280 GARFIELD ROAD EAST & 259 RIVERSTONE ROAD
RIVERSTONE, NSW

Aboriginal Heritage Due Diligence Assessment

Prepared for Ampersand Development Consulting Pty Ltd

Blacktown City Local Government Area

July 2017

Ref. 1651

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1 Introduction

Sunglow Australia (‘Sunglow’, trading as Sunglow Property Development One) is investigating the feasibility of a program of subdivision and residential development for lands at Riverstone in north west Sydney, NSW. The proposed development site is located at 280 Garfield Road East and 259 Riverstone Road, comprising Lots 1, 2 and 3 of DP 523552 in the Blacktown Local Government Area (LGA). The proposed development area (hereafter referred to as the ‘study area’) is shown in Figure 1. A preliminary concept design for the subdivision is shown in Figure 2.

The study area falls within the Riverstone East Precinct of Sydney’s North West Priority Growth Area (formerly North West Growth Centre). An Indicative Layout Plan (ILP) has been developed for Stages 1 and 2 of the precinct and covers a portion of the current study area west of the transmission easement.

Kelleher Nightingale Consulting Pty Ltd (KNC) were engaged by Ampersand Development Consulting Pty Ltd (‘Ampersand’) on behalf of Sunglow to undertake an Aboriginal heritage due diligence assessment of the study area. The assessment aimed to identify if Aboriginal objects were likely to be located in the study area and if so whether the proposed works were likely to harm those objects. The Aboriginal heritage due diligence forms part of a larger feasibility and due diligence process which will inform decision-making regarding the acquisition and potential development of the site.

This report presents the findings of a due diligence Aboriginal heritage assessment of the study area. This assessment has been conducted in accordance with the Office of Environment and Heritage (OEH) Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (OEH 2010a).

1.1 Assessment process

The due diligence assessment process is a step by step method designed to give proponents a baseline level of information outlining opportunities and constraints related to Aboriginal heritage. The relevant steps are:

- Determining if the activity will disturb the ground surface or any culturally modified trees (Step 1)
- Database search: Aboriginal heritage information management system (AHIMS) and known information sources (Step 2a)
- Landscape assessment (Step 2b)
- Impact avoidance assessment (Step 3)
- Desktop assessment and visual inspection (Step 4).

The Code of Practice specifies that if the initial assessment process identifies that Aboriginal objects will be or are likely to be harmed, then further investigation and impact assessment is required (Step 5).

The OEH process involves “taking reasonable and practical measures to determine whether your actions will harm an Aboriginal object and, if so, what measures can be taken to avoid that harm” (OEH 2010a:4).

1.2 Due Diligence Assessment Summary

Assessment under the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales identified that Aboriginal objects are likely to be harmed by residential subdivision and development of the study area. The due diligence assessment and associated inspection of the study area confirmed the presence of Aboriginal archaeological sites (comprising Aboriginal objects) and a number of archaeologically sensitive landforms/potential archaeological deposits (PADs).

Future subdivision and development of the land should avoid impact to identified Aboriginal archaeological sites and PADs where possible. If avoidance is not possible, the identified sites and PADs do not pose a constraint to future rezoning, subdivision or development but they will require a process of further assessment, consultation and mitigation to comply with relevant legislation and associated requirements prior to any impact.

An Aboriginal Heritage Impact Permit (AHIP) issued under section 90 (1) of the NPW Act will be required for any future development that would impact on the identified sites and PADs. Further detailed Aboriginal heritage assessment is required to assess the significance of identified heritage items and the existence of additional heritage items within the study area.
Figure 1. Location of study area
Figure 2. Preliminary indicative concept design for the study area (shown in red)
2 Assessment Process

2.1 Identify if the proposed activity will disturb the ground surface

The proposal involves the subdivision and subsequent residential development of the study area. Residential development activities would likely include:

- Earthworks (including cut/fill works)
- Subdivision into new residential lots
- Construction of houses and other structures
- Installation of associated utilities
- Stabilisation and drainage works along the creekline in the eastern part of the area
- New local roads, paths and access ways

Although the scale and extent of these activities will differ based on the eventual future layout plan developed for the site, these activities will impact the ground surface and have the potential to impact on any Aboriginal objects or Aboriginal heritage items that may be present. Some level of ground disturbance is unavoidable for the proposal as a whole. As a result, the due diligence process progressed to the next step.

2.2 Database searches and known information sources

2.2.1 AHIMS web service and other heritage databases

The Aboriginal Heritage Information Management System (AHIMS) is a database operated by OEH and regulated under section 90Q of the National Parks and Wildlife Act 1974. AHIMS contains information and records pertaining to registered Aboriginal archaeological sites (Aboriginal objects, as defined under the Act) and declared Aboriginal places (as defined under the Act) in NSW.

