

Stevan Vuletic
School Infrastructure NSW

Dear Stevan

RE: Aboriginal Heritage Due Diligence – Meadowbank Public School, 4-6 Thistle Street, Ryde

Artefact Heritage has been engaged by School Infrastructure NSW to prepare an Aboriginal heritage due diligence assessment as part of a development application (DA).

This report outlines the results of an Aboriginal Heritage Due Diligence which meets the requirements of the Department of Environment, Climate Change and Water (DECCW) [now Heritage NSW] *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (Due Diligence Code of Practice 2010a) and includes recommendations as to whether further archaeological investigation may be required.

The report was written by HollyMae Steane Price (Heritage Consultant, Artefact Heritage) with management input and review provided by Ryan Taddeucci (Aboriginal Heritage Team Leader, Artefact Heritage).

If you have any queries regarding this due diligence assessment, please do not hesitate to contact me on 0414 742 676.

Yours sincerely,



HollyMae Steane Price

Heritage Consultant

hollymae.steanepri@artefact.net.au

0414 742 676

1.0 ABORIGINAL HERITAGE DUE DILIGENCE

1.1 Purpose

Due Diligence for this project has been undertaken accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (Department of Environment, Climate Change & Water [DECCW] 2010a; hereafter the Due Diligence Code of Practice). The Due Diligence Code of Practice sets out the matters which are to be addressed when assessing whether an activity will harm, or has a likelihood of harming, Aboriginal objects. Activities that would or are likely to harm Aboriginal objects require an Aboriginal Heritage Impact Permit (AHIP), which would need to be supported by additional Aboriginal cultural heritage assessment actions.

The Due Diligence Code of Practice sets out reasonable and practicable steps which must be followed in order to:

- Identify whether Aboriginal objects are, or are likely to be, present in an area
- Determine whether proposed activities are likely to harm Aboriginal objects, if they are present
- Determine whether an AHIP must be in place prior to the commencement of activities.

Consultation with the Aboriginal community is not a formal requirement of the Due Diligence process, however, consideration of undertaking some form of consultation should occur, particularly if it will assist in informing any decision-making. If an AHIP will be required, consultation must be undertaken in accordance with the requirements of Section 60 of the National Parks and Wildlife Regulation 2019, and as described in the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010b).

1.2 What is due diligence

The *National Parks and Wildlife Act 1974* (NPW Act) establishes the strict liability offence of harming Aboriginal objects where they were not known to be present. The Due Diligence process was established to provide a defence to this offence. Therefore, Due Diligence is a legal defence against prosecution where Aboriginal objects are harmed when it was reasonably considered that they would not be present. In effect, following a due diligence process amounts to taking reasonable and practicable steps to protect Aboriginal objects.

The determination of whether Aboriginal objects are present or are likely to be present can be made by following the Due Diligence Code of Practice, in situations where it is appropriate and applicable to do so. Undertaking Due Diligence will allow the identification of where Aboriginal objects are, or are likely to be, whether the proposed activity is likely to harm those objects and determine whether an AHIP is required prior to the commencement of that activity.

Undertaking Due Diligence does not constitute consent to harm Aboriginal objects, nor are they a 'site clearance' mechanism to allow activities to occur in an area where Aboriginal objects are likely or known to be present. If it is known or considered likely that Aboriginal objects are present, a full assessment must be undertaken and an AHIP granted prior to the activity taking place.

1.3 Appropriate use of due diligence

It has been determined that it is appropriate to undertake a Due Diligence assessment for these proposed works by following the flowchart on Page 1 of the Due Diligence Code of Practice (DECCW 2010a), as shown in Table 1.

Table 1: Determination of the suitability of employing a Due Diligence process for this activity

Item	Question	Answer
1.	Is the activity considered a Major Project under Part 4, Division 4.7 or Part 5, Division 5.2 of the EP&A Act?	No
2.	Is the activity exempt from the National Parks and Wildlife Act 1974 or Regulation 2019?	No
3.	Will the activity involve harm that is trivial or negligible	No
4.	Is the activity in an Aboriginal Place or there are known Aboriginal objects in the project area	No
5.	Is the activity a low impact activity in accordance with the National Parks and Wildlife Regulation 2019?	No
6.	Do you want to follow an industry specific Code of Practice	No
7.	Follow the Due Diligence Code of Practice	Yes

2.0 PROJECT INFORMATION

2.1 Project background

Artefact Heritage has been engaged by School Infrastructure NSW to prepare an Aboriginal Heritage Due Diligence as part of a development application (DA).

