

Aboriginal Cultural Heritage Assessment

117 Hollinsworth Road, Marsden Park

Prepared for

Logos Property Group

September 2017

ASSOCIATES
Archaeology and Heritage

Aboriginal Cultural Heritage Management

Aboriginal Cultural Heritage Assessment

117 Hollinsworth Road, Marsden Park

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EXECUTIVE SUMMARY

Logos Property Group (trading as 'Perpetual Corporate Trust Limited as the Trustee for the LALV Marsden Park Trust') intend to rezone and develop land within the Marsden Park Industrial Precinct at 117 Hollinsworth Road, Marsden Park (Lots 23 and 24 DP262886). The study area is located in a previously semi-rural area that has been fully cleared in the past and retains only scattered regrowth trees over minimally managed pasture. The proposed work will involve subdividing the current property into four lots with the balance of land given over to access roads and stormwater management infrastructure. The type of industrial development proposed will shape the land into level construction sites for very large warehouse structures, serviced by an evenly graded access route. The consequence is that the entire area will therefore be subject to earthworks with little potential to retain original soil profiles.

The report includes background information on the Aboriginal cultural context and history of the area as well environmental information such as geology, soils, land use history and landscape characteristics. The archaeological context (summarised in this document and presented in full in the appended Archaeological Report) is presented in terms of the regional context of previous research and the distribution of site listings as well as aspects of archaeological theory and site classification that are relevant to the study.

While the approach of the archaeological investigation allowed for test excavation in the methodology distributed to RAPS, it was found that a reliable artefact distribution model was entirely possible based on detailed exposure-based survey alone. This is consistent with the Code insofar as it states that "The first priority in test excavations, and recording Aboriginal objects during test excavations, must always be to avoid or minimise, as far practicable, the risk of harm to the objects under investigation. This means due care must be taken when excavating and collecting objects, and that unnecessary excavations do not comply with this Code" (DECCW, 2010b, p. 24).

Exposure-based survey is an investigative methodology that has been developed and refined by the author over the last eight years. Given sufficient areas of suitable soil exposure, it has been found to more reliably construct an artefact distribution model than anything but very extensive archaeological test excavation. It relies on seeking out all areas of exposure, measuring their extent and undertaking intense (full coverage) search for flaked stone artefacts. With finds thus expressible in terms of density in precisely mapped sample units, the data are then used exactly as test excavation data are for the purposes of artefact distribution modelling.

The model is based on a division of the study area into six Landscape Zones based on proximity to water, hill and ridge top landscape features and slope which are then ascribed different relative densities of artefacts. Analysis is presented in terms of results for the study area alone as well within the context of a larger area incorporating two recent investigations using the same methods on adjoining land.

253 discrete areas of exposure totalling 2638m² were measured and searched for artefacts, of which 31 were recorded. The reliability of the artefact distribution model is aided (and verified) by the integration of the additional archaeological investigation data from adjoining land comprising an

additional 132 exposures measuring a combined 2527m². Excavation data on that adjoining land comprising 24.75m² (recovering 17 artefacts) is also used to verify the reliability of the model.

The results indicate that most of the study area has nil-low artefact density defined in the report as 'Sparse Lithic Sites'. However, there is also a definable area of moderate density archaeological potential associated with the single discrete hill top in the study area described as a 'Dispersed Lithic Site'. The areas of Sparse Lithic Sites are considered to have low archaeological significance, while the 'Dispersed Lithic Site' is of moderate significance.

Feedback was sought in response to a draft iteration of this report. The major contribution, provided by DCAC included the statements that:

"This area is significant to the Darug people due to the evidence of continued occupation, within close proximity to this project site there is a complex of significant sites".

Other comments related to ongoing frustrations with the consultation process in western Sydney but otherwise noted that "We support the recommendations set out in this report".

The two key recommendations made are that:

1. An AHIP be sought to permit harm to Aboriginal objects in completing the proposed subdivision and industrial development of the land.
2. As a mitigation for the impact, the AHIP should include a condition of salvage excavation within the hill and ridge top area.

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1 INTRODUCTION

1.1 PROJECT BACKGROUND

Logos Property Group (trading as 'Perpetual Corporate Trust Limited as the Trustee for the LALV Marsden Park Trust') intend to rezone and develop land at 117 Hollinsworth Road, Marsden Park 2765 (Lots 23 and 24 DP262886, County of Cumberland, Parish of Rooty Hill, Blacktown Local Government Area, Deerubbin Local Aboriginal Land Council area) (Figure 1). The land is within the Marsden Park Industrial Precinct.

On the basis of potential impact to Aboriginal cultural heritage, Associates Archaeology & Heritage Pty Ltd (AA&H) has been engaged to undertake the appropriate assessment to ensure compliance with the *National Parks and Wildlife Act 1974*. This report is a formal Aboriginal Cultural Heritage Assessment (ACHA) and Archaeological Report prepared to support an application for an Aboriginal Heritage Impact Permit (AHIP).

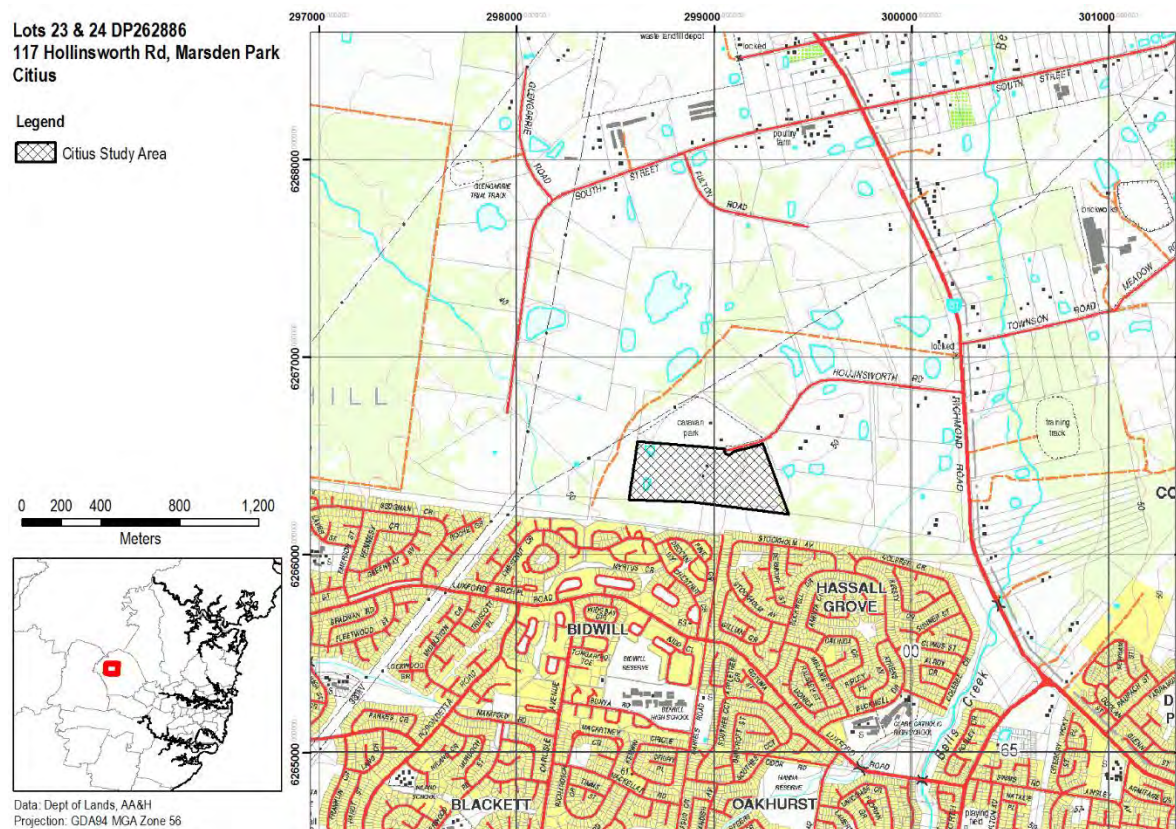


Figure 1: Location

1.2 REPORT STRUCTURE

Application for an AHIP requires that an ACHA is prepared as a separate document from an appended Archaeological Report. The contents and format of an ACHA are prescribed by the *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* (OEH, 2011)

whereas the Archaeological Report must follow the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010b). Because these two guides require much of the same content, the result is that the ACHA is inevitably a document with an appendix (Archaeological Report) that duplicates much of its content. In general however, the ACHA focuses more on aspects of community consultation, the evaluation of cultural significance and associated management measures, whereas the Archaeological Report deals more with the outcomes of archaeological investigation.

1.3 CONTRIBUTORS AND ACKNOWLEDGEMENTS

This report has been produced by Associates Archaeology & Heritage and written by Oliver Brown. Oliver holds the appropriate qualifications for undertaking the investigation as required by the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW, 2010b). Fieldwork was undertaken with Steve Randall of the Deerubbin Local Aboriginal Land Council.

Table 1: Proponent and consultant contact details

	Heritage Consultant	Proponent
Company	Associates Archaeology & Heritage	Logos Property Group (trading as 'Perpetual Corporate Trust Limited as the Trustee for the LALV Marsden Park Trust')
Contact person	Oliver Brown	James Greener
Email	oliver@archassociates.com.au	jamesgreener@logosproperty.com
Address	29 Hannan Street, Maroubra, NSW 2035	L12, 123 Pitt Street, Sydney NSW 2000
Phone	0427 414 226	02 8197 3900

1.4 STUDY AREA AND PROPOSED WORKS

The study area is located in a previously semi-rural part of Marsden Park that is being developed into industrial land within the Marsden Park Industrial Precinct. The land has been fully cleared in the past and retains only scattered regrowth trees over minimally managed pasture (Figure 2).

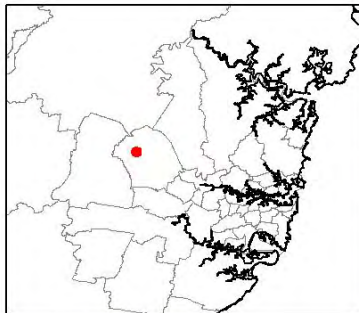
The proposed work will involve subdividing the current property into multiple lots with the balance of land given over to access roads and stormwater management infrastructure. The type of industrial development proposed is intended to shape the land into level construction sites for very large warehouse structures, serviced by an evenly graded access route (Figure 3). The consequence is that the entire area will therefore be subject to earthworks with little potential to retain original soil profiles.

Lots 23 & 24 DP262886
117 Hollinsworth Rd
Marsden Park

Legend

-  Study Area
-  2m Contour
-  Actual Former Drainage
-  Mapped Drainage

0 50 100 200
Meters



Data: Dept of Lands, AA&H, Logos
Projection: GDA94 MGA Zone 56

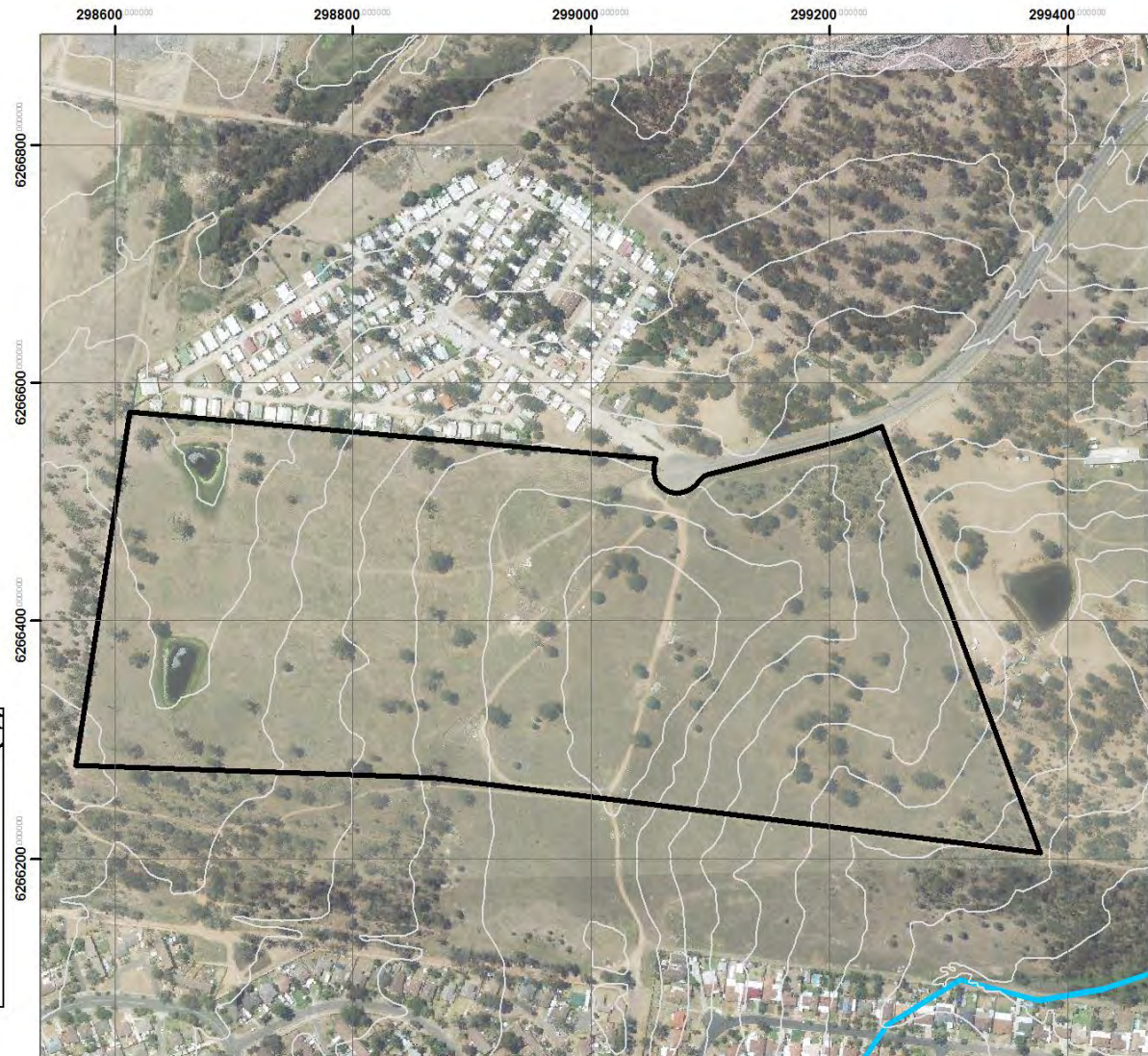


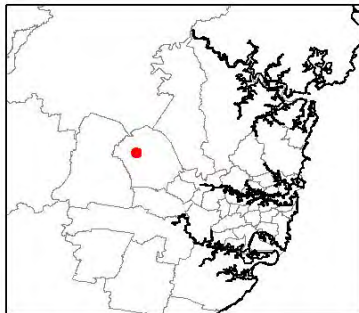
Figure 2: Aerial image and extent of study area

Lots 23 & 24 DP262886
117 Hollinsworth Rd
Marsden Park

Legend

- Study Area
- 2m Contour

0 50 100 200
Meters



Data: Dept of Lands, AA&H
Projection: GDA94 MGA Zone 56



Figure 3: Proposed development

2 CULTURAL CONTEXT

2.1 REGIONAL CONTEXT

The pre-1788 Aboriginal culture of the Sydney Basin is surprisingly little understood. The ambitious social experiment of British colonisation simply did not have ethnography as one of its core purposes. While Fitzhardinge (in an introduction to a reprint of Tench's journal (Tench, 1961)) notes that all the all published journals of First Fleeters contain frequent references to Aboriginal people, it would be astonishing if they didn't given their authors' role in the colonial mission of appropriating their land. Rather than an objective investigation of social complexity, subsistence economy or political geography, however, early records were often passing subjective observations. These observers include Tench (1961), Phillip (1970 [1789]), Hunter (1968), Collins (1975 [1798]) and Bradley (1969 [1792]); the writings of whom have been searched in great detail by a number of modern authors attempting to piece together some kind of picture of a pre-invasion Sydney Aboriginal culture, the most accessible of which is Attenbrow (Attenbrow, 2004).

With regard to Aboriginal cultural heritage management, a poor understanding of pre-1788 cultural geography is one of the most problematic issues. The territories of language and clan groups are often described as if they were subject to resolved mapping; assumed to be of a nature that could be so mapped in any case; treated as if they were the same in the decades before colonisation as they were after; and as if that supposed immutability remained of fundamental importance to contemporary Aboriginal communities. To a certain degree, it is necessary to accept the reality of considerable uncertainty; at which point deference to the self-identification of contemporary Aboriginal communities is most appropriate.

The study area is generally regarded to be within the range of the Darug people; a term of modern cultural identity and scholarship favoured by many and disputed by others (for example, Kohen 1993 cf. Ford 2010). While denoting a language that was almost certainly never known as 'Darug' by its speakers, it remains the most commonly accepted term by the descendants of traditional owners across much of western Sydney. 'Darug' therefore has an entirely valid meaning as an important contemporary cultural identifier.

Western Sydney is also home to a large indigenous population whose traditional country is usually from elsewhere in NSW or elsewhere in Australia. Many have developed strong historical connections with the area and value its archaeological heritage as part of their shared Aboriginal heritage. The exclusive deferral to people whose role as traditional owners is linked genealogically to pre-invasion Aboriginal people that is supported widely in many parts of Australia (bolstered by the Native Title process) may not have the same relevance or universal support in Sydney. Sydney has become (for all, inclusive of non-Aboriginal people) a melting pot within which pre-invasion cultural geography is only a minor contributor to contemporary cultural identity.

Representation of the wider Aboriginal community is largely through the Deerubbin Local Aboriginal Land Council, an organisation that also has statutory obligations relating to the protection of Aboriginal cultural heritage through the *Aboriginal Land Rights Act 1983* (S52 (4): "(a) to take action

to protect the culture and heritage of Aboriginal persons in the Council's area, subject to any other law" and "(b) "to promote awareness in the community of the culture and heritage of Aboriginal persons in the Council's area").

2.2 LOCAL ABORIGINAL HISTORY

British settlement of western Sydney occurred soon after their arrival in 1788, with Parramatta established that same year. Pastoral settlement on the Cumberland Plain was underway by the early 1790s, with land granted to individual settlers based on their capital, connections and contributions to the colony. Through this process, some wealthy settlers and administrators amassed large holdings, while soldiers at the end of their contracts and some ex-convicts were able to establish smaller farms. Tensions resulting from the dispossession of Aboriginal land inevitably led to occasional violence between settlers and Aboriginal people. In 1791, a group of Bidjigal people attacked the settlement at Prospect Hill, where there is also oral history of a massacre of Aboriginal people by settlers (RTA and DECC, 2008). Clashes were also reported on the Government Farm at Toongabbie in 1792 and 1793. Later resistance included attacks led by Pemulwuy and others in 1797. By 1801 Governor King had given orders that any Aboriginal people seen at Prospect (among other places) should be 'driven back by firing at them' (Willey, 1979, p. 173).

In some areas, some of the land grants of the early 19th Century were notably to Aboriginal people. The Native Institute founded in Parramatta in 1814 was moved to an area about one kilometre southeast of the current study on Bells Creek in 1823. This was also near to the location of 1819 land grants to Colebee and Nurranginy, following a strategy of Governor Macquarie to attempt the assimilation of Aboriginal people "really inclined, and fully resolved to become a settler". After the closure of the Native Institute, Plumpton Ridge (to the east of the study area) is thought to have been a fringe camp from around 1830 (RTA and DECC, 2008).

These moves marked the beginnings of what became as known as "the Blacks Town". Some land grants were abandoned in favour of returning to more traditional lifestyles, others for return to traditional country, and others because holdings were too poor for profitable farming. One grant, taken up by Maria Lock in 1833 was retained by descendants until 1923 when they were forcibly removed by the Aborigine's Protection Board for the use of the land in the government's Soldier Settlement Scheme (RTA and DECC, 2008). Aboriginal people were frequently employed on settler's farms, typically on a casual basis for things like harvesting or land clearance. Although this practice was most notable on some of the larger holdings to the west (Nepean) and southwest (Camden), particularly where convict labour was in short supply, it is also likely to have occurred in the local area.

From the 1820s, the focus of agricultural development in the colony was increasingly directed at expansion to the west of the Great Dividing Range. A result was less intensive use of Cumberland Plain land with the exception of richer soils on the Nepean and to a lesser extent Georges River and South Creek. Land would often be used for the grazing and resting of stock driven over the range to market in Sydney. It has therefore been suggested that "Aboriginal access after 1840 (apparently undetected or ignored) to alternate (traditional) food resources along and in the rivers and on large

vacant estates would seem to have assisted the continuation of an Aboriginal presence on the landscape. Their movement across it between more friendly properties and camps brought with it a continuing tradition of marking out friendly landholders by stone markers until the late 20th century” (RTA and DECC, 2008).

The above indicates that there has been connection between Aboriginal people and the study area that has remained through the post-invasion period; nonetheless, the first century of British settlement, from the initial ravages of smallpox in 1788 onwards was a tragic period in the Aboriginal history of Sydney.

3 SUMMARY AND ANALYSIS OF BACKGROUND INFORMATION

3.1 ENVIRONMENTAL CONTEXT

The study area is in a landscape typical of the Cumberland sub-region of the Sydney bioregion; being a gently undulating landscape bisected by north flowing drainage lines. The original vegetation would have been Cumberland Plain Woodland dominated by eucalypts over grassland kept relatively open through regular burning from Aboriginal firing and natural bushfire.

The underlying bedrock is Bringelly Shale (part of the Wianamatta Group of shales with occasional interbedded fine grained sandstone). Soils are described as part of the Blacktown Soil Landscape, comprising shallow (~20cm) A-horizon soils, typically silty loams to silty clay loam overlying clay B-horizon; all derived largely from the underlying shale. This soil has a low susceptibility to erosion when vegetated and free from disturbance but will erode completely down to the clayey B-horizon when damaged by intensive stocking and mechanical impact. The study area includes some areas where vehicle tracks have damaged most of the soil profile.

