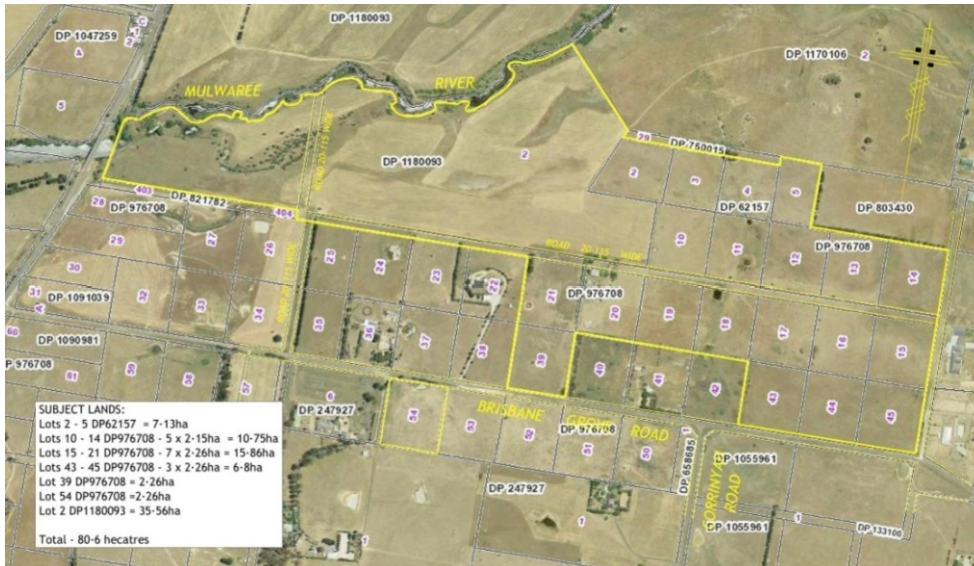


## BLACK MOUNTAIN PROJECTS HERITAGE CONSULTANTS



*Aerial view of Sofala (source Southern Cross Consulting Surveyors)*



*View west showing typical pasture grass and weed cover reducing ground surface visibility.*

Due Diligence Investigation  
for the Protection of Aboriginal Objects  
“Sofala”, 137 Brisbane Grove Road, Brisbane Grove, NSW  
Lots 2-5 DP62157, Lots 10-14 DP976708, Lots 15-21 DP976708, Lots 43-45  
DP976708, Lot 39 DP976708, Lot 54 DP976708, Lot 2 DP1180093.

Report to Hogan Planning  
January 2022

ISSUE	DESCRIPTION	DATE	ISSUED BY
A	Draft for Review	24.05.21	PK
B	Revision for AHIMS extensive search	23.01.22	PK

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## EXECUTIVE SUMMARY

### INTRODUCTION AND OBJECTIVES

Tim Titheradge (0407 722 666) the owner is seeking Goulburn Mulwaree Council approval for subdivision of land parcels adjoining Sofala, a heritage listed property at 137 Brisbane Grove Road, Brisbane Grove (Goulburn) NSW. The subject lands are: Lots 2 - 5 DP62157, Lots 10 - 14 DP976708, Lots 15 - 21 DP976708, Lots 43 - 45 DP976708, Lot 39 DP976708, Lot 54 DP976708, Lot 2 DP1180093 (the development area).

As part of the Development Application, Goulburn Mulwaree Council requires advice about the potential of the proposal to *harm* Aboriginal places and objects pursuant to the *National Parks and Wildlife Act 1974*.

The proponent has engaged Black Mountain Projects Pty Ltd to provide this advice and undertake an Aboriginal heritage assessment consistent with the requirements of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects*.

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.

The objectives of this assessment are:

- Conduct an Aboriginal heritage investigation and provide specialist advice about the potential of the proposal to *harm* Aboriginal objects consistent with the requirements of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects*.
- Provide a report consistent with the requirements under the *National Parks and Wildlife Act 1974*, providing recommendations about the management of Aboriginal places and objects that may be affected by the proposal.

### CONCLUSIONS

The proponent has engaged Black Mountain Projects Pty Ltd and sought advice under the ***Due Diligence Code of Practice for the Protection of Aboriginal Objects*** to understand whether the works, being the further subdivision of the development area, have the potential to *harm* Aboriginal objects or values protected under the *NSW National Parks and Wildlife Act*. This assessment has:

- Not found Aboriginal sites and objects within the development area.
- Assessed the development area as *disturbed land* within the meaning of the Due Diligence Code.
- Assessed the development area as having low archaeological potential to contain Aboriginal sites and objects.

## MANAGEMENT RECOMMENDATIONS

The following management recommendations are based on the above conclusions and in accordance with Step 4 of the *Due Diligence Code* (2010:13). Step 4 states 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.

Where the assessment does not indicate that there are (or are *likely* to be) Aboriginal objects, you can proceed with caution without an AHIP application.

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. This proposal does not require any further assessment relevant to Aboriginal sites or objects protected under the *NSW National Parks and Wildlife Act*.
2. The proponent is aware that in the event that Aboriginal objects are discovered during works, all works in that area should cease and the proponent should contact the Office of Environment and Heritage or qualified archaeologist to seek some determination of the discovery and how to proceed.
3. In the unlikely event that skeletal remains be discovered during earthworks, all works should cease and protocols consistent with Requirement 25 in the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* be implemented.

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 an AHIP should Aboriginal objects be disturbed.

