

**APPENDIX 1**

**National Native Title Register Search**



National  
Native Title  
Tribunal

26 August 2015

**Kirwan Williams**  
**Archaeologist**  
**Umwelt (Australia) Pty Limited**  
**Email: [kwilliams@umwelt.com.au](mailto:kwilliams@umwelt.com.au)**

**Sydney Office, Operations East**

Level 16, Law Courts Building  
Queens Square  
Sydney NSW 2000  
GPO Box 9973  
Sydney NSW 2001  
Telephone (02) 9227 4000  
Facsimile (02) 9227 4030

Our Ref: -15NM

Dear Mr Williams

**Native Title Search Results for Eurobodalla Local Government Area**

Thank you for your search request received on 26 August 2015 in relation to the above area.

**Search Results**

The results provided are based on the information you supplied and are derived from a search of the following Tribunal databases:

<b>Register Type</b>	<b>NNTT Reference Numbers</b>
Schedule of Applications (unregistered claimant applications)	Nil.
Register of Native Title Claims	Nil.
National Native Title Register	Nil.
Register of Indigenous Land Use Agreements	Nil

At the time this search was carried out, there were **no relevant entries** in the above databases.

**Please note:** There may be a delay between a native title determination application being lodged in the Federal Court and its transfer to the Tribunal. As a result, some native title determination applications recently filed with the Federal Court may not appear on the Tribunal's databases.

**Tribunal accepts no liability for reliance placed on enclosed information**

The enclosed information has been provided in good faith. Use of this information is at your sole risk. The National Native Title Tribunal makes no representation, either express or implied, as to



the accuracy or suitability of the information enclosed for any particular purpose and accepts no liability for use of the information or reliance placed on it.

If you have any further queries, please do not hesitate to contact me on the numbers listed below.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Nicole Maher'.

**Nicole Maher** | REGIONAL COORDINATOR

**National Native Title Tribunal | Sydney Office**

Level 16, Federal Law Courts Building, Queens Square, Sydney, New South Wales 2000

Telephone (02) 9227 4008 | Facsimile (02) 9227 4030 | Email [nicole.maher@nntt.gov.au](mailto:nicole.maher@nntt.gov.au)

**Freecall 1800 640 501 | [www.nntt.gov.au](http://www.nntt.gov.au)**

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# Searching the NNTT Registers in New South Wales

## Search service

On request the National Native Title Tribunal may search its public registers for you. A search may assist you in finding out whether any native title applications (claims), determinations or agreements exist over a particular area of land or water.

**In New South Wales native title cannot exist on privately owned land including family homes or farms.**

## What information can a search provide?

A search can confirm whether any applications, agreements or determinations are registered in a local government area. Relevant information, including register extracts and application summaries, will be provided.

**Most native title applications do not identify each parcel of land claimed. They have an external boundary and then identify the areas not claimed within the boundary by reference to types of land tenure e.g., freehold, agricultural leasehold, public works.**

## What if the search shows no current applications?

If there is no application covering the local government area this only indicates that at the time of the search either the Federal Court had not received any claims in relation to the local government area or the Tribunal had not yet been notified of any new native title claims.

It does not mean that native title does not exist in the area.

**Native title may exist over an area of land or waters whether or not a claim for native title has been made.**

## Where the information is found

The information you are seeking is held in three registers and on an applications database.

## National Native Title Register

The National Native Title Register contains determinations of native title by the High Court, Federal Court and other courts.

## Register of Native Title Claims

The Register of Native Title Claims contains applications for native title that have passed a registration test.

**Registered claims attract rights, including the right to negotiate about some types of proposed developments.**

## Register of Indigenous Land Use Agreements

The Register of Indigenous Land Use Agreements contains agreements made with people who hold or assert native title in an area.

**The register identifies development activities that have been agreed by the parties.**

## Schedule of Native Title Claims

The Schedule of Native Title Claims contains a description of the location, content and status of a native title claim.

This information may be different to the information on the Register of Native Title Claims, e.g., because an amendment has not yet been tested.

## How do I request a native title search?

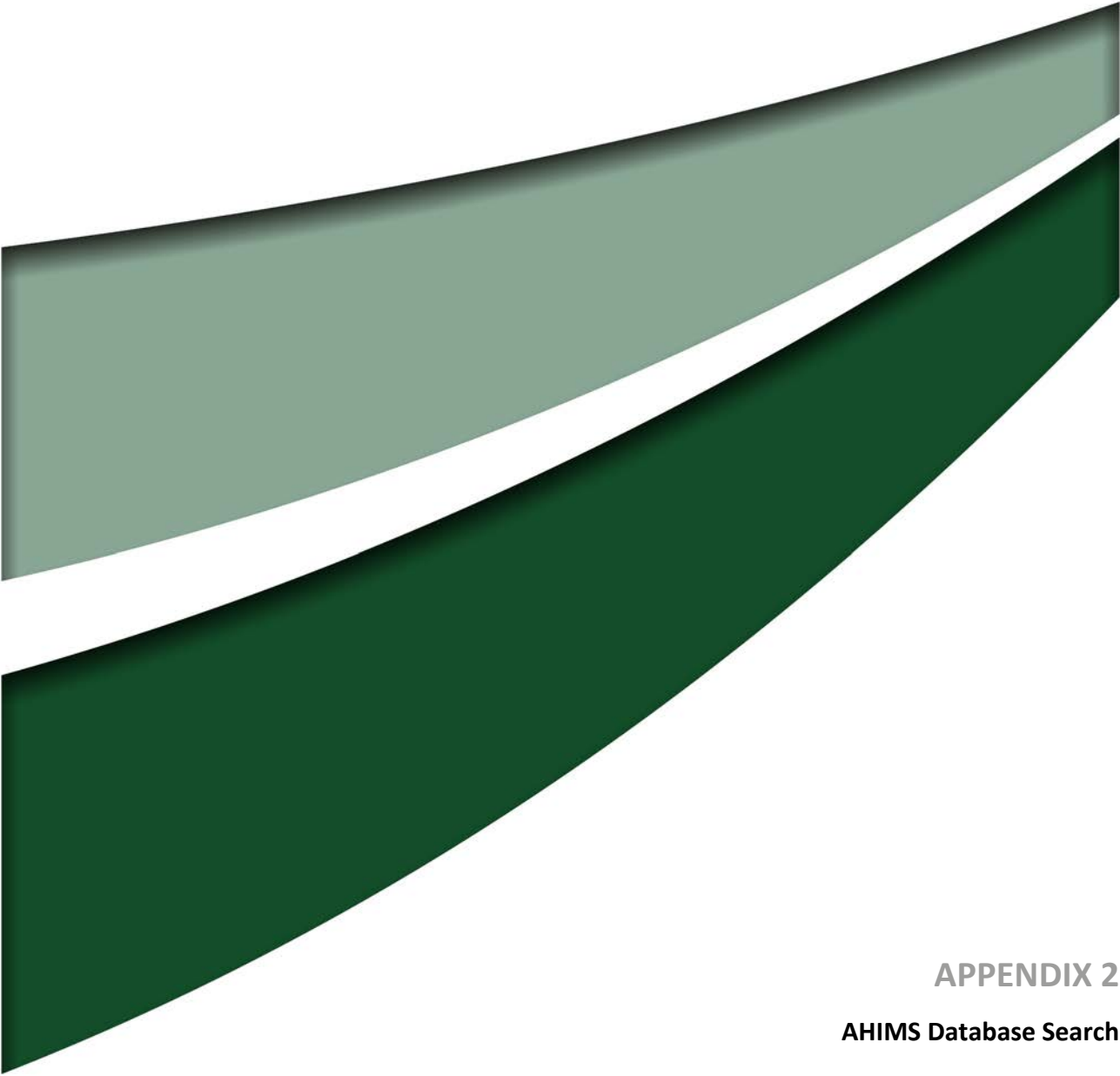
Download the Search Request Form from the Tribunal's website at -

<http://www.nntt.gov.au/assistance/Pages/Searches-and-providing-Register-information.aspx>

**Email to:** [NSWEnquiries@nntt.gov.au](mailto:NSWEnquiries@nntt.gov.au)

**Post to:** GPO Box 9973 Sydney NSW 2001

**For additional enquiries:** 02 9227 4000



## APPENDIX 2

**AHIMS Database Search**

Note: This Excel report shows the sites found in AHIMS on the 21/08/2015. If this date is not the same as the original date of the Search Results letter obtained during the Basic Search, then the search results might be different. The PDF version of this report will always coincide with the Basic Search Results letter.

Site ID	Site name	Datum	Zone	Easting	Northing	Context	Site status	Primary contact	Site features	Site types	Recorders	Reports	Permits	Longitude GDA94	Latitude GDA94
58-4-0719	PB 130;	AGD	56	240720	6054620	Open site	Valid		Artefact : -	Open Camp Site	Philip Boot	99058		150.14	-35.62
58-4-0720	PB 131;	AGD	56	241340	6056160	Open site	Valid		Artefact : -	Open Camp Site	Philip Boot,Biosis Pty Lt	99058		150.15	-35.60
58-4-0526	Holmes Lookout A1;	AGD	56	243180	6047420	Open site	Valid		Artefact : -	Open Camp Site	Annie Nicholson			150.16	-35.68
58-4-0238	89/PK/33;	AGD	56	242300	6051300	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.15	-35.65
58-4-0239	89/PK/32;	AGD	56	242350	6051350	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.16	-35.65
58-4-0240	89/PK/29;	AGD	56	242400	6052200	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.16	-35.64
58-4-0241	89/PK/28;	AGD	56	242200	6051400	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.15	-35.65
58-4-0243	89/PK/27;	AGD	56	241700	6051700	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.15	-35.64
58-4-0244	89/PK/26;	AGD	56	241600	6051800	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.15	-35.64
58-4-0245	89/PK/24;	AGD	56	241100	6051800	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.14	-35.64
58-4-0482	River Rod;	AGD	56	240700	6054600	Open site	Valid		Artefact : -	Open Camp Site	P.J Arncliffe			150.14	-35.62
58-4-0280	89/DM/38;Benandarah	AGD	56	243300	6049700	Open site	Valid		Artefact : -	Open Camp Site	D McKeown			150.17	-35.66
58-4-0288	89/DM/20;Boyne State	AGD	56	245200	6052700	Open site	Valid		Artefact : -	Open Camp Site	D McKeown			150.19	-35.63
58-4-0423	No_3;	AGD	56	236400	6051400	Open site	Valid		Artefact : -	Open Camp Site	W.J Hackwell	1997		150.09	-35.64
58-4-0424	No1+2;	AGD	56	236600	6051700	Open site	Valid		Artefact : -	Open Camp Site	W.J Hackwell	1997		150.09	-35.64
58-4-0237	89/PK/35;	AGD	56	242350	6050950	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.16	-35.65
58-4-0692	Liamena 4;	AGD	56	245900	6047300	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie		767	150.19	-35.68
58-4-0693	Liamena 3;	AGD	56	245950	6047130	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie		767	150.19	-35.69
58-4-0694	Liamena 2;	AGD	56	245950	6046730	Open site	Valid		Artefact : -	Isolated Find	Mr.Peter Kuskie		767	150.19	-35.69
58-4-0695	Liamena 1;	AGD	56	246150	6046730	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie		767	150.20	-35.69
58-4-0651	UM 4	AGD	56	243500	6047300	Open site	Valid		Artefact : -	Open Camp Site	Robert Paton	2253		150.17	-35.68
58-4-0659	CR-4	AGD	56	245650	6046700	Open site	Valid		Artefact : 3, Shell : 1	Open Camp Site	Mr.Doug Williams	2319	438,679	150.19	-35.69
58-4-0660	CR-2	AGD	56	245230	6047360	Open site	Valid		Artefact : 15, Shell : 10	Open Camp Site	Mr.Doug Williams	2319	531,549,679	150.19	-35.68
58-4-0661	CR-3	AGD	56	245500	6047000	Open site	Valid		Artefact : 4	Open Camp Site	Mr.Doug Williams	2319	679	150.19	-35.69
58-4-0987	TR 23	AGD	56	241350	6055110	Open site	Valid		Artefact : 1		Philip Boot,Biosis Pty Lt	98358,98359,98360,99058		150.15	-35.61
58-4-0955	KPH2	AGD	56	245260	6046380	Open site	Valid		Artefact : 30		Ms.Trish Saunders	98990	2099,2100	150.19	-35.69
58-4-0242	89/PK/39;	AGD	56	243300	6049700	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.17	-35.66
58-4-0899	surfside 3;	AGD	56	245930	6046460	Open site	Valid		Artefact : -	Open Camp Site	Vivienne Wood			150.19	-35.69
58-4-0900	Surfside 2	AGD	56	245960	6046450	Open site	Valid		Shell : -, Artefact : -	Midden	D Wood			150.19	-35.69
58-3-0003	N12	AGD	56	246250	6046700	Open site	Valid		Artefact : -	Open Camp Site	N.K Hall			150.20	-35.69
58-4-1069	PAD 3 (cnr Princes/Kin	AGD	56	245500	6046500	Open site	Partially Destroyed		Potential Archaeological Deposit (PAD) : 1		Ms.Trish Saunders,Doc	98246,98990	1927,1928,2099,2100	150.19	-35.69
58-4-1070	PAD 4 (cnr Princes/Kin	AGD	56	245370	6046730	Open site	Partially Destroyed		Potential Archaeological Deposit (PAD) : 1		Ms.Trish Saunders,Doc	98246,98990	1927,1928,2099,2100	150.19	-35.69
58-4-1071	PAD 5 (cnr Princes/Kin	AGD	56	245335	6047000	Open site	Partially Destroyed		Potential Archaeological Deposit (PAD) : 1		Ms.Trish Saunders,Doc	98246,98990	1927,1928,2099,2100	150.19	-35.69
58-4-1072	PAD 6 (cnr Princes/Kin	AGD	56	245160	6047050	Open site	Partially Destroyed		Potential Archaeological Deposit (PAD) : 1		Ms.Trish Saunders,Doc	98246,98990	1927,1928,2099,2100	150.19	-35.69
58-4-1073	PAD 7 (cnr Princes/Kin	AGD	56	245100	6047340	Open site	Partially Destroyed		Potential Archaeological Deposit (PAD) : 1		Ms.Trish Saunders,Doc	98246,98990	1927,1928	150.18	-35.68
58-4-1109	KPH6 (PAD4)	AGD	56	245345	6046707	Open site	Valid	T Russell	Artefact : 1		Ms.Trish Saunders	98990	2099,2100	150.19	-35.69
58-4-1110	KPH7 (PAD5)	AGD	56	245360	6046985	Open site	Valid	T Russell	Artefact : 3, Shell : 1		Ms.Trish Saunders	98990	2099,2100	150.19	-35.69
58-4-1111	KPH8 (PAD6)	AGD	56	245500	6047045	Open site	Valid	T Russell	Artefact : 1		Ms.Trish Saunders	98990	2099,2100	150.19	-35.69
58-4-1263	KPH3A	AGD	56	245370	6046390	Open site	Valid		Artefact : 1		Ms.Trish Saunders			150.19	-35.69
58-4-1264	CR-1	AGD	56	244860	6047600	Open site	Valid		Artefact : 2		Mr.Doug Williams	2319		150.18	-35.68
58-4-1282	Redgum Camp 1 and 2	GDA	56	242156	6048982	Open site	Valid		Shell : 50		Miss.Kristine Carriage	101392	3131	150.15	-35.67
58-4-1281	Beach Camp Clyde Riv	GDA	56	240317	6046502	Open site	Valid		Shell : -, Artefact : -		Miss.Kristine Carriage	101392	3131	150.13	-35.69
58-4-0236	89/PK/38;	AGD	56	242850	6050400	Open site	Valid		Artefact : -	Open Camp Site	Mr.Peter Kuskie			150.16	-35.66
58-4-1160	232/3	AGD	56	236520	6052590	Open site	Valid	T Russell	Artefact : -		State Forests of NSW - Batemans Bay			150.09	-35.63
58-4-1161	232/2	AGD	56	236530	6053080	Open site	Valid	T Russell	Artefact : -		State Forests of NSW - Batemans Bay			150.09	-35.63
58-4-1166	232/1	AGD	56	236630	6053060	Open site	Valid	T Russell	Artefact : -		State Forests of NSW - Batemans Bay			150.09	-35.63
58-4-1340	Benandarah SU1/L1	GDA	56	241189	6052917	Open site	Valid		Artefact : -		Doctor.Julie Dibden	103024,103025	3700	150.14	-35.63
58-4-1341	Benandarah SU1/L2	GDA	56	241696	6052796	Open site	Valid		Artefact : 2		Doctor.Julie Dibden	103024,103025	3700	150.15	-35.63



