

ABORIGINAL CULTURAL HERITAGE MANAGEMENT PLAN

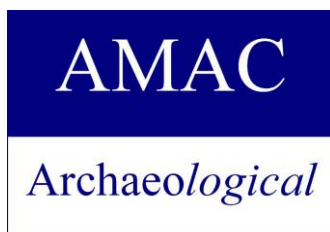
Lot 111 DP 1250131, Lot 2-7 DP 14761 and Lot 469 DP
821073

Central Coast Quarter

26-30 Mann Street

Gosford, NSW

(Central Coast Council LGA)



Benjamin Streat and Yolanda Pavincich

Archaeological Management and Consulting Group
& Streat Archaeological Services

**for
SH Gosford Residential Pty Ltd**

April 2021



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Cover Image

Proposed Site Plan
(DKO, 2020).

ACKNOWLEDGEMENT OF COUNTRY

SH Gosford Residential Pty Ltd would like to acknowledge the Traditional Custodians of the Gosford area– the Darkinjung Peoples and the Wanangine a.k.a Guringai Peoples–and pay respect to their cultural heritage, beliefs and continuing relationship with the land.

SH Gosford Residential Pty Ltd would also like to acknowledge the post contact experiences of Aboriginal peoples who have attachment to the Sydney area.

“We pay our respect to the Elders – past, present and future – for they hold the memories, traditions, culture and hopes of Aboriginal Peoples in the area”.

SH Gosford Residential Pty Ltd recognises the role of the registered Aboriginal parties in the management of the Aboriginal cultural heritage sites, landscape features and values of this project.

SH Gosford Residential Pty Ltd would like to thank the Registered Aboriginal Parties for their participation in this project and for their valuable contribution to this Aboriginal Cultural Heritage Management Plan which has been enriched by their willingness to share valuable aspects of their cultural knowledge especially in respect of Caring for Country.

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EXECUTIVE SUMMARY

Introduction

Archaeological Management and Consulting Group (AMAC) in conjunction with Streat Archaeological Services Pty Ltd (SAS) was commissioned by SH Gosford Residential Pty Ltd in October 2020, to prepare an Aboriginal Heritage Management Plan (AHMP) for the proposed mixed-use development site at Lot 111 DP 1250131, Lots 2-7 DP 14761 and Lot 469 DP821073 at the street address 26-30 Mann Street, Gosford, New South Wales.

The conditions concerning Aboriginal Cultural Heritage are outlined in Part C – Clause 19 of the Future Environmental Assessment Requirements (FEARs) document. This notes that the SEE must address the following specific matters in relation to heritage:

Aboriginal Archaeology

C19. Future development application(s) shall include an Aboriginal Archaeological Assessment (AAA) to assess the impacts of the development on the Aboriginal archaeological resources. The AAA shall be prepared in consultation with the Biodiversity and Conservation Division of the Department of Premier and Cabinet, the local Aboriginal community and shall be generally in accordance with the recommendations of the 'Aboriginal Cultural Heritage Assessment Report' prepared by Streat Archaeological Services and dated February 2020.

This management plan has been devised through the review and compilation of relevant documentation in order to best facilitate in the implementation of mitigation and conservation strategies for the project. This includes outlining appropriate procedures for addressing both known and unknown Aboriginal objects and features with cultural and archaeological significance. This document has been developed in consultation with the Registered Aboriginal Stakeholders engaged with the project. This document is a result of the previous reports in the study area and immediate surrounds (AMAC 2017, 2018 and 2020).

Aboriginal Consultation

Consultation, where possible, for this report has been undertaken in accordance with the Department of Planning, Industry and Environment (DPIE) and National Parks and Wildlife Act 1974: Part 6; *National Parks and Wildlife Act Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010).

A full Aboriginal Archaeological Assessment has been undertaken including test excavation program where full Aboriginal consultation has taken place as per the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010). Consultation has continued with registered stakeholders during the preparation of this ACHMP and its recommendations.

Physical Evidence

Test excavation was undertaken over two days 05/12/19 – 06/12/19. The programme was conducted under the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* and consisted of the excavation of nine test trenches (50cm x 50cm) of which three were abandoned due to high level of disturbance and modern fill (Att3, 7 and 8).

The proposed development and associated infrastructure will impact the study area. In review of the test excavation results, of which intact soils were found to be present in areas, however, the majority of the site has been disturbed due to past land use. No Aboriginal objects and/or deposits or features of cultural and archaeological significance were present. Therefore, further investigation is not warranted, and works may proceed with caution.

Significance

The site is found to be of nil-low archaeological significance this is on account to the test excavation resulting in no Aboriginal objects and/or deposits of cultural or archaeological significance being located. The A horizon (artefact bearing deposit) was present in areas but was found to be disturbed. A significant portion of the study area was found to be heavily disturbed particularly towards the northern end where access works have taken place for the adjacent development and the western end where the reclamation works and retaining wall are located.

Recommendations

The proposed mixed-use development has the potential to disturb the ground surface. A background analysis of the environment and archaeological context revealed that the study area has moderate – high surface disturbance. However, the eastern slope has the potential for natural intact soils to be present. Where intact soils are present, these may contain Aboriginal objects and/or deposits as identified with AHIMS site# 45-3-3699.

The findings from the test excavation indicate the site to be of nil-low archaeological significance, an A horizon was present but disturbed and no Aboriginal objects and/or deposits of cultural significance were located, therefore the development should be allowed to proceed with caution.

The following recommendations have been formulated after consultation with the proponent and the Environment, Energy and Science Group (EES Group) of the Department of Planning, Industry and Environment (DPIE);

- Consultation with the registered Aboriginal stakeholders should continue. Stakeholders will be given the opportunity to comment on the recommendations of this report and these comments are included in this report;
- These final documents have been produced and will be submitted in accordance with Clause 19 of the FEARs SSD #10114;
- Archaeological test excavation in accordance with the *Code of Practice for Archaeological Investigations of Aboriginal Objects in New South Wales, Part 6 National Parks and Wildlife Act 1974, (DECCW 2010)* revealed no Aboriginal archaeological objects or deposits. The proposed development as outlined in Figures 8.1-8.6, should be allowed to 'proceed with caution';
- After this and before any ground disturbance takes place all development staff, contractors and workers should be briefed prior to works commencing on site, as to the status of the area and their responsibilities in ensuring preservation of said area. They should also be informed of their responsibilities regarding any

Indigenous archaeological deposits and/or objects that may be located during the following development.

Should any human remains be located during the following development;

- all excavation in the immediate vicinity of any objects of deposits shall cease immediately and the area is to be secured so no further harm is to come to these remains;
- the NSW police and EES Group's Environment Line 131 555 are to be informed as soon as possible including any available details of the remains and their location;
- once it has been established that the human remains are Aboriginal ancestral remains, authorisation is required by EES Group in consultation with relevant Registered Aboriginal Parties identifying the appropriate course of action.

Should any Aboriginal archaeological deposits and/or objects be found during the development:

- All excavation in the area shall cease immediately;
- The EES Group's Enviroline 131 555 shall be contacted, and a suitably qualified archaeologist shall be notified so the significance of the said deposits or objects can be evaluated and presented in another report and recorded as an archaeological site;
- The archaeological features or objects shall be subject to a course of action advised by EES Group;

CONTACT DETAILS

Organisation	Contact	Contact Details
NSW Environment Line		131 555
NSW Sydney City Local Area Command		PAC Office: 192 Day Street Sydney NSW 2000 Ph: (02) 9265 6499 Fax: (02) 9265 6434
Archaeological Management & Consulting Group Pty Ltd	Mr. Benjamin Streat or Mr. Martin Carney	122c-d Percival Road Stanmore NSW 2048 Ph:(02) 9568 6093 Fax:(02) 9568 6093 Mob: 0405 455 869 Mob: 0411 727 395 benjaminstreat@archaeological.com.au
Department of Planning, Industry and Environment (DPIE)	Archaeologist – Head Office	Level 4 Parramatta Square 12 Darcy Street Parramatta NSW 2150
Darkinjung Local Aboriginal Land Council (DLALC)	Barry Williams	PO Box 401 Wyong NSW 2259 Ph: (02) 4351 2930 darkinjung@dlalc.org.au
Awabakal & Guringai Pty Ltd	Tracey Howie	tracey@guringai.com.au
Corroboree Aboriginal Corp.	Marilyn Johnson	corroboreecorp@bigpond.com
Didge Ngunawal Clan	Lilly Carroll & Paul Boyd	didgengunawalcla@yahoo.com.au
Widescope Group	Steven Hickey	widescope.group@live.com

1.0 INTRODUCTION

1.1 BACKGROUND

Archaeological Management and Consulting Group (AMAC) in conjunction with Streat Archaeological Services Pty Ltd (SAS) was commissioned by SH Gosford Residential Pty Ltd in October 2020, to prepare an Aboriginal Heritage Management Plan (AHMP) for the proposed mixed-use development at 26-30 Mann Street, Gosford, New South Wales.

The conditions concerning Aboriginal Cultural Heritage are outlined in Part C – Clause 19 of the Future Environmental Assessment Requirements (FEARs) document. This notes that the SEE must address the following specific matters in relation to heritage:

Aboriginal Archaeology

C19. Future development application(s) shall include an Aboriginal Archaeological Assessment (AAA) to assess the impacts of the development on the Aboriginal archaeological resources. The AAA shall be prepared in consultation with the Biodiversity and Conservation Division of the Department of Premier and Cabinet, the local Aboriginal community and shall be generally in accordance with the recommendations of the 'Aboriginal Cultural Heritage Assessment Report' prepared by Streat Archaeological Services and dated February 2020.

This management plan has been devised through the review and compilation of relevant documentation in order to best facilitate in the implementation of mitigation and conservation strategies for the Project. This includes outlining appropriate procedures for addressing both known and unknown Aboriginal objects and features with cultural and archaeological significance. This document has been developed in consultation with the Registered Aboriginal Stakeholders engaged with the Project.