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

## 1.0 INTRODUCTION AND OBJECTIVES

### 1.1 INTRODUCTION

Tim Titheradge (0407 722 666) the owner is seeking Goulburn Mulwaree Council approval for subdivision of land parcels adjoining Sofala, a heritage listed property at 137 Brisbane Grove Road, Brisbane Grove (Goulburn) NSW. The subject lands are: Lots 2 - 5 DP62157, Lots 10 - 14 DP976708, Lots 15 - 21 DP976708, Lots 43 - 45 DP976708, Lot 39 DP976708, Lot 54 DP976708, Lot 2 DP1180093 (the development area).

As part of the Development Application, Goulburn Mulwaree Council requires advice about the potential of the proposal to *harm* Aboriginal places and objects pursuant to the *National Parks and Wildlife Act 1974*.

The proponent has engaged Black Mountain Projects Pty Ltd to provide this advice and undertake an Aboriginal heritage assessment consistent with the requirements of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects*.

### 1.2 OBJECTIVES OF THE ASSESSMENT

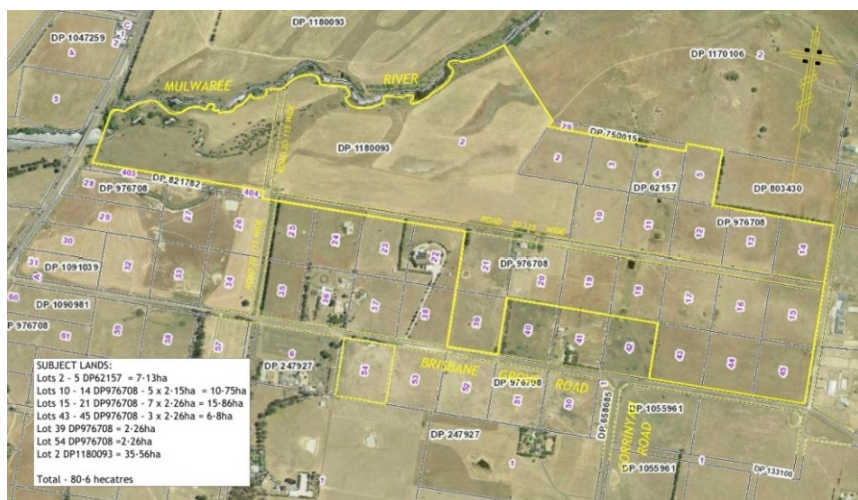
The objectives of this assessment are:

- Conduct an Aboriginal heritage investigation and provide specialist advice about the potential of the proposal to *harm* Aboriginal objects consistent with the requirements of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects*.
- Provide a report consistent with the requirements under the *National Parks and Wildlife Act 1974*, providing recommendations about the management of Aboriginal places and objects that may be affected by the proposal.

This advice will determine whether the proposal has the potential to *harm* Aboriginal objects.

### 1.3 DEVELOPMENT AREA DESCRIPTION

The development area covers approximately 80ha of gently sloping grazing land. It has been mostly cleared and sown with pasture crops. Some scattered trees remain. The west of the development area has Mulwaree River frontage.



Aerial view of Sofala and surrounding lots of the development area (source: Southern Cross Consulting Surveyors)

## VIEWS OF THE DEVELOPMENT AREA



*Established trees of the Sofala house block with road reserve at the centre..*



*View west showing typical pasture grass and weed cover reducing ground surface visibility.*



*Sofala's outbuildings seen from the fields below showing dense pasture grass cover.*



*One of two stock dams. The excavated banks were examined for any artefacts. None were found.*

## 2.0 PROTECTION OF ABORIGINAL HERITAGE

### 2.1 STATUTORY FRAMEWORK

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*. The Director General of the Office of Environment and Heritage NSW (OEH and formerly DECCW) 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 requires the proponent or their agent to consider the proposed activity or proposal and review whether:

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

Aboriginal consultation was not undertaken as part of this assessment. 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).

## 2.4 ABORIGINAL HERITAGE INFORMATION MANAGEMENT SYSTEM (AHIMS)

A search of the Aboriginal Heritage Information Management System or AHIMS register was undertaken. A basic search of the property address 137 Brisbane Grove Road, Brisbane Grove showed no previously recorded Aboriginal sites in or near the address (see below). An extensive search was, however, prompted by David Kiernan, Goulburn Mulwaree Council's Senior Strategic Planner.



### AHIMS Web Services (AWS) Search Result

Your Ref/PO Number : Sofala 137 Brisbane Grove

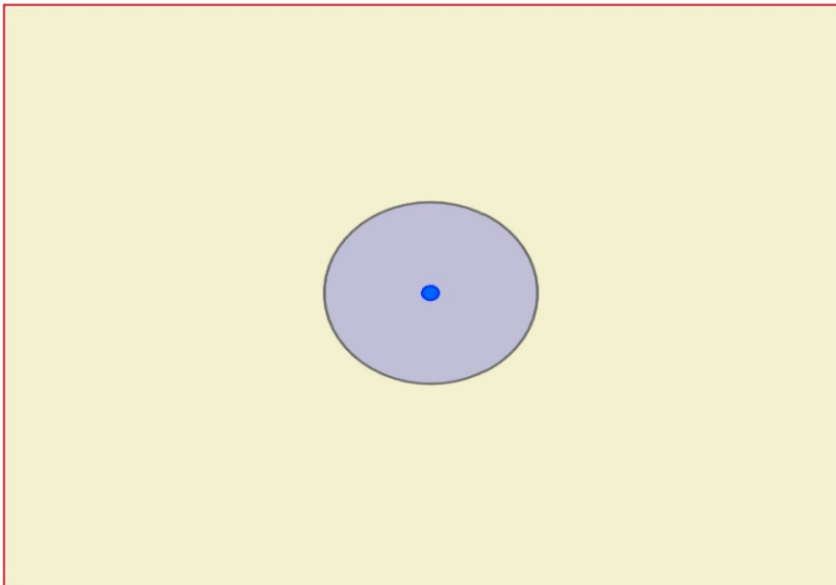
Client Service ID : 651706

Black Mountain Projects Pty Ltd  
5 Wangara St  
Aranda Australian Capital Territory 2614  
Attention: Peter Kabaila  
Email: peterkabaila1@gmail.com  
Dear Sir or Madam:

Date: 17 January 2022

**AHIMS Web Service search for the following area at Address : 137 BRISBANE GROVE ROAD BRISBANE GROVE 2580 with a Buffer of 50 meters, conducted by Peter Kabaila on 17 January 2022.**

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. *

A basic AHIMS search of the property address 137 Brisbane Grove Road, Brisbane Grove showed no previously recorded Aboriginal sites in or near the address.

The extensive AHIMS search of utilising Lot 2 DP 1180093- the large lot adjacent the river- with a search buffer of 1km included the whole development area as well as a large area around it. It revealed a total of 12 Aboriginal sites (see below). All these registered sites are outside the development area and would therefore not be harmed by the proposed subdivision.



## AHIMS Web Services (AWS) Search Result

Your Ref/PO Number : Sofala 2/1180093 1km

Client Service ID : 651527

Black Mountain Projects Pty Ltd

Date: 14 January 2022

5 Wangara St

Aranda Australian Capital Territory 2614

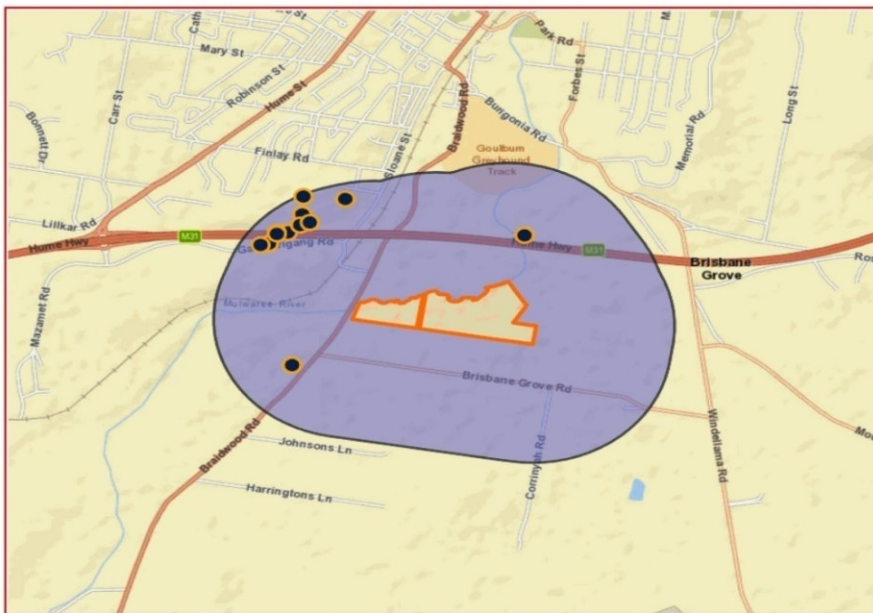
Attention: Peter Kabaila

Email: peterkabaila1@gmail.com

Dear Sir or Madam:

**AHIMS Web Service search for the following area at Lot : 2, DP:DP1180093, Section : - with a Buffer of 1000 meters, conducted by Peter Kabaila on 14 January 2022.**

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:

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

*An extensive AHIMS search of utilising Lot 2 DP 1180093- the large lot adjacent the river- revealed a total of 12 Aboriginal sites within 1000m radius. None of the registered sites are in the development area*

Site cards for each of the registered sites were then obtained. The site cards document the nature of each registered site and the circumstances which resulted in it being recorded. They result from three surveys:

- Rex Silcox's 1983 survey of the Goulburn bypass route. This was mainly above a gully to the north of Marian Hill. This is the main cluster of recordings.
- Lyn O'Brien's 2018 due diligence survey of a property off Tait St (2 site recordings).
- Matthew Barber's due diligence survey of a property off Sloane St (1 artefact in imported gravel).

All these registered sites are well outside the development area and therefore will not be harmed by the development proposal. The site card descriptions are tabled below.

