

APPENDIX 3



Heritage Impact Assessment

Newstan Colliery S75W Modification

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Report No: 104544

Version/Date: Final D / February 2011

Document Status

Version	Purpose of Document	Orig	Review	Review Date	Format Review	Approval	Issue Date
<i>Draft A</i>	<i>Draft for Client Review</i>	<i>TBM</i>	<i>DR</i>	<i>10-9-10</i>	<i>JH 13-9-10</i>	<i>DR</i>	<i>13-9-10</i>
<i>Draft B</i>	<i>For Aboriginal Com. Review</i>	<i>TBM</i>	<i>JW</i>	<i>20-9-10</i>	<i>JH 20-9-10</i>	<i>DR</i>	<i>20-9-10</i>
<i>Final A</i>	<i>To Centennial</i>	<i>TBM</i>	<i>TBM</i>	<i>8-11-2010</i>	<i>JH 8-11-10</i>	<i>DR</i>	<i>8-11-10</i>
<i>Final B</i>	<i>To Centennial</i>	<i>TBM</i>	<i>TBM</i>	<i>8-11-2010</i>	<i>JH 8-11-10</i>	<i>DR</i>	<i>8-11-10</i>
<i>Final C</i>	<i>To Centennial</i>	<i>TBM</i>	<i>TBM</i>	<i>8-11-2010</i>	<i>JH 8-11-10</i>	<i>DR</i>	<i>10-2-2011</i>
<i>Final D</i>	<i>To Centennial</i>	<i>TBM</i>	<i>TBM</i>	<i>8-11-2010</i>	<i>JH 8-11-10</i>	<i>DR</i>	<i>11-2-2011</i>

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Executive Summary

RPS has been engaged by Centennial Newstan Pty Limited (Centennial Newstan) to prepare a Heritage Impact Assessment (HIA) for a modification to the Newstan Colliery Development Consent (DA 73-11-98). The modification (the Proposed Project), if approved, will allow for the recommencement of first workings bord and pillar mining in an area referred to as Main West located beyond the existing Development Consent boundary.

This report has compiled results from a number of previous studies which have been undertaken within the proposed Main West mining area (Project Area).

All land within the Project Area has been surveyed. No Aboriginal heritage sites which meet the Aboriginal Heritage Information Management System (AHIMS) criteria have been identified in the Project Area. Subsidence for the Project Area has been predicted to be less than 20 mm and therefore no impacts to potential Aboriginal heritage sites are anticipated (Seedsman 2010). On the basis of available information there are no identified impacts to Aboriginal heritage within the Project Area.

No non-Indigenous heritage items have been identified within the Project Area. The following recommendations have been made with consideration of the heritage assessment and predicted subsidence:

Recommendation 1

An updated archaeological survey will be undertaken over and surrounding the Project Area prior to the commencement of mining and with the participation of the relevant Aboriginal stakeholders. The survey will aim to locate any Archaeological sites within the Project Area not identified during previous archaeological investigations.

Recommendation 2

The Newstan Archaeological and Cultural Heritage Management Plan will be reviewed and updated as required in consultation with the relevant registered Aboriginal Stakeholders.

Recommendation 3

A monitoring programme will be developed to monitor any potential impacts on identified archaeological sites within and immediately adjacent to the Project Area prior to, during and post mining activities.

Recommendation 4

The relevant registered Aboriginal stakeholders will be invited to participate in any future monitoring of Archaeological sites.

Recommendation 5

If during mining activities within the Main West Mining Area any additional Aboriginal site/s are identified that were not identified by the proposed additional survey works, then all works in the area will cease, the area cordoned off and contact made with DECCW Enviroline 131 555, a suitably qualified archaeologist and the relevant Aboriginal stakeholders, so that it can be adequately assessed and managed.

Aboriginal Statements of Cultural Significance

The following statements have been prepared by Aboriginal organisations involved in the Project and have been provided upfront in this document to emphasise the importance of the Aboriginal cultural landscape within which the Project Area is situated and to pay respect to Aboriginal cultural values of the area.

Awabakal Traditional Owners Aboriginal Corporation:

“The Awabakal cultural environment is a holistic one that interconnects our spirituality and land to our ancestral family. This land is full of meaningful cultural reminders that are articulated through the Awabakal Dreaming Stories, Language and Art.

Aboriginal people have a personalised connection with their unique heritage. This relationship connects them to their cultural land, language and their spirituality. Though the Awabakal story since colonisation has been marred with complexity, disrespect and violence, the descendants of the Awabakal people believe it is essential to nurture new visions that reflect the cultural integrity of our ancestral family.

This region was inhabited and utilised by the Awabakal people prior to European settlement, a history that has been well documented. Life here prior to colonisation was completely different with an abundant existence and natural resources. There are many physical reminders that reflect the lifestyle of Awabakal people within their natural environment.

It is our aim to protect the cultural integrity that has been inherited from our ancestral family. We believe that it is essential that the values from the Awabakal culture are still relevant to today’s society, with a view to keep intact the organic moral and spiritual fibre of this land, giving direction to all who live in this land. This region delivers constant reminders of the existence of our people, whose occupation intrinsically connects us to the environment within the investigation area.

The Centennial Newstan Project Area is located within the vicinity off the township of Awaba, an area, which is firmly embedded within the Awabakal landscape. “All land is culturally significant to Aboriginal people and therefore deserves the respect and sensitivity towards Aboriginal people and their ancestral lands.

We would like to take this opportunity to reiterate our family connection to the Awabakal people, as being direct descendants of the Traditional Awabakal People (the Lake Macquarie and its surrounding region). We as Awabakal descendants are connected to the Awabakal culture and heritage through our ancestral families.

The principle vision and aims of the Awabakal descendants is to protect the integrity of the culture and heritage of our ancestors. We give special consideration to any evidence of our people’s presence, as they become physical reminders that ultimately unite us with

our spirituality, country and our people.

Historically this region was enjoyed and utilised by Awabakal people for ceremony, fishing, hunting, food gathering—their Awabakal lives. Their existence and presence is evidenced by the vast amount of documented information about this area, a lifestyle of traditional occupation, warranting a high regard for this historical value that this particular area provides.

Our connection to our ancestral country is indeed both a physical and spiritual one. This region is a constant reminder of the presence of our ancestral family who were uniquely connected to their environment that is enveloped by the Awabakal cultural boundary, echoing the ethos of our cultural heritage.”

Quote from statements by the Awabakal Traditional Owner Aboriginal Corporation and speeches by Nola Hawken, Awabakaleen Elder. Copyright 2010.

Awabakal Descendants Traditional Owners Aboriginal Corporation:

The area in which the Aboriginal Heritage Assessment is to be conducted is located within the Traditional Tribal Country of our people, the Awabakal. This area is significant because our people have lived around Newcastle and Lake Macquarie for many thousands of years, these resource rich areas were utilised on many occasions to hunt, fish and carry on traditions that have been passed down for centuries. This area was frequented on many occasions by our people and there are some significant sites located within close proximity to the area in question. There are also many other sites located within the surrounding area which provide tangible evidence of the Cultural Heritage of our people.

Shane Frost correspondence 24 July 2010

Abbreviations

Abbreviation	Description
ACHCRs	Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010)
AHD	Australian Heritage Database
AHIMS	Aboriginal Heritage Information Management System
AHIP	Aboriginal Heritage Impact Permit
Centennial Newstan	Centennial Newstan Pty Limited
DECCW	Department of Environment, Climate Change and Water
DA 73-11-98	Development Application 73-11-98 (DA 73-11-98)
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EPRG	Environment Protection and Regulation Group
GIS	Geographic Information System
ICCRs	Interim Community Consultation Requirements
ILUA	Indigenous Land Use Agreement
LEP	Local Environment Plan
LGA	Local Government Area
NPW Act	National Parks and Wildlife Act 1974
PAD	Potential Archaeological Deposit
SHR	State Heritage Register

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I Introduction

RPS has been engaged by Centennial Newstan Pty Limited (Centennial Newstan) to prepare a Heritage Impact Assessment (HIA) for a modification to the Newstan Colliery Development Consent (DA 73-11-98). This report has compiled results from a number of previous studies which have been undertaken in the Project Area.

This report has considered the environmental and archaeological context of the Project Area and has been prepared in accordance with the relevant legislation. Management recommendations have been formulated with consideration of the significance of Aboriginal and non-Indigenous heritage and the proposed mining activities.

1.1 Background

Newstan Colliery began mining operations in 1887 prior to the implementation of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and operated under continuing use rights pursuant to section 109 of the EP&A Act. On 14 May 1999, the (then) Minister for Urban Affairs and Planning granted Development Consent to the Newstan Colliery under Part 4 of the EP&A Act for the Newstan Colliery Life Extension Area pursuant to Development Application 73-11-98 (DA 73-11-98). Underground mining at the Newstan Colliery has been undertaken in the Young Wallsend, Great Northern, Fassifern, Borehole and West Borehole coal seams and produces semi soft coking coal for both the domestic and export markets. The Newstan Colliery ceased underground mining production in 2009 however continues to operate the Newstan Colliery Surface Facilities Area for the handling and processing of coal from other Centennial operations.

Centennial Newstan is seeking a modification to the existing Development Consent (DA 73-11-98) to allow for the recommencement of first workings bord and pillar mining in an area referred to as Main West located beyond the existing Development Consent boundary.

The mining method for the proposed Main West mining area will involve first workings bord and pillar mining only and be designed to result in less than 20 millimetres of subsidence on the surface. Due to mining being designed to achieve less than 20 millimetres of surface subsidence, subsidence-related surface impacts are anticipated to be negligible. The proposed Project will require the employment of approximately 50 personnel for the life of the proposed Project with a maximum production rate of 1 million tonnes per annum of Run of Mine coal. The proposed levels of employment and production are within the current consented limits assessed within the Newstan Environmental Impact Statement (EIS) and approved DA 73-11-98.

An Archaeology and Cultural Management Plan has previously been prepared for the Newstan Colliery (Centennial Newstan 2006).

1.2 The Project Area

The Project Area is located in the vicinity of the Awaba township, approximately 25 kilometres southwest of Newcastle in the Lake Macquarie Local Government Area (LGA) (Figure 1-1).

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Legend



Proposed Main West
Project Area

SCALE: 1:50,000 AT A4 SIZE

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TITLE: FIGURE 1-1 PROJECT AREA

LOCATION: NEWSTAN

DATUM: N/A
PROJECTION: MGA ZONE 56 (GDA 94)

DATE: 17/09/2010
PURPOSE: ARCHAEOLOGY

LAYOUT REF: Figure 1-1 Project Area B A4
VERSION (PLAN BY): B A4 (NW-TBM)

CLIENT: CENTENNIAL
JOB REF: 104544

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1.3 Legislative Context

Aboriginal heritage (places, sites and objects) within NSW are protected by *National Parks and Wildlife Act 1974* (NPW Act). In some cases, Aboriginal heritage may also be protected under the *Heritage Act 1977*. The *Environmental Planning and Assessment Act 1979* (EP&A Act), along with other environmental planning instruments, trigger the requirement for the investigation and assessment of Aboriginal heritage as part of the development approval process. For crown land, provisions under the *Native Title Act 1993* may also apply.

1.3.1 Commonwealth Legislation

Native Title Act (1993)

The *Native Title Act (1993)* recognises that some Aboriginal people have rights and interests to land which derives from their traditional laws and customs. Native title rights can include rights to: live on the land, access the land for traditional purposes, protect important places and sites, collect food and medicinal resources from native plants, hunt and fish, teach traditional law and customs, and to have input into land use practices and development planning. Native title can be negotiated in three ways, through a native title claim (applications and determinations), through an Indigenous land use agreement (ILUA) or future act agreements.

An ILUA is an agreement between a native title group and other parties who use or manage the land and waters. The ILUA process allows for negotiation between indigenous groups and other parties over the use and management of land and water resources, as well as providing a means for coming to a formal agreement. ILUA are binding once they have been registered on the Native Title Tribunal's Register of Indigenous Land Use Agreements.

Lands within the study area are subject to an ILUA which was entered into on the 28th of May 1999 by the Wonnarua People (Wonnarua Nation Aboriginal Corporation) and Powercoal Pty Ltd which has since been acquired by Centennial, as such, Centennial is bound by the terms of the ILUA which are set out in the Master Deed. Section 7 of the Master Deed outlines Centennial's obligations and provisions for Aboriginal heritage are outlined in Section 7.2. Schedule 5 provides further detail regarding cultural heritage protocols. In particular, Schedule 5 requires that an Aboriginal Cultural Heritage survey needs to be undertaken where there is potential for mining operations to impact land which has not previously been mined or areas which have not previously been subject to heritage investigations. At least 30 days notice needs to be given to the Wonnarua People if land is to be disturbed by mining and a survey needs to be undertaken by a representative of the Wonnarua People and may also include; an archaeologist, surveyor, or representative of Centennial.

1.3.2 State Legislation

National Parks and Wildlife Act 1974 (NPW Act)

The primary state legislation relating to Aboriginal heritage in NSW is the NPW Act. The legislation is overseen by the Department of Environment, Climate Change and Water (DECCW), and specifically the Director-General of the DECCW.

Protection for Aboriginal sites is provided under Part 6 of the NPW Act. It is an offence for a person or company to:

- knowingly destroy, deface, damage, cause or allow the destruction/defacement to an Aboriginal object or Aboriginal place (Section 90);
- disturb, move, excavate for the purposes of finding Aboriginal objects, or take possession of Aboriginal objects (Section 86) unless a valid Permit under Section 87 of the Act has been issued by the Director General of the DECCW; and
- be aware of the location of an Aboriginal object and fail to report it to the DECCW (Director-General) within a reasonable timeframe (Section 91).

Heritage Act 1977

Historical archaeological relics, buildings, structures, archaeological deposits and features are protected under the *Heritage Act 1977* and may be identified on the State Heritage Register (SHR) or by and active Interim Heritage Order. Certain types of historic Aboriginal sites may be listed on the SHR or subject to an active Interim Heritage Order; in such cases they would be protected under the *Heritage Act 1977* and may require approvals or excavation permits from the NSW Heritage Branch.

Environmental Planning & Assessment Act 1979 (EP&A Act)

The EP&A Act regulates a system of environmental planning and assessment for NSW. Land use planning requires that environmental impacts are considered, including the impact on cultural heritage and specifically Aboriginal heritage.

Further details on the relevant legislative Acts are provided in Appendix 1.

1.4 Authorship and Acknowledgements

This report was prepared by RPS staff: Tessa Boer-Mah, with assistance from Anna Nardis and reviewed by Darrell Rigby.

2 Non-Indigenous Heritage Context

2.1 History

European settlement in the Lake Macquarie region was formalised in 1826 when Lieutenant Percy Simpson took up a land grant of 2000 acres (Payne n.d.:5). This land that Simpson named “Kourumbung” was described as running southwards from the southern bank of Dora Creek, then known as “Western Rivulet”. Before this grant was surveyed, Brisbane had also promised Simpson a second grant of 2000 acres adjoining his first grant (Payne n.d.:6). The second grant in the Cooranbong area was made to Patrick Campbell of land (1280 acres) adjoining that of Simpson’s property on the north bank of Dora Creek (Payne n.d.:6). The grants at Cooranbong were subdivided after 1861.

In 1826, the Reverend Lancelot Threlkeld had established an Aboriginal mission on 10000 acres at Bah – ta – bah, the present site of Belmont on the north eastern shore of the Lake (Clack 1977:23). Threlkeld with government assistance was granted 1280 acres of peninsula on the western shore of Lake Macquarie, which he called “Ebenezer”. The peninsula is now known as Coal Point. The site of Threlkeld’s mission and home farm is now the township of Toronto. Threlkeld operated his mission until 1840, when Government support was withdrawn (Clack 1977:23).

Development of Cooranbong had progressed slowly through the development of the timber industry. From the 1830’s timber getting assumed greater importance both in stands of cedar and from the 1860’s hardwood (Chamberlain 1997:35). The completion of the ‘Homebush – Waratah’ Railway in the late 1880’s initiated settlements along the line at Wyong, Wyee, Morisset and Fassifern (Chamberlain 1997:40). As the railway line by passed Cooranbong it effectively ceased the growth potential of the town and the population decreased.

The township of Toronto was established in early 1880s and became a tourist destination. In 1887 The Newstan Colliery was established by Northumberland Coal and Land Company (Clack 1977:48). Since this time the area has been mined by various operators including the Fassifern Coal Company, Fassifern Colliery Pty Ltd, Newstan Colliery Pty Limited and Powercoal (Clack 1977:53). The Newstan Colliery was one of the first mines to be lit by electric light in New South Wales.

2.2 Heritage Register Search

The identification of potential non-Indigenous heritage items within the Project Area was undertaken by searches of the relevant heritage registers.

The Australian Heritage Database

The Australian Heritage Database is managed by the Australian Government Department of the Environment, Water, Heritage and the Arts and contains more than 20,000 places

of natural, historic and Indigenous significance. The Australian Heritage Database is an online database of items listed under the Commonwealth Heritage List, National Heritage List and the Register of the National Estate. A search of this database has shown that there are no items listed within the Project Area.

The NSW Heritage Inventory

The State Heritage Inventory database is maintained by the NSW Heritage Office and lists all items that have been identified as of heritage value throughout NSW. Items listed on the Heritage Inventory include those which have been listed by local councils and also those which are listed on the State Heritage Register (items of state significance). A search of the inventory has indicated that there are no state heritage items listed in the Project Area.

Lake Macquarie Local Environmental Plan

The Lake Macquarie Council Local Environment Plan 2004 (LEP 2004) contains a draft listing of Heritage listed items for the Awaba region (Schedule 4). No non-Indigenous heritage items have been listed within the Project Area.

3 Aboriginal Consultation

The proposed Project requires approval under the Part 3A process, specifically Section 75W of the EP&A Act (1979). It is required under this process that the *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* (DEC 2005) be followed, as well as the *Interim Community Consultation Requirements (ICCRs) for Applicants* (DEC 2004). Centennial has endeavoured to undertake a high level of consultation for this proposed Project and therefore has used the *Aboriginal Cultural Heritage Consultation Requirements (ACHCRs) for Proponents* (DECCW 2010) as a basis for consultation, which is considered to supersede the ICCRs and provide a better level of consultation with Aboriginal communities.

The purpose of Aboriginal community consultation is to provide an opportunity for the relevant Aboriginal stakeholders to have input into the heritage management process. Centennial understands that Aboriginal consultation is vital for identifying Aboriginal cultural sites and that it is necessary for Aboriginal people to be involved in the decision making process with regards to any potential impacts to Aboriginal sites or places. Centennial has endeavoured build solid relations with the local Aboriginal community by providing additional consultation meetings and developing Aboriginal community consultation protocols.

