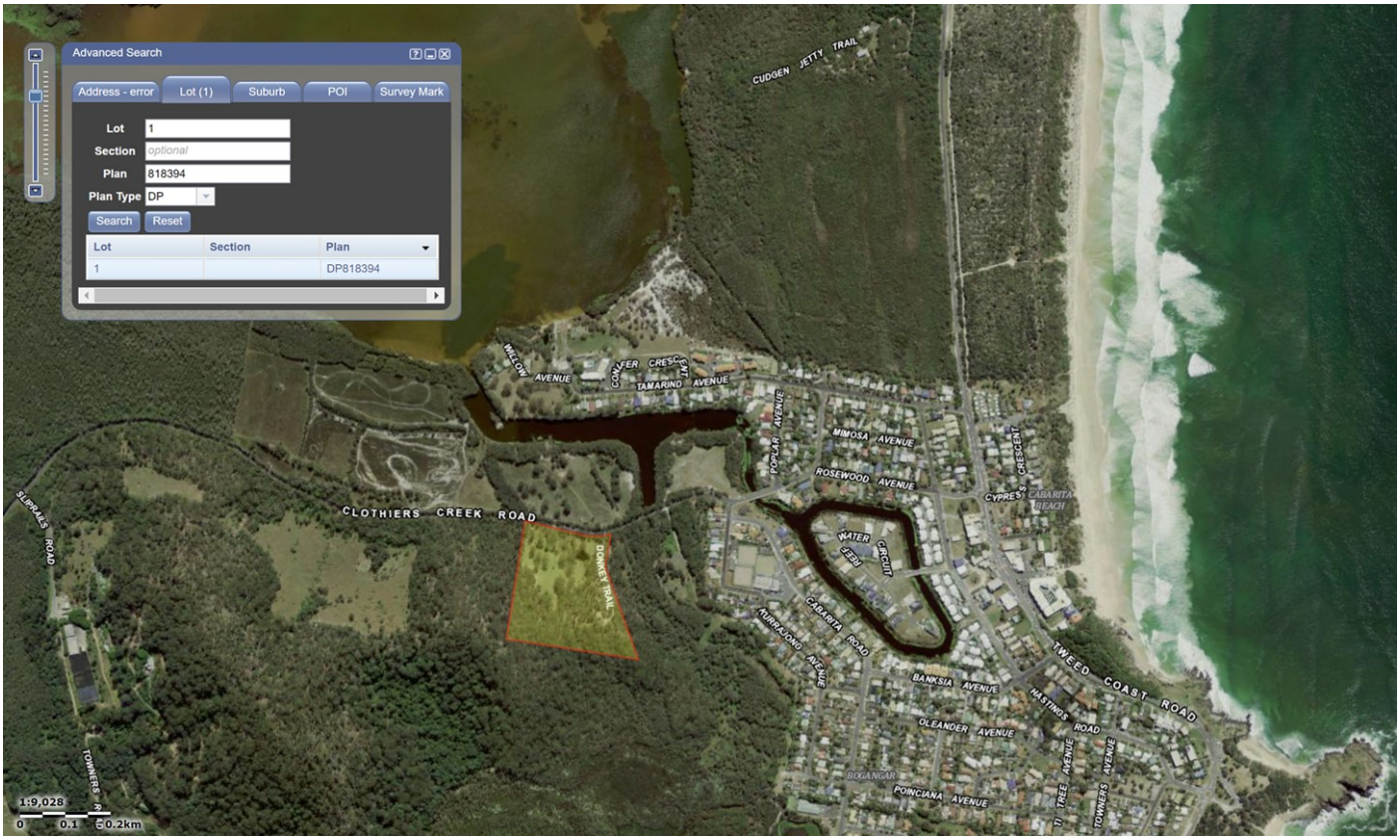
Tweed Byron Local Aboriginal Land Council



SITE VISIT AND CULTURAL HERITAGE ADVICE REPORT

1 Clothiers Creek Road, Bogangar 2488

24 April 2024

REPORT PREPARED BY:

TBLALC CULTURAL HERITAGE UNIT

Maurice Gannon Conservation Planning Officer.

