



June 2017

**Historical Archaeology and
Cultural Heritage Values of the Site of
a Proposed Conglomerate Quarry
at Eagleton near Seaham, NSW**

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**Historical Archaeology and Cultural Heritage Values of the
Site of a Proposed Conglomerate Quarry
at Eagleton near Seaham, NSW**

Prepared for: **Kleinfelder/ Eagleton Rock Syndicate Pty Ltd**

by: **MAXIM Multicon Pty Ltd**

Project No 170401

Report written by: 	Reviewed by: 
Paul Rheinberger	Ross Gam
Principal Archaeologist	Senior Archaeologist
Date 18 June 2017	Date 19 June 2017

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EXECUTIVE SUMMARY

This report documents the study of the historical heritage potential of Lot 1 in DP224587, Lot 121 in DP556403, Lot 11 in DP629503 and Lot 1012 in DP814078, referred to as 'the study area'. The study followed the procedures, observed the criteria and revisited attitudes and assessments respectively of the Heritage Division, NSW Office of Environment & Heritage (the Division), the Burra Charter, the LEP.

Research of archaeological context revealed that the study area has not been listed on the LEP and does not appear to have been otherwise archaeologically addressed in the State Heritage Register or Inventory, the National Heritage List, the non-statutory Register of the National Estate Database or the non-official Register of the National Trust (NSW). The historical context was drawn from studies of mapping of Parishes Thornton, Co Gloucester, and Seaham, Co Durham, from various newspaper records, the ADB and Department of Lands and Maxim's holdings.

Historically, the study area is contained within Lot 2 in DP 1108702, formerly part of Por 48, Parish Thornton, Co Gloucester, granted originally to William Abercrombie in 1840, who arrived in Sydney in 1836. In addition to Por 12, Russell held only the adjoining Portion 43 (915a) in Parish Thornton. Given his local holdings represented questionable rural and industrial advantages circumstances and his occupation and activities in the Colony, there is little reason to anticipate that Abercrombie ever developed a personal residential presence or used the notably unappealing study area for any agricultural purpose (if at all).

Parish maps available for Parish Thornton all relate to the first half of the 20th Century and indicate that until 1942 there had been little subdivision of Por 48. A military survey in 1911 provides and assessment of the condition of the study area to that time and aerial photography from 1958 to date indicates limited earlier sectional clearing had been allowed to regress to its former wild state while confirming the lack of any human effort to maintain control over the study area.

The report details the process of evaluation of the physical context of the study area. The study followed a rational process based on predictive modelling and methodology. In the result, no evidence was discerned that indicated the use or occupation of the study area in any way importing heritage values to the study area or to the immediate or broader locality. The only features identified during this process were a small fragment of fencing possibly up to 50 years old, the residual scar of a small conglomerate quarry that appears to have operated within the last 20 or so years and the creation of a hard stand of laid broken tile as an apron to the quarry and associated track and a bushfire asset.

In the result, this report observes that the study area revealed no evidence possessing actual or potential archaeological or historical heritage significance at either State or local level on historical, scientific, cultural, social, archaeological, architectural or aesthetic criteria. While no direct management action appears presently necessary, any subsequent potential disturbance will be an outcome that is manageable in heritage terms by a process involving:

- [i.] avoiding disturbance of any unexpected, unrelated historical a relic, where this is possible;
- [ii.] maintaining on-call an appropriately experienced historical archaeologist;
- [iii.] if at all warranted by the discovery or exposure of unexpected historical a relic, calling upon the archaeologist for intervention, including:

- a) compliance with the requirements of the Act,
- b) archaeological monitoring of subsurface excavations, and/or
- c) by archival recording.

Within the framework of relevant sections of the LEP and specific articles of the Burra Charter, recommendations have been framed in **Section 4** of this report. The adequacy and reliability of the report, its assessments and recommendations has been evaluated as satisfying the requirements of:

- Clause 5.10 of the LEP; and
- Articles 25, 27, 30, 31, 32 and 33 of the Burra Charter.

In all of the circumstances on the bases of archaeology and heritages values, and subject to the recommendations of the report, there appears to be no actual or foreshadowed constraint upon the development of the study area.

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APPENDICES

- 1 Abstract of listings, Schedule 5, LEP, relevant to the Seaham locality.
- 2 Transcript of listing details of relevant heritage assets in the Seaham locality.

GLOSSARY

Term/Abbreviation/ Symbol	Meaning
≈	Approximately
#	Number
#ch and #yds #' and #"	#chains, #yards, # feet and #inches as pre-decimal measures of length where 12"= 1', 3'= 1 yd, 22yds = 1ch and the conversion rate from ch to m (ch x 20.1150), yd to m (yd x 0.9143)
#a # r #p	# acres, # roods, # perches as pre-decimal measures of area where 1a=4r=160p and the conversion rate from a to ha is (a x 0.4047)
Act	NSW Heritage Act 1977
Co	County: unless indicated otherwise, read County Gloucester
Database	The listing database of the State Heritage Inventory
Department	NSW Department of Planning & Infrastructure and any successor
DG	Director General of the Department
DGRs	Director General's Requirements
Division	The authority formerly called the Heritage Branch of the OEH, including its previous names and associations, and now the Heritage Division of the OEH
DP	Deposited plan, ie: survey plan registered in the Office of the Registrar General
EA	Environmental Assessment
EP&A Act	NSW Environmental Planning and Assessment Act (1979)
LGA	Local Government Area
LEP	Port Stephens Local Environmental Plan, (2013)
#°M	[bearing] degrees magnetic
#Km, #m, #mm	Lineal measures in Kilometres, metres and millimetres
Mapping/survey locations and/or coordinates...	...(unless indicated otherwise) are given in MGA. Where co-ordinates are given in ISG, this will be indicated and conversion to MGA can be achieved using a computer program such as GeoCalc™ – < www.geocomp.com.au >.
MCoA	Minister's Conditions of Approval
mud bucket	The bucket of an excavator that is <u>not</u> fitted with teeth or tines for breaking/facilitating penetration of soil/sub-strate
NSW	New South Wales

Term/Abbreviation/ Symbol	Meaning
OEH	NSW Office of Environment and Heritage
Par	Parish
Por	Portion
Px Cat	Photographic Catalogue
Px Plan	Photographic Plan
REP	The Hunter Regional Environmental Plan (1989)
SoHI	Statement of Heritage Impact
VDL	Abbreviation of Van Diemens Land

1.0 INTRODUCTION

Kleinfelder, on behalf of Eagleton Rock Syndicate Pty Ltd (the Principal), commissioned Maxim Multicon Pty Ltd (Maxim) to review the heritage potential of a parcel of land located in the district of Seaham, near Raymond Terrace, NSW (the study area). The study area is located in the Port Stephens LGA. This report documents the study, review and analysis of the archaeology and heritage values of the study area, according to standardised criteria by reference to:

- the determination of any past and present archaeology and its history; and
- its collective values, if any, as a component of the historic heritage of the study area locality.

This report does not address the potential of the study area as a resource for Aboriginal cultural heritage.

1.1 *Project Potential*

This study has been undertaken in the light of the Principal's intention to apply for development approval to establish a quarry in the study area. The project includes the possible establishment of site facilities and infrastructure including site access and haul roads, weighbridge, plant maintenance and storage facilities, site office and facilities buildings and a parking area. Mobile plant will be used in extraction and processing will be completed on site and the extraction sites will be re-vegetated.

In the nature of the projected site activity, the integrity of the surface and immediate sub-surface will be destroyed, with the potential that any material evidence located on or in the areas of activity would be exposed, moved, modified or destroyed.

1.2 *Objectives of the Study*

The study has been conditioned by the need, in the community interest, to locate and identify material evidence and/or historical connections in or on the study area that may be considered to import heritage values and to evaluate any consequent archaeological significance and heritage values. These broad objectives have been reinforced by the Heritage Council, specifically:

The SEARs for this proposal, dated 6 November 2015, include the following requirement in regard to heritage:

Heritage – including an assessment of the likely Aboriginal and historic heritage (cultural and archaeological) impacts of the development, having regard to the requirements of OEH (see Attachment 2);

...

It is recommended that the Applicant is required to address this SEARs requirement by preparing a more comprehensive consideration of historical heritage that goes beyond items listed on heritage registers and considers the historical context of the land. This would assist in identifying if historical archaeology is likely to be present on the site and which may require management if impacted by this proposal.

Within this environment, historical material relating to the study area is diverse and episodic. This study integrated the results of investigation of the archaeological, historical and physical records of the study area. The principal objectives of the study were to identify, evaluate and propose appropriate management protocols for any historical material (cultural) evidence that may be indicated on the study area and/or at some risk from direct or peripheral effects of the development.

The study was undertaken on the basis that it may identify archaeological resources, if any, and provide insights into the historical use(s) and development of the study area and its occupational and social fabric that are not available from the historical record. In abstract, archaeological interpretation of the study area individually, and collectively/comparatively with other archaeological and historical studies, *may* have had the potential to advance the pursuit of such relevant themes as:

- the socio-economic development and use of land and resources in remote locations during and from the early-1840s to the present (the period);
- the relationship between the study area and the primary expansion and population forces in the broad locality; and
- in respect of all of the above, the different emphases and inferences that may attach to the historical phases of use/occupation/development of the study area.

Within this context, this study was designed to review and make an evaluation of the cultural significance of any archaeological and heritage resource of the study area. After reviewing issues and options for management, recommendations are made about the need, and strategic processes, for management of any archaeological and heritage values of the study area and its environs and about the impact on heritage values of the project.

1.3 *Project Location*

The study area was located on land with a southern frontage to Italia Road in the locality of Eagleton, approximately ≈6.3 kms east of the village of Seaham and lying between ≈2.0 km and ≈650 m west of the intersection of Italia Road and the Pacific Highway.

Other relevant information about the location of the study area is shown in **Table 1.1** (overleaf).

Table 1.1 - Location Data

Topographic Map Sheets:	92321S Karuah
Gridref: at approx. centre / at Italia Rd connection:	₃86965.₆₃82785 / ₃88095.₆₃82870
Description:	Lot 2 in DP1108702, part of the former Portion 48 of Parish
Parish	Thornton
County	Gloucester
Local Government Area	Port Stephens

The regional and local locations of the study area is shown in **Figures 1.1** and **1.2**, while the detail of the study area is defined in **Figure 1.3**.

1.4 *Methodology and Reporting*

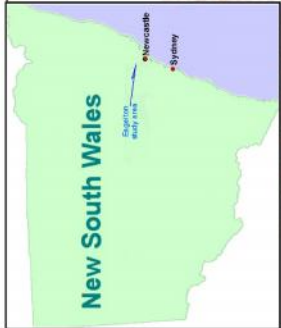
This study and analysis has been undertaken broadly within the framework of the *NSW Heritage Manual*. The sequential steps of the study have been as follows:

- [i] the relevant context of the study area has been researched and analysed, reported in **Section 2**. That is to say:
 - ~ the archaeological and historical records of the study area have been researched, with particular attention to dominant aspects of its post-contact occupation and apparent land use.
 - ~ the physical context of the study area has been evaluated in the course of a strategic surface survey.
- the heritage values and potential of the study area have been addressed in **Section 3**, in the following terms:
 - ~ the cultural significance of the study area has been assessed and a formal statement of cultural significance prepared. No material evidence was identified or foreshadowed that might call for evaluation of condition and integrity or for further field assessment;
 - ~ research themes that might possibly have been relevant to the study area have been reviewed and discounted.
 - ~ in the absence of present or potential material evidence in the study area, a formal Statement of Heritage Impact has not been called for.
- management of any possible heritage values of the study area has been addressed in detail in **Section 4**, by reference to:
 - ~ issues that may be raised for management;
 - ~ the options for management of any unexpected archaeological resource and its values;
 - ~ the research questions that should be directed to the study area in the course of management of any archaeological resource;
 - ~ recommendations for the management of any unexpected archaeological resource and/or circumstances from time to time that may raise the potential of any such hitherto unexpected resource

1.5 *Study Personnel*

Paul Rheinberger, Principal Archaeologist, Maxim conducted the research of the archaeological and physical contexts and the review and research of the historical context for this assessment. Paul Rheinberger wrote this report, which has been reviewed by Ross Gam, Senior Archaeologist, Maxim.

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Scale:

See 1.0 Km Grid

Client:

Kleinfelder/Eagelton

Source:

LPI: Topo 92321S

Title:

Study Area Location-
Regional

Figure 1.1

Reference:

170401



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Scale: See 1.0 Km Grid

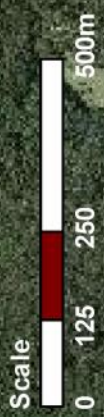
Client: **Kleinfelder/Eagleton**
Reference: **170401**

Source: **LPI: Topo 92321S**
Karuah, Detail

Title: **Study Area Location-Local**

Figure 1.2

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Scale: **See BarScale**

Client: **Kleinfelder/Eageilton**
Reference: **170401**

Source: **LPI SIX: 2016**
Aerial Photograph:
study area location

Title: **Detail of study area**

Figure 1.3

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2.0 CONTEXT OF THE STUDY AREA

2.1 The Concept of Context

Archaeology exists within context: that is to say that a relic that is the subject of archaeological study can only be properly understood in terms of those factors that have contributed to its creation, introduction to a site, use or function, deposition, survival, stratigraphy and exposure. In this environment, a relic derives meaning particular to its site or location and similarly contributes enhanced meaning to and understanding of its site by complementing the oral or archival record. It is convenient to address the context of a study area in terms of its *archaeological context* (see **Section 2.2**), *historical context* (see **Section 2.3**), where the headings indicate documentary research and review of previous archaeological and historical studies. The latter refers to the attributes identified in the course of physical inspection of the site. In many cases, the *physical context* of a study area is also examined in the course of field survey: this aspect of context has not been addressed in present circumstances and the study of the archaeological and historical contexts suggests that field study was/is unwarranted.

2.2 Archaeological Context

The archaeology and heritage of the precinct of the study area was undoubtedly reconnoitred for the purposes of the LEP. Without observing any heritage values along the length of either Enterprise Drive or Berkeley Road, the LEP listed the following material in reasonable proximity to the study area:

Schedule 5 Environmental heritage
 (Clause 5.10)
Part 1 Heritage items (Classⁿ Port Stephens LGA)

Suburb	Item name	Address	Property description	Significance	Item no
Balickera	"Balikera House"	303 Italia Road	Lot 530, DP 1128672	Local	I3
Eagleton	Eagleton Shipyard site*	673 Newline Road	Lot 2, DP 826917	Local	A1
East Seaham	"Burrowel" (homestead)*	110 East Seaham Road	Lot 2, DP 194920	Local	A2
Seaham	"Brandon", including house, stables and landscape setting	1106 Seaham Road	Lot 149, DP 1003827	Local	I85

* Archaeological site only

The locations of these resources are shown in relation to the study area in **Figure 2.1**¹ and abstract of the relevant sections of the *Schedule 5* listing of the LEP is attached as **Appendix 1**. Transcripts of the listings in the Database are attached in **Appendix 2**.

Research of the National Heritage List of the Commonwealth Department, the Register of the National Estate Database (non-statutory), State Heritage Register and Inventory maintained by the Division and the Register of the National Trust (NSW) revealed no additional listings affecting the study area or its precinct. The REP does not apply within the Port Stephens LGA.

¹ This is a composite assemblage of four LEP maps [], the intersection boundaries of which are defined by lining. The location of *Burrowel* apparently does not appear on the map and I have indicated the extent of the original **Mossman/Smyth** grants.

