



**DRAFT** 

December 2021

### REDEVELOPMENT OF 11-17 MOSBRI CRESCENT, THE HILL

Aboriginal Cultural Heritage Assessment

### **DRAFT**

Prepared by
Umwelt (Australia) Pty Limited
on behalf of
Crescent Newcastle Pty Limited

Project Director: Nicola Roach
Project Manager: Ashley O'Sullivan
Report No. 21504/R01
Date: December 2021







#### Acknowledgement of Country

Umwelt would like to acknowledge the traditional custodians of the country on which we work and pay respect to their cultural heritage, beliefs, and continuing relationship with the land. We pay our respect to the Elders – past, present, and future.

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#### **Document Status**

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Criteria for the Assessment of Archaeological Significance

NBN\_AS1 Site Details

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### 1.0 Introduction

Crescent Newcastle Pty Ltd (Crescent Newcastle) are proposing to undertake the redevelopment of 11-17 Mosbri Crescent, The Hill (Lot 1, DP 204077 – hereafter the 'project area'). The project area is located in the Local Government Area (LGA) of The Hill, in close proximity to the Newcastle City Centre and approximately 550 metres from the coastline.

Crescent Newcastle has engaged Umwelt (Australia) Pty Ltd to work with the registered Aboriginal parties to complete an Aboriginal Cultural Heritage Assessment (ACHA) for the proposed redevelopment of 11-17 Mosbri Crescent. Umwelt and Crescent Newcastle recognise that the registered Aboriginal parties have primary responsibility for assessing the cultural significance of the lands for which they are traditional custodians and/or to which they have contemporary connection and all comments and feedback provided by Aboriginal parties are documented in this report.

Umwelt undertook an assessment of the project area in 2019 and identified a small section of relatively undisturbed soil landscape. Two surface Aboriginal objects (comprised by two tuff flakes) were identified and recorded as the AHIMS site NBN-AS-1. The remainder of the project area has been identified as subject to significant modern disturbance through the construction of the existing NBN building and ancillary structures. As avoidance of these identified Aboriginal objects is not possible within the scope of the current development, this ACHA has been prepared in support of an Aboriginal Heritage Impact Permit (AHIP) application for harm to the NBN-AS-1 site.

This report has been prepared in accordance with the Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (OEH 2011), with all consultation undertaken in accordance with the Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010a) (the consultation requirements), as documented in **Appendix 1**. The report incorporates required archaeological technical information in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010b) (the Code of Practice).

### 1.1 Project Description

Crescent Newcastle are proposing to redevelop the project area to facilitate the construction of multiple residential buildings and associated facilities. It is understood that the development of the site will involve the following:

- Demolition of all existing structures
- Earthworks, including mine grouting
- Mine void grouting works that comprise drilling 111 x 115 mm holes to a depth of 40 to 90 m below the surface across the project area
- Construction of residential accommodation comprising 172 dwellings, being:
  - Eleven (11) two storey townhouse style dwellings fronting Mosbri Crescent, located above a basement car park containing 34 visitor spaces and 11 resident spaces



- Three (3) residential flat buildings (Building A, B, and C) containing 161 dwellings, ranging from one to three bedrooms; being:
  - Building A including a nine (9) storey east wing and six (6) storey west wing
  - Building B comprising seven (7) storeys and a roof top communal open space, with (9) town house style dwellings facing the internal courtyard
  - Building C comprising five (5) levels.
- Interconnected car parking for Building A, B & C located on the ground floor and first level, containing 1 visitor space and 196 resident spaces
- Pedestrian path, providing connection from Mosbri Crescent to Kitchener Parade
- Associated landscaping, communal open space, services and site infrastructure
- Strata subdivision (172 lots).

It is noted that the project area has been subject to ongoing disturbance of varying extents since European occupation in the area. This is inclusive of the establishment, maintenance and ongoing use of carparks and driveways, basement construction, the installation of infrastructure and general commercial development of the project area and the surrounding landscape.

### 1.2 Objectives of the Assessment

The key objective of this assessment is to ensure that the Aboriginal cultural values of the project area are appropriately assessed with reference to the approach specified in the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW*, the consultation requirements and with the Code of Practice.

In order to achieve this, it is emphasised that Aboriginal people are the primary determinants of the cultural significance of their heritage and this ACHA is prepared to ensure that the information provided by registered Aboriginal parties is documented and presented in a manner that informs decision making on the management of Aboriginal cultural heritage within the project area whilst ensuring that the required archaeological information is also appropriately documented.

In order to demonstrate how this ACHA meets these objectives, **Table 1.1** documents the required components with reference to the section of this document in which they are addressed.

Table 1.1 Required Information

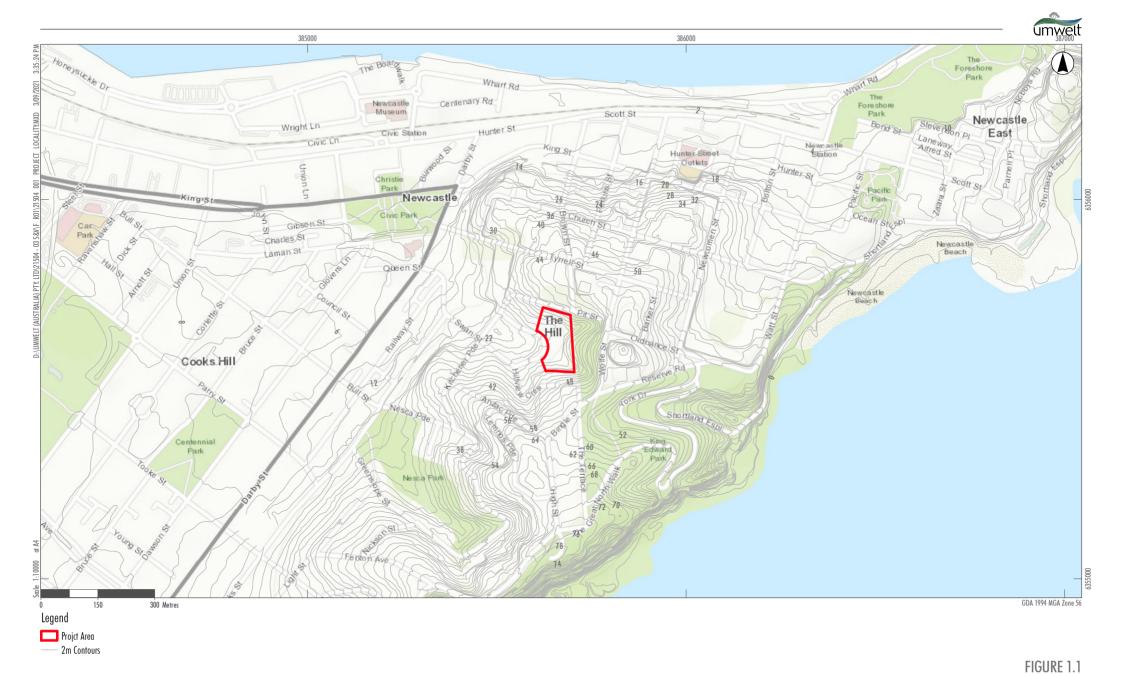
Required Information (Aboriginal cultural heritage assessment)	Relevant Section	Required Information (Aboriginal archaeological assessment)	Relevant Section
Introduction		Introduction	1.0
Description of the area		Investigator and contributors	1.3
Consultation process		Description of Proposal	1.1
Summary and analysis of background information		Landscape context	4.1



Required Information (Aboriginal cultural heritage assessment)	Relevant Section	Required Information (Aboriginal archaeological assessment)	Relevant Section
Cultural heritage values and statement of significance		Previous archaeological work and regional character	5.0
Avoiding and/or mitigating harm		Predictions	0
Recommendations		Sampling strategy and field methods	6.0
		Results	6.0
		Analysis and discussion	0
		Scientific values and significance assessment	8.0
		Impact assessment	9.0
		Management and mitigation measures	10.0
		Recommendations	11.0

### 1.3 Report Authorship

This report has been prepared by Ashley O'Sullivan (Umwelt Senior Archaeologist) with assistance from Alison Fenwick (Umwelt Heritage Consultant), and reviewed by Nicola Roche (Umwelt Manager, Cultural Heritage). Additional input was provided by Umwelt's drafting and administrative teams.



Project Locality





FIGURE 1.2

Project Area



### 2.0 Statutory Context

In relation to this assessment, the relevant statutory controls for the protection of historical and Aboriginal heritage are the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *NSW National Parks and Wildlife Act 1974* (the NPW Act).

### 2.1 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 Project area is within the broader area covered by the Newcastle LEP 2012. Clause 5.10 (2) of Part 5 of the LEP specifies that development consent is required for any of the following activities:

- (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,

Clause 5.10 (8) also requires that, prior to granting development consent where works will be undertaken within an Aboriginal place of heritage significance, consideration must be given to '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)'.

Approval under Part 4 of the EP&A Act has been granted (the DA), with this approval conditional based on the completion of an adequate level of assessment and provision of an Aboriginal Heritage Impact Permit (AHIP) if required. This report has been completed with the intention of satisfying this condition, with this assessment to be appended to an AHIP application for salvage of the site identified within the project area.

This ACHA has been undertaken to satisfy the requirements of the Newcastle LEP.



### 2.2 National Parks and Wildlife Act 1974

Heritage NSW is primarily responsible for regulating the management of Aboriginal cultural heritage in NSW under the NPW Act. The NPW Act is accompanied by the *National Parks and Wildlife Regulation 2019* (the Regulation) and a range of codes and guides including the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (OEH 2011), the consultation requirements and the Code of Practice (DECCW 2010b).

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. Section 86(4) of the NPW Act states that a person must not harm or desecrate an Aboriginal Place.

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). Harm to an object or place is defined as any act or omission that:

- destroys, defaces or damages an object or place, or
- in relation to an object moves the object from the land on which it had been situated, or
- is specified by the regulations, or
- causes or permits the object or place to be harmed in a manner referred to in paragraph (a), (b) or (c),
- but does not include any act or omission that:
  - o desecrates the object or place (noting that desecration constitutes a separate offence to harm), or
  - o is trivial or negligible, or
  - is excluded from this definition by the regulations.

Section 87(1) of the NPW Act specifies that it is a defence to prosecution under Section 86(1) and Section 86(2) if the harm or desecration of an Aboriginal object was authorised by an AHIP and the activities were carried out in accordance with that AHIP. As noted above, it is not necessary to obtain an AHIP under Section 90 of the NPW Act for designated SSD.

