



Woodlawn Wind Farm Additional Turbine Extension

Archaeological Assessment Indigenous Cultural Heritage

Report for Infigen Energy Pty
Ltd

July 2010

Ballarat:

449 Doveton Street North Ballarat 3350
Ph: (03) 5331 7000 Fax: (03) 5331 7033
email: ballarat@biosisresearch.com.au

Melbourne:

38 Bertie Street Port Melbourne 3207
Ph: (03) 9646 9499 Fax: (03) 9646 9242
email: melbourne@biosisresearch.com.au

Canberra

Unit 16/2 Yallourn St Fyshwick 2609
Ph: (02) 62281599 Fax: (02) 6280 8752
email: canberra@biosisresearch.com.au

Sydney:

18-20 Mandible Street, Alexandria, 2015
Ph: (02) 9690 2777 Fax: (02) 9690 2577
email: sydney@biosisresearch.com.au

Wangaratta:

26a Reid Street, Wangaratta 3677
Ph: (03) 5721 9453 Fax: (03) 5721 9454
email: wangaratta@biosisresearch.com.au

Wollongong:

8 Tate St Wollongong 2500
Ph: (02) 4229 5222 Fax: (02) 4229 5500
email: wollongong@biosisresearch.com.au

Project no: 11829

Author:

Lyn O'Brien

Reviewer:

Melanie Thomson

Mapping:

Ashleigh Pritchard

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PROJECT	Indigenous Cultural Heritage Impact Assessment for proposed Extension to the Woodlawn Wind Farm
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REPORT FOR	Infigen Energy
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REPORT TITLE:	Woodlawn Wind Farm Extension – Indigenous Cultural Heritage Assessment
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AUTHOR(S):	Lyn O'Brien
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REVISION	PREPARED	INTERNAL REVIEW	EXTERNAL REVIEW	AMENDED
A	Lyn O'Brien	Melanie Thomson		

REVISION	ISSUED	NAME	SIGNED
A	13 July 2010	Lyn O'Brien	

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- Chris McGrath and Stephen Donaldson (Infigen Energy)
- Tyrone Bell (Buru Ngunawal Aboriginal Corporation)
- Justin Stone (Pejar LALC)
- Mr Shannon Freeburn (DECCW)

ABBREVIATIONS

AHIMS	Aboriginal Heritage Information Management System
CHL	Commonwealth Heritage List
DECCW	NSW Department of Environment, Climate Change and Water
DEWHA	Department of Environment, Water Heritage and the Arts
GSV	Ground surface visibility
ICOMOS	International Council on Monuments and Sites
LALC	Local Aboriginal Land Council
LEP	Local Environmental Plan
LGA	Local Government Area
MGA	Map Grid of Australia – unless otherwise specified all coordinates are in MGA
NHL	National Heritage List
NNTT	National Native Title Tribunal
NPWS	National Parks and Wildlife Service (now part of DECCW)
RNE	Register of the National Estate
SHI	State Heritage Inventory
SHR	State Heritage Register

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EXECUTIVE SUMMARY

Infigen Energy Pty Ltd proposes to construct an additional three wind turbines at the Woodlawn Windfarm in NSW. Biosis Research Pty Ltd was commissioned by Infigen Energy to undertake an Aboriginal archaeological and cultural heritage assessment in order to identify and assess Aboriginal cultural heritage values of the proposed locations of the three additional turbines and the footprint of the access road linking them.

Results of this investigation will be used to identify impacts to heritage items and places within the proposed development footprint. Recommendations designed to minimise impacts to cultural heritage places will be formulated according to legislative constraints and 'best practice' heritage management.

The subject site was surveyed by Justin Stone from Pejar Local Aboriginal Land Council, Tyrone Bell from the Buru Ngunawal Aboriginal Corporation and Lyn O'Brien from Biosis Research in June 2010. The survey identified three Aboriginal cultural heritage sites that may be affected by the proposed development. The cultural sites consisted of small scatters of stone artefacts or isolated stone artefacts.

The following recommendations have been developed in response to the heritage aspects of the project.

Management Recommendations

1. Impacts to the identified archaeological sites should be avoided. If impacts cannot be avoided an application is required to be made to NSW Department of Environment, Climate Change and Water (DECCW) for a permit to allow the collection and destruction of the site. A condition of this permit would be to undertake full consultation with the relevant Aboriginal communities.
2. No further archaeological work is required. However, Aboriginal objects and places remain protected by the relevant legislation.
3. Should any previously unidentified Aboriginal objects or places be identified during any phase of the proposed development, all works must cease in the vicinity of the find. DECCW must be notified immediately. DECCW may require an archaeologist to make an assessment of the find, and an approval may be required before works can continue. Consultation will be required with the Aboriginal community should Aboriginal objects be discovered during the course of the works.
4. Provide one copy of this report to:
 - a. Buru Ngunawal Aboriginal Corporation
 - b. Pejar Local Aboriginal Land Council

1.0 INTRODUCTION

Cultural heritage legislation protecting Aboriginal and historic heritage places applies in New South Wales. These places are an important part of our heritage. They are evidence of more than 40,000 years of occupation of New South Wales by Aboriginal people, and of the more recent period of post-contact settlement.

Heritage places can provide us with important information about past lifestyles and cultural change. Preserving and enhancing these important and non-renewable resources is encouraged.

It is an offence under sections of legislation to damage or destroy heritage sites without a permit or consent from the appropriate body (see Appendix 3 for a discussion of relevant heritage legislation and constraints).

When a project or new development is proposed, it must be established if any cultural heritage places are in the area and how they might be affected by the project. Often it is possible to minimise the impact of development or find an alternative to damaging or destroying a heritage place. Therefore, preliminary research and survey to identify heritage places is a fundamental part of the background study for most developments.

The first stage of a study usually incorporates background research to collect information about the land relevant to the proposed development project (the Study Area). A second stage often involves a field inspection of this area.

Possibly the most important part of the study involves assessing the cultural heritage significance of heritage places in the Study Area. Understanding the significance of a heritage place is essential for formulating management recommendations and making decisions.

The subject matter of this report involves the use of a number of technical words and terms with which the reader may be unfamiliar. An extensive glossary has been included at the end of the report and reference to this may be of assistance.

1.1 Project background

Biosis Research Pty Ltd has been engaged by Infigen Energy Pty Ltd in June 2010 to undertake a cultural heritage impact assessment on a proposed extension to the Woodlawn Windfarm. The extension includes the construction of an additional three wind turbines, with associated roads for access and construction.

This report has been commissioned in order to identify and assess Aboriginal cultural heritage values of the proposed locations of the three additional turbines and the proposed footprint of a road linking them. Results of this investigation will be used to identify predicted impacts to heritage items and places associated with the proposed development area. Recommendations

designed to minimise impacts to cultural heritage places have been formulated according to legislative constraints and ‘best practice’ heritage management.

1.2 Study Area

The Study Area is located on Lot/ DP754919 and DP754827, Parish of Werriwa, along the Great Dividing Range in a rural area that has been used for pastoral activities (Figure 1). The area is located midway between the rural communities of Bungendore and Tarago in NSW, on the pastoral property of Pylara, the proposed site for the Woodlawn Windfarm. The extent of the Study Area is shown in Figure 2.

1.3 Aims

The following is a summary of the major objectives.