This Project has implemented consultation with the relevant Aboriginal Groups in accordance with the requirements of the ACHCRs. The ACHCRs include a four stage Aboriginal consultation process and stipulates specific timeframes for each stage. Stage 1 requires that Aboriginal people who hold cultural information are identified, notified and invited to register an expression of interest in the assessment. Stage 1 includes the identification of Aboriginal people who may have an interest in the Project Area and hold information relevant to determining the cultural significance of Aboriginal objects or places. This identification process should draw on reasonable sources of information including: the relevant DECCW Environment Protection and Regulation Group (EPRG) regional office, the relevant Local Aboriginal Land Council(s), the Register of Aboriginal Owners, the Native Title Tribunal, Native Title Services Corporation Limited, the relevant local council(s), and the relevant Catchment Management Authority. The identification process should also include an advertisement placed in a local newspaper circulating in the general location of the Project Area. Aboriginal organisations and/or individuals identified should be notified of the proposed Project and invited to register an expression of interest for Aboriginal consultation. Once a list of Aboriginal stakeholders has been compiled from the expression of interest process they need to be consulted in accordance with stage 2, 3 and 4 of the ACHCRs.

Letters were sent (29/06/2010) to DECCW EPRG regional office (northeast branch), the Koompahtoo Local Aboriginal Land Council (now West Lakes Aboriginal Community), the Registrar of Aboriginal Owners, the Native Title Tribunal, Native Title Services Corporation Limited, the Lake Macquarie City Council, and the Hunter Central Rivers Catchment Management Authority, requesting identification of interested Aboriginal groups. As a result of contacting these organisations 8 Aboriginal community groups were identified as

potentially having an interest in the proposed Project and letters inviting expressions of interest were sent to these identified groups (Table 3-1).

Table 3-1 Letters inviting expressions of interest were sent to the following Aboriginal community groups on the advice of relevant organisations

Organisation	Representative
Awabakal Newcastle Aboriginal Co-op	Kevin McKenny
Awabakal Descendants Traditional Owners Aboriginal Corporation	Shane Frost
Awabakal Traditional Owners Aboriginal Corporation	Kerrie Brauer
West Lakes Aboriginal Community	Cheryl Kitchener
Yamuloong Group Initiative Ltd	Sean Gordon
Arwarbukarl Cultural Resource Association	Darren McKenny
Cacatua Culture Consultants	Donna and George Sampson
Wonnarua Nation Aboriginal Corporation	Laurie Perry

As a result of expression of interest letters sent and an advertisement placed in the Lakes Mail (8/7/2010) five Aboriginal organisations registered their interest in the proposed Project (Table 3-2). These stakeholders have been consulted with throughout the development of this heritage impact assessment in accordance with the ACHCRs (details are available in Appendix 2).

Table 3-2: Aboriginal stakeholders who registered an interest

Organisation	Representative
Awabakal Descendants Traditional Owners Aboriginal Corporation	Shane Frost
Awabakal Traditional Owners Aboriginal Corporation	Kerrie Brauer
West Lakes Aboriginal Community	Cheryl Kitchener
Cacatua Culture Consultants	Donna and George Sampson
Wonnarua Nation Aboriginal Corporation	Laurie Perry

Information regarding the proposed heritage assessment methodology and strategy for collecting information on cultural heritage significance was provided in writing to the Aboriginal stakeholders on the on the 30/7/2010. Two groups responded with comments to the methodology (Table 3-3).

Table 3-3: Aboriginal stakeholders who responded to the methodology

Organisation	Representative	Date of Reply to Methodology
Awabakal Traditional Owners Aboriginal Corporation	Kerrie Brauer	27/08/2010
Awabakal Descendants Traditional Owners Aboriginal Corporation	Shane Frost	30/8/2010

The draft report was sent to all the Aboriginal stakeholders on the 20/09/2010 and comments were received from Awabakal Traditional Owners Aboriginal Corporation and Awabakal Descendants Traditional Owners Aboriginal Corporation (Table 3-4). In response to issues raised from Aboriginal stakeholders the report was modified and

resent to Aboriginal stakeholders, agreement on the revised recommendations was received from the stakeholders (Table 3-4).

Table 3-4: Aboriginal stakeholder responses to the draft report

Organisation	Representative	Comments Received (Date of Reply)	Outcome
Draft Report sent 20/9/2010			
Awabakal Descendants Traditional Owners Aboriginal Corporation	Shane Frost	26/10/2010	Issues raised
Awabakal Traditional Owners Aboriginal Corporation	Kerrie Brauer	3/10/2010	Issues raised
Report revised to address issues raised and resent to Aboriginal stakeholders (7/1/2011)			
Awabakal Descendants Traditional Owners Aboriginal Corporation	Shane Frost	27/1/2011	Agreed on recommendations in revised report
Awabakal Traditional Owners Aboriginal Corporation	Kerrie Brauer	31/01/2011	Agreed on recommendations in revised report

4 Environmental Context

An understanding of environmental context is important for the predictive modelling of Aboriginal sites, as well as, for their interpretation. The local environment provided natural resources for Aboriginal people, such as, stone (for manufacturing stone tools), food and medicines, wood and bark (for implements such as shields, spears, canoes, bowls, shelters, amongst others), as well as, areas for camping and other activities. The nature of Aboriginal occupation and resource procurement is related to the local environment and it therefore needs to be considered as part of the cultural heritage assessment process. The reporting of environmental context is also required by DECCW as specified in the National Parks and Wildlife Standards and Guidelines Kit.

4.1 Geology and Soils

Aboriginal people often made stone tools using silicious, metamorphic or igneous rocks and therefore understanding the local geology can provide important information regarding resources in an area. The nature of stone exploitation by Aboriginal people depends on the characteristics of the source, for example whether it outcrops on the surface (a primary) source, or whether it occurs as gravels (secondary source) (Doelman, Torrence et al. 2008).

The geological formation of the Project Area comprises the Narrabeen Group and Newcastle Coal Measures, predominantly the Clifton Subgroup and Singleton Subgroup (Matthei 1995:61). These formations include sandstone, interbedded sandstone and siltstone, claystone, tuff and coal. The presence of sandstone and tuff in the Project Area is important for Aboriginal occupation of the area because as some types of silicified tuff have been used by Aboriginal people for manufacturing flaked stone tools and sandstone was used for grinding grooves, for shelter (if rockshelters present), engravings, amongst other uses.

The majority of the Project Area consists of the Awaba soil landscape, although small areas of the Warners Bay and Doyalson soil landscapes are also represented study area (Matthei 1995).

Three dominant soil materials have been identified in the Warners Bay soil landscape (wa1, wa2, wa3) (Matthei 1995:61). Topsoil is generally comprised of an A₁ and A₂ horizon; A₁ comprises friable brownish black loam (wa1) which is generally 20cm thick, A₂ is hardsetting bleached clay loam (wa2), 10-40cm thick (Matthei 1995:61). The B horizon comprises mottled yellowish grey clay (wa3), 60->150cm thick (Matthei 1995:62). It is expected that where Aboriginal artefacts are present in this soil landscape they are likely to occur in wa1, less likely to occur in wa2 and absent in wa3.

The Awaba Soil landscape generally comprises five dominant soil materials (aw1, aw2, aw3, aw4 and aw5) (Matthei 1995:227). Topsoil in this landscape comprises of gravelly brown loam. Gravelly, hardsetting bleached sandy loam to sandy clay loam (aw2)

underlies the topsoil as a shallow subsoil (Matthei 1995:228). The B horizon comprises of gravelly earthy bright yellowish sandy clay loam (aw3) (Matthei 1995:228). Gravelly grey clay (aw4) occurs as a B₂ horizon and a well – structured sticky plastic clay (aw5) is found beneath it (Matthei 1995:228).

The Doyalson soil landscape is characterised by five dominant soil materials (do1, do2, do3, do4 and do5) (Matthei 1995:231). The topsoil consists of brown loose loamy sand (do1) with an A₁ Horizon comprising of hardsetting bleached yellowish brown clayey sand (do2) (Matthei 1995:232). An earthy bright yellowish brown sand clay loam underlies the A₂ Horizon (do3) and underlying this is earthy light grey clay subsoil (do4) (Matthei 1995:232). Strongly pedal clay (do5) occurs at the B Horizon (Matthei 1995:232).

4.2 Topography and Hydrology

The topography of the Project Area is characterised by undulating rises and low hills with broad drainage lines and ridges (Matthei 1995). In small sections of the Project Area the topography consists of steep low hills with uneven surfaces with many cobbles, stones and boulders (Matthei 1995).

The Project Area is drained by the upper tributaries of Lords Creek which also drains into Lake Macquarie (Topographic Map Sheet Swansea 92314N 2006).

4.3 Climate

Approximately 18,000 years ago, climatic conditions began to alter which affected the movement and behaviour of past populations within their environs. During this time, notably at the start of the Holocene (more than 11,000 years ago), the melting of the ice sheets in the Northern Hemisphere and Antarctica caused the sea levels to rise, with a corresponding increase in rainfall and temperature. The change in climatic conditions reached its peak about 6,000 years ago (Short, 2000:19-21). Up until 1,500 years ago, temperatures decreased slightly and then stabilised about 1,000 years ago, which is similar to the temperatures currently experienced. Consequently, the climate of the Project Area for the past 1,000 years would probably have been much the same as present day, providing a year round habitable environment.

The Project Area is located in the Lake Macquarie area which is situated in the Lower Hunter region. The Project Area has a temperate climate that is affected by its proximity to the coast, swamps and mountain ranges. Summer and autumn are the wettest seasons with an average of rainfall of approximately 840 millimetres and the temperatures can range between 6 degrees and 30 degrees Celsius (Bureau of Meteorology 2010). The temperate climate would be suitable for occupation for the majority of the year providing suitable shelter could be obtained during the wet periods.

4.4 Flora and Fauna

Flora species identified in and around the region of the Project Area consist of several Eucalyptus species such as Sydney peppermint (*Eucalyptus piperita*), scribbly gum (*Eucalyptus haemastoma*) and brown stringy gum (*Eucalyptus capitellata*) (Keith 2006:146). Common understory in the Project Area includes Tea tree (*Melaleuca*), flax-leaved wattle (*Acacia linifolia*), sunshine watter (*A. Myrtifolia*) and hairpin banksia (*B.spinulosa*) (Keith 2006:146). Fauna species identified in and around the region of the Project Area include various macropods, possums and bird species (National Parks and Wildlife Service NSW 2003). Such faunal species have been recovered from Aboriginal occupation sites in the Sydney region (Attenbrow 2002:72-73), but were also likely exploited in the Hunter region.

5 Regional Aboriginal Heritage Context

The Aboriginal heritage assessment process requires that the significance of Aboriginal sites within a Project Area be assessed. It is important that Aboriginal sites are contextualised within the local and regional landscape, in order to inform the assessment of significance. The Aboriginal heritage context is also needed in order to develop a predictive model of Aboriginal sites in the Project Area. Historical information also provides additional information for the interpretation of archaeological sites.

5.1 Historic Records of Aboriginal Occupation

It is important to acknowledge that early historical documents were produced for a number of reasons and thus may contain inaccuracies and/or bias in their reporting of events or other aspects of Aboriginal culture. Nonetheless, some historical documents provide important information and insights into local Aboriginal customs and material culture at the time of non-Indigenous settlement and occupation of region. There are a number of ethno historical descriptions from the late nineteenth century of various Aboriginal groups who populated the region surrounding the Project Area.

Gunson (1974:30) argues that the Awabakal were the largest clan in the Lake Macquarie region but because of Threlkeld's (an early missionary) well-known studies in the area, Awabakal became the name which represented the entire tribe. Early government documents indicate this large tribe was composed of a number of clans - the Awabakal (Lake Macquarie and Newcastle region), the Five Islands clan, the Ash Island clan, the Kurungbong clan (Cooranbong), and the Pambalong clan (Swamps district and near Newcastle). Tindale (1974) shows the Awabakal as one independent group in Aboriginal Tribes of Australia. While the details of the clan boundaries are unclear, the broad geographical and cultural boundaries are relatively consistent between sources.

The Awabakal appear to have been people of the coast, estuaries, lakes and wetlands, but also with attachment to the rugged sandstone country through the Sugarloaf and Watagan Ranges. The traditional country of the Awabakal people was bounded to the north by the Worimi, to the west by the Wonnarua, to the south west by the Darkinjung and to the south along the coast by the Kuring-gai people.

It appears that various Aboriginal groups of the region displayed some level of interaction as reported by Threlkold (Turner 1997) who noted that the "natives here are connected in kind of a circle extending to the Hawkesbury and Port Stephens"

5.1.1 Implements for Gathering Food and Weapons

Threlkeld (in Gunson 1974) observed stone hatchets ('baibai' 'pukko'). Dawson (1830) observed grooved heads with a handle fastened by adhesive gum. He states that gum obtained from wattle (*Acacia* spp.) and grass trees as used in the manufacture of much equipment. The stone was mainly basalt or diorite and ground on sandstone to form a bevelled cutting edge. There is evidence that shell scrapers were used to sharpen

spears, but with the introduction of glass, that material quickly became preferred (Dawson 1830).

Threlkeld (in Gunson 1974) recorded many important aspects of the material culture of Aboriginal people:

‘Their canoes were made of the bark of a tree about 12 or 14 feet long, and from 3 to 4 feet in width. They procure the limb of a tree and set it up against the standing trunk, as a ladder, on which they ascend and cut around the whole circumference of the tree in the same manner as done at the bottom. They then chop down a perpendicular line, when they insert their throwing-stick, which is of a wedgelike make at one end, betwixt the bark and the tree, and choosing the season when the sap is either ascending or descending....they proceed to separate the sheet of bark from the tree whilst it is most carefully allowed to slide down and then is laid flat on the ground the rough outside of the bark being upward. A fire is then made upon the bark and being heated the steam of the sap softens it so that they can crumble up each end like a folded fan, the which they tie securely with vines from the bush...’ (Threlkeld in Gunson 1974).

He also described the manufacture of fishing, hunting, and fighting spears that were made from the flowering stem of the grass tree with one or more pieces of hardwood attached to the end within which was set a barb of bone or quartz (or glass in post contact times) (Gunson 1974:66). The resin from the grass tree or Acacia was used as the fixative. The spears were thrown using a throwing stick, the woomera. Woomeras were generally about four foot long and half an inch thick and tapered to a point at one end where a barb was fixed (Threlkeld in Gunson 1974:67). Threlkeld observed that spears were traded with groups inland for possum skin cloaks and ‘hanks of line, spun by hand from the fur of animals of the opossum tribe’ (Threlkeld in Gunson 1974:61).

5.1.2 Food and Useful Plants

The red ironbark was used as a resource plant and smooth barked apple was used as a medicinal and resource plant. The black wattle had gum that was used for food. The leaves were crushed and soaked to waterproof nets and its wood used for boomerangs, clubs and digging sticks. The false sarsaparilla was both a medicinal and resource plant.

Brayshaw (1986) notes that shells were shaped for fish hooks and also used to sharpen or shape wooden implements. Kangaroo bones were made into awls to sew kangaroo and possum skin cloaks, belts and headbands.

5.1.3 Clothing

Summer weather and the milder days of autumn and spring required little in the way of protective clothing; winter however, saw the use of animal skins for both clothing and as blankets. Tench (Tench 1996(1789) :52) describes Aboriginal people using opossum skin cloaks with a ‘girdle of spun opossum hair next to the skin’ with their principal ornament a nautilus shell suspended around the neck on a string.

5.1.4 Campsites and Shelters

Camp sites and shelters in the region of the Project Area were described by Tench (Tench 1996 (1798)) as consisting;

'only of pieces of bark laid together in the form of an oven, open at one end, and very low, though long enough for a man to lie at full length in.....they depend less on them for shelter, than on the caverns with which the rocks abound' (Tench 1996 (1789):80).

Collins observed that the huts were 'often large enough to hold six to eight people' (Collins 1802:555). These shelters were often grouped together.

5.2 Regional Archaeological Heritage Context

The Project Area is located in the lower Hunter Valley/Lake Macquarie region. Archaeological evidence suggests that Aboriginal occupation of the Hunter valley region began by at least 35,000 years (Koettig 1987). Additional chronological evidence was recovered from the Hunter Valley's northeast mountains for which the following dates were assigned 34,580±650 (Beta-17009), >20,000 (Beta-20056) and 13,020±360 years BP (Beta-17271) (Koettig 1987, as cited in Attenbrow 2006). These dates show that the region was occupied during the Pleistocene (>10,000 years ago), such sites are generally rare and therefore contain significant archaeological/scientific information, as well as, demonstrating the long occupation of Aboriginal people in the region.

The majority of Aboriginal sites in the region; however, are dated to the more recent Holocene (<10,000 years ago). This may reflect Aboriginal occupation patterns, but may also be influenced by the inaccessibility of potential coastal Pleistocene sites which were inundated when sea levels rose and reached present levels approximately 6000 years ago (Mulvaney and Kamminga 1999:223). Evidence for Holocene Aboriginal occupation has been recovered from Bobadeen (7,760 cal. years BP), as well as Milbrodale (1,420 cal. years BP) and Sandy Hollow (1,310 cal. years BP) (Moore 1970:58).

6 Previous Archaeological Studies undertaken in the Project Area

The local Aboriginal heritage context provides a review of previous archaeological work conducted in the local landscape, identifies whether Aboriginal sites have been previously identified (AHIMS search) in the Project Area and informs the predictive model of Aboriginal sites for the Project Area. The review of previous archaeological work includes relevant local research publications, as well as, archaeological consultancy reports. The detection of sites during survey can be influenced by the amount of disturbance or erosion and therefore sensitivity mapping is sometimes also required to interpret survey results. The local Aboriginal heritage context also provides a framework for assessing local significance. A glossary of Aboriginal site types is provided in Appendix 3.

6.1 Aboriginal Heritage Information Management System (AHIMS)

A search was undertaken of the DECCW Aboriginal Heritage Information Management System (AHIMS) for a 10km area centred on the Project Area. Twenty-nine sites have been registered although a further 6 have been identified, but are not registered with AHIMS. Midden sites are most common, they cluster along the margins of Lake Macquarie and have not been identified further inland (Table 6-1, Figure 6-1). Approximately half of the sites recorded inland are related to sandstone outcrops (grinding grooves, engravings and rockshelters), the other half are not associated with sandstone (mythological, isolated finds, open camp site, possible scarred tree). Aboriginal sites in the local area also appear to be clustered around watercourses in close proximity to Fennel Bay (Figure 6-1).

