

The URBIS logo consists of the word "URBIS" in a bold, white, sans-serif font. To the right of the text is a white square frame that is partially open on the right side. A white horizontal line extends from the right side of this square frame across the top of the page.

**URBIS**

# **ABORIGINAL OBJECTS DUE DILIGENCE ASSESSMENT**

263-273 and 273A Coward Street and  
76-82 Kent Road, Mascot, NSW  
Kameygal Country

Prepared for

**PERPETUAL CORPORATE TRUST LIMITED AS THE  
TRUSTEE OF THE LMLP 1 AND 2 TRUST**

21 April 2023

**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Director	Balazs Hansel, MA Archaeology, MA History, M. ICOMOS
Associate Director	Sam Richards, BA (Archaeology) Hons
Senior Consultant	Aaron Olsen, Dip Arts (Archaeology), BSc (Hons), MIP, PhD
Consultant	Wade Goldwyer, BA Archaeology (Hons) , M. ICOMOS
Project Code	P0042569
Report Number	Draft issued 13 April 2023 Final issued 21 April 2023

**Urbis acknowledges the important contribution that Aboriginal and Torres Strait Islander people make in creating a strong and vibrant Australian society.**

**We acknowledge, in each of our offices the Traditional Owners on whose land we stand.**

All information supplied to Urbis in order to conduct this research has been treated in the strictest confidence. It shall only be used in this context and shall not be made available to third parties without client authorisation. Confidential information has been stored securely and data provided by respondents, as well as their identity, has been treated in the strictest confidence and all assurance given to respondents have been and shall be fulfilled.

© Urbis Pty Ltd  
50 105 256 228

All Rights Reserved. No material may be reproduced without prior permission.

You must read the important disclaimer appearing within the body of this report.

**[urbis.com.au](http://urbis.com.au)**

# CONTENTS

<b>Glossary .....</b>	<b>i</b>
<b>Executive Summary.....</b>	<b>1</b>
<b>1. Introduction .....</b>	<b>3</b>
1.1. Subject Area .....	3
1.2. Proposed Activity .....	3
1.3. Authorship .....	4
1.4. Limitations .....	4
<b>2. Statutory Context .....</b>	<b>8</b>
2.1. Heritage Controls .....	8
2.1.1. Environment Protection and Biodiversity Conservation Act 1999 (Cth) .....	8
2.1.2. The National Parks and Wildlife Act 1974 (NSW) .....	8
2.1.4. Bayside Development Control Plan 2022 .....	10
2.2. Heritage Lists & Registers .....	10
2.2.1. NSW State Heritage Inventory .....	10
2.2.2. Australian Heritage Database .....	11
2.3. Summary .....	11
<b>3. Aboriginal Heritage Background .....</b>	<b>13</b>
3.1. Environmental Context .....	13
3.1.1. Topography .....	13
3.1.2. Soil Landscape and Geology .....	13
3.1.3. Vegetation .....	13
3.1.4. Hydrology .....	16
3.1.5. Historical Ground Disturbance .....	16
3.2. Archaeological Context .....	18
3.2.1. Previous Archaeological Investigations .....	18
3.2.2. AHIMS .....	18
3.3. Summary .....	21
<b>4. Due Diligence Assessment .....</b>	<b>22</b>
4.1. Overview of Due Diligence Process .....	22
4.2. Assessment of Subject Area .....	22
4.2.1. Is the activity a low impact activity for which there is a defence in the regulations? .....	22
4.2.2. Step 1 – Will the activity disturb the ground surface? .....	23
4.2.3. Step 2a – Are there any relevant confirmed site records or other associated landscape feature information on AHIMS? .....	23
4.2.4. Step 2b – Are there any other sources of information of which a person is aware? .....	23
4.2.5. Step 2c – Are there any landscape features that are likely to indicate the presence of Aboriginal objects? .....	23
4.2.6. Step 3 – Can Harm to Aboriginal Objects Listed on AHIMS or Identified by other sources of information and/or can the carrying out of the activity at the relevant landscape features be avoided? .....	24
4.2.7. Step 4 – Does the Desktop Assessment and Visual Inspection Confirm that there are Aboriginal Objects or that they are Likely? .....	24
4.3. Outcome of Due Diligence Assessment .....	24
<b>5. References .....</b>	<b>25</b>
<b>Disclaimer.....</b>	<b>26</b>

## Appendix A AHIMS Results

## FIGURES

Figure 1 – Location of subject area .....	5
Figure 2 – Subject area boundary .....	6
Figure 3 – Flowchart illustrating the generic Due Diligence Assessment process.....	7
Figure 4 – Heritage items near subject area .....	12
Figure 5 – Topography .....	14
Figure 6 – Soil landscapes and hydrology.....	15
Figure 7 – Map of the Parish of Botany, ca. 1840s, showing the location of the subject area (red outline) and the portion of the subject area within 200 m of water (blue shading).....	16
Figure 8 – 1943 aerial photograph of the subject area (outlined in red) .....	17
Figure 9 – 1955 aerial photograph of the subject area (outlined in red) .....	17
Figure 10 – 1971 aerial photograph of the subject area (outlined in red) .....	17
Figure 11 – 1994 aerial photograph of the subject area (outlined in red) .....	17
Figure 12 – 2004 aerial photograph of the subject area (outlined in red) .....	18
Figure 13 – 2022 aerial photograph of the subject area (outlined in red) .....	18
Figure 14 – Map of AHIMS sites in search area.....	20

## TABLES

Table 1 – Summary of extensive AHIMS search (AHIMS Client Service ID: 764881).....	19
--	----

# GLOSSARY

Term	Definition
Aboriginal ceremony and dreaming site	Aboriginal site feature recordable on AHIMS. Previously referred to as mythological sites these are spiritual/story places where no physical evidence of previous use of the place may occur, e.g. natural unmodified landscape features, ceremonial or spiritual areas, men's/women's sites, dreaming (creation) tracks, marriage places etc. This is not an 'Aboriginal object' under the NPW Act.
Aboriginal cultural heritage	The tangible (objects) and intangible (dreaming stories, legends and places) cultural practices and traditions associated with past and present-day Aboriginal communities.
Aboriginal object	As defined in the NPW Act, 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 place	As defined in the NPW Act, any place declared to be an Aboriginal place (under s.84 of the NPW Act) by the Minister administering the NPW Act, by order published in the NSW Government Gazette, because the Minister is of the opinion that the place is or was of special significance with respect to Aboriginal culture. It may or may not contain Aboriginal objects.
Aboriginal resource and gathering sites	Aboriginal site feature recordable on AHIMS. Related to everyday activities such as food gathering, hunting, or collection and manufacture of materials and goods for use or trade. This is not an 'Aboriginal object' under the NPW Act.
AHIMS	Aboriginal Heritage Information Management System: a register of previously reported Aboriginal objects and places managed by the DPC
AHIP	Aboriginal Heritage Impact Permit. A permit issued under Section 90, Division 2 of Part 6 of the <i>NPW Act</i> .
Archaeology	The scientific study of human history, particularly the relics and cultural remains of the distant past.
Art	Aboriginal site feature recordable on AHIMS. Art is found in shelters, overhangs and across rock formations. Techniques include painting, drawing, scratching, carving engraving, pitting, conjoining, abrading and the use of a range of binding agents and the use of natural pigments obtained from clays, charcoal and plants.
Artefact	Aboriginal site feature recordable on AHIMS. Objects such as stone tools, and associated flaked material, spears, manuports, grindstones, discarded stone flakes, modified glass or shell demonstrating evidence of use of the area by Aboriginal people.
Burial	Aboriginal site feature recordable on AHIMS. A traditional or contemporary (post-contact) burial of an Aboriginal person, which may occur outside designated cemeteries and may not be marked, e.g. in caves, marked by stone cairns, in sand areas, along creek banks etc.