- Conduct heritage register searches to identify any previously recorded cultural heritage sites within the survey area. Searches will include the Aboriginal Heritage Information Management System (AHIMS), the National Heritage List, Commonwealth Heritage List, Register of the National Estate, State Heritage Register, Local Environmental Plan and National Trust heritage lists.
- Conduct additional background research in order to recognise any identifiable trends in site distribution and location.
- Consult with identified statutory stakeholders in the area.
- Undertake a comprehensive survey of the Study Area, relocating any previously recorded sites within the Study Area.
- Record and assess sites identified during the survey in compliance with the guidelines issues by the NSW Department of Environment, Climate Change and Water (DECCW) and the NSW Heritage Office.
- Identify impacts to all identified Aboriginal cultural heritage sites and places based on potential changes as a result of the proposed development.
- Make recommendations to minimise or mitigate impacts to cultural heritage values within the Study Area.

1.4 Consultation

1.4.1 Aboriginal

Aboriginal consultation for this project has been undertaken in compliance with DECCW guidelines for projects that do not require an application for a permit from DECCW. As a result, consultation has been limited to statutory stakeholders including the identified Local Aboriginal Land Council and Registered Native Title claimants.

Consultation has been undertaken with representatives from the following Aboriginal stakeholder groups:

- Pejar Local Aboriginal Land Council (Justin Stone)
- Buru Ngunawal Aboriginal Corporation (Tyrone Bell)

2.0 HERITAGE STATUS AND PLANNING DOCUMENTS

2.1 Commonwealth Registers

2.1.1 National Heritage Registers

The Commonwealth Australian Heritage Commission Act was recently repealed and in its place amendments were made to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Under the EPBC Act Amendments (No 88, 2003) two mechanisms have been created for protection of heritage places of National or Commonwealth significance. The National Heritage List provides protection to places of cultural significance to the nation of Australia. The Commonwealth Heritage List comprises natural, Aboriginal and historical heritage places owned and controlled by the Commonwealth and therefore mostly include places associated with defence, communications, customs and other government activities.

Nominations to these two lists are assessed by the Australian Heritage Council (AHC), which also administer the (now static) Register of the National Estate, a list of places identified as having national estate values. There are no management constraints associated with listing on the RNE unless the listed place is owned by a commonwealth agency.

APPLICATION TO THE STUDY AREA – NATIONAL HERITAGE REGISTERS

No items within the Study Area are listed on the National Heritage List, the Commonwealth Heritage List or the Register of the National Estate.

2.2 State Registers

2.2.1 National Parks and Wildlife Act Registers

The Department of Environment and Climate Change (DECC) maintains a database of Aboriginal sites within NSW under the auspices of the NSW *National Parks and Wildlife Act 1974*. Aboriginal objects and places in NSW are legally required to be registered on the Aboriginal Heritage Information Management System (AHIMS) register.

The area searched on the AHIMS database was larger than the Study Area, as Aboriginal sites recorded within the wider area will provide a regional perspective on the types of sites that maybe expected to be found within the Study Area.

APPLICATION TO THE STUDY AREA – AHIMS DATABASE

A search of the AHIMS Database completed on 25/06/2010 identified 15 previously recorded Aboriginal sites within a 2 x 2 km search area centred on the Study Area (see Section 4.3). None of these sites are within the current Study Area.

2.3 Non-Statutory Registers

2.3.1 The National Trust of Australia (NSW)

The National Trust of Australia (NSW) is a community-based conservation organisation. The Trust maintains a Register of heritage items and places. Although the Register has no legal foundation or statutory power, it is recognised as an authoritative statement on the significance to the community of particular items, and is held in high esteem by the public. The National Trust lists items or places that have heritage or cultural value to the community and, as such, the Trust encourages and promotes the public appreciation, knowledge, and enjoyment of heritage items for future and present generations.

APPLICATION TO THE STUDY AREA – NATIONAL TRUST OF AUSTRALIA (NSW)

No heritage items classified (listed) by the National Trust of Australia are located within the Study Area associated with this proposal.

3.0 ENVIRONMENTAL CONTEXT

3.1 Introduction to Environmental Context

An understanding of the environmental context is important in assessing the archaeological potential and significance of an area. Local environment influences human land use and consequently the location, type, and frequency of archaeological material. Environmental processes can also affect the preservation of archaeological materials to varying degrees, or even destroy them completely, while environmental features may contribute to the cultural significance and attachments that people have to a place.

The following is a summary of environmental information relevant to an archaeological assessment of the Study Area.

3.1.1 Geology and Landforms

In the vicinity of the Study Area the geology is dominated by early Silurian metasediments of the Mount Fairy Beds. These consist of shale, phyllite, sandstone, limestone, tuff and minor amounts of igneous intrusive rocks. The Study Area is located on the gentler topography of the Moura Creek soil landscape. In general terms the soil landscape of the Study Area is derived from slowly aggrading landforms. The Study Area soils are relatively shallow (less than 200mm) on the hillcrests, with upper and middle slopes depths of up to 800mm deep and lower slopes and drainage lines up to 1000mm. Sheet wash and gully erosion are common features (Jenkins 1995:56-59). Due to the shallowness of these soils they possess a low likelihood of containing sub-surface artefacts. As a result of the high frequency of exposed bedrock and pronounced erosion in the Study Area, any archaeological material may well be expected to be visible on the ground surface.

3.1.2 Topography

Topographically the region contains the unusual drainage systems of Lake George, Lake Bathurst and the Morass, and also the isolated, steep and precipitous hills of the Turallo Range, which form part of the Great Dividing Range. The Study Area is situated on the hills of the Turallo Range, to the North and East are Crisps Creek and Taylors Creek. A tributary of Taylors Creek dissects the Study Area. Navin Officer (1998:6) state that this section of the Turallo Range forms a watershed between the Wollondilly River Catchment and the Lake George Catchment, with the pass where the former Woodlawn mine is situated being an obvious access route across the range.

3.2 Climate, Flora and Fauna

The Southern Tablelands climate is characterised by temperate to cold weather with frequent rain and fog. Precipitation in the region consists of an annual average rainfall of between 600 and 800mm, with the Tarago Area experiencing an average of around 700mm per year (Jenkins 1995:4-5). The climate is also influenced by local factors such as rain shadows,

aspect and topography, cold air drainage and frost hollows. These influences would seem to be particularly present in the elevated region of the Study Area. Whilst the area may be cold, it would have been within tolerable limits for year round occupation by Aboriginal groups in the past.

The natural vegetation of the Study Area in the past would probably have consisted of dry open forest and woodland. Currently the vegetation of the Study Area is pasture with remnant trees and native grasses. The natural vegetation would have provided Aboriginal people with food resources, as well as raw materials for utilitarian items such as digging sticks, fibres and basketry, tools and weapons.

The typical assemblage of south-eastern Australian terrestrial fauna would be expected to have been present in the Study Area in the past. Important resource species would have included kangaroos, wallabies and possums and also echidnas and reptiles. The creeks and lakes adjacent to the Study Area would also have provided fish and eels, as well as access to waterfowl (Reeves 2005).

4.0 ABORIGINAL CONTEXT

4.1 Ethno-history

Our knowledge of Aboriginal people and their land-use patterns and lifestyles prior to European contact is reliant on documents written by Non-Aboriginal people. These documents are affected by the inherent bias of the class and cultures of their authors, who were often describing a culture that they did not fully understand – a culture that was in a heightened state of disruption given the arrival of settler's and disease. Early written records can, however, be used in conjunction with archaeological information and surviving oral histories from members of the Aboriginal community in order to a gain a picture of Aboriginal life in the region.