1.2 STUDY AREA

The study site is that piece of land described as Lots 111 of the Land and Property Information Deposited Plan 1265226; Lots 2-7 DP 14761 and Lot 469 DP82073 forming 26-30 Mann Street, Gosford, NSW in the Parish of Gosford, County of Northumberland (hereafter known as the study area).(Figure 1.1 and Figure 1.2)

Address	Lot	Deposited Plan
32 Mann Street, Gosford	111	1265226
26 Mann Street, Gosford	2-7	14761
26 Mann Street, Gosford	469	82073

1.3 SCOPE

The aims of this ACHMP are to facilitate in the implementation of mitigation and conservation strategies for the Project. This includes outlining appropriate procedures and courses of action for addressing both known and unknown Aboriginal objects and features with cultural and archaeological significance. This document has been developed in consultation with the Registered Aboriginal Stakeholders engaged with the Project. This is an active document and can be subject to review, if circumstances exist which call upon

additional reporting and recording to ensure all information contained within this document remains up to date throughout the course of development until its completion.

1.4 AUTHOR IDENTIFICATION

The analysis of the archaeological background and the reporting were undertaken by Mr. Benjamin Streat (BA, Grad Dip Arch Her, Grad Dip App Sc), archaeologist and Director of Streat Archaeological Services Pty Ltd in association with archaeologists Ms. Yolanda Pavincich (B. Arch, Grad Dip Cul Her) and under the guidance of Mr. Martin Carney archaeologist and Managing Director of AMAC Group.

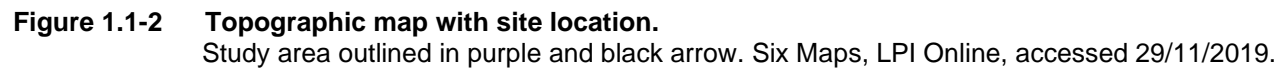
1.5 ACKNOWLEDGEMENTS

The author would like to thank the following for advice and/or input into this assessment:

- Mr F. Katsanevas and Mr J. Ng of SH Gosford Residential;
- Mr B. Williams of Darkinjung Local Aboriginal Land Council;
- Ms T. Howie of Awabakal & Guringai Pty Ltd;
- Ms M. Johnson of Corroboree Aboriginal Corp.;
- Ms L. Carroll and Mr P. Boyd of Didge Ngunawal Clan;
- Mr S. Hickey of Widescope Group



Figure 1.1-1 Aerial of study area.
Study area indicated in red. Six Maps, LPI Online (accessed 15/04/21).



2.0 LEGISLATIVE CONTEXT AND STATUTORY CONTROLS

This section of the report provides a brief outline of the relevant legislation and statutory instruments that protect Aboriginal archaeological and cultural heritage sites within the state of New South Wales. Some of the legislation and statutory instruments operate at a federal or local level and as such are applicable to Aboriginal archaeological and cultural heritage sites in New South Wales. This material is not legal advice and is based purely on the author's understanding of the legislation and statutory instruments. This document seeks to meet the requirements of the legislation and statutory instruments set out within this section of the report.

2.1 COMMONWEALTH HERITAGE LEGISLATION AND LISTS

One piece of legislation and two statutory lists and one non-statutory list are maintained and were consulted as part of this report: The National Heritage List; the Commonwealth Heritage List and the Register of the National Estate.

2.1.1 Environmental Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) offers provisions to protect matters of national environmental significance. This act establishes the National Heritage List and the Commonwealth Heritage List which can include natural, Indigenous and historic places of value to the nation. This Act helps ensure that the natural, Aboriginal and historic heritage values of places under Commonwealth ownership or control are identified, protected and managed (Australian Government 1999).

2.1.2 National Heritage List

The National Heritage List is a list which contains places, items and areas of outstanding heritage value to Australia; this can include places, items and areas overseas as well as items of Aboriginal significance and origin. These places are protected under the Australian Government's EPBC Act.

2.1.3 Commonwealth Heritage List

The Commonwealth Heritage List can include natural, Indigenous and historic places of value to the nation. Items on this list are under Commonwealth ownership or control and as such are identified, protected and managed by the Federal Government.

2.1.4 Register of the National Estate

The Register of the National Estate is a list of natural, Indigenous and heritage places throughout Australia. It was originally established under the *Australian Heritage Commission Act 1975* (AHC

Act). This has now been replaced by the Environment Protection and Biodiversity Conservation Act 1999. The register will continue to operate until February 2012 when it will be completely replaced by The Commonwealth Heritage List.

2.2 NEW SOUTH WALES STATE HERITAGE LEGISLATION AND LISTS

The state (NSW) based legislation that is of relevance to this assessment comes in the form of the acts which are outlined below.

2.2.1 National Parks and Wildlife Act 1974

The NSW National Parks and Wildlife Act 1974 (as amended) defines Aboriginal objects and provides protection to any and all material remains which may be evidence of the Aboriginal occupation of lands continued within the state of New South Wales. The relevant sections of the Act are sections 84, 86, 87 and 90.

An Aboriginal object, formerly known as a relic, is defined as:

‘any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains’ (NSW Government, 1974).

It is an offence to harm or desecrate an Aboriginal object or places under Part 6, Section 86 of the NPW Act:

Part 6, Division 1, Section 86: Harming or desecrating Aboriginal objects and Aboriginal places:

- (1) *A person must not harm or desecrate an object that the person knows is an Aboriginal object.*

Maximum penalty:

- (a) *in the case of an individual—2,500 penalty units or imprisonment for 1 year, or both, or (in circumstances of aggravation) 5,000 penalty units or imprisonment for 2 years, or both, and*
- (b) *in the case of a corporation—10,000 penalty units.*

- (2) *A person must not harm an Aboriginal object.*

Maximum penalty:

- (a) *in the case of an individual—500 penalty units or (in circumstances of aggravation) 1,000 penalty units, or*
- (b) *in the case of a corporation—2,000 penalty units.*

- (3) *For the purposes of this section, **circumstances of aggravation** are:*

- (a) *that the offence was committed in the course of carrying out a commercial activity, or*
- (b) *that the offence was the second or subsequent occasion on which the offender was convicted of an offence under this section.*

This subsection does not apply unless the circumstances of aggravation were identified in the court attendance notice or summons for the offence.

- (4) *A person must not harm or desecrate an Aboriginal place.*

Maximum penalty:

- (a) *in the case of an individual—5,000 penalty units or imprisonment for 2 years, or both, or*
- (b) *in the case of a corporation—10,000 penalty units.*
- (5) *The offences under subsections (2) and (4) are offences of strict liability and the defence of honest and reasonable mistake of fact applies.*
- (6) *Subsections (1) and (2) do not apply with respect to an Aboriginal object that is dealt with in accordance with section 85A.*
- (7) *A single prosecution for an offence under subsection (1) or (2) may relate to a single Aboriginal object or a group of Aboriginal objects.*
- (8) *If, in proceedings for an offence under subsection (1), the court is satisfied that, at the time the accused harmed the Aboriginal object concerned, the accused did not know that the object was an Aboriginal object, the court may find an offence proved under subsection (2).*

2.2.2 Environmental Planning & Assessment Act 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) states that environmental impacts of proposed developments must be considered in land use planning procedures. Four parts of this act relate to Aboriginal cultural heritage.

- *Part 3, divisions 3 and 4 refer to Regional strategic plans and both Local Environmental Plans (LEP) and Development Control Plans (DCP), which are environmental planning instruments and call for the assessment of Aboriginal heritage among other requirements.*
- *Part 4 determines what developments require consent and what developments do not require consent. Section 4.15 calls for the evaluation of*

The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality (NSW Government 1979).

2.2.3 The Aboriginal Land Rights Act 1983

The NSW *Aboriginal Land Rights Act 1983* (ALR Act), administered by the NSW Department of Aboriginal Affairs, established the NSW Aboriginal Land Council (NSWALC) and Local Aboriginal Land Councils (LALCs). The ALR Act requires these bodies to:

- take action to protect the culture and heritage of Aboriginal persons in the council's area, subject to any other law;
- promote awareness in the community of the culture and heritage of Aboriginal persons in the council's area.

These requirements recognise and acknowledge the statutory role and responsibilities of New South Wales Aboriginal Land Council and Local Aboriginal Land Councils.

The ALR Act also establishes the Office of the Registrar whose functions include but are not limited to, maintaining the Register of Aboriginal Land Claims and the Register of Aboriginal Owners.

Under the ALR Act the Office of the Registrar is to give priority to the entry in the Register of the names of Aboriginal persons who have a cultural association with:

- lands listed in Schedule 14 to the NPW Act;
- lands to which section 36A of the ALR Act applies (NSW Government, 1974 & DECCW 2010).

2.2.4 The Native Title Act 1993

The *Native Title Act 1993* (NTA) provides the legislative framework to:

- recognise and protect native title;
- establish ways in which future dealings affecting native title may proceed, and to set standards for those dealings, including providing certain procedural rights for registered native title claimants and native title holders in relation to acts which affect native title;
- establish a mechanism for determining claims to native title;
- provide for, or permit, the validation of past acts invalidated because of the existence of native title.

The National Native Title Tribunal has a number of functions under the NTA including maintaining the Register of Native Title Claims, the National Native Title Register and the Register of Indigenous Land Use Agreements and mediating native title claims (NSW Government, 1974 & DECCW 2010).

2.2.5 New South Wales Heritage Register and Inventory 1999

The State Heritage Register is a list of places and objects of particular importance to the people of NSW. The register lists a diverse range of over 1,500 items, in both private and public ownership. Places can be nominated by any person to be considered to be listed on the Heritage register. To be placed an item must be significant for the whole of NSW. The State Heritage

Inventory lists items that are listed in local council's local environmental plan (LEP) or in a regional environmental plan (REP) and are of local significance.

2.2.6 Register of Declared Aboriginal Places 1999

The NPW Act protects areas of land that have recognised values of significance to Aboriginal people. These areas may or may not contain Aboriginal objects (i.e. any physical evidence of Aboriginal occupation or use). Places can be nominated by any person to be considered for Aboriginal Place gazettal. Once nominated, a recommendation can be made to EPA/OEH for consideration by the Minister. The Minister declares an area to be an 'Aboriginal place' if the Minister believes that the place is or was of special significance to Aboriginal culture. An area can have spiritual, natural resource usage, historical, social, educational or other type of significance.

Under section 86 of the NPW Act it is an offence to harm or desecrate a declared Aboriginal place. Harm includes destroying, defacing or damaging an Aboriginal place. The potential impacts of the development on an Aboriginal place must be assessed if the development will be in the vicinity of an Aboriginal place (DECCW 2010).

