

23 February 2024

Grace Macdonald
ESR Australia
Level 24, 88 Phillip Street
Sydney NSW 2000

Dear Grace,

Addendum Letter for Aboriginal Heritage Assessments for Modification 5, SSD-9138102, 290–308 Aldington Road and 63 Abbots Road, Kemps Creek New South Wales

Our ref: Matter 40309

Biosis Pty Ltd (Biosis) has been commissioned by ESR Australia (ESR) to provide an Addendum Letter outlining previously completed Aboriginal Heritage Assessments relevant to a Modification (MOD) to a State Significant Development (SSD) application (SSD-9138102-MOD-5), located at 290–308 Aldington Road and 63 Abbots Road (Lots 11, 12 and 13 in DP253503), Kemps Creek in New South Wales (NSW) (the study area) (Figure 1 and Figure 2).

An Environmental Impact Statement (EIS) was prepared with respect to the proposed works within 290–308 Aldington Road and 63 Abbots Road (Lots 11, 12 and 13 in DP253503), Kemps Creek, which involved the construction of a new industrial estate. The EIS was prepared to inform an SSD application (SSD-9138102), as per the Secretary's Environmental Assessment Requirements (SEARs). Urbis completed an Aboriginal Cultural Heritage Assessment (ACHA) in (2021) for the EIS. The SSD application was approved by the Department of Planning, Housing and Infrastructure (DPHI) and works have commenced on site.

In 2023, Biosis was commissioned by AT&L, on behalf of LOG-E and ESR, to prepare an Aboriginal Due Diligence Assessment (ADDA) and Statement of Heritage Impact (SoHI) for the proposed upgrades to Abbots Road and the Mamre Road Intersection, Kemps Creek (Biosis 2023a, Biosis 2023b). The ADDA and SoHI were to inform a Review of Environmental Factors (REF) that was to be assessed under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Upon review of the REF, Penrith City Council determined that the proposed upgrade works to Abbots Road and the Mamre Road Intersection were to be assessed through an SSD pathway. In order to satisfy the requirements of a typical SSD application, Biosis recommended that AT&L, on behalf of LOG-E and ESR, prepare an ACHA, which is currently being completed for SSD-9138102-MOD-5 (Biosis in prep.).

Christopher Ritchie of the DPHI, on behalf of Grace Macdonald of ESR, consulted with Heritage NSW, Department of Climate Change, Energy, the Environment and Water (Heritage NSW) to discuss the approach to assessing the heritage impacts of the modified road alignment in February 2023. Christopher Ritchie provided advice on 13 February 2024, that Heritage NSW required the below:

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1. Prepare a summary of the outcomes of previously completed Aboriginal cultural heritage assessments covering the area.
2. Continue consultation with existing registered Aboriginal parties listed in the ACHARs reviewed as part of point 1 above.
3. Discuss known Aboriginal objects within the roadworks corridor.
4. Evaluate the potential for additional Aboriginal objects to be present and subject to impact.
5. Propose mitigation and management strategies.
6. Provide a copy of the summary report to the RAPs for review and comment.

This Addendum Letter was requested by ESR to satisfy the above requirements. The previously completed Aboriginal heritage assessments included in this Addendum Letter are:

- *Mamre Road and Abbots Road Intersection Upgrades, Kemps Creek, NSW: Aboriginal Due Diligence Assessment* (Biosis 2023a).
- *1030–1048 and 1050–1064 Mamre Road Aboriginal Cultural Heritage Assessment* (Biosis 2022).
- *290–308 Aldington Road and 59–63 Abbots Road Aboriginal Cultural Heritage Assessment* (Urbis 2021).

The locations and the results of the above assessments in relation to the current Biosis study area are shown in Figure 3 and Figure 4.

The entirety of the current study area has been assessed under an ADDA (Biosis 2023a), however has not been assessed as part of a finalised ACHA. An ACHA is currently being prepared for the study area and as such, some of the above points cannot be addressed in this letter.

