

Aboriginal Cultural Heritage Assessment Report

Gillieston Heights, Maitland, NSW

Residential Development

City of Maitland LGA

Prepared for Walker Gillieston Heights Pty Ltd

Prepared by Niche Environment and Heritage Pty Ltd | 13 June 2023



Document control

Project number	Client	Project manager	LGA
6617	Walker Gillieston Heights Pty Ltd	Deirdre Lewis-Cook	City of Maitland

Version	Author	Review	Status	Date
D1	Deirdre Lewis-Cook	Clare Anderson	Draft	14 September 2021
D2	Deirdre Lewis-Cook	Clare Anderson	Draft	20 September 2021
D3	Deirdre Lewis-Cook	Walker Gillieston Heights Pty Ltd	Draft	29 September 2021
D4	Deirdre Lewis-Cook	RAP Review	Draft	3 November 2021
D5	Deirdre Lewis-Cook	Walker Gillieston Heights Pty Ltd	Final V1	4 November 2021
D6	Deirdre Lewis-Cook	For Public Exhibition	Final V2	11 April 2022
D7	Deirdre Lewis-Cook	Client/ Regulator	Final V3	13 June 2023

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Executive summary

Project outline

Niche Environment and Heritage Pty Ltd (Niche) was commissioned by Walker Gillieston Heights Pty Ltd (hereafter referred to as 'the Proponent') to prepare an Aboriginal Cultural Heritage Assessment (ACHA) to support a development application (DA) for the proposed residential subdivision development of six adjoining lots spanning 457 to 527 Cessnock Road in Gillieston Heights, a southern suburb of Maitland NSW (hereafter referred to as 'the Subject Area'). The Subject Area comprises the following lots: Lot 2 DP 601226, Lot 1 DP 601226, Lot 1 DP 31179, Lot 1 DP 302745, Lot 2 DP 302745, and Lot 3 DP 71130.

Aboriginal community consultation was undertaken with twenty-one (21) Aboriginal groups who identified themselves as Registered Aboriginal Parties (RAPs) through the consultation process following the *Aboriginal cultural heritage consultation requirements for proponents 2010* (DECCW 2010b).

Objectives

This ACHA has been prepared in accordance with the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales* (OEH 2010). This ACHA report is designed to inform the development process and to manage and mitigate harm to Aboriginal objects and cultural heritage values identified within the Subject Area. As part of this ACHA, an Aboriginal cultural heritage site inspection and archaeological test excavation program was completed by Niche and representatives of the RAPs in compliance with the requirements of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010a). The results of the archaeological assessment are presented in an Archaeological Report (AR) provided in Appendix A and have been considered in this ACHA when assessing the likely harm of the proposed activity on the Aboriginal objects present within the Subject Area.

Summary of results

One (1) previously recorded Aboriginal cultural heritage site is located within the Subject Area. This site, TH-IF-001 (AHIMS ID#38-4-2015) is an isolated find located close to Testers Hollow in the southern portion of the Subject Area.

A total of seven (7) new Aboriginal cultural heritage sites were located during the site inspection completed by Niche and a representative of the Mindaribba Local Aboriginal Land Council (MLALC) in compliance with the requirements of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010a). These sites consist of three (3) isolated artefacts GH21-IF-1 (AHIMS ID#38-4-2116), GH21-IF-2 (AHIMS ID#38-4-2117), and GH21-IF-4 (AHIMS ID#38-4-2119), one isolated artefact and PAD GH21-IF-3 (AHIMS ID#38-4-2118), and three (3) PADs GH21-PAD-1 (AHIMS ID#38-4-2120), GH21-PAD-3 (AHIMS ID#38-4-2121), and GH21-PAD-4 (AHIMS ID#38-4-2122).

A test excavation program was carried out over five days from 13 to 17 December 2021. Twenty-six (26) test pits measuring 50 cm x 50 cm were excavated resulting in the recovery of a total of four (4) sub-surface Aboriginal objects from three (3) of the PAD sites including GH21-PAD-1 (AHIMS ID#38-4-2120), GH21-PAD-3 (AHIMS ID#38-4-2121), and GH21-PAD-4 (AHIMS ID#38-4-2122). The investigations concluded that the PAD associated with GH21-IF-3 (AHIMS ID#38-4-2118) is not associated with any sub-surface archaeological deposits despite the presence of an isolated surface artefact. An Aboriginal Site Impact Recording form (ASIRF) has been lodged for each PAD site investigated.

The entire Subject Area, including the eight (8) Aboriginal cultural heritage sites, holds cultural significance to the local Aboriginal community. Overall, the RAPs considered the Subject Area to have high cultural

value due to elevated landforms, views of the surrounding landscape, and access to water. The stone artefact associated with the previously recorded Aboriginal cultural heritage site TH-IF-001 (AHIMS ID#38-4-2015) and those recorded during the field inspection are valued for providing a tangible link to the past.

The overall scientific (archaeological), educational, representativeness, rarity and aesthetic value of the Aboriginal cultural heritage sites within the Subject Area is considered to be low. Isolated artefacts are the most frequent Aboriginal cultural heritage site type located within the Central Lowlands of the Hunter region. The large number of these site types that have been recovered through the environmental impact assessment and Aboriginal Heritage Impact Permit (AHIP) process and the high number of representative Aboriginal objects from similar settings in Keeping Places and Museums within the Hunter Region mean that the current Aboriginal cultural heritage sites within the Subject Area are not rare or unique and do not have high conservation value.

Summary of potential impacts

This assessment has determined that the proposed development of the Subject Area has the potential to impact the following Aboriginal cultural heritage sites registered on AHIMS:

Portion of site to be impacted	AHIMS ID#	Site Name	Site Features
Whole	38-4-2118	GH21-IF-3	Isolated artefact
Whole	38-4-2120	GH21-PAD-1	PAD
Partial	38-4-2121	GH21-PAD-3	PAD
Partial	38-4-2122	GH21-PAD-4	PAD

The following Aboriginal cultural heritage sites located within the Subject Area are situated in areas of C2 (Environmental Conservation Zone) and C3 (Environmental Management Zone) Zoning in locations where no works are proposed and will therefore not be impacted by the proposed development of the Subject Area.

Portion of site to be impacted	AHIMS ID#	Site Name	Site Features
None	38-4-2015	TH-IF-001	Isolated artefact and PAD
None	38-4-2116	GH21-IF-1	Isolated artefact
None	38-4-2117	GH21-IF-2	Isolated artefact
None	38-4-2119	GH21-IF-4	Isolated artefact

Regulatory requirements and recommendations

Part 6 of the *National Parks and Wildlife Act (1974)* provides protection for all Aboriginal objects and declared Aboriginal places from harm. Harm is defined as destroying, defacing, damaging or moving an object from the land. An AHIP is a legal document that grants you permission to harm Aboriginal objects or declared Aboriginal places and sets out any conditions you must comply with. An AHIP is required to disturb any Aboriginal objects or places.

This ACHA presents the results of an Aboriginal cultural heritage site inspection and test excavation program completed by Niche and representatives of the RAPs in compliance with the requirements of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010a).

A total of seven (8) Aboriginal cultural heritage sites have been identified within the Subject Area, some of which have the potential to be harmed by the proposed development of the Subject Area.

Based on community consultation with the RAPs for the Project, results of the field assessment and with the completion of this ACHA by Niche, the following recommendations have been made:

Recommendations	
Aboriginal Heritage Impact Permit	
1.	Walker Gillieston Heights Pty Ltd should continue to consult with the Aboriginal community in accordance with the consultation guidelines and in accordance with any future Aboriginal Heritage Impact Permit (AHIP). To ensure that the current consultation records remain valid to support any future AHIP/s for the Subject Area, the Proponent should send project updates to RAPs at a minimum of every six months for the duration of the Project. Consultation with the Aboriginal community should be undertaken to inform an Interpretation Plan, to enable Aboriginal cultural knowledge to be incorporated into the design and development of the Precinct, focusing on open/public spaces.
2.	Aboriginal cultural heritage sites TH-IF-001 (AHIMS ID#38-4-2015), GH21-IF-1 (AHIMS ID# 38-4-2116), GH21-IF-2 (AHIMS ID# 38-4-2117) and GH21-IF-4 (AHIMS ID# 38-4-2119) should be incorporated into conservation zones and protected in situ within the areas proposed for C2 (Environmental Conservation Zone) and C3 (Environmental Management Zone) Zoning and no ground disturbance should occur within the boundaries of these Aboriginal cultural heritage sites.
3.	An application for an AHIP to harm for Aboriginal cultural heritage sites GH21-IF-3 (AHIMS ID# 38-4-2118), GH21-PAD-1 (AHIMS ID# 38-4-2120), GH21-PAD-3 (AHIMS ID# 38-4-2121) and GH21-PAD-4 (AHIMS ID #38-4-2122) will be required to undertake future development within the location of these sites as it will result in harm to Aboriginal Objects.
4.	The AHIP should be conditioned to include salvage surface collection of the isolated artefact associated with Aboriginal cultural heritage site GH21-IF-3 (AHIMS ID# 38-4-2118) as a mitigation strategy for the harm to this site.
5.	Site Card information for the four AHIMS registered Aboriginal cultural heritage sites GH21-IF-3 (AHIMS ID# 38-4-2118), GH21-PAD-1 (AHIMS ID# 38-4-2120), GH21-PAD-3 (AHIMS ID# 38-4-2121) and GH21-PAD-4 (AHIMS ID #38-4-2122) should be updated in the AHIMS database with revised site descriptions following any impacts associated with any works under any future AHIP. This will involve submitting Aboriginal Site Impact Form [ASIFS] upon implementing the AHIP.
6.	A Care Agreement will be required with the Registered Aboriginal Parties to determine the final storage location of any Aboriginal objects recovered during the test excavations and under any future AHIPs within the Subject Area.
7.	For any specific proposed development beyond what has been assessed in the current AR/ACHA, especially within the C2 and C3 zones, an assessment of Aboriginal heritage should be undertaken in accordance with the <i>National Parks & Wildlife Act 1974</i> (Amended 2010) and <i>National Parks & Wildlife Amendment Regulation 2019</i> . This may take the form of an Aboriginal Objects Due Diligence Assessment in the first instance.
General	
8.	All workers should be inducted into the Subject Area, so they are made aware of their obligations under the <i>National Parks and Wildlife Act 1974</i> and any conditions of any future AHIP prior and during and after construction activities.
9.	In the event that previously unknown Aboriginal object(s) and/or sites are discovered during the proposed activity, work must stop, and an appropriately qualified archaeologist be contacted to access the nature, extent, and significance of the identified sites and notification is provided to

Recommendations

	Heritage NSW. Works should not proceed without advice from Heritage NSW or an appropriately qualified archaeologist.
10.	<p>In the unlikely event that suspected human remains are encountered during construction, all work in the area that may cause further impact, must cease immediately and:</p> <ul style="list-style-type: none"> • The location, including a 20 m curtilage, should be secured using barrier fencing to avoid further harm. • The NSW Police must be contacted immediately. • No further action is to be undertaken until the NSW Police provide written notification to Walker Gillieston Heights Pty Ltd. • If the skeletal remains are identified as Aboriginal, Walker Gillieston Heights Pty Ltd or their agent must contact: <ul style="list-style-type: none"> ▪ Heritage NSW's Enviroline on 131 555; and representatives of the RAPs. ▪ No works are to continue until Heritage NSW provides written notification to the proponent or their Agent.

Glossary and list of abbreviations

Term or abbreviation	Definition
Aboriginal cultural heritage	The tangible (objects) and intangible (dreaming stories, legends and places) cultural practices and traditions associated with past and present-day Aboriginal communities.
ACHA	Aboriginal Cultural Heritage Assessment.
Aboriginal object(s)	The legal definition for material Aboriginal cultural heritage under the NSW <i>National Parks and Wildlife Act 1974</i> .
Aboriginal stakeholders	Members of a local Aboriginal land council, registered holders of Native Title, Aboriginal groups or other Aboriginal people who may have an interest in the Project.
AHIMS	Aboriginal Heritage Information Management System.
AHIP	Aboriginal Heritage Impact Permit.
AR	Archaeological Report.
Archaeology	The scientific study of material traces of human history, particularly the relics and cultural remains of past human activities.
Archaeological deposit	A layer of soil material containing archaeological objects and/or human remains.
Archaeological investigation	The process of assessing the archaeological potential of an impact area by a qualified archaeologist.
Archaeological site	An area that contains surface or sub-surface material evidence of past human activity in which material evidence (artefacts) of past activity is preserved.
Artefact	An object made by human agency (e.g. stone artefacts).
Assemblage	A group of artefacts found in close association with one another Any group of items designated for analysis that exist in spatial and/or vertical context – without any assumptions of chronological or spatial relatedness.
Avoidance	A management strategy which protects Aboriginal sites within an impact area by avoiding them totally in development.
BCD	The Biodiversity and Conservation Division (formerly the Office of Environment and Heritage and now Heritage NSW of the Department of Premier and Cabinet).
Catchment	The area from which a surface watercourse or a groundwater system derives its water.
Code of Practice	<i>Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales</i> .
CPD	City Project and Developments.
Cumulative impacts	Combination of individual effects of the same kind due to multiple actions from various sources over time.
DECCW	The Department of Conservation, Climate Change and Water, replaced by the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment (DPIE) and now Heritage NSW of the Department of Premier and Cabinet (DPC).

Term or abbreviation	Definition
Development	The processes involved in preparing the Subject Area for subdivision and associated road infrastructure, including levelling and compacting for future housing constructing, and cutting and compacting areas for road infrastructure.
DA	Development Application.
DG	Director General
DPC	Department of Premier and Cabinet
DPIE	The Department of Planning, Industry and Environment.
Drainage	Natural or artificial means for the interception and removal of surface or subsurface water.
EP&A Act	NSW <i>Environmental Planning and Assessment Act 1979</i> .
FGS	Fine Grained Siliceous material. A type of raw material from which stone artefacts were manufactured.
Flake	A piece of stone detached from a core, displaying a bulb of percussion and striking platform.
Harm	With regard to Aboriginal objects this has the same meaning as the NSW <i>National Parks and Wildlife Act 1974</i> .
HMP	Heritage Management Plan.
Heritage NSW	Aboriginal cultural heritage regulator in the Department of Premier and Cabinet. Responsible for the management of Aboriginal Cultural Heritage (ACH) regulation functions under the <i>National Parks and Wildlife Act 1974</i> . Formerly BCD of DPIE.
Impact	Influence or effect exerted by a project or other activity on the natural, built and community environment.
Impact area	An area that requires archaeological investigation and management assessment.
In situ	Latin words meaning ‘on the spot, undisturbed’.
Isolated artefact / find	A single artefact found in an isolated context.
Landscape character	The aggregate of built, natural and cultural aspects that make up an area and provide a sense of place. Includes all aspects of a tract of land – built, planted and natural topographical and ecological features.
Land unit	An area of common landform, and frequently with common geology, soils and vegetation types, occurring repeatedly at similar points in the landscape over a defined region. It is a constituent part of a land system.
Landform	Any one of the various features that make up the surface of the earth.
LALC	Local Aboriginal Land Council.
LEP	Local Environmental Plan.
LGA	Local Government Area.
Management plans	Conservation plans which identify short and long term management strategies for all known sites recorded within a (usually approved) Subject Area.
Methodology	The procedures used to undertake an archaeological investigation.
Mitigation	To address the problem of conflict between land use and site conservation.
NPW Act	National Parks and Wildlife Act 1974.
NPW Regulation	National Parks and Wildlife Regulation 2009.