The archaeological context thus revealed no suggestion of heritage value in the study area.

2.3 *Historical Context*

The historical research of the use, occupation and development of the study area has been limited specifically to those contexts that have a direct relationship to archaeological study and the evaluation of historic heritage of the study area.

As has been observed above, the study area is part of a parcel excised from land originally described as Portion 48 of Parish Thornton, Co Gloucester. The evolution of the study area locality commenced in the mid-1820s. By this time, most of the more desirable tracts of land in the Lower Hunter had been snapped up, the most common denominator being proximity to the Hunter and Williams Rivers. A study of JT Campbell's² map of the early settlement confirms that by 1825, much of the frontage to the Williams River above its confluence with the Hunter had been the subject of grants. Little of the hinterland had similarly been taken up. Indeed, although Raymond Terrace lay adjacent and had been visited by Governor Macquarie, who camped overnight and apparently referred to the site by name, as early as 1818, a village was not notified until 1837. The village of Seaham lies closer to the study area and was part of Dangar's 1822 survey, in which the location of a village was reserved and the dispositions of parishes and portions were defined for Thornton and Seaham and those surrounding.

The location and sequence of early grants in the district, relevant to the study area, are indicated on Campbell's map, an extract of which is attached as **Figure 2.2**. I have annotated this map with additional detail mostly drawn from maps of the Parishes of Seaham and Thornton³, detailed in **Figures 2.3 and 2.4**. Along the western side of the Williams River, grants were made to:

- **Alexander Warren:** the *Brandon Estate* of 2000a in 1824, appears to have comprised Pors 53 and 82 Par Seaham (on Campbell incorrectly located as: A126). Probably because he had no river frontage, in 1824 Warren then purchased Duncan Sinclair's Por 41 (840a) from his trustees (see below). Before 1831, he also took the grant of Por 42 of 580a: in February of that year, GB White surveyed the area surrounding the site of the future Seaham: a copy of his survey plan is attached as **Figure 2.5**. With these acquisitions, *Brandon* had swollen to 3420a, all lying south and southwest of the site of Seaham village. *Brandon* was then sold to John Wighton, who died in 1836. Warren held a mortgage against Wighton's purchase and acquired the property after his death. The basis of the grant (indicated as 21 July 1840) to Kenneth Snodgrass and Archibald Walker as trustees relates to their appointment by the Supreme Court as administrators and trustees of Wighton's intestate estate⁴. Administrative activity on the estate was probably hampered by Snodgrass' appointments first as Lieutenant Governor in VDL (1836-37) then as Acting Governor of NSW (December 1837-February 1838), all apart from his military duties as a brigadier (brigade major) in the army garrison. Because of the intestacy, the original grant to Warren was vacated in favour of the trustees.

Thereafter, Warren remained in occupation of *Brandon* until his death in 1876 after which the estate passed to a 'relative', William Fisher. Fisher later succeeded to the *Burrowel Estate* on the opposite side of the river, having married Dorothea, George Mossman's daughter (see below);⁵

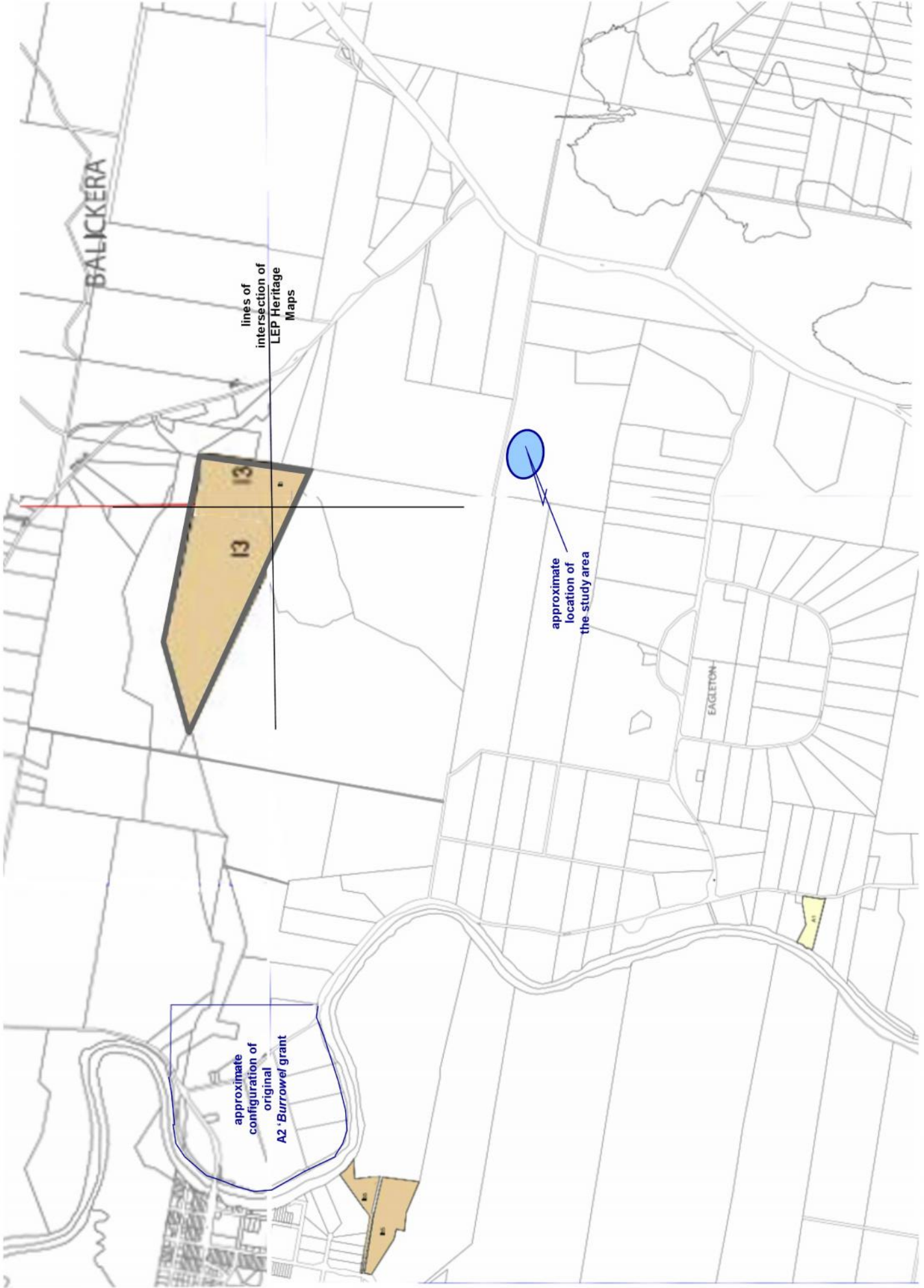
- **Duncan or Donald Sinclair**⁶: Portion 41 (on Campbell: A61) containing 840a, in 1823. Sinclair's tenure was short, in parallel with his brother Peter (see below): he became insolvent shortly after

² JT Campbell, 21 August 1918.

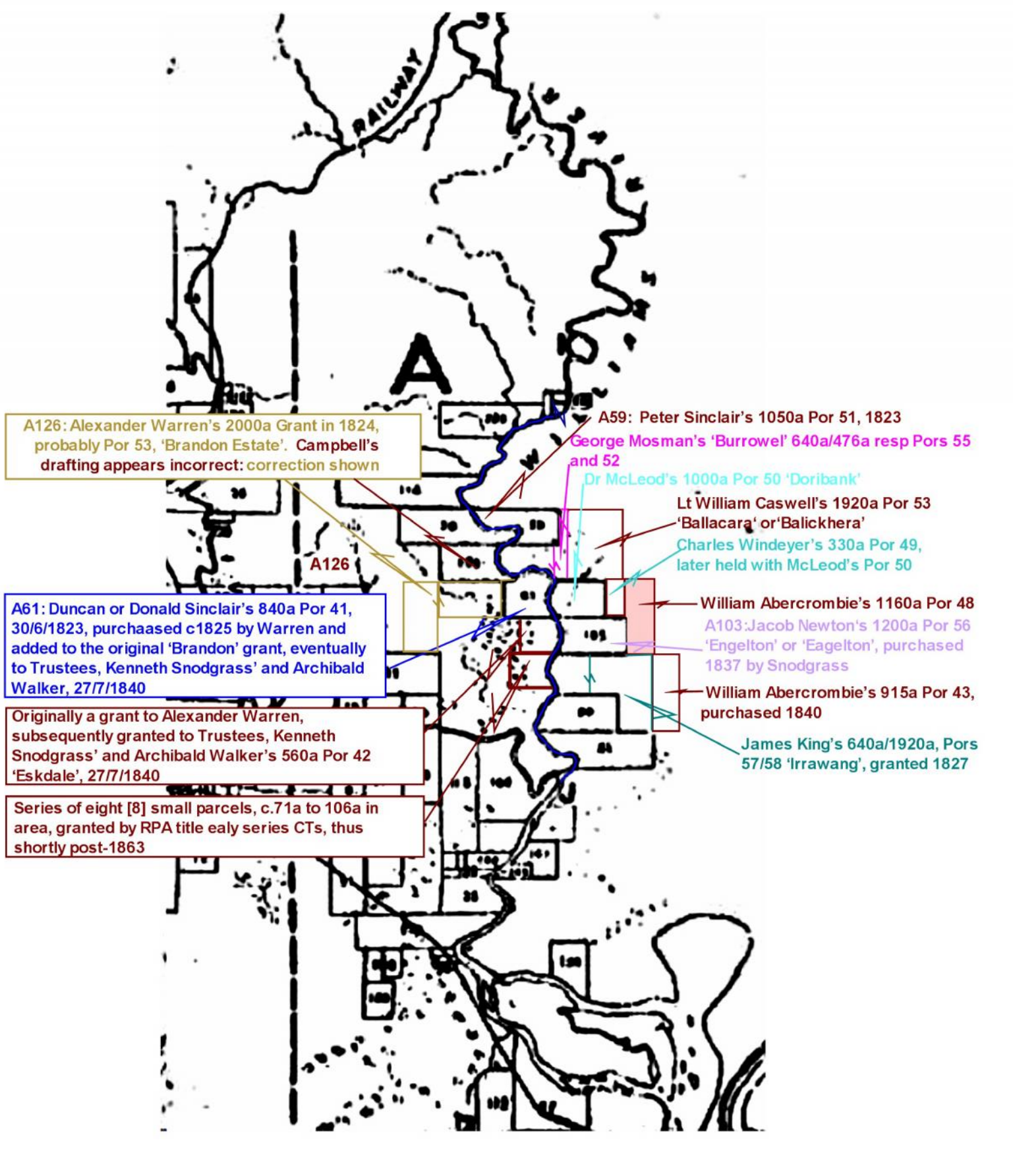
³ ...although the only available maps refer to the early 20th Century and those for Thornton give no grant dates.

⁴ Willets, nd: *John Wighton*.

⁵ NSW Heritage Database *Brandon including house, stables and landscape setting*.



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PARISH OF THORNTON COUNTY OF GLOUCESTER

H.O. Form re New Edition completed 3.6.40 and again 11.3.44 (1944) PROOF REVISED 27.2.45 (1945)

LAND DISTRICT OF MAITLAND
PORT STEPHENS SHIRE
EASTERN DIVISION N.S.W.

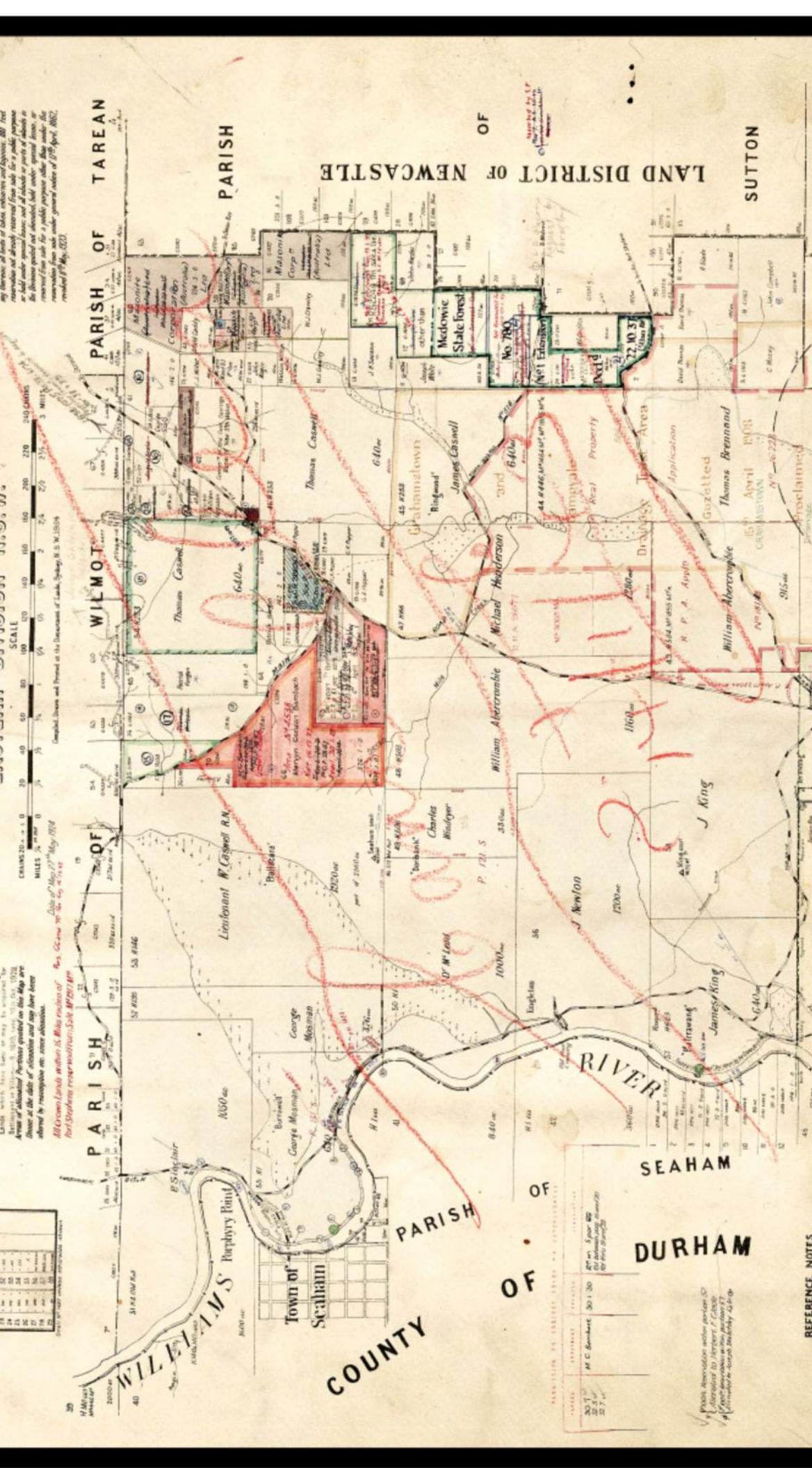
LAND WATER CONSERVATION
111692

NOTE
The following lands are exempt from occupation under the Land Act 1934-1935:
All Crown Lands held, reserved or left as a road, street or lane under the Land Act 1934-1935.
All Crown Lands shown as being reserved for public use under the Land Act 1934-1935.
Crown Lands within the City, Town or Village or in the same parish, reserved for public use under the Land Act 1934-1935.
All lands reserved for public use under the Land Act 1934-1935.
State forests and timber reserves, proclaimed before the 28.2.39 under the Forests Act 1934-1935.
Lands which have been set aside for public use under the Land Act 1934-1935.
Lands at the date of occupation and up to the date of the issue of this plan are shown as being reserved for public use under the Land Act 1934-1935.
All Crown Lands within the Parish of Thornton, Co. Gloucester, N.S.W. are shown as being reserved for public use under the Land Act 1934-1935.

