

12 June 2018

SMEC

Level 5, 20 Berry Street
North Sydney
NSW 2060

Attention: **Melissa Laginha (Environmental Specialist)**

RE: Byron Bay Railway Station, Bus Interchange Redevelopment - Aboriginal Heritage Due Diligence Assessment

Dear Melissa,

Extent Heritage Pty Ltd was commissioned by SMEC to undertake an Aboriginal heritage due diligence assessment of redevelopment of the western side of Byron Bay Railway Station (the 'subject area') to create a bus interchange area accessed from Butler Street, Byron Bay. This letter report provides the results of a desktop assessment and site inspection undertaken for the subject area.

In summary, a review of the subject area context and previous archaeological assessments within the vicinity of the subject area suggests that the property is of low risk to contain Aboriginal cultural material. This is concluded by the findings that there are no known cultural materials either within or in close proximity to the subject area, and a high level of previous ground disturbance, which has significantly reduced the potential for Aboriginal objects or deposits to survive if they were ever present. For this reason, the proposed development is considered to have low risk of harming Aboriginal objects, and work can proceed with caution and following the below recommendations:

- The proposed development may proceed with caution. In the event that unexpected Aboriginal objects or sites (or potential Aboriginal objects or sites) are discovered during construction, all works in the vicinity of the find should cease and SMEC should determine the subsequent course of action in consultation with a heritage professional and/or the OEH as appropriate. The nature of the disturbance does not preclude the potential for isolated finds, which is a common site type across the region, even in disturbed contexts.
- This document may be summarised within and/or appended to a Development Application, Statement of Environmental Effects (SEE) or Review of Environment Factors (REF). If any Aboriginal objects are later identified within the proposed activity area, this report cannot however be used to support an application for an Aboriginal Heritage Impact Permit (AHIP). Such an application would require more detailed investigation involving a formal process of Aboriginal community consultation and the preparation of an Aboriginal Cultural Heritage Assessment Report (ACHAR).

- If human remains are discovered, the *Coroners Act 2009* requires that all works should cease and the NSW Police and the NSW Coroner's Office should be contacted. Traditional or contemporary (post-contact) Aboriginal burials which occur outside of designated cemeteries are protected under the *National Parks and Wildlife Act 1974* and should not be disturbed. Interpreting the age and nature of skeletal remains is a specialist field and an appropriately skilled archaeologist or physical anthropologist should therefore be contacted to inspect the find and recommend an appropriate course of action. Should the remains prove to be Aboriginal in origin, notification of OEH and the Local Aboriginal Land Council will be required. Notification should also be made to the Commonwealth Minister for the Environment, under the provisions of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

Please note that this letter report addresses only the proposed development of the subject area. It is an initial investigation of constraints and opportunities pertaining to identified existing and potential Aboriginal heritage sites and places on and/or in the immediate vicinity of the subject area. It is not an ACHAR and is not sufficient to support an application for an Aboriginal Heritage Impact Permit (AHIP), in accordance with section 90 of the *National Parks and Wildlife Act 1974*.

Should you have any questions or concerns please do not hesitate to contact Tessa Bryant or myself on (02) 9555 4000.

Yours faithfully,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned below the text 'Yours faithfully,'.

Dr. Alan Williams FSA MAACAI • Associate Director

Background and Purpose of Document

In NSW, Aboriginal objects, whether recorded or as yet undiscovered, are afforded statutory protection under the *National Parks and Wildlife Act 1974*. Under Section 86 of the Act it is an offence to disturb, destroy or deface Aboriginal objects without the approval of the Director General of the Office of Environment and Heritage (OEH). A breach of Section 86 of the *National Parks and Wildlife Act 1974* could result in prosecution and fines in excess of \$1 million. The OEH provides a series of guidelines as a framework for identifying and managing Aboriginal heritage and the cultural heritage interests of Aboriginal parties within development planning contexts. The Due Diligence process is the first step and is outlined in the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010) guidelines; and is intended to identify whether or not a proposed activity is likely to harm Aboriginal objects. Further information on legislation is provided in **Appendix 1**.

Extent Heritage Pty Ltd was commissioned by SMEC to undertake an Aboriginal heritage due diligence assessment of part of Lot 4729 in Deposited Plan (DP)1228104, on the western side of Byron Bay Railway Station (the 'subject area'), in the Byron Shire Local Government Area (**Figure 1**). Proposed development within the subject area consists of the construction of a bus interchange, which will include removal of trees and existing landscaping with some ground disturbing foundation works (**Figure 2**).

Please note that this report is an initial investigation of constraints and opportunities pertaining to identified Aboriginal heritage sites and places on and/or in the immediate vicinity of the proposed development site. It is not an Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared in accordance with the guidelines issued by OEH. As such, it would not be sufficient to support an application for an Aboriginal Heritage Impact Permit, in accordance with s90 of the *National Parks and Wildlife Act 1974*. Similarly, the report does not consider historical heritage, and would not be sufficient to support an application for a permit under s60 or s140 of the *Heritage Act 1977*.

Existing Environment

The subject area is located in Byron Bay within the Tyagarah soil landscape. This aeolian soil landscape is characterised by sediment basins of mixed estuarine and aeolian (windblown) origin forming level to gently undulating plains. Quaternary estuarine alluvium is overlain by and/or mixed with Quaternary (Pleistocene; >10,000 years ago) sands, usually aeolian originating from adjacent beach ridge systems (OEH 2018). Local relief is 1-2m, elevation 2-5m and slopes 0-1°. The water table is generally within 100-200cm of the surface. This type of landscape restricts a number of archaeological site types, such as rock shelter, rock engravings, and grinding grooves which require sharp exposed sandstone relief not common in these environments.

The soils within the plains of this landscape typically comprise up to 30cm black loamy sand overlying up to 200cm of bleached sand over coffee rock (OEH 2018). Originally, the area would have been dominated by tall open and closed forest (swamp communities), however it has been extensively cleared. Belongil Creek is the closest major watercourse and first order tributaries are located to the north and south of the subject area approximately 150 to 200m away based on current topographic maps (**Figure 1**).

Cumbebin Swamp (Cumbebin Swamp Nature Reserve) is approximately 350m to the south west of the subject area and the Byron Bay foreshore is approximately 400m to the north of the subject area. Historic parish maps show that the areas immediately adjacent to the subject area were drained in the early twentieth century and would have been formerly wetland/swamp areas, marked as part of the Belongil Swamp Drainage Trust District in early Parish Maps (**Figure 3** and **Figure 4**). The first order tributaries are not shown on these maps. It has been estimated that at the time of European settlement in the nineteenth century, wetland areas were up to two and a half times the size they are at present (Goodrick 1970:3). A swamp to the north of the railway platform was drained in the 1920s (as reported in the Tweed Daily Murwillumbah Wednesday 28 July 1926:5).

Particular landforms are known to have been favoured locations for repeated or long-term occupation, and are therefore more likely to retain archaeological evidence of past Aboriginal use. Within the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW 2010), OEH specifies five landscape features which are likely to indicate the presence of Aboriginal objects:

- Within 200 m of water.
- Within a sand dune system.
- On a ridge top, ridge line or headland.
- Within 200 m below or above a cliff face.
- Within 20 m of or in a cave, rock shelter, or a cave mouth.

The first of these is relevant as the subject area comprises land within 200m of an unnamed tributary of Belongil Creek (**Figure 1**). The subject area would also have been within wetland/swamp areas prior to these areas being drained (see **Figure 3-Figure 5**).

However, previous ground disturbance may reduce the level of archaeological potential, and is therefore also relevant. The subject area has been cleared of vegetation, and has been subject to fairly substantial ground disturbance in the past within the rail corridor as part of the construction of the railway including levelling of the ground surface, building construction and demolition and construction of the former turntable located within the subject area south of the still extant water tower (**Figure 5**).

Archaeological Context

Archaeological investigation within the Byron Bay area has tended to primarily focus on areas that have been subject to development and infrastructure projects (e.g. Everick Heritage Consultants 2013, Navin Officer 2008, Navin Officer 2013). Within the Byron Shire, site location strongly reflects proximity to fresh water, with the most extensive sites being found closest to water sources, and the numbers of sites declining with distance from water (Collins 1992). Midden sites tend to be recorded on inner barrier dune formations, along the margins of estuaries and around freshwater swamps on elevated sandy ground. Middens along the coastline tend to contain open shore species such as pipi

(*Donax deltoides*), whereas middens bordering estuaries and creeks contain large proportions of shellfish available within these resource zones such as oyster (*Saccostera cucullata*), whelk (*Pyrazus ebeninus*) and cockle (*Anadara trapezia*). Stone artefact scatters similarly tend to occur close to creeks, swamps and estuaries commonly on elevated ground (Collins 1992:67).

