

Attachment 7 – Cultural Heritage Due Diligence Assessment

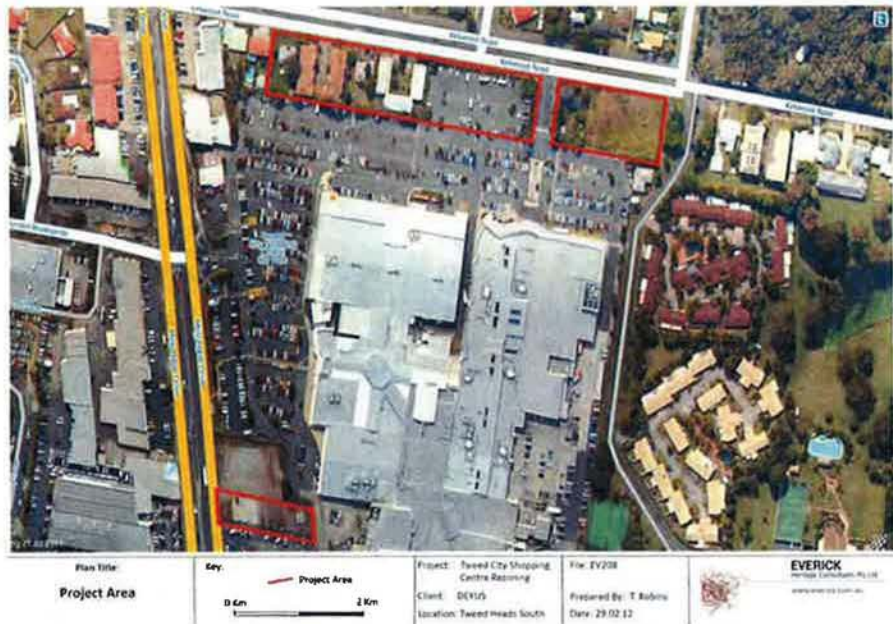
EVERICK

Heritage Consultants Pty Ltd

ABN 78102206682

MARCH 2012

CULTURAL HERITAGE DUE DILIGENCE ASSESSMENT



TWEED CITY SHOPPING CENTRE REZONING APPLICATION

TWEED HEADS SOUTH, NSW



Report Reference:

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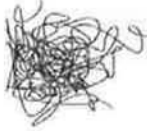
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EXECUTIVE SUMMARY

The following is a report detailing the cultural heritage assessment of Aboriginal and non-Indigenous (historic) cultural heritage for the proposed re-zoning of lands adjacent to the Tweed City Shopping Centre, Tweed South, N.S.W. The land subject to assessment is identified in Figure 2.

The assessment was undertaken on behalf of DEXUS Property Group. The purpose of this assessment is to apply the first stages of the New South Wales Office of Environment and Heritage ('OEH') Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (2010). This assessment also provides preliminary advice on potential impacts to significant historic heritage places.

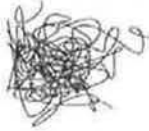
The methods used for this assessment involved:

- (a) a search of relevant historic and Aboriginal heritage registers;
- (b) a review of historic aerial photography and resources relating to past land uses of the Project Area;
- (c) a brief review of past archaeological studies of the Project Area and surrounds;
- (d) an assessment in accordance with the Due Diligence Code; and
- (e) consultation with the Tweed Shire Councils Aboriginal Advisory Committee ('AAC') and the Tweed Byron Local Aboriginal Land Council ('Tweed LALC').

As part of a desktop study, Everick undertook searches of the relevant Aboriginal and historic heritage registers. A search of applicable historic heritage registers did not identify any items of cultural heritage significance within close proximity to the proposed Project Area. A search was conducted on 10 January 2012 of the OEH Aboriginal Heritage Information Management System ('AHIMS'), which identified 40 recorded sites for the broader search area. Five Indigenous archaeological sites are registered within 1.25 km of the Project Area (Appendix C), with one site (AHIMS # 04-2-0009) being located 175m from the north eastern extent of the Project Area. None were recorded within the Project Area itself. There are no Indigenous places within the Project Area listed in other heritage registers.

The Project Area is within the area administered for Aboriginal cultural heritage purposes by the Tweed Byron LALC. A survey for historic and Aboriginal cultural heritage was carried out by Everick Senior Archaeologist Adrian Piper and Mr. Des Williams Chairman/ Sites Officer for the Tweed Byron LALC, on 16 March 2012.

The Tweed LALC were asked to provide written feedback on the contents and recommendations in this report. Their response to this assessment is included as Appendix A.



Results

- No Aboriginal Objects or Places were identified within the Project Area.
- The members of the AAC made no objections to the proposed rezoning. However, monitoring of initial earthworks was raised as a strategy for managing potential impacts to physical Aboriginal heritage. This proposal is supported by the archaeological analysis and recommendations in this report.
- Consultation with the Tweed LALC and the AAC identified no places of particular intangible (spiritual) significance within the Project Area. However, the Project Area is situated within an immediate cultural landscape that is of high significance to the Aboriginal people of the Tweed. This significance derives from a range of spiritual, ceremonial and occupation sites in relatively close proximity to the Project Area. Consultation with the AAC and the Tweed Byron LALC indicates that the Project would appear unlikely to have a substantial detrimental impact on the significance of surrounding landscape, including nearby Bora ground, owing to the already high levels of development over the Project Area.
- Having regard to the high cultural significance of the surrounding landscape, any subsurface Aboriginal Objects within the Project Area are also likely to be of high significance. Portions of the Project Area may warrant monitoring during initial earthworks by the Proponent.
- Almost all of the Project Area has been heavily impacted by past development activities and is unlikely to contain *in situ* (archaeologically / scientifically significant) Aboriginal Objects. The exceptions may be properties 24-30, 46 and 52 Kirkwood Road, which have not seen significant amounts of fill or development impacts.

Recommendations:

The potential for Aboriginal cultural heritage to be located within portions of the Project Area, particularly the specified Kirkwood Road East properties, cannot be ruled out. If these locations contain original sand strata then there is a potential that both disturbed and '*in situ*' cultural materials will remain.

The Aboriginal community and the Tweed LALC are opposed to development proposals that do not take prior measures allowing them to identify whether their heritage is being impacted, and if so, participate in formulating appropriate, informed management strategies. Recommendations 1 - 6 have been drafted in consultation with the AAC and the Tweed Byron LALC, and are seen as an appropriate impact mitigation strategy having regard to the present planning process.



Recommendation 1: Ongoing Consultation over Monitoring of Earthworks

It is recommended that the Proponent undertake further consultation with the AAC and the Tweed Byron LALC prior to the submission of any Development Application(s) for the Project Area. The consultation should be aimed at reaching agreement over appropriate monitoring and/or post clearing survey strategies for the Project, focusing on properties 24-30, 46 and 52 Kirkwood Road East.

Recommendation 2: Aboriginal Human Remains

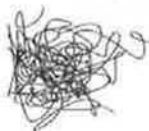
It is recommended that if human remains are located at any stage during earthworks within the Project Area, all works must halt in the immediate area to prevent any further impacts to the remains. The Site should be cordoned off and the remains themselves should be left untouched. The nearest police station, the Tweed Local Aboriginal Land Council and the OEH Regional Office, Coffs Harbour are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and the OEH 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 Objects Find Procedure

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

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



Recommendation 4: Notifying the OEH

It is recommended that if Aboriginal cultural materials are uncovered as a result of development activities within the Project Area, they are to be registered as Sites in the Aboriginal Heritage Information Management System (AHIMS) managed by the OEH. 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, OEH and the Aboriginal community.

Recommendation 6: Cultural Heritage Inductions

It is recommended that Staff and Contractors involved in the initial stripping of topsoil on the site should undergo a cultural heritage induction prior to commencing works. The induction should include:

- (a) an introduction to Aboriginal culture and tradition, including why evidence of Aboriginal occupation is important to Aboriginal people;
- (b) a summary of the requirements under New South Wales cultural heritage legislation
- (c) a brief introduction on how to identify Aboriginal Objects; and
- (d) a review of procedures in the event that Aboriginal cultural heritage is identified during the course of undertaking the project.



