17 October 2025

Attention: Jerome Guinto, Project Manager
Beveridge Williams
Level 4, LPC House, Suite 4.05
3 Fordham Way, Oran Park NSW 2570

Dear Jerome,

Western Sydney University, Milperra, Childcare Centre– Aboriginal Heritage Due Diligence Assessment

Extent Heritage Pty Ltd has been engaged by Beveridge Williams on behalf of Mirvac Residential (NSW) Pty Ltd to prepare a Due Diligence (DD) for the staged residential development of the former Western Sydney University (WSU) Milperra Campus (hereafter referred to as the 'site') located at 2 and 2A Bullecourt Avenue, Milperra.

This report is submitted in support of the State Significant Development Application (SSDA) for the proposed development. It addresses the Secretary's Environmental Assessment Requirements (SEARs) regarding Aboriginal cultural heritage. Extent Heritage was engaged to address only Stage 3A and 3B of the development. We note that that due to extension of the study area to include the road reserves in July 2025, this area was not included in our site inspection and has been assessed via desktop assessment only. We note that an Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared for the wider site and will also be submitted with the SSDA.

This report identifies:

- whether or not there are any current Aboriginal heritage compliance requirements or permit approvals required under the *NSW National Parks and Wildlife Act 1974* and related Heritage NSW regulations, codes and guidelines;
- any known approvals required under the federal *Environmental Protection & Biodiversity Conservation Act 1999* or the *Aboriginal & Torres Strait Islander Heritage Protection Act 1984*; and
- any other Aboriginal heritage risks we have identified with respect to the study area and the proposed development works.

The due diligence assessment identified no registered Aboriginal Objects or Places present within the study area.

In accordance with the risk management process set out in the Due *Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010) the due diligence assessment concluded that that proposed development works can currently 'proceed with caution'. No Aboriginal Heritage

Impact Permit approvals are currently required for the Stage 3A and 3B of the proposed development. We note that an Aboriginal Cultural Heritage Assessment Report ACHAR has been prepared by Heritage Now for the wider development and will be submitted with the SSDA.

Please feel free to contact me to discuss the findings of our assessment should you have any questions or require further information.

Yours sincerely,

Sarah Janson
Associate| Extent Heritage

1. INTRODUCTION

1.1. Legislative Protection for Aboriginal Heritage in NSW

All Aboriginal objects and places are protected in NSW under the *National Parks and Wildlife Act 1974*.

All 'Aboriginal objects' and 'places' are protected in NSW under the *National Parks and Wildlife Act 1974*.

Under Section 86 of the Act, it is an offence to 'harm or desecrate' an 'Aboriginal object' or 'Aboriginal place' without an appropriate approval.

An 'Aboriginal object' is defined by the Act as:

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

An 'Aboriginal place' is defined by the Act as:

> *any place declared to be an Aboriginal place under section 84 (i.e. a gazetted place).*

'Harm' excludes 'trivial or negligible' damage but is otherwise widely defined by the Act to mean 'any act or omission that':

> *(a) destroys, defaces or damages the object or place, or*
>
> *(b) in relation to an object—moves the object from the land on which it had been situated, or*
>
> *(c) is specified by the regulations, or*
>
> *(d) causes or permits the object or place to be harmed in a manner referred to in paragraph (a), (b) or (c).*

An offence under Section 86 of the *National Parks and Wildlife Act 1974* could result in prosecution and significant penalties.

Heritage NSW has established a series of regulations, codes and guidelines as a framework for managing Aboriginal heritage in NSW. The staged risk management process can be summarised in the following steps:

1. Any proposed activity that may cause harm to known Aboriginal Objects or Places (as defined by the *National Parks and Wildlife Act 1974*) will require an Aboriginal Heritage Impact Permit

(AHIP) approval prior to commencement of that activity. Harm means desecrating, destroying, defacing, damaging or moving an Aboriginal object or declared Aboriginal Place.

2. An ACHAR must be completed in support of an AHIP application to Heritage NSW, if required.
3. There are a series of defences to prosecution available for 'low impact activities' under Section 58 of the *National Parks and Wildlife Regulation 2019*. These low impact exemptions are applicable only in areas that do not contain known Aboriginal Objects or gazetted Aboriginal Places.
4. *The Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010) provides risk-based guidance regarding when an ACHAR should be prepared in advance of a development proposal. The risk-based process is based around identification of projects that are 'likely' to harm Aboriginal Objects or Places.

There are Commonwealth Government heritage compliance obligations under the *Environmental Protection and Biodiversity Conservation (EPBC) Act 1999* and the *Aboriginal and Torres Strait Islander Heritage Protection (ATSIHPA) Act 1984* that fall outside the NSW state heritage management framework.

While most projects are not affected by commonwealth requirements, there has been an increasing application of the commonwealth legislation over the last ten years and therefore this due diligence assessment includes identification of any commonwealth requirements that may apply to the project.

1.2. Project summary

Extent Heritage was commissioned by Beveridge Williams, on behalf of Mirvac, to undertake an Aboriginal heritage due diligence assessment for proposed Stage 3A and 3B works associated with a childcare centre at the Western Sydney University Campus, Milperra, within the Canterbury-Bankstown Local Government Area (LGA). The study area is located within the boundaries of Gandangara Local Aboriginal Land Council (LALC).

We understand the study area is located at Lot 2, DP1291984, 2 & 2A Bullecourt Avenue, Western Sydney University, Milperra, and is approximately 28,000 m^2 in size. The study area presently contains a childcare centre, parking, grassed area, water storage tanks, a hydrant pump building, and roads (Figure 2). The study area is bound by an environmental conservation area to the north and east, with internal access roads to the west and south (Figure 3). Stage 3A and 3B form part of a wider subdivision project for the former WSU Milperra campus. We note that that due to extension of the study area to include the road reserves in May 2025, this area was not included in our site inspection and has been assessed via desktop assessment only.

For the wider subdivision, the site is currently owned by Western Sydney University and is located within the Canterbury Bankstown LGA at 2 and 2A Bullecourt Avenue, Milperra, being legally described as Lot 2 in DP1291984 and Lot 1 in DP101147 (refer Figure 1).

The total site has an area of approximately 19.64ha and is the subject of numerous easements affecting the site, including two easements to drain water, easements for electricity and other purposes, and a right of carriageway.

Figure 1. Project area.

Since the demolition of the previous buildings on the site, the site currently comprises:

- Existing at-grade car park (within Zone 4) repurposed as parking and hardstand area for the temporary sales office.
- Existing at-grade car park for the Childcare Centre (generally within the location of the future Road 2B).
- At-grade roads off Bullecourt Avenue.
- A large oval to the south.
- The Western Sydney University Early Learning Centre (Child-care centre).
- Vegetation of varying significance, including Cumberland Plain Woodland.

The site is bound by the M5 Motorway to the south, Ashford Avenue / existing residential dwellings to the west, Bullecourt Avenue / existing industrial development to the north, and Horsley Road / existing industrial development to the east. Adjoining the site along the southeastern boundary is Mount St Joseph Catholic College.

We understand the DCP (Development Control Plan) controls for 3.9 Heritage C1 states: '*for all residential subdivisions or developments on lands adjacent to or lands containing a C2 Environmental*

Conservation zone, an Aboriginal Cultural Heritage Assessment (ACHA)[1] *must be prepared prior to any ground disturbances in the area*.'

The study area is immediately adjacent to the C2 Environmental Conservation zone (Figure 4); however, an Aboriginal heritage due diligence assessment has been prepared in the first instance to address the investigative and legal requirements of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010), which provides risk-based guidance regarding when an ACHAR should be prepared and potential impacts to Aboriginal objects or places. We understand that an ACHAR has been prepared by Heritage Now to address the impacts of the proposed development on Aboriginal cultural heritage within the wider development site and is to be considered as part of the SSDA in conjunction with this assessment once completed.

The project will be delivered in stages and across two separate SSDA Projects, and comprises the construction of up to 430 dwellings, three (3) public parks, new roads and shared paths, civil infrastructure, a car park, and the management of conservation land.

Specifically, across the two SSDAs, consent is sought for:

- Tree removal
- Site remediation (excluding works carried out as category 2 remediation works)
- Construction of bulk earthworks, public roads and landscaping, and services
- Augmentation of existing services and road infrastructure
- Construction of three (3) public parks
- Construction of up to 430 dwelling houses
- Construction of a carpark to service the existing childcare centre and E1 Local Centre zoned land
- Subdivision resulting in up to 430 residential lots, infrastructure lots, and the creation of a community title lot for land zoned C2 Environmental Conservation and E1 Local Centre
- Conservation works including the management of >2Ha Cumberland Plain Woodland Species.

This SSDA comprises of all Civil works across the entirety of the site as well as the construction of all 62 dwellings in Stages 1 and 2 only, which are as follows:

- Stage 1 – Commencement of site-wide tree removal and land remediation, creation of two (2) super lots and total of 22 residential lots, and construction of 22 dwelling houses fronting Ashford Avenue. This will be the first stage to be delivered and will connect into the existing infrastructure that located within Ashford Avenue.
- Stage 2 – Creation of four (4) super lots, a new lot (Lot 25) across the RE1 Public Recreation zoned land, and 40 residential lots. This stage also involves the construction of 40 dwellings within Stage 2, and the construction of new roads and the new public park referred to in the Civil Plans as the 'Central Park'.

[1] N.B. also referred to as an Aboriginal Cultural Heritage Assessment Report (ACHAR)

- Stage 3a – Creation of a new super lot, and the construction of perimeter roads surrounding the existing childcare centre, construction of a new car park to service the childcare centre and C2 Environmental Conservation zoned land. It is proposed all associated civil works required to enable the operation of the existing childcare centre will be delivered under this stage. The new traffic intersections at both Bullecourt Avenue and Horsley Road will be constructed.
- Stage 3b – Creation of three (3) lots to be delivered under a Community Title Scheme for the E1 Local Centre zoned land.
- Stage 4 – Creation of eight (8) super lots, a new lot (Lot 50) across the RE1 Public Recreation zoned land, and a new lot (Lot 49) across the SP2 Infrastructure zoned land. This stage also involves the construction of new roads, the stormwater infrastructure Basin 1 and Basin 2, and the new public park referred to in the Civil Plans as the 'Southern Park', all to be dedicated to Council.
- Stage 5 – Creation of six (6) super lots and construction of new roads and civil works.
- Stage 6 – Creation of nine (9) super lots and a new lot (70) across the RE1 Public Recreation zoned land. This stage also involves the construction of new roads and civil works, and the new public park referred to in the Civil Plans as the 'Northern Park', all to be dedicated to Council.
- Stage 7 – Creation of six (6) super lots and construction of road and civil works.

The second SSDA will seek consent for all outstanding works in stages 3 to 7, which are as follows:

- Stage 3 – Construction of the Childcare Alterations and Additions and Construction of a permanent structure for Commercial use.
- Stage 4, 5, 6 & 7 – Creation of the subsequent subdivision into residential lots and construction of dwellings.

This Aboriginal heritage assessment addresses only the proposed works associated with Stages 3A and 3B (Figure 5 and Figure 6).

1.3. Scope of work

The due diligence assessment scope of work included:

1. Search of the Heritage NSW Aboriginal Heritage Information Management System (AHIMS) to identify whether or not there are any known Aboriginal Objects, Places, potential archaeological deposits (PADs) or other site recordings within the study area;

2. Search of the World, National and Commonwealth heritage lists under the EPBC Act, a search of the Commonwealth Government Gazette for any relevant Declarations under the ATSIHPA, and a search of the NSW State Heritage Register (SHR);
3. Desktop review of key regional Aboriginal heritage studies and any previous studies in the study area to understand local Aboriginal site patterning and implications for archaeological potential within the study area. The desktop review also sought to identify any previously documented Aboriginal cultural, social or intangible values that may be relevant to the study area;
4. Desktop review of geological mapping, soil landscape mapping, NearMap high resolution aerial photographs and historical aerial photographs of the study area to identify landforms and environmental features within the study area. The review also sought to identify previous disturbance and landscape modifications that have occurred within the study area that may have affect its archaeological potential;
5. Site inspection to identify any Aboriginal sites visible on current exposed ground surfaces and any old growth native trees with potential to retain cultural scars or carving. The site inspection also included documentation of previous ground disturbance and modification; and
6. Identification of whether or not permit approvals or further ACHAR assessment is required in accordance with the risk assessment processes set out in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010).

1.4. Limitations

The due diligence assessment is not a formal Aboriginal Cultural Heritage Assessment Report and cannot be used to support Aboriginal Heritage Impact Permit applications to Heritage NSW. It did not include detailed field investigations, test excavation or complete formal community consultation with Registered Aboriginal Parties.

The assessment is limited to advice regarding Aboriginal heritage risks and compliance requirements. It does not include consideration of risks that may be associated with historical archaeology, built and urban heritage, maritime heritage, locally listed heritage schedule items, Native Title or landscape heritage.

Reconfiguration of the study area and associated impacts were implemented after the site inspection was conducted, therefore, portions of the development, primarily the roadways, have not been physically inspected. Archaeological potential was determined through desktop assessment only for these areas.

The recommendations and mitigation measures developed as part of the ACHAR (Heritage Now, 2025) for the proposed development may supersede this assessment.

The advice in the due diligence assessment is based on relevant Aboriginal heritage site register searches, desktop research, site inspection, preliminary Aboriginal stakeholder consultation and identification of any heritage constraints, risks and permit approval requirements.