2.3 GUIDELINES

This report has been carried out in consultation with the following documents which advocate best practice in New South Wales:

- Aboriginal Archaeological Survey, Guidelines for Archaeological Survey Reporting (NSW NPWS 1998);
- Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, Part 6 National Parks and Wildlife Act 1974, (DECCW 2010);
- Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales, Part 6 National Parks and Wildlife Act 1974, (DECCW 2010);
- Aboriginal Cultural Heritage Standards and Guidelines Kit (NPWS 1998);
- Australia ICOMOS 'Burra' Charter for the conservation of culturally significant places (Australia ICOMOS 1999);
- Part 6; National Parks and Wildlife Act Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010);
- Protecting Local Heritage Places: A Guide for Communities (Australian Heritage Commission 1999).
- Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage (OEH 2011);

3.0 PROPOSED ACTIVITY

SH Gosford Residential Pty Ltd is seeking approval to construct a multi-storey buildings, public space and landscaping works on the northern Lot 111 will consist of mixed residential and retail use. The proposed development requires subterranean excavation of ca. 1.2m.

In summary, proposed consists of:

- Excavation for levelling of the site including filling and cutting of the current ground surface.
- Excavation for pavement and public space surrounding the northern buildings.
- Excavation across the site for the foundations of the Northern Tower (pilings, footings, foundation slab).
- Part Excavation below the current ground surface for the ground level carparks.
- Excavation for a loading zone on the ground floor.
- Excavation for several lift shafts on the ground floor.
- Landscaping works that include excavation for planting of large trees.

The proposed development will impact and harm any objects and/or deposits of Aboriginal and/or archaeological significance. Test excavation has been proposed under the Code of Practice (DECCW 2010), to assess the level of disturbance of the site and the potential harm that may be the result of the proposed activity. The results of said excavation will assist in minimising harm to Aboriginal objects and/or places, if present.

No exclusion areas have been planned.

3.1 POTENTIAL HARM TO ABORIGINAL OBJECTS AND CULTURAL HERITAGE

No Aboriginal objects and/or features of cultural and archaeological significance were located during the programme of test excavation. The soil was found to be significantly disturbed and therefore there is a low- nil possibility of their being artefacts present and works may proceed with caution.

3.2 ASSESSING HARM

No Aboriginal objects and/or features of cultural and archaeological significance were located during the programme of test excavation. The soil was found to be significantly disturbed and therefore there is a low- nil possibility of their being artefacts present and works may proceed with caution.

3.3 INTERPRETATION AND ACTION OF IMPACTS

Test excavation did not result in the location of any Aboriginal objects and/or deposits and as such the development will not be impacting on any Aboriginal objects and/or deposits, therefore an interpretation and action of impacts programme is not required.

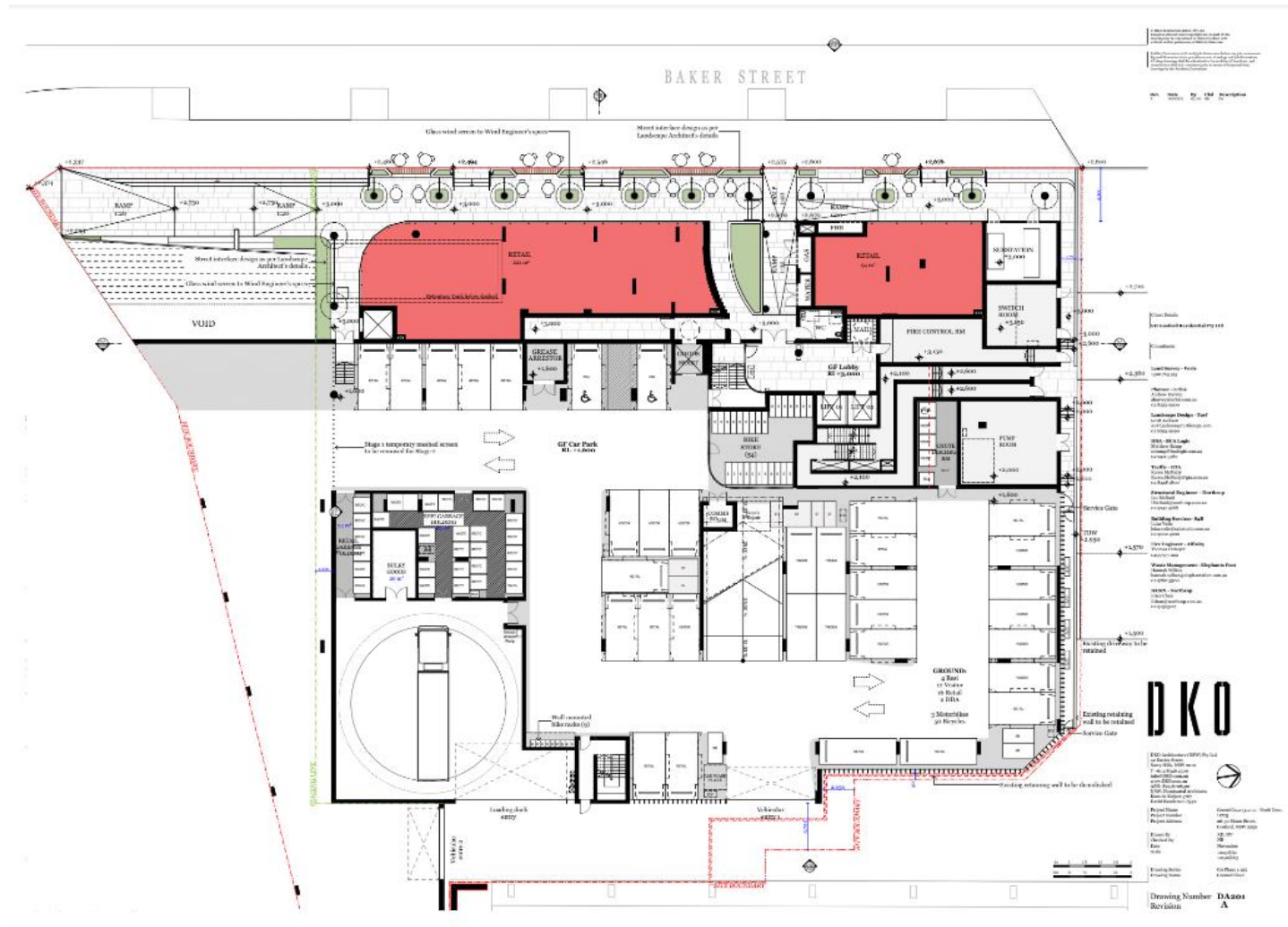


Figure 3-1 Ground Floor Plan.
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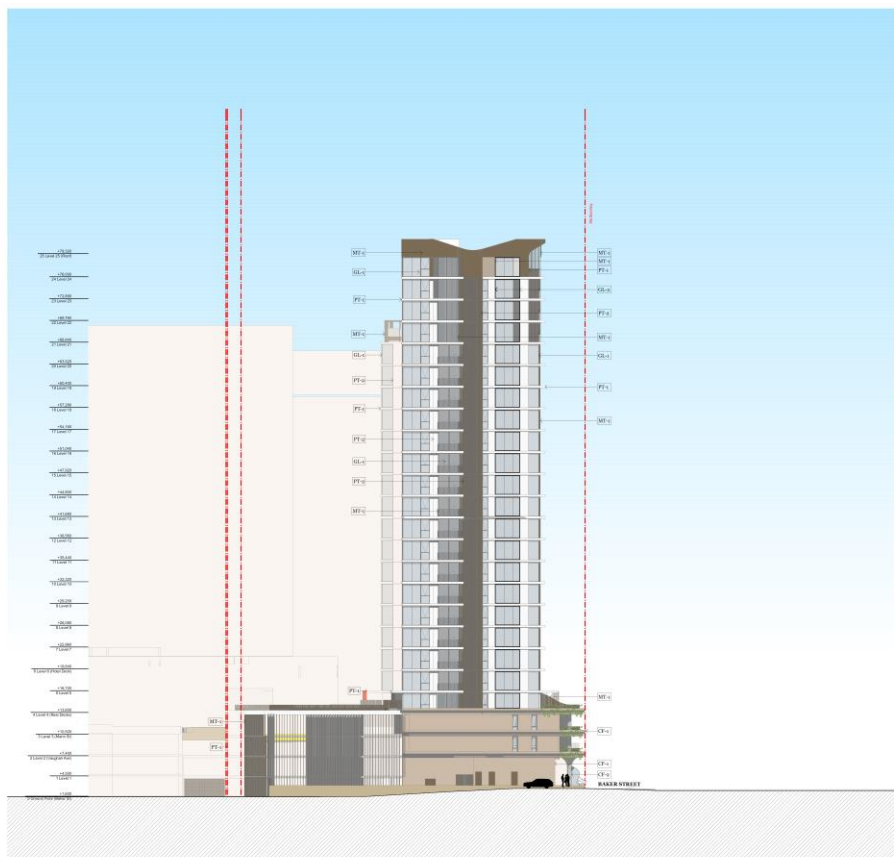
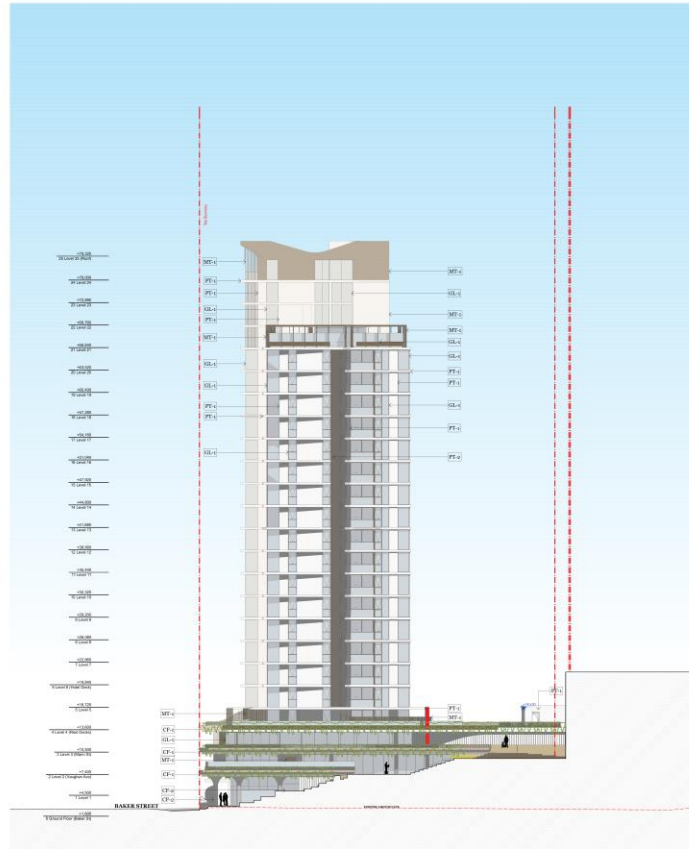


Figure 3-2 North Elevations
DKO – Dwg No. DA301, Rev. A.



