# Duralie Coal Mine – Aboriginal Heritage Management Protocol

## Distribution Summary

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<th>Date</th>
<th>Purpose</th>
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<td>AHMP-A</td>
<td>12 June 2002</td>
<td>Draft for Review</td>
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<td>22 December 2008</td>
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December 2008
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1 INTRODUCTION

Duralie Coal Pty Ltd (DCPL), a wholly owned subsidiary of Gloucester Coal Limited, operates the Duralie Coal Mine (the Project). The Project is located on the Mammy Johnsons River approximately five kilometres north of the village of Stroud Road in an area of cleared grazing land east of The Bucketts Way, New South Wales (NSW) (Figure 1).

1.1 OBJECTIVES AND PURPOSE

This Aboriginal Cultural Heritage Management Plan (ACHMP) has been prepared to address Aboriginal heritage issues pertaining to the Project to fulfill the Project development consent (DA 168/99) condition 41:

41. (a) The Honey Scarred Tree as identified by NPWS shall not be disturbed; and
(b) In the event that artefacts are identified on the site during development through earthworks, construction or operation of the coal mine, the Applicant shall contact the NPWS and cease work in the relevant location pending investigation of its heritage value.

Specifically, the objective of this ACHMP is to detail:

- statutory requirements (Section 2);
- consultation with Aboriginal communities (Section 3);
- results of previous surveys and assessments (Section 4);
- measures to avoid impacting on the “Honey Scarred Tree” (Section 5);
- actions undertaken should previously unidentified relics be discovered (Section 6);
- monitoring of archaeological sites and the effectiveness of mitigating measures (Section 7); and
- dissemination of cultural heritage information (Section 8).

DCPL will retain appropriate Contractors to undertake the various works. This ACHMP has been prepared to assist the Contractor undertaking the works in the implementation of appropriate environmental management measures during the operation the Project. Where there is any conflict between the provisions of this ACHMP and the Contractors obligations under the Contract including the various statutory requirements (i.e. licenses, permits, consent conditions and relevant laws) the Contract and statutory requirements are to take precedence. In the case of any real or perceived ambiguity between elements of this ACHMP and the above statutory requirements the Contractor shall first request clarification from the Principal and/or Superintendent prior to implementing that element of this ACHMP over which the ambiguity is identified.
2 LEGISLATIVE FRAMEWORK

Development consent (DA 168/99) for the Project was granted on 5 February 1999 by the Minister for Urban Affairs and Planning under the Environmental Planning and Assessment Act 1979 (EP&A Act), as a State significant project which is integrated development. In accordance with the EP&A Act, approval for operation of the Project also requires any relevant approvals as listed in Section 91 of the EP&A Act.

Consent under Section 90 of the National Parks and Wildlife Act 1974 (NPW Act) is included as one of these integrated approval requirements under Section 91 of the EP&A Act. Put simply, obtaining development consent under the EP&A Act, does not negate the requirement to obtain consent under the NPW Act, for any disturbance of, damage to, or destruction of Aboriginal relics, or declared Aboriginal Places.

A modification to development consent (DA 168/99) in 2008 imposed the condition that “prior to the commencement of construction activities for any Auxiliary Dam, the Applicant shall review, and if necessary revise the following management plans/monitoring programs to account for the construction of the Auxiliary Dams 1, 2 and 3”. Plans/programs referred to included the “Aboriginal Cultural Heritage Management Plan”.

2.1 NATIONAL PARKS & WILDLIFE ACT 1974

In accordance with Section 90 of the NPW Act, consent for the destruction, damage or disturbance of Aboriginal relics may be required for the Project. In addition to consent under Section 90 of the NPWS Act, Aboriginal heritage management measures for any relics identified may also require a permit under Section 87 of the NPWS Act. As listed in Section 86 of the NPWS Act, a permit under Section 87 allows a person to:

- disturb or excavate any land, or cause any land to be disturbed or excavated, for the purpose of discovering a relic; and
- disturb or move on any land a relic that is the property of the Crown, other than a relic that is in the custody or under the control of the Australian Museum Trust.

