

1 June 2020

Our ref: 15817

City of Port Phillip
99A Carlisle Street
St Kilda VIC 3182

Attention: Julian Hawkins

Dear Julian,

Elwood Foreshore – Preliminary Aboriginal Cultural Heritage Assessment

Introduction

The City of Port Phillip has engaged Eco Logical Australia (ELA) to undertake a preliminary Aboriginal cultural heritage assessment of an area of coastal foreshore in Elwood, Victoria. This assessment is intended to assist with the future master planning of the area.

The study area for the assessment has been defined as a single polygon, approximately 16 ha in area and bounded by the Port Phillip Bay foreshore to the west, Ormond Esplanade to the north, and Head Street in the south (Figure 1).

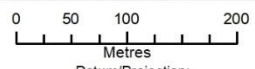
The principal objective of this assessment is to provide an overview of cultural heritage ‘red flags’ or key constraints that may have implications for the implementation of master planning, in line with the requirements of the *Aboriginal Heritage Act 2006* (Vic), and the *Aboriginal Heritage Regulations 2018* (Vic) (the Regulations).

Study Area **Elwood Foreshore CHA**



Legend

- Study Area
- Aboriginal Cultural Heritage Sensitivity



Datum/Projection:
GDA 1994 MGA Zone 55



Prepared by: DC Date: 28-May-20

Figure 1: Map of the study area

Method

A desktop assessment of Aboriginal and historical cultural heritage constraints was undertaken for the study area which included:

- A review of relevant Aboriginal cultural heritage legislation and planning permit requirements including government online mapping resources and planning schemes.
- An inspection of aerial imagery and key statutory Victorian databases relating to Aboriginal cultural heritage planning matters, including searches for registered Aboriginal cultural heritage places, culturally sensitive landforms and other resources (e.g. consultancy reports, academic research) in the Victorian Aboriginal Heritage Register. Databases were accessed through the Aboriginal Cultural Heritage Register and Information System (ACHRIS)¹ online tool managed by Aboriginal Victoria.

A site inspection of the study area was completed on 23 April 2020 by ELA Heritage Advisor, Daniel Claggett and Graduate Heritage Advisor, Caroline Hawker. A subsequent site inspection was undertaken on 28 May 2020 by Caroline Hawker, upon advice from the City of Port Phillip to expand the study area. The purpose of the site inspection was to determine if there was evidence of significant ground disturbance (as defined under the Regulations), within any portions of the study area that intersect with defined areas of Aboriginal cultural heritage sensitivity as defined under relevant provisions within the Regulations. This included evidence of construction associated with carparks, playing fields, buildings and walking paths, as well as landscaping and utility installation. The location and nature of features associated with significant ground disturbance were documented and recorded.

Desktop Assessment

The study area is situated within the Port Phillip and Westernport catchment management area, the Gippsland Plain bioregion and the City of Port Phillip local government area. The land is zoned as Public Park and Recreation Zone (PPRZ) under the City of Port Phillip's local government planning scheme.

The findings of the desktop assessment are summarised in Table 1 below.

Table 1: Findings and implications of the desktop due diligence assessment

Feature	Assessment results	Implications
Aboriginal cultural heritage	<p>The study area intersects with an area of Aboriginal cultural heritage sensitivity defined by its proximity to Coastal Crown Land and Coastal Land.</p> <p>The study area does not contain any registered Aboriginal cultural heritage places. The closest registered place to the study area is VAHR 7822-0027, a now destroyed shell midden located approximately 500 m to the north-west.</p>	<p>A cultural heritage management plan is required under the <i>Aboriginal Heritage Act 2006</i> (Vic) if a high impact activity is undertaken in an area that includes an area of Aboriginal cultural heritage sensitivity.</p> <p>The City of Port Phillip has not yet specified the nature of works proposed for the study area, and subsequently,</p>

