



2 September 2021

Stewart Johnson
Director
Project Strategy

Dear Stewart,

Re: DRAFT: Aboriginal Heritage Due Diligence Assessment for 600 Woodstock Avenue, Rooty Hill.

This report has been prepared by Artefact Heritage, at your request, in relation to a proposed subdivision at 600 Woodstock Ave, Rooty Hill (Lot 67, DP 804292). The proponent intends submitting an application for status as a State Significant Development (SSD) to the NSW Department of Planning, Industry and Environment (DPIE) and is seeking an Aboriginal heritage due diligence assessment, which meets the requirements of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (Due Diligence Code of Practice) (Department Environment, Climate Change & Water [DECCW] 2010), and includes recommendations regarding Aboriginal heritage constraints for the proposed works.

This assessment is commissioned to support the proponent's application Secretaries Environmental Assessment Requirements (SEARs) when provided will stipulate heritage assessments are required for the Environmental Impact Statement (EIS) and may require that an Aboriginal Cultural Heritage Report (ACHAR) including Aboriginal consultation be undertaken. The SEARs have not been issued.

This report was written by Brye Marshall (Heritage Consultant) and Dr Elizabeth Bonshek (Senior Heritage Consultant). Dr Sandra Wallace (Managing Director) reviewed this report and provided management input.

1.1 Legislative Context

The *National Parks & Wildlife Act 1974* (the NPW Act) provides statutory protection for all Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) and for 'Aboriginal Places' (areas of cultural significance to the Aboriginal community). Under Section 90 of the NPW Act, an Aboriginal Heritage Impact Permit (AHIP) is the only permit available to authorise harm to identified Aboriginal objects or identified Aboriginal places. An AHIP can only be issued by Heritage NSW.

The aim of the Due Diligence Code of Practice is to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether they should apply for consent in the form of an AHIP.

A due diligence assessment should take reasonable and practicable steps to ascertain whether there is a likelihood that Aboriginal sites will be disturbed or impacted during the proposed activity. If it is assessed that sites exist or have a likelihood of existing within the activity area and may be impacted

by the proposed activity, further archaeological investigations may be required along with an AHIP. If it is found to be unlikely that Aboriginal sites exist within the study area and the due diligence assessment has been conducted according to the due diligence guidelines, work may proceed without an AHIP.

The *Native Title Act 1994* was introduced to work in conjunction with the *Commonwealth Native Title Act 1993*. Native Title claims, registers and Indigenous Land Use Agreements are administered under the Act. A search of the National Native Title Tribunal database was completed on 17 August 2020. There are no Native Title claims currently registered in the study area.

The Environmental Planning and Assessment Act 1979 (EP&A Act) establishes the framework for cultural heritage values to be formally assessed in the land use planning and development consent process. The EP&A Act requires that environmental impacts be considered prior to land development; this includes impacts on cultural heritage items and places as well as archaeological sites and deposits. The EP&A Act also requires that Local Governments prepare planning instruments (such as Local Environmental Plans [LEPs] and Development Control Plans [DCPs]) in accordance with the Act to provide guidance on the level of environmental assessment required.

The study area falls within the remit of the Blacktown City Council. The Blacktown City Council LEP (2015) Section 5.10.2 Heritage Conservation, Requirement of Consent, articulates that in relation to Aboriginal heritage, consent is mandatory and for any development, the requirements are -

- (2) **Requirement for consent** *Development consent is required for any of the following—*
 - (a) *demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—*
 - (i) *a heritage item,*
 - (ii) *an Aboriginal object,*
 - (iii) *a building, work, relic or tree within a heritage conservation area,*
 - (b) *altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
 - (c) *disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
 - (d) *disturbing or excavating an Aboriginal place of heritage significance,*
 - (e) *erecting a building on land—*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
 - (f) *subdividing land—*
 - (i) *on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) *on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

1.2 The Study Area

The study area consists of a 1.98 hectare property shown in Figure 1 bounded by industrial properties to the east, Woodstock Avenue to the north, and Kellogg Road to the west and south. It is located within the City of Blacktown Local Government Area (LGA), within the Parish of Rooty Hill and County of Cumberland. The study area is located within the boundaries of the Deerubbin Local Aboriginal Land Council (LALC).

1.3 The Proposal

The proposal is to undertake significant earthworks for the redevelopment of a Material Recovery Facility. This will necessitate the removal of the current buildings to enable the construction of a modern purpose-built facility Figure 2.