Term	Definition
Ceremonial Ring	Aboriginal site feature recordable on AHIMS. A Raised earth ring associated with ceremony
Code of Practice	<i>Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales</i> (DECCW, 2010).
Conflict Site	Aboriginal site feature recordable on AHIMS. Previously referred to as massacre sites where confrontations occurred between Aboriginal and non-Aboriginal people, or between different Aboriginal groups. This is not an 'Aboriginal object' under the NPW Act.
DCP	Development Control Plan
DECCW	Department of Environment, Climate Change and Water NSW.
DPC	Department of Premier and Cabinet
Earth mound	Aboriginal site feature recordable on AHIMS. A mounded deposit of round to oval shape containing baked clay lumps, ash, charcoal and, usually, black or dark grey sediment. The deposit may be compacted or loose and ashy. Mounds may contain various economic remains such as mussel shell and bone as well as stone artefacts. Occasionally they contain burials.
EP&A Act	<i>NSW Environmental Planning and Assessment Act 1979.</i>
Fish trap	Aboriginal site feature recordable on AHIMS. A modified area on watercourses where fish were trapped for short-term storage and gathering
Grinding grooves	Aboriginal site feature recordable on AHIMS. A groove in a rock surface resulting from manufacture of stone tools such as ground edge hatchets and spears, or rounded depressions resulting from grinding of seeds and grains.
Harm	As defined in the NPW Act, to destroy, deface, damage or move an Aboriginal object or destroy, deface or damage a declared Aboriginal place. Harm may be direct or indirect (e.g. through increased visitation or erosion). Harm does not include something that is trivial or negligible.
Habitation structure	Aboriginal site feature recordable on AHIMS. Structures constructed by Aboriginal people for short- or long-term shelter. Temporary structures are commonly preserved away from the coastline and may include historic camps of contemporary significance. Smaller structures may make use of natural materials such as branches, logs and bark sheets or manufactured materials such as corrugated iron to form shelters. Archaeological remains of a former structure such as chimney/fireplace, raised earth building platform, excavated pits, rubble mounds etc.
Hearth	Aboriginal site feature recordable on AHIMS. Cultural deposit sometimes marked by hearth stones, usually also contains charcoal and may also contain heat treated stone fragments.
Isolated find	A single artefact found in an isolated context.
LALC	Local Aboriginal Land Council: corporate body constituted under the <i>Aboriginal Land Rights Act 1983</i> , having a defined boundary within which it operates.

Term	Definition
LEP	Local Environment Plan.
Modified Trees	Aboriginal site feature recordable on AHIMS. Trees which show the marks of modification as a result of cutting of bark from the trunk for use in the production of shields, canoes, boomerangs, burials shrouds, for medicinal purposes, foot holds etc, or alternately intentional carving of the heartwood of the tree to form a permanent marker to indicate ceremonial use/significance of a nearby area, again these carvings may also act as territorial or burial markers.
Non-human bone and organic material	Aboriginal site feature recordable on AHIMS. Objects which can be found within cultural deposits as components of an Aboriginal site such as fish or mammal bones, ochres, cached objects which may otherwise have broken down such as resin, twine, dilly bags, nets etc.
NPW Act	<i>National Parks and Wildlife Act 1974</i>
NPW Regulation	<i>National Parks and Wildlife Regulation 2019</i>
Ochre quarry	Aboriginal site feature recordable on AHIMS. A source of ochre used for ceremonial occasions, burials, trade and artwork.
PAD	Aboriginal site feature recordable on AHIMS. A 'potential archaeological deposit'. An area where Aboriginal objects may occur below the ground surface. This is not an 'Aboriginal object' under the NPW Act.
Shell	Aboriginal site feature recordable on AHIMS. An accumulation or deposit of shellfish from beach, estuarine, lacustrine or riverine species resulting from Aboriginal gathering and consumption. Usually found in deposits previously referred to as 'shell middens'.
Stone arrangement	Aboriginal site feature recordable on AHIMS. Human produced arrangements of stone usually associated with ceremonial activities, or used as markers for territorial limits or to mark/protect burials
Stone quarry	Aboriginal site feature recordable on AHIMS. A source of stone which was quarried and used for the production of stone tools by Aboriginal people.
Waterhole	Aboriginal site feature recordable on AHIMS. A source of fresh water for Aboriginal groups which may have traditional ceremonial or dreaming significance and/or may also be used to the present day as a rich resource gathering area (e.g. waterbirds, eels, clays, reeds etc). This is not an 'Aboriginal object' under the NPW Act.





# EXECUTIVE SUMMARY

Urbis has been engaged by Perpetual Corporate Trust Limited as the trustee of the LMLP 1 and 2 Trust ('the Proponent') to conduct an Aboriginal Objects Due Diligence Assessment (ADD) of 263-273 and 273A Coward Street and 76-82 Kent Road, Mascot, NSW, legally referred to as Lots 100 and 101 in Deposited Plan (DP) 1277278, Lot 5 in DP1194564 and Lot 3 in DP230355 ('the subject area').

The ADD supports a Planning Proposal request, which seeks to amend the *Bayside Local Environmental Plan 2021* to increase the maximum floor space ratio (FSR) from 1.2:1 to 2:1 and introduce site specific additional permitted uses under Schedule 1. The amendment to the FSR would enable the redevelopment of the site to deliver critically needed industrial floor space close to Sydney Airport, Port Botany and the Sydney Central Business District.

The ADD was undertaken to investigate whether any known Aboriginal objects or Aboriginal places are located within the subject area, or whether any unknown Aboriginal objects are likely to occur in the subject area, which may need conservation provisions to be included in the Planning Proposal request.

The ADD was undertaken in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW, 2010) ('Due Diligence Code'), and included the following:

- Search of the Aboriginal Heritage Information Management System (AHIMS) register.
- Searches of statutory and non-statutory heritage listings.
- Analysis of previously conducted archaeological assessments in the vicinity of the subject area.
- Landscape analysis.
- Analysis of historical land use and its impact on the subject area.

## Conclusions

The assessment concluded that:

- No Aboriginal objects or Aboriginal places are registered within the subject area.
- No previous Aboriginal archaeological investigations have been identified that directly address the subject area.
- The subject area is located within 200m of Shea's Creek, which is considered an archaeologically sensitive landscape feature under the Due Diligence Code.
- Historical activities within the subject area, including clearing of vegetation, cultivation and agriculture, and the construction and demolition of buildings, have caused ground disturbance that remains clear and observable.
- A previous geotechnical investigation of the subject area confirms ground disturbance to a depth of approximately 1.5-4.4m.
- As there are no known Aboriginal sites within the subject area and historical human activity has caused clear and observable changes to the land's surface, the Due Diligence Code does not require further archaeological assessment of the subject area.

## Outcome

The outcome of the Due Diligence Assessment is as follows:

- As there are no known Aboriginal objects or places within the subject area and the presence of unknown Aboriginal objects is unlikely, no provisions for conservation of Aboriginal objects or places are required in the Planning Proposal request.
- No further archaeological investigation of the subject area is presently required.
- This ADD should be updated in the event that any physical works are proposed to be undertaken within the subject area.

- This ADD report should be kept as evidence of the Due Diligence Process having been applied to the subject area.

# 1. INTRODUCTION

Urbis has been engaged by Perpetual Corporate Trust Limited as the trustee of the LMLP 1 and 2 Trust ('the Proponent') to conduct a Aboriginal Objects Due Diligence Assessment (ADD) of 263-273 and 273A Coward Street and 76-82 Kent Road, Mascot, NSW, legally referred to as Lots 100 and 101 in Deposited Plan (DP) 1277278, Lot 5 in DP1194564 and Lot 3 in DP230355 ('the subject area') (Figure 1 and Figure 2).

The Proponent is seeking to amend the *Bayside Local Environmental Plan 2021* to increase the maximum floor space ratio (FSR) from 1.2:1 to 2:1 and introduce site specific additional permitted uses under Schedule 1. The amendment to the FSR would enable the redevelopment of the site to deliver critically needed industrial floor space close to Sydney Airport, Port Botany and the Sydney Central Business District.

The concept scheme for the site includes:

- Staged demolition of existing buildings/structures and hardstand areas and site preparation works.
- Staged construction, fit out and operation of warehouse and distribution centre buildings with complementary office and retail.
- Other associated works including landscaping, at-grade parking and general site improvements.
- Provision for building identification signage and public art opportunities on the building elevations.

Urbis has undertaken the present ADD to investigate whether any known Aboriginal objects or Aboriginal places are located within the subject area, or whether any unknown Aboriginal objects are likely to occur in the subject area, which may need to be conserved.

The ADD followed the generic steps of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW, 2010) ('Due Diligence Code') shown in Figure 3 below. The ADD included the following:

- Search of the Aboriginal Heritage Information Management System (AHIMS) register.
- Searches of statutory and non-statutory heritage listings.
- Analysis of previously conducted archaeological assessments in the vicinity of the subject area.
- Landscape analysis.
- Analysis of historical land use and its impact on the subject area.

