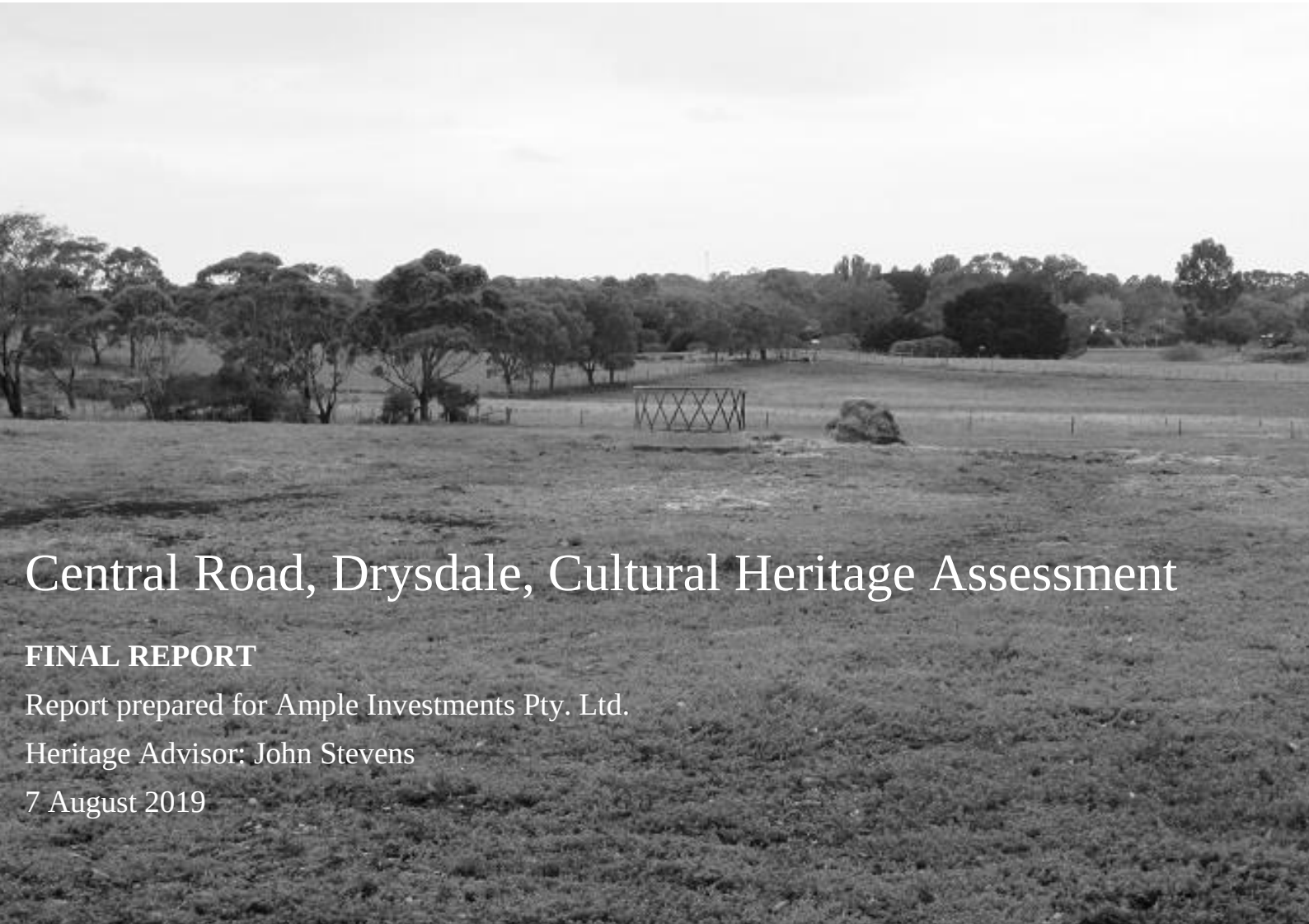

Central Road, Drysdale, Cultural Heritage Assessment

FINAL REPORT

Report prepared for Ample Investments Pty. Ltd.

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- Ample Investments
- Aboriginal Victoria

ABORIGINAL CULTURAL HERITAGE ASSESSMENT

1 BACKGROUND AND SCOPE

Cultural Heritage Management Group [CHMG] was commissioned by Ample Investments Pty. Ltd. to undertake a cultural heritage due diligence assessment for a proposed subdivision of land at Central Road, Drysdale [Figure 1]. This Aboriginal cultural heritage due diligence assessment presents the results of a desktop study and field assessment which aims to provide Ample Investments with management advice in line with requirements pertaining to the *Aboriginal Heritage Act* 2006. The site assessment was undertaken to determine land form types and existing conditions to facilitate a preliminary cultural and archaeological sensitivity map which is included in this report [Figure 2].

John Stevens [B. Archaeology [Hons]; B. Science [Hons] authored this report.

2 PROJECT AREA

The study area is located approximately 2 km west of the township of Drysdale, Victoria. The study area is located within the Municipality of the City of Greater Geelong [COGG] and is bounded by Jetty Road in the west, Thomas Street in the north, Sheileen Court and rural properties in the east and Wyndham street in the south [Figure 1].

3 PROJECT METHODOLOGY

Cultural Heritage Management Group has prepared this Aboriginal Cultural Heritage Assessment on behalf of Ample Investments. The cultural heritage assessment is preliminary at this stage and includes legislative advice and management recommendations to assist with future actions in relation to the project.

The following tasks were completed as part of this cultural heritage assessment:

- Review the relevant heritage databases [e.g. Victorian Aboriginal Heritage Register [VAHR] at Aboriginal Victoria [AV], COGG Overlays, Heritage Victoria Inventory and Register, National Trust] and other relevant available literature;
- Provide information in relation to any implications of Commonwealth and State environmental legislation and Government policy associated with the proposed development;
- Discuss any opportunities and constraints associated with the Study area;

- Map areas of archaeological likelihood and how they relate to the current lot plan;
- Production of the Aboriginal cultural heritage due diligence assessment.

4 DESKTOP ASSESSMENT

4.1 The Geographic Region: The Bellarine Peninsula

Drysdale is located on the Bellarine Peninsula approximately 26 kilometres east of Geelong between Curlewis to the west and Portarlington to the north. In a straight line, it is some 2.8 km from the northern shoreline of Port Phillip Bay. The study area is located on rural, low density residential allotments west of the Drysdale Township. The western border of the Study area is 1.7 km from the township centre.

The Bellarine Peninsula provides a natural geographic region; bounded by Port Phillip Bay and Bass Strait and also being the recorded territory of a Wada wurrung clan the Bengalat balug or the 'Bellarine People'. The project area samples an inland dune landform which extends across the centre-north of the peninsula. Comprising an uplifted landmass bounded by the Barrabool Fault to the north and the Bellarine Fault along the east [Bird 1993], the northern side of the Bellarine Peninsula fronts onto Port Phillip Bay and is characterised by a low energy coastline with sandy beaches separated by prominent bluffs and backed by eroding cliffs. In contrast, the southern side of the Peninsula fronts the coast of Bass Strait and its south-eastern point [Point Lonsdale] forms the western heads of the entrance to Port Phillip Bay

4.2 Landforms within the Geographic Region

The landforms on the Bellarine Peninsula vary from vast areas of shallow lakes and low-lying estuary [namely Lake Connewarre and Reedy Lake] to the uplifted Tertiary plain in the centre of the Peninsula, and the basalt hills between Drysdale and Portarlington [see Wright 1973; Bird 1993]. Inland sand dunes occur over much of the northern end of the Bellarine Peninsula and dominate the landscape around Drysdale. The study area samples the inland dune to the west of the township whose elevations allow for views of Port Phillip Bay, almost 3 km away.

Comprising three broad geomorphic divisions including the Western uplands, Western Plains and Southern Uplands [Robinson et al. 2003:7] – the Corangamite encompasses almost 13,350 square kilometres of south-western Victoria. The Southern Uplands division comprises the Bellarine Peninsula as the plateaux, with the deeply dissected Otways and moderately dissected Barrabool Hills to its west. Port Phillip Bay Sunkland lies to the north. Robinson et al. 2003: 7 identify the Bellarine Peninsula as part of the dissected low hills plateau of the Southern uplands sub-division: being a weakly dissected undulating plain of low elevation [less than 150m].

The surface geology of the Bellarine Peninsula consists primarily of sand sheets overlaying Miocene clays, bounded by the Curlewis Monocline in the north [Robinson et al. 2003: 23].

The hills in the centre of the Peninsula are formed from the oldest sand sheet, which is Tertiary in age [Bird 1993]. Parts of the Tertiary sand sheet have been weathered to form a 'gently rolling plain' and more recent sands of variable depth have in turn covered these. The flat areas at the top of the plain also consist of these recent [Quaternary] sands [see Wright 1973; Bird 1993].

Mount Bellarine [136m] and Murradoc Hill [ca 140m] are the two highest points on this landscape and provide views of the Port Phillip Bay and the eastern end of the Bellarine Peninsula [1:25,000 Map Sheet].

4.3 Drysdale Soil Units

Robinson et al's. [2003] mapping of soil and landform units [full text sourced from the DPI website, November 2016] indicates one major dominant soil-landform unit within Drysdale, Unit #82. These undulating rises and plains manifests as a dune field in the Curlewis area mantling a Neogene terrain [plateau]. Other studies identify the local dune field as overlaying the Tertiary to Pliocene Moorabool Viaduct Sands.

