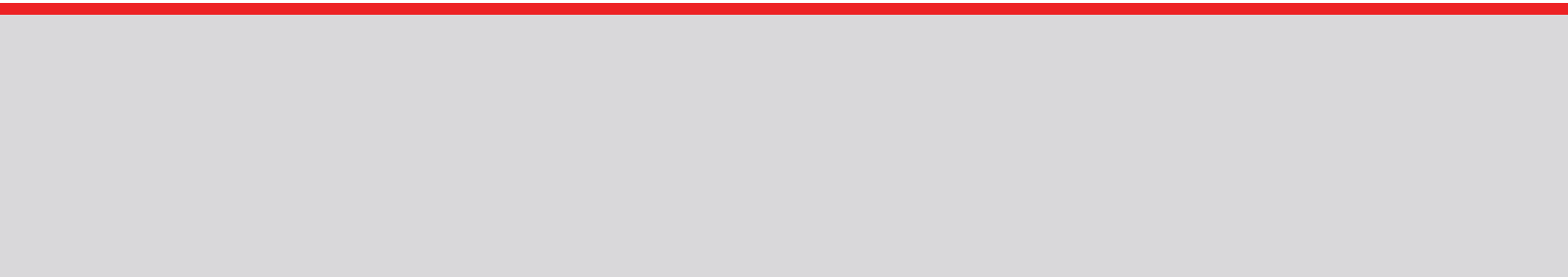


Appendix G

Aboriginal Heritage Due Diligence








Aboriginal Heritage Due Diligence Assessment Jandra Quarry Intensification Project

Greater Taree City Council

June 2014

Document Controls

Project No.	1964		
Document Description	Jandra Quarry Intensification Project - Aboriginal Heritage Due Diligence Assessment		
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Cover Photo: Overview of the subject area (Source: Niche).

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Summary

This report presents the results of an Aboriginal heritage due diligence assessment of Jandra Quarry, located south of Taree, NSW. The Jandra Quarry is proposing an intensification phase which will require the construction of a new heavy vehicle access road and an extension to the finished product stockpile area. The assessment has been prepared in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (OEH 2010) and the *National Parks and Wildlife Regulation 2009*.

The purpose of the assessment was to determine whether any Aboriginal objects or sites are located within or in close proximity to the construction footprint of the new heavy vehicle access road and/or the expanded finished product stockpile area. If such sites were present, appropriate measures to avoid and/or minimise any impact would be required.

The due diligence assessment involved a consideration of background and contextual information and an inspection of the proposed new disturbance footprint and surrounding areas. The assessment concluded that there is a low potential for Aboriginal sites or objects to occur within the proposed new disturbance footprint. There is therefore no requirement for any additional archaeological investigation prior to the commencement of works.

1 Introduction

Niche Environment and Heritage Pty Ltd (Niche) was commissioned by Element Environment Pty Ltd to prepare a heritage due diligence assessment to inform the preparation of a Background Scoping Document and Environmental Assessment, to support modifications to the existing development consent for Jandra Quarry. The Background Scoping Document was submitted to and accepted by NSW Planning and Environment (P&E) as part of the first phase of the planning approval process. The proponent (Holcim (Australia) Pty Ltd) is proposing an intensification of production and this requires the following modifications to the existing development consent:

- A new heavy vehicle access road to improve vehicle safety; and
- Expansion of the existing finished product stockpile area.

Jandra Quarry is located approximately 17km south of the city of Taree and is located within the Greater Taree City Council LGA (Figure 1, Figure 2).

This report aims to identify whether the proposed works within the subject area (Figure 2) would, or could, cause harm to Aboriginal objects and sites. It presents the results of background research and a visual inspection of the site. The report has been undertaken in accordance with the *Due Diligence Code of Practice* (Department of Environment, Climate Change and Water, 2010) (“the Code”). The report provides advice to the proponent on their obligations under the *National Parks and Wildlife Act 1974*.

This report has been prepared by Amanda Atkinson (archaeologist, Niche) and has been reviewed by Georgia Roberts (archaeologist, Niche).