Table 6-1: Summary of Aboriginal site types in the vicinity of the Project Area

	Site Type	Frequency of Site Types	Percentage of Site Types
Lake-side sites	Midden	12	34.29
	Not recorded	9	25.71
Inland sites: sandstone	Axe Grinding Groove	1	2.86
	Axe Grinding Groove, Shelter with Deposit	1	2.86
	Axe Grinding Groove, Water Hole/Well	1	2.86
	Axe Grinding Grooves	1	2.86
	Rock Engraving	1	2.86
	Rockshelter with Potential Archaeological Deposit (PAD)	1	2.86
			0.00
Inland sites: non-sandstone	Natural Mythological (Ritual)	1	2.86
	Isolated Find	4	11.43
	Open Camp Site	2	5.71
	Possible Scarred Tree	1	2.86
Total		35	

WARNING
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for a final design dimensions.
Confirmation of critical positions
should be obtained from RPS Newcomers



Legend



Proposed Main West
Project Area

AWABA AHIMS Sites

- ▼ Isolated Find
- Open Camp Site
- Axe Grinding Groove
- ◆ Axe Grinding Groove, Shelter with Deposit
- ▼ Axe Grinding Groove, Water Hole/Well
- Midden
- ▽ Natural Mythological (Ritual)
- ▽ Possible Scarred Tree
- ▼ Rock Engraving
- Unknown
- Nil
- Rockshelter with PAD

SCALE: 1: 80,000 AT A4 SIZE

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TITLE: FIGURE 6-1 STUDY AREA WITH AHIMS LOCATION: NEWSTAN

DATUM: N/A
PROJECTION: MGA ZONE 56 (GDA 94)

DATE: 17/9/2010
PURPOSE: ARCHAEOLOGY

LAYOUT REF: J:\005\Cent... \All Jobs\104544 Ne ...
VERSION (PLAN BY): C A4 (NW-TBM)

CLIENT: CENTENNIAL
JOB REF: 104544

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6.2 Previous Surveys within the Project Area

The Project Area has been previously surveyed and assessed by over a number of years by Indigenous Outcomes (2007), Umwelt (1998) and Pam Dean Jones (1989) (Figure 7-1).

Indigenous Outcomes (2007) Archaeological Survey and Aboriginal Consultation for Statement of Environmental Effects

Indigenous Outcomes surveyed the current Project Area and surrounds as part of an Indigenous Archaeological Impact Assessment for a Statement of Environmental Effects at Newstan Colliery in 2007. As part of this assessment extensive Aboriginal consultation was carried out in accordance with the *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* (DEC 2005), but also provided additional meetings with various Aboriginal stakeholders and elders groups, including Kenny McBride, Ron Gordon, Zelma Moran, Sandra Newlin, Bill Sampson and Shane Frost (Indigenous Outcomes Pty Ltd 2007:3-6). The survey was undertaken over nine day period between the 23rd of January and the 9th of February, 2006 and covered every terrain unit within the area. Two sites were identified during the survey (AA4 and AA3), but are outside the current Project Area. AA4 comprised an isolated find and AA3 comprised one potential scarred tree. Eight Aboriginal community members participated in the survey thus representing a wide cross-section of the community. Survey participants included Raymond Smith, David Ahoy, Joseph Williams, Ashley Hudson, Nathan Griffin, Allan Williams, Shane Frost and Joshua Frost. A copy of the Indigenous Outcomes survey and consultation reports have been provided as Appendix 4.

Umwelt (1998) Archaeological Survey for Newstan Colliery Life Extension Project

The archaeological survey for the Newstan Colliery Life Extension Project partially overlaps the northern boundary of the Project Area (Figure 7-1). Due to dense vegetation cover, the survey focussed on exposures, scarred trees and sandstone outcrops (Umwelt 1998). Three isolated finds, one grinding groove site and nine potential rockshelters (with archaeological deposit or potential archaeological deposit) were identified during the survey. The sites identified by Umwelt (1998) were not registered with AHIMS, as such a due diligence survey was commissioned in order to confirm the existence of these sites (RPS HSO 2009b). The three isolated finds identified were not observed and therefore are no longer considered sites and thus have not been registered. LEA1-8 did not meet the criteria as rockshelter sites and thus were not registered with AHIMS. LEA9 was confirmed as a rockshelter site and has been registered with AHIMS (AHIMS#45-7-0259) and LEA10 was confirmed as a grinding groove site and registered (AHIMS#45-7-260). None of these sites are located within the current Project Area.

Dean-Jones (1989) Archaeological survey of proposed gravel quarry, Awaba State Mine

This survey partially overlaps the western boundary of the current Project Area and encompassed approximately one square kilometre in the vicinity of Stony Creek (Dean - Jones 1989). It was noted during the survey that the extensive vegetation coverage inhibited visibility and ground surface exposure. One isolated find (mudstone flake) was recorded on a disturbed creek terrace adjacent to Stony Creek, but is outside the Project Area.

RPS HSO (2009). Archaeological Assessment Awaba East Exploration Area Stage 2 Drilling Area

This study involved a desktop assessment for the for Awaba East Exploration Area Stage 2 Drilling area, located within 2km east of the current Project Area. It identified the locations which had been previously surveyed, areas which had previously been mined, as well as, areas which had neither been mined or subject to archaeological survey. This allowed heritage management zones for the exploration area to be defined, for which a set of heritage management protocols were devised (RPS HSO 2009a). No Aboriginal sites were identified as a result of this study.

6.3 Discussion of Aboriginal Heritage

No Aboriginal sites have been identified in the Project Area. No areas of sandstone suitable for engravings, grinding grooves or rockshelters have been observed. The Project Area is thickly forested and located approximately 7 kilometres from Lake Macquarie. The AHIMS data suggests that Aboriginal occupation was focussed on the shores of Lake Macquarie and particularly in the Fennel Bay area; sites are more sparsely distributed further inland. That no Aboriginal sites have been identified in the Project Area supports the patterning that more frequent, or more intensive, Aboriginal occupation occurred closer to Lake Macquarie. Inland areas, such as the Project Area, appear to have been frequented less often and may have been primarily exploited for foraging activities including hunting and trapping animals and harvesting plant resources. Ground-edge hatchets were used in the area (evidenced by the presence of grinding grooves to the north of the Project Area), possum hunting is one activity which was undertaken using such implements and thus provides some support for this area as an inland food resource zone. The large shell middens on the edge of the lake indicate a richness in food resources associated with this large water body; the exploitation of resources further inland may have been relied upon when lacustrine resources were not available in abundance. However, the exploitation of inland areas is difficult to discern as material evidence (such as, butchered animal bone) is unlikely to be preserved outside a rockshelter context in the inland area, and only one rockshelter with PAD has been identified (which has not been excavated).

7 Impact Assessment and Mitigation

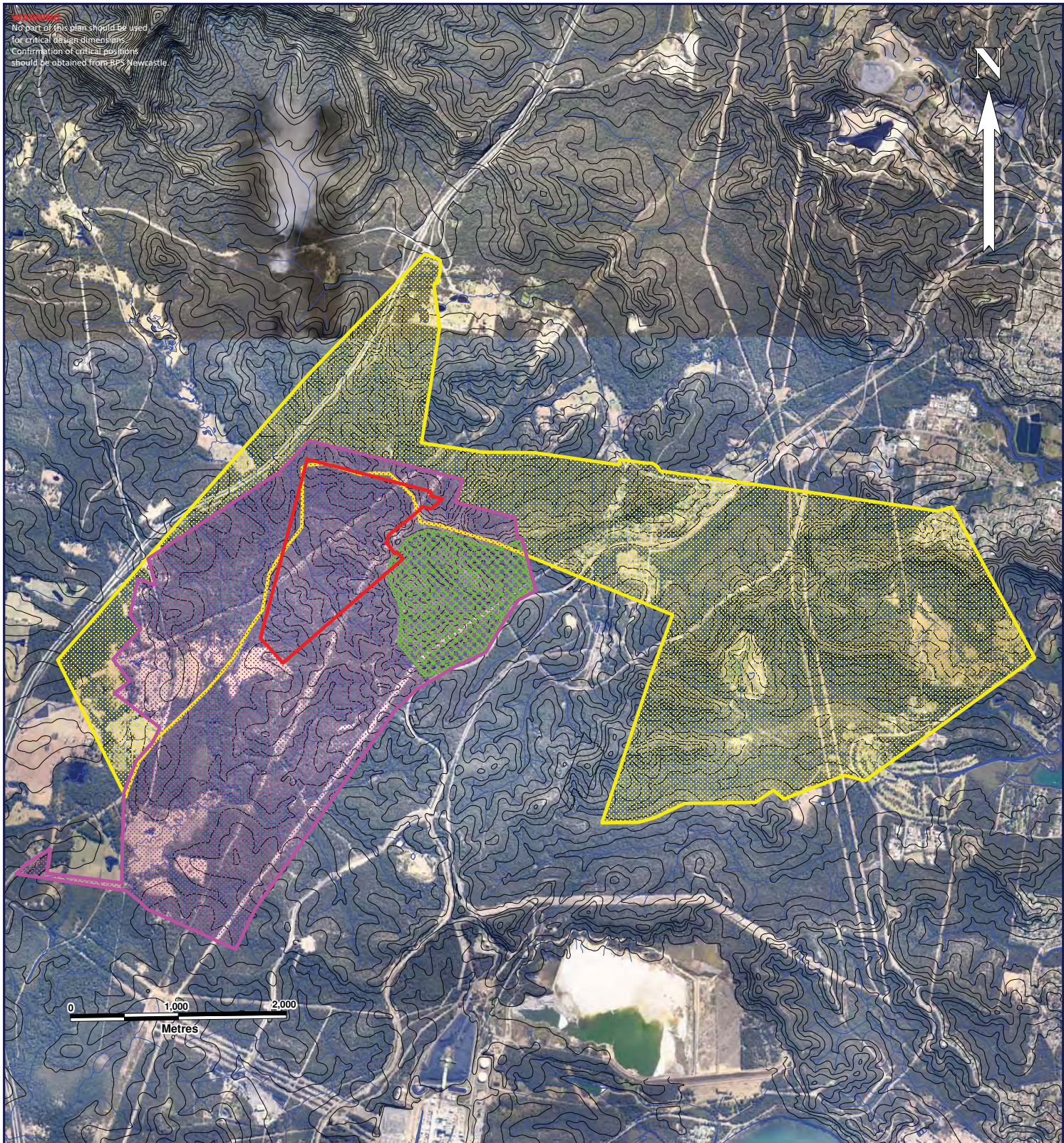
This section provides an assessment of the impacts to Aboriginal heritage and non-Indigenous sites within the Project Area. The current Project will seek to mine coal from the West Borehole Seam; this seam is a combination of the Young Wallsend, Yard and Borehole seams (Seedsman Geotechnics Pty Ltd 2010). The West borehole Seam is underlain by Waratah sandstone and is overlain by the Fern Valley and Montrose seams (Seedsman Geotechnics 2010). The depth of cover for the proposed Project Area in the West Borehole Seam is approximately 150 metres below the surface. Subsidence of the Project Area as a result of the proposed Project are predicted to be less than 20 millimetres and surface impacts are predicted to be negligible (Seedsman Geotechnics 2010).

Aboriginal Heritage

All areas within the Project Area have been surveyed for Aboriginal heritage (Figure 7-1) and no Aboriginal sites have been identified. Although no Aboriginal heritage sites have been identified within the Project Area during the previous surveys, the potential exists for Aboriginal heritage sites to occur. Due to the level of subsidence predicted being negligible, no impacts to potential Aboriginal sites within the Project Area are anticipated.

Non-Indigenous Heritage

The Australian Heritage Database, the NSW Heritage Inventory, and the Lake Macquarie Local Environmental Plan were searched for non-Indigenous heritage items. No non-Indigenous heritage sites have been identified in the Project Area.



Legend

Project Area for Stage 1

Previously Survey Areas

- Indigenous Outcomes 2007 and Australian Archaeology 2007
- Pam Dean Jones 1989
- Umwelt 1998

SCALE: 1:50,000 AT A4 SIZE

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TITLE: FIGURE 7-1 HERITAGE SURVEYS
COVERING THE PROJECT AREA

LOCATION: NEWSTAN

DATUM: N/A
PROJECTION: MGA ZONE 56 (GDA 94)

DATE: 17/09/2010
PURPOSE: ARCHAEOLOGY

LAYOUT REF: Figure 8-1 Heritage Survey B A4
VERSION (PLAN BY): B A4 (NW-TBM)

CLIENT: CENTENNIAL
JOB REF: 104544

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8 Conclusions and Recommendations

All land within the Project Area has been subject to previous archaeological surveys. No Aboriginal sites or non-Indigenous heritage items have been identified within the Project Area. The subsidence resulting from the proposed Project is predicted to be less than 20 millimetres and have negligible surface impacts (Seedsman Geotechnics 2010). No impacts to Aboriginal heritage of non-Indigenous heritage sites are anticipated. The following recommendations have been made with consideration of the heritage assessment and predicted subsidence.

8.1 Recommendations relating to Aboriginal Heritage

No Aboriginal sites requiring AHIMS registration have been identified within the Project Area.

Recommendation 1

An updated archaeological survey will be undertaken over and surrounding the Project Area prior to the commencement of mining and with the participation of the relevant Aboriginal stakeholders. The survey will aim to locate any Archaeological sites within the Project Area not identified during previous archaeological investigations.

Recommendation 2

The Newstan Archaeological and Cultural Heritage Management Plan will be reviewed and updated as required in consultation with the relevant registered Aboriginal Stakeholders.

Recommendation 3

A monitoring programme will be developed to monitor any potential impacts on identified archaeological sites within and immediately adjacent to the Project Area prior to, during and post mining activities.

Recommendation 4

The relevant registered Aboriginal stakeholders will be invited to participate in any future monitoring of Archaeological sites.

Recommendation 5

If during mining activities within the Main West Mining Area any additional Aboriginal site/s are identified that were not identified by the proposed additional survey works, then all works in the area will cease, the area cordoned off and contact made with DECCW

Enviroline 131 555, a suitably qualified archaeologist and the relevant Aboriginal stakeholders, so that it can be adequately assessed and managed.

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Appendix I

Legislative Requirements

SUMMARY OF STATUTORY CONTROLS

The following overview of the legal framework is provided solely for information purposes for the client, it should not be interpreted as legal advice. RPS will not be liable for any actions taken by any person, body or group as a result of this general overview, and recommend that specific legal advice be obtained from a qualified legal practitioner prior to any action being taken as a result of the summary below.

COMMONWEALTH

Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (ATSIHP Act), Amendment 2006

The purpose of this Act is to preserve and protect all heritage places of particular significance to Aboriginal and Torres Strait Islander people. This Act applies to all sites and objects across Australia and in Australian waters (s4).

It would appear that the intention of this Act is to provide national baseline protection for Aboriginal places and objects where State legislation is absent. It is not to exclude or limit State laws (s7(1)). Should State legislation cover a matter already covered in the Commonwealth legislation, and a person contravenes that matter, that person may be prosecuted under either Act, but not both (s7(3)).

The Act provides for the preservation and protection of all Aboriginal objects and places from injury and/or desecration. A place is construed to be injured or desecrated if it is not treated consistently with the manner of Aboriginal tradition or is or likely to be adversely affected (s3).

The Australian Heritage Commission Act 1975

The Australian Heritage Commission Act 1975 established the Australian Heritage Commission which assesses places to be included in the National Estate and maintains a register of those places. Places maintained in the register are those which are significant in terms of their association with particular community or social groups and they may be included for social, cultural or spiritual reasons. The Act does not include specific protective clauses.

The Australian Heritage Council Act 2003 together with The Environment Protection and Biodiversity Conservation Act 1999 (Amended) includes a National Heritage List of places of National heritage significance, maintains a Commonwealth Heritage List of heritage places owned or managed by the Commonwealth and ongoing management of the Register of the National Estate.

STATE

It is incumbent on any land manager to adhere to state legislative requirements that protect Aboriginal Cultural heritage. The relevant legislation in NSW includes but is not limited to:

National Parks & Wildlife Act 1974 (NPW Act), Amended 2001.

The NPW Act provides statutory protection for all Aboriginal heritage, places and objects (not being a handicraft made for sale), with penalties levied for breaches of the Act. This legislation is overseen by the Department of Environment, Climate Change and Water (DECCW), and specifically the Director-General of DECCW. Part 6 of this Act is the relevant part concerned Aboriginal objects and places, with the Section 86 and Section 90 being the most pertinent:

Section 91: Under Section 91 of the Act it stipulates that a person who is aware of unregistered Aboriginal sites must report these to the DECCW, regardless of the land status (Freehold, leasehold, Crown land).

Section 90: “A person who, without first obtaining the consent of the Director-General, knowingly destroys, defaces or damages, or knowingly causes or permits the destruction or defacement of or damage to, an Aboriginal object or Aboriginal place is guilty of an offence against this Act.” Under s.5 of the Act “object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to indigenous habitation of the area. This applies to habitation both prior to and concurrent with the occupation of that area by persons of non Aboriginal extraction, and includes Aboriginal remains.

Section 87: Under Section 87 of the Act, permits may be issued which allow, allow the permit holder to conduct investigations of areas considered to be potential sites for the purpose of research, and also for conservation work associated with known sites.

Under Section 90 of the Act permits for impact to Aboriginal sites may be issued, these may include the collection of artefacts, as well as, subsurface salvaging of Aboriginal sites prior to ground disturbance works associated with construction. Any disturbance, damage or destruction of Aboriginal sites, known or unknown, without an approved permit is considered to contravene the NPW Act (1974) and the DECCW will pursue the person/company responsible.

Penalties under these two sections are currently 50 penalty units, or 6 months in gaol, or both for an individual and 200 penalty units for a corporation. The DECCW record all S.87 and S.90 permits issued in order to manage Aboriginal sites and ensure representative samples of sites are left in situ for future generations. In order to achieve this, the DECCW need to be made aware of all Aboriginal sites located in NSW.

Section 86: This section of the Act states that “A person, other than the Director-General or a person authorised by the Director-General in that behalf, who:

- disturbs or excavates any land, or causes any land to be disturbed or excavated, for the purpose of discovering an Aboriginal object;
- disturbs or moves on any land an Aboriginal object that is the property of the Crown, other than an Aboriginal object that is in the custody or under the control of the Australian Museum Trust;
- takes possession of an Aboriginal object that is in a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area;
- removes an Aboriginal object from a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area; or
- erects or maintains, in a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area, a building or structure for the safe custody, storage or exhibition of any Aboriginal object,

except in accordance with the terms and conditions of an unrevoked permit issued to the person under section 87, being terms and conditions having force and effect at the time the act or thing to which the permit relates is done, is guilty of an offence against this Act.”

Section 84: Aboriginal places of traditional significance (that may or may not contain archaeological material) are given protection under Section 84 of the NPW Act. To be an Aboriginal place for the purposes of this Act, this is a place that, in the opinion of the Minister, is or was of special significance with respect to Aboriginal culture.

Aboriginal Heritage Impact Permits (AHIP)

DECCW encourages consultation with relevant Aboriginal stakeholders for all Aboriginal Heritage assessments. However, if an Aboriginal Heritage Impact Permit (AHIP) is required for an Aboriginal site, then specific DECCW guidelines are triggered for Aboriginal consultation.

In 2010, the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (ACHCRs) were issued by DECCW (12 April 2010). These consultation requirements replace the previously issued *Interim Community Consultation Requirements* (ICCR) for Applicants (DEC 2004). These guidelines apply to all AHIP applications prepared after April 12, 2010; for projects commenced prior to April 12, 2010 transitional arrangements have been stipulated in a supporting document, Questions and Answers 2: Transitional Arrangements.