2.2 The study area

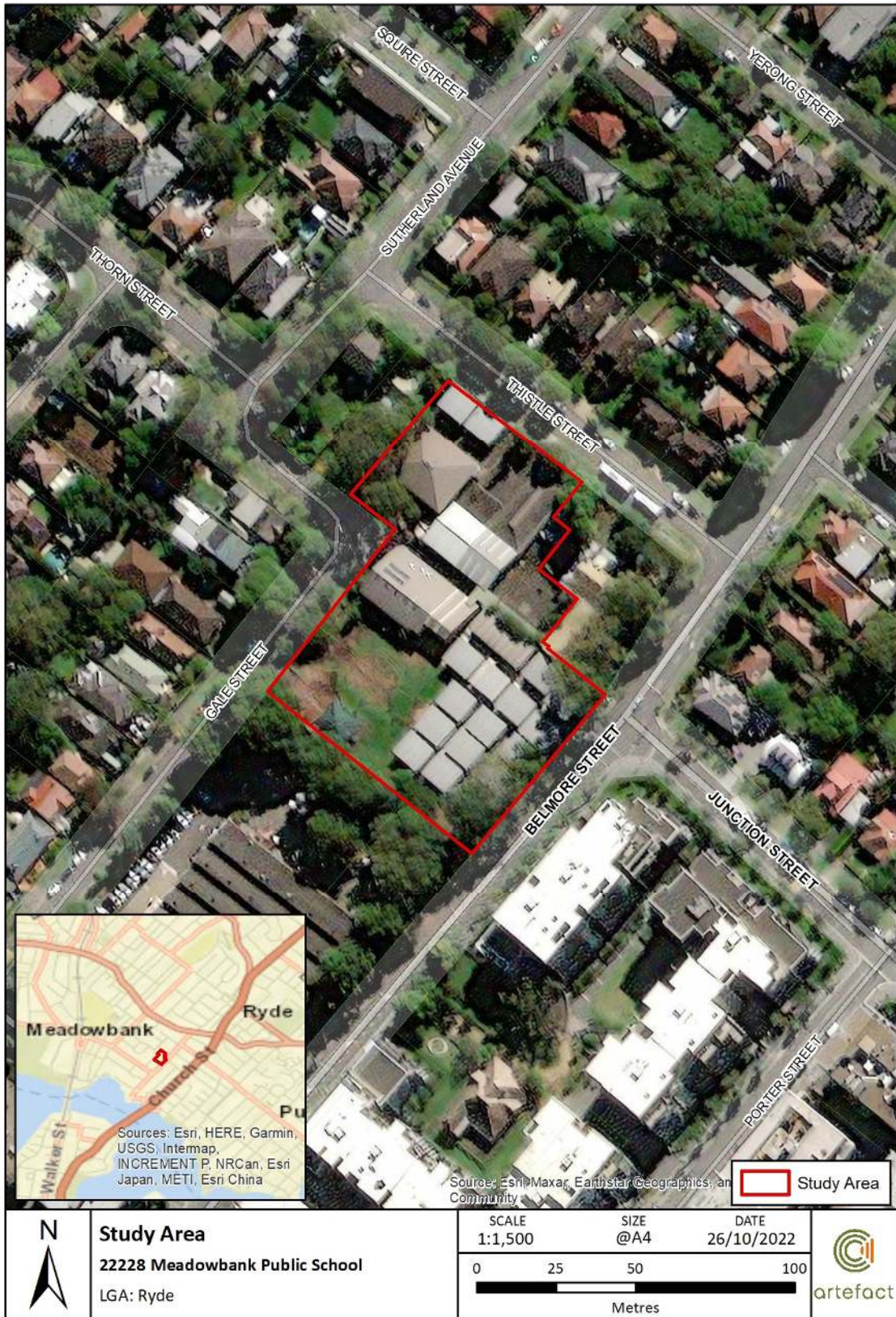
The study area is defined by the Meadowbank Public School and covers two lots (Lot 1 DP 437180 and Lot 1 DP 120850). The lots measure approximately 1.16ha (11630m²) in area. The study area is located in the City of Ryde Local Government Area (LGA). The study area is shown in Figure 1. The study area is within the boundaries of the Metropolitan Local Aboriginal Land Council (LALC).