2 Scope

To satisfy the requirements of the Code and best practice standards, the scope of our assessment included the following tasks:

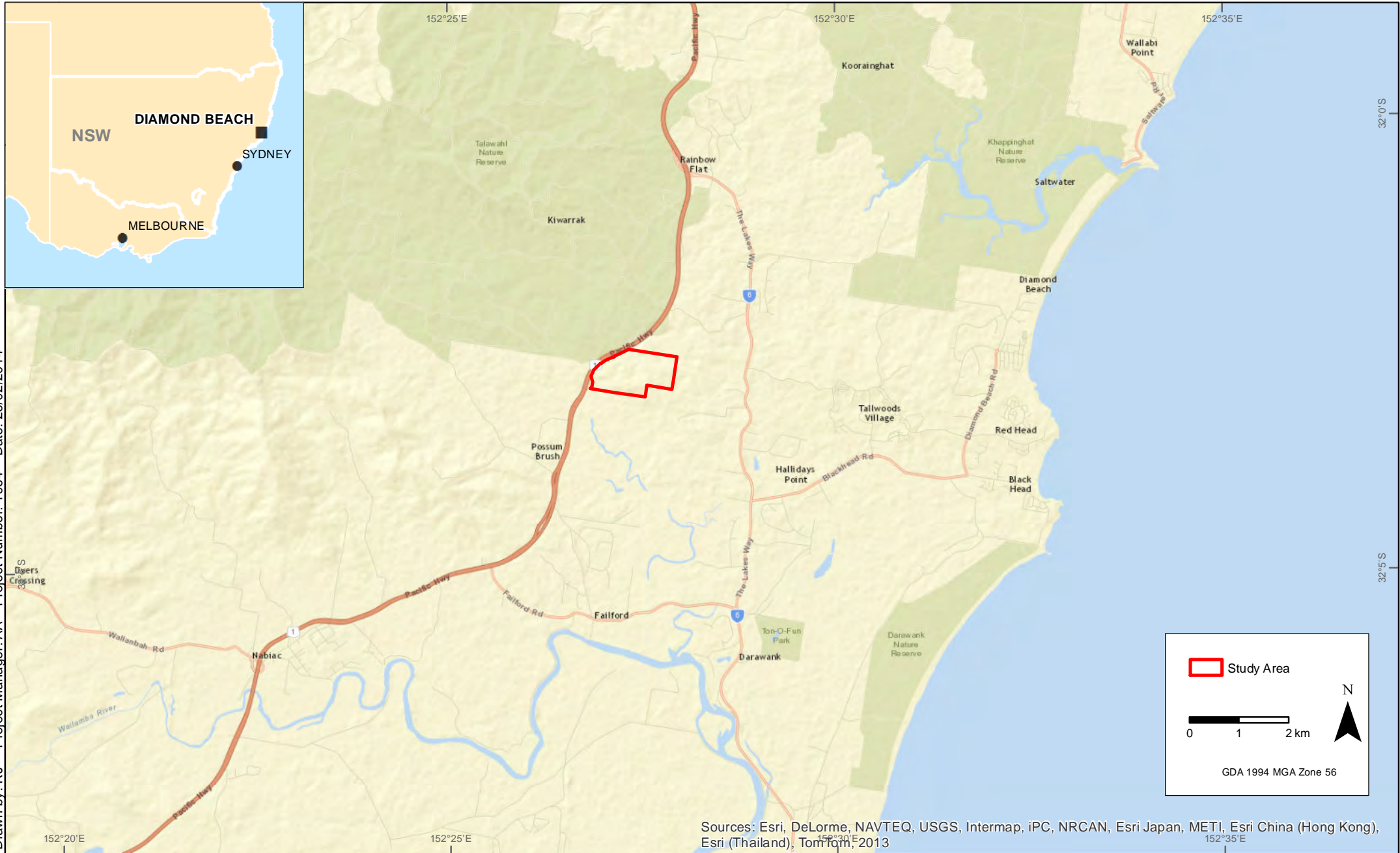
- A desktop review of previous studies and reports relevant to the study area;
- A search of the Aboriginal Heritage Information Management System (AHIMS) maintained by the Office of Environment and Heritage (OEH) to identify known Aboriginal objects and sites within the subject area;
- A search of the Local Environmental Plan Heritage Schedules;
- Consideration of the landscape context and land use history;
- Physical inspection of the subject area for evidence of Aboriginal occupation and/or utilisation;
- Assessment of the significance of any identified Aboriginal sites/objects; and
- Provision of management recommendations to avoid/mitigate impact on any affected Aboriginal sites/objects.

3 Location

The subject area is located approximately 17km south of Taree, within the Greater Taree City Council Local Government Area (LGA) (Figure 1). The subject area is located within the Jandra Quarry development consent boundary, and borders on the approved site facilities disturbance area. There are two areas within this boundary which will be subject to the proposed modification (Figure 2) including:

- A new heavy vehicle access road; and
- An extension to the existing finished product stockpile area.

