



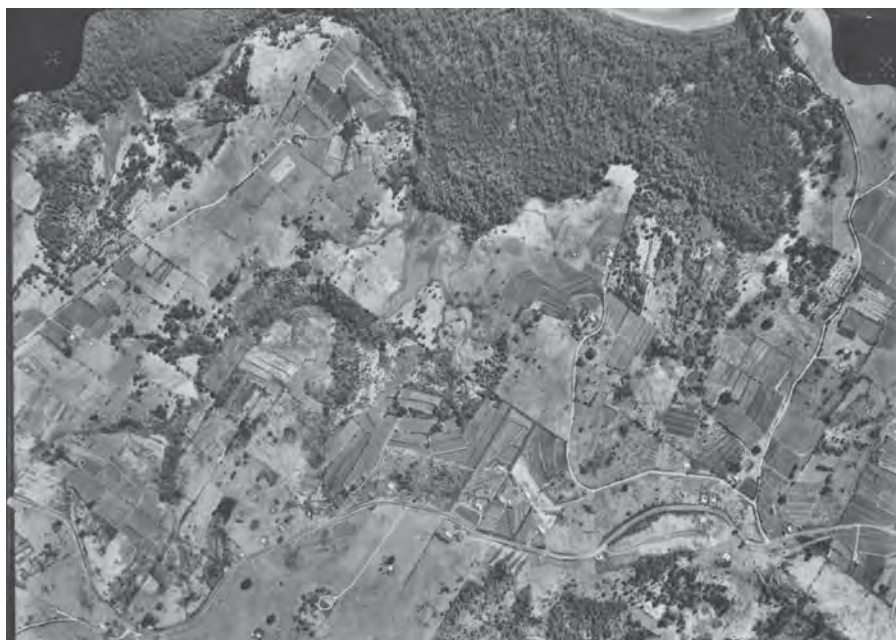
EVERICK

Heritage Consultants Pty Ltd

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CULTURAL HERITAGE ASSESSMENT



ALTITUDE ASPIRE PREFERRED PROJECT REPORT TERRANORA, NSW

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EXECUTIVE SUMMARY

The following report presents the results and outcomes of a cultural heritage assessment for Indigenous and non-Indigenous heritage items for the proposed 'Altitude Aspire' Development ('Subject Lands') at Terranora, Northern NSW. This report is to be submitted by Metricon Qld Pty Ltd in support of a Preferred Project Report to the Joint Regional Planning Panel ('JRPP').

As part of a desktop study, Everick undertook searches of the relevant Aboriginal and historic heritage registers. A search of applicable historic heritage registers identified no items of cultural heritage significance within the Subject Lands. A search requested on 5 October 2009 of the Office of Environment and Heritage ('OEH') (formerly Department of Environment, Climate Change and Water ('DECCW')) Aboriginal Heritage Information Management System ('AHIMS') identified 40 recorded sites for the broader search area. 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 ('LALC'). A survey for Aboriginal and historic cultural heritage was carried out by Cyril Scott, the Tweed Byron LALC Sites Officer, and the consultant on 22 September 2009. The majority of the Subject Lands were highly disturbed. Field survey was impeded by low surface visibility. The Land Council supported the recommendations in this assessment, noting that the likelihood of Aboriginal objects being located within the Subject Lands is 'very low.'

As part of this assessment Everick engaged in consultation with the Aboriginal community of the Tweed and surrounding regions in accordance with the then DECCW's *Draft Interim Community Consultation Guidelines for Applicants* (2005). This involved the identification of Aboriginal persons who held an interest in the cultural heritage values of the Subject Lands. Consultation with the Aboriginal community is ongoing, and substantially conforms to the OEH *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010).

The registered Aboriginal stakeholders informed Everick that Altitude Aspire and the surrounding Terranora lands were known to contain pathways that connected the lands in the south up to Bilambil Heights and then over the top to Campbell's Hill and on to Cobaki. It was also mentioned that this was an area of trade prior to European settlement. These were statements of a general nature, and did not relate to specific paths or trade areas. The purpose of these statements was to demonstrate that although little physical remnants of Aboriginal occupation would be located within the Subject Lands, the general area was used by Aboriginal people and therefore is significant to the Registered Stakeholders.



Results

- Small crop terraces dating from the mid- 20th century were identified throughout the Subject Lands. These items are not of local, regional or State significance.
- No Aboriginal objects or places were identified within the Subject Lands.

Following public display of the Evericks 2009 report on the Subject Lands, one public comment was submitted that related to cultural heritage. The Tweed Heads Environment Group Inc. raised concerns that the Consultant had:

- (a) overlooked the Tweed Shire Councils *'Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan. Tweed Shire Council. (No 11087C/2011) ('CTCHMP')* as a source of information and reference;
- (b) failed to identify nearby Aboriginal occupation sites in similar rainforest environments that may be indication of Aboriginal occupation of the Subject Lands; and
- (c) failed to consult with the members of the Aboriginal community other than the Tweed Byron Local Aboriginal Land Council ('LALC').

Points (a) and (b) above have been summarised in this Executive Summary and addressed in further detail in Section 5.6 of this report. It is acknowledged that the CTCHMP was not referenced in the 2009 version of this report. Map H (see Appendix C) of the CTCHMP covers the Subject Lands, and shows part of the Subject Lands as being area of High Probability of Aboriginal Sites (in blue). The High Probability (blue) areas are indicative only as they have not been subject to ground truthing, archaeological testing and reviews of land use history. Everick contends that the designation is unwarranted within the Subject Lands, as land use research and reference to archival aerial photography show that these areas have a history of intensive agriculture (Figures 9-11) and are lacking in 'cultural integrity'.

The authors of CTCHMP did not access this information in formulating their 'High Probability of Sites' designation. It is not suggested that the authors were at fault in failing to do so, as the time consuming nature of reviewing historic aerial photography at a regional scale makes it impracticable. It is likely therefore that the proposed Stages 6-10 were grassed over during the periods where satellite imagery were consulted (as in 2009) and the areas previous intensive agricultural usage was not evident to a desktop appraisal.

The submission by the Tweed Heads Environment Group Inc. (see Section 2.3) that the Consultant is unaware of 'rainforest sites' to the south and east is incorrect. These sites were noted and discussed in Section 5.3 in the Everick (2009) assessment. They are discussed in further detail in this section 5.6. Few



archaeological sites have been found on the kraznozem soils of the ridges and slopes forming the coastal headwaters of the Tweed River system.

A discussion of community consultation with groups other than the Tweed Byron LALC is provided in Section 2. It is of note that many of those persons listed in Section 2.2 are members of the Gold Coast Native Title Group.

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 Aboriginal stakeholders. The recommendations are cautionary in nature, and are consistent with the Agency Comments received from the then DECCW following submission of the initial Part 3A Project Application, Environmental Assessment.

Recommendation 1: Aboriginal Community Consultation

It is recommended that the Proponent continue to consult with and involve all registered local Aboriginal representatives for the project, in the ongoing management of the Aboriginal cultural heritage values. Evidence of this consultation must be collated and kept on record.

It is recommended that if the Proponent is planning to undertake ground disturbance within the areas Zoned 7(a) Environmental Protection (Wetlands and Litoral Rainforest) (Figure 2), consultation with the registered Aboriginal Stakeholders should be undertaken.

Recommendation 2: 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 (Enviroline Ph: 131 555), 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 3: 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:

- (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: *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010).

Recommendation 4: Notifying the DECCW

It is recommended that if Aboriginal cultural material is uncovered as a result of development activities within the Subject Lands, it is to be registered as a Site 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 5: 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 6: Cultural Heritage Education Program

It is recommended that An Aboriginal Cultural Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records should be maintained of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the local Aboriginal community.

Recommendations: Historic Cultural Heritage

There are no recommendations with regard to 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.

ACHCRP means the OEH *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010)

AHIMS means the DECCW Cultural Heritage Unit Aboriginal Heritage Information Management System.

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

Cultural Material means Aboriginal Objects, as defined in the NSW *National Parks and Wildlife Act 1974*.

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

DOP means the former New South Wales Department of Planning, currently the Department of Planning and Infrastructure.

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

Heritage Act means the *Heritage Act 1977* (NSW).

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

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

OEH means the NSW Office of Environment and Heritage

Project means all activities associated within the proposed MP09-0166 Altitude Aspire Development within the Subject Lands, including activities undertaken by subsequent landholders.

Proponent means Metricon Qld Pty Ltd and all employees and contractors of the Proponent.



Subject Lands means the area identified in Figures 3 and 4, which includes property described as: Lot 1 DP 304649, Lot 1 DP 175235, Lot 1 DP 781687, Lot 2 DP 778727, Lot 1 DP 781697, Lot 1 DP 169490, and Lots 40 and 43 DP 254416.

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

Tweed Byron LALC means the Tweed Byron Local Aboriginal Land Council.

1. INTRODUCTION

Everick Heritage Consultants ('Everick') has been engaged by Metricon Qld Pty Ltd (the 'Proponent') to conduct a cultural heritage assessment of Indigenous and non-Indigenous (historic) heritage items within the footprint of the proposed 'Altitude Aspire' Development at Terranora, Northern NSW ('the Project'). The assessment involved a literature review, heritage register searches, field inspections and consultation with the Aboriginal community and other local community members.

1.1 Property Description

The lands that are subject for this assessment are situated in the Tweed Shire Local Government Area (Figures 1 and 2). They are bounded on the east by Fraser Drive, on the south by existing development and to the north by SEPP 14 Wetland. The main access roads are Fraser Drive and Parkes Lane.

The Subject Lands are approximately 35.1 ha in area and comprises eight cadastral allotments (Figures 3 and 4). The property descriptions are: Lot 1 DP 304649, Lot 1 DP 175235, Lot 1 DP 781687, Lot 2 DP 778727, Lot 1 DP 781697, Lot 1 DP 169490, and Lots 40 and 43 DP 254416.

1.2 Development Proposal

The Project will include the following construction works, which have the potential to disturb cultural heritage:

- Low density residential housing lots, villas and apartments.
- A network of public open spaces including parks (Figure 4).

Each of these proposed land uses presents a range of constraints and opportunities with regard to cultural heritage. Everick has been engaged by the Proponent to work with the Aboriginal community and advise on appropriate management practices.