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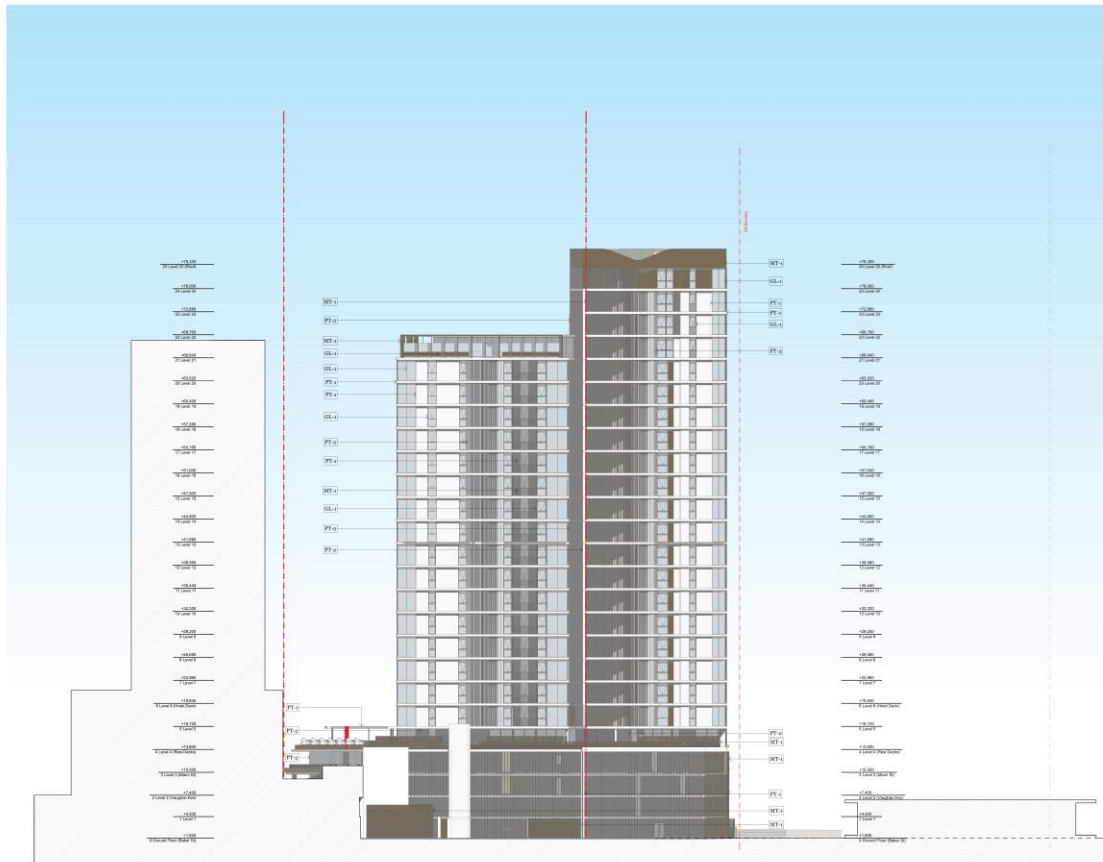
Rev.	Date	By	CHK	Description
1	10/10/20	DA	DA	Issue for information

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Project Name	26-30 Mann Street	Project Number	10101
Project Address	26 Mann Street, Sydney, NSW 2000	Drawing Name	South Elevation
Client	R. Hillman	Scale	1:200/1:50
		Revision	September 2020
		Drawing Number	DA302
		Revision	A

Figure 3-3 South Elevations.
DKO – Dwg No. DA 302. Rev. A.



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Rev.	Date	By	Chd	Description
P1	07/04/20			Issue for Information

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David R. Riddell (P1)

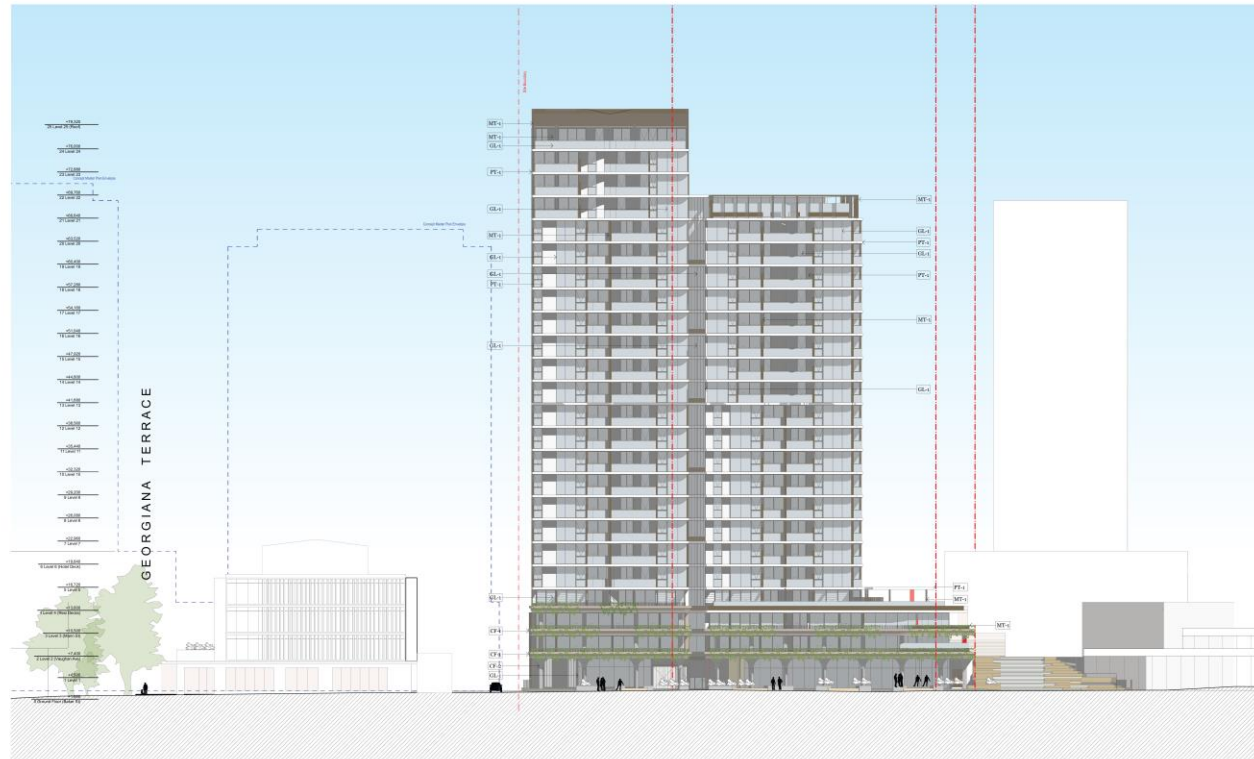
DKO

Project Name	Project Address
26-30 Mann Street	26-30 Mann Street, Liverpool, NSW 2190

Project Number	Drawing Name	Date
0770	East Elevation (Mass)	08/08/20

Drawing Number	Revision
DA303	A

Figure 3-4 East Elevations.
DKO – Dwg DA303, Rev. A.



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Rev.	Date	By	Chd	Description
PS	07/04/21			Issue For Information

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Project Name	26-30 Mann Street	Project Number	1775
Project Address	26 Mann Street, Geelong, VIC 3220	Drawing Name	West Elevations (Side)
Client	95.01100	Date	08/04/21
		Drawing Number	DA304
		Revision	A

Figure 3-5 West Elevations
DKO – Dwg No. DA304, Rev. A.

4.0 POTENTIAL ABORIGINAL OBJECTS AND CULTURAL HERITAGE

As part of the technical report on the Aboriginal heritage undertaken by AMAC, no registered Aboriginal Sites were located within the Study area. However there are registered Aboriginal Sites within close proximity of the site.

38 MANN STREET (AHIMS SITE NO. 45-3-3699)

In 2016 AMAC Group conducted test excavation on the neighbouring ATO development site at 38 Mann Street, Gosford. Two artefacts were identified from ten pits. The soil landscape was identified as disturbed, with fill present at varied depths across the site. Below this, intact natural soils were located, including the A horizon. An AHIP was issued for impact to this site (AHIP C0002141) for impact.

32 MANN STREET

AMAC undertook test excavation in 2017, within the north and east extent of 32 Mann Street Gosford. No Aboriginal artefacts or deposits were located from ten excavated test pits. A substantial amount of fill covered the western section of the site. This was related to the reclamation of the intertidal zone of the original Brisbane Waters foreshore. An intact section of A horizon was located in the Eastern section of the site. As no Aboriginal objects and/or deposits or features of cultural and archaeological significance were present, the site was not listed on the AHIMS database as excavations showed that site 45-3-3699 did not extend into this area.

26 - 30 MANN STREET

In 2019 AMAC undertook test excavation at 26 – 32 Mann Street. No artefacts were located from the nine excavated pits (See Figure 4.1). Three trenches were abandoned due to high level of disturbance and presence of modern fill. As no Aboriginal objects and/or deposits or features of cultural and archaeological significance were present, the site was not listed on the AHIMS database as excavations showed that site 45-3-3699 did not extend into this area.



Figure 4.1 Test pit location (not to scale)

Test pits indicated in yellow with corresponding test pit numbers in black.