1.5. Authorship

This report was written by Extent Heritage Pty Ltd. Gina Basile (Heritage Advisor) was the primary author and researcher with contributions by Catherine Fenech (Heritage Advisor). Dr Richard Tuffin (GIS Specialist) assisted with mapping and spatial analysis work. Sarah Janson (Associate) contributed to the report and completed the technical and QA review.

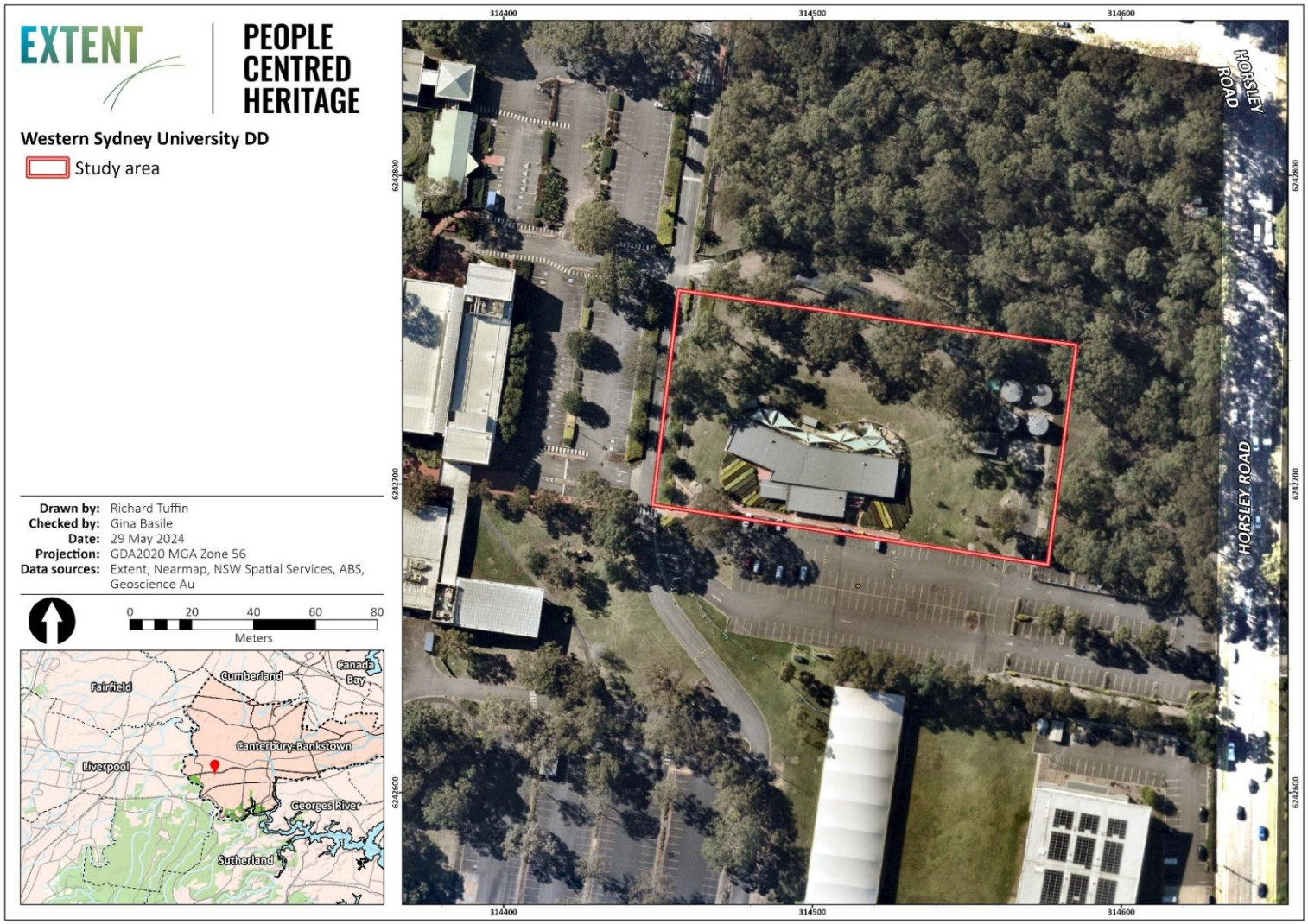

Figure 2. The study area.

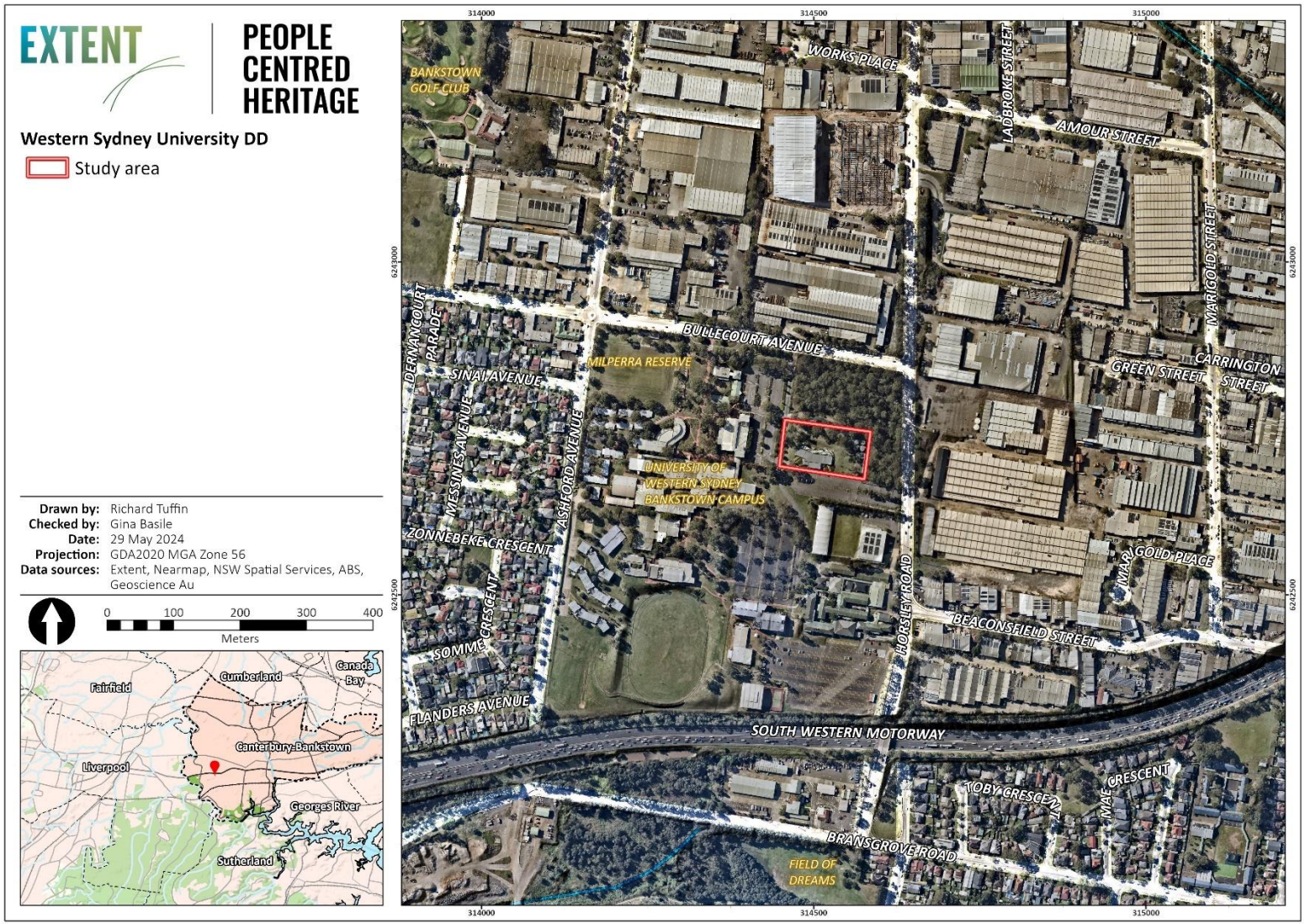

Figure 3. Study area in relation to local region.

Figure 4. DCP C2 zone in relation to the study area (approximately location of the childcare centre outlined in red).

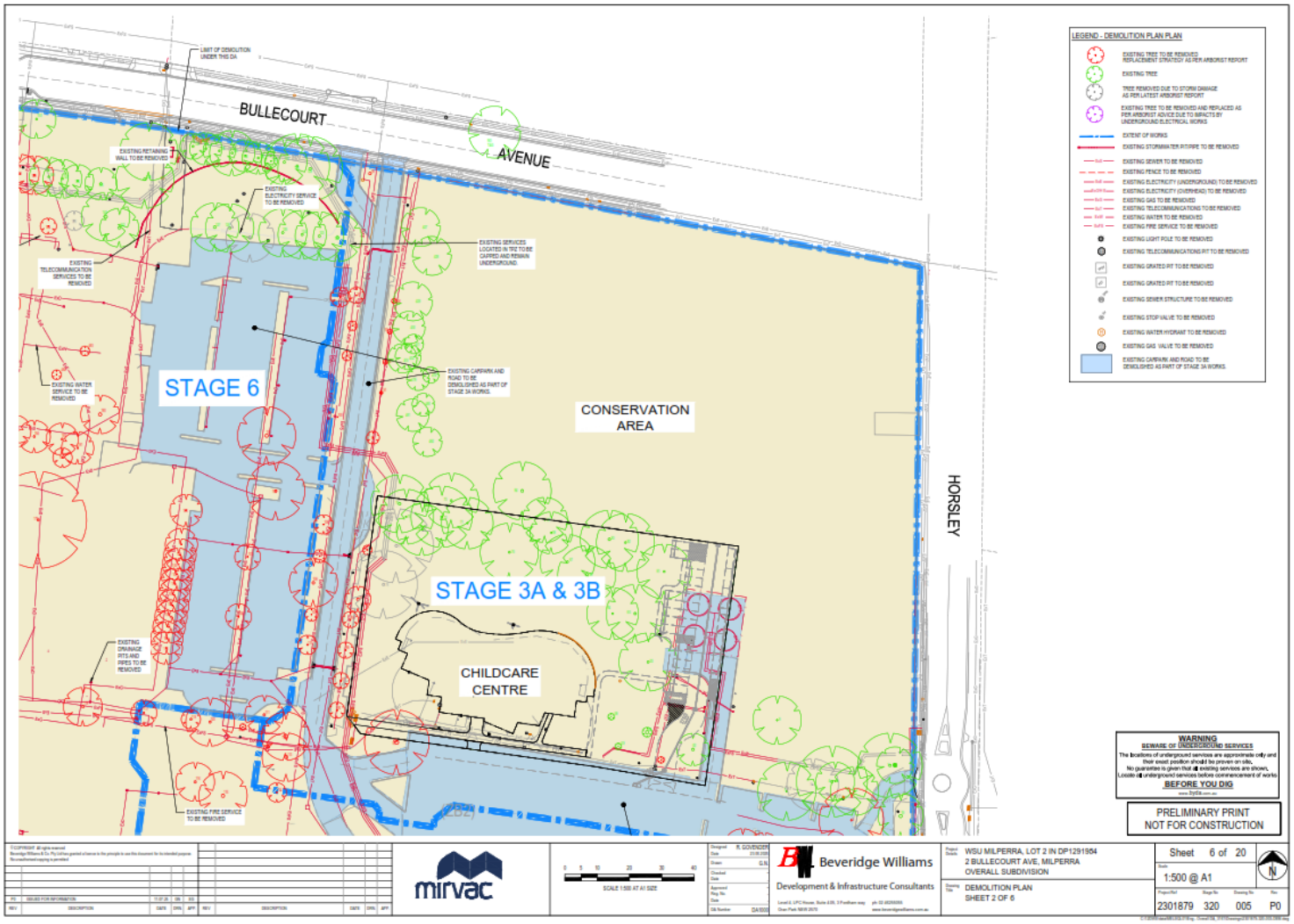

Figure 5. Proposed development –demolition plan.

Figure 6. Proposed development – layout plan.

2. SITE REGISTER SEARCHES

2.1. AHIMS search

The Heritage NSW Aboriginal Heritage Information Management System (AHIMS) database includes a register of recorded Aboriginal Objects and Places, and other site and potential archaeological deposit records. It is important to note that the AHIMS database is not vetted – it can include inaccuracies in the location and description of site recordings. AHIMS includes registrations of Aboriginal Objects and Places that are legally protected under the ambit of *the National Parks and Wildlife Act 1974,* and it also includes other recordings that are not considered to be Aboriginal Objects or Places as defined by the *National Parks and Wildlife Act*. It is important that any records included on the AHIMS are verified and ground-truthed during ACHAR assessments to establish site status and confirm site locations.

An extensive search of the Heritage NSW AHIMS database was carried out on 23/05/2024 (Client ID: 894909) (Appendix B). There are no registered Aboriginal sites within the study area (Figure 7). However, there are a total of twenty-eight sites within a 5 km radius, centred on the study area. The closest registered sites are over 1 km to the northwest and southwest. The registered AHIMS sites show a trend of distribution around waterways and along developments, such as the motorway and the nearby golf course reflecting both how Aboriginal people may have occupied the landscape as well as the locations of developments that have required heritage assessments.

The AHIMS search was validated on 27/05/2025 (Client ID: 1008157), no new sites were identified.