**Newcastle**

75 York Street  
Teralba NSW 2284

Ph. 02 4950 5322

**Perth**

PO Box 8177  
Subiaco East WA 6008  
33 Ventnor Avenue  
West Perth WA 6005

Ph. 08 6260 0700

**Canberra**

PO Box 6135  
56 Bluebell Street  
O'Connor ACT 2602

Ph. 02 6262 9484

**Sydney**

50 York Street  
Sydney NSW 2000

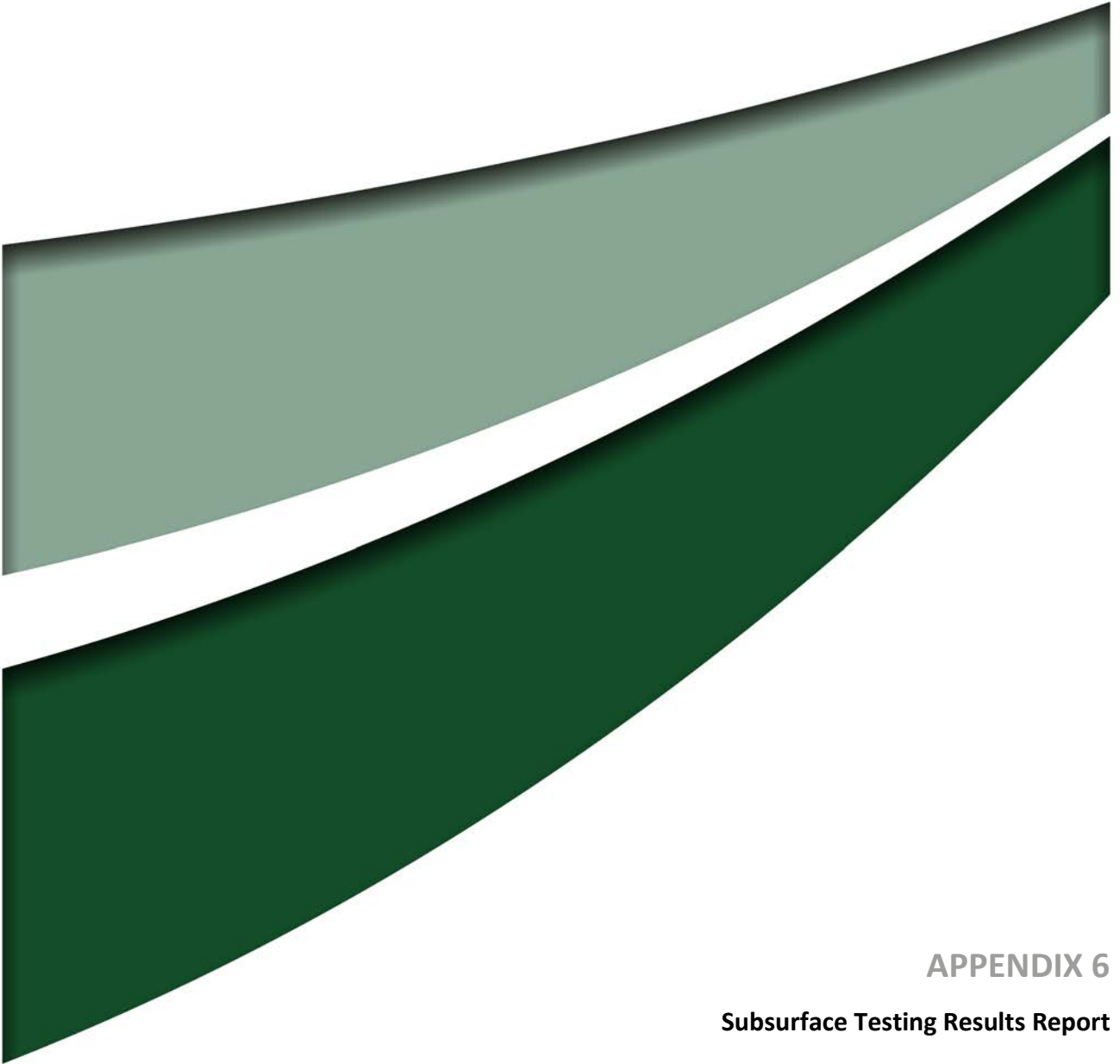
Ph. 1300 793 267

**Brisbane**

GPO Box 459  
Brisbane QLD 4001

Ph. 1300 793 267

[www.umwelt.com.au](http://www.umwelt.com.au)



## APPENDIX 6

### Subsurface Testing Results Report





## **NELLIGEN BRIDGE REPLACEMENT**

Subsurface Testing Archaeological  
Excavation Report

**FINAL**

July 2016



## **NELLIGEN BRIDGE REPLACEMENT**

### Subsurface Testing Archaeological Excavation Report

## **FINAL**

Prepared by  
**Umwelt (Australia) Pty Limited**  
on behalf of  
**Roads and Maritime**

Project Director: Jan Wilson  
Project Manager: Kym McNamara  
Technical Director: Jan Wilson  
Technical Manager: Kym McNamara  
Report No. 8093/R02  
Date: July 2016



### **Canberra**

PO Box 6135  
56 Bluebell Street  
O'Connor ACT 2602

Ph. 02 6262 9484

[www.umwelt.com.au](http://www.umwelt.com.au)



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**Acknowledgement**

*The Roads and Maritime Services and Umwelt would like to acknowledge the Traditional Custodians of the Nelligen area – the Yuin peoples – and pay respect to their cultural heritage, beliefs and continuing relationship with the land.*

*We would also like to acknowledge and pay respect to the post-contact experiences of Aboriginal people who have attachment to the Nelligen area.*

*We pay respect to the elders, both past and present, for they hold the memories, traditions, culture and hopes of Aboriginal people in the area.*

# Executive Summary



## Introduction

The Kings Highway crossing of the Clyde River, Nelligen Bridge is located on the South Coast of New South Wales, about eight kilometres north-west of Batemans Bay. During routine inspections, Roads and Maritime Services identified deterioration of the supporting concrete pillars under Nelligen Bridge. The strength of the bridge has been assessed and is still able to safely carry normal traffic loads. However, the pillars will weaken over time and the bridge will require significant repairs or replacement.

A range of early investigations and consultation about options to repair or replace the bridge have been completed. The outcome of this work is a new bridge should be built to the north of the existing bridge (refer to **Figure 1.1** for the Locality Plan). The approaches to the bridge would also be realigned. After the new bridge is built the existing bridge would be demolished.

Umwelt Australia Pty Limited (Umwelt) has been engaged by Roads and Maritime as part of the *Roads and Maritime Services procedure for Aboriginal Cultural Heritage Consultation and Investigation* (Roads and Maritime 2011 - PACHCI) Stage 3 process, which includes this Subsurface Testing and Archaeological Excavation Report. This report is required to inform the concept design and environmental assessment (EA) for the Nelligen Bridge Replacement Project.

## Description of Proposed Development

Roads and Maritime proposes to construct:

- A new Kings Highway crossing of the Clyde River at Nelligen to the north of the existing bridge
- Realign the approaches to the bridge and
- Demolish the existing bridge.

The extent of the study area is from 900 metres east of the existing bridge to 950 metres west of the existing bridge as measured along the Kings Highway.

The work would involve:

- Construction within the Clyde River
- Excavation of cut embankments
- Construction of fill embankments on both sides of the Clyde River
- Temporary stockpile sites
- Temporary compound sites
- Temporary sediment basins
- Operational water quality treatments
- Relocation of utilities
- Clearing of vegetation
- Landscaping/revegetation on completion of the road work.

The exact location of temporary stockpile, compound sites and sediment basins is not known at this stage however potential locations have been identified within the study area and have been inspected accordingly.

### **Aboriginal Consultation**

Consultation with Aboriginal stakeholders is an integral part of identifying and assessing the significance of Aboriginal objects and/or places, and determining and carrying out appropriate strategies to mitigate the impact upon Aboriginal heritage.

Jeffery Nelson (Roads and Maritime), Tim Webster (Roads and Maritime) and Kym McNamara (Umwelt) undertook the following Aboriginal consultation as part of the project.

### **National Native Title Register Search**

A search of the NNTTs National Native Title Register to identify any registered native title claimants or native title holders for the study area was conducted on 26 August 2015. The geographic parameters for the search was set to the Eurobodalla LGA (refer to **Appendix 1**). The search returned no relevant entries in the following databases:

- Schedule of Applications (unregistered claimant applications)
- Register of Native Title Claims
- National Native Title Register
- Register of Indigenous Land Use Agreements.

### **Register of Aboriginal Owners Search**

A search of the Register of Aboriginal Owners was conducted on 17 November 2015 by Tim Webster (Roads and Maritime). The results returned on 3 December 2015 outlined the study area did not appear to have Registered Aboriginal Owners pursuant to Division 3 of the *Aboriginal Land Rights ACT 1983* (NSW).

### **Batemans Bay Local Aboriginal Land Council**

The study area lies within the boundaries of the BBLALC area. BBLALC was identified as the sole key Aboriginal stakeholder for the project as part of the PACHI Stage 2 process. Initial contact was made by Tim Webster on 24 September 2015 to organise availability for the field survey. Les Simon from BBLALC

participated in the field survey for the project. He provided further information on significance of the study area on the 8 January 2016.

### **Consultation for the Subsurface Testing Program**

Following the survey further Aboriginal consultation was undertaken as part of the PACHI Stage 3 process and in compliance with the Department of Environment, Climate Change and Water (DECCW, now Office of Environment and Heritage (OEH)) *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (ACHCRs) (2010a). Consultation regarding cultural heritage matters including the subsurface testing program within the study area has been undertaken in accordance with Clause 80C of the Regulation.

Consultation regarding cultural heritage matters within the study area has been detailed in **Table 2.1** below. Forty three (43) Aboriginal parties were identified as having an interest in the study area (refer to **Appendix 1**).

A draft copy of this report was provided to each of the registered Aboriginal parties. It was requested that the registered Aboriginal parties provide written comment on the draft report. The comments received from the registered Aboriginal parties are summarised below.

- A letter was received from Murra Bidgee Mullangari Aboriginal Corporation (MBMAC) on 7 July 2016 stating that the recommendations had been read and that they agreed with the recommendation for Option 3 – Impact Site without Further Investigation under AHIP and Conservation of Possible Burial Marker Trees.

No further comments were received.

### **Results of the survey**

The survey resulted in the following:

- One potential archaeological deposit (PAD) (Roads and Maritime Nelligen PAD1) was identified within the ridge slope landform on the eastern side of the Clyde River to the east of the Kings Highway. The PAD was recorded as being approximately metres by 20 metres in area
- Two trees were identified by the Aboriginal stakeholder that they felt had the potential to be burial markers north of the Kings Highway and

west of Clyde River (and not within the Roads and Maritime Nelligen PAD1 area)

- No sites were identified during the survey.

The trees were not located within any proposed impact area and can be avoided during works and thus required no assessment.

### **Requirement for subsurface testing**

#### **Subsurface testing methodology**

The test excavations were conducted in line with the methodology presented in the *Test Excavation Methodology and Supporting Information for the Nelligen Bridge Replacement, Nelligen, NSW* (Umwelt 2016) report which was prepared in compliance with the requirements of the DECCW *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010b). The subsurface testing program included testing of Roads and Maritime Nelligen PAD1. The subsurface testing was undertaken as follows:

Test excavation locations were chosen in consultation with the participating Aboriginal stakeholders and archaeologist. Test excavations were placed in areas less likely to have been impacted by previous development.

Test excavations were undertaken manually and in accordance with the Code of Practice (DECCW 2010a).

Following the completion of the test excavation and prior to reburial, all salvaged stone artefacts had a number of attributes recorded for analysis. The attributes were chosen as they provide the data required to understand the nature and significance of the study area locally and as they may have the potential to allow for comparative analysis with other assemblages in the Nelligen area.

#### **Summary of results**

- A total of four test pits were excavated in spits of 5 centimetres (cm) to a depth of 20 cm (4 spits).
- A total of 14 artefacts were recovered from the test excavations at Roads and Maritime Nelligen PAD 1. The artefacts were composed of 8 broken flakes, 3 complete flakes, 2 cores and 1 flaked piece - all were manufactured from quartz.

- As a result of the subsurface testing and the discovery of 14 artefacts Roads and Maritime Nelligen PAD 1 has been renamed Roads and Maritime Nelligen Artefact Scatter 1.

#### **Summary of significance and research potential**

The Aboriginal significance of Roads and Maritime Nelligen PAD 1 had been assessed by the key stakeholders as moderate.

The archaeological significance of Roads and Maritime Nelligen PAD 1 was assessed as low on a local level and low on a regional level. The subsurface testing program confirmed that low numbers of artefacts did exist at this location, albeit in a disturbed context. Therefore, the resultant site, Roads and Maritime Nelligen Artefact Scatter 1, has also been assessed as being of low archaeological significance. The rationale for the low archaeological significance of the site was as the artefact assemblage recovered was of low complexity, was of a raw material commonly located in sites from the area and the area from which it was salvaged was disturbed.

Due to the lack of complexity and artefact numbers within the assemblage from Roads and Maritime Nelligen Artefact Scatter 1, it is assessed that further salvage of the site would not have the potential to add significantly to our understanding of the archaeology of the Nelligen area.

The registered Aboriginal parties have not provided a revised the level of significance for Roads and Maritime Nelligen AS1 following the subsurface testing and subsequent Aboriginal Focus Group meeting.

#### **Impact Assessment for Roads and Maritime Nelligen Artefact Scatter 1**

Potential impacts to Roads and Maritime Nelligen Artefact Scatter 1 consist of:

- Excavation of cut embankments
- Relocation of utilities
- Clearing of vegetation
- Landscaping/revegetation on completion of the road work.