## 1.1. SUBJECT AREA

The subject area is located at 263-273 and 273A Coward Street and 76-82 Kent Road, Mascot, NSW, legally referred to as Lots 100 and 101 in DP1277278, Lot 5 in DP1194564 and Lot 3 in DP230355. The site is within the Bayside City Council local government area (Bayside LGA) and the boundaries of the Metropolitan Local Aboriginal Land Council (MLALC). The subject area is currently occupied by a number of structures and carparking facilities associated with Qantas operations. The subject area is bound by Coward Street to the north, a railway corridor to the south, Kent Road and IN1 (General Industrial) to the east and IN1 (General Industrial) to the west.

## 1.2. PROPOSED ACTIVITY

The due diligence process outlined in the Due Diligence Code and applied in the present assessment assumes that an activity is proposed for the subject area. However, no physical works are currently proposed for the subject area.

The current ADD has been prepared to support a Planning Proposal request for the subject area. The ADD was undertaken to investigate whether any known Aboriginal objects or Aboriginal places are located within the subject area, or whether any unknown Aboriginal objects are likely to occur in the subject area, for which conservation provisions may be required in the Planning Proposal request.

In determining whether conservation provisions are required, it is assumed that any Aboriginal objects within the subject area would be vulnerable to harm by any future works following approval of the Planning

Proposal request. Therefore, for the purpose of the present assessment, the 'proposed activity' is assumed to impact all Aboriginal objects within the subject area and is therefore not a 'low impact activity' (see Section 4.2.1) and would disturb the ground surface across the entire subject area (see Section 4.2.2).

In the event that any future physical works are proposed to be undertaken within the subject area, this ADD should be updated to assess the impact of those works.

### **1.3. AUTHORSHIP**

The present report has been prepared by Wade Goldwyer (Urbis Consultant, Archaeology) with review and quality control undertaken by Aaron Olsen (Urbis Senior Archaeologist), Sam Richards (Urbis Associate Director, Archaeology) and Balazs Hansel (Urbis Director, Archaeology).

Wade Goldwyer holds a Bachelor of Arts (Honours - Archaeology) from the University of Western Australia. Aaron Olsen holds a Diploma of Arts (Archaeology) from the University of Sydney, a Bachelor of Science (Honours - First Class in Chemistry) and PhD (Chemistry) from the University of Newcastle and a Masters (Industrial Property) from the University of Technology Sydney. Sam Richards holds a Bachelor of Arts (Archaeology) from the University of Liverpool, United Kingdom. Balazs Hansel holds a Masters (History) and Masters (Archaeology and Museum Studies) from the University of Szeged (Hungary).

### **1.4. LIMITATIONS**

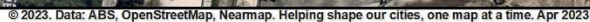
The ADD was undertaken to investigate the potential for Aboriginal objects to be retained within the subject area and to ascertain whether further investigation is required under the Due Diligence Code. Aboriginal community consultation was not undertaken as part of the ADD, nor was any assessment of intangible cultural heritage or the significance of the subject area undertaken.

This ADD does not include a site inspection and is carried out as a desktop assessment. No physical inspection of the present subject area was required under the Due Diligence Code.

The ADD was limited to Aboriginal archaeological resources and does not consider historical archaeological remains or built heritage items.







**Project Manager: Sam Richards**

■ Subject Area   
 — Contours   
 ■ Hydrology   
 — Permanent   
 - - Ephemeral

**263-273 & 273A Coward Street, Mascot**

Figure 2 – Subject area boundary



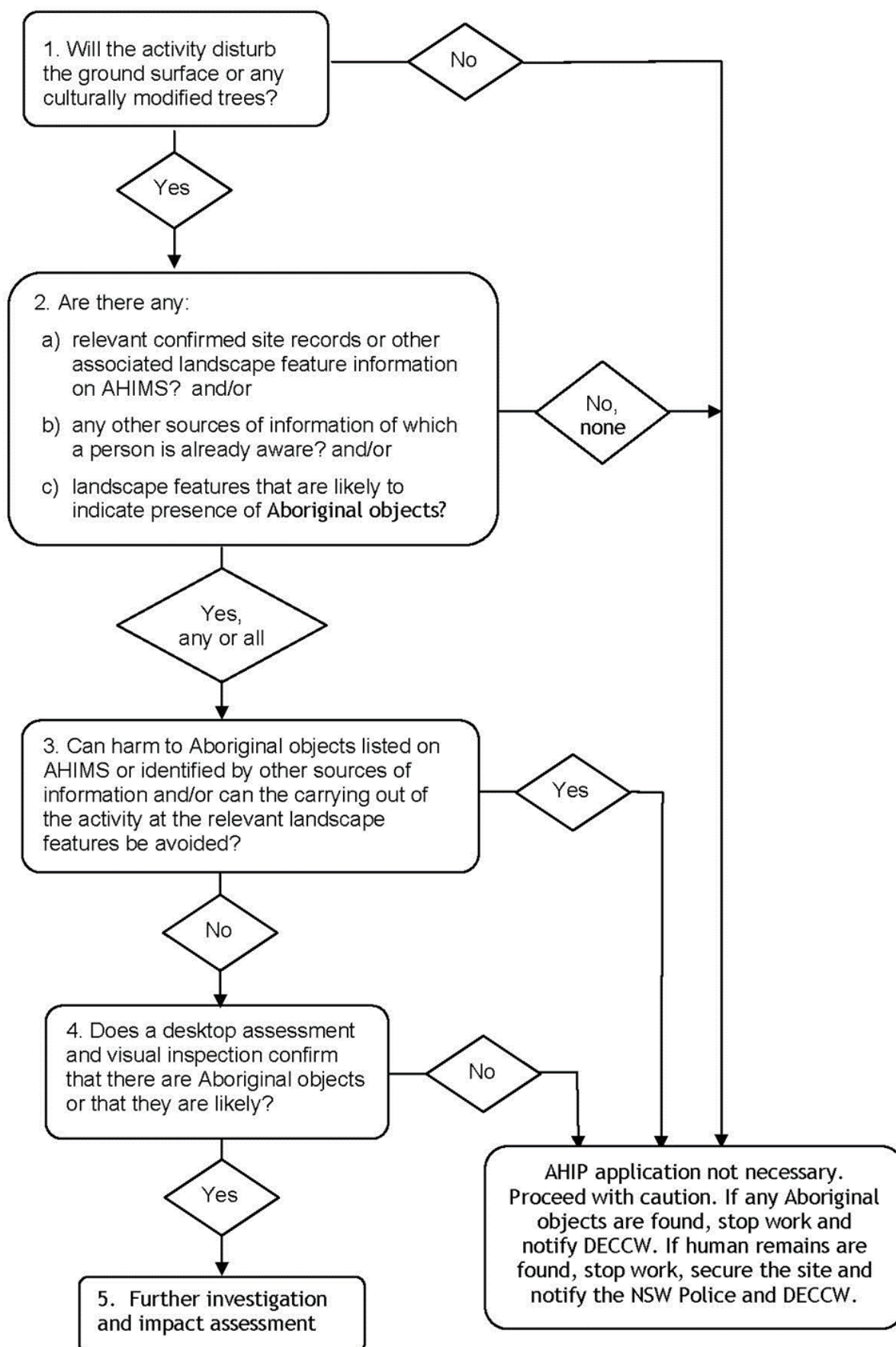


Figure 3 – Flowchart illustrating the generic Due Diligence Assessment process  
Source: DECCW, 2010

## 2. STATUTORY CONTEXT

### 2.1. HERITAGE CONTROLS

The protection and management of Aboriginal cultural heritage items, places and archaeological sites within New South Wales is governed by the relevant Commonwealth, State or local government legislation. These are discussed below in relation to the present subject area.

#### 2.1.1. Environment Protection and Biodiversity Conservation Act 1999 (Cth)

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) protects any items listed in the National Heritage List (NHL) and the Commonwealth Heritage List (CHL).

The National Heritage List (NHL) is a list of natural, historic and Indigenous places of outstanding significance to the nation. It was established to protect places that have outstanding value to the nation. The Commonwealth Heritage List (CHL) was established to protect items and places owned or managed by Commonwealth agencies.

Consideration is given to whether any heritage items listed on the NHL or CHL are included within the subject area.

#### 2.1.2. The National Parks and Wildlife Act 1974 (NSW)

The protection of Aboriginal heritage in NSW falls under the statutory control of the *National Parks and Wildlife Act 1974* ("NPW Act") as applied in accordance with the *National Parks and Wildlife Regulation 2019* ("NPW Reg").

The NPW Act defines Aboriginal heritage in terms of 'Aboriginal objects' and 'Aboriginal places' as follows:

- **Aboriginal object** means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.
- **Aboriginal place** means any place, which may or may not contain Aboriginal objects, that is declared to be an Aboriginal place under section 84 of the NPW Act because it is or was of special significance with respect to Aboriginal culture.