Section 87(2,4) also establishes that it is a defence to prosecution under Section 86(2) (the strict liability offence) if due diligence is exercised to reasonably determine that the activity or omission is a low impact act or omission. The NPW Regulation specifies that compliance with the due diligence code is taken to constitute due diligence in determining whether a proposed activity will harm an Aboriginal object. The Regulation identifies that compliance with the Code of Practice (DECCW 2010b) is excluded from the definition of harm.



### 3.0 Aboriginal Consultation

Consultation with Aboriginal parties is an integral part of identifying and assessing the significance of Aboriginal objects and/or places and determining and carrying out appropriate strategies to mitigate impacts upon Aboriginal heritage. In accordance with current requirements and expectations, consultation with Aboriginal parties regarding the project was undertaken in accordance with the relevant aspects of Part Division 2, Clause 60 of the NPW Regulation and the consultation requirements. The documentation of the outcomes of Aboriginal party consultation in this report reflects the requirements of the *Guide to investigating assessing and reporting on Aboriginal Cultural Heritage in NSW*.

### 3.1 Identification of Registered Aboriginal Parties

Discussions with Aboriginal parties in relation to approved activities at Mosbri Crescent began in 2019, following the initial inspection of the site for the preparation of an Aboriginal Due Diligence Assessment for the proposed residential development of 11-17 Mosbri Crescent, the current project area. This assessment was carried out by Umwelt Senior Archaeologist Ashley O'Sullivan, with participation from Peter Townsend (Awabakal LALC), Peter Leven (ADTOAC) and Kyle Howie (ATOAC).

Heritage NSW identified 47 Aboriginal parties eligible for notification prior to works commencing, of these 12 confirmed their participation in the project. The registered Aboriginal parties for the current assessment are:

- A1 Indigenous Services
- Awabakal & Guringai Pty Ltd
- Awabakal Descendants Traditional Owners
- Awabakal Local Aboriginal Land Council
- Awabakal Traditional Owners Aboriginal Corporation
- Corroboree Aboriginal Corporation
- Didge Ngunawal Clan
- Olivia Connors
- Tocomwall Pty Ltd
- Widescope Indigenous Group
- Woka Aboriginal Corporation
- Worimi Traditional Owners Indigenous Corporation



# 3.2 Notification and Consultation Regarding Assessment Methodology

A letter providing information regarding the project and incorporating a draft methodology for the assessment was provided to all registered Aboriginal parties on 14 July 2021. It was requested that all Aboriginal parties provide comment on the proposed assessment methodology. Copies of all communication regarding the draft methodology are provided in full in **Appendix 1** and summarised in **Table 3.1** below.

One comment was received on the draft methodology (from A1 Indigenous Services Pty Ltd), who were supportive of the proposed approach.

### 3.3 Aboriginal Party Participation in Survey

The registered Aboriginal party representatives that participated in the field survey of the project area is provided below in **Table 3.1**.

Table 3.1 Aboriginal party survey representatives

Date	Organisation	Name
22 August 2021	Awabakal & Guringai Pty Ltd	Tracey Howie
23 August 2021	Awabakal Local Aboriginal Land Council	Peter Townsend

### 3.4 Provision of Draft ACHA and Comments Provided

A copy of the draft ACHA was provided to the registered Aboriginal parties on 13 September 2021. It was requested that all Aboriginal parties provide comment on the draft ACHA, and in particular, comment on any impacts to Aboriginal cultural heritage through the proposed works. Copies of all communication regarding the draft ACHA are provided in full in **Appendix 1** and summarised in **Table 3.2** below.

Written comment on the report was received from Didge Ngunawal Clan (Lilly Carroll), Awabakal & Guringai Pty Ltd (Tracey Howie) and Awabakal Traditional Owners Aboriginal Corporation (Kerrie Brauer), who identified that they had reviewed the report and were overall supportive of the outcomes in the report. The following was identified by ATOAC and Awabakal & Guringai. Two Aboriginal parties discussed that the NBN\_AS1 site (AHIMS 38-4-1205) should be protected with a 'No Go Zone' barrier in the interim to avoid further damage during the construction phase of the project. Tracey Howie (Awabakal & Guringai) commented that following the removal of the concrete slab, archaeological monitoring should be undertaken to identify the profile of soil beneath the slab and to assess the potential for remnant cultural material.

Further comments from Kerrie Brauer (ATOAC) were as follows:

Our Elders also highly recommend that all Contractors receive a Cultural Heritage Toolbox Induction for all workers involved in the proposed project by the Awabakal Descendants.

We do not support any removal of any topsoil, and believe that all topsoil to remain within the proposed development area, as there is potential for additional cultural material to be concealed below the ground surface as a result of the cultural use of the area.



The Newcastle area is part of our Traditional Awabakal Country and is considered by our People to be of great importance within our Cultural Heritage. This area has not just a physical presence within the Cultural Heritage of the Awabakal People, but it is part of our oral history and a place of spiritual significance. The landforms and resources of this locale fulfilled not just the basic needs that underpinned our Peoples subsistence but also satisfies the many other aspects that made up what can be described here as being part of the Cultural foundations of our People.

As already previously stated, this area is of high significance to our People and therefore it would be expected that after the many generations of our People that have walked the pathways of their Ancestors, it is obvious that there would be many areas that contain evidence of this connection, resulting from occupation on varying levels. There are physical reminders left by our Ancestors which provide us as Descendants of the Awabakal People an opportunity to make a physical connection through time with our Ancestors. This connection is one of those avenues that produce in us the sense of perception, appreciation, familiarity and recognition of who we are and where we belong as Awabakal People, which is our birthright.

Therefore, the Cultural Value and Significance remains high, which is attributed to our Cultural Heritage understanding of the connectivity and aspects of the region's holistic perspectives, thus emphasising the importance of the whole, instead of a Scientific/Archaeological Value aspect of the independence of its site specific parts.

The groups voiced the position that they would prefer all potentially artefact bearing topsoil remain intact and not disturbed and/or removed during the proposed works. This has been discussed with Kerrie Brauer (ATOAC and Awabakal Guringai Pty Ltd), Tracey Howie (Awabakal & Guringai Pty Ltd) and Peter Townsend (Awabakal LALC), whom are in agreeance that the topsoil present on site consist of a thin lens unlikely to retain additional Aboriginal objects. As discussed in this assessment, the proposed development footprint encompasses the entire lot and as such avoidance strategies cannot be enforced. As discussed in the methodology, it is proposed that a salvage surface collection will take place prior to works commencement.

The recommendations received and responses provided by Crescent Newcastle Pty Ltd are outlined in **Section 11.1**.

### 3.5 Additional Review of the Draft ACHA

An amended copy of the draft ACHA was provided to the Aboriginal parties on XX December 2021. It was specifically noted in this updated ACHA that the AHIP curtilage had been modified from being the entire property, to the northern extent of the property. This change was discussed with Crescent Newcastle, and was designed to facilitate the commencement of construction prior to the issue of an AHIP in areas where archaeological potential had been entirely removed by historical and modern impacts. This change would not impact the requirement for an AHIP, nor result in impacts to the previously recorded site.



 Table 3.2
 Summary of Aboriginal party consultation

Date	Type of consultation	Agencies/Aboriginal parties contacted	Outcome	Notes
15/6/2021	Provision of proposal	Awabakal Local Aboriginal Land Council	No response received	
	notification letter requesting identification of any parties	NTS Corp	No response received	
	who may hold knowledge relevant to Aboriginal cultural	Office of the Registrar: Aboriginal Land Rights Act 1983 (NSW)	No response received	
	heritage within the project area	Heritage NSW	Response received from Barry Gunther (Aboriginal Heritage Planner Officer – Heritage NSW) with the Heritage NSW RAP list for the Newcastle LGA.	
		City of Newcastle	Response received from Tom Smith (Heritage Planner – City of Newcastle) advising that the best contact for stakeholder lists within the Newcastle LGA is the Awabakal LALC	
		Local Land Services-Hunter	No response received	
30/6/2021	Public advertisement providing notification of assessment and opportunity to register interest for ongoing consultation	Newcastle Herald		
1/7/2021	Letter to known Aboriginal parties to invite registrations	A1 Indigenous Services	9 July 2021, email response received registering interest in the project.	
	of interest in the project	AGA Services	No response received	
		Aliera French Trading	No response received	
		Arwarbukarl Cultural Resource Association, Miromaa Aboriginal Language and Technology Centre	No response received	
		Awabakal & Guringai Pty Ltd	10 July 2021, verbal response received registering interest in the project.	
		Awabakal Descendants Traditional Owners	10 July 2021, verbal response received registering interest in the project.	



Date	Type of consultation	Agencies/Aboriginal parties contacted	Outcome	Notes
		Awabakal Local Aboriginal Land Council	19 July 2021, email response received registering interest in the project.	
		Awabakal Traditional Owners Aboriginal Corporation	8 July 2021, email response received registering interest in the project.	
		B-H Heritage Consultants	No response received	
		Cacatua Culture Consultants	No response received	
		Celia Connors	7 July 2021, email response received registering interest in the project.	
		Corroboree Aboriginal Corporation	7 July 2021, email response received registering interest in the project.	
		Crimson-Rosie	No response received	
		D F T V Enterprises	No response received	
		Deslee Talbott Consultants	No response received	
		Didge Ngunawal Clan	7 July 2021, email response received registering interest in the project.	
		Gidawaa Walang & Barkuma Neighbourhood Centre Inc.	No response received	
		Hunter Valley Cultural Surveying	No response received	
		Indigenous Learning	No response received	
		Jarban & Mugrebea	No response received	
		Jumbunna Traffic Management Group Pty Ltd	No response received	
		Kauma Pondee Inc.	No response received	
		Kawul Pty Ltd trading as Wonn1 Sites	No response received	
		Kevin	No response received	
		Kyle	No response received	
		Lower Hunter Aboriginal Incorporated	No response received	
		Lower Hunter Wonnarua Cultural Services	No response received	
		Michael Green Cultural Heritage Consultant	No response received	



