

Issue of Aboriginal Heritage Impact Permit

National Parks and Wildlife Act 1974



Office of
Environment
& Heritage

Your reference:

Our reference: AHIMS No. 3859 / SF15/17625

Notice number: C0001214

Contact: Fran Scully (02) 9995 6830

E. J. Cooper & Son Pty Ltd
642 Great Western Highway
PENDLE HILL
NSW 2145

NOTICE OF THE ISSUE OF ABORIGINAL HERITAGE IMPACT PERMIT C0001213

Issued pursuant to section 90C(4) of the *National Parks and Wildlife Act 1974*

BACKGROUND

- A. E. J. Cooper & Son Pty Ltd (the applicant) applied to the Office of Environment and Heritage (OEH) under section 90A of the *National Parks and Wildlife Act 1974* (NPW Act) for an Aboriginal Heritage Impact Permit (AHIP). The AHIP application was in relation to the Box Hill North precinct.
- B. OEH received the application on 23 April 2015.

ISSUE OF ABORIGINAL HERITAGE IMPACT PERMIT

- 1. OEH has considered the application and supporting information provided, and matters under section 90K of the NPW Act and has decided to issue an AHIP C0001213 subject to conditions.
- 2. The AHIP is attached.
- 3. You should read the AHIP carefully and ensure you comply with its conditions.

It is an offence under section 90J NPW Act to fail to comply with the conditions of the AHIP. The maximum penalty that a court may impose on a corporation for failing to comply with this AHIP is \$1.1m. OEH can also issue penalty notices for this offence

Issue of Aboriginal Heritage Impact Permit

National Parks and Wildlife Act 1974



Office of
Environment
& Heritage

S. Harrison

SUSAN HARRISON

Senior Team Leader Planning

Greater Sydney Region

(by Delegation)

Date: 13 July 2015

INFORMATION ABOUT THIS NOTICE

- Details provided in this notice will be available on OEH's Public Register in accordance with section 188F of the NPW Act.

Variation of this AHIP

- This AHIP may only be varied on application by the AHIP holder or by OEH to correct typographical errors or resolve inconsistencies between conditions of the AHIP. A permit can only be varied by subsequent variation notices.

Appeals against this decision

- You can appeal to the Land and Environment Court against this decision. The deadline for lodging the appeal is 21 days after you were given notice of this decision.

Aboriginal Heritage Impact Permit

Section 90 of the National Parks and Wildlife Act 1974



Office of
Environment
& Heritage

AHIP number: C0001213

(AHIMS Permit ID: 3859)

AHIP Issued To:

E. J. Cooper & Son Pty Ltd (Company)
642 Great Western Highway
PENDLE HILL
NSW 2145

OEH Office issuing this AHIP

Office of Environment and Heritage
Regional Operations
Greater Sydney Region
PO Box 644
Parramatta
NSW 2124
Telephone number: (02) 9995 6830

Additional details for public register

a) Name of development or project	Box Hill North Precinct
b) Location	Box Hill North
c) Local Government Area(s)	The Hills Shire
d) Description of harm authorised	<ul style="list-style-type: none">Salvage excavationsHarm to certain Aboriginal objects through the proposed works
e) AHIP commencement date and duration	<i>Commencement:</i> 13 July 2015 <i>Duration:</i> 15 years

AHIP TO HARM ABORIGINAL OBJECTS

A. Background

- (i) On 23 April 2015 an application was made to the Chief Executive of the Office of Environment and Heritage (OEH) for an Aboriginal Heritage Impact Permit (AHIP) pursuant to s.90 of the *National Parks and Wildlife Act 1974* (the Act).
- (ii) The application was to allow harm to all Aboriginal objects within the Box Hill North Precinct, as a result of the development of that precinct into a residential and commercial centre, including AHIMS #45-5-4298 (BHN2); #45-5-4299 (BHN3); #45-5-4300 (BHN4); #45-5-4501 (BHN5); #45-5-4502 (BHN6) and #45-5-4500 (BHN7). AHIMS #45-5-4297 (BHN1) has been excluded from this permit as it has been identified as warranting conservation.
- (iii) OEH considered the application and supporting information provided, and matters under section 90K of the Act and decided to issue an AHIP subject to conditions.

