

Our Ref: 21352_R01_Crescent_Purdy_20210427 ltr

27 April 2021

Mark Purdy
Development Manager



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Dear Mark

Re: Aboriginal Due Diligence Assessment for proposed residential development of 11-17 Mosbri Crescent, The Hill (Lot 1, DP 204077)

Umwelt Environmental & Social Consultants (Umwelt) have been engaged by Crescent Newcastle Pty Ltd (the proponent) to prepare an Aboriginal due diligence assessment (considering both archaeological and cultural value) for proposed residential redevelopment works at 11-17 Mosbri Crescent, The Hill (Lot 1, DP 204077). The project area is shown in **Figure 1** in red.

The proposed development will comprise residential accommodation and interconnected parking as well as associated landscaping and pedestrian access pathways. This will require ground surface disturbance across much of the project area with substantial excavation works required to establish below ground parking in some areas.

The site is the location of the former NBN building and has been subject to considerable disturbance as a result of past land use. It is understood that preliminary consideration of Aboriginal cultural heritage was documented in the re-zoning application of the project. Correspondence from the Office of Environment and Heritage (OEH – now Heritage NSW) dated 12 April 2019 (received as part of the development application process) raised some concerns regarding potential impacts to Aboriginal cultural heritage, particularly in relation to the Aboriginal cultural values documented in the State Heritage Register (SHR) nomination for the adjacent Newcastle Recreation Reserve. As a result, OEH (now Heritage NSW) recommended that an additional assessment of potential impacts to Aboriginal cultural heritage be completed. This assessment of potential impacts to Aboriginal cultural heritage has been undertaken in consultation with Aboriginal parties as part of an Aboriginal due diligence assessment.

This due diligence assessment has been prepared in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010)*.

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1.0 Proposed Activity

The proposed works within the project area involve:

- Demolition of all existing structures;
- Earthworks, including mine grouting;
- Construction of new residential accommodation comprising 172 dwellings, being:
 - Eleven (11) two storey townhouse style dwellings fronting Mosbri Crescent, located above a basement car park containing 34 visitor spaces and 11 resident spaces;
 - Three (3) residential flat buildings (Building A, B, and C) containing 161 dwellings, ranging from one to three bedrooms; being
 - Building A including a nine (9) storey east wing and six (6) storey west wing;
 - Building B comprising seven (7) storeys and a roof top communal open space, with (9) town house style dwellings facing the internal courtyard;
 - Building C comprising five (5) levels;
 - Interconnected car parking for Building A, B & C located on the ground floor and first level, containing 1 visitor space and 196 resident spaces;
 - Pedestrian path, providing connection from Mosbri Crescent to Kitchener Parade;
 - Associated landscaping, communal open space, services and site infrastructure; and
 - Strata subdivision (172 lots).

Plate 1.1 shows the proposed plans within the project area.



Plate 1.1 Proposed development details of the project area



FIGURE 1
Project Area

2.0 Legislative and Regulatory Context

Heritage NSW is primarily responsible for regulating the management of Aboriginal cultural heritage in New South Wales under the *National Parks and Wildlife Act 1974* (NPW Act). Supporting the NPW Act is the National Parks and Wildlife Regulation 2019 (the Regulation) and other codes of practice and guidelines including the due diligence code.

The NPW Act defines an Aboriginal object as:

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

In accordance with Section 86(1) of the NPW Act, it is an offence to harm or desecrate a known Aboriginal object, whilst it is also an offence to harm an Aboriginal object under Section 86(2). Harm is defined as any act or omission that:

- a) destroys, defaces or damages an object or place, or
- b) in relation to an object – moves the object from the land on which it had been situated, or
- c) is specified by the regulations, or
- d) causes or permits the object or place to be harmed in a manner referred to in paragraph (a), (b) or (c),

but does not include any act or omission that:

- e) desecrates the object or place (noting that desecration constitutes an offence separate to harm), or
- f) is trivial or negligible, or
- g) is excluded from this definition by the regulations.

Section 87(1) of the NPW Act specifies that it is a defence to prosecution under Section 86(1) and Section 86(2) if the harm or desecration of an Aboriginal object was authorised by an Aboriginal Heritage Impact Permit (AHIP) and the activities were carried out in accordance with that AHIP.

Section 87(2,4) establishes that it is a defence to prosecution under Section 86(2) (the strict liability offence) if due diligence was exercised to reasonably determine that the activity or omission would not result in harm to an Aboriginal object or if the activity or omission constituting the offence is a low impact act or omission (in accordance with Section 80B of the Regulation). The Regulation identifies that compliance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* is taken to constitute due diligence in determining whether a proposed activity will harm an Aboriginal object.

3.0 Consultation with Aboriginal Parties

The project area is situated within the boundary of the Awabakal Local Aboriginal Land Council (LALC), and within the boundary of the withdrawn native title claim of the Awabakal and Guringai People's.

Consultation with relevant Aboriginal parties is a key component in identifying and documenting Aboriginal cultural values as well as determining and carrying out appropriate strategies to mitigate impacts to Aboriginal heritage.

The Awabakal LALC and members of the withdrawn native title claim, Awabakal Descendants Traditional Owners Aboriginal Corporation (ADTOAC) and Awabakal Traditional Owners Aboriginal Corporation (ATOAC) were invited to participate in site inspection of the project area and provide their comment on the due diligence assessment to better understand the impact of the proposed development to any cultural heritage values associated with the project area. The draft report was provided to the Aboriginal parties on 5 July 2019 with a request for comment to be provided by 19 July 2019. No comments were received.

4.0 Environmental Context

The decisions that people make regarding such things as where they live, the range of resources they use, and other aspects of daily life may be influenced by the environment in which they live. The preservation and visibility of sites is also affected by environmental factors such as vegetation cover, past land-use and disturbance.

A review of the environmental context of the project area is therefore integral to considerations of the Aboriginal archaeological material likely to be located in the project area and its integrity.

4.1 Hydrology

The project area is located within a landscape that meant water and similar resources were available for Aboriginal people within easy walking distance. Proximity to the Hunter River and Cottage Creek would have provided ready access for Aboriginal people to a broad range of estuarine resources, with coastal resources also available to the south. Within this resource rich area, one of the key considerations in relation to long-term occupation by Aboriginal people would have been the availability of suitable drinking water. A freshwater spring is understood to have been situated near what is now the corner of Wolfe and King Streets, near which a residence called 'Mulimbah' was built in the early 1830s (Umwelt 2006:9). According to Barney (1997:20), this was an Aboriginal word for 'sweet water', and the spring continued to be utilised by Aboriginal people following European settlement and the establishment of the residence. Umwelt (2010) also noted that fresh water springs in the vicinity of Watt Street influenced the siting of the Newcastle penal settlement, and that a series of wells were excavated throughout the Newcastle settlement to take advantage of this supply, which was replenished by water flowing from higher ground. While there are no clearly documented water sources within the project area, drinking water is likely to have been available within the surrounding area.

