

APPENDIX 5

Preliminary Aboriginal Cultural Heritage
and Archaeological Assessment



**AUSTAR COAL MINE LWA7-A10
MODIFICATION – STAGE 3 AREA**

**PRELIMINARY ABORIGINAL
CULTURAL HERITAGE AND
ARCHAEOLOGICAL
ASSESSMENT**

October 2013



AUSTAR COAL MINE LWA7-A10 MODIFICATION – STAGE 3 AREA

PRELIMINARY ABORIGINAL CULTURAL HERITAGE AND ARCHAEOLOGICAL ASSESSMENT

October 2013

Prepared by
Umwelt (Australia) Pty Limited

on behalf of
Austar Coal Mine Pty Ltd

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Report No. **3264/R01/V1**
Date: **October 2013**



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Acknowledgement

Umwelt and Austar Coal Mine would like to acknowledge the Traditional Custodians of the Quorrobolong Valley and pay respect to their cultural heritage, beliefs and continuing relationship with the land.

Umwelt and Austar Mine would also like to acknowledge the post-contact experiences of Aboriginal people who have attachment to the Quorrobolong Valley.

We pay our respect to the elders – past, present and future – for they hold the memories, traditions, culture and hopes of Aboriginal people in the area.

Executive Summary

Austar Coal Mine Pty Ltd (Austar) operates the Austar Coal Mine approximately 10 kilometres south of Cessnock in the lower Hunter Valley of NSW (refer to **Figure 1.1**). Development consent for Stage 1 of the Austar Coal Mine was obtained in 1996, with consent for Stage 2 obtained in June 2008. Project approval for Stage 3 was obtained in September 2009 under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Austar is seeking approval to modify the approved Stage 3 layout by extending the western ends of longwalls A7 to A10 due to the identification of significant geological constraints (refer to **Figure 1.2**). The proposed extension of longwalls A7 to A10 is referred to as the Proposed LWA7-A10 Modification. Approval for the Proposed LWA7-A10 Modification is sought under s75W of the EP&A Act.

The Proposed LWA7-A10 Modification Area is within the Mindaribba Local Aboriginal Land Council (MLALC) boundary. Eighteen Aboriginal parties have a registered interest in the Austar Coal Mine project area and most have been involved in ongoing consultation since 2007. It is understood that one Native Title application has recently been registered with the National Native Title Tribunal, which covers (in part) the area containing the Proposed LWA7-A10 Modification Area. The consultation process has therefore been broadened to incorporate the new Native Title Registrants.

This preliminary Aboriginal Cultural Heritage and Archaeological Assessment (ACHAA) report forms part of a broader Environmental Assessment (EA) to support Austar's proposed LWA7-A10 Modification. It has been developed to identify any changes to cultural heritage management requirements that may be necessary as a result of the Proposed LWA7-A10 Modification. The preliminary ACHAA has been provided to Registered Aboriginal Parties (RAPs) concurrently with the lodgement of the application to modify PA08-0111. This approach has been necessitated by the risk of significant business interruptions to existing approved operations within the Stage 3 mining area.

The Proposed LWA7-A10 Modification Area was extensively surveyed during the initial Stage 3 assessment process and eleven Aboriginal archaeological sites were identified within the area. At the time of the initial 2008 survey and assessment, the sites were assessed as having low archaeological significance. It is noted that all Aboriginal stakeholder representatives involved in survey stated that all archaeological sites are of cultural significance. Grinding groove site ACM6 (37-6-1980) was of particular significance due to its rarity. The Proposed LWA7-A10 Modification will not change the previously approved subsidence impacts for the grinding groove site ACM6 (37-6-1980).

Of the eleven sites identified within the Proposed LWA7-A10 Modification Area, detailed subsidence assessment undertaken by MSEC (2013) has identified changes to the previously approved subsidence predictions at five sites. The revised subsidence predictions for these five sites are similar to those previously approved under Project Approval 08_0111, and no change to the previously identified likelihood of impact to these sites is predicted. Given the predicted levels of subsidence, the likelihood of impact to any of the sites within the LWA7-A10 Modification Area remain the same as previously approved and are in accordance with the impacts described in the approved Austar Aboriginal Cultural Heritage Management Plan (ACHMP).

As the likelihood of impact to any of the sites within the LWA7-A10 Modification Area remain the same as previously approved, no change to the existing management strategies outlined in the Austar Aboriginal Cultural Heritage Management Plan (Umwelt 2013) are proposed as a result of the Proposed LWA7-A10 Modification. It is recommended that the Austar Aboriginal Cultural Heritage Management Plan be revised to specifically include the LWA7-A10 Modification.

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- C Summary of Approved ACHMP Management Recommendations**

1.0 Introduction

Austar Coal Mine Pty Ltd (Austar) operates the Austar Coal Mine approximately 10 kilometres south of Cessnock in the lower Hunter Valley of NSW (refer to **Figure 1.1**). The mine is an aggregate of the former Ellalong, Pelton, Cessnock No.1 and Bellbird South Collieries, with mining activities within the Consolidated Mining Lease 2 (CML 2) dating to 1916.

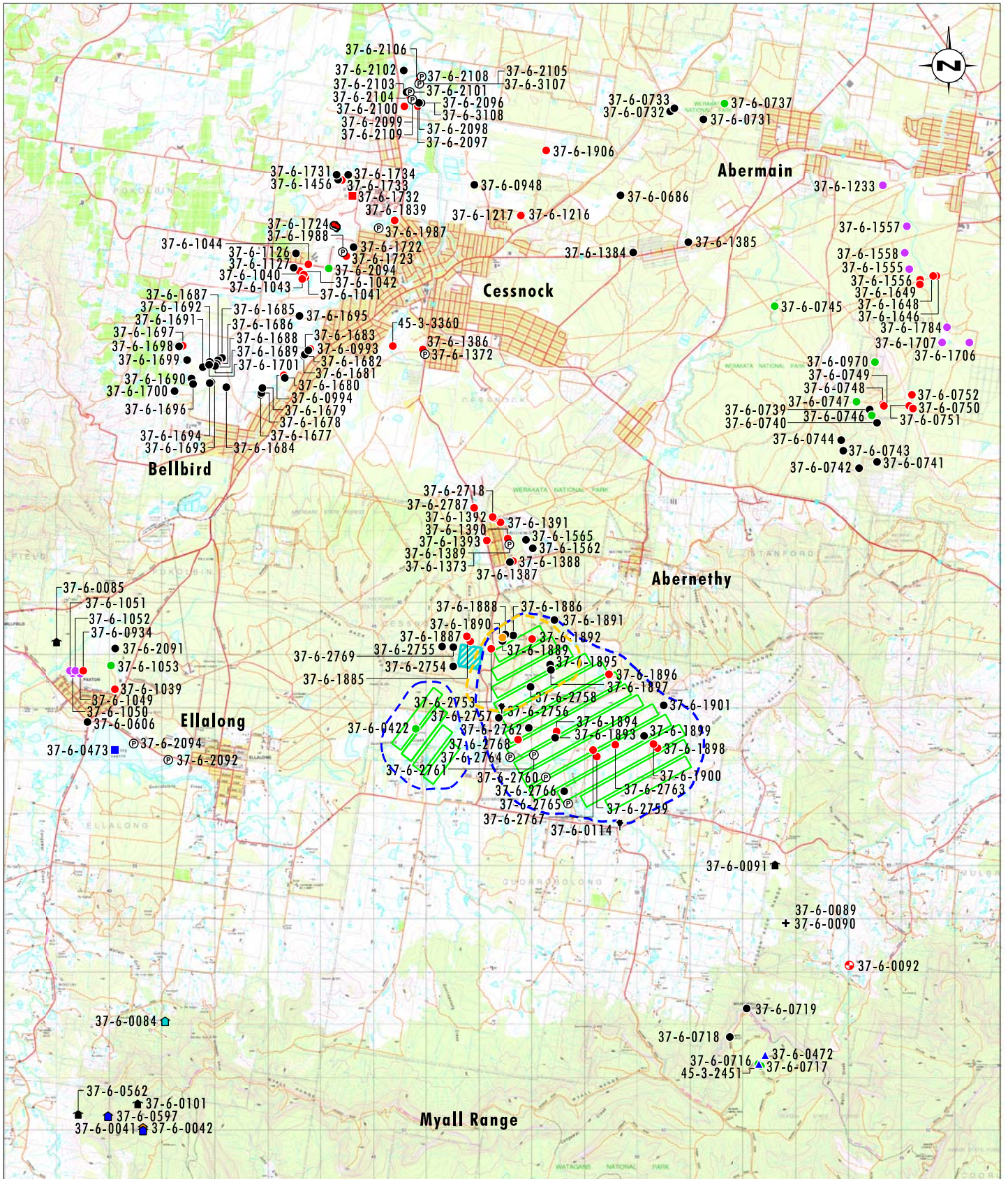
Approval for Stage 3 of the Austar Coal Mine was obtained in September 2009 as Project Approval 08_0111 under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and subsequent approval to modify the Stage 3 mine plan was granted under Section 75W of the EP&A Act. The total Stage 3 area subject to current approvals for mining operations is referred to in this document as the Approved Stage 3 Area.

Austar is proposing to modify the longwall layout of LWA7 to A10 within the Approved Stage 3 Area. The proposed modifications will include the extension of the south-westerly extents of LWA7, A8, A9 and A10 (refer to **Figure 1.2**), and is referred to as the Proposed LWA7-A10 Modification. With the commencement of longwall mining in the Stage 3 mining area in 2013, further geological information has become available which has identified a significant structural constraint at the eastern end of longwalls A7 and A8 that has necessitated the proposed changes to these longwalls. Longwall mining is currently progressing within longwall A7 and is expected to be completed in mid December 2013. In order to avoid significant business interruption, Austar is progressing with the proposed modification concurrent with finalisation of this preliminary ACHAA. Accordingly, the preliminary ACHAA has been provided to Registered Aboriginal Parties (RAPs) for input into this assessment.

Subsidence predictions have been revised to accommodate the Proposed LWA7-A10 Modification within the Approved Stage 3 Area and an incremental and revised total 20 millimetre subsidence contour has been established for the ground surface area that will be affected by the proposed modifications (refer to **Figure 1.2**). The area within the incremental 20 millimetre subsidence contour is the subject of this report and is referred to as the Proposed LWA7-A10 Modification Area (refer to **Figure 1.2**).

The Austar Coal Mine has been subject to a number of previous Aboriginal cultural heritage assessments and investigations (refer to Umwelt 2008a; 2008b; 2008c; 2010a; 2011a; 2011b; 2011c; 2013). The previous assessments of the Approved Stage 3 Area also included the area that is now the Proposed LWA7-A10 Modification Area (refer to Umwelt 2008b, 2011a). Umwelt (Australia) Pty Limited (Umwelt) subsequently prepared an Aboriginal Cultural Heritage Management Plan (ACHMP) as a condition of the Stage 3 project approval 08_0111 and development consent DA29/95 (Umwelt 2013). The ACHMP provides the Aboriginal cultural heritage management and mitigation strategies for Austar Coal Mine. Austar is required to manage any cultural heritage issues in accordance with the management protocols and procedures set out in the ACHMP, along with any approval conditions imposed by the Department of Planning and Infrastructure (DP&I).

It is also noted that extensive consultation was undertaken with the RAPs to identify the cultural values associated with the Approved Stage 3 Area (refer to **Section 1.3**). In accordance with the established consultation requirements of the Austar Mine Complex ACHMP (Umwelt 2013) and Part 8A, Clause 80C of the *National Parks and Wildlife Regulation 2009* (herein referred to as the NPW Regulation), additional consultation with both the RAPs and other relevant Aboriginal parties (refer to **Section 1.6**) will be required for the completion of the cultural heritage component of this assessment. As part of this preliminary draft ACHAA, provision to incorporate all comments from the RAPs has been provided throughout this document. The final ACHAA will incorporate the outcomes of this



Source: Geology: Mineral Resources 2003, Longwall Layout: Austar Coal Mine

0 1.0 2.0 4km
1:100 000

Legend

- | | | |
|--|--|------------------------|
| Stage 2 and Stage 3 Modification Longwall Panels | Natural Mythological (Ritual) | Burial/s |
| 20mm Subsidence Contour for Approved Stage 2 and Stage 3 | Artefact Scatter and PAD | Bora/Ceremonial |
| Proposed LW A7-A10 Modification Area | Artefact Scatter | Unidentified Site Type |
| Surface Infrastructure Site | Open Camp Site | |
| Axe Grinding Groove | PAD | |
| Carved Tree | Shelter with Art | |
| Isolated Find | Shelter with Art and Deposit | |
| Isolated Find with PAD | Shelter with Deposit | |
| Isolated Find and Grinding Groove | Shelter with Axe Grinding Groove, Rock Engraving and Art | |

FIGURE 1.1
AHIMS Sites

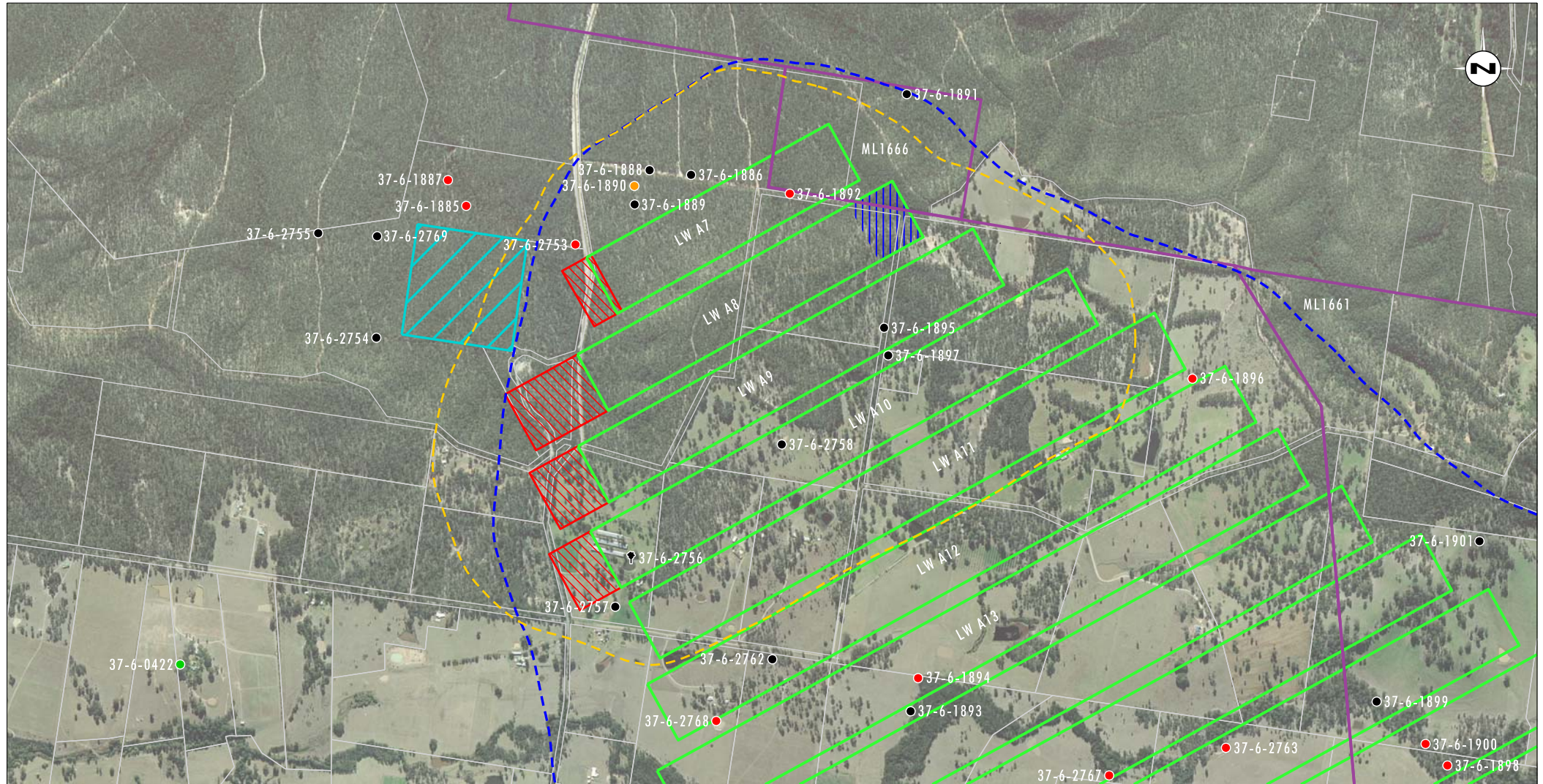


Image Source: AAM Hatch 2006
 Data Source: Longwall Layout: Austar Coal Mine (2013), Cadastre: LPI NSW

0 0.25 0.5 1.0 km
 1:20 000

Legend

- ▭ Approved Stage 3 Longwall Layout
- - - 20mm Subsidence Contour for Approved Stage 3 Longwall Layout
- - - Proposed LW A7-A10 Modification Area
- ▨ Approved Surface Infrastructure Site
- ▭ Mining Lease Boundary
- ▨ Retraction of Longwall A8 Start Position
- ▨ Proposed Extension of Longwalls A7 to A10 Finish Position
- Open Camp Site
- Isolated Find
- Isolated Find and Grinding Groove
- Artefact Scatter
- ♣ Carved Tree

FIGURE 1.2

Proposed Modification to Approved Stage 3 Longwall Layout

consultation with RAPs, with a final version to be provided to DP&I and OEH prior to final determination. A copy of the ACHAA will be redistributed to the RAPs.