Assessments associated with the proposed North Byron Beach resort, located at the northern end of Bayshore Drive, did not identify Aboriginal objects within that subject area and assessed the area as having low archaeological potential (Navin Officer 2013). Piper (1983) surveyed land 300m inland on the northern end of Bayshore Drive near Belongil Swamp (~3.5km from the subject area). No Aboriginal objects or midden were located within the subject area however a disturbed pipi midden (#04-5-0062) was recorded on a Pleistocene dune to the east. Subsequent testing showed the midden was small and disturbed with no archaeological material located in adjacent areas (Navin 1992).

A cultural heritage assessment undertaken for the proposed West Byron Urban Release area (located ~1.3km from the subject area) re-identified one previously identified midden site (#04-5-0104). This midden site comprised two low density surface scatters of fragmented and weathered pipi shell, fragmented mud whelk and two unmodified stone flakes separated by exposures of sand, located adjacent to buildings on the crest of a low dune near Belongil Creek (Collins 2010). The midden was considered to be highly disturbed and likely confined to the surface. In this assessment the southern margin of the beach ridge plain south and south-east of Belongil Fields Conference and Holiday Centre was recognised as an area with some potential but not enough to be recorded as an area of potential archaeological deposit (PAD).

AHIMS Database

The Office of Environment and Heritage maintains the Aboriginal Heritage Information Management System (AHIMS), which is a database of registered Aboriginal sites in New South Wales. A search of the AHIMS database was undertaken on 8 March 2018 (Client Service ID 332485) for an area bounded by: Latitude, Longitude **-28.7121S, 153.4489E** to **-28.5883S, 153.6452E** including the subject area (**Figure 5** – full results in **Appendix 3**). A total of 77 registered Aboriginal sites and two Aboriginal places are within the search area. No Aboriginal sites or places are previously documented within the subject area.

The two Aboriginal places located within the search area are:

- 1) Ti Tree (Taylors) Lake-ID :5 – a culturally sensitive site of particular significance to Bundjalung women and an acknowledged mythological site that is located 6km south of Byron Bay (for more information see: <http://www.environment.nsw.gov.au/heritageapp/ViewHeritageltemDetails.aspx?ID=5062900>); and
- 2) Three Sisters (Cocked Hat Rocks)-ID: 61 – these rocks are a natural feature that represent an important cultural site forming part of a dreaming story about a young Aboriginal girl who was swept out to seas by strong currents. When her sister swam out to save her she was also caught in the current. They both drowned and were transformed into stone. This story was told as a cautionary tale about the dangers of swimming in this location due to the strong currents. This site is located within the Broken Head Nature Reserve, 7km south of

Byron Bay (for more information see:

<http://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5062866>).

One of the 77 identified sites, #04-5-0076, has restricted information – usually indicating human remains and/or a highly significant cultural site - but is located outside of the subject area. Nine of the registered potential archaeological deposits (PADs) are listed as ‘not a site’ with a further two listed as partially destroyed. The distribution of sites within the search area reflects in part the location of archaeological investigations carried out for development and infrastructure within the area, such as the large number of areas of potential archaeological deposit (PAD) recorded along the alignment of the Pacific Highway upgrade (Navin Officer 2008). Sites are also recorded within the National Parks and Reserves.

The main site features present within the search area are stone artefacts – artefact scatters and isolated finds, PAD and midden sites containing both shell and stone artefacts (**Table 1**). A range of other sites are also recorded within the search area including Art, Burials, Ceremonial Rings, Aboriginal Ceremony and Dreaming Sites, Modified Trees, and Stone Arrangements. The nearest registered AHIMS site is ~450m from the subject area, two shell midden sites (#04-4-0042 Byron Bay Beach Pipi Midden and #04-4-0043 Chigwin) recorded in the same location north of the subject area within the dune system associated with the main beach.

Table 1. AHIMS results for the search area.

Site Features	Count	% of Total
Aboriginal Ceremony and Dreaming	4	5.97
Art (Pigment and Engraved)	1	1.49
Artefact	19	28.36
Burial	3	4.48
Ceremonial Ring (Stone or Earth)	4	5.97
Habitation Structure, Potential Archaeological Deposit (PAD)	2	2.99
Modified Tree (Carved and Scarred)	2	2.99
Non-Human Bone and Organic Material, Artefact	2	2.99
PAD	12	20.90
Shell	1	1.49
Shell, Artefact	11	16.42
Shell, Artefact, Burial	1	1.49
Stone Arrangement	3	4.48
Total	67	100.00

Site Inspection

A site inspection was undertaken on 12 March 2018 by Tony Brassil (Extent Heritage Advisor). The subject area (**Plate 1 - Plate 10**) was inspected for the presence of Aboriginal objects, or the potential for them to occur. This investigation was focused on areas of soil exposure and identifying ground disturbance.

No culturally modified trees were identified within the subject area. Trees present within the subject area are regrowth reportedly having grown within the last decade. Ground surface visibility was generally limited, however white sand was present in some patchy exposures (**Plate 7** and **Plate 9**). No Aboriginal objects were identified within the subject area. Remnant structures from the railway are evident within the subject area (e.g. **Plate 6** and **Plate 10**), as well as other imported materials. The area to the south of the informal track was wetland with approximately 30cm of water covering it.

Conclusions and Recommendations

No Aboriginal objects or culturally modified trees were identified within or in close proximity to the subject area. There is one archaeologically sensitive landform with parts of the subject area within 200m of water - multiple first order tributaries as shown on current topographic maps, however these tributaries are not shown on earlier parish maps, and strongly suggest they have formed in the historical period through de-vegetation and landscape modification. The subject area comprising low lying land either within or in the seasonally submerged edges of the swamp, is not an area that is considered likely to contain Aboriginal sites or objects. Sites within the Byron Bay area tend to be located on elevated sandy areas in proximity to water sources, either major watercourses, swamp/wetlands or the coastline.

The subject area has had high levels of past ground disturbance, mainly through vegetation clearance, and works associated with the construction of the railway. This disturbance has significantly reduced the potential for Aboriginal objects or deposits to survive if they were ever present. It is considered that the subject area has a low potential to contain Aboriginal objects or intact subsurface deposits. The proposed development involving removal of existing trees, ground clearance and foundation works are unlikely to have an impact to depths not already disturbed through the railway construction.

Works may proceed with caution, and in accordance with recommendations below:

- It is considered that there is a low risk of Aboriginal objects being present within the study area. However, the nature of the disturbance does not preclude the potential for isolated finds, which is a common site type across the region, even in disturbed contexts. In the event that unexpected Aboriginal objects, sites or places (or potential Aboriginal objects, sites or places) are discovered during construction, all works in the vicinity of the find should cease and SMEC should determine the subsequent course of action in consultation with a heritage professional and/or the OEH as appropriate. A process of consultation with representatives of the Aboriginal community will also be required.
- This documentation may be summarised within and/or appended to a Development Application, Statement of Environmental Effects (SEE) or Review of Environment Factors (REF). If any Aboriginal objects are later identified within the proposed activity area, this report cannot however be used to support an application for an Aboriginal Heritage Impact Permit (AHIP). Such an application would require more detailed investigation involving a formal process of Aboriginal community consultation and the preparation of an Aboriginal Cultural Heritage Assessment Report (ACHAR).

- If human skeletal material less than 100 years old is discovered, the *Coroners Act 2009* requires that all works should cease and the NSW Police and the NSW Coroner's Office should be contacted. Traditional Aboriginal burials (older than 100 years) are protected under the *National Parks and Wildlife Act 1974* and should not be disturbed. Interpreting the age and nature of skeletal remains is a specialist field and an appropriately skilled archaeologist or physical anthropologist should therefore be contacted to inspect the find and recommend an appropriate course of action. Should the skeletal material prove to be archaeological Aboriginal remains, notification of OEH and the Local Aboriginal Land Council will be required. Notification should also be made to the Commonwealth Minister for the Environment, under the provisions of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

Table 2. Site specific responses to OEH due diligence questions.