Robinson et al. [2003] suggests the presence of a range of sandy soil profiles. Approximately 70% of the unit comprises Quaternary sands, with the rest comprising Tertiary sands and clays. Quaternary sands typically comprise recent [Holocene] grey Aeolian sand deposits over slightly cemented orange crust and yellow [Pleistocene] formation [Robinson et al. 2003 Soil Unit CLA5], sands over sandy clays and sandy loams over sands. However, Robinson et al. [2003] also indicate that 'soils are difficult to map at this broad scale because of their diversity.

Even in relatively small areas, several soils may occur which relate to differences in topography and landscape position. Variation in some of the major soil profile properties can also occur within these mapped areas'. [Robinson et al. 2003: DPI website, November 2016].

4.4 Study area Hydrology

There are no named waterholes or creeks within the study area. While the swales between the dunes generally do not hold permanent water – indeed they were uniformly dry during the field assessment - they were probably less ephemeral in the past. The 1860s Geological Quarter Sheet for Drysdale for example, depicts drainage lines within the current swale formations to the east and west of Grigg's Creek; lines that are no longer obvious or in existence. The lines are also visible in 20th century aerial photography, leading to the overall suggestion that, as late as the 19th century, fresh water may have been much more abundant locally than at present.

4.5 Study area Topography

Heading south of the Curlewis Monocline near the Port Phillip Bay foreshore the topography rises steadily and leads to a gently sloping landscape with low hills and wide swales running in a north-easterly direction. The highest elevation appears to be gained at the far eastern end of

Thomas Street near where it meets Central Road and the deepest in the vicinity of Grigg's Creek [to the north of the Study area].

4.6 Flora and Fauna: Historical Observations

In 1802 Matthew Flinders described the northern coastline of the Bellarine Peninsula as 'gentle rising grassy hills of good soil' [Flinders 1802]. The land depicted in the 1859 Parish Plan for Bellarine township is marked as being timbered with oak and blackwood, a reference consistent with the vegetation described in Richardson's 1985 book of the first land holders in the area, Ms Ann Drysdale

4.7 1750s Ecological Vegetation Classes [EVCs]

The 1750's EVC [Biodiversity Interactive Mapping online November 2016] identifies the former vegetation as grassy woodland [175] and describes it as 'a variable open eucalypt woodland to 15m tall or occasionally Sheoak woodland to 10m tall over a diverse ground layer of grasses and herbs. The shrub component is usually sparse. It occurs on sites with moderate fertility on gentle slopes or undulating hills on a range of geologies'.

Tree species listed are: Eucalyptus radiata s.l. [Narrow-leaf Peppermint]; Eucalyptus leucoxylon ssp. bellarinensis [Bellarine Yellow-gum] and Allocasuarina verticillate [Drooping Sheoak]. The 2004 study, entitled Flora and Fauna Assessment, Clifton Springs [Lane et al. 2003 cited in COGG 2007: 28], indicates that much of the study area is dominated by exotic vegetation, and has been cultivated and grazed. The report also notes three small remnants of Grassy Woodland within and close to the study area; defined by mature Red River Gum with a ground layer dominated by weeds [COGG 2007:28].

The original vegetation is likely to have provided habitat for a range of animals that may have been utilised by the former Aboriginal occupants of the Drysdale area.

4.8 Colonial History

As one of the two locations from which Europeans colonised much of Victoria, Geelong has several written and illustrated historical accounts on the Aboriginal people of the area. Europeans first made written observations on the Aboriginal people of the Bellarine Peninsula from 1802, when explorers began to chart the entrance of Port Phillip Bay. Most of the accounts however relate to 1836 onwards when there was a permanent European presence. Clark [1990] collated the primary sources of this ethnohistory in his reconstruction of traditional language boundaries in western Victoria. These sources include journal entries and government correspondence produced by explorers such as Matthew Flinders and Charles Grimes, as well as settlers and missionaries, particularly G.A. Robinson, the Chief Aboriginal Protector.

William Buckley, an escaped convict from an aborted 1803 settlement at Sorrento, was adopted by the Wada wurrung and lived with them until July 1834. As recorded by Morgan [1852],

Buckley's reminiscences have also become an important source of historical data on the Aboriginal clans of the Wada wurrung area. Excluding Morgan [1852], most of the historical accounts of the early contact period refer to specific events, usually involving contact and conflict between settlers and the local Aboriginal clan.

There is little historical data from this period, when it could be assumed that at least some clans continued to live in traditional ways, which could be useful for understanding how the Wada wurrung peoples lived in earlier pre-contact times. Corris [1968] cited in Clark [1990] believes '[that] there is so little known about the social organisation of the Wada wurrung bespeaks the rapidity with which they were physically destroyed by settlers seeking undisputed possession of their land' [Clark 1990: 277]. As noted by Clark: 'By the end of 1836, the sheep runs of the 'ngamadjig' spread round Geelong within a semicircle of twenty-five miles' radius.

In the following year streams of squatters from Melbourne and Geelong met and thrust westwards towards the Colac district. The Bacchus Marsh lands were next to be occupied, and then the head-waters of the Leigh and Buninyong.

4.9 Aboriginal History of the Drysdale Region

The Wada wurrung Language Group Following Clark [1990], at the time of European contact the Bellarine Peninsula was part of the Wada wurrung language area. The Wada wurrung territory extended along the coast from Painkalac Creek at Aireys Inlet east into Port Phillip Bay to the Werribee River. It extended north as far as Fiery and Mt Emu creeks.

The Wada wurrung Clans Following Clark, Aboriginal clans were the 'landowning, land renewing and land sustaining unit of Aboriginal society'; occupied estates or home country and hunted and gathered over a range [Clark 1990: 4,5]. As explained by Clark;'…the tract or stretch of country identifiable as the economic range, normally included the estate and was thus owned by clans. The band seasonally occupied and utilised various parts of the range in a settlement pattern that was a response to the group's habitat' [Clark 1990: 4, 5]. He goes on to state that; 'the clans within a language grouping are capable of being distinguished based on differing linguistic and cultural characteristics [Clark 1990: 9]. Clark suggests there were twenty-seven Wada wurrung clans at the time of European contact. 'I have been able to reconstruct 27 Wada wurrung clans. Using Lourandos' [1977] estimates that clan sizes ranged from between 40 to 60, this would give a Wada wurrung population of between 1080 and 1620 at the time of contact. Dawson [1991] estimated clan sizes were 120, and this would give Wada wurrung a population of 3240. The real figure was probably somewhere between 1620 and 3240' [Clark 1990: 307].

Wada wurrung clans were patrilineal and organised into moieties belonging to either the Waa [crow] or Bunjil [eaglehawk] moiety – marriage partners were required to belong to different moieties [Clark 1990: 276-7, also see Barwick 1984: 105]. Clark noted that: 'Clan heads were known as either Nourenit/Narenit or Arweet. The Wada wurrung were the most powerful and influential people in the western district. During his 1841 tour Robinson met with many Wada

wurrung clan heads.'' The Wada wurrung clans who lived on the coast were the first to come into direct contact with the 'ngamadjig/amerjig' or white man.

As noted above, this occurred by at least 1802 '…when Lieut. John Murray in the Lady Nelson, charted part of Indented Head and named Swan Bay' [Clark 1990: 227]. The clan that occupied the areas around Geelong, the Wada wurrung balug, was probably the next to have direct contact with the white explorers and continued to have the same between 1802 and 1835.

The Bengalat balug Clan

According to Clark the clan who occupied the eastern end of the Bellarine Peninsula including Drysdale are thought to be the Bengalat balug [Clark 1990: Figure 11]. The accepted documentary evidence for the Bengalat balug is poor. As noted in Clark, the Bengalat balug's clan location was Indented Head; they were also known as the 'Bellarine People'. Their clan name Bengalat means people from Bengala, the Aboriginal word for Indented Head. The clan head was named Hullamboin [and synonyms] and the clan belonged to the Waa moiety [see Clark 1990: 317].

In his regional survey of the Bellarine Peninsula, Rhoads [1985] and G. Dunnett [in Rhoads 1985] present exhaustive lists of potential Aboriginal plant and animal resources, noting their habitat and seasonal availability. Given that Drysdale is close to Port Phillip Bay, it is possible that many of the resources listed for the coast and hinterland were present during pre-contact times and were used by the Bengalat balug.

4.10 European History of the Drysdale Region

Most historical sources generally agree that the first European to report on the Bellarine Peninsula was Lieutenant John Murray, who entered the mouth of Port Phillip Bay on February 14th 1802. He sailed around the area for one month and was then forced to return to Sydney due to a lack of supplies [Brownhill 1955: 1]. Later in the same year [26th April 1802], Flinders entered and crossed Port Phillip Bay on the 'Investigator' and viewed the Bellarine Peninsula and Indented Head from Arthur's Seat [Bluff Mount]. A few days later [20th April 1802] he took his boat and landed at Indented Head, where he camped that night and then moved further northwest along the Bellarine Peninsula, in the vicinity of Portarlington. He crossed Port Phillip Bay again to investigate the You Yangs, later returning to Indented Head.

In 1803 the 'Ocean' and the 'Calcutta' arrived at Sorrento, laden with convicts including William Buckley, settlers and marines. The settlement was abandoned apparently due to the poor quality of the soil and lack of potable water, and Lieutenant Tuckey set out on a five-day journey to explore the bay. On 27 December 1803, Buckley escaped and went on to live with the Wathaurong for the next 32 years, during which time there was little or no European exploration of the Bellarine Peninsula. In 1835, Buckley learned of three white men camped at Indented Head, who were part of John Batman's Port Phillip exploration party. The party had landed from the 'Rebecca' on 29th May 1835, and went on to explore the area once again on

9th June. They returned and later left three of the exploration party, who made a garden and built a house of sods. After some interaction with the local Aborigines, Buckley approached the camp on the 6th July 1835.