Degree of harm:

- Total removal of site

Consequence of harm:

- Total loss of any archaeological material it may contain.

And may also include (please note the locations of the following impacts are not known but will be located wholly within the current study area and will not impact on any known sites or areas of archaeological potential):

- Temporary stockpile sites
- Temporary compound sites
- Temporary sediment basins.

### **Management and Mitigation Measures**

Requirement 11 of the Code of Practice (2010a) requires that various options for management of archaeological impacts are formulated and evaluated. Justification must be provided for those that are recommended.

A range of management options have been outlined and evaluated below in relation to the Roads and Maritime Nelligen AS1 site that include varying levels of mitigation of identified or potential harm. The recommendation of management options is guided by the Aboriginal significance/sensitivity and archaeological significance of the study area. These management options have been developed from an archaeological perspective.

The registered Aboriginal parties were given an opportunity to comment on and inform the management options outlined in this report.

#### **Option 1 Conservation of Site**

Option 1 would involve the conservation of Roads and Maritime Nelligen AS1.

Option 1 has been evaluated and is not considered a recommended option due to the following:

- The project would not be able to proceed with Site conservation
- The Site has been identified as being of low archaeological significance and consequently, it is not archaeologically valid to propose a full

conservation outcome for the Site within the study area.

#### **Option 2 Salvage of Site under AHIP**

Option 2 would involve further salvage of Roads and Maritime Nelligen AS1. Option 2 would require that the further salvage be completed under an AHIP.

Option 2 has been evaluated and is not considered a recommended option due to the following:

- Based on the results of the subsurface testing further investigation is not warranted from an archaeological perspective.

#### **Option 3 Impact Site Without Further Investigation under AHIP**

Option 3 would involve Roads and Maritime proceeding with the project without conducting further investigation within Roads and Maritime Nelligen AS1. Option 3 would require that Roads and Maritime works within the Site area be completed under an AHIP.

Option 3 has been evaluated and is considered a preferred option due to the following:

- Option 3 recognises the low significance of the site from an archaeological perspective and allows for the Roads and Maritime to proceed with the project.

### **Management Recommendations**

The management recommendations outlined below have been prepared with regard to:

- Respect and consideration of the views of the registered Aboriginal parties
- The archaeological context of the Nelligen region
- The Aboriginal cultural context of the Nelligen region and the Aboriginal cultural values of Roads and Maritime Nelligen Artefact Scatter 1
- The findings of the subsurface testing program
- The moderate cultural significance assessment of the area by the key Aboriginal stakeholder The overall low archaeological assessment of Roads and Maritime Nelligen AS1



- The overall low research potential of the Roads and Maritime Nelligen AS1
- Current cultural heritage legislation
- Providing clear guidance about appropriate management and protection of cultural heritage values

The following is recommended for the Roads and Maritime Nelligen Artefact Scatter 1 site (refer to the main text for the management recommendations for the overall project):

- That Option 3 be adopted for Roads and Maritime Nelligen AS1
- That no further archaeological salvage be conducted at Roads and Maritime Nelligen AS1
- Roads and Maritime should apply to the Director-General of OEH for an AHIP in accordance with Section 90 of the NPW Act, with this AHIP to cover the entirety of Roads and Maritime Nelligen AS1 and the entirety of the study area. The AHIP should extend for five years to allow Roads and Maritime sufficient time to complete the works within the AHIP area
- Roads and Maritime should ensure that its employees and contractors are 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 AHIP
- The proposed works can proceed in the remainder of the study area without any further archaeological requirements.
- In the event that suspected human skeletal material be identified within the study area, all works should cease immediately and the NSW Police Department, OEH and the registered Aboriginal parties should be contacted so that appropriate management strategies can be identified.

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# 1.0 Introduction

The Kings Highway crossing of the Clyde River, Nelligen Bridge, is located on the South Coast of New South Wales, about eight kilometres north-west of Batemans Bay. During routine inspections, Roads and Maritime Services identified deterioration of the supporting concrete pillars under Nelligen Bridge. The strength of the bridge has been assessed and is still able to safely carry normal traffic loads. However, the pillars will weaken over time and the bridge will require significant repairs or replacement.

A range of early investigations and consultation about options to repair or replace the bridge have been completed. The outcome of this work is a new bridge should be built to the north of the existing bridge (the Nelligen Bridge Replacement Project) (refer to **Figure 1.1** for the Locality Plan). The approaches to the bridge would also be realigned. After the new bridge is built the existing bridge would be demolished.

Umwelt Australia Pty Limited (Umwelt) has been engaged by Roads and Maritime as part of the Roads and Maritime Services Procedure for Aboriginal Cultural Heritage Consultation and Investigation (Roads and Maritime 2011 - PACHCI) Stage 3 process, which includes this Subsurface Testing and Archaeological Excavation Report. This report is required to inform the concept design and environmental assessment (EA) for the Nelligen Bridge Replacement Project.

## 1.1 Background

The Nelligen Bridge Preliminary Environmental Investigation (PEI) (URS Australia Pty Ltd) was completed for the project in September 2014. In relation to Aboriginal heritage the PEI identified seven Aboriginal sites had been previously recorded and registered with the Office of Environment and Heritage (OEH) Aboriginal Heritage Information Management System (AHIMS) within one kilometre of the study area. None of these sites are located within the current study area.

However, even though there are no recorded sites within the study area, its location on the banks of an important and significant river which is of known Aboriginal heritage value is recognised. It was acknowledged the proposed impact may involve construction on previously undisturbed land and/or the removal of remnant vegetation, including mature stand/s of trees. Therefore it was accepted there was potential to impact on undiscovered Aboriginal values within the study area.

Aboriginal heritage was assessed in terms of the following options:

- Do nothing
- Maintenance of the existing bridge
- Development to the north of the existing bridge
- Development to the south of the existing bridge

It was recommended an Aboriginal Heritage Assessment be undertaken in accordance the Roads and Maritime' PACHCI (2011) for any of the proposed options except for the do nothing option.

The PACHCI Stage 2 process was undertaken including the completion of the Nelligen Bridge Replacement, Aboriginal archaeological Survey Report, PACHCI Stage 2 (Umwelt February 2016, refer to Appendix 4 of this document).



Image Source: Google Earth, DigitalGlobe (2015)  
 Data Source: NSW Roads and Maritime (2015)

0 100 250 500m  
 1:10 000

- Legend**
- Study Area
  - Proposed Design
  - Roads and Maritime Nelligen AS1
  - Possible Burial Marker Trees

FIGURE 1.1

Locality Plan and Roads and Maritime Nelligen AS1 Location

## 1.2 Project description

Roads and Maritime proposes to construct:

- A new Kings Highway crossing of the Clyde River at Nelligen to the north of the existing bridge
- Realign the approaches to the bridge and
- Demolish the existing bridge.

The extent of the required investigation area is from 900 metres east of the existing bridge to 950 metres west of the existing bridge as measured along the Kings Highway.

The work would involve:

- Construction within the Clyde River
- Excavation of cut embankments
- Construction of fill embankments on both sides of the Clyde River
- Temporary stockpile sites
- Temporary compound sites
- Temporary sediment basins
- Operational water quality treatments
- Relocation of utilities
- Clearing of vegetation
- Landscaping/revegetation on completion of the road work.

The exact location of temporary stockpile, compound sites and sediment basins is not known at this stage however potential locations have been identified within the study area and have been inspected accordingly.

## 1.3 Legislative requirements

The Office of Environment and Heritage (OEH) is primarily responsible for regulating the management of Aboriginal cultural heritage in New South Wales under the *National Parks and Wildlife Act 1974* (the NPW Act). The NPW Act is accompanied by the *National Parks and Wildlife Regulation 2009* (the Regulation), the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010a) and other industry-specific codes and guides.

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.*

Under Section 84 of the NPW Act, an Aboriginal Place must be declared by the Minister as a place that, in the opinion of the Minister, is or was of special significance with respect to Aboriginal culture.

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). Similarly, Section 86(4) states that a person must not harm or desecrate an Aboriginal place. Harm to an object or place 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, 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. Furthermore, Section 87(2, 4) establishes that it is a defence to prosecution under Section 86(2) 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 (as defined in Section 80B of the Regulation). The Regulation identifies that compliance with the *Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010a – hereafter referred to as the code of practice) is excluded from the definition of harm.

## 2.0 Aboriginal consultation

Consultation with Aboriginal stakeholders is an integral part of identifying and assessing the significance of Aboriginal objects and/or places, and determining and carrying out appropriate strategies to mitigate the impact upon Aboriginal heritage.

### 2.1 PACHCI Stage 2 Aboriginal consultation

Jeffery Nelson (Roads and Maritime), Tim Webster (Roads and Maritime) and Kym McNamara (Umwelt) undertook the following Aboriginal consultation as part of PACHCI Stage 2 of the project.

#### 2.1.1 National Native Title Register Search

A search of the NNTTs National Native Title Register to identify any registered native title claimants or native title holders for the study area was conducted on 26 August 2015. The geographic parameters for the search was set to the Eurobodalla LGA (refer to **Appendix 1**). The search returned no relevant entries in the following databases:

- Schedule of Applications (unregistered claimant applications)
- Register of Native Title Claims
- National Native Title Register
- Register of Indigenous Land Use Agreements

#### 2.1.2 Register of Aboriginal Owners search

A search of the Register of Aboriginal Owners was conducted on 17 November 2015 by Tim Webster (Roads and Maritime). The results returned on 3 December 2015 outlined the study area did not appear to have Registered Aboriginal Owners pursuant to Division 3 of the *Aboriginal Land Rights ACT 1983* (NSW).

#### 2.1.3 Batemans Bay Local Aboriginal Land Council

The study area lies within the boundaries of the BBLALC area. BBLALC was identified as the sole key Aboriginal stakeholder for the project as part of the PACHCI Stage 2 process. Initial contact was made by Tim Webster on 24 September 2015 to organise availability for the field survey. Les Simon from BBLALC participated in the field survey for the project. He provided further information on significance of the study area on the 8 January 2016.

### 2.2 PACHCI Stage 3 Aboriginal consultation

The Aboriginal consultation regarding this project has been undertaken in compliance with the Department of Environment, Climate Change and Water (DECCW, now Office of Environment and Heritage (OEH)) Aboriginal Cultural Heritage Consultation Requirements (ACHCRs) for proponents (2010a). Consultation regarding cultural heritage matters within the study area has been undertaken in accordance with Clause 80C of the Regulation.

Consultation regarding cultural heritage matters within the study area has been detailed in **Table 2.1** below. Forty three (43) Aboriginal parties were identified as having an interest in the study area (refer to **Appendix 1** for details).



A draft copy of this report was provided to each of the registered Aboriginal parties. It was requested that the registered Aboriginal parties provide written comment on the draft report. The comments received from the registered Aboriginal parties are summarised below.

- A letter was received from MBMAC on 7 July 2016 stating that the recommendations had been read and that they agreed with the recommendation for Option 3 – Impact Site without Further Investigation under AHIP and Conservation of Possible Burial Marker Trees.

No further comments were received.

**Table 2.1 Record of consultation with Aboriginal Parties**

Date	Type of Consultation	Authorities/Aboriginal Parties Contacted	Outcome
15/01/16	Letter providing notification of assessment and request to identify Aboriginal parties	Office of Environment and Heritage	OEH provided a list of 43 names that have registered an interest in this location.
		Batemans Bay Local Aboriginal Land Council	BBLALC were engaged to do stage 2 PACHCI works.
		Office of the Registrar of Aboriginal Owners	Advised there were NO registered Aboriginal owners in the project area. Referred Roads and Maritime to Batemans Bay LALC for further stakeholders.
		National Native Title Tribunal	Did not receive a response.
		New South Wales Aboriginal Land Council	Recommended we contact the Local Aboriginal Land Council the project lies within. (Batemans Bay LALC)
		Local Land Services South East	Recommended contacting OEH.
		NSW Native Title Services Corporation	Did not receive a response.
		Eurobodalla Shire Council	Referred Roads and Maritime to Batemans Bay LALC

Date	Type of Consultation	Authorities/Aboriginal Parties Contacted	Outcome
27/01/16	Advertisement providing notification of assessment and opportunity to registration interest in on-going consultation	Advertisement placed in: The Koori Mail Bay Post The National Indigenous wasn't operable at time of print	
10/02/16	Letter providing an invitation to attend an Aboriginal Focus Group meeting and to review draft methodology for subsurface testing provided to registered Aboriginal parties	All 43 Aboriginal parties whose name was put forward by the OEH on 05/02/2016.	Two stakeholders attended the AFG on Tuesday 23 February 2016. The Roads and Maritime Project Manager and Aboriginal Cultural Heritage Advisor visited the Batemans Bay LALC after the meeting to discuss the proposal for Nelligen as they did not attend the AFG. No comments received on methodology.
11/02/16	Letter providing notification of assessment and invitation to register interest in consultation (for known Aboriginal parties previously identified as potentially having an interest in this area)	All registered Aboriginal parties were sent a letter on 11/02/2016	Some undeliverable emails. No alternative contacts were provided apart from an email. Letters posted to parties without an email address on 11/02/2016
24/02/16	The subsurface testing methodology provided to OEH for review	OEH Queanbeyan	After discussions no changes required to methodology
25/02/16	Provide meeting minutes to Aboriginal parties	All 43 registered Aboriginal parties	No further comments
30/03/16	Engagement of Aboriginal Sites Officers	Engagement letter sent	Site Officers engaged to do works on Monday 11 April 2016

Date	Type of Consultation	Authorities/Aboriginal Parties Contacted	Outcome
11/04/16	Subsurface testing conducted with Aboriginal party representatives	Two sites officers from the MBMAC participated in the subsurface testing.	A total of 14 artefacts were recovered and the Roads and Maritime PAD 1 was rerecorded as Roads and Maritime AS1.
9/06/2016	Letter providing an invitation to attend an Aboriginal Focus Group meeting and to review draft report ACHA and Subsurface Testing Report provided to registered Aboriginal parties.	All 43 registered Aboriginal parties	<p>No stakeholders were available to attend the AFG on Tuesday 23 June 2016. However the Roads and Maritime Project Manager, Aboriginal Cultural Heritage Advisor and Umwelt Senior Archaeologists visited the Batemans Bay LALC to conduct the meeting to discuss the project, to outline the subsurface testing results, review the ACHA and to discuss management recommendations for the project. It was discussed that a study area wide AHIP would be applied for not just a site AHIP.</p> <p>Only one response was received. This was a letter from MBMAC dated 7 July 2016 which stated that the community agreed with the recommendation for Option 3 – Impact Site without Further Investigation under AHIP and Conservation of Possible Burial Marker Trees</p>

## 3.0 Subsurface testing methodology

The following methodology for conducting test excavations was developed to provide clear procedures to ensure that any archaeological material identified within the project area was appropriately documented and managed. The following subsurface testing methodology and requisite accompanying documentation was supplied to the OEH for review on 24 February 2016 in compliance with Requirement 15c of the Code of Practice (2010a).

### 3.1 Selection of test excavation locations

Test excavation locations will be chosen in consultation with the participating Aboriginal stakeholders and archaeologist. Test excavations will be placed in areas less likely to have been impacted by previous development.