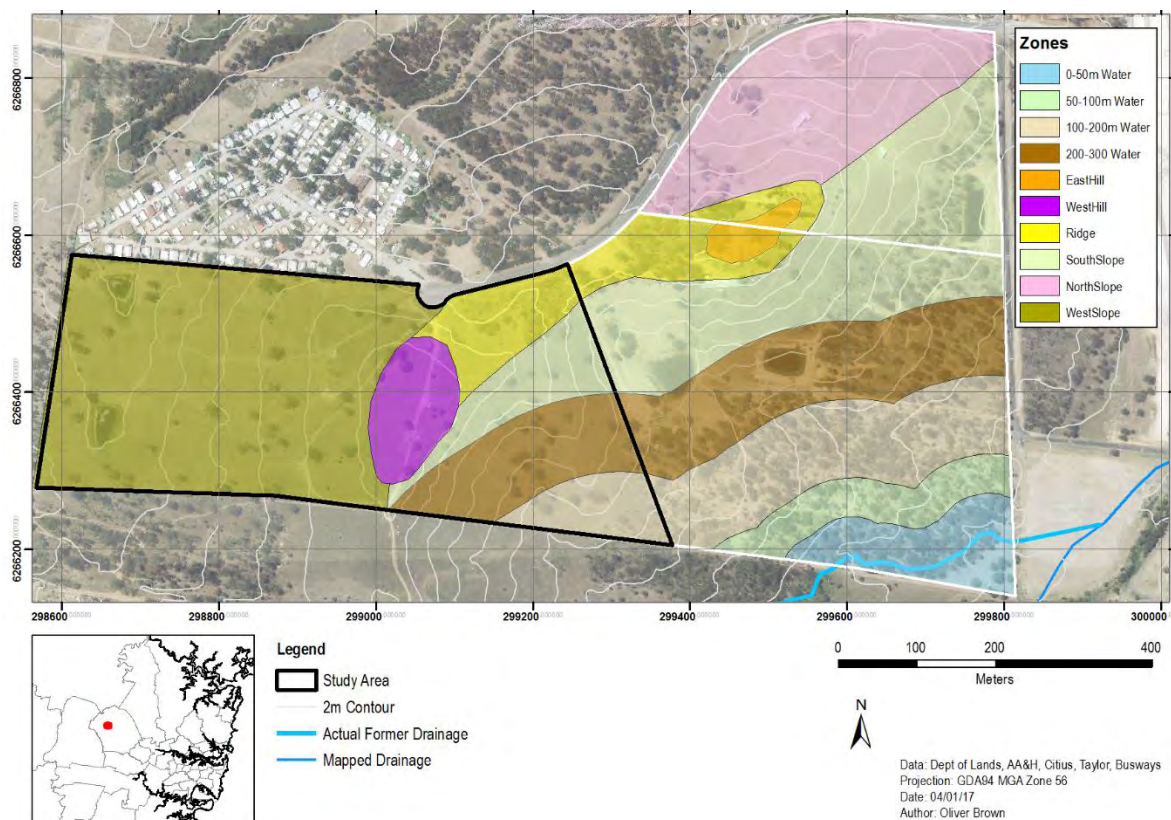


Figure 4: Landform zones

For the purposes of artefact distribution modelling, the study area has been assessed alongside results from neighbouring properties and divided into 'landform zones'. There are six of these within the study area itself and an additional four on neighbouring properties providing contextual information (Figure 4). The arrangement is considered appropriate to the scale of the study area and

the amount of data from archaeological investigation that can be applied to them for the purposes of artefact distribution modelling. They comprise:

- West Slope: Comprising gently sloping land across the western half of the study area with no elevated features and entirely >300m from water. On the basis of regional artefact distribution models it would be expected to have nil – low artefact occurrences.
- West Hill: Comprising a low by quite discrete hill within the study area. While not an especially distinctive landscape feature, it is nonetheless considered likely to have attracted some focus of use by Aboriginal people and was therefore considered likely to have some artefactual evidence.
- Ridge: Comprising a relatively indistinct saddle between the 'West Hill' (within the current study area) and an 'East Hill' in adjoining study areas where some higher artefact instances were recorded.
- South Slope: Comprising sloping land between the ridge and hilltops and the three zones determined purely by distance to water to the south.
- 200m to 300m to Water: Self-explanatory
- 100m to 200m to Water: Self-explanatory
- 50m to 100m to Water: Self-explanatory. Not within study area, but relevant insofar as predicted higher artefact density information provides a comparative reference for areas within the study area.
- 0m to 50m to Water: Self-explanatory. As above.
- East Hill: Not within the study area, but relevant to the potential distribution of artefacts within the 'Ridge' and 'West Hill'.
- North Slope: Not within the study area but potentially relevant insofar as artefact distribution would be expected to be largely similar to the 'West Slope'.



Plate 1: View northeast along interface of 'South Slope' and '200-300m Water'; southern boundary on right, 'West Hill' on left



Plate 2: View northwest across 'West Slope'; buildings over northwest boundary on right, western boundary on left

3.2 ARCHAEOLOGICAL CONTEXT

Within the shale country of the Cumberland sub-region, sites are overwhelmingly dominated by open artefact concentrations typically located near to freshwater resources. A considerably smaller number of scarred tree and stone quarry sites are also recorded. Where these have been dated, ages are typically within the last 2,500 years; with the older dates providing evidence of the great antiquity of Aboriginal occupation back to >30,000 years being limited to a few Pleistocene deposits on the Parramatta and Nepean Rivers.

The AHIMS listed sites for the area are largely the result of (or verified by) the previous assessment work for the Marsden Park Industrial area undertaken by Kelleher Nightingale (Kelleher Nightingale Consulting, 2009) and subsequently in a further assessment of the current study area (Kelleher Nightingale Consulting, 2015).

Of the 19 sites in the current search (Client Service ID: 260990), there is one PAD where artefacts are thought likely to occur and 18 confirmed artefact sites, including a PAD listed by KNC (45-5-4619) since confirmed as a site and listed as 45-5-4713 (some 400m NW of current study area as shown in Figure 5). A wider review of 120 surrounding sites has similarly found that all are listed on the basis of recorded or potential stone artefacts with the exception of the nearby site of the former

Blacktown Native Institute (AHIMS # 45-5-0398), which is listed on the basis of contemporary and historic values (Brown O. , 2015). There are no Aboriginal Places (locations nominated and listed as having special significance to the Aboriginal community) for the study area.

Kelleher and Nightingale made four site listings within the current study area (Table 2) although these all essentially relate to one site – MPIP15 – as shown in the orange shading of the site extent that they reported in Figure 5. A more detailed review of theirs and other previous work is provided in the appended Archaeological Report.

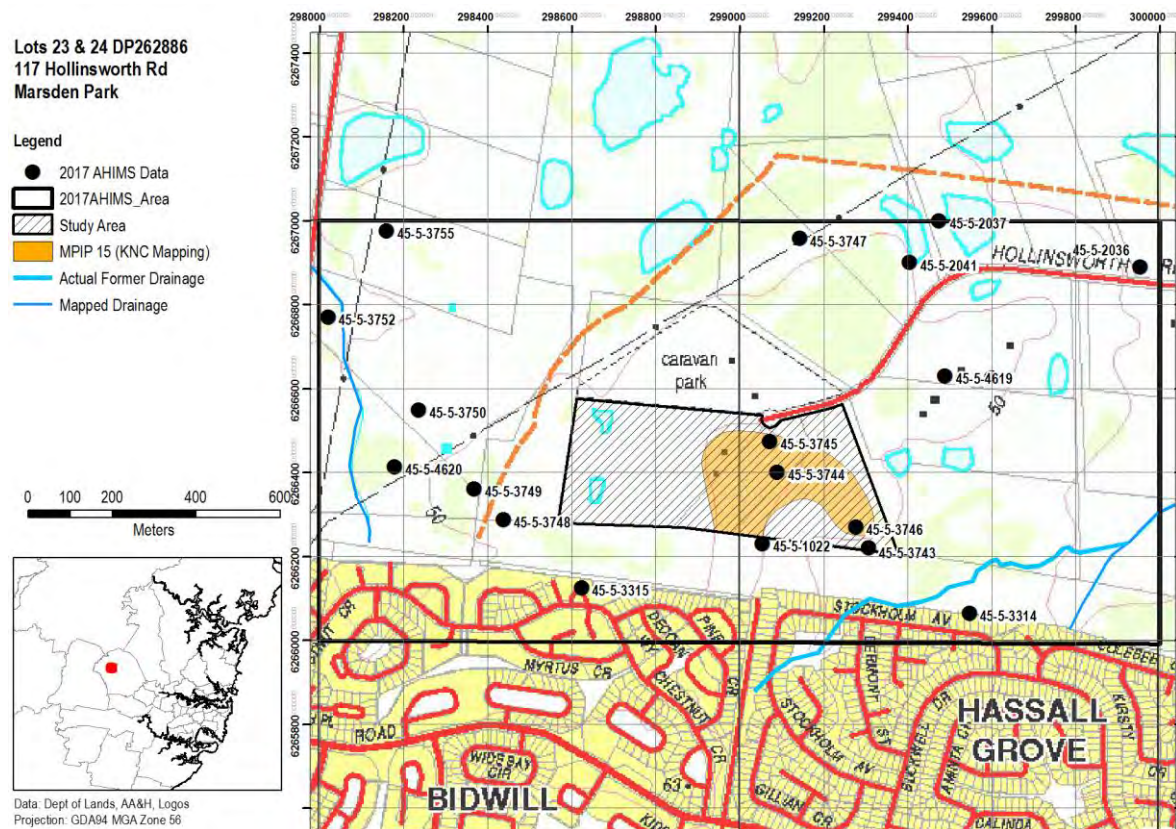


Figure 5: AHIMS listed sites following KNC assessment

Table 2: Sites listed within the study area

AHIMS #	Site Name	Site Type
45-5-3743	MPIP 14	Artefact : 3
45-5-3744	MPIP 15	Artefact : 1
45-5-3745	MPIP 15A	Artefact : 1
45-5-3746	MPIP 15B	Artefact : 1

3.3 ARCHAEOLOGICAL INVESTIGATION

The archaeological investigation undertaken is based on the testing of an artefact distribution model developed from standard western Sydney predictive principles and the results of other recent local assessments along Hollinsworth Road. The founding model predicted low-nil density across most of

the study area based on the considerable distance from water, with some possible dispersed material along a ridgeline in the eastern third.

An archaeological survey was then undertaken to test and refine the model in a way that has been found to provide sufficient data to reliably model the artefact distribution within the study area without the need for test excavation. This relies on four key contributive factors:

- The previous work by Kelleher and Nightingale (2009, 2015) that provides a relatively reliable founding distribution model;
- A high intensity exposure-based survey able to capitalise on extensive subsurface exposure caused by car and motorbike tracks, locating 31 artefacts within 2638m² of exposed ground.
- The integration of extensive survey data from the adjoining two properties comprising an additional 133 artefacts recorded on an additional 2527m² of exposed ground;
- The ability to use test excavation data from the adjoining properties to:
 - o a) test the reliability of the exposure-based survey and
 - o b) determine that additional excavation data would not meaningfully improve the model; and
- The fact that in lieu of test excavation it is intended that more archaeologically meaningful salvage excavation be undertaken instead.

Thirty one (31) artefacts were recorded during the survey (Table 3) which, when analysed in terms of artefact density within the landform Zones, show a clear concentration on the ridge and hill top (Figure 6). This is consistent with the basic predictions and previous assessment (Kelleher Nightingale Consulting, 2015). Artefact density is low across the western side of the study area, as predicted. Density appears to taper off moving down the hill, although it is noted that there is slightly different pattern when the larger body of data is considered. This can be seen by comparing Figure 6 and Figure 7.

When the results are put in the context of the wider dataset, the following further observations can be made:

- The relative density of artefacts in the current study area is diminished when compared to higher density occurrences found elsewhere nearer to water.
- The ranking of the 'South Slope Zone' decreases in the context of the wider dataset. This is considered to be because the artefacts within in the current study area may be derived from the adjoining ridge and hill top whereas across the wider area, they are more reflective of the low density expected for a landform more than 300m from water.
- The low density in the area 100-200m from water in the current study area is relatively increased with the wider dataset that includes slightly more level land that includes a greater proportion that is relatively closer to water.

- The artefact density on the 'East Hill', while likely to be relatively high, is based on a notably low sample area. It is also noted that the excavation data for that area may also be skewed by sample size – detailed in the report for that property (Brown O. , 2015). As a result, the possibility should be allowed that:
 - a) Of greatest relevance to the current study area, the 'East Hill' may not have artefact density that is as relatively higher than the 'West Hill' as current data suggest; and
 - b) The indication that it has higher relative artefact density to the area '0-50m from Water' may also be misleading. In support of this, when the small sample size for 'East Hill' is made up for by combining all ridge and hill top data into more reliable 58,220m² Zone with 1.78% survey coverage, that combined Zone ranks third after the 0-50m and 50-100m Zones as we would more reasonably predict (see additional entry at the foot of Table 4).

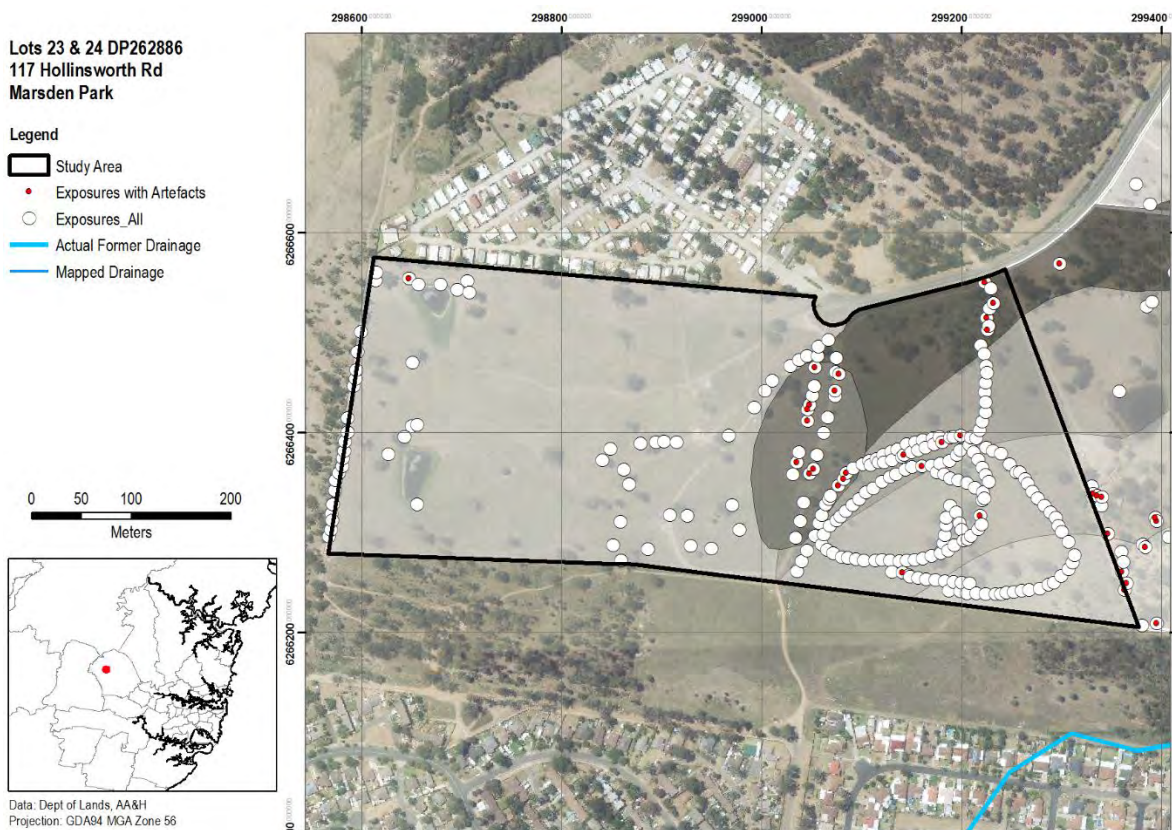


Figure 6: Artefact density represented by shading across the study area

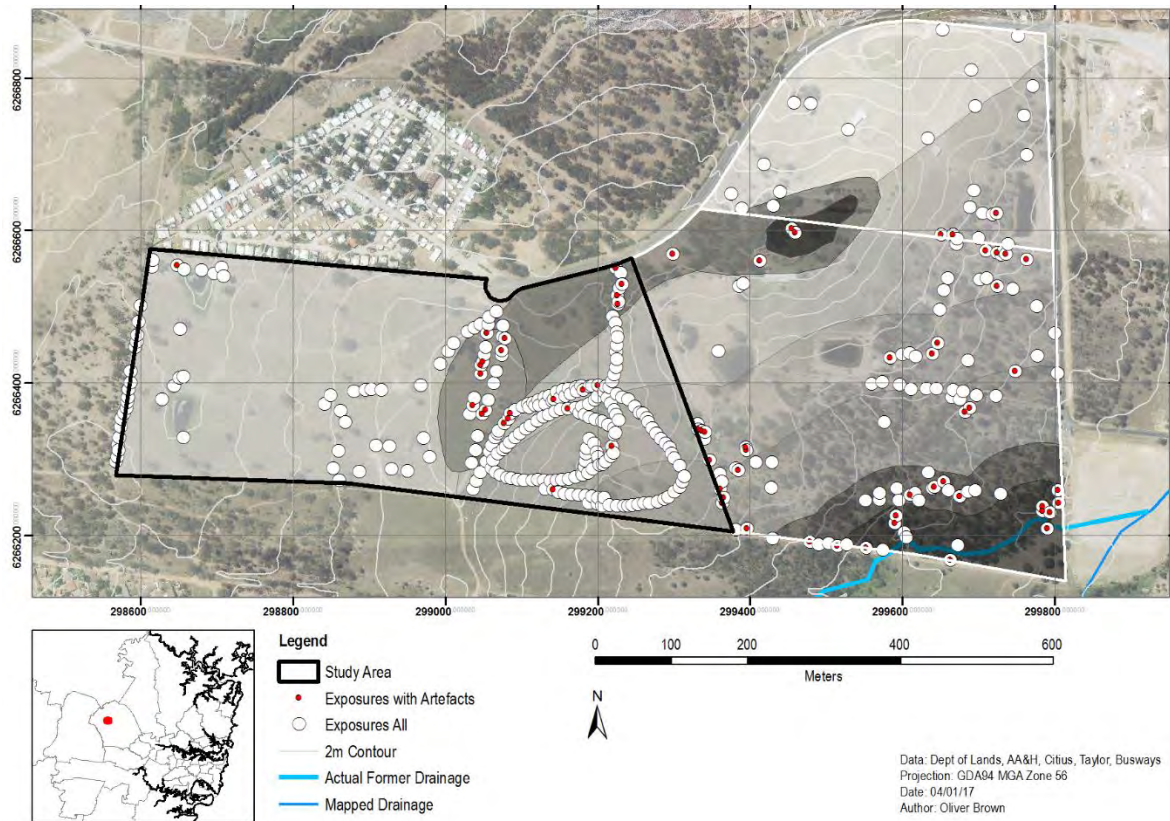


Figure 7: Artefact density represented by shading across the expanded study area

Table 3: Exposure survey data by landform zone and survey coverage (current study area)

	Area (m2)	Total area of Zone	% Survey	AFT	Aft/100m2	Rank
Ridge	120	16670	0.72	10	8.33	1
WestHill	360	15670	2.30	14	3.89	2
SouthSlope	732	18100	4.04	4	0.68	3
WestSlope	296.8	125750	0.24	1	0.34	4
200to300mWater	906	27650	3.28	2	0.22	5
100to200mWater	263	12920	2.04	0	0.00	6
TOTAL	2677.8	216760	1.24	31	0.22	

Table 4: Exposure survey data by landform zone and survey coverage (expanded study area)

Zone	Area (m2)	Total area of Zone	% Survey	Aft	Aft/100m2	Rank
EastHill	12	5180	0.23	7	58.33	1
50to100mWater	247.35	18900	1.31	18	7.28	2
0to50mWater	256.9	21550	1.19	18	7.01	3
Ridge	667	37370	1.78	30	4.50	4
WestHill	360	15670	2.30	14	3.89	5
100to200mWater	473.15	60350	0.78	12	2.54	6
200to300mWater	1537.3	78150	1.97	20	1.30	7
SouthSlope	1218	106680	1.14	14	1.15	8

Zone	Area (m2)	Total area of Zone	% Survey	Aft	Aft/100m2	Rank
WestSlope	280.8	125750	0.22	1	0.36	9
NorthSlope	112	58870	0.19	0	0.00	10
TOTAL	5152.5	528470	0.97	127	2.46	
All Ridge/Hill Combined	1039	58220	1.78	51	4.91	3

3.4 TEST OF RELIABILITY AGAINST ADJOINING TEST EXCAVATIONS

In support of the determination that test excavation has not been a necessary component of the archaeological investigation, test excavation results from the neighbouring properties are presented below in Figure 8 and Table 5. Across those areas, a total of 99 test units were dug leading to the recovery of 17 artefacts. This sample size alone, when considered as just 13% of the 127 artefact sample size from exposure survey (with equally good spatial reliability), suggests that more than 700 test units would be needed to get an equally applicable assemblage. Or conceivably as many as 1000 test units to substantially improve the artefact distribution model reliability – an outcome that our confidence in the distribution model sees as unnecessary.

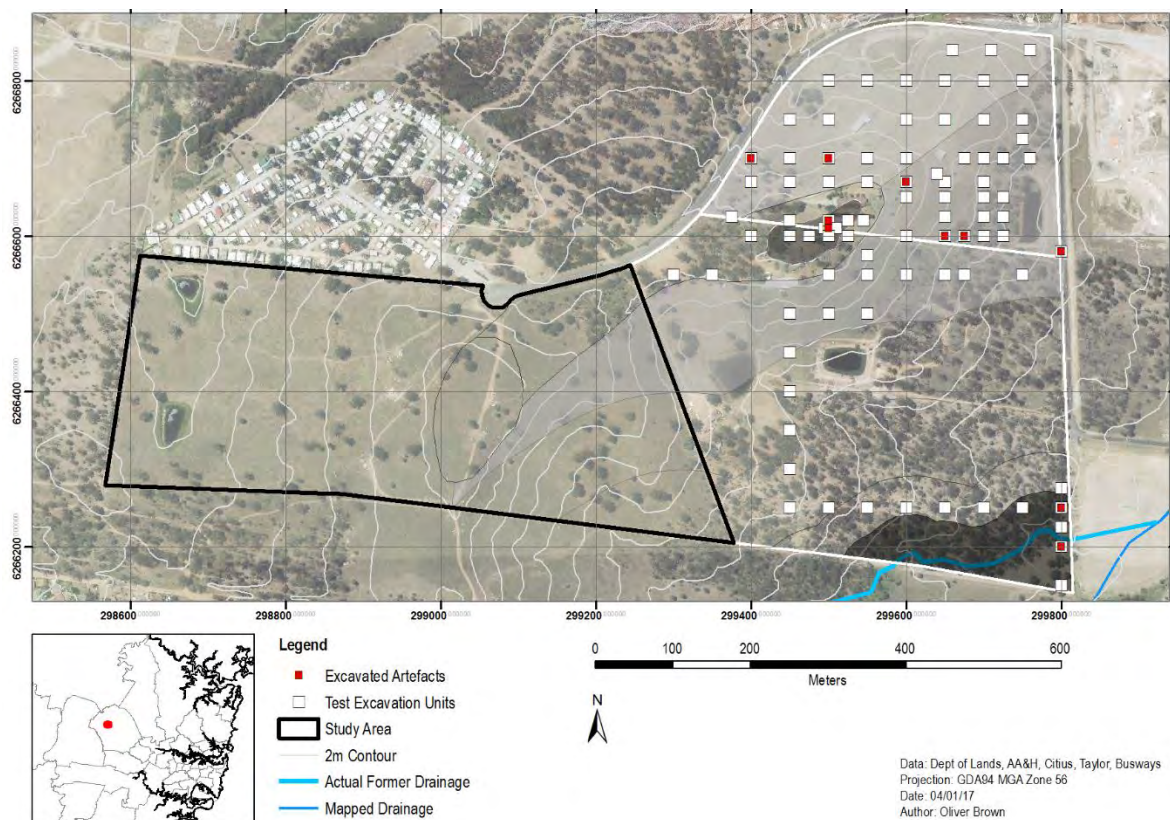


Figure 8: Artefact distribution model based on neighbouring test excavation results

Table 5: Test excavation results in neighbouring properties by landform Zone

Zone	Area	Aft	Aft/m2	Excavation Rank	Exposure Rank	Final Interpreted Rank*
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0to50mWater	1.25	4	3.20	1	3	1
50to100mWater	1.25	0	0.00	n/a	2	2
EastHill	3.5	7	2.00	2	1	3
Ridge	1.5	0	0.00	n/a	4	4
WestHill	n/a	n/a	n/a	n/a	5	5
100to200mWater	0.75	0	0.00	n/a	6	6
200to300mWater	0.75	0	0.00	n/a	7	7
SouthSlope	10	4	0.40	3	8	8
WestSlope	n/a	n/a	n/a	n/a	9	9
NorthSlope	5.75	2	0.35	4	10	10
TOTAL	24.75	17	0.69			

* This is a minor adjustment accounting for sampling issues on the 'East Hill', although of only limited relevance to the current study area.

