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Lot 100 DP 1201719, Hills Road
Rileys Hill, NSW

Aboriginal Cultural Heritage Assessment Report

Prepared for Monal Pty Ltd

October 2020

Everick Heritage Pty Ltd



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EXECUTIVE SUMMARY

The following report is an assessment of Aboriginal heritage relating to the residential rezoning proposal at Lot 100 DP 1201719, Hills Road, Rileys Hill, NSW (Figure 1). The purpose of the Aboriginal Cultural Heritage Assessment Report ('ACHAR') is to provide an assessment of Aboriginal cultural values, document consultation with Aboriginal stakeholders in support of the planning proposal for the residential rezoning. The ACHAR has been commissioned in response to advice from the Biodiversity and Conservation Division of the Department of Planning, Infrastructure and Environment ('DPI&E'). It is noted the ACHAR has been specifically prepared to address part of Condition 1 of the Gateway Determination issued by the Department of Planning for the Project (17th July 2018).

The Proponent has submitted a planning proposal to Richmond Valley Council to provide for the following;

- 35 residential lots with a minimum lot size of 800 m² (Figure 1 and Figure 2).

The ACHAR assumes that the rezoning of the Project Area will result in the following ground disturbing activities;

- residential dwellings and associated buildings and landscaping;
- including roads and underground utilities; and
- reserves for drainage and a sewer rising main.

The following describe the results from the ACHAR investigations;

- No archaeological sites have been previously recorded within the Project Area or immediately adjacent to the Project Area. While Aboriginal sites are known to occur in landscapes similar to the Project Area the predictive model has identified that Aboriginal sites would likely be more closely associated with the Richmond River or coastal estuaries and wetlands near Evans Head.
- Consultation with Registered Aboriginal Parties has identified that Aboriginal camps and settlement areas were common at Rileys Hill in the historic period, and this is in part as Rileys Hill was a significant river port during the early settlement of the Richmond Valley. The oral history of Rileys Hill includes a massacre site which is understood to be closer to the river port.
- No archaeological sites were identified by the pedestrian survey undertaken with Jali LALC, however the Project Area was identified as having the potential to contain sub-surface archaeological deposits.
- No archaeological sites were identified during the archaeological excavations. The soil profile included deep sands which, based on the results of archaeological excavation for the Pacific

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Highway upgrade are considered to have the potential to contain archaeological deposits as deep as 2 m below the ground surface. These sites include Pleistocene middens which have the potential to be of high cultural and scientific significance. However, based on the outcomes of the investigation it is considered unlikely that the bulk earthworks and road infrastructure will impact on archaeological sites.

- The potential of deeper stormwater detention basins to impact on Aboriginal archaeological sites, namely Pleistocene middens, could not be tested using the CoPAI as a defence against prosecution. As such, additional investigation may be required should any stormwater detention basins extend between 1500 mm and 2500 mm below the ground surface on the flatter sand plain component of the Project Area which is designated for environmental protection. It is likely that the sandy slopes have accumulated over the Pleistocene sand sheets and have possibly buried them as deep as 4 metres below the present ground surface. Completion of archaeological investigations for these sites would require testing 'outside the Code of Practice' under an AHIP.

The Consultant is of the opinion that the Proposed Works are unlikely to result in harm to Aboriginal objects. The following recommendations are provided.

Recommendation 1: Stormwater detention infrastructure.

Due to the identified potential of Aboriginal Pleistocene midden sites to occur at depths between 1500 and 2500 mm below the sand plain area identified as environmental protection zone, it is recommended that additional consultation and archaeological investigation under an Aboriginal Heritage Impact Permit is undertaken for stormwater detention basins or similar. It is understood that these features have not been designed and will be subject to a separate and subsequent Development Application should the planning proposal be approved. Alternatively, the stormwater detention infrastructure may be designed to avoid deep sand deposits with the potential to contain archaeological midden sites.

Recommendation 2: Unexpected Finds Procedure.

It is recommended that if suspected Aboriginal material has been uncovered because 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;

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- 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); and
- e) should the works be deemed to have harmed the Aboriginal objects the OEH should be notified immediately via the EPA Enviro Hotline.

Recommendation 3: Aboriginal Human Remains

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 location where they were found should be cordoned off and the remains themselves should be left untouched. The nearest police station (Ballina), the Jali LALC and the DPI&E 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 release the scene, the Aboriginal community and the DPI&E 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.

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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)*.

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

CoPAI means *Code of Practice for Archaeological Investigation*.

Due Diligence Code means the OEH *Due Diligence Code for the Protection of Aboriginal Objects in NSW (2010)*.

DPI&E means the Department of Planning, Infrastructure and the Environment.

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

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

Project Area means the land subject to this assessment, being Lot 100 DP1201719 located at Hills Road, Rileys Hill.

Proposed Works means all ground disturbing activities associated with construction of a residential development.

Proponent means Monal Pty Ltd and all associated employees, contractors and subcontractors of the same.

RAPs means registered Aboriginal parties.

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The Project means all activities associated with construction of the proposed residential development (Figure 2).

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



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1. INTRODUCTION

1.1 Purpose of the Cultural Heritage Assessment

The following report is an assessment of Aboriginal heritage relating to the residential rezoning proposal at Lot 100 DP 1201719, Hills Road, Rileys Hill, NSW (Figure 1). The purpose of the Aboriginal Cultural Heritage Assessment Report ('ACHAR') is to provide an assessment of Aboriginal cultural values, document consultation with Aboriginal stakeholders in support of the planning proposal for the residential rezoning. The ACHAR has been commissioned in response to advice from the Biodiversity and Conservation Division of the Department of Planning, Infrastructure and Environment ('DPI&E'). It is noted the ACHAR has been specifically prepared to address part of Condition 1 of the Gateway Determination issued by the Department of Planning for the Project (17th July 2018).

1.2 The Project

Everick Heritage (the 'Consultant') was commissioned by Monal Pty Ltd (the 'Proponent') to undertake this assessment. The brief for this project was to undertake an ACHAR of suitable standard to be submitted in support of the rezoning application. The Proponent has submitted a planning proposal to Richmond Valley Council to provide for the following;

- 35 residential lots with a minimum lot size of 800 m² (Figure 1 and Figure 2).

The ACHAR assumes that the rezoning of the Project Area will result in the following ground disturbing activities;

- residential dwellings and associated buildings and landscaping located around the elevated western slopes;
- roads and underground utilities connecting the residential lots and Hills Road; and
- reserves for drainage and a sewer rising main.

The methods used for this assessment are in compliance with the Office of Environment and Heritage ('OEH') *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* (2010) (NSW) and all relevant legislation as described in Section 2 of this Report. The following report complies with the accepted methodology for undertaking an ACHAR under the *National Parks and Wildlife Act 1974* ('NPW Act').

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1.3 Project Brief

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) a site inspection conducted with a representative of the Jali Local Aboriginal Land Council ('LALC');
- c) assessments of archaeological significance and impact; and
- d) 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 an Aboriginal Heritage Assessment under the *National Parks and Wildlife Act 1974* ('NPW Act').

1.4 Site Locality

The Project Area is located at Hills Road, Rileys Hill, NSW. The Project comprises the following land portions;

- Lot 100 DP 1201719.

1.5 Report Authorship

The desktop study and report were undertaken by Principal (Northern NSW) Tim Hill and Archaeologists Matthew Finlayson and Robbie Mazlin. Fieldwork and consultation was undertaken by Tim Hill. Technical review and community consultation were completed by Everick Director Tim Robins and Tim Hill.