Date	Type of consultation	Agencies/Aboriginal parties contacted	Outcome	Notes
		Mindaribba Local Aboriginal Land Council	No response received	
		Murra Bidgee Mullangari Aboriginal Corporation	No response received	
		Mur-Roo-Ma Inc.	6 July 2021, email response received. No participation in the project.	
		Myland Cultural & Heritage Group	No response received	
		Nur-Run-Gee Pty Ltd	No response received	
		Olivia Connors	7 July 2021, email response received registering interest in the project.	
		Roger Matthews Consultancy	No response received	
		Ron	No response received	
		Steve	No response received	
		Tamara	No response received	
		Tocomwall Pty Ltd	15 July 2021, email response received registering interest in the project.	
		Trudy	No response received	
		Wattaka Wonnarua CC Service	No response received	
		Widescope Indigenous Group	6 July 2021, email response received registering interest in the project.	
		Woka Aboriginal Corporation	7 July 2021, email response received registering interest in the project.	
		Wonnarua Culture Heritage	No response received	
		Wonnarua Elders Council	No response received	
		Worimi Local Aboriginal Land Council	No response received	
		Worimi Traditional Owners Indigenous Corporation	13 July 2021, email response received registering interest in the project.	
		Yinarr Cultural Services	No response received	
		Yvette and Jackson	No response received	



Date	Type of consultation	Agencies/Aboriginal parties contacted	Outcome	Notes
21/07/2021	Provision of assessment methodology to registered Aboriginal parties for comment	A1 Indigenous Services	29 July 2021, response received supporting the proposed methodology. Expression of Interest also received, with attachment supporting documentation.	
		Awabakal & Guringai Pty Ltd	No response received	
		Awabakal Descendants Traditional Owners	No response received	
		Awabakal Local Aboriginal Land Council	No response received	
		Awabakal Traditional Owners Aboriginal Corporation	No response received	
		Corroboree Aboriginal Corporation	No response received	
		Didge Ngunawal Clan	No response received	
		Olivia Connors	No response received	
		Tocomwall Pty Ltd	No response received	
		Widescope Indigenous Group	No response received	
		Woka Aboriginal Corporation	No response received	
		Worimi Traditional Owners Indigenous Corporation	No response received	
13/09/21	Provision of draft ACHA to	A1 Indigenous Services	No response received	
	registered Aboriginal parties for review and comment	Awabakal & Guringai Pty Ltd	12 October 2021, response received supporting the draft ACHA. An additional recommendation concerning additional site survey.	The recommendation was addressed and included in the assessment.
		Awabakal Descendants Traditional Owners	No response received	
		Awabakal Local Aboriginal Land Council	No response received	
		Awabakal Traditional Owners Aboriginal Corporation	11 October 2021, response received supporting the draft ACHA. Additional comments and recommendations were included.	These recommendations were addressed and adopted where possible.
		Corroboree Aboriginal Corporation	No response received	
		Didge Ngunawal Clan	15 September 2021, response received supporting the draft ACHA.	



Date	Type of consultation	Agencies/Aboriginal parties contacted	Outcome	Notes
		Olivia Connors	No response received	
		Tocomwall Pty Ltd	No response received	
		Widescope Indigenous Group	No response received	
		Woka Aboriginal Corporation	No response received	
		Worimi Traditional Owners Indigenous Corporation	No response received	
	Approved AHIP distributed to RAPs	A copy of the approved AHIP was provided to all RAPs for the project		
	Updated ACHA to support AHIP variation presented to the RAPs	A1 Indigenous Services		
		Awabakal & Guringai Pty Ltd		
		Awabakal Descendants Traditional Owners		
		Awabakal Local Aboriginal Land Council		
		Awabakal Traditional Owners Aboriginal Corporation		
		Corroboree Aboriginal Corporation		
		Didge Ngunawal Clan		
		Olivia Connors		
		Tocomwall Pty Ltd		
		Widescope Indigenous Group		
		Woka Aboriginal Corporation		
		Worimi Traditional Owners Indigenous 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.

This section provides a summary of key environmental information for the project area and discusses the implications of this information for the archaeological evaluation of the project area.

### 4.1 Landscape Context

The landscape that surrounds the project area is predominately characterised by undulating to rolling hills and low hills (within occasional steep slopes) on the boundary between late Permian aged Lambton subgroup and Adamstown subgroup of the Newcastle Coal Measures. Local relief is to 100 metres, elevation is generally 50-160 metres, and the slope gradient ranges from 3-20%.

The project area is located within a portion of the landscape that comprises higher gradient slopes, however these slopes have been subject to significant disturbance through historical and modern development. Within the project area, landforms can be described as a small mid-slope portion of a moderately steep slope that extends southwards from a ride located north of the project area. Due to the sloped terrain of the local area, extensive terracing has been undertaken in order to secure the landscape for the construction of the extant residential and commercial infrastructure.

The area along the south-eastern boundary of the project area adjoins with the neighbouring Arcadia Park, a vegetated area that is subject to a number of community conservation initiatives. The landscape rises steeply towards a crest within Arcadia Park, with a natural drainage line (non-perennial) observed running directly into the project area. It is likely that this drainage line continued further into the project area, but this landform has since been removed due to levelling for driveways and the building.

### 4.2 Geology and Soils

The project area falls within the Killingworth soil landscape, as shown in (**Figure 4.1**). The Killingworth Soil Landscape is an erosional landscape with landforms characterised by undulating, rolling and low hills. Small areas of the Awaba soil landscape can be present, however are too small and irregular to be mapped accurately within the project area. Found within the Newcastle Coal Measures, the expected geology of the site comprises sandstone, coal, tuff, conglomerate and shale. Within this formation, fine grained raw materials suitable for the manufacture of stone artefacts are assumed to be present including the tuff commonly referred to as Nobbys tuff. This occurs in exposed bedrock deposits along the coastline in the immediate vicinity of the project area, and is a recognised raw material used commonly for the manufacturing of Aboriginal tools and implements. Topsoils upon this soil landscape are susceptible to high water erosion and the surrounding district can be impacted by mine subsidence.



The soil profile of the drainage lines is generally characterised as consisting of brownish black pedal loam topsoil ( $A_1$ , less than 20 cm) on the crests and some lower slopes, with a bleached hard setting loamy sand to sandy clay loam ( $A_2$ , less than 60 cm) overlying a pedal yellowish brown clay ( $B_2$  horizon). The topsoils found in this area are generally highly eroding, leading to exposures of the hard setting  $A_2$  horizon.

It is noted that the topsoil layer is most likely to contain artefactual material and/or cultural deposits. Subsoil layers (B or C horizons), particularly those characterised by a high clay content, have less potential to be artefact bearing due to their physical density; that is, the vertical movement of artefactual material into subsoil layers is prohibited by the inherent compactness of these soils. It is rare for these types of soil to contain deep, stratified deposits or old archaeological deposits.

#### 4.3 Flora and Fauna

The project area has been almost completely cleared of original vegetation through historical mining practices within the local area and later urbanisation of the landscape. The vegetation in the project area would have originally comprised of open-forest, with some open woodland. Generally, this clearance can further impact and hasten the erosion of the topsoil. Where remnant forest or open woodland remains, there is potential for older growth trees and associated cultural scarring, however this is not present within the project area.

Dominant species found in the Killingworth soil landscape are *Eucalyptus maculate* (spotted gum), *E. eugenioides* (thin-leaved stringybark), *E. umbra* (bastard mahogany), *E. fibrosa* (broad-leaved ironbark) and *E. paniculate* (grey ironbark).

Species known to have been present and exploited by Aboriginal people were used for various purposes including food, medicine and raw materials. It is likely that a range of other plant resources in the local area were utilised by Aboriginal people for the construction of implements, shields and temporary shelters, however no evidence of cultural modification/scarring has been found in the vicinity. The native vegetation would have also supported a range of mammal, reptile and bird species which would have formed a portion of the diet for the Aboriginal communities. The proximity to the coastline would have further allowed for the exploitation of coastal resources, including some resilient coastal plant species and the abundance of fish and shellfish found along the shore.

### 4.4 Hydrology

No water courses are found within the project area, however remnants of a natural drainage line are evident. This would have supplied the area with seasonal fresh water, and an opportunistic flow in response to the weather conditions at the time.

Significant resources such as the Hunter River, the Cottage Creek Catchment and an expanse of coastal waters are in the immediate vicinity of the project area (**Figure 4.2**). This would have provided Aboriginal communities with an opportunity to exploit numerous resources and would have potentially attracted communities to the area for the purpose of resource exploitation.

The project area is located to the south of the Hunter River, with the water approximately 675 meters to the north of the project area. However, the channel of the Hunter River and its tributary Throsby Creek have been subject to substantial modification following initial European occupation of the Newcastle area in the early 1800s. This includes extensive land reclamation along the Hunter River foreshore and at the location of former islands within the channel such as Bullock Island (now Carrington), which is located to the north-east of the project area.



### 4.5 Land Use History

The project area was initially granted to the Australian Agricultural Company (AAC) in 1847 for private and/or agricultural purposes, with the land grant for that period stating that this included Crown Land Portion 268A. No further information is available concerning the activities of the AAC for this particular portion of land. The AAC held the grant until 1952 when it was purchased for private use, changing hands again in 1958, again for private use. From 1961-1982 the property was utilised as the commercial centre of the Newcastle Broadcasting and Television Corporation Limited. Since 1982 the site has remained commercial as the NBN broadcasting building, whilst also having been sub leased to various commercial entities (Coffey 2018).

A 1954 aerial image (**Photo 4.1**) shows the project area as being cleared of vegetation but vacant of any development or structures. The surrounding landscape has been modified to accommodate the expanding urbanisation of the area with numerous residential buildings having been constructed by this time. Due to this, it is believed that the current vegetation visible at the site and the immediate surrounds is the result of a recent attempt of revegetation efforts as opposed to original growth. This would strongly suggest that any evidence of cultural modification of the trees would have been removed. The first structure on the site is believed to be the Newcastle Broadcasting and Television building, constructed prior to 1966. Following this time Mosbri Crescent was formalised, with the development of the current streetscape (Coffey 2018).

The site and extant building has changed little since the mid 1980's, with only additional exterior features such as satellites being added.



Photo 4.1 Indicative location of the project area, 1954

Source: Historical Image Viewer 2021



FIGURE 4.1

Soil Landscapes

Hamilton
Kotara Heights

Projct Area Soil Landscape



Legend

Projet Area

--- 2m Contours

— Drainage Line

FIGURE 4.2 Hydrology



### 4.6 Summary of Environmental Context

The project area is located in an environmental which would have previously allowed Aboriginal people to readily access a variety of resources found within a freshwater estuarine or coastal landscape. This includes semi-available drinking water in the form of the natural drainage line, a range of flora and fauna, and suitable raw materials for the production of tools, implements or objects. The proximity of the project area to the coastline would suggest that Aboriginal communities would have utilized the coastal resources such as fish, likely on a seasonal basis.