3.5 SITE DEFINITION

Due to relatively close convergence of the previously listed sites MPIP15 (AHIMS # 45-5-3744; also incorporating MPIP 15A (45-5-3745) and MPIP 15B (45-5-3746) and MPIP 14 (45-5-3743), the results of the current archaeological investigation will not result in changes to those listings. There is therefore only one new site listing. This has been listed as 'Hollinsworth Industrial IF1' (AHIMS # 45-5-4894). The new listing applies to the isolated find in the northwest corner of the study area and is relevant to the western half of the study area more generally. The site listings will be used to cover separate parts of what is inevitably an essentially continuous but variable distribution of artefacts across the study area (and, for that matter, western Sydney). While this requires some reconsideration of the previously listed sites, it is considered preferable to adding site numbers in a way that would do more to confuse than clarify the sites register (AHIMS) – which we should note as being essentially indelible and which should be tended mostly for the benefit of future researchers.

The purpose of dividing artefact occurrences up under different site listings in this way is to group them according to the Site Classification System that we use, as outlined above to support the process of:

- Understanding each part as a relatively consistent archaeological representation of past Aboriginal land use;
- Assessing their archaeological significance (rarity, representativeness and research potential)
- Defining specific parts of the cultural heritage resource to similarly assess cultural (social or spiritual) significance to the Aboriginal community.
- Allow for consideration to be made of the considerations by the proponent of options to avoid, minimise or mitigate development-related harm to Aboriginal objects;
- Assist community and OEH in the consideration of an application for an Aboriginal Heritage Impact Permit (AHIP).

Areas for these defined site areas are shown in Figure 9 and delineated as much for management utility as a landscape wide archaeological assessment. Classification and descriptions are provided in Table 6.

Table 6: Division of artefact distribution across study area into sites

Site	AHIMS #	Description	Classification	Characteristics
MPIP15	45-5-3744	Concentration of dispersed lithics on a low hilltop more than 300m from water	Dispersed Lithic Site	A low - moderate concentration of lithic material away from any stone tool manufacturing site or 'residential base' (in Binford's terminology) likely to representing a range of lithic reduction evidence generally focused away from initial manufacture, other than small tool manufacture from small portable cores, and more on later stages such as tool maintenance/curation, discard of unwanted material and occasional loss of functioning tools.
MPIP15A	45-5-3745	Concentration of dispersed lithics on a ridgeline between two low hilltops more than 300m from water	Dispersed Lithic Site	As above
MPIP15B	45-5-3746	Sparse occurrences of artefacts on sloping ground between hill/ridge and water, but >200m from that water.	Sparse Lithic Site	Low density occurrence of lithics considered to be part of a 'background scatter' of material lying between relatively higher concentrations between the nearest water and the hill top. The circumstances of deposition – in the sense of a site use – remains unknown but may include downslope movement of artefacts from MPIP15 or random loss and discard of material moving across the landscape.
MPIP14	45-5-3743	Sparse occurrences of artefacts on sloping ground between 100m and 200m from a first order stream	Sparse Lithic Site	Low density occurrence of lithics considered to be part of a 'background scatter' of material greater than 100m from a first order stream. The circumstances of deposition – in the sense of a site use – remains unknown but may include increasingly sparsely distributed material associated with a potentially complex site on the nearby creek.
Hollinsworth Industrial IF1	45-5-4894	Sparse occurrences of artefacts on undulating ground (no hills or ridges) between 300m and 500m from any water.	Sparse Lithic Site	Low density occurrence of lithics often described as part of a 'background scatter' of material generally accepted to be across most landscapes. Some small isolated clusters of material may also occur across the area, but it will largely be characterised by an absence of lithic material. The circumstances of deposition are unlikely to be determinable.

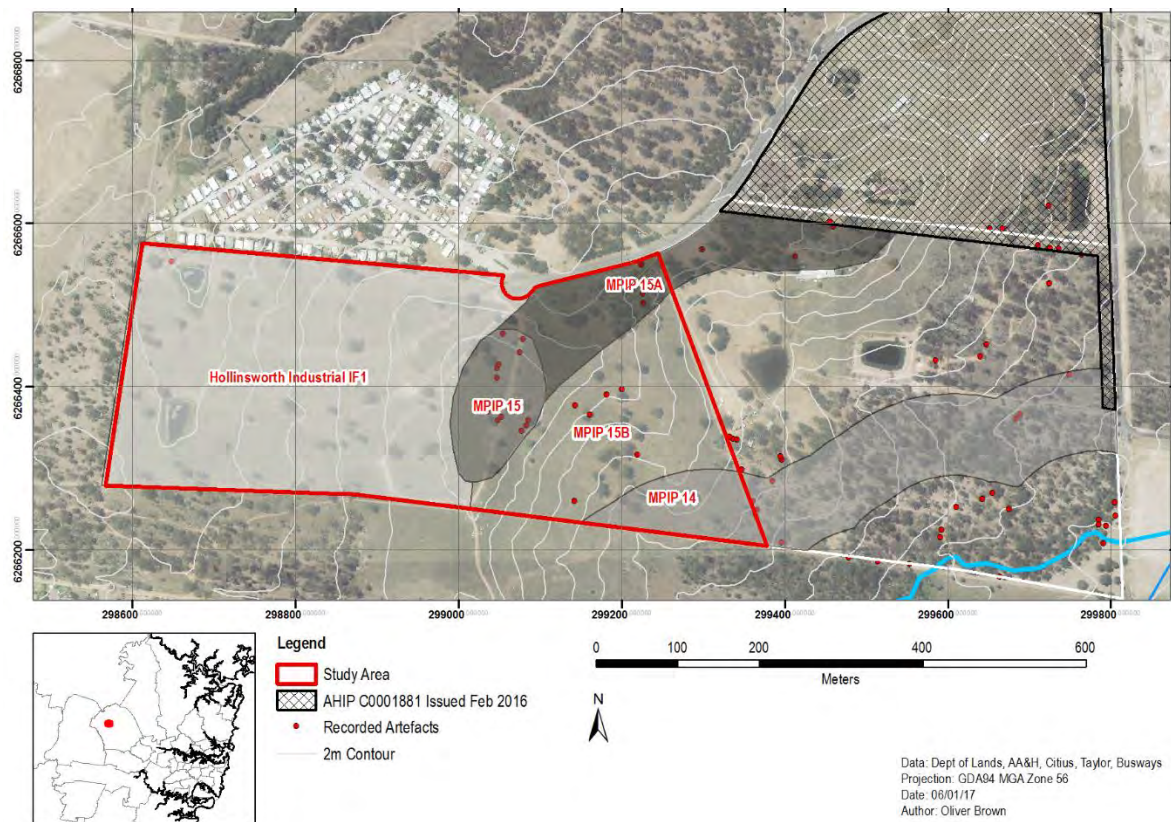


Figure 9: Division of artefact distribution across study area into sites

4 SIGNIFICANCE ASSESSMENT

4.1 GENERAL

The heritage significance of Aboriginal archaeological sites can be assessed using the four values outlined in the Burra Charter of aesthetic, historic, scientific, and social or spiritual significance (Australia ICOMOS, 2013).

4.2 SOCIAL OR SPIRITUAL (CULTURAL) SIGNIFICANCE

This value concerns the relationship and importance of sites to the contemporary Aboriginal community. Aspects of cultural significance include people's traditional and contemporary links with a given site or landscape as well as an overall concern by Aboriginal people for sites and their continued protection. Recent updates ('Practice Notes') to the *Burra Charter* have emphasised the importance of interpreting how cultural significance to Aboriginal people may change over time, just as it does with most communities (Australia ICOMOS 2013a:4).

Aboriginal cultural values may include the consideration of significance of a place for its traditional mythological, historic, traditional resource, aesthetic values or be tied to values associated with the natural environment. Cultural values will also commonly be associated with the archaeological features of the site but may independently, and even contradictorily, stand alongside archaeological or scientific value.

Table 7: Statement on Cultural Significance

Cultural Significance:	Views on the cultural significance of the site (represented by the listings MPIP15 (AHIMS # 45-5-3744), incorporating MPIP 15A (45-5-3745) and MPIP 15B (45-5-3746) along with MPIP 14 (45-5-3743) and the new listing Hollinsworth Industrial IF1' (45-5-4894) were sought from Aboriginal community representatives. Key questions included: • What significance does the Aboriginal community attach to the defined site, wider study area or the artefacts recovered? • Do you have any comments on the management recommendations? Conclusion: The major comment, provided by DCAC was that "This area is significant to the Darug people due to the evidence of continued occupation, within close proximity to this project site there is a complex of significant sites".
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4.3 SCIENTIFIC SIGNIFICANCE

The structuring of the process used to assess scientific significance has been outlined by Bowdler (1981) as the specific consideration of the interrelated issues of research potential and the rarity and/or representativeness of a site. In a development context, we also find it useful to add integrity as a separately assessed co-factor to both of these issues. This is summarised in Table 8.

The Sparse Lithic Sites (MPIP15B, MPIP14 and Hollinsworth Industrial IF1) are all considered to have low archaeological significance. Sparse representation of flaked stone artefacts are common

across the Blacktown Soil Landscape (and western Sydney more generally) to the extent that they are essentially ubiquitous where natural soil profiles remain.

Despite the low density when compared to Complex Lithic Sites near water and the fact they are quite disturbed, the hill and ridge top Dispersed Lithic Sites (MPIP15 and MPIP15A) are considered to have at least moderate archaeological significance. This assessment was also made in the previous Aboriginal cultural heritage assessment of the property (Kelleher Nightingale Consulting, 2015). This relates not so much to rareness or representativeness but the potential to address timely and significant research questions through the comparison of the archaeological signature of Aboriginal people undertaking mobile activities.

In such assemblages, a compensating corollary of the lower number of flaked stone pieces is that this comes with less of the less informative background bulk dominance of rejected stone and debitage that occurs in primary stone manufacturing sites. Without being able to determine at this stage whether it applies to these sites, Dispersed Lithic Sites can conceivably have something of a 'less is more' value related to their likely higher proportion of functional and previously functional (broken or exhausted through retouching) tools. Within the general class of Dispersed Lithic Sites with this potential, MPIP15 and MPIP15A are certainly not considered exceptional, but the previous recommendation by Kelleher and Nightingale (2015) that it is enough to justify at least some salvage excavation is reiterated here as a result (see summary of KNC assessment in Table 9 and Table 10 and our recommendations below in Section 5).

Table 8: Statement on Scientific Significance

	Research Potential:	Rarity and Representativeness:	Integrity and Disturbance:	SUMMARY:
MPIP15	While there is generally a relatively low density of artefacts and a considerable degree of disturbance, there remains some research potential associated with the comparative value of the site against more commonly investigated Complex Lithic Sites near water	This type of site is not rare and is better represented elsewhere with sites that are either higher in artefact density or less disturbed (or both).	Highly disturbed in parts although some relatively intact deposits may survive	Moderate archaeological significance
MPIP15A	As above	As above	As above	Moderate archaeological significance
MPIP15B	Artefact assemblage yield per excavation effort would not justify excavation given the extent of previous work in the region.	The site type is very common, to the extent of being almost ubiquitous across any natural soil profiles in Sydney shale country	As above	Low archaeological significance
MPIP14	As above	As above	As above	Low archaeological significance
Hollinsworth Industrial IF1	As above	As above	Excepting two dams, some intact soil profiles appear to remain.	Low archaeological significance

4.4 AESTHETIC SIGNIFICANCE

This value refers to aspects of sensory perception and the emotional response that the site elicits. The guidelines to the *Burra Charter* note that assessment may include consideration of the form, scale, colour, texture and material of the item or place, as well as sounds and smells. With regard to pre-contact Aboriginal cultural heritage sites, the placement within the landscape would be considered in the light of this value. Individual artefacts, sites and site features may also have aesthetic significance. The aesthetic significance of the site (in particular the landscape setting) may also articulate with cultural values held by members of the Aboriginal community.

Conclusion: Aesthetic significance is not considered to be of relevance in this case.

4.5 HISTORIC SIGNIFICANCE

The guidelines to the *Burra Charter* include the following discussion of historic significance:

A place may have historic value because it has influenced, or has been influenced by, an historic figure, event, phase or activity. It may also have historic value as the site of an important event. For any given place the significance will be greater where evidence of the association or event survives in situ, or where the settings are substantially intact, than where it has been changed or evidence does not survive. However, some events or associations may be so important that the place retains significance regardless of subsequent treatment.

In relation to Aboriginal cultural heritage, many post-contact places and sites would have historic value. Places of historic significance may include sacred or ceremonial sites, and archaeological sites with evidence of technological developments.

Conclusion: Historic significance is not considered to be of relevance in this case.

Table 9: *Significance and management recommendations made by KNC (2009)*

Site		Significance	Management Option where impact proposed
MPIP 14		Some: - These identified artefact scatters and isolated finds occur frequently across the MPIP, the North West Growth Centre and the Cumberland Plain. - Every Aboriginal site is important to the local Aboriginal community, however, there are more intact or better examples of these site types within the MPIP. - All of these sites have experienced some degree of impact/disturbance, including vegetation clearance, erosion, and road/infrastructure development. Several of these sites have been destroyed. - Any change or loss of these sites is unlikely to diminish the Aboriginal cultural heritage of the MPIP or the local Aboriginal community.	Section 90 consent should be obtained prior to the commencement of works affecting these sites.
MPIP 15	MPIP 15A	Moderate: - These sites and PADs represent rare, intact areas of known or potential archaeological deposit within the MPIP. - In combination, these sites represent the utilisation of varying landforms within the MPIP by the original Aboriginal inhabitants of the area. - These sites are important to the local Aboriginal community as the sites provide information on lithic raw material procurement and site distribution across different landforms within the Precinct, as well as representing the traditional land-use activities of the original Aboriginal inhabitants of the area. - All of these sites have been impacted by vegetation clearance and some infrastructure development, but overall are in relatively good condition. - The loss or unsympathetic disturbance of these sites may diminish the Aboriginal cultural heritage of the Precinct.	Test/salvage excavation should be undertaken at some of the impacted sites under a section 87(1) permit to mitigate against the loss of information. Strategy for test/salvage excavation would depend upon the layout of the Master Plan. (Note: test excavation may or may not be associated with the section 90 consent).
	MPIP 15B		

Table 10: *Revised significance and management recommendations by KNC (2015)*

Site		Significance	Management Option where impact proposed
MPIP 14		Low: Site MPIP 14 comprised a low density artefact scatter that was located in a mid slope context overlooking an unnamed first order creek approximately 100m to the south. The site represents a commonly occurring site type in the region. The site is a low-density artefact scatter containing artefacts produced from a locally available raw material (silcrete). The site area has been impacted by vegetation clearance, sheet wash and a vehicle track. Site integrity is low, with a low artefact density. The site demonstrates low scientific value and it is unlikely that further investigation could contribute to our understanding of Aboriginal landscape use in the region. Based on the intactness, representativeness, and research potential of the site, MPIP 14 is determined to have low archaeological significance.	AHIP required prior to commencement of works affecting the site
MPIP 15	MPIP 15A	Moderate: Site MPIP 15 consisted of an artefact scatter that was situated on the upper slopes and spur lines of a prominent hill that overlooked several minor creeks to the west and east. The site represents a commonly occurring site type in the region; however, the prominent location, distance from permanent water sources and relative intactness of the subsurface deposit within the site provide an opportunity to explore the relationship between the site and artefact scatters closer to the major creeks in the area. The site demonstrated moderate scientific value and it is likely that further investigation could contribute to our understanding of Aboriginal landscape use in the region. Based on the intactness, representativeness, and research potential of the site, MPIP 15 (including MPIP 15A and MPIP 15B) is determined to have moderate archaeological significance.	Salvage excavation AHIP required prior to commencement of works affecting the site
	MPIP 15B		

5 DISCUSSION AND RECOMMENDATIONS

5.1 STATUTORY CONTEXT

The statutory control that most specifically applies to the management of Aboriginal cultural heritage in the current case is through the *National Parks and Wildlife Act* 1974. Under S86 of the Act:

- 1) A person must not harm or desecrate an object that the person knows is an Aboriginal object; and
- 2) A person must not harm an Aboriginal object.

The first is the 'knowing offence' with penalties of up to \$1,100,000 and the second is known as a 'strict liability offence' which may happen in a way that was unanticipated with penalties of up to \$550,000.

In the NPW Act, the relevant legal definitions within the harm provisions are:

- "Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.
- "harm" an object or place includes any act or omission that: (a) destroys, defaces or damages the object or place, or (b) in relation to an object-moves the object from the land on which it had been situated, or (c) is specified by the regulations, or (d) causes or permits the object or place to be harmed in a manner referred to in paragraph (a), (b) or (c), but does not include any act or omission that: (e) desecrates the object or place, or (f) is trivial or negligible, or (g) is excluded from this definition by the regulations.

There are two key exemptions or defences from prosecution that are being addressed through this assessment:

- Harm may occur if authorised by an Aboriginal Heritage Impact Permit (AHIP); and
- Unanticipated (strict liability) harm may be defended from prosecution if it can be demonstrated that due diligence had been exercised in determining that the harm was reasonably considered unlikely to happen (DECCW, 2010a).

There have been no previous AHIPs applied for, issued or refused within the activity area.

5.2 MANAGEMENT STRATEGY

The management strategy for Aboriginal cultural heritage material in development contexts where potential impact is being considered should follow (and has followed) a general approach of:

- Identifying any need for assessment. This occurred initially through the Kelleher & Nightingale study of the whole Marsden Park Industrial Precinct (Kelleher Nightingale Consulting, 2009) and was followed up with a second site specific assessment of the current

study area by them in 2015 and then the engagement of Associates A&H. At this time, the proponent was informed that artefacts were present and therefore that an archaeological investigation to determine the likely requirements of an eventual AHIP would be required.

- Undertaking archaeological assessment as required (following OEH guidelines). Archaeological survey of the whole Marsden Park Industrial Precinct in 2009 was subsequently followed by further by assessment by Kelleher Nightingale in 2015. The current assessment by Associates A&H has followed on from the recent assessments of the two adjoining development areas to the east. Through the use of this additional data and the unusually high surface visibility available, investigation has been able to be based on detailed exposure-based survey and without test excavation.
- Integration of assessment results into planning and design: Avoid, minimise and mitigate harm as appropriate: In this case, avoidance or minimisation of harm is not considered to be warranted due to the lack of notable significance, low density and disturbance of material. However, it is considered that some degree of mitigation is. This is not to write away the general relevance which applies to all such Aboriginal cultural heritage material and its significance to Aboriginal people. However, an argument for avoidance can only remain valid for high significance sites when low significance sites (such as in the current case) are treated differently.
- Preparation of requisite documentation and any required permit applications: Provided by this ACHA and the appended Archaeological Report.

5.3 POTENTIAL IMPACT

The study area has been found to have Aboriginal objects present in variable density (from nil to moderate) and degrees of disturbance. The distribution is entirely consistent with regional patterns and as such does not represent material of any outstanding Aboriginal cultural heritage value. Nonetheless, the nature of the development of industrial land is such that almost all existing soil profiles are destroyed in the shaping of large areas of flat land that the industrial land use requires. Aboriginal cultural heritage values, moderate though they may be, will therefore be lost.

Table 11: *Potential for harm*

Site	Type of Harm	Degree of Harm	Consequence
MPIP15	Directly harmed	Whole	Total loss of value
MPIP15A	Directly harmed	Whole	Total loss of value
MPIP15B	Directly harmed	Whole	Total loss of value
MPIP14	Directly harmed	Whole	Total loss of value
Hollinsworth Industrial IF1	Directly harmed	Whole	Total loss of value

5.4 CUMULATIVE IMPACTS

The principles of Environmentally Sustainable Development (ESD) require consideration of potential impact as part of cumulative effects. That is, if the proposed work involves one minor impact in a process that is part of a past or future ongoing process that amounts to a large impact in total.

While commercial development of land is regarded as a necessity within a growing community and economy, the associated development is inherently part of a process of cumulative impacts. The development of the study area is a part of a wider process applying across the Marsden Park Industrial Precinct. The zoning for industrial development is part of a long term planning strategy cognizant of the nature of physical impact to the land from which few areas of original topsoil within the Precinct will remain undisturbed.

The significance of the site and the extent of the proposed impact is unlikely to be considered sufficient to justify moving the impact to somewhere else – where other Aboriginal objects are just as likely (or more likely) to be harmed. Instead, it might be observed that in an urban planning scenario where the need for the development of land has been identified in a landscape where subsurface Aboriginal artefacts are essentially ubiquitous, it is better that this occur where the overall density and significance of Aboriginal cultural heritage material is lower than the landscape-wide mean – as is the case for this area.

Table 12: Statement on Cumulative Impacts

Cumulative Impacts:	The proposed development is part of a large cumulative impact across the Marsden Park Industrial Precinct in which few areas of original topsoil will remain undisturbed.
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5.5 ALTERNATIVE OPTIONS TO AVOID HARM

Within the development area, it is not considered that there are any practical options to avoid or minimise harm. The higher concentrations of material are concentrated around the key area of interface between a sizable development area and the only road access. In this context, the sites present are not considered to be of high enough significance to justify the prevention of the proposed work on the basis of a heritage conservation motive.

Where harm is not to be avoided, the alternatives are then whether or not that harm is at least mitigated. Mitigation is usually in the form of salvage excavation, Aboriginal community collection of artefacts or some other process that compensates Aboriginal people for the loss of heritage value. In the current case, the best option to mitigate harm is through a limited salvage excavation program to be included as a condition of an Aboriginal Heritage Impact Permit. In order to address an issue of social equity whereby the loss of heritage value is borne particularly by the Aboriginal community, it is also considered that while the archaeological aim of recovering a spatially controlled lithic assemblage for expert analysis be a core consideration, the excavation work itself be undertaken as an Aboriginal community-dominated project. This recommendation comes from the following considerations:

- That some research potential has been identified for the hill and ridge top sites (MPIP15 and MPIP15A) and the work would therefore contribute to our understanding of former Aboriginal land use in the area;
- While the exposure-based survey has provided for the full extent of artefact distribution modelling required for the study area, finer scale spatial resolution of artefact distribution within areas of artefact concentration can only be done with some reasonably sized

contiguous area of excavation (larger than permissible under the Code). Such work would not affect considerations around the issuing of an AHIP, but it is this type of information that is considered central to mitigation against the loss of archaeological value.