The traditional owner's of the land in the Study Area are the Ngunawal people. The Ngunawal lands extend across the southern tablelands west from Goulburn to Yass and north from Tumut to Boorowa (Tindale 1974). According to Flood (1980) the communities of the southern tablelands were highly mobile. The traditional Ngunawal lands cover diverse ecological zones and mobility would have allowed the most efficient use of the resources of the land.

As with many parts of New South Wales the ills of European colonisation would have likely reached the Ngunawal shortly after the First fleet arrived in Sydney. It is likely the smallpox epidemic of 1789 killed many Ngunawal people before the new arrivals from Europe even left the Sydney Basin (Lance and Koettig 1986). Charles Throsby and Joseph Wild 'discovered' Lake George in 1820 (Woolley 1981). Squatters and pastoral enterprises quickly followed the discovery of Lake George and the establishment of the first roads in the valley during the 1820's brought more destabilisation to the traditional Ngunawal way of life.

4.2 The Archaeological Record

Within the Goulburn region predictive modelling of Aboriginal occupation has been undertaken by several researchers based on the body of work completed in the region. The most relevant of these studies to the current Study Area have been summarised below.

Land and Koettig in 1986 conducted a planning study for the Goulburn area. They concluded that stone artefact sites were likely to be located within 100m of water sources, particularly at the confluence of drainage features, on hill top platforms and alluvial flats.

Fuller (1989) undertook testing to confirm the model developed by Lance and Koettig, finding sites across all resource zones and landforms, especially moderate grade hills.

Paton in 1990 reviewed the previous studies and the distribution of archaeological material concluded that large sites would be located on and in alluvial deposits associated with major watercourses. He suggested that small sites would also be present in hilly landforms but would decrease in frequency with distance from water sources. He concluded that small sites

consisting of an isolated or few artefacts would be indicative of “background scatter” left by travelling groups who were passing through the region rather than intensively occupying these areas.

Several studies have been undertaken within the Woodlawn Windfarm area in the past. Navin Officer in 1998 undertook a survey of the area to the south of the mine cut and the areas around Crisps Creek. All the sites located by Navin Officer were in alluvial terrace deposits or on lower slopes.

Biosis Research undertook several surveys of the proposed Woodlawn wind farm development throughout 2004 (Reeves and Thomson 2005). The surveys focus on the access road and turbine locations, two options for a transmission line and proposed public viewing platform area. 21 sites were discovered during the field survey all consisting of stone artefact scatters in areas of high erosion and exposure. Reeves and Thomson (2005) concluded that the archaeological material located at Woodlawn was indicative of background scatter, with larger sites (those with higher artefact numbers) probably representing short occupations. A similar interpretation was concluded for the Crookwell wind farm by McDonald and Garling (1997).

4.3 AHIMS Results

A search of the NSW Department of Environment, Climate Change and Water (DECCW) Aboriginal Heritage Information Management System (AHIMS) database was conducted on 25/06/2010. Fifteen (15) previously recorded sites are located within a 2 km x 2 km search area centred on the Study Area (refer to Figure 3).

It should be noted that the AHIMS database reflects Aboriginal sites that have been officially recorded and included on the list. Large areas of NSW have not been subject to systematic, archaeological survey; hence AHIMS listings may reflect previous survey patterns and should not be considered a complete list of Aboriginal sites within a given area.

Of the 15 sites recorded near the Study Area, all are open sites consisting of small artefact scatters or isolated stone artefacts.

4.4 Discussion and Predictive Model

The archaeological predictive model has been formulated based on the results of the location and type of Aboriginal sites that were recorded within the regional area, the results of the AHIMS database search and information about previous archaeological work. This information has been broken down into patterns that have been compared to the character of the Study Area to allow for an understanding of Aboriginal archaeological potential.

Most of the sites located in the region of the Study Area were identified as a result of surveys undertaken in response to development proposals.

The following broad predictive model is suggested for the Study Area/region:

- Open campsites (artefact scatters) are likely to be the most common site types in the area;
- Artefact scatters are most likely to occur on level, well-drained ground adjacent to sources of freshwater and wetlands;
- Isolated finds are likely to occur anywhere in the landscape;
- Scarred trees are likely to occur in all topographies where old growth trees survive, either as isolated trees or as part of remnant or continuous forest;

Specifically, the environmental context and regional patterning suggest that the Study Area was likely to have been visited by Aboriginal people, and this visitation to have left observable records.

5.0 SURVEY

5.1 Survey Methods

Survey methods for Aboriginal sites have been designed in consultation with the Local Aboriginal community. They have been designed to locate archaeological sites within the Study Area with reference to the following information:

- Previously recorded sites within the region of the Study Area
- Areas of potential as identified by the background research predictive model (regional site patterns as compared to the physical environment of the Study Area, or items identified in historic plans)
- The proposed development footprint

The survey was conducted exclusively within the Study Area as outlined in Figure 2 only, and has used the following method:

100 % Survey Coverage –

The size of the Study Area and the type of development allowed for 100% survey coverage of the site. Information recorded during the survey included the geology of the area, exploitable resources, identifiable land-use impacts and any archaeological sites present in the Study Area. This information was also used to assist in the identification of area of archaeological potential.

5.2 Aboriginal Participation

Aboriginal representatives from the Pejar Local Aboriginal Land Council and the Buru Ngunawal Aboriginal organisation participated in the survey. The representatives have contributed input into the survey methods used, and have been asked to provide comment on the cultural significance of the locality and any archaeological objects or areas that are recorded during this survey.

5.3 Survey Results

5.3.1 Existing Condition of the Study Area

The Study Area is located within a functioning pastoral property Pylara (Plate1). Vegetation within the Study Area consists of remnant trees and native grasses. Erosion areas occur on the slopes of the Study Area and the saddles between the hills, where the proposed turbines are to be situated, providing a high level of ground visibility. Apart from the grazing and the effects of erosion the Study Area has not been subjected to high levels of disturbance.



Plate 1: Indicative view of conditions in Study Area

All mature trees were inspected for presence of Aboriginal scars and all areas of ground surface visibility were inspected for presence of artefacts. The Study Area is considered to have low potential for the presence of Aboriginal potential archaeological deposits (PAD). This is based on comparison of environmental conditions within the study area to Aboriginal site patterning in the region. While Aboriginal occupation of the region is undisputed, the current Study Area does not fit the pattern of environmental conditions likely to lead to short or long term camp site occupation. Any artefacts which might be present within the Study Area are likely to be the result of movement across the landscape for hunting or opportunistic camping, rather than sustained or repeat visit occupation of this specific location.

5.3.2 Aboriginal Sites

The field survey resulted in the identification of three Aboriginal archaeological sites, consisting of two small artefact scatters and one isolated stone artefact occurrence. The locations of the sites, along with photos of their associated artefacts are provided below. Details of the attributes of the artefacts are provided in Appendix 1.

WLWF1 – Grid Co-ordinates 734282 6111339

Open campsite consisting of nine stone artefacts located in the saddle between two hills in an area of erosion measuring 10x5m. Visibility within the exposure was high determined to be at 90%, the general background visibility was determined to be at 60% due to grass coverage and background presence of rocks and quartz material.