Figure 4.2 Archaeological potential and disturbance map of study area.
Areas of low potential and moderate disturbance indicated in orange, areas of no potential and major disturbance indicated in red. Six Maps (2016), Spatial technologies (2015), overlay AMAC (2019)

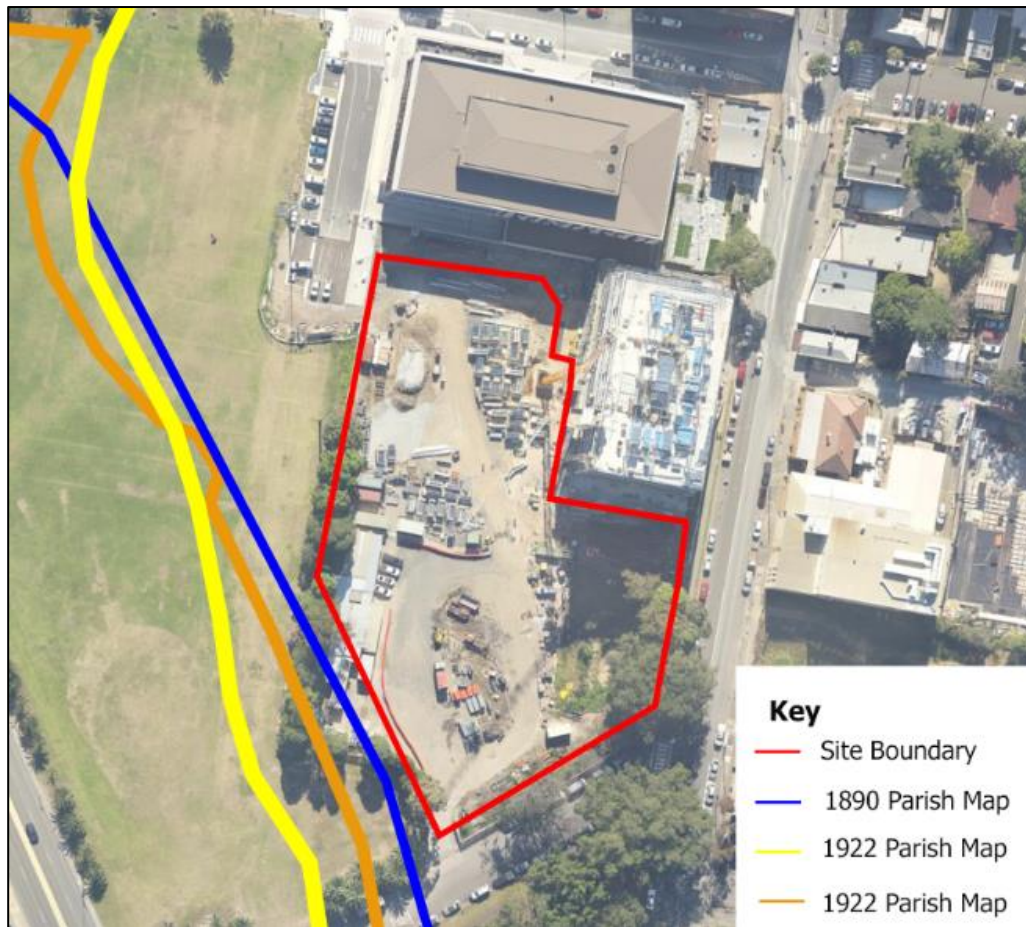


Figure 4.3 Aerial map showing location of study site (indicated in red) with original Gosford foreshore as drawn on Parish maps, pre-reclamation works.

Land and Property Information – Historical Land Records Viewer; Blue – 1890 Parish Map (10858601), Yellow - 1922 Parish Map (10858401) and Orange - 1935 Parish Map (10858301). Six Maps accessed 22/08/19.

5.0 SIGNIFICANCE ASSESSMENT

The processes of assessing significance for items of cultural heritage value are set out in *The Australian ICOMOS Charter for the Conservation of Places of Cultural Significance: the Burra Charter* (amended 1999) formulated in 1979 and based largely on the Venice Charter of International Heritage established in 1966. Archaeological sites may be significant according to four criteria, including scientific or archaeological significance, cultural significance to Aboriginal people, representative significance which is the degree to which a site is representative of archaeological and/or cultural type, and value as an educational resource. In New South Wales the nature of significance relates to the scientific, cultural, representative or educational criteria and sites are also assessed on whether they exhibit historic or cultural connections.

5.1 ARCHAEOLOGICAL SIGNIFICANCE

5.1.1 Educational Significance

The educational value of any given location will depend on the importance of any archaeological material located on its rarity, quality and the contribution this material can have on any educational process (Australia ICOMOS, 1999 p. 11).

No archaeological and/or Aboriginal cultural material was located as a result of the programme of test excavation. Therefore, no educational significance can be assigned to the study area.

5.1.2 Scientific Significance

The scientific value of any given location will depend on the importance of the data that can be obtained from any archaeological material located on its rarity, quality and on the degree to which this may contribute further substantial information to a scientific research process. (Australia ICOMOS, 1999 p.11).

No archaeological and/or Aboriginal cultural material was located as a result of the programme of test excavation. Therefore, no scientific significance can be assigned to the study area.

5.1.3 Representative Significance

The representative value of any given location will depend on rarity and quality of any archaeological material located and on the degree to which this representativeness may contribute further substantial information to an educational or scientific research process. (Australia ICOMOS, 1999 p.11).

No archaeological and/or Aboriginal cultural material was located as a result of the programme of test excavation. Therefore, no representative significance can be assigned to the study area.

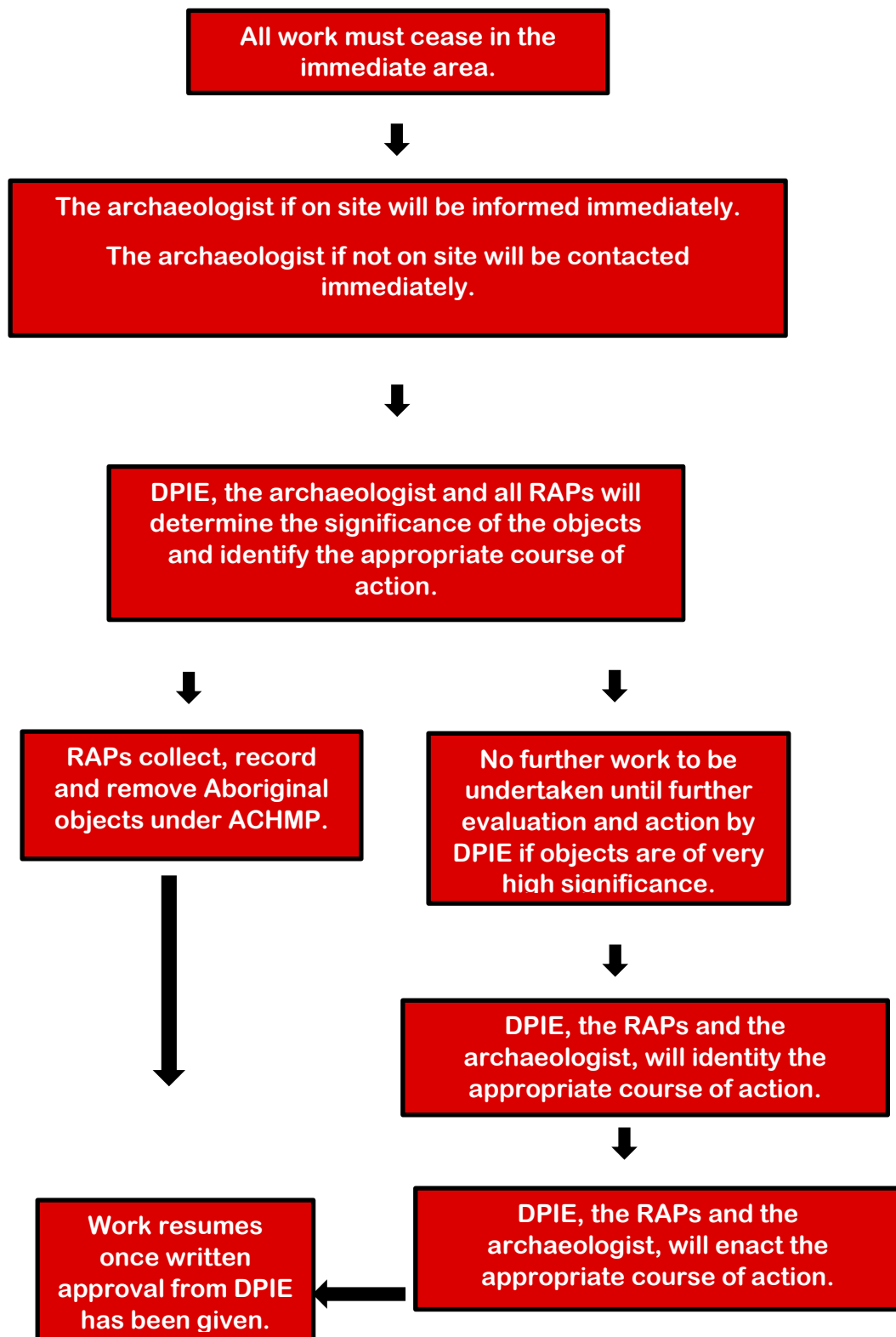
6.0 PLAN OF ACTION

This section of the report outlines the protocols for unexpected finds as well as procedures for undertaking further works if said program were required.