2.2 NATIONAL PARKS & WILDLIFE SERVICE GUIDELINES – MINING INDUSTRY

In addition to the requirements of the NPWS Act, the NPWS have issued Guidelines for Aboriginal Heritage Impact Assessment in the Exploration and Mining Industries (NPWS, 1997). The objectives of these guidelines are to:

- ensure that the actual management of Aboriginal heritage assessment processes by the exploration and mining industries follows a predictable path which leads to improved results for both Aboriginal heritage conservation and the industry; and
- to assist the exploration and mining industries to plan and conduct projects that may impact on Aboriginal heritage in an informed and responsible manner.
The guidelines outline that the NPWS may approve a consent application conditionally or unconditionally or refuse it, depending on the significance of the sites and the justification for the action.
3 CONSULTATION PROCESS

During the course of the development of the Project EIS and the two Aboriginal heritage surveys (Section 4), representatives from the Karuah and Forster Local Aboriginal Land Council (LALC) were consulted with on their prior knowledge of any Aboriginal sites.

Additional consultation with the Karuah LALC is routinely undertaken during topsoil stripping operations as part of mining advancing into areas not previously disturbed together with other works of a civil nature (eg dams, roads). If necessary, application for Section 90 consents and/or Section 87 permits will be made. Such consultation will be ongoing whilst the mine is in operation.

4 ABORIGINAL HERITAGE SURVEYS AND ASSESSMENTS

An Aboriginal heritage survey and assessment of the Project was undertaken by ERM Mitchell McCotter (1995) as a component of the EIS assessment process. No archaeological sites were identified during the field survey of the study area. A site search of the NPWS Aboriginal Sites Register of NSW indicated that no Aboriginal archaeological sites had been recorded within three kilometres of the Project. The assessment also concluded that the Project area “is not considered to be archaeologically significant” (ERM Mitchell McCotter, 1995).

A follow-up survey was conducted in November 1998 by the Karuah and Forster Local Aboriginal Land Council, Culture and Heritage Section in the presence of two NPWS representatives (Leon & Feeney, 1998). During the survey four suspected scar trees were identified. A number of stone artifacts were observed during the field survey including a ‘throwing rock’. Following examination by NPWS and LALC staff, the site was refused a Conservation Order and the existence of any stone artifacts was denied.

Subsequently, two independent assessments were made by two senior archaeologists (Dr Dan Witter and Dr Mike Moorwood) and were forwarded to NPWS. The site was again refused a Conservation Order, however, NPWS agreed that one of the four suspected scar trees, namely the “Honey Scarred Tree” was of Aboriginal significance and consequently was required to be preserved (as detailed in the Project development consent condition 41(a)). The location of the “Honey Scarred Tree” is shown on Figure 1. A summary of the “Honey Scarred Tree” features is provided in Table 1.

A second search of the NPWS Register of Aboriginal Sites was conducted in June 2002. The “Honey Scarred Tree” was the only Aboriginal site listed on the NPWS Register in the Project area (Appendix A).

<table>
<thead>
<tr>
<th>Site Name</th>
<th>Approximate ISG Co-ordinates</th>
<th>Site Type</th>
<th>Features*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honey Scarred Tree</td>
<td>389 365</td>
<td>1 425 021</td>
<td>Scar Tree Two pieces of wood (foot-pegs) protruding from the tree trunk at different levels. Spiral scarring patterns on the trunk.</td>
</tr>
</tbody>
</table>

* Source: Report titled “Duralie” prepared by J.G. Menham (November 2000) for Senator Robert Hill under the provisions of Section 10 of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984. It should be noted that due to natural weathering processes only one foot-peg now remains.
5 MANAGEMENT OF THE “HONEY SCARRED TREE”

The “Honey Scarred Tree” is located within the vegetation corridor between the North Coast Railway and the mining area and will not be disturbed by mining operations. In June 2002, the “Honey Scarred Tree” was demarcated with flagging tape to make it readily identifiable. Protective fencing with descriptive signage was subsequently erected around the tree.

