

Appendix G

Aboriginal Due Diligence Assessment prepared by Artefact

Dunmore St, Pendle Hill Rezoning

Aboriginal Due Diligence Assessment

Report to Fresh Hope Care

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Artefact Heritage
ABN 73 144 973 526
Level 4, Building B
35 Spencers Street
Pymont NSW 2009
Australia

+61 2 9518 8411
office@artefact.net.au

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1.0 INTRODUCTION

1.1 Background

Fresh Hope Care proposes to rezone their site at Dunmore Street, Pendle Hill which currently comprises of a mix of uses including independent living units, residential aged care facilities, place of public worship, affordable housing, residential dwellings and community facilities. The future development of the site will provide improved independent living units, residential aged care facilities, assisted living, affordable housing and community uses to create a vibrant seniors precinct that will meet the future needs of patients and residents, all which will be owned and managed by Fresh Hope Care. The proposed rezoning process requires the preparation of an Aboriginal heritage due diligence assessment in accordance with the OEH Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (DECCW Code). Separate built heritage and non-Aboriginal (historic) archaeological assessments are also being prepared for the site.

1.2 Study Area

The study area of this assessment is located within the suburb of Pendle Hill, NSW. The study area includes Lots 2 and 3 DP554208, Lot A DP335578, Lot 472 DP1204429 as well as Lots 1, 2, 8-12 DP24728, known as Dunmore Street, Pendle Hill and cover an area of approximately 7.3 hectares (see Figure 1).

The study area is within the Cumberland Local Government Area (LGA), formerly the former Holroyd LGA, and within the parish of Prospect and county of Cumberland.

The study area is within the boundaries of Deerubbin Local Aboriginal Land Council (LALC).

1.3 Authorship and acknowledgements


This report was written by Latisha Ryall (Graduate Heritage Consultant, Artefact Heritage). Management input and review was provided by Josh Symons (Principal, Artefact Heritage). The site inspection was undertaken by Latisha Ryall and Sarah Hawkins (Graduate Heritage Consultant, Artefact Heritage) on 17 April 2019.

1.1 Report limitations

This report presents the results of an Aboriginal heritage due diligence assessment only. Built heritage and historic archaeological assessments are provided as separate reports.

Figure 1: Study Area



 Dunmore Street, Pendle Hill Site Boundary

2.0 LEGISLATIVE CONTEXT

2.1 National Parks & Wildlife Act 1974

The *National Parks and Wildlife Act 1974* (NPW Act), administered by the Office of Environment and Heritage (OEH) provides statutory protection for all Aboriginal 'objects' and for 'Aboriginal Places'. An Aboriginal object is defined as:

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

The OEH DECCW Code was introduced in October 2010. The aim of the guidelines is to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether they should apply for consent in the form of an Aboriginal Heritage Impact Permit (AHIP).

A due diligence assessment should take reasonable and practicable steps to ascertain whether there is a likelihood that Aboriginal sites will be disturbed or impacted during the proposed development. If it is assessed that sites exist or have a likelihood of existing within the development area and may be impacted by the proposed development, further archaeological investigations may be required along with an AHIP. If it is found to be unlikely that Aboriginal sites exist within the study area and the due diligence assessment has been conducted according to the OEH Due Diligence Code of Practice, work may proceed without an AHIP.

This due diligence assessment seeks to comply with the guidelines and regulations associated with the NPW Act, by assisting the proponent in meeting their obligations under the NPW Act.

2.2 Native Title Act 1994

The *Native Title Act 1994* was introduced to work in conjunction with the *Commonwealth Native Title Act 1993*. Native Title claims, registers and Indigenous Land Use Agreements are administered under the Act. No active Native Title claims were identified in the study area at the time this report was prepared.

2.3 Aboriginal Lands Right Act 1983

The *Aboriginal Land Rights Act 1983* (ALR Act) established Aboriginal Land Councils (at State and Local levels). These bodies have a statutory obligation under the ALR Act to:

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

The study area is within the boundary of the Deerubbin LALC.

