Appendix 07
Historical Archaeological Assessment

COMBER CONSULTANTS

ARCHAEOLOGY - HERITAGE - MEDIATION - ARBITRATION

1-4 OLD BATHURST ROAD, EMU PLAINS

HISTORICAL ARCHAEOLOGICAL ASSESSMENT

PREPARED BY JILLIAN COMBER & DAVID NUTLEY

REPORT TO URBANCO PTY LTD ON BEHALF OF BERNARD AND LINNA LE BOURISCOT

LGA PENRITH

VERSION NO A.2020

DATE JULY 2020

COMBER CONSULTANTS

ARCHAEOLOGY – HERITAGE – MEDIATION – ARBITRATION
ABORIGINAL – HISTORIC - MARITIME

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- Michael Roger, of Urbanco

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EXECUTIVE SUMMARY

This historical archaeological assessment was prepared for Urbanco Pty Ltd on behalf of Bernard and Linna Le Bouriscot. The proponent wishes to obtain Penrith Council approval for the Torrens Title "paper" subdivision of the subject site at 1-4 Old Bathurst Road, Emu Plains, known as Lots 1 and 2 in DP517958 and Lot 4 in DP574650.

This historical archaeological assessment was commissioned to ensure that there will be no adverse impact upon non- Aboriginal heritage which may exist on the subject site.

This report makes the following recommendations:

1. There are no constraints, upon historical archaeological grounds, to the proposed subdivision and future redevelopment of the site.

2. No further historical archaeological assessment, monitoring, testing or salvage is required in respect of the proposed subdivision or future redevelopment.

3. If re-located the bucket from a mining dredge located on the property could be donated to a local Museum or used as an interpretative feature within the new development.

4. If any previously undetected historical archaeological site or relic is unearthed or uncovered, work must cease in the vicinity of that site or relic and advice sought from the Consultant, Council's Heritage Advisor and/or Heritage NSW on a suitable course of action.

5. All employees and/or contractors engaged in the future redevelopment of the site should be advised that it is an offence under the Heritage Act 1977 to disturb or excavate a relic without a permit.

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1.0 INTRODUCTION

1.1 Background (Style: Heading 2)

This historical archaeological assessment was prepared for Urbanco Pty Ltd on behalf of on behalf of Bernard and Linna Le Bouriscot. The proponent wishes to obtain Penrith Council approval for the Torrens Title "paper" subdivision of the subject site at 1-4 Old Bathurst Road, Emu Plains, formally described as Lots 1 and 2 in DP517958 and Lot 4 in DP574650.

This report was prepared to ensure that there would be no adverse effect on the historical archaeology of the subject site, as a result of the subdivision.

1.2 Site Location and Description

The study area is located on the north eastern corner of Old Bathurst Road and Russell Street, Emu Plains and is known as Lots Lots 1 and 2 in DP517958 and Lot 4 in DP574650 and is approximately 0.234km^2 in area. It is located within the Penrith LGA and is approximately 60kms west of Sydney and approximately 2kms north-west of Penrith (Figures 1 and 2).

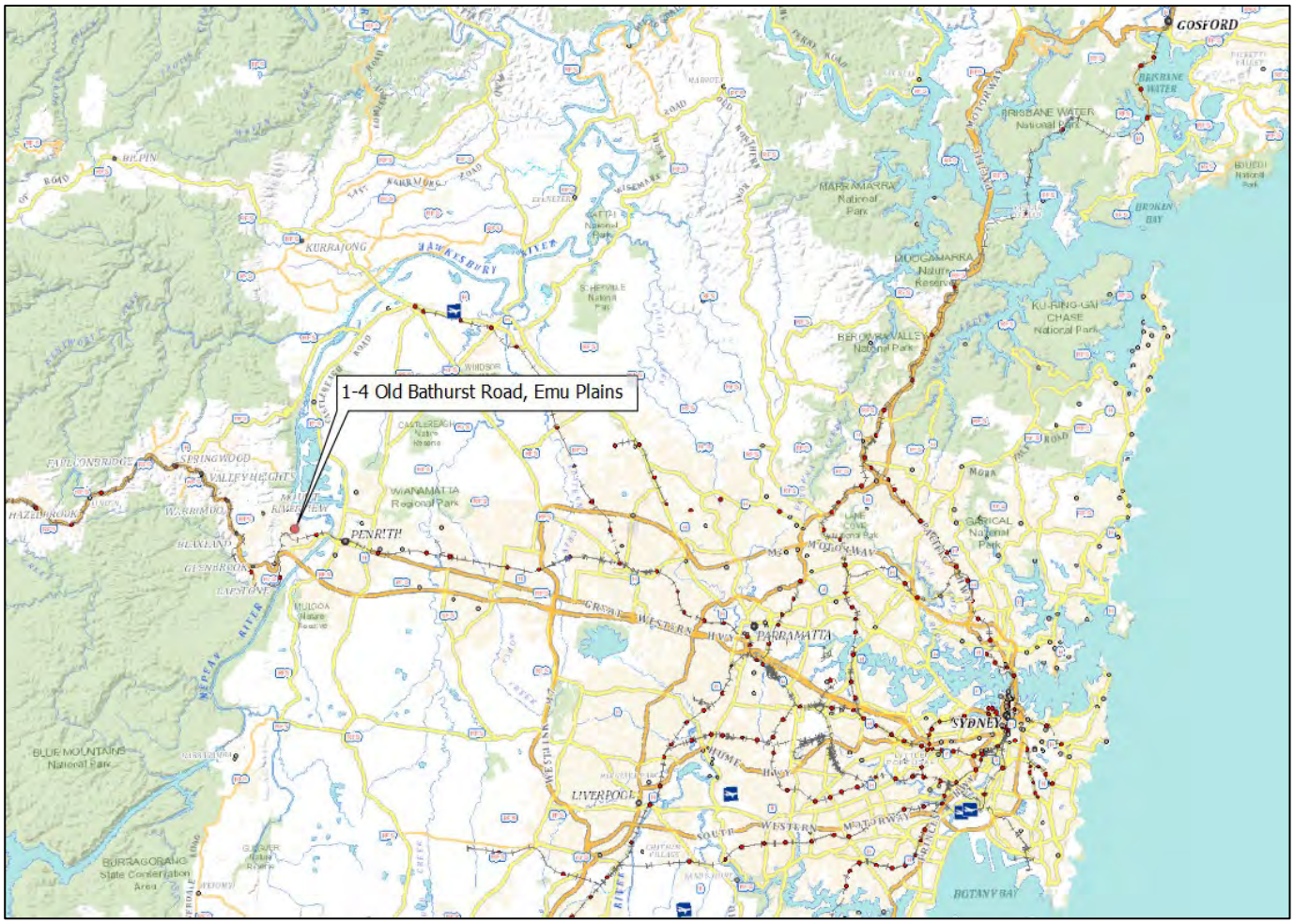

Figure 1: The location of study area in relation to Sydney CBD (Six Maps)

Figure 2: Aerial view of study area in relation to Sydney CBD (Urbanco, Statement of Environmental Effects March 2020, p1)

1.3 Proposal

The proponent has advised that they are seeking Penrith Council approval for the Torrens Title "paper" subdivision of the subject site at 1-4 Old Bathurst Road, Emu Plains. The proposed subdivision incorporates the creation of two (2) lots, with one lot along the Old Bathurst Road frontage, and the balance being the second allotment (Appendix B). The plans shown at Appendix B include indicative building and carparking envelopes, however, at this stage the proponent is only seeking approval for the subdivision.