Aboriginal people have deep spiritual and cultural connections with the land and have inherent responsibilities to ensure that those connections are maintained for future generations.

PURPOSE

There are numerous Federal, State and Local Government statutes, regulations, policies and guidelines that are applicable to the assessment of, and protection of, Aboriginal Cultural Heritage (ACH). The National Parks and Wildlife Act 1974 (NPW Act), administered by the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW)

Part 6 of the NPW Act provides specific protection for Aboriginal Objects and declared Aboriginal Places by establishing offences of harm, for which significant penalties apply. Harm includes desecrating, destroying, defacing or damaging an Aboriginal Object or Aboriginal Place and, in relation to an Object, moving it from the land on which it has been situated.

The Tweed and Byron regions are abundantly rich in ACH. Extreme and extensive damage to the ACH of the region has occurred over many years, including very recently. The regions are also areas of rapid population growth and development. Therefore, the potential for ongoing harm to ACH is real and ever present.

This report was prepared by the Cultural Heritage Unit (CHU) of the Tweed Byron Local Aboriginal Land Council (TBLALC), It summarises the findings resulting from a visit to the site, supported by desktop analysis, review of the TBLALC CHU databases and records, access to and consultation with Aboriginal community and knowledge-holders and informed awareness of Aboriginal history, traditions and lore.

The site visit and report considers both the tangible and intangible ACH of the site. TBLALC assesses the potential for harm and provides advice on avoidance, mitigation, and compliance with relevant legislation and codes of practice.

This report does not confer approval to harm ACH. The authority for such an approval rests solely with the NSW Government and the process of applying for and obtaining such an approval is very detailed and substantive.

TBLALC's objectives are:

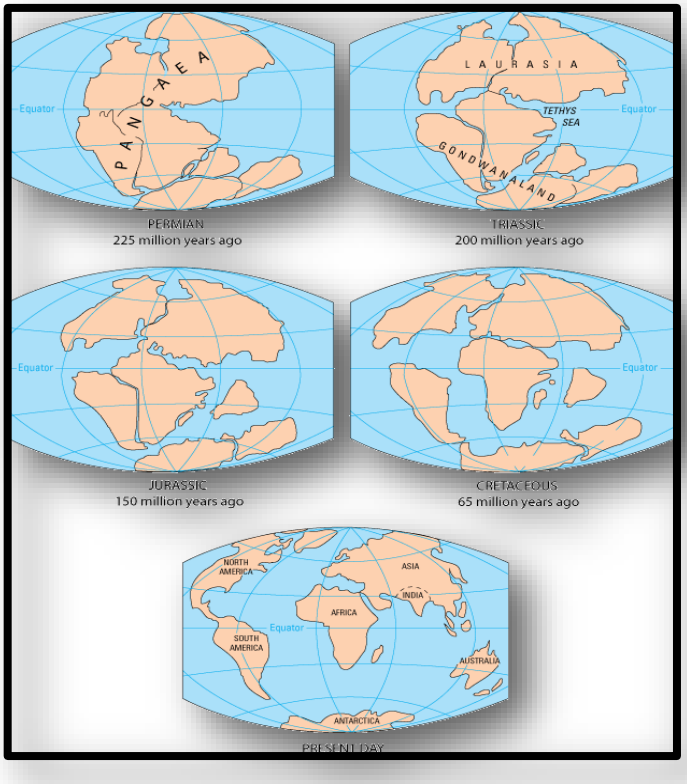
1. to ensure ACH is appreciated, respected, protected and preserved;

2. to inform project proponents and participants of ACH in the region and the actual and potential ACH on the site;

3. to inform project proponents and participants of the applicable law and potential risks involved in the proposed project and works; and

4. to provide advice and recommendations as to how you should go about minimizing your risks of legal breaches.