Term or abbreviation	Definition
OEH	Office of Environment and Heritage, replaced by the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment (DPIE) and now Heritage NSW of the Department of Premier and Cabinet.
Open camp site	An archaeological site situated within an open space (e.g. archaeological material located on a creek bank, in a forest, on a hill, etc.).
PAD	Potential Archaeological Deposit. A location considered to have a potential for subsurface archaeological material.
RAP	Registered Aboriginal Party.
Site recording	The systematic process of collecting archaeological data for an archaeological investigation.
Site	A place where past human activity is identifiable.
Spit	A unit of archaeological excavation with an arbitrary assigned measurement of depth and extent.
Survey coverage	A graphic and statistical representation of how much of an impact area was actually surveyed and therefore assessed.

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1 Introduction

1.1 Background

This Aboriginal Cultural Heritage Assessment (ACHA) presents the results of an archaeological survey and test excavation program undertaken in response to a proposed residential development of six adjoining lots spanning 457 to 527 Cessnock Road in Gillieston Heights, a southern suburb of Maitland, NSW (hereafter referred to as ‘the Subject Area’). The Subject Area incorporates six adjoining lots comprising of Lot 2 DP 601226, Lot 1 DP 601226, Lot 1 DP 31179, Lot 1 DP 302745, Lot 2 DP 302745, and Lot 3 DP 71130 (Figure 1 and Figure 2).

Walker Gillieston Heights Pty Ltd (‘the Proponent’) has engaged Niche Environment and Heritage Pty Ltd (Niche) to assist with the development of an ACHA that:

- Identifies the nature and extent of any Aboriginal objects that may be present within the Subject Area.
- Determines the cultural significance of Aboriginal objects and /or places relevant to the Subject Area.
- Prepares an impact assessment and provides appropriate management recommendations for any identified Aboriginal objects that might be identified during the process.
- Details the community consultation process and any Aboriginal cultural heritage values identified, in compliance with the *Aboriginal cultural heritage consultation requirements for proponents 2010* (DECCW 2010b).

1.2 Proposed activity and need for the project

The residential development proposed for the Subject Area has previously required an amendment to the Maitland LEP 2011 to change the zoning of the Subject Area (Figure 2) from RU2 Rural Landscape and C2 Environmental Conservation to R1 General Residential, C3 Environmental Management and C2 Environmental Conservation. A condition of the gateway determination of the rezoning proposal was the completion of an ACHA prior to exhibition. Niche undertook an ACHA with Aboriginal community involvement in 2022-3 to support the proposed works.

A search of the Aboriginal Heritage Information Management System (AHIMS) conducted in 2021 identified that one (1) Aboriginal cultural heritage site, TH-IF-001 (AHIMS ID#38-4-2015) was known to be located within the Subject Area with the potential for more Aboriginal cultural heritage sites considered likely to be present.

1.3 Statutory and regulatory framework

The *National Parks and Wildlife Act 1974* (NPW Act), administered by Heritage NSW in the Department of Premier and Cabinet (DPC), is the primary legislation for the protection of some aspects of Aboriginal cultural heritage in NSW. The National Parks and Wildlife Regulation 2009 (NPW Regulation) gives effect to some of the provisions contained within the NPW Act. One of the objectives of the NPW Act is: ‘the conservation of objects, places or features (including biological diversity) of cultural value within the landscape, including but not limited to (i) places, objects and features of significance to Aboriginal people ...’ (s.2A(1)(b)).

Under s.85 of the NPW Act, the Director General (DG) of the DPC is responsible for the protection of Aboriginal objects and places in NSW. In particular, the DG is responsible for the preservation and protection of any Aboriginal objects or places on land reserved under the NPW Act, and for the proper restoration of any such land that has been disturbed or excavated in accordance with an AHIP. Part 6 of the NPW Act provides specific protection for Aboriginal objects and places by making it an offence to harm or

desecrate them. Harm means ‘... any act or omission that destroys, defaces or damages an object or place or, in relation to an object, moves the object from the land on which it had been situated’ (s.5).

All archaeological assessments and reporting for this project have been undertaken in accordance with the following regulatory and advisory documents and guidelines:

- *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW, 2010a).
- *Aboriginal cultural heritage consultation requirements for proponents 2010* (Department of Environment, Climate Change and Water [DECCW], 2010b).
- *Guide to investigating, assessing and reporting Aboriginal cultural heritage in New South Wales* (Office of Environment and Heritage [OEH], 2011a).
- *Applying for an Aboriginal Heritage Impact Permit: Guide for applicants* (OEH, 2011b).

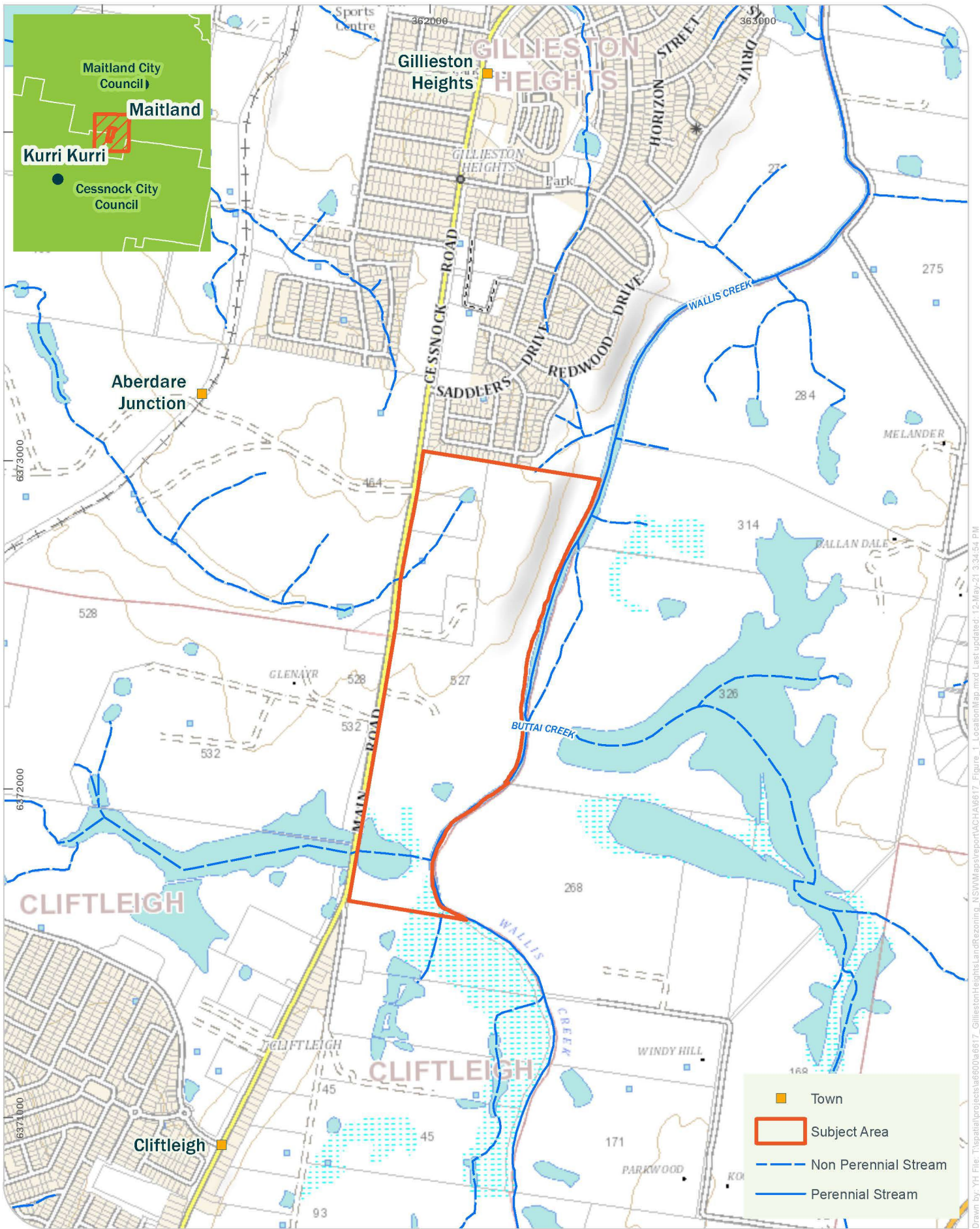
Where Aboriginal objects are identified and cannot be avoided, an application for an Aboriginal Heritage Impact Permit (AHIP) will be required.

1.4 Objectives

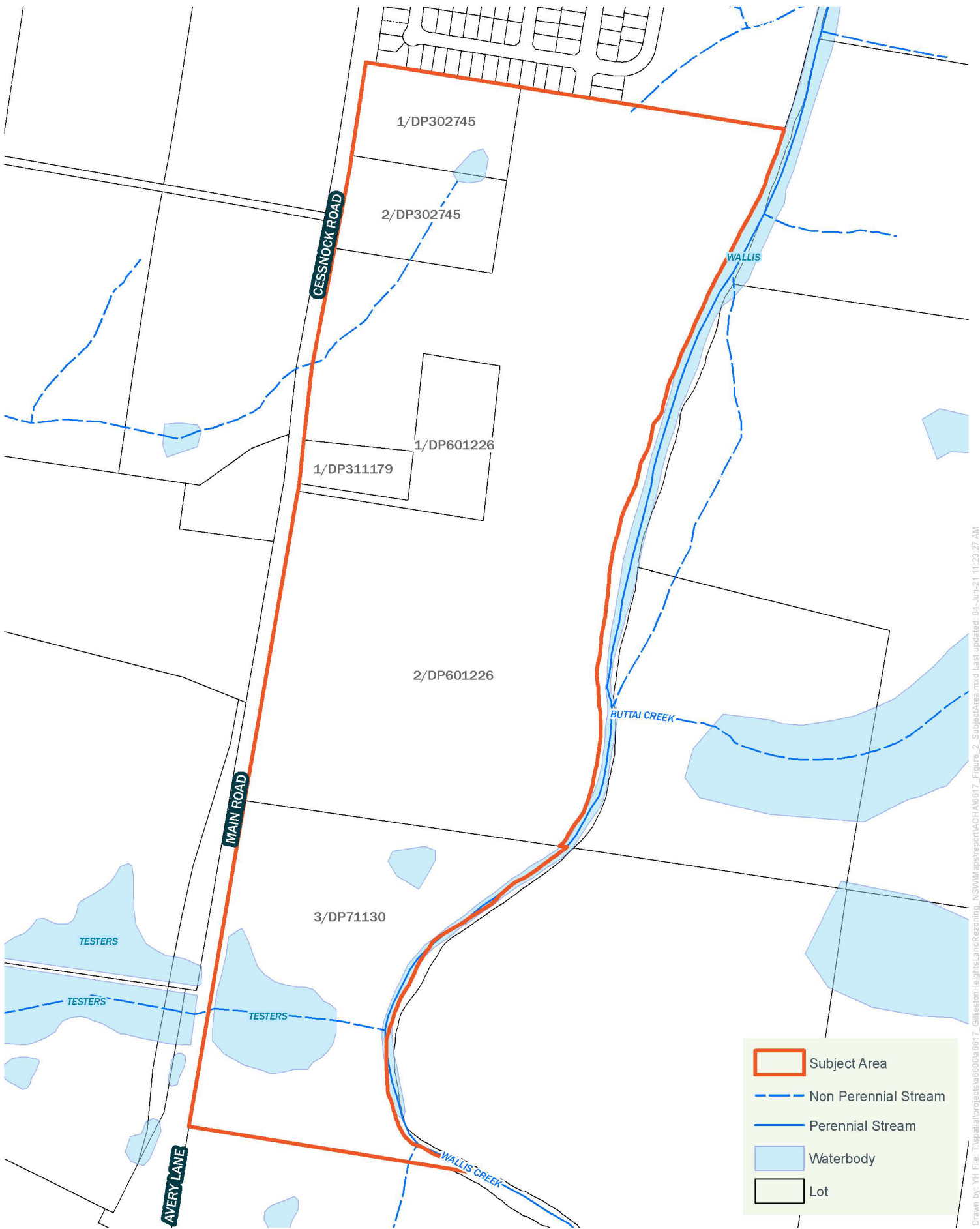
This ACHA report is designed to manage and mitigate harm to Aboriginal objects and cultural heritage values associated with the development of the Subject Area. The assessment requirements and objectives for the ACHA are provided in the Table 1 below.

Table 1: Assessment requirements and objectives

Objectives:	Addressed in:
<ul style="list-style-type: none"> • Identify whether Aboriginal objects could be present within the Subject Area. 	Appendix A
<ul style="list-style-type: none"> • Undertake further investigation within areas identified as having potential high sensitivity. 	Appendix A
<ul style="list-style-type: none"> • Provide a description of the Aboriginal objects and declared Aboriginal places located within the area of the proposed activity. 	Section 2, and Appendix A
<ul style="list-style-type: none"> • Provide a description of the cultural heritage values, including the significance of the Aboriginal objects and declared Aboriginal places, that exist across the whole area that will be affected by the proposed activity and the significance of these values for the Aboriginal people who have a cultural association with the land. 	Section 5 and Appendix A
<ul style="list-style-type: none"> • Demonstrate how the requirements for consultation with Aboriginal people have been met (as specified in clause 80C of the NPW Regulation). 	Section 3, Appendix B
<ul style="list-style-type: none"> • Present the views of those Aboriginal people regarding the likely impact of the proposed activity on their cultural heritage (if any submissions have been received as a part of the consultation requirements, the report must include a copy of each submission and response). 	Section 3, Appendix A and Appendix B
<ul style="list-style-type: none"> • Provide an assessment of actual or likely harm posed to the Aboriginal objects or declared Aboriginal places from the proposed activity, with reference to the cultural heritage values identified. 	Section 6
<ul style="list-style-type: none"> • Provide any practical measures that may be taken to protect and conserve those Aboriginal objects or declared Aboriginal places and any practical measures that may be taken to avoid or mitigate any actual or likely harm, alternatives to harm or, if this is not possible, to manage (minimise) harm. 	Section 7 and Appendix A



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Figure 3: Location of AHIMS sites and Heritage items (Source: Niche)

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2 Description of the area

2.1 Location

The Subject Area is situated within the suburb of Gillieston Heights in the City of Maitland Local Government Area (LGA) and is located approximately 5 km South-West of the Hunter River within the Hunter Region of NSW. It lies within the County of Northumberland and within the Mindaribba Local Aboriginal Land Council (MLALC). The Subject Area is situated across six adjoining lots spanning 457 to 527 Cessnock Road in Gillieston Heights, a southern suburb of Maitland, NSW. The lots comprise Lot 2 DP 601226, Lot 1 DP 601226, Lot 1 DP 31179, Lot 1 DP 302745, Lot 2 DP 302745 and Lot 3 DP 71130. The Subject Area is made up of dense pastureland located immediately to the south of an existing low-density residential development. The Subject Area is bound by Cessnock Road to the west, Wallis Creek to the east and Testers Hollow to the south. The location of the Subject Area is illustrated in Figure 1 and Figure 2 with details of the Lots and current zoning provided in Table 2.

