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Expert Indigenous Working Group
COAG land Investigation Indigenous Affairs
Department of the Prime Minister & Cabinet

Dear Working Group

We the Elders of the Dunghutti Elders Council have in the past made quite a lot of submissions towards Indigenous Lands Corporation & Native Title Service & Prescribe Body Corporate Funding

With Indigenous Lands Corporation we approached them on a couple of occasions with enquiries of assistance to land management & assistance to prepare land for future use unfortunately on both occasions Indigenous Lands Corporation we were unable to assist Dunghutti Elders. We then asked for the reasons in writing but once again also never got no reply.

With Native Title Services we have approached them numerous times between 2012 to present to again RE: establish a blanket claim on behalf of the Dunghutti people which was originally started in 2005. Native Title services have been very slack in reigniting the process severely delaying the process. Therefore hindering the progress for advancement for the Dunghutti Elders Council and the progress we would like to be making on behalf of our 600 + members.

Also we had disappointing news from last year's PBC funding. We missed out on some much needed funding for services for the Dunghutti Elders Council which to these reply was criteria's A&B did not meet the conditions of approval.

By saying that other people had seen our submission for this funding and found nothing wrong with it. So that was also a crucial let down to Dunghutti Elders Council.

We the Dunghutti Elders Council would like to see these services that deal with Indigenous land management visit grass root communities and their organisations to come and see first hand at the needs that organisations are seeking instead of making decisions in an office same 400 – 600 k's away in capital cities or in other states. Come and listen to the people's vision for their economic developments which will lead to cultural aspirations then have prideful social outcomes for communities.

There are vast cultural opportunities within Dunghutti Traditional Lands to set up an Eco Tourism business, start a bush tucker catering business, set up markets for local artist to vend their wares, etc. There is so much potential to happen, we need a literal foot in the door to make things happen.

Also these services need to be more accountable to the people they are meant to be assisting. Part of developing lands for communities will also have an aspect of employment and educational values for traditional owners.

Traditional owners need to have more input also with National Parks & Wildlife Services where traditional owners need to be consulted on all business to do with land and Heritage issues. Where National Parks & Wildlife Services are responsible for irreversible damage to historical Aboriginal sites, they need to be held accountable and to pay for the incomprehensible damages in ways of compensation to the traditional owners of that particular country (region).

All services who have Aboriginal portfolios need to be brought to and told to start performing in their roles and working with the Aboriginal people, to assist them to strive for the outcomes they seek, the original inhabitants of this land. We are still here and we are not going anywhere.

Please feel free to contact The Dunghutti Elders if you wish to discuss this letter further.

Kind Regards

Robert Mumbler OAM

Mr Robert Mumbler
Chairperson on behalf of the Directors
Dunghutti Elders Council
19/05/2015



Ref: D15/11693
dlr:lod

27 April 2015

Received
5/5/15

Mr Robert Mumbler
Chairperson
Dunghutti Elders Council
PO Box 179
Kempsey NSW 2440

Dear Mr Mumbler

RE: RESPONSES TO QUESTIONS RAISED

Your letter to the Mayor dated 24 March 2015 has been provided to me to research the questions you have asked. I have provided the following answers to the questions that you have raised to give you quicker access to the information, rather than through an arranged meeting.

- 1) Does Kempsey Shire Council receive funding for Aboriginal programs/projects?

Council does not receive ongoing funding which is targeted only at the Aboriginal part of our community. We receive some grant funds that are targeted at socially and financially disadvantaged groups, but these are aimed at everyone in the community, not only Aboriginals. These funds do provide benefits to member of the Aboriginal community who are faced with disadvantages. For example, the Healthy Communities Project recently undertaken was grant funded by the Australian Department of Health, which is aimed at improving the diets of residents of the Macleay. As you would be aware, diabetes is a significant yet preventable health risk in our area. People identifying as of Aboriginal heritage are well over-represented in NSW Health statistics in suffering diabetes, so it is considered that improving access to healthy foods and exercise would provide benefits to the Aboriginal community by leading to increased longevity and a better quality of life.

- 2) Why is there no Aboriginal person employed within Council as go to for people of the Aboriginal Community of the Kempsey LGA?

As you would be aware, Council provides a wide range of services to the community. All residents have the same access to Council and we do not have specific "go to" people in place for segments of the community. Kempsey Shire Council does not have funding to provide this level of service.

If the Dunghutti Elders are in a position to fund a liaison officer for this purpose to support their community, Council would be willing to look at what is being proposed. If members of the Aboriginal community are having issues with matters dealt with by Council staff, individual situations should be referred to the relevant manager. It is envisaged that the Dunghutti Elders organisation would be in a good position to support people to put their case if they are not receiving the level of service that Council provides to all within the community.

Council does not differentiate between people in the service we provide, and we do not ask people their race while handling enquiries. Council does not gather data on how many of the 45,000 contacts we have each year come from Aboriginal people or other sector groups, so we cannot indicate what level of contact is made by the Aboriginal community with Council in regard to the services we provide.

We have in place a team of professional staff who are trained to assist our residents with any issues that they may have in regard to the services Council provides.

3) What is the % of employment in the business sector?

Council does not have this information. If it is not readily available from the Aboriginal-focused government agencies that your organisation deals with you would probably have to approach the Australian Bureau of Statistics to see whether the information is available from the Census.

I have not seen this level of information included in the Small Area Labour Market data, which is the only current information on the number of people employed in Kempsey, and that does not distinguish between whether those employees are in the business, agriculture, government or other service sectors.