The ACHCRs include a four stage Aboriginal consultation process and stipulates specific timeframes for each stage. Stage 1 requires that Aboriginal people who hold cultural information are identified, notified and invited to register an expression of interest in the assessment. Stage 1 includes the identification of Aboriginal people who may have an interest in the Project Area and hold information relevant to determining the cultural significance of Aboriginal objects or places. This identification process should draw on reasonable sources of information including: the relevant DECCW Environment Protection

and Regulation Group regional office, the relevant Local Aboriginal Land Council(s), the registrar, Aboriginal Land Rights Act 1983, the Native Title Tribunal, Native Title Services Corporation Limited, the relevant local council(s), and the relevant catchment management authority. The identification process should also include an advertisement placed in a local newspaper circulating in the general location of the Project Area. Aboriginal organisations and/or individuals identified should be notified of the project and invited to register an expression of interest for Aboriginal consultation. Once a list of Aboriginal stakeholders have been compiled from the expression of interest process, they need to be consulted in accordance with ACH Consultation Requirements Stages 2, 3 and 4.

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 (EP&A ACT)

This Act regulates a system of environmental planning and assessment for New South Wales. Land use planning requires that environmental impacts are considered, including the impact on cultural heritage and specifically Aboriginal heritage. Within the EP&A Acts, Parts 3, 4, and 5 relate to Aboriginal heritage.

Part 3 regulates the preparation of planning policies and plans. Part 4 governs the manner in which consent authorities determine development applications and outlines those that require an environmental impact statement. Part 5 regulates government agencies that act as determining authorities for activities conducted by that agency or by authority from the agency. The National Parks & Wildlife Service is a Part 5 authority under the EP&A Act.

In brief, the NPW Act provides protection for Aboriginal objects or places, while the EP&A Act ensures that Aboriginal cultural heritage is properly assessed in land use planning and development.

Part 3A of the EPA relates to major projects, and if applicable, obviates the need to conform to other specific legislation. In particular, s75U of the EPA Act explicitly removes the need to apply for s87 or s90 permits under the NPW Act. This means that although Aboriginal cultural heritage is considered during the planning process, a permit is not required to disturb or destroy an Aboriginal object or place. However, the Director-General of Planning must nonetheless consult with other government agencies, including DECCW and National Parks & Wildlife, prior to any decision being made.

Aboriginal consultation under part 3A is required under the *draft 2005 Part 3A EP&A Act Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation*. This document stipulates that the ICCR process should be adhered to.

THE HERITAGE ACT 1977

This Act protects the natural and cultural history of NSW with emphasis on non-indigenous cultural heritage through protection provisions and the establishment of a Heritage Council. Although Aboriginal heritage sites and objects are primarily protected by the National Parks & Wildlife Act 1974 (NPW Act), Amended 2001, if an Aboriginal site,

object or place is of great significance, it may be protected by a heritage order issued by the Minister subject to advice by the Heritage Council.

Other legislation of relevance to Aboriginal cultural heritage in NSW includes the NSW Local Government Act (1993). Local planning instruments also contain provisions relating to indigenous heritage and development conditions of consent.

Appendix 2

Aboriginal Consultation

Aboriginal Consultation Log			
Date	Consultation Description	Method of Contact	Outcomes
29/06/2010	Identification of Interested Aboriginal groups were sent to DECCW, Registrar of Aboriginal Owners, Native Title Services Corporation Limited, National Native Title Tribunal, Lake Macquarie Council, Kooppahtoo Local Aboriginal Land Council (KLALC) and Hunter Central Rivers Catchment Management Authority.	Mail	N/A
2/07/2010	National Native Tribunal sent Native Title search results.	Email	No Aboriginal groups were identified in their search
7/07/2010	Registrar of Aboriginal Owners sent their search results.	Mail	No Aboriginal groups were identified in their search
15/07/2010	DECCW sent their search results.	Mail	7 groups identified: Awabakal Newcastle Aboriginal Co -op (ANAC), Awabakal Descendants Traditional Owners Aboriginal Corporation (ADTOAC), Awabakal Traditional Owners Aboriginal Corporation (ATOAC), Awabakal Local Aboriginal Land Council (ALALC), Yamuloong Group Initiatives Ltd (YGIL), Arwarbukarl Cultural Resources Assoc (ACRA), Cacatua Culture Consultants (CCC)
8/07/2010	Advertisement published in the Lakes Mail	Newspaper	N/A
16/07/2010	Westlakes Aboriginal Community registered their interest in the Project	Phone	Interest was noted and recorded in consultation log
16/07/2010	Invitation for Expression of Interest letters sent out to ADTOAC, ATOAC, YGIL, ACRA, CCC, Wonnarua Nation Aboriginal Corporation (WNAC) and ANAC.	Mail	N/A
16/07/2010	WNAC registered their interest in the Project Area	Email	Interest was noted and recorded in consultation log
16/07/2010	Culturally Aware registered their interest in the Project, but later informed RPS by email dated 20th of July that it was outside their area of interest and withdrew the expression of interest	Email	Information noted
20/07/2010	ATOAC registered their interest in the Project Area	Email	Interest was noted and recorded in consultation

			log
24/07/2010	ADTOAC registered their interest in the Project Area	Email	Interest was noted and recorded in consultation log
30/07/2010	Methodology letters sent to Awabakal Descendants Traditional Owners Aboriginal Corporation, Awabakal Traditional Owners Aboriginal Corporation, West Lakes Aboriginal Community, Cacatua Culture Consultants and Wonnarua Nation Aboriginal Corporation	Mail	N/A
9/08/2010	Cacatua Cultural Consultants (CCC) registered their interest in the Project	Email	Interest was noted and recorded in consultation log
13/08/2010	Anna Nardis (AN) of RPS phoned ALALC to see if they received the methodology and if they have read through it.	Phone	No one was available for comment and AN left a message to return call
13/08/2010	AN phoned WNAC to see if they received the methodology and if they have read through it.	Phone	Laurie Perry confirmed he had received the methodology and will read through it
13/08/2010	AN phoned ATOAC to see if they received the methodology and if they have read through it.	Phone	Kerrie Brauer confirmed she had received the methodology and will read through it
13/08/2010	AN phoned ADTOAC to see if they received the methodology and if they have read through it.	Phone	Shane Frost was unavailable for comment and AN left a message to return call
13/08/2010	AN phoned CCC to see if they received the methodology and if they have read through it.	Phone	Donna Sampson was unavailable for comment and AN left a message to return call
27/08/2010	Kerrie Brauer sent comments regarding the methodology.	Email	Comments addressed in email
30/08/2010	Shane Frost sent comments regarding the methodology.	Email	Comments addressed in email
31/08/2010	TBM sent additional information to Aboriginal stakeholders regarding the assessment methodology.	Email	Response to Aboriginal stakeholders regarding the methodology
20/09/2010	Draft Report sent to Aboriginal stakeholders: Awabakal Descendants Traditional Owners Aboriginal Corporation (ADTOAC), Awabakal Traditional Owners Aboriginal Corporation (ATOAC), West Lakes Aboriginal Community (WLAC), Cacatua Culture Consultants (CCC) and Wonnarua Nation Aboriginal Corporation (WNAC)	Mail	N/A
30/9/2010	Invitation to an additional consultation meeting proposed for the 15 th of September, 2010 was sent to ADTOAC, ATOAC, CCC, WLAC and WNAC	Mail	N/A
15/10/2010	Shane Frost of ADTOAC, Dene Hawkin of	In person	Consultation protocols

	ATOAC and Donna Sampson of CCC attended the additional consultation meeting		and Newstan mining projects discussed
26/10/2010	ADTOAC sent comments regarding the draft report	Mail	Agrees in principle with the results
3/10/2010	ATOAC sent comments to the draft report	Email	Agrees in principle with the results
	Centennial sent proposed revised recommendations regarding mining in the Main West mining area to ATOAC		
7/01/2011	ADTOAC, CCC and the Westlakes Aboriginal Community for comment	Letter	
	Shane Frost of ADTOAC sent comments back regarding the proposed revised recommendations.		Accepts the proposed revised recommendations
27/01/11		Letter	
	Kerrie Brauer of ATOAC sent comments back regarding the proposed revised recommendations.		Accepts the proposed revised recommendations
31/01/11		Letter	


Centennial Coal

Public Notice

Aboriginal Stakeholder Consultation Newstan Colliery

Centennial Newstan Pty Limited is seeking to identify Aboriginal Stakeholders who wish to be consulted in regards to Aboriginal heritage assessments for mining operations associated with the Newstan Colliery. The study area is located to the east of Lake Macquarie, in the vicinity of the township of Awaba (Lake Macquarie LGA).

Interested stakeholders are requested to register their interest in writing to:

Anna Nardis
 RPS Australia East P/L
 PO Box 428, Hamilton NSW 2303
 Tel: 02 4940 4200
 Newcastle@rpsgroup.com.au

Expressions of interest should include current contact details. The closing date for registration is COB 22 July 2010. Newstan Colliery Community Information line is 1800 247 662.

7847-83



PO BOX 86
CLARENCE TOWN
NSW 2321

Date: 25 October 2010

Attention: Tessa Boer-Mah (Senior Archaeologist)
PO Box 428
Hamilton NSW 2303

Re: Draft Report: Archaeological Assessment for the Newstan-Lochiel Project.

ALLA Tessa,

In response to the correspondence we received from RPS requesting us to provide any comments and feedback regarding the **Draft Report: Archaeological Assessment for the Newstan-Lochiel Project** we would like to notify you that the **Awabakal Descendants Traditional Owners Aboriginal Corporation** has reviewed the document and we believe it addresses most of our concerns. We would like to highlight some points of interest that we believe need to be addressed as we take advantage of your kind offer affording us the opportunity to make some complimentary additions that we believe can enhance the final document.

It must also be pointed out here that we were not invited to participate in the survey of this area the result being that it makes it very hard to then comment on specifics. We then turn our focus on what areas would be of concern if the proposal is realised.

Below are some of our comments/recommendations.

- Because Newstan-Lochiel is seeking consent under part 3a and proposing to undermine this area it is essential that all Awabakal Cultural Heritage sites which are present but not necessarily visible, should have as much protection afforded them as any known or visible sites within the proposed continued mining area.
- Yet again as we have commented previously we would like to point out that not all predictive modelling is 100% accurate and indicating that there will only be up to 20 mm subsidence is once again only speculation as not all data is available to guarantee that this will be the case.
- As can be seen in Figure 6-1 '**Study area with AHIMS**' within the **Draft Report: Archaeological Assessment for the Newstan-Lochiel Project**, two (2) open camp sites exist not far from the perimeter of the project area. With these two (2) areas being so close there is a very real likelihood of more sites being outside and inside the project area that to date have not been located. How then can it be assumed there will be no damage or disturbance to Awabakal Cultural Heritage when there are no absolutes to back up these assumptions? As it says on page 26 of the **Draft Report: Archaeological Assessment for the Newstan-Lochiel Project** section 7 '*Although no Aboriginal heritage sites have been identified within the Project Area during the previous surveys, the potential exists for Aboriginal heritage sites to occur*'
- An Aboriginal Cultural Heritage Management Plan (ACHMP) should be formulated to allow all modes of protection and preservation to be afforded to all known sites and implemented in the event of unknown and known sites being located/disturbed/uncovered. The development and implementation of an ACHMP would need to be formulated through comprehensive negotiations with the Aboriginal Stakeholders so that all aspects of the mining operations and any adverse effects resulting from this project can be taken into account and dealt with from an Aboriginal perspective not just a mining viewpoint. This would also put in place a code of practice and procedures for the Newstan-Lochiel project to follow as well as the Aboriginal Stakeholders if in the future Awabakal Cultural Heritage was identified or put at risk. It must be noted that it is a breach of the act and prosecution can result if just one artefact is disturbed without a permit to

do so. It is therefore in the interests of Newstan-Lochiel to know where all Awabakal Cultural Heritage is located so they can devise strategies now to counteract the possibility of potential impacts to Awabakal Cultural Heritage in the future.

Therefore all Cultural Heritage sites need to be protected for future generations of Awabakal People **(Intergenerational Equity)** to learn from and appreciate that this is where their Ancestors lived and used these areas in their everyday life activities. This can be displayed in a physical sense by visiting these areas and touching the very artefacts and places where our People have lived for thousands of years. It must also be remembered that whether there are Cultural Heritage sites or not, these areas are places where Awabakal People can still re-connect to the past and the legacy left by their Ancestors. That is why we are committed to seeing every protection applied to preserve what little is left of our Cultural Heritage and we make no apologies for this.

We hope this addresses any queries you may have Tessa, if not and further information is required please don't hesitate to contact us ASAP. Our contact details are as follows.

NGI NOA

Shane Frost-Managing Director: Awabakal Descendants Traditional Owners Aboriginal Corporation
Email: shanefrost@bigpond.com Phone: 49964362 Fax: 49964325 Mobile: 0428320671



RPS | Centennial Newstan Heritage Impact Assessment

Draft Report for the
Newstan Colliery S75W Modification

For

RPS

Attn: Tessa Boer-Mah
Senior Archaeologist
Ground Floor, 241 Denison Street Broadmeadow NSW 2292

By

Dene Hawken
Director, Site Officer

October 2010

Awabakal Traditional Owners Aboriginal Corporation
ABN: 90 203 408 390 | ICN: 4411
PO Box 253 Jesmond NSW 2299 Australia
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Cultural Heritage Survey Assessment

The Awabakal Traditional Owners Aboriginal Corporation (ATOAC) appreciate opportunity to review and make comment on the draft report for the Heritage Impact Assessment (Newstan Colliery S75W Modification), dated September 2010.

We were contacted by Tessa Boer-Mah on the 20 September 2010 and were asked to make comment by the 28th October 2010. Also, we appreciate being afforded an extension to the deadline until the 4th November.

With regards to the RPS Archaeological Assessment for the Heritage Impact Assessment, ATOAC recognises the evaluation by RPS to be comprehensive and detailed. The study area relates to a proposed modification to the Newstan Colliery Development Consent (DA 73-11-98). To quote from the draft report, the modification (the Proposed Project), if approved, will allow for:

The recommencement of first workings bord and pillar mining in an area referred to as Main West located beyond the existing Development Consent boundary; and

An increase in the volume of water discharged from the site through the Licensed Discharge Point 001 (LDP001) from the currently approved 7 ML/day to 11 ML/day and up to 14 ML/day during prolonged and intense rainfall events.

It is important to note from the onset that there was no representation from ATOAC regarding the Previous Archaeological Studies mentioned in the **draft report** (page 22). Further more, a key aspect to our response to the **draft report** is that it does not reflect the Aboriginal archaeological assessment survey undertaken on the 1st September 2010.

Although there were no Aboriginal heritage sites within the Project Area, we acknowledge that there are Aboriginal sites previous registered with AHIMS (RPS HSO 2009). Given the context of the proposed Project Area is within the Awabakal cultural landscape and accordingly, this land is viewed as having cultural significance. Additionally, any undiscovered sites are considered physical evidence of the Awabakal lifestyle, traditions and customs.

We acknowledge that the Project Area is located within the vicinity off the township of Awaba, an area that is within the traditional Awabakal cultural boundary and is therefore regarded as being included in the culturally significant landscape.

Cultural & Historical Overview from the Awabakal People

“The Awabakal cultural environment is a holistic one that interconnects our spirituality and land to our ancestral family. This land is full of meaningful cultural reminders that are articulated through the Awabakal Dreaming Stories, Language and Art.

Aboriginal people have a personalised connection with their unique heritage. This relationship connects them to their cultural land, language and their spirituality. Though the Awabakal story since colonisation has been marred with complexity, disrespect and violence, the descendants of the Awabakal people believe it is essential to nurture new visions that reflect the cultural integrity of our ancestral family.

This region was inhabited and utilised by the Awabakal people prior to European settlement, a history that has been well documented. Life here prior to colonisation was completely different with an abundant existence and natural resources. There are many physical reminders that reflect the lifestyle of Awabakal people within their natural environment.

It is our aim to protect the cultural integrity that has been inherited from our ancestral family. We believe that it is essential that the values from the Awabakal culture are still relevant to today's society, with a view to keep intact the organic moral and spiritual fibre of this land, giving direction to all who live in this land. This region delivers constant reminders of the existence of our people, whose occupation intrinsically connects us to the environment within the investigation area.”

Quote from statements by the Awabakal Traditional Owner Aboriginal Corporation and speeches by Nola Hawken, Awabakaleen Elder. Copyright 2010.

Aboriginal Cultural Significance

The Centennial Newstan Project Area is located within the vicinity off the township of Awaba, an area, which is firmly embedded within the Awabakal landscape.

"All land is culturally significant to Aboriginal people and therefore deserves the respect and sensitivity towards Aboriginal people and their ancestral lands.

We would like to take this opportunity to reiterate our family connection to the Awabakal people, as being direct descendants of the Traditional Awabakal People (the Lake Macquarie and its surrounding region). We as Awabakal descendants are connected to the Awabakal culture and heritage through our ancestral families.

The principle vision and aims of the Awabakal descendants is to protect the integrity of the culture and heritage of our ancestors. We give special consideration to any evidence of our people's presence, as they become physical reminders that ultimately unite us with our spirituality, country and our people.

Historically this region was enjoyed and utilised by Awabakal people for ceremony, fishing, hunting, food gathering—their Awabakal lives. Their existence and presence is evidenced by the vast amount of documented information about this area, a lifestyle of traditional occupation, warranting a high regard for this historical value that this particular area provides.

Our connection to our ancestral country is indeed both a physical and spiritual one. This region is a constant reminder of the presence of our ancestral family who were uniquely connected to their environment that is enveloped by the Awabakal cultural boundary, echoing the ethos of our cultural heritage."

Quote from statements by the Awabakal Traditional Owner Aboriginal Corporation and speeches by Nola Hawken, Awabakaleen Elder. Copyright 2010.

Draft Report Comments

Overall we are mindful of the irreversible impact that has been made to this region and therefore submit the following comments on the **draft report**. They are as follows:

Comments:

- We are extremely concerned regarding the possible impacts on our cultural heritage with the future proposed works outlined in this section which does not contain a Mitigation Strategy for other contingencies regarding future mining operations as well as the mine decommissioning process (ref: Page 28).

Furthermore, of concern is the decisions to progress with the proposed works on the basis of assumption of "no impact" which may result in the potential negative impact on the landscape and in turn the integrity of the Awabakal cultural heritage.

- It is our understanding that if there is any potential for movement/subsidence from a bord and pillar extraction, there is potential for an impact on cultural heritage sites whether it be minimal or not, it is still an impact. The **draft report** does not contain the documentation to support the negligible impact statement.

Furthermore, we believe that there is an inconsistency in the assessment statement given in #7 *Impact Assessment and Mitigation*, "... Subsidence of the Project Area as a result of the proposed Project are predicted to be less than 20mm and surface impacts are predicted to be negligible (Seedsman Geotechnics 2010)".

This inconsistency would also apply to the same assessment statement repeated in #8 *Conclusions and Recommendations* (page 28).

- We also believe that the **draft report** is incomplete, as it doesn't give examples of how the figure of the proposed 20mm subsidence was reached. Additionally the draft report doesn't contain monitoring or mitigation strategy measures if the proposed subsidence exceeds the projected 20mm subsidence.
- We recommend a more detailed explanation for the reader regarding the Indigenous Land Use Agreement (ILUA) with the Wonnarua Nation, the NSWALC and now Centennial Newstan (p 14) given that the project area has been culturally contextualised within the Awabakal Traditional Lands (p 19).