The study area is bounded by Thistle Street to the northeast, Belmore Street to the southeast, 1 Constitution Road (Lot 1 DP 437180) to the southwest, and Gale Street, 2 Gale Street and 8 Thistle Street (both Lot 1 DP 878295) on the north western side.

2.3 Proposed works

The proposed works are for the conversion the former Meadowbank Public School into an open space (park). Works will include the demolition all buildings except for the hall and childcare. There will be ground disturbing works associated with machinery movement, removal of foundations and removal of slabs and associated utilities.

Figure 1: Study area



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3.0 LEGISLATIVE CONTEXT – DUE DILIGENCE CODE OF PRACTICE

3.1 National Parks & Wildlife Act 1974

The *National Parks & Wildlife Act 1974* (the NPW Act) provides statutory protection for all Aboriginal 'objects' and 'Aboriginal Places' in NSW. The NPW Act defines an Aboriginal 'object' as:

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

An 'Aboriginal place' is a place gazetted by the Minister, under the Section 84 of the NPW Act:

The Minister may, by order published in the Gazette, declare any place specified or described in the order, being a place that, in the opinion of the Minister, is or was of special significance with respect to Aboriginal culture, to be an Aboriginal place for the purposes of this Act.

Aboriginal objects and places are afforded statutory protection in NSW whereby it is an offence to damage, deface or destroy Aboriginal objects or places without the authorisation of an approved and valid AHIP.

Section 87(2) of the NPW Act provides that it is a defence to the provisions of Section 86(2) if the defendant exercised due diligence to determine whether an Aboriginal object would be harmed, and reasonably determined that no Aboriginal object would be harmed. That is, a proponent could be found not guilty of the strict liability offence if they can demonstrate that they undertook all reasonable steps to investigate the likelihood of Aboriginal objects and places being present and harmed by the proposed activity.

Due Diligence does not provide a defence to the offence of knowingly harming an Aboriginal object (offences that contravene Section 86(1)).

3.2 Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act) establishes the framework for cultural heritage values to be formally assessed in the land use planning and development consent process. The EP&A Act requires that environmental impacts are considered prior to land development: this includes impacts on cultural heritage items and places as well as archaeological sites and deposits. The EP&A Act also requires that local governments prepare planning instruments, such as Local Environmental Plans (LEPs) and Development Control Plans (DCPs) in accordance with the Act to provide guidance on the level of environmental assessment required.

The study area falls within the boundaries of the City of Ryde LGA. As such, it is subject to the Ryde Local Environmental Plan (LEP) 2014. A review of the Ryde LEP 2014 was undertaken on 27 October 2022: no listed items of Aboriginal heritage significance were identified within the study area or its vicinity.

4.0 ABORIGINAL HERITAGE INFORMATION MANAGEMENT SYSTEM (AHIMS) SEARCH

NOTE: The location of Aboriginal sites is considered culturally sensitive information. It is advised that this information, including the AHIMS data appearing on the heritage map for the proposal be removed from this report if it is to enter the public domain.

An extensive search of the Aboriginal Heritage Information System (AHIMS) was undertaken on 12 September 2022 (Client Service ID 716815) for a search area measuring approximately 2km x 2km and centred on the study area (Figure 1) to determine the location of Aboriginal sites in relation to the current study area. The parameters of the search were as follows:

GDA 1994 MGA 56	321940 - 325940 6254424 – 6258425
Buffer	0 m
Number of sites	21
Client Service ID	716815

The search determined that there are 21 registered Aboriginal sites within the search area. There are no registered Aboriginal sites within the study area. The AHIMS database records sites using a list of twenty standard site types, of which five were found within the extensive search (OEH 2012):

- **Art:** A site where Aboriginal engraved or pigmented art has been identified
- **Artefact:** A site where one or more Aboriginal artefacts have been found, such as stone or wooden tools
- **Grinding groove:** a site where one or more Aboriginal grinding grooves have been identified
- **Shell:** A site that has been identified as an Aboriginal shell midden cultural site

The results of the search are summarised in Table 2.

