Dear Mr Radd,

**RE: Aboriginal Archaeological Due Diligence Assessment – 154 Regent Street, Riverstone, NSW**

Eco Logical Australia (ELA) has been engaged by the Blacktown City Council to conduct an Aboriginal Archaeological Due Diligence Assessment to support a Development Application for surplus land at 154 Regent Street, Riverstone, NSW (Figure 1).

This assessment follows the due diligence Code of Practice as set out in the Office of Environment and Heritage’s (OEH) *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (hereafter referred to as ‘CoP’) (DECCW 2010).

This due diligence process aims to determine whether Aboriginal objects will be harmed by the proposed works, as required under Part 6 of the NSW *National Parks and Wildlife Act 1974* (NSW). The CoP sets out the reasonable and practicable steps which individuals and organisations need to take in order to:

1. Identify whether or not Aboriginal objects are, or are likely to be, present in an area;
2. Determine whether or not their activities are likely to harm Aboriginal objects (if present); and
3. Determine whether an Aboriginal Heritage Impact Permit (AHIP) from the OEH or further assessment is required.

**Study area location**

The study area measures approximately 1.5 hectares in size and falls within the boundaries of the Blacktown Local Government Area (LGA), Riverstone NSW. The study area comprises Lot 14 DP 712 and is generally bound by, Regent Street to the north, McCulloch Street to the west, Riverstone Road to the south, and Clarke Street to east. The zoning of the land comprises R1 (non urban - residential).

**Legislative framework for due diligence**

Aboriginal objects and places in NSW are afforded protection under the *National Parks and Wildlife Act 1974* (NSW) regardless if they are registered on the Aboriginal Heritage Information Management System (AHIMS) register or not. Strict penalties apply for harm to an Aboriginal object or place without a defence under the Act. Under Section 87 of the Act there are five defences to causing harm to an Aboriginal object:

- The harm was authorised under an AHIP.
• By exercising due diligence, and be able to demonstrate this.

• The actions compiled with a code of practice as described in the National Parks and Wildlife Regulation 2009, for example, undertaking test excavation in accordance with the ‘Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW’.

• It was a low-impact activity or omission under the regulation and where you don’t know that an Aboriginal object is already present.

• Was an exemption under Section 87A, for example emergency fire-fighting act or bush fire hazard reduction work within the meaning of the Rural Fires Act 1997.

If an AHIP application is required, the OEH necessitate that it is supported by an Aboriginal Cultural Heritage Assessment (ACHA) prepared in line with the ‘Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (OEH 2010)’, and a copy an approval for the development or infrastructure under Part 4 or Part 5 of the Environmental Planning and Assessment Act 1979 (NSW).

**Purpose and aim of the due diligence**

The aims of this Aboriginal archaeological due diligence assessment are to:

• Undertake a search of the Aboriginal Heritage Information Management System (AHIMS) register maintained by the OEH to establish if there are any previously recorded Aboriginal objects or places within the study area.

• Undertake a search of the NSW State Heritage Inventory, the Australian Heritage Database, and the Blacktown Local Environment Plan 2015 Schedule 5 (Environmental Heritage) in order to determine if there are any sites of Aboriginal significance or sensitivity located within the study area.

• Undertake a desktop review of relevant previous archaeological assessments to understand the local archaeological context and assist in predicting the likely occurrence of unrecorded archaeological sites or objects.

• Undertake a site inspection to identify any Aboriginal sites and areas of sensitive landforms.

• Prepare a letter style Aboriginal due diligence assessment determining if known objects or additional unrecorded objects are present within the study area, as well indicate whether further assessment and/or an AHIP is required.

No assessment for historical archaeology has been undertaken as part of this assessment.

No consultation has been undertaken as part of this due diligence. The local Aboriginal Land Council and other stakeholder groups are able to provide a cultural assessment for the area should it be required.

This assessment has been prepared by Tyler Beebe, Archaeology Consultant with ELA (BA [Anthropology cum laude] Hamline University, MA The Australian National University) and reviewed by Lyndon Patterson, Principal Archaeologist with ELA (BA [Hons Archaeology], BSc Latrobe University, M Environmental Law, University of Sydney).
Figure 1: Location of study area
Previously Recorded Aboriginal sites

Heritage Database Searches

Searches of the Australian Heritage Database, the State Heritage Inventory (SHI) and the Blacktown Local Environmental Plan (LEP) 2015 were conducted on 25 January 2017 in order to determine if any places of Aboriginal significance are located within proximity to the study area.

