Dear Sir/ Madam,

Re: 119 Cudgegong Road, Rouse Hill
Aboriginal Heritage Due Diligence Assessment

Introduction
This letter-report presents the results of an Aboriginal heritage due diligence assessment for the land parcel Lot 83 DP 208203 known as 119 Cudgegong Road, Rouse Hill.

The 2.83 hectare (approx.) land parcel is currently the subject of a Development Application to Blacktown City Council for residential subdivision. This assessment has been prepared to accompany the DA.

Legislative Context
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 refer 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 Land
The land parcel is a 280 metre by 100 metre 2.83 hectare rural residential block surrounded by rural residential properties in the north western corner of the Area 20 Growth Centre Precinct at Rouse Hill (Figure 1).
The land is relatively flat in the north east part of the land close to Macquarie Road and Cudgegong Road, with a gentle slope to the south west from 71 metres AHD to 65 metres AHD at its south western end.

The land is situated on the watershed between First Ponds Creek located 900 metres to the south west, and Second Ponds Creek located 770 metres to the east. No natural watercourse occurs on the property. A small farm dam has been constructed in a southern corner.

A prominent characteristic of the land is a cleared transmission line easement generally trending north west across an elevated part of the land. The land also includes a residential building, two portable buildings, as well as dilapidated structures. The residence is surrounded by a small fence demarcating bare earth driveway areas, but otherwise is located on only superficially disturbed ground. The transmission line corridor includes communications structures in a small compound, poles and informal graveled access tracks.

The land is weed-infested with extensive bamboo stands, particularly along its northern margin, and lantana throughout. Otherwise the land apart from the transmission line easement comprises closed eucalypt woodland with weedy understorey.

A review of aerial photography over the last decade shows that the land has been a repository of scattered debris and rubbish at various stages, the vestiges of which were observed during inspection for this assessment.

The Development Proposal

In simplified terms, the development proposal has three components (Figure 2):

1. residential subdivision on the land south west of the transmission line;
2. reservation of transmission line land and land to the north east of the transmission line as parkland to be acquired by Council; and
3. roadways between subdivision and parkland, and along the northern border connecting to Cudgegong Road.

Area 20 Growth Centre Precinct Aboriginal Heritage Survey

The study area was previously surveyed in 2009 – 2010 by archaeologist Josh Symons, then of Kelleher Nightingale Consultants Pty Ltd. A report\(^1\) (KNC 2010a, 2010b) was prepared identifying a “Potential Archaeological Deposit” (PAD – named RH/A20P PAD3) on the land (Figure 2). The PAD area was identified as land east of the transmission line. The recording of the PAD area was endorsed by the Aboriginal community through a formal consultation process at the time. The designation of the PAD is problematic, as discussed below however its identification in planning

\(^1\) Kelleher Nightingale Consultants 2010a Area 20 Precinct North West Growth Centre Aboriginal Heritage Assessment Report prepared for the NSW Department of Planning; 2010b Addendum to Area 20 Aboriginal Heritage Report
growth Centre Precinct planning documentation gives rise to regulatory expectation that the 2010 management recommendation for test excavation will be followed in the course of development.

Figure 1. Locality showing AHIMS Aboriginal site records
Figure 2. Proposed development and previously recorded KNC features
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, particularly the Area 20 Precinct Aboriginal Heritage Study undertaken in 2009-2010 for the Growth Centre Commission/Department of Planning;
- 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.

Earliest evidence of Aboriginal occupation dates from the alluvial sediments at Windsor dated to around 15,000 years² as well as from Shaws Creek KII excavations near Yarramundi on the western side of the Nepean River³ 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 disputed⁴. 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.

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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”. Cobble of silcrete from an ancient fluvial soil formation can be found on the Riverstone ridge on high areas along McCullough Street and other high ridge areas generally between the railway and Windsor Road. The study area does not occur on one of these cobbled bearing landforms, although silcrete gravel is known to occur in the topsoil alongside First Ponds Creek 2.5 kilometres to the north west.

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.

Examples of Cumberland Plain Aboriginal Stone Artefacts (not occurring within the land)

Photograph 1. Aboriginal Stone Artefact - Silcrete flakes (Werrington)

Photograph 2. Aboriginal Stone Artefact – 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?

Where do Aboriginal site records come from?

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.