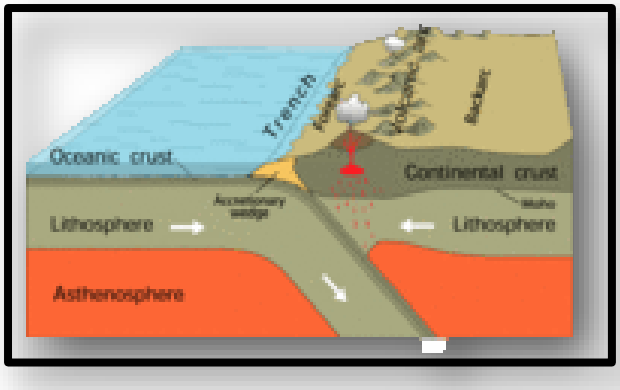
LANDSCAPE



The Australian continent has been tectonically stable for an exceptionally long time. About 370 to 290 million years ago a volcanic mountain chain extended along the Gondwana coast. The eroded sediments from the volcanic chain were deposited and settled differentially into coarse sands and finer silts and muds on the seafloor off the Gondwana coast.

Over the next 50 million years the oceanic plate was being subducted beneath the continental plate. The pressure and heat of the tectonic plate movements compressed and cooked the sediments and folded and thrust them upwards to form mountain ranges. The sediments were also penetrated by lavas that erupted onto the deep ocean floor. In some places innumerable siliceous skeletons of microscopic animals called radiolaria formed sediments of marine origins.

This process also caused metamorphism (heat and pressure) to form new minerals and rock types such as greywacke, argillite, greenstone and quartzite. These massive tectonic, volcanic and erosion and deposition processes continued during the next 140 million years as Australia rifted away from Antarctica.



Australia is the only continent without any current volcanic activity but it hosts one of the world's largest extinct volcanoes; the Tweed Volcano. Rock dating methods indicate that the Tweed Volcano eruptions lasted about 3 million years, ending about 20 million years ago. Twenty million years of erosion has left this landform deeply eroded yet very recognizable, appearing as a caldera with a central peak. The central peak is the erosional stub of the volcanic neck; the central pipe that carried the magma upward. It is surrounded by ring dikes, which are circular sheets of magma that solidified and now form erosion-resistant ridges. The central peak is named Wollumbin (Mt. Warning). The topography of the northern rivers region is a record of this enormous shield volcano and the landscape evolution that has occurred since its creation. Low relief uplands interspersed between deeply eroded valleys form a radial pattern that clearly defines the shape and extent of the original volcanic dome.

Source: NASA Jet Propulsion Laboratory. California Institute of Technology. Shuttle Radar Topography Mission (SRTM) from the space shuttle Endeavour.

LANDSCAPE (Cont.)

Erosion is most extensive on the eastern side because the eroding streams drained directly to the ocean and therefore had the steepest gradients. This asymmetry of erosion has been extreme enough that the volcano has been hollowed out by the east-flowing drainage, forming an erosional caldera. Calderas usually form as the result of collapse where magmas retreat within an active volcano. If collapse occurred here, erosion may have removed the evidence but it produced a similar landform. This combination of volcanic activity and erosion and deposition processes over a vast area and enormous time span has resulted in the landforms and environmental features that define the area today.

The metamorphism and folding and uplifting of the marine sediments formed the Neranleigh–Fernvale basement rocks. The tectonic plate movements gave rise to the Burringbar and Condong Ranges. The erosion and deposition and folding of sediments generated the Clarence Moreton Basin. The more recent volcanism of the Tweed Shield Volcano created the Lamington Volcanics and lava flows the remnants of which remain at Kingscliff, Cudgen, Fingal, Banora, Cook Island and throughout the Tweed Valley.