¹ <https://achris.vic.gov.au/#/dashboard> - accessed 22 April 2020

Feature	Assessment results	Implications
	<p>The study area has not previously been subject to a formal archaeological investigation.</p> <p>Several CHMP investigations have been undertaken nearby the study area on the surrounding foreshore. The results of these studies generally indicate a high degree of disturbance across the area from residential development.</p> <p>CHMP 16028 (Burch and Evans 2018) was undertaken for a proposed multi-dwelling development approximately 600 m south of the study area. The activity area was heavily disturbed by modern development, with the soil profile comprised of mixed sandy fill, over a natural clay base. No Aboriginal cultural heritage was identified as a result of the assessments.</p> <p>CHMP 13625 (Mitchell and Hardiman 2017) was prepared for alterations to an apartment building, north of the study area on Marine Parade. The soil profile of excavations was heavily disturbed and comprised of a mixture of silty and coarse sand. No Aboriginal cultural heritage material was identified, and it was suggested that the site had been disturbed through swamp reclamation/drainage works and residential development.</p> <p>CHMP 14275 (Oataway 2016) was prepared north of the study area for a proposed residential development on Marine Parade. Standard assessment identified a high level of disturbance associated with the construction of an existing dwelling. Complex assessment found deep swampy clays beneath deep sands, indicating that the activity area was once located within the boundary of the former Elwood Swamp. No Aboriginal cultural heritage was found as a result of the assessments.</p> <p>CHMP 15149 (Howes et al. 2018) was undertaken for the proposed Dendy Beach Pavilion in Brighton, to the south of the study area. Subsurface testing indicated a high level of disturbance, with a fill layer of variable depth over natural sand. No Aboriginal cultural heritage material was identified during testing.</p>	<p>whether these works would be defined as a high impact activity under the Regulations cannot be determined at this stage.</p> <p>The study area contains an area of Aboriginal cultural heritage sensitivity under regulations 30 (Coastal Crown Land) and 31 (Coastal Land).</p>
Significant ground disturbance	A Dial Before You Dig request indicated that a range of subsurface assets, including Melbourne Water, NBN, City of Port Phillip, Optus, Telstra, United Energy and MultiNet Gas Services are present within the study area.	The installation of utilities would have involved the use of machinery. On this basis, areas of Aboriginal cultural heritage sensitivity no longer exist within the study area at locations that have been significantly disturbed for the installation of utilities.
Aboriginal community stakeholders	Registered Aboriginal Parties: Nil. Relevant Traditional Owner Groups: <ul style="list-style-type: none"> • Bunurong Land Council Aboriginal Corporation • Boonwurrung Land and Sea Council 	Nil at present. If a cultural heritage management plan is deemed to be required at a later stage, Traditional Owner group representatives should be engaged, although the evaluating authority will be Aboriginal Victoria

Feature	Assessment results	Implications
	<ul style="list-style-type: none"> Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation 	until a time when a Registered Aboriginal Party for the study area is appointed.

Land Use History

According to a heritage report prepared for the City of Port Phillip in 2005 (Heritage Alliance), the 54 hectares of Elwood Beach between Point Ormond, Head Street and Ormond Esplanade, was reserved as a Public Garden prior to 1865, with an 11 acre reserve at the southern end for a rifle range. By 1869, council had made improvements to the beach reserve, including tree planting and the construction of a promenade. In 1907, the Head Street rifle butts were closed, and the land was later developed into Elwood Park. Between 1921 and 1939, a number of sporting clubs were constructed along the foreshore, including the Elwood Life Saving Club at the beach end of Head Street, followed by the Elwood Sea Canoe Club (c.1924), a lawn bowling club (c.1925), a sea bathing pavilion (c.1928), tennis courts (c.1931), a croquet club (c.1937) and an angling club (c.1939) (Heritage Alliance 2005, p.10).

