Introduction

Aboriginal objects are protected under the National Parks and Wildlife Act 1974 (NPW Act) with significant penalties for the offence of harm – whether or not the offence was committed knowingly. The Act does not refer to “Aboriginal sites”, however it is generally understood that the term refers to the locations where Aboriginal objects are known to occur.

Harm is defined to mean destroying, defacing or damaging an Aboriginal object or Aboriginal place, or moving an object from the land. Part 6 of the Act distinguishes a knowing offence of harm from a strict liability offence of harm. There are a number of defences and exemptions to the offence of harm. A defence against the strict liability offence of harm is a demonstration of due diligence (i.e. such as this letter-report) or where the activity is trivial, negligible or of low impact. A key defence against the knowing offence of harm is the possession of an Aboriginal Heritage Impact Permit (AHIP) issued under section 90 of the Act. An application for an AHIP must include a comprehensive Aboriginal Cultural Heritage Assessment and evidence of Aboriginal consultation undertaken in accordance with clause 80C of the National Parks and Wildlife Regulation 2009.

The Study Area

The study area is zoned B2 Local Centre in the Blacktown Local Environmental Plan 2015. It comprises an empty lot in the Rooty Hill local Shopping Centre. The study area is bounded by...
properties on Rooty Hill Road North to the east, vacant lots to the north and south, and residential premises to the west.

The study area has a 48.12 metre frontage along Premier Lane and extends 29.75 metres perpendicular to the road. Total area is approximately 0.128 hectares.

The landform is flat with minor surface undulations and less than 60 centimetre relative relief between the high point in the northwest corner and the low in the southeast. The surrounding lands share a similarly flat landform.

Although the study area shows evidence of minor land surface modification, including wheel ruts and patches of introduced fill, the overall flatness of the landform does not appear to be the result of large scale earthworks.

No drainage lines are discernible on site or mapped in the topographic coverage. It is likely that water drained overland or along minor drainage depressions towards Angus Creek, the nearest part of which is approximately 600 metres to the south.

**Approach**

This assessment follows the NSW Office of Environment and Heritage (OEH) guideline *Due Diligence Code of Practice for the Assessment of Aboriginal Objects in NSW* (DECCW 2010). Due diligence assessment is a high-level appraisal of whether Aboriginal objects, including “Aboriginal sites”, are known to occur or are considered likely to occur in light of local archaeological character and environmental factors.

The due diligence assessment method includes:

- review of the Aboriginal Heritage Information Management System (AHIMS) site register held by the Heritage Division of OEH;
- review of relevant Aboriginal heritage assessment reports relevant to the area;
- consideration of environmental aspects normally considered as sensitive for Aboriginal site occurrence; and
- a visual inspection for familiarisation purposes.

Data from these tasks are presented and assessed in this due diligence report.

In the event that Aboriginal objects are found to be present or likely to occur and may be impacted by proposed development, a more detailed assessment prepared in consultation with Aboriginal parties is required for an AHIP application under section 90 of the NPW Act.

**The Archaeology of Aboriginal Sites in the Local Area**

The land occurs within the traditional country of the Darug-speaking Aboriginal people which extends across most of the Cumberland Plain and west into the Blue Mountains.
The earliest evidence of Aboriginal occupation dates from the alluvial sediments at Windsor dated to around 15,000 years\(^2\) as well as from Shaws Creek KII excavations near Yarramundi on the western side of the Nepean River\(^3\) where a radiocarbon date of 14,700 before present was obtained from the lower occupation level. Aboriginal occupation has been dated to over 40,000 years at many sites throughout Australia including the famous site of Lake Mungo in western NSW. Evidence for Aboriginal occupation 55,000 years ago in the Northern Territory has been claimed and disputed\(^4\). Aboriginal occupation more than 6,000 years ago in the Sydney Basin may well have been focussed on now-drowned river valleys and the coastal fringe at least 45 km to the east of the present day coastline.

Most Aboriginal sites in the Cumberland Plain comprise flaked stone artefacts occurring within, or eroding from the topsoil layer of duplex soils. Examples of flaked stone artefacts are presented in photographs 1-3 below. Most stone artefacts are producing by the controlled breakage of certain highly siliceous stone types to form sharp edged flakes which can be further chipped into implement forms like scalpel blades. Most Aboriginal stone artefact sites comprise the manufacturing by-products of stone tool manufacture which appear (to the trained eye) as concentrations of stone flakes, implements and cores. The amount of this material can differ, reflecting the type of past Aboriginal activity in a location or the amount of times a place was used in the past. Greatest concentrations of stone artefact material are typically associated with reliable water sources or natural occurrences of artefact quality stone. One type of stone commonly used for stone artefact manufacture is “silcrete”. Cobbles of silcrete from an ancient fluvial soil formation can be found at Riverstone on high ridge areas generally between the railway and Windsor Road.

While there are many other types of Aboriginal sites, the question of whether stone artefact sites occur on the land is the primary focus of this due diligence assessment.

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Examples of Cumberland Plain Aboriginal Stone Artefacts (sourced from outside the study area)

Photograph 1. Aboriginal Stone Artefacts - Silcrete Flakes (Werrington)

Photograph 2. Aboriginal Stone Artefacts: silcrete “backed blade” retouched flakes (Stanhope Gardens Aquatic Centre)

Photograph 3. Indurated mudstone/tuff stone flakes showing typical “bulb of force” artefact features (Penrith Lakes)

Have Aboriginal Sites been Recorded on the Land?