- The level of archaeological excavation experience among the western Sydney Aboriginal community is high enough to undertake the majority of the archaeological work; and the proposed excavation archaeologically simple enough to be overseen by just a single suitably qualified archaeologist working with a community team.

5.6 RECOMMENDATIONS

5.6.1 GENERAL

It is recommended that:

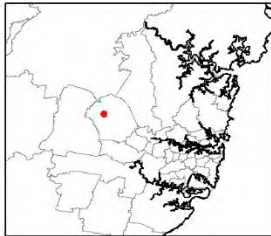
1. An AHIP be sought to permit harm to Aboriginal objects in completing the proposed subdivision and industrial development of the land.
2. The AHIP should apply to all sites: MPIP15 (AHIMS # 45-5-3744), MPIP15A (AHIMS # 45-5-3745), MPIP15B (AHIMS # 45-5-3746), MPIP14 (AHIMS # 45-5-3743), Hollinsworth Industrial IF1 (AHIMS # 45-5-4894).
3. The AHIP application follows Blacktown City Council's DA15-275 issued September 2015 which includes subdivision and "associated bulk earthworks and drainage infrastructure".
4. Given the known occurrence of Aboriginal objects, the proponent should be aware that any disturbance of the ground surface prior to the issuing of an AHIP may be found to constitute a knowing offence under the NPW Act.
5. The AHIP should apply to the entire development area, bounded by the coordinates shown in Figure 12.
6. As a mitigation for the impact, the AHIP should include a condition of salvage excavation as proposed in Appendix 1. In summary, this involves:
 - a) Phase 1 testing comprising six 1x1m units with provisions to dig another two units if no artefacts are found. If no artefacts are found in this initial 8m², excavation should cease.
 - b) Phase 2 testing comprising the opening up of whichever Phase one unit has the highest number of artefacts to a total of 12m² dug in the direction of highest apparent density. If the overall artefact density is less than 3 artefacts per square metre (<36 artefacts in total), it should be taken as a sufficient threshold of low density to cease excavation.
 - c) Phase 3: In the event of artefact density of 3/m² or more within the Phase 2 excavation, it should continue to a maximum of 25m². The excavation layout (placement of squares) should continue to work in the direction of highest apparent

artefact concentration at the discretion of the excavation director for as long as the overall artefact density remains $>3/m^2$. The salvage excavation should then cease.

- d) The AHIP should however allow for any subsequent amount of excavation within the AHIP area as a contingency. This may relate to justifications based on
 - i. Variations of raw materials that warrant further investigation;
 - ii. Unusual artefact types being found such as ground edged implements, etc;
 - iii. Any other relevant archaeological features appropriate for further investigations, e.g. evidence of burning in a hearth, stone features; clay features etc.
 - iv. Other finds that come to light in the course of excavation deemed relevant for further investigation by the excavation director and/or RAP representatives and which are approved by the proponent (as the paying client)
7. The AHIP should permit development work to commence straight away in areas other than the salvage area marked in Figure 11.
8. Analysis: The archaeological recording should be subject to analysis as proposed in Appendix 1.
9. Upon completion of salvage an Aboriginal Site Impact Recording Form should be submitted to AHIMS along with other relevant documentation and any other details specified in the AHIP.
10. The long term management of artefacts would ideally be with the Australian Museum, noting however that this will be contingent on the excavated material turning out to be a good representative assemblage for a Dispersed Lithic Site (Australian Museum, 2012). The AHIP is being sought to reflect this measure as the statutory default under the NPW Act. In the event that Museum deposition is not possible, the artefacts should be retained for reburial in association with artefacts from the other two projects (one complete, one ongoing) in a single consolidated collection. As a last resort, the artefacts can be reburied in the location shown in Figure 10. The involvement of an archaeologist is also recommended to adhere to other requirements as detailed in Requirement 26 of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* as detailed in Appendix 1.
11. No AHIP will approve impact to Aboriginal human remains. If human skeletal material less than 100 years old is discovered, the *Coroners Act 2009* requires that all works should cease and the NSW Police and the NSW Coroner's Office contacted. Traditional Aboriginal burials (older than 100 years) are protected under the *National Parks and Wildlife Act 1974* and if found, all work should cease. Interpreting the age and nature of skeletal remains is a specialist field and an appropriately skilled archaeologist or physical anthropologist should be consulted. Should the skeletal material prove to be archaeological Aboriginal remains, notification of Office of Environment and Heritage (OEHS) and the relevant Aboriginal stakeholders will be required. Notification should also be made to the Commonwealth Minister for the Environment, under the provisions of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

Lots 23 & 24 DP262886
117 Hollinsworth Rd
Marsden Park

- Legend
- Artefact Reburial Location
 - Study Area
 - 2m Contour



Data: Dept of Lands, AA&H
Projection: GDA94 MGA Zone 56



Figure 10: Potential artefact reburial location

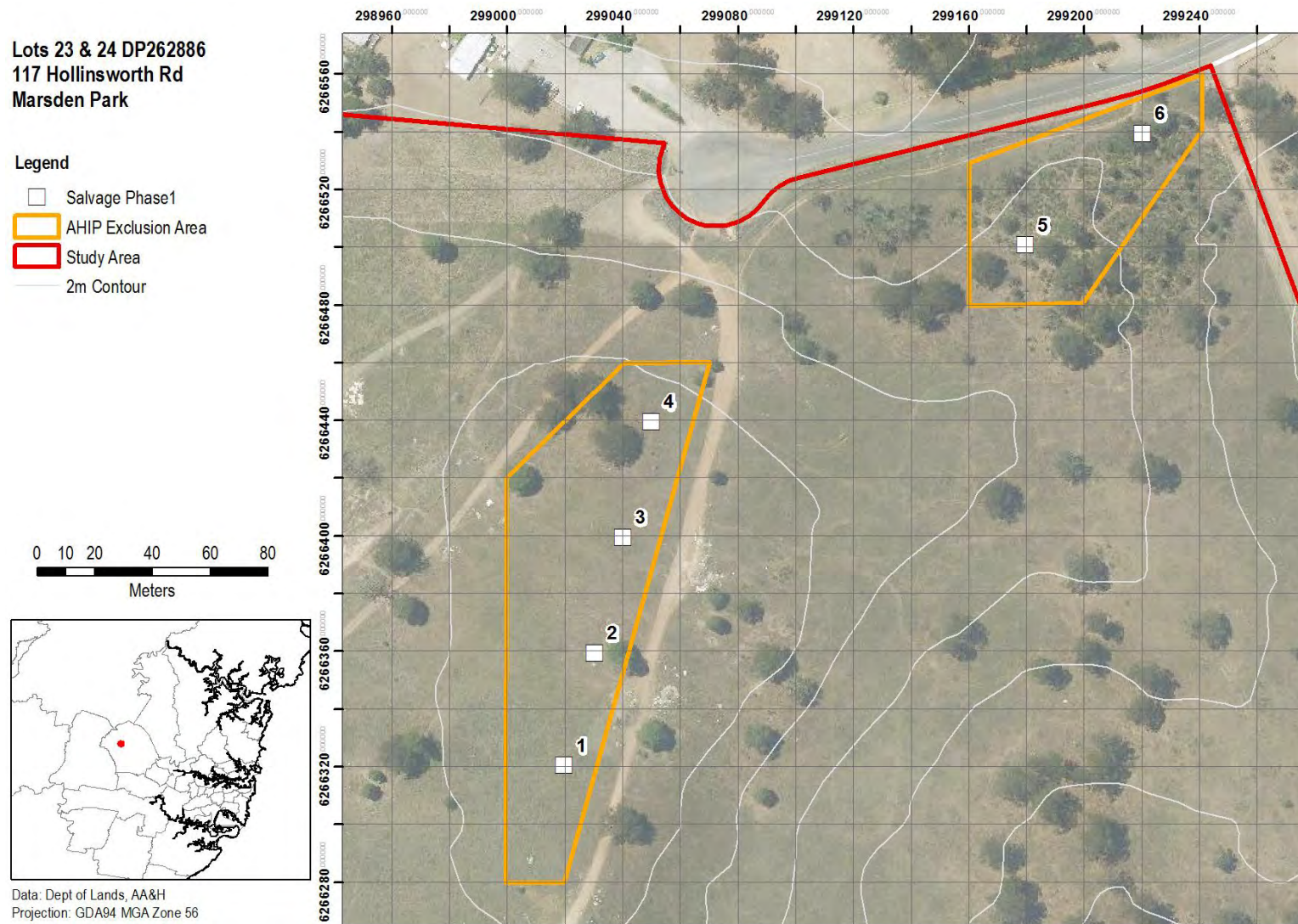


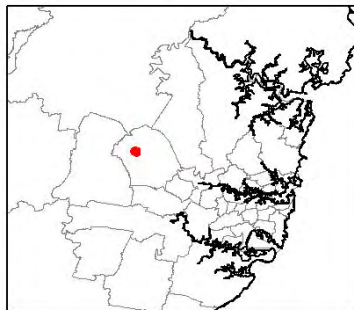
Figure 11: Proposed testing and exclusion area pending completion of salvage

Lots 23 & 24 DP262886
117 Hollinsworth Rd
Marsden Park

Legend

- + Vertices
- Study Area
- 2m Contour

0 50 100 200
Meters



Data: Dept of Lands, AA&H
Projection: GDA94 MGA Zone 56

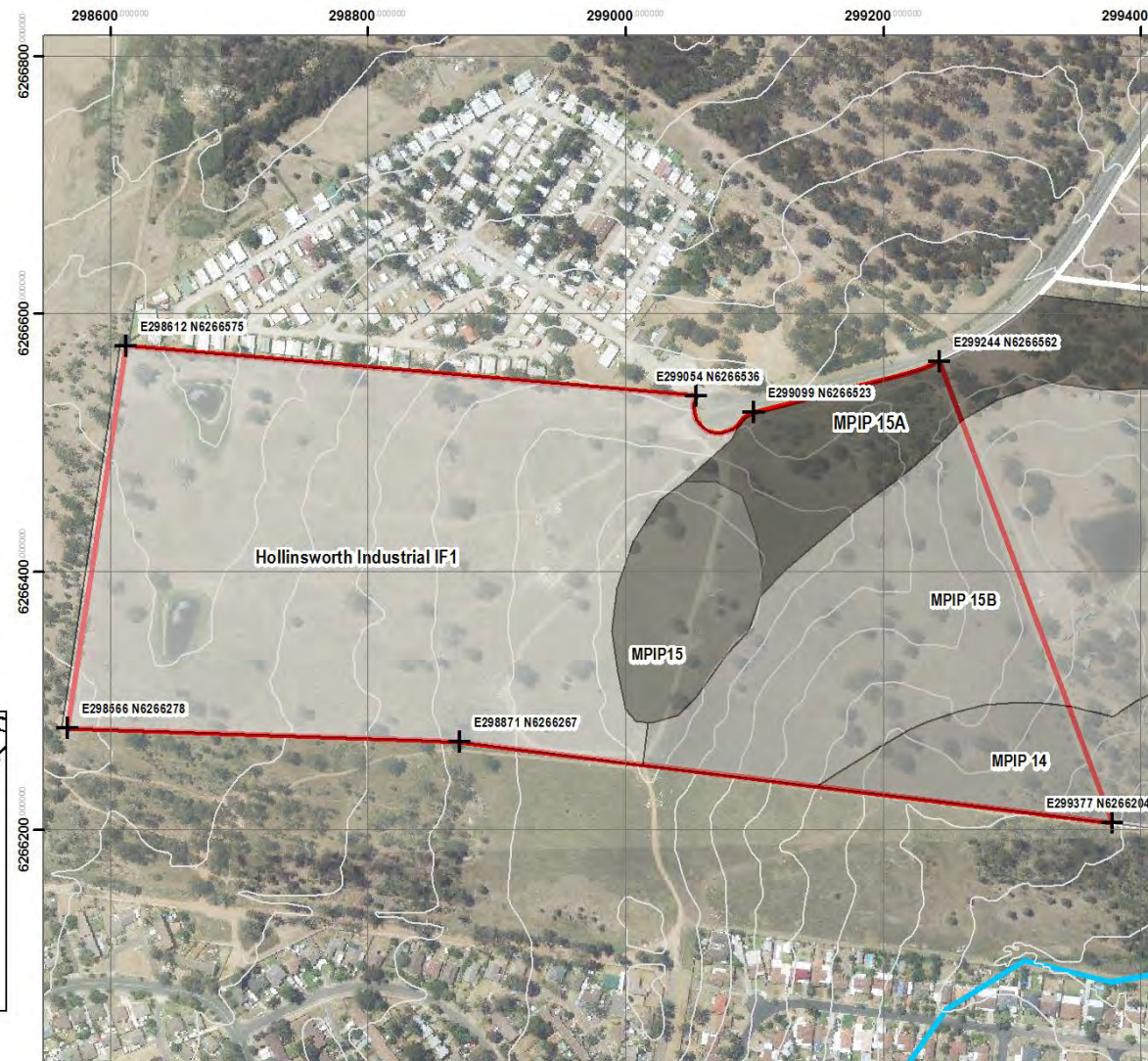


Figure 12: Map showing proposed AHIP area and approximate salvage options

6 ABORIGINAL COMMUNITY CONSULTATION

The Aboriginal community consultation process has been thorough and commenced at the outset of the assessment process. It has followed the OEH *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (ACHCRs) (DECCW, 2010c):

- Pre-notification letters were sent to the required official bodies seeking contact details for potential interested parties (Office of Environment & Heritage, Local Land Services (incorporating former CMA), Blacktown City Council, National Native Title Tribunal, Native Title Service Corporation, Office of The Registrar, Aboriginal Land Rights Act, Deerubbin Local Aboriginal Land Council);
- An advertisement was placed in the *Blacktown Sun* (22/09/2016) seeking interested parties;
- Contact was made inviting all potential parties to register;
- Project information and a draft assessment methodology was provided to RAPs;
- A list of Registered Aboriginal Parties (RAPs) was compiled;
- A consultation draft document of the proposed Aboriginal cultural heritage assessment methodology was sent by email to RAPs;
- A consultation draft version of the ACHA was distributed for comment.

A full record of consultation is provided in Appendix 1.

The record demonstrates support of the proposed approach with the exception with the exception of the submission made by a (non-Aboriginal) archaeologist for Tocomwall Pty Ltd (Figure 34 in Appendix 1). In this, five recommendations were made in response to the draft methodology detailed, with response, in Table 13.

Table 13: Tocomwall recommendations and responses

Tocomwall Recommendation	Response
1) Engage an appropriately qualified specialist to undertake the anthropological component of the research design and methodology to capture the intangible cultural values of the study area;	A requirement for anthropological research is neither mandated by the Code (or other aspect of relevant legislation) nor appropriate for the study area.
2) Modify the methodology to provide clear parameters on recording deposits, interpreting contexts and provide explicit criteria on test verses salvage programs;	In the absence of test excavation, these comments are deferred to considerations of the proposed salvage work, noting however that on disturbed soils with the Blacktown Soil Landscape, the type of specialist geoarchaeological work inferred would not be required.
3) Provide a methodology on how artefacts are to be collected;	There have been no artefacts collected. The collection of artefacts in the proposed salvage work will follow the Code.
4) Include a map illustrating the testing program; and	There has been no testing program. A map for the proposed salvage is provided in this report.
5) Provide Tocomwall with geotechnical investigations of the study area and use them to inform your own methodology.	The pedology of the Blacktown Soil Landscape is well understood to have poor stratigraphic distinction within the A-horizon subject to cyclical soil transfer in which cultural material may be found over the culturally sterile B-horizon clays. This has advised the salvage approach detailed in the Recommendations here.

Additional comments of concern were expressed by Darug Custodians Aboriginal Corporation (DCAC) about the failure of the consultation process in meeting the aims of Section 4.1.8 of the

Aboriginal cultural heritage consultation requirements for proponents (DECCW, 2010c) stating that consultation should be with “Aboriginal organisations representing Aboriginal people who hold cultural knowledge” (Figure 35 in Appendix 2). They observe that “Recent consultation meetings have revealed that many of these Aboriginal organisations and individuals do not hold cultural knowledge of the Western Sydney area. The increasing involvement of such parties in cultural heritage management means that genuine local Aboriginal organisations are unable to properly care for our cultural heritage”. They further note that this relates to aims to “be employed for their own personal financial benefit”. In response, we are certainly aware of this situation and note that we are nonetheless required to make no distinction between RAPs in terms of consultation. Section 5.2 of the ACHCRs states that “It is only Aboriginal people who can determine who is accepted by their community as being authorised to speak for Country and its associated cultural heritage. Where there is a dispute about who speaks for Country, it is appropriate for Aboriginal people, not DECCW or the proponent, to resolve this dispute in a timely manner to enable effective consultation to proceed”. On the back of this, DCAC’s concerns, much to the shared chagrin of many, are irresolvable as there is essentially no mechanism or support for any such resolution to occur.

Following distribution of the draft ACHA and Archaeological Report, the major comment, provided by DCAC was that “This area is significant to the Darug people due to the evidence of continued occupation, within close proximity to this project site there is a complex of significant sites”. In addition, they supported the recommendations of the report.

7 SEARs

The NSW Department of Planning and Environment issues “Secretary's Environmental Assessment Requirements” (SEARs) for State Significant Development (SSD) applications. These are shown below in Table 14 along with notes on how they are addressed by the current report.

Table 14: SEARs and responses

SEARs	How they are addressed
A description of the existing environment, using sufficient baseline data;	The cultural, environmental and archaeological context is set out in Section 2 and Section 3 of this report
An assessment of the potential impacts of all stages of the development, including any cumulative impacts, taking into consideration relevant guidelines, policies, plans and statutes;	Presented in Section 5 of this report.
A description of the measures that would be implemented to avoid, minimise, mitigate and if necessary, offset the potential impacts of the development, including proposals for adaptive management and/or contingency plans to manage significant risks to the environment;	Presented in Section 5 of this report.
A table demonstrating how the relevant SEARs have been addressed; and	This table
Assessment against the following policy (if not relevant state reason why):	
Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (OEH, 2011)	This guide sets out the requirements of a formal Aboriginal Cultural Heritage Assessment Report which is followed by this report.
Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW, 2010)	This Code sets out investigative requirements that have been followed in this assessment and the format of the appended Archaeological Technical Report.
The <i>Burra Charter</i> (The Australia ICOMOS charter for places of cultural significance)	The <i>Burra Charter</i> is intended to provide ‘best practice’ guidelines for the management of cultural heritage places in Australia. It was first adopted by Australia ICOMOS in 1979. When the ACH assessment processes in NSW were updated in 2010-2011 – i.e. all the other policy documents in this list – they incorporated those aspects of the <i>Burra Charter</i> that were relevant to ACH. In satisfying those requirements and being accepted by OEH, adherence to <i>Burra Charter</i> principles can be inferred.
Draft Guidelines for Aboriginal Cultural Impact Assessment and Community Consultation (Department of Planning, 2005)	These Guidelines generally apply to projects that are not otherwise following an OEH approvals process towards the issuing of an AHIP. They set out a process that is either matched or exceeded by the current assessment.
Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (DECCW, 2010)	See Section 6 and Appendix 2.

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GLOSSARY AND ABBREVIATIONS

AHIP	Aboriginal Heritage Impact Permit
	The statutory instrument that OEH issues under section 90 of the NPW Act to manage harm or potential harm to Aboriginal objects and places.
BP	Before Present
	This term is generally used specifically in relation to radiometric dating and is taken to be before 1950, being an approximate point at which nuclear weapons testing artificially altered the world's carbon isotope ratios.
AHIMS	Aboriginal Heritage Information Management System
	AHIMS is a part of OEH and maintain the NSW records database of Aboriginal objects / sites, declared Aboriginal Places and archaeological reports submitted either voluntarily or as part of compliance-related submissions.
BCC	Blacktown City Council
CMA	Catchment Management Authority (now Local Land Services)
DECCW	NSW Department of Environment, Climate Change and Water.
	Now OEH and formerly the DECC
DLALC	Deerubbin Local Aboriginal Land Council
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Reg	Environmental Planning and Assessment Regulation 2000
EPBC Act	Environmental Protection and Biodiversity Conservation Act 1999
FGS	Fine Grained Siliceous
	We use the term FGS for most flaked artefact raw materials of finer crystal structure than silcrete. Many raw materials used to manufacture flaked stone artefacts remain petrologically poorly defined and given different names by different archaeologists, such that many classifications attempting to be more precise than 'fine grained siliceous' are often a hindrance rather than a help for comparative analysis. FGS are typically sedimentary rocks that have been partially metamorphosed through dissolution and recrystallisation of silica and include chert, silicified tuff, silicified mudstone and chalcedony; although it can also include petrified wood.
BCC	Blacktown City Council
LALC	Local Aboriginal Land Council

LEP	Local Environmental Plan
LGA	Local Government Area
CMA	Catchment Management Authority (now Local Land Services)
NNTT	National Native Title Tribunal
NPW Act	National Parks and Wildlife Act 1974
NP&W Reg	National Parks and Wildlife Regulation 2009
	This introduced a number of significant changes to the NPW Act including the <i>Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW</i> and the <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW</i> .
NTSCorp	Native Title Services Corporation
OEH	Office of Environment and Heritage
	OEH was formed in 2011 (having been formerly known as DEC, DECC and DECCW within the preceding decade). It is currently an agency within the Department of Environment and Planning, having moved from the Department of Premier and Cabinet in 2014 and (a now defunct) Department of Environment in 2011. The roles of OEH include the administration of those parts of the NPW Act relating to 'Aboriginal country, culture and heritage'.
ORALRA	Office of the Registrar, Aboriginal Land Rights Act
REF	Review of Environmental Factors;
	An environmental assessment under Part 5 of the EP&A Act often undertaken by local government authorities as a self-assessment process.
SEPP	State Environmental Planning Policy
SHR	State Heritage Register

APPENDIX 1: SALVAGE ARCHAEOLOGICAL RESEARCH DESIGN

A1.1 JUSTIFICATION AND RATIONALE

The reasons for undertaking salvage excavation are:

- 1) To mitigate the loss of Aboriginal cultural heritage material within the subject land. As noted in the ACHA, there is not a site of sufficient archaeological or cultural significance to justify avoidance or minimisation of harm, but there is still an opportunity to obtain some relevant archaeological data to put on record. As noted in Section 4.3:

“This relates not so much to rareness or representativeness but the potential to address timely and significant research questions through the comparison of the archaeological signature of Aboriginal people undertaking mobile activities. In such assemblages, a compensating corollary of the lower number of flaked stone pieces is that this comes with less of the less informative background bulk dominance of rejected stone and debitage that occurs in primary stone manufacturing sites. Without being able to determine at this stage whether it applies to these sites [i.e. there may simply not be enough artefacts], Dispersed Lithic Sites can conceivably have something of a ‘less is more’ value related to their likely higher proportion of functional and previously functional (broken or exhausted through retouching) tools. Within the general class of Dispersed Lithic Sites with this potential, MPIP15 and MPIP15A are certainly not considered exceptional, but the previous recommendation by Kelleher and Nightingale (2015) that it is enough to justify at least some salvage excavation is reiterated here as a result (see summary of KNC assessment in Table 9 and Table 10 and our recommendations in Section 5)”.

