

12 November 2014

Andrew Carswell  
39 Macquarie Street  
JAMBEROO NSW 2533

Dear Andrew,

**Re: Aboriginal Due Diligence Aboriginal Heritage Assessment: Subdivision of 39 Macquarie Street (Lot 1 DP 710456), Jamberoo, NSW**  
**Project no. 19210**

This letter documents Aboriginal heritage due diligence advice for the proposed subdivision of 39 Macquarie Street (Lot 1 DP 710456), Jamberoo, NSW. Kiama Municipal Council have identified two mature fig trees located on the site which may have the potential to be of Aboriginal significance. This due diligence advice has been prepared under the requirements of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010) and fulfills Mr. Carswell's due diligence obligations under this code.

### **Project Area**

The Project Area is located at 39 Macquarie Street, Jamberoo NSW and is defined as Lot 1 DP 710456 (Figure 1). It is located within the Kiama Local Government Area.

### **Project Background and Proposed Impacts**

The proposed works will subdivide an area of 800 squared metres within the north eastern part of Lot 1 DP 710456 (Figure 2). The impacts will include earthworks associated with the subdivision and construction of residential buildings and associated infrastructure.

### **Project Objectives**

The following is the summary of the major objectives for the due diligence investigation:

- Identify Aboriginal objects and places known to exist within the Project Area through a search of the Aboriginal Heritage Information System (AHIMS), maintained by the Office of Environment and Heritage (OEH).
- Undertake a site visit to relocate any previously recorded sites, assess previous disturbance and the potential for Aboriginal heritage to be present.
- Record and assess sites identified during the site visit in compliance with the guidelines issued by the OEH.
- Identify potential impacts to all identified Aboriginal sites and places based on potential ground disturbance from the works.
- Make recommendations to minimise or mitigate potential impacts to cultural heritage values within the Project Area.

## Legislation

The investigation has been carried out under the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010). The code sets out steps which individuals and organisations need to take to determine if:

- Aboriginal objects are, or are likely to be present in the area.
- The proposed activity will harm Aboriginal objects.

If it is determined through the due diligence assessment that Aboriginal objects are present, or are likely to be present, and the proposed activity will harm Aboriginal objects, the code requires that:

- Further investigation and consultation under the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010) and the *Aboriginal cultural heritage consultation requirements for proponents 2010* (DECCW 2010) is required.
- An Aboriginal Heritage Impact Permit (AHIP) application is also required if Aboriginal objects or Places are present and will be harmed.

## Investigation Methodology & Results

### AHIMS Search

The Office of Environment and Heritage (OEH) maintains a database of Aboriginal sites within NSW under Part 6 of the NSW National Parks and Wildlife Act 1974. Aboriginal objects and places in NSW are legally required to be registered on the Aboriginal Heritage Information Management System (AHIMS) register.

A search of the NSW Office of Environment and Heritage (OEH) Aboriginal Heritage Information Management System (AHIMS) was conducted on the 31 October 2014. A total of 33 Aboriginal archaeological sites listed on AHIMS are within 11km of the Project Area however none are located within the Project Area. Previously recorded Aboriginal archaeological sites within the vicinity of the Project Area are shown in Table 1 and Figure 3. This figure and table contain sensitive cultural information and they should not be made public.

**Table 1: AHIMS sites present within the vicinity of the Project Area.**

AHIMS Site No.	Site Name	Site Type
52-5-0159	Tabbagong; Tabbagong 1	Midden
52-5-0160	Minnamurra	Midden
52-5-0162	Minnamurra River;Gainsborough Estate	Midden
52-5-0251	Dunmore 1	Artefact Scatter
52-5-0252	Dunmore 2	Artefact Scatter
52-5-0253	Dunmore 3	Artefact Scatter
52-5-0254	Dunmore 4	Artefact Scatter
52-5-0255	Dunmore 5	Artefact Scatter
52-5-0112	Minnamurra	Midden
52-5-0117	Minnamurra	Artefact Scatter

AHIMS Site No.	Site Name	Site Type
52-5-0300	DQ2	Scarred Tree
52-5-0201	Dunmore Midden Shellharbour Waste Disposal Dump	Artefact Scatter
52-5-0213	Dunmore Midden	Midden, Artefact Scatter
52-5-0052	Woodhill	Artefact Scatter
52-5-0059	Jamberoo	Stone Arrangement
52-5-0065	Minnamurra River	Axe Grinding Groove
52-5-0071	Jerrara; Kiama	Carved Tree
52-5-0072	Minnamurra Glengowrie	Midden
52-5-0235	Tabbogong	Axe Grinding Groove
52-5-0240	Min 1	Midden
52-5-0136	Minnamurra (Minnamurra 1)	Stone Arrangement
52-5-0309	EGP 3-33; Minnamurra River 1; Eastern Gas Pipeline	Artefact Scatter
52-5-0310	EGP 3-34; Stockyard Mountain; Eastern Gas Pipeline	Isolated Find
52-5-0311	EGP 3-35 Eastern Gas Pipeline	Artefact Scatter
52-5-0397	TEST PITTING AREA 15	Not stated
52-5-0400	TEST PITTING AREA 13	Not stated
52-5-0420	ILC1	Not stated
52-5-0413	Duke -9	Not stated
52-5-0066	Minnamurra River	Rock Engraving
52-2-1791	DQ1	Artefact Scatter
52-5-0526	Minnamurra River Shell Midden 1 (MR 1)	Not stated
52-5-0350	WKIF1	Isolated Find
52-5-0451	MR-IF-1, Kiama	Not stated

Sites recorded within 11km of the Project Area consist of open camp sites featuring artefact/s (n=11, 33%), shell midden sites (n=6, 18%), site types not stated (n=6, 18%), isolated artefact finds (n=2, 6%), axe grinding grooves (n=2, 6%), stone arrangements (n=2, 6%), a carved tree (n=1, 3%), a scarred tree (n=1, 3%), a shell midden and open camp site (n=1, 3%), and a rock engraving (n=1, 3%). The majority of these sites are located along tributaries of the Minnamurra River and there is a concentration of sites towards the coast at Minnamurra (Figure 3).

None of these sites are located within the Project Area. The closest AHIMS site (#52-2-0309) is located approximately 0.8km north east of the Project Area and is recorded as an open camp site containing artefact/s. A rock engraving (#52-5-0065) is located approximately 1.4km north west of the Project Area and a stone arrangement (#52-5-0059) is located approximately 1.7km west to north west of the Project Area.

## Site Visit

A site visit was undertaken on the 3 November 2014, attended by Nicole Castle (Biosis Archaeologist).

The objectives of the site visit were to:

- Assess the previous disturbance to the Project Area.
- Assess the potential of the Project Area to possess intact Aboriginal heritage.
- Locate any Aboriginal Objects or Places present within the Project Area.

## Results of the site survey

### *Ground Surface Visibility*

General ground surface visibility throughout the Project Area varied from 20% within areas that had been cleared of vegetation and 0% within areas that had a low thick vegetation cover (Plate 1). Areas of exposure also varied and were mainly in areas associated with animal trampling and burrowing and erosions due to water run offs, with an average of approximately 5% throughout the Project Area (Plate 2). Exposures were also visible around fences.



**Plate 1: Typical ground surface visibility, north eastern end of the Project Area, facing north with 1m scale.**



**Plate 2: Area of exposure within north eastern end of the Project Area, facing north east with 1m scale.**

### *Landform*

The Project Area is associated with the *Bumbo* soil landscape, characterised by Hazelton (1992: 43). The Bumbo soil landscape comprise of shallow structured loams which occur on crests with moderately deep (50cm-100cm) Krasnozems on upper slopes and benches. Brown Podzolic soils and Red Podzolic soils occur on mid and lower slopes. Existing erosion occurs where there is evidence of minor mass movement on moderately steep lower slopes and erosion on footslopes where soils have been disturbed.

The underlying geology of the Project Area and its immediate surroundings comprises of extensive rock platforms on Bumbo Latite (alphanitic to porphyritic latite) (Hazelton 1992: 43). The landscape comprises of rolling low hills with benched slopes and sea cliffs. The Project area is located within the rolling low hills of the Jamberoo Valley, characterised by extensively cleared areas with stands of closed forest and tall open forest.

### *Assessment of Site Features*

No Aboriginal sites are located within the Project Area and none were identified during the site survey.

Two mature fig trees are located within the Project Area (Plate 3). Searches of statutory listings pertinent to the Project has revealed that the two fig trees within the Project Area are not listed on AHIMS nor the Kiama Local Environmental Plan (KLEP 2011). These fig trees have been referred to as Fig tree 1 and Fig tree 2 for the purpose of this report. Kiama Municipal Council identified that these two fig trees may have the potential to be of Aboriginal significance. Fig trees can be associated with birthing trees, food gathering and meeting

places (DEC 2005: 20). , This is particularly the case for fig trees in the suburb of Figtree (near Wollongong) after which the suburb is named (DEC 2005: 20). The significance of fig trees has been discussed in relation to the Kiama Municipality as part of the Aboriginal assessment for the Foxground and Berry Bypass: Princes Highway Upgrade by Navin Officer Heritage Consultants (NOHC) in 2013. The report describes how mature fig trees were used by Aboriginal people as shelter and weather breaks and often used as camp sites (NOHC 2013: 45). Fig trees were a good source of food, including figs when in season as well as the animals that lived in them such as possums and fruit bats (NOHC, 2013:45). Mature fig trees are also associated with birthing, where in some examples; notches were made along the limbs to signify births into a tribe or family group (NOHC, 2013: 45).

During the site survey the ground surface around the bases of the two fig trees were inspected for any artefacts. No artefacts were identified. Limbs of the two trees were also inspected for any cultural modifications including notches. No signs of cultural modification were identified. The location and estimated dimensions of the two fig trees were noted and photographed during the site survey (Plate 4 and Plate 5 ).

No Aboriginal objects were identified within the broader Project Area.



**Plate 3: View of Fig tree 1 and Fig tree 2 within Project Area, facing west**



**Plate 4: Fig tree 1 with 1m scale facing south**



**Plate 5: Fig tree 2 with 1m scale facing north west**

### *Disturbance*

During the site survey areas of previous disturbance were noted and recorded. Areas of previous disturbance were noted in the construction of the existing residential house and associated infrastructure including drainage lines and fences within the Project Area. Past grazing and farming practices within the area have led to some limited levels of disturbance within the Project Area. Some surface disturbance is most likely to have occurred in areas also due to animal trampling and vegetation removal.

### *Archaeological Potential*

The two fig trees are not registered of AHIMS and the site survey did not reveal any Aboriginal objects within the Project Area or any physical evidence of cultural modification in association with the fig trees. However, given the significance associated with fig trees to the Aboriginal community it is considered that Fig Tree 1 and Fig Tree 2 have the potential to possess intangible heritage values. Fig Tree 1 and Fig Tree 2 accordingly may have corresponding archaeological potential, however site survey did identify high levels of disturbance caused by vegetation clearance around the trees which removed any archaeological material or deposits.

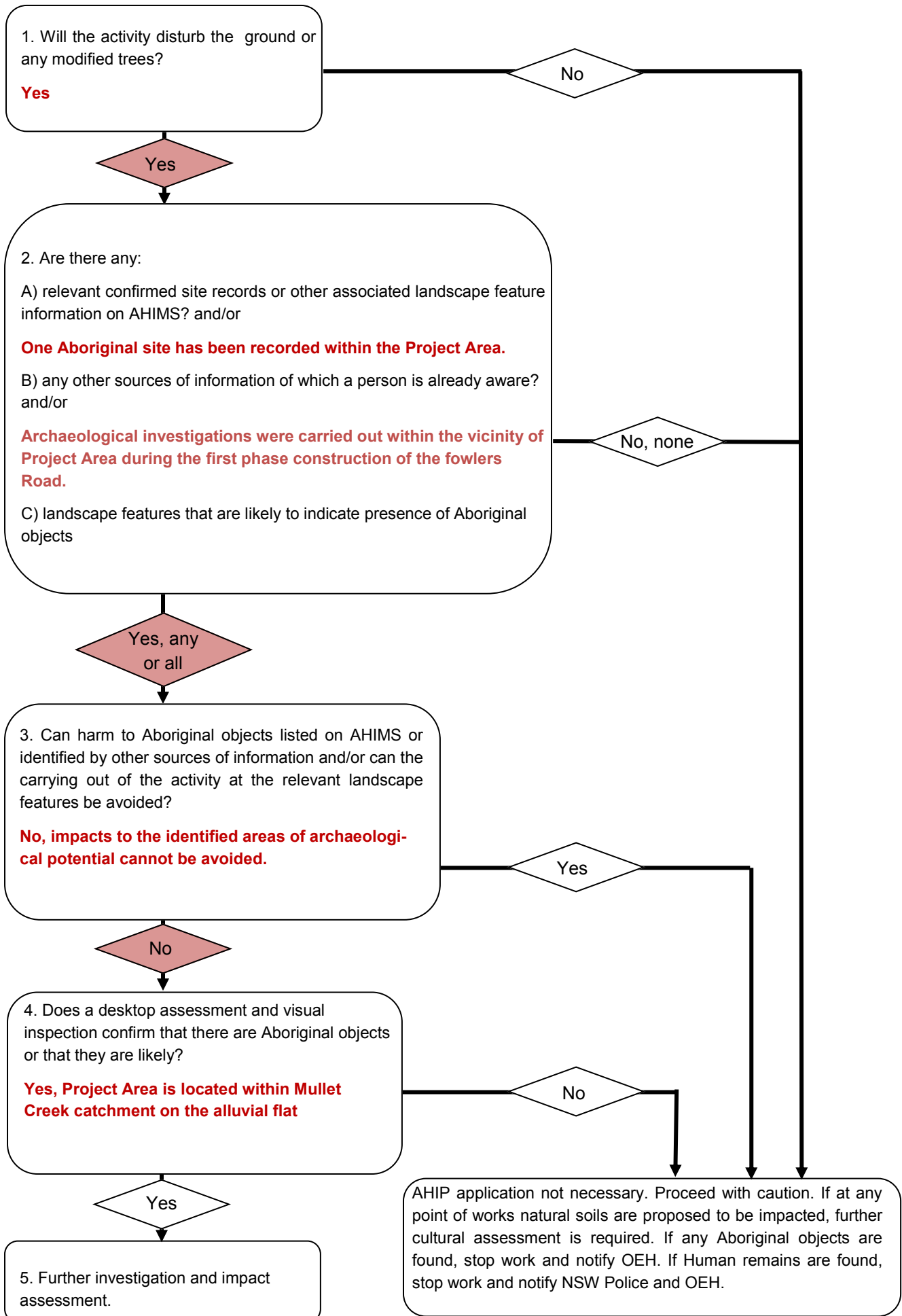
### *Impact Assessment*

The two fig trees will not be impacted during the proposed works. Of the two fig trees, Fig tree 1 is closest to the area to be subdivided and is located approximately 18.7m west of this area (Figure 2). The drip line of Fig tree 1 does not extend into the area for the proposed subdivision and therefore the root zone of the tree should not be impacted by the proposed subdivision. No known Aboriginal objects or places within the Project Area will be impacted by the proposed works.

The Code provides a flowchart composed of six questions to identify the presence of, and potential harm to Aboriginal objects within the Project Area. These questions were applied to the investigation methodology.



**Chart 1: Due Diligence Process**



## Recommendations

Based on this investigation, it is recommended that:

### Recommendation 1: Proposal to proceed without further archaeological input

The work described in this report can proceed without further assessment or approval from *NSW National Parks and Wildlife Act 1974* as no Aboriginal objects or places have been identified as occurring within the Project Area and the potential of locating them during the proposed works is assessed as low. This recommendation is conditional upon recommendations 2, 3, and 4.

### Recommendation 2: Discovery of unanticipated Aboriginal cultural material

All Aboriginal places and objects are protected under the NPW Act. This protection extends to Aboriginal objects and places that have not been identified but might be unearthed during construction. The following contingency plan describes the actions that must be taken in instances where Aboriginal cultural material any such discovery at the activity area must follow these steps:

1. **Discovery:** Should unanticipated Aboriginal cultural material be identified during any works, works must cease in the vicinity of the find.
2. **Notification:** OEH must be notified of the find.
3. **Management:** In consultation with OEH, the Illawarra Local Aboriginal Land Council and a qualified archaeologist, a management strategy should be developed to manage the identified Aboriginal cultural material. This may include the requirement to apply for an Aboriginal Heritage Impact Permit.
4. **Recording:** The find will be recorded in accordance with the requirements of the National Parks and Wildlife Act 1974 and OEH guidelines.

### Recommendation 3: Discovery of unanticipated Human Remains

The following contingency plan describes the actions that must be taken in instances where human remains or suspected human remains are discovered. Any such discovery at the activity area must follow these steps:

1. **Discovery:** If suspected human remains are discovered all activity in the vicinity of the human remains must stop to ensure minimal damage is caused to the remains, and the remains must be left in place, and protected from harm or damage.
2. **Notification:** Once suspected human skeletal remains have been found, the Coroners Office and the NSW Police must be notified immediately. Following this, the find must be reported to OEH and it is recommended that it is also reported to the Illawarra Local Aboriginal Land Council.
3. **Management:** If the human remains are of Aboriginal ancestral origin an appropriate management strategy will be developed in consultation with Aboriginal Stakeholders and OEH.
4. **Recording:** The find will be recorded in accordance with the requirements of the National Parks and Wildlife Act 1974 and OEH guidelines.

### Recommendation 4: Report to Illawarra Local Aboriginal Land Council

A copy of this report should be sent to the Illawarra Local Aboriginal Land Council for their records.

Please contact me on (02) 4201 1090 if you require further information.

Yours sincerely,

A handwritten signature in black ink that reads "Nicole Castle".

**Nicole Castle**

Archaeologist

## References

DEC (Department of Environment and Conservation) 2005 A History of Aboriginal People in the Illawarra 1770 to 1970. Department of Environment and Conservation NSW, Hurstville, Sydney NSW.

DECCW (Department of Environment, Climate Change and Water) 2010. Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, Sydney, NSW.

Hazelton, P.A. 1992. Soil Landscapes of the Kiama 1:100000 Sheet. Department of Conservation and Land Management (incorporating the Soil Conservation Service of NSW), Sydney.

NOHC (Navin Officer Heritage Consultants) 2012. Foxground and Berry Bypass: Princes Highway Upgrade. Volume 2 – Appendix J. Prepared on behalf of AECOM Australia Pty Ltd for Roads and Maritime Services.

## Appendices

## Appendix 1: Figures

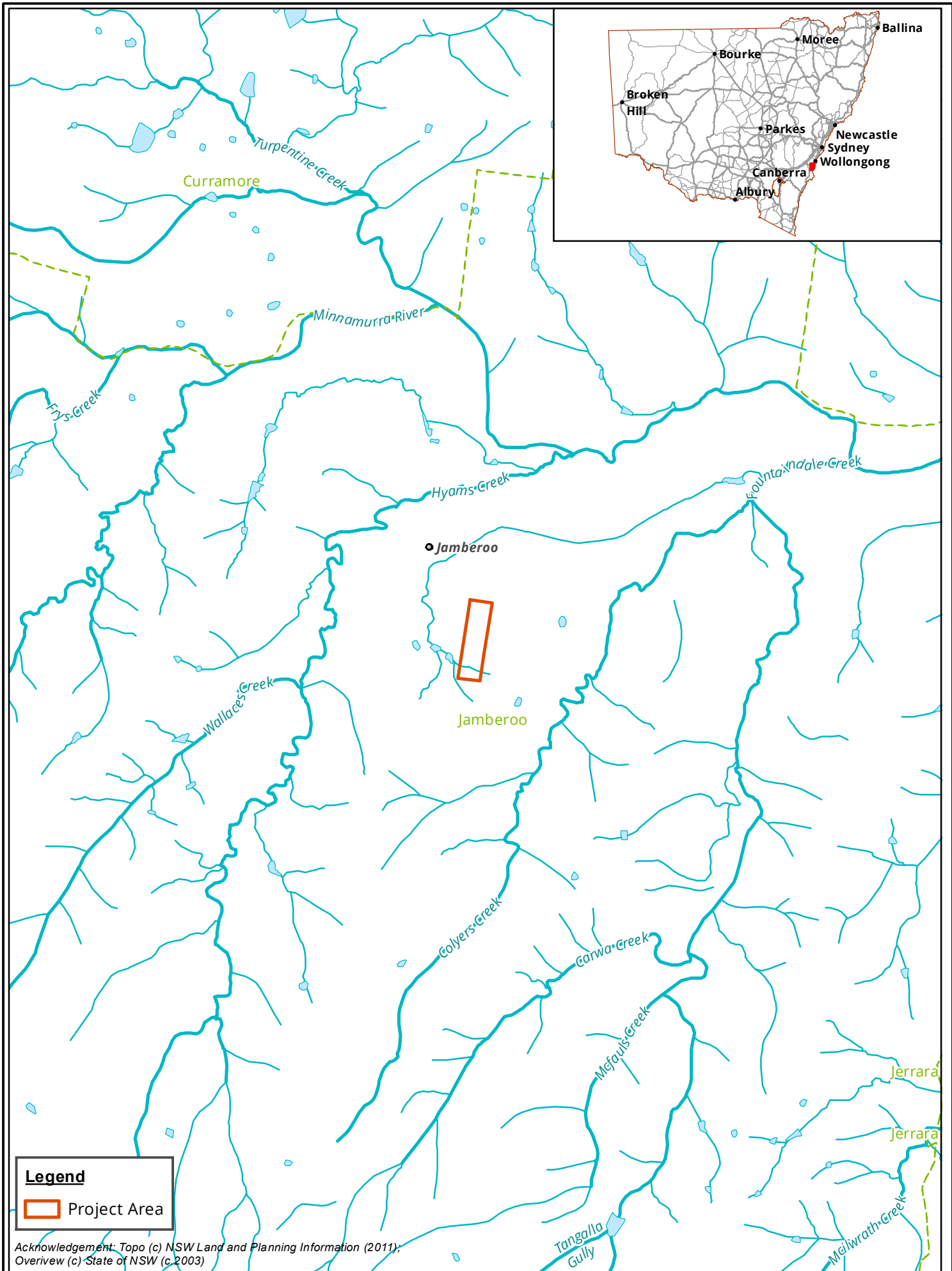
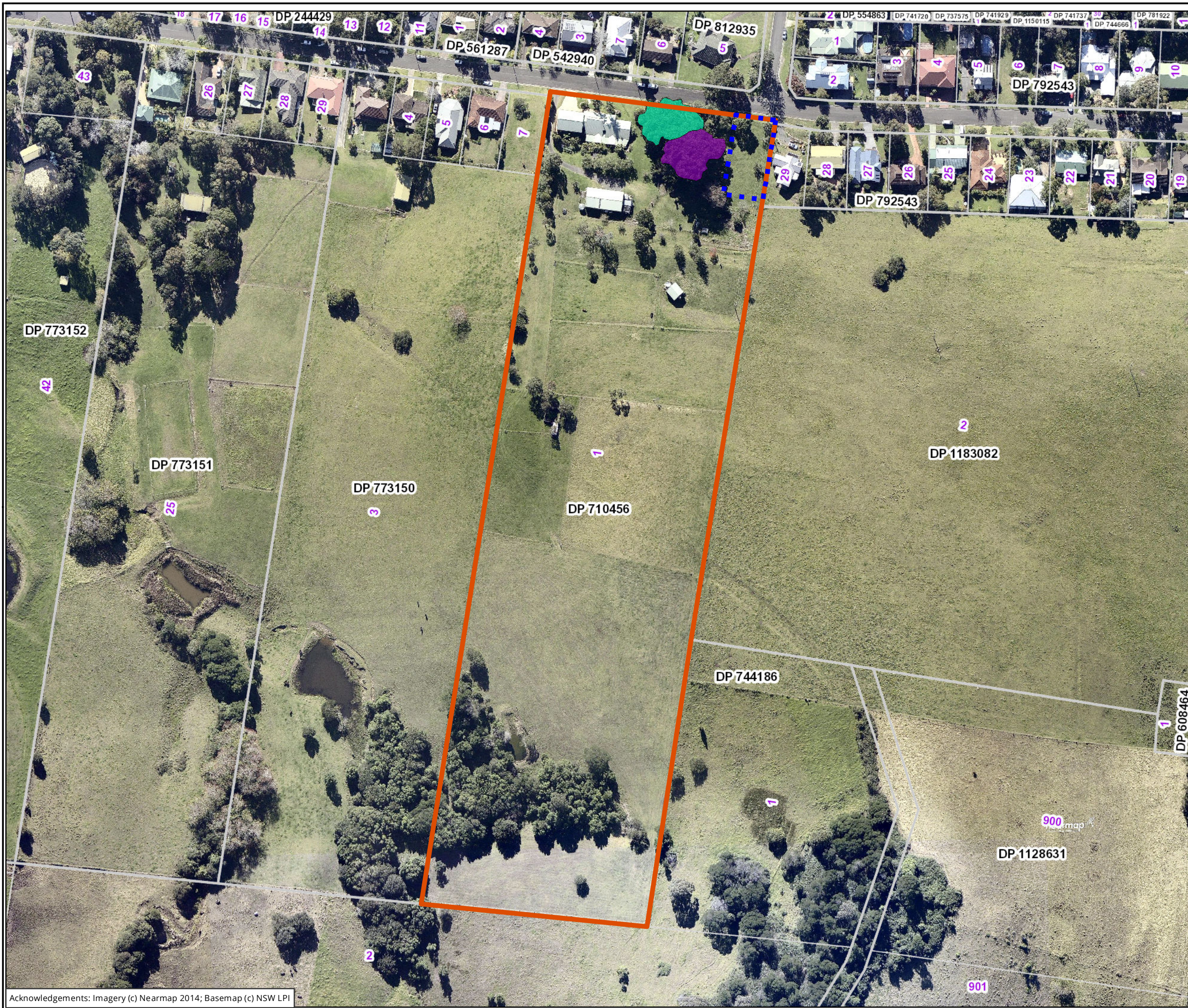



Figure 1: Location of the Project Area



- Legend**
- Fig Tree 1 Drip Line
  - Fig Tree 2 Drip Line
  - Area to be subdivided
  - Project Area

**Figure 2: Location of fig trees and area to be subdivided**

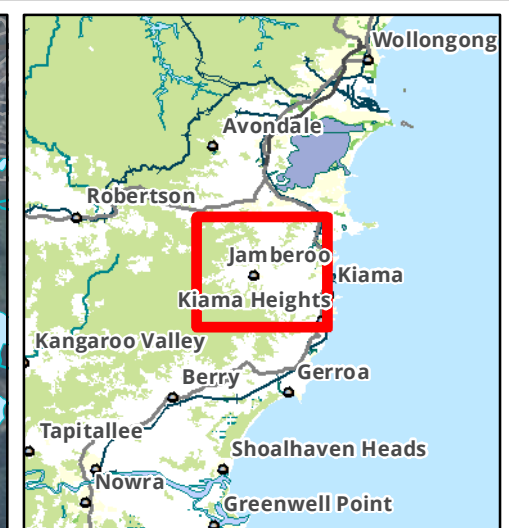
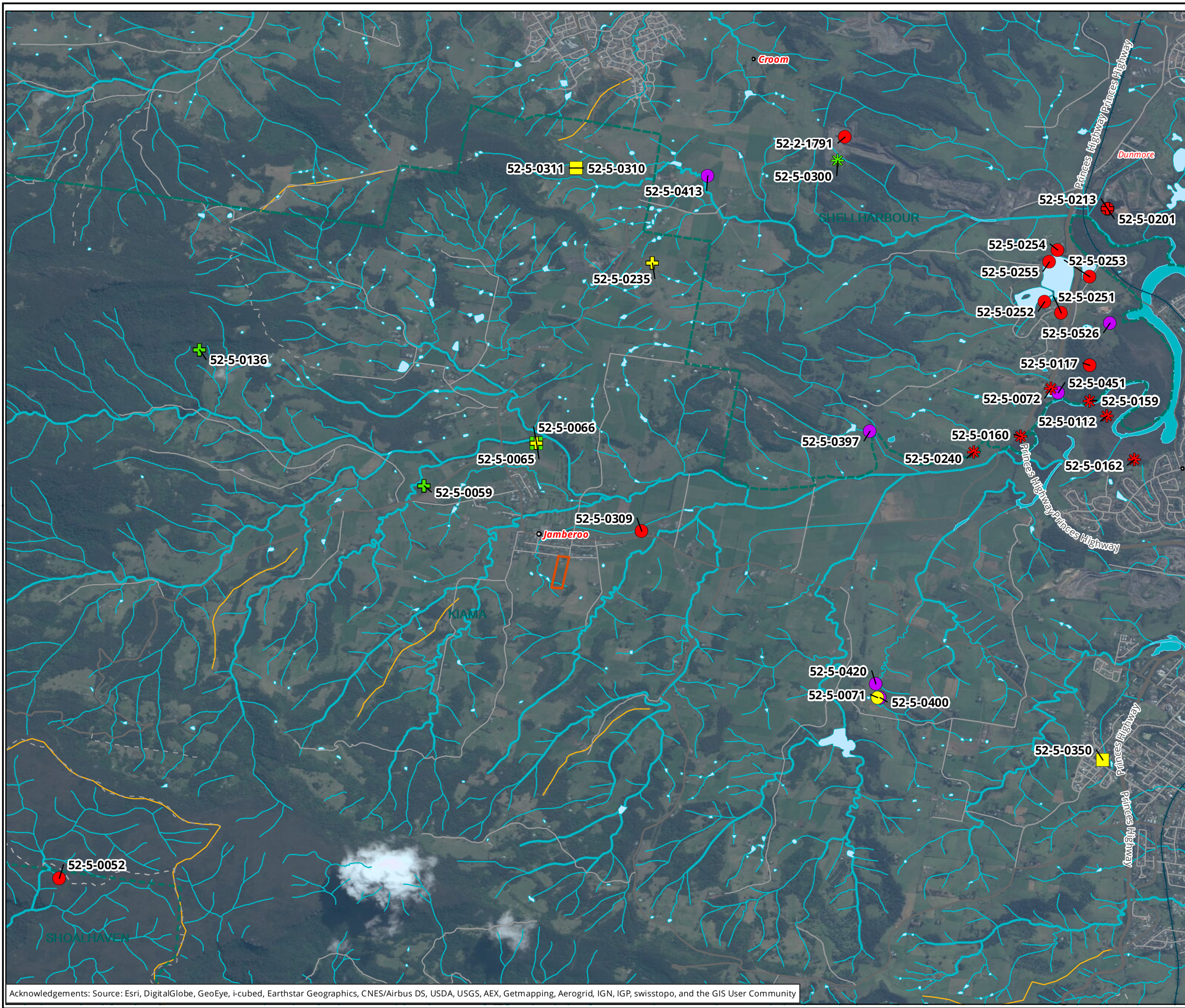
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 Metres  
 Scale: 1:1,750 @ A3  
 Coordinate System: GDA 1994 MGA Zone 56



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**Legend**

- Axe Grinding Groove
- Carved Tree
- Isolated Find
- Midden
- Midden, Open Camp Site
- Open Camp Site
- Rock Engraving
- Scarred Tree
- Stone Arrangement
- Not Stated

**Survey Area**

- Project Area

**Figure 3: AHIMS Search within the vicinity of the Project Area**

0 450 900 1,350 1,800 2,250  
Metres  
Scale: 1:45,000 @ A3  
Coordinate System: GCS GDA 1994

Biosis Pty Ltd  
Ballarat, Brisbane, Canberra, Melbourne, Sydney, Wangaratta & Wollongong

Acknowledgements: Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

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