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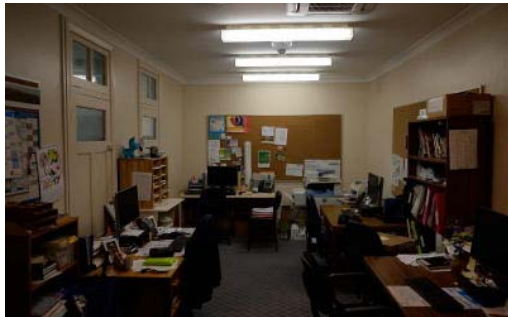
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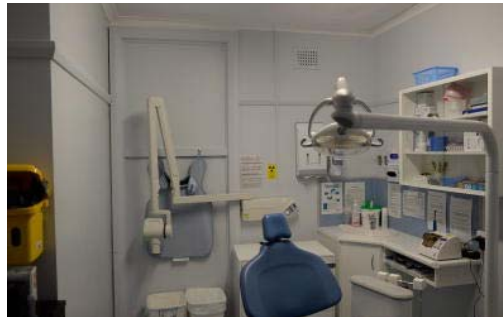
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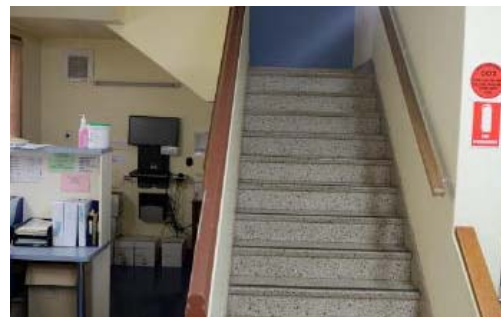
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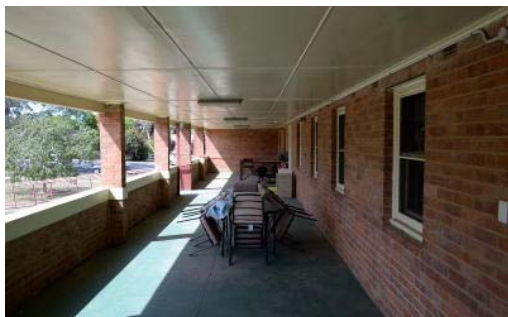
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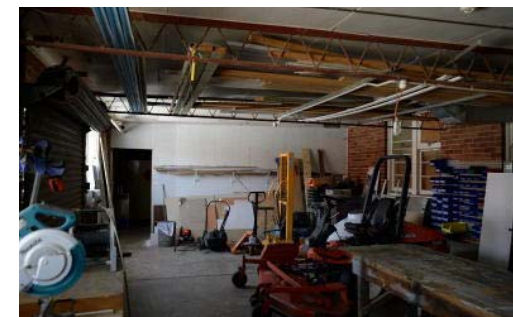
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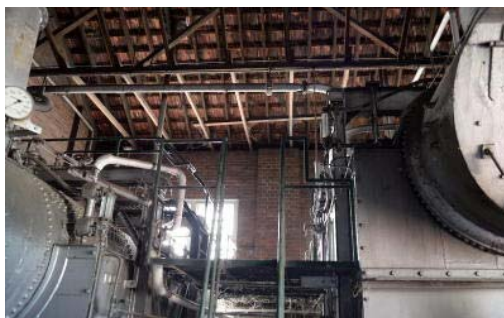
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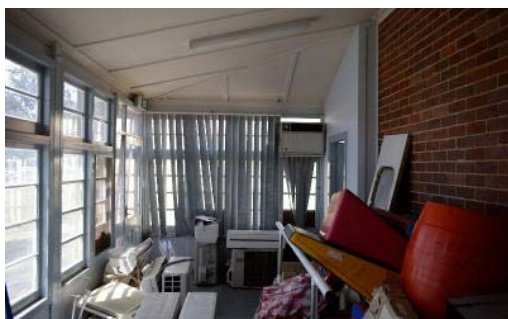
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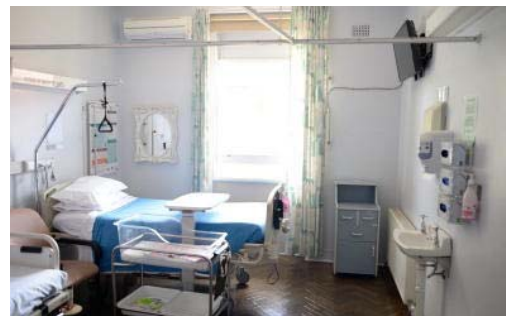
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APPENDIX C – CULTURAL HERITAGE DUE DILIGENCE REPORT BY CULTURAL HERITAGE MANAGEMENT AUSTRALIA





Mudgee Hospital Redevelopment Project

Preliminary Cultural Heritage Due Diligence Report

AUTHOR: Jen Streatfeild
and Dr Sophie Collins

CLIENT: Eric Martin and Associates Architects

6.12.2017

CULTURAL
HERITAGE
MANAGEMENT
AUSTRALIA

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Executive Summary

Introduction

TSA Management is undertaking an Environmental Assessment for the proposed \$70.2m redevelopment of the Mudgee Hospital and Health Service.

The Project will provide a combination of new build facilities at Mudgee Hospital for the highest priority clinical services. The Clinical Service Plan for the Mudgee Hospital details project service requirements to 2026/27 and proposes a new Emergency Department, a General medical and Surgical Unit, Perioperative Service, A Maternity Unit, a Renal Dialysis Unit, Ambulatory Care, Oral Health and oncology Unit to respond to the projected demand of the local catchment population.

CHMA have been engaged to complete a Heritage Impact Statement and Aboriginal Heritage Assessment in order to identify and mitigate any potential impacts of the proposed development upon heritage within the study area. A two phase approach has been undertaken comprised of a preliminary assessment, followed by the production of detailed impact statements as part of a second phase of investigation. Preliminary investigations are the subject of the current document.

Subject Area

Mudgee is a town with a population of 23 000 in the Central West district of NSW 260km north west of Sydney, in the Mid-Western Regional Council area (Fig 1). The Mudgee District Hospital is situated to the East of the geographic centre of the township and is bounded by Church Street to the West, Meares Street to the South and Lewis Street to the East and the Railway line to the North (Fig 2). The site covers approximately 40 000m².

Results of the Aboriginal Heritage Information Management System (AHIMS) Sites Search

An Aboriginal Heritage Information Management System (AHIMS) search undertaken on 9 November 2017, showed that no Aboriginal sites or places have been registered within or in the immediate vicinity of the Mudgee Hospital study area.

Historic Register Searches

The Mudgee Hospital is not listed as having heritage significance on any of the following heritage databases:

- Register of the National Trust;
- The National Heritage List (Australian Heritage Council);
- The Commonwealth Heritage List (Australian Heritage Council);

- Heritage Schedule Mid-Western Regional Local Environmental Plan 2012

Results of the Initial Field Survey Inspection

The Mudgee Hospital study area was subject to a field survey on 24th November 2017, by archaeologist Jennifer Streatfeild.

Aboriginal Heritage

Surface visibility across the entire study area was poor (5%) due to extensive lawn landscaping and gardens. Given these constraints, it can't be stated with certainty that there are no undetected Aboriginal sites present within the study area. With this acknowledged, there still was sufficient visibility to generate a general impression as to the extent of Aboriginal heritage resources in this area. The negative survey results are therefore assessed as being a reasonable indication that site and artefact densities within study area footprint are likely to be very low.

No Aboriginal heritage sites were identified. No specific areas of archaeological sensitivity or potential were identified within the study area. Given the very high levels of land disturbances across the study area, there are no areas apparent where there may be an elevated potential for relatively in-tact Aboriginal cultural deposits to be present.

Historic Heritage

A preliminary recording of the extant buildings and historic features has now been completed for the Mudgee Hospital study area. The buildings recorded during this preliminary visual inspection appear to have been constructed and developed over a period dating from 1934 to the present. The recordings of these extant features are presented in section 6.2 of this report.

No areas of archaeological potential were identified during the current study.

Significance Assessment

Aboriginal Heritage

No Aboriginal Sites were identified during the current investigation. The extensive modification of the site through large scale urban development means precludes the possibility of finding in situ Aboriginal sites within subsurface contexts.

Historic Heritage

Due to the preliminary nature of this investigation and the need to undertake additional historic research on the site, it's age and development, significance assessments of each of the structures identified according to the criteria listed above is not possible at present.

However, preliminary investigations at Mudgee Hospital have not identified any areas of particular or immediately obvious significance, however future historic research and investigations may alter this assessment.

Anecdotal comment from a groundsman at the site suggested a nurse training facility on the grounds may have social significance, however further research into this suggestion will be necessary before a significance assessment can be made.

The history of the coal fired boilers may also be of social/historic value to collectors and enthusiasts, but again further research will be required to confirm or refute these suggestions.

Management Recommendations

Aboriginal Heritage Management Recommendations

Existing information on Aboriginal heritage at the site suggests that the area is of low archaeological sensitivity based on the following findings:

- AHIMS database shows no previously recorded sites within the study area;
- The land use history of the place indicates that in situ deposits are no longer present at the site
- No Aboriginal artefacts/sites were identified during the current field survey.
- Generalised predictive models indicate that the environmental factors of the study area mean it is ill-suited to long term occupation due to distance from permanent water.

However, as yet, a detailed background archaeological study, examining previously recorded sites in the broader Mudgee region has not been completed. This information is necessary to fine tune the predictive model and make it regionally specific. Provided these results do not dramatically differ from the patterning established in the generalised model, it is likely that a Due Diligence Assessment can be completed for this project.

A determination of whether or not this is appropriate will be made following the background archaeological research on the Mudgee region.

Historic Heritage Management Recommendations

A preliminary recording of the extant buildings and historic features has now been completed for the Mudgee Hospital study area. The buildings recorded during this preliminary visual inspection appear to have been constructed and developed over a period dating from 1934 to the present. Based on the findings of this initial inspection, it is recommended that the following additional investigations should be undertaken.

