

CASINO INDUSTRIAL REZONING CASINO NSW: ABORIGINAL CULTURAL HERITAGE ASSESSMENT

PREPARED FOR JM & CA IMESON

EVERICK HERITAGE PTY LTD

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EXECUTIVE SUMMARY

Everick Heritage (the Consultant) was commissioned by Newton Denny Chapelle Pty Ltd (NDC) on behalf of JM & CA Imeson (the Proponent) to undertake a Cultural Heritage Assessment for the rezoning of lands on the Bruxner Highway, Casino, NSW (the Project). The Project Area is identified as Lots 1 - 12 and 14 - 20 on DP 976660 and Lot 1 on DP 783330 comprising 18.8 hectares. The purpose of the Planning Proposal is to rezone the Project Area from RU1-Primary Production to IN1 General Industrial under the provisions of the *Richmond Valley Local Environmental Plan 2012*.

The intent of this cultural heritage assessment is to assess the suitability of the amended land use proposal in relation to potential impacts to Aboriginal (Indigenous) and non-Aboriginal (non-Indigenous) heritage. Should potentially significant heritage be identified, the assessment will consider higher level planning mechanisms through which such heritage can be adequately managed at the planning proposal and at the development application stage.

The brief for this project was to undertake a Cultural Heritage Assessment of a suitable standard to be submitted in support of the Project. 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) a search of relevant heritage registers;
- b) review of historical aerials;
- c) a site inspection conducted with a representative of the Casino Boolangle Local Aboriginal Land Council ('CBLALC');
- d) assessments of archaeological significance and impact; and
- e) report on findings and recommended management strategies.

The methods used for this assessment are in compliance with the Office of Environment and Heritage ('OEH') *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (2010) and all relevant legislation as described in Section 2 of this Report. The following report complies with the accepted methodology for undertaking a Cultural Heritage Assessment under the *National Parks and Wildlife Act 1974* ('NPW Act').

An extensive search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken on 17 October 2017 with a buffer of 1000 m (Client Service ID 307374) (Appendix B). The search returned no registered Aboriginal sites within the search area.



The Project Area is within the area administered for Aboriginal cultural heritage purposes by the Casino Boolangle Local Aboriginal Land Council (CBLALC). A pedestrian survey for Aboriginal cultural heritage of the Project Area was undertaken by Graham Randall Sites Officer of the CBLALC, with Senior Archaeologist Tim Hill of Everick Heritage, on the 1 November 2017. The survey did not identify any archaeological sites within the Project Area and did not identify the Project Area as a PAD.

The literature review identified potential archaeological sites as being: single *artefacts*, *artefact scatters* and *scarred trees*. *Rock shelters* containing occupation deposits, possibly art and grinding grooves are likely in locations where bed rock extrudes from hill slopes. These do not occur in the Project Area. *Quarry sites* may occur where sources of hard quartz sandstones, conglomerate or cryptocrystalline sedimentary rock occurs. These conditions do not occur in the Project Area. *Ceremonial sites* which feature raised earth mounds/stone mounds and sites of a purely spiritual nature are unlikely, as it is probably reasonable to assume that these locations would have been previously recorded through oral history sources. Land clearing over the subject lands would also have caused the destruction of ceremonial sites containing fixed structures in the nature of earth banks and stone arrangements and possibly scatter surface archaeological materials.

As a result of the desktop study and field inspection the following conclusions were established with Graham Randall, the Casino Boolangle LALC Sites Officer.

- a) No Indigenous cultural heritage sites or relics were identified within the Project Area.
- b) The archaeological survey was significantly constrained by grass cover, however no areas have been identified that are considered to contain potential archaeological deposits of significant Aboriginal heritage, such that they warrant archaeological excavation. The project area is located more than 200 metres from the Richmond River and as such is not considered a Potential Archaeological Deposit.
- c) The Project Area has been disturbed in a manner which constitutes 'disturbance' within the meaning of the Due Diligence Code and is consistent with the Due Diligence Code.
- d) No items of historical significance were identified within the Project Area.

The Consultant is of the opinion that the proposed works are unlikely to lead to harm to Aboriginal objects. Whilst additional archaeological investigations are not considered necessary, as a precautionary measure the following recommendations are provided:

The Consultant is of the opinion that the proposed works are unlikely to lead to harm to Aboriginal objects. Whilst additional archaeological investigations are not considered necessary, as a precautionary measure the following recommendations are provided:



Recommendation 1: Cultural Heritage Induction

It is recommended that a cultural heritage induction is provided to all contractors who are engaged as site supervisors or act in senior operational roles. The purpose of the cultural heritage induction is to;

- Make staff aware of the survey effort to date and potential for the Project Area to contain Aboriginal sites;
- Provide sufficient training for staff to identify Aboriginal objects should they be impacted during construction works; and
- Ensure that staff are aware of response procedures in the event of any harm to Aboriginal sites during construction works.

It is recommended that the cultural heritage induction is provided by a suitably experienced member of the Aboriginal community or a qualified archaeologist.

Recommendation 2: Aboriginal Object Find Procedure.

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 *ACHCRP Guidelines* (2010).

Should the material be identified as an Aboriginal object and the proposed works cannot be amended to avoid the Aboriginal site an Aboriginal Heritage Impact Permit (AHIP) would be required prior to recommencement of works in the vicinity of the site. Consultation with stakeholders from the Aboriginal community would be required as a part of the AHIP application process.