This Addendum Letter will summarise the assessments which were prepared in accordance with the NPW Act and the Due Diligence Code adjacent to and partially within the current Biosis study area (Figure 3). It will present the known Aboriginal objects identified in the assessments and outline if and what consultation was undertaken with the Aboriginal community. This letter does not meet the requirements of an ACHA or ADDA under the *National Parks and Wildlife Act 1974* (NPW Act), the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (Due Diligence Code) (DECCW 2010a) or the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010b) (the Code).

Previous assessment—Aboriginal Due Diligence Assessment

Mamre Road and Abbots Road Intersection Upgrades, Kemps Creek, NSW: Aboriginal Due Diligence Assessment (Biosis 2023a)

Biosis was commissioned by AT&L on behalf of LOG-E to undertake an ADDA for the proposed upgrades to the intersection of Abbots and Mamre Road, Kemps Creek, within the current Biosis study area (Figure 3). The assessment was undertaken in accordance with the Due Diligence Code to inform responsibilities with regards to Aboriginal cultural heritage in the area. In addition to the basic tasks required for a due diligence assessment, an extended background review, as well as an archaeological survey in accordance with the Code was conducted, in order to adequately map areas of high, moderate and low archaeological potential.

A field investigation was undertaken on 22 November 2022 by Anthea Vella (Biosis, Heritage Consultant), Steve Randall (Deerubbin Local Aboriginal Land Council (LALC), Cultural Sites Officer), and Lana Wedgewood (Darug Custodian Aboriginal Corporation, Cultural Sites Officer). Only Abbots Road was able to be surveyed on the day. Mamre Road was not surveyed due to safety concerns related to high levels of traffic and property access issues which prevented any adjacent properties from being investigated. During the field investigation, no Aboriginal sites or objects were identified in accessible areas. The field investigation

determined that the study area had low potential to contain archaeological objects or deposits (Figure 4). This was due to unfavourable landforms and absence of favourable landscape characteristics being present within the study area, in addition to moderate and high levels of disturbance from the construction of the road observed throughout. It recommended that no further archaeological assessment was required within areas assessed as possessing low archaeological potential, and that an unexpected finds protocol be developed.

Previous assessment—Aboriginal Cultural Heritage Assessments

1030–1048 and 1050–1064 Mamre Road Aboriginal Cultural Heritage Assessment (Biosis 2022)

Biosis undertook an ACHA for 1030–1048 and 1050–1064 Mamre Road, Kemps Creek, adjacent to and within part of the current Biosis study area (Figure 3), for ESR. The project was assessed as two SSD applications: (SSD-46983729 (Westlink Industrial Estate—Stage 2) and SSD-46983731 (Westlink Industrial Estate—Stage 3) under Part 4 of the EP&A Act. The ACHA assessed 1030–1048 and 1050–1064 Mamre Road, Kemps Creek, NSW (Lots 114 and 115 DP1296469) only.

The ACHA was prepared in accordance with the Code, the *Australia ICOMOS Charter for Places of Cultural Significance, The Burra Charter, 2013* (Australia ICOMOS 2013) (Burra Charter) and the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (OEH 2011) (Assessment Guidelines). It provided evidence about the material traces of Aboriginal land use to support the conclusions and management recommendations made. The Aboriginal community was consulted regarding the heritage management of the project throughout its lifespan. Consultation was undertaken as per the process outlined in the Department of Environment Climate Change and Water document (DECCW) document, *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (DECCW 2010c) (Consultation Requirements). The full consultation log and record can be found in Appendix 1–4 of the ACHA (Biosis 2022).

An archaeological survey was conducted on 18 February and 31 May 2022, where six areas of archaeological potential were identified within the eastern portion of the study area. The areas of potential were determined by the proximity to watercourses and presence within slope and crest landforms (Figure 4). Test excavations followed the archaeological survey, and a total of 41 test pits were excavated across the six PADS (Figure 4). The excavations identified one low density artefact scatter (AHIMS 45-5-5634/Mamre Road PAD 1), containing three artefacts. The site was located within a gentle slope landform in the eastern portion of the Biosis (2022) study area. This site is set back from the development footprint of the current Biosis study area. Avoidance of the site was not possible as part of the development assessed in the Biosis (2022) ACHA.

