

7.2 Results of the Excavation

After mechanical removal of overburdens it became clear that the house site had been machined. The basal overburden fill - loam with plentiful structural debris (particularly fibro) - variously sealed house remains, A1 topsoil, A2 subsoil and the B-horizon. House remains consisted of some dry press brick pads/piers (or ghosts thereof) and several services. No subfloor accumulations were found and, excepting for some impressed structural debris, the few patches of intact topsoil within the area were sterile. At the north and east several remains of garden features survived; a concrete path, brick and concrete garden edge and concrete path edging. Stratigraphic contexts were minimal and very few artefacts were recovered.

Although the structural remains locate the house in general terms, delineation of its footprint is very incomplete. One line of piers probably marks a main wall, the cluster of services at the northwest likely indicate kitchen/bathroom/laundry. Brick types are consistent with the Gorrick/Bailey period 1908-1934, but cannot be dated so closely as to confirm anecdotal evidence of construction by the Gorricks 1908-1913. While non-structural artefacts were mostly domestic and are likely to relate to house occupation, the dating is so broad that the phase to which they might belong cannot be identified.

Archaeological data suggests that the house was still standing throughout much of the Brothers period and was demolished just prior to the erection of the Chapel in c1981. It is possible that remains of outbuildings and garbage/cesspits from the historic period remain to the west of the former homestead.

7.3 Historic Significance

The following assessment is drawn from the significance assessment prepared for the Section 140 permit. Whilst the research potential of the site within the marina development is low the assessment is still relevant to those elements that will be retained within the precinct, the sundial a remnant from the Bailey occupation period and the grotto thought to be associated with the Little Sister of Mary period. The assessment may also be relevant to any peripheral elements that may be located during monitoring.

The assessment of the heritage significance of the development site is based on the standard evaluation criteria defined in the ICOMOS Burra Charter⁶ and adopted by the Heritage Council of NSW. The assessment is based on Heritage Office guidelines⁷. These criteria include:

Criterion a : An item is important in the course or pattern of NSW's cultural or natural history (or the cultural or natural history of the local area);

The subject site is considered to be of significance to the cultural history of the local area.

*Criterion b: An item has strong or special **associations with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history** (or the cultural or natural history of the local area);*

The site is associated with the life of J.A. Gorrick, a prominent local politician and Member of Parliament in the late 19thC.

The site is associated with life of A.E. (Bert) Bailey, a prominent figure of the theatre and film industries of the earlier 20thC. He is perhaps best known as the star of the film versions (1932-40) of Steele Rudd's 'On Our Selection' stories, in which he played the character Dad Rudd. Although not confirmed, it has been suggested that some scenes of the first production 'On Our

⁶ *The Burra Charter* Australia ICOMOS 1999

⁷ *Assessing Heritage Significance* NSW Heritage Office 2001

Selection (1932) were filmed on the property. The site was not the principle residence of Bert Bailey.

The site is also associated with the social welfare activities of the Sisters of the Little Company of Mary and the Hospitaller Brothers of St John of God. The welfare activities of these groups have continued on other sites in NSW.

Therefore the site has high local significance under this criterion.

*Criterion c: An item is important in demonstrating **aesthetic characteristics** and/ or a high degree of **creative or technical achievement** in NSW (or the local area);*

The site is not considered to demonstrate aesthetic characteristics or a high degree of creative or technical achievement at state or local level. However, should archaeological remains of gardens from the Gorrick/Bailey period be preserved, the site may demonstrate aesthetic characteristics of contemporary landscaping.

*Criterion d: An item has strong or special **associations with a particular community or cultural group** in NSW (or the local area) **for social, cultural or spiritual reasons**;*

Whilst the site has strong associations with the Little Sister of Mary and the Hospitaller Brothers of St. John of God, the site formed part of a network of sites throughout NSW, Australia and overseas. Therefore the site has strong associations but not special association with these institutions. Thus the site has high local significance under this criteria.

*Criterion e: An item has **potential to yield information** that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area);*

The site has revealed little archaeological resource that will add to the understanding of local, rural lifestyles in the period 1875-1955, particularly the period 1908-34. There is minimal potential for further archaeological features to be revealed in the marina precinct.

*Criterion f: An item possesses **uncommon, rare or endangered** aspects of NSW's cultural or natural history (or the cultural or natural history of the local area);*

The excavation of the site has shown that there is minimal potential for aspects of local cultural history in the potential archaeological remains of the original house and associated deposits and features.

Criterion g: An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural and natural environments. An item is important in demonstrating the principal characteristics of a class of the areas cultural or natural places; or cultural and natural environments.

In terms of the occupation by the Gorrick and Bailey families the site is not important in demonstrating the principle characteristics of a class of NSW cultural or natural places.

7.4 Statement of Heritage Impact

The statement of heritage impact outlines the impact of a development on the significance of the heritage item⁸.