Figure 3: Subdivision plan showing Lot 1 and Lot 2 and creek lines

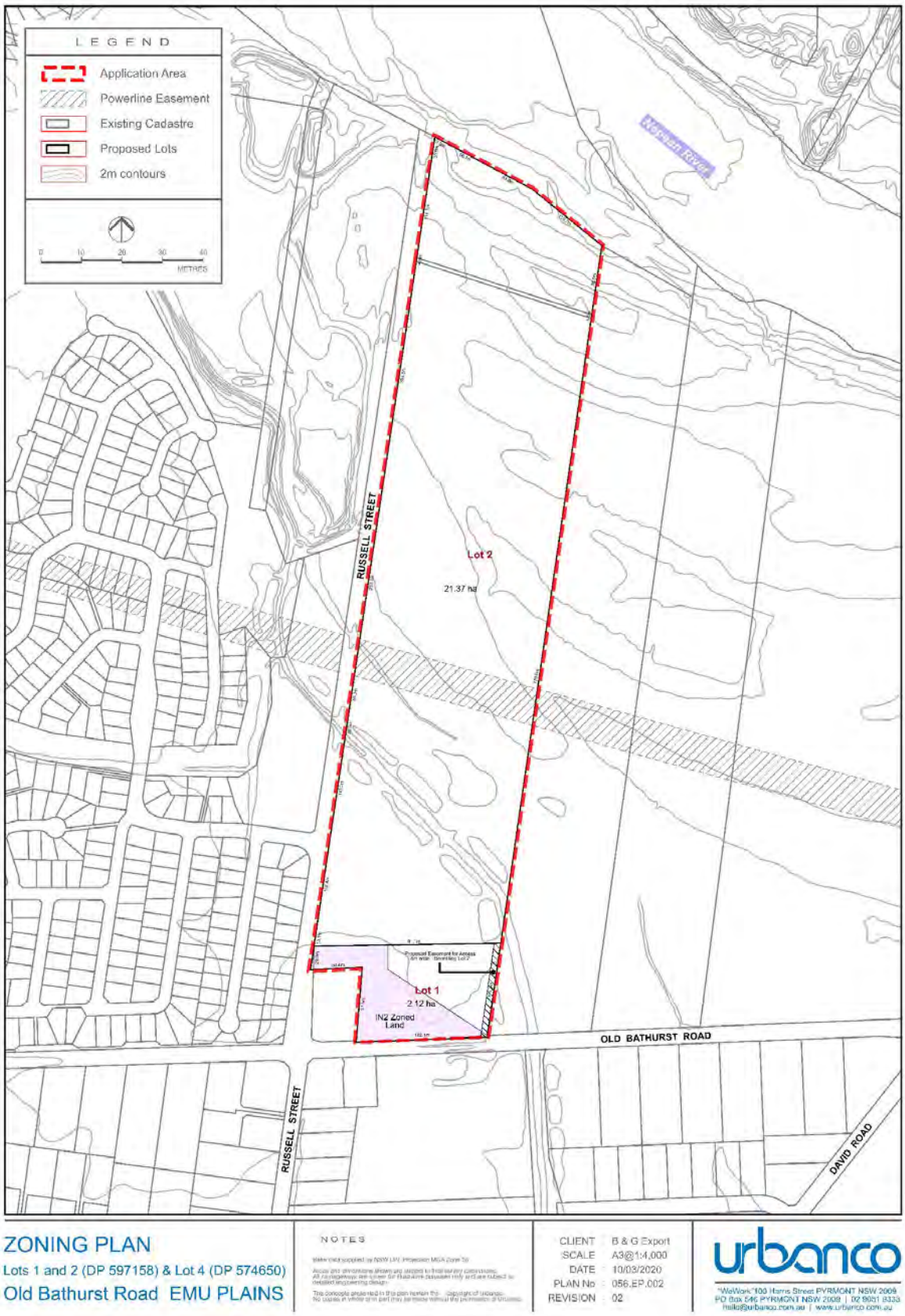

Figure 4: Subdivision plan showing portion of Lot 1 zoned Industrial (IN2).

2.0 METHODOLOGY

This project was conducted in three stages, being background research, field survey and report preparation, as detailed below.

Stage 1: Background Research

Prior to the field component of this project, ……

Stage 2: Site Inspection

The archaeological site inspection was undertaken by David Nutley, Rivers McEwen and Christopher Jones of Comber Consultants on Tuesday 7 July 2020. The team was accompanied by Michael Rodger of Urbanco. The inspection, undertaken on foot, excluded the footprint of the existing building on the site and areas where vegetation density precluded access.

Stage 3: Report Preparation

Further archaeological research was conducted, where necessary, to clarify the results of the survey. This report was then compiled provided to Urbanco.

3.0 HISTORY

3.1 Brief history of Emu Plains

On 26 June 1789 Captain Watkin Tench, an officer of the Royal Marines, and a small party set out on an expedition to explore the western parts of the colony, beyond the areas investigated by Governor Phillip earlier in the month. Phillip's aim was to assess the land's characteristics and potential for cultivation. At this stage in the colony's development, settlement did not extend to the Blue Mountains. What is now known as the Nepean River was reached on 27 June and the potential of the land to the west of the river, later known as Emu Plains, was considered. They travelled north along the river seeing evidence of Aboriginal occupation and recent flooding (Tench 1788 cited in Stacker 2000: 1).

Tench reported to Governor Phillip that the land was 'tolerably plain' but would cause little hindrance to settlers who sought to cultivate it. In December 1789 Lieutenants Dawes and Johnson were next to visit the location aiming to explore the western side of the river. They crossed at the ford, to the north of the site reached by Tench. They traversed the plain and then continued for about 15 miles into the mountains (Tench 1788 cited in Stacker 2000: 1-2).