Recommendation 3: Aboriginal Human Remains

Although it is unlikely that Human Remains will be located at any stage during earthworks within the Project Area, should this event arise it is recommended that 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 (Casino), the Casino Bolangle and the OEH Regional Office (Coffs Harbour) are all 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 4: Conservation Principles

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



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DEFINITIONS

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

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

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.

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

AHIP means Aboriginal Heritage Impact Permit.

Archaeological Code of Practice means the OEH *Archaeological Code of Practice for the Investigation of Aboriginal Objects 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).

CBLALC means Casino Boolangle Local Aboriginal Land Council.

LEP means the Local Environment Plan.

NDC means Newton Denny Chapelle Pty Ltd.

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, Lots 1 - 12 and 14 - 20 on DP 976660 and Lot 1 on DP 783330, Johnston Street Casino NSW.

Proposed Works means all activities associated with and as an outcome of the planning proposal to which this report relates. Future works are anticipated to include industrial development which may involve earth works, construction and landscaping within the Project Area (including activities undertaken by subsequent landholders).

Proponent means JM & CA Imeson.

RVC means the Richmond Valley Council.



The Project means the proposal to rezone the Project Area from RU1-Primary Production to IN1 General Industrial under the provisions of the *Richmond Valley Local Environmental Plan 2012*.

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



1. INTRODUCTION

1.1 Purpose of the Archaeological Investigation

Everick Heritage (the Consultant) was commissioned by Newton Denny Chapelle Pty Ltd (NDC) on behalf of JM & CA Imeson (the Proponent) to undertake a Cultural Heritage Assessment for the rezoning of land located at Johnston Street, Casino, NSW (the Project). The Project Area is identified as Lots 1 - 12 and 14 - 20 on DP 976660 and Lot 1 on DP 783330 comprising 15.5 hectares.

The intent of this cultural heritage assessment is to assess the suitability of the amended land use proposal in relation to potential impacts to Aboriginal (Indigenous) and non-Aboriginal (non-Indigenous) heritage. Should potentially significant heritage be identified, the assessment will consider higher level planning mechanisms through which such heritage can be adequately managed at the planning proposal and at the development application stage.

1.2 Description of Planning Proposal

The proponent is proposing to rezone the Project Area from RU1-Primary Production to IN1 General Industrial under the provisions of the *Richmond Valley Local Environmental Plan 2012*.

Whilst the current proposal relates to a planning proposal, the impact assessment assumes that future development applications may result in the total removal of soils with the potential to contain Aboriginal Objects. The heritage management recommendations have been structured with this level of impact in mind. Having regard to the potential for the Project Area to contain Aboriginal Objects, the recommendations have been structured to address the rezoning application and any subsequent Development Applications.

1.3 Proponent, Project Brief & Methodology

The brief for this project was to undertake a Cultural Heritage Assessment of a suitable standard to be submitted in support of the Project. 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) a search of relevant heritage registers;
- b) review of historical aerials;



- c) a site inspection conducted with a representative of the Casino Boolangle Local Aboriginal Land Council ('CBLALC');
- d) assessments of archaeological significance and impact; and
- e) report on findings and recommended management strategies.

The methods used for this assessment are in compliance with the Office of Environment and Heritage ('OEH') *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (2010) and all relevant legislation as described in Section 2 of this Report. The following report complies with the accepted methodology for also undertaking a Cultural Heritage Assessment under the *National Parks and Wildlife Act 1974* ('NPW Act').

1.4 Report Authorship

The desktop study was undertaken by Senior Archaeologist Tim Hill and Archaeologist Robbie Mazlin. The field inspection was conducted by Senior Archaeologist Tim Hill. This report was written by Tim Hill and Robbie Mazlin. Technical review was completed by Everick Director Tim Robins. Aboriginal Community Consultation was conducted by Tim Robins.