Table of Contents

EXECUTIVE SUMMARY	2
RECOMMENDATIONS:	3
1. INTRODUCTION.....	11
1.1 Purpose of the Archaeological Investigation	11
1.2 Proponent & Project Brief.....	11
1.3 Defining the Project Area.....	11
1.4 Report Authorship	12
2. LEGISLATIVE AND PLANNING CONTEXT	15
2.1 The National Parks and Wildlife Act 1974 (NSW) and the National Parks and Wildlife Regulations 2009 (NSW).....	15
2.1.2 Due Diligence Code of Practice for the Protection of Aboriginal Objects	17
2.2 The ACHCR (2010)	18
2.3 The Heritage Act 1977 (NSW)	18
2.4 The Tweed Shire Local Environmental Plan 2000.....	19
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:	19
2.4 The State Environment Planning Policy (North Coast Regional Environmental Plan 1988)	19
2.5 The NSW Heritage Manual	20
THE NSW HERITAGE MANUAL CONTAINS A SET OF 7 ASSESSMENT CRITERIA THAT ACT AS A GUIDE TO ASSESSING SIGNIFICANCE. THEY ARE:.....	
3. DESCRIPTION OF DEVELOPMENT PROPOSAL.....	22
4. HERITAGE REGISTERS: ABORIGINAL AND HISTORIC HERITAGE.....	23
4.1 The OEH Aboriginal Heritage Information Management System	23
4.2 Other Heritage Registers: Indigenous & Historic Cultural Heritage.....	25
5. LANDSCAPE CONTEXT	26
5.1 Environment Locality	26
5.2 Topography.....	26
5.3 Geology & Soils.....	26
5.4 Vegetation	27
5.5 Land-use History.....	27
6. FIELD METHODS & RESULTS.....	30

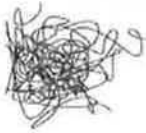
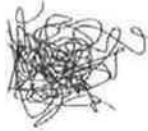


Table of Contents Cont.

6.1	<i>Sampling Strategy & Survey Methods</i>	30
6.3	<i>Results</i>	34
7.	CULTURAL HERITAGE DUE DILIGENCE ASSESSMENT	37
7.1	<i>Step 1: Will the activity disturb the ground surface?</i>	37
7.2	<i>Step 2a: Search of AHIMS Database</i>	37
7.3	<i>Step 2b: Is the activity in an area where landscape features indicate the presence of Aboriginal cultural heritage?</i>	38
7.4	<i>Step 2c: Is there evidence of past ground disturbance?</i>	38
8.	CONCLUSIONS AND RECOMMENDATIONS	39
	REFERENCES	42
	APPENDIX A: CORRESPONDENCE - TWEED BYRON LALC	43
	APPENDIX B: AHIMS SEARCH RESULTS	44
	APPENDIX C: HISTORIC AERIAL PHOTOGRAPHY	46



Figures

FIGURE 1: PROJECT AREA GENERAL LOCALITY	13
FIGURE 2: AERIAL VIEW OF THE PROJECT AREA.....	14
FIGURE 3: AHIMS SEARCH RESULTS (INDICATIVE LOCATIONS ONLY) (GOOGLEEARTH 2012)	24
FIGURE 4: VIEW SOUTH OF 58-62 MINJUNGBAL DRIVE	31
FIGURE 5: VIEW EAST OVER 34-38 MINJUNGBAL DRIVE.....	31
FIGURE 6: VIEW SOUTH WEST OVER 24-30 KIRKWOOD ROAD EAST.....	32
FIGURE 7: 42-44 KIRKWOOD ROAD EAST (WHITE BUILDING) AND 48-50 (BROWN BUILDING)	32
FIGURE 8: VIEW SOUTH WEST TOWARDS 46 KIRKWOOD ROAD EAST.....	33
FIGURE 9: VIEW SOUTH 52 KIRKWOOD ROAD EAST	33
FIGURE 10: 1955 AERIAL PHOTOGRAPH OF THE PROJECT AREA (INDICATIVE STUDY AREA SHOWN IN RED)	46
FIGURE 11: 1962 AERIAL PHOTOGRAPH OF THE PROJECT AREA (INDICATIVE STUDY AREA SHOWN IN RED)	47
FIGURE 12: 1977 AERIAL PHOTOGRAPH OF THE PROJECT AREA (INDICATIVE STUDY AREA SHOWN IN RED).....	48
FIGURE 13: 1982 AERIAL PHOTOGRAPH OF THE PROJECT AREA (INDICATIVE STUDY AREA SHOWN IN RED).....	49
FIGURE 14: PARISH MAP C. 1902	50
FIGURE 15: PARISH MAP 1913.....	51



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.

Aboriginal Place means any place declared to be an Aboriginal place (under s.84 of the NPW Act) by the Minister administering the NPW Act, by order published in the NSW Government Gazette, because the Minister is of the opinion that the place is or was of special significance with respect to Aboriginal culture. It may or may not contain Aboriginal Objects.

ACHCR Guidelines means the OEH *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010).

Archaeological Code of Practice means the OEH *Code of Practice for Archaeological Conduct in New South Wales* (2010).

Due Diligence Code means the OEH *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (2010).

EP&A Act means the *Environmental Planning and Assessment Act 1979* (NSW).

NCREP 1988 means the *North Coast Regional Environmental Plan 1988*.

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

NPW Regulations means the *National Parks and Wildlife Regulations 2009* (NSW).

OEH means the New South Wales Office of Environment and Heritage.

Project Area means the land subject to this assessment identified in Section 1.3 as being Lot 24 DP23659; Lot 22 DP23659; Lot 21 DP23659; Lot 20 DP23659; Lot 19 DP23659; Lot 6 DP1119624; Lot 12



DP23659; Lot 13 DP23659; Lot 11 DP23659; SP38016; SP40743; Lot 8 DP23659; Lots 1 & 2 DP524806; Lot 2 DP781518; Lot 1 DP781517 and Lot 5 DP830973.

Proposed Works means all activities associated with construction and landscaping within the Project Area (Figures 2), including activities undertaken by subsequent landholders.

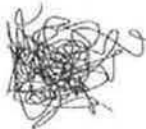
Proponent means DEXUS Property Group and all employees and contractors of the Proponent.

Study Area means the Tweed City Shopping Centre and its precincts.

The Project means the proposed re-zoning of the lands adjacent to the Tweed City Shopping Centre, Tweed South, NSW, as identified in Figure 2.

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

Tweed LALC means the Tweed Byron Local Aboriginal Land Council.



1. INTRODUCTION

1.1 Purpose of the Archaeological Investigation

The following report is a Due Diligence Assessment of Indigenous and non-Indigenous (historic) cultural heritage relating to the proposed re-zoning of lands adjacent to the Tweed City Shopping Centre, Tweed South, NSW (the Project). The intent of the investigation was to identify any archaeological or cultural heritage constraints to the proposed development.

1.2 Proponent & Project Brief

Everick Heritage Consultants (The Consultant) was commissioned by DEXUS Property Group (The Proponent) to undertake this assessment.

The brief for this project was to undertake a heritage assessment of suitable standard to be submitted as a stand alone report in support of a Development Application to the Tweed Shire Council. In accordance with the relevant administrative and legislative standards for New South Wales (see Section 2 below), the methods employed in this assessment included:

- (a) consultation with the Tweed LALC;
- (b) searches of applicable heritage registers;
- (c) a review of historic aerial photography;
- (d) archaeological survey of the Project Area;
- (e) assessment of the Project impacts in accordance with the Due Diligence Code; and
- (f) report on findings and recommended management strategies.

1.3 Defining the Project Area

The land subject to assessment is situated at Minjunbal Drive, Tweed Head South NSW, and is identified as:



Lot 24 DP23659; Lot 22 DP23659; Lot 21 DP23659; Lot 20 DP23659; Lot 19 DP23659; Lot 6 DP1119624; Lot 12 DP23659; Lot 13 DP23659; Lot 11 DP23659; SP38016; SP40743; Lot 8 DP23659; Lots 1 & 2 DP524806; Lot 2 DP781518; Lot 1 DP781517 and Lot 5 DP830973.

The Project Area is bounded by Minjungbal Drive to the west and Kirkwood Road East to the north, and is situated to the north of Soorley Street. The Coolangatta and Tweed Heads Golf Club and the Oasis gated community are situated to the east of the Project Area. The land is zoned 2(b) Medium Density Residential under Tweed LEP 2000 and R1 General Residential in the Draft Tweed LEP 2010. The Project Area is approximately 2.1 ha.

1.4 Report Authorship

The site survey was undertaken by qualified archaeologist Adrian Piper, assisted by Mr. Des Williams, Chairman/Sites Officer of the Tweed Byron Local Aboriginal Land Council (Tweed LALC). The desktop study was undertaken by Adrian Piper, Tim Robins and Anne Dighton. This report was written by Adrian Piper, assisted by Tim Robins, Caroline Ingram and Anne Dighton.