- Anecdotal evidence indicates the nurses training facilities may have some social significance on a local level. However, it is not yet clear where these facilities were. Further research and/or consultation will need to be undertaken in order to identify the facility and confirm any potential significance.
- The history of the coal fired boilers may be of social/historic value to collectors and enthusiasts. At this stage there is no research confirming the age or type of boilers. Further research and/or consultation will need to be undertaken in order to confirm the age and significance of the boilers.
- Two other items of social heritage value were identified and will need further historic research to determine their significance. The first is a plaque in memory of Nurse Barbara Ann Roberts 27-6-1995 who worked at the Mudgee District Hospital. The second item is a lamp post erected in front of the Community Health Building with a plaque erected to the memory of Richard Headley but no date is included. This post and commemoration plaque should be researched further before determining the significance of the object.
- The exact impact area for the proposed development needs to be better defined.
- A Heritage Impact Statement for the proposal must be developed.

Legislative Requirements

The study area lies within the General Conservation Area of the *Mid-Western Regional Local Environmental Plan 2012* as shown on the *Heritage Map-sheet HER_006H*. As such, the proposed redevelopments to Mudgee Hospital will require Development consent as outlined in Part 5 Clause 5.10(2) of the *Mid-Western Regional Local Environmental Plan 2012*.

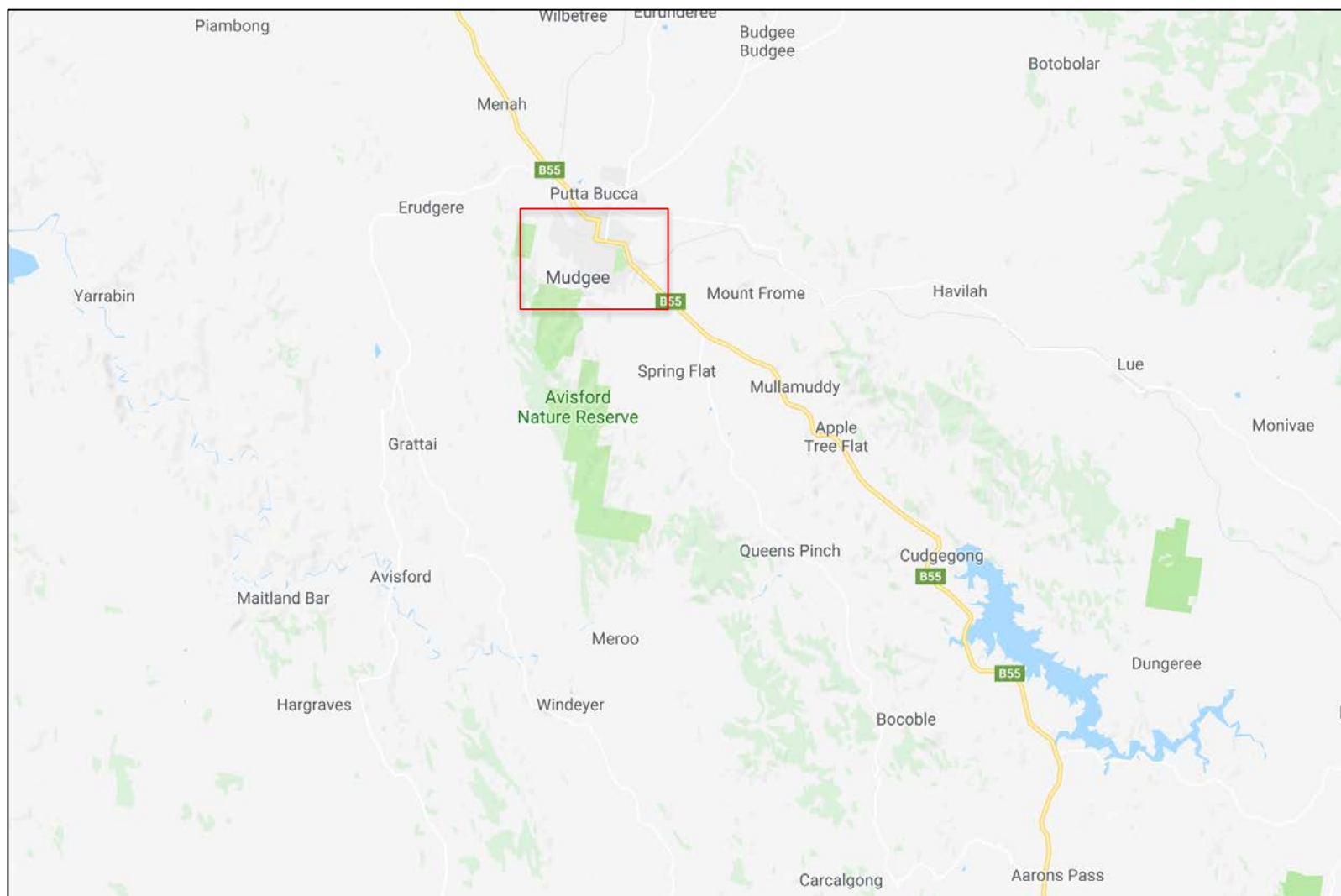


Figure 1 Location of Mudgee Township within broader NSW

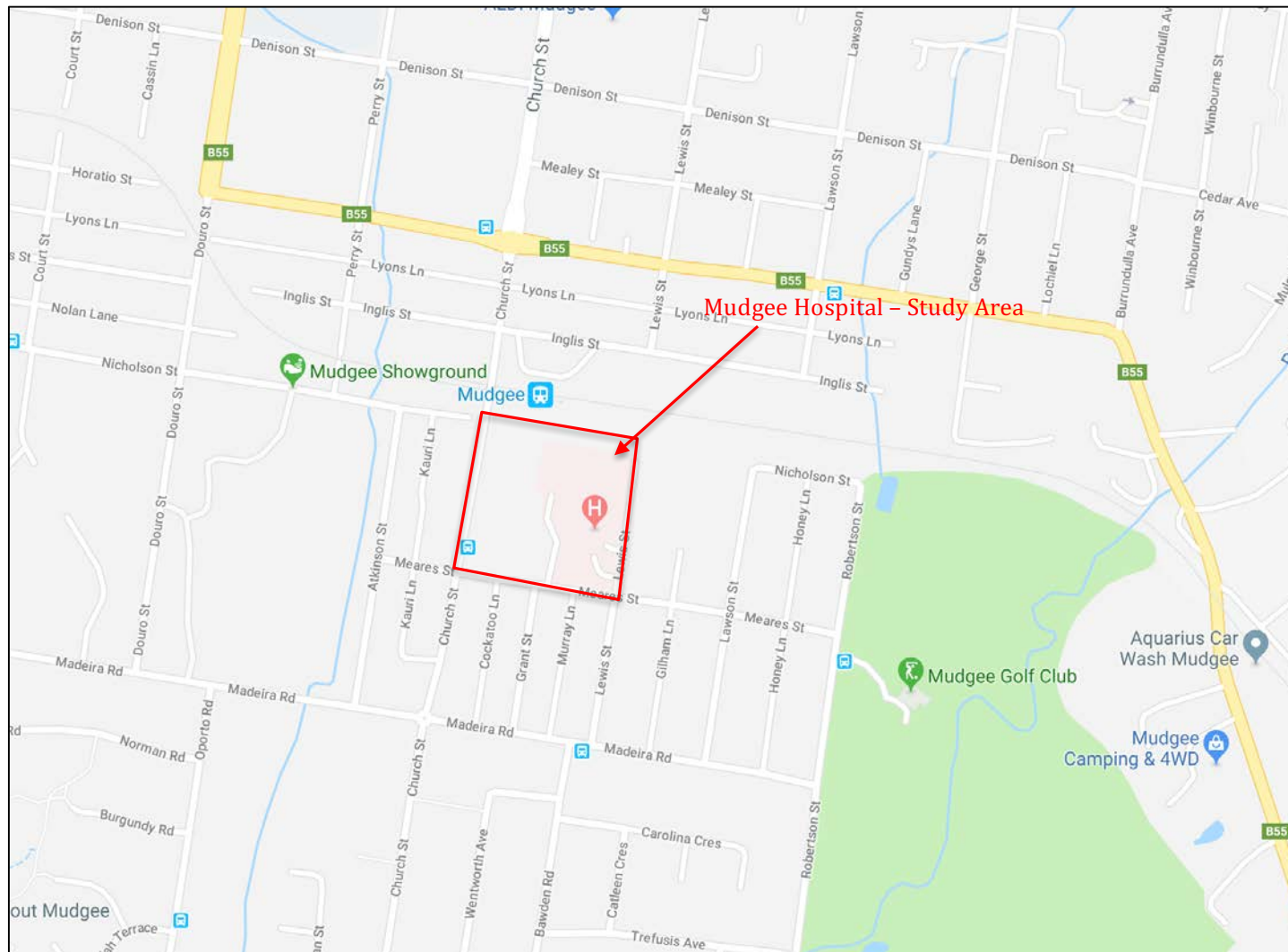


Figure 2 Location of Mudgee Hospital Study Area within Mudgee Township

1.0 Introduction

1.1 Project Brief

TSA Management is undertaking an Environmental Assessment for the proposed \$70.2m redevelopment of the Mudgee Hospital and Health Service.

The Project will provide a combination of new build facilities at Mudgee Hospital located along Meares Street in the township of Mudgee, New South Wales (see Figures 1 and 2). The Clinical Service Plan for the Mudgee Hospital details project service requirements to 2026/27 and proposes several highest priority clinical services including a new Emergency Department, a General medical and Surgical Unit, Perioperative Service, A Maternity Unit, a Renal Dialysis Unit, Ambulatory Care, Oral Health and Oncology Unit to respond to the projected demand of the local catchment population. The existing Health Service buildings are aged and have functional and structural problems that will also need to be addressed.

CHMA have been engaged to complete a Heritage Impact Statement and Aboriginal Heritage Assessment in order to identify and mitigate any potential impacts of the proposed development upon heritage within the study area. A two phase approach has been undertaken comprised of a preliminary assessment, followed by the production of detailed impact statements as part of a second phase of investigation. Preliminary investigations are the subject of the current document.