### Summary of recorded sites (from site cards provided by AHIMS)

Site ref	Location	Stone artefacts	Area	Details
51-6-0013	Along bank of gully north of Marian Hill	2	1 sq m	Rex Silcox. 1983 <i>"Archaeological Survey of Goulburn Bypass Route"</i> . 2 silcrete artefacts.
51-6-0014	Along bank of gully north of Marian Hill	4	40 m length of bank	Rex Silcox. 1983 <i>"Archaeological Survey of Goulburn Bypass Route"</i> . 4 artefacts.
51-6-0015	Along bank of gully north of Marian Hill	2	5 m length of bank	Rex Silcox. 1983 <i>"Archaeological Survey of Goulburn Bypass Route"</i> . 2 silcrete artefacts.
51-6-0016	Along bank of gully north of Marian Hill	7	25 x 2 m	Rex Silcox. 1983 <i>"Archaeological Survey of Goulburn Bypass Route"</i> . 7 quartz artefacts.
51-6-0017	Along bank of gully north of Marian Hill	5	20 x 20 m	Rex Silcox. 1983 <i>"Archaeological Survey of Goulburn Bypass Route"</i> . 4 artefacts over 20 x 20 m area plus one silcrete core 50 m up slope.
51-6-0018	Along bank of gully north of Marian Hill	17	80 m length of bank	Rex Silcox. 1983 <i>"Archaeological Survey of Goulburn Bypass Route"</i> . 17 artefacts.
51-6-0019	On hill slope north of Marian Hill	30	50 x 40 m	Rex Silcox. 1983 <i>"Archaeological Survey of Goulburn Bypass Route"</i> . 30 artefacts.
51-6-0020	On hill slope north of Marian Hill	13	30 x 40 m	Rex Silcox. 1983 <i>"Archaeological Survey of Goulburn Bypass Route"</i> . 13 silcrete artefacts.
51-6-0021	Ploughed levee bank adjacent to east bank of Mulwaree R	>100	300 x 100 m	Rex Silcox. 1983 <i>"Archaeological Survey of Goulburn Bypass Route"</i> . Estimated density one per sq. m. Test excavation found a range of stone materials and range of tool types across different time periods.
51-6-0844	Off Tait St.	7	40 x 40 m	Lyn O'Brien. (T 0403 021296). <i>"Past Traces 2018 – Tait St. Due Diligence Report."</i> 7 artefacts. Erosion exposures in redeposited soils above a stock dam on drainage line.
51-6-0845	Off Tait St.	19	50 x 50 m	Lyn O'Brien. <i>"Past Traces 2018 – Tait St. Due Diligence Report."</i> 19 silcrete and flaked glass artefacts. Ground exposed by stock resting around a tree.
51-6-0869	Off Sloane St Goulburn	1	Isolated find.	Matthew Barber.2020 (T 0407 485018). <i>"NGH Goulburn Rezoning Aboriginal Due Diligence."</i> 1 silcrete artefact in imported gravels.

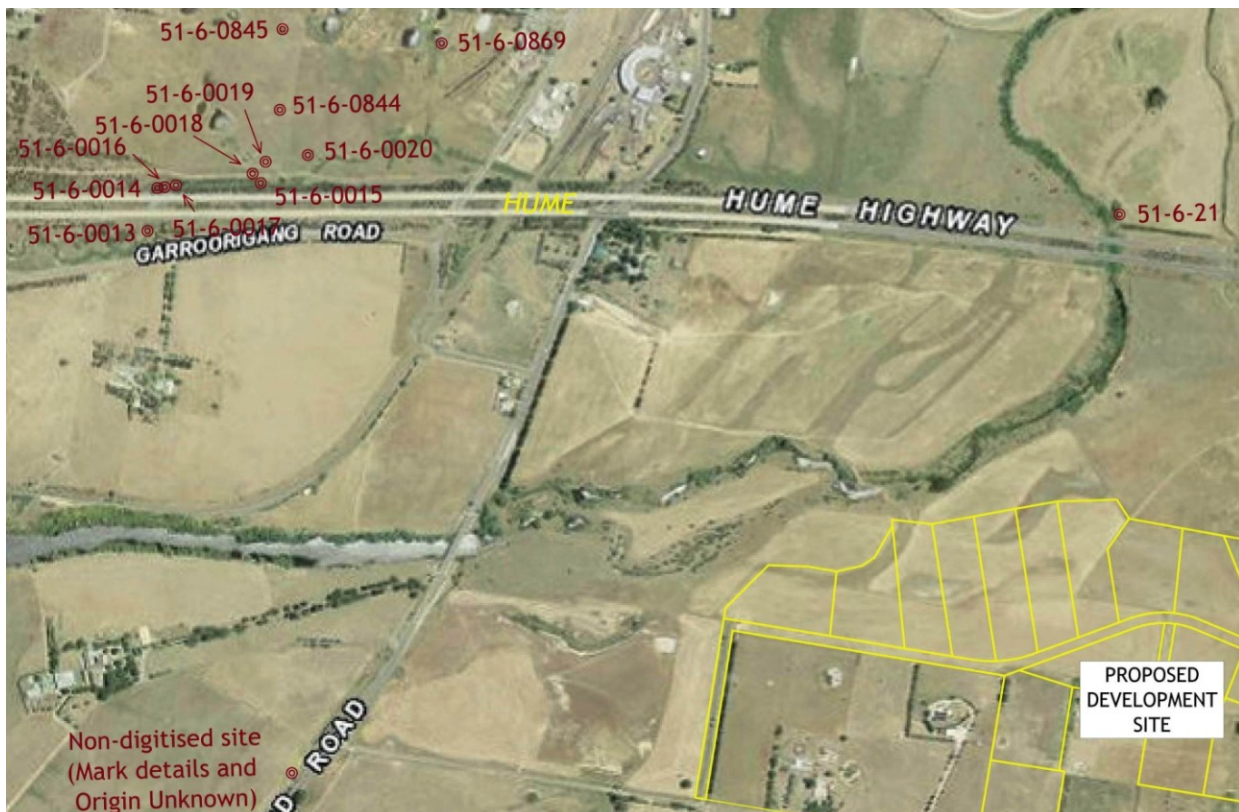


SCALE - 1:10000  
 AZIMUTH -  
 CONTOUR INTERVAL -  
 DATUM -  
 DATE - 20/01/2022  
 REF - 24399

PLAN SHOWING LOCATION OF REGISTERED ABORIGINAL SITES IN RELATION  
 TO PROPOSED SUBDIVISION IN URBAN & FRINGE HOUSING STRATEGY  
 SITE ADDRESS: BRISBANE GROVE ROAD, BRISBANE GROVE  
 LGA: GOULBURN MULWAREE COUNCIL