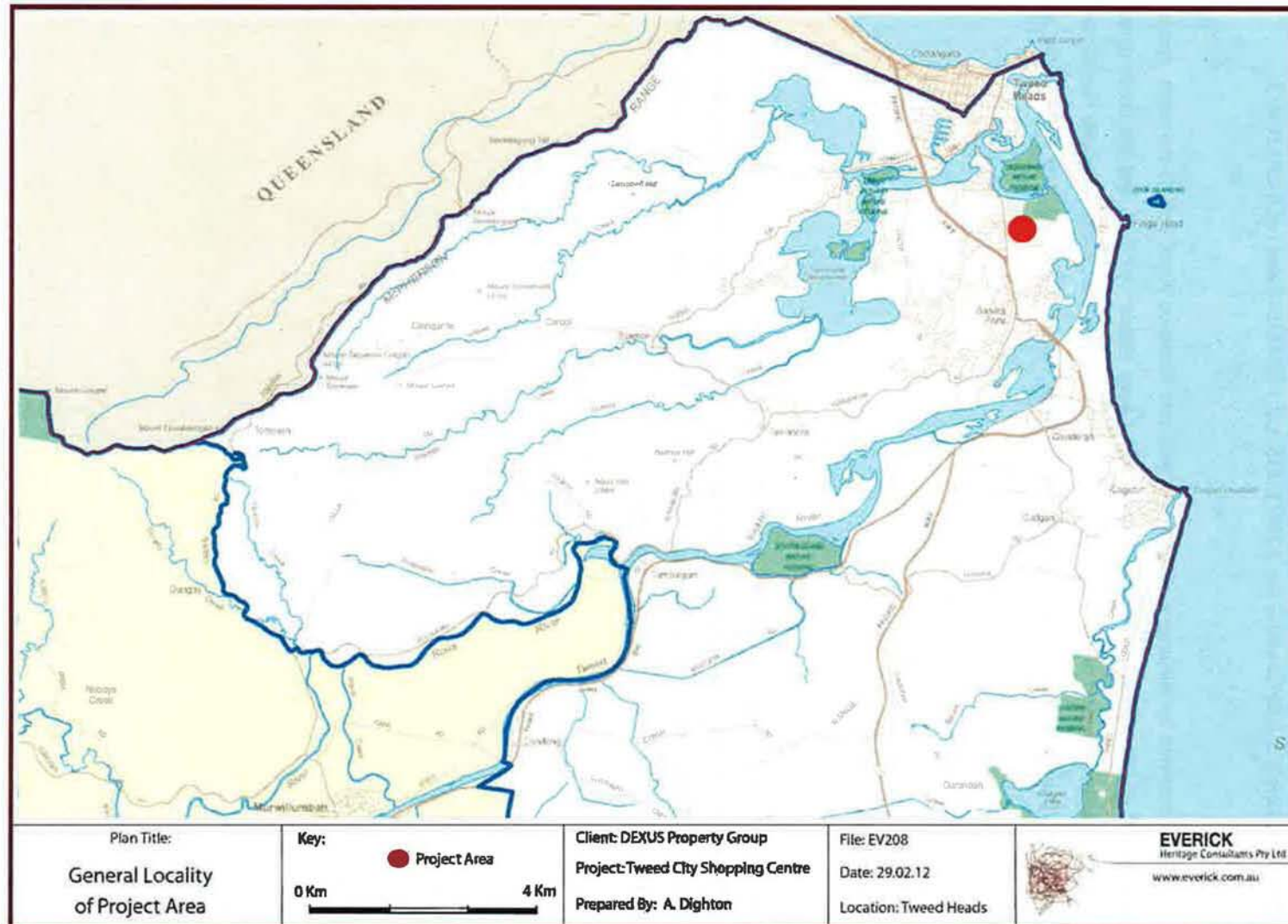


Figure 1: Project Area General Locality

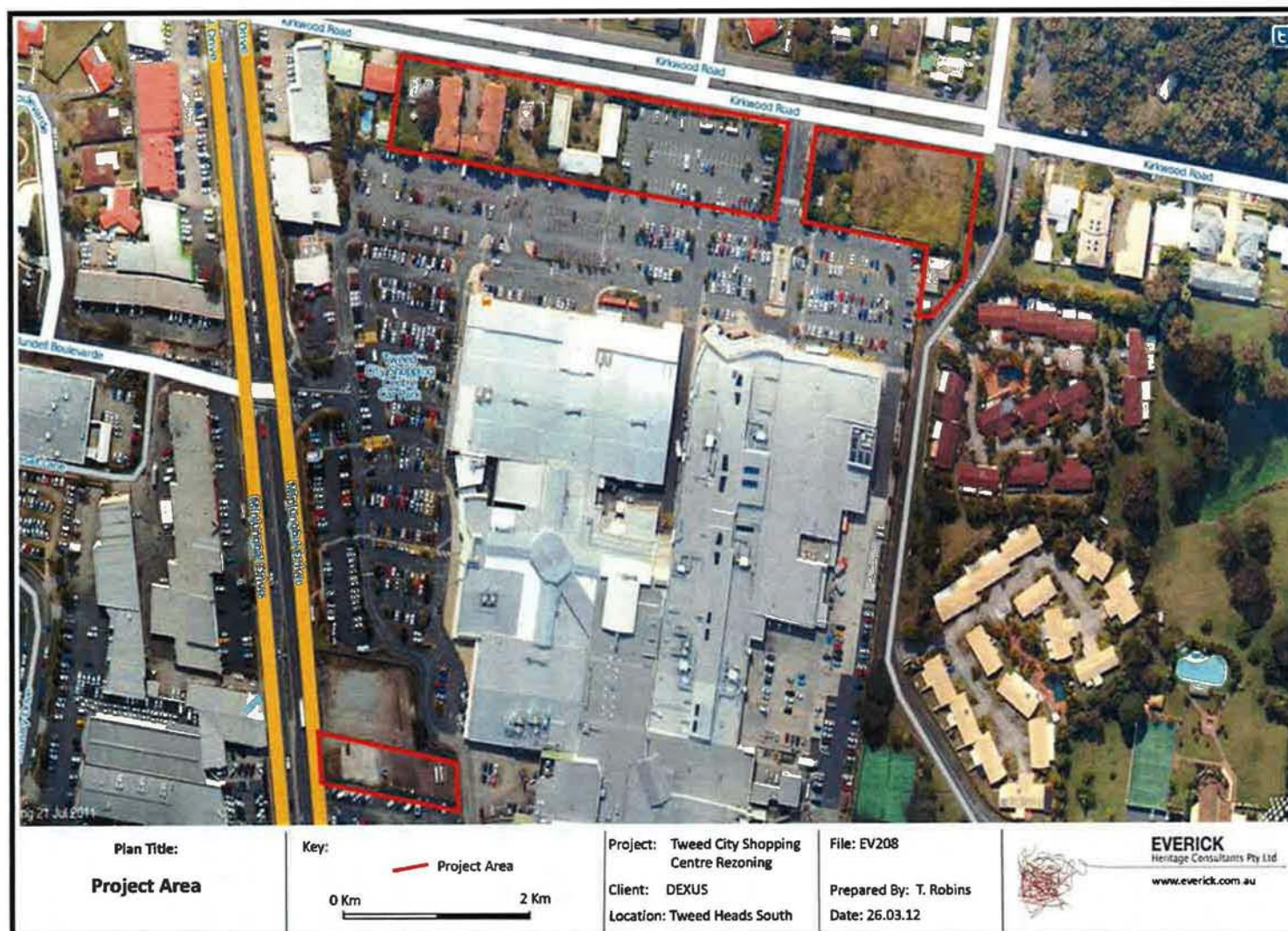


Figure 2: Aerial view of the Project Area



2. 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 legislation that are relevant. The consent authorities will be the Tweed Shire Council and, where a referral agency is required, the OEH. Approval from the OEH will also be required should the Project impact on identified Aboriginal Objects. The information below lists the legislative and policy framework within which this assessment is set.

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.

2.1 The *National Parks and Wildlife Act 1974* (NSW) and the *National Parks and Wildlife Regulations 2009* (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).