The most common site features recorded for the twenty-eight (28) sites are Modified Trees, with 57% as shown on Table 1 below. However, of the sixteen recorded modified trees within the search area, only one site is listed as valid, with the remaining fifteen sites listed as 'not a site', as they were found to not be of Aboriginal origin (Figure 8). Therefore, the most common site feature within the study area are Artefacts (18%).

We note that AHIMS #45-5-5334 (RGC2020-AS01), which is located just under 2 km to the west of the study area, has been subject to impact via an approved AHIP (#5014), and that its site status may not have been updated at the time of this report. An Aboriginal site impact recording form update is required to accurately reflect whether this site has been impacted by the approved works. However, even destroyed sites inform us of the Aboriginal archaeological remains within the wider region and help us understand predicative models and archaeological potential.

Based on the AHIMS data and regional information, should any sites occur within the study area, it is likely that these would consist of isolated artefacts, low density artefact scatters, or culturally modified trees. While historic flooding along the Georges River reduces the potential for the survivorship of Aboriginal objects within the flood prone areas, elevated areas may be considered to have a greater potential for Aboriginal archaeological remains.

Table 1. Site features recorded in the AHIMS search area.

Site Features	Number	%
Aboriginal Resource and Gathering, Potential Archaeological Deposit (PAD)	1	4
Artefact	5	18
Artefact, Potential Archaeological Deposit (PAD)	1	4
Modified Tree (Carved or Scarred)	16	57
Potential Archaeological Deposit (PAD)	4	14
Shell	1	1
TOTAL	**28**	**100**

2.2. EPBC Act search

A search of the *Environment Protection and Biodiversity Act 1999* (EPBC Act) lists indicates the study area does not include any items included under the National, Commonwealth or World lists.

2.3. ATSIHPA declarations search

A search of the Commonwealth Government Gazette indicates that there are no Section 9 (emergency declaration) or Section 10 (other declaration) declarations currently applicable to the study area.

2.4. NSW State heritage register search

The State Heritage Register (including LEP) and the Australian Heritage Database were searched on 23 May 2024 for the suburb of Milperra. Neither contain records in or around the study area that relate to Aboriginal heritage values.

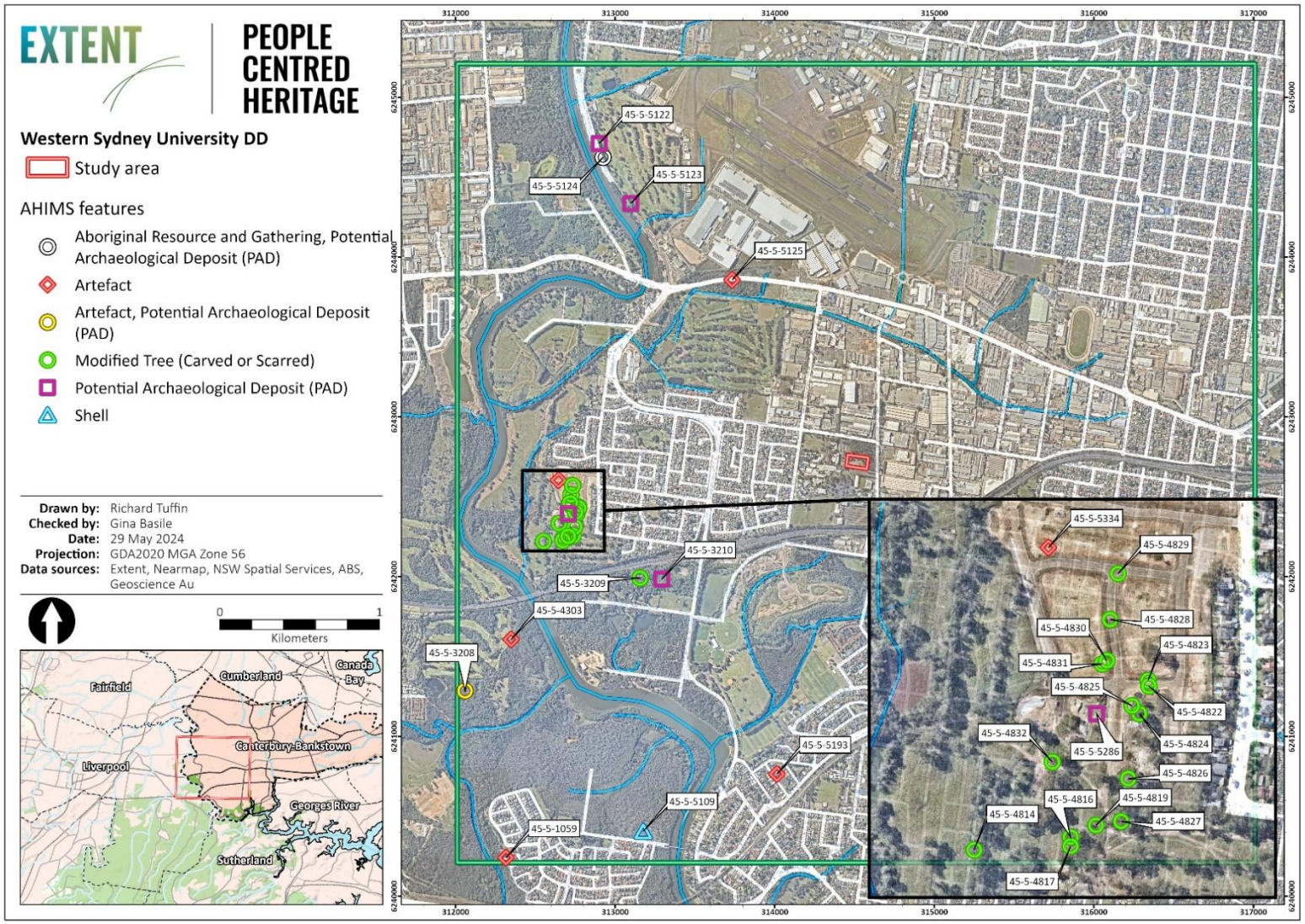

Figure 7. AHIMS Sites within the broader vicinity, including all site statuses.

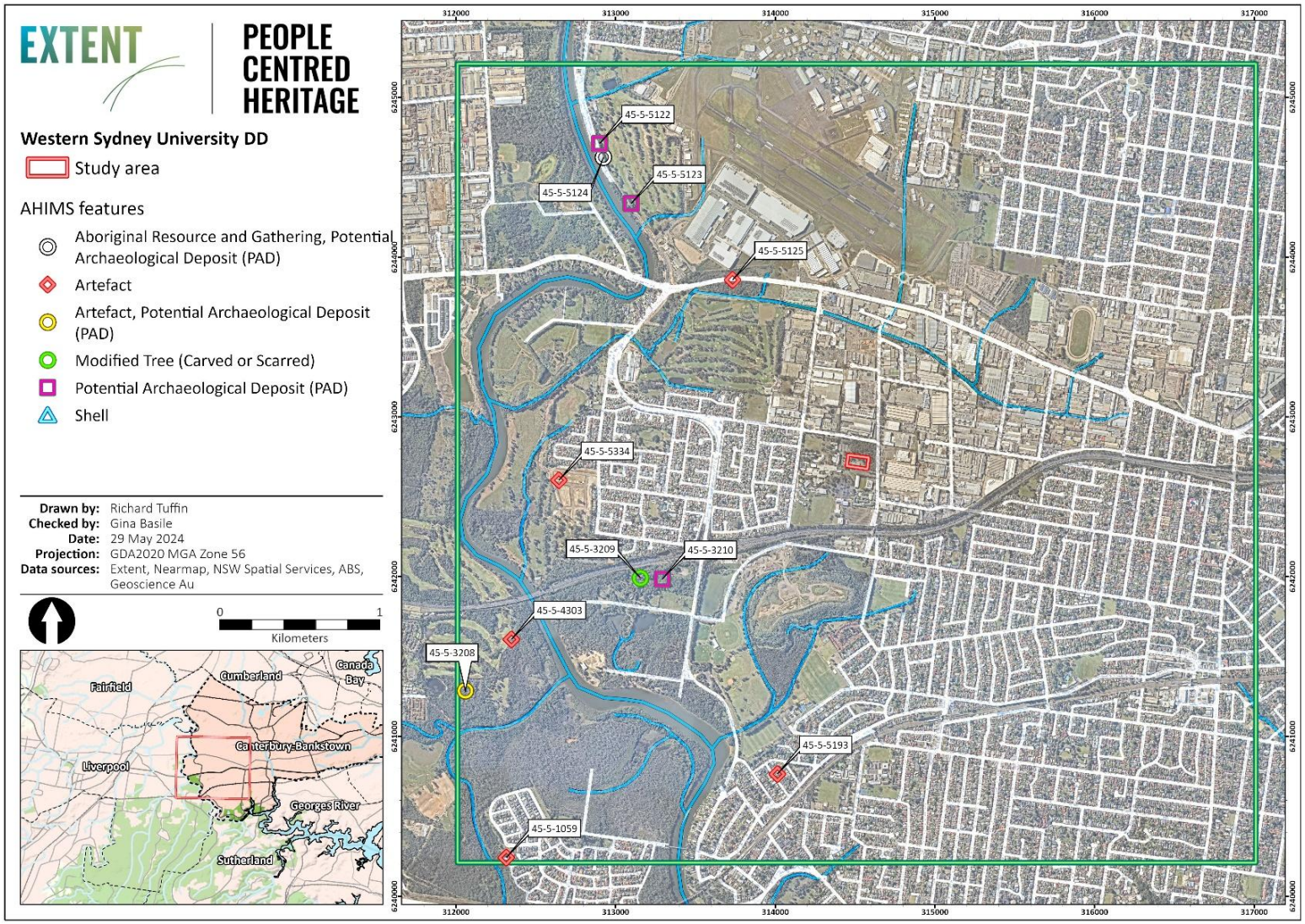

Figure 8. Valid AHIMS sites within the broader vicinity of the study area.

3. DESKTOP RESEARCH

3.1. Environment and landscape

3.1.1. Geological mapping

The geological map of Sydney (1:1,000,000) indicates the study area is located within the Ashfield Shale of the Wianamatta parent group material.

The study area is underlain by Ashfield shales of the Wianamatta Group, and, therefore, the parent bedrock material is typically comprised of black to dark grey shale or laminate material. The lower portion of the Ashfield Shale unit was likely formed by lacustrine (possibly freshwater) sediment deposition, while the upper portion was formed by brackish or shallow marine sediment deposition. The Ashfield Shale unit reaches maximum thicknesses of ~60 m and is typically only exposed as eroded remnants on plateaus (Clark and Jones 1991; Geoscience Australia 2018).

3.1.2. Soil landscape mapping

The 1:100,00 Sydney Soil Landscape mapping indicates the study area is located within the Blacktown soil landscape (Figure 9).

Blacktown Soil Landscape

The Blacktown soil landscape is associated with low hills and rises with broad rounded crests and ridges, with local relief of up to 30 m and slopes of less than 5%. On lower simple slopes, Blacktown soils comprise shallow 10-30 cm of clay loam to silty clay loam, over moderately deep to deep (40 to >140 cm) clay. These types of residual soils are typically shallow, comprised of thin clay loam, sandy loam or sandy clay loam topsoil (A1 horizon) over heavy clays (B horizon), and usually <50 cm deep. The heavy clay unit is generally considered to pre-date the Aboriginal colonisation of Australia, and therefore only the upper A1 horizon has the potential to contain Aboriginal objects.

The shallow depth of Blacktown soils has direct implications for the subsurface presence and survivability of Aboriginal archaeological deposits. The soils are rarely deep enough to retain substantial or deep cultural deposits. In addition, even minor disturbance and/or de-vegetation will often result in the complete removal of the upper parts of the soil profile in which Aboriginal objects may occur.

Although the Blacktown soil landscape generally lacks the sort of subsurface deposits in which archaeological material is commonly found, there are a large number of Aboriginal artefacts recorded as surface finds on the Blacktown soil landscape. This is due to soil deflation and erosion processes that have operated on Blacktown soils, and which have tended to expose (rather than bury) the former land surfaces on which stone artefacts were deposited.

3.1.3. Hydrology

An analysis of topographical mapping and NearMap high resolution aerial photographs indicates the study area does not contain any water bodies, creeklines, or swamps (Figure 10). The closest potential water sources consist of two ephemeral waterways just under 1 km to the north and south, with the closest permanent water source of the Georges River, is located around 2 km to the west and southwest of the study area.

The majority of registered Aboriginal sites in the area are located in close proximity to watercourses, such as the Georges River, this would have provided a resource rich environment for exploitation and use, as an association with waterways present a higher potential for Aboriginal occupation sites.

3.1.4. Landforms

An analysis of the soil landscape mapping, topographic mapping (Figure 11) and NearMap high resolution aerial photographs indicates that the study area is located on a simple slope. This landform consists of elevated ground that slopes down towards the Georges River to the west and lies outside the mapped flood zone. This may have been an ideal spot for camping or a transitional zone for resting and other activities.

Heritage NSW specifies five landscape features which are likely to indicate the presence of Aboriginal objects (DECCW, 2010):

- Within 200 m of waters.
- Within a sand dune system.
- On a ridge top, ridge line or headland.
- Within 200 m below or above a cliff face.
- Within 20 m of or in a cave, rock shelter, or a cave mouth.

Based on analysis of topography and aerial photography, the study area does not contain any of the above-mentioned landscape features.

