

# Catherine McAuley Catholic College, Medowie: Historical Heritage Assessment

FINAL REPORT

Prepared for Webber Architects

6 April 2018

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## Glossary

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<b>c.</b>	Circa
<b>CBD</b>	Central Business District
<b>CHL</b>	Commonwealth Heritage List
<b>DEE</b>	Department of Environment and Energy
<b>DP</b>	Deposited Plan
<b>EIS</b>	Environmental Impact Statement
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
<b>Heritage Act</b>	<i>Heritage Act 1977</i>
<b>LEP</b>	Local Environmental Plan
<b>NHL</b>	National Heritage List
<b>NSW</b>	New South Wales
<b>OEH</b>	NSW Office of Environment and Heritage
<b>PAC</b>	Planning Assessment Commission
<b>SHR</b>	State Heritage Register
<b>SSD</b>	State Significant Development
<b>Study area</b>	The area of impact for the proposed works

## Summary

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Biosis Pty Ltd was commissioned by Webber Architects to undertake a historical heritage assessment of the Catherine McAuley Catholic College development project, State Significant Development (SSD) No. 8989, located at 507 Medowie Road, Medowie, New South Wales (NSW) (Figure 1 and Figure 2), referred to as the 'study area' herein. Works comprising the demolition of several existing structures and construction of new educational, worship, residential and childcare facilities, car parks, landscaping and retaining walls, and an Asset Protection Zone to meet bushfire protection requirements are proposed for the study area.

The project will be assessed as a State Significant Development under Section 89(c) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011. The project will be assessed by the Planning Assessment Commission (PAC) under delegation from the Minister of Planning.

The study area is located within the Port Stephens Local Government Area (LGA), Parish of Stowell, County of Gloucester (Figure 1). It encompasses approximately 26.5 hectares of private land. It is currently zoned R2 – Low Density Residential, R5 – Large Lot Residential and RU2 – Rural Landscape.

No items of heritage significance have been identified within the study area. The following recommendations have been formulated to respond to client requirements and the significance of the site. They are guided by the ICOMOS *Burra Charter* with the aim of doing as much as necessary to care for the place and make it useable and as little as possible to retain its cultural significance.<sup>1</sup>

### **Recommendation 1 The project may proceed with caution**

The project is considered to be appropriate to the level of assessed significance in this report. However, should unanticipated archaeological remains be encountered as part of the proposed works, Recommendations 2-4 apply.

### **Recommendation 2 Discovery of unanticipated Aboriginal Objects**

All Aboriginal objects and places are protected under the *NSW National Parks and Wildlife Act 1974*. It is an offence to knowingly disturb an Aboriginal site without a consent permit issued by the Office of Environment and Heritage (OEH). Should any Aboriginal objects be encountered during works associated with this proposal, works must cease in the vicinity and the find should not be moved until assessed by a qualified archaeologist. If the find is determined to be an Aboriginal object the archaeologist will provide further recommendations. These may include notifying the OEH and Aboriginal stakeholders.

### **Recommendation 3 Discovery of unanticipated historical relics**

Relics are historical archaeological resources of local or State significance and are protected in NSW under the *Heritage Act 1977*. Relics cannot be disturbed except with a permit or exception/exemption notification. Should unanticipated relics be discovered during the course of the project, work in the vicinity must cease

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<sup>1</sup> Australia ICOMOS 2013

and an archaeologist contacted to make a preliminary assessment of the find. The Heritage Council will require notification if the find is assessed as a relic.

**Recommendation 4    Discovery of Aboriginal ancestral remains**

Aboriginal ancestral remains may be found in a variety of landscapes in NSW, including middens and sandy or soft sedimentary soils. If any suspected human remains are discovered during any activity you must:

1. Immediately cease all work at that location and not further move or disturb the remains
2. Notify the NSW Police and OEH's Environmental Line on 131 555 as soon as practicable and provide details of the remains and their location
3. Not recommence work at that location unless authorised in writing by OEH

# 1 Introduction

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## 1.1 Project background

Biosis Pty Ltd was commissioned by Webber Architects to undertake a historical heritage assessment of the Catherine McAuley Catholic College development project, State Significant Development (SSD) No. 8989, located at 507 Medowie Road, Medowie, New South Wales (NSW) (Figure 1 and Figure 2), referred to as the 'study area' herein. Works comprising the demolition of several existing structures and construction of new educational, worship, residential and childcare facilities, car parks, landscaping and retaining walls, and an Asset Protection Zone to meet bushfire protection requirements are proposed for the study area.

The project will be assessed as a State Significant Development under Section 89(c) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011. The project will be assessed by the Planning Assessment Commission (PAC) under delegation from the Minister of Planning.

## 1.2 Location of the study area

The study area is within the suburb of Medowie, in the Port Stephens Local Government Area (LGA), Parish of Stowell, County of Gloucester (Figure 1). It encompasses approximately 26.5 hectares of private land. It is currently zoned R2 – Low Density Residential, R5 – Large Lot Residential and RU2 – Rural Landscape.

## 1.3 Scope of assessment

This report was prepared in accordance with current heritage guidelines including *Assessing Heritage Significance*, *Assessing Significance for Historical Archaeological Sites and "Relics"* and the *Burra Charter*.<sup>2</sup> This report provides a heritage assessment to identify if any heritage items or relics exist within or in the vicinity of the study area. The heritage significance of these heritage items has been investigated and assessed in order to determine the most appropriate management strategy.

The following is a summary of the major objectives of the assessment:

- Identify and assess the heritage values associated with the study area. The assessment aims to achieve this objective through providing a brief summary of the principle historical influences that have contributed to creating the present – day built environment of the study area using resources already available and some limited new research.
- Assess the impact of the proposed works on the cultural heritage significance of the study area.

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<sup>2</sup> NSW Heritage Office 2001; NSW Heritage Branch, Department of Planning 2009; Australia ICOMOS 2013

- Identifying sites and features within the study area which are already recognised for their heritage value through statutory and non – statutory heritage listings.
- Recommend measures to avoid or mitigate any negative impacts on the heritage significance of the study area.

