

ABEL Archaeology

- AN ABORIGINAL CULTURAL HERITAGE DUE DILIGENCE ASSESSMENT -

Lot 1-2 DP 1071647, 19 Bonnyrigg Avenue, Bonnyrigg, New South Wales.

Development Application 71.1/2015

A Report To Bunnings Properties Pty Limited

Date: 09 June 2015

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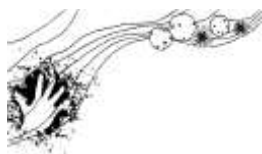
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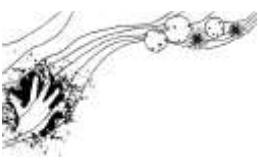
Project Name: LIVERPOOL Bonnyrigg Due Diligence Assessment

Project No: AA1501

Report Title: An Aboriginal Cultural Heritage Due Diligence Assessment

Lot 1-2 DP 1071647, 19 Bonnyrigg Avenue, Bonnyrigg, New South Wales.

Revision No	Date	Nature Of Review	Prepared By	Finalised By
-	27-05-2015	First Draft	GK	GK
1	02-06-2015	Final	GK	GK



EXECUTIVE SUMMARY

Subsequent to the submission of development application (DA No. 71.1/2015) Fairfield City Council requested further information (RFI) regarding Aboriginal items and/or places and the potential Impact the development might have on those items. Council indicated their concern the subject site may have potential to retain Aboriginal archaeological resources given the location of an AHIMS registered site 200 metres to the southwest. Consequently Council has requested a due diligence assessment be carried out in accordance with the Office of Environment and Heritage (OEH), previously Dept. Environment Climate Change and Water (DECCW), *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales 2010* guidelines.

This due diligence assessment addresses each of Fairfield Council's points of concern as follows:

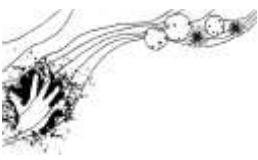
- *The site is close to Clear Paddock Creek and a natural drainage that feeds into it.*

The presence of Clear Paddock Creek only 50m to the north has not altered the fact that no Aboriginal items or places have been found on Lots 1-2 DP 1071647 (19 Bonnyrigg Avenue). Its location does, however, indicate the possibility that archaeological resources might exist in the landscape between Lots 1-2 and the creek itself. However, Clear Paddock Creek itself has (at this location) been modified in both its course and in the shape of its banks to allow for effective flood mitigation in times of flood events. This indicates an environment that has been modified and disturbed through the past and into current times, with the result that the potential for there to be Aboriginal items or places present in the vicinity of the lots to be developed, is low.

- *The site is relatively undisturbed.*

The lots earmarked for development are disturbed to varying degrees; Lot 1 has been disturbed to accommodate the construction of the bus depot. Whereas Lot 2 has been disturbed to a lesser degree. All vegetation has been removed from Lot 2 and there is evidence the land surface of the lot has been 'topped-up' - filled at some previous time. Lot 2 is currently being maintained - another, lesser, form of disturbance.

In the surrounding environment the presence of vegetation including trees and undergrowth cannot necessarily be interpreted as an indicator of lower levels of disturbance, and the identification of the forest as regrowth (AE 2015) is evidence the area has been subject to disturbance in the historical past. This too reduces the potential for archaeological resources to exist within the surrounding environment despite the fact a watercourse is present.



- *An AHIMS database search has revealed the presence of two Aboriginal sites*

Review of the report from which these two sites came indicates there was one site of four artefacts found and one isolated artefact found 70m to the west of the four (Mills 1998). The location of these sites recorded in the original report is toward Smithfield Road 200 metres to the west of Bonnyrigg Avenue adjacent the current retention pond. Extensive modification of the landscape including the construction of the retention pond and the bus way has occurred since the Mills report was written. The location of AHIMS Site 45-5-2535-36 and the disturbed nature of the landscape surrounding the site indicate potential for Aboriginal objects or places between Smithfield Road and Bonnyrigg Avenue to be very low.

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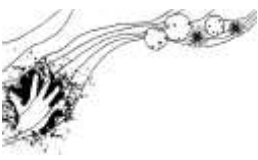
The proposed works within Lots 1-2 DP 1071647 at 19 Bonnyrigg Avenue, Bonnyrigg are considered unlikely to harm Aboriginal items and or places. As such it is recommended here that there is no requirement for further archaeological investigation prior to the commencement of the proposed works.

- The proposed development of Lots 1-2 should proceed.
- Despite the low probability that archaeological resources exist outside Lots 1-2, caution and care should be taken to remain within the boundaries of the lots in question.



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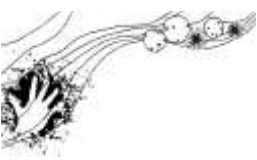


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1 INTRODUCTION

1.1 The Project Area

Lots 1-2 DP 1071647 is found at 19 Bonnyrigg Avenue, Bonnyrigg in Sydney, New South Wales (Fig. 1-2) and in combination the lots have an area of approximately 2.2 hectares. Lot 1 is completely developed upon which a bus depot is currently operating. Lot 2 is a grassed paddock (vacant block) that is maintained which is bordered by a fence adjacent to the bus depot. A large soil dump is present on the lot that has been overgrown by vegetation including introduced weed species (AE 2015). An area of native vegetation (Cumberland Plain Woodland) occurs to the west between Lots 1-2 and the LPT Busway (Fig.1). Although the woodland is native vegetation it is all regrowth, there is no remnant (i.e. original) vegetation present.



Figure 1 - An aerial image of the location of Lots 1-2 DP 1071647. The blue encompasses Lots 1 and 2. Image source: Abel Ecology (AE 2015: 5).