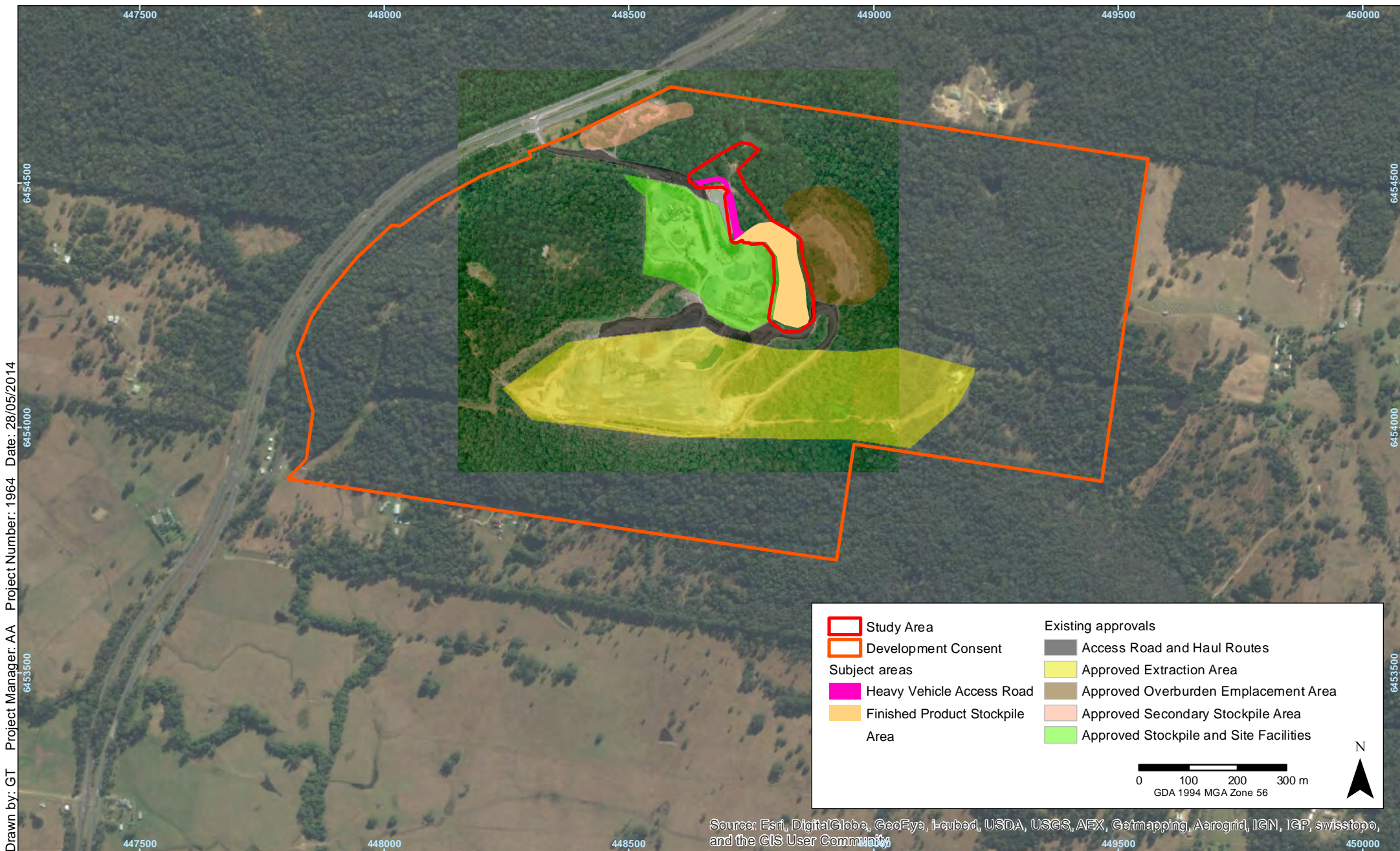
Drawn by: R.J Project Manager: AA Project Number: 1964 Date: 26/02/2014



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013

Regional Project Location
Jandra Quarry Heritage Assessment

FIGURE 1



Site Map
Jandra Quarry Heritage Assessment

FIGURE 2

4 Regulatory and Assessment Framework

4.1 The National Parks and Wildlife Act 1974 (NSW)

The *National Parks and Wildlife Act 1974* (NSW) (the ‘NPW Act’) is the primary piece of legislation for the protection of Aboriginal cultural heritage in New South Wales. The Office of Environment and Heritage (OEH) administer the NPW Act. The NPW Act provides statutory protection for Aboriginal objects by making it illegal to harm Aboriginal objects and Aboriginal places, and by providing two tiers of offence against which individuals or corporations who harm Aboriginal objects or Aboriginal places can be prosecuted. The NPW Act defines Aboriginal objects and Aboriginal places:

Aboriginal object means 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.