The close proximity to multiple culturally significant areas, including Yi-ran-na-li amongst others, would have further attracted Aboriginal people to the general location of the project area for social and cultural purposes. The recognised significance of this location confirms that it would have played a significant role in the lives of the local communities in the past, as it continues to do so in the present.

However, the project area has been subject to extensive contemporary modification, disturbance and vegetation clearance. It is likely that the topsoil has been severely impacted or entirely removed during the construction of the extant structures and fill deposited in its stead. Preliminary ground investigations have confirmed that the site is overlayed by fill material, varying in depth from 0.4-2.8 metres (Coffey 2018). This disturbance is likely to have displaced archaeological material in the upper layers of soil, with this further impacted by the erosional nature of the soil profile.



### 5.0 Cultural Context

In order to adequately undertake an assessment of Aboriginal cultural heritage 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, and the information that we currently have access to regarding the patterns of distribution of archaeological evidence, based largely on the outcomes of previous archaeological assessments.

### 5.1 Ethnohistoric Context

Historical records, such as official records and personal observations recorded in diaries or publications, can provide information on the Aboriginal history of a region since European contact. Although a valuable source of information, the limitations of these documents must be recognised as colonial observers generally tended to record unusual rather than everyday events, religious and social life rather than economic activity, and men's behaviour rather than that of women and children. As such, ethnohistoric records are neither unbiased nor complete, and they cannot provide a complete understanding of Aboriginal beliefs and practices at the time of contact.

The project area forms part of a landscape that was used by the traditional Aboriginal owners for many thousands of years prior to European contact and continues to be highly valued by Aboriginal people today. The occupation of the Newcastle area (known to the Awabakal as *Mulubinba*) by Aboriginal people is demonstrated by the presence of a range of archaeological sites that include evidence of varying levels of occupation and utilisation of different landscapes and resources within the Newcastle area. Following non-Aboriginal settlement, there are records of Aboriginal people interacting with the non-Aboriginal population in the early period of settlement, but subsequent records are relatively rare until the modern period (Umwelt 2014).

Ethnohistoric accounts can be of use in gaining an understanding of how Aboriginal people lived in the Newcastle area at the time of early contact. However, in reviewing ethnohistoric accounts, it must be noted that 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 lived for a time in a house on the Newcastle foreshore and subsequently established a mission at Belmont and then at Toronto on Lake Macquarie and collated a large body of information on the Awabakal people and their language between 1825 and 1841. Threlkeld's account included the story of *Yi-ra-na-li*, which he described as a sacred place 'near Newcastle on the seabeach, beneath a high cliff' (see **Section 5.1.1**). 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 written records of spiritual beliefs and practices of the Awabakal people (noting that where such beliefs and practices are known by modern Awabakal people, it is often not culturally appropriate to make this information available).

Records from the earliest European explorers and settlers within the Newcastle region, although limited, record the early interactions between the traditional Aboriginal owners of the area 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, 25 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 Aboriginal people returning escaped convicts to settlement officials, possibly in retribution for the manner in which escaped convicts attacked Aboriginal families. This is typified by an account in the 1821 report 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 Aboriginal people receiving gifts of blankets, tobacco and other supplies in thanks for their involvement (Roberts 2003). 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 is particularly relevant in relation to the image painted by Lycett of Awabakal people camping on the Hunter River foreshore, potentially in the vicinity of present-day Wickham (refer to **Photo 5.1**). This does not in any way imply that the ongoing development of Newcastle was positive for the Aboriginal people of the region. Rather as Newcastle expanded following the closure of the penal settlement in 1823, Aboriginal people 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 to (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 the numbers of Aboriginal people living in the area was noted. This can be seen in the blanket distribution records from 1833 that list 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 in the Aboriginal population in the area although it must be noted that these records may not be directly comparable.



This decrease in the Aboriginal 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 historical 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 and Wickham areas are relatively rare until the modern period. This does not demonstrate the absence of Aboriginal people from the area but is probably symptomatic of the increasing marginalisation of Aboriginal people resulting from the expansion of the settlement.

The experience of Aboriginal people in NSW since European contact has also been one of movement, forced or otherwise, which has seen Aboriginal people from other traditional countries come to the area and develop their own attachments to Newcastle. The history of the Newcastle area therefore spans the traditional and ongoing connection to country, the attachment to place experienced by other Aboriginal people, European settlers and other migrant peoples since 1788 and the shared history of all.

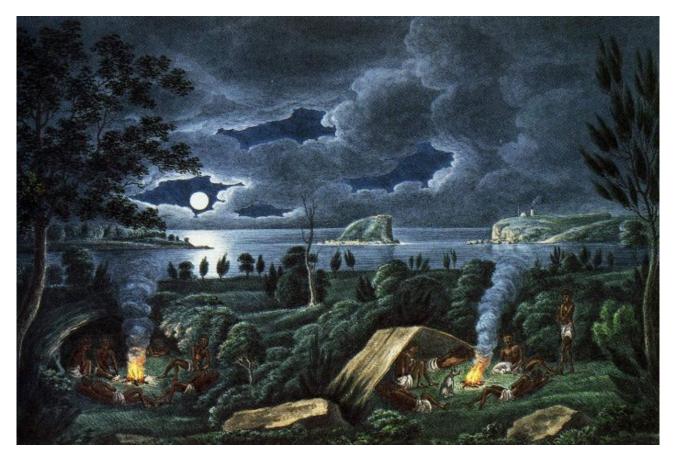


Photo 5.1 Lycett image - 'Aborigines Resting by a Camp Fire near the Mouth of the Hunter River, Newcastle NSW'

Source: National Library of Australia: Call Number PIC MSR 12/1/4 #R5684



More specifically, the completion of Aboriginal cultural heritage assessments along the former Hunter River foreshore has provided the opportunity for current day Aboriginal people with attachment to the Newcastle area to comment on the significance of this area to Aboriginal people. It is invariably noted that the Hunter River foreshore was an important landscape for Awabakal people and provided access to key resources. Consequently, Aboriginal parties consulted regarding previous assessments have identified that the Hunter River foreshore and the archaeological sites it contains are of very high cultural significance.

#### 5.1.1 Yi-Ran-Na-Li

The Yi-ran-na-li is the cliff extending from King Edward Park Headland Reserve to a line east of the southern side of Church Street at its intersection with Watt Street, adjacent to South Newcastle Beach. The site is noted as being of demonstrable historical and cultural significance to the Awabakal people. Its traditional name was first recorded by Revered Lancelot Threlkeld following a conversation with Biraban (also known as Eaglehawk or John McGill), a leader and revered figure of the Awabakal people. Threlkeld noted that Yi-ran-na-lie was a sacred place at which speech was thought to cause stones to fall from the unstable cliff above. When Biraban (accompanied by other Awabakal people) conducted Threlkeld to the spot below the cliff, Threlkeld called out to him, whereupon some small stones did indeed fall upon Threlkeld. The Awabakal at once motioned Threlkeld to be silent and hurry on.

The Aboriginal ceremony and dreaming site of this name has a registered coordinate located approximately 500 metres to the west of the study area along Watt Street. Threlkeld (in Gunson 1974:65) recorded the following account of *Yi-ran-na-li*:

'There is a sort of sacred place near Newcastle on the sea-beach, beneath a high cliff, named Yi-ran-na-li, where, it is said, that if any person speak, the stones will fall down upon them, from the high arched rocks above, the crumbling state of which is such as to render it extremely probable, that the mere concussion of air from the voice would cause the effect to take place. I was once walking beneath the projecting rock and called loudly to M'Gill, who with other blacks, were with me, he instantly beckoned me to be silent, at which I wondered, a few small stones fell down from the crumbling overshadowing cliff at that moment, and they urged me on. When we had passed out of the precincts of the fearful place, I asked what they meant by commanding my silence, and pushing on so quickly, without speaking? This elicited the tradition of the place as being a very fearful one, for if anyone speak whilst passing beneath the overhanging rocks, stones would invariably fall as we had just witnessed.'

Associated with the Yi-ran-na-li is Khanterin, generally known as South Shepherds Hill, the highest point on Shepherds Hill.

The location was accepted into the State Heritage Register in 2021 within the wider 'Newcastle Recreational Reserve' listing, item ID 5063469, as a place of European and Aboriginal cultural significance. This recognised state significance demonstrates that Yi-ran-na-li, and the Newcastle Recreation Reserve as a whole, continues to be a significant location to the local Aboriginal community. The project area is situated on the border of the Newcastle Recreation Reserve, with the proposed works to take place outside the curtilage of the heritage listing.



### 5.2 Archaeological Context

A review of available archaeological information is crucial to the archaeological assessment process, as it informs our understanding of archaeological site patterning, site survival and the potential for detection of extant archaeological sites. This information is discussed with reference to the outcomes of a search of the Aboriginal Heritage Information Management System (AHIMS) database (which documents the location and nature of sites for which site cards have been lodged) and a summary of the outcomes of previous archaeological investigations in the local area.

This information is then considered with reference to key environmental characteristics discussed above to establish a predictive archaeological model for the Project Area.

#### 5.2.1 AHIMS Data

A search of the AHIMS register was undertaken on 15 July 2021. The search encompassed an 4km x 4km area of: Easting 383650 – 387650 and Northing: 6353600-6357600. The extensive search is attached at **Appendix 2** The relative frequency of site types within the search area is outlined in **Table 5.1**, with the site status summary of the AHIMS results outlined in **Table 5.2**.

Table 5.1 Relative frequency of site types in the search area

Site Type	Frequency	Percentage
Artefact	25	58.12
Potential Archaeological Deposit (PAD)	12	27.91
Aboriginal Ceremony or Dreaming	2	4.65
Shell, Potential Archaeological Deposit (PAD)	1	2.33
Artefact, Shell	1	2.33
Potential Archaeological Deposit, Artefact, Shell	1	2.33
Restricted	1	2.33
Total	43	

Table 5.2 Status of the sites within the search area

Site Status	Frequency	Percentage
Valid	33	76.74
Destroyed	10	23.26
Total	43	

Recorded site 38-4-1205 has been identified as being a restricted site, resulting in minimal to no information being available as to its components and location. In order to eliminate any risk to the site in association with the proposed works correspondence with AHIMS was undertaken on 2 August 2021. This confirmed that the proposed works will not impact the restricted site.



