

## CULTURAL HERITAGE ASSESSMENT



PROPOSED DEVELOPMENT AT THE CORNER OF  
CYPRESS CRESCENT & THE TWEED COAST ROAD,  
CABARITA, NSW



REPORT PREPARED FOR TWEED COAST HOMES PTY LTD



## EXECUTIVE SUMMARY

The following report presents the results and outcomes of a cultural heritage assessment for Indigenous and non-Indigenous (historic) heritage items for the proposed residential development at the corner of Cypress Crescent and Tweed Coast Road, Cabarita, Northern NSW ('Subject Lands'). This assessment has been commissioned by Tweed Coast Homes Pty Ltd in support of a Major Project application under Part 3A of the *Environmental Planning and Assessment Act 1979* (NSW).

As part of a desktop study, Everick undertook searches of the relevant Aboriginal and historic heritage registers. A search of applicable historic heritage registers did not identify any items of cultural heritage significance within the Subject Lands. A search conducted on 7 July 2009, of the Department of Environment, Climate Change and Water ('DECCW') Aboriginal Heritage Information Management System ('AHIMS'), found 41 recorded sites for the broader search area. These are indicated in Figure 9. None were recorded within the Subject Lands. There are no Indigenous places within the Subject Lands listed in other heritage registers.

The Subject Lands are within the area administered for Aboriginal cultural heritage purposes by the Tweed Byron Local Aboriginal Land Council ('Tweed Byron LALC'). A survey for historic and Aboriginal cultural heritage was carried out by the Consultant and Cyril Scott, Sites Officer for the Tweed Byron LALC, on 10 July 2009. The Tweed Byron LALC's views on the conduct and outcomes of the assessment are attached as Appendix A of this report. Further site inspections were undertaken by Aboriginal and other community representatives on 25 July 2009. Aboriginal community consultation was undertaken in accordance with the DECCW's *Interim Community Consultation Requirements for Applicants* (2005).

## Results

- No Aboriginal archaeological sites or relics were found as a result of the field inspection of Lot 1,2,3 Section 1 DP 29748 and Lot 4 Section 1 DP 31209 at Cypress Crescent, Cabarita Beach.
- No items of historic (non-Indigenous) cultural heritage were identified.

## Statement of Impact on Significance of Cudgen Nature Reserve

**Cudgen Nature Reserve** is listed in the New South Wales Heritage Register as being part of a series of significant Old Growth Forests found in the north of the state. The reserves are listed under the category of Forest Reserve, and the significance of such forests is described in the register as:



*Old growth forest is ecologically mature eucalypt forest showing few signs of human disturbance. The upper canopy trees are no longer growing in height or spreading their crowns and show signs of old age. HCOG forest represents the best examples remaining of such forests.*

The proposed residential subdivision would have a minimal impact on the setting of the Cudgen Nature Reserve, but will otherwise have no impact on the heritage significance of the Cudgen Nature Reserve.

## **Recommendations: Indigenous Cultural Heritage**

The following recommendations are based upon the results of the desktop review, field inspections and consultation with the Sites Officer of the Tweed Byron LALC and other Aboriginal stakeholders. The recommendations have received the support of the Tweed Byron LALC and the Aboriginal Stakeholders.

The high level of past ground disturbance of the site means that recommendations, such as monitoring or inductions, are considered unnecessary in this instance. The following general recommendations are cautionary in nature.

### **Recommendation 1: Aboriginal Human Remains**

It is recommended that if human remains are located at any stage during construction works within the Subject Lands, all works must halt in the immediate area to prevent any further impacts to the remains. The Site should be cordoned off and the remains themselves should be left untouched. The nearest police station, the Tweed Byron LALC, and the DECCW Regional Office, Coffs Harbour are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and the DECCW should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations.

It is also recommended that in all dealings with Aboriginal human remains, the proponent should use respectful language, bearing in mind that they are the remains of Aboriginal people rather than scientific specimens.



## **Recommendation 2: Aboriginal Cultural Material**

It is recommended that if it is suspected that Aboriginal material has been uncovered as a result of development activities, including Post Clearing Surveys, within the Subject Lands:

- (a) work in the surrounding area is to stop immediately;
- (b) a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;
- (c) an appropriately qualified archaeological consultant is to be engaged to identify the material; and
- (d) if the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the DECCW guidelines: *"Interim Community Consultation Requirements for Applicants"* (2005).

## **Recommendation 3: Notifying the DECCW**

It is recommended that if Aboriginal cultural materials are uncovered as a result of development activities within the Subject Lands, they are to be registered as Sites in the Aboriginal Heritage Information Management System (AHIMS) managed by the DECCW. Any management outcomes for the site will be included in the information provided to the AHIMS.

## **Recommendation 4: Conservation Principles**

It is recommended that all effort must be taken to avoid any impacts on Aboriginal Cultural Heritage values at all stages during the development works. If impacts are unavoidable, mitigation measures should be negotiated between the Proponent and the Aboriginal Community.

## **Recommendation 5: Post Clearing Survey and Monitoring of Initial Subsurface Excavations**

The desktop study and survey were inconclusive as to the nature of past subsurface ground disturbance to the Subject Lands, in particular the western portion bordering The Tweed Coast Road. As extensive sand mining operations have removed most of the cultural material that would once have been located around Cabarita and Bogangar, is considered likely that should any cultural material remain within the Subject Lands it would be of high archaeological and cultural significance. The following recommendation is aimed at establishing a cautionary approach to conserving cultural heritage, in accordance with the principles of the Burra Charter.



It is recommended that a representative of the Tweed Byron LALC be invited to inspect the site (Post Clearing Survey) following initial removal of the caravan park facilities, bitumen, grass and gardens. This inspection should occur prior to any significant subsurface disturbance of the site. Further, it is recommended a representative of the Tweed Byron LALC be present to monitor initial subsurface excavations of the site in preparation for the Project.

Should any cultural material be identified, Recommendations 2 and 3 should be followed.

Should further information become available that shows that the Subject Lands have been sand mined, Recommendation 5 will not be required.

## Recommendations: Historic Cultural Heritage

There are no recommendations regarding historic cultural heritage.

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## DEFINITIONS

The following definitions apply to the terms used in this report:

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

**Burra Charter** means the International Council of Monuments and Sites ('ICOMOS') *Burra Charter* (1999)

**Cultural Material** means Aboriginal Objects, as defined in the NPW Act.

**DECCW** means the New South Wales Department of Environment, Climate Change and Water

**DoP** means the New South Wales Department of Planning

**EPA Act** means the *Environmental Planning and Assessment Act 1979* (NSW)

**ICCR Guidelines** means the DECCW Interim Community Consultation Requirements for Applicants (2005)

**NPW Act** means the *National Parks and Wildlife Act 1974* (NSW)

**Project** means all activities associated with the proposed development of the Subject Lands, including activities undertaken by subsequent landholders.

**Proponent** means Tweed Coast Homes Pty Ltd and all employees and contractors of the Proponent.

**Reserve** means the Cudgen Nature Reserve.

**Subject Lands** means Lots 1, 2 and 3 Section 1 DP 29748 and Lot 4 Section 1 DP 31209.

**The Consultant** means qualified archaeological staff and/or contractors of Everick Heritage Consultants Pty Ltd.



# 1. INTRODUCTION

Everick Heritage Consultants have been engaged by Tweed Coast Homes Pty Ltd to conduct a Cultural Heritage Assessment in preparation for a proposed residential development at the corner of Cypress Crescent and Tweed Coast Road, Cabarita, NSW ('the Project'). The assessment involved a literature review, heritage register searches, consultation with the Aboriginal Community and other local community members, and field inspections. Aboriginal Community Consultation was undertaken in accordance with the Department of Environment, Climate Change and Water's ('DECCW') *Interim Community Consultation Requirements for Applicants* (2005).

## 1.1 Property Description

The proposed development land constitutes a parcel of land approximately 3,500 m<sup>2</sup> in area, identified as Lots 1, 2 and 3 Section 1 DP 29748 and Lot 4 Section 1 DP 31209 ('Subject Lands'). Situated within the Tweed Shire Council Local Government Area (Figure 1), the lands subject to this assessment are shown in Figure 2.

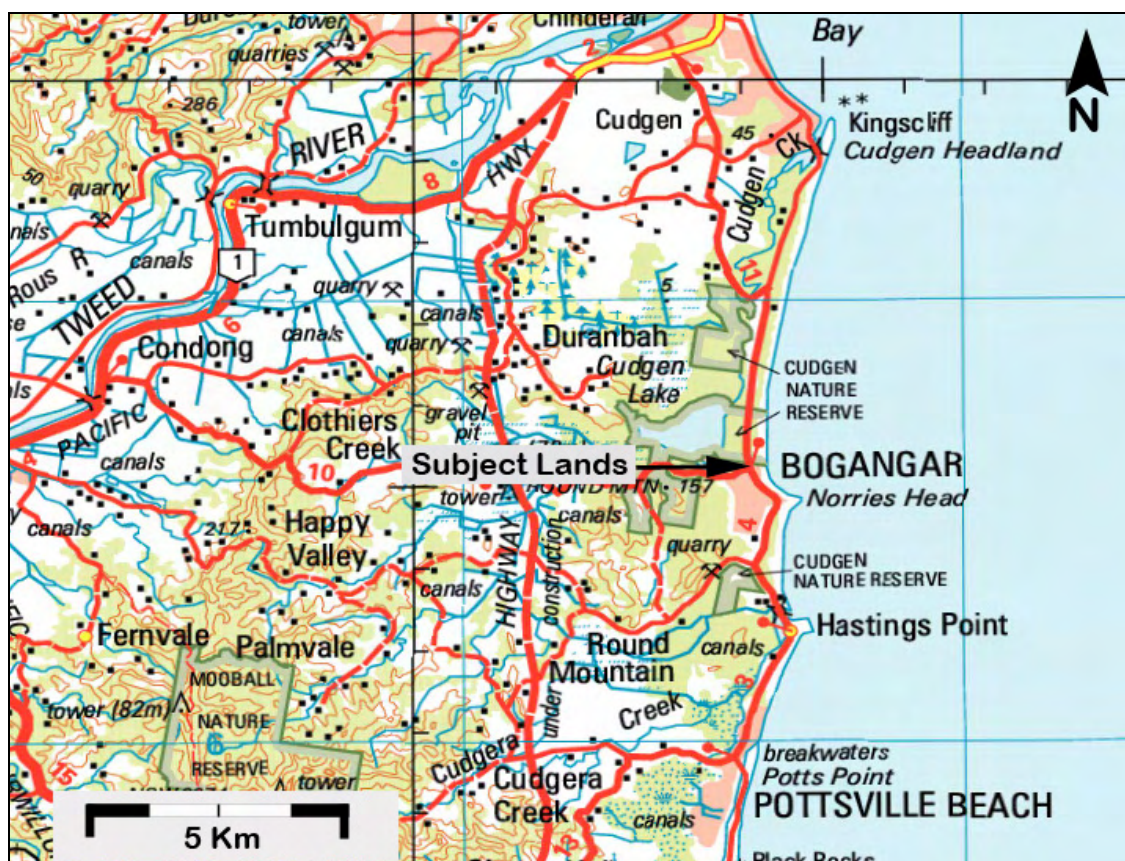


Figure 1: General Locality of the Subject Lands

At present a caravan park is situated on the Subject Lands, comprising 24 sites and an amenities block. Some sites have sewerage, power and running water. The site has a frontage to The Tweed Coast Road on its western boundary and a southern boundary adjacent to Cypress Crescent. Residential Lots and tourist accommodation surround the property on its western, southern and eastern sides.

The Subject Lands are located less than 50 m to the south of the Cudgen Nature Reserve, of which the potential to contain archaeological material is discussed in further detail in Section 5.5 below. Nearby major resource areas prior to and following European settlement include the beach located approximately 180 m to the east and Cudgen Lake located approximately 850 m to the west-north-west.