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Figure 1: Project Area and Regional Locality.

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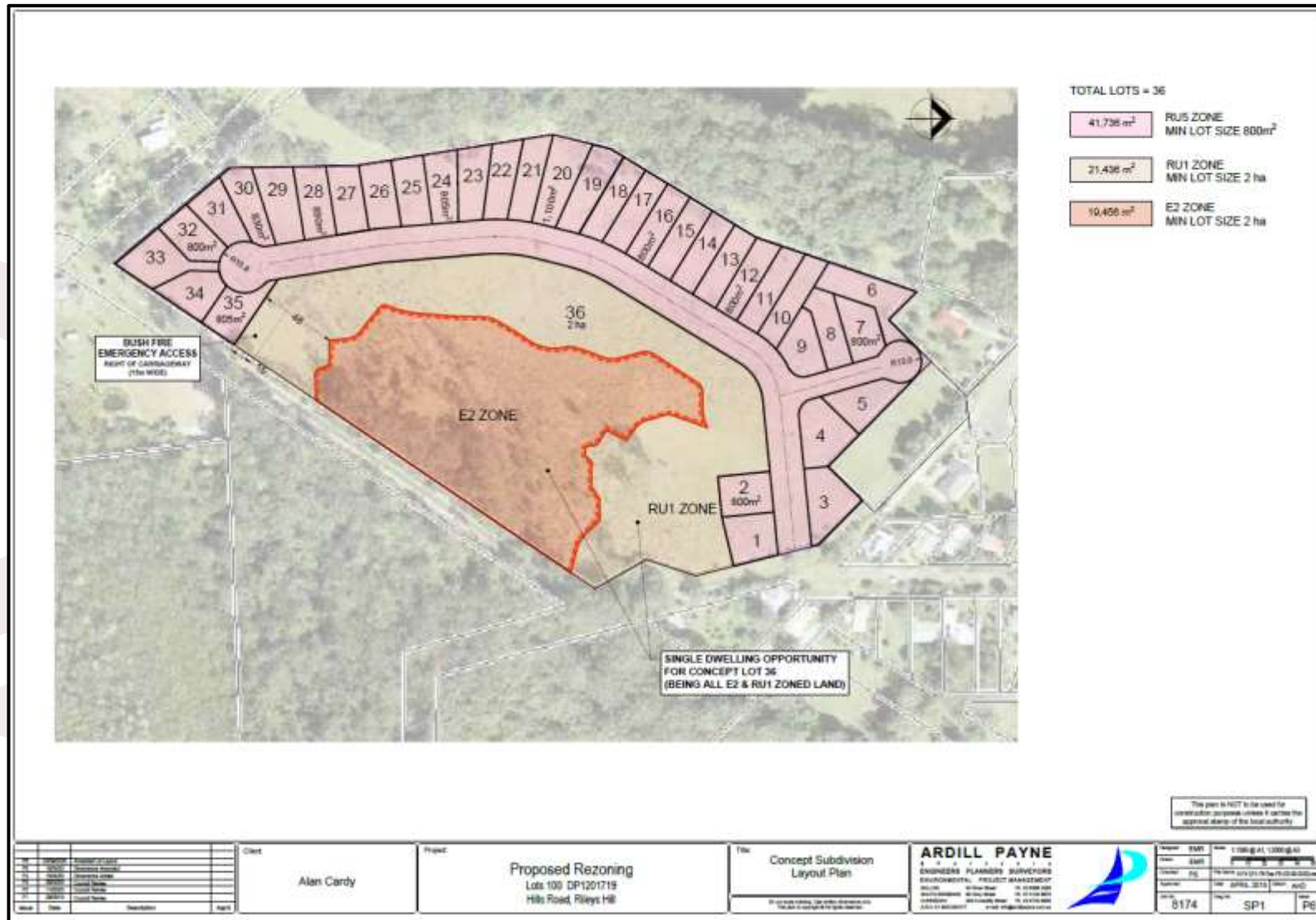


Figure 2: Concept subdivision layout.

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's Local 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).

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 NPW 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

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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) (NSW).
- c) Using a consulting archaeologist who correctly applies the OEH *Code of Practice for Archaeological Conduct in New South Wales* (2010) (NSW) ('Code of Practice').
- d) Acting in accordance with an Aboriginal Heritage Impact Permit (AHIP).

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, costeaning 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 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.

The Due Diligence Code is supported by the *Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales (NSW)* ('COPAI') which provides guidelines on archaeological investigation, reporting and sets out the minimum requirements for compliance with AHIPs and the permanent storage of Aboriginal Objects.

2.3 The Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010) (NSW)

The *Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010) (NSW)* ('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

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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 Aboriginal community members to seek their opinions as to the significance of the site.

2.4 The Richmond Valley Local Environmental Plan 2012

The Richmond Valley Local Environmental Plan ('LEP') 2012 provides statutory protection for items already listed as being of heritage significance (Schedule 5), items that fall under the ambit of the *Heritage Act 1977* (NSW) and Aboriginal Objects under the NPW Act. It aims to ensure best practice components of the heritage decision making process are followed. For listed heritage items, or building, work, relic or tree and heritage conservation areas, the following action can only be carried out with the consent of the Richmond Valley Council:

- a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area;
- b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior;
- c) altering a heritage item that is a building by making structural changes to its interior;
- d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed;
- e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance;
- f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area; and
- g) sub-dividing land on which a heritage item is located or that is within a heritage conservation area.

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3. ENVIRONMENTAL AND CULTURAL CONTEXT

3.1 Topography

The Project Area is substantially below 10 m asl and comprises two ridges on either side of a broad shallow channel which runs roughly north south through the centre of the Project Area. At the time of the site inspection this central channel was inundated with water.