Plate 2: Location of Site WLWF1



Plate 3: Lithic artefacts from WLWF1

Plate 4: Additional lithic artefacts from WLWF1

WLWF2 – Grid Co-ordinates 734495 6111439

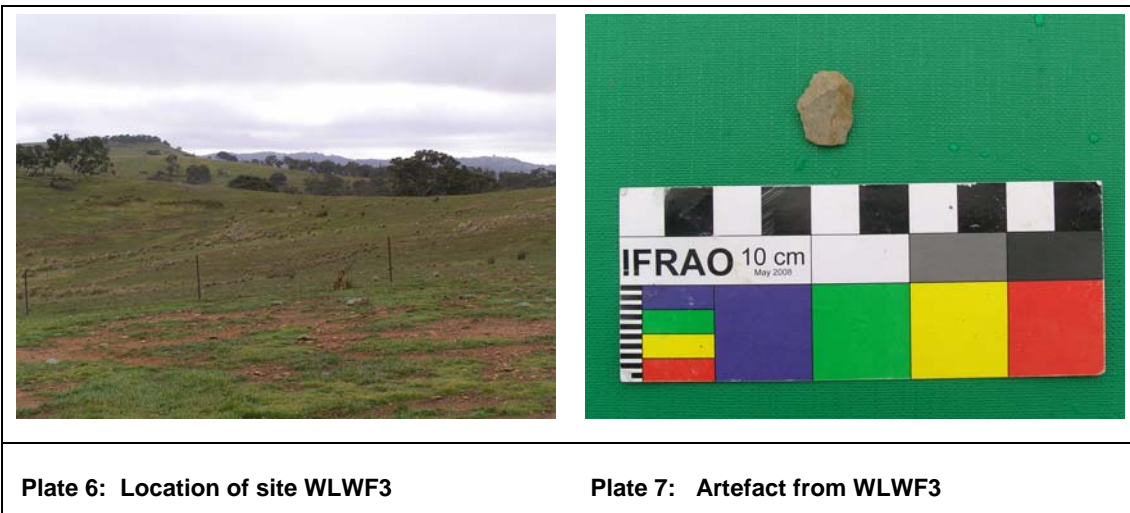
Open campsite consisting of two stone artefacts located near the crest between two hills in an area of erosion measuring 15 x 1m. Visibility within the exposure was high determined to be

at 90%, the general background visibility was determined to be at 60% due to grass coverage and background presence of rocks and quartz material.



WLWF3 – Grid Co-ordinates 734610 6111530

This site consists of an isolated find of a broken flake. The artefact was located in an area with numerous rock outcrops and quartz material on the upper slope of the hill in a small erosion exposure of 30 x 20 cm.



5.3.3 Discussion

The Study Area is located on the crests of three small hills along the range line (Plate 7). These locations are highly exposed and subject to high winds and storms. The presence of native vegetation in the past may have diminished the exposure of the crests but compared to other more sheltered locations the crests would have been cold and uncomfortable.

The location of the identified sites within the saddles and off the crests, (thereby providing some degree of protection from the prevailing winds) fits the occupation model for the region with the small surface scatters identified representative of the site type associated with transient occupation of the region.



Plate 8: General view of Study Area looking south west (WTG22 to WTG23)

6.0 SIGNIFICANCE ASSESSMENT

6.1 Introduction to the Assessment Process

Heritage assessment criteria in NSW fall broadly within the significance values outlined in the Australia ICOMOS Burra Charter (Australia ICOMOS 1999). This approach to heritage has been adopted by cultural heritage managers and government agencies as the set of guidelines for best practice heritage management in Australia. These values include:

- **historical** significance (evolution and association) refers to historic values and encompasses the history of aesthetics, science and society, and therefore to a large extent underlies all of the terms set out in this section. A place may have historic value because it has influenced, or has been influenced by, an historic figure, event, phase or activity. It may also have historic value as the site of an important event. For any given place the significance will be greater where evidence of the association or event survives in situ, or where the settings are substantially intact, than where it has been changed or evidence does not survive. However, some events or associations may be so important that the place retains significance regardless of subsequent treatment.
- **aesthetic** significance (Scenic/architectural qualities, creative accomplishment) refers to the sensory, scenic, architectural and creative aspects of the place. It is often closely linked with social values and may include consideration of form, scale, colour, texture, and material of the fabric or landscape, and the smell and sounds associated with the place and its use.
- **social** significance (contemporary community esteem) refers to the spiritual, traditional, historical or contemporary associations and attachment that the place or area has for the present-day community. Places of social significance have associations with contemporary community identity. These places can have associations with tragic or warmly remembered experiences, periods or events. Communities can experience a sense of loss should a place of social significance be damaged or destroyed. These aspects of heritage significance can only be determined through consultative processes with local communities.
- **scientific** significance (Archaeological, industrial, educational, research potential and scientific significance values) refers to the importance of a landscape, area, place or object because of its archaeological and/or other technical aspects. Assessment of scientific value is often based on the likely research potential of the area, place or object and will consider the importance of the data involved, its rarity, quality or representativeness, and the degree to which it may contribute further substantial information.

The significance of Aboriginal and historic sites and places will be assessed on the basis of the significance values outlined above. As well as the ICOMOS Burra Charter significance values guidelines, various government agencies have developed formal criteria and guidelines that have application when assessing the significance of heritage places within NSW. Of primary interest are guidelines prepared by the Commonwealth Department of Environment, Water, Heritage and the Arts (DEWH&A) and the NSW Department of Environment, Climate Change and Water (DECCW) and the Heritage Branch, NSW Department of Planning. The relevant sections of these guidelines are presented below.

6.2 Aboriginal Sites – Assessment of Significance

The following Aboriginal significance assessment is based on the *DECCW Guidelines for Aboriginal Heritage Impact Assessment* (2006). These guidelines state that an area may contain evidence and associations which demonstrate one or any combination of the ICOMOS Burra Charter significance values outlined above in reference to Aboriginal heritage.

In addition to the previously outlined heritage values, the *DECCW Guidelines* also specify the importance of considering cultural landscapes when determining and assessing Aboriginal heritage values. The principle behind a cultural landscape is that ‘the significance of individual features is derived from their inter-relatedness within the cultural landscape’. This means that sites or places cannot be ‘assessed in isolation’ but must be considered as parts of the wider cultural landscape. Hence the site or place will possibly have values derived from its association with other sites and places. By investigating the associations between sites, places, and (for example) natural resources in the cultural landscape the stories behind the features can be told. The context of the cultural landscape can unlock ‘better understanding of the cultural meaning and importance’ of sites and places.

6.2.1 Aboriginal community or cultural values

The NSW DECCW recognises that ‘Aboriginal community are the primary determinants of the significance of their heritage’ (NSW DECC 2004). Biosis Research recognises that our role in the cultural heritage assessment process is to provide specialist skills, particularly in regard to archaeological and heritage management expertise. These specialist skills can be articulated and enhanced through consultation with the Aboriginal community, with the aim of providing a comprehensive assessment of cultural heritage significance.

These aspects of heritage significance can only be determined through consultative processes with one or more Aboriginal communities. In terms of Aboriginal communities, heritage places – including those that are otherwise defined as ‘archaeological sites’ – will always attract differing values. These may include custodianship obligations, education, family or ancestral links, identity, and symbolic representation. History and traditions are important: this generation has an obligation to future generations to retain certain things as they are currently seen and understood. This includes retaining alternative understandings to those that come through scientific assessments. Heritage places are often more complex than is

identified through the scientific determination of value. Cultural and social values can be complex and rich - the past is a vital component of cultural identity. Feelings of belonging and identity are reinforced by knowledge of the existence of a past, and this is further reinforced and maintained in the protection of cultural heritage.