**Figure 2: Boundary of the Subject Lands (Google 2008)**

## **1.2 Proposed Development**

The proposed development involves the demolition of the existing permanent structures and the erection of a new three storey, mixed use, multi dwelling housing and tourist accommodation building comprising 23 units and basement parking for 49 vehicles. The maximum height of the building is 10.89 m.

Following consultations with Tweed Shire Council's Development Assessment Panel, it is proposed to nominate six units for tourist accommodation (Units 5, 6, 7, 8, 15 and 16) to achieve compliance with the objectives of the 2(e) Residential Tourist zone applicable to the land (Darryl Anderson Consulting 2008).

For the purposes of this assessment, it has been assumed that the proposed development would result in all parts of the Subject Lands being exposed to significant surface and subsurface ground disturbance.

### **1.3 Legislative and Planning Context**

The Proponent was advised by the NSW Department of Planning ('DOP') that the Project is a proposal to which Part 3A of the *Environmental Planning and Assessment Act 1979* (NSW) applies. As a Major Project, the consent authority is the DOP. In relation to cultural heritage, pursuant to Section 75U of the EPA Act, the following requirements will not apply to this application:

- (a) the concurrence under Part 3 of the *Coastal Protection Act 1979* (NSW) of the DECCW administering SEPP 14 wetlands areas;
- (b) a permit under section 87 or a consent under section 90 of the *National Parks and Wildlife Act 1974* (NSW); and
- (c) approval under Part 4 or an excavation permit under section 139, of the *Heritage Act 1977* (NSW).

Although Section 87 and 90 consents are not required, the DECCW remains a referral agency for the project, and has been consulted during this assessment.

As part of their Director General's Requirements, the Department of Planning requires a heritage assessment be undertaken which will:

1. identify whether the site has significance to Aboriginal cultural heritage and identify appropriate measures to preserve any significance. The assessment must address the information and consultation requirements of the draft *Guidelines for Aboriginal Cultural Heritage Assessment and Community Consultation* (DEC 2005) and *Interim Community Consultation Requirements for Applicants* (DEC 2004); and
2. identify any items of non-indigenous heritage significance and, where relevant, provide measures for the conservation of such items.



### 1.3.1 *The NSW Heritage Manual*

The NSW Heritage manual lists an 8 step process that is generally considered a best practise guide to assessing significant historic heritage items. The process steps are:

1. Summarise what is known about the item.
2. Describe the previous and current uses of the item and the associations it may have to individuals or groups and its meaning for those people.
3. Assess the significance using the NSW heritage criteria.
4. Check if a sound analysis of the items heritage significance can be made.
5. Determine the items level of significance.
6. Prepare a succinct statement of heritage significance.
7. Get feedback.
8. Write up the information.

Contrary to common belief, a significant heritage item need not be particularly 'old' (the exception to the rule being the definition of an Archaeological Relic discussed above). Rather, the focus is on identifying just what aspects of a particular item may be significant, of which there may be several.

The NSW Heritage Manual contains a set of assessment criteria that act as a guide to assessing significance. They are:

- **Criterion (a):** An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area);
- **Criterion (b):** An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area);
- **Criterion (c):** An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area);
- **Criterion (d):** An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons;
- **Criterion (e):** An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area);
- **Criterion (f):** An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area);
- **Criterion (g):** An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural or natural environments.

### 1.3.2 The DECCW Interim Community Consultation Requirements for Applicants (2005)

The NSW Department of Environment, Climate Change and Water (DECCW) have issued the *Interim Community Consultation Requirements for Applicants* (2004) ('ICCR Guidelines') which acts as a guide for conducting the Aboriginal community consultation process. It requires public notice of the assessment, preparation of a proposed methodology, undertaking site meetings and excavations where required, the production of a draft report, which is distributed to the registered Aboriginal groups and the production of a final report. Although not strictly required, a thorough consultation process will treat the ICCR Guidelines as a minimum standard of community consultation. Generally, consultants must go to further effort to identify the significance of a given site to the Aboriginal community. This will likely include undertaking additional site inspections, fully resourcing the community by providing copies of past archaeological and environmental assessments in the region and contacting community members to ascertain their opinions of the site.

### 1.3.3 ICOMOS Burra Charter

Australia ICOMOS (International Council on Monuments and Sites) - the peak body of professionals working in heritage conservation - has adopted the *Burra Charter* as a guide to acceptable standards with regard to the assessment and management of items of cultural heritage significance in Australia. The *Burra Charter* has no effect at New South Wales or Commonwealth Law. However, it is regarded amongst Australia's heritage professionals and administrators as a best practice guide to assessing and managing heritage places, and as such has been followed in this assessment.

Under the *Burra Charter*, *cultural significance* means aesthetic, historic, scientific, social or spiritual value for past, present or future generations. The central principle of the *Burra Charter* is that assessment of the significance of any potential heritage items must come before any management decisions are made (Article 6). Article 6.1 is of particular relevance at this stage of the assessment process. Article 6.1 states:

*The cultural significance of a place and other issues affecting its future are best understood by a sequence of collecting and analysing information before making decisions. Understanding cultural significance comes first, then development of policy and finally management of the place in accordance with the policy*

Under the principles of the *Burra Charter*, assessing a given place or objects significance, requires not just an assessment of the item itself, but the items setting (Article 8), location (Article 9) and an understanding of how it may be linked to any related items (Article 11). This should all be documented in a written statement on the items significance. Once the significance of an item has been established, the *Burra*

*Charter* process provides for acceptable standards on the conservation, preservation, maintenance, change, restoration, reconstruction and/or alteration of an item based on this significance.

Importantly, those to whom the item is significant should be involved in the decision making process. In this respect, Everick has adopted an inclusive policy of adding interested Aboriginal persons to the stakeholders register and involving them in the decision making process, even after the formal registration process had ceased.

## **1.4 Report Authorship**

The site survey was undertaken by qualified archaeologist Adrian Piper, assisted by Cyril Scott, Sites Officer for the Tweed Byron LALC. The desktop study was undertaken by Tim Robins. This report was written by Dr Richard Robins assisted by Tim Robins and Helene Tomkins.

## **2. ABORIGINAL CONSULTATION**

### **2.1 Traditional Owner Knowledge**

The Aboriginal community are the primary determinants of the significance of their cultural heritage. Members of the Aboriginal community have been consulted with regard to their concerns not only about known archaeological sites in the region, but also about the cultural and spiritual significance of the region.

### **2.2 Aboriginal Community Consultation**

The results of the initial community consultation conducted in accordance with the DECCW *Interim Community Consultation Requirements for Applicants* (2004) are detailed in this section.

#### **2.2.1. The Register of Stakeholders**

Everick makes a commitment to the Aboriginal community to document the consultation process as fully as possible. All written comments received from the Aboriginal community will be included in the final report to the DECCW. In doing so, an informed and accurate assessment of the cultural heritage within the Subject Lands can be made.

On the 11<sup>th</sup>, 12<sup>th</sup> and 13<sup>th</sup> of June 2009, public notices were placed in the Tweed Daily News newspaper inviting Aboriginal persons/organisations with cultural heritage interests in the Cabarita area to advise Everick Heritage Consultants in writing (Appendix B). Responses were received from Jackie McDonald, Bo Lourey and Stella Whieldon, representing the Githabul Ngarakwal Moieties.

From past projects in the region, Everick has developed a list of potential interested parties. The following register of interested Aboriginal stakeholders was compiled:

- (a) The Tweed Byron Local Aboriginal Land Council;
- (b) The Githabul Ngarakwal moieties;
- (c) Jackie McDonald and Jason McDonald;
- (d) Joyce Summers;
- (e) Des Sandy;
- (f) Bo Lourey;
- (g) Carol Dawney;
- (h) Deirdre Currie;
- (i) The Tweed Aboriginal Co-operative Society Ltd;
- (j) Tracy Ritson;
- (k) Kathleen Lena;
- (l) Glenda Nalder;
- (m) Garth Lena; and
- (n) John Bartie.

The following authorities were notified and have responded to the proposal to produce a cultural heritage assessment for the Subject Lands:

- New South Wales Native Title Services;
- Cultural Heritage Unit of the DECCW; and
- The Tweed Shire Council.

### *2.2.2 On-site Meeting*

An on-site community meeting was arranged for the 25<sup>th</sup> July 2009, in which all persons on the list of potential Aboriginal Stakeholders were invited. This meeting was attended by Bo Lourey and John (Cavanagh) Bartie. During the meeting an inspection of the Subject Lands was undertaken and both Bo Lourey and John (Cavanagh) Bartie agreed it was unlikely that any sites or items of Aboriginal cultural heritage significance would be found on the site due to past land disturbances. The minutes of this meeting are contained in Appendix D of this report.



Traditional Owner Jackie McDonald was also invited to survey the Subject Lands on the morning of the 25<sup>th</sup> July 2009. She identified no areas of potential cultural significance within the Subject Lands. Jackie McDonald raised concerns that the proposed residential development would have the potential to disturb sub-surface cultural material. She cited a nearby coastal midden located at Norries Head (AHIMS #04-5-0400) as evidence for extensive occupation of the area prior to European settlement.

During initial community consultation, Everick was advised that there used to be a Bora Ring site north of the Cudgen Nature Reserve and that the resources of the Bogangar area were extensively utilised by Aboriginal groups. The Stakeholders at the meeting indicated that the Bora Ring had been subsequently destroyed by sandmining operations.

### *2.2.3 Ongoing Consultation*

Copies of the draft assessment report were distributed to the Aboriginal stakeholders on 26 August 2009. A request was made for written opinions on the adequacy of the assessment. At the time of finalising this report, only the Tweed Byron LALC had provided a written response, whereby they approved of the assessment and the management recommendations. Jackie McDonald provided a response on 23 September 2009 to a nearby assessment, which raised similar issues to those in this report. She requested further discussion of the midden at Norries Head and the removal of the term Kombemerrie to describe the clans north of the Tweed. These requests have been addressed in his report.

A meeting with Aboriginal Stakeholders Harry Boyd and John Bartie was held on 10 October 2009 (see the minutes in Appendix A). Both supported the recommendations in this report. Harry Boyd noted that Cudgen Nature Reserve was a significant area to the Ngarakwal people and that care should be taken to ensure this environment is not harmed during the course of the Development. Both John Bartie and Harry Boyd requested that the Ngarakwal stakeholders must be notified in the event of a cultural heritage find.

Should any further correspondence be forthcoming from the Aboriginal community, it will be provided to the Department of Planning.

## **3. ENVIRONMENT**

The Subject Lands are part of a system of disturbed and generally reshaped and revegetated Holocene dunes flanking the Tweed Byron Coast (Morand 1996). Much of this dune system has been sand mined, although the evidence available is inconclusive as to whether the Subject Lands themselves have been mined (see section 5.4 below for further discussion).

The Subject Lands are located close to the ocean (c.80 m) on what would once have been an inner barrier dune system. Holocene dunes typically consist of marine quartz sands. Past clearing and activities associated with mining will have resulted in extensive mixing of the original soil materials. Extreme wind erosion would also likely have occurred during this period. This would have been exacerbated by the sites later use as a camping ground and caravan park.

The Subject Lands are relatively flat, with a gentle slope running down from west to east. Relief is less than two metres. There are no significant vegetation communities within the Subject Lands, as it is presently covered in small caravan dwellings, concrete and grass.



**Figure 3: View south-west from Asset Protection Zone (APZ) to the caravan park**



**Figure 5: View south along western boundary on Tweed Coast Road**



**Figure 4: View east APZ and northern boundary of the caravan park**



**Figure 6: View east showing northern area of the caravan park**



**Figure 7 : View south through central area of the caravan park**



**Figure 8: View west along southern boundary on Cypress Crescent**

## **4. CULTURAL CONTEXT: ABORIGINAL CULTURAL HERITAGE**

### **4.1 Prehistory**

Evidence for occupation of coastal NSW and QLD is dated into the Pleistocene at Wallen Wallen Creek on North Stradbroke Island where an occupation phase between  $20560 \pm 250$  years and the early Holocene period is evident. Analysis of faunal material from the site suggests an economy initially based upon the hunting of terrestrial fauna that changed to one based upon a reliance on marine fish and shellfish. This reflects changing local ecologies caused by gradual rises in sea levels during the late Pleistocene (Neal and Stock 1986).