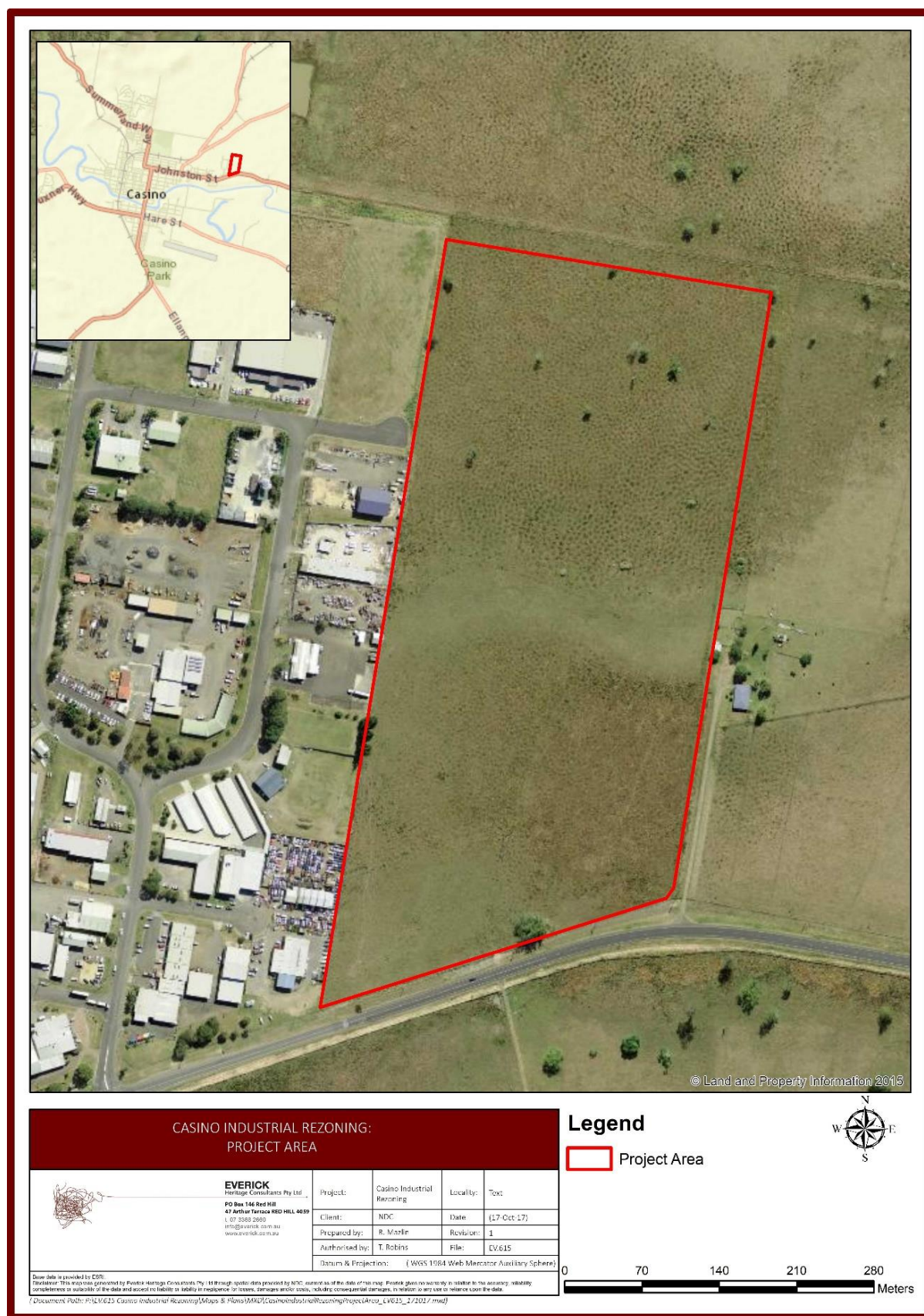


Figure 1: Regional Location of Project Area



2. LEGISLATIVE AND PLANNING CONTEXT

The primary State legislation concerning cultural heritage in New South Wales are the NPW Act 1974 (NSW) and the Council Local Environment 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 the State and local legislation are most relevant. The consent authorities will be the Richmond Valley 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.

2.1 The National Parks and Wildlife Act 1974 (NSW)

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

An Aboriginal Place is an area of particular significance to Aboriginal people which has been *declared* an Aboriginal Place by the Minister. The drafting of this legislation reflects the traditional focus on Objects, rather than on areas of significance such as story places and ceremonial grounds. However, a gradual shift in cultural heritage management practices is occurring towards recognising the value of identifying the significance of areas to Indigenous peoples beyond their physical attributes. With the introduction of the *National Parks and Wildlife Amendment Act 2010* (NSW) the former offence provisions under Section 86 of 'disturbing', 'moving', 'removing' or 'taking possession' of Aboriginal Objects or Places have been replaced by the new offence of 'harming or desecrating'. The definition of 'harm' is 'destroying, defacing or damaging an Object'. Importantly, in the context of the management recommendations in this assessment, harm to an Object that is 'trivial or negligible' will not constitute an offence.

The 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 NPW Act also now includes a range of defense 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).
- 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').
- d) Acting in accordance with an Aboriginal Heritage Impact Permit (AHIP).

The 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 defense 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 storm water drainage and other similar infrastructure.



2.2 Due Diligence Code of Practice for the Protection of Aboriginal Objects 2010

The Due Diligence Code has been applied in Section 10 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) 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.

2.3 The ACHCRP (2010)

The *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010) ('ACHCRP') provide an acceptable framework for conducting Aboriginal community consultation in preparation for impacts to Aboriginal cultural heritage. Proponents are required to follow them where a Project is likely to impact on cultural heritage and where required by Council. It is recommended by the OEH that all cultural heritage assessments involve this level of consultation, although it is not strictly a requirement unless it meets the above criteria. The ACHCRP Guidelines typically take a minimum of 90 days to complete. However, in complicated Projects this period may need to be extended by several months. The Guidelines require public notice of the assessment, preparation of a proposed methodology, undertaking site meetings and excavations where required, the production of a draft report, which is distributed to the registered Aboriginal groups and the production of a final report.

Although not strictly required, a thorough consultation process will treat the ACHCRP Guidelines as a minimum standard of community consultation. Generally, consultants must go to further effort to identify the significance of a given site to the Aboriginal community. This will likely include undertaking additional site inspections if requested by Aboriginal stakeholders, fully resourcing the community by providing copies of past archaeological and environmental assessments in the region and meeting with community members to seek their opinions of the site.