When choosing test excavation locations the following must be taken into account:

- Test excavation units must be placed on a systematic grid appropriate to the scale of the area being investigated
- Any test excavation point must be separated by at least 5 metres
- Test excavations must be excavated in 50 cm x 50 cm units
- Test excavations units may be combined and excavated as necessary to understand the site characteristics, however:
  - The maximum continuous surface area of a combination of test excavation units at any single excavation point conducted in accordance with point 1 (above) must be no greater than 3 m<sup>2</sup>
  - The maximum surface area of all test excavation units must be no greater than 0.5 per cent of the area being investigated.

The following test excavations area proposed for Roads and Maritime Nelligen PAD1:

- Any combination of 50 cm x 50 cm units up to 1 m<sup>2</sup>.

#### 3.1.1 General excavation methodology

Test excavations will be undertaken manually and in accordance with the Code of Practice (DECCW 2010a) and adhere to the methodology provided below.

- The test excavation area will be marked out as a series of 50 cm by 50 cm (test pits)
- Each test pit will be excavated using 5 cm spits
- Each test pit will be excavated to clay or up to a depth of 1.25 metres
- A soil sample will be collected from each spit of one test pit within each of the broader excavation areas for geomorphic analysis as required

- Photographic and to scale hand drawn records of the stratigraphy/soil profile will be completed for each test pit with artefacts
- Excavated materials (with the exception of sediments from a hearth or heat treatment pit) will be dry sieved through nested 2 and 5 millimetre gauge sieves in order to ensure that all artefactual material is retained
- Should any features (such as a hearth or heat treatment pit or an accumulation of animal bone or shell likely to relate to Aboriginal cultural activities) be identified, they will be excavated in accordance with the methodology provided in **Section 3.2**
- Should any human, or potential human skeletal material (single bones or an intact burial) be located within any excavated area, it will be managed in accordance with the methodology provided in **Section 3.3**
- At the completion of the excavation the test excavations will be backfilled.

## 3.2 Excavation of features

The following methodology will be used for excavation of a feature such as a hearth, heat treatment pit, ground oven or dense artefact concentration:

- The surface of the exposed feature will be cleaned by hand (using trowels, hand shovels and brushes as required) to allow the edges of the feature within the test pits and across the broader test excavation area to be identified
- The surface extent of the feature within the test excavation area/test pits will be planned and photographed
- The area of the feature within the test excavation area will then be excavated using the 50 cm test pits to cross-section (half-sectioned) the feature. The excavation will be undertaken using trowels to investigate the dimensions and orientation of the feature. The excavation will proceed according to the stratigraphy (if any) of the in-filling materials or in 5 centimetre spits if there is no clearly defined stratigraphy
- The feature will be photographed in cross-section and a stratigraphic profile of the cross-section will be recorded
- The area of the feature within the test excavation area will then be excavated in its entirety. Any part of the feature remaining outside the excavation area will be left in situ. All excavated materials (including those from the original cross-section excavation) will be retained for analysis and samples of relevant materials may then be sent for additional analysis, including radio-carbon dating
- Deposits from around the feature from within the test excavation area will be sieved using nested 2 and 5 millimetre sieves
- At a minimum soil samples from around the feature will be collected for each stratigraphic unit and
- Following removal of the feature subsurface testing will resume using the methodology in **Section 3.1.1.**

### 3.3 Human skeletal material or suspected human skeletal material

If human skeletal material or skeletal material assessed as likely to be human is uncovered during the test excavations all excavation will cease. Contact will be made with the NSW Police, the OEH Regional Operations Archaeologist and all registered Aboriginal parties. A suitably qualified forensic archaeologist/anthropologist may be required to determine the nature of the skeletal material (age, ethnicity, cause of death). An appropriate course of action will be determined in consultation with all parties prior to the recommencement of work in the project area.

If removal/exhumation is required, additional assessment and approval may be required, including an application for approval under the Heritage Act prepared consistent with Heritage Council skeletal remains guidelines (Skeletal Remains – Guidelines for the Management of Human Skeletal Remains under the *Heritage Act 1977*) and any requirements of OEH and NSW Health prior to the disturbance of the area of the skeletal material.

### 3.4 Methodology for the stone artefact recording and analysis

Following the completion of each test excavation and prior to reburial, any salvaged stone artefacts (if any) will have the following attributes recorded for analysis. These attributes have been chosen as they will not only provide the data required to understand the nature and significance of the project area locally, but they will also allow for comparative analysis with other assemblages in the Nelligen area.

#### All stone artefacts

All of the artefacts will be bagged and tagged in accordance with Museum standards. Thus they will be identified to the location from which they were recovered, the type of salvage methodology (e.g. manual excavation and spit number). This information will be recorded in the database for all artefacts.

**Artefact class** will be recorded for all artefacts (e.g. flake, broken flake, retouched flake, flaked piece, core, axe, grindstone, hammerstone, anvil, manuport, heat shatter etc.).

**Raw material type** will be recorded for all artefacts.

**For all whole flakes the following attributes will ALSO be recorded:**

- Length
- Width
- Thickness
- % Cortex
- Cortex Type
- Platform Preparation (will also be recorded on proximal flake portions)
- Dorsal Scar Count and Rotation
- Visible Use-Wear (yes/no)
- Visible Residue (yes/no)

- Comments – description, does it conjoin with another artefact, if used which margin was used, if it has residues where are the residues on the flake etc.)
- Individual Photo (yes/no as identified by RAPs and archaeologists during the test excavations and the archaeologists during the attribute recording process)

**For all retouched flakes the following attributes will ALSO be recorded:**

- Retouched Flake Class and Broken Retouched Flake Class (e.g. backed blade, backed point, backed flake, flake used as a core)
- Retouch type (acute, steep, unifacial, bifacial, tranchet etc. - can be more than one of these)
- Length
- Width
- Thickness
- % Cortex
- Cortex Type
- Visible Use-Wear (yes/no)
- Visible Residue (yes/no)
- Comments – description, does it conjoin with another artefact, if used which margin was used, if it has residues where are the residues on the flake)
- Individual Photo (yes/no as identified by RAPs and archaeologists during the test excavations and the archaeologists during the attribute recording process)

**For all cores the following attributes will ALSO be recorded:**

- Length
- Width
- Thickness
- % cortex
- Cortex Type
- Platform Preparation
- Rotation (count)
- Exhaustion (exhausted, almost exhausted, not exhausted)
- Visible Use-Wear (yes/no)



- Comments – description, does it conjoin with another artefact, if used which margin was used, if it has residues where are the residues on the core)
- Individual Photo (yes/no as identified by RAPs and archaeologists during the test excavations and the archaeologists during the attribute recording process)

**For any axes, grindstones, anvils, manuports, hammerstones, etc the following attributes will ALSO be recorded:**

- Length
- Width
- Thickness
- % cortex
- Cortex Type
- Visible Use-Wear (yes/no)
- Visible residue (yes/no)
- Comments
- Individual Photo (yes/no as identified by RAPs and archaeologists during the test excavations and the archaeologists during the attribute recording process)

Following the artefact attribute recording, the results will be subject to comparative analysis (subsurface) within the project area assemblage (intra-site comparative analysis) and with other assemblages (inter-assemblage analysis) which have been recorded in a similar manner and for which this data is available from around the Nelligen area.

### **Shell and non-human bone**

Any shell or non-human bone recovered will be subject to identification to species where possible. Minimum number of individuals (MNI) and number of individual specimens (NISP) will be identified. The material will be measured and weighed and bagged and tagged to museum standards.

## 4.0 Results

The test excavation program was undertaken on 11 April 2016. The test excavation works were conducted with two sites officers from the Murra Bidgee Mullangari Aboriginal Corporation and Kym McNamara (Umwelt Senior Archaeologist) and Kirwan Williams (Umwelt Archaeologist) with input from Roads and Maritime provided by Tim Webster. Test excavation locations are described below with reference to the test pit locations, identified soil profiles and artefact distribution.

### 4.1 Selection of test excavation locations

- Test excavation units were placed in a single line which was appropriate to the scale of the area being investigated
- The grid-line chosen was on a south to north orientation with the test pits named 1 to 4 from south to north
- Test excavation points were separated by at least five metres
- Test excavations were excavated in 50 cm x 50 cm units
- Test excavations were completed as four separate 50 cm x 50 cm test pits five metres apart.

### 4.2 General excavation methodology

Test excavations were undertaken manually (refer to **Plate 4.1**) and in accordance with the Code of Practice (DECCW 2010a) adhering to the methodology provided below.

- The test excavation area was marked out as a series of 50 cm by 50 cm (test pits).
- Each test pit was excavated using 5 cm spits
- Each test pit was excavated to the top of the B-horizon (in each of the test pits this was 20 cm or four spits)
- A soil sample was collected from each spit of the four test pits for geomorphic analysis as required
- Photographic records of the stratigraphy/soil profile were completed for each test pit
- Excavated materials were dry sieved through nested 2 and 5 millimetre gauge sieves in order to ensure that all artefactual material was retained
- The artefacts were collected, bagged and labelled
- All artefacts collected were subject to attribute analysis (refer to **Section 4.4**)
- At the completion of the excavation the test excavations were backfilled
- No archaeological features such as hearths, heat treatment pits, ground ovens or dense artefact concentrations were located

- No potential human skeletal material (single bones or an intact burial) were located within any excavated area
- No shell or non-human skeletal material was located within any excavated area
- No significant artefacts such as axes, grinding stones, anvils, manuports or hammerstones were located within any excavated area
- No retouched flakes were located.

### 4.3 Soil profile description

Each test pit was excavated in accordance with the approved methodology (refer to **Plate 4.2**). The soil profiles within the excavated test pits were all very similar with no recognisable stratigraphy, as described below:

- Each of the four test pits encountered the B Horizon (clay) after the completion of four spits (20cm depth)
- Each of the four test pits contained undifferentiated fine yellow sandy loams with variable amounts of gravel (mainly quartz) throughout.

An analysis of the soil profiles indicated that the study area had been previously disturbed and did not retain an intact soil profile. The natural quartz gravel in the soil profile was of poor knapping quality due to its high degree of incipient fracturing.

### 4.4 Artefact recording and analysis

A total of 14 artefacts were recovered from the test excavations at Roads and Maritime Nelligen PAD1. The assemblage was comprised of 8 broken flakes, 3 complete flakes, 2 cores and 1 flaked piece. All of the artefacts were manufactured from quartz. Six artefacts were located in Test Pit 1, two in Test Pit 2, four in Test Pit 3 and two in Test Pit 4 as detailed below in **Table 4.1**. The artefacts were spread throughout the four spits, with Spit 3 having the highest number (7 or 50 per cent of the assemblage). The quartz used for artefact manufacture was of a slightly higher quality than the local quartz gravel. It was observed that some of the quartz in the soil profile had been crushed and broken from prior works. All quartz that had the appearance of artefacts was retained for analysis after being washed and inspected to be certain that no artefacts were missed and non-artefactual material was mistakenly recorded.

Permission to retain the artefacts instead of reburial as required by the Code, was granted by Jackie Taylor on the day of the subsurface testing, 11 April 2016. After further consultation with the Aboriginal parties both BBLALC and MBMAC indicated that they would like the artefacts to be returned to Country. This process would be undertaken after the completion of construction in consultation with the registered Aboriginal parties and Roads and Maritime. Until the artefacts are returned to Country they will be stored securely at the Office of Umwelt, at 56 Bluebell Street O'Connor, ACT.

**Plate 4.1**



Subsurface testing of Roads  
and Maritime Nelligen  
PAD1 view north-north-  
east

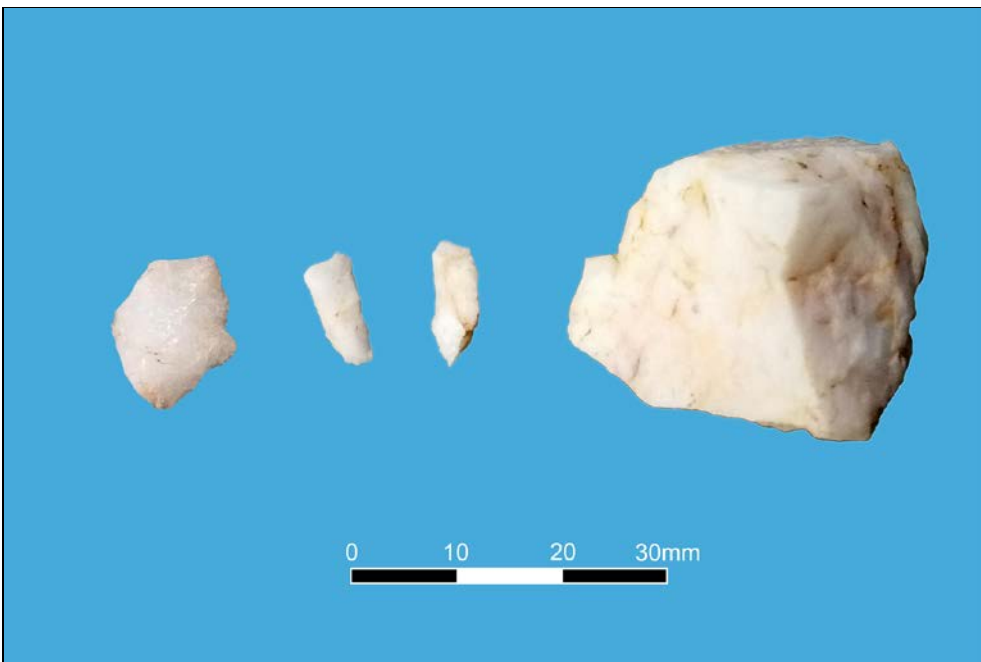
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**Plate 4.2**

Subsurface testing of Test Pit 1, Roads and Maritime Nelligen PAD1 view west

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**Plate 4.3**

An example of quartz artefacts from the subsurface testing of Roads and Maritime Nelligen PAD1

© Umwelt, 2016

**Table 4.1 Excavation results**

GENERAL												CORES		GENERAL		
Pit	Spit	Number	Artefact Class	Raw Material	Length	Width	Thickness	Percentage Cortex	Cortex Type	Platform Preparation	Dorsal Scar Count/Rotation	Rotation	Exhaustion	Heat Treated	Visible Usewear	Comments
1	1	1	Broken Flake	Quartz	13.3	9.9	2.8	0	No Cortex	0	0	-	-	No	No	White proximal fragment
1	2	2	Broken Flake	Quartz	9.3	4.9	1	0	No Cortex	0	0	-	-	No	No	White proximal fragment
1	2	3	Broken Flake	Quartz	9.3	4.8	1.3	0	No Cortex	0	0	-	-	No	No	White proximal fragment
1	3	4	Broken Flake	Quartz	20.9	20.8	7.5	0	No Cortex	0	0	-	-	No	No	White with dark venation, proximal fragment
1	3	5	Flaked Piece	Quartz	23.2	19.8	5.8	0	No Cortex	-	-	-	-	No	No	White with dark venation
1	3	6	Broken Flake	Quartz	8.5	9.7	3.2	0	No Cortex	0	0	-	-	No	No	White proximal fragment
2	1	7	Broken Flake	Quartz	17.6	8.8	4.3	0	No Cortex	0	0	-	-	No	No	White proximal fragment
2	3	8	Flake	Quartz	14.3	4.4	2.1	0	No Cortex			-	-	No	No	White
3	1	9	Core	Quartz	40.5	28.2	12.5	0	No Cortex	-	-	1	Almost Exhausted	No	No	White with dark venation, poor quality material

GENERAL												CORES		GENERAL		
Pit	Spit	Number	Artefact Class	Raw Material	Length	Width	Thickness	Percentage Cortex	Cortex Type	Platform Preparation	Dorsal Scar Count/Rotation	Rotation	Exhaustion	Heat Treated	Visible Usewear	Comments
3	2	10	Core	Quartz	30.9	31	23.2	0	No Cortex	-	-	2	Not Exhausted	No	No	White, better quality homogenous material than previous
3	3	11	Flake	Quartz	18.6	13.2	4.3	0	No Cortex	0	0	-	-	No	No	White, better quality homogenous material
3	4	12	Broken Flake	Quartz	9.9	7.6	3.2	0	No Cortex	-	-	-	-	No	No	White, homogenous material, Distal fragment
4	3	13	Broken Flake	Quartz	9.8	4.3	3.2	0	No Cortex	-	-	-	-	No	No	White, homogenous material, Distal fragment
4	3	14	Flake	Quartz	12.1	6.4	2.1	0	No Cortex	0	0	-	-	No	No	White, homogenous material

#### 4.4.1 Discussion

The test excavations completed within Roads and Maritime Nelligen PAD1 demonstrated that the area had been subject to significant disturbance. All of the artefacts identified during test excavations were recovered from test pits that did not exhibit an intact soil profile and therefore the location of these artefacts does not reflect their original depositional context. However, the presence of these artefacts in a subsurface context confirms that the PAD has the potential to contain additional Aboriginal objects, albeit in very low numbers and densities and in a highly disturbed context.