On 8 August 1835 surveyor John Wedge set off with four men, 'discovering' the Barwon and Moorabool Rivers before continuing southeast to Lake Connewarre, where they spent the night. Buckley, acting as an interpreter and guide, led an expedition to Lake Connewarre in 1836.

Drysdale District and Township

After 1836 and the European settlement of Geelong, the Drysdale area [like much of the Bellarine Peninsula] was divided into squatters runs and occupied by farmers or representatives thereof who grazed livestock. Much of this early history centres on Coriyule, which was run by Anne Drysdale and Caroline Newcomb, two of the district's pioneering women. Coriyule was a notable 1,357 acres and included a large masonry house built in 1849 [Geological Quarter Sheet 1860s]. Drysdale district was named after Anne Drysdale and had been previously known as 'McLeods Waterholes' and 'Bellerine'.

Coriyule Run

By the late 1840s, the Coriyule Run appears to have been limited to the south of Coriyule Road, bordering onto Thomas Sproat's 'Bellarine Hills' in the west [Spreadborough and Anderson 1983:270] and J. Williamson's 'Greenvale Estate' to the north [Spreadborough and Anderson 1983:103].

The run location took advantage of the nearby water holes [McLeods Waterholes and Lake Lorne], as the [once] …interlinking catchments, were the only fresh watering points between Geelong and Portarlington for the use of all road travellers, their teams and stock. Naturally they were closely safeguarded as they served such an important practical role in those early days…' [Richardson 1985:5].

Farming Allotments

The Bellarine Historical Society records how the first survey of Drysdale took place in 1848 and how the succession from large runs to smaller farm allotments soon followed with the sale of land.

Land near Drysdale was first sold by the crown in 1848, and all crown land available for sale was sold by the early 1850s. Thereafter except for township allotments, which were sold by the crown until the 1880s, sales of land around Drysdale [mainly for farming] were on behalf of private owners who usually subdivided the large Crown allotments in the parish of Bellarine. This meant that the district was not subject to selection of large areas of land under the selection acts of the 1860s as were districts more distant from Melbourne [Bellarine Historical Society website: 3 May 2009].

By the 1860s, the introduction of various Victorian Land Acts had meant that most of the early squatting runs were dissolved and replaced by small farming allotments purchased by 'Selectors'. In Drysdale, the earliest subdivisions occurred south of Grigg's Creek. The establishment of the Clifton Springs Spa in the late 1860s further consolidated this focus, with much of the land south of Grigg's Creek retained for agriculture.

The Department of Lands and Survey Plan of 1952, for example, still documents some of the original landowners over much of the township [from Weaver 2005: 31]. Significant growth within the township, therefore, only dates to the late 20th century and so far, has not comprised the area south of Grigg's Creek.

Agriculture and Farm Produce.

From the 1850's Drysdale become a significant farming district initially for wheat followed by onions and then potatoes. The Bellarine Historical Society suggests that '…Grain crops, particularly wheat, were an important farming activity in the 1860s…Onion growing took over as the major crop around Drysdale from the 1870s…Sowing of the crop was made easier from 1877 as the onion drill was invented by James Grieve…By 1902 the 'Bellarine Onion Drill' was reputed to be useful in sowing seed of many kinds of vegetables' [Bellarine Historical Society: 3 May 2009].

Local Roads

By 1851, the Geelong – Portarlington Road extended past McLeods Waterholes, following the present alignment of Jetty Road [formerly Mill Road], then along Wyndham Street to the centre of Drysdale [then known as the township of Bellarine], to continue onto Portarlington [Richardson 1985:6]. Jetty Road appears to have extended to the foreshore by at least 1852. It was known as the Mill Road, being utilised to transport produce from the Bellarine Flour Mill.

4.11 Previously Registered Sites within 1 km of the Study area

Geelong-Queenscliff Railway Line BPAS 060 [VAHR 7821-0393]

The nearest human burial to the study area is VAHR 7821-0393 [Geelong-Queenscliff Railway Line BPAS 060], registered by Stockton in the 1980s. It lies within 600m of the Study area and according to the site card, the burial had been removed/destroyed from the location of the former Geelong-Queenscliff railway line during the 1940s; a time when the railway line had been partly decommissioned. The exact location of the burial is unknown, but given the local archaeological record for human burials [Clark 1984, Bennett and Clark 1988] it is most likely that this was an isolated interment.

Registered VAHR places within 166 Jetty Road

Weaver registered four stone artefact scatters located just west of the study area, Other local sites outside the study area were registered in 2008 and 2009, within 166 Jetty Road [VAHR 78210782-785].

- VAHR 7821-0782 [166 Jetty Road 1]; A 95 x 20m site comprising a 20 x 20m exposure of surface stone artefacts located on the western slope of a dune ridge line and within the plough zone. One artefact was located within sub-surface sediments. Interpreted as a low-density artefact scatter.
- VAHR 7821-0783 [166 Jetty Road 2]; A surface scatter of artefacts over 20 x 20m recorded as a result of survey on a ridge north of the Study area. According to the site card, sub-surface testing via shovel probes, across a wider area [approx. 50 x 50m], 'failed to reveal further Abor. Cult, mat. [sic]'
- VAHR 7821-0784 [166 Jetty Road 3]; A scatter of 3 stone artefacts recorded as a result of the excavation of 13 shovel probes and one Test Pit, within a grassland slope, east of Grigg's Creek. According to the site card 'indicates a very low density scattering of Aboriginal cultural material across the slope'.
- VAHR 7821-0785 [166 Jetty Road 4]; An artefact scatter and collection recorded as a result of shovel probe testing below ploughed sandy sediments bounding 230 Jetty Road. The site is in flat grasslands east of dune deposits bordering Grigg's Creek. All stone artefacts were located close to the clay base.

McCleods Waterhole and Grigg's Creek McLeods

Within the geographic region and to the east of the study area a high density of registered Aboriginal cultural heritage places occurs at McLeods Waterholes, which are part of the Drysdale Recreation Reserve.

Waterholes and the relatively deep drainage alignment of Grigg's Creek are the major local sources of permanent water. This creek extends in a north-easterly direction, from the foreshore to a pump station facility situated at 200 Jetty Road immediately adjacent to the southern section of the study area. Both were also important sources of water historically, with archaeological evidence of Aboriginal settlement near the water holes cementing their prominence prior to European settlement.

Notably, the bay side town of Clifton Springs owes its name and part of its earliest development to the establishment [from the 1870s] of the Clifton Springs Spa Resort, near the foreshore [Luebbers and Zada 2008].

4.12 Previous Archaeological Assessments

Several previous archaeological assessments have been undertaken within the broader Jetty Road Urban Growth corridor. The corridor comprised a range of allotments west of Jetty Road, north of the Bellarine Rail Trail and south of the foreshore, including land immediately west of

the study area. It was prepared for Ingles Development Pty Ltd. and followed on from Stockton's [1983/4] and Rhoads' [1985].

Bellarine Peninsula Survey.

This previous research and Natalie Paynter's 2005 most recent survey of the Study area are summarised below and, with regard to individual Aboriginal cultural heritage places in Table 1. Bellarine Peninsula [Survey -Stockton and Rhoads 1983/4 and 1985] In 1985 Rhoads [following Stockton 1983/84] presented a review of and management recommendations for known Aboriginal archaeological sites and archaeologically sensitive landforms for the entire Bellarine Peninsula. Over 140 Aboriginal archaeological sites were recorded as part of the project, including within land immediately west and south of the study area.

Jetty Road Urban Growth Corridor [Weaver 2005]

Weaver's 2005 project encompassed Aboriginal and European cultural heritage within the current Study area and in several adjoining properties to its west and the north. A detailed historical assessment was presented for each allotment within the proposed Ingles development, followed by a vehicle and pedestrian survey.

Weaver relocated many of the sites first recorded by Stockton and Rhoads in 1983 in their Bellarine Peninsula Survey, as well as identifying further areas of cultural sensitivity and registering new cultural heritage places. Based on an accompanying field analysis of stone artefacts she found that the assemblages consisted of common raw materials and types, associated with recent sediments, and were therefore of low significance. One archaeological stone scatter [VAHR 7821-0392] was of medium significance [Weaver 2005:62] because of its higher artefact density.

Paynter 2005 Survey [site cards only]

In 2005, and presumably following on from Weaver 2005, Natalie Paynter appears to have also surveyed land immediately west of the study area for developers King and Stockton. While there is no accompanying report available on the VAHR database, new and revised site cards suggest that she recorded additional archaeological sites within land immediately west of the study area; and re-inspected some of the original sites documented by Stockton and Rhoads in the 1980s.

Without any further documentation, it is not possible to be more certain about the purpose of this survey; the methodology, results and the reasons why some previously registered sites were re-recorded by Paynter.

Other Local Aboriginal Archaeological Assessments

Elsewhere in Drysdale and Clifton Springs there have been several archaeological surveys for both historical and Aboriginal heritage values. At Clifton Springs, most of the archaeological surveys have been conducted close to the foreshore at the former Clifton Springs Spa [see Luebbers 1998 and Luebbers and Zada 2008].

Aboriginal archaeological sites have been recorded at The Dell's upper carpark [VAHR 7721-463] and by Marshall and Paynter [2003] at the Clifton Springs Golf Course [VAHR 7721-586]. Marshall [see TerraCulture 2003] examined the location of 74-80 Wyndham Street, just to the east of the study area and north of McLeods Waterholes.

Louis Lane [site cards only]

Most of the known Aboriginal archaeological sites at the nearby McLeods Waterholes were recorded in the 1970s by Louis Lane, of the Bellarine Historical Society, who registered 21 locations [VAHR 78210033 to 7821-0053]. Lane's sites include scatters of stone artefacts made on a variety of raw material; bone implements, mounds and burials.

