



artefact

26 August 2022

Alexandra Chung
Development Manager
Mirvac
Level 28 George Street
Sydney, NSW, 2000

Dear Alexandra,

Re: Aspect Industrial Estate Proposed Warehouse 9 State Significant Development: Proposed modification to Masterplan

In January 2019, Mirvac (the proponent) commissioned Artefact Heritage Services Pty Ltd (Artefact Heritage) to prepare a combined Aboriginal and non-Aboriginal heritage assessment (Artefact Heritage 2019a) for a development proposal at Lot1-5 DP1285305, Mamre Road Kemps Creek (the study area), known as the Aspect Industrial Estate (AIE). The non-Aboriginal heritage Statement of Heritage Impact (SoHI) identified no heritage constraints for the proposal. The Aboriginal heritage assessment identified one previously unregistered Aboriginal site, Mamre Road Artefact Scatter 1901 [MAM AS 1901] (AHIMS ID 45-5-5186), and an area of archaeological potential. The assessment recommended that further investigations occur to assess the nature and extent of the area of Aboriginal archaeological potential and impacts to MAM AS 1901 (AHIMS ID 45-5-5186) and the identified area of archaeological potential.

Archaeological survey of the study area was completed over two days (2 – 3 October 2019) and resulted in the identification of additional Aboriginal objects associated with MAM AS 1901 (AHIMS ID 45-5-5186) and an area of Potential Archaeological Deposit (PAD), which incorporated and revised the area of archaeological potential identified in the initial assessment (Artefact Heritage 2019b). The newly identified site features included five artefact concentrations, ranging in size from 15 artefacts in concentration 1 to three artefacts in concentration 5, and six isolated artefacts. The Archaeological Survey Report (ASR) recommended that archaeological test excavation should be conducted within MAM AS 1901 (AHIMS ID 45-5-5186) to investigate the nature and extent of potential subsurface archaeological deposits and inform an assessment of archaeological significance.

In accordance with the recommendations provided in the ASR a test excavation program was carried out from the 15 June to 24 June 2020. A total of 47 Aboriginal archaeological test pits were excavated as part of the test excavation program. The test excavation program recovered 25 additional Aboriginal objects and identified one area of subsurface artefact concentration, A3. The findings of the test excavation program were documented in an Archaeological Test Excavation Report (ATER) (Artefact Heritage 2020a).

An Aboriginal Cultural Heritage Assessment Report (ACHAR) was prepared and provided with the SoHI to exhibition with the Environmental Impact Statement (EIS) for the project, which was placed on public display from 18 November to 15 December 2020. Following the period of exhibition Mirvac

proposed to include two additional scopes of work as part of the AIE project. A revised ACHAR was prepared and issued in March 2022.

Mirvac is proposing a modification to the Concept Masterplan, known as Mod 3 as well as a separate approval for Warehouse 9 (SSD-46516461). MOD3 amends the estate layout, to facilitate WH9. This letter relates to the SSD for WH9.

SEARs for WH9 (SSD-46516461) were issued on 16th August 2022. This states that:

- **Aboriginal Cultural Heritage** – justification for reliance on any previous Aboriginal Cultural Heritage Assessments undertaken for SSD-10448

This memo confirms that impacts of WH9 are consistent with those assessed under the original Aspect Industrial Estate SSD which is justification for reliance on the original ACHAR in accordance with the SSD-46516461 SEARs.

Table 1: SEARs requirements for the Aspect Industrial Estate SSD proposal

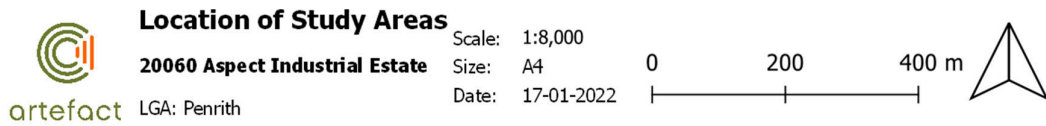
SEARs requirement	Deliverable
18. Aboriginal Cultural Heritage	
Provide an Aboriginal Cultural Heritage Assessment Report prepared in accordance with relevant guidelines, identifying, describing, and assessing any impacts for any Aboriginal cultural heritage values on the site	ACHAR
19. Environmental Heritage	
Where there is potential for direct or indirect impacts on the heritage significance of environmental heritage, provide a Statement of Heritage Impact and Archaeological Assessment (if potential impacts to archaeological remains are identified), prepared in accordance with the relevant guidelines, which assesses any impacts and outlines measures to ensure they are minimised and mitigated.	Statement of Heritage Impact (SoHI) Archaeological Assessment

Artefact Heritage have been engaged by Mirvac to prepare a combined Aboriginal and non-Aboriginal heritage consistency assessment. This report has been prepared to assess the previously identified impacts for the project, as outlined in the SoHI (2020) and the revised ACHAR (2022) in comparison to potential heritage impacts from the design updates proposed in the WH9 proposal.

1.1 Study area

The Warehouse 9 SSD proposal does not change the footprint of works from the original proposal. The study area covers approximately 56.3 hectares (ha) and is comprised of Lots 54 – 58 DP 259135 (2019 study area) and a portion of the road verge on Mamre Road and Bakers Lane (2021 study area). The location of these study areas is shown in Figure 1. The study area is bounded by Mamre Road to the west and is within the Parish of Melville and County of Cumberland. The study area falls within the Penrith Local Government Area (LGA) and the boundaries of Deerubbin Local Aboriginal Land Council (Deerubbin LALC).

Figure 1: Study area



2.0 PROPOSED MODIFICATION

2.1 Concept modification

The following modifications are proposed, relating to Warehouse/Lot 6, 7, 8, 9, 10, and 11 area and Access Road 4, located at the south-western portion of the AIE, as set out in the Concept Plan SSD-10448. Note that the proposed footprint does not change.

- Reconfiguration of the Estate layout south of Access Road 1 and west of Access Road 3 including:
 1. Reduction in the overall lot numbers across AIE from 11 to 9,
 2. Relocation and shortening of Access Road 4,
 3. Reconfiguration of warehouse lots 6-11 into lots 6-9,
 4. New warehouse footprints and heights, hardstand locations, car parking, estate landscaping,
 5. Change in boundary condition to the south including orientation of warehouse hardstand for Warehouse 9 to the south rather than the north.
- Reduction in area of Lot 6 Warehouse GFA to 9,574sqm and Lot 9 Warehouse GFA to 66,548sqm.
- Increase in area of Lot 8 Warehouse GFA to 45,146sqm and Lot 9 Warehouse GFA to 66,548sqm.
- Reconfiguration of Office and Dock Office area in accordance with the revised warehouse footprints.
- New hardstand areas along the frontages of the reconfigured lots:
 1. 38m wide east of Warehouse 6,
 2. 38m wide south of Warehouse 7,
 3. 38m south of Warehouse 8, and
 4. 36m wide north of 36m south of Warehouse 9.
- Reconfiguration of carpark areas in support of the modified warehouse layout, to be reconfigured as follows:
 1. Warehouse 6 – 38 parking spaces across the lot's northern frontage, 33 parking spaces across the lot's southern frontage
 2. Warehouse 7 – 64 parking spaces across the lot's eastern frontage, within the front setback to Access Road 3, 33 parking spaces across the lot's southern frontage
 3. Warehouse 8 – 69 parking spaces across the lot's northern frontage (fronting Access Road 1) and 97 parking spaces across the lot's eastern frontage (fronting Access Road 4), and
 4. Warehouse 9 – 266 parking places across the lot's north-eastern frontage (fronting Access Road 4).
- Revised vehicular and truck access off Access Road 1, 3, and 4 in accordance with the reconfigured lots and shortened Access Road 4.

- Change in Estate-wise impacts associated with stormwater management traffic generation, visual impact, noise, earthworks at the boundary, and landscaping.

2.2 Stage 1 modification

The following modification is proposed to the approved road works under the Stage 1 consent, relating to the construction of road works for the realigned Road 4 and associated landscaping.

- Updated subdivision plan to include Road 4 within a separate road lot.
- Civil works and construction of realigned Road 4 including stormwater works.
- Construction of landscaping works in the public domain area of the Road 4 lot.
- Reconfiguration of earthworks for lots 6 to 9.
- Reconfiguration of boundary retaining walls (Stage 1) and other retaining walls (both Stage 1 and Lot 9).

2.3 New Warehouse 9 SSD

The detailed development application will seek consent for earthworks, infrastructure and roads, and the construction, fit out, and operation of the warehouse and logistic facility with associated car parking for Lot / Warehouse 9. Specifically, the SSDA will seek consent for:

- Civil works including cut/fill and benching to set the Lot 9 PAD levels.
- A new 64,725sqm warehouse facility at the intended Lot 9 (facilitated by SSD-10448 MOD3) which is supported by: (Note - this figure is different between the WH4 & WH9 plans)
 - Ancillary office (1,350sqm) and two dock offices (total 266sqm).
 - seventy-four (74) docks.
 - 266 car parking spaces
 - On lot landscaping.
 - On lot stormwater management.
 - Operation of the warehouse & distribution facility 24 hours a day 7 days a week.
 - Construction of Internal truck access driveways vehicular crossovers to Access Road 3 (ingress) and Access Road 4 (egress).

3.0 ABORIGINAL HERITAGE

3.1 Introduction

This section provides the significance assessment and the identified impacts from the revised ACHAR (Artefact 2022) and examines the impacts to Aboriginal heritage from the proposed WH9 works.

The revised ACHAR identified Aboriginal site (MAM AS 1901, AHIMS ID 45-5-5186 – Figure 2) and one Potential Archaeological Deposit (PAD) (Bakers Lane SLR PAD1 – Figure 3) within the study area. One Aboriginal site, Bakers Lane SLR AFT1 (AHIMS ID 45-5-5274), was identified as being adjacent to the study area.

Figure 2: Revised extent of MAM AS 1901 (AHIM ID 45-5-5186)

