Newcastle, NSW : interim report on archaeological test & salvage excavations at the site. Prepared for Accor Asia Pacific.

Historical and Aboriginal archaeological excavations were conducted at 700 Hunter Street, located approximately 70 metres northwest of the study area and adjacent to the former banks of the Hunter River. This area was associated with a former cemetery and contained numerous grave cuts and skeletal remains, none of which were identified as being of Aboriginal origin (Douglas, Tuck and Steel 2001:3). However, a relatively high volume of Aboriginal objects were recovered from test and salvage excavations, including over 4000 stone artefacts, shell and bone.

Aboriginal objects were recovered from grave fills and exhumation deposits as well as relict topsoils consisting of a black to dark grey sandy loam A1 horizon and a dark grey sandy loam A2 horizon. The assessment argued that A soil horizons were consistent with aeolian processes impacting on a fixed dune. The assessment also found that the soil profile was also subject to sheet erosion in association with minor drainage channels (Douglas, Tuck and Steel 2001:9).

Insite Heritage. 2005. *Test Excavation Report 200-212 Hunter Street, Newcastle*. Prepared for Regence Pty Ltd and Legman Pty Ltd.

Insite Heritage was engaged by Regence Pty Ltd and Legman Pty Ltd to undertake archaeological investigations across 200-212 Hunter Street, approximately 1.5 kilometres east of the current study area. During the test excavations across the Insite Heritage project area Aboriginal cultural heritage objects (stone artefacts) were identified in association with historical structures. The assessment concluded that (Insite Heritage 2005:52) the stone artefacts were not identified in in-situ deposit. It was determined that the artefacts were most likely incorporated within historic fill deposit identified across the project area. This was based on the imported fill levels identified beneath historic structures, which may have been associated with reclamation of the foreshore in the 1850s, or more probably, the levelling of the site prior to construction around the mid-1860s.

Umwelt (Australia) Pty Ltd. 2006. Aboriginal Heritage Issues and Management, Royal Newcastle Hospital Project Master Plan. Prepared for NSW Health.

In 2006 Umwelt undertook an Aboriginal heritage assessment of the Royal Newcastle Hospital site as part of the redevelopment of the project area. The project area is approximately 2.2 kilometres southeast of the current study area and is directly opposite Newcastle Beach, Newcastle. The project area was identified as located along the toe of a bedrock slope and identified as different, in landscape and subsurface deposit to the context of previously excavated sites further west along Hunter Street.



The assessment found that the continuous use and upgrades/development of the project area, which included major earthworks, would have severely impacted upon the subsurface Aboriginal and historical cultural heritage. On this basis, it was recommended that Aboriginal archaeology was not a constraint to Royal Newcastle Hospital redevelopment.

AHMS 2011. Section 90 Aboriginal Heritage Impact Permit #1098622 Excavation Report. Prepared for Yum Restaurants Pty Ltd

In 2009 AHMS was engaged by Yum Restaurants Pty Ltd to undertake Aboriginal cultural heritage salvage excavations across the project area in accordance with the approved AHIP (AHMS 2011). The AHMS project area is located directly opposite the current study area. The approved AHIP allowed for the excavation of the identified shell midden and associated deposits. A total of $48m^2$ were excavated in an open area excavation three metres wide and 16 metres in length. The Aboriginal cultural heritage investigations were also undertaken in conjunction with the historic heritage archaeological excavations within the same area. The excavations re-identified midden material and recovered 534 Aboriginal cultural heritage objects, while also revealing a complex geomorphological history.

Based on OSL dating, the assessment found that the oldest archaeological deposit was located within a deposit dated to 3,500 yBP (calibrated). The assessment also argued that later occupation, identified within the A_2 soil landscape (upper dune), dated to the period between 2,480 – 1,933 yBP (calibrated). It was identified that occupation across this area did continue after this period however, disturbances across the study area had severely impacted the potential assemblages within the A_1 horizon.

The assessment concluded that, in relation to nearby excavations, the identified Aboriginal cultural heritage site would likely extend a few hundred metres in either direction of the Palais Royal project area. This site would therefore, incorporate the current study area.

5.3.2 Previous Archaeological Assessment of the Project Area

Archaeological Report: 643 – 651 Hunter Street Newcastle

In 2004 Insite Heritage was engaged by EJE Town Planning to undertake an initial archaeological assessment for the current study area. The initial assessment was undertaken in order to allow for the demolition of the structures that were standing at the time of the assessment.

The assessment found that the demolition of the existing structures and disturbances would only have had minimal negative impact to any potential subsurface Aboriginal cultural heritage. The assessment found that:

- Pleistocene sand deposits could potentially conserve Aboriginal cultural heritage material, if present, from this time. These surfaces could occur at some depth depending on the geomorphology and subsequent disturbance of the study area.
- Dense Aboriginal stone artefact deposits, at the nearby 700 Hunter Street, indicate that the current study area may contain rich and diverse cultural heritage assemblage.
- The concreted area at the rear of the Empire Hotel may have capped in-situ Aboriginal cultural heritage material. The assessment also found that relatively undisturbed deposits may be found between the footings of older structures where historic disturbances have been minimal.

The assessment found that an Aboriginal Heritage Impact Permit should be sought in order to undertake test and salvage archaeological works across the study area.



643 – 651 Hunter Street, Newcastle: Aboriginal Heritage Impact Assessment

In 2004 AHMS was engaged by Rory F O'Brien Pty Ltd to undertake an impact assessment of the proposed works on potential Aboriginal cultural material. The impact assessment was undertaken as a preliminary research permit application for the archaeological test excavation of the AHMS project area.

The assessment found that the project area was located within a former resource zone in proximity to the Hunter estuary. An assessment of the previous archaeological findings in the vicinity of the project area indicated that there is high potential for subsurface Aboriginal archaeological deposits. The assessment predicted that the project area had the potential to contain midden material, artefact scatters, isolated artefacts and/or prehistoric burials.

AHMS concluded that the current study area had high potential to contain subsurface Aboriginal cultural material. As such, an AHIMS site card was submitted and the study area was registered as a Potential Archaeological Deposit.

5.4 Geomorphological Analysis

A geomorphological investigation was undertaken during the Aboriginal cultural heritage salvage excavations directly opposite at the former Palais building site (684 Hunter Street). Archaeological salvage investigations at 700 Hunter Street, adjacent to the former Palais site, identified and recorded terrain features and soil profiles.

Investigations at the Palais Royale found distinct stratigraphic lenses across the site. It was found that the upper deposit was associated with a coastal sand flat or frontal sand dune. This lens was found to have a topsoil horizon with the sand body identified as being less than 6,000 to 7,000 years old. This was underlain by a deeper lens which was identified as beach deposit deposited by Cottage Creek and the Hunter River. This deeper lens overlay a primary beach gravel deposit which was underlain by coffee rock. It was hypothesised that the primary beach gravel lens was formed during the mid-Holocene period (AHMS 2011).

During the excavations at the former Palais Royale site AHMS identified two distinct concentrations of Aboriginal artefactual material. These concentrations were found to be within a complex sedimentary sequence. The assessment of the geomorphology indicated that:

The coffee rock pan, below the primary beach gravel lens, was developed from an accumulation of dune sand during the Pleistocene. At this time past Aboriginal peoples camped within this area. By the mid-Holocene the dune had been eroded and it was determined that the archaeological evidence recovered from the primary beach gravel lens were re-deposited from the original dune sands. Sands once again built up on the beach gravels and formed what was identified as a sand sheet or low dune no older than mid-Holocene. Once this new sand deposit stabilised the area was once again utilised by past Aboriginal peoples who deposited the upper layer of artefacts (AHMS 2011).

5.5 Summary

The AHIMS search undertaken for this assessment has identified that the study area is a recorded archaeological site, namely an area of Potential Archaeological Deposit and that a significant number of artefact sites and PADs are also present in the immediate vicinity despite historic and modern disturbances. Two of the previously recorded sites were identified with midden material, both of which are located within 70 metres of the study area and were assessed as likely to extend into the current study area, hence the assignation as PAD.



The review of available contextual information indicates that the foreshore of the Hunter Estuary contains a significant number of Aboriginal archaeological sites. Previous investigations (AHIMS 2004; AHMS 2011; Insite Heritage 2016) suggest that subsurface archaeological material present in two nearby recorded sites is likely to extend into the current study area. On this basis, the current study area is likely to retain Aboriginal cultural heritage deposits, potentially both in a disturbed context and in-situ (where deposits are at sufficient depth). These deposits are likely to contain stone artefacts and shell midden material and would be a third identified expression of the midden currently identified as AHIMS sites: 38-4-0772 & 38-4-0831.

Previous geomorphological investigations (AHMS 2004; AHMS 2011) indicate that the current study area would likely have been approximately 80 metres above the high-water mark and the confluence of Cottage Creek and the Hunter River at Honeysuckle Point. The original geomorphic context of the site would likely have been a sand body associated with either a beach and/or a dune. The entire surrounding area has been subject to historic and modern urbanisation and reclamation with much of the original topography or natural soil only discernible during subsurface excavations (AHMS 2004).