2.1.1 'Low Impact Activities'

The new regulations allow for a range of low impact activities to be undertaken without the need to consult the OEH or a consulting archaeologist. Generally, those who undertake activities of this nature will not be committing an offence, even if they inadvertently harm Aboriginal Objects. These activities include:

- (a) Maintenance – For example on existing roads and tracks, or on existing utilities such as underground power cables and sewage lines.
- (b) Farming and Land Management – for land previously disturbed, activities such as cropping, grazing, bores, fencing, erosions control etc.*
- (c) Removal of dead or dying vegetation - only if there is minimal ground disturbance.
- (d) Environmental rehabilitation – weed removal, bush regeneration.
- (e) Development in accordance with a Development Certificate issued under the EPA Act 1979 (provided the land is previously disturbed).*
- (f) Downhole logging, sampling and coring using hand held equipment.
- (g) Geochemical surveying, seismic surveying, costeaming or drilling.*

* This defence is only available where the land has been disturbed by previous activity. Disturbance is defined as a clear and observable change to the land's surface, including but not limited to land disturbed by the following: soil ploughing; urban development; rural infrastructure (such as dams and fences); roads, trails and walking tracks; pipelines, transmission lines; and stormwater drainage and other similar infrastructure.

2.1.2 Due Diligence Code of Practice for the Protection of Aboriginal Objects

The Due Diligence Code has been applied in Section 7.2 of this assessment. It operates by posing a series of questions for land users before they commence development. These questions are based around 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.



2.2. The ACHCR (2010)

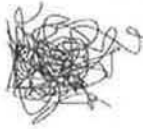
The OEH has recently published the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010) (ACHCR). These requirements replaced the former *Interim Community Consultation Requirements for Applicants* (2004) (ICCR) as of 12 April 2010. The ACHCR provide an acceptable framework for conducting Aboriginal community consultation in preparation for Aboriginal Heritage Impact Permits. Proponents are also required to follow the ACHCR where undertaking a project that is likely to impact on cultural heritage and/or where required by the consent authority.

2.3 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 Project Area.



2.4 The Tweed Shire Local Environmental Plan 2000

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).

2.4 The *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.

2.5 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' (the exception to the rule being the definition of an Archaeological Relic discussed above). Rather, the focus is on identifying what aspects of a particular item may be significant.

The NSW Heritage Manual contains a set of 7 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
 - cultural or natural places; or
 - cultural or natural environments.



3. DESCRIPTION OF DEVELOPMENT PROPOSAL

The proposed development is defined as a re-zoning application to the Tweed Shire Council. The proposed re-zoning of the Project Area is from 2(b) Medium Density Residential, Part 3 (c) Commerce and Trade, Part 6(b) Open Space Recreation land to 3(b) General Business. The proposed development includes the expansion of the Tweed City Shopping Centre which may include an increased number of retail outlets, additional car parking area and upgrades to public roads and intersections adjacent to the shopping centre.

For the purposes of this assessment, it has been assumed that all of the Project Area may be the subject of significant surface and subsurface ground disturbance.

As this proposal relates to a rezoning application, development plans are yet to be finalised at this stage of the planning process.



4. HERITAGE REGISTERS: ABORIGINAL AND HISTORIC HERITAGE

4.1 The OEH Aboriginal Heritage Information Management System

Care should be taken when using the AHIMS database to reach conclusions about site prevalence or distribution. For example, a lack of sites in a given area should not be seen as evidence that the area was not occupied by Aboriginal people. It may simply be an indication that it has not been surveyed, or that the survey was undertaken in areas of poor surface visibility. Further, care needs to be taken when looking at the classification of sites. For example, the decision to classify a site an Open Campsite containing shell rather than a Midden can be a highly subjective exercise, the threshold for which may vary between archaeologists. There are also errors with the data.

A search was conducted on 22 February 2012 of the OEH Aboriginal Heritage Information Management System (AHIMS service number 63853) over 25 km² centred on the Project Area. The search identified 40 registered Aboriginal sites within the general locality search area (Figure 3 and Appendix B). The majority of the sites in the search area are listed as middens (9) with artefacts also common (4). Also present were burials (2), a habitation structure (1), and a ceremony / dreaming location (1).

Also listed in the in the register were sites that were a combination of features, including: a Bora / ceremonial place / midden (1), Earth Mound / shell / artefact (4), modified tree – carved or scarred (2), PAD / Aboriginal resource gathering locations / habitation structure (1), burial / habitation structure (1),

None of the sites listed are located within the Project Area, although site 04-2-0009 (Bora / ceremony / midden) is located close proximity to it, approximately 175m from Lot 22 DP23659, and may be affected by the proposed works.



Figure 3: AHIMS search results (indicative locations only) (GoogleEarth 2012)



4.2 Other Heritage Registers: Aboriginal & Historic Cultural Heritage

The following heritage registers were accessed on 29 February 2012 for Indigenous and historic places within the Tweed Shire LGA:

- **The World Heritage List:** Contains one place listing for the Tweed LGA, The Gondwana Rainforests of Australia. The place is not in proximity to the Project Area.
- **The National Heritage List (Australian Heritage Council):** Contains no place listings for the Tweed South area.
- **Commonwealth Heritage List (Australian Heritage Council):** Contains no place listings for the Tweed South area.
- **Register of the National Estate (Australian Heritage Council):** 6 places within the vicinity of the Project Area are listed on the register of the National Estate. Three are Aboriginal places and are discussed in further detail in the AHIMS site search detailed above. Three are significant heritage places. The first of these, the T.S. Vampire Dry Dock is located on Dry Dock Road, Tweed Heads South on the southern bank of Terranora Creek and north of the Project Area. The second is the Ukerebagh Nature Reserve, Tweed Heads South which comprises Ukerebagh Island and an adjacent block on the southern shore of Ukerebagh Passage. The third site is the Ukerebagh Ornithological Reserve, Kirkwood Road East East, Tweed Heads South. This site is bounded by the southern low-tide mark of Terranora Inlet to the north and the high-tide mark on the western shore of Ukerebagh Passage and Duffy Street to the west. The eastern boundary is defined by the low-tide mark of the western shoreline of the Tweed River and Kirkwood Road East to the south.
- **The State Heritage Register (NSW Heritage Office):** Contains two place listings for the Tweed LGA. They are not in proximity to the Project Area
- **Tweed Shire Local Environmental Plan 2000 (LEP) and Draft Tweed Shirewide Local Environment Plan 2010:** Lists 24 heritage places. None are within Tweed Heads South.



5. LANDSCAPE CONTEXT

5.1 Environment Locality

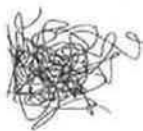
The Project Area is located in Tweed Heads South, approximately 1.1km west of the current western bank of the Tweed River. The ocean beach is approximately 2km to the east. The Project Area is a highly modified landscape surrounded by residential and light industrial development.

5.2 Topography

The site is low, level to gently undulating Pleistocene sand sheets overlying peat and alluvium (Morand 1996:153). It is designated as Disturbed Terrain (xx), being disturbed by human activity to a depth of at least 100 cm (Morand 1996:162). Slope is <5%, with minimal relief and elevation. Urban development of old estuarine plains requires extensive drainage and importing of soil materials, resulting in areas 1-2 m higher than their original elevation (Morand 1996:162).

5.3 Geology & Soils

The geology of the Project Area is Pleistocene marine and Aeolian quartz sand sheets and dunes of the inner barrier system. Soils were deep (>200 cm), generally well-drained Podzols (Morand 1996:152). Original soils may have been removed, greatly disturbed or buried. If artificial fill is present, it may comprise dredged sand or mud, rocks and local soil materials as well as demolition rubble, and industrial and household waste (Morand 1996:162).



5.4 Vegetation

The Project Area consisted of extensively cleared and disturbed open-heathland and forest vegetation. Parts of the subject area may have been subject to fill, prior to which common trees, shrubs and understorey vegetation would have included scribbly gum (*Eucalyptus signata*), wallum banksia (*Banksia emula*), heath banksia, along with coast honey myrtle (*Homoranthus virgatus*), whites tea-tree (*Leptospermum whitei*) and prickly brown heath (*Monotoca scoparia* var. *scoparia*). Open-woodland of broad-leaved paperbark (*Melaleuca quinquernervia*) would have occurred in wetter areas (Morand 1996:152).