A search of AHIMS was conducted on 30 June 2017 to identify registered (known) Aboriginal sites or declared Aboriginal places within or adjacent to the study area (AHIMS Client Service ID: 289210). The search results are attached as Appendix A.

The AHIMS Web Service database search was conducted within the following coordinates (GDA, Zone 56):

| Eastings:     | 302450 to 305412 |
| Northings:    | 6271220 to 6273700 |
| Buffer:       | 0 metres (search area included an extensive buffer) |

The AHIMS search results showed:

- 40 Aboriginal sites are recorded in or near the above location
- 0 Aboriginal places have been declared in or near the above location

The distribution of recorded Aboriginal sites within these coordinates is shown on Figure 3. One previously recorded site (45-5-4066) is located within the study area. The frequencies of site types within the AHIMS database search area are listed in Table 1.

<table>
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<th>Site Context</th>
<th>Site Feature</th>
<th>Number</th>
<th>Frequency (%)</th>
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<tr>
<td>Open</td>
<td>Artefact</td>
<td>28</td>
<td>70</td>
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<tr>
<td></td>
<td>Artefact; Potential Archaeological Deposit (PAD)</td>
<td>4</td>
<td>10</td>
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<td></td>
<td>Potential Archaeological Deposit (PAD)</td>
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<tr>
<td><strong>Total</strong></td>
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A search was undertaken of the following statutory and non-statutory heritage registers for Aboriginal heritage items:

- State Heritage Register and State Heritage Inventory
- Blacktown Local Environmental Plan 2015
- Roads & Maritime and Sydney Water Section 170 Heritage and Conservation Registers
- National Heritage List
- Commonwealth Heritage List
- Australian Heritage Database (Register of the National Estate – Non-statutory archive) and
- Australian Heritage Places Inventory (Register of the National Estate – Non-statutory archive).

No Aboriginal archaeological sites or Aboriginal heritage items were recorded on these databases within the study area.
Figure 3. AHIMS search results
2.2.2 Previously registered Aboriginal sites in the study area

One previously registered Aboriginal archaeological site is located within the study area. This site, named ‘1004-46 Artefact Scatter PAD’ is registered on the AHIMS database as site 45-5-4066 and is located in the northern part of the study area, approximately 60 metres south of Garfield Road East. Listed site features include artefacts and associated Potential Archaeological Deposit (PAD). The listed AHIMS coordinate places the site within a dam. The site was recorded during Aboriginal heritage investigations for water-related services for the (then) North West Growth Centre (Archaeological and Heritage Management Solutions (AHMS) 2011; see section 2.2.3 below). The accompanying report notes that the site was located within the southern margin of a proposed pipeline corridor along Garfield Road East. The site area encompassed three sides of the large dam with numerous artefacts identified in exposures along the eastern and western sides of the dam. A hammerstone was also recorded between the northern dam edge and Garfield Road East.

2.2.3 Previous archaeological investigations

Several previous assessments have been undertaken both in and in the vicinity of the study area, primarily as part of the planning process and associated infrastructure projects related to the North West Priority Growth Area (formerly North West Growth Centre). A summary of the relevant studies is presented in this section.

Alex Avenue and Riverstone Precincts

Initial Aboriginal heritage investigation of the Alex Avenue and Riverstone Precincts of the North West Growth Centre was undertaken by ENSR Australia Pty Ltd (ENSR) in 2008 as part of the precinct planning process. The assessment included consultation with Aboriginal stakeholder groups, archaeological field survey, significance assessment for identified sites and management recommendations for the future development of the precincts. The investigations identified 23 previously unrecorded Aboriginal archaeological sites in addition to 14 previously recorded sites, making a total of 37 recorded Aboriginal sites within the two Precincts. The site types included isolated finds, low-level (background) artefact scatters, higher density artefact scatters, archaeological deposits, natural silcrete outcroppings, scarred trees and PADs (ENSR 2008). Of the 37 sites, 27 were assessed to be of low archaeological significance, four of moderate significance and six of high significance. Other cultural heritage features identified as significant by the Aboriginal community included areas of the outcropping St Marys Formation (source of lithic raw materials), the presence and high value of significant archaeological deposits along First Ponds Creek, and the strong connectivity that the elements of the two precincts had, both with other significant silcrete sources and with other large scale multi-occupational Aboriginal sites in the Cumberland Plain.

The closest site to the study area recorded during this investigation was RV30 (AHIMS 45-5-4475), a potential archaeological deposit recorded along First Ponds Creek approximately 260 metres east of the current study area. The site was a PAD on an extensive flat along the creekline. The site was identified based on landform, proximity to the creek and the distribution of other known sites in the immediate area. Modern disturbance levels also appeared to be low, as indicated by the presence of old-growth vegetation within the area. An exposed section of the creek showed silty clay loam A horizon soils of 40 – 50 centimetres depth overlying a mottled clay B horizon. The PAD was assessed as displaying moderate archaeological significance and high cultural significance. This site is outside of the current study area and would not be affected by the proposed works.

