



**DUE DILIGENCE REPORT FOR
ABORIGINAL OBJECTS**

PLANNING PROPOSAL

**310 TERRIGAL DRIVE
TERRIGAL**

**JUNE 2023
REF:317**

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**310 TERRIGAL DRIVE
TERRIGAL**

INTEGRATED SITE PLANNING

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PREFACE

This Report has been prepared to address the relevant matters for consideration as outlined in the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW.

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Integrated Site Planning

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APPENDIX 1 AHIMS WEB SERVICES SEARCH – SITE REPORT

1. INTRODUCTION

1.1 Background

Integrated Site Planning has been engaged by Loftus Lane Capital to undertake an Aboriginal Objects Due Diligence Assessment to accompany a planning proposal for a future residential flat development at 310 Terrigal Drive, Terrigal.

This assessment has been prepared in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW, published by the Department of Environment, Climate Change and Water and dated 13 September 2010. This Code of Practice is current at the time of preparing this Report.

The Due Diligence Code of Practice (DECCW 2010) has been utilised to exercise due diligence in:

- Identifying whether or not Aboriginal objects are, or are likely to be, present;
- Determining whether or not the proposal is likely to harm Aboriginal objects (if present); and
- Determining whether an Aboriginal Heritage Impact Permit (AHIP) is required.

Compliance with the Due Diligence Code of Practice (DECCW 2010) is taken for the purposes of Section 87(2) of the *National Parks and Wildlife Act* (1974) to constitute due diligence in determining whether the act or omission constituting an alleged offence would harm an Aboriginal object.

The Due Diligence Code of Practice (DECCW 2010) identifies that the *National Parks and Wildlife Act 1974* (NPW Act) provides that a person who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later unknowingly harm an object without an AHIP.

1.2 Study Area

The planning and cadastral details of the site are provided in Table 1.1. Figure 1 shows the site and surrounding areas.

TABLE 1.1 SITE DETAILS	
Location	Lot 27 DP 1223375 310 Terrigal Drive, Terrigal
Study Site Area	4262m ²
Local Aboriginal Area	Darkinjung Local Aboriginal LCA
Local Government Area	Central Coast Council
Bioregion	Sydney Basin
Existing Land Use	Vacant Residential Lot

1.3 Planning Proposal

The future development assessed in this report is a future residential unit complex and bushfire asset protection zones, access and associated infrastructure. Detailed plans of the proposal are provided with the planning proposal as separate documentation to this report. Assessments within this report have taken into account the potential future construction of the building, vehicle access, landscaping and the provision of services and implementation of bushfire asset protection measures.

The Planning Proposal seeks to amend the Central Coast LLEP 2022 by increasing the maximum permissible height of buildings to 32m, and the maximum floor space ratio to 1.4:1. The Planning Proposal will enable the site to be redeveloped from a vacant land parcel to an eight-storey residential flat building. The concept drawings prepared by CKDS Architects demonstrate the potential for the site to accommodate 42 residential apartments and 75 car parking spaces across three basement levels.

2. METHODOLOGY

2.1 Due Diligence Assessment Process

The assessment process outlined in the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (DECCW 2010) was utilised, as outlined in the following sections of this Report.

2.2 Literature Review

A review of available literature for the area was undertaken to obtain reference material and background information for this assessment. The following key sources were utilised:

- Online topographic mapping (NSW Department of Finances & Services, 2019)
- Central Coast Council Local Environmental Plan

2.3 Database Searches

Searches of the following databases were undertaken in order to determine if any confirmed site records or other associated landscape feature information had been recorded for the site:

- Aboriginal Heritage Information Management System (Heritage NSW 2023a); and
- NSW Atlas of Aboriginal Places (Heritage NSW 2023b).

An initial search of the AHIMS database did not identify Aboriginal sites within 2 kilometres of the site.

A refined search did not identify any Aboriginal sites or objects recorded within the site or within 50 metres of the subject site. Copies of the AHIMS search results are provided in Appendix 1.