The underlying country rock of much of the Tweed region is therefore made up of the Neranleigh-Fernvale beds, a somewhat unusual rock type of partially metamorphosed sediments - meta-sediments - and the volcanics of the Wollumbin shield volcano. These source rocks have been altered over millions of years by the combined effects of erosion, deposition and climatic and sea-level changes that produced ancient stream channels and geological remnants of earlier coastlines (paleo shorelines).

The in-situ chemical weathering of the of Pleistocene (Ice Age) country rock (up to 1.8 million years in age) results in the development (pedogenesis) of the volcanic soils and the poorly sorted, rocky, sandy and silty soils that make up the land surface today. More recent sedimentary deposits which, of course, dominate the coastal erosional and depositional environments, are Holocene in age (Present to 10,000 years). The Pleistocene and Holocene epochs, together make-up the Quaternary Period, which is the Period that includes human habitation.

Many of the rock types created by these tectonic, volcanic and geomorphic processes, such as quartzite, chert, silcrete, flint, quartz, obsidian and garnet, are the specific types that were used by Aboriginal people for stone tool making. For example, chert is formed by the silicification of beds of the deep sea sediments made up of the microscopic skeletons of marine organisms, mentioned earlier. Obsidian, at the other extreme, is formed by very rapid cooling of felsic volcanic lava.

All land has an ancient history. In the northern rivers regions of NSW we are extremely fortunate to be able to also relate the geological, geomorphological and environmental history with the human cultural history of the area. Aboriginal cultural heritage is a current, living and unbroken human relationship with country.

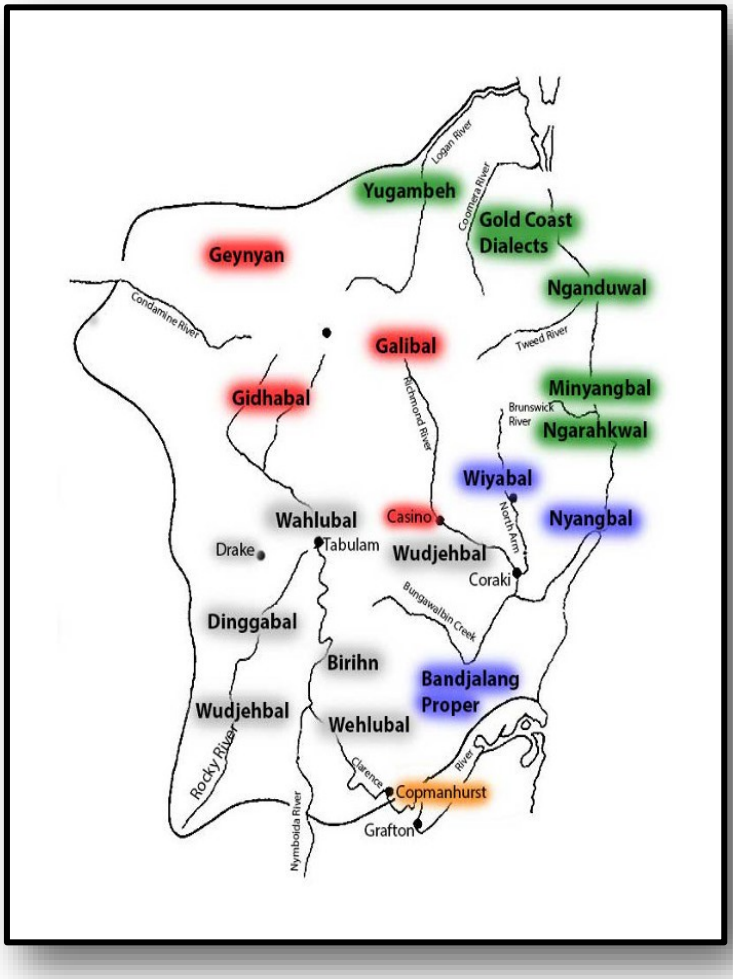
This is the landscape in which we live.