Section 86 of the NPW Act identifies rules and penalties surrounding harming or desecrating Aboriginal objects and Aboriginal places. These are identified as follows:

- (1) *A person must not harm or desecrate an object that the person knows is an Aboriginal object*

*Maximum penalty:*

- (a) *in the case of an individual—2,500 penalty units or imprisonment for 1 year, or both, or (in circumstances of aggravation) 5,000 penalty units or imprisonment for 2 years, or both, or*

- (b) *in the case of a corporation—10,000 penalty units.*

- (2) *A person must not harm an Aboriginal object.*

*Maximum penalty:*

- (a) *in the case of an individual—500 penalty units or (in circumstances of aggravation) 1,000 penalty units, or*

- (b) *in the case of a corporation—2,000 penalty units.*

- (4) *A person must not harm or desecrate an Aboriginal place.*

*Maximum penalty:*



*(a) in the case of an individual—5,000 penalty units or imprisonment for 2 years, or both, or*

*(b) in the case of a corporation—10,000 penalty units.*

Section 87 of the NPW Act establishes defences against prosecution under s.86. For activities not considered to be low impact, the defences are as follows:

- The harm was authorised by an Aboriginal Heritage Impact Permit ('AHIP') (s.87(1)).
- Due diligence was exercised to and reasonably determined that no Aboriginal object would be harmed (s.87(2)).

In accordance with s.87(3) of the NPW Act and reg. 57 of the NPW Reg, due diligence may be exercised by compliance with requirements set out the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (Department of Environment, Climate Change and Water 2010) ("Due Diligence Code"). If a due diligence assessment determines that Aboriginal objects are likely to be harmed by a proposed development, then further investigation in the form of an Aboriginal Cultural Heritage Assessment ("ACHA") is required.

The present ADD follows the Due Diligence Code and aims to establish whether any known Aboriginal objects or places are included within the subject area, or whether Aboriginal objects are likely to occur within the subject area.

### **2.1.3. Bayside Local Environment Plan 2021**

The *Environmental Planning and Assessment Act 1979* (EP&A Act) requires each LGA to produce a Local Environment Plan (LEP). The LEP identifies items and areas of local heritage significance and outlines development consent requirements.

The subject area falls within the Bayside LGA and is subject to the Bayside Local Environmental Plan 2021 (Bayside LEP). Under Section 5.10(2) of the Bayside LEP, development consent is required for:

*(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—*

*(i) a heritage item,*

*(ii) an Aboriginal object,*

*(iii) a building, work, relic or tree within a heritage conservation area,*

*(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*

*(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*

*(d) disturbing or excavating an Aboriginal place of heritage significance,*

*(e) erecting a building on land—*

*(i) on which a heritage item is located or that is within a heritage conservation area, or*

*(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*

*(f) subdividing land—*

- (i) on which a heritage item is located or that is within a heritage conservation area, or*
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

The present ADD follows the Due Diligence Code and aims to establish whether any known Aboriginal objects are included within the subject area, or whether Aboriginal objects are likely to occur within the subject area.

## **2.1.4. Bayside Development Control Plan 2022**

The EP&A Act requires each LGA to produce a Development Control Plan (DCP), which supports the LEP. The subject area is encompassed by the *Bayside Development Control Plan 2022* ('Bayside DCP'), which was adopted by on 22 March 2023 and came into effect on 10 April 2023.

Aboriginal cultural heritage is addressed in Section 3.4.2 of the Draft Bayside DCP, which states:

*Where a development proposal affects an Aboriginal heritage place an Aboriginal heritage assessment report must be submitted with the development application.*

*The report shall:*

- a. be undertaken by a suitably qualified Aboriginal heritage consultant*
- b. contain evidence of Aboriginal community consultation with the relevant Local Aboriginal Land Council(s)*
- c. include evidence of a site inspection*
- d. consider ways in which harm to known or potential Aboriginal objects can be avoided in relation to the proposed activity and outline the steps to be followed to ensure this*
- e. identify further requirements in situations where harm cannot be avoided, such as archaeological test excavation and application for an Aboriginal Heritage Impact Permit*
- f. provide recommendations for identifying and dealing with unexpected finds.*

The term 'Aboriginal heritage place' includes heritage items or Aboriginal places of heritage significance that are listed in the Bayside LEP Heritage Schedule and/or are listed on the Aboriginal Heritage Information Management System (AHIMS).

The present ADD follows the Due Diligence Code and aims to establish whether any known Aboriginal objects are included within the subject area, or whether Aboriginal objects are likely to occur within the subject area.

## **2.2. HERITAGE LISTS & REGISTERS**

A review of relevant heritage lists and registers was undertaken to determine whether any Aboriginal cultural heritage items are located within the curtilage of, or in proximity to, the subject area.

### **2.2.1. NSW State Heritage Inventory**

The State Heritage Inventory (SHI) is a database of heritage items in NSW which includes declared Aboriginal Places, items listed on the SHR, listed Interim Heritage Orders (IHOs) and items listed of local heritage significance on a local council's LEP.

A search of the SHI was undertaken on 20 March 2023. The search did not identify any heritage items within the curtilage of the subject area (Figure 4). The search identified one heritage item within the vicinity of the subject area.

- Item I18 – 'Bankstown Aerodrome, Local Significance

The identified heritage item is not an Aboriginal archaeological heritage item and therefore not within scope of the present assessment. The search of the SHI did not identify any Aboriginal archaeological heritage items within proximity of the subject area.

## 2.2.2. Australian Heritage Database

The Australian Heritage Database is a database of heritage items included in the World Heritage List, the National Heritage List (NHL), the Commonwealth Heritage list (CHL) and places in the Register of the National Estate. The list also includes places under consideration, or that may have been considered, for any one of these lists.

A search of the Australian Heritage Database was undertaken on 20 March 2023. The search did not identify any heritage items within the curtilage of the subject area.

## 2.3. SUMMARY

The statutory context of the subject area is summarised as follows:

- The present ADD follows the Due Diligence Code and aims to establish whether any Aboriginal objects or places exist, or are likely to exist, within the subject area, which would be protected under NPW Act, Section 5.10(2) of the Bayside LEP and Section 3.4.2 of the Bayside DCP.
- No Aboriginal objects or places, or any other heritage items, located within the subject area are included in the State Heritage Inventory or the Australian Heritage Database.





## 3. ABORIGINAL HERITAGE BACKGROUND

An assessment of Aboriginal cultural heritage within a particular subject area requires an understanding of the archaeological and environmental contexts in which the area is situated. The following is a review and analysis of those contexts for the present subject area.

### 3.1. ENVIRONMENTAL CONTEXT

The environmental context of a subject area is relevant to its potential for Aboriginal objects. Aboriginal objects may be associated with certain landscape features that played a part in the everyday lives and traditional cultural activities of Aboriginal people. Landscape features that are considered indicative of archaeological potential include rock shelters, sand dunes, waterways, waterholes and wetlands. Conversely, disturbance to the landscape after Aboriginal use may reduce the potential for Aboriginal objects. An analysis of the landscape within and near to the subject area is provided below.

#### 3.1.1. Topography

Certain landform elements are associated with greater archaeological potential for Aboriginal objects and places. Areas that are located on a ridge top, ridge line or headland, located within 200m below or above a cliff face or within 20m of or in a cave, rock shelter or cave mouth are considered sensitive areas for Aboriginal objects and places.

The subject area has a generally flat topography and is located within the low-lying drainage basin of the Alexandra Canal (Figure 6), formerly Shea's Creek (Section 3.1.4). It is not associated with any topographic features that are considered to be archaeologically sensitive.

#### 3.1.2. Soil Landscape and Geology

Certain soil landscapes and geological features are associated with greater archaeological potential for Aboriginal objects and places. For example, sand dune systems are associated with the potential presence of burials and sandstone outcrops are associated with the potential presence of grinding grooves and rock art. The depth of natural soils is also relevant to the potential for archaeological materials to be present, especially in areas where disturbance is high. In general, as disturbance level increases, the integrity of any potential archaeological resource decreases. However, disturbance might not remove the archaeological potential even if it decreases integrity of the resources substantially.

The NSW Soil and Land Information System (SALIS) provides information on expected soil landscapes within NSW. The SALIS identifies the subject area as falling entirely within the Disturbed Terrain soil landscape (Figure 6). The Disturbed Terrain soil landscape is land that has been extensively disturbed by human activity, including complete disturbance, removal or burial of soil. It is likely that the original soil landscape is the adjacent Tuggerah soil landscape.