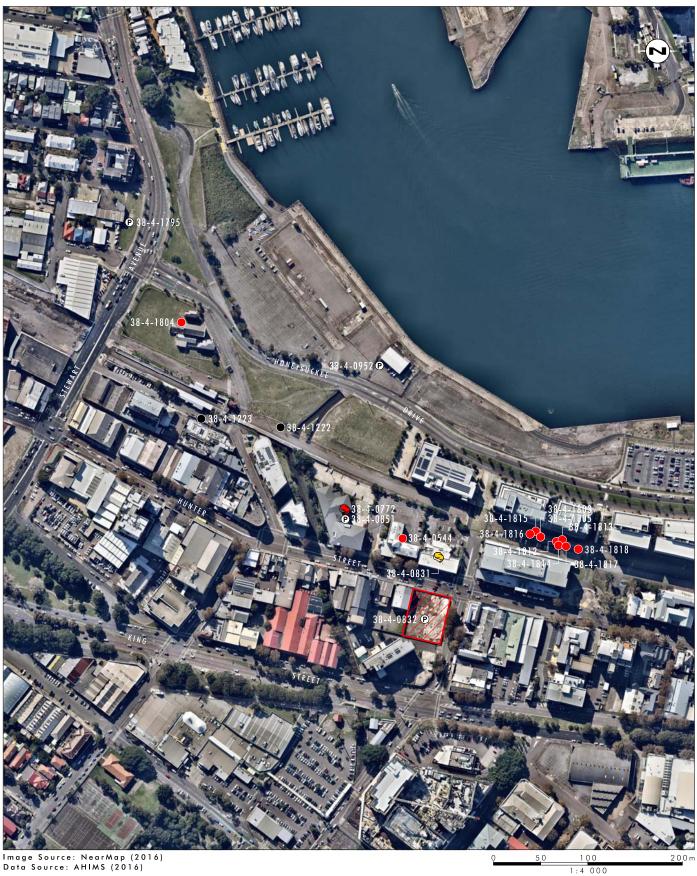


Image Source: NearMap (2016) Data Source: AHIMS (2016)

Legend

Study Area
Artefact Scatter • Isolated Find Potential Archaeological Deposit (PAD)
 Potential Archaeological Deposit (PAD), Shell
 Potential Archaeological Deposit (PAD), Artefact, Shell

FIGURE 5.1

AHIMS Results





Image Source: Google Earth (2016)

Legend Study Area 📕 Heritage Item

FIGURE 5.2

Previous Aboriginal Cultural Heritage Assessments in the Vicinity of the Study Area

1:15 000



6.0 Archaeological Survey

A visual inspection and on-site meeting was undertaken at the study area on 28 September 2016. The visual inspection and on-site meeting was attended by the representatives listed in **Table 6.1**.

Table 6.1 On-site meeting and site visit attendees

Organisation	Name	
Awabakal Descendants Traditional Owners Aboriginal	Peter Leven	
Corporation	Kane Leven	
Awabakal Local Aboriginal Land Council	Peter Townsend	
Gimbay Gatigaan Aboriginal Corporation	Candy Towers	
Lower Hunter Aboriginal Incorporated	Tod Maley	
Smith Dhaggaans Cultural Group	Timothy Smith	
Umwelt (Australia) Pty Ltd	Joshua Madden	

6.1 Results

The on-site meeting and visual inspection was undertaken on foot to determine the presence/absence of Aboriginal cultural heritage objects and/or places and to determine if the study area is located within sensitive areas of archaeological potential.

Until 2011 the study area was the location of the former Empire Hotel, a commercial building, a car park and alley way. The demolition of the hotel and the commercial building was undertaken with minimal subsurface disturbance. The study area was found to be entirely within a disturbed landform. The site inspection confirmed that the study area is primarily covered by brick flooring, concrete, bitumen and rubble of the demolished hotel building (**Plates 1** to **4**) (Umwelt 2016).

The site investigation determined that the surface visibility across the study area was below five per cent, with the north western portion of the study area containing the only area of visibility. The investigation found that exposures were likewise identified as below 10 per cent (**Plates 1** to **4**) (**Tables 6.2** and **6.3**).

Survey unit	Landform	Survey unit (m²)	Visibility (%)	Exposure (%)	Effective survey coverage (m ²)	Effective coverage (%)
1	Disturbed	2090	5	10	10.45	0.5

Table 6.2 Survey Coverage of the Study Area



Table 6.3 Landform Summary of the Study Area

Landform	Landform area	Area effectively surveyed (m ²⁾	Per cent of landform surveyed	Number of sites	Number of artefacts or features
Disturbed	2090	10.45	0.5	1	-



Plate 6.1 View north overlooking the concrete slab covering the study area © Umwelt, 2016





Plate 6.2 View south west overlooking the study area © Umwelt, 2016



Plate 6.3 View east overlooking the area of visibility and exposure – the former Empire Hotel location © Umwelt, 2016





Plate 6.4 View north east overlooking the former hotel with historic features fenced © Umwelt, 2016



7.0 Scientific Value Significance Assessment

The assessment of significance is critical in establishing mitigation and management strategies for cultural heritage (refer to Pearson and Sullivan 1995:21). Cultural significance is defined by the Burra Charter in terms of aesthetic, scientific, historic and social values. In NSW, Aboriginal cultural heritage is typically assessed according to its social and scientific significance and is assessed against archaeological criteria outlined in the *Code of Practice for Archaeological Investigations of Aboriginal Objects in New South Wales* (DECCW 2010).

7.1 Cultural Significance Assessment

Aboriginal objects and places often hold cultural significance as well as archaeological significance. In line with the Guide *to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (OEH 2011), assessing cultural significance involves:

- identifying the values of the study area and
- assessing the significance of values.

Cultural Heritage Value

Cultural heritage value refers to the spiritual, traditional, historical or contemporary associations and attachments a place has for Aboriginal people (OEH 2011:8). There is not always consensus about the cultural value of a place as people experience places and events differently, and in some instances cultural values may be in direct conflict. Cultural significance can only be determined by Aboriginal people, and is identified through Aboriginal community consultation.

Consultation was undertaken as part of the on-site inspection and meeting. Members of the RAPs indicated a strong connection to the project area which is located along the Hunter River foreshore and identified as a culturally significant resource. It was identified that AHIMS site 38-4-0832 is an important component of the culturally significant landscape that extends along the river foreshore and stretches toward the coastline. The project area (AHIMS site 38-4-0832) is also associated with two adjacent archaeological sites which are seen as the physical expressions of the intangible and cultural significance of the area which incorporates the project area.

7.2 Archaeological Significance Assessment

Archaeological significance is determined by assessing Aboriginal sites/places/objects against a number of archaeological criteria as set out by the OEH in *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (2010) (The Code). The assessment of the Aboriginal archaeological significance is used to develop a series of cultural heritage management and impact mitigation strategies. The archaeological significance of the study area has been assessed in accordance with the legislative framework set out in The Code which is summarised below.



Table 7.1 Archaeological significance assessment criteria

Criteria	Description
Rarity	This criterion examines the frequency of the identified site type in the local or regional landscape.
Representativeness	All sites are representative of a site type, however, some sites may be in better condition, or demonstrate more clearly a particular site type. Representativeness is based on the understanding of extant sites in the local or regional landscape and the purpose of this criterion is to ensure a representative sample of sites area conserved for future generations.
Integrity	This refers to site intactness. A site with contextual integrity can provide information relating to chronology, social systems, tool technology, site formation processes, habitation, frequency of use as well as other occupation indicators. Moderate to high levels of disturbance will generally result in low integrity.
Connectedness	Relates to inter-site relationships that are whether a site can be linked to an archaeological complex, or where sequence of activities can be discerned. For example, a quarry (stone extractions site), may be linked to an adjacent heat treatment pit and knapping floor, these site thus could be linked as part of a stone tool production sequence.
Complexity	Refers to the contents of the site, such as the variety and nature of features and/or of artefacts present. For example, rock art sites with many motifs may be ranked highly in terms of complexity, or artefact scatters with a wide variety of raw materials and/or or tool types may be more complex than surrounding sites.
Research Potential	This criteria is used to identify whether a site has the potential to contribute new information with which to better understand how Aboriginal people lived within the local area or region.

7.2.1 Assessment of Archaeological Significance

The study area includes a recorded archaeological site. However, this site is an area of archaeological potential only. Consequently, any assessment of the archaeological significance of the study area is primarily based on the research potential and potential integrity of any additional archaeological deposits that may be present within the study area. Given that the nature of archaeological deposits (should any exist) can only be confirmed following further investigation, this assessment is based on potential values only and is closely linked to the level of potential predicted for the area.

Rarity

The study area is located within a suburban setting that has been subject to moderate to high levels of historic and modern disturbances. However, a large number of Aboriginal cultural heritage objects and sites have been identified and recorded within the area. The majority of the previously recorded Aboriginal cultural heritage sites within the area have been identified as sites containing stone artefacts. However, two sites (likely to represent extensions of the same distribution of archaeological material) containing



significant densities of artefacts and shell midden material have been identified adjacent to the current study area.

On this basis, any archaeological material that may be present within the study area would not be identified as 'rare' within the local area. However, any cultural material and/or objects identified would be treated as a separate expression of a larger midden site which is considered to be rare within the broader landscape.