2.4 Site Inspection

A site inspection was undertaken on 13 April 2023 to determine the landscape features present, the condition of the natural vegetation, existing developments and disturbances of the subject site.

3. SITE CHARACTERISTICS

Location

The site is located on the south east corner of Terrigal Drive and Charles Kay Drive, Terrigal.

Vegetation

Vegetation comprises patches of Open Forest (*Eucalyptus pilularis* dominant) to the east of the site with introduced grasses and revegetated areas within the site. Remnant trees are present along the western and southern section of the site.

Geology

Deep sandy, podzolic soils and alluvial deposits present with areas of fill material located in the southern parts of the site.

Drainage

Adjoining a second order watercourse flowing into Terrigal Lagoon.

Developments

Previously utilized for a construction depot for the construction of Terrigal Drive and Duffys Road, as shown in the attached aerial photograph provided in Figure 2.

The site is considered to contain disturbed land as a result of the following observable human activities which have changed the land's surface:

- Natural vegetation clearing (historic for depot and road construction purposes)
- Weed infestation
- Materials storage
- Landscaping/revegetation
- Temporary construction depot
- Treated pine boundary delineation vehicle barrier along northern and western boundary.

4. DUE DILIGENCE ASSESSMENT

4.1 Assessment to Determine Requirement for Due Diligence Assessment

The following assessment in accordance with Section 7 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (DECCW 2010) has been undertaken to determine if the Code of Practice can be utilised to establish due diligence for the proposed activity. The process of assessment to determine the requirement and suitability for the use of the generic due diligence code of practice is shown in Figure 4.1.