This assessment also summarised previous work undertaken by ENSR for water and wastewater infrastructure within the two precincts, particularly along Killarney Chain of Ponds and First Ponds Creek. A key finding of this study was the generally high levels of disturbance along First Ponds Creek due to extensive market gardening and pastoral/agricultural activity along the watercourse. Two areas recorded along First Ponds Creek (including RV30 and the A7 complex) were considered to be the only areas within the study area which retained their natural form and the consequent potential for intact archaeological deposits. A number of other sites (mostly isolated finds or low density artefact scatters) were recorded within 100-200 metres of the creeks and were considered likely representative of Aboriginal landscape use along the watercourse.

Water Related Services for the North West Growth Centre

In 2011 AHMS undertook Aboriginal cultural heritage assessment for 24 kilometres of water and wastewater pipelines, a reservoir and a pumping station located across the (then) North West Growth Centre. The assessment included background research, Aboriginal community consultation, development of a predictive model and an archaeological field survey. The field assessment investigated relatively wide corridors (20–50 metres depending on location) to allow for the accommodation of any Aboriginal heritage objects, sites or places during the design process. A total of 36 sites were identified within the field assessment area. The sites included two artefact scatters, six artefact scatters with associated PAD, 21 PADs, one scarred tree and six isolated finds. The sites were primarily found in close proximity to the major creeklines in the area, including Eastern Creek, Killarney Chain of Ponds and First Ponds Creek.
A total of 22 sites (15 newly recorded and seven previously recorded) were identified as being potentially impacted by the water related services. These site types included isolated finds, artefact scatters, PADs (both with and without surface artefacts) and a scarred tree. Significance assessment was undertaken and determined that three sites displayed low significance, twelve displayed moderate significance, one displayed moderate-high significance and five displayed high significance. One further site was assessed as displaying very high significance (site 1026-46), comprising an extensive and high density artefacts scatter and associated archaeological deposit on the banks of Eastern Creek.

One site recorded during this program is located within the current study area. 1004-46 Artefact Scatter PAD (AHIMS 45-5-4066) is located within the northern part of the property at 280 Garfield Road East. The mapped AHIMS-registered coordinate places the site within a large dam constructed along a tributary of First Ponds Creek. Site features included surface artefacts and an associated area of PAD. Artefacts were recorded in exposures across a level area on three sides of the dam and included a hammerstone near Garfield Road East. The registered coordinate represents the centroid of the estimated site extent. Impact assessment for the site determined that the site was located along the southern margin of the pipeline corridor (along Garfield Rd East) and would potentially be impacted. Significance assessment considered the site to display moderate significance. For all sites of moderate significance, recommendations included avoidance where possible and mitigation measures where avoidance was not possible, including artefact collection and test and/or salvage excavations.

**Riverton East Growth Centre Precinct and Integral Energy Transmission Easement**

Aboriginal heritage assessment for the Riverton East Precinct was undertaken in 2015 by AHMS. The investigation area for this assessment included the entirety of the current study area. The resulting Cultural Heritage Assessment included review of background information, predictive modelling, archaeological and cultural field survey and a program of consultation with Aboriginal stakeholders to inform future development options and the draft Riverton East Indicative Layout Plan (ILP).

Background research undertaken for this assessment summarised previous studies undertaken in the vicinity of Riverton East. One of these previous assessments was an Aboriginal archaeological survey and subsequent excavation undertaken by AHMS in 2007 along the Integral Energy transmission easement which crosses the current study area (AHMS 2007). This assessment was also reviewed during a later study undertaken for the Vineyard Precinct (AHMS 2016). Overall, the density of artefacts across the landscape along the transmission easement was extremely low and was interpreted as ‘background scatter’ (i.e. no focused activity locations). This interpretation was considered to be consistent with regional trends regarding artefact distribution, where artefact densities lessened with distance from higher order watercourses. Test excavations were subsequently undertaken at several identified site locations along the easement.

Two sites were identified along the easement within the current study area: RV2 and RV Pole 30. These sites have not been registered on the AHIMS database. RV2 was originally recorded as an isolated find located within 100m of a lower order waterway, approximately 200 metres along the easement form the southern study area boundary. A further 24 artefacts were recovered from excavation of three 1 metre x 1 metre squares at the site. Testing in this area indicated some disturbance in the form of imported fill. Artefacts were recovered from remnant toposols underlying the fill, with sterile B horizon clay subsoils located at depths of 20-25 centimetres (AHMS 2016:54). This site was subsequently destroyed under a Part 3A consent. RV Pole 30 was recorded on a cleared upper slope landform approximately 500 metres from First Ponds Creek, approximately 500 metres along the easement from the southern study area boundary. The site was originally recorded as a PAD and was subsequently subject to test excavation. Five tuff artefacts were recovered from testing. This site was subsequently destroyed under a Part 3A consent.