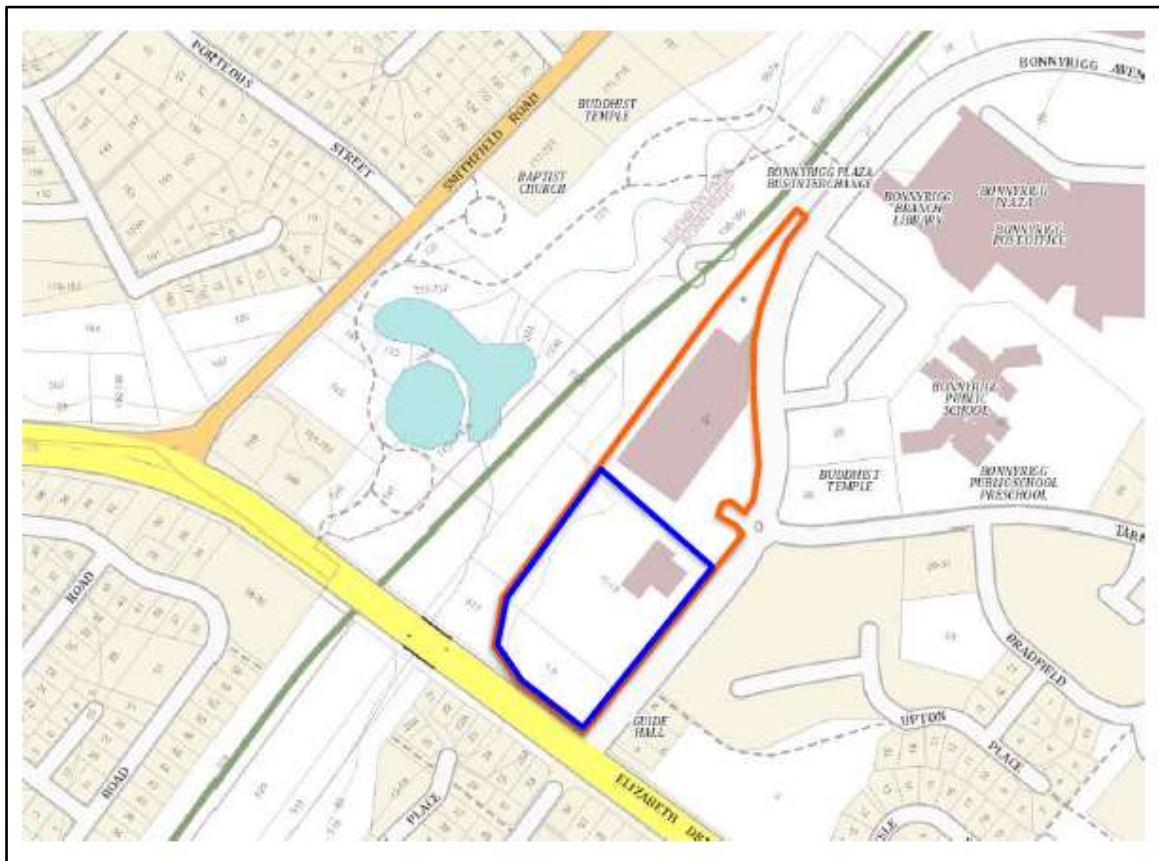
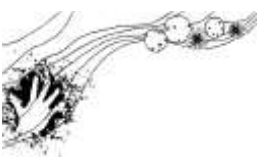
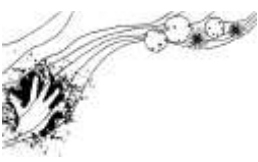


Figure 2 - The location of Lots 1-2 DP 1071647 and Clear Paddock Creek. Image source: Abel Ecology (AE 2015: 6).

1.2 The Cultural Heritage Brief

To satisfy the requirements of the Due Diligence Code of Practice the scope of this DDA will include the following:

- Searches of various Aboriginal heritage databases to identify/verify the presence and location of any registered Aboriginal sites within the study area or within close proximity, including;
 - OEH Aboriginal Heritage Information Management System (AHIMS) database.
 - Fairfield City Council heritage and environmental management plans.
- Consideration of the landscape context and land use history.
- Assessment of the significance of any identified Aboriginal items and/or places.
- Management recommendations to avoid/mitigate against any potential harm that might impact Aboriginal items and/or places.



1.3 The Objective of This Due Diligence Assessment

The aim of this DDA is to satisfy the requirements of the Fairfield City Council RFI (See Attachment 1). Specifically to assess the potential for the subject site (Lot 1-2 DP 1071647 at 19 Bonnyrigg Avenue Bonnyrigg) to retain archaeological resources given that;

- The site is close to Clear Paddock Creek and a natural drainage that feeds into it.
- The site is relatively undisturbed.
- An AHIMS database search has revealed the presence of two Aboriginal sites

2 LEGISLATIVE CONTEXT

2.1 NSW National Parks and Wildlife Act 1974

The National Parks and Wildlife Act 1974 (NSW) (the 'NPW Act') is the primary piece of legislation for the protection of Aboriginal cultural heritage in New South Wales. The Office of Environment and Heritage (OEH) administer the NPW Act. The NPW Act provides statutory protection for Aboriginal objects by making it illegal to harm Aboriginal objects and Aboriginal places, and by providing two tiers of offence against which individuals or corporations who harm Aboriginal objects or Aboriginal places can be prosecuted. The NPW Act defines Aboriginal objects and Aboriginal places:

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 declared to be an Aboriginal place under section 84.

The highest tier offences are reserved for knowledgeable harm of Aboriginal objects or knowledgeable desecration of Aboriginal places. Second tier offences are strict liability offences—that is, offences regardless of whether or not the offender knows they are harming an Aboriginal object or desecrating an Aboriginal place—against which defences may be established under the *NSW National Parks and Wildlife Regulation 2009*.

Section 87 of the NPW Act establishes defences against prosecution under s.86 (1), (2) or (4). The defences are as follows:

- An Aboriginal Heritage Impact Permit (AHIP) authorising the harm (s.87(1)).
- Exercising due diligence to establish Aboriginal objects will not be harmed (s.87(2)) due diligence may be achieved by compliance with requirements set out in the *NSW National Parks and Wildlife Regulation 2009* or a code of practice adopted or prescribed by the NPW Regulation (s.87(3))



This due diligence assessment report follows the Due Diligence Code and aims to establish whether Aboriginal objects would be harmed by the proposed wastewater route in accordance with S.87(2) of the NWP Regulation.