The Tuggerah soil landscape is described as residing upon gently undulating to rolling coastal dunefields. Soils are described as deep (>200 cm) Podzols on dunes and Podzols/Humus Podzol intergrades on swales. Dominant soil materials include loose speckled grey-brown loamy sand, bleached loose sand, grey-brown mottled sand, black soft sandy organic pan, brown soft sandy iron pan and yellow massive sand.

The sandy dunes of the Tuggerah soil landscape are considered archaeologically sensitive under the Due Diligence Code.

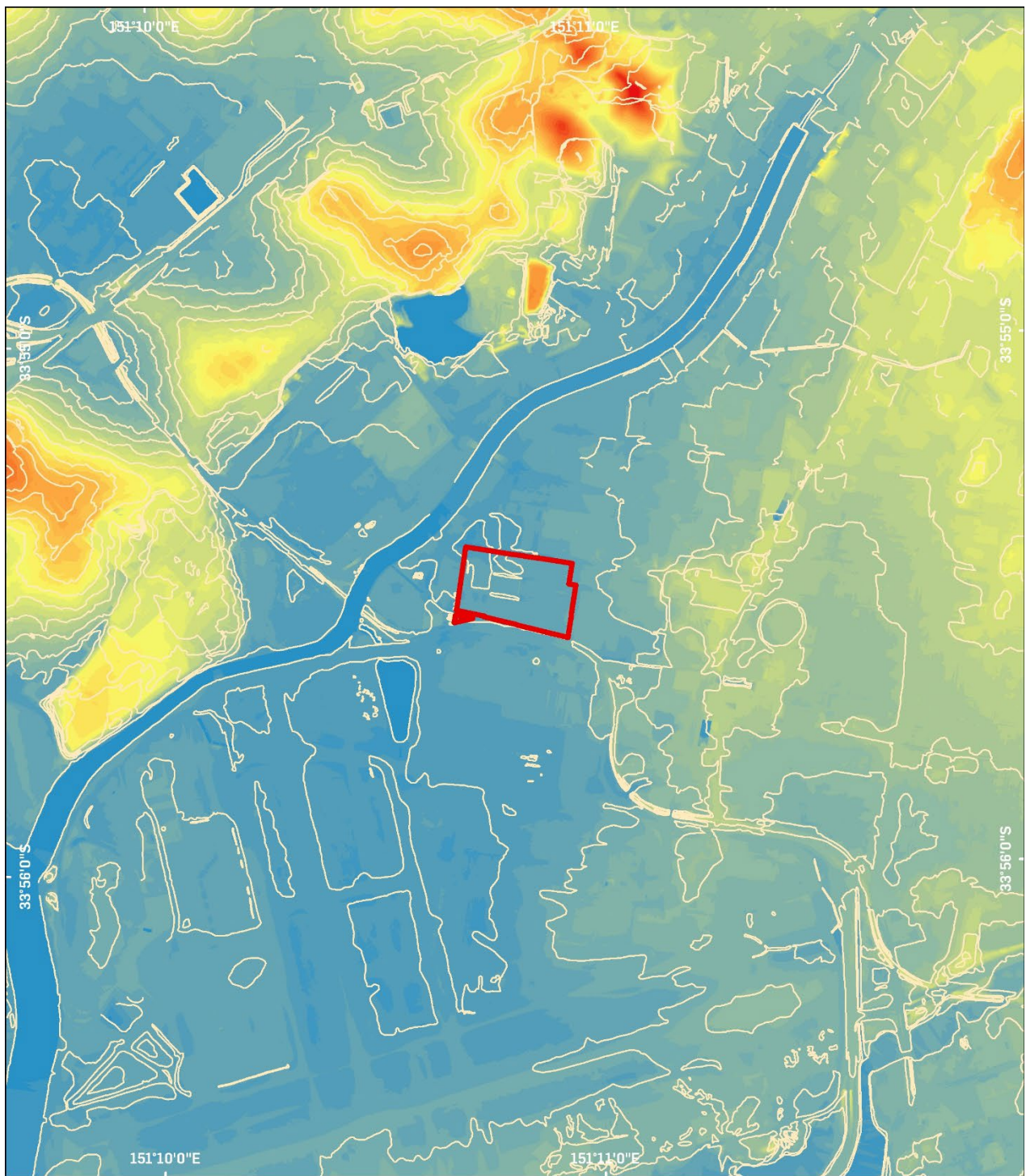
#### 3.1.3. Vegetation

The presence of larger species of tree within an area may be indicative of the cultural modification (scarring) of those trees.

The original vegetation of the Tuggerah soil landscape would likely have included dry sclerophyll tall open-woodland or forest. Dominant tree species are smooth-barked apple *Angophora costata*, Sydney peppermint *Eucalyptus piperita* and old man banksia *Banksia aemula*.

The likely presence of large tree species in the subject area is indicative of the possibility of those trees having been culturally modified. Although, as discussed in Section 3.1.5 below, historical development and use of the subject area has resulted in clearance of all original vegetation.





GDA 1994 MGA Zone 56

© 2023. Data: ABS, OpenStreetMap, Nearmap. Helping shape our cities, one map at a time. Apr 2023



Project No: P0042569b

Project Manager: Sam Richards

**Subject Site** **High**  
**Contours** **Low**

## Topography

263-273 & 273A Coward Street, Mascot

Figure 5 – Topography

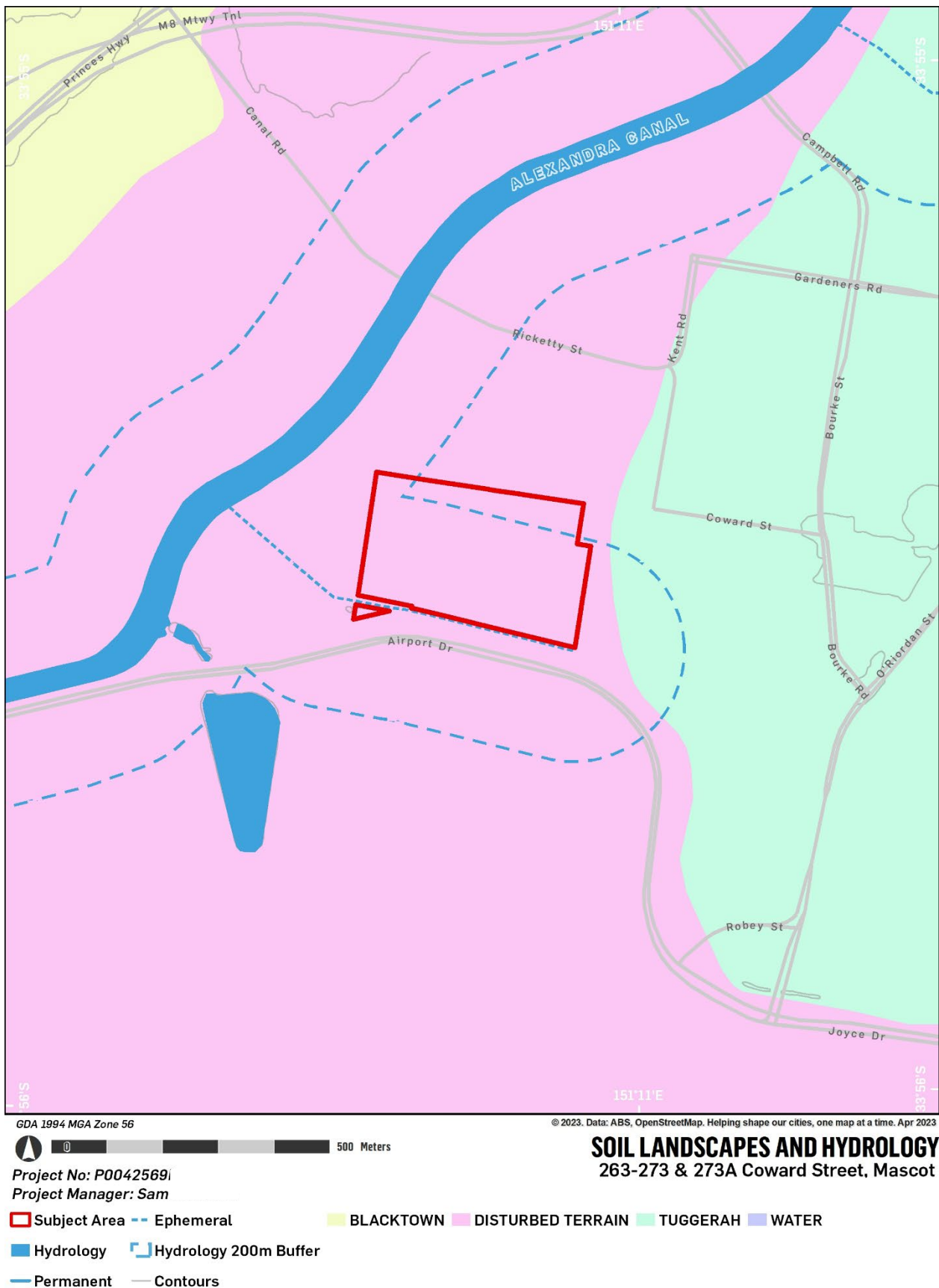


Figure 6 – Soil landscapes and hydrology



### 3.1.4. Hydrology

Proximity to a body of water is a factor in determining archaeological potential. Areas within 200m of the whole or any part of a river, stream, lake, lagoon, swamp, wetlands, natural watercourse or the high-tide mark of shorelines (including the sea) are considered sensitive areas for Aboriginal objects and places.