4) What are the disbursement of rates paid especially those paid by Aboriginal people and organisations?

Council does not record information on the race of landowners and as such cannot determine what portion of rates comes from people of Aboriginal descent. Even if this information was available it would not have any relevance as rates are a tax raised to contribute to the overall provision of infrastructure and services that are provided to the whole community, not money that is provided in return for services to the people who have contributed it. The services that rely on rate funding and provided by Council are generally provided to all members of the community and are funded from a range of sources, only one of which is rates.

If you need clarification on the issues raised, please feel free to outline what further information you are looking for. I hope this allows you to progress whichever initiatives or programs you are working on for your community now that you have the information you need.

Yours faithfully



David Rawlings
GENERAL MANAGER

AFFIDAVIT OF ROBERT ALLAN ~~MATTHEWS~~

15 APRIL 2015

COURT DETAILS

Court

Class

Case number

TITLE OF PROCEEDINGS

Prosecutor

Defendant

FILING DETAILS

Filed for

(Prosecutor)

Legal representative

Gordon Plath

Director Litigation, Legal Services Division

Office of Environment and Heritage

59-61 Goulburn St, Sydney, NSW

PO Box A290, Sydney South, 1232

DX 11587 Sydney Downtown

Legal representative reference

EF14/4041

Contact name and telephone

Aleisha Essex, ph (02) 9995 6558

(Alternative contact number: (02) 9995 6100)

AFFIDAVIT

Name Robert Allan Mumbler
 Address 17 South Street, Kempsey
 Occupation Pensioner
 Date 15 April, 2015

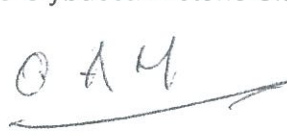
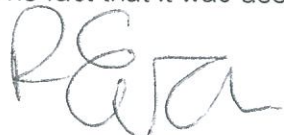
I affirm:

BACKGROUND

1. I am the Chairperson of the Dunghutti Elders Council (DEC) and have held that position for the last three years.
2. I am aware that in January 2014 there was an incident involving damage to an Aboriginal midden located within Clybucca Historic Site, Clybucca. This affidavit relates to the significance of the midden and harm caused as a result of the incident.
3. I first became aware of the damage to the midden some time in July 2014. I am aware that a site inspection was conducted at the Clybucca Historic site on the 14 July 2014 with a representative of the DEC by the name of Harold Smith who is also known locally as Uncle Blue. Harold accompanied Kaiya Donovan and Claude McDermott both of the Heritage Division and Russell Madeley of the National Parks and Wildlife Service (NPWS). I was not available at that time as I was away in Cairns. Around this time the DEC came into possession of twenty six photographs taken at the Clybucca Historic site showing the damage which had been caused. These photographs were taken and provided I believe by Kaiya Donovan of the Heritage Division. Annexed hereto and marked **Annexure 'A'** is a copy of those photographs.
4. I was born in Kempsey and apart from a short time when I lived in Sydney I have been here all my life. The Clybucca area has been occupied for approximately the last 5000 years by the Dunghutti and Gumbaynggir people.

THE SIGNIFICANCE OF THE MIDDEN AT CLYBUCCA HISTORIC SITE, CLYBUCCA

5. The Clybucca Historic site has been a significant cultural site over many thousands of years being used for marriages and initiation ceremonies. The midden itself was also used as a burial site by the local people. I know of an incident in recent history where ancient bones have been located at the Clybucca Historic Site. The fact that it was used

Robert Mumbler O A M  

as a burial site has also been acknowledged by archaeologist over the years and is well documented.

6. The Clybucca Historic was used as a place of feasting and the local seafood was very important to my people as it was a nutritional source of food which benefited a healthy thyroid function, it had health benefits for their eyes and normal body functions. The seafood was and excellent source of iodine. The site was also used as a meeting place where an exchange would occur between invited tribes of art, tools and weapons.

ROLE OF DUNGHUTTI ELDERS COUNCIL IN RELATION TO ABORIGINAL OBJECTS

7. The Dunghutti Elders Council administers indigenous-owned land within New South Wales on behalf of the Dunghutti people. The Dunghutti peoples Native Title rights and interests were recognised by the Federal Court in the Dunghutti People determination made in April 1997.
8. The Dunghutti Elders Council administers two shared responsibility agreements on behalf of the traditional owners relating to workplace training and youth training of local aboriginal people.

VISIT TO CLYBUCCA HISTORIC SITE, CLYBUCCA

9. On Wednesday 15 April 2015, Robert Evans an Investigator with the Office of Environment and Heritage, took me and two other Dunghutti men by the name of Tony Right and Harold Smith to ten locations at the Clybucca Historic Site, and showed me where the midden had been damaged. These locations were referred to as points 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10. I saw Robert had a global positioning system which he used to locate these locations. There were another two sites numbered 11 and 12 that we were unable to get to due to a large tree which had fallen down and was over the trail.
10. Robert also showed me some photographs which I understand were taken in the Clybucca Historic site at the ten locations he took me to. I understand these photographs were taken some time soon after the damage occurred.
11. What I saw during the inspection with Robert and the photos which he showed me was obvious damage to the midden at those locations along the track. I saw incidence where trees had been pushed over and there was obvious signs of shells in the root balls of those fallen trees. I saw areas where vegetation had been stripped away to such an

Robert member © AM RGA

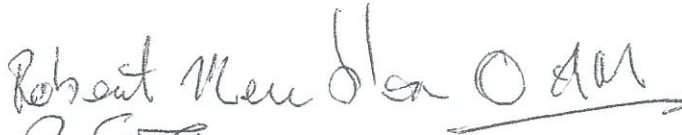
extent that the damage left a deep depression in the midden. In those depressions I was able to clearly see shell remains. Even though the areas visited were now overgrown the damage to the midden was still clearly visible.