3/31 C  
 GOULBU  
**SCCS**  
 SOUTHERN CROSS  
 CONSULTING SURVEYORS  
 T: admin@scsurv  
 E: admin@scsurv

*All the 12 registered sites in the vicinity (labelled in red) are well outside the development area and therefore will not be harmed by the development proposal. Detail below:*



## Discussion of the registered sites

### Registered sites 51-6-0013 to 51-6-0021 (gully near Marion Hill and levee bank)

Rex Silcox's 1983 survey of the Goulburn bypass route was undertaken during the historic 1979-1983 Eastern Australian drought. The drought resulted in severe wind erosion, resulting in stone artefacts being exposed by erosion features such as the gully north of Marion Hill and its eroding hillslopes.

This cluster of 9 recorded sites is really one site. It is a sparse scatter of lithic fragments concentrated on the surface by vegetation loss and wind erosion. Photos of the ground conditions show the effects of drought. As sediments eroded away and were redeposited, the stone in the sediments stayed behind on the surface. This phenomenon, known as "lag", explains why stone artefact scatters were found along the eroding banks of the gully. The scatter is not necessarily a focus of Aboriginal land use or "camp site". It resulted from drought, erosion and redeposition of gravels. This has been accelerated by European land use, resulting in *lag* of stone material that would otherwise have existed in low densities through sediments across the region (*background density*).

All 9 registered sites are outside the development area.



*Site 51-6-0018 was visible during the peak of a drought in a highly eroded landscape*

### Registered sites 51-6-0844 to 51-6-0845 (off Tait St)

Lyn O'Brien's due diligence survey of a property off Tait St was carried out in 2018 under similar drought conditions. A record-breaking heatwave during the preceding spring contributed to the drought. Rainfall to the end of September 2018 was 191mm, the third lowest ever recorded.

Lyn O'Brien found artefacts exposed by two erosion features: redeposited soil near a stock dam excavation (site 51-6-0844) and erosion by cattle around an isolated shade tree (site 51-6-

0845). These two recorded lithic scatters are not ancient “camp sites” but are erosion features caused by dam excavation and cattle.

Both registered sites are outside the development area.

#### **Registered site 51-6-0869 (off Sloane St)**

Matthew Barber’s 2020 due diligence survey of a property off Sloane St recorded on stone artefact in imported gravel. This could be argued as “not a site” and an insignificant find, consistent with background density across the region. This registered site is outside the development area.

#### **Conclusion regarding the registered sites in the 1km buffer area**

All the above registered sites are outside the development area and would therefore not be harmed by the proposed subdivision.

Interestingly, none of the above site recordings are of pristine hunter-gatherer landscapes. All the above site recordings are *background density* lithic material in *disturbed ground* (as defined by the Due Diligence Code) concentrated on the surface by European land uses:

- Gullying formed by accelerated erosion.
- Erosion by cattle,
- Ploughing of an excavated levee bank,
- Stock dam excavation.

In the site recordings, groupings of stone artefacts were classified as “camping areas”.

These sites don’t represent ancient camping areas. They represent erosion features and redeposited gravels. Erosion features concentrate sparsely distributed stone artefacts into one dense layer on the ground surface.

Most erosion features on any land in Australia, when inspected at the peak of a drought, will contain a layer of stone artefacts on the surface. To interpret such artefact clusters as camping areas could speak to *apophenia* (the tendency to see meaningful patterns in random data). It would be unsafe to draw any conclusion from such clusters.

A background density of stone artefacts should be able to be found on any landscapes. However on the Sofala property (the development area), cropping, vegetation cover and other farming activities have disturbed the ground surface. So any clusters of stone artefacts are unlikely to occur on the ground surface.

### 3.0 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 because:

- The proposed works will *disturb* the ground surface (if land is not *disturbed* land)
- The activity or proposal occurs in areas where certain landscape features may indicate the presence of Aboriginal objects: The development area is within close proximity to a watercourse.

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).
- 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 development area
- Provide an assessment of the archaeological potential of the development area

##### Field Investigation

- Undertake archaeological investigations across the proposed Development area consistent with the ***Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*** to identify Aboriginal places and objects protected under the *NSW National Parks and Wildlife Act 1974*
- Where appropriate, identify areas of potential archaeological deposit where Aboriginal objects may occur in a subsurface context and may not be visible on the surface
- Detailed recording of identified Aboriginal objects and places

##### Reporting

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

## 4.0 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).

### 4.1 LANDSCAPE DESCRIPTION OF DEVELOPMENT AREA

The development area is farm fields above the Mulwaree River. It covers approximately 80ha of gently sloping grazing land. It has been mostly cleared and sown with pasture crops. Some scattered trees remain. The eastern end of the development area is on the Mulwaree River frontage.

The development area includes land within 200m of waters. The *Due Diligence Code* defines this as a “landscape feature that is *likely* to contain Aboriginal objects”.

However, agricultural activities have altered this landscape. These activities have included vegetation clearing, mechanical excavation, cultivation, cropping, grazing and tree planting.

Land clearing and cultivation in particular, have resulted in disturbance of ground surface and churning of sediments, erosion and redeposit of soil.

The resulting landscape is one of ground surface disturbance and accelerated removal and redeposition of surface soils.

So although the development area was undoubtedly part of the landscape used by Aboriginal people in the past, the likelihood of artefacts being found *in-situ* is low.

Photos and field observations in the survey results section provide further details.