The proposed marina and tourist development will have minimal impact on the non-indigenous heritage significance of the site. The excavation of the site under a Section 140 permit has revealed very low levels in archaeological integrity. The extant heritage items, the sundial and grotto will be conserved in-situ and will form an important component of the interpretation of the site. Monitoring of earthworks and recording of any further peripheral infrastructure relevant to the Bailey and Little Sisters of Mary occupations will provide sufficient mitigation. These

⁸ *Statements of Heritage Impact* NSW Heritage Office and DUAP, 1996 revised 2002.

recommendations have been supported by the Department of Planning (Heritage Office) upon review of the archaeological report (see Appendix F).



Photo 8 The Trinity Point site circa 1946 whilst managed by the Little Sisters of Mary (Mullard 2002:466)
Note the jetty to the right off Bluff Point the right.



Photo 9. The Bailey residence view from front to north west



Photo 10. View east from the residence toward the sundial



Photo 11 View across house site toward the sundial 2007



Photo 12 The area of the former house cleaned for recording

7.5 *Historic Items within the Marina / Tourist Development*

The following history is drawn from the site history prepared for the EJE heritage assessment by Hunter History Consultants⁹. Of the Bailey's time at Kendall Grange, it has been written that "They were bohemians and entertained, in their own fashion, the then prominent members of the footlights ... It has been suggested that the family spent a lot of time at the property when not working on films or plays, and that Bert Bailey kept a cruiser and speedboat on the property's lagoon."¹⁰ This is confirmed by documents recording the construction of a jetty and slip at the foot of "The Bluff" (or 'Bailey's Bluff' as it is still apparently known).¹¹ It would seem that the Baileys also kept stock on the property, as the registration of a brand for horse and cattle was made on 21 December 1917.¹²

Photographic evidence from the collection of Bailey and Gorrick papers, acquired by the National Library of Australia in 1979 and 1985, contains an album of undated, sepia and hand photographs of professional quality. The album is described as being of "Kendall Grange", and this is presumably the label given by Doreen (Tim) Bailey in 1979 when she donated the photographs of her former home to the library.¹³ A selection of these photographs is included as Plates 2.1-8.

The house featured in the album is a fairly large, single storied weatherboard structure. It has a long, deep front verandah facing out to 'The Bluff' itself. A row of 6 massive pylons supported this verandah, in the style of the 'bungalow' popular in the first decades of the twentieth century. The long roof appears to be constructed of corrugated iron.

The archaeological investigations of the site found that most evidence of the house had been robbed out by the demolition of the house probably in the 1980's. Continued monitoring of earthworks in the area of the Bailey residence will be carried out to record any infrastructure associated with the building.

Monitoring will also record any infrastructure belonging to the Little Sisters of Mary occupation of the site. This information will aid any future interpretation of the features by Lake Macquarie Council should they incorporate this into their management plan.

7.6 *Historic Items within the Foreshore Acquisition Area and Crown Land*

The Sundial

A photograph taken from the verandah of Bailey's residence shows a sundial towards the edge of the bluff. Although, the original metal sundial subsequently disappeared, the stone base appears to be of very early construction and similar to the stonework supporting the verandah of the Bailey residence. The original metal sundial was replaced in the early 1970s by Bert Bailey's nephew, well-known entertainer Lionel Long who gave several concerts in aid of the Kendall Grange Special School.¹⁴ However, this sundial has been replaced within the last five years. The sundial is located in the foreshore acquisition area.

The Baths

The baths were originally constructed by the Little Sisters of Mary. Contractors Irwin and Stewart began work in August 1934 on a £29,914 contract to construct a brick bedroom block,

⁹ Hunter History Consultants unpublished report to EJE Town Planning 2001

¹⁰ Leis and Noble, *Lake Macquarie: Past and Present*, p.71.

¹¹ Legal/Business documents and correspondence of Bert Bailey, 1915-1933, NLA, Series 17, Folder 106

¹² *ibid.*

¹³ Papers of Bert Bailey, NLA, MS 6141, Series 8, Bag No.17.

¹⁴ *Newcastle Morning Herald*, 17 August 1972.

administration block, chapel boiler room, a farmer's cottage, staff quarters, garages, the construction of a road, a well and the erection of baths¹⁵.

Brother Stan (a Brother with The Hospitaller Brothers of St. John of God) joined the Morisset Peninsula site in 1952. The pool enclosure was there in 1952. It was of wooden construction and had obviously been there for a while. The wooden structure was replaced with steel posts and mesh around the 1960's. There was also an associated pier built at that time.

In 1952 there was a wooden change building located to the left of the pool looking at the water. This had been extensively weathered and somewhat dilapidated. It may have lasted through the fifties. It was replaced by the Brothers with a brick change building on a different site – directly in front of the pool enclosure. Remnants of the concrete foundations can be seen in Photograph 12.

The baths are to be demolished in accordance with Lake Macquarie City Council's development consent. The baths are located on Crown Land.

The Grotto

Following Ivy Bailey's death, the Sisters of the Company (also known as the Blue Nuns) sought to buy 'Kendall Grange' as a rest home for sick Sisters of the Order, but the Church hierarchy also became interested in the property. Following an inspection by Dr. Dwyer, Bishop of Wagga Wagga, "The Bluff" was bought for the Bishops (price £5000) and handed over to the Sisters as "a place of rehabilitation for priests off the mission". This heralded a new era for "The Bluff", as the site of St. Joseph's Convalescent Home.