Area	Acres	Sq. Yds.	Sq. Ft.
1	1	4840	43060
2	2	9680	86120
3	3	14520	129180
4	4	19360	172240
5	5	24200	215300
6	6	29040	258360
7	7	33880	301420
8	8	38720	344480
9	9	43560	387540
10	10	48400	430600
11	11	53240	473660
12	12	58080	516720
13	13	62920	559780
14	14	67760	602840
15	15	72600	645900
16	16	77440	688960
17	17	82280	732020
18	18	87120	775080
19	19	91960	818140
20	20	96800	861200
21	21	101640	904260
22	22	106480	947320
23	23	111320	990380
24	24	116160	1033440
25	25	121000	1076500
26	26	125840	1119560
27	27	130680	1162620
28	28	135520	1205680
29	29	140360	1248740
30	30	145200	1291800
31	31	150040	1334860
32	32	154880	1377920
33	33	159720	1420980
34	34	164560	1464040
35	35	169400	1507100
36	36	174240	1550160
37	37	179080	1593220
38	38	183920	1636280
39	39	188760	1679340
40	40	193600	1722400

Scale: 1 inch = 1 mile
1:63,360

Scale: 1 inch = 1 mile
1:63,360



Scale: 1 inch = 1 mile
1:63,360

Scale: 1 inch = 1 mile
1:63,360

REFERENCE NOTES

Client: **Kleinfelder/Eagleton**

Source: **CMA: Par Thornton, Co Gloucester, Ed 5, 11169201 Mtd**

Title: **Parish Thornton in 1894**

Reference: **170401**

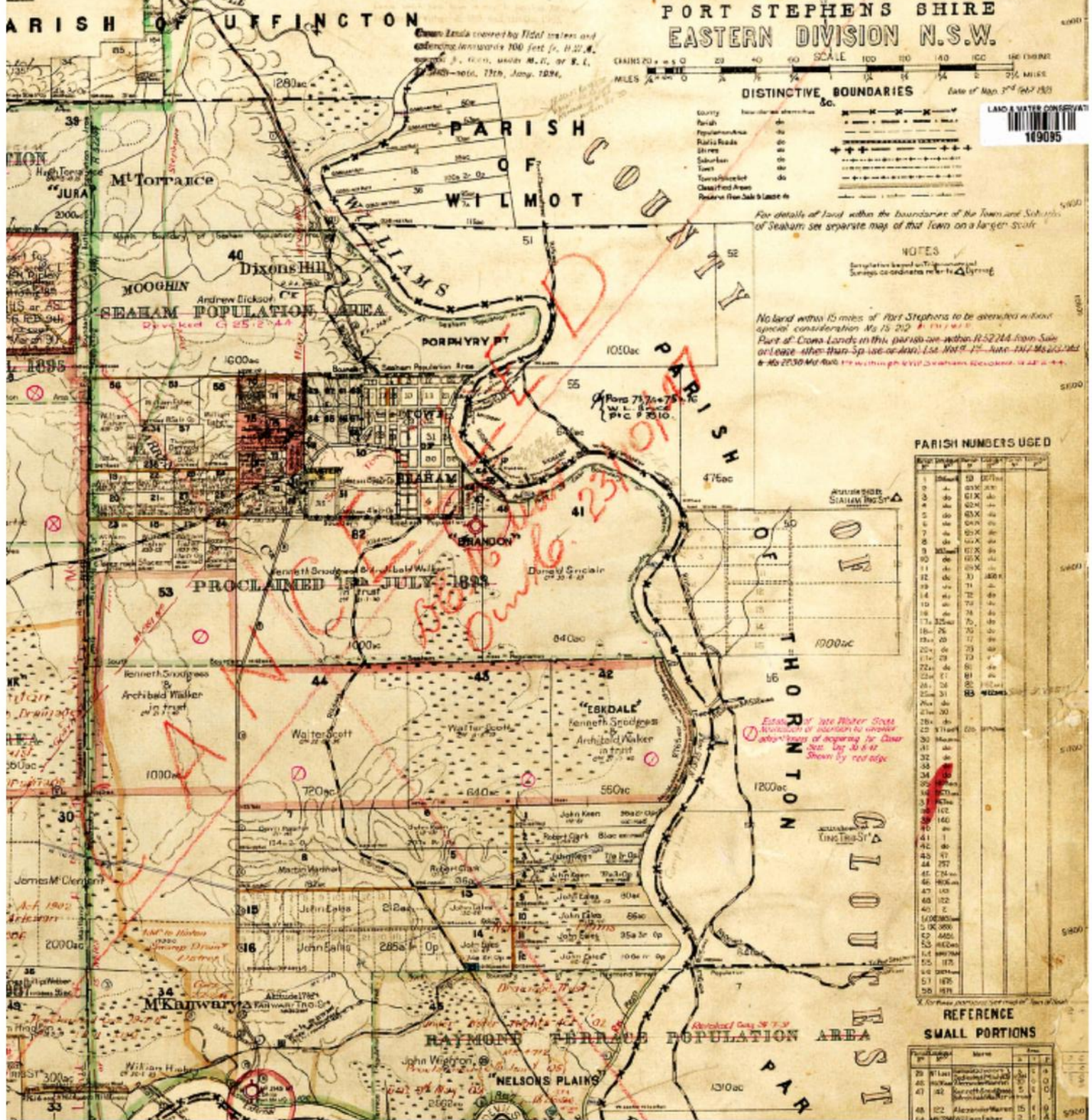
Figure 2.3



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PARISH OF SEAHAM COUNTY OF DURHAM LAND DISTRICT OF MAITLAND PORT STEPHENS SHIRE EASTERN DIVISION N.S.W.

The following lands are exempted from Compulsory under
Mines Rights or Business Licences
All Crown lands defined, reserved or left as a road, stream or line
and also all Crown lands shown on the Maps reserved for drainage
and reserved as a reserve. A.P.S. Section 28 of 1907
Crown lands within any City, Town or Village or in the same, reserved,
reserved or occupied, or being within a public or municipal
hold, except 25th January 1908
State Forest and Timber Reserves, proclaimed from day 31.12



PARISH NUMBERS USED

Parish No.	Area	Notes
1	1000ac	
2	1000ac	
3	1000ac	
4	1000ac	
5	1000ac	
6	1000ac	
7	1000ac	
8	1000ac	
9	1000ac	
10	1000ac	
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47	1000ac	
48	1000ac	
49	1000ac	
50	1000ac	

REFERENCE SMALL PORTIONS

Portion No.	Area	Notes
1	1000ac	
2	1000ac	
3	1000ac	
4	1000ac	
5	1000ac	
6	1000ac	
7	1000ac	
8	1000ac	
9	1000ac	
10	1000ac	
11	1000ac	
12	1000ac	
13	1000ac	
14	1000ac	
15	1000ac	
16	1000ac	
17	1000ac	
18	1000ac	
19	1000ac	
20	1000ac	
21	1000ac	
22	1000ac	
23	1000ac	
24	1000ac	
25	1000ac	
26	1000ac	
27	1000ac	
28	1000ac	
29	1000ac	
30	1000ac	



Scale
See Bar Scale

Client: Kleinfelder/
Eagleton
Reference: 170401

Source: CMA: Parish
Seaham, Co Durham
Ed 5, 10909501Mtd

Title: Parish Seaham
in 1925

FIGURE
2.4

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the grant and the portion was purchased by Warren, giving *Brandon* access to the Williams River. The Sinclairs had arrived as free settlers in 1822 and by an order dated 29th January 1823 Duncan Sinclair was granted 800 acres and three assignees. The brothers were given permission to proceed to Newcastle on the *Mariner* in February 1823.

In December 1824 the effects of Duncan Sinclair were ordered to be sold in lieu of cattle allotted to him by Government. His wife Ann applied to have her husband's grant of land cancelled in consequence of his being insane; she requested another made out in favour of such persons as the Governor may think proper in trust for the Petitioner, her husband and family.

Snodgrass and Walker: apart from their trusteeship grant over Pors 53 and 82 mentioned above, took a grant of same date as trustees of Por 42, 560a, known as *Eskdale*. **Snodgrass** had been appointed Lieutenant Governor in VDL (1836-37) and stood as Acting Governor of NSW (December 1837-February 1838). In 1839, Snodgrass sold his commission and purchased the 1200a *Eagleton* Estate (Portion 56, Parish Thornton), originally granted to J Newton (see below). *Eagleton* then became the residential property of Snodgrass and his large family. The estate adjoined James King's *Irrawang*, with whom Snodgrass made himself a troublesome neighbour. Por 13 was a rapid addition and was followed by Por 143 Parish Stowell (140a), while he also took Pors 17 and 20 (totalling 1140a), Parish Stockton, part of the Tomago Estate, in trust with TL Mitchell. Thus by the mid-1840s, Snodgrass' land interests totalled 4600a across three Parishes⁷. **Walker**, on the other hand, does not appear to have received any grant(s) in Parishes Seaham or Thornton, or in any of the surrounding parishes. Walker was, however, described in local press⁸ as Wighton's highest ranking creditor, which tends to suggest a mercantile background.

- **Walter Scott:** west of *Eskdale*, Portions 43 and 44, totalling 1360a, granted respectively 10 May 1839 and 22 December 1836. **South of Eskdale** lay eight small Portions, 1 to 4 and 9 to 12, ranging in area from about 71a to 106a, all of which appear to have been subject of grants under the Real Property Act (ie: post-1863).

On the eastern side of the Williams River, grants were made to:

- **Peter Sinclair**, the brother of Donald (above): was granted 1000 acres of land and assigned four convict servants. He took the grant of Por 51 (on Campbell: A59) containing 1050a also in 1823. He also became insolvent and the land was sold in 1825. The land was further subdivided in the early 1870s⁹;
- **Adam Smyth:** grant of Por 55 (not on Campbell) containing 640a was taken up under order of 8 April 1828 and surveyed under his name in 1831 (see **Figure 2.5**). By 1836, **Smyth** had apparently 'walked off' his grant, had certainly left the colony and **George Mossman** applied to purchase the Smyth grant¹⁰, adjoining his Por 52 and offering river frontage. His purchase from the Sheriff was approved in 1839¹¹.
- **George Mossman** or **Mosman:** grant of Por 52 (not on Campbell or White) containing 476a, which he called *Burrowel* and to which he added **Smyth's** Por 55 (640a). By 1839, Mossman had six employees and 39 assignees working on his property and was leading a country gentleman's lifestyle. He remained in partnership with Archibald in mercantile shipping, whaling and ships chandlery/maintenance, firstly in George Street Sydney then at Sirius Cove on Sydney Harbour, however in distinction from most mercantile property owners, he lived mostly on his grant and

⁶ Sinclair appears on Parish Maps as 'Donald' but in historical references as 'Duncan'; Duncan appears preferable.

⁷ Maxim (Rheinberger), 2015: 6.

⁸ *Colonist* Newspaper, 2 Jun 1836: a less than glowing tribute.

⁹ Ian Wright, *Rootsweb* posting <http://archiver.rootsweb.ancestry.com/th/read/AUS-NSW-Hunter-Valley/2006-09/1157354980>.

¹⁰ Government Gazette, 3 February 1836.

¹¹ *Ibid.* 20 March 1839.

- operated the first punt across the Williams River at Seaham from 1829. His security does not appear to have suffered when his brother became insolvent in 1844 and died at Seaham 5 September 1868. The estates of *Brandon* and *Burrowel* became united upon the marriage of William Fisher, Warren's 'relative', with Mossman's daughter Dorothea;
- **Dr McLeod:** took a grant of 1000a over Por 50 (not on Campbell), date not determined but before 1831 (see **Figure 2.5**). Apparently subdivided as the '*Doribank Estate* perhaps as early as 1837, **William Sketchley** and family moved to the Williams River district in 1837. He purchased the 85a homestead block (dwelling built about 1840) in 1854 and lived with his first and second wives and, in total, 14 children of the two families¹².
 - **Lieutenant William Caswell:** served in the Navy until placed on half-pay in 1828: he resigned in favour of immigrating to the Colony, arriving in Sydney on 9th May 1829. His grant of Por 53 (*Balickera*) of 1920a was promised by Governor Darling 16 July of that year and confirmed on 8 December 1830. Shortly afterwards, he took a grant of 50a in Par Sutton upon which he built a residence known as *Tanilba House* and later still, 500a in Par Stowell. For a few years, the Caswell family endured severe hardship and in the 1840s depression, abandoned Tanilba to live at *Balickera*. Apart from troublesome convicts and featuring as the butt of a riot at a polling station in 1848, the family's fortunes improved dramatically. Caswell left Susan, his wife, and family at *Balickera* in March 1859 to return to England and died on the voyage 29 April. Susan sold *Balickera* and its plant and furniture by December of that year. She returned to England and died in 1886¹³.
 - **James King:** arrived in Sydney in 1827 and set himself up as a merchant, but also obtained a grant of 1920 a Por 58 which he named *Irrawang*. He built a homestead which he rarely occupied for about eight years, relying on overseers, growing wheat and raising cattle. In the meantime he was involved in whaling and shipping ventures and as a trader in colonial produce and an importer. In about 1835 he settled at *Irrawang*, where he manufactured pottery. Wine was his main interest, however: he planted out a vineyard in 1832, from which in February 1836 he made his first wine. He died in London on 29 November 1857 aged 57.¹⁴
 - **Thomas Gill:** arrived in December 1821 and was granted 640a in 1825, selecting Por 57. He was appointed assistant Commissariat Clerk at Newcastle. On 15th October 1826 was boating on the Williams River when he fell overboard and was drowned. Presumably his wife remained in possession of the grant until in 1838, it was offered for sale and purchased by the adjoining owner, James King, who thus obtained direct river frontage. He applied for a new grant in 1845¹⁵.
 - **Jacob Newton:** arrived in the colony in 1823 and applied for a grant almost immediately. By letter of 6 November 1823 the Colonial Secretary confirmed a grant of 1200a and an order for four assignees, he and they to be victualled from the Commissariat for six months. Newton took up his 1200a on Por 56 (on Campbell: A105). In 1833 Jacob Newton advertised 1000a of for lease for three or four years. There were about 25 acres cleared of which 15 were in cultivation. Probably suffering in the depression of the early 1840's, in 1843, he borrowed £200 from Edmond Healy of Sydney on the security of 460a. He remained on his property but by 1845 Edmond Healy had died and his widow the widow of his creditor was called in the loan¹⁶.

This then was the settlement process of the more desirable land along the banks of the Williams River, adjacent to the study area, between the early 1820s and the late 1830s.

¹² Raymond Terrace & District Historical Society Inc, nd. Sketchley Pioneer Cottage...

¹³ Willets, nd: *William Caswell*.