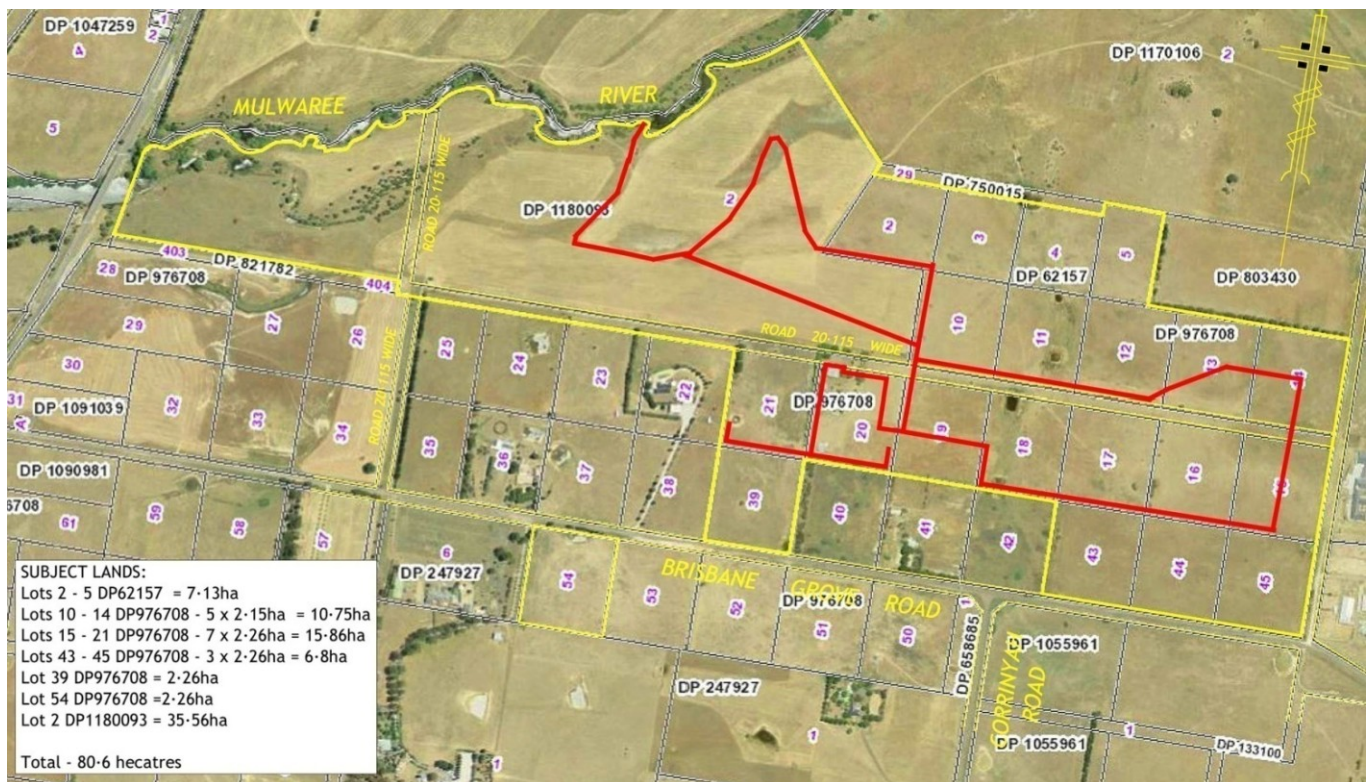
## 5.0 SURVEY AND RESULTS

### 5.1 SURVEY

Peter Kabaila of Black Mountain Projects, accompanied by the owner, conducted a site inspection of the development area on Thursday 13<sup>th</sup> May 2021. The inspection was via a series of pedestrian transects.

Exposures and erosion scars were included in the survey to ensure that any areas of archaeological potential were inspected.

The survey focussed on areas of exposure that may reveal archaeological materials and this methodology sometimes resulted in a meandering transect. The survey route is shown in red on the aerial image below.



Survey route (outlined in red)

## 5.2 RESULTS

Because dense growth of pasture grasses limited ground surface visibility to less than 1%, the survey combined pedestrian transects with transport by vehicle to sample and examine exposures on the ground.

Historically the lots around the Sofala property have been treated as farmland. The soil is sandy loam. Under past farming practices this soil type was regarded as arable. The naturally occurring raw stone is quartz gravel and decomposed shale which were unsuitable for Aboriginal stone tool making. During inspection, no imported stone material was found.

Prior to the current owners, the Humes used the Garroorigang part of the property (the river flats in the 100 year flood line) as dairy grazing. The river flats therefore were ploughed and cropped by the Hume family for over 100 years.

Prior to the current owners, the Sofala part of the property was owned by Wendy Taylor. The Taylors ran Sofala as a family farming operation and ploughed it all many times and sowed pasture crops for grazing and cereal crops for making hay for the winter.

During the late 20<sup>th</sup> century there was a shift in farm practices from field ploughing to direct drilling. The current owners no longer ploughed Sofala but sprayed for noxious weeds and then resowed with rye grass. They also sprayed land near the river (part of the Hume family's property Garroorigang) and direct drilled with lucerne. The lucerne crop has been harvested for hay and then grazed for the last 15 years.

The summary of past land use is:

- Clearing of original old growth trees.
- Farming by plough, as this land was arable.
- Sowing of pasture crops into ploughed fields.
- Weed spraying.
- Direct drilling for resowing with pasture crops.
- Construction of stock dams.
- Construction of house and small sheds.
- Sheep and cattle grazing.