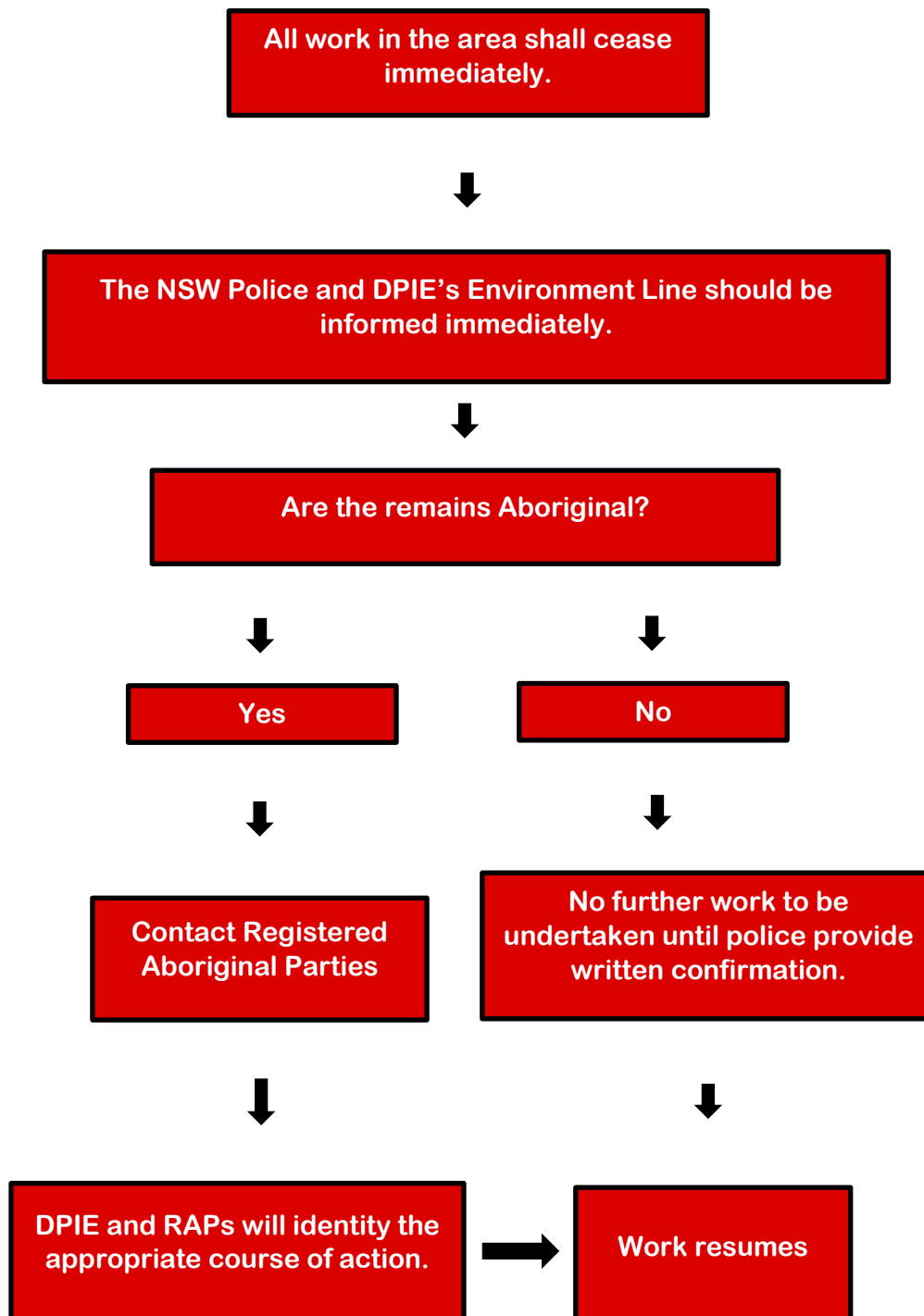
This is in order to systematically record and recover unknown/known objects encountered in order to ascertain the nature and of the finds and their significance in contributing to our understanding of the local landscape and archaeological record.

The following are flow charts for the course of action for the listed potential archaeological constraints that have been reviewed and agreed to.

6.1.1 Flow chart for the discovery of unexpected Aboriginal archaeological material



6.1.2 Flow Chart for the procedure for the discovery of human remains.



6.1.3 Contact details

Organisation	Contact	Contact Details
NSW Environment Line		131 555
NSW Sydney City Local Area Command		PAC Office: 192 Day Street Sydney NSW 2000 Ph: (02) 9265 6499 Fax: (02) 9265 6434
Archaeological Management & Consulting Group Pty Ltd	Mr. Benjamin Streat or Mr. Martin Carney	122c-d Percival Road Stanmore NSW 2048 Ph:(02) 9568 6093 Fax:(02) 9568 6093 Mob: 0405 455 869 Mob: 0411 727 395 benjaminstreat@archaeological.com.au
Department of Planning, Industry and Environment (DPIE)	Archaeologist – Head Office	Level 4 Parramatta Square 12 Darcy Street Parramatta NSW 2150
Darkinjung Local Aboriginal Land Council (DLALC)	Barry Williams	PO Box 401 Wyong NSW 2259 Ph: (02) 4351 2930 darkinjung@dlalc.org.au
Awabakal & Guringai Pty Ltd	Tracey Howie	tracey@guringai.com.au
Corroboree Aboriginal Corp.	Marilyn Johnson	corroboreecorp@bigpond.com
Didge Ngunawal Clan	Lilly Carroll & Paul Boyd	didgengunawalcla@yahoo.com.au
Widescope Group	Steven Hickey	widescope.group@live.com

6.2 ADDITIONAL WORKS PROTOCOLS

This section outlines the various potential archaeological work types that may take place in the event of an unexpected find of Aboriginal cultural material as well as the appropriate methodology to be adopted, if required. This section aims to provide protocols that can be adopted if the situation of additional works, as a result were required. The standardisation of the methodology aims to guide the program and expectations of working operations and will be carried out under the appropriate legislative context and instruments.

6.2.1 Archaeological Excavation

In the event that an unexpected find requires further investigation in the form of excavation, the following methodology is to be adopted. This section also outlines additional excavation activities that may take place or factors and/or limitations that may need to be addressed if the situation arises. Any alterations to this methodology will need to be subject to consultation with the RAPs.

6.2.2 Excavation Methodology

The following excavation parameters are proposed:

- All introduced fills and soil horizons will be excavated using plant machinery with a flat edge (mud) bucket until natural soil horizons are encountered.
- If depths are too great to allow access (1.5 metres in depth) the fill be benched out to allow access and meetings with the contractors (Richard Crookes Construction) established that 3m x 3m benching exceeded the minimum safe working conditions
- All natural intact pre settlement soil horizons will be excavated by hand using hand tools.
- Excavation units must be excavated in 100cm x 100cm;
- Areas of concentrated artefact activity and/or features which have been identified as a result of the Phase Two or Phase: dispersed testing, shall be investigated by extending test excavation trenches by 1sqm units to understand the nature and extent of the area and/or feature;
- Test excavations units will be combined and excavated as necessary in order to understand the site characteristic for each excavation area;
- Identifiable features if apparent shall be excavated in full if appropriate and practicable;
- The minimum surface area of a combination of open area excavation will be based on whether there is enough data gained to form a representative sample of the study area;
- The first excavation unit for each area being investigated will be excavated and documented in 5cm spits. After first excavation unit 10cm spits or sediment profile/stratigraphic excavation (whichever is smaller) will then be implemented;
- All material collected will be issued with the following information pertaining to its recovery - job title, excavation unit, spit number and date.

- All material excavated from the test excavation units will be wet sieved using 3mm aperture, wire-mesh sieves;
- Excavation units will be excavated to at least the base of the identified Aboriginal object-bearing units, and will continue another two spits below said deposit to confirm the soils below are culturally sterile;
- Photographic and scale-drawn records of the stratigraphy/soil profile, features and informative Aboriginal objects will be made for each single excavation point;
- Each excavation (trench/pit) unit will have a separate excavation record sheet, upon which the characteristics and nature of the spits and any features will be recorded;
- Should archaeological and cultural material with potential for scientific dating in particular, material suitable for carbon dating (C14), thermoluminescence dating (TL) and optical luminescence (OSL) dating, be encountered the relevant samples shall be taken. These shall include but not be limited to charcoal deposits; material with apparent contemporary association with intact deposits and archaeological and cultural material as well as suitable sand/soil deposits with apparent contemporary association with intact deposits and archaeological and cultural material. The dating of specific assemblages will occur if appropriate charcoal samples are located, and sand soil cores shall be taken at appropriate intervals or points in the stratigraphic layers from the section face of any given excavation unit;
- Soil samples shall also to be taken to allow soil analysis to take place, if appropriate, these shall include pH measurements and pollen analysis. Analysis of specific assemblages will occur if appropriate soil samples are located, and sand/soil cores shall be taken at appropriate intervals or points in the stratigraphic layers from the section face of any given excavation unit.
- Use wear and residue analysis samples shall take place if appropriate and if any material exhibiting any evidence of use wear or residue is identified at any stage during the recovery process, these items shall be bagged separately with the following information: job title, excavation unit, spit number and date.
- After excavation the appropriate AHIMS site card(s) shall be submitted including impact forms to reflect the results and status of the site.

6.2.3 Excavation of Archaeological Features

Any archaeological features including but not limited to hearths, shell middens and/or knapping floors if discovered shall be subject to the following.

- Identifiable features, if apparent, shall be excavated in full if the excavation director in consultation with the Aboriginal stakeholders are of the opinion that the excavation of the feature can contribute substantially to the cultural and archaeological knowledge of the study area and/or the region;
- Once the nature and location of the feature has been established during Phase Two/Three excavations, preliminary recording will be carried out (photographs, profile and plan drawings and GPS location).
- The excavation of any feature shall not extend outside any given excavation square. If needed open excavation units will be combined and excavated as necessary to

understand the features characteristics and extent, and to expose the feature in entirety if possible;

- The significance of the feature being investigated is clearly understood and it has been adequately investigated and recorded;
- The first excavation unit for each area being investigated will be excavated and documented in 5cm spits. After first excavation unit 10cm spits or sediment profile/stratigraphic excavation (whichever is smaller) will then be implemented;
- In feature excavation, a new spit and/or a new stratigraphic unit will be recorded photographically, with scale -drawn plans of the features if appropriate and noticeable changes have occurred. Information will be recorded on the relevant excavation record sheet and if necessary, within the excavation site diary;
- All material collected will be issued with the following information pertaining to its recovery - job title, excavation unit, spit number and date.
- All material excavated from the test excavation units will be wet sieved using 3mm aperture, nested wire-mesh sieves;
- Should archaeological and cultural material with potential for scientific dating in particular, material suitable for carbon dating (C14), thermoluminescence dating (TL) and optical luminescence (OSL) dating, be encountered the relevant samples shall be taken. These shall include but not be limited to charcoal deposits; material with apparent contemporary association with intact deposits and archaeological and cultural material as well as suitable sand/soil deposits with apparent contemporary association with intact deposits and archaeological and cultural material. The dating of specific assemblages will occur if appropriate charcoal samples are located, and sand soil cores shall be taken at appropriate intervals or points in the stratigraphic layers from the section face of any given excavation unit;
- Soil samples shall also to be taken to allow soil analysis to take place, if appropriate, these shall include pH measurements and pollen analysis. Analysis of specific assemblages will occur if appropriate soil samples are located, and sand/soil cores shall be taken at appropriate intervals or points in the stratigraphic layers from the section face of any given excavation unit.
- Use wear and residue analysis samples shall take place if appropriate and if any material exhibiting any evidence of use wear or residue is identified at any stage during the recovery process, these items shall be bagged separately with the following information: job title, excavation unit, spit number and date.

