

## Appendix D

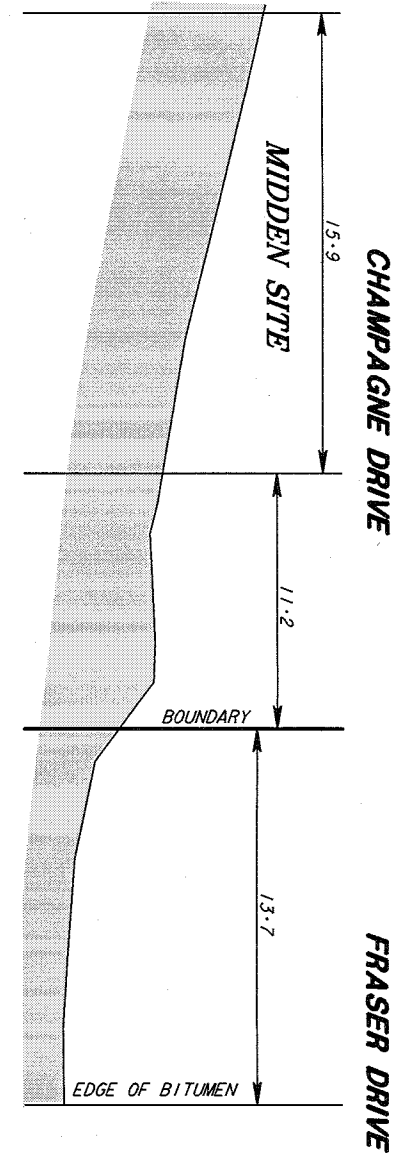
### Cultural Heritage



SECTIONAL VIEW

SECTION "A-AA"

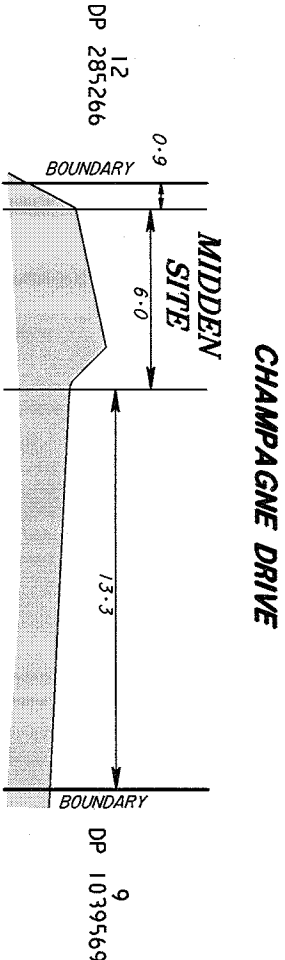
NOT TO SCALE



DISTANCES SHOWN ARE APPROXIMATE ONLY

SECTION "B-BB"

NOT TO SCALE

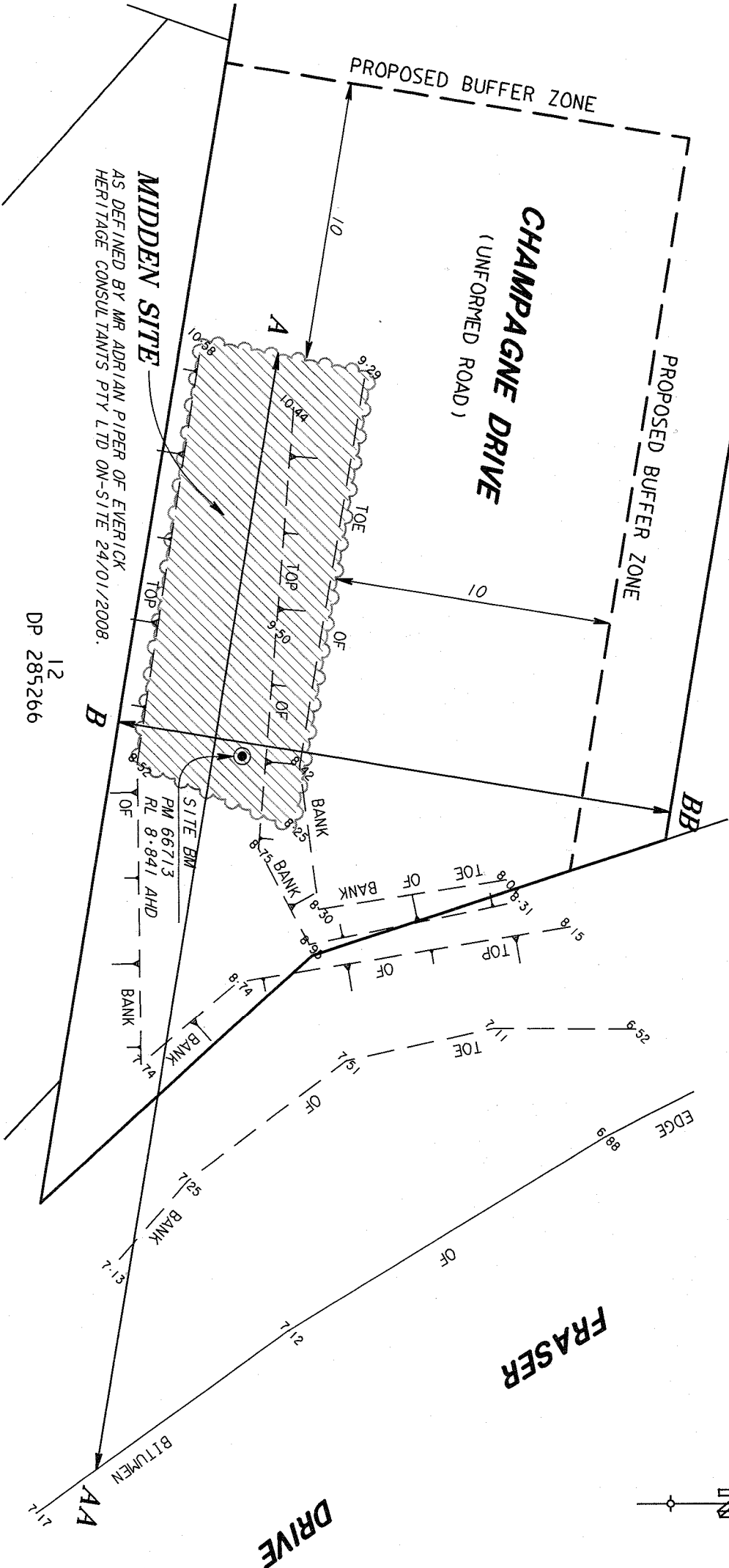


PLAN VIEW

9

DP 1039569

1:200



Rev A – Midden Site Revised – 30/01/2008

Chk'd

MFS DIVERSIFIED GROUP

Important Notes:

DATE OF SURVEY: 24/01/2008  
LEVEL DATUM: PM66713 RL 8.841 AHD  
NO REPORT IS MADE ON ANY ABOVE/GROUND SERVICES ON OR ADJACENT TO THE SITE.  
PRIOR TO ANY DEMOLITION, EXCAVATION OR CONSTRUCTION ON THE SITE, THE RELEVANT AUTHORITIES SHOULD BE CONTACTED FOR POSSIBLE LOCATION OF FURTHER UNDERGROUND SERVICES AND DETAILED LOCATION OF ALL SERVICES.  
THE TITLE BOUNDARIES AS SHOWN HEREON WERE NOT MARKED AT THE TIME OF SURVEY AND HAVE BEEN DETERMINED BY PLAN DIMENSIONS ONLY & NOT BY FIELD SURVEY.

THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.

LOCATION SURVEY

of Midden Site Situated at the  
Intersection of Fraser Drive and  
Champagne Drive.

Tweed Heads South

Parish of TERRANORA

County of ROUS

B & P SURVEYS  
CONSULTING SURVEYORS

ABN: 55 01017236  
30 Beryl Street  
Tweed Heads, NSW, 2485, Australia  
Telephone: (07) 5536 3611  
Fax: (07) 5536 3701  
Email: [tweed@bpsurveys.com.au](mailto:tweed@bpsurveys.com.au)  
Webpage: [www.bpsurveys.com.au](http://www.bpsurveys.com.au)

Offices Also At:

Surfers Paradise Murwillumbah  
Ph: (07) 55390499 Ph: (02) 66721924



A QUALITY ASSURED COMPANY

J:\14200-14246\Projects\15975D-A.pro

| Scale    | Level Datum | Drawn            | Chk'd | F.Bk   | L.Bk |
|----------|-------------|------------------|-------|--------|------|
| 1 : 200  | AHD         | MES              | KGS   | T14246 | —    |
| REF. No. | Date        | Drawing No./Size | Rev.  |        |      |
| T14246   | 22.05.2007  | 15975 D          | A.    |        |      |



# Aboriginal Cultural Heritage Assessment at Fraser Drive, Tweed Heads South, NSW

February 2008



PREPARED FOR:  
MFS Diversified Group  
PO Box 7720  
Bundall Qld 9726

PREPARED BY:  
Richard Robins  
Everick Heritage Consultants Pty Ltd  
47 Arthur Terrace  
Red Hill Qld 4059

ABN 78102206682



## Table of Contents

---

|                                                                             |          |
|-----------------------------------------------------------------------------|----------|
| <b>EXECUTIVE SUMMARY .....</b>                                              | <b>4</b> |
| RECOMMENDATION 1 .....                                                      | 8        |
| RECOMMENDATION 2 .....                                                      | 8        |
| RECOMMENDATION 3 .....                                                      | 8        |
| RECOMMENDATION 4 .....                                                      | 9        |
| RECOMMENDATION 5 .....                                                      | 9        |
| RECOMMENDATION 6 .....                                                      | 9        |
| 1. INTRODUCTION .....                                                       | 10       |
| 1.1 LOCALITY .....                                                          | 10       |
| 1.2 PROPERTY DESCRIPTION .....                                              | 10       |
| 1.3 PROPOSED DEVELOPMENT .....                                              | 10       |
| 1.4 AIMS OF THE ASSESSMENT.....                                             | 14       |
| 2. ABORIGINAL CONSULTATION .....                                            | 14       |
| 2.1 INITIAL CONSULTATION AND SITE INVESTIGATION .....                       | 15       |
| 2.2 COMMUNITY CONSULTATION IN ACCORDANCE WITH THE DECC GUIDELINES .....     | 16       |
| 2.3 OUTCOMES OF THE COMMUNITY CONSULTATION .....                            | 20       |
| 3. ENVIRONMENT .....                                                        | 23       |
| 3.1 GENERAL DESCRIPTION .....                                               | 23       |
| 3.2 EUROPEAN LAND USES .....                                                | 27       |
| 4. CULTURAL BACKGROUND.....                                                 | 27       |
| 4.1 TERRITORIES AND MOVEMENT .....                                          | 27       |
| 4.2 ECONOMY- MATERIAL CULTURE .....                                         | 30       |
| 5. ARCHAEOLOGICAL CONTEXT.....                                              | 32       |
| 5.1 PREHISTORY.....                                                         | 32       |
| 6. DESKTOP REVIEW .....                                                     | 33       |
| 6.1 PREVIOUS ARCHAEOLOGICAL ASSESSMENTS.....                                | 33       |
| 6.1.1 Terranora Creek- Terranora Broadwater .....                           | 34       |
| 6.1.2 The Tweed River- northern banks.....                                  | 35       |
| 6.1.3 Cobaki Broadwater.....                                                | 36       |
| 6.1.4 Coastal Uplands-Terranora .....                                       | 36       |
| 6.2 THE DECC ABORIGINAL HERITAGE INFORMATION MANAGEMENT SYSTEM (AHIMS)..... | 37       |
| 6.3 BUNDJALUNG MAPPING PROJECT DATABASE (BMP) .....                         | 40       |
| 6.4 POTENTIAL SITE TYPES .....                                              | 39       |
| 7. FIELD INSPECTION .....                                                   | 40       |
| 7.1 METHODS.....                                                            | 40       |
| 7.1.1 Archaeological Assessment .....                                       | 40       |
| 7.1.2 European Heritage .....                                               | 40       |
| 7.1.3 Aboriginal Cultural Assessment .....                                  | 41       |
| 7.2 CONSTRAINTS TO SITE DETECTION .....                                     | 41       |
| 7.3 SURVEY COVERAGE .....                                                   | 42       |
| 7.4 RESULTS OF THE ASSESSMENT .....                                         | 44       |
| 7.4.1 The Archaeological Assessment .....                                   | 44       |
| 7.4.2 European Cultural Heritage.....                                       | 45       |
| 7.4.3 Aboriginal Cultural Heritage .....                                    | 45       |
| 8. SIGNIFICANCE ASSESSMENT.....                                             | 49       |
| 8.1 ARCHAEOLOGICAL/SCIENTIFIC SIGNIFICANCE .....                            | 49       |
| 8.2 CULTURAL/SOCIAL SIGNIFICANCE .....                                      | 50       |
| 8.3 PUBLIC SIGNIFICANCE.....                                                | 50       |
| 8.4 MANAGEMENT OPTIONS .....                                                | 51       |
| 9. RECOMMENDATIONS.....                                                     | 51       |
| RECOMMENDATION 1 .....                                                      | 51       |
| RECOMMENDATION 2 .....                                                      | 52       |

|                                                                                   |    |
|-----------------------------------------------------------------------------------|----|
| RECOMMENDATION 3 .....                                                            | 52 |
| RECOMMENDATION 4 .....                                                            | 52 |
| RECOMMENDATION 5 .....                                                            | 53 |
| RECOMMENDATION 6 .....                                                            | 53 |
| BIBLIOGRAPHY .....                                                                | 54 |
| APPENDIX A - CORRESPONDENCE: TWEED BYRON LOCAL ABORIGINAL LAND COUNCIL .....      | 58 |
| (TO BE INCLUDED IN FINAL REPORT)                                                  |    |
| APPENDIX B – RESPONSE FROM MS MCDONALD .....                                      | 59 |
| APPENDIX C – LETTER DATED 15 <sup>TH</sup> AUGUST 2007 .....                      | 60 |
| APPENDIX D – LETTER FROM DECC DATED 5 <sup>TH</sup> OCTOBER 2007 .....            | 62 |
| APPENDIX E – LETTER FROM TWEED SHIRE COUNCIL.....                                 | 64 |
| APPENDIX F – ADVERTISEMENT .....                                                  | 65 |
| APPENDIX G – LETTER FROM TWEED SHIRE COUNCIL DATED 2 <sup>ND</sup> MAY 2007 ..... | 66 |
| APPENDIX H – LETTER FROM B. OLIVER DATED 20 <sup>TH</sup> DECEMBER 2007 .....     | 66 |

## Figures

---

|                                                                                                                                     |    |
|-------------------------------------------------------------------------------------------------------------------------------------|----|
| FIGURE 1 - GENERAL LOCALITY OF LOT 7 DP1009074, TWEED SHIRE .....                                                                   | 11 |
| FIGURE 2 - SUBJECT LANDS FRASER DRIVE, TWEED HEADS SOUTH .....                                                                      | 12 |
| FIGURE 3 - PLAN OF PROPOSED DEVELOPMENT .....                                                                                       | 13 |
| FIGURE 4 - SUBJECT LANDS SHOWING AREA SURVEYED AND THE AREA IDENTIFIED BY TRADITIONAL OWNERS TO BE MONITORED DURING EARTHWORKS..... | 21 |
| FIGURE 5 - VIEW NORTH EAST OVER THE FILLED FLOOD PLAIN .....                                                                        | 22 |
| FIGURE 6 -VIEW SOUTH TO THE WESTERN HILLSLOPES .....                                                                                | 23 |
| FIGURE 7 - EXCAVATED CUTTINGS IN THE LOWER WESTERN HILLSLOPES .....                                                                 | 24 |
| FIGURE 8 - VIEW NORTH EAST AT THE SOUTHERN END OF THE WESTERN HILLSLOPES.....                                                       | 24 |
| FIGURE 9 - EXCAVATED SHELL FROM NATURAL SHELL BEDS .....                                                                            | 25 |
| FIGURE 10 - EXCAVATED SAND AND NATURAL SHELL MOUNDS ON WESTERN EDGE OF THE FLOOD PLAIN .....                                        | 25 |
| FIGURE 11 - ABORIGINAL SITES ON THE AHIMS REGISTER AND BMP DATABASE IN VICINITY OF THE SUBJECT LANDS.....                           | 38 |
| FIGURE 12 - ARCHAEOLOGICAL SURVEY COVERAGE.....                                                                                     | 43 |
| FIGURE 13 - PLAN OF MIDDEN SITE, #04-2-0088 .....                                                                                   | 45 |
| FIGURE 14 - VIEW EAST OF SITE AREA .....                                                                                            | 46 |
| FIGURE 15 -VIEW SOUTH, ROAD CUTTING IN WHICH SHELL MATERIAL IS VISIBLE. ....                                                        | 47 |
| FIGURE 16 - EXAMPLE OF SHELL VISIBLE IN ROAD CUTTING.....                                                                           | 47 |
| FIGURE 17 - VIEW FROM MIDDEN SITE AT TOP OF BANK TO ADJACENT HOUSE SITE. ....                                                       | 48 |
| FIGURE 18 - BENCHMARK - INSPECTION POINT AT THE EASTERN END OF THE SITE. ....                                                       | 49 |

## Tables

---

|                                |    |
|--------------------------------|----|
| TABLE 1 - SURVEY COVERAGE..... | 42 |
|--------------------------------|----|

## EXECUTIVE SUMMARY

The following report presents the results and outcomes of a Cultural Heritage Assessment at Lot 9 on DP 1039569 and Lot 2 on DP 100383 Fraser Drive Tweed Heads South ('Subject Land'). The report includes an archaeological assessment and consultation outcomes with the wider Aboriginal community on the potential impact of the proposed development upon cultural heritage values of the Subject Land. A prior archaeological assessment has been carried out over the Subject Land (Piper 2000). That survey found that there were neither sites of archaeological significance nor areas of significance to the Tweed Byron LALC. This report was commissioned to conform to more recent guidelines and procedures that require broader consultation with the Aboriginal community, particularly Traditional Owners.