- 2) To address these research aims through open area excavation in excess of the 3m² maximum extent permissible under the Code (DECCW, 2010b). This is the reason for undertaking the excavation as a condition of the AHIP rather than prior to it. This is possible because the exposure survey and surrounding test excavation data have been sufficient to establish a reliable artefact distribution model without the need for prior testing.
- 3) It is an approach reasoned on site with Steve Randall of Deerubbin LALC. Steve has logged more site time in the area than any person; RAP representative or archaeologist, past or present. His view is therefore able to be construed as straightforward relevant and independent expertise from an Aboriginal person. In reviewing the reporting, this approach was supported in the only responses (DLALC and DCAC). That it was not questioned by any other RAPs is something that must be allowed to be because the proposed approach of salvage, in which the community is heavily involved, was agreed with. It was also noted in the ACHA (Section 5.5) that with the methodology proposed “The level of archaeological excavation experience among the western Sydney Aboriginal community is high enough to undertake the majority of the archaeological work; and the proposed excavation

archaeologically simple enough to be overseen by just a single suitably qualified archaeologist working with a community team”.

A1.2 AIMS AND RESEARCH QUESTIONS

The aim of the proposed salvage excavation, other than aspects of harm mitigation, is to obtain, if available, a representative sample of lithics from a Dispersed Lithic Site. By analysing the assemblage and comparing it with one or more relevant Complex Lithic Sites, the aim is to test assumptions made about the lithic characteristics of such sites as set forward in Section 3.5 of the ATR and reproduced in summary below.

Table 15: Site Classification System used in this assessment

Complex Lithic Site	A site in which dedicated stone tool manufacture and maintenance was among the range of activities undertaken. The stone tool working will have led to areas with high densities of lithics and some representation of the earlier stages of lithic reduction. With likely repeated use over long periods, such sites may also be stratified. Accepting that such debitage densities may not be compatible with some residential activities such as sleeping and children's play, an apparent centre to a complex lithic site may actually mark an area marginal to most of the activity that may have occurred more generally (which can sometimes be used to explain why peak artefact densities may not occur in the areas of greatest amenity)
Dispersed Lithic Site	A concentration of lithic material away from a site likely to have been a 'residential base' (in Binford's terminology) and representing a range of lithic reduction evidence generally focused away from initial manufacture, other than small tool manufacture from small portable cores, and more on later stages such as tool maintenance/curation, discard of unwanted material and occasional loss of functioning tools. This is the site type predicted in this assessment for MPIP15 – as noted also in its assessment by Kelleher and Nightingale (2015).

The comparison dataset(s) from Complex Lithic Site(s) should be from an assemblage analysed by the same lithic specialist employed for this project to ensure comparability of recording technique and resulting data. The essence of the question being asked is “how does this assemblage differ from a complex site and can it be interpreted as having characteristics predictable of people ‘out and about’ in the landscape, presumably sometimes stopping to work on a mobile working toolkit?”.

A1.3 EXCAVATION METHODS

The salvage excavation should be defined by the following extent:

- a) Phase 1: Six individual 1x1m test units dug the three locations shown in Figure 13. If none of these yield any artefacts, two more 1x1m units may be dug at the excavation director's discretion (recorded on the same MGA grid), but if they are also empty, it should be taken as a sufficient threshold of overall low density (0 artefacts in 8m²) to cease excavation.

The units, as proposed, are on a systematic grid as required by OEH, however, to enable a reasonable chance to successfully locate artefacts, test units should be moved to another location on the same MGA Zone 56 grid if either: a) the defined location lacks decent topsoil; or b) it is in order to place a testing unit on the highest point of the hill and similar suitable location along the ridgeline.

- b) Phase 2: Whichever initial unit has the highest number of artefacts should be further excavated to a total of 12m² with successive squares dug in the direction of highest apparent concentration. If the overall artefact density is less than 3 artefacts per square metre (<36 artefacts in total), it should be taken as a sufficient threshold of low density to cease excavation.
- c) Phase 3: In the event of artefact density of 3/m² or more within the Phase 2 excavation, it should continue to a maximum of 25m². The excavation layout (placement of squares) should continue to work in the direction of highest apparent artefact concentration at the discretion of the excavation director for as long as the overall artefact density remains >3/m². The salvage excavation should then cease.

Rationale: If artefact density is less than 3/m² over an area exceeding 12m², the site involved starts looking poor as a representative Dispersed Lithic Site worth putting on record. It is more likely to be of a density too low too effectively capture the characteristics of such a site and potentially more like a palimpsest of thousands of years of what may be little more than random 'isolated finds'. If, on the other hand, artefact densities remain higher than 3/m², potentially up to a full excavation area of 25m², then it is considered that a sufficient assemblage would have been recovered for the analysis aims stated. Rather than thinking of this as an assemblage of just something more than 75 artefacts, a properly representative Dispersed Lithic Site is considered more likely to result in an assemblage of more than 125 artefacts (>5/m²).

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- d) The AHIP should however allow for any subsequent amount of excavation within the AHIP area as a contingency. This may relate to justifications based on
 - i. Variations of raw materials that warrant further investigation;
 - ii. Unusual artefact types being found such as ground edged implements, etc;
 - iii. Any other relevant archaeological features appropriate for further investigations, e.g. evidence of burning in a hearth, stone features; clay features etc.
 - iv. Other finds that come to light in the course of excavation deemed relevant for further investigation by the excavation director and/or RAP representatives and which are approved by the proponent (as the paying client)

The AHIP should permit development work to commence straight away in areas other than the Salvage Exclusion Zones mapped in Figure 13. Development work should only commence in those areas after the completion of the salvage excavation.

The excavation must be directed by an archaeologist who meets the minimum qualification requirements in Section 1.6 of the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW, 2010b).

A1.4 ARTEFACT ANALYSIS METHODS

The archaeological recording and analysis of the excavation should be largely at the discretion of a suitably qualified archaeologist but include that:

- a) Locational information for Phase 1 test excavation units to within 2m should be considered sufficient given that the information is intended to provide exemplar data for the site type and its landform in a general sense and that the location will be subsequently subject to earthworks (i.e. will not be re-excavated).
 - b) Location information for artefacts within the open area salvage should be measured as precisely as possible.
 - c) Stratigraphy should not be required to be recorded at anything tighter than 10cm resolution unless otherwise determined by the excavation director because it has limited archaeological relevance on thin, disturbed hilltop soils in the Blacktown Soil Landscape;
 - d) Material should be ultimately sieved through a maximum 3mm (maximum aperture) mesh (albeit ideally below a nested 5mm sieve) because, while a maximum 5mm aperture is common, a finer resolution is appropriate to look for debitage associated with mobile tool maintenance;
 - e) Lithic analysis should be undertaken by a relevant expert and largely at their and the excavation director's discretion, however it should:
 - i. Include the recording fields provided in the current AHIMS Site Recording Form; and
 - ii. Also include characteristics relevant to the site type and finding differences when compared to complex tool manufacture sites such as (but not limited to) cortex %, retouch, use wear and information relevant to any piece being a functional tool (or part thereof).
12. Following analysis, the artefacts should be bagged and catalogued following Requirement 26 of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010b).
13. The assemblage should then be prepared for lodgement with Australian Museum. This is the default provision provided by the NPW Act and may be possible (meeting the Museum's significance threshold) on the basis of being a reasonable type assemblage for a Dispersed Lithic Site that could be usefully compared by future researchers undertaking the more common analysis of higher density Complex Lithic Sites.
14. Failing deposition with the Australian Museum, the artefacts recovered should be reburied in an area that will not subsequently be disturbed, either on neighbouring land that will include a larger area of remnant bush, or, as a last resort on the subject land as shown in Figure 10 in Section 5.6 of the report. This will require a variation to the AHIP. A Care Agreement is unlikely to be sought or agreed upon among RAPs and with OEH – although the artefacts should remain safely stored to be transferred should a Care Agreement be possible. The

reburial should involve RAP representatives with the location recorded to sub-metre accuracy (and listed as a site on AHIMS). The involvement of an archaeologist is also recommended to adhere to other requirements as detailed in Requirement 26 of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* as:

- a) A full catalogue, including photographic and drawn records for diagnostic stone artefacts, must be made.
 - b) The catalogue must be in printed form, but may also include an electronic database in the form of a table containing all records.
 - c) All stone artefacts must be either individually bagged or bagged in appropriate and identifiable units (e.g. excavation or collection units) that can be referenced back to the catalogue.
 - d) The stone artefacts must be stored in good quality, double-bagged plastic zip-lock bags.
 - e) The bags must be externally labelled using permanent marker, and an 'independent' label on robust material (e.g. tyvek) written with permanent marker must be placed inside each bag.
 - f) The collection must be placed in a suitable impervious and permanent container, which must be labelled as above, or engraved.
 - g) A full record of the final location of the collection must be made, including
 - i. grid coordinates derived as set out in Requirement 8
 - ii. a site plan or mud map referring to permanent features
 - iii. depth of burial, if buried
 - iv. full photographic record of the disposition.
 - h) The record must be submitted to AHIMS with a site update record card for the site(s) in question.
15. No AHIP will approve impact to Aboriginal human remains. If human skeletal material less than 100 years old is discovered, the *Coroners Act 2009* requires that all works should cease and that the NSW Police and the NSW Coroner's Office be contacted. Traditional Aboriginal burials are protected under the *National Parks and Wildlife Act 1974* and if found, all work should cease. Interpreting the age and nature of skeletal remains is a specialist field and an appropriately skilled archaeologist or physical anthropologist should be consulted. Should the skeletal material prove to be archaeological Aboriginal remains, notification of Office of Environment and Heritage (OEH) and the relevant Aboriginal stakeholders will be required. Notification should also be made to the Commonwealth Minister for the Environment, under the provisions of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

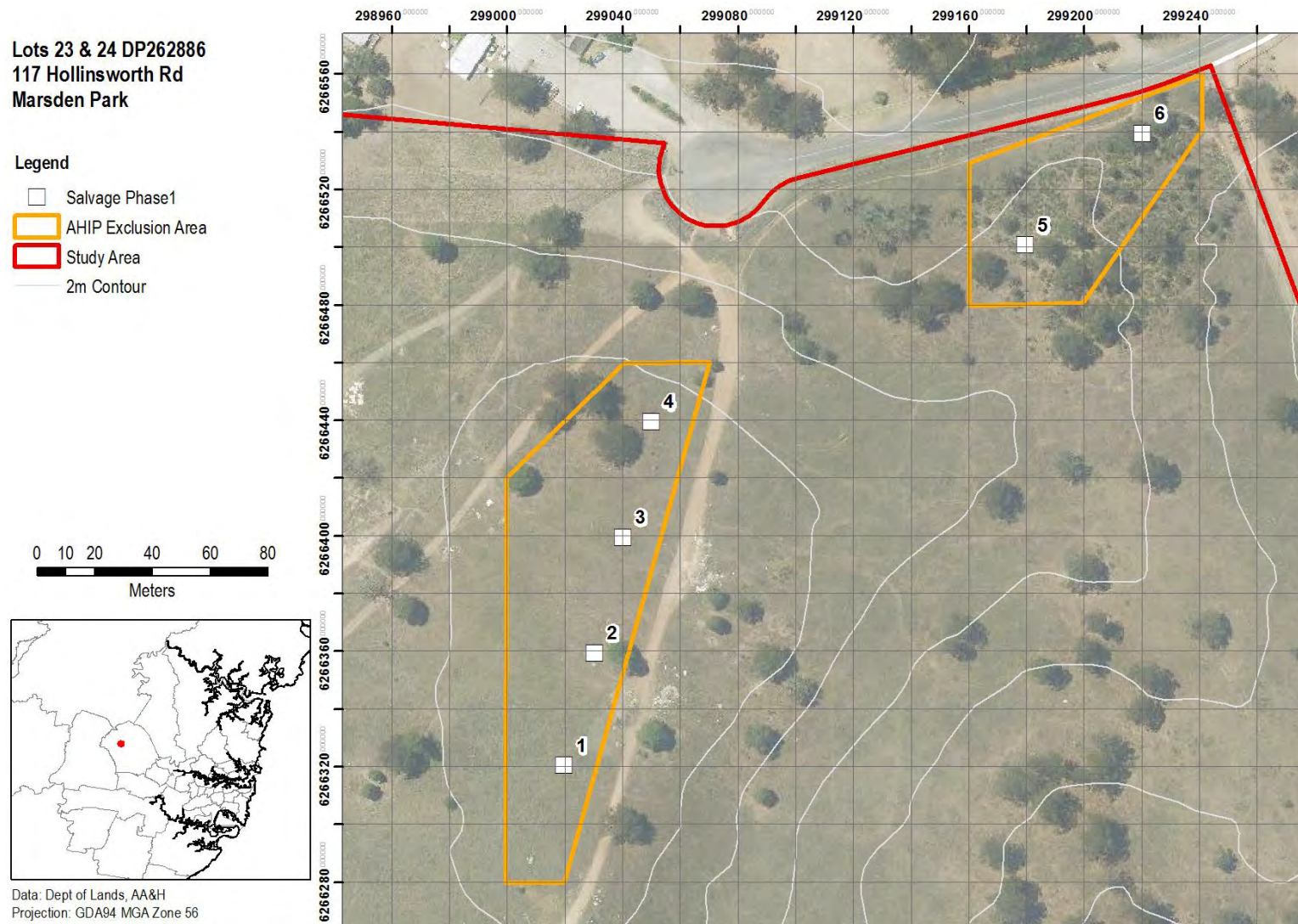


Figure 13: Map showing Phase 1 salvage locations

APPENDIX 2: CONSULTATION LOG

Table 16: Registered Aboriginal Parties (RAPs)

RAP	Registration date	Representative
Deerubbin Local Aboriginal Land Council (DLALC)	28/02/2016	Kevin Cavanagh
Darug Land Observations	21/09/2016	Gordon Workman
Amanda Hickey Cultural Services	11/10/2016	Amanda Hickey
Corroboree Aboriginal Corporation	11/10/2016	Steve Johnson
Darug Custodian Aboriginal Corporation	11/10/2016	Justine Coplin
Kamilaroi-Yankuntjatjara Working Group	11/10/2016	Phil Khan
Widescope Indigenous Group	11/10/2016	Steven Hickey
Carolyn Hickey	11/10/2016	Carolyn Hickey
Murra Bidgee Mullangari Aboriginal Corporation	12/10/2016	Ryan Johnson
Duncan Suey & Associates	13/10/2016	Darren Duncan
Muragadi Heritage Indigenous Corporation	13/10/2016	Jesse Johnson
Tocomwall	13/10/2016	Jakub Czastka
Biamanga	24/10/2016	Seli Storer
Callendulla	24/10/2016	Corey Smith
Goobah Developments	24/10/2016	Basil Smith
Gulaga	24/10/2016	Wendy Smith
Gunjeewong Cultural Heritage Aboriginal Corporation	7/11/2016	Cherie Carroll Turrise
Dhinawan-Dhigaraa Cultural & Heritage Pty Ltd (DDCH)	19/11/2016	Ricky Fields

Table 17: Communication

Date	In/Out	Type	Group	Contact	Notes	Contact
31/08/2016	Out	Letter	Various	Various	Pre-notification letter sent to Office of Environment and Heritage, Deerubbin Local Aboriginal Land Council, Local Land Services (incorporating former Catchment Management Authority), Blacktown City Council Council, Native Title Services (NTSCorp)	Oliver Brown
31/08/2016	Out	Letter	NNTT		Request for search of Tribunal register information sent to National Native Title Tribunal	Oliver Brown
31/08/2016	Out	Letter	ORALRA		Request for Search of the Land Claim Register sent to the Office of the Registrar of the Aboriginal Land Rights Act.	Oliver Brown
31/08/2016	In	Email	Local Land Services	Margaret Bottrell	Email sent by LLS stating "RE: Request for Information on Aboriginal Stakeholders for an Aboriginal Cultural Heritage Assessment at 117 Hollinsworth Road, Marsden Park. Thank you for your letter dated 31 August 2016, requesting assistance with identifying Aboriginal stakeholder groups or persons who may have an interest in your project area. Greater Sydney Local Land Services (GS LLS) acknowledges that Local Land Services have been listed in Section 4.1.2 (g) of the Aboriginal cultural heritage consultation requirements for proponents 2010, under Part 6, National Parks and Wildlife Act 1974 as a source of information to obtain the "names of Aboriginal people who may hold cultural knowledge relevant to determining the	Oliver Brown

Date	In/Out	Type	Group	Contact	Notes	Contact
					significance of Aboriginal objects and/or places". GS LLS is a partner with many Aboriginal communities in the region on many natural resource management (NRM) projects. However, GS LLS is not the primary source for contacting or managing contact lists for Aboriginal communities or persons that may inform or provide comment on planning issues. GS LLS considers cultural heritage issues that relate to land-use planning in general and only considers culture and heritage issues in the context of NRM. We strongly recommend that you make contact with the Office of Environment and Heritage (OEH), Cultural Heritage Division, for all-inclusive contact lists of persons and organisations that may assist with your investigation. Note: Hawkesbury Nepean Catchment Management Authority (HNCMA) no longer exists. All work previously carried out by HNCMA is now delivered by Greater Sydney Local Land Services (GS LLS)".	
31/08/2016	In	Email	NNTT	"Enquiries"	Response included that "We note that the above lots appear to be freehold. Freehold tenure extinguishes native title". The Overlap Report provided for Blacktown City Council are noted "No overlap found" for all fields (NTDA Schedule, NTDA Register (RNTC), Determinations (NNTR), Determinations (Outcomes) and Indigenous Land Use Agreements).	
1/09/2016	In	Letter	OEH	Susan Harrison	Letter sent by OEH with potential RAPs	Oliver Brown
12/09/2016	In	Letter	ORALRA	Tabatha Dantoine	Letter sent by ORALRA confirming no land claims under the <i>Aboriginal Land Rights Act 1983</i> .	Oliver Brown
13/09/2016	Out	Ad	~	~	Ad appeared in Blacktown Sun - Tuesday	
14/09/2016	In	Letter	Blacktown City Council	Sue Galt	Letter sent suggesting OEH for relevant RAP contacts	Oliver Brown
21/09/2016	In	Email	DLO	Jamie Workman	Registration of interest	Oliver Brown
7/10/2016	Out	Email / letter	All potential RAPs	~	Delivery of project information, invitation to register and proposed assessment methodology. Email text: "Please find information in relation to an ACHA being undertaken at Marsden Park. The document includes an invitation to register an interest for Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) in the Marsden Park area. It also includes the draft assessment methodology for review for those who would like to register. Closing dates are 24/10/2016 for registration and 7/11/2016 for responses to the draft assessment methodology (>28 days). Kind regards, Oliver" The attached document reproduced as Figure 24	Oliver Brown
10/10/2016	In	Email	DLO	Jamie Workman	Provision of comments on draft	Oliver Brown
11/10/2016	In	Email	DCAC	Justin Coplin	Registration of interest	Oliver Brown
11/10/2016	In	Letter	Kamilaroi-Yankuntjatjara Working Group	Phil Khan	Registration of interest	Oliver Brown
11/10/2016	In	Email	Amanda Hickey	Amanda Hickey	Registration of interest	Oliver Brown
11/10/2016	In	Email	Carolyn Hickey	Carolyn Hickey	Registration of interest	Oliver Brown
11/10/2016	In	Email	Steven Hickey	Steven Hickey	Registration of interest	Oliver Brown
11/10/2016	In	Email	Corroboree AC	Steve Johnson	Indicated intention to review and respond. Email text: "Hi Oliver Thanks for that will review and respond Cheers Steve Johnson CAC"	Oliver Brown

Date	In/Out	Type	Group	Contact	Notes	Contact
12/10/2016	In	Email	Murra Bidgee Mullangari	Ryan Johnson	Registration of interest	Oliver Brown
13/10/2016	In	Email	Darren Duncan	Darren Duncan	Registration of interest. Email text: "Hi Oliver, I'm a Gadigal man and also a Deerubbin member, have been working with both councils over the last 20 years or so assisting on significant archaeological digs around the Sydney area such as stage 1 Rouse Hill (1998-2004), Parramatta with Casey and Lowe. Also Tempe House with Metro Land Council. I have attached my certificate of currency. Looking forward to working with you. Kind regards, Darren J. Duncan"	Oliver Brown
13/10/2016	In	Email	Muragadi	Jesse Johnson	Registration of interest	Oliver Brown
24/10/2016	In	Email	Cullendulla	Corey Smith	Registration of interest. Email text: "Hi Oliver, Please accept this as Cullendullas support for the draft methodology and interest in participating in any fieldwork for the above project. Our daily rate is \$880 (plus GST). We have current insurance. Please keep us informed of any further developments".	Oliver Brown
24/10/2016	In	Email	Biamunga	Seli Storer	Registration of interest	Oliver Brown
24/10/2016	In	Email	Gulaga	Wendy Smith	Registration of interest. Email text: "Hi Oliver, Gulaga wish to register their interest in the above project. Please keep us informed of any further developments thankyou."	Oliver Brown
24/10/2016	In	Email	Murramarang	Roxanne Smith	Registration of interest	Oliver Brown
24/10/2016	In	Email	Goobah	Basil Smith	Registration of interest. Email text: "Hi Oliver, This is Goobahs support for the draft methodology for the above project at 117 Hollinsworth Road, Marsden Park. We wish to participate in any field investigations, and hold current insurances. Our daily rate is \$880 plus GST. We wish to be kept informed of any further developments and all correspondence should be sent to this email address."	Oliver Brown
25/10/2016	In	Email	DCAC	Justine Coplin	Comment on proposed methods	Oliver Brown
6/11/2016	In	Email	Cullendulla	Corey Smith	Registration and support of draft methods	Oliver Brown
6/11/2016	In	Email	Biamunga	Seli Storer	Registration and support of draft methods	Oliver Brown
6/11/2016	In	Email	Gulaga	Wendy Smith	Registration and support of draft methods	Oliver Brown
6/11/2016	In	Email	Murramarang	Roxanne Smith	Registration and support of draft methods. Email text: "Hi Oliver, Please accept this as confirmation that Murramarang wish to register their interest in the above project."	Oliver Brown
6/11/2016	In	Email	Goobah	Basil Smith	Registration and support of draft methods	Oliver Brown
7/11/2016	In	Email	Gunjeewong	Cherie Turrise (Carroll)	Registration of interest	Oliver Brown
14/11/2016	Out	Letter	Tocomwall	Jakub Czasta	Response to comments on draft methodology	Oliver Brown
19/11/2016	In	Phone	Dhinawan	Ricky Fields	Registration of interest	Oliver Brown
5/12/2016	In	Email	DLALC	Steve Randall	Deerubbin LALC report on fieldwork	Oliver Brown
10/04/2017	Out	Email and post	All RAPs		Distribution of Consultation Draft ACHA. Email text: "Dear all, Please find the consultation draft ACHA for the project at 117 Hollinsworth Road for which you are a Registered Aboriginal Party here: [expired link] You will note that the block is a long way from any water with one well-defined hilltop that both survey and modelling would	

Date	In/Out	Type	Group	Contact	Notes	Contact
					suggest is a clear focus of heritage material. Rather than testing, we are proposing to defer any more archaeological work to a good bit of salvage. The rationale is that testing is likely to demonstrate low density and not lead to salvage before an AHIP is sought and approved. So, instead, I see more value in seeking the AHIP now and conditioning a community-led salvage excavation in the permit. This would then go out to tender and most likely be undertaken by a different archaeologist co-ordinating the community work. Please feel free to call to discuss this at any time. Comments are sought within 28 days - i.e. before 8 May 2017. Kind regards, Oliver	
13/04/2017	In	Email	DCAC	Justibe Coplin	Response to draft ACHA	Oliver Brown
8/5/2017	In	Email	CAC	Marilyn Carroll-Johnson	"Thanks for the update	Oliver Brown
<i>End of correspondence. No further comments were received on draft ACHA.</i>						

REQUEST FOR SEARCH OF LAND CLAIM REGISTER



OFFICE OF THE REGISTRAR
ABORIGINAL LAND RIGHTS ACT 1983 (NSW)

11-13 Mansfield Street
Glebe NSW 2037
PO Box 112, Glebe NSW 2037
P 02 9562 6327 F 02 9562 6350

Please print all details clearly using block letters

Full name of person requesting search: *(name for correspondence)*
Oliver Brown

Name of company: Associates A&H

Postal address: 29 Hannan Street
Maroubra NSW 2035

Telephone number: 0427 414 226 Fax number: N/a

Land identifiers:
(lot, dp, reserve number –
not crown plan number or vol id) Lot 23 and 24 DP 262886

Parish name: Rooty Hill

County name: Cumberland

To assist the office in assigning priorities, please answer the following:

1) Purpose for which information is required:

Request undertaken as part of the Aboriginal consultation process required by Office of Environment and Heritage in the development of an Aboriginal Cultural Heritage Assessment

2) If urgent consideration is required, reason for urgency:

Signature, position and date: 
Senior Archaeologist
31/08/2016

Please note:

1. Searches are completed within 5 working days and returned by ordinary mail.
2. The register covers only crown land.
3. All information is required including a name for correspondence before the search will be completed.
4. The person to whom correspondence is addressed must sign the form.