4.2 Geology and Soils

The project area falls within the Killingworth Soil Landscape, as shown in **Figure 3**. This is an erosional landscape that is characterised by undulating to rolling hills and low hills on the boundary between late Permian aged Lambton subgroup and Adamstown subgroup of the Newcastle Coal Measures. These subgroups comprise sandstone, siltstone, claystone and tuff. Within this formation, fine grained raw materials suitable for the manufacture of stone artefacts are present including the tuff commonly referred to as Nobbys tuff that occurs in exposed bedrock deposits along the coastline in the immediate vicinity of the Project area. Elevation is generally 50-160 m, with the local relief typically 30-100 m and slopes 3-20%. Topsoils upon this soil landscape are susceptible to high water erosion.

The soil profile of this landscape in proximity to drainage lines is generally characterised as brownish black pedal loam topsoil (A₁, <20 cm) on crests and some lower slopes, with a bleached hardsetting loamy sand to sandy clay loam (A₂, <60 cm) overlying a pedal yellowish brown clay (B2 horizon). The topsoils found in this area are generally high erodible, leading to exposures of the hardsetting A₂ horizon.

It is noted that topsoil layers within a soil profile are most likely to contain artefactual material and/or cultural deposits. Subsoil layers (B or C horizons), particularly those characterised by a high clay content, have less potential to be artefact bearing due to their physical density; that is, the vertical movement of artefactual material into subsoil layers is prohibited by the inherent compactness of these soils. It is rare for these types of soil to contain deep, stratified deposits or old archaeological deposits.

4.3 Flora and Fauna

The project area has been almost completely cleared of original vegetation. The vegetation in the project would have originally comprised open-forest, with some open woodland. Generally, this clearance of vegetation is associated with erosion of the topsoil. Where remnant forest or open woodland remains, there is potential for older growth trees and associated cultural scarring.

Dominant species found in the Killingworth soil landscape are *Eucalyptus maculata* (spotted gum), *E. eugenioides* (thin-leaved stringybark), *E. umbra* (bastard mahogany), *E. fibrosa* (broad-leaved ironbark) and *E. paniculata* (grey ironbark).

Species known to have been present in the area have been recorded as having been used by Aboriginal people for various purposes including food, medicine and raw materials in the past. It is likely that a range of other plant resources in the local area were utilised by Aboriginal people, including bark removed from mature trees, which leaves archaeological evidence. The native vegetation community would have also supported a range of mammal, reptile and bird species that provided food and other resources for Aboriginal people.

4.4 Disturbance

The project area has been subject to ongoing disturbance of varying extents since European occupation of the area. Particularly, vegetation clearance and landscape modification to facilitate the early use of the project area for mining, as well as residential and later commercial development of the NBN Television building, has resulted in disturbance across both the project area and the surrounding landscape. In addition to this, the project area has also been disturbed through the establishment, maintenance and ongoing use of carparks and driveways, large scale excavation for lower level/basement construction, the installation of services, and the installation of infrastructure elements more generally (including landscaping, fencing, outdoor light posts and similar).

A contamination assessment prepared by Coffey Services Australia (Coffey 2019) for the project area undertook an assessment of historical aerial photography, identifying that as late as 1954 the project area had not been subject to significant impacts through urban development. This 1954 aerial does suggest that all remnant vegetation within the project area was cleared, and any vegetation present today has been planted later as part of revegetation efforts. Somewhere between this time and 1966, the original building present upon the project area and Mosbri Crescent were formalised.

5.0 Archaeological and Cultural Context

A search of the Aboriginal Heritage Information Management System (AHIMS) register was undertaken on 15 June 2018 (Client ID: 427883). This updated search encompassed a 4 km x 4 km area, centred on the project area. The extensive search report is attached at **Appendix 1** and the location of recorded sites is shown in **Figure 2**. The relative frequency of site types within the search area is outlined in **Table 1**.

As shown in the below table, artefact sites are the most common site type recorded, followed by PADs. Collectively, these site types account for approximately 81 per cent of all recorded sites in the search area. Aboriginal Ceremony and Dreaming sites (discussed further in **Section 5.1**) and shell deposits are both also identified within the search area. Shell deposits are limited to areas closer to the shoreline, where shell midden sites are most likely to occur.

Table 1 Relative Frequency of Site Types In The Search Area

Site Type	Frequency	Percentage
Aboriginal Ceremony and Dreaming	2	5.41%
Artefact	21	56.76%
Artefact, Shell	2	5.41%
Artefact, Shell, PAD	1	2.70%
PAD	9	24.32%
Restricted	1	2.70%
Shell, PAD	1	2.70%
Total	37	

No registered Aboriginal sites are recorded within 200 m of the project area. The nearest site to the project area is AHIMS #38-4-0525 (Catholic Education Site). The site is described as an artefact scatter located upon a previously disturbed landform with limited remnant topsoil present, primarily due to landscaping and historical disturbance. This site is located upon the same soil landscape as the project area. The search area also identified a restricted site within the project area, AHIMS #38-4-1205. Correspondence from the AHIMS Registrar on 24 June 2019 (see **Appendix 2**) has indicated that this site is not located within the curtilage of the project area, and will not be impacted by the proposed works.

5.1 Aboriginal Cultural Context

As identified through the Aboriginal archaeological context, the project area is located within the landscape which holds great significance to Aboriginal people. Three items considered as part of the State Heritage listing nomination for the 'Newcastle Recreation Reserve', including King Edward Park and associated parkland areas, are described as having special significance to Aboriginal people and are located in close proximity to the project area.

The nomination of the Newcastle Recreation Reserve for State Heritage listing (Coal River Working Party 2012) references the significance to the Awabakal people of an area known as Yi-ran-na-li. The Yi-ran-na-li is the cliff extending from King Edward Park Headland Reserve to a line east of the southern side of Church Street at its intersection with Watt Street, adjacent to South Newcastle Beach, is considered to have great significance to Awabakal and Worimi people. Its traditional name was first recorded by Revered Lancelot Threlkeld following a conversation with Biraban (also known as Eaglehawk or John McGill), a leader and revered figure of the Awabakal people. Threlkeld noted that Yi-ran-na-li was a sacred place at which speech was thought to cause stones to fall from the unstable cliff above. When Biraban (accompanied by other Awabakal people) conducted Threlkeld to the spot below the cliff, Threlkeld called out to him, whereupon some small stones did indeed fall upon Threlkeld. The Awabakal at once motioned Threlkeld to be silent and hurry on. The State Heritage listing nomination indicates that Yi-ran-na-li is considered to have potential State heritage significance due to its special association with Biraban and Threlkeld.