FIGURE 5.1

**AHIMS Results** 



#### 5.2.2 Previous Assessments of the Newcastle CBD

# Higginbottom 1999 - Report on the archaeological test excavation of the Convict Lumber Yard and Stockade, Newcastle.

One of the key sites identified within the Newcastle CBD includes the former convict lumbar yards, located approximately 950 metres north east of the project area along the Hunter River foreshore. Aboriginal artefacts were recovered from excavations within the lumber yards in association with deposits of mixed fill and sandy topsoil. Whilst the stratigraphy of the lumber yard excavations were relatively complex and indicative of varying disturbance factors, it was found that some of the Aboriginal objects were related to in situ Aboriginal occupation. However, these objects had been disturbed and mixed with remains of early nineteenth century historical occupation, confirming that the site has been disturbed.

Although the current project area is not situated along the dune system, this information provides an insight into the Aboriginal occupation of the Newcastle area prior to and corresponding to European settlement. It shows that the Newcastle area was actively used by Aboriginal communities during this period, likely due to the coastal resources available.

# Dallas 2004 - Aboriginal Archaeological Test Excavation Report Boardwalk Site Honeysuckle Drive Newcastle, NSW.

During works undertaken for the Honeysuckle Drive Boardwalk, located approximately 800 metres to the north west of the current project area, excavations of a shell midden found a low-density scatter of whelk, cockle and oyster shells. A total of 113 stone artefacts were found in association with midden material. Additional stone artefacts were also recovered from overlying fill deposits. Dallas (2004) reported that the artefacts were present in relatively low densities across the site, with an average of 11/m². Artefacts consisted of flakes, flaked pieces and broken flakes, with the majority of the assemblage manufactured from Nobby's tuff, with smaller quantities of silcrete, rhyolite and quartz.

Similar to the above, this report confirms that the Newcastle area was actively used by Aboriginal communities for resource exploitation. The report concluded that the low density of artefacts is likely the result of the low intensity use of the area, pointing towards transient or opportunistic use.

# Douglas, Tucker and Steel 2001 - Accor Ibis Hotel Site 700 Hunter Street Newcastle, NSW. Interim Report on Archaeological Test & Salvage Excavations at the site.

Historical and Aboriginal archaeological excavations were conducted at 700 Hunter Street, approximately 1.4 km north west of the current project 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. A high volume of Aboriginal objects were recovered from test and salvage excavations of the site, including over 4000 stone artefacts, shell and bone. The artefacts were predominantly manufactured from Nobby's tuff, with low quantities of silcrete, chert and quartz. Artefact types included cores, flakes and 'amorphous knapping waste', with some backed blades also recovered. Of the 92 excavated squares, 43% contained 20 or fewer artefacts, 23% contained 21-60 artefacts, 16% contained 61-100 artefacts and 14% contained 100-250 artefacts, with the remaining three squares containing 320, 500 and 537 artefacts respectively.



Aboriginal objects were recovered from grave fills and exhumation deposits as well as relict topsoils consisting of a black to dark grey sandy loam  $A_1$  horizon and a dark grey sandy loam  $A_2$  horizon. This soil profile differs from the current project area, being that of a brownish black pedal loam topsoil, however it does suggest that areas of intact topsoil may yield varied quantities of Aboriginal objects if investigated. In the case of the current project area however, due to the highly eroding nature of the remnant topsoil it is unlikely that artefactual materials would be recovered.

#### Insite Heritage 2005 - Test Excavation Report 200-212 Hunter Street, Newcastle.

Insite Heritage (2005) conducted test excavations at 200-212 Hunter Street, located approximately 630 metres north east of the current project area. This is recognised as within the area of registered AHIMS site 38-4-0796. The excavation focused on the remains of three buildings erected on the site in the mid-1800s. Aboriginal stone artefacts were recovered from the natural soil layers encountered on site. Artefact types included flakes, one retouched flake, one core and one hammer. All were manufactured from a greenish-grey fine grained siliceous material such as tuff or mudstone, likely to be of local origin. A small number of non-artefactual fragments of fine grained silicious (FGS) material was also recovered in the natural layer, including six fragments and four cobbles or pebbles. One FGS pot lid (a flake removed by heat) was also recorded. One of the artefacts exhibited heating features, being crenated fractures and pot lidding. Some of the artefacts were broken, which were assessed as having occurred during manufacture or from post-depositional processes. It was concluded that all flaked stone artefacts from the natural layers were likely to date from prehistoric Aboriginal occupation of the area.

Further excavations of the historic levels found total of 161 artefacts. These deposits exhibited a similar range of flaked stone artefacts and were found in association with introduced fill including pebbles and cobbles and materials such as flint and chalcedony. Of those recovered, 19 stone artefacts dated from the 1804-1860 layer, and the remaining majority dated from the 1860's. Only three artefacts were found within the post 1860 layer.

This site demonstrates that Aboriginal occupation of the area continued into the early 19<sup>th</sup> century, with areas of mutual occupation being present. The current project area is located in close proximity to an area of combined European historic and Aboriginal significance, suggesting that the landscape could hold evidence for a similar overlap in land use. This would be particularly relevant to the Newcastle Recreation Reserve site immediately adjacent to the project area.

# Archaeological and Heritage Management Solutions 2011 - Section 87/90 Aboriginal Heritage Impact Permit #1098622: Excavation Report.

Further excavations of the site at 700 Hunter Street, located approximately 1.4 kilometres north west of the project area, resulted in the recovery of over 5000 stone artefacts. These were found primarily amongst fill material. A total of  $48m^2$  were excavated, re-identifying midden material and recovering 5534 Aboriginal cultural heritage objects. In addition, a hearth feature dating to 2118 and 1933 BP (calibrated) was also identified. An artefact density of 115.3 artefacts/m³ is noted, with some occurrences of over 100 artefacts per test pit. Over 90% of the assemblage was manufactured from tuff (two varieties present) with only small quantities of silcrete, chalcedony, chert, quartzite, sandstone, volcanic and glass. Retouched artefacts comprised approximately 2.4% of the assemblage, with two ground implements, two hammerstones, an anvil and a pebble chopper also recovered.



Based on OSL dating, it was determined that the oldest deposit dated to 3,500 BP (calibrated) and that later occupation, identified within the  $A_2$  soil landscape (upper dune), dated to 2,480 – 1,933 BP (calibrated). Occupation across this area is believed to have continued after this period, however disturbances across the study area resulting from contemporary developments had severely impacted the  $A_1$  horizon. The current project area will likely be considered in a similar light, as the contemporary infrastructure and urbanisation of the area has severely impacted the remnant  $A_1$  horizon.

#### Umwelt 2017 - Aboriginal Cultural Heritage Assessment Report, Newcastle East End Project, Stage 1.

During the East End Project Stage 1 works, undertaken approximately 525 metres north of the current project area, Umwelt undertook  $48m^2$  of test excavations and uncovered 7,088 artefacts. Additional artefacts were recovered where test pits were expanded and where mechanical excavation was undertaken. This resulted in the recovery of an additional 9,165 artefacts, many of which were from conflated contexts.

Where excavation below 50 cm was performed, the sub-strata consisted of large water transported cobbles with substantial numbers of water rolled artefacts. This indicated that the water rolled artefacts were transported at some point following their deposition by Aboriginal people and relocated. This is potentially relevant to the project areas as the sloped landscape could have resulted in the similar movement of artefactual material over the years prior to the extant development of the site. As these artefacts have been displaced, these deposits are of lower integrity and provide less information regarding the movements and activity of Aboriginal communities of the area as they may not have originated from this location. The assemblage was predominately composed of Nobbys tuff, with silcrete, quartzite and chert present in very limited quantities. Artefacts within the windblown sand deposits include formal tool types (predominantly backed points) as well as other retouched flakes, complete flakes, flaked pieces and other artefact classes. Artefacts within the cobble layers varied from being highly water-rolled and impacted to unaffected and, in some areas, included a high proportion of large, retouched flakes.

Umwelt 2021 – Aboriginal Archaeological Due Diligence Assessment, 11-17 Mosbri Crescent, The Hill

Umwelt (2021) has previously undertaken an Aboriginal Archaeological Due Diligence Assessment of the project area. This assessment identified that the wider 11-17 Mosbri Crescent site has been subject to significant modern disturbance through the construction of the existing NBN Television building, including carparks and other ancillary buildings. A small section of likely remnant Killingworth soil landscape was identified upon a part of the landform within the project area, however it was found have heavily eroded soils. Upon this landform, two Aboriginal objects (tuff flakes) were identified and recorded as the AHIMS site NBN\_AS1. No subsurface archaeological potential was noted, as it was observed that the landform was subject to significant erosion, with a hard baked A2 horizon. This would make the likelihood of subsurface artefactual deposits quite low, as the vertical movement of artefactual material into subsoil layers would be prevented by the inherent compactness of these soils.

As avoidance of these objects was not possible within the scope of the current development, it was recommended that an Aboriginal Cultural Heritage Assessment (ACHA) be prepared to support an Aboriginal Heritage Impact Permit (AHIP) application for harm to the NBN-AS-1 site.



### 5.3 Summary and Predictive Model

Based on the information above, it is clear that the project area is located in a landscape that would have been well resourced and attractive to Aboriginal people. The presence of significant resources such as the Hunter River and coastal waters would have encouraged Aboriginal people to move through the area for the purpose of resource procurement. The former natural drainage line and proximity to Cottage Creek would have provided a semi-reliable source of fresh drinking water, a primary concern to transient communities. The distribution and nature of previously recorded Aboriginal sites in the area supports this, with a large number of sites registered in the sand dune system associated with the Hunter River. Previous sites have been limited to surface artefact scatters identified within disturbed or heavily eroded contexts, similar to the current project area.

However, it is noted that the extent of both surface and sub-surface disturbance within the proposed works area is likely to have removed and/or disturbed remnant artefactual deposits. Disturbances that are likely to have impacted the project area and proposed works areas include the carparks and driveways, large scale excavation for lower level/basement construction, the installation of services, and the installation of infrastructure elements more generally (including landscaping, fencing, outdoor light posts and similar).

Furthermore, minimal topsoil ( $A_1$ ) has been identified within the project area as a direct result of the above-mentioned disturbances and the high erosional hazard associated with a sloped landscape. This would suggest that minimal archaeological material would remain, as the topsoil is the primary location for the identification of artefactual deposits. Due to the hard setting nature of the underlying  $A_2$  and B horizon, it is unlikely that deposits would be located within this deposits. This is evidenced by the presence of the NBN\_AS1 site, which was found in an eroded context, overlying a hard-baked  $A_2$  observed within the project area. As per the requirements of the *Code of Practice for Archaeological Investigation in NSW*, archaeological survey of the project area that meets the relevant requirements was recommended in order to adequately categorise the archaeological potential of the project area.