Marshall [1997] undertook an archaeological survey at McLeods Waterholes on behalf of the COGG, who were planning to augment the artificial western embankment. At three of Lane's previously recorded places [VAHR 7821-46, 7821-50 and 7821-33] flaked stone scatters, comprising quartz and silcrete were relocated during the survey but no additional sites were recorded [Marshall 1997:3].

Aboriginal Burials VAHR 7821-0073 and 0373 [Clark 1984 and Bennett and Clark 1988]

In April 1984 David Clark documented an in situ Aboriginal burial, which was part of a registered site [VAHR 7821-0073] within the Drysdale recreation reserve [McLeods Waterholes]; to the south of the Study area. The burial was exposed on a nodal dune ridge that had been disturbed by trail bikes, but the burial was found to be in situ. Its age was later determined to be ~1000 years BP.

A further burial in the reserve, reported on by Bennett and Clark [1988], was located in 1985, by men working on a drainage ditch. This burial was salvaged after consultation with the stakeholders and the Aboriginality of the skeleton determined by skull morphology and other features of the mandible and teeth. The pattern of teeth wear and an iron artefact indicated that this was a post contact burial, thought to be less than 150 years old. Further observations on the cranial and postcranial remains led to the conclusion that the skeleton belonged to a mature aged female. Charcoal above the pelvic region indicated that a 'fire was lit above the body prior to the grave being filled'. They also note that the '…body was interred in a crouched position with the knees drawn up to the chest and the hands in front of the face. This method of interment is a common traditional practice and indicated that the burial took place before the influence of the missionaries had an impact' [Bennett and Clark 1988:11].

No analysis of the stone artefacts was offered but the site card records some of the detail. Given that the burial was a historical event i.e. after white settlement it is likely that any association between the skeletal remains and the stone artefacts was a depositional one only, due to the intrusion of the latter into older deposits. The postscript in the report notes that the skeletal remains were re-interred at the Drysdale Cemetery. Importantly, Bennett and Clark note that three previous burial sites at McLeods Waterholes were all found within occupation sites. In contrast, burial VAHR 7821-0373 was not associated with an occupation site.

4.13 Conclusions from the Desktop Assessment

With its location on the Bellarine Peninsula, the study area has considerable physical, natural and historical information relevant to an understanding of its former use by the Wada wurrung [and possibly the Bengalat balug clan] and their ancestors. The temperate climate, its proximity to Port Phillip Bay and McLeods Waterholes [which historically at least was one of the few reliable sources of potable water on the north-eastern Bellarine] and sampling the peninsula's inland dune field, means that Aboriginal archaeological deposits within the study area are highly likely.

A search of the VAHR shows that there are around forty Aboriginal cultural heritage places located within two kilometres of the study area, largely near McLeod's Waterholes and along the foreshore. At the same time, the Bellarine Peninsula was a launching place for the European colonisation of Victoria and explored by the likes of Batman and it was also likely that once resettled, it had more-or-less continuous use since 1836; albeit mostly agricultural.

The physical remnants of the Bellarine Flour Mill [H7821-0114], located immediately west of the study area; are perhaps the best evidence that the former use/s of the local landscape was intense, and probably impacted on the form and integrity of any Aboriginal heritage that may have been present. McLeods Waterholes [Drysdale Recreation Reserve] is within the same landform as and close to the study area and previous investigations have demonstrated that this reserve contains a high density of archaeological sites. Louis Lane of the Bellarine Historical Society was arguably one of the first antiquarians to recognise the significance of the waterholes for its Aboriginal heritage and is responsible for many of the early registrations [VAHR 7821-0033 to 7821-0053]. Although these registrations include unverified deposits such as mounds, subsequent investigations confirmed the Aboriginal origins of the stone component of these registered archaeological places [e.g. Marshall 1997].

Also at McLeods Waterholes, Clark [1984] and Bennetts and Clark's reports on the burials [VAHR 78210037 and VAHR 7821-00373] demonstrated a co-occurrence between the late Holocene interments and other archaeological material that represented more general occupation such as stone artefacts. The demonstration of in situ subsurface deposits is perhaps the most significant result of Clark and Bennett's work, with most of the place registrations being based on artefacts from disturbed surface contexts.

VAHR 7821-0373 was a historical burial which demonstrated an association between the Wada wurrung and McLeods Waterholes well into the colonial period. Notwithstanding the significance of the local Aboriginal burials, the previous research within the geographic region shows that low density stone artefact scatters dominate the local archaeological record. These places appear to increase in density with increasing proximity to sources of potable water such as McLeods Waterholes and Griggs Creek and to Port Phillip Bay.

The presence of Aboriginal cultural heritage around the study area had been confirmed during previous heritage investigations. These had either sampled the area as part of regional investigations [Stockton 1983/84 and Rhoads 1985] or had specifically surveyed the area for planning and developmental purposes [Paynter's 2005 site cards, Weaver 2005].

The proximity of these registered scatters indicates that they were probably part of the same archaeological distributions and could reasonably be grouped together: i.e. VAHR 7821-0392 with 7821-0633 and VAHR 7821-0389 with 7821-0634/0635. The reasons why they were registered as separate distributions in the first instance is unclear; the revised extents more accurately reflect the continuous nature of stone artefact scatters across the elevated sections of the dunes around the study area. Of the previously registered sites, Scarborough House 2 [7821-0404] was recorded along Jetty Road immediately west of the study area during the Bellarine Survey [Stockton 1983/4 and Rhoads 1985]. However, the complete absence of Aboriginal cultural heritage material in this area during the previous surveys [Paynter 2005 site cards, Weaver 2005], and the relatively low elevation landform, suggests that this was a low-density artefact scatter whose main component is located to the west.

Aboriginal Burials

As noted above, the nearest human burial to the study area is VAHR 7821-0393 [Geelong-Queenscliff Railway Line BPAS 060], registered by Stockton in the 1980s. According to the site card, the burial had been removed from the location of the former Geelong-Queenscliff railway line during the 1940s; a time when the railway line had been partly decommissioned.

The registered location of this burial places it within 600m of the study area. This is an estimate only and the real distance between this burial and study area is unknown. Regardless, VAHR 7821-0393 is one of several burials associated with the sand dunes around Drysdale and indicates that the study area is possibly sensitive for this type of Aboriginal cultural heritage place.

It appears that this burial and the burials at McLeods Waterholes, were discovered due to local erosion or earthworks but importantly were at depths and in deposit types which would be systematically tested as part of the field excavation program that's part of a CHMP.

At this stage, other than landform type and the occurrence of stone artefact scatters which demonstrates previous occupation there is no other indicator that the study area may contain Aboriginal burials. McLeods Waterholes to the south appears to have been the strongest

influence on the inland distribution of Aboriginal cultural heritage material in the Drysdale area, which includes burials. There are many possible reasons for this such as the permanency of its potable water. At the same time, this high site density may also be an artefact of the historical use of the area, as a declared reserve since 1871 which effectively protected the area and its heritage from the impacts of agriculture and industry.

In contrast, since the 1830s, the study area has been continually subjected to both activities as noted above, lessening the prospect for human burials.

4.14 Desktop Assessment Summary

In summary, the sand dunes within the study area present an elevated landform with a soft sandy matrix relatively lose to water; all predeterminants for Aboriginal camp site locations.

The following is a summary of desktop information and of observations by the heritage advisor about previous assessments within or adjacent to the Study area and other relevant background data.

- The study area consists of open farm paddocks close to and at the corner of Jetty and Wyndham Street.

- The local landscape is part of the former area occupied by Aboriginal peoples belonging to the Wada wurrung language group and possibly the Bengalat balug clan.

- The proposed activity falls within a single landform ‘inland sand dune’. Sediments within the dunes vary, but the Geomorphological assessment suggests that they generally comprise Quaternary Aeolian sands over earlier [probably Tertiary paleosol] sands, unconsolidated limestone and clays.

- Part of the study area [the dune ridge in the central section] is one of the highest points in the locality and due to its elevation and shape [a natural amphitheatre] may have had some strategic importance in the past.

- Due to differing uses during the period of European occupation at least, the surface of the ground within the study area varies in its degree of disturbance and integrity. Parts of the study area continue to be utilised for farming; grazing livestock and cropping.
- A search of the Victorian Aboriginal Heritage Register indicates that there are several Aboriginal cultural heritage places, in the form of flaked stone scatters, immediately west of the study area; [7821-0392; 7821-0633, 7821-0389, 7821-0634, 7821-0635]. Traces of one other artefact scatter [VAHR 7821-0404] have not been recorded in the south west of the study area for the last 30 years or so, and given the mode of original records and the landform and elevation, the potential for rediscovery is very low.

- Approximately 40 other Aboriginal cultural heritage places are located within two kilometres of the study area, the closest of which is within the dense distribution of sites adjacent McLeods Waterholes in the south and the ocean foreshore to the north.

- These places are largely shell middens and artefact scatters. The neighbouring allotment to the east [part of CHMP 10730] contains part of VAHR 7821-0392, but is at a lower elevation.

- Previous archaeological assessments within comparable sandy sediments to the study area [for example, Marshall and Paynter 2003a and 2003b, Chamberlain et al. 2003, Marshall 2007, Tucker and Marshall 2009] - and elsewhere within the vicinity of Drysdale - have demonstrated that both stone artefact scatters and shell middens are common in the most recent [Holocene] grey sands that cap either deeper Tertiary deposits or later Pleistocene beach sands. It is these sediments that are sensitive for Aboriginal cultural heritage Places.