5.5 Land-use History

5.5.1 Settlement

In 1823 John Oxley and his assistant John Fitzgerald Uniacke sailed along the north coast of NSW searching for a suitable spot for a new penal colony. During a storm his ship the 'HMS Mermaid' anchored 'under the lee of a small island [Cook Island] off Point Danger, about a mile from the land' (The Log of John Oxley, 'HMS Mermaid' 1823). Oxley's party explored the nearby estuary which he recorded as 'on the south side of this headland we had the satisfaction to discover a considerable river with an apparent clear entrance...' (The Log of John Oxley, 'HMS Mermaid' 1823) and he bestowed the name of the Tweed River (Denning 1973:8).

With the establishment in 1824 of the Moreton Bay Penal Settlement the coastal route for escaped convicts was south to Point Danger cross the Tweed River and continue to Port Macquarie where some gave themselves up to prison authorities. So frequent were escapes that in 1828 Commandant Logan sent a detachment of soldiers to intercept 'runaways' at the Tweed River by establishing a military outpost on the south side of the river (Keats 1999: 5). The detachment was forced to withdraw due to "...a rupture with the natives and since that period the natives have I believe been particularly hostile.....Pine and cedar gangs employed near the spot were attacked which obliged them to leave that part of the country and make their way to the settlement..." (Cunningham 1832, in Piper 1976:37).



In the early years supervised convict gangs operated in the Tweed felling the red cedar for shipping to the northern colony (Keats 1999:6). By the mid 1840s a small party of timber-getters from Moreton Bay were chopping cedar trees along the riverbanks (Denning 1973:12). The initial cedar-getters camp at Taranora was superseded by a new settlement (Cooloon) on the north bank near the river mouth, where it was more convenient for trading with the schooners that brought supplies and took the logs to Sydney (Keats 1989:404). Cedar forests on the slopes of Flagstaff Hill and throughout the Tweed Heads – Coolangatta area were targeted by axemen from Nerang and later Sydney (Keats 1999:6; Miller 2005:1). Timber felling was once the only economic activity on the river but by the end of the nineteenth century most of the cedar was gone.

The Tweed Valley offered limited open forest that was suitable for pastoral grazing on a large scale. Michael Guilfoyle, the Tweed Valley's first 'agriculturalist', took up 600 acres at Cudgen on the Tweed River for the cultivation of sugarcane (Tweed River Historical Society XXX). Shortly afterwards, in the 1870s, the Colonial Sugar Refining Co. (CSR) bought up extensive acreage including John Mcleod's land at Condong, and subdivided it into farms for cultivation of the cane.

A Parish map dating from approximately 1902 (Figure X) indicates that the majority of the Project Area in Tweed Heads South was privately owned by James King and not Crown land as is the case to the north and east of the Project Area. This, in addition to the types of activities outlined above, indicates that this landscape has been modified and disturbed since the mid-19th century.

5.5.2 A Review of Historic Aerial Photography

Historic aerial photographs of the Project Area were reviewed to ascertain the level of past ground disturbance. This information is used to assist in developing a predictive model for potential cultural heritage site locations. Aerial photographs from 1955, 1962, 1977 and 1982 were reviewed as part of this assessment (Appendix C). Please note that the comments in this section refer to the entire Study Area and not just the Project Area.

The 1955 image shows that the Project Area has been substantially cleared (Figure 10). Minjungbal Drive is well-formed at this time though Kirkwood Road East remains a track that deviates slightly off alignment from the northern boundary of the Study Area. Some dwelling construction is visible on Minjungbal Drive in addition to the beginning of residential construction along the northern portions of the Project Area. Cleared areas are visible



slightly south of the Project Area though it is not possible to determine whether this is for cultivation or for grazing. The south eastern margins of the Project Area have yet to be cleared in 1955.

Significant development has occurred across the Study Area by 1962. The 1962 aerial photograph (Figure 11) shows additional dwellings in Minjungbal Drive and Kirkwood Road East. The central portion of the Study Area shows clear evidence of improvements for cultivation. The northern portion of the Study Area towards the Project Area remains cleared. In the southeast corner there are what appear to be windrows though what the purpose of these is remains unclear.

The 1977 image (Figure 12) shows a small increase in residential dwellings along Kirkwood Road East. The most significant change has occurred in the southern portion of the northern half of the Study Area with the appearance of a car wrecking yard.

The most significant impact on the Project Area as viewed on these aerial photographs occurred between the 1977 and 1982 photographs (Figure 13) with the construction of the Tweed City Shopping Centre and related areas evident in Figure 13. In addition, the construction of the golf course is clearly evident in the southern portion of the Study Area along with the initial preparation of the land for the retirement village in the north eastern portion.

Also present within the north and eastern portion of the Project Area, sand excavation / development works area clearly visible to the rear of properties 30-34 Kirkwood Road East. This area would have been back filled to provide a foundation for the eastern expansion of the shopping complex to its current boundary. This includes the triangular section which comprises Lot 5 DP830973.

Conclusions: Due to the size of the Project Area, the poor resolution of the early photographs and the lack of clear features, identification of specific impacts on the Project Area is problematic. The initial clearing activities were likely to have caused ground disturbance and subsequent erosion would have likely had a significant impact to the depositional integrity of any Aboriginal Objects. Additional disturbance would have been caused by building construction, tracks and roads.



6. FIELD METHODS & RESULTS

6.1 Sampling Strategy & Survey Methods

The field inspection was conducted on foot by the Consultant and the Sites Officer of Tweed LALC on 16 March 2012. The properties under rezoning proposal contain commercial, residential or cleared former residential properties. The following lists the conditions on the date of inspection.

- 58-62 Minjungbal Drive: Cleared former service station site, surface of concrete slabs and driveway tarmac (Figure 4)
- 34-36 Minjungbal Drive: Existing commercial premises (Figure 5)
- 24-30 Kirkwood Road East: Cleared former residential premises, heavily grassed (Figure 6)
- 42-44 Kirkwood Road East: Existing residential premises (Figure 7)
- 46 Kirkwood Road East: Existing residential premises (Figure 8)
- 48-50 Kirkwood Road East: Existing residential premises (Figure 7)
- 52 Kirkwood Road East: Residential premises (Figure 9)

The Kirkwood Road East properties 24-30, 46 and 52, may not have been filled with introduced materials and therefore may have original ground surfaces; although modified to a limited degree by residential activity (services: sewage, water, foundations, gardens, paths, outbuildings etc.). The remainder of the Kirkwood Road East properties and Minjungbal Drive properties have been subject to varying degrees of excavation and back fill.

Photographs were taken for purpose of orientation, as a record of general features and conditions, to indicate the degree of surface visibility and the content of any archaeological sites found. Observations were made of the degree of surface visibility, the area of visibility, ground cover, land uses and any other relevant features.

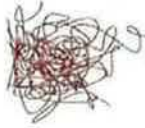


Figure 4: View south of 58-62 Minjungbal Drive



Figure 5: view east over 34-38 Minjungbal Drive



Figure 6: View south west over 24-30 Kirkwood Road East



Figure 7: 42-44 Kirkwood Road East (white building) and 48-50 (brown building)

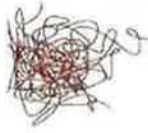


Figure 8: View south west towards 46 Kirkwood Road East



Figure 9: View south 52 Kirkwood Road East



6.3 Results

6.3.1 Aboriginal Cultural Heritage---The Kirkwood Road East Bora Ring

It was a particular focus of this DDA to establish the cultural links the Project Area has to the Kirkwood Road East Bora Ring (AHIMS #04-2-0009) and wider area. The ceremonial ring is part of the Minjungbal Resource Museum and Study Centre, Kirkwood Road East, located opposite 24 Kirkwood Road East, one of the proposed rezoning properties. The ring and surrounding area is a cultural heritage focal point to the local and wider Indigenous community.

The terms Bora Ground, Ceremonial Ground and Bora ring are often used synonymously yet they are distinct but connected entities. The Bora/Ceremonial Ground may be an extensive area over which ceremonial and non-ceremonial activities may take place. The main ceremonial complex in northern NSW and southern Queensland will include at least two rings, larger and smaller, linked by a path up to hundreds of metres distant. The larger of the two rings will be for 'public' purposes attended by all participating groups. This is commonly the surviving Bora ring. The smaller ring is used by select older men and initiates and prohibited to women and children. The path/paths between rings may be a trench and be lined by marked/carved trees and ritual images. In the surrounding district there are locations where further teaching and tests of the initiates may take place over several weeks before the initiates return to their family or clan group. This area of travel is termed by anthropologists "the ritual circuit". Campsites for visiting groups will be allocated with access to water and food usually facing the direction of their homeland. These 'visitors' camps may be some distance away but within easy walking distance. There will be no campsites near the smaller initiation ring or prohibited areas of the ritual circuit. More detailed descriptions of Bora Grounds/Rings can be found in Bowdler 1999, Fife 1995, McBryde 1974.