Statement of Cultural Significance

All pre-contact (pre-European settlement) sites that are located in the Study Area are considered to be of cultural significance to members of the Pejar Local Aboriginal Land Council and the Buru Ngunawal Aboriginal Corporation, and it is important that comment on the area is provided directly by members of this Aboriginal community. The sites are evidence of past Aboriginal occupation and use of the area, and are the main source of information about the Aboriginal past. Discussions held in the field with the representatives indicated that the surface scatters are considered important to the local aboriginal community, but are held to have only low conservation values

A copy of this report will be forwarded to each of the involved Aboriginal communities for their comments, to ensure that their perspective has been properly understood and communicated.

6.2.2 Aboriginal archaeological or scientific values

Scientific value refers to the importance of a landscape, area, place or object because of its archaeological and/or other technical aspects. Assessment of scientific value is often based on the likely research potential of the area, place or object and will consider the importance of the data involved, its rarity, quality or representativeness, and the degree to which it may contribute further substantial information.

In the past, a consideration of scientific (archaeological) value was the focus of most approvals assessment processes for Aboriginal heritage, and this will still be an important component of most assessment processes. The intent of the DECC guidelines is to ensure that these values are incorporated within a broader consideration of Aboriginal heritage significance.

While various criteria for archaeological assessment have been advanced over the years, most can be considered under the heading of research potential. Significance in this case lies in the potential of sites or places to elucidate past behaviour, rather than the potential to yield artefact collections or the potential to apply a particular analysis. The major issues in the assessment of research potential are considered to be:

- ***Site intactness or integrity***: This includes the state of preservation of particular remains (e.g. animal bones, plant remains, stone artefacts, and ancestral remains) as well as the stratigraphic integrity of the site, the taphonomic processes acting on the site, the impact of past artefact collections made at the site, etc.

- ***Site representativeness***: This refers to the regional distribution of a particular site type. Representativeness is assessed by whether the site is *common*, *occasional*, or *rare* in a given region. Assessments of representativeness are subjectively biased by current knowledge of the distribution and number of archaeological sites in a region. This varies from place to place depending on the extent of archaeological research. Any such site should be subject to re-assessment as more archaeological research is undertaken
- ***Site antiquity***: This firstly relates to the potential of a site to provide a chronology extending back into the past. If this chronology is dateable its research potential is enhanced. In some environments the mere presence of a stratified deposit or a vertical series of artefact-bearing soils, may be a sufficiently rare occurrence as to put any site that has them into the ‘higher research potential’ category. It also considers that the connectedness of the site to other sites may be a major factor in its research potential. In other words, the site, taken in conjunction with other sites, may have a research potential it would not have in isolation.

Statement of Archaeological Significance

Site name and number - WLWF1, WLWF2 and WLWF3

Statement of significance: The Study Area possesses scientific value based on its potential to contribute to an understanding of Aboriginal occupation and use in a local context. Although the Study Area has been subjected to disturbance through European land-use practices in previous years, the artefact sites have the potential to contribute important data regarding the nature of Aboriginal occupation in this region, and specific information concerning stone tool technologies. The scientific research potential of this area can be compared to the current models of Aboriginal occupation, land use patterns and technology in the region, and may serve to augment and validate these models, or perhaps provide additional information or variations to the existing models.

6.2.3 Aboriginal Sites – Significance Summary

The determination of Aboriginal significance relies on a comprehensive approach to cultural heritage assessments and to the values that are attached to heritage places. Aboriginal heritage significance can be considered to be the importance of a place, site or object arising from the combination of values attributed to it. These values determine the ‘what’ and ‘how’ of conservation and direct management decisions.

The following summary of significance has been based on the results of the archaeological survey, an understanding of regional Aboriginal sites patterning, and from comment and input from the relevant Aboriginal groups.

<i>SITE NAME AND NUMBER</i>	<i>COMMUNITY OR CULTURAL VALUES</i>	<i>ARCHAEOLOGICAL OR SCIENTIFIC VALUE</i>
WLWF1	Medium	Low
WLWF2	Low	Low
WLWF3	Low	Low

7.0 IMPACT ASSESSMENT

The following section describes the proposed works and outlines the impacts that such works might have to the heritage significance of the Study Area.

7.1 Proposed Development

The proposed development of an additional three turbines will affect the landscape in the following ways in the areas of the turbine footprints and access roads. During construction the areas in close proximity to these areas may also be affected due to parking, traffic and deposition (storage) of materials or construction fill.

- Mechanical clearance of soil and vegetation (grasses)
- Disturbance of sub soil areas
- Levelling of areas either by grading or the deposition of fill

7.2 Potential Impacts

As discussed above, the proposed development requires a certain level of disturbance within the Study Area. This disturbance may impact the physical remains and significance of archaeological sites in the following ways:

The identified cultural heritage sites identified in the Study Area are located on the surface and are vulnerable to destruction through disbursement, breakage of artefacts or burying as a result of earthmoving or road construction.

8.0 RECOMMENDATIONS

The following recommendations have been formulated in response to the heritage aspects of the proposed development.