B. AHIP issued subject to conditions

An AHIP is issued to harm Aboriginal objects identified in Schedules B and C, in accordance with the conditions of this AHIP.

This AHIP is issued pursuant to section 90 of the Act.

C. Commencement and duration of AHIP

This AHIP commences on the date it is signed unless otherwise provided by this AHIP.

Unless otherwise revoked in writing, this AHIP remains in force for 15 years from the date of commencement.

D. Proposed Works

All works associated with the development of the Box Hill North precinct

Note: A Dictionary at the end of the AHIP defines terms used in this document. Further information about this AHIP is also set out after the Dictionary.



SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney Region
(by Delegation)
DATED: 13 July 2015

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LAND TO WHICH THIS AHIP APPLIES

Land as illustrated in **Attachment 1: Map** if the land to which this AHIP applies.

CONDITIONS

The conditions of this AHIP specify the actions that are permitted and/or required in relation to areas and Aboriginal objects, which are detailed in the Schedules that follow.

Administrative Conditions

Responsibility for compliance with conditions of AHIP

1. The AHIP holder must ensure that all persons involved in actions or works covered by this AHIP (whether employees, contractors, sub-contractors, agents or invitees) are made aware of and comply with the conditions of this AHIP.

Project manager to oversee the actions relating to this AHIP

2. A suitably qualified and experienced individual must be appointed as a project manager who is responsible for overseeing, for and on behalf of the AHIP holder, all the actions relating to this AHIP.
3. The individual appointed as project manager must be the project manager nominated in the application form.
4. If an alternative to the nominated project manager is appointed, OEH must be notified of their contact details within **14 days** of this appointment.

Actions must be in accordance with AHIP application

5. All actions on the land must be carried out in accordance with the application except as otherwise expressly provided by a condition of this AHIP.

Operational Conditions

Certain Aboriginal objects must not be harmed

6. All human remains in, on or under the land must not be harmed, other than any human remains identified in Schedule B4.

Salvage excavations

7. Salvage excavations may be carried out in, on or under each salvage excavation area described in Schedule B2.
8. Aboriginal objects that are recovered during the excavations may be analysed on-site and/or may be taken off-site for further analysis.

9. The excavations and analysis of Aboriginal objects must be carried out in accordance with **Appendix D, Salvage Excavation Methodology, Box Hill North Cultural Heritage Assessment, Prepared for APP Corporation Pty Ltd on behalf of E.J. Cooper and Son Pty Ltd, March 2015** that was provided with the application.

Harm of certain Aboriginal objects through the proposed works

10. The Aboriginal objects described in Schedule C may be harmed. Nothing in this condition authorised harm to Aboriginal objects described in Schedule A (whether human remains, Aboriginal objects or 'no-harm areas').
11. Aboriginal objects described in Schedule C must not be harmed unless all excavations described in Schedule B2 have been completed in the area, and
12. Any Aboriginal objects that are removed from the land by actions authorised by this AHIP, must be moved as soon as practicable to the temporary storage location in the table below, pending any agreement reached about the long term management of the Aboriginal objects.
13. The temporary storage location is as follows:

Location name:	Office of Kelleher Nightingale Consulting Pty Ltd
Address:	Level 10, Bligh Street, Sydney NSW 2000
Storage particulars:	Secure storage location in a locked office

14. Any Aboriginal objects stored at the temporary storage location must not be further harmed, except in accordance with the conditions of this AHIP.

Long term management of certain Aboriginal objects

15. Once all post excavation analyses of objects has been completed, Aboriginal objects must be deposited in the **Australian Museum, 6 College Street, Sydney, NSW 2000**.

Access routes

16. Where practicable, existing access routes to parts of the land where actions relating to this AHIP are to be carried out must be used.

Notification and Reporting Conditions

Notification of commencement and completion of actions

17. Written notice must be provided to the OEH office at least **7 days** prior to the commencement of actions authorised by this AHIP.
18. Written notice must be provided to the OEH office within **7 days** of the completion of actions authorised by this AHIP.