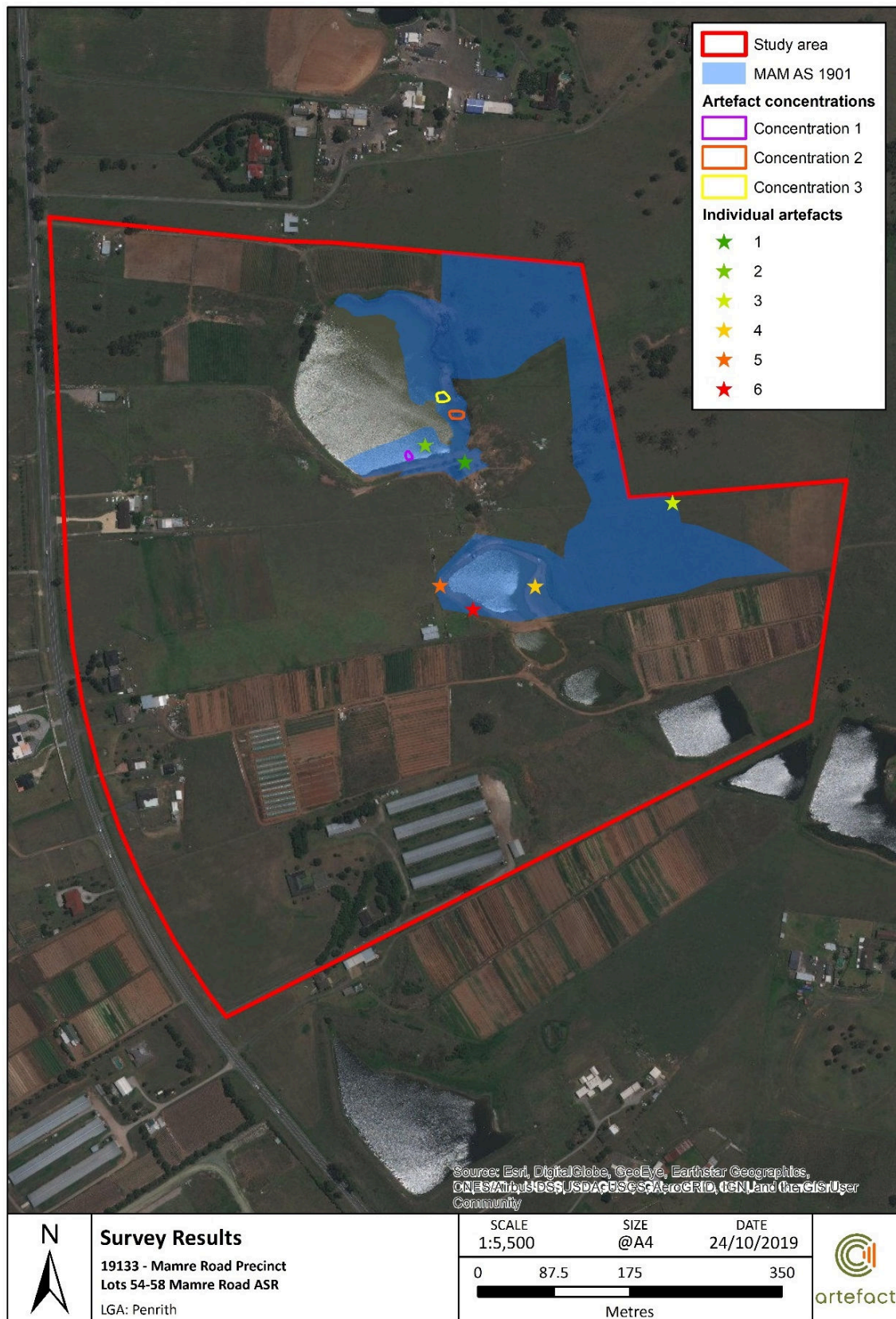
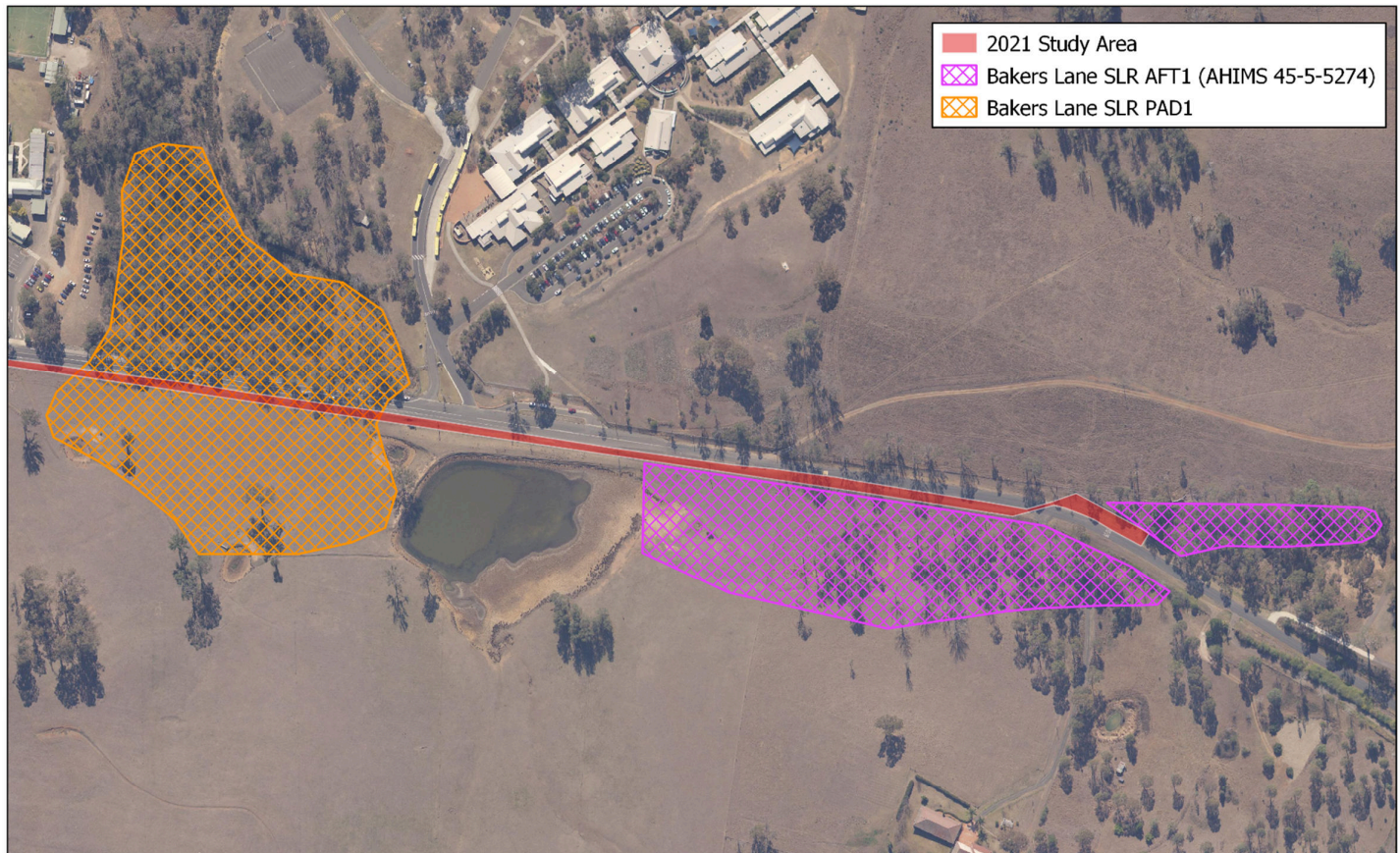


Figure 3: Location of Bakers Lane SLR AFT 1 (AHIMS 45-5-5274) and Bakers Lane SLR PAD1

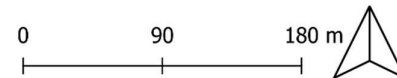


Location of previously identified Aboriginal sites

20060 Aspect Industrial Estate

LGA: Penrith

Scale: 1:3,250
Size: A4
Date: 18-01-2022



3.2 Significance assessment

3.2.1 Historic value

Historic values refer to the association of the place with aspects of Aboriginal history. Historic values are not necessarily reflected in physical objects, but may be intangible and relate to memories, stories or experiences. The study area is not known to be associated with any people, events or activities of historical importance to the Aboriginal community. A total of 60 Aboriginal objects have been identified within MAM AS 1901 (AHIMS ID 45-5-5186) during the test excavation program and previous surveys of the study area. However, it was assessed that the assemblage represented temporary site occupation rather than significant long term or repeated site occupation. The assemblage does not suggest that MAM AS 1901 (AHIMS ID 45-5-5186) was the location of any significant event or activity in the pre-contact or post-contact past. Therefore, at this level of assessment, the study area is considered not to be of historic significance.

3.2.2 Aesthetic value

Aesthetic values refer to the sensory, scenic, architectural and creative aspects of the place. These values may be related to the landscape and are often closely associated with social/cultural values. As the subject site is located within an urbanised setting, which has undergone significant clearance, modification and development; all aesthetic significance is lost.

The study area is considered to be of moderate aesthetic based on proximity to aesthetically pleasing features such as trees and remnant, intact landforms.

3.2.3 Socio/cultural value

Social/cultural heritage significance should be addressed by the Aboriginal people who have a connection to, or interest in, the area. As part of the consultation process the registered Aboriginal stakeholder groups were asked to provide appropriate information on the cultural significance of the subject site.

3.2.4 Scientific value

MAM AS 1901 (AHIMS ID 45-5-5186) is a low-density artefact scatter which contains six isolated surface artefacts, four surface artefact concentrations, and one subsurface artefact concentration. Only the subsurface artefact concentration has been assessed as demonstrating archaeological integrity, while the remainder of the assemblage is located in a highly disturbed context. Overall, the site is considered to be of moderate research and educational significance due to the potential to study an intact artefact deposit.

Three formal tools were identified on the surface of MAM AS 1901 (AHIMS ID 45-5-5186) which are considered to be of high rarity and representative value within the regional context. However, the majority of the artefact assemblage is comprised of fragmented flaked artefacts which are not considered to be rare within the regional context or representative of Aboriginal site utilisation. Overall, MAM AS 1901 (AHIMS ID 45-5-5186) is considered to be of moderate rarity and representative value.

MAM AS 1901 (AHIMS ID 45-5-5186) is considered to be of moderate archaeological significance. A summary of the archaeological significance of sites identified during test excavation is presented in Table 2: Aboriginal sites – significance assessment.

Table 2: Aboriginal sites – significance assessment

Site name (AHIMS ID)	Research potential	Representativeness	Rarity	Education potential	Overall significance assessment
MAM AS 1901 (AHIMS ID 45-5-5186)	Moderate	Moderate	Moderate	Moderate	Moderate
Bakers Lane SLR PAD1	Moderate	Unknown	Unknown	Unknown	Moderate

3.2.5 Statement of significance for the study area

No specific historic or socio/cultural values associated with MAM AS 1901 (AHIMS ID 45-5-5186) were identified. The study area is considered to be of moderate aesthetic significance due to the presence of traditional landscape features. The study area is also considered to be of moderate scientific significance due to the presence of a subsurface artefact concentration that has been assessed as demonstrating archaeological integrity.

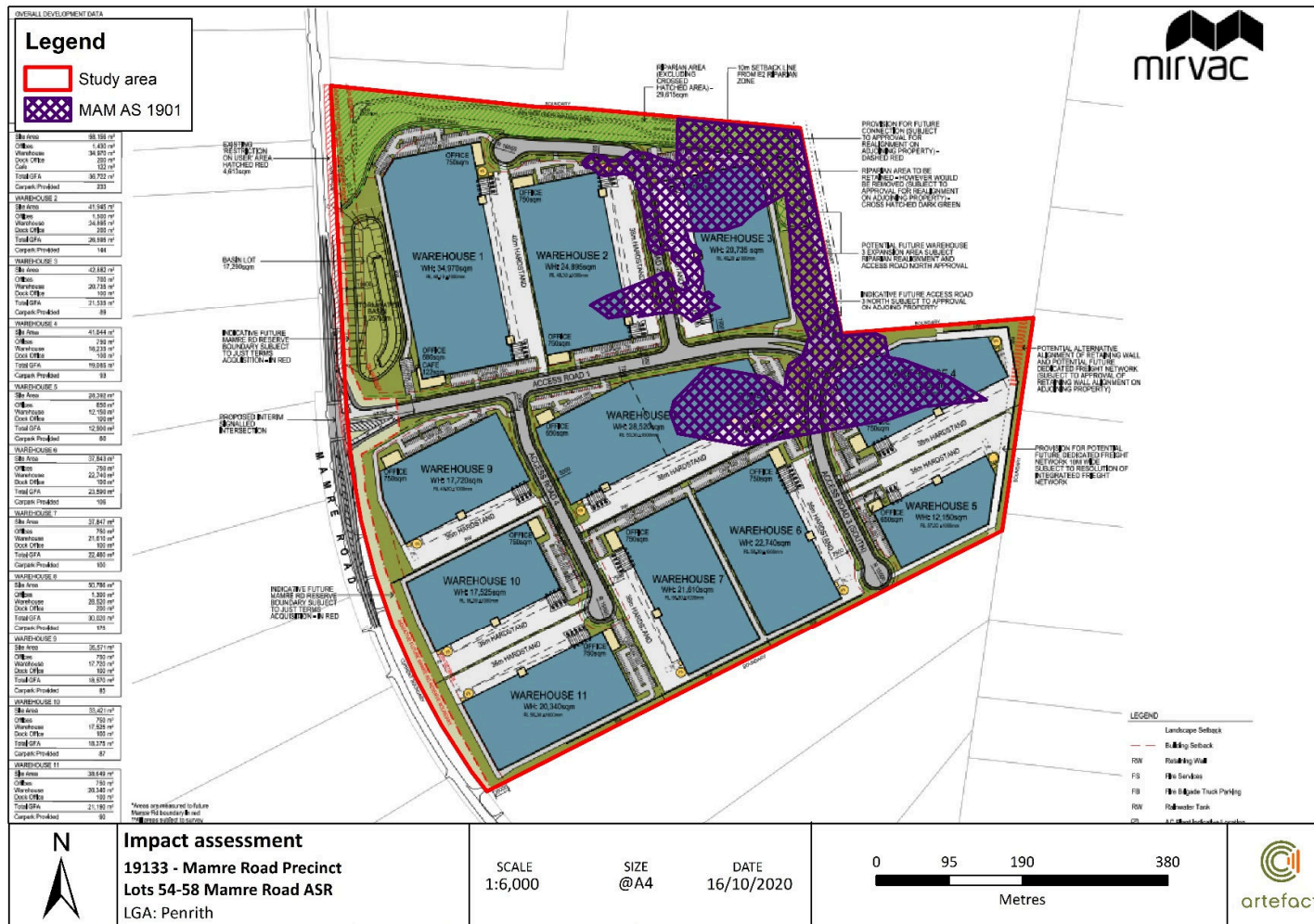
3.3 Previously assessed impacts

The following impacts to Aboriginal sites MAM AS 1901 and the Bakers Lane SLR PAD1 were identified in the revised ACHAR (Section 10.2):

Table 3: Revised ACHAR: impact assessment

Site name (AHIMS ID)	Type of harm	Degree of harm	Consequence of harm
MAM AS 1901 (AHIMS ID 45-5-5186)	Direct	Total	Total loss of value
Bakers Lane SLR PAD1	None	None	No loss of value

Figure 4: Impacts of the 2021 design on MAM AS 1901 (AHIMS ID 45-5-5186)



3.4 WH9 impact assessment

The proposal footprint for WH9 would not result in any additional impacts to heritage values. The revised ACHAR identified landform modification and disturbance across the entirety of the study area, including total loss of value to MAM AS 1901. Therefore, the WH9 works would not have additional impacts..