3.1.5. Vegetation

Mapping of pre-clearance vegetation (Figure 12) indicates that the native vegetation present within the study area would have been characterised by Castlereagh Ironbark Forest, consisting of dry sclerophyll vegetation. This remnant bushland remains within the conservation zone which forms a portion of the study area (Figure 13). Based on our desktop assessment, the southwestern portion of the study area has undergone significant clearing prior to development of the extant childcare centre, however, there is high potential for culturally modified trees within the study area. This potential was investigated and ground-truthed as part of our archaeological survey (for results refer to Section 4).

We note that the proponent has undertaken an arboricultural assessment of wound causation of trees present at 2 Bullecourt Avenue, which encompasses the wider Western Sydney University

campus and the study area. This assessment inspected 14 trees and determined that all were wounded by natural causes and/or mechanical abrasion impacts and were not of Aboriginal cultural origin (Urban Tree Management, 2024, Table 2).

Table 2. Summary of trees inspected by Urban Tree Management (source: Table 1.0, pp. 03, Urban Tree Management 2024).

Table 1.0 Summary of the wound causation of each tree. Trees numbered per the of Temporal Tree Management Arboricultural Impact Assessment (AIA) Report.

Temporal Tree Management, tree No. / Photograph No.	Likely origin of wound/s
TN062 / 11.0 and 11.1	Longicorn borer wound.
TN068 / 13.0 and 13.1	Longicorn borer wound.
TN077 / 12.0 and 12.1	Longicorn borer wound.
TN085 / 14.0 and 14.1	Occluded, branch tear out wound.
TN126 / 1.0 and 1.1	Occluded wound on south side of trunk. Highly likely a wound of mechanical origin from an abrasion impact event.
TN128 / 10.0 and 10.1	Occluded, branch tear out wound.
TN169 / 9.0 and 9.1	Basal wound from Longicorn borers.
TN171 / 8.0 and 8.1	Occluded, superficial abrasion impact event.
TN300 / 2.0 and 2.1	Branch tear out and subsequent borer and fungal decay.
TN344 / 3.0, 3.2 and 3.3	Single trunk wound consistent with infestation by *Botryosphaeria sp.* of pathogenic fungus.
TN345 / 3.0 and 3.1	Multiple trunk wounds consistent with infestation by *Botryosphaeria sp.* of pathogenic fungus.
TN371 / 4.0 and 4.1	Abrasion impact event and partial bark delamination.
TN418 / 5.0, 5.1 and 5.2	Cambial dysfunction and necrosis at trunk branch union.
TN421 / 6.0 and 6.1	Occluded, branch tear out wound.
TN422 / 7.0 and 7.1	Insect borer wound on north side on a first order structural branch.

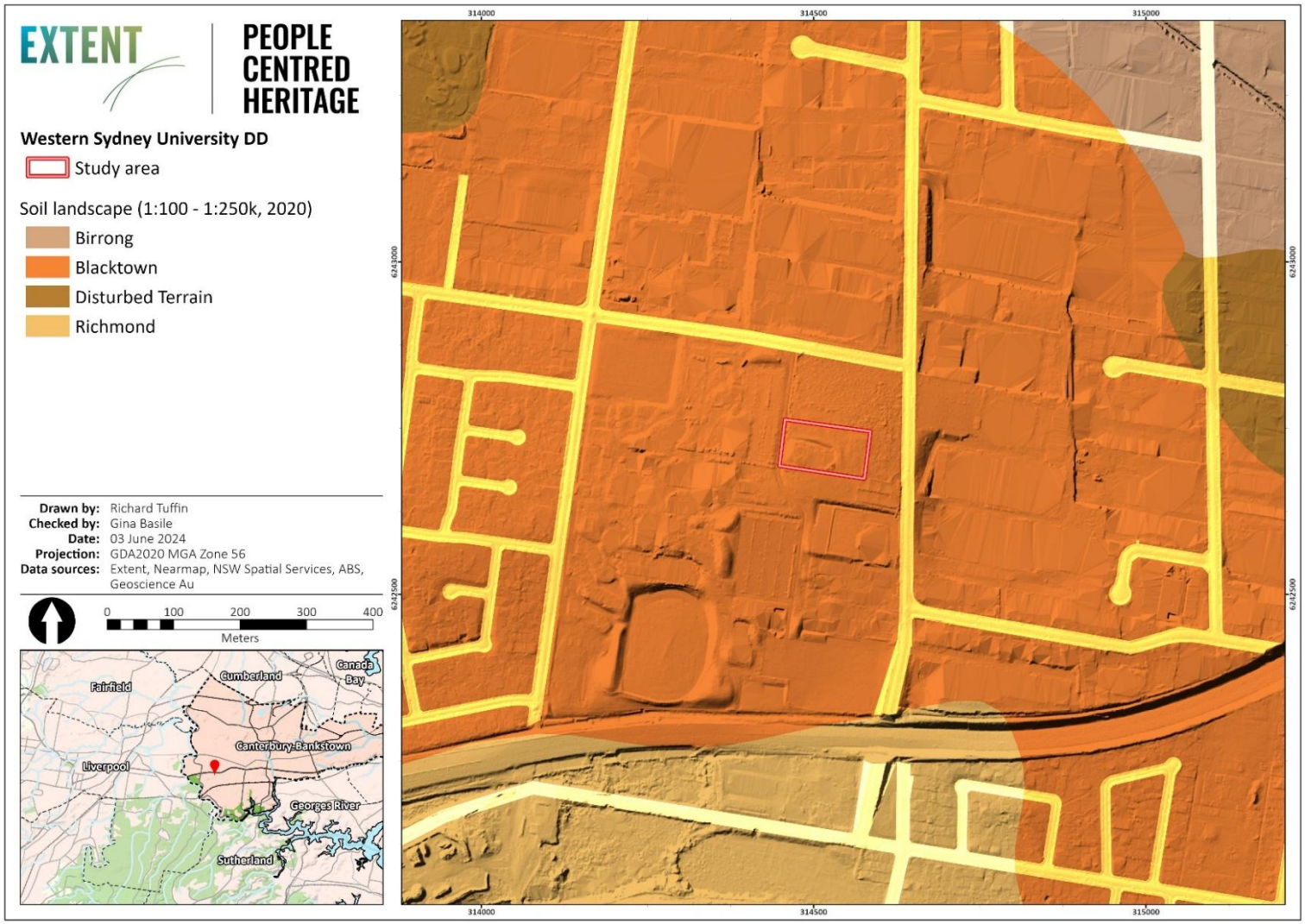

Figure 9. Soil landscape mapping in relation to the study area.

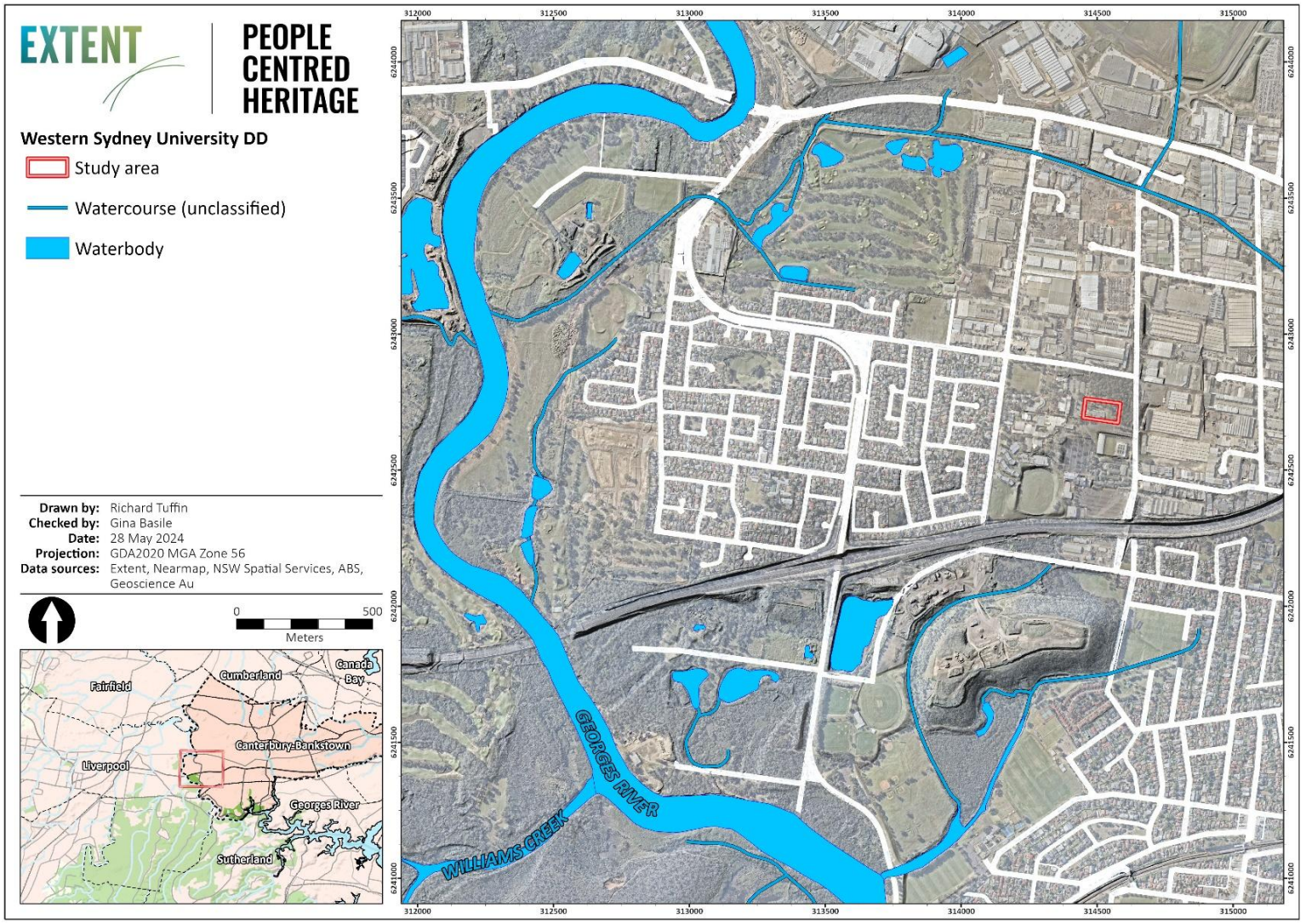

Figure 10. Hydrology within the vicinity of the study area.

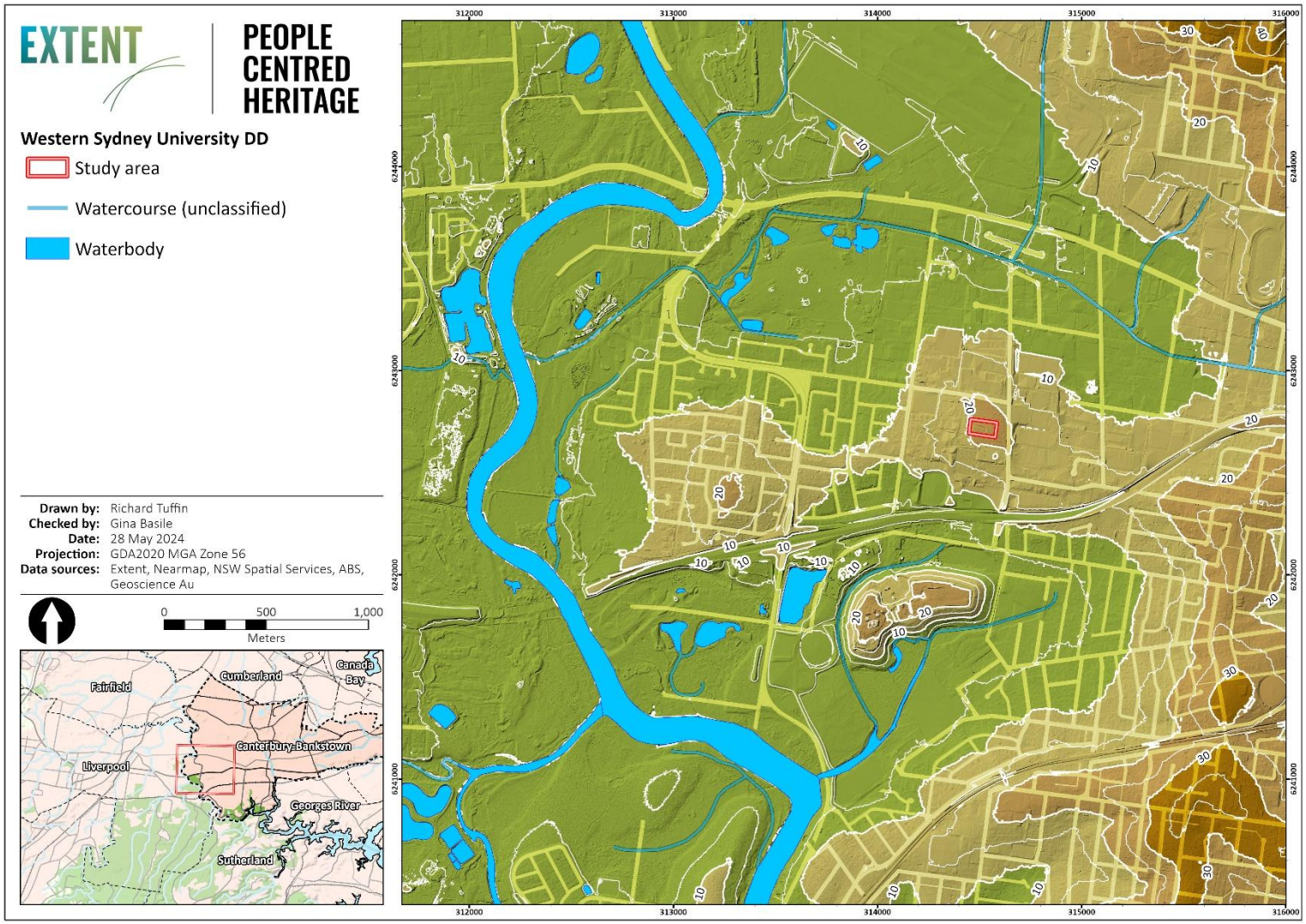

Figure 11. Topographical mapping within the vicinity of the study area.