When the property was acquired it was described as "a working rural property" with "a weatherboard cottage and the usual agricultural outbuildings and machinery". Ten Sisters moved into the homestead and "for a year, laboured under extreme difficulties to get the place started".

Particular care was taken with the gardens, a reflection of Bishop Dwyer's keen interest in botany and also of the desire to create a relaxing and beautiful environment for convalescents. Construction of terraces was included in the builder's scope of works and a professional landscaper, who later became "the Radio gardener expert", was engaged to design a series of rockeries that were planted with "an abundance of rare and beautiful shrubs". A photograph supplied by the Little Company of Mary shows "The Grotto", constructed near the water's edge.

The Grotto will be managed by Lake Macquarie City Council within the foreshore acquisition area.

¹⁵ Information for this section and also for the following section is extracted from information provided by the Brothers of St. John of God and the Sisters of the Little Company of Mary



Photo 13 Remnant footing from the jetty in the 1946 air photo

8.0 RECOMMENDATIONS

8.1 *Indigenous heritage*

The ongoing consultation and involvement with the development of the project shall be carried out with the Aboriginal community as represented by the Koombahtoo and Bahtahbah Local Aboriginal Land Councils and the Awabakal Descendants Traditional Owner Aboriginal Corporation and the Awabakal Traditional Owner Aboriginal Corporation as primary stakeholders. Additional stakeholders will be may be availed of information as requested, and their opinions documented in the Heritage Management Plan.

An Aboriginal Cultural Heritage Management Plan (ACHMP) will be a guiding document that outlines the policies and procedures to ensure the following:

- Specify policies and actions required to mitigate and manage impacts of the proposal on Aboriginal heritage.
- Active conservation of in-situ deposits in the foreshore areas within the Tourist development area where possible.
- Outline procedures for ongoing Aboriginal consultation and involvement for management sites within the project area, archaeological programs, identification and management of previously unrecorded sites and a program of monitoring as development proceeds.
- The ACHMP will be reviewed biannually and stakeholders will be participants in that review.
- An Aboriginal Cultural Education Program will for the basis for an induction process for personnel and contractors involved in construction on the site.
- The procedure for the discovery of human remains which will involve immediate ceasing of work in that area and the notification of the NSW Police and DECC. Works will not recommence until approval in writing is received from DECC and Police.

Conservation of the sites within the foreshore will come under Councils management.

Further mitigation in the form of excavation within the footprint of the development has is considered appropriate given the level of disturbance from past development footprints. This work will provide additional information for the site interpretation based on the landscape context of Trinity Point. The location of the excavation work should be developed in conjunction with the Awabakal community and Land Council. These excavations can be reasonably limited to two by twenty five square metre areas as consistent with previous work undertaken. This will provide information based on 150 square metres of open excavation when combined with excavations in the housing development area, a significant resource in terms of archaeological standards in the Hunter region and the most significant archaeological excavation in the Lake Macquarie City Council area.

An Interpretation Policy, in accordance with guidelines,¹⁶ will be developed to enhance the Cultural Heritage Management Plan. The Policy will provide the framework for interpretation of cultural and archaeological data. To this end it is of primary importance that the policy is developed in conjunction with the Aboriginal community. The interpretation of the archaeological and cultural values of the site has the potential to be presented in a variety of ways as part of public interpretation of the areas values.

¹⁶ *Heritage Interpretation Policy* Heritage Office 2005
Interpreting Heritage Places and Items Heritage Office 2005

The interpretation of the site should be guided by the Aboriginal community with the data retrieved from excavation work providing a resource to highlight the cultural interpretation of the Trinity Point general area.

The opportunities to present interpretation of the cultural and archaeological values of the site include information panels on the boardwalk, displays of artefacts within a secure case in the main marina building, local art incorporated into the public art program, introduction to local flora resources in landscape plantings and more technical displays of archaeological techniques in static displays.

Discussions have been held with the Land Councils community involvement in the development of the site, particularly in terms of employment and training opportunities for local people and use of existing support industries such as K2 local indigenous plant nursery operated by Koompahtoo at nearby Earing. Opportunities for employment and training of local Aboriginal people will also be addressed within Johnson Property Groups employment policy.

Consultations with the Aboriginal community have indicated the following concerns. Adjacent to each issue is mitigation measures that will assist provide an advantageous outcome for all parties.