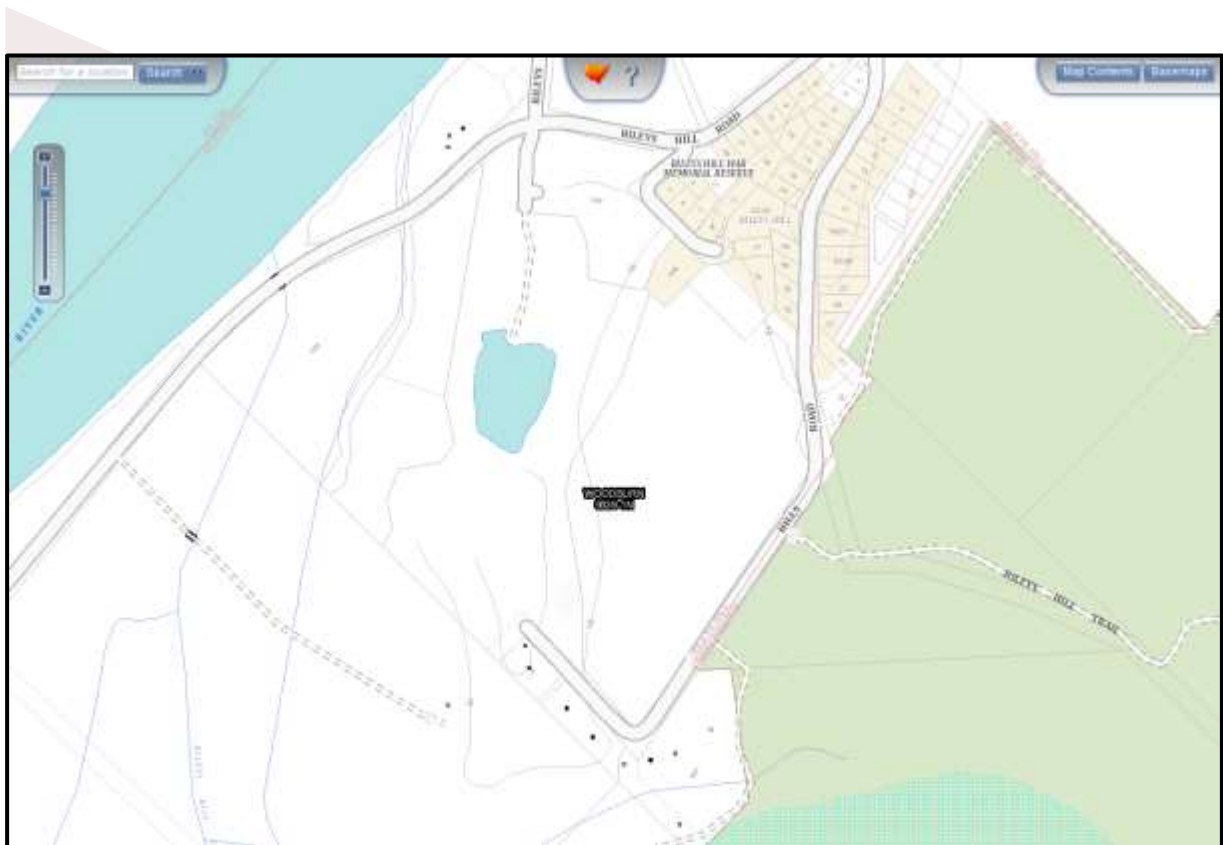


Figure 3: Topographic map of the Project Area.

3.2 Soils Landscapes and Vegetation

The Project Area has been mapped as comprising the following soil landscapes (Morand 2001).

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Table 1: Soil landscapes of Project Area (Morand 2001).

Soil landscape	Location	Description
Iluka	Lowlying sandy channel	Landscape—extremely low, level to gently undulating Quaternary (Holocene and Pleistocene) sand sheets. Low beach ridges are common on Holocene sand. Slopes 0 – 2%; relief 1 – 3 m; elevation 1 – 5 m. Mix of uncleared and cleared areas of open-forest and closed-forest (littoral rainforest).
Dungarabba	Lower slopes and non-sandy soils	Backplains of lower Richmond River. Relief <5 m; slopes <1%; elevation 1 – 5 m. Extensively cleared open-forest and swamp complex.
Olive Gap Var B.	Low hills and slopes	Not available.

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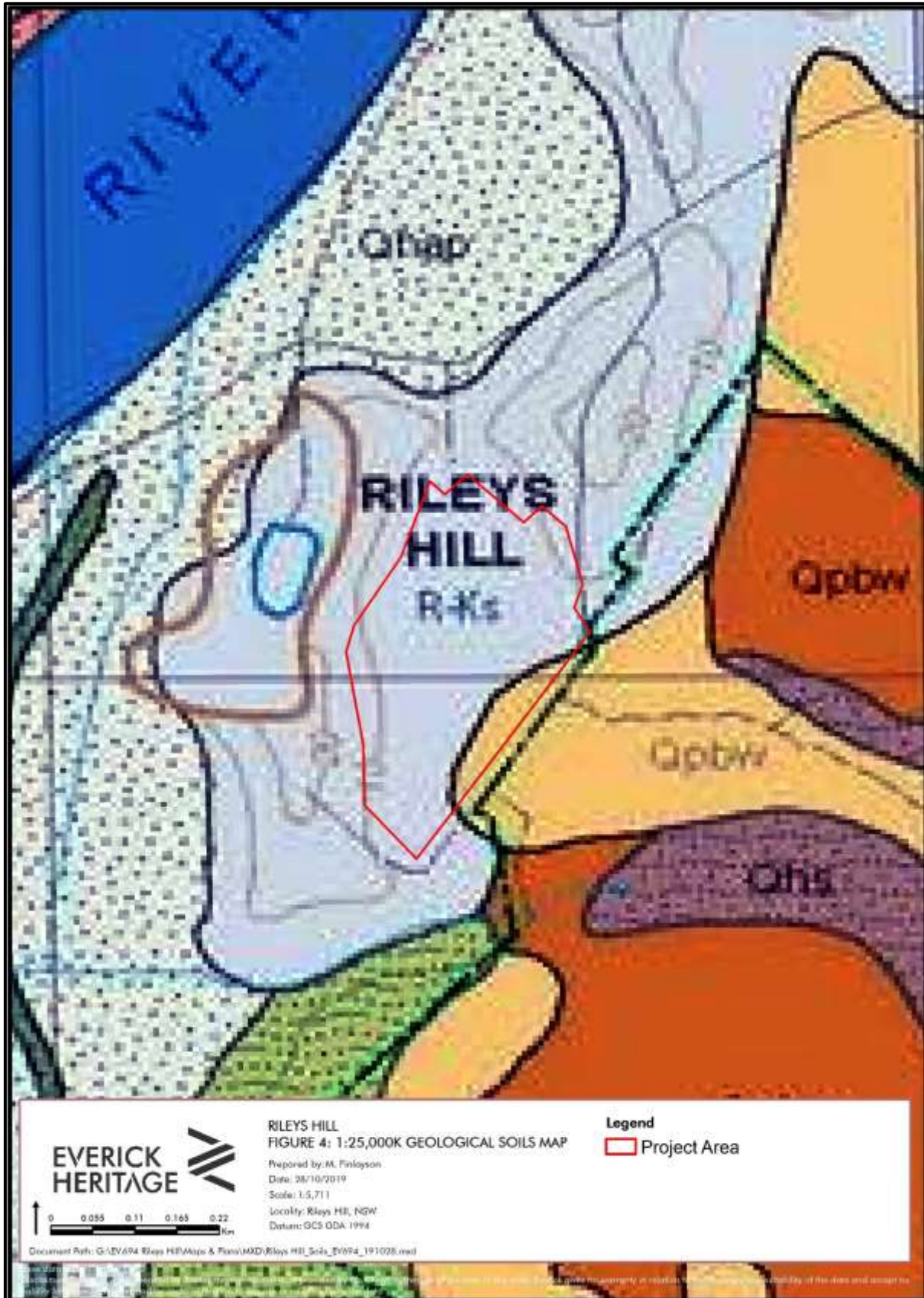


Figure 4: Soil landscape map.

3.3 Disturbance Analysis

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 Project Area is mostly located within land subject to the following types of disturbance;

- Forest clearing;
- Low intensity grazing and pasture production; and
- Pine plantation.

The main form of disturbance which would affect Aboriginal sites within the topsoil profile includes the planting, maintenance and harvesting of introduced pines, which are visible as low stump on the more elevated slopes of the Project Area. The central portion of the Project Area is also substantially affected by the clearing and maintenance of vegetation for a powerline easement.

3.4 Ethnohistorical Summary

The Aboriginal people of the Richmond River 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 Kumbainggiri led Crowley to suggest that the Bundjalung areas may have been colonised earlier than the Kumbainggiri allowing a greater number of dialects to develop. Crowley also suggested that coastal Bundjalung dialects varied significantly from inland Bundjalung dialects (Crowley 1978). 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 1923). These clan territories have been described on the coastal plain by Ainsworth (1922) on the lower Richmond Valley. A loose confederation of clan groups recognised a wider social and linguistic association.

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Steele (1987) identifies several ceremonial and mythological sites and features along the Richmond River however makes not specific references to these types of sites in the Rileys Hill Area. The closest feature noted in this manuscript is the Cooks Hill ceremonial area at Broadwater.