According to AHMS 2015 and 2016, both of these sites have been destroyed under a Part 3A consent issued for the transmission line works and are no longer extant. Overall, results of the AHMS 2007 excavation program suggested that lower slopes closer to more permanent water sources (e.g. First Ponds Creek) were targeted as occupation areas by past Aboriginal people. Field survey conducted for the Riverton East precinct assessment revisited both site locations and confirmed that they were destroyed, with both areas noted to be overgrown with no surface artefacts identified (AHMS 2015). The 2015 Riverton East precinct field survey did not identify any additional Aboriginal archaeological sites within the current study area.

A predictive model of ‘archaeological probability’ was also developed, based on landform, environmental context and disturbance. Application of this model to the current study area indicated that the eastern portion displayed moderate-high archaeological probability due to the presence of a tributary to First Ponds Creek, low levels of disturbance and relatively elevated landforms. The previously recorded site 1004-46 Artefact Scatter PAD (located around the dam in the northern part of the study area) was considered to display high archaeological probability, while the remainder of the current study area displayed a mixture of low probability and disturbed areas. It was noted that ground-truthing of the model was not possible due to access restrictions for some properties in the precinct. Recommendations included test excavation for areas of moderate potential and above.
In total, 26 Aboriginal archaeological sites were identified in the Riverstone East precinct by the assessment. These included previously recorded sites (both registered and unregistered), sites that had since been destroyed by development, and sites that were newly recorded as a result of the survey (AHMS 2015:98). Significance assessment considered all sites (extant and non-extant). 1004-46 Artefact Scatter PAD was considered to display moderate significance. RV2 and RV Pole 30 were considered to display low significance. Impact assessment was completed based on the ILP for Stages 1 and 2 of the precinct, which covers a portion of the current study area west of the transmission easement and did not include impact assessment for the three sites identified in the study area. Recommendations of the report included test excavation for any potentially-impacted areas displaying high, moderate-high or moderate archaeological potential in order to characterise the nature and extent of any subsurface archaeological deposit. Within the current study area this includes 1004-46 Artefact Scatter PAD and the majority of the study area east of the transmission line. No further work was recommended for sites RV2 or RV Pole 30 as these no longer exist.

Summary and Implications for Study Area

A review of the database searches and associated background information has revealed that there is one registered AHIMS site and two unregistered (now destroyed) sites located within the current study area boundary. Site 1004-46 Artefact Scatter PAD was a large artefact scatter and associated PAD area recorded around a dam in the northern part of the property. Numerous artefacts including a hammerstone were recorded in exposures around the dam. Sites RV2 and RV Pole 30 were recorded along the Integral Energy transmission line which bisects the property. Test excavation at the sites revealed a low-moderate density of subsurface artefacts. Both sites have since been destroyed under a Part 3A approval and are no longer extant.

Previously identified Aboriginal archaeological sites within the wider vicinity of the study area generally consist of artefact scatters (of low to high density), isolated finds and PADS. Artefact scatters and isolated finds have mostly been identified on elevated landforms within close proximity to watercourses, particularly higher order ones such as First Ponds Creek. Test excavations have demonstrated the subsurface archaeological deposit of varying integrity is present in the local area. While Aboriginal objects are known to occur within the study area, the likelihood of intact subsurface deposit will vary based on the level of environmental and anthropomorphic disturbance. Previous assessments have identified the lands along the tributary watercourse which crosses the study area as being of at least moderate archaeological potential.
2.3 Landscape Assessment

The OEH Code of Practice identifies several landscape features that were often used by Aboriginal people in the past and consequently are often associated with Aboriginal objects, provided that the landscape has not been significantly disturbed. An evaluation of landscape features within the study area aids in assessing whether Aboriginal archaeology is likely to exist. The study area is located on the Cumberland Plain, a subregion of the Sydney Basin. The Sydney Basin is a large geological feature that stretches from Batemans Bay to Newcastle and west to Lithgow. The formation of the basin began between 300 to 250 million years ago when river deltas gradually replaced the ocean that had extended as far west as Lithgow (Pickett and Alder 1997). The oldest, Permian layers of the Sydney Basin consist of marine, alluvial and deltaic deposits that include shales and mudstone overlain by coal measures. The underlying geology of the Cumberland Plain is predominantly shale-based. The geologic units underlying the study area are Bringelly and Ashfield shales, with an interface of Minchinbury sandstone (Figure 4). Together these formations constitute the Wianamatta group.