Dr. Isabel Mc Bryde referred to the Kirkwood Road East Bora ring in 1961 and quotes N.C.Hewitt who "...refers to three rings at Tweed Heads but gives no specific details of their location. A reflection of the number of ceremonial sites in this area may also be found in the Aboriginal name for Cudgen-'Ku-ging'. This apparently means red raddle. There is a hill at this place where the blacks get the red raddle or pigment to paint themselves with when going fighting or to corroboree..." (Hewitt 1900 in McBryde 1974:59).

In the personal experience of the author Ms. Margaret Kay assumed custodianship of the Bora Ring from at least the 1950's-1960's, marked surrounding trees with white marker (ochre?) and collected stone artefacts from the



surrounding area which visitors could see at her home nearby. Ms Kay could also point to a well on the northern side of the ring no longer visible (Ms M. Kay pers comm: c1958). A distinct gap in the western bank of the ring indicates that a second ring, possibly the initiation ring, was in that direction.

6.3.2 Consultation with Tweed Byron LALC and AAC

Prior to conducting the site inspection, Everick Operations Manager Tim Robins attended a meeting of the Tweed Shire Councils Aboriginal Advisory Committee ('AAC') on 2 March 2012. The purpose of the meeting was to introduce the proposed rezoning plans to the members of the AAC. The members of the AAC raised no objections to the proposed rezoning. However, monitoring of initial earthworks was raised as a strategy for managing potential impacts to physical Aboriginal heritage. This proposal is supported by the archaeological analysis and recommendations in this report. Consultation with the AAC identified no places of particular intangible (spiritual) significance within the Project Area. However, the Project Area is situated within an immediate cultural landscape that is of high significance to the Aboriginal people of the Tweed. This significance derives from a range of spiritual, ceremonial and occupation sites in relatively close proximity to the Project Area. Consultation with the AAC indicates that the Project would appear unlikely to have a substantial detrimental impact on the significance of surrounding landscape, including nearby Bora ground, owing to the already high levels of development over the Project Area.

The services of Mr. Des Williams Chairperson/Sites Officer of the Tweed LALC were also employed to inform the assessment as to the cultural significance of the proposed rezoning properties and surrounding 'Tweed City' precinct and to direct the future cultural heritage management strategies that may be required.

Mr. Williams formed opinions as to the cultural heritage significance of the Project Area in relation to the Kirkwood Road East Bora Ring. It is Mr. William's view that there are two areas of cultural significance associated in a spiritual sense to the Bora Ring these areas are to the east of the 'Tweed City' precinct in the vicinity of a high rise building. The second area of significance associated with the Bora Ring is located at a residential premises on the northern side of Kirkwood Road East. Details of these two locations are at the discretion of Mr. Williams only. Mr. Williams was of the view that the proposed lands under rezoning consideration and the 'Tweed City' precinct in general, was a camping ground used by groups participating in ceremonial and non-ceremonial activities (Des Williams pers comm: March 16 2012).



There were no Aboriginal Objects identified as a result of the field inspection.

6.3.3 Disturbance Impacts

From the review of archival aerial photography, field inspection and local information it can only be concluded that the Project Area has undergone major disturbance over the majority of the site. This has been in large part due to the construction in a number of building phases since the 1970's of the 'Tweed City' precinct. It is the understanding of the authors that foundation, drainage and service works required the excavation and removal of the original sand cover and back filling with introduced fill. It would seem probable that any Indigenous cultural materials in the form of shell and stone artefacts that may have existed on the bulk of the present 'Tweed City' precinct have been removed off site or buried to several metres depth.

Prior to European settlement there can be no doubt archaeological materials in the form of stone and shell artefacts were deposited throughout the area as the result of the resource gathering and tool maintenance by local inhabitants and periodically by large numbers of visiting groups to ceremonial activities. To the Indigenous Community the fact that physical evidence beyond the surviving ceremonial area is no longer visible does not mean that a cultural connection to the location is lost. The OEH recognises the continuity of cultural connection in its AHIMS when it retains the records of sites known to have been destroyed.

In regard to the proposed rezoning properties, an exception to the above impacts may be 5 residential properties on Kirkwood Road East that do not appear to have been filled with introduced materials that raise them to current RL (flood) levels. These are Kirkwood Road East properties 24-30, 46 and 52. These Kirkwood Road East properties do not appear to have been excavated and filled with introduced materials to the same degree as nearby more recent constructions. Therefore the original ground surfaces, although modified to a limited degree by residential activity (services: sewage, water, foundations, gardens, paths, outbuildings etc.), may retain a potential for cultural heritage material. This potential remains undefined until measures are taken to investigate further.



6.3.2 Historic Cultural Heritage

There were no places of historic heritage significance identified within the Project Area as a result of the field inspection.

7. CULTURAL HERITAGE DUE DILIGENCE ASSESSMENT

As discussed in Section 1.3.2 above, the Due Diligence Code recommends a staged analysis of cultural and archaeological factors. This section discusses the analysis of the Project Area when compared against these guidelines.

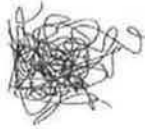
7.1 Step 1: Will the activity disturb the ground surface?

Yes. Refer to Section 1.2 for a full description of the project activities. The DEXUS Property Group is proposing to expand the Tweed City Shopping Centre footprint of the shopping centre complex to include the Lots subject to re-zoning application. These lots will be incorporated into the overall infrastructure of the Shopping complex. Ground disturbance is proposed to be fairly extensive in those areas for Re-zoning.

7.2 Step 2a: Search of AHIMS Database

A search of the AHIMS register was undertaken 10 January 2012. A total of forty (40) sites were located within the search area.

There are no registered Aboriginal cultural heritage sites within the Project Area itself. The nearest site is the Ceremonial ring (AHIMS # 04-2-0009), approximately 175m to the east of the eastern most portion of the Project Area. Ceremonial (Bora) grounds are known to have cultural significance that extend well beyond their physical boundaries. Community consultation has been undertaken, and will continue to be undertaken, to address potential impacts of the Project on this significance.



The next nearest occupation site is an Earth Mound / Shell / artefact complex (AHIMS # 04-2-0014), located approximately 300m to the north of 04-2-0009.

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.

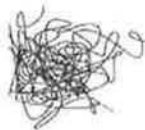
The Project Area is a former sand plain in close proximity to estuarine, ocean beach and fresh water swamp conditions. Prior to European settlement the area would have been a highly productive food and resource environment and highly desirable Indigenous campsite location. It is within a wider ceremonial area, with a focal point being the Kirkwood Road East Bora Ring.

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

All of the Project Area has been cleared and developed, constituting 'disturbance' under the meaning of the Due Diligence Code. Under the Due Diligence Code, no further assessment or impact mitigation activities are required.

However, having regard to the cultural significance of the surrounding area, and the potential for Aboriginal objects to be located within parts of the Project Area, a cautionary approach to managing heritage is recommended.

The disturbance analysis in this report demonstrates that there have been major impacts of prior events of vegetation clearance, drainage and construction that would have been highly destructive to the integrity of any Aboriginal objects located within the current footprint of the Tweed City shopping centre (see sections 4.1 and 6.4 for discussion on archaeological potential of the Study Area). Such impacts have occurred on multiple occasions



over 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).

Properties 58-62 Minjungbal Drive and properties 42, 44, 48-50 Kirkwood Road East have also been heavily impacted by past development activities including clearing, cut, fill and excavation for footings and services. These portions of the Project Area would appear to have little archaeological or cultural value.

There is a low to moderate potential that properties 24-30, 46 and 52 Kirkwood Road East may contain Aboriginal objects as they do not appear to have been subject to the same degree of development activities as the nearby properties.

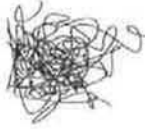
8. CONCLUSIONS AND RECOMMENDATIONS

The potential for Aboriginal cultural heritage to be located within the specified Kirkwood Road East properties cannot be ruled out. If these locations contain original sand strata then there is a potential that both disturbed and 'in situ' cultural materials to remain.