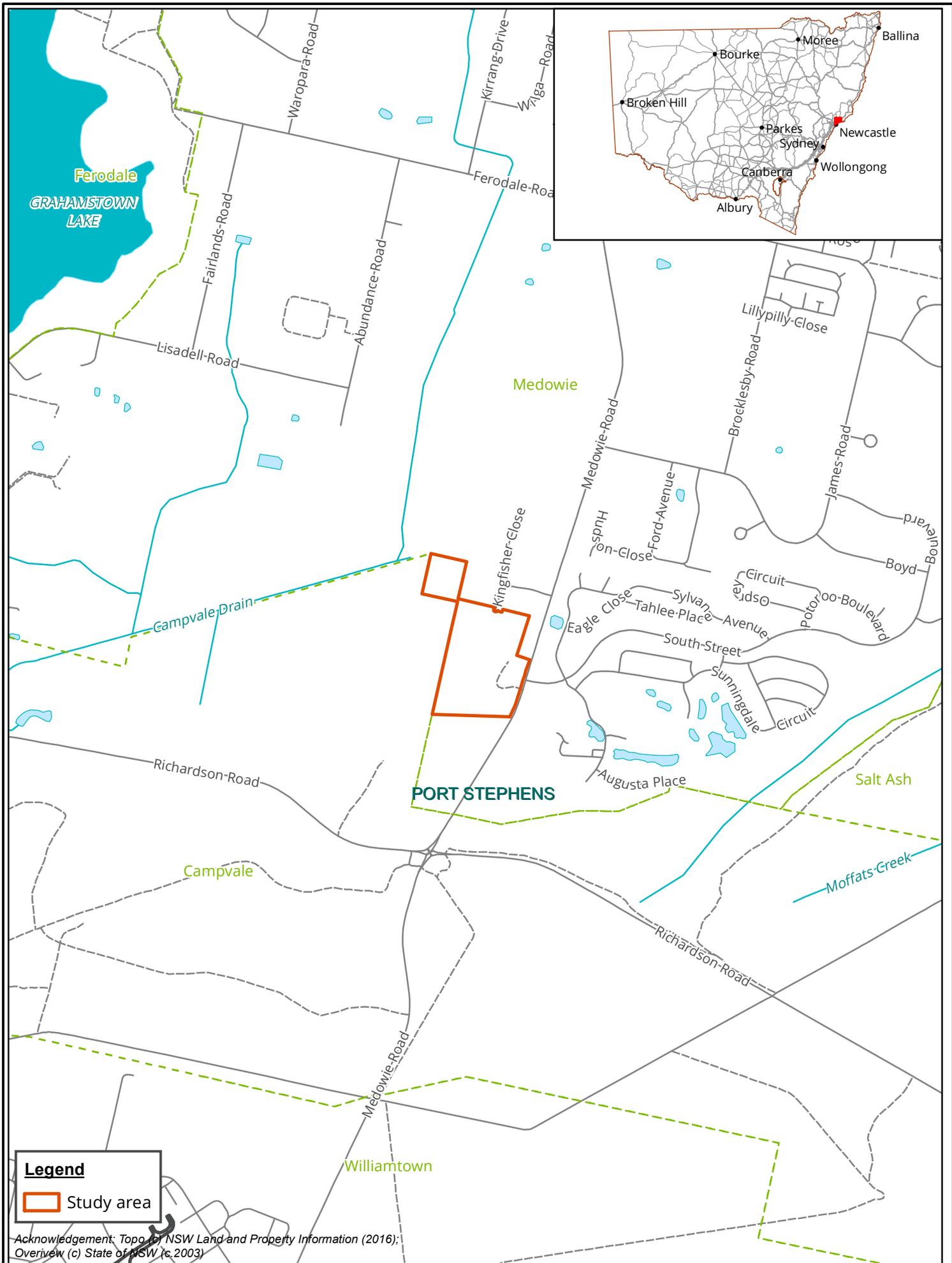
## 1.4 Limitations

This report is based on historical research and field inspections. It is possible that further historical research or the emergence of new historical sources may support different interpretations of the evidence in this report.

The historical research presented in this report is limited by the availability and existence of documentation and records relating to the ownership and land use activities of the study area. It is possible that further historical research or the emergence of new historical sources may support different interpretations of the evidence in this report. The assessment draws upon Crown plans, historical aerials and secondary sources. The survey undertaken as part of the assessment was limited to accessible areas of the study area.

Although this report was undertaken to best archaeological practice and its conclusions are based on professional opinion, it does not warrant that there is no possibility that additional archaeological material will be located in subsequent works on the site. This is because limitations in historical documentation and archaeological methods make it difficult to accurately predict what is under the ground.

The significance assessment made in this report is a combination of both facts and interpretation of those facts in accordance with a standard set of assessment criteria. It is possible that another professional may interpret the historical facts and physical evidence in a different way.



**Legend**  
 Study area

Acknowledgement: Topo of NSW Land and Property Information (2016);  
 Overview (c) State of NSW (c.2003)

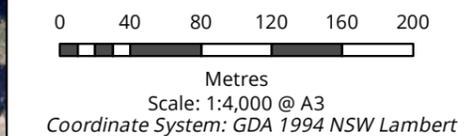
Figure 1: Location of the study area



**Legend**

 Study area

Figure 2: Study area detail



Matter: 26830  
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 Checked by: AKE, Drawn by: GD, Last edited by: gdavies  
 Location: \\bio-data-01\matters\26830\26830\mapping\26830\_CatherineMcAuleyCollege\_F2\_StudyArea

## 2 Historical context

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Historical research has been undertaken to identify the land use history of the study area, to isolate key phases in its history and to identify the location of any built heritage or archaeological resources which may be associated with the study area. The historical research places the history of the study area into the broader context of Port Stephens.

### 2.1 Topography and resources

The study area is located on an area of low-lying land between Stockton Beach and Grahamstown Lake. The north-eastern and eastern part of the study area consists of the Newcastle Coastal Ramp landscape type, with the remainder classified as Sydney - Newcastle Barriers and Beaches. The study area consists mostly of flats, with a very gentle slope where the highest point is 20 metres above sea level; the slope inclines towards the eastern side of Lot 412 and 413, DP 1063902. A small portion of the southern part of the study area features some swampy ground, with several other swamps, including Moffats Swamp and Campvale Swamp, located in the vicinity.

### 2.2 Aboriginal past

It has been argued that Aboriginal people have occupied the Hunter Valley for at least 20,000 years.<sup>3</sup> Medowie is part of the Port Stephens area, and was traditionally inhabited by the Worimi people. Worimi territory extended from north of the Hunter River to Forster near Cape Hawke, along the coastline, encompassing Port Stephens and stretching inland close to Gresford, and as far south as Maitland (Tindale 1974).<sup>4</sup> The Worimi were considered to be hunter-gatherers and it has been suggested that the territories of the Worimi were established to include a variety of habitats rich in raw materials and food resources. Trade, intermarriage, and the sharing of ceremonial places were central to the Worimi nation's interaction with neighbouring tribal groups, such as the Awabakal, Kamilaroi, Gringai, Wanaruah, and other tribes of the region.<sup>5</sup> Little is known about the size of the population of the Worimi tribe within Port Stephens before European settlement, however it is agreed that numbers declined rapidly after contact (Pam Dean-Jones 1990).<sup>6</sup>

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<sup>3</sup> Koetigg 1987

<sup>4</sup> Tindale 1974

<sup>5</sup> Sokoloffnov 1977

<sup>6</sup> Dean-Jones 1990

## 2.3 Port Stephens – historical development

### 2.3.1 Exploration (1770 to 1825)

The first instance of European contact with Port Stephens took place in 1770, when Captain James Cook and the *Endeavour* passed the harbour on 11 May, naming it for Sir Phillip Stephens, Secretary to the Admiralty.<sup>7</sup> Around two years after the arrival of the First Fleet in 1788, a group of escaped convicts are believed to have entered the region, including William and Mary Bryant; it is understood that they discovered coal near Newcastle.<sup>8</sup> The convict ship *Salamander* entered the harbour in late 1791, of which a sketch was made of some of its waterways.<sup>9</sup> In February 1795, Surveyor-General Charles Grimes visited Port Stephens on the orders of Lieutenant-Governor Paterson; Grimes reported that the land was low and sandy, and did not recommend further visits.<sup>10</sup> In August, the HMAS *Providence* took shelter in the harbour, where the captain, W.R. Broughton, encountered four surviving convicts who had escaped from Parramatta and were living with the Worimi people.<sup>11</sup> The following year, a fishing boat was driven ashore nearby.<sup>12</sup>

Further visits were made to the Port Stephens area in the first few decades of the 19th century. In December 1811 and January 1812, Governor Lachlan Macquarie and his wife inspected Port Stephens as part of a plan to establish a settlement north of Newcastle. Macquarie noted that while the port was “Good, safe, and capacious”, the land was not inviting to settlement and farming. As a result, no government settlement was made.<sup>13</sup> John Oxley and a team including Surgeon John Morris and Surveyor Evans surveyed the coastline from Port Macquarie to Newcastle as part of his 1818 expedition to western and northern NSW.<sup>14</sup> By 1823 a successful cedar getting industry had developed within the region, but the area became over-exploited and resources dwindled within several years.<sup>15</sup> However, once the Australian Agricultural Company were offered a land grant at Port Stephens in 1825, the area began to be more fully explored.<sup>16</sup>

### 2.3.2 Port Stephens and the Australian Agricultural Company (1825 to 1839)

The Australian Agricultural Company had been established in 1824 as part of a collective whose purpose was to improve waste lands for agriculture and farming, but mainly for the production of wool. The Macarthur family initially held most of the committee positions, who advised the company directors on local conditions and matters within the colony. Survey-General John Oxley was consulted on the most appropriate location for a land grant; after rejecting the Liverpool Plains and head of the Hastings River, the Company settled on Port Stephens (Figure 3). Robert Dawson, who was recruited by the company for his experience in managing English estates, arrived at Retreat Farm in June 1825 with two ships holding 690 ewes, 30 rams, 12 head of

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<sup>7</sup> *Endeavour: Captain Cook's Journal 1768-71*, cited by Great Lakes Council et al. 2007, 14

<sup>8</sup> Currey 1966; Engel *et. al* 2000, 8, cited by Great Lakes Council et al. 2007, 14

<sup>9</sup> Port Stephens Council n.d.