As a result of the test excavations at Roads and Maritime Nelligen PAD 1 this area is now identified as site Roads and Maritime Nelligen Artefact Scatter 1 (Roads and Maritime Nelligen AS1). A site card has been submitted for site Roads and Maritime Nelligen AS1 in accordance with requirements, refer to **Appendix 2**.



## 5.0 Significance assessment

This section of the report assesses the Aboriginal and archaeological significance of the Roads and Maritime Nelligen AS1 area. Archaeological significance is a scientific value which can be determined by archaeologists based on the characteristics of the landscape and archaeological evidence from the area.

Aboriginal cultural heritage significance can only be determined by members of the Aboriginal community. Even though an area may not have Aboriginal archaeological sites, it may still have cultural significance to Aboriginal communities.

The significance of an archaeological site is derived from its potential to contribute information that will enhance knowledge of past cultural practices. Significance is assessed according to principles outlined in the Burra Charter, which was adapted from the International Council for Monuments and Sites (ICOMOS), Venice Charter. The current Burra Charter (1999) provides guidance for the conservation and management of places of cultural significance (cultural heritage places), and for the assessment of cultural significance in determining appropriate management procedures for cultural heritage. The Burra Charter defines cultural significance as ‘aesthetic, historic, scientific or social value for past, present or future generations’ (Australia ICOMOS 1999). The NSW NPWS Guidelines (1997) provide a discussion on the assessment of cultural significance for Aboriginal sites. NPWS recommends archaeologists focus on scientific significance, as the aesthetic, historic and educational value of sites (where relevant) is better determined by others.

### 5.1 Aboriginal significance/sensitivity

As stated above, Aboriginal cultural heritage significance can only be assessed by the relevant Aboriginal community groups. For a particular site or area, it is often at a different level than the assessed archaeological significance. The Aboriginal significance of the site is derived from the perceived cultural heritage sensitivity. Perceived cultural heritage sensitivity is the value and importance which the Aboriginal community places on a site, area or location. For example, a ceremonial site may be considered to be more culturally sensitive than an open campsite, or, a grinding groove site would probably have a higher cultural heritage value than an isolated find.

The assessment provided by the representative of the BBLALC present during the survey identified Roads and Maritime Nelligen PAD1 as being of moderate Aboriginal cultural heritage significance. This level of significance was identified based on the following:

- It is located along an identified travel route with an outlook over the Clyde River
- There are known but unrecorded artefact scatters to the east
- Aboriginal resource plants were recorded in the area.

The survey of the area by the key Aboriginal stakeholder also highlighted the cultural heritage sensitivity of Clyde River itself. The river was identified as a valuable resource which would have provided a focus for Aboriginal occupation of the area. Thus, the Aboriginal stakeholder indicated he wanted Roads and Maritime to minimise the impact of the bridge replacement project on the actual river.

The key Aboriginal stakeholder assessed the area as being of moderate significance prior to the subsurface testing program. No further input into the status of this site was subsequently provided by other registered Aboriginal parties.

## 5.2 Archaeological or scientific significance

The scientific significance of Aboriginal sites/PADs is assessed according to their ability to contribute to the scientific or archaeological understanding of Aboriginal culture. Rarity, representativeness, intactness and integrity, connectedness, potential to provide new information about pre-contact Aboriginal culture in an area, and potential to contribute to a chronology of the local Aboriginal culture, are the criteria used to assess scientific significance. In practice, site integrity is the key to archaeological significance. Sites with high structural and contextual integrity are rare. Where they do occur, they have the potential to provide significantly more information about the past than do the large numbers of disturbed surface scatters of artefacts.

Roads and Maritime Nelligen AS1 was assessed according to the site's likely value to contribute to furthering of the archaeological/scientific understanding of Aboriginal culture (the site's archaeological research potential) in the local and regional context. Six criteria were assessed to determine archaeological research potential, these were:

- Rarity
- Representativeness
- Integrity
- Connectedness
- Complexity
- Potential for archaeological deposit.

### 5.2.1 Ranking of criteria for evaluating archaeological significance

**Table 5.1** indicates how Roads and Maritime Nelligen AS1 was evaluated in relation to each of the six criteria to assess its overall archaeological research potential. Following the table, each of the criteria is discussed and justification provided for the assessed levels of significance.

**Table 5.1 Criteria used in evaluating archaeological significance**

Criterion	Low (Score of 1)	Moderate (Score of 2)	High (Score of 3)
Rarity	The location of the site within the landscape, its type, integrity contents and/or potential for subsurface artefacts is common within the local and regional context	The location of the site within the landscape, its type, integrity contents and/or potential for subsurface artefacts is common within the regional context but not the local context	The location of the site within the landscape, its type, integrity contents and/or potential for subsurface artefacts is rare within the local and regional context
Representativeness	This site when viewed in relation to its type, contents, integrity and location in the landscape is common within a local and regional context and sites of similar nature (or in better condition) are already set aside for conservation within the region	This site when viewed in relation to its type, contents, integrity and location in the landscape is uncommon within a local context but common in a regional context and sites of similar nature (or in better condition) are already set aside for conservation within the region	This site when viewed in relation to its type, contents, integrity and location in the landscape is uncommon within a local and regional context and sites of similar nature (or in better condition) are not already set aside for conservation within the locality or region
Integrity	Stratigraphic integrity of the site has clearly been destroyed due to major disturbance/loss of topsoil. The level of disturbance is likely to have removed all spatial and chronological information.	The site appears to have been subject to moderate levels of disturbance; however there is a moderate possibility useful spatial information can still be obtained from subsurface investigation of the site, even if it is unlikely any useful chronological evidence survives.	The site appears relatively undisturbed and there is a high possibility that useful spatial information can still be obtained from subsurface investigation of the site, even if it is still unlikely any useful chronological evidence survives. (In cases where both spatial and chronological evidence is likely to survive the site will gain additional significance from high scores for rarity and representativeness).

Criterion	Low (Score of 1)	Moderate (Score of 2)	High (Score of 3)
Connectedness	<p>There is no evidence to suggest the site is connected to other sites in the local area or the region through:</p> <ul style="list-style-type: none"> <li>• their chronology (rarely known)</li> <li>• their site type (eg connectedness could be argued between an axe quarry, a nearby set of axe grinding grooves and a nearby site exhibiting evidence of axe reduction)</li> <li>• by the use of an unusual raw material, knapping technique/reduction strategy</li> <li>• similar designs/motifs in the case of art sites and engravings and</li> <li>• information provided by Aboriginal oral history.</li> </ul>	<p>There is some evidence to suggest the site is connected to other sites in the local area or the region through:</p> <ul style="list-style-type: none"> <li>• their chronology (rarely known)</li> <li>• their site type (eg connectedness could be argued between an axe quarry, a nearby set of axe grinding grooves and a nearby site exhibiting evidence of axe reduction)</li> <li>• by the use of an unusual raw material, knapping technique/reduction strategy</li> <li>• similar designs/motifs in the case of art sites and engravings and</li> <li>• information provided by Aboriginal oral history.</li> </ul>	<p>There is good evidence to support the theory the site is connected to other sites in the local area or the region through:</p> <ul style="list-style-type: none"> <li>• their chronology (rarely known)</li> <li>• their site type (eg connectedness could be argued between an axe quarry, a nearby set of axe grinding grooves and a nearby site exhibiting evidence of axe reduction)</li> <li>• by the use of an unusual raw material, knapping technique/reduction strategy</li> <li>• similar designs/motifs in the case of art sites and engravings and</li> <li>• information provided by Aboriginal oral history.</li> </ul>

Criterion	Low (Score of 1)	Moderate (Score of 2)	High (Score of 3)
Complexity	<p>The site does not exhibit and is not predicted to contain either of the following in a subsurface context:</p> <ul style="list-style-type: none"> <li>• a complex assemblage of stone artefacts in terms of artefact types and/or raw materials (including use of local and imported raw materials) and/or knapping techniques/reduction strategies and</li> <li>• features such as hearths or heat treatment pits, activity areas.</li> </ul>	<p>The site exhibits or can be predicted to contain one of the following in a subsurface context:</p> <ul style="list-style-type: none"> <li>• a complex assemblage of stone artefacts in terms of artefact types and/or raw materials and/or knapping techniques/reduction strategies and/or use of local and imported raw materials and</li> <li>• features such as hearths or heat treatment pits, activity areas.</li> </ul>	<p>The site exhibits or can be predicted to contain both of the following in a subsurface context:</p> <ul style="list-style-type: none"> <li>• a complex assemblage of stone artefacts in terms of artefact types and/or raw materials and/or knapping techniques/reduction strategies and/or use of local and imported raw materials and</li> <li>• features such as hearths or heat treatment pits, activity areas.</li> </ul>
PAD	<p>The site has no or only low potential to contain subsurface archaeological material that has stratigraphic integrity, or is of a nature that suggests its subsurface investigation would help with answering questions of contemporary archaeological interest, or that indicates it should be preserved for its future research potential.</p>	<p>The site has a moderate potential to contain subsurface archaeological material that has stratigraphic integrity or is of a nature that its subsurface investigation would help with answering questions of contemporary archaeological interest or that indicate it should be preserved for its future research potential.</p>	<p>The site has a high potential to contain subsurface archaeological material that has stratigraphic integrity or is of a nature that its subsurface investigation would help with answering questions of contemporary archaeological interest or that indicate it should be preserved for its future research potential.</p>

Roads and Maritime Nelligen AS1 was afforded a numerical value for each significance criterion so an overall significance assessment could be made. The values for each criterion were scored as follows:

- Low significance was afforded a score of 1
- Moderate significance was afforded a score of 2
- High significance was afforded a score of 3.

Local or regional significance was scored as follows:

- Low significance 6-9
- Moderate significance 10-14
- High significance 15-18.

Overall significance (Local plus regional significance) was scored as follows:

- Low significance 12-15
- Low to moderate significance 16-19
- Moderate significance 20-23
- Moderate to high significance 24-27
- High significance 27-36.

If the Roads and Maritime Nelligen AS1 site was assessed to have low local significance (when compared to other sites) within a five kilometre radius) for any criterion, then this aspect of the site was also deemed to be low at the regional level. If, however, the site had been assessed as having moderate or high archaeological significance on a local scale for any criterion, then it would have been assessed against other sites known from the literature in the broader Nelligen/Batemans Bay area.

## 5.2.2 Rarity

A site may be thought of as rare if it is, or has, the potential to be a site type that is uncommon in the local and/or regional context or has the potential to have site contents that are uncommon in the local and/or regional context. Other sites may be composed of common elements, but may be preserved in an unusually informative way or in a landform context that is atypical. Some common site types like artefact scatters, may have increased significance for 'rarity' if most other similar sites in the area have been destroyed by development and if no similar sites are being conserved in the local/region.

Numerous artefact scatters are recorded on ridge slopes and crests within the vicinity of the study area. Roads and Maritime Nelligen AS1 is assessed as only having the potential to have a low density of artefacts in a subsurface context similar to those recorded locally and regionally. Thus, the Roads and Maritime Nelligen AS1 area is assessed as having low archaeological significance for rarity on a local scale and low archaeological significance for rarity on a regional scale.

### 5.2.3 Representativeness

One of the objectives of cultural heritage management is to ensure a representative sample of all site types is preserved in the variety of landscapes in which they occur. Like many other natural resources, archaeological sites are a non-renewable resource. Once they are destroyed they cannot be replaced or replicated. As a result, one of the aims of a scientific value assessment is to examine the potential of newly discovered sites to be conserved to act as 'representative' examples of a particular site type.

Numerous artefact scatters are recorded on the ridge slope with the potential to be similar to Roads and Maritime Nelligen AS1 recorded locally that are being conserved. There are numerous artefact scatters of a similar nature recorded on similar landforms recorded regionally that are being conserved. Therefore Roads and Maritime Nelligen AS1 is assessed as having low archaeological significance for representativeness on a local scale and low archaeological significance on a regional scale.

### 5.2.4 Integrity

Each archaeological site represents/has the potential to represent, a number of pieces of evidence spatially organised both by human behaviour and by subsequent environmental and land-use effects. When a site has been subject to relatively few environmental or land-use (post-depositional) processes, it will represent more directly the original human activities which created it. Such undisturbed sites are considered to have archaeological integrity and may have the potential to answer research questions of relevance to both the Aboriginal and archaeological community. Sites with archaeological integrity are necessary to answer questions related to the antiquity of Aboriginal occupation or related to chronological change in the ways people were behaving within the landscape.

In sites which have been heavily disturbed by post-depositional processes such as tree clearance followed by erosion, agricultural activities and infrastructure development and/or bioturbation, aspects of the original activities which formed the sites will be disturbed and site integrity lost. The loss of site integrity limits the ability of the site to provide information about the Aboriginal past.

Roads and Maritime Nelligen AS1 has had the surface disturbed by tree clearing, easement establishment and maintenance. Subsurface testing has now confirmed that there is no stratigraphic integrity and therefore no means of reconstructing meaningful conclusions from the spatial distribution of any recovered artefacts. Thus, Roads and Maritime Nelligen AS1 is assessed as having low archaeological significance for integrity on a local and regional scale.