The subject area is presently located to the east of the Alexandra Canal, which is an artificial waterway and therefore not itself an indicator of past Aboriginal land use. However, Alexandra Canal was formed from the canalisation of a former natural tributary of the Cooks River, Shea's Creek (or Chaise Creek). The original alignment of Shea's Creek is shown in Figure 7, which is a parish map from the ca. 1840s. It can be seen from Figure 7 that the western portion of the subject area lies within 200 m of Shea's Creek and its confluence with the Cooks River.

The location of the western portion of the subject area within 200 m of a former natural waterway is indicative of past Aboriginal land use under the Due Diligence Code.

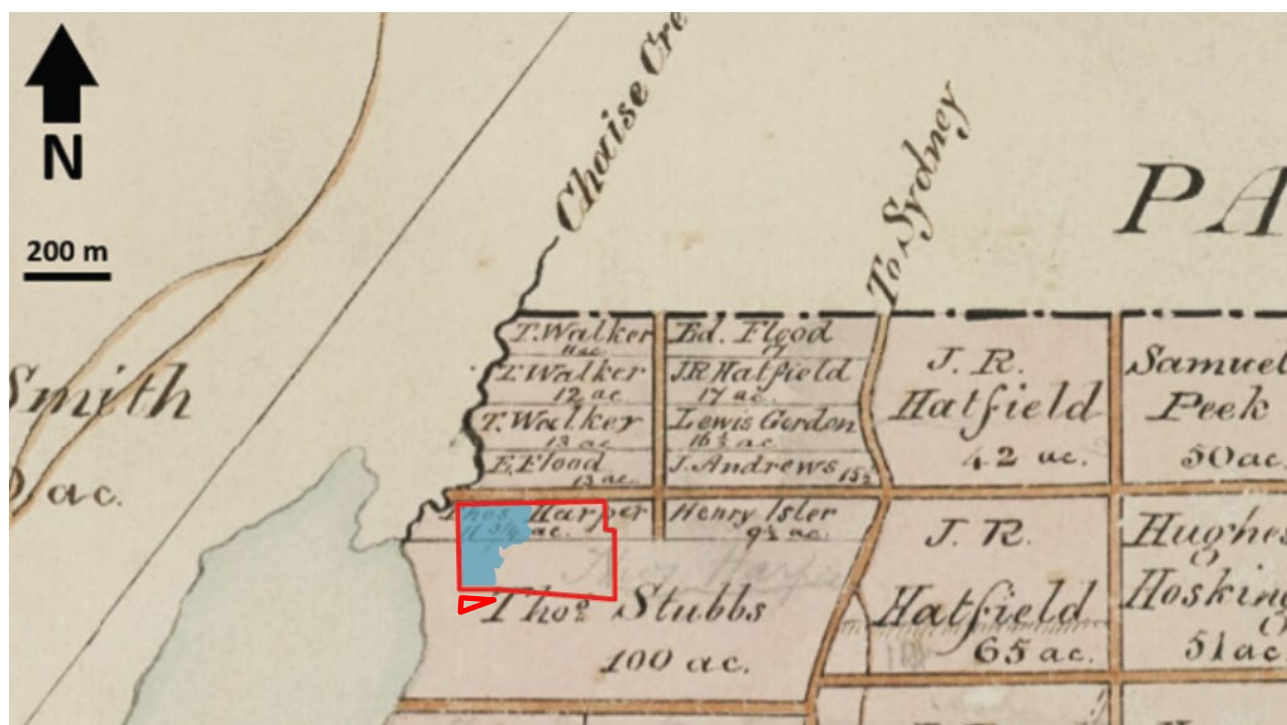


Figure 7 – Map of the Parish of Botany, ca. 1840s, showing the location of the subject area (red outline) and the portion of the subject area within 200 m of water (blue shading)

Source: State Library of NSW, Call Number Maps/0030

### 3.1.5. Historical Ground Disturbance

The archaeological potential of a subject area may be reduced through ground disturbance that occurred after deposition of archaeological remains. Ground disturbance, either through human activity (e.g., clearing of vegetation, ploughing and construction of buildings) or natural processes (e.g., erosion), can reduce the spatial and vertical integrity of archaeological resources or result in their complete removal or destruction.

Prior to European development, the land in the region of the subject area generally consisted of swamps, marshes and low scrub, being in proximity to Botany Bay and to the original course of Cook's River. Formal land acquisition in the area began in the early 1800s, with the fertility of the soil and proximity to the water encouraging the early establishment of farming and fishing as local trades. The subject area encompasses portions of land grants made to Thomas Harper and Thomas Stubbs land grant (see Figure 7). Stubbs' land was named the 'The Cockpen Estate' and was internally divided and used as market gardens (Bayside Council 2017:15).

The ongoing use of the subject area as a market garden is supported by historical aerial imagery from 1943 (see Figure 8). This aerial shows the majority of the subject area under cultivation, with the exception of its north-western corner and eastern boundary, which is occupied by buildings, most likely related to the agricultural productions on site.



By 1955, (Figure 9), the agricultural operations within the subject area ceased and had been transformed into an industrial area with several buildings constructed (i.e., the 'York Motor' building). Sections of the subject area remain vacant and are being used as storage space. By 1971 the majority of the subject area was being used for industrial purposes and as parking/storage space, with the exception of the central section of the subject area which is still vacant (Figure 10). The subject area undergoes minimal changes over the next two decades.

By 1994 (Figure 11), the central and northern sections of the subject area undergo mass clearing to make way for further development, such as the Qantas Distribution Centre.

By 2004, a large structure has been built in the north-western section of the subject area and is being used as the Qantas Distribution Centre (Figure 12). The remainder of the central and northern sections of the subject area is being used as parking and storage space. The existing structures in the southern section of the subject area are in the operation of Qantas. The subject area has remained the same up to the present with no significant changes observed (Figure 13).



Figure 8 – 1943 aerial photograph of the subject area (outlined in red)

Source: Historical Imagery, NSW Government



Figure 9 – 1955 aerial photograph of the subject area (outlined in red)

Source: Historical Imagery, NSW Government



Figure 10 – 1971 aerial photograph of the subject area (outlined in red)

Source: Historical Imagery, NSW Government



Figure 11 – 1994 aerial photograph of the subject area (outlined in red)

Source: Historical Imagery, NSW Government



Figure 12 – 2004 aerial photograph of the subject area (outlined in red)

Source: Historical Imagery, NSW Government



Figure 13 – 2022 aerial photograph of the subject area (outlined in red)

Source: Historical Imagery, NSW Government

As noted in Section 3.1.2 above, the SALIS describes the subject area as being located within a ‘Disturbed soil landscape’. The foregoing historical overview of the subject area is consistent with this assessment. It is clear that historical activities within the subject area, including clearing of vegetation, cultivation and agriculture, and the construction and demolition of buildings, have caused significant ground disturbance.

A previous geotechnical investigation of the subject area undertaken by ERM (2023) further confirms this assessment. A thick fill layer extending from approximately 1.5 m in depth in the northern section of the subject area to the maximum depth of investigation (4.4 m) at the south-eastern portion of the subject area was identified. The fill layer was found to contain historical debris from subsequent land use.

It is therefore apparent that historical activities within the subject area have caused ground disturbance that remains clear and observable.

## 3.2. ARCHAEOLOGICAL CONTEXT

A summary of background research for Aboriginal cultural heritage resources within and around the subject area is provided below, including search results from the Aboriginal Heritage Information Management System (AHIMS) and consideration of previous archaeological investigations pertinent to the subject area.