Figure 1: General Locality of the Subject Lands (Natmaps 2008)



Figure 2: Aerial View of the Subject Lands

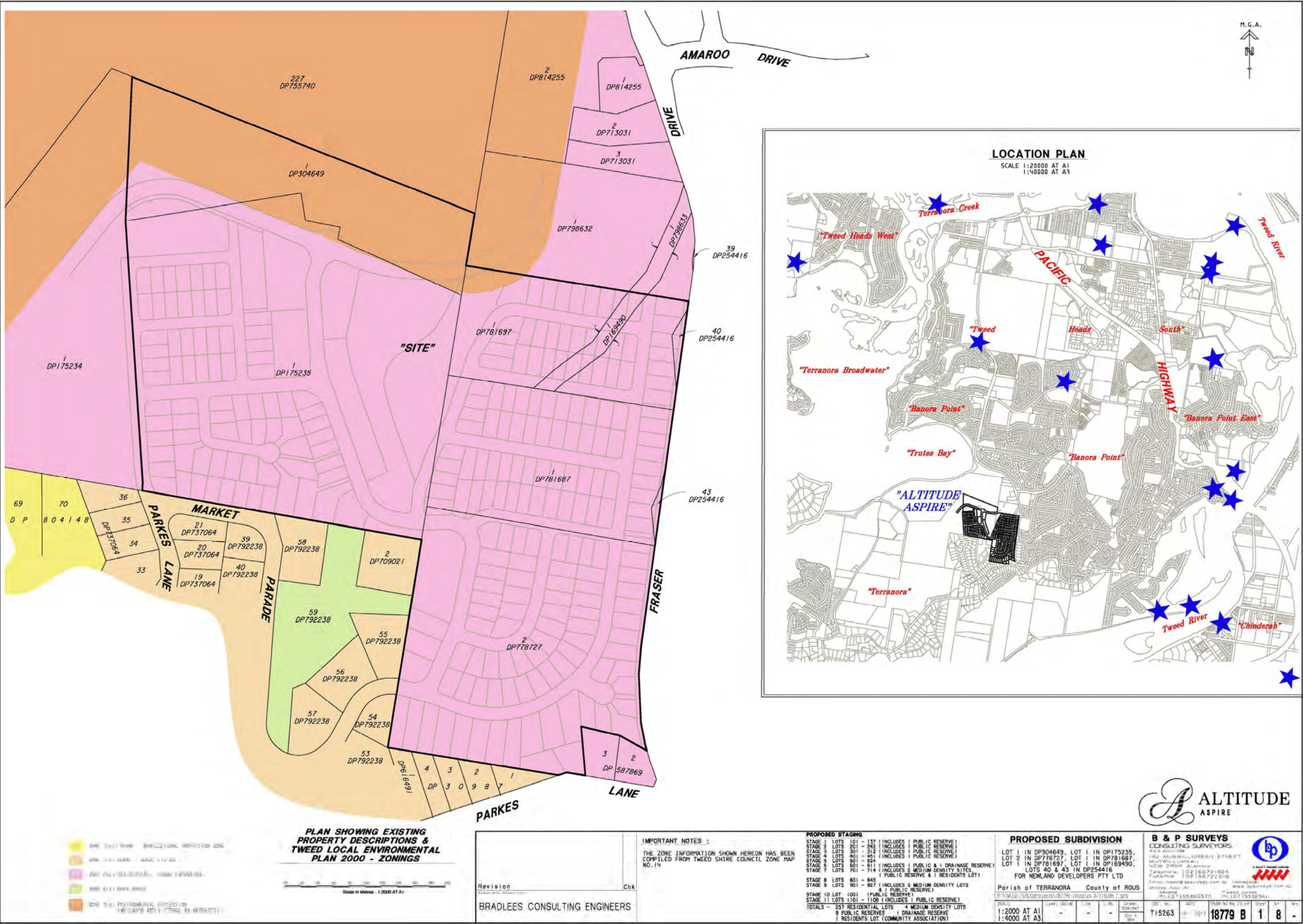


Figure 3: Plan showing existing property descriptions and zonings (B & P Surveys 2012) (Stars indicative of Aboriginal site locations in the region as per AHIMS Register)

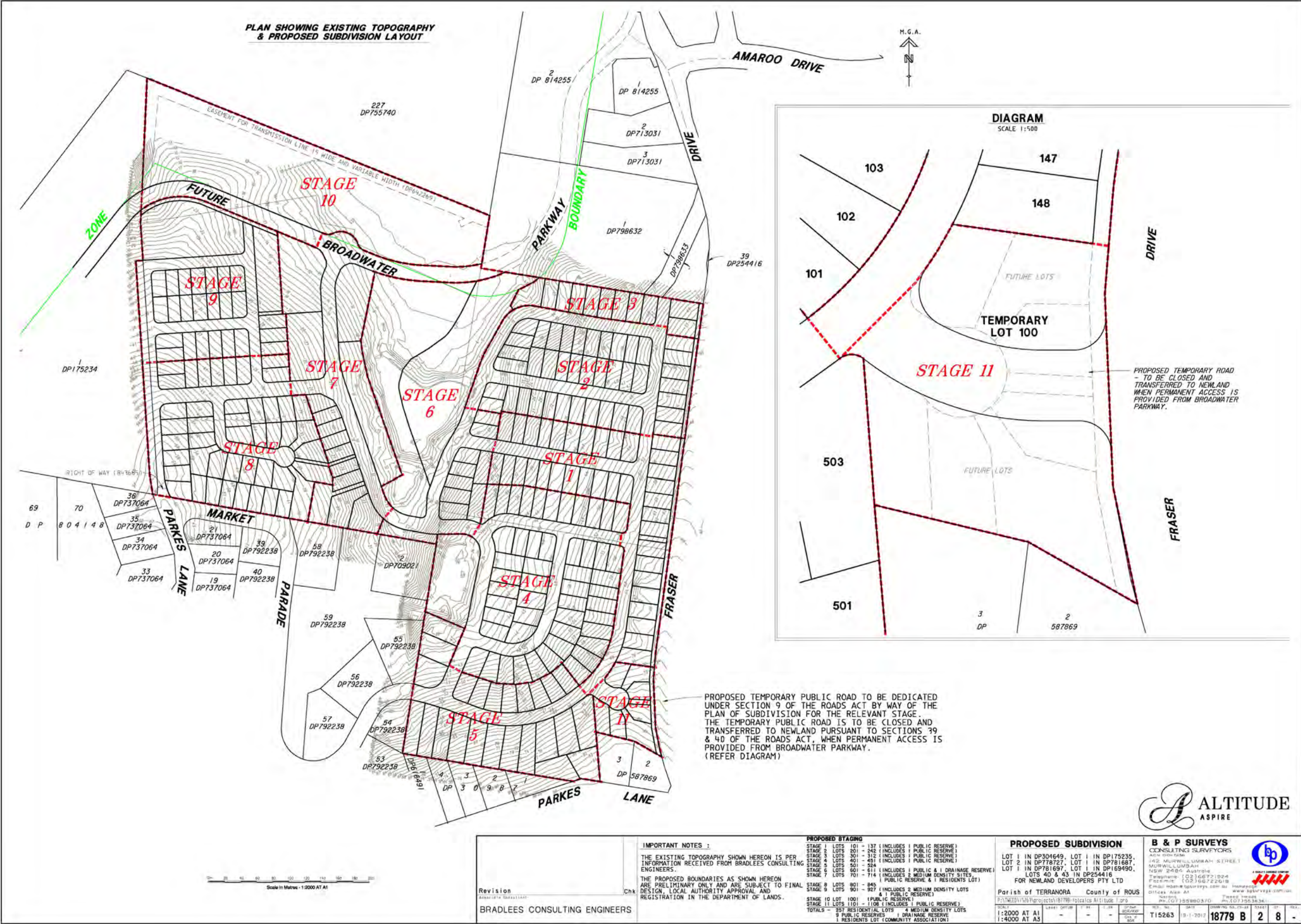


Figure 4: Plan showing proposed subdivision layout (B & P Surveys 2012)

1.3 Legislative and Planning Context

The following legislation provides the context for cultural heritage in NSW: the *National Parks and Wildlife Act 1974* (NSW), the *Environmental Planning and Assessment Act 1979* (NSW) and the *Heritage Act 1977* (NSW) and local council Environmental Plans and Development Control Plans. The Commonwealth also has a role in the protection of nationally significant cultural heritage through the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth), *The Protection of Movable Cultural Heritage Act 1986* (Cth) and the *Historic Shipwrecks Act 1976* (Cth).

For the purposes of this assessment it is the State and local statute and regulations that are relevant. This assessment was commissioned in 2009 in support of an application to the Department of Planning (DOP) under Part 3A of the *Environmental Planning and Assessment Act 1979* (NSW). The Minister for Planning (or his delegate) remains the consent authority for the Project.

As of 1 October 2010, a range of legislative amendments came into operation in New South Wales affecting Aboriginal heritage. The methods used in this assessment have been informed by these legislative amendments, which are discussed in further detail below.

1.3.1 *National Parks and Wildlife Act 1974 (NSW)*

The *National Parks and Wildlife Act 1974* (NSW) (NPW Act) is the primary legislation concerning the identification and protection of Aboriginal cultural heritage. It provides for the management of both Aboriginal Objects and Aboriginal Places. Under the NPW Act, an Aboriginal Object is any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area, regardless of whether the evidence of habitation occurred before or after non-Aboriginal settlement of the land. This means that every Aboriginal Object – regardless of its size or seeming isolation from other Objects – is protected under the Act.

An Aboriginal Place is an area of particular significance to Aboriginal people which has been *declared* an Aboriginal Place by the Minister. The drafting of this legislation reflects the traditional focus on Objects, rather than on areas of significance such as story places and ceremonial grounds. However, a gradual shift in cultural heritage management practices is occurring towards recognising the value of identifying the significance of areas to Indigenous peoples beyond their physical attributes. With the introduction of the *National Parks and Wildlife Amendment Act 2010* (NSW) the former offence provisions under Section 86 of ‘disturbing’, ‘moving’, ‘removing’ or ‘taking possession’ of Aboriginal Objects or Places have been replaced by the new

offence of ‘harming or desecrating’. The definition of ‘harm’ is ‘destroying, defacing or damaging an Object’. Importantly in the context of the management recommendations in this assessment, harm to an Object that is ‘trivial or negligible’ will not constitute an offence.

The new amendments also significantly strengthen the penalty provisions. The issue of intent to harm Aboriginal cultural heritage has been formally addressed by separating it from inadvertent harm. The penalty for individuals who inadvertently harm Aboriginal Objects has been set at up to \$55,000, while for corporations it is \$220,000. Also introduced is the concept of ‘*circumstances of aggravation*’ which allows for harsher penalties (up to \$110,000) for individuals who inadvertently harm Aboriginal heritage in the course of undertaking a commercial activity or have a record for committing similar offences. For those who knowingly harm Aboriginal cultural heritage, the penalty will rise substantially. The maximum penalty will be set at \$275,000 or one year imprisonment for individuals, while for corporations it will rise to \$1,100,000.

Where a land user has or is likely to undertake activities that will harm Aboriginal Objects, the Director General (OEH) has a range of enforcement powers, including stop work orders, interim protection orders and remediation orders. The amended regulations also allow for a number of penalties in support of these provisions. The NPWA also now includes a range of defence provisions for unintentionally harming Aboriginal Objects:

- (a) Undertaking activities that are prescribed as ‘*Low Impact*’.
- (b) Acting in accordance with the new *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (2010) (‘Due Diligence Code’);
- (c) Using a consulting archaeologist who correctly applies the OEH *Code of Practice for Archaeological Conduct in New South Wales* (2010) (‘Archaeological Code of Practice’) (see Appendix B); and
- (d) Acting in accordance with an Aboriginal Heritage Impact Permit (AHIP).

