



Archaeo-Environments Pty Ltd
heritage soils and landscape

ABN 89 119 932 437

HERITAGE AND ARCHAEOLOGICAL ASSESSMENT (Aboriginal and European)

**BENNETT ROAD DEVELOPMENT PLAN
GISBORNE SOUTH**



**Heritage Assessor
Dr Chris Day
Archaeo-Environments Pty Ltd
ABN 89 119 932 437**

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**Prepared for Client
G2 Urban Planning
670 Mt Alexander Road
Moonee Ponds VIC 3039 AUSTRALIA**

- * a summary of obligations under the *Aboriginal Heritage Act 2006* and the *Aboriginal Heritage Regulations 2018* and a definition and assessment guidelines for significant ground disturbance (SGD).
- * An assessment of geological, archaeological and historic information, including :
 - a search of the Aboriginal heritage mapping via Government sources to identify whether any Aboriginal places or sites have been recorded on or near the subject property;
- * An assessment of the Victorian Heritage Register and Victorian Heritage Inventory
 - a review of historical and current aerial photographs to determine the level of prior ground disturbance and landscape modification that has occurred within the subject property, and;
 - a site inspection to observe potential heritage features, ground conditions and in particular evidence of ground disturbance.
- * a summary of the recommendations of the above, notably whether an Aboriginal CHMP is mandatory for the planned development.



Fig 2 Aerial map of the subject property at Bennett Road, Gisborne South.

1.0 STATUTORY OVERVIEW AND REQUIREMENTS

A review of the Aboriginal Heritage Act and Regulations provides a statutory framework for the purpose of determining whether a CHMP is mandatory for the BRDP.

1.1 Regulations

It is noted that a review of the Aboriginal Heritage Regulations effective May 23 1, 2018 produced some amendments relevant to CHMPs and compliance. Those amendments included the following :

- A removal of a mandatory CHMP for small lot sub-divisions (<1100m²) in most situations.
- A process for amendment of CHMPs
- An increase of fees and penalties for non-compliance
- Introduction of a Preliminary Aboriginal Heritage Test (PAHT) to determine whether a CHMP is mandatory. A PAHT is a tool in the form of a heritage assessment, prepared in standard format and evaluated by Aboriginal Victoria (AV). The purpose of the PAHT is not to replace a heritage due diligence assessment, but to provide Councils/sponsors with a formal process via Aboriginal

Victoria (AV) for whether a CHMP was mandatory or not. Discussion with AV confirmed that a PAHT was not to be used automatically if a Council or sponsor is otherwise equipped to make a CHMP decision according to their statutory decision-making role. In the case of the current development a PAHT was deemed not necessary.

1.2 Is a CHMP mandatory at Bennett Road Gisborne South?

Under the AHR (2007), a CHMP is required if a development is considered to be a **high impact activity** and is located within an area of **cultural heritage sensitivity**.

1.2.1 Is the activity a high impact activity ?

A High Impact Activity

It is our opinion that future subdivision and development of the subject property could be interpreted to be a high impact activity according to Section 46 (AHR 2007) Subdivision of land

46 Subdivision of land

(1) The subdivision of land into three or more lots is a high impact activity if –

(a) The planning scheme that applies to the activity 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 8ha

It is emphasised that the current assessment and Development Plan is not part of any permit or statutory authorization and therefore a CHMP is not triggered at this stage.

1.2.2 Does the activity lie within an area of cultural heritage sensitivity (CHS) ?

Regulation 26 Areas of Cultural Heritage Sensitivity : Waterways states:

- (1) Subject to sub regulation (2), a waterway or land within 200 metres of a waterway is an area of cultural heritage sensitivity
- (2) If part of a waterway or part of the land within 200m of a waterway has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.

The subject property lies within Djirri Djirri Creek – a tributary of Jacksons Creek and mapped area of CHS – which extends across the south-west part of the property (Figure 3 and Plate 1).



Fig 3 Map showing location of Djirri Djirri Creek and 200m buffer (area of cultural heritage sensitivity).as well as surrounding artefact scatters located during recent CHMP surveys



Plate 1 View to south along Djirri Djirri Creek within the eastern part of the development area.

1.2.3 Is the development exempt from a CHMP on the basis of significant ground disturbance ?

Under Regulation 22 (3), the proposed activity would not require a CHMP if the 'area of cultural sensitivity' has been subject to prior 'significant ground disturbance'. Significant ground disturbance is defined in the Regulations as follows:

'Disturbance of –

(a) the topsoil or surface rock layer of the ground, or

(b) waterway by machinery in the course of digging, dredging, or deep ripping, but does not include ploughing other than deep ripping'.

1.2.4 Assessing Significant Ground Disturbance

Aboriginal Victoria (AV) has produced a Practice Note for Significant Ground Disturbance Practice Note which is available on their website and which supports a staged approach as follows :

Level 1 – Common knowledge

The fact that land has been subject to significant ground disturbance may be common knowledge. Very little or no additional information should be required from the responsible authority. For example, common knowledge about the redevelopment of a petrol station with extensive underground storage tanks.