Bringelly shale is the predominant geology underlying the eastern portion of the study area, with a band of Minchinbury sandstone running approximately north-south separating it from the Ashfield shale which occurs in the west. Bringelly shale constitutes dark grey to black claystone, siltstone, laminate, sandstone, coal and tuff, and is interpreted as a coastal alluvial deposit (Clark and Jones 1991). The Minchinbury sandstone interface is comprised mostly of quartz and quartzose rock, and represents the original strandline boundary between the alluvial plain sediments of the Bringelly shale and the shallow-water subaqueous Ashfield shale (Clark and Jones 1991: 24). Ashfield shale consists of dark-grey to black sideritic claystone that grades into fine sandstone. Raw materials suitable for artefact manufacture would have been available from these geologies and from stream gravels/cobbles distributed across the landscape. Numerous localised silcrete deposits and outcrops have been recorded around the local area, along with larger known silcrete sources within the St Marys Formation to the east. More recent Quaternary Alluvium is present within the northern portion of the study area, deposited in association with fluvial activity along First Ponds Creek and extending up the tributary watercourse. Quaternary deposits are a result of fluvial activities during the late Pleistocene and early Holocene periods and comprise medium to fine grained sand, silt and clay.

Soils across the study area derive from the Blacktown soil landscape (Figure 4). Blacktown soils consist of shallow to moderately deep hard setting red, brown and yellow podzolic soils with low soil fertility. The area subject to minor to moderate erosion where surface vegetation is not maintained (Bannerman and Hazelton 1989). As a residual soil landscape, Blacktown soils have the potential to conserve archaeological deposits intact where disturbance levels are low but these are likely to retain horizontal integrity only (i.e. stratification of deposit is rare). Where steeper landforms are present, preservation of archaeological deposits is less likely, especially where combined with landscape disturbance. Blacktown soils across the Cumberland Plain exhibit archaeological sensitivity by facilitating the survivability of artefacts when they remain relatively intact and free of substantial disturbance. To the immediate north of the study area, South Creek soils exist along First Ponds Creek and extend a small distance up the tributary. South Creek soils are often very deep layered sediments, over older relict soils or bedrock (Bannerman and Hazelton 1989). Aboriginal objects and archaeological sites may be present in this soil landscape but their context and stratigraphic integrity will be variably affected by disturbance from flood episodes.

Landforms present within the study area include gently undulating slopes and crests and several drainage lines. The highest landscape feature is a north-west to south-east running low ridgeline which divides the study area in two, the high point being occupied by the house at 259 Riverstone Road. Gentle slopes and flats descend to the north east towards a 1st/2nd order tributary of First Ponds Creek. A series of on-line dams have been constructed along this watercourse and have altered the surrounding hydrology. To the west of the ridgeline, gentle gradient slopes and flats descend to First Ponds Creek approximately 300 metres west of the study area. First Ponds Creek and the eastern tributary have their confluence approximately 475 metres north west of Garfield Road East. A smaller tributary and associated dam is also present in the south western corner of the study area. Prior to the ongoing development of the North West Priority Growth Area and surrounds, land use in the local area was predominantly rural or semi-rural in nature and included grazing, dairying, horse yards and stabling, market gardens and mixed pasture. The study area has been cleared of the majority of original vegetation. Pasture grasses exist in paddocks within the northern and western portions. Introduced tree and shrub species have also been planted in landscaped areas and gardens around the houses. Along the eastern tributary some larger regrowth trees are present. Construction of sheds/outbuildings, driveways, an extensive carpark in the north, dams and the transmission easement has also caused localised disturbance.

The study area is located in proximity to landform features (within 200 metres of waterways) which are often associated with Aboriginal occupation/activity as determined by the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (OEH 2010a). Based on the landscape assessment, the study area has the potential to retain Aboriginal objects and archaeological deposit in contexts where the ground has not been subject to significant disturbance.
Figure 4. Geology and soils of the study area
2.4 Impact Avoidance

Background research identified one previously recorded AHIMS site and two unregistered (now destroyed) sites within the study area. Previous assessments have identified the land along the eastern First Ponds Creek tributary as displaying moderate archaeological probability/potential and the PAD associated with the AHIMS site 1004-46 Artefact Scatter PAD as displaying high potential. Landscape assessment identified the presence of landforms considered archaeologically sensitive under the Due Diligence Code of Practice (study area is within 200 metres of waterways and intersects a ridge crest).

Although the scale and extent of any future development activities will differ based on the eventual layout plan developed for the site, these activities would impact the ground surface to some degree and therefore have the potential to harm any Aboriginal objects which may be present. Some level of ground disturbance is unavoidable for the proposal as a whole. Detailed avoidance or management/mitigation strategies (where necessary) may be developed at a later date. As a result, the due diligence process progressed to the next step.

2.5 Desktop Assessment

The desktop review and assessment combined the results of heritage register searches, previous investigations and landscape assessment. The desktop assessment identified the potential for Aboriginal sites in the form of stone artefact scatters (open camp sites), isolated artefacts and PADs to occur within the region, especially on elevated landforms in proximity to watercourses. One previously recorded site of this type exists in the northern part of the study area around a large dam and two further sites (since destroyed) were previously identified along the transmission easement.