Sir John Jamison and Dr Robert Townson showed interest in the land at Emu Plains and on arrival in the colony both applied for land grants. Jamison eventually received a grant on the eastern side of the Nepean River. In 1806 Governor Bligh banned settlers from crossing the Nepean however it appears that in July 1808 'rebel' Governor Lieutenant George Johnston had granted much of the land at Emu Plains to his son, George as well as 500 acres to William Lawson. Governor Macquarie revoked the grants in 1810. The Colonial Secretary's Papers indicate however that settlers were grazing cattle at Emu Island in 1812 and a General Order against trespassing of cattle was issued (CSP 11 Apr 1812 State Records NSW). In February 1813 it was again announced that the land was to be exclusively used for Government cattle and another warning was posted (CSP, SRNSW).

Emu Plains is thought to have been named based on the sighting of many emus, wrongly identified as cassowaries, in the area. Tench made a note of 'cassowaries' on the map he prepared of the area (Stacker 2000: 2-3). Early records sometimes refer to the site as 'Emu Island' although it is debated whether it appeared to be island-like during times of flood and that the course of the river has now changed somewhat; or that the name was not meant literally and referred to the open area of the plain. Gregory Blaxland who saw the area in 1813 stated then that it was not an island at all. Governor Macquarie made the same comment on his tour in April 1813 and suggested that the name be changed. It later became known as 'Emu'. The name 'Emu Plains' was formalised in July 1814 when plans were made to construct a road over the Blue Mountains (Stacker 2000: 2-3).

Preparations for the crossing of the Blue Mountains had been made since 1813 and while work was in progress in 1814 no one was permitted to cross the ford without an official pass. A hut was built at Emu Plains as a depot for stores and tools and William Cox proceeded to survey and mark out the proposed route over the mountains (Stacker 2000: 4). The road building by convicts commenced at the ford and proceeded over the plain and onto Lapstone Hill. The road was completed in January 1815 (Stacker 2000: 4-5). Cox's road over the Mountains traversed Emu Plains in a south-westerly direction from the ford to ascend the slopes steeply. The Old Bathurst Road surveyed by Sir Thomas Mitchell ran in a westerly direction from the ford. This also proved too difficult for bullock teams and Mitchell laid out a third route up Lapstone Hill 1833 (Fox & Associates 1991: 28).

A more permanent base for journeys to Bathurst was then established at Emu Plains. This involved rounding-up wild cattle, land clearance, construction of a cottage and huts, stables and stockyards for the horses and bullocks necessary for the arduous journey. Joseph Greenhatch, who had cleared the land, also grew some wheat for his own use. Macquarie reported on the progress at the site on his journey to Bathurst in April 1815 stating that the ford was safe and the Nepean only about 6 inches 150mm) deep in this section. He inspected the site again in October of that year and was pleased with the progress of the Government herds which now included 480 heifers (Stacker 2000: 6).

The Great Western Road from Parramatta to Emu Ford was completed on 24 January 1818 and tolls were imposed (CSP SRNSW). In the following year Macquarie established a convict farm at Emu Plains, considered to be a suitable site due to its good soil and relative isolation. The aim of the Government Agricultural Establishment was to be a place of hard labour while providing convicts with agricultural training that would hopefully 'reform' them (Stacker 2000: 9). Richard Fitzgerald, an ex-convict, was appointed as superintendent of Emu Plains and the farm was equipped with carpenters, a blacksmith, tools and stores with which to build accommodation for 200 convicts and barracks for the soldiers (Stacker 2000: 11-13).

In September 1819 Fitzgerald reported to Macquarie that nearly 2000 acres of the land at Emu Plains would be suitable for cultivation. In December 1820, a house referred to as Government House was constructed for the Superintendent and included accommodation for the Governor (Stacker 2000: 13-14). The farm was soon productive and deemed by Macquarie and others

to be a success (Stacker 2000: 16). By 1822 there were several substantial buildings including a 1 ½ storey-brick residence for the Superintendent and the Governor as well as cottages, barracks, guard house, lock-up, a granary, store, two barns and log huts for up to 500 convicts. Crops grown there included tobacco, wheat, maize, potatoes, turnips, peas and beans (Stacker 2000: 18-19). Female convicts were sent to Emu Plains in 1822 however it was soon discontinued despite good reports as to the improved behaviour of the male convicts (Stacker 2000: 27). This settlement, including Government House was located to the south east of the present study area.