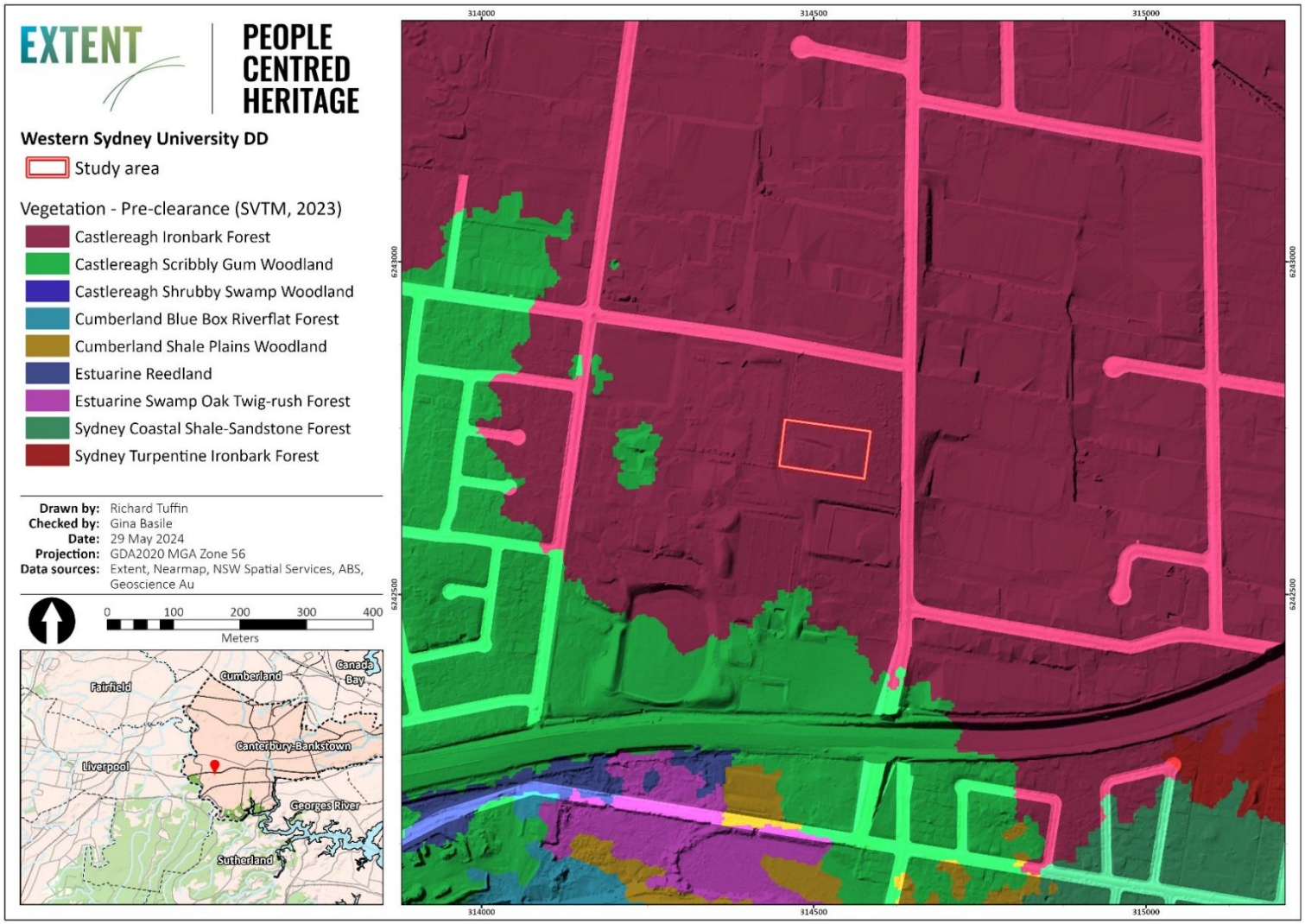

Figure 12. Vegetation within the vicinity of the study area.

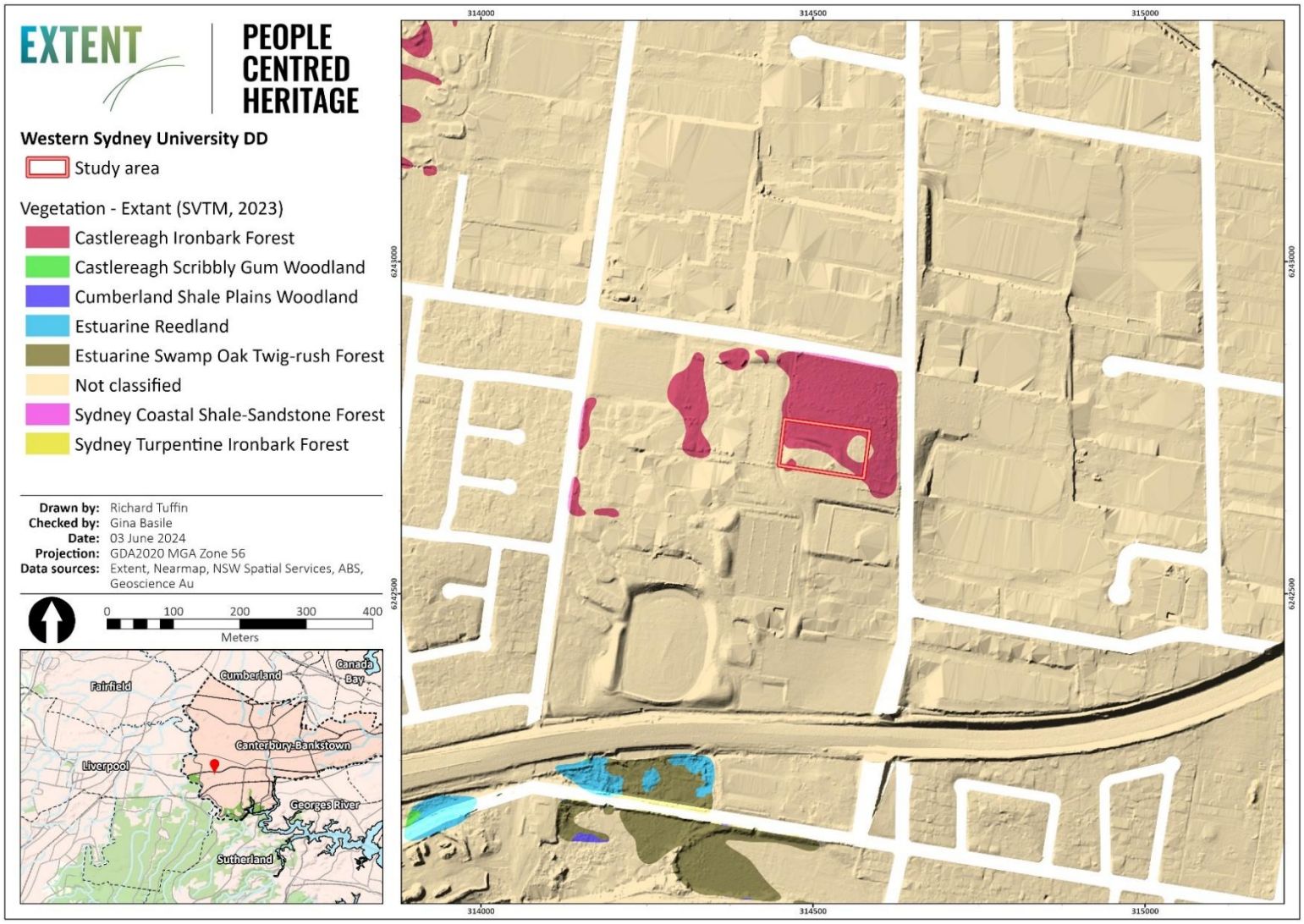

Figure 13. Extant vegetation within the vicinity of the study area.

3.2. Heritage studies

3.2.1. Regional studies and site patterning

Aboriginal occupation in the Sydney region dates back well into the Pleistocene period. This evidence comes from radiocarbon dating of charcoal retrieved from excavated sites on the metropolitan area's fringes; at Burrill Lake (c 20,000 years before present [BP]), Bass Point (c 17,000 BP), and Loggers Shelter in Mangrove Creek (c 11,000 BP) (Bowdler 1970; Lampert 1971; Attenbrow 1981, 2004).

Archaeological sites dating to the Holocene period, and particularly the late Holocene (the last 5000 years), are more frequently identified in the Sydney region. This is thought to reflect an intensification of the occupation of the area in this period, but also greater survivability of these sites (McDonald 1994). There appears to have been a preference for the occupation of the coastal zone in this period, possibly due to a greater reliance on marine resources through increasing populations, territoriality and greater climatic variability. Excavation of sites at Sheas Creek (Haworth et al. 2004) Quibray Bay (Roy and Crawford 1981), and Kurnell (McDonald 2008 and Dallas 2005) identified shell, bone and organic materials with dates of up to c. 4 ka (Attenbrow 2010:18-19).

Studies of the Sydney region have revealed that Aboriginal sites are distributed across the whole range of physiographic units and environmental zones, although certain types of sites may be more frequently associated with certain parts of the landscape (for example, shelter site are particularly common in areas of Hawkesbury Sandstone), and different parts of the landscape contain different resources, which may be seasonally available or highly localised (Attenbrow 1990:30).

While local variation in the archaeological record is apparent, for the most part the distribution and type of archaeological material across the Bankstown region is well understood. In a compilation of several decades of previous research by White and McDonald (2010), it was concluded that the archaeological record in the western Cumberland Plain was almost entirely composed of varying concentrations of Aboriginal objects (isolated finds, background scatters and artefact scatters) predominantly situated within 200 m of water sources; and with more extensive/significant deposits all occurring within 100 m of major creek lines.

In terms of archaeological sensitive landforms, high densities of artefacts have been principally found on lower slopes, alluvial floodplains next to high order streams and on middle to upper ridges in the western Cumberland Plain. On more substantial river systems, such as the Nepean River, Parramatta River and Georges River, ridgelines and levee banks over-looking the river have also been shown to contain substantial, and often very old cultural material. Some of these high density sites show evidence of knapping (stone tool making) activities. However, low density artefact scatters have been found on the surface of all landforms including creek banks, creek terraces, flats, lower and upper slopes, elevated spurs, crests and ridge tops. These results are indicative of a 'background scatter' of occupation occurring across the region with sporadic areas of intensive or repeat usage.

The regional studies indicate the most common site types found on the landforms present in the study area may include:

- Isolated stone artefacts.
- Low-density artefact scatters.
- Culturally modified trees.

3.2.2. Local studies

Archaeological Survey of Freeway No. 5, Section between King Georges Road, Beverly Hills, and Heathcote Road, Moorebank (Haglund 1984)

A survey was conducted in July 1984 for a 12.7 km section of the proposed path of the No. 5 freeway (current M5 Southwestern Motorway). Part of this survey covered an area adjacent to the southern boundary of the Western Sydney University Campus, around 400 m south of the current area. Two sites, one artefact scatter and one isolated find were located within the former Greenwood Golf Course around 2.3 km to the southwest of the study area. The survey section from Henry Lawson Drive to the River Road that traversed the southern edge of the Western Sydney University Campus and was described as a 'low-lying a damp stretch covered in grass and weeds' with most surface appearing disturbed and generally low visibility.

Archaeological Survey for Prehistoric Sites at Voyager Point, NSW (JMCHM 1996)

This archaeological survey report and fieldwork was prepared for Delfin Management Services as part of the Pleasure Point Urban Release Area, located around 2.5 km to the southwest of the study area. This survey found the local environment to primarily consisted of a freshwater swamp on the Georges River, with a greater presence of sandstone geology and focused their assessment along the Georges River. The assessment located 3 previously unrecorded sites, 2 scarred trees and an open midden. Both scar trees and midden sites represent relatively rare site types in this part of the Sydney region.

Aboriginal Cultural Heritage Assessment: SIMTA Moorebank Intermodal Terminal Facility (AHMS 2012a).

In late 2010, AHMS was commissioned by Hyder Consulting Pty Ltd for SIMTA to undertake an Aboriginal Heritage Impact Assessment of the SIMTA site for a Concept Approval under Transitional Part 3A of the *Environmental Planning and Assessment Act 1979*. The SIMTA Moorebank site is located approximately 7.5 km to the south-west of the current study area.