The Aboriginal ceremony and dreaming site of this name has a registered coordinate located approximately 500 metres to the west of the study area along Watt Street. Threlkeld (in Gunson 1974:65) recorded the following account of *Yi-ran-na-li*:

'There is a sort of sacred place near Newcastle on the sea-beach, beneath a high cliff, named Yi-ran-na-li, where, it is said, that if any person speak, the stones will fall down upon them, from the high arched rocks above, the crumbling state of which is such as to render it extremely probable, that the mere concussion of air from the voice would cause the effect to take place. I was once walking beneath the projecting rock and called loudly to M'Gill, who with other blacks, were with me, he instantly beckoned me to be silent, at which I wondered, a few small stones fell down from the crumbling overshadowing cliff at that moment, and they urged me on. When we had passed out of the precincts of the fearful place, I asked what they meant by commanding my silence, and pushing on so quickly, without speaking? This elicited the tradition of the place as being a very fearful one, for if anyone speak whilst passing beneath the overhanging rocks, stones would invariably fall as we had just witnessed.'

Associated with the *Yi-ran-na-li* is *Khanterin*, generally known as South Shepherds Hill, the highest point on Shepherds Hill.

Nearest to the project area is The Obelisk Hill, which Coal River Working Party (2012) identify may have been a duelling and corroboree place. In November 1801, two Awabakal men are said to have fought with nulla nullas (or waddys/hunting stick, an Aboriginal war club). This fight was observed by Aboriginal people summoned with message sticks, as well as by curious British servicemen (Huntington, 1897). Similarly, a panorama of Newcastle shows Awabakal people at a corroboree just south east of the present site of The Obelisk, where daylight battles between the Awabakal people and other nearby groups are known to have occurred (Hunter, 1997).

These three sites form part of a site complex that help to tell the story of Aboriginal people of the area. The cultural significance, value and physical extent of a ceremony and dreaming site can only be determined through consultation with relevant Aboriginal parties.



Legend

- Project Area
- Aboriginal Ceremony and Dreaming
- Artefact
- Artefact, Shell
- Artefact, Shell, PAD
- PAD

Image Source: Nearmap (2019) Data source: DFSI (2017)

FIGURE 2
Project Area



Legend

- Project Area
- Aboriginal Ceremony and Dreaming
- Artefact
- Artefact, Shell
- Artefact, Shell, PAD
- PAD
- Disturbed Terrain
- Hamilton
- Hamilton variant a
- Killingworth
- Stockton Beach
- Water

Image Source: Nearmap (2019) Data source: DFSI (2017)

FIGURE 3
AHIMS Results and
Soil Landscapes

6.0 Preliminary Assessment of Aboriginal Archaeological Potential

Based on the information included in the previous sections, it is clear that the project area is located in a broader landscape that would have been well resourced and attractive to Aboriginal people. The presence of significant resources such as the Hunter River, Cottage Creek and coastal waters would have encouraged Aboriginal people to move through the area in the past, particularly for the purpose of resource procurement. The distribution and nature of previously recorded Aboriginal sites in the area supports this, with a large number of sites registered in the sand dune system associated with the Hunter River. With regard to the landform that the project area falls upon, previous sites have been limited to surface artefact scatters identified within disturbed or heavily eroded contexts.

However, it is noted that the extent of both surface and sub-surface disturbance that has occurred within the proposed works areas is likely to have removed and/or disturbed any artefact scatters that may be present. Disturbances that are likely to have impacted the project area and proposed works areas it contains over time include the establishment, maintenance and ongoing use carparks and driveways, large scale excavation for lower level/basement construction, the installation of services, and the installation of infrastructure elements more generally (including landscaping, fencing, outdoor light posts and similar).

The potential for as yet unidentified sites to be identified within the proposed works areas shown in **Figure 1** is assessed as low to moderate, given the archaeological potential of landforms located within the project area. If as yet unidentified Aboriginal archaeological material is present within the project area, it is anticipated, based on the archaeological context presented above, to comprise low-moderate density artefact scatters within relatively disturbed or highly eroded contexts.

The cultural values associated with the Newcastle Recreation Reserve are documented and demonstrate the importance of the general area to Aboriginal people, as a place to live and camp but also for other reasons related to ceremony and spiritual beliefs.

7.0 Due Diligence Inspection

A site inspection of the project area was undertaken on 11 June 2019 by Ashley O'Sullivan (Senior Archaeologist – Umwelt), Mark Purdy (Crescent Newcastle) and representatives from the following Registered Aboriginal Parties:

- Peter Townsend – Awabakal LALC
- Peter Leven - Awabakal Descendants Traditional Owners Aboriginal Corporation (ADTOAC)
- Kyle Howie - Awabakal Traditional Owners Aboriginal Corporation (ATOAC).

The project area was inspected for Aboriginal sites, places and objects, or the potential for them to occur. As described above, the project area has been subject to significant identified disturbance through the construction and maintenance of the NBN Television building. Site inspection focused on the identification of areas where the original Killingworth soil profile may remain.

7.1 Results of the Site Inspection

Generally, the project area is located on a moderately steep downslope, subject to significant modern disturbance through urban development. The visual inspection confirmed that the project area has been subject to significant modification of the original landscape, with areas levelled for the NBN Television building, carparks and driveways, footpaths. A number of service lines and irrigation were also observed throughout the project area. Given the shallow nature of the Killingworth Soil Landscape, areas that have been subject to this disturbance are unlikely to contain remnant A

horizon topsoil, and as such were not considered to form part of any archaeological landform of interest within the project area (**Plate 7.1 – 7.3**).

During the inspection, identification of remnant Killingworth landscape was limited to a small portion of the very northern end of the property and the south eastern corner of the property (see **Figure 4**). Visibility within the areas identified as potentially forming part of the original landscape was generally poor (<10%) with vegetation and leaf litter covering much of the area.

The area along the south eastern boundary of the project area adjoins with the neighbouring Arcadia Park (**Plate 7.4**), an area that is subject to a number of community or local council driven conservation initiatives. The landscape rises steeply towards a crest within Arcadia Park, with a natural drainage line (non-perennial) observed running directly into the project area. It is likely that this drainage line continued further into the project area, but this landform has since been removed due to levelling for driveways and the building. While not many exposures were visible in this area, those present identified that much of the topsoil had eroded within this area. This is likely as a result of water movement from the natural drainage line washing any remnant topsoil down the slope (as the Killingworth soil landscape is susceptible to water-based erosion). No Aboriginal objects were observed in this part of the project area.

