

Reference: 22058

1 August 2022

Reina Menhem
Principal Project Manager
Probject
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Burwood NSW 2134
via email: reinam@probject.com.au

Dear Reina,

**RE: ABORIGINAL CULTURAL HERITAGE DUE DILIGENCE ADVICE FOR
826 VICTORIA ROAD, RYDE, NEW SOUTH WALES**

Austral Archaeology Pty Ltd (Austral) has been engaged by Probject to provide Aboriginal Cultural Heritage Due Diligence Advice (ACHDDA) for the removal of a tennis court and subsequent construction of a Child Care Facility at 826 Victoria Road, Ryde, New South Wales (NSW) [the study area, see Figure 1 and Figure 2]. This advice is intended to assist Probject in determining their obligations with regard to the *National Parks and Wildlife Act 1974* (NPW Act) and to determine whether the project will involve activities that may harm Aboriginal objects or places.

Section 87 of the NPW Act makes it a strict liability offence to knowingly or unknowingly harm Aboriginal objects or declared Aboriginal places without an AHIP. Harm is defined under the NPW Act as “any act or omission that destroys, defaces or damages the object or place or in relation to an object, moves the object from the land on which it had been situated”. The NPW Act allows for a person or organisation to exercise due diligence in determining whether their actions will or are likely to impact upon Aboriginal objects or places. Any person or organisation who can demonstrate that they have exercised due diligence has a defence against prosecution under the strict liability provisions of the NPW Act. Where an activity is likely to harm Aboriginal objects or places, consent in the form of an Aboriginal Heritage Impact Permit (AHIP) is required.

The *National Parks and Wildlife Regulation 2009* (NPW Regulation) adopted the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW 2010a) (the Code). The Code sets out the reasonable and practicable steps which individuals and organisations need to take in order to:

- Identify whether Aboriginal objects are, or are likely to be, present within the study area.
- If Aboriginal objects are, or are likely to be present, determine whether their activities are likely to cause harm.
- Determine whether further assessment or an AHIP application is required for the activity to proceed.

This advice has been formulated to provide a robust assessment that will identify whether Aboriginal objects or places are present or are likely to be present within the study area. This has been achieved through the completion of a desktop review and archaeological survey of the study area. The Code provides a series of questions that clarify whether it is applicable to a proposed project. These questions are addressed in Table 1.

Table 1 Applicability of the Code to the proposed activity

Question	Response
Is the activity a declared project under Part 3A of the EP&A Act?	No
Is the activity an exempt activity listed in the NPW Act or other legislation?	No
Will the activity involve harm that is trivial or negligible?	No
Is the activity in an Aboriginal place or are you already aware of Aboriginal objects on the land?	No
Is the activity a low impact activity for which there is a defence in the NPW Regulation?	No
Do you want to use an industry specific code of practice?	No
Do you wish to follow your own procedure?	No

As none of the questions outlined in Table 1 apply to the project, due diligence must be established through using the Code, which consists of a series of 5 steps outlined below.

STEP 1. WILL THE ACTIVITY DISTURB THE GROUND SURFACE OR ANY CULTURALLY MODIFIED TREES?

The study area was inspected, and no evidence of culturally modified trees was present.

The activity will disturb the ground surface, but will not disturb any culturally modified trees.

STEP 2A. SEARCH THE ABORIGINAL HERITAGE INFORMATION MANAGEMENT SYSTEM (AHIMS) DATABASE AND USE ANY OTHER SOURCES OF INFORMATION OF WHICH YOU ARE ALREADY AWARE

An extensive search of the Aboriginal Heritage Information Management System (AHIMS) database was conducted on 30 June 2022 (Client service ID: 696659). The search identified 78 Aboriginal archaeological sites within a 4-kilometre search area centred on the proposed study area (Figure 3). None of these registered sites are located within the study area.

Spatial information for this report is displayed using the GDA94 Datum. Where AHIMS site records were provided on a different datum, they were converted using standard functions in QGIS software. There were no previously recorded sites at locations where either their original or converted datum placed them in or near the study area

Table 2 AHIMS sites identified within 4 kilometres of the study area.