3.4.1 Impacts to MAM AS 1901 (AHIMS ID 45-5-5168)

The test excavation program and previous archaeological investigations have provided evidence for the presence of surface and subsurface Aboriginal objects within the study area. As with previous designs, bulk earthworks across the study area, in addition to the other proposed works, would result in total removal or modification of the ground within the study area. This would result in the total removal of all identified Aboriginal objects and artefact concentrations within the study area. As a result, the impacts associated with the proposed WH9 works would result in a total loss of Aboriginal heritage value for MAM AS 1901 (AHIMS ID 45-5-5168).

3.4.2 Impacts to Bakers Lane SLR PAD1

This area of PAD consists of a predicted artefact-bearing soil deposit located across Bakers Lane and on private property to the north and the south of Bakers Lane. Artefact bearing deposits are predicted within the Luddenham and Blacktown soil profiles (KNC 2019: 8). Artefacts recovered from areas of PAD would only be located within soil deposits and would not be located in clay layers which are considered culturally sterile and are located below the soil layers.

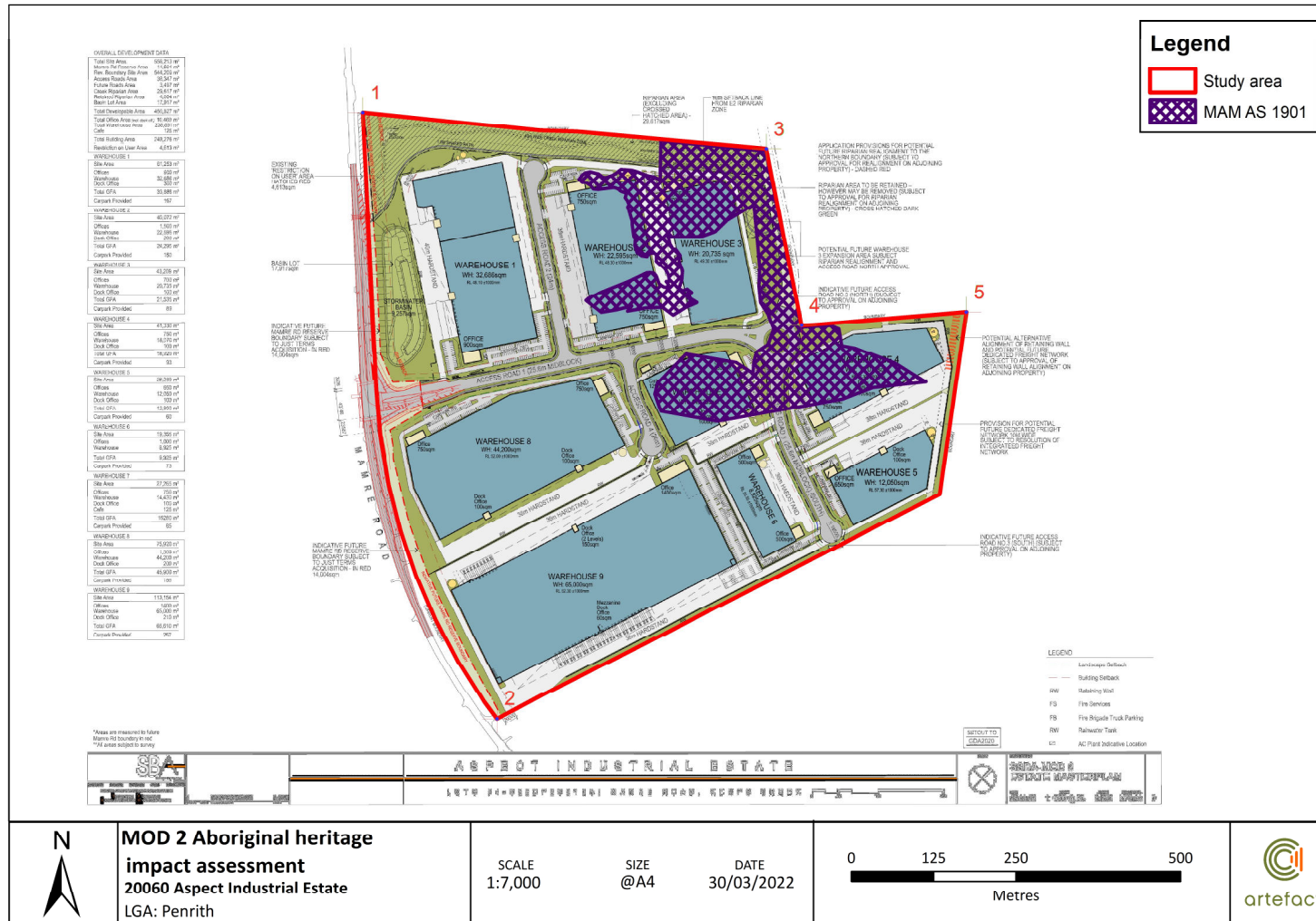
Based on NSW Department of Planning, Industry and the Environment (DPIE) soil mapping resources (<https://www.environment.nsw.gov.au/eSpade2Webapp>), Blacktown soils landscapes would be anticipated to reach basal clay deposits within 1 m below the ground surface; often shallower than this when in non-alluvial contexts. Luddenham soil profiles are anticipated to reach basal clay deposits up to 2 m below the ground surface although also often have much shallower soil profiles in non-alluvial localised contexts.

Launch pits for under-boring would be excavated at least 5 m outside the boundaries of the area of PAD. Underboring would be conducted at least 2 m depth from the ground surface to ensure that horizontal boring would occur through clay deposits without impacting any soil deposits (which may be artefact bearing) above.

Table 4: MOD 3/WH9 impact assessment

Site name (AHIMS ID)	Type of harm	Degree of harm	Consequence of harm
MAM AS 1901 (AHIMS ID 45-5-5168)	Direct	Total	Total loss of value
Bakers Lane SLR PAD1	None	None	No loss of value

Figure 5: Impact of proposed MOD 3/WH9 on MAS AS 1901



3.5 Comparative impact assessment and heritage recommendations

Site name (AHIMS ID)	Revised ACHAR impact assessment (type/ degree/ consequence)	MOD 3 impact assessment (type/ degree/ consequence)
MAM AS 1901 (AHIMS ID 45-5-5186)	Direct/ total/ total loss of value	Direct/total/total loss of value <u>No change</u>
Bakers Lane SLR PAD1	None/ none/ no loss of value	None/ none/ no loss of value <u>No change</u>

4.0 NON-ABORIGINAL HERITAGE

4.1 Introduction

The following significance assessment and discussion of heritage listed and potential items within the AIE project area has been sourced from the SoHI (Artefact Heritage 2020) (Section 5.1) and the State Heritage Inventory (SHI) database listings on the Heritage NSW, Department of Premier and Cabinet (Heritage NSW) website.

There is one heritage item located 290 m southwest of the study area, Bayly Park – House (LEP item no. 104), illustrated in Figure 6.

Figure 6: The study area and nearby heritage curtilages.



4.2 Significance assessment

4.2.1 Bayly Park – House

Bayly Park is listed on the Penrith LEP (item no. 104) as an item of local heritage significance. It is located approximately 290 m south of the study area. An assessment of its significance is presented in Table 5 below.

Table 5. Significance assessment for the 'Bayley Park – House' heritage item

Criterion	Explanation
A – Historical Significance	<p>The property demonstrates a phase in the development of the region with the establishment of large pastoral and agricultural estates.</p> <p>The item has local significance under this criterion.</p>
B – Associative Significance	<p>The property is associated with the Bayley and Jones families.</p> <p>The item has local significance under this criterion.</p>
C – Aesthetic or Technical Significance	<p>The siting and broader landscaping scheme are excellent examples of a substantial country residences of the nineteenth century with plantings of landmark status.</p> <p>The item has local significance under this criterion.</p>
D – Social Significance	<p>The item does not reach the threshold of local significance under this criterion.</p>
E – Research Potential	<p>The item does not reach the threshold of local significance under this criterion.</p>
F – Rarity	<p>The property is rare for its historic associations with a settler family of note and colonial era rural estate.</p> <p>The item has local significance under this criterion.</p>
G – Representativeness	<p>The item does not reach the threshold of local significance under this criterion.</p>

4.2.1.1 Statement of significance

Under construction from the 1810s for Nicholas Bayley [sic], the property is unique in the south-eastern section of Penrith LGA for its historic associations with a settler family and colonial era rural enterprise. While the importance of the house requires investigation, the treed creekside setting with foreground of pastureland provides a historic item and demonstrates nineteenth century pastoral and agricultural estate planning.

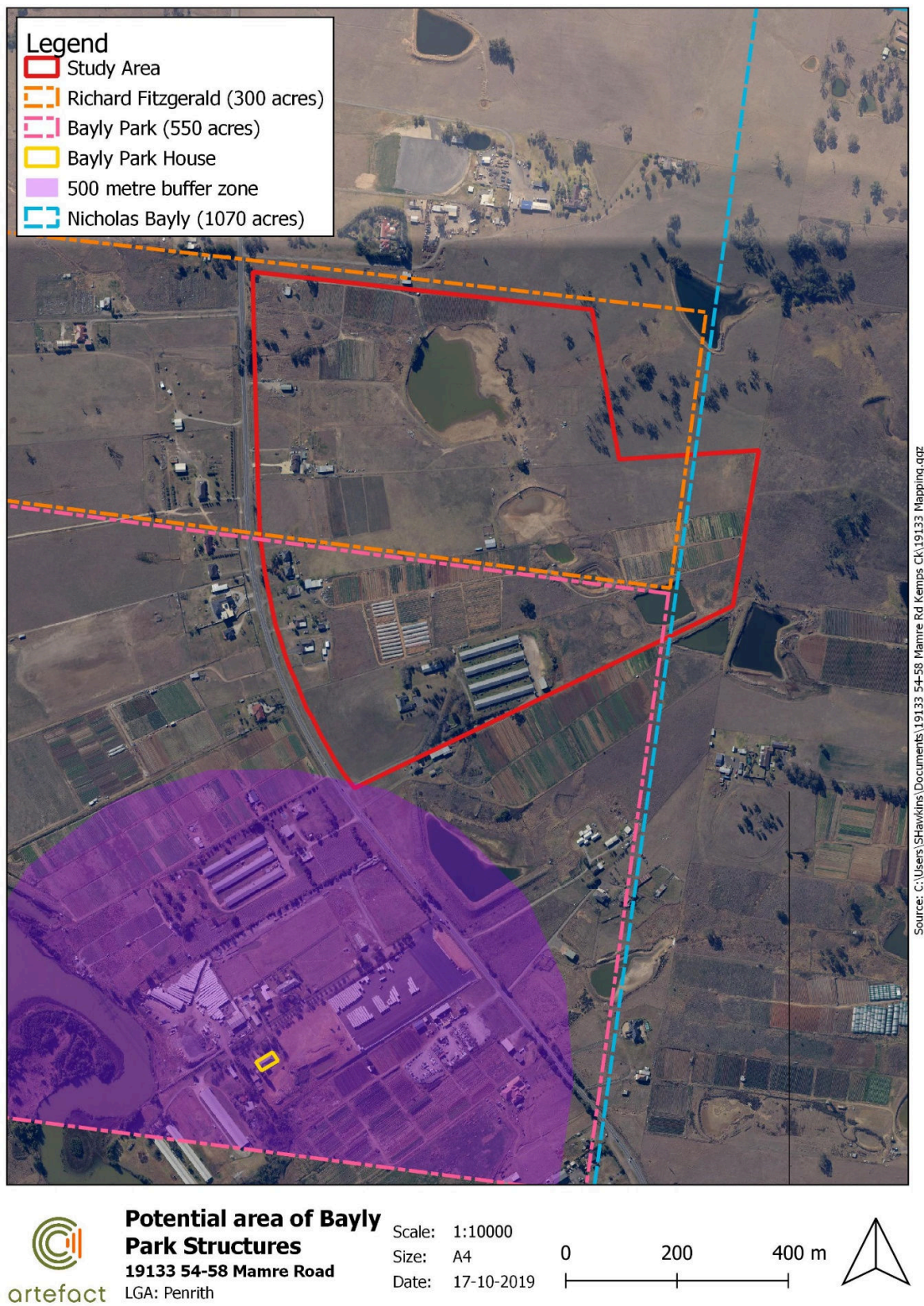
4.2.2 Archaeological assessment

An assessment of non-Aboriginal archaeology was prepared for the EIS and is summarised in Table 6 below.