Additionally:

- We recommend the inclusion of statements of significance from the Awabakal Traditional Owners and contributing Aboriginal Stakeholders from the onset to orientate the nature of the **draft report** within the context of archaeological surveys.

Alternative Recommendations & Mitigation Plan

“Every artefact and its surrounding place have value and significance because of its unique handcrafted characteristics and its relationship to a particular lifestyle feature. The protection of Aboriginal places, sites and artefacts is a critical aspect to the Awabakal Traditional Owners role and responsibility. It is imperative to protect that which unites us with our culture both physically and spiritually.”

Quote from statements by the Awabakal Traditional Owner Aboriginal Corporation and speeches by Nola Hawken, Awabakaleen Elder. Copyright 2010.

The Awabakal Traditional Owners Aboriginal Corporation (ATOAC) makes the following assessment conservation recommendations based on the DECCW recommended approach consistent with the NPW Act—Conservation involves identifying, assessing, protecting and maintaining the important cultural and heritage values of landscapes, resources, places, objects, customs and traditions so that we, and generations to come, can enjoy, learn from them, and appropriately manage these values.

[Legislation](#) ensures that Aboriginal heritage must be considered as part of land management. DECCW protects Aboriginal heritage through:

- Management planning
- Public education and awareness
- Physical protection works

The following weighted assessment considers the above three areas of Aboriginal Heritage conservation. The following statements and recommendations are made within the context that:

- The NPWS recognises that Aboriginal culture is living and unique and recognizes the right of Aboriginal people to protect, preserve and promote their culture.
- The NPWS recognises that Aboriginal people are the rightful cultural owners of Aboriginal cultural heritage information and Aboriginal sites and objects ('relics' under the National Parks & Wildlife Act, 1974). In the area of Aboriginal cultural heritage, the NPWS is committed to a joint and equitable management partnership with its own Aboriginal heritage staff and with Aboriginal communities.
- The NPWS commits to an active partnership with Aboriginal communities in advocating constructive changes to legal and institutional arrangements governing the control of Aboriginal heritage.

Scenario 1 – NO CONSENT from DECCW to disturb, damage, deface or destroy an object or Aboriginal Place

We express a high level of alarm and distress regarding the probability of risk to our cultural heritage values through the proposed activity seeking permit approvals. In the scenario of disturbance to our cultural heritage we state that we find this highly disturbing and that mining activity may be given greater weighting than conservation to the proposed Project Area which is an area of high cultural heritage significance and an area with historic non management of cultural heritage and due diligence, through creation of bike

tracks and trails and cumulative impacts arising from multiple mining and resource interests i.e. saturation of exploration approval activity and operational activity.

Empirical learning demonstrates that the impact of subsidence can have devastating effects on our cultural heritage landscape and features and our cultural heritage is coming under increasing and continuing pressure and risk because of the volume and level of mining activity.

Recommendation One

We seek DECCW's serious consideration of the legacy of cumulative and continued proposed damage to our cultural heritage values and examine intergeneration equity standards in determining approvals or non-approvals. Any approval and conditions must use best practice standards and intergenerational equity weighting in consideration in determining the future conservation of our cultural landscape.

Note this approach has not been modelled or considered in the proposed methodology or mitigation modelling. Similarly a statement of financial viability of the project to avoid damage or destruction of our cultural heritage was not included in an economic assessment.

Therefore we seek **Centennial Newstan** to explore all mechanical applications to protect our cultural heritage values and demonstrate and report to DECCW and our community that this due diligence has been applied.

Recommendation Two

We seek approval to have care of Aboriginal objects that are approved for excavation, disturbance or movement by development activities, erosion or other processes.

The NPW Act allows the transfer of Aboriginal objects to an Aboriginal person or Aboriginal organisation for safekeeping. Given that 100% of the known recorded archaeological landscape and features at risk will be disturbed from the proposed bord and pillar mining activity, we seek approval the Awabakal Traditional Owners enter into a **Care Agreement** with DECCW.

A **Care Agreement** will set out the obligations of DECCW and the Aboriginal person or Aboriginal organisation for the safekeeping of the transferred Aboriginal objects. We acknowledge that the Aboriginal person or organisation does not become the owner of the Aboriginal objects.

Recommendation Three

A cultural heritage oral history survey and recording of Dreaming and other spiritual traditions be undertaken to ensure conservation practices demonstrate intergenerational equity. This recommendation is to be implanted using the best practice standards as set out by NPWS.

"It is anticipated that these assessments will respect the particular interests of traditional/tribal owners as well as the generic interest of other Aboriginal people in sites and places".

As per guidelines, it is recommended that communities would on occasion retain professional anthropological and historiographic advice in the course of such assessments.

It is important to appreciate that the distinction some archaeologists have made in the past between archaeological sites on the one hand and 'sacred' sites on the other may have little meaning for Aboriginal people.

"Such 'archaeological' sites as middens, rock shelter deposits, scarred trees, stone quarries; burials and cemeteries etc are as likely to have spiritual and cultural value as are ceremonial sites (e.g. bora rings) or Dreaming sites. The 'spread' of the spiritual is greater in Aboriginal society than in non-Aboriginal Australian society (particularly the northern European fraction of Australian society)".

"This underlines the importance for archaeologists of an understanding of archaeology as a discourse which assigns meaning to places and things. Aboriginal shell middens, in other words, are not archaeological in themselves; they are archaeological only insofar as archaeologists (or others) think of and refer to them in that way. Archaeology is thus a way of making sense of or giving order to things and places which exist in the world". Refer to the Archaeological Standards Manual

Recommendation Four

The other area of concern is the need to develop a mitigation model whereby engaging monitoring and assessment reporting to inform mitigations strategies throughout the lifecycle of the proposed mining activity and that any approval permit arrangement includes this as part of conditions for approval (this is in the context of Scenario One).

Empirical learning has identified that there is a history of agreed practices to mitigate and protect shell middens for example, however there has still been damage and unresolved tensions relating to the appropriate measures for conserving and protecting cultural heritage values.

Scenario 2 - CONSENT from DECCW to disturb, damage, deface or destroy an object or Aboriginal Place

"It is illegal to disturb, damage, deface, or destroy an object or Aboriginal place without consent from DECCW". Refer to the NPW Act

In addition to the previous concerns, we again assert that our cultural landscape is at significant adverse risk of irreversible impact as a result of the proposed activity.

Of increasing concern is the apparent 'carte blanche' approvals rate for permits to destroy or damage areas identified as having high cultural heritage value by the Aboriginal community and that there is limited application of intergenerational equity is a measurable and tangible reporting regime.

Please note all four (4) recommendations relating to Scenario One are to be applied if Scenario Two is the decision made by DECCW. In addition the following three (3) recommendations are also asserted:

Recommendation One

Mitigation arrangements for irreversible adverse impact of an area and landscape features of this magnitude require serious conservation consideration. This potential impact has caused a great deal of distress to us as Awabakal Traditional Owners, as cultural heritage

values are a living culture and reflect both the historic and contemporary Aboriginal values associated with our country.

The proposed model recommended by ATOAC is to apply the best practice standards of NPWS in relation to conservation of our cultural heritage in the following key areas (as defined by DECCW).

Legislation ensures that Aboriginal heritage must be considered as part of land management. DECCW protects Aboriginal heritage through:

- Management planning
- Public education and awareness
- Physical protection works

We have identified three (3) key strategic priority areas recommended by the Awabakal Traditional Owners for appropriate action by **Centennial Newstan** in consultation and participation with the Awabakal Traditional Owners:

1. The development of a Partnership Plan / 'Awabakal Traditional Owners Aboriginal Accord' aligned to **Centennial Newstan** sustainability agenda and in the context of proposed adverse mining impacts.
2. The development of a **Cultural Heritage Care Plan** in consultation and participation with Awabakal Traditional Owners to contribute to the protection of Aboriginal heritage by always respecting Aboriginal cultural values in the landscape and the **Centennial Newstan** current presence in the landscape, and considering carefully how to minimise impact on the land.
3. Development of a Conservation Plan as an 'offset model' which:
 - a. Provides for a compatible cultural values landscape area with interconnectivity to the proposed mining surveyed area identified as having high to very high cultural significance and archaeological importance.
 - b. Development of a history and archaeological reporting including a video and interpretation of the landscape in a cultural context. This should be adequately resourced to achieve the intended conservation and intergenerational equity outcomes. (A proposed costing relating to this would be required should DECCW approve the destruction of our cultural heritage landscape).
 - c. To undertake a technical Empirical study over the life of the mine to inform Industry practices and future archaeological recommendations to reduce the cumulative adverse impacts on our cultural heritage which is increasing in its values due to the rarity of the integrity of our features due to the compounding adverse impacts from multiple human and resource industry activities. These standards need to be applied, shared and utilised in current and future assessment and permit determinations. This should also inform alternative mining activity and techniques appropriate to reducing adverse impacts.

Recommendation Two

All recommendation detailed and asserted in Scenario One need to be adopted as part of any permit approvals conditions relating to Scenario Two.

Additional Statement & Recommendation

While it is acknowledged that the following recommendation falls outside of a specific Part 3A Application by a mining company seeking permit (i.e. the **Centennial Newstan** proposed mining activity described in this assessment report), we believe it would be negligent in our due diligence and custodial responsibility in relation to our ancestral family and our intergenerational decision making obligations, to omit a strongly held belief that **Project Area** requires an integrated Conservation Plan to be adopted and adhered to by all human and mining activity of **Centennial Newstan** and request policy and conservation approaches to:

1. Form an integrated approach to conservation management.
2. Formalise a collaborative Industry, Department and Aboriginal Stakeholder 'Working and Advisory Group' to develop an integrated conservation model with performance reporting and measurement requirements, spanning 50 years (at least) to appropriately apply best practises to Cultural Heritage Conservation Management and demonstrate compliance with the NPW Act.

Summary

"The principle vision and aims of the Awabakal Traditional Owners is to protect the integrity of the culture and heritage of our ancestral family. We regard any evidence of our ancestors' presence to be given special consideration, as they are physical reminders that unite us with our spirituality, country and our heritage."

Quote from statements by the Awabakal Traditional Owner Aboriginal Corporation and speeches by Nola Hawken, Awabakaleen Elder. Copyright 2010.

The Awabakal Traditional Owners Aboriginal Corporation (ATOAC) appreciates the opportunity afforded to us to review and respond to the RPS Heritage Impact Assessment for the Centennial Newstan proposed Project Area.

We encourage RPS to take an opportunity to re-emphasise the value of 'place' within the Heritage and Cultural weighting, as this consideration is to ensure the protection and conservation of "place" and "objects" equally which in turn relates significantly to the spirituality, cultural, historic and legacy of Awabakal People.

As our focus is geared towards the protection of the cultural integrity of Awabakal places, sites and heritage, we are also mindful of the Aboriginal protocols that direct decision-making processes regarding Awabakal culture and heritage.

We believe that it is critical that any consultation with Aboriginal community is based on protocols and is culturally appropriate when dealing matters and decision-making processes. Furthermore, we reserve the right and reluctance to share our cultural heritage with others in respect to aspects of the cultural significance that connects us to our country.

Finally, we would like to commend Tessa Boer-Mah for her comprehensive and detailed report, as well as the professional attention and ongoing sensitivity to our Awabakal cultural connection.

Regards,



Dene Hawken
Director
M 04 20 30 40 94
dene@awabakal.com.au

Awabakal Traditional Owners Aboriginal Corporation
ABN: 90 203 408 390 | ICN: 4411
PO Box 253 Jesmond NSW 2299 Australia
T: 61 2 49 15 69 47 | E: info@awabakal.com.au | www.awabakal.com.au



31 January 2011

Centennial Coal
James Wearne
100 Miller Road
Fassifern NSW 2283

Dear James

Re: Comments Regarding the 1–5 Recommendations for the Centennial Newstan Colliery S75W Modification – Heritage Impact Assessment, for the Main West Bord and Pillar Project.

With regard to the Centennial Newstan Colliery S75W Main West Modification Recommendations, we recognise the evaluation by Centennial Coal appears to be reasonably comprehensive.

The Awabakal Traditional Owners Corporation Registered Stakeholder representatives have considered the Proposed Recommendations 1-5, and agree with the Proposed Proposal for the Centennial Newstan Colliery S75W Main West Modification Recommendations.

However, we do have one concern with Recommendation 5 as to how Centennial Coal propose to manage the identification of any additional Aboriginal site/s that may not have been identified during the proposed additional survey works, and suggest that more clarification may be needed within this section.

We would like to commend Centennial Coal for the Proposed Recommendations, as we believe that this initiative is a positive way forward in generating a better understanding of the many aspects of Aboriginal Culture and Heritage.

We would like to thank Centennial Coal for the opportunity to comment and If you require any further information please do not hesitate in contacting me.

Yours sincerely,

Kerrie Brauer
Director | Administration

Awabakal Traditional Owners Aboriginal Corporation
ABN: 90 203 408 390 | ICN: 4411
PO Box 253 Jesmond NSW 2299 Australia
T: 61 2 49 58 81 70 | E: info@awabakal.com.au | www.awabakal.com.au



PO BOX 86
CLARENCE TOWN
NSW 2321

Date: 27 January 2011

Attention: James Wearne
Centennial Coal
PO BOX 1000
TORONTO NSW 2283

Re: Newstan Colliery S75W Modification-Heritage Impact Assessment.

ALLA (Hello) James,

This letter is in response to the correspondence we received from Centennial Coal (letter dated 7th January 2011) asking if we would like to provide comments/feedback (by the 28th January 2011) regarding the amendments to the recommendations within the Heritage Impact Assessment report for managing and mitigating potential impacts to any Aboriginal Heritage sites within the Main West mining area.

- Firstly, we would like to commend Centennial Coal for their decision to make amendments to these recommendations. This gives us a reassurance knowing that our Cultural Heritage is being afforded the protection it deserves and that we have the opportunity to add what we believe is a constructive and beneficial point of view in the overall process for the protection and preservation of what is left of our Cultural Heritage sites within the Traditional Country of our Ancestors.
- Secondly, we agree with all 5 recommendations that are contained within the correspondence letter received from you (dated 7th January 2011). These recommendations are a positive step in a direction that will benefit Awabakal Cultural Heritage and hopefully have an end result that is more favourable to everyone than could ever be expected.

We hope this addresses any queries you may have James, if not and further information is required please don't hesitate to contact us ASAP. Our contact details are as follows.

NGI NOA

Shane Frost-Managing Director: Awabakal Descendants Traditional Owners Aboriginal Corporation
Email: shanefrost@bigpond.com Phone: 49964362 Fax: 49964325 Mobile: 0428320671

Appendix 3

Glossary of Site Types

Aboriginal site types

The following is a brief description of most Aboriginal site types.

Artefact Scatters

Artefact scatters are defined by the presence of two or more stone artefacts in close association (i.e. within fifty metres of each other). An artefact scatter may consist solely of surface material exposed by erosion, or may contain sub-surface deposit of varying depth. Associated features may include hearths or stone-lined fireplaces, and heat treatment pits.

Artefact scatters may represent:

- Camp sites: involving short or long-term habitation, manufacture and maintenance of stone or wooden tools, raw material management, tool storage and food preparation and consumption;
- Hunting or gathering activities;
- Activities spatially separated from camp sites (e.g. tool manufacture or maintenance); or
- Transient movement through the landscape.

The detection of artefact scatters depends upon conditions of surface visibility, including vegetation cover, ground disturbance and recent sediment deposition. Factors such as poor light, vegetation, leaf litter may obscure artefact scatters and prevent their detection during surface surveys.

Bora Grounds

Bora grounds are a ceremonial site associated with initiations. They are usually comprise two circular depressions in the earth, and may be edged with stone. Bora grounds generally occur on soft sediments in river valleys, although they may also be located on high, rocky ground in association with stone arrangements.

Burials

Human remains were often placed in hollow trees, caves or sand deposits and may have been marked by carved or scarred trees. Burials have been identified eroding out of sand deposits or creek banks, or when disturbed by development. The probability of detecting burials during archaeological fieldwork is extremely low.

Culturally Modified Trees

Culturally modified trees include scarred and carved trees. Scarred trees are caused by the removal of bark for use in manufacturing canoes, containers, shields or shelters. Notches were also carved in trees to permit easier climbing. Scarred trees are only likely to be present on mature trees remaining from original vegetation. Carved trees, the easiest to identify, are caused by the removal of bark to create a working surface on which engravings are incised. Carved trees were used as markers for ceremonial and symbolic purposes, including burials. Although, carved trees were relatively common in NSW in the early 20th century, vegetation removal has rendered this site type extremely rare. Modified trees, where bark was removed for often domestic use are less easily identified. Criteria for identifying modified trees include: the age of the tree; type of tree (the bark of many trees is not suitable, also introduced species would be unlikely subjects); axe marks (with the need to determine the type of axe - stone or steel – though Aborigines after settlement did use steel); shape of the scar (natural or humanly scarred); height of the scar above the ground (reasonable working height with consideration given to subsequent growth).

Fish Traps

Fish traps comprised arrangements of stone, branches and/or wickerwork placed in watercourses, estuaries and along coasts to trap or permit the easier capture of sea-life.

Grinding Grooves

Grinding grooves are elongated narrow depressions in soft rocks (particularly sedimentary), generally associated

with watercourses, that are created by the shaping and sharpening of ground-edge implements. To produce a sharp edge the axe blank (or re-worked axe) was honed on a natural stone surface near a source of water. The water was required for lubricating the grinding process. Axe grinding grooves can be identified by features such as a narrow short groove, with greatest depth near the groove centre. The grooves also display a patina developed through friction between stone surfaces. Generally a series of grooves are found as a result of the repetitive process.

Isolated Finds

An Isolated find describes a site where only one artefact is visible. These finds are not found in apparent association with other evidence for prehistoric activity or occupation. Isolated finds occur anywhere and may represent loss, deliberate discard or abandonment of an artefact, or may be the remains of a dispersed artefact scatter. Numerous isolated finds have been recorded within the Project Area. An isolated find may flag the occurrence of other less visible artefacts in the vicinity or may indicate disturbance or relocation after the original discard.

Middens

Shell middens comprise deposits of shell remaining from consumption and are common in coastal regions and along watercourses. Middens vary in size, preservation and content, although they often contain artefacts made from stone, bone or shell, charcoal, and the remains of terrestrial or aquatic fauna that formed an additional component of Aboriginal diet. Middens can provide significant information on land-use patterns, diet, chronology of occupation and environmental conditions.

Mounds

Aboriginal mounds are places where people lived and reflect a record of that living space. Mounds may

Mythological / Traditional Sites

Mythological and traditional sites of significance to Aboriginal people may occur in any location, although they are often associated with natural landscape features. They include sites associated with dreaming stories, massacre sites, traditional camp sites and contact sites. Consultation with the local Aboriginal community is essential for identifying these sites.