Site type	Occurrence	Frequency
Artefact, Shell	30	38.5%
Artefact	14	17.9%
Art (Pigment or Engraved)	11	14.1%
Potential Archaeological Deposit (PAD)	6	7.7%
Grinding Groove	5	6.4%
Shell	5	6.4%
Artefact, Potential Archaeological Deposit (PAD)	2	2.6%
Earth Mound	1	1.3%
Habitation Structure	1	1.3%
Modified Tree (Carved or Scarred)	1	1.3%
Shell, Art (Pigment or Engraved)	1	1.3%
Shell, Artefact, Burial	1	1.3%
Total	78	100.0%

The most commonly occurring site feature is artefacts occurring throughout 60.3% of the archaeological record. Following this are shell sites (47.5%) then pigment or engraved art sites (15.6%). The commonality of art sites is due to the proximity of the study area to the banks of the Parramatta River which connects to the Sydney harbour. When observing site distribution in Figure 3 it is apparent that the vast majority of sites (over 90%) occur in proximity to the major waterways of the region and their tributaries, with only very few occurring in developed regions. This indicates there is a low likelihood of locating additional sites within the study area.

A review of the reports held on the AHIMS database identified several archaeological studies which have been undertaken within the locality of the study area. These are summarised in Table 3. Austral has also undertaken a review of information to identify whether the activity is located within landscape features likely to contain Aboriginal objects. This includes an assessment of ethnographic information, soils, geology, landform, disturbance and resource information pertinent to the study area. The outcome of this review is outlined in Table 4.

Table 3 Archaeological studies undertaken in the vicinity of the study area.

Reference	Relevance to the study area	Details
Haglund (1985)	Approximately 3km north of the study area.	Archaeological survey of land extending from Brush Farm Park, Eastwood, to Epping Road, North Ryde likely to be affected by upgrades to Rutledge Road. Desktop investigations indicated a higher likelihood of locating open camp sites, scar trees, and grinding grooves due to the proximity of the Terry Creek tributary to the investigation area and the presence of low crests and spurs near water. No additional Aboriginal sites were identified in the 60% of the total study area that was covered during the survey.
Corkhill (1991)	4.5km south-east of the study, in proximity to Lane Cove River.	Survey conducted on property owned by CSIRO in North Ryde intended for rezoning and development. The survey area consisted of 28.7ha of land which was largely developed but also contained major sections of natural vegetation and undisturbed landforms. Searches of the NPWS database indicated that rock shelters with middens were commonly recorded throughout the area.

		The survey relocated a rock shelter with midden and art (AHIMS #45-6-1854), and more detailed recordings were conducted, and a new rock shelter with PAD was also identified. Sandstone exposures were also located for which further investigation was recommended due to their potential to contain engravings.
HLA Envirosciences Pty Limited (2003)	Approximately 5km north-east of the study area	<p>Archaeological excavations conducted throughout 2.4ha of land within Macquarie Fields intended for integration into a horticultural centre.</p> <p>Two transects were established, the first containing 8 test pits of 500mm by 500mm and the second containing 5 test pits. A sandstone platform was also excavated using trowels.</p> <p>A sandstone slab running beneath transect 1 was identified to contain a potential art site and archaeological deposit. One quartz flake was identified in Spit 1 of the fourth test pit of transect one, along with another potential artefact. A conclusion could not be made regarding if the artefact was <i>in situ</i> or transported along with other European materials into the study area.</p>
Aboriginal Heritage Office (2011)	Encompasses the City of Ryde LGA within which the study area is situated.	<p>Report aiming to identify and re-record all known Aboriginal sites within the City of Ryde council boundaries and to provide management recommendations for known and potential sites. The council region was divided into 3 geomorphological zones within which 56 sites were recorded (Aboriginal Heritage Office 2011, p.25):</p> <ul style="list-style-type: none"> • Zone 1, Lane Cover River – crosses into the northern and eastern side of the council area and includes Terrys, Shrimpton's, Pages, Kittys, Strangers and Buffalo creeks. Largely developed but contains large bushland reserves. Contained 26 sites. • Zone 2, Central Plateau – higher plateau of the centre and west which has been developed. Shale surface geology is present throughout this zone. Contained 1 site. • Zone 3, Parramatta River – the sloping area adjacent to the Parramatta River containing small parks along the foreshore. Bound by Victoria Road. Contained 29 sites <p>Zone 1 was noted to be dominated by sites relating to the sandstone bedrock including rock shelters, engravings and grinding grooves. Given only a single site (an artefact scatter) was present within Zone 2, definitive conclusions could not be made. The author does note however that artefact scatters would be typical of this zone due to the lack of environmental features containing potential for other site types such as scarred trees or rock shelters. Zone 3 contained a high frequency of shelters with midden deposits relating to the commonality of sandstone outcroppings and proximity to the Parramatta River (Aboriginal Heritage Office 2011, p.26).</p>
Dominic Steele Consulting Archaeology (2015)	Approximately 3.5km south-east of the study area, positioned along the foreshore of the Parramatta River.	Report prepared for the City of Ryde presenting the results of an archaeological test excavation conducted in Glades Bay Park, Gladesville. Three 500 by 500mm test pits were excavated in the vicinity of open midden AHIMS Site #45-6-0531. No additional cultural material was located. The authors indicate that there may be further potential for cultural material to be located on a flat sandstone platform adjacent to the banks of the Parramatta River.