# 6.0 Survey Methodology

As discussed in **Section 5.0** above, the project area has been subject to previously archaeological survey during the Umwelt (2021) Aboriginal archaeological due diligence prepared. However, this survey was not completed to the requirements of the *Code of Practice for Archaeological Investigation in NSW*. As such, it was deemed necessary to survey the project area to the appropriate standards as part of this assessment.

#### 6.1 Survey Strategy and Information Recorded During the Survey

The survey was undertaken to ensure that a representative sample of all landforms within the area is surveyed, as required to ensure compliance with Code of Practice. As discussed above, the size of the project area is such that there is one landform anticipated and 100% survey coverage was achieved.

The survey unit was defined and named with reference to Requirement 5c of the Code of Practice, including recording start and finish points and/or boundaries for all survey units using a hand-held GPS receiver (set to allow recording of data with datum MGA94) and topographic mapping (where relevant), with track logs to be recorded for all pedestrian transects. Start and finish points/boundaries for survey units were defined based on landforms, Modification Area boundaries, access or other arbitrary terminations (as specified in the Code of Practice). The spacing between individuals was also be recorded for each survey unit.

The distribution of survey participants across the survey units was discussed in the field with survey participants. Survey participants were generally spaced between 5 to 20 m apart where possible.

Photographs were taken within the survey unit. Information recorded for the survey unit included:

- the landform
- gradient (where relevant)
- vegetation
- geology and soils (where suitable areas of exposure/visibility were present)
- identified Aboriginal resources
- levels of average ground surface visibility within the survey unit (in accordance with Requirement 9 of the Code of Practice)
- extent and type of exposures within the survey unit (with reference to the factors leading to the
  exposure such as erosion, earth-moving activities, proximal construction works, etc.)
- any site or area of identified Aboriginal archaeological potential present within the survey unit
- any site or area of identified historical archaeological potential present within the survey unit.



### 6.2 Survey Coverage

In accordance with the Code of Practice, the survey coverage description includes landform unit, the total area surveyed within the landform unit and the quantification of the level of ground surface visibility and exposure. Ground surface visibility is defined as "the amount of bare ground (or visibility) on the exposures which might reveal artefacts or other archaeological materials" (DECCW 2010:13). Exposure is defined as "the percentage of land for which erosion and exposure was sufficient to reveal archaeological material on the surface of the ground" (DECCW 2010:13). As such, exposure refers to the potential for an area to reveal subsurface artefacts or deposits rather than the mere observation of the amount of bare ground.

The calculation of effective survey coverage is undertaken to designate the proportion of the project area in which it is possible to accurately assess the presence or absence of archaeological material. Survey coverage is calculated by multiplying the survey unit area by the percentage of ground surface visibility and exposure within the survey unit. The survey coverage is then expressed as a percentage for the whole survey unit.

#### 6.3 Assessment of Sub-Surface Archaeological Potential

The assessment was undertaken with reference to factors including the archaeological context of the local area, the evaluation of the soil profile (based on soil landscape mapping, exposed soil profiles identified during the survey and geomorphic understandings of the area) and the identification of landforms that may have greater archaeological sensitivity. The following terms will be employed to classify the sub-surface archaeological potential of specific locations

- no archaeological potential: areas where the natural soil profile has been removed through geomorphic processes or human action, thereby removing any archaeological resource of the location. Examples of this category would include a landslide or industrial quarry sites.
- **low archaeological potential**: landscape areas that may have been utilised by Aboriginal people in the past, but at a lower intensity than all surrounding landforms. The density of artefacts deposited within these areas would therefore be low. This category also includes landscape areas of low terrain integrity, where geomorphic processes or human action may have redistributed artefacts from their deposited locations, resulting in site disturbance or destruction.
- moderate archaeological potential: landscape areas that are predicted to have been utilised by
  Aboriginal people in the past, but not intensively or repeatedly. There is therefore potential for artefact
  deposition, but at a lower frequency and density than in areas of high archaeological potential. Terrain
  integrity in these areas may be variable, but the majority of open camp sites are expected to be of low
  to moderate integrity only, with geomorphic processes not acting to bury deposits in situ.
- high archaeological potential: landscape areas predicted to have been intensively or repeatedly
  utilised by Aboriginal people in the past, such as creek confluences or elevated terraces above major
  watercourses. Terrain integrity in these areas may be variable, but the majority of open camp sites are
  expected to be of low to moderate integrity only, with geomorphic processes not acting to bury
  deposits in situ.
- very high archaeological potential: landscape areas predicted to have been more intensively or
  repeatedly utilised than all surrounding landforms by Aboriginal people in the past, such as major creek
  confluences or lagoons. Terrain integrity in these areas may be variable, but these landforms may
  include areas of high terrain integrity, where geomorphic processes may have acted to bury deposits
  in situ. Sites may therefore be of very high archaeological potential.



## 7.0 Archaeological Survey

#### 7.1 Information Provided by Aboriginal Party Representatives

In accordance with the approved methodology, Aboriginal party representatives who participated in the survey were requested to provide information on any Aboriginal cultural values that they identified within the Modification Area. Key information provided by Aboriginal party representatives is documented in **Section 3.0** and is not repeated here.

#### 7.2 Results

The survey of the project area was conducted on 23 August 2021 by Umwelt Senior Archaeologist Ashley O'Sullivan and Umwelt Consultant Alison Fenwick, with the registered Aboriginal party representatives listed in **Table 7.1**. It was agreed with the registered Aboriginal parties that the field survey would be conducted as a walking inspection across the Project Area, focusing on the area of remnant topsoil along the north/north-eastern boundary of the site. Additional fw2areas were inspected in proximity to Arcadia Park and to the southern boundary.

Table 7.1 Registered Aboriginal Party representatives that attended the site inspection

Date	Organisation	Name
23 August 2021	Awabakal LALC	Peter Townsend
	Awabakal and Guringai	Tracey Howie

The project area can generally be described as a mid-upper slope landform that has, in part, been subject to moderate levels of disturbance when compared to surrounding parts of the landscape. However, much of the original landform has been significantly impacted through the construction and ongoing maintenance of the NBN Television building. It was considered that this landform in lesser disturbed contexts formed part of an original landscape prior to urban development impacts. While much of the remnant vegetation has been cleared from this location, visibility was still somewhat restricted due to grass coverage and extensive leaf litter in lesser disturbed parts of the project area. Where evident through exposures, the soil profile identified within this area reflected a heavily eroded hard setting sandy clay loam, reflective of an  $A_2$  soil profile within the Killingworth Soil Landscape. In some areas, the soil profile visible was that of a yellow brown clay, reflective of B horizon subsoils. No  $A_1$  horizon topsoil was observed during the inspection of this area.

The project area was divided into survey units according to location, landform and level of disturbance. Three survey units were identified within the project area (SU1-SU3, refer to **Figure 7.1**). SU1 can be described as the northern extent of the site, the location of a potentially intact section of the original sloping landform with some instances of remnant topsoil (with NBN\_AS1 located within this survey unit), SU2 the eastern boundary of the project area with remnant landform that has been subject to higher levels of disturbance when compared to SU1 and SU3 being the areas of disturbance and development across the remainder of the site.



SU1 can generally be described as a relatively intact portion a moderately inclined slope that extends to form a spur of ridge crest to the north of the project area. Based on the results of previous archaeological investigation for the project area and the wider predictive model, SU1 was considered the area of highest potential for additional Aboriginal objects or sites to be identified. Visibility across this landform was generally poor, with limited surface exposures evident due to grass and leaf litter coverage. Where exposures were evident, generally hard-baked A2 horizon soils that form part of the Killingworth soil landscape were observed. In limited instances, a thin lens of A<sub>1</sub> horizon soil was observed, which was generally less than 5mm in depth. Given the site has been subject to some revegetation efforts (as evidenced by the lack of vegetation on the site in 1954, see Section 4.5), it is possible that some of the topsoil retained has just been collected in recent times from further up the slope. The NBN\_AS1 site was identified in the previously recorded location, with both objects relocated. The site is specifically discussed below in Section 7.2.2. The survey unit was comprehensively surveyed for the presence of any additional surface objects or sites, or the potential for subsurface deposits to be present. Given the lower levels of visibility and the lack of substantial subsurface deposit present, no additional objects were observed and the potential for additional sites to be identified in SU1 (in either surface or subsurface contexts) is considered to be low.

SU2 can largely be described as two areas of moderate to gentle slopes in the eastern and southern parts of the project area. This survey unit has been previously subject to moderate to high levels of disturbance as a result of levelling and modification to the landform as a result the NBN Television building construction. Visibility across the two sections was generally poor, with limited to no surface exposure as a result of leaf litter, grass and general vegetation. Examples of the vegetation and surface visibility can be found in Photo 7.3 and Photo 7.4. Limited evidence of A horizon soils were observed within this survey unit, with some areas of exposed shale bedrock observed in the southern portion of the survey unit (see Photo 7.5). While some A horizon soils were observed within the eastern section of the survey unit, these soils were predominantly comprised of a dark brown loam with no sandy matrix observed. These soils are considered to be introduced to support revegetation efforts in this area as opposed to remnant A horizon soils, as the soils observed in this location are not consistent with that expected in the Killingworth soil landscape (Photo 7.6). As evidenced by the land use history discussion in Section 4.5, any vegetation present within this survey unit (and the wider project area) has been introduced since 1954. Given the presence of exposed bedrock within the survey unit, introduced topsoil and modern disturbances associated with the ongoing use of the NBN Television building, this strongly suggests that the landforms within the survey unit have undergone extensive disturbance and modification and are no longer representative of what would have been utilised by Aboriginal people. As a result of these impacts, the archaeological potential of this survey unit is considered to be low to nil.

SU3 can be described as the portion of the project area that has undergone extensive modification in direct association with the construction of the NBN building, including the sealed carparks, walkways, additional external infrastructure and the NBN building itself. Examples of this disturbance can be seen in **Photo 7.7**. It is likely that the landform observed within SU1 extended south to within SU3, however excavation activities required to level the project area for construction of the NBN Television building has completely removed this sloped landform and any associated A horizon soils. As a result of the extensive modification of the SU3 portion of the project area, the archaeological potential of this survey unit is considered to be nil.



Overall, the project area is considered to have low archaeological potential for additional Aboriginal objects or sites to be identified in either surface or subsurface contexts. This is due to the substantial modifications to the landscape and due to the significant earthworks undertaken in association with the construction of the NBN building. However, as previously identified during the due diligence inspection for the project area, SU1 contains two surface artefacts in the form of the NBN\_AS1 site and impacts to this site by the proposed development must be considered.