The MFS Diversified Group (comprising the MFS Diversified Trust and MFS Diversified Limited) and Greenview Developments Pty Ltd ('the Proponents') have commissioned PMM Sydney Pty Ltd to prepare an application to subdivide land for residential development. The Subject Land might be described as a degraded landscape in the sense that little of the original land surfaces are likely to remain, considering the long term slippage and slumping of the slopes and the coverage of fill over c. 95% of the floodplain proposed for development. This history reduces the potential for Aboriginal archaeological sites to be found in their original context (*in situ*).

The field inspection of the Subject Land was carried out by Everick Heritage Consultants Pty Ltd ('Everick') and the Sites Officer of the Tweed Byron LALC Mr. Cyril Scott on April 18, 2007. An assessment of the potential European heritage of the Subject Land was conducted with reference to the *Tweed Local Environment Plan 2000 (Amendment No 76) Schedule 2* and *The Register of the National Estate* and the New South Wales Heritage Office *State Heritage Register*.

The Traditional Owner consultation was undertaken in two parts. Firstly an initial consultation process with known Aboriginal community leaders, and secondly through the full consultation process in accordance with DECC Guidelines. The initial consultative process was undertaken with members of the Tweed Byron LALC. Elder Mr. Des Williams and Sites Officer Mr. Cyril Scott undertook to enquire of the Aboriginal community if there were individuals with cultural heritage interests in the Subject Land. Dr Richard Robins was informed that Ms. Jacqueline Mc Donald would be the appropriate person to discuss cultural heritage matters as she and other families are descendent members of the Nganduwal/Minjungbal clans. The response of Ms McDonald to the preliminary assessment is contained in Appendix B of this report. In it Ms McDonald outlined the concerns of The Traditional Owner descendents that the remains of a disturbed midden (DECC # 04-2-0088) within a closed road on the southern boundary of the proposed subdivision may extend northward into the proposed subdivision.

The results of the Cultural Heritage Assessment and initial consultation were:

#### *Archaeological Assessment*

- A recorded midden site (DECC # 04-2-0088) is located within Tweed Council land, adjacent to the boundary of the proposed residential subdivision at Lot 9 on DP 1039569, Tweed Heads South, at the intersection of a closed road (Champagne Drive) and Fraser Drive (Figure 13).

#### *European Cultural Heritage*

- No items in the nature of places, buildings or reserves of Indigenous or European heritage were found as a result of a review of the *Tweed Local Environment Plan 2000. Amendment No 76. Schedule 2*, the New South Wales Heritage Office *State Heritage Register* and the *Register of the National Estate*.

#### *Aboriginal Cultural Heritage*

- A badly disturbed midden (DECC # 04-2-0088) located just outside of the property boundary on the extreme south-east corner of the Subject Land, was identified by members of the Nganduwal/Minjungbal descendents. The midden was exposed when the adjoining road was constructed, possibly in excess of fifty

years ago. The descendants are concerned that earthworks or other disturbances will destructively impact upon undisturbed remains of the site. The significance assessment concludes that the visible shell remains of the middens site have archaeological significance. The Traditional Owners consider the location as a campsite occupied by their forebears and therefore of Aboriginal significance.

- No other sites of cultural heritage significance were identified on the Subject Lands during the community consultation process.

A Draft Report outlining these findings was submitted to the Department of Planning for comment in May of 2007. In a letter dated 15 August 2007 (Appendix D) the Department of Planning responded by requesting that further consultation with the Traditional Owners be undertaken in accordance with the Department of Environment and Climate Change's ('DECC') Draft *Interim Community Consultation Requirements for Applicants* (2005). Everick subsequently implemented the consultation process in accordance with these guidelines. No previously unidentified sights of cultural heritage significance within the lot boundaries of the proposed subdivision were identified as a result of further consultation with Traditional Owners.

Some concerns were raised by the Traditional Owners of the possibility that cultural material could be unearthed in subsequent subsurface works associated with the Subdivision. It is recommended that monitors are employed where initial subsurface disturbance is undertaken anywhere on the southern ridge on which the former Champagne Drive is situated in the Subject Lands (Figure 4).

During the consultation process, it was agreed with the Traditional Owners that the vegetation covering the midden (DECC # 04-2-0088) located in the south eastern corner of the development be cleared (without disturbing the midden itself) to better ascertain its size and significance. The site was subsequently surveyed and it was found to be more extensive than previously identified, and represented a significant cultural heritage site in the context of the region.

The midden is located in what will be Tweed Council Land under a land swap agreement brokered in November 2002 between the Council and the Proponents, to take effect if the Subdivision goes ahead (Figure 13 and Appendix G). The midden has been previously disturbed by a two metre deep 'cut' running through its northern side, where the now closed road reserve of Champagne Drive is located. This road represents a clearly defined northern boundary of the midden. The western side of the midden is defined by a deep cut to the blocks of the adjacent housing estate. Due to the cuts on either side the size of the midden can be ascertained with relative certainty as it shows not just where the midden finishes at its surface but to a depth of 20 – 30 cms.

A meeting was held on 23 January 2007 between representatives of the Tweed Shire Council, MFS Diversified Group, PMM Consulting, Everick Heritage Consultants and a representative of the Tweed Byron LALC, to discuss how the midden site could best be protected. It was acknowledged by all parties that the midden was a site of cultural heritage significance and that measures should be taken to ensure it is protected. An agreement was reached whereby the Proponents of the subdivision made a commitment to sponsor a Cultural Heritage Management Plan (CHMP) for the midden site and undertake appropriate works to protect the site in accordance with this Plan. In return for the assistance of the Proponents in this regard, the Tweed Shire Council formally acknowledged that the midden site existed on their land and that they would retain responsibility for ensuring that the site was protected in the future (Appendix E).

As a result of this meeting Everick has been engaged to undertake further consultation with the Traditional Owners to formulate a CHMP. As outlined above, it is anticipated that Everick, in consultation with the Traditional Owners, will produce a CHMP that will then be submitted in conjunction with a Section 87 application under the *National Parks and Wildlife Act 1974* (NSW). Given the significance of the site, Everick recommends that until a CHMP can be agreed upon, the site should be fenced off so that it can be protected from any inadvertent interference during the development works as part of the subdivision.

## Recommendation 1

It is recommended that a semi-permanent fence be built 10 metres from the known boundary of the midden site in order to protect the site from any inadvertent harm by workers developing the Subject Lands. The fence should be built under the supervision of a qualified archaeologist and a representative of the Traditional Owners.

The location of the midden should be inserted in all future drawing, maps and engineering plans connected with development of the sub-division.

## Recommendation 2

It is recommended that following the implementation of Recommendation 1, a CHMP be drafted and provided to Council to support any future applications under Section 87 of the *National Parks and Wildlife Act* 1974 (NSW). The finalisation of the CHMP will follow Council's negotiations with the Traditional Owners and relevant Indigenous representatives in undertaking the planned widening of Fraser Drive.

## Recommendation 3

It is recommended that employees and contractors conducting earthworks on Lot 135 of the proposed Subdivision Plan be instructed that they are working close to a midden in a culturally sensitive area. It is possible that their works may unearth cultural material. Employees and contractors should be instructed that caution should be exercised when working on the site. They should be instructed on how to identify this cultural material and that in the event that they do find any they are to stop work immediately and follow Recommendation 5 of this report.

## Recommendation 4

It is recommended that contractors engaged in earthworks or subsurface disturbance on the Subject Lands, be advised that under the terms of the *National Parks and Wildlife Act 1974* (NSW) it is an offence for any person to knowingly disturb, destroy, deface or damage or permit the destruction, defacement or damage to an Aboriginal object or Aboriginal place without first obtaining the written consent of the Director General of the Department of Environment and Climate Change.

## Recommendation 5

It is recommended that in the event that future works at the proposed residential subdivision disturb Aboriginal cultural materials, works at or adjacent to the material must stop immediately. Temporary Fencing must be erected around the site and the material must be identified by an independent and appropriately qualified archaeological consultant. The Regional Archaeologist of the Cultural Heritage Unit of the Department of Environment and Conservation, Coffs Harbour, the Tweed Byron L.A.L.C. and the Nganduwal/Minjungbal descendents must be informed. They will advise as to the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the DECC, Tweed Byron L.A.L.C. and the Nganduwal/Minjungbal descendents.

## Recommendation 6

It is recommended that due to the sensitivity of the ridgeline containing the closed Champagne Drive road reserve (Figure 3), any initial subsurface disturbance be monitored by representatives of the Traditional Owners to ensure that cultural material is identified and protected. This monitoring will be independent of the Cultural Heritage Management Plan adopted to protect the midden site. If cultural material is identified, then Recommendation 5 will come into effect.

# **1. INTRODUCTION**

## **1.1 Locality**

The Subject Land is on the western side of Fraser Drive at Tweed Heads South in the Tweed Shire local government area. The land is accessible via Dry Dock Road from the Pacific Highway at the southern approaches to the Boyds Bay Bridge (Figures 1 and 2).

## **1.2 Property Description**

Lot 9 on DP 1039569 and Lot 2 on DP 100383 under the Tweed Shire LEP ('Subject Land').

## **1.3 Proposed Development**

The MFS Diversified Group and Greenview Developments Pty Ltd ('the Proponents') have commissioned PMM Sydney Pty Ltd to prepare an Application to subdivide land for residential development. The Application seeks approval for the subdivision of land, the provision of roads, open space, recreational areas, associated infrastructure and ancillary works to address minor landslip hazard issues (Fraser Drive, South Tweed. Environmental Assessment 2007:4) (Figures 3 and 4).



Figure 1 - General Locality of Lot 9 on DP 1039569, Tweed Shire.

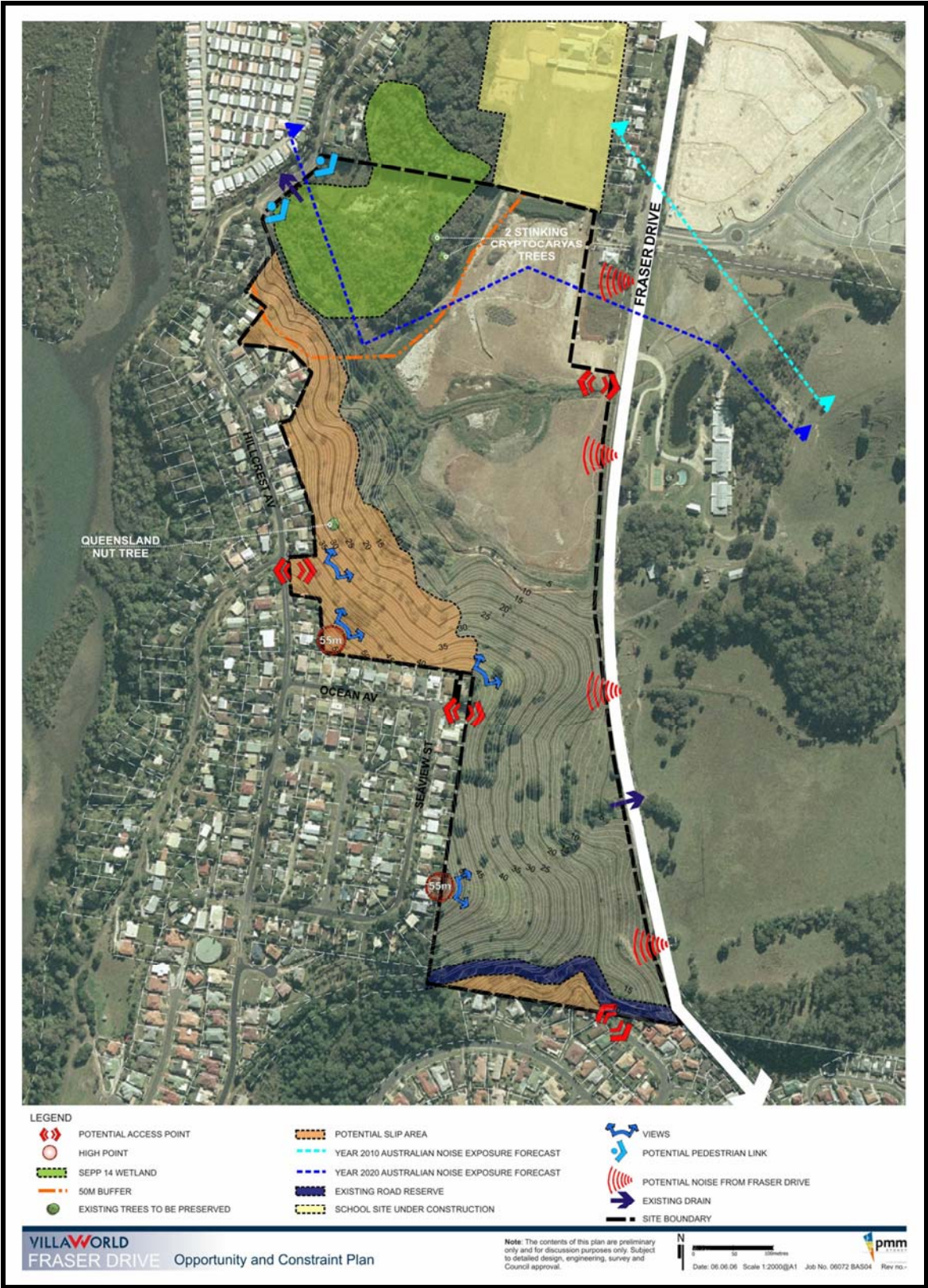


Figure 2 - Subject Lands Fraser Drive, Tweed Heads South.