**Table 4 Assessment of landscape features**

Information	Details
Ethnographic	<p>First Nations people of the Eora language group are the traditional custodians of the region that the study area is located within. Eora country has been described as spanning from Port Jackson to Botany Bay, and inland to Parramatta, however, it has also been described as extending as far north as Broken Bay (Attenbrow 2003, Carney & Vasilakis 2017). The name “Eora” stems from the traditional word for “people”, “here” or “this place” (Attenbrow 2003, Heiss & Gibson 2013). David Collins, deputy judge advocate of the British Marines in the late 18th century, claims that Bennillong, a local Eora man, when asked where his people came from, replied that they:</p> <p style="text-align: center;"><i>... came from the clouds; and when they died, they return to the clouds</i> (Collins 1798) in (Attenbrow 2003, p.35).</p> <p>Eora land is generally acknowledged to encompass the coastal areas of Sydney, whereas Darug land is thought to cover the inland area of Sydney from Parramatta to the Blue Mountains (Heiss & Gibson 2013). Neighbouring Aboriginal groups include the Darkinjung, the Gandangara and the Tharawal, and movement in adjacent territories was permissible under certain circumstances (Tindale 1974). The Wallumedegal clan of the Eora are the traditional custodian of the City of Ryde LGA (City of Ryde 2022, Smith 2005). The Wallumedegal people lived as fisher-hunter-gatherers within “river flats, mangrove swamps, and creeks” (Smith 2005, p.1). The clan would have fished with “pronged spears and handlines”, gathered shellfish and bushfood, and hunted birds (Smith 2005, p.1).</p> <p>The estuaries and lagoons of the Sydney Basin would have been crowded with local people fishing and gathering bushfood within their bark canoes (Smith 2005). These bark canoes would have been formed from the bark of stringybark trees (<i>Eucalyptus obliqua</i>) or fir trees (<i>Casuarina</i> spp.) [Smith 2005]. Fishing from these bark canoes with hand lines was often a woman’s task, whereas the men would have speared fish while standing in shallow waters (Smith 2005). Small campfires were often built on a bed of seaweed within the canoes, and the game caught were cooked and eaten while travelling along the rivers (Smith 2005).</p> <p>Other cultural activities would have included camping, ceremonies, and the production of tools from raw materials including stone, bark, resin, shell, bone, and reeds. Some of these activities would have been performed within the vicinity of the study area.</p> <p>Despite the area once being well-populated, the introduction of western diseases, displacement of the Eora people, and other Aboriginal groups populating the NSW coast, from their lands, and the withdrawal of access to resources for survival saw the decimation of the local Aboriginal populations by the beginning of the 19th century (Smith 2005).</p> <p>Today, the Aboriginal history of the area is documented from firsthand accounts from early colonial settlers and the archaeological record.</p>



Information	Details
Soils	<p>The study area is situated entirely within the Glenorie (gn) soil landscape which consists of undulating to rolling low hills within the Wianamatta Group shales (Figure 4). The landscape consists of the following soil types:</p> <ul style="list-style-type: none"> • gn1 – friable dark brown loam • gn2 – hardsetting brown clay loam • gn3 - whole-coloured, reddish brown, strongly pedal clay • gn4 – mottled grey plastic clay • gn5 – brownish-grey plastic silty clay <p>The Glenorie soil landscape is associated with high soil erosion and is generally described as impermeable. Artefacts are therefore unlikely to be located within their original context due to a higher potential was movement via rainfall and instability of the soil profile (<i>Soil Landscapes of Central and Eastern NSW V2.1 2020</i>).</p>
Hydrology	<p>The study area is positioned 700m north-east of the Parramatta River and 3.5km west of Lane Cove River, one of its major tributaries (Figure 5). The Parramatta River flows into Sydney Harbour and transitions from brackish water to fresh water approximately 10km upstream from the study area (Hoskins 2015). The confluence between the Parramatta and Lane Cover Rivers is 7.5km southeast of the study area.</p> <p>Due to the high level of urbanisation surrounding the study area, while minor creeks or watercourses may have once flown near to the study area, these are no longer evident.</p>
Geology	<p>The study area is underlain by the Wianamatta Shale group, specifically the Ashfield Shales and Bringelly Shale (Figure 5). The Ashfield Shales are described as black to dark-grey shale and laminate and Bringelly Shales contain shale, carbonaceous claystone, laminate, fine- to medium-grained lithic sandstone and rare coal (Herbert 1983).</p>
Landform	<p>The study area is positioned on what was originally a mid-slope dropping towards the Parramatta River to the south from a ridgeline outside of the study area to the north. The natural landform has since been levelled and completely transformed to accommodate what is currently known as the St John Paul II Maronite Monastery and associated tennis court. No remnant of the original landform remains within the study area.</p>