VIEWS IN RELATION TO OFFENCE OF HARM TO THE MIDDEN AT CLYBUCCA HISTORIC SITE, CLYBUCCA

12. In my conclusion the damage that was caused to the Historical Site could have been avoided by cooperation and harmony of management of the site by the NPWS and the Dunghutti people. The damage that was caused to such a culturally significant site has caused me and my people a lot of anger. The damage has caused the midden to be exposed to the weather and I feel that it will be damaged further my natural elements such as sun, wind and rain.

AFFIRMED

Signature of deponent



Signature of witness



Name of witness

Robert Frank Evans

Robert Frank Evans
Justice of the Peace NSW
Number 200393

Address of witness

59 – 61 Goulburn Street, Sydney

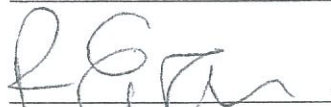
Capacity of witness

Justice of the Peace

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

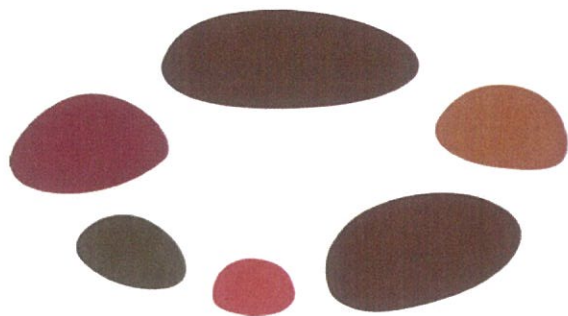
- 1 I saw the face of the deponent.
- 2 I have confirmed the deponent's identity using the following identification document: NSW drivers licence 1979MC

Signature of witness



Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

Robert Frank Evans
Justice of the Peace NSW
Number 200393



REMNANT Archaeology

CLYBUCCA MIDDEN COMPLEX - SITE VISIT

A Report To: | Dunghutti Elders Corporation
Date: | Friday 01 May 2015
Prepared By: | Dr Graham KNUCKEY

REMNANT Archaeology
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EXECUTIVE SUMMARY

ACKNOWLEDGEMENTS

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1 INTRODUCTION

1.1 Background Information

In November 2014 the Dunghutti Elders Council (DEC), based in Kempsey, made telephone contact with Remnant Archaeology (RA) and discussed the feasibility of RA carrying out a site inspection of portions of the Clybucca Midden Complex (CMC) located within the National Parks and Wildlife Service (NPWS), Clybucca Historic Site Reserve (Fig. 1). The DEC were concerned with what appeared to have been track clearance work carried out along the southern portion of the track that bears north-south along the western margin of the midden complex and in places crosses the midden complex. Portions of the midden had been identified by DEC Sites Officers as having been damaged during the clearance work and photographs were taken of incidences where free-standing dead trees had been pushed away from the track and the uprooting of these trees had resulted in significant disturbance of the underlying midden material (Smith 2014).

1.2 The Study Area

Aboriginal shell middens begin further north at Stuart's Point and have created a continuous complex of midden mounds bearing south that are dissected at Golden Hole by Anderson's Inlet, and continue along the western bank of Clybucca Creek. The Clybucca middens then continue westward and follow what has been identified as the coastline from 10,000 years ago (Hails 1968). In the early 1970s archaeologists from the University of New England excavated a midden in the vicinity of the current site inspection at what is called 'Clybucca 1' (Campbell 1972; Connah 1975; 1976) and another further to the west at a site called 'Clybucca 3' (Connah 1975; 1976). See Figure 2.

The area of most interest here and where the damage was done to the midden complex has occurred in the vicinity of Clybucca 1. The current inspection included a pedestrian transect along the track from a point to the north of the known damage southward along the track and was carried out by Graham Knuckey from Remnant Archaeology on Friday 27 March 2015, who was accompanied and assisted in the field by Harold 'Uncle Blue' Smith, Senior Sites Officer from the Dunghutti Elders Council.

1.3 The Objective Of The Site Visit

The objective of the site visit by RA was to verify the damaged locations identified by the DEC Site Officer and to carry out further investigations into the extent of the damage to the archaeological record of the midden complex.

2 THE INVESTIGATOR AND OTHER CONTRIBUTORS

On 15 October 2014 a site inspection was carried out by Dunghutti Elders Council (DEC) representatives Harold (Blue) Smith, Senior Sites Officer for the DEC, and Kevin Smith in order to ascertain the level of damage and the evidence of that damage to areas of the Clybucca midden complex in the vicinity of the Clybucca 1 site (Campbell 1972; Connah 1975; 1976). See Section 3 below for a discussion of the archaeological context of the midden complex.

On 27 March archaeologist Graham Knuckey (Remnant Archaeology) completed a site inspection with the assistance of Harold 'Uncle Blue' Smith. This latter site inspection is documented in this report, along with reference to the earlier site inspection, reported by Kevin Smith (2014) at the time of the incident.