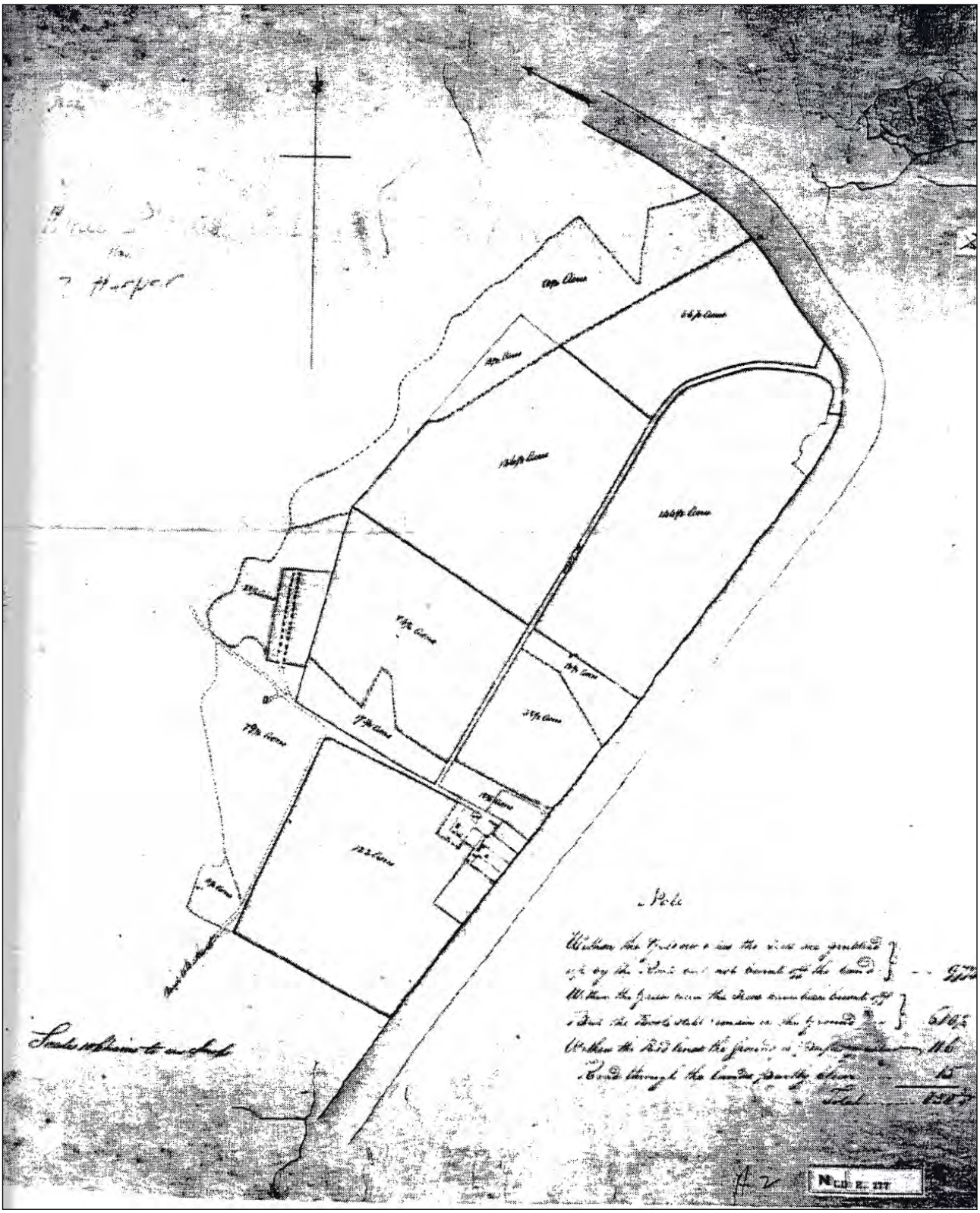

Figure 5: Map prepared by Surveyor Harper in 1822 showing the buildings and cultivation of Emu Plains SRNSW Item 2659)

In 1825 a French visitor, René Primevère Lesson wrote that 'the land was once covered by great trees, while at the present time it is bare'. What attracted his attention when Emu Plains was reached:

> *…is the residence of the Superintendent of the Crown Farm., situated on an eminence, and not far from which are located the convict huts, that, surrounded by tree, form a kind of pleasant little village in the midst of the regularity of the plain. Most of the bark huts that served to shelter the workmen when the land was being cleared still stand. The farm buildings, the stables the cattle shed and the gardens have been located near the river (cited in Mackaness 1965: 146-50).*

Superintendents employed at the farm during its operation included, Lieutenant Peter Murdoch 1822-4), Alexander Kinghorne 1824-6), James Kinghorne 1826-9), John Maxwell 1829-31) and James Smith Acting Superintendent 1831). Each had a different management style and developed the establishment in different ways. Some superintendents attracted attention from critics of the establishment. Despite physical and social changes the farm maintained its productivity. During Alexander Kinghorne's tenure he arranged for the wheat to be milled at a mill that he had constructed on a property at Castlereagh, across the river. He also constructed a threshing machine on the Emu Plains farm (Stacker 2000: 39). In 1825 Kinghorne approved the construction of a theatre and production of plays by convicts 1825 &1830), in the process creating 'quite a stir in the colony' (Riviere 1825: 187. cited in Stacker 2000: 43). Not all activities or farming developments were approved of by successive Governors or by the growing community of free settlers and pastoralists.

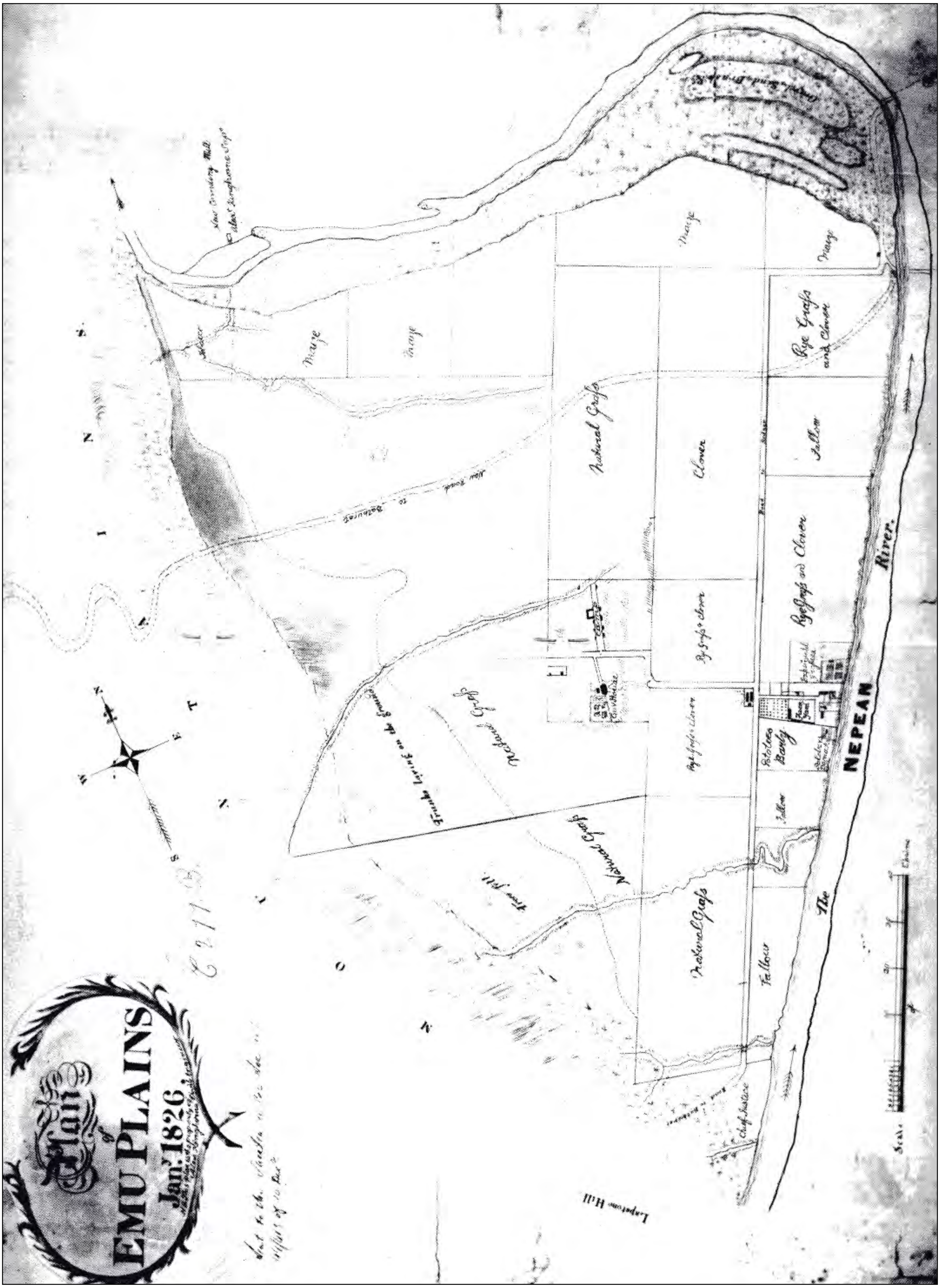
Plan of
EMU PLAINS
Jan.y 1826.
The
NEPEAN
River.
Natural Grass
Clover
Fallow
Maize
Rye Grass and Clover
New Road to Bathurst