1	Will the activity disturb the ground surface or any culturally modified trees?	The proposed development includes removal of trees and existing landscaping with some ground disturbing foundation works in association with the construction of a bus interchange. No culturally modified trees have been identified within the subject area.	Proceed to question 2.
2a	Are there any relevant confirmed site records or other associated landscape feature information on AHIMS?	No. The AHIMS database does not contain records of any Aboriginal sites within the subject area. The nearest registered site is approximately 400m away.	Proceed to question 2b.
2b	Are there any other sources of information of which a person is already aware?	No. The research undertaken for this assessment did not identify any other relevant sources of information indicating the presence of sites within the subject area.	Proceed to question 2c.
2c	Are there any landscape features that are likely to indicate presence of Aboriginal objects?	The subject area is within 200m of a water course – an unnamed tributary of Belongil Creek. The subject area is low lying ground either within or adjacent to former wetland/swamp.	Proceed to question 3.
3	Can harm to Aboriginal objects listed on AHIMS or identified by other sources of information and/or can the carrying out of the activity at the relevant landscape features be avoided?	The proposed development encompasses the entirety of the subject area.	Proceed to question 4.
4	Does a desktop assessment and visual inspection confirm that there are Aboriginal objects or that they are likely?	Assessment and inspection indicates that the subject area has been heavily disturbed. The area is low-lying and is considered to have low potential to contain Aboriginal objects. Additionally, no Aboriginal objects were found during the site inspection.	Further assessment not required, work may proceed with caution.

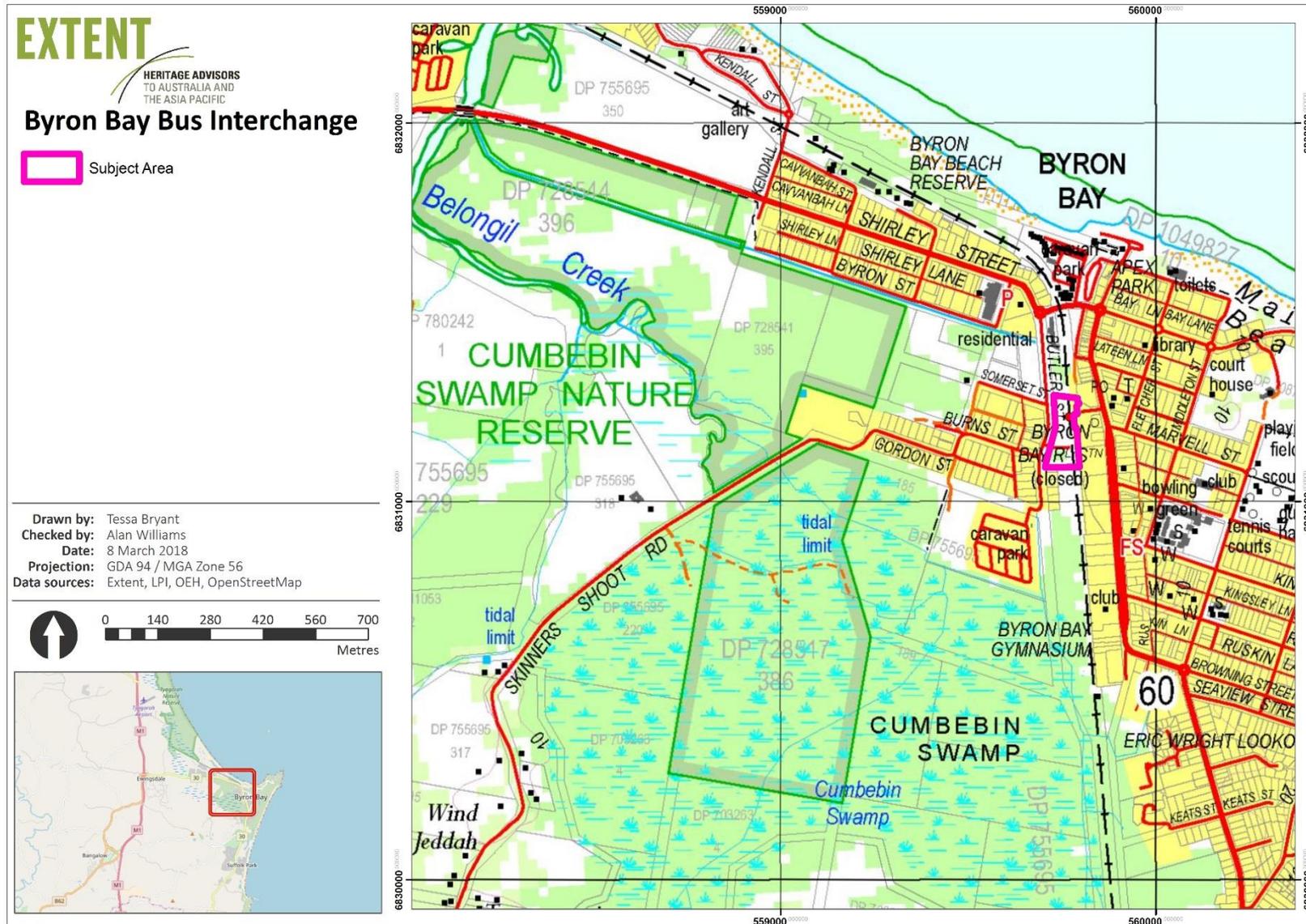


Figure 1. The subject area.

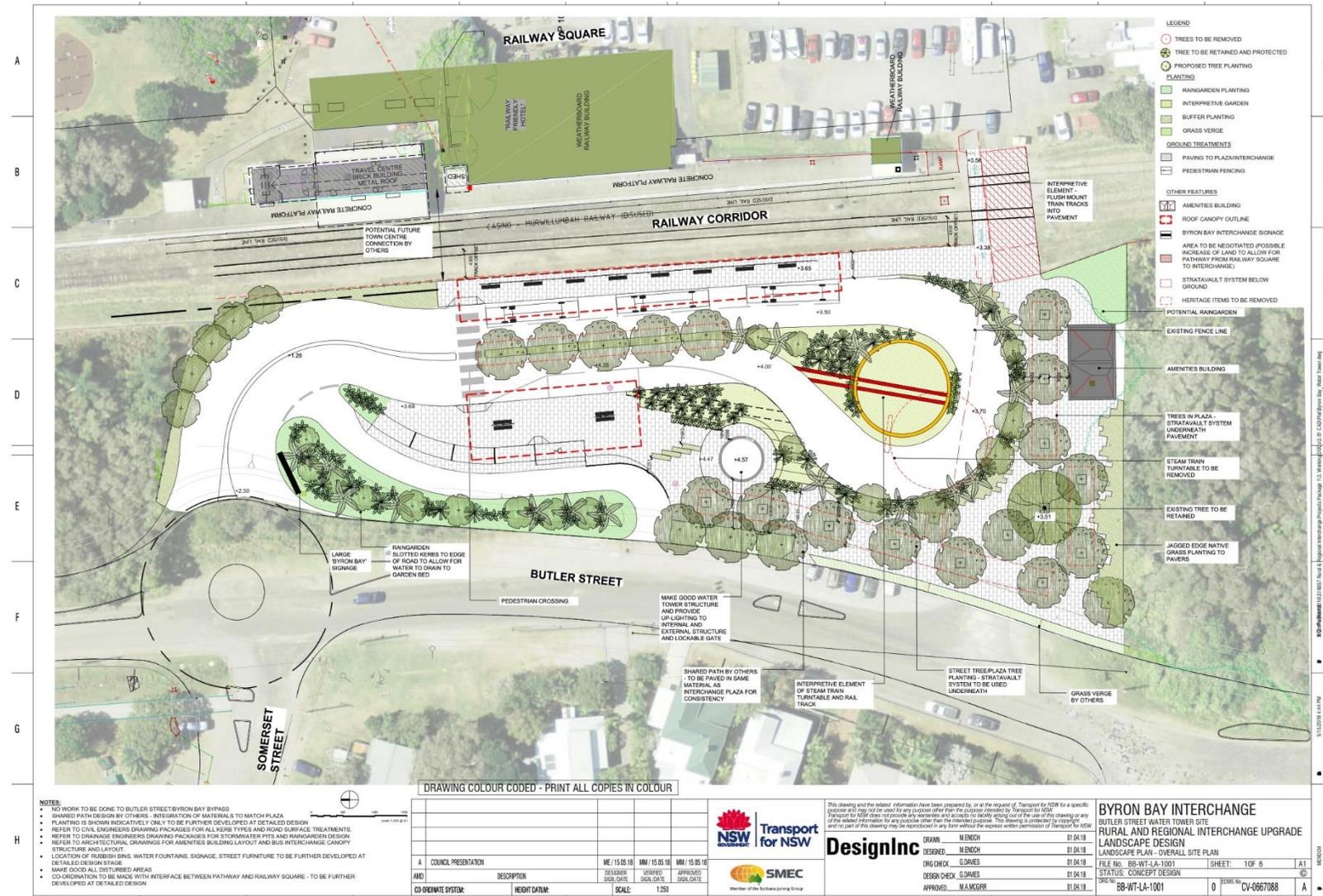


Figure 2. Proposed development.