Figure 1: Study Area



Table 1: Frequency of recorded site types

Site Feature	Frequency	Percentage
Artefact	7	100%
Total	7	100.00%

The nature and location of the registered sites is a reflection of the past Aboriginal occupation from which they derive, but is also influenced by historical land-use, and the nature and extent of previous archaeological investigations. Although Aboriginal occupation covered the whole of the landscape, the availability of fresh water and associated resources was a significant factor in repeated and long-term occupation of specific areas within the landscape. Certain site types, such as culturally modified trees, are particularly vulnerable to destruction through historical occupation, while others, such as stone artefacts, are more resilient.

No sites were recorded within the study area (Figure 4), but there are several registered sites close to the study area. AHIMS artefact ID 45-5-0456; 45-5-0483; 45-5-2776; 45-5-2777; 45-5-3104; 45-5-3105; 45-5-3699. The two registered sites closest to the study area are AHIMS 45-5-0483 which is approximately 43m away and AHIMS 45-5-3699 which is approximately 34m (Figure 4). These are not in the impact area of the study area but do indicate that there may be Aboriginal sites of significance across the local area.

The site cards discuss the following aspects of below:

AHIMS site #45-5-0483; was an open surface scatter, recorded as Southeast Plumpton. The scatter was located at the intersection of Glendenning Rd and Woodstock Ave, just within the fence line. The scatter included 5 silcrete cores, one quartzite hammerstone and seven silcrete flakes. The site was suggested to be part of a larger site complex extending from Eastern Creek to the ridgetop.

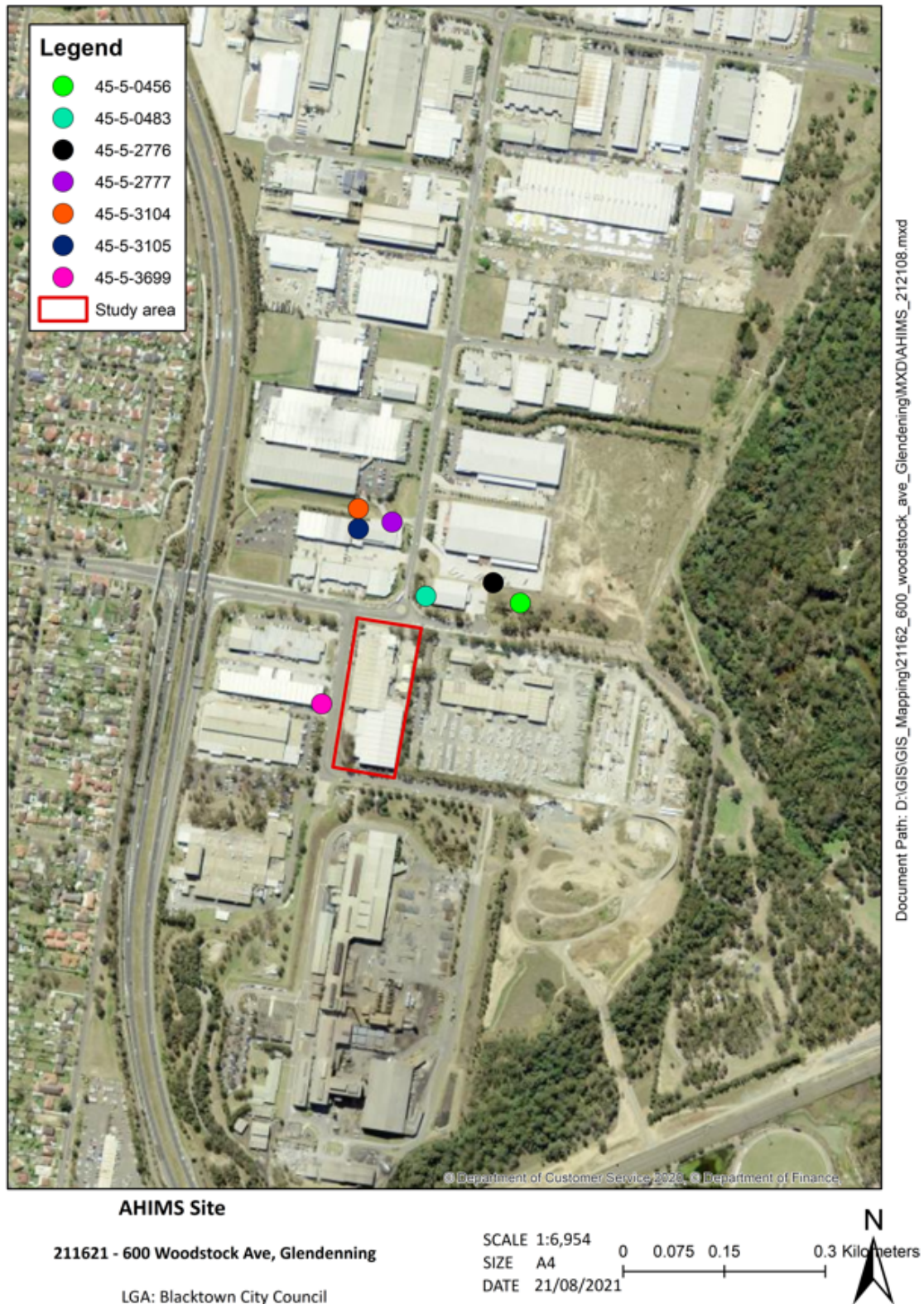
AHIMS site #45-5-2776; were two stone artefacts, one chert flake 20mm long, 15mm wide and 3mm thick, the second was a yellow mudstone flake, 27mm long, 26mm wide and 6mm thick. It was recorded as Glendenning Road1 and was located near Glendenning Road.