Figure 6: The Emu Plains Agricultural Establishment as depicted by Alexander Kinghorne in 1826.
There appear to be pencil annotations on the plan showing changes made by James Kinghorne in 1827.
(*Source:* SRNSW Item 2661)

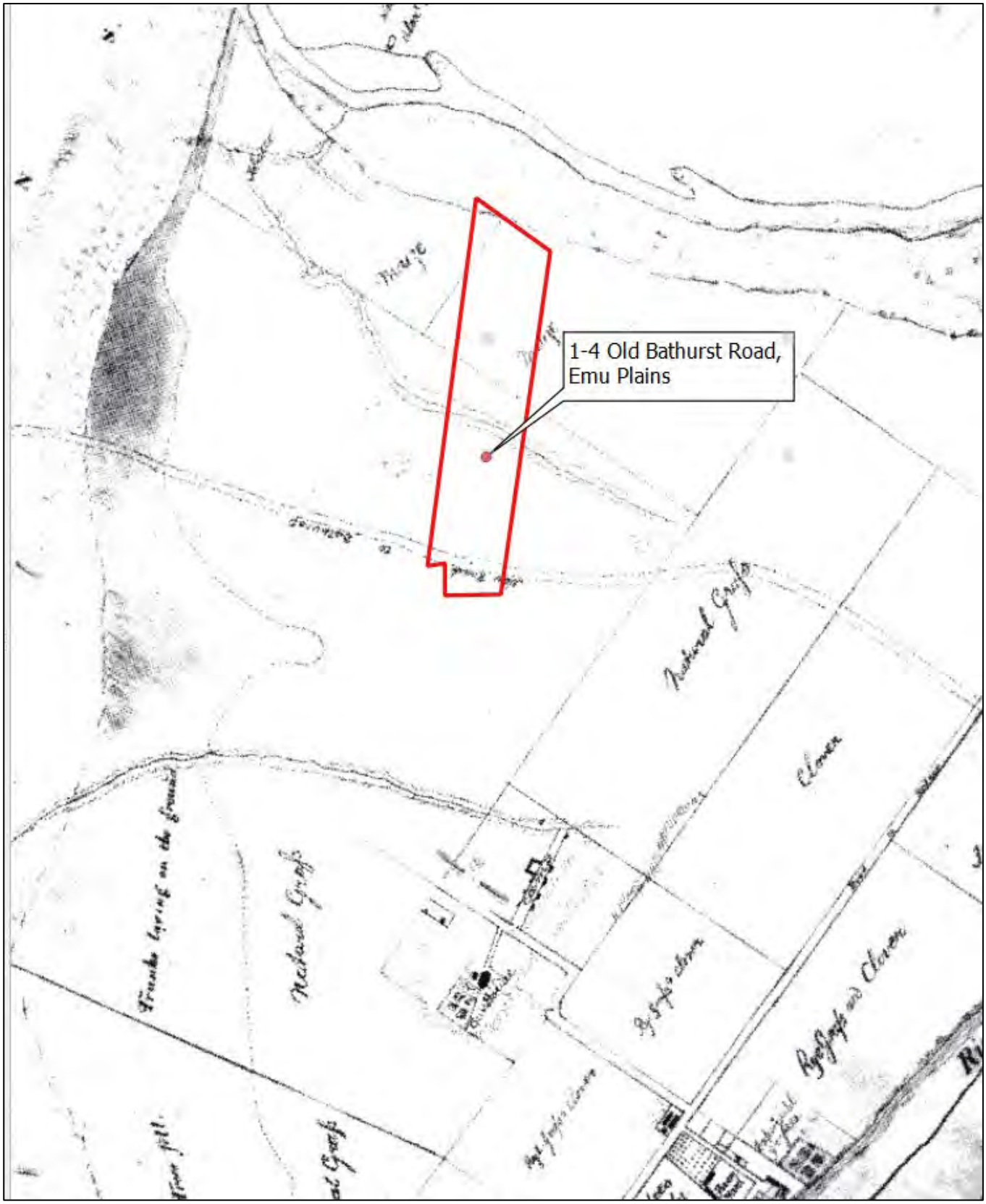

Figure 7: The study area overlaid on the Emu Plains Agricultural Establishment as depicted by Alexander Kinghorne in 1826.
(Source: SRNSW Item 2661)

In November 1827 James Kinghorne reported to Governor Ralph Darling on the farm's progress. A total of 2,700 acres had been cleared and fenced of which 1,112 acres was under cultivation or laid down with English or native grasses. Pasture amounted to 1,587 acres. The crops gown included wheat 175 acres), maize 141 acres), tobacco 10 acres), flax 5 acres) and grass for haymaking 78 acres). Livestock included horses, cattle, oxen, sheep and pigs (Stacker 2000: 50, 52). During 1828 convict 'invalids, cripples and idiots' were housed at Emu Plains and some were employed in physical tasks (Stacker 2000: 54).

By 1830 The Emu Plains Agricultural Establishment had become somewhat run down and was reduced to 100 convicts with little emphasis on agricultural production and focusing more on the management of Government herds. The idea and objectives behind the establishment of the convict farms had become obsolete (Stacker 2000: 62, 67). After a series of disputes, discussions began between John Maxwell, the Superintendent, Governor Darling and the Secretary of State about the abolition of the farm or alternatively its remodelling to improve its efficiency (Stacker 2000: 79). Operations at the farm were reduced but it was kept running. Emu Plains also served as a base for the Mounted Police and for road gangs and it was of some convenience for Darling to maintain it as long as possible (Stacker 2000: 80).

The catalyst for the eventual closure of the farm was a dispute between Maxwell and the Mounted Police over who had certain rights on the farm. Several reports prepared by Maxwell at this time indicate how many men worked at the farm, agricultural production, government stock, building work carried out, timber sawn and provisions made for the Mounted Police (Stacker 2000: 80-81). Preparations were made to reduce all activities and Maxwell resigned on 31 March 1831. General Returns of Stock, final returns for the farm and an inventory by the Board of Survey were prepared prior to the establishment's closure (Stacker 2000: 84-5).

The establishment was now to cater for the Mounted Police and Road gangs only. In November 1831 surplus stock was sent to other sites or sold (Stacker 2000: 86). The Emu Plains Agricultural Establishment was finally closed on 31 August 1832. In the late 1820s and early 1830s the 'forces of private enterprise', together with the growing free population had formed a powerful lobby group calling for convict farms such as that at Emu Plains to be closed down and this was achieved in 1831 (Stacker 2000: 94). The Farm had operated for thirteen years with its peak of production and efficiency in 1825. Its survival through four successive Governors, combined with the changing priorities of the English administration, is evidence of the overall success of the venture and the skills of the farm's Superintendents.