Table 2: Frequency of recorded site types

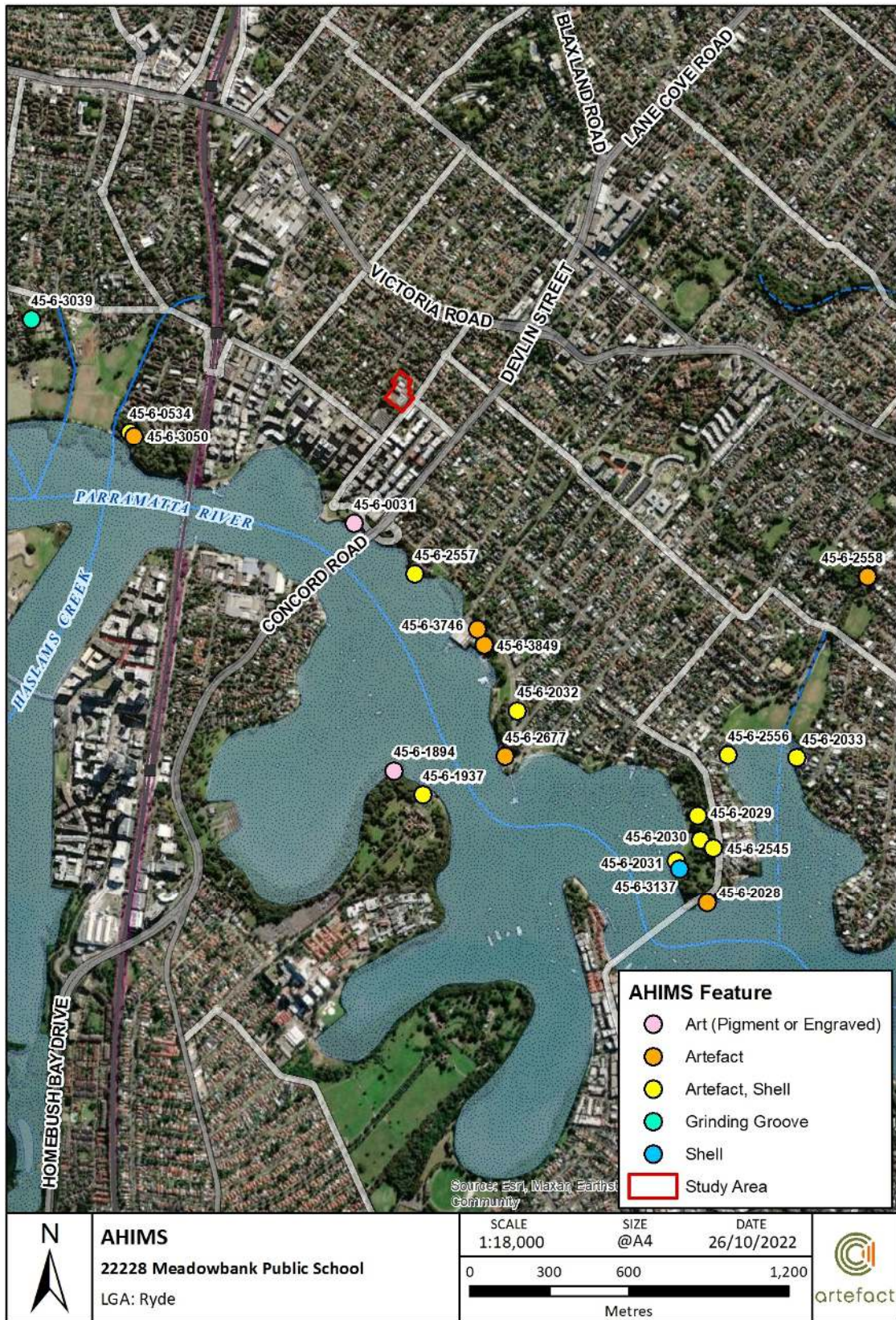
Site Feature	Frequency	Percentage
Artefact, Shell	10	47.6%
Artefact	6	28.5%
Shell	1	4.8%
Art (Pigment or Engraved)	2	9.5%
Grinding Groove	1	4.8%
Unknown	1	4.8%
<i>Total</i>	<i>21</i>	<i>100%</i>

The nature and location of the registered sites is a reflection of the past Aboriginal inhabitation from which they derive, but is also influenced by historical land-use, and the nature and extent of previous archaeological investigations. Although Aboriginal inhabitation covered the whole of the landscape, the availability of fresh water, and associated resources, was a significant factor in repeated and long-term occupation of specific areas within the landscape. Certain site types, such as culturally modified trees, are particularly vulnerable to destruction through historical occupation, while others, such as stone artefacts, are more resilient.