3.5 Known Aboriginal Sites.

A basic search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken on 30 April 2018 (Client Service ID 341825). The search focused on the Project Area with a buffer of 1000 m and returned no registered Aboriginal sites within this search area. One (1) Aboriginal site was recorded outside the Project Area (Table 2 and Figure 5).

Table 2: AHIMS search results.

Site #ID	Site Name	Easting	Northing	Type	Permit
13-1-0208	Riley's Hill	538162	6790249	Artefact	No

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.

3.6 Other Heritage Registers: Aboriginal & Historic Cultural Heritage

The following heritage registers were accessed on 15 January 2020:

- 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.

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- 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 the Project Area, but contains two (2) in proximity to the north, being;
 - Rileys Hill Dry Dock (#1157); and
 - Rileys Hill Community Centre (including Charlie Ah Ching's Bell) (#1156).

These listings will not be impacted by the Project.

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Figure 5: AHIMS site location map.

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3.7 Landform analysis and predictive model

There are a number of criteria by which the potential of a landscape to contain Aboriginal sites or cultural places should be assessed. These are broadly outlined in the OEH *Due Diligence Code of Practice* as areas:

- within 200 m of waters,
- or located within a sand dune system,
- or located on a ridge top, ridge line or headland,
- or located within 200 m below or above a cliff face, or within 20 m of or in a cave, rock shelter, or a cave mouth; and
- is on land that is not disturbed land.

Having consideration for these environments it is reasonable to conclude that the Project Area has the potential to contain Aboriginal objects (sites) on the basis that the Project Area contains a water feature and is within close proximity to the Richmond River.

The use of ridge lines as transit corridors between river valleys and major tributaries within those systems is advanced by Fox (2003). In the ridge line landform context archaeological evidence consists of artefact scatters, scarred trees and isolated artefacts in 'open' situations and may include the use of nearby overhangs/rock shelters/caves. Associations between ridge line sites in terms of their contemporaneity and contents, has not been tested by systematic archaeological investigations. However, results from surveys undertaken for residential and commercial developments generally demonstrate a trend towards occupation on elevated slopes and ridge crests. While ridge lines may have served as transit corridors for Aboriginal groups on a sporadic basis their use as 'campsites' is dependent upon other factors apart from slope, ground covers, access to water and access to food and other resources. In this instance the Project Area is considered to be located in an area where the elevated hills would have provided access to these features and resources. Of note is the presence of outcropping sandstone which may have been a particular resource for Aboriginal people.

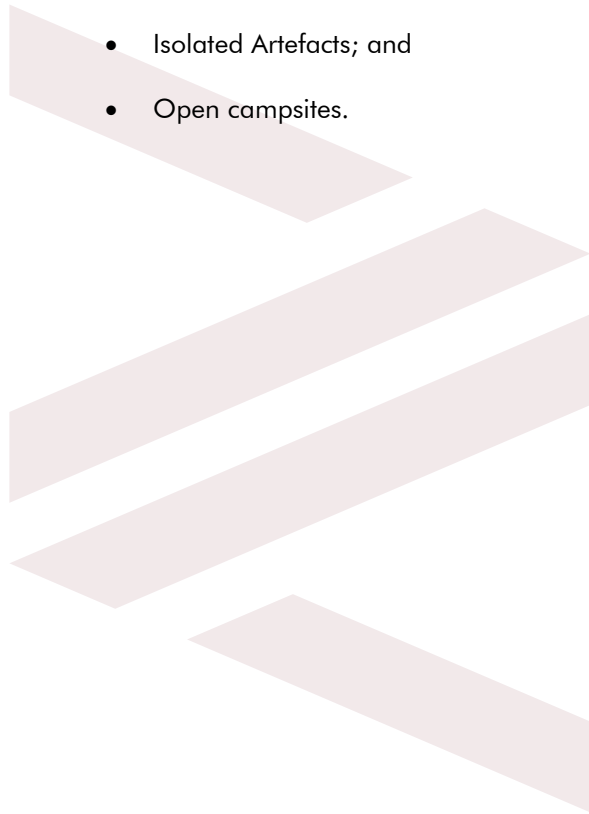
It is possible to propose a model of use and occupation by Aboriginal people targeting the Richmond River riparian zone and low elevated hills and ridge crests in close proximity to the Richmond River. The Project Area is primarily elevated former grazing land which comprises former swampland and channels of the Richmond River. It is considered likely that the elevated hills and ridges of the Rileys Hill village area and surrounds would be suitable areas for occupation and habitation. However, it is considered that the lower inundated lands and lower slopes of the Project Area are less than optimal campsites when

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compared to elevated areas nearby, especially those in closer proximity to the River. It is also noted that the Broadwater Area to the east comprises sand dune features from the archaic mid-Holocene coastline. As such archaeological sites in the Rileys Hill area have the potential to date to the mid-Holocene or Pleistocene period.

There is a potential at least for the following types of archaeological sites to occur within the Project Area;

- Grindstones;
- Isolated Artefacts; and
- Open campsites.



4. ABORIGINAL COMMUNITY CONSULTATION

4.1 Aboriginal Community Knowledge

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

4.2 DPI&E Aboriginal Cultural Heritage Consultation Requirements

The DPI&E ACHCRP sets out a guide for conducting the Aboriginal community consultation process. It requires that Proponents must notify and register Aboriginal people who hold cultural knowledge relevant to determining the cultural significance of Aboriginal Objects and Places in the area of the proposed Project. Aboriginal Parties who register to participate in the cultural heritage assessment process were provided with further information about the proposed Project. In accordance with the minimum consultation standards provided by the DPI&E ACHCRP, a methodology must be prepared for conducting the Cultural Heritage Assessment. This methodology outlines the basic steps that need to be undertaken to determine the nature of the cultural heritage of the site, and the approaches required to manage that heritage.

4.3 The Register of Interested Persons/Organisation

Everick undertook a consultation process with the Aboriginal community in accordance with ACHCRP 2010. The process undertaken so far includes:

- a) correspondence to the DPI&E (dated 25 October 2019);
- b) correspondence to The Registrar, *Aboriginal Land Rights Act 1983*, for a list of Aboriginal Owners (dated 25 October 2019);
- c) correspondence to NTSCORP Limited (dated 25 October 2019);
- d) correspondence to Local Lands Services (dated 25 October 2019); and
- e) correspondence to Richmond Valley Council (dated 25 October 2019).

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Written correspondence was forwarded on 15 November 2019 to the following individuals and organisations providing an opportunity to be involved in the assessment project:

- Aaron Talbot and Natalene Mercy;
- Bandjalang Aboriginal Corporation;
- Baryugil Square Co-operative Society Ltd;
- Bundjalung Elders Council Aboriginal Corporation;
- Cook Family;
- Burr:Waj:ad;
- Canowindra Tweed Byron Aged and Disabled Care Aboriginal Corporation;
- Minjungbal Cultural Museum;
- Tweed Aboriginal Co-operative Society Pty Ltd;
- Bundjalung Tribal Society;
- Durahrwah Training and Development Aboriginal Corporation;
- Lois Cook;
- Marcus Ferguson;
- Kris Cook; and
- Jali Local Aboriginal Land Council.

Stakeholders were provided until 5 December 2019 to register their interest.

A public advertisement was placed in the Ballina Advocate on 20 November 2019 (Figure 6) with a closing date of 5 December 2019.