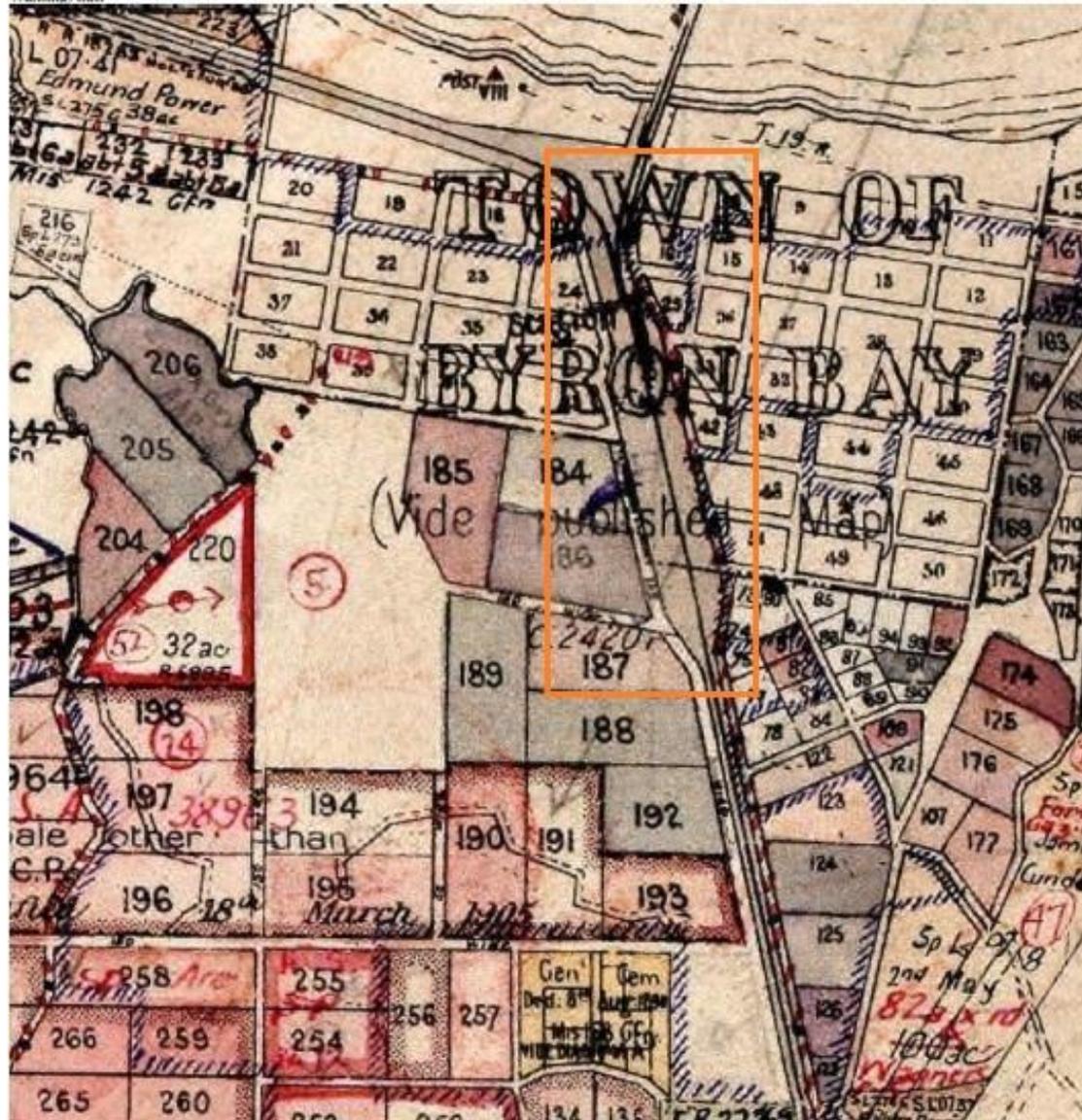


Figure 3. Extract of 1906 Parish Map – County of Rous, Parish of Byron. Edition 7, Sheet 1. Dashed lines indicate the Belongil Swamp Drainage Trust District. The orange rectangle indicates the subject area.



Figure 4. Extract of 1913 Parish Map – County of Rous, Parish of Byron. Edition 8, Sheet 1. crossed lines indicate the Belongil Swamp Drainage Trust District. The orange rectangle indicates the subject area.

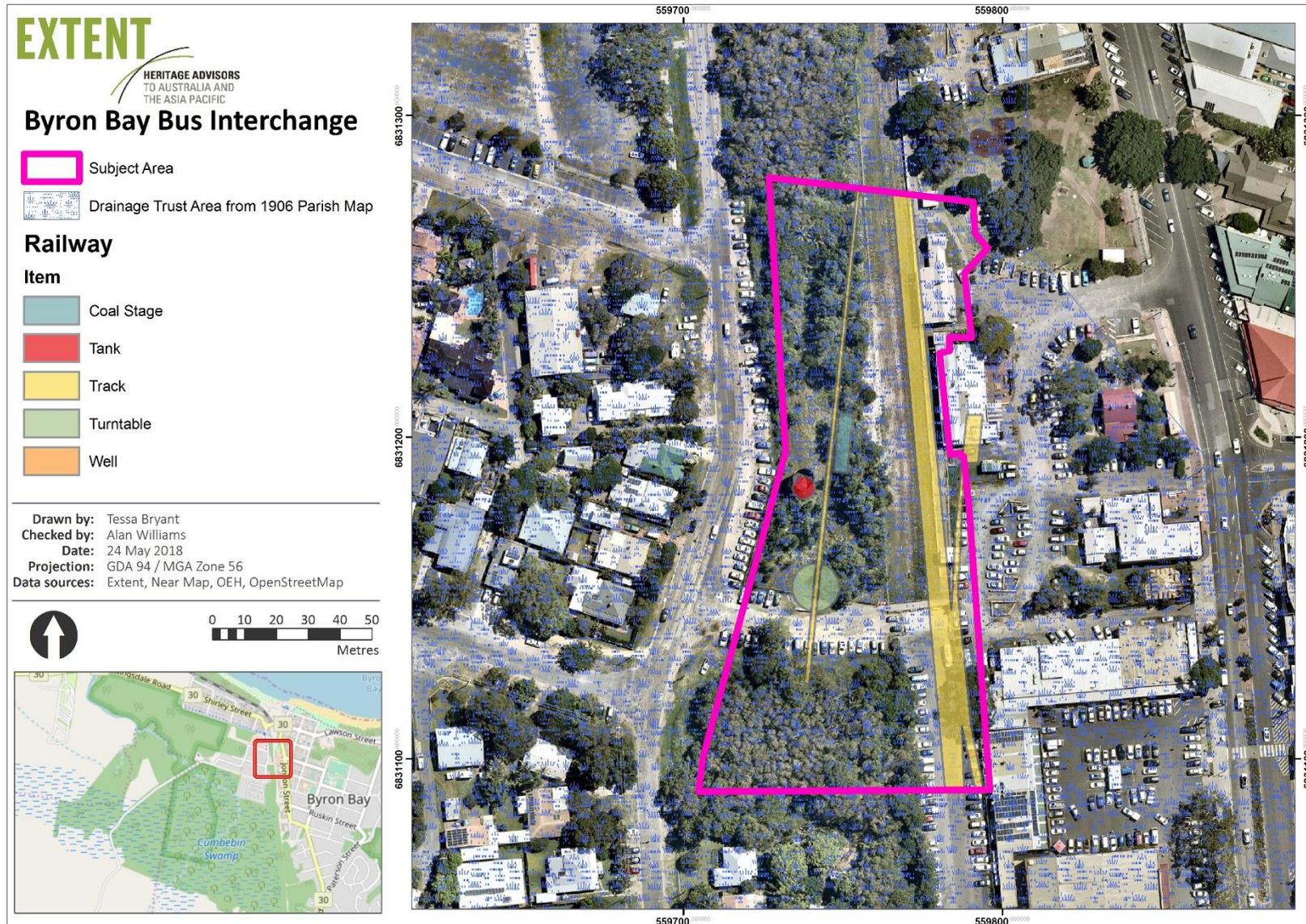


Figure 5. Previous items of disturbance not extant within the subject area. Disturbance associated with the construction of these features is likely wider.