Historical aerial photography is available for the study area dating from the 1920s. Imagery from 1925 and 1929 (Figure 2 and Figure 3 respectively), shows the eastern half of the study area cleared of vegetation to Head Street, in keeping with its use as a public reserve, and is largely undeveloped. The original Elwood Life Saving Club is present within the study area at the beach end of Head Street, and there also appears to be a residence facing Ormond Esplanade at its eastern extent. Pine trees have been planted along the foreshore and the promenade is visible extending along the beachfront. In the 1925 photograph, only a shed is present on foreshore, aside from the life saving club, with additional structures appearing in the 1929 image. A recreational ground, possibly the bowls club, is visible abutting Ormond Esplanade and extending into the study area. Vegetation has been partially cleared within the north-western portion of the study area.

Aerial imagery dating to 1945 (Figure 4) shows the addition of two more recreational grounds (one possibly a tennis court) along Ormond Esplanade to the east of the bowls club. More buildings have been constructed along the foreshore and further vegetation clearance has occurred within the north-western area. The Wattie Watson Oval has been developed, although no stands are present, and the Head Street Reserve in the south-east corner of the study area has been landscaped.

Subsequent land development occurred during the mid-late 20th century, as shown in imagery from 1968 (Figure 5 and Figure 6). The central and southern carparks have been constructed by this time, and there is a small hut on the oval. Vegetation to the north-west is sparse and appears heavily reduced compared to coverage evident in 1945. These features are also evident on an aerial photograph from 1970 (Figure 7). The 1970 aerial also shows the present-day croquet club, adjacent to the Head Street reserve, having been constructed.

By 1987 (Figure 8), car parking in the central and eastern sections of the study area had become more formalised, and the Wattie Watson oval and adjacent playing fields have been heavily landscaped. A sporting facility has been constructed in the middle of the playing fields and there are cricket nets adjacent to the oval. The new Life Saving Club and Bathers building has been built by this time and the

study area has undergone widespread landscaping, especially along the foreshore and through the car parks. Vegetation coverage within the north western area is generally unchanged since 1970.

Subsequent developments to the study area, have included additional footpaths, revegetation and the installation of garden beds. The bowls club was demolished and replaced by a kindergarten and accompanying playground and landscaped gardens. The central area has been developed into a recreational area and features play equipment, paths and BBQs. The north-western section of the study area has been revegetated and now has almost complete vegetation cover outside of walking path alignments.



Figure 2: 1925 aerial image of study area, facing eastward (Pratt 1925 via Trove)



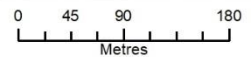
Figure 3: 1929 aerial image of study area, facing northwest (Pratt 1929 via Trove)



Esri, HERE, Garmin, (c) OpenStreetMap contributors

Legend

 Study Area



Datum/Projection:
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Figure 4: 1945 aerial image of study area (Adastra Airways)



Figure 5: 1968 aerial image of study area facing west (Payens 1968a)



Figure 6: 1968 aerial image of study area facing north-east (Payens 1968a)



Legend
Study Area

0 45 90 180
Metres
Datum/Projection:
GDA 1994 MGA Zone 55

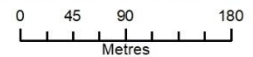
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Figure 7: 1970 aerial image of study area (via Landata 2020)



Legend

 Study Area



Datum/Projection:
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Figure 8: 1987 aerial image of study area (via Landata 2020)

Site inspection

A site inspection was undertaken on 23 April 2020 by ELA Heritage Advisors Daniel Claggett and Caroline Hawker. A second inspection to include the playing fields to the south was undertaken by Caroline Hawker on 28 May 2020. The inspection was conducted by means of a pedestrian walkover with the purpose of assessing the study area and recording evidence of land development and heritage constraints. The inspection included the entirety of the study area, from Head Street in the south-east to the north western boundary of the study area adjacent Ormond Esplanade. The study area was assessed as five separate survey areas (southern, carpark, foreshore, central and northern areas), defined based on the visible ground surface impacts to these areas. A map of the study area is found in Figure 9.

The site inspection identified numerous impacts to the ground surface across the extent of the study area. The southern section of the study area contains heavily landscaped sporting fields, sporting club facilities, cricket nets, gardens and a croquet club (Figure 10 to Figure 15). Numerous pit covers for utilities were noted, including an extensive recycled water and sprinkler system across the playing fields and the Head Street Reserve. The edges of the playing fields have mounded revegetated garden beds, and a stormwater drain has been converted into a small wetland area.