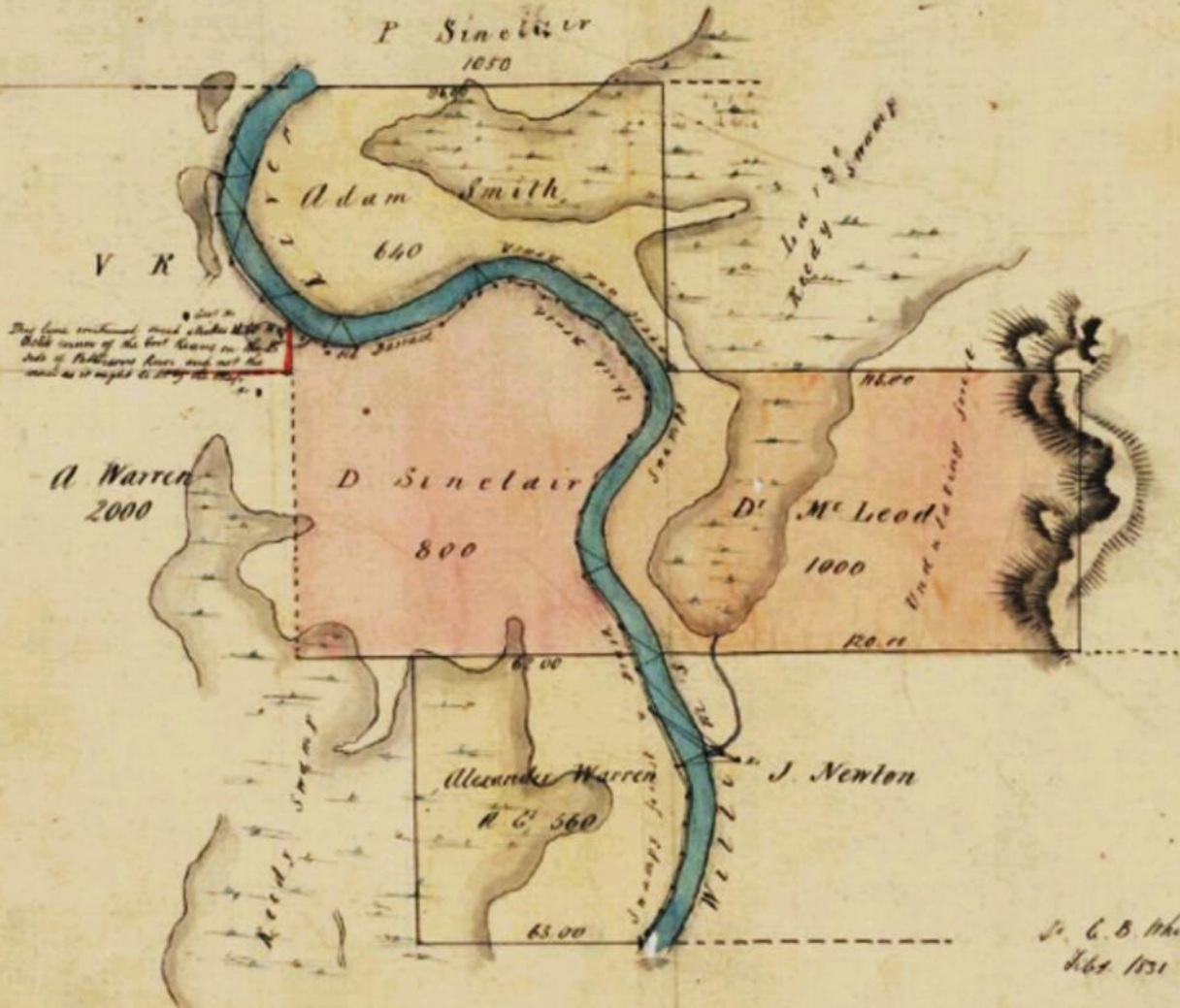
¹⁴ ADB, Macmillan DS, 1967.

¹⁵ Willets, nd: *Thomas Gill*.

¹⁶ Willets, nd: *Jacob Newton*.

William River at Seaham Funder

N.B. The old marked lines are dotted



F407

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REPORT of a Brig arrived in Port Jackson, this 23rd Day of August 1836.

Vessel's Name.... <i>Stirlingshire</i>		REMARKS				
Tonnage..... <i>318</i>						
Master's Name.... <i>Scully</i>						
From whence.... <i>Calcutta via Ang. Lopez Land & Lancaster</i>						
When sailed..... <i>24 April</i>						
Lading..... <i>(Merchandise)</i>						
Passenger's Names.	Children above 12 years of age.		Children under 12 years of age.		Country.	Profession, Trade, or Calling.
	Cabin.	Male.	Female.	Male.		
<i>John Mackay</i>	<i>Boy</i>	<i>from</i>	<i>Calcutta</i>			<i>Merchant</i>
<i>Mr. Mackay</i>						
<i>Mrs. Mackay</i>						
<i>William Abercrombie</i>	<i>Boy</i>			<i>do</i>		<i>do</i>
<i>Henry Hanson</i>	<i>Boy</i>			<i>do</i>		<i>do</i>
<i>Master Gregory Hanson</i>						

Figure 2.6: Report of the arrival of the brig *Stirlingshire* in Sydney after a 3-month voyage from Calcutta with three merchants, two families and a cargo of their 'merchandise'.

Into this environment on 23 August 1836 came a **William Abercrombie**. On arrival, he was described as a merchant, who had previously been in Calcutta, India. He was a passenger and apparently one of the charterparties of the brig *Stirlingshire*. At least one of the other charterparties, John Mackay, features in Abercrombie's checkered colonial history. Copy of Captain Scully's report of arrival is shown in **Figure 2.6**.

In 1839, two applications for grants of land were received by the Colonial Secretary in the names of William Abercrombie and William Abercromby. The former was indicated to have arrived in the Colony aboard the *Waterloo* and was resident in Sydney. The second was recorded as a passenger on the *Stirlingshire* and to be resident in Ulladulla¹⁷. The *Waterloo* made two landings in Port Jackson between 1820 and 1840, the first in 1829 and

the second in 1832. Shipping records indicate that no-one named Abercrombie/Abercromby was a passenger on either voyage¹⁸. It is possible that both applications were made by Abercrombie/*Stirlingshire* but it seems clear that the latter application resulted in the grant of Por 48, Par Thornton to him. On 15 April 1840, he was reported to have received the assignment of a transported carpenter¹⁹. In passing, John Mackay held land in the Paterson district in 1840 and it seems that in 1850, his family of nine children were beneficiaries of the assignment of Duncan Forbes Mackay's extensive estate after Duncan's admission to Tarban Creek 'lunatic' asylum²⁰.

In the meantime, it seems clear that Abercrombie became active in the colonial commercial world. On 1 August 1839, he attended a meeting at Sydney's Royal Hotel called by John Eales of *Duckenfield* near Maitland. The meeting resolved:

That a Company be formed to be styled THE HUNTER RIVER STEAM NAVIGATION COMPANY for the purpose of building or purchasing such steam vessels as may be found necessary to ply between Sydney and Hunter River.

¹⁷ Colonial Secretary's In-letters re land, NSW State Records, 27787, Reel 1081.
¹⁸ NSW State Records. Shipping Arrivals to Port Jackson, 1820 to 1840.
¹⁹ Government Gazette, 15 April 1840 'Williams River'.
²⁰ Willets, nd: *Duncan Forbes Mackay*.

The capital of the Company was fixed at £40,000 to be divided into 4,000 shares of £10 each. A provisional committee was formed and prospectus prepared, however it was not until 29 January 1840 that a board was appointed, which included Armstrong among some colonial 'exclusives' such as John Eales, John Hosking (of Hughes & Hosking, and Sydney Mayor) and Robert Scott (of *Glendon*)²¹.

On 16 March 1840, Abercrombie purchased an additional parcel of land, adjoining (although barely) his original grant²². It is clear also that by 1840 he was operating a partnership called *Abercrombie & Co* with John Mackay, based in Sydney. The timing for either pursuit was not propitious because of the onset of financial depression and the remainder of the 1840s was punctuated by venture and encounter, although none seemed related to his land holdings near Seaham:

1. Abernethy and Mackay, having concluded a visit to Captain Nagle of the *Neptune*, anchored off Mrs Macquarie's Chair, were being taken ashore in the ship's cutter when the cutter overturned, throwing all on board into the Harbour. Mackay sank and was rescued by the Captain. Abercrombie clung safely to the overturned boat. Mackay's address was given as 'Darlinghurst' and Abercrombie's 'Glenmore Distillery'²³.
2. On 19 August 1841, Abercrombie felt the need to write to the Sydney Herald to protest the allegation by the Collector of Customs that he sought to travel to Port Phillip to put himself outside the jurisdiction of the Supreme Court concerning action against him by the Attorney General²⁴. At this time, he was operating a distillery at Glenmore and in his absence at Port Phillip, the distillery was apparently raided, of which he complained in a letter to the newspaper on December 13²⁵. The allegation was made that Abernethy was using sugar rather than local grain in the distillery. He had been fined £1000²⁵.
3. The whole matter of the Collector of Customs blew into major confrontation when an abusive and threatening letter he wrote to that official was brought to the notice of the Legislative Council on 17 December 1841²⁶.
4. Abercrombie & Co was acting as agent for the distribution of a prospectus for the New Zealand Mining Co²⁷ in October 1842.
5. Insolvency: in January 1845, the estates of Abercrombie and Mackay, as partners in Abercrombie & Co, were sequestered on the petition of Ashford & Daniels²⁸.
6. In a complex arrangement between Abercrombie & Co and Balfour & Co and Abercrombie's brother Charles, the proceeds of a promissory note were endorsed to Charles by William. When the promissory note expired, Charles commenced action against William as a member of the firm of Balfour & Co, without notifying or joining the other partners²⁹. At face value this might have signified a breakdown in fraternal relations, or otherwise possibly a collusive attempt by the brothers to extract money from Balfour & Co while the other partners remained in ignorance of proceedings. At any event, on 13 May 1846, the Supreme Court found against the Plaintiff, Charles³⁰.

²¹ Pixley NS, 25/11/1954. Paper read at the meeting of the Royal Australian Historical Society, unpub manuscript.

²² NSW State Records, Grants and Lease Records, Item 7/470, Reel2550

²³ *Sydney Gazette*, Newspaper, 16/01/1838, p.2.

²⁴ *Sydney Herald*, Newspaper, 19/08/1841, p.2.

²⁵ *Sydney Herald*, Newspaper, 14/12/1841, p.2.

²⁶ *The Colonist*, Newspaper, 18/12/1841.

²⁷ *Portland Guardian and Normanby General Advertiser* (Vic), Newspaper, 01/10/1842, p.3

²⁸ *The Australian*, Newspaper, 04/02/1845.

²⁹ *Sydney Morning Herald*, Newspaper, 12/05/1846, p.2.

³⁰ *Morning Chronical*, Newspaper, 20/05/1846

7. Again in 1846, Abercrombie had apparently maintained his interest in the New Zealand Mining Co: on 6 November he returned to Sydney from New Zealand on the schooner *Terror*³¹.
8. In January 1847, he wrote to the Sydney Morning Herald to refute an allegation that the ore caught fire in transport between New Zealand and England³².
9. 27 November 1848 found him returning to Sydney by steamer *Shamrock*, either from Launceston or Twofold Bay³³.
10. Insolvency: in August 1849, the estates of Abercrombie and Mackay, as partners in Abercrombie & Co, were sequestered again³⁴. One can only presume that they were able to satisfy their creditors on the first occasion, but this time, that option does not appear to have presented, because...
11.Abercrombie left aboard the schooner *Mary Ann* for the San Francisco diggings on 23 October 1849³⁵.
12. September 1850: Thomas Hinnigan reported for the Sydney Morning Herald that Abercrombie had been at the California gold mines and was shortly to return to San Francisco *en route* to London³⁶.
13. Shipping intelligence appears to indicate that Abercrombie did not ever return to the colony.

The rationale that arises from all of the above must be that as grantee, Abercrombie had virtually no opportunity to participate in agricultural pursuits and it would appear that he had little incentive to do so. In general terms, and from an agricultural and pastoral perspective, the land, showed no potential for agricultural development and little for pastoral use in the study area. Further support for this proposition, from an historical point of view, is provided by the results of a ground study and series of aerial surveys across the 20th Century.

The first of these was a survey of the Parish of Thornton undertaken in 1911 by the RASC. Copy of this survey is attached as **Figure 2.7** upon which the outline of the study area has been added in blue (position approximate). Detail of the environs of the study area is attached as **Figure 2.8**. The survey did not extend into the steep country of the study area, no doubt because of the difficulty of survey using a plane table in such country. However the surveyor, Lance Corporal EF Davies, clearly verified the topography of the area around the study area in order to lay out the contours and to qualify his 'Heavy Timber' description. It can be seen that, even by 1911, little had been done to attempt to reduce the locality to some agricultural value, even around Seven Mile Creek. The short distance on either side of the present Pacific Highway had been ringbarked as a strip and some was even recommended for grazing, although swampy. However, virtually the whole of Por 48 shows up as steep, timbered and lacking agricultural potential, especially for the 19th Century farmer and grazier.

Perusal of later aerial photography of the study area, and particularly the patterning of vegetation/regrowth, supports the proposition that the study area may have been selectively logged or ringbarked and cleared early in the third quarter of the 20th Century. This area can be seen in the eastern aspect of the study area and extending across the western terrace of Seven Mile Creek and the foot slopes of the steep central and western sectors of the study area (see **Figure 2.9**). It is possible that the area was selectively logged for pit props, or a previous owner attempted to create some useful grazing. Judging by the signs of more recent quarrying in this area, the exposed residue

³¹ *The Maitland Mercury and Hunter River General Advertiser*, Newspaper, 11/11/1846, p.2.

³² *Sydney Morning Herald*, Newspaper, 20/01/1847, p.2.

³³ *The Maitland Mercury and Hunter River General Advertiser*, Newspaper, 02/12/1848, p.2.

³⁴ *Sydney Morning Herald*, Newspaper, 16/08/1849, p.2.

³⁵ *The Maitland Mercury and Hunter River General Advertiser*, Newspaper, 27/10/1849, p.2).

³⁶ *Sydney Morning Herald*, Newspaper, 28/11/1850, p.2.

of conglomerate suggests that this was a futile attempt. The print shows a number of tracks around the lightly timbered southern and eastern periphery of the study area but no clear evidence of any in the timbered slopes.

Certainly the clearing has not survived. In aerial photography 16 years after that of **Figure 2.9**, the exposure of 1974 (**Figure 2.10**) shows substantial regrowth and the winding low tracks of the formerly cleared ground and the appearance of one track winding around the southern rising ground. Ten years later, the cover on the former clearing has reached more than 80% while the cover on the slopes had become intense. The track figuring around the southern rise was still detectable but was heavily overgrown (see **Figure 2.11**).

In more recent aerial photography, the pattern of growth and development has been clearly defined (see **Figure 2.12**). The former clearing has substantially regrown and is now marked only by the residue of a small conglomerate quarry on the eastern edge of the study area. There is also a length of wide vehicle track associated with the quarry that has been paved with broken tile, apparently to support heavy vehicles as a bushfire control measure. A new vehicle track can be seen running east-west through the centre of the study area and a track branches from this in a north-easterly direction to run close to the northern boundary. The former track around the southern rise is now not visible.

In all the circumstances, there is nothing in the historical context that might suggest that:

- i) it is likely that Abercrombie took his grant and subsequent purchase as investments and that he did not ever seek to develop them for agricultural purposes;
- ii) it is also likely that Abercrombie made no social or cultural contribution to the development of the Seaham or Williams River community or locality;
- iii) since the mid-19th Century and to the present time, there is little likelihood that the study area has ever been used for grazing sheep, cattle or horses and there is no potential that any part has been cultivated;
- iv) the only roads or tracks that may have been established on the study area are ephemeral and recent, in the main related to geological investigation
- v) it is known that a small conglomerate quarry was established on the previously cleared area in the eastern sector of the study area. This has been a recent development and is unlikely to represent any cultural values.
- vi) In the light of its isolation and uncompromising topography, there is no potential that any residential occupation or activities have been undertaken on the study area

There is, accordingly, almost no likelihood that any culturally significant material evidence would ever have been established on the study area.