AHIMS site #45-5-3105; was an isolated chert core approximately 68mm long, 62mm wide and 50mm thick. It was recorded as SEPT2000/B and was located at the corner of Woodstock Ave and Glendenning Road.

AHIMS site #45-5-3699; was a small open campsite, incorporating red silcrete and indurated mudstone artefacts and was recorded as "Glen Trib". The campsite was located near a tributary creek at the intersection of Woodstock Ave and Glendenning Road.

No site cards were provided for AHIMS #45-5-0456 or AHIMS #45-5-2777 but these have been re-requested.

Figure 3: Results of the extensive AHIMS search



1.5 Background

1.5.1 Environmental Context

The study area is located on the Cumberland Plain, which is typified by an undulating landscape of rolling hills and prominent rises. The geology of the study area is characterised by the Triassic Wianamatta Liverpool Sub-Group. The Liverpool Sub-Group comprises Bringelly Shale over Minchinbury Sandstone and Ashfield Shale and consists of shale and some sandstone beds and outcrops. Local relief is between ten and fifty metres with undulating slopes to below 10% (Bryan 1996).

The majority of the study area is located within the Blacktown Soil Landscape (Bannerman & Hazelton 1990: 35-38). The topography consists of gently undulating rises, with broad crests and ridges. The A horizon of this landscape consists of loam and clay loam, and is usually relatively shallow, about 300 mm in depth, although depths of up to c.60cm can be present in places. While it overlies Wianamatta Group shales and Minchinbury Sandstone, rock outcrops are not present.

The eastern portion of the study area is mapped as the South Creek Soil Landscape. The South Creek Soil Landscape comprises is an active floodplain with many drainage networks across the Cumberland Plain (Bannerman & Hazelton 1990: 92-95). The topography, consisting of floodplains, valley flats and drainage depressions, is usually flat with occasional terraces or levees and incised channels. The A horizon consists of a sandy loam to sandy clay loam, and can be up to approximately 650 mm in depth, overlying clay. The underlying geology is described as Quaternary alluvium. This is an active landscape, subject to erosion and deposition of sediment.

The region has a dense network of north flowing drainage channels. Major watercourses located near the proposed development include Eastern Creek, which is located approximately 130 m to the east of the study area.

Previous documentary and archaeological research indicate that archaeological evidence of Aboriginal occupation is likely to be found with certain landforms, largely as a result of the resources that were associated with these landforms, or their suitability for long-term and/or repeated occupation. Heritage NSW, Department of Premier Cabinet (DPC) lists five such landforms and proximity of sites to these in a "predictive model":

- Within 200 m of waters;
- Within a sand dune system;
- On a ridge top, ridge line or headland;
- Within 200 m below or above a cliff face; and
- Within 20 m of or in a cave, rock shelter, or a cave mouth.

The study area is 448 m west of Eastern Creek and 1.15km from Bells Creek. The study area is within a sensitive landform, even though it falls slightly outside of the range stipulated by the DPC . The sensitivity of this study area is that it is situated between Eastern Creek from the east and Bells Creek from the west. There are seven registered artefacts located within relatively close proximity to the study area.