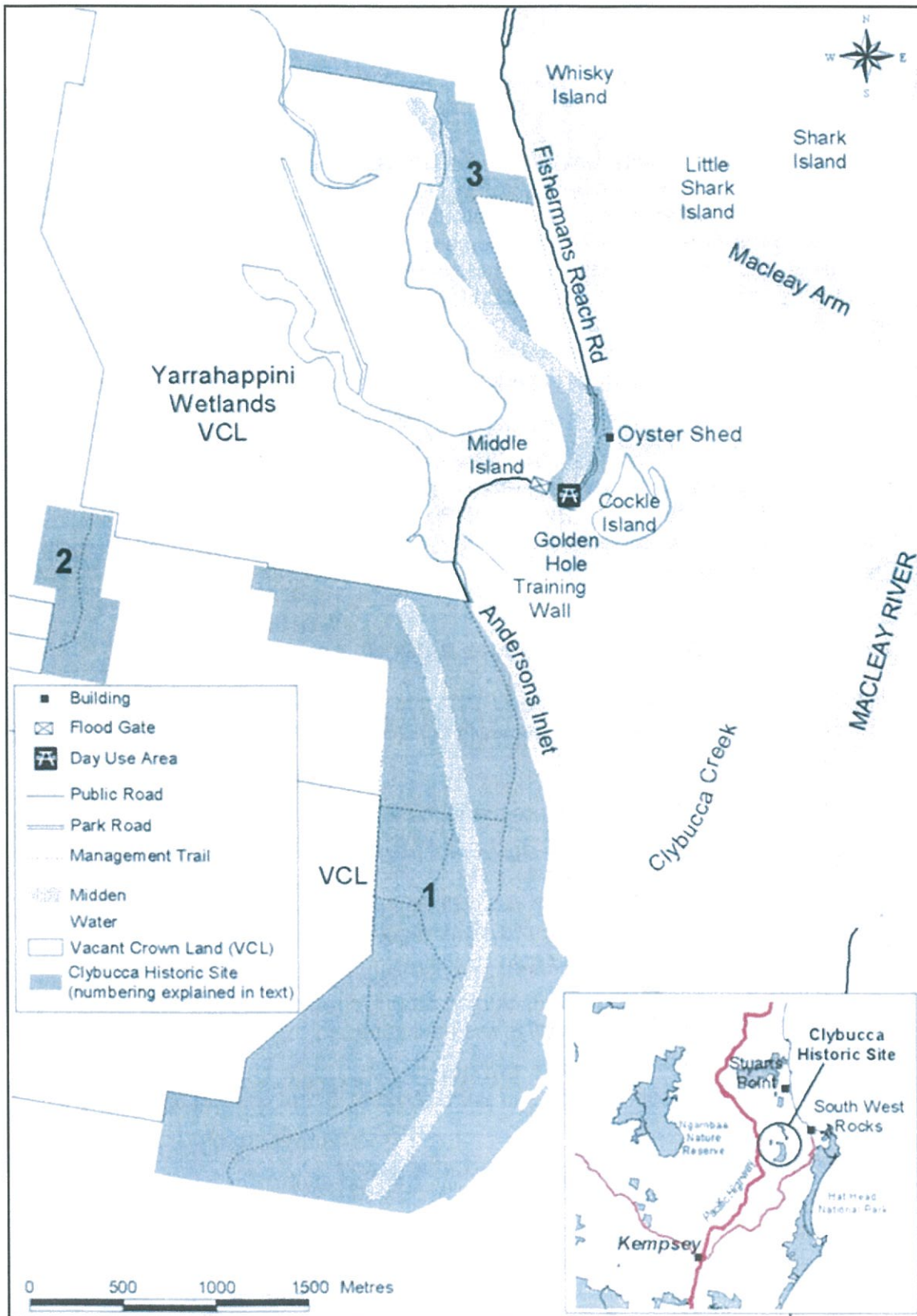


Figure 1 - The location of the National Parks and Wildlife Service Clybuca Historic Site reserve. The Clybuca Midden Complex is shaded (1). Source - (NPWS 2007: 2).

3 THE ARCHAEOLOGICAL CONTEXT

The Clybucca middens came to the attention of the wider archaeological community in the early 1970's when Valerie Campbell published a paper describing shell samples she had taken in 1969 from middens along the north coast of New South Wales, and the dates obtained from those samples (Campbell 1972). Campbell took samples from a midden she called Clybucca 1 and got dates between 3,850 years (± 140) and 1900 (± 140) years before the present day. In 1972 Graham Connah, then of the Archaeology Department at the University of New England at Armidale, returned to Clybucca 1 and continued his investigation of the middens along Clybucca Creek further to the west at what he called 'Clybucca 3' (Connah 1975; 1976). Campbell (1972) and Connah's (1975; 1976) research only looked at two middens in the Clybucca midden complex: Clybucca 1 and Clybucca 3. Clybucca 1 was located in the general area focussed upon by the current site visit and Clybucca 3 was located further upstream along Clybucca Creek on what had been identified as the coastline 10,000 years ago (Hails 1968). Clybucca 3 is approximately 25 kilometres north of Kempsey and approximately 14 kilometres inland from the current coast (See Fig. 2).