The carpark portion of the study area has been disturbed through the construction of this area (Figure 19). Other disturbances to ground surfaces include mounded and built-up garden beds (Figure 20) and the construction of a loading area with low retaining walls (Figure 21).

The entirety of the foreshore portion of the study area, located directly adjacent Elwood beach presented evidence of significant landscaping and grading in order to create walking tracks (Figure 16), green spaces and the construction of recreational and community facilities, such as the Elwood Life Saving Club (Figure 17) and Sailing Club. In addition, numerous underground utilities and services area listed in this area, as seen in multiple areas by the presence of pit covers and utility boxes (Figure 18). This indicates a robust process of excavation along their respective alignments.

The central portion of the study area consists of recreational facilities such as a playground and tennis courts (Figure 22) as well as open green spaces (Figure 23) and a kindergarten (Figure 24). All of these areas have impacted on the ground surface through landscape grading, the construction of underground services such as sprinkler systems (Figure 25) and the construction of the kindergarten and tennis courts themselves. Also located in this area is a second carpark (Figure 26) and landscaped garden beds containing planted native and exotic vegetation.

The northern section of the study area consists of moderately dense regrowth and remnant coastal scrub and tree vegetation, with portions of this area having been cleared for open green spaces (Figure 27) and walking paths (Figure 28). Ground disturbance within this area is less significant than in the remainder of the study area, with the most notable impacts seen through landscaping and mounding of introduced and existing soils (Figure 29). In addition, localised ground disturbance through the installation of underground services is evident along limited alignments within portions of this area (Figure 30). A small portion of remnant sand dune within a more heavily vegetated portion of this area was identified, with sand and shell material mixed with introduced soils (Figure 31).

Survey Areas **Elwood Foreshore CHA**



Esri, HERE, Garmin, (c) OpenStreetMap contributors

0 50 100 200
Metres
Datum/Projection:
GDA 1994 MGA Zone 55

Legend

- Study Area

Survey Areas

- Southern Area
- Carpark Area
- Central Portion
- Northern Portion
- Western Foreshore

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Figure 9: Survey areas described above



Figure 10: Formal paths, garden beds and landscaping within Head Street Reserve, facing south-west_28/05/20



Figure 11: Landscaping and drainage around Wattie Watson Oval, facing north-west_28/05/20



Figure 12: Landscaping and garden beds at Wattie Watson Oval, facing west_28/05/20



Figure 13: Landscaped drainage, with sporting facilities in background, facing north-east_28/05/20



Figure 14: Playing fields and club facilities, facing west_28/05/20



Figure 15: Croquet club, facing west_28/05/20



Figure 16: General view of the Elwood foreshore area, showing landscaping and the construction of walking paths and lamp posts, facing north_23/04/20



Figure 17: Elwood lifesaving club, located adjacent Elwood beach, facing south_23/04/20



Figure 18: Walking path located directly adjacent Elwood beach, with a pit cover for underground stormwater infrastructure visible, facing north_23/04/20



Figure 19: Large asphalt carpark, facing southeast_23/04/20



Figure 20: Garden bed with planted vegetation within the car park portion of the study area, facing northeast_23/04/20



Figure 21: Loading area containing low retaining walls within the car park portion of the study area, facing northeast_23/04/20



Figure 22: Playground within the central portion of the study area, located adjacent the kindergarten, facing northeast_23/04/20



Figure 23: Looking towards Elwood Beach from an open green space in the foreshore portion of the study area, facing southwest_23/04/20



Figure 24: Kindergarten within the central portion of the study area, with additional disturbances from land grading and the construction of paved areas, facing northeast_23/04/20



Figure 25: An example of the multiple underground services that run through the green spaces within the central portion of the study area_23/04/20



Figure 26: Carpark located in the central portion of the study area, facing northwest_23/04/20