The residual Blacktown soil landscape found within the study area is generally conducive to the preservation of archaeological deposit where disturbance levels are low. In general, disturbance levels across the study area appear moderate to low, with some localised areas of high disturbance mostly associated with contemporary land use practices. Slope gradients across the study area are gentle to moderate and well-established native regrowth is present in the eastern part of the area, suggestive of soil stability.

A favourable landscape assessment, presence of OEH-identified sensitive landscape features (waterways and ridgeline) and the presence of known Aboriginal archaeological sites therefore necessitated a visual inspection of the study area. Visual inspection aimed to identify Aboriginal objects, sites and areas of potential and to confirm the location of the remaining extant previously recorded site.
2.6 Visual Inspection

The study area was inspected and assessed on 04 July 2017 by senior archaeologist, Mark Rawson (KNC). The visual inspection aimed to identify Aboriginal objects or sites and assess the potential of the archaeologically sensitive landforms identified within the study area to contain Aboriginal objects.

Inspection commenced in the northern part of the study within the property at 280 Garfield Road East. The location of previously recorded site 1004-46 Artefact Scatter PAD was revisited and inspected. The site and associated PAD area was recorded around the existing dam. Visual inspection confirmed the presence of numerous (>50) artefacts in exposures around the dam (Plates 1 and 2). Artefacts were of red and yellow silcrete and included flakes, flake fragments and an asymmetrical-alternating core. Artefacts were identified on both the eastern and western sides of the dam. Visibility on exposures was high, between 70-80%, with a background of small ironstone gravels. Marshy waterlogged areas were evident along the drainage line with sedges and standing water present.

Plate 1. View to north showing exposure where artefacts were recorded on eastern side of dam

Plate 2. Sample of silcrete artefacts recorded at 1004-46 Artefact Scatter PAD

The adjoining slopes to the east and west of the dam (part of the previously assessed PAD area associated with the site) were inspected and reassessed. Visibility was low to zero due to tall grasses but occasional small exposures were present in tractor tracks in the western paddock and revealed soils comprising dark grey brown clay loam. Gradients to the west were gentle lower slopes grading to moderate upper slopes adjacent to the crest occupied by the driveway leading into the Maxipak Pty Ltd facility. To the east, slopes were gentler and tended to the north east. A smaller section of the landform also extended into a paddock to the south east, adjacent to a smaller dam behind a long drainage berm/dam wall. Based on landform and the low levels of visible disturbance, the PAD area associated with the site is estimated to extend up the gentle slopes on either side of the drainage line containing the dam (Plate 3).

Plate 3. View east from property driveway down slope to dam, looking across 1004-46 site/PAD area.

Plate 4. View north west from property driveway towards the Blue Mountains across PAD area on mid to lower slopes.

Another PAD area was identified west of the property driveway on the other side of the ridge crest. This area comprised gentle mid to lower slopes leading down towards the First Ponds Creek floodplain approximately 200-250 metres to the west. The area offers good views to Mt Banks and Mt Hay and the integrity of the landform appeared to be low with no uneven ground or obvious disturbance (Plate 4). The remainder of the property at 280 Garfield Road East was found to be highly disturbed by construction of sheds and outbuildings, car parking area, stockpiling, levelling and excavation. Long drainage berms between the dams are highly disturbed and composed of redeposited materials and occasional fill. These areas display no Aboriginal archaeological potential.
The inspection then proceeded to the south eastern corner of the property where a large area of regrowth native vegetation is present to the east of the transmission easement. This area is bisected by the drainage line of a tributary of First Ponds Creek which contains several dams. Landform is mid-to lower slopes descending to the creekline from a crest in the adjacent property to the east. West of the creekline, gentle slopes ascend to the ridge crest occupied by the house at 259 Riverstone Road (‘Villa Rosa’). The area is covered with established native regrowth vegetation and mostly comprises Grey Box and Ironbark eucalypt woodland with native grasses and occasional dense thickets of *Bursaria spinosa*. Wet, marshy ground along the drainage line supports dense sedges and wetland plants.

One previously unrecorded Aboriginal archaeological site was identified in this eastern part of the study area. The site has been provisionally named Riverstone Road AFT 1 and comprises an open context artefact scatter and a large area of associated PAD. Artefacts were identified on exposures around the margins of a large triangular dam in the south eastern corner of the property (Plate 5). Artefacts included a large silicified tuff flake with cortex on the dorsal surface and a longitudinally split flake fragment of red silcrete (Plate 6). The associated PAD area extends across the gentle slopes on either side of the creekline (Plate 7). Smaller ephemeral creeks (one with water flowing) cross the PAD area on the eastern slopes to join the First Ponds Creek tributary. These smaller drainage lines do not appear to have been modified within the study area, with the most northerly demonstrating well developed stream banks.