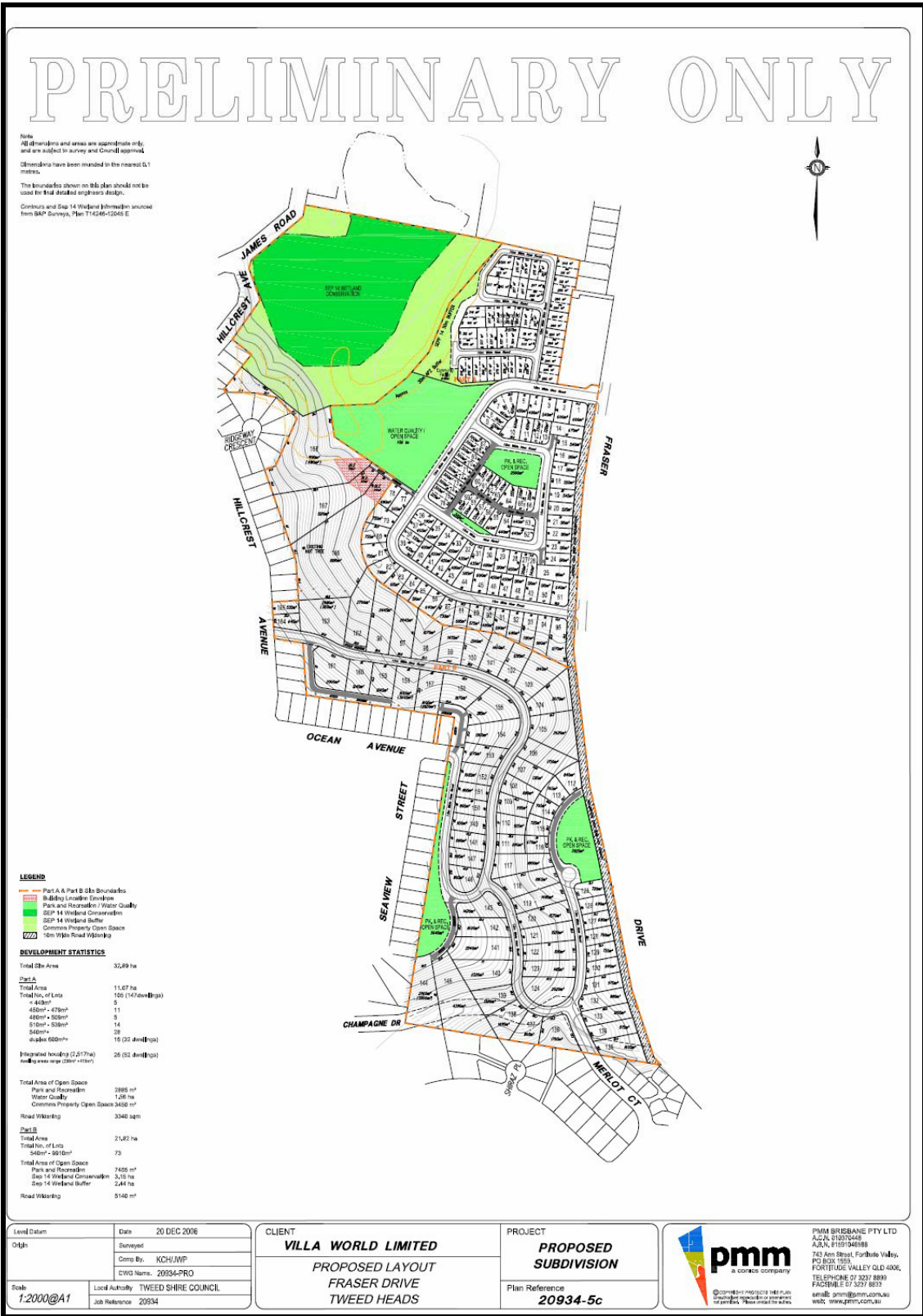


Figure 3 - Plan of Proposed Development.

## 1.4 Aims of the Assessment

The aims of the assessment were to:

- consult with the Tweed Byron LALC to define areas significant or potentially significant to the Land Council;
- consult with Traditional Owners to establish whether the Subject Land contains places and or cultural heritage values that could be destructively impacted by the proposed development;
- assess previous documentation including published and unpublished reports, the NSW Aboriginal Heritage Information Management System (AHIMS) and the Bundjalung Mapping Project database;
- conduct a ground survey with members of the Tweed Byron LALC and Traditional Owners of as much surface area as conditions will allow to identify archaeological sites; and
- assess the potential for the Subject Land to contain Aboriginal archaeological sites and areas identified as having cultural heritage values.

## 2. ABORIGINAL CONSULTATION

The Traditional Owner consultation was undertaken in two parts. Firstly an initial consultation process with known Aboriginal community leaders, and secondly through the full consultation process in accordance with DECC Guidelines.

## 2.1 Initial Consultation and Site Investigation

The Subject Land is within that administered by the Tweed Byron LALC. The Land Council was informed of the requirement for a cultural heritage assessment. The Land Council agreed to provide their Sites Officer Mr. Cyril Scott to assist in the field inspection and to consult within the Community to identify those people who may have traditional links with and/or cultural heritage knowledge of the Subject Land. The Land Council's written views on the conduct and outcomes of the cultural heritage and archaeological assessment are contained in Appendix A of this report. The field inspection was carried out by Sites Officer Mr. Cyril Scott and the consultant on the 18<sup>th</sup> April 2007.

The initial consultative process was undertaken with members of the Tweed Byron LALC. Elder Mr. Des Williams and Sites Officer Mr. Cyril Scott undertook to enquire of the Aboriginal community if there were individuals with cultural heritage interests in the Subject Land. Dr Richard Robins was informed that Ms. Jacqueline Mc Donald would be the appropriate person to discuss cultural heritage matters as she and other families are descendent members of the Nganduwal/Minjungbal clans.

The response of Ms McDonald to the preliminary assessment is contained in Appendix B of this report. In it Ms McDonald outlined the concerns of The Traditional Owner descendents that the remains of a badly disturbed midden (DECC # 04-2-0088) within a closed road on the southern boundary of the proposed subdivision may extend northward into the proposed subdivision. The site is located in Lot 135 of the Proposed Layout Plan.

The Coordinator (Mr Clarence Phillips) of the Tweed Byron LALC undertook to canvass the views of the family groups mentioned in Ms McDonald's letter, in her absence. A visit to the site was also arranged. We have at this stage no written response from the Tweed Byron LALC to this report, but the LALC is involved in the ongoing consultation process (see Section 2.2) and will be forwarded the Draft of this report for comment.

## 2.2 Community Consultation in accordance with the DECC Guidelines

In a letter dated 15 August 2007 (Appendix C) the Department of Planning requested that further consultation with the Traditional Owners be undertaken in accordance with the Department of Environment and Climate Change's ('DECC') draft *Interim Community Consolation Requirements for Applicants* (2005) (the 'Guidelines').

### ***Advertisements***

In accordance with the Guidelines, advertisements were placed in the Daily News newspaper on 28 and 29 September and 1 October 2007, in the Public Notices section (Appendix F). The advertisement headed Aboriginal Cultural Heritage and Archaeology Study, invited Aboriginal persons with an interest in the future planning of the rezoning Application of the Subject Land, to contact Everick Heritage Consultants Pty Ltd.

Interested persons were notified that they would be given adequate time and opportunity to respond to the advertisement.

### ***Mail Out***

In the event that Aboriginal Community organisations and individuals did not have the opportunity to see the advertisement, a letter from Everick inviting participation by Aboriginal people with a cultural heritage interest in the project was sent by Registered Mail to the following:

Ms Jackie McDonald  
Tweed Byron LALC  
Leslie Mye, Tweed Shire Council  
New South Wales Native Title Service  
Regional Archaeologist, Cultural Heritage Unit, DECC

In response, Jackie McDonald wrote to Everick in an email dated 15 October 2007, registering her interest, and those of Jason McDonald, Jamie McDonald, Adam Mazzarella, Peter Buxton and Paul Buxton. The Tweed Byron LALC registered their interest in a letter dated 17 October 2007. Leslie Mye registered her personal interest in an email dated 16 October 2007. Deidre Currie registered her interest in an email dated 15 October 2007. These respondents were all notified in writing that they had been included on a register and would be consulted further.

The Tweed Aboriginal Cooperative Society responded in a letter dated 24 October 2007. Everick wrote a response dated 25 October 2007 informing them that planning for the methodology was well underway, and that in accordance with the DECC draft *Interim Community Consultation Requirements for Applicants* (2005), they would be asked to provide comment on the Draft Report only, and not the methodology.

Graeme Moss of the DECC responded by providing a list of known Aboriginal parties, which the DECC felt may have an interest in the Project (Appendix D). Letters were subsequently sent on 10 October 2007 to the following:

Arakwal Aboriginal Corporation  
Bundjalung Tribal Society  
Bundjalung Elders Council Aboriginal Corporation  
Bunjum Cooperative Society  
Cubawee Aboriginal Corporation  
Gidabel Aboriginal Corporation  
Jarjum Centre Incorporated  
Nunbahing  
Nungera Cooperative Society Limited  
Nunger Aboriginal Corporation  
Shared Vision Aboriginal Corporation  
Jarjum Gangaleh Aboriginal Corporation  
Wai:Bai Aboriginal Corporation  
Yamboora Aboriginal Corporation  
Mr Doug Anderson and Mrs Susan Anderson  
Kurrachee Cooperative Society

### ***Draft Methodology***

Everick subsequently formulated a draft methodology for undertaking the Cultural Heritage Assessment. The methodology was provided to all of the registered respondents (the “Respondents”), along with the DECC and the Tweed Shire Council. Ms McDonald responded to the methodology requesting that Everick consult with the Bundjalung Mapping Project to determine if any sites in the Subject Lands were in its database. Everick received no other written or verbal responses to the proposed methodology. A response was received from Ms Barbara Oliver requesting that if any cultural material is found that it remain undisturbed.

### ***Meetings***

In a letter dated 30 November 2007, all Respondents were then invited to attend a preliminary information meeting held on 11 December 2007 at the Banora Point Community Centre between 11.00 am and 1.00pm. The meeting was designed to give the Respondents information on the nature of the development, previous archaeological studies on the site and seek any comment about how to best undertake on-site meetings. The meeting was attended by representatives of MFS Diversified Group, PMM Consulting and Everick Heritage Consultants. Of the Respondents, only Jackie McDonald attended the meeting. It was decided during the meeting that it would be most helpful to inspect the site with Jackie McDonald immediately following the meeting.

As part of the ongoing consultation process, on-site meetings were proposed for other Respondents to discuss cultural heritage issues that they might wish to raise. These meetings were arranged for the 18<sup>th</sup> of December 2007 at 10am and the 19<sup>th</sup> of December at 1pm. However, none of the Respondents attended those meetings.

The consultation process was temporarily delayed where it was decided that, as the only identified cultural heritage on the Subject Land, the midden should be surveyed and responsibility for its protection and ongoing management be ascertained. The Tweed Shire Council and the Proponents had agreed to a land swap in 2002 of the Champagne Drive Road Reserve to provide for land along the western side of Fraser Drive for road widening

(Appendix G). Because of the position of the midden it will 'move' from the Champagne Drive Road Reserve to the Fraser Drive Road Reserve.

The result of the survey was that the midden was found to be located in what will be Tweed Council Land under a land swap agreement (Figure 13). Adjustments to the boundary of Lot 135 of the proposed Subdivision (Figure 3) will be made to ensure that the midden and a protection zone around the midden are located within Tweed Council Land. This is a positive move from both the Tweed Shire Council and the Proponents, as responsibility for the ongoing management and protection of the midden will now rest with just one party.

A meeting was held on the 19 December 2007, between representatives of MFS Diversified, PPM, Everick, the Tweed Shire Council and The Tweed Byron LALC to discuss issues of future management. The Land Council representative (Mr Russle Logan) stressed the importance of the midden and the need for its protection and management. An agreement between the Proponents and the Tweed Shire Council was negotiated, whereby the Tweed Shire Council accepted that the site will be situated on its land if the Subdivision goes ahead (Appendix E). Both parties recognise the significance of the midden and the need for a management plan separate from the development process. To this end the Proponents have agreed to sponsor a Cultural Heritage Management Plan (CHMP) in consultation with Traditional Owners to ensure the protection and long-term management of the site. The Tweed Shire Council will then take over its management, in accordance with the CHMP.

### ***Final Report***

A copy of the final report was sent by email to the Respondents on 18 February 2008 for their comment. A hard copy was also provided to those who requested. The Respondents were requested, in accordance with the DECC Guidelines, to provide Everick with a response by 10 March 2008.

On 7 March 2008, Mr Adrian Piper attended a meeting of the Tweed Council Aboriginal Advisory Committee to present this report. Mr Piper was informed that under the rules of

the Committee, there were not enough attendees to form a quorum and pass a resolution on the report. The members of the Committee informed Mr Piper that they would endeavor to provide an opinion as soon as possible. During the meeting no concerns were raised by the attendees as to the findings or recommendations contained in this report.

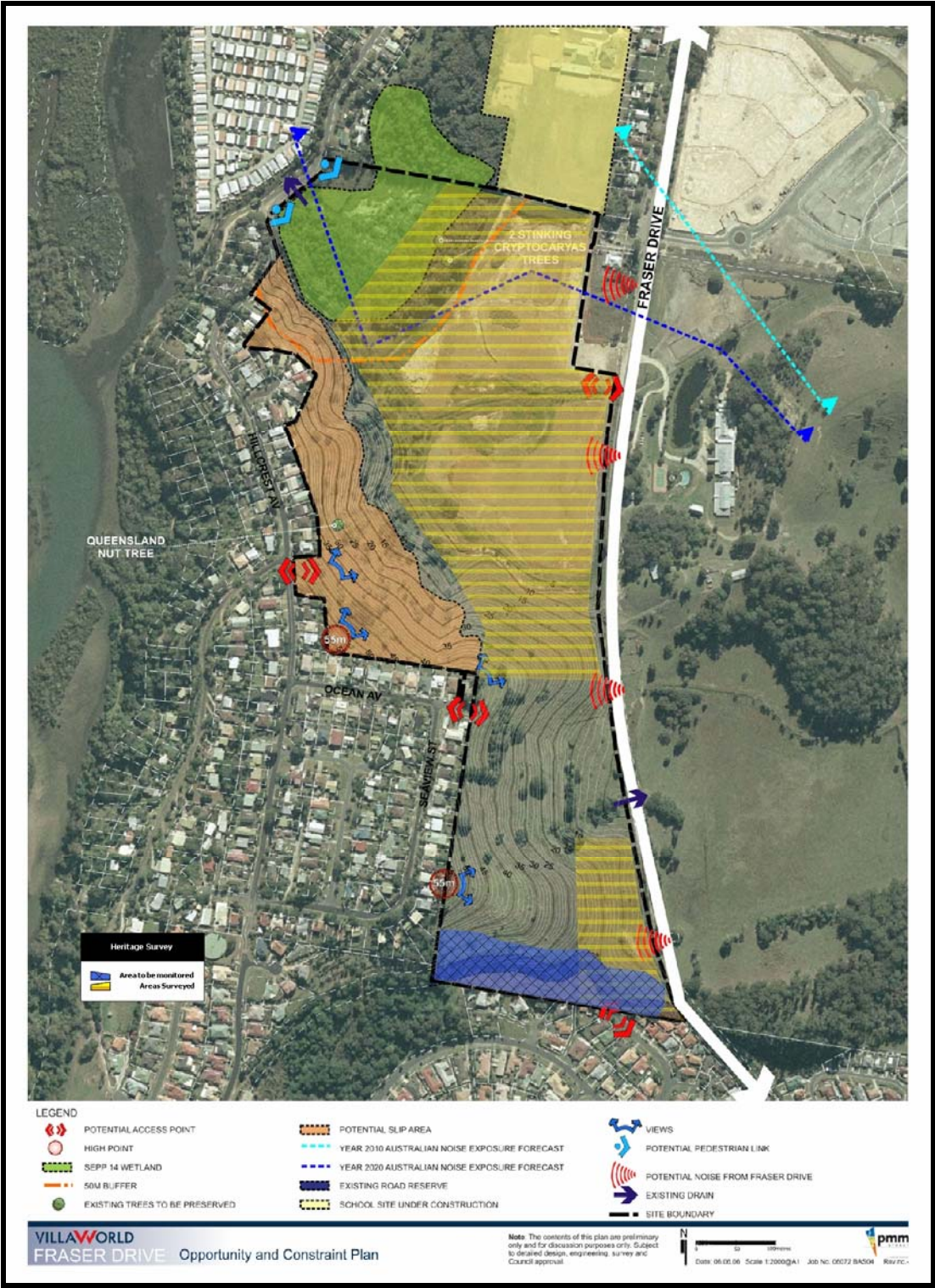
At the time of publishing this report no comments on the final report had been received from the Respondents. The Respondents were advised that we would be finalising this report by 17 March 2008, and submitting it to the relevant authorities for consideration. However, we have given them a commitment to forward any comments received after this date to the DECC. Accordingly, we will forward any opinions if and when they are received.