<sup>10</sup> Dowd 1966; Engel *et. al* 2000, 8, cited by Great Lakes Council et al. 2007, 14; Suters Architects 2007, 23; Port Stephens Council n.d.

<sup>11</sup> Port Stephens Council n.d.

<sup>12</sup> Clive Lucas, Stapleton & Partners Pty Ltd 2013, 24

<sup>13</sup> Port Stephens Council n.d.

<sup>14</sup> Clive Lucas, Stapleton & Partners Pty Ltd 2013, 24; Great Lakes Council et al. 2007, 14; Port Stephens Council n.d.

<sup>15</sup> Engel *et. al* 2000, 10, cited by Great Lakes Council et al. 2007, 14

<sup>16</sup> Great Lakes Council et al. 2007, 14

cattle, five mares and two stallions, as well as 40 children, 25 men and 14 women, then left the group to explore the Karuah River. The current area of Carrington was selected by Dawson as an appropriate location for a settlement with higher ground and deeper water; by February the following year the settlement had been established there with settlers and stock starting to arrive from Sydney. James Bowman, Henry Dangar and Peter Cunningham provided positive feedback on the area in 1827 and 1828. However, James Macarthur did not report favourably following his visit to Carrington from December 1827 to January 1828, noting that the coastal pasture was unsuitable for grazing sheep. As a result, Dawson was suspended and replaced by Sir Edward Parry, who undertook a proper inspection of the land that had been granted to the Company with the Company's stock superintendent, Charles Hall. They concluded that the grant was unsuitable for sheep grazing, and the harbour, which had been a benefit of obtaining the land, had not been utilised, while ocean-vessels could not access Carrington due to the insufficient water depth. By 1828, 23 pastoral stations had been established in Port Stephens, all connected by roadways, with multiple farms and gardens to provide food for a population of almost 600. In 1833, half of the Port Stephens grant was exchanged for land on the Peel River and at Warrah. While the agricultural endeavours of the Company failed at Port Stephens, settlers were encouraged to settle on the Port Stephens Estate.<sup>17</sup>

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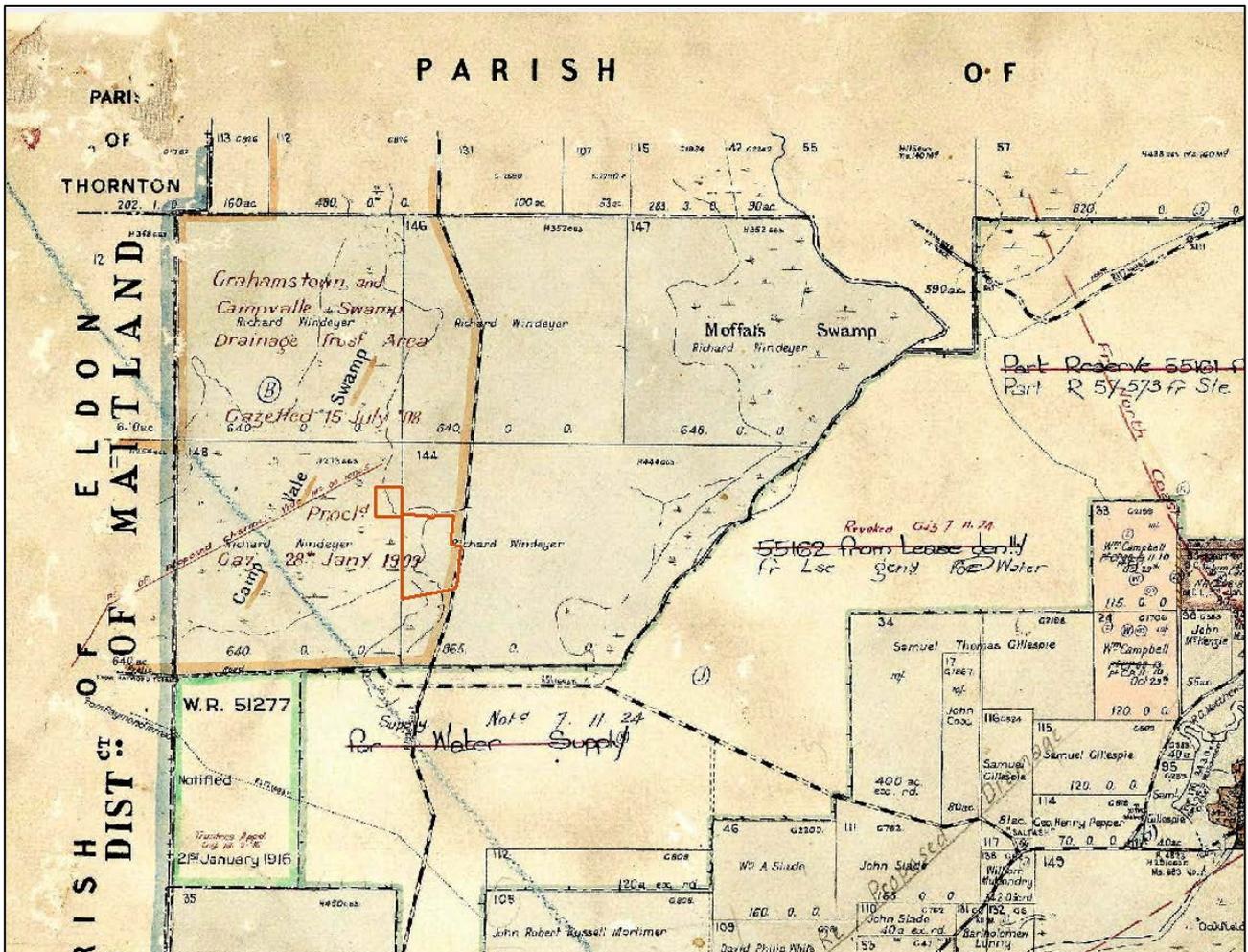
<sup>17</sup> Turner et al. 1980, 10–20



**Figure 3** An 1828 plan of the Australian Agricultural Company's grant at Port Stephens; the approximate location of the study area is indicated by the red arrow (Source: State Library of NSW)

### 2.3.3 Early development and land tenure (1839 to present)

In February 1839, a land grant of 865 acres (350 hectares) that was initially applied for by W. Hervey, portion 144 of the Parish, was sold to Richard Windeyer (Figure 4).<sup>18</sup> Windeyer, a journalist and barrister from London whose family had already migrated to Australia in 1828, arrived in Sydney with his wife Maria Camfield and son William Charles on 28 November 1835, establishing a law practice. In an attempt to improve his lands near Grahamstown, Windeyer arranged for the swamps to be drained.<sup>19</sup>



**Figure 4** An extract from the 1921 map of Stowell Parish, showing the lands acquired by Windeyer, with the study area highlighted (Source: NSW Department of Lands)

<sup>18</sup> NSW Department of Lands, Primary Application 7104; NSW Department of Lands, Crown plan 444.633

<sup>19</sup> Windeyer 1967

However, it appears that in 1847, the mortgage and the property were transferred to three individuals, including Maria Cobb and Ralph Mansfield (third name is William [illegible]).<sup>20</sup> Mansfield was a newspaper editor and Methodist missionary from Liverpool, England, who arrived in NSW in September 1820. Mansfield lived with his large family at Durham House at Parramatta, but also owned a cottage at Balmain.<sup>21</sup> Mansfield and the Cobb family had previously owned land together in The Rocks, Sydney.<sup>22</sup>

The property and mortgage were acquired from George Allen Mansfield, Charles Shelly Mansfield and Ralph Paul Mansfield by John Kenneth Markey in January 1886, who a year later conveyed the property to George Henry Pepper, a grazer, in June (Figure 5).<sup>23</sup> It appears that Pepper had an ongoing connection with the Markey family, as he was later named as an executor in the will of Peter Markey in 1911.<sup>24</sup> Considering the occupation of Pepper, it is possible that the land was utilised for sheep or cattle grazing. The certificate of title for the property was official passed to Pepper in June 1889. However, in the same month, Pepper transferred ownership to Robert Beeston, a mining agent from Melbourne.<sup>25</sup> This suggests that the land could have been investigated for minerals, yet no mining leases are recorded on the 1921 Stowell Parish map.