2.4 The Richmond Valley Local Environmental Plan 2012 and Richmond Valley Development Control Plan 2012

The Richmond Valley Local Environmental Plan 2012 (LEP) provides statutory protection for items already listed as being of heritage significance (Schedule 5 – Environmental Heritage), 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 Richmond Valley 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 (Part 5.10 and Schedule 2).

The *Richmond Valley Development Control Plan 2012* (DCP 2012) refers to visual impacts to commercial and residential built heritage. The principle contribution the DCP 2012 makes is to expand on the issues Council must consider before granting a development consent that may impact on a heritage item. Visual Impacts to built heritage must assess the following:

- a) Heritage Significance – if the land on which development is proposed has any item of heritage significance.
- b) Heritage Items – adjoining or adjacent listed items.
- c) Heritage Area – if the development is proposed within an identified area.



- d) Adjoining or adjacent to a Significant Streetscape Element (defined as being more than forty years old and having largely original decorative embellishments)

2.5 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.

2.6 ICOMOS Burra Charter

The International Council on Monuments and Sites (ICOMOS) is the peak body of professionals working in heritage conservation. ICOMOS has adopted the *Burra Charter* which describes acceptable standards for the assessment and management of items of cultural heritage significance in Australia. Although not a legal requirement, the *Burra Charter* has been adopted by Australian heritage professionals as a guide to assessing and managing heritage places and artefacts.



3. ABORIGINAL COMMUNITY CONSULTATION

3.1 Traditional Owner Knowledge

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

Everick Heritage recognises that there is Traditional Owner knowledge associated with the region that may have to be treated in a confidential manner. Where there is potential for impacts upon Aboriginal heritage as a result of future development proposals, consultation under ACHCRP (2010) would apply.

3.2 Consultation with the Casino Boolangle LALC

Project information, including a site plan, was provided to the CEO of the Casino Boolangle LALC by email on 31 October 2017. CBLALC Sites Officer Graham Randall undertook an inspection of the Project Area on the 1 November 2017, with Senior Archaeologist Tim Hill. The Sites Officer is aware of places of particular cultural significance within the Casino/Richmond locality and Aboriginal archaeological sites in the vicinity of the Project Area.



4. ABORIGINAL CULTURAL HERITAGE DESKTOP REVIEW

4.1 The OEH Aboriginal Heritage Information Management System (AHIMS)

An extensive search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken on 17 October 2017 with a buffer of 1000 m (Client Service ID 307374) (Appendix B). The search returned no registered Aboriginal sites within the search area.

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 for heritage or that the survey was undertaken in areas or at times of poor ground surface visibility. Further, care needs to be taken when looking at the classification of sites. There are also errors with the data.

4.2 Other Heritage Registers: Aboriginal & Historic Cultural Heritage

The following heritage registers were accessed on 17 October 2017:

- **The World Heritage List** (Australian Heritage Council): Contains no heritage listings within or within close proximity to the Project Area.
- **The National Heritage List** (Australian Heritage Council): Contains no heritage listings within or within close proximity to the Project Area.
- **Commonwealth Heritage List** (Australian Heritage Council): Contains no heritage listings within or within close proximity to the Project Area.
- **Register of the National Estate** (Australian Heritage Council): Contains no heritage listings within or within close proximity to the Project Area.
- **The State Heritage Register and Inventory** (NSW Heritage Office): Contains no heritage listings in Section 1-3 (*NSW Heritage Act*) within the Project Area.
- **Richmond Valley Local Environment Plan 2012**: Contains no heritage listings within or within close proximity to the Project Area.



5. LANDSCAPE CONTEXT

5.1 Topography

The Project Area has a consistent elevation of 21-22 m asl with no significant topographic variation. This is consistent with the soil landscape identified by Morand (1994) which predicts simple convex slopes with reliefs of 20-30m and moderately broad crests, as well as alluvial plains of extremely low relief.

5.2 Soils Landscapes and Vegetation

The Project Area has been mapped as the Leicester soil landscape (Morand 1994). This soil landscape is characterised by level to gently undulating, broad to extensive alluvial plains. These plains are of extremely low relief, with deep, poorly to moderately well-drained alluvial Black Earths and Structured Clays (Morand 1994: 127). Extensively cleared open-forests are associated with this soil landscape with current vegetation consisting of closed sod grassland ground cover with isolated trees.

The Project Area is currently clear of vegetation, excluding some sporadic tree coverage and has likely been used for agricultural purposes.

5.3 Disturbance Analysis

The Project Area is within an area which meets the definition of 'Disturbed' under the Due Diligence Code of Practice. The Due Diligence Code of Practice (OEH 2010) provides the following definition of 'disturbed land';

"Land is disturbed if it has been the subject of human activity that has changed the land surface, being changes that remain clear and observable. Examples include ploughing, construction of rural infrastructure (such as dams and fences), construction of roads, trails and tracks (including fire trails and tracks and walking tracks), clearing vegetation, construction of buildings and erection of other structures, construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water and sewerage pipelines, stormwater drainage and other similar infrastructure) and construction of earthworks" (OEH 2010:18)

The proposed crossing alignment will be mostly located within land subject to the following types of disturbance;

- Forest clearing;
- Low intensity agriculture including water points and yards; and
- Drainage works.



Figure 2: Soils Landscape.