Another area of potential interest was identified along the northern boundary of the project area (**Plate 7.5**). Similarly, during site inspection it was considered that the landform observed in this part of the site formed part of an original landscape prior to urban development impacts. While much of the remnant vegetation has been cleared from this location, visibility was still somewhat restricted due to grass coverage. Where evident through exposures, the soil profile identified within this area reflected a heavily eroded hardsetting sandy clay loam, reflective of an A₂ soil profile within the Killingworth Soil Landscape. In some areas, the soil profile visible was that of a yellow brown clay, reflective of B horizon subsoils. No A₁ horizon topsoil was observed during the inspection of this area.

Upon one exposed area, two piece of flaked tuff were observed (**Plate 7.6 -7.8**), with these objects considered to form part of the newly identified NBN_AS1 Aboriginal site. Both objects that comprise the NBN_AS1 were considered to be heavily weathered, likely due to being exposed on the surface through topsoil erosion (**Plate 7.9 and 7.10**). During discussions with Mark Purdy on-site, it was confirmed that the objects identified as part of the NBN_AS1 site were located with the proposed footprint of impacts required as part of the project.

Given the heavily eroded nature of the project area and the depth of topsoil observed in association within the NBN_AS1 site, it is considered that the area has low potential to contain subsurface Aboriginal archaeological deposits. However, given that surface objects observed within the project area will be subject to impacts as part of the proposed development, the significance of these objects should be further assessed.

Table 2 NBN_AS1 Site Details

Site Name	Easting	Northing	Recorded Using	Artefact Descriptions
NBN_AS1	385660	6355700	Handheld GPS	1: 64mm x 49mm x 38mm tuff flake 2: 43mm x 19mm x 18mm, tuff flake



Plate 7.1 View of the rear of the NBN building.

© Umwelt, 2019



Plate 7.2 View of along the south side of the property.

© Umwelt, 2019



Plate 7.3 View across carpark, driveway and NBN building on north side of the property.

© Umwelt, 2019



Plate 7.4 View towards Arcadia Park from within the project area.

© Umwelt, 2019



Plate 7.5 View across likely remnant landscape at the north end of the project area.

© Umwelt, 2019



Plate 7.6 NBN_AS1 (artefact locations flagged).

© Umwelt, 2019



Plate 7.7 NBN_AS1 (artefact locations flagged).

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Plate 7.8 NBN_AS1 (artefact locations flagged).

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Plate 7.9 Tuff flake identified as part of NBN_AS1.

© Umwelt, 2019



FIGURE 4

Results of Site Inspection

8.0 Consideration of Proposed Work Against the Due Diligence Code

Section 8 of the due diligence code outlines the process to guide due diligence assessments, summarised below in relation to the proposed works.

1: *Will the activity disturb the ground surface or any culturally modified trees?*

Yes. As discussed in **Section 1.0**, the proposed works will involve ground disturbance to facilitate the undertaking of mine grouting works and the proposed residential development. It is assumed that any remnant topsoil that remains within the project area will be removed as a result of the proposed works.

The current proposal does involve the removal of all vegetation from the project area. As identified in **Section 4.4**, all vegetation within the project area was cleared and what remains now is no older than 1954. Irrespective, no culturally modified trees have been registered within the wider project area, and none were identified as part of the visual inspection undertaken to inform this assessment.

2: *Are there any:*

a) *Relevant confirmed site records or other associated landscape feature information on AHIMS?*

As discussed in **Section 5.0**, no Aboriginal sites registered in the AHIMS database are located within 200m of the project area. The nearest site, 38-4-0525 (Catholic Education Site), is located approximately 250 m to the north of the project area.

Of note is the AHIMS site 38-4-0454 (Yirinaaii / Yir-ra-na-li), an Aboriginal Ceremony and Dreaming Site (mythological). As described in **Section 5.1**, the Yi-ran-na-li is of special significance to the Awabakal people and Aboriginal people of the Newcastle area, given its connection to Threlkeld and Biraban. The spiritual significance of the site is recognised as part of an application for State Heritage Register listing of the Newcastle Recreational Reserve (under consideration).

b) *Any other sources of information of which a person is already aware?*

Based on the wider project area's environmental context, as well as the results of previous archaeological investigations undertaken in proximity to the project area, it is considered that the most likely site type to occur in the area (if present) would be low-moderate density stone artefacts scatters in likely disturbed or eroded contexts. Sites have been identified in disturbed areas within the AHIMS search undertaken for the project area, though none of these have been identified to have sub-surface potential. In some instances, sites identified in disturbed areas are described in the site cards as being unlikely to be *in situ*.

Overall, the potential for any as yet unidentified sites of this nature to be present within the project area is low to moderate. This is because, as discussed above, areas closer to major water courses have been demonstrated to be more preferable for use and the Killingworth soil landscapes typically has shallow topsoil profiles that are susceptible to erosion and impacts from disturbance.

Further, the extent to which the project area has been disturbed through previous development is likely to have disturbed and/or removed most of the potential for Aboriginal archaeological sites that were present prior to development.

c) *Landscape features that are likely to indicate the presence of Aboriginal objects?*

The due diligence code identifies a number of landscape features that indicate the likely existence of Aboriginal object. While the project area is not located within an area that meets the criteria of these landscape features, the project area is located within close proximity to landscape features that have been identified as having cultural significance to the Awabakal people. The project area is also located within a landscape that would have been used transiently by Aboriginal people travelling between the inland resources and coastal resources.

In order to clarify the potential sensitivities (both archaeologically and culturally) of the project area, it was considered necessary to undertake visual inspection of the project area with members of the Aboriginal community to characterise the level of historical disturbance and understand potential impacts to Aboriginal cultural heritage of the proposed works.

3: *Desktop Assessment and Visual Inspection:*

Sections 4.0 to 7.0 of this letter report provide the details of the desktop assessment and visual inspection undertaken for the project. During the inspection it was clarified that a large part of the project area has been subject to clear and observable disturbance due to the clearance of native vegetation, modification of the landscape, the installation of services, development of the NBN television building, and the construction and maintenance of driveways. The due diligence code specifies:

‘Land is disturbed if it has been the subject of a human activity that has changed the land’s surface, being changes that remain clear and observable.’

The broader landscape of the project has proven potential to contain Aboriginal archaeological material (most relevant to the project area, low-moderate density artefact scatters). However, a large part of the project area has been subject to significant impacts from the disturbance factors described above. Based on this, the proposed works with the footprint of the current building, existing driveways and heavily landscaped gardens (areas not identified within **Figure 4**) meet the definition of disturbed land and therefore do not meet the definition of an archaeologically sensitive landscape.