Representativeness

Although the study area is identified as a PAD with any sub-surface deposit likely to be an expression of the same site previously identified as 38-4-0772 and 38-4-0831, consideration of representative value is pending sub-surface investigations.

Integrity and Condition

The study area, in general terms, has been subject to moderate to high levels of historic and modern disturbances. However, nearby archaeological investigations have identified and recovered Aboriginal cultural heritage objects and material within disturbed contexts and in-situ deposits within deeper undisturbed soil profiles. As such, it is likely that the study area has an upper context which has been highly disturbed but may contain deeper deposits with a higher degree of integrity.

Connectedness

The study area is located within an area that is likely to have been utilised by past Aboriginal peoples for thousands of years throughout the Holocene period (AHMS 2011). Social and cultural activities, which included the communal resources collection and consumption, would have been undertaken across the estuarine foreshore as identified at adjacent sites. However, the connectedness of the study area to the wider region can only be appropriately assessed post subsurface investigations.

Complexity

Evidence from previous archaeological assessments and from excavations undertaken within the immediate surrounds, indicates that the area has high scientific complexity. The current study area is located within the possible extent of the midden material as identified by the past excavations. However, the complexity of the site can only be determined post sub-surface investigations.

Research Potential

The study area has been subject to moderate and high levels of disturbance which is likely to have impacted upon the integrity of the potential upper A¹ deposits. However, adjacent excavations have recovered significant cultural material including shell midden and stone artefacts in high densities. As discussed throughout this report, it is considered highly likely that the study area contains an extension of these sites in a subsurface context, albeit potentially disturbed.

Previous investigations at the adjacent sites have identified and recovered varying levels of midden and stone artefact material and objects. This has provided data on the density and spread of the two separate project areas which have been identified as two subsurface expressions of the one site. Consequently, should additional deposits be present within the study area, they have the potential to provide additional information of the extent and nature of the midden site. This may include provision of a larger sample of stone artefacts with which to undertake detailed analysis of patterns of artefact use and manufacture. On this basis, the study area is considered to have high research potential.



Summary of Archaeological Significance

As discussed, a potential archaeological deposit has been identified across the study area and as such the significance assessment is primarily based on the research potential and the potential integrity. The study area potential is considered to be of high archaeological significance.



8.0 Impact Assessment

The purpose of this section is to identify whether there is risk of harm to the identified Aboriginal sites from the proposed development footprint for the study area. Protection of Aboriginal cultural heritage and areas of archaeological sensitivity is the preferred heritage outcome.

8.1 Summary of Proposed Works

The construction of the high rise would involve the subsurface excavations for 61 pylons and caps approximately 1300 millimetres long, 600 millimetres wide with depths currently un-known. Other excavations would include three lift pits up to two metres below the existing ground surface. Construction would also include the introduction of compacted fill and concrete slabs across much of the study area.

8.2 Impact Assessment

The current proposed set of works would involve the subsurface excavation of both historic fill and natural soil profiles. The construction of the high rise building would negatively impact upon the identified PAD (38-4-0832).

The study area contains a recorded archaeological site (AHIMS 38-4-0832) comprising potential subsurface archaeological deposits. The proposal would involve the excavation of a large number of pylons and caps and subsurface pits which would cut through and impact upon any potential subsurface archaeological deposits that may be present. The depth of the proposed works would impact upon the area identified by AHMS as part of a large foreshore midden site.

Table 8.1 below demonstrates the potential impact of the proposed works across the study area.

Table 8.1Impact Assessment

AHIMS Site	Harm	Degree of Harm	Consequence of Harm
38-4-0832	Direct	Unknown	Unknown



9.0 Mitigation Strategies & Recommendations

The following management and mitigation recommendations have been developed with consideration of the cultural and archaeological landscape, the cultural and archaeological significance of AHIMS 38-4-0831 and the impact of the proposal. Due to the likely distribution of cultural midden material across the study area (AHIMS 38-4-0831), Umwelt recognises it is not practicable to avoid the midden site and/or areas of subsurface archaeological potential.

There are a range of management strategies that have been developed for the study area that include varying levels of mitigation of identified or potential harm. These management strategies have also been developed in consultation with the registered Aboriginal stakeholder representatives and in accordance with The Code.

9.1 Mitigation Strategies

9.1.1 Strategy 1 Site Conservation

This management strategy would involve the conservation of the project area and therefore would require avoidance of the AHIMS site 38-4-0832 and areas of high archaeological potential. Given that the proposed works relate to the construction of a 15 storey high rise building requiring pylons and pits, it is not practical to suggest an overall site conservation outcome. As such, an appropriate mitigation strategy would be to conserve – in situ – all areas of the potential deposit outside the existing proposed construction plan pylon and pit locations. It is noted that RAPs for the project have identified the need for a conservation outcome.

9.1.2 Strategy 2 Site Destruction with Salvage

This mitigation strategy would involve the completion of constrained and targeted salvage works within an initial sample of the proposed pylon and pit locations within the study area. Based on the outcomes of initial excavations, it may be necessary to undertake further targeted subsurface salvage and/or monitoring of the remainder of the proposed subsurface works.

9.2 Recommendations

The following recommendations have been developed in light of the archaeological context of the region, the findings of previous archaeological assessments of the project area, the cultural assessment of the area by the registered Aboriginal parties, the potential impacts of the proposed project, current cultural heritage legislation and the outcomes of consultation with the registered Aboriginal parties.

- 1. The Diocese should apply to the Director-General of OEH for an AHIP in accordance with Section 90 of the NPW Act, with this AHIP to cover the **entirety** of the study area (as shown in **Figure 9.1**). The need to cover the entirety of the project area is in recognition that archaeological material has been identified and/or predicted throughout the project area.
- 2. A research design and methodology should be developed and submitted, along with this assessment, as part of the AHIP application.
- 3. The AHIP should specifically exclude impacts to human skeletal material. In the event that suspected human skeletal material be identified within the project area, all works should cease immediately and the NSW Police Department, OEH and the registered Aboriginal parties should be contacted so that appropriate management strategies can be identified.



- 4. The AHIP should include provision for the completion of archaeological salvage activities, with these salvage activities to be undertaken as a phased process. Phase 1 will involve targeted archaeological excavation of a sample of the proposed pylon and pit locations within the study area. Depending on the outcomes of the Phase 1 excavations, it may be necessary to undertake a second phase of archaeological excavation, with triggers for Phase 2 works specified in Section Umwelt recommends the Two Stage investigation and salvage of the study area, as part of the as a mitigation measure. The purpose of the Two Stage archaeological investigation and salvage would be to obtain an adequate assemblage of subsurface artefacts for statistical analysis for the interpretation of the study area as part of a wider cultural and archaeological landscape.
- 5. All works undertaken under the AHIP should be conducted in accordance with the methodology specified in **Appendix 1**.
- 6. The Diocese should ensure that its employees and contractors are aware that it is an offence under Section 86 of the NPW Act to harm or desecrate an Aboriginal object unless that harm or desecration is the subject of an Aboriginal Heritage Impact Permit (AHIP).





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Legend AHIP Area

FIGURE 9.1 AHIP area



10.0 Research Design and Methodology

This section provides the research design and methodology for proposed archaeological salvage activities within the study area.

10.1 Research Questions

The aim of the Two Stage archaeological investigation and salvage excavation is to determine if the AHIMS PAD site 38-4-0832 contains subsurface Aboriginal cultural material/objects. If cultural material is present then the investigations aim to address a series of research questions.

An archaeological research design is developed in order to establish a series of general and site specific questions for the archaeological investigation of a site. This research design is developed with regard to the current assessment and previous assessments undertaken within proximity to the study area (AHIMS 2011; 710 Hunter Street). The research design develops a series of questions aim identify and record any identifiable physical information of past Aboriginal land use and habitation across the study area.

- Does the study area contain subsurface Aboriginal cultural material/objects and what is the level of stratigraphic integrity?
- What is the nature of the identified material?
- What is the distribution of material across the study area and does a pattern emerge from the recovered material?
 - o Is there identifiable variations in material density across the study area?
 - o Is it possible to define discrete areas of activity?
 - Does the study area reveal discrete, separated episodes or does it reflect repeated, overlapping use?
 - Is it possible to distinguish overlapping episodes through vertical separation and if so, do they indicate continuity of use?
- What does the identified assemblage reveal about past Aboriginal land use?
 - Is the identified cultural material able to provide further information regarding how Aboriginal people used the area?
 - Is the assemblage able to provide information on how past Aboriginal land use changed through time and over variation in environmental conditions.
- Is there a relationship between artefact density and the depth of historic disturbances and/or natural deposits?
- What is the age of the subsurface archaeological deposit?
- Is the identified material comparable to the adjacent two sites?
- How does the study area compare to other midden resources along the Hunter Estuary Hunter and across the wider landscape?



10.2 Methods

Monitoring of fill material

The removal of all fill deposit across the study area would be monitored and any artefacts identified within fill deposits would be collected. Once natural deposit is reached, the mechanical excavations would cease.