## 2.3 Outcomes of the Community Consultation

Mrs Barbara Oliver provided us with a letter dated 20 December 2008 stating her desire that the midden site be preserved and protected so that it could be used to educate future generations (Appendix H).

In a conversation with Ms Jackie McDonald, she expressed her satisfaction that monitoring would take place on the southern ridge as she requested. She did however reserve her final comments until she could consider the report fully.

The result of the community consultation was that no Aboriginal places or objects were identified on the Subject Lands. However, the ridge along the southern end of the Subject Lands, along Champagne Drive, was considered potentially archaeologically important by Ms Jackie McDonald and by the Tweed Byron LALC. The Proponents have agreed to employ monitors during the initial excavation on this part of the site to ensure that appropriate management procedures take place if Cultural Material is discovered. No other areas of cultural significance were identified by the Traditional Owners or the Tweed Byron LALC during the consultation process.



**Figure 4 - Subject Lands showing area surveyed and the area identified by Traditional Owners to be monitored during earthworks.**

### 3. ENVIRONMENT

#### 3.1 General Description

The Subject Land comprises hill slopes in the south and west facing north and east respectively on to a floodplain extending to the north. Local relief ranges from <1 m on the flood plain to 60 m on the hillslopes. Elevations range from 30 m AHD to 90 M AHD. The flood plain contains three topographic features: low boggy ground at the base of the hill slopes, a tidal mudflat/wetland (SEPP 14- Wetland) in the northwest and a filled former sand rise bordering the SEPP 14 wetland.



**Figure 5 - View north east over the filled flood plain.**

Rock types in the area are basalts of the Lamington Series on the higher levels, overlying Neranleigh-Fernvale Beds. These lower level rocktypes include greywacke, quartzites and slates. Soils derived from these rock types are red /brown krasnozems at the upper slopes and red/brown/ yellow clays on the lower slope. At the base of the footslopes, floodplain soils beneath the introduced fill are colluvial. The remainder are dark loamy sands over grey and yellow/grey sands overlying peat and alluvium (Morand 1996:152).



**Figure 6 -View south to the western hillslopes.**

Pasture grasses and regrowth rainforest species grow on the southern slopes and floodplain. Sclerophyll/brushbox forest grows in the northern slope. The SEPP 14 Wetland has Swamp sclerophyll forest, Mangrove Forest Woodland and Coastal salt marsh (Fraser Drive, South Tweed Environmental Assessment 2007:33).



**Figure 7 - Excavated cuttings in the lower western hillslopes.**



**Figure 8 - View north east at the southern end of the western hillslopes.**



**Figure 9 - Excavated shell from natural shell beds.**



**Figure 10 - Excavated sand and natural shell mounds on the western edge of the flood plain.**

### 3.2 European Land Uses

Due to land clearing, all vegetation on the Subject Land with the possible exception of some mangroves can be considered regrowth. The slopes have been cultivated for small crops in the past. Both the slopes and flood plain have been used for grazing purposes. Fill has been placed over all of the floodplain to depths between approximately 1.5 - 3.0 metres rendering the detection of archaeological sites impossible had they existed. The Subject Land might be described as a degraded landscape. Considering the long term slippage and slumping of the slopes and the coverage of fill over c. 95% of the floodplain proposed for development little if any of the land surfaces are likely to be original. The potential for Aboriginal archaeological sites remaining in their original context (*in situ*) is limited to small areas of original land surface.

## 4. CULTURAL BACKGROUND

The following are some of the features of Aboriginal society and economy that prevailed in the vicinity of the Subject Lands at and around the time of the European contact period. The review of literature sources relevant to the Tweed River provides insights into the environment and land use practices, material culture and ceremonial life. These in turn may provide the context for predictive statements relating to site type and location as well as a more general cultural heritage assessment.

### 4.1 Territories and Movement

The Aboriginal people of the coastal Tweed-Brunswick Rivers were associated with the wider Bundjalung linguistic group which was spoken with dialect differences between the Clarence and Logan Rivers, and extending possibly as far west as Tenterfield. Land belonged to clan groups whose boundaries had been established in mythology (Creamer 1984). Dialect groups composed of interlinked clan/family groups occupied distinct areas within the wider Bundjalung association (Crowley 1978). Curr provides some evidence for this model suggesting that dialects between the Tweed River and Albert Rivers were closely related (Curr 1887:321). Tindale recognised a similar common language group extending

north-south between Byron Bay and Southport and west to Murwillumbah, which he called Minjanbal (Tindale 1940:191). Tindale's Minjanbal language group possibly contained two main land holding clans, the Kombemerri north of the Tweed River and the Coodjingburra south of the Tweed River.

Joshua Bray a postmaster, and 'Protector of Aborigines' defines the Coodjingburra territory as, '... the part along the coast between the Tweed and Brunswick rivers, about ten miles back from the coast...' (Bray 1901: 9). The word for Brays 'tribe' is ku-ging corrupted to modern Cudgen. 'This was the place where the blacks get the red raddle or pigment to paint themselves with when going fighting or to corroboree...' (Bray 1990:10). The Kombemerri land north of Tweed River, Bray describes as belonging to a 'tribe' called Moorung Moobar, '... who had all north of the Tweed to the McPhersons Range...' (Bray 1901:9). Descendent members of the Nganduwal/Minjungbal clans are of the view that the area around the Terranora/Cobaki Broadwaters is in the range of the Tul-gi-gin people (Fox 2006:6-7).

Population estimates for the Tweed Valley and coast have been based upon general reports to government authorities and on estimates from specific sightings. In the mid-1800's Commissioner of Crown Lands, Simpson estimated the population between Point Danger and Fraser Island at not less than 5000 (Simpson 1844:484 - 486). Bray, from near his residence at Kynnumboon observed 600 people camped on the Wollumbin Plain west of Murwillumbah in the 1860's (Bray 1901). A party of 200 men armed with spears had been observed by John Oxley's party on Fingal Head in 1823 (Uniacke 1825:40). Pierce suggested that this gathering of men would indicate a population of about 500 for the Tweed District and a population density between the Tweed and Brunswick Rivers and inland for some miles, '... of about three per square mile...' (Pierce 1971:13).

Models to describe possible patterns of settlement and movement in the North Coast region vary considerably. One suggests that clan groups ranged between the seacoast and foothills of the coastal ranges on a seasonal basis (McBryde 1974). Early sources support this view to some extent as there are records describing the movement of inland groups of the Clarence River to the coast during winter (McFarlane 1934; Dawson 1935:25). A second model suggests that movement of coastal people was not frequent, and that semi-

sedentary groups moved north and south within the coastal plain rather than to the upper rivers (Coleman 1982). The model is based upon reports of numbers of small villages composed of dome-shaped weatherproof huts between the mid NSW coast and Moreton Bay. Flinders described a small group of huts in the vicinity of Yamba in 1799, and Perry described two villages on the banks of the lower Clarence in 1839. Similar sightings were reported by Rous on the Richmond (McBryde 1974:9), Oxley on the Tweed (Piper 1976) and in Moreton Bay (Hall 1982). The construction methods described for these huts seem to suggest occupation for a period of months at a base camp rather than a constant wide-ranging pattern of low-level land use. Godwin (1999:211-217) argues that neither of the above 'models' is supported by the archaeological record and that local conditions dictated exploitation strategies on the North Coast of N.S.W.

Bray records that, '... the Coodjimburra tribe inhabiting the coast, used to mix very much with the Ballina Richmond River Blacks...' (Bray 1901:9). Bray also observed that for ceremonial occasions Tweed people would travel up to forty miles (Bray 1902:8). Here Bray was referring to a Bora ceremony west of Mount Warning. Movement within the Coodjimburra territory is most likely to have been in response to seasonal availability of foods (Piper 1976:74). A number of observers refer to movement from the coastal plain to foothills during wet seasons on the Richmond/Tweed (Moehead: n.d.; Hanna 1946). During the wet season on Moreton Bay, Backhouse observed, '... the Aborigines resort to elevated situations contiguous to those parts of the coast abounding with oysters. In these situations their huts are said to be large enough to stand up in...' (Backhouse 1843: 274). Jones (1896) in Piper (1976:73) stated that the Tweed coastal group moved to the shoreline during the mullet season. It appears that in the normal course of food foraging, the boundaries of the local land holding groups were clearly defined and crossed under threat of death. For agreed purposes between adjoining groups it was possible to cross boundaries, such as the movement to the Bunya Mountains, every third year so '...Under a sort of 'Truce of God'....For the blacks went through each other territories unharmed (Bundock 1898 in McBryde 1978:265).

## 4.2 Economy- material culture

The Aboriginal people of the coastal plain had access to a wide variety of resource rich, food and raw material producing zones. These included extensive belts of rainforest on basalt soils, tracts of 'Wallum' swamp, open beaches, estuaries, dry sclerophyll forest on poorer inland soils and littoral rainforests on fore dunes and exposed slopes. Records of coastal diet emphasise the role of marine foods. Ainsworth (1922:43) suggests the principal diet in spring and summer was, '... fish and oysters and the varied produce of the chase...'

Ainsworth also noted that in the Ballina area, pademelons, wallabies, bandicoots, iguana, flying foxes, yams and pandanus nuts were part of the diet (Ainsworth 1922:43-44). In the Tweed area a ships crew, who spent Christmas with Aborigines on Kirra Beach in 1875, described '...feasts consisting of roast scrub turkey, crabs, fish, oysters and pademelon...'. (Piper 1976:62). In the Tweed and north to Moreton Bay, the rhizome of the Bungwahl fern (*Blechnum indicum*) was the major component of the vegetable diet. Thomas Pamphlett, a shipwrecked convict, observed that fern root was a daily part of the diet and carried in bundles when the tribe moved. '... Women and children spent the bulk of the day procuring fern root and a part of which they gave the men in exchange for fish...' (Uniacke in Field (ed) 1825:99).

The heavy stone cleavers or bevel pounders used in the pounding of the Bungwahl rhizome and the large lower stone on which the starch was extracted and ground have been identified on the Tweed and south to the Brunswick River by Jackson (1935) and Piper (1976, 2002). Their distribution is now known to extend at least to the Brunswick River (Piper 2002: 49-50). Use-wear studies on bevel pounders have been conducted by Kamminga (1981:31) who has identified them as used for processing starchy plant material. Aborigines of the Tweed coast not only had access to the estuaries and associated ecologies, but also to the rainforest and sclerophyll clad ridgelines which border the rivers and creeks, within kilometres of the coastline.

The written records of European observers suggest a similarity in material culture among people of the Tweed to Moreton Bay. Spears for battle and fishing, fighting clubs, hunting clubs (pademelon sticks), hafted stone axes, a range of boomerangs, wooden shields and

digging sticks were noted in early sources (Byrne 1946:2). The multi-pronged fishing spear and the shellfish hook are absent from this region, fish were caught in nets or speared in the shallows (McBryde 1978:187). Spears were single pointed fire hardened weapons (Dawson 1935:22), of both a lighter and heavier variety (Byrne 1946:3). The woomera and the throwing stick were not used in this region (Dawson *ibid*). The stone tool element in the material culture was small and unspecialized. The archaeological evidence suggests changes to a simpler stone tool technology took place only centuries before European settlement. The stone tools in use immediately prior to European settlement, ‘... show little typological sophistication and did not require highly skilled craftsmanship’ (McBryde 1978:198).

Women produced a range of woven string or grass bags. Strong rope for nets and binding was made from the inner bark of the kurrajong, flame tree and hibiscus (Bundock 1898 in McBryde 1978; Byrne 1946). Another carrier, ‘...was made from the Bangalow Palm, about fifteen inches long and neatly pleated at both ends with a vine over the top’ (West: n.d.). Fishing nets in the Tweed River were made a couple of yards long with a stick at each end used individually or in combination of many of the same (Seymour in Piper 1976). Bundock (1898) and Ainsworth (1922) describe similar nets in use on the Richmond River for game drives in coastal and inland forests and cod fishing in summer.

The physical evidence that remains of the manufacture of implements and utensils are discarded tools, debitage, tree scars and rare museum examples of wood and fibrous weapons, nets and utensils (McBryde 1978). Stone materials are found in isolation and or at the sites of shell middens, scarred trees, stone quarries and open campsites. Evidence of ceremonial/spiritual life remains at Bora grounds, stone arrangements and natural mythological sites; for example, Mount Warning. These sites are considered by the Aboriginal community and the N.S.W DECC to have a scientific/archaeological significance together with sites which have a high social/cultural significance to the Aboriginal community or a combination of both.

## 5. ARCHAEOLOGICAL CONTEXT

### 5.1 Prehistory

Evidence for occupation of coastal N.S.W. and QLD is dated into the Pleistocene at Wallen Wallen Creek on North Stradbroke Island where an occupation phase between  $20560 \pm 250$  years and the early Holocene period is evident. Analysis of faunal materials from the site suggests an economy initially based upon the hunting of terrestrial fauna changing to one based upon a reliance on marine fish and shellfish which may reflect changing local ecologies caused by gradual rises in sea levels during the late Pleistocene (Neal and Stock 1986).

Coastal sites in northern N.S.W. date to within the Holocene period. The earliest of these is a shell midden at the base of Sextons Hill on the lower Tweed River where an occupation phase was dated between 4,700 BP and 4,200 BP (Appleton 1993:34). Faunal material showed a predominance of oyster, cockle and whelk by volume, in addition to remains of pademelon, kangaroo, bream, whiting, flathead and snapper. The stone component exhibited few diagnostic traits, only four artefacts appearing to be of a deliberately manufactured shape (Appleton 1993:17-18).

An earlier excavation of a shell midden 2.5km upstream yielded a basal date of  $605 \pm 90$  BP. A column sample revealed compacted fish bone remains at the lower levels, with a greater content of shellfish in the upper levels. Bone points were also recovered. It was concluded that the diet, initially based upon fish and possibly terrestrial fauna, changed to one more reliant upon shellfish, which probably reflected the gradual siltation of the Tweed River to a mudflat ecology (Barz 1980), in that location at least.

Excavations at the Bushrangers Cave at the head of the Numinbah and Tweed Valleys (elevation c. 700m AHD) indicate people began to use the shelter about 10,000 years ago. The caves occupants exploited rainforest food sources present today namely, pademelons, possums and pythons together with regular consumption of crayfish and bush turkey eggs (Ulmand Hall 1996:45-62).

A shell midden on Chickiba Creek (Richmond River) was found to have accumulated between 1,750 BP and c. 100 BP (Bailey 1975:52). Shell samples from the nearby Angels Beach area are dated between 800 BP and 530 BP, with one sample at 900-1,000 BP (Rich 1994:195). Stone artefacts were assessed on technological grounds to date to within the past 2,000 years (Rich 1994:161). Bailey's basal date of 1,750 BP suggests that the modern resource-rich environment may not have been productive enough at an earlier time to support any more than small groups (Roy in Rich 1994). By contrast, the Tweed River estuarine site below Sextons Hill was in use some 3,000 years earlier than this (Appleton 1993).

Beach foreshore sites investigated to date have been associated with more recent phases of occupation than estuarine sites. Fore dune sites typically take the form of narrow bands of pipi shells, or surface scatters of pipi and a few stone artefacts. Pipi horizons at South Ballina and Broadwater have been dated to 260 years BP and 200 years BP respectively (McBryde 1982:77). A more substantial pipi midden (#04-06-0061) investigated on the foreshore at Byron Bay had been formed between approximately 1,000 and 400 years BP. The 80cm deep midden deposit was overwhelmingly dominated by pipi shell, with minor inclusions of periwinkle, limpet, sand snail, oyster and cartrut. Bream was the most abundant vertebrate species. Although in lower quantities relative to bream, a broad range of fauna was represented in the midden, including other types of fish, tortoise, macropods, bandicoot, possums, rodents, birds and reptiles. The midden's stone assemblage was characterised by primary flaking debitage which reflected the poor knapping quality of the raw materials used. All of these materials are believed to have been collected from intertidal pebble beds adjacent to the site (Collins 1994).