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<sup>20</sup> NSW Department of Lands, Primary Application 7104

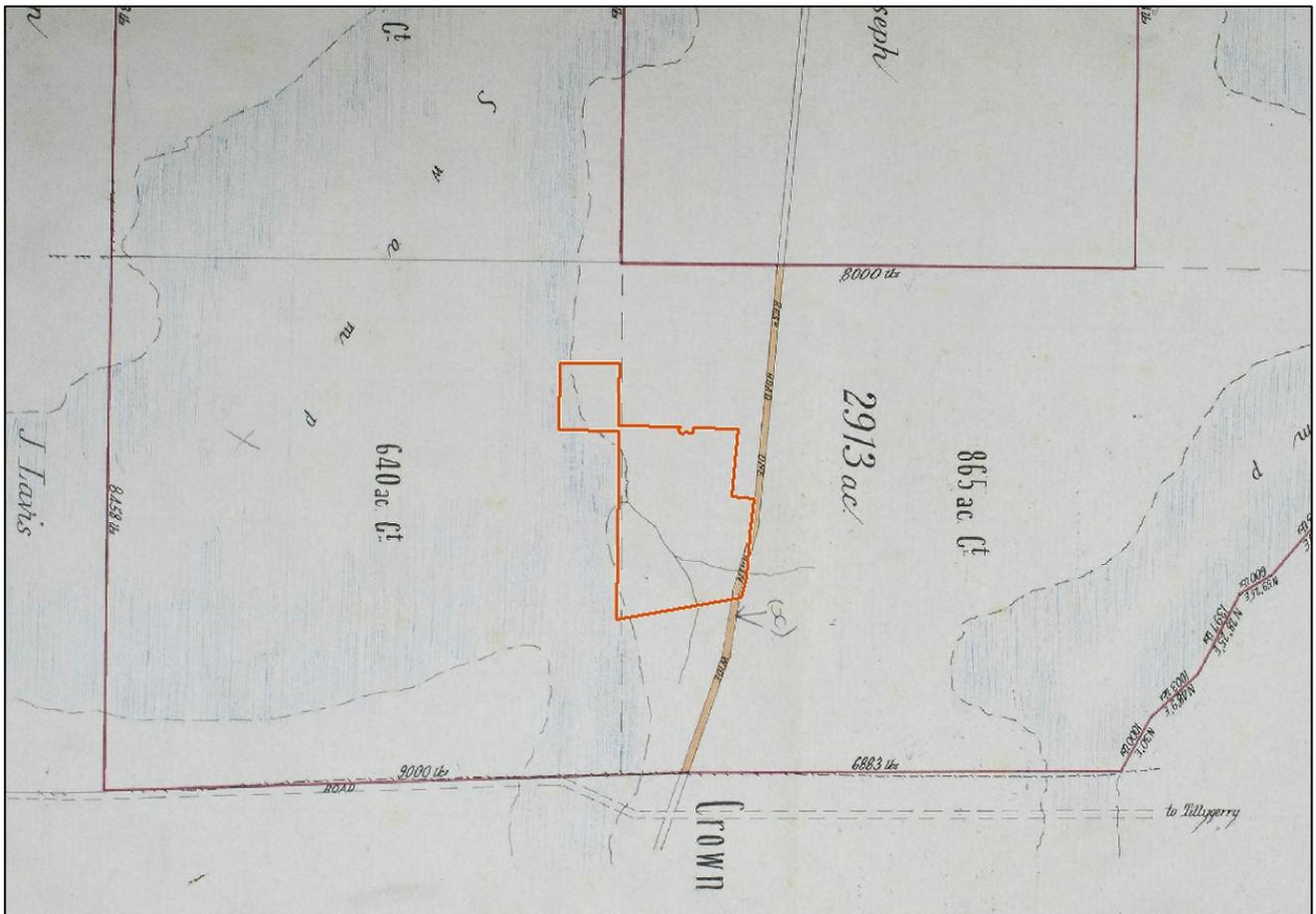
<sup>21</sup> Parsons 1967

<sup>22</sup> 1939 "Grants of Town Allotments." *New South Wales Government Gazette* (Sydney, NSW : 1832 - 1900), 19 January (No.383 (SUPPLEMENT)), p. 83, <http://nla.gov.au/nla.news-article230382579>, viewed 1 March 2018

<sup>23</sup> NSW Department of Lands, Primary Application 7104

<sup>24</sup> 1919 "Probate Jurisdiction." *Government Gazette of the State of New South Wales* (Sydney, NSW : 1901 - 2001), Friday 7 March 1919 (No. 50), p. 1560, <http://nla.gov.au/nla.news-article229667617>, viewed 1 March 2018

<sup>25</sup> NSW Department of Lands, Certificate of title Volume 928 Folio 148



**Figure 5** An extract from the 1889 plan of the land acquired by George Henry Pepper, with the study area highlighted (Source: NSW Department of Lands, Certificate of Title Volume 928 Folio 148)

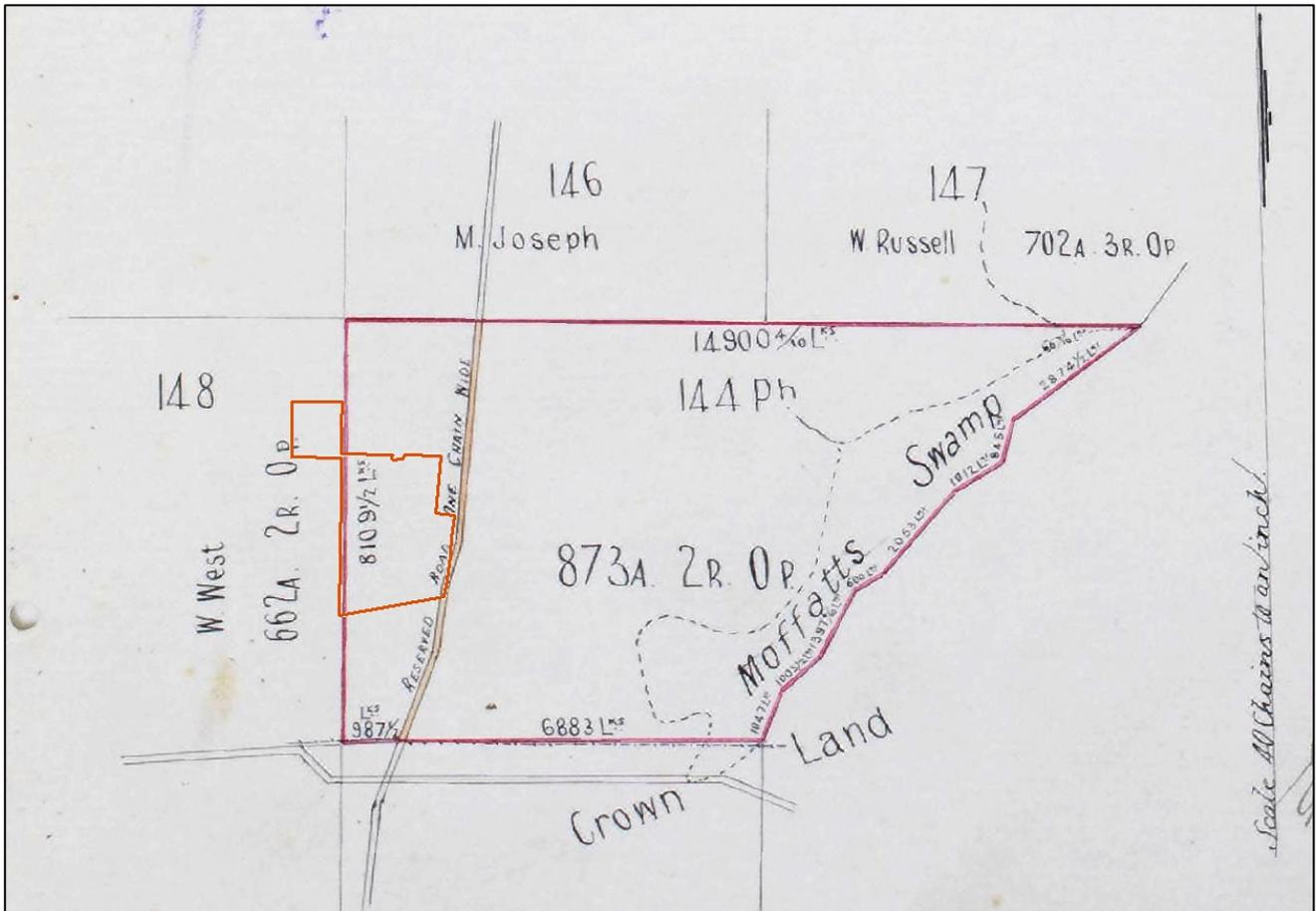
Four years later, Beeston returned the land to Pepper in September 1903, when it began to be sold off in parts. This suggests that Beeston did not locate any mineral deposits during his tenure as property owner. The land containing most of the study area was transferred to Daniel James in December 1903, with title officially in James' name by May 1904 (Figure 6).<sup>26</sup> The small north-western portion was acquired by William West, a farmer of Fullerton Cove near Stockton, in December 1903.<sup>27</sup> To the west of the study area, The Grahamstown and Campville Swamp Drainage Trust Area was proclaimed in January 1909.<sup>28</sup> The north-western portion was transferred to Sarah Ann West, widow, in September 1909, who in turn sold to Closer

