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15 Torakina Road, Brunswick
Heads, New South Wales 2483

Cultural Heritage Site Inspection Plan

Written for Clarence Property

Byron Shire Local Government Area

July 2023



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Report Reference:

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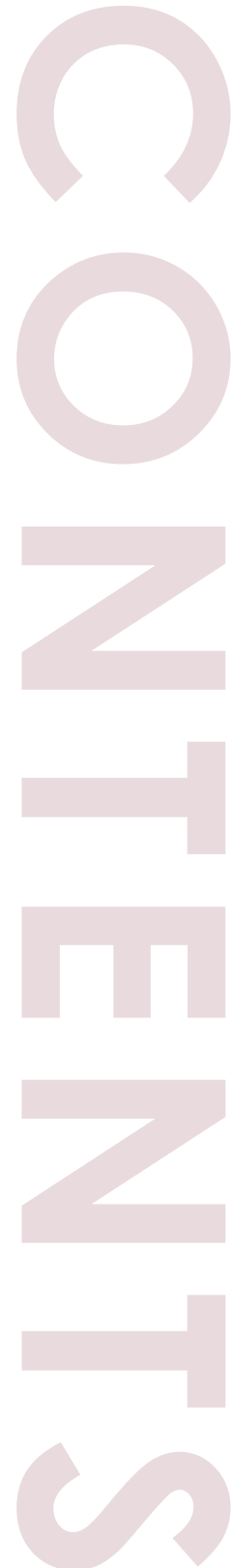
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5	V. Edmonds	Adress Client comments	Section 4	05.07.23	T. Robins

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Abbreviations

AHIMS	Aboriginal Heritage Information Management System
Arakwal	Arakwal Aboriginal Corporation (Bundjalung of Byron Bay)
ASRF	Aboriginal Site Recording Form
CEMP	Construction Environmental Management Plan
Plan	Cultural Heritage Site Inspection Plan
DA	Development Application
DECCW	Department of Environment, Climate Change and Water
DPE	Department of Planning and Environment
Due Diligence	Aboriginal Heritage Due Diligence Assessment
<i>EP&A Act</i>	<i>Environmental Planning & Assessment Act 1979 (NSW)</i>
LALC	Local Aboriginal Land Council
LEP	Local Environmental Plan
LGA	Local Government Area
<i>NPW Act</i>	<i>National Parks and Wildlife Act 1974 (NSW)</i>
NSW	New South Wales
s	section (as in Act)

1. Overview

1.1. The Proposal

Clarence Property is proposing a 126 lot residential subdivision project on Lot 13, DP 1251383 (the Project Area) also known as 15 Torakina Road, Brunswick Heads (Figure 1-1). Development Approval (DA) for the subdivision (the Project) was recently received from Byron Shire Council (No 10.2021.575.1). As part of the approval, Byron Shire Council has included the following standard condition (18) in the DA approval as follows:

A Cultural Heritage Site Inspection Plan to be prepared and approved by Council prior to the issue of the subdivision works certificate incorporating site inspection protocols for officers from the Tweed Byron Aboriginal Land Council and or the Arakwal Corporation to be to be engaged for the Early Stage 2 Bulk Earthworks and Civil Stages 1 to 5 to monitor the site in relation to the protection of Aboriginal Cultural items and objects that may be disturbed during the construction of the development. The plan to be prepared by a suitably qualified archaeologist and is to include a letter of support or certification from the Land Council or the Arakwal Corporation.

Subsequently, Clarence Property has engaged Everick Heritage to prepare a Cultural Heritage Site Inspection Plan and consult with the Tweed Byron Local Aboriginal Land Council (LALC) and the Arakwal Aboriginal Corporation (Bundjalung of Byron Bay) (Arakwal).

1.2. Description of works and timeframe

The proposed development will comprise the subdivision of the Project Area in five stages comprising 123 residential lots, three medium density lots and one public reserve together with associated roads and other infrastructure services (water, sewer, drainage and stormwater management works), bulk earthworks, tree removal and vegetation management works (Figure 1-2). The stages requiring site inspection summarised below:

- Early Stage 2 - Bulk Earthworks for Civil Stages 1,2 and 3 and Eastern Precinct Earthworks and N-S drain to be constructed
- Civil Stage 1 - 26 lots (Lots 105 to 111, 114 to 121, 123 to 133), four duplex lots (Lots 104, 112, 113 and 122) and three mixed development lots (Lots 101 to 103)

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- Civil Stage 2 - 20 lots (Lots 201, 203 to 212, 215 to 223) and three Duplex lots (Lots 202, 213 to 214)
- Civil Stage 3 - 28 lots (Lots 301 to 311, 315 to 322, 324 to 332) and five Duplex lots (Lots 312 to 314, 323 and 333)
- Civil Stage 4 - 14 lots (Lots 401 to 405, 408 to 411, 413 to 417) and three Duplex lots (406, 407 and 412)

Western Precinct Earthworks to be constructed in Civil Stage 4

- Civil Stage 5 - 16 lots (Lots 502 to 509, 512 to 519) and four Duplex lots (501, 510 to 511 and 20) and Lot 521

Western Precinct Earthworks to be constructed in Civil Stage 4 and 5.

The Early Stage 2 Bulk Earthworks are anticipated to commence late 2023/early 2024 and will be approximately three months in duration. The Civil Stages 1 to 5 are anticipated to commence during the first quarter of 2024 and continue with consecutive stages until approximately the first quarter of 2026.

1.3. Objectives

The key objectives of this Cultural Heritage Site Inspection Plan are to:

- Provide protocols for the Site Inspection (monitoring) of the Early Stage 2 Bulk Earthworks and Civil Stages 1 to 5
- Consultation with the Tweed Byron LALC and Arakwal with regard to the preparation of the Plan
- Identify management procedures for unexpected finds of Aboriginal cultural and archaeological heritage within the Project Area during Early Stage 2 Bulk Earthworks and Civil Stages 1 to 5 to Clarence Property.

1.4. Author

This Cultural Heritage Site Inspection Plan has been prepared by Vanessa Edmonds (NSW Principal, Everick Heritage). Vanessa has graduate and post graduate qualifications in archaeology and over 40 years' experience working in the cultural heritage management industry nationally. Vanessa is a Full Member of the Australian Association of Consulting Archaeologists Inc (AACAI) providing peer review for membership application to this organization.