Figure 27: Open area within vegetated northern portion of the study area, facing north_23/04/20



Figure 28: Walking trail located between the immediate Elwood foreshore and the vegetated section of the study area, facing north_23/04/20



Figure 29: Large, mounded garden bed containing planted vegetation in the study areas north, facing west_23/04/20



Figure 30: Example of an underground service in the northern portion of the study area_23/04/20



Figure 31: Remnant sand dune and shell material mixed with introduced soil identified in the northern portion of the study area_23/04/20

Summary

Based on the results of the assessments, the study area:

- Does not contain any registered Aboriginal cultural heritage places.
- Intersects with an area of cultural heritage sensitivity
- Is unlikely to contain any unregistered Aboriginal cultural heritage places given its land use history.

Planning approvals, such as a cultural heritage management plan, or further investigation may be required to meet legislative requirements, depending upon the nature and location of works planned within the study area as part of the City of Port Phillip's master plan.

Aboriginal Heritage Act 2006 (Vic) and Aboriginal Heritage Regulations 2018 (Vic)

When is a cultural heritage management plan (CHMP) required?

A CHMP is required for an activity if (reg 7 of the Regulations):

- all or part of the activity area for the activity is an area of cultural heritage sensitivity; and
- all or part of the activity is a high impact activity

Does the study sites intersect with areas of cultural heritage sensitivity?

The study area intersects with a defined area of cultural heritage sensitivity based on its proximity to Coastal Crown Land (reg. 30) and Coastal Land (reg. 31):

30 Coastal Crown Land

1. Subject to subregulation (2), coastal Crown land is an area of cultural heritage sensitivity.
2. If part of an area of coastal Crown land has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.

31 Coastal Land

1. Subject to subregulation (2), land within 200 metres of the high water mark of the coastal waters of Victoria or any sea within the limits of Victoria is an area of cultural heritage sensitivity.
2. If parts of the land specified in subregulation (1) has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.

Has the study site been subject to significant ground disturbance?

Regulation 5 of the Regulations states that:

significant ground disturbance means disturbance of—

- a) the topsoil or surface rock layer of the ground; or
- b) a waterway—

by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping.

Several VCAT 'red dot decisions'² have addressed a number of issues relating to the circumstances under which a CHMP is required, and the level of inquiry required by a planning decision-maker to determine whether significant ground disturbance has occurred. The principles established have formed the basis for a Practice Note regarding Significant Ground Disturbance³.

The following statements from the Mainstay decision (2009 VCAT 145) are reproduced here verbatim:

Many parts of the state are not areas of cultural heritage sensitivity, and many activities are exempt requiring a CHMP. Use should be made of the AAV on-line 'Aboriginal heritage planning tool' to determine if a CHMP is required;

It is the fact of significant ground disturbance that creates an exception under the Regulations, and determines if a CHMP is not required. The actual likelihood of Aboriginal heritage existing in the area is irrelevant to this determination;

The timing of the significant ground disturbance is irrelevant. It may have occurred many years ago in the early history of European settlement in the state;

If only part of the land has been subject to past significant ground disturbance, and the remaining part is still in an area of cultural heritage sensitivity, a CHMP will still be required for the whole development activity;

The burden of proving that the land has been the subject of significant ground disturbance rests with the applicant. The planning decision maker (and, on review, the Tribunal) must feel an actual persuasion of the existence of that fact to its reasonable satisfaction. This should not be derived or produced by inexact proofs or indirect inferences, and little weight should be given to a mere assertion by an applicant or landowner;

In assessing whether significant ground disturbance has occurred, there are four levels of inquiry that might commonly arise, and the assessment should be dealt with at the lowest applicable level. These levels are:

- (1) common knowledge,*
- (2) publicly available records,*
- (3) further information from the applicant, and*
- (4) expert advice or opinion;*

² Mainstay Australia Pty Ltd vs Mornington Peninsula SC & Ors VCAT 145 (24 February 2009); Azzure Investment Group Pty Ltd vs Mornington Peninsula SC VCAT 1600 (14 August 2009)