As part of the archaeological investigations, a series of historical archaeological excavations, confined to areas of historic archaeology potential, may be undertaken simultaneously. As such, if historic archaeological features are identified during the monitoring of fill removal, historic excavations would be undertaken in accordance with the appropriate approvals. If Aboriginal cultural material is identified during the historic excavations, the recovery of material would be undertaken in consultation with the RAPs and in accordance with both the historic and Aboriginal cultural heritage methodologies.

Stage One Sample Investigations

Umwelt propose to undertake Stage One Investigations at up to 25 per cent of the area to be impacted by deep excavation (potentially comprising pylons, service trenches and elevator shaft). The proposed location of the investigation units would be determined once the existing fill deposits are removed. That is, Stage One investigations will only occur where excavation extends below the depth of current fill deposits.

The methods for Stage One archaeological sample investigations would include:

- up to 25 per cent of the are to be impacted by deep excavations would be subject to subsurface archaeological excavations in units measuring one metre by one metre to a maximum safe depth of 1.2 metres. The proposed excavation units would be identified in field based on the depth of pylon caps and in consultation with RAPs
- hand excavation of all investigation units using spade, mattock and trowel
- excavations undertaken according to stratigraphic unit to a maximum of 100 millimetres per spit as appropriate
- the recording of all investigation units using a non-differential GPS
- excavation unit sheets completed for each investigation unit. The excavation sheets would note excavation unit ID, landform, depth of excavation, dominant soil material and inclusions, taphonomic processes and disturbance
- drawings and photographs to be undertaken for each soil profile identified. Where the soil profiles are consistent, it would not be necessary to draw a section for each investigation unit
- Excavation will cease at a depth of 1.2 metres, the depth of proposed impacts, archaeologically sterile deposits or where cessation is necessary to ensure safety, whichever is the shallowest
- the sieving of all material using 3 millimetre and 5 millimetre aperture nested wire-mesh sieves.



Stage Two Salvage Excavations

Where the Stage One Investigations trigger the below further excavation requirements, Stage Two Salvage Excavations would be undertaken. The expansion of a sample of the Stage One Investigation units which triggered the further excavation requirements would be undertaken to best gather an archaeological statistical sample and identify the extent of the potential site. The salvage excavations of a sample of the Stage One Investigations would allow for the best interpretation of the study area and the AHIMS site 38-4-0832 in its context with previous excavations and the wider regional habitation patterns. Stage Two Excavations will be confined to the areas of deep excavation for the proposal and may be undertaken at up to an additional 25 per cent of the area impacted by deep excavation (ie. if maximum areas are subject to Stage One and Stage Two works this will comprise 50 per cent of the area impacted by deep excavation). However, Stage Two Excavations will only be undertaken where one or more of the triggers identified below is identified.

Stage Two Salvage Excavation Triggers

- Where Stage One Investigations identify Aboriginal cultural material in the form of stone artefacts, further Stage Two Excavations would only be required if high artefact densities are reached and/or significant artefacts are recovered. While the average artefact densities and nature of the stone artefact assemblage will only become clear following the completion of Stage One Investigations, for current purposes, it is considered that high artefact densities will consist of 100 stone artefacts or more per Stage One Investigation unit. However, this will be clarified following the completion of Stage One Investigations as an outcome of consultation between the excavation director, registered Aboriginal parties and OEH.
- Where Stage One Investigations identify Aboriginal cultural material in the form of midden material Stage Two Excavations would only be required once all Stage One Investigations are completed. Stage Two Excavations would be targeted in order to obtain an adequate sample of in-situ deposit that would be able provide further local and regional information on the age, settlement and habitation of past Aboriginal land use.
- Where Stage One Investigations demonstrate that it is likely that archaeological deposits continue below 1.2 metres and where project impacts will extend below this depth. Where this is the case, the Stage Two Excavation will be stepped or shored or another mechanism will be employed to ensure the excavation can continue below depths of 1.2 metres safely.

Stage Two Salvage Excavations

The methods for Stage Two of archaeological salvage excavations include:

Each investigation unit identified would form the centre of each salvage expansion area, with an initial four expansion units excavated along each side of the initial investigation unit. If required, a further four excavation units would be excavated, these later four units would form the corners of a three metre by three metre salvage excavation area. Where appropriate, the salvage areas would be expanded to further identify; the level of archaeological deposit, the spatial and temporal extent of the deposit, the potential temporal age of the deposit(s) and provide comparable archaeological data to that of the neighbouring sites and archaeological investigations.

• Stage Two Excavations will be undertaken in units of measuring one metre by one metre to a maximum safe depth of 1.2 metres or deeper where appropriate controls (typically shoring or stepping) are applied. Where undertaking stepping or shoring, excavation units may be reduced in size to 50cm by 50cm depending on safe working requirements



- hand excavation of all investigation units using spade, mattock and trowel (unless otherwise agreed in consultation with the archaeologist, registered Aboriginal parties and OEH)
- excavations undertaken according to stratigraphic unit to a maximum of 100 millimetres per spit as appropriate
- record in situ artefacts and/or objects as required
- stratigraphic excavations of features (such as hearths and/or heat treatment areas), if identified, would be undertaken by hand and where necessary half sectioned. Features will be identified on the appropriate excavation sheet and given a feature number and recorded on separate context sheet
- salvage excavation unit sheets completed for each investigation unit. The excavation sheets would note
 excavation unit ID, landform, depth of excavation, dominant soil material and inclusions, taphonomic
 processes and disturbance
- the recording of all investigation units using a non-differential GPS
- the recovery of charcoal and bone samples found in association with midden deposit and/or artefact assemblages
- Optically Stimulated Luminescence (OSL) dating, if appropriate, would be undertaken to determine dates of relevant soil profiles or layers within the soil profile
- drawings and photographs to be undertaken for each soil profile identified. Where the soil profiles are consistent, it would not be necessary to draw a section for each investigation unit
- excavation will cease at a depth of 1.2 metres, the depth of proposed impacts, archaeologically sterile deposits or where cessation is necessary to ensure safety, whichever is the shallowest, except where deeper excavation is to undertaken as described above
- the sieving of all material using 3 millimetre and 5 millimetre aperture nested wire-mesh sieves and
- the recovery of all artefacts for analysis ensuring label with provenance is attached.

10.3 Unexpected Discovery of Skeletal Remains Protocol

In the unexpected event that human remains are encountered, all activity must cease and the immediate area surrounding the location of the find must be cordoned off. The proponent must contact OEH and the local NSW Police, who will assess if the remains are part of a crime scene or possible Aboriginal remains.

If the skeletal remains are found to be a Police matter, the Police will provide specific instructions to the proponent. The proponent must seek clearance to recommence any activity within the study are directly from the Police.

If OEH and the NSW Police determine that the skeletal remains are non-contemporary Aboriginal remains a management plan would be developed in consultation with OEH and the RAPs.



10.4 Post-Excavation Analysis and Reporting

Following the completion of Stage One Investigations and Stage Two Excavations, cultural material will be subject to analysis in accordance with the protocols provided below.

Stone Artefacts

Umwelt proposes to record and analyse all stone tools and artefacts recovered during the Two Stage archaeological Investigation and Salvage excavations. The analysis of the stone artefacts would be undertaken to determine artefact distribution, density, artefact and raw material variability, typological dates and the possible type of activities undertaken across the study area.

In accordance with best practice standards, Umwelt will record the following features, at a minimum:

- Artefact type
- Attributes
- Raw material
- Length, width and thickness
- Photographic recording of diagnostic and selected artefacts.

The classifications used for artefact recording will be consistent with that outlined by the Office of Environment and Heritage (**Table 10.1**).

Table 10.1 Stone tools/artefact classifications

Artefact Type	
Adze	Flaked tool
Anvil	Flaked piece
Axe	Distal fragment
Backed blade/tool	Medial fragment
Blade	Proximal fragment
Core	Manuport
Core tool	Other
Flake	



Artefact Attributes					
Platform Surfaces	Platform Type	Termination			
Cortex	Focal	Feather			
Flake scar	Shattered	Hinge			
Faceted	Bipolar	Step			
Ground	Indeterminate	Bipolar			
Bipolar					
Indeterminate					

Non-stone artefactual Midden Material

Umwelt proposes to record and analyse the shell midden material recovered during the Two Stage archaeological Investigation and Salvage excavations. Dependent on the scale of recovered material, a sample of the all shell midden material would be recorded and analysed.

In accordance with best practice standards, Umwelt will record the following features, at a minimum:

- Material (by weight):
 - o Shell
 - o Bone
 - o Organics
 - o Charcoal
- Species.
- Where relevant, calculate Minimum Number of Individuals (MNI) (per species).
- Type:
 - o Non-artefactual
 - o Artefactual:
 - Attributes
 - Use-wear
- Weighing all sampled non-artefactual material per species.



Reporting

As part of the post field work analysis, all artefacts and a sample of the shell midden material would be subject to comprehensive analysis undertaken at the Umwelt Teralba offices.

The results of all Aboriginal cultural heritage archaeological investigations would be collated into one overarching archaeological excavation report. The final excavation report would discuss the results of the investigations and the site formation and post depositional processes. Using the data gathered in conjunction with the data collated as part of the ACHAR (Umwelt 2016), the report would discuss the results and determine if the objectives of the investigations have been met and answer research questions as outlined above.