Exposures, including excavated soil on stock dam banks, were examined for stone artefacts, but none were found. No imported flakeable raw stone material (e.g. silcrete or chert) was found.

### Summary

The survey did not locate any Aboriginal objects or sites within the development area. No specific areas of Potential Archaeological Deposit (PAD) were identified or discernible.

Archaeologically this land surface and sediments are highly disturbed and have low archaeological potential to contain in-situ Aboriginal artefacts.

Although in pastoral use, this is not a pristine hunter gatherer landscape but could be characterised as a "European settler landscape".

A search was made for Aboriginal scarred trees. None were found. No pre-European old growth trees were found.

The Due Diligence Code (and archaeology generally) recognises crests and land within 200m of waters (on land that is not *disturbed* land) as as a landform “indicating the *likely* presence of Aboriginal objects”. But in order to establish such a landform as a potential archaeological deposit (PAD), archaeology requires evidence, such as exposed artefacts eroding out of the landform.

Numerous ground exposures were closely examined along the survey route. The only stone materials found were decomposed quartz, shale gravel, and one shale outcrop. Neither of these raw stone materials are of flakeable quality. No artefacts were found eroding out of these areas. The archaeological conclusion is that this is not pre-European ground surface but disturbed ground. Note that relics protections would still apply under law if Aboriginal objects are found.



Decomposed quartz



Decomposed shale gravel



Shale outcrop

Two local raw stone materials found in the development area, neither suitable for Aboriginal stone tool making.

## 6.0 DISCUSSION

The requirement for this Due Diligence assessment is triggered because the activity or proposal occurs in areas where certain landscape features may indicate the presence of Aboriginal objects (i.e. the development area is within close proximity of a watercourse).

These factors in relation to the proposed project are considered below.

### 6.1 DUE DILIGENCE DISCUSSION

Step 2b of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects* (2010:12) requires the consideration of whether the development 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 in the Code to understand the results of this assessment. These concepts and the development area 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).

The development area is cleared and largely devoid of native vegetation, vegetated by exotics and exhibited a range of disturbances resulting from earthmoving machinery, rural grazing and associated activity. The land is considered *disturbed land* within the meaning of the Code.

#### ***Likely***

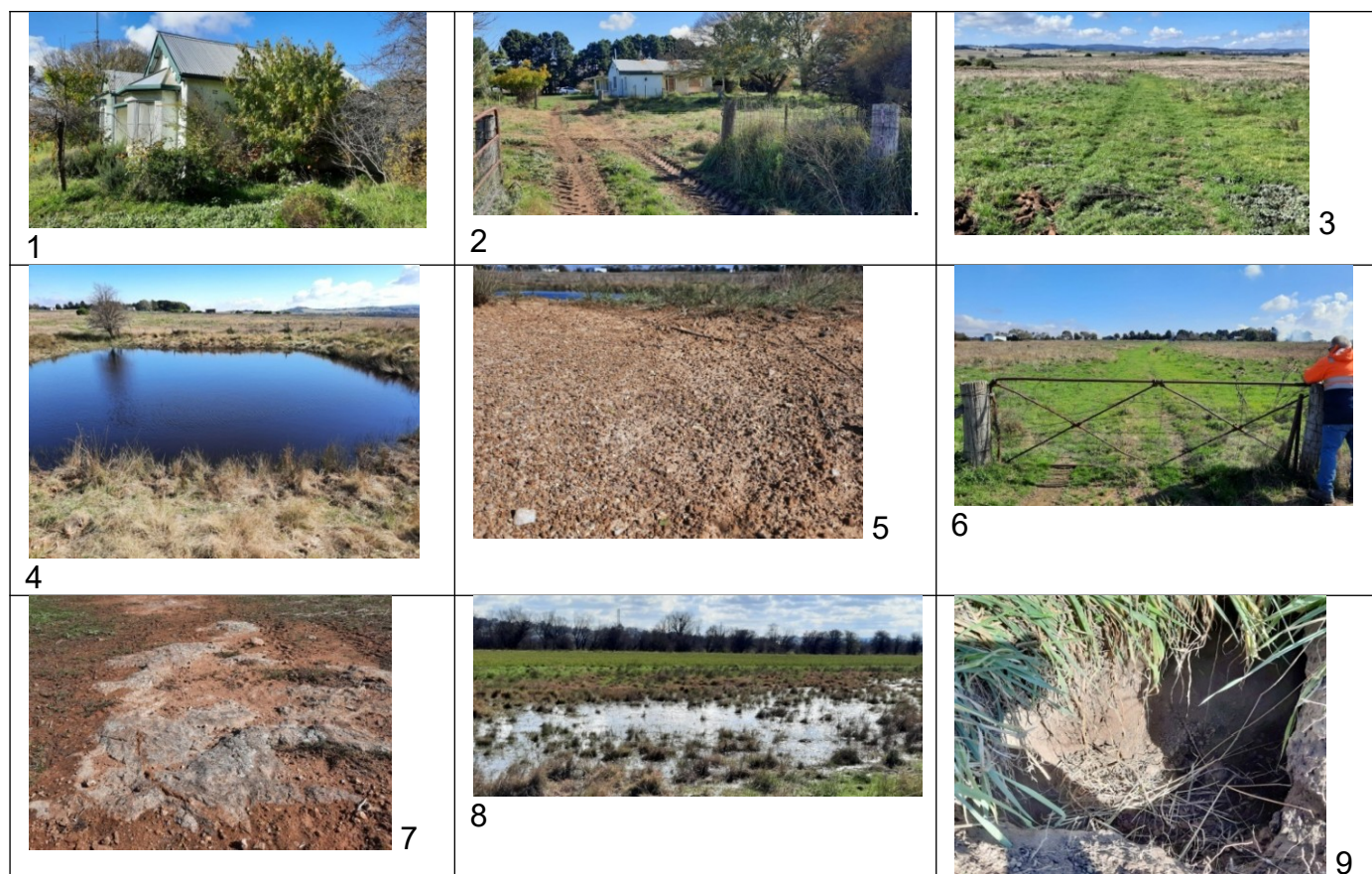
*Likely* is not defined within the Due Diligence Code. Likelihood of finding *Aboriginal objects* is generally discussed in terms of archaeological potential or *sensitivity*. An index of likelihood has been devised and is presented below. Probability and confidence indicators are those used by the Australian Army Intelligence Corps S2 Aide-Memoire.