The Due Diligence Code has been applied in Section 7 of this assessment. It operates by posing a series of questions for land users before they commence development. These questions are based around establishing known Aboriginal sites in the region and assessing previous ground disturbance. An activity will generally be unlikely to harm Aboriginal Objects where it:

- (a) will cause no additional ground disturbance; or
- (b) is in a developed area; or
- (c) is in a significantly disturbed area.

Where these criteria are not fulfilled, further assessment for Aboriginal cultural heritage will typically be required prior to commencing the activity.

1.3.2 OEI Consultation Requirements

As part of the initial Director General's Requirements for the Project, the then DOP required a heritage assessment be undertaken in accordance with the DECCW (now OEI) *Interim Community Consultation Requirements for Proponents* (2005) ('ICCR Guidelines'). Subsequent to this assessment being completed in March of 2010, the DECCW issued revised guidelines titled *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010) ('ACHCRP'). The methods used in the initial community consultation were broad enough to conform to the intent of these consultation requirements.

The ICCR Guidelines provided a framework for conducting the Aboriginal community consultation process. It required a public notice of the assessment, preparation of a proposed methodology, undertaking site meetings and excavations where required, the production of a draft report to be distributed to the registered Aboriginal groups, and the production of a final report. Each of these are stages within the subsequent ACHCRP. The results of this consultation are included in Section 2 below.

1.3.3 The Heritage Act 1977 (NSW)

The Heritage Act 1977 (NSW) ('Heritage Act') is aimed at identifying and protecting significant items of historic (as opposed to Aboriginal) cultural heritage. The focus of the legislation is on identifying places of either local or state heritage significance, and protecting them by registration on heritage registers. Significant historic heritage items are afforded little protection (other than at the discretion of councils) where they are not on a heritage register.

Of note are the provisions allowing for interim heritage orders (Part 3), which grants the Minister or the Minister's delegates, (which importantly may include a local government agent) the power to enter a property and provide emergency protection for places that have not yet been put on a heritage register but that may be of local or State significance.

The Heritage Act 1977 (NSW) also makes allowances for the protection of archaeological deposits and relics (Part 6). An archaeological "relic" means any deposit, object or material evidence which relates to the settlement of the area, not being Aboriginal settlement. Importantly, a former requirement for an archaeological relic to be 50 years or older has recently been repealed. The focus is now on the item's potential heritage significance, not its age. As will be discussed below, it is highly unlikely that archaeological relics of significant historic sites are located within the Subject Lands.

1.3.4 The Tweed Shire Local Environmental Plan 2000 and Tweed Shire Development Control Plan 2008

The Tweed Shire LEP 2000 provides statutory protection for items already listed as being of heritage significance (Schedule 2), items that fall under the ambit of the *Heritage Act 1977* (NSW) and Aboriginal Objects under the *National Parks and Wildlife Act 1974* (NSW). It ensures that essential best practice components of the heritage decision making process are followed.

For listed heritage items, relics and heritage conservation areas, the following action can only be carried out with the consent of the Tweed Shire Council:

- a) demolishing, defacing, damaging or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area, or
- b) altering a heritage item or a building, work or relic within a heritage conservation area by making structural changes to its exterior, or
- c) altering a heritage item or a building, work or relic within a heritage conservation area by making non-structural changes to the detail, fabric, finish or appearance of its exterior, except changes resulting from any maintenance necessary for its ongoing protective care, which does not adversely affect its heritage significance, or
- d) moving a relic, or excavating land for the purpose of discovering, exposing or moving a relic, or
- e) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.

In addition, Council may not grant development consent without considering whether the lands contain potential Aboriginal archaeological deposits (Section 44).

The Subject Lands fall within the recently adopted Section B24 Area E Urban Release Development Code within the Tweed Shire *Development Control Plan 2008* ('DCP'). Section B24 relates largely to master planning for residential, open space and central commercial precincts within the Subject Lands and immediate surrounds. There are no specific requirements relating to cultural heritage within Section B24.

1.3.5 State Environment Planning Policy (North Coast Regional Environmental Plan 1988)

The North Coast Regional Environmental Plan 1988 ('NCREP 1988') recognises the importance of regionally significant heritage items and places to the State of NSW. It provides statutory protection for a select number of state and regionally significant heritage items and places in northern NSW. A "heritage item" means a

building, work, relic, tree or place of heritage significance to the North Coast Region specified or described in Schedule 2 or 3 of the NCREP 1988. For these items, the Ballina Shire Council remains the consent authority. Under the NCREP 1988 Council must consider:

- the views of the Heritage Council;
- the heritage significance of the item to the State or region;
- the extent to which the carrying out of the development would affect the heritage significance of the item and its site;
- whether the setting of the item, and in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained;
- measures taken to conserve and preserve the heritage item, including where appropriate, any conservation plan; and
- whether the item constitutes a danger to the users or occupiers.

The main difference between the NCREP 1988 and other Council planning controls is that it focuses on regional significance rather than local significance. It also involves referral to the NSW Heritage Council, regardless of whether the item is on the NSW Heritage Register.

1.3.6 The NSW Heritage Manual

The NSW Heritage Manual lists an 8 step process that is generally considered a best practice guide to assessing significant 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 item's heritage significance can be made.
5. Determine the item's 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' (this principle has been recognised through recent amendments to the Heritage Act removing the requirement for an archaeological relic to be older than 50 years). Rather, the focus is on identifying what aspects of a particular item may be significant.

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); and
- **Criterion (g):** An item is important in demonstrating the principal characteristics of a class of NSW's
 - o cultural or natural places; or
 - o cultural or natural environments.

1.3.7 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 occur 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 the significance of a given place or object requires, not just an assessment of the item itself, but also the item's 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 item's 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 people to whom the item is significant should be involved in the decision making process. In this respect, Everick will be seeking to consult broadly with the Aboriginal community in the coming months over the cultural values of the Subject Lands.

1.4 Aims of this Report

The aims of this Report are to:

- Identify whether the site has significance to Aboriginal cultural heritage and identify appropriate measures to preserve any significance.
- Carry out a detailed heritage assessment by a suitably qualified consultant that includes consultation undertaken with the relevant Local Aboriginal Land Council/s and Aboriginal community groups.
- Identification of the nature and extent of impacts on Aboriginal Cultural Heritage values across the Subject Lands.
- Identify any items of non-Indigenous heritage significance and, where relevant, provide measures for the conservation of such items.

1.5 Report Authorship

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

1 ABORIGINAL CONSULTATION

The results of the initial community consultation conducted in accordance with the OEH (formerly DECCW) *Interim Community Consultation Requirements for Applicants* (2005) are detailed in this section.

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, and will continue to be consulted, with regard to their concerns not only about known archaeological sites in the region, but also about cultural values such as areas with historic and spiritual significance, and other values relating to flora and fauna of the area.

We recognise that there is Traditional Owner knowledge associated with the region that will have to be treated in a confidential manner. We will be seeking advice from Aboriginal stakeholders as to the appropriate protocols to be adopted in regard to such knowledge.

2.2 The Register of Stakeholders

Everick makes a commitment to the Aboriginal community to document the consultation process as fully as possible. We will include all written comments we receive from the Aboriginal community in our final report to the DECCW. In doing so, we hope to make an informed and accurate assessment of the cultural heritage within the Subject Lands.

On the 11th, 12th and 14th of December 2009, public notices were placed in the Tweed Daily News inviting Aboriginal persons/organisations with cultural heritage interests in the Terranora area to advise Everick

Heritage Consultants in writing (Appendix B). Given the notification period fell over Christmas, respondents were given until 8 January 2010 to respond, 28 days from the date of the first public notice.

Everick also wrote to a number of Aboriginal stakeholders known to have an interest in the cultural heritage of the area. The following register of potentially interested Aboriginal stakeholders was compiled:

- (a) Tweed Byron Local Aboriginal Land Council;
- (b) Jackie McDonald on behalf of her family (Nganduwal descendants);
- (c) John Bartie on behalf of the Cavanagh family;
- (d) Harry Boyd (Ngaraakwal Senior Traditional Elder);
- (e) James Mackenzie (representing Ngaraakwal people);
- (f) Bo Lourey (representing Ngaraakwal people);
- (g) Aunty Joyce Summers;
- (h) Mark Cora;
- (i) Christine Morgan;
- (j) Roy Williams (Githabul Senior Traditional Elder);
- (k) Carol Dawney;
- (l) Deirdre Currie;
- (m) Tweed Aboriginal Co-operative Society Ltd;
- (n) Kyle Slabb;
- (o) Tracy Ritson;
- (p) Marcia Browning;
- (q) Russell Logan;
- (r) Bundjalung Elders Council Aboriginal Corporation;
- (s) Bundjalung Tribal Society;
- (t) Shared Vision Aboriginal Corporation;
- (u) Nunger Aboriginal Corporation; and
- (v) Jarjum Gangalehla Aboriginal Corporation.

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.

In accordance with the ICCR Guidelines, a proposed methodology for conducting the consultation for this assessment was distributed to the registered stakeholders on 4 January 2010. No additional Aboriginal

stakeholders contacted Everick after 4 January 2010. The Draft Preliminary Archaeological Assessment for Precincts 1, 2 and 3 Altitude Development, Terranora was also provided to registered stakeholders, which detailed the results of the archaeological survey and desktop investigation. Stakeholders were requested to provide written comments on the assessment and recommendations.

2.3 Community Meeting and On-going Consultation

A letter was sent to the registered stakeholders inviting them to attend a community meeting to be held on-site on 16 February 2010. The meeting was arranged to give the Aboriginal stakeholders an opportunity to inspect the Subject Lands and speak with representatives from Everick and Metricon (the Proponent) about any concerns that they may have. In the days leading up to the meeting phone calls were made to the stakeholders reminding them of the meeting and enquiring if they had any concerns. A few stakeholders indicated that they would not be able to attend the meeting due to prior commitments and they provided some verbal comments. Everick's representative presented on-site for the community meeting, however no stakeholders attended.

Follow-up phone calls were made to key stakeholders to confirm if they were satisfied with the assessment and if they wished to add any further information about the cultural heritage values of the Subject Lands. Everick was informed that Altitude and the surrounding Terranora lands were known to be a pathway that connected the lands in the south up to Bilambil Heights and then over the top to Campbell's Hill and on to Cobaki. It was also mentioned that this was an area of trade prior to European settlement. No secret or sacred sites were identified by the Aboriginal stakeholders within the Subject Lands. These were statements of a general nature, and did not relate to specific paths or trade areas. The purpose of these statements was to demonstrate that although no physical remnants are located within the Subject Lands, the general area was used by Aboriginal people and therefore is significant to the Registered Stakeholders.