There are no places on the Australian Heritage Database, the SHI or the Blacktown LEP 2015 of Aboriginal heritage significance within the study area.

AHIMS Search

An extensive search of the Aboriginal Heritage Information Management System (AHIMS) database was conducted on 27 January 2017 within the following area: GDA Zone 56, Eastings 302978 – 303283, Northings 6271404 – 6272599, with a buffer of 1 kilometre (Attachment A). A total of 41 AHIMS sites were identified during this search (Error! Reference source not found.). A breakdown by site feature is presented in Table 1 below.

Table 1: Types of Aboriginal sites recorded within approximately 200 metres of the AHIMS search area

<table>
<thead>
<tr>
<th>Site feature</th>
<th>Number of sites</th>
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<tr>
<td>Artefact</td>
<td>28*</td>
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<tr>
<td>Potential Archaeological Deposit (PAD)</td>
<td>9</td>
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<tr>
<td>Artefact, PAD</td>
<td>3</td>
</tr>
<tr>
<td>Artefact, PAD, Modified Tree (carved or scarred)</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>41</strong></td>
</tr>
</tbody>
</table>

* artefact site 45-5-4485 is listed as destroyed

There were no AHIMS sites identified within the current study area.

Soil types, landforms, geology and hydrology

Landforms

The study area is within the Cumberland Plain physiographic region. The Cumberland Plain is characterised by gently undulating low hills and plains atop the Wianamatta Group of Triassic period sedimentary shales. Topography within study area is characterised by the gentle slope and floodplain of First Ponds Creek.

Geology

Geologically the study area is underlain by Bringelly Shale of the Late Triassic Wiannamatta Group. Bringelly Shale is composed of shale, carbonaceous claystone, claystone, laminate, fine to medium-grained lithic sandstone, rare coal and tuff (Clark and Jones 1991) and is the dominant geology of much of the Cumberland Plain.
Soils

Soils within the study area are from the Blacktown Soil Landscape (Figure 3). The Blacktown soil landscape is typical on the gently undulating rises of the Wianamatta Group. Blacktown soils consist of shallow to moderately deep hard setting texture contrast soils. Red and brown podzolic soils occur on crests and grade to yellow podzolic soils on lower slopes and along drainage lines. Erosional susceptibility of this soil landscape is relatively low, but is increased where surface vegetation is not maintained. Blacktown soils have the ability to conserve archaeological deposits in situ but vertical stratigraphy may be lost.

Hydrology

First Ponds Creek is located approximately 100 m to the east of the study area (Figure 2). At the location of our study area, First Ponds Creek would be considered a 3rd order creek, a permanent or intermittent creek with clearly defined bed and banks and semi-permanent to permanent water pools. First ponds Creek flows north joining the Killarney Chain of Ponds which eventually flows into South Creek, not far from its junction with the Hawkesbury River.

An ephemeral 1st order tributary to First ponds Creek is located 30 m to the north of the study area. This 1st order tributary is not a well defined drainage channel and would have little or no flow, any flow would be following rain events only.
Figure 2: Registered AHIMS sites
Figure 3: Soil landscape of the study area
Previous Aboriginal Archaeological Studies

Local Archaeological Context

A number of Aboriginal archaeological assessments have been conducted within close proximity to the study area. A summary of studies pertinent to our study area are presented below.

Aboriginal Heritage Assessment – Alex Avenue and Riverstone Growth Centre Precincts 2008

ENSR conducted heritage assessments for the Alex Avenue and Riverstone Precincts within the Northwest Growth Centre. In addition to the 14 previously recorded Aboriginal sites within the precincts, the investigations resulted in the identification of 23 previously unrecorded Aboriginal sites. The site types consisted of isolated finds, artefact scatters, natural silcrete outcroppings, scarred trees and areas of potential archaeological deposit (ENSR 2008: 50-51).

The heritage assessment determined that the sites with higher archaeological significance tended to be within 100m of First Ponds Creek. ENSR identified a high density of archaeological material along First Ponds Creek which was later identified as the A7 Complex. This site consisted of several artefacts scatters and areas of potential archaeological deposit ENSR 2008: 71).

Riverstone Wastewater Lead-ins Project, Salvage of A7 Archaeological Complex (45-4-4311) 2016

AAJV conducted salvage excavations to the south of the current study area of the registered archaeological site A7 Archaeological Complex (AHIMS# 45-5-4311). Two areas of the site were expected to be impacted by the installation of two wastewater lead-ins into the primary wastewater trunk located on First Ponds Creek.