Aboriginal Cultural Heritage Study Registration of Interest

Everick Heritage Pty Ltd (ABN 78 102 206 682) is seeking to consult with interested Aboriginal persons in preparation for the proposed residential development at Hills Road, Rileys Hill, NSW. The Study Area consists of Lot 100 DP1201719. Consultation will be undertaken in preparation for an Aboriginal Heritage Impact Permit application.

What do you need to do?

Aboriginal persons who hold cultural knowledge of the region are invited to register their interest in writing with:

Everick Heritage Pty Ltd
Unit 11, 1A Oak Street, BELLINGEN NSW 2454
or t.hill@everick.net.au

When must registration be received?

Registration must be received by **5 December 2019**.

Figure 6: Copy of advertisement placed in Ballina Advocate 20 November 2019.

As a result of the consultation process, the following list of Registered Aboriginal Parties (RAPs) was developed (see Appendix 1):

- Yidabal Galii Maa Bandjalang (Kris Cook);
- Marcus Ferguson; and
- Lois Cook.

A letter to DPI&E Was forwarded via email on 6 December 2019.

A copy of the excavation methodology was forwarded to RAPS on 6 December 2019 with a comment period of 28 days. A site inspection opportunity was provided on 17 December 2019, however none of the RAPs were able to attend (Appendix 1).

Notification of the commencement of excavations was provided to RAPS and Biodiversity Conservation Division on Tuesday 7 January 2020 (Appendix 1).

The excavations were undertaken on Tuesday 21 January 2020 and Wednesday 22 January 2020 and were supported by the following Aboriginal sites officers;

- Daniel Ferguson; and
- Jade Cook.

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Aunty Lois Cook also came to inspect the excavation works and Project Area on 21 January 2020 for approximately 2 hours.

4.4 Outcomes of Aboriginal community consultation.

The following summarises the outcomes of the community consultation;

- Rileys Hill was known to be an important river port during the early settlement of the Richmond Valley and Aboriginal camps were known to exist on the river and elevated grounds prior to the establishment of the Cabbage Tree Island Aboriginal Reserve.
- Aunty Lois Cook's great grandfather had a house at Rileys Hill, however she was not aware of the exact location of the house.
- There is a strong oral tradition of a massacre at Rileys Hill, which is understood to have been near the river port. Massacres are considered to have been common on the Richmond in the early historic period.
- The Aboriginal community often used the old quarry as a swimming hole, and all participants in the study had memories of the Quarry.
- Marcus Ferguson had been told that scarred trees have been recorded on bushland to the south of the Project Area.

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5. SYNTHESIS OF ARCHAEOLOGY AND ETHNOHISTORY

5.1 Ethnohistory.

The Aboriginal people of the Richmond River 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 Kumbainggiri led Crowley to suggest that the Bundjalung areas may have been colonised earlier than the Kumbainggiri allowing a greater number of dialects to develop. Crowley also suggested that coastal Bundjalung dialects varied significantly from inland Bundjalung dialects (Crowley 1978). 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 1923). These clan territories have been described on the coastal plain by Ainsworth (1922) on the lower Richmond Valley. A loose confederation of clan groups recognised a wider social and linguistic association.

Steele (1987) identifies several ceremonial and mythological sites and features along the Richmond River however makes not specific references to these types of sites in the Rileys Hill Area. The closest feature noted in this manuscript is the Cooks Hill ceremonial area at Broadwater.

Having consideration for these environments it is reasonable to conclude that the Project Area has the potential to contain Aboriginal objects (sites) on the basis that the Project Area contains a water feature and is within close proximity to the Richmond River.

5.2 Regional Predictive Models

The use of ridge lines as transit corridors between river valleys and major tributaries within those systems is advanced by Fox (2003). In the ridge line landform context archaeological evidence consists of artefact scatters, scarred trees and isolated artefacts in 'open' situations and may include the use of nearby overhangs/rock shelters/caves. Associations between ridge line sites in terms of their contemporaneity and contents, has not been tested by systematic archaeological investigations. However, results from surveys undertaken for residential and commercial developments generally demonstrate a trend towards occupation on elevated slopes and ridge crests. While ridge lines may have served as transit corridors for Aboriginal groups on a sporadic basis their use as 'campsites' is dependent upon other factors apart from slope, ground covers, access to water and access to food and other resources. In this instance the Project Area is considered to be located in an area where the elevated hills

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would have provided access to these features and resources. Of note is the presence of outcropping sandstone which may have been a particular resource for Aboriginal people.

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 former swampland and channels of the Richmond River. It is considered likely that the elevated hills and ridges of the Rileys Hill village area and surrounds would be suitable areas for occupation and habitation. However, it is considered that the lower inundated lands and lower slopes of the Project Area less than optimal campsites when compared to elevated areas nearby, especially those in closer proximity to the River. It is also noted that the Broadwater Area to the east comprises sand dune features from the archaic mid-Holocene coastline. As such archaeological sites in the Rileys Hill area have the potential to date to the mid-Holocene or Pleistocene period.

There is a potential at least for the following types of archaeological sites to occur within the Project Area;

- Middens;
- Isolated Artefacts; and
- Open campsites.

5.3 Previous archaeological research: Pacific Highway Upgrade.

The most significant regional archaeological study on the Broadwater Area was the Woolgoolga to Ballina Pacific Highway upgrade (SKM 2012:12-61)). The study identified the following sites in landscapes which are equivalent to the Project Area.

- Gittoes Jali Site, being a residual sand dune to the west of Cabbage Tree Island which contains deep midden material including 411 stone artefacts.
- PAD 11, being a large stone tool deposit on a residual sand dune near Cooks Hill.
- Site E2/2, being a midden and stone artefact site to the north of Cooks hill on a deep residual sand dune deposit.
- Cooks Hill Boras, being a ceremonial site located on a sand dune on the edge of Broadwater National Park.

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The presence of midden and stone artefact scatters on and within the residual dunes indicates the potential for the Project Area to contain Aboriginal sites, including sites with the potential to date to the Holocene and Pleistocene period.

5.4 Summary and analysis of background information.

Having consideration for the assessment of the environmental landscape and the predictive model (see section 2 above) and the results of the previous investigations it is reasonable to conclude that there is the potential for the Project Area to contain archaeological sites. This includes;

- The potential for Aboriginal campsites, however this potential would be greater on the ridge crests located immediately adjacent to the Project Area and closer to the Richmond River.
- The Project Area was potentially used by Aboriginal people in the historic period as fringe camps around the old Rileys Hill river port. However, there is no firm oral evidence of campsites within the Project Area.
- Based on the results of the Pacific Highway upgrade archaeological investigations any deep sand deposits in the flat environmental protection area have the potential to contain Pleistocene middens at a depth of between 1500 and 2500 mm. It is likely that the sandy slopes have accumulated over the Pleistocene sand sheets and have possibly buried them as deep as 4 metres below the present ground surface.
- The Project Area has been subject to substantial disturbance with the most recent significant ground disturbance resulting from the harvesting of the pine plantation.

6. THE PROPOSED ACTIVITY

6.1 Previous Disturbance

The Project Area is mostly located within land subject to the following types of disturbance;

- Forest clearing;
- Low intensity grazing and pasture production; and
- Pine plantation.

The main form of disturbance which would affect Aboriginal sites within the topsoil profile includes the planting, maintenance and harvesting of introduced pines, which are visible as low stump on the more elevated slopes of the Project Area. The central portion of the Project Area is also substantially affected by the clearing and maintenance of vegetation for a powerline easement.