The assessment included an archaeological predictive model which was informed by a detailed background analysis of previous archaeological investigations in the region and information from the AHIMS database. A site survey was also undertaken in conjunction with the Aboriginal communities. The assessment identified that most of the SIMTA site and parts of the proposed rail corridor were heavily disturbed and/or previously developed areas, and the potential for preservation of archaeological materials was low. Ultimately, seven isolated Aboriginal objects and three areas of potential archaeological deposit (PAD) were identified. These areas included: a river

terrace on the east side of the Georges River (PAD 1); the golf course south of Anzac Creek (PAD 2); and the southern-most part of the SIMTA site, and the disused rail corridor directly south of and adjacent to the SIMTA site (PAD 3). A strip of land along the western bank of Georges River (and outside the SIMTA Project boundary) was also identified for cultural values. Specifically, the report stated:

Area 1 is considered potentially culturally significant, as it is a wooded area adjacent to the western side of the Georges River, and Aboriginal cultural sites have been identified in a similar landform on the eastern side of the river. It may contain stone artefacts, which are culturally significant to the RAPs as evidence of the material culture of their ancestors.

This area identified as having cultural value is situated adjacent to the railway line on the western side of Georges River.

Additionally, an Indigenous Biodiversity Values assessment was undertaken in relation to the above project. The report found that all native species may be considered to have a level of significance attached to them (AHMS 2012b).

Aboriginal Heritage Study for Proposed Rezoning of Riverlands Golf Course, Milperra NSW (AHMS 2012c).

AHMS was commissioned by Bankstown City Council to undertake an Aboriginal Heritage study for proposed rezoning of the Riverlands Golf Course, Milperra NSW. The golf course is located approximately 1.5km to the west of the study area, along the Georges River.

This assessment was based primarily on existing information and a surface site inspection to provide a map of the potential for Aboriginal cultural heritage to be present. The report found that elevated areas in the southeast of the site (and encompassing much of the golf course) had the potential to contain Aboriginal cultural heritage.

Aboriginal Heritage Preliminary Assessment Glenfield Waste Disposal (AHMS 2014).

In mid-2012, AHMS was commissioned by Environmental Property Services Pty Ltd for L.A. Kennett Enterprises Pty Ltd to undertake an Aboriginal Heritage Assessment of the southern portion of the Glenfield Waste Disposal site, Glenfield, NSW. The waste disposal site is situated on the western side of Georges River, approximately 8 km to the southwest of the current study area.

The result of the assessment highlighted that most of the subject area was heavily disturbed and/or previously developed, and the potential for preservation of archaeological materials was low. However, two areas appeared to be less disturbed: an area of bushland in the western half of the subject area; and an alluvial terrace adjacent to a minor tributary of the Georges River, in the south-eastern corner of the subject area. Four archaeological sites were identified within the subject area, 3 isolated artefacts and one potential archaeological deposit (PAD).

Moorebank Intermodal Terminal (Navin Officer Heritage Consultants 2014).

In 2014, an Aboriginal heritage assessment was undertaken of the proposed Moorebank Intermodal Terminal located to the west of Moorebank Avenue, around 6 km to the west of the study area.

Their assessment consisted of several field surveys and excavations across the site between 2010 and 2014. Initial field investigations identified five artefact scatters, three scarred trees, three PADs, and three archaeological sensitive landforms.

Subsequent work consisted of test excavations in 2012 and 2013. The 2012 excavations consisted of 59 test pits excavated across the site, and recovered 264 Aboriginal objects (from 26 test pits). Subsequent excavations undertook a further 45 manually dug test pits and eight mechanically dug trenches, all focussed within a PAD located on a low-lying floodplain running along the west side of Georges River. These excavations revealed three discrete areas of cultural deposit. Archaeological materials were generally found in low densities. Artefacts were dominated by silcrete and quartz, likely of late Holocene age.

Geomorphological assessment of the works identified the deep nature of many of the deposits. The soil profile was generally composed of a deep sandy soil overlying "coffee rock" or clayey subsoils. The majority of the test pits revealed some evidence of disturbance and/or truncation, and it was considered that little of the surface reflected a pre-European landscape. However, no soil analysis to determine the origin of the soil profile, nor dating, appeared to have been undertaken to further characterise the deposits or associated cultural materials.

Ultimately, the investigations identified 13 discrete archaeological sites. These sites were assessed under Burra Charter and Commonwealth Heritage listings, and with identification of the sites ranging from high to low. The assessment also identified the banks of Georges River as of archaeological importance. Navin Officer made a number of recommendations, including further assessment of the scarred trees, sub-surface investigation of parts of the Georges River corridor, MRSA 2 and MAPAD2, and salvage excavation of two of the sites.

SIMTA Intermodal Terminal – Stage1 Aboriginal Heritage Impact Assessment (AHMS 2015).

Following the earlier assessment (referenced above), AHMS carried out a series of test excavations along the Stage 1 rail corridor, focussing on two PADs located on the eastern bank of Georges River and either side of Anzac Creek.

Overall, 13 test pits (1m²) were excavated. The excavations revealed a deep (50-90 cm) coarse silt soil unit over-lying coffee rock of clay subsoils, and frequently impacted by introduced fill on the surface. The soil was characteristic of deposition by flooding of Georges River in the past. 28 Aboriginal objects were recovered from the test pits associated with Georges River and suggested a low-level of past activity on the maximal upper slope and ridge in this area. Importantly, the assemblage was considered to reflect two different periods of activity in the past. The upper assemblage was characteristic of occupation in the last few thousand years, and this was corroborated by an OSL age of 3.4ka. The lower assemblage was found in association with an age of 18ka, and represents some of the earliest evidence of activity on the Georges River. The sand sheet itself began forming at ~60ka.

An additional PAD was re-considered and limited to an area encompassing the elevated areas immediately above Georges River. This area was re-labelled as MA14 to reflect its new identification

as an artefact scatter and deposits (and to ensure compatibility with other sites labelled similarly nearby). MA14 was considered to have high research potential, and was assessed as being of local significance, with potential to be of State significance. Further archaeological salvage work was recommended for MA14 during later stages of the project.

RE: Western Growth Project: Milperra Campus Redevelopment – Aboriginal Heritage Due Diligence Assessment (Extent Heritage 2018)

This report was prepared for APP Corporation on behalf of WSU (Western Sydney University). The assessment was prepared following plans for a campus wide redevelopment, which includes the current study area. The majority of the WSU campus was found to be heavily disturbed with no registered AHIMS sites within the campus. Overall, the report found across the campus, areas of potential for Aboriginal objects/sites occurred near first order stream tributaries and in areas of less disturbance, such as the northeastern corner of campus, near the current study area.

Aboriginal Cultural Heritage Assessment 270-286 Horsley Road, Milperra (Biosis 2023)

This ACHA was prepared for ESR Developments for an SSD and located 200 m east of the current study area. The report states that past Aboriginal activity would have more likely been focused closer to the Georges River, and that their present study area may have reflected a more transitory space.

The report noted high levels of historical disturbances across their assessment area, and that the A-horizon soils likely to contain archaeological traces may have been completely removed. Geotechnical investigation of the area found moderate fill deposits over alluvial and residual clay deposits.

The report found that the site is of high cultural significance to the local Aboriginal communities as part of the wider cultural landscape associated with the Georges River. Overall, no Aboriginal sites or areas of archaeological potential were identified during the assessment.

Summary

The local studies indicate there may be potential for Aboriginal sites within parts of the study area that:

- Artefact scatters, shell middens and or buried archaeological deposits or buried human remains within relatively undisturbed land surfaces on elevated land outside of the flood zone of the Georges River.
- Scarred or carved trees in areas that contain old growth native trees.

The northern boundary of the study area, and conservation zone to the north, reflects a relatively undisturbed, remnant landscape within a heavily urbanised and industrial area which has undergone intensive historical disturbances on a regional level.

3.3. Previous disturbance

An analysis of NearMap high resolution aerial photography and a series of historical aerial photographs spanning 1943 to 2013 (Figure 14 - Figure 19) indicates that the study area has been subject to minor landform modification and disturbance prior to the developments present within the study area by 2013, consisting of the extant childcare centre, water storage tanks, roads, carparking, and other buildings associated with the WSU Campus (Figure 19).

The earliest available historical aerial imagery from the 1940s show early disturbances are largely restricted to scouring in the centre of the study area, which could be attributed to erosion or localised timber getting (Figure 14). Additionally, the western and southeastern portions have largely been cleared of vegetation.

Disturbance during the 1970s consists of an informal access track running west from Horsely Road (Figure 15). This access track may be associated with the installation of a dam in the lower southeastern portion of the study area (Figure 15). This dam is not clear in the 1975 aerial (Figure 16), however it appears to be filled in by the 1978 aerial (Figure 17). The dam is evidence of small scale cut and fill works being undertaken within the study area. Due to these works, there is the potential for surface and subsurface artefacts to be redeposited and present within a secondary context. There is also the potential that fill was imported for the filling of the dam around 1978, if this is the case potential artefacts located within the southeastern portion of the study area may be the result of importation. The southeastern portion has since been subject to development which may have caused the dispersal of imported artefacts if present. Further vegetation clearing is present along the western sections of the study area.

The 1991 and 2013 aerials (Figure 19) indicate the first major impacts on the majority of the study area. Works undertaken prior to this aerial include the currently extant childcare centre, water storage tanks, carparking, formalised footpaths, roads, and associated landscaping. The development of the childcare centre and carparking has impacted the majority of the study area, with surface impacts including footpaths and landscaping, and subsurface impacts associated with the associated services. Such development has the potential to disturb artefacts, as such there is the potential for surface and subsurface artefacts to be redeposited within secondary contexts. There is also the potential that fill was imported for works such as garden bed establishment and construction fill, if this is the case artefacts may be the result of importation.

Due to disturbances to the site, there is the potential for intact soil bodies across the northern border of the study area. Based on our desktop assessment and history of the site, there is also the potential for redeposited and displaced artefacts to be present within exposures across the study area. Due to the conservation area abutting the childcare centre there is the potential for culturally modified trees to be present among the remanent vegetation within the study area, however, this was investigated and ground-truthed as part of our archaeological survey (for results see Section 4).

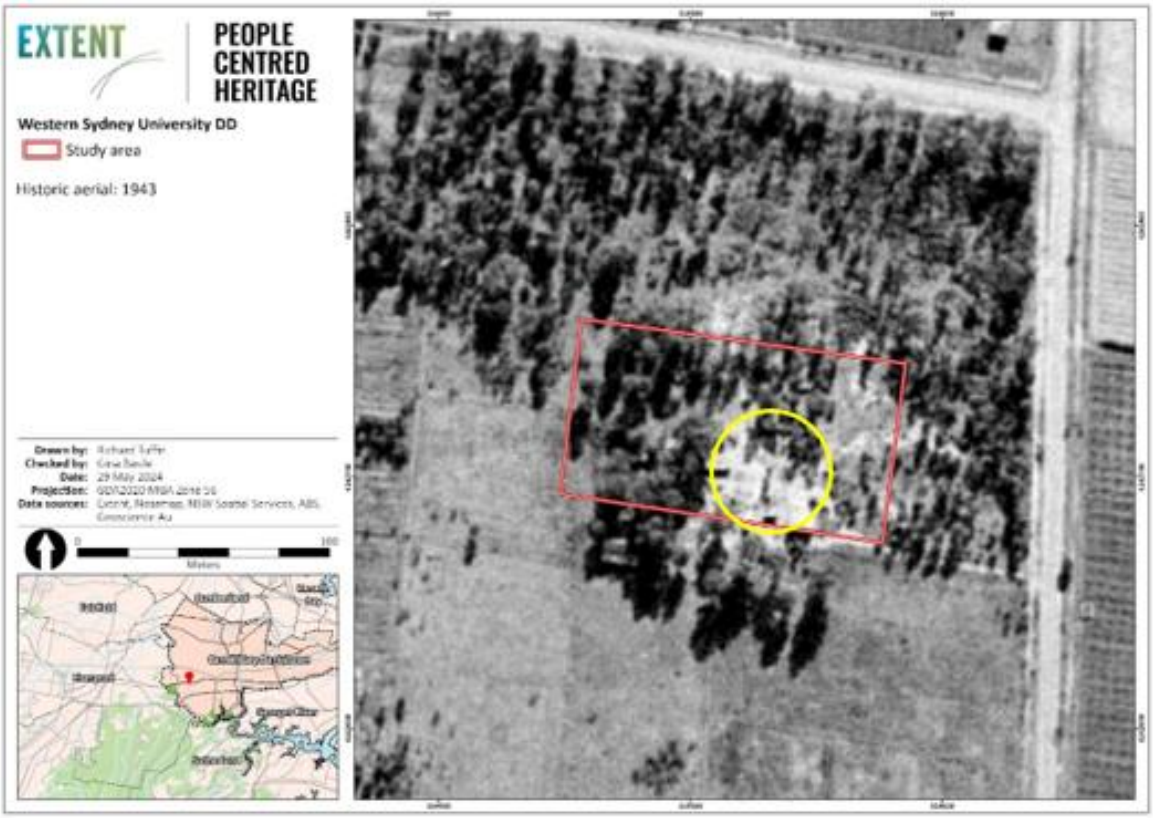

Figure 14. Historical aerial 1943 showing scouring outlined in yellow.