In 1999 the author published a paper (Knuckey 1999) on the archaeological material excavated from Clybucca 3 by Connah (1975; 1976). Knuckey's paper discussed research carried out on the material over the years from when Connah carried out his excavations, including the fact that Connah had dated shell and charcoal from the midden and received dates ranging from 5,120 (± 120) years at a depth of 100cm, to 3,360 (± 120) years at a depth of 30 centimetres. This meant that the midden at Clybucca 3 was first inhabited at least 5,000 years ago and was abandoned some time after 3,360 years ago. The analysis carried out by this author (Knuckey 1999) showed that Clybucca 3 was not heavily used 5,000 years ago and that people back then were using mainly marine (sea) resources - a good indication that the sea was not far away from the midden. Using the archaeological material excavated the author was also able to show that at around 3,360 years ago many more people were using the midden and they had begun using resources from a more aquatic (freshwater) environment and terrestrial (land) mammals such as kangaroos and wallabies were being used more as well. This is a good indication that by 3,000 years ago the sea was beginning to move further away and a freshwater environment was beginning to dominate the local ecosystems.

Shells (both marine and aquatic species) and faunal material (including possum, kangaroo and wallaby bones) used by humans were not the only resources excavated by the archaeologists. A wide range of stone artefacts were also uncovered including flakes, retouched flakes, cores and edge-ground artefacts. Approximately 1488 artefacts were found in the archaeological excavation and the stone types these artefacts were made from were sedimentary rocks such as chert, siltstone, sandstone and greywacke and igneous (volcanic) rocks like quartz and basalt. The artefacts were also used in the 1999 analysis to show when people were using the midden the most. Artefacts were not common at 100 centimetres down (a depth that corresponded with the earliest date of 5120 years) but became more common in the midden from a depth of 70 centimetres, which was approximately 4,260 years ago. Stone artefacts were most common after this time but before 2,380 years, the time it is thought the midden was abandoned (Knuckey 1999).

The Clybucca 3 midden also contained a burial, a feature that is not uncommon in middens along the east coast of Australia, and this could be the reason the midden was abandoned permanently at approximately 2,380 years ago. Only a portion of the burial was removed from the midden including bones from the appendicular skeleton (the limb bones) of two adults (Knuckey 1999). No further study of the bones was carried out and as a result of the research in 1999 the skeletal material was returned to the Aboriginal Community in Kempsey that year.

Figure 2 - The location of the Clybucca midden complex along the north bank of Clybucca Creek, near Kempsey.

4 THE LANDSCAPE CONTEXT

The Clybucca midden complex is found on what has been described as the Pleistocene coastline, that is, the coast as it was at least 10,000 years ago (Hails 1968; Knuckey 1999). From approximately 7000 years ago sea levels became more stable and this allowed sand dunes to develop between Korogoro Point and Smoky Cape. Through time this meant the coastline began to move east and as the Macleay River deposited sediment in behind the dunes across the lower Macleay River Valley, an estuarine environment began to develop. It has been suggested that at the time people first began to use the Clybucca Creek area the lower Macleay River Valley was changing from a marine (coastal) to an estuarine (riverine) environment (Knuckey 1999). When non-Aboriginal people began visiting the area in the mid-1800s there was thick rainforest along the western edge of the coast (McBryde 1982), across the land created over thousands of years by the movement of the sea eastward and the depositing of sediment by the Macleay River in behind (to the west of) the barrier dunes. Other landform features described included a lake to the south of the Macleay River mouth (Henderson 1851) and a large bay (Pierce 1971) between where Clybucca 3 is located and where Clybucca 1 and the Clybucca midden complex is found along the northern margin of Clybucca Creek (See Fig. 2). The bay became known as Clybucca Swamp as it began to silt up after European settlement (Pierce 1971). To reduce the risk of flooding Clybucca Swamp was drained in the mid-1900s but there are to this day still pockets of the original littoral rainforest (rainforest that grows on beach sand), coastal wetlands and estuarine ecosystems existing in the area (NPWS 2007). The environment surrounding the Clybucca midden complex was originally rainforest but has over the years been cleared and allowed to revegetate with the result that introduced trees and many weed species have established themselves in the ecosystem. Figure 3 shows what the access track (along which the damage to the midden occurred) as it looked on the day of the site inspection (27 March 2015).



Figure 3 - The vegetation cover along the access track the traverses the Clybucca Midden Complex at Clybucca Creek

5 NATIONAL PARKS AND WILDLIFE SERVICE CLYBUCCA HISTORICAL SITE MANAGEMENT PLAN

In 2005 the New South Wales National Parks and Wildlife Service (NPWS) released a draft plan of management for the Clybucca Historic Site (NPWS 2005); a map of the site appears in Figure 1. The plan was finalised two years later (NPWS 2007), and in the Foreward the Minister for Climate Change at the time (Phil Koperberg) makes two clear statements that underscore the significance of the midden complex within the site, both as an archaeological resource and as a place of high cultural significance to living Aboriginal People, the descendants of the people that occupied the Clybucca district thousands of years ago (NPWS 2007: iii).

Clybucca Historic Site was reserved primarily because it contains part of one of the largest estuarine Aboriginal midden complexes recorded in temperate Australia. It is on the Register of the National Estate for its extensive, diverse and well preserved midden deposits that provide a valuable insight into continuous coastal occupation by Aboriginal people.

The site was also an important meeting and sharing place for the Gumbaynggirr and Dunghutti nations, a rich source of food, and as part of a mythological and spiritual landscape with high cultural significance to present day Aboriginal people on the mid-north coast.