The Aboriginal community and the Tweed LALC are opposed to development proposals that do not take prior measures allowing them to identify whether their heritage is being impacted, and if so, participate in formulating appropriate, informed management strategies. Recommendations 1 - 6 have been drafted in consultation with the AAC and the Tweed Byron LALC, and are seen as an appropriate impact mitigation strategy having regard to the present planning process. They have received the support of the Tweed Byron LALC.

Recommendation 1: Ongoing Consultation over Monitoring of Earthworks

It is recommended that the Proponent undertake further consultation with the AAC and the Tweed Byron LALC prior to the submission of any Development Application(s) for the Project Area. The consultation should be aimed at reaching agreement over appropriate monitoring and/or post clearing survey strategies for the Project, focusing on properties 24-30, 46 and 52 Kirkwood Road East.



Recommendation 2: Aboriginal Human Remains

It is recommended that if human remains are located at any stage during earthworks within the Project Area, 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 Local Aboriginal Land Council and the OEH Regional Office, Coffs Harbour are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and the OEH 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 Objects Find Procedure

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

- (e) work in the surrounding area is to stop immediately;
- (f) a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;
- (g) an appropriately qualified archaeological consultant is to be engaged to identify the material; and
- (h) if the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the OEH guidelines: *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010).

Recommendation 4: Notifying the OEH

It is recommended that if Aboriginal cultural materials are uncovered as a result of development activities within the Project Area, they are to be registered as Sites in the Aboriginal Heritage Information Management System



(AHIMS) managed by the OEH. 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, OEH and the Aboriginal community.

Recommendation 6: Cultural Heritage Inductions

It is recommended that Staff and Contractors involved in the initial stripping of topsoil on the site should undergo a cultural heritage induction prior to commencing works. The induction should include:

- (e) an introduction to Aboriginal culture and tradition, including why evidence of Aboriginal occupation is important to Aboriginal people;
- (f) a summary of the requirements under New South Wales cultural heritage legislation
- (g) a brief introduction on how to identify Aboriginal Objects; and
- (h) a review of procedures in the event that Aboriginal cultural heritage is identified during the course of undertaking the project.



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APPENDIX A: CORRESPONDENCE – TWEED BYRON LALC



TWEED BYRON LOCAL ABORIGINAL LAND COUNCIL

P.O. Box 6967
Tweed Heads South NSW 2486
21/25 Ourimbah Road,
Tweed Heads NSW 2485
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Fax: (07) 55369 832
admin@tblalc.com

Friday, 20 April 2012

Tim Robbins
Evericks Heritage Consultants
PO Box 146
Red Hill Qld 4059

Dear Tim,

**Re: Cultural Heritage Due Diligence Assessment for Tweed City Shopping Centre Rezoning
Application, Tweed Heads South, NSW**

Tweed Byron LALC Cultural Sites Representative Mr Des Williams undertook a preliminary Cultural Site Assessment of the above property on the 16th March 2012 with your Senior Archaeologist Mr Adrian Piper.

The assessment area included the Tweed City Shopping Centre premises, car park, a number of adjoining houseblocks (vacant & with dwellings) and the vacant site of the old service station.

From Mr Williams assessment there were no objects or cultural material found. However given that the complex and adjoining said properties are within very close proximity to registered and known bora rings, the possibility of finding cultural materials/sites is highly likely.

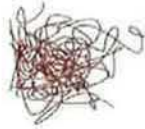
Tweed Byron LALC are therefore recommending that;

Recommendation

Tweed Byron LALC representative must be present when excavation work is being done during the project.

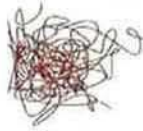
Yours sincerely

Lewenna Williams
(CEO)

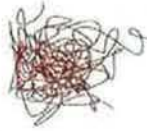


APPENDIX B: AHIMS SEARCH RESULTS

Site ID	Site Name	Easting	Northing	Context / Type	Features
04-2-0005	Terranora Broadwater, BMP-05-0160	552404	6879488	midden	Earth Mound, Shell, Artefact
04-2-0009	South Tweed Heads Bora Ring, BMP-05-0164	553934	6880638		Open site Bora/ceremonial, midden
04-2-0010	Fingal Point	555504	6880188	burial	burial
04-2-0011	Fingal Point, Fingal	555504	6880188	midden	Earth Mound, Shell, Artefact
04-2-0013	Fingal Head Aboriginal Cemetery	555304	6881088	burial	burial
04-2-0014	Ukerebagh Island Midden	553804	6880988	midden	Earth Mound, Shell, Artefact
04-2-0016	Ukerebagh Island, BMP-05-0154	553904	6881888	Ritual, natural mythological	Aboriginal ceremony & dreaming
04-2-0032	Greenbank Island, Tweed Heads	553324	6882758	midden	Earth Mound, Shell, Artefact
04-2-0034	Terranora Inlet Midden, BMP-05-0182	552644	6881578		
04-2-0071	Sexton Hill midden	554064	6879418		open site midden
04-2-0076	Fingal Head	555454	6880788	open site	artefact
04-2-0077	Fingal Head	555504	6880478	midden	earth mound, shell artefact
04-2-0078	Tony's Head, BMP-05-0185			restrictions apply	
04-2-0079	Terranora Creek 5, BMP-05-0186			restrictions apply	
04-2-0080	Daveys Island 6, BMP-05-0187			restrictions apply	open site midden
04-2-0081	Terranora Creek 7, BMP-05-0188			restrictions apply	open site midden
04-2-0082	Terranora Creek 8, BMP-05-0189			restrictions apply	open site midden
04-2-0083	Terranora Broadwater 9, BMP-05-0189			restrictions apply	open site midden
04-2-0084	Terranora Broadwater 10, BMP-05-0191			restrictions apply	open site midden
04-2-0085	Terranora Broadwater 11, BMP-05-0192			restrictions apply	open site midden



Site ID	Site Name	Easting	Northing	Context / Type	Features
04-2-0086	Terranora Broadwater 12, BMP-05-0193			restrictions apply	open site midden
04-2-0088	Terranora Broadwater 12, BMP-05-0194			restrictions apply	open site midden
04-2-0130	Fingal Point Quarry	555702	6880275	open site	habitation structure
04-2-0143	Ukerebagh Island	553935	6882009	open site	PAD, Aboriginal resource gathering, habitation structure
04-2-0144	Fingal Point Community	555130	6881326	open site	Burial, Habitation structure
04-2-0151	Coolangatta Airport Murraba 3, BMP-05-0144	550354	6883538	restrictions apply	
04-2-0153	West Tweed BMP-05-0146	551004	6883238	restrictions apply	
04-2-0154	West Tweed 2, BMP-05-0147	550804	6882988	restrictions apply	
04-2-0156	West Tweed 3, BMP-05-0149			restrictions apply	
04-2-0158	Terranora Broadwater, BMP-05- 0195	550604	6880538	restrictions apply	
04-2-0159	Terranora Broadwater, BMP-05-0196	550554	6880438	restrictions apply	
04-2-0160	Terranora Broadwater, BMP-05-0197			restrictions apply	open site
04-2-0161	Floral Avenue, BMP-05-0198			restrictions apply	
04-2-0162	Darlington Drive, BMP-05-0199			restrictions apply	open site
04-2-0163	Boyd Family Memorial, BMP-05-0120			restrictions apply	open site
04-2-0164	Razorback Lookout, BMP-05-0151			restrictions apply	
04-2-0165	Greenbank Island, BMP-05-0153			restrictions apply	
04-2-0166	Kinnear Aboriginal Midden Site	554253	6878514		
04-2-0182	KR1 Scarred Tree	552733	6880798		open site; Modified Tree, carved or scarred
04-2-0183	KR3 Scarred Tree	552618	6880809		open site; Modified Tree, carved or scarred



APPENDIX C: HISTORIC AERIAL PHOTOGRAPHY



Figure 10: 1955 Aerial photograph of the Project Area (Indicative Study Area shown in Red)

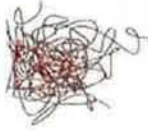


Figure 11: 1962 Aerial photograph of the Project Area (Indicative Study Area shown in Red)

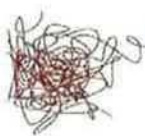


Figure 12: 1977 Aerial photograph of the Project Area (Indicative Study Area shown in Red)



Figure 13: 1982 Aerial photograph of the Project Area (Indicative Study Area shown in Red)