Table 1 Issues raised by the Aboriginal Community and remedial response

Issue	Raised by	Action / outcome
Cumulative impact of increased boat traffic	Bahtahbah	The cumulative impact of boat traffic is addressed in the EA by the appropriate modelers.
Impact on sites within development area	All parties	Mitigation by excavation of deposits that have not been impacted by previous development. Monitoring of earthworks during construction.
Impact on sites within foreshore reserve, ie the grinding grooves, middens and ochre deposits	All parties	To be managed by Council by means of their planning instruments and policies. Council to consider some work to protect midden profile from storm damage.
A Plan of management for cultural values and sites in the study area	All	Preparation of Aboriginal Heritage Cultural Management Plan (ACHMP). To be included in Statement of Commitments or Concept Plan.
The potential for burials	All	The detection of possible burials trigger immediate assessment by NSW Police and DECC. The management of indigenous burials to be addressed in ACHMP in consultation with DECC and community.
Compensation for excavated sites	KLALC	Provide meaningful employment and training opportunities for local indigenous people. Identification of places within the JPG Apprenticeship First Scheme for local indigenous people. Explore potential for traineeships, employment through K2 (plant nursery)
Inclusion of local indigenous communities in the development of the site	KLALC, BLALC	Incorporation of local artists work in the JPG public art policy. Utilise the services of the K2 project in the procurement and planting of local species in landscaping. Explore the potential for apprenticeships/ traineeships specifically in marina construction and operation. May be supplemented with a program involving other proposed marinas on the lake.
Further test pits to determine size of sites	KLALC	The sites have been registered on the basis of landform units therefore the entire area is included under site registrations.
Increased visitation to the foreshore area and the sites contained within	ADTOAC ATOAC	The boardwalk system with the viewing platforms over the lake will confine pedestrian traffic to controlled areas. Any development on the foreshore or management decisions by Council to increase access to the foreshore will need to address this issue.

Impact of increased boat movements impact on sites in foreshore reserve	ADTOAC ATOAC	The speed limits and wave modeling do not indicate increased wave heights or frequency over storm events (refer to modeling)
Support and opportunities specifically for Awabakal TO's to present cultural tourism	ADTOAC	The interpretation policy allows for guidance by the community. The interpretation panels will be in a publicly accessible area therefore could be an asset to Awabakal tourism. However such activities shouldn't compromise public utility of the area.
Opportunities to negotiate directly with JPG	All	The ADTOAC and ATOAC attended a meeting at the Native Title Tribunal with JPG. DECC raised the potential for offsets at the site meeting on the 27.9.08. Ideas for inclusion in the statement of commitments was forwarded to the TO groups on the 27.10.08. ADTOAC have requested an extension of time. Further offset ideas may be received during the public exhibition period. Suggestions for Statement of Commitments or Concept Plan received 5 th & 10 th No 2008 – These have been included where possible.
Inclusion in all future site management	ADTOAC ATOAC	Within the Statement of Commitments or Concept Plan JPG have undertaken to ensure consultation is carried out with the ADTOAC and ATOAC alongside Koombahtoo and Bahtahbah LALC's, as per DECC guidelines for inclusive consultation. Other stakeholders who do not identify as traditional owners may also be availed the opportunity to be informed and provide comment.

8.2 *Non Indigenous heritage*

As there is relatively low potential for heritage archaeological features to occur within the development area it is recommended that monitoring of excavation will be undertaken in some areas, as will be identified in the CHMP. As this project is being assessed under Part 3(a) an *Excavation Exemption* will not be necessary to cover monitoring and excavation activities. If this is the case the monitoring and excavation where necessary will be carried out in accordance with the CHMP. The monitoring will be undertaken in the southern half of the site in the general area of the Bailey residence.

The CHMP will also outline the management of the historic plantings the heritage elements within the development area. The management of the grotto and the sundial will be undertaken by Council as they are located in the foreshore acquisition area. The CHMP will be prepared in accordance with NSW Heritage Office guidelines.

An Interpretation Policy, in accordance with guidelines,¹⁷ will be developed to enhance the Cultural Heritage Management Plan. The policy will provide the framework for the interpretation of the history of the site encompassing the Bailey, Little Sisters of Mary and St John of God periods. The interpretation will be based on the results of the historic research into the occupation of the site and the archaeological investigations and shall seek community input where possible.

The Interpretation Policy and Cultural Heritage Management Plan will incorporate the principles of the Burra Charter¹⁸ and Heritage Section Department of Planning guidelines¹⁹

The archaeological management of the historic values on the site has been endorsed by the NSW Heritage Office as can be seen in Appendix F.

¹⁷ *Heritage Interpretation Policy* Heritage Office 2005

Interpreting Heritage Places and Items Heritage Office 2005

¹⁸ *The Burra Charter* Australia ICOMOS 1999

¹⁹ *The NSW Heritage Manual* Heritage Office Department of Planning 1996

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10.0 APPENDIX A

Community Responses

**ABORIGINAL ARCHAEOLOGICAL HERITAGE ASSESSMENT,
SITE SURVEY AND FIELD INSPECTION REPORT.
FOR THE PROPOSED TRINITY POINT MARINA MORISSET PENINSULA, NSW.**

BY

SHANE FROST

FOR

AWABAKAL DESCENDANTS TRADITIONAL OWNERS ABORIGINAL
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NOVEMBER 2007



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Contents

Acknowledgements

Brief History of Awabakal Tribal Area Before European Contact

Post European Contact History

Invitation by Insite Heritage to participate in the Aboriginal Heritage Assessment

Recorded Cultural Heritage Sites

Areas of Significance

Flora and Fauna of the Area

Summary

Recommendations

Report for **INSITE HERITAGE** Regarding the Existence of Any Evidence of Awabakal Aboriginal Cultural Heritage or Habitation within or in close proximity of the Proposed Trinity Point Marina, Morisset Peninsula.