The report would also include digitised photographic records, excavation results and outcomes of analysis (where undertaken). The report would also reassess the significance of the identified archaeological resources and the future archaeological potential of the study area.

The report would be provided to registered Aboriginal parties and submitted to OEH.

10.5 Management of Cultural Materials

All archaeological material would be temporarily stored at Umwelt (Australia) Pty Lt Head Office:

75 York Street Teralba NSW 2284

Upon the competition of the cultural material recording and analysis and the preparation of the final excavation report, consultation will be undertaken with the registered Aboriginal parties, archaeologist, proponent and OEH to determine an appropriate long-term strategy for the management of excavated materials.

It is noted that the Gimbay Gatigaan Aboriginal Corporation and Awabakal Local Aboriginal Land Council recommended that the recovered artefacts be temporarily stored within the Awabakal Local Aboriginal Land Council temporary storage facilities.

Umwelt recommend that the recovered artefacts be stored within the Umwelt offices for the duration of the artefact analysis. Upon the completion of the artefact analysis it is recommended that the artefacts be signed over to the Awabakal Local Aboriginal Land Council for temporary storage until a Care and Control Agreement is established.



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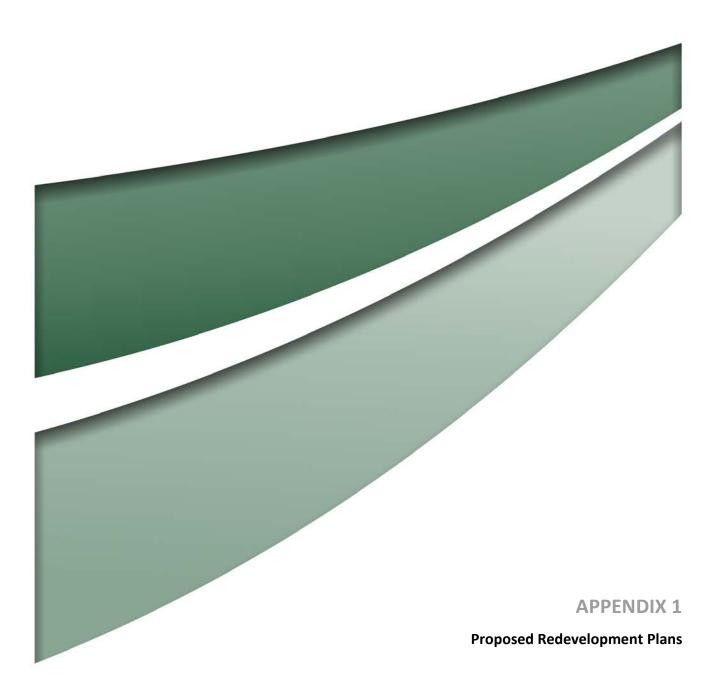
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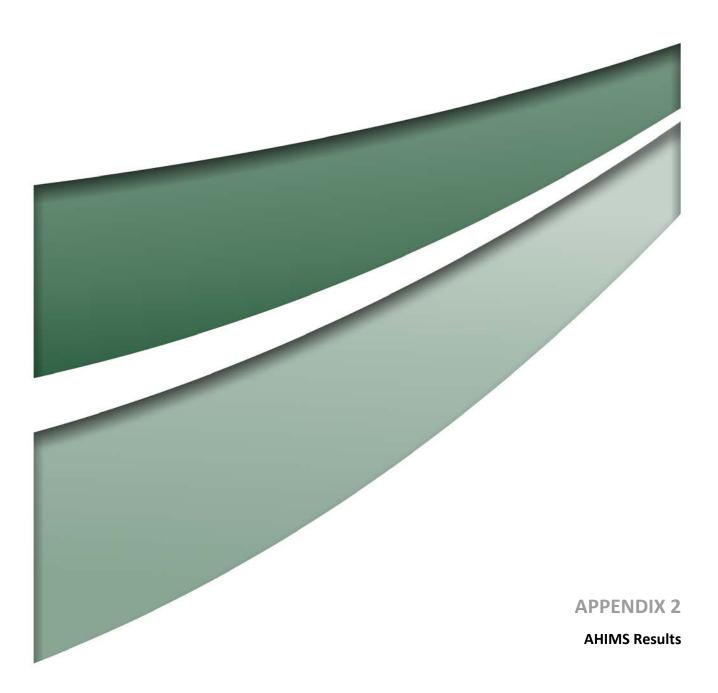
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AHIMS Web Services (AWS)

Extensive search - Site list report

Client Service ID : 245233

<u>SiteID</u>	SiteName	Datum	<u>Zone</u>	Easting	Northing	<u>Context</u>	<u>Site Status</u>	<u>SiteFeatures</u>	<u>SiteTypes</u>	<u>Reports</u>
38-4-0544	700 Hunter Street	AGD	56	384250	6356020	Open site	Valid	Artefact : -		
	Contact	Recorders	Dom	inic Steele A	rchaeological (Consulting		<u>Permits</u>		
38-4-0772	710 Hunter Street Newcastle PAD Contact	AGD Recorders		384350 Vheeler	6356250	Open site	Valid	Shell : -, Potential Archaeological Deposit (PAD) : - <u>Permits</u>	1981	
38-4-0831	Palais Royale	AGD		384300	6356100	Open site	Partially Destroyed	Potential Archaeological Deposit (PAD) : -, Artefact : 5534, Shell : -		102256
	Contact T Russell	Recorders	Univ	ersity of New	vcastle,Jim Wh	eeler		<u>Permits</u>	2127,2593,3098,3502	
38-4-0832	Empire Hotel PAD	AGD		384300	6356000	Open site	Valid	Potential Archaeological Deposit (PAD) : -		
	Contact T Russell	Recorders		Vheeler				Permits	2128	
38-4-0952	Bellevue Hotel PAD	AGD	56	384250	6356200	Open site	Valid	Potential Archaeological Deposit (PAD) : -		99845,99874
	<u>Contact</u> Searle	<u>Recorders</u>	Mr.D	ominic Steel	e			<u>Permits</u>	2382	
38-4-0851	710 Hunter St Newcastle, PAD Contact S Scanlon	AGD Recorders		384350 Vheeler	6356250	Open site	Valid	Potential Archaeological Deposit (PAD) : - <u>Permits</u>		
38-4-1222	Cottage Creek OSI	GDA		384250	6356324	Open site	Valid	Artefact : 1		
50-4-1222	5					open site	vanu		2070 4025	
38-4-1223	Contact Wickham UFCCALE OS1	Recorders GDA		384166	gical Services 6356333	Open site	Valid	<u>Permits</u> Artefact : 1	3970,4025	
00 1 1220	<u>Contact</u>	Recorders			gical Services	openene	, und	<u>Permits</u>	4025	
38-4-1812	Isolated Find 6 - Rail	GDA		384542	6356203	Open site	Valid	Artefact : -	4025	
	Contact	Recorders				ilton,Ms.Cheng-Yen		Permits		
38-4-1813	Isolated Find 7 - Rail	GDA		384548	6356205	Open site	Valid	Artefact : -		
	Contact	Recorders				ilton,Ms.Cheng-Yen		<u>Permits</u>		
38-4-1814	Isolated Find 8 -Rail	GDA		384544	6356199	Open site	Valid	Artefact : -		
	Contact	Recorders	RPS	Australia Eas		ilton,Ms.Cheng-Yen	Loo	<u>Permits</u>		
38-4-1815	Isolated Find 5 - Rail	GDA		384520	6356214	Open site	Valid	Artefact : -		
	Contact	Recorders	RPS	Australia Eas	st Pty Ltd -Ham	ilton,Ms.Cheng-Yen	Loo	Permits		
38-4-1816	Isolated Find 4 -Rail	GDA		384514	6356211	Open site	Valid	Artefact : -		
	<u>Contact</u>	<u>Recorders</u>	RPS A	Australia Eas	st Pty Ltd -Ham	ilton,Ms.Cheng-Yen	Loo	<u>Permits</u>		

Report generated by AHIMS Web Service on 16/09/2016 for Joshua Madden for the following area at Lat, Long From : -32.9301, 151.7575 - Lat, Long To : -32.9224, 151.7696 with a Buffer of 50 meters. Additional Info : Archaeological assessment. Number of Aboriginal sites and Aboriginal objects found is 19

This information is not guaranteed to be free from error omission. Office of Environment and Heritage (NSW) and its employees disclaim liability for any act done or omission made on the information and consequences of such acts or omission.