6 MANAGEMENT OF PREVIOUSLY UNIDENTIFIED RELICS

Management of any previously unidentified relic(s) that are identified during pre-clearance surveys and construction works would generally be conducted as described in the following sub-sections and as shown on Figure 2. The Communication Protocol in the case that a previously unidentified relic is found during pre-clearance or construction works is shown below.

Communication Protocol

6.1 DURING PRE-CLEARANCE SURVEYS

Karuah LALC representatives are commissioned by DCPL, or it’s nominated Contractors, to inspect construction areas prior to disturbance. Should any previously unidentified relic(s) be encountered during pre-clearance surveys, the Site Supervisor, Karuah LALC Co-ordinator, Principal and/or Superintendent would be notified immediately of the find in accordance with the Communication Protocol. In consultation with the Karuah LALC Co-ordinator, the Principal and/or Superintendent would then commission a brief assessment by a suitably qualified archaeologist to confirm the nature of the find.

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1 Mr David Feeney is the Karuah LALC Co-ordinator and is contactable at:

Karuah Local Aboriginal Land Council
PO Box 30
KARUAH NSW 2324

Telephone: (02) 4997 5733
Facsimile: (02) 4997 5750
If human remains are located, all works will halt in the immediate area to prevent any further impacts to the find or finds. The local police, Aboriginal community and the Department of Environment and Climate Change (DECC) will be notified. If the remains are found to be of Aboriginal origin and the police consider the site not an investigation site for criminal activities, DECC should be contacted and notified of the situation. In the event that a criminal investigation ensures, works are not to resume in the designated area until approval has been obtained in writing from the police and DECC.

If Aboriginal cultural objects are uncovered the site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) database (managed by DECC) and the management outcome for the site included in the information provided to the AHIMS.

This assessment would include a significance assessment in accordance with the relevant NPWS policy. The archaeologist would also be required to complete a NPWS Standard Site Recording Form (Appendix B).

A Section 90 consent and/or Section 87 permit application would be made to, and it is anticipated, subsequently issued by the NPWS. Management measures would then be implemented in accordance with the Section 90 consent and/or Section 87 permit requirements prior to undertaking construction works.

**6.2 DURING CONSTRUCTION WORKS**

Karuah LALC representatives will be commissioned by DCPL, or it’s nominated Contractors, to perform the role of Site Topsoil Monitors during the construction works. Should previously unidentified relics be encountered during the construction works, the Site Supervisor, Karuah LALC Co-ordinator, Principal and/or Superintendent would be notified immediately of the find in accordance with the Communication Protocol. In consultation with the Karuah LALC Co-ordinator, the Principal and/or Superintendent would then commission a brief assessment by a suitably qualified archaeologist to confirm the nature of the find. This assessment would include a significance assessment in accordance with the relevant NPWS policy. The archaeologist would also be required to complete a NPWS Standard Site Recording Form (Appendix B).

If this assessment indicates that the newly identified relic types are covered by an existing Section 90 consent and/or Section 87 permit and they have limited research potential, are well represented in the area (within and outside the study area) and have low educational and aesthetic values, then the works would proceed with salvage of the relic(s) in accordance with the conditions of the Section 90 consent, if required.

Should the significance assessment indicate that the relic type is not covered by an existing Section 90 consent and/or Section 87 permit then further, more detailed assessment and consultation may be required. In this case, works which would otherwise impact upon the relic would cease until a separate Section 90 consent and/or Section 87 permit is issued and relevant management proposals implemented. Works not affecting any sites/relics identified would continue whilst appropriate management strategies are formulated.

If human remains are located, all works will halt in the immediate area to prevent any further impacts to the find or finds. The local police, Aboriginal community and the Department of Environment and Climate Change (DECC) will be notified. If the remains are found to be of Aboriginal origin and the
police consider the site not an investigation site for criminal activities, DECC should be contacted and notified of the situation. In the event that a criminal investigation ensures, works are not to resume in the designated area until approval has been obtained in writing from the police and DECC.