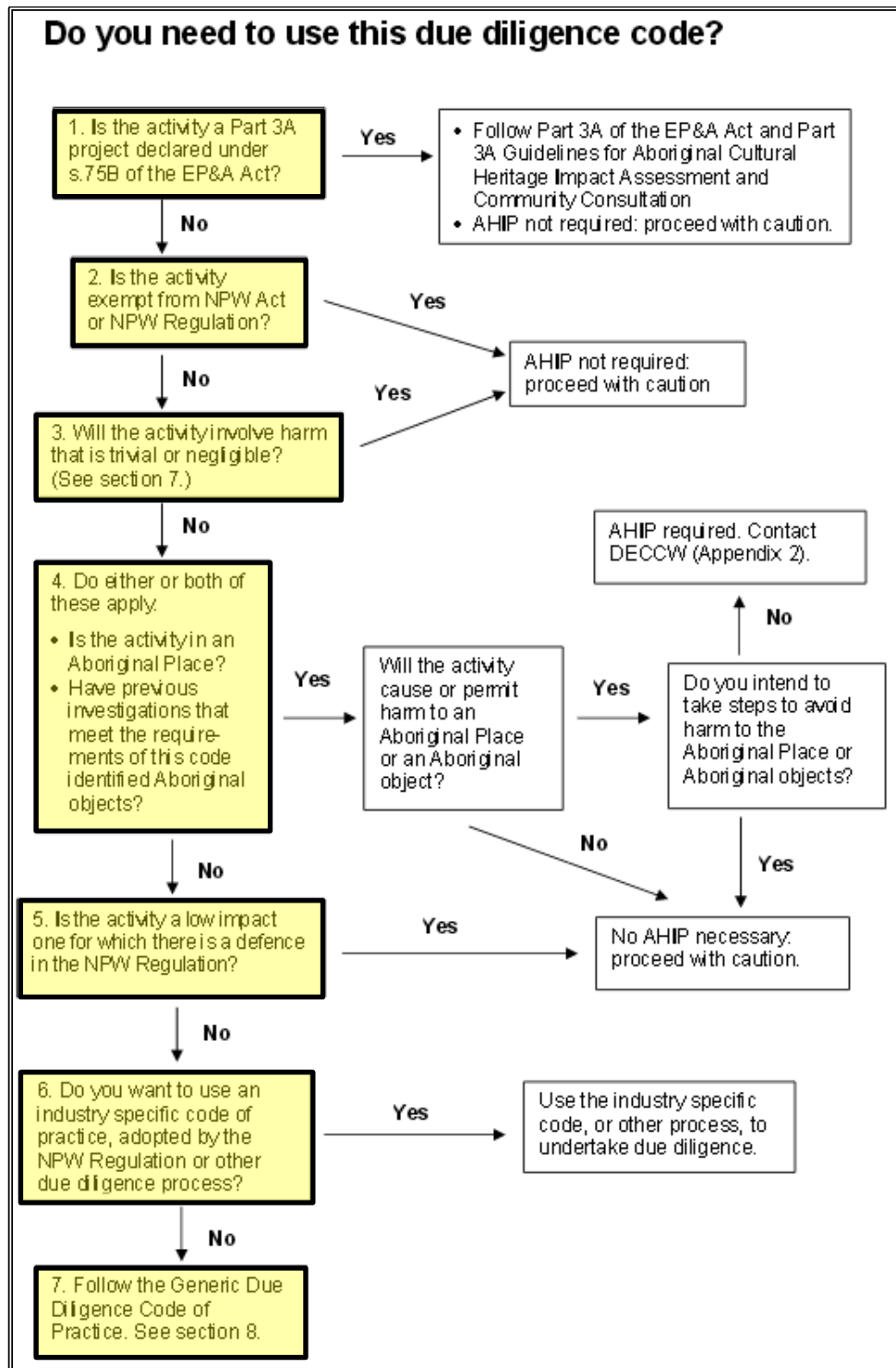


Figure 4.1 Assessment Process to Determine Requirement for use of the Due Diligence Code of Practice (DECCW 2010).

In determining whether the Due Diligence Code of Practice should be utilised for the proposed development, the following questions for considerations are addressed as identified in Section 7 of the Due Diligence Code of Practice and as demonstrated in Figure 4.1.

Q7.1 Is the activity a declared project under part 3A of the EP&A Act?

No, the proposed development will be assessed under Part 4 of the EP&A Act (1979).

Q7.2 Is the activity an exempt activity listed in the National Parks and Wildlife Act or other legislation?

No, the activity is not an exempt activity.

Q7.3 Will the activity involve harm that is trivial or negligible? (e.g. picking up and replacing a small stone artefact, breaking a small Aboriginal object below the surface when you are gardening, crushing a small Aboriginal object when you walk on or off a track, picnicking, camping or other similar recreational activities.

No, the proposed activity is not a type of activity with potential to only cause trivial or negligible harm.

Q7.4 Is the activity in an Aboriginal Place or are you already aware of Aboriginal objects on the land?

A search of the NSW Atlas of Aboriginal Places (Heritage NSW 2023) has identified that the subject site is not within an Aboriginal Place.

No references were found indicating the presence of any Aboriginal Objects within the proposed development site.

Q7.5 Is the activity a low impact activity for which there is a defence in the Regulation?

No.

Q7.6 Do you want to use an industry specific code of practice?

No. The proposed activity is not subject to an industry specific code identified in the NPW Regulation.

Q7.7 Do you wish to follow your own procedure?

No.

Q7.8 Follow the Due Diligence Code of Practice.

It has been determined that the generic due diligence process as outlined in Section 8 of the The Due Diligence Code of Practice (DECCW 2010) is to be followed to establish due diligence for the proposed development.

4.2 Due Diligence Reporting Process

The following reporting is provided in accordance with the assessment steps identified in Section 8 of the Due Diligence Code of Practice (DECCW 2010). The generic due diligence process is shown in Figure 4.2, and addressed in this section of the Report.