Historical imagery of the study area indicates that previous to 1978, the study area had minimal disturbance. The current building on the study area, appears to be the same building from 1991 (Figure 4) and earlier in 1986 (Figure 5). It appears that the study area before the early 1980s was native vegetation (Figure 6).

From what we can be witnessed from these aerial imageries, the study area was cleared by the late 1970s and the existing building was erected. This building has remained with no additional disturbance across the study area.

The historical imagery has been used to ascertain site disturbance over time.

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Figure 4: Aerial Photograph of study area 1991: (Source https://portal.spatial.nsw.gov.au/download/historic/4038/4038_07_126.jp2.jpeg)



Figure 5 Aerial Photography of Study area 1986: https://portal.spatial.nsw.gov.au/download/historic/3529/3529_17_082.jp2.jpeg



Figure 6: Aerial Image 1978: https://portal.spatial.nsw.gov.au/download/historic/2707/2707_12_103.jp2.jpeg



1.5.2 Archaeological Context

Aboriginal language boundaries within Australia have been reconstructed, primarily based on surviving linguistic evidence and are therefore only approximations. The language group spoken on the Cumberland Plain is known as Darug (Dharruk – alternative spelling). This term was used for the first time in 1900 by Mathews & Everitt (Mathews & Everitt 1900: 265). The Darug language group is thought to have extended from Appin in the south to the Hawkesbury River, west of the Georges River, Parramatta, the Lane Cove River and to Berowra Creek (Attenbrow 2010: 34). This area was home to a number of different clan groups throughout the Cumberland Plain.

Aboriginal people have lived in the Sydney region for up to 30,000 years, as indicated by radiocarbon dating undertaken in Parramatta (Jo McDonald CHM 2005: 87-94). Evidence of Aboriginal occupation has been found dated to 50–60,000 years Before Present (BP) at Lake Mungo in NSW so it is likely that Aboriginal people have lived in the Sydney region for even longer than indicated by the oldest recorded dates known at present. The archaeological material record provides evidence of this long occupation, but also provides evidence of a dynamic culture that has changed through time.

The existing archaeological record is limited to certain materials and objects that were able to withstand degradation and decay. As a result, the most common type of Aboriginal objects remaining the archaeological record are stone artefacts. Over 4,000 Aboriginal sites are registered across the Cumberland Plain on the AHIMS database.

1.5.3 Previous Archaeological Assessments

Several archaeological investigations have been conducted within the wider Blacktown area and are summarised below.

Mills and Kelton 2002 Report on the Archaeological Sub-Surface Testing Program within the Western Sydney Orbital Alignment. Report to NSW Roads and Traffic Authority

In 2002, Mills and Kelton undertook sub-surface investigations prior to the construction of the M7, 2 km south of the study area. 328 augers were opened up along the western boundary of the Eastern Creek floodplain, including low-lying land bordering the floodplain. Although the surface of the site included areas that appeared quite disturbed, test excavation retrieved a total of 83 artefacts from a relatively intact deposit.

Jo McDonald Cultural Heritage Management (2006 – 2011)

Jo McDonald CHM's archaeological investigation of the larger Bungarribee Precinct included an initial survey and archaeological assessment (2006b), an Indigenous Heritage Impact Statement (2007) and archaeological excavation of a portion of potential archaeological deposit (PAD) identified in the earlier assessment (2011).

The initial survey and impact statement (2006b and 2007) identified that 52 recorded Aboriginal sites and 5 PADs were located across the Bungarribee Precinct. A portion of PAD WSP1, north of Bungarribee Creek and approximately 2.5 km south of the study area, was excavated. A total of 41 1m² test pits and 82m² of open area was excavated, yielding a total of 5,5353 artefacts.

White and McDonald 2010

During the last twenty years, Cumberland Plain predictive modelling has been developed and refined as new data becomes available. Beth White and Jo McDonald have contributed to the debate over site prediction by discussing the nature of Aboriginal site distribution, interpreted through lithic

analysis of excavated sites in the Rouse Hill Development Area (White & McDonald 2010). The paper provides a spatial and distributive analysis of Aboriginal objects in relation to freshwater resources and along varying landform units. The findings of this study highlighted the relationship between proximity to freshwater and landscape with archaeological evidence of Aboriginal occupation.

The study also found that artefact densities were most likely to be greatest on terraces and lower slopes within 100 m of freshwater resources (White & McDonald 2010). The predictive model identified ridgelines and crests located between drainage lines were likely locations for containing archaeological evidence - though usually representative of background scatter similar to that identified for first and/or second order creek lines (White & McDonald 2010).