Aboriginal place means any place declared to be an Aboriginal place under section 84.

The highest tier offences are reserved for knowledgeable harm of Aboriginal objects or knowledgeable desecration of Aboriginal places. Second tier offences are strict liability offences—that is, offences regardless of whether or not the offender knows they are harming an Aboriginal object or desecrating an Aboriginal place—against which defences may be established under the *National Parks and Wildlife Regulation 2009* (NSW) (the ‘NPW Regulation’).

Section 87 of the NPW Act establishes defences against prosecution under s.86 (1), (2) or (4). The defences are as follows:

- An Aboriginal Heritage Impact Permit (AHIP) authorising the harm (s.87(1));
- Exercising due diligence to establish Aboriginal objects will not be harmed (s.87(2))
Due diligence may be achieved by compliance with requirements set out in the *National Parks and Wildlife Regulation 2009* (the NPW Regulation) or a code of practice adopted or prescribed by the NPW Regulation (s.87(3)); and
- Undertaking “low impact” activities (s.87 (4)).

This assessment report follows the Due Diligence Code and aims to establish whether Aboriginal objects would be harmed by the proposed works in accordance with S.87(2) of the NWP Regulation.

4.2 The National Parks and Wildlife Regulation 2009 (NSW)

The NPW Regulation 2009 (cl.80A) assigns the Code as one of the codes of practice that can be complied with pursuant to s.87 of the NPW Act.

In addition the NPW Regulation describes “certain low impact activities” in s.80B. Disturbed land is defined by cl.80B (4) as “disturbed if it has been the subject of a human activity that has changed the land’s surface, being changes that remain clear and observable”. Examples given in the notes to cl.80B (4) include “construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines, stormwater drainage and other similar infrastructure)”.

4.3 The Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales 2010

The Code describes the process that must be followed and the actions that must be taken by a proponent, and the site conditions that must be satisfied, to show due diligence in the consideration of potential harm to Aboriginal objects.

The Code sets out a basic framework with the following steps followed in order to make an assessment of whether or not proposed activities may impact Aboriginal objects:

- Step 1. Will the activity disturb the ground surface?*
- Step 2a. Search the AHIMS database and use any other sources of information of which you are already aware*
- Step 2b. Activities in areas where landscape features indicate the presence of Aboriginal objects*
- Step 2c. Are there any activities in areas where landscape features indicate the presence of Aboriginal objects?*
- Step 3: Assess whether the activity can avoid impact to any identified Aboriginal objects or areas of significant potential*
- Step 4: Desktop assessment and visual inspection*
- Step 5. Further investigations and impact assessment*