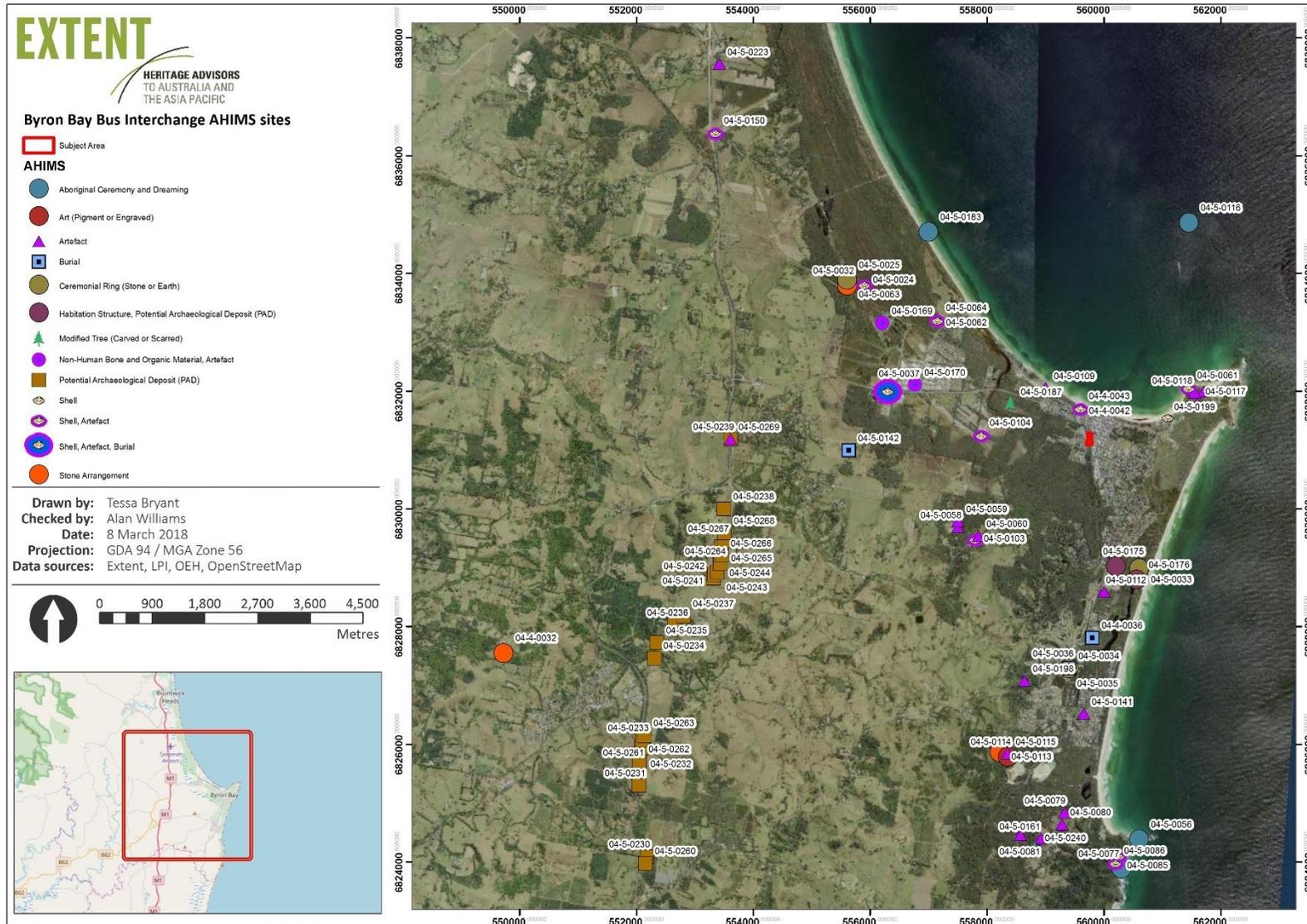


Figure 6. AHIMS sites recorded within the search area. The subject area is indicated by the red outline.



Plate 1. Water tower within the subject area.



Plate 2. Exposure of sand near water tower.



Plate 3. Asphalt road in south of subject area.



Plate 4. Cars parked along eastern edge of subject area.



Plate 5. Former railway line area with complete ground cover.



Plate 6. Former concrete structure.



Plate 7. Patchy ground surface exposures of sand within vegetated area.



Plate 8. Materials relating to the railway still present within the subject area.



Plate 9. Sand exposure with dumped imported materials.



Plate 10. Tracks still present in the southern part of the subject area.

References

Collins, J. 1992. Byron Shire Aboriginal Heritage Study. *Draft report to Byron Shire Council.*

Collins, J. 2010. Proposed West Byron Urban Release Area, Byron Bay, Byron Shire, NSW – Cultural heritage assessment. *Report to Byron Bay West Landowners Association.*

DECCW, 2010. *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, Department of Environment, Climate Change and Water, Sydney.

Everick Heritage Consultants Pty Ltd, 2013. Cultural Heritage Assessment Reservoir Hill Rezoning Lennox Head, NSW. *Report to Ballina Island Developments Pty Ltd.*

Goodrick, A. 1970. A survey of Wetlands of coastal NSW. *CSIRO Technical Memorandum No.5.*

Office of Environment & Heritage. 2018. 'eSPADE', NSW Soil and land information [electronic database]. Retrieved 12/03/2018, from <http://www.environment.nsw.gov.au/eSpadeWebApp/>.

Piper, A., 1983. An archaeological survey of Crown Land subject to application for development in the vicinity of Belongil Swamp, Byron Bay NSW. *Report to John Lewis and Associates.*

Navin, K. 1992. Draft archaeological investigation for the proposed Club Med Resort Development, Byron Bay, NSW. *Report to Devine, Erby, Mazlin Pty Ltd.*

Navin Officer Heritage Consultants Pty Ltd, 2008. Pacific Highway Upgrade Tintenbar to Ewingsdale Cultural Heritage Assessment. *Report to Arup for the NSW Roads and Traffic Authority.*

Navin Officer Heritage Consultants Pty Ltd, 2013. North Byron Beach Resort North Byron Bay, NSW Brief report.

Appendix 1: Information on Legislation

Commonwealth Legislation

Aboriginal and Torres Strait Islander Heritage Protection Act 1984

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* was enacted at a Federal level to preserve and protect areas (particularly sacred sites) and objects of particular significance to Aboriginal Australians from damage or desecration. Steps necessary for the protection of a threatened place are outlined in a gazetted Ministerial Declaration (Sections 9 and 10). This can include the preclusion of development.

As well as providing protection to areas, it can also protect objects by Declaration, in particular Aboriginal skeletal remains (Section 12). Although this is a Federal Act, it can be invoked on a State level if the State is unwilling or unable to provide protection for such sites or objects.

Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* provides for the protection of natural and cultural heritage places. The Act establishes (amongst other things) a National Heritage List (NHL) and a Commonwealth Heritage List (CHL). Places on the NHL are of natural or cultural significance at a national level and can be in public or private ownership. The CHL is limited to places owned or occupied by the Commonwealth which are of heritage significance for certain specified reasons.

Places listed on the NHL are considered to be of State and local heritage value, even if State or local various heritage lists do not specifically include them.

The heritage values of places on the NHL or the CHL are protected under the terms of the EPBC Act. The Act requires that the Minister administering the EPBC Act assess any action which has, will have, or is likely to have, a significant impact on the heritage values of a listed place. The approval (or rejection) follows the referral of the matter by the relevant agency's Minister.