Further details and a comprehensive analysis of the Emu Plains Government Agricultural Establishment can be found in Lorraine Stacker's, 'Chained to the Soil on the Plains of Emu: a Emu History of the Plains Government Agricultural Establishment 1819-1832', published by the Nepean District Historical Society (2000). It includes a detailed bibliography.

The Village of Emu was laid out by Surveyor H.F. White in May 1832. Land was to be sold as town allotments and 20 ha farms as advertised in the Government Gazette of 30 July 1832. The present day Gough, Jamison, Russell, Brougham, Grey and Bedford Streets are evidence of the original town layout. It was located at a distance from the low-lying alluvial flats and from the main road over the mountains. The area developed slowly except for the inns located on the main road and there appeared little interest in Emu Plains other than for farming (Fox & Assoc 1991: 1) 22).

The Mounted Police continued to use the Farm's buildings and land. The place soon became run-down. A description by Baron Charles von Hugel of Emu Plains in June 1834 depicted it as,

> *…once being covered with trees and then entirely cleared by the Government, which established a farm here and built the Government House for the officials. This house is distinguished by its ugliness and dilapidation. In the distance a few farm buildings may be seen, but these, as well as the garden, which must have cost a great deal of labour to establish, are in a bad state. The Government has given up all these farms, and this one here will be put up for public auction as soon as the new pass to the last descent of the Blue Mountains is completed.*

Von Hugel also noted that the site for the new town was ill-planned, being too far from the Nepean and with no spring (Hugel cited in Stacker 2000: 94-5). Emu Plains continued to be an agricultural district with land taken by orchards, market gardens and dairy farms. It also developed as a market for livestock brought from Western NSW. Inns thrived as a significant number of travellers and stockmen required accommodation and stores prior to or following their trek over the mountains (Stacker 2000: 95). St Paul's Church of England School opened in 1848, indicating that the population was large enough to require and support a church and school.

A bridge over the Nepean took some time to come to fruition. Toby Ryan of Emu Hall, and entrepreneur and farmer made two attempts. The first bridge built in 1855 was washed away by floodwaters soon after its construction and the second failed in 1860 under similar circumstances. John Whitton the Chief Engineer of the NSW Railways then designed the Victoria Bridge to

carry both rail and road traffic (Fox & Associates 1991: 28). Construction was commenced in 1867. In October 1867, the town of Emu was extended by Mort & Co in anticipation of the railway and the potential of residential development that often followed the railway's path.

The railway reached Emu Plains in June 1867, and Emu Station, on the south side of the old Bathurst Road opened on August 1868. A new railway station building with stationmaster's residence upstairs was built in 1886 (www.penrithcity.nsw.gov.au). The railway clearly had an impact on population growth with the numbers rising at a steady rate towards the end of the century.

Year	Emu Plains population
1861	107
1871	136
1881	530
1891	642

Table 1: Population data for Emu Plains
Source: WA Coghlan's Census data as shown in Fox and Associates 1991: 52)

An indication of further development in Emu Plains is the establishment of an alluvial gravel pit by the Emu Gravel Company in 1884 of 46 acres on the Nepean River, opposite 'Bird's Eye Corner'. It later became the Emu & Prospect Gravel Company after opening several other quarries (www.westernsydneylibraries.nsw.gov.au/transport/rail.html). During the construction of Warragamba Dam from 1946 a cable was built from Emu Plains to the site to carry blue metal for the dam wall (Fox & Assoc 1991: 49; Parliamentary Return of Landholders District: Windsor Town Emu 1885).

The Emu Plains Prison Farm was established in 1914 on 43 hectares set aside for this use. It is located to the east of the site that is the subject of this report. The site's selection would have been based on its relative isolation from Sydney and the semi-rural environment where inmates could learn various farm related trades. Its establishment encouraged some minor economic and residential in Emu Plains (www.penrithcity.nsw.gov.au/index). Now known as Emu Plains Correctional Centre the site was a prison farm for male offenders for 80 years until it was converted in 1994 into a minimum-security centre to prepare female inmates for release from prison (www.parliament.nsw.gov.au/prod/parlment/hansart.nsf).

3.2 Brief history of the subject site

The site that is the subject of this report was granted to Charles York c.1805-1861), a free settler of Penrith, later of Emu Plains and Mount York. The land at Emu Plains, totalling 55 acres 2 roods and 6 perches was granted by Major General Richard Bourke on 23 September 1833. Portion 149 as it became known was advertised on 18 March 1833 as Lot 6 of 56 acres. York paid £155/10/1 for the site that extended from the Nepean River in the north to Bathurst Road in the south (Lands Dept Serial 32 p.8). York owned several other blocks in Emu including Portions 65, 54 and 59. Later Russell Street was constructed on the site's western boundary.

It is not known how York used the land at Emu Plains although it is likely that it was farmed. York married Maria Chalker 1811-1884) in 1826 at St Lukes, Liverpool. Charles York died in 1861 at Emu Plains, aged 56 years. As shown in *Grenville's Post Office Directory* Maria York continued to live at Vine Cottage, Emu Plains until at least 1872. The name 'Vine Cottage' suggests that the family might have operated a vineyard or there was one nearby. The Primary Application for the property indicates that William John Ferguson was in possession of the property possibly as executor) on 12 January 1886, several years after Maria's death. In April of that year the property was conveyed from William Ferguson and James Thomas York one of Charles and Maria's sons) to George Nash. On 18 September 1905 Eliza Nash George Nash's wife) leased the property to Frederick Carter (Lands, PA No 33267).

