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2 September 2022

Bob Healy and Company Pty Ltd  
463 Leeds Road  
ORANGE NSW 2800

Dear Bob

## **ABORIGINAL HERITAGE DUE DILIGENCE ASSESSMENT UPDATE – ROSEDALE GARDENS**

This assessment has been prepared as an update to an existing Aboriginal Heritage Due Diligence Assessment undertaken by Biosis in 2016 for a proposed rezoning of land located at 440 Clergate Road and 463 Leeds Parade in Orange NSW. The site is associated with several previously recorded Aboriginal sites or places. As part of the rezoning process, an Aboriginal Heritage Due Diligence assessment has been undertaken to inform future development planning.

This assessment has been undertaken in accordance with the guidelines prepared in 2010 by the Department of Climate Change and Water (DECCW, 2010) [formerly Office of Environment and Heritage (OEH) now Heritage NSW] *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*. The aim of the guidelines is to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects. This assessment includes recommendations regarding Aboriginal heritage constraints for the proposed works.

Consultation with the Aboriginal community is not a formal requirement of the Due Diligence process and has not been undertaken as part of this assessment.

### **1.1 Study area**

The proposed rezoning site is located in the Orange Local Government Area (LGA) within the County of Wellington and Parish of March. The study area falls within the Orange Local Aboriginal Land Council (LALC) boundary.

The study area is located across several land parcels:

- Lot 2 DP255983
- Lot 3 DP255983
- Lot 14 DP6694
- Lot 25 DP6694
- Lot 15 DP6694

The study area is also bound by Clergate Road and the main western railway on the west and Pearce Lane in the north.

## 1.2 Proposed Works and Project Background

Premise Australia Pty Ltd has been commissioned by Rosedale Gardens Estate Pty Ltd to prepare a planning proposal to amend the *Orange Local Environmental Plan 2011* (OLEP) in respect of land at 463 Leeds Parade and 440 Clergate Road, Orange.

The proposed works would involve rezoning of lots from a combination of large lot residential, environmental management, infrastructure and public recreation to large lot residential. The proposal entails the rezoning of the site to allow for a greater area of R5 Large Lot Residential zoned land and a reduction of the minimum lot size from a combination of 4,000 square metres (m<sup>2</sup>) and 8,000 m<sup>2</sup> to 2,000 m<sup>2</sup>, together with the introduction of specific additional permitted use mapping and clauses to introduce a density limit and ensure tree protection. A lot yield limit of 700 is proposed.

The proposal has been developed in response to changes in the residential development market that have emerged since the original rezoning of the site was agreed, including increased demand for smaller housing lots within large lot residential areas in the City of Orange and the introduction of the *Biodiversity Conservation Act 2016*.

As part of the proposed rezoning works an Aboriginal Cultural heritage assessment was undertaken on the subject land (Biosis 2016). Prior to submission of the Planning Proposal and subsequent discussions with Heritage NSW an update to the Aboriginal Heritage Due Diligence assessment is required to address cultural heritage sensitivity of the site.

## 1.3 Heritage NSW Consultation

Recent correspondence with Heritage NSW and Premise (email dated 31 August 2022) confirmed that prior to development, further heritage investigations were requested, in the form of an Aboriginal Cultural Heritage Assessment (ACHAR). Premise advice and confirmation from Heritage NSW indicated that as part of the proposed rezoning:

- The maximum lot yield will not exceed 700 lots.
- Out of the 290 hectare site, around 20 hectares of land may be allocated for protection of sensitive landforms or sites (if needed).
- If the detailed investigations reveal the need for a greater area of protection, the resulting outcome would be delivery of less lots than the anticipated maximum. This is understood by the applicant.
- The current proposal to rezone those areas of the site not currently identified as R5, to R5, means that flexibility exists to design an appropriate subdivision layout that takes full account of identified site sensitivities, such as those that may be identified through biodiversity, archaeological, stormwater or other detailed investigations.

Heritage NSW subsequently confirmed that, although an ACHAR and test excavation program prior to rezoning is preferred, this assessment can be deferred to the DA stage. This advice was based on the understanding that the results of the test excavations, and the ACHAR, will be used to inform the final design of the subdivision, including avoidance of identified significant Aboriginal cultural heritage values where possible.

## 1.4 Desktop Assessment

A review of the *Orange Abattoir Archaeological Survey Report* prepared by Biosis (2016) was undertaken by Premise's archaeologist Latisha Ryall to understand the context of the site with reference to Aboriginal cultural heritage and to inform preparation of the updated due diligence assessment.

Biosis recommendations for the site indicates that further archaeological investigations are to be undertaken on areas that have been identified as having a Potential Archaeological Deposit (PAD). Premise agrees with this recommendation.

Biosis's recommendations for Aboriginal Heritage management and review by Premise are outlined in **Table 1**.

**Table 1 – Aboriginal Heritage Recommendation Review – Biosis 2016\_Premise 2022**

| No. | Recommendation  | Notes  | Premise 2022 Review                  |
|-----|---|--|--------------------------------------|
| 1   | Further archaeological assessment   | Areas identified as having a Potential Archaeological Deposit (PAD) (OA03, OA04, OA05, OA06, OA11, OA12, OA13, PAD 01, PAD 02, PAD03, PAD 04, PAD05 and PAD 06) should be avoided wherever possible. If impact to these areas cannot be avoided subsurface investigations (test excavations), undertaken in accordance with the code, will be required prior to the commencement of works. Consultation with Aboriginal stakeholders according to the Aboriginal cultural heritage consultation requirements for proponents 2010 (DECCW 2010) ('the consultation requirements') will be required for the development to proceed.   | Premise supports this recommendation |
| 2   | Application for an Aboriginal Heritage Impact Permit (AHIP) for the entire Project Area | <p>If the proposed works cannot avoid harm to OA01, OA02, OA03, OA04, OA05, OA06, OA07, OA08, OA09, OA10, OA11, OA12, OA13, OA14, PAD 01, PAD 02, PAD03, PAD 04, PAD05 and PAD 06 it is recommended that an application be made to the Office of Environment and Heritage (OEH) for an area based Aboriginal Heritage Impact Permit (AHIP) for the entirety of the Project Area. The AHIP should include the following conditions:</p> <ul style="list-style-type: none"> <li>– Impact can occur to the Aboriginal cultural heritage sites OA01, OA02, OA03, OA04, OA05, OA06, OA07, OA08, OA09, OA10, OA11, OA12, OA13, OA14, PAD 01, PAD 02, PAD03, PAD 04, PAD05 and PAD 06. All of the sites occur within the proposed works area.</li> <li>– The isolated artefacts (Sites OA01, OA02, OA07, OA09 and OA10) should be relocated prior to ground disturbance and moved outside of the impact area, but within their original landscape context.</li> <li>– At sites OA03, OA04, OA05, OA06, OA11, OA12, OA13 and OA14, the surface artefacts should be relocated prior to ground disturbance and moved outside of the impact area, but within their original landscape context. Any subsurface archaeological material located within the impact area, with the exception of human remains, can be destroyed.</li> <li>– Impact within the limits of the area based destruction AHIP for any further Aboriginal objects encountered during construction unless human remains are involved.</li> <li>– For information about AHIPs and their preparation, see below.</li> </ul> | Premise supports this recommendation |
| 3   | Discovery of Aboriginal ancestral remains   | <p>Aboriginal ancestral remains may be found in a variety of landscapes in NSW, including middens and sandy or soft sedimentary soils. If any suspected human remains are discovered during any activity you must:</p> <ul style="list-style-type: none"> <li>– Immediately cease all work in the vicinity and not further move or disturb the remains.</li> <li>– Notify the Coroners Office and NSW Police immediately. Following this, contact OEH's Environmental Line on</li> </ul>   | Premise supports this recommendation |

| No. | Recommendation                               | Notes  | Premise 2022 Review                  |
|-----|--|--|--------------------------------------|
|     |  | <p>131 555 as soon as practicable and provide details of the remains and their location. The find must also be reported to the Aboriginal parties.</p> <ul style="list-style-type: none"> <li>– Not recommence work at that location unless authorised in writing by OEH.</li> </ul>   |                                      |
| 4   | Discovery of Unanticipated Historical Relics | <p>Relics are historical archaeological resources of local or State significance and are protected in NSW under the Heritage Act 1977. Relics cannot be disturbed except with a permit or exception/exemption notification.</p> <p>Should unanticipated relics be discovered during the course of the project, work in the vicinity must cease and an archaeologist contacted to make a preliminary assessment of the find. The Heritage Council will require notification if the find is assessed as a relic.</p> | Premise supports this recommendation |

## 1.5 Previously Identified Sites – AHIMS

NSW Heritage (formerly OEH) maintains the Aboriginal Heritage Information Management System (AHIMS) database, a register of Aboriginal archaeological sites that have been recorded in New South Wales. The AHIMS search provides an archaeological context for the area and identifies whether any previously recorded Aboriginal sites are located within or near the study area.

**\*The locations and details of Aboriginal sites are considered culturally sensitive information. It is recommended that this information, including the AHIMS data, is removed from this report if it is to enter the public domain.**

A basic search of the AHIMS database was undertaken on 31 August 2022 (Client ID: 713404) using the same parameters previously undertaken by Biosis in 2016. The search parameters are as follows:

**GDA 1994 MGA 55** 

**Buffer** 

**Number of Sites** 

This search [REDACTED] since the original assessment was prepared, however these additional sites reflect new sites recorded from the 2016 Biosis assessment. On review of the data, [REDACTED] The AHIMS sites are shown in **Figure 1** and a copy of the AHIMS search is provided in **Appendix A**.

The nature and location of registered sites reflects past Aboriginal occupation of the land; however, the sites are also influenced by historical land-use, and the nature and extent of previous archaeological investigations. Although Aboriginal occupation covered the whole of the landscape, the availability of fresh water, and associated resources, was a significant factor in repeated and long-term occupation of specific areas within the landscape.

### Figure 1 – AHIMS Sites and Site Locality

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## 1.6 National Native Title Tribunal

A search of the Native Title Tribunal and Native Title Vision (NTV) online database was undertaken on 31 August 2022 for the Orange LGA to ascertain if any Native Title claims, determinations or registrations were associated with the study area. No recorded Native Title claims, or determinations were identified on the study area.

## 1.7 Site Inspection

A site inspection was undertaken on 1 September 2022 to confirm site boundaries and landform features. Only a portion of the site could be accessed due to recent wet weather conditions and vehicle access restrictions. The site inspection included access into the property at Leeds Parade and also undertook observations from Clergate Road and Pearce Lane at the southern boundary of the proposed rezoning.

The landform is gently undulating across most of the site, with moderate to steep slopes observed in the eastern portion. A transmission line bisects the property in this area. Several farm dams and larger drainage lines are also scattered throughout the site. Overall dense ground coverage was observed in areas of intact landforms. It is however noted that the subject site has historically been subject to extensive ground disturbance with use as an abattoir and associated services such as effluent management and stock movement, through stock grazing.

In the south western portion of the study area (accessed off Leeds Parade), the landform had been subject to ground disturbance in the form of a disused Abattoir and associated infrastructure including access bitumen paths, cement pads, dams, and holding ponds. Other structures located across the western portion of the study area include farming infrastructure such as sheds, fences and stock yards.

The study area is shown in **Figure 2- Figure 13**.

**Figure 2 – Access to site from Leeds Parade view north**



**Figure 3 – Abattoir Infrastructure view south**



**Figure 4 – Eastern portion of site**



**Figure 5 – Northern portion of site from Pearce Lane**





**Figure 6 – Ground coverage**



**Figure 7 – View west from eastern portion of site**



**Figure 8 – View south from eastern portion**



**Figure 9 – View east from Clergate Road**



**Figure 10 – View west from south eastern boundary**



**Figure 11 – Central portion of site, undulating landform**



**Figure 12 – Undulating landform in central portion**



**Figure 13 – view South from Pearce Lane**



In summary, this updated Aboriginal heritage investigation as undertaken by the Premise archaeologist demonstrates that no changes to the landform have occurred since the original Biosis report was prepared in 2016. Premise also supports that further Aboriginal Heritage investigations are required across the site prior to any ground disturbing activities occur, however, this should occur at the DA stage.

Yours sincerely



**LATISHA RYALL**  
Archaeologist





**APPENDIX A**  
**AHIMS SEARCH**

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