Native Title Act 1993

The *Native Title Act 1993* provides recognition and protection for native title. The Act established the National Native Title Tribunal to administer native title claims to rights and interests over lands and waters by Aboriginal people. The Tribunal also administers the future act processes that attract the right to negotiate under the Native Title Act 1993.

The Act also provides for Indigenous Land Use Agreements (ILUA). An ILUA is an agreement between a native title group and others about the use and management of land and waters. ILUAs were introduced as a result of amendments to the Native Title Act in 1998. They allow people to negotiate flexible, pragmatic agreements to suit their particular circumstances.

An ILUA can be negotiated over areas where native title has, or has not yet, been determined. They can be part of a native title determination, or settled separately from a native title claim. An ILUA can be negotiated and registered whether there is a native title claim over the area or not.

NSW State Legislation

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) requires that environmental and heritage impacts are considered by consent authorities prior to granting development approvals. The relevant sections of the EP&A Act are:

- Part 4: Development that requires consent under consideration of environmental planning instruments.
- Part 5: An assessment process for activities undertaken by Public Authorities and for developments that do not require development consent but an approval under another mechanism.

Where Project Approval is to be determined under Part 4 (Division 4.1) of the Act, further approvals under the National Parks and Wildlife Act 1974, are not required. In those instances, management of Aboriginal heritage follows the applicable Aboriginal assessment guidelines (the Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation, July 2005) and any relevant statement of commitments included in the Development Approval.

National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act 1974* (NPW Act) provides blanket protection for Aboriginal objects (material evidence of Indigenous occupation) and Aboriginal places (areas of cultural significance to the Aboriginal community) across NSW. An Aboriginal object is defined 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, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

An Aboriginal place is any place declared to be an Aboriginal place by the Minister for the Environment, under Section 84 of the Act.

It is an offence to disturb Aboriginal objects or places without a permit authorised by the Director-General of the Office of Environment and Heritage. In addition, anyone who discovers an Aboriginal object is obliged to report the discovery to OEH.

The operation of the NPW Act is administered by OEH. With regard to the assessment of Aboriginal cultural heritage, OEH has endorsed the following guidelines:

- Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (2010).
- Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (2010).
- Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010).
- Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (2011).

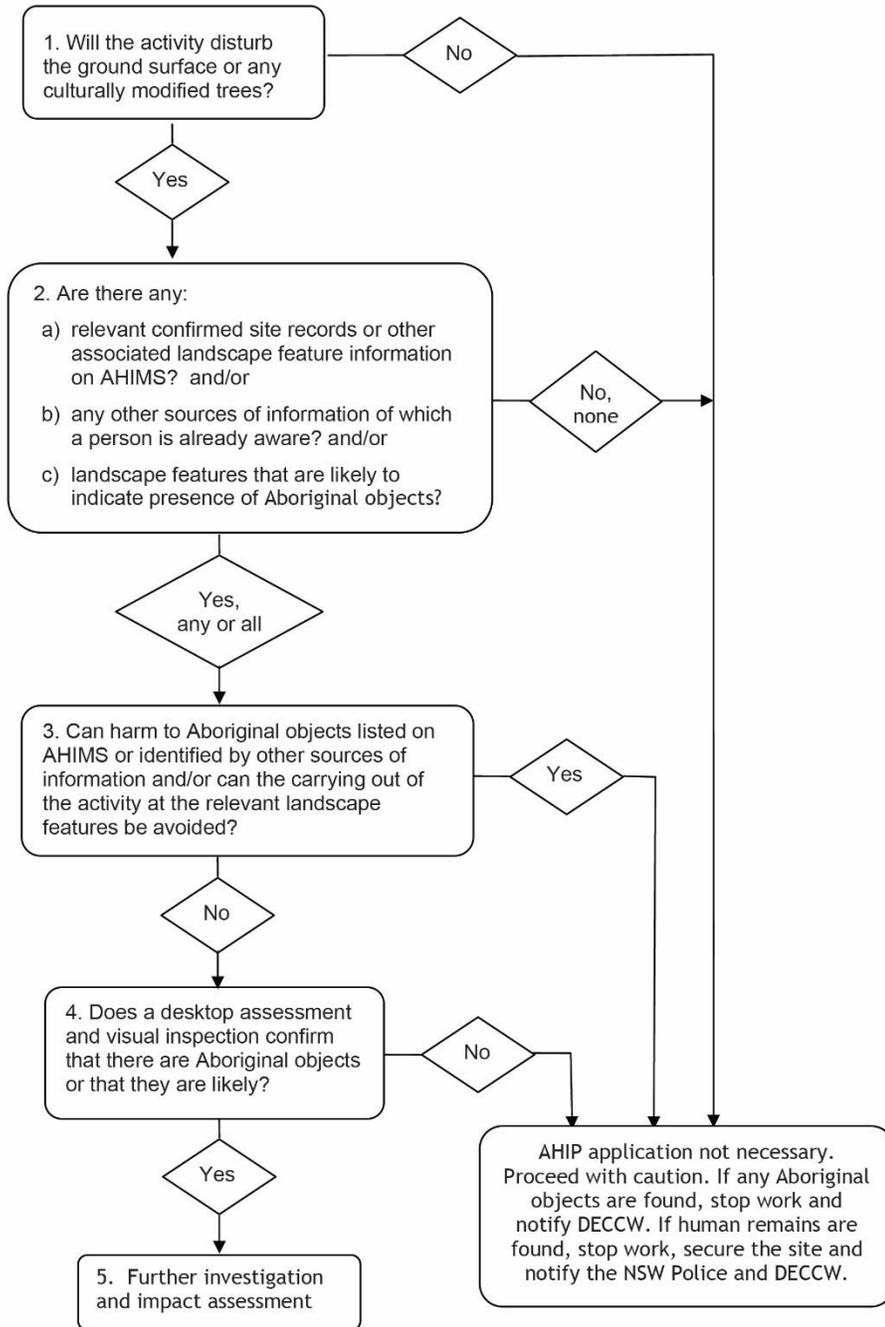
Aboriginal Land Rights Act 1983

EXTENT HERITAGE

The *Aboriginal Land Rights Act 1983* allows for the transfer of ownership to a Local Aboriginal Land Council of vacant Crown land not required for an essential purpose or for residential land. These lands are then managed and maintained by the Local Aboriginal Land Council.

Appendix 2: Due Diligence Flow Chart

8 The generic due diligence process



Appendix 3: AHIMS Search



AHIMS Web Services (AWS)
Extensive search - Site list report

Your Ref/PO Number : SYD18029

Client Service ID : 332485

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
04-5-0150	TL 2 Contact	AGD	56	553250	6836180	Open site	Valid	Shell : -, Artefact :-	Midden	97692
	Recorders			Phil Hughes				Permits		
04-5-0146	HR1;Palm Valley; Contact	AGD	56	561420	6831830	Open site	Valid	Artefact :-	Isolated Find	
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0147	HR2;Palm Valley; Contact	AGD	56	561600	6831800	Open site	Valid	Artefact :-	Isolated Find	
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0076	Restriction applied. Please contact ahims@environment.nsw.gov.au. Contact					Open site	Valid			1980,97554,98714
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0077	Kings Beach natural mythological site; Contact	AGD	56	560200	6823700	Open site	Valid	Aboriginal Ceremony and Dreaming :-	Natural Mythological (Ritual)	1980
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0079	B.H. 5; Contact	AGD	56	559220	6824650	Open site	Valid	Artefact :-	Isolated Find	1980,102417
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0080	B.H. 6; Contact	AGD	56	559180	6824450	Open site	Valid	Artefact :-	Open Camp Site	1980,102417
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0081	B.H. 7; Contact	AGD	56	558470	6824270	Open site	Valid	Artefact :-	Open Camp Site	1980,102407,102417
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0085	B.H. 12; Contact	AGD	56	560150	6823900	Open site	Valid	Shell : -, Artefact :-	Midden	1980
	Recorders			Ms.Jacqueline Collins				Permits		
04-4-0036	Tallow Creek;Tallow Beach Contact	AGD	56	559700	6827620	Open site	Valid	Burial :-	Burial/s	
	Recorders			J.Gonda,M.Wheeler,Davidson,Ms.Adrienne Howe-Piening				Permits		
04-4-0042	Byron Bay Beach: Pipi Midden; Contact	AGD	56	559500	6831500	Open site	Valid	Shell : -, Artefact :-	Midden	1608
	Recorders			Ms.Janice Cawthorn				Permits		
04-4-0043	Chigwin Contact	AGD	56	559500	6831500	Open site	Valid	Shell : -, Artefact :-	Midden	1608
	Recorders			Ms.Janice Cawthorn				Permits		
04-5-0103	Byron Urban Areas 4;Byron Bay; Contact	AGD	56	557700	6829280	Open site	Valid	Shell : -, Artefact :-	Midden	102417
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0104	Byron Urban Areas 3;Byron Bay; Contact	AGD	56	557800	6831048	Open site	Valid	Shell : -, Artefact :-	Midden	102417
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0109	Clarks Beach Contact	AGD	56	558900	6831860	Open site	Valid	Artefact :-	Open Camp Site	2626
	Recorders			Ms.Jacqueline Collins				Permits		
04-5-0112	Kays Campsite Contact	AGD	56	559900	6828400	Open site	Valid	Artefact :-	Open Camp Site	98714
	Recorders			M Wheeler				Permits		