The above points are highlighted in the management plan as key values that provide research and educational opportunities that would allow for a better understanding of how people lived in a traditional coastal and estuarine environment and provide opportunities to do comparative studies with other occupation sites in similar and varied environments (NPWS 2007: 4). Along with the values outlined in the management plan, a key management direction mentioned is the protection of the archaeological deposits that exists in partnership with the Aboriginal Custodian Group (NPWS 2007: 5). The Aboriginal Custodian Group (ACG) was established in 2003 and brings together representatives from the Dunghutti and Gumbaynggirr nations, and other members of the local Aboriginal Community to present a voice that contributes to the management of the midden complex within the Clybucca Historic Site. The desired outcomes of the collaboration between NPWS and the ACG is the protection of Aboriginal sites and places from human damage and, where possible, from natural processes, and, the involvement of Aboriginal people in the management of the cultural values of the site (NPWS 2007: 7).

5.1 Park Protection

Sub-section 6.3 of the Clybucca Historic Site Management Plan (NPWS 2007) discusses pest plant management on-site, the species identified to 2001 and the strategies in place (and site-specific proposals to be developed) to ensure weed control and management is a priority. A focus of the plant pest control strategies is to ensure weed control and management of those species that "...have a significant environmental impact, including damage to the middens..." (NPWS 2007: 15).

5.2 Research and Monitoring

In Section 8 (Research and Monitoring) the last of the four desired outcomes listed states; "Monitoring programs are in place to detect any changes in the status of natural or cultural values" and the strategy proposed in order to realise this outcome is listed as (NPWS 2007: 23-24);

In negotiation with the Aboriginal Custodian Group establish a monitoring program to examine:

- *the condition of archaeological and other cultural heritage features, and any changes arising from increased public use and the implementation of management programs;*
- *the requirements of site conservation works such as soil erosion work;*
- *the condition of tracks, signs, fencing and other infrastructure; and*
- *the behaviour of visitors to the area.*

5.3 Management Facilities and Operations

No management structures or facilities other than a low-key network of management trails occur across the Clybucca Historic Site (Sections 1,2 and 3. See Fig. 1), and these trails are necessary for site access and for fire management. One of the key outcomes desired in the fire management process is that Aboriginal sites, significant features and historical sites are protected from damage by bushfires and from fire fighting equipment (See Sub-section 6.5, NPWS 2007: 17). The management plan describes the adoption of programs involving negotiation with Aboriginal People, including their participation with weed control, rubbish removal and site boundary surveys and the plan states that members of the Aboriginal Community should be employed wherever possible when these sorts of works are identified as being required (NPWS 2007).

The strategies targeted by the management plan include allowing vehicular access to the management trails in Section 1-2 for Aboriginal cultural purposes subject to the agreement of adjoining landholders and NPWS, and to seek funding for a designated Aboriginal Field Officer position and funding for other Indigenous work programs (NPWS 2007).

5.4 Plan Implementation

As stated in the management plan, implementation is to be undertaken within the annual programs of the Mid-North Coast Region NPWS and the actions identified by the plan will be those that are given priority. A major focus of the plan is the close involvement of the local Aboriginal Community in the management and interpretation of the historic site through the Aboriginal Custodian Group (NPWS 2007).

5.5 Table of Strategies

Actions and strategies identified by the NPWS Clybucca Historic Site management plan (NPWS 2007: 28) as of high priority include the following;

- Continue to manage the historic site in partnership with the Aboriginal Custodian Group.
- Undertake an archaeological survey and cultural assessment prior to all works with the potential to impact on Aboriginal sites and places of significance.
- Discourage public access to Sections 1-2 due to the absence of public roads and to minimise possible damage to the middens.
- Design and undertake all works in a manner that minimises soil erosion.
- Maintain vegetation clearance along management trails by slashing only.
- Seek funding for a designated Aboriginal Field Officer and funding for other Indigenous work programs such as ongoing weed control.

Actions and strategies identified by the NPWS Clybucca Historic Site management plan (NPWS 2007: 28) as of medium priority include the following;

- Determine an appropriate approach to vegetation management to protect middens.
- Undertake any works in a manner that minimises erosion, soil disturbance and impact on landscape values.
- Develop a pest plant management strategy for the historic site.
- In negotiation with the ACG establish a monitoring program to examine:
 - the condition of archaeological and other cultural heritage features, and any changes arises from ... the implementation of management programs;
 - the requirements of site conservation works;
 - the condition of tracks, signs, fencing and other infrastructure...
- Undertake a baseline survey of cultural heritage values and cultural mapping to provide information for the monitoring program to be effective.

6 CLYBUCCA MIDDEN COMPLEX - SITE VISIT

6.1 Survey Method

Dunghutti Elders Council (DEC) Senior Sites Officer Harold (Blue) Smith accompanied Remnant Archaeology's archaeologist (Graham Knuckey) to the southern section (1) of the Clybucca Historical Site, and took him straight to the area in question where the damage had occurred on the midden complex. Due to the dense overgrowth experienced along the management trail used to access the southern portion of the NPWS land (Fig. 3) and the occasional inundation of the trail by ground water from recent rains (Fig. 4), both Mr Smith and Remnant Archaeology's archaeologist decided not to proceed all the way to the historic site to the north, but to stop at a point halfway along the trail, well beyond Mr Smith's recollection of where the damage had been caused, and that the archaeologist would then alight from their vehicle and carry out a pedestrian traverse back along the trail in a southern direction. Figure 5 indicates the route traversed by the archaeologist along the trail.

Figure 4 - Sporadic inundation of the track from ground surface water moving south (from right to left) toward Clybucca Creek.