<sup>26</sup> NSW Department of Lands, Certificate of Title Volume 928 Folio 148; NSW Department of Lands, Certificate of Title Volume 1531 Folio 185

<sup>27</sup> NSW Department of Lands, Certificate of Title Volume 928 Folio 148; NSW Department of Lands, Certificate of Title Volume 1531 Folio 184

<sup>28</sup> NSW Department of Lands, 1921 Stowell Parish map

Settlement Limited in 1914.<sup>29</sup> The main eastern portion of the property was divided again in the same year, with part being sold to David Davies in 1914 and the remainder staying within the James family, with ownership transferring to Rees James, a farmer, in March 1931.<sup>30</sup> Several road and bridge improvements were made by the James family during their tenure, including the installation of new piles beneath the bridge at Swanreach in 1912, and two wooden causeways and a drain on the Medowie Road in 1932.<sup>31</sup>



**Figure 6 A 1903 plan of the land acquired by Daniel James, with the study area highlighted (Source: NSW Department of Lands, Certificate of Title Volume 1531 Folio 185)**

<sup>29</sup> NSW Department of Lands, Certificate of Title Volume 1531 Folio 184

<sup>30</sup> NSW Department of Lands, Certificate of Title Volume 1531 Folio 185; NSW Department of Lands, Certificate of Title Volume 4480 Folio 165

<sup>31</sup> 1912 "Port Stephens Shire Council." *Gloucester Examiner and Lower Hunter Advertiser* (NSW : 1912), 10 May, p. 2, <http://nla.gov.au/nla.news-article156361755>, viewed 1 March 2018; 1932 "Port Stephens Shire Council" *Raymond Terrace Examiner and Lower Hunter and Port Stephens Advertiser* (NSW : 1912 - 1955), 11 August, p. 4, <http://nla.gov.au/nla.news-article133114729>, viewed 1 March 2018

Part of James' property was acquired by the Hunter District Water Board in November 1947.<sup>32</sup> The ownership of the north-western portion of the study area becomes unclear from the mid-1940s.<sup>33</sup> Aerial photographs taken between 1954 and 1958 are difficult to interpret, but they show the district as consisting largely of bushland at this time, with some cleared areas. Robert James Allan, a teacher and [Say] Southern, a spinster, of Mayfield took ownership of the property as joint tenants in March 1957.<sup>34</sup> The land was again subdivided several times from 1975 onwards until it reached its current formation in 2004.<sup>35</sup> Aerial photographs from 1993 show that the eastern and a portion of the western parts of the study area have been cleared; the north-eastern corner may have been ploughed (Plate 1).

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<sup>32</sup> NSW Department of Lands, Certificate of Title Volume 4480 Folio 165

<sup>33</sup> NSW Department of Lands, Certificate of Title Volume 1531 Folio 184

<sup>34</sup> NSW Department of Lands, Certificate of Title volume 5879 Folio 154

<sup>35</sup> NSW Department of Lands, DP 575403; NSW Department of Lands, DP 587953; NSW Department of Lands, DP 808163; NSW Department of Lands, DP 1063902



**Plate 1** A 1993 aerial showing the areas of development within the study area, highlighted in red (Source: NSW LPI 2018)

## 2.4 Chronology of the study area

Based upon the historical research presented it is possible to summarise the chronology of the study area, this is presented in Table 1.

**Table 1** Chronological development of the study area

Date	Historical development
1825	The Australian Agricultural Company take up a large grant at Port Stephens.
1833	Half of the Port Stephens grant is exchanged for land on the Peel River and at Warrah. Settlers are encouraged to move to the Port Stephens Estate.
1839	Richard Wendeyer acquires portion 144 of Stowell Parish in February. Improvement works commence from this date.
1847	Wendeyer's land is acquired by three individuals, including Maria Cobb and Ralph Mansfield.
1886	The property is transferred to John Kenneth Markey by the Mansfield family in January.
1887	George Henry Pepper, a grazer, acquired the property in June.

Date	Historical development
1889	Pepper transfers ownership of the property a Melbourne mining agent, Robert Beeston, in June.
1903	Pepper re-acquires the land from Beeston in September. The property begins to be divided and sold off. The small north-western portion is acquired by William West, a farmer of Fullerton Cove near Stockton, in December. Daniel James purchases part of the property which contains the study area in December.
1909	The north-western portion of the study area was transferred to Sarah Ann West, widow, in September.
1912	Daniel James installs new piles beneath the bridge at Swanreach.
1919	Sarah Ann West, Transfers the north-western portion of the study area to Closer Settlement Limited.
1931	Rees James takes ownership of the property from Daniel James in March.
1932	The James family constructs two wooden causeways and a drain on Medowie Road.
1954-1958	Aerial photographs show much of the district consists of bushland with some cleared areas
1957	Robert James Allan, a teacher and [Say] Southern, a spinster, of Mayfield acquire ownership of the property as joint tenants in March.
1975	A series of subdivisions take place from this year until 2004.
1993	Parts of the study area have been cleared, and possible ploughed.

## 2.5 Research themes

Contextual analysis is undertaken to place the history of a particular site within relevant historical contexts in order to gauge how typical or unique the history of a particular site actually is. This is usually ascertained by gaining an understanding of the history of a site in relation to the broad historical themes characterising Australia at the time. Such themes have been established by the Australian Heritage Commission and the NSW Heritage Office and are outlined in synoptic form in New South Wales Historical Themes.<sup>36</sup>

There are 38 State Historical Themes, which have been developed for NSW, as well as nine National Historical Themes. These broader themes are usually referred to when developing sub-themes for a local area to ensure they complement the overall thematic framework for the broader region.

A review of the contextual history has identified one historical theme which relates to the occupational history of the study area. This is summarised in Table 2.

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<sup>36</sup> NSW Heritage Council 2001

**Table 2 Identified historical themes for the study area**

Australian Theme	NSW Theme	Local Theme
<b>Developing local, regional and national economies</b>	Pastoralism	Early agriculture/farming

## 3 Physical inspection

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A physical inspection of the study area was undertaken on 13 February 2018, attended by Taryn Gooley, Consultant Archaeologist. The principal aims of the survey were to identify heritage values associated with the study area; this included any heritage items (Heritage items can be buildings, structures, places, relics or other works of historical, aesthetic, social, technical/research or natural heritage significance. 'Places' include conservation areas, sites, precincts, gardens, landscapes and areas of archaeological potential).