Report generated by AHIMS Web Service on 08/03/2018 for Tessa Bryant for the following area at Lat, Long From : -28.7121, 153.4489 - Lat, Long To : -28.5883, 153.6452 with a Buffer of 50 meters. Additional Info : Aboriginal heritage due diligence assessment. Number of Aboriginal sites and Aboriginal objects found is 77

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



SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
04-5-0113	Stone Circles;	AGD	56	558110	6825680	Open site	Valid	Stone Arrangement :	Stone Arrangement	98714,102417
	Contact			Recorders	M Wheeler			Permits		
04-5-0114	Grooves in rocks	AGD	56	558250	6825600	Open site	Valid	Art (Pigment or Engraved) :-	Rock Engraving	98714,102417
	Contact			Recorders	M Wheeler			Permits		
04-5-0115	Caves;	AGD	56	558250	6825650	Closed site	Valid	Artefact :-	Shelter with Deposit	98714,102417
	Contact			Recorders	M Wheeler			Permits		
04-5-0116	HRS;	AGD	56	561350	6834670	Open site	Valid	Aboriginal Ceremony and Dreaming :-	Natural Mythological (Ritual)	
	Contact			Recorders	Ms.Jacqueline Collins			Permits		
04-5-0117	HR4;	AGD	56	561500	6831600	Open site	Valid	Artefact :-	Isolated Find	
	Contact			Recorders	Ms.Jacqueline Collins			Permits		
04-5-0118	HR3	AGD	56	561450	6831780	Open site	Valid	Artefact :-	Open Camp Site	3008
	Contact			Recorders	Ms.Jacqueline Collins			Permits		
04-5-0141	Oceanside Place;	AGD	56	559550	6826330	Open site	Valid	Artefact :-	Restricted Site	97556,98714
	Contact			Recorders	Ms.Jacqueline Collins			Permits	1141	
04-5-0142	Ewingsdale 1;	AGD	56	555530	6830800	Open site	Valid	Burial :-	Burial/s	102417
	Contact			Recorders	Ms.Jacqueline Collins			Permits		
04-5-0036	Suffolk Beach;Byron Bay;	AGD	56	559300	6827100	Open site	Valid	Ceremonial Ring (Stone or Earth) :-	Bora/Ceremonial	98714
	Contact			Recorders	F.W Thorpe			Permits		
04-5-0037	Cape Byron;	AGD	56	556200	6831800	Open site	Valid	Artefact :-, Burial :-, Shell :-	Burial/s,Midden,Open Camp Site	
	Contact			Recorders	Harry Creamer,JA Starling			Permits		
04-5-0056	Cocked Hat Rocks	AGD	56	560500	6824200	Open site	Valid	Aboriginal Ceremony and Dreaming :-	Aboriginal Place,Natural Mythological (Ritual)	
	Contact			Recorders	Harry Creamer,Harry Creamer,Glen Morris			Permits		
04-5-0058	Byron Bay;Skinners Shoot Road	AGD	56	557400	6829500	Open site	Valid	Artefact :-	Open Camp Site	102417
	Contact			Recorders	J Gonda			Permits		
04-5-0060	Byron Bay;Skinners shoot Road;	AGD	56	557750	6829350	Open site	Valid	Artefact :-	Open Camp Site	102417
	Contact			Recorders	J Gonda			Permits		
04-5-0061	Palm Valley;	AGD	56	561350	6831850	Open site	Valid	Artefact :-, Shell :-	Open Camp Site	
	Contact			Recorders	J Gonda			Permits	530,3651	

Report generated by AHIMS Web Service on 08/03/2018 for Tessa Bryant for the following area at Lat, Long From :-28.7121, 153.4489 - Lat, Long To :-28.5883, 153.6452 with a Buffer of 50 meters. Additional Info : Aboriginal heritage due diligence assessment. Number of Aboriginal sites and Aboriginal objects found is 77

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



SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
04-5-0062	Byron Bay 1;Belongil Swamp; Contact	AGD	56	557050	6833000	Open site	Valid	Shell :- , Artefact :-	Midden	
		Recorders		Mr.Adrian Piper				Permits	365	
04-5-0063	None Specified Contact	AGD	56	555500	6833700	Open site	Valid	Ceremonial Ring (Stone or Earth) :-	Bora/Ceremonial	
		Recorders		Unknown Author				Permits		
04-5-0064	Byron Bay 1;Byron Bay; Contact	AGD	56	557050	6833000	Open site	Valid	Shell :- , Artefact :-	Midden	617
		Recorders		Mr.Adrian Piper				Permits		
04-5-0032	Tyagarah Aboriginal Stone Formations Ewingsdale Contact	AGD	56	555500	6833600	Open site	Valid	Stone Arrangement :-	Stone Arrangement	
		Recorders		L.M Mumberson				Permits		
04-5-0033	Tallow Beach;Byron Bay; Contact	AGD	56	560500	6828800	Open site	Valid	Ceremonial Ring (Stone or Earth) :-	Bora/Ceremonial	98714
		Recorders		F.W Thorpe				Permits		
04-5-0034	Suffolk Beach, Tallow Creek Contact	AGD	56	559300	6827100	Open site	Valid	Burial :-	Burial/s	98714
		Recorders		Australian Museum				Permits		
04-5-0035	Suffolk Beach; Contact	AGD	56	559300	6827100	Open site	Valid	Artefact :-	Open Camp Site	98714,102417
		Recorders		J.A Stirling				Permits		
04-5-0161	B.H. 19 Contact	AGD	56	558820	6824210	Open site	Valid	Artefact : 1		102417
		Recorders		Ms.Jacqueline Collins				Permits		
04-5-0169	Belong 1 Contact	AGD	56	556105	6832961	Open site	Valid	Non-Human Bone and Organic Material :- , Artefact :-		
		Recorders		Mick Leon,Doctor.Maria Cotter				Permits		
04-5-0170	Belong 2 Contact	AGD	56	556665	6831917	Open site	Valid	Non-Human Bone and Organic Material :- , Artefact :-		
		Recorders		Mick Leon,Doctor.Maria Cotter				Permits		
04-5-0086	B.H. 13; Contact	AGD	56	560100	6823780	Open site	Valid	Shell :- , Artefact :-	Midden	1980
		Recorders		Ms.Jacqueline Collins				Permits		
04-4-0032	Possum Creek, Bangalow Contact	AGD	56	549620	6827360	Open site	Valid	Stone Arrangement :-	Stone Arrangement	98162
		Recorders		Mr.T Donnelly				Permits		
04-5-0175	Ironbark AVE/Kays Campsite Contact	AGD	56	560104	6828834	Open site	Valid	Habitation Structure :- , Potential Archaeological Deposit (PAD) :-		
		Recorders		Ms.Katrina Stankowski				Permits		

Report generated by AHIMS Web Service on 08/03/2018 for Tessa Bryant for the following area at Lat, Long From :-28.7121, 153.4489 - Lat, Long To :-28.5883, 153.6452 with a Buffer of 50 meters. Additional Info : Aboriginal heritage due diligence assessment. Number of Aboriginal sites and Aboriginal objects found is 77