6. ABORIGINAL CULTURAL CONTEXT

6.1 Ethnohistorical Summary

6.1.1 *Territories, Settlement and Movement*

The Aboriginal people of the Casino area were part of a wider linguistic group, the Bundjalung which included about twenty dialects spoken between the Clarence and Logan Rivers extending west to Tenterfield (Crowley 1978:1). The concentration of Bundjalung dialects to the north compared to the fewer dialect groups of the adjoining southern Kumbaingiri led Crowley to suggest that the Bundjalung areas may have been colonised earlier than the Kumbaingiri allowing a greater number of dialects to develop. Crowley also suggested that coastal Bundjalung dialects varied significantly from inland Bundjalung dialects (Crowley 1991). Joshua Bray, a settler on the Tweed River travelled from the coast to the inland Bundjalung dialect country of the Upper Richmond and found that "The language of the Aborigines is sometimes completely different thirty miles away" (Bray 1899:193). The Casino area was occupied by people speaking the Galibal dialect. The Galibal dialect group occupied the area between the McPherson Range in the north, tributaries of the Richmond River (Shannon Brook & Mongogare Creek) to the south, the Richmond Range to the west and the Tweed and Mackellar Ranges to the east (Crowley 1978). Land belonged to clan groups whose boundaries had been established in mythology (Creamer and Godwin 1984). A group of families might make up a clan or 'horde' which was a land holding group occupying a distinct territory. These clan territories have been described on the coastal plain by Ainsworth (1922) on the lower Richmond and Bray (1901) for the coastal and upper Tweed Valley. A loose confederation of clan groups recognised a wider social and linguistic association. Tindale (1974) places the Galibal dialect group within the territory of the 'Badjalang' which included the greater part of the Clarence and Richmond River floodplains.

6.2 Previous Indigenous Cultural Heritage/Archaeological Assessments

The purpose of a review of previous archaeological and broader Aboriginal cultural heritage assessments is to provide insights into the potential types and locations of sites to be found in the wider locality. However the information must be used bearing in mind the topography, access to food and material resources and impacts of European land uses. It is seldom that the background of assessment purpose, environmental, historical and social contexts between one area of assessment and another would allow the simple extrapolation of previous results to a current project assessment.

Cultural heritage assessments carried out in the vicinity of the Project Area include Piper (2004), Robins and Piper (2005), Piper (2009), Robins (2012) and Everick Heritage (2015). These reports can provide information on potential types and locations of sites to be found in the area. The first two assessments were conducted at a 4.5



km north-east of Casino off Spring Grove Road. The site proposed subdivision was situated on substantially cleared south facing hillslopes with ridges and gullies. The Piper (2004:26) assessment noted a low density artefact scatter on a low ridge falling to the Richmond River flood plain. Further investigations the following year (Robins and Piper 2005) did not reveal any additional Aboriginal cultural heritage.

The Piper (2009) cultural heritage assessment was conducted at Nammoona, North Casino. An archaeological survey of the area was undertaken by the A Piper and Mr Bill Walker, the Sites Officer for the Casino Boolangle LALC. The survey identified two Aboriginal sites (Scarred Tree One (Nammoona 1) and Scarred Tree Two (Nammoona 2), which were registered with OEH AHIMS. Three scarred trees were recorded immediately beyond the study area boundaries. No other Aboriginal sites or items of historic (non-Indigenous) cultural heritage were located.

The Robins (et al 2012) assessment north-west of Casino was of a range of wastewater treatment infrastructure, including for the installation of pipes, treatment tanks and irrigation works. No aboriginal objects or places were identified in this assessment. Ground surface visibility was poor to fair, with most of the subject lands being highly disturbed. During the assessment an artefact scatter also containing hearth stones was located on slopes to the Richmond River. This site comprised a low density artefact scatter on a river terrace located approximately 30m west of the Richmond River.

The floodplain at the base of the slope was, before it was drained, an extensive area of wetland (Clarence Randall pers. comm. 2011). The site was thus located on relatively high ground between the Richmond River and the wetlands at the base of the hill. The site comprised approximately nine artefacts, a river pebble and a number of hearth fragments. The artefacts comprised one silcrete core, one silcrete micro-core, one silcrete retouched flake, two silcrete flakes, a silcrete pebble, and a chalcedony micro-core. Scattered amongst the artefacts were numerous small fragments (maximum size c. 7 cm) of orange clay hearthstone fragments.

The site significance assessment concluded. This site, though small and disturbed, is an interesting one. Few archaeological sites have been recorded near the river in this locality, although it is a logical place for site location. It is close to permanent water and a range of resources from a number of different resources. The raw materials are diverse and from different localities. The chalcedony possibly comes from further east where sources of this material have been recorded. The silcrete is not local and possibly comes from the ranges to the north. Clay heat retainers are also not a common feature of sites in the region (Robins et al 2012:77-79).

Barton 1996 and 1998 conducted archaeological surveys over proposed quarry locations at Cedar Point five kilometres south of Kyogle. The study areas were grazing lands on a weathered basalt ridge overlooking the Richmond River floodplain. "...Two archaeological scarred trees were located in the Calill Quarry study area..."



(Benton 1996: 6). Both scars were elongated in shape, on mahogany trees. A concurrent archaeological study at Chadburn quarry five kilometres to the east of Kyogle found no archaeological sites.