Ochre quarries

Ochre, iron oxide may in colours through brown, yellow to red. Ochre may have been used dry for colouring hair or skin or ground to a fine powder and mixed with mediums such as water, blood, fat, etc as a fixative. Ochre was used for decorating the body, artefacts and rock shelters. Quality deposits provided a valuable resource with evidence of wide spread trade of the substance.

Rock Shelters may contain Art and / or Occupation Deposit

Rock shelters occur where geological formations suitable for habitation or use are present, such as rock overhangs, shelters or caves. Rock shelter sites generally contain artefacts, food remains and/or rock art and may include sites with areas of potential archaeological deposit, where evidence of rock-art or human occupation is expected but not visible. The geological composition of a Project Area will indicate the likelihood for rock shelters to occur.

Stone Arrangements

Stone arrangements include lines, circles, mounds, or other patterns of stone arranged by Aboriginal people. These may be associated with bora grounds, ceremonial sites, mythological or sacred sites. Stone arrangements are more likely to occur on hill tops and ridge crests that contain stone outcrops or surface stone. Preservation of those sites is dependent on minimal impact from recent land use practices.

Stone Quarries

A stone quarry is a place at which stone resource exploitation has occurred. Quarry sites are only located where the exposed stone material is suitable for use either for ceremonial purposes (e.g. ochre) or for artefact manufacture.

Appendix 4

Indigenous Outcomes Report



Appendix H

Indigenous Archaeological
Impact Assessment

Indigenous Outcomes Pty Ltd



Newstan Colliery

Modifications to Development Consent Statement of Environmental Effects

Indigenous Archaeological Impact Assessment

for:

Hansen Bailey

on behalf of Centennial Coal Company

PO Box 1000

Toronto NSW 2283

Prepared by:

INDIGENOUS OUTCOMES

P. O. Box 433

The Junction,

NEWCASTLE NSW 2300

April 2007

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1.0 IDENTIFICATION OF SURFACE AND SUBSURFACE FEATURES

1.1 INTRODUCTION

Centennial Coal Company Pty Ltd (Centennial) currently operates the Newstan Colliery underground coal mine at Fassifern (Newstan). Newstan has been operating for over 117 years. Development Application (DA) 73-11-98 applies to the current mine plan and the supporting Life Extension Area (LEA) Environmental Impact Statement (EIS) dated November 1998 (see LEA Boundary in Figure 1).

Centennial is seeking to modify Newstan's existing DA to continue its Longwall operations in the West Borehole Seam, by mining Longwall 24 (LW24) and to install a ventilation shaft adjacent to the existing Awaba surface facilities in a disused quarry. The site (the Project Area) is approximately 5 km South-West of Toronto and approximately 30 km south-west of Newcastle in New South Wales (see Figure 1).

This report presents details of the Archaeological assessment undertaken by Indigenous Outcomes of the Project area (see Figure 1). This assessment was undertaken in conjunction with activities for the Newstan Awaba Mines Extension Environmental Assessment.

Hansen Bailey (HB) has been commissioned to prepare a Statement of Environmental Effects (SEE) to accompany the application to DoP. As part of the Project HB commissioned Indigenous Outcomes Pty Ltd (Indigenous Outcomes) to undertake the Indigenous Archaeology Assessment. This has been undertaken in accordance with Department of Environment and Conservation's (DEC's) Interim Community Consultation Guidelines for Applicants (December 2004) (DEC Guidelines). These assessments were designed to identify Indigenous heritage sites, as well as any areas of Indigenous cultural heritage value or related issues within the Project Area.

This report does not include a cultural heritage assessment, which has been undertaken separately as a companion document to the Archaeology Assessment report. As such this report should be read in conjunction with that report if a full description of the Indigenous Archaeological and cultural heritage aspects of the Project is required.

The Project Area measures approximately 114 hectares (ha) and is divided into two distinct areas, these being the area above LW 24 (113 ha) and the area where the Ventilation Shaft is required to be installed (1 ha).

This report assesses whether there is any risk posed to sites and potential archaeological deposits within the project area from the development of LW 24 and the installation of the required ventilation shaft.

The application has been prepared in accordance with the principles outlined in the NSW Department Primary Industries' (Mineral Resources) Guideline for Applications for Subsidence Management Approvals – December 2003.

1.2 NATURAL FEATURES

The topography surrounding the Project area ranges from low rolling hills with short slopes, interspersed by frequent drainage lines to the flat floodplain of Lords Creek to the foothills of the Watagan Mountain range.

North of the Project Area is a low ridge and spur complex with a north-easterly orientation that join a more dominant ridge leading to a large valley in the east. No private property is located within the Project Area.

1.3 AREAS OF ENVIRONMENTAL SENSITIVITY

Table 1 below summarises the potential areas of sensitivity as described within the SMP guidelines. None of the listed features occur within the Project Area.

Table 1
Potential Areas of Sensitivity

Feature	Applicable	Details
Land reserved as a State conservation area under the <i>National Parks and Wildlife Act 1974</i>	No	No lands have been reserved as a conservation area within the Application area
Land declared as an Aboriginal place under the <i>National Parks and Wildlife Act 1974</i>	No	No lands have been declared as an Aboriginal place within the Application area
Land identified as wilderness by the Director, National Parks and Wildlife under the <i>Wilderness Act 1987</i>	No	No land has been identified as wilderness within the Application area.
Surface feature of community significance (including cultural, heritage or archaeological significance)	No	No Archaeological or cultural heritage sites or Aboriginal significant areas were found within the Application area

2.0 CHARACTERISATION AND ASSESSMENT OF SURFACE AND SUBSURFACE FEATURES

2.1 CHARACTERISATION

Indigenous cultural heritage material may be present in all terrain units in the Project Area. The investigations conducted for this Project have demonstrated that the archaeological material in all terrain units has been affected by a range of natural and land use associated processes.

These processes have affected the content and structure of Aboriginal sites throughout the period of Aboriginal occupation and subsequently during European occupation of the Project Area. The greatest impacts on site integrity to date are associated with land clearing, logging, the construction of transmission lines and tracks (vehicular and bushfire trails) and bushfire.

2.2 STATUTORY REQUIREMENTS & GUIDELINES

Two pieces of legislation provide the primary context for Aboriginal heritage management in NSW, the *National Parks and Wildlife Act 1974 (NPW Act)* and the *Environmental Planning and Assessment Act 1979 (EP&A Act)*. The NPW Act provides statutory protection for all Aboriginal relics and Aboriginal Places.

All Aboriginal sites and relics in NSW are protected by the NPW Act, regardless of their significance or land tenure. This recognises that:

- Aboriginal culture is living and unique and recognises the right of Aboriginal people to protect preserve and promote their culture; and
- Aboriginal people are the rightful owners of Aboriginal cultural heritage information and Aboriginal sites and objects ('relics' under the National Parks and Wildlife Act 1974).

The NSW Department of Environment & Conservation (DEC) has developed guidelines (under *NPW Act 1974: Part 6 Approvals "Interim Community Consultation Requirements for Applicants 2004"* (DEC Guidelines) to clarify and reaffirm the intent of its policies regarding the requirements for consultation by proponents with members and representatives of the Aboriginal community.

These guidelines recommend that the Aboriginal Community be involved in discussions related to management plans for Aboriginal sites/conservation areas as early as possible in their development and that they are supplied with a draft report of any cultural heritage management plans for their perusal and input. This assessment has been undertaken in accordance with these guidelines.

The EP&A Act establishes the framework for Aboriginal heritage values to be formally assessed, through land use planning and development consent processes.

The EP&A Act and its regulations, schedules and associated guidelines require that environmental impacts are considered in land use planning and decision making. 'Environmental impacts' is interpreted in NSW in the broadest sense as including impacts on cultural heritage, and specifically on Aboriginal heritage.

There are other statutory provisions which are also of relevance to Aboriginal heritage management in NSW. These include the federal *Aboriginal and Torres Strait Islander (Heritage Protection) Act (1984)*, the *Australian Heritage Commission Act (1975)*; the *NSW Heritage Act (1977)* and the *Local Government Act (1993)*.

2.3 STAKEHOLDER CONSULTATION

The DEC Guidelines outline three principles behind the collaborative approach to Aboriginal heritage survey and site management. These principles are that:

- Aboriginal culture is a living culture,
- Aboriginal communities are the rightful owners of cultural heritage information; and
- DEC's decision making on Aboriginal heritage issues is transparent.

Indigenous Outcomes supports the principles underlying the DEC approach and aims to involve the relevant Aboriginal community/communities in all its heritage assessments. Consultation which has been undertaken to date with the Aboriginal Community is discussed in the following sections.

2.3.1 Consultation with Interested Parties

1. A newspaper advertisement was placed in the Lakes Mail and Cooranbong Gazette on 17 November 2005 for interested parties to register their interest in participating in the Project.
2. One written reply was received from the Koombahtoo Local Aboriginal Land Council (Koombahtoo) on 8 December 2005. An additional expression of interest was received from the Awabakal Descendants Traditional Owners Aboriginal Corporation (Awabakal) via phone in early January 2006.
3. Additional to the newspaper advertisement, letters were sent to the Native Title Tribunal, Department of Environment & Conservation (DEC) and the Lake Macquarie City Council informing them of the Project and the consultation proposed. Only one response was received from Lake Macquarie City Council, which was verbal which indicated they were unable to attend the site meeting.
4. A letter requesting attendance at a meeting to be held at site was sent to all stakeholders who registered an interest in the Project. The intention of the site

meeting was to present the proposed methodology for survey, gain feedback on the methodology and conduct an initial site inspection.

5. The meeting was held on 9 December 2005 with attendees at the meeting:
 - o Ray Smith (Koompahtoo);
 - o Dianne Munro (Hansen Bailey);
 - o Gary Collins (Centennial Coal);
 - o Tracey Skene (Indigenous Outcomes); and
 - o Cheryl Kitchener (Indigenous Outcomes).
- o Apologies were received from David Ahoy (Koompahtoo) and Shane Frost (Awabakal).
6. Stakeholders were advised that any comments on the proposed methodology could be provided by 13 January 2006 (the guidelines suggest an allowance of 21 days). No responses were received.
7. Archaeology Field offices from Koompahtoo and Awabakal were briefed with the methodology of the field work and relevant safety requirements for the required survey of the Project Area. Aboriginal representatives involved in this work were; David Ahoy, Ashley Hudson, Ray Smith, Allan Williams, Joseph Smith and Nathan Griffin from Koompahtoo and Shane Frost and Joshua Frost from Awabakal.
8. Field work was undertaken over a nine day period from 23 January 2006 to 9 February 2006.
9. During late 2006, the project was revised to a reduce scope including the mining of only LW24 and the construction of a ventilation shaft in a disused quarry site. The methodology for the required survey of the ventilation shaft site was provided to both the Koompahtoo and Awabakal for comment on 3 November 2006.
10. Responses were received from Koompahtoo on 10 November 2006 and from Awabakal on 14 November 2006 stating that they wish to be involved in the survey.
11. On 1 December 2006 the survey of the ventilation shaft survey area was undertaken with field officers present from both the Koompahtoo and Awabakal.

2.3.2 Cultural Heritage Discussions

Individual meetings were held with various interested Aboriginal representatives to endeavour to discover any issues of cultural significance that were relevant to the Project area. This included meetings in early 2006 with:

- Kenny McBride (Elder with knowledge of local Aboriginal culture);
- Ron Gordon (Awabakal Lands Council);
- Various representatives (Koompahtoo Aboriginal Lands Council);
- Shane Frost (Awabakal Descendants Traditional Owners Aboriginal Corporation); and
- Zelma Moran, Sandra Newlin and Bill Sampson (West Lakes Elders).

These interviews were conducted with representatives from the local Indigenous community as part of the Project and the findings from these are presented in the 'Aboriginal *Community Consultation and Cultural Heritage Assessment Report*' by Indigenous Outcomes which is appended to the main volume of the Newstan SEE.

3.0 IMPACT ASSESSMENT

3.1.1 Background Research

A search of the Department of Environment and Conservation (DEC) Aboriginal Heritage Information Management system (AHIMS) database was conducted by Indigenous Outcomes in November 2005. This search returned sixteen (16) potential sites of interest within the general region, with two (2) of the sites added to the database in 2006 as part of the field survey undertaken for the Newstan Awaba Environmental Assessment. These are described in Table 2. Two sites have been recorded within the immediate vicinity of the Project Area.

Table 2
Recorded sites in the Locality

Feature	Applicable	Details
Areas of Archaeological and/or Heritage Significance;	Yes	Numerous archaeological surveys and investigations have been carried out in the Lake Macquarie area and the broader Toronto/Morisset region. Most of these projects relate to small areas of land, with the exception of the work undertaken by Haglund (1986), Kinhill Engineers Pty Ltd (1995) and Umwelt (2004). One site (which could not be relocated during the field survey) was identified by the AHIMS search as being within the Project Area above LW 24; • AA4 – Isolated find (NPWS # 45-7-0077). Two other sites have been recorded within the immediate vicinity of (but not within) the Project Area, containing two types of archaeological evidence; • AA3 – possible scarred tree; and • AA5 – Isolated find (NPWS # 46-7-8078).

A review of previous reports and a search of the Lake Macquarie Local Environment Plan did not highlight any areas of heritage or cultural significance in areas where potential disturbance as described above may occur.

3.1.2 Potential Impacts

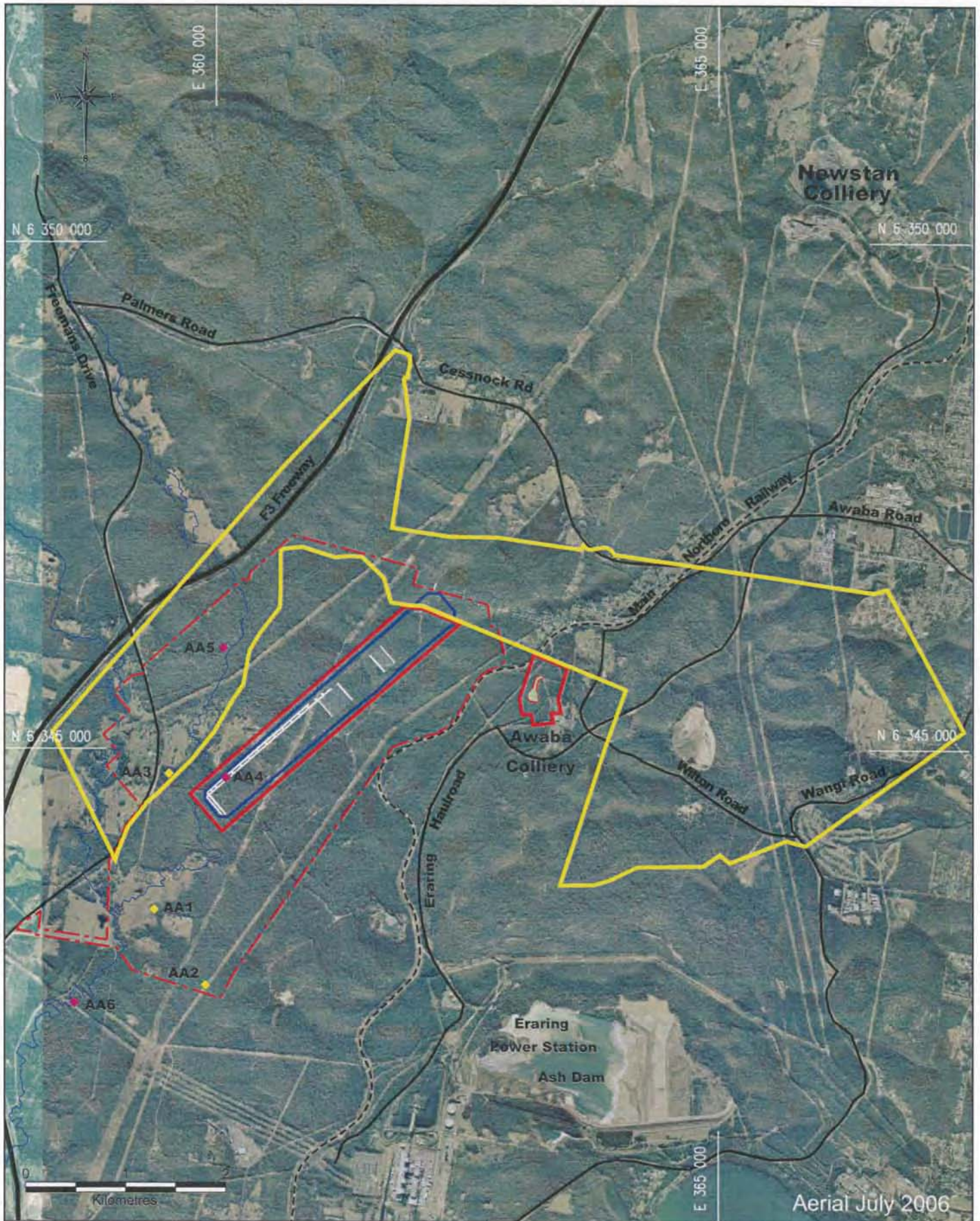
Longwall mining results in ground subsidence in areas immediately above the mined longwall panels (due to collapse of overburden into the void left by coal removal), interspersed by small ridges corresponding to the pillars that are left between each longwall panel. The most significant potential environmental impact at the surface from this process occurs along low gradient creeklines, where bed gradients may be modified and stream flow may be blocked so that intermittent ponding can occur.

Subsidence may also result in surface cracking in soils and rocks, in areas adjacent to the remnant pillars and around the margins of the mining area. The greater the depth of cover above a longwall, the less subsidence should result. The predicted subsidence levels for the Project area are similar to those described in the Newstan Colliery Life Extension Project EIS (Umwelt 1998). The potential impacts of the proposed underground mining development on surface water characteristics, existing landform and estimated post-mining landforms has been assessed by Seedsman Geotechnics Pty Ltd (2007) for the mining of LW24.

To mitigate any potential for interconnected cracking between the surface and underground workings it may be necessary to:

- Reshape, till and treat with lime areas of surface cracking;
- Fill areas of potential surface ponding and where necessary excavate channels over chain pillars to prevent ponding; and
- Reshape and stabilize drainage channels as soon as possible after mining with all disturbed areas seeded with native groundcover species to maximize stability of the reshaped surface.

These types of surface remediation works have the potential to damage/destroy any Aboriginal sites and potential archaeological deposits that maybe located in this area.



NEWSTAN SEE

Indigenous Archaeology Sites

Figure
1

Cad File: 02045D.dwg

Date: 14.02.2007

Drawn: TB

Coordinate System: MGA Zone 56

3.1.3 Field Survey

The field survey for LW24 was undertaken as part of the Newstan-Awaba Mines Extension Environmental Assessment from 23 January to 9 February 2006. Indigenous Outcomes' Archaeologist Cheryl Kitchener and Assistant, Tracey Skene were assisted by Aboriginal community members;

- Raymond Smith Koompahtoo;
- David Ahoy Koompahtoo;
- Joseph Williams Koompahtoo;
- Ashley Hudson Koompahtoo;
- Nathan Griffin Koompahtoo;
- Allan Williams Koompahtoo; and
- Shane Frost Awabakal.