## 6. DESKTOP REVIEW

### 6.1 Previous Archaeological Assessments

It is important to review the results of previous studies in proximity to the Subject Lands as they provide insights into locations where sites are most likely to be found and the variety and contents of those sites.

For the purpose of this desk top review of relevant literary sources the review is confined to assessments conducted north of the Tweed River. These include Appleton (1993), Barz (1980), Benton (2006), Bonhomme and Craib (2005), Collins (1999, 2005), Hall (1990a, 1990b), Lamb (2004), Lilley (1981) and Piper (1976, 1980, 1991, 1993, 1994, 1996, 2000, 2004), Piper and Robins (2006). All of these assessments with the exception of the Collins (2005), Piper (2004) and the Piper and Robins (2006) assessments in the Bilambil/Terranora hills have concentrated on estuarine waterways, old coastal dune formations and the Tweed River floodplain. Recent studies in relation to the extension of the Coolangatta Airport and the Tugan to Tweed Heads Bypass route, east of the Cobaki Broadwater include Collins (1999), Bonhomme and Craib (2000), Eastern Yugembeh Limited (2005) and Benton (2006a, 2006b, 2007).

Previous archaeological assessments in the vicinity of the Subject Lands have sampled all of the major landforms in this area, these being the banks of estuarine waterways of Terranora Creek and Terranora Broadwater and the low hills and floodplains that partially encircle these waterways. Only assessments of the waterways (Piper 1991) in the immediate vicinity of the Subject Land, i.e. within c. 3km have located and recorded Aboriginal sites. Studies that have included both the low hills and floodplain landforms of South Tweed Heads include (Piper 1995) the Flametree Park Estate 1.0 km to the south, the Vintage Lakes Estate 0.1 km to the south (Piper 1994), the Kirkwood Road 0.2 km northeast (Piper 1998) and in Dry Dock Road 1.0 km to the northeast (Lamb 2004). None of these studies have produced sites of Aboriginal or European heritage. It should also be noted that most of the Subject Land was archaeologically assessed in 2000, producing a similar result (Piper 2000).

#### ***6.1.1 Terranora Creek- Terranora Broadwater***

The study of the foreshores of Terranora Creek and Terranora Broadwater (Piper 1991) recorded nine midden sites between Barneys Point Bridge and Tommys Island in Terranora Broadwater a distance of approximately 5.0 km. These sites ranged in content from thin bands of estuarine shell eroding from slopes falling to the river to compacted (20–50 cm) deposits of shell and stone artefacts many metres in extent. The shell contents

of these sites were estuarine shell species; oyster, cockle and whelk. A small number of stone artefacts comprising a retouched flake were observed at Site 5 (# 04-02-79) and a beveled pounder and stone axe recorded at Site 10 (# 04-02-83). These sites are separated from the study area by a high ridge, which forms the eastern shore of Terranora Creek and Terranora Broadwater. Poor visibility due to dense vegetation bordering the waterways hampered the effectiveness of the survey. However, 14 estuarine shell middens were located. The bank of midden sites (Sites 6–13) on the eastern shore of Terranora Broadwater was considered to be of high archaeological and Aboriginal significance (Piper 1991:16-18) because of there being few sites of concentrated deposits remaining. Four other middens (Sites 1, 2, 3 and 5) were assessed as being of low to moderate archaeological significance. A shell midden on Ukerebagh Island (Site 14) was also considered to have a high archaeological and Aboriginal significance.

Information on two additional sites were located in the files of the Bunjalung Mapping Project. These were a burial ground for both Aboriginal and non-Aboriginal people on Phillip Drive (Figure 11) and a possible ceremonial ground on Lakeview Drive. This site was observed in 1974 after a bushfire, but now has houses on it (Figure 11).

#### ***6.1.2 The Tweed River- northern banks***

The Piper assessment (1980, 1991) located ten shell middens on the northern bank of the Tweed River. These ranged from low-density shell scatters to large raised mounds of shell and artefactual materials. One site (Terranora 19) known to contain skeletal material, was the subject of a salvage excavation by Barz (1980). The study also recorded four open campsites containing stone artefactual material and six isolated instances of edge ground axes. Nine bevel pounders, used in the preparation of fern rhizome, were in the recorded sites. The shell content of each midden site were estuarine species, particularly oyster, cockle and whelk. All of the sites were located in a 3 km strip on the northern banks of the Tweed River extending above Barney's Point Bridge. The condition and content of these sites was further reviewed by Piper (1994) as part of an archaeological assessment of the upper Tweed River.

### ***6.1.3 Cobaki Broadwater***

Studies in the vicinity of Cobaki Broadwater have included Lilley (1981), Hall (1990) and Collins (1999). These studies were in relation to proposed residential development, planning proposals at Coolangatta Airport and road route options for the Pacific Highway. These studies inspected large parcels of land to the north of Cobaki Broadwater and the south western banks, (Lilly 1981, Hall 1990). An archaeological area was found to extend on higher dune plain between the eastern margins of Cobaki Broadwater and the runway at Coolangatta Airport. A midden (# 04-02-0039) described by Hall (1990:11) contained dense concentrations of surface and sub-surface shell, mainly estuarine (oyster, cockle and whelk) with a small proportion of beach pipi. Stone artefactual material consisted of cores, flakes and flaked pieces on chert, quartz, silcrete and pebbles of volcanic origin. Bevel pounders used in the preparation of fern root were described as common. This site is considered to have a high archaeological significance as well as a high cultural social significance to Aboriginal organizations north and south of the State border.

A study by Collins (1999) reassessed the area in relation to a Route Selection Study for the Pacific Highway through the area. In addition to the archaeological material recorded by Hall, three open campsites and an isolated artefact were recorded on the elevated dune plain between Cobaki Broadwater and the Coolangatta Airport runway. The sites are low-density scatters of stone artefacts, fragments of oyster shell and a nodule of ochre. Raw materials were cherts, silcrete and sandstone (Collins 1999:34-35).

The archaeological content and Aboriginal cultural heritage significance of the Coolangatta Airport lands, northern shores of Cobaki Broadwater and areas of Tweed Heads west have recently been reviewed by Collins (1999) Bonhomme, Craib (2000) Eastern Yugambah Limited (2005) and Benton (2006a, 2006b, 2007).

### ***6.1.4 Coastal Uplands-Terranora***

The result of previous field assessments indicate the main concentration of recorded Aboriginal sites is in the immediate vicinity of the waterways of the Tweed River estuary, be it a small proportion of the original number. A far lesser concentration of recorded sites occurs in the upland areas of Terranora, Bilambil, Carool and Tumbulgum which

form catchments adjacent to the coastal plain and the creek systems, which flow from them. Few studies have been conducted in these areas where the impact of land clearing is arguably greatest and the spread of urban development less concentrated.

A study (Piper 1994) of an earth/rock quarry site above Duroby Creek could find no evidence of Aboriginal materials. The quarry located is 7 km southwest of the study area on a ridgeline terminating at the Duroby Creek flats. A study (Piper 1996) over 100 ha of ridge crest and slopes on red/brown krasnozems overlooking Cobaki Creek 9 km southwest of the study area produced a similar result. An assessment by Piper (2004) and Collins (2005) of areas of the Bilambil hills also produced a nil result. A study (Robins and Piper 2006) of 14.0 ha of the Terranora plateau investigated an area where a stone axe had been recorded, collected by a collector (Piper 1980). The total evidence of Aboriginal use/occupation of the coastal uplands of the Terranora plateau is restricted to a small number of isolated stone artefacts. The effectiveness of archaeological assessments in these uplands is invariably diminished by poor surface visibility.

## 6.2 The DECC Aboriginal Heritage Information Management System (AHIMS)

A search of the N.S.W. DECC, AHIMS register found that there were thirty-eight sites listed in the area included on the Tweed Heads, 1:25,000 mapsheet. Midden sites make up 75% (n=28) of the total number, open campsites 10.5% (n=4), burial sites 5.2% (n=2), ceremonial bora ground 2.6% (n=1), and natural mythological sites 2.6% (n=1) and an open campsite/midden (n=1). The results of the site search do include the possibility of omission and not indicate whether the site is still in existence. Sites recorded as single artefact finds, for example a single stone axe are not listed in the results of the current search.

The majority are middens clustered along the shores of Terranora Creek, the eastern banks of the Terranora Broadwater and the lower slopes of the Terranora ridge adjoining the northern banks of the Tweed River. The AHIMS search lists a midden site (DECC #04-2-0088) in the southeast corner of the Subject Land at the intersection of the closed road Champagne Drive and Fraser Drive.

The predominant site type is the midden composed of shellfish refuse. These may take the form of thin linear bands of shell and few stone artefacts to large mounds of concentrated shell refuse, stone artefacts, fish and terrestrial animal bone and ash. Middens may contain burials as was the case at a large midden deposit on the north bank of the Tweed River (Site No: 04-02-006). The main concentration of sites is along the margins of the waterways of the Tweed River, Terranora Creek and Terranora Broadwater. Two of these sites (Site No: 04-02-0006 and 04-02-00071) have been excavated and produced dates of occupation of  $600 \pm$  BP (Barz 1980) and 4700, BP (Appleton 1993) respectively. Both were salvage excavations, both sites are now under residential developments.

Few of the sites indicated on the northern bank of the Tweed River are still in existence. Residential developments on river foreshores have eliminated numbers of registered sites. The largest midden sites were mounds on low spurs projecting from the eastern base of Terranora ridge. One of these sites, Terranora 12 (Site No: 04-02-0024) survives. The only group of sites not heavily disturbed by development is the midden sites on the eastern bank of Terranora Broadwater and Terranora Creek (Site Nos: 04-02-0080 to 04-02-0085). These are middens of estuarine shell species on the foreshores of extensive shellfish gathering areas, immediately below high basalt soil ridges. It would appear that the occupants of all the estuarine sites on the lower Tweed River waterways had immediate access to extensive tracts of rainforests. However, no occupation sites have been found on the higher elevations which supported sub-tropical rainforests.

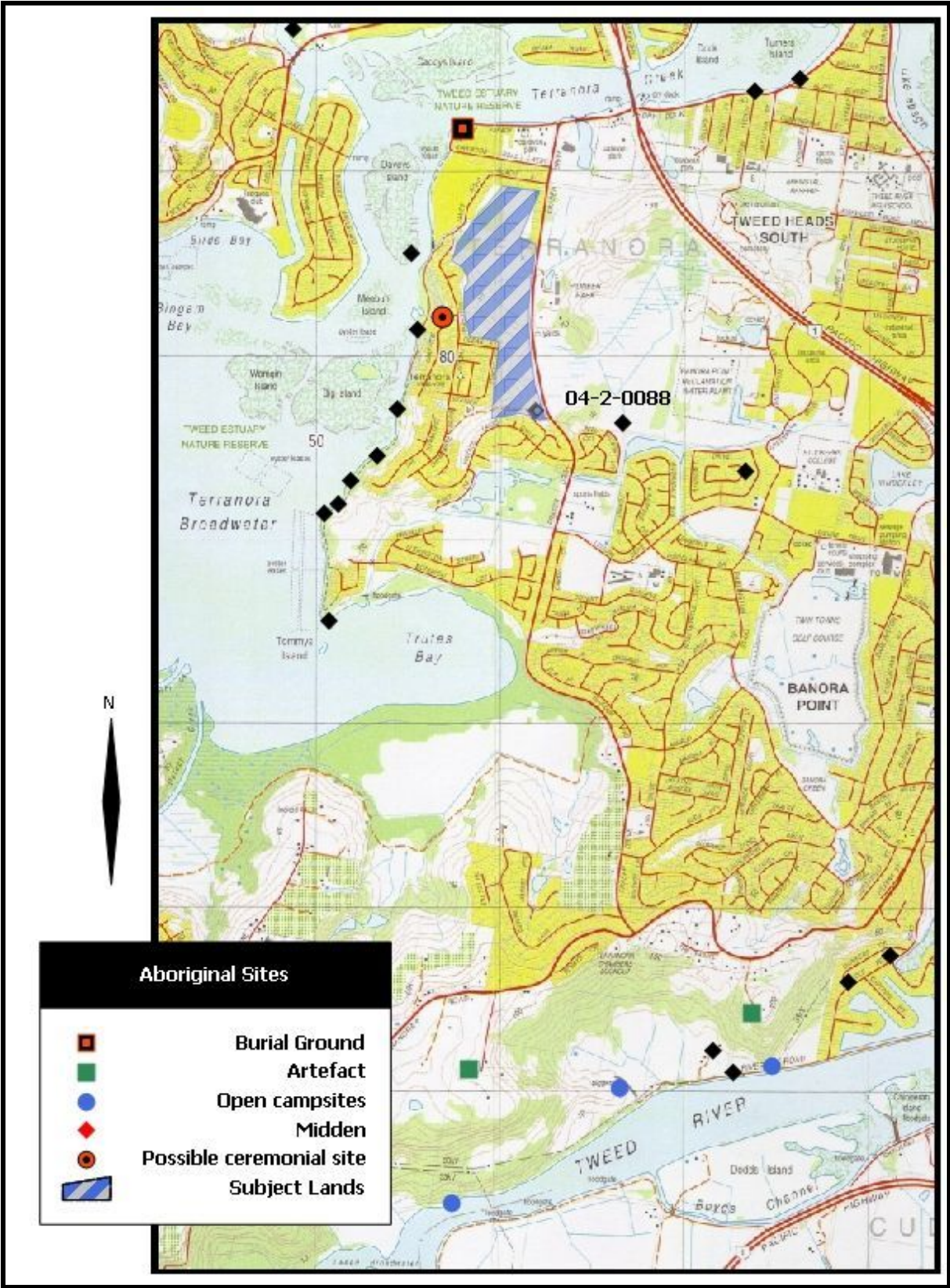


Figure 11 - Aboriginal sites on the AHIMS Register and BMP database in the vicinity of the Subject Lands.

### 6.3 Bundjalung Mapping Project Database (BMP)

A Search of the BMP was conducted on 12 February 2008. The search indicated that other than midden (DECC # 04-2-0088), that it had record of no other heritage places or sites within the Subject Land.

The BMP has an anecdotal report of a possible ceremonial ground in Lakeview Drive to the west of the subject land. The BMP also has a documented report of an Aboriginal burial area in Phillip Parade to the north of the Subject Land. The location of both of these reported sites is indicated in Figure 11.

### 6.4 Potential Site Types

On the basis of a review of previous studies in the region (including a previous one of most of the Subject Lands), a search of the DECC AHIMS and the BMP sites database and the history of site disturbance there was little likelihood of Aboriginal sites or relics existing in the Subject Lands, apart from the area near the intersection of Fraser and Champagne Drives in the southeast corner of the site. A midden has been recorded here. Only single artefacts, artefacts scatters or middens are likely to be found in undisturbed areas.

The following types of sites can be excluded due to the impacts of land clearing and land filling:

- There are no trees of sufficient age in the proposed area of residential subdivision, therefore scarred or carved trees are not possible.
- Bora/Ceremonial areas which may have contained above ground earth or rock structures would have long since been cleared and levelled had they existed.
- Human burials are not considered a possibility of surviving due to the highly acidic, corrosive properties of the soil on organic materials.

Middens are considered a possibility; however the most likely potential location of middens within the proposed residential area is the floodplain where fill has been placed over all of the former river flats. Single artefacts or artefact scatters may also be found in undisturbed areas.

## 7. FIELD INSPECTION

### 7.1 Methods

#### *7.1.1 Archaeological Assessment*

The field inspection of the Subject Land was carried out by the consultant and the Sites Officer of the Tweed Byron LALC Mr. Cyril Scott on April 18, 2007.

The survey was conducted on foot. The emphasis of the survey was on locating surface evidence, particularly for evidence of shell scatters or middens, stone artefacts or individual artefacts, traces of bone (human and animal) and ash stained earth that may represent fireplaces. When artefacts are found their location is recorded with a GPS (using WSG84 datum), measured and photographed and the site generally described. A note is made of artefacts types and their numbers. General characteristics of the artefacts are noted including raw material type, and condition including the degree of weathering and heat cracking. For midden sites, shell species and densities are noted. The areas covered by the field inspection are indicated in Figure 13.