Level 2 – Publicly available records

If the existence of significant ground disturbance is not common knowledge, a responsible authority may be able to provide assistance from its own records about prior development and use of land, or advise the applicant about other publicly available records, including aerial photographs.

These documents may allow a reasonable inference to be made that the land has been subject to significant ground disturbance. In such event, no further inquiries or information would be needed by the responsible authority. The particular records and facts relied upon should be noted by the responsible authority as a matter of record. For example, a former quarry site subsequently filled, but where the public records show the area of past excavation.

Level 3 – Further information

If 'common knowledge' or 'publicly available records' do not provide sufficient information about the occurrence of significant ground disturbance, the applicant may need to present further evidence either voluntarily or following a formal request from the responsible authority. Further evidence could consist of land use history documents, old maps or photographs of the land or statements by former landowners or occupiers. Statements should be provided by statutory declaration or similar means; for example, the construction of a former dam on a farm.

Level 4 – Expert advice or opinion

If these levels of inquiry do not provide sufficient evidence of significant ground disturbance (or as an alternative to level 3), the applicant may submit or be asked to submit a professional report with expert advice or opinion from a person with appropriate skills and experience. Depending on the circumstances, this may involve a site inspection and/or a review of primary documents. If there is sufficient uncertainty some preliminary sub-surface excavation or geotechnical investigation may be warranted.

2.0 ASSESSMENT

The BRDP area lies within an area of CHS, however an assessment is necessary to determine whether the area of CHS has been subject to significant ground disturbance. For this purpose we undertook a review of historical information, historic maps and aerial photographs to identify evidence of landscape modification and ground disturbance. A site visit was also undertaken to document site condition and evidence of ground disturbance. The various levels of evidence for significant ground disturbance above are addressed in turn below.

2.1 Historical setting

Accounts and maps of settlement and historic pastoral use would constitute Level 1 (common knowledge) and Level 2 (publically available information) evidence for significant ground disturbance. On this basis it appears unlikely that Djirri Djirri Creek - the area of CHS - has been subject to SGD.

2.2 Review of Aerial Photography

An aerial image from 2019 shows Djirri Djirri Creek - the area of cultural heritage sensitivity which overlaps with the BRDP area (Fig 4). There does not appear to be evidence of significant ground disturbance from aerial imagery.



Fig 4 Aerial photo (2019) showing the course of Djirri Djirri Creek and surrounds across the eastern part of the BRDP area.

2.3 Site Inspection

A site inspection of the subject property was conducted by Dr Chris Day (AE Ltd Cultural Heritage Advisor) on the 17th May 2018. The purpose of the inspection was to observe site conditions, notably evidence of past land use and ground disturbance. No Aboriginal artefacts or sites were identified during the inspection.

The Djirri Djirri Creek and surrounds within the development area features a gentle valley with areas of bedrock outcrop. Apart from implied original tree clearance and presence of several dams, the subject area did not show evidence of disturbance in the form of significant earthworks or deep ripping. Evidence from

a site inspection would constitute Level 4 (Expert advice/opinion and site inspection) evidence for significant ground disturbance.

3.0 ABORIGINAL CULTURAL HERITAGE POTENTIAL

A review of ACHRIS, the registry of Aboriginal cultural heritage held by Aboriginal Victoria indicates that several CHMP studies have been prepared in the area surrounding the development area in the past 18 months. These include CHMP 15832 approved in Nov 2019 west of the Calder Freeway and a CHMP to the immediate east which is currently in progress. Aboriginal cultural heritage in the form of stone artefact scatters have been recorded during these surveys (Fig 3) and indicate that the development area would have potential for Aboriginal heritage.

4.0 SUMMARY AND CONCLUSIONS

Level 1 Common Knowledge

A review of regional land use history indicates that the subject property was part of early 19C agricultural development. The area of CHS (Djirri Djirri Creek) extends across the eastern part of the development area and – apart from several dams – is not expected to have been subject to disturbance which might be common knowledge.

Level 2 Publicly Available Records and Level 3 Additional information

In addition to published maps and reports about 19C farming activity, there is insufficient local evidence to imply significant ground disturbance across the area of CHS. The landscape shown in Plate 1 shows that the area surrounding Djirri Djirri Creek has been dammed in some areas but is for the most part under pastoral use without evidence of SGD.

Level 4 Expert Opinion/Site Inspection & subsurface investigation

Site inspection of Djirri Djirri Creek and surrounds indicated presence of several dams but overall negligible evidence of SGD.

5.0 FUTURE MANAGEMENT

The Djirri Djirri Creek is the area of highest Aboriginal cultural heritage potential within the Development area. Regional predictive models have established that Aboriginal sites generally have a focus on waterways with lesser frequency > 200m from these features. Djirri Djirri Creek will not be subject to residential development.