However, while the majority of the project area has been subject to significant historical disturbance, this is not true for the entirety of the project area. As identified in **Section 7.1**, a small section along the northern boundary of the project area is likely to contain remnant parts of the Killingworth soil landscape (identified in **Figure 4**). This area is likely to have been subject to fewer disturbances than those identified within the footprint of the building, driveways and heavily landscaped gardens. During the visual inspection, it was identified that even though this area is likely representative of the original landform, the depth of topsoil observed suggests they have been subject to significant levels of erosion. This erosion has removed much of the remnant A horizon topsoils, with this erosion leading to the exposure of two Aboriginal objects (two flaked pieces of tuff, identified as NBN_AS1) within the remnant profile along the northern boundary of the project area.

While it is unlikely that these objects remain in situ given the erosional nature of the soil landscape, these objects are located within an area that will be subject to mine grouting works and deep excavation for new residential buildings. In accordance with the provisions of the NPW Act, it is an offence to harm these objects without obtaining an Aboriginal Heritage Impact Permit, which in turn requires the completion of an Aboriginal Cultural Heritage Assessment (ACHA).

Management recommendations provided below consider the proposed works within the project area and their potential to impact upon Aboriginal heritage.

9.0 Management Recommendations

The following recommendations are made with reference to the requirements of the NPW Act, the NPW Regulation and the due diligence code. It is noted that these recommendations are provided from an archaeological perspective only. No further comments were received from Aboriginal parties following supply of the draft report.

- Proposed works (including both grouting works and residential development works) located within the areas shaded yellow in **Figure 4** have the potential to impact upon Aboriginal heritage (both identified and unidentified). Should development designs be unable to avoid impacts to these objects (which has been identified as highly unlikely), further assessment of the significance of these areas should be undertaken in the form of an Aboriginal Cultural Heritage Assessment (ACHA) prior to the commencement of any work within this shaded area. It is anticipated that this assessment will identify that an Aboriginal Heritage Impact Permit (AHIP) will be required to impact the newly identified NBN_AS1 Aboriginal site prior to the commencement of works in this area.
- Until such time as an AHIP is issued for the newly identified Aboriginal site NBN_AS1, the site should be cordoned off with a 10m buffer (where applicable) during approved works to ensure that no new impacts are caused during development works outside of this curtilage, in accordance with the location of the site identified in **Figure 4**. This buffer should not extend beyond the curtilage of existing retaining walls within the property.
- An Aboriginal site recording form should be prepared for the newly identified NBN_AS1 to facilitate the registration of the site on the Aboriginal Heritage Information Management System database.
- All persons that are involved in ground disturbing works should be made aware that it is an offence under Section 86 of the NPW Act to harm or desecrate an Aboriginal object unless that harm or desecration is the subject of an approved Aboriginal Heritage Impact Permit (AHIP).
- In the event that previously unidentified Aboriginal objects are identified whilst carrying out works within the remainder of the project area, all activities in the immediate vicinity of the identified Aboriginal object should cease and a suitably qualified archaeologist should be contacted to confirm the validity of the object. Should the object be confirmed to be of Aboriginal cultural origin, the landholder/contractor must notify Heritage NSW and may need to apply for an AHIP prior to the recommencement of further ground disturbance works in proximity to that object.
- Provided the above recommendations are adhered to, proposed works outside of areas shaded in yellow in **Figure 4** may proceed without any further Aboriginal cultural heritage or archaeological investigation, provided that the impacts and extent of the proposed works are consistent with those discussed in this report and outlined in the above recommendations. Works should, however, proceed with caution.

Should you require any further information regarding any aspect of this assessment, please do not hesitate to contact me on (02) 4950 5322.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ashley O'Sullivan'.

Ashley O'Sullivan
Senior Archaeologist

10.0 References

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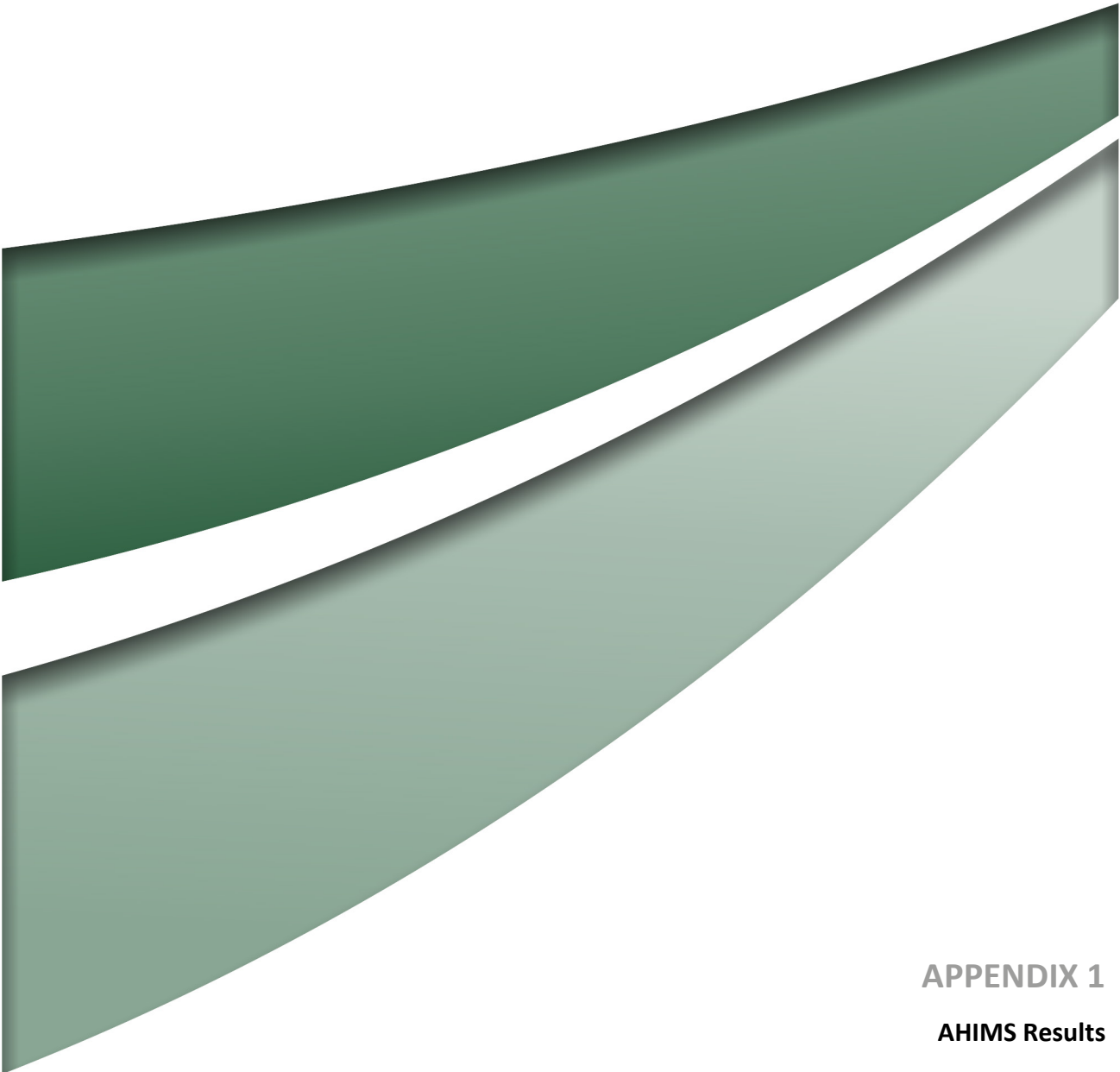
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APPENDIX 1