In general the PAD area appears to be relatively undisturbed (limited to vegetation clearance) with localised higher disturbance areas associated with dam construction and along unformed tracks. The slopes were heavily grassed with few exposures (Plate 8). Small exposures around trees demonstrated apparently stable soil profiles with no evidence of erosion or exposed B horizons. The environmental context of this area (stable, gentle gradient slopes and flats elevated above a watercourse) and low levels of disturbance are indicative of Aboriginal archaeological potential. The lower marshy ground along the watercourse and areas of disturbance are not part of the site’s estimated PAD area. Microtopographic relief elements on the slopes include small rises/crests and flat, terrace-like landforms along the small northerly drainage line. Subsurface Aboriginal archaeological deposit present within the PAD would likely be representative of Aboriginal landscape use along such lesser order tributaries of First Ponds Creek. In general, this area has moderate to high archaeological potential.

To the west of this PAD and just below the ridge crest, the transmission easement crosses the study area. The easement has been previously investigated for its Aboriginal heritage values (see section 2.2.3) including a program of test excavation. A Part 3A approval was subsequently issued for the project. Visual inspection confirmed the presence of disturbed areas along the easement corridor and did not identify any Aboriginal objects or areas of potential.
The ridge crest was the next area subject to visual inspection. Large parts of this landform were found to be modified or disturbed by historic and contemporary land use including vegetation clearance and destumping, stockpiling of soil and sand, construction and demolition of houses, sheds and outbuildings, stockyards and levelling of some areas. The southern portion of the ridge crest is considered to display low to no Aboriginal archaeological potential. The northern part of the crest contained a treed area immediately south east of the Maxipak buildings and this area retained some potential for intact subsurface deposit (Plate 9). Localised areas of disturbance including dumped scrap metal and fallen trees were present but overall the integrity of this part of the landform was good. Visibility was low, with thick grasses present. Infrequent small exposures were present at the base of some larger trees and these were inspected for Aboriginal objects. None were identified but observation of the soils suggested a stable profile with an intact A horizon (i.e. not lost to erosion or soil movement downslope).

To the west of the PAD area identified on the crest, a moderate gradient upper slope drops down to a small dam on the mid slope. Exposures around the dam were inspected for objects but none were identified. Disturbance levels in this area were moderate to high, with the dam wall and surrounding area comprising redeposited materials (i.e. not a natural ground surface). A marshy drainage line with sedges ran to the north west. To the south, a mostly cleared paddock extended south to the property boundary along Riverstone Road. A series of defined gentle spurs descend from the ridge crest and run through this paddock to the west, separated by open depressions (ephemeral drainage lines) draining the ridge crest (Plate 10). The northern most of these (located to the south of the small dam) also includes a low spur saddle at the eastern extent which leads up to a crest in the neighbouring property (Plate 11). These landforms all overlook First Ponds Creek. Disturbance across the paddock was generally absent, localised to cattle treadage, fencelines and excavated areas around the small dams. These gentle spurs display archaeological potential due to their landscape context and low levels of disturbance.

One further archaeologically sensitive area was identified on the property, comprising an elevated rise in the south western corner of the study area. This rise is separated from the landforms associated with the ridge crest by a well-defined (now dammed) minor creekline vegetated with sedges (Plate 12). Exposures around the dam were inspected for Aboriginal objects but the area was disturbed by cattle treadage and none were identified. Soils across the rise appeared stable and the area is well-drained with isolated regrowth trees. There is moderate potential for intact subsurface archaeology on this landform.

In sum, two Aboriginal archaeological sites (comprising Aboriginal objects) and several archaeologically sensitive landforms comprising PADs were identified within the study area.
Figure 5. Results of the due diligence assessment
3 Statutory Requirements

The National Parks and Wildlife Act 1974 (NPW Act) is the primary statutory control dealing with Aboriginal heritage in New South Wales. Items of Aboriginal heritage (Aboriginal objects) or Aboriginal places (declared under section 84) are protected and regulated under the NPW Act.

Under the Act, an “Aboriginal object” is defined as “any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains”. As such, Aboriginal objects are confined to physical evidence and are commonly referred to as Aboriginal sites.

Aboriginal objects are protected under section 86 of the Act. It is an offence to harm or desecrate an Aboriginal object, either knowingly [section 86 (1)] or unknowingly [section 86 (2)]. An Aboriginal heritage impact permit (AHIP) issued under section 90 (1) of the Act is required for any activity which will harm an Aboriginal object or declared Aboriginal place.

Section 87 (2) of the Act provides a defence against prosecution under section 86 (2) if “the defendant exercised due diligence to determine whether the act or omission constituting the alleged offence would harm an Aboriginal object and reasonably determined that no Aboriginal object would be harmed”. Defence appears to specifically relate to Aboriginal objects.

Under section 87 (1) it is also a defence if “(a) the harm or desecration concerned was authorised by an Aboriginal heritage impact permit, and (b) the conditions to which that Aboriginal heritage impact permit was subject were not contravened”.