The recommendations contained herein have received the support of the Tweed Byron LALC. The written comments from the Tweed Byron LALC are annexed as Appendix A. No concerns have been raised by the Registered Stakeholders over potential impacts of the project on Aboriginal cultural heritage or the recommendations contained in this report.

Draft copies of this assessment report were provided to the Tweed Shire Councils Aboriginal Advisory Committee ('AAC') for comment on 7 February 2012. Tim Robins of Everick attended the AAC on 2 March 2012 to further discuss the project. The members of the AAC raised no objections to the project proceeding. AAC members Ms Jacqueline McDonald had undertaken a thorough review of the assessment, and made the following points (subsequent Everick response shown in brackets):

- (a) Plan in Figure 2 should include general locations of local Aboriginal sites (Everick: plan amended)
- (b) Reference to TIndale's 'Koombamari' in Section 4.1 should be replaced (Everick: amendments made as per discussions).
- (c) The north western corner of the Project Area should be the subject of further investigations for physical cultural heritage (Everick: no archaeological evidence to support this, however, cautionary Recommendation 1 included to address this concern).
- (d) Include reference to Champagne Drive midden, Avondale Drive Midden and Piggabean Road Excavations (Everick: Discussed in AHIMS Search Section 5.3).

Following public display of the Evericks 2009 report on the Subject Lands, one public comment was submitted that related to cultural heritage. The Tweed Heads Environment Group Inc. raised concerns that the consultant had:

- (a) overlooked the Tweed Shire Council Cobaki and Terranora Aboriginal Cultural Heritage Management Plan (2006) as a source of information and reference;
- (b) failed to identify nearby Aboriginal occupation sites in similar rainforest environments that may be indication of Aboriginal occupation of the Subject Lands; and
- (c) failed to consult with the members of the Aboriginal community other than the Tweed Byron Local Aboriginal Land Council ('LALC').

Points (a) and (b) above have been addressed in further detail in Section 5.6 below. A discussion of community consultation with groups other than the Tweed Byron LALC is provided in this section. It is of note that many of those persons listed in Section 2.2 are members of the Gold Coast Native Title Group.

2 ENVIRONMENT

The Subject Lands comprise a basaltic ridge crest that slopes steeply down to the Terranora Broadwater to the north (Figures 5 and 6). At the northern boundary with the Terranora Broadwater the landscape consists of level, extensive marine plains and estuarine in-fills. The remainder of the landscape can broadly be described as rolling hills comprising smaller basalt caps. The lower slopes are relatively long (250-750m) and steep ridges and crests are narrow (50-100m) basalt caps with lower relief and gentler slopes of 10-15%. Elevations in the Subject Lands vary between 2-3 metres at the northern boundary (SEPP14 land) to a high point of 80-90 metres AHD at the south-eastern corner (Parkes Lane) (Morand 1996).

Soils are kraznozems derived from tertiary basalts that are highly erodible, particularly on the steeper slopes, and prone to stoniness. Original vegetation consisted of closed forest (rainforest) and open-forest (wet

sclerophyll) tree cover and eucalyptus forest to a lesser extent (Morand 1996:30). The understorey would have consisted of palms, vines and ground creepers. Present vegetation consists of open grasslands with scattered trees on ridge crests and upper slopes and elements of wet sclerophyll forest on the northern boundary. Camphor laurel (*Cinnamomum camphora*) is a common tree and occasional stands of brush box (*Lophostemon confertus*) and some ribbon gums (*Eucalyptus viminalis*) are regrowth indicative of the original vegetation.

Land uses in the Terranora area have included selected logging during the earliest period of European occupation followed by clearing for sugar cane production in the later nineteenth century. The Subject Lands have subsequently been used for a combination of small crop production and grazing. Cyril Scott, Sites Officer of Tweed Byron LALC, mentioned that his father worked on the neighbouring Nichol's farm during the 1970s and was engaged in cropping of beans, zucchinis and other small crops.



Figure 5: View east toward Fraser Drive showing terrace crops on hillside



Figure 6: View south-west toward Parkes Lane showing low-lying valley

3 CULTURAL CONTEXT: ABORIGINAL CULTURAL HERITAGE

4.1 Settlement, Territories and Movement

The Aboriginal people of the coastal Tweed-Brunswick Rivers were associated with a wider linguistic group the Bunjalung, which was spoken with dialect differences between the Clarence and Logan Rivers extending possibly as far west as Tenterfield. Land belonged to clan groups whose boundaries had been established in mythology (Godwin and Creamer 1984). Dialect groups composed of interlinked clan/family groups occupied distinct areas within the wider Bunjalung association (Crowley 1978). Curr provides some support 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 extending inland to Murwillumbah, which he called Minjanbal (Tindale 1940:191). Tindale's Minjanbal language group possibly contained two main land holding clans, the Yugambeh north of the Tweed River and the Coodjingburra south of the Tweed River. Joshua Bray, a postmaster and Protector of Aborigines, defines the Coodjingburra territory as, '... the part along the coast between the Tweed and Brunswick rivers, about ten miles back from the coast' (Bray 1901:9). The word for Brays 'tribe' is ku-ging corrupted to modern Cudgen. 'This was the place where the blacks get the red raddle or pigment to paint themselves with when going fighting or to corroboree' (Bray 1901:10).

Population estimates for the Tweed Valley and coast at the time of first European settlement have been based upon general reports to government authorities and on estimates from specific sightings. 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).

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 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). This 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), Oxley near Chinderah on the Tweed (Piper 1976) and in Moreton Bay (Hall 1986). The 'solid' 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 NSW.

Bray records that, '... the Coodjimburra tribe inhabiting the coast, 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).

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 movement from the coastal plain to foothills during wet seasons on the Richmond/Tweed (Moehead undated). 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 others territory unharmed' (Bundock 1898; McBryde 1978:265).

4.2 Economy – Material Culture

The Aboriginal people of the coastal plain had access to a wide variety of resource rich, food and raw material producing zones. These include extensive belts of rainforest on basalt soils, tracts of 'Wallum swamp', open beaches, estuaries, dry sclerophyll forest on poorer inland soils and littoral rainforest on foredune terraces. Records of coastal diet emphasised the role of marine foods. Ainsworth (1922) suggests the principal diet in spring and summer was, ' ... fish and oysters and the varied produce of the chase'. Ainsworth also noted that in the Ballina area, pademelons, wallabies, bandicoots, iguana, flying foxes, yams and pandanus nuts were part of the diet (Ainsworth 1922).

In the Tweed area a ships crew, who spent Christmas with Aborigines on Kirra Beach in 1875, described '... feasts consisting of roast scrub turkey, crabs, fish, oysters and pademelon' (Piper 1976:62). In the Tweed and north to Moreton Bay, the rhizome of the Bungwall fern (*Blechnum indicum*) was the major component of the vegetable diet. Thomas Pamphlett, a shipwrecked convict, observed that, fern root was a daily part of the diet and carried in bundles when the tribe moved. 'Women and children spent the bulk of the day procuring fern roots and a part of which they gave the men in exchange for fish' (Uniacke 1825:99). The heavy stone cleavers used in the pounding of the bungwall rhizome and the large lower stone on which the starch was extracted and ground have been identified on the Tweed by Jackson (1939) and Piper (1976). Use wear studies on bungwall cleavers has been conducted by Kamminga (1982). Aborigines of the Tweed Coast not only had access to the estuaries and associated ecologies, but also to the rainforest clad ridgelines which border the rivers and creeks, within a short distance of the coastline.

The written records of European observers suggest a similarity in material culture among people of the Tweed to Moreton Bay. Spears for battle and fishing, fighting clubs, hunting clubs (pademelon sticks), hafted stone axes, a range of boomerangs, wooden shields and digging sticks were noted in early sources (Byrne 1984). The barbed or pronged spear is not noted in this area (Sullivan 1978); its place taken by a single pointed fire hardened weapon (Dawson 1935). There is no evidence of the fish hook or spear thrower, common in southern areas. Women produced a range of woven string or grass bags. Strong rope for nets and binding was made from the inner bark of the kurrajong, flame tree and hibiscus (Bundock 1898 in McBryde 1978, Byrne 1984). Another carrier, ' ... was made from the Bangalow Palm, about fifteen inches long and neatly pleated at both ends with a vine over the top ... ' (West undated). Hunting was communal at times assisted by long nets erected in gullies to form barriers, with game chased into them and killed. A range of stone knives,

blades, scrapers, grinding and chopping tools were produced, in addition to the more commonly known stone axe. The physical evidence we have for the manufacture of these implements and utensils are discarded tools, debitage, tree scars and rare museum examples of wood and fibrous weapons, nets and utensils (See McBryde 1978). Stone materials are found in isolation and or at the sites of shell middens, scarred trees, stone quarries and open campsites. Evidence of ceremonial/spiritual life remains at Bora grounds, stone arrangements and natural mythological sites e.g. Mount Warning. These sites are considered by Aboriginal people and the N.S.W. DECCW to have a scientific/archaeological significance together with sites which have a high social/cultural significance to the Aboriginal community, or a combination of both.

4 DESKTOP REVIEW ABORIGINAL CULTURAL HERITAGE

5.1 Archaeological Context (Prehistory)

Evidence for occupation of coastal northern NSW and southern Qld is dated to the late Pleistocene. At Wallen Wallen Creek on North Stradbroke Island, an occupation phase dated between 20560 ± 250 years and the early Holocene period is evident. Analysis of faunal materials from the site suggests an economy initially based upon the hunting of terrestrial fauna changed to one based upon a reliance on marine fish and shellfish which may reflect 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 Sextons Hill on the lower Tweed River where an occupation phase was dated between 4,700 BP (before present) and 4,200 BP (Appleton 1993:34).

Faunal material showed a predominance of oyster, cockle and whelk by volume, in addition to remains of pademelon, kangaroo, bream, whiting, flathead and snapper. The stone component exhibited few diagnostic traits; only four artefacts appeared to be of a deliberately manufactured shape (Appleton 1993:17-18). An earlier excavation of a shell midden 2.5 km upstream yielded a basal date of 605 ± 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, which 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. 700 metres AHD) indicate people began to use the shelter about 6,500 – 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 (Hall 1986:94, 98; Ulm and Hall 1996).

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 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 (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. Fore-dune 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 (#04-6-61) investigated on the foreshore at Byron Bay had been used 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).

5.2 Previous Archaeological / Cultural Heritage Assessments

It is important to review the results of previous studies in proximity to the Subject Lands as they provide insights into locations where sites are most likely to be found and the potential variety and contents of those sites. Previous archaeological assessments in the vicinity of the Subject Lands have sampled all of the major landforms in this area, these being the banks of estuarine waterways of Terranora Creek and Terranora Broadwater and the low hills and floodplains that partially encircle these waterways.