6.2.4 Flooding/ Inundation

The following measure has been put in place to address disturbance factors such as flooding/ inundation that the study area may be subject to and which has the potential to impact heritage items and/or deposits;

- In the event of a trench section collapse from rainfall the following protocol should take place;
 - The collapsed material from the test trench unit will be excavated as a separate context in order to avoid cross contamination of silt material;

- The collapsed material will be wet sieved using 3mm and 5mm aperture, nested wire-mesh sieves, for cultural material;
 - A photographic record will be observed with both before and after photographs taken;
 - Depending on the severity of the section collapse a 1m exclusion zone shall be in place and demarcated if trench wall instability is observed and the trench wall instability protocol will take place as outlined in section 5.2.1.1.3 of this report;
- Past excavations have illustrated the permeability of the Botany sand sheet and the highly erosional nature of the deposit. In the event of the site being inundated the first priority is containment, in order to prevent run off being exposed to the public and environment. Impact to the soil profile as a result of the study area being inundated and the containment of run off, should be exempt as harm. The following measures should take place;
- Areas of pooling should be demarcated with a 1m exclusion zone and silt fencing and/or run off buffers should be set up to avoid further erosion of the study area in the event the sand sheet is present;
 - In severe cases, trenching may be necessary to contain run off. This will be at the discretion of the director of the archaeological program and in consultation with DPIE – full documentation and photographic record will be taken of the events if they proceed;
 - If possible, the water should be pumped or sponged out;

6.2.5 Trench Wall Instability

Past excavations have experienced significant trench wall instability due to the nature of sandy soil matrix. The following measures shall be in place to deal with trench wall instability;

- A 1m exclusion zone shall be in place and demarcated for all baulks to prevent wall collapse from undue pressure.
- Access points between and into trenches will be strictly demarcated to prevent wall collapse from undue pressure.
- Trench edges shall be covered with boards to prevent wall collapse from undue pressure.
- All new persons to site shall be informed as part of SWMS as to the nature of the instability of trench walls and informed of their responsibilities with regard to this matter.
- Any weekly or daily toolbox talks shall reiterate the conditions under which the site is to operate with regard to SWMS conditions about trench instability.
- Machines shall not operate within 10m of and open area excavation unit and within 5m of dispersed test trenches where possible.
- Where necessary plywood boards and braces shall be in place to prevent wall collapse.
- Trench wall shall be damped down to increase instability.
- All trenches shall be covered overnight.
- If trench walls collapse the material shall be collected and marked as to the locale of the collapse and sieved as with all other material.

6.2.6 Soil Contamination

In the event of significant soil contamination the following measures shall be taken to deal with soil contamination within archaeological/ cultural deposits;

- Archaeological excavation in identified contaminated areas will cease. The area will be demarcated with a 1m exclusion zone in place;
- Depending on the contamination class. Excavated contaminated soil may be subject to dry sieving using a 3mm and 5mm aperture, nested wire-mesh sieves and wearing required PPE. This sieved material should be separated from all other spoil piles, if removed by machine, this material should be placed on bidum before dry sieving;
- All cultural material recovered from contaminated soils should be double bagged and given a separate context number. The material should be clearly labelled as having come from a contaminated context and required PPE to be noted;
- Excavation and sieving of contaminated material shall only occur if deemed safe by an appropriate person or organisation.

6.2.7 Monitoring

In the event that a monitoring program has been proposed to deal with any unexpected cultural/ archaeological deposit and finds, shall be subject to the following methodology unless altered in consultation with the RAPs.

6.2.8 Monitoring Methodology

The following monitoring parameters are proposed:

- One RAPs shall be on site at any one time (this may be subject to a rotation depending on the number of RAPs registered).
- RAPs shall work in association with a suitably qualified archaeologist.
- The proponent or the proponent's representative (machine operator) will mark out the area to be disturbed prior to commencement of each section.
- A flat edged (mud bucket) shall remove layers of fill at the direction of the archaeologist.
- The machine operator will strip any Cultural/ archaeological deposits.
- This operation will be monitored - the exposed layer will be observed for any potential artefacts.
- Cultural/ Archaeological deposits will be stockpiled, and sample sieved by the RAPs. As much as is possible to be sieved in the excavation time frame. All unsieved material shall remain on site unless further agreement between the RAPs, the proponent and with DPIE.
- Areas of monitoring shall be signed off by the archaeologist and the RAPs.

- All material subject to sieving will be done so using a nested 3mm and 5mm aperture wire-mesh sieve.
- All artefacts either European or Aboriginal in origin shall be bagged and clearly labelled with the job title, excavation unit and date.
- After monitoring the appropriate AHIMS site card(s) shall be submitted including impact forms to reflect the results and status of the site.

6.2.9 Community Collection

In the event that a community collection has been proposed to deal with any unexpected cultural/ archaeological deposit and finds, shall be subject to the following methodology unless altered in consultation with the RAPs.

6.2.10 Community Collection Methodology

The following excavation parameters are proposed:

- The impacted area containing an archaeological/cultural deposit and/or finds will be traversed on foot and all material located within this development zone will be subject to collection. If material is located, prior to its collection, the following should be undertaken;
- Once the artefacts have been collected, they will be placed within a secure zip lock bag and labelled with the site number, date and status as being surface collected then placed in a larger zip lock bag for processing.
- All collected material will undergo processing including photography of any assemblages of artefacts as well as an artefact count. This data being included in the final open area salvage report.
- Any archaeological/cultural material that is, in the opinion of the archaeologist and the stakeholders, to not be of similar educational, scientific, representative, and cultural significance, should be subject to a further assessment and review.
- After artefact collection the appropriate AHIMS site card(s) shall be submitted, including impact forms to reflect the results and status of the site.

6.2.11 Post Excavation

The following sections outline protocols for post excavation practices including the ongoing management and care of any potential finds encountered as well as the recording and reporting of said finds.

6.2.12 Care and Control

All archaeological material recovered from the project site, shall be subject to a care and control agreement established after the nature and significance of the archaeological or cultural material is understood as well as the nature and extent of the site.

Any artefacts recovered shall be reburied as soon as practicable. They will be temporarily secured in a storage location (AMAC Office, 122c Percival Road Stanmore) in accordance with requirement 26 of the *Code of Conduct for the investigation of Archaeological objects in NSW*,

pending any agreement reached as to the long-term management of the recovered Aboriginal objects.

The excavation director is responsible for ensuring that procedures are put in place so that Aboriginal object(s) that are reburied are not harmed. The location of the secure temporary storage location must be submitted to AHIMS with a site update record card for the site(s) in question.

If long term management of any object(s) recovered is not decided upon (in consultation with the RAPs) then the objects must be lodged with the Australian Museum.

6.2.4.2 Reporting

The result of any additional archaeological works undertaken as part of Project will be analysed and synthesised into an Aboriginal Archaeological Technical Report that will then accompany the Aboriginal Cultural Heritage Management Plan as an Appendix.

Any technical reporting will be in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*, Part 6 National Parks and Wildlife Act 1974, (DECCW 2010 and *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage* (OEH 2011);

This document is to be distributed and reviewed by the RAPs prior to finalisation and in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010).

7.0 ABORIGINAL CONSULTATION

Consultation, where possible, for this report has been undertaken in accordance with the Department of Planning, Industry and Environment (DPIE) and National Parks and Wildlife Act 1974: Part 6; *National Parks and Wildlife Act Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010).

A full Aboriginal Archaeological Assessment has been undertaken including test excavation program where full Aboriginal consultation has taken place as per the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010). Consultation has continued with registered stakeholders during the preparation of this ACHMP and its recommendations.

Organisation	Contact	Contact Details
Darkinjung Local Aboriginal Land Council (DLALC)	Barry Williams	PO Box 401 Wyong NSW 2259 Ph: (02) 4351 2930 darkinjung@dlalc.org.au
Awabakal & Guringai Pty Ltd	Tracey Howie	tracey@guringai.com.au
Corroboree Aboriginal Corp.	Marilyn Johnson	corroboreecorp@bigpond.com
Didge Ngunawal Clan	Lilly Carroll & Paul Boyd	didgengunawalcla@yahoo.com.au
Widescope Group	Steven Hickey	widescope.group@live.com

7.1 CONSULTATION REQUIREMENTS

Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (DECCW 2010), referring to Part 6 Approvals under the NPW Act were released in April 2010. The responsibilities of the proponent when test excavation is to take place and/or permit under section 90 of the NPW Act are listed below.

<http://www.environment.nsw.gov.au/resources/cultureheritage/commconsultation/09781ACHconsultreq.pdf>

Stage 1 – Notification of project proposal and registration of interest

Stage 1 states that:

4.1.2- Proponents are responsible for ascertaining, from reasonable sources of information, the names of Aboriginal people who may hold cultural knowledge relevant to determining the significance of Aboriginal objects and/or places. Reasonable sources of information could include (a) to (g) below. Proponents must compile a list of Aboriginal people who may have an interest

for the proposed project area and hold knowledge relevant to determining the cultural significance of Aboriginal objects and/or places by writing to:

- (a) the relevant DECCW (sic) EPRG regional office*
- (b) the relevant Local Aboriginal Land Council(s)*
- (c) the Registrar, Aboriginal Land Rights Act 1983 for a list of Aboriginal owners*
- (d) the National Native Title Tribunal for a list of registered native title claimants, native title holders and registered Indigenous Land Use Agreements*
- (e) Native Title Services Corporation Limited (NTSCORP Limited)*
- (f) the relevant local council(s)*
- (g) the relevant catchment management authorities for contact details of any established Aboriginal reference group.*

4.1.3- Proponents must write to the Aboriginal people whose names were obtained in step 4.1.2 and the relevant Local Aboriginal Land Council(s) to notify them of the proposed project. The proponent must also place a notice in the local newspaper circulating in the general location of the proposed project explaining the project and its exact location. The notification by letter and in the newspaper, must include:

- (a) the name and contact details of the proponent*
- (b) a brief overview of the proposed project that may be the subject of an application for an AHIP, including the location of the proposed project*
- (c) a statement that the purpose of community consultation with Aboriginal people is to assist the proposed applicant in the preparation of an application for an AHIP and to assist the Director General of DECCW in his or her consideration and determination of the application*
- (d) an invitation for Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) in the area of the proposed project to register an interest in a process of community consultation with the proposed applicant regarding the proposed activity*
- (e) a closing date for the registration of interests.*

4.1.4- There must be a minimum of 14 days from the date the letter was sent, or notice published in the newspaper to register an interest. The time allowed to register an interest should reflect the project's size and complexity.