RASC32 -

N:\nla.gov.au\nla.obj-233162164\view
Manuscript plane table survey map,
with some cadastral information, of
Parish of Thornton, New South
Wales. Relief shown by contours,
shading and spot heights.
"In portion hills shaded. No survey
made. Lands Office map accepted."
Surveyed by L. Cpl. E.F. Davies.

PARISH OF THORNTON.

N. S. W.

Scale - 2 inches to One Mile



 approx location of study area

Scale:

No Bar Scale

Client:

Kleinfelder/Eagelton

Source:

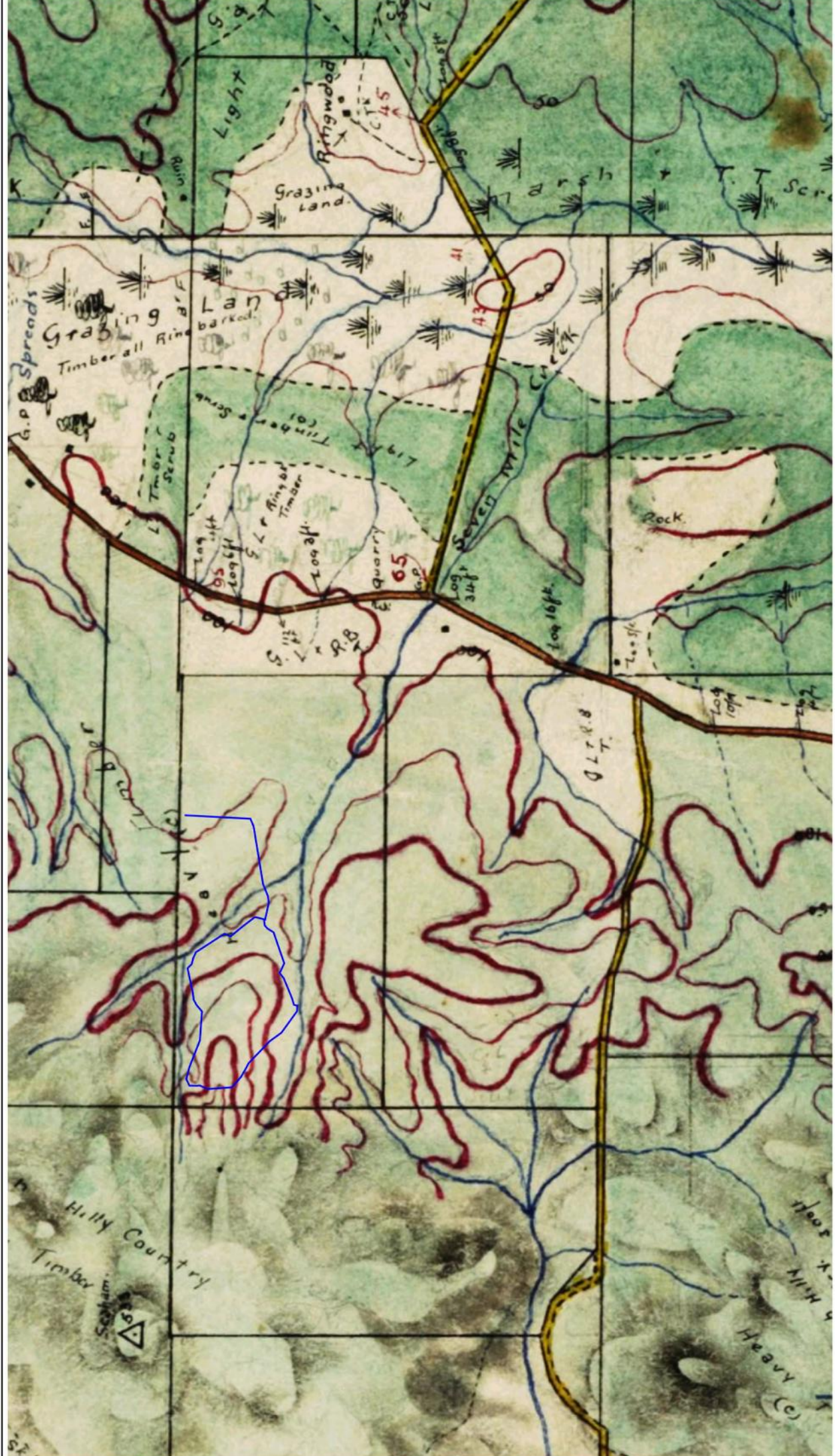
National Library of
Australia, call: RASC 32
Reference: 170401

Title:

Military Survey of Parish
Thornton, 1911

Figure 2.7

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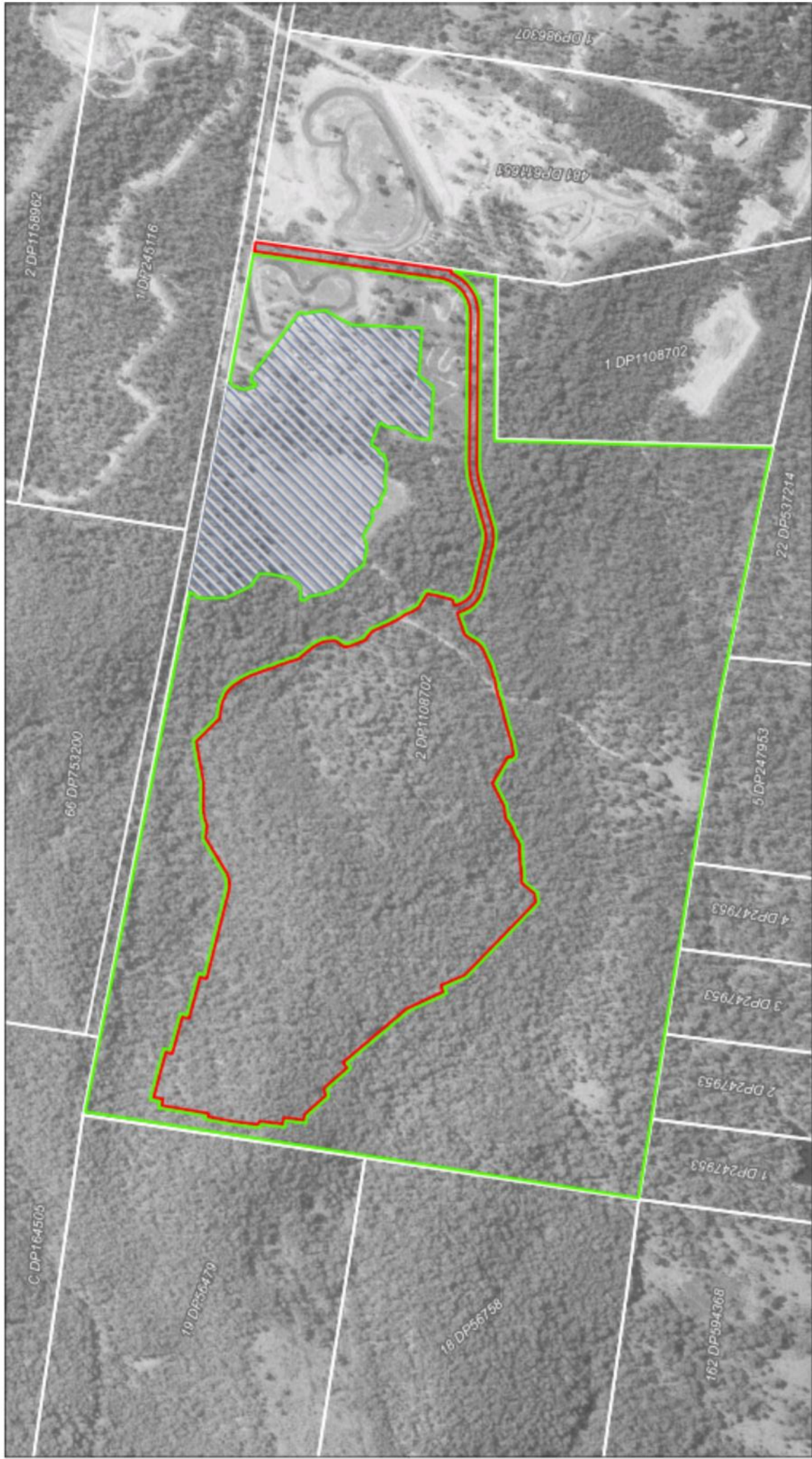


approximate location of study area

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Coordinate System: GDA 94 MGA zone 56

Development Site Impact Type Development Site (60.83 ha) Offset Site (30.06 ha) Port Stephens Gardenland Operations Area (Excluded - 10.05 ha)	 KLEINFELDER <small>Right-Of-Way, Right-Subsistent</small> www.kleinfelder.com	PROJECT REFERENCE: 2019.3494 DATE DRAWN: 03-May-17 15:44 Version: 1 DRAWN BY: <i>msarah</i>	Study Area Image: 13/05/1984	1 Eagleton Rock Syndicate Pty Ltd Biodiversity Offset Strategy Eagleton Quarry 13 Barneigh Ranch Way, Eagleton NSW
		DATA SOURCE: NSW Land and Property Information - 2016 Hunter OMA - 2013 re:map - 2016		



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Coordinate System: GDA 94 MGA zone 5

<p>Offset Site (60.83 ha)</p> <p>Development Site (30.06 ha)</p> <p>Port Stephens Gardenland Operations</p> <p>Area (Excluded - 10.05 ha)</p>	<p>1:7,500</p> <p>Metres</p> <p>0 25 50 100 150 200 250</p>		<p>PROJECT REFERENCE: 201813184</p> <p>DATE DRAWN: 02-Jun-17 14:47, Version 1</p> <p>DRAWN BY: amarah</p> <p>DATA SOURCE: NSW Land and Property Information - 2016 Number CMA - 2013</p> <p>Reamap - 2016</p>	<p>Site Plan</p> <p>Eagleton Rock Syndicate Pty Ltd</p> <p>Biodiversity Offset Strategy</p> <p>Eagleton Quarry</p> <p>13 Barleigh Ranch Way, Eagleton NSW</p>	<p>FIGURE:</p> <p>1</p>
			<p>KLEINFELDER</p> <p>Bright People. Right Solutions.</p> <p>www.kleinfelder.com</p>		



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2.4 *Physical Context*

2.4.1 Methodology

Despite the contra-indications of the historical context, an assessment of physical context was made from observations in the course of a physical archaeological surface survey of the study area. The various components of the study area were readily accessible from Italia Road to and through the precinct presently operated by Pacific Gardenlands. The survey sought to identify and make a preliminary interpretation of any material evidence of a former operation and/or occupation of the study area and particularly to validate the possible survival, location, condition and heritage values of material indicated by the historical review, in particular historical mapping.

In the course of all field investigations, attention was directed to identifying:

- the residual landform of the study area;
- structures and/or the remains of structures or demolition material;
- signs of ground disturbance that might be associated with historical settlement and/or rural industrial activity, such as site levelling for buildings or infrastructure and the like;
- artefacts or the indication of the possible presence of artefacts that might have an association with former occupation, use or application at discrete location(s) in the study area;
- non-building structural modifications on the ground, such as, fencing and yards or their residue;
- features of landscape and vegetation that may have an operational or spatial relationship with known or suspected non-indigenous activity on the study area.

The more detailed study was then planned to obtain an effective overview of the historical archaeological and heritage potential of the study area by on the ground survey along accessible semi-cleared transects through most of the surface area. The projected methodology acknowledged conclusions of the study of the historical context that the study area had not previously been developed residentially.

Any residential development in relation to the Abercrombie grant might have been expected to be located on lower undulating and less inhospitable country:

- in the early settlement period (in the absence of trafficable roads) with access at the shortest possible distance from wharfage on the Williams River, say for example adjacent to ‘Doribank’ or ‘Irrawang’; and
- at a later date at no great distance from the alignment of the present Pacific Highway;

2.4.2 Process and Results of Field Surveys

The surface exposure at the study area was archaeologically surveyed. Although direct visibility of the ground surface was obscured by vegetation varying between 20% and 40%, the conformation of the surface was clearly demonstrated. Visibility of ground features varied from 20m up 40m. In execution of the methodology expressed above:

1. a preliminary overview of the study area on the ground was obtained in the course of a vehicular roaming transect along tracks. **Figure 2.13** provides a view of a typical section of the east-west track through the study area.
2. similarly foreshadowed in the study of the historical context was the likelihood that the study area had not previously been settled residentially, but that if there had been such a development, it was likely to have been at a manageable distance from Williams River access or, later, a trafficable road;
3. with these considerations in mind, more detailed survey of the study area was undertaken as planned above. A typical section of high timbered country is shown in **Figure 2.14**.

The study area has been traversed on foot in a wandering transect along the two major tracks and from them into the timbered country to the extent that it is unlikely that any part of the study area has escaped at least passing inspection. In the result, the following features have been observed and recorded. The locations of the features have been plotted on **Figure 2.12**, above:

- i) the vestigial remains of a rough fence, comprised in three closely in-line posts, with traces of wire attached to the central post. The top strand was barbed and still retained some brightness while the lower was rusted plain. The posts were undoubtedly of some age although probably not more than about 40 years. No other posts or signs of fenceline could be found and the purpose of these three posts could not be determined. Similarly, no material evidence was found associated with the fence or otherwise. The posts are the subject of **Figures 2.15, 2.16 and 2.17**. The latter plate features the third post of the series but also shows the other two posts in middle- and background.
- ii) adjacent to a small residual conglomerate quarry, of recent operation, an area of quarry apron and extending down a modern service track: a 'hard-stand' of crushed and broken ceramic tile. The surface was apparently laid to provide a sure working area for heavy vehicles for the quarry and as a bushfire asset. Detail of the large area of tile seal is provided in **Figure 2.18**.
- iii) as previously mentioned, the remaining scar of a small conglomerate quarry was located in the eastern sector of the study area. This quarry was a recent operation and no material evidence was observed to have been in association with quarry operation or otherwise. A panoramic view of the quarry is provided in **Figure 2.19**.

Detailed survey revealed no evidence or suggestion of:

- any structure, remains of building or demolition material;
- site levelling for buildings or infrastructure and the like;
- artefact(s) related to former occupation, use or application on the study area;
- old enclosures: fencing other than that mentioned above, yards or their residue;
- features of landscape and/or vegetation possibly associated with non-indigenous activity on the study area.

In all the circumstances no physical evidence importing heritage values was identified to indicate that the study area possessed, or might be expected to possess, or that the project might be expected to modify existing, heritage values.



Figure 2.13

View easterly down the east-west track up the spine of the study area. Taken at height, near the junction with the north-easterly branch.

Jonathon Berry
No Scale



Figure 2.14

View of a representative sample of timbered country towards the summit of the study area.

Jonathon Berry
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Figure 2.15

One of the remaining posts of the vestigial fence found close to the northern and western borders of the study area.

Jonathon Berry
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Figure 2.16

The second post of the fence residue. Note the fairly bright barb of the top strand and the rusted plain wire lower.

Jonathon Berry
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Figure 2.17

Detail of the third fence post and capturing the other two posts in the middle- and background.