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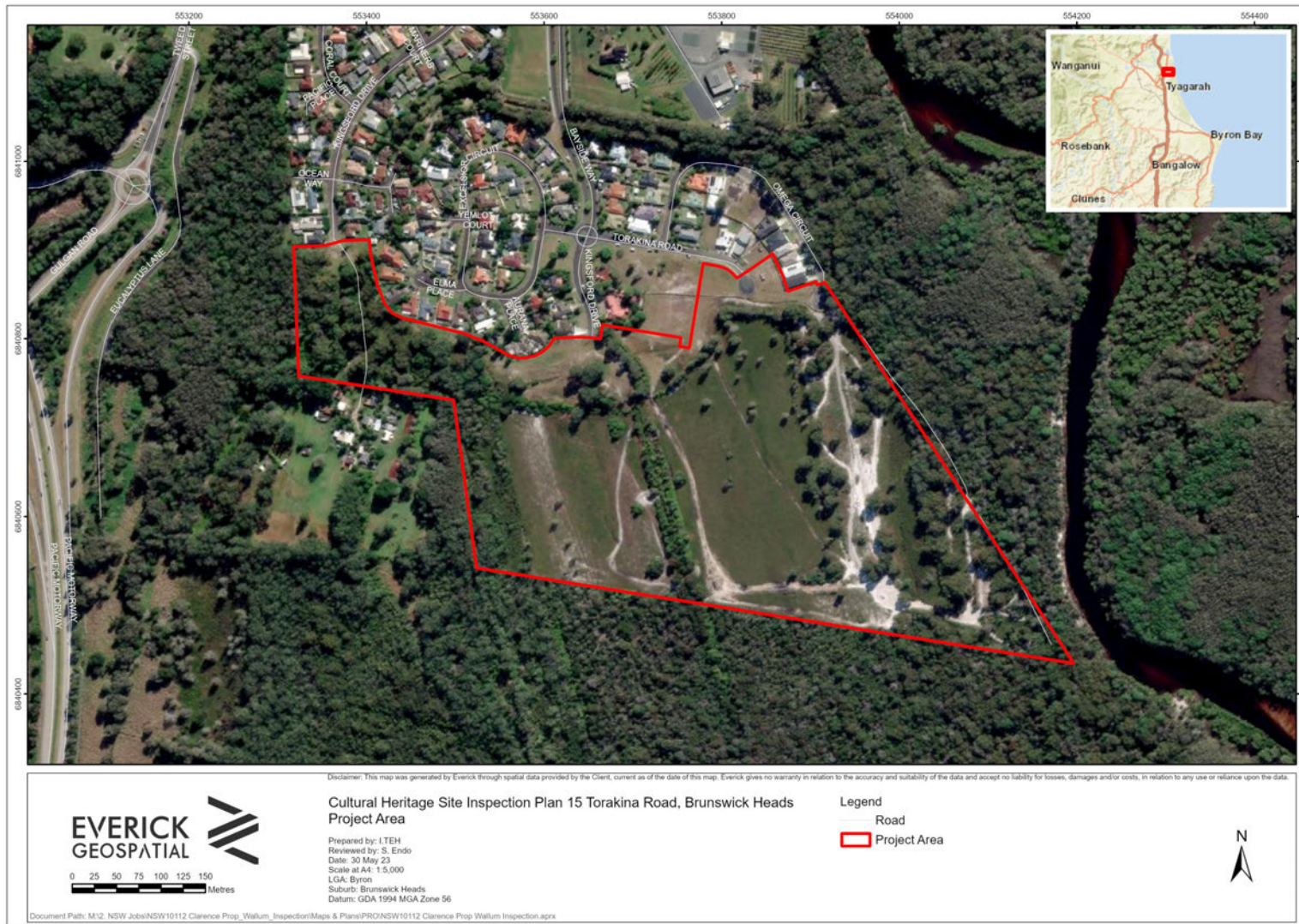


Figure 1-1: The Project Area

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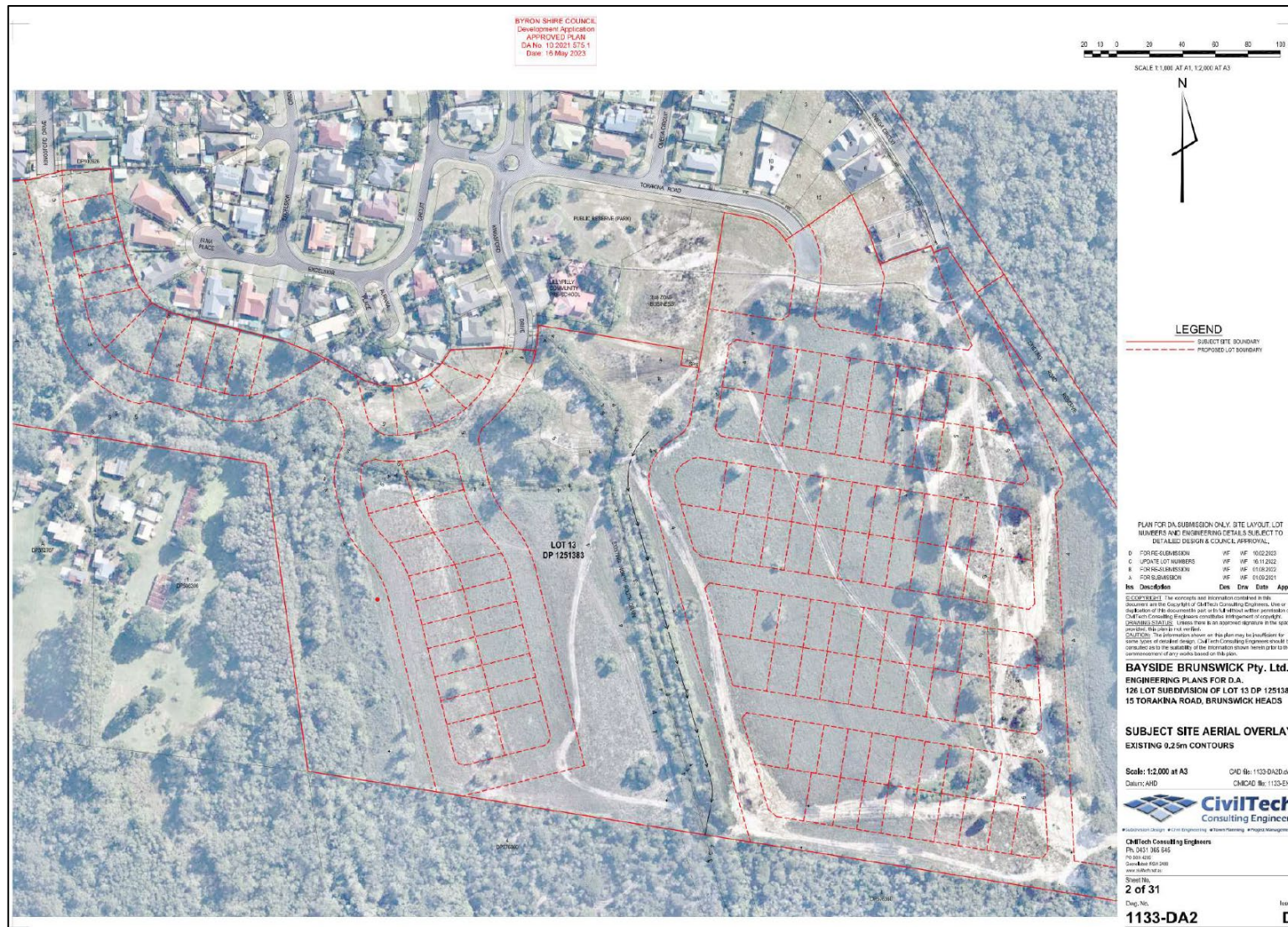