No new sites were recorded within the Project Area and site AA4 (isolated find) as shown on Figure 1, could not be relocated.

Site AA3 (potential scarred tree) is at least 400 metres from LW 24 and will not be impacted by the Project.

During late 2006, the project was revised to a reduce scope including the mining of only LW24 and the construction of a ventilation shaft in a disused quarry site. The methodology for the required survey of the ventilation shaft site was provided to both the Koompahtoo and Awabakal for comment on 3 November 2006.

On 1 December 2006 the survey of the ventilation shaft survey area was undertaken with field officers present from both the Koompahtoo and Awabakal. This survey involved inspecting the site where the ventilation shaft is required to be constructed within the disused quarry as well as the proposed services corridor (See Figure 1). The area was highly disturbed and visibility was quite good.

No Indigenous Archaeology sites were identified during the survey of the ventilation shaft survey area.

A final draft of this report was provided to both the KLALC and ADTOAC on 22 March 2007 for comment. A written response was received from the Koompahtoo stating that they have no amendments to the reports (see Attachment 1). The Awabakal were unable to provide a written response however did indicate verbally that they did not have any comments or amendments to the report.

4.0 MANAGEMENT RECOMMENDATIONS

An assessment of low cultural heritage and archaeological significance is considered appropriate for the Project Area, determined in consultation with the local Aboriginal community and Elders.

Due to site AA4 (isolated find) not being able to be relocated, and no other materials identified within the Project Area, no mitigation measures are proposed with regard to the mining of LW24 or the construction of the ventilation shaft.

Monitoring of site AA3 (potential scarred tree) is recommended to be conducted should Newstan decide to undertake any works within 100m of this site. Should it be determined that any works are likely to impact this site then further consultation should be undertaken with Aboriginal stakeholders to determine whether any further management may be required.

Should materials be discovered during any required remediation works, any surface works should cease and NPWS and the Indigenous Community consulted in relation to the management and/or mitigation of the materials discovered.

Attachment 1

Responses received from Indigenous Groups

Koompahtoo
Local Aboriginal Land Council
6/7 Pemell Street Toronto NSW 2283
P O Box 1112 Toronto 2283
Telephone (02) 4950 5577 Fax (02) 4950 5635
ABN 39 633 962 425

10 November 2006

Cheryl Kitchener
Archaeologist
Indigenous Outcomes Pty Ltd

Koompahtoo Local Aboriginal Land Council
(Administrator Appointed)
Newstan Colliery – Expression of Interest

Dear Cheryl

On behalf of Koompahtoo Local Aboriginal Land Council I wish to thank you for your letter of 3 November 2006 and apologise for the delay in responding to you. Please be advised that Koompahtoo LALC would very much like to register our interest as a Stakeholder to be consulted in relation to the above proposal.

If you have any queries, please contact me on the above number or on my mobile on 0418222991 and I will endeavor to answer them for you.

If I can be of further assistance, please do not hesitate to call me.

Yours in Unity
For & on behalf of
Koompahtoo Local Aboriginal Land Council

Lois Towney

Lois Towney
CORDINATOR

From: Shane Frost [awabakal_to@bigpond.com]
Sent: Tuesday, 14 November 2006 8:55 AM
To: Cheryl Kitchener
Subject: Site work Newstan

ALLA Cheryl,

Sorry for the lateness of this E-mail I have been away!!

In response to your inquiry in regard to the site work for Newstan Colliery I am interested and looking forward to you contacting me in this regard.

For any correspondence please send to PO Box 86 Clarence Town 2321

NGI NOA
Shane Frost
Chairman: Awabakal Descendants Traditional Owners Aboriginal Corporation
Email: awabakal_to@bigpond.com Phone: 49964325 Fax: 49964325 Mobile: 0428320671

This information is intended for the addressee only. The use, copying or distribution of this message or any information it contains, is prohibited by the sender

From: Lois
To: 'Cheryl Kitchener'
Sent: Monday, April 16, 2007 2:21 PM
Subject: Newstan SEE

Hi Cheryl

Please accept my apologies for the long delay in getting this report back to you.

I read through the report and , and noted the last paragraph of 4.0 (Management Recommendations). I must congratulate you on an excellent report and was pleased that in paragraph 4.0 you mentioned the importance of further consultation if required to do so. Please note that this document has also been read by Uncle Ken McBride and he also was very please with it, and was impressed with the professionalism in the way that the report has been put together. In saying this, the Field Staff from Koombahtoo that attended at the time were more than happy with the results and the way that the survey was conducted. When given the opportunity I will pass on the report for them to read.

Thank you once again and I look forward to working with you again in the future. Good Luck

Yours in Unity

Lois Towney
Coordinator
Koombahtoo Local Aboriginal Land Council
P O Box 1112, Toronto NSW 2283
Ph 0249505577
Fax 0249505635
Mobile 0418222991



Appendix I

Indigenous Community Consultation
and Cultural Heritage Assessment

Indigenous Outcomes Pty Ltd



Newstan Colliery

Indigenous Community Consultation and Cultural Heritage Assessment

Modifications to Development Consent Statement of Environmental Effects

for:

Hansen Bailey

on behalf of Centennial Coal Company

PO Box 1000

Toronto NSW 2283

Prepared by:

INDIGENOUS OUTCOMES

P. O. Box 433

The Junction,

NEWCASTLE NSW 2300

April 2007

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Attachment 2	Native Title Search
Attachment 3	Example of Correspondence sent to Interested Stakeholders
Attachment 4	DEC AHIMS Site Search
Attachment 5	Responses received from Aboriginal Groups

1.0 INTRODUCTION

1.1 BACKGROUND

Centennial Newstan Pty Ltd (Centennial) currently operates the Newstan Colliery underground coal mine at Fassifern (Newstan). Newstan has been operating for over 117 years. Development Application (DA) 73-11-98 applies to the current mine plan and the supporting Life Extension Area (LEA) Environmental Impact Statement (EIS) dated November 1998 (see LEA Boundary in Figure 1).

Centennial is seeking to modify Newstan's existing DA to continue its Longwall operations in the West Borehole Seam, by mining Longwall 24 (LW24) and to install a ventilation shaft adjacent to the existing Awaba surface facilities in a disused quarry. The site (the Project Area) is approximately 5 km South-West of Toronto and approximately 30 km south-west of Newcastle in New South Wales.

This report presents details of the Indigenous Cultural Heritage assessment of this area. This cultural heritage assessment provides information in relation to the likely impacts of the Project on the Indigenous Cultural Heritage values.

Hansen Bailey (HB) has been commissioned to prepare a Statement of Environmental Effects (SEE) to accompany the application to DoP. As part of the Project HB commissioned Indigenous Outcomes Pty Ltd to undertake the Indigenous Cultural Heritage Assessment including Indigenous community consultation. This has been undertaken in accordance with Department of Environment and Conservation's (DEC's) Interim Community Consultation Guidelines for Applicants (December 2004) (DEC Guidelines). These assessments were designed to identify Indigenous heritage sites, as well as any areas of Indigenous cultural heritage value or related issues within the Project Area.

This report does not include an Archaeological assessment, which has been undertaken separately as a companion document to the Cultural Heritage Assessment report. As such this report should be read in conjunction with that report if a full description of the Archaeological and Cultural Heritage aspects of the Project is required.

1.2 THE PROJECT AREA

The Project Area encompasses approximately 114 hectares (ha) and is divided into two distinct areas, these being the area above LW24 (113 ha) and the area where the Ventilation Shaft is required to be installed (~1 ha).

The vegetation above LW24 is covered by eucalyptus forest, which is natural regrowth after past logging and bushfires, with a native understorey. The site where the Ventilation Shaft is required to be installed is a disused quarry and is highly disturbed.

1.3 AIMS

The aims of the study were to:

- Actively seek comments and input from all interested Indigenous stakeholders through a comprehensive consultation program;
- Assist the Archaeologist in the design and implementation of the site survey in the Project Area incorporating concerns and issues from interested Indigenous community groups into the fieldwork to ensure that all parties achieve a positive outcome;
- Organise participation by interested Indigenous stakeholders in the site assessment program;
- Prepare a report documenting the significance of Indigenous Cultural Heritage issues based on the comments received throughout the stakeholder consultation process;
- Obtain an understanding of the cultural landscape from an Indigenous perspective and document any sensitive information about oral history and other cultural sensitivities from those individuals and groups who hold knowledge, ensuring that any information received will be used with the utmost respect for the people sharing it and will only be incorporated into the report with their permission and endorsement; and
- The information gathered will be used to establish a basic understanding between Centennial and the local Indigenous community, and develop an ongoing relationship.

2.0 CONSULTATION PROCESS

2.1 REGULATORY FRAMEWORK

The DEC Interim Community Consultation Guidelines dated December 2004 (DEC Guidelines) were followed throughout the consultation process.

The DEC Guidelines recognise the need to implement and document a consistent, transparent and all-inclusive stakeholder consultation process when considering Archaeological and Indigenous Cultural Heritage issues.

The legislative requirement regarding Indigenous community consultation is outlined in the DEC Guidelines and the *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* (July 2005) and these have been applied during this assessment.

2.2 KEY STAGES IN THE CONSULTATION PROCESS

The key stages are outlined below;

1. Identification of interested parties

An advertisement was placed in the Lakes Mail and Cooranbong Gazette newspapers on 17 November 2005 asking any interested stakeholders to participate in the Indigenous Heritage Assessment process (see **Attachment 1**).

Two groups responded to the advertisement: The Koombahtoo Local Aboriginal Land Council (KLALC) and the Awabakal Descendant Traditional Owners Aboriginal Corporation (ADTOAC). KLALC responded in writing and the ADTOAC responded by telephone to Indigenous Outcomes and included;

- Lois Towney – Co-ordinator KLALC; and
- Shane Frost - Spokesperson for ADTOAC.

2. Separate to the advertisement in the local newspaper, letters were sent to;

- KLALC;
- ADTOAC;
- Native Title Tribunal;
- DEC; and
- Lake Macquarie City Council (LMCC).

A verbal response was received from LMCC, who sent their apologies regarding their inability to attend the community meeting.

A response was received from the Native Title Tribunal regarding a Native Title search (see **Attachment 2**).

3. An Indigenous Archaeology and Cultural Heritage Interest Meeting was held at Centennial's Fassifern office on Friday, 9 December 2005 at 10.00am.

All interested stakeholders were invited to attend this meeting. Attendees at the meeting were:

- Ray Smith (KLALC);
- Gary Collins (Centennial Coal);
- Dianne Munro (Hansen Bailey);
- Tracey Skene (Indigenous Outcomes); and
- Cheryl Kitchener (Indigenous Outcomes).

Apologies were received from:

- David Ahoy (KLALC); and
- Shane Frost (ADTOAC).

Introductions were held and Dianne Munro discussed HB's role in the Project. Cheryl Kitchener discussed the process of the Indigenous Archaeology Assessment along with information regarding Community Consultation Program and Cultural Heritage assessment which will be carried out by Tracey Skene (Indigenous Outcomes).

A briefing was then put forward on the proposed methodology for the Archaeological field work to those present. The attendees discussed the methodology of the site work and comments were encouraged. The meeting was then followed by a site visit in order to gain a better understanding of the landscape. Participants were provided with maps of the Project Area, details of the site location and survey information. Ray Smith informed Indigenous Outcomes, Hansen Bailey and Centennial that all information would be taken back to the members of the KLALC for comment and he would pass on those comment to the Indigenous Outcomes at the appropriate time. A copy of the methodology was provided to Shane Frost also via mail.

4. The first round of consultation began on Friday, 9th December 2005 with Mr Kenny McBryde (an Elder from the local Indigenous community). Kenny was recommended by Lois Towney and Ray Smith as an important person to speak with and to be

involved in the process. During this consult an introduction and presentation was given before Tracey Skene commenced the interviews with other member of the local community. Kenny McBryde helped with information about the Awaba area and suggested other Elders that should be involved during the Community Consultation process. This information was recorded and adopted into the process (see Tables 1-5).

5. On Friday, 13 January 2006 a meeting was undertaken with Ron Gordon from the Awabakal Land Council. At this meeting the Project was discussed and a brief presentation given. Ron Gordon commented that he was familiar with the Project Area and was informed of the Environmental Assessment process as well as other details regarding the Project. Ron also asked for further consultation on the Project once arrangements have been made and when everyone's availability was confirmed (see Tables 1-5).
6. Further to this, on Monday, 9 January 2006 and Friday, 13 January 2006 a presentation and information session took place with members of KLALC at the land council office in Toronto, a number of issues were raised at this meeting, these included cultural heritage issues as well as environmental issues (see Tables 1-5).
7. A consultation meeting was held at Maitland Park with Shane Frost from the ADTOAC on Wednesday, 15 February 2006 to obtain an oral history regarding both traditional and historical information that he and his family may be able to provide about Awabakal traditions (see Tables 1-5).
8. A number of West Lake Elders attended a meeting with Indigenous Outcomes representative, Tracey Skene on Wednesday 15 February 2006 at 11.00am at the KLALC office in Toronto. Elders present during this meeting were Zelma Moran, Sandra Newlin and Bill Sampson to discuss the Indigenous Community Consultation Program.
9. Bob Sampson and Zelma Moran shared some information about the Toronto area regarding oral history that she knew, but noted that she knew nothing about the Project Area.
10. Further research about any documented history of the Awaba area was carried out at the Awabakal Research Centre at Newcastle on Friday, 17 January 2006 by Tracey Skene. This information was added to the Archaeological report.
11. A search for Native Title claims in the Project Area was carried out at the Native Title Unit on 23 January 2006. A copy of the results from this search is presented in **Attachment 2.**

12. Archaeology Field offices from KLALC and ADTOAC were briefed with the methodology of the field work and relevant safety requirements for the required survey of the Project Area. Indigenous representatives involved in this work were; David Ahoy, Ashley Hudson, Ray Smith, Allan Williams, Joseph Smith and Nathan Griffin from KLALC and Shane Frost and Joshua Frost from ADTOAC.
13. Field work was undertaken over a nine day period from 23 January 2006 to 9 February 2006.
14. During late 2006, the project was revised to a reduced scope including the mining of only LW24 to avoid impacts on Lords Creek and the construction of a ventilation shaft in a disused quarry site. The methodology for the required survey of the ventilation shaft site was provided to both the KLALC and ADTOAC for comment on 3 November 2006.
15. Responses were received from KLALC on 10 November 2006 and from ADTOAC on 14 November 2006 stating that they wish to be involved in the survey.
16. On 1 December 2006 the survey of the ventilation shaft survey area was undertaken with field officers present from both the KLALC and ADTOAC.
17. A final draft of this report was provided to both the KLALC and ADTOAC on 22 March 2007 for comment. A written response was received from the KLALC stating that they have no amendments to the reports (see Attachment 5). The Awabakal were unable to provide a written response however did indicate verbally that they did not have any comments or amendments to the report.

3.0 RESULTS

3.1 CONSULTATION WITH INDIGENOUS COMMUNITIES

Indigenous community groups and individuals were encouraged to comment on and participate in the consultation process. During the visits at the KLALC members expressed an interest in the Project. Generally, there was interest in the mine process, but no members came forward with information to assist with the cultural history of the Project Area.

3.2 ISSUES RAISED DURING CULTURAL HERITAGE CONSULTATION

The issues that were raised at meetings held on 9 January and 13 January 2006 are set out in Tables 1-5 below. These issues were directed at the Project and its potential impacts on the local Cultural Heritage and environment.

Table 1
Issues and Comments from meeting on 9 January 2006

Organisation / Individual	Comments	Actions
Lois Towney (Co-ordinator of KLALC)	The KLALC requested copies of all maps and information about the Project.	KLALC were provided a map of the Project Area and land ownership maps in January 2006. Project newsletters 1 and 2 were also provided.

Table 2
Information and comments with the Koe-Inba Committee Group (2005)

Ron Gordon (Awabakal Land Council General Manager and respected Indigenous Elder and Knowledge holder of sites in the Lake Macquarie area)	Ron was referred to by Uncle Kenny McBryde as a knowledge holder in the Newcastle and Lake Macquarie area. He was a former member of the Koe-Inba Committee Group when it was functioning from the 1970's to the 1980's. Ron remembers a lot of stories told to him by
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	Percy Haslam about the Lake Macquarie area but nothing within the Project Area.
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Table 3

Information and comments from West Lake Elders

West Lake Elders meeting on the 15 February 2006. Elders present were: Bob Sampson, Zelma Moran and Sandra Newlin.	The representatives present suggested that they take information back to the rest of the group and organise another meeting once they seek everyone's opinion on the Indigenous Community Consultation Program and Cultural Heritage Assessment for the Project. The West Lake Elders are a group of Indigenous Elders from around NSW which reside in the Toronto and Lake Macquarie District and have historical connections to the Lake Macquarie area. They are also members of the KLALC. During the conversations at this meeting the Elders present had no information about the Project Area. They did suggest they knew of other sites in the surrounding areas.
Zelma Moran (West Lake Elder)	Zelma spoke about the Nine Mile Mission which is in the Toronto area. She also holds other valuable information on the surrounding areas that she wishes to discuss at a later date. Zelma knew of no sites or places of cultural sensitivity in the Project Area, but did maintain she had information of the surrounding areas.

Table 4
Information and comments with Shane Frost

Shane Frost is a member of the ADTOAC. (Meeting at Maitland Park 15 February 2006 at approximately 4pm.)	Shane explained the extent of his family's connections in the Lake Macquarie area and said his great grandmother was born in close proximity of the Project Area in 1895, Shane's family worked in this area when the railroad went through cutting sleepers. This story relates to his great uncle. Shane also explained that the water in the creeks and water holes in this area are of considerable cultural value to the Awabakal people because of its connection to the dreamtime. He recalls an area near the Project Area, as being of significance due to its location and outlook. Shane respectfully declined to share any of the other stories he had, but did acknowledge the fact that he has many stories associated with the area.
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Table 5
Information and comments with the Koe-Inba Committee Group

Extracted from information given by Uncle Kenny McBryde and Percy Haslam (Koe-Inba Committee Group)	At this meeting Kenny and Percy explained that the Watagan Range was apart of a trading route mostly along the ridges and deep valleys. They then discussed the Keepa-Keepa site, which is in the Heaton State Forest, part of the Watagan Range and said that this is an important place for teaching for the Indigenous Community. This site has an abundance of resources (plants) and rock formations and Archaeology sites and over looks the Awabakal Lands. They were not able to provide any information about the Project Area.
---	--

4.0 CONCLUSION

No cultural heritage issues were identified specific to the Project. The groups involved throughout the cultural heritage consultation process were satisfied with the assessment methodology proposed.

Attachment 1

Copy of Newspaper Advertisement 17 November 2005



Centennial Coal

PUBLIC NOTICE

Aboriginal Stakeholder Consultation Awaba - Newstan Mines Extension

Centennial Coal Company are seeking to identify Aboriginal stakeholders who wish to be consulted in relation to a proposed Archaeological survey and cultural heritage assessment for the Awaba - Newstan Mines Extension at Awaba, NSW.