### 3.2.1. Previous Archaeological Investigations

Previous archaeological investigations may provide invaluable information on the spatial distribution, nature and extent of archaeological resources in a given area. No archaeological reports relating directly to the present subject area or otherwise relevant to identifying the presence of Aboriginal objects within the subject area have been identified.

### 3.2.2. AHIMS

The Aboriginal Heritage Information Management System (AHIMS) is a database of registered Aboriginal archaeological objects and places in NSW. Each registered Aboriginal site includes one or more site ‘features’, which may be an Aboriginal object or place under the NPW Act.

The *Guide to completing the AHIMS Site Recording Form* (OEH 2012) lists 20 different features that may be recorded on AHIMS. The most common site features registered in NSW are artefacts, modified trees, art, grinding grooves and shell deposits (see Glossary for definitions). However, the likelihood of any particular site feature being found will vary according to region and environment. Less common site features that are

encountered are burials, ceremonial rings, earth mounds, fish traps, habitation structures, hearths, non-human bone and organic material, ochre quarries, stone arrangements and stone quarries (see Glossary for definitions).

Other Aboriginal site features that are recorded on AHIMS but are not 'Aboriginal objects' within the meaning of that term as it is defined in the NPW Act (i.e. are not a 'deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation') are potential archaeological deposits (PADs), Aboriginal ceremony and dreaming sites, Aboriginal resource and gathering sites, conflict sites and waterholes (see Glossary for definitions). These features are only considered to be 'Aboriginal objects' for the purpose of the NPW Act if accompanied by at least one of the other site types defined above.

It should be noted that the AHIMS register does not represent a comprehensive list of all Aboriginal objects or places as it is limited to sites that have been previously identified and registered. Registration is typically the result of previous archaeological investigation, so the number of registered Aboriginal sites in area is dependent on the amount of such research previously undertaken.

A search of the Aboriginal Heritage Information Management System (AHIMS) was carried out on 17 March 2023 (AHIMS Client Service ID: 764881) for an area of approximately 3 km x 3 km. A summary of all previously registered Aboriginal sites within the search area is provided in Table 1 and their spatial distribution is shown in Figure 14. The Basic and Extensive AHIMS search results are included in Appendix A. The number and types of sites features are presented in Table 1.

The AHIMS search identified no Aboriginal sites or Aboriginal places within the curtilage, or in the immediate vicinity of the present subject area.

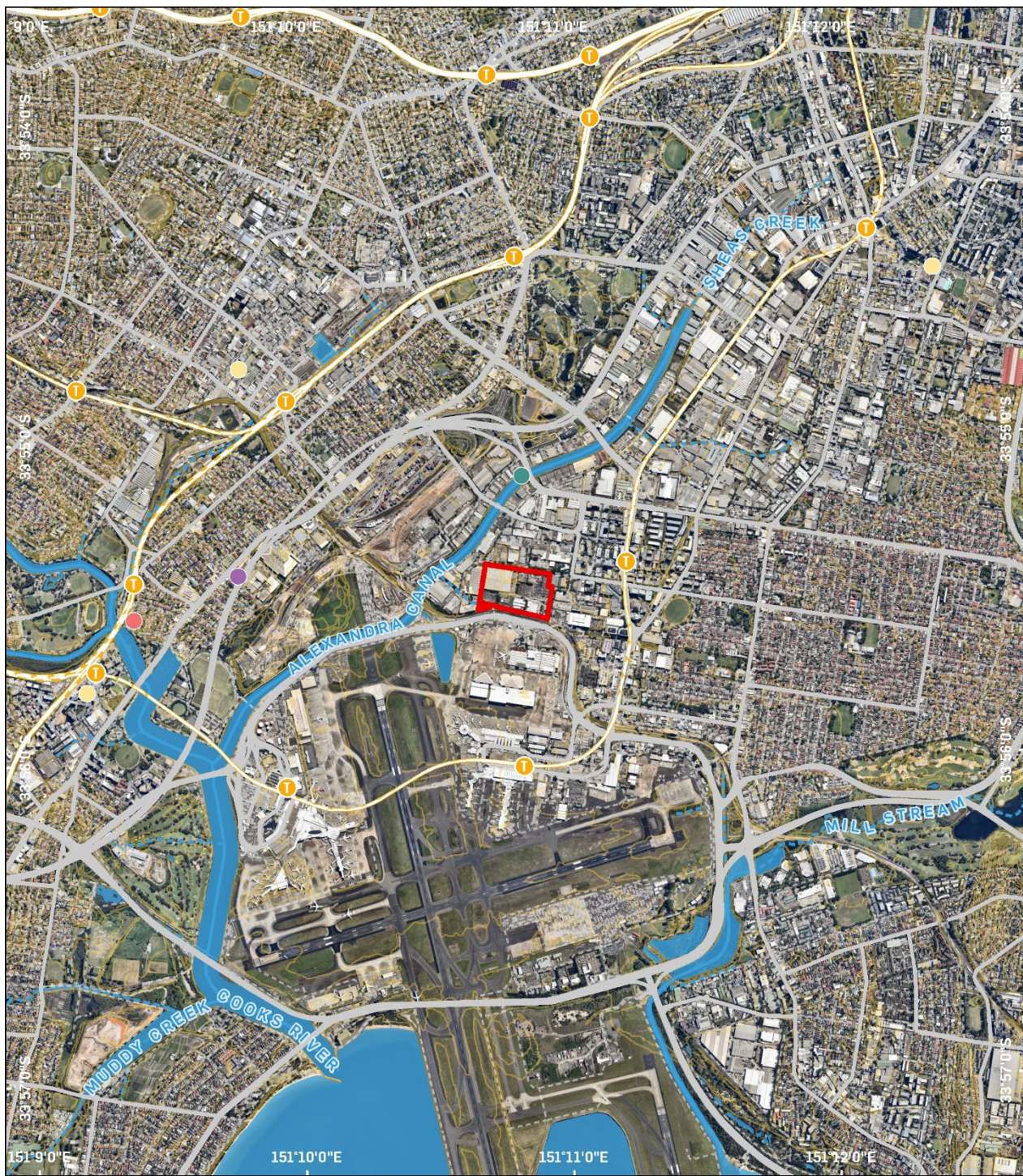
The search of the region around the subject area was undertaken to determine the spatial distribution of Aboriginal sites in the region. The distribution of sites in a landscape may be representative of the interaction between Aboriginal people and their environment. Therefore, the association of sites with certain landscape features within the regional context may be instructive for determining the likelihood of sites within the subject area.

In the broader search area, a total of eight Aboriginal sites are registered. One was recorded as not being a site and one site was listed as a duplicate site, reducing the total number of identified sites to six. Owing to the paucity of registered Aboriginal objects within the region around the subject area, the landscape information available on AHIMS does not provide any clear information on past Aboriginal land use or the potential for archaeological remains to survive within the subject area.

Table 1 – Summary of extensive AHIMS search (AHIMS Client Service ID: 764881)

Site Type	Context	Total
PAD	Open	3
Artefact	Open	1
Artefact, Shell	Closed	1
Artefact, Aboriginal Resource and Gathering, Non-Human Bones and Organic Material	Open	1
<b>Total</b>		<b>6</b>





GDA 1994 MGA Zone 56

© 2023. Data: ABS, OpenStreetMap, Neamap. Helping shape our cities, one map at a time. Apr 2023



Project No: P0042569b

Project Manager: Sai 's

- Subject Site
- Aboriginal Resource and Gathering, Non-Human Bones and Artefact
- Contours
- Artefacts
- Permanent
- PAD
- - Ephemeral
- Shell, Artefacts (Closed)
- Hydrology

## AHIMS Sites in Extensive Search area

263-273 & 273A Coward Street, Mascot

Figure 14 – Map of AHIMS sites in search area



### 3.3. SUMMARY

The assessments of the archaeological and environmental contexts of the subject area are summarised as follows:

- No Aboriginal objects or Aboriginal places are registered within the curtilage of the subject area.
- No previous archaeological studies directly addressing the present subject area have been identified.
- The western portion of the subject area is located within 200 m of a former natural waterway, namely Shea's Creek and its confluence with the Cooks River, which is considered indicative of likely past Aboriginal land use under the Due Diligence Code.
- Historical activities within the subject area, including clearing of vegetation, cultivation and agriculture, and the construction and demolition of buildings, have caused ground disturbance that remains clear and observable.
- A previous geotechnical investigation of the subject area confirms ground disturbance to a depth of approximately 1.5-4.4m.