A cultural heritage assessment at Dobies Bight in relation to a quarry expansion proposal over approximately 35ha of Kangaroo Creek sand stone based low back hills to the Richmond River floodplain, found no evidence of Aboriginal sites (Everick Heritage 2013).

A desktop study for Transgrid by Ozark summarised the Aboriginal sites data from DECCW as consisting of two clusters of sites at Casino and Dyraaba to the west and commenting on the surprising lack of registered sites in an area of considerable development. The report makes reference to an Aboriginal resource gathering site at Greys Lane (DECCW#04-4-0124) on the south side of the Richmond River and a cluster of five scarred trees (DECCW # 04-4-0031-35) is recorded at Wooroowoolgen west of Casino. Clusters of rock shelter art painting, engraving and ceremonial sites are recorded at Dyraaba (Ozark 2009: 12-13). Site 04-4-0124 is the nearest to the Project Area and this description supplements the AHIMS extensive search.

The Bora Ridge bora ring is located 7 km north-west of the Moonimba Ridge on a low spur onto the Richmond River floodplain. Sources indicate it was last used in approximately the 1890's. A Primary School occupied part of the ceremonial ring until its closure. The ring bank is now fenced but indistinguishable due to tree growth. McBryde refers to three bora rings at Casino one at north Casino, Bentley and one unnamed location at Casino. She also records literary references to bora rings at Busby's Flat and Wyan in the Richmond Ranges (McBryde 1974: 57).

The few sites recorded to date are as much a reflection of the lack of systematic archaeological surveys as the lack of archaeological sites. The Sites of Significance Survey Team recorded a large number of ceremonial, spiritual and natural mythological sites between 1974 and the 1980s. These include natural mythological sites, bora ceremonial areas, increase sites (djurbils) and various other types of sites, of which details remain confidential. The majority of these sites are located in the northern regions of the Galibal territory. A member of that team described the concentration of sites in the Bundjalung tribal area as, '... one of the densest concentrations of sites of significance to Aboriginal people in New South Wales' (Creamer: correspondence NPWS 1979).

6.3 Predictive Modelling

Having consideration for:

- the review of the results of previous assessments;
- archaeological and ethno historical research;
- an assessment of relationships between landscapes and their Aboriginal land use potential;



- Aboriginal community information obtained by previous research in the area; and
- the review of the current AHIMS site listings.

It is possible to propose a model of use and occupation by Aboriginal people targeting the Richmond River riparian zone and low elevated hills and ridge crests in close proximity to the Richmond River. The Project Area is primarily elevated former grazing land which comprises alluvial flood plain and former swampland and channels of the Richmond River. It is considered unlikely that the Project Area would make a suitable area for occupation or intermittent use. Further, given the geomorphological history of the Project Area it is unlikely that any physical evidence of occupation would be retained in the Project Area.

There is a potential at least for the following types of archaeological sites to occur within the Project Area, however European land use practices will have a direct bearing on site survivability;

- Isolated Artefacts.

Land clearing would also have resulted in the destruction of modified trees and ceremonial sites, should they have occurred within the Project Area.



7. NON-INDIGENOUS CULTURAL CONTEXT

Casino, originally known as 'The Falls', is considered the oldest settlement on the Richmond River. In 1840 Henry Clay and George Stapleton took up 30,000 acres of rich grazing land along the east bank of the Richmond River, and formed the station they named Cassino (Daley 1968:24). When inspected just a year later, they had already found a level track to Grafton, built a weatherboard house, outbuildings, a piggery, and had land under cultivation (Daley 1968:25). For a year Clay and Stapleton were the only squatters in the whole of the Richmond Valley (Daley 1968:25). However, by 1848 the area had also become the centre of the squatting runs of the Richmond and Upper Clarence (Richmond Valley Council 2007), with 21 stations taking up all the good grazing land on the Richmond (Daley 1968:43). During this period, cedar cutters arrived in the Richmond Valley, travelling overland when cedar became hard to get around the Clarence River. Camps were formed along the network of creeks that flowed through the valley, and schooners came up the river to load the logs (Daley 1968:33).

The village of Casino, in the heart of the prosperous grazing district and on the main road between Grafton, and Moreton Bay and Ipswich, became a popular settlement (Daley 1968:69). Nine and a half square miles around the village had been reserved to keep the squatters from encroaching, and allotments and farms were sold for above the minimum price (Daley 1968:69). The building of a Post Office in 1849 and a Courthouse in 1852 had proved the beginnings of a township, and by the late 1880s several substantial brick buildings demonstrated the growing importance of Casino in the region. In the 1900s the large squatting runs were subdivided into dairy farms and the construction of the railway brought additional prosperity (Richmond Valley Council 2007).



8. FIELD SURVEY: ABORIGINAL CULTURAL HERITAGE

8.1 Survey Team

The Project Area is within the area administered for Aboriginal cultural heritage purposes by the Casino Boolangle Local Aboriginal Land Council (CBLALC). A pedestrian survey for Aboriginal cultural heritage of the Project Area was undertaken by Graham Randall Sites Officer of the CBLALC, with Senior Archaeologist Tim Hill of Everick Heritage, on the 1 November 2017.