As the Proposed LWA7-A10 Modification Area was subject to survey during previous assessments, additional survey of the Proposed LWA7-A10 Modification Area is not considered necessary for the completion of this assessment. Umwelt has therefore been engaged to prepare this ACHAA report to summarise the results of previous investigations with reference to the LWA7-A10 Modification as part of the Environmental Assessment (EA) for the Proposed LWA7-A10 Modification. It has been developed to identify any changes to cultural heritage management requirements to those specified in the ACHMP that may result from the Proposed LWA7-A10 Modification.

1.1 Project Overview

Austar proposes to modify the currently approved Stage 3 mine plan by extending longwalls A7 to A10 between approximately 100 and 300 metres to the west and amending the starting position of longwall A8 (refer to **Figure 1.2**).

The proposed westerly extension to these four longwalls provides access to an additional 1.05 million tonnes of ROM coal.

No other changes to the approved Stage 3 mining operations are proposed as part of the modification, including no change to the approved rate of extraction, life of the operation or to any interactions of the Stage 3 Project with the operations of the Austar Mining Complex.

The Proposed LWA7–A10 Modification will result in a minor increase (1.8%) in the area of land affected by subsidence, however, the maximum predicted subsidence parameters for the Proposed LWA7–A10 Modification are similar to those for the approved Stage 3 mine plan (MSEC 2013).

1.2 Purpose and Scope

The purpose of this ACHAA is to identify and assess the potential impacts on Aboriginal cultural heritage as a result of the Proposed LWA7-A10 Modification. The scope is limited to an assessment of the potential impacts and changes in impacts on Aboriginal cultural heritage resulting from the Proposed LWA7-A10 Modification compared to the approved Stage 3 project.

1.3 Relevant Cultural Heritage Legislation

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 EP&A Act. While the NPW Act provides statutory protection for all Aboriginal objects (including those within archaeological sites) and Aboriginal Places, the EP&A Act sets out the framework for Aboriginal heritage values to be formally assessed in land use planning and development consent processes.

The EP&A Act regulates development activity in New South Wales. Part 3A of the EP&A Act, although now repealed, continues to apply to projects approved under Part 3A. The Stage 3 Project Approval 08_0111 was granted under Part 3A of the EP&A Act.

In accordance with Part 3A of the EP&A Act, the following provisions apply to the project:

- under Section 75U of the EP&A Act, it is not necessary to obtain a permit under Section 87 or a consent under Section 90 of the NPW Act (as discussed below) in relation to activities approved under Part 3A of the EP&A Act;
- projects approved under Part 3A of the EP&A Act are subject to conditions of approval issued by the DP&I and (where relevant) Aboriginal cultural heritage is addressed by appropriate conditions; and
- Section 75J (5) of the EP&A Act states that conditions of approval for the carrying out of a project may require the proponent to comply with obligations made in a statement of commitments submitted by the proponent as part of the development approval process.

The Office of Environment and Heritage (OEH¹) is primarily responsible for regulating the management of Aboriginal cultural heritage in New South Wales under the NPW Act (as amended October 2010). The NPW Act is accompanied by the *National Parks and Wildlife Regulation 2009* (the NPW Regulation), the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (OEH 2010a) and other industry-specific codes.

The objectives of the NPW Act include:

The conservation of objects, places or features (including biological diversity) of cultural value within the landscape, including, but not limited to: (i) places, objects and features of significance to Aboriginal people.

The NPW Act defines an Aboriginal object as:

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

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

In accordance with Section 86(1) of the NPW Act, it is an offence to harm or desecrate a known Aboriginal object, whilst it is also an offence to harm an Aboriginal object under Section 86(2). Similarly, Section 86(4) states that a person must not harm or desecrate an Aboriginal place. Harm to an object or place is defined as any act or omission that:

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

Section 87(1) of the NPW Act specifies that it is a defence to prosecution under Section 86(1) and Section 86(2) if the harm or desecration of an Aboriginal object was

¹ OEH was previously the Department of Environment Climate Change and Water (DECCW), Department of Environment and Climate Change (DECC), Department of Environment and Conservation (DEC).

authorised by an Aboriginal Heritage Impact Permit (AHIP) and the activities were carried out in accordance with that permit.

As discussed above, the provisions of Part 3A of the EP&A Act can overrule the requirement for an AHIP under the NPW Act, with these provisions applying to activities approved under Part 3A only. However, the other provisions of the NPW Act are still applicable.

Archaeological and Aboriginal cultural heritage assessments conducted for the Approved Stage 3 Area have been compliant with the *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* (DEC 2004b) and relevant policies and guidelines of the NPW Act as they have been developed (i.e. NSW NPWS 1997). In the period between the 2008 and 2011 surveys, new regulations under the NPW Act were introduced and recent assessments have also been compliant with the NPW Regulation 2009.

1.4 Contents of this Report

This report consists of the following sections:

Section 2.0 – Aboriginal Party Consultation

This section summarises previous consultation with Aboriginal parties regarding the Approved Stage 3 Area and provides information on consultation regarding the proposed LWA7-A10 Modification.

Section 3.0 – Environmental and Archaeological Context

This section provides a summary of available information in order to provide a context for any potential disturbance to the known Aboriginal cultural heritage due to mining activities conducted within the Proposed LWA7-A10 Modification Area.

Section 4.0 – Impact Assessment

This section summarises the potential changes to the land surface that may result from subsidence events associated with the proposed LWA7-A10 Modification.

Section 5.0 – Management Strategies

This section reviews the key factors influencing the management of Aboriginal objects contained within the Proposed LWA7-A10 Modification Area, the management options available and the management recommendations developed for Aboriginal archaeological site types identified within the Proposed LWA7-A10 Modification Area.

Section 6.0 – References

This section lists the reports and publications referred to in the body of this document.

1.5 Contributors to the Assessment

Jan Wilson (Manager, Cultural Heritage) and Nicola Roche (Senior Archaeologist) provided strategic direction and quality review of this report. Peter Saad (Senior Archaeologist) undertook the compilation of this report with the assistance of Kirwan Williams (Archaeologist).

2.0 Aboriginal Party Consultation

This section documents consultation with Aboriginal parties including a summary of previous consultation and consultation undertaken in relation to the proposed Modification.

2.1 Prior Aboriginal Community Consultation

Consultation with Aboriginal parties is an integral part of identifying and assessing the significance of Aboriginal objects and/or places, and determining and carrying out appropriate strategies to mitigate impacts upon Aboriginal heritage.

Consultation in relation to the Approved Stage 3 Area commenced in 2007 under the Department of Environment and Climate Change (DECC 2005) *Interim Community Consultation Requirements for Applicants* and the first survey of the Approved Stage 3 Area was conducted on 19 September 2007 (Umwelt 2008b). Additional survey of the Approved Stage 3 Area was undertaken in March 2010 as a part of a subsequent modification to the approved Stage 3 mine plan (Umwelt 2011a). Consultation for these previous assessments was also undertaken under the *Interim Community Consultation Requirements for Applicants*. However, in recognition of the change in consultation expectations, all consultation undertaken after November 2010 was generally in accordance with Section 80C (2-11) of the NPW Regulation refer to **Section 1.3**).

Ongoing consultation for the Stage 2 and Stage 3 areas has therefore been incorporated into a single process which includes the Registered Aboriginal Parties (RAPs) listed in **Table 2.1**.

Table 2.1 – Registered Aboriginal Parties for the Austar Coal Mine

Stakeholder
Aboriginal Native Title Consultants
Wonn1 Consulting
Giwiirr Consultants
Hunter Valley Cultural Surveying
Lower Hunter Wonnarua Council
Lower Wonnarua Tribal Consultancy Pty Ltd
Mindaribba Local Aboriginal Land Council
Mingga Consultants
Tracey Skene (Culturally Aware)
Wanaruah Custodians
Wattaka Wonnarua Cultural Consultants Services
Wonnarua Culture Heritage
Upper Hunter Heritage Consultants
Yarrowalk
Hunter Valley Cultural Consultants

In addition to the abovementioned groups, Yinarr Cultural Services (YCS) and Deslee Talbott Consultants submitted expressions of interest late in the project, attended meetings and were provided with draft reports for comment. Similarly, Wonnarua Elders Council has subsequently identified an interest in being consulted regarding cultural heritage matters within the Austar Mine Complex.

Ongoing consultation has occurred at regular intervals with RAPs since 2010, including during the development of the *Aboriginal Cultural Heritage Management Plan* (Umwelt 2013) to manage impacts on identified sites within the Stage 3 area. It is therefore understood that the consultation process for the Proposed LWA7-A10 Modification Area will involve consultation with these 18 parties, during the assessment process.

Detailed Aboriginal community consultation logs for the Approved Stage 3 Area are contained in Appendix A of *Austar Coal Mine Environmental Assessment: Stage 3 Modification, Archaeological and Aboriginal Cultural Heritage Assessment* (Umwelt 2011a).

2.2 Native Title

A search of the NNTTs National Native Title Register, Register of Native Title Claims, Unregistered Claimant Applications and Register of Indigenous Land Use Agreements was undertaken on 17 September 2013 with the geographic parameters set to the Cessnock LGA (refer to **Appendix A**). The search returned no registered native title claims, but did list four registered native title applications and one unregistered native title application within the broader Cessnock LGA (refer to **Table 2.2**).

Table 2.2 – NNTT Register Search (September 2013)

Register Type	NNTT Reference Number	Incorporates Proposed LWA7-A10 Modification Area
National Native Title Register	Nil	N/A
Register of Native Title Claims	NCS2012/003 (Awabakal People)	No
	NCS2013/002 (Awabakal and Guringai People)	Yes
	NCS2013/003 (Wonnarua Traditional Custodians)	No
	NCS2013/004 (Plains Clan of the Wonnarua People)	No
Unregistered Claimant Applications	NC2013/006 (Scott Franks and Anor on behalf of the Plains Clan of the Wonnarua People)	Yes
Register of Indigenous Land Use Agreements	Nil	N/A
Notified Indigenous Land Use Agreements	Nil	N/A

Of the four registered native title applications, only two include all or part of the Proposed LWA7-A10 Modification Area. The application NC2013/002 from *Kerrie Brauer & Ors on behalf of the Awabakal and Guringai People* (registered 13 June 2013) incorporates the majority of the Proposed LWA7-A10 Modification Area on the eastern side of Quorrobolong Road. The one unregistered native title application (NC2013/006) from *Scott Franks and Anor on behalf of the Plains Clans of the Wonnarua People* covers the entirety of Stage 2 and 3 of Austar Coal Mine. This unregistered claim application is currently identified for a registration decision.

Mr Franks' organisation (Tocomwall) is amongst the registered Aboriginal parties for the Austar Coal Mine (refer to **Section 2.1**) and is therefore included in consultation process established for the proposed LWA7-A10 Modification. It is noted that representatives from the NC2013/002 registered native title application (*Kerrie Brauer & Ors on behalf of the*

Awabakal and Guringai People) have not previously registered an interest in the Austar mine project. Given that native title application NC2013/002 was registered prior to the development of the Proposed LWA7-A10 Modification project, and to ensure adequate consultation with all relevant Aboriginal parties, an opportunity to register an interest in the project will be afforded to the representatives of the registered native title application NC2013/002.

2.3 Aboriginal Consultation

As mentioned in **Section 1.0**, the Proposed LWA7-A10 Modification Area is contained within an area previously assessed for the Approved Stage 3 Area. This area has been previously surveyed for an Aboriginal Heritage Assessment in 2007 (Umwelt 2008b) and an Aboriginal Cultural Heritage and Archaeological Assessment in 2010 (Umwelt 2011a). Additional archaeological surveys of the Proposed LWA7-A10 Modification Area were therefore not considered relevant for the completion of this assessment. During both the 2007 and 2010 assessments, the Registered Aboriginal Parties were given the opportunity to provide information in relation to the Aboriginal cultural values of the area, and the Aboriginal significance of the sites it contained.

Consultation for the Proposed LWA7-A10 Modification Area is therefore limited to the provision of the draft Aboriginal Cultural Heritage and Archaeological Assessment to the registered Aboriginal Parties to allow the opportunity for the provision of any further information.

A copy of the preliminary ACHAA will be provided to the Registered Aboriginal Parties and the Registered Native Title Applicant NC2013/002 on 16 October 2013 for review and comment. In accordance with Clause 80C, Sub-clause (7) of the NPW Regulation, the registered Aboriginal parties are requested to comment on:

- a) *Whether there are any Aboriginal objects of cultural value to Aboriginal people in the Proposed LWA7-A10 Modification Area;*
- b) *Whether there are any places of cultural value to Aboriginal people in the Proposed LWA7-A10 Modification Area;*
- c) *Any general comments regarding the Proposed LWA7-A10 Modification Area.*

*The feedback provided by the registered Aboriginal parties will be summarised in **Table 2.3** below and all formal responses and communication records regarding this draft report will be contained in an appendix to this report.*

Table 2.3 – Record of Aboriginal Stakeholder Consultation

Date	Type of Consultation	Authorities/Aboriginal Parties Contacted	Outcome
16 October 2013	Provision of Draft Aboriginal Cultural Heritage and Archaeological Assessment Report requesting the identification of any additional Aboriginal cultural heritage information related to the Proposed LWA7-A10 Modification Area	Aboriginal Native Title Consultants	TBA
		Wonn1 consulting	TBA
		Giwiirr Consultants	TBA
		Hunter Valley Cultural Surveying	TBA
		Lower Hunter Wonnarua Council	TBA
		Lower Wonnarua Tribal Consultancy Pty Ltd	TBA
		Mindaribba Local Aboriginal Land Council	TBA
		Mingga Consultants	TBA
		Tracey Skene (Culturally Aware)	TBA
		Wanaruah Custodians	TBA
		Wattaka Wonnarua Cultural Consultants Services	TBA
		Wonnarua Culture Heritage	TBA
		Upper Hunter Heritage Consultants	TBA
		Tocomwall Pty Ltd	TBA
		Hunter Valley Cultural Consultants	TBA
		Yinarr Cultural Services	TBA
		Deslee Talbott Consultants	TBA
Wonnarua Elders Council	TBA		
Kerrie Brauer & Ors on behalf of the Awabakal and Guringai People	TBA		

3.0 Environmental and Archaeological Context

A review of environmental, ethnohistoric, historic and archaeological literature is crucial to the Aboriginal cultural heritage and archaeological assessment process, as it informs our understanding of past Aboriginal occupation and land use, archaeological site patterning, site survival and the potential for detection of extant archaeological sites. Umwelt (2011a; 2013) provide summaries of available literature at both a local and regional level, and discusses the implications for the Aboriginal cultural and archaeological evaluation of the sites contained within the Approved Stage 3 Area. A summary of this information, together with the results of previous Aboriginal cultural heritage assessments conducted within the Proposed LWA7-A10 Modification Area is provided below.

3.1 Environmental Context

The Proposed LWA7-A10 Modification Area is located in the Quorrobolong Valley, between Broken Back Ridge and the Myall Range; approximately 1.5 kilometres south of the towns of Kitchener and Abernethy (refer to **Figure 1.1**). Based on the information included in Umwelt (2008b, 2011a), a summary of relevant environmental contextual information is provided below.

3.1.1 Geology

The Proposed LWA7-A10 Modification Area is situated within the Branxton geological formation, which is composed of sandstone, siltstone, conglomerate and a small amount of basalt. It is the dominant geological unit and is found widely throughout the slopes and ridges of the Quorrobolong Valley. Most previously recorded Aboriginal archaeological sites located in the Approved Stage 3 Area were located in this geological unit. In terms of resource availability, the Branxton Formation may contain raw materials suitable for stone artefact manufacture, such as quartz and quartzite and these may have migrated into alluviums within the valley floor. Raw materials suitable for stone artefact manufacture may therefore have been opportunistically sourced and utilised within the Approved Stage 3 Area.