Jonathon Berry
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Figure 2.18

Showing the manner in which broken ceramic tile, sourced from a local manufacturer, has been used by the present property owner to provide a secure surface for heavy vehicles in the widened track near the small conglomerate quarry..

Paul Rheinberger
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Figure 2.19

Composite panorama of the remains of the fairly recent small conglomerate quarry in the eastern sector of the study area. Note the apron sealed with broken tile in foreground.

Paul Rheinberger
No Scale

Figure 2.18

Showing the manner in which broken ceramic tile, sourced from a local manufacturer, has been used by the present property owner to provide a secure surface for heavy vehicles in the widened track near the small conglomerate quarry..

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2.5 *Summary*

Careful assessment of the archaeological, historical and physical contexts of the study area indicated that there has been no determinable potential for any part of the study area to have been occupied for residence and, although not impossible, that it was unlikely that it had been used for rural purposes. The evidence provides no basis to suggest that the study area presently demonstrates, or has the potential to possess, archaeological or heritage values either on its own account or as a contributor to the heritage values of its immediate context, its locality or region.

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3.0 THE HERITAGE VALUES OF THE STUDY AREA

3.1 Introduction

Fundamental to any consideration of the cultural heritage values of a non-indigenous item is an appreciation of the impact of the *Heritage Act, 1977* (NSW – the Act) which defines environmental heritage to be:

...those places, buildings, works, relics, moveable objects, and precincts, of State or local **heritage significance**.³⁷ [Our emphasis]

Where:

"**State heritage significance**", in relation to a place, building, work, relic, moveable object or precinct, means significance to the State in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.

and

"**local heritage significance**", in relation to a place, building, work, relic, moveable object or precinct, means significance to an area in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.³⁸

and **a relic**, falling for specific protection pursuant to Parts 4.2 and 4.3, and Part 6.9, to be:

... any deposit, artefact, object or a material evidence that:

- a) *relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and*
- b) *is of State or local heritage significance.*³⁹

Essentially, the evaluation of the heritage values of a relic depend upon the assessment of its significance, the level of its condition and integrity and, as a corollary, the potential it may possess to expand the existing level of knowledge. An appreciation of these factors qualifies the proper estimation of the impact that any disturbance, damage or destruction may have on such heritage values.

These aspects are dealt with in this section as follows:

- the lack of significance of the study area and its components is explained and formally assessed in **Section 3.2**;
- the condition and integrity of the study area and its components is evaluated at **Section 3.3**;
- the research themes might have been relevant to the study area and its components are defined at **Section 3.4**;
- the physical impacts that are foreseen to affect the study area and the consequent heritage impacts are determined in the Heritage Impact Statement contained in **Section 3.5**

³⁷ The Act, s4(1).

³⁸ The Act, s4A.

³⁹ The Act, s4(1).

3.2 *Assessment of Significance*

In the context of this report, significance is the measure of the value and importance of elements of the archaeological record to cultural heritage. While the fabric of the archaeological record is the subject of the assessment of heritage significance, the assessment itself is conditioned by the environmental and historical context of the site at the time of the assessment. In this environment, significance can be seen as a variable quality. It follows that the evaluation of heritage significance is not a static quality, but rather is evolutionary as a function of changing community perspectives and cultural values.

The concept of significance derives from:

3.2.1 The Burra Charter

The approach to the assessment of heritage significance affirmed by the Division adopts as a foundation the four values of the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter). These values are broadly accepted Australia-wide, as **historical**, **aesthetic**, **scientific** and **social classifications** of significance. The implications of these classifications are as follows:

3.2.1.1 *Classification Criteria*

The Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter) adopts as the foundation of classification the four value types of **historical**, **aesthetic**, **scientific** and **social** significance. The implications of these classifications are as follows:

- **Historical significance** considers the evolutionary or associative qualities of an item with aesthetics, science and society, identifying significance in the connection between an item and cultural development and change.
- **Aesthetic significance** addresses the scenic and architectural values of an item and/or the creative achievement that it evidences. Thus, an item achieves aesthetic significance if it has visual or sensory appeal and/or landmark qualities and/or creative or technical excellence.
- **Social significance** is perhaps the most overtly evolutionary of all classifications in that it rests upon the contemporary community appreciation of the cultural record. Evaluation within this classification depends upon the social spiritual or cultural relationship of the item with a recognisable community.
- **Scientific significance** involves the evaluation of an item in technical and/or research terms, considering the archaeological, industrial, educational and/or research potential. Within this classification items have significance value in terms of their ability to contribute to the better understanding of cultural history or environment and their ability to communicate, particularly to a broad audience within a community⁴⁰.

3.2.1.2 *Value Criteria*

⁴⁰ Marquis-Kyle, P and M Walker, 1992: 21-23.

As a component of the holistic concept of significance, archaeological significance has been described as a measure by which a site may contribute knowledge, not available from other sources, to current research themes in historical archaeology and related disciplines⁴¹. Archaeology is concerned with a relic and the archaeological record may provide information not available from historical sources. An archaeological study focuses on the identification and interpretation of a relic to explain how and where people lived, what they did and the events that influenced their lives.

Considerations material to the study of the archaeology of a relic include:

- whether a site, or the fabric contained within a site, contributes knowledge or has the potential to do so. If it does, the availability of comparative sites and the extent of the historical record should be considered in assessing the strategies that are appropriate for the management of the site.
- the degree and level at which a relic contributes knowledge in terms of ‘current research themes in historical archaeology and related disciplines’.

In relation to ‘current research themes in historical archaeology and related disciplines’, the assessment of cultural significance is conditioned by considerations of historical, scientific, cultural, social, architectural, aesthetic and natural values:

- **Historical value** lies at the root of many of the other values by providing a temporal context and continuity, thereby providing an integrating medium for the assessment of social, cultural and archaeological significance.
- **Scientific value** depends upon the ability of an item to provide knowledge contributing to research in a particular subject or a range of different subjects.
- **Cultural value** attaches to a relic that embodies or reflects the beliefs, customs and values of a society or a component of a society and/or have the potential to contribute to an understanding of the nature and process of change and its motivation.
- **Social value** derives from the way people work(ed) and live(d) and from an ability to understand the nature, process of change and its motivation. Social significance is closely related to cultural significance, in its concern with the practicalities of socio-cultural identification.
- **Architectural value** depends on considerations of technical design (architectural style, age, layout, interior design and detail), the personal consideration (ie. the work of a particular architect, engineer, designer or builder) and technical achievement (construction material, construction technique, finish).
- **Aesthetic value** addresses the manner in which an item comprises or represents creative achievement, epitomising or challenging accepted concepts or standards.
- **Natural value** attaches to items that either support or manifest existing natural processes and/or systems or provide insights into natural processes and/or systems.

3.2.1.3 *Degree Criteria*

⁴¹ Bickford, A and S Sullivan, 1984: 19-26

In order to provide a ready reference to the **degree of significance or the distinctiveness** of an item in general terms, the item may be described as being either 'Rare' or 'Representative' within its community/cultural/geographical level.

3.2.1.4 *Level Criteria*

The final denominator of significance is the **level of significance** of an item. *Level* is nominally assessable in two classifications, depending upon the breadth of its identifiable cultural, community, historical or geographical context. Thus, within a New South Wales context, a relic may be recognised at the:

- **Local level** identifies the item as being significant within an identifiable local and/or regional cultural and/or community group and/or historical/geographical heritage context;
- **State level** identifies the item as being significant within an identifiable State-wide cultural and/or community group and/or historical/geographical heritage context;
- On a broader front, by derivation, a relic may be recognised at the:
- **National level** identifies the item as being significant within an identifiable national cultural and/or community group and/or historical/geographical heritage context;
- **International level** identifies the item as having implications of significance for an identifiable cultural and/or community group both nationally and abroad and/or a world-wide historical/geographical heritage context.

By the simple application of the principles outlined above, a subjective element was present in the significance assessment regime that opened the potential for skewed assessment. As a counter to this potential, the OEH has adopted a set of standardised assessment criteria.

3.2.2 OEH Standard Criteria

The OEH⁴² defined a series of criteria that will be used by the Heritage Council of NSW as an assessment format within NSW. The seven criteria address:

Criterion (a) the importance of an item in the course or pattern of the cultural or natural history of NSW or a local area [ie: *historical*].

Criterion (b) the existence of a strong or special association between an item and the life or works of a person or group of persons important in NSW or local cultural or natural history [ie: *historical*].

Criterion (c) the importance of an item in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW or a local area [ie: *aesthetic*].

Criterion (d) the existence of a strong or special association between an item and the social, cultural or spiritual essence of a particular community or cultural group within NSW or a local area [ie: *social*].

⁴² NSW Heritage Office, 2001, 9.

Criterion (e) the potential of an item to provide information that will contribute to an understanding of the cultural or natural history of NSW or a local area [ie: *scientific*].

Criterion (f) the quality of an item to possess uncommon, rare or endangered aspects of the cultural or natural history of NSW or a local area [ie: *rare* degree of significance].

Criterion (g) the demonstration by an item of the principal characteristics of a class of cultural or natural place or cultural or natural environment within NSW or a local area. [ie: *representative* degree of significance].

Within the framework of the same criteria, where this is relevant, the individual contribution of separate elements or components of a relic may be evaluated according to a five-stage grading system, where:

Exceptional indicates that is a rare or outstanding element, contributing directly to the assessment of an item's significance at the appropriate level;

High indicates that an element exhibits an advanced degree of original fabric and is a key element in the assessment of an item's significance at the appropriate level;

Moderate indicates that an element has been modified or has degraded, with little individual heritage value, but that makes an interpretive contribution in the assessment an item's significance at the appropriate level;

Little indicates that an element has been modified or has degraded to a degree that detracts from the assessment of an item's significance at the appropriate level;

Intrusive indicates that an element is damaging in the assessment of an item's significance at the appropriate level;

3.2.3. General Statement of the Significance of the Study Area

In this section, the heritage significance of the study area is assessed upon the basis of the range of criteria discussed above. The following general statement of significance is supported by a statement specified against relevant criteria. In general terms, the study area has demonstrated no claim of heritage values on its own account and no basis for any assessment of cultural significance on its own account or contributing to the heritage values of the State, Port Stephens LGA, or the surrounding districts of Seaham and Raymond Terrace.

While it is acknowledged that the study area was not entirely devoid of signs of human intervention apparent age alone, does not automatically import heritage significance. The one nominally older feature, the residual section of fencing, lacked the capacity to provide definitive data about its age, purpose, dimension and detailed structure.

The only other features recorded in the course of search was the residue of a small, earlier conglomerate quarrying operation and the broken-tile paving of an apron for the quarry and down a track, which can be roughly dated to within the last 20 years and which demonstrated no useful information.

3.2.4 Statement of Significance by Criteria

The study area is formally assessed as lacking cultural heritage significance because...

Criterion (a) [Historical]	...the study area has demonstrated no potential for heritage value pursuant to this criterion.
Criterion (b) [Historical]	...the study area has demonstrated no potential for heritage value pursuant to this criterion.
Criterion (c) [Aesthetic]	...the study area has demonstrated no potential for heritage value pursuant to this criterion.
Criterion (d) [Social]	...the study area has demonstrated no potential for heritage value pursuant to this criterion.
Criterion (e) [Scientific]	...the study area has demonstrated no potential for heritage value pursuant to this criterion.
Criterion (f) [Rarity]	...the study area has demonstrated no potential for heritage value pursuant to this criterion.
Criterion (g) [Representativeness]	...the study area has demonstrated no potential for heritage value pursuant to this criterion.

3.2.5 Condition and Integrity

In circumstances where an item has been identified that imports historical cultural heritage values, the issues of condition and integrity arise for consideration. Such issues are matters that would combine with the assessment of significance to found an appropriately validated *Statement of Heritage Impact*. *Condition* considers the physical state of the fabric of the resource and its potential for survival. *Integrity* observes the degree to which the residual a relic is an appropriate representation of the resource in its original form. *Potential Impact* assesses the nature and extent to which the resource will be modified as the result of the projected development.

In the absence of archaeological data or an item importing historical cultural heritage values, the questions of condition and integrity do not arise for consideration.

3.3 *Historical Themes*

The heritage values of individual heritage elements and precincts may derive significance as the result of what they contribute to the cultural essence of, and/or the reflection or consequence cast on them by, their context and environment. Consideration of heritage values in this perspective involves an appreciation of the underlying historical influences that have shaped and continue to shape the context and environment. Historical themes have been developed to allow categorisation of the major forces or processes that have historically been involved in the development of a heritage context or environment and provide a framework within which the heritage significance of an item can be addressed.

In the absence of archaeological data or a relic importing historical cultural heritage values, the question of historical themes does not arise for consideration.

3.4 *Physical and Heritage Impact*

In the quarrying process, physical impact on the study area can be projected to involve the following individual elements:

- removal of vegetation over projected quarry areas;
- opening of the surface and bulk excavation and removal of any overburden and thereafter of product;
- excavation of surface and emplacement of fill to create haul and access roadways and hardstand areas,
- opening of excavations for building footings and floors, trenches for reticulation of water, sewerage and stormwater drainage, electricity, gas and communication services, fencing and paving;
- construction and/or placement of site operational compound(s), temporary/removable structures and services, including mechanical services and fuel supplies;
- the introduction to/across the site, on-site storage and movement on the exposed surface of, the study area by machinery, vehicles and workers in the preparation, quarrying and remediation processes.

3.4.1 Statement of Heritage Impact

This Statement of Heritage Impact forms part of this report and is made in respect of the study area defined in **Section 1** of this report. The statement addresses the study area and its components in terms of the assessment of its/their research potential, its/their significance and condition and integrity, against the implications of the projected physical impact. The Statement of Heritage Impact has been prepared, in common with this report, by Paul Rheinberger, for the Principal

In general terms, the following observations are made concerning the planning and proposed realisation of the development:

Having regard to the assessment of cultural significance and the practical impact of the proposed development, it appears that there will be no noticeable impact upon the heritage values of the study area, its surroundings or the broader environment.

On the basis of all of the above, **and particularly acknowledging that no potential for material evidence has been identified and no heritage values are known to attach to the study area**, the following statements are made:

- **The following aspects of the proposal respect or enhance the heritage significance of the study area for the following reasons:**

Project works will neither respect nor enhance the heritage significance of the study and its local or regional environment.

-
- **The following aspects of the proposal could detrimentally impact on heritage significance.**

Project works will have no detrimental impact on the heritage significance of the study area, its local and regional environment.

- **The following sympathetic solutions have been considered and discounted for the following reasons:**

In the absence of material evidence, and/or heritage values reflected, in the study area, the need to consider alternative sympathetic solutions has not arisen.

- **Attachments:**

This Statement of Heritage Impact relies upon the attachments to the report generally.

4.0 HERITAGE MANAGEMENT

4.1 Heritage Management Issues

Ideally, culturally significant archaeological resources might be conserved *in situ* within the framework of the Burra Charter. Such a course is frequently impossible or impractical and questions are posed by the conflicting claims of cultural heritage on the one hand and progress and development on the other. Relevant to the concurrent questions of site conservation and site management/usage are the following matters:

- **heritage legislation**, the major implications of which are summarised in **Table 4.1**. In particular this summary addresses the implications of the Act and the EPA Act;

Table 4.1 - A Summary of Statutory Provisions (NSW)

The *Heritage Act, 1977*
(NSW – the Act)...