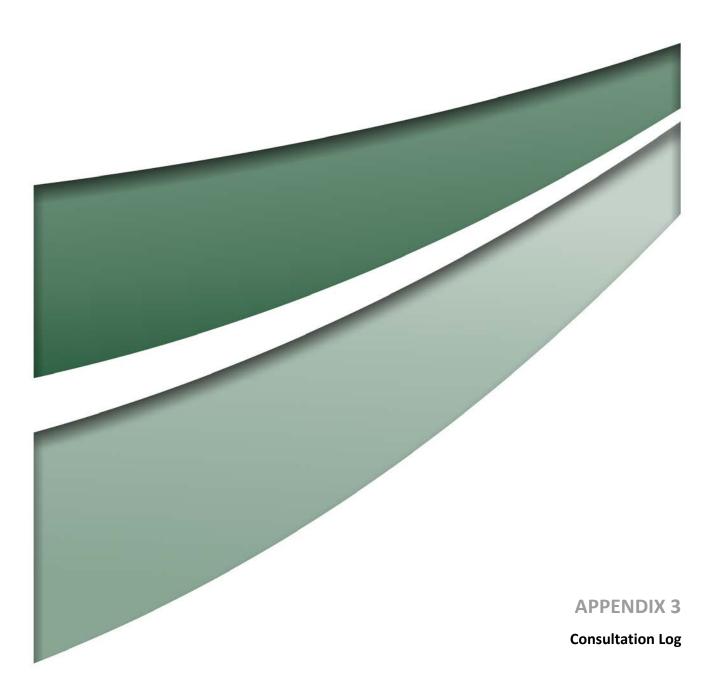
AHIMS Web Services (AWS)

Extensive search - Site list report

Client Service ID : 245233

<u>SiteID</u>	SiteName	<u>Datum</u>	Zone	Easting	Northing	<u>Context</u>	<u>Site Status</u>	SiteFeature	<u>s</u>	<u>SiteTypes</u>	<u>Reports</u>
38-4-1817	Artefact Scatter 1 –Rail	GDA	56	384552	6356198	Open site	Valid	Artefact : -			
	Contact	Recorders	RPS /	Australia Eas	t Pty Ltd -Han	ilton,Ms.Cheng-Yen	Loo	J	<u>Permits</u>		
38-4-1818	Isolated Find 9 - Rail	GDA	56	384565	6356195	Open site	Valid	Artefact : -			
	Contact	Recorders	RPS /	Australia Eas	t Pty Ltd -Han	ilton,Ms.Cheng-Yen	Loo	<u>]</u>	<u>Permits</u>		
38-4-1803	Isolated Find 3-Rail	GDA	56	384525	6356208	Open site	Valid	Artefact : -			
	Contact	Recorders	RPS A	Australia Eas	t Pty Ltd -Han	ilton,Ms.Cheng-Yen	Loo	<u>]</u>	Permits	3970	
38-4-1795	38 Hannell St Newcastle PAD	GDA	56	384090	6356541	Open site	Valid	Potential			
								Archaeologic	cal		
								Deposit (PAI	D):-		
	<u>Contact</u>	<u>Recorders</u>	Exter	nt Heritage P	ty Ltd ,Doctor.	Tessa Bryant		1	<u>Permits</u>		
38-4-1804	Isolated Find 1-Rail	GDA	56	384145	6356435	Open site	Valid	Artefact : -			
	<u>Contact</u>	<u>Recorders</u>	RPS /	Australia Eas	t Pty Ltd -Han	ilton,Mr.Ben Slack]	Permits	4025	
38-4-1805	Isolated Find 2-Rail	GDA	56	384525	6356208	Open site	Valid	Artefact : -			
	<u>Contact</u>	Recorders	RPS /	Australia Eas	t Pty Ltd -Han	ilton,Mr.Ben Slack		1	<u>Permits</u>	3970	

Report generated by AHIMS Web Service on 16/09/2016 for Joshua Madden for the following area at Lat, Long From : -32.9301, 151.7575 - Lat, Long To : -32.9224, 151.7696 with a Buffer of 50 meters. Additional Info : Archaeological assessment. Number of Aboriginal sites and Aboriginal objects found is 19 This information is not guaranteed to be free from error omission. Office of Environment and Heritage (NSW) and its employees disclaim liability for any act done or omission made on the information and consequences of such acts or omission.





Appendix 3 - Aboriginal Consultation Log – Former Empire Hotel

Stage 4.1.1 and 4.2.1 – Request for Aboriginal Stakeholders

Agencies	Date Sent	Date Reply	Type of Consultation	Reply
Office of Environment and Heritage	3 May 2016	3 May 2016	Letter sent in post	Email received identifying 17 Aboriginal parties to be contacted
Awabakal Local Aboriginal Land Council	26 May 2016		Letter sent in post	-
Hunter Local Land Services	26 May 2016		Letter sent in post	-
National Native Title Tribunal	26 May 2016		Letter sent in post	-
NTS Corp	26 May 2016		Letter sent in post	-
Office of the Registrar	26 May 2016	1 June 2016	Letter sent in post	Letter received 3 June 2016 recommending consultation with Awabakal Local Aboriginal Land Council
City of Newcastle	26 May 2016		Letter sent in post	-

Stage 4.1.3 Advertisement Requesting Aboriginal Stakeholders

Type of Consultation	Date Sent	Newspaper	Date of Response	Reply
Advertisement	28 May 2016	Advertisement placed in Newcastle	3 June 2016	Leah Armstrong registered
		Herald	6 June 2016	Trevor Powell - Awabakal & Guringai Registered Native Title Claimant registered
			3 June 2016	Awabakal & Guringai Registered Native Title Claimant Group registered
			8 June 2016	Murrawan Cultural Consultants registered



Stage 4.1.3 Advertisement Requesting Aboriginal Stakeholders

Type of Consultation	Date Sent	Aboriginal Parties Contacted	Date of Response	Reply
Letter to known Aboriginal	26 May 2016	Indigenous Learning	-	Did Not Register
parties (as identified by OEH) to invite registrations of	vite registrations of	Arwarbukarl Cultural Resource Association	-	Did Not Register
interest in the project		Awabakal Local Aboriginal Land Council	6 June 2016	Registered
		Awabakal Newcastle Aboriginal Co-op	-	Did Not Register
		Awabakal Traditional Owners Aboriginal Corporation	3 June 2016	Registered
		Biraban Local Aboriginal Land Council	-	Did Not Register
		Cacatua Culture Consultant	-	Did Not Register
		Daniella Chedzey, Jessica Wegener	-	Did Not Register
		Gimbay Gatigaan Aboriginal Corporation	6 June 2016	Registered
		I & E Aboriginal Culture and Heritage	-	Did Not Register
		Kauma Pondee Inc.	-	Did Not Register
		Arthur Fletcher	-	Did Not Register
		Lower Hunter Aboriginal Incorporated	30 May 2016	Registered
		Myland Cultural & Heritage Group	-	Did Not Register
		Smith Dhagaans Cultural group	8 June 2016	Registered
		Wurrumay Consultants	-	Did Not Register
		Yamuloong Group Initiatives Ltd	-	Did Not Register



Stage 4.1.6 Notification of Registered Aboriginal Parties

Organisation	Date Sent	Type of Consultation
OEH	17 June 2016	Letter sent in post
Awabakal Local Aboriginal Land Council	17 June 2016	Letter sent in post

Stage 4.2 and Stage 4.3 Presentation of information & Gathering Cultural Significance Information

Date	Type of Consultation	Aboriginal Parties Contacted	Comment
14/09/2016	Sent via post /Sent via email	Awabakal Local Aboriginal Land Council	
		Awabakal & Guringai Registered Native Title Claimant Group	Provision of project information and assessment
		Awabakal Local Aboriginal Land Council	methodology to RAPs for comment and request for onsite meeting.
		Gimbay Gatigaan Aboriginal Corporation	onsite meeting.
		Awabakaleen Elder	
		Lower Hunter Aboriginal Incorporated	
		Murrawan Cultural Consultants registered	 All RAPs contacted by phone on 27 September 2016 to confirm attendance at the on-site meeting and
		Smith Dhagaans Cultural group	site inspection.
		Trevor Powell - Awabakal & Guringai Registered Native Title Claimant	
28/09/216	Meeting with RAPs to discuss project and	Awabakal Local Aboriginal Land Council	All attending representatives of the RAPs confirmed
	gather cultural significance	Gimbay Gatigaan Aboriginal Corporation	their agreement with the draft methodology sent on 14 September 2016. It was also confirmed that it
		Lower Hunter Aboriginal Incorporated	was likely that the study area would be an
		Awabakal Descendants Traditional Owners Aboriginal Corporation	archaeological expression of the nearby 38-4-0772 and 38-4-0831 sites.
		Smith Dhagaans Cultural group	 All representatives confirmed that the foreshore area of the Hunter River is culturally significant.



Date	Type of Consultation	Aboriginal Parties Contacted	Comment
05/12/2016	Sent via post /Sent via email	Awabakal Local Aboriginal Land Council	
		Awabakal & Guringai Registered Native Title Claimant Group	
		Awabakal Local Aboriginal Land Council	
		Gimbay Gatigaan Aboriginal Corporation	
		Awabakaleen Elder	Provision of draft ACHAR report for review and comment
		Lower Hunter Aboriginal Incorporated	
		Murrawan Cultural Consultants registered	
		Smith Dhagaans Cultural group	
		Trevor Powell - Awabakal & Guringai Registered Native Title Claimant	
16/01/2017	Response to draft ACHAR by RAPs	Lower Hunter Aboriginal Incorporated	Received and approved Aboriginal Cultural Heritage Assessment Report for the former Empire Hotel Site with no further recommendation to add to report.
24/01/2017		Gimbay Gatigaan Aboriginal Corporation	Only comment to draft is that the long term management of cultural materials be temporarily stored at the Awabakal Local Aboriginal Land Council offices.
		Awabakal Local Aboriginal Land Council	Would prefer that all cultural material and artefacts of significance be stored at the Awabakal Local Aboriginal Land Council offices.