AHIMS Results

AHIMS Web Services (AWS)

Extensive search - Site list report

Your Ref/PO Number : 4256

Client Service ID : 427883

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
38-4-2019	Wickham PAD 1	GDA	56	384068	6356550	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	Contact							Permits		
38-4-1795	38 Hannell St Newcastle PAD	GDA	56	384090	6356541	Open site	Valid	Potential Archaeological Deposit (PAD) : -		
	Contact							Permits	4122	
38-4-1804	Isolated Find 1-Rail	GDA	56	384145	6356435	Open site	Valid	Artefact : -		
	Contact							Permits	4025	
38-4-1223	Wickham UFCCALE OS1	GDA	56	384166	6356333	Open site	Valid	Artefact : 1		
	Contact							Permits	4025	
38-4-1222	Cottage Creek OSI	GDA	56	384250	6356324	Open site	Valid	Artefact : 1		
	Contact							Permits	3970,4025	
38-4-0952	Bellevue Hotel PAD	GDA	56	384264	6356219	Open site	Valid	Potential Archaeological Deposit (PAD) : -		99845,99874
	Contact Searle							Permits	2382	
38-4-0072	Lemon Tree Passage Road 1 Salt Ash	GDA	56	384311	6356242	Open site	Valid	Shell : -, Artefact : -	Midden	102218
	Contact							Permits		
38-4-0851	710 Hunter St Newcastle, PAD	GDA	56	384312	6356244	Open site	Valid	Potential Archaeological Deposit (PAD) : -		
	Contact S Scanlon							Permits		
38-4-0832	Empire Hotel PAD	GDA	56	384406	6356139	Open site	Valid	Potential Archaeological Deposit (PAD) : -		
	Contact T Russell							Permits	2128,4166	
38-4-0831	Palais Royale	GDA	56	384422	6356195	Open site	Valid	Potential Archaeological Deposit (PAD) : -, Artefact : 5534, Shell :-		102256
	Contact T Russell							Permits	2127,2593,3098,3502	
38-4-1816	Isolated Find 4 -Rail	GDA	56	384514	6356211	Open site	Destroyed	Artefact : -		
	Contact							Permits		
38-4-1815	Isolated Find 5 - Rail	GDA	56	384520	6356214	Open site	Destroyed	Artefact : -		
	Contact							Permits		

Report generated by AHIMS Web Service on 15/06/2019 for Ashley O'Sullivan for the following area at Datum :GDA, Zone : 56, Eastings : 383650 - 387650, Northings : 6353600 - 6357600 with a Buffer of 0 meters. Additional Info : Due Diligence. Number of Aboriginal sites and Aboriginal objects found is 37

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AHIMS Web Services (AWS)

Extensive search - Site list report

Your Ref/PO Number : 4256

Client Service ID : 427883

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
38-4-1803	Isolated Find 3-Rail	GDA	56	384525	6356208	Open site	Valid	Artefact : -		
	Contact	Recorders				RPS Australia East Pty Ltd -Hamilton,Ms.Cheng-Yen Loo		Permits	3970	
38-4-1805	Isolated Find 2-Rail	GDA	56	384525	6356208	Open site	Valid	Artefact : -		
	Contact	Recorders				RPS Australia East Pty Ltd -Hamilton,Mr.Ben Slack		Permits	3970	
38-4-1812	Isolated Find 6 - Rail	GDA	56	384542	6356203	Open site	Destroyed	Artefact : -		
	Contact	Recorders				RPS Australia East Pty Ltd -Hamilton,Ms.Cheng-Yen Loo		Permits		
38-4-1814	Isolated Find 8 -Rail	GDA	56	384545	6356199	Open site	Destroyed	Artefact : -		
	Contact	Recorders				RPS Australia East Pty Ltd -Hamilton,Ms.Cheng-Yen Loo		Permits		
38-4-1813	Isolated Find 7 - Rail	GDA	56	384549	6356205	Open site	Destroyed	Artefact : -		
	Contact	Recorders				RPS Australia East Pty Ltd -Hamilton,Ms.Cheng-Yen Loo		Permits		
38-4-1817	Artefact Scatter 1 -Rail	GDA	56	384553	6356198	Open site	Destroyed	Artefact : -		
	Contact	Recorders				RPS Australia East Pty Ltd -Hamilton,Ms.Cheng-Yen Loo		Permits		
38-4-1818	Isolated Find 9 - Rail	GDA	56	384565	6356195	Open site	Destroyed	Artefact : -		
	Contact	Recorders				RPS Australia East Pty Ltd -Hamilton,Ms.Cheng-Yen Loo		Permits		
38-4-1968	UoN1A-1	GDA	56	384823	6356217	Open site	Valid	Artefact : -		
	Contact	Recorders				Guringai Tribal Link Aboriginal Corporation,Mrs.Tracey Howie		Permits		
38-4-2008	Artifact scatter	GDA	56	384966	6356262	Closed site	Valid	Artefact : -		
	Contact	Recorders				Guringai Tribal Link Aboriginal Corporation,Guringai Tribal Link Aboriginal Corpoi		Permits		
38-4-1642	409 Hunter Street Newcastle Fill duplicate of 409 Hunter Street Newcastle Insitu	GDA	56	385099	6356088	Open site	Valid	Artefact : -, Shell : -		104055,104056
	Contact	Recorders				Mr.Benjamin Streat		Permits	3920,4186,4390,4393	
38-4-1960	Newcastle Signal Box IF	GDA	56	386076	6356240	Open site	Destroyed	Artefact : -		
	Contact	Recorders				RPS Australia East Pty Ltd -Hamilton,RPS Australia East Pty Ltd -Hamilton,RPS Aus		Permits		
38-4-1632	TA1 Newcastle	GDA	56	386378	6356088	Open site	Destroyed	Artefact : -		
	Contact	Recorders				Umwelt (Australia) Pty Limited,Miss.Nicola Roche		Permits	3683	
38-4-1205	Restriction applied. Please contact ahims@environment.nsw.gov.au.					Open site	Valid			
	Contact Awabakal LALC	Recorders				Brad Welsh		Permits		
38-4-0544	700 Hunter Street	AGD	56	384250	6356020	Open site	Valid	Artefact : -		
	Contact	Recorders				Dominic Steele Archaeological Consulting		Permits		
38-4-0772	710 Hunter Street Newcastle PAD	AGD	56	384350	6356250	Open site	Valid	Shell : -, Potential Archaeological Deposit (PAD) : -		
	Contact	Recorders				Jim Wheeler		Permits	1981	
38-4-0048	Merewether;Dixon Park;	AGD	56	384627	6354301	Open site	Valid	Artefact : -	Open Camp Site	
	Contact	Recorders				Len Dyall		Permits		