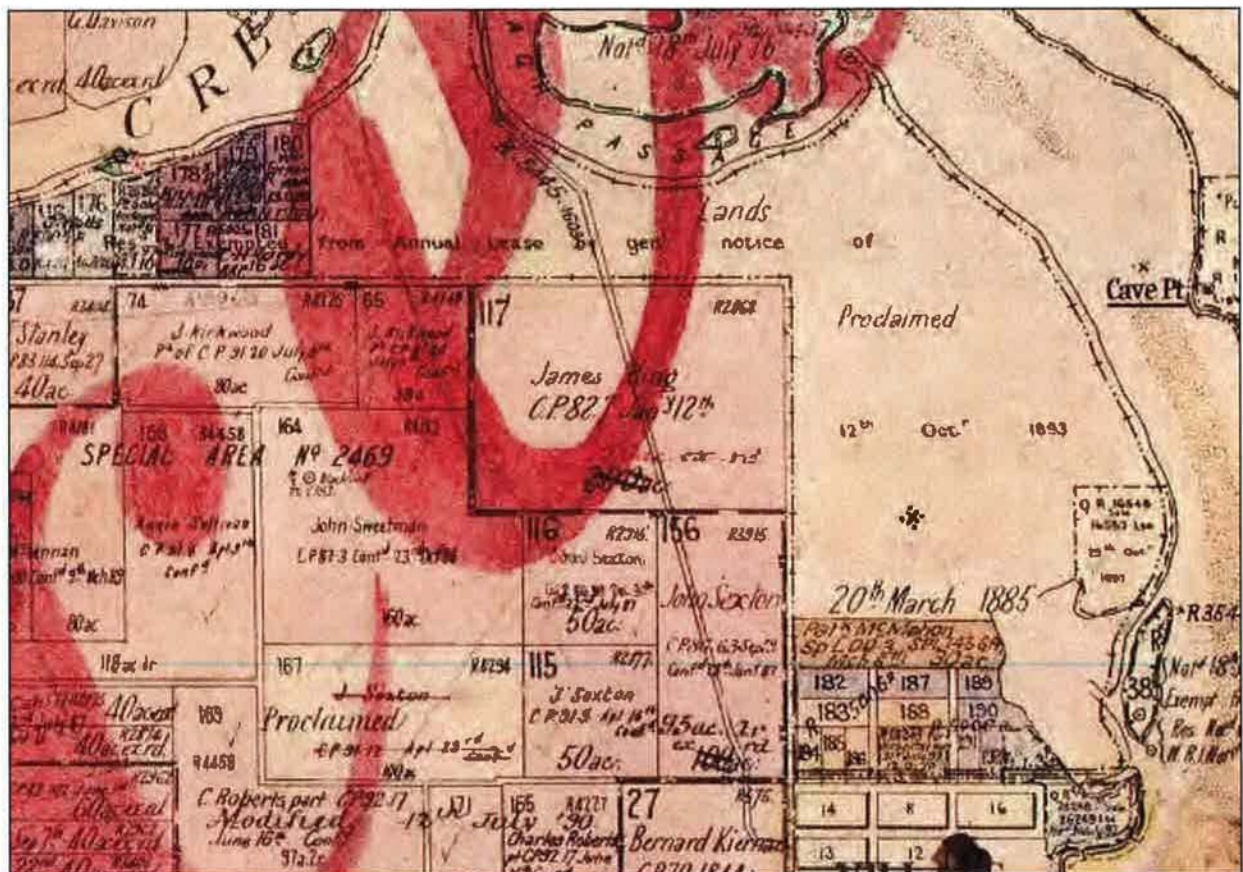
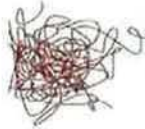


Figure 14: Parish Map c. 1902

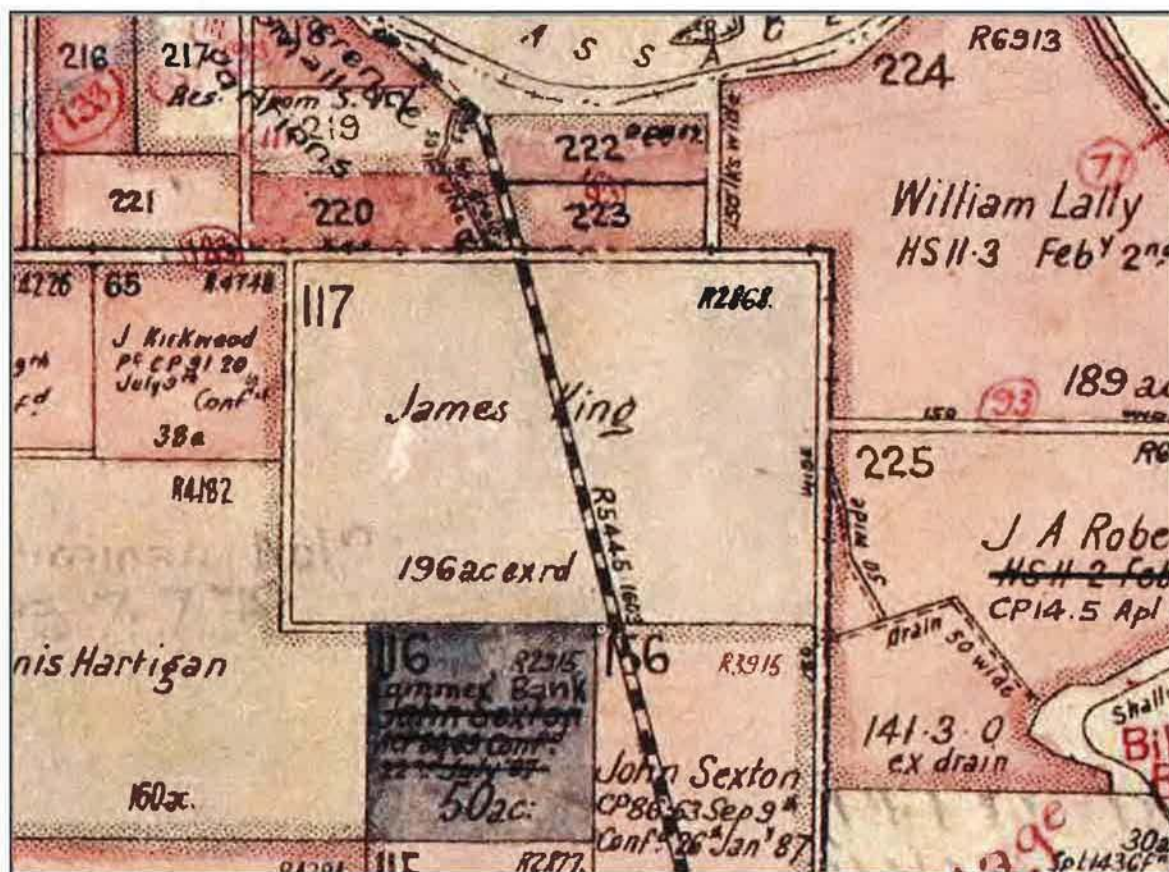
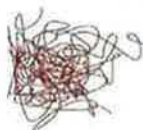


Figure 15: Parish Map 1913

Attachment 8 – Environmental Works Update for Service Station site

22 March 2012

Belinda Hufton
Asset and Development Manager, Retail
DEXUS Property Group
PO Box R1822
Royal Exchange NSW 1225

Environmental Works Update –

58-62 Minjungbal Drive, Tweed Heads South, NSW

Dear Belinda,

The purpose of this letter is to provide an update of the environmental works recently completed at the site located at 58-62 Minjungbal Drive, Tweed Heads South, NSW.

Recent Works

- A draft soil and groundwater data review and sample analysis and quality plan report has been prepared for the site. A number of soil data gaps were identified and these will be addressed during upcoming soil sampling (validation) works. This new soil data will facilitate the Auditor in preparing the Site Audit Statement

Planned Works

- Auditor review of the soil and groundwater data review and sample analysis and quality plan
- Preparation of a Phase I site assessment (which was another data gap identified during the soil and groundwater data review)
- Soil validation sampling proposed for April 2012
- Two further groundwater monitoring events are planned for April and May 2012 to monitor the results of the February chemical injection event

Conclusion

- The soil and groundwater data review has been prepared and will be with the Auditor shortly for review
- A Phase I site assessment will be prepared for the site
- Soil validation sampling will be undertaken at the site in April
- Groundwater sampling to assess the performance of the February 2012 chemical injection event will be undertaken in April and May 2012

Please do not hesitate to contact OTEK on the details below to discuss the matters further.

Yours Sincerely,



Charles Grimison
Senior Remediation Project Manager



Denton Mauldin
Remediation Practice Leader

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