5 SITE ASSESSMENT

The field assessment for this due diligence was undertaken by CHMG heritage advisor John Stevens. Access was not permissible at the time of the assessment, so the survey was restricted to vehicular inspections along public roads and access tracks. Because site access was not possible during the site assessment inspection was limited to broad-scale landform mapping. None of the properties within the study area were surveyed for cultural heritage.

The survey took the following route. East along Wyndham Street from Jetty Road with two stops to assess landform types in the southern section of the study area, two photos were taken here. The survey then proceeded to Sheileen Court to assess the higher landform in this location.

The survey then returned to Wyndham Street and travelled in a westerly direction to Central Road. The survey proceeded in a northerly direction along Central Road stopping three times to map landforms and take photos. The survey continued north beyond the limits of the study area before turning left into Ada Street and continuing in an easterly direction to Jetty Road before turning left and heading south to the corner of Jetty Road and Thomas Street.

Thomas Street provided a good southern outlook across the study area, and a large portion of landform mapping occurred here, and several photos were taken. The survey continued to the end of Thomas Street; however, it does not intersect with Central Road. Once back at the intersection of Thomas Street and Jetty Road a left turn was made and the generally low lying section of the study area was assessed between Jetty Road and Wyndham Street. This completed the vehicular survey.

Figure 2 shows the results of landform mapping. The green overlay in the south has no relationship to the site assessment, this overlay is generated automatically from AV's online database and represents a 200-metre buffer from McLeod's Waterholes, which is considered an

area of cultural heritage sensitivity. The purple shading on Figure 2 represents an area of moderate archaeological sensitivity and the yellow shading areas of high sensitivity. Areas with no shading represent low or no archaeological sensitivity.

The following observations were made during the site assessment;

- The study area increases in elevation from west to east, with the highest points all located east of Central Road.

- Areas of moderate archaeological potential were identified throughout the study area; except for the south-west quadrant at the intersection of Jetty Road and Wyndham Street, which has low potential for cultural heritage.

- Although preliminary at this stage, there did not appear to be any mature native trees within the study area, so Aboriginal scar tree sites are unlikely to be identified.

- The upper crests of all elevated areas have moderate potential for cultural heritage.

Plate 1. The study area northern perspective taken from Wyndham Street.

Plate 2. The study area south-east perspective taken from Thomas Street.

6 CULTURAL HERITAGE LEGISLATION

6.1 Aboriginal Heritage Act 2006

The *Aboriginal Heritage Act 2006* protects Aboriginal cultural heritage in Victoria. A key part of the legislation is that Cultural Heritage Management Plans [CHMPs] are required to be prepared by Clients [the Sponsor] and qualified Cultural Heritage Advisors in accordance with the *Aboriginal Heritage Act 2006* and the accompanying *Aboriginal Heritage Regulations 2007*. A CHMP is the assessment of an area [known as an 'Study area'] for Aboriginal cultural heritage values, the results of which form a report [the CHMP] which details the methodology of the assessment and sets out management recommendations and contingency measures to be undertaken before, during and after an activity [development] to manage and protect any Aboriginal cultural heritage present within the area examined.

The preparation of a CHMP is mandatory under the following circumstances:

- If the *Aboriginal Heritage Regulations 2007* require a CHMP to be prepared [s. 47];

- If the Minister of Aboriginal Affairs Victoria requires a CHMP to be prepared [s. 48]; or
- If an Environmental Effects Statement is required by the *Environmental Effects Act 1978* [s. 49].

The *Aboriginal Heritage Regulations 2007* require a CHMP to be prepared:

- If all or part of the proposed activity is a 'high impact activity'; and
- If all or part of the Study area is an area of 'cultural heritage sensitivity'; and
- If all or part of the Study area has not been subject to 'significant ground disturbance'.

The preparation of a CHMP can also be undertaken voluntarily. Having an Approved CHMP in place can reduce risk for a project during the construction phase by ensuring there are no substantial delays if sites happen to be found. Monitoring construction works is also rarely required if an approved CHMP is in place.

Approval of the CHMPs is the responsibility of either DPCD [AAV] or the Registered Aboriginal Parties. They will be examining the CHMPs in detail with key points including:

- Addressing whether harm to heritage can be avoided or minimised;
- All assessments [including test excavations] must be completed before management decisions are formulated; and,
- Survey and excavation must be in accordance with proper archaeological practice and supervised by a person appropriately qualified in archaeology.

There are three types of CHMPs that may be undertaken. These are:

- Desktop;
- Standard; and,
- Complex.

A desktop CHMP is a literature review without fieldwork. If the results of the desktop show it is reasonably possible that Aboriginal cultural heritage could be present in the Study area, a standard assessment will be required.

A standard assessment involves literature review and a ground of survey the Study area. Where the results of ground survey undertaken during a standard assessment has identified Aboriginal cultural heritage within the Study area, soil and sediment testing using an auger no larger than twelve centimetres in diameter may be used to assist in defining the nature and extent of the identified Aboriginal cultural heritage [Regulation 59[4]].

Where the results of ground survey undertaken during a standard assessment has identified Aboriginal cultural heritage within the Study area or areas which have the potential to contain

Aboriginal cultural heritage subsurface, a complex assessment will be required. A complex assessment involves a literature review, a ground of survey, and subsurface testing. Subsurface testing is the disturbance of all or part of the Study area or excavation of all or part of the Study area to uncover or discover evidence of Aboriginal cultural heritage [Regulation 62[1]].

It is strongly advised that for further information relating to heritage management [e.g. audits, stop orders, inspectors, forms, evaluation fees, status of RAPs and penalties for breaching the Act] Clients should access the Aboriginal Affairs Victoria website [http://www.aboriginalaffairs.vic.gov.au/].

7 COMMONWEALTH LEGISLATION

7.1 Native Title Act 1993

Native Title describes the rights and interests of Aboriginal and Torres Strait Islander people in land and waters, according to their traditional laws and customs. In Australia, Aboriginal and Torres Strait Islander people's rights and interests in land were recognised in 1992 when the High Court delivered its historic judgment in the case of Mabo v the State of Queensland. This decision overturned the legal fiction that Australia upon colonisation was terra nullius [land belonging to no-one]. It recognised for the first time that Indigenous Australians may continue to hold native title.

Native Title rights may include the possession, use and occupation of traditional country. In some areas, native title may be a right of access to the area. It can also be the right for native title holders to participate in decisions about how others use their traditional land and waters. Although the content of native title is to be determined according to the traditional laws and customs of the title holders, there are some common characteristics. It may be possessed by a community, group, or individual depending on the content of the traditional laws and customs. It is inalienable [that is, it cannot be sold or transferred] other than by surrender to the Crown or pursuant to traditional laws and customs. Native Title is a legal right that can be protected, where appropriate, by legal action.

Native Title may exist in areas where it has not been extinguished [removed] by an act of government. It will apply to Crown land but not to freehold land. It may exist in areas such as:

- Vacant [or unallocated] Crown land;
- Forests and beaches;
- National parks and public reserves;
- Some types of pastoral leases;
- Land held by government agencies;

- Land held for Aboriginal communities;
- Any other public or Crown lands; and,
- Oceans, seas, reefs, lakes, rivers, creeks, swamps and other waters that are not privately owned.

Native Title cannot take away anyone else's valid rights, including owning a home, holding a pastoral lease or having a mining lease. Where native title rights and the rights of another person conflict; the rights of the other person always prevail. When the public has the right to access places such as parks, recreation reserves and beaches, this right cannot be taken away by Native Title. Native Title does not give Indigenous Australians the right to veto any project. It does mean, however, that everyone's rights and interests in land and waters have to be taken into account.

Indigenous people can apply to have their native title rights recognised by Australian law by filing a native title application [native title claim] with the Federal Court. Applications are required to pass a test to gain certain rights over the area covered in the application. The Native Title Tribunal [NNTT] was established to administer application processes. Once applications are registered, the NNTT will notify other people about the application and will invite them to become involved so all parties can try to reach an agreement that respects everyone's rights and interests. If the parties cannot agree, the NNTT refers the application to the Federal Court and the parties argue their cases before the Court.

As a common law right, native title may exist over areas of Crown land or waters, irrespective of whether there are any native title claims or determinations in the area. Native Title will therefore be a necessary consideration when Government is proposing or permitting any activity on or relating to Crown land that may affect native title[1].

7.2 Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* [*EPBC Act*] provides a national framework for the protection of heritage and the environment and the conservation of biodiversity. The *EPBC Act* is administered by the Australian Government Department of Sustainability, Environment, Water, Population and Communities [SEWPaC]. The Australian Heritage Council assesses whether or not a nominated place is appropriate for listing on either the National or Commonwealth Heritage Lists and makes a recommendation to the Minister on that basis. The Minister for the SEWPaC makes the final decision on the listing. The SEWPaC also administers the Register of the National Estate. The objectives of the *EPBC Act* are:

[1] The information in this section was taken from the Department of Sustainability and Environment, Fact Sheet on Native Title, 2008.

- To provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance;
- To promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources;
- To promote the conservation of biodiversity;
- To provide for the protection and conservation of heritage;
- To promote a cooperative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples;
- To assist in the cooperative implementation of Australia's international environmental responsibilities;
- To recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and
- To promote the use of indigenous peoples knowledge of biodiversity with the involvement of, and in cooperation with, the owners of the knowledge.

8 DATABASE SEARCHES

8.1 Victorian Aboriginal Heritage Register

A search of the Victorian Aboriginal Heritage Register [VAHR] for information relating to the study area was undertaken. The study area was assessed for existing Aboriginal cultural heritage places and areas of cultural heritage sensitivity. To ensure that a relevant and representative sample of information was obtained as part of this assessment sites and areas of cultural heritage sensitivity within a radius of 1 km from the centre point of the study area was also undertaken [refer to Figure 2].