For the purpose of this desk top review of relevant literary sources the review is confined to assessments conducted north of the Tweed River. These include Barz (1980), Bonhomme and Craib (2000), Collins (1999, 2005), Converge (2008), Hall (1990a; 1990b), Lilley (1981), Navin and Officer (2007), Ozark P/L (2006a, 2006b, 2007), Piper (1976, 1980, 1991, 1994, 1996, 2000, 2004), Robins and Piper (2006, 2007, 2008, 2009). All of these assessments have concentrated on estuarine waterways, old coastal dune formations and the Tweed River floodplain, with the exception of studies by Collins (2005), Piper (1994, 1996, 2004), and Robins and Piper (2006, 2009) that focused on the Bilambil/Terranora hills.

5.2.1 The Tweed River northern banks

The Piper assessment (1980) located ten shell middens on the northern bank of the Tweed River. These ranged from low-density shell scatters to large raised mounds of shell and artefactual materials. One site (Terranora 19) known to contain skeletal material, was the subject of a salvage excavation by Barz (1980). The study also recorded four open sites containing stone artefactual material and six isolated instances of edge ground axes. Nine bungwall cleavers, used in the preparation of fern rhizome, were among the recorded sites. The shell contents of each midden site were estuarine species, particularly oyster, cockle and whelk. All of the sites were located in a 3 km strip on the northern banks of the Tweed River extending above Barneys Point Bridge. The condition and content of these sites was further reviewed by Piper (1994) as part of an archaeological assessment of the upper Tweed River.

A study of the lower Tweed River below Barneys Point Bridge, including the Cobaki and Terranora Broadwater, was conducted by Piper (1991). Poor visibility due to dense vegetation bordering the waterways hampered the effectiveness of the survey. However, 14 estuarine shell middens were located. A suite of midden sites (Sites 6-13) on the eastern shore of Terranora Broadwater were considered to be of high archaeological and Aboriginal significance because there are few sites of concentrated deposits remaining. Five other middens (Sites 1, 2, 3, 5, and 14) were assessed as being of low to moderate archaeological significance. A shell midden on Ukerebagh Island (Site 14) was considered to have high archaeological and Aboriginal significance.

5.2.2 Terranora Creek and Terranora Broadwater

The study of the foreshores of Terranora Creek and Terranora Broadwater (Piper 1991) recorded nine midden sites between Barneys Point Bridge and Tommys Island in Terranora Broadwater within a distance of approximately 5.0 km. These sites ranged in content from thin bands of estuarine shell eroding from slopes falling to the river to compacted (20–50 cm) deposits of shell and stone artefacts many metres in extent. The shell contents of these sites were estuarine shell species; oyster, cockle and whelk. A small number of stone artefacts including a retouched flake were observed at Site 5 (# 04-02-79) and a bevelled pounder and stone axe were recorded at Site 10 (# 04-02-83). Poor visibility due to dense vegetation bordering the waterways hampered the effectiveness of the survey. However, 14 estuarine shell middens were located. The bank of midden sites (Sites 6–13) on the eastern shore of Terranora Broadwater was considered to be of high archaeological and Aboriginal significance (Piper 1991:16-18) because of there being few sites of concentrated deposits remaining.

An assessment was carried out by Piper (2000) and subsequently Robins and Piper (2007) over land at Fraser Drive, three kilometres to the north of the Subject Lands. That survey found that there were no areas of

significance to the Tweed Byron LALC in the immediate vicinity. A recorded midden site (#04-2-0088) is located within Tweed Council land at the intersection of Champagne Drive and Fraser Drive.

An excavation of a small midden on Piggabeen Road, west of the Cobakia Broadwater, revealed a basal date of approximately 350 years BP (Converge + Community 2010).

5.2.3 Cobaki Broadwater

Cobaki Broadwater, which drains the waters from the Cobaki Creek Valley, had been the subject of numerous studies including by Lilley (1981), Hall (1990a, 1990b), Collins (1999) and Everick (2009). These studies were undertaken in relation to proposed residential developments, planning proposals at Coolangatta Airport and road route options for the Pacific Highway. Large parcels of land were inspected to the north of Cobaki Broadwater and its south western banks (Lilley 1981, Hall 1990b). An archaeological area on a higher dune plain was found to extend between the eastern margins of Cobaki Broadwater and the Coolangatta Airport. A midden (# 04-02-0039) described by Hall (1990b:11) contained dense concentrations of surface and sub-surface shell, mainly estuarine (oyster, cockle and whelk) with a small proportion of beach pipi. Stone artefactual material consisted of cores, flakes and flaked pieces on chert, quartz, silcrete and pebbles of volcanic origin. Bevel edged pounders used in the preparation of fern root were described as common. This site is considered to have high archaeological significance as well as a high cultural/social significance to Traditional Owner groups and individuals north and south of the NSW/Queensland state border.

A study by Collins (1999) reassessed the area in relation to a Route Selection Study for a proposed Pacific Highway deviation. In addition to the archaeological material recorded by Hall, three open campsites and an isolated artefact were recorded on the elevated dune plain between Cobaki Broadwater and the Coolangatta Airport lands. The sites were assessed as low-density scatters of stone artefacts, fragments of oyster shell and a nodule of ochre. Raw materials were chert, silcrete and sandstone (Collins 1999:34-35).

The archaeological content and Aboriginal cultural heritage significance of the Coolangatta Airport lands, northern shores of Cobaki Broadwater and areas of Tweed Heads West have recently been reviewed by Bonhomme, Craib and Associates (2000), and Ozark Environmental and Heritage Management Pty Ltd (2006a, 2006b, 2007). The most recent body of cultural heritage assessment and archaeological investigation has been by Ozark Pty Ltd, which centred on the route of the Tugun Bypass. A May 2006 report recommended that test excavations and possibly salvage excavations be conducted in two zones (7 & 10) of the proposed route and monitoring of vegetation clearance and ground disturbing works take place in five zones (5, 7, 10, 11, 13) of the proposed route (Ozark 2006a, 2006b, 2007).

An archaeological test excavation at a site in Zone 7 produced an assemblage of 388 stone artefacts and 132 manuports or otherwise unidentifiable fragments from 28 excavation squares. The site was considered to

possess a number of unusual features: the richness of the assemblage was high; the site was intact and showed patterning that could indicate an intact cultural stratigraphy; the number of backed blades point to areas of the site likely used as knapping floors for backed artefacts (an extremely rare find in the region), the preponderance of large red, yellow and black ochre crayons with abundant signs of use suggest decorative activities were an important part of the use of the site (Ozark 2006b:52-53). A radiocarbon determination of a charcoal sample returned a relatively modern age for the site at 298 BP (or c. 1600AD) (Ozark 2006b:50).

A subsequent salvage excavation programme at pier construction impact points over the Zone 7 site produced 389 stone artefacts from 24 excavation squares comprising 12 classes of artefacts on nine types of raw materials. A radiocarbon determination of 7,258 BP was obtained from a charcoal sample. However the authors urged caution in accepting the date as one that necessarily related to Aboriginal occupation as there were no intact archaeological features from which a date could be obtained. Early dates (9,000 – 15,000 years ago) are referenced in the report as a possible context for the Tugun sites if the date can be accepted (Ozark 2007:37).

A Preliminary Aboriginal Cultural Heritage Assessment over the Cobaki Lakes Development immediately west of the Tugun Bypass recorded nineteen archaeological features. The proposed development includes slopes of the McPherson Range enclosing an embayment of coastal swamps and dune formations terminating at Cobaki Broadwater and Cobaki Creek (Robins and Piper 2008). Two patterns of archaeological site distribution were identified. The first is a low density distribution of stone artefacts throughout the mid and lower slopes of the McPherson Range. Four isolated artefact sites were found on the lower slopes and one on the upper slopes (Robins and Piper 2008).

The second pattern of archaeological site distribution reflects patterns found in the sand rises from Cobaki Lakes north to the Coolangatta Airport and west to the foothills of the McPherson Range. An extensive scatter of cultural material, including a diversity of artefact types on diverse raw material and estuarine shells, were found throughout this area. Due to development works much of this material has been disturbed. Nevertheless, the pattern identified indicated that the sand rise was a place that was used by Aboriginal people for a variety of tasks, including extracting the resources of Cobaki Lake, and the wetlands encompassed by the sand rise. A discontinuous artefact scatter with fifteen archaeological features extends on the outer margins of a sand rise enclosing a drained swamp. A particularly concentrated artefact scatter potentially containing sub-surface materials was recorded as AHIMS site (#04-01-0152) with the DECCW (Robins and Piper 2008).

A salvage excavation of a small disturbed midden deposit 200m above the entrance to Cobaki Broadwater was found to be composed of estuarine shell species, mainly oyster, and one stone artefact. The report postulates the shell deposit represents a ‘...single ephemeral event – possibly a single meal for a small group of Aboriginal people...’ The archaeological significance of the site was assessed as low. The social/cultural significance of the site to the local Aboriginal community was assessed as culturally significant (Converge 2008:26).

5.2.4 Coastal uplands: Terranora and Bilambil Heights

The results of previous field assessments indicate the main concentration of recorded Aboriginal sites is in the immediate vicinity of the waterways of the Tweed River estuary, be it a small proportion of the original number. A far lesser concentration of recorded sites occurs in the upland areas of Terranora, Bilambil, Carool and Tumbulgum which form catchments adjacent to the coastal plain and the creek systems, which flow from them. Few studies have been conducted in these areas where the impact of land clearing is arguably greatest and the spread of urban development less concentrated.

A study by Piper (1994) of an earth/rock quarry site above Duroby Creek could find no evidence of Aboriginal materials. The quarry location is 1.5 km west of the Subject Lands on a ridgeline terminating at the Duroby Creek flats. An assessment (Piper 1996) over approximately 100 ha of ridge crest and slopes on red/brown krasnozem soils overlooking Cobaki Creek produced a similar result. An archaeological assessment by Piper (2004) over 12.3 ha at McAllisters Road approximately 4.5 km to the north-west of the Subject Lands found no Aboriginal archaeological evidence in an area of moderate red/brown krasnozem soil slopes. The Tweed Byron LALC had no objections to the proposed rezoning of the land to Residential (Piper 2004:27). Collins (2005) assessment over areas of the Bilambil hills also produced a nil result.

Robins and Piper (2006) investigated 14.0 ha of the Terranora plateau over an area where a stone axe had previously been recorded and collected, however no further Aboriginal artefacts were found. A recent assessment conducted by Robins and Piper (2009) for the proposed Rise Development in Bilambil Heights located no Aboriginal items. The land is highly disturbed through clearing and cultivation over many years. The total evidence of Aboriginal use/occupation of the coastal uplands of the Terranora plateau is restricted to a small number of isolated stone artefacts. The effectiveness of archaeological assessments in these uplands is invariably diminished by poor surface visibility.