3.0 BACKGROUND

The purpose of this section is to assist in the prediction of:

- The potential of the landscape over time to have accumulated and preserved Aboriginal objects;
- The ways Aboriginal people have used the landscape in the past with reference to the presence of resource areas, surfaces for art, other focal points for activities and settlement; and
- The likely distribution of the material traces of Aboriginal land use based on the above.

3.1 Environmental context

The study area is located on the Cumberland Plain, a large low-lying and gently undulating landform in the Sydney Basin dissected by numerous watercourses. The watercourses feature shallow valleys and relatively large watersheds, which are fed by semi-permanent and ephemeral streams (MDCA 2010:16). The formation of the Sydney basin began between 300 to 250 million years ago when river deltas gradually replaced the ocean that had extended as far west as Lithgow (Pickett and Alder 1997). The oldest, Permian layers of the Sydney Basin consist of marine, alluvial and deltaic deposits that include shales and mudstone overlain by Coal Measures.

By the Triassic period the basin consisted of a large coastal plain, with deposits from this period divided into three main groups, the Narrabeen Group, Hawkesbury Sandstone and the Wianamatta Group (Clark and Jones 1991; Pickett and Alder 1997).

The underlying geology of the study area consists of Bringelly Shale, a unit of the underlying Triassic period geology. Bringelly Shale generally consists of a combination of shale, carbonaceous claystone, laminate and coal.

The predominant lithic material utilised by Aboriginal people on the Cumberland Plain for manufacture of stone artefacts include silcrete and indurated mudstone tuff (IMT). Silcrete naturally occurs in various quantities across the Cumberland Plain in the form of outcrops, large cobbles, river cobbles and flood borne deposits. Sources of IMT are generally river cobbles.

Soils in the study area consist of the relatively shallow residual Blacktown soil landscape (Hazelton 1992). The Blacktown soil landscape is typified by shallow duplex soils over a clay base. The biomantle is underlain by heavily textured subsoil with a depth of generally less than a metre, and most commonly less than 300 millimetres (mm). The archaeological implications of this soil landscape are that intact deposits are likely to occur in the A horizon, which is generally up to 300 mm in depth, and that stratigraphic potential would be limited.

The study area at its closest is located 192m east of Pendle Creek, a tributary of Girraween Creek and Toongabbie creek and a fourth order stream of the Paramatta River. The proximity of these waterways and associated resources would likely have provided important subsistence resources for Aboriginal people land use strategies in the area. The study area is also located approximately 4 km northeast of Prospect Hill, an area with significant Aboriginal cultural values.

3.2 Aboriginal histories of the locality

Prior to the European settlement of the Pendle Hill and greater Blacktown region, the area formed part of the traditional lands of the Darug nation. Several Aboriginal groups of the Darug nation are believed to have inhabited the area. Aboriginal people lived in small groups comprised of several families, which were associated with particular territories or places. Darug occupation stretches over a broad region from the coast, north to Wisemans ferry, west to the Blue Mountains and Hartley, heading south along both sides of the Nepean River to Appin and east along the Georges River to

Botany Bay The boundary between the Darug in the west and the Dharawal in the southeast is formed by the Georges River (Ngara Consulting 2003: 8).

The boundary between the Darug in the west and the Dharawal in the southeast is formed by the George's River (Ngara Consulting 2003:8). The Darug people have continuously occupied the Cumberland Plain, Blacktown and Parramatta region for thousands of years, utilising this area for its close proximity to natural resources such as rivers, creeks, billabongs and wetlands whilst occupying open campsites on higher ground.

European expansion throughout the Cumberland Plain displaced Aboriginal people from their traditional land and effectively cut off access to many resources as competition for land resources increased due to white settlement. In 1789, Watkin Tench a Marine Officer of the First Fleet and 5 others were the first Europeans to walk from Rosehill Wharf (Parramatta) to Marrong (Prospect Hill) probably following an existing Darug track. The first land grants in the Blacktown area of Prospect Hill were issued by Governor Phillip in 1791 and by the 1820s a number of land grants had been made.