8.2 Aboriginal Cultural Heritage Sites Identified

One Aboriginal cultural heritage place has been previously registered within the study area McLeod's Waterholes 14 [VAHR 7821-0048] comprising an artefact scatter of an unknown quantity [Table 1 and Figure 2]. The lack of sites across the broader area is likely a product of a lack of survey rather than a reflection of Aboriginal site use.

A total of 62 Aboriginal cultural heritage sites have been previously recorded within 1 km of the central section of the study area comprising 31 artefact scatters, 27 low-density artefact distributions, two Aboriginal burial sites and two object collections These sites are detailed in Table 1 below.

Aboriginal Place No	Aboriginal Place Name	Component Type	Easting	Northing
7821-0024	DRYSDALE	Artefact Scatter	285788	5771883
7821-0033	MCLEODS HOLES 1	Artefact Scatter	286187	5772022
7821-0034	MCLEODS HOLES 2	Artefact Scatter	286069	5771955
7821-0035	MCLEODS HOLES 3	Artefact Scatter	285975	5771963
7821-0036	MCLEODS HOLES 3X	Artefact Scatter	285904	5771967
7821-0037	MCLEODS HOLES 4	Aboriginal Ancestral Remains (Burial)	285755	5771877
7821-0037	MCLEODS HOLES 4	Artefact Scatter	285755	5771877
7821-0038	MCLEODS HOLES 5	Artefact Scatter	285704	5771801
7821-0039	MCLEODS HOLES 6	Artefact Scatter	285549	5771665
7821-0040	MCLEODS HOLES 7	Artefact Scatter	285556	5771744
7821-0041	MCLEODS HOLES 8	Artefact Scatter	285686	5772057
7821-0042	MCLEODS HOLES 9	Artefact Scatter	285787	5772003
7821-0043	MCLEODS HOLES 9X	Artefact Scatter	285771	5771946
7821-0044	MCLEODS HOLES 10	Artefact Scatter	285816	5772012
7821-0045	MCLEODS HOLES 11	Artefact Scatter	285930	5772046
7821-0046	MCLEODS HOLES 12 & 12X	Artefact Scatter	286129	5772204
7821-0047	MCLEODS HOLES 13A & 13B	Artefact Scatter	286351	5772212
7821-0048	**MCLEODS HOLES 14**	**Artefact Scatter**	**286384**	**5772320**
7821-0049	MCLEODS HOLES 15	Artefact Scatter	286661	5772021
7821-0050	MCLEODS HOLES 16 & 16X	Artefact Scatter	286347	5772046
7821-0051	MCLEODS HOLES 17	Artefact Scatter	286168	5771944
7821-0052	MCLEODS HOLES 18	Artefact Scatter	285989	5771764

Aboriginal Place No	Aboriginal Place Name	Component Type	Easting	Northing
7821-0053	MCLEODS HOLES 19	Artefact Scatter	285908	5771787
7821-0373	MCLEODS HOLES 20	Aboriginal Ancestral Remains (Burial)	286423	5772002
7821-0389	JETTY RD 1 BPAS 56	Artefact Scatter	285510	5772253
7821-0389	JETTY RD 1 BPAS 56	Object Collection	285510	5772253
7821-0390	DRYSDALE RECREATION RESERVE BPAS 57	Artefact Scatter	286212	5771984
7821-0391	BPAS 58	Artefact Scatter	285605	5771745
7821-0594	WYNDHAM STREET 1	Artefact Scatter	286569	5772439
7821-0627	MC DERMOTT RD 1	Artefact Scatter	285476	5772802
7821-0784	166 JETTY RD 3	Artefact Scatter	285148	5772744
7821-0784	166 JETTY RD 3	Object Collection	285148	5772744
7821-0785	166 JETTY ROAD 4	Artefact Scatter	285305	5772504
7821-0848	Coriyule Road 4	Artefact Scatter	284983	5772523
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286531	5771944
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286531	5771944
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286368	5772111
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286368	5772111
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286345	5772081
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286345	5772081
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286345	5772081
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286345	5772081
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286243	5771979
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286243	5771979

Aboriginal Place No	Aboriginal Place Name	Component Type	Easting	Northing
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286317	5771983
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286337	5771975
7821-0882	Drysdale Reserve LDAD	Low Density Artefact Distribution	286343	5772111
7821-0883	Drysdale Reserve	Artefact Scatter	286415	5772064
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285641	5772005
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285641	5772005
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285641	5772005
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285641	5772005
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285677	5772012
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285677	5772012
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285663	5772000
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285680	5772019
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285684	5772025
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285680	5772023
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285679	5772020
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285679	5772020
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285621	5771993
7821-0896	219 Jetty Road A.S.	Low Density Artefact Distribution	285626	5771989

Table 1: Registered Aboriginal Place details within 1 km of the study area.

9 CULTURAL HERITAGE SIGNIFICANCE

9.1 What is Cultural Heritage Significance?

Aboriginal archaeological sites can take in immense scientific or social significance; such sites can comprise special significance for the RAP Applicant [WTLCCHC] and Traditional Owners [BWFL and BLCAC]. The Aboriginal history of Australia spans 60,000 years and includes unique traditional culture that has demonstrated diverse local and regional challenges and responses to environmental changes [Mulvaney and Kamminga 1999]. However, the diverse Aboriginal communities throughout Australia today, constitute a 'visibly oppressed and disadvantaged minority'; scientific and social elements can offer their heritage and history a unique significance [Pearson and Sullivan 1995: 157].

Cultural heritage significance of any Aboriginal archaeological site of intangible place [e.g. natural/cultural landscape] in terms of its social value lies mainly in its association with the relevant Aboriginal stakeholders. Social significance is regularly characterised in terms of the degree of contemporary community esteem which is attached to archaeological sites and intends to ascertain whether, for example, damage to sites or its contents would cause the Aboriginal stakeholders a sense of loss, or whether the site[s] contributes a sense of community identity to the Aboriginal stakeholders [after Burke and Smith 2004: 250].

9.2 Significance in Accordance with Aboriginal Tradition

An Aboriginal archaeological site can also mean a sacred or important religious site; it may be important in post-European Aboriginal history and it may also tell the story of Aboriginal contact with Europeans, or their subsequent history. A site may also be a place with no traditional associations, or an archaeological site unknown to the Aboriginal communities; but it may, if unexpectedly discovered during the proposed activity, acquire importance to the Aboriginal stakeholders of what it symbolizes, and because it represents past Aboriginal lifestyles [e.g. Pearson and Sullivan 1995: 19, 159].

10 FUTURE ACTIONS

10.1 Aboriginal Cultural Heritage

Action 1.

A CHMP will be a mandatory requirement for the project because the majority of the study area contains a cultural heritage sensitivity overlay [Figures 1-2].

Action 2.

Considering the above, it should be noted that Aboriginal burials have been identified within similar landform types within 1km of the study area. A CHMP covering the entire study area should be considered by the Proponent to ensure no burials are identified during development-related activities,

which would force a stop works order until the remains are managed per contingencies provided within a CHMP.

Action 3.

Based on prior soil profile mapping and geomorphological data, the sand cover is unlikely to preserve cultural remains older than 12,000 years. The presence of a much older underlying surface would provide the only possibility of Pleistocene antiquity. Limited exposure at the surface of the sand – palaeosol contact displays no such evidence.

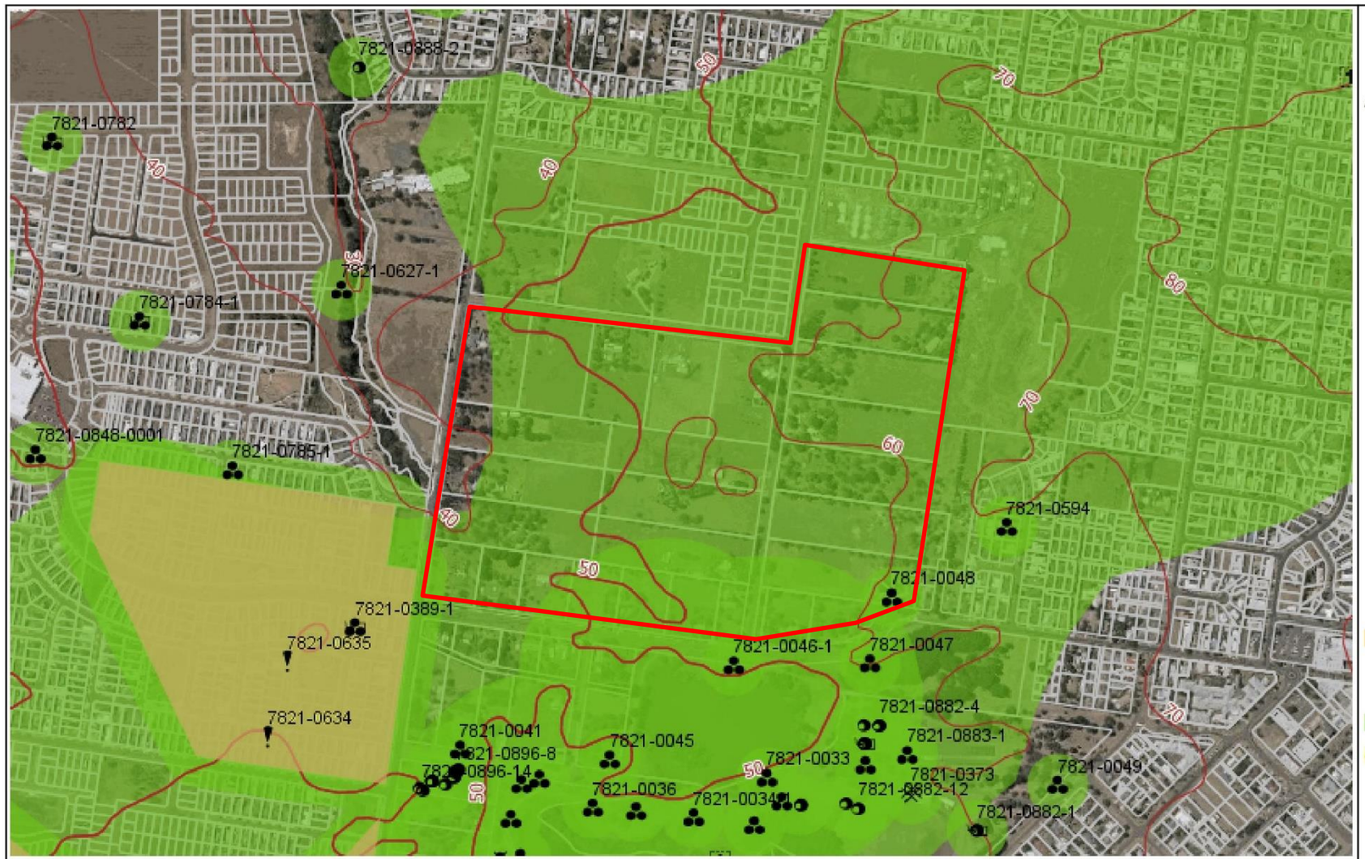
If a CHMP is undertaken then excavation undertaken as part of the CHMP should seek to check against the possibility of pre-Holocene cultural remains, at least one excavation should be opened down to that erosional sand-palaeosol contact. Such excavation site (or sites) should be based on auger probes to define where sand cover is less than 2 m thick above the erosional contact.