Coastal sites in northern NSW date to within the Holocene period. The earliest of these is a shell midden at the base of East Banora Point on the lower Tweed River where an occupation phase was dated between 4,700 BP and 4,200 BP (Appleton 1993:34). Faunal material showed a predominance of oyster, cockle and whelk by volume, in addition to the remains of pademelon, kangaroo, bream, whiting, flathead and schnapper. The stone component exhibited few diagnostic traits, and only four artefacts were identified (Appleton 1993:17-18).

An earlier excavation of an estuarine shell midden 2.5 km upstream yielded a basal date of  $605 \pm 90$  BP. A column sample revealed compacted fish bone remains at the lower levels, with a greater content of shellfish in the upper levels. Bone points were also recovered. It was concluded that the diet, initially based upon fish and possibly terrestrial fauna, changed to one more reliant upon shellfish. This probably reflected the gradual siltation of the Tweed River to a mudflat ecology (Barz 1980), in that location at least.



Excavations at the Bushrangers Cave at the head of the Numinbah and Tweed Valleys (elevation c. 700m AHD) indicate people began to use the shelter about 10,000 years ago. The caves occupants exploited rainforest food sources present today namely, pademelons, possums and pythons together with regular consumption of crayfish and bush turkey eggs (Ulm and Hall 1996:45-62).

A shell midden on Chickiba Creek (Richmond River) was found to have accumulated between 1,750 BP and c. 100 BP (Bailey 1975:52). Shell samples from the nearby Angels Beach area are dated between 800 BP and 530 BP, with one sample at 900 - 1,000 BP (Rich 1994:195). Stone artefacts were assessed on technological grounds to date to within the past 2,000 years (Rich 1994:161). Bailey's basal date of 1,750 BP suggests that the modern resource-rich environment may not have been productive enough at an earlier time to support any more than small groups of people (Roy in Rich 1994). By contrast, the Tweed River estuarine site below Sextons Hill was in use some 3,000 years earlier than this (Appleton 1993).

Beach foreshore sites investigated to date have been associated with more recent phases of occupation than estuarine sites. Foredune sites typically take the form of narrow bands of pipi shells, or surface scatters of pipi and a few stone artefacts. Pipi horizons at South Ballina and Broadwater have been dated to 260 years BP and 200 years BP respectively (McBryde 1982:77). A more substantial pipi midden (#04-06-0061) investigated on the foreshore at Byron Bay had been formed between approximately 1,000 and 400 years BP. The 80 cm deep midden deposit was overwhelmingly dominated by pipi shell, with minor inclusions of periwinkle, limpet, sand snail, oyster and cartrut. Bream was the most abundant vertebrate species.

Although in lower quantities relative to bream, a broad range of fauna was represented in the midden, including other types of fish, tortoise, macropods, bandicoot, possums, rodents, birds and reptiles. The midden's stone assemblage was characterised by primary flaking debitage which reflected the poor knapping quality of the raw materials used. All of these materials are believed to have been collected from intertidal pebble beds adjacent to the site (Collins 1994).

## **4.2 Settlement**

The Aboriginal people of the Tweed Coast were part of a larger linguistic group, the Bundjalung, which spoke a range of dialects in the area between the Clarence and Logan Rivers extending west to Tenterfield. Dialect groups and sub clans composed of interlinked family groups occupied distinct areas within the wider Bundjalung association. Land belonged to individual clans whose territorial boundaries had been established in mythology (Creamer 1974). The Subject Lands are within the territory of the

Minjungbal people, with the Kalibal/Widjabal to the west and the Arakwal to the south (Tindale 1974; Crowley 1978). The Minjungbal occupied the coastal plain and river valleys from a short distance north of Byron Bay to Southport and west to the coastal ranges. Curr provides some evidence for this model suggesting that dialects between the Albert River and Tweed River were closely related (Curr 1887:321). Tindale recognised a similar common language group extending between Byron Bay and Southport and west to Murwillumbah, which he called Minjanbal (Tindale 1940:191). The Minjanbal language group possibly contained two main land holding clans, the the Tul gi gin clan north of the Tweed River to Tullibudgera Creek and the Coodjingburra south of the Tweed River.

Keats (1988) and Crowley (1978) differ from Tindale's interpretation in that they generally agree on the northern boundary of the Arakwal but place the southern boundary of the Minjanbal on Cudgera Creek at Hastings Point (Keats 1988:30). Bray (1901:9), writing of his personal observations of the disbursement of the Tweed 'tribes' in the 1860s, states that a probable coastal horde or clan groups the Coodjingburra '... had the part along the coast between the Tweed and Brunswick Rivers, about ten miles back from the coast...'. Keats and Crowley for unstated reasons cut the southern boundary of the Coodjingburra on Cudgera Creek at Hastings Point (Keats 1988:15, 30).

### **4.3 Movement**

From the few eye witness sources available for the North Coast it can be suggested that contact between elements of the coastal clans was frequent and may have involved relatively large numbers. Bray records that the coastal Coodjinburra '...used to mix very much with the Ballina Richmond River Blacks' (Bray 1901:9). However it may have been a way of life that rapidly disappeared under the impacts of disease and restrictions on Aboriginal groups by 'authorities' on the movement of Aboriginal people. A review of sightings of Aboriginal coastal groups in Coleman's review of ethno historical sources led her to a conclusion that in the initial stages of European contact, observers of coastal groups describe, '...consistently high, semi sedentary local populations on the coast with a highly sophisticated organic material culture which vanished almost overnight with European contact' (Coleman 1982:7).

Population estimates for the Tweed Valley and coast have been based upon general reports to government authorities and on estimates from specific sightings. In the mid 1800's Commissioner of Crown Lands, Simpson estimated the population between Point Danger and Fraser Island at not less than 5000 (Simpson 1844:484-486). Bray, from near his residence at Kynnumboon observed 600 people camped on the Wollumbin Plain west of Murwillumbah in the 1860's (Bray 1901). A party of 200 men armed with spears had been observed by John Oxley's party on Fingal Head in 1823 (Uniacke 1825:40). Pierce suggested that this gathering of men would indicate a population of about 500 for the Tweed

District and a population density between the Tweed and Brunswick Rivers and inland for some miles, '... of about three per square mile...' (Pierce 1971:13). Population estimates by eye witnesses of Aboriginal numbers for the coastal regions immediately after European settlement are highly likely to be underestimates of pre contact numbers due to the impacts of diseases particularly small pox that spread throughout coastal groups prior to official settlement.

Models to describe possible patterns of settlement and movement in the North Coast region vary considerably. One suggests that clan groups ranged between the seacoast and foothills of the coastal ranges on a seasonal basis (McBryde 1974). Early sources support this view to some extent as there are records describing the movement of inland groups of the Clarence River to the coast during winter (McFarlane 1934; Dawson 1935:25). A second model suggests that movement of coastal people was not frequent, and that semi-sedentary groups moved north and south within the coastal plain rather than to the upper rivers (Coleman 1982). The model is based upon reports of numbers of small villages composed of dome-shaped weatherproof huts between the mid NSW coast and Moreton Bay. Flinders described a small group of huts in the vicinity of Yamba in 1799, and Perry described two villages on the banks of the lower Clarence in 1839.

Similar sightings were reported by Rous on the Richmond (McBryde 1974:9), Oxley on the Tweed (Piper 1976) and in Moreton Bay (Hall 1982). The construction methods described for these huts seem to suggest occupation for a period of months at a base camp rather than a constant wide-ranging pattern of low-level land use. Godwin (1999:211-217) argues that neither of the above 'models' is supported by the archaeological record and that local conditions dictated exploitation strategies on the North Coast of N.S.W.

Bray also observed that for ceremonial occasions Tweed people would travel up to forty miles (Bray 1902:8). Here Bray was referring to a Bora ceremony west of Mount Warning. Movement within the Coodjimburra territory is most likely to have been in response to seasonal availability of foods (Piper 1976:74). A number of observers refer to movement from the coastal plain to foothills during wet seasons on the Richmond/Tweed (Moehead n.d.; Hanna 1946). During the wet season on Moreton Bay, Backhouse observed, '... the Aborigines resort to elevated situations contiguous to those parts of the coast abounding with oysters. In these situations their huts are said to be large enough to stand up in...' (Backhouse 1843:274). Jones (1896) in Piper (1976:73) stated that the Tweed coastal group moved to the shoreline during the mullet season. It appears that in the normal course of food foraging, the boundaries of the local land holding groups were clearly defined and crossed under threat of death. For agreed purposes between adjoining groups it was possible to cross boundaries, such as the movement to the Bunya Mountains, every third year so '...Under a sort of "Truce of God"....For the blacks went through each other territories unharmed...' (Bundock 1898 in McBryde 1978:265)

## **5. DESKTOP REVIEW: INDIGENOUS CULTURAL HERITAGE**

### **5.1 Previous Archaeological / Cultural Heritage Assessments**

It is important to review the results of previous studies in proximity to the Subject Land as they provide insights into locations where sites are most likely to be found and the variety and contents of those sites.

The most relevant of studies of the Tweed coast in relation to the subject land are those that have focused upon the outer barrier dune fields east of the coastal foothills. This includes studies in the vicinity of Kingscliff, South Kingscliff, Cudgen Creek, Casuarina, Bogangar and Hastings Point.

The majority of archaeological assessments in the Tweed region have been in response to development proposals, which required impact assessment. The majority of these studies have focused on discrete areas of the Tweed River estuary and coast. Studies in the vicinity of Cabarita Beach and Bogangar include Collins (1996), Haberfield-Short (2002), Nicholson and Cane (1989), Piper (1976, 1994, 1998, 1999, 2001, 2003, 2004), Piper and Robins (2007), Robins (2008a, 2008b).

#### **5.1.1 *South Kingscliff***

Immediately south and south-west of Kingscliff studies have found the surviving archaeological resource is concentrated on old dune deposits possibly of Pleistocene age. The 'Kings Forest' development area is an extensive area of sand rises and wetlands between the estuarine Cudgen Creek and the Cudgen/Duranbah hills. The area has been assessed by Gollan (1989), Nicholson and Cane (1989), Piper (1999, 2004) and Robins (2006, 2008). A quarry site (#04-02-0037) was recorded by Gollan on the northern shore of Cudgen Lake. The site is an exposure of greywacke boulders at the base of a spur line, which projects to the waters edge. An extensive amount of fractured material is evident which appears to have been reduced to 'block' form possibly for removal to other locations in the area. Some boulders show signs of heavy battering consistent with their use as anvils.

A 'preliminary' study of the 'Kings Forest' area was conducted by Nicholson and Cane (1989). The survey noted five Aboriginal sites in addition to two sites recorded by Gollan (#02-0-0037 the quarry site and #04-02-0036 an artefact scatter).



Three artefact scatters containing low-density volumes of stone artefactual materials were found in elevated positions adjacent to creeks, the Cudgen Lake or wetlands. The artefactual materials at these sites broadly consisted of retouched and unretouched flakes, flaked pieces, cores, backed blades, scrapers and stone axes. Red ochre was evident at two locations. The source materials were predominantly chert and chalcedony and lesser amounts of quartzite and quartz. Larger stone artefacts, for example axes, were produced on greywacke or basalt. The Nicholson and Cane study considered the area to have a low to moderate archaeological sensitivity (Nicholson and Cane 1989:16). The report made the observation that in the light of the depletion of archaeological resources in the region the sites take on greater significance to the Aboriginal community than may normally be the case (Nicholson and Cane 1989:14).