Figure 1-2: Subdivision layout

2. Legislative context

2.1. National Parks and Wildlife Act 1974 (NSW)

The *National Parks and Wildlife Act 1974 (NSW)* (NPW Act) provides statutory protection to all Aboriginal places and objects. An Aboriginal object is defined as:

any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

An Aboriginal Place is declared by the Minister under section (s) 86 of the NPW Act. Aboriginal Places are recognised for their special significance to Aboriginal culture. Aboriginal Places gazetted under the NPW Act are listed on the State Heritage Register established under the *Heritage Act 1977 (NSW)*.

Part 6 of the NPW Act provides specific protection for Aboriginal objects and declared Aboriginal places by establishing offences of harm. Harm is defined to mean:

destroying, defacing, damaging or moving an object from the land.

The protection provided to Aboriginal objects applies regardless of the level of their significance or issues of land tenure. Aboriginal objects and places are afforded statutory protection in that it is an offence to knowingly or unknowingly desecrate an Aboriginal object or place under s 86 of the NPW Act.

In accordance with s 89A any person who is aware of the location of an Aboriginal object must notify the Chief executive in the prescribed manner within a reasonable time of becoming aware of that object. The prescribed manner is through preparation and submission of an Aboriginal Site Recording Form (ASRF) to the Aboriginal Heritage Information Management System (AHIMS) (Department of Environment, Climate Change and Water [DECCW] 2010b: 14).

Severe fines and penalties will be received for the harming or desecration of an Aboriginal object or Aboriginal Place without the appropriate approvals. Where harm or desecration is committed by a person that knows that an object is an Aboriginal object, individuals face maximum penalties of 2,500 penalty units (or \$275,000) and up to two years of imprisonment and corporations face maximum penalties 10,000 penalty units (or \$1,100,000). Where harm is committed to an object by a person without

knowledge of the object as an Aboriginal object, individuals face maximum penalties of 500 penalty units (or \$55,000) and corporations face maximum penalties of 2,000 penalty units (or \$220,000).

2.1.1. Native Title Act 1994 (NSW)

The *Native Title Act 1994 (NSW)* was introduced to work in conjunction with the *Commonwealth Native Title Act 1993 (Cth)*. Native Title claims, registers and Indigenous Land Use Agreements are administered under the *Native Title Act 1994 (NSW)*. A search was conducted of the Native Title register on 30 May 2023. Native title was found to exist within the determination area (Figure 2-1) by the Bundjalung People of Byron Bay #3 (NCD2019/001) as represented by the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) who are the Registered Native Title Body Corporate. The Arakwal have been consulted for this Plan. It should be noted that Native Title has been extinguished across the Project Area, due to it being freehold land.

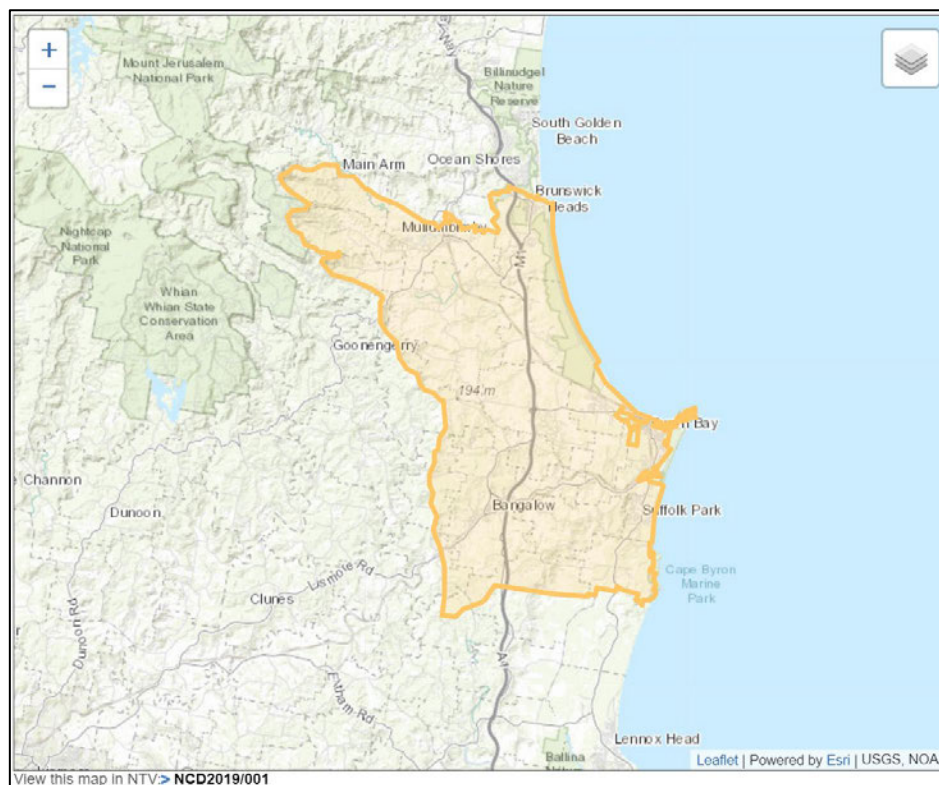


Figure 2-1: Bundjalung People of Byron Bay #3 (NCD2019/001) determination area

2.1.2. *Aboriginal Lands Right Act 1983 (NSW)*

The *Aboriginal Land Rights Act 1983 (NSW) (ALR Act)* was introduced to compensate Aboriginal people in NSW for dispossession of their land. The *ALR Act* also established Aboriginal Land Councils (at State and Local levels).