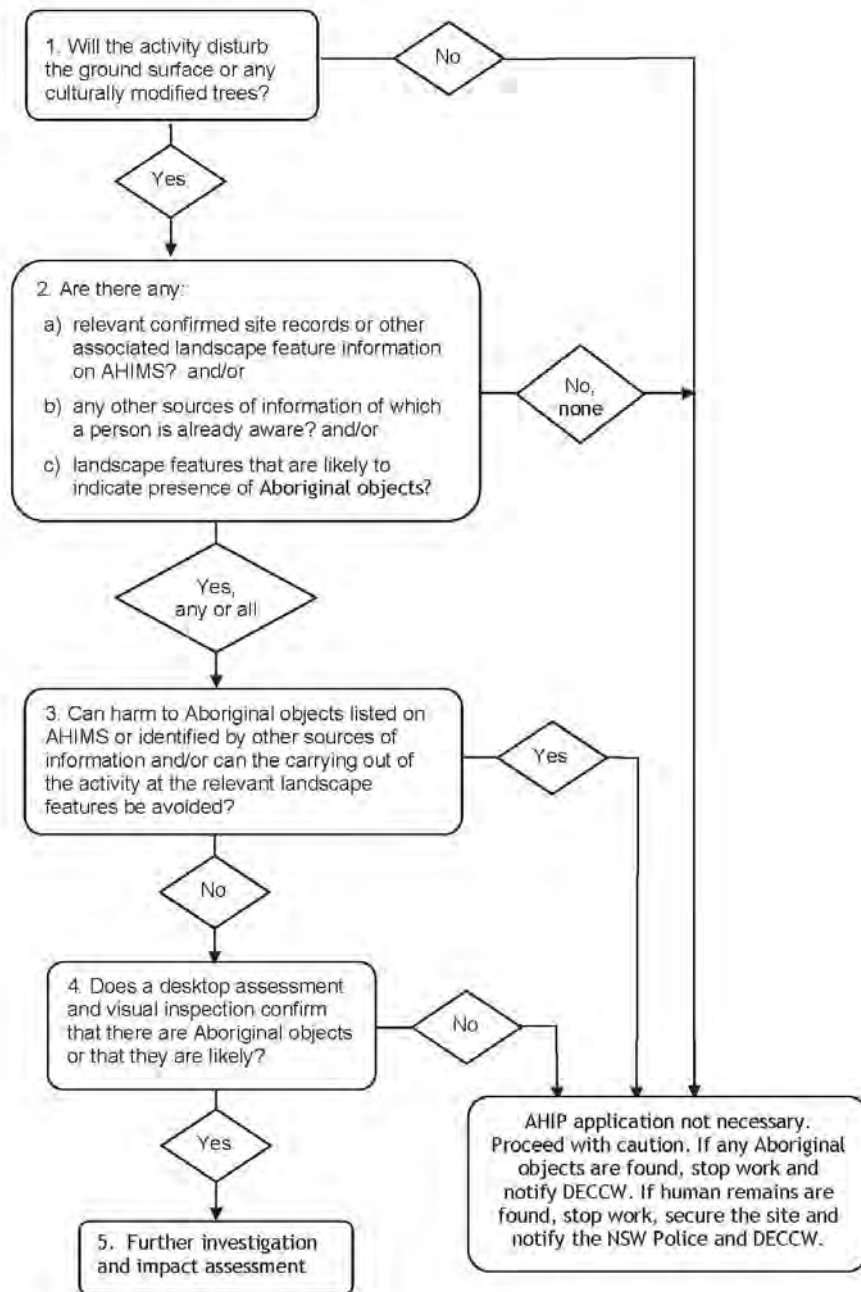
The process set out in the Code involves consideration of harm to Aboriginal objects at increasing levels of detail, with additional information incorporated at each step and used to support the decisions being made. If the proposed activities are not “low impact activities” (a defence for which is provided under the Regulation) the considerations result in a determination of whether or not:

- further approval (an AHIP) under the NPW Act is required, or;
- Due Diligence obligations for the protection of Aboriginal objects are discharged by the process under the Code.

The Code process is included as Figure 3.

Figure 3: Due diligence process under the Code (note DECCW is now the Office of Environment and Heritage [OEH])

8 The generic due diligence process



5 Consultation with the Aboriginal Community

Consultation with the local Aboriginal community at the due diligence assessment stage is not mandatory to satisfy the Code, however, it is considered best practice to include Aboriginal community consultation in the early stages of assessment. Holcim invited site officers from the Forster Local Aboriginal Land Council (LALC) and Purfleet-Taree LALC to attend the site inspection. Forster LALC did not respond to phone or email invitations prior to the site inspection so did not have a representative attend. Vienna Maslin from Purfleet-Taree LALC was present during the site inspection. On-site correspondence with Vienna Maslin concluded that the subject area did not contain any sites or objects of cultural significance.

This draft report was sent to Forster LALC and Purfleet-Taree LALC on 2 June 2014 for review and comment. Follow-up emails and phone calls were made to Forster LALC and Purflett-Taree LALC between 3 June 2014 and 26 June 2014 and on 26 June 2014 no comments relating to the draft report were received.

6 Due Diligence Assessment

Is the proposed activity a low impact activity as defined by the Regulation?

No.

The proposed development requires vegetation clearance and ground disturbance for the construction of:

- A new heavy vehicle access road (0.25 hectares); and
- An extension to the existing finished product stockpile area (1.034 hectares).

Under Section 87 (04), Clause 80B of the *National Parks and Wildlife Regulation* this activity is not defined as low impact.

Step 1. Will the activity disturb the ground surface?

Yes.

The proposed development would disturb the ground surface, with a total area of approximately 1.284 hectares of vegetation requiring clearing.

Step 2a. Are there any relevant confirmed site records or other associated landscape feature information on AHIMS?

Yes.

An extensive AHIMS search was conducted on 5 February 2014 (AHIMS search ID #123969). The search covered an area of approximately 10 km² that encompassed the subject area. There are 16 previously recorded Aboriginal archaeological sites within the search area and seven recorded sites within the Jandra Quarry development consent boundary. The AHIMS search results are presented in Table 1 and shown in Figure 5. No Aboriginal archaeological sites registered on AHIMS are located within the subject area however site Jandra Quarry J7 (AHIMS #38-2-0113) is a PAD located to the north-west of the subject area.