During previous investigations, surface outcrops of sandstone were limited to the far northern extent in an area that includes the Proposed LWA7-A10 Modification Area (Umwelt 2008b). In this area sandstone has been found to outcrop as platforms in creek-lines, but not as cliff-lines that have the potential to contain rock-shelters. Therefore, sandstone archaeological site types such as grinding grooves and engravings may be found in the Branxton Formation, particularly in the Werakata State Conservation Area (SCA) in the far north of the Proposed LWA7-A10 Modification Area.

3.1.2 Soils

Three soil landscapes occur within the Proposed LWA7-A10 Modification Area: the Quarrabolong Soil Landscape, the Aberdare Soil Landscape and the Branxton Soil Landscape. The Aberdare Soil Landscape occupies the majority of the Proposed LWA7-A10 Modification Area and extends along the crests and mid to upper slopes to the south of the Werakata SCA. Only a small portion of LW A7 is situated within the Branxton Soil Landscape, and a small portion on the south-west of LW A10 is situated within the Quarrabolong Soil Landscape.

The key characteristics of each soil landscape are discussed more broadly in Umwelt (2011b) and summarised in **Table 3.1**.

Table 3.1 – Soil Landscape Descriptions (from Kovac and Lawrie 1991)

	Quarrabolong Soil Landscape	Aberdare Soil Landscape	Branxton Soil Landscape
Terrain	Undulating lowlands south of Cessnock. Elevation 40-20 m. Slopes average 3-6%. Drainage lines common.	Rolling low hills to the south and south-east of Cessnock. Elevation 80-265 m. Slopes average 12-15%.	Undulating rises to low hills and many small creek flats. Elevation 50-80 m. Slopes average 3-5%.
Vegetation	Dry sclerophyll forest of gums, ironbark and stringybark including blood redwood and blackbutt. Much has been cleared for grazing on improved and unimproved pastures.	Woodland community of spotted gum, brown stringybark and some box. Some timber cleared, most retained for forestry.	Mainly cleared for grazing, with native pastures. Some uncleared bushland, mainly spotted gum, red ironbark, narrow-leaved red ironbark and swamp oak in drainage lines.
General Soil Profile	Prairie soils on lower slopes and in drainage lines, with Wiesenboden in some locations. Yellow podzolic soils and soloths on higher slopes (possibly on lower slopes), with brown soloths on some crests.	Yellow (orange) podzolic soils on mid-upper hillslopes. Red and brown podzolic soils on steeper slopes. Some alluvial sands in drainage lines.	Yellow podzolic soils on mid-slopes and red podzolics on crests. Yellow soloths on lower slopes and in drainage lines. Alluvial sands in some creeks with siliceous sands. Some acid topsoil problems encountered within area.
Soil Erosion	Stream bank erosion along many creeklines. Minor sheet and rill erosion on slopes.	Minor to moderate sheet and rill erosion on slopes. Some gulying in drainage lines. Moderate to high erodibility of topsoil.	Tunnel and gully erosion in yellow soloths due to high dispersibility. Little erosion of alluvial soils and siliceous sands.

Due to the acidic nature of the soils contained within the Proposed LWA7-A10 Modification Area, organic materials including skeletal remains are unlikely to be preserved. There is however, a likelihood that the harder parts of a skeleton may survive such as the teeth of terrestrial vertebrate prey species.

3.1.3 Landforms and Creek Systems

The topography of the Proposed LWA7-A10 Modification Area comprises three main morphological units: the Broken Back Range; alluvial flats and associated creeks; and the intervening spurs and associated slopes.

The northern and eastern portions of the Proposed LWA7-A10 Modification Area lie within the Broken Back Range, a major elevated landform reaching a height of 240 metres above sea level (ASL) within the Proposed LWA7-A10 Modification Area. The southern portion of the Proposed LWA7-A10 Modification Area primarily consists of undulating hill-slopes extending from the Broken Back Range to the alluvial landforms of the Cony and Sandy Creek systems. These hill-slopes have an average gradient of between 1 and 5 per cent, and are up to 500 metres wide. Elevation ranges between 130 and 200 m ASL within the Proposed LWA7-A10 Modification Area.

Watercourses within the Proposed LWA7-A10 Modification Area consist primarily of first, second and third order tributaries of Cony Creek, the main channel of which is located approximately 170 metres to the south-west of the Proposed LWA7-A10 Modification Area.

Cony Creek then joins Sandy Creek, with the confluence of the two situated approximately 700 metres south of the Proposed LWA7-A10 Modification Area (see Umwelt 2011b).

In this area, the main channel of Cony Creek within the Proposed LWA7-A10 Modification Area is approximately 2 metres wide, with steep banks up to 2 metres in height. Considerable erosion of the creek-banks has been noted along the creek line, particularly where ground vegetation has been removed due to grazing. There is generally very low flow within Cony Creek, however several small to moderate-sized chains of ponds were present at the time of the both the 2008 and the 2011 survey (Umwelt 2011b).

3.1.3.1 Archaeological implications of Landforms and Creeks

Higher landforms such as spurs and ridge crests contained within the Proposed LWA7-A10 Modification Area offer broad outlooks over the landscape, particularly in the Broken Back Range to the north. Broad crests of low gradient are suitable for transient use as travel routes and also for short term camp sites.

The steep slopes adjoining crests in the Broken Back Range are not suitable as Aboriginal camp site locations due to their gradient and their use was most probably limited to transient hunting and gathering therefore the potential for deposition of archaeological material is limited. Further, if artefacts were discarded in these areas of steeper gradient some downslope movement of artefactual material could be expected.

The availability of water resources is relevant given that previous archaeological investigations have strongly correlated availability of water and Aboriginal camp locations. Low-gradient landforms (such as flats and lower slopes) surrounding these watercourses would provide suitable camping locations, particularly when associated with creek confluences. However, the majority of watercourses are ephemeral, so would periodically but not permanently provide sufficient fresh water to support temporary campsites. Cony Creek and higher order sections of Sandy Creek (outside the Proposed LWA7-A10 Modification Area) would have provided the more permanent water sources (as they do today), and therefore areas associated with these creek-lines may have been more intensively used, resulting in higher site and artefact densities. Natural ponds within these ephemeral creek systems retain water in drier times, thereby forming focal points for camping, and through attracting local fauna, may have provided a focus for hunting.

The eastern reaches of Cony Creek are less than two kilometres from the watershed of the easterly flowing Cackle Creek catchment that flows into Lake Macquarie. Cony Creek provides a natural corridor from the coast to Congewoi Creek and Wollombi Brook from where access is gained to the Central Hunter Valley in the north-west and the Mangrove Creek catchment to the south. Archaeological site patterning and content may reflect the transient use of these creek-lines as pathways.

3.1.4 Aboriginal Resources

Umwelt (2001a) provided an extensive list of animal and plant resources known to occur within the Approved Stage 3 Area and their likely use by Aboriginal people. These lists are not replicated here but include 58 plant species and 53 animal species. This diversity could be expected to have attracted Aboriginal hunter-gatherers to the area (including the Proposed LWA7-A10 Modification Area), which in turn may have resulted in the presence of archaeological material discarded in camp sites used whilst exploiting these resources.

3.1.5 Non-Aboriginal Land Use Practices

The non-Aboriginal history of the Proposed LWA7-A10 Modification Area is discussed in Umwelt (2008b). Within the Proposed LWA7-A10 Modification Area, non-Aboriginal land uses have involved extensive pastoral grazing and rural development, with native vegetation cleared, foreign grasses introduced, localised areas of excavation and earthworks for infrastructure, and changes to stream morphology and hydrology. These changes have resulted in the incision of tributary streams and the extension of gullies resulting in increased levels of erosion and sedimentation during major floods, and in some places, increases in water salinity (Dean-Jones and Mitchell 1993:4).

Clearance of vegetation throughout the Proposed LWA7-A10 Modification Area has been widespread, with little mature, native vegetation remaining especially on the wooded lower slopes and creek-lines. Vegetated areas in the modern landscape are predominantly regrowth, with few trees over 50 years in age observed within the Approved Stage 3 Area in 2008 (Umwelt 2008c). Vegetation clearance results in the disturbance of the upper soil horizons through removal of tree stumps and roots. Any archaeological sites that survive in these areas will have had their spatial and stratigraphic integrity affected by tree clearance which was also usually followed by erosion of the topsoil from both hill-slopes and crests.

Extensive vegetation clearance within the Quorrobolong Valley has significantly altered stream morphology and the hydrology of the region since the onset of European settlement, with common changes including the damming of tributary streams and erosion from trampling by stock. Hard hooves once foreign to these soils have caused the loss of duricrust, extension of gullies, erosion and downslope movement of soils and subsequent sedimentation during major floods (Dean-Jones and Mitchell 1993:4). Additionally, agricultural cultivation, residential and primary industrial development within the Proposed LWA7-A10 Modification Area, such as roads, tracks, houses and poultry sheds, have created areas where a high level of disturbance remains clear and observable.

3.2 Archaeological Context

3.2.1 Database Searches

A search of the Aboriginal Heritage Information Management System (AHIMS) database undertaken on 23 June 2010 (Umwelt 2011b) identified 117 Aboriginal archaeological sites within an area of 21.87 kilometres north-south by 12.43 kilometres east-west (AMG coordinates E338975-356405 N6349220-6371090). This area extended well beyond the Proposed LWA7-A10 Modification Area and encompassed the Myall Range to the south, Congewai Creek to the east, Middle Creek to the north and the Broken Back Range to the west. These sites are detailed in **Figure 1.1** and discussed more broadly in Umwelt (2011b).

A recent search of the Office of Environment and Heritage (OEH) AHIMS database (conducted on 16 September 2013) identified a total of 35 archaeological sites located in proximity to the broader Astar Stage 3 mining area, and 11 known archaeological sites within the Proposed LWA7-A10 Modification Area (based on the identified cumulative 20mm subsidence contour). There are no recorded sites immediately above the proposed longwall panel extension areas and none in the additional subsidence area outside of the previously approved subsidence area. It is noted that no new sites were identified by the recent search of the AHIMS database. It is also noted that a number of sites provided through the updated AHIMS database are incorrect. Umwelt has previously provided correspondence to AHIMS to correct the site locations. As part of the implementation of the ACHMP, further information will be provided to AHIMS to correct this data. The sites are illustrated in **Figure 1.2** and

discussed further in **Section 3.2.2.2**. Results for the current AHIMS search are included in **Appendix B**.

During the consultation process in 2008 the registered Aboriginal parties requested that specific site locations not be disclosed to the general public (Umwelt 2008b). The grid coordinates for the AHIMS sites are therefore not listed in this document. The AHIMS sites listed in **Appendix B** contain grid coordinates for all sites and this section should be considered restricted and must not form part of a publicly available document, and has not been included as part of the EA.

3.2.2 Previous Assessments of the Proposed LWA7-A10 Modification Area

Umwelt has undertaken a number of archaeological investigations and due diligence assessments within and adjacent to the Proposed LWA7-A10 Modification Area (see Umwelt 2008a; 2008b; 2010a; 2010b; 2010c; 2011b; 2011c; 2013). The results of these assessments, together with the predictive model established for the area containing the Proposed LWA7-A10 Modification Area are detailed in Umwelt 2011a. Information from these assessments that is directly relevant to the Proposed LWA7-A10 Modification Area is summarised below.

3.2.2.1 Extent of Previous Investigations

Previous investigations (primarily Umwelt 2008b and Umwelt 2011a) involved the survey of 1028 hectares (84%) of the Approved Stage 3 Area and were undertaken in accordance with the relevant legislative standard required at the time of survey. These surveys also take into account the outcomes of consultation with Aboriginal parties and were designed with reference to detailed predictive models, as provided by Umwelt (2008b, 2011a).

Surveys were conducted on foot by a field team consisting of up to 2 archaeologists and representatives from the Registered Aboriginal Parties. Inspections of key known sites were conducted by all field team members, and survey coverage was determined by the inherent conditions of individual survey transects. In accordance with the requests from the Registered Aboriginal Parties, the surveys attempted to cover 100 per cent of accessible properties. Survey methodologies, survey coverage details, participation registers, general survey results and any cultural information provided by representatives of the RAPs are detailed in Umwelt 2008b (for survey conducted in 2007) and Umwelt 2011a (for survey conducted in 2010).

The location of survey transects within the Proposed LWA7-A10 Modification Area are shown in **Figure 3.1**, which shows that the majority of this area has been subject to prior survey and hence has not been re-surveyed for the current assessment.

3.2.2.2 Sites Identified During Previous Investigations within the Proposed LWA7-A10 Modification Area

As detailed in **Table 3.2**, artefact scatters and isolated finds were recorded at relatively low densities throughout the Proposed LWA7-A10 Modification Area during the 2008 and 2011 investigations. It is important to note that all of the sites identified within the Proposed LWA7-A10 Modification Area were located in areas of erosion or significant disturbance, and some sites have been impacted by multiple factors such as dam and channel construction, vehicular movement, livestock trampling and bioturbation. Most of the isolated finds were recorded within 25 metres of a watercourse and no site within the Proposed LWA7-A10 Modification Area contained more than 4 artefacts.

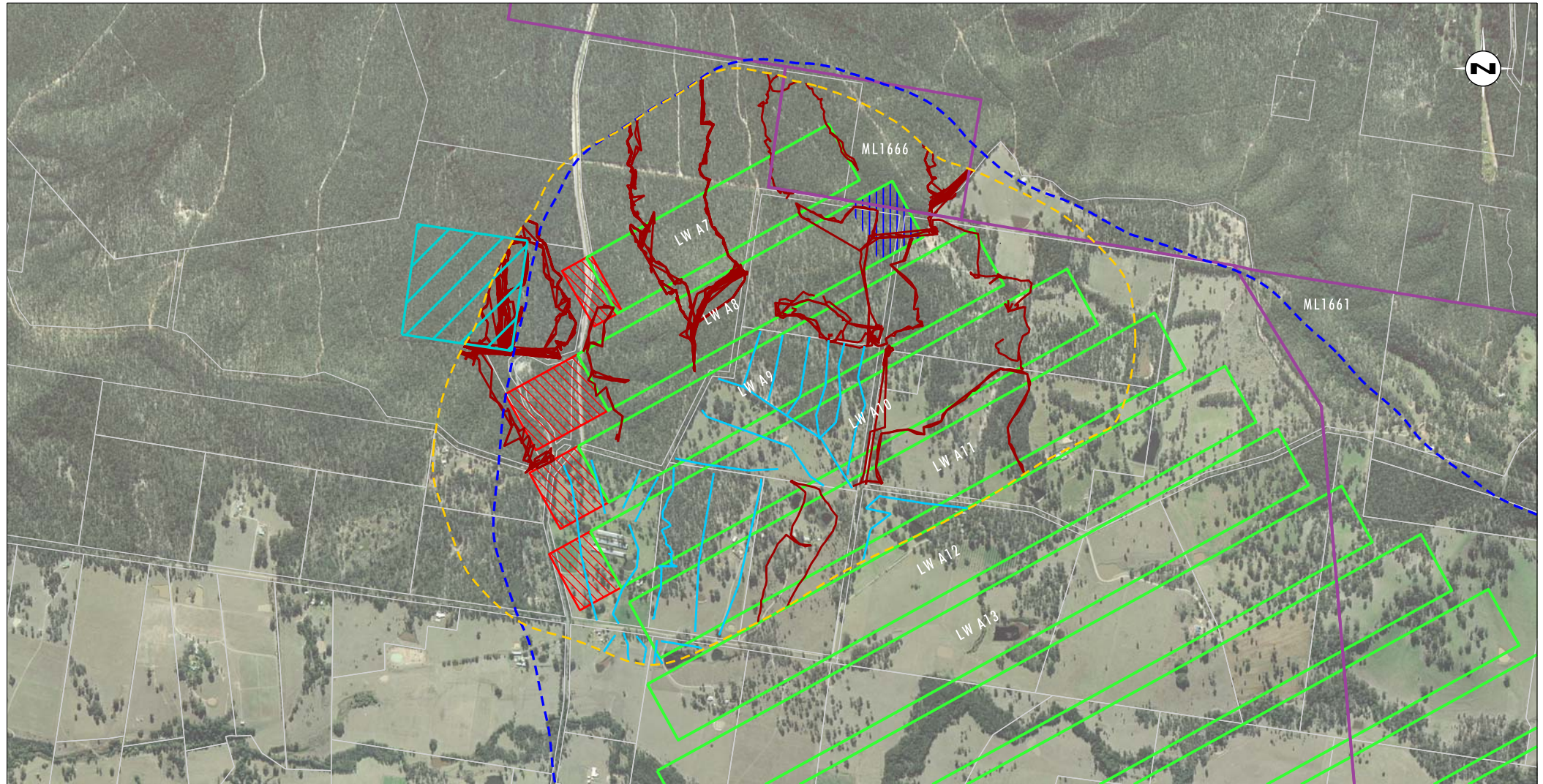


Image Source: AAM Hatch 2006
 Data Source: Longwall Layout: Austar Coal Mine (2013), Cadastre: LPI NSW

0 0.25 0.5 1.0 km
 1:20 000

Legend

- ▭ Approved Stage 3 Longwall Layout
- ▭ 20mm Subsidence Contour for Approved Stage 3 Longwall Layout
- ▭ Proposed LW A7-A10 Modification Area
- ▭ Approved Surface Infrastructure Site
- ▭ Mining Lease Boundary
- ▭ Retraction of Longwall A8 Start Position
- ▭ Proposed Extension of Longwalls A7 to A10 Finish Position
- 2008 Survey Transects
- 2011 Survey Transects

FIGURE 3.1

Previous Archaeological Surveys

The low site and artefact density within the Proposed LWA7-A10 Modification Area suggests that although there is evidence of use of this area by Aboriginal people, there is no evidence that the area was intensively used. The high level of breakage evident in the assemblage is considered reflective of the land use history of the area, with the majority of artefacts recorded in disturbed environments such as on access tracks and dam walls, and may also reflect stock movement within this pastoral landscape. The association of sites with disturbed areas further indicates that site condition and integrity is generally low.