These LALC have a statutory obligation under the *ALR Act* to:

- (a) take action to protect the culture and heritage of Aboriginal persons in the council's area, subject to any other law, and
- (b) promote awareness in the community of the culture and heritage of Aboriginal persons in the council's area.

The Project Area is within the boundary of the Tweed/Byron LALC who have been consulted with for this Cultural Heritage Site Inspection Plan.

2.2. Guidelines and approvals

The main guidelines and approval documents relevant to this plan include:

- Lot 73 on DP 851902, Bayside Way, Brunswick Heads, NSW: Cultural Heritage Assessment Everick Heritage 2010)
- Notice of Determination of a Development Application for DA No. 10.2021.575.1 – Byron Shire Council
- Transitional Part 3A Project Assessment: Bayside Brunswick Residential Subdivision, Bayside Way, Brunswick Heads (Concept Plan) (05_0091). Director-General's Environmental Assessment Report Section 75I of the Environmental Planning & Assessment Act 1979 (NSW).
- Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010)
- Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (DECCW 2010)
- Ask First. A guide to respecting Indigenous heritage places and value (Australian Heritage Commission n.d.).

3. Aboriginal archaeological context

3.1. Previous archaeological assessment

Everick Heritage Pty Ltd (Everick Heritage) undertook an archaeological assessment for Lot 73 on DP 851902 (subject lands) (Everick Heritage 2010). That assessment included the current Project Area (Figure 3-1). Everick Heritage (2010) undertook database searches, a review of the environmental, archaeological and ethnographical literature pertaining to the subject lands, a review of the historical aerial imagery and conducted a pedestrian survey of the subject lands.

Aboriginal consultation for the project was undertaken in accordance with the Interim Community Consultation Requirements for Applicants (Department of Environment, Climate Change and Water [DECCW] 2005). The following organisations registered their interest:

- Tweed Byron LALC
- The Arakwal Aboriginal Corporation (Bundjalung of Byron Bay).

On site meetings and survey were conducted of the subject lands in April and May 2009. The meetings and field survey were conducted by Cyril Scott (Sites Officer, Tweed Byron LALC) and Yvonne Stewart (Sites Officer, Arakwal Aboriginal Corporation) along with Everick Heritage staff. The following paragraphs describe the field survey:

Although surface visibility was low on the floodplain, it was also a highly disturbed, frequently waterlogged, environment. The landform considered by the consultants and Aboriginal Sites Officers to have the greatest potential to contain surface evidence for Aboriginal archaeological sites was the cleared sand rise in the eastern sector of the proposed development. Here the amount of exposed surface area was estimated at approximately 50% and surface visibility high at approximately 80%. This is a large sample on which to justify the conclusion as to an absence of Aboriginal archaeological materials. The flood plain (Areas A,B,C)¹ were considered highly unlikely campsite locations with alternative higher drier areas immediately available. The potential for other types of archaeological sites containing physical evidence, within the floodplain areas of the development footprint, is very low as it is totally cleared with the exception of regrowth.

¹ Figure 3-2

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The possibility that a 'background scatter' of shell fragments and stone artefacts, remain within the floodplain and the sand rise on Simpson's Creek cannot be totally eliminated. The review of previous archaeological assessments in the Brunswick/ Tyagarah/ Ewingsdale area, suggest that traditional Aboriginal activity focused on low but elevated areas near streams and on elevated slopes and ridges flanked by floodplain. Both the Tweed Byron LALC Sites Officer Cyril Scott and Arakwal Aboriginal Corporation Sites Officer Yvonne Stewart made mention of Aboriginal sites on Andersons Ridge approximately 400 to 500 metres to the south of the Subject Lands. (Everick Heritage 2010: 37-38)

Of the survey areas within the residential footprint, Areas A-C comprised low lying, often waterlogged floodplain (Figure 3-2), however Area D comprised a sand rise and was considered by Everick Heritage and the Aboriginal Sites Officers to have the greatest potential to contain surface evidence of Aboriginal archaeological sites. Although ground surface visibility was very high across this landform no Aboriginal sites or objects were found.

Following the field inspections both Yvonne Stewart (Arakwal) and Cyril Scott (Tweed Byron LALC) provided statements as to the low or non-cultural significance of the Subject Lands. Ms Stewart commented that the Subject Lands is an area that Aboriginal people passed through between Andersons Ridge and the Brunswick River but not camped in (Everick Heritage 2010: 39).

Everick Heritage stated that the potential for undiscovered sites such as shell middens and artefact scatters that would indicate campsites within floodplain Areas A, B and C is 'minimal to nil' and that the potential for undiscovered surface sites in Area D, was also considered low as the survey conditions were unusually favourable. In addition, spoil heaps from geo technical bore holes were also inspected for subsurface archaeological materials but none were found. In summary, Everick Heritage (2010: 40) states:

There would appear to be no justification for further archaeological investigation.

In 2013, a Concept Plan for the proposed subdivision received approval under Savings and Transitional provisions of the *Environmental Planning and Assessment Act 1979 (NSW)*. The current DA was assessed and approved under this approval.

3.2. Database search

A basic search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken by Everick Heritage on the 30 May 2023. No registered Aboriginal sites were found in or close to the Project Area (Appendix 1).