The most abundant site feature in the search area is “Artefact, Shell”, representing locations where a stone artefact was found within a shell midden, n=21 (47.6%) of the identified sites included Artefact, Shell. The second most abundant site feature was Artefact, n=6 (28.5%) sites.

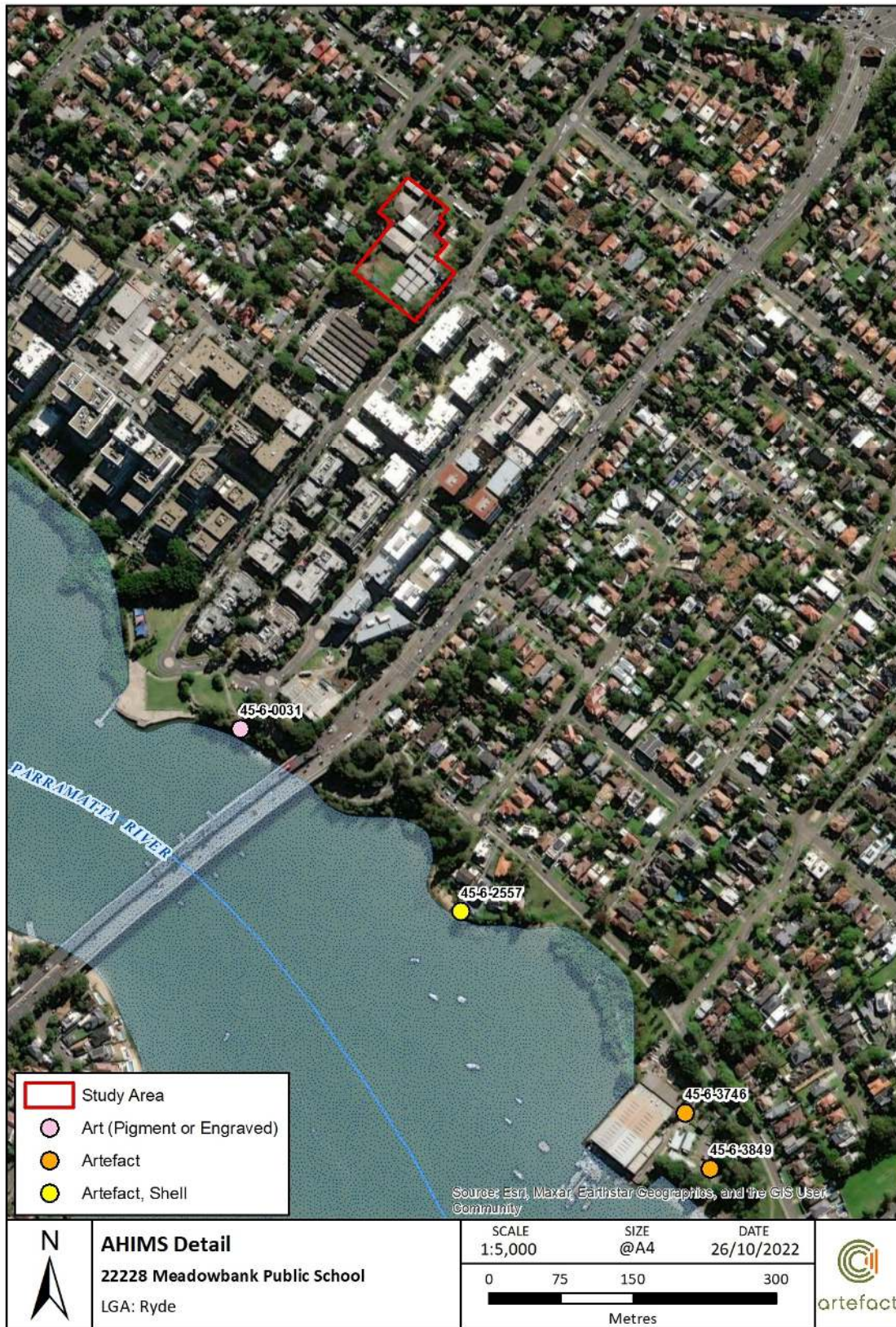
Sites were predominantly located adjacent to the Parramatta River on undeveloped land. The study area is not adjacent to the Parramatta River and has been subject to development.