#### *7.1.2 European Heritage*

An assessment of the potential European heritage of the Subject Land was conducted with reference to the *Tweed Local Environment Plan 2000 (Amendment No 76) Schedule 2* ‘...items significant to the physical and/or cultural heritage of the Tweed Shire’ (Tweed LEP:2007). Reference was also made to *The Register of the National Estate* and the New South Wales *State Heritage Register*.

### ***7.1.3 Aboriginal Cultural Assessment***

To add a Traditional Owner perspective to the cultural heritage assessment a consultative process was undertaken initially with members of the Tweed Byron LALC. Elder Mr. Des Williams and Sites Officer Mr. Cyril Scott undertook to enquire of the Aboriginal community if there were individuals with cultural heritage interests in the Subject Land. Everick was informed that Ms. Jacqueline Mc Donald would be the appropriate person to discuss cultural heritage matters as she and other families are descendent members of the Nganduwal/Minjungbal clans.

In discussion of the project with Ms McDonald the amount of fill over the floodplain was pointed out and that a previous inspection by the consultant and Sites Officer of the Tweed Byron LALC in 2000 had not found any evidence of sites or relics. Ms. McDonald raised the matter of the disturbed midden in the road easement adjoining the southern boundary of the Subject Land. She stressed the importance of this site to local Aboriginal people. This importance was also stressed by Mr Clarence Phillips, Co-ordinator of the Tweed Byron LALC.

Ms McDonald also stressed the importance of the ridgeline along which Champagne Drives runs, as a possible source of subsurface sites. She requested that initial disturbance of this site be monitored by Traditional Owner representatives.

## **7.2 Constraints to Site Detection**

The constraints to site detection within the Subject Lands are particularly the result of land filling of the flood plain with soil/rock fill and excavated sand from within the Subject Land. The degree of site detectability over the remainder of the hill slopes is restricted by a heavy grass cover as is approximately 60% of the filled flood plain. The following broadly describes the conditions for site detection in the Subject Land.

*Flood plain:* Totally disturbed through the addition of sand and introduced red/brown krosnozem soil, clay shale and rock, c. 1.5-3.0 metres. Surface exposure: 30%. Visibility: 80%. Type: crushed rock and shale.

*Hillslopes:* Heavily grassed throughout on all slopes. Surface exposure: 5%. Visibility 100%. Type: excavated cuttings.

### 7.3 Survey Coverage

Table 1 indicates the extent to which survey data provides sufficient evidence for an evaluation of the distribution of archaeological evidence across the study area. An evaluation of survey coverage provides an approximate measure of the potential for the landform unit and or its sub element to reveal archaeological evidence. This method is the preferred method outlined in N.S.W. N.P.W.S. Aboriginal Cultural Heritage Guidelines for Archaeological Survey Reporting, Appendix 4:44 - 48. The figures in Table 1 do not provide an exact percentage of ground areas but a reasonable estimate.

**Table 1 - Survey Coverage**

| LANDFORM ELEMENT                                             | AREA (ha) | EXPOSURE % | AREA OF EXPOSURE (ha) | VISIBILITY % | AREA FOR DETECTION (ha) | % OF LF FOR SITE DETECTION |
|--------------------------------------------------------------|-----------|------------|-----------------------|--------------|-------------------------|----------------------------|
| Filled Floodplain                                            | 12        | 30         | 3.6                   | 80           | 2.88                    | 24                         |
| Hill Slopes                                                  | 13        | <5         | 0.0065                | 100          | 0.0065                  | 0.05                       |
| Approximate total Area for Site Detection<br>2.9 ha or 11.6% |           |            |                       |              |                         |                            |

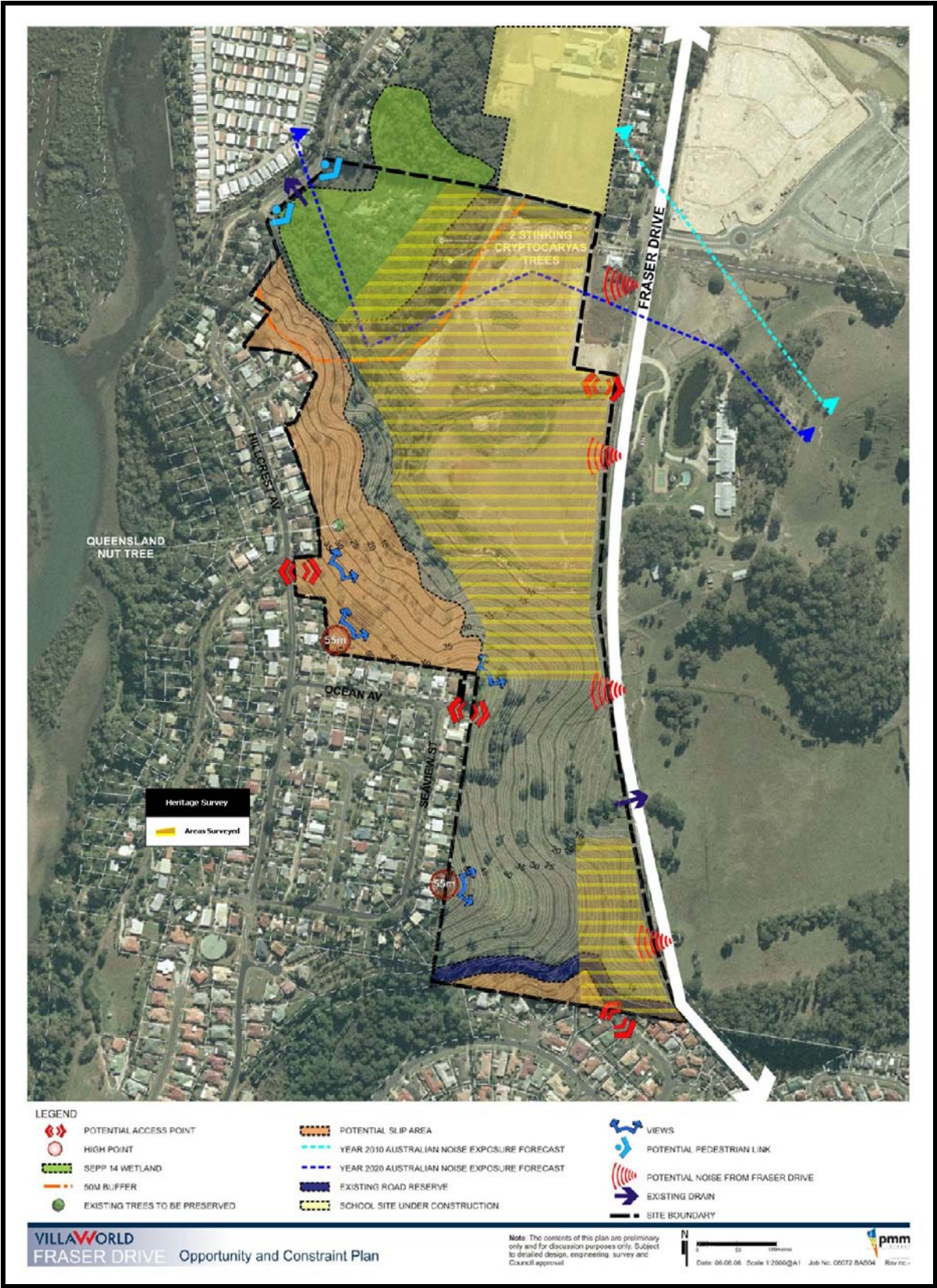


Figure 12 - Archaeological survey coverage.

## 7.4 Results of the Assessment

### *7.4.1 The Archaeological Assessment*

A recorded midden site (DECC #04-02-0088), Bundjalung Mapping Project (#05-0194) is located within Tweed Council land, adjacent to the boundary of the proposed residential subdivision at Lot 9 on DP 1039569, Tweed Heads South, at the intersection of a closed road (Champagne Drive) and Fraser Drive. It is not within the boundary of the development.

Piper first saw the site thirty two years ago which because of its scattered condition was considered to be of little further scientific significance. The site is positioned in a low saddle approximately eight metres above embayments that drain to Terranora Broadwater and Terranora Creek. However, upon clearing the dense grass and weeds that covered the area of the site the midden proved to be more extensive than first thought. It is approximately 15 m long (east-west) and 5.0 m wide (north-south). The northern and southern boundaries of the site are defined by a road cutting and a house cutting respectively (Figures 14 and 16). The eastern and western ends are less well defined. The eastern end may have been disturbed by the installation of a Benchmark.

The site comprises a relatively dense deposit of predominantly estuarine shell to a depth of approximately 30 cm. The shell comprises both whole and fragments of oyster, cockle and whelk with a surface density varying between approximately 2 and 30 valves per m<sup>2</sup> (Figure 15). Small fragments of shell are scattered on Champagne Drive.

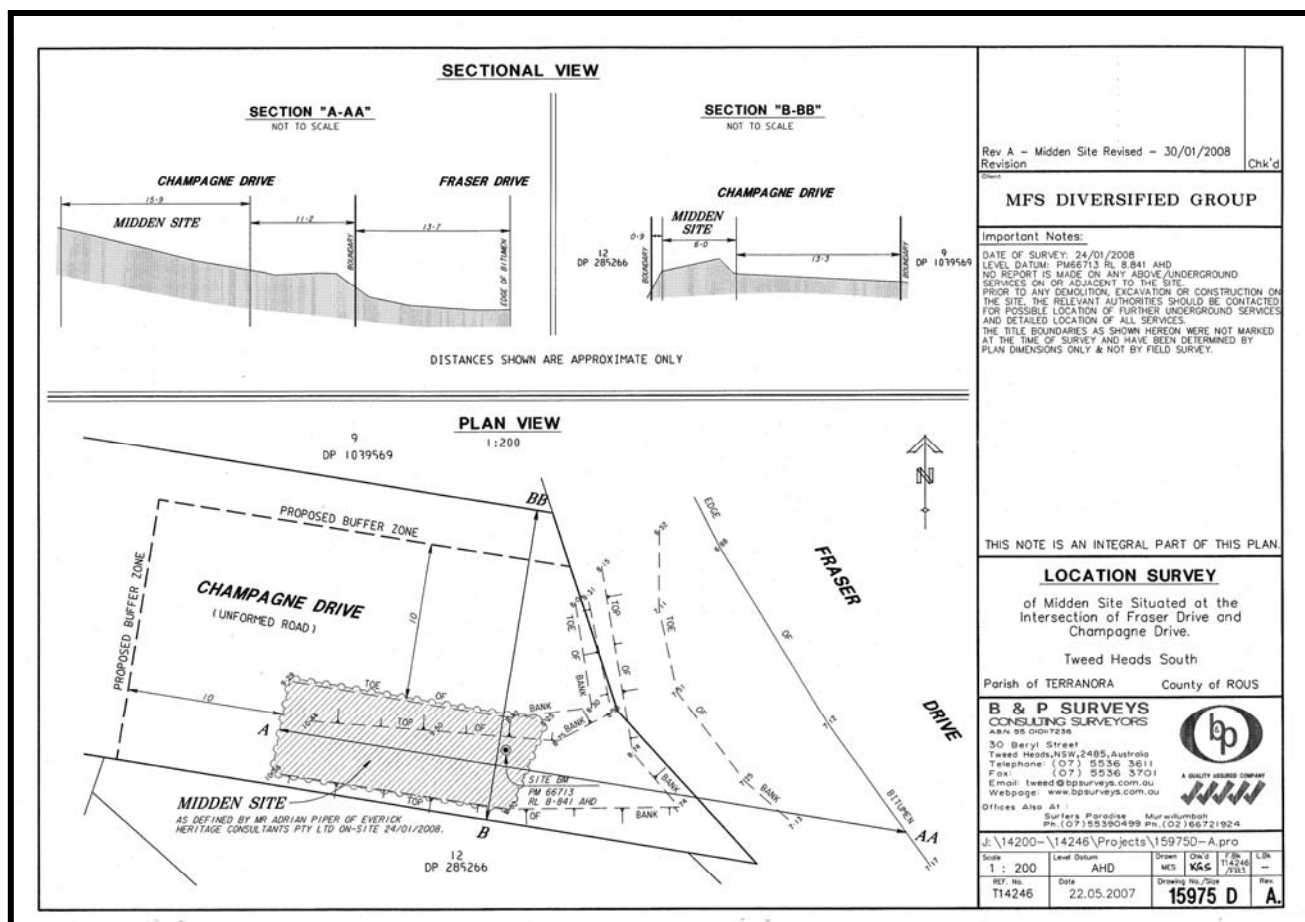


Figure 13 - Plan of midden site, #04-2-0088

#### 7.4.2 European Cultural Heritage

- No items in the nature of places, buildings or reserves of Indigenous or European heritage were found as a result of a review of the *Tweed Local Environment Plan 2000. Amendment No 76. Schedule 2*, the New South Wales Heritage Office *State Heritage Register* and the *Register of the National Estate*.

#### 7.4.3 Aboriginal Cultural Heritage

- The Traditional Owner descendents are concerned that the remains of a badly disturbed midden within the closed road reserve on the southern boundary of the

proposed subdivision may extend northward into the proposed subdivision. Recommendation 3 in this report addresses these concerns.

- The Traditional Owner descendents are concerned that sub-surface disturbance during development along the closed road/ridge line in the southern end of the Sub Division may destroy or damage cultural material (Figure 2 as indicated in Blue) . Recommendation 6 in this report addresses these concerns.



**Figure 14 - View east of site area.**



**Figure 15 -View south, road cutting in which shell material is visible. Shell is also on the undisturbed topsoil.**



**Figure 16 - Example of shell visible in road cutting.**



**Figure 17 - View from midden site at top of bank to adjacent house site.**



**Figure 18 - Benchmark - Inspection Point at the eastern end of the site.**

## 8. SIGNIFICANCE ASSESSMENT

The *NSW National Parks and Wildlife Act* (1974) recognizes the principle of significance as a means of placing a type of importance/value upon an Aboriginal site. The significance of sites is defined in terms of their cultural/social value to the Aboriginal community, their scientific/archaeological value and their potential significance to the general public. The ultimate aim is to preserve a group of sites, which will permanently remain as a representative sample of all types of sites and environmental contexts in the region.

### 8.1 Archaeological/Scientific Significance

This type of significance is based upon a site's potential to elucidate past practices. The assessment is made mindful of present archaeological data retrieval methods but also mindful of developing and future techniques. The following are some of the factors at issue in the assessment of research potential: the intactness, stratigraphic integrity,

disturbances, connectedness to other sites and the potential to yield a chronology extending into the past (NPWS 1997: 27).

The location of the midden has significance in the sense of a connectedness with sites along the eastern margins of the Terranora Broadwater, Terranora Creek and the northern banks of the Tweed River. It could be said the recording of the site has contributed to a 'picture' of site distribution in the Tweed Heads/Terranora locality. On the basis of its location, condition and its potential to be of some age, this midden has regional archaeological significance.

## 8.2 Cultural/Social Significance

The Aboriginal community may value a site primarily as evidence of their prior occupation and ownership, traditional control of land uses and custodianship of the land and the resources contained within it.

The significance of the visible shell remains to the Aboriginal community are a matter for the Community. Ms McDonald of the Nganduwal/Minjungbal descendants expressed concern that undisturbed remains of the midden may extend from the visible remains into the proposed subdivision and that attempts should be made to verify that sites/relics will not be destructively impacted as a result of earthworks.

## 8.3 Public Significance

Public significance is the potential of the site to be used as an educative tool to raise awareness among the public of the past and of the importance of protecting Aboriginal sites.

The visible midden remains have high significance in terms of their potential as an education tool, for the Aboriginal community and the wider community as a whole. These remains will be easily accessible from the road and will likely be signed. The visible remains could be used to demonstrate the features of an *in situ* estuarine shell midden, depending

on the outcomes of the Cultural Heritage Management Plan that is adopted for protection of the Site.