6.2 Description of the Proposed Works.

The ACHAR assumes that the rezoning of the Project Area will result in the following ground disturbing activities;

- 35 residential dwellings (min 800 m² lot size) and associated buildings and landscaping located around the elevated western slopes;
- roads and underground utilities connecting the residential lots and Hills Road; and
- reserves for drainage and a sewer rising main.

As the Proposed Works are at the rezoning stage it is not possible to identify the exact location of major infrastructure upgrades, however it is likely that the Proposed works will also include stormwater detention ponds and stormwater drains.

7. CULTURAL HERITAGE SURVEY

7.1 Pedestrian Survey

7.2 Survey Team

The Project Area is within the area administered for Aboriginal cultural heritage purposes by the Jali LALC. A pedestrian survey for Aboriginal cultural heritage of the Project Area was undertaken by Jali LALC Sites Officer Maddison James with Senior Archaeologist Tim Hill of Everick Heritage, on the 1 May 2018.

7.3 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 Jali 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 is 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 artefacts is recorded. Woodland areas with mature trees were 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 DPI&E Site Recording Forms for registration with the DPI&E AHIMS.

7.4 Constraints to Site Detection

The main constraints to site detection were the dominant growth of introduced pastures on the better drained lower slope soils where visibility was less than 10%. The sand sheet soils near Hills Road typically had better visibility as they were not subject to replacement with pastured grasses and because a layer of leaf litter had developed around the base of the larger trees. The central channel portion of the Project Area comprised a mix of introduced pastures (north) and wetland sedges (south near Hills Road). Survey in this area was significantly constrained by standing water.

A summary of the landscape features and broad disturbance types are listed in Table 3 (see also Figure 7).

Table 3: Summary of Environment and Ground Disturbance for Survey Units.

Landform	Environmental Description	Ground Disturbance Summary
Channel	Flat channel in central portion of Project Area draining towards the east (Rileys Hill Trail)	Tree clearing, grazing, potentially wetland reclamation.
Sandy swampland	Flat well drained sands near Hills Road	Some signs of sand extraction (borrow pits) and pushing up of sand as windrows.
Slopes	Elevated lower and middle slopes along Hills Road and to the east of the old Riles Hill Quarry.	Tree clearing, grazing, pine plantation.

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. 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 'man-made' constraints to Aboriginal site survivability, if they exist, appear to be the impacts of land clearing, grazing and the pine plantation. It is expected that the latter would have the greatest impact on the topsoil layer. Further, these lands have been subject to significant amounts of trampling by cattle which has the effect of moving artefacts downward through the soil profile.

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7.5 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. Figure 7 and Table 4 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 Figure 7 and Table 4 do not provide an exact percentage of area, but a reasonable estimate. 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.

Table 4: Summary of survey coverage.

Unit	Landform Element	Survey Unit Area (m ²)	Visibility %	Exposure %	Effective Coverage (m ²)	Effective Coverage (%)
1	Sand plain	1728	20	20	69.12	4
2	Lower Slope (west)	3642	10	10	36.42	1
3	Slope (east)	2136	10	10	21.36	1
4	Water channel	330	5	5	0.82	0.25

Table 5: Landform Summary

Unit	Landform Element	Landform Area (m ²)	Area Effectively Surveyed (m ²)	% of landform effectively surveyed	Number of Sites	Number of Artefacts or Features
1	Sand plain	11362	69	0.67	0	0
2	Lower Slope (West)	23809	36.42	0.15	0	0
3	Slope (east)	14721	21.36	0.14	0	0
4	Water channel	32647	.82	0.002	0	0

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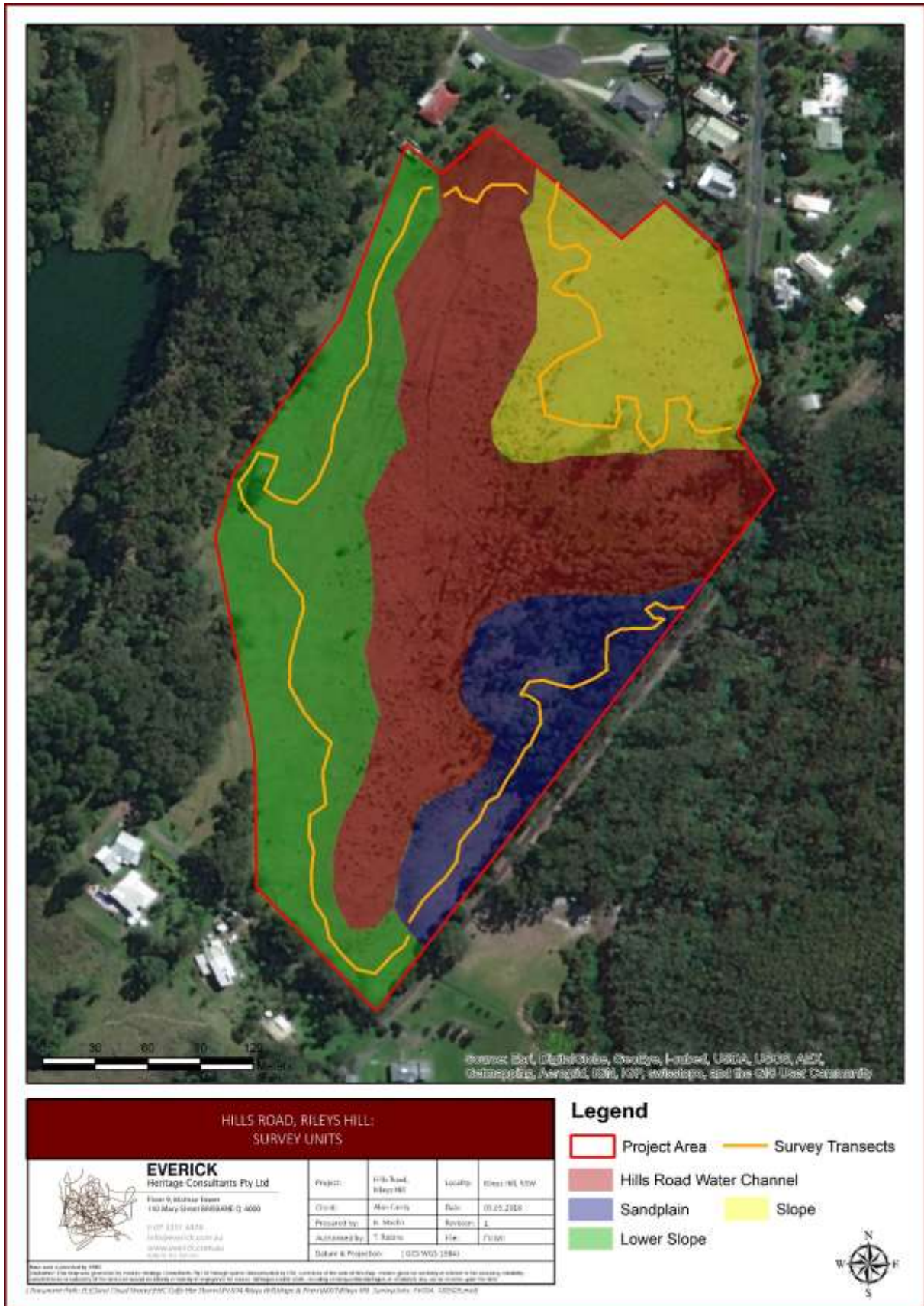


Figure 7: Survey Units and Transects.

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Figure 8: Typical vegetation under trees in sand sheet landform.



Figure 9: Example vegetation cover on edge of lower slope (west) and water channel.