Whilst few conclusions can be made regarding specific Aboriginal activities at individual sites within the Proposed LWA7-A10 Modification Area, it can be noted that the small range of artefact types and raw materials present is characteristic of the Hunter Valley, and do not contain unique or rare artefacts types or materials.

No areas of PAD were identified within the Proposed LWA7-A10 Modification Area. For a detailed discussion on the assessment criteria for defining PAD within the broader Approved Stage 3 Area refer to Umwelt (2011a).

Table 3.2 – AHIMS Registered Sites within the Proposed LWA7-A10 Modification Area

AHIMS #	Site Name	Type	Description	Aboriginal Cultural Significance	Archaeological Significance
37-6-1886	ACM2 (Quorrobolong)	Artefact Scatter	This site was located on a vehicle track that has been subject to prior excavation works, erosion and vehicle use. The site is situated on the bank of a second order stream and consists of two artefacts: one mudstone flake and one mudstone broken flake.	Culturally Important	Low
37-6-1888	ACM4 (Quorrobolong)	Isolated Find	This site is located within the Werataka SCA, on a vehicle track within an existing electricity easement. The track has previously been graded and is subject to active erosion and disturbance caused by vehicles. The site consists of one silcrete broken flake.	Culturally Important	Low
37-6-1889	ACM5 (Quorrobolong)	Isolated Find	This site consists of one broken silcrete flake and was located within a dry drainage line within the Werataka SCA. The site is subject to constant fluvial disturbance factors and the artefact is not considered to be within its primary depositional context.	Culturally Important	Low
37-6-1892	ACM8 (Quorrobolong)	Artefact Scatter	This site is located on a vehicle track within the Werataka SCA, and is within 5 metres of a minor drainage line. The site consists of 3 mudstone flakes and 1 mudstone broken flake. The site is highly disturbed as a result of excavation and erosion.	Culturally Important	Low
37-6-1895	ACM11 (Quorrobolong)	Isolated Find	This site is located on a vehicle track on private land immediately south of the Werakata SCA. The site consists of 1 quartzite flake and is situated within a highly disturbed context.	Culturally Important	Low
37-6-1897	ACM13 (Quorrobolong)	Isolated Find	This site is located on a vehicle track on private land immediately south of the Werakata SCA. The site consists of 1 mudstone flake used as a core and is situated within a highly disturbed context associated with pastoral grazing, clearance of vegetation and bioturbation.	Culturally Important	Low
37-6-2753	ACM18 (Quorrobolong)	Artefact Scatter	This site is situated on the upper hill-slope of a north facing spur of the Broken Back Range. The site is located within a small exposure adjacent to an existing vehicle track and consists of one large quartzite core, one quartzite broken flake and two mudstone broken flakes.	Culturally Important	Low

Table 3.2 – AHIMS Registered Sites within the Proposed LWA7-A10 Modification Area (cont.)

AHIMS #	Site Name	Type	Description	Aboriginal Cultural Significance	Archaeological Significance
37-6-2757	ACM22 (Quorrobolong)	Isolated find	This site consists of one quartzite hammerstone. The site was located within a disturbed context that has been subject to vegetation clearing, dam construction and stock trampling, and is currently subject to active erosion by sheet-wash.	Culturally Important	Low
37-6-2758	ACM23 (Quorrobolong)	Isolated find	Site consists of one artefact described as a muller (top grind-stone) that may also have been used as a hammer-stone. The site was located within a disturbed context that has been subject to vegetation clearing, dam construction and grazing and is currently subject to active erosion by sheet-wash.	Culturally Important	Low
37-6-2756	ACM21 (Quorrobolong)	Scarred tree	A single scarred tree was located on a lower hill-slope near a confluence of two first order streams. The tree is dead and lying on the ground. Its roots are completely exposed and the tree has been partially cut for firewood. The site and its immediate environment are highly disturbed.	High	Low
37-6-1890	ACM6 (Quorrobolong)	Grinding Groove & Isolated Find	This site is located east of Quorrobolong Road in the Werakata SCA, within a first order stream bed. A single artefact was also found at this location. The grinding groove is positioned within a sandstone conglomerate platform that measures approximately 15 metres long by 6 metres wide. The grinding groove is 320 millimetres long by 35 millimetres wide and is 8 millimetres deep. The platform also exhibits three circular depressions. At the time of survey, it could not be determined whether the depressions had been enlarged or utilised, as each was filled with water and leaf litter. The remaining sandstone platform is of moderate integrity being subject to continued erosion from alluvial action, and having a low-angle joint crossing the upper sandstone layer in the southern portion of the rockbar.	Extremely high cultural importance	Low-moderate

3.2.2.3 Previous Management Strategies for Sites Located Within Proposed LWA7-A10 Modification Area

Mining Subsidence Engineering Consultants (MSEC: in Umwelt 2011a) described the potential subsidence impacts for site types within the Approved Stage 3 Area, as described in the ACHMP (Umwelt 2013). These included subsidence predictions for all sites located in the Approved Stage 3 Area, including those sites that are also located in the Proposed LWA7-A10 Modification Area (Umwelt 2013). The relevant management strategies for the sites located within the Proposed LWA7-A10 Modification Area are summarised in **Table 3.3** below.

Revised subsidence predictions prepared by MSEC (2013) for the Proposed LWA7-A10 Modification, indicate that of the eleven sites located within the Proposed LWA7-A10 Modification Area, only five are expected to experience a change in level of subsidence. No change in the previously assessed level of subsidence is predicted to occur at the remaining sites.

Sites shown in **bold type** in **Table 3.3** are those sites located within the areas where there is a change in predicted subsidence. These are discussed further in **Section 4.0**. The remaining sites in normal type are those which are located within an area where there is no change in predicted subsidence from that referenced in the ACHMP (Umwelt 2013).

**Table 3.3 – AHIMS Registered Sites within the Proposed LWA7-A10 Modification Area:
Archaeological Significance, Potential Impacts and Management Recommendations based on
Subsidence Predictions Developed for the Approved Stage 3 Project Area**

AHIMS #	Site Name	Type	Archaeological Significance	Potential Impact Approved under 08_0111 (MSEC 2011)	Approved Management Recommendation (Umwelt 2013)
37-6-1886	ACM2 (Quorrobolong)	Artefact Scatter	Low	Little or no impact from potential surface cracking. Potential for increased erosion of the landform is expected to be minimal.	<ul style="list-style-type: none"> manage <i>in situ</i>; undertake baseline monitoring where access is approved by landholder; subsidence monitoring inspection where access is approved by landholder; and mitigate potential damage from maintenance or remediation works if required (refer ACHMP 2013).
37-6-1888	ACM4 (Quorrobolong)	Isolated Find	Low	As above	<ul style="list-style-type: none"> As above
37-6-1889	ACM5 (Quorrobolong)	Isolated Find	Low	As above	<ul style="list-style-type: none"> As above
37-6-1892	ACM8 (Quorrobolong)	Artefact Scatter	Low	As above	<ul style="list-style-type: none"> As above
37-6-1895	ACM11 (Quorrobolong)	Isolated Find	Low	As above	<ul style="list-style-type: none"> As above
37-6-1897	ACM13 (Quorrobolong)	Isolated Find	Low	As above	<ul style="list-style-type: none"> As above
37-6-2753	ACM18 (Quorrobolong)	Artefact Scatter	Low	As above	<ul style="list-style-type: none"> As above
37-6-2757	ACM22 (Quorrobolong)	Isolated find	Low	As above	<ul style="list-style-type: none"> As above
37-6-2758	ACM23 (Quorrobolong)	Isolated find	Low	As above	<ul style="list-style-type: none"> As above
37-6-2756	ACM21 (Quorrobolong)	Scarred tree	Low (High cultural)	No impact on tree due to subsidence, however, some impact is possible if location (dam wall) requires remediation works.	<ul style="list-style-type: none"> As above

**Table 3.3 – AHIMS Registered Sites within the Proposed LWA7-A10 Modification Area:
Archaeological Significance, Potential Impacts and Management Recommendations based on
Subsidence Predictions Developed for the Approved Stage 3 Project Area (cont.)**

AHIMS #	Site Name	Type	Archaeological Significance	Potential Impact Approved under 08_0111 (MSEC 2011)	Approved Management Recommendation (Umwelt 2013)
37-6-1890	ACM6 (Quorrobolong)	Grinding Groove & Isolated Find	Low-moderate (High cultural)	Subsidence impacts possible (in the range of 10–30% likelihood of occurrence). Possible cracking of rock shelf.	<ul style="list-style-type: none">• manage <i>in situ</i>;• undertake baseline monitoring;• subsidence monitoring inspections;• mitigate potential damage from maintenance or remediation works; and• This site is subject to a cultural offset program.

3.3 Summary of Aboriginal Cultural Significance

It is noted that **Table 3.2** includes a summary of previous input from registered Aboriginal parties regarding the Aboriginal cultural significance of the 11 sites located within the Proposed LWA7-A10 Modification Area.

Any additional comments received from the registered Aboriginal parties regarding the cultural values and cultural significance of Aboriginal sites, objects and places contained within the Proposed LWA7-A10 Modification Area will be discussed in this section.

4.0 Impact Assessment

Potential changes to the land surface from subsidence events associated with the Proposed LWA7-A10 Modification were assessed by MSEC (2013) in relation to any changes in the location or nature of subsidence. As discussed in **Section 3.2.2.3**, the assessment indicates that five of the 11 known Aboriginal archaeological sites within the Proposed LWA7-A10 Modification Area are predicted to experience changes to previously approved subsidence levels. The sites affected by a change in predicted subsidence are outlined in **Table 4.1**. There is no change to the predicted subsidence impact at the remaining six known Aboriginal archaeological sites within the Proposed LWA7-A10 Modification Area, including no change to impacts on the grinding groove site, ACM6 (37-6-1980).

Table 4.1 – Aboriginal Archaeological Sites within the Proposed LWA7-A10 Modification Area where a Change in Maximum Subsidence Parameters Predicted

AHIMS #/Site Name	Layout	Max. Predicted Total Subsidence (mm)	Max. Predicted Total Tilt (mm/m)	Max. Predicted Total Hogging Curvature (km ⁻¹)	Max. Predicted Total Sagging Curvature (km ⁻¹)
37-6-1892/ACM8	Approved	1200	5.0	<0.01	0.03
	Proposed LWA7-A10 Modification	1075	4.5	0.02	0.03
37-6-1895/ACM 11	Approved	1650	1.0	<0.01	0.07
	Proposed LWA7-A10 Modification	1625	1.5	0.02	0.07
37-6-2753/ACM18	Approved	125	1.0	0.01	<0.01
	Proposed LWA7-A10 Modification	225	2.0	0.01	0.01
37-6-2756/ACM 21	Approved	900	6.0	0.03	0.02
	Proposed LWA7-A10 Modification	1225	5.0	0.02	0.04
37-6-2757/ACM22	Approved	325	2.5	0.03	<0.01
	Proposed LWA7-A10 Modification	450	3.0	0.02	0.01

As shown in **Table 4.1**, maximum predicted subsidence movements for the Proposed LWA7-A10 Modification are predicted to be similar to those for the approved mine plan. Based on these results, MSEC (2013) has identified that there is no greater likelihood of impact to the five sites experiencing a change in impact as a result of the Proposed LWA7-A10 Modification. Therefore, these artefact scatters and isolated finds are expected to experience little or no impact from potential surface cracking and the potential for increased erosion of the landform is also expected to be minimal.

The Proposed LWA7-A10 Modification will not significantly alter the subsidence predictions and impacts from those previously approved for the Stage 3 Area. The likelihood of impact to any of the sites within the LWA7-A10 Modification Area remain the same as previously approved and are in accordance with the impacts described in the approved ACHMP.

5.0 Management Strategies

Aboriginal cultural heritage and archaeological sites within the Proposed LWA7-A10 Modification Area are managed in accordance with the approved Austar ACHMP (Umwelt 2013). As the level of subsidence to known Aboriginal archaeological sites within the Proposed LWA7-A10 Modification Area is predicted to be similar to that of the approved mine plan and unlikely to result in any adverse impact on archaeological sites, no change to the existing management strategies outlined in the Austar ACHMP (Umwelt 2013) are proposed as a result of the Proposed LWA7-A10 Modification. These management strategies and protocols will continue to be implemented for the Proposed LWA7-A10 Modification in accordance with the ACHMP.

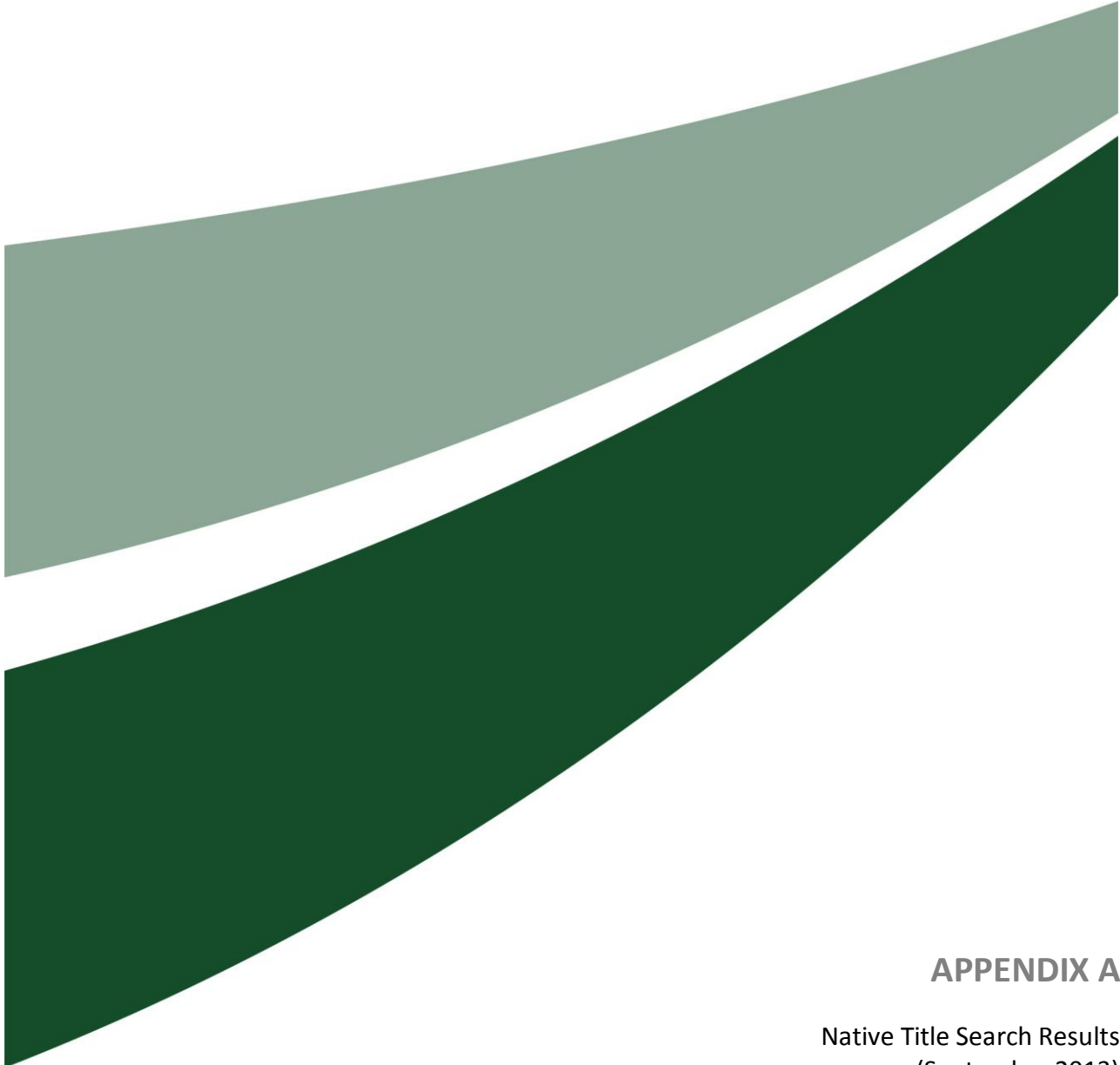
It is recommended however that an addendum to the existing ACHMP be prepared to address the Proposed LWA7-A10 Modification. In addition, as outlined in **Section 3.1**, further correspondence will be undertaken with AHIMS to correct the site recording errors for a number of sites located in the Approved Stage 3 Area.