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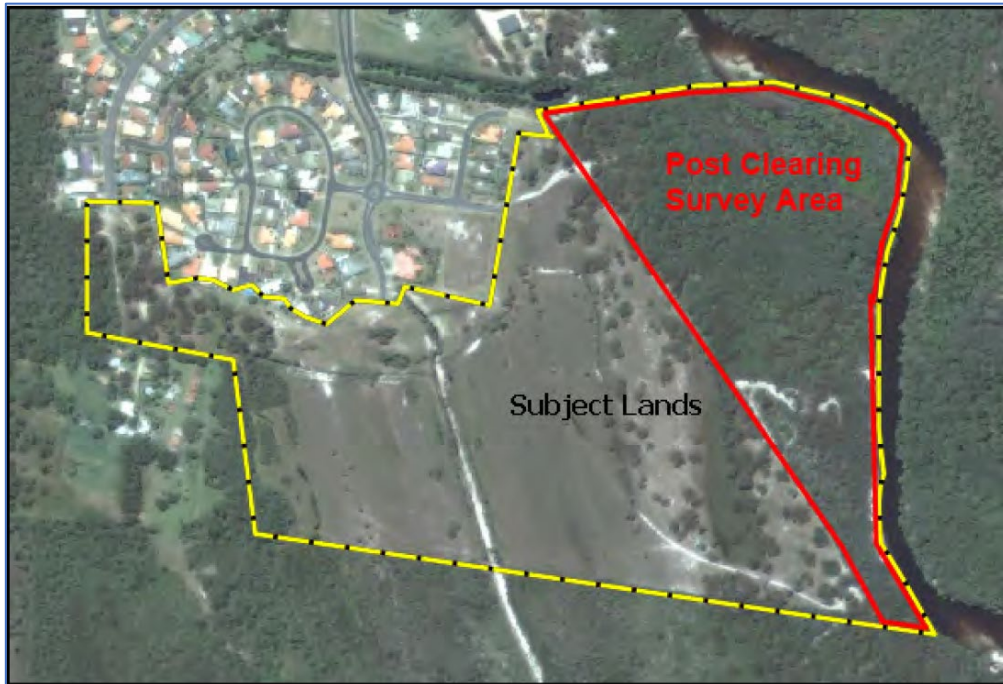


Figure 3-1: Lands subject to the Everick Heritage (2010) assessment and the approximate current Project Area (Subject Lands) (Everick Heritage 2010: Figure A)

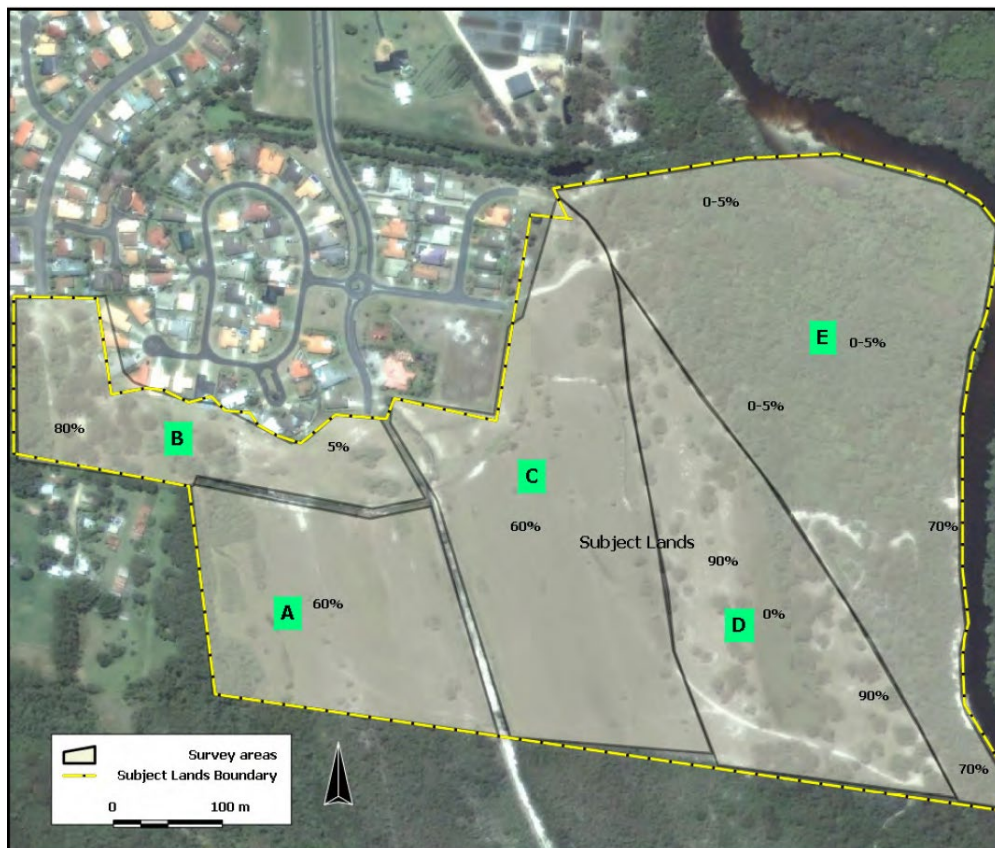


Figure 3-2: Survey areas from Everick Heritage (2010: Figure 19)

4. Consultation

All consultation was undertaken by Vanessa Edmonds (NSW Principal, Everick Heritage). Both the Tweed Byron LALC and the Arakwal Aboriginal Corporation (Bundjalung of Byron Bay) were consulted prior to and following the preparation for this Cultural Heritage Site Inspection Plan. An email was sent to both groups on the 29 May 2023 with a copy of the Council requirements, a map of the residential subdivision and a copy of the previous Aboriginal Cultural Heritage Assessment report (Everick Heritage 2010). Prior to the email a phone call was made to Warren Phillips (Cultural Heritage Sites Officer, Tweed Byron LALC) to establish contact names and email addresses.

Following a discussion with Warren Phillips, Maurice Gannon (Conservation Planning Officer, Cultural Heritage Unit, Tweed Byron LALC) responded with the following by email on the 30 May 2023:

I have discussed this with Warren. There are no registered sites in the area or near to it. In our opinion:

- 1. there is no need for a further site visit,*
- 2. a 'proceed with caution' approach is warranted in this instance, and*
- 3. TBLALC does not wish to participate in monitoring.*

Charmaine Roberts (Native Title Officer, Bundjalung of Byron Bay Aboriginal Corporation RNTBC (Arakwal)) called Vanessa to discuss the Plan. Ms Roberts stated that despite the results of the archaeological assessment (section 3) Arakwal wanted all ground disturbing works monitored and requested that they provide a cultural heritage induction to all contractors, subcontractors and employees working on the Project. This request has been incorporated into section 6.