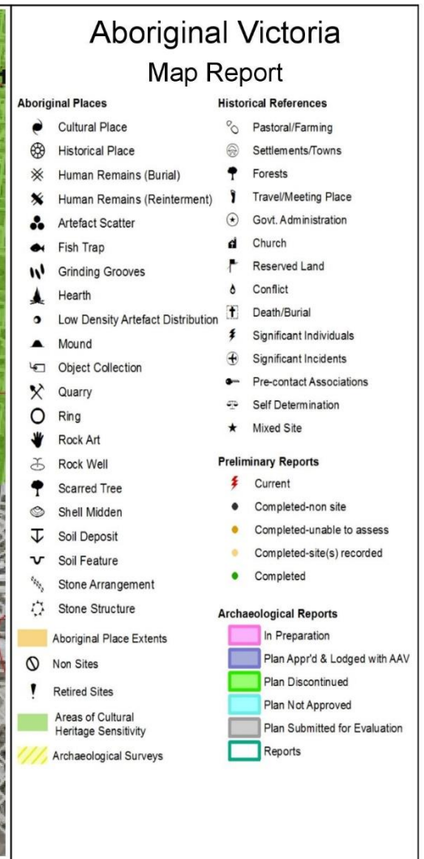
Action 4.

Because there is previously registered cultural heritage within the study area; McLeods Holes 14 [VAHR 7821-0048], this site will need to be managed in accordance with the *Aboriginal Heritage Act* 2006. This includes re-visting the site, updating its status and ensuring it is managed in accordance with a cultural heritage permit or cultural heritage management plan.

FIGURES

Map 1: Previously registered sites and areas of cultural heritage sensitivity within 1 km of the study area.





VICTORIA State Government

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This document contains culturally sensitive information concerning the heritage of Victoria's Aboriginal communities, and cannot be included in any reports resulting from research associated with this document. This information is accurate at the date of production. However, the State of Victoria and its employees do not guarantee that the information in this document is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on this information.

Map 2: Areas of archaeological sensitivity following landform mapping exercise during the site assessment.

APPENDIX A: ABORIGINAL HERITAGE REGULATIONS 2007

Division 5—High impact activities

42 Purpose

r. 42

The purpose of this Division is to specify high impact activities.

Note

Under regulation 6, a cultural heritage management plan is required for an activity if all or part of the Study area is an area of cultural heritage sensitivity and if all or part of the activity is a high impact activity.

43 Buildings and works for specified uses

[1] The construction of a building or the construction or carrying out of works on land is a high impact activity if the construction of the building or the construction or carrying out of the works—

[a] would result in significant ground disturbance; and

[b] is for or associated with the use of the land for any one or more of the following purposes—

[i] aquaculture;

[ii] a camping and caravan park;

[iii] a car park;

[iv] a cemetery;

[v] a child care centre;

[vi] a corrective institution;

[vii] a crematorium;

[viii] an education centre;

[ix] an emergency services facility;

[x] a freeway service centre;

[xi] a hospital;

[xii] an industry;

[xiii] intensive animal husbandry;

[xiv] a major sports and recreation facility;

[xv] a minor sports and recreation facility;

[xvi] a motor racing track;

Reg. 43[1] [b][xvia] inserted by S.R. No. 50/2009 reg. 5[1].

[xvia] an office;

[xvii] a place of assembly;

[xviii] a pleasure boat facility;

[xix] a research centre;

[xx] a retail premises;

Reg. 43[1] [b][xxa] inserted by S.R. No. 50/2009 reg. 5[2].

[xxa] a retirement village;

[xxi] a service station;

r. 43

[xxii] a transport terminal;

Reg. 43[1] [b][xxiii] substituted by S.R. No. 50/2009 reg. 5[3].

[xxiii] a utility installation, other than a telecommunications facility, if—

[A] the works are a linear project that is the construction of an overhead power line with a length exceeding one kilometre or for which more than 10 power poles are erected; or

[B] the works are a linear project that is the construction of a pipeline with a length exceeding 500 metres; or

[C] the works are a linear project with a length exceeding 100 metres [other than the construction of an overhead power line or a pipeline with a pipe diameter not exceeding 150 millimetres]; or

[D] the works affect an area exceeding 25 square metres.

[xxiv] a veterinary centre;

[xxv] a warehouse;

[xxvi] land used to generate electricity, including a wind energy facility.

[2] The terms used in subregulation [1][b] have the same meanings as they have in the VPP.

[3] Despite subregulation [1], the construction of a building or the construction or carrying out of works on land is not a high impact activity if it is for or associated with a purpose for which the land was being lawfully used immediately before the commencement day.

Reg. 43[4] inserted by S.R. No. 50/2009 reg. 5[4].

[4] In this regulation, linear project has the same meaning as in regulation 68.

44 Constructing specified items of infrastructure

r. 44

[1] The construction of any one or more of the following is a high impact activity if the construction would result in significant ground disturbance—

[a] an airfield;

Reg. 44[1][b] substituted by S.R. No. 50/2009 reg. 6[1].

[b] a bicycle track with a length exceeding 100 metres;

[c] a helipad;

Reg. 44[1][d] substituted by S.R. No. 50/2009 reg. 6[2].

[d] rail infrastructure, other than—

[i] a railway track with a length of less than 100 metres; or

[ii] a railway track siding with a length of less than 100 metres; or

[iii] a cutting with a length of less than 100 metres; or

[iv] a tunnel with a length of less than 100 metres; or

[v] a bridge with a span of less than 100 metres; or

[vi] a platform with a length of less than 100 metres; or

[vii] a service road with a length of less than 100 metres;

Reg. 44[1][e] substituted by S.R. No. 50/2009 reg. 6[3].

[e] a road with a length exceeding 100 metres;

Reg. 44[1][f] substituted by S.R. No. 50/2009 reg. 6[4].

[f] a walking track with a length exceeding 100 metres;

[g] a telecommunications line consisting of an underground cable or duct with a length exceeding 500 metres.

[2] In this regulation, telecommunications line has the same meaning as in the VPP.

45 Dwellings

r. 45

[1] The construction of three or more dwellings on a lot or allotment is a high impact activity.

[2] The carrying out of works for three or more dwellings on a lot or allotment is a high impact activity.

Reg. 45[3] inserted by S.R. No. 50/2009 reg. 7[1].

[3] This regulation does not apply to the construction of or the carrying out of works for a retirement village within the meaning of the VPP.

Example to reg. 45 amended by S.R. No. 50/2009 reg. 7[2].

Example

Constructing an apartment tower containing 50 dwellings is a high impact activity. Constructing or extending only one or two dwellings on a lot or allotment is not a high impact activity.

Note

See regulation 9 in relation to the construction of a building, or the construction or carrying out of works, where the building or works are ancillary to an existing dwelling or the construction of one or two dwellings on a lot or allotment.

46 Subdivision of land

r. 46

[1] The subdivision of land into three or more lots is a high impact activity if—

[a] the planning scheme that applies to the Study area in which the land to be subdivided is located provides that at least three of the lots may be used for a dwelling or may be used for a dwelling subject to the grant of a permit; and

[b] the area of each of at least three of the lots is less than eight hectares.

[2] The subdivision of land into two or more lots in an industrial zone is a high impact activity.

[3] In this regulation, industrial zone has the same meaning as in the VPP.

47 Alpine resorts

[1] The construction of a building or the construction or carrying out of works in an alpine resort is a high impact activity if the construction of the building or the construction or carrying out of the works would result in significant ground disturbance.

[2] In this regulation, alpine resort has the same meaning as in the Alpine Resorts Act 1983.

48 Activities requiring earth resource authorisations

r. 48

An activity is a high impact activity if it is an activity—

[a] for which an earth resource authorisation is required before the activity may be carried out; and

[b] that would result in significant ground disturbance.

Reg. 48A inserted by S.R. No. 50/2009

reg. 8.