Table 2: Overview of the lots contained within the Subject Area and their current zoning

Site name	AHIMS ID#	Current zoning
TH-IF-001	38-4-2015	NA
GH21-IF-1	38-4-2116	C3 – Environmental Management Zone
GH21-IF-2	38-4-2117	C2 – Environmental Conservation Zone
GH21-IF-3	38-4-2118	R1 – General Residential Zone
GH21-IF-4	38-4-2119	NA
GH21-PAD-1	38-4-2120	R1 – General Residential Zone
GH21-PAD-3	38-4-2121	C3 – Environmental Management Zone / R1 – General Residential Zone
GH21-PAD-4	38-4-2122	C3 – Environmental Management Zone

2.2 Description of land where Aboriginal objects are proposed to be harmed

The Subject Area is proposed for residential subdivision development. The South Gillieston Heights (Eastern Precinct) comprises approximately 322 residential allotments, drainage reserves, open space reserves and residue lots. The residential development would include the construction of new roads, bulk earthworks, vegetation removal, demolition of existing residences and remediation works.

The results of previous archaeological Assessments (Appendix D), as well as the desktop assessment and archaeological assessments undertaken as part of this report, have determined that a total of eight (8) Aboriginal cultural heritage sites are located within the Subject Area. The proposed development of the Subject Area will result in impacts to the following Aboriginal cultural heritage sites: GH21-IF-3 (AHIMS ID# 38-4-2118), GH21-PAD-1 (AHIMS ID# 38-4-2120), GH21-PAD-3 (AHIMS ID# 38-4-2121), and GH21-PAD-4

(AHIMS ID# 38-4-2122). Details of Aboriginal cultural heritage sites identified within the Subject Area are highlighted in Figure 3, Figure 5 and Table 3.

Further details of the Aboriginal cultural heritage sites are outlined in the Archaeological Report (AR) in Appendix A. The site card for TH-IF-001 (AHIMS ID#38-4-2015) with further information on site descriptions is provided in Annex 2 of the AR).

Table 3: Summary of the impacts to Aboriginal sites within the Subject Area.

Portion of site to be impacted	AHIMS ID#	Site Name	Site Features	Easting (GDA 94, Zone 56)	Northing (GDA 94, Zone 56)
None - there is no potential for the site to be harmed by the proposed development in the Subject Area	38-4-2015	TH-IF-001	Isolated artefact and PAD	██████	██████
None - there is no potential for the site to be harmed by the proposed development in the Subject Area	38-4-2116	GH21-IF-1	Isolated artefact	██████	██████
None - there is no potential for the site to be harmed by the proposed development in the Subject Area	38-4-2117	GH21-IF-2	Isolated artefact	██████	██████
Whole - the entire site has the potential to be harmed by the proposed development in the Subject Area	38-4-2118	GH21-IF-3	Isolated artefact and PAD	██████	██████
None - there is no potential for the site to be harmed by the proposed development in the Subject Area	38-4-2119	GH21-IF-4	Isolated artefact	██████	██████
Whole - the entire site has the potential to be harmed by the proposed development in the Subject Area	38-4-2120	GH21-PAD-1	PAD	██████	██████
Partial - a portion of the site has the potential to be harmed by the proposed development in the Subject Area	38-4-2121	GH21-PAD-3	PAD	██████	██████
Partial - a portion of the site has the potential to be harmed by the proposed development in the Subject Area	38-4-2122	GH21-PAD-4	PAD	██████	██████

2.3 Environmental context

The Subject Area is situated in the Central Lowlands of the Hunter Region, a biogeographic area which extends from approximately 120 km to 310 km north of Sydney. The surrounding landscape is made up of undulating floodplains and is characterised by low rolling to steeply sloping hills. The Subject Area consists

of various landscape units including sandstone scarp, steep slopes and gullies, low hills, hill crests, and wetlands and alluvial floodplains. Localised rock outcrops, water erosion hazards and seasonal waterlogging are also present. In the north-western section of the Subject Area there is a first order tributary of Swamp Creek and various drainage gullies exist throughout. Along the eastern boundary is Wallis Creek, and its tributaries. Buttai Creek is also located to the south-east of the Subject Area. The southern-most portion of the Subject Area falls over part of Testers Hollow which is prone to seasonal waterlogging. Representative photos of the landforms of the Subject Area showing its current condition are provided in Plate 1 to Plate 34 below.



Plate 1: View from upper slope descending to sandstone scarp, facing north



Plate 2: View from upper slope above centre of scarp, facing north-east



Plate 3: Silty exposure below vegetation on upper slope above outcrop, facing north



Plate 4: Silty exposure just above scarp, facing east



Plate 5: View upslope, facing west



Plate 6: Base of sandstone ledges and boulders in south of survey unit, facing north-east



Plate 7: View from alluvial flat towards site GH21-IF-2 (AHIMS ID#38-4-2117), facing south-west



Plate 8: Interior of sandstone scarp, showing rainforest tree species, facing north



Plate 9: View over developing gully on northward slopes, facing west

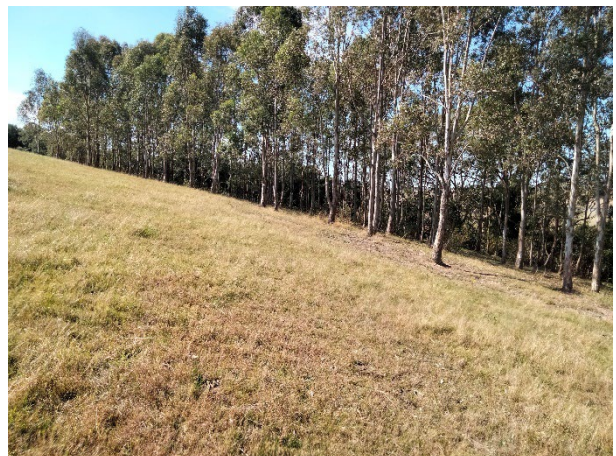


Plate 10: Degree of slope in south-east of higher ground, facing north-east



Plate 11: Degree of slope gully forming between parallel spurs, facing south-west



Plate 12: Exposed topsoil on site of site GH21-IF-3 (AHIMS ID#38-4-2118), facing north-west



Plate 13: View over rear of property 457 Cessnock Rd, facing south



Plate 14: View over dam between properties 457 Cessnock Rd and 463 Cessnock Rd, facing south-east



Plate 15: Dam exposure showing depth of soil, facing north



Plate 16: Fence line through silty exposure between properties 457 Cessnock Rd and 463 Cessnock Rd, facing south-east



Plate 17: View over lower hills towards create (survey unit 4), facing east



Plate 18: Property 527 Cessnock Rd, agricultural ruins and debris, facing west



Plate 19: Sandstone bedrock exposure north of property 527 Cessnock Rd, facing south-west



Plate 20: View over property 527 Cessnock Rd, facing south-east



Plate 21: View form high ground overlooking property 457 Cessnock Rd, facing west



Plate 22: View form high ground overlooking central area of Subject Area, facing south-east



Plate 23: Non-cultural scarring on gum tree, facing north east



Plate 24: View from crest looking towards survey unit 1, facing east



Plate 25: View from site GH21-PAD 2, facing south-east



Plate 26: View from site GH21-PAD 1, facing south-east



Plate 27: View of Wallis Creek from near site GH21-IF-2 (AHIMS ID#38-4-2117), facing north



Plate 28: PAD of THI-F 001 (AHIMS ID#38-4-2015), facing west



Plate 29: General shot of Subject Area, facing south



Plate 30: General shot of Subject Area, facing south



Plate 31: Dam on alluvial ground, facing south-east



Plate 32: Disturbance to site, facing south-east



Plate 33: View across GH21-PAD-4 (AHIMS ID#38-4-2122), facing south



Plate 34: View across GH21-PAD-3 (AHIMS ID#38-4-2121), facing north-east

The Subject Area consists of three soil landscapes: Bolwarra Heights (BH); Middlehope (MI), and Wallis Creek (WC) (Figure 4). The Bolwarra Heights soil landscape generally consists of ≤ 25 cm of brownish black gravelly loam topsoil (A¹ Horizon) followed by 15-20 cm of gravelly fine sandy clay loam (A² Horizon) which overlies 75-103 cm of yellowish-brown pedal clay (B² Horizon). The Middlehope soil landscape consists of gravelly brown loam (A¹ Horizon), bleached dull brown clayey sand (A² Horizon), and mottled dull yellowish-brown clay (B horizon). Commonly the landscape consists of 10-25 cm of gravelly brown loam directly overlying bedrock with topsoil depth expected to be < 25 cm deep. The Wallis Creek soil landscape is made

up of brownish black greasy clay loam (A¹ Horizon), brown loose loamy sand (A¹ Horizon), and pale loose clayey sand (A² Horizon).

The geological unit of the Study Area is Quaternary alluvium derived from Triassic sandstone. The underlying geology is predominantly Braxton Formation with smaller areas of Muree Sandstone, Greta Coal Measures, the Farley Formation and the Dalwood Group. The area consists of sandstone, siltstone, conglomerate, erratics, shale, coal seams and mudstone. Closer to the creek line the underlying geology consists of sand and minor clay deposits of the Sugarloaf, Broken Back and Myall Ranges. The Subject Area consists of Bolwarra Heights (GH) soil landscape, Middlehope (MI) soil landscape, and Wallis Creek (WC) soil landscape.

RPS (2013:17) surmise that various terrestrial and alluvial sources of silcrete have been identified, including at Bengalla, Saltwater Creek, Bulga, Lemington, Jerrys Plains, Singleton, and terraces along the Hunter River. The primary source of silcrete is thought to come from the alluvial and terrace gravels of the Hunter River while cobbles are sourced from Creek banks, the closest to the Subject Area being Wallis Creek and Swamp Creek. Volcanic tuffs occur in widespread seams throughout the Hunter Valley and are occasionally exposed in drainage lines or in cliff faces (primary sources), secondary sources of tuff may occur as river cobbles and can be a readily available source of the material. Sandstone outcrops were noted within the Subject Area during the site inspection; however, no grinding grooves were recorded.

As documented in the AR (Appendix A), the typical soil profile observed across the Subject Area consists of the following:

- A¹ horizon = Gravelly loam topsoil which becomes more black greasy clay loam closer to Wallis Creek.
- A² horizon = The majority of the Subject area consists of gravelly, fine sandy clay loam. This begins to change just before Wallis Creek to a bleached dull brown clayey sand before becoming pale loose clayey sand at Wallis Creek.
- B horizon = this horizon is only expected in the portion of the Subject Area which is made up of Middlehope soil landscape. The B Horizon consists of a mottled dull yellowish-brown clay.
- B² horizon = The B² horizon is only seen in portions of the Subject Area that are a part of the Bolwarra Heights soil landscape and consists of a yellowish-brown pedal clay.

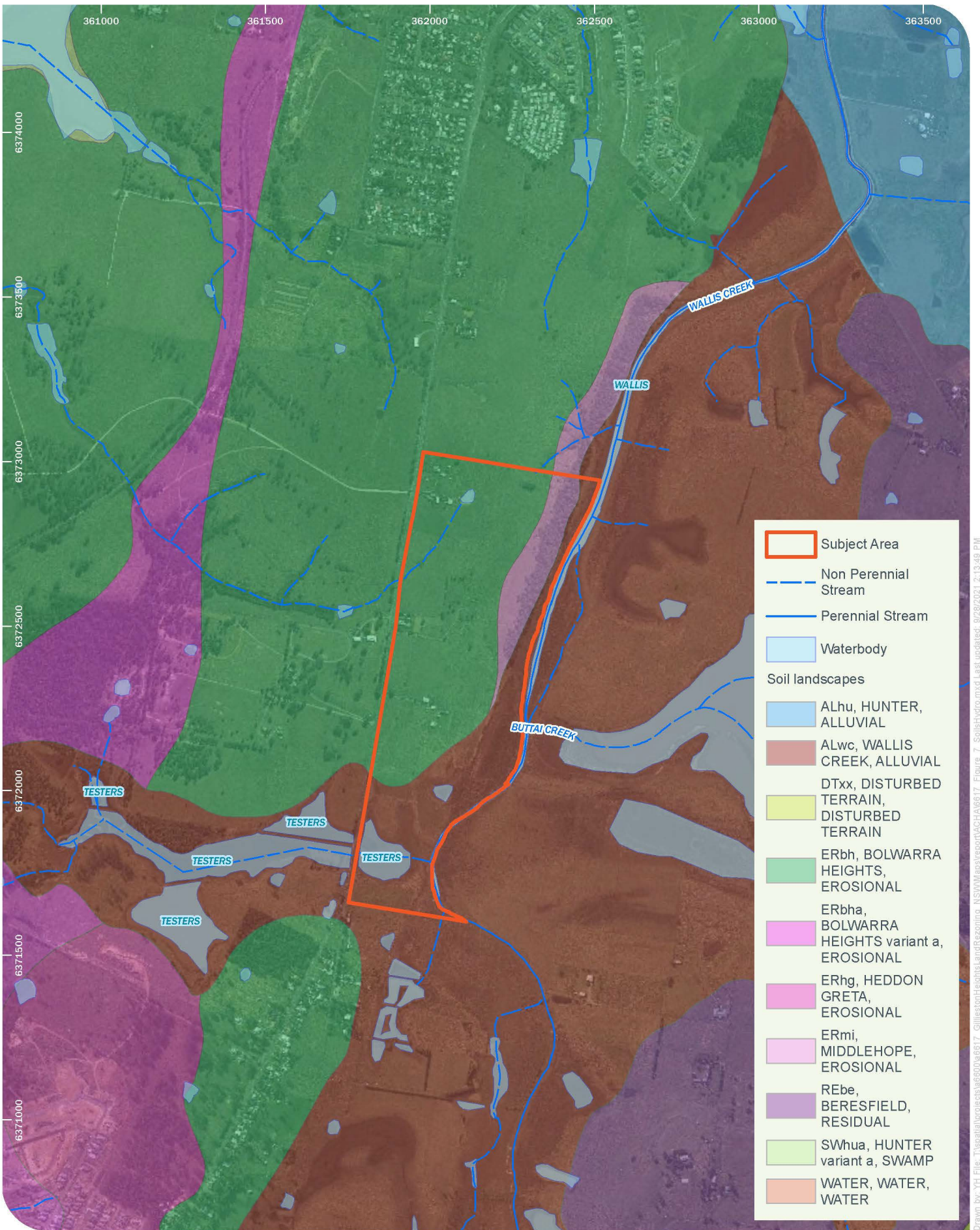
The Subject Area, once consisting of tall open-forest vegetation, is now situated within a landscape that is made up of cleared land where the occasional forest red gum (*Eucalyptus tereticornis*) occurs on the floodplains and prickly-leaved paperbark (*Melaleuca styphelioides*) in the backswamps while wattle (*Accacia irrorate*) and swamp oak (*Casuarina glauca*) are observable along drainage lines. Other species of vegetation include spotted gum (*Eucalyptus maculata*), broad-leaved ironbark (*E. fibrosa*), arrowleaved ironbark (*E. crebra*), and grey gum (*E. punctata*), paperbark (*Melaleuca linearifolia*), rough-barked apple (*Angophora floribunda*), and forest oak (*Allocasuarina torulosa*). The Subject Area consists of dense ground vegetation, limiting ground surface exposure and visibility.