1.2 Aims of this Heritage Assessment

The current assessment comprises a preliminary survey and review of the heritage potential of the Mudgee Hospital site; Aboriginal and historic. The principal aims of this project are as follows:

- Undertake a brief field survey assessment within the bounds of the proposed modification area to be subject to impacts as defined in Figure 3;
- Record and plot the location of all historic and Indigenous cultural heritage sites within the study area in accordance with the '*Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*' (DECCW 2010b);
- Identify areas of potential archaeological sensitivity within the study area;
- Gauge the potential for subsurface archaeological materials to be present in the study area;
- Identify the nature and degree of impacts likely to be caused to sites by the current proposal;

- Assess the potential significance of Aboriginal and historic cultural heritage sites or objects identified within the study area;

These results are then to be used to inform the need for either a full Aboriginal cultural heritage assessment or suitability of a Due Diligence Assessment under the *NSW Due Diligence Code of Practice*.

Detailed reports will then be produced in accordance with the requirements of the Office of Environment and Heritage; a Heritage Impact Statement and Aboriginal Assessment, both of which will be the subject of the next stage of investigation.

1.3 The Subject Area

Mudgee is a town with a population of 23 000 in the Central West district of NSW 260km north west of Sydney, in the Mid-Western Regional Council area (Figure 1). The Mudgee District Hospital is situated to the East of the geographic centre of the township and is bounded by Church Street to the West, Meares Street to the South and Lewis Street to the East and the Railway line to the North (Figure 2). The site covers approximately 40 000m².

The North – West portion of the block is excluded from this project as it is the site of a private Medical Centre. The study area incorporates the following Lot and DP numbers (Figure 3):

- Lot 11, Section 64, CP 57.1009
- Lot 5, Section 64, CP 40.1009
- Lot 2, DP 845336
- Lot 1, DP 845336
- Lots 1 and 2, DP 1140724
- Lot 403, CP 6259.2091

The existing masterplan for the proposed new developments is outlined in Figure 4, which shows the proposed Hospital Site Development Zone in the south-west corner of the existing grounds of the Hospital and covers an area of approximately 10,000m² (marked in blue) and newly proposed internal roads and entrances to the precinct.

A more detailed map of the newly proposed infrastructure is included in Figure 5 below. Discrepancies exist between the two maps, with Figure 5 indicating that a portion of the existing main hospital will be converted to car parking under the new proposal. It would appear from Figure 5 that the Old Boiler House and Facilities Management and Medical Records Archive buildings will also be impacted. In the absence of a more definitive plan of impacts, this document

addresses the heritage values of each of the buildings within the potential impact area.

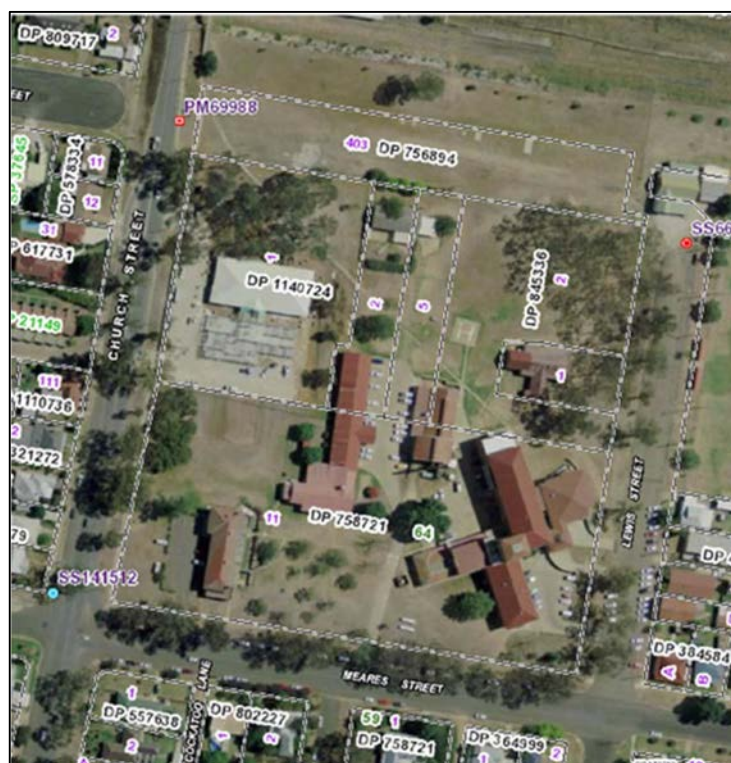


Figure 1 Location of Mudjee Hospital Lot and DP Numbers

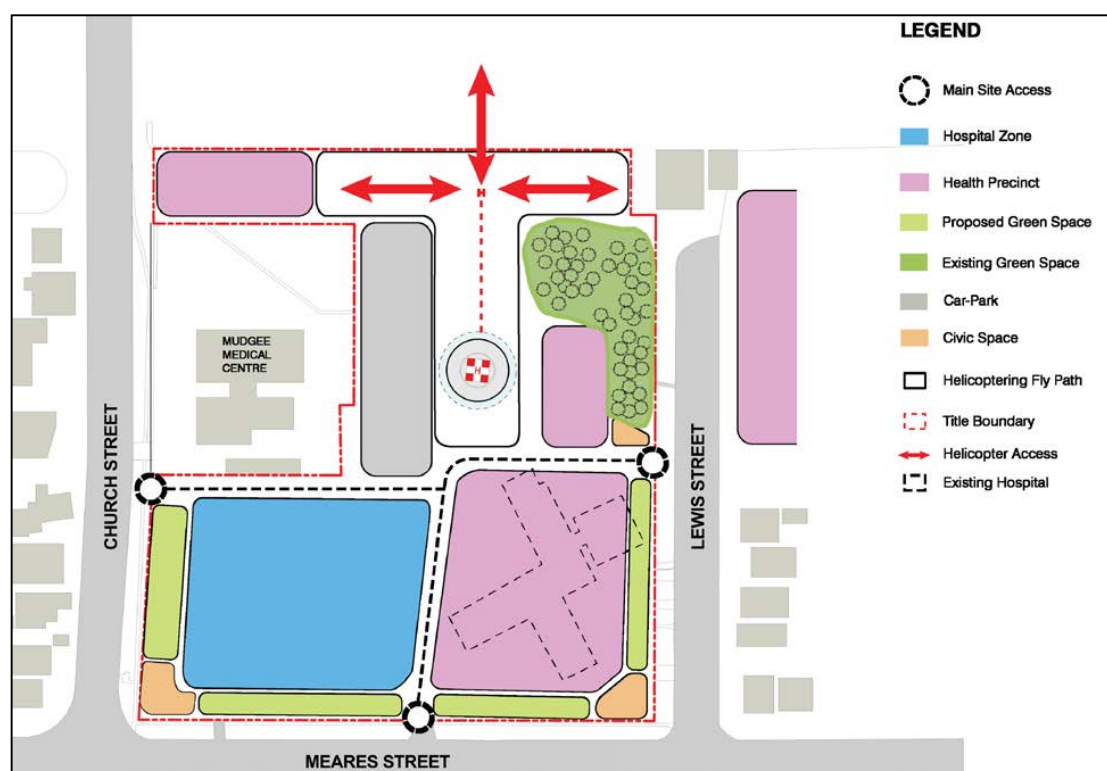


Figure 2 Notional Block Siting and Internal Roads



Figure 3 Proposed location of infrastructure

1.4 Investigation Methodology

The current investigation was undertaken using the following methodology:

1.4.1 Database Review

A search was undertaken of existing heritage databases to determine whether any previously recorded heritage sites existed within the study area. Searches were undertaken of the following heritage registers:

- Aboriginal Heritage Information Management System (AHIMS) (NSW Office of Environment and Heritage);
- Register of the National Trust;
- The National Heritage List (Australian Heritage Council);
- The Commonwealth Heritage List (Australian Heritage Council);
- Heritage Schedule Mid-Western Regional Local Environmental Plan 2012

1.4.2 Fieldwork and Project Personnel

Fieldwork for this project was undertaken by CHMA archaeologist Jen Streatfeild on 24th November 2017. The primary purpose of the fieldwork was to locate and record any sites within the study area and to assess potential archaeological sensitivity of the area as a whole.

The survey was undertaken on foot over the entire site. All trees were checked for Aboriginal markings and visible surfaces inspected for artefacts or signs of use.

All buildings listed for redevelopment were viewed and photographed from all four external aspects. The Old Boiler House was the only building viewed internally and photos and inspection were undertaken of the extant boilers.

1.4.3 Analysis and Report Writing

Analysis of the data obtained from the field survey included:

- analysis of the micro topography of the study area
- relationships between site types, densities and environmental factors
- assessment of the results accounting for factors such as surface visibility and survey intensity.

This report comprises a *preliminary assessment* of the status of known heritage sites within the study area, outstanding requirements for mitigation and the potential for additional heritage sites to occur. Additional research and investigations may be required before impacts to the area can be characterised. These will be the subject of two subsequent reports.

2.0 Environmental Context

The study area is located in the township of Mudgee and covers approximately 40 000m² in a residential area. The site is approximately 750m to the east of Redbank Creek and 1.3km south of the Cudgegong River.

The site and surrounds have been fully developed with housing, parklands, a sports oval and Railway in the immediate vicinity. Development continues for at least 1km in all directions.

This extensive development will influence the presence and visibility of past Aboriginal activities if any, on the site.

2.1 Topography

Mudgee is located in the Cudgegong River valley and backs onto the hills of the Avisford Nature Reserve. The terrain across the study area is flat to very gently undulating. Much of this terrain has been artificially levelled and modified through the development and settlement of Mudgee.

2.2 Geology and Soils

The Shire of Mudgee varies from Hawkesbury sandstone in the north east and the alluvial sand and gravels along the river flats of the Cudgegong River. The township has developed along these river flats.

2.3 Vegetation

The site is fully landscaped with lawns and trees and garden plantings across the whole site.

2.4 Land Use Impacts

The study area has been dramatically altered from its natural form, through clearing of original vegetation, landscaping and selective replanting and construction of the existing hospital buildings and infrastructure.

3.0 Aboriginal Site Types and AHIMS Database Search Results

3.1 Site Definitions

The most common site types located by archaeologists across this region of NSW are those that contain stone artefacts, either in isolation or as scatters (both low and high density) in both open and/or subsurface deposits. Other identified sites in the region include modified or scarred trees, grinding grooves, burials, rock shelters, middens, quarries and ceremonial sites. The following provides a brief definition of each site type for the purpose of understanding the subsequent discussion of the archaeological record of the Mudgee region.