The site originally formed part of acreage owned by D'Arcy Wentworth and in 1923 George A Bond purchased a large portion of the land bounded by Pendle Way, Dunmore Street and Jones Street, residing in what is now Dunmore House and subsequently established a mill and the company George A. Bond Cotton Mills Ltd., was formed in 1926 (Weir Phillips Heritage Consulting 2019:30). . Pendle Hill continued to be used for pastoral and agricultural practices into the 20th Century and in recent years rapid urban development across the Cumberland Plain has transitioned the site from semi-rural farmland into new housing suburbs. Figure 2 outlines the 1943 aerial map which shows the study area mostly as rural farmland compared to the extant development of the study area, shown in Figure 1.

Figure 2: 1943 Aerial Image Six Maps (2019)



3.3 Archaeological context

A number of archaeological investigations have been completed in the vicinity of the study area. These have generally been associated with the development of infrastructure and urban release projects. The following discussion presents a review of the most recent and relevant studies and aims to provide contextual information for the current study.

Pendle Hill Station Easy Access Upgrade Review of Environmental Factors (TfNSW 2014)

Transport for NSW (TfNSW) completed a Review of Environmental Factors including an Aboriginal heritage assessment for the Pendle Hill Station, approximately 320 m northwest of the current study area. During that assessment, no Aboriginal sites were recorded in or near the proposed works at Pendle Hill Station. The proposed upgrade area is located within the rail corridor and an environmental context that has been substantially modified. No Aboriginal objects or areas of archaeological sensitivity were identified.

Due Diligence for Installation of new ADSS communications wire within Prospect Reservoir, Endeavour Energy (Artefact Heritage 2015).

Artefact Heritage completed a due diligence for the installation of new All-Dielectric Self-Supporting (ADSS) communications wire and replacement of four existing poles within Prospect Reservoir land, approximately 4km southwest of the current study area. This assessment suggested that archaeological potential is directly affected by the levels of disturbance and modification irrespective of environmental context. That study area was assessed as likely have been subject to extensive modification and disturbance since the late 19th century, and therefore demonstrated low archaeological potential due to this disturbance and modification.

Aboriginal Heritage Assessment Report: Proposed Rezoning at Prospect South, NSW (Mary Dallas Consulting 2017)

Mary Dallas Consulting completed an Aboriginal Heritage assessment for the proposed rezoning at Prospect South to determine whether rezoning and potential future industrial use may impact any known or potential Aboriginal heritage values within the subject land. Predictive modelling indicated that the location and density of archaeological evidence is related to proximity to reliable water sources and certain types of landforms such as alluvial flats, terraces, and lower slopes. That assessment area included a relatively flat land above the headwaters of a minor creek line and has undergone extensive modification. Investigations in the local and broader area have shown that such locations are unlikely to contain extensive or intact archaeological evidence of past Aboriginal activities.

3.3.1 Archaeological Implications

Previous archaeological investigations in the area have identified that landform modification and distance from watercourses are significant factors in determining archaeological sensitivity of a particular area.

The site is located in the headwaters area of Parramatta River, with tributaries close to the current study area consisting of Pendle Creek, Coopers Creek and Finlayson Creek. Previous archaeological investigations in the area have suggested a correlation between a close proximity to watercourses and areas of archaeological sensitivity. The volcanic outcrop at Prospect Hill 4km southwest of the study area was likely a source of lithic raw materials and subsistence resources. Areas in close proximity to watercourses and Prospect Hill have higher potential to contain Aboriginal objects. The study area consists of a gently inclined slope between 200 m and 800 m east of Pendle Creek.