Report generated by AHIMS Web Service on 15/06/2019 for Ashley O'Sullivan for the following area at Datum :GDA, Zone : 56, Eastings : 383650 - 387650, Northings : 6353600 - 6357600 with a Buffer of 0 meters. Additional Info : Due Diligence. Number of Aboriginal sites and Aboriginal objects found is 37

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AHIMS Web Services (AWS)

Extensive search - Site list report

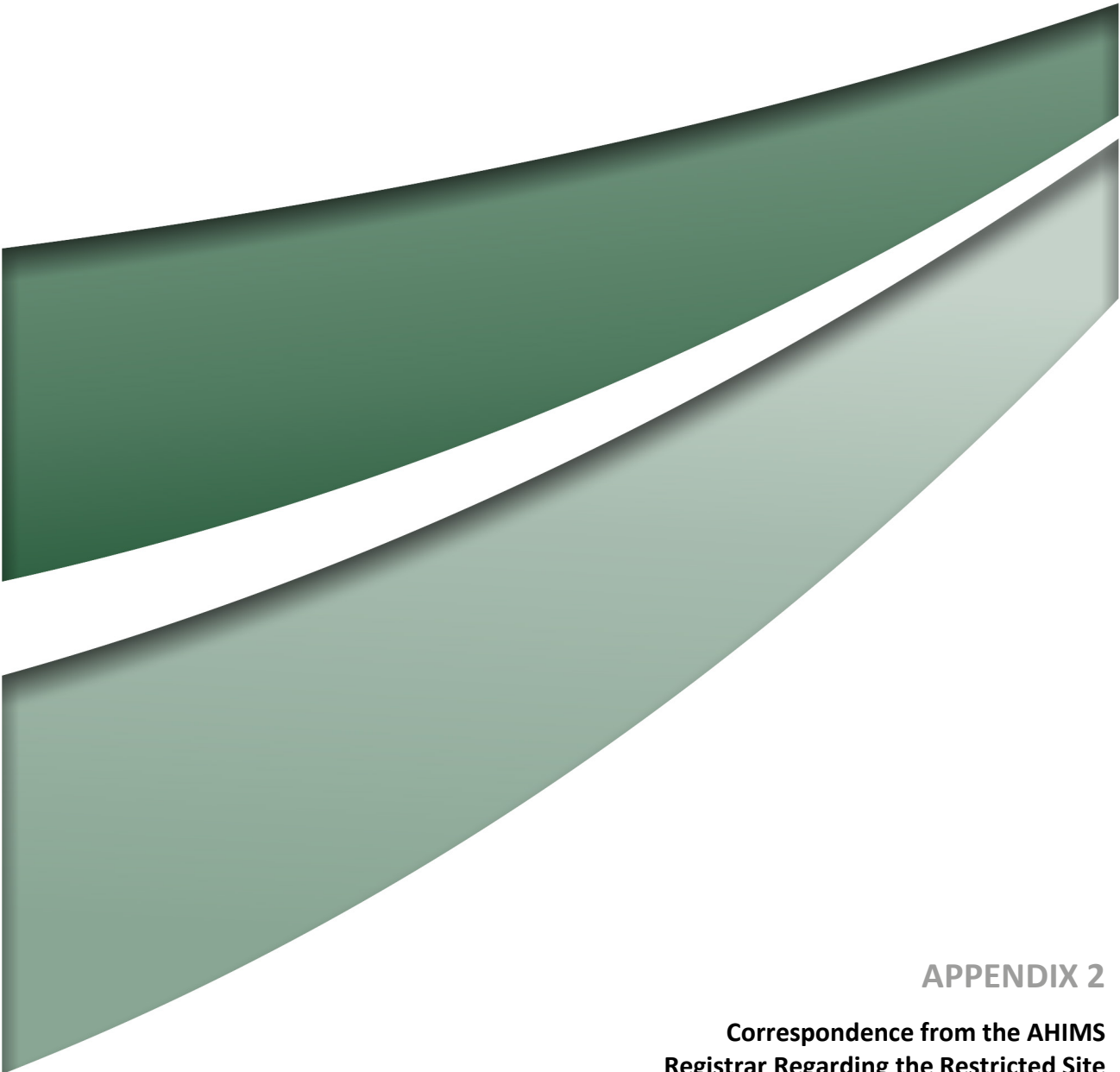
Your Ref/PO Number : 4256

Client Service ID : 427883

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
38-4-0559	The Broadwalk- Newcastle 1	AGD	56	385000	6356250	Open site	Valid	Potential Archaeological Deposit (PAD) : 0		98887
	<u>Contact</u>							<u>Permits</u>		
		<u>Recorders</u>	Mary Dallas Consulting Archaeologists						1298,2043,2453	
38-4-0525	Catholic Education Site	AGD	56	385680	6355710	Open site	Valid	Artefact : -	Open Camp Site	100771
	<u>Contact</u>							<u>Permits</u>		
		<u>Recorders</u>	Margrit Koettig							
38-4-0796	200 Hunter Street PAD	AGD	56	385787	6356006	Open site	Valid	Potential Archaeological Deposit (PAD) : -		
	<u>Contact</u>							<u>Permits</u>		
	T Russell	<u>Recorders</u>	Mrs.Angela Besant						2045,2049	
38-4-1084	Newcastle CBD PAD	AGD	56	385850	6355900	Open site	Valid	Potential Archaeological Deposit (PAD) : -		
	<u>Contact</u>							<u>Permits</u>		
		<u>Recorders</u>	Ms.Meaghan Russell						3008,4225,4248	
38-4-0454	Yirannai;	AGD	56	386150	6355450	Open site	Valid	Aboriginal Ceremony and Dreaming : -	Natural Mythological (Ritual)	1333
	<u>Contact</u>							<u>Permits</u>		
		<u>Recorders</u>	Warren Bluff							
38-4-1020	Coutts Sailors Home PAD1	AGD	56	386358	6355971	Open site	Valid	Potential Archaeological Deposit (PAD) : -		
	<u>Contact</u>							<u>Permits</u>		
	T Russell	<u>Recorders</u>	Extent Heritage Pty Ltd - Pyrmont						2734	
38-4-1695	11-15 Watt St IF 1	AGD	56	386381	6356080	Open site	Valid	Artefact : -		
	<u>Contact</u>							<u>Permits</u>		
		<u>Recorders</u>	Mr.Benjamin Streat						3814,3966	
38-4-0957	NCL 931	AGD	56	386400	6356000	Open site	Valid	Artefact : -		
	<u>Contact</u>							<u>Permits</u>		
	T Russell	<u>Recorders</u>	Noeleen Curran							
38-4-0455	Nobby's;	AGD	56	387500	6356950	Open site	Valid	Aboriginal Ceremony and Dreaming : -	Natural Mythological (Ritual)	1333
	<u>Contact</u>							<u>Permits</u>		
		<u>Recorders</u>	Warren Bluff							

Report generated by AHIMS Web Service on 15/06/2019 for Ashley O'Sullivan for the following area at Datum :GDA, Zone : 56, Eastings : 383650 - 387650, Northings : 6353600 - 6357600 with a Buffer of 0 meters. Additional Info : Due Diligence. Number of Aboriginal sites and Aboriginal objects found is 37

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APPENDIX 2

**Correspondence from the AHIMS
Registrar Regarding the Restricted Site**

Kathy Down

From: David Gordon <[REDACTED]>
Sent: Monday, 24 June 2019 11:00 AM
To: Ashley O'Sullivan
Subject: RE: 4256 Information Request Regarding Restricted Site #38-4-1205

Hi Ashley,

I can confirm that any works on Lot 1, DP 204077, WILL NOT IMPACT restricted Site 38-4-1205.

Thanks



Office of
Environment
& Heritage

David Gordon

Senior Heritage Information
Officer (Aboriginal)
Heritage Operations
Heritage Division

T [REDACTED]

We connect communities with conservation
and culture to deliver great outcomes for
the environment and heritage.



I acknowledge and respect the traditional custodians and ancestors of the lands I work across

From: Ashley O'Sullivan <[REDACTED]>
Sent: Friday, 21 June 2019 3:34 PM
To: CCHD Information Systems & Assessment Mailbox <[REDACTED]>
Subject: RE: 4256 Information Request Regarding Restricted Site #38-4-1205

Good Afternoon,

I'm following up on the below email. Any assistance on this would be greatly appreciated.

Thanks,
Ashley

Ashley O'Sullivan
Senior Archaeologist

Umwelt (Australia) Pty Limited
[REDACTED]
[REDACTED]

Phone: [REDACTED]
Mobile: [REDACTED]