The excavations at Salvage area 1 resulted in the recovery of 126 artefacts consisting of flakes, heat shatter debitage, and retouched flakes. Overall low artefact densities in conjunction with the small artefact size and observed soil profiles indicate that this was a secondary deposition with artefacts being washed into the area from another location.

Excavations at Salvage Area 2 revealed a disturbed soil profile and resulted in the recovery of a single silcrete core. The low artefact number and the disturbed soil profile suggest that the artefact bearing deposit was most likely removed sometime in the past (AAJV 2016).

Using available subsurface artefact data, AAJV identified ‘zones’ of more intensive occupation activity within a broader low density artefact scatter consistent with ephemeral or transient Aboriginal occupation. Using the past data and the current excavation results, AAJV reassessed the significance of the A7 Archaeological Complex as a place of moderate scientific significance. The reassessment was based on the lack of stratified archaeological deposit, site integrity and the regionally low artefact densities recovered during the salvage excavations. ‘Nonetheless, the A7 site represents one of the few remaining landscapes associated with First Ponds Creek not subjected to significant disturbance associated with urban development’ (AAJV 2016).

Archaeological Report for 81 Riverstone Parade, Riverstone 2014

AHMS conducted archaeological investigations at 81 Riverstone Parade, Riverstone, approximately 1.5km west of the study area. Excavations resulted in a total of 610 artefacts recovered from the 91 test pits at an average of 6.5 artefacts / m². Twelve test pits contained >10 artefacts/m² approaching a medium density, while 3 test pits had > 50 artefacts/m² a high density of artefacts. The assemblage was dominated by silcrete, thought to be of late Holocene in age and taken from the natural silcrete occurring on nearby ridgelines and potentially river cobbles as well (AHMS, 2014: 92-99).
AHMS determined that the test program showed the hill slopes were generally disturbed and shallow at less than 20cm deep with some naturally occurring silcrete and some Aboriginal objects. The alluvial flats contained deeper soils 50-80 cm, with thick clay loam plough soil, overlying an A2 horizon, in turn over basal clays (AHMS, 2014: 92-93).

Based on the findings of previous investigations and results of the test excavations the study identified an area of moderate potential for archaeological material to be found within 100 m of Eastern Creek and high potential for archaeological material to be found on elevated terraces or levees within this 100 m buffer from the creek (AHMS, 2014: 112).

Predictive Model

Based on the material evidence and range of archaeological sites across the region, it is clear that Aboriginal people have been utilising the land and resources across region for thousands of years. The predictive model outlined in the table below has been developed for the study area based on the AHIMS Search results, landscape modelling, and regional and local Aboriginal archaeological context outlined above.