Table 6. Summary of archaeological potential and significance

Phase	Potential archaeological remains	Arch. potential	Significance
Phase 1: Original land grants (1805 – 1826)	Remnant timber from fences; post holes	Nil-low	Not Significant
	Tree boles from land clearance	Nil-low	Not Significant
	Remnant undocumented timber yard structures	Nil-low	Local
	Archaeobotanical evidence	Nil-low	Not Significant
	Bayly Park outbuildings	Nil	Local
Phase 2: Fleurs Estate (1826 – 1883)	Remnant timber from fences; post holes	Nil-low	Not Significant
	Tree boles from land clearance	Nil-low	Not Significant
	Remnant undocumented timber yard structures	Nil-low	Local
	Archaeobotanical evidence	Nil-low	Not Significant
	Bayly Park outbuildings	Nil	Local
Phase 3: Subdivision of Fleurs Estate (1883 – c. 1930)	Timber post and rail fences; post holes	Nil-low	Not Significant
	Building rubble associated with demolition of structures: tiles, bricks, sandstone	Nil-low	Not Significant
Phase 4: Semi-rural residencies and market gardening (c. 1930 – present)	Inter-war or Post war residential or agricultural structures: foundations, footings, building material including brick or tiles	Nil-low	Not Significant
	Artefact scatters or deposits	Nil-low	Not Significant

Figure 7: Area of potential structures associated with Bayly Park



Statement of archaeological significance

Potential archaeological remains of undocumented agricultural or residential structures, artefactual deposits or archaeobotanical deposits, if found intact or in situ may be significant for their ability to hold research potential and provide information regarding the early colonial and agricultural activity within the study area. Structural remains may also reflect historical events associated with colonial settlement and country estates, agricultural practices, and subdivision of the study area, and may be representative of early colonial agricultural practices within the Penrith LGA. However, there is little known evidence of specific structures that may have been located in the study area,

4.3 Previously assessed impacts

The following impacts to non-Aboriginal heritage were identified in the SoHI prepared for the original EIS:

4.3.1 Bayley Park – House (Penrith LEP Item no. 104)

Impact type	Impact assessment
Physical impact	Neutral
Visual impact	Negligible
Impact to associated archaeological remains	Negligible

A statement of heritage impact was prepared for the original EIS:

Table 7: Statement of heritage impact to Bayly Park house

Development	Discussion
What aspects of the Proposal respect or enhance the heritage significance of the study area?	The proposal would not improve or enhance the heritage significance of any heritage item.
What aspects of the Proposal could have a detrimental impact on the heritage significance of the study area?	<p>The proposed development would be only partially visible from the perspective of Bayly Park house and while it would introduce additional non-rural elements into the largely rural landscape, this would result in negligible adverse impacts to the significance of Bayly Park house.</p> <p>There is a nil to low potential for significant archaeological remains to be located within the study area, however due to the very low chance of significant and intact remains in the study area, adverse impacts to significant archaeological remains are not anticipated.</p>

Development	Discussion
Have more sympathetic options been considered and discounted?	The proposed development is considered of negligible adverse heritage impact and no other sympathetic options were developed due to the lack of adverse heritage impacts to significant heritage items.

4.4 WH9 impact assessment

The SoHI identified neutral or negligible impacts to non-Aboriginal heritage. As WH9 is within the same footprint as the AIE approval area no additional impacts to non-Aboriginal heritage are expected..

4.4.1 Physical impact

The proposed WH9 SSD would not involve works that would encroach into the curtilage of Bayley Park – House, which is located approximately 290 metres south of the study area. There would be no direct impacts to the curtilage or significant fabric associated with the heritage item.

Due to the significant distance of Bayly Park House from the study area, it is not expected that significant fabric would be impacted by vibration associated with the bulk earthworks within the study area.

In summary, the proposal would not result in direct adverse impact to the curtilage of Bayley Park - House and would result in **neutral** physical impact to the item.

4.4.2 Visual impact

The proposed WH9 SSD works would involve bulk earthworks and the construction of warehousing structures approximately 290 metres north of the Bayley Park – House heritage item. The study area and its surrounds have largely maintained the historic rural character and setting of the area.

Bayly Park house is set back approximately 360 metres from Mamre Road and is encircled by large mature pine trees on each side, which have created a privacy screening around the house. The eastern half of the Bayley Park – House curtilage was previously cleared grazing land, however it is currently in use as an open storage facility with an artificial landscaping mound with recent vegetation planted to provide screening of the storage facility from the perspective of the road. Due to this, there are no extant direct sightlines between Bayly Park house and its surrounds and the study area.

The proposed WH9 works would result in a **negligible** visual impact to the Bayley Park heritage item.

4.4.3 Impacts to archaeological remains

The study area was assessed as having a nil-low potential for the identification of locally significant archaeological remains. Locally significant archaeological remains would be related to former agricultural activities in the study area during the early- to mid-nineteenth century, however there is no direct evidence of residential or agricultural structures in the study area during this time. Archaeological remains related to the property's agricultural use in the nineteenth century would

likely be highly ephemeral and not likely to be identified intact or to be sufficiently robust to demonstrate heritage significance. As such, the proposed works would result in **negligible** impacts to significant non-Aboriginal archaeological remains.

4.5 Assessment of WH9 proposal against Management Policies

The SoHI prepared for the original EIS (Artefact Heritage 2020) identified heritage management requirements in the following management policy:

- Penrith Development Control Plan (DCP) 2014

Since this time, Penrith City Council has prepared a new DCP for an area excised from the Penrith DCP 2014, titled:

- Mamre Road DCP 2021.

The Precinct Vision is to create a:

World-class industrial area, primarily catering for warehousing and logistics on larger consolidated land parcels close to the Western Sydney Airport.

Section 2.7 of the Mamre Road DCP 2021 provides the following statements relating to character and heritage conservation that are relevant to this assessment:

Objectives

-
- a) *To protect and reinforce the significance of heritage items.*
 - b) *To ensure adequate curtilage and landscape setting for heritage items.*
 - c) *To ensure the integrity of the heritage item and its setting is retained by the careful siting and design of new buildings and alterations and additions to existing buildings.*
 - d) *To ensure that the subdivision of land on which a heritage building is located does not isolate the building from its setting or context, or adversely affect its amenity or privacy.*
-

Controls

-
- 3) *In determining the curtilage of a heritage building, consideration is to be given to:*
- *The original form and function of the heritage building: The heritage building's former use and architecture should be reflected in the design of the curtilage. For example, it may be appropriate that a larger curtilage be maintained around a former rural homestead than that of a suburban building;*
 - *Outbuildings: A heritage building and its associated outbuildings should be retained on the same allotment; and*
 - *Gardens, trees, fencing, gates and archaeological sites: Features that are considered valuable in interpreting the history and in maintaining the setting of a building should be identified and, where possible, retained within the curtilage.*

4) Development shall be of a scale and form that does not detract from the historical significance, appearance and setting of the heritage item, and consider the following:

- The height of new development near heritage items shall be less than the subject item. New development or large additions or alterations must provide a transition in height from the heritage item. Increases in height shall be proportional to increased distance from the items;*
- Views and vistas to the heritage item from roads and other prominent areas are key elements in the landscape and shall be retained;*
- If the development site can be viewed from a heritage item(s), any new development will need to be designed and sited so that it is not obtrusive when it is viewed from the heritage item(s); and*
- Curtilages shall be retained around all listed items sufficient to ensure that views to them and their relationship with adjacent settings are maintained.*

8) New development shall not be sited in front of the front building line of the existing heritage item nor shall it extend beyond the established side building lines of the heritage item.

Much of the study area retains a rural character that is integral to the heritage values of the Bayley Park – House heritage item. While there are no heritage listed items within the study area, the study area maintains the rural character and pastoral setting that is associated with the significance of Bayley Park House and of the historic land use of Bayly Park Estate. However, recent developments within the heritage curtilage of Bayley Park House have resulted in changes to the setting of the heritage item, altering the rural character of the heritage item into an industrial space and obstructing views between Bayley Park House, the surrounding area, and the study area. The proposal would result in additional cumulative impacts within the study area which will likely further contribute to the loss of the rural character and setting.

The proposal would result in bulk earthworks within the vicinity of the heritage curtilage of Bayly Park. While it is unlikely that the works would be noticeable from Bayly Park House, it is expected that they would be visible and create a significant visual change to the environment when viewed from the curtilage of Bayly Park at Mamre Road. Several cumulative impacts have altered the rural landscape throughout the history of Bayly Park, including the subdivision of the Bayly Park/Fleurs Estate, construction and subsequent upgrades of Mamre Road, and the construction of late twentieth century housing within and surrounding the study area. The eastern portion of the Bayley Park – House heritage curtilage has recently been repurposed as an industrial storage facility, altering the rural character of the heritage item. It is expected that cumulative visual impacts will further erode the rural character of the area will arise as a result of the proposal, however the significant rural landscape has largely been altered in the area immediately surrounding Bayley Park - House. The industrial warehouse buildings will be located at a considerable distance from the heritage item of Bayley Park – House, over 800 metres to the north, and would not likely be visible or create a negative visual impact.

The proposal would be in accordance with control 3) of the DCP, ensuring adequate curtilage of the heritage building. It would also be in accordance with the Precinct Vision.

4.6 Comparative impact assessment and heritage recommendations

4.6.1 Non-Aboriginal heritage impact comparison

The following is a summary of the comparative impacts between the approved AIE design as addressed in the non-Aboriginal heritage technical paper and the proposed updated design prepared in 2020 and the proposed MOD 3 design prepared in 2022.

Table 8: Comparison of adverse heritage impacts on heritage items between approved design and MOD 3

Impact type	Heritage impacts (approved 2020 design)	Heritage impacts from WH9
Physical impact	Neutral	Neutral <u>No change</u>
Visual impact	Negligible	Negligible <u>No change</u>
Impact to associated archaeological remains	Negligible	Negligible <u>No change</u>

5.0 CONCLUSIONS

5.1 Consistency assessment

Assessment of WH9 against SEARs requirements.

SEARs requirement	Deliverable	Change in assessment for WH9
18. Aboriginal Cultural Heritage		
Aboriginal Cultural Heritage – justification for reliance on any previous Aboriginal Cultural Heritage Assessments undertaken for SSD-10448'	ACHAR	No change
19. Environmental Heritage		
Where there is potential for direct or indirect impacts on the heritage significance of environmental heritage, provide a Statement of Heritage Impact and Archaeological Assessment (if potential impacts to archaeological remains are identified), prepared in accordance with the relevant guidelines, which assesses any impacts and outlines measures to ensure they are minimised and mitigated.	Statement of Heritage Impact	No change
	Archaeological assessment	No change

5.2 Recommendations

5.2.1 Conclusions

The WH9 design will result in no changes in the degree of impact to either Aboriginal heritage or non-Aboriginal heritage across the study area. WH9 also results in no changes in the degree of impact to either Aboriginal heritage or non-Aboriginal heritage across the study area.

5.2.2 Aboriginal heritage recommendations

The impact to Aboriginal heritage from the proposed WH9 works would be in accordance with findings of the revised ACHAR. As such, an updated ACHAR would not be required for the WH9

submission. The impact to Aboriginal heritage from the proposed WH9 works, would be in accordance with the findings of the revised ACHAR. As such, an updated ACHAR would not be required from the WH9 submission.

The recommendations for Aboriginal heritage from the revised ACHAR would apply for the WH9 and MOD 3 proposal.

5.2.3 Non-Aboriginal heritage recommendations

The impact to non-Aboriginal heritage from the proposed WH9 works would be in accordance with findings of the original EIS assessment. As such, an updated SoHI and archaeological assessment would not be required for the MOD 3 submission. The impact to non-Aboriginal heritage from the proposed WH9 works would be in accordance with findings of the original EIS assessment. As such, an updated SoHI and archaeological assessment would not be required for the WH9 submission.

The heritage recommendations from the SoHI prepared for the original EIS would apply for the WH9 and MOD 3 proposal.



artefact

5 August 2022

Alexandra Chung
Development Manager
Mirvac
Level 28 George Street
Sydney, NSW, 2000

Dear Alexandra,

Re: Aspect Industrial Estate: Proposed modification to Masterplan

In January 2019, Mirvac (the proponent) commissioned Artefact Heritage Services Pty Ltd (Artefact Heritage) to prepare a combined Aboriginal and non-Aboriginal heritage assessment (Artefact Heritage 2019a) for a development proposal at Lot1-5 DP1285305, Mamre Road Kemps Creek (the study area), known as the Aspect Industrial Estate (AIE). The non-Aboriginal heritage Statement of Heritage Impact (SoHI) identified no heritage constraints for the proposal. The Aboriginal heritage assessment identified one previously unregistered Aboriginal site, Mamre Road Artefact Scatter 1901 [MAM AS 1901] (AHIMS ID 45-5-5186), and an area of archaeological potential. The assessment recommended that further investigations occur to assess the nature and extent of the area of Aboriginal archaeological potential and impacts to MAM AS 1901 (AHIMS ID 45-5-5186) and the identified area of archaeological potential.

Archaeological survey of the study area was completed over two days (2 – 3 October 2019) and resulted in the identification of additional Aboriginal objects associated with MAM AS 1901 (AHIMS ID 45-5-5186) and an area of Potential Archaeological Deposit (PAD), which incorporated and revised the area of archaeological potential identified in the initial assessment (Artefact Heritage 2019b). The newly identified site features included five artefact concentrations, ranging in size from 15 artefacts in concentration 1 to three artefacts in concentration 5, and six isolated artefacts. The Archaeological Survey Report (ASR) recommended that archaeological test excavation should be conducted within MAM AS 1901 (AHIMS ID 45-5-5186) to investigate the nature and extent of potential subsurface archaeological deposits and inform an assessment of archaeological significance.