Information	Details
Disturbance	<p>The study area has been extensively disturbed, with the evidence of the earliest stages of development tracing back to the 1890s with the construction of the initial residential building. There is evidence suggesting that another residence existed on the same parcel of land as the current Wallametta Club House and that Mary Elizabeth Bowden resided in this house for a short period as early as (Heritage NSW 2022). This construction has since been demolished, though evidence of footings may still be present. Aerial imagery from the 1950s indicates the tennis court had been installed before this date and as such significant landscape alteration had already been completed (Figure 7). Over the decades, multiple extensions were made to the monastery structure each of which contributed to the alteration of the landscape (Figure 8). The most recent modifications appear to be associated with the construction of the roadway and parking spaces that loop about the building. Its installation has led to the flattening and complete coverage of the natural landscape.</p>

Based upon the results of these background studies Austral has been able to develop a series of predictive statements relating to the type and character of Aboriginal cultural heritage sites that are likely to exist in the study area and where they are more likely to be located. These predictive statements indicate that:

- Due to the significant historic disturbance within the study area and almost total alteration of the natural landscape, there is unlikely to be any cultural material remaining; and
- Should any sites be located, they are likely to be isolated artefacts not *in situ*.

STEP 2B. ACTIVITIES IN AREAS WHERE LANDSCAPE FEATURES INDICATE THE PRESENCE OF ABORIGINAL OBJECTS

Table 5 **Applicability of landscape features from the Code likely to have Aboriginal objects to the study area.**

Question	Response
Is the activity within 200m of 'waters'?	No
Is the activity within a sand dune system?	No
Is the activity located on a ridge top, ridge line or headland?	No
Is the activity located within 200m below or above a cliff face?	No
Is the activity within 20m of or in a cave, rock shelter or cave mouth?	No
Is the activity (or any part of it) on land that is disturbed?	Yes
Do the predictive statements of 2A indicate Aboriginal Objects or places are likely to occur on any of the topographic elements of the activity area?	No

The study area is situated in a landscape context that has been completely altered for the installation of the dwelling, with the original structure dating to the later 1800's, associated tennis court and infrastructure. It does not contain any remnant vegetation, significant geological formations or landscape features that can be related to the Aboriginal occupation of the study area.

STEP 3. CAN YOU AVOID HARM TO THE OBJECT OR DISTURBANCE OF THE LANDSCAPE FEATURE?

Given the significance of alterations to the landscape that has historically occurred, there is not risk of harm to significant landscape features.

STEP 4. DESKTOP ASSESSMENT AND VISUAL INSPECTION

To ground-truth the desktop assessment, a visual inspection of the study area was undertaken on 29 June 2022 by Stephanie Moore (Senior Archaeologist, Austral) and Dominique Bezzina (Graduate Archaeologist, Austral). The visual inspection consisted of a systematic survey of the study area to identify and record any Aboriginal archaeological sites visible on the surface or areas of Aboriginal archaeological potential and cultural sensitivity. The archaeological survey was conducted on foot. The methods used during the visual inspection conformed to requirements 5 to 8 of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010b).

A walk of the perimeter of the study area indicated that there is no visibility or exposure of natural ground surface or profile due to the level of construction that has occurred. Approximately 50% of the study area consists of bitumen roadways and the remainder is occupied by the St John Paul II Maronite Monastery, the associated tennis court and landscaping (Figure 2, Figure 9, Figure 10, Figure 11, Figure 12). The original dwelling was built in the 1890s and as such alterations to the landscape can be traced back to at least this period. The landform within the study area was observed to have been flattened as the surrounding properties were noted to follow a natural slope towards to the Parramatta River to the south. Material was evidently built up to facilitate the construction of the tennis court (Figure 13).

The potential for Aboriginal cultural material to be located within the study area is low (Figure 14).