2.4 Aboriginal occupation and land use of the Subject Area

Water is one of the most important resources to human occupation in a landscape and is considered the primary factor for the prediction of Aboriginal sites potential presence in a landscape. Across NSW, there is a strong correlation to the presence, frequency and density of Aboriginal objects with the abundance and permanency of water sources. Areas within 200 m of water are identified by the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010c) as landscape features likely to indicate the presence of Aboriginal objects.

The Subject Area is located along Wallis Creek, approximately 2 km east of Swamp creek, and 5 km south-west of the Hunter River and is thus considered to be located within a secondary resource zone as described by Kuskie and Kamminga (2000) for the region. The landscape of the Subject Area comprises sandstone scarps, steep slopes and gullies, low hills, hill crests, and wetlands and alluvial floodplains surrounded by several fresh water sources including Testers Hollow, Swamp Creek, Wallis Creek and Buttai Creek and their tributaries. Combined, these sources of water would have offered access to fresh drinking water. Occupation in this area would have involved hunting and gathering activities by small to possibly large groups of people. The Subject Area's close proximity to Swamp Creek (<2 km) and Wallis Creek (immediately to the east of the Subject Area), both permanent water sources, would have been culturally significant as an area offering abundant resources and elevations ideal for the gathering of people and camping. The elevation of the Subject Area overlooking Wallis Creek and Testers Hollow as well as landmarks in the distance may have been a primary factor in site selection.

Excavations less than 200 m outside of the Subject Area (Jacobs 2019) to the southwest show artefact rich deposits extending up to 50-60 cm in silty loams below the current ground surface. Dating suggests deposits are likely to be at least mid-Holocene in age. In their interpretation of the results, Jacobs (2019) suggests that the excavated site is likely to be an intermittent campsite linked to others known for the Wentworth Swamp Wallis Creek cultural landscape focusing on the margins of wetlands during the mid to late Holocene. Jacobs (2019) concluded that the low density (<1 artefact/m²) of surface artefacts does not appear to be an indicator of subsurface potential within the region. This can also be seen within the Subject Area itself where Roberts (2003) had initially recorded no archaeological cultural heritage sites prior to artefacts being found during construction (refer to Section 4.2 of the AR in Appendix A for further details).



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Soil landscapes and hydrology in the local area
Gillieston Heights Land Rezoning

Niche PM: Deirdre Lewis-Cook
Niche Proj. #: 661.7
Client: Walker Corporation Pty Ltd

Figure 4

Figure 5: Aboriginal cultural heritage sites within the Subject Area (Source: Niche)

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3 Consultation process

In administering its statutory functions under Part 6 of the NPW Act, Heritage NSW (formerly the Biodiversity and Conservation Division (BCD) which replaced OEH) requires that proponents consult with Aboriginal people about the Aboriginal cultural heritage values (cultural significance) of Aboriginal objects and/or places within any given development area, in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents. Part 6 National Parks and Wildlife Act 1974* (DECCW 2010b).

Heritage NSW maintains that the objective of consultation with Aboriginal communities about the cultural heritage values of Aboriginal objects and places is to ensure that Aboriginal people have the opportunity to improve ACHA outcomes (DECCW 2010b). This is ensured by:

- Providing relevant information about the cultural significance and values of Aboriginal objects and /or places,
- Informing the design of the methodology to assess cultural and significance of Aboriginal objects and/or places,
- Actively contributing to the development of cultural heritage management options and recommendations for any Aboriginal objects and/or places within the proposed Subject Area, and
- Commenting on draft assessment reports before they are submitted by the Proponent to Heritage NSW.

Consultation in the form outlined in the Consultation Requirements (DECCW 2010b) is a formal requirement in cases where a proponent is aware that their development activity has the potential to harm Aboriginal objects or places. Heritage NSW also recommends that these requirements be used when the certainty of harm is not yet established but a proponent has, through some formal development mechanism, been required to undertake a cultural heritage assessment to establish the potential harm their proposal may have on Aboriginal objects and/or places.

The Consultation Requirements outline a four-stage consultation process that includes detailed step-by-step guidance as to the aim of the stage, how it should be proceed, and what actions are necessary for it to be considered successfully completed. The four stages area:

- Stage 1 – Notification of project proposal and registration of interest.
- Stage 2 – Presentation of information about the proposed project.
- Stage 3 – Gathering information about the cultural significance of the project area.
- Stage 4 – Review of the draft Aboriginal Cultural Heritage Assessment report.

The Consultation Requirements also outline the roles and responsibilities of Heritage NSW, Registered Aboriginal Parties (RAPs) including Local and State Aboriginal Land Councils, and proponents throughout the consultation process.

To meet the requirements of consultation it is expected that the Proponent will:

- Bring the RAPs (or their nominated representatives) together and be responsible for ensuring appropriate administration and management of the consultation process.
- Consider the cultural perspectives, views, knowledge and advice of the RAPs involved in the consultation process when they assess cultural significance and work together to develop any heritage management outcomes for Aboriginal abject(s) and/or place(s).
- Provide evidence to Heritage NSW of consultation by including information such as cultural perspectives, views, knowledge and advice provided by the RAPs.

- Accurately record and clearly articulate all consultation findings in the final cultural heritage assessment report, and
- Provide copies of their final cultural heritage assessment report to the RAPs who have been consulted.

The consultation process undertaken to seek active involvement from appropriate Aboriginal representatives for the project followed the current NSW statutory guidelines – the Consultation Requirements. Section 1.3 of the Consultation Requirements describes the guiding principles of the document, which have been derived directly from the Principles section of the Australian Heritage Commission’s *Ask First: A guide to respecting Indigenous heritage places and values* (Australian Heritage Commission, 2002). Both documents share the aim of creating a system where advice can be sought from the Aboriginal community.

The following sections outline the process and results of the consultation conducted during this assessment to ascertain and reflect the Aboriginal cultural heritage values of the Subject Area. Further detail regarding the Aboriginal community consultation process is outlined in Appendix B.

3.1 Stage 1 – Notification of project proposal and registration of interest

3.1.1 Notification of agencies

Notification was initiated on 6 May 2021 to all relevant organisations named under Section 4.1.2 of the consultation requirements. This is done to identify Aboriginal people who may have cultural knowledge relevant to the Subject Area and whom may have an interest in the proposed project. The list of the contacted organisations is provided in Table 4 below and a copy of the notification letter is provided in Appendix B.

Table 4: List of contacted organisations

Name of Organisation	Date of notification sent	Date of response received
Hunter Local Land Services	4 June 2021	No response received
Mindaribba LALC	4 June 2021	No response received
Office of the Registrar	4 June 2021	No response received
Heritage NSW	4 June 2021	15 June 2021
NTS Corp	4 June 2021	No response received
Maitland City Council	4 June 2021	No response received
National Native Title Tribunal	4 June 2021	No response received

In lieu of a response from the National Native Title Tribunal and NTS Corp, searches of the Native Title online spatial service were completed on 14 September 2021 which yielded no results.

3.1.2 Advertisement

In accordance with Section 4.1.3 of the guidelines, a newspaper advertisement was placed in the Maitland Mercury on Friday 18 June 2021 with a close date of 5 pm on the Tuesday 6 July 2021 to provide additional opportunity for Aboriginal people who may be interested in the project to come forwards. A copy of the advertisement is included in Appendix B.

3.1.3 Notification of potential stakeholders

A list of potential cultural knowledge holders was compiled from submissions and information collected during the notification and registration periods. A list of the potential stakeholders is provided in Table 5 below.

Table 5: List of potential Aboriginal stakeholders

Potential Aboriginal stakeholders	
Aboriginal Native Title Consultants	Kawul Pty Ltd trading as Wonn1 Sites
AGA Services	Kevin Duncan
Aliera French Trading	Lower Hunter Aboriginal Incorporated
Arwarbukarl Cultural Resource Association, Miromaa Aboriginal Language and Technology Centre	Lower Hunter Wonnarua Cultural Services
Awabakal Descendants Traditional Owners	Lower Wonnaruah Tribal Consultancy Pty Ltd
Awabakal & Guringai Pty Ltd	Mayaroo
Awabakal Traditional Owners Aboriginal Corporation	Mindaribba Local Aboriginal Land Council
A1 Indigenous Services	Myland Cultural & Heritage Group
Cacatua Culture Consultants	Michael Green Cultural Heritage Consultant
Crimson-Rosie	Murra Bidgee Mullangari Aboriginal Corporation
Culturally Aware	Steve Talbott
Deslee Talbott Consultants	Tocomwall Pty Ltd
Divine Diggers Aboriginal Cultural Consultants	Wallagan Cultural Services
D F T V Enterprises	Wattaka Wonnarua CC Service
Didge Ngunawal Clan	Widescope Indigenous Group
Gidawaa Walang & Barkuma Neighbourhood Centre Inc.	Wonnarua Culture Heritage
Hunter Traditional Owner	Wonnarua Elders Council
Hunter Valley Cultural Surveying	Wonnarua Nation Aboriginal Corporation
Hunters & Collectors	Worimi Local Aboriginal Land Council
Indigenous Learning	Yinarr Cultural Services
Jarban & Mugreba	Ungooroo Aboriginal Corporation
Jumbunna Traffic Management Group Pty Ltd	
Kauma Pondee Inc.	

A copy of the notification letter that was sent to the above organisations and individuals on 21 June 2021 is included in Appendix B.

3.1.4 Registered Aboriginal Parties

As a result of the Stage 1 enquiries, the following eighteen (18) organisations and/or individuals have become Registered Aboriginal Parties (RAPs) for this project (see Table 6), and a consultation log of all correspondence included in Appendix B. Two organisations have registered for the project and have requested their contact details be kept confidential.

Two organisations identified that they did not want their contact details to be released.

Table 6: RAP organisations and contacts

Organisation	Contact Name
DNC	Paul and Lily Carroll
Tocomwall	Scott and Danny Franks
Wonnarua Nation Aboriginal Corporation	Laurie Perry
Aboriginal Native Title Consultants	Christine Paul
Murra Bidgee Mullangari Aboriginal Corporation	Darleen Johnson; Ryan Johnson
Culturally Aware	Tracy Skene
Cacatua Culture Consultants	George and Donne Sampson
AGA Services	Ashley, Gregory and Adam Sampson
Hunter Traditional Owner	Paulette Ryan
Widescope Indigenous Group	Steven Hickey
Awabakal Traditional Owners Aboriginal Corporation	Kerry Brauer
Awabakal and Guringai Pty Ltd	Tracey Howie
Aliera French Trading	Aliera French
Awabakal Descendants Traditional Owners	Peter Leven
Yinarr Cultural Services	Kathleen Steward Kinchela
Mindaribba Local Aboriginal Land Council	CEO
Wallagan Cultural Services	Maree Waugh
Individual	Greg Heard
Gamerai Naomi	Steve Talbot
██████████	██████████
██████████	██████████

3.1.5 Notification of Heritage NSW and LALC

Notification of RAPS to Heritage NSW and Mindaribba Local Aboriginal Land Council, as per Section 4.1.6 of the *Aboriginal cultural heritage consultation requirements for proponents 2010* was sent on the 6 July 2021.

3.2 Stage 2 and 3 – Presentation of project information, assessment methodology and gathering information about the cultural significance of the Subject Area

3.2.1 Project information and assessment methodology

The RAPs were provided with a letter outlining information about the project and an assessment methodology in accordance with the Consultation Requirements (DECCW 2010a) and the Code of Practice (DECCW, 2010b). The project information was provided on 6 July 2021.

The purpose of the provided documents was to:

- Describe the project, outline the project scope, time frame and proposed works.
- Describe the environment of the Subject Area and information relevant to the ACHA process.
- Provide an opportunity for the RAPs to actively contribute to the development of cultural heritage management options and recommendations and comment on the proposed methodology.
- Set a time frame for providing feedback and comments on the methodology and project information.

The draft methodology was submitted to the RAPs on 6 July 2021 and the closing date for comments was at 5 pm, 9 August 2021 (to meet the minimum 28 days review period). A copy of the cover letter and methodology is included in Appendix B.

A number of RAPs provided feedback on the project information and assessment methodology. Their comments and/or review are outlined in Table 7, and copies of all submissions made are included in Appendix B.

Table 7: Details of RAP feedback on the project information and assessment methodology

Registered Aboriginal Party	Stakeholder	Comment made	Response from Niche
ANTC	Christine Paul	ANTC agrees on the methodology and would like to be consulted on the project.	Niche thanks ANTC for their response.
Tocomwall	Scott Franks	Methodology was discussed with Scott Franks via phone. Mr Franks raised concerns regarding sites already recorded being excavated, as they are situated within crown land and fall within the NT claim boundaries. Mr Franks also advised that he believes there will be lots of artefacts within the Subject Area based on previous assessment in the region. He provided information about previous excavations conducted as part of a Hunter Water project where excavations reached metres deep. Alan Williams and Nicola Roach were given as names of people to contact regarding this project. Mr Franks advised that this area has had fill deposited over original ground surface, so stratigraphy is alluvium, then artificial clay capping, then original ground surface. Discussed sandy layer and nature of sediment as sandy and well drained. The area used to be a market garden of surface crops owing to drainage. Flood in 1955, lots of sediment / mud from flooding removed by bulldozers from other areas and dumped in this area. Suggested hand auguring as well as excavation across subject. Mentioned important birthing site with a frog shaped rock and rock art that is nearby (half-hour drive away from Subject Area_ Lagoon. Birthing cave. Story of platypus and frog.	<p>Niche thanks Tocomwall for their response.</p> <p>The sites identified by Mr Scott Franks are outside the current Subject Area and will therefore not be impacted by this ACHA or any proposed test excavation.</p> <p>Dr Alan Williams and Nicola Roach were both contacted. They were unsure of the exact project and suggested that it could possibly have been one completed in Farley which is located to the west of the current Subject Area (See Section 4.3 of the Archaeological Report).</p> <p>Information regarding the stratigraphy and history of the property has been incorporated in Section 5.5 of the Archaeological Report.</p> <p>Recommendations regarding hand auguring have been incorporated into Section 14.2 of the Archaeological Report</p>

3.2.2 Project information and assessment methodology

3.2.2.1 Survey Engagement Application process

Due to the high volume of potential participants and limited spacing available, a representative from the Mindaribba Local Aboriginal Land Council was invited to participate in the field survey. The invitation described the requirements that the Proponent needed applications to satisfy for engagement in regard to fitness to work, drugs and alcohol policy, and personal protective equipment.

3.2.2.2 Aboriginal Heritage Survey

An Aboriginal cultural heritage survey was conducted over three (3) days, from 19 to 21 August 2021. Table 8 summarises the representatives of the RAPs who attended the survey.

Table 8: Aboriginal cultural heritage survey attendance

Registered Aboriginal Party	Stakeholder	Comment made	Response from Niche
Mindaribba Local Aboriginal Land Council	Carl McDonald	During the site inspection, Carl McDonald from MLALC discussed the cultural values of the Subject Area. Cultural values included the characteristics of the Subject Area such as the location of the Subject area, elevated ground, in close proximity to various fresh water sources, within a resource rich area, which would have offered various types of food, medicine and wood resources. Carl indicated that the sandstone hill and low scarp that formed the eastern edge of the project area would have been a significant landform in the past for its sweeping views and its broad, flat top.	Niche thanks Mr McDonald for his comments during the site inspection. These have been incorporated into the ACHA and AR.