A copy of the existing approved management recommendations for the Stage 3 Project is provided as **Appendix C**.

6.0 References

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APPENDIX A

Native Title Search Results
(September 2013)



National
Native Title
Tribunal



20 September 2013

Kirwan Williams
Archaeologist
Umwelt Australia Pty Ltd
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Queens Square
Sydney NSW 2000
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Telephone (02) 9227 4000
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Our Reference: 5725/13MO

Your Reference: 3264

Dear Sir/Madam

Native Title Search Results for Cessnock Local Government Area

Thank you for your search request of 17 September 2013 in relation to the above area.

Search Results

The results provided are based on the information you supplied and are derived from a search of the following Tribunal databases:

Register Type	NNTT Reference Numbers
Schedule of Applications (unregistered claimant applications)	NC2013/006
Register of Native Title Claims	NC2012/003, NC2013/002, NC2013/003, NC2013/004
National Native Title Register	Nil.
Register of Indigenous Land Use Agreements	Nil.
Notified Indigenous Land Use Agreements	Nil.

I have included register extracts, map attachments and a NNTT Registers fact sheet to help guide your understanding of the search result.

Please note that there may be a delay between a native title determination application being lodged in the Federal Court and its transfer to the Tribunal. As a result, some native title determination applications recently filed in the Federal Court may not appear on the Tribunal's databases.

The search results are based on analysis against external boundaries of applications only. Native title applications commonly contain exclusions clauses which remove areas from within the external boundary. To determine whether the areas described are in fact subject to claim, you need to refer to "Area covered by claim" section of the relevant Register Extract or Application Summary and any maps attached.

Search results and the existence of native title

Please note that the enclosed information from the Register of Native Title Claims and/or the Schedule of Applications is **not** confirmation of the existence of native title in this area. This cannot be confirmed until the Federal Court makes a determination that native title does or does not exist in relation to the area. Such determinations are registered on the National Native Title Register.

Tribunal accepts no liability for reliance placed on enclosed information

The enclosed information has been provided in good faith. Use of this information is at your sole risk. The National Native Title Tribunal makes no representative, either express or implied, as to the accuracy or suitability of the information enclosed for any particular purpose and accepts no liability for use of the information or reliance placed on it.

If you have any further queries, please contact me on 1800 640 501.

Yours sincerely



Melissa O'Malley | RECEPTIONIST/CLIENT SERVICES OFFICER

National Native Title Tribunal | Sydney Office

Level 16, Federal Law Courts Building, Queens Square, Sydney, New South Wales 2000

Telephone (02) 9227 4000 | Facsimile (02) 9227 4030 | Email melissa.o'malley@nntt.gov.au

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Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NSD1680/2013
NNTT number: NC2013/006

Application Name: Scott Franks and Anor on behalf of the Plains Clans of the Wonnarua People

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 19/08/2013

Current stage(s): Currently identified for registration decision, Pre-notification

Registration information: Please refer to the Register of Native Title Claims/National Native Title Register (as appropriate) for registered details of this application.

Registration decision status: Currently identified for Reg. Decision

Applicants: Scott McCain Franks, Robert John Lester

Address(es) for Service:
17 River Road
Emu Plains NSW 2750
Phone: 0415 787 844

Additional Information

Not applicable



Persons claiming to hold native title:

The members of the native title claim group are the biological descendants of

(a) Emily (who was born in approximately 1840, and was the mother of Henry Frederick Taggart who was born in Howes Valley, Broke in 1859 and who died on 5 March 1941 in the district of Singleton); and

(b) Mary Shoe (who was born approximately 1800 in the Singleton district, and who was the mother of Matilda Hughes who was born 1832 at Sydenham near Singleton, who married James Arthur Smith on 28 December 1856 at Fallbrook and who died on 5 October 1913 at Bridgeman, Patricks Plains Shire).

Native title rights and interests claimed:

1. Over areas where a claim to exclusive possession can be recognised (such as where there has been no prior extinguishment of native title, or where ss.47, 47A or 47B apply), the native title claim group claims the right to possess occupy, use and enjoy the lands and waters of the application area as against the whole world, pursuant to the traditional laws and customs of the claim group.

2. Over areas where a claim to exclusive possession cannot be recognised, the native title claim group claims the following rights and interests:

- (a) the right to access the application area;
- (b) the right to camp on the application area;
- (c) the right to erect shelters on the application area;
- (d) the right to live on the application area;
- (e) the right to move about the application area;
- (f) the right to hold meetings on the application area;
- (g) the right to hunt on the application area;
- (h) the right to fish on the application area;
- (i) the right to use the natural water resources of the application area including the beds and banks of the watercourses;
- (j) the right to gather the natural products of the application area (including: food, medicinal plants, timber, stone, ochre and resin) according to traditional laws and customs;
- (k) the right to conduct ceremony on the application area;
- (l) the right to participate in cultural activities on the application area;
- (m) the right to maintain places of importance under traditional laws, customs and practices in the application area;
- (n) the right to protect places of importance under traditional laws, customs and practices in the application area;
- (o) the right to conduct burials on the application area;
- (p) the right to speak for and make non-exclusive decisions about the application area;



- (q) the right to cultivate and harvest native flora according to traditional laws and customs; and
- (r) the right to control access to, and use of, the area by those Aboriginal people who seek access or use in accordance with traditional law and custom.

3. The native title rights and interests are subject to and exercisable in accordance with:

- (a) the laws of the State of New South Wales and the Commonwealth of Australia;
- (b) the rights (past or present) conferred upon persons pursuant to the laws of the commonwealth and the laws of the state of New South Wales; and
- (c) the traditional laws acknowledged and the traditional customs observed by the native title claim group.

Application Area: **State/Territory:** New South Wales
Brief Location: The claim encompasses the Hunter Valley, west of Newcastle, extending generally north-westerly to the Upper Hunter and the Liverpool Ranges to Murrurundi, and southerly to the Hunter Range past Cessnock.
Primary RATSIB Area: New South Wales
Approximate size: 11358.0149 sq km
(Note: There may be areas within the external boundary of the application that are not claimed.)
Does Area Include Sea: No

Area covered by the claim (as detailed in the application):

External boundary description

The application area covers all the land and waters within the external boundary described as:

Commencing at the intersect of the southern boundary of the Namoi Catchment and Longitude 150.533544° East and extending generally easterly and generally north easterly along that catchment boundary to the southern boundary of the New England Highway, at Nowlands Gap; then generally south easterly along that boundary to the western bank of the Pages River; then generally south easterly and generally southerly along that bank to the northern boundary of Miranee Road; then generally southerly along that boundary to the northern boundary of Hunter Road; then generally easterly along that boundary to the southern bank of Stewarts Brook; then generally easterly along that bank to its headwaters at Longitude 151.403010° East, Latitude 32.037800° South and onwards to the eastern boundary of the Hunter River catchment at Latitude 32.038192° South; then generally southerly along that catchment boundary to Longitude 151.407614° East; then south easterly to the headwaters of the Patterson River at Longitude 151.409652° East, Latitude 32.047240° South; then generally southerly along the centreline of the Patterson River (passing through Lostock Dam) and onwards to the southern bank of the Hunter River, being the easternmost corner of Lot 1 on DP520557; then generally westerly along that bank to the eastern bank Wallis Creek; then generally southerly along of that bank to the south eastern boundary of Louth Park Road; then generally south westerly and generally south easterly along that boundary to the north western boundary of Buchanan Road; then generally south westerly, generally westerly, again generally south westerly and generally southerly along of that boundary, an unnamed road, George Booth Drive, Richmond Vale Road, Maitland Road and Leggetts Drive (Freemans Drive) to the northeast corner of Lot 21 on DP811883; then generally westerly along the northern boundary of that lot, Lot 7002 on DP93611, Gills Lane and unnamed road to the south western corner of Lot 820 on DP1165469; then southerly, westerly and generally southerly along the western boundaries of Lot 99 on DP755244, Lot 109 on DP755244, Heaton State Forest and Lot 53 on DP755244 to the centreline of Wallis Creek; then generally southerly and generally south westerly along that centreline to Longitude 151.427251° East; then southerly to the southwest corner of Lot 115 on DP755244 and onwards to the southern boundary of Hunter River catchment; then generally south westerly along that southern boundary to Longitude 151.348681° East; then northwest to the headwaters of Watagan Creek at Longitude 151.345650°



East, Latitude 33.039180° South; then generally westerly along the centreline of Watagan Creek to the centreline of Wollombi Brook; then generally south easterly along that centreline to the centreline of Fernances Creek; then generally south westerly along that centreline to its headwaters at Longitude 151.098910° East, Latitude 33.074560° South; then south westerly to the headwaters of Mogo Creek at Longitude 151.094420° East, Latitude 33.083870° South; then generally south westerly along the centreline of that creek to the centreline of the Macdonald River; then generally north westerly and generally northerly along that centreline to its headwaters at Longitude 150.585770° East, Latitude 32.745510° South; then south westerly to the headwaters of an unnamed creek at Longitude 150.575770° East, Latitude 32.748320° South; then generally northerly along the centreline of that unnamed creek to the centreline of Martindale Creek at Longitude 150.583610° East; then generally easterly along that centreline to Longitude 150.523690 East; then northerly to the headwaters of Baerami Creek at Longitude 150.523500° East, Latitude 32.676180° South; then generally northerly along the centreline of that creek to the centreline of the Goulburn River; then generally north easterly along that centreline to the centreline of Worondi Rivulet; then generally northerly along that centreline to its headwaters at Longitude 150.449900° East, Latitude 32.062900° South; then north easterly and generally northerly along a spur and ridge top, through Diamond Mountain, Ten Mole Mountain, Leards Gap and Square Top back to the commencement point.

- Attachments:**
1. Attachment B1 area covered by the application, 2 pages - A4, 19/08/2013
 2. Attachment B2 areas not covered by the application, 1 page - A4, 19/08/2013
 3. Attachment C Map, 1 page - A4, 19/08/2013

NNTT Contact Details

Address: National Native Title Tribunal
Sydney Office

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Queens Square
SYDNEY NSW 2000

GPO Box 9973
SYDNEY NSW 2001

Telephone: (02) 9227 4000

Freecall: 1800 640 501

Fax: (02) 9227 4030

Web Page: www.nntt.gov.au

End of Extract



Extract from the Register of Native Title Claims

Application Information

Application Reference: Federal Court number: NSD951/2012
NNTT number: NC2012/003

Application name: Kerrie Brauer & Ors on behalf of the Awabakal People

Registration History: Registered from 02/08/2012

Register Extract (pursuant to s. 186 of the *Native Title Act 1993*)

Application filed with: Federal Court of Australia

Date application filed: 04/07/2012

Date claim entered on Register: 02/08/2012

Applicants: Ms Kerrie Brauer, Mr Wayne Saxby, Mr William Henry Saxby, Mr Trevor Phillip Powell, Mr Wayne Maurice Hawken, Mr Shane Michael Frost

Address for service: Colin Hardy
Just Us Lawyers
238 Kelvin Grove Road, KELVIN GROVE QLD 4059
PO Box 120
RED HILL QLD 4059
Phone: 07 3369 7145
Fax: 07 3315 2727

Additional Information:

Not Applicable

DESCRIPTION OF THE AREA COVERED BY THE CLAIM:



Information identifying the boundaries of:

- a) the area covered by the application; and
- b) any areas within those boundaries that are not covered by the application.

In relation to (a) above a description of the area of land and waters covered by the application is provided at Attachment "B".

Areas within the boundary identified in Attachment "B" that are not covered by the application are set out below:

1. The area covered by the application excludes any land or waters that is or has been covered by:

- (a) Scheduled interest;
- (b) a freehold estate;
- (c) a commercial lease that is neither an agricultural lease nor a pastoral lease;
- (d) an exclusive agricultural lease or an exclusive pastoral lease;
- (e) a residential lease;
- (f) a community purpose lease;
- (g) a lease dissected from a mining lease and referred to in s.23B(2)(c)(vii) of the Native Title Act 1993 (Cth);
- (h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters.

2. Subject to paragraphs 4 and 5, the area covered by the application excludes any land or waters covered by the valid construction or establishment of any public work, where the construction or establishment of the public work commences on or before 23 December 1996.

3. Subject to paragraphs 4 and 5, exclusive possession is not claimed over areas which are subject to valid previous non-exclusive possession acts done by the Commonwealth or State of New South Wales.

4. Subject to paragraph 6, where the act specified in paragraphs 1, 2 and 3 falls within the provisions of:

- s.23B(9) - Exclusion of acts benefiting Aboriginal Peoples or Torres Strait Islanders;
- s.23B(9A) - Establishment of a national park or state park;
- s.23B(9B) - Acts where legislation provides for non-extinguishment;
- s.23B(9C) - Exclusion of Crown to Crown grants; and
- s.23B(10) - Exclusion by regulation.

the area covered by the act is not excluded from the application.

5. Where an act specified in paragraphs 1, 2 and 3 affects or affected land or waters referred to in:

- s.47 - Pastoral leases etc. covered by claimant application
- s.47A - Reserves etc. covered by claimant application



s.47B - Vacant Crown land covered by claimant application,

the area covered by the act is not excluded from the application.

6. The area covered by the application excludes land or waters where the native title rights and interests claimed have been otherwise extinguished.

PERSONS CLAIMING TO HOLD NATIVE TITLE:

The claim group are persons:

1. who are recognised by other members of the claim group as being descended (which may include by adoption) from a deceased person who they recognise as having been a member of the aboriginal landholding group for the application area depicted in Attachment "C" ("an apical ancestor"); and
2. who identifies himself or herself as being a descendant of an apical ancestor.

It is accepted that adoption may take place and where adoption has occurred it confers upon the adoptee the right to identify as a member of the claim group.

The following deceased persons are recognised as having been apical ancestors from whom claim group members are descended:

The Awabakal People:

- Margaret (Known as Queen Margaret/Old Margaret)
- Ned (Known as King Ned/King Molly/Black Ned/Old Ned)
- Flathead (Father of King Ned/Black Ned/Old Ned)
- Mahrahkah (Known as Molly/Molly Morgan/Maria Morgan)
- Charlotte Preston (Daughter of Molly/Molly Morgan/Maria Morgan)

REGISTERED NATIVE TITLE RIGHTS AND INTERESTS:

The following Native Title Rights & Interests were entered on the Register on 02/08/2012

1. Over areas where a claim to exclusive possession can be recognised (such as areas where there has been no prior extinguishment of native title or where s.238, ss.47, 47A or 47B apply), the claim group claims the right to possess, occupy, use and enjoy the lands and waters of the application area as against the whole world, pursuant to the traditional laws and customs of the claim group.