3.1.1 Artefacts

Stone artefacts are the most prolific markers of Aboriginal occupation in Australia. These items are the product of intentional manufacture by Aboriginal people for the purpose of using them as tools in a wide range of activities. Artefacts were manufactured from a wide range of materials including glass, bone and shell, however stone was by far the more common resource utilised. Artefacts may be identified by a series of morphological characteristics which separate them from fragments of rocks shattered through various mechanical agencies. Stone artefacts may occur in isolation or in varying sizes of scatters. They may appear as surface expressions as well as buried sub-surface deposits.

3.1.2 Quarry/Procurement Sources

Quarries are raw material sources that can be demonstrated to have been extracted for the purposes of stone or ochre procurement by Aboriginal people. These sites characteristically show evidence of the removal of material/modification of surfaces in the form of flaking and reduction of the stone material at the source. The presence of quarries in any area will be directly dependent upon the underlying geology and its suitability for artefact manufacture.

3.1.3 Modified/Scarred Trees

These are trees, either living or dead, that can be demonstrated to have been modified by Aboriginal people removing the bark or wood from the tree and resulting in the formation of a scar. This sort of modification was undertaken for the purposes of manufacturing tools or other implements that were used in traditional cultural practices. Scarred trees will only be located in areas of old growth.

3.1.4 Grinding Grooves

These are smoothed areas or grooves on non-portable rock surfaces that have been created by grinding activity associated with food production such as seed milling, preparation of pigments, tool manufacture and/or maintenance and

rituals. These types of sites are only found in the presence of suitable rock outcrops.

3.1.5 Rock Shelters/Art Sites

Rock shelters can be any place recognizable as a cave or overhang that may have afforded Aboriginal people shelter. Evidence of occupation may include the presence of stone artefacts, sub-surface deposits and art. Aboriginal rock art includes daubings, drawings, stencils, prints or any kinds of motifs on the surfaces of rocks and walls. Again, the presence of sites such as these will be contingent upon the geology of the area.

3.1.6 Burials

Aboriginal burial sites occur throughout the region and involve varying practices depending upon the landscape. These sites possess Aboriginal skeletal material and may also demonstrate Aboriginal mortuary/burial markers. Burials necessarily require sub-surface deposits of sufficient depth to cover the remains.

3.1.7 Ceremonial Sites

Ceremonial sites comprise any place used for a formal act or series of acts prescribed by ritual, belief in a mythological manifestation, religious belief or observance that is connected with the traditional cultural life of Aboriginal people in the past or present. Bora rings are one example of a ceremonial site.

3.2 Results of the AHIMS Database Search

An Aboriginal Heritage Information Management System (AHIMS) search undertaken on 9 November 2017 showed that no Aboriginal sites or places have been registered within or in the immediate vicinity of the Mudgee Hospital study area. A copy of the AHIMS extensive search is provided at Appendix A. The search included some 500m radius from the study area.

This of course does not preclude the existence of sites or places within subsurface contexts. The highly disturbed nature of the study area does however mean the it would be unlikely for any to be found in situ.

4.0 Predictive Modeling

Predictive modeling, in an archaeological context, is a fairly straightforward concept and has been utilised by archaeologists in Australia for a number of years as a tool for undertaking research into Aboriginal heritage sites. In summary, predictive modeling involves the collation of information generated from previous archaeological research in a given region, and using this information to establish patterns of Aboriginal site distributions within the landscape of that particular region. On the basis of perceived patterns of site distribution, archaeologists can then make predictive statements regarding the potential for various Aboriginal site types to occur within certain landscape settings, and can make preliminary assessments regarding the potential archaeological sensitivity of landscape types within a given region.

4.1 Predictive Models: Strengths and Weaknesses

It should be acknowledged that most, if not all predictive models have a number of potential inherent weaknesses, which may serve to limit their value. These include, but may not be limited to the following.

1. The accuracy of a predictive model is directly influenced by the quality and quantity of available site data and information for a given region. The more data available and the greater the quality of that data, the more likely it is that an accurate predictive model can be developed.
2. Predictive modeling works very well for certain types, most particularly isolated artefacts and artefact scatters, and to a lesser extent scarred trees. For other site types it is far more difficult to accurately establish distribution patterns and therefore make predictive modeling statements. Unfortunately, these site types are generally the rarer site types (in terms of frequency of occurrence) and are therefore generally the most significant sites.
3. Predictive modeling (unless it is very sophisticated and detailed) will generally not take into account micro-landscape features within a given area. These micro features may include (but is certainly not limited to) slight elevations in the landscape (such as small terraces) or small soaks or drainage depressions that may have held water. These micro features have been previously demonstrated to occasionally be focal points for Aboriginal activity.
4. Predictive modeling to a large extent is often predicated on the presence of watercourses. However, in some instances the alignment of these watercourses has changed considerably over time. As a consequence the present alignment of a given watercourse may be substantially different to its alignment in the past. The consequence of this for predictive

modeling (if these ancient water courses are not taken into account) is that predicted patterns of site distributions may be greatly skewed.

4.2 Implications for Aboriginal Site Type, Patterning and Integrity Given Environmental Context

The environmental context identified in Section 2 has the following implications for Aboriginal site types and integrity within the study area:

- The Mudgee Hospital grounds (the study area) has been entirely cleared of native vegetation, and the landscape has been heavily modified through the development of the Hospital.
- The extensive modification of the site through large scale urban development means precludes the possibility of finding in situ Aboriginal sites within subsurface contexts.

4.3 Implications for Aboriginal Site Type, Patterning and Integrity

- Artefact scatters and isolated finds are the most common site types to exist across the board;
- The distance of the study area from a permanent water course makes high density sites in the area unlikely;
- the geology/topography of the area is not conducive to grinding grooves, rock shelters or rock art sites;
- scarred trees are unlikely due to extensively cleared vegetation;

4.4 Statement of Archaeological Potential

The study area is located in the township of Mudgee and covers approximately 40 000m² in a residential area. The site is approximately 750m to the east of Redbank Creek and 1.3km south of the Cudgegong River.

Existing predictive modeling data suggests that the most likely sites to have occupied the study area are low density artefact scatters and isolated finds given the type of landscape setting (flat terrain, away from major water courses). These sites are likely to be representative of sporadic, short term occupation or individuals passing through the area on their way to water.

The site and surrounds have been fully developed with housing, parklands, a sports oval and Railway in the immediate vicinity. Development continues for at least 1km in all directions. Given the extent of land use history and landscape disturbances across the entirety of the study area, any Aboriginal heritage sites that may have been present in this area will have been either completely destroyed or very heavily impacted.

This is a preliminary assessment that will need supporting data in the form of detailed background archaeological research in future reports on the project.

5.0 European Historical Context

The following is a preliminary summary of the history of Mudgee and the Hospital Site. Additional detail will be provided in future reports.

5.1 Summary Historical Background

The first settlement of Mudgee was in 1822 by George and Henry Cox. During the 1820s settlers arrived and the first land grant was to Captain Henry Steel in 1823 granted for services during the Napoleonic Wars.

In 1834 the present site of Mudgee was proposed for a village and gazetted on January 12th 1838. Twenty allotments bounded by Douro, Market, Court and Mortimer streets were auctioned in Sydney in 1838. This settlement is approximately 1.5km to the north west of the study area.

By 1840 the first hospital was opened. A slab building situated near the west end of the town near the river. This soon proved inadequate and Dr King opened a hospital in Mortimer street opposite the Presbyterian Church. Many private hospitals operated in Mudgee with the last closing in 1950.

A number of public hospitals began in 1852 on a site in Perry street behind the Presbyterian church. Then in 1874 a new thirty bed hospital was commenced opposite the railway station.

An article from the *Mudgee Guardian and North-Western Representative* newspaper dated *Thursday 23rd February 1950* describes the laying of the foundation stone for the current hospital. The article mentions the previous hospital foundation stone being laid in 1874, further research is needed to clarify whether the location is the same.

In 1955 a 96 bed District hospital was opened on the present study site. The present hospital opened in 1955 is comprised of a number of older buildings. The earliest plaque is from 1934 on the present Wellness Centre building (Plate 1).

5.2 Historic Heritage Register Searches

Searches for registration of the Mudgee Hospital were undertaken on the following databases:

- Register of the National Trust;
- The National Heritage List (Australian Heritage Council);
- The Commonwealth Heritage List (Australian Heritage Council);
- Heritage Schedule Mid-Western Regional Local Environmental Plan 2012



Plate 1 Plaque on Wellness Centre

The hospital is not currently listed on any heritage registers or specifically within the Mid-Western LEP 2012.

6.0 Results of the Preliminary Survey Inspection

6.1 Archaeological Survey

6.1.1 Survey Coverage and Effective Survey Coverage

The visual inspection was undertaken by foot over the grounds of the hospital and verges surrounding the study area.

Visibility was poor due to extensive lawn landscaping and gardens.

Survey coverage of the grounds is estimated to be approximately 90%. Thick lawn and landscaping meant that the visibility was poor in most areas less than 5%.

Some bare patches provided increased visibility under the trees and where the lawn was thinning. It is estimated that visibility in those areas was an average of 40% and these areas were inspected with care (Plates 2 & 3). The percentage of the site with good visibility was approximately 15%. Effective survey coverage is calculated by quantifying the estimated area of ground surveyed and the estimated area of ground surface exposed. Therefore, the calculation of effective coverage for the ground surface on the site is approximately 5%.



Plate 2. Areas of visibility



Plate 3. Visibility around drain

6.2 Survey Results

6.2.1 Aboriginal Sites

No Aboriginal sites were identified during the survey inspection of the Mudgee Hospital study area.

As described in section 6.1, Surface visibility across the entire study area was poor (5%) due to extensive lawn landscaping and gardens. Given these constraints, it can't be stated with certainty that there are no undetected Aboriginal sites present within the study area. With this acknowledged, there still was sufficient visibility to generate a general impression as to the extent of Aboriginal heritage resources in this area. The negative survey results are therefore assessed as being a reasonable indication that site and artefact densities within study area footprint are likely to be very low. The most likely

site type to be present would be isolated artefacts or small artefact scatters, representing sporadic Aboriginal activity.