2.1.1 NSW National Parks and Wildlife Regulation 2009

The NPW Regulation 2009 (cl.80A) assigns the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW 2010) as one of the codes of practice that can be complied with pursuant to s.87 of the NPW Act.

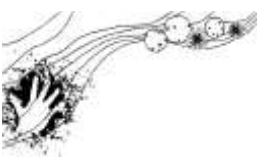
Disturbed land is defined by cl.80B (4) as "...disturbed if it has been the subject of a human activity that has changed the land's surface, being changes that remain clear and observable". Examples given in the notes to cl.80B (4) include "construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines, storm water drainage and other similar infrastructure)."

2.2 The Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales 2010

The Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales 2010 describes the process that must be followed and the actions that must be taken by a proponent, and the site conditions that must be satisfied, to show due diligence in the consideration of potential harm to Aboriginal objects. The Due Diligence Code sets out a basic framework with the following steps followed in order to make an assessment of whether or not proposed activities may impact Aboriginal objects:

1. Will the activity disturb the ground surface?
2. Search the AHIMS database and any other sources of which you are already aware.
3. Activities in areas where landscape features indicate the presence of Aboriginal objects.
4. Can the harm or the activity be avoided?
5. Desktop assessment and visual inspection.
6. Further investigations and impact assessment.

The process set out in the Code involves consideration of harm to Aboriginal objects at increasing levels of detail, with additional information incorporated at each step and used to support the decisions being made. If the proposed activities are not "low impact activities" (a defence for which is provided under the Regulation) the considerations result in a determination of whether or not:



- Further approval (an AHIP) under the NPW Act is required.
- The due diligence obligations for the protection of Aboriginal objects are discharged by the process under the Code.

3 THE ENVIRONMENT

The site including the bus depot and the grassy paddock are cleared of natural vegetation. The bus depot features several planted tree and shrub species, but is otherwise cleared of natural land features. The grassy paddock is primarily made up of *Digitaria* sp., which occupies both the maintained area and accompanies weedy species in covering the soil dump.

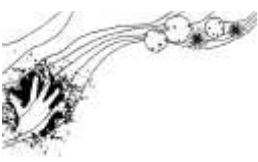
An area of regenerating Cumberland Plain Woodland (CPW) exists behind the current Bunnings premises and the bus depot. Regenerating CPW occurs on the adjacent property and does not occur on the land to be developed. It currently receives water runoff from the existing developments. Several noxious weed species occur in or near to the patch of CPW.

3.1 Landscape Context

Indicators or predictors of the potential for archaeological material to exist in an area include the condition of the natural land surface and the presence of remnant vegetation. Modification of the former and the removal of the latter will reduce the probability of archaeological material being present. What follows is a description of the current landscape context found on-site in January 2015 during flora and fauna surveys carried out by Abel Ecology. It is also of benefit to mention two features in the surrounding environment that have a bearing upon the presence/absence of archaeological material - the woodland between the subject site and the bus way, and Clear Paddock Creek.

3.1.1 Lot 1 - The Bus Depot

Lot 1 has been highly modified to accommodate the construction of the bus depot. The lot has been cleared of all original vegetation and the original land surface has been significantly disturbed or removed entirely. The natural fall of the land across the lot has been modified during earthworks in preparation for the concrete pad upon which the depot has been constructed. Both the bus depot and the Bunnings complex to the north (See Fig. 1-3) have been built on a raised concrete platform designed to provide protection from flooding events (AE 2015).



3.1.2 Lot 2 - The Vacant Block

Lot 2 has been cleared of all remnant vegetation and the original land surface has been altered/modified. A large spoil heap of what appears to be unused topsoil has been dumped across the northern half of the lot and this spoil has been overgrown by weeds and some native vegetation. Grass occurs on the southern portion of the lot and it is being maintained - mowed. All significant natural features appear to have been removed or modified, no trees are present (AE 2015).

3.1.3 The Cumberland Plain Woodland

As suggested above the presence of native vegetation can be used as an indicator of the potential for archaeological material to exist within an area of interest for development and the property to the immediate north of Lots 1-2 DP 1071647 contains a copse of native vegetation (See Fig. 3). This stand of woodland has, however, been identified as regrowth and as such is a reflection of a disturbed landscape from the past and there are indicators within the regrowth that at some time there may have been a dam present (AE 2015).

3.1.4 Clear Paddock Creek

Lots 1-2 are within 40 metres (to the south) of a riparian corridor associated with Clear Paddock Creek (See Fig. 2). Clear Paddock Creek at this location has been modified to accommodate flood mitigation works and as such the banks of the creek have been modified as part of these mitigation works. Added to this has been the construction of the bus way within 50m of the lots on Bonnyrigg Avenue, which also has significantly modified the landscape to the immediate north between Lots 1-2 and Clear Paddock Creek (Fig 3).

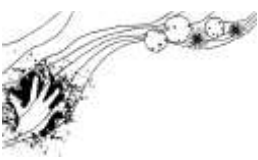
3.2 Current Land Use

Lot 1 is completely developed upon which a bus depot is currently operating. Lot 2 is a grassed paddock (vacant block) that is maintained which is bordered by a fence adjacent to the bus depot. A large soil dump is present on the lot that has been overgrown by vegetation including introduced weed species (AE 2015).

4 DATABASE AND REGISTER SEARCHES

4.1 Aboriginal Heritage Information Management System (AHIMS)

Two Aboriginal sites were located during the AHIMS search (Fig. 3) and both are listed in Table 1 (See also Attachment 3). Review of the report from which these sites were recorded indicates there was one open site of four artefacts and one isolated artefact found by the consultant in



the vicinity of Lot 2 (Mills 1998). The location of the site and the isolated find as reported by Mills was toward Smithfield Road on the south-western margin of the current dam/retention pond, not where the AHIMS site location data suggests. Figure 4 is a reproduction from the Mills report (Mills 1998: 68) of the location of Site CPC-OCS-1 (AHIMS No. 45-5-2535 and 45-5-2536) shown from her field notes. As such the location of the site and the isolated artefact has no bearing upon the impact of the proposed development at 19 Bonnyrigg Avenue.