Copy of this AHIP and notices to be provided to Registered Aboriginal Parties

19. A copy of this AHIP must be provided to each Registered Aboriginal Party, within **14 days** of receipt of the AHIP from OEH.
20. Where this AHIP is varied or transferred, a copy of the AHIP variation or transfer notice must be provided to each Registered Aboriginal Party, within **14 days** of receipt of the notice.

Human remains

21. If any human remains (other than any human remains described in Schedule B4) are discovered and/or harmed in, on or under the land, the AHIP holder must:
- (a) not further harm these remains
 - (b) immediately cease all work at the particular location
 - (c) secure the area so as to avoid further harm to the remains
 - (d) notify the local police and OEH's Environment Line on 131 555 as soon as practicable and provide any available details of the remains and their location, and
 - (e) not recommence any work at the particular location unless authorised in writing by OEH.

Incidents which may breach the Act or AHIP

22. The AHIP holder must notify the OEH office in writing as soon as practicable after becoming aware of:
- (a) any contravention of s.86 of the Act not authorised by an AHIP, and/or
 - (b) any contravention of the conditions of this AHIP.

Reports about incidents which may breach the Act or AHIP

23. Where OEH suspects that an incident has occurred which may have breached the Act or AHIP, OEH may request a written incident report, which includes the following:
- (a) the nature of the incident
 - (b) the actual or likely impact of the incident on Aboriginal objects and/or Aboriginal places
 - (c) the nature and location of these Aboriginal objects and/or Aboriginal places, referring to and providing maps and photos where appropriate
 - (d) any conditions of an AHIP which may have been breached, and
 - (e) the measures which have been taken or will be taken to prevent a recurrence of the incident.
24. The incident report must be provided to the OEH office within the timeframe specified in the request.

Provision of Aboriginal Site Impact Recording Form

25. An Aboriginal Site Impact Recording Form must be completed and submitted to the AHIMS Registrar, for each AHIMS site identified in Schedules B and C, within **4 months** of the completion of the actions authorised by this AHIP.

Note:

- (i) The Aboriginal Site Impact Recording Form can be found on the OEH website:
<http://www.environment.nsw.gov.au/licences/DECCAHISSiteRecordingForm.htm>
- (ii) Contact details for the AHIMS Registrar can be found on the OEH website:
<http://www.environment.nsw.gov.au/contact/AHIMSRegistrar.htm>

Report about harm to Aboriginal objects (Salvage Report)

26. A Salvage Report must be prepared about the actions relating to the harm of Aboriginal objects (as permitted by this AHIP). The report must:
- (a) include a short summary of the report

- (b) describe any ongoing consultation with or involvement of representatives of Registered Aboriginal Parties in relation to this AHIP
 - (c) describe how any Aboriginal objects or 'no-harm areas' described in Schedule A were managed during the period covered by the AHIP
 - (d) provide details of the Aboriginal objects which were fully or partially harmed in the course of undertaking the actions
 - (e) if any salvage excavations were authorised by this AHIP, provide a description of the methods and results of the salvage excavation
 - (f) detail any community collection of Aboriginal objects undertaken by the Registered Aboriginal Parties
 - (g) comment on the effectiveness of any mitigation measures that were implemented
 - (h) comment on the effectiveness of any management plan which was in place
 - (i) if any Aboriginal objects were moved to a temporary storage location, a description of the nature and types of Aboriginal objects which are now at that location
 - (j) detail the results of any analysis of Aboriginal objects
 - (k) detail the long term management arrangements for any Aboriginal objects, and
 - (l) include a statement confirming that all Aboriginal Site Impact Recording Forms have been completed and submitted to the AHIMS Registrar.
27. The Salvage Report must be submitted to the OEH office within **12 months** of the completion of the actions authorised by this AHIP.
28. A copy of the Salvage Report, including a summary of the report in plain English, must be sent by registered post to each Registered Aboriginal Party within **14 days** of the report being submitted to OEH

General Conditions

Indemnity

29. The AHIP holder agrees to indemnify and keep indemnified, the Crown in right of NSW, the Minister administering the Act, the Chief Executive of OEH, and their employees, agents and contractors, in the absence of any willful misconduct or negligence on their part, from and against all actions, demands, claims, proceedings, losses, damages, costs (including legal costs), charges or expenses suffered or incurred by them resulting from:
- (a) any damage or destruction to any real or personal property; and
 - (b) injury suffered or sustained (including death) by any persons arising out of or in connection with any actions undertaken pursuant to this AHIP.