No specific areas of archaeological sensitivity or potential were identified within the study area. Given the very high levels of land disturbances across the study area, there are no areas apparent where there may be an elevated potential for relatively in-tact Aboriginal cultural deposits to be present.

6.2.2 European/Historic Sites

A number system was used to identify specific buildings or features within the study area (see Figure 6). Each of the buildings were photographed and inspected for plaques or identifying marks or styles.



Figure 6. Study area map

1. Grassed area towards the north bounded by the Railway

This area is a landscaped grassed area which is highly disturbed by construction of drainage which is also used by the Fire Brigade for training. The surface is covered by introduced grasses allowing a visibility of approximately 40% overall (Plate 4).



Plate 4. Grassed area at northern end of study area

2. Residence

This house is constructed of a light coloured brick laid in a standard stretcher bond with a tile roof. The style appears to be 1980s and measures 20m by 10m with a carport on the west. The building has Aluminum windows and a single garage. Vents suggest a timber frame and floor. The gable and eaves possibly contain asbestos.

A 22m x15m grassed backyard is formed by a timber rail fence on metal posts. The southern side of the house has a pergola to provide outdoor space. (Plates 5-8)



Plate 5 Residence eastern side



Plate 6 Residence northern side



Plate 7 Residence western side



Plate 8 Residence southern side

3. Vacant building

This building is in poor condition of red brick laid in a standard stretcher bond with a galvanized tin roof (Plates 9-12). There seems to have been an extension at one end of the building or the roof has been replaced as the size of the sheeting changes.

An enclosed verandah or weatherboard extension is on three sides of the building. A ramp has been added to the northern side for access to the verandah. It seems to have been extended from an older entry, possibly converted stairs (Plate 10).

The northern side of the building appears to be possibly 1940/50s as evidenced by the soldier brick headings over the doors which was popular in the postwar period (Plate 11). Without an internal inspection it was not possible to confirm if the enclosed verandah covered similar style on the other sides.

Terracotta vents occur in the lower brick work suggest timber frame and flooring.



Plate 9 Vacant building eastern wall



Plate 10 Vacant building northern wall



Plate 11 Vacant building southern wall



Plate 12 Vacant building western wall

4. Old Boiler Building

Another red brick standard bond building with terracotta tile roofing, this building was formerly the laundry and morgue. The style of the building appears to be 1950s (Plates 13-19).

The building has a roof projection atrium with glazed louvre windows. Some changes have occurred with at least one aluminum window added to the workshop area.

Now used for the archives, stores and workshop for the hospital, the northern end houses the now unused steel coal fired boilers. A steel chimney stack is located at the northern end of the building behind the new generator. A brick rose surrounds the entry of the stack flue to the southern wall.

The western side of the boiler area has a ramp to a coal storage area which is now occupied by birds (Plate 19). The timber roof frame is visible from the coal store and the boiler room.

The boilers are steel, but no maker's mark was visible as it had been painted over (Plates 17-18).



Plate 13 Old Boiler Room Building east face



Plate 14 Old Boiler Room Building north face



Plate 15 Old Boiler Room Building west face



Plate 16 Old Boiler Room Building south face



Plate 17 Steel coal fired boilers



Plate 18 Paintable Plate - indecipherable



Plate 19 Coal store on southern end of Old Boiler Room

5. Wellness Centre

The wellness centre is a long building created from the 1970s extension to an earlier 1934 building dated by a plaque (Plate 1). Red brick with galvanized iron roofing sheets it has a weatherboard enclosed verandah with ramp access on the southern and western sides (Plates 20 - 23).

The building has a roll top mesh fence enclosing a small yard on the western side. The Eastern wall has an awning with ramp access and a modern rotunda in the grounds. The eaves and timber appear to be timber.



Plate 20 Eastern wall with Rotunda Wellness Centre



Plate 21 Eastern wall Wellness Centre



Plate 22 Western side Wellness Centre



Plate 23 Southern side Wellness Centre

6. *Community Health Building*

This is a two storey red brick building with a terracotta tile roof. The windows are wooden double hung sash style. These combined with the top vents in the walls suggest a build date prior to the 1960s (see Plates 24 - 28).

The western wall has a portico entrance with an added ramp for access. A twenty vehicle car park is located on this side. The eastern side has a two storey brick verandah with added access ramp as well. There are Rose plantings adjacent to the eastern verandah.



Plate 24 Community Health western side



Plate 25 Community Health north side



Plate 26 Portico entry Community Health



Plate 27 Community Health eastern side



Plate 28 Community Health northern side

7. *Main Hospital Building*

The main hospital building is a multi-storey building of red brick with a partial terracotta roof and partial galvanized iron roof. It has a central four storey square construction with a two storey wing to the north and a three storey wing to the south. Both wings have concrete verandahs with steel railings.

The main building appears to contemporaneous with the Community Health building in style. The District hospital was opened in 1955.

To the eastern side of the main building is an attached recent structure known as Cudgegong Lodge built post 1997 (Plate 33). The eastern side faces Lewis Street with a carpark and covered driveway to the entry. A 1997 aerial photo of the hospital shows the main building with a terracotta tile and folded copper roof, this has since been replaced with galvanized iron.



Plate 29 Aerial photo of study area 1997



Plate 30 Main Building southern wall



*Plate 31 Main Building entrance on Lewis St)
(western side)*



Plate 32 Main Building northern wall



Plate 33 Cudgegong Lodge



Plate 34 Main Building western wall

8. Other items of note

Two other items of social heritage value were identified and will need further historic research to determine their significance. The first is a plaque in memory of Nurse Barbara Ann Roberts 27-6-1995 who worked at the Mudgee District Hospital (Plate 35).



Plate 35 Memorial plaque for Nurse Roberts

The second item is a lamp post erected in front of the Community Health Building with a plaque erected to the memory of Richard Headley but no date is included. This post and commemoration plaque should be researched further before determining the significance of the object.



Plate 36 Lamp post on Church Street



Plate 37 Inscription plate on lamp post

7.0 Scientific Values and Significance Assessment - Aboriginal

7.1 Assessment Guidelines

There are several different ways of defining types of significance, and many practitioners have developed their own system of significance assessment. However, as Sullivan and Pearson (1995) point out, there seems to be a general advantage in using a set of criteria, which is already widely accepted. In Australia cultural significance is usually assessed against the Burra Charter guidelines and the Australian Heritage Commission guidelines (ICOMOS 1988, 1999, Lennon and Mathews 1996).

7.2 The Burra Charter

Under the guidelines of the Burra Charter 'cultural significance' refers to the 'aesthetic, historic, scientific, social or spiritual value for past, present or future generations' of a 'place' (ICOMOS 1999:2). The guidelines to the Burra Charter comment:

"Although there are a variety of adjectives used in definitions of cultural significance in Australia, the adjectives 'aesthetic', 'historic', 'scientific' and 'social' ... can encompass all other values".

The following provides the descriptions given for each of these terms.

7.2.1 Aesthetic Value

Aesthetic value includes aspects of sensory perception for which criteria can and should be stated. Such criteria may include consideration of the form, scale, colour, texture and materials of the fabric; the smells and sounds associated with the place and its use (Marquis-Kyle & Walker 1992).

7.2.2 Historic Value

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 (Marquis-Kyle & Walker 1992).

7.2.3 Scientific Value

The scientific or research value of a place will depend upon the importance of the data involved or its rarity, quality or representativeness and on the degree to which the place may contribute further substantial information.

A site or a resource is said to be scientifically significant when its further study may be expected to help current research questions. That is, scientific significance is defined as research potential (Marquis-Kyle & Walker 1992).

7.2.4 Social Value

The social value of a place is perhaps the most difficult value for heritage professionals to substantiate (Johnston 1994). However, social value is broadly defined as ‘the qualities for which a place has become a focus of spiritual, political, natural or other cultural sentimental to a majority or minority group’ (ICOMOS 1988:30). In What is Social Value, Johnston (1994) has provided a clear definition of social value:

“Social value is about collective attachment to places that embody meaning important to a community, these places are usually community owned or publicly accessible or in some other way ‘appropriated’ into people’s daily lives. Such meanings are in addition to other values, such as the evidence of valued aspects of history or beauty, and these meanings may not be apparent in the fabric of the place, and may not be apparent to the disinterested observer”. (Johnston 1994:10)

Although encompassed within the criterion of social value, the spiritual value of a place is a new addition to the Burra Charter (ICOMOS 1999:1). Spiritual value is predominantly used to assess places of cultural significance to Indigenous Australians.

The degree to which a place is significant can vary. As Johnston (1994:3) has stated when trying to understand significance a ‘variety of concepts [are] used from a geographical comparison (‘national’, ‘state’, ‘local’) to terms such as ‘early’, ‘rare’, or ‘seminal’. Indeed the Burra Charter clearly states that when assessing historic significance, one should note that for:

‘any given place the significance will be greater where evidence of the association or event survives in situ, or where the setting are substantially intact, than where it has been changed or evidence does not survive (ICOMOS 1988:29).’

7.3 Significance Criteria Relevant to Aboriginal Sites

Aboriginal heritage sites and places may have educational, tourism and other values to groups in society. However, their two principal values are likely to be in

terms of their cultural / social significance to Aboriginal people and their scientific / archaeological significance. These are the two criteria that are commonly used in establishing the significance of Aboriginal sites. The following provides an explanation of these criteria.

1) Aboriginal Cultural / Social Significance

This relates to the value placed upon a site or suite of sites by the local or regional Aboriginal community. Almost all Aboriginal heritage retains contemporary significance to Aboriginal people as it represents an important tangible link to their past and to the landscape. The identification and assessment of those sites that are significant to Aboriginal people is a matter for Aboriginal people. This assessment can only be made by the appropriate Aboriginal representatives of the relevant communities.

2) Scientific (Archaeological) Significance

Archaeological significance values (or scientific values) generally are assessed on the potential of a site or place to generate knowledge through archaeological research or knowledge. Bowdler (1984) states that the scientific significance should be assessed according to timely and specific research questions (research potential) and site representativeness.

Research potential entails the potential of a site or suite of sites for scientific research and excavation. This is measured in terms of a site's ability to provide information on aspects of Aboriginal culture. In this respect, the contents of a site and their state of preservation are important considerations.