A study by Piper of an inner barrier sand dune and estuarine wetland for a proposed road route (Old Bogangar Road) recorded an artefact scatter (#04-02-0098). Materials consisted of a stone axe, backed blade, a flaked piece of quartzite and a piece of red ochre (Piper 1998:22). The site was at the north east tip of the Kings Forest Development, bisected by Old Bogangar Road. The remainder of the Kings Forest Development was reassessed by Piper (1999). These involved recording sites previously noted but not recorded, reassessing sites already recorded (Gollan #04-02-0036, #04-02-0037) and searching for further sites. Three artefact scatters (#04-02-0103, #04-02-0104, #04-02-0105) one midden (#04-02-0106) and one isolated artefact (#04-02-0102) were recorded. The material at the sites consisted of chert and chalcedony cores and flakes, scrapers, stone axes on greywacke and fragments of red and yellow ochre. Kings Forest 3, 5 and 6 (#04-02-0106, #04-02-0105, #04-02-0104) were considered to have a potential for sub-surface deposits and are considered potentially archaeologically significant (Piper 1999:53-56).

A reassessment of the 'Kings Forest' sites found that a remnant dune to the west of the Cudgen Creek wetlands contained surface and potentially sub-surface archaeological deposits over a distance of approximately 900 metres between two known sites. Further cultural assessment was undertaken of the site in relation to a proposal to construct an electrical sub station at the site (Robins 2008). Alternative locations are being investigated. An additional artefact scatter (Kings Forest 7) was identified in a sand blowout in the central area of the sand plain (Piper 2004:5, 7). In the process of preparation of a Cultural Heritage Management Plan for Kings Forest additional archaeological sites comprising artefact scatters and single artefacts were recorded.

In 1994 Piper examined the area of a sand quarry at the eastern base of the Cudgen/Duranbah Hills. Four highly disturbed artefact scatters were found (#04-02-0089 to 04-02-0092) on heavily disturbed inner barrier dunes. The contents were flakes and flaked pieces of chert and chalcedony. As the material was so mixed with dredge tailings its *in situ* context could not be confirmed. Its archaeological significance was considered low.

### 5.1.2 Cudgen Creek/ Casuarina

While the greatest proportion of the coastal fore dune and hind dune deposits have been sand mined, in effect destroying the archaeological resource they contained, studies to the east of the Old Tweed Coast Road and/or east of the coastal streams of Cudgen, Cudgera and Mooball Creeks have recorded the surviving remnants of Aboriginal sites on lands free of sand mining.

A study by Collins (1996) between Bogangar and Kingscliff included a strip of sand mined beach dunes between the Old Tweed Coast Road and Cudgen Creek. The Collins study located two open sites (#04-05-0139, #04-05-0140).

A third site, an *in situ* midden (#04-05-0138), was located on the eastern bank of Cudgen Creek. The artefactual material at the open site consisted of chert, chalcedony and quartz materials. The midden shell content is a low-density deposit of pipi over an area 30 m x 5 m. Because of its apparent undisturbed context and unknown archaeological potential it was assessed to have a medium level of scientific significance. The artefact scatters because of their lack of spatial or stratigraphic integrity were considered to have a low scientific significance (Collins 1996:4-35).

A study by Piper (2001) of land adjoining the new suburb of Casuarina to the north of the Collins 1996 study assessed a one km section of mined and non-mined sand dunes between the ocean and Cudgen Creek. The study found that a small area of hind dunes west of the sand mined dunes on the banks of the Cudgen Creek contained areas that had not been mined although impacted by land clearing. One apparently *in situ* pipi midden (Seaside City 1 #04-02- 0111) was found to extend for approximately 120 m in a band about 5 m wide on a low dune falling to Cudgen Creek. Visible shell exposures led to an assessment that a loose sub-surface deposit up to 10 cm thick or potentially greater, exists at the surface and immediate sub-surface. The site was only c. 400 m north of the *in situ* midden (#04-05-0138) recorded by Collins (1996) in a virtually identical context.

A second site (Seaside City 2 #04-02-0112), an artefact scatter, was found 200 m east of the midden on a mechanically formed sand bank (c 1.00 m elevation). The material at the site consisted of a low-density scatter of shell fragments and four stone artefacts. The artefacts consisted of a greywacke stone piece bevelled on one edge, possibly the result of pounding on wood, a large beach cobble stone, almost spherical with pitting and grinding striations on one surface, a red quartzite scraper and a brown chert retouched flake (Piper 2001:37-38). The small artefact collection at the site is possibly reflective of wooden tool maintenance and the preparation of bungwall fern rhizome, a food staple in this region. Given the rarity of this type of site its 'connectedness' with other sites in the vicinity and its *in situ* position, the midden site was considered to be of a high level of archaeological and cultural significance in a regional

sense. The artefact scatter materials were considered to have been redeposited and lacked further research potential but were still culturally significant to the Tweed Byron LALC (Piper 2001:45).

Robins (2008b) investigated an area of land known as Lot 490 Kingscliff between the 'Salt' development and Cudgen Creek Bridge. The archaeological assessment found no sites or relics in what is all sand mined or mining-impacted dune field (Robins 2008b).

Haberfield-Short (2002) assessed approximately one kilometre of the Cudgen Creek foreshores extending south from the south eastern point of Lot 490 Kingscliff. No Aboriginal sites were found. For non sand mined areas of fringing riverine forested land surface it was concluded that '...there is a strong possibility that artefacts and occupation remains may occur in the subsurface sediments' (Haberfield- Short 2002:7).

### *5.1.3 Norries Head / Bogangar*

At Norries Head a midden/artefact scatter (#04-02-0040) contained pipi obtained from the beach below the dune and cartrut shell from a boulder bed on the north side of the headland. Photographic evidence provided to the Consultant by Aboriginal Stakeholder Jackie McDonald shows a midden of an estimated one to two metres. Although the true dimensions are difficult to estimate, it is evident that this was a significant coastal midden prior to sand mining. It was likely that this midden represented an important cultural area for the Aboriginal people of the Tweed. Large basalt stone flakes and flaked pieces were eroding from the site onto the beach. What remains of the site was covered, signed and fenced in the 1970s by the NSW National Parks and Wildlife Service.

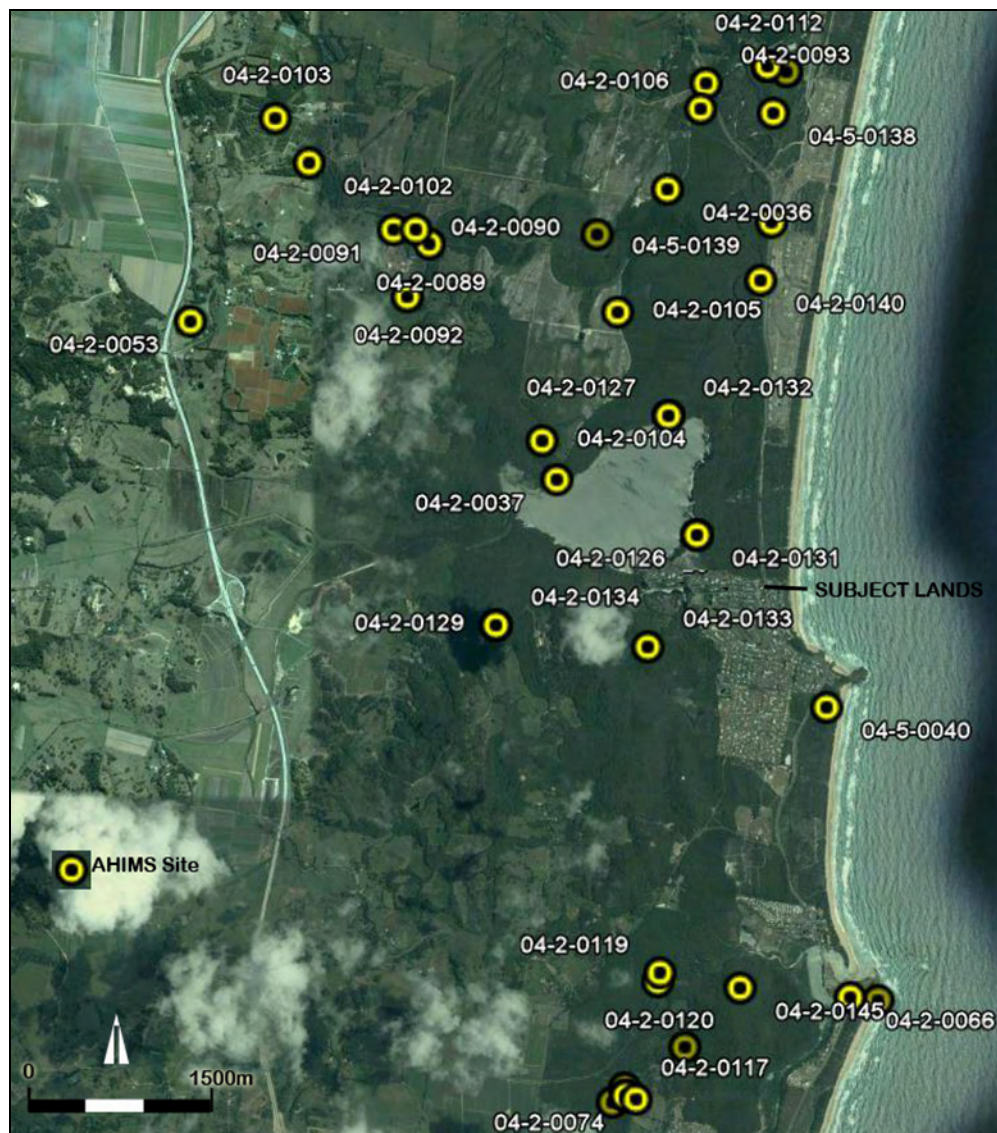
### *5.1.4 Hastings Point*

Piper (1976) recorded two stone quarrying sites in the Hastings Point area. A stone quarry (#04-02-0145) is located on the northern spur of the high ground immediately west of the Cudgera Creek estuary. The site consists of large volumes of split feldspathic sandstone forming a talus slope. Large flakes are evident. A large core scraper was observed and photographed from the site (Piper 1976:94). A flaking floor is evident on the eastern face of Hastings Point (#04-02-0108). The material is c. 25 cm below the surface and extends for approximately 80 m north to south. The material is flaked feldspathic sandstone, which may have originated from the Hastings Point quarry 1.5 km to the west or from boulders at the base of the low headland (Piper 1976:115-118).

## 5.2 The DECCW Aboriginal Heritage Information Management System (AHIMS)

On the 7 July 2009 a search was conducted of the DECCW AHIMS over an area of 60 km<sup>2</sup> that centred on the Subject Lands. The search revealed that 41 sites had been recorded for the greater search area. These are indicated in Table 1 and Figure 9 below. No sites were recorded from within the Subject Lands.

It should be noted that the DECCW has a practise of accepting site recordings from members of the public. The authenticity of some sites within the Cudgen Lake/Bogangar region has yet to be verified by heritage professionals or through the broader Aboriginal community consultation.