Table 1: AHIMS search results (ID#123969) for sites located within the subject area.

Site ID	Site Name	Site Type	Landform
38-2-0107	Jandra quarry J1	Isolated find	Mid-slope
38-2-0108	Jandra Quarry J2	Artefact Scatter	Lower-slope
38-2-0109	Jandra Quarry J3	Artefact Scatter	Lower-slope
38-2-0110	Jandra Quarry J4	Modified Tree	Unknown
38-2-0111	Jandra Quarry J5	Artefact Scatter	Lower-slope
38-2-0112	Jandra Quarry J6	Artefact Scatter	Lower-slope
38-2-0113	Jandra Quarry J7	Potential Archaeological Deposit (PAD)	Lower-slope
38-2-0103	Tallwoods 1	Isolated find	Lower slope
38-2-0104	Tallwoods 2	Artefact Scatter	Lower slope
38-2-0105	Tallwoods 3	Artefact Scatter	Lower slope
38-2-0104	Tallwoods 4	Artefact Scatter, Midden	Creek bank
38-3-0278	Tallwoods 5	Artefact Scatter	Lower slope
38-2-0279	Tallwoods 6	Artefact Scatter	Lower slope
38-2-0266	BH3	Isolated find	Crest
38-2-0019	Breakneck Hill, Kiwarra	Stone Arrangement	Ridgeline
38-2-0134	RW-A1	Isolated find	Unknown

Two previous archaeological surveys and one excavation have taken place within the Jandra Quarry development consent boundary. The initial survey was undertaken by Stockton and Haglund (1983). The survey was limited to one strip of land cleared for a boundary fence, vehicle tracks and old logging tracks, with the remaining land unsurveyed due to the steep terrain. One isolated find is reported, however as it is not registered on AHIMS, no details are available.

The second survey and excavation were undertaken by ERM (1999). The survey located seven sites; one isolated find (Jandra Quarry J1), four artefact scatters (Jandra Quarry J2, J3, J5 and J6), one modified tree (Jandra Quarry J4) and an area of potential archaeological deposit (PAD) (Jandra Quarry J7). Jandra Quarry J2 also contained possible midden material. The subsurface test excavation focused on three areas within the Jandra Quarry development consent boundary, these areas were Jandra Quarry J2, Jandra Quarry J6 and within the site facilities area. Jandra Quarry J2 did not locate any Aboriginal objects or materials. Jandra Quarry J6 contained five artefacts, all flakes or partial flakes made of greywacke. The site facilities area did not contain any artefacts. The subsurface excavation revealed

the top 10cm of the soil profile was a dark brown-black top soil which sits on a yellow clay. Site Jandra Quarry J7 (AHIMS #38-2-0113) is located north-west of the proposed heavy vehicle access road; it is located on the opposite side of the creek to the subject area. The ERM report state that within Jandra Quarry J7, the area of PAD most likely to contain archaeological material is a saddle landform located directly north of Jandra Quarry J6 (ERM 1999:3.7). Despite large areas of PAD being identified within the Jandra Quarry boundary, very little archaeological material was recovered. The results of the ERM (1999) archaeological assessment suggest that artefacts are most likely to occur in low density on gentle lower slopes and saddle landforms either on the surface or within the top 10cm of the soil profile. An Aboriginal Heritage Impact Permit (AHIP #N57/CDS/2000) has been granted for 4 of the 7 sites located within the Jandra Quarry boundary, sites Jandra Quarry J1 to J4 are included under the existing AHIP (Umwelt 2012: 5.7). Site Jandra J7, which is the closest site to the subject area, will not be disturbed and as required by the 1999 EIS, the site will be conserved and protected for educational purposes (ERM 1999 6.5.4).

The Purflett-Taree LALC (2004) completed an assessment of Aboriginal objects at Lakesway as part of the Pacific Highway Upgrade project. This study was undertaken at the Lakesway Intersection, 11.4km south of Taree. The survey located one isolated artefact - a silcrete flake. The flake was located on a highly disturbed track. The landform unit is unknown as it was not reported.

The results of the AHIMS search within a 10km radius of the subject area and the results of the three archaeological assessments within a 15km radius of the subject area, show that Aboriginal objects are most likely to occur on gentle lower slopes or saddle landforms near watercourses. The most common site type in the local area is the artefact scatter followed by modified tree, midden and stone arrangement.



AHIMS
Jandra Quarry Heritage Assessment

FIGURE 4

Step 2b. Are there any other sources of information of which a person is already aware?

Yes.