Interested stakeholders are required to register their interest with Hansen Consulting in writing to:

Ms Dianne Munro
Senior Environmental Scientist
Hansen Consulting
PO Box 473
SINGLETON NSW 2330

Tel: 02 6575 2003 or 0428 772 566
Fax: 02 6575 2001

Expression of Interest must include current contact details. The closing date for registration is close of business on Friday, 2 December 2005. Once expressions of interest have been received a community / stakeholder planning meeting will be held to discuss the program further.

Attachment 2
Native Title Search



NATIONAL NATIVE TITLE TRIBUNAL

Level 25 GPO Box 9973, SYDNEY NSW 2001
25 Bligh Street Telephone: (02) 9235 6300
SYDNEY NSW 2000 Facsimile: (02) 9233 5613
AUSTRALIA Website: www.nntt.gov.au

Our ref: 85906cw
Your ref: -

24 January 2006

Tracey Skene & Cheryl Kitchener
Indigenous Outcome

Dear Ms Skene & Ms Kitchener

Native title search results of Lake Macquarie Local Government Area

Thank you for your letter of 23 January 2006.

My search on 24 January 2006 found:

Register Type	NNTT Reference Numbers
National Native Title Register	Nil.
Register of Native Title Claims	Nil.
Unregistered Claimant applications	Nil.
Register of Indigenous Land Use Agreements	Nil.

I have included a fact sheet to help you understand the search result.

Please note, recent applications lodged or amended in the Federal Court may not have been sent to us.

If you need more information please call me on (02) 9235 6300.

Yours sincerely

Cleone Wellington
Administration Assistant
Tel: (02) 9235 6300

FOR MORE INFORMATION, PLEASE CONTACT FREECALL 1800 640 501

Attachment 3

Example of Correspondence sent to Interested Stakeholders



3 November 2006

Group
Address

Attention: Person

Dear Person,

NEWSTAN COLLIERY - STATEMENT OF ENVIRONMENTAL EFFECTS ARCHAEOLOGY AND CULTURAL HERITAGE SURVEY

1.0 INTRODUCTION

We refer to the expression of interest received from your group by email on 8 December 2005, regarding the Newstan Awaba Mines Extension Project (the Newstan Awaba Project) in response to Centennial Coal Company's (Centennial) advertisement in the Lakes Mail newspaper on 17 November 2005. As you would be aware, Centennial decided not to proceed with the open cut mining component of this Project and as such the Project Application was withdrawn.

Centennial would now like to proceed with the underground component of this project.

2.0 BACKGROUND

Centennial currently operates the Newstan underground coal mine (Newstan) and surface facilities West of Fassifern. Newstan is located approximately 25 km south-west of Newcastle and 140 km north of Sydney in the Lake Macquarie Shire.

Newstan has been operating for over 117 years under existing use rights and under Development Consent DA 73-11-98. DA 73-11-98's supporting document Newstan Colliery Life Extension Project Environmental Impact Statement (EIS) is for the Life Extension Area (LEA) shown in yellow on Figure 1 – Newstan Colliery Archaeology Survey Area dated 18 October 2006 (See Attachment 1).

LW24-26 was surveyed as part of the Newstan Awaba Project over a period of nine days during January and February earlier this year. During this survey two isolated find sites and a potential scar tree were identified. No report was completed for this work.

S:\Projects\1214 Newstan Modification\Archaeology\Correspondence\061103 Newstan SEE methodology\eg:to _Indigenous Outcomes.doc

3.0 THE PROPOSAL

Due to recent amendments to the Environmental Planning and Assessment Act 1979 (EP&A Act), Newstan requires approval from the Department of Planning (DoP) to continue current mining operations outside the LEA area. As such, Centennial is applying to DoP for a modification to DA 73-11-98 to enable current underground mining operations to continue. Centennial intends to submit the modification application and supporting Statement of Environmental Effects (SEE) to DoP in January 2007.

As part of this modification Newstan is seeking to develop Longwall panels 24 – 26 (LW 24- 26) to the south-west of the township of Awaba, immediately adjacent to current underground mining, to enable its operations to continue. The project also includes the installation of a small ventilation shaft down to the West Borehole coal seam which is to be located adjacent to the Awaba pit-top facilities in an old disused quarry site. The ventilation shaft was assessed and is approved in the Newstan EIS, although it is now required in a different location. **Figure 1** shows the proposed location of LW 24-26 and the ventilation shaft to be assessed in the SEE.

4.0 METHODOLOGY

4.1 FIELDWORK

It is proposed that the archaeology and cultural heritage survey for the Newstan SEE will only be undertaken over the area where the ventilation shaft and associated services corridor is required which is shown on Figure 1 (see **Attachment 1**). This area is approximately 0.5 hectares and consists of a highly disturbed, disused quarry site and small proposed services corridor which is required for the operation of the ventilation shaft. This area will be pegged on the day and it is proposed that pedestrian transverses will be undertaken over 100% of this area. As discussed above in **Section 2.0** the area for LW 24 – 26 has recently been the focus of an archaeology and cultural heritage survey as part of the Newstan Awaba Project and as such it is not intended to be resurveyed.

Indigenous Outcomes have been engaged to undertake the archaeological and cultural heritage assessment for the Newstan SEE.

It is proposed that the survey will run for half a day (4 hours). Only one representative per group will be required for the fieldwork.

The rate of pay for this project will be \$300 per person for half a day (ie. 4 hours) and invoicing should be provided to Cheryl Kitchener following the completion of fieldwork at Indigenous Outcomes.

4.2 SELECTION OF PARTICIPANTS IN THE PROJECT

- Selection will aim to ensure that a reasonable & fair representation of all stakeholder groups in the area are involved on the project.

- Representatives that are competent and can demonstrate that they have experience and local knowledge that enables them to provide positive outcomes for the project will be held in high regard.
- To be considered, representatives must adhere to Newstan's Occupational Health & Safety requirements for working on the site. As such, a short site specific induction will be held at the Awaba Colliery on the day for all participants prior to the commencement of work. All participants are also required to have their own PPE which must include the following;
 - **Long longs (Long sleeve shirt and long pants);**
 - **Hard hat;**
 - **Steel capped boots (lace up);**
 - **Safety Glasses;**
 - **Reflective vest / stripes; and**
 - **Gloves.**

Groups must be fully registered (ie: Groups must be able to display that they have all relevant insurances and work cover).

4.3 RESPONSES

In accordance with the DEC Interim Guidelines for Consultation (December 2004), we ask that comments be provided on the Methodology within 21 days by **24 November 2006**. All responses will be considered and where appropriate recommendations from the Aboriginal community will be incorporated into the Methodology proposed for this work.

5.0 CONCLUSION

Thank you again for expressing an interest in this project. We encourage any comments that you may have regarding the proposed works and methodology to be forwarded by **24 November 2006**.

Should you have any queries in relation to this letter please do not hesitate to contact me.

Yours faithfully
INDIGENOUS OUTCOMES

Cheryl Kitchener
Archaeologist

Attach: Figure 1 – Newstan Colliery Archaeology Survey Area

Attachment 4
DEC AHIMS Site Search



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List of Sites (Partial)

Grid Reference Type = AGD (Australian Geodetic Datum), Zone = 56, Map Sheet like 634%, Feature Search Type = AHIMS Features

Site ID	Site Name	Datum	Zone	Easting	Northing	Access Restrictions	Site Features	Site Types (recorded prior to June 2001)	Further Info. Contact	Report ID
45-7-0191	<u>Publish Island 3:</u>	AGD	56	368250	6337850	None	Earth Mound Shell Artefact	Midden	Permit(s)	
45-7-0202	<u>Coal Point 1:ext1:</u>	AGD	56	370030	6343000	None	Earth Mound Shell Artefact	Midden	Permit(s) 691, 725	
45-7-0203	<u>BSAS-1:</u>	AGD	56	379480	6346010	None	Artefact	Open Camp Site	Permit(s)	3203
45-7-0204	<u>BSAS-2:</u>	AGD	56	377330	6345400	None	Artefact	Open Camp Site	Permit(s)	3203
45-7-0205	<u>Rocky point:</u>	AGD	56	364500	6339500	None	Earth Mound Shell Artefact	Midden	Permit(s)	
45-7-0206	<u>Rocky Point:</u>	AGD	56	364500	6339500	None	Earth Mound Shell Artefact	Midden	Permit(s)	
45-7-0208	<u>Pipers Point:</u>	AGD	56	363200	6339550	None	Earth Mound Shell Artefact	Midden	Permit(s)	
45-7-0209	<u>Sheepards Creek:</u>	AGD	56	372850	6347550	None	Earth Mound Shell Artefact	Midden	Permit(s)	
45-7-0210	<u>Murrays 1:</u>	AGD	56	370780	6336250	None	Earth Mound Shell Artefact	Midden	Permit(s)	

Number of Sites : 156

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List of Sites (Partial)

Grid Reference Type = AGD (Australian Geodetic Datum), Zone = 58, Map Sheet like 6346, Feature Search Type = AHIMS Features

Site ID	Site Name	Datum	Zone	Eastings	Northings	Access Restrictions	Site Features	Site Types (recorded prior to June 2001)	Further Info. Contact	Report ID
						General	Location			
45-7-0070	Eraring-Crooked Creek	AGD Status	58 Valid	363454	6341759	None	☐ Earth Mound ☐ Shell ☐ Artefact	Midden	Permit(s)	
45-7-0072	Crokers Creek-Redhead	AGD Status	58 Valid	375950	6347330	None	☐ Grinding Groove	Axe Grinding Groove	Permit(s)	
45-7-0073	Crokers Creek-Redhead	AGD Status	58 Valid	375650	6347387	None	☐ Grinding Groove	Axe Grinding Groove	Permit(s)	
45-7-0074	Dudley-Jewells Swamp Area-Redhead	AGD Status	58 Valid	377866	6347887	None	☐ Artefact	Open Camp Site	Permit(s)	
45-7-0075	Dudley-Jewells Swamp Area-Redhead	AGD Status	58 Valid	381165	6347948	None	☐ Artefact	Open Camp Site	Permit(s)	
45-7-0076	Dudley-Jewells Swamp Area-Redhead	AGD Status	58 Valid	380434	6347934	None	☐ Artefact	Open Camp Site	Permit(s)	
45-7-0077	Sandy Creek	AGD Status	58 Valid	359925	6344613	None	☐ Artefact	Open Camp Site	Permit(s)	
45-7-0078	Sandy Creek	AGD Status	58 Valid	359900	6345898	None	☐ Artefact	Open Camp Site	Permit(s)	
45-7-0081	Gallagher Creek-Swansea	AGD Status	58 Valid	371887	6336704	None	☐ Earth Mound ☐ Shell ☐ Artefact	Midden	Permit(s)	

Number of Sites : 156

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List of Sites (Partial)

Grid Reference Type = AGD (Australian Geodetic Datum), Zone = 56, Map Sheet like 634, Feature Search Type = AHIMS Features

Site ID	Site Name	Datum	Zone	Eastings	Northings	Access Restrictions		Site Features	Site Types (recorded prior to June 2001)	Further Info. Contact	Report ID
						Gender	General				
<u>45-7-0211</u>	<u>Stives Point 2:</u>	AGD	56	366450	6343990	None	☐	Earth Mound Shell Artefact	Midden	Permit(s)	
		Status	Valid								
<u>45-7-0212</u>	<u>Stives Point 1:</u>	AGD	56	368450	6343900	None	☐	Earth Mound Shell Artefact	Midden	Permit(s)	
		Status	Valid								
<u>45-7-0213</u>	<u>Wangl Wangl Point:</u>	AGD	56	368450	6338750	None	☐	Earth Mound Shell Artefact	Midden	Permit(s)	
		Status	Valid								
<u>45-7-0214</u>	<u>Sunshine Park:</u>	AGD	56	365900	6335650	None	☐	Earth Mound Shell Artefact	Midden	Permit(s)	
		Status	Valid								
<u>45-7-0217</u>	<u>Nirritiba</u>	AGD	56	376000	6338000	None	☐	Aboriginal Ceremony and Dreaming Artefact	Natural Mythological (Ritual)	Permit(s)	
		Status	Valid								
<u>45-7-0218</u>	<u>Mulungbula</u>	AGD	56	375200	6337900	None	☐	Aboriginal Ceremony and Dreaming Artefact	Natural Mythological (Ritual)	Permit(s)	
		Status	Valid								
<u>45-7-0219</u>	<u>Pulbah Island 4</u>	AGD	56	368500	6337000	None	☐	Earth Mound Shell Artefact	Midden	Permit(s)	
		Status	Valid								
<u>45-7-0221</u>	<u>Quarries Head Ridgeline 2</u>	AGD	56	373400	6334050	None	☐	Artefact	Open Camp Site	Permit(s) 2315	
		Status	Valid								
<u>45-7-0222</u>	<u>Quarries Head Ridgeline 1</u>	AGD	56	372900	6338900	None	☐	Artefact	Open Camp Site	Permit(s) 2315	
		Status	Valid								

Number of Sites : 156

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Feature Type = AHIMS Features
Type = AGD (Australian Geodetic Datum), Zone = 56, Map Sheet like 634, Feature Search Type = AHIMS Features

Name	Datum	Zone	Eastings	Northings	Access Restrictions	Site Features	Site Types (recorded prior to June 2001)	Further Info. Contact	Report ID
<u>at Morisset 3</u>	AGD	56	370540	6335260	None		Scarred Tree	Permit(s)	
	Status	Valid							
<u>at Morisset 2</u>	AGD	56	370550	6334540	None		Scarred Tree	Permit(s)	
	Status	Valid							
<u>at Morisset 1</u>	AGD	56	360650	6334900	None		Isolated Find	Permit(s)	
	Status	Valid							
<u>at Morisset 4</u>	AGD	56	360390	6334990	None		Isolated Find	Permit(s)	
	Status	Valid							
<u>at Morisset 5</u>	AGD	56	373150	6340490	None		Artefact	Permit(s)	
	Status	Valid							
<u>KOOMPAHITO</u>	AGD	56	360650	6334900	None		Artefact	Permit(s)	
	Status	Valid							
<u>LABBA POINT</u>	AGD	56	371460	6337230	None		Artefact	Permit(s)	
	Status	Valid							
<u>LABBA POINT 2</u>	AGD	56	365924	6335524	None		Shell	Koompahito LALC	
	Status	Valid						Permit(s)	
<u>LABBA POINT 1</u>	AGD	56	365895	6335284	None		Potential Archaeological Deposit (PAC)	Lomax, Kim (587)	
	Status	Valid						Permit(s)	
<u>LABBA POINT 3</u>	AGD	56	365997	6335449	None		Artefact	Permit(s)	
	Status	Valid							
<u>LABBA POINT 4</u>	AGD	56	365421	6337201	None		Shell	Permit(s)	
	Status	Valid							



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List of Sites (Partial)

Grid Reference Type = AGD (Australian Geodetic Datum), Zone = 56, Map Sheet like 6344, Feature Search Type = AHMS Features

Site ID	Site Name	Datum	Zone	Eastings	Northings	Access Restrictions	Site Features	Site Types (recorded prior to June 2001)	Further Info. Contact	Report ID
45-7-0237	Jonny's Point 2	AGD	56	365987	8336443	None	☐ Shell		Permit(s)	
	Status	Valid								
45-7-0238	Jonny's Point 1	AGD	56	365982	8336263	None	☐ Artefact		Permit(s)	
	Status	Valid								
45-7-0239	MP 1	AGD	56	362100	8334400	None	☐ Potential Archaeological Deposit (PAC)		Permit(s) 2115	
	Status	Valid								
45-7-0240	Dora Creek (Stingers Road)	AGD	56	360613	8337216	None	☐ Artefact ☐ Shell		Permit(s) 2215 Koompahloo LALC	
	Status	Valid								
45-7-0241	Avaya 1	AGD	56	363061	8345787	None	☐ Artefact		Permit(s)	
	Status	Valid								
45-7-0242	Bonnells Bay PAD	AGD	56	362160	8335630	None	☐ Potential Archaeological Deposit (PAC)		Permit(s) 2234	
	Status	Valid								
45-7-0243	WWSB-2	AGD	56	360438	8337770	None	☐ Potential Archaeological Deposit (PAC)		Permit(s) 2273	
	Status	Valid								

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Number of Sites : 156

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Printed By Morris, Glen

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Attachment 5
Responses received from Indigenous Groups

Koompahtoo
Local Aboriginal Land Council
6/7 Pemell Street Toronto NSW 2283
P O Box 1112 Toronto 2283
Telephone (02) 4950 5577 Fax (02) 4950 5635
ABN 39 633 962 425

10 November 2006

Cheryl Kitchener
Archaeologist
Indigenous Outcomes Pty Ltd

Koompahtoo Local Aboriginal Land Council
(Administrator Appointed)
Newstan Colliery – Expression of Interest

Dear Cheryl

On behalf of Koompahtoo Local Aboriginal Land Council I wish to thank you for your letter of 3 November 2006 and apologise for the delay in responding to you. Please be advised that Koompahtoo LALC would very much like to register our interest as a Stakeholder to be consulted in relation to the above proposal.

If you have any queries, please contact me on the above number or on my mobile on 0418222991 and I will endeavor to answer them for you.

If I can be of further assistance, please do not hesitate to call me.

Yours in Unity
For & on behalf of
Koompahtoo Local Aboriginal Land Council

Lois Towney

Lois Towney
CORDINATOR

From: Shane Frost [awabakal_to@bigpond.com]
Sent: Tuesday, 14 November 2006 8:55 AM
To: Cheryl Kitchener
Subject: Site work Newstan

ALLA Cheryl,

Sorry for the lateness of this E-mail I have been away!!

In response to your inquiry in regard to the site work for Newstan Colliery I am interested and looking forward to you contacting me in this regard.

For any correspondence please send to PO Box 86 Clarence Town 2321

NGI NOA
Shane Frost
Chairman: Awabakal Descendants Traditional Owners Aboriginal Corporation
Email: awabakal_to@bigpond.com Phone: 49964325 Fax: 49964325 Mobile: 0428320671

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From: Lois
To: 'Cheryl Kitchener'
Sent: Monday, April 16, 2007 2:21 PM
Subject: Newstan SEE

Hi Cheryl

Please accept my apologies for the long delay in getting this report back to you.

I read through the report and, and noted the last paragraph of 4.0 (Management Recommendations). I must congratulate you on an excellent report and was pleased that in paragraph 4.0 you mentioned the importance of further consultation if required to do so. Please note that this document has also been read by Uncle Ken McBride and he also was very please with it, and was impressed with the professionalism in the way that the report has been put together. In saying this, the Field Staff from Koopahtoo that attended at the time were more than happy with the results and the way that the survey was conducted. When given the opportunity I will pass on the report for them to read.

Thank you once again and I look forward to working with you again in the future. Good Luck

Yours in Unity

Lois Towney
Coordinator
Koopahtoo Local Aboriginal Land Council
P O Box 1112, Toronto NSW 2283
Ph 0249505577
Fax 0249505635
Mobile 0418222991