Figure 10: Typical vegetation cover on edge of slope (east) and water channel.

7.6 Test Pit Excavations

The test pit excavation program was conducted on the 21st and 22nd of January 2020. In attendance in alphabetical order were the following;

- Jade Cook (Sites Officer Jali LALC);
- Lois Cook (RAP);
- Danial Ferguson (Sites Officer Jali LALC);
- Matthew Finlayson (Graduate Archaeologist Everick Heritage); and
- Tim Hill (Principal Archaeologist Everick Heritage).

Everick Heritage and Jali LALC representatives were present during both days of excavation. Lois Cook was in attendance on the 21st of January.

Archaeological test pit excavations were identified as the main methodology to understand the nature and extent of archaeological deposits within the Study Area. The assessment program comprised a series of 1m² hand excavated pits targeting areas outside the likely environmental protection zone but along the fence line where it was inferred there had been less ground disturbance from the pine plantation. Coordinates of the test pits logged in Section 7 are recorded in GDA 1994.

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Figure 11: Location of Test Pits.

7.6.1 Test Pit 1

Test Pit 1 was excavated on the higher eastern slope with a moderate gradient, being in the north-eastern corner of the Project Area (Table 6 and Figure 12, Figure 13). Test Pit 1 was a contiguous layer of dark sandy topsoil overlying a clay layer. Historic whiteware ceramic sherds and glass sherds were identified during excavation of the pit. However, no Aboriginal Objects were identified during excavation of Test Pit 1. Excavation of Test Pit 1 was terminated upon reaching the natural clay at 260 mm below surface.



Figure 12: Rileys Hill Test Pit 1 beginning.



Figure 13: Rileys Hill Test Pit 1 termination.

Table 6: Summary of Test Pit 1 excavation.

#ID	EAST	NORTH	LANDFORM	DISTURBANCE	DEPTH (mm)
TP1	538566	6790188	Slope	Forest clearing, cattle grazing.	260

7.6.2 Test Pit 2

Test Pit 2 was located on the western boundary of the Project Area, west of Test Pit 1. Test Pit 2 was adjacent north of the historic pine plantings and clearings, being on the base of a gentle western slope. The vicinity was waterlogged from recent rainfall, and the topsoil A-horizon was loose and friable, being a sandy loam with charcoal and clay inclusions. The natural clay was identified at a shallow depth of 250 mm resulting in the termination of Test Pit 2. No Aboriginal objects were identified.



Figure 14: Excavation at Test Pit 2.

Table 7: Summary of Test Pit 2 excavation.

#ID	EAST	NORTH	LANDFORM	DISTURBANCE	DEPTH (mm)
TP2	538441	6790224	Lower slope	Forest clearing, cattle grazing, pine planting and clearing.	250

7.6.3 Test Pit 3

Test Pit 3 was located south of Test Pit 2 on the same gentle slope base along the western boundary of the Project Area. The soil was exceptionally dry, loose and friable, being a light-greyish brown sandy loam with heavy silt content. The interface between the A and B horizon in Test Pit 3 was gradual and demarcated by an increase of moisture and clay inclusions at 350 mm. The natural clay was definitively reached at 490 mm below surface, at which point the test pit was terminated. No Aboriginal objects were identified.



Figure 15: Test Pit 3 location, looking south.



Figure 16: Termination of Test Pit 3.

Table 8: Summary of Test Pit 3 excavation.

#ID	EAST	NORTH	LANDFORM	DISTURBANCE	DEPTH (mm)
TP3	538396	6790134	Lower slope	Forest clearing, cattle grazing, pine planting and clearing.	490

7.6.4 Test Pit 4

Test Pit 4 was located within the central water channel landform within the Project Area, within the greatest concentration of pine tree clearing on the edge of the proposed Environmental Protection Zone. The test pit was excavated in the vicinity of a juvenile paperbark tree, as such the soil had a high degree of root bioturbation. The topsoil was a dark grey sandy silt that was loose and friable with a high degree of inclusions, as would be expected of a fluviially affected A-horizon. The natural clay was identified at 380 mm below surface, at which point excavation of Test Pit 4 was terminated. No Aboriginal objects were identified during excavation.



Figure 17: Excavation at Test Pit 4 looking east.



Figure 18: Termination of Test Pit 4.

Table 9: Summary of Test Pit 4 excavation.

#ID	EAST	NORTH	LANDFORM	DISTURBANCE	DEPTH (mm)
TP4	538422	6789969	Water Channel	Root bioturbation, forest clearing, cattle grazing, pine planting and clearing.	380

7.6.5 Test Pit 5

Test Pit 5 was located along the eastern border of the Project Area, within the footprint of the southern access road to the residential zone. The location of the test pit was on the base of the eastern slope on a flat sand plain. Test Pit 5 represented a deviation from the largely ubiquitous topsoil profiles of the other test pits which typically found to be overlaying a shallow clay layer at no more than 500 mm below surface. Test Pit 5 contained a distinct mixed dark greyish-brown topsoil with a sandy loam matrix, overlying a subsoil consisting of greyish-white late Pleistocene to early Holocene sand sheet consistent with the Iluka soil landscape. The darker topsoil terminated at a depth of 450 mm at the interface of the grey subsoil which was present to a depth of at least 850 mm. As no Aboriginal objects were identified, and due to the depth of the trench, Test Pit 5 was terminated at 850 mm, at which point the natural clay had not been reached.

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Figure 19: Location of Test Pit 5 (bottom right), with sandy topsoil exposures visible.



Figure 20: Beginning of Test Pit 5.



Figure 21: End of Test Pit 5.

Table 10: Summary of Test Pit 5 excavation.

#ID	EAST	NORTH	LANDFORM	DISTURBANCE	DEPTH (mm)
TP5	538436	6789796	Sand Plain	Forest clearing, cattle grazing, pine planting and clearing.	850

7.6.6 Test Pit 6

Test Pit 6 was located to the northwest of Test Pit 5 on the western lower slope within an area of pine clearing. The topsoil was a sandy loam with higher clay inclusions than previous pits excavated on the western slope, with a dark greyish-brown appearance. No Aboriginal objects were identified during excavation and the test pit was terminated upon reaching the natural clay at a depth of 350 mm.

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Figure 22: View east from Test Pit 6.



Figure 23: End of Test Pit 6

Table 11: Summary of Test Pit 6 excavation.

#ID	EAST	NORTH	LANDFORM	DISTURBANCE	DEPTH (mm)
TP6	538367	6789869	Lower Slope	Forest clearing, cattle grazing, pine planting and clearing.	350

7.6.7 Test Pit 7

Test Pit 7 was located north of Test Pit 6 and west of Test Pit 4 on the lower western slope. The topsoil A-horizon was a loose, dark-greyish brown sandy loam typical of the general profile of the lower slope. At 400 mm below the surface the natural clay was identified, and excavation was subsequently terminated. No Aboriginal objects were identified during excavation.



Figure 24: Location of Test Pit 7, looking north.



Figure 25: End of test pit 7.

Table 12: Summary of Test Pit 7 excavation.

#ID	EAST	NORTH	LANDFORM	DISTURBANCE	DEPTH (mm)
TP7	538357	6789796	Lower Slope	Forest clearing, cattle grazing, pine planting and clearing.	400

7.7 Assessment Results

The following describe the results from the ACHAR investigations;

- No archaeological sites have been previously recorded within the Project Area or immediately adjacent to the Project Area. While Aboriginal sites are known to occur in landscapes similar to the Project Area the predictive model has identified that Aboriginal sites would likely be more closely associated with the Richmond River or coastal estuaries and wetlands near Evans Head.
- Consultation with Registered Aboriginal Parties has identified that Aboriginal camps and settlement areas were common at Rileys Hill in the historic period, and this is in part as Rileys Hill was a significant river port during the early settlement of the Richmond Valley. The oral

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history of Rileys Hill includes a massacre site which is understood to be closer to the river port.