Release

30. The AHIP holder agrees to release to the full extent permitted by law, the Crown in right of NSW, the Minister administering the Act, the Chief Executive of OEH, and their employees, agents and contractors, in the absence of any willful misconduct or negligence on their part, from all suits, actions, demands and claims of every kind resulting from:
- (a) any damage or destruction to any real or personal property; and
 - (b) injury suffered or sustained (including death) by any persons arising from or in connection with any actions undertaken pursuant to this AHIP.

Written notice

31. Any requirement to provide written notice to the OEH office in this AHIP may be complied with by faxing the notice to the OEH office's fax number or by sending by registered post to the OEH office's address. The OEH office's contact details are specified at the front of this AHIP.

SCHEDULES

The following schedules identify the areas and Aboriginal objects that are subject to the conditions of this AHIP.

Schedule A: Aboriginal objects which must not be harmed

A1 Human remains

All human remains in, on or under the land must not be harmed, other than any human remains identified in Schedule B4, as specified by the conditions of this AHIP.

A2 Aboriginal objects that are identified on AHIMS

N/A

A3 No-harm areas

N/A

Schedule B: Aboriginal objects that may be harmed through the certain actions

B1 Movement only

N/A

B2 Salvage excavations

Salvage excavations may be carried out in the area marked "salvage excavation area", on **Attachment 2: Map of salvage areas**, but only in accordance with the conditions of this AHIP.

The salvage excavation area comprises the following known Aboriginal objects, as identified on AHIMS (excluding any Aboriginal objects described in Schedule A):

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Information access restriction? (Y/N)	Easting	Northing	Datum
Whole	45-5-4298	Artefact	BHN2	N	306599	6278205	GDA
Whole	45-5-4299	Artefact	BHN3	N	305031	6276893	GDA
Whole	45-5-4501	Artefact	BHN5	N	306267	6277691	GDA
Whole	45-5-4502	Artefact	BHN6	N	306131	6278094	GDA

B3 Community collection

N/A

B4 Other

N/A

Schedule C: Aboriginal objects which may be harmed through the proposed works

The Aboriginal objects described in this schedule may be harmed, but only in accordance with the conditions of this AHIP (excluding any Aboriginal objects described in Schedule A).

C1 Harm of Aboriginal objects identified on AHIMS

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Information access restriction? (Y/N)	Easting	Northing	Datum
Whole	45-5-4298	Artefact	BHN2	N	306599	6278205	GDA
Whole	45-5-4299	Artefact	BHN3	N	305031	6276893	GDA
Whole	45-5-4300	Artefact	BHN4	N	305763	6276696	GDA
Whole	45-5-4501	Artefact	BHN5	N	306267	6277691	GDA
Whole	45-5-4502	Artefact	BHN6	N	306131	6278094	GDA
Whole	45-54-4500	Artefact	BHN7	N	305998	6277433	GDA

C2 Areas where harm of Aboriginal objects is authorised

All Aboriginal objects in, on or under the land as illustrated in Attachment 1: Map of the land to which this AHIP applies.

DICTIONARY

In this AHIP, unless the contrary is indicated the terms below have the following meanings:

Aboriginal object	has the same meaning as in the Act.
Act	means the <i>National Parks and Wildlife Act 1974</i> .
AHIMS	means the Aboriginal Heritage Information Management System maintained by OEH, as defined in s.90Q of the Act.
AHIP	means Aboriginal Heritage Impact Permit
AHIP holder	means the entity or person listed on the cover page under the heading "AHIP issued to".
Application	means the completed application form and all other documents in written or electronic form which accompanied the application when it was lodged or which were subsequently submitted in support of the application.
Community collection	means the collection of Aboriginal objects by one or all Registered Aboriginal Parties or their representatives.
Community collection area	means an area described as a community collection area in Schedule B3
Harm	has the same meaning as in the Act. In relation to Aboriginal objects, harm means the movement, damage, defacement and/or destruction of Aboriginal objects. In relation to an Aboriginal place, harm means the damage, defacement and/or destruction of the Aboriginal place.
Land	means the land described under the heading "Land to which this AHIP applies".
No-harm areas	means those areas described in Schedule A3.
OEH	Office of Environment and Heritage (NSW).
OEH office	means the office listed on the cover page of this AHIP.
Proposed works	means the works described under the heading "D. Proposed Works" at the front of this AHIP.
Public register	means the public register established under s.188F of the Act, that contains details of AHIPs issued by the Chief Executive of OEH, as described under the heading "Information about this AHIP".
Registered Aboriginal Parties	means the Registered Aboriginal Parties listed in the application.
Salvage excavation	means an archaeological excavation carried out in accordance with the methodology accompanying the application, as modified by the conditions of this AHIP. The purpose of salvage excavation is to recover a sample of Aboriginal objects as an archival record of Aboriginal life from a site that will be destroyed.
Salvage excavation area	means any area described as a salvage excavation area in Schedule B2.
Test excavation	means an archaeological excavation carried out in accordance with

methodology accompanying the application, as modified by the conditions of this AHIP. The purpose of test excavation is to collect a sample of Aboriginal objects, in order to establish the nature and extent of sub-surface Aboriginal objects and to assist in the assessment of management options for the site.

Test excavation area means any area described as a test excavation area in Schedule B2

INFORMATION ABOUT THIS AHIP

Public Register

Under section 188F of the Act, the Chief Executive of OEH is required to keep a public register containing the details of each AHIP issued. The details of this AHIP that will be published on the public register are outlined on the front page of this AHIP.

The public register is available online at www.environment.nsw.gov.au

Appeals

Under section 90L of the Act, the AHIP holder may appeal to the Land and Environment Court if they are dissatisfied with any condition of this AHIP. The appeal must be lodged within 21 days of the date this AHIP was issued.

Penalties for breach of the Act or AHIP condition

Significant penalties can be imposed by the Land and Environment Court for harm to an Aboriginal object or Aboriginal Place other than as authorised by a condition of an AHIP, or for a breach of an AHIP condition. OEH can also issue penalty notices for a breach of the Act or AHIP condition.

Responsibility for obtaining all approvals and compliance with applicable laws

The AHIP holder is responsible for obtaining and complying with all approvals necessary to lawfully carry out the work referred to in this AHIP, including but not limited to development consents.

Other relevant provisions of the *National Parks and Wildlife Act*

Newly identified Aboriginal objects must be notified to the Chief Executive of OEH under s.89A of the Act using the form available online at www.environment.nsw.gov.au

Stop work orders, interim protection orders and remediation directions may be issued in certain circumstances to protect Aboriginal objects or places.

Obligation to report Aboriginal remains under Commonwealth laws

The AHIP holder may have additional obligations to report any discovery of Aboriginal remains under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

Exercise of investigation and compliance powers

Officers appointed or authorised under the Act may exercise certain powers and functions, including the power to enter land.

Duration of AHIP

This AHIP remains in force for the period specified in the AHIP.

Variation of AHIP

The AHIP holder may apply to the OEH office for a variation of any conditions of an AHIP, using the AHIP variation application form available online at www.environment.nsw.gov.au. Requests for significant variations must be accompanied by evidence of further consultation with Registered Aboriginal Parties and may include payment of fees.

The conditions of an AHIP may be varied at any time by the Chief Executive of OEH in order to correct a typographical error or to resolve an inconsistency between conditions. The AHIP holder may appeal a decision of the Chief Executive of OEH to vary the conditions of the AHIP.

Transfer of AHIP

The AHIP holder may apply to transfer this AHIP to another person by using the AHIP transfer application form available online at www.environment.nsw.gov.au.

Surrender of AHIP

The AHIP holder may apply to surrender this AHIP by using the AHIP surrender application form available online at www.environment.nsw.gov.au. The surrender must be approved by the Chief Executive of OEH and may be subject to conditions.