AHIMS Search

A search of the AHIMS Aboriginal site database for this due diligence assessment was conducted on 18 May 2017 (Client Service ID: 282072). No Aboriginal sites have been previously recorded within the land (Figure 1). One Aboriginal site, 45-5-3924 was recorded on the ridge crest on the property opposite Macquarie Road. The site was recorded by Symons who identified three silcrete stone artefacts within a cleared area of 20 metres by 30 metres. An extensive area beyond the ground exposure was mapped as site 45-5-3924 (site RH/A20P 9 on Figure 2 above) despite there only being three artefacts. As mentioned above, Symons also conducted archaeological survey within the study area at the same time as recording this site. Despite the extensive ground exposures offered in the transmission line easement at that time, no stone artefacts were observed by Symons.

Aboriginal sites occurring through most of the area are associated with major watercourses such as Second Ponds Creek and First Ponds Creek. These locales were most suited to either Aboriginal camping or food gathering of sufficient frequency to yield an archaeological signature evident in detectable densities of stone artefacts within the topsoil.

The AHIMS data map on first appearance suggests a high frequency of Aboriginal sites in comparable landforms east of the land. Almost all of these AHIMS records reflect archaeological survey undertaken for the Area 20 Precinct study. A number of localities were identified with single stone artefacts or up to three stone artefacts (eg. 45-5-3765 with one artefact, 45-5-3923 with two artefacts, 45-5-3925 with one artefact).

RH/A20P PAD3 on the Study Area

Although not recorded as a site in AHIMS, Symons identified “RH/A20P PAD3”, an area of assumed artefact occurrence in the topsoil, within the study area (Figure 2, Figure 3). In the Area 20 report several localities in elevated contexts within several hundred metres of the study area were also identified as Potential Archaeological Deposits (PADs). No archaeological model or resonated argument was provided to support the identification of PADs on the low ridges and elevated slopes. Identification of such areas contradicts the predictive model of Aboriginal site location provided in the Area 20 report. Furthermore, the standard model of archaeological sensitivity reflected in OEH guidelines identifies areas along creeks as sensitive, not elevated slopes and so many of the identified PADs in the Area 20 report are not warranted. Typically PADs are identified where densities of artefacts greater than one per square metre are anticipated that would be detectable by standard archaeological test excavation methods. The presence of three artefacts identified in a 600 m² ground exposure on the opposite property does not justify identification of comparable landform within the study area as a PAD.
Notwithstanding this concern, the inclusion of the RH/A20P PAD3 recording within the Area 20 report which has been endorsed by the local Aboriginal community and the Department of Planning means that due investigation ought to be followed, in accordance with the report’s recommendations. Because the proposed boundary “half-road” will impact part of the PAD, test excavation is therefore grudgingly recommended in this report.

**Does the land occur on an Archaeologically Sensitive Landform?**

Aboriginal sites are commonly associated with certain environmental contexts. In the shale-based soil 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. Other archaeologically sensitive contexts listed in the OEH due diligence guidelines such as rockshelters and coastal dunes are not relevant here.

Despite the recording of RH/A20P PAD3 on the land, I do not regard the land as archaeologically sensitive. It does not occur in close proximity to an area of past environmental interest to Aboriginal subsistence needs, would not have attracted repeated activity and therefore in my opinion would not have captured an archaeological record of Aboriginal activity readily detectable in the present.

**Site Inspection**

An inspection of the land was undertaken by Neville Baker on 23 May 2017. The land was observed to be weed infested and overgrown with vegetation. The only ground exposures were within the occupied residence compound and small parts of the transmission line easement (Photographs 4 – 7). All parts of the land were inspected and no Aboriginal objects were identified on the property.
Conclusions

No Aboriginal objects have been previously identified on the land.

No Aboriginal objects were observed on the land in a site inspection on 23 May 2017.

The 2010 Area 20 Precinct Aboriginal heritage study identified an area of PAD on the land north east of the transmission line and recommended test excavation prior to development.

Despite the disagreement to the 2010 findings, test excavation under the Code of Conduct for the Investigation of Aboriginal Objects in NSW (DECCW 2010) is recommended to determine whether Aboriginal objects are present, and, if present, to conduct an assessment with a view to applying for an Aboriginal Heritage Impact Permit under the NPW Act.

No other area of PAD is identified in this report. There is no identified Aboriginal heritage constraint to proceed with proposed development west of, and including the transmission line. Based on the findings of this assessment there is no justification for further archaeological assessment or monitoring in those areas.

In the unlikely event that an Aboriginal object is identified on or west of the transmission line, 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 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:

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<td>0</td>
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