Figure 3 - The location of the two AHIMS registered sites in relation to Lots 1-2 DP 1071647 and Clear Paddock Creek. Also included is CPC-OCS-1 where Mills recorded it. Image source: Google Earth Pro 2015.

The discrepancy in location between the original report and the AHIMS record may be the result of a location data-capture error by Mills given there is a digit missing from the northing co-ordinate recorded by the consultant. However, it may just as easily have been the result of some other data-entry error.

Table 1 - AHIMS registered sites in the general vicinity of the lots at 19 Bonnyrigg Avenue.

AHIMS Site No.	Site Name	Location (AGD94)		Description
		Easting	Northing	
45-5-2535	CPC-OCS-1	304180	6248000	Open artefact
45-5-2536	CPC-OCS-1	304180	6248000	Open artefact

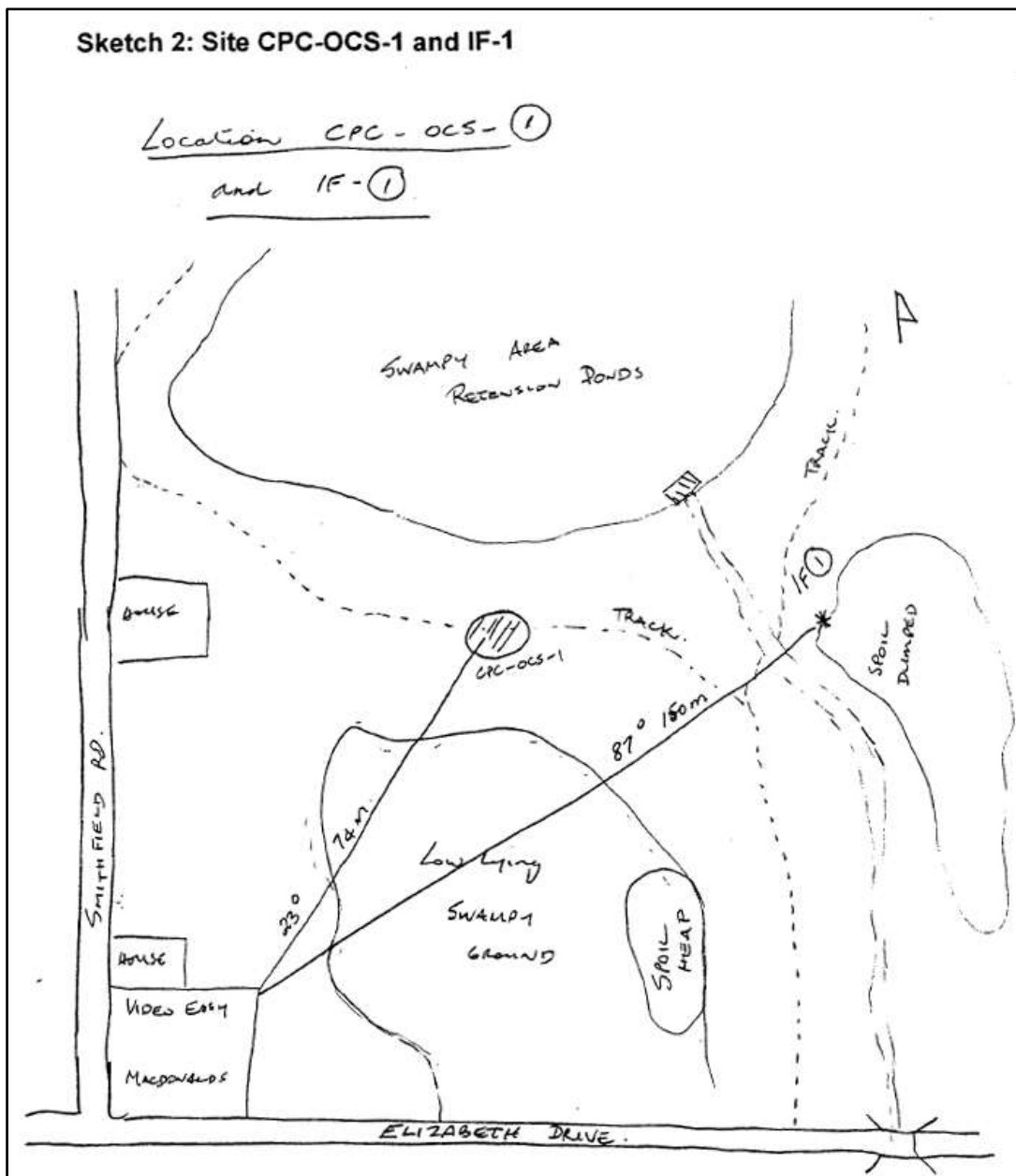
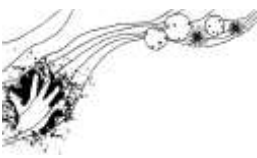
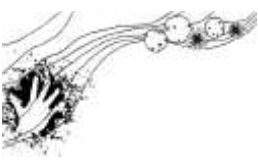


Figure 4 - The site plan from Mills' investigation showing the location of AHIMS Site No. 45-5-2535-36 (Mills' site CPC-OCS-1) and the isolated artefact she identifies as IF-1. Site map from (Mills 1998: 68).

4.2 Fairfield City Council Registers

No sites of Aboriginal importance are listed in the vicinity of the Bonnyrigg subject site, either in the *Fairfield Local Environmental Plan 1994* (Schedule 4) or the *Fairfield Local Environmental Plan 2013* (Schedule 5).



5 DUE DILIGENCE ASSESSMENT

Will the activity disturb the ground surface?