Section 89A of the Act relates to the notification of sites of Aboriginal objects, under which it is an offence if the location of an Aboriginal object is not notified to the Director-General in the prescribed manner within a reasonable time.

Under section 90 (1) of the Act “the Director-General may issue an Aboriginal heritage impact permit”. The regulation of Aboriginal heritage impact permits is provided in Part 6 Division 2 of the Act, including regulations relating to consultation (section 90N).
4 Discussion and Conclusion

The proposed residential subdivision and development of lands within the study area at 280 Garfield Road East and 259 Riverstone Road, Riverstone NSW, was assessed under the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales. In total, two Aboriginal archaeological sites (comprising Aboriginal objects) and several areas of Potential Archaeological Deposit (PAD) were identified on archaeologically sensitive landforms within the study area. The findings are consistent with the known archaeological record for the locality and wider region.

Background research identified the presence of one previously registered AHIMS site, 1004-46 Artefact Scatter PAD (AHIMS 45-5-4066). The site comprises an artefact scatter and associated area of PAD recorded around a dam in the northern part of the study area. The site location was revisited during the visual inspection and numerous artefacts were observed on exposures surrounding the dam. Subsurface potential for intact archaeological deposit associated with the site is considered to be moderate to high. Background research also identified two further unregistered sites (RV Pole 30 and RV2) located along the transmission easement. Both of these sites have been destroyed under a Part 3A approval and are no longer extant.

Visual inspection identified one previously unrecorded site within the study area. The site (named Riverstone Road AFT 1) comprised an open context surface artefact scatter of silcrete and silicified tuff artefacts. The site was recorded in exposures around a dam on a lower slope in the eastern portion of the study area, overlooking the First Ponds Creek tributary. Potential for subsurface archaeological deposit on landforms associated with the site is considered to be moderate to high.

Several areas of PAD were also recorded within the property as a result of the visual inspection. Archaeologically sensitive areas were identified in several landform contexts including lower and mid-slopes, the ridge crest, spur crests and on a small rise immediately above a minor creek. All PAD areas occur in environmental contexts considered archaeologically sensitive by OEH under the Code of Practice and displayed low levels of disturbance and apparently stable, intact soil structure. Previous assessments have consistently identified similar landforms as archaeologically sensitive for the region (flat, elevated landforms in proximity to creeklines). Potential for subsurface archaeological deposit in these areas is considered to be moderate to high.

4.1 Recommendations

The identified sites and PADs do not pose a constraint to future rezoning, subdivision or development provided that an AHIP is acquired prior to any development impact. The sites/PADs will require a process of further assessment, consultation and mitigation to comply with relevant legislation and associated requirements prior to any impact. None of the identified Aboriginal archaeological sites/PADs should prevent the development of the lands once the management/mitigation process is complete. Best practice is to avoid impact to sites where possible.

Based on the results of this assessment, it is recommended that:

- Future subdivision and development of the land should avoid impact to identified Aboriginal archaeological sites and PADs where possible. None of the identified sites warrant outright conservation, however, conservation of heritage is a positive outcome if it can be achieved within the future development layout.

- Further detailed Aboriginal heritage assessment is required to assess the significance of identified heritage items and the existence of additional heritage items within the study area. If required, an archaeological test excavation program conducted in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (OEH 2010b) may be used to inform future layout plans by more accurately defining the nature and extent of identified sites/PADs and potential development impacts.

- An Aboriginal Heritage Impact Permit (AHIP) issued under section 90 (1) of the NPW Act will be required for any future development that would impact on the identified sites and PADs. The AHIP should cover the entire study area to allow impacts to both identified and potential archaeological deposits on site.

- The next step in obtaining an AHIP would be preparation of a Cultural Heritage Assessment Report (CHAR) and associated Aboriginal stakeholder consultation. An AHIP application can be lodged following completion of the CHAR and associated development application.

Assessment under the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales identified that Aboriginal objects are likely to be harmed by residential subdivision and development of the study area.

Based on this finding, further detailed Aboriginal heritage assessment is required to assess the significance of identified heritage items and the existence of additional heritage items within the study area.
References


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This information is not guaranteed to be free from error, damage, Office of Environment and Heritage (DEH) and the employees thereof hereby disclaim any action or inaction made on the information, or any structural and non-structural information.

Kelleher Nightingale Consulting Pty Ltd
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Report generated by AHIMS Web Services on 29/06/2017 for O'Connor Mitchell for the following areas: Datum: GDA, Zone: 56, Eastings: 2024104 - 2024113, Northing: 6271129 - 6271130 with a buffer of 100m. Additional Information: Aboriginal Heritage due Diligence Assessment. Number of Aboriginal sites and Aboriginal objects found: 46

Thermal Imaging not performed for areas from near mines, Office of Environment and Heritage (OEH) and its employees cannot have no responsibility for any actions or conditions made on the information, or correspondence with respect to information.
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