**Table 1: Predictive model**

<table>
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<tr>
<th>Site Type</th>
<th>Description</th>
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<tr>
<td>Open Camp Sites / Stone Artefact</td>
<td>Open camp sites represent past Aboriginal subsistence and stone knapping activities, and include archaeological remains such as stone artefacts and hearths. This site type usually appears as surface scatters of stone artefacts in areas where vegetation is limited and ground surface visibility increases. Such scatters of artefacts are also often exposed by erosion, agricultural events such as ploughing, and the creation of informal, unsealed vehicle access tracks and walking paths. These types of sites are often located on dry, relatively flat land along or adjacent to rivers and creeks. Camp sites containing surface or subsurface deposit from repeated or continued occupation are more likely to occur on elevated ground near the most permanent, reliable water sources. Flat, open areas associated with creeks and their resource-rich surrounds would have offered ideal camping areas to the Aboriginal inhabitants of the local area. Isolated finds may represent a single item discard event, or be the result of limited stone knapping activity. The presence of such isolated artefacts may indicate the presence of a more extensive, in situ buried archaeological deposit, or a larger deposit obscured by low ground visibility. Isolated artefacts are likely to be located on landforms associated with past Aboriginal activities, such as ridgelines that would have provided ease of movement through the area, and level areas with access to water, particularly creeks and rivers. Artefact scatters and isolated artefacts are common site types often found in association with fresh water, and/or food resource gathering areas. Previous archaeological investigations conducted within the surrounding area identified areas of higher archaeological significance are more likely to be found within 100 m of established creeks. Considering the proximity of our study area to First Ponds Creek, it is likely that previously unrecorded artefact scatters or isolated artefacts are likely to occur in the study area.</td>
</tr>
<tr>
<td>Scatters / Isolated Finds</td>
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<tr>
<td>Potential Archaeological Deposit</td>
<td>Potential Archaeological Deposits (or PADs) are areas where there is no surface expression of stone artefacts, but due to a landscape feature there is a strong likelihood that the area will contain buried deposits of stone artefacts. Landscape features which may feature in</td>
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<tr>
<td>Site Type</td>
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<tr>
<td>PADs</td>
<td>PADs include proximity to waterways, particularly terraces and flats near 3rd order streams and above, ridge lines and ridge tops and sand dune systems. Previous archaeological investigation within the surrounding area revealed the presence of subsurface archaeological deposits and areas of potential archaeological deposit. Given the proximity to First Ponds Creek, the study area is likely to contain areas of potential archaeological deposit.</td>
</tr>
<tr>
<td>Scarred or Carved Trees</td>
<td>Tree bark was utilised by Aboriginal people for various purposes, including the construction of shelters (huts), canoes, paddles, shields, baskets and bowls, fishing lines, cloaks, torches and bedding, as well as being beaten into fibre for string bags or ornaments. The removal of bark exposes the heart wood of the tree, resulting in a scar. Trees may also have been scarred in order to gain access to food resources (e.g. cutting toe-holds so as to climb the tree and catch possums or birds), or to mark locations such as tribal territories. These sites most often occur in areas with mature, remnant native vegetation. The locations of scarred trees often reflect historical clearance of vegetation rather than the actual pattern of scarred trees. Carved trees generally marked areas for ceremonial purposes, or the locations of graves. Although previous investigations have revealed the presence of scarred trees associated with First Ponds Creek, a result of wide spread tree clearing in the past make it unlikely that old growth woodland remains in the study area, decreasing the likelihood of a scarred tree being present.</td>
</tr>
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Due Diligence Assessment Process

Due diligence is defined in the CoP as “taking reasonable and practical steps to determine whether a person’s actions will harm an Aboriginal object and, if so, what measures can be taken to avoid that harm”. The following section relates to the generic due diligence process as applied to the study area.

Step 1 – Will the activity disturb the ground surface or any culturally modified trees?

Yes, plans to develop the land would most likely result in ground disturbances related to grading, trenching and excavation activities.

There are no recorded culturally modified trees within the study area.

Step 2 – Are there any a) relevant confirmed site records on AHIMS, other sources of information, or b) landscape features that are likely to indicate presence of Aboriginal objects?

Consequently, if your proposed activity is:

- Within 200m of waters, or
- located within a sand dune system, or
- located on a ridge top, ridge line or headland, or
- located within 200m below or above a cliff face, or
- within 20m of or in a cave, rock shelter, or a cave mouth;
- and is on land that is not disturbed land then you must go to step 3.

“Land is disturbed if it has been the subject of a human activity that has changed the land’s surface, being changes that remain clear and observable.

Examples include ploughing, construction of rural infrastructure (such as dams and fences), construction of roads, trails and tracks (including fire trails and tracks and walking tracks), clearing vegetation, construction of buildings and the erection of other structures, construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines, stormwater drainage and other similar infrastructure) and construction of earthworks.” (DECCW 2010)

A search of the AHIMS register identified no AHIMS sites within the study area boundary and 41 AHIMS sites within 1 km buffer of the study area (Figure 3).

The study area is within 200 m of an ephemeral 1st order tributary of First Ponds Creek.

Step 3 – Can harm to Aboriginal objects listed on AHIMS or identified by other sources of information and/or can the carrying out of the activity at the relevant landscape features be avoided?

There are no AHIMS sites registered within the study area. There is low sensitivity for further archaeological material to be located within the study area.

Step 4 – Does the desktop and visual assessment confirm that there are Aboriginal objects or that they are likely?

Site inspection of the study area was undertaken by ELA archaeologists Lyndon Patterson and Tyler Beebe on the 3rd February 2017. The site inspection involved walking the entire property noting any areas of archaeological
potential and disturbance. The study area is located on the gentle mid slope trending towards First Ponds Creek to the east. The area had appeared to have been cleared and graded sometime in the past. The property was lightly wooded with isolated stands of regrowth eucalypt concentrated around the centre of the property. There were piles of pushed soil around the perimeter of the site. It was noted that the soil at the base of the trees was higher than in the surrounding area, possibly indicative of machine grading around the trees.