Yes. The activity will involve the construction of a car park and will require both surface clearance and excavation.

Search relevant Aboriginal sites databases (for example AHIMS) and any other sources that may provide information on Aboriginal items or places that have the potential to be impacted upon.

No Aboriginal sites are recorded within the activity area. Two Aboriginal sites were located during the AHIMS search both are listed in Table 1 and their location is illustrated in Figure 3. Review of the report from which these two sites came indicates that only one site (with four artefacts) was recorded, along with an isolated artefact 70m to the to the west (See Fig 4). The locations of the two sites are toward Smithfield Road to the east of the subject site on Bonnyrigg Avenue, alongside the retention pond at that location. No sites of Aboriginal importance are listed on the Fairfield City Council heritage register (Schedule 4) or in Schedule 5 of Council's local environmental plan.

Is the activity in an area where landscape features indicate the potential for Aboriginal items?

The activity is within 40m of Clear Paddock Creek a natural drainage line that passes to the north of the area of proposed activity and under the Code this feature is a landscape that may indicate the presence of Aboriginal objects.

However, as described in Section 6 and discussed further in Section 8 the environment within the two lots proposed for development and the landscape within the immediate vicinity display high levels of modification and as a result the potential for Aboriginal objects to be present within these environments has been substantially lowered.

Can the activity or harm be avoided?

No Aboriginal sites occur within Lots 1-2 and the potential for Aboriginal items or places to exist is zero within the lots and low in the surrounding landscape due to the level of pre-existing disturbance and landscape modification. There is as a result no requirement for the Proponent



to vary or alter the proposed development in order to avoid potential harm to Aboriginal items or places.

Carry out a desktop assessment and if required complete further investigation.

With the assistance of the Abel Ecology fauna and flora specialists a desktop assessment of the proposed development area has been possible. At the completion of the desktop assessment no visual inspection was deemed necessary.

Carry out an impact assessment of the proposed activity

No archaeological investigation beyond this desktop assessment is required prior to the commencement of the proposed development. The proposed development of Lots 1-2 DP 1071647 should proceed with caution and care not to extend in any direction beyond the boundaries of Lots 1-2.

6 CONCLUSIONS

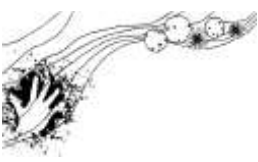
With the results of this assessment in mind it is appropriate to return to the concerns raised in the Fairfield City Council RFI document and to comment upon each in turn.

It is considered that the subject site has the potential to retain Aboriginal archaeological resources because;

- o *The site is close to Clear Paddock Creek and a natural drainage that feeds into it.*

The presence of Clear Paddock Creek only 50m to the north has not altered the fact that no Aboriginal items or places have been found on Lots 1-2 DP 1071647 (19 Bonnyrigg Avenue). Its location does, however, indicate the possibility that archaeological resources might exist in the landscape between Lots 1-2 and the creek itself. However, Clear Paddock Creek itself has (at this location) been modified in both its course and in the shape of its banks to allow for effective flood mitigation in times of flood events.

The areas of vegetation throughout the riparian corridor on the southern side of Clear Paddock Creek, across the portion of land between the bus way to the lots proposed for development indicate substantial disturbance (the bus way itself, for example) in the recent past and that although the regrowth is primarily native vegetation it is still regrowth. This regrowth indicates a period of clearing in the past, which in turn alludes to a degree of landscape disturbance that would have a deleterious impact upon any archaeological resources present at that time. Floristic indicators were also found during the fauna/flora surveys indicating a dam may have



existed in this location at some time in the past (AE 2015).

These factors indicate an environment that has been modified and disturbed through the past and into current times, with the result that the potential for there to be Aboriginal items or places present in the vicinity of the lots to be developed, is low.

- *The site is relatively undisturbed.*

The lots earmarked for development are disturbed to varying degrees; Lot 1 has been substantially disturbed to accommodate the construction of the bus depot. Whereas Lot 2 has been disturbed to a lesser degree. All vegetation has been removed from Lot 2 and further there is evidence the land surface of the lot has been 'topped-up' - filled at some previous time. The spoil heap on the northern portion of the lot is an indicator of this activity. Lot 2 is currently being maintained - another, lesser, form of disturbance.

In the surrounding environment the presence of vegetation including trees and undergrowth cannot necessarily be interpreted as an indicator of lower levels of disturbance, and the identification of the forest as regrowth (AE 2015) is evidence the area has been subject to disturbance in the historical past. The levels of that disturbance cannot be gauged without further investigation. This too reduces the potential for archaeological resources to exist within the surrounding environment despite the fact that a watercourse is present.

- *An AHIMS database search has revealed the presence of two Aboriginal sites*

Two sites were found on the AHIMS database that fall within 200 metres to the south west of 19 Bonnyrigg Avenue. Although both sites have individual AHIMS site identification numbers (45-5-2535 and 45-5-2536) they have the same site name as applied by the recorder. Both sites also have the same GPS co-ordinate location. Both are recorded as an open site/camp site containing (at least) one artefact. Review of the report from which these two sites came indicates that there was one site of four artefacts found and one isolated artefact found 70m to the west of the four (Mills 1998). The location of these two sites recorded in the original report is toward Smithfield Road 200 metres to the west of Bonnyrigg Avenue adjacent the current retention pond (See Fig. 4). Extensive modification of the landscape including the construction of the retention pond and the bus way, has occurred since the Mills report was written. The location of AHIMS Site 45-5-2535-36 and the disturbed nature of the landscape surrounding the site indicate potential for Aboriginal objects or places between Smithfield Road and Bonnyrigg Avenue to be very low.



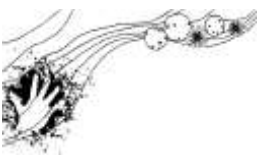
7 RECOMMENDATIONS

The proposed works within Lots 1-2 DP 1071647 at 19 Bonnyrigg Avenue, Bonnyrigg are considered unlikely to harm Aboriginal items and or places. As such it is recommended here that there is no requirement for further archaeological investigation prior to the commencement of the proposed works.