4.1.5- The proponent must advise Aboriginal people who are registering an interest that their details will be forwarded to DECCW and the Local Aboriginal Land Council (LALC) unless they specify that they do not want their details released.

4.1.6- The proponent must make a record of the names of each Aboriginal person who registered an interest and provide a copy of that record, along with a copy of the notification from 4.1.3 to the relevant DECCW EPRG regional office and LALC within 28 days from the closing date for registering an interest.

4.1.7- LALCs holding cultural knowledge relevant to determining the significance of Aboriginal objects and places in the proposed project area who wish to register an interest to be involved in consultation must register their interest as an Aboriginal organisation rather than as individuals.

4.1.8- Where an Aboriginal organisation representing Aboriginal people who hold cultural knowledge has registered an interest, a contact person for that organisation must be nominated. Aboriginal cultural knowledge holders who have registered an interest may indicate to the proponent they have appointed a representative to act on their behalf. Where this occurs, the registered Aboriginal party must provide written confirmation and contact details of those individuals to act on their behalf.

Stage 2 – Presentation of information about the proposed project

Stage 2 states that:

4.2.1- The proponent must initiate arrangements for presenting the proposed project information to the registered Aboriginal parties (from Stage 1).

4.2.2- The presentation of proposed project information should provide the opportunity for:

- (a) the proponent to present the proposal, outline project details relevant to the nature, scope, methodology and environmental and other impacts*
- (b) the proponent to outline the impact assessment process including the input points into the investigation and assessment activities*
- (c) the proponent to specify critical timelines and milestones for the completion of assessment activities and delivery of reports*
- (d) the proponent and registered Aboriginal parties to clearly define agreed roles, functions and responsibilities*
- (f) the registered Aboriginal parties to identify raise and discuss their cultural concerns, perspectives and assessment requirements (if any).*

4.2.3- The proponent should record or document that the proposed project information has been presented. This record or documentation should include any agreed outcomes, and any contentious issues that may require further discussion to establish mutual resolution (where applicable). The proponent should provide a copy of this record or documentation to registered Aboriginal parties.

4.2.4- Depending on the nature, scale and complexity of the proponent's project, it may be reasonable and necessary for the proponent to:

- (a) conduct additional project information sessions to ensure that all necessary information about the project is provided and enable registered Aboriginal parties to provide information about the cultural significance of Aboriginal object(s) and/or place(s) that may be present on the proposed project area*
- (b) create the opportunity for registered Aboriginal parties to visit the project site" (DECCW 2010).*

Stage 3 – Drafting, review and finalisation of the Cultural Heritage Assessment Report

Stage 3 states that:

4.3.1- The proponent must present and/or provide the proposed methodology(s) for the cultural heritage assessment to the registered Aboriginal parties.

4.3.2- The registered Aboriginal parties must be given the opportunity to review and provide feedback to the proponent within a minimum of 28 days of the proponent providing the methodology. The review should identify any protocols that the registered Aboriginal parties wish to be adopted into the information gathering process and assessment methodology and any matters such as issues/areas of cultural significance that might affect, inform or refine the assessment methodology. Comments should be provided in writing or may be sought verbally by the proponent and accurately recorded.

4.3.3- As part of this consultation, the proponent must also seek cultural information from registered Aboriginal parties to identify:

- (a) whether there are any Aboriginal objects of cultural value to Aboriginal people in the area of the proposed project*
- (b) whether there are any places of cultural value to Aboriginal people in the area of the proposed project (whether they are Aboriginal places declared under s.84 of the NPW Act or not). This will include places of social, spiritual and cultural value, historic places with cultural significance, and potential places/areas of historic, social, spiritual and/or cultural significance.*

4.3.4- Some information obtained from registered Aboriginal parties may be sensitive or have restricted public access. The proponent must, in consultation with registered Aboriginal parties, develop and implement appropriate protocols for sourcing and holding cultural information. In some cases, the sensitive information may be provided to the proponent by an individual and the proponent should not share that information with all registered Aboriginal parties or others without the express permission of the individual.

4.3.5- Information obtained in 4.3.4 is used to understand the context and values of Aboriginal object(s) and/or place(s) located on the proposed project site. This information must be integrated with the scientific (archaeological) assessment of significance. Together the context, values, and scientific assessment provide the basis for assessing Aboriginal heritage values and recommending management options.

The information collected by the proponent during the consultation process must be used only to inform decision making for any application for an AHIP, unless the registered Aboriginal parties agree otherwise.

4.3.6- The proponent must seek the views of registered Aboriginal parties on potential management options. Management options will include ways to avoid or mitigate harm and/or conserve known Aboriginal object(s) and/or place(s). Management options should consider how Aboriginal people can continue their association with identified Aboriginal heritage values.

4.3.7- The proponent must document all feedback received in Stage 3 from registered Aboriginal parties in the final cultural heritage assessment report. This must include copies of any submissions received and the proponent's response to the issues raised. In some cases, this may require an acknowledgment of sensitive information and a list of Aboriginal people who should be contacted for permission to receive further details" (DECCW 2010).

Stage 4 – Review of draft cultural heritage assessment report.

Stage 4 states that

4.4.1- The proponent must prepare a draft cultural heritage assessment report.

4.4.2- The proponent must provide a copy of the draft cultural heritage assessment report to registered Aboriginal parties for their review and comment.

4.4.3- The proponent must give registered Aboriginal parties a minimum of 28 days from sending the draft report to make submissions. The time allowed for comment on the draft report should reflect the project's size and complexity. Comments should be provided in writing or, where provided verbally, accurately recorded.

4.4.4- After considering the comments received on the draft report the proponent must finalise the report. The final report must include copies of any submissions received, including submissions on the proposed methodology and on the draft report. The final report must also include the proponent's response to each submission. The report must then be submitted to DECCW for consideration with the proponent's application for an AHIP.

4.4.5- The proponent must provide or make available copies of the final cultural heritage assessment report and the AHIP application to registered Aboriginal parties and the relevant LALC(s) (whether or not the LALC is registered in Stage 1). The report and application must be provided or made available within 14 days of the AHIP application being made" (DECCW 2010

8.0 REPORTING AND REVIEW PROCEDURES

All ACHMP works carried out during the Project will be documented to a standard comparable to that required by the *Code of Practice for Archaeological Investigation of Aboriginal Objects* 2010 and in consultation with Registered Aboriginal Parties as listed in Section 4.0. All reporting works will be carried out to an Aboriginal Heritage Impact Permit (AHIP) standard as detailed in:

- Aboriginal Archaeological Survey, Guidelines for Archaeological Survey Reporting (NSW NPWS 1998);
- Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales, Part 6 National Parks and Wildlife Act 1974, (DECCW 2010);
- Aboriginal Cultural Heritage Standards and Guidelines Kit (NPWS 1998);
- Part 6; National Parks and Wildlife Act Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010);

Once the ACHMP has been reviewed by all parties. No alteration of procedures shall take place without the involvement of all parties. All RAPs and their organisations shall be informed in writing of the proposed review and all RAPs and their respective organisations must be given 28 days to review and comment on any changes.

REFERENCES

ABORIGINAL HERITAGE AND INFORMATION MANAGEMENT SYSTEM

2011 & 2012 www.environment.nsw.gov.au/awssapp

AMAC

2017 Aboriginal Test Excavation Report; 32 Mann Street, Gosford (LGA Central Coast Council)

2016 Aboriginal Test Excavation Report; ATO Mann Street, Gosford (LGA Central Coast Council)

COMMONWEALTH HERITAGE LIST

2011

www.environment.gov.au/cgibin/ahdb/search.pl?mode=search_results;state=NSW;list_code=CHL;legal_status=35

DEPARTMENT OF PLANNING

2007 *The New South Wales Comprehensive Coastal Tool Kit*. Department of Planning, Sydney.

DEC

2004 *Aboriginal Women's Heritage: Port Stephens*. Department of Environment and Conservation. Sydney.

DECC

2005 *Aboriginal Scarred Trees in New South Wales: A Field Manual*. Department of Environment and Climate Change, Sydney.

2010 *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales, Part 6 National Parks and Wildlife Act 1974*. Department of Environment, Climate Change and Water, Sydney.

2010 *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, Part 6 National Parks and Wildlife Act 1974*. Department of Environment, Climate Change and Water, Sydney.

2010 *Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales, Part 6 National Parks and Wildlife Act 1974*. Department of Environment, Climate Change and Water, Sydney.

2010 *Part 6; National Parks and Wildlife Act Aboriginal Cultural Heritage Consultation Requirements for Proponents*. Department of Environment, Climate Change and Water, Sydney.

NATIONAL HERITAGE LIST

2011 www.environment.gov.au/heritage/places/national/index.html

NATIONAL NATIVE TITLE TRIBUNAL

2011 www.nntt.gov.au

NAVIN OFFICER

2004 Cultural Heritage Assessment for Concrete Batching Plant at West Gosford, NSW.
Unpublished Report to DECCW.

NEW SOUTH WALES HERITAGE BRANCH

2011 *New South Wales Heritage Register*. www.heritage.nsw.gov.au/07_subnav_04.cfm

NEW SOUTH WALES GOVERNMENT

1974 *National Parks and Wildlife Act*. New South Wales Government, Sydney.

1979 *Environmental Planning and Assessment Act*. New South Wales Government, Sydney.

1983. *Land Rights Act*. New South Wales Government, Sydney.

1993. *Native Title Act*. New South Wales Government, Sydney.

NEW SOUTH WALES GOVERNMENT

1999. *Environmental Protection and Biodiversity Conservation Act*. New South Wales Government, Sydney.

NEW SOUTH WALES NATIONAL PARKS AND WILDLIFE SERVICE

1997 *Aboriginal Cultural Heritage: Standards and Guidelines Kit*. NSW National Parks and Wildlife Service.

REGISTER OF NATIONAL ESTATE

2011 www.environment.gov.au/heritage/places/rne/index.html