**Figure 9: AHIMS Site Locations**

**Table 1: Aboriginal Sites (AHIMS 07-07-09)**

SITE ID	SITE NAME	SITE TYPE
04-2-0036	Cudgen Creek 1	open camp site
04-2-0037	Kings Quarry	quarry
04-2-0053	N.O.S. 14	isolated find
04-2-0066	Young St Midden	midden
04-2-0072	SR1	open camp site
04-2-0073	SR3	open camp site
04-2-0074	SR4	open camp site
04-2-0089	Duranbah 1	isolated find
04-2-0090	Duranbah 2	open camp site
04-2-0091	Duranbah 3	open camp site
04-2-0092	Duranbah 4	open camp site
04-2-0093	Cudgen	open camp site
04-2-0098	Cudgen-Old Bogangar Rd	open camp site
04-2-0102	Kings Forest 2	isolated find
04-2-0103	Kings Forest 1	open camp site
04-2-0104	Kings Forest 6	midden; open camp site
04-2-0105	Kings Forest 5	open camp site
04-2-0106	Kings Forest 3	midden
04-2-0108	Hastings Point	open site
04-2-0111	Seaside City 1	open site
04-2-0112	Seaside City a	open site
04-2-0113	Seaside City 2	open site
04-2-0117	SR2 Koala Bch, Pottsville	open site
04-2-0118	SR5 Koala Bch, Pottsville	open site
04-2-0119	SR7 Koala Bch, Pottsville	open site
04-2-0120	SR8 Koala Bch, Pottsville	open site
04-2-0124	Sites 1 to 4 Collins 1993	open site
04-2-0125	Koala Beach stage 7	open site
04-2-0126	Lake Fish Trap	open site
04-2-0127	Camp Site 1 (nth)	open site
04-2-0129	Cudgen Ochre Quarry	open site
04-2-0131	Cudgen Lake Fish Trap	open site
04-2-0132	Campsite 1 (nth)	open site
04-2-0133	Double Initiation Bora's and Ceremonial Wells	open site
04-2-0134	Ochre Quarry	open site
04-2-0145	Hastings Point Quarry	open site
04-2-0146	Kings Forest 7	open site
04-5-0040	Norries Head; Bogangar	open camp site
04-5-0138	Kings Beach 1	open camp site
04-5-0139	Kings Beach 2	open camp site
04-5-0140	Kings Beach 3	open camp site



### **5.3 Other Heritage Registers: Indigenous Cultural Heritage**

Other heritage registers list items as being solely of historic (that is not specifically Indigenous) heritage significance. However, places considered of historic heritage significance can also have particular significance to a region's Indigenous inhabitants. For example, a place of historic heritage significance may have been built using predominately Aboriginal or Islander labour, something that was quite common in the early history of the Tweed. This may provide an added layer of significance to the place that bears consideration when assessing the impact of nearby development. For this reason, all available heritage registers have been consulted with regard to Indigenous heritage.

The following heritage registers were accessed on 12 August 2009 for Indigenous places within the Tweed Shire LGA:

- **The World Heritage List:** Contains no Indigenous places listings.
- **The National Heritage List** (Australian Heritage Council): Contains no Indigenous places listings.
- **Commonwealth Heritage List** (Australian Heritage Council): Contains no Indigenous places listings.
- **Register of the National Estate** (Australian Heritage Council): Contains 43 Indigenous and historic place listings for the Tweed LGA. None are situated in close proximity to the Subject Lands.
- **The State Heritage Register** (NSW Heritage Office): Contains no Indigenous place listings. The Cudgen Nature Reserve is listed on this register, and is discussed in further detail below and in Section 6.
- **Tweed Shire Local Environment Plan 2000:** Contains 24 Indigenous and historic places listings. None are within close proximity to the Subject Lands.

The Cudgen Nature Reserve is listed in the NSW Heritage Register for its historic values. However, it is appropriate at this stage to discuss the potential for any Aboriginal cultural, spiritual or archaeological values to be located within the Reserve.

The listing of the Reserve as an area of High Conservation Old Growth Forest is deceptive when reviewed for its archaeological potential. The 1962 Aerial Photograph (Figure 11) shows that most parts of the Reserve north of the Subject Lands having been heavily sand mined. There is little potential for any archaeological material to remain in these areas. Only a thin strip of land adjacent to the northern boundary appears that it may contain remnant original vegetation.

While the archaeological potential of the Reserve north of the Subject Lands may be low, this does not necessarily mean that it is devoid of cultural or spiritual value. It is widely documented, and has also been expressed to Everick by many of the registered stakeholders, that environmental values are of significant cultural value to Aboriginal custodians. The protection of the environment is an aspect of looking after country that should be acknowledged and respected in any Aboriginal cultural heritage assessment. In this

respect, the Cudgen Nature Reserve contains important ecosystems that the Aboriginal stakeholders value highly. The impact of the proposed development is discussed in the impact assessment in Section 8 below.

The registered stakeholders have also been interviewed about potential spiritual values associated with parts of the Cudgen Nature Reserve north of the Subject Lands. The stakeholders advised that there were no such values that may be affected by the proposed development.

## **5.4 Historic Aerial Photography Analysis**

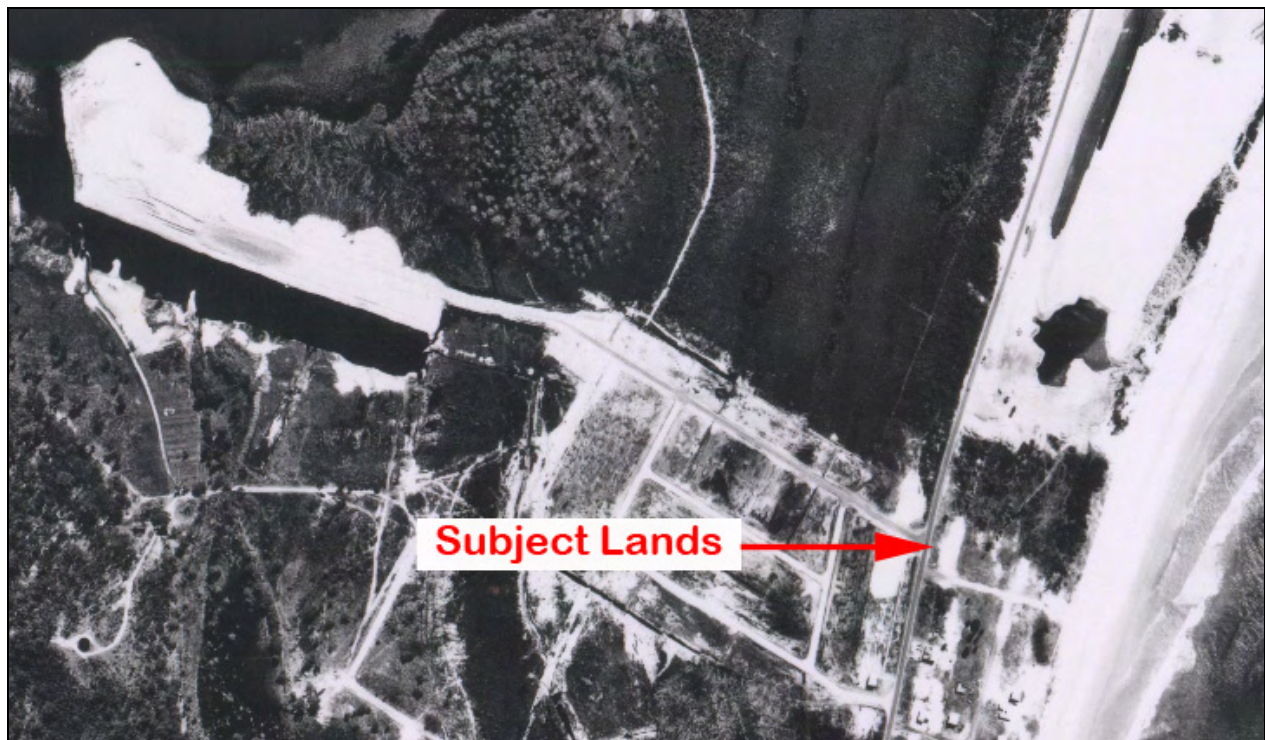
Examination of aerial photographs from 1944–1987 reveals there has been a history of significant ground disturbance in the Subject Lands, primarily from vegetation clearing, grazing, use as a camping ground and potentially sand mining. The 1944 aerial photograph (Figure 10) shows the Subject Lands in what would have been close to its original form, although some levelling may have occurred as it appears to have been cleared. Some areas of remnant coastal banksia vegetation would likely remain on the site. A track that is in a similar position to the present Tweed Coast Road can be seen running from north to south in close proximity to the Subject Lands.



**Figure 10: 1944 Aerial photograph of the Subject Lands (NSW Dept of Lands)**



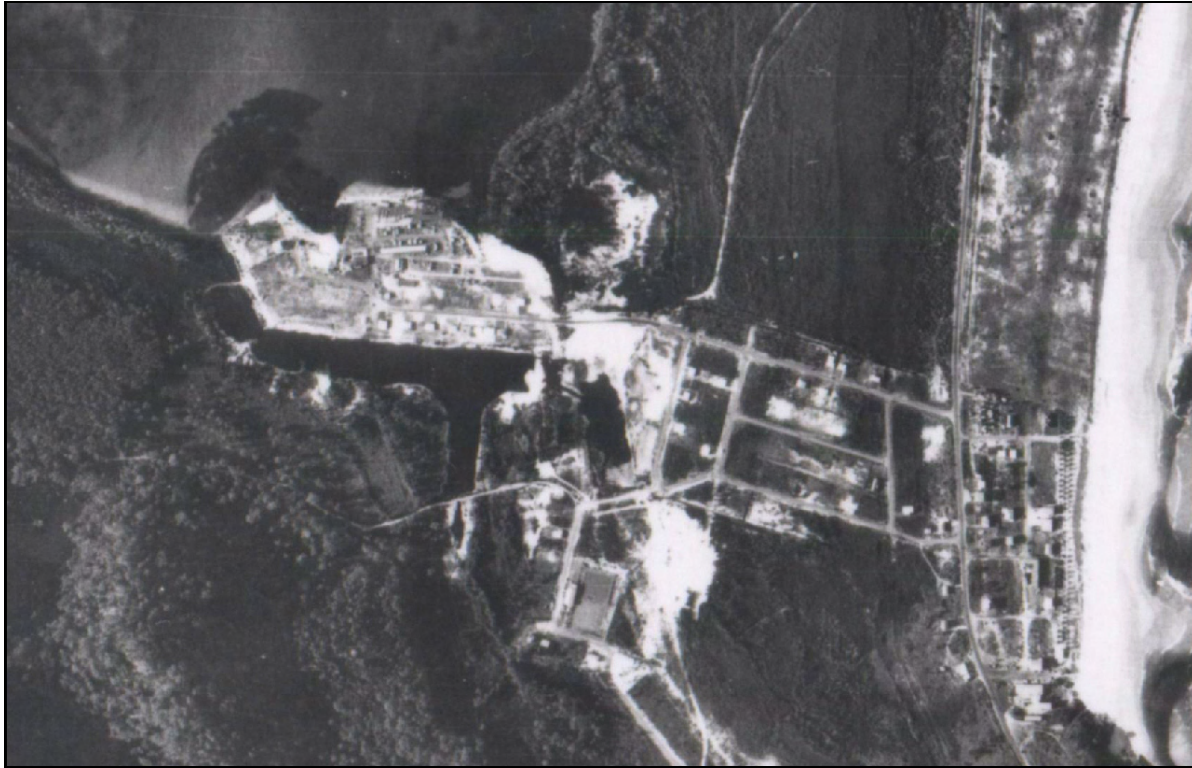
The 1962 aerial photograph shows a dramatically different picture. Whether the site has been used for sand mining is inconclusive, although it appears most likely that it has not. The Subject Lands have been cleared and are largely devoid of vegetation. Most likely to be original surface would be the western boundary adjacent to The Tweed Coast Road, which for erosion purposes would likely not have been mined or significantly altered. The rest of the property exhibits clearing in what appears to be likely preparation for construction of buildings. However, no dwellings or man made structures are evident within the Subject Lands at this time.



**Figure 11: 1962 Aerial photograph of the Subject Lands (NSW Dept of Lands)**

By the 1970's (Figure 12), the Subject Lands were being used as a camping ground. Evidence of the beginnings of the revegetation of the coastal parts of the Cudgen Nature Reserve can be seen to the north of the site. A thin strip of revegetated land can be seen along the western part of the site adjacent to The Tweed Coast Road. Visible on the remainder of the site are the camping and caravan sites. Unfortunately, the aerial photograph is not of sufficient quality to identify if the caravan park configuration has since been changed.