Acknowledgements

In regard to this matter I would like to acknowledge firstly my father, Mick Frost snr. who is the oldest living Awabakal Man and for the Knowledge that has been passed onto me regarding the significant Cultural Heritage of my People the Awabakal and secondly, I acknowledge my Ancestors who under extenuating circumstances were able to survive the oppression and change to their lifestyles and yet still pass on knowledge that had been passed down for generations.

I also take the time to acknowledge the efforts taken by the Rev. L. E. Threlkeld who showed compassion towards my people and for his tireless efforts to record many of the facets of life pertaining to the Awabakal people.

Brief History of Awabakal Tribal Area Pre European Contact

The Awabakal People lived an idyllic lifestyle. They were hunter gatherers living from the land and waters. They lived in clan (family) groups which were part of a larger tribal group. They depended on the availability of the food sources that made up their particular diet, this ranged from a wide variety of animals, fish, birds and plant species such as Kangaroo, Emus, Bandicoots, Porcupine, Dingo, Lizards, Black Swan, Water hen, Parrots, and many types of Fish and Crustaceans that would be caught in the creeks, waterholes, lagoons and tributaries within the Awabakal tribal area along with the abundance of food found in Lake Macquarie, Hunter River and the Ocean.

The Awabakal also used the natural resources that were available to them such as caves, used simply for the purpose of shelter, these would also be used to house the artwork of ochre and charcoal that would reveal and teach that certain foods were in the area or to convey significant spiritual aspects and lore to men, women & children of the tribe. Bark obtained from trees was used to make a temporary dwelling and also used to make canoes and shields. There are certain rock formations and areas of land and water that make up significant places and contribute to the spiritual aspect of life and cultural Lore. Weapons and tools were made from the rocks, timber and natural resources found within the environment, all of these aspects culminated in the necessity for the Awabakal to maintain a balance and equilibrium within the environment for the purpose of maintaining the status quo of the tribe.

Post European Contact Period

Awabakal people are resilient and even though their history has been a time of hardship and almost annihilation of a people group, Awabakal people have survived and are still currently living in the traditional tribal area of their forefathers. These are the descendants of two particular Awabakal people. The Traditional Awabakal people only make up a small proportion of the Aboriginal people of the area. We are the Traditional Descendants of the Awabakal people and have recently been making our presence known in our Traditional Lands due to a number of factors and are therefore embarking on a new phase of awareness and recognition for the Traditional Owners to once again be responsible for the Aboriginal Cultural Heritage of our Traditional Lands.

Invitation by Insite Heritage to participate in the Aboriginal Heritage Assessment.

The Awabakal Descendants Traditional Owners Aboriginal Corporation was contacted by Insite Heritage in regard to an Aboriginal archaeological sites assessment *(which should in reality be referred to as a modest inspection where we were taken for a brief time (approximately 2 hours) to see the location of where the proposed marina development by Johnson Property Group is to be undertaken).*

This Aboriginal archaeological survey was to be undertaken in the area of Bluff Point and Bardens Bay on the Morisset Peninsular, NSW.

An assessment had been undertaken prior to us becoming involved to assess the area for any archaeological and cultural evidence of Aboriginal occupation and use that may be revealed through the presence of artefacts or signs pertaining to these areas being a place of Aboriginal significance.

On the 6th November 2007 as requested by Insite Heritage a representative of our organisation was present at the commencement of the Aboriginal Heritage Assessment or as stated earlier *(modest inspection where we were taken for a brief time approximately 2 hours to see the location).*

Recorded Cultural Heritage Sites

As set out in the section “*Archaeological Context*” “Draft Archaeological Assessment of Proposed Trinity Point Marina” supplied to us by Insite Heritage you can see there are sites already recorded within close proximity to the study area, so we must therefore conclude that there is a very real possibility that if given the right conditions and more time to survey particular areas there would be a greater number of sites recorded within these areas including the survey area in question.

While we were visiting the site on Tuesday 6th November 2007 I found evidence of a shell deposit on the headland known as Bluff Point in an area that has eroded probably due to the recent weather conditions, this in turn exposed the shell midden (SJOG4). Also a substantial scar was examined on the trunk of a well established tree found on the ridge just to the west of the shell midden site (SJOG5).

Due to many years of neglect and desecration of our sites and many other factors, a great number of our sites have been destroyed and Awabakal people as a result of this have lost valuable information about our culture and people, that if protected could have been here for many more generations.

What we are saying is, just because it is not marked on a map it does not mean that nothing is there, it means that it has not yet been found or if it has it has been removed or destroyed. People must understand there is an oral and spiritual aspect for every area.

Areas of Significance

The whole study area has been used by our people for the pursuit and struggle of daily life. The whole of this area in particular should in our view be given priority and considered of high importance due to the nature of this site which being located on the edge of Lake Macquarie has been a high use area by our people for the purposes of food gathering and campsites among

other purposes. Our people the Awabakal for many thousands of years have been connected to this area which culminates in spiritual aspects that are important to us in relation to this site.