Greater Taree Local Environmental Plan (LEP)

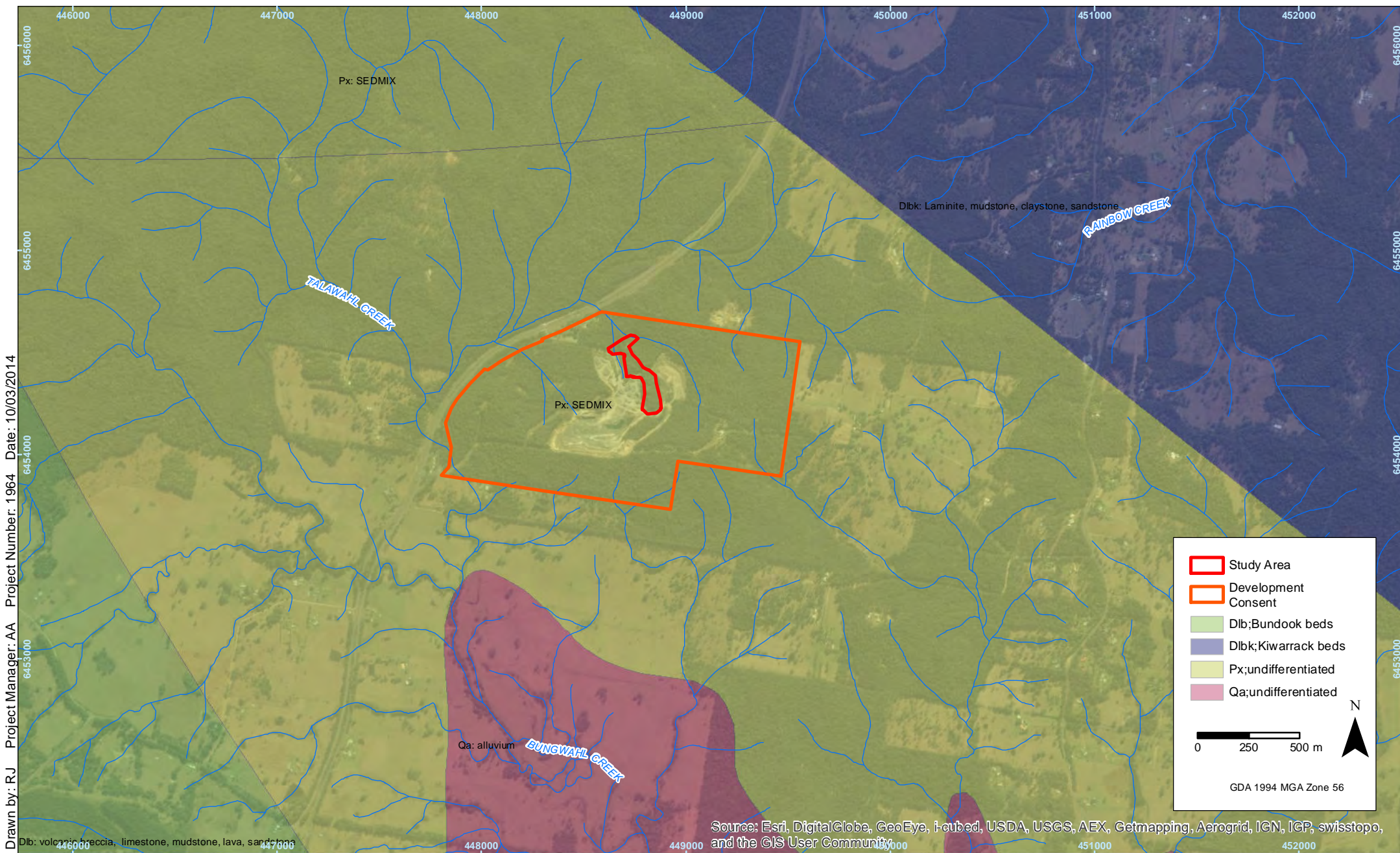
Each Local Government Area (LGA) is required to create and maintain an LEP that identifies and conserves Aboriginal and Historic heritage items. These items are protected under the EP&A Act 1979 and the Heritage Act 1977.

A search of the Greater Taree LEP (2010) was undertaken on the 5 February 2014. No heritage items listed on the LEP are located within or in close proximity to the subject area.

Step 2c. Are there landscape features that are likely to indicate the presence of Aboriginal objects?

Yes.