March 2009

Figure 14: ORALRA Register Search

Your details	Name: Oliver Brown
	Position: Director
	Company/organisation: Associates Archaeology & Heritage
	Postal address: 29 Hannan Street, Maroubra NSW 2035
	Your reference: Citius Marsden Park
	Email address: oliver@archassociates.com.au
	Telephone No.: 0427 414 226
	Fax No.: N/a
Date of request: 31 August 2016	
Reason for search request	☐ I am a party to a native title proceeding – please specify Federal Court/Tribunal file number/application name: ☒ I need to identify existing native title interests to comply with the NTA or other State/Territory legislation – please provide details: I am undertaking an Aboriginal Cultural Heritage Assessment, and need to identify native title interests as part of the community consultation component, as required by the Office of Environment and Heritage guidelines.
Details of the area to be searched Please complete the relevant description fields (fields marked with an asterisk must be completed) or provide a clear map of the area including landmarks	Mining Tenure: *State/Territory: *Mining/ exploration details: Tenement number(s) (i.e. EL No or MCN No) or block/sub block description:
	Other Land Tenure: *State/Territory: NSW Land parcels: <i>Lot number(s)</i> : Lot 23 and 24 DP 262886 *Tenure type (<i>e.g. agricultural lease</i>): Freehold Property name: Pastoral Lease number or name: *Local Government Area(s): Blacktown County: Cumberland Parish: Rooty Hill Town: Section: Hundred: Northern Territory Portion: Other details: (additional information may be attached): Map attached

Note: Search requests cannot be processed if insufficient detail is supplied.

Note: Map coordinates that form part of the attachments to a search result will not be sent with results unless specifically requested. Maps and any other formal attachments will be sent.

Figure 15: NNTT Search Request

Oliver Brown
29 Hannan Street, Maroubra NSW 2035
0427 414 226
oliver@archassociates.com.au
31th August 2016

Environment Protection and Regulation Group - Metropolitan
Office of Environment and Heritage
PO Box 668, Parramatta NSW 2124
Email cc: Susan.Harrison@environment.nsw.gov.au

CC: Local Land Services, Local Aboriginal Land Council, Local Council, NTSCORP, Office of the Registrar
Aboriginal Land Rights Act 1983, National Native Title Tribunal

**Re: Request for Information on Aboriginal Stakeholders for an Aboriginal Cultural Heritage
Assessment at 117 Hollinsworth Road, Marsden Park**

Dear Sir or Madam,

In accordance with the NSW Office of Environment and Heritage's (OEH) *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*, I am writing to notify you that we are undertaking an Aboriginal Cultural Heritage Assessment (ACHA) in advance of proposed development of industrial land at Marsden Park.

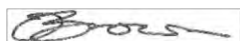
The land in question is within the Blacktown Local Government Area, located at 117 Hollinsworth Road, Marsden Park, NSW (Lot 23 and 24 DP 262886). The proponent's representative is Graham Rushton, Citius Property Development, (03 9670 7775).

The ACHA is being prepared in advance of development of the land and it is likely that it will be submitted in association with an application for an Aboriginal Heritage Impact Permit (AHIP) to the Office of Environment and Heritage.

I am writing to you to seek information on relevant Aboriginal individuals and/or communities that you are aware of, who may hold cultural knowledge for the area relevant to determining the significance of Aboriginal objects and/or places.

It would be appreciated if you could provide this information to me as soon as possible, at the Associates A&H address above or by email to oliver@archassociates.com.au. Please don't hesitate to contact me on 0427 414 226 if you have any queries.

Sincerely,



Oliver Brown

Figure 16: Pre-notification letter page 1

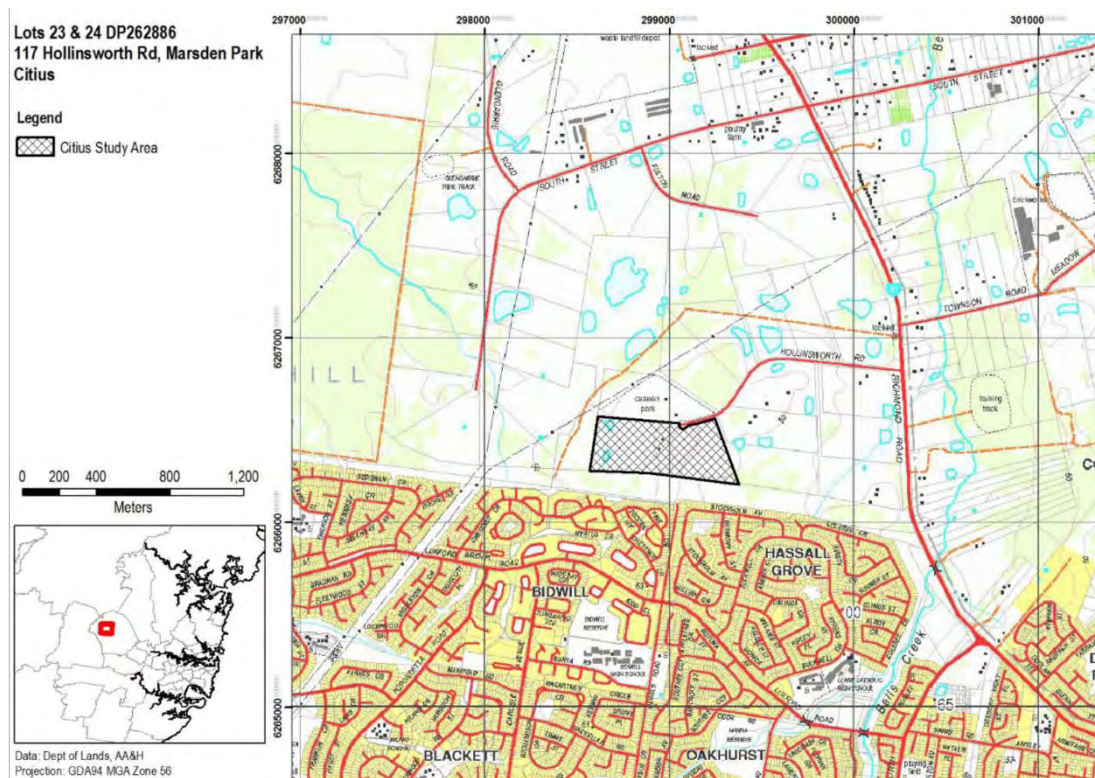


Figure 1: Location

Figure 17: Map accompanying all pre-notifications

Notification of Aboriginal Cultural Heritage Assessment and Invitation for Registrations of Interest – Rooty Hill (Blacktown LGA).

Aboriginal Cultural Heritage Assessment is being undertaken for the development of industrial land at Hollinsworth Road (99, 113-115), Marsden Park. The proponents are Marsden Hollinsworth and Busways Pty Ltd.

Correspondence should be directed to Oliver Brown at AA&H: 29 Hannan Street, Maroubra 2035; 0427 414 226; oliver@archassociates.com.au.

Registrations are invited from Aboriginal individuals and/or organisations, who may hold cultural knowledge for the area relevant to determining the significance of Aboriginal objects and/or places and who wish to be involved in the community consultation process.

The purpose of the Aboriginal community consultation is to assist the proponent in preparing the ACHA for the project area, and to assist OEH in considering an AHIP application.

Registrations of interest should be provided no later than [14 DAYS FROM AD] to Oliver Brown

Figure 18: Ad appearing in Blacktown Sun



Overlap Analysis Report

Disclaimer

This information product has been created to assist in understanding the spatial characteristics and relationships of this native title matter and is intended as a guide only. Spatial data used has been sourced from the relevant custodians in each jurisdiction, and/or the Tribunal, and is referenced to the GDA84 datum.

While the Native Title Registrar (Registrar) has exercised due care in ensuring the accuracy of the information provided, it is provided for general information only and on the understanding that neither the Native Title Registrar nor the Commonwealth of Australia (Commonwealth) is providing professional advice. Appropriate professional advice relevant to your circumstances should be sought rather than relying on the information provided. In addition, you must exercise your own judgment and carefully evaluate the information provided for accuracy, currency, completeness and relevance for the purpose for which it is to be used.

As the interpretation of any particular native title determination area provided is based upon the best information available to the Registrar at the time of creation, any effective analysis must include reference to both the relevant determination of native title made by the Federal Court of Australia and the entry made in relation to that determination on the National Native Title Register maintained by the Registrar.

Please note:

- Calculated areas may not be the same as the legal area of a parcel.
- Where shown, NNTT Tenure Class for a non freehold parcel refers to a tenure grouping derived for the purposes of the Tribunal, and does not necessarily represent the jurisdictional tenure type.
- Overlap results are returned only for the currently active jurisdiction.

Selected feature

Name	Blacktown
Full name	Blacktown City Council
As at	1/03/2015
Calculated area SqKm	240.2063



Overlap details

NTDA Schedule

No overlap found

NTDA Register (RNTC)

No overlap found

Determinations (NNTR)

No overlap found

Determinations (Outcomes)

No overlap found

Indigenous Land Use Agreements

No overlap found

RATSIBs

Name	Organisation	RATSIB Status	Area sq km (calculated)	Overlap Area sq km (calculated)
New South Wales	NTSCORP Limited	NTSP	1,723,577.6084	240.2062

Produced by NNTT Geospatial Database on

Figure 19: NNTT Overlap report



Office of Environment & Heritage

Our reference: SF16/1630

Oliver Brown
29 Hannan Street
MAROUBRA
NSW 2035

Dear Oliver,

Thank you for your letter dated 31 August 2016 to the Office of Environment and Heritage (OEH) regarding obtaining a list of the Aboriginal stakeholders that may have an interest in an Aboriginal Cultural Heritage Assessment for the proposed development at 117 Hollinsworth Road, Marsden Park.

Before making an application for the issue of an Aboriginal Heritage Impact Permit, the applicant must carry out an Aboriginal community consultation process in accordance with the National Parks and Wildlife Regulation 2009 and completed to the stage described in subclause 80C.

Please find attached the list of Aboriginal stakeholders known to OEH that may have an interest in the project. OEH's list of regional stakeholders is a list of groups, organisations or individuals who may hold cultural knowledge relevant to a proposal in a region. You should contact the stakeholders who have indicated an interest in the Local Government Area (LGA) relevant to your project. Contact details are correct as at the time of registration. Consultation with Aboriginal people should not be confused with employment. Inclusion on the OEH's list is not an automatic right to employment. It is the decision of a proponent on who they choose to engage to deliver services based on a range of considerations including skills, relevant experience, and WHS considerations. To be clear, the proponent is under no obligation to employ Aboriginal people registered for consultation.

Further, receipt of this information does not remove the requirement of a proponent/consultant to advertise in local print media and contact other bodies seeking interested Aboriginal parties. Consultation with Aboriginal stakeholders must be in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* which can be found on the Office of Environment and Heritage (OEH) public website by accessing the following link:

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

If you wish to discuss any of the above matters further please contact Alexander Timms, Archaeologist, on (02) 8837 6067. **Please note that all future correspondence should be sent to the Senior Team Leader Planning PO Box 644 Parramatta NSW 2124.**

Yours sincerely

S. Harrison 01/09/16

Susan Harrison
Senior Team Leader Planning
Greater Sydney Region
Regional Operations

Level 6, 10 Valentine Avenue, Parramatta NSW 2150
PO Box 644, Parramatta NSW 2124
Tel: (02) 9995 5477
ABN 30 841 387 271
www.environment.nsw.gov.au

Figure 20: OEH Response*

*Full list of potential RAPs identified for Blacktown LGA: Deerubbin Local Aboriginal Land Council (DLALC), Darug Land Observations, Amanda Hickey Cultural Services, Corroboree Aboriginal Corporation, Darug Custodian Aboriginal Corporation, Kamilaroi-Yankuntjatjara Working Group, Widescope Indigenous Group, Carolyn Hickey, Murra Bidjee Mullangari Aboriginal Corporation, Duncan Suey & Associates, Muragadi Heritage Indigenous Corporation, Tocomwall, Biamanga, Callendulla, Goobah Developments, Gulaga, Gunjeewong Cultural Heritage Aboriginal Corporation, Dhinawan-Dhigaraa Cultural & Heritage Pty Ltd (DDCH), Anthony Williams, Badu, Bidjowong Aboriginal Corporation, Bilinga, Bilinga Cultural Heritage Technical Services, Butucarbin Aboriginal Corporation, Darug Aboriginal Cultural Heritage Assessments, Darug Tribal Aboriginal Corporation, Des Dyer, Dharug, Didge Ngunawal Clan, Ginniderra Aboriginal Corporation, Gundungurra Tribal Technical Services, Gunyuu, Gunyuu Cultural Heritage Technical Services, HSB Consultants, Jerringong, Kawul Cultural Services, Merrigam Indigenous Corporation, Minnamunnung, Munyunga, Munyunga Cultural Heritage Technical Services, Murramarang, Murrumbul, Murrumbul Cultural Heritage Services, Nundagurri, Pemulwuy CHTS, Rane Consulting, Thauaira, Walbanja, Walgalu, Warragil Cultural Services, Wingikara, Wingikara Cultural Heritage Technical Services, Wullung, Wurrumay Consultancy, Yerramurra.



12 September 2016

Oliver Brown
Associates A&H
29 Hannan Street
MAROUBRA NSW 2035

11-13 Mansfield Street
Glebe NSW 2037
PO Box 112, Glebe NSW 2037
P. 02 9562 6327 F. 02 9562 6350

Dear Oliver

Aboriginal Land Claim (ALC) Search

I refer to your letter dated 31 August 2016 to search the Register of Aboriginal Land Claims database in relation to land described by you as:

Lot: 23 DP 262886

Lot: 24 DP 262886

Parish: Rooty Hill

County: Cumberland

I have searched the database and the subject land described by you *does not appear* on the Register as being affected by an ALC pursuant to sections 36 or 37 of the *Aboriginal Land Rights Act 1983*.

Regards

Tabatha Dantoine
Directorate Support Officer
Office of the Registrar, *Aboriginal Land Rights Act 1983 (NSW)*

Please Note: 1. Search requests should not be made over privately owned land. Crown Land is the only land in NSW that is likely to be affected by an ALC under the *Aboriginal Land Rights Act*. If an ALC has been made over privately owned land it would be refused as soon as this is known.

2. Land across NSW with older land descriptors such as "portion, REF & TSR" have been allotted new descriptors over the last 10 years & many of these now have "Lot & DP" numbers. The ORALRA database lists the land descriptor at lodgement & may not include an updated land descriptor. If this may affect the land that you've described, we advise that you contact the *Aboriginal Land Claims Investigation Unit* on (02) 6883 3396.

Figure 21: ORALRA response



Our file no.: 122795
122796

14 September 2016

Oliver Brown
oliver@archassociates.com.au

Dear Sir,

**Aboriginal Cultural Heritage Assessment at 117 Hollinsworth Road,
Marsden Park**

Thank you for your letter dated 31 August 2016 regarding Aboriginal stakeholders contact details relevant to development at the above property.

The NSW Office of Environment and Heritage (OEH) has advised us that their consultation list for this purpose is confidential and may only be obtained on a project-by-project basis from officers of the OEH.

Please contact Fran Scully of the Office of Environment and Heritage Regulatory Group on 9995 6830 for further assistance.

Yours faithfully,

Brian Malouf
Acting Manager Development Policy

Council Chambers • 62 Flushcombe Road • Blacktown NSW 2148
Telephone: (02) 9839 6000 • **Facsimile:** (02) 9831-1961 • DX 8117 Blacktown
Email: council@blacktown.nsw.gov.au • **Website:** www.blacktown.nsw.gov.au
All correspondence to: The General Manager • PO Box 63 • Blacktown NSW 2148
G:\Dept\DD\Let\September 2016\09DDJR0114.docx

Figure 22: Blacktown City Council response



DARUG LAND
OBSERVATIONS PTY LTD
ABN 27 602 765 453

Email: daruglandobservations@gmail.com
PO BOX 571 PLUMPTON NSW 2761
Mobile: 0420 591 138 / 0413 687 279

21st September, 2016

Oliver Brown
Associates A & H
29 Hannan Street
MAROUBRA NSW 2035

Notification and Registration of ALL Aboriginal Interests

RE: 117 Hollinsworth Road, Marsden Park, NSW

Aboriginal Archaeological & Cultural Heritage Assessment

Dear Oliver,

Please be advised that Darug Land Observations Pty Ltd is seeking to be involved in any and all consultation meetings and fieldwork.

This office specialises in Aboriginal and community consultations, and has a membership that comprises of Traditional owners from the area in question. Those retain strong story, song lines, oral history and continued contact.

We would also like to state that we do not accept or support any person or organisation that are NOT from the DARUG Nation that comments regarding the said area.

Please also be advised that this Aboriginal organisation does not do volunteer work or attend unpaid meetings. I hope that you advise your client of this so that, 'This Group', will not be discriminated against and refused paid fieldwork. DLO's rate is \$440 half day (less than 4 hours) and \$880 per day (flat rate), including GST.

All correspondence should be emailed to: daruglandobservations@gmail.com and any further consultation during this project can be directed to Anna or Jamie Workman.

Yours sincerely,

Jamie Workman
Darug Land Observations Pty Ltd

Uncle Gordon Workman
Darug Elder

Figure 23: DLO registration

Project Information, Invitation for Registering
Aboriginal Parties and Proposed Assessment
Methodology

Aboriginal Cultural Heritage Assessment

117 Hollinsworth Road, Marsden Park

October 2016

Prepared for:

**Potential Aboriginal Community
Representatives**

AA&H Quality Control

Document#	16021_ProjectInfo & Methodology
Revision/Version No.	7 October 2016
Prepared by:	Oliver Brown
Prepared for:	Potential Aboriginal Community Representatives

Figure 24: Project information distributed to all potential RAPs (additional pages below)

1 Invitation to Register as an Interested Party

This document serves as both an invitation to register an interest as well as providing project information and a draft assessment methodology for those who do so. Registration of interest should only be made by Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) in the Marsden Park area. Please review the project information below and if you would like to register an interest, provide the information listed below:

Name of Registering Aboriginal Party:	
Contact Person:	
Phone:	
Email: (Note: Draft reports to be reviewed will only be supplied in electronic format delivered by email)	
Do you have any comments on the proposed methodology: (Please note that an archaeological survey was undertaken by KNC in 2009 sufficient to determine the requirement for test excavation and that the test excavation methodology is largely determined by the <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales</i> (DECCW, 2010b).	

Closing dates are 24/10/2016 for registration and 7/11/2016 for responses to the draft assessment methodology (>28 days). Please be aware that your details will be forwarded to OEH and Deerubbin Local Aboriginal Land Council unless you specify otherwise.

If you would like to offer to provide field staff to participate in field investigations, please provide the information in the table below.

However, to avoid disappointment please note that few offers for fieldwork involvement will be taken up as requirements are limited and there is likely to be a large number of RAPs. Any decision to engage RAPs for paid services will be based on relevant experience and cost in consultation with the proponent. Any decisions are of a commercial nature separated from the process of consultation regarding cultural values and Aboriginal cultural heritage management outcomes. Any RAPs that use aggressive tactics to secure paid fieldwork will not be engaged.

Are you offering fieldwork services? (yes/no) (Note: With the limited scope of the assessment and the likely number of RAPs, a very limited number of these offers will be taken up)	
Will a worker be covered by Worker's Compensation and Liability Insurance? (Certificates of currency will be requested if an offer to provide paid fieldworker is taken up)	
What is your daily rate? (Note: The proponent may set a fixed offer)	
If we have not worked together before, you may like to suggest a consultant archaeologist who can provide a reference.	

2 Project Information

2.1 Introduction

Logos Property Group Pty Ltd intends to develop land within the Marsden Park Industrial Precinct undertaking at 117 Hollinsworth Road, Marsden Park (Lots 23 and 24 DP262886) (**Figure 1**). It is anticipated that the land will be developed into four industrial lots with associated infrastructure works (**Figure 2**). Associates Archaeology & Heritage have been engaged to undertake the required Aboriginal cultural heritage assessment.

Table 1: Proponent and consultant contact details

	Heritage Consultant	Proponent
Company	Associates Archaeology & Heritage	Logos Property Group Pty Ltd c/o Citius Property Pty Ltd
Contact person	Oliver Brown	Graham Rushton
Email	oliver@archassociates.com.au	graham.rushton@citius.com.au
Address	29 Hannan Street Maroubra NSW 2035	Level 2, 55 Hardware Lane Melbourne VIC 3000
Phone	0427 414 226	0418 520 184

The proposed work will involve establishing level construction pads for the construction of industrial buildings, consistent with the zoning of the land within the Marsden Park Industrial Precinct. This type of development generally requires heavy impact to existing soil profiles.