- The proposed development of Lots 1-2 should proceed.
- Despite the low probability that archaeological resources exist outside Lots 1-2, caution and care should be taken to remain within the boundaries of the lots in question.

8 REFERENCES

- AE. 2015. *Flora and fauna and bushfire assessment for corner of Bonnyrigg Avenue and Elizabeth Drive, Bonnyrigg. Lots 1&2, DP 107647*. Unpublished report to John R Brogan & Associates Pty Limited. Abel Ecology Pty. Limited: Springwood, New South Wales.
- DECCW. 2010. *Due diligence code of practice for the protection of Aboriginal objects in New South Wales*. Department of Environment, Climate Change and Water, New South Wales: Sydney.
- Mills, R. 1998. *A heritage study of the proposed RTA Busway fro North Liverpool Road to Edensor Road, Bonnyrigg*. Unpublished report prepared for the NSW Roads and Traffic Authority, Blacktown. Archaeological and Heritage Services: Newton, New South Wales.



- ATTACHMENT 1 -

Fairfield City Council - Letter of Request



Fairfield City Council, Administration Centre, 86 Avoca Road, Wakeley 2176
Tel: (02) 9725 0222 Fax: (02) 9725 4249 ABN: 83 140 439 239
All communications to:
Fairfield City Council, PO Box 21, Fairfield NSW 1860
Email address: mail@fairfieldcity.nsw.gov.au

In reply please quote: 71.1 / 2015

Contact: Mr Liam Hawke on 9725 0274

15 May 2015

Bunnings Properties Pty Ltd
11 Shirely Street
ROSEHILL NSW 2142

Attention: Phillip Drew

Dear Sir,

**RE: Lot: 1 & 2 DP: 1071646 No. 1 – 19 Bonnyrigg Avenue BONNYRIGG
DEVELOPMENT APPLICATION NO.: 71.1 / 2015**

I refer to the abovementioned Development Application proposing the staged redevelopment of the site for the purpose of a Bunnings Warehouse.

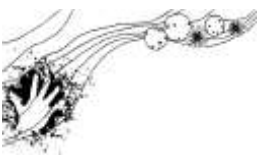
Please be advised that insufficient information has been submitted with the application and the following details are required to be submitted to enable Council to assess the proposal.

**1. Inconsistent with the Objectives of the Bonnyrigg Town Centre
DCP 28**

The site is currently zoned 4(c) Special Industrial under Fairfield LEP 1994 which seeks to encourage the establishment of a broad range of light industrial and warehouse activities and a limited range of business and retail activities compatible with nearby residential areas. Clause 25H Bonnyrigg Town Centre also applies to the site which permits a mix of integrated land uses and activities that support the retail, commercial, cultural and social vitality of the Town Centre. Commercial/retail premises and residential flat buildings are permitted under this clause.

The Bonnyrigg Town Centre DCP sets out detailed planning controls for the Bonnyrigg Town Centre underpinning the provisions of Clause 25H contained in Fairfield LEP 1994. In relation to the subject site key planning principles and controls are:

- The site is located on gateway position to the Town Centre and edge fronting a major road (Elizabeth Drive)
- Maximum height for mixed use development on the site ranges from 2-6 storeys.
- Under s.5.1.4 of the DCP – Site Development Principles - Controls Diagrams the site is located in Precinct 4. The precinct plan includes desired footprints and building mass for future mixed use development

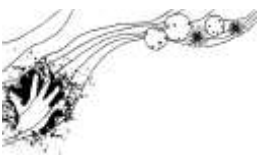


on the site. The plan seeks a strong built line to Elizabeth Drive and Bonnyrigg Avenue which includes an active frontage. Residential flat buildings are located behind this and a large communal open space located along the western boundary. Roads are located through the site in order to provide access and views/vistas to the communal open space.

Despite the additional uses provided under Clause 25H of the LEP, the proposal is limited to a large footprint hardware store and nursery, which is not considered to be consistent with the provisions of the DCP. Pursuant to Clause 25H (10) the site master plan must demonstrate how the design and configuration of the proposed development achieves consistency with the objectives of the Clause. Essentially the proposal will result in two (2) large bulky goods retail activities in the locality. Council raises concern that the cumulative impacts of another large bulky goods premises would detract and impact the vision set out in Clause 25H of the LEP and DCP. Based on the information submitted, Council is unable to determine how the vision of the town centre will occur if the site were developed for the purpose of a large bulky goods store with a bulky goods store already within the locality. Accordingly, the applicant is requested to provide further documentation of how the proposal and with reference to the adjoining bulky goods premises can satisfy the objectives and controls within the LEP and DCP.

In addition to the above, Council also raises concern that the design of the proposal may not have addressed the objectives of the LEP and DCP. It is requested that further clarification/justification be provided in regards to the following matters:

- The subject site is identified as a gateway into Bonnyrigg Town Centre. Further documentation is requested to indicate that the proposed built form is consistent with setbacks and height limits indicated within the precinct 4 plan (with particular reference to the Elizabeth Drive setbacks and height limits). It is requested that the submitted documentation provide an overlay of the precinct plan in order to accurately determine if the proposal complies with height and setback controls of the DCP. Pursuant to Clause 25H (5) of the LEP the proposal is required to comply with the height controls detailed in section 5.1.4 of the Town Centre DCP. It is considered that there is insufficient information available in order to determine if the proposal meets the height controls. Furthermore, pursuant to subclause (6) of Clause 25H, a SEPP 1 Objective may be lodged if it is considered that compliance with the control is unnecessary and unreasonable in the circumstance. It is also requested that documentation include a photomontage of the Elizabeth Street frontage as part of the any submission of additional/amended information;
- Under the DCP and LEP, the subject site is to be adjoined by parklands and commercial/residential development along the northern and western boundaries. Based on the submitted elevation plans, it appears that the proposal would not provide an appropriate interface along these boundaries. Accordingly, further consideration shall be



given to the western and northern elevations. Landscaping around the building is considered critical. Particularly, it appears that the raised driveway may cause potential acoustic/privacy concerns to future residential development on the adjoining site; and

- Site development principles require the built form to be broken up in order to create vistas and pedestrian links to the park adjacent to the site. The applicant shall provide justification that the proposal will satisfy these development principles.