3.4 Aboriginal Heritage Information Management System search

The locations and details of Aboriginal sites are considered culturally sensitive information. It is recommended that this information, including the AHIMS data and GIS imagery, is removed from this report if it is to enter the public domain.

OEH maintains the Aboriginal Heritage Information Management System (AHIMS) database, a register of Aboriginal archaeological sites that have been recorded in New South Wales. An extensive search of the AHIMS database was undertaken on 15 April 2019 (Client ID: 415155).

The AHIMS search provides archaeological context for the area and identifies whether any previously recorded Aboriginal sites are located within or near the study area. The parameters of the search were as follows:

GDA 1994 MGA 56	307896 – 313896 mE 6254505 – 6260505 mN
Buffer	0 m
Number of sites	35

A total of 35 sites were identified in the extensive AHIMS search area. The distribution of recorded sites within the AHIMS search area is shown in Table 1. OEH lists 20 standard site features that can be used to describe a site registered with AHIMS, and more than one feature can be used for each site. For the 35 sites within the search area, 8 site features are recorded. The majority of recorded sites are Artefact (n=19) followed by Potential Archaeological Deposit (PAD) (n=5).

Table 1: OEH AHIMS site register search results

AHIMS site features	Frequency	Percentage %
Aboriginal Ceremony and Dreaming	1	2.86
Artefact	19	54.29
Artefact; Modified Tree (Carved or Scarred)	1	2.86
Artefact, Potential Archaeological Deposit (PAD)	3	8.57
Artefact Shell	1	2.86
Grinding Groove	3	8.57
Modified Tree (Carved or Scarred)	2	5.71
Potential Archaeological Deposit (PAD)	5	14.29
<i>Total</i>	35	100%

The nature and location of the registered sites is a reflection of the past Aboriginal occupation from which they derive, but is also influenced by historical land-use, and the nature and extent of previous archaeological investigations. Although Aboriginal occupation 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 and Aboriginal Ceremony and Dreaming are particularly vulnerable to destruction through historical occupation, while others, such as stone artefacts, are more resilient.