6.2 Ground Surface Visibility

Ground surface visibility (GSV) was the main constraint during the 27 March 2015 site visit. The entire area under investigation from initial entry onto NPWS land at the southern (non-public) access to the point at which the archaeologist began his pedestrian survey, the land surface was covered with weed species (Figs. 3, 4). At sporadic points of ground surface disturbance (either natural, animal scratching's or weathering) or as the result of past track maintenance work, the underlying sand could be seen and occasional shells and shell fragments could be seen where the track passed over and along the midden complex, however, 100% GSV was restricted to isolated, small pockets of sand intermittently located along the length of the traverse from north to south.



Figure 5 - The route traversed on foot (yellow dashed line) by Remnant Archaeology's archaeologist. The shaded area indicates the location of the midden complex. Image adapted from Google Earth Pro 2015.

6.3 Surface Survey Outcomes

No artefacts were located during the traverse of the access track (Fig. 5) however, economic shell species were found in a number of locations along the northern section and in the south where the track crosses the midden complex as it (the midden complex) bears west and then northwest following the Pleistocene coastline (See Fig. 6). Midden shell is not difficult to identify, the most important characteristics being the size of the shells (adults) and the frequency of different species present. In both cases at every location where material was found the shells were large (adult-size) and only two species; oyster (*Crassostrea sp.*) and Sydney Cockle (*Anadara trapezia*) were present. The two species of most importance identified at both Clybucca 1 and 3 (Campbell 1972; Connah 1975; 1976; Knuckey 1999), and further north at Stuart's Point (Connah 1975; 1976).

No evidence of the damage reported by the Dunghutti Elders Council in 2014 (Smith 2014) was identified during the current inspection and two reasons have been suggested as the cause for this;

1. The archaeological inspection was carried out too long after the event to be able to verify and corroborate the preliminary investigations carried out by DEC sites officers.
2. Ground surface visibility at the time of the (March 2015) inspection was, in the main, zero with the vegetation cover at time head-height and higher.



Figure 6 - Where midden shell material (oyster and cockle) was exposed along the access track (red and black dots). Where the track crosses the midden to the south, the concentrations of midden shell were dense. Image adapted from Google Earth Pro 2015.

7 DISCUSSION

7.1 Damage Report Completed by Kevin Smith

In a short document dated 15 October 2014 DEC Sites Officer Kevin Smith reported on an investigation he carried out with DEC Senior Sites Officer Harold (Blue) Smith into information DEC had received that damage had been caused to the Clybucca middens. The reason for the site visit carried out by the DEC Sites Officers was to ascertain the level of damage that had occurred to what Dunghutti consider one of their significant sites (Smith 2014). The DEC report mentions two areas of damage identified by their Sites Officers, one at the southern end of the midden, where the track crosses the midden complex from south to north (Fig. 7), and this area was identified as having occurred at the time the track was first constructed. No date was estimated for this damage; however, with the assistance of NPWS maintenance records the construction date should be obtainable. The report mentions the damage coincides with the location of a yellow ground marker survey peg 'No. 1' (Smith 2014). Further to the north and 80 metres past ground marker survey peg 'No. 10' (See Fig. 7) the Sites Officers identified more recent damage to the midden, suggesting it had occurred within the previous 18-20 months. The report states that both officers agreed the damage had occurred prior to slashing of vegetation on and along the margins of the access track itself. Smith's report (2014) also states that it was both Sites Officer's belief that no Aboriginal cultural heritage assessment (ACHA) had been carried out prior to the commencement of either of the events that resulted in the damage to the midden at both the northern and southern ends (Fig. 7).



Figure 7 - The two locations (crosses) mentioned in Smith's report (2014) where DEC Site's Officers found damage had occurred to the Clybucca Midden Complex. Image adapted from Google Earth Pro 2015.

7.2 Damage Identified During The 27 March 2015 Archaeological Inspection

Even though GSV was a major constraint, and even though the current site inspection did not commence at the northern point of the track where the earlier DEC Sites Officer inspection began, it was clear that some form of maintenance work had been carried out in the past along the section of track that was traversed by the archaeologist. In all cases it appeared the event(s) had been clearing overgrown and/or dead vegetation and trees off the track, an activity with the potential to disturb the surface of the midden and damage its contents. As has already been mentioned, on the southern portion of the midden, where the track actually truncates it, the damage is obvious, whether or not this damage occurred before or after the formulation of the management plan in 2007 is not at this stage clear. At no point along the archaeologist's traverse did he locate any artefacts although midden shell was common in some places to the north and the south, as shown in Figure 6. Figure 8 indicates where along the track Remnant Archaeology's archaeologist found areas of disturbance. Remnant did not relocate the areas of direct impact and damage located and reported by DEC's Site Officers (Smith 2014).

These areas of disturbance indicated the use of a large machine to clear the way along the track, pushing dead trees and other vegetation off to either side and in some places it was evident dead trees not directly on the track were pushed over and further away. All these actions, essential in keeping the track clear and accessible, pose a direct risk to the integrity of the shell midden that in places lies close to the eastern margin of the track and in others (further south) lies directly below the track.



Figure 8 - The locations along the track (blue and black dots) where the archaeologist found areas of disturbance. Image adapted from Google Earth Pro 2015.