In accordance with the recommendations provided in the ASR a test excavation program was carried out from the 15 June to 24 June 2020. A total of 47 Aboriginal archaeological test pits were excavated as part of the test excavation program. The test excavation program recovered 25 additional Aboriginal objects and identified one area of subsurface artefact concentration, A3. The findings of the test excavation program were documented in an Archaeological Test Excavation Report (ATER) (Artefact Heritage 2020a).

An Aboriginal Cultural Heritage Assessment Report (ACHAR) was prepared and provided with the SoHI to exhibition with the Environmental Impact Statement (EIS) for the project, which was placed on public display from 18 November to 15 December 2020. Following the period of exhibition Mirvac proposed to include two additional scopes of work as part of the AIE project. A revised ACHAR was prepared and issued in March 2022.

Mirvac is proposing a modification to the Concept Masterplan, known as Mod 3. Mod 3 includes a new Warehouse 9 and Access RD04 and is described as a Concept Modification, Stage 1 Modification, and Warehouse 9 SSD. This letter has been prepared based on industry standard Secretary's Environmental Assessment Requirements (SEARs), which include the following SEARs requirements in relation to heritage matters:

Table 1: SEARs requirements for the MOD 3 proposal

SEARs requirement	Deliverable
18. Aboriginal Cultural Heritage	
Provide an Aboriginal Cultural Heritage Assessment Report prepared in accordance with relevant guidelines, identifying, describing, and assessing any impacts for any Aboriginal cultural heritage values on the site	ACHAR
19. Environmental Heritage	
Where there is potential for direct or indirect impacts on the heritage significance of environmental heritage, provide a Statement of Heritage Impact and Archaeological Assessment (if potential impacts to archaeological remains are identified), prepared in accordance with the relevant guidelines, which assesses any impacts and outlines measures to ensure they are minimised and mitigated.	Statement of Heritage Impact (SoHI) Archaeological Assessment

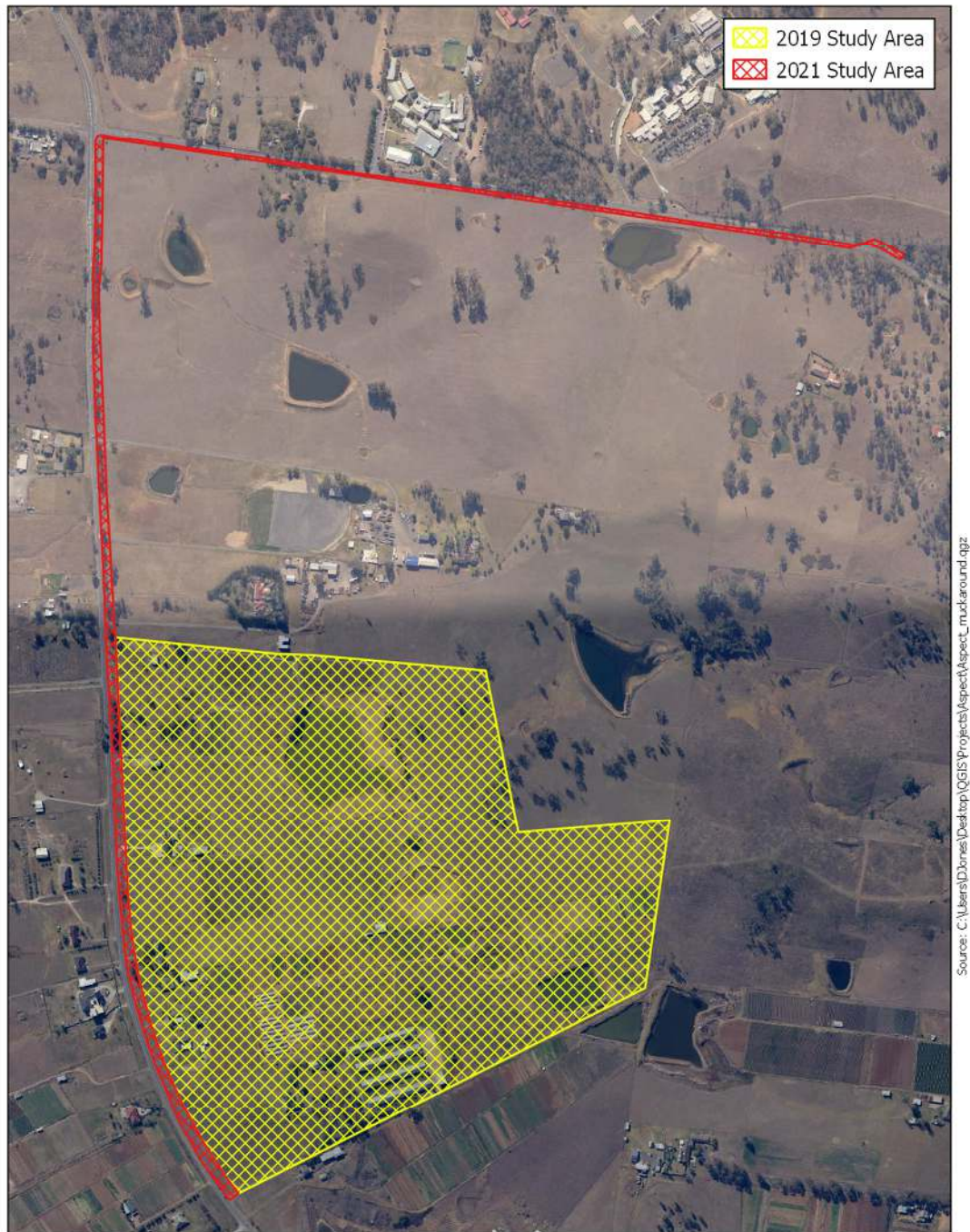
Artefact Heritage have been engaged by Mirvac to prepare a combined Aboriginal and non-Aboriginal heritage consistency assessment. This report has been prepared to assess the previously identified impacts for the project, as outlined in the SoHI (2020) and the revised ACHAR (2022) in comparison to potential heritage impacts from the design updates proposed in the MOD 3 proposal.


This consistency assessment was sent to Registered Aboriginal Parties (RAPs) for a 28-day review period, with comments requested by 11 May 2022. Three responses were received, all supportive of the assessment.

1.1 Study area

The MOD 3 proposal does not change the footprint of works from the original proposal. The study area covers approximately 56.3 hectares (ha) and is comprised of Lots 54 – 58 DP 259135 (2019 study area) and a portion of the road verge on Mamre Road and Bakers Lane (2021 study area). The location of these study areas is shown in Figure 1. The study area is bounded by Mamre Road to the west and is within the Parish of Melville and County of Cumberland. The study area falls within the Penrith Local Government Area (LGA) and the boundaries of Deerubbin Local Aboriginal Land Council (Deerubbin LALC).

Figure 1: Study area






Location of Study Areas
20060 Aspect Industrial Estate
LGA: Penrith

Scale: 1:8,000
Size: A4
Date: 17-01-2022

0 200 400 m



2.0 PROPOSED MODIFICATION

2.1 Concept modification

The following modifications are proposed, relating to Warehouse/Lot 6, 7, 8, 9, 10, and 11 area and Access Road 4, located at the south-western portion of the AIE, as set out in the Concept Plan SSD-10448. Note that the proposed footprint does not change.

- Reconfiguration of the Estate layout south of Access Road 1 and west of Access Road 3 including:
 1. Reduction in the overall lot numbers across AIE from 11 to 9,
 2. Relocation and shortening of Access Road 4,
 3. Reconfiguration of warehouse lots 6-11 into lots 6-9,
 4. New warehouse footprints and heights, hardstand locations, car parking, estate landscaping,
 5. Change in boundary condition to the south including orientation of warehouse hardstand for Warehouse 9 to the south rather than the north.
- Reduction in area of Lot 6 Warehouse GFA to 9,574sqm and Lot 9 Warehouse GFA to 66,548sqm.
- Increase in area of Lot 8 Warehouse GFA to 45,146sqm and Lot 9 Warehouse GFA to 66,548sqm.
- Reconfiguration of Office and Dock Office area in accordance with the revised warehouse footprints.
- New hardstand areas along the frontages of the reconfigured lots:
 1. 38m wide east of Warehouse 6,
 2. 38m wide south of Warehouse 7,
 3. 38m south of Warehouse 8, and
 4. 36m wide north of 36m south of Warehouse 9.
- Reconfiguration of carpark areas in support of the modified warehouse layout, to be reconfigured as follows:
 1. Warehouse 6 – 38 parking spaces across the lot's northern frontage, 33 parking spaces across the lot's southern frontage
 2. Warehouse 7 – 64 parking spaces across the lot's eastern frontage, within the front setback to Access Road 3, 33 parking spaces across the lot's southern frontage
 3. Warehouse 8 – 69 parking spaces across the lot's northern frontage (fronting Access Road 1) and 97 parking spaces across the lot's eastern frontage (fronting Access Road 4), and
 4. Warehouse 9 – 266 parking places across the lot's north-eastern frontage (fronting Access Road 4).
- Revised vehicular and truck access off Access Road 1, 3, and 4 in accordance with the reconfigured lots and shortened Access Road 4.

- Change in Estate-wise impacts associated with stormwater management traffic generation, visual impact, noise, earthworks at the boundary, and landscaping.

2.2 Stage 1 modification

The following modification is proposed to the approved road works under the Stage 1 consent, relating to the construction of road works for the realigned Road 4 and associated landscaping.

- Updated subdivision plan to include Road 4 within a separate road lot.
- Civil works and construction of realigned Road 4 including stormwater works.
- Construction of landscaping works in the public domain area of the Road 4 lot.
- Reconfiguration of earthworks for lots 6 to 9.
- Reconfiguration of boundary retaining walls (Stage 1) and other retaining walls (both Stage 1 and Lot 9).

2.3 New Warehouse 9 SSD

The detailed development application will seek consent for earthworks, infrastructure and roads, and the construction, fit out, and operation of the warehouse and logistic facility with associated car parking for Lot / Warehouse 9. Specifically, the SSDA will seek consent for:

- Civil works including cut/fill and benching to set the Lot 9 PAD levels.
- A new 64,725sqm warehouse facility at the intended Lot 9 (facilitated by SSD-10448 MOD3) which is supported by: (Note - this figure is different between the WH4 & WH9 plans)
 - Ancillary office (1,350sqm) and two dock offices (total 266sqm).
 - seventy-four (74) docks.
 - 266 car parking spaces
 - On lot landscaping.
 - On lot stormwater management.
 - Operation of the warehouse & distribution facility 24 hours a day 7 days a week.
 - Construction of Internal truck access driveways vehicular crossovers to Access Road 3 (ingress) and Access Road 4 (egress).

3.0 ABORIGINAL HERITAGE

3.1 Introduction

This section provides the significance assessment and the identified impacts from the revised ACHAR (Artefact 2022) and examines the impacts to Aboriginal heritage from the proposed MOD 3 works.

The revised ACHAR identified Aboriginal site (MAM AS 1901, AHIMS ID 45-5-5186 – Figure 2) and one Potential Archaeological Deposit (PAD) (Bakers Lane SLR PAD1 – Figure 3) within the study area. One Aboriginal site, Bakers Lane SLR AFT1 (AHIMS ID 45-5-5274), was identified as being adjacent to the study area.