If Aboriginal cultural objects are uncovered the site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) database (managed by DECC) and the management outcome for the site included in the information provided to the AHIMS.
7 MONITORING OF ARCHAEOLOGICAL SITES/RELICS

Monitoring of construction activities is undertaken by Site Topsoil Monitors from the Karuah LALC.

The effectiveness of proposed mitigation measures outlined in Sections 5 and, if necessary, Section 90 consents and Section 87 permits, would be monitored through the weekly reporting by the Site Topsoil Monitors (refer to Section 7.1) and summarised in the Annual Environmental Management Report (AEMR).

7.1 SITE MONITOR ROLES AND RESPONSIBILITIES

Site Topsoil Monitors perform a key role in the early detection of potential archaeological sites/relics during pre-clearance surveys and construction works. A Site Topsoil Monitor will be a representative of the Karuah LALC. The Site Topsoil Monitor will be required to provide the Site Supervisor with written confirmation of the specific area surveyed on a daily basis. This written confirmation will be attached to the Site Topsoil Monitor’s daily timesheet and be approved by the Site Supervisor at the end of each shift.

Should the Site Topsoil Monitor recognise any previously unidentified sites/relics during pre-clearance surveys or construction activities they will notify the Site Supervisor and the Co-ordinator of the Karuah LALC immediately of the potential relic/site find in accordance with the Communication Protocol (Section 6).

During construction works the Site Topsoil Monitor will assist the Site Supervisor in establishing exclusion zones around any identified potential relics.

8 CULTURAL HERITAGE DISSEMINATION

Mining employees and contractors, who as a consequence of their roles at site, have the potential to disturb ground, will be provided with guidance on Aboriginal cultural heritage matters as part of the induction program. Aboriginal cultural heritage material so provided is to be developed in collaboration with the Aboriginal community.

The Annual Environmental Management Report (AEMR), issued by DCPL, will report relevant Aboriginal heritage works conducted during the reporting period. Works reported would include those required as consent conditions as well as consultation undertaken. Proposed works for the next year will also be reported.

The NPWS maintains a register of known sites including occupation sites (open camp sites and Aboriginal reserves), rock engravings, carved/scarred trees, ceremonial grounds, stone arrangements to mark special sites, quarry sites, stone tools and workshops, axe-grinding grooves, burials and natural sacred sites (NPWS, 1997a).

Results of future surveys would be made available to the National Parks and Wildlife Service for inclusion on the Aboriginal Sites Register of NSW for public dissemination.
9 REFERENCES


FIGURES
No relics identified during pre-clearance survey.

DURING PRE-CLEARANCE SURVEYS

Previously unidentifed relics observed by Koumhi LAC Site Monitor and/or Site Personnel. Site Supervisor, Koumhi LAC Co-ordinator, Principal and/or Superintendent notified in accordance with Communication Protocol.

In consultation with Koumhi LAC Co-ordinator, the Principal/Superintendent commissions an assessment by a suitably qualified archaeologist.

Assessment of relic type undertaken by appropriately qualified archaeologist (in consultation with NPWS).

Lodge Section 90 consent and/or Section 87 permit application for the project area with NPWS.

Section 90 consent and/or Section 87 permit issued by NPWS.

Implement management measures in accordance with Section 90 consent and/or Section 87 permit requirements. Representatives from Koumhi LAC to assist.

Construction works undertaken. Koumhi LAC Site Monitor present during vegetation clearance and topsoil stripping campaigns. Koumhi LAC Site Monitor to provide Site Supervisor with written confirmation of the specific areas surveyed.

Previously unidentified relic observed by Koumhi LAC Site Monitor and/or Site Personnel. Site Supervisor, Koumhi LAC Co-ordinator, Principal and/or Superintendent notified in accordance with Communication Protocol.