## 4. DUE DILIGENCE ASSESSMENT

### 4.1. OVERVIEW OF DUE DILIGENCE PROCESS

The NPW Act provides statutory protection for Aboriginal objects and places in NSW. Section 87 (2), Part 6 of the NPW Act ensures 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, outlined by Section 86 of Part 6 of the NPW Act, if they later unknowingly harm an object without an Aboriginal Heritage Impact Permit (AHIP).

The Due Diligence Code (DECCW, 2010) was developed to help individuals and/or organisations to establish whether certain activities have the potential to harm Aboriginal objects within a given proposed activity footprint. Following the generic due diligence process (Figure 3), which is adopted by the NPW Regulation, would be regarded as 'due diligence' and consequently would provide a defence under the NPW Act.

The due diligence process outlines a set of practicable steps for individuals and organisations to:

1. Identify whether or not Aboriginal objects are, or likely to be, present in an area.
2. Determine whether or not their activities are likely to harm Aboriginal objects (if present).
3. Determine whether an AHIP application is required to carry out the harm.

The present assessment follows the steps of the due diligence process and provides clear and concise answers. Where necessary the present assessment provides detailed description to every aspect of the due diligence code to ensure the compliance of the proposed development and assessment of any Aboriginal heritage constraints.

### 4.2. ASSESSMENT OF SUBJECT AREA

#### 4.2.1. Is the activity a low impact activity for which there is a defence in the regulations?

NO.

The NPW Regulation removes the need to follow the due diligence process if the proposed activity is a low impact activity which is prescribed as a defence against prosecution for an offence under section 86(2) of the NPW Act. The following low impact activities are prescribed in the NPW Regulation:

- Certain maintenance work on land that has been disturbed.
- Certain farming and land management work on land that has been disturbed.
- Farming and land management work that involved the maintenance of certain existing infrastructure.
- The grazing of animals.
- An activity on land that has been disturbed that comprises exempt development or was the subject of a complying development certificate issued under the *Environmental Planning and Assessment Act 1979*.
- Certain mining exploration work on land that has been disturbed.
- Certain geophysical work.
- The removal of isolated, dead or dying vegetation, but only if there is minimal disturbance to the surrounding ground surface.
- Seismic surveying on land that has been disturbed,
- The construction and maintenance of ground water monitoring bores on land that has been disturbed.
- Environmental rehabilitation work including temporary silt fencing, tree planting, bush regeneration and weed removal, but not including erosion control or soil conservation works (such as contour banks).

It is important to note that this defence does not apply to situations where you already know there is an Aboriginal object and does not authorise harm to known Aboriginal objects.

No activity is currently proposed for the subject area (see Section 1.2 above). In determining whether conservation provisions are required for the Planning Proposal, it is assumed that any Aboriginal objects within the subject area would be vulnerable to harm by any future works at the site. Therefore, for the purpose of the present assessment, the 'proposed activity' is assumed to impact all Aboriginal objects within the subject area and is therefore not a 'low impact activity'.

#### **4.2.2. Step 1 – Will the activity disturb the ground surface?**

YES.

No activity is currently proposed for the subject area (see Section 1.2 above). In determining whether conservation provisions are required for the Planning Proposal, it is assumed that any Aboriginal objects within the subject area would be vulnerable to harm by any future works at the site. Therefore, for the purpose of the present assessment, it is assumed that the 'proposed activity' would disturb the ground surface across the entire subject area.

#### **4.2.3. Step 2a – Are there any relevant confirmed site records or other associated landscape feature information on AHIMS?**

NO.

There are no Aboriginal objects or Aboriginal places registered within the curtilage of the subject area (see Section 3.2.1 above). There is no information recorded in the AHIMS databased about landscape features of relevance to the determining the presence of Aboriginal objects or Aboriginal places within the subject area (see Section 3.2.1 above).

#### **4.2.4. Step 2b – Are there any other sources of information of which a person is aware?**

NO.

The Due Diligence Code requires identification of any other sources of information, such as previous studies, reports or surveys, relevant to identifying the presence of Aboriginal objects within the subject area. No other sources of information were identified that indicate the likely presence of Aboriginal objects. To the contrary, a geotechnical of the subject area produced by ERM (2023) suggests ground disturbance to depths of between 1.5m-4.4m, indicating that the presence of Aboriginal objects is unlikely.

#### **4.2.5. Step 2c – Are there any landscape features that are likely to indicate the presence of Aboriginal objects?**

NO.

The Due Diligence Code specifies the following landscape features are indicative of the likely presence of Aboriginal objects: areas within 200 m of waters including freshwater and the high tide mark of shorelines; areas located within a sand dune system; areas located on a ridge top, ridge line or headland; areas located within 200m below or above a cliff face; and areas within 20m of or in a cave, rock shelter, or a cave mouth.

The Due Diligence Code further specifies that the above landscape features are of relevance only if the subject area has not been subjected to ground disturbance. According to the Due Diligence Code, land is disturbed if it has been the subject of a human activity that has changed the land's surface, being changes that remain clear and observable. Examples of disturbance 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.

The western portion of the subject area is located within 200 m of a former natural waterway, namely Shea's Creek and its confluence with the Cooks River, which is considered indicative of likely past Aboriginal land

use under the Due Diligence Code (see Section 3.1.4 above). However, historical activities within the subject area, including clearing of vegetation, cultivation and agriculture, and the construction and demolition of buildings, have caused clear and observable changes to the ground surface (see Section 3.1.5 above). A previous geotechnical investigation of the subject area confirms ground disturbance to a depth of approximately 1.5-4.4m. The landscape features of the subject area therefore do not indicate the likely presence of Aboriginal objects.

#### **4.2.6. Step 3 – Can Harm to Aboriginal Objects Listed on AHIMS or Identified by other sources of information and/or can the carrying out of the activity at the relevant landscape features be avoided?**

N/A.

The Due Diligence Code specifies that this step only applies if the proposed activity is on land that is not disturbed or contains known Aboriginal objects. There are no Aboriginal objects or Aboriginal places registered within the curtilage of the subject area (see Section 3.2.1 above). Furthermore, as discussed in Section 3.1.5, historical development and utilisation of the subject area is determined to have caused high levels of ground disturbance across the subject area. Step 3 of the Due Diligence process therefore does not apply for the present assessment.

#### **4.2.7. Step 4 – Does the Desktop Assessment and Visual Inspection Confirm that there are Aboriginal Objects or that they are Likely?**

N/A.

The Due Diligence Code specifies that this step only applies if the proposed activity is on land that is not disturbed or contains known Aboriginal objects. There are no Aboriginal objects or Aboriginal places registered within the curtilage of the subject area (see Section 3.2.1 above). Furthermore, as discussed in Section 3.1.5, historical development and utilisation of the subject area is determined to have caused high levels of ground disturbance across the subject area. Step 4 of the Due Diligence process therefore does not apply for the present assessment.

### **4.3. OUTCOME OF DUE DILIGENCE ASSESSMENT**

In accordance with the due diligence process described in the Due Diligence Code and outlined in Figure 3, the above assessment has determined that no further archaeological investigation of the subject area is presently required. However, this ADD should be updated in the event that any physical works are proposed to be undertaken within the subject area.

As there are no known Aboriginal objects or places within the subject area and the presence of unknown Aboriginal objects is unlikely, no provisions for conservation of Aboriginal objects or places are required in the Planning Proposal request.

This ADD report should be kept as evidence of the Due Diligence Process having been applied to the subject area.



## 5. REFERENCES

Bayside Council, 2017. *Thematic History – Former City of Botany Bay. Part 1: Executive Summary: Historical Overview*

*Bayside Development Control Plan 2022*

*Bayside Local Environmental Plan 2021*

Department of Environment Climate Change and Water, 2010a, *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*

Department of Environment, Climate Change and Water, 2010b, *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW, Hurstville, NSW*

*Environmental Planning and Assessment Act 1979 (NSW)*

*Environment Protection and Biodiversity Conservation Act 1999 (Cth)*

*National Parks and Wildlife Act 1974 (NSW)*

*National Parks and Wildlife Regulation 2009 (NSW)*

Office of Environment & Heritage (OEH), 2012. *Guide to completing the AHIMS Site Recording Form*

# DISCLAIMER

This report is dated 21 April 2023 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Perpetual Corporate Trust Limited as the trustee of the LMLP 1 and 2 Trust (**Instructing Party**) for the purpose of a Due Diligence Assessment (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

# APPENDIX A

# AHIMS RESULTS