Figure 2: Extensive AHIMS search results



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Figure 3: Details of AHIMS search



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5.0 VISUAL INSPECTION

A site inspection of the study area was conducted on 20 October 2022 in accordance with the Due Diligence Code of Practice. In attendance was Gareth Holes (Heritage Consultant, Artefact Heritage) and HollyMae Steane Price (Heritage Consultant, Artefact Heritage). The inspection was undertaken on foot and a photographic record was made, capturing any aspects of the site which may suggest physical impact to potential intact soils.

The study area is partially covered by structures, one of which is demountable (Figure 10). Many demountable classrooms had been deconstructed prior to the site visit. The southwestern side of the site is grassy land which served as a playground for the school (Figure 11 and Figure 12). The structures at the north eastern side of the site have been cut into the slope of the hill (Figure 4, Figure 5 and Figure 7) which continues to rise gently northwards to Yerong Street. To the west of these buildings is an area of landscaped land (Figure 6) with a well-established tree and imported soil and woodchip. The asphalt surfaces between buildings (Figure 8) and concrete surfaces (Figure 9) to the south of these structures appear to have been poured onto the ground without landscaping work and therefore represent minimal impact to the ground at this point.

The ground towards the southwestern side of the site has been minimally impacted, with most structures being demountable and supported by superficial surface concreting and brick supports (Figure 13 and Figure 14). A stormwater drain has been installed through this part of the site and runs northwest to southeast through the grassy playground.

Figure 4: School building constructed on and partially cut into north eastern slope of study area. South west aspect.



Figure 5: Rear of school buildings cut into north eastern slope. North east aspect.



Figure 6: Landscaping with imported woodchip, and tree. South west aspect.



Figure 7: South corner of school building cut into slope at rear, and playground surface in foreground. North aspect.



Figure 8: Entrance to school with asphalt surface, seemingly installed on non-impacted ground. North west aspect.



Figure 9: School building (to be retained) and concrete paths and yard surface on unimpacted ground. North west aspect.



Figure 10: View of demountable and of school building, and grassy playground in foreground. North east aspect.



Figure 11: Undercover play area and grid entrance to playground area. South east aspect.



Figure 12: Grassy playing field (foreground) and area of deconstructed demountable rooms (distance). South east aspect.



Figure 13: Concrete paths to area of deconstructed demountable rooms. North east aspect



Figure 14: Area of deconstructed demountable rooms and associated concrete paths, and undercover play area in distance. West aspect.



6.0 ARCHAEOLOGICAL POTENTIAL OF THE STUDY AREA

Archaeological potential is determined based on the consideration of two factors, the presence of archaeologically sensitive landforms across the study and any identified ground disturbance to these landforms.

6.1 Archaeological sensitive landforms

Particular landforms in NSW are known to have been favoured locations for repeated or long-term occupation and, hence, more likely to retain archaeological evidence of past Aboriginal use. The Due Diligence Code of Practice identifies five landscape features that indicate the likely existence of Aboriginal objects these include:

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- *Within 200m of water, or*
 - *Located within a sand dune system, or*
 - *Located on a ridge top, ridge line, or headland, or*
 - *Located within 200m below of a cliff face, or*
 - *Within 20m of or in a cave, rock shelter, or cave mouth (Environment 2010)*
-

The study area is not situated within any of the sensitive landform features described by the Due Diligence Code of Practice. Additionally, and as expected due to the site being a built environment, no Aboriginal objects were observed during the site inspection undertaken for this assessment. However, the study area appears to have underlying intact natural soil deposits which are present beneath topsoil and presumably beneath poured concrete surfaces and paths.

6.2 Ground disturbance

The Due Diligence Code of Practice defines disturbed land:

Sec 7.5 (4) For the purposes of this clause, land is disturbed if it has been the subject of human activity that has changed the lands surface, being changes that remain clear and observable.