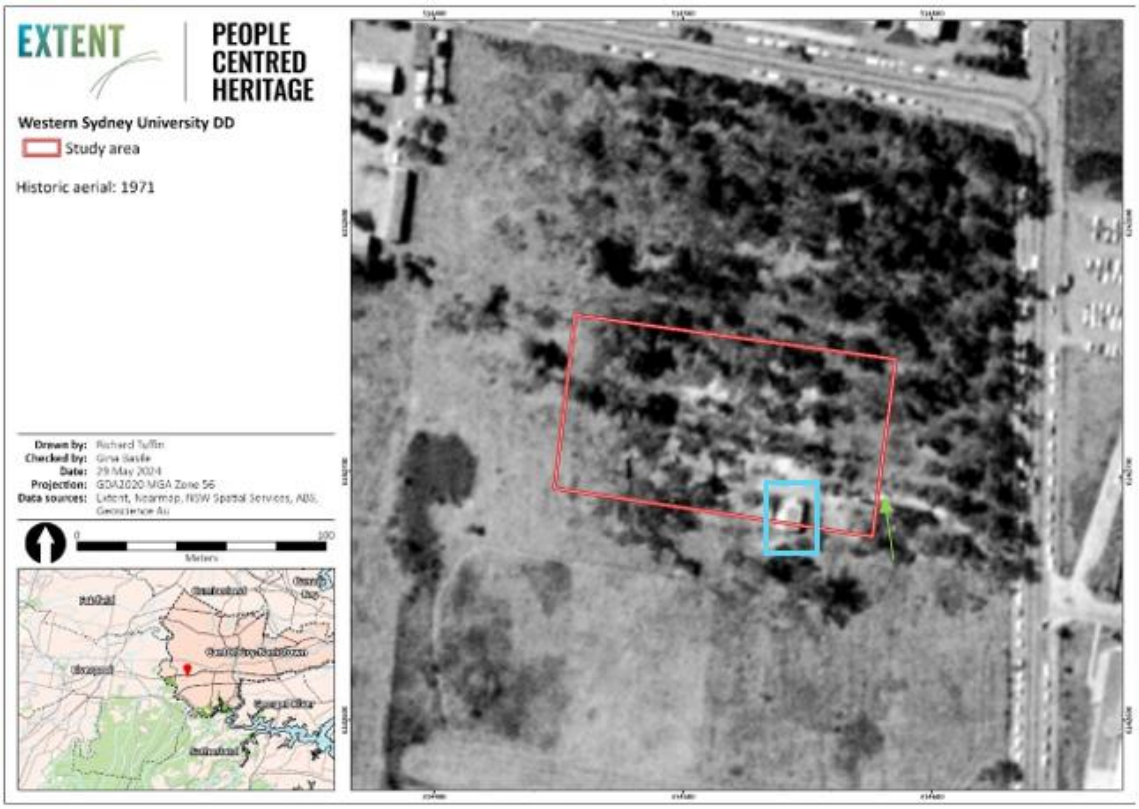

Figure 15. Historical aerial 1971 with access track indicated by a green arrow, and dam outlined in blue.

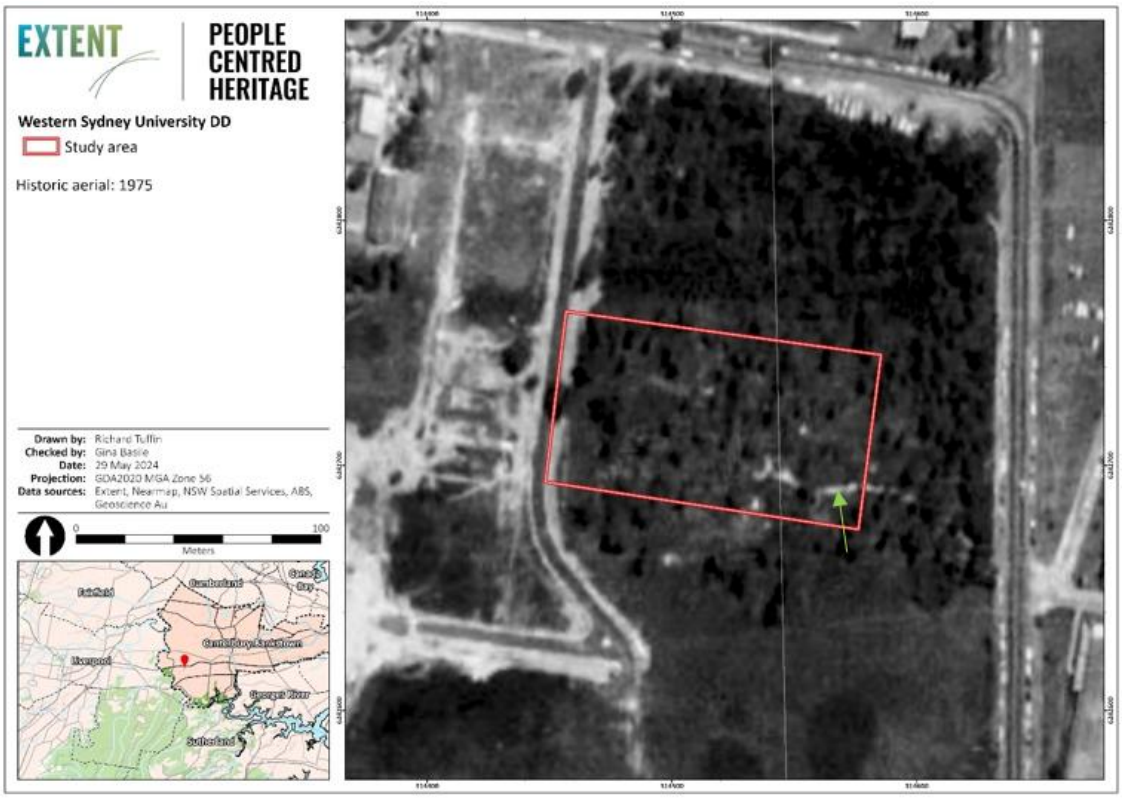

Figure 16. Historical aerial 1975 with access track indicated by a green arrow.

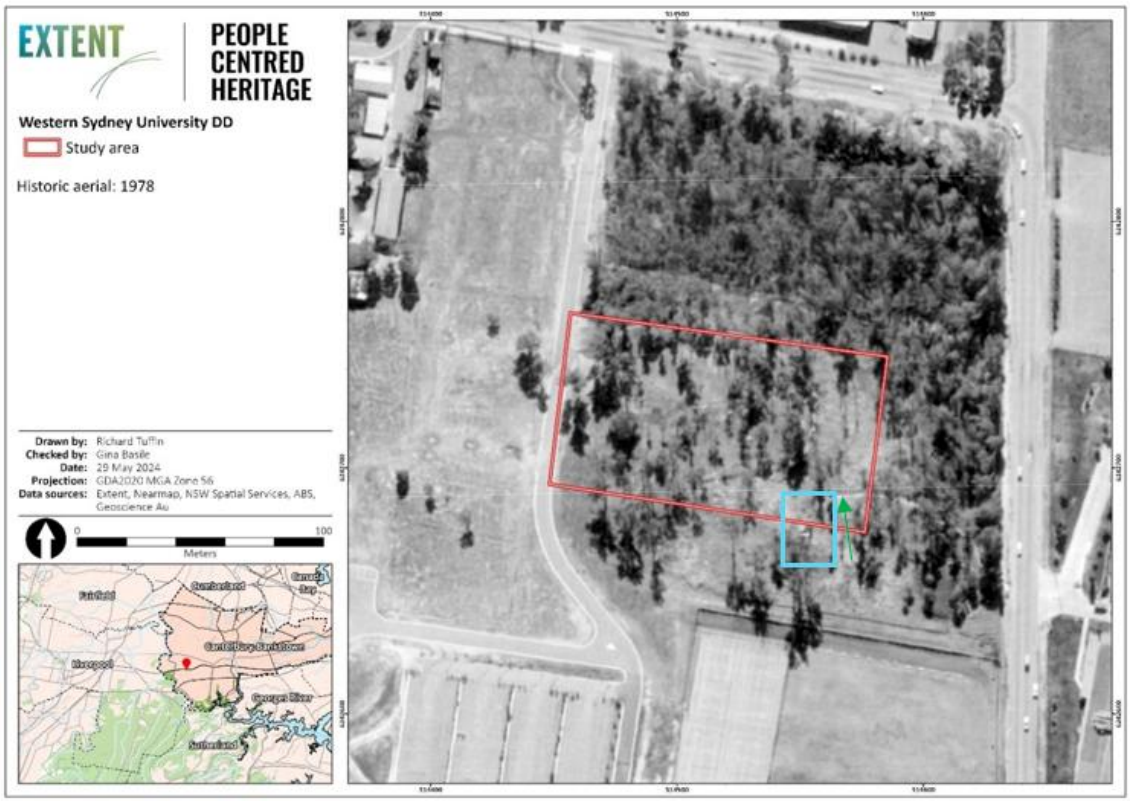

Figure 17. Historical aerial 1978 with access track indicated by a green arrow and backfilled dam outlined in blue.

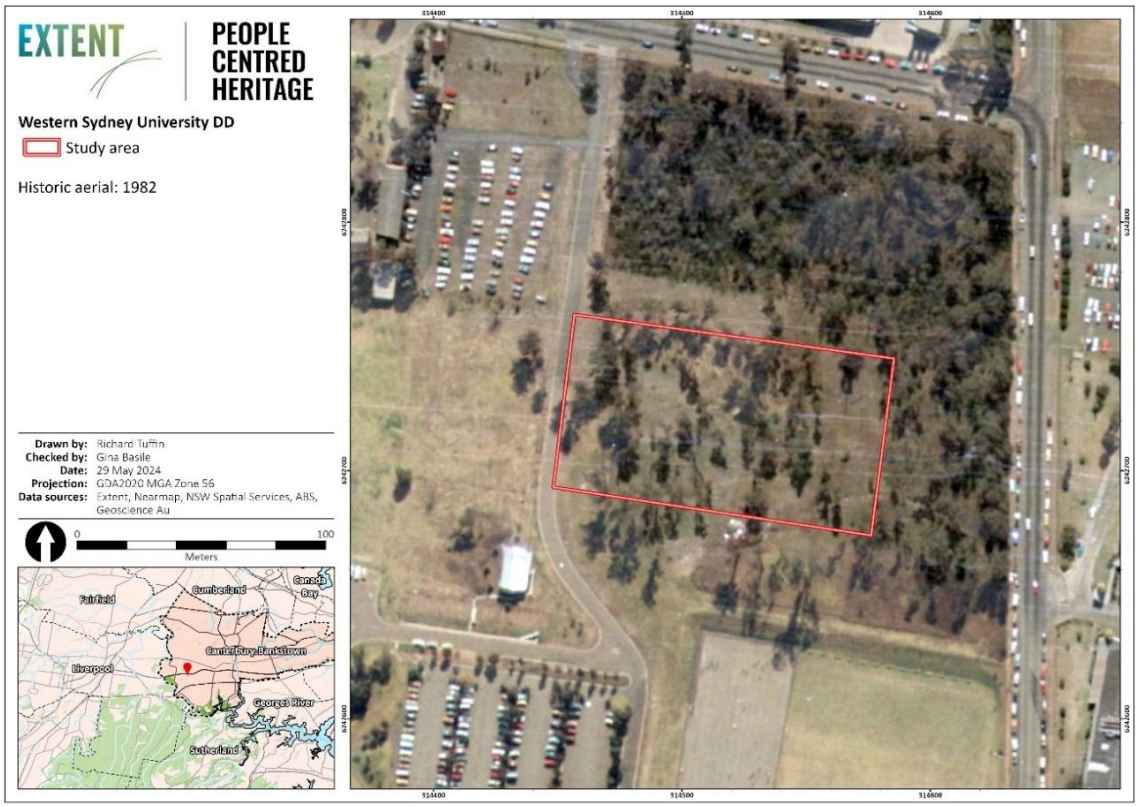

Figure 18. Historical aerial 1982.

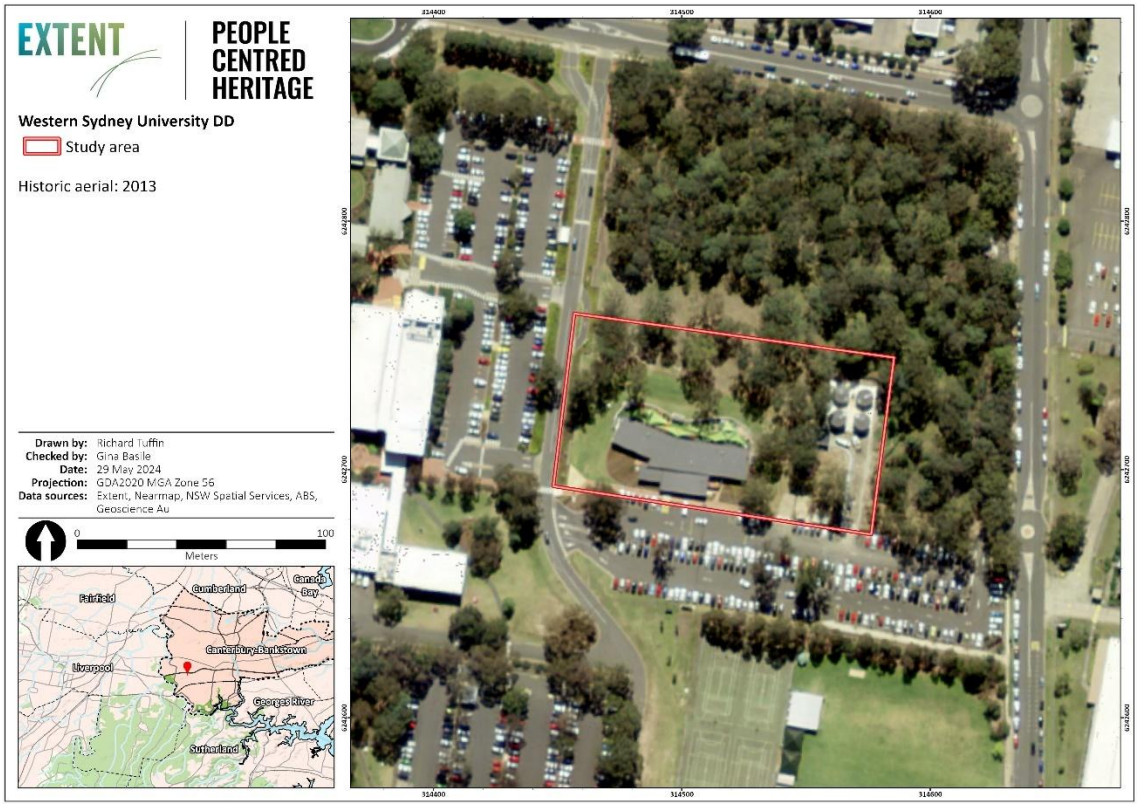

Figure 19. Historical aerial 2013.