**Figure 12: 1970 Aerial photograph of the Subject Lands (NSW Dept of Lands)**



**Figure 13: 1987 Aerial photograph of the Subject Lands (NSW Dept of Lands)**

## **5.5 A Predictive Model: Aboriginal Archaeological Sites between Kingscliff and Hastings Point**

On the basis of the review of past surveys immediately to the north, and south, in similar ecological contexts, it would be reasonable to expect that Aboriginal sites or cultural materials could be found in the vicinity of the Subject Lands. Formulating a predictive model for archaeological sites in coastal dune environments of far northern NSW is conditional, based upon whether or not sand mining has taken place. The outer dunes between Kingscliff and Hastings Point have been sand mined with exception of pockets of dune in the vicinity of Cudgen Creek and residential areas at the time. Past surveys have assessed extensive areas of the coastal plains between Hastings Point and Kingscliff. The results of these surveys suggest raised sand sheets or sand dunes and low spurlines adjacent to the coastal plain contain the greatest proportion of the known archaeological resource. It is less likely that occupation sites will be found in wetlands and or mangrove mud flats. The lower slopes of Round Mountain (157 m AHD) bordering the Cudgen Lake lowlands could contain Aboriginal sites in the form of greywacke outcrops known in locations on Cudgen Lake and Hastings Point to be quarries of raw materials. The following types of archaeological sites have a potential to occur in the vicinity of Cudgen Lake: burials/ceremonial areas, middens, artefact scatters, scarred trees, quarries and single artefacts. The proposed development area at Cypress Crescent is within 0.8 km of the food/material resources of Cudgen Lake and 0.3 km from the resources of the beach shoreline and the shingle beds of Norries Headland.

## **5.6 A Predictive Model: Aboriginal Archaeological Sites within the Subject Lands**

Any predictive archaeological model for the Cypress Crescent site and the adjoining Cudgen Nature Reserve can only be made based on the question as to whether or not the Subject Land has been sand mined or not. The review of historical photography (section 5.5) suggests that sand mining appears to have extended to an area approximately 100 m north of the Subject Lands but may not have extended into the Subject Lands. The 1962 view indicates a clear sand mined sheet east of the access road from Kingscliff with little to no vegetation, extending south to approximately 100 m north of the subject land. The western third of the caravan park is a clear sand exposure possibly as a result of road construction across to Tamarind Avenue. The 1970 view indicates that the surviving vegetation belt in the now Cudgen Nature Reserve is thinner with more exposed sand than the 1962 photo. This may have been caused by a vegetation 'die back' due to wind exposure. While the Subject Land appears to have been highly disturbed due to road construction, caravan park construction and service installations, the absence of sand mining would allow for remnant materials from the following types of sites to exist.

While stone and shell materials are unlikely to be of scientific significance, bone and wooden materials would be highly significant. All archaeological materials can be significant to the Aboriginal community as evidence of their prior occupation of the land and utilisation of its resources. There are no rock outcrops suitable to Aboriginal quarrying. Physical evidence of ceremonial areas in the form of stone mounds and/or scarred trees will not exist.

#### **5.6.1 Middens**

Midden sites in the Tweed Valley and Tweed Coast are invariably found on elevated ground adjacent to the source of the shellfish. The sources are open beaches, rock platforms, tidal mud flats, rocks and mangrove roots. Middens in this area are composed of five edible species only pipi, cartrut, cockle, whelk and oyster. The sites may reflect only one source of gathering or a combination of sources. Middens may contain faunal remains, stone artefacts and cooking hearths. Human burials have been associated with midden sites in the Tweed River estuary and Fingal Peninsula. Human burials or human skeletal materials may occur in non sand mined dunal areas.

#### **5.6.2 Open Campsites**

Open campsites represent the greatest numbers of recorded sites in the vicinity of the Subject Lands. They may be found in almost any elevated position adjacent to wetlands or creeks. They will also be found on 'easy' grades or the level section of ridge crests and spurlines, particularly where higher ground tapers toward the coastal plain. Materials at these sites may be stone artefactual materials only. A recorded site may consist of as little as two artefacts within 50 metres of each other or heavy concentrations of stone artefactual materials and other materials such as ochre, bone and cooking hearths. Low-density scatters of midden shell may also be present.

#### **5.6.3 Isolated Artefacts**

These sites consist of single artefacts, which may have been discarded due to breakage, lost or randomly discarded during tool fabrication and maintenance. They may be found in almost any situation but are commonly found on elevated areas in dunefields or on lower slopes and ridge crests.

#### **5.6.4 Scarred Trees**

There is no possibility of scarred trees, stone quarries or physical evidence of ceremonial grounds on the land presently used as a small caravan park. All archaeological materials can be significant to the



Aboriginal community as evidence of their prior occupation of the land and utilisation of its resources. An adjoining strip of land to the north, the Cudgen Nature Reserve is cleared and mown to provide a 'fire break' no construction disturbance is evident.

## 6. DESKTOP REVIEW: HISTORIC CULTURAL HERITAGE

The following heritage registers were accessed on 12 August 2009 for historic places within the Tweed Shire LGA:

- **The World Heritage List:** Contains no historic place listings.
- **The National Heritage List** (Australian Heritage Council): Contains no historic place listings.
- **Commonwealth Heritage List** (Australian Heritage Council): Contains one historic place reference, the Fingal Heads Lighthouse, although the lighthouse has been deemed ineligible.
- **Register of the National Estate** (Australian Heritage Council): Contains 43 Indigenous and historic place listings for the Tweed LGA. None are situated on or near the Subject Lands.
- **The State Heritage Register** (NSW Heritage Office): Contains 28 historic place listings. One listing, the Cudgen Nature Reserve, is in close proximity to the subject lands and is discussed in further detail below.
- **Tweed Shire Local Environment Plan 2000:** Contains 24 Indigenous and historic places listings. None are within close proximity to the Subject Lands.

**Cudgen Nature Reserve** is listed in the New South Wales Heritage Register as being part of a series of significant High Conservation Old Growth ('HCOG') forests found in the north of the State (Figure 13 and Appendix C). The reserves are listed under the category of Forest Reserve, and the significance of such forests is described in the register as:

*Old growth forest is ecologically mature eucalypt forest showing few signs of human disturbance. The upper canopy trees are no longer growing in height or spreading their crowns and show signs of old age. HCOG forest represents the best examples remaining of such forests.*

Cypress Crescent Cultural Heritage Assessment  
Prepared For: Tweed Coast Homes Pty Ltd

The Historic Themes of the Cudgen Nature Reserve listed in the register are shown in Table 2:

**Table 2: Cudgen Nature Reserve Historic Themes**

<b>Historic Themes</b>		
<b>Australian Theme (abbrev)</b>	<b>New South Wales Theme</b>	<b>Local Theme</b>
1. Environment - Tracing the evolution of a continent's special environments	Environment - naturally evolved - Activities associated with the physical surroundings that support human life and influence or shape human cultures	Natural - pre European settlement vegetation -
3. Economy - Developing local, regional and national economies	Forestry - Activities associated with identifying and managing land covered in trees for commercial purposes	(none)

The Assessment of Significance of the Cudgen Nature Reserve lists the following state heritage criteria, the impact on which is addressed in further detail in Section 8 of this assessment:

**Criteria A** (Historical Significance): HCVOG Forest is important for its potential to demonstrate the history of their use and exploitation, as well as key sites demonstrating evidence of Aboriginal occupation over a long time period.

**Criteria C** (Aesthetic Significance): HCVOG Forest are by the nature of their tall trees areas of high aesthetic values which are valued and sought after by the community.

**Criteria E** (Research potential): HCVOG Forest is important for its potential to contribute to our understanding of the life cycle of eucalypt forests.

**Criteria F** (Rarity): HCVOG Forest is a forest type which is now rare or uncommon at a regional and state wide basis. They provide a valuable habitat for a wide range of native animal species including a number of rare and endangered species.

Cudgen Nature Reserve lies just to the north of the Subject Lands, and as such the impact of the proposed residential subdivision bears careful consideration. A detailed discussion of the potential impacts for the Project on the heritage significance of Cudgen Nature Reserve is provided in Section 8.1 below.



## **7. FIELD SURVEY: ABORIGINAL AND HISTORIC CULTURAL HERITAGE**

### **7.1 Aboriginal Participation**

The Subject Lands are within the area administered by the Tweed Byron Local Aboriginal Land Council. It is usual practise for the Land Council to appoint its Sites Officer, to represent the Land Council's interests in archaeological assessments of this kind. It was agreed Sites Officer Mr. Cyril Scott would represent the Land Council's interests as per its usual procedures. The Land Council's views on the conduct and outcomes of the assessment are contained in Appendix A of this report. While the Sites Officer and the Land Council are aware of the numbers and types of Aboriginal sites in this coastal region there was no specific knowledge of sites within the Subject Lands or parts of the Subject Lands, which the Land Council considered culturally significant. The assessment was carried out by the Tweed Byron LALC Sites Officer and the consultant on the 10<sup>th</sup> July 2009.

### **7.2 Survey Methods**

#### ***Caravan Park***

The field inspection was conducted on foot. The field inspection attempted to cover any available sand exposures on the Subject Lands. Surface visibility throughout the caravan park is generally nil restricted by caravan sites, amenities block and gravel road. An indication of the surface visibility of areas searched is given in Figure 15.

#### ***Asset Protection Zone (APZ) - Cudgen Nature Reserve***

Surface visibility is restricted to approximately 1% of total area due to mown grass cover. The area included in the field assessment was the 30 m APZ together with an additional eight metres on the northern boundary of the proposed development, integral to the approval process (Darryl Anderson Consulting 2009:6).

Photographs were taken as a record of general features and conditions, to indicate the degree of surface visibility and the content of any sites found. Notes are made of the degree of surface visibility, the area of visibility, ground cover, land uses and any other relevant features. An indication of the surface visibility of areas searched is given in Figure 16. An overview of surface conditions and site detection condition is given in Sections 7.3 and 7.4.



**Figure 15: Ground visibility during survey – caravan sites and gravel road restrict surface inspection of the Subject Lands**



**Figure 16: Ground visibility during survey – mown grass cover of APZ restricts surface inspection**

### **7.3 Constraints to Site Detection**

The constraints to site detection in this case are influenced totally by previous European land uses, namely the construction and ongoing upgrading of a caravan park since the 1960s and lawn management of a 30 m swathe of Cudgen Nature Reserve and not by any natural circumstances. The following broadly describes the conditions for site detection within the Subject Lands.

#### ***Caravan Park***

*Sand dune:* Not sand mined but highly disturbed sands through construction and maintenance of a caravan park. Surface exposure: ca <1 %. Surface visibility: ca <5 %.

#### ***Asset Protection Zone (APZ) - Cudgen Nature Reserve***

*Sand dune:* Not sand mined but disturbed sands due to vegetation removal and lawn maintenance. Surface exposure: ca <10 %. Surface visibility: ca <20 %.

### **7.4 Survey Coverage**

Tables 3 and 4 indicate the extent to which survey data provides sufficient evidence for an evaluation of the distribution of archaeological evidence across the study area. An evaluation of survey coverage provides an approximate measure of the potential for the landform unit and or its sub element to reveal archaeological evidence.

This method is the preferred method outlined in N.S.W. N.P.W.S. Aboriginal Cultural Heritage Guidelines for Archaeological Survey Reporting, Appendix 4:44 - 48. The figures in Tables 3 and 4 do not provide an exact percentage of ground areas but a reasonable estimate.

**Table 3: Survey Coverage Caravan Park**

LANDFORM ELEMENT	AREA (m <sup>2</sup> )	EXPOSURE %	AREA OF EXPOSURE (m <sup>2</sup> )	VISIBILITY (%)	AREA FOR DETECTION (m <sup>2</sup> )	% OF LF FOR SITE DETECTION
SAND DUNE	3750	1	37.5	5	1.8	0.05

Approximate total area for site detection in the proposed development area: 1.8 (sq m) or 0.048 % of total area.