This Plan was submitted to Arakwal for comment on the 31 May 2023. The Plan was discussed at the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) Registered Native Title Body Corporate board meeting on the 15-16 June 2023. An email was sent in response on the 3 July 2023 stating:

The Bundjalung of Byron Bay Aboriginal Corporation Arakwal Native Title Holders which are the Traditional Owners of this area (Torakina Site Brunswick Heads). Should be engaged as Cultural Site Monitors to oversee any ground disturbing works and due-diligence procedures should be followed.

Arakwal Cultural Site Monitor will be responsible for monitoring all excavations and earthworks on site. To ensure the natural land and water is minimally impacted to cultural values and ensuring that any discoveries are managed in a culturally appropriate way.

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Ms Roberts also noted that Torakina is a very large area and that four to five Cultural Site Monitors would be required.

Consultation with James Fletcher (Development Manager, Clarence Property) via email^{6.5} confirmed that the terms and duration of the engagement of Arakwal Corporation monitors is to be mutually agreed between Arakwal and the Proponent (see section^{6.5}).

A copy of all relevant consultation documentation is provided in Appendix A.

5. Recommended areas for site inspection

Given the assessed low archaeological sensitivity and potential of the Project Area it is reasonable to assume that inspections or monitoring will not be required for the entire Project Area. It is recommended that inspection/monitoring are not required for waterlogged areas as detailed in Figure 5-1 and that inspections/monitoring concentrate on Area D (Figure 3-2).

It must be noted that during correspondence by phone and email with Arakwal, Charmaine Roberts (Sites Officer, Arakwal) stated that all earthworks across the area must be inspected/monitored. Given the duration of works this would mean almost full time monitoring across an approximate two year period.

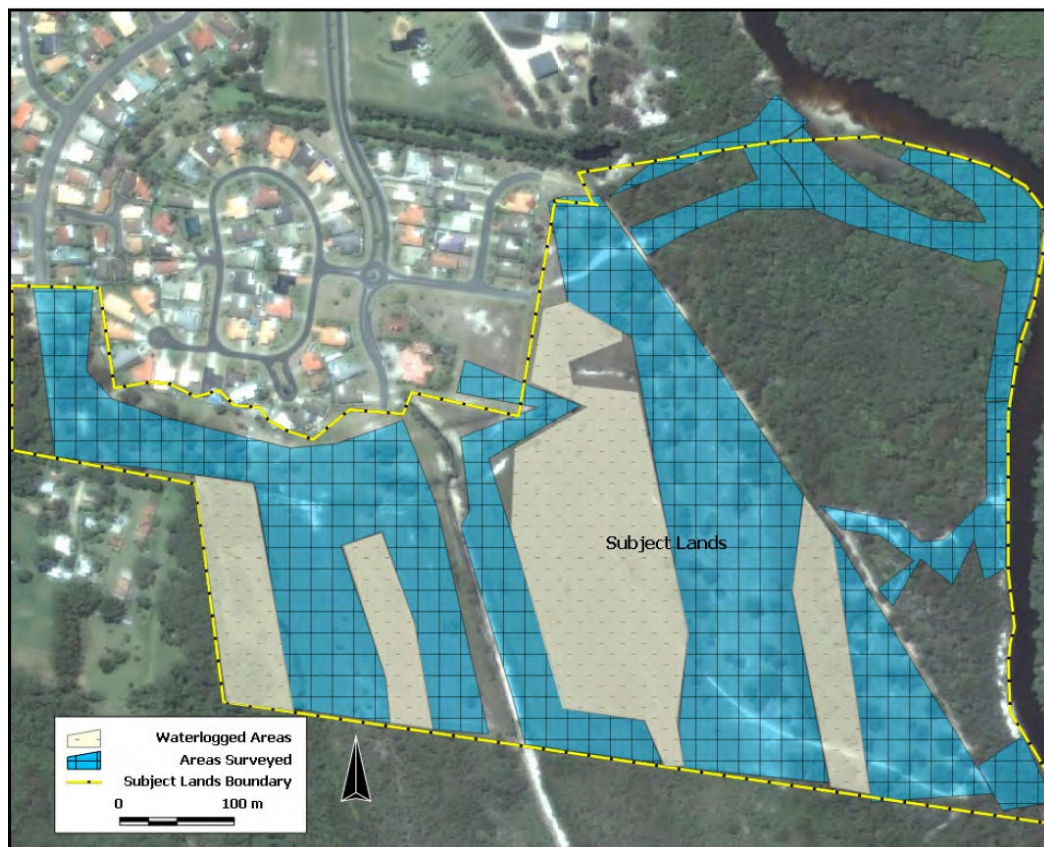


Figure 5-1: Showing the Project Area (Subject Lands) in relation to areas identified as waterlogged by Everick Heritage (2010: Figure 18)

6. Site inspection protocols

6.1. Cultural heritage induction

Arakwal Aboriginal Corporation has requested that an on-site cultural heritage induction be provided to all contractors, subcontractors and employees working on the Project. This would be provided by the Arakwal and would best be undertaken just prior to any monitoring of works.

The timing and cost of the cultural heritage induction must be negotiated between Clarence Property and Arakwal prior to commencement of works on the Project.

Arakwal need to be aware that it may not be feasible to provide an on-site cultural heritage induction to all contractors, subcontractors and employees working on the Project and should consider some other form of induction, such as a printed handout, in addition to the on-site cultural heritage induction.

6.2. Cultural awareness

Cultural awareness means being aware of, and developing sensitivity to, cultural difference and cultural diversity. It involves knowledge, attitudes and values that demonstrate an openness and respect for other people and other cultures, languages, religions, dress, communication styles and so on.

Both Clarence Property and Arakwal must ensure that the Project Area is a safe workplace for all people working on the Project. It is recommended that a Memorandum of Understanding is developed between Clarence Property and Arakwal Aboriginal Corporation prior to the commencement of works. This need not be an onerous task but may involve some of the points developed in this section that both parties would sign off on.

6.3. Communications and identification of roles and responsibilities

The key to a good working relationship is communication. Prior to the commencement of works, both parties must provide each other with a list of relevant contact names, numbers and roles to facilitate communication between the two parties for site inspection purposes. Any changes in contact names, numbers and roles within either party must be communicated in a timely fashion.

Where Arakwal is unable to provide a monitor they must communicate this to Clarence Property at the earliest possible opportunity. Clarence Property will be able to continue their works whilst a monitor is not present but must comply with the unexpected finds procedure in section 7.