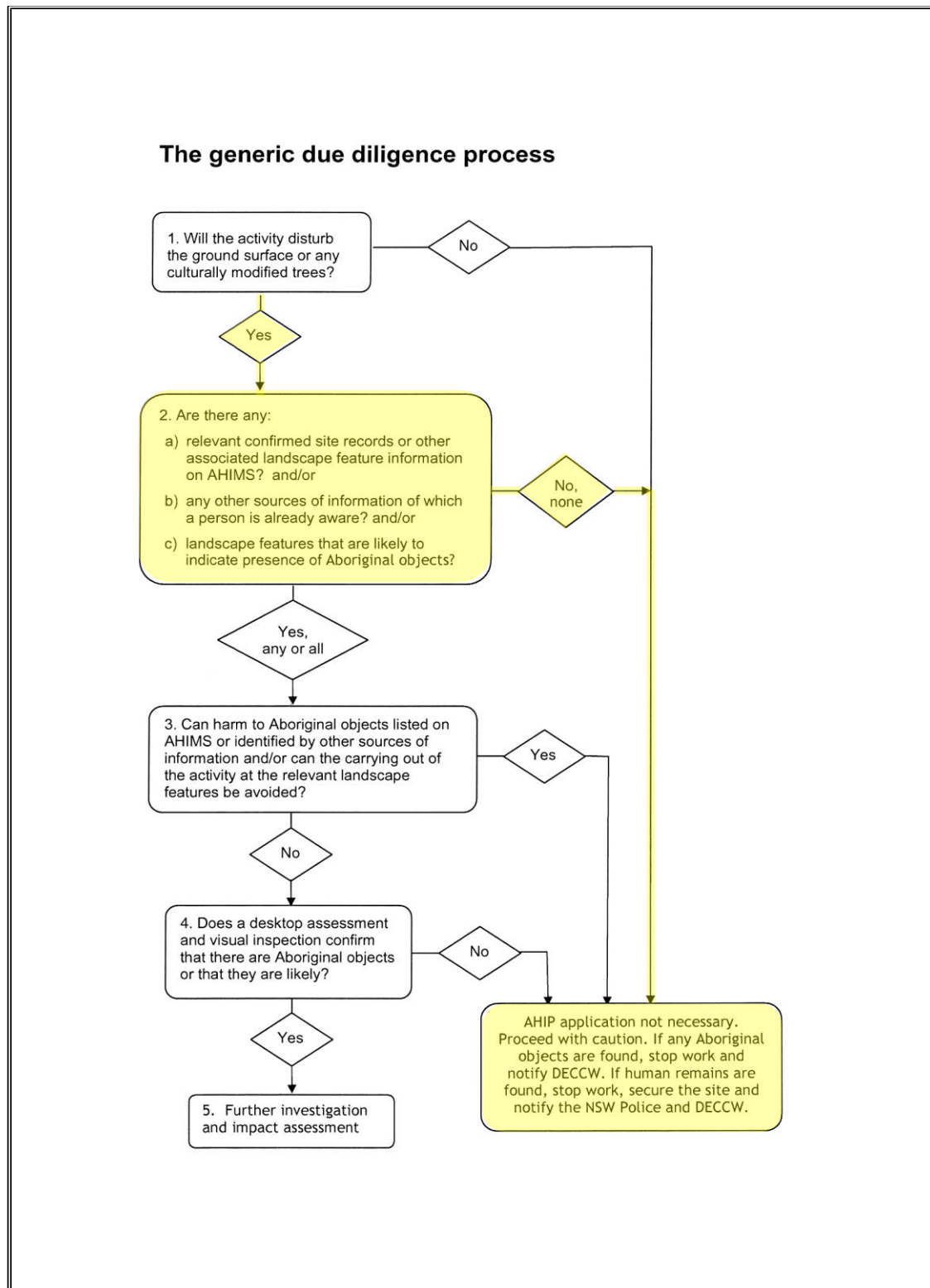


Figure 4.2 The Generic Due Diligence Process (DECCW 2010).

Step 1. Will the activity disturb the ground surface?

Yes. The previously disturbed ground surface will be further disturbed by the proposed development as part of the site development and building construction works.

The site of proposed development has undergone significant disturbance in the form of weed infestation, vegetation clearing, road construction, material stockpiling and temporary construction depot.