...provides for the protection of historic heritage and provides the process and criteria for listing of heritage deposits and/or relics that are of State significance on the State Heritage Register and those that are of Local significance on the State Heritage Inventory. Archaeological sensitivity and the potential for heritage value may be indicated by historical research and/or site-based archaeological study. Where historical research and/or archaeological study indicates sensitivity, the discovery of relics is highly likely if the ground surface is disturbed. Definitions in ss4 and 4A of the Act that are relevant for present considerations have been stated in **Section 3.1** above.

The Act further provides statutory protection from disturbance/destruction of relics in a range of descriptions (ss.24-34, 35A-55B, 130, 136-7, 139) and for their registration or listing (ss.26(2)(b), 35A,36,37, 44). In particular, the Act provides **nominally** that no disturbance or excavation may proceed that may expose or discover relics except with an excavation permit, and that an excavation permit is required, if a relic is:

- listed on the State Heritage Register, pursuant to s60; and
- not listed on the State Heritage Register, pursuant to s140.

The *Environmental
Planning and
Assessment Act 1979*
(NSW – the EPA Act)...

contains similar protective measures to those contained in the *Heritage Act*. The act also provides for sites to be listed in Local and Regional Environmental Plans, as sites in development control plans or subject to development controls and/or as subject to planning controls or additional conservation provisions (ss.24-72, 76).

<p>Made under the provisions of the EP&A Act, Cl.5.10(2) of Part 5 in the LEP provides that:</p>	<p>Development consent is required for any of the following:</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>[i.] a heritage item,</p> <p>[ii.] an Aboriginal object,</p> <p>[iii.] a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land:</p> <p>[i] on which a heritage item is located or that is within a heritage conservation area, or</p> <p>[ii] on which an Aboriginal object is located or that is within an(f) Aboriginal place of heritage significance,</p>
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Table 4.1 - A Summary of Statutory Provisions (NSW) [cont]

<p>...Cl.5.10(2) of Part 5 in the LEP (cont):</p>	<p>(f) subdividing land:</p> <p>[i] on which a heritage item is located or that is within a heritage conservation area, or on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(g) development within the visual curtilage of a heritage item.</p>
<p>...Cl.5.10(4-5) of Part 5 in the LEP provides that:</p>	<p>(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p> <p>(5) Heritage assessment The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>

- **the Burra Charter:** in the consideration of the needs of heritage management, the heritage values attaching to the resources within the study area and the physical and heritage impacts of the project, decision-making is conditioned by the criteria of the Burra Charter (the Charter). The principles of the Charter are broadly stated in **Article 2:**

Article 2. Conservation and management

- 2.1 Places of cultural significance should be conserved.
- 2.2 The aim of conservation is to retain the cultural significance of a place.
- 2.3 Conservation is an integral part of good management of places of cultural significance.
- 2.4 Places of cultural significance should be safeguarded and not put at risk or left in a vulnerable state.

Nonetheless, the Charter acknowledges that in some circumstances, change will become necessary or unavoidable and addresses this situation at **Article 28**:

Article 28. Disturbance of fabric

28.1 *Disturbance of significant fabric for study, or to obtain evidence, should be minimised. Study of a place by any disturbance of the fabric, including archaeological excavation, should only be undertaken to provide data essential for decisions on the conservation of the place, or to obtain important evidence about to be lost or made inaccessible.*

28.2 *Investigation of a place which requires disturbance of the fabric, apart from that necessary to make decisions, may be appropriate provided that it is consistent with the policy for the place. Such investigation should be based on important research questions which have potential to substantially add to knowledge, which cannot be answered in other ways and which minimises disturbance of significant fabric.*

While the Charter has holistically conditioned the preparation of this report and in particular the **Recommendations** that follows at **Section 4.5**, the following **Articles** (viz: **25**, **27** and **30 to 33**) are particularly in point and have been used at the yardstick against which the effectiveness and reliability of management measures should be assessed:

Article 25. Interpretation

The cultural significance of many places is not readily apparent, and should be explained by interpretation. Interpretation should enhance understanding and enjoyment, and be culturally appropriate

Article 27. Managing change

27.1 *The impact of proposed changes on the cultural significance of a place should be analysed with reference to the statement of significance and the policy for managing the place. It may be necessary to modify proposed changes following analysis to better retain cultural significance.*

27.2 *Existing fabric, use, associations and meanings should be adequately recorded before any changes are made to the place.*

Article 30. Direction, supervision and implementation

Competent direction and supervision should be maintained at all stages, and any changes should be implemented by people with appropriate knowledge and skills.

Article 31. Documenting evidence and decisions

A log of new evidence and additional decisions should be kept.

Article 32. Records

32.1 *The records associated with the conservation of a place should be placed in a permanent archive and made publicly available, subject to requirements of security and privacy, and where this is culturally appropriate.*

32.2 *Records about the history of a place should be protected and made publicly available, subject to requirements of security and privacy, and where this is culturally appropriate.*

Article 33. Removed fabric

Significant fabric which has been removed from a place including contents, fixtures and objects, should be catalogued, and protected in accordance with its cultural significance. Where possible and culturally appropriate, removed significant fabric including contents, fixtures and objects, should be kept at the place.

4.2 Options for Site Management

In the unlikely event that industrial intervention at a future time were to expose or potentially modify or destroy heritage a relic, the options for conservation management theoretically available to address the issues raised in the preceding sub-section might be expected to range between taking no conservation management action and preserving all elements of archaeological resource *in situ*:

Option 1: Taking no heritage management action would (theoretically) allow development to proceed unobstructed. By definition, such action would result in the irretrievable modification or

destruction of any **unlikely** and unforeseen archaeological/heritage resource. In that the archaeological resource is non-renewable, such an option might result in the loss not only of the archaeological resource but also of the opportunity of recording and interpreting the resource and thereby preserving:

- for future study, an opportunity to incorporate data about the resource into further studies;
- the present and future, a tangible account of the heritage values of the study area.

Given the anticipated impact of the project this option would be considered inappropriate, because in the unlikely event that residual a relic were to be exposed, no strategic criteria would be in place for the appropriate management of the resource in the light of the requirements of the Act.

Option 2: *Preserving all elements of any hitherto unforeseen heritage resource* would, on the other hand, require notification of the exposure to the OEH but might otherwise:

- require abandonment or substantial modification of the project to protect the resource; and
- prevent any action that might cause the modification or destruction of the resource;

and thereby secure any archaeology/heritage at the expense of the project, in an environment where the existence and implications of any such resource would not be properly investigated, evaluated or recorded.

In foreseeable future circumstances, this option is considered inappropriate because, although the study area has now been assessed as possessing no identifiable heritage values and lacking the potential to demonstrate the same, any presently unforeseeable heritage relic should be able to be appropriately managed without defeating the project.

Option 3: *Apart from scrupulous compliance with the requirements of the Act, alternative courses lie in:*

1. **varying (where necessary) projected or future project operations** to minimise impact on the archaeological resource, and/or
2. **detailed archaeological investigation** with or without excavation, of any part of the resource that has the potential to be disturbed, damaged or destroyed by development, and/or
3. **archaeological monitoring** concurrent with *project operations*, and/or
4. **archival recording**, by plane survey, text, plan and elevation drawings, and photography, or
5. **any appropriate combination of the above.**

The result of such alternative courses would be that either any presently unforeseen elements of archaeological resource would be conserved or that those to be modified or destroyed would be managed in accordance with the **Recommendations** below and any nett loss in heritage values would be minimised.

In the present circumstances, the fifth alternative of this option would be considered the appropriate management action, involving the on-call combination of its second, third and fourth components, because the process would:

- **insure compliance with the requirements of the Act and the LEP from time to time;**
- **in the unlikely event that there is a call for this action, allow discrete archaeological surface and sub-surface study of archaeological potential that would otherwise not receive attention before deteriorating to an incommunicative stage. Such studies would have the capacity to extract from the various resources such heritage data as might remain accessible;**
- **maximise the archaeological value of industrial intervention;**
- **have the potential to provide a body of reportable data contributing to an understanding and interpretation of the study area that would otherwise be unavailable.**

4.3 *Research Questions*

In the unlikely event that investigation of the archaeology of the study area becomes necessary in the course of project operations, attention should be directed to obtaining responses to the following research questions:

- [i.] What information can the archaeological data/a relic provide about:
 - a) the technology employed at various stages in any settlement, evolution, function and operation of the study area?
 - b) the social component of the operation of the landholding in terms of people living and at work, and people interacting with the land and natural forces?
- [ii.] Do any structural footprints and/or details of archaeological data/a relic individually and collectively reveal specific details that complement or distinguish archival records and the historical context?
- [iii.] What can any archaeological data/a relic reveal of the work practices and techniques of people engaged in working in the study area?
- [iv.] Does archaeological data/a relic reflect a changing and/or evolving use of the study area and if so, how?
- [v.] Does evidence of people in the study area landscape differ from evidence of people in other occupations in the broader locality?
- [vi.] Can all, or any, different stages in the use of the study area and of individual precincts be determined from the archaeological data/a relic?

4.4 *Recommendations*

The following criteria for the management of the heritage values and/or further investigation of the study area have been made on the basis of:

- the requirements of the Act;

- the provisions of the LEP;
- the synthesis of the archaeological, historical and physical contexts of the study area;
- consideration of the study area and its components;
- the assessment that the study area presently demonstrates no claim to heritage significance;
- appreciation of the projected physical impact of the proposed development and the potential thereby presented for impact on heritage values (if any);
- acknowledgement of the issues and options for management of hitherto unforeseen heritage resource(s);
- the implications of relevant Articles of the Charter;

It is recommended that:

1. In general, in connection with the development, the attention of the developer and all contractors, sub-contractors and employees is directed to the provisions of the *Heritage Act 1977 (NSW)* and in particular to the definition of relic under that Act, and :
 - i. the provisions of sections 24-34, 35A-59, 130, 136-7 139 and 146 of that Act;
 - ii. the requirement for, and the conditions that may attach to, any grant of an Excavation Permit under s60 of the Act in respect of a site that is registered on the State Heritage Register; and/or s140 of the Act in respect of a site that is not so registered or to any exemption or exception allowed by the Division;
 - iii. the basic requirements that if:
 - a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation;
 - b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

the developer must notify the Division or its delegate and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the Division have been satisfied.
2. Having regard to the implications of **Recommendation 1** and the present assessment of the significance and heritage potential of the study area, in the event of future industrial excavation within the study area precinct, no application is presently required for an Excavation Permit, exception or exemption pursuant to the Act.
3. In the planning of the project, the Principal should:
 - i. instruct a suitably qualified historical archaeologist to remain on call for the duration of any phase of work involving disturbance of the ambient surface of the study area;

- ii. provide for the on-call archaeologist to be called to site in the unlikely event that a relic becomes exposed, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation, or any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation (the discrete study area);
 - iii. provide time and resources for the completion of any investigation, reporting to OEH, heritage study and recording that may become necessary as recommended below.
4. In the unlikely event that a relic is exposed in the course of any future project works in the study area precinct, any surface and/or sub-surface studies should proceed in manner following:
- i. The requirements of the Act should be satisfied and the requirements notified by the Division complied with;
 - ii. An archival record of the discrete study area should be created by an appropriately qualified historical archaeologist in the course of a detailed archaeological study, by the following steps:
 - a) creating a text record using a suite of field recording materials and analysis notes and material, and by drafting, in standard formats and field book(s);
 - b) undertaking a plane survey and preparation of developed measured plans and elevations; and
 - c) photographic recording by monochrome print, colour print and transparency and/or digital imaging.

Field notes and records should be in a form appropriate to be integrated into subsequent reporting. The graphics of the archival record should be orientated by reference to any extant photography, plans and diagrams of the former holdings, and should otherwise comply with the criteria established for archival recording by the OEH.

- iii. the immediate sub-surface of structural footprints and the surrounding ground should be sampled to test the likelihood and spread of artefacts. The results of sampling will determine the need for, manner and style, and degree of further archaeological investigation;
- iv. if in the judgment of the archaeologist such a course is appropriate, primary excavation may proceed by machine subject to direction, supervision and monitoring by the archaeologist, archival recording of any relic that may be exposed and subject to the archaeologist's overriding authority to suspend machine excavation as required to allow detailed manual investigation and archival recording. The machine used for such an excavation should not exceed five tonnes and all excavation ideally should proceed using a mud bucket of not greater than 500mm width;
- v. where this is appropriate, the archaeologist should cause work to cease or be suspended in a specific area in order to allow detailed manual investigation. The expression 'detailed manual investigation' shall be taken to mean that the archaeologist will impose spatial and stratigraphic control and will employ small hand tools such as trowels, spade scrape, small tools, brushes and the like and/or the sieving of spoil mechanically or manually through a 5.0mm screen;

- vi. in the process of any sub-surface study, the archaeologist should:
 - a) compile an archival record of such activity and the progressive stages of obscurity, movement, modification, damage and/or destruction, in the terms set out for archival recording in **Recommendation 4 ii**; and
 - b) salvage and secure such elements and/or components and/or samples of the historical function of the study area and its maintenance and operation and otherwise such artefacts as shall be considered diagnostic and relevant and capable of assisting in the interpretation of the plants and their heritage values.
5. Any artefacts salvaged or recovered in terms of **Recommendation 4** should be conserved, identified and, to the extent possible, analysed for implication, significance, provenance and post-depositional impacts, and:
 - i. recorded in the field, individually by provenance, nature, type, fabric/material, shape, dimension and mass on an artefact recovery index field sheet and, in terms of found context, in a context field record sheet;
 - ii. in post-fieldwork management: cleaned, catalogued according to typology, features and provenance, and interpreted in the context of the total excavation results.

On completion of post-fieldwork management, artefacts should be appropriately conserved and packed. An inventory should be taken of packing and all packed material should be deposited with the archive of plans and photographic records for permanent archiving by the Principal with accessibility to be provided to *bona fide* researchers.

7. All elements of investigation, monitoring, archival recording and artefact management should be documented in a detailed report to publication standard, illustrated where relevant by photography, plans, elevations and drawings and complying with such conditions as may be contained in any Excavation Permit, exception or exemption.
8. Copies of the reports and all photography, plans, elevations and drawings should be provided to the Principal, and to the OEH, the NSW State Library and the local history section of the Port Stephens/Raymond Terrace Library.
9. Compliance with the above recommendations, based around the criteria:
 - i. **of the LEP**, is assessed as satisfying those requirements by addressing the need to provide an appropriate assessment and report of the heritage potential of the study area and to establish a responsive management regime in the unlikely event that heritage values are either foreshadowed or, being unexpected exposed or discovered, in the course of the project.
 - ii. **of the Charter**, is assessed to adequately and reliably satisfy the requirements of **Articles 25, 27, 30, 31, 32 and 33** of the Charter by providing for:
 - a) interpretation of the heritage resource;
 - b) analysis of any relic against the assessment of significance criteria and management policy;
 - c) recording of fabric and its use, association and meaning;
 - d) competent direction and supervision;

-
- e) logging of new evidence and additional decisions;
 - f) permanent archiving of records and the history of the heritage resources;
 - g) cataloguing of fabric and location of salvaged fabric on site at the study area.
10. Otherwise than as above, on the grounds of the historical archaeology of the study area, there appears to be no reason for further constraint or modification upon future planning.