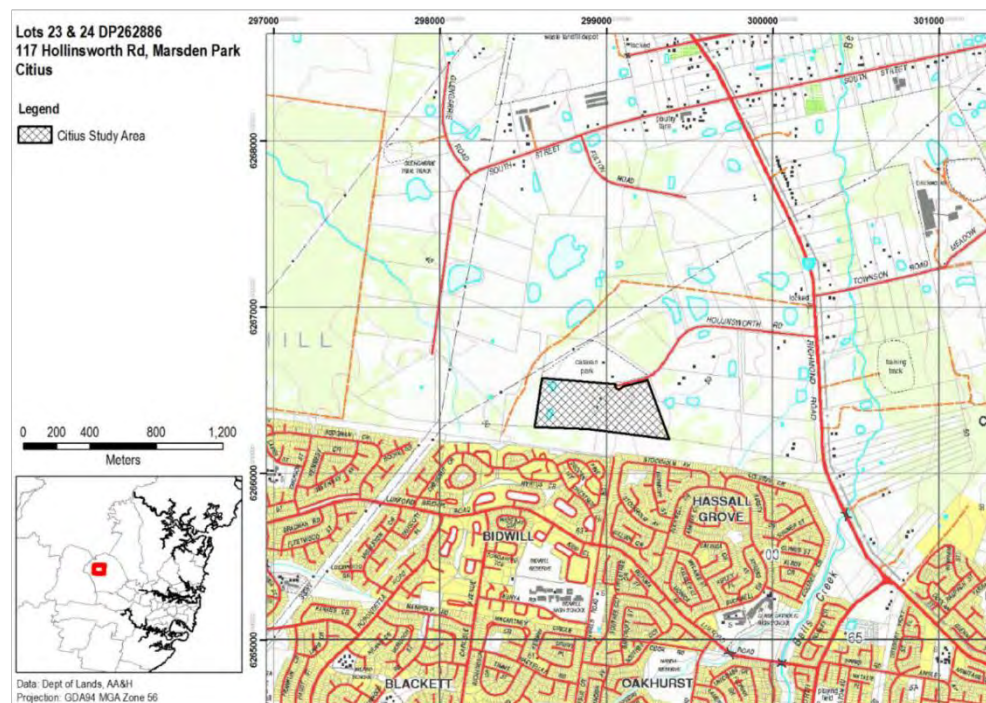


Figure 1: Location



Figure 2: Proposed subdivision and industrial development

2.2 Purpose of Consultation

The purposes of community consultation with Aboriginal people are:

- To assist in the assessment process by providing relevant information about any cultural values that may be associated with the location and any Aboriginal objects recorded there; and
- To assist in the preparation of an application for an AHIP and to assist the Director General of DECCW in his or her consideration and determination of the application.

All RAPs are reminded of Section 3.4 of the *Aboriginal cultural heritage consultation requirements for proponents* (DECCW, 2010c) emphasising that “consultation should not be confused with employment”:

“The consultation process involves getting the views of, and information from, Aboriginal people and reporting on these. It is not to be confused with other field assessment processes involved in preparing a proposal and an application. Consultation does not include the employment of Aboriginal people to assist in field assessment and/or site monitoring. Aboriginal people may provide services to proponents through a contractual arrangement; however, this is separate from consultation. ...The proponent is not obliged to employ those Aboriginal people registered for consultation. Consultation as per these requirements will continue irrespective of potential or actual employment opportunities for Aboriginal people”.

2.3 Our Team

The Aboriginal cultural heritage assessment process will be managed by Oliver Brown (Director, Associates Archaeology & Heritage). Oliver established Associates A&H Pty Ltd in 2014 after a two-year position as a Senior Consultant at AHMS. Prior to that he was Principal Archaeologist at Oliver Brown Consulting Archaeology (four years) and Total Earth Care (four years). He has also been an archaeologist at the University of Sydney, the Oxford University Museum of Natural History and the Oxford Archaeological Unit.

AA&H policy is to only engage Aboriginal people for fieldwork on Aboriginal cultural heritage assessment projects where possible. While we believe that this is a positive position to be taking in the industry, it does mean that in place of qualified archaeologists those engaged are selected on the basis of skills and experience working with our methods of artefact distribution modelling. Coupled with the fact that we generally only do small jobs with a crew size of only three people, we are not able to use rostered engagement of multiple RAP groups.

3 Proposed Assessment Methodology

3.1 Introduction

We have previously undertaken Aboriginal cultural heritage assessment of the two neighbouring properties to the east of the current study area and will be continuing on with the artefact distribution modelling methodology employed there. The whole Marsden Park Industrial Precinct was previously surveyed by Kelleher & Nightingale in 2009, providing additional background material. The defined two sites: MPIP15 across a broad area (with artefact incidences mapped as MPIP15A and MPIP15B) and MPIP14 as an isolated site (**Figure 3**).

On the basis of the previous work and the general predictive principles applicable in western Sydney (noting the whole study area as being >120m from water), we predict that subsurface artefacts will only be present in low-moderate density in some areas and in nil-low density across most of the study area. The base predicted model to be refined by survey and test excavation is shown in **Figure 3** with darker shading indicating predicted higher artefact density. We will refine this understanding into an artefact distribution model suitable for presentation in a formal Aboriginal Cultural Heritage Assessment using both further survey and test excavation data. The work will be fully compliant with Requirements 5-10 of the OEH *Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010b). These requirements are available online:

<http://www.environment.nsw.gov.au/resources/cultureheritage/10783FinalArchCoP.pdf>

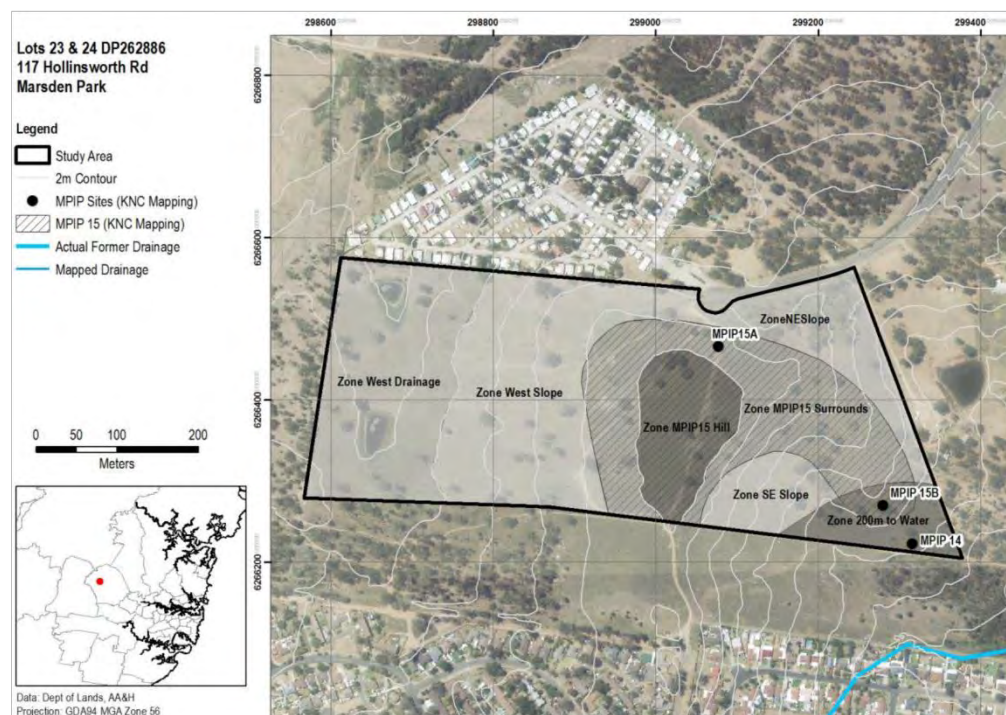


Figure 3: Landforms zones and base prediction to be refined by assessment

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3.2 Background work

Prior to fieldwork, we will be:

- Working on the formal Aboriginal community consultation process following the Aboriginal cultural heritage consultation requirements for proponents (DECCW, 2010c).
- Preparing background information while the notification and registration stages of the consultation process are underway.
- Integrating results of neighbouring investigations to assist in establishing reliable patterns of artefact distribution.

3.3 Exposure Survey

Our survey approach differs from many consultants in that we undertake targeted survey of areas of exposure in way that allows artefact finds to be represented as directly comparable measures of artefacts per (exposed) square metre and then integrated into spatially modelling the abundance and distribution of artefacts in the same way that test excavation data is used. This method of survey is not intended to simply determine the presence or absence of artefacts because we already know that they are there – the basic survey was undertaken in 2009.

The exposure survey data will be collected in an initial field program by Oliver Brown with one RAP representative over two days. Because the method relies on the survey effort and efficacy being the same throughout the process, the engaged RAP representative is the same person – ideally the same as used on the neighbouring property as well.

3.4 Test Excavation

Once the exposure survey data are modelled and mapped, an initial program of test excavation will be used to test and refine that model through excavation on a grid. This testing is anticipated to be undertaken over four days by Oliver and two RAP representatives. Using a small crew, excavation is fully mobile, with deposits dry-sieved adjacent to holes and the holes immediately backfilled (unless opened up into 1m² units). Any clayey deposits that cannot be dry sieved are set aside and transported to a location with water to be wet sieved if necessary.

A final stage of test excavation will be undertaken after the results of the first four days are modelled and mapped. This will only comprise a further two days with the aim of filling in any minor data gaps. The key to the data collection approach is that each zone as shown in Figure 3 should have enough data to reliably define its archaeological potential and significance.

If there are any areas within a zone in which an isolated area of higher density is found this will also be refined. If warranted, this may be subject to more detailed investigation through salvage excavation if it is made a condition of any AHIP.

All test excavation will meet the methodological requirements of the OEH *Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010b). All artefacts will be subject to technical recording and analysis. Artefacts will be catalogued and stored in a safe in the

6

AA&H office until they are either reburied on site or transferred to a RAP under a Care Agreement (the assemblage would not meet the threshold for significance to be accepted by the Australian Museum). We will be looking into the possibility of merging the assemblage with those from the two neighbouring properties to provide a more significant collection and maximise any opportunity for the most respectful long-term storage solution.

3.5 Reporting

Using the results of test excavation, a draft ACHA and appended Archaeological Report will be prepared for review by the proponent and then Registered Aboriginal Parties. The ACHA will include the final model of the distribution of flaked stone artefacts in the study area so that OEH and RAPs have a reliable understanding of the impact that will result from the development.

Following the integration of RAP responses, the finalised report will be provided with other required documentation to the proponent. The ACHA may then be used to support an AHIP application.

3.6 Further Information sought

Please inform us if there any protocols that you wish to be adopted into the information gathering process and assessment methodology. Please also let us know if there are any matters such as issues/areas of cultural significance that might affect, inform or refine the assessment methodology – for example places of social, spiritual and cultural value, historic places with cultural significance, and potential places/areas of historic, social, spiritual and/or cultural significance. Let us know if any information that you provide is sensitive or you would like to be subject to restricted public access.

Registration and comment can be provided together or separately, noting closing dates shown in **Table 2**.

Table 2: Closing dates for registration and comment on methodology

Stage	Date
Distribution of this document	10/10/2016
Registration of interest closes	24/10/2016
Provision of comment closes	7/11/2016



DARUG LAND
OBSERVATIONS PTY LTD
ABN 27 602 765 453

Email: daruglandobservations@gmail.com
PO BOX 571 PLUMPTON NSW 2761
Mobile: 0420 591 138

10th October 2016

Oliver Brown
Associates Archaeology & Heritage Pty Ltd
29 Hannan Street
MAROUBRA NSW 2035

Dear Oliver,

**RE: MARSDEN PARK INDUSTRIAL PRECINCT,
117 HOLLINSWORTH ROAD, MARSDEN PARK**

Project Information and Proposed Assessment Methodology

Aboriginal Cultural Heritage Assessment

Darug Land Observations Pty Ltd has reviewed the project information and the proposed assessment methodology, and supports the methodology for the proposed subdivision of four industrial lots with associated infrastructure works at 117 Hollinsworth Road, within the Marsden Park Industrial Precinct, in Marsden Park.

In relation to the long-term storage of recovered artefacts, if any, Darug Land Observations Pty Ltd strongly believes that recovered artefacts should be re-buried on Country (the study area).

Darug Land Observations Pty Ltd would like to receive a copy of the Section 90 Aboriginal Heritage Impact Permit (AHIP).

Furthermore, Darug Land Observations Pty Ltd would be involved in the monitoring of the topsoil removal and all other form of works to be carried out on the site.

Yours sincerely,

Jamie Workman
Darug Land Observations Pty Ltd

Uncle Gordon Workman
Darug Elder

Figure 25: DLO response

Associates A&H

October 2016

1 Invitation to Register as an Interested Party

This document serves as both an invitation to register an interest as well as providing project information and a draft assessment methodology for those who do so. Registration of interest should only be made by Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) in the Marsden Park area. Please review the project information below and if you would like to register an interest, provide the information listed below:

Name of Registering Aboriginal Party:	DARUG LAND OBSERVATIONS Pty LTD
Contact Person:	ANNA O'HARA or JAMIE WORKMAN
Phone:	0413 687 279 / 0420 591 138
Email: (Note: Draft reports to be reviewed will only be supplied in electronic format delivered by email)	daruglandobservations@gmail.com
Do you have any comments on the proposed methodology: (Please note that an archaeological survey was undertaken by KNC in 2009 sufficient to determine the requirement for test excavation and that the test excavation methodology is largely determined by the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW, 2010b).)	DLO supports the methodology

Closing dates are 24/10/2016 for registration and 7/11/2016 for responses to the draft assessment methodology (>28 days). Please be aware that your details will be forwarded to OEH and Deerubbin Local Aboriginal Land Council unless you specify otherwise.

If you would like to offer to provide field staff to participate in field investigations, please provide the information in the table below.

However, to avoid disappointment please note that few offers for fieldwork involvement will be taken up as requirements are limited and there is likely to be a large number of RAPs. Any decision to engage RAPs for paid services will be based on relevant experience and cost in consultation with the proponent. Any decisions are of a commercial nature separated from the process of consultation regarding cultural values and Aboriginal cultural heritage management outcomes. Any RAPs that use aggressive tactics to secure paid fieldwork will not be engaged.

Are you offering fieldwork services? (yes/no) (Note: With the limited scope of the assessment and the likely number of RAPs, a very limited number of these offers will be taken up)	Yes
Will a worker be covered by Worker's Compensation and Liability Insurance? (Certificates of currency will be requested if an offer to provide paid fieldworker is taken up)	Yes
What is your daily rate? (Note: The proponent may set a fixed offer)	\$ 880 (INC GST)
If we have not worked together before, you may like to suggest a consultant archaeologist who can provide a reference.	MARK LESTER - RMS MOBILE : 0448 731 510

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Project Info & Methodology

Figure 26: DLO registration

Registration / 117 Hollinsworth Road, Marsden Park

Name of Registering Aboriginal Party:	Amanda Hickey Cultural Services
Contact Person:	Amanda Hickey
Phone:	0434480558
Email: (Note: Draft reports to be reviewed will only be supplied in electronic format delivered by email)	amandahickey@live.com.au
Do you have any comments on the proposed methodology: (Please note that an archaeological survey was undertaken by KNC in 2009 sufficient to determine the requirement for test excavation and that the test excavation methodology is largely determined by the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW, 2010b).)	Amanda Hickey Cultural Services Agrees with the methodology
Are you offering fieldwork services? (yes/no) (Note: With the limited scope of the assessment and the likely number of RAPs, a very limited number of these offers will be taken up.)	YES / AHCS would like to be included in the survey fieldworks on this project
Will a worker be covered by Worker's Compensation and Liability Insurance? (Certificates of currency will be requested if an offer to provide paid fieldworker is taken up.)	I Amanda Hickey will be completing the work myself / I have attached Workers Comp Insurance & public and products liability Insurance
What is your daily rate? (Note: The proponent may set a fixed offer)	\$800 per day
If we have not worked together before, you may like to suggest a consultant archaeologist who can provide a reference.	Yolanda Pavincich Archaeologist yolandapavincich@archaeological.com.au Archaeological Management & Consulting Group

Figure 27: Amanda Hickey registration

Registration / 117 Hollinsworth Road, Marsden Park

Name of Registering Aboriginal Party:	A1 Indigenous Group
Contact Person:	Carolyn Hickey
Phone:	0411650057
Email: (Note: Draft reports to be reviewed will only be supplied in electronic format delivered by email)	cazadirect@live.com
Do you have any comments on the proposed methodology: (Please note that an archaeological survey was undertaken by KNC in 2009 sufficient to determine the requirement for test excavation and that the test excavation methodology is largely determined by the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW, 2010b).)	A1 Agrees with the methodology
Are you offering fieldwork services? (yes/no) (Note: With the limited scope of the assessment and the likely number of RAPs, a very limited number of these offers will be taken up.)	YES / A1 would like to be included in the survey fieldworks on this project
Will a worker be covered by Worker's Compensation and Liability Insurance? (Certificates of currency will be requested if an offer to provide paid fieldworker is taken up.)	I Carolyn Hickey will be completing the work myself / I have attached Workers Comp Insurance & public and products liability Insurance
What is your daily rate? (Note: The proponent may set a fixed offer)	\$800 per day
If we have not worked together before, you may like to suggest a consultant archaeologist who can provide a reference.	Yolanda Pavincich Archaeologist yolandapavincich@archaeological.com.au Archaeological Management & Consulting Group

Figure 28: Carolyn Hickey registration

Registration / 117 Hollinsworth Road, Marsden Park

Name of Registering Aboriginal Party:	Widescope Indigenous Group
Contact Person:	Steven Hickey
Phone:	0425230693
Email: (Note: Draft reports to be reviewed will only be supplied in electronic format delivered by email)	widescope.group@live.com
Do you have any comments on the proposed methodology: (Please note that an archaeological survey was undertaken by KNC in 2009 sufficient to determine the requirement for test excavation and that the test excavation methodology is largely determined by the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW, 2010b).)	Widescope Agrees with the methodology
Are you offering fieldwork services? (yes/no) (Note: With the limited scope of the assessment and the likely number of RAPs, a very limited number of these offers will be taken up.)	YES / Widescope would like to be included in the survey fieldworks on this project
Will a worker be covered by Worker's Compensation and Liability Insurance? (Certificates of currency will be requested if an offer to provide paid fieldworker is taken up.)	I Steven Hickey will be completing the work myself / I have attached Workers Comp Insurance & public and products liability Insurance
What is your daily rate? (Note: The proponent may set a fixed offer)	\$800 per day
If we have not worked together before, you may like to suggest a consultant archaeologist who can provide a reference.	Yolanda Pavincich Archaeologist yolandapavincich@archaeological.com.au Archaeological Management & Consulting Group

Figure 29: Steven Hickey registration



DARUG CUSTODIAN
ABORIGINAL
CORPORATION

PO BOX 81 WINDSOR 2756
PHONE: 0245775181 FAX: 0245775098
MOBILE: 0415770163 Leanne Watson
0414962766 Justine Coplin
EMAIL: mulgokiwi@bigpond.com / justinecoplin@optusnet.com.au

Attention: Associates

Subject: Marsden Park.

Dear Oliver

Our group is a non- profit organisation that has been active for over forty years in Western Sydney, we are a Darug community group with over three hundred members. The main aim in our constitution is the care of Darug sites, places, wildlife and to promote our culture and provide education on the Darug history.

The Marsden Park is an area that our group has a vast knowledge of, we have worked and lived in for many years, this area is significant to the Darug people due to the connection of sites and the continued occupation. Our group has been involved in all previous assessments and works in this area as a traditional owner Darug group for the past 40 plus years.

Therefore we would like to register our interest for full consultation and involvement in Park. area.

Please contact us with all further enquiries on the above contacts.

Regards

Justine Coplin

Figure 30: DCAC registration

Pollowan Phillip Khan
78 Forbes Street
Emu Plains NSW 2750
11.10 2016
mobile: 0434545982

ASSOCIATES Archaeology & heritage
29 Hannan Street Maroubra
NSW 2035



Dear Oliver Brown

Thank you for your Proposed Assessment Methodology and Test excavation, Informing me that AA & H has been engaged to undertake archaeological work at 117 Hollinsworth Road Marsden Park, and, that you are inviting Aboriginal organisations to register, if they wish to be involved in the community consultation process and Field Work.

As Senior Aboriginal person who has for the past forty of so years (40) actively participated in the Protection Aboriginal Cultural Heritage throughout the Sydney Basin , and particularly throughout Western Sydney, I, on behalf of the Kamiloroi Yankuntjatjara Working Group, wish to provide to you my organisations' registration of interest.

Information in my registration of Interest:

1. I am a Senior Aboriginal and Principal of the Kamiloroi -Yankuntjatjara Working Group, and all Aboriginal entity (ABN33979702507).
2. I prefer communicating by, Mail, Telephone, and; and I am, the Principal, person to contact, and;
My contact details are:
Phillip Khan
78 Forbes Street, Emu Plains NSW 2750
Mobile 043 4545 982
3. I wish to be involved and participate in all levels of consultation/project involvement. I wish to attend all meetings, and, Participate in ALL Available Field Work; and would receive a copy of theRreport.
4. I attach to this letter a copy of Kamiloroi- Yankuntjatjara Working Group's; GIO Public Liability Insurance; GIO Workers Compensation Certificate.

Should you wish me to provide further information, please do not hesitate to contact me on 0434545982.

Yours Sincerely,

Pollowan Phillip Khan

Figure 31: Phil Khan registration

Associates A&H

October 2016

1 Invitation to Register as an Interested Party

This document serves as both an invitation to register an interest as well as providing project information and a draft assessment methodology for those who do so. Registration of interest should only be made by Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) in the Marsden Park area. Please review the project information below and if you would like to register an interest, provide the information listed below:

Name of Registering Aboriginal Party:	Murra Bidgee Mullangari
Contact Person:	Ryan Johnson
Phone:	0497983332
Email: (Note: Draft reports to be reviewed will only be supplied in electronic format delivered by email)	murrabidgeemullangari@yahoo.com.au
Do you have any comments on the proposed methodology: (Please note that an archaeological survey was undertaken by KNC in 2008 sufficient to determine the requirement for test excavation and that the test excavation methodology is largely determined by the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW, 2010b).	Murra Bidgee Mullangari agree with the recommendations as set out by Associates Archaeology and Heritage for the proposed methodology Marsden Park

Closing dates are 24/10/2016 for registration and 7/11/2016 for responses to the draft assessment methodology (>28 days). Please be aware that your details will be forwarded to OEH and Deerubbin Local Aboriginal Land Council unless you specify otherwise.

If you would like to offer to provide field staff to participate in field investigations, please provide the information in the table below.

However, to avoid disappointment please note that few offers for fieldwork involvement will be taken up as requirements are limited and there is likely to be a large number of RAPs. Any decision to engage RAPs for paid services will be based on relevant experience and cost in consultation with the proponent. Any decisions are of a commercial nature separated from the process of consultation regarding cultural values and Aboriginal cultural heritage management outcomes. Any RAPs that use aggressive tactics to secure paid fieldwork will not be engaged.