Referring to the report for proposed Trinity Point Marina, Morisset Peninsular, NSW Archaeological Assessment by Insite Heritage page 23 under heading '*Cultural Significance*' it states;

*'The sites on Trinity Point are of high cultural significance to the Awabakal community.....'
'The significance of the area is also demonstrated by the registration of the Awabakal Traditional Owners Groups as non-native title claimants'.*

As stated this does give a strong indication of our feelings (Awabakal People) toward a non-native title claim over this area and through our successful application on the 9 October 2007 to the **Federal Court of Australia** and an order by the presiding judge ruling for us to be joined as parties to these proceedings and that the matter be referred to the **National Native Title Tribunal** for mediation.

We must also consider the detrimental effects that urbanisation (proposed development and increase in pedestrian traffic due to the location of the development) will have on the Aboriginal Cultural Heritage of this site not to mention the effects the Marina footprint will have on the marine environment. We need to assess the potential for the impact that this development would have on this area that is a sensitive and vulnerable site when exposed to this high level of visitation which can be expected in this case, because of the proposed development.

From this development and the subsequent impacts that this could have on this site, it could prove to be quite harmful and not in the best interest of securing the longevity for the Aboriginal Cultural Heritage, Marine and Flora contained upon this site in question and that of others close by for future generations.

With this in mind we have to conclude that the effects of this development in this area is in reality an unknown quantity and because it is we should ere on the side of caution in regard to future impacts.

Coverage of the study area should be of some concern to us all knowing that these areas inside the study area have not been given the due consideration or exploration that should be afforded to them in regard to more Aboriginal archaeological surveys for evidence that could be destroyed or lost due to the impact of this development and without taking into account all possible avenues to assure all stakeholders that every avenue has been investigated to protect the integrity of the Awabakal Cultural Heritage, Flora and Fauna and the Marine Environment located at this site.

Flora and Fauna of the Area

There are many large trees found within the proposed development area that would have supplied shelter and the use of the bark to produce shields (Note-Scarred Tree SJOG5). Within the foreshore wetlands and lagoon area we can also find plants that were utilised by our people. These could be elaborated on but can be generalised to indicate that many species of the flora found within and around the study area were used as foods, medicines, tools and weapons. These cannot be excluded from the study because these, just as all other aspects connected to daily Aboriginal life and existence depended upon these resources.

Summary

It must also be understood that just because areas are devoid of any visible signs of Aboriginal Cultural Heritage then this would not be a suitable reason to assume that there is no evidence of

Aboriginal Artefacts, Occupation or Cultural Heritage due to the fact that there has been in most of the areas surveyed impact from European settlement indicating disturbance due to endeavours by colonial and more recent pursuits. Previous indications of this area have revealed that it would conceal much more archaeological evidence of Aboriginal occupation because it has the probability for Potential Archaeological Deposits (PAD) over the whole site, this has been demonstrated by the recent discovery of the shell midden on Bluff Point (SJOG4) and the scarred tree (SJOG5) but due to the overlaying of materials after demolition it has rendered the visual aspect of the survey unreliable leaving no evidence or very little evidence to be found, hence the necessity for more appraisal.

On observance of the information gathered it should be noted that if according to that information there is a chance of destruction/desecration or impact within or around any sites that contain Aboriginal Archaeological Cultural Heritage and evidence then as we have discussed it would be better to err on the side of caution rather than disregard and negate the findings of the report by Insite Heritage and the comments and recommendations made by the Aboriginal stakeholders in regard to their cultural heritage and knowledge for the site of the proposed Trinity Point Marina Morisset Peninsula, NSW.

As stated previously in this report just because there is no visible evidence it does not give anyone the right to assume that nothing exists. Because there is also a spiritual aspect to consider in regard to this area. With Aboriginal people we not only have a physical connection to our country but a spiritual connection. This is a major part of our culture and is very real to all Aboriginal people. Much is also dependant for Aboriginal people upon oral tradition and for some of us this has been kept alive through the passing down from generation to generation of the stories from our traditional country. These aspects of our tradition will not be elaborated on here for reasons that are considered culturally sensitive.

We must remind ourselves that this area has been inhabited by the Awabakal Aboriginal People for thousands of years and as a result the evidence supports this due to the many sites already recorded on and in close proximity to the proposed development site and within the surrounding areas noting the many artefacts and middens found to date. We must therefore conclude that there would not be any of this area that has not been traversed, occupied or used in some way by our people in times past.

It must be noted here that this area around Bardens Bay has always been visited by my family members. My Grandmother walking her children to the lake at Bardens Bay and as small children my father along with his siblings and their mother would camp on the shores of Bardens Bay fishing and living as our ancestors have for many thousands of years around the lake using the needle like leaves from the Casuarina trees to sleep on for many nights, and through many generations of usage having the knowledge to use these trees and the resources around them in the preservation process of the food takings of each day that was derived from the lake. So this is why it is so important that we as Awabakal Traditional Descendants have a say in what is part of our continual cultural connection to our country.

In view of these facts and that this development will substantially impact on Awabakal cultural heritage we would encourage the developer in conjunction with the Awabakal Traditional Descendants to provide support and opportunities specifically designed for the Traditional Awabakal People to present Awabakal cultural tourism.