Excavation area is established by the Site Supervisor in consultation with Koumhi LAC Site Monitor.

In consultation with Koumhi LAC Co-ordinator, the Principal/Superintendent commissions an assessment by a suitably qualified archaeologist.

Assessment of relic type undertaken by appropriately qualified archaeologist (in consultation with NPWS).

Assessment indicates that the relic type is not covered by any existing Section 90 consent and/or Section 87 permit and more detailed assessment and consultation is required.

Lodge new Section 90 consent and/or Section 87 permit application with NPWS.

New Section 90 consent and/or Section 87 permit issued by NPWS.

Implement management measures in accordance with new Section 90 consent and/or Section 87 permit requirements. Representatives from Koumhi LAC to assist.

Assessment indicates that the relic type is covered by an existing Section 90 consent and/or Section 87 permit and has limited research potential, is well represented in the area, and has low educational and aesthetic values.

Works continue.

Aboriginal Heritage Management Protocol
FIGURE AHMP-C-2
Kangaroo Island
Management Protocol
APPENDIX A

NPWS REGISTER OF ABORIGINAL SITES
“HONEY SCARRED TREE”
### Aboriginal Heritage Information Management System
**National Park and Wildlife Services, NSW**

**List of Sites (Full)**

**Site ID** 39-1-0027 | **Grid Reference Type** AMG

<table>
<thead>
<tr>
<th>Site Id</th>
<th>Site Name</th>
<th>AMG/GDA</th>
<th>Zone</th>
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<th>Northing</th>
<th>Access Restrictions</th>
<th>Primary Trustee</th>
<th>Primary Report ID</th>
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<td>39-1-0027</td>
<td>Honey Scarred Tree</td>
<td>AMG</td>
<td>58</td>
<td>461200</td>
<td>6425800</td>
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<td>No</td>
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**List of Features**

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<th>Feature Number</th>
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**List of Recorders**

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<th>Primary Recorder</th>
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<td>19/11/1998</td>
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<td>No</td>
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Number of Sites: 1
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<th>SITE POSITION &amp; ENVIRONMENT</th>
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<td>1. Landform: a. beach/hill/slope/ridge/top, etc:</td>
<td>b. Site aspect: c. slope:</td>
</tr>
<tr>
<td>d. Mark on diagram provided or on your own sketch the position of the site:</td>
<td>e. Describe briefly:</td>
</tr>
<tr>
<td>f. Local rock type:</td>
<td>g. Land use/effect:</td>
</tr>
</tbody>
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| 2. Distance from drinking water: | Source: |

| 3. Resource Zone associated with site (estuarine, riverine, forest etc): |

| 4. Vegetation: |

| 5. Edible plants noted: |

| 6. Faunal resources (include shellfish): |

| 7. Other exploitable resources (river pebbles, ochre, etc): |

| Site type:DESCRIPTION OF SITE & CONTENTS. |
| Note state of preservation of site & contents. Do NOT dig, disturb, damage site or contents. |

| CHECKLIST TO HELP: |
| length, width, depth, height of site, shelter, deposit, structure, element, etc. tree, scar, grooves in rock. |
| DEPOSIT: colour, texture, stratigraphy, contents: shell, bone, stone, charcoal, density & distribution of these, stone types, artefact types. |
| ART area of surface decorated, motifs, colours, wet, dry pigment, technique of engraving, no. of figures, sizes, patination. |
| BURIALS: number & condition of bone, position, age, sex, associated artefacts. |
| TREES: number, alive, dead, likely age, scar, shape, position, size, patterns, axe marks, regrowth. |
| QUARRIES: rock type, debris, recognisable artefacts, percentage quarried. |
| OTHER SITES: eg. structures (fish traps, stone arrangements, bobbins, rock, marks, engraved grooves, channels, contact sites, missions, massacres, cemeteries). |

Attach sketches etc., eg. plan & section of shelter, show relation between site contents, indicate north, show scale. Attach annotated photos (stereo where useful) showing scale, particularly for art sites.