STEP 5. FURTHER INVESTIGATIONS AND IMPACT ASSESSMENT

Based upon the outcome of steps 1 to 4 of the code, further assessment is not warranted. As such the project may proceed with caution. The following recommendations apply:

1. No further investigative works are required in regards to Aboriginal cultural heritage.
2. All Aboriginal objects and Places are protected under the NPW Act. It is an offence to knowingly disturb an Aboriginal site without a consent permit issued by Heritage NSW. Should any Aboriginal objects be encountered during works associated with this proposal, works must cease in the vicinity and the find should not be moved until assessed by a qualified archaeologist. If the find is determined to be an Aboriginal object the archaeologist will provide further recommendations. These may include notifying Heritage NSW and Aboriginal stakeholders.
3. Aboriginal ancestral remains may be found in a variety of landscapes in NSW, including middens and sandy or soft sedimentary soils. If any suspected human remains are discovered during any activity, you must:
 - immediately cease all work at that location and not further move or disturb the remains
 - notify the NSW Police and Heritage NSW's Environmental Line on 131 555 as soon as practicable and provide details of the remains and their location
 - not recommence work at that location unless authorised in writing by Heritage NSW.

If you have any questions regarding the advice within this letter, please do not hesitate to contact me on the details below.

Yours sincerely,



Dominique Bezzina
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REFERENCES

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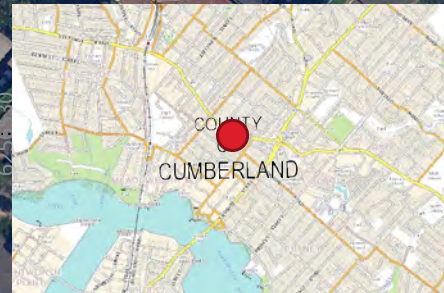
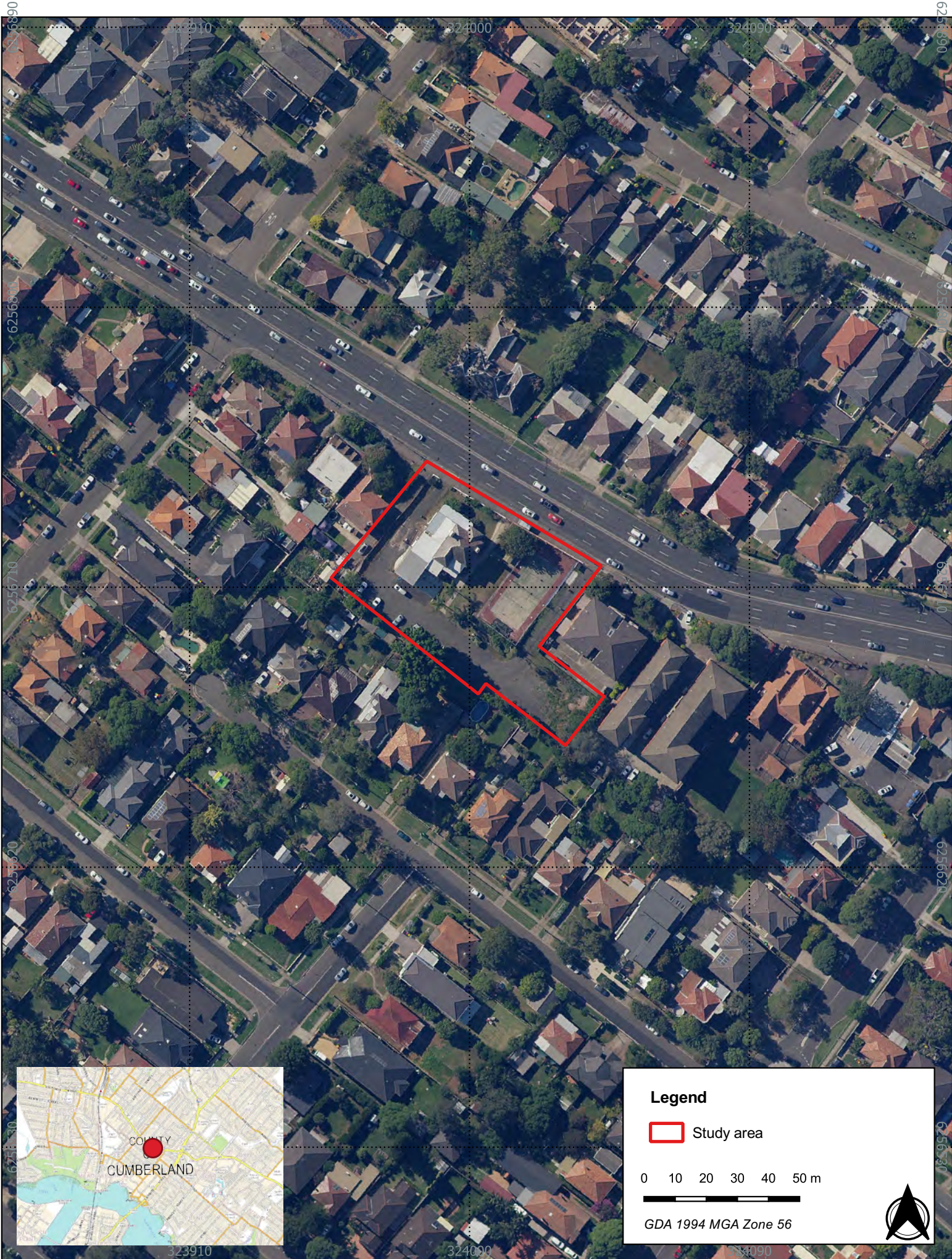
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Figure 1 - Location of the study area