BRIEF ETHNOHISTORY OF THE ABORIGINAL PEOPLES OF THE TWEED AND BYRON

Aboriginal 'territories' were defined and maintained by languages and dialects. Ngandowal was spoken by people around the Tweed, Minyungbal south to Byron and Nyungbal around Ballina.

Within these language groups there were also clan groups occupying certain areas:

- The Goodjingburra were a clan group that lived along the coast between the Tweed and Brunswick Rivers. 'Goodgen' means 'red' and the territory of the Goodjingburra clan was, amongst other things, a source of ceremonial ochre.
- The Tul-gi-gin people lived around the North Arm; and
- The Moorang-Moobar people lived around the Southern and Central Arms around Wollumbin (Mt Warning).



References to Minyungbal, Ngnadowal, Goodjingburra, Tulgigin, Moorang-Moobar, Githabal, Minjangbal, Minjyung, Minywoa, Gendo, Gando Minjang, Gandowal, Ngandowul, Cudgingberr, Coodjingburra, Gidhabal and many alternatives, are all references to the Bundjaung people.

Wollumbin is the central landmark in Bundjalung territory. It has mythical, spiritual and cultural significance to the Bundjalung and other Aboriginal people.

A very large number of sites containing physical evidence of past Aboriginal land use remain in the Tweed and Byron regions: middens, bora grounds / ceremonial grounds, fish traps, burials, innumerable artefact scatters, stone tools, caves, scarred trees, cultural places, story places and campsites. Aboriginal people currently living in the region have unbroken lineages, with Elders and knowledge holders who are the custodians of ancient knowledge and teachings and the carriers of oral histories and stories of Aboriginal cultural practices prior to non-Aboriginal settlement.

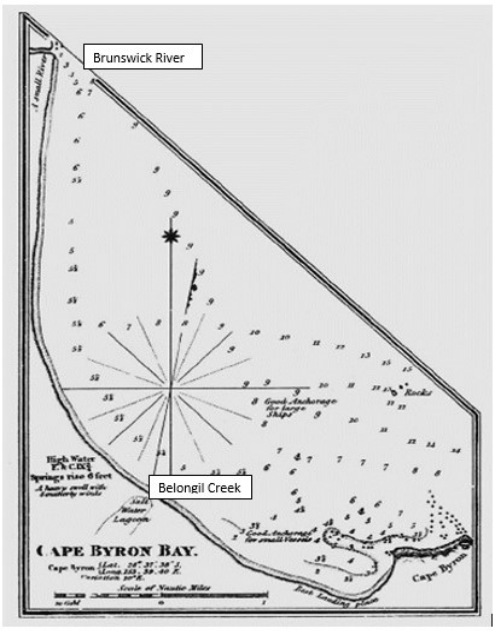
BRIEF ETHNOHISTORY OF THE ABORIGINAL PEOPLES OF THE TWEED AND BYRON

The earliest historical report of European observation of the Aboriginal population of northern coastal NSW was made by Captain[1] James Cook on May 15, 1770: "*….As soon as it was daylight we made all of the sail we could …. At 9, being about a league* (5.6km) *from the land we saw upon it people and smoke in several places. At noon we were by observation in latitude 28^{o} 39'S and longitude 206^{o} 27'W. A tolerable high point of land bore northwest by west a distance 3 miles; this point I have named Cape Byron. It may be known by a remarkable sharped peaked mountain lying inland northwest by west from it. From this point the land trends north 13 west. Inland it is pretty high and hilly but near shore it is low; to the southward of the point the land is low and tolerable level*…." (He was 5.6km off Cape Byron and Tallow Beach).