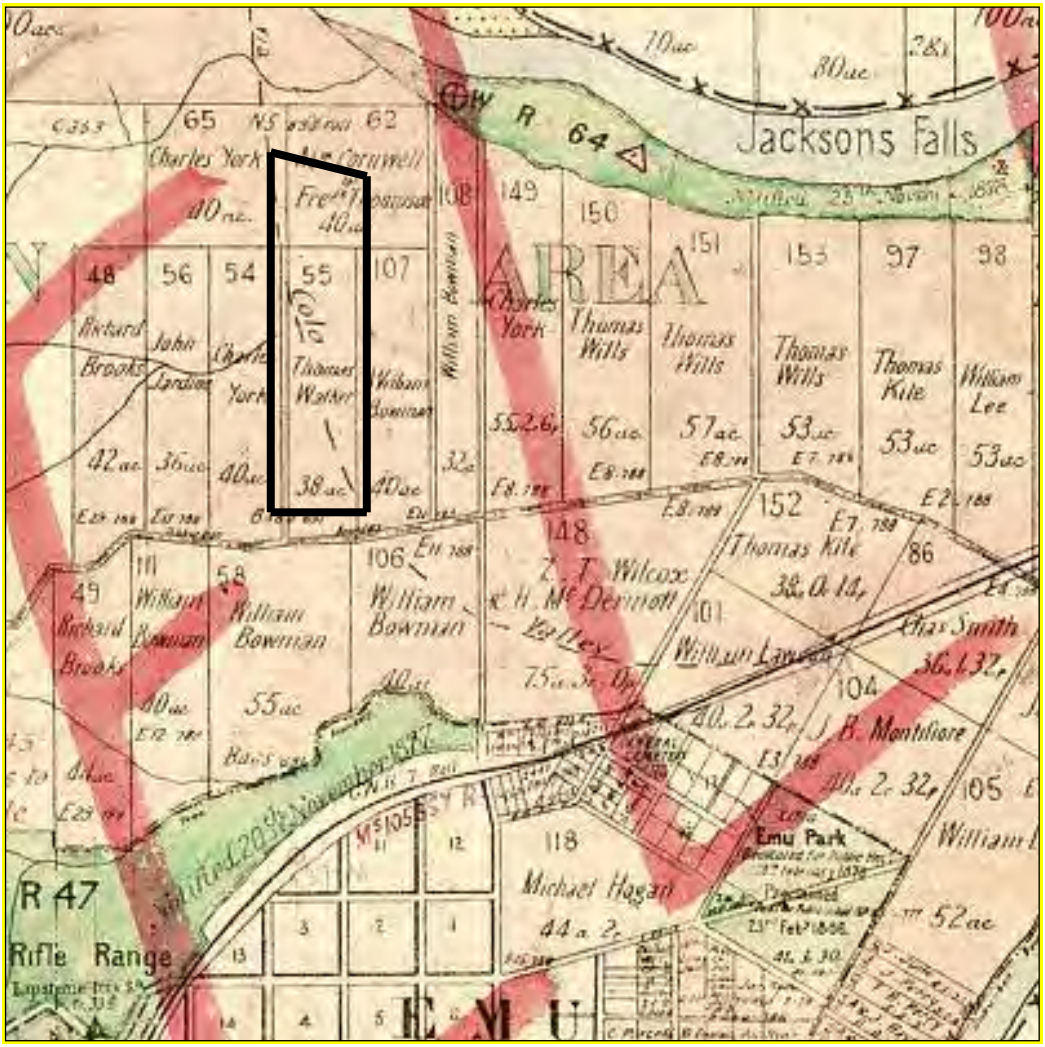

Figure 8: A map of the Parish of Strathdon, dated 1888, showing land now known as Emu Plains, including Portion 149 owned by Charles York
Source: Lands Dept Image: 14027401 PMap MN02)

George Nash sold the property to Martin Gilligan in 14 November 1911 (Lands Book 951 No 83). At various times the property was used as security or mortgaged. In 1916 Annie Elizabeth Stephens appears to come into possession of the site and in April 1917 sold it to Anne Dobson (Lands, Book 1107 No 512). Anne's husband Harry Albert Dobson d.7/7/1949) was a farmer at Emu Plains. An option for the lease of the land was taken out by Clarendon Nepean Sands Ltd in February 1935. It is not known if this proceeded (Lands PA No 33267), however large quantities of alluvial sand would have been required for the Sydney building industry and this type of enterprise would have been profitable.

The site was converted to Torrens Title in September 1937. In 1949 the property was transferred to Harry Albert Dobson, the Younger, also a farmer, Edith Muriel Dobson, Jessie Louise Dobson and Florence Marion Dobson, all of Emu Plains and presumably Anne and Harry Dobson's children. Part of the site was leased to the Metropolitan Water Sewerage and Drainage Board in 1952 and a portion resumed by the Electricity Commission in 1962, for a transmission line. In 1963 Harry A. Dobson Jr, Annie Margaret Dobson, Jessie Louise Dobson and Florence Marion Dobson held the title (Lands Vol 5050 Fol 171).

In 1966 a major portion of the site Lot 4 DP 574650) was transferred to the Blacktown and Districts Plumbing and Draining Company Limited, changing its name to Carthona Properties Pty Ltd in 1975 (Lands Vol 10271 Fol 250).

Evidence of historic structures being constructed on the site such as a house or cottage could not located. It appears from the historical record that the land was used solely for grazing and that the owners lived in other locations. Animal pens may have been constructed on the site. The convict Agricultural Station and other associated historical buildings were not located on the subject site. They were located to the south east of the subject site.

4.0 RESULTS

The site inspection was undertaken on 7th July, 2020 by David Nutley, Rivers McEwen and Chris Jones of Comber Consultants, accompanied by Michael Rodgers of Urbanco. Historical archaeological sites were not located on the property and it is highly unlikely that any sub-surface historical archaeological remains would exist. The historical evidence as detailed above does not indicate that any formal historic structures were previously located on the site.

Except for an approximately 50-60m section along the frontage with Old Bathurst Road, the remaining vegetation in Lot 1 had been recently slashed (Photographs 1 & 2). No items of cultural significance were visible in the slashed or un-slashed areas. The area that had not been slashed was covered with dense grass and other undergrowth. While no access was possible within the areas that had not been slashed, no remnant structures were visible within that area. Please see photographs below

Photograph 1: Un-slashed vegetation along Old Bathurst Road frontage. View to east.

Photograph 2: Slashed portions of Lot 1 and Lot 2. View to NNE.

A portion of Lot 2 had also been slashed. This was limited to the area immediately to the north of Lot 1 (Photograph 3) and skirted around the yard of the c1960s house (Photograph 4). No slashing or clearance of vegetation had taken place within the house yard, along the canal banks or in the remaining are of Lot 2 to north of the canal. Dense ground cover included African 'Love Grass' (*Eragrostis Curvula*) and Blackberry (Photographs 5-7).

Photograph 3: View to NW across Lot 2 from Lot 1.

The line of the concrete canal is indicated by the trees and thick vegetation in the background.

Photograph 4: Slashed portion of Lot 2.

Canal banks to left and house yard to right.

Photograph 5: African 'Love Grass' (*Eragrostis Curvula*) on northern side of canal (RHS). View to east.

Photograph 6: View to west north of the canal with blackberry bushes in mid-field.

Photograph 7: View to NNW along Lot 2 showing ridgelines running parallel to the Nepean River to the north.

Photograph 8: The Nepean River runs approximately 80m north of the boundary of Lot 2. View to west.

Around the c1960s house yard there were discarded items of machinery. These included an abandoned car, a small river punt, a ride-on mower, a petrol driven push lawn mower and an old front-end loader. Structures around the house included possible horse shed, an aviary and a chicken pen or fenced garden (see Photographs 9-18), but these are not significant and do not need to be recorded or retained.

Photograph 9: Rear of house and yard on the property being inspected by Rivers McEwen and Christopher Jones of Comber Consultants and Steve Randall from Deerubbin Local Aboriginal Land Council.

Photograph 10: Abandoned slasher

Photograph 11: Landrover in yard at rear of house. View to SW.

Photograph 12: River punt in bushes - northern side house yard

Photograph 13: shed in house yard. View to south.