3.2.2.3 Survey Engagement Application process

Due to the high volume of potential participants and limited spacing available, twenty (20) RAPs were invited to participate in the test excavation program. The invitation described the requirements that the Proponent needed applications to satisfy for engagement in regard to fitness to work, drugs and alcohol policy, and personal protective equipment.

3.2.2.4 Archaeological test excavation

A test excavation program was completed for the project with representatives from six (6) of the RAPs. Those who participated are provided in Table 9.

Table 9: Archaeological test excavation participants

Participant	Organisation	Dates
Ben Slack	Niche	13 – 17 December 2021

Participant	Organisation	Dates
Riley Finnerty	Niche	13 – 17 December 2021
Tanika Sampson	Cacatua	13-15 December 2021
Steven Hickey	Widescope	13-14, 17 December 2021
Ashley Sampson	AGA	13-14 December 2021
B Sagona	Corroboree	15 December 2021
Adam King	Woka	15 December 2021
Christine Paul and Blain Archibald	ANTC	16-17 December 2021

3.3 Stage 4 – Review of preliminary draft Aboriginal cultural heritage assessment report

A draft of this report was provided to the RAPs for their review and comment prior to the test excavation program on 30 September 2021 in accordance with the Consultation Requirements (DECCW 2010b). A statutory timeframe of a minimum of 28 days for responses was provided to all RAPs, with a request for comments to be provided by 5pm 29 October 2021.

Two RAPs provided feedback on the draft ACHA. Their comments are outlined in Table 10 and copies of all submissions made are included in Appendix B.

Table 10: Details of RAP feedback on the draft ACHA prior to test excavation program

Registered Aboriginal Party	Stakeholder	Comment made	Response from Niche
Didge Ngunawal Clan (DNC)	Paul Boyd and Lilly Carroll	DNC is happy with everything from our end	Niche thanks DNC for their response.
Murra Bidgee Mullangari Aboriginal Corporation	Darleen Johnson	I have read the project information and draft ACHA for the above project, I endorse the recommendations made.	Niche thanks Murra Bidgee Mullangari Aboriginal Corporation for their response.

3.4 Stage 4 – Review of draft Aboriginal cultural heritage assessment report

A draft of this report was provided to the RAPs for their review and comment on 7 March 2022 in accordance with the Consultation Requirements (DECCW 2010b). A statutory timeframe of a minimum of 28 days for responses will be provided to all RAPs, with a request for comments to be provided by 5pm 5 April 2022. The section will be updated following the completion of Stage 4.

One RAP provided feedback on the draft ACHA. Their comments are outlined in in Table 11 and copies of all submissions made and received are included in Appendix B.

Table 11: Details of RAP feedback on the draft ACHA

Registered Aboriginal Party	Stakeholder	Comment made	Response from Niche
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

3.5 Stage 5 – Care Agreement

The long-term management of artefacts recovered from within the Subjects Area is yet to be determined, pending further consultation with the RAPs.

4 Summary and analysis of background information

Gillieston Heights is a suburb of the City of Maitland LGA. The suburb was originally established as a coal mining village for the purpose of housing coal miners employed in the local mines. Roads and low-density residential development have occurred to the north and south, and railway lines to the west of the Subject Area. Various changes to the environment and surrounding landscape were brought about by European land use. Some of the more prominent disturbances to the landscape within the Hunter Valley have been described by Lucas (2013:9) and can be applied to the Gillieston Region:

- The rapid drainage and subsequent use for agricultural purposes of the large swamps and wetlands that were once dominant features of areas such as in the Paterson Valley that can be hardly traced as landscape features today.
- The rapid removal of the original rich and diverse riparian riverbank vegetation along all of the river systems right up to their headwaters in places and its replacement over time by regrowth trees and introduced species such as willows, the creation of extensive tracts of both improved pasture and lands modified for monoculture agriculture and expanding suburbia around the first township sites.
- Extensive creek and river gullying, erosion, and channel flow changes that have occurred from early over-clearing, animal grazing and dam construction.

Some of the archaeological assessments within the vicinity of the Subject Area have noted the lack of stratigraphic integrity of soil deposits and disturbances (RPS 2008, MCH 2011, Umwelt 2011, Jacobs 2019). Archaeological test excavations (e.g., Umwelt 2011) have confirmed that artefacts salvaged from test pits are rarely *in-situ*. Mr Scott Franks from Tocomwall has stated that the Subject Area has had fill deposited over original ground surface. Stratigraphically he expects that the soils of the area would be alluvium then artificial clay capping followed by the original ground surface. Mr Scott Franks informed Niche that the area was once a market garden. Floods in 1955 saw the removal of large amounts of sediment / mud in low lying areas. Geotechnical testing completed in 2017 by Qualtest Laboratory and borehole testing completed in 2020 by Practical Environmental Solutions indicates that elevated areas, such as crests, consist of at least 0.25 m of topsoil and 0.65 m of residual soil while the lower slopes consist of at least 0.10 m of topsoil followed by 0.10 m of slope wash and 0.65 m of residual soil. Fill deposits were noted as minor filling along the driveway to the existing dwelling on Lot 2 DP601226. There were no other fill deposits observed. Land disturbance and soil contamination was greatest around dwellings and associated building structures.

Water is one of the most important resources to human occupation in a landscape and is considered the primary factor for the prediction of Aboriginal sites potential presence in a landscape. Across NSW, there is a strong correlation to the presence, frequency and density of Aboriginal objects with the abundance and permanency of water sources. Areas within 200 m of water are identified by the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010c) as landscape features likely to indicate the presence of Aboriginal objects.

The Subject Area is located along Wallis Creek, approximately 2 km from Swamp creek, and 5 km south-west of the Hunter River and thus considered to be located within primary and secondary resource zones described by Kuskie and Kamminga (2000) for the region. The landscape of the Subject Area comprises sandstone scarps; steep slopes and gullies; low hills; hill crests; and wetlands and alluvial floodplains surrounded by several fresh water sources including Testers Hollow, Swamp Creek, Wallis Creek and Buttai Creek and their tributaries. Combined, these sources of water would have offered access to fresh drinking water. Occupation in this area would have involved hunting and gathering activities by small to possibly large groups of people. The Subject Area's close proximity to Swamp Creek (<2 km) and Wallis Creek

(immediately to the east of the Subject Area), both permanent water sources, would have been culturally significant as an area offering abundant resources and elevated areas ideal for the gathering of people and camping. The elevation of the Subject Area overlooking Wallis Creek and Testers Hollow as well as landmarks in the distance would have been a primary factor in site occupation.

Excavations less than 200 m outside of the Subject Area (Jacobs 2019) to the southwest show artefact rich deposits extending up to 50-60 cm in silty loams below the current ground surface. Dating suggests deposits are likely to be at least mid-Holocene in age. In their interpretation of the results, Jacobs (2019) suggests that the excavated site is likely to be an intermittent campsite linked to others known for the Wentworth Swamp Wallis Creek cultural landscape focusing on the margins of wetlands during the mid to late Holocene. Jacobs (2019) concluded that the low density (<1 artefact/m²) of surface artefacts does not appear to be an indicator of subsurface potential within the region. This can also be seen within the Subject Area itself where Roberts (2003) had initially recorded no archaeological cultural heritage sites prior to artefacts being found during construction.

While the region is characterised by a rich Aboriginal archaeological record, the reconstruction of past land use of Aboriginal people in the Central Lowlands is an extremely difficult task often relying on historical documents and archaeological evidence resulting from environmental impact assessments rather than research-driven projects. Despite these inherent limitations, archaeologists have built up a picture of Aboriginal settlement patterns for the region, establishing a foundation for the testing of predictive models and the inclusion of ethnographic accounts, and the invaluable knowledge and contributions of the Aboriginal communities of the Hunter Region.

The visibility and exposure within the Subject Area has made the site inspection difficult. All landforms within the Subject Area were targeted for survey and were assessed for subsurface potential. The extent of disturbance within the Subject Area is not known but has been noted by other archaeologists who have completed assessments nearby. The past Aboriginal land use indicated by the results of previous archaeological work in the region (reviewed in Section 4 of the AR [Appendix A]) suggests that the Aboriginal objects identified during the field survey are best considered representative of occupation within a secondary resource zone (Clarke and Kuskie 2006). This is reflective of the Subject Area location on elevated ground overlooking a permanent watercourse (Wallis Creek) and near Testers Hollow, Swamp Creek (<2 km) and the Hunter River (<5 km). Carl McDonald from MLALC conveyed that he believed the area contained cultural significance due to landform elevations, proximity to water, and views.

The location of the Subject Area would have offered elevated ground within the resource rich Central Lowlands which offered various types of food, medicine and wood resources. The presence of cobble cores and hammerstones (TH-IF-001, GH21-IF-1, GH21-IF-2, and GH-IF-4 for example) suggest that lithic material may be readily available nearby and the size of these artefacts suggests that the area potentially was used for more than just transitory movement. Many confirmed lithic sources are between 40 and 80 km to the northeast of the Subject Area; however, terraces along the Hunter River north of the Subject Area would have offered silcrete resources (RPS 2013:17). Nearby excavations which yielded a large quantity of artefacts supports the idea that the area was used by small groups of people for low levels of Aboriginal occupation (Umwelt 2011:1). It is predicted that the Subject Area is linked to other nearby sites within the landscape converging along wetlands during the mid to late Holocene.

Test excavations within the Subject Area resulted in the recovery of four (4) Aboriginal stone artefacts from three of the PAD sites (GH21-PAD-1, GH21-PAD-3, and GH21-PAD-4). The investigations concluded that the PAD associated with GH21-IF-3 contained no sub-surface archaeological deposits. Despite the low low-density of sub-surface archaeological deposits, the Subject Area remains significant due to the intangible

values associated with the song lines and surrounding landscape such as in locations closer to the Hunter River.

Overall, the results of the archaeological assessments conducted within the Subject Area are consistent with the predictive model developed for the project in that:

- The site types and features (isolated artefacts and PADs) identified within the Subject Area are common within the region.
- The presence of surface artefacts is not a predictor of sub-surface archaeological deposits and vice-versa.
- The archaeology associated with the Subject Area is indicative of general background scatter associated with sporadic and/or infrequent use of the area by past Aboriginal groups with more intensive occupation sites located elsewhere in the landscape such as in locations closer to the Hunter River.

5 Cultural heritage values and statement of significance

5.1 Methods for assessing heritage significance

Heritage significance is assessed by considering each cultural, or archaeological site, against the significance criteria set out in the *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* (Office of Environment and Heritage 2011).

In all cases the assessment of significance detailed below is informed by the Aboriginal community, which is documented in this report. If any culturally sensitive values were identified they would be specifically included in the report, or made publicly available, but would be documented and lodged with the knowledge holder providing the information.

5.2 Assessment framework

The Burra Charter (Australia ICOMOS 2013) defines the basic principles and procedures to be observed in the conservation of important places. It provides the primary framework within which decisions about the management of heritage sites in Australia should be made.

5.3 Identifying values

The information collected during the background review of the project can be used to help. The information collected during the background review of the project can be used to help identify social, historical, scientific and aesthetic values. The review of background information and information gained through consultation with Aboriginal people should provide insight into past events. These include how the landscape was used and why the identified Aboriginal objects are in this location, along with contemporary uses of the land.

Information gaps are not uncommon and should be acknowledged. They may require further investigation to adequately identify the values present across the Subject Area. It may be helpful to prepare a preliminary values map that identifies, to the extent of information available the:

- Known places of social spiritual, cultural value, including natural resources of significance
- Known historic places
- Known Aboriginal objects and/or declared Aboriginal places; and
- Potential places/ areas of social, spiritual, cultural value, including natural resources, historic or archaeological significance.

Places of potential value that are not fully identified or defined should be included as 'sensitive' areas to target further investigation.

5.3.1 Significance as defined by the Burra Charter

The Burra Charter defines cultural significance as being derived from the following values: aesthetic value, historic value, scientific value and social value. However, more precise categories may be developed as an understanding of a particular place or site increases. The values are outlined below in Table 12.

Table 12: Values from which cultural significance is derived

Value type	Description
Aesthetic Value	Aesthetic value includes aspects of sensory perception for which criteria can and should be stated. Such criteria may include consideration of the form, scale, colour, texture and material of the fabric; the smells and sounds associated with the place and its use.

Value type	Description
Historic Value	<p>Historic value encompasses the history of aesthetics, science and society, and therefore to a large extent underlies all of the terms set out in this section.</p> <p>A place may have historic value because it has influenced, or has been influenced by, an historic figure, event, phase or activity. It may also have historic value as the site of an important event. For any given place the significance will be greater where evidence of the association or event survives in situ, or where the setting are substantially intact, than where it has been changed or evidence does not survive. However, some events or association may be so important that the place retains significance regardless of subsequent treatment.</p>
Scientific Value	<p>The scientific or research value of a place will depend upon the importance of the data involved, on its rarity, quality or representativeness (conservation value), and on the degree to which the place may contribute further substantial information.</p>
Social Value	<p>Social or cultural value refers to the spiritual, traditional, historical or contemporary associations and attachments the place or area has for Aboriginal people. Social or cultural value is how people express their connection with a place and the meaning that place has for them.</p> <p>Places of social or cultural value have associations with contemporary community identity. These places can have associations with tragic or warmly remembered experiences, periods or events. Communities and individuals can experience a sense of loss should a place of social or cultural value be damaged or destroyed.</p>

5.4 Assessing values and significance

This stage is used to assess and discuss the cultural significance of the values identified during the identification and assessment of cultural significance by consulting Aboriginal people and to prepare a statement of significance. The assessment of values is a discussion of what is significant and why. An assessment of values is more than simply restating the evidence collected during the background review and identification of values stages of the project. Rather, the assessment should lead to a statement of significance that sets out succinct and salient values that have been identified.

The assessment and justification in the statement of significance must discuss whether any value meets the following criteria (NSW Heritage Office, 2001):

- Does the Subject Area have a strong or special association with a particular community or cultural group or social, cultural or spiritual reasons? (Social Value).
- Is the Subject Area important to the cultural or natural history of the local area and/ or region and/ or state? (Historic Value).
- Does the Subject Area have potential to yield information that would contribute to an understanding of the cultural or natural history of the local area and/or region and/ or state? (Scientific (archaeological) Value); and
- Is the Subject Area important in demonstrating aesthetic characteristic in the local area and/or region and/ or state? (Aesthetic Value).

Assessment of each of the criteria (above) should be graded in terms that allow the significance to be described and compared, for example, as high, moderate, or low. In applying these criteria, consideration should be given to:

- Research potential: does the evidence suggest any potential to contribute to an understanding of the area and/or region and/or state's natural and cultural history?

- Representativeness: how much variability (outside and/or inside the Subject Area) exists, what is already conserved, how much connectivity is there?
- Rarity: is the Subject Area important in demonstrating a distinctive way of life, custom, process, land-use, function or design no longer practised? Is it in danger of being lost or of exceptional interest?
- Educational potential: does the Subject Area contain teaching sites that might have teaching potential?