Example of Letter Sent to Agency's: seeking Aboriginal parties with Cultural knowledge of the area





Our Ref: 3761/AL/2052016

17 May 2016

To whom it may concern

Re: Aboriginal Cultural Heritage and Archaeological Assessment – Former Empire Hotel Site 643-651 Hunter Street, Newcastle West

The Catholic Diocese of Maitland–Newcastle (the Diocese) is proposing to seek development consent for the Former Empire Hotel Site 643-651 Hunter Street Newcastle West, within the City of Newcastle LGA. The Diocese has commissioned Umwelt (Australia) Pty Ltd (Umwelt) to prepare the Aboriginal Cultural Heritage and Archaeological Assessment.

In accordance with the Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010), Umwelt, on behalf of the Diocese, is seeking to ascertain if your organisation is aware of any Aboriginal parties that may have cultural knowledge relevant to determining the significance of Aboriginal sites/objects within the project area. This information will be used to inform the Aboriginal Cultural Heritage and Archaeological Assessment. In order to facilitate the consultation process, please provide advice in writing to identify any Aboriginal knowledge holders for the project area by no later than 31 May 2016.

Please send any registered Aboriginal party group information to:

Alison Lamond Umwelt (Australia) Pty Ltd 75 York St, Teralba NSW 2284 Ph: 4950 5322 Email: <u>alamond@umwelt.com.au</u>

In compliance with the Department of Environment Climate Change and Water *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010) the contact details for the Diocese are as follows:

Mr Boyd Mccallum Diocese of Maitland- Newcastle Address: PO Box 756 Newcastle, NSW 2300 Email: Boyd.McCallum@mn.catholic.org.au Ph: 49791349

Should you have any queries or wish to discuss this notification letter, please do not hesitate to call me on 02 4950 5322.

Yours sincerely

Alison Lamond Archaeologist Inspired People. Dedicated Team. Quality Outcomes.



75 York Street Teralba NSW 2284

Ph. 02 4950 5322

Perth PO Box 8177 Subiaco East WA 6008 33 Ventnor Avenue West Perth WA 6005

Ph. 08 6260 0700

Canberra

PO Box 6135 56 Bluebell Street O'Connor ACT 2602

Ph. 02 6262 9484

Sydney

Level 3 50 York Street Sydney, NSW, 2000

Ph. 1300 793 267

Brisbane

GPO Box 459, Brisbane, QLD, 4001

Ph. 1300 793 267

www.umwelt.com.au

Advertisement: requesting Aboriginal knowledge holders to register an interest



The Catholic Diocese of Maitland-Newcastle (the Diocese) is currently undertaking an Aboriginal Cultural Heritage and Archaeological Assessment for the development of the former Empire Hotel Site 643-651 Hunter Street, Newcastle West, NSW. The Diocese has commissioned Umwelt (Australia) Pty Ltd (Umwelt) to undertake this assessment. The Diocese and Umwelt invite Aboriginal knowledge holders that have an interest in participating in the consultation process for this project to register their interest in writing to: Alison Lamond, Umwelt (Australia) Pty Ltd, 75 York St, Teralba NSW 2284 alamond@umwelt.com.au Registration closes on 9 June 2016.

Example of Letter Sent to Aboriginal parties identified by the 7 Agency's





Our Ref: 3761/AL/2652016

26 May 2016

To Whom It May Concern,

Re: Aboriginal Cultural Heritage and Archaeological Assessment – Former Empire Hotel Site 643-651 Hunter Street, Newcastle West

The Catholic Diocese of Maitland–Newcastle (the Diocese) is proposing to seek development consent for the former Empire Hotel Site located at 643-651 Hunter Street Newcastle West, within the City of Newcastle Local Government Area. The Diocese has commissioned Umwelt (Australia) Pty Ltd (Umwelt) to prepare an Aboriginal Cultural Heritage and Archaeological Assessment for the proposed development.

In accordance with the Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010), Umwelt, on behalf of the Diocese, is seeking to ascertain if your organisation has cultural knowledge relevant to determining the significance of Aboriginal sites/objects within the project area. This information will be used to inform the Aboriginal Cultural Heritage and Archaeological Assessment, which in turn may support an application for an Aboriginal Heritage Impact Permit. In order to facilitate the consultation process, please register an interest in the project by no later than **9 June 2016**.

Please send any registrations of interest in the project to:

Alison Lamond Umwelt (Australia) Pty Ltd 75 York St, Teralba NSW 2284 Ph: 4950 5322 Email: <u>alamond@umwelt.com.au</u>

In compliance with Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010), the contact details for the Diocese are as follows:

Mr Boyd McCallum Diocese of Maitland- Newcastle Address: PO Box 756 Newcastle, NSW 2300 Email: Boyd.McCallum@mn.catholic.org.au Ph: 49791349

Should you have any queries or wish to discuss this notification letter, please do not hesitate to call me on 02 4950 5322 or alamond@umwelt.com.au.

Yours sincerely

Alison Lamond Archaeologist Inspired People. Dedicated Team. Quality Outcomes.

Newcastle

75 York Street Teralba NSW 2284

Ph. 02 4950 5322

Perth

PO Box 8177 Subiaco East WA 6008 33 Ventnor Avenue West Perth WA 6005

Ph. 08 6260 0700

Canberra

PO Box 6135 56 Bluebell Street O'Connor ACT 2602

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Sydney

Level 3 50 York Street Sydney, NSW, 2000

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www.umwelt.com.au

Letter to OEH: Notification of Registered Aboriginal Parties





Our Ref: 3761/AL/16062016

16 June 2016

Nicole Davis Archaeologist- Planning Office of Environment and Heritage

By email: nicole.davis@environment.nsw.gov.au

Dear Nicole

Re: Registered Aboriginal Parties for former Empire Hotel Site (located at 643-651 Hunter Street Newcastle West) Aboriginal Cultural Heritage and Archaeological Assessment

In accordance with the Department of Environment, Climate Change and Water (now Office of Environment and Heritage (OEH)) Aboriginal Cultural Heritage Consultation Requirements for Proponents (ACHCR's) this letter is to notify OEH of the Aboriginal parties who have registered an interest in the Catholic Diocese of Maitland–Newcastle former Empire Hotel Site (located at 643-651 Hunter Street Newcastle West) Aboriginal Cultural Heritage and Archaeological Assessment.

Letters were sent to those Aboriginal parties identified by OEH, Awabakal Local Aboriginal Land Council and City of Newcastle on 26 May 2016 as possibly having an interest in the project. Other parties were identified in communication with the Native Title Services Corporation Limited (NTSCORP Limited), Hunter Local Land Services and through newspaper advertisements.

The final closing date to register an interest in the project was 10 June 2016. As of the close of business 15 June 2016, the Aboriginal parties listed in **Table 1** had registered an interest in the project.

While the official registration period for the project is closed, if additional parties request to be consulted for the project they will be provided information prepared to that date and involved in consultation from their date of registration.

Yours sincerely

Alwan Com

Alison Lamond Archaeologist

Attachment: Ta

Table 1

Inspired People. Dedicated Team. Quality Outcomes.



Ph. 02 6262 9484

Sydney

Level 3 50 York Street Sydney, NSW, 2000

Ph. 1300 793 267

Brisbane

GPO Box 459, Brisbane, QLD, 4001

Ph. 1300 793 267

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Table 1 – Registered Aboriginal Parties

Group	Contact Person	Address	Phone Number	Email
Lower Hunter Aboriginal Incorporated	David Ahoy	5 Killara Drive CARDIFF SOUTH NSW 2285	0421329520	lowerhunterai@gmail.com
Awabakal Traditional Owners Aboriginal Corporation	Kerrie Brauer	PO Box 253 JESMOND NSW 2299	49 58 81 70	kerrie@awabakal.com.au
	Trevor Powell	PO Box 3331 TUGGERAH NSW 2259	0411 873 867	tppowell1948@gmail.com
Awabakaleen Elder	Leah Armstrong	5 Peatmoss Street CAMERON PARK NSW 2285	0412 897 133	hfhgtree@hotmail.com
Awabakal Local Aboriginal Land Council	Peter Townsend	*PO Box 101 ISLINGTON NSW 2296	49654532	culture@awabakallalc.com.au
Gimbay Gatigaan Aboriginal Corporation	Candy Towers	126 Hanbury Street MAYFIELD NSW 2304	0412 475 362	gimbaygatigaan@hotmail.com
Murrawan Cultural Consultants	Robert Smith	33 Clift Street HEDDON GRETA NSW 2321	0478 699 085	murrwancc@gmail.com
Smith Dhaggaans Cultural Group	Timothy Smith	46 Springvale Cct CAMERON PARK NSW 2285	0401 100 708	Smith.Dhagaans@hotmail.com
Awabakal Descendants Traditional Owners Aboriginal Corporation	Peter Leven	PO Box 137 BUDGEWOI NSW 2262	43903740	peterleven@y7mail.com

*Please note the address for Awabakal Local Aboriginal Land Council on the OEH list provided is incorrect, this is the corrected address.