**Table 4: Survey Coverage Asset Protection Zone**

LANDFORM ELEMENT	AREA (m <sup>2</sup> )	EXPOSURE %	AREA OF EXPOSURE (m <sup>2</sup> )	VISIBILITY (%)	AREA FOR DETECTION (m <sup>2</sup> )	% OF LF FOR SITE DETECTION
SAND DUNE	1200	10	120	20	24	2

Approximate total area for site detection in the proposed development area: 24 (sq m) or 2 % of total area.

## 8. RESULTS OF THE CULTURAL HERITAGE ASSESSMENT

- No Aboriginal archaeological sites or relics were found as a result of the field inspection of Lot 1,2,3 Section 1 DP 29748 and Lot 4 Section 1 DP 31209 at Cypress Crescent, Cabarita Beach.
- No items of historic (non-Indigenous) cultural heritage were identified.

### 8.1 Statement of Impact on Significance of Cudgen Nature Reserve

As shown in Section 6 above, **Cudgen Nature Reserve** is listed in the New South Wales Heritage Register as being part of a series of significant Old Growth Forests. Of the four aspects of the significance of the Reserve listed above, only Criteria C (Aesthetic Significance) warrants detailed discussion. The first

note is the physical barrier that separates the Reserve from the Subject Lands, where there is a grassed easement (Asset Protection Zone) of approximately 40 m, with some banksias planted which act as a partial shield. Not being heavily vegetated, a relative clear view of the proposed development will be gained from there southernmost portion of the Cudgen Nature Reserve. It cannot be said therefore that the proposed Project, being three stories high, would have no impact on the 'setting' of the Reserve. However, this impact must be put into context of the surrounding development, of which there are numerous houses and high density tourist developments also in clear view from the Reserves southernmost boundary. When this is taken into account, it would appear that the impact of the Project would be minimal, and certainly could not be said to be prohibitive of it proceeding. Possible mitigating activities would be the planting of additional Banksias within the APZ to act as a visual shield, although it is not considered of such importance that it be made a recommendation of this report.

There appear no reasons that the Project would have any impact on the aspects of the significance of the Cudgen Nature Reserve listed in Criteria A, E and F. It should be noted that establishing potential environmental impacts are beyond the scope of this assessment. Such considerations are dealt with by other Consultants as part of the project application.

The Assessment of Significance of the Cudgen Nature Reserve lists the following state heritage criteria, of which a statement of impact is provided below each Criteria:

**Criteria A** *(Historical Significance): HCVOG Forest is important for its potential to demonstrate the history of their use and exploitation, as well as key sites demonstrating evidence of Aboriginal occupation over a long time period.*

**Impact Statement:** The proposed Project will have no impact on the historical significance of the Cudgen Nature Reserve.

**Criteria C** *(Aesthetic Significance): HCVOG Forest are by the nature of their tall trees areas of high aesthetic values which are valued and sought after by the community.*

**Impact Statement:** The proposed Project will have minimal impact on the setting of the Cudgen Nature Reserve, but otherwise will have no impact on the aesthetic significance of the Reserve.

**Criteria E** *(Research potential): HCVOG Forest is important for its potential to contribute to our understanding of the life cycle of eucalypt forests.*

**Impact Statement:** The proposed Project will have no impact on the historical significance of the Cudgen Nature Reserve.

**Criteria F (Rarity):** *HCVOG Forest is a forest type which is now rare or uncommon at a regional and state wide basis. They provide a valuable habitat for a wide range of native animal species including a number of rare and endangered species.*

**Impact Statement:** Provided there are no environmental impacts from the proposal on Cudgen Nature Reserve (on which Everick is unable to comment on, other than to note we understand this issue is being dealt with by the Proponent under the Part 3A process), the proposal will have no impact on the rarity of the Cudgen Nature Reserve.

## 9. RECOMMENDATIONS

### 9.1 Recommendations: Indigenous Cultural Heritage

The following recommendations are based upon the results of the desktop review, field inspections and consultation with the Sites Officer of the Tweed Byron LALC and other Aboriginal Stakeholders. The recommendations have the support of the Tweed Byron LALC and other Aboriginal Stakeholders.

The high level of past ground disturbance of the site means that recommendations, such as monitoring or inductions, are considered unnecessary in this instance. The following general recommendations are cautionary in nature.

#### **Recommendation 1: Aboriginal Human Remains**

It is recommended that if human remains are located at any stage during construction works within the Subject Lands, all works must halt in the immediate area to prevent any further impacts to the remains. The Site should be cordoned off and the remains themselves should be left untouched. The nearest police station, the Tweed Byron LALC, and the DECCW Regional Office, Coffs Harbour are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and the DECCW should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations.



It is also recommended that in all dealings with Aboriginal human remains, the proponent should use respectful language, bearing in mind that they are the remains of Aboriginal people rather than scientific specimens.

### **Recommendation 2: Aboriginal Cultural Material**

It is recommended that if it is suspected that Aboriginal material has been uncovered as a result of development activities within the Subject Lands:

- (e) work in the surrounding area is to stop immediately;
- (f) a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;
- (g) an appropriately qualified archaeological consultant is to be engaged to identify the material; and
- (h) if the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the DECCW guidelines: *"Interim Community Consultation Requirements for Applicants"* (2005).

### **Recommendation 3: Notifying the DECCW**

It is recommended that if Aboriginal cultural materials are uncovered as a result of development activities within the Subject Lands, they are to be registered as Sites in the Aboriginal Heritage Information Management System (AHIMS) managed by the DECCW. Any management outcomes for the site will be included in the information provided to the AHIMS.

### **Recommendation 4: Conservation Principles**

It is recommended that all effort must be taken to avoid any impacts on Aboriginal Cultural Heritage values at all stages during the development works. If impacts are unavoidable, mitigation measures should be negotiated between the Proponent and the Aboriginal Community.

### **Recommendation 5: Post Clearing Survey and Monitoring of Initial Subsurface Excavations**

The desktop study and survey were inconclusive as to the nature of past subsurface ground disturbance to the Subject Lands, in particular the western portion bordering The Tweed Coast Road. As extensive sand mining operations have removed most of the cultural material that would once have been located

around Cabarita and Bogangar, is considered likely that should any cultural material remain within the Subject Lands it would be of high archaeological and cultural significance. The following recommendation is aimed at establishing a cautionary approach to conserving cultural heritage, in accordance with the principles of the Burra Charter.

It is recommended that a representative of the Tweed Byron LALC be invited to inspect the site (Post Clearing Survey) following initial removal of the caravan park facilities, bitumen, grass and gardens. This inspection should occur prior to any significant subsurface disturbance of the site. Further, it is recommended a representative of the Tweed Byron LALC be present to monitor initial subsurface excavations of the site in preparation for the Project.

Should any cultural material be identified, Recommendations 2 and 3 should be followed.

Should further information become available that shows that the Subject Lands have been sand mined, then Recommendation 5 will not be required.

## **9.2 Recommendations: Historic Cultural Heritage**

There are no recommendations regarding Historic cultural heritage.

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## APPENDIX A: CORRESPONDENCE FROM THE TWEED BYRON LALC AND ABORIGINAL STAKEHOLDERS



### TWEED BYRON LOCAL ABORIGINAL LAND COUNCIL

P.O. Box 1410  
Kingscliff, NSW 2487  
Telephone: (07) 5536 1763  
Fax: (07) 5536 9832  
E-mail: [finance@tblalc.com.au](mailto:finance@tblalc.com.au)  
21/25 Ourimbah Road  
Tweed Heads NSW 2485

**ABN: 44 992 419 248**

Tim Robins  
47 Arthur Terrace  
Red hill QLD 4059

06.10.09

Dear Tim

**RE: Cypress Crescent Subdivision, Cabarita Beach NSW**

The Tweed Byron Local Aboriginal Land Council has been consulted throughout the course of the Aboriginal Heritage Assessment of the Cypress Crescent Subdivision undertaken by your office. We have reviewed a copy of the report and the minutes and the Tweed Byron local Aboriginal Land Council are happy with the outcome.

On the 10<sup>th</sup> July we Cyril Scott and Adrian Piper had inspected land at Cypress Crescent, Cabarita Beach. There were **no** artifacts found on the walk over, visibility was at 70%.

Based on the impact of its past and current land use, chances of finding Aboriginal sites or relics within the area is low but still a chance of undiscovered sites within these landforms.

#### **Recommendation.**

**Tweed Byron Lalc Supports the recommendations that were put forward in your report.**

1. If human remains are located at any stage during construction works that are of Aboriginal origin, then the Site should be cordoned off and be left untouched and the Tweed Byron LALC must be informed.
2. If Aboriginal cultural material is uncovered during the development then work must stop in the area and the Site should be cordoned off and the Tweed Byron LALC must be informed.

Any questions please don't hesitate to contact us on the above number.

Thank you

Cyril Scott  
Cultural Sites Officer  
Tweed Byron Local Aboriginal Land Council



## Meeting Minutes

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Project: Cypress Crescent , Cabarita, NSW

Attendees: Harry Boyd; John Cavanagh; Bo Lourey; Tim Robins (Everick).

Meeting date: Wednesday, 7<sup>th</sup> October 2009

Meeting time: 11.00 am (EDT)

Location: Murwillumbah , NSW

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### Background:

A preliminary site survey was conducted by the Land Council and Everick Heritage Consultants on 10<sup>th</sup> July 2009 however no Aboriginal sites were detected. A community meeting was held on the 25<sup>th</sup> of July 2009. A draft Cultural Heritage Assessment ('draft CHA') was distributed to the Aboriginal stakeholders for comment on 25 August 2009.

This community meeting was convened to provide the Ngarakwal Aboriginal stakeholders with an opportunity to comment on the draft CHA.

### Minutes:

- Tim Robins provided an overview of the report and its recommendations, including:
  - the site is disturbed;
  - the potential remains for subsurface cultural material to exist within the Subject lands, particularly on the western portion; and
  - the recommendations adopt a cautionary approach of having a Land Council sites officer inspect initial disturbance. Where cultural material is identified the registered stakeholders (including the Ngarakwal) would be contacted.
- Bo Lourey stated that the findings and recommendations were in accordance with the discussions at the site meeting.
- Harry Boyd and John Cavanagh supported the recommendations. Harry Boyd stated:
  - the Ngarakwal stakeholders must be notified in the event of a cultural heritage find; and
  - the nature reserve to the north was known by the Ngarakwal to contain highly significant cultural areas. The development must not impact the Nature Reserve.
- It was agreed the Ngarakwal representatives would further discuss the project and with other Ngarakwal knowledge holders and would contact Everick if they had additional comments.

### Tim Robins

Project Manager

Everick Heritage Consultants

Innovative Heritage Solutions

## APPENDIX B: COMMUNITY NOTICE

### **Aboriginal Cultural Heritage Study**

Everick Heritage Consultants Pty Ltd (ABN 78 102 206 682) is seeking to consult with interested Aboriginal persons over two parcels of land.

The first parcel of land is 11.5 ha described as Lot 4 on DP 867253, situated at Willow Avenue, Bogangar.

The second parcel of land is described as Lots 1, 2 and 3 Section 1 DP 29748 and Lot 4 Section 1 DP 31209, situated at the corner of Tweed Coast Road and Cypress Crescent, Cabarita.

Everick Heritage Consultants will be conducting Aboriginal Cultural Heritage Assessments of the sites and are seeking the input of the Aboriginal community. The assessments will be conducted in preparation for residential developments.

#### **What do you need to do?**

The Aboriginal community is invited to register their interest in writing with:

Everick Heritage Consultants  
GPO Box 146  
RED HILL QLD 4059  
or t.robins@everick.com.au

#### **When must registration be received?**

Registration must be received by 29 June 2009.