Representativeness takes account of how common a site type is (Bowdler 1984). That is, it allows sites to be evaluated with reference to the known archaeological record within the given region. The primary goal of cultural resource management is to afford the greatest protection to a representative sample of sites throughout a region. The corollary of a representative site is the notion of a rare or unique site. These sites may help to understand the patterning of more common sites in the surrounding area, and are therefore often considered of archaeological significance. The concept of a rarity cannot be easily separated from that of representativeness. If a site is determined to be rare, then it will by definition be included as part of the representative sample of that site type. The concepts of both research potential and representativeness are ever changing variables. As research interests shift and archaeological methods and techniques change, then the criteria for assessing site significance are also re-evaluated. As a consequence, the sample of site types, which are used to assess site significance, must be large enough to account for the change in these variables.

Acknowledging the fact that Aboriginal people are the only suitable people to assign levels of cultural significance to sites, the following assessment focuses the potential scientific/archaeological significance of the sites identified within the study area. The statements of significance provided in no way imply that scientific values override or should be prioritized over cultural values. The scientific significance values provided here must not lessen the importance of the opinions of the Aboriginal community.

7.4 Scientific (Archaeological) Significance of Aboriginal Sites Identified in the Study Area

No Aboriginal Sites were identified during the current investigation. The extensive modification of the site through large scale urban development means precludes the possibility of finding in situ Aboriginal sites within subsurface contexts.

8.0 Scientific Values and Significance Assessment – European/Historic

8.1 NSW Assessment Guidelines

The NSW Heritage Office and Planning NSW have defined a set of criteria and methodology for the assessment of cultural heritage significance for items and places, where these do not include Aboriginal heritage from the pre-contact period (NSW Heritage Office & DUAP 1996, NSW Heritage Office 2001, Heritage Council of NSW 2008).

The Heritage Council of NSW recognises only the following four levels of significance for heritage in NSW:

- Local
- State
- National
- World

These four levels refer to the context in which a heritage item is important and does not refer to a ranking of significance. A heritage item may have significance at more than one level; items of local significance are by far the most common in New South Wales and make the greatest contribution to our living historic environment (Heritage Council of NSW 2008).

The following heritage assessment criteria are those set out for Listing on the State Heritage Register. In many cases items will be significant under only one or two criteria. The State Heritage Register was established under Part 3A of the Heritage Act (as amended in 1999) for listing of items of environmental heritage which are of state heritage significance. Environmental heritage means those places, buildings, works, relics, moveable objects, and precincts, of state or local heritage significance (section 4, Heritage Act 1977).

An item will be considered to be of State (or local) heritage significance if, in the opinion of the Heritage Council of NSW, it meets one or more of the following criteria:

- 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) – known as *historic significance*;
- 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) – known as *historic associations*;

- Criterion (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) – known as *aesthetic or technical significance*;
- 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– known as *social significance*;
- 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) – known as *research potential or educational significance*;
- 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) – known as *rarity*;
- 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 areas) – known as *representative significance*.

An item will not be excluded from the Register on the ground that items with similar characteristics have already been listed on the Register. Only particularly complex items or places will be significant under all criteria.

In using these criteria it is important to assess the values first, then the local or State context in which they may be significant. In instances where a heritage item is complex and/or comprises numerous elements a hierarchy of significance may be useful in assigning significance to individual elements or areas of a site as different components of a place may make a different relative contribution to its heritage value. For example, loss of integrity or condition may diminish significance. In some cases, it is constructive to note the relative contribution of an item or its components.

The potential heritage items recorded during this survey have been assessed against the State Heritage Register criteria and have been guided by the NSW Heritage Office update *Assessing Heritage Significance* (2001), the Heritage Council of NSW update *Levels of Heritage Significance* (2008) and the *Mining Heritage Places Assessment Manual* (Pearson and McGowan 2000).

8.2 Significance of European Sites Identified during the current study

Due to the preliminary nature of this investigation and the need to undertake additional historic research on the site, it's age and development, significance assessments of each of the structures identified according to the criteria listed above is not possible at present.

However, preliminary investigations at Mudgee Hospital have not identified any areas of particular or immediately obvious significance, however future historic research and investigations may alter this assessment.

Anecdotal comment from a groundsman at the site suggested a nurse training facility on the grounds may have social significance, however further research into this suggestion will be necessary before a significance assessment can be made.

The history of the coal fired boilers may also be of social/historic value to collectors and enthusiasts, but again further research will be required to confirm or refute these suggestions.

9.0 Management and Mitigation Measures

9.1 Aboriginal Heritage Management Recommendations

Existing information on Aboriginal heritage at the site suggests that the area is of low archaeological sensitivity based on the following findings:

- AHIMS database shows no previously recorded sites within the study area;
- The land use history of the place indicates that in situ deposits are no longer present at the site
- No Aboriginal artefacts/sites were identified during the current field survey.
- Generalised predictive models indicate that the environmental factors of the study area mean it is ill-suited to long term occupation due to distance from permanent water.

However, as yet, a detailed background archaeological study, examining previously recorded sites in the broader Mudgee region has not been completed. This information is necessary to fine tune the predictive model and make it regionally specific. Provided these results do not dramatically differ from the patterning established in the generalised model, it is likely that a Due Diligence Assessment can be completed for this project.

A determination of whether or not this is appropriate will be made following the background archaeological research on the Mudgee region.

9.2 Historic Heritage Management Recommendations

A preliminary recording of the extant buildings and historic features has now been completed for the Mudgee Hospital study area. The buildings recorded during this preliminary visual inspection appear to have been constructed and developed over a period dating from 1934 to the present. Based on the findings of this initial inspection, it is recommended that the following additional investigations should be undertaken.

- Anecdotal evidence indicates the nurses training facilities may have some social significance on a local level. However, it is not yet clear where these facilities were. Further research and/or consultation will need to be undertaken in order to identify the facility and confirm any potential significance.
- The history of the coal fired boilers may be of social/historic value to collectors and enthusiasts. At this stage there is no research confirming the age or type of boilers. Further research and/or consultation will need

to be undertaken in order to confirm the age and significance of the boilers.

- Two other items of social heritage value were identified and will need further historic research to determine their significance. The first is a plaque in memory of Nurse Barbara Ann Roberts 27-6-1995 who worked at the Mudgee District Hospital. The second item is a lamp post erected in front of the Community Health Building with a plaque erected to the memory of Richard Headley but no date is included. This post and commemoration plaque should be researched further before determining the significance of the object.
- The exact impact area for the proposed development needs to be better defined.
- A Heritage Impact Statement for the proposal must be developed.

9.3 Legislative Requirements:

The study area lies within the General Conservation Area of the *Mid-Western Regional Local Environmental Plan 2012* as shown on the *Heritage Map-sheet HER_006H*. As such, the proposed redevelopments to Mudgee Hospital will require Development consent as outlined in Part 5 Clause 5.10(2) of the *Mid-Western Regional Local Environmental Plan 2012*.

10.0 Statutory Obligations

The following provides a summary of State and Commonwealth legislation relevant to the protection and management of Aboriginal heritage. During the current investigations, no heritage items listed for indigenous values under the *NSW Heritage Act 1977*, *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, *Environment Protection and Biodiversity Conservation Act 1999* or the *Australian Heritage Council Act 2003*, were identified. However, Aboriginal sites/objects summarized in Section 6 of this report, are protected under the *NSW Parks and Wildlife Act 1974*.

10.1 Commonwealth Legislation

The primary legislation providing protection to heritage in NSW is enacted by the State (see Section 8.2), however several Acts administered by the Commonwealth are also relevant. The main Acts comprise the *Environment Protection and Biodiversity Conservation Act 1999*, *The Australian Heritage Council Act 2003* and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1987*.

Environment Protection and Biodiversity Conservation Act 1999 (Comm) (EPBC Act)

This Act is the primary Commonwealth legislation for the management and protection of areas of national environmental significance. In 2003 the EPBC Act was amended through the Environment and Heritage Legislation Amendment Act (No1) 2003 to provide protection for cultural heritage sites, in addition to the existing aim of protecting environmental areas and sites of national significance.

The 2003 amendments to the Environment Protection and Biodiversity Conservation Act 1999 have resulted in the inclusion of indigenous and non-Indigenous heritage sites and areas. These heritage items are defined as:

‘indigenous heritage value of a place means a heritage value of the place that is of significance to indigenous persons in accordance with their practices, observances, customs, traditions, beliefs or history;

The environmental assessment process within the EPBC Act protects matters of national environmental/heritage significance where actions are proposed on/will take affect on, Commonwealth land or where Commonwealth agencies are proposing to take action. The Act also promotes the ecologically sustainable use of natural resources, biodiversity and the incorporation of community consultation and knowledge.

Any proposal identified as having the potential to significantly impact on a matter of national environmental significance (including cultural heritage) requires the proponent to refer the project to the Department of Sustainability, Environment, Water, Population and Communities. The matter is then made public and referred to state, territory and Commonwealth ministers for comment, before the Minister decides whether or not the project must be assessed under the EPBC Act. The action may be approved, not approved or approved with conditions, following assessment by the Minister. Items identified under this legislation are given the same penalty as actions taken against environmentally sensitive sites. Specific to cultural heritage sites are §324A-324ZB.

In addition to the above amendments to the *Environment Protection and Biodiversity Conservation Act 1999* to include provisions for the protection and conservation of heritage, the Act also enables the identification and subsequent listing of items for the Commonwealth and National Heritage Lists (ss. 341D & 324D respectively). The Act establishes the *National Heritage List*, which enables the inclusion of all heritage, natural, Indigenous and non-Indigenous, and the *Commonwealth Heritage List*, which enables listing of sites nationally and internationally that are significant and governed by Australia.

Substantial penalties (and, in some instances, goal sentences) can be imposed on any person who damages items on the National or Commonwealth Heritage Lists (ss. 495 & 497) or provides false or misleading information in relation to certain matters under the Act (ss.488-490). In addition, the wrongdoer may be required to make good any loss or damage suffered due to their actions or omissions (s.500).

Australian Heritage Council Act 2003 (Comm.)

The *Australian Heritage Council Act 2003* established an independent body of experts – the Australian Heritage Council – whose role it is to advise the Minister on all matters relating to heritage and on the listing and protection of heritage places in particular.