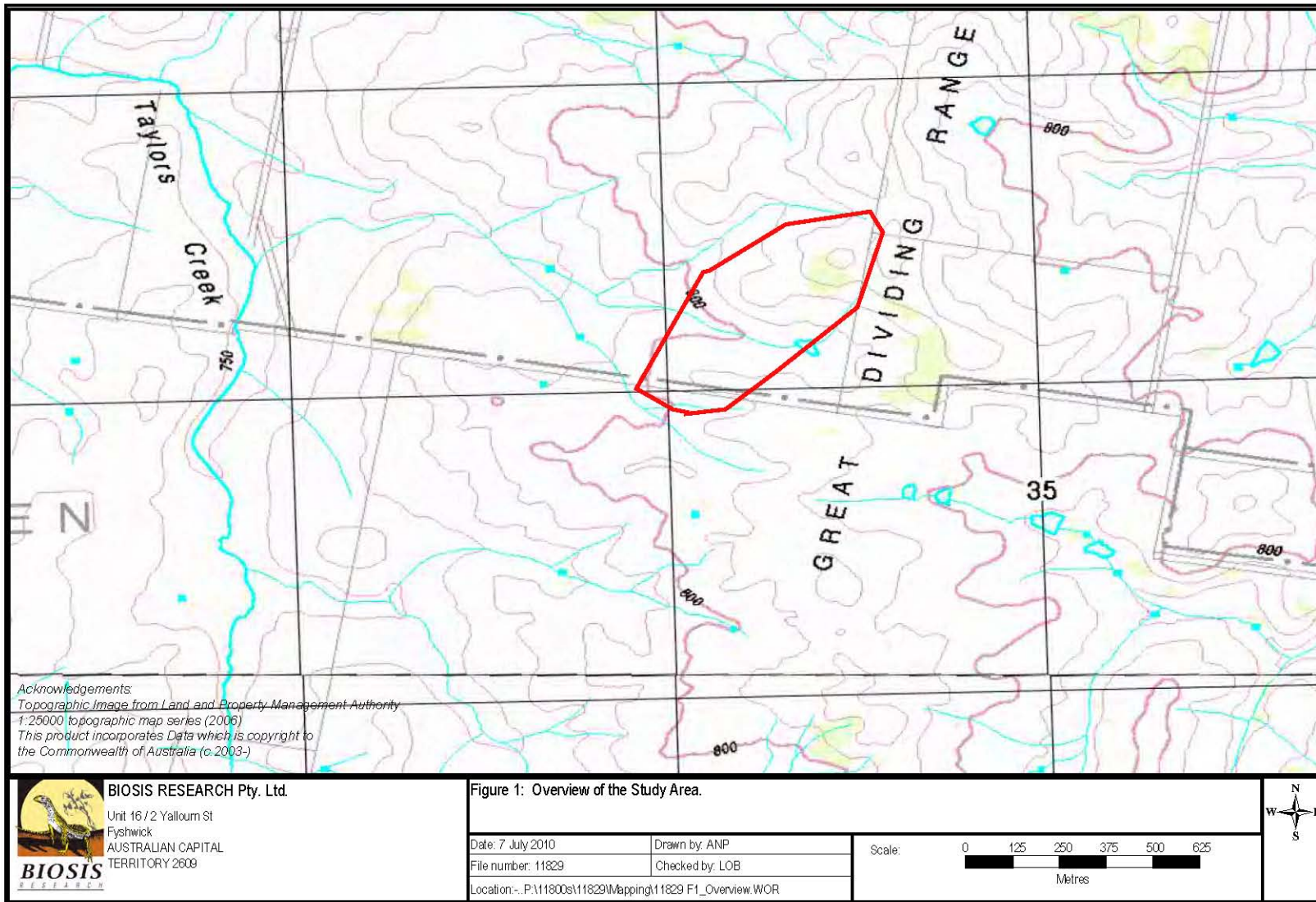
8.1 Recommendations

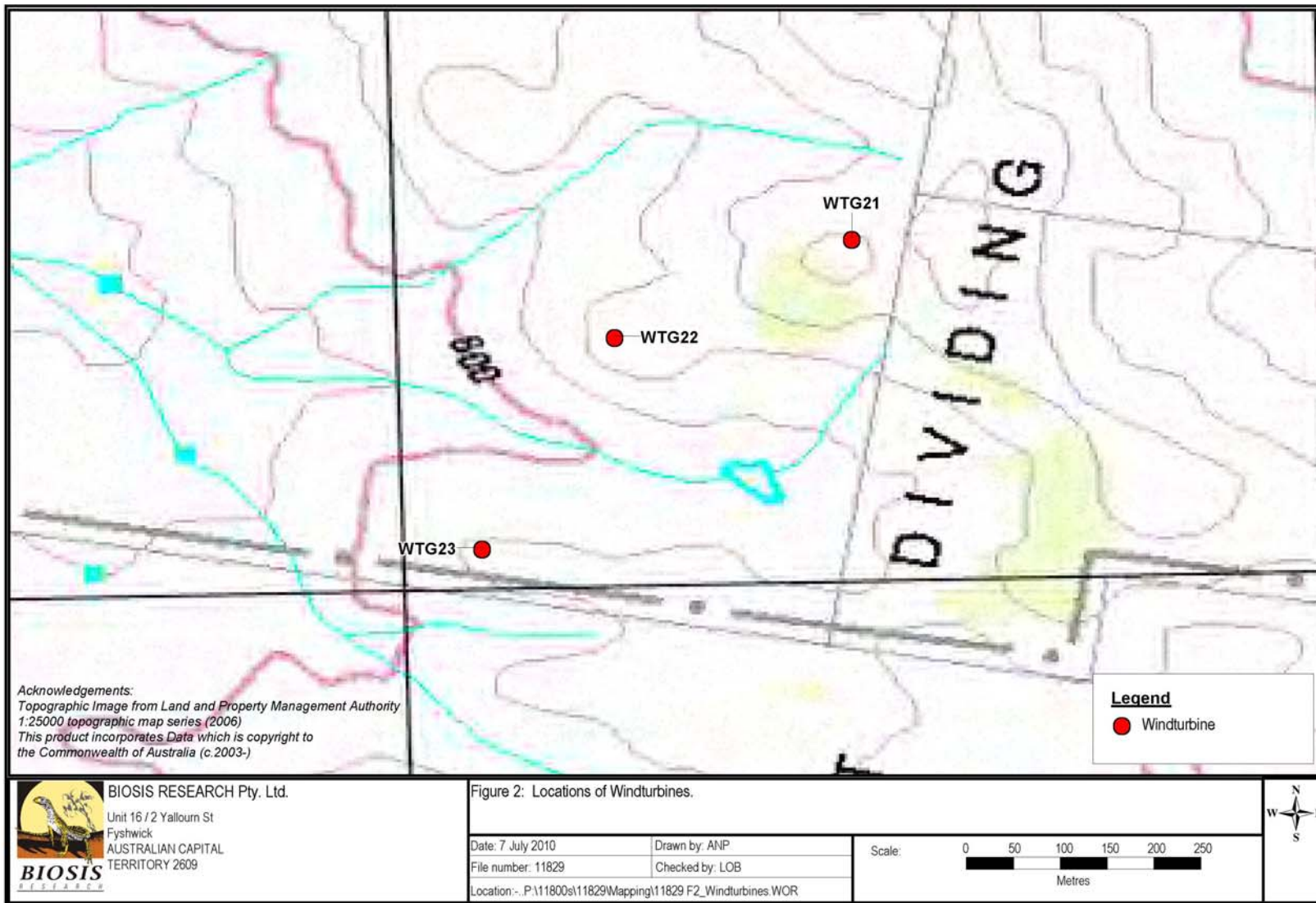
- Planned works in the area may impact on the identified Aboriginal Cultural Heritage sites. Impacts to these identified sites should be avoided. If impacts can not avoided, then salvage (collection) of the artefacts is recommended.
- Prior to any salvage of the identified sites an approval will need to be sought from the NSW DECCW. This approval would be in the form of a S90 Consent to Destroy and would require full consultation with the relevant Aboriginal Communities.
- No further archaeological work is required. However, Aboriginal objects and places remain protected by the relevant legislation.
- Should any previously unidentified Aboriginal objects or places be identified during any phase of the proposed development, all works must cease in the vicinity of the find. The Department of Environment, Climate Change and Water must be notified immediately. DECCW may require an archaeologist to make an assessment of the find, and an approval may be required before works can continue. Consultation will be required with the Aboriginal community should Aboriginal objects be discovered during the course of the works.
- Provide one copy of this report to:
 - Buru Ngunawal Aboriginal Corporation
 - Pejar Local Aboriginal Land Council