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



AHIMS Web Services (AWS)
Extensive search - Site list report

Your Ref/PO Number : 5YD18029

Client Service ID : 332485

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
04-5-0176	Tallow Creek Camp	AGD	56	560460	6828610	Open site	Valid	Habitation Structure :- , Potential Archaeological Deposit (PAD) :-		
	<u>Contact</u> Mr.Norman Graham									
	<u>Recorders</u> Ms.Katrina Stankowski									
04-5-0183	Julian Rocks	GDA	56	557000	6834700	Open site	Valid	Aboriginal Ceremony and Dreaming : 2		
	<u>Contact</u> T Russell									
	<u>Recorders</u> Ms.Stella Wheildon									
04-5-0187	Bel-1	AGD	56	558300	6831600	Open site	Valid	Modified Tree (Carved or Scarred) : 1		2994,100678
	<u>Contact</u> T Russell									
	<u>Recorders</u> Iain Stuart									
04-5-0198	Hayters 1	AGD	56	558539	6826887	Open site	Valid	Artefact : 1		100534,102417
	<u>Contact</u>									
	<u>Recorders</u> Ms.Jacqueline Collins									
04-5-0059	Byron Bay;Skinners Shoot Road;	AGD	56	557400	6829600	Open site	Valid	Artefact :-	Open Camp Site	102417
	<u>Contact</u>									
	<u>Recorders</u> J Gonida									
04-5-0199	Clark's Caravan Park Midden Site	GDA	56	561100	6831540	Open site	Valid	Shell :-		
	<u>Contact</u> Mr.Ashley Moran									
	<u>Recorders</u> Mr.Ashley Moran									
04-5-0241	PAD26_Bangalow	AGD	56	553210	6828630	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	<u>Contact</u>									
	<u>Recorders</u> Navin Officer Heritage Consultants Pty Ltd								2971	
04-5-0242	PAD27_Bangalow	AGD	56	553230	6828700	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	<u>Contact</u>									
	<u>Recorders</u> Navin Officer Heritage Consultants Pty Ltd								2971	
04-5-0243	PAD28_Bangalow	AGD	56	553275	6828740	Open site	Not a Site	Potential Archaeological Deposit (PAD) : 1		102417
	<u>Contact</u>									
	<u>Recorders</u> Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1								2971	
04-5-0244	PAD29_Bangalow	AGD	56	553325	6828875	Open site	Not a Site	Potential Archaeological Deposit (PAD) : 1		102417
	<u>Contact</u>									
	<u>Recorders</u> Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1								2971	
04-5-0223	TBR.1	GDA	56	553420	6837550	Open site	Valid	Artefact :-		97692,102407
	<u>Contact</u>									
	<u>Recorders</u> Everick Heritage Consultants Pty Ltd									

Report generated by AHIMS Web Service on 08/03/2018 for Tessa Bryant for the following area at Lat, Long From : -28.7121, 153.4489 - Lat, Long To : -28.5883, 153.6452 with a Buffer of 50 meters. Additional Info : Aboriginal heritage due diligence assessment. Number of Aboriginal sites and Aboriginal objects found is 77

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



AHIMS Web Services (AWS)
Extensive search - Site list report

Your Ref/PO Number : 5YD18029

Client Service ID : 332485

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
04-5-0230	PAD15_Knockrow	GDA	56	552175	6824091	Open site	Not a Site	Potential Archaeological Deposit (PAD) : 1		
	Contact	Recorders	Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1 Permits 2971,3179							
04-5-0231	PAD16_Bangalow	GDA	56	552045	6825300	Open site	Not a Site	Potential Archaeological Deposit (PAD) : 1		
	Contact	Recorders	Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1 Permits 2971,3179							
04-5-0232	PAD19_Bangalow	GDA	56	552080	6825931	Open site	Not a Site	Potential Archaeological Deposit (PAD) : 1		
	Contact	Recorders	Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1 Permits 2971,3179							
04-5-0233	PAD20_Bangalow	GDA	56	552105	6826066	Open site	Partially Destroyed	Potential Archaeological Deposit (PAD) : 1, Artefact : 1		
	Contact	Recorders	Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1 Permits 2971,3179							
04-5-0234	PAD22_Bangalow	GDA	56	552305	6827464	Open site	Not a Site	Potential Archaeological Deposit (PAD) : 1		
	Contact	Recorders	Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1 Permits 2971,3179							
04-5-0235	PAD23_Bangalow	GDA	56	552350	6827725	Open site	Not a Site	Potential Archaeological Deposit (PAD) : 1		
	Contact	Recorders	Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1 Permits 2971,3179							
04-5-0236	PAD24_Bangalow	GDA	56	552650	6828025	Open site	Not a Site	Potential Archaeological Deposit (PAD) : 1		
	Contact	Recorders	Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1 Permits 2971,3179							
04-5-0237	PAD25_Bangalow	GDA	56	552805	6828180	Open site	Partially Destroyed	Potential Archaeological Deposit (PAD) : 1, Artefact : 1		
	Contact	Recorders	Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1 Permits 2971,3179							
04-5-0238	PAD35_Bangalow	GDA	56	553496	6829997	Open site	Not a Site	Potential Archaeological Deposit (PAD) : 1		102417
	Contact	Recorders	Navin Officer Heritage Consultants Pty Ltd,Navin Officer Heritage Consultants Pty 1 Permits 2971,3179							

Report generated by AHIMS Web Service on 08/03/2018 for Tessa Bryant for the following area at Lat, Long From : -28.7121, 153.4489 - Lat, Long To : -28.5883, 153.6452 with a Buffer of 50 meters. Additional Info : Aboriginal heritage due diligence assessment. Number of Aboriginal sites and Aboriginal objects found is 77

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



AHIMS Web Services (AWS)
Extensive search - Site list report

Your Ref/PO Number : 5YD18029

Client Service ID : 332485

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
04-5-0239	PAD36_Ewingsdale	GDA	56	553611	6831181	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	Contact							Permits	2971,3179	
04-5-0240	Byron Bay (Broken Head)	GDA	56	558820	6824210	Open site	Valid	Modified Tree (Carved or Scarred) : 3		98069,102417
	Contact							Permits		
04-5-0024	Byron Bay Byron Bay 1	AGD	56	555800	6833600	Open site	Valid	Shell : -, Artefact : -	Midden	48,678
	Contact							Permits		
04-5-0025	Byron Bay Bengil Swamp	AGD	56	555500	6833700	Open site	Valid	Ceremonial Ring (Stone or Earth) : -	Bora/Ceremonial	48,678
	Contact							Permits		
04-5-0260	PAD14 Knockrow	GDA	56	552153	6823975	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	Contact							Permits		
04-5-0261	PAD17 Bangalow	GDA	56	552036	6825647	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	Contact							Permits		
04-5-0262	PAD18 Bangalow	GDA	56	552050	6825705	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	Contact							Permits		
04-5-0263	PAD21 Bangalow	GDA	56	552133	6826150	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	Contact							Permits		
04-5-0264	PAD30 Bangalow	GDA	56	553435	6829065	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	Contact							Permits		
04-5-0265	PAD31 Bangalow	GDA	56	553460	6829220	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		
	Contact							Permits		
04-5-0266	PAD32 Bangalow	GDA	56	553455	6829350	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		

Report generated by AHIMS Web Service on 08/03/2018 for Tessa Bryant for the following area at Lat, Long From : -28.7121, 153.4489 - Lat, Long To : -28.5883, 153.6452 with a Buffer of 50 meters. Additional Info : Aboriginal heritage due diligence assessment. Number of Aboriginal sites and Aboriginal objects found is 77

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



SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
04-5-0267	<u>Contact</u> PAD33 Bangalow	<u>Recorders</u> GDA		56 553500	6829450	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		<u>Permits</u>
04-5-0268	<u>Contact</u> PAD34 Bangalow	<u>Recorders</u> GDA		56 553505	6829585	Open site	Valid	Potential Archaeological Deposit (PAD) : 1		<u>Permits</u>
04-5-0269	<u>Contact</u> PAD36 Bangalow	<u>Recorders</u> GDA		56 553611	6831181	Open site	Valid	Artefact : 1		<u>Permits</u>

Report generated by AHIMS Web Service on 08/03/2018 for Tessa Bryant for the following area at Lat, Long From : -28.7121, 153.4489 - Lat, Long To : -28.5883, 153.6452 with a Buffer of 50 meters. Additional Info : Aboriginal heritage due diligence assessment. Number of Aboriginal sites and Aboriginal objects found is 77
This information is not guaranteed to be free from error omission. Office of Environment and Heritage (NSW) and its employees disclaim liability for any act done or omission made on the information and consequences of such acts or omission.