Until 19 February 2012 the Australian Heritage Council facilitated the management of the Register of the National Estate (RNE), which comprised a list of more than 13,000 heritage places throughout Australia (compiled since 1976 by the former Australian Heritage Commission). The RNE is no longer a statutory list and currently acts as an archive of information with relevant heritage places now listed on state or commonwealth registers. References to the RNE no longer occur within the EPBC Act or the *Australian Heritage Council Act 2003*.

The Aboriginal and Torres Strait Islander Heritage Protection Act 1987.

The Aboriginal and Torres Strait Islander Heritage Protection Act 1987 provides protection for Aboriginal heritage, in circumstances where it could be demonstrated that such protection was not available at a state level. In certain instances the Act overrides relevant state and territory provisions.

The major stated purpose of the Act is to preserve and protect from injury and desecration, areas and objects of significance to Aborigines and Islanders. The Act enables immediate and direct action for protection of threatened areas and objects by a declaration from the Commonwealth minister or authorised officers. The Act must be invoked by, or on behalf of an Aboriginal or Torres Strait Islander or organisation.

Any Aboriginal or Torres Strait Islander person or organization may apply to the Commonwealth Minister for a temporary or permanent 'Stop Order' for protection of threatened areas or objects of significant indigenous cultural heritage.

The Commonwealth Act 'overrides' State legislation if the Commonwealth Minister is of the opinion that the State legislation (or undertaken process) is insufficient to protect the threatened areas or objects. Thus, in the event that an application is made to the Commonwealth Minister for a Stop Order, the Commonwealth Minister will, as a matter of course, contact the Queensland Environmental Protection Agency to ascertain what protection is being imposed by the State and/or what mitigation procedures have been proposed by the land user/developer.

In addition to the threat of a 'Stop Order' being imposed, the Act also provides for the following:

- If the Federal Court, on application from the Commonwealth Minister, is satisfied that a person has engaged or is proposing to engage in conduct that breaches the 'Stop Order', it may grant an injunction preventing or stopping such a breach (s.26). Penalties for breach of a Court Order can be substantial and may include a term of imprisonment;
- If a person contravenes a declaration in relation to a significant Aboriginal area, penalties for an individual are a fine up to \$10,000.00 and/or 5 years goal and for a Corporation a fine up to \$50,000.00 (s.22);
- If the contravention is in relation to a significant Aboriginal object, the penalties are \$5,000.00 and/or 2 years goal and \$25,000.00 respectively (s.22);
- In addition, offences under s.22 are considered 'indictable' offences that also attract an individual fine of \$2,000 and/or 12 months goal or, for a Corporation, a fine of \$10,000.00 (s.23). Section 23 also includes

attempts, inciting, urging and/or being an accessory after the fact within the definition of 'indictable' offences in this regard.

The Commonwealth Act is presently under review by Parliament and it is generally accepted that any new Commonwealth Act will be even more restrictive than the current legislation.

10.2 State Legislation

The protection of Indigenous cultural heritage in New South Wales is principally governed by two pieces of legislation, the *National Parks and Wildlife Act 1974 (NPW Act)* (as amended) and the *Environment Planning and Assessment Act 1979*.

The National Parks and Wildlife Act 1974 (NPW Act)

The NPW Act provides the primary basis for the legal protection and management of Aboriginal sites within NSW. The implementation of the Aboriginal heritage provisions of the Act is the responsibility of the NSW Department of Environment and Conservation (DEC).

The general rationale behind the Act is the prevention of unnecessary, or unwarranted destruction of relics, and the active protection and conservation of relics which are of high cultural significance.

Section 90 of the Act provides statutory protection for all Aboriginal 'objects', whereby it is an offence (without the Minister's consent) to:

damage, deface or destroy Aboriginal sites without the prior consent of the Director of the National Parks and Wildlife Service.

The Act defines an 'object' as:

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

The Act, together with the policies of the NPWS provide the following constraints and requirements on landowners and managers.

- It is an offence to knowingly disturb an Aboriginal artefact or site without an appropriate permit.
- Prior to instigating any action which may conceivably disturb an 'object' (generally land surface disturbance or felling of mature trees), archaeological survey and assessment is required.
- When the archaeological resource of an area is known or can be

reliably predicted, appropriate land use practices should be adopted which will minimize the necessity for the destruction of sites/objects, and prevent destruction to sites/objects which warrant conservation.

- Documented and appropriate consultation with relevant Aboriginal Community representatives is required by the OEH as part of the prerequisite information necessary for endorsement of consultant recommendations or the provision of Consents or Permits by the OEH.

Section 86 of the NP&W Act specifies the offences and penalties relating to harming or desecrating Aboriginal places and objects:

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

Maximum Penalty:

- (a) in the case of an individual – 2,500 penalty units or imprisonment for one year, or both or (in circumstances of aggravation) 5,000 penalty units or imprisonment for two years, or both, or
 - (b) in the case of a corporation – 10,000 penalty units (currently \$1,100 000).
- 2) A person must not harm an Aboriginal object ('strict liability offence').
 - (a) in the case of an individual – 500 penalty units or (in circumstances of aggravation) 1,000 penalty units, or
 - (b) in the case of a corporation – 2,000 penalty units (currently \$220,000).

Under s86(4) of the Act it is an offence for a person to harm or desecrate an Aboriginal place, with maximum penalties of 5,000 penalty units or imprisonment for two years, or both, for individuals and 10,000 penalty units for corporations.

The protection provided to Aboriginal objects applies irrespective of the level of their significance or issues of land tenure. However, areas are only gazetted as Aboriginal Places if the Minister is satisfied that sufficient evidence exists to demonstrate that the location was and/or is of special significance to Aboriginal culture.

Harm to an Aboriginal object or place is defined under s5(1) as 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

- (c) is specified by the regulations
- (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.

Exemptions and defenses to offences under s86 of the Act to exist and include the following:

- Offences under s86(1), (2) and (4) have a defense against prosecution under s87(1) in which the harm or desecration was authorized by an Aboriginal Heritage Permit (AHIP) and the conditions to which the AHIP were subject have not been contravened.
- The strict liability offense under s86(2) has a defense against prosecution under s87(2) if the person exercised *due diligence* to determine whether the act or omission constituting the alleged offence would harm and Aboriginal object and reasonably determined that no Aboriginal object would be harmed. Due diligence may be achieved through compliance with industry specific Codes of Practice approved by the Minister, such as the DECCW (2010a) *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*.

The 'due diligence' process is intended to provide a defense against the strict liability offense under s86(2) of the Act, if an activity where subsequently to unknowingly harm an Aboriginal object without the presence of an AHIP. If Aboriginal objects are present or likely to be present and an activity will harm them, an AHIP application is required (excluding Part 3A Projects).

The DECCW (2010a) *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* outlines procedures to determine the presence or likely presence of Aboriginal objects, the identification of activities that may harm Aboriginal objects and the need for AHIPs, the level of assessment is not generally sufficient to satisfy the assessment requirements outlined under Parts 5 and 5 of the EPBC Act (see below).

- A second defense to the strict liability offense under s86(2) is provided under section 87(4) if the person shows that the act or omission constituting the alleged offense is prescribed by the regulations as a low impact act or omission. Clause 80B of the National Parks and Wildlife Regulation 2009 describes low impact acts or omissions, most of which

centre around land that is considered to be already disturbed. For the purposes of clause 80B, land is classified as 'already disturbed' if it 'has been the subject of a human activity that has changed the land's surface, being changes that remain clear and observable' (for example soil ploughing, construction of rural infrastructure such as dams and fences, construction of roads, tracks and trails, clearing of vegetation, construction of buildings, installation of utilities, substantial grazing involving the construction of rural infrastructure, or construction of earthworks related to the above).

- The defense of honest and reasonable mistake of fact applies under s86(5) to the strict liability offense of s86(2) and to offenses against Aboriginal places under s86(4).
- Offenses under s86(1) and (2) do not apply under s86(6) with respect to an Aboriginal object that is dealt with in accordance with s85 (see below)
- Exemptions are also available under s87A to s86(1)-(4) for emergency situations pertaining to conservation works and agreements
- And exemptions are available under s87B to s86(1), (2) and (4) for Aboriginal people in relation to the carrying out of traditional cultural activities.

Consent regarding the use of or destruction of relics is managed through the OEH Aboriginal Heritage Impact Permit (AHIP) system, as outlined in s90 of the NP&W Act clauses 80D and 80E of the Regulations. The issuing of permits is dependent upon adequate archaeological review and assessment, together with an appropriate level of Aboriginal community liaison and involvement. Failure to do so will result in a rejection of the permit application and the inability to undertake any collection of artefactual material (outside of the developmental area) or sub-surface testing.

Aboriginal archaeological assessments must be undertaken in accordance with the OEH (2011a) *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW*, which involves conducting an assessment in accordance with the DECCW (2010b) *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* and consultation with the Aboriginal community in accordance with the DECCW (2010c) *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* policy.

In accordance with the DECCW (2010b) *Code of Practice for Archeological Investigation of Aboriginal Objects in NSW*, the key features required for heritage assessments include:

- Investigations must be undertaken by people with appropriate skills and experience as specified in s1.6.
- Archaeological sub-surface investigation will be necessary when it can be demonstrated through Requirements 1, 2, 3, 4 and 5 of the Code that sub-surface Aboriginal objects with potential conservation value have a high probability of being present in an area, and the area cannot be avoided by the proposed activity (irrespective of whether or not there are objects present on the surface).
- A s90 AHIP is not necessary for test excavations undertaken in compliance with the Code (however in all cases implementation of the Aboriginal Cultural Heritage Consultation Requirements for Proponents Policy must be undertaken).

Clause 80D of the NP&W Regulation 2009 dictates that the cultural heritage assessment report which accompanies an AHIP must address the following:

- The significance of the Aboriginal objects and/or places that are the subject of the application;
- The actual or likely harm to those Aboriginal objects/places from the proposed activity that is the subject of the application;
- Any practical measures that may be taken to conserve/protect those Aboriginal objects/places;
- Any practical measures that may be taken to avoid or mitigate any actual or likely harm to those Aboriginal objects/places;
- Include any submission received from registered Aboriginal parties under clause 80C and the applicant's response to that submission.