Potential to contain Aboriginal objects. (Archaeological potential or “sensitivity”).	Confidence(“likelihood”)	% Probability
Very high	Almost certain/confirmed	95% or greater
High	Probable	75%-95%
Moderate	Likely	50%-75%
Low	Possible	15%-50%
Very low	Unlikely/doubtful	15% or less

For the purposes of the Due Diligence Code, any land within 200m of waters is considered *likely* to contain Aboriginal objects (and therefore of moderate or higher archaeological potential), unless it is *disturbed land*.

Whilst the development area includes a crest landform and land within 200m of waters and may have acted as a focus point for Aboriginal occupation in the past, the area is also *disturbed* within the meaning of the Code. This means that any Aboriginal objects that may be present are likely to also be *disturbed* and unlikely to remain in-situ. It should also be noted that within the local area there are areas far more *likely* to contain Aboriginal objects resulting from Aboriginal occupation, such as raised banks along the Mulwaree River.

On the basis of this assessment and the extent of disturbance the development area is assessed as having a low to very low potential to contain Aboriginal objects.



Photos along the pedestrian survey route showing level of disturbance:

1. The Sofala house block is planted with introduced tree species.
2. Sandy loam soil exposed in vehicle tracks to the house..
3. Typical grassed grazing land of the lots proposed for subdivision.
4. One of two stock dams.
5. Decomposed shale gravels exposed on stock dam bank. No artefacts were found.
6. View along road reserve to Sofala in the distance.
7. The only rock outcrop was of shale.
8. Boggy flood prone land beside Mulwaree River.
9. Wombat hole showing the sandy loam soil with no raw stone materials present.

## 7.0 CONCLUSIONS & RECOMMENDATIONS

### 7.1 CONCLUSIONS

Tim Titheradge (0407 722 666) the owner is seeking Goulburn Mulwaree Council approval for subdivision of land parcels adjoining Sofala, a heritage listed property at 137 Brisbane Grove Road, Brisbane Grove (Goulburn) NSW. The subject lands are: Lots 2 - 5 DP62157, Lots 10 - 14 DP976708, Lots 15 - 21 DP976708, Lots 43 - 45 DP976708, Lot 39 DP976708, Lot 54 DP976708, Lot 2 DP1180093 (the development area).

As part of the Development Application, Goulburn Mulwaree Council requires advice about the potential of the proposal to *harm* Aboriginal places and objects pursuant to the *National Parks and Wildlife Act 1974*.

The proponent has engaged Black Mountain Projects Pty Ltd and sought advice under the ***Due Diligence Code of Practice for the Protection of Aboriginal Objects*** to understand whether the works, being the development of the development area for further subdivision, have the potential to *harm* Aboriginal objects or values protected under the *NSW National Parks and Wildlife Act*. This assessment has:

- Not found Aboriginal sites and objects within the development area.
- Assessed the development area as *disturbed land* within the meaning of the Due Diligence Code
- Assessed the development area as having low archaeological potential to contain Aboriginal sites and objects.

### 7.2 RECOMMENDATIONS

The following management recommendations are based on the above conclusions and in accordance with Step 4 of the *Due Diligence Code* (2010:13). Step 4 states 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.

Where the desktop assessment or visual inspection does not indicate that there are (or are likely to be) Aboriginal objects, you can proceed with caution without an AHIP application.

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. This proposal does not require any further assessment relevant to Aboriginal sites or objects protected under the *NSW National Parks and Wildlife Act*.
2. The proponent is aware that in the event that Aboriginal objects are discovered during the proposed works, all works in that area should cease and the proponent should contact Heritage NSW or qualified archaeologist to seek some determination of the discovery and how to proceed.

3. In the unlikely event that skeletal remains be discovered during earthworks, all works should cease and protocols consistent with Requirement 25 in the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* be implemented.

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 an AHIP should Aboriginal objects be disturbed.

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

### **7.3 ASSESSMENT STATEMENT**

I, Peter RimgaudasKabaila, Heritage Consultant, confirm that:

- I have conducted a ground survey on foot of the development area.
- I have prepared this report, which has objectively assessed the proposed development against the *Due Diligence Code of Practice for the Protection of Aboriginal Objects. NSW 2010*.

A handwritten signature in black ink, appearing to read 'Peter RimgaudasKabaila', with a stylized, cursive script.

Dr Peter Kabaila, Heritage Consultant, Black Mountain Projects Pty Ltd

## 8.0 REFERENCES

AHIMS <https://www.environment.nsw.gov.au/awssapp>

*Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales.* NSW Office of Environment and Heritage policy document.

*Due Diligence Code of Practice for the Protection of Aboriginal Objects.* NSW 2010. NSW Office of Environment and Heritage policy document

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

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