³ <https://www.vic.gov.au/aboriginalvictoria/heritage/heritage-tools-and-publications/guides-forms-and-practice-notes-for-aboriginal-heritage-management.html> - accessed 29 January 2019

If the decision maker is not persuaded by the applicant that there has been significant ground disturbance, the 'default' position is that a CHMP is required. This accords with the purpose and intent of the Aboriginal Heritage Act 2006;

'Significant ground disturbance' is defined in the Regulations. The disturbance must have been caused by machinery in the course of grading, excavating, digging, dredging or deep ripping. Ploughing other than deep ripping is expressly excluded. 'Deep ripping' is also a defined term that requires the use of a ripper or subsoil cultivation tool to a depth of 60 cms or more. By reference to these definitions, past ground disturbance caused by conventional ploughing (such as by a disc plough or a rotary hoe) does not constitute significant ground disturbance. Both the depth of ploughing and the type of machinery used are relevant to whether deep ripping (as defined) has occurred.

The Mainstay decision (2009 VCAT 145) is further complemented by the Azzure decision (2009 VCAT 1600), which addresses difficulties in the application of the Aboriginal Heritage Regulations 2007 (Vic) to determine whether land has been subject to past 'significant ground disturbance'.

In the Azzure decision, the Tribunal accepted that in the absence of 'smoking gun' evidence (i.e. proof beyond doubt) that firmly establishes 'significant ground disturbance' as defined in reg 5 (i.e. disturbance of topsoil by machinery), evidence for 'significant ground disturbance' can still be established to a sufficient level from comparative and contextual information. Such information might include:

1. the urban context
2. the timing of subdivision
3. the shape, size, topography and configuration of lots
4. the actual development of dwellings and outbuildings and pattern of use over time
5. the provision of underground drainage and services
6. the style and configuration of the house and garden
7. and the lack of remnant vegetation.

The following statement from the Azzure decision (2009 VCAT 1600) is reproduced here verbatim:

The comparative and contextual information must still reasonably satisfy the decision maker that the relevant land has been disturbed in the past by machinery in the course of grading, excavating, digging, dredging or deep ripping (other than ploughing) – i.e. the definition of the AH Regulations must still be met. However, in the absence of a single item of proof, the contextual approach may assist in achieving this level of satisfaction though a reasonable inquiry and examination of a range of relevant information (none of which necessarily conclusive itself) and 'joining the dots' to reach a common sense conclusion from the available information...The standard of proof is on the 'balance of probabilities' – not proof beyond doubt.

The essential element in determining whether or not significant ground disturbance has occurred is the ability to demonstrate that the topsoil of the ground has been disturbed by machinery in the course of grading, excavating, digging, dredging or deep ripping.

Southern area

The findings of the assessment demonstrates that the intersecting area of cultural heritage sensitivity across the southern portion of the study area has been impacted by machinery across its entirety. This area is covered by heavily landscaped playing fields, sporting facilities, cricket nets, the Head Street Reserve and the Elwood croquet club. Mechanical impacts to this area have included the levelling of the playing fields, landscaping, building and road construction, drainage culverts and the installation of extensive subsurface utilities and a sprinkler system. The assessment therefore determined that the southern portion of the study area has been subjected to impacts constituting significant ground disturbance as per Regulation 5 of the Regulations.

Carpark area

The findings of the assessments demonstrate that the intersecting area of cultural heritage sensitivity across the car park portion of the study area has been impacted by machinery across its entirety. This area is covered almost in its entirety by a constructed carpark. Ground preparation associated with the construction of the carpark includes grading and levelling followed by the introduction of foundational deposits, gravels and asphalt/ bitumen capping. Further mechanical impacts include the construction of buildings and a concrete loading area, as well as walking paths, landscaping, drainage culverts and the installation of subsurface utilities. Based on the development history and coverage of existing structures, it is evident that the car park portion of the study area has been impacted by works constituting significant ground disturbance as per Regulation 5 of the Regulations.