[REDACTED]

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Please consider the environment before printing this email

From: Ashley O'Sullivan

Sent: Saturday, 15 June 2019 11:23 AM

To: [REDACTED]

Subject: 4256 Information Request Regarding Restricted Site #38-4-1205

Good Morning,

I'm just contacting you regarding further information on the restricted site #38-4-1205 listed in the Newcastle area. Umwelt, on behalf of Crescent Newcastle Pty Ltd, are currently undertaking an Aboriginal archaeological due diligence assessment for proposed development at 11-17 Mosbri Crescent, The Hill (Lot 1, DP 204077).

If you are able to advise whether these works will impact the restricted site listed, that would be much appreciated.

Thanks,
Ashley

Ashley O'Sullivan
Senior Archaeologist

Umwelt (Australia) Pty Limited
[REDACTED]

Phone: [REDACTED]

Mobile: [REDACTED]
[REDACTED]

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Any views expressed in this email are those of the individual sender except where the sender expressly and with authority states them to be the views of the NSW Office of Environment and Heritage.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

Our Ref: 21504_ACHA_Commencement_Letter

11 June 2021

Mark Purdy
Development Manager
Stronach Property

[REDACTED]
[REDACTED]
[REDACTED]

[E](#) [REDACTED]

Dear Mark

Re: Commencement of Aboriginal Cultural Heritage Assessment: 11-17 Mosbri Crescent, The Hill

Umwelt (Australia) Pty Ltd (Umwelt) has recently been engaged by Crescent Newcastle Pty Ltd (Crescent Newcastle) to undertake an Aboriginal Cultural Heritage Assessment (ACHA) for the proposed redevelopment of Lot 1 DP 204077 comprising 11-17 Mosbri Crescent, The Hill (hereafter referred to as the project area). The proposed development will comprise residential accommodation and interconnected parking as well as associated landscaping and pedestrian access pathways. This will require ground surface disturbance across much of the project area with substantial excavation works required to establish below ground parking in some areas. Umwelt understands that in order to complete the works proposed, Crescent Newcastle will also be required to undertake significant grouting of existing mining corridors underlying the property.

An Aboriginal archaeological due diligence assessment was prepared by Umwelt in 2019 for the proposed development of the property. During site inspection undertaken as part of this due diligence, two Aboriginal objects were identified within the property boundary and a new Aboriginal site NBN-AS-1 was recorded. This due diligence assessment was updated in 2021 to reflect impacts to the property required to undertake the necessary mining grouting.

Umwelt has recently commenced work on the ACHA (incorporating an archaeological technical report), which will address the requirements of the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (DECCW 2010a), the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010c) and the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (OEH 2011).

This ACHA is being prepared to inform whether an Aboriginal Heritage Impact Permit (AHIP) application is required for the proposed works. Should it be required, an AHIP will be applied for to facilitate the physical commencement of works within the northern end of the property, in proximity to the newly identified NBN-AS-1 site.

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Newcastle | Orange |
Sydney | Canberra |
Brisbane | Perth

T | 1300 793 267
E | info@umwelt.com.au

www.umwelt.com.au

Umwelt (Australia) Pty Limited
ABN 18 059 519 041

Please do not hesitate to contact the undersigned on 02 4950 5322 should you require clarification or further information.

Yours sincerely

A handwritten signature in grey ink, appearing to read 'Ashley O'Sullivan', with a long, sweeping horizontal line extending to the right.

Ashley O'Sullivan
Senior Archaeologist