## APPENDIX C: MINUTES FROM COMMUNITY MEETING



- 1 -

**EVERICK**  
Heritage Consultants Pty Ltd  
Innovative Heritage Solutions

### Meeting Minutes

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Project:	Cypress Crescent, Cabarita Beach
Attendees:	Bo Lourey; John Cavanagh; Lance Hansen (owner); Richard Robins (Everick); Tim Robins (Everick); Helene Tomkins (Everick).
Apologies:	
Meeting date:	Saturday 25 <sup>th</sup> July 2009
Meeting time:	2.45 pm (EDT)
Location:	On-site at Cypress Crescent, Cabarita Beach, NSW

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### Background:

A preliminary site survey was conducted by the Land Council and Everick Heritage Consultants on 10<sup>th</sup> July 2009 however no Aboriginal sites were detected.

This community meeting was convened to provide the Aboriginal community with an opportunity to inspect the Willow Ave property as well as identify and develop a process for further assessment of the site. This meeting formed part of the consultation process required by the DECC in their *Interim Community Consultation Requirements for Applicants* (2005).

### Minutes:

- Lance Hansen showed the meeting participants around the Cypress Crescent site. At present there is a caravan park occupying the site. We walked through the caravan park and along the Nature Reserve.
- Bo Lourey and John Cavanagh indicated that there should be no objection on cultural heritage grounds to this development occurring, as they knew this site had been substantially disturbed. Bo mentioned that this area had been sand mined.
- Bo also spoke about the bora ring site at the north of Cudgen Nature Reserve that was destroyed by the sandmining. He said that the stones had been collected and moved to a safe place.
- It was suggested that a post-clearance survey be conducted to ensure that no cultural heritage items remained on the site.

Helene Tomkins  
Everick Heritage Consultants

Innovative Heritage Solutions





## Meeting Minutes

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Project:	Cypress Crescent, Cabarita Beach
Attendees:	Jackie McDonald; Levi McDonald; Richard Robins (Everick); Tim Robins (Everick); Helene Tomkins (Everick).
Meeting date:	Saturday 25 <sup>th</sup> July 2009
Meeting time:	9.45 am (EDT)
Location:	On-site at Cypress Crescent, Cabarita Beach, NSW

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### Background:

A preliminary site survey was conducted by the Land Council and Everick Heritage Consultants on 10<sup>th</sup> July 2009 however no Aboriginal sites were detected.

As Jackie McDonald was unable to attend the community meeting being held later this afternoon, this tour was provided so she could inspect the Cypress Crescent property. This meeting formed part of the consultation process required by the DECC in their *Interim Community Consultation Requirements for Applicants* (2005).

### Minutes:

- The participants walked the rear boundary of the caravan park that currently occupies the Cypress Crescent site. The group proceeded along the Cudgen Creek Nature Reserve toward the beach.
- Jackie McDonald enquired if this area had been previously sand mined.
  - Tim Robins informed Jackie that this was most likely the case as much of this area had been sand mined.
- Jackie asked what would be for boundaries of the development.
  - Dr Richard Robins confirmed that the rear boundary would be the back of the caravan park which was already disturbed land.
- Jackie requested that a post-clearance survey be effected before development began but did not believe that there would be much, if anything, of significance here.


Helene Tomkins  
Everick Heritage Consultants

Innovative Heritage Solutions

# APPENDIX D: CUDGEN NATURE RESERVE NSW HERITAGE REGISTER LISTING

Heritage Branch Website - Online Database

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## High Conservation Value Old Growth Forest

**Item**

**Name of Item:** High Conservation Value Old Growth Forest

**Other Name/s:** Old Growth Forest; HCVOG Forest; Upper North East NSW

**Type of Item:** Landscape

**Group/Collection:** Forestry and Timber Industry

**Category:** Forest Reserve

**Location:** Lat:152.37961984 Long:-29.29947268

**Primary Address:** 15 Local Government Areas, Upper North East NSW, NSW

**Local Govt. Area:** Multiple LGAs

**Property Description:**

Lot/Volume Code	Lot/Volume Number	Section Number	Plan/Folio Code	Plan/Folio Number
<b>Boundary:</b> All those pieces or parcels of land (excluding those subject to easements and leases...) in the Upper North East Region...as described in section 1.4 of the Forest Agreement for the Upper North East Region, NSW Government Gazette, 5 March, 1999. See Physical Description referring to inclusions and exclusions and CD-Rom containing GIS formation.				

**All Addresses**

Street Address	Suburb/Town	LGA	Parish	County	Type
15 Local Government Areas	Upper North East NSW	Multiple LGAs			Primary
	Upper North East Region	Byron			Alternate
	Upper North East Region	Coffs Harbour			Alternate
	Upper North East Region	Clarence Valley			Alternate
	Upper North East Region	Glen Innes Severn			Alternate
	Upper North East Region	Clarence Valley			Alternate
	Upper North East Region	Guyra			Alternate
	Upper North East Region	Kyogle			Alternate
	Upper North East Region	Lismore			Alternate
	Upper North East Region	Clarence Valley			Alternate
	Upper North East Region	Clarence Valley			Alternate
	Upper North East Region	Richmond Valley			Alternate
	Upper North East Region	Glen Innes Severn			Alternate
15 Local Government Areas	Upper North East NSW	Ballina			Alternate
	Upper North East Region	Tenterfield			Alternate
	Upper North East Region	Tweed			Alternate

**Owner/s**

Organisation Name	Owner Category	Date Ownership Updated
Department of Environment and Climate Change	State Government	
NSW Department of Primary Industries	State Government	19 Oct 05

[http://www.heritage.nsw.gov.au/07\\_subnav\\_01\\_2.cfm?itemid=5051503](http://www.heritage.nsw.gov.au/07_subnav_01_2.cfm?itemid=5051503) [7/8/2009 11:21:01 AM]

## Statement of Significance

Old growth forest is ecologically mature eucalypt forest showing few signs of human disturbance. The upper canopy trees are no longer growing in height or spreading their crowns and show signs of old age. HCOG forest represents the best examples remaining of such forests.

**Date Significance Updated:** 29 Aug 01

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

## Description

### Physical Description:

All those pieces or parcels of land in the Upper North East Region\* described below:

- (i) depicted in the Geographic Information System theme in ESRI grid format called "hcovog1\_prtctd" in the sub-directory called "Protected\_HCVOG" on the CD-ROM, lodged with the Department of Urban Affairs and Planning and having the volume label "991221\_1516 (21 December 1999)"; and
- (ii) further described in the corresponding metadata on the CD-ROM.

But excluding those pieces and parcels of land subject to the easements and leases described below:

- (i) depicted in the Geographic Information System theme in ESRI ArcInfo coverage format called "easement and leases" in the sub-directory called "Heritage Office OG/Tenure" on CD-ROM lodged with the Heritage Office and having the volume label "001117 1805" (17 November 2000) and provided by State Forests of New South Wales; and
- (ii) further described in the corresponding metadata on the CD-ROM.

\* The Upper North East Region is the area as described in section 1.4 of the Forest Agreement for the Upper North East Region, New South Wales Government Gazette, 5 March, 1999.

National Parks and Nature Reserves in the UNE Region Containing HCVOG, as defined in the negotiations in the UNE Forest Agreement Comprehensive Regional Assessment (CRA) process, from NPWS submission and CRA-UNE NPWS Estate 27 June 2000 map.

National Parks (24):

1. Bald Rock National Park
2. Barool National Park
3. Basket Swamp National Park
4. Boonoo Boonoo National Park
5. Border Ranges National Park
6. Bundjalung National Park
7. Butterleaf National Park
8. Capoompeta National Park
9. Chaelundi National Park
10. Guy Fawkes River National Park
11. Gibraltar Range National Park
12. Indwarra National Park
13. Maryland National Park
14. Mebbin National Park
15. Mount Jerusalem National Park
16. Mount Nothofagus National Park
17. Mount Warning National Park
18. Nightcap National Park
19. Nymboi- Binderay National Park
20. Nymboida National Park
21. Richmond Range National Park
22. Warra National Park
23. Washpool National Park
24. Yuraygir National Park

Nature Reserves (19):

1. Burnt Down Scrub Nature Reserve
2. Chambigne Nature Reserve
3. Cudgen Nature Reserve
4. Limpinwood Nature Reserve
5. Moore Park Nature Reserve
6. Mount Hyland Nature Reserve
7. Mucklewee Mountain Nature Reserve
8. Tabbiemoble Swamp Nature Reserve
9. Toonumber Nature Reserve
10. Woodford Island Nature Reserve
11. Captains Creek Nature Reserve

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12. Couchy Creek Nature Reserve
13. Demon Nature Reserve
14. Mann River Nature Reserve
15. Morro Creek Nature Reserve
16. Mount-Neville Nature Reserve
17. Sherwood Nature Reserve
18. Tallawudjah Nature Reserve
19. Uralba Nature Reserve

Contained within the following Local Government Areas: Ballina, Byron Bay, Coffs Harbour, Copmanhurst, Glen Innes, Grafton City, Guyra, Kyogle, Lismore, Maclean, Pristine Waters, Richmond Valley, Severn, Tenterfield, Tweed.

**Current Use:** Forest

**Former Use:** Forest

## Historic Themes

Australian Theme (abbrev)	New South Wales Theme	Local Theme
1. Environment - Tracing the evolution of a continent's special environments	Environment - naturally evolved - Activities associated with the physical surroundings that support human life and influence or shape human cultures.	Natural - pre European settlement vegetation -
3. Economy - Developing local, regional and national economies	Forestry - Activities associated with identifying and managing land covered in trees for commercial purposes.	(none) -

## Assessment of Significance

**SHR Criteria a)** [Historical Significance] HCVOG Forest is important for its potential to demonstrate the history of their use and exploitation, as well as key sites demonstrating evidence of Aboriginal occupation over a long time period.

**SHR Criteria c)** [Aesthetic Significance] HCVOG Forest are by the nature of their tall trees areas of high aesthetic values which are valued and sought after by the community.

**SHR Criteria e)** [Research Potential] HCVOG Forest is important for its potential to contribute to our understanding of the life cycle of eucalypt forests.

**SHR Criteria f)** [Rarity] HCVOG Forest is a forest type which is now rare or uncommon at a regional and state wide basis.

They provide a valuable habitat for a wide range of native animal species including a number of rare and endangered species.

**Assessment Criteria** Items are assessed against the  **State Heritage Register (SHR) Criteria** to determine the level of significance. Refer to the Listings below for the level of statutory protection.


## Procedures /Exemptions

Section of Act	Description Title	Comments	Action Date
57(2)	Exemption to allow work	Standard Exemptions SCHEDULE OF STANDARD EXEMPTIONS HERITAGE ACT 1977 Notice of Order Under Section 57 (2) of the Heritage Act 1977  I, the Minister for Planning, pursuant to subsection 57(2) of the Heritage Act 1977, on the recommendation of the Heritage Council of New South Wales, do by this Order:  1. revoke the Schedule of Exemptions to subsection 57(1) of the Heritage Act made under subsection 57(2) and published in the Government Gazette on 22 February 2008; and  2. grant standard exemptions from subsection 57(1) of the Heritage Act 1977, described in the Schedule attached.  FRANK SARTOR	Sep 5 2008

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		Minister for Planning Sydney, 11 July 2008			
		To view the schedule click on the Standard Exemptions for Works Requiring Heritage Council Approval link below.			

 [Standard Exemptions](#) for Works Requiring Heritage Council Approval

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## Listings


Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
<i>Heritage Act - State Heritage Register</i>		01487	22 Dec 00	168	13896

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## References, Internet links & Images

Type	Author	Year	Title	Internet Links
Tourism	National Parks	2006	Visitor Information for part of High Conservation Value Old Growth Forest	<a href="#">Click here</a>
Written	NSW Government	1999	Forest Agreement for the Upper North East Region	
Other	NSW Government	1999	HCVOG on CD-ROM	

Note: Internet links may be to web pages, documents or images.



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