Evaluations of AHIP applications are guided by the OEH (2011a) *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW*, OEH (2011b) *Applying for an Aboriginal Heritage Impact Permit: Guide for Applicants*, and OEH (2011c) *Guide to Aboriginal Heritage Impact Permit Processes and Decision-Making Policy*.

AHIPs may be issued in relation to Aboriginal objects, places, land activities or persons or specified types or classes of Aboriginal objects, places, land, activities or persons. They may be transferred or varied at the approval of the Director General, and may also be refused. An application is taken to be refused 60 days after the date of receipt by the Director-General (unless otherwise granted or

refused earlier).

The Director-General may attach any conditions deemed necessary to any AHIP granted, with failure to comply with a condition deemed a contravention of the Act (under s90J). Such offences may result in a maximum penalty of 1,000 penalty units for each day the offence continues for an individual: these fines are doubled for a corporation.

Under s90K of the Act the Director-General must consider the following matters when making a decision in relation to an AHIP:

- a) The objects of the Act;
- b) Actual or likely harm to the Aboriginal objects/place that are the subject of the permit;
- c) Practical measures that may be taken to protect and conserve the Aboriginal objects/place that are the subject of the permit;
- d) Practical measures that may be taken to avoid or mitigate any actual or likely harm to the Aboriginal objects/place that are the subject of the permit;
- e) The significance of the Aboriginal object/place that are the subject of the permit;
- f) The results of any consultation by the applicant with Aboriginal people regarding the Aboriginal objects/place that are the subject of the permit (including submissions made by Aboriginal people as part of the consultation required by the regulations);
- g) Whether the consultation process complied with the consultation requirements set out in the regulations (specified in s90 of the NP&W Act, clause 80C of the NP&W Regulation 2009 and in the DECCW Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010);
- h) The social and economic consequences of making the decision;
- i) Accompanying documentation including public submissions made under the EP&A Act in connection to the activity which is the subject of the permit and that has been received by the Director-General;
- j) Any other matter prescribed by the regulations.

Appeals against the decisions made on an AHIP can be made to the Land and Environment court under s90L of the NP&W Act. The appeal must be made within 21 days following notice of the decision that is being appealed. However, the decision of the Land and Environment Court is final and binding on both the Director-General and the applicant.

Section 85A of the NP&W Act allows the Director-General to 'dispose' of Aboriginal objects that are the property of the 'crown' in the following ways:

- a) By returning the Aboriginal objects to an Aboriginal owner/s entitled to and willing to accept possession, custody or control of the Aboriginal objects in accordance with Aboriginal tradition, or
- b) By dealing with Aboriginal objects in accordance with any reasonable directions of an Aboriginal owner/s referred to in paragraph (a), or
- c) If there is/are no such Aboriginal owner/s – by transferring the Aboriginal objects to a person, or a person of a class, prescribed by the regulation for safekeeping (implemented by way of a Care Agreement between the OEH and the Aboriginal person/organization).

Section 85A(3) of the NP&W Act makes provision as to the resolution process for any dispute concerning the entitlement of an Aboriginal owner/s to possession, custody or control of Aboriginal objects for the purposes of this section.

Section 91AA of the NP&W Act allows the Director-General to place a stop work order for up to 40 days, should they be of the opinion that any action is being or is about to be carried out that is likely to significantly affect an Aboriginal place/object or any other item of cultural heritage situated on land reserved under the Act. Emergency situations are exempt from this section of the Act, as are approved developments under the EP&A Act. Contravention of a stop work order may result in penalties up to 1,000 penalty units with an additional 100 units for every day the offence continues (10,000 units and 1,000 units respectively in the case of a corporation). Under s91A, the Director-General may also make recommendations to the Minister for an Interim Protection Order in respect of land which has cultural significance, including Aboriginal objects, for up to 2 years duration. The existence of an AHIP does not prevent the making of a stop work order or an interim protection order (Section 90D).

Section 91L of the NP&W Act provides for remediation work to Aboriginal places or objects that have been harmed as a result of offences under the Act. This work may involve protection, maintenance, conservation, remediation or restoration of the harmed Aboriginal object or place. The maximum penalties

under s91Q for contravening a remediation direction are 2,000 penalty units and 200 penalty units for each day the offence continues for a corporation.

Environment Planning & Assessment Act (1979)

The EP&A Act and its regulations, schedules and associated guidelines require that environmental impacts are considered in land use planning and decision making. Environmental impacts include cultural heritage assessment.

The EP&A Act has three main parts that are of direct relevance to Aboriginal cultural heritage. These are part III which governs the preparation of planning instruments, Part 4 which relates to development assessment processes for local government (consent) authorities and Part 5 which relates to activity approvals by governing (determining) authorities.

Part 3 deals primarily with development planning in which sites and places sacred or significant to Aboriginal communities are to be assessed and are to be taken into consideration in initial studies. Planning New South Wales (formerly DUAP) has produced guidelines on the preparation of planning instruments such as State Environmental Planning Policies (SEPP's), Development Control Plans (DCPs) and Local Environmental Plans (LEP's) that explicitly list Aboriginal sites and places of significance as values which should be assessed as part of initial planning studies.

Part 4 of the Act deals with decisions to be made within the context of development applications (DAs). As a component of this legislative section, an Environmental Impact Study will, under Section 79C (1)b include consideration of the potential impacts a proposed development may have on Aboriginal cultural heritage. If Aboriginal objects are known to exist on the land to which the DA applies prior to the application being made, Part 4 of the EP&A Act requires the use of an 'Integrated Development Application' (IDA). Any IDAs approved for development must therefore be consistent with the General Terms of Approval or requirements provided by the relevant State Government agency (such as OEH).

Part 5 of the Act relates primarily to activities that do not require consent but still require an environmental evaluation, such as proposals by government authorities. State Government agencies which act as the determining authority on the environmental impacts of proposed activities must consider a variety of community and cultural factors in their decision making, including Aboriginal and Historic cultural heritage values.

The *Environmental Planning and Assessment Act, 1979*, as amended, provides for the listing of heritage items and conservation areas and for the protection of

these items or areas through environmental planning instruments (like LEPs or REPs) at the Local government and State planning levels. These statutory planning instruments usually contain provisions for the conservation of these items and areas as well as an assessment process to reduce the impacts of new development on the heritage significance of a place, building or conservation area.

In 2005, the NSW Parliament passed amendments to the EP&A Act, which were designed to facilitate major and critical infrastructure developments. Part 3A of the Act was repealed under these amendments, however under Division 4.1 of Part 4 'State Significant Development' is treated in a similar manner to the former Part 3A. Under Part 3A of the amended EP&A Act, separate approvals or permits are not required from DECCW, with regard to cultural heritage issues, although the DECCW may be consulted to ensure that best practices are being undertaken.

A complex interplay therefore exists between the NP&W Act and Regulation and the planning system. The specific level of Aboriginal heritage assessment and community consultation required for a given development, as well as the requirement for an AHIP is therefore dependent on the nature of the proposal, the Part and Division of the EP&A Act under which planning approval is required, the NP&W Act and Regulation, any particular project requirements imposed by the DP&I and/or the OEH and the presence/absence or potential for Aboriginal objects to occur (Kuskie 2012).

10.3 Local Legislation

In accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act) the Minister may produce planning instruments such as Local Environment Plans to be administered at a local level. These plans establish the objectives and developmental controls for land in local government areas.

The study area lies within the General Conservation Area of the *Mid-Western Regional Local Environmental Plan 2012* as shown on the *Heritage Map-sheet HER_006H*. As such, the work will require Development consent as outlined in Part 5 Clause 5.10(2) of the *Mid-Western Regional Local Environmental Plan 2012*.

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APPENDIX A – AHIMS BASIC SITE SEARCH RESULTS

Office of
Environment
& HeritageAHIMS Web Services (AWS)
Search Result

Purchase Order/Reference : Mudgee Hospital

Client Service ID : 311948

Cultural Heritage Management Australia - (Australian Archaeological Survey Consultants)

Date: 09 November 2017

GPO Box 9463

Deakin Australian Capital Territory 2601

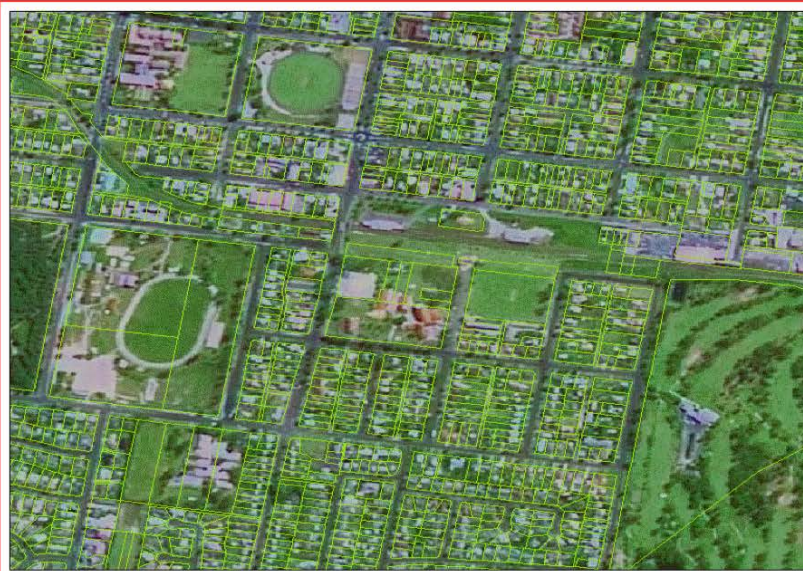
Attention: Sophie Collins

Email: sophcollins@me.com

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lat, Long From : -32.6061, 149.5826 - Lat, Long To : -32.5992, 149.5934 with a Buffer of 200 meters, conducted by Sophie Collins on 09 November 2017.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

If your search shows Aboriginal sites or places what should you do?

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette](http://www.nsw.gov.au/gazette) (<http://www.nsw.gov.au/gazette>) website. Gazettal notices published prior to 2001 can be obtained from Office of Environment and Heritage's Aboriginal Heritage Information Unit upon request

Important information about your AHIMS search

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not to be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.

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APPENDIX D – INDUSTRIAL HERITAGE ASSESSMENT BY JCIS CONSULTANT