Are you offering fieldwork services? (yes/no) (Note: With the limited scope of the assessment and the likely number of RAPs, a very limited number of these offers will be taken up)	YES
Will a worker be covered by Worker's Compensation and Liability Insurance? (Certificates of currency will be requested if an offer to provide paid fieldworker is taken up)	YES
What is your daily rate? (Note: The proponent may set a fixed offer)	\$850.00
If we have not worked together before, you may like to suggest a consultant archaeologist who can provide a reference.	Aecom Australia Geordie Oakes 0410513509

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Project Info & Methodology

Figure 32: Murra Bidgee Mullangari registration

Associates A&H

October 2016

1 Invitation to Register as an Interested Party

This document serves as both an invitation to register an interest as well as providing project information and a draft assessment methodology for those who do so. Registration of interest should only be made by Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) in the Marsden Park area. Please review the project information below and if you would like to register an interest, provide the information listed below:

Name of Registering Aboriginal Party:	Muragadi
Contact Person:	Darleen
Phone:	0418970389
Email: (Note: Draft reports to be reviewed will only be supplied in electronic format delivered by email)	muragadi@yahoo.com.au
Do you have any comments on the proposed methodology: (Please note that an archaeological survey was undertaken by KNC in 2009 sufficient to determine the requirement for test excavation and that the test excavation methodology is largely determined by the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW, 2010b).	Muragadi agrees with the methodology for the Marsden Park project

Closing dates are 24/10/2016 for registration and 7/11/2016 for responses to the draft assessment methodology (>28 days). Please be aware that your details will be forwarded to OEH and Deerubbin Local Aboriginal Land Council unless you specify otherwise.

If you would like to offer to provide field staff to participate in field investigations, please provide the information in the table below.

However, to avoid disappointment please note that few offers for fieldwork involvement will be taken up as requirements are limited and there is likely to be a large number of RAPs. Any decision to engage RAPs for paid services will be based on relevant experience and cost in consultation with the proponent. Any decisions are of a commercial nature separated from the process of consultation regarding cultural values and Aboriginal cultural heritage management outcomes. Any RAPs that use aggressive tactics to secure paid fieldwork will not be engaged.

Are you offering fieldwork services? (yes/no) (Note: With the limited scope of the assessment and the likely number of RAPs, a very limited number of these offers will be taken up)	YES
Will a worker be covered by Worker's Compensation and Liability Insurance? (Certificates of currency will be requested if an offer to provide paid fieldworker is taken up)	YES
What is your daily rate? (Note: The proponent may set a fixed offer)	\$850.00 per day
If we have not worked together before, you may like to suggest a consultant archaeologist who can provide a reference.	Navin Officer Heritage Nicola Hayes 0262829415

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Project Info & Methodology

Figure 33: Muragadi registration



Tocomwall Pty Ltd
 PO Box 76 Caringbah NSW 1495
 Tel: 02 9542 7714 Fax: 02 9524 4146
 Email: info@tocomwall.com.au www.tocomwall.com.au
 ABN: 13 137 694 618

Oliver Brown
 Associates Archaeology & Heritage
 29 Hannan Street, Maroubra,
 NSW, 2035
 Via Email: oliver@archassociates.com.au

13 October 2016

Dear Oliver,

RE: Aboriginal Cultural Heritage Assessment at 117 Hollinsworth Road, Marsden Park

Tocomwall have reviewed the proposed methodology and have the following comments, suggestions and recommendations to make. Importantly, Tocomwall consider the proposed research design and methodology to be culturally and scientifically inappropriate because of the reasons discussed below.

Tocomwall cannot support the proposed research design and methodology in its current form. The current research design and methodology does not consider who is qualified to collect cultural knowledge, how knowledge holders are identified and how the information should be collated? The review identifies this and other issues that the methodology presents in its current form and provides recommendations for improving the approach.

Tocomwall respectfully suggests that the proposed methods for collecting 'cultural' information have not been thoroughly investigated and are inappropriate. In the first place, cultural knowledge falls within the expertise of anthropologists, not archaeologists. Therefore Tocomwall suggests that an appropriately trained and qualified specialist is engaged to prepare a research design and methodology for investigating and mapping the cultural landscape, as well as instigating appropriate procedures for controlling culturally sensitive information.

As was clearly demonstrated in the recent NSW Land and Environment Case - Darkinjung Local Aboriginal Land Council v Minister for Planning and Infrastructure & Anor; Australian Walkabout Wildlife Park Pty Limited (ACN 115 219 791) at Trustee for the Gerald and Catherine Barnard Family Trust v Minister for Planning and Infrastructure & Anor – there are serious issues with the way that consultation is currently undertaken by heritage consultants using the consultation requirements. The Associates Archaeology & Heritage methodology for the proposed development impacts leaves the cultural assessment process open to considerable criticism and challenge in terms of adequate and appropriate consultation with Aboriginal stakeholders. A suggested approach would consider the following cultural parameters:

- Provide a procedure to map cultural (intangible) values across the study area; and
- Establish protocols for incorporating the interpretation of the tangible and intangible values of the study area and how that affects the 'testing' and/or 'salvage' phases of the proposed program.

Integrating Landscape Science & Aboriginal Cultural Knowledge for our Sustainable Future

Figure 34: Tocomwall review of methodology (additional pages below)



Tocomwall Pty Ltd
 PO Box 76 Caringbah NSW 1495
 Tel: 02 9542 7714 Fax: 02 9524 4146
 Email: info@tocomwall.com.au www.tocomwall.com.au
 ABN: 13 137 694 618

Within the methodology and associated mapping (pp5-7; Figure 3), Associates Archaeology & Heritage identifies areas of potential archaeological deposits (PAD) that will be subject to formal archaeological testing and salvage. There are two questions that arise in regard to your assumptions about PAD and your overall testing program:

- How the landscape and areas of PAD have been interpreted and whether these have any scientific basis based on soil geomorphology and archaeological theory? and
- Whether the research design and methodology adequately approaches the recovery and interpretation of scientific and cultural data?

Tocomwall understands that the archaeological sites were identified in previous reports written by Kelleher & Nightingale in 2009. However, your methodology does not provide any data or information on what the expectations are for the stratigraphic profile across the study area. It is highly likely that geotechnical investigations have taken place across the study area: these should be utilised in understanding the potential for subsurface deposits. A review and modeling of subsurface soil and sediment profiles would be corroborated by a subsurface mapping program that could differentiate likely areas of *in situ* archaeology (archaeologically significant) verses those likely to reflect geomorphic activity, disturbance and therefore reworked deposits (not archaeologically significant). Tocomwall would also like to see a copy of any geotechnical investigations for the study area.

In relation to recording of deposits, how will this proceed? Are any Associates Archaeology & Heritage staff qualified as either soil geomorphologists or geoarchaeologists? How will you distinguish soils verses sediments, buried soils and palaeosols? What criteria do you have in place for identifying primary verses secondary contexts? What procedures are in place to deal with potentially deep deposits over a metre below ground surfaces? The current methodology does not include any of this information and is therefore incomplete. This needs to be dealt with before your methodology can be finalised and agreed upon.

In relation to your exposure survey (pp6), what method and equipment will you use to collect this data? Hand held GPS systems are simply not accurate enough to map artefact distributions: you will need to use either a total station or DGPS. Can you please be more explicit in your methodology on how this will be achieved?

What will be your criteria for expanding test excavations into a salvage program? Will you attempt to recover a complete set of archaeological data incorporating activity specific locations verses residential ones, or will you do the usual procedures and opt only for salvaging higher densities and therefore biasing your results towards residential, persistent places?

For example, archaeological 'expressions' of activity specific verses residential 'sites' require *in situ* deposits to have specific artefact densities and reflect different relative frequencies of raw materials, tool types and debitage present, as well as the presence (potentially) of associated features such as middens, post-holes (for shelters) and hearths etc. A basic assumption would be that base camps would have a greater artefact density and complexity in relation to transit camps that would reveal a low density and complexity of stone artefacts. What will your criteria be to

Integrating Landscape Science & Aboriginal Cultural Knowledge for our Sustainable Future

**Tocomwall Pty Ltd**

PO Box 76 Caringbah NSW 1495

Tel: 02 9542 7714 Fax: 02 9524 4146

Email: info@tocomwall.com.au www.tocomwall.com.au

ABN: 13 137 694 618

distinguish a base camp (or for that matter 'overprinting' of multiple single knapping events on a persistent place in the cultural landscape), versus activity specific locations? In other words, the bias of targeting high-density artefact locations does not allow for lower-density transit camps to be adequately considered because they fail to meet the density trigger for further investigation.

Finally, Tocomwall would like to see a map that illustrates the proposed location and density of test pits in order to assess it. The map can be indicative.

Tocomwall have both qualified and experienced cultural sites officers as well as professional archaeological and geoarchaeological staff. Additionally, we have mapping and GIS capabilities for recording sites (tangible and intangible), topography and landforms. As such, we are more than able and capable of undertaking archaeological fieldwork. Tocomwall would like to be part of the fieldwork for this project.

Our professional rates are:

Rates For Staff¹	Hourly Rate²	Daily Rate*
Senior Cultural Sites Officer	\$87.50	\$700.00
Senior Archaeologist	\$190.00	\$1,520.00
Senior Geoarchaeologist	\$190.00	\$1,520.00
Project Archaeologist	\$130.00	\$1,040.00
Project GIS Officer	\$120.00	\$960.00

Table 1. Professional Rates. *An additional daily rate of \$50 per person applies to cover fuel and expenses.

Tocomwall proposes to charge an administration fee of ten per cent (10%) in addition to the total of any field associated costs incurred.

Tocomwall is a small business that relies upon a consistent cash flow. Such a position ensures we can continue to fulfil our client's needs. As such, we respectfully request payment terms of 14 days from date of invoice. Please ensure that we receive a contract prior to commencement of the project and the payer is aware of our terms.

Tocomwall has all the relevant insurances, copies of which will be supplied on request.

Please contact either Danny Franks (mobile: 0415 226 725) or Jakub (Chaz) Czastka (mobile: 0418 738 521) should you have any questions. Please copy in both of these people into any project-related correspondence.

¹ Reasonable time spent on reviewing the survey methodology, and draft and final reports has been included as part of the Senior Cultural Site Officer Rates. Where additional time is required to provide technical or cultural advice, Tocomwall reserves the right to negotiate additional costs with the client.

² In the event of bad weather or other unforeseen circumstances preventing activities for continuing for greater than 4 hours, a minimum of 4 hours plus travel expenses will be charged for attendance on site.

Integrating Landscape Science & Aboriginal Cultural Knowledge for our Sustainable Future

**Tocomwall Pty Ltd**

PO Box 76 Caringbah NSW 1495

Tel: 02 9542 7714 Fax: 02 9524 4146

Email: info@tocomwall.com.au www.tocomwall.com.au

ABN: 13 137 694 618

Recommendations

- Engage an appropriately qualified specialist to undertake the anthropological component of the research design and methodology to capture the intangible cultural values of the study area;
- Modify the methodology to provide clear parameters on recording deposits, interpreting contexts and provide explicit criteria on test versus salvage programs;
- Provide a methodology on how artefacts are to be collected;
- Include a map illustrating the testing program; and
- Provide Tocomwall with geotechnical investigations of the study area and use them to inform your own methodology.

Please feel free to contact me if you have any questions.

Regards,

Jakub Czastka (Chaz)
Senior Archaeologist
Tocomwall Pty Ltd
m: 0418 738 521
p: 02 9542 7714
f: 02 9524 4146
e: jakub@tocomwall.com.au

Integrating Landscape Science & Aboriginal Cultural Knowledge for our Sustainable Future



DARUG CUSTODIAN
ABORIGINAL
CORPORATION

PO BOX 81 WINDSOR 2756
PHONE: 0245775181 FAX: 0245775098
MOBILE: 0415770163 Leanne Watson
0414962766 Justine Coplin
EMAIL: mulgokiwi@bigpond.com / justinecoplin@optusnet.com.au

Attention: Associates

Subject: 117 Hollinsworth Road, Marsden Park

Dear Oliver

Our group is a non- profit organisation that has been active for over forty years in Western Sydney, we are a Darug community group with over three hundred members. The main aim in our constitution is the care of Darug sites, places, wildlife and to promote our culture and provide education on the Darug history.

The *Aboriginal cultural heritage consultation requirements for proponents* Section 4.1.8 refers to "Aboriginal organisations representing Aboriginal people who hold cultural knowledge". Recent consultation meetings have revealed that many of these Aboriginal organisations and individuals do not hold cultural knowledge of the Western Sydney area. The increasing involvement of such parties in cultural heritage management means that genuine local Aboriginal organisations are unable to properly care for our cultural heritage.

Many Aboriginal organisations listed in the OEH response letter do not contribute to the Aboriginal community of Western Sydney. Individuals listed in the OEH response letter do not represent the community and while they may be consulted with, should not be employed for their own personal financial benefit.

Our organisation is committed to providing benefits back to our local Aboriginal community through such measures as funding the local Aboriginal juniors' touch football team, painting classes for the local children and donating money to various charities. Employment in cultural heritage activities is source of income that organisations such as ours can use to contribute to beneficial activities and support within the community.

Darug custodian Aboriginal Corporation's site officers have knowledge of Darug land, Darug Culture, Oral histories, landforms, sites, Darug history, wildlife, flora and legislative requirements. We have worked with consultants and developers for many years in Western Sydney (Darug Land) for conservation, site works, developments and interpretation/education strategie

Darug Custodian Aboriginal Corporation have received and reviewed the report for 117 Hollinsworth Road, Marsden Park

We support the recommendations set out in this report.

Please contact us with all further enquiries on the above contacts.

Regards

Justine Coplin

Figure 35: DCAC review of methodology

Associates A&H

October 2016

1 Invitation to Register as an Interested Party

This document serves as both an invitation to register an interest as well as providing project information and a draft assessment methodology for those who do so. Registration of interest should only be made by Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal object(s) and/or place(s) in the Marsden Park area. Please review the project information below and if you would like to register an interest, provide the information listed below:

Name of Registering Aboriginal Party:	Gunjeewong
Contact Person:	Cherie
Phone:	
Email: (Note: Draft reports to be reviewed will only be supplied in electronic format delivered by email)	cherie.carroll62@yahoo.com.au
Do you have any comments on the proposed methodology: (Please note that an archaeological survey was undertaken by KNC in 2009 sufficient to determine the requirement for test excavation and that the test excavation methodology is largely determined by the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW, 2010b).	Gunjeewong agrees with the methodology for this Project

Closing dates are 24/10/2016 for registration and 7/11/2016 for responses to the draft assessment methodology (>28 days). Please be aware that your details will be forwarded to OEH and Deerubbin Local Aboriginal Land Council unless you specify otherwise.

If you would like to offer to provide field staff to participate in field investigations, please provide the information in the table below.

However, to avoid disappointment please note that few offers for fieldwork involvement will be taken up as requirements are limited and there is likely to be a large number of RAPs. Any decision to engage RAPs for paid services will be based on relevant experience and cost in consultation with the proponent. Any decisions are of a commercial nature separated from the process of consultation regarding cultural values and Aboriginal cultural heritage management outcomes. Any RAPs that use aggressive tactics to secure paid fieldwork will not be engaged.

Are you offering fieldwork services? (yes/no) (Note: With the limited scope of the assessment and the likely number of RAPs, a very limited number of these offers will be taken up)	Yes
Will a worker be covered by Worker's Compensation and Liability Insurance? (Certificates of currency will be requested if an offer to provide paid fieldworker is taken up)	Yes
What is your daily rate? (Note: The proponent may set a fixed offer)	\$850.00
If we have not worked together before, you may like to suggest a consultant archaeologist who can provide a reference.	Aecom Australia Darran Jordan

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15081_Logos/Citius_MarsdenPark

Project Info & Methodology

Figure 36: Gunjeewong registration

Oliver Brown
29 Hannan Street, Maroubra NSW 2035
0427 414 226
oliver@archassociates.com.au
14/11/2016

Jakub Czastka
Senior Archaeologist
Tocomwall Pty Ltd
Via email: jakub@tocomwall.com.au

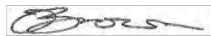
RE: Aboriginal Cultural Heritage Assessment at 117 Hollinsworth Road, Marsden Park

Dear Jakub,

In relation to your correspondence dated 13 October 2016, I provide the following response.

Regards,

Oliver



Oliver Brown

General

We appreciate the input and will endeavour to address the concerns expressed as the project proceeds. Some of the detailed comments and recommendations cannot be immediately addressed however as they rely on interpretations of data that the proposed methodology aims to collect – i.e. that we do not yet have. In relation to any issues relating to standard artefact collection procedures, it might be worth noting that these will be compliant with the Code.

We appreciate the offer to provide paid services to the program and note that these are commercial matters outside of the Aboriginal community consultation process. We are confident that we are more than able to undertake all of the technical requirements of the project ourselves and with our network of expert subconsultants. We do not anticipate any need to engage Tocomwall P/L in any commercial capacity but will welcome any contribution on the matter of cultural significance in response to our findings.

Intangible values and role of an anthropologist

We do not consider engaging an anthropologist is appropriate in this case. The type of Aboriginal cultural heritage material present is likely to be confined to occurrences of flaked stone artefacts. We will certainly provide for the assessment of cultural significance of this material but consider that this



Figure 37: AA&H response to Tocomwall (additional page below)

appropriately occurs after the nature and extent of the material has been determined through archaeological investigation. Beyond this, we note that we have widely invited any site-specific knowledge of intangible values that applies to the study area from any and all stakeholders who may hold such knowledge; and will continue to do so.

Geomorphology

The soils present within the study area are relatively simple duplex soils within the Blacktown Soil Landscape. These consist of loams of varying clay content going down onto a clay B horizon and can competently be assessed (in a way that is relevant to abundance, distribution and significance of Aboriginal cultural heritage material) by the investigator.

Use of GPS

For the type of modelling being undertaken, standard GPS accurate to 4-6m is certainly sufficient. The patterns of artefact distribution that we are attempting to clarify relate to a fairly broad brush categorisation by landform areas for which sub-metre accuracy provides no added benefit. Where any features or other data might warrant exact mapping, we would engage a surveyor.

Salvage Excavation

We cannot yet determine whether salvage excavation will be appropriate or by what thresholds because this will relate to significance that the current stages are intended to investigate. It is entirely appropriate that this be left open to consultation and potential recommendation on the basis of test results.

We are quite aware of the distinction between 'residential' and 'transit camps' (as you term them). In the absence of any areas near water, we anticipate that the highest potential exists in relation to the latter on the top of the low hill within the study area. The matter will be investigated using standard measures involving reduction indicators such as average artefact size, percentage of cortex and the proportion of functioning tools.

Mapping of testing Program

A map of the testing program is not yet available as it will be determined on the basis of needs ion testing the artefact distribution model after it has been first refined by the exposure survey.



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5 December 2016

PROTECTION OF ABORIGINAL CULTURAL HERITAGE

Hollinsworth Road

Marsden Park

Attention: Grace Zangari,

A representative of Deerubbin Local Aboriginal Land Council inspected the abovementioned property on Wednesday, 23rd November 2016. An Aboriginal cultural heritage assessment was undertaken to evaluate the likely impact future development has on the cultural heritage of the land.

A walkover of the property revealed Aboriginal cultural material (in the form of stone artefacts, for example) being found during the assessment.

Deerubbin Local Aboriginal Land Council therefore, recommends further investigation be undertaken with a salvage excavation program & surface collections.

Yours Faithfully,

Steven Randall

(Aboriginal Cultural Heritage Officer)

C.c. Miranda Firman – Office of Environment & Heritage

C.c. Oliver Brown Associates Archaeology and Heritage

Figure 38: DLALC survey report



DARUG CUSTODIAN
ABORIGINAL
CORPORATION

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MOBILE: 0415770163 Leanne Watson
0414962766 Justine Coplin
EMAIL: mulgokiwi@bigpond.com / justinecoplin@optusnet.com.au

Attention: Associates

Subject: 117 Hollinsworth Road, Marsden Park

Dear Oliver

Our group is a non- profit organisation that has been active for over forty years in Western Sydney, we are a Darug community group with over three hundred members. The main aim in our constitution is the care of Darug sites, places, wildlife and to promote our culture and provide education on the Darug history.

Our group promotes Darug Culture and works on numerous projects that are culturally based as a proud and diverse group. It has been discussed by our group and with many consultants and researches that our history is generic and is usually from an early colonists perspective or solely based on archaeology and sites. These histories are adequate but they lack the people's stories and parts of important events and connections of the Darug people and also other Aboriginal people that now call this area home and have done so for numerous generations.

This area is significant to the Darug people due to the evidence of continued occupation, within close proximity to this project site there is a complex of significant sites.

Landscapes and landforms are significant to us for the information that they hold and the connection to Darug people. Aboriginal people (Darug) had a complex lifestyle that was based on respect and belonging to the land, all aspects of life and survival did not impact on the land but helped to care for and conserve land and the sustenance that the land provided. As Darug people moved through the land there were no impacts left, although there was evidence of movement and lifestyle, the people moved through areas with knowledge of their areas

Figure 39: DCAC response to draft ACHA and recommendations (additional page below)

and followed signs that were left in the landscape. Darug people knew which areas were not to be entered and respected the areas that were sacred.

Knowledge of culture, lifestyle and lore have been part of Darug people's lives for thousands of years, this was passed down to the next generations and this started with birth and continued for a lifetime. Darug people spent a lifetime learning and as people grew older they passed through stages of knowledge, elders became elders with the learning of stages of knowledge not by their age, being an elder is part of the kinship system this was a very complicated system based on respect.

Darug sites are all connected, our country has a complex of sites that hold our heritage and past history, evidence of the Darug lifestyle and occupation are all across our country, due to the rapid development of Sydney many of our sites have been destroyed, our sites are thousands of years old and within the short period of time that Australia has been developed pre contact our sites have disappeared.

The *Aboriginal cultural heritage consultation requirements for proponents* Section 4.1.8 refers to "Aboriginal organisations representing Aboriginal people who hold cultural knowledge". Recent consultation meetings have revealed that many of these Aboriginal organisations and individuals do not hold cultural knowledge of the Western Sydney area. The increasing involvement of such parties in cultural heritage management means that genuine local Aboriginal organisations are unable to properly care for our cultural heritage.

Many Aboriginal organisations listed in the OEH response letter do not contribute to the Aboriginal community of Western Sydney. Individuals listed in the OEH response letter do not represent the community and while they may be consulted with, should not be employed for their own personal financial benefit.

Our organisation is committed to providing benefits back to our local Aboriginal community through such measures as funding the local Aboriginal juniors' touch football team, painting classes for the local children and donating money to various charities. Employment in cultural heritage activities is source of income that organisations such as ours can use to contribute to beneficial activities and support within the community.

Darug custodian Aboriginal Corporation's site officers have knowledge of Darug land, Darug Culture, Oral histories, landforms, sites, Darug history, wildlife, flora and legislative requirements. We have worked with consultants and developers for many years in Western Sydney (Darug Land) for conservation, site works, developments and interpretation/education strategie

Darug Custodian Aboriginal Corporation have received and reviewed the report for 117 Hollinsworth Road, Marsden Park

We support the recommendations set out in this report.

Please contact us with all further enquiries on the above contacts.

Regards



Justine Coplin