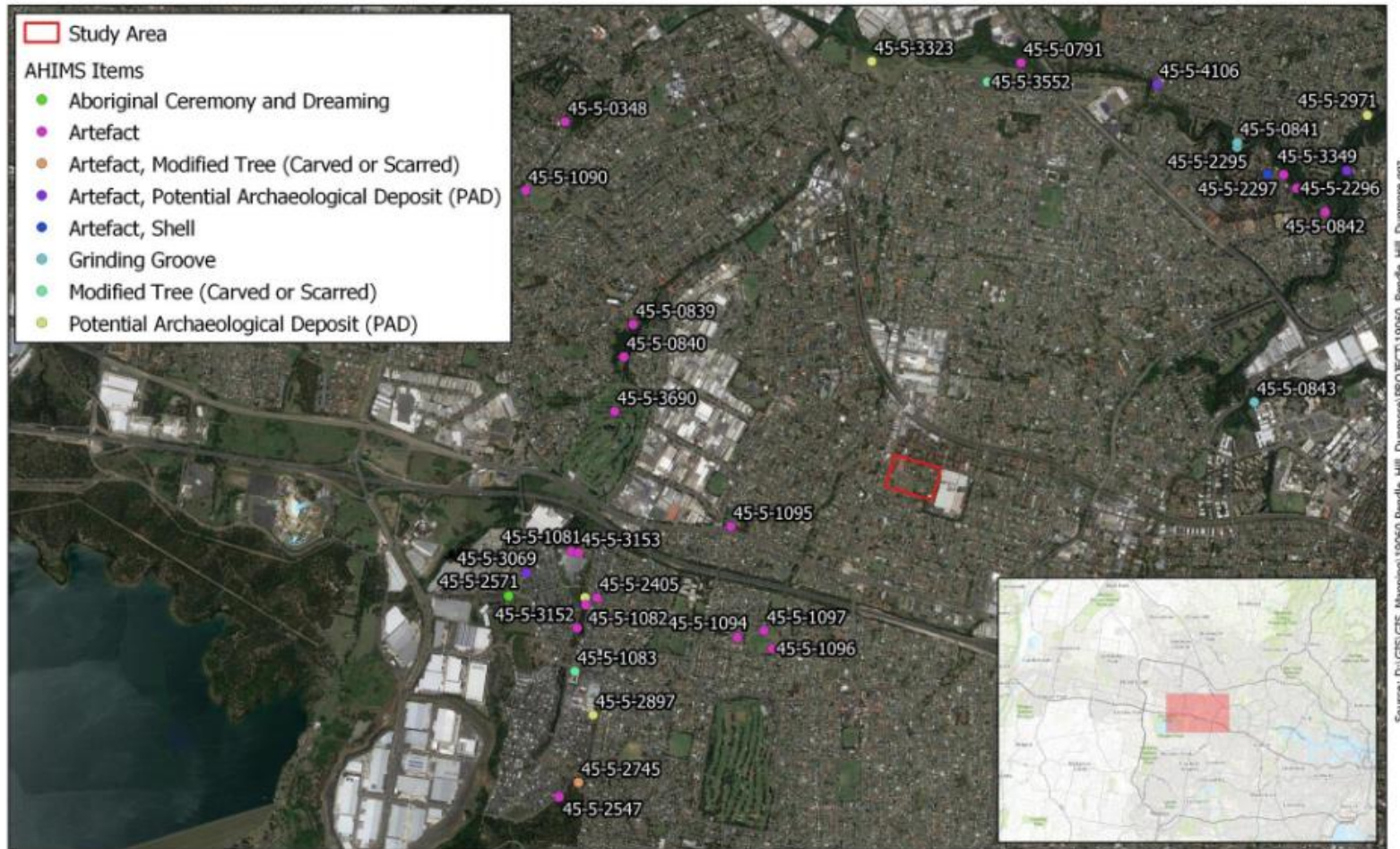
The data available indicates that past Aboriginal occupation was focussed on natural resources and the location of recorded sites tends to be around watercourses. Although historical development has had a substantial impact on the remaining archaeological evidence, sites in the form of surface artefacts remain widespread, although generally in low density assemblages, and are more frequent in proximity to water and in particular the tributaries of Toongabbie Creek and the Paramatta River.


The distribution of recorded sites within the search area is shown in Figure 3 which shows that most sites within the vicinity of the study area are recorded along Girraween Creek, a tributary of Toongabbie Creek and Paramatta River. Fewer sites are recorded near the vicinity of the heavily disturbed residential area.

3.4.1 Sites within or in the vicinity of the study area

There are no recorded sites within the study area. A summary of known AHIMS sites within a 3km radius of the study area is shown in Figure 3.

Figure 3: Sites within or in the immediate vicinity of the study area



 **Extensive AHIMS search**
 19060 Pendle Hill, Dunmore
 LGA: Cumberland

Scale: 1:40000
 Size: A4
 Date: 09-05-2019



4.0 SITE INSPECTION

An inspection of the study area was conducted by Latisha Ryall (Graduate Heritage Consultant, Artefact Heritage) and Sarah Hawkins (Graduate Heritage Consultant, Artefact Heritage) on 17 April 2019. The main aims of the inspection were to record any Aboriginal objects visible on the ground surface, make an overall observation on the intactness of the study area, and identify if Aboriginal objects are likely to occur beneath the ground surface.

The study area was traversed on foot and photographs were taken of characteristic local features within the study area.

4.1 Inspection area

The study generally comprises a disturbed and modified landscape. The south-eastern portion of the site and the location of Dunmore House is a local high point, marked on the 1:25,000 topographic map at 60 m above sea level (ASL) [Prospect 1:25,000 topographic map]. The ground surface slopes gently downward in all directions from that location.