The mitigation and management strategies included the development of a long term care and control agreement for the recovered artefacts, native landscaping be implemented, an unexpected finds procedure be prepared, consultation with the RAPs continue and that the site should be managed under an Aboriginal Cultural Heritage Management Plan following SSD approval.

290–308 Aldington Road and 59–63 Abbots Road Aboriginal Cultural Heritage Assessment (Urbis 2021)

Urbis completed an ACHA for 290–308 Aldington Road and 59–63 Abbots Road for SSD-9138102, near the current Biosis study area (Figure 3), for ESR. The ACHA included Aboriginal community consultation as per the Consultation Requirements, and was prepared in accordance with the Code, the Burra Charter, and the Assessment Guidelines. The full consultation log and record can be found in Appendix B–C of the ACHA (Urbis 2021).

The ACHA involved an archaeological survey, and test excavations. The survey identified three isolated finds within exposed vehicle tracks (AHIMS 45-5-5503/Abbot's Rd Kemps Creek IF1; AHIMS 45-5-5504/Abbot's Rd

Kemps Creek IF2; and AHIMS 45-5-5505/Abbot's Rd Kemp's Creek IF3). It also provided transect locations recommended for test excavations (Figure 4). These locations were based on the presence of surface artefacts and archaeologically sensitive landscape features. The test excavations identified 13 subsurface artefacts, representative of a low density background scatter (Photo 1). These sites were not registered on the AHIMS database. The artefacts recovered from the test excavations were identified within lower slopes, terraces adjacent to waterways, spurs, and ridge crests. The ACHA noted the heavy disturbance across parts of the study area due to construction and market gardening.

The mitigation and management strategies included that surface collection of AHIMS 45-5-5503/Abbot's Rd Kemp's Creek IF1; AHIMS 45-5-5504/Abbot's Rd Kemp's Creek IF2; and AHIMS 45-5-5505/Abbot's Rd Kemp's Creek IF3 be undertaken, and Aboriginal cultural heritage induction material and an unexpected finds procedure be prepared. Further consultation was also required to determine the long term care and control for the recovered artefacts.



Photo 1 Test excavation results from 290–308 Aldington Road and 59–63 Abbots Road ACHA (Source: Urbis Pty Ltd 2021, pp. 39)

Ongoing management of known or potential Aboriginal cultural heritage within the study area

Known Aboriginal cultural heritage within the study area

An extensive search of the AHIMS database was conducted on 12 January 2024 (Client service ID: 854166). The search identified 100 Aboriginal archaeological sites within a 1.2 by 1.2 kilometre search area around the study area (Table 1 and Figure 5). None of these AHIMS sites were identified within the study area. None of the sites discovered in the above reports (Biosis 2022, Urbis Pty Ltd 2021) were located in the study area.

It should be noted that the AHIMS database reflects Aboriginal sites that have been officially recorded and included on the list. Large areas of NSW have not been subject to systematic, archaeological survey; hence AHIMS listings may reflect previous survey patterns and should not be considered a complete list of Aboriginal sites within a given area. Some recorded sites consist of more than one element, for example artefacts and PAD, however for the purposes of this breakdown and the predictive modelling, all individual site types will be studied and compared. This explains why there are 105 results presented here, compared to the 100 sites identified in AHIMS.

Table 1 AHIMS site type frequency

Site type	Number of occurrences	Frequency (%)
Artefact	94	89.52
PAD	11	10.48
Grand Total	105	100.00

A simple analysis of the Aboriginal cultural heritage sites registered within a 1.2 by 1.2 kilometre search of the study area indicates that the dominant site type is artefacts, representing 89.52% (n=94), with PAD represented by 10.48% (n=11).

The following is proposed for the ongoing management of Aboriginal cultural heritage within the Urbis Pty Ltd (2021) study area:

- Urbis to record AHIMS sites with the AHIMS registrar.

Potential Aboriginal cultural heritage within the study area

The ADDA conducted for the current study area included a desktop assessment and field investigation. It concluded that the study area had low potential to contain archaeological objects or deposits (Biosis 2023a). This was due to unfavourable landforms and absence of favourable landscape characteristics being present within the study area, in addition to moderate and high levels of disturbance from the construction of the road observed throughout. As per the ADDA, it was recommended that an unexpected finds protocol be developed to mitigate any impacts to unexpected Aboriginal objects or ancestral remains.

The following is proposed for the ongoing management of Aboriginal cultural heritage within the study area for the project:

- It is unlikely that Aboriginal cultural heritage values will exist within the study area (Biosis 2023a).
- ESR will continue to engage Biosis to continue with the ACHA in progress (Biosis in prep.).

Ongoing management of Aboriginal community consultation

The following is proposed for the ongoing management of Aboriginal community consultation for the project:

- Biosis will provide this Addendum Letter to the RAPs of both of the completed ACHAs considered above (Biosis 2022, Urbis Pty Ltd 2021), as part of a project update. Once the project update has been circulated to all RAPs, evidence of this correspondence will be included as an attachment to this Addendum Letter, which is to be submitted to Heritage NSW and/or DPHI.
- ESR will continue to consult the Aboriginal community for the current Biosis ACHA in progress as per the Consultation Requirements (Biosis in prep.).

Please contact me if you have any enquiries.

Yours sincerely,

A handwritten signature in black ink that reads "Crystal M. Garabedian". The signature is written in a cursive style.

Crystal Garabedian
Heritage Consultant

References

Australia ICOMOS 2013. 'The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance', <https://australia.icomos.org/publications/charters/>.

Biosis 2022. *1030-1048 and 1050-1064 Mamre Road, Kemps Creek: Aboriginal Cultural Heritage Assessment*, Report prepared for ESR Australia. Authors: Crissell, M, Millis, H and Vella, A, Biosis Pty Ltd, Sydney, NSW. Report no. 37009.

Biosis 2023a. *Mamre Road and Abbots Road Intersection Upgrades, Kemps Creek, NSW: Aboriginal Due Diligence Assessment*, Report prepared for AT&L on behalf of LOG-E. Author: Garabedian, C. Biosis Pty Ltd, Sydney, NSW. Project No. 38335.

Biosis 2023b. *Upgrades to the Abbots Road and Mamre Road Intersection, Kemps Creek, NSW: Statement of Heritage Impact*, Report prepared for AT&L on behalf of LOG-E. Authors: Vella, A and Garabedian, C. Biosis Pty Ltd, Sydney, NSW. Project No. 38335.

Biosis in prep. *Aldington and Abbots Road, and Mamre and Abbots Road Intersection Upgrades: Aboriginal Cultural Heritage Assessment*, Report to AT&L on behalf of ESR and Frasers.

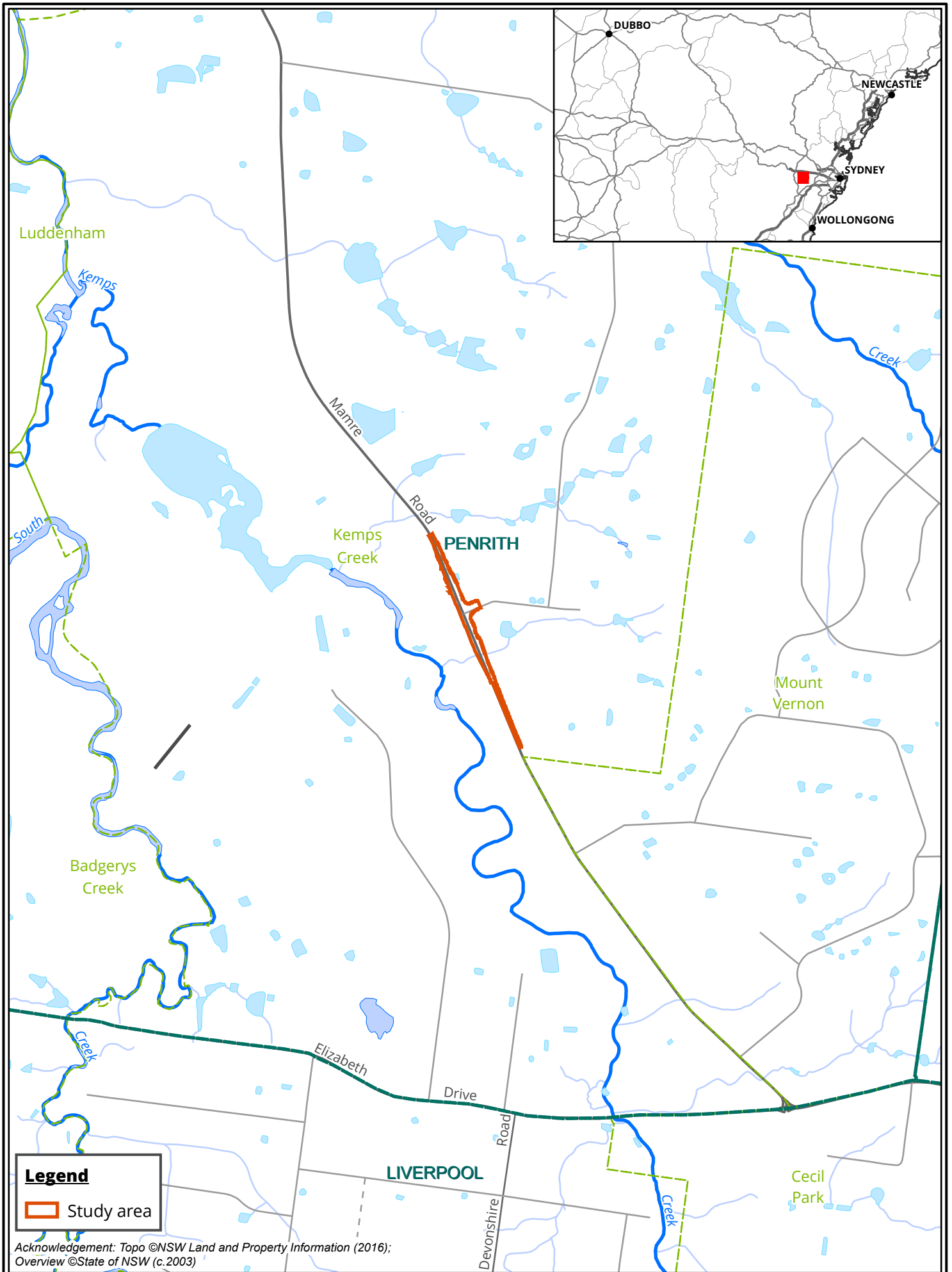
DECCW 2010a. *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, Department of Environment, Climate Change and Water, Sydney NSW.

DECCW 2010b. *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW*, Department of Environment and Climate Change, Sydney NSW.


DECCW 2010c. *Aboriginal Cultural Heritage Consultation Requirements for Proponents*, New South Wales Government Department of Environment and Climate Change., Sydney, NSW.

OEH 2011. 'Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW', Office of Environment and Heritage, Department of Premier and Cabinet, Sydney NSW.

Urbis Pty Ltd 2021. *Aboriginal Cultural Heritage Assessment: 290-308 Aldington Road, 59-62 and 63 Abbots Road, Kemps Creek. Report prepared for ESR Australia.,.*



Legend

 Study area

Acknowledgement: Topo ©NSW Land and Property Information (2016);
Overview ©State of NSW (c. 2003)

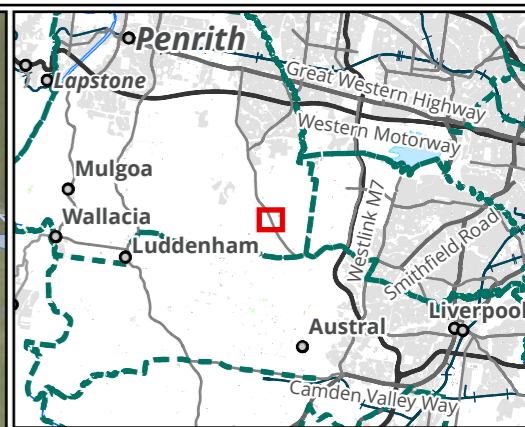


Figure 1 Location of the study area

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Prepared for: CG, Prepared by: HL, Last edited by: hliswoyo
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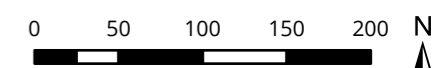
Legend
 Study area
 Lot

Figure 2 Study area detail

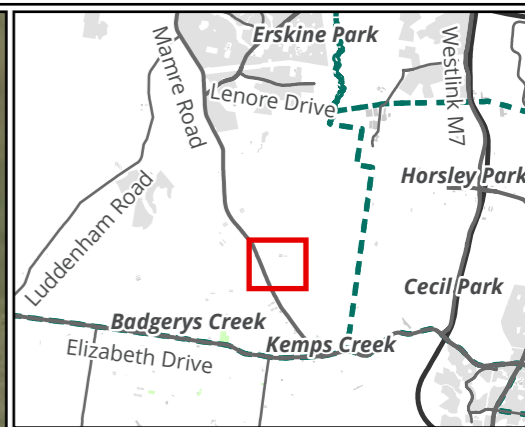


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Acknowledgements: Basemap © Land and Property Information 2016; public/NSW_Imagery: © Department of Customer Service 2020



Legend

- Study area
- Lot

Previous assessment locations

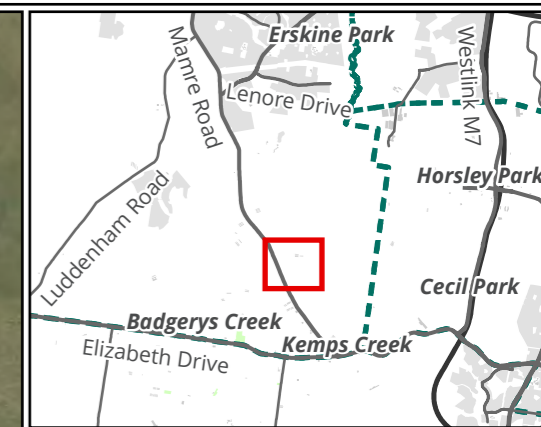
- 1030–1048 and 1050–1064
 Mamre Road Aboriginal Cultural Heritage Assessment (Biosis 2022)
- Mamre Road and Abbots Road Intersection
 Upgrades, Kemps Creek, NSW: Aboriginal Due Diligence Assessment (Biosis 2023a)
- 290–308 Aldington Road and 59–63 Abbots Road
 Aboriginal Cultural Heritage Assessment (Urbis Pty Ltd 2021)

Figure 3 Previous assessments

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 GDA 1994 MGA Zone 56

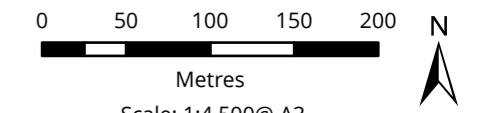
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- Study area
- Lot
- Previous assessment locations**
- 1030-1048 and 1050-1064
- Mamre Road Aboriginal Cultural Heritage Assessment (Biosis 2022)
- Mamre Road and Abbotts Road Intersection Upgrades, Kemps Creek, NSW: Aboriginal Due Diligence Assessment (Biosis 2023a)
- 290-308 Aldington Road and 59-63 Abbotts Road
- Aboriginal Cultural Heritage Assessment (Urbis Pty Ltd 2021)
- Test pits - Biosis**
- 0 Artefacts found
- 1 Artefact found
- Archaeological potential - Biosis**
- Moderate
- Low
- Survey coverage and results - Urbis**
- Survey transects (Urbis)
- + Surface artefacts (Urbis)

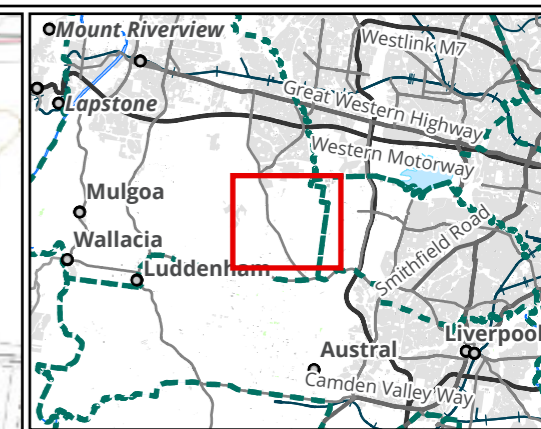
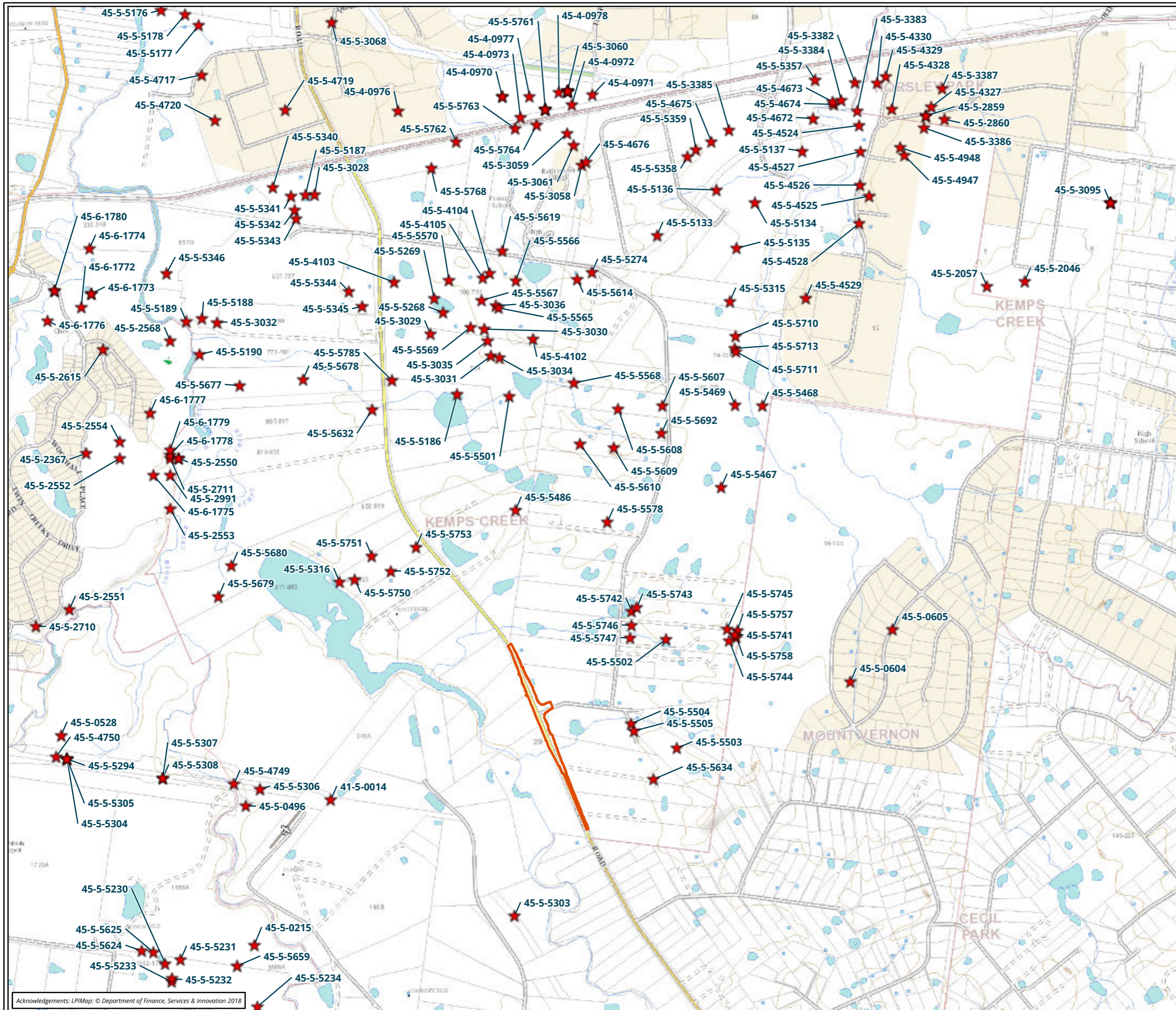
Figure 4 Results of previous assessments



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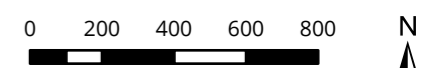


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- Study area
- ★ AHIMS

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Figure 5 AHIMS search results



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Acknowledgements: LPIMap; © Department of Finance, Services & Innovation 2018