5.3 The DECCW Aboriginal Heritage Information Management System (AHIMS)

A search of the DECCW AHIMS register indicated that no registered or restricted mythological/spiritual sites had been recorded for the Subject Lands. A broader search indicated 40 sites had been recorded in the surrounding area within 5 km of the Subject Lands. Of these, the AHIMS search provided coordinates for 11. The other sites are listed on the Bundjalung Mapping Project (BMP). A plan of the site locations has been removed from this assessment to prepare the report for public display.

The results of the site search do not indicate whether sites are still in existence. Sites recorded as single artefact finds – for example a single stone axe – are not listed in the results of the search.

The majority of recorded sites are middens clustered along the shores of Terranora Creek, the eastern banks of the Terranora Broadwater and the lower slopes of the Terranora ridge adjoining the northern banks of the Tweed River. The main concentration of sites is along the margins of the waterways of the Tweed River, Terranora Creek and Terranora Broadwater. Two of these sites (#04-02-0006 and #04-02-0071) have been excavated and produced dates of occupation of c. 600 BP (Barz 1980) and c. 4700 BP (Appleton 1993) respectively. Both were salvage excavations and both sites are now under residential developments.

Two isolated finds of stone artefacts (# 04-2-0021, #04-2-0026) are recorded on the crest of the Terranora ridge. These are edge ground stone axes shown to the consultant when compiling a report on archaeological sites between Banora Point and Terranora (Piper 1980). The isolated artefact (#04-2-0026) was a flaked axe found during earthworks in the vicinity of a dam constructed near Winchelsea Way, Terranora. The axe was found and removed from the property prior to 1974. In addition to site #04-2-0026 there are four sites within 1 km at the base of an escarpment and steep slopes to the east. These are two open campsites (#04-2-0028, #04-2-0030) to the south, and an open campsite (#04-2-0025) and midden (#04-2-0024) to the south-east. The three sites are located on the lower slopes adjoining the river flats of the Tweed River.

Few of the sites recorded on the northern bank of the Tweed River are still in existence. Residential developments on river foreshores have eliminated numbers of registered sites. The largest midden sites were mounds on low spurs projecting from the eastern base of Terranora ridge. One of these sites, Terranora 12 (#04-02-0024) survives. The only group of sites not heavily disturbed by development is the midden sites on the eastern bank of Terranora Broadwater and Terranora Creek (#04-02-0080 to #04-02-0085). These are middens of estuarine shell species on the foreshores of extensive shellfish gathering areas, immediately below high basalt soil ridges.

It would appear that the occupants of all the estuarine sites on the lower Tweed River waterways had immediate access to extensive tracts of rainforests. However, no occupation sites have been found on the higher elevations which supported sub-tropical rainforests. Other than isolated artefact sites there have been no other site types recorded on the higher plateaus and slopes of Terranora. However this area is well within the hunting and gathering range of the inhabitants of substantial sites on the Tweed River.

5.4 The Heritage Registers - Indigenous Cultural Heritage

The following heritage databases have been reviewed on 16 October 2009 to assess the potential for Indigenous heritage attributes within the Tweed LGA and Subject Lands.

- ***The World Heritage Register***
- ***The National Heritage List*** (Australian Heritage Council)
- ***Commonwealth Heritage List*** (Australian Heritage Council)
- ***Register of the National Estate*** (Australian Heritage Council)
- ***The State Heritage Register*** (NSW Heritage Office)
- ***Tweed Local Environment Plan 2000*** (Updated March 2009)

There are no Indigenous places listed in these heritage registers within or in close proximity to the Subject Lands.

5.5 Historic Aerial Photography Analysis

Analysis of historic aerial photographs of the Subject Lands was undertaken in order to develop a picture of past disturbance for the site. This information could then be used to aid in the predictive modelling of potential sites. Aerial photographs from 1962, 1970, 1976, 1987 and 2009 were all assessed in this context (Figure 7-11). Together, they present a picture of extensive ground disturbance. Terracing and use for cropping (particularly evident in the 1970 aerial photograph) would likely have resulted in the destruction of any archaeological sites over most of the property. When compared with the Project Application plans, it is apparent that the potential for archaeological material to remain within the Subject Lands would appear to be largely limited to the areas of environmental protection.



Figure 7: 1962 Aerial photograph of the Subject Lands



Figure 8: 1970 Aerial photograph of the Subject Lands



Figure 9: 1976 Aerial Photograph of the Subject Lands



Figure 10: 1987 Aerial Photograph of the Subject Lands



Figure 11: 2009 Aerial Photograph of the Subject Lands

5.6 The Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan (2011)

The *'Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan. Tweed Shire Council. (No 11087C/2011) ('CTCHMP')* applies to the Subject Lands. The document contains maps showing areas of Registered Sites in red and areas of High Probability of Sites in blue. Areas indicated in blue are recommended as requiring cultural heritage/archaeological assessment prior to development consent. Map H includes the Subject Lands (see Appendix C)

With the exception of areas (red) containing specific registered sites and sites contained within the Tweed Byron LALC's Bundjalung Mapping Project database, the High Probability (blue) areas are indicative only as they have not been subject to ground truthing, archaeological testing and reviews of land use history. Areas of residential development, intensive agriculture, quarrying and the like are considered by the authors as lacking 'cultural integrity'.

The CTCHMP (Map H) designates that Stages 1-5 & 11 of the Project (Preliminary Drawing 12/1/2012) are excluded from any form of Aboriginal Cultural Heritage designation due to the visible intensity of past agriculture, thereby destroying any cultural integrity it may have had. Everick (2009) have confirmed this conclusion through field inspection, land use research and archival aerial photography.

The CTCHMP (Map H) designates that Stages 6-10 (Preliminary Drawing 12/1/2012) as being situated within a blue area of 'High Probability of Sites'. Everick contends that the designation is unwarranted as land use research and reference to archival aerial photography show that proposed Sections 6-10 have an identical history of intensive agriculture (Figures 9-11) as proposed Stages 1-5 & 11 and therefore equally lacking in 'cultural integrity'.

The authors of CTCHMP did not access this information in formulating their 'High Probability of Sites' designation. It is not suggested that the authors were at fault in not doing so, as the time consuming nature of reviewing historic aerial photography at a regional scale makes it impracticable. It is likely therefore that the proposed Stages 6-10 were grassed over during the periods where satellite imagery were consulted (as in 2009) and the areas previous intensive agricultural usage was not evident to a desktop appraisal.

The submission by the Tweed Heads Environment Group Inc. (see Section 2.3) that the Consultant is unaware of 'rainforest sites' to the south and east is incorrect. These sites were noted and discussed in Section 5.3 in the Everick (2009) assessment. They are discussed in further detail in this section.

Few archaeological sites have been found on the kraznozem soils of the ridges and slopes forming the coastal headwaters of the Tweed River system. The brief details of those sites the Tweed Heads Environment Group submission refers to are as follows. Terranora 14 (O4-2-0026) a flaked axe and Terranora 15 (O4-2-0027) two axes one with hafting groove. Sites of single artefacts are not normally referred to as occupation sites. Technically two artefacts within 50 metres of each other can be referred to as an occupation site. The Aboriginal community will generally regard all sites as evidence of their prior occupation and refer to as occupation sites. A shell scatter, Terranora 17 (O4-2-0029) on the site of the old Banora Point Public School is approximately 2.25km east of the proposed development, following the ridge crests. While these sites are part of the broad cultural landscape, there has been no cultural and/or archaeological links demonstrated between these sites and the Subject Lands.

5.7 Potential Site Types: Aboriginal Archaeological Sites in Coastal Uplands

Given the previous land clearance and subsequent land use practices, the survival of *in situ* Aboriginal sites would be unlikely. It is fair to say that the ground surface for the Subject Lands has been considerably altered. All rainforest trees suitable for the purposes of weapons, shield containers and coverings have been removed.

It is most likely that Aboriginal camp sites, if they had existed, would be found on lower slopes adjacent to Cobaki Creek. Aboriginal occupants of the area would have had access to marine food resources principally fish, together with the terrestrial foods of the rainforest and to a lesser extent vegetable foods in the form of the congevoi lilly, Moreton Bay Chestnut and seasonally available fruits and berries. Stone resources include

basalt river pebbles commonly used in the production of edge ground stone axes and fine grained siliceous stone used to produce small or wood working tools. The use of rainforest/sclerophyll forest by Aboriginal groups is not a well researched one, the reason being that few sites have been located unless in rock shelters protected from land clearing. However, the use of rainforests for both food, medicinal resources, together with their technological materials, is referred to by Bundock (1898), Ainsworth (1922) and Byrne (1984). The Terranora upland would have fallen within the range of Aboriginal groups exploiting the estuarine Terranora Broadwater. Single artefacts and disturbed artefact scatters appear to be the only types of sites that would be found. However, some sites, including those comprising or containing shell have been recorded in ridge saddles on the tops of hills (e.g. Converge 2008; J. McDonald *pers.comm.*). Other forms of sites, such as stone arrangements and ceremonial grounds are unlikely to be found due to the nature and high degree of disturbance. Burials would be unlikely to survive due to the soils strong acidity (Morand 1996).

5.8 A Predictive Model of Potential Archaeological Site Types

On the basis of a review of previous studies in the region, a search of the OEH AHIMS database and analysis of the history of site disturbance, potential archaeological site types and site locations are summarised below.

- Middens are considered a possibility; however the areas with the greatest potential for middens is the low-lying floodplain to the north of the proposed development precincts.
- Human burials have a low potential to survive due to the highly acidic, corrosive properties of the soil on organic materials.
- Due to the impacts of land clearing there are no trees of sufficient age in the proposed area of development, therefore scarred or carved trees are not possible.
- Land clearing would also have scattered artefacts and shell relating to open campsites.
- Rock resources suitable for stone tool fabrication include basalt and siliceous stone types.
- Single artefacts or artefact scatters *in situ* may be found in undisturbed or minimally disturbed areas.
- Bora/Ceremonial areas which may have contained above ground earth or rock structures would have long since been cleared and levelled had they existed.

5 DESKTOP REVIEW HISTORIC CULTURAL HERITAGE

6.1 Previous Archaeological / Cultural Heritage Assessments

An assessment of the Banora Point upgrade of the Pacific Highway was undertaken by Navin and Officer in 2007 for the NSW Road and Traffic Authority. The upgrade comprised a 2.5 km length of road between the northern end of Barneys Point Bridge and the southern end of the Tweed Heads Bypass. These works are approximately 3.0 km to the north-east of the Subject Lands. The report was prepared for a proposed Pacific Highway alignment with six lanes and associated works. It details the results of their investigation of three archaeological features representing sites of Indigenous and non-Indigenous cultural heritage.

Of relevance to this report was the identification of two groups of crop terraces supported by dry stone walls. The two systems may represent different periods of construction, and different portions of the walls were probably constructed by different individuals. The latest phase of construction was in the mid-20th Century. The terraces were used for growing small crops. Aboriginal and South Sea Islander labour was used extensively for crop picking. Navin and Officer (2007:82) suggested that the Banora Point Agricultural complex has a high significance within a local context.

