

Council Reference: 62597E (D21/353662)

19/08/2021

Huskisson Heritage Association Inc

By email only: huskissonheritage@gmail.com

Attention: Joanne Warren, Publicity Officer

Dear Joanne

**Proposed GPR Verification Work, Former Anglican Church Site, Huskisson –
Planning Proposal PP050**

I refer to your letter dated 14 July 2021 seeking answers to several questions. As promised in my initial email to you on 26 July, please find responses to your questions below.

Q1. What the Council is trying to achieve with this exercise?

Council seeks to better understand where graves are/are not located on the site, as recommended by Council's independent heritage consultant, Navin Officer Heritage Consultants (NOHC). Following on from the GPR work, the least invasive way of doing this is to carefully scrape the surface to reveal evidence or otherwise of grave cuts.

The limitations of GPR for identifying graves at sites affected by tree roots, previous ground disturbance, soil type etc. have been documented elsewhere. A study by Moffat et al. (2016) at Lake Condah Mission in Victoria, discusses the limitations of GPR where tree roots are present. The authors of that study concluded that many of the anomalies they had identified were likely to have resulted from tree roots and the resulting mixing of soil horizons (floralturbation). Tree roots are clearly a significant issue at the Huskisson site and this limitation is noted in the GPR report.

Q2. Are we able to see the actual report of NOHC explaining the reasons for undermining the results of Hunter Geotech....? If you are unable to release this for whatever reason, you will understand that the HHA find this mediated information puzzling.

NOHC were engaged to carry out the overall heritage assessment of the site associated with the PP and the GPR survey is one source of information that feeds into this.

The overall assessment by NOHC is ongoing. At this stage Council has received a fee proposal (which is commercial in-confidence) to prepare a s140 permit application, commentary on the GPR report, and the GPR report prepared by Hunter Geophysics. The full GPR report has been released to the public and the pertinent initial commentary from NOHC was included (with their approval) in the report to Council, which is publicly available. Council does not expect to receive NOHC's report for some months. Any reports provided to Council as part of the rezoning investigations will ultimately be made publicly available. (Note that sensitive point specific site information may need to be redacted.)

Attached are some slides prepared by NOHC that provide an overview in regard to the GPR work – these slides were presented to Councils Aboriginal Advisory Committee in May 2021.

The results of the GPR work are not being ‘undermined’. NOHC commissioned the GPR survey as one tool to identify potential and possible graves. As Hunter Geophysics themselves indicated, the only way to know if the anomalies are actual graves is to carry out a physical investigation.

NOHC has carefully reviewed the GPR report and concluded that the sub consultant’s criteria were reasonable, which allowed some of the anomalies to be eliminated. The advice from NOHC is that it is highly unlikely that all of the ‘high confidence’ anomalies identified in the Hunter Geophysics report are actually graves. For example, two of the marked anomalies have been previously excavated and proven not to be graves. In addition, Mr Hunter eliminated one high confidence anomaly after noting evidence that it was the location of a former flagpole. NOHC has also advised that one criterion that was not applied is the orientation of the anomalies. According to NOHC and other experts in the field, historical Christian burials practices, including burials in Australia since European invasion, usually align the body in an east-west orientation with the head to the east. NOHC has pointed out that many of the anomalies generated in the GPR survey are not aligned in an east-west orientation, and many do not follow any semblance of a burial pattern or order that that one might expect in a cemetery.

Q3. Will the SCC application to NSW Heritage for a Sec 139 (excavation) exemption be made public?

After recent discussions, Heritage NSW have clarified that an application for approval will be required under s140 (rather than a s139 exemption). The application has not been prepared at this stage. There is no statutory requirement for the application to be published but in the interest of keeping the community informed, we are keen to make it available to the community if the application is approved by Heritage NSW (subject to removing any commercial in-confidence or sensitive information). The intention is also to incorporate the GPR verification work into the ACHAR process (including consultation with Registered Aboriginal Parties on the methodology) given the known two historic Aboriginal burials.

Q4. If permission is granted from NSW Heritage to undertake this ‘verification’ work, how will the Council justify the stated intention to ‘scrape across each of the four most likely clusters of possible graves.’

The application, which has not been prepared or submitted yet, will include more detail on how the work would be undertaken (such as type of machinery/bucket, depth of scraping etc). This information will be made available to the public at the appropriate stage if the application is approved.

Q5. If permission is granted to ‘scrape’, will the community be informed in advance of this work being carried out detailing the limits, extent and depth of the scraping, who will be supervising the scraping and when will results be made available?

A qualified specialist from NOHC would be the excavation director for this work. The result would be incorporated in the heritage assessment of the site, and they would make appropriate recommendations to council for the future management of heritage features and values. The consultants are independent and highly respected, and they will have ethical and professional obligations to report what they find. Council will continue to make the community aware of matters as the move forward as we have done throughout the PP process so far.

Q6. Is it the usual practice of the SCC to seek verification of a professional GPR survey such as the one carried out by Hunter Geophysics? Are you able to tell us when and why this has happened in the past?

Grave detection is a highly specialised area. Council is relying on the expertise of its independent overall heritage consultant, NOHC in this matter. As part of the overall assessment they are undertaking, NOHC commissioned the GPR survey which they are using as one source of information regarding the likely location of graves. Their advice, as is the advice of the GPR sub-consultant, is that the only way to determine if any of the anomalies are actually graves is to carry out physical examination. The next least intrusive method involves scraping the surface to reveal any grave cuts.

Q7. What rights do descendants of people buried on the site have in relation to disturbance?

Council is very conscious of the sensitivities around the graves and potential graves in the cemetery. As you are aware, the land is not a consecrated or gazetted cemetery and there are limited definitive records on the graves. Once we have confirmation of the location of graves or are as sure as we can be about the likely location then that information will be considered in the future decisions made about the subject land. There are no intentions to exhume or move any identified graves.

Q8. In terms of proceeding with the scraping, what is the implication of the Federal inquiry into the Jerrinja LALC's application under the Aboriginal and Torres Strait Islander Heritage Protection Act 1984.

The ATSIHP Act, 1984 can be used to protect areas and objects that are of particular significance to Aboriginal people in accordance with Aboriginal tradition. Whether or not the place meets the criteria for protection under this Act is a matter for the Federal Minister for the Environment to assess. The Aboriginal remains provision of the Act do not cover ancestral remains in formal cemeteries. Regardless, the property is currently protected under NSW legislation in so far as we are still completing the heritage assessment process.

Q9. Finally, given that the land has now been sold, is there anything to stop the new owner of the site moving the church now under DA18/2102? If this is to occur, will there need to be a new DA submitted?

DA18/2102 allows the church building to be relocated to the approved site. The current DA could be acted on but doing so at this stage would be premature in terms of the Planning Proposal (rezoning) as it would hamper Council's ability to assess the location and heritage significance of the graves.

If you need further information about this matter, please contact Eric Hollinger, City Futures on (02) 4429 3320. Please quote Council's reference 62597E (D21/353662).

Yours faithfully



**Gordon Clark
Strategic Planning Manager**

Encl. NOHC slides to Aboriginal Advisory Committee