### 3.1 Site setting

The study area consists of two lots: Lot 412 and 413, DP 1063902. It is bordered on its eastern side by Medowie Road, Lot 3, DP 587953 and Lot 22 DP 715103, on its northern side by Lot 6, 7 and 8, DP 734625, Lot 414, DP 1063902, the end of Kingfisher Close and Lot 205A, DP 19739, on its western side by Lot 209, DP 19921 and Lot B, DP 101089, and on its southern side by Lot 411, DP 1063902. The study area consists primarily of cleared areas adjacent to Medowie Road, which feature residential and some light industrial structures (positioned on the higher ground of the gentle slope), paved and unpaved roadways, and areas of thick bushland interspersed with semi-cleared areas with scattered trees. Two vegetated dams are also present alongside the southern eastern boundary of the study area, while earthworks also run alongside some of the paved roadways (Plate 2, Plate 3 and Plate 4). The study area appears to have been used for pastoral and recreational purposes, and is generally located on flats and a very gentle slope where the residential and light industrial structures are present.



**Plate 2** Typical view of cleared residential and light industrial areas adjacent to Medowie Road



**Plate 3** Typical view of wider cleared areas surrounded by bushland with paved roadways and earth embankments



**Plate 4** Typical view of semi-cleared areas with scattered trees, backing onto thicker bush

### 3.2 Built fabric assessment

Within the study area, few structures or elements of the built environment were present. One modern residential dwelling was located in mid-eastern portion of the study area. Associated with this were several paved and unpaved road or driveways, several overgrown piles of discarded materials, mostly consisting of timber, a metal-framed windmill, and a two-rail post fence along Medowie Road. Also present was a storage building and tennis courts surrounded by mesh fencing. A series of electrical poles and wires also run adjacent to Medowie Road on the eastern boundary (Plate 5, Plate 6, Plate 7 and Plate 8). Telstra cabling is also present within the study area.



**Plate 5** View of the modern residential dwelling in its setting, along with a section unpaved driveway, the two-rail post fence and electrical poles and wires, facing north



**Plate 6** View of the storage shed and a smaller an associated structure, facing south



**Plate 7** View of the fenced tennis courts, facing north



**Plate 8** View of the metal-framed windmill and paved roadway

### 3.3 Archaeological assessment

The potential archaeological resource relates to the predicted level of preservation of archaeological resources within the study area. Archaeological potential is influenced by the geographical and topographical location, the level of development, subsequent impacts, levels of onsite fill and the factors influencing preservation such as soil type. An assessment of archaeological potential has been derived from the historical analysis undertaken during the preparation of this report.

There is low potential for unidentified historical relics to be located within the study area (Figure 7). Background research undertaken for the project did not identify any existing or potential heritage items within the study area, and the results of the field survey confirm this.

The only archaeological features which may be present may consist of temporary structures (stone foundations, post holes) and associated deposits (refuse disposal pits) associated with the possible use of the land for grazing stock.

#### 3.3.1 Research potential

Archaeological research potential refers to the ability of archaeological evidence to provide information about a site that could not be derived from any other source and which contributes to the archaeological significance of that site. Archaeological research potential differs from archaeological potential in that the presence of an archaeological resource (i.e. archaeological potential) does not mean that it can provide any additional information that increases our understanding of a site or the past (i.e. archaeological research potential).

The research potential of a site is also affected by the integrity of the archaeological resource within a study area. If a site is disturbed, then vital contextual information that links material evidence to a stratigraphic sequence may be missing and it may be impossible to relate material evidence to activities on a site. This is generally held to reduce the ability of an archaeological site to answer research questions.

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Assessment of the research potential of a site also relates to the level of existing documentation of a site and of the nature of the research done so far (the research framework), to produce a 'knowledge' pool to which research into archaeological remains can add.

As discussed in Section 3.3, there is low potential for archaeological remains to be present within the study area. Un-stratified relics, ephemeral evidence of pastoralism such as former fence lines and holding pens or the later occupation of the study area which may be present have a limited potential to answer research questions relating to the development and nature of occupation of the study area.



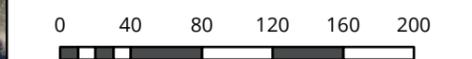
**Legend**

 Study area

**Archaeological potential**

 Low

Figure 7: Assessment of archaeological potential



Metres  
Scale: 1:4,000 @ A3  
Coordinate System: GDA 1994 NSW Lambert



Albury, Ballarat, Melbourne,  
Newcastle, Sydney, Wangaratta & Wollongong

Matter: 26830  
Date: 01 March 2018,  
Checked by: AKE, Drawn by: GD, Last edited by: gdavies  
Location: \\bio-data-01\matters\126800s\26830\mapping\26830\_F9\_Potential

## 4 Significance assessment

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An assessment of heritage significance encompasses a range of heritage criteria and values. The heritage values of a site or place are broadly defined as the 'aesthetic, historic, scientific or social values for past, present or future generations'<sup>37</sup>. This means a place can have different levels of heritage value and significance to different groups of people.

The archaeological significance of a site is commonly assessed in terms of historical and scientific values, particularly by what a site can tell us about past lifestyles and people. There is an accepted procedure for determining the level of significance of an archaeological site.

A detailed set of criteria for assessing the State's cultural heritage was published by the (then) NSW Heritage Office. These criteria are divided into two categories: nature of significance, and comparative significance.

Heritage assessment criteria in NSW fall broadly within the four significance values outlined in the Burra Charter. The Burra Charter has been adopted by State and Commonwealth heritage agencies as the recognised document for guiding best practice for heritage practitioners in Australia. The four significance values are:

- Historical significance (evolution and association).
- Aesthetic significance (scenic/architectural qualities and creative accomplishment).
- Scientific significance (archaeological, industrial, educational, research potential and scientific significance values).
- Social significance (contemporary community esteem).

The NSW Heritage Office issued a more detailed set of assessment criteria to provide consistency with heritage agencies in other States and to avoid ambiguity and misinterpretation. These criteria are based on the Burra Charter. The following SHR criteria were gazetted following amendments to the Heritage Act that came into effect in April 1999:

- Criterion (a) - an item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).
- Criterion (b) - an item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).
- Criterion (c) - an item is important in demonstrating the aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).

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<sup>37</sup> NSW Heritage Office, 2001

- Criterion (d) - an item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.
- Criterion (e) - an item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).
- Criterion (f) - an item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).
- Criterion (g) - an item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural or natural environments; or a class of the local area's cultural or natural places; or cultural or natural environments.

## 4.1 Levels of heritage significance

Items, places, buildings, works, relics, movable objects or precincts can be of either local or State heritage significance, or have both local and State heritage significance. Places can have different values to different people or groups.

### Local heritage items

Local heritage items are those of significance to the local government area. In other words, they contribute to the individuality and streetscape, townscape, landscape or natural character of an area and are irreplaceable parts of its environmental heritage. They may have greater value to members of the local community, who regularly engage with these places and/or consider them to be an important part of their day-to-day life and their identity. Collectively, such items reflect the socio-economic and natural history of a local area. Items of local heritage significance form an integral part of the State's environmental heritage.

### State heritage items

State heritage items, places, buildings, works, relics, movable objects or precincts of State heritage significance include those items of special interest in the State context. They form an irreplaceable part of the environmental heritage of NSW and must have some connection or association with the State in its widest sense.

The following evaluation attempts to identify the cultural significance of the study area. This significance is based on the assumption that the site contains intact or partially intact archaeological deposits.

## 4.2 Evaluation of significance

### **Criteria A: An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).**

The study area formed part of the large grant made to the Australian Agricultural Company in 1825, and later to Richard Windeyer in 1839. This assessment has not uncovered any evidence of items or activities which have taken place within the study area that are of historical significance to NSW or the local area. The land appears to have remained largely undeveloped until the mid- to late-20th century, but was likely used primarily for grazing.