Suspension and revocation of AHIP

An AHIP may be suspended or revoked at any time at the discretion of the Chief Executive of OEH. Prior to suspending or revoking the AHIP, the AHIP holder will be given notice and an opportunity to make submissions. The AHIP holder will be notified in writing of the final decision. The AHIP holder may appeal a decision to revoke the AHIP.

Entry to land

An AHIP does not automatically entitle its holder to enter land for the purpose of conducting work related to the AHIP. The AHIP holder is responsible for obtaining permission to enter land from the owner and/or occupier of the land.

Disclosure of information pursuant to lawful requirement

This AHIP does not prevent the disclosure of any information or document in OEH's possession in accordance with any lawful requirement.

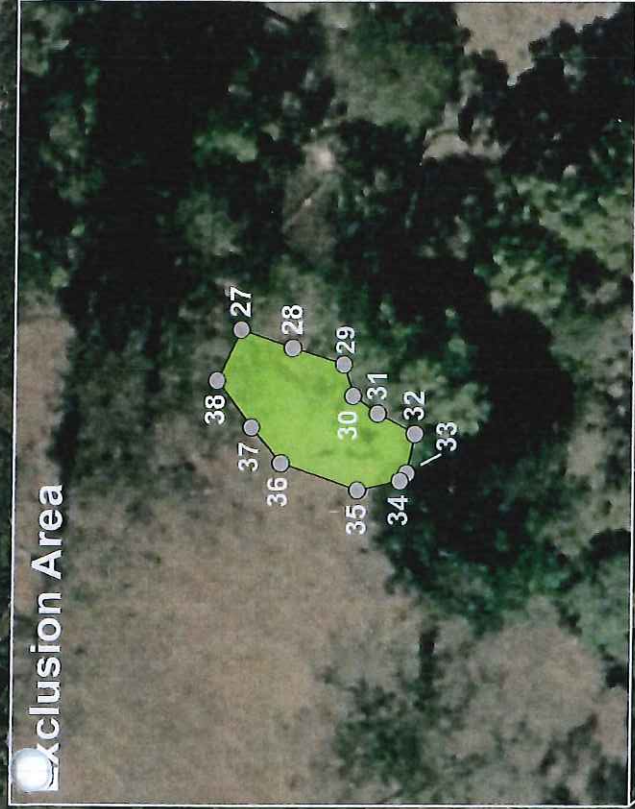
Making copies of reports

By providing a report, the AHIP holder acknowledges that OEH can use the information in that report to inform its regulatory functions, note details of that report in AHIMS and include a copy of the report in its library which may be available to members of the public.

OEH is able to make copies of any reports provided to OEH under this AHIP.

Exclusion Area Coordinates		
Point ID	Easting	Northing
27	306635	6278313
28	306634	6278311
29	306634	6278308
30	306632	6278308
31	306631	6278306
32	306630	6278305
33	306628	6278305
34	306628	6278305
35	306627	6278307
36	306629	6278311
37	306631	6278313
38	306633	6278314

Attachment 1:- Map of the land to which this AHIP applies (in orange)



Oakville

Maraylya

Nelson

Box Hill

1:11,000 (at A4)



Map Projection: Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia (GDA)
Grid: Map Grid of Australia 1994, Zone 56



LEGEND

- AHIP Application Area
- AHIP Application Point
- Exclusion Area

LOCALITY

BOX HILL NORTH

LGA

THE HILLS SHIRE

PARISH

GIDLEY

COUNTY

CUMBERLAND



Kelleher Nightingale
Consulting Pty Ltd

Point ID	Easting	Northing	Point ID	Easting	Northing
1	307084	6278193	14	305047	6276404
2	306925	6277895	15	305035	6276504
3	306983	6277868	16	304801	6276701
4	306869	6277652	17	304735	6277130
5	307066	6277546	18	305109	6276953
6	306835	6277246	19	305358	6277254
7	306410	6276848	20	305428	6277407
8	306149	6276408	21	305109	6277525
9	306170	6276400	22	305270	6277830
10	305971	6275800	23	305066	6277931
11	305489	6275952	24	305580	6278908
12	305314	6276010	25	306616	6278356
13	305450	6276268	26	306740	6278363