## 8.4 Management Options

As a result of a meeting between representatives of the Tweed Shire Council, MFS Diversified Group, PMM Consulting and Everick Heritage Consultants, Everick has been engaged to undertake further consultation with the Traditional Owners in order to formulate a Cultural Heritage Management Plan. This may then be submitted in conjunction with a Section 87 application under the *National Parks and Wildlife Act 1974* (NSW).

Given the significance of the site, Everick recommends that until a CHMP can be agreed upon, the site should be fenced off so that it can be protected from any development works as part of the subdivision.

## 9. RECOMMENDATIONS

The following recommendations are based upon:

- the literature review (Sections 6.1,6.2)
- the results of the field assessment (Section 7 )
- consultation with the Tweed Byron LALC (Section 2 & Appendix A) and Traditional Owners (Appendix B)
- the significance assessment ( Section 8).

### Recommendation 1

It is recommended that a semi permanent fence be built 10 metres from the known boundary of the midden site in order to protect the site from any inadvertent harm by

workers developing the Subject Lands. The fence should be built under the supervision of a qualified archaeologist and a representative of the Traditional Owners.

The location of the midden should be inserted into all future drawing, maps and engineering plans connected with development of the sub-division.

## Recommendation 2

It is recommended that following the implementation of Recommendation 1, a CHMP be drafted and provided to Council to support any future applications under Section 87 of the *National Parks and Wildlife Act 1974* (NSW). The finalisation of the CHMP will follow Council's negotiations with the Traditional Owners and relevant Indigenous representatives in undertaking the planned widening of Fraser Drive.

## Recommendation 3

It is recommended that employees and contractors conducting earthworks on Lot 135 of the proposed Subdivision Plan be instructed that they are working close to a midden in a culturally sensitive area. It is possible that their works may unearth cultural material. Employees and contractors should be instructed that caution should be exercised when working on the site. They should be instructed on how to identify this cultural material and that in the event that they do find any they are to stop work immediately and follow Recommendation 5 of this report.

## Recommendation 4

It is recommended that contractors engaged in earthworks or subsurface disturbance on the Subject Lands, be advised that under the terms of the *National Parks and Wildlife Act 1974* (NSW) it is an offence for any person to knowingly destroy, deface or damage or permit the destruction, defacement or damage to a relic or Aboriginal place without first obtaining the written consent of the Director General of the Department of Environment and Conservation.

## Recommendation 5

It is recommended that in the event that future works at the proposed residential subdivision disturb Aboriginal cultural materials, works at or adjacent to the material must stop immediately. Temporary Fencing must be erected around the site and the material must be identified by an independent and appropriately qualified archaeological consultant. The Regional Archaeologist of the Cultural Heritage Unit of the Department of Environment and Conservation, Coffs Harbour, the Tweed Byron L.A.L.C. and the Nganduwal/Minjungbal descendents must be informed. They will advise as to the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the DECC, Tweed Byron L.A.L.C. and the Nganduwal/Minjungbal descendents.

## Recommendation 6

It is recommended that due to the sensitivity of the ridgeline containing the closed Champaign Drive road reserve (Figure 3), any initial subsurface disturbance be monitored by representatives of the Traditional Owners to ensure that cultural material is identified and protected. This monitoring will be independent of the Cultural Heritage Management Plan adopted to protect the midden site. If cultural material is identified, then Recommendation 5 will come into effect.

## BIBLIOGRAPHY

- AINSWORTH, J. 1922. Reminiscences 1847 - 1922. Beacon Printery, Ballina.
- APPLETON, J. 1993. An Archaeological investigation of a shell midden at Sextons Hill South of Tweed Heads. Unpublished report to Ian Hill and Associates Pty Ltd.
- BACKHOUSE, J. 1843. A Narrative of a Visit to the Australian Colonies. Publisher London.
- BANCROFT, T.L. 1984. Note on Bungwahl. An Aboriginal Food. *Linnean Society NSW*. Vol. IX. Series 2. Part 1.
- BARZ, R.K. 1980. A Report on the Terranora Midden. (Lilley Waters Estate). Unpublished report to Sinclair Knight & Partners.
- BENTON, J. 2006. Draft Stone Artefact Scatter Assessment Gold Coast Airport Runway Extension Project. Unpublished report for Gold Coast Airport.
- BENTON, J. 2006. Geomorphological and Archaeological Assessment: The Tugun Bypass C4 Corridor (Stage 2 – Cultural Heritage Management Plan). Unpublished report for The Queensland Department of Main Roads.
- BENTON, J. 2006. Archaeological Test Excavation, Zone 7, Tugun Bypass. Unpublished report for The Queensland Department of Main Roads.
- BENTON, J. 2007. Archaeological Salvage Excavation, Zone 7, Tugun Bypass. Unpublished report for The Queensland Department of Main Roads.
- BONHOMME, CRAIB & ASSOC. 2000. Tugun Bypass Environment Impact Statement Stage 2: Technical Paper Number 15: Cultural Heritage Assessment. Unpublished Report for the Department of Main Roads.
- BRAY, J. 1901. Tribal Districts & Customs. *Science*, Vol. 4, No. 1.
- BRAY, J. 1902. Aboriginal Customs Tweed River District Ceremony. *Science*, February, 1902.
- BUNDOCK, M. 1898. Notes on the Richmond Blacks, in McBryde I. (ed). *Records of Times Past*, 1978. A.I.A.S., Canberra.
- BYRNE, J.J. 1946. More About the Tweed Aborigines. *The Tweed Daily*. January 5<sup>th</sup>.
- COLEMAN, J. 1982. A new look at the north coast, 'Fish Traps and Village's'. In S. Bowdler (ed.), *Coastal Archaeology in Eastern Australia*. Australian National University, Canberra. pp. 1 - 10.
- COLLINS, J. 1999. Pacific Highway Tugun to Tweed Heads Bypass Route Selection Study: Cultural Heritage Assessment. Unpublished report for Connell Wagner Pty Ltd.
- COLLINS, J. 2005. Proposed Country Energy Substation at Cobaki NSW. Far North Coast, Cultural Heritage Assessment. Unpublished report for Sinclair, Knight, Mertz.
- CREAMER, W. and GODWIN, L. 1984. Ethnography and archaeology on the North Coast of N.S.W. *Queensland Archaeological Research* 1.

- CROWLEY, T. 1978. The Middle Clarence dialects of the Bundjalung. A.I.A.S., Canberra.
- CURR, E.M. 1887. *The Australian Race*. Government Printery, Melbourne.
- DAWSON, B.L. 1935. 'Some recollections and records of the Clarence and Richmond River Aborigines'. In *Aboriginal Words and Names*. W.C. Penfold & Co Sydney.
- EASTERN YUGAMABAH LIMITED, 2005. Eastern Yugamabah Limited in conjunction with the Tweed Byron Local Aboriginal Land Council Results of a Preliminary Cultural Heritage Survey of the Proposed C4 Tugan Bypass. Unpublished report for the Department of Main Roads.
- FOX, I. 2006. Cobaki and Terranora Broadwater: Aboriginal Cultural Heritage Management Plan. Unpublished report prepared for Tweed Shire Council.
- HALL, J. 1986. Exploratory Excavation at Bushrangers Cave, South East QLD. Preliminary Results. *Australian Archaeology*. No. 22.
- HALL, J. 1990 (a). An Assessment of Aboriginal Sites at Coolangatta Airport. Unpublished report to Gutteridge Haskins and Davey, Brisbane.
- HALL, J. 1990 (b). An Archaeological Assessment of a Proposed Development Site at Cobaki, South Tweed Heads. Unpublished report to Prodap Services, QLD.
- HANNAH, I. 1946. Broadcast (typescript). R.R.H.S.
- HOWITT, A.W. 1904. The Native Tribes of South East Australia. Publisher London.
- JACKSON, G.K. 1939. Aboriginal Middens at Point Cartwright District. Memoirs of the Queensland Museum, X1.
- KAMMINGA, J. 1982. 'Over the edge: functional analysis of Australian stone tools'. *Occasional Papers in Anthropology*, No. 12.
- LAMB, J. 2004. An Archaeological Assessment of Lot 1 DP 9042 and Lot 14 DP 733411, 106 Drydock Road, Tweed Heads South, North Coast NSW. Unpublished report for Aspect north Pty Ltd, Ballina.
- LILLY, I. 1981. Cobaki Village Archaeological Assessment. Unpublished report to Cameron McNamarra, Brisbane.
- McBRYDE, I. 1974. *Aboriginal Prehistory in New England*, University of Sydney Press, Canberra.
- McBRYDE, I. 1978. *Records of Times Past*. Australian Institute of Aboriginal Studies, Canberra.
- MOEHEAD, E.D. (undated). In the Big Scrub near Lismore. In E. Bray (ed.), signed reminiscences of some pioneers of early Lismore. Richmond River Historical Society Collection, 1992.
- MORAND, D. 1996. Soil Landscapes of the Murwillumbah - Tweed Heads 1:100000 Sheet. Dept. of Land & Water Conservation.
- MULVANEY, D.J. and GOLSON, J. 1971. Aboriginal Man and Environment in Australia. A.N.U. Press Canberra.
- N.S.W. N.P.W.S. 1997. Aboriginal Cultural Heritage. Standards and Guidelines Kit.

- NEAL, R. and STOCK, E. 1986. Pleistocene occupation in the south east Queensland coastal Region. *Nature*. 323:618-721.
- OXLEY, J. 1823. 'Port Jackson to Port Curtis October - November' 1823. Nov. 1<sup>st</sup>, M.L.
- PETRIE, C. 1974. *Reminiscences of Early Queensland*. Golden Press Pty Ltd, Hong Kong.
- PIERCE, R.G. 1971. 'The Effects of Aquatic Foods on the Diet and Economy of the Aborigines on the North Coast of N.S.W. at the time of First Settlement'. Unpublished Hons Thesis. University of New England.
- PIERCE, R.G. 1978. The evidence of J. Ainsworth on the diet and economy of the Ballina horde. *Records of Times Past*. I. McBryde (ed). A.I.A.S., Canberra.
- PIPER, A. 1976. Ocean Beach to Mountain Top. The Tweed Valley in Prehistory. B. Litt. Thesis. University of New England.
- PIPER, A. 1980. An Archaeological Survey for Aboriginal Sites and Relics. Banora Point to Terranora, Tweed Valley, N.S.W. Unpublished report to N.S.W. N.P.W.S.
- PIPER, A. 1991. Archaeological Assessment in Relation to the Lower Tweed River Management Plan. Unpublished report to N.S.W. P.W.S. Tweed Heads.
- PIPER, A. 1994 (a). An Archaeological Survey at Duroby Creek Road Quarry, Bilambil via Tweed Heads, North Coast, NSW. Unpublished report to Ecotech International, Bangalow, NSW.
- PIPER, A. 1994(b). An Archaeological Survey at the Vintage Lakes Estate, Fraser Drive, South Tweed Heads. Unpublished report to Ian Hill and Associates Pty. Ltd. Tweed Heads.
- PIPER, A. 1995. An Archaeological Survey at Fraser Drive, South Tweed Heads. Unpublished report for Metricon (Queensland) Pty. Ltd.
- PIPER, A. 1996. An Archaeological Survey at Lot 5 Cobaki Road, West Tweed Heads. Unpublished report for Terranora Group Management Pty. Ltd., Coorparoo. (Queensland).
- PIPER, A. 1997. An Archaeological Survey at Piggabeen Road, West Tweed Heads. Unpublished report for Martin Findlater & Associates, Murwillumbah.
- PIPER, A. 1998. The Kirkwood Road Alignment and Archaeological Survey, South Tweed Heads. Unpublished report for Knobel Constructions Pty. Ltd., Stephens, Queensland.
- PIPER, A. 2000. An Archaeological Assessment at Fraser Drive, Tweed Heads South, N.S.W. Unpublished report for Jim Glazebrook & Associates. Ltd., Murwillumbah.
- PIPER, A. 2004. An Archaeological Assessment at No. 38 McAllisters Road, Bilambil Heights, via Tweed Heads West. Unpublished report for Masterbuilt Pty. Ltd., Round Corner, N.S.W.
- PIPER, A AND ROBINS, R. 2006. An Archaeological Assessment at Lot 1 DP 595863 and Lot 3 DP 819065, Winchelsea Way, Terranora, Tweed Heads, NSW. Unpublished report prepared for Buttons with Bows Pty Ltd, Tweed Heads, NSW.

- SIMPSON, S. 1844. Report to Colonial Secretary, January 1<sup>st</sup> 1844. *H.R.A.* Ser. 1. Vol. 23.
- SPEIGHT, J.G. (et al) 1990. 'Landform' in *Australian Soil and Land Survey Field Handbook*. 2<sup>nd</sup> Ed., Inkata Press Sydney.
- SULLIVAN, S. 1978. Aboriginal diet and food gathering methods in the Richmond and Tweed River Valleys, as seen in early settler records. In I. McBryde (ed). *Records of Times Past*. Australian Institute of Aboriginal Studies, Canberra.
- TINDALE, N. 1940. Aboriginal Tribes of Australia. A.N.U. Press, Canberra.
- ULM, S. AND HALL, J. 1996. Radiocarbon and cultural chronologies in southeast Queensland prehistory. In S. Ulm, I. Lilley and A. Ross (eds), *Australian Archaeology '95: Proceedings of the 1995 Australian Archaeological Association Annual Conference*, pp. 45-62. Tempus 6. St Lucia: Anthropology Museum, Department of Anthropology and Sociology, University of Queensland.
- UNIAKE, J. 1825. Narrative of Mr. Oxley's Expedition to Survey Port Curtis and Moreton Bay. In *Geographical Memoirs of N.S.W.* B. Field (ed), London.
- WEST, A.A.  
(undated). Aborigines in the Nimbin District. MS. Richmond River Historical Society. Aborigines File.

## APPENDIX A - CORRESPONDENCE: TWEED BYRON LOCAL ABORIGINAL LAND COUNCIL

(TO BE PROVIDED)

## APPENDIX B – RESPONSE FROM MS MCDONALD

Jackie McDonald  
63 Tringa Street  
West Tweed Heads  
NSW 2485

Everick Heritage Consultants  
Po Box 146  
Red Hill Qld 4059

Dear Adrian

Cultural Heritage and the proposed residential subdivision on Fraser Drive.

I am a descendant of the Nganduwal/Minjungbal clans who have a cultural heritage interest in the land subject to the residential development area. As well as my family, I am aware of other families who also share the same interest and responsibilities. Some of these families are the descendants of Bungary, Slabb and possibly Blow.

We are particularly aware of the places and cultural heritage values to our people, in the vicinity of Fraser Drive South Tweed Heads. These include middens nearby on Terranora Creek and Terranora Broadwater in general, ceremonial grounds on Ukerebagh Island, the Bora grounds on Kirkwood Road, the Aboriginal burial ground in Philp Parade and the extensive Murraba cultural landscape surrounding Cobaki Broadwater. These places are especially significant to us and their protection is essential to ourselves and our future generations. I know of a badly disturbed midden in adjoining land at the south end of the proposed subdivision, at the intersection of Fraser Dr. and the old Champagne Dr.

We are concerned that cultural objects such as artefacts and places may exist within the subdivision and that remains of the midden at the south end of the property may extend into the subdivision. I am aware that an inspection of the land by Cyril Scott, Tweed Byron LALC and consultant Adrian Piper found no cultural heritage relics but these were surface observations only. We understand that since the inspection, all of the flat land has been filled to a depth of about 3 metres.

We are concerned that remains of the midden may survive in the property at Champagne Drive and therefore advise that monitoring of earthworks in agreed areas of the subdivision adjoining the midden be undertaken, especially along the ridge line or if excavation goes beyond the 3 metre fill. We can advise as to who would be acceptable as monitors. If any remains of shell or artefacts are found, we would expect that works be stopped and the descendants, plus the Tweed Byron Land Council be notified immediately for advice.