The Bundjalung were not in awe, fearful or aggressive. Joseph Banks, botanist on Endeavour, also recorded the following sighting of Aboriginal people in his journal "*…we observed them with glasses for near an hour during which time they walked upon the beach and then up a path over a gently sloping hill, behind which we lost sight of them. Not one was observed to stop and look toward the ship: they pursued their way in all appearance unmoved by the neighbourhood of so remarkable an object as a ship*…"

Cook named Cape Byron in honour of Admiral Byron (the grandfather of Lord Byron), who had completed a circumnavigation of the world in the Dolphin four years earlier. The Endeavour did not land in Bundjalung country. Nor did Flinders (the Investigator 1802) or Oxley (the Mermaid 1823), who sailed-by.. Henry Rous and William Johns in 1828, in the process of conducting a navigation and anchorage survey in the Rainbow, were the first colonials to come ashore in the Byron region, 58 years after the Endeavour had sailed-by.

Whilst the first recorded direct contact in the Tweed was made by the explorer Lieutenant John Oxley on October 31, 1823: *"200 Aboriginal men approximately five kilometres from the mouth of the Tweed River"*, escaped convicts and Aboriginal people had earlier encounters. In fact, it was two escaped convicts who had been living with Aboriginals who directed Oxley to the river he named the Brisbane river. The first official direct colonial contact with Aboriginal people in the Byron region did not occur until June 1840 when surveyor Robert Dixon undertook a horseback survey between Moreton Bay and the Richmond River.



William Johns 1828 map of Byron Bay. B Stubbs Image

There is conjecture about the total populations of Aboriginal people prior to the arrival of Europeans. Allison Smith, daughter of the first pilot at Tweed Heads, stated: *"At that time [early 1870s] hundreds of natives camped within the present town site"*. Of course there was no census and it is a known fact that Aboriginal populations were decimated by introduced diseases both before and after contact. N. C. Hewitt in the Tweed Daily 1923 Supplement quoted Henry Barnes of Dyraaba Station saying, "*Some disease came amongst the blacks about 1858 and nearly one third of them on the coast died."* In October 1923, a writer, 'Old Hand', in the Northern Star stated, "*Dysentery occurred among the blacks in 1865 and carried off hundreds of victims."* It is also a fact that massacres took place and historical records of such events were understated, to say the least.

The earliest records describe groups of hundreds of Aboriginals camped in the area. Records dating from the 1860's describe gatherings of the Tul-Gi-Gin and Moorung-Moobar people of up to 600 people in semi-permanent camps on the banks of the Tweed River.

Bundjalung territory was replete with cultural sites. From the earliest days of interaction with white settlers corroboree sites, bora rings and ceremonial sites were well documented. Many have been destroyed but the region, fortunately, is still relatively rich in cultural material and other sites. Aboriginal people frequently used the coastal dunes as burial sites and cemeteries. There are numerous recorded Aboriginal burial sites around the Tweed and Byron region. The remaining known sites and physical evidence represent a fraction of what would once have been present.

1. Cook never held the rank of Captain. He was promoted to Lieutenant shortly before the first 'discovery' voyage. He held the rank of Commander for the second voyage and Post-Captain (Captain of smaller ships) for the third voyage.

BRIEF OUTLINE OF ABORIGINAL LAND USE IN THE TWEED AND BYRON REGIONS

Aboriginal land use is classically described as 'subsistence'. A more current perspective would describe it as 'sustainable'. Resource use and people movements were determined in large part by seasonal resource availability and social customs. Living along the banks and in the catchments, estuarine outlets and wetlands of the Tweed, Brunswick, Richmond and Clarence Rivers, 'subsistence' involved the gathering of fresh and saltwater fish, shellfish and crustaceans. The roots of the Bungwahl fern were gathered from wetlands as a staple food item. Other animals were also hunted, particularly further inland, including wallabies, bandicoots, possums, flying foxes, echidnas, snakes, goannas and lizards, freshwater fish, ducks, pigeons and other birds. Edible plants, fruits and berries were also harvested, as was wild honey.