The study area **does not satisfy** this criterion.

### **Criterion B: An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the**

**local area).**

While the study area does form part of the large grant made to the Australian Agricultural Company in 1825, and later to Richard Windeyer in 1839, there are no special associations relating to their tenure of the land. The land has been subdivided and sold off on several occasions from 1903 until the late-20th century.

The study area **does not satisfy** this criterion.

**Criteria C: An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).**

The study area does not display a high degree of technical achievement or aesthetic characteristics. It has been modified through more recent development from the late-20th century.

The study area **does not satisfy** this criterion.

**Criterion D: An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.**

Background research into the study area has not revealed any strong or special associations with a particular community or social group.

The study area **does not satisfy** this criterion.

**Criterion E: An item has the potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).**

This assessment has not identified any indication that the study area has the potential to contribute to an understanding of NSW's cultural or natural history.

The study area **does not satisfy** this criterion.

**Criterion F: An item possesses uncommon, rare or endangered aspects of the area's cultural or natural history (or the cultural or natural history of the local area).**

This assessment has not identified any indication that the study area demonstrates rare or endangered aspects of NSW's cultural or natural history.

The study area **does not satisfy** this criterion.

**Criterion G: An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places, or cultural or natural environments. (or a class of the local area's cultural or natural places, or cultural or natural environments).**

This assessment has not identified any indication that the study area demonstrates principle characteristics of NSW's cultural or natural places or environments.

The study area **does not satisfy** this criterion.

## 4.1 Statement of Significance

Based upon the evaluation criteria outlined above, the following statement of significance has been formulated for the study area.

The study area forms a small part of the large grant made to the Australian Agricultural Company in 1825. It is contained within an 865 acre (350 hectares) grant made to Richard Wendeyer in February 1839. Apart from a

general reference relating to improving his lands near Grahamstown, no evidence has been uncovered that the study area was used by Wendeyer for a specific purpose, or by later landowners. However, it was most likely used for grazing purposes. The land was first subdivided in 1903 and again on numerous occasions since the mid-20th century. Some residential and light industrial development has taken place, primarily in the eastern portion adjacent to Medowie Road. This assessment has not revealed any evidence of items, activities or events occurring within the study area which are historically significant, either to the local area or NSW.

## 5 Statutory framework

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This assessment will support an Environmental Impact Statement (EIS). The project is being assessed as a SSD Project (Project number SSD 8989) under Part 4 of the *Environmental Planning and Assessment Act 1979*. Statutory heritage listings inform the assessment process. Approval for the project will be made by the Minister for the Department of Planning who will assess whether the investigation has been conducted in accordance with the Secretary's Environmental Assessment Requirements (SEARs) issued on 15 May 2017.

In NSW cultural heritage is managed in a three-tiered system: National, State and local. Certain sites and items may require management under all three systems or only under one or two. The following discussion aims to outline the various levels of protection afforded to non-Aboriginal heritage within or adjacent to the study area.

### 5.1 Commonwealth legislation and statutory listings

#### 5.1.1 Environmental Protection and Biodiversity Conservation Act 1999

The *Environmental Protection and Biodiversity Act 1999* (EPBC Act) is the national Act protecting the natural and cultural environment. The EPBC Act is administered by the Department of Environment and Energy (DEE). The EPBC Act establishes two heritage lists for the management of the natural and cultural environment:

- The National Heritage List (NHL) contains items listed on the NHL have been assessed to be of outstanding significance and define "critical moments in our development as a nation".<sup>38</sup>
- The Commonwealth Heritage List (CHL) contains items listed on the CHL are natural and cultural heritage places that are on Commonwealth land, in Commonwealth waters or are owned or managed by the Commonwealth. A place or item on the CHL has been assessed as possessing "significant" heritage value.<sup>39</sup>

A search of the NHL and CHL did/ did not yield any results associated with the study area.

### 5.2 NSW legislation and statutory listings

#### 5.2.1 NSW Heritage Act 1977

Heritage in NSW is principally protected by the *Heritage Act 1977* (Heritage Act) (as amended) which was passed for the purpose of conserving items of environmental heritage of NSW. Environmental heritage is broadly defined under Section 4 of the Heritage Act as consisting of the following items: "*those places, buildings, works, relics, moveable objects, and precincts, of State or Local heritage significance*". The Act is administered by the NSW Heritage Council, under delegation by the Heritage Division, Office of Environment

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<sup>38</sup> "About National Heritage" <http://www.environment.gov.au/heritage/about/national/index.html>

<sup>39</sup> "Commonwealth Heritage List Criteria"

<http://www.environment.gov.au/heritage/about/commonwealth/criteria.html>

and Heritage. The Heritage Act is designed to protect both known heritage items (such as standing structures) and items that may not be immediately obvious (such as potential archaeological remains or 'relics'). Different parts of the Heritage Act deal with different situations and types of heritage and the Act provides a number of mechanisms by which items and places of heritage significance may be protected.

#### 5.2.1.1 State Heritage Register

Protection of items of State significance is by nomination and listing on the State Heritage Register (SHR) created under Part 3A of the NSW *Heritage Act*. The Register came into effect on 2 April 1999. The Register was established under the *Heritage Amendment Act* 1998. It replaces the earlier system of Permanent Conservation Orders as a means for protecting items with State significance.

A permit under Section 60 of the Heritage Act (NSW) is required for works on a site listed on the SHR, except for that work which complies with the conditions for exemptions to the requirement for obtaining a permit. Details of which minor works are exempted from the requirements to submit a Section 60 Application can be found in the Guideline "Standard Exemptions for Works requiring Heritage Council Approval". These exemptions came into force on 5 September 2008 and replace all previous exemptions.

There are no items/conservation areas listed on the SHR within or in the vicinity of the study area.

#### 5.2.1.2 Archaeological relics

Section 139 of the Heritage Act protects archaeological 'relics' from being 'exposed, moved, damaged or destroyed' by the disturbance or excavation of land. This protection extends to the situation where a person has 'reasonable cause to suspect' that archaeological remains may be affected by the disturbance or excavation of the land. This section applies to all land in NSW that is not included on the State Heritage Register.

Amendments to the Heritage Act made in 2009 changed the definition of an archaeological 'relic' under the Act. A 'relic' is defined by the Heritage Act as:

*"Any deposit, object or material evidence:*

- (a) which relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and*
- (b) which is of State or Local significance"*

It should be noted that not all remains that would be considered archaeological are relics under the NSW Heritage Act. Advice given in the Archaeological Significance Assessment Guidelines is that a "relic" would be viewed as a chattel and it is stated that *"In practice, an important historical archaeological site will be likely to contain a range of different elements as vestiges and remnants of the past. Such sites will include 'relics' of significance in the form of deposits, artefacts, objects and usually also other material evidence from demolished buildings, works or former structures which provide evidence of prior occupations but may not be 'relics'."*<sup>40</sup>

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<sup>40</sup> NSW Heritage Branch, Department of Planning 2009, 7

If a relic, including shipwrecks in NSW waters (that is rivers, harbours, lakes and enclosed bays) is located, the discoverer is required to notify the NSW Heritage Council.

Section 139 of the Heritage Act requires any person who knows or has reasonable cause to suspect that their proposed works will expose or disturb a 'relic' to first obtain an Excavation Permit from the Heritage Council of NSW (pursuant to Section 140 of the Act), unless there is an applicable exception (pursuant to Section 139(4)). Excavation permits are issued by the Heritage Council of NSW in accordance with sections 60 or 140 of the Heritage Act. It is an offence to disturb or excavate land to discover, expose or move a relic without obtaining a permit. Excavation permits are usually issued subject to a range of conditions. These conditions will relate to matters such as reporting requirements and artefact cataloguing, storage and curation.

Exceptions under Section 139(4) to the standard Section 140 process exist for applications that meet the appropriate criterion. An application is still required to be made. The Section 139(4) permit is an exception from the requirement to obtain a Section 140 permit and reflects the nature of the impact and the significance of the relics or potential relics being impacted upon.