The 2ha lot size under the current Development Plan will mitigate against high risk of impact to Aboriginal cultural heritage, certainly compared with smaller lot subdivision. In other words the relatively small development footprint (dwelling, outbuildings, driveway etc) will allow for a large proportion of the lot to remain undisturbed. The large lot sizes when compared to a standard intensive residential subdivision such as to the west side of the Calder Freeway allow considerable capacity for potential sensitive sites to be avoided.

The upgrade of the Development Area as a landscape resource will require compliance with the Aboriginal Heritage Act (2006) and Aboriginal Heritage Regulations (2018) and will include preparation of a Cultural Heritage Management Plan (CHMP) - desktop and field assessment of Aboriginal archaeological potential - across required development parcels.

As a guide to future works, the Djirri Djirri Creek is an area of mapped Aboriginal Cultural Heritage sensitivity and under current legislation, a Cultural Heritage Management Plan (CHMP) will be mandatory for lots at 88 Bennett Road and 94 and 134 McGregor Road. It is expected that any CHMP would follow standard practice in accord with AHR (2018) and include a desktop review, field walkover and test pit excavation work where necessary. Fieldwork would be focused on areas of identified Aboriginal cultural heritage potential and likely areas of impact. The results of the CHMP(s) will inform future management of any identified Aboriginal sites and might include areas of set aside or managed open space.

Preliminary discussion with the local Registered Aboriginal Party (Wurundjeri and Woi Wurrung Cultural Heritage Aboriginal Corporation) in July 2021 advised of the Development Plan and future subdivision, Liaison with the RAP group will be included as part of any future CHMP process.

The future subdivision lot development of the area is directed away from the area of prime potential sensitivity, being the waterway with areas away from the water way having lesser potential for artefact presence. An aim will be to retain the current form of this area, with low impact paths and additional scattered vegetation. A detailed assessment will not be required for those parts of the reserve that are not altered. Assessment will be required around reinstated dams.

A CHMP will be undertaken for the affected areas prior to subdivision permit applications being formalised.

6.0 EUROPEAN HERITAGE ASSESSMENT

An inspection of the Victorian Heritage Register or Victorian Heritage Inventory indicated that there are no registered heritage sites or features within the BRDP. A preliminary field survey (17 May 2018) did not observe features of potential European heritage value. On this basis the potential for European heritage potential across the BRDP is expected to be low.

7.0 RECOMMENDATIONS

1. It is our opinion that there is no evidence of significant ground disturbance within the areas of CHS (Djirri Djirri Creek) which overlaps with the eastern part of the BRDP area – according to level 1, 2, 3 and 4 criteria of AV guidelines (Section 1.2.4). On this basis and with reference to Reg 26 (2) of the AHR (2018) (1) *If part of a waterway or part of the land within 200m of a waterway has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.* It is our opinion that an Aboriginal Cultural Heritage Management Plan will be mandatory for the proposed activity.

2 It is our opinion – on the basis of a review of recent CHMP studies from the surrounding region – that the Djirri Djirri Creek area would have some potential for Aboriginal Cultural Heritage.

3 A CHMP is not mandatory under the Development Plan process as this stage does not propose development itself. A CHMP will be mandatory under a permit application for subdivision which is a CHMP trigger according to AHR (2018) (discussed in Section 1.2.1).

4. Aboriginal cultural heritage is provided with blanket protection in Victoria under the Aboriginal Heritage Act 2006. If any Aboriginal artefacts or sites are found during development works or at any other time, excavation must cease immediately and the local RAP (WLCCHC) should be notified for advice before work can re-commence.

5. There are no registered European heritage sites or features within the BRDP. A preliminary field survey (17 May 2018) did not observe features of potential European heritage value. The Victorian Heritage Act

(2007) provides protection for sites of heritage value and a process of management or consent should sites or features be found during development works.

Author

Dr. Chris Day
Director
Archaeo-Environments Ltd
Registered Heritage Advisor (Victoria).
2 Chaucer Street
Box Hill South VIC 3128

PROFILE

Dr Chris Day Director, Archaeo-Environments Ltd

MIFA

Honorary Research Associate (Latrobe University)

Cultural Heritage Advisor (Victoria)

PROFESSIONAL HISTORY

2014 – present Director, Archaeo-Environments Pty Ltd - a heritage soils and landscape consultancy. Chris brings to the position over 30 years of experience in archaeology, geo-archaeological research and natural resource management.

2007 - 2014 Principal Archaeologist, Golder Associates – Management of a cultural heritage team at Golder Associates which included Aboriginal and European heritage work throughout Australia and management of large-scale EIA cultural and heritage impact assessments throughout Hong Kong, S Pacific and SE Asia.

Chris has prepared over 70 Aboriginal Cultural Heritage Management Plans, impact assessments and due diligence surveys in Australia including indigenous heritage consultation and survey work on both brown and greenfield sites throughout Victoria. Chris has also supervised indigenous heritage surveys and impact assessments on large energy projects in South Australia and Victoria and a heritage management plan for Hyde Park, WA. In addition Chris has overseas cultural heritage experience (field survey and community consultation) of large EIA projects in Hong Kong as well as mine feasibility assessments in Tibet, Philippines, Fiji and PNG.