The temperate and timbered environments also provided abundant resources for habitation structures and stone tool making. Sophisticated techniques, including nets, weirs, fish traps and spears were used in fishing. Nets were also used for hunting kangaroo. Bangalow palm leaves were used to make containers and the bark and trunks of various trees were used to make canoes.

Prior to the establishment of large-scale timber getting in the mid-1840s, the Bundjalung people had relatively little contact with the European settlers. Change was sudden and rapid: extensive dispossession and decimation of the Aboriginal population began with the establishment of the large-scale timber getting industry in 1844. Although there are several records of violent and bloody conflicts, Aboriginal people, with their unique skills and knowledge of the country assisted the timber getters and were rewarded with steel axes, flour, sugar, rum, tobacco and tea. As cedar resources diminished, freehold land was opened to white settlers in the 1860s. Sugar cane, banana growing, dairying and commercial fishing industries started to develop and rail links were established by the late 1800's. Of course Aboriginal people were also used as labourers in timber getting and land clearing.

Land clearing, devastation of habitats and resources, destruction of sacred and ceremonial sites, disease, dispossession and seizure of Aboriginal women gave rise to violent conflict and Aboriginal people were forced into reserves and missions. Fortunately for the Bundjalung people coastal estuaries, dunes, beaches, swamps and lakes, in addition to mountains, weren't good farmlands and therefore there was some degree of relative 'refuge' on the coast and in the higher country.

Adrian Piper (1983) noted, between 1865 and 1875 the solid social fabric and economic [Aboriginal] structure collapsed as the basis of a viable society. The last recorded Booral ceremony took place on the Upper Tweed in about the mid eighteen seventies. This is significant for it emphasises how devastating the impact of farming into the Tweed Valley really was. The ritual life is perhaps the strongest and most enduring element of any society, yet in the Tweed Valley it barely survived fifteen years of contact with farmers. With the loss of both traditional land and the ritual essential to Aboriginal society the Tweed Aborigines became refugees in their own land.

Fingal was established as an Aboriginal camp, 'the blacks camp', in the 1880s. Aboriginal life became more sedentary and was influenced by Christianity and Pacific Islander culture. The Aboriginal community of the Tweed Region is still strong and vibrant today with living descendants of the original people of the country. This is a strong, proud, sophisticated culture that literally comes from and belongs to this place and reaches back into prehistory.

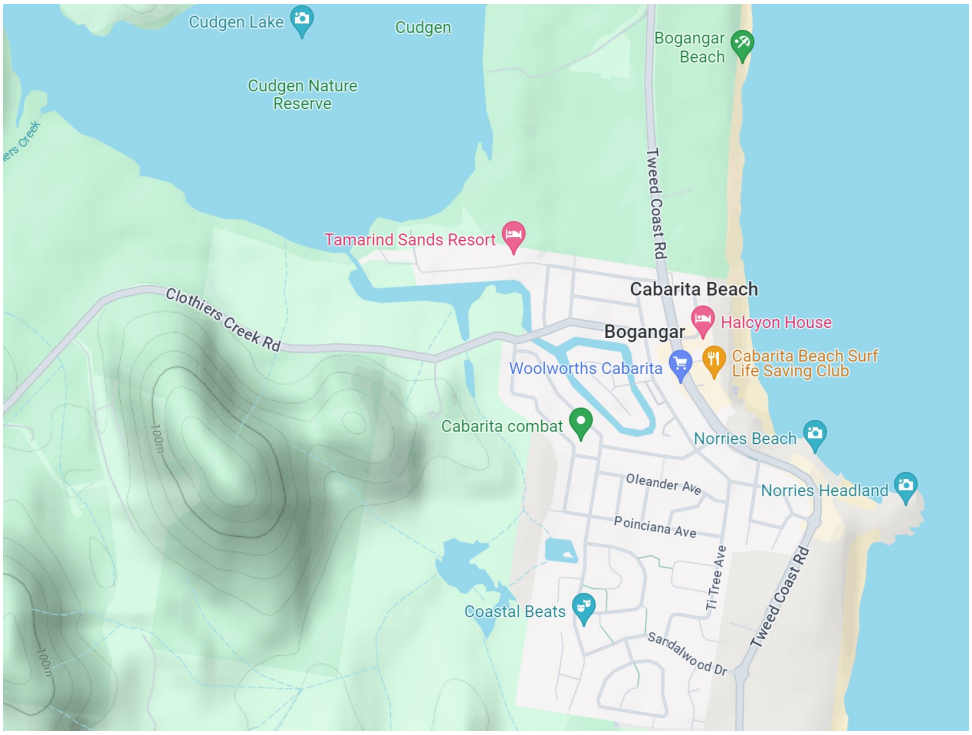
AHIMS SEARCH, LOCATION AND CULTURAL MAPPING