Aboriginal sites are typically recorded by archaeologists undertaking studies for development assessments, or in the course of research. Sites may also be recorded by any other person who may be interested in doing so. The NPW Act requires sites to be reported to OEH in the prescribed manner. All such site records are compiled into the Aboriginal Heritage Management Information System (AHIMS). While Aboriginal sites typically cover an area of land, locational information in the AHIMS database is limited to a single coordinate point. This means that an AHIMS “dot on a map” which appears outside a land parcel boundary could actually indicate a site with length and width dimensions extending into the land parcel. Relevant information about Aboriginal site size needs to be obtained from the “site card” for each site where sites occur close to land of interest. Relevant information can also be obtained from archaeological reports lodged with AHIMS, details of which are sometimes linked to Aboriginal site records.

A search of the AHIMS Aboriginal site database for this due diligence assessment was conducted on 16 July 2018 (Client Service ID: 357818; see mapped results in Figure 1). Each of the Aboriginal site point locations in Figure 1 below represents the centre of an area where Aboriginal flaked stone artefacts have been recorded in soil exposures. Each “site” is indicative of a broader distribution of stone artefacts incorporated into the topsoil.

One Aboriginal site is recorded within a hundred metres of the study area, AHIMS reference 45-5-2864. However, inspection of the site card for 45-5-2864 shows that the AHIMS grid reference is incorrect. The site card shows that the correct location of the site is 1.2 kilometres to the northeast of the study area. This places 45-5-2864 in a cluster of artefact scatters in Nurragingy Reserve.

The closest valid site record to the study area is an artefact scatter approximately 600 metres to the southeast of the study area, on the route of the M7 motorway. Other nearby sites, 45-5-0255
and 45-5-3698 (both artefact scatters) are located a kilometre to the southwest and northeast respectively of the study area.

Figure 1. AHIMS Aboriginal site records
Does the land occur on an Archaeologically Sensitive Landform?

Aboriginal sites are commonly associated with certain environmental contexts. In the shale-based soils of the Cumberland Plain, creek-side contexts are typically sensitive for the presence of Aboriginal stone artefacts within the topsoil. Archaeological test excavations have demonstrated that distributions of artefacts can occur undetected within the topsoil up to 200 metres or more from major creeks and around 100 metres from minor tributary watercourses. Other archaeologically sensitive contexts listed in the OEH due diligence guidelines such as rockshelters and coastal dunes are not relevant here.

The study area’s flat landform and significant distance from the nearest drainage line falls outside of the landscape parameters that indicate a moderate to high potential for Aboriginal sites on the Cumberland Plain. Sites do occur in locations outside these parameters, but at lower densities and with a reduced probability of occurrence at any specific location.

Site Inspection

An inspection of the land was undertaken by Gary Dunnett of Baker Archaeology on 9 August 2018. Figure 2 provides an aerial view of the study site.

The study area comprises a rectangular lot with minor surface undulations. The primary cause of ground disturbance appears to be motor vehicles driving onto the site, although the remains of a drain indicates that some form of building was previously present in the northwest corner.

Apart from a few trees the study area is largely un-vegetated, with the main source of ground cover being leaf litter and thinly distributed rubbish. Overall ground surface exposure exceeds 80% (see photographs below), however inspection of this entire surface was not possible due to the use of the site as an informal carpark. Nonetheless, it is estimated that around 70% of the site was inspected, providing an effective coverage of 56% or 0.075 hectares of the 0.12 hectares site.

Gravels and small fragments of rubbish were lying on the surface and incorporated into the sediment across the study area. Some of these materials may be associated with introduced fills.

The north-western corner of the site had almost 100% ground surface exposure, as did a large (c. 0.2ha) lot immediately to the northwest of the study area. The surface in these areas was eroded providing excellent conditions for the detection of Aboriginal sites, if present.

Photographs 4, 5, 6 and 7 provide views of the study area. Photograph 8 shows a typical area of the exposed ground surface.

No Aboriginal objects were detected during the survey of Lots 3 and 4 Premier Lane.
Photograph 4. Study area view west from Premier Lane

Photograph 5. Study area north from midpoint of Lots 3-4 Premier lane
Photograph 6. Study area view northeast from northwest corner

Photograph 7. Study area view east from northwest corner
Photograph 8. Surface exposure with gravels and other introduced materials
Conclusions

No Aboriginal objects have been previously identified on the land.

No Aboriginal objects were observed on the land in a site inspection on 9 August 2018.

No Aboriginal objects are considered likely to occur undetected on the land.

There is no identified Aboriginal heritage constraint to proceed with proposed development. Based on the findings of this assessment there is no justification for further archaeological assessment or monitoring.

In the unlikely event that an Aboriginal object is identified, all work must stop in the general vicinity of the land and an archaeologist should be contacted to assess the object and, if confirmed, advise on the requirements for an Aboriginal Heritage Impact Permit under section 90 of the NPW Act.

yours faithfully,

Neville Baker
Director – Archaeologist

Attached: AHIMS Basic Search Results
Dear Sir or Madam:


The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.

A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

- 27 Aboriginal sites are recorded in or near the above location.
- 0 Aboriginal places have been declared in or near the above location.*
If your search shows Aboriginal sites or places what should you do?

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the NSW Government Gazette (http://www.nsw.gov.au/gazette) website. Gazettal notices published prior to 2001 can be obtained from Office of Environment and Heritage’s Aboriginal Heritage Information Unit upon request.

Important information about your AHIMS search

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings.
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.