Then discuss what is significant and why- this should be summarised into a statement of significance. Thus, the statement of significance is a succinct summary of the salient values drawn from the identification of values.

5.4.1 Grading scientific values

The following gradations, where a site or zone satisfies at least one criterion, have been applied to provide a measure of the values/significance for Aboriginal objects identified within the Subject Area, and to provide an overall assessment of the significance of each of the zones used that define the Subject Area.

Table 13: Criteria for grading scientific values

Gradation	Description
Low	The site or object contains only a single or limited number of features and has no potential to meaningfully inform our understanding of the past beyond what it contributes through its current recording (i.e. no or low research potential). The site or object is a representative but unexceptional example of the most common class of sites or objects in the region. Many more similar examples can be confidently predicted to occur within the Subject Area, and in the region.
Moderate	The site or object derives value because it contains features, both archaeological and contextual, which through further investigation may contribute to our understanding of the local past. These features include but are not limited to the relationship with landscape features or other Aboriginal archaeological sites or areas of identified heritage importance; diagnostic archaeological or landscape features that inform a chronology; and a relatively large assemblage of stone artefacts. The presence of a diverse artefact and feature assemblage, and connectedness with landscape features and other notable sites provide relatively higher representative and rarity values than sites of low significance.
High	The site or object has value because it contains archaeological and/or contextual features which through further investigation may significantly contribute to our understanding of the past, both locally and on a regional scale. These features include, but are not limited to: Aboriginal ancestral remains; the site’s relationship with landscape features or other Aboriginal archaeological sites or areas of identified heritage importance; diagnostic archaeological or landscape features that inform a chronology; and a very large assemblage of stone artefacts associated with other features such as oven remains or shell midden. Such sites will be relatively rare and will be representative of a limited number of similar sites that make up this class; hence they derive high representative and rarity values.

5.5 Significance assessment – Individual Aboriginal cultural heritage sites

The following table provides an assessment of significance and summarises identified heritage values for individual Aboriginal sites within the Subject Area while section 5.6 provides a statement of significance for the Subject Area as a whole.

Table 14: Significance Assessment – individual sites

AHIMS ID	Site Name	Features	Impact Area	Representativeness/ conservation value	Rarity	Educational Potential	Aesthetic Value	Scientific Value / Research Potential
38-4-2015	TH-IF-001	Isolated artefact and PAD	None	Low – The site is representative of one of the most frequent Aboriginal cultural heritage site types (i.e. burial) in the region. As the site, does not present any differing or additional representative values of its material or site class type, it's value in terms of representativeness is considered low.	Low – The site type and features are common in the local region.	Low – The site is of limited educational potential due to in nature as an isolated artefact in a disturbed context.	Moderate – AHIMS site TH-IF-001 has moderate aesthetic significance at the local level as it is on a Wetlands and Alluvial Floodplain approximately 39 m north of Testers Hollow.	Low-Moderate– The location of the site suggests moderate scientific values which will need to be confirmed by archaeological test excavations. There is the possibility that subsurface archaeological material will be present, including dateable material. The site however was not subject to test excavations as it is not located in an area proposed for impact.
38-4-2116	GH21-IF-1	Isolated artefact	None	Low – The site is representative of one of the most frequent Aboriginal cultural heritage site types (i.e. burial) in the region. As the site, does not present any differing or additional representative values of its material or site class type, it's value in terms of representativeness is considered low.	Low – The site type and features are common in the local region.	Low – The site is of limited educational potential due to in nature as an isolated artefact in a disturbed context.	Low – AHIMS site GH21-IF-1 has low aesthetic significance at the local level as it is on a sandstone scarp approximately 80 m west of Wallis Creek.	Low – GH21-IF-1 is one of the most common Aboriginal cultural heritage site types within the Central Lowlands and shows no unique features which could provide significant additions to the current body of knowledge.
38-4-2117	GH21-IF-2	Isolated artefact	None	Low – The site is representative of one of the most frequent Aboriginal cultural heritage site types (i.e. burial) in the region. As the site,	Low – The site type and features are common in the local region.	Low – The site is of limited educational potential due to in nature as an isolated	Low – AHIMS site GH21-IF-2 has Low aesthetic significance at the local level as it is on a sandstone scarp	Low – GH21-IF-2 is one of the most common Aboriginal cultural heritage site types within the Central Lowlands and shows

AHIMS ID	Site Name	Features	Impact Area	Representativeness/ conservation value	Rarity	Educational Potential	Aesthetic Value	Scientific Value / Research Potential
				does not present any differing or additional representative values of its material or site class type, it's value in terms of representativeness is considered low.		artefact in a disturbed context.	approximately 40 m West of Wallis creek.	no unique features which could provide significant additions to the current body of knowledge.
38-4-2118	GH21-IF-3	Isolated artefact	Whole	Low – The site is representative of one of the most frequent Aboriginal cultural heritage site types (i.e. burial) in the region. As the site, does not present any differing or additional representative values of its material or site class type, it's value in terms of representativeness is considered low.	Low – The site type and features are common in the local region.	Low – The site is of limited educational potential due to in nature as an isolated artefact in a disturbed context.	Moderate – AHIMS site GH21-IF-3 has moderate aesthetic significance at the local level as it is on the slope of a crest overlooking Wallis Creek. This PAD is located on an elevated landscape in close proximity to permanent water and natural resources and may have subsurface potential.	Low – GH21-IF-3 is one of the most common Aboriginal cultural heritage site types within the Central Lowlands and shows no unique features which could provide significant additions to the current body of knowledge. Furthermore, the results of test excavations indicate that the site is not associated with sub-surface archaeological deposits.
38-4-2119	GH21-IF-4	Isolated artefact	None	Low – The site is representative of one of the most frequent Aboriginal cultural heritage site types (i.e. burial) in the region. As the site, does not present any differing or additional representative values of its material or site class type, it's value in terms of representativeness is considered low.	Low – The site type and features are common in the local region.	Low – The site is of limited educational potential due to in nature as an isolated artefact in a disturbed context.	Low – AHIMS site GH21-IF-4 has low aesthetic significance at the local level as it is on a Wetlands and Alluvial Floodplain approximately 100 m north of Testers Hollow.	Low – GH21-IF-4 is one of the most common Aboriginal cultural heritage site types within the Central Lowlands and shows no unique features which could provide significant additions to the current body of knowledge.
38-4-2120	GH21-PAD-1	PAD	Whole	Low – The site is representative of one of the most frequent Aboriginal cultural heritage site types (i.e. burial) in the region. As the site, does not present any differing or	Low – The site type and features are common in the local region.	Low – The site is of limited educational potential due to in nature as an isolated artefact in a disturbed context.	Moderate – This PAD is located on an elevated landscape in close proximity to permanent water and natural resources. This PAD was	Low – Test excavations demonstrate that the site is associated with sub-surface isolated artefact. The site is one of the most common Aboriginal cultural

AHIMS ID	Site Name	Features	Impact Area	Representativeness/ conservation value	Rarity	Educational Potential	Aesthetic Value	Scientific Value / Research Potential
				additional representative values of its material or site class type, it's value in terms of representativeness is considered low.			identified by RAPs present during the survey due to the views of the surrounding area and proximity to water.	heritage site types within the Central Lowlands and shows no unique features which could provide significant additions to the current body of knowledge.
38-4-2121	GH21-PAD-3	PAD	Partial	Low – The site is representative of one of the most frequent Aboriginal cultural heritage site types (i.e. burial) in the region. As the site, does not present any differing or additional representative values of its material or site class type, it's value in terms of representativeness is considered low.	Low – The site type and features are common in the local region.	Low – The site is of limited educational potential due to in nature as an isolated artefact in a disturbed context.	Moderate – This PAD is located on an elevated landscape in close proximity to permanent water and natural resources. This PAD was identified by RAPs present during the survey due to the views of the surrounding area and proximity to water.	Low – Test excavations demonstrate that the site is associated with sub-surface isolated artefact. The site is one of the most common Aboriginal cultural heritage site types within the Central Lowlands and shows no unique features which could provide significant additions to the current body of knowledge.
38-4-2122	GH21-PAD-4	PAD	None	Low – The site is representative of one of the most frequent Aboriginal cultural heritage site types (i.e. burial) in the region. As the site, does not present any differing or additional representative values of its material or site class type, it's value in terms of representativeness is considered low.	Low – The site type and features are common in the local region.	Low – The site is of limited educational potential due to in nature as a very low density (n=2) sub-surface assemblage in a disturbed context.	Moderate – This PAD is located on an elevated landscape in close proximity to permanent water and natural resources. This PAD was identified by RAPs present during the survey due to the views of the surrounding area and proximity to water.	Low – Test excavations demonstrate that the site is associated with a very low-density sub-surface assemblage (n=2). The site is one of the most common Aboriginal cultural heritage site types within the Central Lowlands and shows no unique features which could provide significant additions to the current body of knowledge. There is the possibility that subsurface archaeological material will be present, including dateable material.

5.6 Statement of significance for the Subject Area as a whole

These statements of significance have been prepared in consideration of comments received from the RAPs during the consultation process, including those comments relating to the cultural significance of all sites and the interrelationships between the cultural and spiritual values with the natural landscape.

5.6.1 Social Value

The Subject Area, including the Aboriginal cultural heritage sites TH-IF-001 (AHIMS ID#38-4-2015), GH21-IF-1 (AHIMS ID#38-4-2116), GH21-IF-2 (AHIMS ID#38-4-2117), GH21-IF-3 (AHIMS ID#38-4-2118), GH21-IF-4 (AHIMS ID#38-4-2119), GH21-PAD-1 (AHIMS ID#38-4-2120), GH21-PAD-3 (AHIMS ID#38-4-2121), and GH21-PAD-4 (AHIMS ID#38-4-2122), holds cultural significance to the local Aboriginal community. Mr Carl McDonald of MLALC involved in the fieldwork, for instance, considered the Subject Area to have high cultural value due elevated landforms, “exceptional” views, and access to water. The Aboriginal cultural heritage sites mentioned above are valued for providing a tangible link to the past.

Information provided by Carl McDonald from MLALC is outlined below:

Cultural knowledge was limited to second-hand information Carl had been given by Tara Preswich (sic) from MLALC and other elders of the local area. The information was all associated with journeying songlines through the floodplain, primarily from SW to NE from the area of Yengo National Park through the routes of Congewoi Creek, Bellbird Creek, Swamp Creek and Testers Hollow/Wallis Creek.

Testers Hollow was described by Carl as a key focal point along this route. He thought the floodplain surrounding it was referred to in the past as 'Lake Lachlan' when in flood/prior to agricultural modification of the floodplain drainage systems. He believed this location was a source for the hunting/trading of waterbirds, particularly black swans, a feature of the cultural landscape that may form a part of past trade connections between the Hunter and other regions of NSW and beyond. This activity may have formed part of gatherings that also involved broader hunting and gathering activity and social activity, such as historically remembered bark canoe races that apparently took place here, according to Carl.

Carl considered it important that veery effort should be made to collect information about the cultural values of the landscape within the Subject Area.

This assessment of cultural significance is consistent with the contemporary view held by Aboriginal people that all Aboriginal objects and sites are important within the region due to their interconnectivity with the natural landscape and past occupation of the region.

5.6.2 Aesthetic Value

The Subject Area and surrounding landscape have been assessed as possessing low to moderate aesthetic value. The landscape has been impacted by farming activities within the Subject Area and the additions of various dwellings. The Subject Area nevertheless has aesthetic values as portions are located on high ground overlooking various bodies of water such as Testers Hollow and Wallis Creek. There are also views to the far distance where Mount Sugarloaf can be seen to the south of the Subject Area.

Aesthetic values were identified by Mr Carl McDonald of the Mindaribba Local Aboriginal Land Council during the field survey. The Gillieston Heights draft precinct plan also recognises the views at certain vantage points within the Subject Area to be significance and have incorporated measures into the draft precinct design plan that allow public access to these views via a new perimeter road along the eastern boundary of the R1 zone.

5.6.3 Historic Value

Historic value encompasses the history of aesthetics, science and society, and therefore to a large extent underlies all of the terms set out in this section. The Subject Area is of low historical value as there are no known historical references for this location.

5.6.4 Scientific (Archaeological) Value

The Subject Area contains eight (8) identified Aboriginal cultural heritage sites, consisting of PADs and isolated artefacts. These sites type are the most common Aboriginal cultural heritage site types within the Central Lowlands of the Hunter Region. The results of the test excavations demonstrates that the low-density surface and sub-surface archaeological deposits are associated with low scientific (archaeological) value with limited potential to contribute significant information to current understandings of past Aboriginal land use in the region. The archaeological fieldwork for this Project shows no unique features which could provide significant additions to the current body of knowledge.

6 The proposed activity

6.1 Summary of Subject Area's history

According to Tindale's catalogue of Australian Aboriginal (1974) groups the current Subject Area falls within the boundaries occupied by the Wonnarua tribal group. The Wonnarua tribal group is also known as Wonnaruah, Wannerawa, Wonarua, Wonnah Kuah.

The boundaries of the Wonnarua extends from the Upper Hunter River from a few kilometres above Maitland west to the Dividing Ranges. The traditional territory of the Wonnarua was bounded to the north by the Geawegal people, to the north-east by the Worimi people, to the southeast by the Awabakal people and to the south by the Darinjang (Tindale 1974:201). Family groups belonged to clans who were united by language and cultural affinities with ties to specific areas of land. Oral tradition of the Wonnarua people tell of a creation spirit called Baiami (Biame, Baayami, Baayama or Byamee), also known as Koin. Baiami, who was the creator of all things and the keeper of the valley. The creation spirit appears in the oral tradition of several Aboriginal peoples including the Wonnarua, Kamilaroi, Eora, Darkinjung, and Wiradjuri people. The Dreaming story tells of how Baiame, the sky father, came down from the sky to the land and created the rivers, mountains and forests. He then gave the people their laws, traditions, songs and culture. Baiami is said to have also created the Bora for male initiation rights (Leaman and Hamacher 2019).

The origins of the dialect spoken by the Wonnarua tribal group is unclear; however, similar dialects have been grouped together in what is called the Language of the Hunter River/Lake Macquarie (HRLM). According to Miller (1886:353) the Wonnarua tribe numbered around 500 in 1841. Due to European settlement and restrictions placed on traditional practices and ways of life, their numbers greatly diminished in the years that followed. The Wonnarua people were semi-nomadic hunter gatherers. They dressed in opossum-skin cloaks and fabric spun from opossum fur and in their possession, they carried spears, wommera, shields, and war-boomerangs, as well as bags made from platted swamp grass, koolaman, stone tomahawks and flint knives. Food resources included terrestrial animals and plants, hunting for kangaroo and emu as well as other animals and reptiles and foraging for a variety of roots which were roasted or baked. Fish were caught with nets and three-pronged spears from canoes made of sheets of bark cut from suitable trees (Miller 1886:353).