22058 - 826 Victoria Road, Ryde





Legend

Study area

0 10 20 30 40 50 m

GDA 1994 MGA Zone 56




Figure 2 - Detailed aerial of the study area

22058 - 826 Victoria Road, Ryde



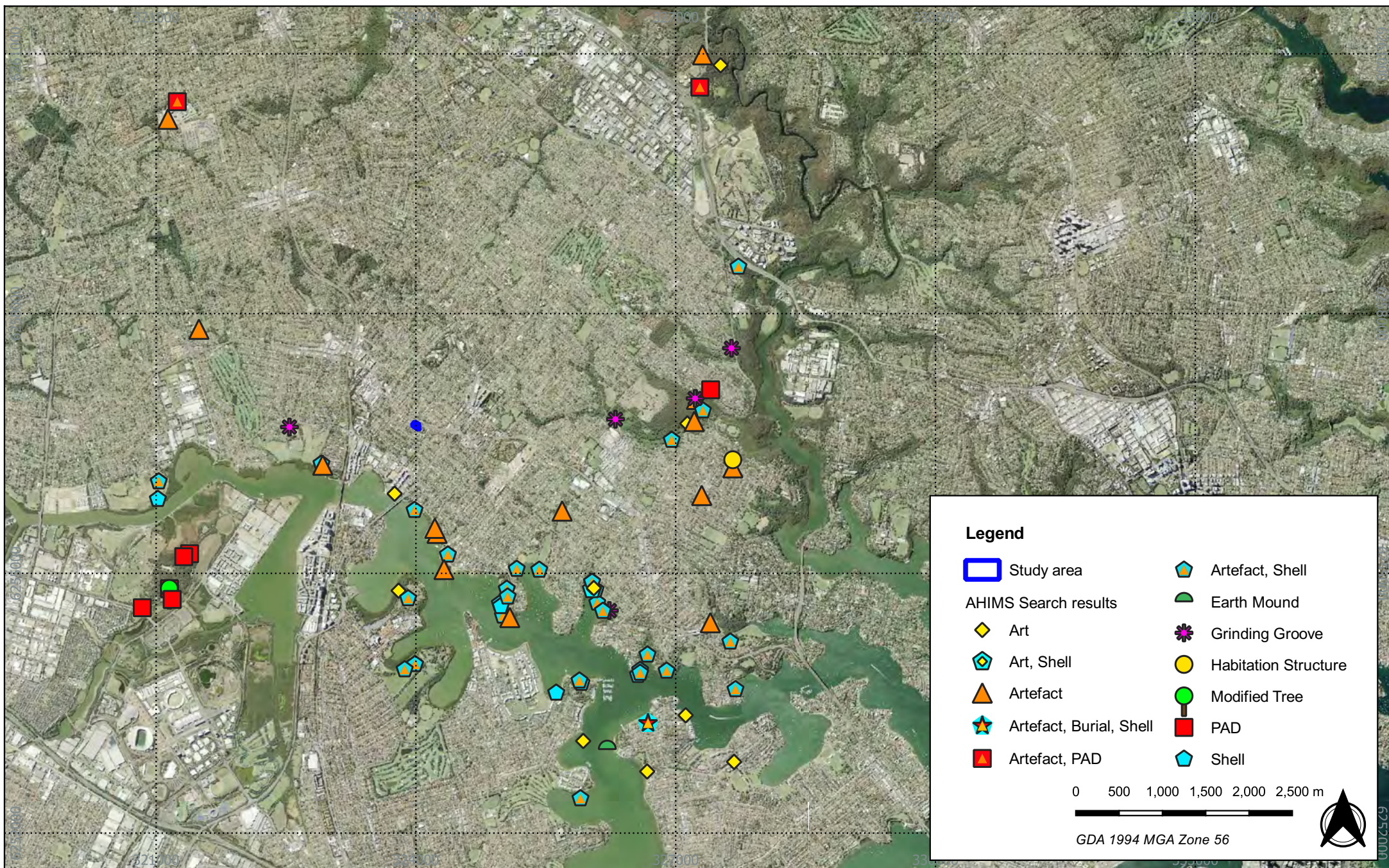


Figure 3 - AHIMS Search results within 4km of the study area

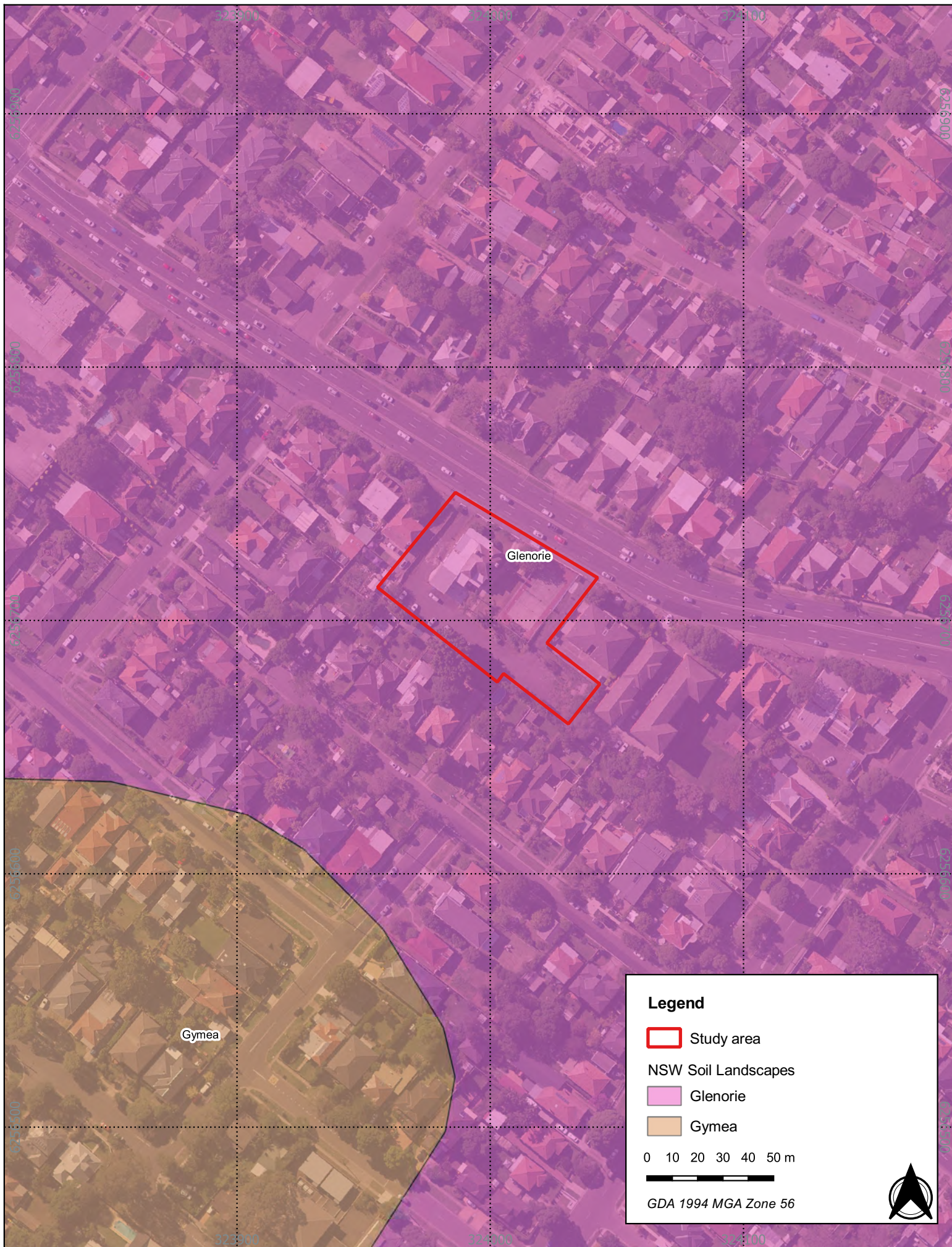
22058 - 826 Victoria Road, Ryde

Source: NSW LPI Aerial