As outlined on page 21 under the heading of '**Discussion**' in the report by Insite Heritage for the proposed Trinity Point Marina, Morisset Peninsula, NSW states that;

The study area is subject to a non-native title claim with the Native Title Tribunal. JPG have sought a determination as to Native Title status and two groups, The Awabakal Descendants Traditional Owners Aboriginal Corporation (Mr. Shane Frost) and Awabakal Traditional Owners Aboriginal Corporation (Ms. Kerrie Brauer) Have registered as interested parties. This entitles these groups to be made aware of and be

consulted in the course of development proposals affecting the area known as Kendall Grange of which the marina proposal forms a part.'

As outlined earlier this does give a strong indication of our feelings (Awabakal People) toward a non-native title claim over this area and through our successful application on the 9 October 2007 to the **Federal Court of Australia** and an order by the presiding judge ruling for us to be joined as parties to these proceedings and that the matter be referred to the **National Native Title Tribunal** for mediation. We are now waiting for the mediation to begin.

It must also be taken into account the reluctance to share information by certain members of the Awabakal Descendants Traditional Owners Aboriginal Corporation of which can be expected would not be forthcoming in regard to some aspects of the cultural significance of the assessment areas and the connection of it to the surrounding areas. It should be acknowledged also that because of the sensitive nature and strict traditional cultural customs and practices preventing this information from being passed on in this assessment, it should not be disregarded in relation to this assessment. It is believed by our people that those who should not be privy to this cultural knowledge have no rights or entitlements to it.

Recommendations

- Although some of the assessment area and key areas were walked over as pointed out earlier and other surveys conducted in the area previously, it can still be assumed that not all culturally significant sites or artefacts can be expected to have been located given the many thousands of years of occupation by our people. Therefore we would recommend that more substantial excavations be carried out within and outside the marina footprint.
- The site of the Proposed Trinity Point Marina and other inter connecting areas of the Development be recognised as an area containing Awabakal Aboriginal Cultural Heritage in the form of potential archaeological deposits (PAD) and also a recommendation to excavate and recover sub surface artefacts for relocation by the Awabakal Traditional Descendants be proposed and supported by the developer.
- The need for representatives of the Aboriginal stakeholder groups to be present on site as observers for the duration of the proposed development and all excavation stages of this proposal.
- The need for an obligation by the developer for ongoing protection to be afforded the areas of concern and surrounding area that already have been found or are within close proximity or within the boundary of the development site along with any other sites that are found and an undertaking and all responsibility taken by them and all associates whether they be contractors or employees that no Aboriginal sites are to be desecrated/destroyed or tampered with in any way and that all precautions are to be taken during construction not to impact/destroy or damage any site that contains Aboriginal archaeological material or evidence. Further to this obligation by the developer they would also be required to notify all the Aboriginal stakeholder groups if any Aboriginal archaeological evidence of any kind was subsequently uncovered or found.
- Further ongoing in depth consultation with Awabakal Traditional Descendants stakeholder groups in all aspects of this proposal. This is paramount in regard to the ongoing cultural

significance and many thousands of year's occupation by the Awabakal People along with the physical and spiritual connection to our land. In the event of the realization of this proposal it is a fact that this would cause a dislocation for us and the result would greatly disadvantage the Awabakal Traditional Descendants concerning all aspects of cultural heritage within and outside of the assessment survey area.

- The protection of all artefacts is paramount and the need for the Awabakal Traditional Descendants to protect what connects us to our ancestors both in the physical and spiritual and would necessitate us to have final say in the event of the relocation of any known artefacts, or further discoveries, associated with our people if made during any of the site works for the duration of the development.
- Taking into account that all of our Tribal Country is culturally significant to the Awabakal Traditional Descendants, that in the event of the development going ahead, all information from any documentation, surveys and oral histories is to be addressed and viewed as Awabakal Intellectual Property and all areas that have particular cultural significance e.g. 'sites of physical/spiritual cultural importance and those that represent the dreaming through stories that have been passed on about these sites' to be deemed culturally significant sites of great importance and to be set aside and preserved because of the ongoing cultural relevance to the Awabakal Traditional Descendants of the area.
- The developer working in cooperation with the Awabakal Traditional Descendants to design and place interpretive signage in specified areas and the naming of any streets or roads or pathways to be words chosen from the Awabakal language so as to give recognition to the Awabakal Traditional Descendants of the area and make allocation for the future development of areas outside of the proposed development to be also given high priority and the opportunity for future negotiations to be entered into with the Awabakal Traditional Descendants for further proposed uses of these areas.
- That all the native flora be preserved and remain undisturbed by the development and that the preservation of the scarred tree and other native trees within the development area and all flora around the margin of the lake foreshore for at least 50 metres remain undisturbed and become conservation area. The need for the developer to consider planting only specific indigenous plants originally found within the environment of the original landscape.
- The newly found site on Bluff Point of the shell midden to remain undisturbed and measures put in place to preserve and prevent any further erosion or undercutting of the shell midden site.
- That the lake foreshore be preserved in its present form in its entirety and that no retaining walls or construction of any kind to impact on the original foreshore contours.
- That the developer in conjunction with the Awabakal Traditional Descendants provide support and opportunities for the Awabakal Traditional Descendants to present specifically designed Awabakal Cultural Tourism.