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Appendix 1

Port Stephens LEP: Schedule 5 Abstract of Relevant Heritage Listings

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Port Stephens Local Environmental Plan 2013

Current version for 5 May 2017 to date (accessed 29 May 2017 at 11:59)

Schedule 5

Schedule 5 Environmental Heritage

(Clause 5.10)

Part 1 Heritage items

Suburb	Item name	Address	Property description	Significance	Item no
...					
Anna Bay	Birubi Cemetery	Point 31B and 33A Ocean Avenue	DP 753204; Lot 7035, DP 1057295	Local	I2
Balickera	"Balikera House"	303 Italia Road	Lot 530, DP 1128672	Local	I3
Duns Creek	Duninald Group—"Old Duninald" and "Duninald"...	House 1525 Paterson Road and	Part Lot 501, DP 1063596	Local	I4
East Seaham	Road alignment	East Seaham Road and road reserve		Local	I5
East Seaham	Seaham Circle Memorial	Knitting 1214 Newline Road	Lot 2, DP 214077	Local	I6
Fingal Bay	Point Lighthouse tower and ...	Stephens 1E Marine Drive Group—lighthouse station,	Lot 177, DP 753204	Local	I7
...					
Raymond Terrace	St Brigid's Catholic Church Group—St Brigid's Church	69 William Street	Lot 12, Section 15, DP 758871	Local	I81
Seaham	Seaham Cemetery	10 Grape Street	Lot 1, Section 36, DP 758899	Local	I82
Seaham	"Tom McLennan's Cottage"	4 Middle Crescent	Lot 1, Section 31, DP 758899	Local	I83
Seaham	"Eskdale House"	792 Seaham Road	Lot 100, DP 1064980	Local	I84
Seaham	"Brandon", including house, stables and landscape setting	1106 Seaham Road	Lot 149, DP 1003827	Local	I85

Seaham	School of Arts, 10 Warren Street including memorial pillars and photographic collection of WWI servicemen, timber war memorial honour board, Friendly Society dispensation and Seaham ferry bell	Lot 8, DP 758899	Local	I86
Seaham	Seaham Quarry, 26 including interpretive sign originally installed by Professor Edgeworth David	and 26A Lot 10, DP 258195; Warren Street Lot 95, DP 42639	State	I87
Seaham	St Andrew's Church	47-53 Warren Street	Lots 4-7, Section 31, DP 758899	Local I88
Shoal Bay	Fort Tomaree—remains of WWII fortifications...	2 Shoal Bay Road	Lot 454, DP 705463	State I89

...

Part 3

Archaeological sites

Suburb	Item Name	Address	Property Description	Significance	Item no
Eagleton	Eagleton Shipyard site	673 Newline Road	Lot 2, DP 826917	Local	A1
East Seaham	"Burrowel" (homestead)	110 East Seaham Road	Lot 2, DP 194920	Local	A2
Raymond Terrace	Irrawang Pottery site	70 Rees Road	James Lot 113, DP 733181	Local	A4



Appendix 2

NSW State Heritage Database Abstract of Relevant Heritage Datasheets

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Balikera House

Item details

Name of item:	Balikera House
Type of item:	Built
Group/Collection:	Residential buildings (private)
Category:	House
Location:	Lat: 374028.47 Long: 1384129.10
Primary address:	303 Italia Road, Balickera, NSW 2324
Parish:	Thornton
County:	Gloucester
Local govt. area:	Port Stephens

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
303 Italia Road	Balickera	Port Stephens	Thornton	Gloucester	Primary Address

Statement of significance:

Farmhouse built using convict labour circa 1830.

Date significance updated: 16 Apr 04

Note: There are incomplete details for a number of items listed in NSW. The Heritage Division intends to develop or upgrade statements of significance and other information for these items as resources become available.

Description

**Physical condition and/or
Archaeological potential:** Good

Date condition updated: 16 Apr 04

Current use: Home

Former use: Farm House

History

Historical notes: In 1828, Lt William Caswell received a grant of 1920 acres in three sections at East Seaham that he named Balikera. This land was without river frontage. He also received 50 acres for a homestead site at Port Stephens, 14 miles from Balikera. He also received almost 600 acres at Salt Ash, mid-way between Port Stephens and Balikera. Caswell's family moved to Port Stephens to live, at first in a small cottage and then at Tanilba House (1837). The family lived here until the severely depressed times of the early 1840's. However during the previous 15 years, Caswell and his convict workforce made a success of mixed farming. Caswell had a farmhouse built at Balikera and the properties were managed together. In 1844 economic necessity led to the family moving to Balikera. This was due to the depressed times, prolonged drought and the phasing out of convict farm workers. William Caswell took a significant role in the Raymond Terrace community between 1844 and 1859. William Caswell returned to England for a visit in 1859 after 15 years at Balikera and a previous 15 years at Tanilba. A sale disposed of all their furniture and effects and Balikera with garden and vineyard was advertised to let. Much of the cultivated land was already let in small farm lots to tenant farmers. William died during a sea voyage and Susan did not return to Australia. Balikera was let to tenant until 1897 when it was sold to Frederick Reid. He was the son of Alexander Reid, a settler/farmer of Washpool who came to the Stroud area as a result of the AA Company's land sale and settlement scheme of the late 1840's. Frederick Reid had a large pastoral property in the Gloucester district and used the Balikera property to fatten cattle prior to sale. He lived here. Frederick Reid died in 1926. Today, his grandson and family occupy Balikera. In recent years Balikera property has been extensively modified by Hunter Water Board activity.

Historic themes

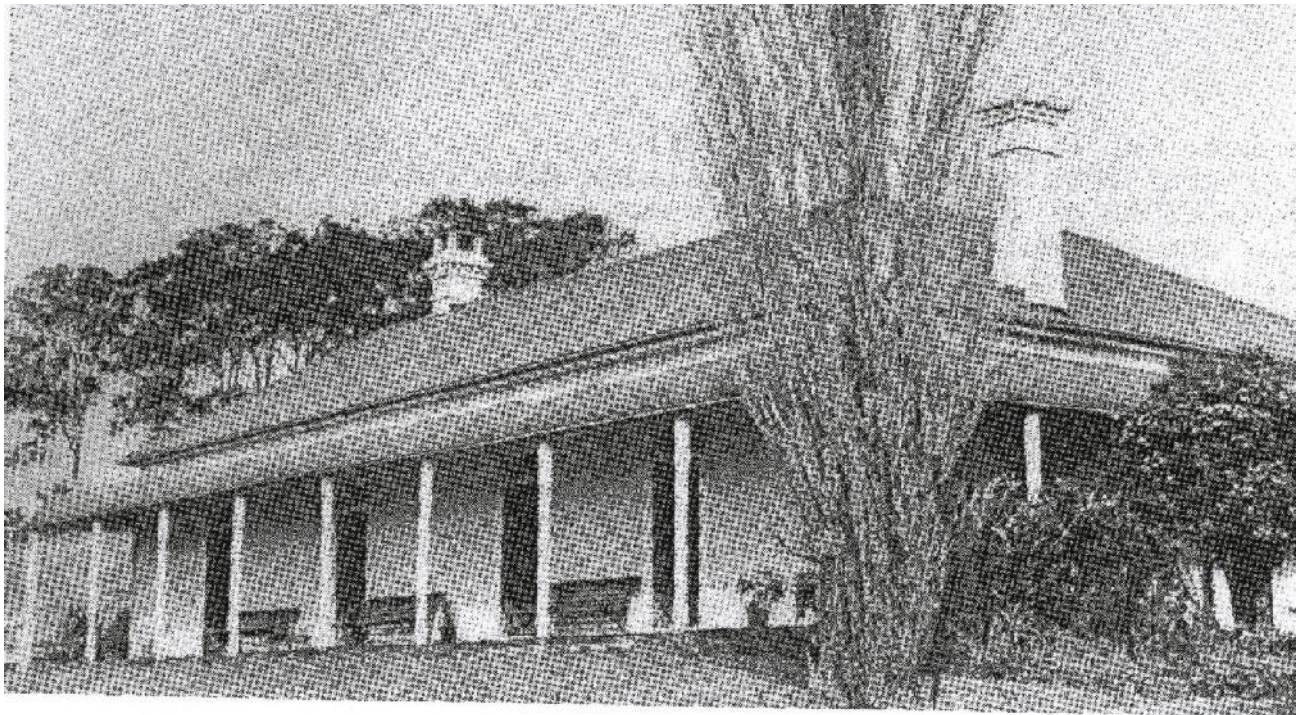
Australian theme (abbrev)	New South Wales theme	Local theme
4. Settlement-Building settlements, towns and cities	Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities.	(none)-

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan		3	23 Dec 13	755	

References, internet links & images

Type	Author	Year	Title	Internet Links
Written	Cynthia Hunter	1982	'Balikera and Reidsdale' Raymond Terrace and District Historical Society Bulletin Vol 5 No 2 March 1982	
Written	Norah Paddle	1992	'Tanilba House'	



Brandon including house, stables and landscape setting

Item details

Name of item: Brandon including house, stables and landscape setting

Type of item: Complex / Group

Group/Collection: Farming and Grazing

Category: Homestead Complex

Location: Lat: 368470.96m Long: 1383007.71m

Primary address: 1106 Seaham Road, Seaham, NSW 2324

Parish: Seaham

County: Durham

Local govt. area: Port Stephens

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
1106 Seaham Road	Seaham	Port Stephens	Seaham	Durham	Primary Address

Statement of significance:

A large Victorian two storey home with slate roof overlooking the Williams River built in 1882 for William Fisher and his family. The outbuildings are notable and some may predate this new house which was built on the site of a previous cottage residence. Brandon was the principal estate south of the Seaham village granted to Alexander Warren who came to NSW in 1824. The house was built by Pender of Maitland.

Date significance updated: 18 Aug 05

Note: There are incomplete details for a number of items listed in NSW. The Heritage Division intends to develop or upgrade statements of significance and other information for these items as resources become available.

Description

Designer/Maker: J W Pender

Builder/Maker: James Pritchard - Main Building / Messrs Taylor and Son - Stables

Physical description: The main house is built of bricks made on the estate. It is built on a firm substantial foundation of concrete, set in rock. The brickwork has been cemented rendered. The stables are constructed of brick on a concrete foundation. The wide skirting boards, architraves, fluted columns and arch separating the main rooms are of local cedar.

Physical condition and/or Archaeological potential: Brandon is in excellent repair having been in possession of the Fisher family since construction. Its iron lace verandah is still complete and is still attractive and well preserved.

Date condition updated: 28 Jul 05

Further information: 1106 Seaham Road, seaham

Current use: Private Home

Former use: Private Home

History

Historical notes: Brandon Estate was the principal estate south of the Seaham village. The land was granted in 1824 to Glasgow born merchant Alexander Warren. He came to NSW as an agent for the Australian Company of Leith, a Joint Stock Company that traded between Scotland and the colony in the 1820's. Warren's grant was 2000 acres without a river frontage. He also received a 560 acre grant nearer Nelson's Plains that was on the river but not continuous with his major grant. In time he was able to improve his situation by purchasing a small piece of land with a river frontage from the government reserve and also a neighbouring estate of 840 acres first granted to Duncan Sinclair who became insolvent soon after receiving his land. In the early 1830's Warren sold his land to John Wighton who briefly held all Warren's land as well as Nelsons Plains. Warren held a mortgage over his former land and reclaimed it following Wighton's early death in 1836 and lived there for the rest of his life. He never married. Warren was appointed to the NSW Legislative Council in 1856. He was a condidate for Treasurer but declined the appointment, preferring a quiet lifestyle on his estate. Brandon had a notable early vineyard. Warren was a district magistrate, office bearer of the Farmers Club and member of the Hunter Valley Vineyard Association. Following his death in 1876, Brandon passed to a 'relative' William Fisher. This relationship is obscure but William Fisher senior came to NSW with Warren and was also associated with the Australian Company of Leith. He received in 1825 a land grant of 1500 acres on the river near Glen Oak, now call Glen Livett that he found unsuitable for sheep raising so he soon sold to James Hawthorne. He then returned to England. In 1862, Fisher junior came to live with Warren at Brandon and in 1874 married Dorothea Jane, a daughter of George Mosman of Burrowl, the principal estate on the eastern side of the river opposite Seaham. The present Brandon House, a large Victorian two storey house with slate roof was built in 1882 for William Fisher and his family. The outbuildings are notable and may predate this new house. A northern section of Brandon named Logue Park was separated from the main estate (C1900) for the occupancy of one of the next generation. Logue Park adjoins the Seaham Nature Reserve.

Historic themes

Australian theme (abbrev)	theme	New South Wales theme	Local theme
4.	Settlement-Building settlements, towns and cities	Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities.	(none)-

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan		85	23 Dec 13	755	

Burrowel Homestead - East Seaham

Item details

Name of item:	Burrowel Homestead - East Seaham
Type of item:	Archaeological-Terrestrial
Group/Collection:	Farming and Grazing
Category:	Homestead Complex
Location:	Lat: 369027.64 Long: 1384200
Primary address:	110 (A2) East Seaham Road, East Seaham, NSW 2324
Parish:	Thornton
County:	Gloucester
Local govt. area:	Port Stephens

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
110 (A2) East Seaham Road	East Seaham	Port Stephens	Thornton	Gloucester	Primary Address

History

Historical notes: George Mosman's Burrowl (c 1830) is one of few properties that remained with his descendants for several generations. Another house has replaced the original one, on the same site and archaeological evidence of a large stone barn and other outbuildings are probably still discernible. Mosman's estate included the site of the Williams River crossing and punt at Seaham, and the punt keepers house and garden. Mosman's daughter married William Fisher junior who inherited Brandon on the opposite side of the river.

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan		A2	23 Dec 13	755	

Eagleton Shipyard Site – Eagleton

Item details

Name of item:	Eagleton Shipyard Site - Eagleton
Type of item:	Archaeological-Terrestrial
Group/Collection:	Maritime Industry
Category:	Boat Building
Location:	Lat: 370513.72 Long: 1379792.46
Primary address:	673 (A1) Newline Road, Eagleton, NSW 2324
Parish:	Thornton
County:	Gloucester
Local govt. area:	Port Stephens

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
673 (A1) Newline Road	Eagleton	Port Stephens	Thornton	Gloucester	Primary Address

History

Historical notes: William McPherson senior and his sons, a family of shipwrights who had worked a Mort's Dock, Sydney came to Raymond Terrace to work at John Korff's shipyard at Miller's Forest in the 1840's and stayed, subsequently establishing their own yard at Eagleton. William McPherson worked with Edward King building two coastal trading vessels for him. John Roderick, a shipwright also from Mort's Dockyard came to assist and married King's daughter. King, Roderick and McPherson were associated with the building of the renowned sailing ship 'Australia Sovereign' launched near Wallalong in 1880. The Eagleton estate was advertised for sale in 1850, part of the estate of the late Colonel Snodgrass. McPherson bought about half, with river frontage and plenty of timber. McPherson began building about 1850 in the vicinity of Raymond Terrace. At Eagleton registered ships built by McPherson and later Rodrick and McPherson junior, between 1850 and 1883 numbered about 33, including three built near Pipe Clay Creek where timber was plentiful. From 1883 to 1907, ship continued to be built by McPherson's sons, sons-in-law or extended family. A number of these ships were the regular trading vessels on the Williams River. Some members of the family were associated with the river shipping companies of 19th and early 20th centuries. A public school at Eagleton for the children of family and employees of the ship yard opened in 1965 [*sic: 1865?*]. Tenders for a new school building were called in 1895 and for a teachers residence in 1896. A Roll of Honour was unveiled at the school in 1917, indicative of the area's contribution of soldiers in WW1. Following the cessation of shipbuilding, dairying came to the fore in the area and the population remained sufficient for a school until 1948. A boat was provided to ferry children from the Eskdale estate to and from the school. The Eagleton ferry was in operation in 1925, but the date of its cessation is unknown.

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan		A1	23 Dec 13	755	