Drawn by: ARH Date: 2022-08-01



AUSTRAL
ARCHAEOLOGY



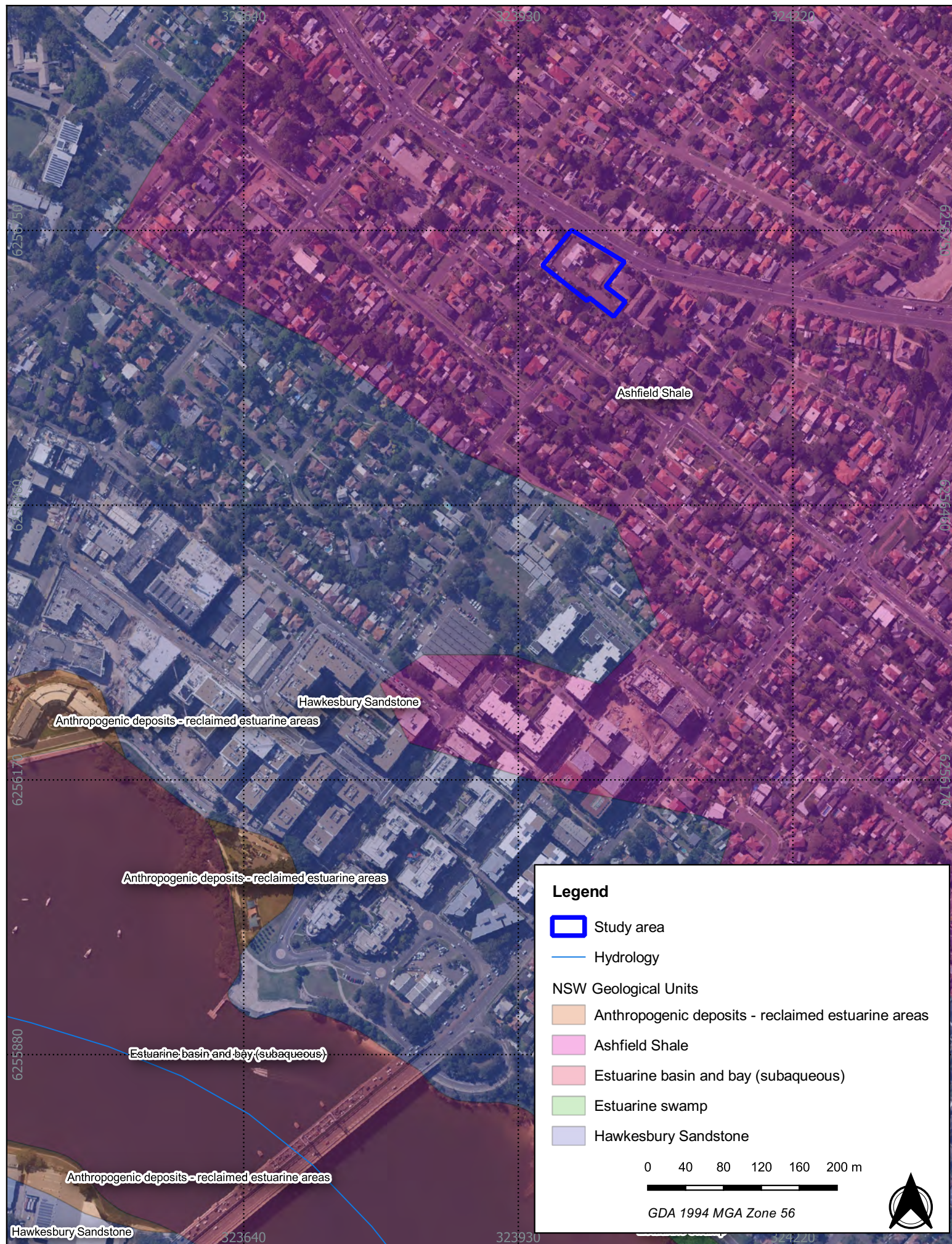


Figure 5 - Geology and Hydrology of the study area

22058 - 826 Victoria Road, Ryde





Figure 6 - Archaeological potential of the study area

22058 - 826 Victoria Road, Ryde





Figure 7 - 1930 Aerial of the study area

22058 - 826 Victoria Road, Ryde





Figure 9 View of the study area from the south-west corner.



Figure 10 South-west facing view of tennis court proposed for redevelopment.



Figure 11 North-west facing view of St John Paul II Maronite Monastery.



Figure 12 North-west facing view of landscaping and gardens associated with tennis court.



Figure 13 **East facing view of landscape altered to facilitate tennis court.**