Central area

The findings of the assessments demonstrate that the intersecting area of cultural heritage sensitivity across the central portion of the study area has been disturbed by machinery across its entirety. Mechanical impacts across this area include carpark and building construction, as well as the development of a tennis court. Open areas are heavily landscaped, and an extensive sprinkler system has been installed under the lawn. Playground, walking paths and BBQ facilities have been installed, and extensive subsurface utilities were indicated by Dial Before You Dig listings. This area was also previously disturbed by the construction of the former bowls club and sporting fields. The assessment determined that the central portion of the study area has been subjected to impacts constituting significant ground disturbance as per Regulation 5 of the Regulations.

Foreshore area

The findings of the assessments demonstrate that the intersecting area of cultural heritage sensitivity across the foreshore has been modified and disturbed by machinery. Mechanical impacts include the construction of walkways and freestanding buildings, including the extant sailing club and other structures and also substantial landscaping works. The assessment determined that the foreshore portion of the study area has been subjected to impacts constituting significant ground disturbance as per Regulation 5 of the Regulations.

Northern area

The findings of the assessments demonstrate that the northern portion of the study area does not display evidence of significant ground disturbance across its entirety. Mechanical impacts to this area

are limited to landscaping along the immediate foreshore, and to facilitate mounding and revegetation efforts. Localised impacts include additional walking paths and subsurface utility installation. Aerial imagery indicates that although this area has been modified, vegetation was never entirely cleared, and therefore evidence of comprehensive development is absent. The northern portion of the study area is therefore considered to retain areas of cultural heritage sensitivity as per Regulations 30 and 31 of the Regulations.

Findings

The assessment of the study area details numerous developments that constitute significant ground disturbance as described in Regulation 5 of the *Aboriginal Heritage Regulations 2018* (Vic). However, these impacts do not account for the entirety of the study area and therefore the study area should be regarded as retaining an extant area of cultural heritage sensitivity in the northern portion in accordance with reg 34 (2) of the *Aboriginal Heritage Regulations 2018* (Vic). Areas that have been subject to significant ground disturbance are mapped in Figure 32.



Legend

- Study Area
- Significant Ground Disturbance

0 50 100 200
Metres
Datum/Projection:
GDA 1994 MGA Zone 55

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Figure 32: Areas of Significant Ground Disturbance within Study Area

Will a CHMP be required for future use of the study area?

Based on current provisions within the *Aboriginal Heritage Act 2006 (Vic)* and the *Aboriginal Heritage Regulations 2018 (Vic)*, a mandatory cultural heritage management plan (CHMP) may be required depending on the location and nature of proposed works within the study area. At present no advice has been received from the City of Port Phillip regarding the specific nature of works, and therefore no determination can be made as to whether these would be defined as 'high impact' under the Regulations.

Areas which have been subject to significant ground disturbance, and therefore do not retain an area of cultural heritage sensitivity, are mapped in Figure 32. A mandatory cultural heritage management plan would not be required for developments confined wholly to these areas.

Further assessment would be recommended if development were planned to occur in the northern section of the study area, since an area of cultural heritage sensitivity should be considered to be present in this area.

It should be noted that this opinion does not imply that Aboriginal cultural heritage places are not present within the study area, or are not at risk of impact from future unspecified activities. It is simply stated that the *Aboriginal Heritage Regulations 2018 (Vic)* may not require a mandatory CHMP for future works at this location.

Any further measures to ensure compliance with the blanket protection provisions of the *Aboriginal Heritage Act 2006 (Vic)* (ss 27-29) are at the discretion of the proponent of any future development of the land.

This cultural heritage preliminary assessments do not constitute a CHMP as defined in Division 1 of the *Aboriginal Heritage Act 2006 (Vic)*.

If you have any questions about any aspect of this report, please contact me on 0447 632 684 or through the ELA office on 1300 646 131.

Regards,



Zachary Jones Senior Heritage Advisor

1 June 2020

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