7.3 Anecdotal Evidence of What Has Occurred

Subsequent to the site inspection carried out by DEC staff enquiries were made as to what events had occurred on the Clybucca middens that may have resulted in the damage identified. It would appear the damage to the southern portion of the midden complex occurred at the time of initial track construction and only a desktop survey of the in-house NPWS documentation relating to the preparation and planning of that activity will indicate to what degree the Aboriginal Custodian Group were involved.

The site disturbance along the track reported here (See Fig. 8) and the damage further to the north indicated in the DEC report (Smith 2014) it would appear is the result of routine track maintenance work carried out sporadically by NPWS staff over the last two years. The DEC were informed a new staff member was employed on the job at some point and that a 5m slasher was used as opposed to the regular 4m implement. Although the exact timing of maintenance and the number of times maintenance was carried out is not clear, what is of paramount importance to the Dughutti Elders Council is that works sanctioned by the State body charged with protecting the middens has been occurring at regular intervals without the knowledge or approval of the ACG.

7.4 NPWS Clybucca Historical Site Management Plan Revisited

In 2007 the NSW National Parks and Wildlife Service identified the Clybucca Midden Complex as highly significant to both the Aboriginal Community in terms of cultural and traditional significance, and the non-Aboriginal Community in terms of archaeological and educational significance (NPWS 2007). There is no question the archaeological value of the middens also adds to the importance of the area to Aboriginal people. The Clybucca middens had been recognised as important as early as the 1960s by archaeologists and considerable effort was expended on excavating one site 'Clybucca 3' in the mid-1970s. Prior to the completion of the management plan in 2007 a steering committee (the Aboriginal Custodian Group - ACG) was established in 2003 bringing together the main Aboriginal interest groups in the district to enable the Aboriginal community to present a voice to the State (via NPWS) that would contribute to the effective management of the middens through the NPWS Clybucca Historic Site management. As stated above the desired outcomes of the ACG and its collaboration with NPWS was the protection of Aboriginal sites and places from human damage including (where possible) natural processes, and the involvement of Aboriginal people in the management of the cultural values of the site.

The evidence presented by DEC (Smith 2014) and the supporting evidence of site disturbance presented here suggests the midden complex is not the priority it was when the management plan was formulated in 2007. Only one of the strategies tabulated as of a high priority in the management plan (See Sub-section 5.5 above) is currently in force; "Discourage public access to Sections 1-2 due to the absence of public roads and to minimise possible damage to the middens". It may be argued this strategy is only effective because entry is via private property and not through any process actively managed by NPWS. Of the strategies tabulated as of medium priority in the management plan (Sub-section 5.5) none appear to be currently in force.

8 MANAGEMENT RECOMMENDATIONS

The Clybucca Historic Site must be managed and maintained, and this includes the Clybucca Midden Complex. Maintenance will require a variety of activities including those that can pose a potential direct impact to the middens - including the act of slashing weeds and clearing away debris from access tracks and trails. However, it would appear NPWS have, since 2007, not been able to hold to the strategies highlighted and prioritised in the 2007 management plan (NPWS 2007). It is recommended here that NPWS return to the core values and priorities outlined and tabled in that management plan and it is also recommended that the following management strategies be implemented.

- New staff members are inducted into the importance of the sites they will be working on and are accompanied by a more experienced staff member when first working at these important locations. The experienced staff member is then able to indicate where important landmarks and other landscape attributes are actually located on the ground and where added care needs to be practiced in order to avoid and/or protect these places.
- At all times the Aboriginal Custodian Group (ACG) must be kept up to date with the status of the site overall.
- At all times the ACG must be informed of plans to carry out works (maintenance or otherwise) works on-site and asked for comment on any planned works.
- The ACG should be invited to participate in, if not carry out (with NPWS assistance), any level of maintenance work planned for the site.
- No works should be commenced on-site without ACG approval.

9 REFERENCES

- Campbell, V. 1972. "Some radiocarbon dates for Aboriginal shell middens in the Lower Macleay River Valley, New South Wales". *Mankind* 8(4):283-286.
- Connah, G. 1975. "Current research at the Department of Prehistory and Archaeology, University of New England.". *Australian Archaeology* 3:28-31.
- Connah, G. 1976. "Current research at the Department of Prehistory and Archaeology, University of New England, 1975-1976". *Australian Archaeology* 5:1-6.
- Hails, J. 1968. "The late Quaternary history of part of the mid-north coast, New South Wales, Australia". *Institute Of British Geography* 44:133-147.
- Henderson, J. 1851. *Excursions and Adventures in New South Wales with Pictures of Squatting and Life in the Bush. Volume 1*. W. Stoberl: London.
- Knuckey, G. 1999. "A shell midden at Clybucca, near Kempsey, New South Wales". *Australian Archaeology* 48:1-11.
- McBryde, I. 1982. *Coast and Estuary*. Australian Institute of Aboriginal Studies: Canberra.
- NPWS. 2005. *Clybucca Historic Site Draft Plan of Management*. NSW National Parks and Wildlife Service, Department of Environment and Conservation: Port Macquarie.
- NPWS. 2007. *Clybucca Historic Site Plan of Management*. NSW National Parks and Wildlife Service, Department of Environment and Conservation: Port Macquarie.
- Pierce, R. 1971. *The Effects of Aquatic Foods on the Diet and Economy of the Aborigines on the North Coast of New South Wales at the Time of First Settlement*. University of New England: Armidale, New South Wales.
- Smith, K. 2014. *Investigating Damage to Clybucca Significance Aboriginal Midden Site: 15 October 2014*. Unpublished report to Dunghutti Elders Council: Kempsey.