The arrival of European prospectors to the area of Gillieston Heights in 1888 and the establishment of their mining colony that followed had pervasive and devastating effects on the local Aboriginal people. Foreign disease killed many of the Wonnarua people as well as illness such as bronchitis and rheumatic fever resulting from the disruption of traditional practices and ways of living (Miller 1886:352). Late in the nineteenth century, European prospectors and miners began taking up land in what is now Gillieston Heights, leading to competition for resources and the alienation of Aboriginal people. Access to both specialised and everyday resources (such as water) and the clearing of the land greatly impacted traditional practices and ways of living, causing significant social disruption between Aboriginal groups, and pressure between Aboriginal people and the ever-increasing European population. Those who survived the impacts of disease, alienation from food sources and Country and relocation to designated missions continued to live a semi-traditional life on the peripheries of European settlements. Lucas (2013:23) suggests that local Aboriginal people may have used pockets of "discrete" land that was of no interest to early farmers. This land would have been the only land available for occupation and travel after settlement. Potential landscapes include elevated hills, or the margins of lower swamps and wetlands situated away from the first homesteads, convict accommodations, and workstations.

6.2 Proposed activity, staging and timeline

The Subject Area is proposed to be developed into an approximately 322 residential lot subdivision known as South Gillieston Heights (Eastern Precinct). The residential development will include a staged Torrens Title subdivision. To facilitate the development, the Subject Area has been rezoned under amendments to the Maitland Local Environment Plan (LEP) 2011 with changes to the zoning from RU2 Rural Landscape and C2 Environmental Conservation to R1 General Residential, C3 Environmental Management and C2 Environmental Conservation. A copy of the subdivision plan is provided in Appendix C.

The following outlines the proposed activities and impacts associated with the different zones for the Subject Area:

- R1 General Residential Zone: impacts to this zone are proposed to consist of shared off road footpaths and cycleways, roads, fire trails; stormwater basins, the widening of Cessnock Road, and residential housing.
- C3 Environmental Management Zone: impacts to this zone are proposed to consist of the placement of stormwater basins.
- C2 Environmental Conservation Zone: No impacts are proposed to occur within this zone.

Table 15 below provides an overview of the Aboriginal cultural heritage sites within the Subject Area including details of the current zoning.

Table 15: Current zoning associated with Aboriginal cultural heritage sites

Site name	AHIMS ID#	Current zoning
TH-IF-001	38-4-2015	NA
GH21-IF-1	38-4-2116	C3 – Environmental Management Zone
GH21-IF-2	38-4-2117	C2 – Environmental Conservation Zone
GH21-IF-3	38-4-2118	R1 – General Residential Zone
GH21-IF-4	38-4-2119	NA
GH21-PAD-1	38-4-2120	R1 – General Residential Zone
GH21-PAD-3	38-4-2121	C3 – Environmental Management Zone / R1 – General Residential Zone
GH21-PAD-4	38-4-2122	C3 – Environmental Management Zone

The completion of this ACHA prior to public exhibition is a condition of the gateway determination and has been undertaken as part of the planning stage and to inform the re-zoning process and to manage and mitigate harm to Aboriginal objects and cultural heritage values during any future development within the Subject Area.

6.3 Potential for harm

The *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (OEH 2011) requires that both direct and indirect harm to Aboriginal objects and Aboriginal places be considered. Generally direct harm refers to occasions where an activity physically impacts a site or objects and therefore affects the heritage values possessed by the site or objects. Indirect harm is usually taken to mean harm stemming from secondary consequences of the activity and may affect sites or objects as an indirect consequence of the activity. Examples of such indirect harm are increased visitors to a site, or increased erosion in an area as a result of an activity.

It is anticipated that the proposed subdivision and development of the Subject Area (including future activities undertaken as a result of the subdivision) may result in the harm of the following Aboriginal sites:

- GH21-IF-3 (AHIMS ID#38-4-2118)
- GH21-PAD-1 (AHIMS ID#38-4-2120)
- GH21-PAD-3 (AHIMS ID#38-4-2121)
- GH21-PAD-4 (AHIMS ID#38-4-2122)

The impact assessment is provided below in Table 16.

Table 16: Impact assessment summary

AHIMS ID#	Site name	Type of harm (Direct/Indirect/None)	Degree of harm (Total/Partial/None)	Consequence of harm
38-4-2015	TH-IF-001	None	None	No loss of value. TH-IF-001 is located outside of the precinct planning area.
38-4-2116	GH21-IF-1	None	None	No loss of value. Site is located within Zone C3 where there are no planned impacts.
38-4-2117	GH21-IF-2	None	None	No loss of value. Site is located within Zone C2 conservation area.
38-4-2118	GH21-IF-3	Direct	Total	Total loss of value. GH21-IF-3 and associated PAD is located wholly within the R1 general residential area and will be impacted by the development.
38-4-2119	GH21-IF-4	None	None	No loss of value. The site is located outside of the precinct planning area.
38-4-2120	GH21-PAD-1	Direct.	Total	Total loss of value. This site is located almost wholly within the R1 general residential area and will be impacted by residential development and the proposed stormwater drainage areas.
38-4-2121	GH21-PAD-3	Direct	Partial	Partial loss of value. This PAD is located within the R1 general residential zone and C3 environmental management

AHIMS ID#	Site name	Type of harm (Direct/Indirect/None)	Degree of harm (Total/Partial/None)	Consequence of harm
				zone. While no works are currently proposed within this portion of the C3 zone a portion of the PAD will be impacted by the residential development within the R1 zone.
38-4-2122	GH21-PAD-4	Direct	Partial	Partial loss of value. This PAD is located within the C3 environmental management and C2 conservation zones. A water basin is proposed within this section of the C3 zone which may impact a portion of the PAD.

6.4 Likely impacted values

The development of the Subject Area is part of the broader planned development occurring in the Gillieston Heights area. The archaeological survey of the Subjects Area completed as part of the ACHA confirmed the presence of eight (8) Aboriginal cultural heritage sites within the Subject Area some of which were considered to have a high potential for subsurface Aboriginal objects (i.e. PADs). Test excavations completed as part of this ACHA confirmed that three out of the four sites with PADs were associated with a very low density of sub-surface Aboriginal objects (including GH21–PAD-1, GH21-PAD-3, and GH21-PAD-4). while one site (GH21-IF-3) was found to not be associated with any sub-surface archaeological deposits. The low-density of surface and/or sub-surface artefacts associated with these Aboriginal cultural heritage sites, their location in disturbed contexts and their limited potential to contribute to current understandings of Aboriginal land use in the local region has resulted in their overall assessment as being of local archaeological significance and value. Despite the low scientific value of these sites, the Subject Area remains culturally significant due to the intangible values associated with song lines and the landscape.

Visual values were identified by Mr Carl McDonald of the Mindaribba Local Aboriginal Land Council during the field survey. The South Gillieston Heights Concept Plan (Appendix C) recognises the views at certain vantage points within the Subject Area. Furthermore, the Concept Plan proposes to deliver public access to these views via a new perimeter road along the eastern boundary of the R1 zone.

6.5 Project justification

The proposed works seek to create new residential areas and vibrant and well-connected communities for future generations. Furthermore, the proposed development of the Subject Area facilitates Maitland Council’s long term strategic view for Gillieston Heights as a growing residential community provided near local job opportunities, improved transport facilities and ample public recreational areas. The proposed development of the Subject Area will provide additional housing for a growing population located within commuting distance to Newcastle.

7 Avoiding and minimising harm

7.1 Conservation Principles and Management Framework

The two founding principles behind the *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* (OEH 2011:12) are ecologically sustainable development and intergenerational equity. These principles hold that “the present generation should make every effort to ensure the health, diversity and productivity of the environment – which includes cultural heritage – is available for the benefit of future generations”.

The strong emphasis, as in the Burra Charter, is to quantify and understand the heritage values of a place, a site, or an object and exhaust avenues of avoiding harm to those values. If harm cannot be avoided, then there must be consideration and implementation of strategies to minimise harm (OEH 2011:13).

It follows that the hierarchy for consideration in terms of the management strategies available for surface stone artefacts and subsurface stone artefacts and areas of archaeological potential, fall into four general categories, in order of preference from a conservation perspective:

- avoidance and in-situ conservation;
- partial avoidance and partial in-situ conservation (includes partial harm);
- harm caused with mitigating circumstances such as collection or salvage; and
- unmitigated harm.

The four general categories (described above) have been considered in the following subsections with regard to both direct impacts (e.g. surface disturbance) and indirect impacts (e.g. monitoring activities).

Management and mitigation measures have been prepared in consideration of the results of archaeological investigations and comments received from the RAPs during the consultation process. These comments include those related to cultural considerations surrounding salvage works and the handling of artefactual materials, as well as the cultural significance of all sites. All comments received from the RAPs are considered in Section 3.4.

7.2 Justifying harm

In its current layout, the development of the Subject Area would cause total harm the following Aboriginal cultural heritage sites:

- GH21-IF-3 (AHIMS ID#38-4-2118)
- GH21-PAD-1 (AHIMS ID#38-4-2120)

In its current layout, the development of the Subject Area would cause partial harm the following Aboriginal cultural heritage sites:

- GH21-PAD-3 (AHIMS ID#38-4-2121)
- GH21-PAD-4 (AHIMS ID#38-4-2122)

In its current layout, the proposed development of the Subject Area no harm would be caused to the following Aboriginal sites:

- GH21-IF-1 (AHIMS ID#38-4-2116)
- GH21-IF-2 (AHIMS ID#38-4-2117)

- GH21-IF-4 (AHIMS ID#38-4-2119)
- TH-IF-001 (AHIMS ID #38-4-2015)

An Aboriginal Heritage Impact Permit (AHIP) will be required for any future development within the Subject Area as it has the potential to result in harm to Aboriginal objects.

Given the low conservation and research value of the identified Aboriginal cultural heritage sites, the application for an AHIP to consent to destroy the Aboriginal sites with surface salvage collection of Aboriginal objects associated GH21-IF-3 (AHIMS ID# 38-4-2118) is considered to be appropriate, and the completion of this ACHA and the test excavation program undertaken as part of this, are considered to be sufficient mitigation in this case.

If harm cannot be avoided, then there must be consideration and implementation of strategies to minimise harm (OEH 2011:13).

7.3 Mitigating harm

Where harm cannot be avoided, management measures are warranted to mitigate the loss of values to Aboriginal sites, objects and values that would result from the proposed activity. Management and mitigation measures are also warranted to ensure continued compliance with the *National Parks and Wildlife Act 1974*.

The proposed works within the subdivision of the Subject Area will cause harm to Aboriginal cultural heritage sites GH21-IF-3 (AHIMS ID#38-4-2118), GH21-PAD-1 (AHIMS ID#38-4-2120), GH21-PAD-3 (AHIMS ID#38-4-2121), and GH21-PAD-4 (AHIMS ID#38-4-2122).

Under the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* and the Principles of Ecologically Sustainable Development, consideration has been given to whether there is sufficient scientific knowledge to evaluate the proposed impacts. A site inspection and a program of test excavation indicates that the Subject Area has been disturbed by past land use, which has impacted the structural integrity of the soil profile. It has been determined that very little remnant A horizon (artefact bearing deposit) remains intact. Given the low archaeological significance of the Aboriginal cultural heritage sites that have the potential to be impacted (including GH21-IF-3 (AHIMS ID#38-4-2118), GH21-PAD-1 (AHIMS ID#38-4-2120), GH21-PAD-3 (AHIMS ID#38-4-2121), and GH21-PAD-4 (AHIMS ID#38-4-2122)) the application for an Aboriginal Heritage Impact Permit (AHIP) and the consent to destroy is considered to be appropriate.

To further mitigate harm to cultural values within the Subject Area, design elements have been incorporated into the precinct to retain views through the outer placement of road corridors to the east and west, and the placement of a green space. These design elements may assist in conserving and promoting elements identified by the RAPs as having cultural values associated with sites and the landscapes visible from the Subject Area. These views will be accessible to the public via proposed perimeter roads.

Options to design to enhance the recognition of the values identified by the Registered Aboriginal Parties include, but are not limited to:

- Developing and interpretation plan or strategy for the precinct which engages with traditional owners to interpret Aboriginal heritage values into the design and development controls of the precinct. The interpretation plan or strategy may include elements such as:

- Identifying and incorporating Wonnarua names and words into the naming of elements in the precinct (for example, parks, streets, community buildings)
- Inclusion of local Wonnarua art and design in the development of public spaces.
- Signage and contributing to resources which place value in and increase public awareness of Wonnarua history and values.
- The above-mentioned strategies are dependent on council approvals and may not be feasible. In this instance, Walker Gillieston Heights Pty Ltd, in the Concept Plan (Appendix C), proposes to deliver public access to views and areas identified as having cultural significance via a new perimeter road along the eastern boundary of the R1 zone.

This approach is consistent with the DCP requirements of ecologically sustainable development and intergenerational equity.

The Proponent may also wish to consider mitigating cumulative impacts by undertaking positive actions to improving awareness of Aboriginal cultural heritage such as:

- Undertaking cultural heritage awareness as part of site inductions for employees, site visitors and contractors and making them aware of the presence of Aboriginal sites and the depth of Aboriginal history in the Hunter Region and their obligations under the National Parks and Wildlife Act 1974.
- Naming features of the development in consultation with the RAPs.
- Exploring means to promote awareness of the Aboriginal history of the Hunter Region and the Aboriginal value landscape features and views associated with the Subject Area.

Several management and mitigation measures have been considered for this project and are presented in Table 17.

Table 17: Consideration of management and mitigation strategies

Management Risk / Impacted Value	Strategies considered	Response
Management Risk – impacts to cultural values and stakeholder values	Continued consultation with the RAPs	<ul style="list-style-type: none"> Walker Gillieston Heights Pty Ltd should continue to consult with RAPs in accordance with the consultation guidelines and in accordance with any future AHIP/s. To ensure that the current consultation records remain valid to support any future AHIP/s for the Subject Area, the Proponent should send project updates to RAPs at a minimum of every six months for the duration of the Project.
	Further community consultation, Interpretation Plan and Cultural Values Assessment	<ul style="list-style-type: none"> Consultation with the RAPs should be undertaken to inform an Interpretation Plan, to enable Aboriginal cultural knowledge to be incorporated into the design and development of the Precinct, focusing on open/public spaces. The interpretation plan or strategy may include elements such as: <ul style="list-style-type: none"> Identifying and incorporating Wonnarua names and words into the naming of elements in the precinct (for example, parks, streets, community buildings). Inclusion of local Wonnarua art and design in the development of public spaces. Signage and contributing to resources which place value in and increase public awareness of Wonnarua history and values. If further views confirming the cultural significance of the landscape are expressed, then consideration should also be given to a Cultural Values Assessment (CVA) regarding the intangible values expressed during consultation with the RAPs. The above-mentioned strategies are dependent on council approvals and may not be feasible. In this instance, Walker Gillieston Heights Pty Ltd, in the draft precinct plan, proposes to deliver public access to views and areas identified as having cultural significance via a new perimeter road along the eastern boundary of the R1 zone.
	Avoidance and <i>in-situ</i> conservation	<ul style="list-style-type: none"> Aboriginal cultural heritage sites TH-IF-001 (AHIMS ID#38-4-2015), GH21-IF-1 (AHIMS ID# 38-4-2116), GH21-IF-2 (AHIMS ID# 38-4-2117) and GH21-IF-4 (AHIMS ID# 38-4-2119) should be incorporated into conservation zones and protected in situ within the C2 (Environmental Conservation Zone) and C3 (Environmental Management Zone) Zoning and no ground disturbance should occur within the boundaries of these Aboriginal cultural heritage sites.
	Incorporation of values into Precinct Plan	<ul style="list-style-type: none"> The Gillieston Heights draft precinct plan recognises the significance of certain views / vantage points within the Subject Area and have responded by incorporating areas of visual sensitivity within their designs. Design elements have been incorporated into the precinct, for instance, to retain views through the outer placement of road corridors to the east and west, and the placement of a green space which may assist in conserving and promoting elements identified by the RAPs as having cultural values associated with sites and the landscapes visible from the Subject Area. These views will be accessible to the public via proposed perimeter roads.