### 5.2.5 Connectedness

Connectedness can be considered in a number of ways, at a number of scales. In its broadest sense, 'connectedness' refers to patterns linking sites within an area. Connectedness is often difficult to ascertain as the chronological sequence of use of surface sites is unknown at the survey stage of their assessment. Thus, connectedness must be related to other features of sites (eg the use of similar raw materials and reduction sequences aimed at producing similar implement types) or the nature of features within the sites (eg heat treatment pits and knapping floors containing heat treated artefacts). In some cases, it may be a series of sites within an area relates to a number of different activities which are in fact all components of a single land use system (eg a stone quarry, a camp site at which reduction of that stone takes place, a sandstone outcrop on which that stone is ground).

The poor quality of the quartz used to manufacture the artefacts recovered from Roads and Maritime Nelligen AS1 and the common occurrence of quartz in the local environment suggest that the raw material was sourced locally, possibly from surface exposures of quartz gravels. Therefore, no connection can be made between this site and a quarry site or to any other site in the locale. Roads and Maritime Nelligen AS1

therefore is assessed as having low archaeological significance for connectedness on a local and regional scale.

### 5.2.6 Complexity

The complexity of a site is assessed on the basis of its ability to contribute to our understanding of the Aboriginal past. The more complex a site, the more potential it has to be interpreted in an informative way. Complexity can be related to the artefact assemblage located within a site, or predicted in a subsurface context and/or the nature of features (heat treatment pits, hearths, knapping floors) within a site.

The artefacts recovered from Roads and Maritime Nelligen AS1 are representative of a low density and low complexity subsurface artefact assemblage. Thus, the site is assessed as having low significance for complexity on a local scale and low significance for integrity on a regional scale.

### 5.2.7 Potential archaeological deposit

PADs are places where the subsurface profile is assessed as having a high probability of containing cultural heritage materials in a relatively undisturbed context. They are not simply areas that can be predicted to have subsurface artefacts (though the term is often used in this manner). Factors that need to be considered when assessing PADs include:

- The depth of the 'A' (topsoil) horizon
- Any potential disturbances to the subsurface environment (eg bioturbation, stock trampling, power easement clearance, cultivation, dam construction etc)
- The probability of cultural materials being present as assessed through the environmental setting and/or a surface artefact assemblage
- Any geomorphic agencies likely to have affected the area (eg slopewash, colluvial erosion and deposition, creek migration).

While it can be predicted that the Roads and Maritime Nelligen AS1 site will retain further artefacts in a subsurface context it is assessed that any further assemblage will be of low density and low complexity. In addition it is highly unlikely that features such as knapping floor or hearths would have been conserved in this location if they ever existed due to the disturbed nature of the soil profile. Thus, the site is assessed as having low significance for PAD on a local scale and low significance for PAD on a regional scale.

## 5.3 Summary of archaeological site significance

**Table 5.2** provides a summary of the significance assessment for Roads and Maritime Nelligen Artefact Scatter 1 recorded following the subsurface testing program. The scores are based on the ranking criteria provided in **Table 5.1** and the discussions in **Sections 5.2.1 to 5.2.7**.



**Table 5.2 Archaeological significance assessment Roads and Maritime Nelligen PAD1**

Criterion	Roads and Maritime Nelligen PAD1	
	Local	Regional
Rarity	1	1
Representativeness	1	1
Integrity	1	1
Connectedness	1	1
Complexity	1	1
PAD	1	1
<b>Total</b>	<b>6</b>	<b>6</b>

## 5.4 Summary of significance

The Aboriginal significance of Roads and Maritime Nelligen PAD1 was assessed by the key stakeholder as moderate.

No further input into the status of this site was provided by the registered Aboriginal parties following their review of the draft report.

As a result of the subsurface testing confirming a low density, low complexity assemblage the archaeological significance of Roads and Maritime Nelligen AS1 has been assessed as low on a local level and low on a regional level. Overall, Roads and Maritime Nelligen AS1 was assessed as having low archaeological significance.

## 6.0 Discussion of research potential

The research potential of a site/PAD is assessed on the basis of the potential for further investigation of the site/PAD to add significantly to our understanding of the past. A number of factors contribute to this assessment, including the complexity/potential complexity of the site/PAD, how well preserved the site/PAD is, how the site/PAD relates to/has the potential to relate to prevailing research themes, and whether the site/PAD is able to/has the potential to be able to provide information that is not otherwise available. As such, this assessment draws heavily from the preceding assessments but does not form part of the initial ranking process.

Based on the results of the significance assessment it is assessed that from an archaeological perspective Roads and Maritime Nelligen AS1 has a low research potential. It is however recognised that Roads and Maritime Nelligen PAD1 has been identified by the key Aboriginal stakeholder as having moderate Aboriginal significance and the destruction of the PAD without further investigation may not be culturally acceptable. Further input from the registered Aboriginal parties regarding the significance of this site was sought during the next Aboriginal Focus Group meeting and during the draft report review period, however, no further information in regard to Aboriginal cultural significance was provided.

As a result of the subsurface testing confirming a low density, low complexity artefact assemblage for the area it has been assessed that from an archaeological perspective there is little further knowledge to be gained from further archaeological investigation at this site.

## 7.0 Impact Assessment

This report is required to inform the concept design and environmental assessment (EA) for the Nelligen Bridge Replacement Project. Therefore the nature of the proposed impact can only be presented in general terms until the final design is agreed. The proposed impact is outlined in **Section 1.2**. The following information will outline the proposed impact (harm) on Roads and Maritime Nelligen AS1.

### 7.1 Roads and Maritime Nelligen AS1

Type of harm:

- Excavation of cut embankments
- Relocation of utilities
- Clearing of vegetation
- Landscaping/revegetation on completion of the road work.

Degree of harm:

- Total removal of site

Consequence of harm:

- Total loss of any archaeological material it may contain.

### 7.2 Unknown impact

Please note the locations of the following impacts are not known but will be located wholly within the current study area and will not impact on any known sites or areas of archaeological potential:

- Temporary stockpile sites
- Temporary compound sites
- Temporary sediment basins.

## 8.0 Management and Mitigation Measures

Requirement 11 of the Code of Practice (2010a) requires that various options for management of archaeological impacts are formulated and evaluated. Justification must be provided for those that are recommended.

A range of management options have been outlined and evaluated below in relation to the Roads and Maritime Nelligen AS1 site that include varying levels of mitigation of identified or potential harm. The recommendation of management options is guided by the Aboriginal significance/sensitivity and archaeological significance of the study area. These management options have been developed from an archaeological perspective.

The registered Aboriginal parties were given an opportunity to comment on and inform the management options outlined in this report.

### 8.1.1 Option 1 Conservation of Site

Option 1 would involve the conservation of Roads and Maritime Nelligen AS1.

Option 1 has been evaluated and is not considered a recommended option due to the following:

- The project would not be able to proceed with Site conservation
- The Site has been identified as being of low archaeological significance and consequently, it is not archaeologically valid to propose a full conservation outcome for the Site within the study area.

### 8.1.2 Option 2 Salvage of Site under AHIP

Option 2 would involve further salvage of Roads and Maritime Nelligen AS1. Option 2 would require that the further salvage be completed under an AHIP.

Option 2 has been evaluated and is not considered a recommended option due to the following:

- Based on the results of the subsurface testing further investigation is not warranted from an archaeological perspective.

### 8.1.3 Option 3 Impact Site Without Further Investigation under AHIP

Option 3 would involve Roads and Maritime proceeding with the project without conducting further investigation within Roads and Maritime Nelligen AS1. Option 3 would require that Roads and Maritime works within the Site area be completed under an AHIP.

Option 3 has been evaluated and is considered a preferred option due to the following:

- Option 3 recognises the low significance of the site from an archaeological perspective and allows for the Roads and Maritime to proceed with the project.

## 9.0 Recommendations

The management recommendations outlined below have been prepared with regard to:

- Respect and consideration of the views of the registered Aboriginal parties
- The archaeological context of the Nelligen region
- The Aboriginal cultural context of the Nelligen region and the Aboriginal cultural values of Roads and Maritime Nelligen AS1
- The findings of the subsurface testing program
- The moderate cultural significance assessment of the area provided by the key Aboriginal stakeholder
- The overall low archaeological assessment of Roads and Maritime Nelligen AS1
- The overall low research potential of the Roads and Maritime Nelligen AS1
- Current cultural heritage legislation
- Providing clear guidance about appropriate management and protection of cultural heritage values

The following is recommended:

- That Option 3 be adopted for Roads and Maritime Nelligen AS1
- That no further archaeological salvage be conducted at Roads and Maritime Nelligen AS1
- Roads and Maritime should apply to the Director-General of OEH for an AHIP in accordance with Section 90 of the NPW Act, with this AHIP to cover the entirety of Roads and Maritime Nelligen AS1 and the entirety of the study area. The AHIP should extend for five years to allow Roads and Maritime sufficient time to complete the works within the AHIP area.
- Roads and Maritime ensure the two trees identified by the key Aboriginal stakeholder as having the potential to be burial markers have a buffer of five metres protected during construction work to ensure they are not adversely impacted.
- Roads and Maritime should ensure that its employees and contractors are 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 AHIP
- The proposed works can proceed in the remainder of the study area without any further archaeological requirements. In the event that suspected human skeletal material be identified within the study area, all works should cease immediately and the NSW Police Department, OEH and the registered Aboriginal parties should be contacted so that appropriate management strategies can be identified.

## 10.0 Care and control

After further consultation with the Aboriginal parties both BBLALC and MBMAC indicated that they would like the artefacts to be returned to Country. This process would be undertaken after the completion of construction in consultation with the Aboriginal parties and Roads and Maritime. Until the artefacts are returned to Country they will be stored securely at the Office of Umwelt, at 56 Bluebell Street O'Connor, ACT

## 11.0 References

Australia ICOMOS 1999 *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*. Accessed Online September 2013: <http://australia.icomos.org/publications/charters/>

Department of Climate Change and Water. 2010a. *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*.

Department of Climate Change and Water 2010b. *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales*.

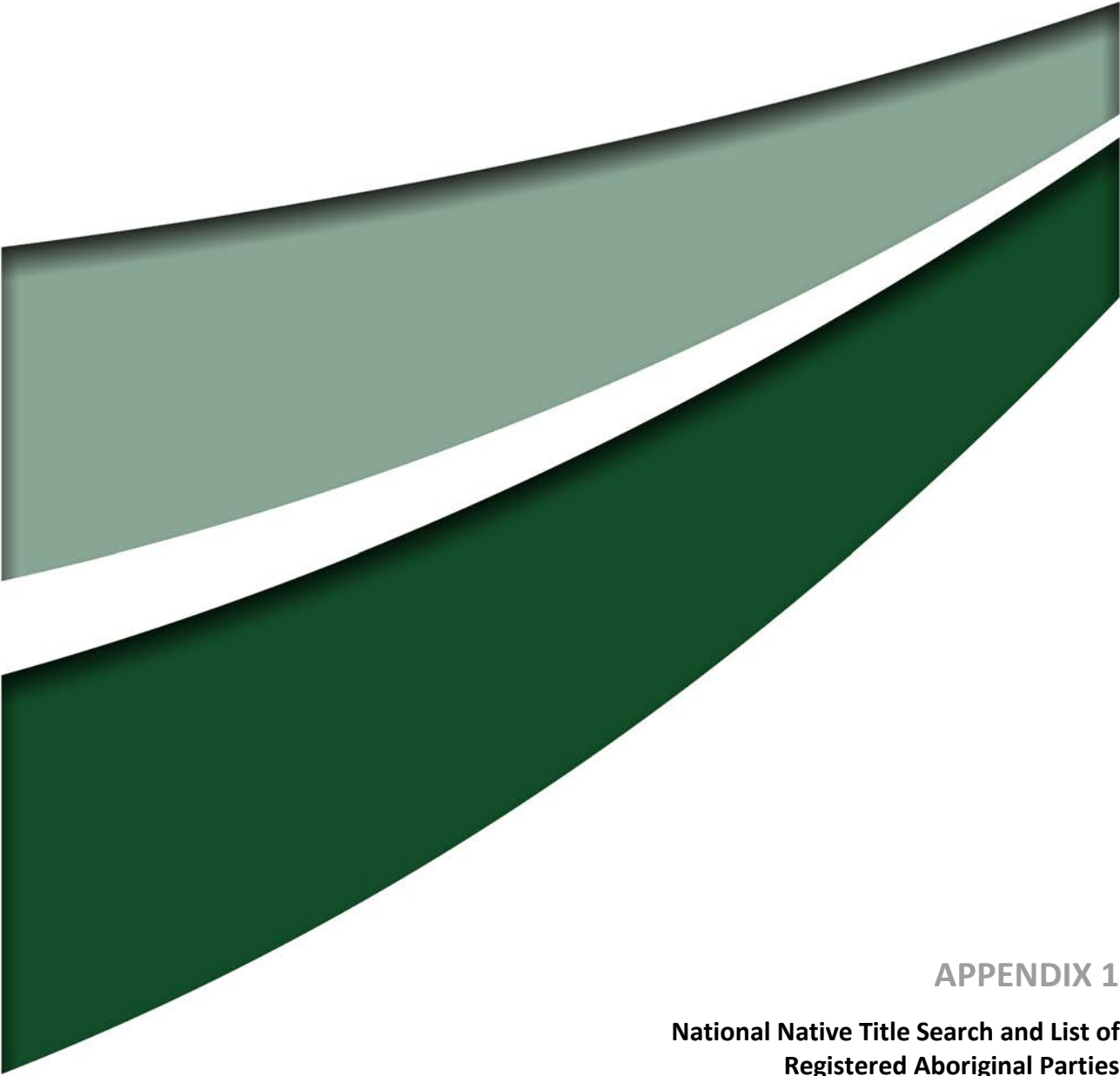
National Parks and Wildlife Act (1997)

National Parks and Wildlife Regulation 2009

Office of Environment and Heritage. 2011. *Guide to investigating, assessing, and reporting on Aboriginal Cultural Heritage in NSW*.

Roads and Maritime 2011 – PACHCI. *Roads and Maritime Services procedure for Aboriginal Cultural Heritage Consultation and Investigation*.

Umwelt, February 2016. Nelligen Bridge Replacement, Aboriginal archaeological Survey Report, PACHCI Stage 2.



**APPENDIX 1**

**National Native Title Search and List of  
Registered Aboriginal Parties**





National  
Native Title  
Tribunal

26 August 2015

**Kirwan Williams**  
**Archaeologist**  
**Umwelt (Australia) Pty Limited**  
**Email: [kwilliams@umwelt.com.au](mailto:kwilliams@umwelt.com.au)**

**Sydney Office, Operations East**

Level 16, Law Courts Building  
Queens Square  
Sydney NSW 2000  
GPO Box 9973  
Sydney NSW 2001  
Telephone (02) 9227 4000  
Facsimile (02) 9227 4030

Our Ref: -15NM

Dear Mr Williams

**Native Title Search Results for Eurobodalla Local Government Area**

Thank you for your search request received on 26 August 2015 in relation to the above area.

**Search Results**

The results provided are based on the information you supplied and are derived from a search of the following Tribunal databases:

<b>Register Type</b>	<b>NNTT Reference Numbers</b>
Schedule of Applications (unregistered claimant applications)	Nil.
Register of Native Title Claims	Nil.
National Native Title Register	Nil.
Register of Indigenous Land Use Agreements	Nil

At the time this search was carried out, there were **no relevant entries** in the above databases.