Attachment 2:- Map of salvage areas (outlined in black)

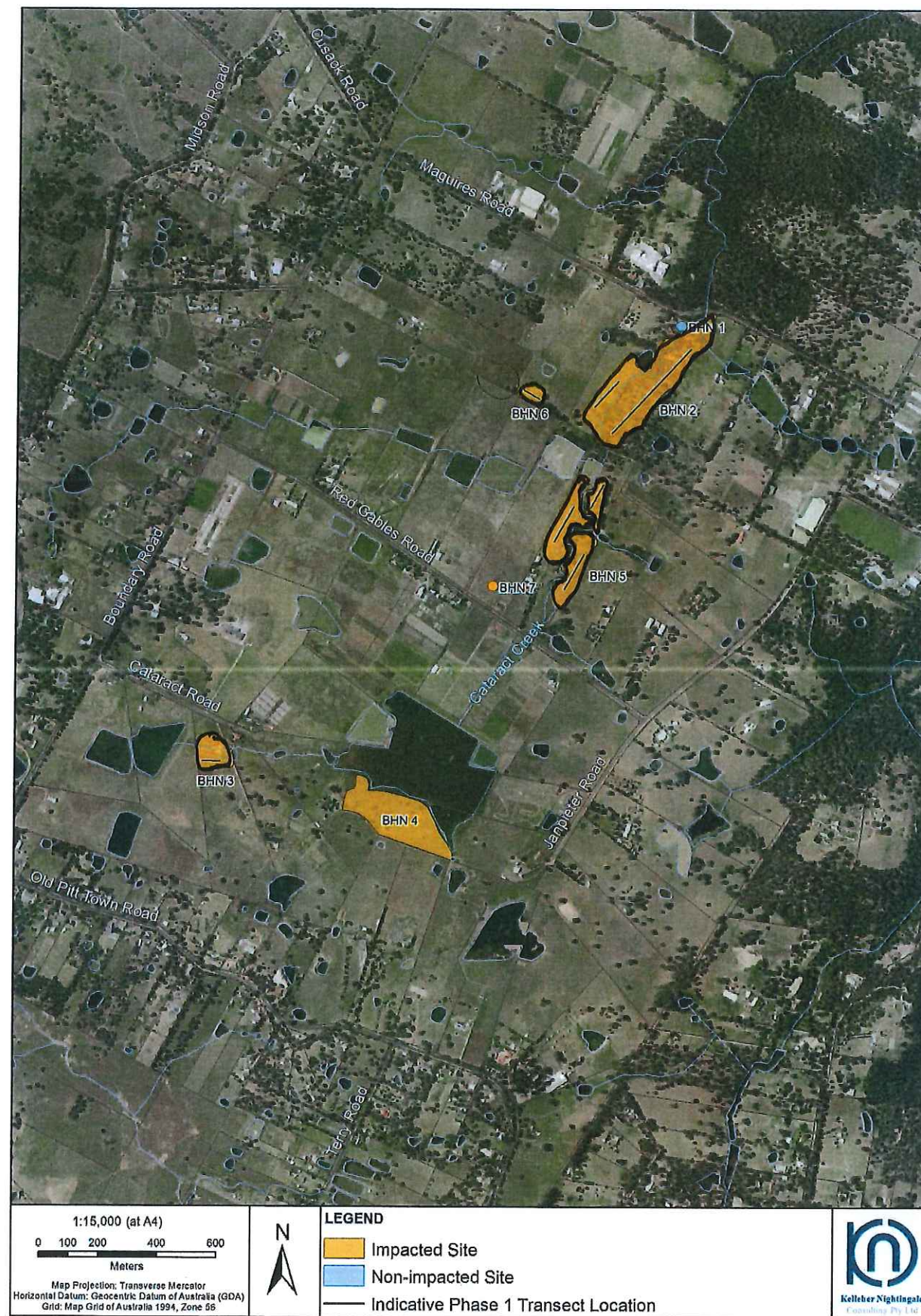


Figure 10. Aboriginal archaeological sites and indicative phase 1 transect locations