48A Extraction or removal of stone

[1] The extraction or removal of stone [other than sand or sandstone] that does not require an earth resource authorisation is a high impact activity if—

[a] the primary purpose of the extraction or removal is—

[i] the sale or commercial use of the stone; or

[ii] the use of the stone in construction, building, road or manufacturing works; and

[b] the land from which the stone is extracted or removed is more than 2000 square metres; and

[c] the extraction or removal would result in significant ground disturbance.

[2] In this regulation, stone has the same meaning as in the Mineral Resources [Sustainable Development] Act 1990.

49 Extraction or removal of sand or sandstone

r. 49

[1] The extraction or removal of sand or sandstone [other than extraction or removal that requires an earth resource authorisation] is a high impact activity if the extraction or removal would result in significant ground disturbance.

[2] Subregulation [1] does not apply to the extraction or removal of sand or sandstone—

[a] from land that is a farm if the sand or sandstone is intended in good faith only to be used on that farm for the purposes of a dam or other farmworks and not for sale or any other commercial use; or

[b] undertaken by or on behalf of a Minister responsible for the administration of the Conservation, Forests and Lands Act 1987 where the primary purpose of the extraction is for the footings or foundations of a building or structure, the construction of a carpark, road, track or other works or for any borrow pit adjacent to such an excavation; or

[c] if the extraction or removal, including dredging, constitutes works for marine navigational purposes or the establishment or renourishment of a beach; or

[d] if the extraction or removal constitutes works for the purpose of establishing a port facility, railway or tunnel; or

[e] if the primary purpose of the excavation or removal is for the construction of the footings or foundations of a building or structure.

50 Searching for stone

r. 50

[1] A search for stone is a high impact activity if it would result in significant ground disturbance.

[2] In this regulation, search for stone has the same meaning as in the VPP.

51 Extraction or removal of loose stone on agricultural land on the Victorian Volcanic Plain

[1] The extraction or removal of loose stone from the surface of land used for agriculture on the Victorian Volcanic Plain is a high impact activity if the extraction or removal—

[a] is for the primary purpose of land improvement, including pasture enhancement; and

[b] would result in significant ground disturbance.

Reg. 51[1A] inserted by S.R. No. 50/2009 reg. 9[1].

[1A] The crushing of loose stone on the surface of land used for agriculture on the Victorian Volcanic Plain is a high impact activity if the crushing is—

[a] by machinery; and

[b] for the primary purpose of land improvement, including pasture enhancement.

Reg. 51[2] amended by S.R. No. 50/2009 reg. 9[2].

[2] Subregulations [1] and [1A] do not apply if the land is used for crop raising or has been used for crop raising.

[3] In this regulation—

agriculture and crop raising have the same meanings respectively as they have in the VPP;

Reg. 51[3]

def. of

stone amended by S.R. No. 50/2009 reg. 9[3].

stone has the same meaning as in the Mineral Resources [Sustainable Development] Act 1990;

Victorian Volcanic Plain means the area comprised of the areas identified as "Qvh", "Qvn", "Qvs", "Qvs2" and "Qvt" on the following Geological Survey of Victoria 1:250 000 map series sheets—

[a] SJ54-8 entitled "Ballarat" [second edition, 1997];

[b] SJ55-1 entitled "Bendigo" [third edition, 2001];

[c] SJ54-12 entitled "Colac" [second edition, 1997];

[d] SJ54-7 entitled "Hamilton" [second edition, 1997];

[e] SJ55-5 entitled "Melbourne" [second edition, 1997];

[f] SJ54-11 entitled "Portland" [second edition, 1997];

[g] SJ55-9 entitled "Queenscliff" [second edition, 1997];

[h] SJ54-4 entitled "St Arnaud" [second edition, 1997].

52 Timber production

r. 52

[1] The use of an area of land greater than 40 hectares in size for timber production is a high impact activity if—

[a] a permit is required under a planning scheme to use the land for timber production; and

[b] the use of the land for timber production would result in significant ground disturbance.

[2] The construction of a building associated with timber production is a high impact activity if—

[a] a permit is required under a planning scheme to construct the building; and

[b] the construction of the building would result in significant ground disturbance.

[3] In this regulation, timber production has the same meaning as in the VPP.

Note

A permit may not be required under a planning scheme to use an Study area for timber production if the timber production is ancillary to a particular agricultural enterprise [such as agroforestry].

53 Dams

r. 53

The construction or alteration of a private dam, other than on a waterway, is a high impact activity if a licence is required under section 67[1A] of the Water Act 1989 for the construction or alteration of the private dam.

54 Use of land

[1] The use of land for a purpose specified in regulation 43[1] is a high impact activity if a statutory authorisation is required to use the land for that purpose.

[2] The use of land for an extractive industry is a high impact activity if a statutory authorisation is required to use the land for the extractive industry.

[3] The use of a lot or allotment for three or more dwellings is a high impact activity if a statutory authorisation is required to use the lot or allotment for three or more dwellings.

[4] Despite subregulations [1], [2] and [3], if the whole of the Study area for an activity referred to in subregulation [1], [2] or [3] has been subject to significant ground disturbance, that activity is not a high impact activity.

[5] In this regulation, extractive industry has the same meaning as in the VPP.

r. 54

Example

A land owner proposes to change the use of his or her land from the grazing of animals to the storage of shipping containers. The land is flat and, in the first instance, no works are proposed, although the grass will first be cut and some non-indigenous shrubs removed. The use of the land for storing shipping containers is an industry and requires a statutory authorisation [a permit under the relevant planning scheme]. The proposed use is a high impact activity. If, at a later date, the area is upgraded by works, including excavation for a concrete base on which to store the containers, the upgrade works would also be a high impact activity under regulation 43[1].

APPENDIX B: RELEVANT HERITAGE LEGISLATION

Historical sites in Victoria are primarily protected under the terms of the Victorian Heritage Act 1995. Any person proposing works that will impact upon a site listed on the Victorian Heritage Inventory or the Victorian Heritage Register must apply to Heritage Victoria for consent to do so prior to works proceeding. The Victorian Heritage Act was passed in 1995 and replaced the Historic Buildings Act 1981, the Historic Shipwrecks Act 1981 and part of the Archaeological and Aboriginal Relics Preservation Act 1972. The main purposes of the Act are:

- To provide for the protection and conservation of places and objects of cultural heritage significance and the registration of such places and objects;

- To establish a Heritage Council charged with the responsibility to protect and enhance the cultural heritage of the State; and

- To establish a Victorian Heritage Register.

The Act defines an archaeological relic as:

- Any archaeological deposit; or

- Any artefact, remains or material evidence associated with an archaeological deposit which:

- Relates to the non-Aboriginal settlement or visitation of the area or any part of the area which now comprises Victoria; and

- Is more than 50 years old [Heritage Act 1995 Part 1 Section 3].

Further, the Act defines an archaeological site as '…an area in which archaeological relics are situated' and the term 'building includes structure, work and fixture and any part of a building, structure, work or fixture.' [Heritage Act 1995 Part 1 Section 3]. There are two categories of listing under the Victorian Heritage Act 1995; the Heritage Register and the Heritage Inventory. The Heritage Register is established under Section 18 of the Act and the Heritage Inventory

under Section 120. The Heritage Register [HR] is a register of all heritage places, relics, buildings, objects or shipwrecks deemed to be of outstanding cultural significance within the State of Victoria. The Register includes any places in Victoria on the World Heritage List and all places previously registered on the register of historic buildings under the Historic Buildings Act 1981. Places listed on the HR are afforded legal protection under the Heritage Act 1995. A permit must be granted by Heritage Victoria prior to changes or alterations being made to places on the HR. Places listed on the HR are recorded on the Victorian Heritage Register database – the Heritage Inventory. In addition to places on the HR, this database includes places that are:

- Classified by the National Trust;
- Included in the Victorian War Heritage Inventory; or
- Are covered by a local government Heritage Overlay.

Places listed on the Heritage Inventory are not automatically afforded heritage protection. The Heritage Inventory [HI] under Section 121 of the Victorian Heritage Act 1995 provides a record of:

a] all places or objects identified as historic archaeological sites;

b] all known areas where archaeological relics are located;

c] all known occurrences of archaeological relics; and

d] all persons known to be holding private collections of artefacts or unique specimens that include archaeological relics.

Some sites on the Heritage Inventory are assigned a 'D' classification [generally referred to as D listed]. These are sites that have been recorded but have negligible archaeological significance. There is no requirement to obtain consent from Heritage Victoria to allow for the removal or disturbance of these sites. However, some 'D' listed sites may still hold local historical value and may be afforded some protection under local planning scheme regulations. Heritage Overlay [HO] is a planning scheme control under Victoria Planning Provisions [VPP] under the Planning and Environment Act 1987. It applies to areas [or precincts], or individual buildings, land, gardens, trees or other items that have been determined to be of cultural heritage significance. Sites and places listed solely on the Heritage Overlay are generally of local rather than State or National significance. The schedule to the Heritage Overlay contains the list of places covered and any particular controls applying to them. Works undertaken that will affect sites or places listed need to progress through a planning permit process in consultation with the local government authority.

The Register of the National Estate [RNE], previously maintained by the Australian Heritage Council, provides a listing of sites and places, considered to be of national or greater significance under the Australian Heritage Council Act 2003 and the Environment Protection

and Biodiversity Conservation Act 1999. The Register of the National Estate was considered to overlap with heritage listings at state, territory and local government level and therefore from 19 February 2007 places could no longer be added to or removed from the RNE. From 19 February 2012 all references to the RNE were removed from the Australian Heritage Council Act 2003 and the Environment Protection and Biodiversity Conservation Act 1999. The RNE is maintained on a non-statutory basis as a publicly available archive and educational resource. Places on the RNE may be protected under appropriate state, territory or local government heritage legislation.

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