Dunmore House is situated on a modified artificial terrace, covered by manicured grasses and modified slopes (See Figure 13 and Figure 25). Several small areas of erosion were observed across the ground surface with a mixture of introduced gravel, glass and ceramic fragments identified (See Figure 22, Figure 26 and Figure 27).

The portion of the study area likely to be most intact is a grassed area bordered by Dunmore House to the south, the Bonds Factory to the east, a built structure and associated car park to the north, and the large aged care facility complex to the west. Surface impacts in this area are likely to be limited to native vegetation clearance, plantings, ephemeral access footpaths, and fencing.

The western portion of the study area consists of an aged care facility with vehicle access, footpaths, underground services, medium density housing and associated facilities. The ground surface in this portion of the site is likely to have been subject to significant modification and potential mixing, movement, or removal of natural A horizon soil contexts (See Figure 16 to Figure 20).

Surface visibility across the western portion of the inspection area was generally low due to extensive development in that area. Although surface visibility in the south eastern portion of the inspection area was substantially higher, no Aboriginal objects were identified on the ground surface in that area. The main sources of ground disturbance are likely to be historical land clearance, vehicle access and other services, and surface erosion.

Figure 4: 0017 Southern view showing mature trees



Figure 5: 0028 Southern view showing trees along eastern fence line



Figure 6: 0036 Western view showing trees and slope of landscape



Figure 7: 0014 Eastern view showing drainage line and planted trees



Figure 8: 0085 Eastern view showing modified slope gradient



Figure 9: 0086 Northern view showing mature trees and modified road



Figure 10: 0088 Southern view showing rise in landscape and Dunmore House



Figure 11: 0092 Western view showing existing bitumen road and mature trees



Figure 12: 0093 North Eastern view towards Dunmore Street showing landform



Figure 13: 0111 South Eastern view showing modified slope of land



Figure 14: 0123 Southern view showing existing bitumen road



Figure 15: 0153 South East view of Ashfield house and landform



Figure 16: 0132 Northern Street view western portion of housing area



Figure 17: 0136 Existing nursing home housing west view



Figure 18: 0137 Existing residential buildings West view



Figure 19: 0143 Reserve West view looking towards Pendle Street



Figure 20: 0117 East view showing existing development



Figure 21: 0159 Street view north Pendle Street



Figure 22: 0174 Eastern side of study area



Figure 23: 0168 Street view looking north



Figure 24: 0160 View east from Pendle Street showing Pathways Community Church and carpark



Figure 25: 0183 Western view showing extent of modified slope and Dunmore House



Figure 26: 0188 Visibility of landform Eastern portion of site



Figure 27: 0199 South East view showing mature trees and visibility of ground



4.2 Previously identified sites

There are no recorded Aboriginal sites located in or near the study area. The location of all recorded Aboriginal sites is shown in Figure 3. No Aboriginal sites were identified within the study area during the site inspection.

4.3 Discussion of archaeological sensitivity

This due diligence assessment provides a preliminary assessment of archaeological potential, that is to determine if there are, or are likely to be Aboriginal objects in the study area. A more comprehensive and detailed investigation of the extent and nature of archaeological potential would be completed during more detailed investigation, where required, under the OEH 'Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales'.

When assessing the study area for Aboriginal sensitivity it is essential to determine whether the site contains landscape features that indicate the likely existence of Aboriginal objects. Examples of such landscape features are rock shelters, sand dunes, waterways, waterholes and wetlands. On assessing the site considerations must be made if your proposed activity is:

- within 200m of waters, or
- located within a sand dune system, or
- located on a ridge top, ridge line or headland, or
- located within 200m below or above a cliff face, or
- within 20m of or in a cave, rock shelter, or a cave mouth, and
- is on land that is not disturbed land.

Archaeological sensitivity is closely related to the levels of ground disturbance. However, other factors are also considered when assessing archaeological potential as mentioned above, such as whether artefacts were located on the surface, and whether the area is within a sensitive landform unit according to the predictive statements.