Photograph 14: View of house from Russell Street.

Photograph 15: Rear of house. View to west.

Photograph 16: Front end loader/bulldozer

Photograph 17: Back yard showing density of vegetation and additional abandoned machinary.

Photograph 18: Levee on southern side of canal. View to NE

On the southern side of the concrete lined canal were raised levees, likely to be discard soil from excavation of the canal (Photograph 18). The banks of the canal are heavily vegetated with bushes, Camphor laurels and, along the southern bank, several regrowth Eucalypts (Photographs 19-22). Due to the density of vegetation, access to most of this area was not possible. However, among the Camphor Laurel trees on the northern side of the bank of the canal were discarded items including a child's bike, and what appeared to be remnants of a small treehouse.

Photograph 19: Stgeve Randall approaching stand of *Camphor laurel* on northern side of canal. View to north

Photograph 20: Density of undergrowth along canal banks. View to west.

Photograph 21: The concrete canal which follows the original creekline. View to east from Russel Street.

Photograph 22: Bucket from mining dredge recorded on property in 2005/6. Not found in 2020 inspection. Cattle race visible in background.

Photograph 23: Photograph taken in 2020 from similar position to that in photograph 2005/6 showing change in vegetation hiding the cattle race.

Photograph 24: Former cattle race under cover of vegetation in 2020.

A bucket from a mining dredge was located near the cattle race in 2006 (Photograph 22) but could not be found in the 2020 survey. This is possibly due to having been moved or to the thick vegetation that had subsequently developed on the property. This bucket may have been associated with the Clarendon Nepean Sands Ltd who leased the property in the 1930s. However, as noted above in section 3.2, it is unclear whether alluvial sands were extracted from this property. If relocated, this bucket could be donated to a local Museum or used as an art installation within any subsequent development.

In 2006, to the east of the bucket, as shown in Photograph 22, is a former cattle race. By 2020, vegetation had engulfed this structure but it still standing within the cover of the trees and bushes (Photographs 23-24).

Whilst the site demonstrates the continuity of agricultural and pastoral activities in Emu Plains since it was cleared for farming and grazing in 1819, it could not be considered a significant cultural landscape.

5.0 SIGNIFIANCE ASSESSMENT

5.1 Preamble

Significance Assessment is the process whereby buildings, items or landscapes are assessed to determine their value or importance to the community.

The following criteria have been developed by Heritage NSW and embody the values contained in the Burra Charter. The Burra Charter provides principles and guidelines for the conservation and management of cultural heritage places within Australia.

5.2 Assessment

Historical

Criterion (a) – an item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)

No landscape or other features within the subject property possess a level of State or local heritage significance against this criterion.

Association

Criterion (b) – an item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)

No landscape or other features within the subject property possess State or local heritage significance against this criterion.

Aesthetic/Technical

Criterion (c) – an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)

No landscape or other features within the subject property possess State or local heritage significance against this criterion.

Social

Criterion (d) – an item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons

No landscape or other features within the subject property possess State or local heritage significance against this criterion.

Research

Criterion (e) – an item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)

No landscape or other features within the subject property possess State or local heritage significance against this criterion

Rarity

Criterion (f) – an item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)

No landscape or other features within the subject property possess State or local heritage significance against this criterion.

Representative

Criterion (g) – an item is important in demonstrating the principal characteristics of a class of NSW's

- *cultural or natural places; or*
- *cultural or natural environments.*

or a class of the local area's

- *cultural or natural places; or*
- *cultural or natural environments*

No landscape or other features within the subject property possess State or local heritage significance against this criterion.

5.3 Statement of Significance

No features of non-Aboriginal State or local heritage significance were identified within the subject property.

6.0 LEGISLATION

6.1 Heritage Act 1977 (as amended)

State Heritage Register

Under s57 of the Heritage Act a person must not "demolish, despoil, excavate, alter, move, damage or destroy" an item listed on the State Heritage Register without a permit under s60 of the Act.

The subject property is not listed on the State Heritage Register.

Relics Provisions *NSW Heritage Act, 1977*

Division 9: Section 139, 140–146 - Relics Provisions Under Section 139:

(1) A person must not disturb or excavate any land knowing or having reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed unless the disturbance or excavation is carried out in accordance with an excavation permit.

(2) A person must not disturb or excavate any land on which the person has discovered or exposed a relic except in accordance with an excavation permit.

A relic is described under the Act as:

..any deposit, object or material evidence –
(a) which relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement; and
(b) is of State or local heritage significance.

Any item identified as a relic cannot be impacted upon without an excavation permit, under s140 of Act. An excavation permit forms an approval from the Heritage Council for permission to 'disturb' a relic.

However, an excavation permit is not required when the works are only minor in nature, and will have minimal impact on the heritage significance of the place. Under s139(4) of the *Heritage Act* when the impact is minor an excavation exception can be applied for.

As detailed in this report, the subject property a 1-4 Old Bathurst Road, Emu Plains is not listed on the State Heritage Register and the site has been assessed in this report as having nil-low historical archaeological potential. Therefore, a permit under s60 or s140 of the Heritage Act will not be required. The subdivision and any subsequent works can occur without any further assessment, monitoring, testing or salvage excavations.

6.2 Penrith Local Environmental Plan (LEP) 2010

The Penrith LEP lists individual heritage items and Heritage Conservation areas that are significant, and heritage assets that should be conserved. 1-4 Old Bathurst Road is not listed on the heritage schedule of the LEP. In addition, no items of historical significance are listed within the vicinity of the study area.

This report concludes that there will be no adverse impact on the heritage significance within or in the vicinity of the proposed subdivision and any later works.

7.0 RECOMMENDATIONS

The following recommendations are made based on:

- Legal requirements under the terms of the *Heritage Act 1977*.
- The research and analysis outlined contained in this report.
- Results of the assessment as outlined in this report.

IT IS RECOMMENDED THAT:

1. There are no constraints, upon historical archaeological grounds, to the proposed subdivision and future redevelopment of the site.

2. No further historical archaeological assessment, monitoring, testing or salvage is required in respect of the proposed subdivision or future redevelopment.

3. If re-located the bucket from a mining dredge located on the property could be donated to a local Museum or used as an interpretative feature within the new development.

4. If any previously undetected historical archaeological site or relic is unearthed or uncovered, work must cease in the vicinity of that site or relic and advice sought from the Consultant, Council's Heritage Advisor and/or Heritage NSW on a suitable course of action.

5. All employees and/or contractors engaged in the future redevelopment of the site should be advised that it is an offence under the *Heritage Act 1977* to disturb or excavate a relic without a permit.

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APPENDIX A: BUILDING ENVELOPE PLAN

BUILDING ENVELOPE PLAN
PROPOSED LOT 1
1-4 OLD BATHURST ROAD, EMU PLAINS

NOTES

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