Step 2a. Search the AHIMS database and use any other sources of information for identifying Aboriginal sites or objects.

A basic search of the AHIMS database was undertaken to check whether any Aboriginal sites have been recorded within 50m of the subject site. The search is provided as Attachment 1 of this report.

No Aboriginal Objects or Sites were recorded within the subject site or within 50 metres of the subject site.

No culturally modified trees were observed within the proposed development area or are likely to be disturbed by the proposed development.

No other sources of information indicate the presence of Aboriginal objects within the site.

These results indicate a low likelihood of Aboriginal places or Aboriginal sites/objects being present within the subject site.

Step 2b. Are the Activities in areas where landscape features indicate the presence of Aboriginal objects?

No. The site of proposed development has undergone significant disturbance in the form of weed infestation, vegetation clearing, land form modification for drains, access tracks, excavation and placement of fill material for construction and demolition of buildings, fencing and materials storage.

Land already disturbed is defined in the Due Diligence Code of Practice as “...*Land is disturbed if it has been the subject of a human activity that has changed the lands surface, being changes that remain clear and observable. Examples of disturbance include: vegetation clearing, construction of dams, fences, structures, buildings, installation of services and stormwater drainage*”.

If the land is already disturbed the Due Diligence Code of Practice (page 12) identifies that the activity can proceed with caution without applying for an AHIP.

Step 3. Can harm to the object or disturbance of the landscape feature be avoided?

This step does not apply because the proposed activity is proposed on land that is disturbed.

Step 4. Does a desktop assessment and a visual inspection confirm that there are Aboriginal objects or that they are likely?

This step does not apply because the proposed activity is proposed on land that is disturbed.

Step 5. Further investigations and impact assessment?

The outcomes of the above steps of the assessment completed in accordance with DECCW (2010) has determined that further investigation, impact assessment and / or an Aboriginal Heritage Impact Permit is not considered required for the proposed development. The DECCW (2010) guidelines identify that the development may proceed with caution.

5. CONCLUDING COMMENTS

Following completion of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales it is concluded that:

- i. The proposed activity will be undertaken on disturbed land;
- ii. The site has a low likelihood of containing Aboriginal objects;
- iii. An application for an Aboriginal Heritage Impact Permit is not required for this activity.

6. REFERENCES

Environmental Planning and Assessment Act 1979 (NSW Government).

National Parks and Wildlife Act 1974 (NSW Government).

National Parks and Wildlife Regulation 2009 (NSW Government).