**Please note:** There may be a delay between a native title determination application being lodged in the Federal Court and its transfer to the Tribunal. As a result, some native title determination applications recently filed with the Federal Court may not appear on the Tribunal's databases.

**Tribunal accepts no liability for reliance placed on enclosed information**

The enclosed information has been provided in good faith. Use of this information is at your sole risk. The National Native Title Tribunal makes no representation, either express or implied, as to



the accuracy or suitability of the information enclosed for any particular purpose and accepts no liability for use of the information or reliance placed on it.

If you have any further queries, please do not hesitate to contact me on the numbers listed below.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Nicole Maher'.

**Nicole Maher** | REGIONAL COORDINATOR

**National Native Title Tribunal | Sydney Office**

Level 16, Federal Law Courts Building, Queens Square, Sydney, New South Wales 2000

Telephone (02) 9227 4008 | Facsimile (02) 9227 4030 | Email [nicole.maher@nntt.gov.au](mailto:nicole.maher@nntt.gov.au)

**Freecall 1800 640 501 | [www.nntt.gov.au](http://www.nntt.gov.au)**

*Shared country, shared future.*



# Searching the NNTT Registers in New South Wales

## Search service

On request the National Native Title Tribunal may search its public registers for you. A search may assist you in finding out whether any native title applications (claims), determinations or agreements exist over a particular area of land or water.

**In New South Wales native title cannot exist on privately owned land including family homes or farms.**

## What information can a search provide?

A search can confirm whether any applications, agreements or determinations are registered in a local government area. Relevant information, including register extracts and application summaries, will be provided.

**Most native title applications do not identify each parcel of land claimed. They have an external boundary and then identify the areas not claimed within the boundary by reference to types of land tenure e.g., freehold, agricultural leasehold, public works.**

## What if the search shows no current applications?

If there is no application covering the local government area this only indicates that at the time of the search either the Federal Court had not received any claims in relation to the local government area or the Tribunal had not yet been notified of any new native title claims.

It does not mean that native title does not exist in the area.

**Native title may exist over an area of land or waters whether or not a claim for native title has been made.**

## Where the information is found

The information you are seeking is held in three registers and on an applications database.

## National Native Title Register

The National Native Title Register contains determinations of native title by the High Court, Federal Court and other courts.

## Register of Native Title Claims

The Register of Native Title Claims contains applications for native title that have passed a registration test.

**Registered claims attract rights, including the right to negotiate about some types of proposed developments.**

## Register of Indigenous Land Use Agreements

The Register of Indigenous Land Use Agreements contains agreements made with people who hold or assert native title in an area.

**The register identifies development activities that have been agreed by the parties.**

## Schedule of Native Title Claims

The Schedule of Native Title Claims contains a description of the location, content and status of a native title claim.

This information may be different to the information on the Register of Native Title Claims, e.g., because an amendment has not yet been tested.

## How do I request a native title search?

Download the Search Request Form from the Tribunal's website at -

<http://www.nntt.gov.au/assistance/Pages/Searches-and-providing-Register-information.aspx>

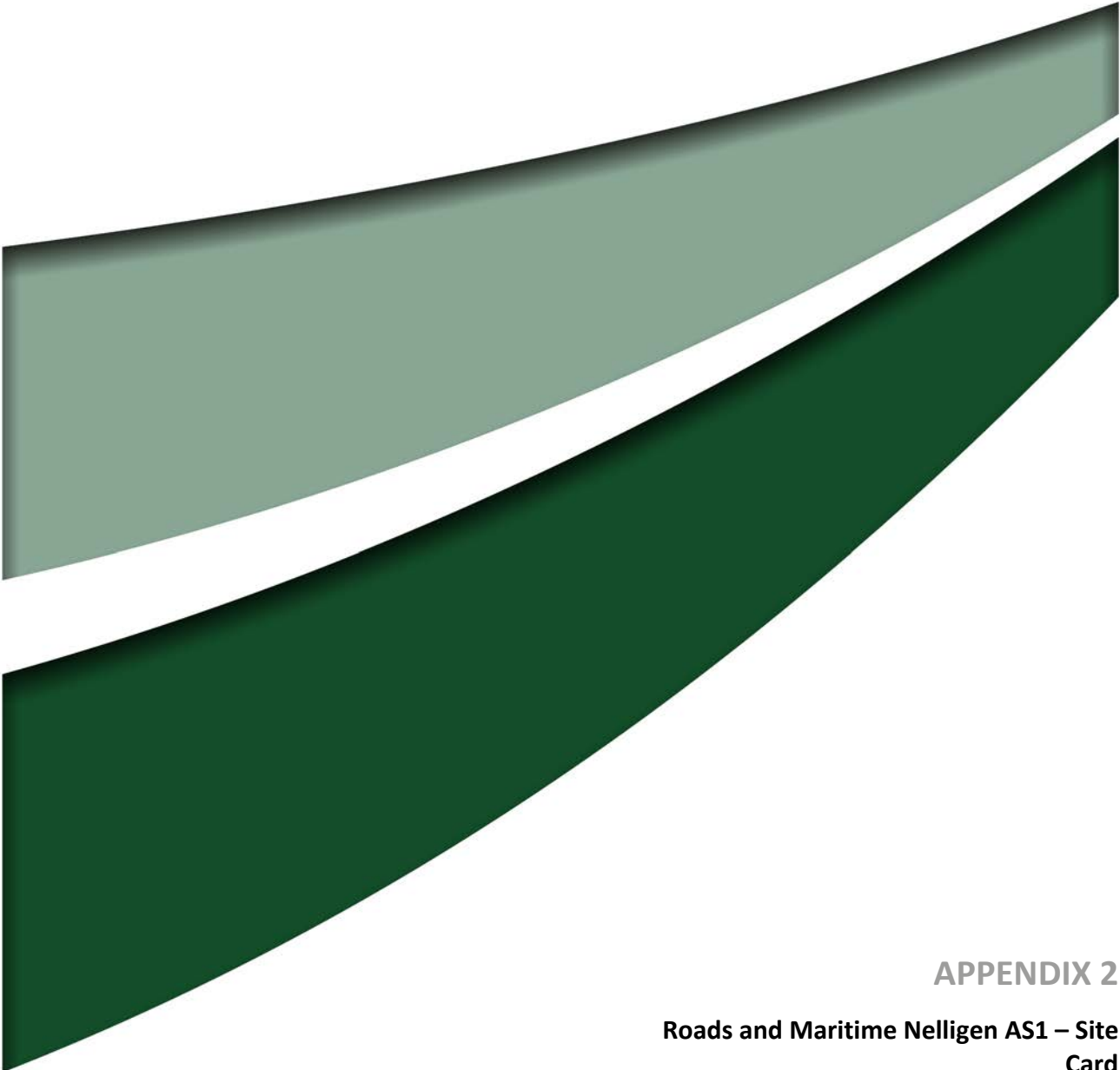
**Email to:** [NSWEnquiries@nntt.gov.au](mailto:NSWEnquiries@nntt.gov.au)

**Post to:** GPO Box 9973 Sydney NSW 2001

**For additional enquiries:** 02 9227 4000

Name	Organisation
Maria Maher	Kullila Site Consultants
Maria Maher	National Koori Site Management
Alisha Davis	Batemans Bay LALC
Hika Te Kowhai	Walbunja
Aunty Iris White	Ngarigo Elders
Mr Arnold Williams CEO	Ngunnawal Elders Corporation
	NSW Aboriginal Land Council
	Cobowra LALC
Mr Lionel P Mongta	Yuin Traditional Owner
	Mogo LALC
	Bodalla LALC
Colleen Dixon	
Mr Graham Connolly	Jerrinja Consultants Pty Ltd
	Merrimans LALC
Cherie Carroll Turrise	Gunjee Wong Cultural Heritage Aboriginal Corporation
Tomas Brown	
Steve Johnson	Corroboree Aboriginal Corporation
Darleen Johnson	Murri Bidgee Mullangari Aboriginal Corporation
Richard Campbell	Guunamaa Dreaming
Newton Carriage	Nundagurri Aboriginal Corporation
Basil Smith	Goobah Development Pty Ltd
Kylie Ann Bell	Gunyuu
Darlene Hoskins-McKenzie	Gunyuu Cultural Heritage Technical Services
Leeroy Boota	Wullung
Karia Lea Bond	Badu
Robert Parsons	Yerramurra
Jodie Stewart	Jerringong

Name	Organisation
Shaun Carroll	Merrigarn Aboriginal Corporation
Mark Henry	Murrumbul
Levi McKenzie-Kirkbright	Murrumbul Cultural Heritage Technical Services
Hayley Bell	Wingikara
Wandai Kirkbright	Wingikara Cultural Heritage Technical Services
Simalene Carriage	Bilinga
Robert Brown	Bilinga Cultural Heritage Technical Services
Kaya Dawn Bell	Munyunga
Suzannah McKenzie	Munyunga Cultural Heritage Technical Services
Pemulwuy Johnson	Pemulwuy
Karrial Johnson	Karrial
Lillie Carroll	Didge Ngunawal Clan
Krystle Carroll	Ginninderra Aboriginal Corporation
Jesse Johnson	
Shane Carriage	Thauaira
Ronald Stewart	Walgalu
Uncle Les Simon	Chapman Clan



## APPENDIX 2

Roads and Maritime Nelligen AS1 – Site  
Card



AHIMS site ID:

Date recorded:

## Site Location Information

Site name:

Easting:  Northing:  Coordinates must be in GDA (MGA)

Horizontal Accuracy (m):

Zone:  Location method:

## Recorder Information

(The person responsible for the completion and submission of this form)

Title	Surname	First name
<input type="text" value="Mr."/>	<input type="text" value="Williams"/>	<input type="text" value="Kirwan"/>

Organisation:

Address:

Phone:  E-mail:

## Site Context Information

Land Form Pattern:

Land Form Unit:

Vegetation:

Distance to Water (m):

Primary Report:

How to get to the site:

# Site location map



## Site contents information

open/closed site:

Site condition:

### Features:

1.

Number of features

Length of feature(s) extent (m)

Width of feature (s) extent (m)

### Scarred Trees

Scar Depth (cm)

Regrowth (cm)

Scar Length (cm)

Scar Width (cm)

Scar shape

Tree Species

### Description:

Ridge overlooking east bank of the Clyde River, Nelligen. 14 Artefacts located during sub-surface testing of potential PAD

### Features:

2.

Number of features

Length of feature(s) extent (m)

Width of feature (s) extent (m)

### Scarred Trees

Scar Depth (cm)

Regrowth (cm)

Scar Length (cm)

Scar Width (cm)

Scar shape

Tree Species

### Description:



Features:

3.

Number of features  
Length of feature(s) extent (m)  
Width of feature (s) extent (m)

Scarred Trees

Scar Depth (cm)	Regrowth (cm)	Scar Length (cm)	Scar Width (cm)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Scar shape	Tree Species		<input type="text"/>
<input type="text"/>	<input type="text"/>		<input type="text"/>

Description:

Features:

4.

Number of features  
Length of feature(s) extent (m)  
Width of feature (s) extent (m)

Scarred Trees

Scar Depth (cm)	Regrowth (cm)	Scar Length (cm)	Scar Width (cm)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Scar shape	Tree Species		<input type="text"/>
<input type="text"/>	<input type="text"/>		<input type="text"/>

Description:

Features:

5.

Number of features  
Length of feature(s) extent (m)  
Width of feature (s) extent (m)

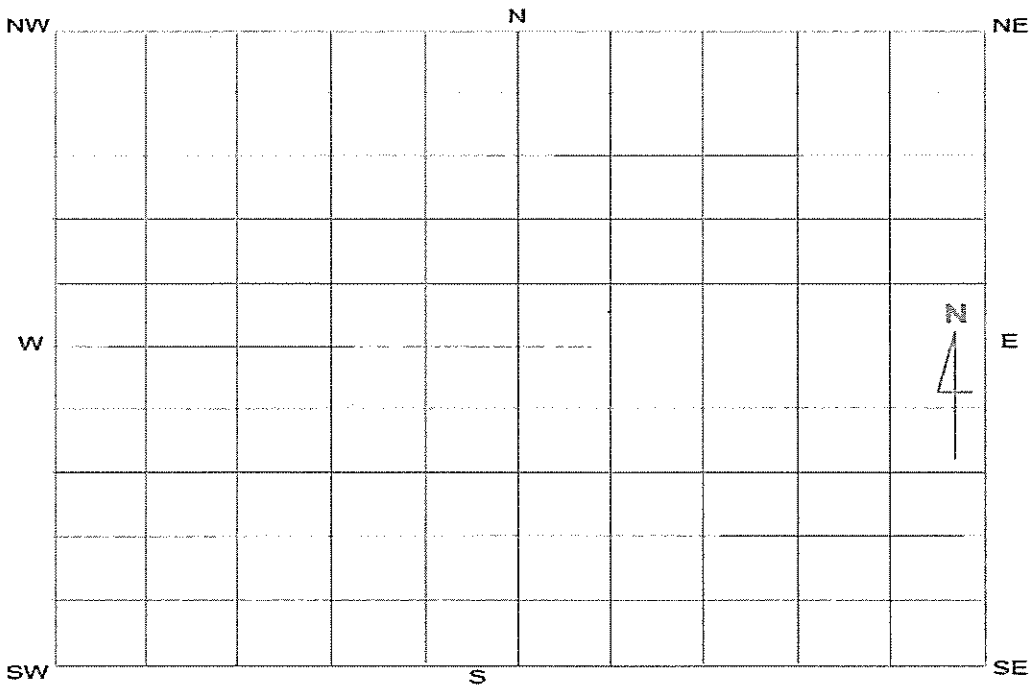
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Scar shape	Tree Species		<input type="text"/>
<input type="text"/>	<input type="text"/>		<input type="text"/>

Description:

Other Site Info:

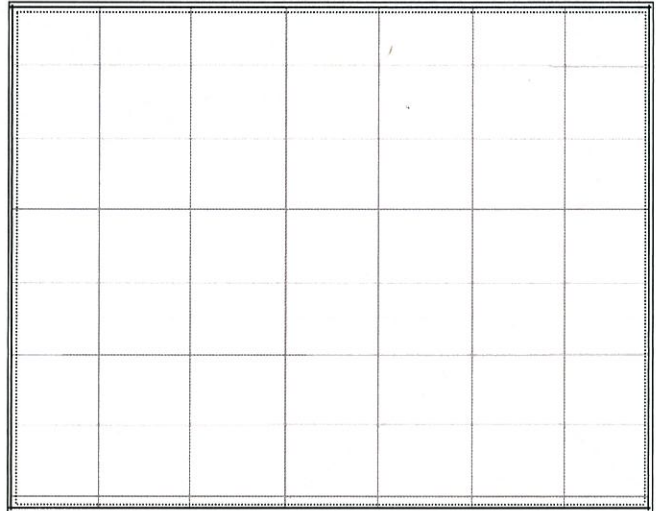
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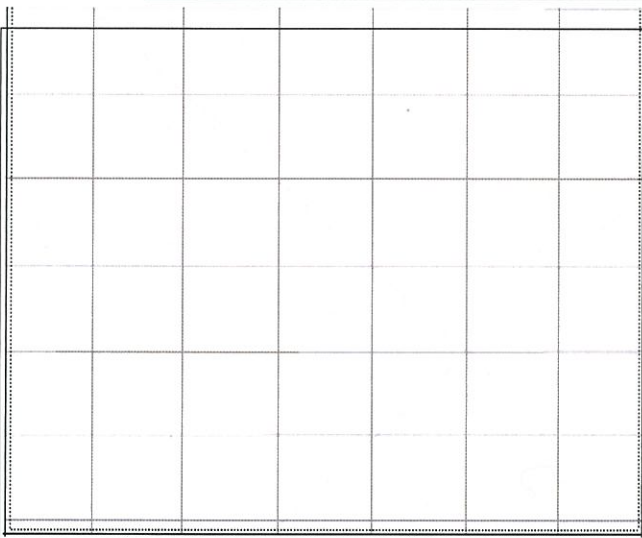
## Site photographs