Management Risk / Impacted Value	Strategies considered	Response
Management risk – Compliance	AHIMS Site card updates	<ul style="list-style-type: none"> Site cards for sites GH21-IF-1, GH21-IF-2, GH21-IF-3, GH21-IF-4, GH21-PAD-1, GH21-PAD-3, and GH21-PAD-4 must be submitted to AHIMS based on the results of the assessments including test excavations undertaken as part of this ACHA / AR.
	Aboriginal Heritage Impact Permit	<ul style="list-style-type: none"> An application for an AHIP to harm for Aboriginal cultural heritage sites GH21-IF-3 (AHIMS ID# 38-4-2118), GH21-PAD-1 (AHIMS ID# 38-4-2120), GH21-PAD-3 (AHIMS ID# 38-4-2121) and GH21-PAD-4 (AHIMS ID #38-4-2122) will be required to undertake future development within the location of these sites as it will result in harm to Aboriginal Objects.
	Mitigating harm through salvage surface collection	<ul style="list-style-type: none"> A salvage surface collection of the isolated artefact associated with Aboriginal cultural heritage site GH21-IF-3 (AHIMS ID# 38-4-2118) should be undertaken to mitigate harm to Aboriginal objects in accordance with an AHIP.
	Entering into a Care Agreement with the Registered Aboriginal Parties to determine the keeping place of Aboriginal objects collected during any test excavation undertaken as part of the ACHA or AHIP	<ul style="list-style-type: none"> Long term storage and care of Aboriginal Objects recovered during any test excavation and any AHIP conditions is required under S.89 of the <i>National Parks and Wildlife Act</i> through a Care Agreement. Provision should be made to return Aboriginal objects to RAPs entitled to, and willing to accept possession, custody or control of the Aboriginal object in accordance with Aboriginal tradition.
	Completion of Aboriginal Site Impact Recording Forms	<ul style="list-style-type: none"> Site Card information for the four AHIMS registered Aboriginal cultural heritage sites GH21-IF-3 (AHIMS ID# 38-4-2118), GH21-PAD-1 (AHIMS ID# 38-4-2120), GH21-PAD-3 (AHIMS ID# 38-4-2121) and GH21-PAD-4 (AHIMS ID #38-4-2122) should be updated in the AHIMS database with revised site descriptions following any impacts associated with any works under any future AHIP. This will involve submitting Aboriginal Site Impact Form [ASIFS] upon implementing the AHIP.
Management Risk – Compliance and Unexpected Finds (excluding human remains)	Communication to employees, site visitors, contractors and landowners	<ul style="list-style-type: none"> All workers should be inducted into the Subject Area, so they are made aware of their obligations under the <i>National Parks and Wildlife Act 1974</i> and any conditions of any future AHIP prior and during and after construction activities.
Management Risk – Unexpected Finds – human remains	Stop work and follow procedure for discovery of suspected human remains	<ul style="list-style-type: none"> All workers should be inducted into the Subject Area, so they are made aware of their obligations under the <i>National Parks and Wildlife Act 1974</i> and any conditions of any future AHIP prior and during and after construction activities. In the unlikely event that suspected human remains are encountered during construction, all work in the area that may cause further impact, must cease immediately. The location, including a 20 m curtilage, should be secured using barrier fencing to avoid further harm.

Management Risk / Impacted Value	Strategies considered	Response
		<ul style="list-style-type: none"> • The NSW Police must be contacted immediately. • No further action is to be undertaken until the NSW Police provide written notification to Walker Gillieston Heights Pty Ltd. • If the skeletal remains are identified as Aboriginal, Walker Gillieston Heights Pty Ltd or their agent must contact: <ul style="list-style-type: none"> ▪ the Heritage NSW's Enviroline on 131 555; and ▪ Representatives of the RAPs. • No works are to continue until Heritage NSW provides written notification to the proponent or their Agent.

7.4 Consideration of cumulative impacts

The proposed subdivision at Gillieston Heights are a part of the planned development occurring in the area. This has led to piece meal assessments and mitigation measures aimed at salvage and collection. Two Aboriginal cultural heritage sites listed on AHIMS within the local region have been partially destroyed (AHIMS ID#38-4-1036 and AHIMS ID#38-4-1037), while one has been deemed not a site (AHIMS ID#38-4-1839) after a program of subsurface testing.

As noted above, the Gillieston Heights draft precinct plan proposes to deliver public access to views via a new perimeter road along the eastern boundary of the R1 zone which will help mitigate some of the potential impacts to the cultural values of the Subject Area (See Figure 3 of AR).

7.5 Consideration of ecological sustainable development

Section 5(vii) of the *Environmental Planning and Assessment Act 1979* requires proponents to consider the key principles of Ecologically Sustainable Development (ESD) in the design of their projects. The principles of ESD are defined within the Protection of the Environment Administration Act 1991. This Act defines the precautionary principle and the principles of inter-generational equity, conservation of biological diversity and ecological integrity. The precautionary principle is defined as:

"if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation".

Australia's National Strategy for Ecologically Sustainable Development (1992) defines ecologically sustainable development as: 'using, conserving and enhancing the communities' resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased.' Aboriginal heritage programs which seek to address indigenous concerns in relation to the land, heritage, economic and cultural development include the Commonwealth Indigenous Protected Areas Initiative, Land Acquisition and Maintenance, and Heritage Protection Programs; the Victorian Aboriginal Capital Projects and Aboriginal Cultural Heritage Programs; and the South Australian Aboriginal Tourism Strategy.' (Australian Government 1992: Chapter 22).

Ecologically Sustainable Development (ESD) in regard to the aforementioned Aboriginal cultural heritage sites needs to consider intergenerational equality; this is fundamental to identifying Aboriginal culture and identity into the future. All Aboriginal cultural heritage sites within the Subject Area including TH-IF-001 (AHIMS ID#38-4-2015), GH21-IF-1 (AHIMS ID#38-4-2116), GH21-IF-2 (AHIMS ID#38-4-2117), GH21-IF-3 (AHIMS ID#38-4-2118), GH21-IF-4 (AHIMS ID#38-4-2119), GH21-PAD-1 (AHIMS ID#38-4-2120), GH21-PAD-3 (AHIMS ID#38-4-2121), and GH21-PAD-4 (AHIMS ID#38-4-2122) are significant to the Aboriginal community.

Table 18 considers the key principles of ESD with respect to the results of the literature review, Aboriginal heritage survey and archaeological test excavation results and significance assessment contained within this report.

Table 18: Assessment of ESD

Principles of the EIA and ESD Guidelines	ESD Assessment
A fundamental consideration for conservation of biological diversity and ecological integrity	This assessment considers the conservation of cultural heritage. The Proponent has undertaken an ACHA including site inspection and test excavation in consultation with the RAPs and determined that there are eight sites present within the Subject Area. The proposed activity would result in irreversible damage to the cultural heritage environment and could result in intergenerational loss of cultural heritage items.
Careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment	The proponent has undertaken an ACHA, and it is recommended that consideration of options to avoid, where practical harm to Aboriginal objects be given. Avoidance and in-situ conservation will occur at TH-IF-001 (AHIMS ID#38-4-2015), GH21-IF-1 (AHIMS ID#38-4-2116), GH21-IF-2 (AHIMS ID#38-4-2117), and GH21-IF-4 (AHIMS ID#38-4-2119). Partial avoidance and partial in-situ conservation (includes partial harm) of GH21-PAD-1 (AHIMS ID#38-4-2120), GH21-PAD-3 (AHIMS ID#38-4-2121) and GH21-PAD-4 (AHIMS ID#38-4-2122 with partial harm occurring at each PAD site. Harm caused with mitigating circumstances such as collection or salvage at Aboriginal cultural heritage site GH21-IF-3 (AHIMS ID#38-4-2118), GH21-PAD-1 (AHIMS ID#38-4-2120), GH21-PAD-3 (AHIMS ID#38-4-2121) and GH21-PAD-4 (AHIMS ID#38-4-2122).
Consideration of intergenerational equity	Ecologically Sustainable Development (ESD) in regard to TH-IF-001 (AHIMS ID#38-4-2015), GH21-IF-1 (AHIMS ID#38-4-2116), GH21-IF-2 (AHIMS ID#38-4-2117), GH21-IF-3 (AHIMS ID#38-4-2118), GH21-IF-4 (AHIMS ID#38-4-2119), GH21-PAD-1 (AHIMS ID#38-4-2120), GH21-PAD-3 (AHIMS ID#38-4-2121), and GH21-PAD-4 (AHIMS ID#38-4-2122), needs to consider intergenerational equality; this is fundamental to identifying Aboriginal culture and identity into the future. The assessment has considered intergeneration equity by: Undertaking community consultation with RAPs regarding the cultural values within the Subject Area and the management of Aboriginal sites and Aboriginal heritage values.
Where risk of serious or irreversible harm and lack of scientific knowledge of the nature of environmental harm combine, the precautionary principle applies. Where there is risk of serious or irreversible harm, it is necessary to establish whether there is adequate scientific knowledge of the subject to evaluate the perceived threat.	This assessment has considered a review of all Aboriginal heritage items and their associated scientific report identified in heritage searches of the Subject Area. An archaeological test excavation in accordance with the <i>Code of Practice for Archaeological Investigation in NSW</i> was also undertaken. Consultation with the RAPs is being undertaken in accordance with <i>the Aboriginal community consultation requirements for proponents</i> . The assessment was sufficient to identify Aboriginal objects, their likelihood and significance. Significance and impact assessments are outlined in Sections 5 to 7.
An assessment of the risk-weighted consequences of various options	A consideration of harm and mitigation is provided above in Section 7.2.

8 Conclusion and recommendations

Part 6 of the *National Parks and Wildlife Act (1974)* provides protection for all Aboriginal objects and declared Aboriginal places from harm. Harm is defined as destroying, defacing, damaging or moving an object from the land. An Aboriginal Heritage Impact Permit (AHIP) is a legal document that grants you permission to harm Aboriginal objects or declared Aboriginal places and sets out any conditions you must comply with. An AHIP is required to disturb any Aboriginal objects or places.

Niche has prepared an ACHA and AR which presents the results of an Aboriginal cultural heritage site inspection and sub-surface test excavation program completed by Niche and representatives of the RAPs in compliance with the requirements of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010a)*.

Based on the community consultation with the Aboriginal stakeholders and archaeological investigations undertaken for the Project by Niche, the following recommendations have been made:

Recommendations	
	Aboriginal Heritage Impact Permit
1.	Walker Gillieston Heights Pty Ltd should continue to consult with the Aboriginal community in accordance with the consultation guidelines and in accordance with any future Aboriginal Heritage Impact Permit (AHIP). To ensure that the current consultation records remain valid to support any future AHIP/s for the Subject Area, the Proponent should send project updates to RAPs at a minimum of every six months for the duration of the Project. Consultation with the Aboriginal community should be undertaken to inform an Interpretation Plan, to enable Aboriginal cultural knowledge to be incorporated into the design and development of the Precinct, focusing on open/public spaces.
2.	Aboriginal cultural heritage sites TH-IF-001 (AHIMS ID#38-4-2015), GH21-IF-1 (AHIMS ID# 38-4-2116), GH21-IF-2 (AHIMS ID# 38-4-2117) and GH21-IF-4 (AHIMS ID# 38-4-2119) should be incorporated into conservation zones and protected in situ within the areas proposed for C2 (Environmental Conservation Zone) and C3 (Environmental Management Zone) Zoning and no ground disturbance should occur within the boundaries of these Aboriginal cultural heritage sites.
3.	An application for an AHIP to harm for Aboriginal cultural heritage sites GH21-IF-3 (AHIMS ID# 38-4-2118), GH21-PAD-1 (AHIMS ID# 38-4-2120), GH21-PAD-3 (AHIMS ID# 38-4-2121) and GH21-PAD-4 (AHIMS ID #38-4-2122) will be required to undertake future development within the location of these sites as it will result in harm to Aboriginal Objects.
4.	The AHIP should be conditioned to include salvage surface collection of the isolated artefact associated with Aboriginal cultural heritage site GH21-IF-3 (AHIMS ID# 38-4-2118) as a mitigation strategy for the harm to this site.
5.	Site Card information for the four AHIMS registered Aboriginal cultural heritage sites GH21-IF-3 (AHIMS ID# 38-4-2118), GH21-PAD-1 (AHIMS ID# 38-4-2120), GH21-PAD-3 (AHIMS ID# 38-4-2121) and GH21-PAD-4 (AHIMS ID #38-4-2122) should be updated in the AHIMS database with revised site descriptions following any impacts associated with any works under any future AHIP. This will involve submitting Aboriginal Site Impact Form [ASIFS] upon implementing the AHIP.
6.	A Care Agreement will be required with the Registered Aboriginal Parties to determine the final storage location of any Aboriginal objects recovered during the test excavations and under any future AHIPs within the Subject Area.
7.	For any specific proposed development beyond what has been assessed in the current AR/ACHA, especially within the C2 and C3 zones, an assessment of Aboriginal heritage should be undertaken

Recommendations	
	in accordance with the <i>National Parks & Wildlife Act 1974</i> (Amended 2010) and <i>National Parks & Wildlife Amendment Regulation 2019</i> . This may take the form of an Aboriginal Objects Due Diligence Assessment in the first instance.
	General
8.	All workers should be inducted into the Subject Area, so they are made aware of their obligations under the <i>National Parks and Wildlife Act 1974</i> and any conditions of any future AHIP prior and during and after construction activities.
9.	In the event that previously unknown Aboriginal object(s) and/or sites are discovered during the proposed activity, work must stop, and an appropriately qualified archaeologist be contacted to access the nature, extent, and significance of the identified sites and notification is provided to Heritage NSW. Works should not proceed without advice from Heritage NSW or an appropriately qualified archaeologist.
10.	<p>In the unlikely event that suspected human remains are encountered during construction, all work in the area that may cause further impact, must cease immediately and:</p> <ul style="list-style-type: none"> • The location, including a 20 m curtilage, should be secured using barrier fencing to avoid further harm. • The NSW Police must be contacted immediately. • No further action is to be undertaken until the NSW Police provide written notification to Walker Gillieston Heights Pty Ltd. • If the skeletal remains are identified as Aboriginal, Walker Gillieston Heights Pty Ltd or their agent must contact: <ul style="list-style-type: none"> ▪ Heritage NSW's Enviroline on 131 555; and representatives of the RAPs. ▪ No works are to continue until Heritage NSW provides written notification to the proponent or their Agent.

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Appendix A: Archaeological Report

Appendix B: Aboriginal community consultation log and documents

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Appendix C: Concept Design Plan



SOUTH GILLIESTON HEIGHTS East Precinct Plan

Figure 22: South Gillieston Heights - East Precinct Plan

Appendix D: Previous Archaeological Assessments

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