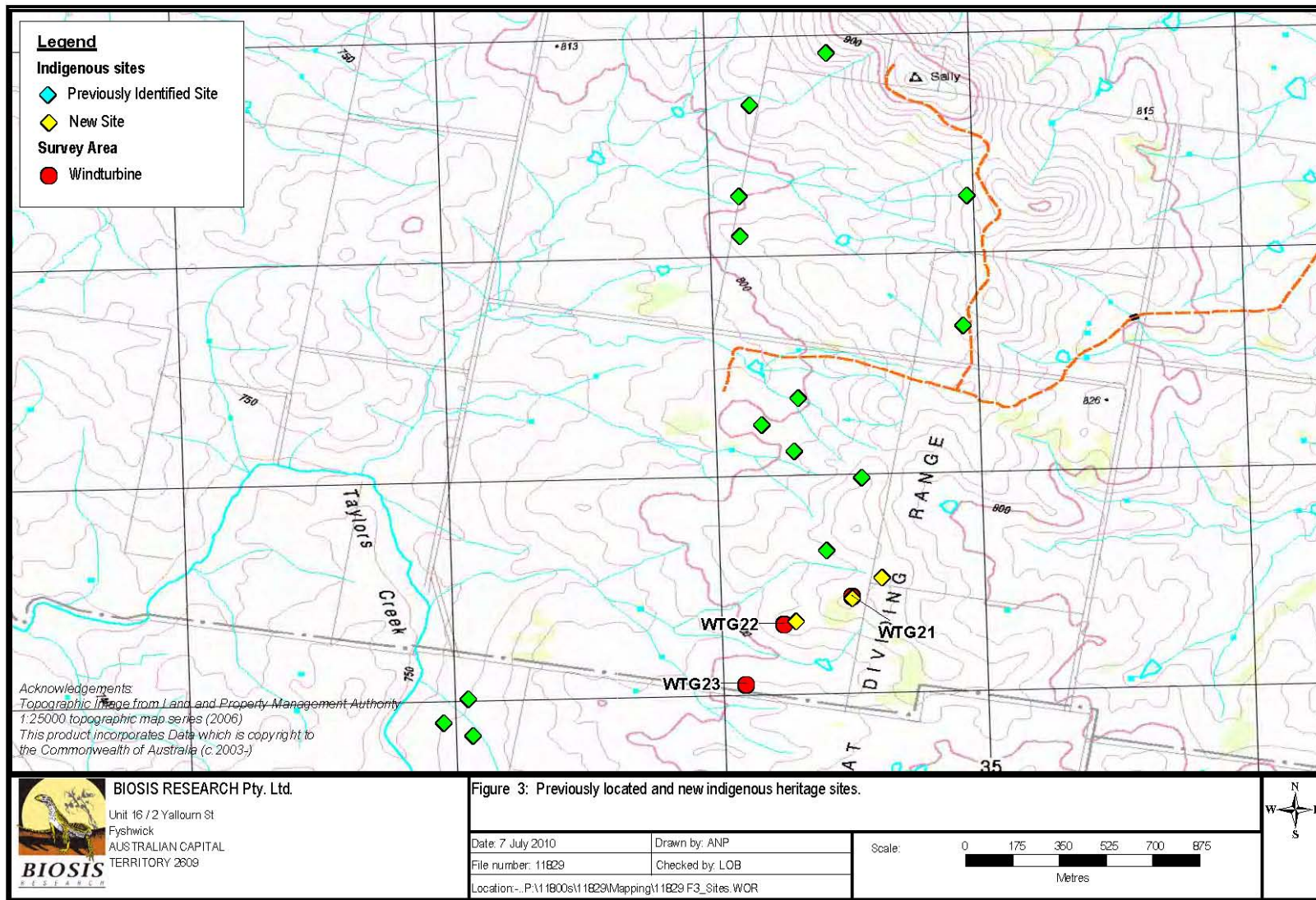
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FIGURES







APPENDICES

APPENDIX 1: ATTRIBUTES OF LITHIC ARTEFACTS

Site Name	Material	type	Dimensions (mm)
WLWF1	red silcrete	Proximal flake	14 x 21 x 6
	red silcrete	proximal flake	13x14x2
	red silcrete	proximal flake	22x16x4
	red silcrete	proximal flake	11x11x2
	quartz	flake	11x13x3
	red silcrete	medial flake	15x27x6
	red silcrete	distal flake	16x19x4
	quartz	flake	27x19x6
	grey silcrete	medial flake	19x15x3
WLWF2	red silcrete	medial flake	12x11x2
	red silcrete	proximal flake	14x12x4
WLWF3	grey silcrete	proximal flake	16x11x4

APPENDIX 2: ABORIGINAL COMMUNITY COMMENT

TO BE INCORPORATED WHEN RECEIVED.

APPENDIX 3: LEGISLATION

COMMONWEALTH LEGISLATION

ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

In January 2004 the Commonwealth *Australian Heritage Commission Act 1975* was repealed and in its place amendments to the EPBC Act were made. The amendments were contained in three new pieces of Commonwealth Heritage Legislation. The three new Acts are the:

1. Environment and Heritage Legislation Amendment Act (No. 1) 2003 which:
 - (a) amends the Environment Protection and Biodiversity Conservation Act 1999 to include 'national heritage' as a new matter of National Environmental Significance and protects listed places to the fullest extent under the Constitution
 - (b) establishes the National Heritage List
 - (c) establishes the Commonwealth Heritage List
2. Australian Heritage Council Act 2003 which establishes a new heritage advisory body to the Minister for the Environment and Heritage, the Australian Heritage Council, and retains the Register of the National Estate.
3. Australian Heritage Council (Consequential and Transitional Provisions) Act 2003 which repeals the Australian Heritage Commission Act, amends various Acts as a consequence of this repeal and allows for the transition to the new heritage system.

Any place that has been nominated and assessed as having cultural heritage significance at a national level can be added to the National Heritage List.

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) an action requires approval from the Federal Environment Minister if the action will, or is likely to, have a significant impact on a matter of national environmental significance. Matters of national environmental significance relating to cultural heritage are:

- World Heritage Places, and
- National Heritage Places.

An action includes a project, development, undertaking, activity, or series of activities.

Actions that are likely to have a significant impact on the environment of Commonwealth land (even if taken outside Commonwealth land), and actions taken by the Commonwealth that are likely to have a significant impact on the environment anywhere in the world, may also require approval under the EPBC Act.

NATIVE TITLE ACT 1993

The Commonwealth Native Title Act establishes the principles and mechanisms for the preservation of Native Title for Aboriginal people.

Under Subdivision P of the Act, *Right to negotiate*, native title claimants can negotiate about some proposed developments over land and waters (known as 'Future Acts') if they have the right to negotiate. Claimants gain the right to negotiate if their native title claimant application satisfies the registration test conditions.

The right to negotiate applies over some proposed developments or activities that may affect native title. These are known as future acts under the Native Title Act 1993. Native title claimants only have the right to negotiate over certain types of future acts, such as mining. Activities such as exploration and prospecting on the land do not usually attract the right to negotiate.

The right to negotiate is not a right to stop projects going ahead — it is a right to have a say about how the development takes place. In some situations, the right to negotiate does not apply. In these circumstances, claimants may have the right to be notified, to be consulted, to object and to be heard by an independent umpire.

The right to negotiate is triggered when a government issues a notice to say that it intends to allow certain things to happen on land, such as granting a mining lease. This notice is called a 'section 29 notice'.

People who claim to hold native title in the area, but have not yet made a native title claimant application, have three months from the date given in the section 29 notice to file a claim if they want to have a say about the proposed development. To get the right to negotiate, the claim must be registered within a month after that.

If the right to negotiate applies, the government, the developer and the registered native title parties must negotiate 'in good faith' about the effect of the proposed development on the registered native title rights and interests of the claimants.

The parties can ask the National Native Title Tribunal to mediate during the negotiations.

If the negotiations do not result in an agreement the parties can ask the Tribunal (no sooner than six months after the notification date) to decide whether or not the future act should go ahead, or on what conditions it should go ahead.

The National Native Title Tribunal administers the future act processes under the Commonwealth legislation. The Tribunal's role includes mediating between parties, conducting inquiries and making decisions (called 'future act determinations') where parties can't reach agreements.

When the Tribunal receives a future act determination application, it must conduct an inquiry (an arbitration) in order to determine whether the future act can be done and if so whether any conditions should be imposed.

A member of the Tribunal (or a panel of three members) will be appointed to conduct the inquiry, and will initially hold a preliminary conference and set directions for the parties to provide submissions and evidence. Members who have mediated a particular matter are not usually appointed as inquiry members. Inquiry members conduct hearings, receive submissions and evidence from the parties and take into account matters set out in section 39 of the Native Title Act such as:

- the effect of the future act on the enjoyment by the native title party of their registered native title rights and interests; their way of life, culture and traditions; the development of their social, cultural and economic structures; their freedom of access to the land and freedom to conduct ceremonies and other cultural activities; and the effect of the future act on any area or site of particular (special) significance to the native title party;
- the interests, proposals, opinions or wishes of the native title party;
- the economic or other significance of the future act;
- the public interest; and
- the presence of any existing non-native title rights and interests and use of the land by other persons (for instance, pastoralists).