Awabakal Traditional Owners Aboriginal Corporation

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8 November 2007

Angela Besant
Archaeologist
Insite Heritage
P.O. Box 98 Wangi Wangi NSW 2267

Re: Trinity Point Marina Morisset Peninsula, NSW

Dear Angela,

The principle vision and aims of the Awabakal Traditional Owners Aboriginal Corporation is to protect the cultural heritage of our Awabakal ancestral family. Naturally any evidence of our people's presence and lifestyle is held in high regard as a cultural reminder that unites us with our country and spirituality. The Trinity Point site and proposed Marina at Morisset Peninsula falls into this category. The archaeological assessment evaluated by Insite Heritage appears comprehensive.

Considering the proximity and number of recorded and adjoining sites within the Morisset and surrounding regions in which Trinity Point is situated, possesses many culturally significant sites. Evidence indicates a lifestyle of educational value of traditional occupation, and therefore demands the respect of the historical value that this particular area provides.

There is potential for artifact deposits to occur below the surface, such deposits, although not detectable by surface inspection, may be uncovered during excavation. In the event that Aboriginal objects are uncovered, it is recommended that work needs to cease until assessment and recovery is made.

Although the assessment area was inspected previously by others, one would assume that given the thousands of years our people have occupied this area prior to colonisation, we cannot expect that Aboriginal artifacts or culturally significant sites would be located in the brief and limited period of time allocated for this survey.

Recommendations

- Representatives of the Awabakal Traditional Owners Aboriginal Corporation involvement is desirable during the excavation of exposed features and surfaces to monitor collection of our ancestors artifacts. We wish that all artifacts should be photographed and documented to provide a site specific information data collective. At this point it may be possible to determine in places the extent, nature and significance of additional Awabakal artifacts.
- We would also like to obtain a flora and fauna report of the area in question including the waterways to determine the impact of the proposed development on the region.
- We believe that further Aboriginal assessment and investigation needs to occur due to the new additional evidence that was found during a recent site inspection.
- We also feel that the proposed footpaths and boardwalks are too close to the shoreline and recommend that the development buffer should be no less than 100metres from the shoreline to provide adequate environmental sustainability in maintaining the riparian area and shoreline habitat.
- We believe that road corridors should be wide enough to enable pavements to meander around existing trees (including existing scared trees) and vegetation, enabling some tree retention.
- We recommend respect for the historical value of the site with the use of Aboriginal interpretive signage and art throughout the development site.

We would also like to bring to your attention that the Aboriginal Land Rights Amendment Bill 2006 specifies that persons who have a cultural association with the land within the area of the Local Aboriginal Land Council concerned must be consulted.

Angela, it would be remiss of me to ignore the fact that there are representatives of other Aboriginal Nations who are positioning themselves within the Awabakal cultural boundary. We believe this needs critical attention and resolve when regarding further developments. Naturally we will make ourselves available for a meeting with you to discuss and clarify this matter further.

In closing, though we reserve the right and reluctance to share our cultural heritage with others in respect to aspects of the cultural significance that connects us to our country, our Awabakal cultural environment is a holistic one. This environment interconnects our spirituality and land to our peoples past, present and future. The descendants of the Awabakal people believe now more than ever that it is essential to protect the cultural landscape of our ancestral family.

Yours sincerely,



Kerrie Brauer
Secretary/Public Officer

Wonn1 Sites Officer
Arthur Fletcher
Fieldworker

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12 November 2008

Attn: Angela Besant
Insite Heritage
PO Box 98
Wangi Wangi NSW 2267

Dear Angela,

RE: Trinity Point Marina Morisset Peninsula Archaeological Assessment

I was contracted to participate in field work on the 6th of November 2007 and provide cultural knowledge and fieldwork assistance. However unfortunately I am unable to give any insight into the proposed development because I was excluded from participating in the Trinity Point Marina survey by members of the Buttaba LALC and Koompahtoo LALC & other interested groups. It was their belief that as I am not a traditional owner of the land being surveyed, I had no right to be present or work on the site. My personal belief is that because I am an aboriginal man who's family was relocated to the Newcastle/Lake Macquarie area in the 1920's and have since formed a connection with the local area and community; I may be able to offer some degree of cultural knowledge and assistance.

In respect to those aggrieved and at the wishes of the other groups I asked the Archaeologist in charge to make decision to resolve the conflict in the interest of the study. At her advice I left the site in an aggrieved state.

While I acknowledge the importance of respecting the wishes of traditional owners, I would like think that in the future any grievances may be dealt with in a more private and respectful manner. I regret any disturbance caused to the survey, and the unprofessional way that the conflict was handled, but I would still like to be involved in any community consultation process associated with this survey.

I would still appreciate the opportunity to be involved with any future survey projects in the local areas.

Yours Sincerely,

Arthur Fletcher
Wonn1 Sites

Hi Angela,
I'm sorry mate.
I've been in bed sick for a couple of days.
For the record, (if it's not too late) I agree with the Views and recommendations of the Awabakal
Descendants Traditional Owners Corporation, for the proposed Trinity Point Marina
development.

Kind regards,
Tracey Howie
GTLAC
On 12/11/2007, at 11:15 AM, Angela Besant wrote: