

Due Diligence Assessment for the Protection of Aboriginal Objects and Historic Heritage



MARKET ST. MERIMBULA
29-33 Market St Merimbula, Bega Valley Shire
Lot 11, DP 838058 & Lot 112 DP 1227927

A report prepared for:

Squillace Architecture / Interiors and
Merimbula Central Pty Ltd.

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Acknowledgement of Country

On Site Cultural Heritage Management acknowledges the Traditional Custodians and Elders of this country and their connections to land, sea and community. We pay respect to the past, present and future continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

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EXECUTIVE SUMMARY

INTRODUCTION

Merimbula Central Pty Ltd (the proponent) is preparing a Development Application (DA) to lodge with Bega Valley Shire Council to undertake commercial development across 29-33 Market Street (Lot 11, DP 838058 & Lot 112 DP 1227927), Merimbula (the project area)

The proponent is seeking specialist heritage advice about the protection and management of both Aboriginal and historic heritage places and objects that may be present in the project area to inform the DA.

Squillace Architecture, on behalf of the proponent, has engaged On Site Cultural Heritage Management Pty Ltd to provide specialist heritage advice about the protection and management of both Aboriginal and historic heritage places and objects that may be present within the project area.

OBJECTIVES OF THIS ASSESSMENT

The objectives of this assessment are:

- Conduct an Aboriginal heritage assessment consistent with the requirements of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* and *NSW National Parks and Wildlife Act 1974* for the proposed works.
- Conduct a Historic Heritage Due Diligence Assessment reviewing heritage registers and inventories and identifying additional possible items of heritage significance.
- Provide a specialist report consistent with the requirements of Heritage NSW and associated policy providing recommendations about the potential impact of the proposed works and management of Aboriginal and historic places and objects within the project area (if required).

This advice will determine whether the proposal has the potential to *harm* Aboriginal objects pursuant to the *NSW National Parks and Wildlife Act 1974* and/or impact on a heritage item or relic pursuant to the *NSW Heritage Act 1977*.

RESULTS AND CONCLUSIONS

This Due Diligence assessment has:

- Determined that the entire project area is disturbed land and subject to massive disturbance that is likely to have substantially diminished the potential of this landscape to contain Aboriginal objects in-situ.

- Assessed the project area as having a low potential and ‘*very unlikely*’ to contain Aboriginal objects with any spatial integrity.
- Identified Twyford Hall (Heritage Item I221, Lot 511, DP 818052) located directly opposite the proposal on eastern side of Market Street and corner of Beach Street. The Item is considered locally significant and listed for historical, aesthetic (architectural) and social values. The proposal will not physically infringe upon or within the heritage listed area. In this instance Bega Valley Shire Council is the delegated consent authority under the *NSW Heritage Act*.

MANAGEMENT RECOMMENDATIONS

Aboriginal heritage

The following management recommendations are based in accordance with Step 4 of the *Due Diligence Code* (2010:13) stating that where either the desktop assessment or visual inspection indicates that there are (or are likely to be) Aboriginal objects in the area of the proposed activity, more detailed investigation and impact assessment will be required.

On the basis of this assessment for Aboriginal objects and their protection under the *NSW National Parks and Wildlife Act*, it is recommended that:

1. No further action or assessment regarding Aboriginal heritage is required for the central section and north-eastern extent of the proposal.

While the undertaking of this due diligence assessment acts as a defence against harming or disturbing Aboriginal objects without an Aboriginal Heritage Impact Permit (AHIP), the undertaking of this assessment alone does not negate the need for any AHIP required to disturb or *harm* any Aboriginal objects.

Investigations for an AHIP require preparation of an Aboriginal Cultural Heritage Assessment and must be supported by Aboriginal consultation in accordance with the process outlined in the *Aboriginal cultural heritage consultation requirements for proponents*.

In the event that Aboriginal objects are discovered during the works the proponent should:

- notify all relevant personnel and cease work immediately in that area and
- contact an appropriately qualified archaeologist and/or Heritage NSW to understand and verify the find.

Historic (non-Aboriginal) heritage

With regard to the *NSW Heritage Act 1977* and the heritage listed Twyford Hall (Heritage Item I221) it is recommended that:

2. The proponent considers whether a Statement of Heritage Impact (SOHI) is required to support their Development Application and to assess the visual scale and form of the proposed development, understand the potential impacts on the aesthetic (architectural) heritage values of Heritage Item I221 and ensure compliance with the provisions of the *NSW Heritage Act*.

Bega Valley Shire Council as the delegated consent authority can provide determination about whether any further assessment is required.

1. INTRODUCTION

Merimbula Central Pty Ltd (proponent) is preparing a Development Application (DA) to lodge with Bega Valley Shire Council to undertake commercial development across 29-33 Market Street (Lot 11, DP 838058 & Lot 112 DP 1227927), Merimbula (the project area)

The proponent is seeking specialist heritage advice about the protection and management of both Aboriginal and historic heritage places and objects that may be present in the project area to inform the DA.

Squillace Architecture, on behalf of the proponent, has engaged On Site Cultural Heritage Management Pty Ltd to provide specialist heritage advice about the protection and management of both Aboriginal and historic heritage places and objects that may be present within the project area.

1.1. Objectives of this Assessment

The objectives of this assessment are:

- Conduct an Aboriginal heritage assessment consistent with the requirements of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* and *NSW National Parks and Wildlife Act 1974* for the proposed works.
- Conduct a Historic Heritage Due Diligence Assessment reviewing heritage registers and inventories and identifying additional possible items of heritage significance.
- Provide a specialist report consistent with the requirements of Heritage NSW and associated policy providing recommendations about the potential impact of the proposed works and management of Aboriginal and historic places and objects within the project area (if required).

This advice will determine whether the proposal has the potential to *harm* Aboriginal objects pursuant to the *NSW National Parks and Wildlife Act 1974* and/or impact on a heritage item or relic pursuant to the *NSW Heritage Act 1977*.

Figure 1: The project area – 29-33 Market Street (Lot 11, DP 838058 & Lot 112 DP 1227927), Merimbula (shown in green).



2. PROTECTION OF ABORIGINAL HERITAGE

2.1. Statutory framework for the protection of Aboriginal Heritage

Primary protection of Aboriginal heritage in NSW is established at the State level under the *NSW National Parks and Wildlife Act 1974* and to a lesser extent the *NSW Heritage Act 1977*. Heritage NSW is responsible for protecting and conserving Aboriginal objects and declared Aboriginal places in NSW.

Aboriginal objects are defined in NPW Act as any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises NSW, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Aboriginal places are defined in NPW Act as a place declared under s.84 of the NPW Act that, in the opinion of the Minister, is or was of special significance to Aboriginal culture. Such areas need not contain any Aboriginal objects but can only be gazetted with the approval of the Minister.

Part 6 of the *National Parks and Wildlife Act 1974* (NPW Act) provides specific protection for Aboriginal objects and declared Aboriginal places by establishing offences of **harm**. *Harm* is defined to mean destroying, defacing, damaging or moving an object from the land. There are a number of defences and exemptions to the offence of harming an Aboriginal object or place.

Aboriginal heritage may also be protected under Commonwealth and Local Government legislation being the *Environment Protection and Biodiversity Conservation Act* and *Local Environmental Plans* respectively.

2.2. Avoiding harm to Aboriginal objects

A number of policies or guidelines are relevant to assist proponents avoid *harming* Aboriginal objects in NSW. These policies are listed below in order of their consideration within a planning context or assessment of a given proposal or activity. From this perspective the Due Diligence Code represents the minimum level of formal assessment prescribed in policy:

- *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW, 2010)
- *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW, 2010)
- *Aboriginal cultural heritage consultation requirements for proponents* (DECCW, 2010)
- *Guide to investigation, assessing and reporting on Aboriginal Cultural heritage in NSW*.

The *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* sets out reasonable and practicable steps which individuals and organisations need to take in order to:

- Identify whether or not Aboriginal objects are, or are likely to be, present in an area.
- Determine whether or not their activities are likely to harm Aboriginal objects (if present).
- Determine whether further assessment or an AHIP application is required.

Section 8 of Due Diligence Code provides a generic due diligence process to be addressed by proponents and determine the above. The basic sequential steps of the due diligence process require the proponent or their agent to consider the proposed activity or proposal and review whether:

1. The activity or proposal will disturb the ground surface
2. The AHIMS database or other relevant databases record previously identified places
3. The activity or proposal occurs in areas where certain landscape features may indicate the presence of Aboriginal objects (on land that is not disturbed)
4. Harm to Aboriginal objects or disturbance of the landscape feature can be avoided
5. Desktop assessment and visual assessment is required
6. Further investigation and impact assessment is required

Several of these steps will commonly require more specialised assessment and interpretation, but especially Step 3 which is further discussed below.

The Due Diligence Code (2010:12) discusses the common association between certain landscape features and the presence of Aboriginal objects as a result of Aboriginal people's use of those features. The Code defines the following landscape features (on land that is not disturbed land) and distance thresholds as indicating the likely presence of Aboriginal objects:

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

Consequently, if the proposal or activity is within the defined proximity thresholds to one of these landscape features (on land that is not disturbed) then the code considers that there is a probability that Aboriginal objects will occur within the area or are *likely*.

Due diligence may also be addressed through other forms of assessment providing they meet the basic requirements set out above. A Review of Environmental Factors or other assessment under the *Environmental Planning and Assessment Act 1979* (EP&A Act) may also meet the requirements of the Due Diligence Code of Practice.

While the undertaking of a due diligence process or equal assessment process acts as a defence against harming or disturbing Aboriginal objects without an Aboriginal Heritage Impact Permit (AHIP), the undertaking of these activities does not negate the need for an AHIP should Aboriginal objects be disturbed.

An application for an AHIP must be supported by a consultation process set out in the ***Aboriginal cultural heritage consultation requirements for proponents 2010*** and an Aboriginal Cultural Heritage assessment that meets the *Guide to investigation, assessing and reporting on Aboriginal Cultural heritage in NSW*.

The ***Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW*** also provides standards and methods for how this investigation has been conducted and reported.

2.3. Aboriginal Consultation

Section 5 of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects* states that consultation with the Aboriginal community is not a formal requirement of the due diligence process. However, proponents may wish to consider undertaking consultation if it will assist in informing decision-making (Due Diligence COP 2010: 3).

The proponent did not undertake formal or informal consultation as part of this assessment.

2.4. Historic Heritage Due Diligence Assessment

The primary NSW legislation protecting historic heritage is the *NSW Heritage Act*. The Act establishes processes to identify, assess and recognise places and items of heritage significance against established criteria. Identified places and items of heritage significance are listed on heritage registers and inventories. Other local government and federal legislation also establish similar processes.

Heritage registers and inventories are searched for any listed heritage items that occur within or in close proximity to the proposal. They may contain information about both Aboriginal or historic (non-Aboriginal) places and objects. These registers may also provide information on comparative sites and associated studies that can be used to assist in the evaluation of the relative significance of the site.

Registers and inventories proposed to be searched and relevant to this study are:

- The Bega Valley Shire Local Environmental Plan;
- NSW State Heritage Register;
- NSW State Heritage Inventory; and
- The Australian Heritage Database.

The *NSW Heritage Act* also contains provision to identify items and relics of possible heritage significance.

3. RATIONALE AND SCOPE OF WORKS

This assessment is being conducted in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*.

3.1. Rationale

The requirement for a due diligence assessment of this proposal arises from the following factors outlined above in **Section 2.2**:

- The proposed works will disturb the ground surface
- The project area occurs within 200 metres of Boggy Creek (an estuarine / tidal creek feeding Merimbula Lake).

3.2. Scope of works

The following scope of works was undertaken with the above factors in mind. The scope of this assessment has included a due diligence process consisting of:

Desktop Study

- Conduct register searches of the Aboriginal Heritage Information Management Systems (AHIMS), NSW State Heritage Inventory and Australian Heritage Database,
- Research and brief literature review of previous and relevant archaeological and heritage studies for the area
- Review relevant background environmental research
- Assess the integrity of the land with regard to current and previous land use and how that might affect the archaeological potential of the project area
- Provide an assessment of the archaeological potential of the project area

Reporting

- Preparation of report in accordance with DPIE guidelines describing the results of the investigation and processes above.
- Preliminary Assessment of significance for identified Aboriginal places and objects
- Provide appropriate recommendations regarding the management of Aboriginal places and objects and historic items including requirements for further works and or approvals.
- Prepare mapping as necessary identifying the location of the Aboriginal sites or sensitive areas of high potential and historic heritage places and items.
- Preparation of AHIMS site cards for any new sites discovered.

Owing to the level of project information provided by the proponent and highly developed nature of the project area, a field investigation was not considered required to inform this assessment. This Due Diligence Assessment is therefore based on desktop assessment only.

4. LANDSCAPE CONTEXT

According to the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010: 8), the purpose of reviewing the landscape context is to assist in the determination or prediction of:

- the potential of the landscape, over time, to have accumulated and preserved objects
- the ways Aboriginal people have used the landscape in the past, with reference to the presence of resource areas, surfaces for art, other focal points for activities and settlement, and
- the likely distribution of the material traces of Aboriginal land use based on the above

Consideration of the landscape is essential to the definition and interpretation of Aboriginal land use across a landscape. The landscape will provide clues as to those areas of land that may have been more intensively used by Aboriginal people in the past, and also provide the context within which the material remains of past Aboriginal occupation may be preserved and detectable (DECCW 2010:8).

The landscape context should be appropriate in scale and detail relative to the study area and might include aspects relating to landscape history, description of landforms and geomorphic activity, soils, land use history and, where relevant, natural resources. The landscape context should also be proportionate in detail to the level of assessment. This Due Diligence Assessment represents a broad scale assessment to understand whether further and more detailed assessment. Accordingly, the review of the landscape context is also broad scale in nature.

The archaeological record that we seek to understand is a reflection of Aboriginal land use and tangible expressions of that occupation. The archaeological potential of a given area will commonly be influenced by major economic factors such as access to potable water, stone resources suitable for the manufacture of stone tools, natural resources providing food and other materials, shelter and suitable camping areas.

The current level of integrity and factors such as levels of disturbance and / or preservation since deposition and are also likely to have affected the archaeological potential of the subject land or given area.

4.1. Environmental Description of the Landscape and Study Area

According to the landscape classification system described by Mitchell DECCW (2002) the subject land falls within the South East Corner Coastal Barriers Bioregion and Tuross - Eden Barriers and Beaches (Teb) landscape. A description of this landscape after Mitchell (2002) is provided below.

4.1.1. Tuross - Eden Barriers and Beaches (Teb) landscape

Beach, dune and lagoon complex of Quaternary quartz sands, elevation 0 to 20m. Moderate carbonate content in frontal dune transitions to simple podsols with organic pan and diffuse iron pans on the most inland dunes. Organic silty sand in lagoons and estuary. Coast spinifex (*Spinifex hirsutus*) and mat-rush (*Lomandra* sp.), at the rear of the beach, coast tea-tree (*Leptospermum laevigatum*), coast banksia (*Banksia integrifolia*) and coast wattle (*Acacia longifolia* ssp. *sophorae*) on the frontal dune, old man banksia (*Banksia serrata*), red bloodwood (*Corymbia gummifera*) on inland dunes. Swamp paperbark (*Melaleuca* sp.), swamp oak (*Casuarina glauca*) and rushes on margins of lagoons in brackish sectors giving way to common reed (*Phragmites australis*) in fresh water areas. Southern mahogany (*Eucalyptus botryoides*) and blackbutt (*Eucalyptus pilularis*) around swamp margin.

4.2. General Description of the Project Area

According to geological mapping, the project area is underlain by Devonian Sedimentary rocks (Dms) of the Merrimbula Group and adjoins Holocene estuarine in-channel bar and beach (Qheb) comprised of marine sands, silt, clay, shell and gravel.

The project area is close to Boggy Creek an estuarine / tidal creek feeding Merimbula Lake and is likely to have been the focus for at least some Aboriginal occupation in the past.

The entire project area is within the central business district of Merimbula, a highly developed area and entirely covered by existing and modern buildings.

The entire project area is devoid of native vegetation and has been subject to substantial disturbance as part of successive historical development.

5. HERITAGE REGISTERS AND ARCHAEOLOGICAL BACKGROUND

5.1. Heritage Register listings

Heritage registers and inventories are lists of identified items of heritage significance. These registers are searched for any listed heritage items that occur within or in close proximity to the proposal.

The *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (Requirement 1b) requires searches of the following register/database as part of any due diligence process or Aboriginal assessment:

- The Australian Heritage database – *Environment Protection and Biodiversity Conservation Act*.
- NSW State Heritage Register and Inventory - *NSW Heritage Act 1977*.
- Aboriginal Heritage Information Management System (AHIMS) – *National Parks and Wildlife Act 1974*.

They may contain information about both Aboriginal or historic (non-Aboriginal) places and objects. These registers may also provide information on comparative sites that can be used to assist in the evaluation of the relative significance of the site.

Registers and inventories relevant to this study are:

- The Bega Valley Local Environmental Plan;
- NSW State Heritage Register
- NSW State Heritage Inventory; and
- The Australian Heritage Database.
- Aboriginal Heritage Information Management System (AHIMS)

A summary of inventory search results is provided in **Table 1**. The results of these searches are discussed further below.

Table 1 Summary of Inventory search results and heritage listings

Heritage Register	Within or partially within study area	Within proximity to study area
Bega Valley LEP	No	Yes
State Heritage Register	No	No
State Heritage Inventory	No	Yes
Australian Heritage Database	No	No
AHIMS Database	No	No

5.1.1. Local Environmental Plan (Bega Valley LEP 2013)

Local Environmental Plans (LEPs) provide a framework for development controls in their local area (Section 5.10 and Schedule 5). Heritage schedules within an LEP provide for the identification and protection of heritage items, termed Environmental Heritage. Environmental Heritage includes Heritage Items, Heritage Conservation Areas, Archaeological sites and Aboriginal places of heritage significance.

The proposal is within the Bega Valley LGA and a broad search of both Merimbula and Market Street, Merimbula shows one heritage item listed in Schedule 5 of the Bega Valley LEP within proximity to the project area.

Twyford Hall (Heritage Item I221, Lot 511, DP 818052) is located directly opposite the proposal on eastern side of Market Street and corner of Beach Street. The Item is considered locally significant and listed for historical, aesthetic (architectural) and social values.

Figure 2 shows the location of Heritage Item I221 in relation to the proposal and details of the listing are provided below and more comprehensive inventory details are provided at **Appendix 1**.

Table 2 Details of Environmental Heritage listed at Schedule 5 of Bega Valley LEP.

Item Name	Address	Property Description	Significance	Item No.
Twyford Hall	16 Market Street, Merimbula.	Lot 511, DP 818052	Local	I221

5.1.2. State Heritage Register and State Heritage Inventory

The State Heritage Register (SHR) is managed by the NSW Heritage Council and comprises a list of heritage items of particular importance to the people of NSW. Items appearing on the SHR are considered significant to the State and are afforded statutory protection.

The State Heritage Inventory (SHI) is a listing of heritage items within NSW and is also managed by the NSW Heritage Council. It comprises a database of heritage items listed by Local Government and State Agencies across NSW as the result of heritage studies. Items listed on the SHI are considered locally significant and subject to protection through local government processes.

A search of the SHR showed that there are no places, heritage items or information listed on the NSW State Heritage Register affecting the proposed project. A search of the SHI did not

reveal any additional listings besides Heritage Item I221, being the Twyford Hall discussed above at **Section 5.1.1**.

5.1.3. The Australian Heritage Database

The Australian Heritage Council is an independent agency within the Department of the Environment. The Council is the principal adviser to the Australian Government on heritage matters. The Council assesses nominations for the National Heritage List, the Commonwealth Heritage List and is also responsible for the Australian Heritage Database (AHD). The database includes:

- places in the World Heritage List
- places in the National Heritage List
- places in the Commonwealth Heritage list
- places in the Register of the National Estate
- places in the List of Overseas Places of Historic Significance to Australia
- places under consideration (nominated or assessed), or that may have been considered for, any one of these lists.

A comprehensive search of the Australian Heritage Database showed that there are no listed places within or near the study area.

5.2. Aboriginal Heritage Information Management System (AHIMS)

A search of the Aboriginal Heritage Information Management System or AHIMS register was undertaken for Lot 11 and Lot 112 and the surrounding area.

The AHIMS Database search shows no Aboriginal sites have been previously recorded within this search area.

The subject land is not within, either partly or wholly an area that has been declared an Aboriginal place.

Figure 2: The project area and Heritage Item I221



6. RESULTS

Owing to the level of project information provided by the proponent and highly developed nature of the project area, a field investigation was not considered required to inform this assessment. This Due Diligence Assessment is based therefore on desktop assessment only.

6.1. Aboriginal Objects

No Aboriginal objects have been previously recorded within the project area. Given the highly developed nature of the site and associated disturbance, Potential Archaeological Deposits (PADs) or indeed any other form of in-situ Aboriginal objects are considered highly unlikely.

6.2. Historic Heritage

A search of heritage registers showed a single heritage item (Twyford Hall, Heritage Item I221, Lot 511, DP 818052) is located directly opposite the proposal on eastern side of Market Street and corner of Beach Street (See Sections 5.1.1 and 5.1.2. The Item is considered locally significant and listed for historical, aesthetic (architectural) and social values. The location of Heritage Item I221 in relation to the proposal was previously shown at **Figure 2**.

7. DISCUSSION AND DUE DILIGENCE

The discussion at **Sections 5.0** and **6.0** relevant to this study identified that in situ Aboriginal objects protected under the *NSW National Parks and Wildlife Act* are *unlikely* to occur within the project area due to the highly developed and disturbed nature of the site.

Discussion about the results against the policy is provided below.

7.1. Due Diligence Discussion

The rationale for preparing this due diligence assessment was outlined in **Section 3.1** as:

- The proposed works will disturb the ground surface
- The project area occurs within 200 metres of Boggy Creek (an estuarine / tidal creek feeding Merimbula Lake).

Step 2b of the Due Diligence Code (2010:12) requires the consideration of whether the project area contains landscape features that indicate the *likely* existence of Aboriginal objects and is on land that is not *disturbed*.

Likely and *disturbed* are the key concepts to understand for interpreting the results of this assessment and against the policy. These concepts are discussed below.

Disturbed land

The Due Diligence Code (2010:18) defines *disturbed land* as the subject of a human activity that has changed the land's surface, being changes that remain clear and observable. Examples of disturbed land 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 the erection of other structures, construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines, stormwater drainage and other similar infrastructure) and construction of earthworks (Due Diligence Code 2010:18).

By this definition, the entire proposal area conforms to the definition of very disturbed land.

The entire project area has been subject to massive disturbance that is likely to have substantially diminished the potential of this landscape to contain Aboriginal objects in-situ.

Likely

Likely is not defined within the Due Diligence Code but is defined by the Merriam-Webster Dictionary "as having a high probability of occurring or being true: very probable".

The likelihood or probability generally equates to what is also discussed as the degree of archaeological sensitivity or potential. An index of likelihood is presented below.

Archaeological Sensitivity	Likelihood or probability
High	Very likely
Moderate to High	Likely
Moderate	Maybe likely
Low to Moderate	Unlikely
Low	'likely'

For the purposes of interpreting the Due Diligence Code then areas of 'moderate to high' and 'high' archaeological sensitivity are those areas considered *likely* to contain Aboriginal objects.

While the project area may have once been a '*likely*' focus for Aboriginal occupation, any associated occupation evidence and Aboriginal objects that may have been deposited has also likely been long since disturbed and destroyed by successive development.

In this instance, the clearly extensive disturbance to the site is assessed as substantially diminishing the potential for any Aboriginal archaeological material and the project area is therefore assessed as having a low potential and '*very unlikely*' to contain Aboriginal objects with any spatial integrity.

7.2. Historic Heritage

Twyford Hall (Heritage Item I221, Lot 511, DP 818052) is located directly opposite the proposal on eastern side of Market Street and corner of Beach Street (See Sections 5.1.1 and 5.1.2. The Item is considered locally significant and listed for historical, aesthetic (architectural) and social values.

Whilst the proposal will not physically infringe upon or within the heritage listed area, some assessment of the visual scale and form of the proposed development should be undertaken to understand the potential impacts on the aesthetic (architectural) heritage values, including the whether a formal Statement of Heritage Impact (SOHI) should be prepared to support the Development Application.

In this instance, and because Item I221 is listed at the local level, Bega Valley Shire Council is the delegated consent authority and can therefore provide determination about whether further assessment is required to ensure the proposal complies with the provisions of the *NSW Heritage Act*.

8. CONCLUSIONS AND MANAGEMENT RECOMMENDATIONS

8.1. Conclusions

Merimbula Central Pty Ltd (proponent) and Squillace Architecture, on behalf of the proponent sought advice under the ***Due Diligence Code of Practice for the Protection of Aboriginal Objects*** to understand whether the proposed works have the potential to *harm* Aboriginal objects or values protected under the *NSW National Parks and Wildlife Act* and *NSW Heritage Act*. This Due Diligence assessment has:

- Determined that the entire project area as disturbed land and subject to massive disturbance that is likely to have substantially diminished the potential of this landscape to contain Aboriginal objects in-situ.
- Assessed the project area as having a low potential and ‘*very unlikely*’ to contain Aboriginal objects with any spatial integrity.
- Identified Twyford Hall (Heritage Item I221, Lot 511, DP 818052) located directly opposite the proposal on eastern side of Market Street and corner of Beach Street (See Sections 5.1.1 and 5.1.2). The Item is considered locally significant and listed for historical, aesthetic (architectural) and social values. The proposal will not physically infringe upon or within the heritage listed area. In this instance Bega Valley Shire Council is the delegated consent authority under the *NSW Heritage Act*.

8.2. Management Recommendations – Aboriginal heritage

The following management recommendations are based in accordance with Step 4 of the *Due Diligence Code* (2010:13) stating that where either the desktop assessment or visual inspection indicates that there are (or are likely to be) Aboriginal objects in the area of the proposed activity, more detailed investigation and impact assessment will be required.

On the basis of this assessment for Aboriginal objects and their protection under the *NSW National Parks and Wildlife Act*, it is recommended that:

1. No further action or assessment regarding Aboriginal heritage is required for the central section and north-eastern extent of the proposal.

While the undertaking of this due diligence assessment acts as a defence against harming or disturbing Aboriginal objects without an Aboriginal Heritage Impact Permit (AHIP), the undertaking of this assessment alone does not negate the need for any AHIP required to disturb or *harm* any Aboriginal objects.

Investigations for an AHIP require preparation of an Aboriginal Cultural Heritage Assessment and must be supported by Aboriginal consultation in accordance with the process outlined in the *Aboriginal cultural heritage consultation requirements for proponents*.

In the event that Aboriginal objects are discovered during the works the proponent should:

- notify all relevant personnel and cease work immediately in that area and
- contact an appropriately qualified archaeologist and/or Heritage NSW to understand and verify the find.

8.3. Management Recommendations – Historic (non-Aboriginal) heritage

With regard to the *NSW Heritage Act 1977* and the heritage listed Twyford Hall (Heritage Item I221) it is recommended that:

2. The proponent considers whether a Statement of Heritage Impact (SOHI) is required to support their Development Application and to assess the visual scale and form of the proposed development, understand the potential impacts on the aesthetic (architectural) heritage values of Heritage Item I221 and ensure compliance with the provisions of the *NSW Heritage Act*.

Bega Valley Shire Council as the delegated consent authority can provide determination about whether any further assessment is required.

9. REFERENCES

Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales. NSW Department of Planning, Industry and Environment policy document.

Due Diligence Code of Practice for the Protection of Aboriginal Objects. NSW 2010. NSW Department of Planning, Industry and Environment policy document.

Mitchell, P. 2002 Descriptions for NSW (Mitchell) Landscapes Version 2 Based on descriptions compiled by Dr. Peter Mitchell for DECCW

APPENDIX 1

Search for NSW heritage

[Return to search page where you can refine/broaden your search.](#)

Statutory listed items

Information and items listed in the State Heritage Inventory come from a number of sources. This means that there may be several entries for the same heritage item in the database. For clarity, the search results have been divided into three sections.

- **Section 1** - contains Aboriginal Places declared by the **Minister for the Environment** under the National Parks and Wildlife Act. This information is provided by Heritage NSW.
- **Section 2** - contains heritage items listed by the **Heritage Council of NSW** under the Heritage Act. This includes listing on the State Heritage Register, an Interim Heritage Order or protected under section 136 of the Heritage Act. This information is provided by Heritage NSW.
- **Section 3** - contains items listed by **local councils** on Local Environmental Plans under the Environmental Planning and Assessment Act and **State government agencies** under s.170 of the Heritage Act. This information is provided by local councils and State government agencies.

Section 1. Aboriginal Places listed under the National Parks and Wildlife Act.

Your search did not return any matching results.

Section 2. Items listed under the Heritage Act.

Your search returned 1 record.

Item name	Address	Suburb	LGA	SHR
Courunga	Monaro Street	Merimbula	Bega Valley	00235

Section 3. Items listed by Local Government and State Agencies.

Your search returned 9 records.

Item name	Address	Suburb	LGA	Information source
Courunga House and grounds	20 Monaro Street	Merimbula	Bega Valley	LGOV
Fishermen's Lookout	Lake Street	Merimbula	Bega Valley	LGOV
Merimbula Wharf and cargo sheds	Wharf Street on Long Point	Merimbula	Bega Valley	LGOV
Mitchie's wharf and shed	Fishpen	Merimbula	Bega Valley	LGOV
Old School Museum	85-87 Main Street	Merimbula	Bega Valley	LGOV
Residence	2 Main Street	Merimbula	Bega Valley	LGOV
Residence	45 Main Street	Merimbula	Bega Valley	LGOV
Trolley Way Mirador Tramway, Pages Creek Dam	Off Mirador Drive	Merimbula	Bega Valley	LGOV
Twyford Hall	16 Market Street	Merimbula	Bega Valley	LGOV

There was a total of 10 records matching your search criteria.

Key:

LGA = Local Government Area

GAZ= NSW Government Gazette (statutory listings prior to 1997), HGA = Heritage Grant Application, HS = Heritage Study, LGOV = Local Government, SGOV = State Government Agency.

Note: While Heritage NSW seeks to keep the Inventory up to date, it is reliant on State agencies and local councils to provide their data. Always check with the relevant State agency or local council for the most up-to-date information.

Search for NSW heritage

[Return to search page where you can refine/broaden your search.](#)

Statutory listed items

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- **Section 3** - contains items listed by **local councils** on Local Environmental Plans under the Environmental Planning and Assessment Act and **State government agencies** under s.170 of the Heritage Act. This information is provided by local councils and State government agencies.

Section 1. Aboriginal Places listed under the National Parks and Wildlife Act.

Your search did not return any matching results.

Section 2. Items listed under the Heritage Act.

Your search did not return any matching results.

Section 3. Items listed by Local Government and State Agencies.

Your search returned 1 record.

Item name	Address	Suburb	LGA	Information source
Twyford Hall	16 Market Street	Merimbula	Bega Valley	LGOV

There was a total of 1 records matching your search criteria.

Key:

LGA = Local Government Area

GAZ= NSW Government Gazette (statutory listings prior to 1997), HGA = Heritage Grant Application, HS = Heritage Study, LGOV = Local Government, SGOV = State Government Agency.

Note: While Heritage NSW seeks to keep the Inventory up to date, it is reliant on State agencies and local councils to provide their data. Always check with the relevant State agency or local council for the most up-to-date information.

Twyford Hall

Item details

Name of item:

Twyford Hall

Other name/s:

Not known

Type of item:

Built

Group/Collection:

Community Facilities

Category:

Hall Concert

Primary address:

16 Market Street, Merimbula, NSW 2548

Parish:

Pambula

County:

Auckland

Local govt. area:

Bega Valley

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
16 Market Street	Merimbula	Bega Valley	Pambula	Auckland	Primary Address

Statement of significance:

Historic, aesthetic, social significance

Note: The State Heritage Inventory provides information about heritage items listed by local and State government agencies. The State Heritage Inventory is continually being updated by local and State agencies as new information becomes available. Read the Department of Premier and Cabinet [copyright](#) and [disclaimer](#).

Description

Designer/Maker:

Unknown

Builder/Maker:

Not known

Construction years:

0-0

Physical description:

Early 20th century community war memorial hall

Physical condition and/or
Archaeological potential:

Generally good

Date condition updated:12 Dec 13

Modifications and dates:

Not known

Further information:

Not known

Current use:

Community hall, theatre

Former use:

Community hall, theatre

History

Historical notes:

Twyford Hall, whose foundation stone was laid in 1931 by Joseph William Twyford (1854 - 1933), after his gifting of the land for the establishment of a community centre for the people of Merimbula. A Memorial Porch was added a short time later, the funds having been donated by Sarah Twyford (1860 - 1938), second wife of Joseph, as a memorial in remembrance of the soldiers of Merimbula who served during the Great War (WW1) and whose names are listed in a stone tablet set into the Hall's wall on Market Street, Merimbula.


Assessment of significance

SHR Criteria a)

[Historical significance]

Historic, aesthetic, social significance

Assessment criteria:

Items are assessed against the  [State Heritage Register \(SHR\) Criteria](#) to determine the level of significance. Refer to the Listings below for the level of statutory protection.

Recommended management:

Recommendations

Management Category	Description	Date Updated
Statutory Instrument	List on a Local Environmental Plan (LEP)	18 Jun 13

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Bega Valley Local Environmental Plan 2013	1221	02 Aug 13	408	103
Local Environmental Plan - Lapsed	Schedule 6 (Interim)		14 Jun 02	98	4222

References, internet links & images

None

Note: internet links may be to web pages, documents or images.



(Click on thumbnail for full size image and image details)

Data source

The information for this entry comes from the following source:

Name:

Local Government

Database number:

1100221

[Return to previous page](#)

Every effort has been made to ensure that information contained in the State Heritage Inventory is correct. If you find any errors or omissions please send your comments to the [Database Manager](#).

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APPENDIX 2

Onsite Cultural Heritage Management - Narooma

Date: 24 November 2020

PO Box 574

Narooma New South Wales 2546

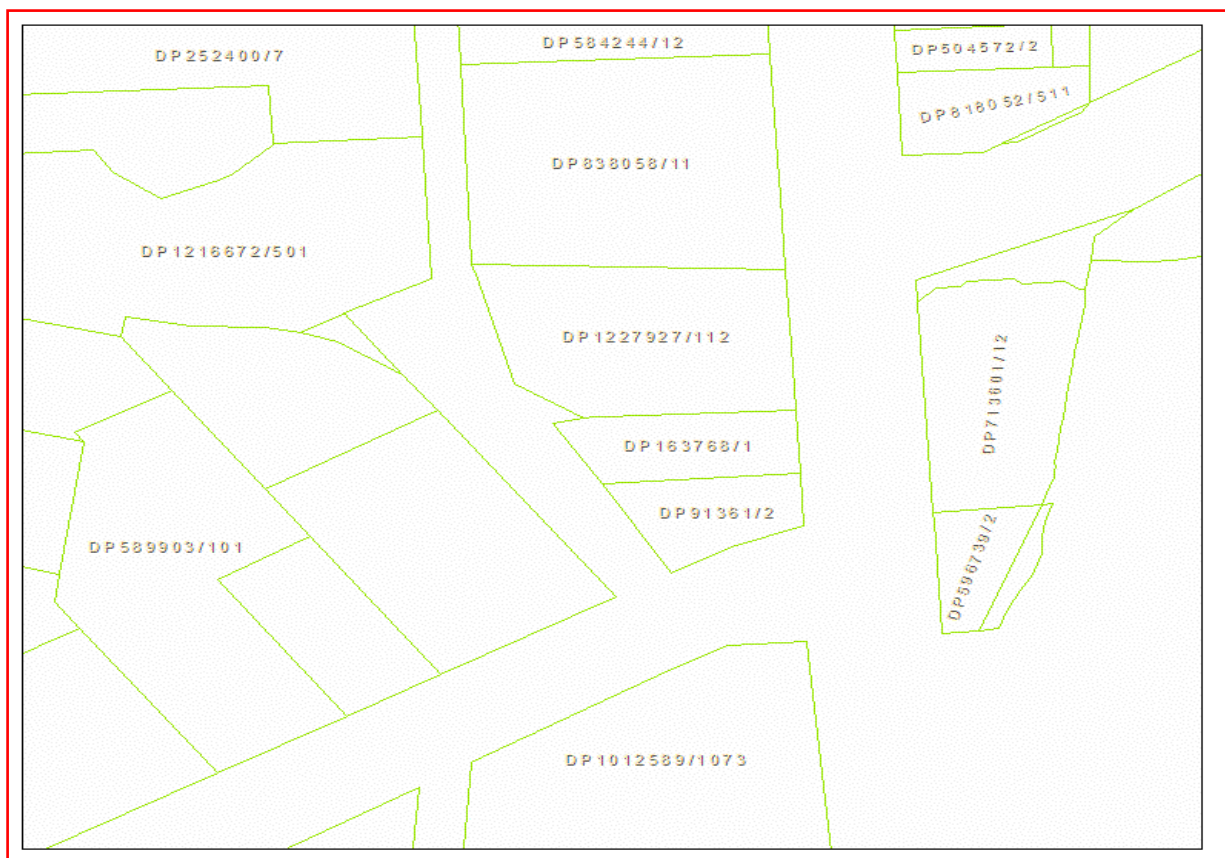
Attention: Gerard Niemoeller

Email: gerard@onsitechm.com.au

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lat, Long From : -36.8897, 149.9097 - Lat, Long To : -36.8891, 149.9107 with a Buffer of 50 meters, conducted by Gerard Niemoeller on 24 November 2020.

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



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

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

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

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

Important information about your AHIMS search

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