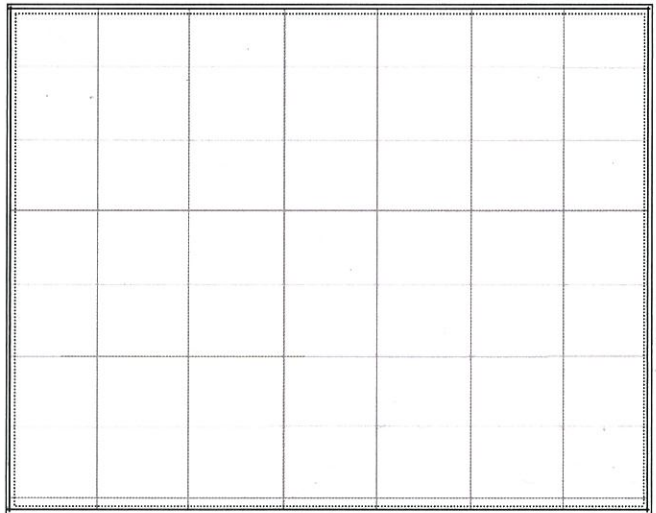
Description: RMS Nelligen Artefact Scatter 1



Description:



Description:



Description:

## Site restrictions

Do you want to Restrict this site?:

Restriction type: Gender  General  Location

Why is this site restricted?:

## Further information contact

Title  Surname  First name

Organisation:

Address:

Phone:  E-mail:



**Newcastle**

75 York Street  
Teralba NSW 2284

Ph. 02 4950 5322

**Perth**

PO Box 8177  
Subiaco East WA 6008  
33 Ventnor Avenue  
West Perth WA 6005

Ph. 08 6260 0700

**Canberra**

PO Box 6135  
56 Bluebell Street  
O'Connor ACT 2602

Ph. 02 6262 9484

**Sydney**

50 York Street  
Sydney NSW 2000

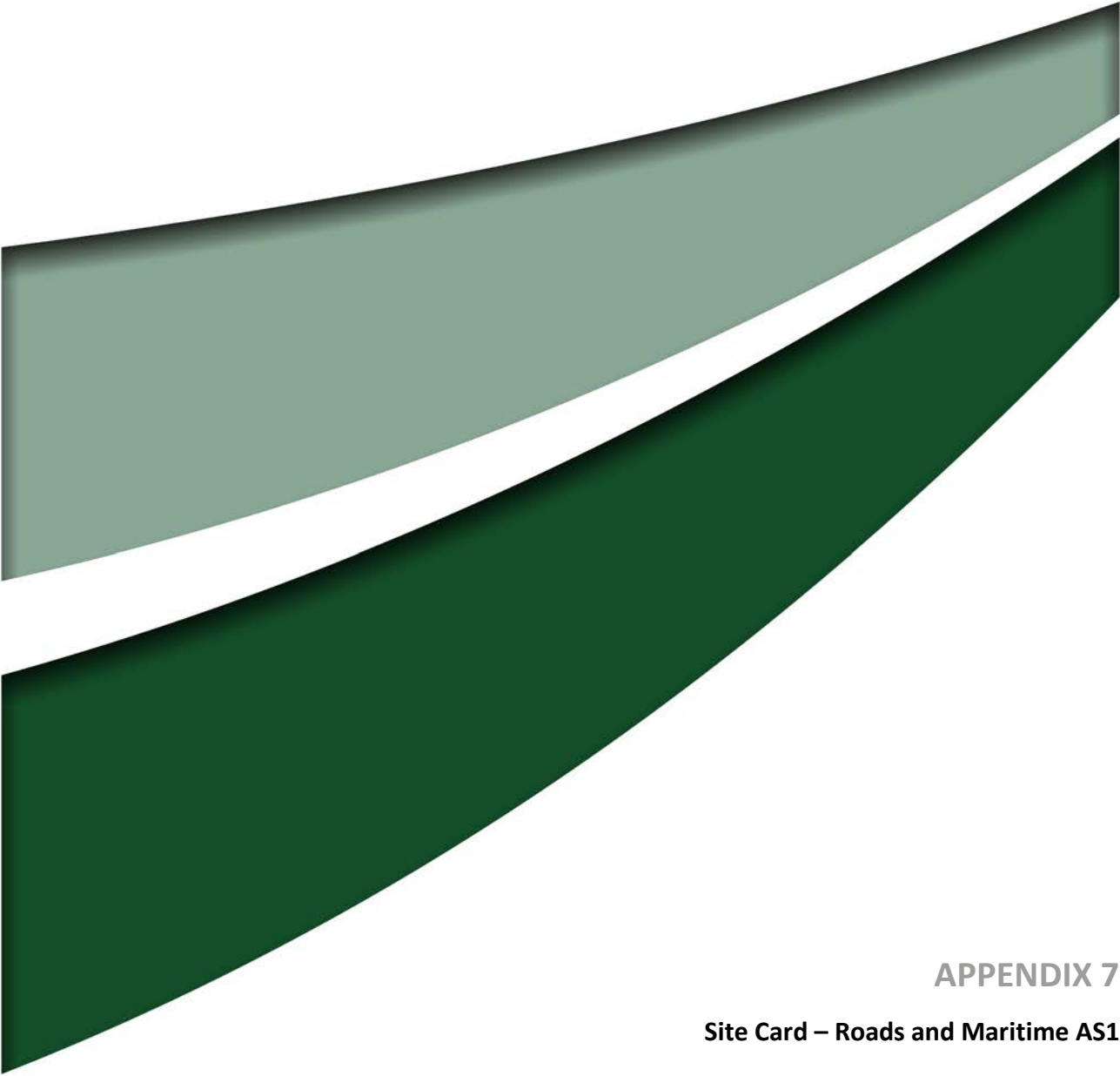
Ph. 1300 793 267

**Brisbane**

GPO Box 459  
Brisbane QLD 4001

Ph. 1300 793 267

[www.umwelt.com.au](http://www.umwelt.com.au)



**APPENDIX 7**

**Site Card – Roads and Maritime AS1**



AHIMS site ID:

Date recorded:

## Site Location Information

Site name:

Easting:  Northing:  Coordinates must be in GDA (MGA)

Horizontal Accuracy (m):

Zone:  Location method:

## Recorder Information

(The person responsible for the completion and submission of this form)

Title	Surname	First name
<input type="text" value="Mr."/>	<input type="text" value="Williams"/>	<input type="text" value="Kirwan"/>

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## Site Context Information

Land Form Pattern:

Land Form Unit:

Vegetation:

Distance to Water (m):

Primary Report:

How to get to the site:

# Site location map



## Site contents information

open/closed site:

Site condition:

### Features:

1.

Number of features:  Length of feature(s) extent (m):  Width of feature (s) extent (m):

Scarred Trees			
Scar Depth (cm)	Regrowth (cm)	Scar Length (cm)	Scar Width (cm)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Scar shape	<input type="text"/>		Tree Species <input type="text"/>

### Description:

Ridge overlooking east bank of the Clyde River, Nelligen. 14 Artefacts located during sub-surface testing of potential PAD

### Features:

2.

Number of features:  Length of feature(s) extent (m):  Width of feature (s) extent (m):

Scarred Trees			
Scar Depth (cm)	Regrowth (cm)	Scar Length (cm)	Scar Width (cm)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Scar shape	<input type="text"/>		Tree Species <input type="text"/>

### Description:

Features:

3.

Number of features  
Length of feature(s) extent (m)  
Width of feature (s) extent (m)

Scarred Trees

Scar Depth (cm)	Regrowth (cm)	Scar Length (cm)	Scar Width (cm)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Scar shape	Tree Species		<input type="text"/>
<input type="text"/>	<input type="text"/>		<input type="text"/>

Description:

Features:

4.

Number of features  
Length of feature(s) extent (m)  
Width of feature (s) extent (m)

Scarred Trees

Scar Depth (cm)	Regrowth (cm)	Scar Length (cm)	Scar Width (cm)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Scar shape	Tree Species		<input type="text"/>
<input type="text"/>	<input type="text"/>		<input type="text"/>

Description:

Features:

5.

Number of features  
Length of feature(s) extent (m)  
Width of feature (s) extent (m)

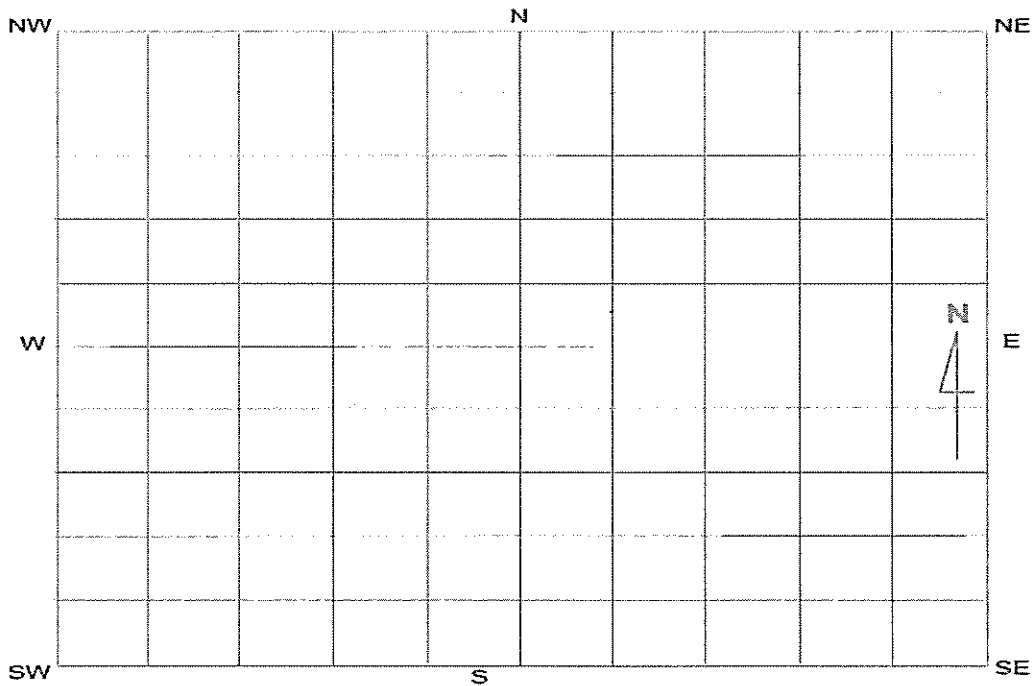
Scarred Trees

Scar Depth (cm)	Regrowth (cm)	Scar Length (cm)	Scar Width (cm)
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Scar shape	Tree Species		<input type="text"/>
<input type="text"/>	<input type="text"/>		<input type="text"/>

Description:

Other Site Info:

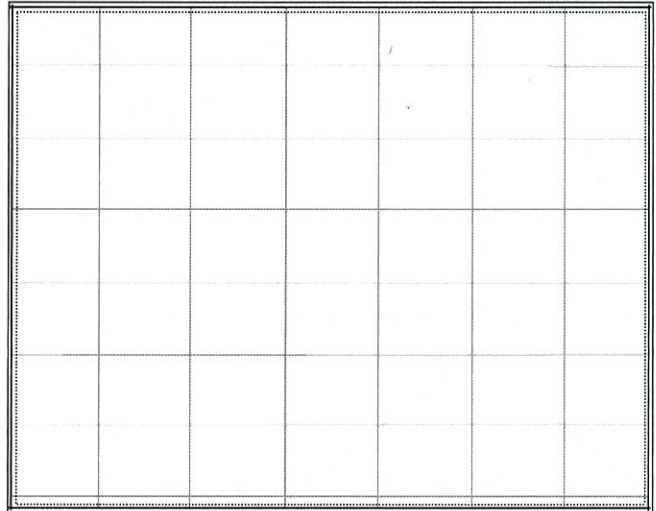
Site plan



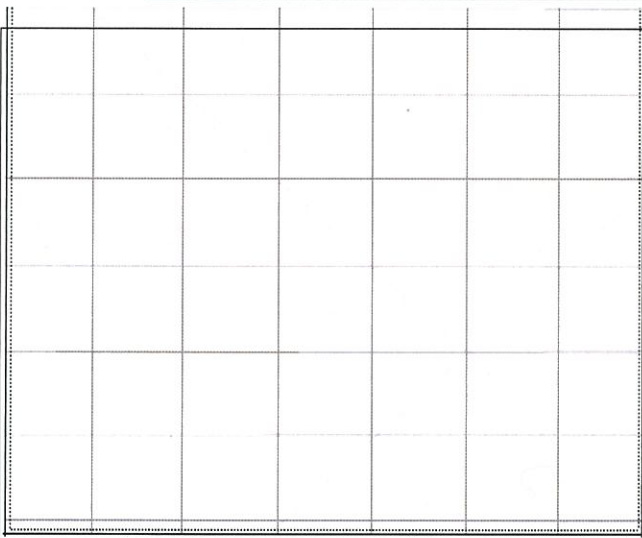
## Site photographs



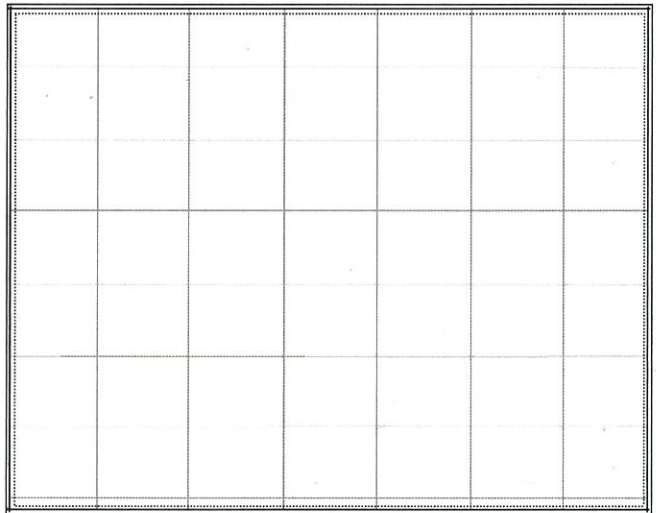
Description: RMS Nelligen Artefact Scatter 1



Description:



Description:



Description:

## Site restrictions

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