#### **7.2.1** Effective Coverage

Generally, the level of effective coverage within the Project Area was low. The main factor contributing to low coverage was grass cover and vegetation growth, being further impacted by modern disturbance such as carpark sealing and building cover.

Table 7.2 Effective Coverage of Project Area

Survey Unit	Landform	Survey unit area (m²)	Visibility %	Exposure %	Effective coverage area (m²)	Effective coverage %
SU1	Moderate slopes	973.526	10	5	4.87	0.5
SU2	Disturbed moderate slope	9172.827	5	5	22.93	0.25
SU3	Heavily modified landforms	2062.690	0	0	0	0

#### 7.2.2 NBN\_AS1

The two artefacts that comprise NBN\_AS1 the two Aboriginal objects previously identified during a 2019 survey of the project area, also conducted by Umwelt. The two objects were originally found upon an exposed area of the remnant Killingworth soil landscape. The site was moderately sloped and was located in close proximity to an area of vegetation (**Photo 7.8**). Upon the recent survey of the site, it was found that the site has not undergone any further modification or disturbance and has maintained a similar level of vegetation. The site was identified as NBN\_AS1 and contained two pieces of flaked tuff (**Photo 7.9** and **Figure 7.1**). Both artefacts were reidentified upon this same landform and in close proximity to their originally recorded position. The visibility of the site was low due to grass and leaf litter, with minimal exposure evident. In limited instances, a thin lens of A<sub>1</sub> horizon soil was observed, which was generally less than 5mm in depth.

As stated above both of the artefacts were heavily weathered, likely due to being exposed on the surface as a result of topsoil erosion. The artefacts are located within the footprint of the proposed works and will be impacted as part of the project.

Given the heavily eroded nature of the project area and the depth of topsoil observed in association within the NBN AS1 site, the site is considered to have no subsurface archaeological potential.

A brief overview of the site details is provided in **Table 7.3**.

Table 7.3 NBN\_AS1 Site Details

Site Name	Easting	Northing	Recorded Using	Artefact Description
NBN_AS1	385660	6355700	Handheld GPS	1: 64mm x 49mm x 38mm tuff flake
				2: 43mm x 19mm x 18mm, tuff flake





Photo 7.1 Example of the general coverage and vegetation clearance within SU1



Example of the sloping landform and low ground visibility within SU1 Photo 7.2





Photo 7.3 Example of the low ground exposure and vegetation within the eastern section of SU2



Example of the landform disturbance and vegetation clearance within the southern Photo 7.4 section of SU2





Area of exposed bedrock within the southern portion of SU2 Photo 7.5



Photo 7.6 Example of the dark brown introduced loam profile of the eastern section of SU2





Site of NBN\_AS1 Photo 7.7



Tuff artefact identified at site NBN\_AS1 Photo 7.8





Tuff artefact identified within site NBN\_AS1 Photo 7.9





**Survey Units and Tracks** 



# 8.0 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 2010b).

#### 8.1 Cultural Value

Cultural 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.

During previous assessments undertaken in the vicinity of the project area, registered Aboriginal parties have identified that the Newcastle area more broadly is a very important location for Aboriginal people due to its association with key physical and spiritual aspects of Aboriginal culture, including key oral traditions relating to this region.

As outlined above in **Section 5.1.1**, the project area is located in proximity to a recognised site of cultural significance. Yi-ran-na-li is a recognised site of. The location was accepted into the State Heritage Register in 2021 within the wider 'Newcastle Recreational Reserve' listing, item ID 5063469, as a place of European and Aboriginal cultural significance. This recognised state significance demonstrates that Yi-ran-na-li, and the Newcastle Recreation Reserve as a whole, continues to be a significant location to the local Aboriginal community. On behalf of Awabakal Traditional Owners Aboriginal Corporation, Kerrie Brauer provided the following statement in regard to cultural significance:

The Newcastle area is part of our Traditional Awabakal Country and is considered by our People to be of great importance within our Cultural Heritage. This area has not just a physical presence within the Cultural Heritage of the Awabakal People, but it is part of our oral history and a place of spiritual significance. The landforms and resources of this locale fulfilled not just the basic needs that underpinned our Peoples subsistence but also satisfies the many other aspects that made up what can be described here as being part of the Cultural foundations of our People.

As already previously stated, this area is of high significance to our People and therefore it would be expected that after the many generations of our People that have walked the pathways of their Ancestors, it is obvious that there would be many areas that contain evidence of this connection, resulting from occupation on varying levels. There are physical reminders left by our Ancestors which provide us as Descendants of the Awabakal People an opportunity to make a physical connection through time with our Ancestors. This connection is one of those avenues that produce in us the sense of perception, appreciation, familiarity and recognition of who we are and where we belong as Awabakal People, which is our birthright.

Therefore, the Cultural Value and Significance remains high, which is attributed to our Cultural Heritage understanding of the connectivity and aspects of the region's holistic perspectives, thus emphasising the



importance of the whole, instead of a Scientific/Archaeological Value aspect of the independence of its site specific parts.

## 8.2 Archaeological Significance

Archaeological significance is determined by assessing Aboriginal sites/places/objects against criteria as set out by the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*. The assessment of the Aboriginal archaeological significance is used to develop a series of cultural heritage management and impact mitigation strategies. The key criteria for the assessment of archaeological significance are outlined below in **Table 8.1**.

Table 8.1 Criteria for the Assessment of Archaeological Significance

Criterion	Low	Moderate	High
Rarity	The site within the surrounding landscape, its integrity, contents and/or potential for subsurface artefacts, are common within the local and regional context.	The site within the surrounding landscape, its integrity, contents and/or potential for sub-surface artefacts, are common within the regional context but not the local context.	The site within the surrounding landscape, its integrity, contents and/or potential for sub-surface artefacts, are rare within the local and regional context.



Criterion	Low	Moderate	High
Representative- ness	This site, when viewed in relation to its integrity, contents and/or potential for sub-surface artefacts, is common within a local and regional context and sites of similar nature (or in better condition) are already set aside for conservation within the region.	This site, when viewed in relation to its integrity, contents and/or potential for sub-surface artefacts, is uncommon within a local context but common in a regional context and sites of similar nature (or in better condition) are already set aside for conservation within the region.	This site, when viewed in relation to its integrity, contents and/or potential for sub-surface artefacts, is uncommon within a local and regional context and sites of similar nature (or in better condition) are not already set aside for conservation within the locality or region.
Research potential	The site, when viewed in relation to its integrity, contents and/or potential for sub-surface artefacts has limited potential to contribute to a greater understanding of how Aboriginal people lived within this area or region.	The site, when viewed in relation to its integrity, contents and/or potential for sub-surface artefacts has moderate potential to contribute to a greater understanding of how Aboriginal people lived within this area or region.	The site, when viewed in relation to its integrity, contents and/or potential for sub-surface artefacts has high potential to contribute to a greater understanding of how Aboriginal people lived within this area or region.
Education potential	The site is not readily accessible and/or when viewed in relation to its contents, integrity and location in the landscape has limited suitability to be used for educational purposes. Other sites with higher education potential are known to be present in the local area and region.	The site is not readily accessible and/or when viewed in relation to its contents, integrity and location in the landscape provides a tangible example that is suitable to assist in educating people regarding how Aboriginal people lived in this area or region.  However, other sites with higher education potential are known or expected to be present in the local area or region.	The site is readily accessible and/or when viewed in relation to its contents, integrity and location in the landscape, provides a very good tangible example that is suitable to assist in educating people regarding how Aboriginal people lived in this area or region. Other sites of higher education potential are generally not known to exist in the local area or region.
Integrity	Stratigraphic integrity of the site has clearly been destroyed due to major disturbance/loss of topsoil. The level of disturbance is likely to have removed all spatial and chronological information.	The site appears to have been subject to moderate levels of disturbance, however, there is a moderate possibility that useful spatial information can still be obtained from sub-surface investigation of the site, even if it is unlikely that any useful chronological evidence survives.	The site appears relatively undisturbed and there is a high possibility that useful spatial information can still be obtained from subsurface investigation of the site, even if it is still unlikely that any useful chronological evidence survives.



Due to the highly partially disturbed nature of the landscape and landforms present, the project area predominately rates as low when assessed against the criteria above in **Table 8.1**. The presence of two Aboriginal objects (NBN\_AS1) in a highly eroded and disturbed context is such that no further archaeological potential remains. As such, the recorded site rates as low when assessed against the criteria above in **Table 8.1**. It is noted that the wider landscape contains Aboriginal objects or sites which hold significance to Aboriginal people, however the heavily eroded and modified nature of the project area did not reflect areas similar to those described in other assessments. It is likely that the project area was used transiently by Aboriginal people in order to access these more preferable locations surrounding the project area, particularly those to the north of the project area associated with the foreshore dunes along the Hunter River. However, this transient nature of use this use does not hold scientific or archaeological significance.

Any additional comments received on the significance of the sites with reference to the archaeological significance will be included here.



## 9.0 Impact Assessment

The purpose of this section is to identify whether the Project will result in impacts to Aboriginal cultural heritage within the Project Area. As discussed in **Section 1.1**, the approved development incorporates residential apartments, basement car parking and landscaping for green spaces.

The proposed excavation and mine grouting works required within the project area will result in 100% removal of the remnant landform identified within the project area. This will result in 100% harm to the recorded Aboriginal site NBN\_AS1.

As identified in **Section 4.0** and **7.0**, much of the project area has been subject to significant historical and modern disturbances, resulting in extensive modification to the remnant landform outside of the partially intact area in the northern extent of the property. Where this significant disturbance has occurred has entirely removed all remnant A horizon (and in some locations, likely also removed B horizon soils). As a result, it is not proposed for an AHIP to be applied for across the entire project area. The AHIP proposed will cover the northern extent of the property, where the NBN\_AS1 site has been recorded and will include provisions for surface collection of the two artefacts (and any others that may be identified) prior to the commencement of works within the AHIP curtilage. All works outside the AHIP curtilage are proposed to commence prior to issue of the AHIP, provided no impacts to the AHIP (or impacts within the AHIP curtilage) occur.

Figure 9.1 outlines the proposed plan of works for the project area.

## 9.1 Intergenerational Equity

Intergenerational equity is the principle whereby the present generation should ensure the health, diversity and productivity of the environment for the benefit of future generations (Commonwealth of Australia, 2002:5).