Ground visibility was low to moderate. Surface vegetation in the wooded sections of the property was sparse. Numerous broken cobble were seen on the surface and inspected closely for indication of cultural modification. All the cobbles inspected showed no indications of cultural modifications and were more than likely the result of machine breakage.

In summary it appears that the study area had been cleared and machine graded in the past resulting in significant soil loss and disturbance. The following photographs were taken during the site inspection.
Conclusions

The purpose of the Aboriginal heritage due diligence is to identify if there are registered Aboriginal sites and/or sensitive landforms which may indicate the presence of Aboriginal sites and may therefore require further assessment and approval under Part 6 of the National Parks and Wildlife Act 1974.

ELA has undertaken an extensive search of the Aboriginal Heritage Information Management System (AHIMS) database maintained by the Office of Environment & Heritage (OEH) and a review of available background reports.

A site inspection undertaken by ELA Archaeologist Lyndon Patterson and Tyler Beebe on 3 February 2017 identified low ground visibility across much of the study area, primarily within the central wooded section. No Aboriginal material was observed where the ground surface was exposed. The study area appeared to have been subject to wide scale grading in the past resulting in significant ground disturbance and loss of soil.

The study area is considered to have moderate to high levels of soil disturbance from past activities and has been assessed as having a low potential for an intact subsurface archaeological deposit.

Recommendations

Based on the findings of this due diligence and the requirement of the NP&W Act the following is recommended.

**Recommendations - General measures**

- Due to the level of past soil disturbance and low sensitivity for Aboriginal objects to exist, no further assessment for Aboriginal heritage is recommended. Aboriginal objects are protected under the NPW Act regardless if they are registered on AHIMS or not. If suspected Aboriginal objects, such as stone artefacts are located during future works, works must cease in the affected area and an archaeologist called in to assess the finds. If the finds are found to be Aboriginal objects, the OEH must be notified under section 89A of the NPW Act. Appropriate management and avoidance or approval under a section 90 AHIP should then be sought if Aboriginal objects are to be moved or harmed.

- In the extremely unlikely event that human remains are found, works should immediately cease and the NSW Police should be contacted. If the remains are suspected to be Aboriginal, the OEH may also be contacted at this time to assist in determining appropriate management.

Please contact me if you require further information in regard to Aboriginal heritage assessment on 02 8526 8683

Yours sincerely,

Tyler Beebe
ELA Archaeologist
References


Attachment A – Basic and Extensive AHIMS searches on 27th January 2017

AHIMS Web Services (AWS) Search Result

Purchase Order/Reference: 8542
Client Service ID: 264077

Eco Logical Australia Pty Ltd - Sydney
PO Box 12 66B Old Princes Hwy
Sutherland New South Wales 1499
Attention: Tyler Beebe
Email: tylerb@ecouas.com.au

Date: 27 January 2017

Dear Sir or Madam:

AHIMS Web Service search for the following area at Datum: GDA Zone 56, Eastings: 332272 - 333283,

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:

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

A search of the Office of the Environment and Heritage ANGELS (Aboriginal Natural and Environmental Legacy Evaluation System) has shown that:

- 0 Aboriginal Natural and Environmental Legacies are recorded in or near the above location.
### Extensive AHIMS search

**AHIMS Web Services (AWS)**

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*Report generated by AHIMS Web Service on 27/01/2017 for Tyler lease for the following area at DATM: | DATM: Zone: 16, Eastings: 362078 - 362083, Northing: 6271844 - 6272059 with a Buffer of 1000 meters. Additional info: heritage assessment reporting. Number of Aboriginal sites and aboriginal objects found is 41.*

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Report generated by AHMS Web Service on 27/01/2017 for Tyler Rees for the following area at Datum (GA): Zone: 56 Eastings: 302478 - 303633, Northings: 6271406 - 6271599 with a Buffer of 1000 meters. Additional info: Heritage assessment reporting. Number of Aboriginal sites and Aboriginal objects found: 41

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Report generated by AHIMS Web Service on 27/04/2017 for Tyler Beche for the following area at Datum GDA, Zone: 56, Eastings: 302978 - 303283, Northings: 6271444 - 6272599 with a Buffer of 1800 meters. Additional Info: Heritage assessment reporting. Number of Aboriginal sites and Aboriginal objects found is 41.

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