This includes disturbed land via:

-
- (a) soil ploughing*
 - (b) construction of rural infrastructure*
 - (c) clearing of vegetation*
 - (e) construction of buildings and the erection of other structures*

(f) 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)

This due diligence inspection has identified that the north eastern part of the study area has been subject to previous ground disturbance. The mid and southern parts of the study area appear to have been subjected to less previous ground disturbance and have the potential to yield unimpacted natural soil landscape beneath the concrete and asphalt surfaces, and under the topsoil in the playing field. It is noted, however, that there are no sensitive landforms or other sources of information that would suggest that Aboriginal objects would be present in the study area.

7.0 THE DUE DILIGENCE PROCESS

The Due Diligence Code of Practice provides a series of questions that must be answered to determine the outcome of the due diligence process. These questions are addressed in Table 3.

Table 3: Due Diligence questions and responses

Question	Answer	Comment
Will the activity disturb the ground surface or any culturally modified trees	Yes	Should the works to create a park include any landscaping excavations, the ground surface will be disturbed. Additionally, the removal of building foundations, concrete slabs and the alteration of below-ground services would disturb the ground surface.
Are there any: <ul style="list-style-type: none"> Confirmed AHIMS records Other sources of information Landscape features 	No	The AHIMS database does not contain records of any Aboriginal sites within the study area. The research undertaken for this assessment did not identify any other relevant sources of information indicating the presence of sites within the study area. The study area does not include landscape features which are considered to have archaeological sensitivity. Visual inspection of the study area did not identify any Aboriginal objects or archaeological potential.
Can harm to Aboriginal objects be avoided	Yes	No Aboriginal objects or areas of archaeological potential were identified. Therefore, the works will likely avoid harm to Aboriginal objects.
Does a desktop assessment and visual inspection confirm the presence of Aboriginal objects, or that they are likely to be there	No	It is unlikely that the study area has the potential to contain sub-surface Aboriginal objects due to the absence of sensitive landforms in or around the study area. No Aboriginal objects were identified during the inspection or through the completion of the AHIMS search. It is considered unlikely that Aboriginal objects will be present in the study area.
Is further assessment required	No	Proceed with caution.

8.0 CONCLUSIONS AND RECOMMENDATIONS

The following recommendations regarding Aboriginal heritage are based on consideration of:

- Statutory requirements under the *National Parks and Wildlife Act 1974* as amended
- DECCW Due Diligence Code of Practice
- The results of the background research, site survey and assessment
- The likely impacts of the proposed works

8.1 Findings

The study area does not contain any identified Aboriginal objects, and is not likely to contain any unidentified Aboriginal objects. Following the procedures set out in the Due Diligence Code of Practice, it has been determined that Aboriginal objects are unlikely to be present in the project area. Therefore, no further assessment is required. The proposed works can proceed with caution.

8.2 Recommendations

This Due Diligence report will form a defence to the offence of unknowingly harming Aboriginal objects (Section 86(2) of the NPW Act), should this be required. However, if Aboriginal objects are identified in the project area subsequent to the finalisation of this report and harmed (knowingly harming objects, Section 86(1) of the NPW Act), the defence of Due Diligence will not apply.

This Due Diligence assessment does not constitute consent to harm Aboriginal objects, nor it is a 'site clearance' mechanism to allow activities to occur in an area where Aboriginal objects are likely or known to be present. If Aboriginal objects are discovered during the proposed works, works must stop immediately and an assessment must be undertaken in accordance with Part 6 of the NPW Act. If the activity cannot avoid harm to Aboriginal objects, works cannot proceed until an Aboriginal Heritage Impact Permit has been issued.

The following recommendations are made for this project:

1. The proposed works can proceed with caution within the study area that was the subject of this Due Diligence report;
2. If the any works are required for land beyond the limits of the study area, a separate Due Diligence process must be undertaken;
3. If Aboriginal objects are discovered prior or during the proposed works, works must stop immediately and an assessment must be undertaken in accordance with Part 6 of the NPW Act. If harm to Aboriginal objects cannot be avoided, works cannot proceed until an AHIP has been issued; and
4. If human skeletal remains are found during the activity, you must stop work immediately, secure the area to prevent unauthorised access and contact NSW Police and Heritage NSW on 1300 361 967.

9.0 References

DECCW 2010a. *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*.

DECCW 2010b. *Aboriginal Cultural Heritage Consultation Requirements for Proponents*

OEH. 'eSpade'. Accessed online at: <https://www.environment.nsw.gov.au/espade2webapp>.