When assessing likely harm on Aboriginal objects and places, it is important to consider the principles of ecologically sustainable development (ESD), in particular the precautionary principle and the principle of intergenerational equity. Intergenerational equity is:

"...the principle whereby the present generation should ensure the health, diversity and productivity of the environment for the benefit of future generations.

In terms of Aboriginal heritage, intergenerational equity can be considered in terms of the cumulative impacts to Aboriginal objects and places in a region. If few Aboriginal objects and places remain in a region (for example, because of impacts under previous AHIPs), fewer opportunities remain for future generations of Aboriginal people to enjoy the cultural benefits of those Aboriginal objects and places.

Information about the integrity, rarity or representativeness of the Aboriginal objects and places proposed to be impacted, and how they illustrate the occupation and use of land by Aboriginal people across the region, will be relevant to the consideration of intergenerational equity and the understanding of the cumulative impacts of a proposal. Where there is uncertainty, the precautionary principle should also be followed (DECC 2009: 26)".



While it is likely that Aboriginal people utilised the area transiently in the past, only limited evidence of this use was evident during the site survey through the presence of the low-density scatter NBN\_AS1 site. This is likely due to a number of contributing factors, such as erosion or historical clearance and disturbance, as described above and observed during the site inspection. While the project in complete removal of the remnant landform observed within the project area, this landform has already been subject to significant historical disturbance with no topsoils remaining within the project area.

While the removal of these objects from their current location does have some intergenerational impacts, it is highly unlikely that these objects remain *in situ*. However, it is proposed that the objects be reburied on site, with their long-term location not too significantly impacted by the proposed works.

As a result, it is determined that there will be minimal impact on future generations through access to the area.

## 9.2 Ecologically Sustainable Development

Australia's *National Strategy for Ecologically Sustainable Development (1992)* defines ecologically sustainable development as: 'using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased'. Put more simply, ESD is development which aims to meet the needs of Australians today, while conserving our ecosystems for the benefit of future generations.

The project is subject to significant environmental assessment and has met all these relevant criteria. The project is also responsible for the grouting of existing mining voids, which will help to stabilise deep deposits and allow of ongoing use of the area as a residential development.

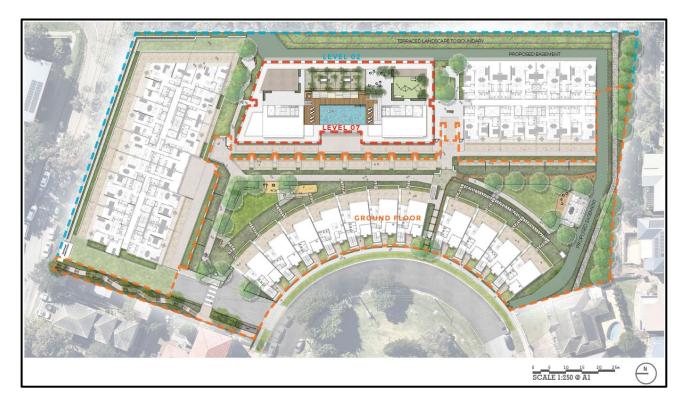


Figure 9.1 Proposed development details of the Project Area



# 10.0 Management and Mitigation Strategies

There are a range of management strategies that are available in relation to the Modification Area that include varying levels of mitigation of identified or potential harm. The selection of management strategies is guided by the information included in the preceding sections of this ACHA. Any comments on the proposed management strategies provided by the registered Aboriginal parties in response to their review of the draft ACHA will be documented here.

The management strategies are discussed below.

#### 10.1 Strategy 1 – Conservation

This management strategy would involve the conservation of the project area, which in turn would require that the proposed development not proceed in its current form. While conservation of the NBN\_AS1 site is the preferred outcome from the perspective of best practice, the site is of low archaeological significance and is considered largely representative of the background scatter that is evident across much of the Newcastle and Hunter region. In addition, the existence of an approved DA for the project dictates that the project design has been established prior to the commencement of this assessment and does not include provision for a conservation outcomes.

From an archaeological perspective, impacts associated with the proposed works can be mitigated appropriately by the application of Strategy 3.

### 10.2 Strategy 2 – Further Investigation

Strategy 2 involves undertaking further investigation to clarify the nature, extent and significance of archaeological deposits within the project area. As discussed in this report, the results of the archaeological survey indicate that the project area has been subject to significant erosional processes and both historical and modern impacts, which has largely removed remnant topsoils. These topsoils are generally considered the deposits within the potential to retain Aboriginal objects. Given there was no topsoil observed across the project area, it is highly unlikely that further archaeological investigations would result in the identification of additional Aboriginal objects or sites.

From an archaeological perspective, impacts associated with the proposed works can be mitigated appropriately by the application of Strategy 3.

## 10.3 Strategy 3 – Site Destruction with Salvage

Strategy 3 would involve undertaking archaeological salvage works of the NBN\_AS1 site within the project area prior to the commencement of construction works. Archaeological salvage in this instance refers to the completion of surface collection of the NBN\_AS1 site and storage at a suitable location until such time that the artefacts can be appropriately reburied on site. Methodology to undertake the surface collection is provided within this report.



## 11.0 Recommendations

The following recommendations have been developed in light of the environmental and archaeological context of the project area, the findings of the previous archaeological assessments in the local area, the assessment of the significance of the project area, the potential impacts of the proposed works, current cultural heritage legislation and the preferred management and mitigation strategies identified above. *Any Aboriginal party recommendations received will be provided and addressed in Section 11.1.* 

### 11.1 Aboriginal Party Recommendations

• A 'no-go zone' should be established around the NBN\_AS1 (38-4-1205) prior to the commencement of works on the site.

Crescent Newcastle Response: Crescent Newcastle supports this recommendation, in discussion with Umwelt, and will establish a 5m buffer around the recorded location of the artefacts prior to works outside the AHIP curtilage commencing. This buffer will be removed upon completion of the salvage of the two artefacts as recommended by the ACHA.

• The registered Aboriginal parties would like all contractors involved in the development of the site to undergo a Cultural Heritage Toolbox Induction by chosen representatives from Awabakal Descendants Traditional Owners. This would take place prior to the commencement of works.

Crescent Newcastle Response: Crescent Newcastle are happy to provide an opportunity to the registered Aboriginal parties to be present on site during the collection of the artefacts as recommended by the ACHA. Further discussions with the registered Aboriginal parties will be had regarding undertaking a Cultural Heritage Toolbox.

• The registered Aboriginal parties would like no remnant topsoil to be removed from the site, or disturbed, due to the potential for additional cultural material to be concealed in a sub-surface context.

Crescent Newcastle Response: as outlined in the ACHA, the only remnant landform remaining within the project area is at the northern extent of the property (where the AHIP has been recommended, and the record site located). Two surveys to date have identified low-nil further potential for additional Aboriginal objects to be found. The entire project area is proposed to be subject to excavation, and retaining remnant topsoil on the site is not possible. As a result, seeking an AHIP that requires collection of the artefacts has been recommended by Umwelt (in consultation with the registered Aboriginal parties).

Tracey Howie (Awabakal & Guringai) would like that during the removal of the concrete slab, which at
current encompasses a large extent of the project area, monitoring of the site be undertaken in order
to determine whether the underlying soil profile retains the potential to contain cultural material.

Crescent Newcastle Response: as discussed above, the project area has previously been subject to extensive modification and ground disturbance in connection to historical land use and the construction of the current NBN building and ancillary structures. As evident during the inspection of the site, where modern infrastructure is present, the landform and underlying soil profile has been severely impacted and entirely removed, with bedrock exposed along the southern extent of the site. In discussion with Umwelt, no monitoring is recommended.



### 11.2 Archaeological Recommendations

- Crescent Newcastle Pty Ltd 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 AHIP.
- Crescent Newcastle Pty Ltd should apply to Heritage NSW for an Aboriginal Heritage Impact Permit
   (AHIP) in accordance with Section 90 of the NPW Act, with this AHIP to cover a portion of the project
   area as shown in Figure 11.1. The AHIP should cover the entirety of the northern vegetated portion of
   the project, identified as the location of a relatively undisturbed soil landscape, and allow for the
   surface collection and resulting harm to the recorded Aboriginal site NBN\_AS1 (AHIMS # 38-4-2100).
- All works undertaken under the AHIP should be conducted in accordance with the methodology provided in Section 12.0.
- All areas outside of the AHIP curtilage have been identified as being subject to significant historical and modern disturbance, with these areas retaining nil archaeological potential. Works outside of the AHIP curtilage within the project area, as identified in Figure 11.1, may proceed with caution.
- In the unlikely event that additional Aboriginal object(s) are exposed during works, all works in vicinity of the object should cease and advice should be sought from an archaeological and the registered Aboriginal parties in regard to management of the object(s).
- In the unlikely event that suspected human skeletal material be identified within the project area, all
  works should cease immediately and the NSW Police Department, NSW Heritage and the registered
  Aboriginal parties should be contacted so that appropriate management strategies can be identified.





FIGURE 11.1

**AHIP Curtilage** 



# 12.0 Surface Collection Methodology

This section provides the methodology for proposed archaeological surface collection within the Project Area.

#### 12.1 Surface Collection

Surface collection would be undertaken within the AHIP area of NBN\_AS1, per the following methodology:

- All surface archaeological material will be recorded using a handheld GPS unit.
- The artefact site will be re-photographed prior to collection and at the completed of the collection of all identified surface artefacts.
- Artefacts will be collected and placed within labelled bags with reference to the site name and location.

### 12.2 Post-Collection Analysis and Reporting

In accordance with best practice standards, the following features will be recorded as a minimum:

Table 12.1 Lithic material attributes to be recorded

General attributes (all artefacts)	Additional attributes (complete flakes)	Additional attributes (cores)
Artefact type	Platforms (width, thickness, surface, overhang removal)	Rotated
Raw material	Termination	Platform preparation
Artefact weight (g)	Retouch (location and type)	Scar type
Artefact measurements (length, width, thickness)	Breakage	Exhausted
Cortex (amount and type)		
Heat affect		

A short letter report that summarises the consultation undertaken prior to the surface collection, RAP representatives that were in attendance and the results of the post-collection analysis will be prepared.

## 12.3 Management of Cultural Materials

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

75 York Street Teralba NSW 2284

Based on the comments and feedback of the Aboriginal community, materials are to be reburied on-site upon the completion of scientific analysis of the recovered objects. Crescent Newcastle have committed to providing a suitable location within the Project Area. Upon completion of the reburial, a new site should be registered at the recorded location of the reburied objects.



## 13.0 References

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