An assessment of the Rise residential development at Bilambil Heights (former Terranora Country Club) was undertaken in 2009 by Everick Heritage Consultants (Robins and Piper 2009). This assessment identified a number of stone terraces that had been built in the 1950s and 1960s to support a cropping industry similar to that within the Subject Lands. The crop terraces were used for growing beans, tomatoes, sweet potatoes, zucchini and bananas. The terraces were constructed by dozer, and did not demonstrate particularly high levels of ingenuity or aesthetic appeal. Using the NSW Heritage Manual Criteria, they were assessed as potentially being of local heritage significance under Criteria G. Items that fulfil Criteria G have a strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons. In the instance of the stone terraces of Bilambil Heights, the group with the special association was identified as the Aboriginal and Islander communities who worked in the fields.

6.2 Heritage Registers

The following heritage databases were reviewed to assess the potential for European heritage attributes within the Tweed LGA and the Subject Lands.

- ***The World Heritage List***

- ***The National Heritage List*** (Australian Heritage Council)
- ***Commonwealth Heritage List*** (Australian Heritage Council)
- ***Register of the National Estate*** (Australian Heritage Council)
- ***The State Heritage Register*** (NSW Heritage Office)
- ***Tweed Local Environment Plan 2000 (Updated March 2009)***

No listed items of cultural heritage were identified within or in close proximity to the Subject Lands. While other nearby shires (See Ballina LEP 1987) list dry stone walls listed on their heritage registers, the Tweed Shire LEP listed no other dry stone walls or terraces in the region.

7. ABORIGINAL CULTURAL HERITAGE DUE DILIGENCE ASSESSMENT

As discussed in Section 1.3.1 above, the Due Diligence Code recommends a staged analysis of cultural and archaeological factors. This section discusses the analysis of the Subject Lands when compared against this Code.

7.1 Step 1: Will the activity disturb the ground surface?

Yes. Refer to Section 1.2 for a full description of the project activities.

7.2 Step 2a: Search of AHIMS Database

There are no registered Aboriginal cultural heritage sites within the Subject Lands. The nearest sites are a series of middens ((#04-02-0006 and 04-2-0007) approximately 1.3 km to the south east of the Subject Lands on the banks of the Tweed River. The Bundjalung Mapping Project also lists a restricted place of Aboriginal significance approximately 1 km north east of the Subject Lands.

7.3 Step 2b: Is the activity in an area where landscape features indicate the presence of Aboriginal cultural heritage?

Aboriginal objects are often associated with particular landscape features such as ridge-lines, waterways and wetlands. The Due Diligence Code lists a range of landscape features that are considered likely to contain Aboriginal cultural heritage. These include proximity to watercourses, ridgelines and resource areas.

The Subject Lands is approximately 300 m from the nearest permanent water source, being the Terranora Broadwater. However, the lands between the Broadwater and the Subject lands are low lying, and would have contained traditional resources. A prominent gully runs through the Subject Lands, and this gully may have contained ephemeral water sources prior to European landscape modification.

7.4 Step 2c: Is there evidence of past ground disturbance?

The disturbance analysis in this report demonstrates that the impact of prior events of vegetation clearance, drainage, the construction of embankments and retaining walls and extensive cultivation would have been destructive for the integrity of any Aboriginal objects located within the Subject Lands (see section 5.5). Such impacts have occurred on multiple occasions over at least the past 50 years and constitutes significant disturbance of the ground, consistent with the meaning in the Due Diligence Code (see Section 1.3.2).

Applying the Due Diligence Code, it is reasonable to conclude that as there are no known Aboriginal objects or a low probability of objects occurring in the Subject Lands, and there is evidence of past ground disturbance, the following steps in the Due Diligence Code are not required as part of this assessment:

- (a) Determining if the activity can be avoided.
- (b) A desktop cultural heritage / archaeological assessment.
- (c) A detailed archaeological survey.
- (d) Further investigations and impact assessment.

Never-the-less, an archaeological survey, community consultation and cultural heritage assessment was commissioned for this Project.

8. FIELD SURVEY: ABORIGINAL & HISTORIC CULTURAL HERITAGE

8.1 Aboriginal Participation

The Subject Lands are within the area administered by the Tweed Byron LALC. It was agreed Sites Officer Mr. Cyril Scott would represent the Land Council's interests as per its usual procedures. 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 any sites within the Subject Lands that were considered culturally significant by the Land Council. The assessment was carried out by the Tweed Byron LALC Sites Officer and the consultant on the 22 September 2009. The Land Council's views on the conduct and outcomes of the assessment are contained in Appendix A of this report.

8.2 Survey Methods

The survey of the Subject Lands was undertaken on foot. The inspection was guided by the predictive modelling detailed above. Given the relatively low ground surface visibility, an opportunistic survey strategy was adopted, targeting all exposed soils. The emphasis of the survey was on locating surface evidence, particularly evidence of shell scatters or middens, stone artefact scatters or individual artefacts, and ash-stained earth that might represent fireplaces (hearths). Photographs were taken as a record of general features and conditions, the degree of surface visibility and the content of any sites found. Notes were made of the degree of surface visibility, the area of visibility, ground cover, land uses and any other relevant features. Overviews of surface conditions and site detection conditions are given in Sections 7.3 and 7.4. The survey coverage is shown in Figure 12 below. No items of Aboriginal cultural heritage were identified during this survey.

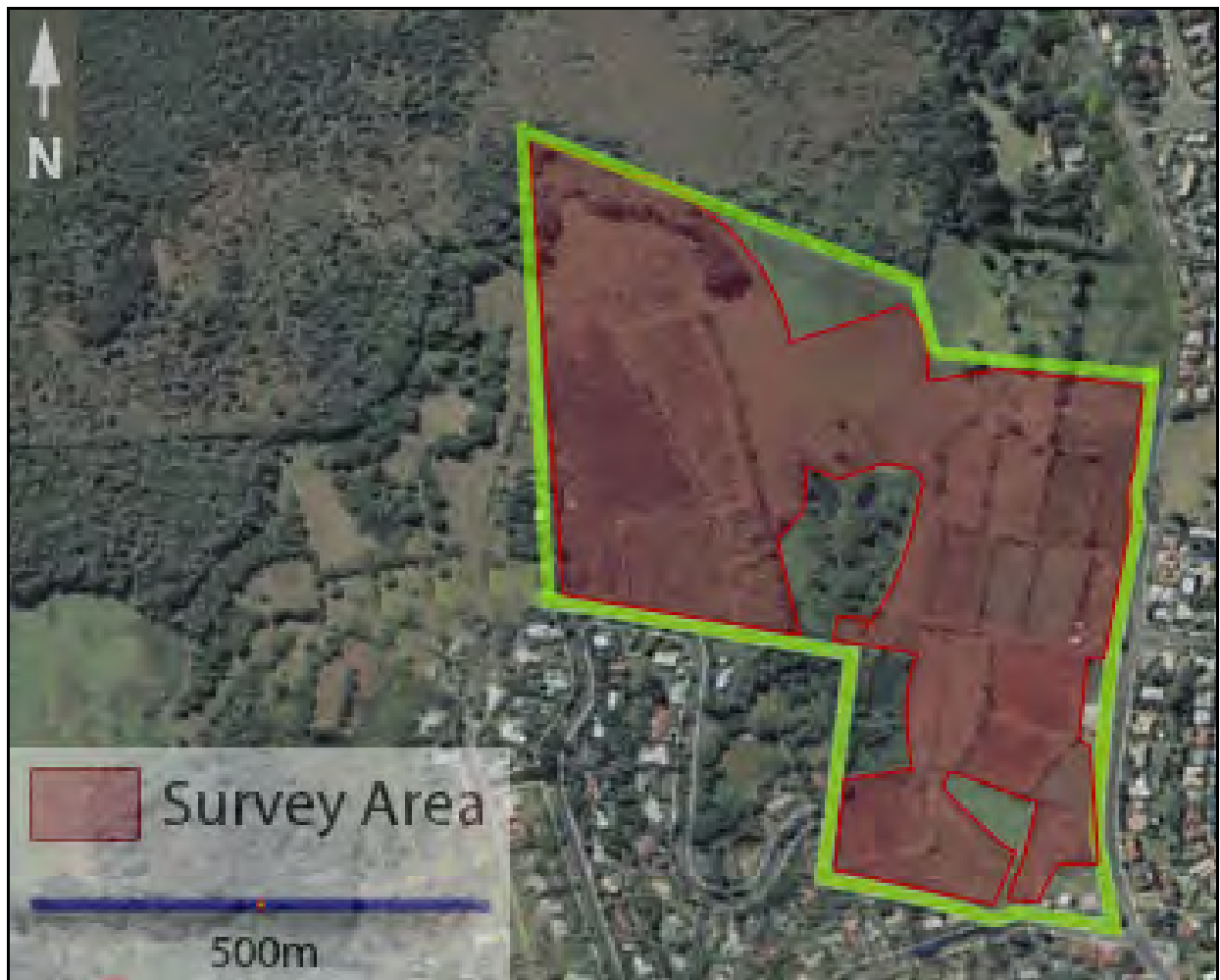


Figure 12: Survey Coverage

8.3 Survey Coverage

This is a highly disturbed landscape that straddles two ridges and an intersecting valley. The western ridge runs in a north-west to south-east direction and the eastern ridge runs in a north-east to south-west direction. This land had been extensively cleared and modified. The mid-slopes of both ridges have been extensively terraced. An earthen-wall dam has been constructed in the valley to collect runoff from the steep ridge slopes (Figures 13-16). Survey coverage was approximately 70 % of this area. No Aboriginal sites or relics were found



Figure 13: Subject Lands view east to Fraser Drive



Figure 14: Subject Lands view east from south-west boundary toward Fraser Drive



Figure 15: Subject Lands view south-west across valley and dam toward Parkes Lane



Figure 16: Subject Lands view north-west toward houses at Market Pde

8.4 Constraints to Site Detection

Site detection for all areas was highly constrained by dense vegetation cover. Surface exposure was limited to erosion areas, particularly in gullies, cattle pads, tracks and roads. It is estimated that only 5 - 10% of the ground surface was visible (Figures 17-19). The constraints to site detection are commonly influenced by post settlement land uses. The area of surface exposure and the degree of surface visibility within exposed surfaces are usually the product of 'recent' land uses e.g. ploughing, road construction, natural erosion and accelerated (man made) erosion (McDonald, Isabell, Speight 1990:92). The following broadly describes the conditions for site detection indicated.

Marine plains and estuarine in-fills. Northern boundary. Elevation 0-3m with slopes of <1%. This is an extensively cleared closed-swamp complex comprising vegetation areas of grass, sedge and rushland. Approximately 5% of area was surveyed. Surface exposure approx. 0-5%. Surface visibility approx. 0-5%.