Figure 2: Revised extent of MAM AS 1901 (AHIM ID 45-5-5186)

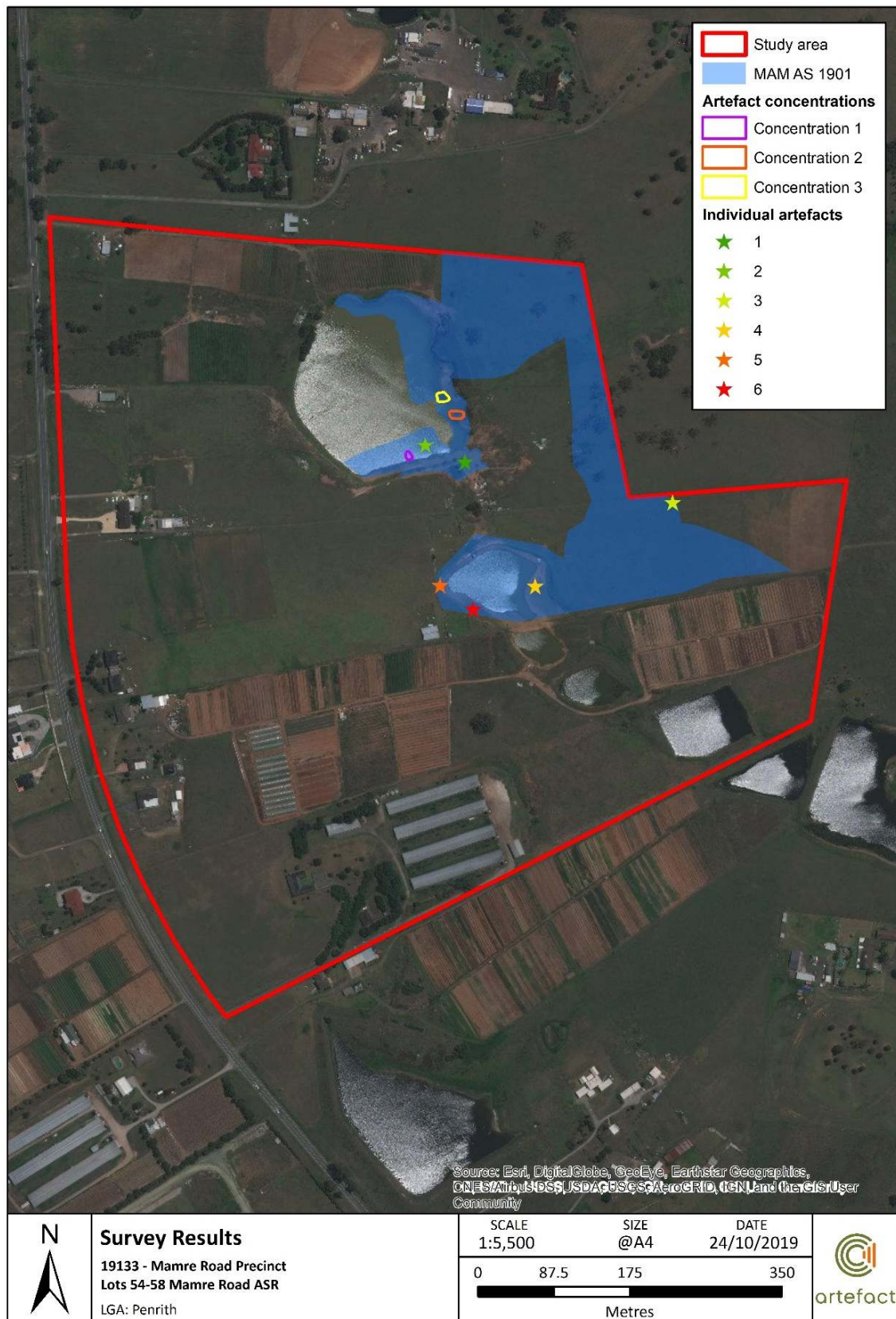
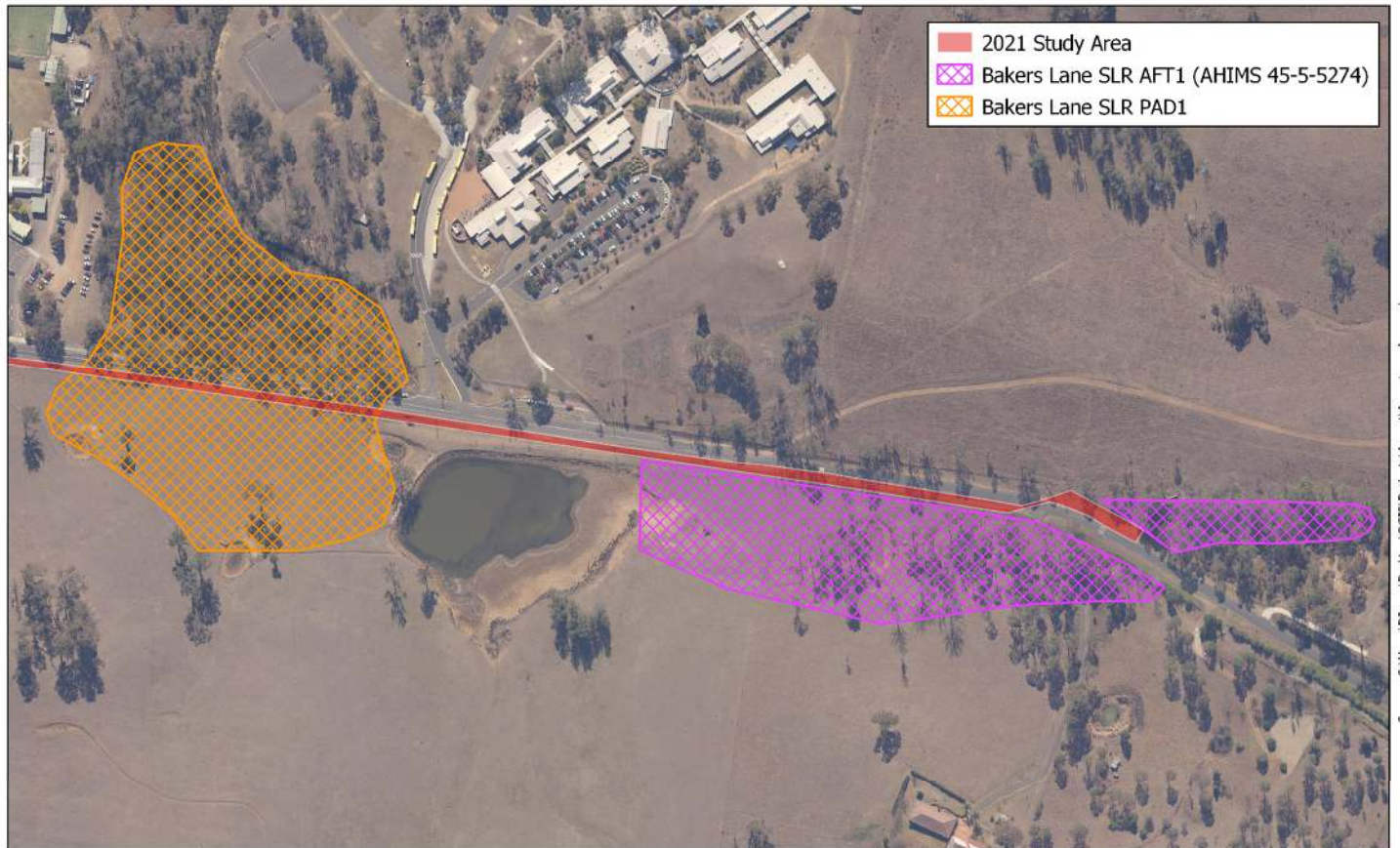


Figure 3: Location of Bakers Lane SLR AFT 1 (AHIMS 45-5-5274) and Bakers Lane SLR PAD1

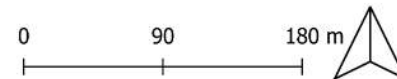


Location of previously identified Aboriginal sites

20060 Aspect Industrial Estate

LGA: Penrith

Scale: 1:3,250
Size: A4
Date: 18-01-2022



3.2 Significance assessment

3.2.1 Historic value

Historic values refer to the association of the place with aspects of Aboriginal history. Historic values are not necessarily reflected in physical objects, but may be intangible and relate to memories, stories or experiences. The study area is not known to be associated with any people, events or activities of historical importance to the Aboriginal community. A total of 60 Aboriginal objects have been identified within MAM AS 1901 (AHIMS ID 45-5-5186) during the test excavation program and previous surveys of the study area. However, it was assessed that the assemblage represented temporary site occupation rather than significant long term or repeated site occupation. The assemblage does not suggest that MAM AS 1901 (AHIMS ID 45-5-5186) was the location of any significant event or activity in the pre-contact or post-contact past. Therefore, at this level of assessment, the study area is considered not to be of historic significance.

3.2.2 Aesthetic value

Aesthetic values refer to the sensory, scenic, architectural and creative aspects of the place. These values may be related to the landscape and are often closely associated with social/cultural values. As the subject site is located within an urbanised setting, which has undergone significant clearance, modification and development; all aesthetic significance is lost.

The study area is considered to be of moderate aesthetic based on proximity to aesthetically pleasing features such as trees and remnant, intact landforms.

3.2.3 Socio/cultural value

Social/cultural heritage significance should be addressed by the Aboriginal people who have a connection to, or interest in, the area. As part of the consultation process the registered Aboriginal stakeholder groups were asked to provide appropriate information on the cultural significance of the subject site.

3.2.4 Scientific value

MAM AS 1901 (AHIMS ID 45-5-5186) is a low-density artefact scatter which contains six isolated surface artefacts, four surface artefact concentrations, and one subsurface artefact concentration. Only the subsurface artefact concentration has been assessed as demonstrating archaeological integrity, while the remainder of the assemblage is located in a highly disturbed context. Overall, the site is considered to be of moderate research and educational significance due to the potential to study an intact artefact deposit.

Three formal tools were identified on the surface of MAM AS 1901 (AHIMS ID 45-5-5186) which are considered to be of high rarity and representative value within the regional context. However, the majority of the artefact assemblage is comprised of fragmented flaked artefacts which are not considered to be rare within the regional context or representative of Aboriginal site utilisation. Overall, MAM AS 1901 (AHIMS ID 45-5-5186) is considered to be of moderate rarity and representative value.

MAM AS 1901 (AHIMS ID 45-5-5186) is considered to be of moderate archaeological significance. A summary of the archaeological significance of sites identified during test excavation is presented in Table 2: Aboriginal sites – significance assessment.

Table 2: Aboriginal sites – significance assessment

Site name (AHIMS ID)	Research potential	Representativeness	Rarity	Education potential	Overall significance assessment
MAM AS 1901 (AHIMS ID 45-5-5186)	Moderate	Moderate	Moderate	Moderate	Moderate
Bakers Lane SLR PAD1	Moderate	Unknown	Unknown	Unknown	Moderate

3.2.5 Statement of significance for the study area

No specific historic or socio/cultural values associated with MAM AS 1901 (AHIMS ID 45-5-5186) were identified. The study area is considered to be of moderate aesthetic significance due to the presence of traditional landscape features. The study area is also considered to be of moderate scientific significance due to the presence of a subsurface artefact concentration that has been assessed as demonstrating archaeological integrity.

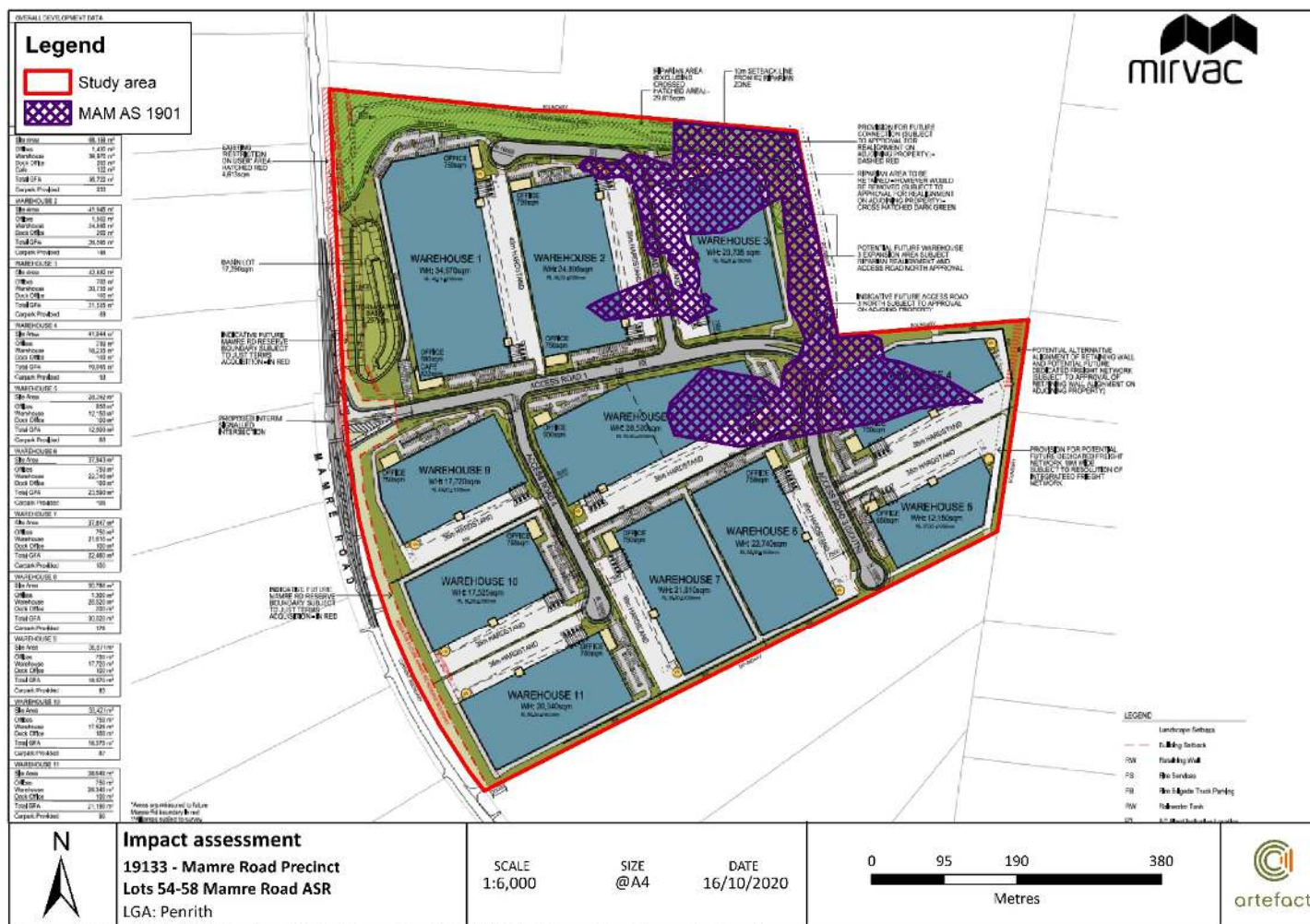
3.3 Previously assessed impacts

The following impacts to Aboriginal sites MAM AS 1901 and the Bakers Lane SLR PAD1 were identified in the revised ACHAR (Section 10.2):

Table 3: Revised ACHAR: impact assessment

Site name (AHIMS ID)	Type of harm	Degree of harm	Consequence of harm
MAM AS 1901 (AHIMS ID 45-5-5186)	Direct	Total	Total loss of value
Bakers Lane SLR PAD1	None	None	No loss of value

Figure 4: Impacts of the 2021 design on MAM AS 1901 (AHIMS ID 45-5-5186)



3.4 MOD 2 impact assessment

The proposal footprint for the MOD 3 works is not changed from the original SSD design as presented in the revised ACHAR. The revised ACHAR identified landform modification and disturbance across the entirety of the study area, including total loss of value to MAM AS 1901. As the MOD 3 proposal has the same footprint of proposed works, the impacts to Aboriginal sites are unchanged.