Yours faithfully



Jackie McDonald...3.5.07

## APPENDIX C – LETTER FROM THE DEPARTMENT OF PLANNING DATED 15<sup>TH</sup> AUGUST 2007



NSW GOVERNMENT  
Department of Planning

20 AUG 2007

Mr Peter Johnson  
MFS Diversified  
PO Box 7720 GCMC  
Bundall QLD 9726

Contact: Sally Laing  
Phone: (02) 9228 6498  
Fax: (02) 9228 6540  
Email: [sally.laing@planning.nsw.gov.au](mailto:sally.laing@planning.nsw.gov.au)  
Our ref: MP06\_0243  
File: S06/00720

Dear Mr Johnson,

### **Summary of Submissions and Department of Planning's Issues for the Proposed Residential Subdivision at Fraser Drive, South Tweed – MP 06\_0243**

I refer to your Environmental Assessment (EA) for the proposed residential subdivision at Fraser Drive, South Tweed, lodged with the Department on 1 June 2007 and accepted on 12 June 2007. As you are aware, the Department publicly exhibited the EA for 30 days, from 14 June until 13 July 2007.

The Department has raised some issues regarding the proposal in relation to the SEPP14 wetland buffers, the geotechnical assessment, Aboriginal heritage, bushfire management, housing density and socio economic impacts. These are outlined in **Attachment 1**. Additional information required to complete our assessment is outlined in **Attachment 2**.

In accordance with section 75H(5) of the *Environmental Planning and Assessment Act 1979* ("the Act"), a report of the issues raised in the submissions received by the Director-General is provided at **Attachment 3**. Please also find enclosed copies of submissions received from the following agencies (refer **Attachment 4**):

- Tweed Shire Council;
- Department of Environment and Climate Change;
- Department of Primary Industries;
- Northern Rivers Catchment Management Authority;
- Rural Fire Service;
- Department of Housing;
- Roads and Traffic Authority; and,
- Gold Coast Airport Pty Ltd.

The Department of Water and Energy is still finalising its submission. Their submission will therefore be sent to you separately in due course.

The Director-General, pursuant to s75H(6) of the Act, now requires a response to the issues raised in all submissions to be provided, including those raised by the Department. A preferred project report is to be prepared if changes are proposed to the project to minimise its environmental impact. If a preferred project report is to be prepared, please advise the Department. In addition, a revised Statement of Commitments is to be provided incorporating any amendments following your response to the submissions.

Please note that the DGRs dated 5 November 2006, state the "Deemed Refusal" period to be 60 days, which will commence once the Department is satisfied with the responses to submissions. **It is requested that a response to the enclosed submissions be submitted to the Department within 3 weeks from the date of this letter. Should you be unable to meet this timeframe, please contact the Department.**

---

23-33 Bridge St Sydney NSW 2000 GPO Box 39 Sydney NSW 2001  
Phone: (02) 9228 6111 Fax: (02) 9228 6191 Website: [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

---

We would like to meet with you to discuss the issues raised. Sally Laing, A/Senior Environmental Planner, will therefore be in contact with you to arrange a mutually convenient time. In the meantime, should you have any queries regarding any of the above, please contact Ms Laing on (02) 9228 6498 or via email to [sally.laing@planning.nsw.gov.au](mailto:sally.laing@planning.nsw.gov.au).

Yours sincerely

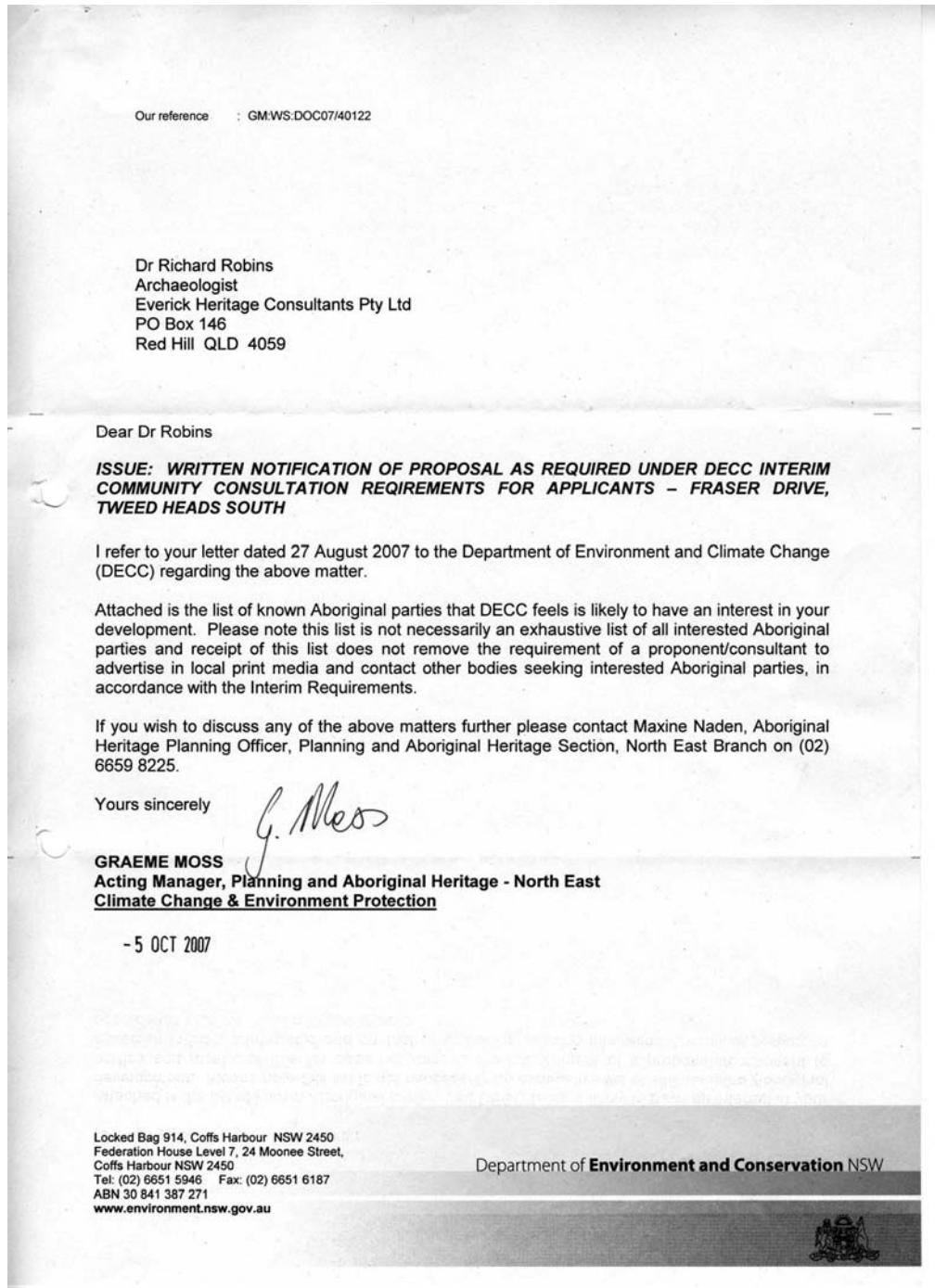


Heather Warton  
**Director**  
**Coastal Assessments**

cc Noel Hodges, Tweed Shire Council  
Pradesh Ramiah, PMM Sydney

15.8.07

## APPENDIX D – LETTER FROM DECC DATED 5<sup>TH</sup> OCTOBER 2007

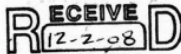
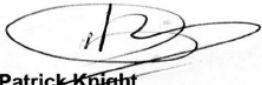


## ATTACHMENT 1

**ABORIGINAL STAKEHOLDER GROUPS (OTHER THAN LOCAL ABORIGINAL LAND COUNCILS) ON THE NORTH COAST / FAR NORTH COAST THAT THE DECC HAS WRITTEN TO IN REGARD TO THE 'INTERIM COMMUNITY CONSULTATION REQUIREMENTS FOR APPLICANTS'.**

|                                                                                     |                                                                                                               |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Arakwal Aboriginal Corporation<br>PO BOX 96<br>BRUNSWICK HEADS NSW 2483             | Bundjalong Tribal Society<br>PO Box 557<br>LISMORE NSW 2480                                                   |
| Bundjalung Elders Council Aboriginal Corporation<br>PO Box 1015<br>LISMORE NSW 2480 | Bunjum Co-operative Society Ltd<br>C/- PO Box 24<br>WARDELL NSW 2477                                          |
| Cubawee Aboriginal Corporation<br>127 Tweed Street<br>NORTH LISMORE NSW 2480        | Gidabel Aboriginal Corporation<br>14 McPherson Street<br>WOODENBONG NSW 2476                                  |
| Jarjum Centre Incorporated<br>Cynthia Wilson Drive<br>LISMORE HEIGHTS NSW 2480      | Jarjum Gangalehla Aboriginal Corporation<br>PO Box 133<br>BRUNSWICK HEADS NSW 2483                            |
| Kurrachee Co-operative Society Ltd<br>PO Box 3<br>CORAKI NSW 2471                   | Nunbahging<br>PO Box 24<br>WARDELL NSW 2477                                                                   |
| Nungera Co-operative Society Limited<br>PO Box 243<br>MACLEAN NSW 2463              | Nunger Aboriginal Corporation<br>7 Lundurimba Road<br>LISMORE NSW 2480                                        |
| Shared Vision Aboriginal Corporation<br>PO BOX 14<br>LISMORE NSW 2480               | Tweed Aboriginal Co-operative Society Ltd<br>Cnr Duffy Street and Kirkwood Road<br>TWEED HEADS SOUTH NSW 2486 |
| Wai:Bal Aboriginal Corporation<br>PO Box 6315<br>LISMORE NSW 2480                   | Yamboora Aboriginal Corporation<br>PO Box 27<br>YAMBA NSW 2464                                                |
| Mr Doug & Mrs Susan Anderson<br>PO Box 111<br>WARDELL NSW 2477                      |                                                                                                               |

## APPENDIX E – LETTER FROM TWEED SHIRE COUNCIL DATED 11 FEBRUARY 2008

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                               |                          |                                                                                                                                                  |        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| <br><b>TWEED<br/>SHIRE<br/>COUNCIL</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Please Quote<br>Council Ref:                                                                                                  | DA07/0760 Pt1; DW1747567 |                                                                | [eltr] |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Your Ref No:                                                                                                                  | EV 67                    |                                                                                                                                                  |        |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | For Enquiries<br>Please Contact:                                                                                              | Mr Patrick Knight        |                                                                                                                                                  |        |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Telephone Direct                                                                                                              | (02) 6670 2470           |                                                                                                                                                  | L11F01 |
| 11 February 2008                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                               |                          |                                                                                                                                                  |        |
| Everick Heritage Consultants Pty Ltd<br>PO Box 146<br><b>RED HILL QLD 4059</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                               |                          |                                                                                                                                                  |        |
| Attention: Dr Richard Robins MAACA I - Director                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                               |                          |                                                                                                                                                  |        |
| Dear Sir                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                               |                          |                                                                                                                                                  |        |
| <b>Midden Site and Proposed Cultural Heritage Management Plan at Fraser Drive, Tweed Heads South</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                               |                          |                                                                                                                                                  |        |
| Thank you for your letter dated 25 January 2008 and in reference to "Item 2 - Commitment of The Tweed Shire Council" I advise:-                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                               |                          |                                                                                                                                                  |        |
| <ol style="list-style-type: none"><li>1. Tweed Shire Council acknowledges that the Midden site is and will remain primarily within the bounds of Council land.</li><li>2. Protection of the Midden site will be a primary consideration of Council in any future widening of Fraser Drive.</li><li>3. MFS Diversified Group may deal with the site in accordance with any Cultural Heritage Management Plan (CHMP) that has been agreed upon by the traditional owners and the Council.</li><li>4. Tweed Shire Council is willing, in principle, to undertake an ongoing role in managing the Midden site in accordance with the CHMP.</li></ol> |                                                                                                                               |                          |                                                                                                                                                  |        |
| Subject to:-                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                               |                          |                                                                                                                                                  |        |
| <ol style="list-style-type: none"><li>a) The developer financing the preparation of the CHMP and its physical implementation.</li><li>b) Council only accepting responsibility for management after all necessary physical site works/restoration have been completed in accordance with the CHMP.</li></ol>                                                                                                                                                                                                                                                                                                                                     |                                                                                                                               |                          |                                                                                                                                                  |        |
| If you have any queries please do not hesitate to contact me.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                               |                          |                                                                                                                                                  |        |
| Yours faithfully                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                               |                          |                                                                                                                                                  |        |
| <br><b>Patrick Knight</b><br>Director Engineering & Operations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                               |                          |                                                                                                                                                  |        |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | CIVIC AND CULTURAL CENTRE, MURWILLUMBAH<br>PO BOX 816, MURWILLUMBAH NSW 2484<br>TELEPHONE: (02) 6670 2400 FAX: (02) 6670 2429 |                          | PLEASE ADDRESS ALL COMMUNICATIONS TO THE GENERAL MANAGER<br>ABN 90 178 732 496<br><a href="http://www.tweed.nsw.gov.au">www.tweed.nsw.gov.au</a> |        |

## APPENDIX F – ADVERTISEMENT

# **Aboriginal Cultural Heritage and Archaeological Study**

## **Registration of Interest in being Consulted**

Everick Cultural Heritage Pty Ltd ABN 78 102 206 682, on behalf the proponent, MFS Diversified Group, are seeking to consult with Aboriginal persons with an interest in the land where a housing development is to be built on:

Fraser Drive, Tweed Heads South, NSW (Identified on DP 1039569 and Lot 2 on DP 100383)

As part of this development, Everick Cultural Heritage will be conducting a Cultural Heritage Assessment of the site and invites Aboriginal Community participation.

### **What do you need to do?**

The Aboriginal community is invited to register their interest in writing with:

Everick Cultural Heritage  
GPO Box 146  
RED HILL QLD 4059

### **When must registration be received?**

Registration must be received by 15 October 2007

## APPENDIX G – LETTER FROM TWEED SHIRE COUNCIL DATED 2<sup>ND</sup> MAY 2007



**TWEED  
SHIRE  
COUNCIL**

Please Quote Council Ref: GR3/12/6 Pt 4; DA02/0837; DW1505795  
Your Ref No: 06072.070321  
For Enquiries Please Contact: Mrs Nela Turnbull  
Telephone Direct (02) 6670 2574

[eltr]

L30B10

2 May 2007

PMM Sydney Pty Ltd  
GPO Box 4401  
SYDNEY NSW 2001



Dear Sirs

### **Fraser Drive, Tweed Heads South**

Council refers to your letter of 21 March 2007, and apologises for the delay in our reply, due largely to Council ascertaining its position regarding your request.

At its meeting held on 6 November 2002, Council resolved to approve the closure of part of Champagne Drive in exchange for the dedication of road widening of Fraser Drive, being a ten metre strip along the eastern boundary of Lot 9 in DP 1039569.

It is to be noted that Council's approval for the road closure is subject to the road widening being effected.

We note that the proposal you have forwarded to Council seeking Council's consent as landowner provides the road widening as required, together with the inclusion of the area of Champagne Drive proposed to be closed. In this regard, Council provides its consent as landowner, as the current owner in fee simple of that part of Champagne Drive shown in plan 20934-5c, to the lodgement of the application for subdivision of Lot 9 in DP 1039569.

It is suggested that the plan of road closure be prepared as a matter of urgency to enable the title for the closed road to be issued, and then the title can be transferred to the landowner.

Yours faithfully

**Mike Rayner**  
General Manager



CIVIC AND CULTURAL CENTRE, MURWILLUMBAH  
PO BOX 816, MURWILLUMBAH NSW 2484  
TELEPHONE: (02)6670 2400 FAX: (02)6670 2429

PLEASE ADDRESS ALL COMMUNICATIONS TO THE GENERAL MANAGER  
ABN 90 178 732 496  
[www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au)

## APPENDIX H – LETTER FROM MRS BARBARA OLIVER DATED 20<sup>TH</sup> DECEMBER 2007

Thursday, December 20, 2007

To Whom It May Concern

In regards to the midden, and any other components of our cultural heritage found associated within the scope of your report. We wish these to be maintained, without disturbance to their structure and protected for future generations to enjoy.

Thank you for your time in this regard.

Sincerely

*B. Oliver*

Mrs. Barbara Oliver  
Githabul