2. Over areas where a claim to exclusive possession cannot be recognised, the claim group claims the non-exclusive right to:

- (a) live and be present on the application area;
- (b) take, use, share and exchange traditional natural resources for personal, domestic and non-commercial, communal purposes;
- (c) conduct burial rites;
- (d) conduct ceremonies;
- (e) teach on the area about the physical and spiritual attributes of the area;



(f) maintain places of importance and areas of significance to the native title holders under their traditional laws and customs and protect those places and areas from physical harm;

(g) light fires for domestic purposes including cooking but not for the purposes of hunting or clearing vegetation;

(h) be accompanied into the claim area by non claim group members being people required:

(1) by traditional law and custom for the performance of ceremonies or cultural activities; and

(2) to assist in observing and recording traditional activities on the claim area.

(i) in relation to water, take and use:

(1) traditional natural resources from the water for personal, domestic and non-commercial communal purposes; and

(2) for personal, domestic and non-commercial, communal purposes.

3. For the purposes of 2. above:

"Live" means to reside and for that purpose erect shelters and temporary structures but does not include a right to construct permanent structures.

"Traditional Natural Resource" means:

(1) "animals" as defined in the National Parks and Wildlife Act 1974 (NSW)

(2) "plants" as defined in the National Parks and Wildlife Act 1974 (NSW)

(3) charcoal, shells and resin; and

(4) clay, soil, sand, ochre, gravel or rock on or below the surface.

"Water" means water source as defined by the Water Management Act 2000 (NSW)

4. The native title rights and interests are subject to:

(a) The valid laws of the State of New South Wales and the Commonwealth of Australia; and

(b) The rights conferred under those laws.

REGISTER ATTACHMENTS:

1. 1. Written description and plan of application area, Attachment B of the Application, 2 pages - A4, 04/07/2012

2. 2. A map showing the external boundaries of the claim area., Attachment C of the Application, 1 page - A4, 04/07/2012

Note: The Register of Native Title Claims may, in accordance with s. 188 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.



Extract from the Register of Native Title Claims

Application Information

Application Reference: Federal Court number: NSD780/2013
NNTT number: NC2013/002

Application name: Kerrie Brauer & Ors on behalf of the Awabakal and Guringai People

Registration History: Registered from 13/06/2013

Register Extract (pursuant to s. 186 of the *Native Title Act 1993*)

Application filed with: Federal Court of Australia

Date application filed: 13/05/2013

Date claim entered on Register: 13/06/2013

Applicants: Kerrie Brauer, Trevor Powell, Wayne Hawken, Shane Frost, Peter Leven, Wayne Saxby, Tracey-Lee Howie, Trudy Smith, Laurie Bimson

Address for service: Michael Owens
Michael Owens
Lawyer and Consultant
15 Cahill Street
Aitkenvale QLD 4814
Phone: 0418 181 004

Additional Information:

Not Applicable

DESCRIPTION OF THE AREA COVERED BY THE CLAIM:

Information identifying the boundaries of:



- (a) the area covered by the application; and
- (b) any areas within those boundaries that are not covered by the application.

In relation to (a) above a description of the area of land and waters covered by the application is provided at Attachment "B".

Areas within the boundary identified in Attachment "B" that are not covered by the application are set out below:

1. The area covered by the application excludes any land or waters that is or has been covered by:

- (a) Scheduled interest;
- (b) a freehold estate;
- (c) commercial lease that is neither an agricultural lease nor a pastoral lease;
- (d) an exclusive agricultural lease or an exclusive pastoral lease;
- (e) a residential lease;
- (f) a community purpose lease;
- (g) a lease dissected from a mining lease and referred to in s. 23B(2)(c)(vii) of the Native Title Act 1993 (Cth);
- (h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters.

2. Subject to paragraphs 4 and 5, the area covered by the application excludes any land or waters covered by the valid construction or establishment of any public work, where the construction or establishment of the public work commences on or before 23 December 1996.

3. Subject to paragraphs 4 and 5, exclusive possession is not claimed over areas which are subject to valid previous non-exclusive possession acts done by the Commonwealth or State of New South Wales.

4. Subject to paragraph 6, where the act specified in paragraphs 1, 2 and 3 falls within the provisions of:

- s. 23B(9) - Exclusion of acts benefiting Aboriginal Peoples or Torres Strait Islanders;
- s. 23B(9A) - Establishment of a national park or state park;
- s. 23B(9B) - Acts where legislation provides of non-extinguishment;
- s. 23B(9C) - Exclusion of Crown to Crown grants; and
- s. 23B(10) - Exclusion by regulation

the area covered by the act is not excluded from the application.

5. Where an act specified in paragraphs 1, 2 and 3 affects or affected land or waters referred to in:

- s. 47 - Pastoral leases etc covered by claimant application
- s. 47A - Reserves etc covered by claimant application
- s. 47B - Vacant Crown land covered by claimant application

the area covered by the act is not excluded from the application.



6. The area covered by the application excludes land or waters where the native title rights and interests have been otherwise extinguished.

The Applicant relies on section 2 and elsewhere in the Report of Mr. Nathan Woolford of 10 May 2013 in Annexure "F".

PERSONS CLAIMING TO HOLD NATIVE TITLE:

The claim group are persons:

1. who are recognised by other members of the claim group as being descended (which may include by adoption) from a deceased person who they recognise as having been a member of the aboriginal landholding group for the application area depicted in Attachment "C" ("an apical ancestor"); and
2. who identifies himself or herself as being a descendant of an apical ancestor.

It is accepted that adoption may take place and where adoption has occurred it confers upon the adoptee the right to identify as a member of the claim group.

The following deceased persons are recognised as having been apical ancestors from whom claim group members are descended:

The Awabakal People:

- Margaret (known as Queen Margaret/Old Margaret)
- Ned (known as King Ned/King Molly/Black Ned/Old Ned)
- Flathead (Father of King Ned/Black Ned/Old Ned)
- Mahrahkah (Known as Molly/Molly Morgan/Maria Morgan)
- Charlotte Preston (Daughter of Molly/Molly Morgan/Maria Morgan)

The Guringai Peoples:

- Bungaree (Known as King Bungaree)
- Bowen Bungaree
- Matora
- Gooseberry (Known as Cora)
- Charlotte Ashby
- Bidy Salamander

The Applicant relies on section 3 and elsewhere in the Report of Mr. Nathan Woolford dated 10 May 2013 in Attachment "F".

REGISTERED NATIVE TITLE RIGHTS AND INTERESTS:

The following Native Title Rights & Interests were entered on the Register on 13/06/2013

1. Over areas where a claim to exclusive possession can be recognised (such as areas where there has been no prior extinguishment of native title or where s. 238, ss. 47, 47A or 47B apply), the claim group claims the right to possess, occupy, use and



enjoy the lands and waters of the application area as against the whole world, pursuant to the traditional laws and customs of the claim group.

2. Over areas where a claim to exclusive possession cannot be recognised, the claim group claims the non-exclusive right to:

- (a) live and be present on the application area;
- (b) take, use, share and exchange Traditional Natural Resources for personal, domestic and non-commercial, communal purposes;
- (c) conduct burial rites;
- (e) teach on the area about the physical and spiritual attributes of the area;
- (f) maintain places of importance and areas of significance to the native title holders under their traditional laws and customs and protect those places and areas from physical harm;
- (g) light fires for domestic purposes including cooking but not for the purposes of hunting or clearing vegetation.

3. For the purposes of 2. above,

"Live" means to reside and for that purpose erect shelters and temporary structures but does not include a right to construct permanent structures;

"Traditional Natural Resource" means:

"animals" as defined in the National Parks and Wildlife Act 1974 (NSW), but also including fish.

"plants" as defined in the National Parks and Wildlife Act 1974 (NSW)

charcoal, shells and resin; and

clay, soil, sand; ochre; gravel or rock on or below the surface.

"fish" and "fishing".

"Water" means water source as defined by the Water Management Act 2000 (NSW).

REGISTER ATTACHMENTS:

1. Attachment B boundary description, 4 pages - A4, 07/06/2013

2. Attachment C Map, 2 pages - A4, 13/05/2013

Note: The Register of Native Title Claims may, in accordance with s. 188 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.



Extract from the Register of Native Title Claims

Application Information

Application Reference: Federal Court number: NSD781/2013
NNTT number: NC2013/003

Application name: Wonnarua Traditional Custodians

Registration History: Registered from 13/06/2013

Register Extract (pursuant to s. 186 of the *Native Title Act 1993*)

Application filed with: Federal Court of Australia

Date application filed: 13/05/2013

Date claim entered on Register: 13/06/2013

Applicants: Desmond Hickey, Luke Hickey, Gordon Griffiths, Margaret Ann Mathews, Kevin Taggart, George Edward Sampson, Warren Frank Schillings, Alan Stuart Paget, Tommy Miller, Vicki Slater

Address for service: Bill Redmond
Redmond and Redmond
Level 2, 40 Florence Street
Teneriffe QLD 4006
Phone: 07 3620 2000

Additional Information:

Not Applicable

DESCRIPTION OF THE AREA COVERED BY THE CLAIM:

Information identifying the boundaries of:



- a) the area covered by the application; and
- b) any areas within those boundaries that are not covered by the application.

In relation to (a) above a description of the area of land and waters covered by the application is provided at ATTACHMENT "B".

Areas within the boundary identified in ATTACHMENT "B" that are not covered by the application are set out below:

1. The area covered by the application excludes any land or waters that is or has been covered by:

- (a) Scheduled Interest;
- (b) a freehold estate;
- (c) commercial lease that is neither an agricultural lease nor a pastoral lease;
- (d) an exclusive agricultural lease or an exclusive pastoral lease;
- (e) residential lease;
- (f) a community purpose lease;
- (g) a lease dissected from a mining lease and referred to in s.23B(2)(c)(vii) of the Native Title Act 1993 (Cth);
- (h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters.

2. Subject to paragraphs 4 and 5, the area covered by the application excludes any land or waters covered by the valid construction or establishment of any public work, where the construction or establishment of the public work commences on or before 23 December 1996.

3. Subject to paragraphs 4 and 5, exclusive possession is not claimed over areas which are subject to valid previous non-exclusive possession acts done by the Commonwealth or State of New South Wales.

4. Subject to paragraph 6, where the act specified in paragraphs 1,2 and 3 falls within the provisions of:

- s.23B(9) - Exclusion of acts benefiting Aboriginal Peoples or Torres Strait Islanders;
- s.23B(9A) - Establishment of a national park or state park;
- s.23B(9B) - Acts where legislation provides of non-extinguishment;
- s.23B(9C) - Exclusion of Crown to Crown grants; and
- s.23B(10) - Exclusion by regulation

5. Where an act specified in paragraphs 1, 2 and 3 affects or affected land or waters referred to in:

- s47 - Pastoral leases etc covered by claimant application
- s47A - Reserves etc covered by claimant application
- s47B - Vacant Crown land covered by claimant application

6. The area covered by the application excludes land or waters where the native title rights and interests claimed have been otherwise extinguished.



PERSONS CLAIMING TO HOLD NATIVE TITLE:

The claim group are persons:

1. who are recognised by other members of the claim group as being descended (which may include by adoption) from a deceased person who they recognise as having been a member of the aboriginal landholding group for the application area depicted in ATTACHMENT "C" ("an apical ancestor"); and
2. who identifies himself or herself as being a descendant of an apical ancestor.

It is accepted that adoption may take place and where adoption has occurred it confers upon the adoptee the right to identify as a member of the claim group.

The following deceased persons are recognised as having been apical ancestors from whom claim group members are descended:

- Susan Bishop (also known as Susan Bishop Young, Susan Dangar, Susan Dwyer)
- George William Cain
- Matilda Hughes
- Sarah Madoo, and her immediate ancestral kin, Mary and Emily Shoe
- Henry 'Harry'/Tommy' Taggart and his mother Emily
- Emily Shoe
- Mary Ann(e) Webster

REGISTERED NATIVE TITLE RIGHTS AND INTERESTS:

The following Native Title Rights & Interests were entered on the Register on 13/06/2013

2. Over areas where a claim to exclusive possession cannot be recognised, the claim group claims the non-exclusive right to:

- (a) live and be present on the application area
- (b) take, use, share and exchange Traditional Natural Resources for personal, domestic and non-commercial, communal purposes;
- (c) conduct burial rites;
- (d) conduct ceremonies;
- (e) teach on the area about the physical and spiritual attributes of the area;
- (f) maintain places of importance and areas of significance to the native title holders under their traditional laws and customs and protect those places and areas from physical harm;
- (g) light fires for domestic purposes including cooking but not for the purposes of hunting or clearing vegetation;
- (h) be accompanied into the claim area by non claim group members being people



required:

- (1) by traditional law and custom for the performance of ceremonies or cultural activities; and
- (2) to assist in observing and recording traditional activities on the claim area; and
- (i) In relation to Water, take and use:
 - (1) Traditional Natural Resources from the Water for personal, domestic and non-commercial communal purposes; and
 - (2) for personal, domestic and non-commercial communal purposes
3. For the purposes of 2. Above;

"Live" means to reside and for that purpose erect shelters and temporary structures but does not include a right to construct permanent structures;

"Traditional Natural Resource" means:

- (1) "animals" as defined in the National parks and Wildlife Act 1974 (NSW)
- (2) "plants" as defined in the National Parks and Wildlife Act 1974 (NSW)
- (3) "charcoal, shells and resin; and
- (4) "clay, soil, sand; ochre; gravel or rock on or below the surface;

"Water" means water source as defined by the Water Management Act 2000 (NSW);

4. The native title rights and interests are subject to:

- (a) The valid laws of the State of New South Wales and the Commonwealth of Australia; and
- (b) The rights conferred under those laws

REGISTER ATTACHMENTS:

1. Area description. Attachment B of the Application , 1 page - A4, 28/05/2013
2. Map of the Application Area Attachment C of the Application , 2 pages - A4, 28/05/2013

Note: The Register of Native Title Claims may, in accordance with s. 188 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.



Extract from the Register of Native Title Claims

Application Information

Application Reference: Federal Court number: NSD788/2013
NNTT number: NC2013/004

Application name: Plains Clans of the Wonnarua People

Registration History: Registered from 13/06/2013

Register Extract (pursuant to s. 186 of the *Native Title Act 1993*)

Application filed with: Federal Court of Australia

Date application filed: 13/05/2013

Date claim entered on Register: 13/06/2013

Applicants: Scott McCain Franks, Robert John Lester

Address for service: Chalk & Fitzgerald
Level 9, Currency House
23 Hunter Street
SYDNEY NSW 2000
Phone: 02 9231 4544

Additional Information:

Not Applicable

DESCRIPTION OF THE AREA COVERED BY THE CLAIM:

Attachment B1 - The area covered by the application

(1) The application covers the area of Mining Lease Application No 444.

(2) The external boundaries of the application are outlined in the map appearing at Attachment C and



are described more particularly below.

(3) The external boundaries of the application area are described as follows:

Commencing from the starting point approximately 6 kilometres east of Cessnock, being the point represented by the coordinates 350556.2 Easting 6367384.0 Northing (Point 1), then in a straight line in a north-easterly direction to the point represented by the coordinates 350855.9 Easting 6367727.1 Northing (Point 2), then in a straight line in a south-easterly direction to the point represented by the coordinates 351005.5 Easting 6367513.2 Northing (Point 3), then in a straight line in a southerly direction to the point represented by the coordinates 351176.2 Easting 6366986.3 Northing (Point 4), then in a straight line in a westerly direction to the point represented by the coordinates 350924.7 Easting 6366984.3 Northing (Point 5), and then in a straight line in a north-westerly direction back to the starting point (Point 1).

Attachment B2 - Any areas with those boundaries that are not covered by the application

(1) The boundaries of the area covered by the application are described in the document annexed as "Attachment B1".

(2) Subject to (4) and (5) below, the area covered by the application excludes any land or waters covered by:

- (a) a scheduled interest;
- (b) a freehold estate;
- (c) a commercial lease that is neither an agricultural lease nor a pastoral lease;
- (d) an exclusive agricultural lease or an exclusive pastoral lease;
- (e) a residential lease;
- (f) a community purposes lease;
- (g) a lease dissected from a mining lease as referred to in s 238(2)(vii); or
- (h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters which was validly vested or granted on or before 23 December 1996.

(3) Subject to (4) and (5) below, the area covered by the application also excludes any area

(a) covered by the valid construction or establishment of any public work, where the construction or establishment of the public work commenced on or before 23 December 1996.

(b) in relation to which native title rights and interests have otherwise been wholly extinguished.

(4) Where the act specified in (2) or (3) falls within the provisions of any of sections 23B(9), 23B(9A), 23B(9B), 23B(9C) or 23B(10) of the Native Title Act 1993 (Cth), then the area covered by the act is not excluded from this application.