APPENDIX A: EXTENSIVE AHIMS SEARCH RESULTS



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

Your Ref/PO Number : Meadowbank
Client Service ID : 723595

SiteID	SiteName	Datum	Zone	Eastings	Northings	Context	Site Status **	SiteFeatures	SiteTypes	Reports
45-6-2031	Putney park 1; RYDE 210	GDA	56	324969	6254650	Closed site	Valid	Shell :-, Artefact :-	Shelter with Midden	102489
	Contact	Recorders	Michael Guider,Aboriginal Heritage Office							
45-6-3137	Putney Park 6 RYDE235	GDA	56	324980	6254620	Open site	Valid	Shell :-		
	Contact	Recorders	Mr.Phil Hunt							
45-6-2556	Jetty Road RYDE 213	GDA	56	325164	6255050	Open site	Valid	Shell :-, Artefact :-	Midden	102142,102489
	Contact	Recorders	Michael Guider,Aboriginal Heritage Office							
45-6-2033	Morrison's Bay park; RYDE 214	GDA	56	325424	6255040	Closed site	Valid	Shell :-, Artefact :-	Shelter with Midden	102409
	Contact	Recorders	Michael Guider,Aboriginal Heritage Office							
45-6-3849	20Waterview Street,TU8	GDA	56	324244	6255463	Open site	Valid	Artefact :-		
	Contact	Recorders	Curio Projects Pty Ltd,Mx.Sam Cooling							
45-6-0031	Ryde,Ryde Bridge; RYDE 204	GDA	56	323754	6255920	Open site	Valid	Art (Pigment or Engraved) :-	Rock Engraving	102489
	Contact	Recorders	Michael Guider,Aboriginal Heritage Office							
45-6-2557	Waterview Street - RYDE 205	GDA	56	323984	6255730	Open site	Valid	Shell :-, Artefact :-	Midden	102489
	Contact	Recorders	Michael Guider,Aboriginal Heritage Office							
45-6-2032	Benelong park; RYDE 206	GDA	56	324369	6255215	Open site	Valid	Shell :-, Artefact :-	Midden	102489
	Contact	Recorders	Michael Guider,Aboriginal Heritage Office							
45-6-0534	Charity Point;Meadowbank Park;	GDA	56	322909	6256265	Open site	Valid	Shell :-, Artefact : 14	Midden,Open Camp Site	1308,2047,102196,102489
	Contact	Recorders	Val Attenbrow,Elizabeth Rich,Laura-Jane Smith,Miss.Lisa Smith,Aboriginal Heritage							
45-6-3022	Restriction applied. Please contact ahims@environment.nsw.gov.au.					Open site	Valid			
	Contact	Recorders	Aboriginal Heritage Office							
45-6-3050	Charity Point 2 - Ryde 202	GDA	56	322924	6256250	Open site	Valid	Artefact : 14		
	Contact	Recorders	Aboriginal Heritage Office							
45-6-2558	Brenner Park RYDE 215	GDA	56	325689	6255720	Open site	Valid	Artefact :-	Open Camp Site	102489
	Contact	Recorders	Michael Guider,Aboriginal Heritage Office							
45-6-1894	Rivendell;	AGD	56	323800	6254800	Open site	Valid	Art (Pigment or Engraved) :-	Rock Engraving	
	Contact	Recorders	Rivendell School Students							
45-6-1937	Rocky Point;Concord West;	AGD	56	323910	6254710	Open site	Valid	Artefact :-, Shell :-	Midden,Open Camp Site	
	Contact	Recorders	Michael Guider							
45-6-3039	Meadowbank Park Tennis Courts RYDE 203	GDA	56	322539	6256690	Open site	Valid	Grinding Groove: 3		
	Contact	Recorders	Aboriginal Heritage Office							
45-6-2029	Putney park 3; RYDE 208	GDA	56	325049	6254820	Closed site	Valid	Shell :-, Artefact :-	Shelter with Midden	102489

Report generated by AHIMS Web Service on 18/10/2022 for Gareth Holes for the following area at Datum :GDA, Zone : 56, Eastings : 321940.0 - 325940.0, Northings : 6254424.0 - 6258425.0 with a Buffer of 0 meters. Number of Aboriginal sites and Aboriginal objects found is 21

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