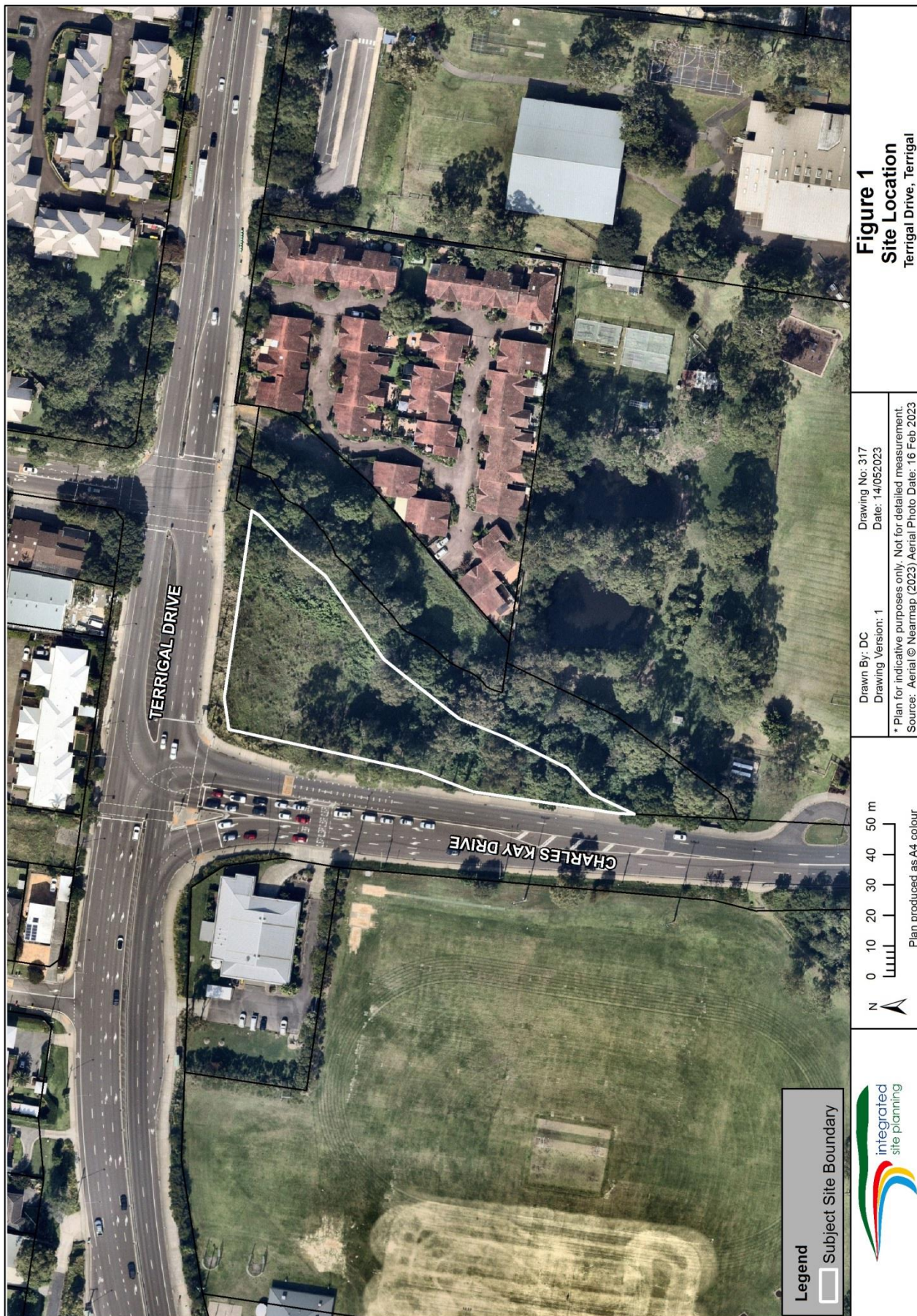
NSW Department of Finances & Services, 2019, Cadastral and Imagery Data, Six Maps. Available Online: maps.six.nsw.gov.au

Heritage NSW 2023a, Aboriginal Heritage Information Management System. Available Online: <http://www.environment.nsw.gov.au/awssapp/Login.aspx?ReturnUrl=%2fawssapp%2ftimeout.aspx>

Heritage NSW 2023b, Aboriginal Places and State Heritage Register Available Online: <http://www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx>

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

FIGURES





SITE PHOTOS



Photo 1

Area of the site previously disturbed, filled and revegetated for construction depot purposes.



Photo 2

Revegetated area in foreground with remnant trees on adjoining land to the east.

APPENDIX 1
AHIMS WEB SERVICES SEARCH – SITE REPORT



AHIMS Web Services (AWS) Search Result

Your Ref/PO Number : 317

Client Service ID : 776503

Integrated Site Planning

Date: 26 April 2023

po box 4082
east gosford New South Wales 2250

Attention: Phillip Conacher

Email: integratedsiteplanning@gmail.com

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lot : 27, DP:DP1223375, Section : - with a Buffer of 50 meters, conducted by Phillip Conacher on 26 April 2023.

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 Heritage NSW 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](https://www.legislation.nsw.gov.au/gazette) (<https://www.legislation.nsw.gov.au/gazette>) website. Gazettal notices published prior to 2001 can be obtained from Heritage NSW 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 to be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Heritage NSW and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.

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