The Aboriginal Heritage Information Management System (AHIMS) database has been compiled and maintained over many years by the NSW Government.

There are three registered sites that are associated with the property. This site was recorded in 2004 and the site card refers to Round Mountain, the lower elevation 'saddle' and the old growth eucalypt trees. The latter two features are located on the property that is the subject of this report. The saddle landform is shown quite clearly in the topographical image below.

I visited 1 Clothiers Creek Road on 24 April 2024 and walked-over the entire property. I noted a number of features that I considered to be of significance in the context of Aboriginal cultural heritage (ACH).

I requested that our Senior Cultural Heritage Sites Officer, Warren Phillips, also walk-over the property, which he did on Friday 3 May 2024, accompanied by Bundjalung Elder and Chairman of the Tweed Byron Local Aboriginal Land Council, Uncle Des Williams.



The site is generally quite disturbed by previous land uses, particularly the elevated water tank area (which is an obvious preferred location for a dwelling), and therefore any ACH objects or materials that may have been present have, very likely, previously been removed. There is however a possibility that ACH could be encountered if and when the ground is excavated in the future.

Therefore, TBLALC has no objection or concerns regarding the proposed rezoning of the property to allow for possible future residential development. However, whilst it is pre-emptive, we will, almost certainly, request that any *future* DA be made conditional upon TBLALC being engaged to monitor any ground disturbance (earth moving or excavations for foundations etc.).

RECOMMENDATIONS

- TBLALC has reviewed the proposal against its Aboriginal cultural heritage mapping database and cultural knowledge, undertaken a site visit and, based on this, considers that, whilst there is no possibility of Aboriginal heritage objects or materials being harmed by the mere rezoning of Lot 1 DP818394 (1 Clothiers Creek Road, Bogangar), we will almost certainly recommends that Aboriginal cultural monitors be engaged during any significant ground disturbing works that are undertaken if and when DA's are determined in the future for any building on or development of the property.

- At this stage TBLALC does not consider it necessary to engage an archaeologist for further assessment.

Procedure to be applied in the case of unexpected finds

⇒ In the event that any material is encountered that is even *suspected* to be of Aboriginal cultural origin or to *potentially* be human skeletal material, it must be left undisturbed, a wide buffer zone must be established and cordoned off and all work in the area must cease immediately.

⇒ The proponent is bound under State legislation *(National Parks and Wildlife Act, 1974)* to inform the DPIE immediately of any cultural heritage objects found.

⇒ In the event that human skeletal material is encountered the NSW Police must be contacted immediately.

⇒ TBLALC appreciates that the assessments of whether material is of Aboriginal cultural origin or whether bone material is human skeletal material require specialist skills. Therefore, we suggest that we be contacted and consulted in the first instance. If any material that has been encountered is, in fact, Aboriginal cultural material or human skeletal material, Heritage NSW and / or the NSW Police Department will establish the conditions under which any further works may be undertaken.

Please contact the TBLALC Cultural Heritage Unit (CHU) if we can be of further assistance.