4. SITE INSPECTION

A preliminary archaeological site inspection was undertaken on 4 June 2024 by Gina Basile and Catherine Fenech of Extent Heritage. This site inspection only assessed the proposed footprint of the childcare centre and grounds. Exposed ground surfaces were inspected to identify whether or not any surface artefact scatter or shell midden deposits are present. Mature native trees were identified and inspected for any potential cultural modifications. There were no rock overhangs or exposed sandstone outcrops, therefore, there were no cultural material identified that may be associated with this site type.

No Aboriginal sites or objects were identified during the survey, including in areas of good ground surface exposure and visibility. Little of the original ground surface was visible due to the existing structures, grass coverage, and moderately modified landform. There were small pockets of exposed soils, primarily around the base of trees (Photograph 1 and Photograph 2). However, small stockpiles of imported soil and mulch were noted in several areas in the study area.

The existing childcare centre appears to be cut into the natural slope (Photograph 3 - Photograph 5). The water storage and pump facility has stripped the topsoil and is constructed onto concrete slabs and connected to sub-surface services. The location of the proposed café/sales facility shows existing disturbances through the presence of sub-surface services (Photograph 6 and Photograph 7).

The inspection identified moderate evidence of prior landform modification and disturbance through cutting and levelling activities, construction of the existing childcare centre, water storage and hydrant facilities, and access roads (Photograph 9 and Photograph 10). All trees within the study area were inspected, and no cultural modifications were observed.

No surface artefacts, culturally modified trees, shell midden, nor sandstone outcrops were identified during the site inspection.

Photograph 1. View north over area of exposure.

Photograph 2. View of Imported gravels within exposure.

Photograph 3. View west showing existing disturbances and structures and the slope of the natural landform.

Photograph 4. View south showing the landform and existing structures.

Photograph 5. View along northern boundary of the existing facility showing cut into the landform.

Photograph 6. View north over the proposed location for the café facility.

Photograph 7. View southwest over the proposed café facility location showing existing disturbances.

Photograph 8. View northwest showing old-growth trees and landform.

Photograph 9. View south along retaining wall showing cut into the natural landform.

Photograph 10. View north showing existing disturbances, services and imported fill.

5. CONCLUSIONS

No Aboriginal objects or places as defined by the *National Parks and Wildlife Act 1974* are located within the study area. Therefore, an Aboriginal Heritage Impact Permit approval is not currently required for the proposed works.

There are currently no places within the study area included on the National, Commonwealth or World lists under the EPBC Act. There are no known Declarations under the ATSIHPA in relation to the study area. No Commonwealth heritage approvals are currently required with respect to Aboriginal heritage. There are no SHR or LEP listings relating to the study area.

With reference to the risk management process set out in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010), we note:

- There are no AHIMS sites recorded within the proposed works area, Stage 3A and 3B;
- The study area does not contain landscape features which are likely to indicate the presence of Aboriginal objects, however;
- The proposed works area is located within an area of 'disturbed land' as defined in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW 2010).

The location of the proposed works area, Stage 3A and 3B, are on 'disturbed land' means the risk of encountering Aboriginal objects is lower than on undisturbed land. In accordance with Step 2b of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* DECCW 2010, the works may 'proceed with caution' (Appendix D).

While the process set out in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW 2010) indicates 'proceed with caution' for the proposed works, there is always some risk that unexpected Aboriginal cultural deposits or skeletal remains may be encountered during development works, including in areas such as the current study area that have been heavily disturbed by prior earthworks.

We understand that the study area is immediately adjacent to the C2 Environmental Conservation zone which stipulates the preparation of an ACHAR prior to ground disturbances, however, we note this assessment, in accordance with the relevant *Code,* has determined that there is nil-low potential for Aboriginal objects to be present within the study area. While there are no examples of cultural modification present on the trees retained within the study area, we recommend that wherever possible, old-growth native trees not be disturbed, and native plants and trees be integrated into any planting and landscaping schedules. However, the recommendations and mitigation measures developed as part of the ACHAR (Heritage Now, 2025) for the proposed development may supersede this assessment.

6. RECOMMENDATIONS

In accordance with the risk management process set out in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010) and the legal requirements of the *National Parks and Wildlife Act 1974*, we recommend:

1. No Aboriginal objects are recorded within the proposed works area, Stage 3A and 3B. Therefore, there are no Aboriginal Heritage Impact Permit approvals currently recommended in relation for the proposed works. Recommendations from the Heritage Now ACHAR should be reviewed in relation to this area.
2. Wherever possible, the remnant native trees within the study area should be retained and not disturbed.
3. Native plants and trees should be integrated wherever possible in the proposed planting and landscaping schedule.
4. The proposed works may 'proceed with caution' in accordance with the risk management process set out in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW.*
5. While the works may proceed with caution, there remains some potential for the presence of unexpected Aboriginal objects or Aboriginal skeletal remains within the study area.
6. In the event that unexpected Aboriginal objects (or potential Aboriginal objects) are discovered during development, all works in the vicinity of the discovery site should cease and the site manager and/or proponent should immediately notify Heritage NSW, to determine whether further Aboriginal heritage assessment or permit approvals are required.

   It is an offence to harm Aboriginal objects without an Aboriginal Heritage Impact Permit approval from Heritage NSW. Work must not recommence at the location of the discovery site until any necessary permits under the National Parks and Wildlife Act 1974 have been approved by Heritage NSW and all permit conditions have been completed.

7. If human remains, or suspected human remains are discovered, all works must cease and the unexpected finds protocol (see Appendix C) must be followed.

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APPENDIX A. INFORMATION ON LEGISLATION

A.1. Commonwealth Legislation

Aboriginal and Torres Strait Islander Heritage Protection Act 1984

The Aboriginal and Torres Strait Islander Heritage Protection Act was enacted at a Federal level to preserve and protect areas (particularly sacred sites) and objects of particular significance to Aboriginal Australians from damage or desecration. Steps necessary for the protection of a threatened place are outlined in a gazetted Ministerial Declaration (Sections 9 and 10). This can include the preclusion of development.

As well as providing protection to areas, it can also protect objects by Declaration, in particular Aboriginal skeletal remains (Section 12). Although this is a Federal Act, it can be invoked on a State level if the State is unwilling or unable to provide protection for such sites or objects.

Environment Protection and Biodiversity Conservation Act 1999

T*he Environment Protection and Biodiversity Conservation Act* provides for the protection of natural and cultural heritage places. The Act establishes (amongst other things) a National Heritage List (NHL) and a Commonwealth Heritage List (CHL). Places on the NHL are of natural or cultural significance at a national level and can be in public or private ownership. The CHL is limited to places owned or occupied by the Commonwealth which are of heritage significance for certain specified reasons.

Places listed on the NHL are considered to be of State and local heritage value, even if State or local various heritage lists do not specifically include them.

The heritage values of places on the NHL or the CHL are protected under the terms of the EPBC Act. The Act requires that the Minister administering the EPBC Act assess any action which has, will have, or is likely to have, a significant impact on the heritage values of a listed place. The approval (or rejection) follows the referral of the matter by the relevant agency's Minister.

Native Title Act 1993

The Native Title Act provides recognition and protection for native title. The Act established the National Native Title Tribunal to administer native title claims to rights and interests over lands and waters by Aboriginal people. The Tribunal also administers the future act processes that attract the right to negotiate under the *Native Title Act 1993*.

The Act also provides for Indigenous Land Use Agreements (ILUA). An ILUA is an agreement between a native title group and others about the use and management of land and waters. ILUAs were introduced as a result of amendments to the *Native Title Act in 1998*. They allow people to negotiate flexible, pragmatic agreements to suit their particular circumstances.

An ILUA can be negotiated over areas where native title has, or has not yet, been determined. They can be part of a native title determination, or settled separately from a native title claim. An ILUA can be negotiated and registered whether there is a native title claim over the area or not.

A.2. NSW state legislation

Environmental Planning and Assessment Act 1979

The Environmental Planning and Assessment Act (EP&A Act) requires that environmental and heritage impacts are considered by consent authorities prior to granting development approvals. The relevant sections of the EP&A Act are:

- Part 4: Development that requires consent under consideration of environmental planning instruments.
- Part 5: An assessment process for activities undertaken by Public Authorities and for developments that do not require development consent but an approval under another mechanism.

Where Project Approval is to be determined under Part 4 (Division 4.1) of the Act, further approvals under the *National Parks and Wildlife Act 1974*, are not required. In those instances, management of Aboriginal heritage follows the applicable Aboriginal assessment guidelines (the Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation, July 2005) and any relevant statement of commitments included in the Development Approval.

National Parks and Wildlife Act 1974

The National Parks and Wildlife Act (NPW Act) provides blanket protection for Aboriginal objects (material evidence of Indigenous occupation) and Aboriginal places (areas of cultural significance to the Aboriginal community) across New South Wales. An Aboriginal object is defined as:

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

An Aboriginal place is any place declared to be an Aboriginal place by the Minister for the Environment, under section 84 of the Act.

It is an offence to disturb Aboriginal objects or places without a permit authorised by the Director-General of the Office of Environment and Heritage. In addition, anyone who discovers an Aboriginal object is obliged to report the discovery to OEH.

The operation of the NPW Act is administered by OEH. With regard to the assessment of Aboriginal cultural heritage, OEH has endorsed the following guidelines:

- *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010),

- *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (OEH 2010),
- *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010), and
- *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (2011).

Aboriginal Land Rights Act 1983

The Aboriginal Land Rights Act allows for the transfer of ownership to a Local Aboriginal Land Council of vacant Crown land not required for an essential purpose or for residential land. These lands are then managed and maintained by the Local Aboriginal Land Council.

APPENDIX B. AHIMS SEARCH

APPENDIX C. UNEXPECTED FINDS PROTOCOL

If human remains, or suspected human remains, are discovered during project works, the following actions will be taken:

1. All ground-disturbing works in the area of the remains will cease immediately following the discovery. The discoverer of the remains will notify machinery operators in the area to ensure work is halted.
2. The remains will not be removed from the area or disturbed in any other way
3. The area will be secured by use of protective barriers, to ensure no harm can occur to the remains
4. The site supervisor and the proponent will be immediately informed of the discovery
5. A competent specialist (an archaeologist or biological anthropologist) could be engaged at this point to determine if further assessment of the suspected remains is required. A specialist in the identification of human remains would need to undertake this assessment. If a suitable specialist is not utilised at this stage, then the process moves to step 8.
6. If it is determined that the suspected remains are not human, work can recommence.
7. If it is determined that the suspected remains are human, or are likely to be, the following steps must occur, in accordance with the relevant legislation (including the *Coroners Act 2009*, the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977*).
8. Notify the following organisations:
    - NSW Police
    - Heritage NSW - 1300 361 967
9. The NSW Police will determine if the suspected human remains are human and if they represent a crime scene. If the human remains are determined to represent a criminal act, the NSW Police will direct proceedings, including deciding when works may continue.
10. If NSW Police determine that the suspected human remains are human and are Aboriginal Ancestral Remains, or non-Aboriginal Ancestral Remains, Heritage NSW will be responsible for determining the next course of action.
11. All activities will be directed by Heritage NSW.
12. Works cannot proceed on site until Heritage NSW determine that it is appropriate to do so.

APPENDIX D. SITE SPECIFIC DUE DILIGENCE RESPONSES

Site specific responses to DPE due diligence questions

1	**Will the activity disturb the ground surface or any culturally modified trees?**	Proceed to question 2
	Yes, it will disturb the ground surface. No culturally modified trees present within the subject area.	
2a	**Are there any relevant confirmed site records or other associated landscape feature information on AHIMS?**	Proceed to question 2b
	No.	
2b	**Are there any other sources of information of which a person is already aware? (Including whether or not the subject area is 'Disturbed Land' as defined in the Code ?)**	Proceed to question 2c.
	Yes, the subject area is within 'Disturbed Land.'	
2c	**Are there any landscape features that are likely to indicate presence of Aboriginal objects?**	Proceed to question 3
	No.	
3	**Can harm to Aboriginal objects listed on AHIMS or identified by other sources of information and/or can the carrying out of the activity at the relevant landscape features be avoided?**	Proceed to question 4.
	No.	
4	**Does a desktop assessment and visual inspection confirm that there are Aboriginal objects or that they are likely?**	
	No.	