8.2 Assessment Methods

The field assessment methods aimed to inspect exposed ground surfaces as conditions would allow; to record any archaeological material found and assess its significance; and assess the potential for concealed Aboriginal archaeological sites. The assessment also aims to establish if there are sites or areas of a non-archaeological nature significant to the Aboriginal community. At this stage of the assessment this is through consultation with Casino-Boolangle LALC.

Photographs were taken as a record of general features and conditions and to document the degree of surface visibility. Notes were made of the degree of surface visibility, the area of visibility, ground cover, land uses and any other relevant features. Hand held GPS (GDA 94 datum) was used to record the extent of survey coverage except where fence lines, google and topographic mapping provided clear reference points.

Archaeological features may include evidence of stone artefact scatters or individual artefacts, traces of bone (human and animal), shell deposits, scarred trees and ash-stained earth that might represent fireplaces. When artefacts are found their location was recorded with a GPS, photographed and generally described. A note is made of artefact types and their numbers. General characteristics of the artefacts are noted including raw material type and condition including the degree of weathering and heat cracking. The length, width and thickness of a number of artefacts are recorded. Woodland areas with 'old growth' trees would be inspected for evidence of Aboriginal scarring due to bark removal or holes/notches cut into bark and tap wood. The details would be logged on standard OEH Site Recording Forms for registration with the OEH AHIMS.

8.3 Constraints to Site Detection

The landform pattern of this locality is alluvial floodplain. The topography of the Project Area is uniform with the exception of relatively small man-made drains along the western boundary of the Project Area. The archaeological



survey targeted cattle pads which provided reasonable access to bare soil which had not been subject to bulk earthworks. Cattel pads are known to provide a reasonable indication of the availability of sites, should they occur in a location.

A summary of the landscape features and broad disturbance types are listed in Table 1.

Table 1: Summary of Environment and Ground Disturbance for Survey Units.

Survey Unit	Environmental Description	Ground Disturbance Summary
LANDFORM Alluvial floodplain	Total Area: ca 15 ha. Slope classes: level.	Tree clearing, Grazing.

An assessment of the constraints to site detection is made to assist in formulating a view as to the effectiveness of the field inspection to find Aboriginal sites and cultural materials. It also assists in the forming of a view of the likelihood of concealed sites, keeping in mind the potential attributes of the location to Aboriginal people and a specific knowledge of the disturbance impacts that European land uses and natural processes may have had on the 'survivability' of Aboriginal sites in a Project Area

The constraints to site detection are almost always most influenced by post European settlement land uses and seldom by natural erosion processes. The area of surface exposure and the degree of surface visibility within exposed surfaces are usually the product of 'recent' land uses e.g. land clearing, ploughing, road construction, natural erosion and accelerated (manmade) erosion (McDonald et .al. 1990:92).

In this case the major 'manmade' constraints to Aboriginal site survivability, if they exist, appear to be the impacts of land clearing, grazing and an unknown degree of cultivation of agricultural crops such as corn, maize and hay.

8.4 Survey Coverage

To achieve as thorough and effective an archaeological field assessment as possible a systematic ground survey of all surfaces is the best method to achieve effective coverage. However in the Project Area conditions due to closed ground covers of grass prevented a systematic search. Therefore an opportunistic search of any exposed ground surfaces was the only means practically possible. These were limited to small shaded areas. Old growth trees were inspected for evidence of Aboriginal scarring or carving.

The field conditions for survey were significantly constrained by grass cover, which was waist high across the Project Area at the time of survey. Ground surface Visibility was less than 10%. As such systematic visual inspection was not undertaken.



Table 2 presents information on the extent to which survey data provides sufficient evidence for an evaluation of the distribution of archaeological materials across the Project Area. The evaluation of survey coverage provides a measure of the potential for each of the survey units to reveal archaeological evidence. The calculations in Table 2 do not provide an exact percentage of area, but a reasonable estimate.

Table 2: Survey Coverage.

Unit	Area (Ha)	Exposure %	Area of Exposure (Ha)	Visibility %	Area for Site Detection (Ha)	% of Lf for Site Detection	Sites Found
Alluvial flat	15.5	5	0.775	5	0.038	0.25	0

The areas of exposure and the subsequent proportion of the survey unit where site detection is possible, are low for archaeological assessments but common in this locality, where exposure percentages of less than 10% are the norm.



Figure 3: General survey conditions within Project Area.



Figure 4: Typical grass cover in areas without cattle pads.



9. RESULTS

As a result of the desktop study and field inspection the following conclusions were established with Graham Randall, the Casino Boolangle LALC Sites Officer.

- a) No Indigenous cultural heritage sites or relics were identified within the Project Area.
- b) The archaeological survey was significantly constrained by grass cover, however no areas have been identified that are considered to contain potential archaeological deposits of significant Aboriginal heritage, such that they warrant archaeological excavation. The project area is located more than 200 metres from the Richmond River and as such is not considered a Potential Archaeological Deposit.
- c) The Project Area has been disturbed in a manner which constitutes 'disturbance' within the meaning of the Due Diligence Code and is consistent with the Due Diligence Code.
- d) No items of historical significance were identified within the Project Area.



10. DUE DILIGENCE ASSESSMENT INDIGENOUS HERITAGE

The purpose of the Due Diligence Assessment is to determine if there are areas that have a particular potential to contain Aboriginal cultural heritage and to assess whether development proposals will destructively impact upon known and or concealed Aboriginal heritage sites.