Similarly, if there are changes to the works program or stoppages due to weather or other factors Clarence must provide notice to Arakwal at the earliest possible time. Should Arakwal wish to inspect/monitor the Project Area outside the terms of engagement (section 6.5) they must provide at least 24 hours notice to Clarence Property.

6.4. Occupation Health & Safety

Advice regarding appropriate Occupation Health & Safety requirements for on-site monitoring must be provided by Clarence Property to Arakwal as soon as possible to enable them to prepare for monitoring. This might include Personal Protective Equipment requirements and or any qualifications required such as a White Card.

6.5. Engagement of Arakwal Aboriginal Corporation

It is recommended that Clarence Property and Arakwal meet prior to commencement of the Project to negotiate terms of engagement in consideration of:

- the areas requiring inspection/monitoring
- financial reimbursement
- timeframes for inspection/monitoring
- cultural heritage induction
- any other matters pertaining to engagement.

6.6. Notification of commencement of works

Adequate notification must be provided to Arakwal prior to the commencement of Early Stage Bulk Earthworks and Civil Stages 1-5. A minimum of two weeks' notice to Arakwal is recommended, however it should be understood by both parties that unplanned events can occur which may result in shorter notice. Adequate information regarding projected timeframes and program for the above works must also be provided to Arakwal to enable them to resource the Project.

6.7. Dispute resolution

Where a dispute arises between Clarence Property and Arakwal, the dispute must be jointly investigated. Clarence Property and Arakwal, must nominate delegates to attempt to negotiate a resolution. Within five business days of a notice being issued by either party that a dispute is deemed to exist, the delegates must attempt resolution. They may meet/consult with other delegates from either party, representatives from Heritage NSW, the Byron Shire Council, or an archaeologist or other expert.

These arrangements do not preclude any legal recourse open to Clarence Property or Arakwal but both parties must follow the above avenues before such recourse is made.

7. Unexpected finds procedures

In accordance generally with Condition 4 (Discovery of Aboriginal Relics) of the DA approval (No 10.2021.575.1) the following sections provide a procedure for unexpected finds and skeletal remains should these be discovered if at any time Arakwal are not present on site.

7.1. Aboriginal objects

If an Aboriginal object is discovered during project works, the following actions will be taken:

- All ground-disturbing works in the area of the Aboriginal object(s) cease immediately on discovery of the Aboriginal object.
- The person who identifies the object will notify machinery operators, the site supervisor, the project/environmental manager, and the client to ensure work is halted.
- The Aboriginal object will not be removed from the area and a protection zone with a 10 m buffer would be established.
- Inform the Arakwal and the Tweed Byron LALC of the discovery. The Arakwal and the Tweed Byron LALC will advise whether the item is or likely to be an Aboriginal object. If there is doubt, a suitably qualified archaeologist must be contacted for verification of the object.
- If it is determined that the item is not an Aboriginal object, works can re-commence.
- If it is determined that it is or likely to be an Aboriginal object, all works will cease in the area and a 10 m temporary buffer established. A suitably qualified archaeologist will be called in to record the artefact and its location and submit an Aboriginal Site Recording Form (ASRF) will be prepared and submitted to AHIMS.
- In consultation with Arakwal and the Tweed Byron LALC, the archaeologist will develop a suitable management measure for the object.

7.2. Discovery of suspected human remains

If human remains, or suspected human remains, are discovered during project works, the following actions will be taken:

- All ground-disturbing works in the area of the remains will cease immediately following the discovery. The discoverer of the remains will notify machinery operators in the area to ensure work is halted.

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- The remains will not be removed from the area or disturbed in any other way.
- The area will be secured by use of protective barriers to ensure no harm can occur to the remains.
- The site supervisor, the project manager, and the client will be immediately informed of the discovery.
- The Arakwal and the Tweed Byron LALC will be informed of the discovery. A suitably qualified archaeologist will be called in to determine if further assessment of the suspected remains is required. A specialist in the identification of human remains will need to be engaged to undertake this assessment.
- If it is determined that the suspected remains are not human, work can recommence.
- If it is determined that the suspected remains are human, or are likely to be, the following steps must occur, in accordance with the relevant legislation (including the *Coroners Act 2009 (NSW)*, the *National Parks and Wildlife Act 1974 (NSW)*, and the *Heritage Act 1977 (NSW)*.
- Notify the following organisations:
 - NSW Police
 - Heritage NSW – 1300 361 967
- The NSW Police will determine if the suspected human remains are human and if they represent a crime scene. If the human remains are determined to represent a criminal act, the NSW Police will direct proceedings, including deciding when works may continue.
- If NSW Police determine that the suspected human remains are human and are Aboriginal Ancestral Remains, or non-Aboriginal Ancestral Remains, Heritage NSW will be responsible for determining the next course of action.
- All activities will be directed by Heritage NSW.
- Works cannot proceed on site until Heritage NSW determine that it is appropriate to do so.

References

Australian Heritage Commission n.d. Ask First. A guide to respecting Indigenous heritage places and value.

Everick Heritage 2010. Lot 73 on DP 851902, Bayside Way, Brunswick Heads, NSW: Cultural Heritage Assessment. Report to

Department of Environment, Climate Change & Water 2010. Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW

Department of Environment, Climate Change & Water 2010. Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW

ICOMOS 2013. Ask First Burra Charter

NSW Department of Planning & Infrastructure 2013. Transitional Part 3A Project Assessment: Bayside Brunswick Residential Subdivision, Bayside Way, Brunswick Heads (Concept Plan) (05_0091). Director-General's Environmental Assessment Report Section 75I of the *Environmental Planning and Assessment Act 1979 (NSW)*.