(5) Notwithstanding (2) and (3), the area covered by the application includes any area to which the non-extinguishment principle as defined in section 238 of the Native Title Act 1993 applies, including any area to which section 47, 47A or 47B of the Native Title Act 1993 (Cth) applies.

Note - the terms in this Attachment B2 have the same meaning as they do in the Native Title Act 1993 (Cth).

PERSONS CLAIMING TO HOLD NATIVE TITLE:

The members of the native title claim group are the biological descendants of



(a) Emily (who was born in approximately 1840, and was the mother of Henry Frederick Taggart who was born in Howes Valley, Broke in 1859 and who died on 5 March 1941 in the District of Singleton); and

(b) Mary Shoe (who was born approximately 1800 in the Singleton district, and who was the mother of Matilda Hughes who was born 1832 at Sydenham near Singleton, who married James Arthur Smith on 28 December 1856 at Fallbrook and who died on 5 October 1913 at Bridgeman, Patricks Plains Shire).

REGISTERED NATIVE TITLE RIGHTS AND INTERESTS:

The following Native Title Rights & Interests were entered on the Register on 13/06/2013

2. Over areas where a claim to exclusive possession cannot be recognised, the native title claim group claims the following rights and interests:

- (a) the right to access the application area;
- (b) the right to camp on the application area;
- (c) the right to erect shelters on the application area;
- (d) the right to live on the application area;
- (e) the right to move about the application area;
- (f) the right to hold meetings on the application area;
- (g) the right to hunt on the application area;
- (h) the right to fish on the application area;
- (i) the right to use the natural water resources of the application area including the beds and banks of watercourses;
- (j) the right to gather the natural products of the application area (including: food, medicinal plants, timber, stone, ochre and resin) according to traditional laws and customs;
- (k) the right to conduct ceremony on the application area;
- (l) the right to participate in cultural activities on the application area;
- (m) the right to maintain places of importance under traditional laws, customs and practices in the application area;
- (n) the right to protect places of importance under traditional laws, customs and practices in the application area;

3. The native title rights and interests are subject to and exercisable in accordance with:

- (a) the laws of the State of New South Wales and the Commonwealth of Australia;
- (b) the rights (past or present) conferred upon persons pursuant to the laws of the



Commonwealth and the laws of the State of New South Wales; and

(c) the traditional laws acknowledged and the traditional customs observed by the native title claim group.

REGISTER ATTACHMENTS:

1. Map of the Application Area Attachment C of the Application , 1 page - A4, 13/05/2013

2. Attachment B1 - "The Area Covered by the Application", 1 page - A4, 13/05/2013

3. Attachment B2 - "Any Areas Within those Boundaries that are not covered by the Application", 1 page - A4, 13/05/2013

Note: The Register of Native Title Claims may, in accordance with s. 188 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.



Searching the NNTT Registers in New South Wales

Search service

On request the National Native Title Tribunal may search its public registers for you. A search may assist you in finding out whether any native title applications (claims), determinations or agreements exist over a particular area of land or water.

In New South Wales native title cannot exist on privately owned land including family homes or farms.

What information can a search provide?

A search can confirm whether any applications, agreements or determinations are registered in a local government area. Relevant information, including register extracts and application summaries, will be provided.

In NSW because we cannot search the registers in relation to individual parcels of land we search by local government area.

Most native title applications do not identify each parcel of land claimed. They have an external boundary and then identify the areas not claimed within the boundary by reference to types of land tenure e.g., freehold, agricultural leasehold, public works.

What if the search shows no current applications?

If there is no application covering the local government area this only indicates that at the time of the search either the Federal Court had not received any claims in relation to the local government area or the Tribunal had not yet been notified of any new native title claims.

It does not mean that native title does not exist in the area.

Native title may exist over an area of land or waters whether or not a claim for native title has been made.

Where the information is found

The information you are seeking is held in three registers and on an applications database.

National Native Title Register

The National Native Title Register contains determinations of native title by the High Court, Federal Court and other courts.

Register of Native Title Claims

The Register of Native Title Claims contains applications for native title that have passed a registration test.

Registered claims attract rights, including the right to negotiate about some types of proposed developments.

Register of Indigenous Land Use Agreements

The Register of Indigenous Land Use Agreements contains agreements made with people who hold or assert native title in an area.

The register identifies development activities that have been agreed by the parties.

Schedule of Native Title Claims

The Schedule of Native Title Claims contains a description of the location, content and status of a native title claim.

This information may be different to the information on the Register of Native Title Claims, e.g., because an amendment has not yet been tested.

How do I request a native title search?

Download the Search Request Form from the Tribunal's website at -

<http://www.nntt.gov.au/Applications-And-Determinations/Registers/Pages/Search-The-Tribunal-Registers.aspx>


Email to: NSWEnquiries@nntt.gov.au

Post to: GPO Box 9973 Sydney NSW 2001

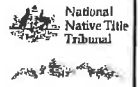
For additional enquiries: 02 9227 4000

NATIVE TITLE DETERMINATION APPLICATION

Awabakal People Native Title Claim Group

 **Claim Area**

NOTE: To determine areas subject to claim within the external boundary, reference to the application description is necessary.
Application boundary data compiled by the NNTT from data sourced from NTSCORP Limited.
MLA416 boundary data compiled by the NNTT from data sourced from the Dept of Primary Industries (NSW) and DONALDSON COAL PTY LTD (June 2012).
Cadastral data sourced from Public Sector Mapping Agency (November 2010).
Map created by: Geospatial Services, National Native Title Tribunal (14/06/2012)
Map Ref: 20120614_Awabakal People Native Title Claim Group_Tenure_A3P.pdf

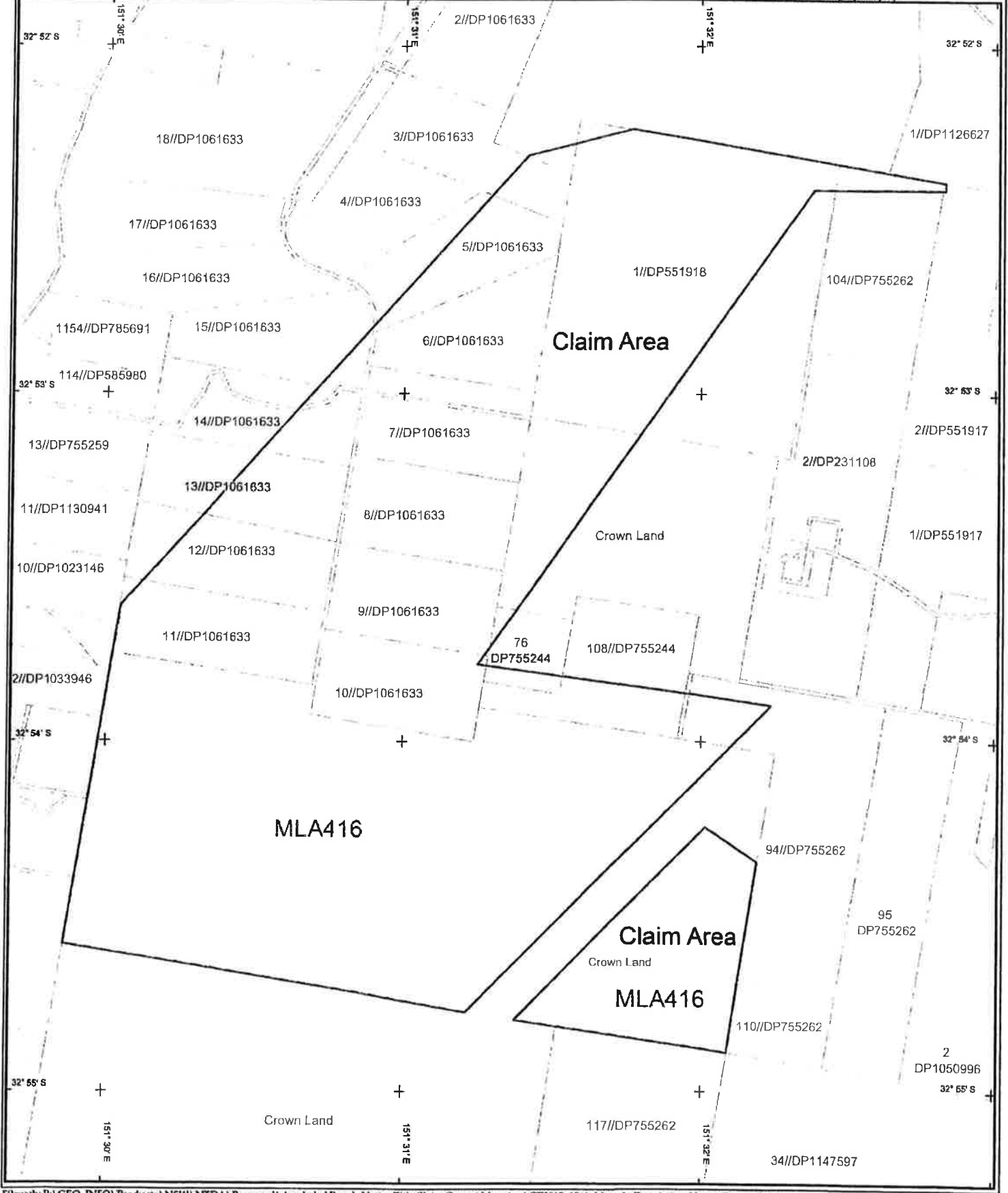


NORTH

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KILOMETRES
Latitude and Longitude based on Geocentric Datum of Australia 1994
Map Projection

© Commonwealth of Australia 2012

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NATIVE TITLE DETERMINATION APPLICATION

Plains Clans of the Wonnarua Nation

 Proposed Plains Clans of the Wonnarua Nation Native Title Determination Application

NOTE: To determine areas subject to claim within the external boundary, reference to the application description is necessary.
Application boundary data compiled by the NNTT.

Topographic image data is © Commonwealth of Australia and is used under licence from Geoscience Australia 2008

NOTE: Topographic images should be used as a guide only.

Map created by: Geospatial Services, National Native Title Tribunal (06/05/2013)



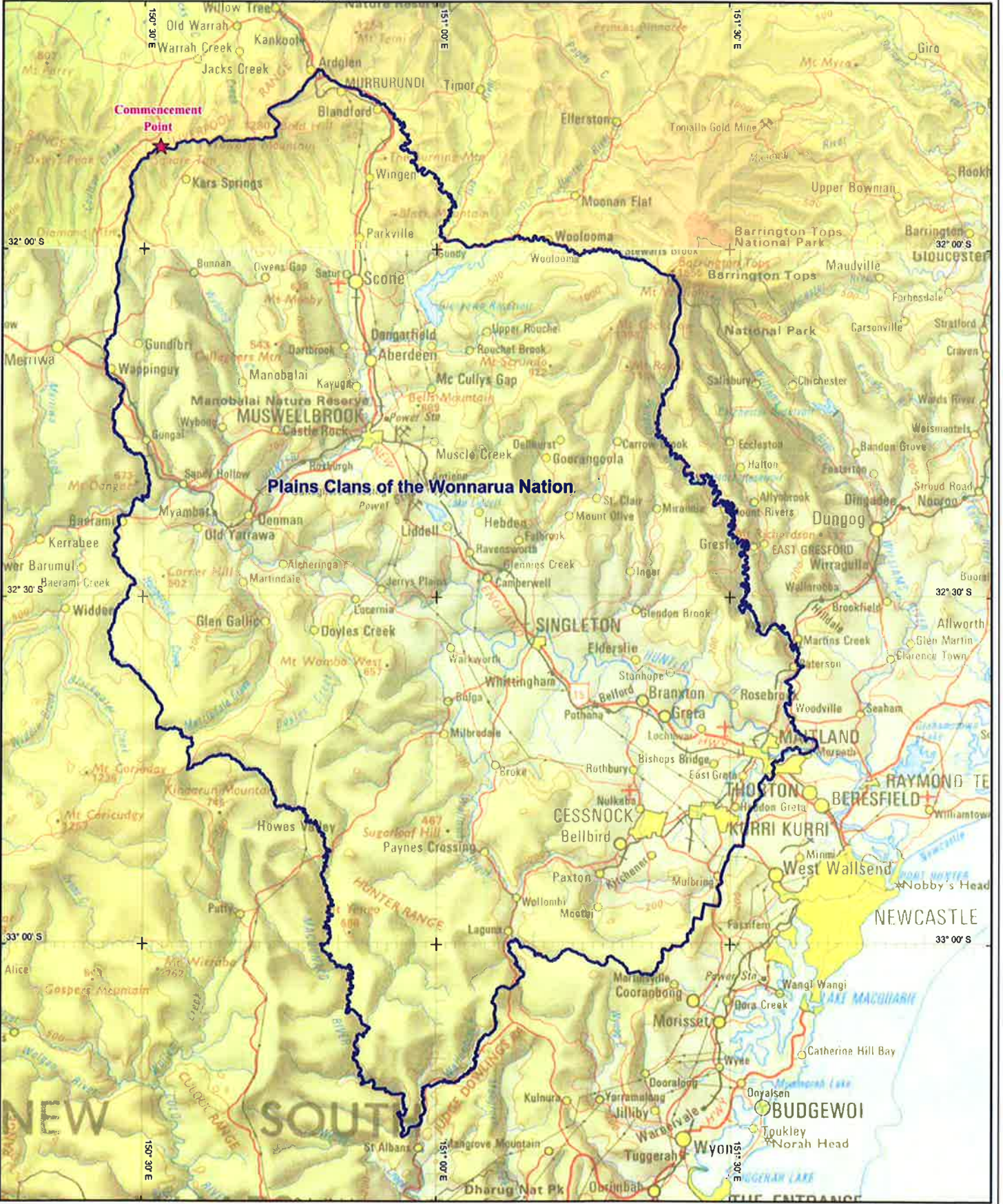
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KILOMETRES

Latitude and Longitude based on Geocentric Datum of Australia 1994
Non Projection

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ATTACHMENT "C"
A MAP SHOWING THE EXTERNAL BOUNDARIES OF THE CLAIM AREA.

See attached Map of Awabakal and Guringai Native Title Determination Application as Attachment C as prepared by Geospatial Services, National Native Title Tribunal 10 May 2013



Awabakal and Guringai People

Claim Area

NOTE: To determine areas subject to claim within the external boundary, reference to the application description is necessary. Application and Determination boundary data compiled by the NNTT from data sourced from DOL (NSW), Mining Lease Application data sourced from Department of Primary Industries, NSW.

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NOTE: Topographic images should be used as a guide only.