The subject area is located within 200m of a watercourse, a drainage channel which is a small tributary of Talawahl Creek. At the time of the site inspection the drainage channel did not contain water. The previous archaeological studies in the region generally located archaeological sites on gentle lower slopes near watercourses (ERM 1999:1.5). The subject area is located on both mid-slope and lower-slope landforms. The previous assessments indicate that it is unlikely for Aboriginal sites or objects to occur on mid-slopes. The section of the subject area which is located on the lower-slope landform is heavily disturbed and is unlikely to contain Aboriginal sites or objects. The geology of the subject area is made up of shale and greywacke hornfels. This geology is not conducive for the creation of rock shelters or overhangs which could have been occupied by Aboriginal people. Greywacke is a raw material type which was commonly used in the local area to construct stone tools. Soils within the subject area are shallow with only the top 10cm of the soil profile comprising a dark brown humic loam which sits on a yellow clay (ERM 1999: 3.3).



Geology 1:250k

Jandra Quarry Heritage Assessment

FIGURE 5

Step 3: Can the harm or the activity be avoided?

No.

There is no requirement to avoid the area or the proposed modification. The site inspection did not locate any Aboriginal sites or objects and the desktop study indicates that the landform on which the subject area is located is unlikely to contain any subsurface archaeological deposit.

Step 4: Does a desktop assessment and visual inspection confirm that there are Aboriginal objects or that they are likely?

The desktop assessment and visual inspection has confirmed that there are no visible Aboriginal objects or sites and that there is low potential for sites or objects to be present within the subject area.

The visual inspection was undertaken by Amanda Atkinson (Niche) and Vienna Maslin (Purflett-Taree LALC) on 7th February 2014. The survey was undertaken in two stages; a pedestrian transect which covered the proposed heavy vehicle access track and multiple pedestrian transects over the proposed finished product stockpile extension area. The 1999 EIS study conducted a pedestrian survey of the spur on the opposite side of the creek on a similar lower-slope landform. The survey did not locate any Aboriginal sites or objects (ERM 1999: 1.2).

The site inspection revealed the subject area had been partially disturbed by prior quarrying infrastructure works, including an existing track and some large-growth vegetation clearing. The subject area is located on steep mid-slopes and lower-slopes and had very low ground surface visibility (<5%). The only ground surface exposure within the study area was an existing track which, in places, was covered in blue metal. This resulted in very little of the subject area which could be surveyed effectively. All large growth trees located within the subject area were inspected for evidence of cultural modification.

The site inspection did not locate any Aboriginal sites or objects and confirmed there is low potential to contain Aboriginal sites or objects. Although the subject area is located within 200m of a water course, the steep mid-slope and prior disturbance of the lower-slope mean it is unlikely that Aboriginal objects would occur within the subject area.



Plate 1: Vegetation and ground coverage within the subject area.



Plate 2: Typical ground coverage within the subject area.

Step 5. Further investigations and impact assessment

Based on the desktop assessment and visual inspection it is confirmed that no Aboriginal objects or sites are located or likely to be located within the subject area therefore no further investigation is required.

7 Non-Aboriginal Heritage

Non-Aboriginal heritage was considered during the due diligence process. Each Local Government Area (LGA) is required to create and maintain an LEP that identifies and conserves Aboriginal and Non-Aboriginal heritage items. These items are protected under the EP&A Act 1979 and the Heritage Act 1977. A search of the Greater Taree LEP (2010) was undertaken on the 5 February 2014. No Non-Aboriginal heritage items listed on the LEP are located within or in close proximity to the subject area. No Non-Aboriginal heritage items were observed during the site survey.

8 Conclusion

The desktop assessment concluded that there was low potential for Aboriginal objects to occur within the subject area and the site inspection confirmed there are no Aboriginal objects or material located within the subject area. Although there was very poor ground visibility, the landform unit was not suitable to contain Aboriginal objects or sites. The subject area was mostly located on a steep mid-slope. The most common landforms in the local area which contain Aboriginal objects or sites are gentle lower slopes near waterways or ridgelines. The subject area also showed evidence of prior ground disturbance including a vehicle track and large growth vegetation clearing.

There is therefore no requirement for any additional archaeological investigation prior to the commencement of works.

9 Recommendations

Based on the findings of this due diligence assessment, it is recommended:

- The proposed modification proceeds without any Aboriginal heritage constraints;
- The proposed development should be confined to the subject areas shown in Figure 2, any work undertaken outside of the subject areas or the approved disturbance area, would be subject to further assessment; and,
- If Aboriginal objects are located during the construction phase, works should cease and a qualified archaeologist should be consulted.

References

Department Environment, Climate Change and Water NSW (2010c) *Due Dilligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, Department of Environment, Climate Change and Water NSW.

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