This due diligence assessment has identified that a large portion of the study area has been subject to past ground disturbance. The OEH Due Diligence Code of Practice defines disturbed land as:

Sec 7.5 (4) For the purposes of this clause, land is disturbed if it is 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:

- soil ploughing*
- construction of rural infrastructure*
- clearing of vegetation,*
- construction of buildings and the erection of other structures,*
- 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).*

Large portions of the study area are highly disturbed as a result of built structures covering much of the western, northern, and south-eastern portions of the study area. In contrast, a portion of the study area north of Dunmore House is less disturbed. However, that area is not located within a sensitive landform context.

4.4 Proposed activity

Fresh Hope Care proposes to rezone their site at Dunmore Street, Pendle Hill which currently comprises of a mix of uses including independent living units, residential aged care facilities, place of public worship, affordable housing, residential dwellings and community facilities. The future development of the site will provide improved independent living units, residential aged care facilities, assisted living, affordable housing and community uses to create a vibrant seniors precinct that will meet the future needs of patients and residents, all which will be owned and managed by Fresh Hope Care. An indicative masterplan outlining the proposed activity is shown in Figure 28

Figure 28: Indicative Masterplan

Masterplan



Fresh Hope Care, Pendle Hill

Taylor Brammer Landscape Architects Pty Ltd 22

4.5 Due diligence process

The results of the due diligence process are outlined in Table 2. The table contains a response to the questions included in the OEH Due Diligence Code of Practice, which are intended to assist in determining whether or not a proposed activity may result in harm to Aboriginal objects, which are protected by the *National Parks and Wildlife Act 1974*.

The nature and location of the proposed activity has not identified any Aboriginal objects, or areas of archaeological sensitivity, in the study area.

Table 2: Response to the due diligence process

1	<i>Will the activity disturb the ground surface or any culturally modified trees?</i>
	No, the proposal will not disturb ground surface or any culturally modified trees as this assessment is for rezoning only
2a	<i>Are there any relevant confirmed site records or other associated landscape feature information on AHIMS?</i>
	No, there are no recorded AHIMS within the study area.
2b	<i>Are there any other sources of information of which a person is already aware?</i>
	No
2c	<i>Are there any landscape features that are likely to indicate the presence of Aboriginal objects?</i>
	The study area is not located within any sensitive landform areas as identified in the OEH Due Diligence Code of Practice (see Section 4.3)
3	<i>Can harm to Aboriginal objects listed on AHIMS or identified by other source of information and/or can the carrying out of the activity at the relevant landscape features be avoided?</i>
	There are no recorded or identified Aboriginal objects located within the study area. The proposal is for rezoning only.
4	<i>Does a desktop assessment and visual inspection confirm that there are Aboriginal objects or that they are likely?</i>
	No, this due diligence assessment has not identified Aboriginal objects, or areas of archaeological sensitivity, within the study area.

5.0 RECOMMENDATIONS

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

- Statutory requirements under the *National Parks and Wildlife Act 1974* as amended
- Due Diligence Code of Practice (DECCW 2010)
- The results of the background research, site survey and assessment
- The likely impacts of the proposed development.

It was found that

- No previously recorded Aboriginal sites are located within the study area.
- No newly identified Aboriginal sites are located within the inspection area.
- No areas of archaeological sensitivity were identified within the inspection area.
- The proposed activity is for a rezoning only.

The following recommendations are made:

- In accordance with the OEH due diligence guidelines, this assessment has not identified Aboriginal objects, or areas of archaeological sensitivity, within the study area. No further Aboriginal archaeological assessment is recommended
- If suspected Aboriginal objects are located during future works, works should cease, and an Aboriginal heritage consultant advised to assess the find and recommend if further investigation or permits are required.

6.0 References

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artefact

Artefact Heritage

ABN 73 144 973 526
Level 4, Building B
35 Saunders Street
Pyrmont NSW 2009
Australia

+61 2 9518 8411
office@artefact.net.au
www.artefact.net.au