Map created by: Geospatial Services, National Native Title Tribunal (03/05/2013)

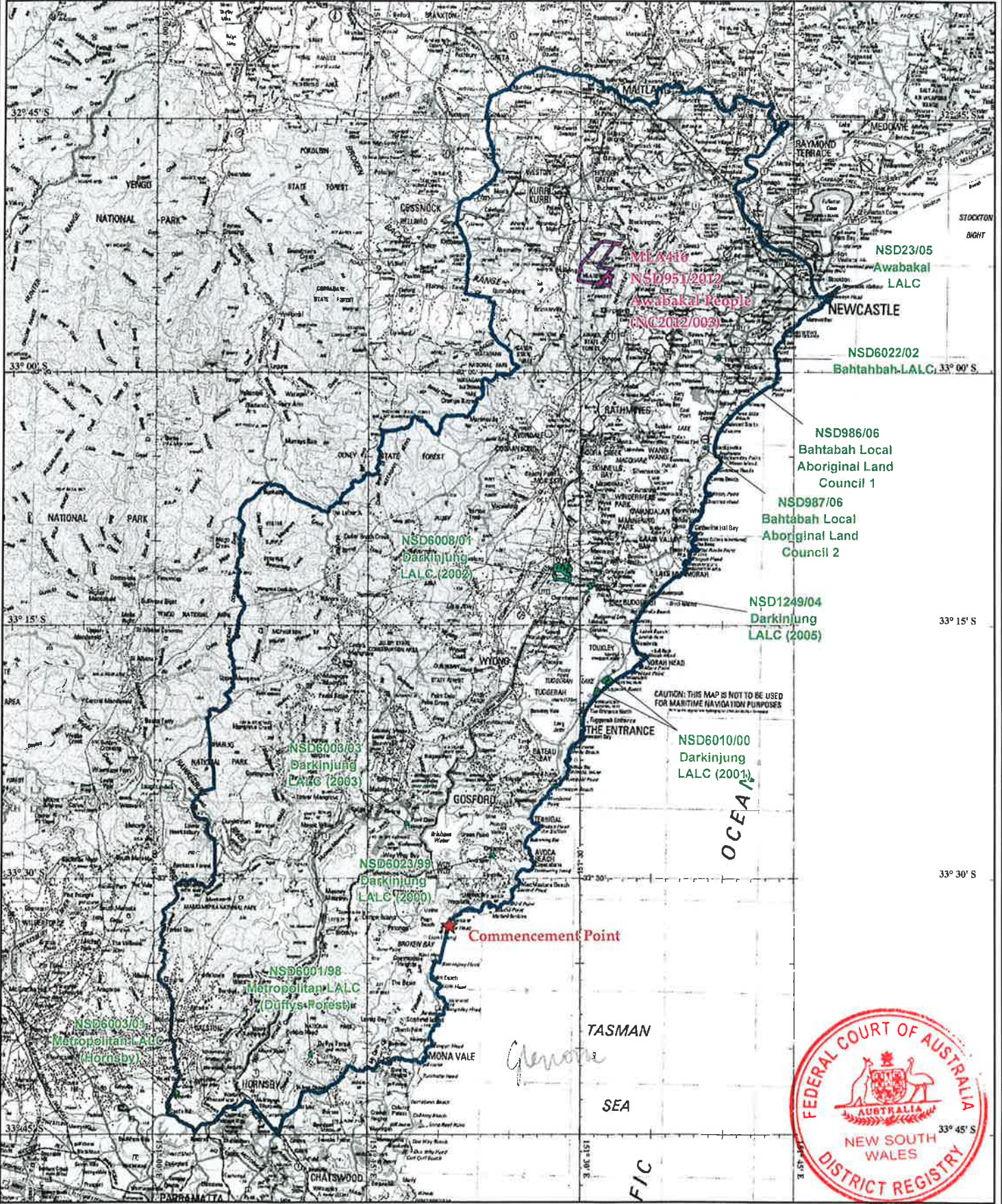
Map Ref: 20130509_Proposed_Awabakal_and_Guringai_People_Topo_A3P.pdf

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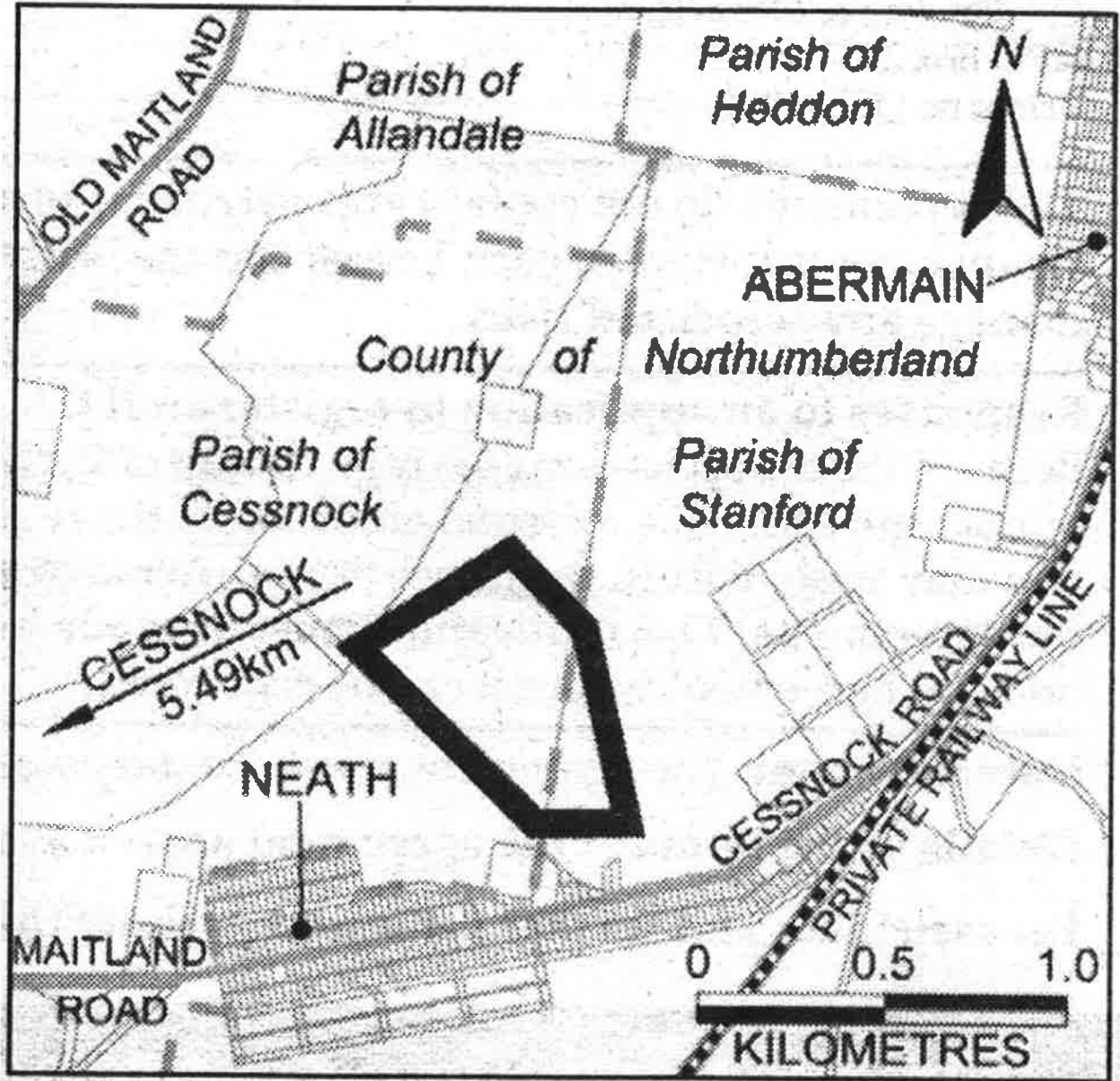
KILOMETRES
Latitude and Longitude based on Geocentric Datum of Australia 1994
Non Projection

© Commonwealth of Australia 2013

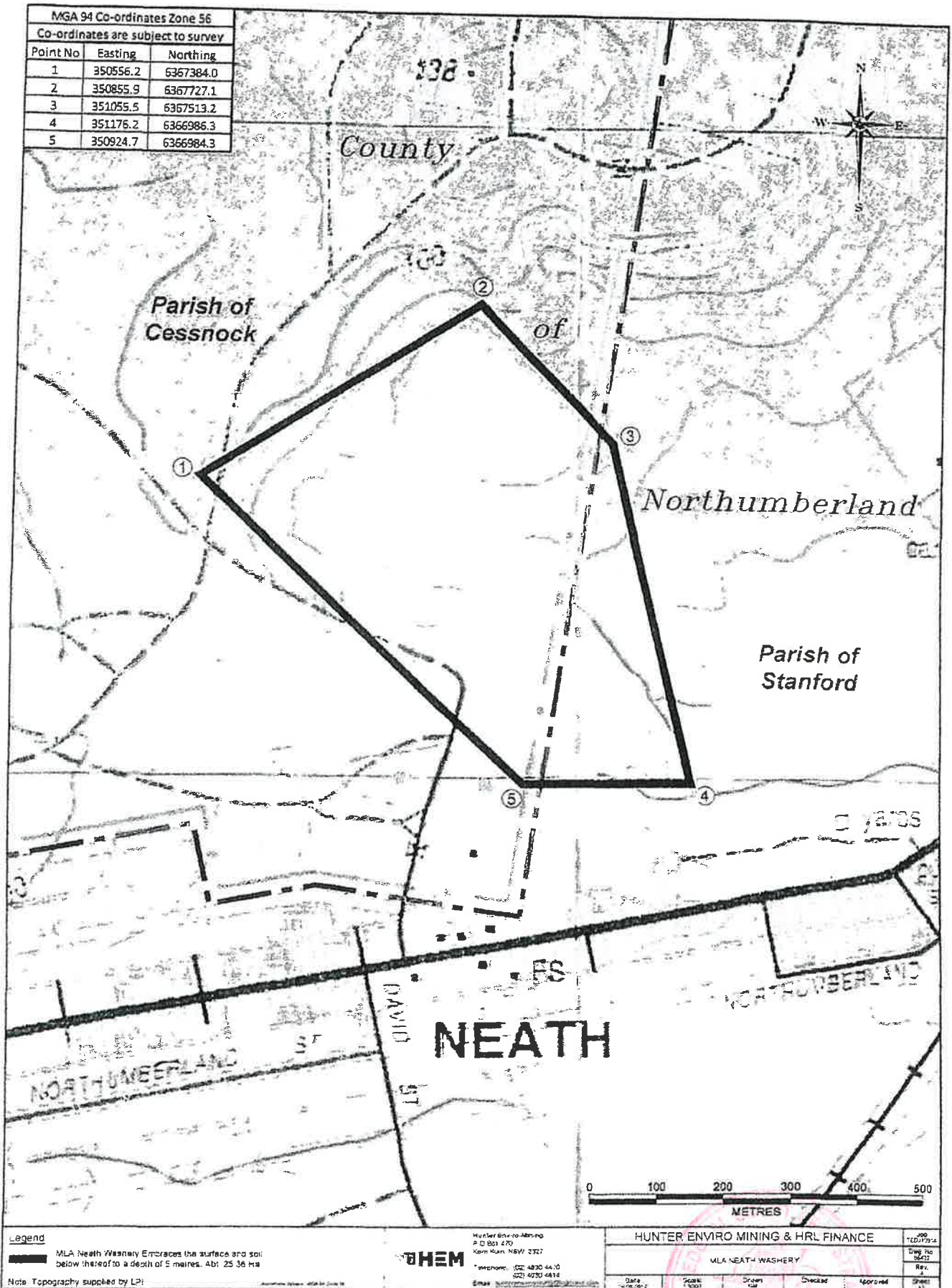
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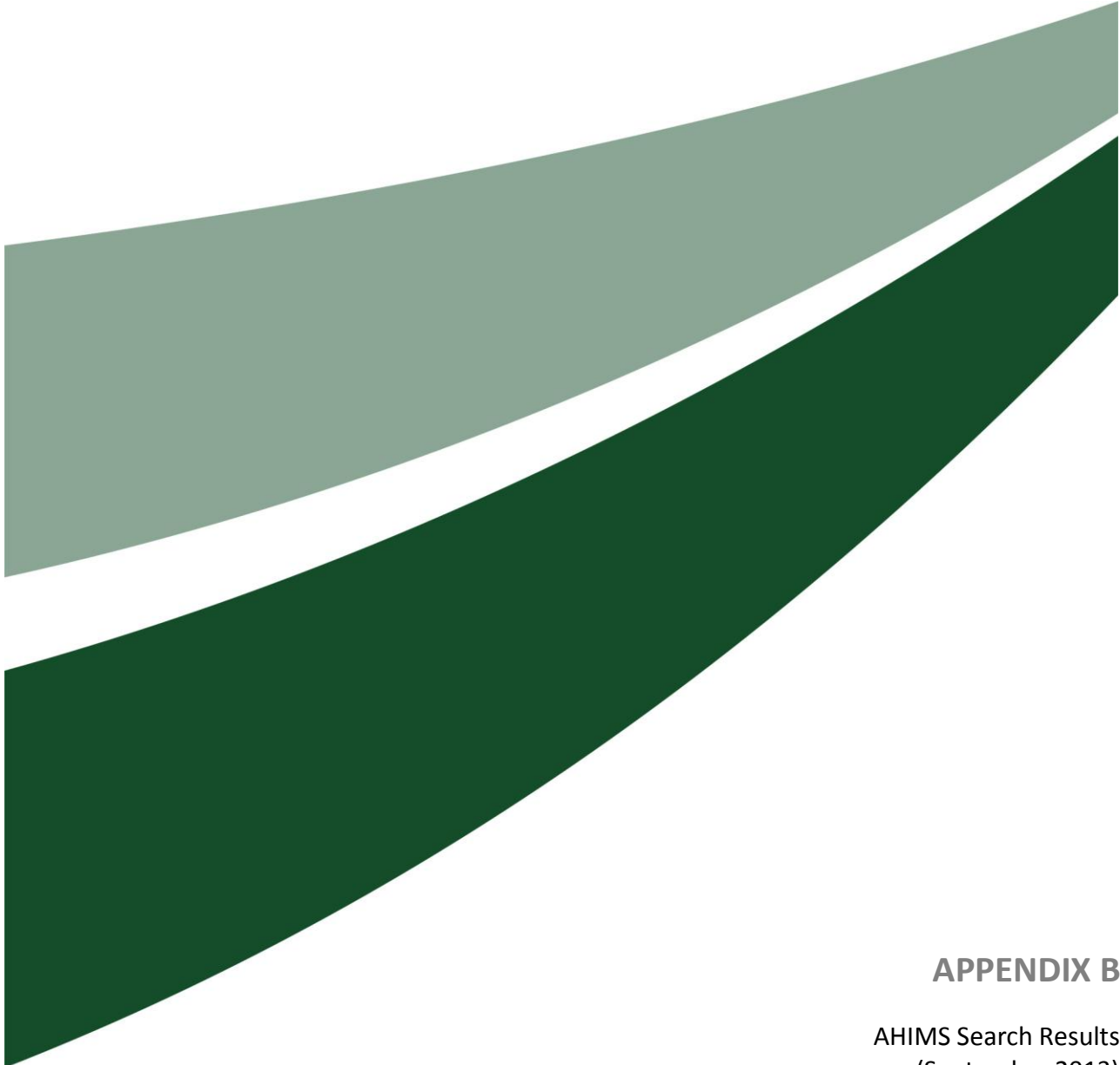
ATTACHMENT "C"
A MAP SHOWING THE EXTERNAL BOUNDARIES OF THE CLAIM AREA.



Being that are continued in Mining Lease Application 444, act 1992



0016



APPENDIX B

AHIMS Search Results
(September 2013)



APPENDIX C

Summary of Approved ACHMP
Management Recommendations

Appendix C – Summary of Approved ACHMP Management Recommendations

The following provides a summary of the approved management strategies set out in the *Aboriginal Cultural Heritage Management Plan: Austar Mining Complex* (Umwelt 2013). The strategies include general recommendations and those specifically related to the grinding groove site (ACM6).

1.1 General Recommendations

The general recommendations as discussed between Umwelt and the registered Aboriginal parties (Umwelt 2008c; 2011) and committed to by Austar include:

- that an Aboriginal Cultural Heritage Management Plan (ACHMP) be prepared for the Austar Coal Mine to outline all Aboriginal heritage management strategies for the project, responsibilities of all parties and the timeframe for required heritage works. This recommendation has been fulfilled by Austar (see Umwelt 2013); As the ACHMP has been subsequently completed, it is recommended that the current ACHMP be reviewed to address the Proposed LWA7-A10 Modification;
- that no Aboriginal archaeological site should be visited, or have remediation works undertaken, without registered Aboriginal party representatives in attendance;
- that known Aboriginal archaeological sites on accessible properties be included in a monitoring program. This will involve recording each site before and after subsidence to identify any impacts. This will be done by an archaeologist and registered Aboriginal party representatives;
- Should any future surface ground disturbance works be required in properties that have not been previously inspected, or in areas that may affect a known site or area, an archaeologist and registered Aboriginal party representatives will survey and assess the area and provide advice on any Aboriginal heritage works needed;
- Should any artefacts be recovered as a result of future works, they will be stored in a Keeping Place to be provided by Austar Coal Mine within the Stage 3 surface infrastructure site following recording and analysis;
- that registered Aboriginal party representatives (and an archaeologist if requested by the registered Aboriginal parties) should provide relevant Austar personnel with a cultural heritage awareness training session (as has been undertaken under the current ACHMP);
- that if any additional sites are found within the Approved Stage 3 Area (which includes the Proposed LWA7-A10 Modification Area) these sites should be inspected by an archaeologist and registered Aboriginal party representatives to assess the site and decide on how it should be managed; and
- that if any human remains, or possible human skeletal remains be found during surface works, all works should cease immediately to allow for forensic assessment and management as detailed in the ACHMP (Umwelt 2013).

1.2 Grinding Groove Site

As described in Umwelt (2008c), Austar and the registered Aboriginal stakeholders agreed upon an offset strategy for potential impacts to the grinding groove site contained within the proposed Stage 3 Modification Area. This offset was a monetary contribution of \$100,000 to an Aboriginal project or program (to be decided by Aboriginal stakeholders) with the funds to be provided once all necessary approvals for mining were granted. Austar remains committed to the provision of the monetary contribution as an offset for the grinding groove site irrespective of the reduced levels of subsidence established by previous predictions.

Aboriginal stakeholders have additionally requested that no engineering works be conducted at the grinding groove site (Umwelt 2008c).



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