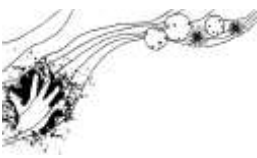
2. Access to Elizabeth Drive

The application seeks egress for delivery vehicles onto Elizabeth Drive which is an arterial road owned and operated by RMS. It does not appear that the proposed vehicle crossing is located wholly within the road reserve but in fact is partially located within an adjoining lot. It is understood that the proposed driveway seeks to cross a section of Lot 455 DP 81754 which is also owned by RMS in order to gain access to Elizabeth Drive. The application was referred to RMS who advised that the proposal utilises land which is earmarked for future road purposes. Please find attached a copy of the letter and their comments. It appears that RMS do not support this and consequently requested that the application be amended so that access is only from Bonnyrigg Avenue. It is also noted that the applicant can request RMS to review the land requirements for future road purposes in this area, however this review process may take up to 12 months to complete. It is noted that Lot 2 is also subject to an existing restriction on use which does not permit vehicle access to or from Elizabeth Drive.

Given the above, it is noted that there is a large impervious area along the Elizabeth Drive frontage in order to cater for delivery vehicles accessing the road. Given the comments raised by RMS, it is requested that this area be incorporated with significant landscaping. It is noted that Bonnyrigg Town centre DCP requires that a minimum of 5 metres of landscaping be provided along Lot 2 facing Elisabeth Drive.

3. Potential Traffic Impact

The application has been referred to Council's Traffic Section who has raised concern regarding the close proximity of the proposed roundabout to the existing round about on Bonnyrigg Avenue. Concerns are also raised regarding the impact of the proposed roundabout to the existing operation of Bonnyrigg Avenue/Elizabeth Drive. The applicant shall submit SIDRA files used to model the intersections for review. The performance of the proposed roundabout at the driveway entry is to be assessed taking into consideration the impact of the existing signalised intersection at Bonnyrigg Avenue/Elizabeth Drive and the existing roundabout at Tarlington Parade/Bonnyrigg Avenue. Please be advised that if the application cannot demonstrate that the proposal will not result in an unacceptable impact to the local road system then the applicant may need to considered alternatives arrangements such as access onto the adjoining properties but not including access onto Elizabeth Drive.



Furthermore, given RMS comments the submitted traffic report will need to be amended in order to incorporate delivery trucks into their assessment of the potential traffic impact to Bonnyrigg Avenue.

4. Flooding

The site is located within a part low and part no flood risk precinct as a result of mainstream flooding and also may be affected by local overland flooding which has not yet been risk mapped by Council. A Flood Impact Assessment has been submitted however it does not address the overland flooding that may affect the site. Accordingly the applicant shall address the following matters raised by Council's engineers:

1. A copy of the flood information sheets, obtainable via the Section 149 (2) & (5) Planning Certificate process, for all lots in the development shall be submitted to Council.
2. Council's records indicate that the sites may be subject to local overland flooding which has not yet been risk mapped by Council. In this regard, a flood study prepared by a suitably qualified civil engineer, competent in flood analysis, to determine the extent, depth and velocity of any overland flow affecting the site shall be submitted to Council.
3. Following the flood study, a revision of the flood risk management may be required and any revisions shall be submitted to Council together with the flood study.

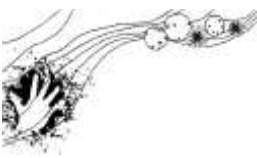
5. Stormwater Drainage

The submitted stormwater plan is not considered sufficient and an amended plan is required that addresses the following:

- a) Location, extent and width of the existing easement and whether or not the lots in which the development is located are benefitted to drain,
- b) Details of the receiving stormwater system, i.e. size, depth and grade of the pipe within the easement and outlet, together with calculations demonstrating that there is sufficient capacity to convey flows from the site and existing catchment and/or details of any upgrades required,
- c) Whether or not the outlet will be affected by backwater from the adjoining creek, the base level of the OSD tank may need to be raised to address backwater affectation,
- d) Demonstrate that overflows of the piped system are able to drain into the OSD tank by overland flow routes including details of the roof drainage system and downpipe/rainhead locations,
- e) Kerb inlet pit in Elizabeth Drive to be relocated outside of the proposed vehicular crossing location or as required by RMS (subject to RMS instructions).

6. Contamination

A review of the site's history identified that the existing bus depot was subject to a soil contamination investigation and associated remedial works in 2001 –



02. The remedial works involved stockpiling excavated petroleum impacted soil on Lot 2 for land farming treatment. The applicant has submitted a Stage 1 Preliminary Site Assessment in relation to potential contamination. The Stage 1 Assessment undertook sampling of the site which revealed that the existing contaminants can be satisfactorily dealt with subject to recommendations, including the submission of a Stage 2 Detailed Site Investigation Report. The applicant is advised that any approval would be subject to a deferred commencement condition in order that a Stage 2 Report be prepared and submitted to Council for review.

7. Signage

The proposal includes the installation of 2 pylon signs, one on each frontage which is 12m high and 4.8m wide. Pursuant to Appendix C – Advice for designing Advertising Signs of Fairfield City – Wide Development Control Plan 2013, restricts a pylon sign to a maximum of 8 metres high and 2.5 metres wide. The applicant shall give consideration into reducing the size of the proposed pylon signs in accordance with Council's 2013 DCP.

In addition, the applicant shall address Clause 19 of State Environmental Planning Policy No 64—Advertising and Signage. It appears that the proposed wall signs may trigger this control and accordingly it may be more appropriate to reduce the size of the signage.