Draft Assessment Methodology: Sent to all RAPs





Our Ref: 3761/ JM/160914

14 September 2016

To Whom It May Concern

Draft Assessment Methodology: Aboriginal Cultural Heritage and Archaeological Assessment for the former Empire Hotel Site

Thank you for your registration of interest in the abovementioned project. The proposed works area is illustrated in Figure 1.1 and is herein referred to as the project area.

The Aboriginal cultural heritage and archaeological assessment (ACHAA) of the project area will be undertaken in accordance with the requirements of the National Parks and Wildlife Act 1974 (NPW Act), the National Parks and Wildlife Regulation 2009 (NPW Regulation) and the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (the Code of Practice). In line with these requirements, this letter provides a draft methodology for the ACHAA of the project area for your review and comment.

1.0 **Background Information**

The Catholic Diocese of Maitland–Newcastle (the Diocese) is proposing to seek development consent for the former Empire Hotel Site located at 643-651 Hunter Street Newcastle West.

The project area is the location of a previously registered site, The Empire Hotel PAD (38-4-0832). This site is recorded as a potential subsurface artefact scatter and midden, indicated by the midden deposits excavated within remnant soils underlying historical deposits at the adjacent Ibis Hotel site at 700 Hunter Street. The site card recommends the test excavation of any remnant topsoil prior to development of the site.

As test excavation under the code of practice is not permitted for midden sites, the Diocese propose to proceed directly to an ACHAA and Aboriginal Heritage Impact Permit (AHIP) application for the project area to allow testing and salvage to occur within the site.

2.0 **Proposed works**

The Diocese is proposing to redevelop the project area as a new mixed residential and commercial building. The proposed works would include a ground floor commercial level, two above ground car park levels, 10 residential levels, a plant level and a rooftop level. No basement levels will be constructed as part of the proposed building.

The proposed building would cover a total of 2,078.5 square metres and encompass the entire study area. The proposed works would involve the removal of the existing ground surface and historic fill deposits. The excavation of natural deposit may be required for the installation of services, a lift shaft, piles, caps and beams. The number and extent of these excavations is reliant on geo-technical investigations which have, as yet, to be undertaken.

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Ph. 1300 793 267

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3.0 Draft Assessment Methodology

Investigations of the project area will be undertaken as components of the ACHAA process to support a future application for an Aboriginal Heritage Impact Permit. The draft assessment methodology for the ACHAA of the study area is proposed as follows:

- 1. provision of a draft assessment methodology for review by the registered Aboriginal parties (this letter)
- 2. provision of a review period during which Aboriginal parties can provide comment and propose amendments to the draft methodology (up to 28 days from receipt of this letter (12 October 2016))
- 3. an onsite meeting and walkover (please note remnants of historic uses of the project area restrict our ability to undertake a survey of the site as the majority of the site is covered in concrete slab).

Detailed information on the previously recorded archaeological site 38-4-0832 will be provided as part of the final ACHAA report for the project in accordance with the requirements of the NPW Act.

*Please note that as a result of the project areas location within 38-4-0832, a previously recorded midden site, subsurface testing is not permitted under the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales.

- 4. the development of a draft ACHAA report to include:
 - a. a detailed review of background information including:
 - the physical setting or landscape
 - history of peoples living in the area
 - material evidence of Aboriginal land use.
 - b. information provided by Aboriginal parties regarding the cultural values associated with the project area and relevant management/mitigation activities
 - c. methodology and results of onsite meeting and walkover
 - d. assessment of project impacts to, and significance of, 38-4-0832
 - e. mitigation and management recommendations for 38-4-032 as it is proposed for impact by the project.

*Please note that the way in which cultural information is compiled in the ACHAA document is subject to the wishes of the registered Aboriginal parties and will be discussed during upcoming consultation.

- 5. the provision of a draft ACHAA for comment by all registered Aboriginal parties (comment period extends for 28 days from receipt of draft ACHAA)
- 6. discussion/incorporation of comments/amendments to develop and finalise the ACHAA
- 7. provision of the final ACHAA report and AHIP application form to the Diocese for submission to OEH
- 8. the provision of the final ACHAA report to all registered Aboriginal parties.

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4.0 Summary

In accordance with the requirements of the NPW Regulation, we ask that your group provides comments on the draft methodology by no later than **5.00 pm on 12 October 2016.** Comments regarding the draft methodology can be provided verbally or in writing and contact information is provided below.

Joshua Madden Senior Archaeologist jmadden@umwelt.com.au 75 York Street Teralba, NSW 2284 Phone: (02) 4950 5322 Mobile: 0447 770 134

Alternatively, comments may be provided during the onsite meeting and walkover. It is proposed that a site meeting and walkover with all Registered Aboriginal Parties will be undertaken at **10.00 am** on **28 September 2016**.

Should you require any further information or wish to discuss any aspect of this project, please do not hesitate to contact either Boyd McCallum or myself.

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Yours sincerely

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Joshua Madden Senior Archaeologist

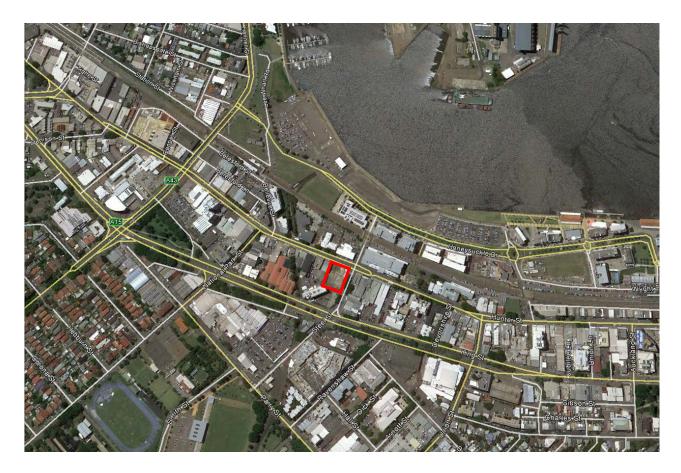


Figure 1.1 Project Area outlined in red

Responses to Draft Aboriginal Cultural Heritage Assessment Report



Hi Josh,

Sorry for my late response i have just come back from holidays.

Thank you for the draft ACHAR for 643-651 Hunter Street Newcastle West.

My only comment would be regarding under section **10.5 Management to Cultural Materials** that all archaeological material would be temporarily stored at Awabakal Local Aboriginal Land Council as they do have a Aboriginal Keeping Place on site at 127 Maitland Road Islington.

Kind regards

Candy Towers

From: Joshua Madden <jmadden@umwelt.com.au>
Sent: Friday, 9 December 2016 9:43 AM
To: gimbaygatigaan@hotmail.com
Subject: 3761_Draft ACHAR_GGAC

Dear Candy

Please find attached the Draft Aboriginal Cultural Heritage Assessment Report for the former Empire Hotel Site (643 – 651 Hunter Street Newcastle West).

In accordance with the requirements of the NPQ Regulation, we ask that your group provides comment on the ACHAR by no later than 5:00pm on 17 January 2017.

Please do not hesitate in contacting me if your require any further information.

Cheers Josh

Joshua Madden Senior Archaeologist

Umwelt (Australia) Pty Limited 75 York Street Teralba, NSW 2284

Phone: (02) 4950 5322 Mobile: 0447 770 134

2

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Please consider the environment before printing this email

HI Josh

On behalf of LHAI we have received and approved Aboriginal Cultural Heritage Assessment Report for the former Empire Hotel Site with no further recommendation to add to report.

Thank You David Ahoy Sites Manager LHAI Mobile 0421329520

Lower Hunter Aboriginal Incorporated

5 Killara Drive Cardiff South NSW 2285 ABN: 8192 4628 138 Email: *lowerhunterai@gmail.com*

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If you have received this email in error please notify the sender immediately.

Hi Josh,

I am happy with the draft report and do not wish to add anything further, except;

10.5 Management of Cultural materials

Under the Aboriginal Land Rights Act 1983, a local Aboriginal Land Council has the following functions;

- a) to take action to protect the culture and heritage of Aboriginal persons in the Council's area, subject to any other law,
- b) to promote awareness in the community of the culture and heritage of Aboriginal persons in the Council's area.

We would prefer all objects and artefacts of significance that are collected, to stay within the Boundary of Awabakal Local Aboriginal Land Council.

Awabakal Local Aboriginal Land Council has a functioning "Keeping Place" that has held thousands upon thousands of Aboriginal objects/Artefacts of significance. We have since repatriated/reburied a majority of the Artefacts we had Care & Control of and now have plenty of room for storage if a majority of the groups support this.

It would be good to get a response from all RAP's to see wat their views are on this.

Kind Regards

Pete Townsend Culture & Heritage Officer

cid:image002.png@01CF6391.FD38CE80
?

Awabakal Local Aboriginal Land Council Address: 127 Maitland Road Islington NSW 2296 Postal address: PO Box 101 Islington NSW 2296 Ph: 49654532 Fax: 49654531 Mob: 0427756786 E-mail: <u>culture@awabakallalc.com.au</u>

Yaama; I am a Wiradjuri & Weilwan man of Western NSW. I pay my respects to the Traditional owners elders, past, present & future. I also extend my acknowledgement to the Traditional Lands, Waterways, Flora & Fauna of this country I work and live on.



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