As discussed in Section 2, the Due Diligence Code recommends a staged analysis of cultural and archaeological factors. The information below documents the analysis of the Project Area when compared against these guidelines.

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

Yes. As a result of the rezoning it is expected that there will be a development application for the construction of residential dwellings. These works will disturb the ground surface to a moderate degree and will include construction of roads, drains, essential infrastructure (plumbing and electricity), commercial and industrial buildings and landscaping.

10.2 Step 2a: Search of AHIMS Database

An extensive search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken on 17 October 2017 with a buffer of 1000 m (Client Service ID 307374) (Appendix B). The search returned no registered Aboriginal sites within the search area.

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

The Due Diligence Code of Practice (OEH 2010:12) identifies broad types of 'landscape features' which are considered to be consistently associated with Aboriginal Objects. These include areas:

- "within 200m of water; or
- located within a sand dune system; or
- located on a ridge top, ridge line or headland; or
- located within 200m below or above a cliff face; or
- within 20m of, or in a cave, rock shelter or cave mouth".



The Project Area is not located in any lands which meet these criteria.

Having regard to:

- a) the nature of Aboriginal occupation in the region;
- b) the Project Area's proximity to resources; and
- c) the Project Area's original vegetation, soils and topography.

The Project Area is a riverine environment which originally supported dense forest or swamp land. The main ecological features of floodplains prior to the construction of drainage schemes in the early settlement period lagoons and vast swamps which would have provided a wide range of aquatic and terrestrial food sources.

There is no higher ground or ridge crests within the Project Area.

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

The Project Area is within an area which meets the definition of 'Disturbed' under the Due Diligence Code of Practice. The Due Diligence Code of Practice (OEH 2010) provides the following definition of 'disturbed land';

"Land is disturbed if it has been the subject of human activity that has changed the land surface, being changes that remain clear and observable. Examples include ploughing, construction of rural infrastructure (such as dams and fences), construction of roads, trails and tracks (including fire trails and tracks and walking tracks), clearing vegetation, construction of buildings and erection of other structures, construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water and sewerage pipelines, stormwater drainage and other similar infrastructure) and construction of earthworks" (OEH 2010:18)

The proposed crossing alignment will be mostly located within land subject to the following types of disturbance;

- Forest clearing;
- Low intensity agriculture including water points and yards; and
- Drainage works.



10.5 Additional Steps

A pedestrian survey for Aboriginal cultural heritage of the Project Area was undertaken by Graham Randall Sites Officer of the CBLALC, with Senior Archaeologist Tim Hill of Everick Heritage, on the 1 November 2017. The survey did not identify any archaeological sites within the Project Area and did not identify the Project Area as a PAD.



11. RECOMMENDATIONS

The Consultant is of the opinion that the proposed works are unlikely to lead to harm to Aboriginal objects. Whilst additional archaeological investigations are not considered necessary, as a precautionary measure the following recommendations are provided:

Recommendation 1: Cultural Heritage Induction

It is recommended that a cultural heritage induction is provided to all contractors who are engaged as site supervisors or act in senior operational roles. The purpose of the cultural heritage induction is to;

- Make staff aware of the survey effort to date and potential for the Project Area to contain Aboriginal sites;
- Provide sufficient training for staff to identify Aboriginal objects should they be impacted during construction works; and
- Ensure that staff are aware of response procedures in the event of any harm to Aboriginal sites during construction works.

It is recommended that the cultural heritage induction is provided by a suitably experienced member of the Aboriginal community or a qualified archaeologist.

Recommendation 2: Aboriginal Object Find Procedure.

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 *ACHCRP Guidelines* (2010).

Should the material be identified as an Aboriginal object and the proposed works cannot be amended to avoid the Aboriginal site an Aboriginal Heritage Impact Permit (AHIP) would be required prior to recommencement of works in the vicinity of the site. Consultation with stakeholders from the Aboriginal community would be required as a part of the AHIP application process.



Recommendation 3: Aboriginal Human Remains

Although it is unlikely that Human Remains will be located at any stage during earthworks within the Project Area, should this event arise it is recommended that 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 (Casino), the Casino Bolangle and the OEH Regional Office (Coffs Harbour) are all 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 4: Conservation Principles

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



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APPENDIX A: CORRESPONDANCE WITH ABORIGINAL COMMUNITY

{To be inserted upon receipt}



APPENDIX B: AHIMS EXTENSIVE SEARCH REPORT



AHIMS Web Services (AWS) Search Result

Purchase Order/Reference : EV615

Client Service ID : 307374

Everick Heritage Consultants Pty Ltd

Date: 17 October 2017

47 Arthur Tce

Red Hill Queensland 4059

Attention: Pauline Fowler

Email: p.fowler@everick.com.au

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lot : 14, DP:DP976660, Section : 6 with a Buffer of 1000 meters, conducted by Pauline Fowler on 17 October 2017.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location.*



If your search shows Aboriginal sites or places what should you do?

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette](http://www.nsw.gov.au/gazette) (<http://www.nsw.gov.au/gazette>) website. Gazettal notices published prior to 2001 can be obtained from Office of Environment and Heritage's Aboriginal Heritage Information Unit upon request

Important information about your AHIMS search

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings.
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.

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