8. Miscellaneous

The following matters are required to be addressed:

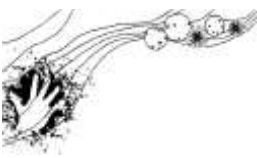
- Spot levels of the NGL shall be indicated on the elevation and site plan in order to accurately determine the building height; and
- A Truck path assessment for delivery vehicles (19m articulated vehicles) to be submitted given that this proposed access arrangements are required to be amended to address RMS comments.
- The submitted statement indicates that the proposal will have a café located within the store however there are no details providing the fitout of the food premises. It is requested that if the applicant seeks to sell food to the public, details of the food preparation areas are required to be provided to ensure that the proposal complies with AS 4674—2004 *Construction and fit-out of food premises*.

9. Outstanding Fee

Please be advised that there is an additional fee for Integrated Development that was not charged when the application was submitted. Can you please settle as soon as possible \$280.00 for the outstanding fee.

10. Aboriginal Archaeology and Potential Impact to nearby Heritage items

It is considered that the subject site has the potential to retain Aboriginal



archaeological resources because:

- the site is close to Clear Paddock Creek and to a natural drainage line which feeds into the creek;
- the site is relatively undisturbed; and,
- a search of the AHIMS database has revealed the presence of Aboriginal two Aboriginal sites

Accordingly, a due diligence* assessment shall be undertaken in accordance with the Due Diligence Code of Practice (2010) prepared by the Department of Environment, Climate Change and Water NSW in order to determine if an Aboriginal Heritage Impact Assessment (AHIP) is required.

Furthermore, the proposal has the potential to adversely affect the visual setting of Wat Phrayortkeo Dhammayanaram as a large industrial type wall will face onto the parkland. It is recommended that the wall of the warehouse be screened with tall plantings in order to address this matter.

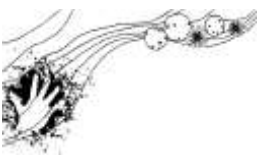
Conclusion

Whilst Council generally supports the re-development of the subject site, it is envisaged under the Bonnyrigg Town Centre DCP 28 that the site would be developed for a high density mixed residential/commercial development. The proposal provides a different building typology and accordingly conflicts with the principles set out in the DCP. In the event that the application wishes to pursue this form of development then the applicant shall amend the proposal and demonstrate how the proposal will fit into the context of the town centre envisaged in the DCP and how it will not impact this vision. In addition to the above, RMS has indicated that the proposal is required to be amended in order that all access is from Bonnyrigg Avenue and not onto Elizabeth Drive.

On this basis, it is considered necessary that further consideration be given to the overall proposed development and amended plans be submitted to Council which addresses the principle issues of concern. Failing which Council is in no position to support the application as submitted.

Please be advised that Council is awaiting comments from Council's Place Manger regarding the application. If comments are received they will be forwarded to you. Furthermore, please be advised that during the formal assessment of your application, Council may again require either additional information or clarification of that information already submitted. Please note that the request for the submission of the above details is made without prejudice to any decision the Council may reach in the future on this matter, and nothing contained in this letter should be interpreted as implying that consent will be granted.

Until such time as the above information is submitted, you are advised that Council is unable to give further consideration to the application. In this regard you are requested to submit the required details within twenty one (21) days from the date shown hereon; failing which Council will have no option other



than a recommendation for refusal of the application.

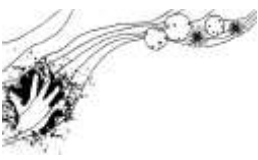
To ensure the efficient assessment of your application and to enable Council to meet the requirements of the Government Information (Public Access) Act, 2009, (GIPA), Council requires that subsequent incoming documentation / amended plans - in addition to the hard copies - is to be submitted in digital format from 3 January 2012.

For any further information regarding the above matter, please contact Mr Liam Hawke via email on lhawke@fairfieldcity.nsw.gov.au or telephone 9725 0274 at Council's City and Community Development Group.

Yours faithfully,

Mr Liam Hawke

SENIOR DEVELOPMENT PLANNER



- ATTACHMENT 2 -

Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales 2010. Section 7 (7.5) [4] e,f,h, 7-8.

7 Do you need to use this due diligence code?

7.5 Is the activity a low impact activity for which there is a defence in the Regulation?

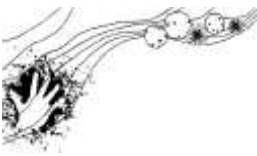
The NPW Regulation removes the need to follow the due diligence process if you are carrying out a specifically defined low impact activity. As a result you are not required to follow this code or any other due diligence process if your activity is listed below. It is important to note that this defence does not apply to situations where you already know there is an Aboriginal object. This defence does not authorise harm to known Aboriginal objects.

- 4) *For the purposes of this clause, land is disturbed if it has been the subject of human activity that has changed the land's surface, being changes that remain clear and observable.*

Examples of activities that may have disturbed land include the following:

- e) construction of buildings and the erection of other structures,*
- f) construction or installation of utilities and other similar services...,*

- h) construction of earthworks associated with anything referred to in paragraphs (a)-(g)*



- ATTACHMENT 3 -


The results of the AHIMS Database Site Search

Report generated by AHIMS Web Service on 22/05/2015 for Graham Knuckey for the following area at Lot: 1, DP DP1071647 with a Buffer of 200 meters. Additional Info: To assess the Ch potential of a highly modified lot in Liverpool. Number of Aboriginal sites and Aboriginal objects found is 2

This information is not guaranteed to be free from error or omission. Office of Environment and Heritage (NSW) and its employees disclaim liability for any act done or omission made on the information and consequences of such acts or omission.

Page 1 of 1

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
45-5-2535	CPC-0CS-1	AGD	56	304180	6248000	Open site	Valid	Artefact: -	Permits	
Records										
Mrs Robynne Mills										
45-5-2536	CPC-0CS-1	AGD	56	304180	6248000	Open site	Valid	Artefact: -	Permits	Open Camp Site
Records										
ASRSYS										



Extensive search - Site list report

AHIMS Web Services (AWS)

Purchase Order/Reference : Bommyng

Client Service ID : 174190