

6.0 Streamlined Development Assessment

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

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

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

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

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

6.1 Assessment of Development Applications

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

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

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

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

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

6.1.1 Integrated Development Assessment Processes

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

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

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

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

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

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

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

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

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

6.1.3.1 Exempt Development Criteria

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

Table 6.1 - Exempt Development Criteria for Development in SACs

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

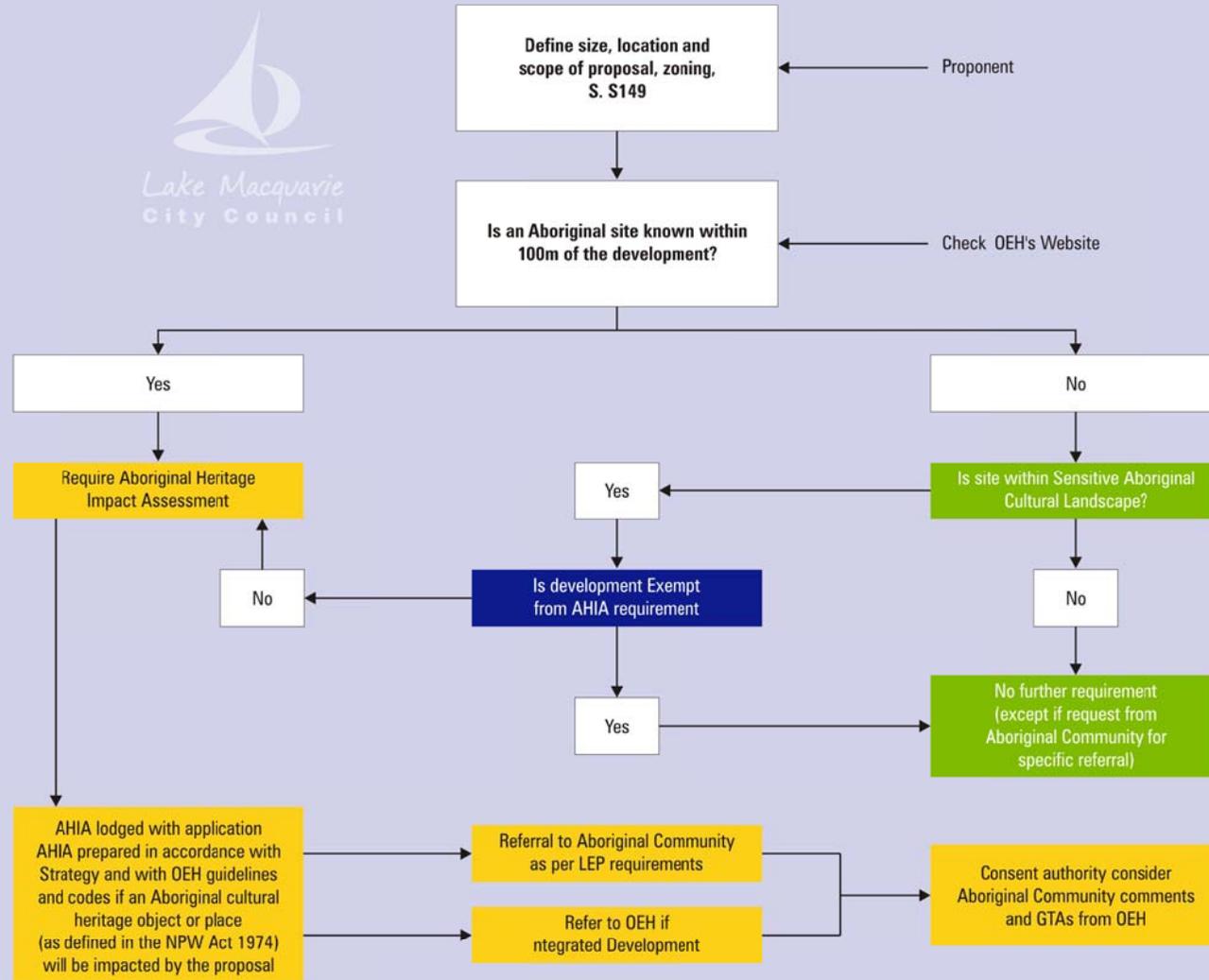


FIGURE 6.1

Flow chart for decisions about Aboriginal Heritage Impact Assessments

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

Exempt Development	Applicable Zones	Land on which exempt development may not be carried out
<p>Minor Works , as set out in Appendix 7, on sites having a Combined/Total area greater than 800 m² subject to:</p> <ul style="list-style-type: none"> i. 75% of combined/total site area already disturbed; or ii. Works do not exceed existing disturbed footprint; or iii. Site previously assessed Aboriginal heritage, i.e. post 1997 consent, rezoning, etc. 	<p>All zones subject to all consents including the following standard condition:</p> <p>Excavation – Aboriginal Relics</p> <p><i>Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area are to stop immediately and the Department of Environment and Climate Change shall be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.</i></p>	<ul style="list-style-type: none"> • Within 100 m of an AHIMS site. • Setback from DP high water mark does not exceed 50 m.

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

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

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

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

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

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

6.1.5 Acceptable Information to Include in an Aboriginal Heritage Impact Assessment

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

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

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

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

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

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

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

6.1.6 Referral Procedures for Development Applications for Local and Regional Development

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

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

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

If an Aboriginal Heritage Impact Assessment is Required

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

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

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

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

6.2 Managing Referral Workload and Timeframes

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

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

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

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

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

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

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

6.3 Guidelines for Proponents and Residents

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

7.0 Managing Public Land

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

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

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

To achieve these objectives, Council proposes the following activities:

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

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

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

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

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

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

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

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

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

8.0 Partnerships and Support

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

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

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

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

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

8.1 Symbolic Recognition of the Traditional Country of Awabakal People

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

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

8.2 Employment of Aboriginal People

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

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

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

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

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

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

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

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

8.3 Aboriginal Involvement in Landcare

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

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

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

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

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

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

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

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

9.0 Schedule of Proposed Actions

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

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

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

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

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

Table 9.1 - Implementation

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

Table 9.1 – Implementation (cont)

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

Table 9.1 – Implementation (cont)

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

Table 9.1 – Implementation (cont)

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

Table 9.1 – Implementation (cont)

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

Table 9.1 – Implementation (cont)

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

Table 9.1 – Implementation (cont)

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

Table 9.1 – Implementation (cont)

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

Table 9.1 – Implementation (cont)

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

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11.0 Glossary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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