3.4.1 Impacts to MAM AS 1901 (AHIMS ID 45-5-5168)

The test excavation program and previous archaeological investigations have provided evidence for the presence of surface and subsurface Aboriginal objects within the study area. As with previous designs, bulk earthworks across the study area, in addition to the other proposed works, would result in total removal or modification of the ground within the study area. This would result in the total removal of all identified Aboriginal objects and artefact concentrations within the study area. As a result, the impacts associated with the proposed MOD 3 works would result in a total loss of Aboriginal heritage value for MAM AS 1901 (AHIMS ID 45-5-5168).

3.4.2 Impacts to Bakers Lane SLR PAD1

This area of PAD consists of a predicted artefact-bearing soil deposit located across Bakers Lane and on private property to the north and the south of Bakers Lane. Artefact bearing deposits are predicted within the Luddenham and Blacktown soil profiles (KNC 2019: 8). Artefacts recovered from areas of PAD would only be located within soil deposits and would not be located in clay layers which are considered culturally sterile and are located below the soil layers.

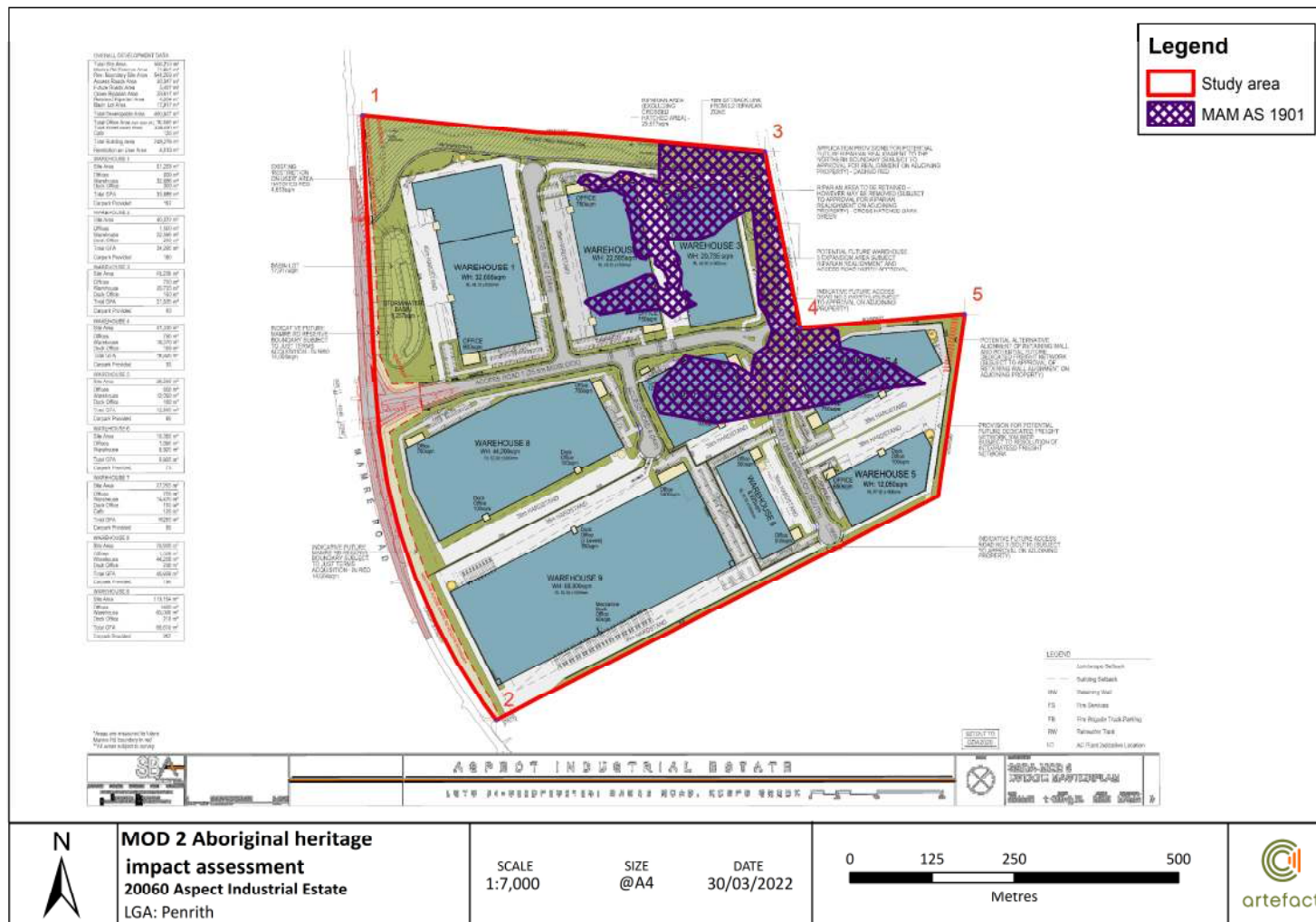
Based on NSW Department of Planning, Industry and the Environment (DPIE) soil mapping resources (<https://www.environment.nsw.gov.au/eSpade2Webapp>), Blacktown soils landscapes would be anticipated to reach basal clay deposits within 1 m below the ground surface; often shallower than this when in non-alluvial contexts. Luddenham soil profiles are anticipated to reach basal clay deposits up to 2 m below the ground surface although also often have much shallower soil profiles in non-alluvial localised contexts.

Launch pits for under-boring would be excavated at least 5 m outside the boundaries of the area of PAD. Underboring would be conducted at least 2 m depth from the ground surface to ensure that horizontal boring would occur through clay deposits without impacting any soil deposits (which may be artefact bearing) above.

Table 4: MOD 3 impact assessment

Site name (AHIMS ID)	Type of harm	Degree of harm	Consequence of harm
MAM AS 1901 (AHIMS ID 45-5-5168)	Direct	Total	Total loss of value
Bakers Lane SLR PAD1	None	None	No loss of value

Figure 5: Impact of proposed MOD 3 on MAS AS 1901



3.5 Comparative impact assessment and heritage recommendations

Site name (AHIMS ID)	Revised ACHAR impact assessment (type/ degree/ consequence)	MOD 3 impact assessment (type/ degree/ consequence)
MAM AS 1901 (AHIMS ID 45-5-5186)	Direct/ total/ total loss of value	Direct/total/total loss of value <u>No change</u>
Bakers Lane SLR PAD1	None/ none/ no loss of value	None/ none/ no loss of value <u>No change</u>

4.0 NON-ABORIGINAL HERITAGE

4.1 Introduction

The following significance assessment and discussion of heritage listed and potential items within the AIE project area has been sourced from the SoHI (Artefact Heritage 2020) (Section 5.1) and the State Heritage Inventory (SHI) database listings on the Heritage NSW, Department of Premier and Cabinet (Heritage NSW) website.

There is one heritage item located 290 m southwest of the study area, Bayly Park – House (LEP item no. 104), illustrated in Figure 6.

Figure 6: The study area and nearby heritage curtilages.



4.2 Significance assessment

4.2.1 Bayly Park – House

Bayly Park is listed on the Penrith LEP (item no. 104) as an item of local heritage significance. It is located approximately 290 m south of the study area. An assessment of its significance is presented in Table 5 below.

Table 5. Significance assessment for the 'Bayley Park – House' heritage item

Criterion	Explanation
A – Historical Significance	<p>The property demonstrates a phase in the development of the region with the establishment of large pastoral and agricultural estates.</p> <p>The item has local significance under this criterion.</p>
B – Associative Significance	<p>The property is associated with the Bayley and Jones families.</p> <p>The item has local significance under this criterion.</p>
C – Aesthetic or Technical Significance	<p>The siting and broader landscaping scheme are excellent examples of a substantial country residences of the nineteenth century with plantings of landmark status.</p> <p>The item has local significance under this criterion.</p>
D – Social Significance	<p>The item does not reach the threshold of local significance under this criterion.</p>
E – Research Potential	<p>The item does not reach the threshold of local significance under this criterion.</p>
F – Rarity	<p>The property is rare for its historic associations with a settler family of note and colonial era rural estate.</p> <p>The item has local significance under this criterion.</p>
G – Representativeness	<p>The item does not reach the threshold of local significance under this criterion.</p>

4.2.1.1 Statement of significance

Under construction from the 1810s for Nicholas Bayley [sic], the property is unique in the south-eastern section of Penrith LGA for its historic associations with a settler family and colonial era rural enterprise. While the importance of the house requires investigation, the treed creekside setting with foreground of pastureland provides a historic item and demonstrates nineteenth century pastoral and agricultural estate planning.

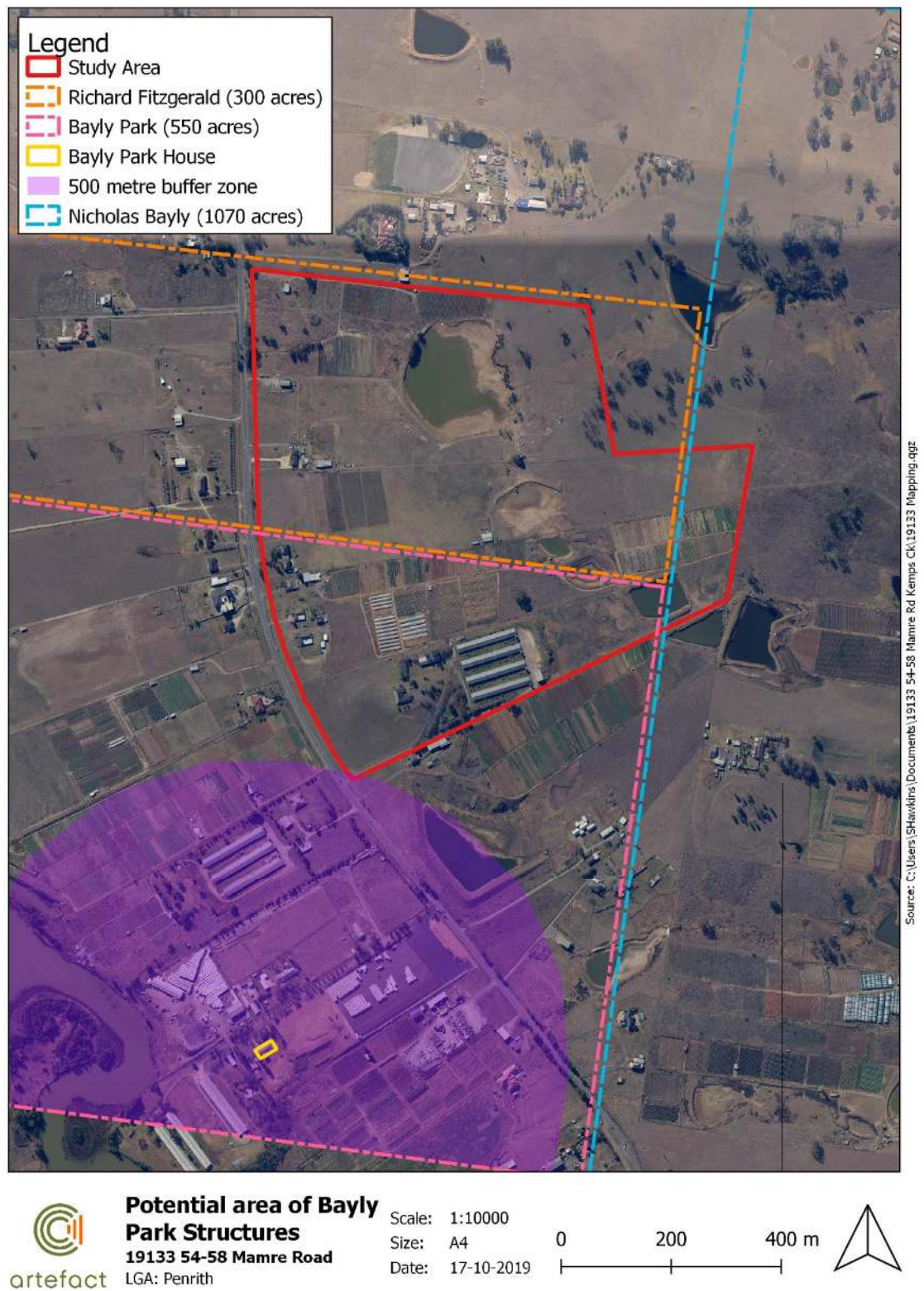
4.2.2 Archaeological assessment

An assessment of non-Aboriginal archaeology was prepared for the EIS and is summarised in Table 6 below.