- No archaeological sites were identified through the pedestrian survey undertaken with Jali LALC, however the Project Area was identified as having the potential to contain sub-surface archaeological deposits.
- No archaeological sites were identified during the archaeological excavations. The soil profile included deep sands which, based on the results of archaeological excavation for the Pacific Highway upgrade are considered to have the potential to contain archaeological deposits as deep as 2 metres below the ground surface. These sites include Pleistocene middens which have the potential to be of high cultural and scientific significance. However, based on the outcomes of the investigation it is considered unlikely that the bulk earthworks and road infrastructure will impact on archaeological sites.
- The potential of deeper stormwater detention basins to impact on Aboriginal archaeological sites, namely Pleistocene middens, could not be tested using the CoPAI as a defence against prosecution. As such, additional investigation may be required should any stormwater detention basins extend between 1500 mm and 2500 mm below the ground surface on the flatter sand plain component of the Project Area which is designated for environmental protection. It is likely that the sandy slopes have accumulated over the Pleistocene sand sheets and have possibly buried them as deep as 4 metres below the present ground surface. Completion of archaeological investigations for these sites would require testing 'outside the Code of Practice' under an AHIP.

8. RECOMMENDATIONS

The Consultant is of the opinion that the Proposed Works are unlikely to result in harm to Aboriginal objects.

The following recommendations are provided.

Recommendation 1: Stormwater detention infrastructure.

Due to the identified potential of Aboriginal Pleistocene midden sites to occur at depths between 1500 and 2500 mm below the sand plain area identified as environmental protection zone, it is recommended that additional consultation and archaeological investigation under an Aboriginal Heritage Impact Permit is undertaken for stormwater detention basins or similar. It is understood that these features have not been designed and will be subject to a separate and subsequent Development Application should the planning proposal be approved. Alternatively, the stormwater detention infrastructure may be designed to avoid deep sand deposits with the potential to contain archaeological midden sites.

Recommendation 2: Unexpected Finds Procedure.

It is recommended that if suspected Aboriginal material has been uncovered because of development activities within the Project Area:

- f) work in the surrounding area is to stop immediately;
- g) 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;
- h) an appropriately qualified archaeological consultant is to be engaged to identify the material;
- i) if the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the DPI&E guidelines: *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010); and
- j) should the works be deemed to have harmed the Aboriginal objects the OEH should be notified immediately via the EPA Enviro Hotline.

Recommendation 3: Aboriginal Human Remains

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 location where they were found should be cordoned off and the remains themselves should be left untouched. The nearest police station (Ballina), the Jali LALC and the DPI&E 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 release the scene, the

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Aboriginal community and the DPI&E 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.



9. REFERENCES

Ainsworth J

1922 Reminiscences 1847 – 1922. Beacon Printery, Ballina

Crowley, T.

1978. The Middle Clarence Dialects of the Bundjalung. Canberra: Australian Institute of Aboriginal Studies.

McDonald, R.C., Isbell, R., Speight, J.G., Walker, J., & M.S. Hopkins

1990. Australian soil and land survey field handbook, second edition, Inkata Press, Sydney.

APPENDIX 1: ABORIGINAL COMMUNITY CONSULTATION

Notification of commencement of excavations.

From: Tim Hill
Sent: Tuesday, 7 January 2020 1:51 PM
To: Yidabal Galii Maa Bandjalang <yidabalgaliimaa@gmail.com>; Mik Smith <ceo@jalilalc.com.au>; Marcus FERGUSON <mferguson310574@gmail.com>; Lois Cook <aboriginalconcepts@gmail.com>
Cc: Dimitri Young <Dimitri.Young@environment.nsw.gov.au>; Roger Mehr <Roger.Mehr@environment.nsw.gov.au>; Rosalie Neve <Rosalie.Neve@environment.nsw.gov.au>; Paul Snellgrove <PaulS@ardillpayne.com.au>
Subject: FW: Excavation Methodology, Rileys Hill

All

Further to the email below, there were no written submissions on the excavation methodology. As such, we will commence the excavation on the 21st and 22nd of January, with an 8am start. Standard 'Lite' PPE will be fine, there no machines involved and I'm not expecting much in the way of grass either.

Any questions, please give me a ring. See you then.

Ta

Tim Hill

BA (Hons)

Principal (Coffs Harbour)

Ph: (02) 6655 0225

Mob: 0422 309 822

Provision of Excavation Methodology.

From: Tim Hill
Sent: Friday, 6 December 2019 1:07 PM
To: Yidabal Galii Maa Bandjalang <yidabalgaliimaa@gmail.com>; Marcus FERGUSON <mferguson310574@gmail.com>; Lois Cook <aboriginalconcepts@gmail.com>
Cc: Mik Smith <ceo@jalilalc.com.au>; Paul Snellgrove <PaulS@ardillpayne.com.au>
Subject: Excavation Methodology, Rileys Hill

All

Please see attached the excavation proposal for the Hills Road, Rileys Hill ACHA. Please note that at this stage we do not have detailed drawings as we are still doing the planning proposal.

There will be an opportunity to meet with me onsite at 9.30am on the Tuesday 17th December. Or you can call or email anytime for additional information.

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Please provide written comment by 6 January 2020 if you have any. Conditional upon community support, we will aim to undertake excavations on the 21 and 22 January 2020.

Ta

Tim Hill

BA (Hons)

Principal (Coffs Harbour)

Ph: (02) 6655 0225

Mob: 0422 309 822

Everick Heritage Pty Ltd

ABN 78 102 206 682

Brisbane - Townsville - Sydney - Coffs Harbour - Tweed Heads

Registration-Yidabal Galii Maa Bandjalang (Kris Cook)

From: Yidabal Galii Maa Bandjalang <yidabalgaliimaa@gmail.com>

Sent: Monday, 25 November 2019 9:36 AM

To: Tim Hill <t.hill@everick.net.au>

Subject: consultation confirmation

Jing gee la Tim

Yidabal Galii Maa PTY LTD would like to be consulted on the proposed Rileys Hill development.

--

Bugal Bee

Yidabal Galii Maa

Registration- Marcus Ferguson

Date - 28.11.2019

Marcus Ferguson

Atten: Tim Hill, Everick Heritage Pty Ltd

Re – Riley's Hill Housing Subdivision Proposal, ACHA

Hi Tim,

I would like to register my cultural interest for the Riley's Hill proposed Housing Subdivision, Aboriginal Cultural Heritage Assessment (ACHA). Thank you

Yours Truly,

Marcus Ferguson


Registration- Lois Cook

From: Lois Cook <aboriginalconcepts@gmail.com>
Sent: Thursday, 5 December 2019 11:56 AM
To: Tim Hill <t.hill@everick.net.au>
Subject: Re: Hills Road (Lot 100 DP 1201719) Rileys Hill NSW

Hi Tim,
Principle (coffs Harbour)
Everick Heritage Pty Ltd

I wish to advise that I wish to register my interest in the Aboriginal Cultural Heritage Assessment for the above mentioned study area at Rileys Hill NSW.

Regards
Lois

A large, light pink, semi-transparent rectangular area covers the bottom right portion of the page, obscuring the signature and any other content that might have been present.