1.6 Site Inspection

A physical inspection of the study area has not been undertaken for this Due Diligence. At the time of initiating a site inspection, Covid-19 Delta variant restrictions resulted in the Blacktown City Council LGA being classified as a hot spot. The Deerubbin LALC were asked if they would be willing to undertake an inspection of the study area, but they declined for safety reason.

Instead, a desktop survey has been undertaken to assess the possibility of potential archaeological sensitivity in the study area using historical imagery (see above). The desktop survey used Spatial Services NSW Government (https://www.spatial.nsw.gov.au/products_and_services/aerial_and_historical_imagery) to ascertain disturbance of the study area.

1.7 Assessment of Archaeological Sensitivity

This due diligence assessment provides a preliminary assessment of archaeological potential of the study area in line with the Due Diligence Code of Practice. The assessment seeks to determine if there are, or are likely to be, Aboriginal objects in the study area.

Archaeological sensitivity is closely related to the levels of ground disturbance. However, other factors are also taken into account when assessing archaeological potential, such as whether artefacts were located on the surface, and whether the area is within a sensitive landform unit according to the predictive statements.

This due diligence assessment has identified that the majority of the study area has been disturbed as a result of the construction of a building and associated utilities. AHIMS site #45-5-3699 is approximately 34m from the study area. AHIMS #45-5-3699, 34m away, was a small open campsite, with numerous stone artefacts (either silcrete or indurated mudstone). AHIMS site # 45-5-0483 is another registered site relatively close to the study area located 43m. The site card recorded 16 stone artefacts between the fence line and Glendenning Road.

Eastern Creek is a major tributary to the east of the study area. Even though the study area is over 200m from Eastern Creek, the study area does have potential archaeological sensitivity.

The Due Diligence Code of Practice defines disturbed land as:

Sec 7.5 (4) For the purposes of this clause, land is disturbed if it is has been the subject of human activity that has changed the lands surface, being changes that remain clear and observable.

This includes disturbed land via:

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- (a) *soil ploughing*
 - (b) *construction of rural infrastructure*
 - (d) *clearing of vegetation,*
 - (e) *construction of buildings and the erection of other structures,*
 - (f) *construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines, stormwater drainage and other similar infrastructure).*
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The study area has been subject to ground disturbance including land clearance, partial earth movement, and the installation of utility services. In these areas disturbance limits the archaeological sensitivity of the study area. The study area has been subject to surface disturbance and as Blacktown soil landscapes are generally shallow it is considered unlikely that intact archaeological deposits remain at the site which has been built over with structures or hardstand.

Based on background information and historical imagery and in line with assessing potential in line with Due Diligence Code of Practice, Aboriginal site distributions in the region, and known levels of disturbance at the site; it is uncertain whether the study area has archaeological potential.

1.8 Conclusions and Recommendations

The study area has been assessed as having low archaeological potential, based on predictive modelling, previous disturbance noted from historic research.

The following recommendations regarding Aboriginal heritage are based on consideration of:

- Statutory requirements under the *National Parks and Wildlife Act 1974* as amended;
- The Due Diligence Code of Practice;
- The results of the background research and assessment; and
- The likely impacts of the proposed development.

It was found that:

- No previously recorded Aboriginal sites are located within the study area
- The study area was developed in the early 1970s, and the current building appears to be the only construction undertaken
- The study area has been assessed as having low potential to retain intact archaeological deposits due to disturbance from construction impacts.

The following recommendations are therefore made:

- In accordance with the due diligence guidelines, the proposed activity can proceed with caution, with no further Aboriginal archaeological investigation, assessment or mitigation measures required unless the SEARs require an ACHAR and Aboriginal consultation.

- If changes are made to the project that may result in impacts to areas not assessed by this due diligence, those will need to be assessed and further archaeological assessment may be required.
- Unexpected Aboriginal objects remain protected by the *National Parks and Wildlife Act 1974*. If any such objects, or potential objects, are uncovered in the course of the activity, all work in the vicinity should cease immediately. A qualified archaeologist should be contacted to assess the find and NSW Heritage, DPC and Deerubbin LALC must be notified.
- If human remains, or suspected human remains, are found in the course of the activity, all work in the vicinity should cease, the site should be secured and the NSW Police and the Office of Environment and Heritage should be notified.

Kind regards,



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1.9 References

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