Appendix 1 - AHIMS basic search

Everick Heritage Pty Ltd

Date: 30 May 2023

Level 9 Matisse Tower, 110 Mary Street
Brisbane Queensland 4000

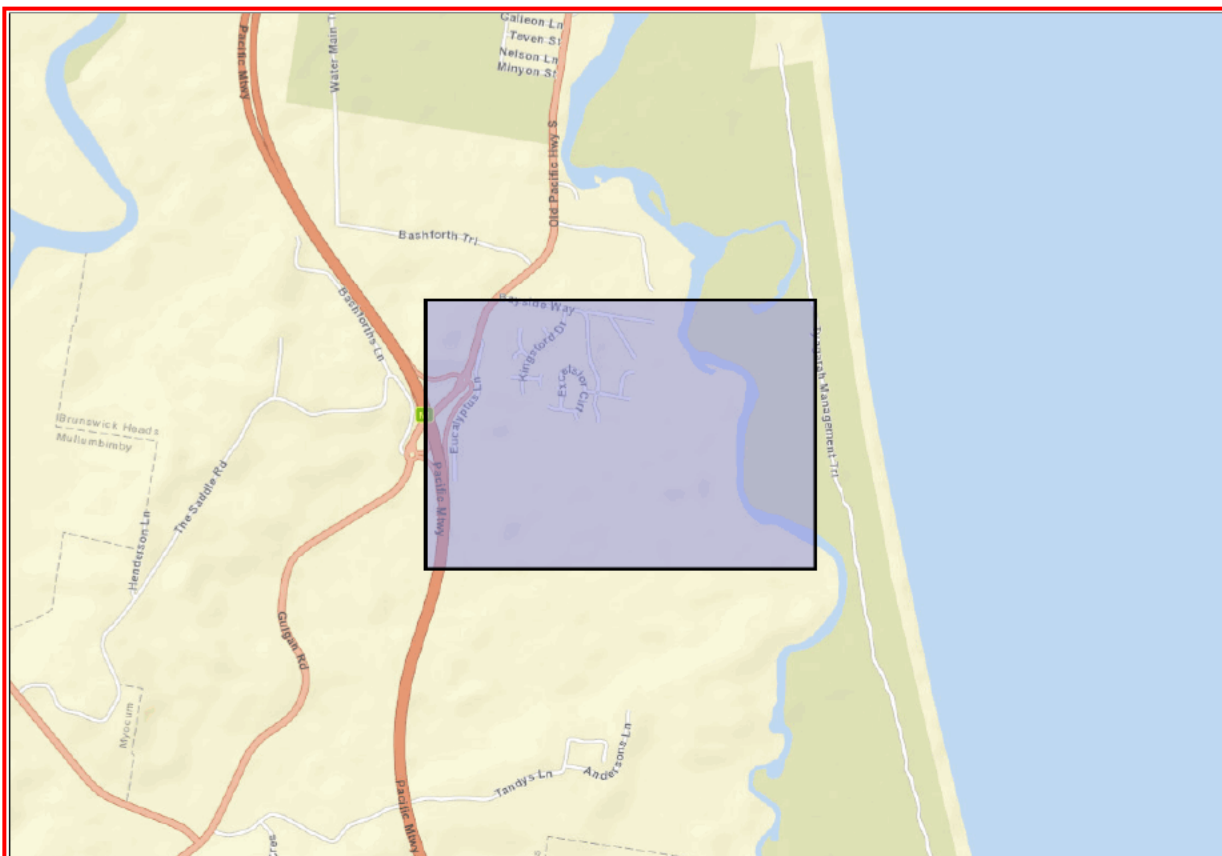
Attention: Grace Eldon

Email: g.eldon@everick.net.au

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lat, Long From : -28.5637, 153.5417 - Lat, Long To : -28.5542, 153.5571, conducted by Grace Eldon on 30 May 2023.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

If your search shows Aboriginal sites or places what should you do?

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette \(https://www.legislation.nsw.gov.au/gazette\)](https://www.legislation.nsw.gov.au/gazette) website. Gazettal notices published prior to 2001 can be obtained from Heritage NSW upon request

Important information about your AHIMS search

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not to be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Heritage NSW and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.

Appendix 2 – Documentation of consultation

From: Sites <sites@tblalc.com>
Sent: Tuesday, May 30, 2023 9:08 AM
To: Vanessa Edmonds <v.edmonds@everick.net.au>
Cc: Cultural Heritage <culturalheritage@tblalc.com>
Subject: Re: 15 Torakina Road Brunswick Heads

Hi Vanessa

I have discussed this with Warren. There are no registered sites in the area or near to it. In our opinion:

1. there is no need for a further site visit,
2. a 'proceed with caution' approach is warranted in this instance, and
3. TBLALC does not wish to participate in monitoring.

Kind regards
Maurice Gannon
Conservation Planning Officer
Cultural Heritage Unit
Tweed Byron Local Aboriginal Land Council
m: 0407 643 349

From: [Charmaine Roberts](#)
To: [Vanessa Edmonds](#); [Brent Emmons](#)
Subject: Re: Torakina Site Inspection (Monitoring) Plan
Date: Monday, 3 July 2023 9:17:16 AM
Attachments: [image001.png](#)

Good morning Vanessa,

The Bundjung of Byron Bay Aboriginal Corporation Arakwal Native Title Holders which are the Traditional Owners of this area (Torakina Site Brunswick Heads). Should be engaged as Cultural Site Monitors to oversee any ground disturbing works and due-diligence procedures should be followed.

Arakwal Cultural Site Monitor will be responsible for monitoring all excavations and earthworks on site. To ensure the natural land and water is minimally impacted to cultural values and ensuring that any discoveries are managed in a culturally appropriate way.

Please note: If cultural findings are discovered I will advise you that a **STOP WORK ORDER IS NOW IN PLACE UNTIL FURTHER NOTICE.**

As previously discussed please see below BOBBAC's Costing for Cultural Monitoring: (Torakina site is a very large area you will need 4 to 5 Cultural Site Monitors)



Cultural Site Monitor is paid at a minimum of three (3) hours.

Regards Charmaine,

Charmaine Roberts
Native Title Officer
Bundjalung of Byron Bay Aboriginal Corporation RNTBC (Arakwal)
PHONE: (02) 6685 8746
Mobile: 0477 851 029
PO Box 1555
BYRON BAY NSW 2481

I would like to acknowledge the Arakwal Bumberlin people of Bundjalung Nation who are the Traditional Custodians of this land which we live, work, and stand on.

I acknowledge their continuing living culture, connection to land, waters and community; I ask that you help look after and respect country.

I acknowledge and extend my respect to Elders both past and present and upcoming future leaders.

On Wed, Jun 28, 2023 at 11:50 AM Vanessa Edmonds <v.edmonds@everick.net.au> wrote:

Thanks Brett... and Charmaine

Regards Vanessa

Vanessa Edmonds

Full Member of AACAI

Principal-NSW

6B Reserve Street, Annandale

Ph: 02 9552 2944