Lower hill-slopes. Elevation is approx. 3-30m in places with slopes of 10-20% and up to 33% in places. Partly to extensively cleared open forest (wet sclerophyll). Approximately 80% of area was surveyed. Surface exposure approx 5-10%. Surface visibility approx. 80%.

High to mid hill-slopes. Elevation is approx. 30-90m with gentler slopes of 10-15%. Extensively cleared and highly disturbed landscape used for rural farmland (small crops and grazing). Approximately 80% of area was surveyed. Surface exposure approx. 20%. Surface visibility approx. 80%.



Figure 17: Marine plains exhibit low surface exposure and visibility



Figure 18: Heavily grassed lower hill slopes with generally low surface exposure



Figure 19: Disturbed cultivation areas with good ground surface visibility

9 RESULTS OF THE CULTURAL HERITAGE ASSESSMENT

9.1 Indigenous Cultural Heritage

There were no Aboriginal Objects or Places identified within the Subject Lands. There are no areas of particular archaeological sensitivity within the Subject Lands that will be disturbed as part of the Project development activities.

9.2 Historic Cultural Heritage

9.2.1 Historic Heritage Items

The survey identified numerous crop terraces that were considered items of potential local heritage significance

(Figure 20-21). These have been assessed against the criteria provided in the New South Wales Heritage Manual (see Section 1.3.3).

The bulk of the land under assessment was owned by James Buchanan during the 1870s and 1880s. The majority of early selections at Terranora were cleared for the purpose of sugar cane cultivation under contracts to the CSR. A "Travelling Correspondent" 1906 wrote..."The bulk of the cane at Terranora is grown by white labour and just the kanakas and other coloured races are having a particularly hard time of it as the bounty regulations prevents their employment." (Keats 1996:118). Construction of stone walls was a common method of land clearing without the expense of fencing.

The following information was provided by Graheme Abernathy whose property comprised the bulk of Precinct 1. *My grandfather farmed the property in 1913, dairying with bananas and a bit of sugar. Bananas were wiped out on the Tweed by 'bunchy top' in the 1930s. He made walls using a horse and dray. These were good ones hand stacked like Scotland. There were lots of little walls. In the 1970s and 1980s we rebuilt the walls, where there were eight we brought them back to two. There are none of the original walls left. A lot of stone was taken to Kirra for beach protection works during the 1974 cyclone. On the neighbouring Nichols property thousands of tons of stone was quarried from pits up to 40-50 feet deep including enormous pieces of columar basalt.*

No other items of potential heritage significance were identified in the assessment.



Figure 20: Substantial boulder wall (5m x 3m) overgrown with vegetation



Figure 21: View east illustrating position of terraces on hillside

9.2.2 Crop Terraces Statement of Significance

The crop terraces within the Subject Lands do not meet any of the criteria for local cultural heritage significance as listed in the NSW Heritage Manual. The heritage values of the walls within the Subject Lands should be distinguished from other, older walls in the Terranora and Bilambil Heights region. They do not represent any particular levels of ingenuity in construction or aesthetic value. They are not known to hold any particularly high levels of cultural value to any groups of the Tweed.

10 RECOMMENDATIONS

The following recommendations are based upon the results of the desktop review, field inspection and consultation with the Sites Officer of the Tweed Byron LALC and Aboriginal stakeholders. The recommendations are cautionary in nature, and are consistent with the Agency Comments received from the then DECCW following submission of the initial Part 3A Project Application, Environmental Assessment.

10.1 Indigenous Cultural Heritage

Recommendation 1: Aboriginal Community Consultation

It is recommended that the Proponent continue to consult with and involve all registered local Aboriginal representatives for the project, in the ongoing management of the Aboriginal cultural heritage values. Evidence of this consultation must be collated and kept on record.

It is recommended that if the Proponent is planning to undertake ground disturbance within the areas Zoned 7(a) Environmental Protection (Wetlands and Litoral Rainforest) (Figure 2), consultation with the registered Aboriginal Stakeholders should be undertaken.

Recommendation 2: 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 (Enviroline Ph: 131 555), 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 3: 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:

- (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: *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010).

Recommendation 4: Notifying the DECCW

It is recommended that if Aboriginal cultural material is uncovered as a result of development activities within the Subject Lands, it is to be registered as a Site 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 5: 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 6: Cultural Heritage Education Program

It is recommended that An Aboriginal Cultural Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records should be maintained of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the local Aboriginal community

10.2 Historic Cultural Heritage

There are no recommendations regarding historic cultural heritage.

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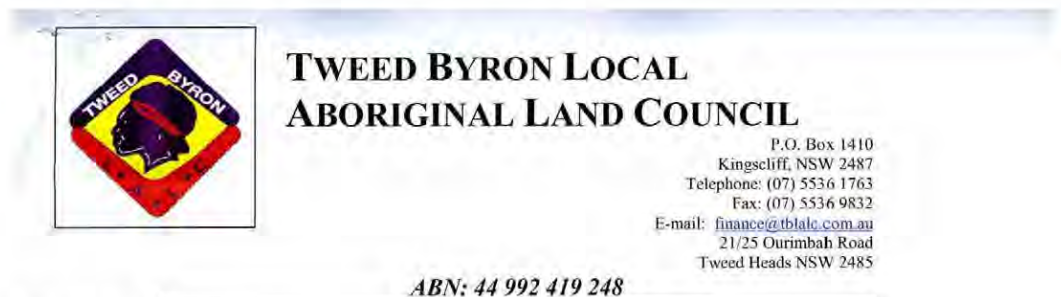
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APPENDIX A. CORRESPONDENCE FROM TWEED BYRON LALC



Helen Tomkins
Everick Heritage Consultants
47 Arthur Terrace
Red hill QLD 4059

Dear Helen

RE: Altitude One Development, Terranora nsw

The Tweed Byron Local Aboriginal Land Council has been consulted throughout the course of the Aboriginal Heritage Assessment of the Altitude One Development, Terranora undertaken by your office. We have reviewed a copy of the report and the Tweed Byron local Aboriginal Land Council are satisfied with the outcome.

On the 22nd of September 2009 we Cyril Scott had accompanied Helene Tomkins from Everick had inspected land at Altitude One. There were **no** artifacts found on the walk over, visibility was at 80%.

Based on the impact of its past and current land use, chances of finding Aboriginal sites or relics within the area is very low.

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

APPENDIX B. PUBLIC NOTICE

Aboriginal Cultural Heritage Study

Registration of interest in being consulted
Everick Heritage Consultants Pty Ltd (ABN 78 102 206 682) is seeking to consult with interested Aboriginal persons over the cultural heritage values of property at Terranora, in the Tweed Local Government Area. The 35.1 Ha parcel of land is situated at the southern end of Fraser Drive, Terranora.

Everick will be conducting an Aboriginal Cultural Heritage Assessment of the site in preparation for a proposed residential subdivision, and are seeking the input of the Aboriginal community.

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 8 January 2010.

APPENDIX C. COBAKI AND TERRORA ABORIGINAL CULTURAL HERITAGE MANAGEMENT PLAN MAPPING

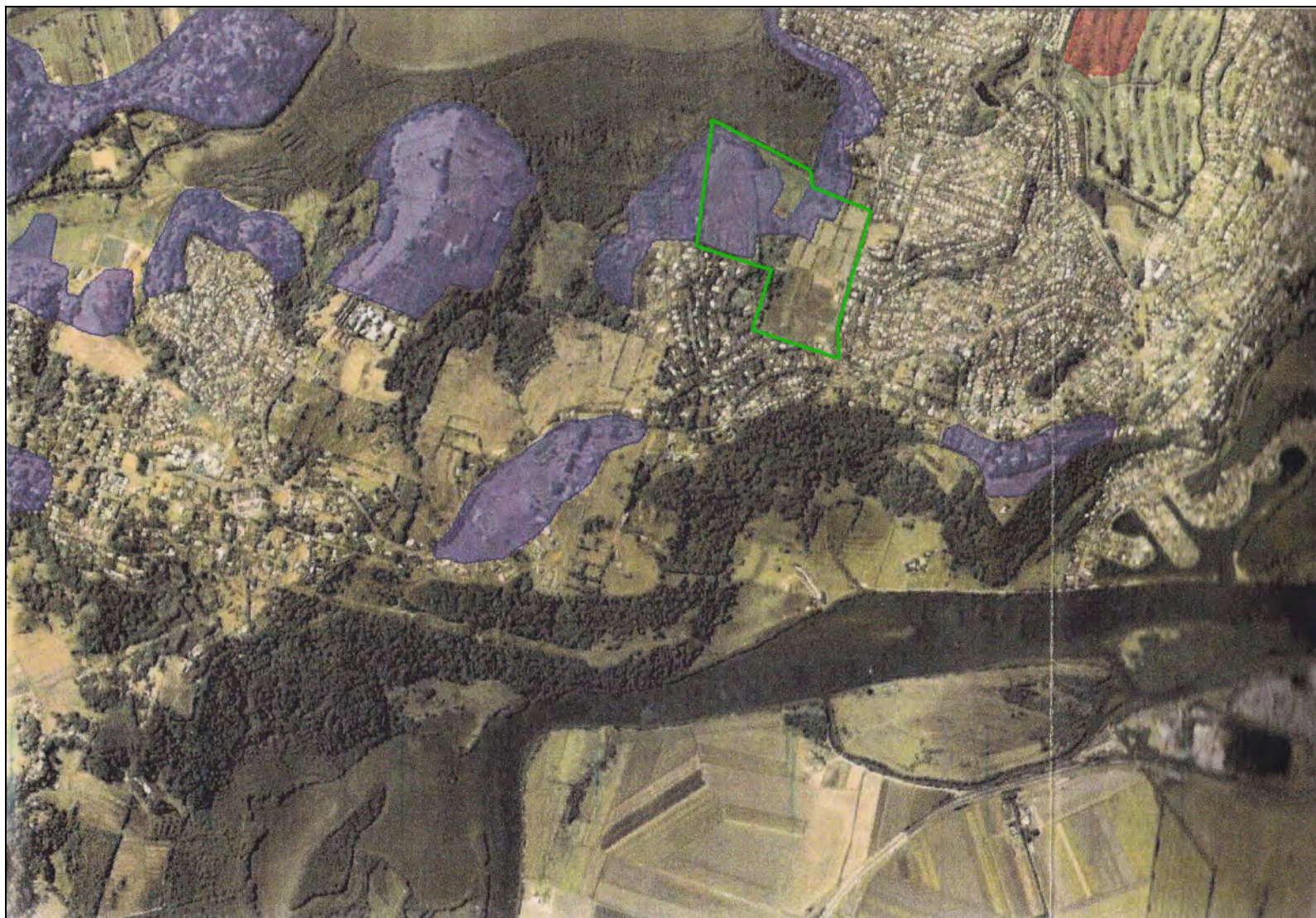


Figure 22: Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan Map H. Blue indicates 'High Probability' of Aboriginal sites, with green showing the Subject Lands.