Table 6. Summary of archaeological potential and significance

Phase	Potential archaeological remains	Arch. potential	Significance
Phase 1: Original land grants (1805 – 1826)	Remnant timber from fences; post holes	Nil-low	Not Significant
	Tree boles from land clearance	Nil-low	Not Significant
	Remnant undocumented timber yard structures	Nil-low	Local
	Archaeobotanical evidence	Nil-low	Not Significant
	Bayly Park outbuildings	Nil	Local
Phase 2: Fleurs Estate (1826 – 1883)	Remnant timber from fences; post holes	Nil-low	Not Significant
	Tree boles from land clearance	Nil-low	Not Significant
	Remnant undocumented timber yard structures	Nil-low	Local
	Archaeobotanical evidence	Nil-low	Not Significant
	Bayly Park outbuildings	Nil	Local
Phase 3: Subdivision of Fleurs Estate (1883 – c. 1930)	Timber post and rail fences; post holes	Nil-low	Not Significant
	Building rubble associated with demolition of structures: tiles, bricks, sandstone	Nil-low	Not Significant
Phase 4: Semi-rural residencies and market gardening (c. 1930 – present)	Inter-war or Post war residential or agricultural structures: foundations, footings, building material including brick or tiles	Nil-low	Not Significant
	Artefact scatters or deposits	Nil-low	Not Significant

Figure 7: Area of potential structures associated with Bayly Park



Statement of archaeological significance

Potential archaeological remains of undocumented agricultural or residential structures, artefactual deposits or archaeobotanical deposits, if found intact or in situ may be significant for their ability to hold research potential and provide information regarding the early colonial and agricultural activity within the study area. Structural remains may also reflect historical events associated with colonial settlement and country estates, agricultural practices, and subdivision of the study area, and may be representative of early colonial agricultural practices within the Penrith LGA. However, there is little known evidence of specific structures that may have been located in the study area,

4.3 Previously assessed impacts

The following impacts to non-Aboriginal heritage were identified in the SoHI prepared for the original EIS:

4.3.1 Bayley Park – House (Penrith LEP Item no. 104)

Impact type	Impact assessment
Physical impact	Neutral
Visual impact	Negligible
Impact to associated archaeological remains	Negligible

A statement of heritage impact was prepared for the original EIS:

Table 7: Statement of heritage impact to Bayly Park house

Development	Discussion
What aspects of the Proposal respect or enhance the heritage significance of the study area?	The proposal would not improve or enhance the heritage significance of any heritage item.
What aspects of the Proposal could have a detrimental impact on the heritage significance of the study area?	<p>The proposed development would be only partially visible from the perspective of Bayly Park house and while it would introduce additional non-rural elements into the largely rural landscape, this would result in negligible adverse impacts to the significance of Bayly Park house.</p> <p>There is a nil to low potential for significant archaeological remains to be located within the study area, however due to the very low chance of significant and intact remains in the study area, adverse impacts to significant archaeological remains are not anticipated.</p>

Development	Discussion
Have more sympathetic options been considered and discounted?	The proposed development is considered of negligible adverse heritage impact and no other sympathetic options were developed due to the lack of adverse heritage impacts to significant heritage items.

4.4 MOD 3 impact assessment

The proposal footprint for the MOD 3 works is not changed from the original EIS design. The SoHI identified neutral or negligible impacts to non-Aboriginal heritage. As the MOD 2 proposal has the same footprint of proposed works, the impacts to non-Aboriginal heritage sites are unchanged.

4.4.1 Physical impact

The proposed MOD 3 would not involve works that would encroach into the curtilage of Bayley Park – House, which is located approximately 290 metres south of the study area. There would be no direct impacts to the curtilage or significant fabric associated with the heritage item.

Due to the significant distance of Bayly Park House from the study area, it is not expected that significant fabric would be impacted by vibration associated with the bulk earthworks within the study area.

In summary, the proposal would not result in direct adverse impact to the curtilage of Bayley Park - House and would result in **neutral** physical impact to the item.

4.4.2 Visual impact

The proposed MOD 3 works would involve bulk earthworks and the construction of warehousing structures approximately 290 metres north of the Bayley Park – House heritage item. The study area and its surrounds have largely maintained the historic rural character and setting of the area.

Bayly Park house is set back approximately 360 metres from Mamre Road and is encircled by large mature pine trees on each side, which have created a privacy screening around the house. The eastern half of the Bayley Park – House curtilage was previously cleared grazing land, however it is currently in use as an open storage facility with an artificial landscaping mound with recent vegetation planted to provide screening of the storage facility from the perspective of the road. Due to this, there are no extant direct sightlines between Bayly Park house and its surrounds and the study area.

The proposed MOD 3 works would result in a **negligible** visual impact to the Bayley Park heritage item.

4.4.3 Impacts to archaeological remains

The study area was assessed as having a nil-low potential for the identification of locally significant archaeological remains. Locally significant archaeological remains would be related to former agricultural activities in the study area during the early- to mid-nineteenth century, however there is no direct evidence of residential or agricultural structures in the study area during this time. Archaeological remains related to the property's agricultural use in the nineteenth century would

likely be highly ephemeral and not likely to be identified intact or to be sufficiently robust to demonstrate heritage significance. As such, the proposed works would result in **negligible** impacts to significant non-Aboriginal archaeological remains.

4.5 Assessment of MOD 3 proposal against Management Policies

The SoHI prepared for the original EIS (Artefact Heritage 2020) identified heritage management requirements in the following management policy:

- Penrith Development Control Plan (DCP) 2014

Since this time, Penrith City Council has prepared a new DCP for an area excised from the Penrith DCP 2014, titled:

- Mamre Road DCP 2021.

The Precinct Vision is to create a:

World-class industrial area, primarily catering for warehousing and logistics on larger consolidated land parcels close to the Western Sydney Airport.

Section 2.7 of the Mamre Road DCP 2021 provides the following statements relating to character and heritage conservation that are relevant to this assessment:

Objectives

-
- a) *To protect and reinforce the significance of heritage items.*
 - b) *To ensure adequate curtilage and landscape setting for heritage items.*
 - c) *To ensure the integrity of the heritage item and its setting is retained by the careful siting and design of new buildings and alterations and additions to existing buildings.*
 - d) *To ensure that the subdivision of land on which a heritage building is located does not isolate the building from its setting or context, or adversely affect its amenity or privacy.*
-

Controls

-
- 3) *In determining the curtilage of a heritage building, consideration is to be given to:*
- *The original form and function of the heritage building: The heritage building's former use and architecture should be reflected in the design of the curtilage. For example, it may be appropriate that a larger curtilage be maintained around a former rural homestead than that of a suburban building;*
 - *Outbuildings: A heritage building and its associated outbuildings should be retained on the same allotment; and*
 - *Gardens, trees, fencing, gates and archaeological sites: Features that are considered valuable in interpreting the history and in maintaining the setting of a building should be identified and, where possible, retained within the curtilage.*

4) Development shall be of a scale and form that does not detract from the historical significance, appearance and setting of the heritage item, and consider the following:

- The height of new development near heritage items shall be less than the subject item. New development or large additions or alterations must provide a transition in height from the heritage item. Increases in height shall be proportional to increased distance from the items;*
- Views and vistas to the heritage item from roads and other prominent areas are key elements in the landscape and shall be retained;*
- If the development site can be viewed from a heritage item(s), any new development will need to be designed and sited so that it is not obtrusive when it is viewed from the heritage item(s); and*
- Curtilages shall be retained around all listed items sufficient to ensure that views to them and their relationship with adjacent settings are maintained.*

8) New development shall not be sited in front of the front building line of the existing heritage item nor shall it extend beyond the established side building lines of the heritage item.

Much of the study area retains a rural character that is integral to the heritage values of the Bayley Park – House heritage item. While there are no heritage listed items within the study area, the study area maintains the rural character and pastoral setting that is associated with the significance of Bayley Park House and of the historic land use of Bayly Park Estate. However, recent developments within the heritage curtilage of Bayley Park House have resulted in changes to the setting of the heritage item, altering the rural character of the heritage item into an industrial space and obstructing views between Bayley Park House, the surrounding area, and the study area. The proposal would result in additional cumulative impacts within the study area which will likely further contribute to the loss of the rural character and setting.

The proposal would result in bulk earthworks within the vicinity of the heritage curtilage of Bayly Park. While it is unlikely that the works would be noticeable from Bayly Park House, it is expected that they would be visible and create a significant visual change to the environment when viewed from the curtilage of Bayly Park at Mamre Road. Several cumulative impacts have altered the rural landscape throughout the history of Bayly Park, including the subdivision of the Bayly Park/Fleurs Estate, construction and subsequent upgrades of Mamre Road, and the construction of late twentieth century housing within and surrounding the study area. The eastern portion of the Bayley Park – House heritage curtilage has recently been repurposed as an industrial storage facility, altering the rural character of the heritage item. It is expected that cumulative visual impacts will further erode the rural character of the area will arise as a result of the proposal, however the significant rural landscape has largely been altered in the area immediately surrounding Bayley Park - House. The industrial warehouse buildings will be located at a considerable distance from the heritage item of Bayley Park – House, over 800 metres to the north, and would not likely be visible or create a negative visual impact.

The proposal would be in accordance with control 3) of the DCP, ensuring adequate curtilage of the heritage building. It would also be in accordance with the Precinct Vision.

4.6 Comparative impact assessment and heritage recommendations

4.6.1 Non-Aboriginal heritage impact comparison

The following is a summary of the comparative impacts between the approved AIE design as addressed in the non-Aboriginal heritage technical paper and the proposed updated design prepared in 2020 and the proposed MOD 3 design prepared in 2022.

Table 8: Comparison of adverse heritage impacts on heritage items between approved design and MOD 3

Impact type	Heritage impacts (approved 2020 design)	Heritage impacts from MOD 3
Physical impact	Neutral	Neutral <u>No change</u>
Visual impact	Negligible	Negligible <u>No change</u>
Impact to associated archaeological remains	Negligible	Negligible <u>No change</u>

5.0 CONCLUSIONS

5.1 Consistency assessment

Assessment of MOD 3 against SEARs requirements.

SEARs requirement	Deliverable	Change in assessment for proposed modifications
18. Aboriginal Cultural Heritage		
Provide an Aboriginal Cultural Heritage Assessment Report prepared in accordance with relevant guidelines, identifying, describing, and assessing any impacts for any Aboriginal cultural heritage values on the site	Aboriginal Cultural Heritage Assessment Report	No change Salvage investigations will be conducted in accordance with the revised ACHAR
19. Environmental Heritage		
Where there is potential for direct or indirect impacts on the heritage significance of environmental heritage, provide a Statement of Heritage Impact and Archaeological Assessment (if potential impacts to archaeological remains are identified), prepared in accordance with the relevant guidelines, which assesses any impacts and outlines measures to ensure they are minimised and mitigated.	Statement of Heritage Impact	No change
	Archaeological assessment	No change

5.2 Recommendations

5.2.1 Conclusions

The MOD 3 design will result in no changes in the degree of impact to either Aboriginal heritage or non-Aboriginal heritage across the study area.

5.2.2 Aboriginal heritage recommendations

The impact to Aboriginal heritage from the proposed MOD 3 works would be in accordance with findings of the revised ACHAR. As such, an updated ACHAR would not be required for the MOD 3 submission.

The recommendations for Aboriginal heritage from the revised ACHAR would apply for the MOD 3 proposal.

5.2.3 Non-Aboriginal heritage recommendations

The impact to non-Aboriginal heritage from the proposed MOD 3 works would be in accordance with findings of the original EIS assessment. As such, an updated SoHI and archaeological assessment would not be required for the MOD 3 submission.

The heritage recommendations from the SoHI prepared for the original EIS would apply for the MOD 3 proposal.