If an exception has been granted and, during the course of the development, substantial intact archaeological relics of state or local significance, not identified in the archaeological assessment or statement required by this exception, are unexpectedly discovered during excavation, work must cease in the affected area and the Heritage Office must be notified in writing in accordance with section 146 of the Heritage Act. Depending on the nature of the discovery, additional assessment and, possibly, an excavation permit may be required prior to the recommencement of excavation in the affected area.

## **5.2.2 Section 170 Heritage and Conservation Registers**

Section 170 of the *Heritage Act* requires that culturally significant items or places managed or owned by Government agencies are listed on departmental Heritage and Conservation Register. Information on these registers has been prepared in accordance with Heritage Division guidelines.

Statutory obligations for archaeological sites that are listed on a Section 170 Register include notification to the Heritage Council in addition to relic's provision obligations. There are no items within or adjacent to the study area that are entered on a State government instrumentality Section 170 Register.

## **5.2.3 Environmental Planning and Assessment Act 1979**

### **5.2.3.1 Local Environmental Plan**

The Port Stephens LEP 2013 contains schedules of heritage items that are managed by the controls in the instrument. As the project is being undertaken under Part 4 of the *EP&A Act*, council is responsible for approving controlled work via the development application system. There are no items of local heritage significance within or in the vicinity of the study area.

### **5.2.3.2 Port Stephens Development Control Plan 2014**

The Port Stephens Development Control Plan 2014 (PSDCP) outlines built form controls to guide development. The PSDCP supplements the provisions of the Port Stephens LEP 2013.

Where proposed works may impact a heritage item, a heritage impact statement is required to be submitted with a development application. The heritage impact statement must demonstrate how the proposed development conserves the item and mitigates impacts in order to protect the item. The proposed development should be consistent with the statement of heritage significance and protects the heritage item. Significant internal and external spaces should be retained, with fabric and building elements to be recycled, repurposed or reused. Facadism should be avoided by using all components of a built item. Alterations and additions which are unsympathetic to the heritage significance of the item should be removed, missing

elements and details should be reinstated and dimensions, patterns, scale and style of original windows, door openings and features should be reinforced. Building elements should be maintained and repaired in order to retain the item's significance in a serviceable condition in line with the statement of significance. Materials, finishes and colours which are appropriate to the architecture and stylistic period of the item should be used. Where highly significant archaeological items and relics are discovered and there is likelihood that the item may be disturbed or damaged by the proposed works or excavations, the Heritage Act should be referenced. Where proposed works are likely to impact upon a heritage conservation area, it should be demonstrated that the development will complement the statement of heritage significance for the area.

Maintenance or repair works must not distract from the heritage significance of an existing heritage item. A development application is required if the kinds of repairs or maintenance works, such as painting, do not comply with the requirements of the PSLEP 2013, clause 5.10 (3).

Proposed developments which involve the partial or whole demolition of a heritage item or an item within a heritage conservation area may only be supported for reasons of structural integrity. In this instance, a structural engineering assessment is required, along with an archival recording of the item in according with relevant Heritage Branch guidelines.

Proposed developments which involve significant works to heritage items will be advertised and/or notified.

A permit or development consent is required should planned development include the removal or pruning of a tree or other vegetation which forms part of a heritage item or conservation area, unless the works are of a minor nature or is for maintenance of the heritage item or area, or the works will not adversely affect the significance of the item or area.

## 6 Conclusions and recommendations

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### 6.1 Conclusions

This assessment has identified no historical heritage items or areas of archaeological potential are present within the study area, and as such it is concluded that the proposed development can proceed without constraint in that respect. However, several recommendations have been made with regard to the discovery of unanticipated Aboriginal and historical heritage.

### 6.2 Recommendations

These recommendations have been formulated to respond to client requirements and the significance of the site. They are guided by the ICOMOS *Burra Charter* with the aim of doing as much as necessary to care for the place and make it useable and as little as possible to retain its cultural significance.<sup>41</sup>

#### **Recommendation 1 The project may proceed with caution**

The project is considered to be appropriate to the level of assessed significance in this report. However, should unanticipated archaeological remains be encountered as part of the proposed works, Recommendations 2-4 apply.

#### **Recommendation 2 Discovery of unanticipated Aboriginal Objects**

All Aboriginal objects and places are protected under the *NSW National Parks and Wildlife Act 1974*. It is an offence to knowingly disturb an Aboriginal site without a consent permit issued by the Office of Environment and Heritage (OEH). Should any Aboriginal objects be encountered during works associated with this proposal, works must cease in the vicinity and the find should not be moved until assessed by a qualified archaeologist. If the find is determined to be an Aboriginal object the archaeologist will provide further recommendations. These may include notifying the OEH and Aboriginal stakeholders.

#### **Recommendation 3 Discovery of unanticipated historical relics**

Relics are historical archaeological resources of local or State significance and are protected in NSW under the *Heritage Act 1977*. Relics cannot be disturbed except with a permit or exception/exemption notification. Should unanticipated relics be discovered during the course of the project, work in the vicinity must cease and an archaeologist contacted to make a preliminary assessment of the find. The Heritage Council will require notification if the find is assessed as a relic.

#### **Recommendation 4 Discovery of Aboriginal ancestral remains**

Aboriginal ancestral remains may be found in a variety of landscapes in NSW, including middens and sandy or soft sedimentary soils. If any suspected human remains are discovered during any activity you must:

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<sup>41</sup> Australia ICOMOS 2013

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1. Immediately cease all work at that location and not further move or disturb the remains
  2. Notify the NSW Police and OEH's Environmental Line on 131 555 as soon as practicable and provide details of the remains and their location
  3. Not recommence work at that location unless authorised in writing by OEH.

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## Appendices

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## Appendix 1 Concept design

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# MEDOWIE CATHOLIC COLLEGE

## SITE STRATEGY

1. EXISTING SITE CONSTRAINTS

2. EXISTING SITE OPPORTUNITIES

3. SITE MASTERPLAN

4. PEDESTRIAN CIRCULATION

5. VEHICULAR CIRCULATION

6. SITE TRANSITION

7. ADMINISTRATION BUILDINGS

8. LIBRARY HUBS

9. COLA BUILDINGS

10. LEARNING CENTRES

11. CAFE + COMPLEMENTARY USES







COLA + UPPER CIRCULATION



TAS LEARNING CENTRE + BREAKOUT



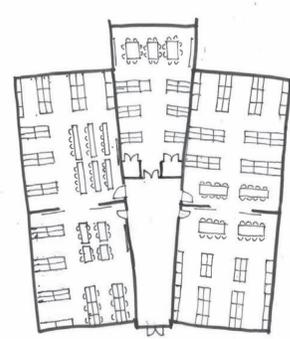
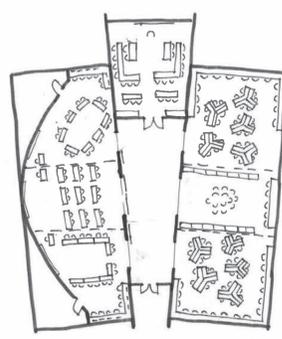
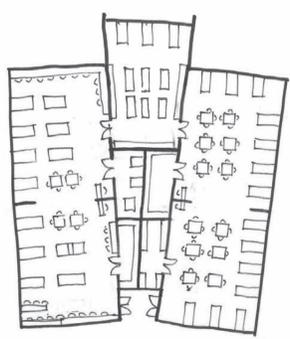
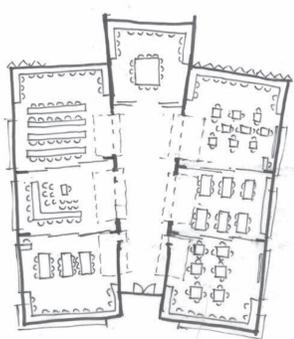
GPLA LEARNING CENTRE + BREAKOUT



AERIAL SITE VIEW



COLA + LOWER CIRCULATION



LEARNING CONFIGURATIONS