ABORIGINAL AND TORRES STRAIT ISLANDER HERITAGE PROTECTION ACT 1984

The Commonwealth *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* provides protection for Aboriginal cultural property. Whereas the State Act provides legal protection for all the physical evidence of past Aboriginal occupation, the Commonwealth Act deals with Aboriginal cultural property in a wider sense. Such cultural property includes any places, objects and folklore that 'are of particular significance to Aboriginals in accordance with Aboriginal tradition'. There is no cut-off date and the Act may apply to contemporary Aboriginal cultural property as well as ancient sites.

PROTECTION OF MOVABLE CULTURAL HERITAGE ACT 1986

Australia's movable cultural heritage is protected at both Commonwealth and State levels. This web site only provides information on the Commonwealth laws.

In 1970 the United Nations Educational, Scientific and Cultural Organisation (UNESCO) adopted the UNESCO Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Ownership of Cultural Property. Australia ratified the convention by passing the *Protection of Movable Cultural Heritage Act 1986* (the Act), giving the 1970 Convention force in Australian law.

The Act regulates the export of Australia's significant cultural heritage objects. It is not intended to restrict normal and legitimate trade in cultural property and does not affect an individual's right to own or sell within Australia.

It implements a system of export permits for certain heritage objects defined by the Act as 'Australian protected objects'. Australian protected objects are objects which form part of the movable cultural heritage of Australia and which meet the criteria established under the National Cultural Heritage Control List. The Control List is located in the Regulations to the Act, and divides Australian protected objects into two classes:

- Class A objects which may not be exported
- Class B objects which may be exported if granted a permit under the Act.

A person wishing to export a Class B object is required to apply for a permit in writing. Applications are processed in accordance with the legislative process established under section 10 of the Act.

Certificates of Exemption, granted under section 12 of the Act, allow Australian protected objects that are currently overseas to be imported into Australia and subsequently re-exported. This includes Class A objects.

The Act also includes provisions that allow Australia to respond to an official request by a foreign government to return movable cultural heritage objects that have been illegally exported from their country of origin.

The *Protection of Movable Cultural Heritage Act 1986* is administered by the Minister for the Environment and Heritage. This responsibility was transferred from the Minister for Communication, Information Technology and the Arts in November 2001.

The Movable Cultural Heritage Unit in the Department of the Environment and Heritage provides the Secretariat to the National Cultural Heritage Committee

STATE LEGISLATION

NATIONAL PARKS AND WILDLIFE ACT 1974

The *National Parks and Wildlife Act 1974* provides for the protection of Aboriginal objects (sites, relics and cultural material) and Aboriginal places. Under the Act (S. 5), 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.

This includes individual artefacts, scatters of stone artefacts, rock art sites, ancient camp sites, human burials, scarred trees, and ruins and archaeological deposits associated with Aboriginal missions or reserves.

Aboriginal places (areas of cultural significance to the Aboriginal Community declared by the Minister) are protected under Section 84 of the Act.

Aboriginal objects (any material evidence of the Aboriginal occupation of NSW) are protected under Sections 86, 87 and 90 of the Act. Section 86 of the Act identifies that a person, other than the Director-General or a person authorised by the Director-General in that behalf, who:

(a) *disturbs or excavates any land, or causes any land to be disturbed or excavated, for the purpose of discovering an Aboriginal object*

is guilty of an offence under the NPW Act.

The *National Parks and Wildlife Act* requires that a permit from the Director General be obtained before archaeological fieldwork involving disturbance to an Aboriginal site is carried out. Consent is granted under section 87 and 90 of the Act. Queries and applications to excavate or disturb an Aboriginal archaeological site for purposes of archaeological fieldwork, should be directed to the relevant Planning and Aboriginal Section Manager at the appropriate Environment Protection and Regulation Branch office. For this study the relevant branch office is at Queanbeyan.

Section 91 of the Act requires the mandatory reporting of the discovery of Aboriginal objects, and establishes a mechanism for interim protection orders that may be used to protect objects. Identified Aboriginal objects and sites are registered with the NSW Department of Environment and Conservation (DEC) on the Aboriginal Heritage Information Management System (AHIMS). DEC administers *the National Parks and Wildlife Act 1974*.

HERITAGE ACT 1977

The *Heritage Act 1977* details statutory responsibilities for historic buildings and gardens, historic places and objects, historical archaeological sites, and historic shipwrecks. The Act is administered by the Heritage Council of New South Wales, through the NSW Heritage Office.

The aim of the Act is to conserve the ‘environmental heritage’ of the state, which includes items such as buildings, works, relics, moveable objects or precincts significant for historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic values. A ‘Place’ is defined as an area of land, with or without improvements and a ‘Relic’ is defined as any:

deposit, object or material evidence:

- (a) *which relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and*
- (b) *which is 50 or more years old.*

An excavation permit is required for any works, excavations or activities, associated with an archaeological site. Excavation permits are issued by the Heritage Council of New South Wales in accordance with sections 60 or 140 of the *Heritage Act*.

It is an offence to disturb or excavate land to discover, expose or move a relic without obtaining a permit from the NSW Heritage Council.

139 Excavation permit required in certain cases

- (1) *A person must not disturb or excavate any land knowing or having reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed unless the disturbance or excavation is carried out in accordance with an excavation permit.*
- (2) *A person must not disturb or excavate any land on which the person has discovered or exposed a relic except in accordance with an excavation permit.*

Excavation permits are usually issued subject to a range of conditions that will relate to matters such as reporting requirements and artefact cataloguing, storage and curation. A permit may be required from the Heritage Council of NSW for works or activities associated with a registered place or object.

General queries about site issues and permit applications can be made to the archaeological officers at the Heritage Office. The contact details are:

NSW Heritage Office

3 Marist Place

PARRAMATTA NSW 2150

Ph: (02) 9873 8500

Fax: (02) 9873 8599

Consultation and discussion with the NSW Heritage Office should begin well before lodging an application for a permit to disturb or destroy a historical archaeological site.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The *NSW Environmental Planning and Assessment Act* will have relevance for all development projects because it requires that environmental impacts are considered in land-use planning and decision making. The definition of 'environment impacts' includes impacts on the cultural heritage of the project area. The Act has three relevant parts: Part III, which governs the preparation of planning instruments; Part IV, which relates to development where consent is required under an environmental planning instrument (EPI); and Part V, which relates to activity where development consent is not required but some other government approval assessments are needed.

Under the Act, local government authorities and The Department of Infrastructure, Planning and Natural Resources (formerly Planning NSW) prepare local and regional environmental planning instruments (LEPs and REPs) to give statutory force to planning controls. These may incorporate specific provisions for conserving and managing archaeological sites.

Integrated Development Assessment (IDA) was introduced under the *Environmental Planning and Assessment Act* so that all matters affecting a development application would be considered by the consent authority in an integrated way.

Integrated Development is one which requires development consent as well as one or more approvals from different government agencies. Such agencies may include NSW DEC or the NSW Heritage Council. If a development is likely to impact a heritage item, the consent authority must refer it, to NSW DEC (for Indigenous objects) or the NSW Heritage Council (for sites listed on the State Heritage Register) prior to approval determination.

The Local Government Act 1993

Under the State Local Government Act, councils can prepare local approvals policies that set out specific matters for consideration in relation to applications to demolish, build or undertake works. Archaeological sites could be considerations under such policies.