

Appendix H

European Heritage Assessment

Kellyville Station Precinct



Planning &
Environment

North West Rail Link Project
Kellyville Station Precinct
European Heritage Assessment

Prepared for
Aver

August 2015 • Issue B
Project number 14 1121

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Document/Status Register

Issue	Date	Purpose	Written	Approved
P1	24.10.2014	Preliminary Report	CMJ	
P2	26.11.2014	Draft Report for Team Review	CMJ	
P3	18.12.2014	Final Draft Report	CMJ/MC	
P4	13.03.2015	Revised Final Draft Report	CMJ/MC	
A	18.03.2015	Final Report	CMJ/MC	CMJ
B	31.08.2015	Amended Final Report	CMJ/MC	CMJ

1 INTRODUCTION

1.1 Background and purpose of the report

This European Heritage Assessment has been prepared by Tanner Kibble Denton Architects together with Casey & Lowe Pty Ltd to accompany the application for the proposed rezoning of the Kellyville Station Precinct. The report provides an assessment of the impact of the proposal on the cultural significance of the precinct and recommends heritage management strategies for inclusion in the planning documents to protect the cultural significance of the precinct.

1.2 Kellyville Station Precinct

The Kellyville Station Precinct covers approximately 437 hectares, and includes the area within an 800 metre radius, or roughly a 10 minute walk, of the new Kellyville Station. The boundary has also taken into account the surrounding road network, natural features, and the development pattern of the area. The precinct covers two local government areas. Land on the eastern side of Old Windsor Road is located within the Hills Local Government Area, and land on the western side of Old Windsor Road is within the Blacktown Local Government Area. Figure 1 shows the Kellyville Station Precinct with its current zoning.

1.3 Heritage management context

There are three built heritage places and one archaeological site are identified within the Kellyville Station Precinct:

1. Old Windsor Road (including the road and remnant post and rail fencing within the road reserve) is listed on the Hills Shire LEP 2012 as an archaeology item (Archaeology Site A2). The road also forms part of the 'Old Windsor Road and Windsor Road Heritage Precincts' (OWR1—Stanhope Farm Alignment), which is on the RMS S170 Heritage and Conservation Register (Item 4301011);
2. Windsor Road (Baulkham Hills to Box Hill) is listed on the Hills Shire LEP 2012 as Heritage Item 28. The road also forms part of the 'Old Windsor Road and Windsor Road Heritage Precincts' (WR14—Caddie's Creek Alignment), which is on the RMS S170 Heritage and Conservation Register (Item 4301011);
3. Former Divine Word Mission at 4 Sabal Place, Beaumont Hills is listed on the Hills Shire LEP 2012 as Heritage Item 37; and
4. Former White Hart Inn archaeological relics revealed during testing for the construction of the North West Rail Link have been assessed as having State significance but are not listed on the Hills Shire LEP 2012 or the State Heritage Register.

1.4 Methodology and terminology

This report has been prepared consistent with *The Australia ICOMOS Charter for Places of Cultural Significance 1999* (The Burra Charter). The Burra Charter is widely acknowledged as the principal guiding document to conservation work and has been adopted widely as the standard for best practice in the conservation of heritage places in Australia. The historical information and significance assessment in this document have been extracted from previous studies—updated, where necessary to reflect more recent changes. Some limited additional research and analysis has been undertaken where inconsistencies in previous studies or additional clarification have been required.

1.5 Author identification

This document was prepared by Megan Jones, Principal of Tanner Kibble Denton Architects and Dr Mary Casey, Director of Casey & Lowe Pty Ltd.

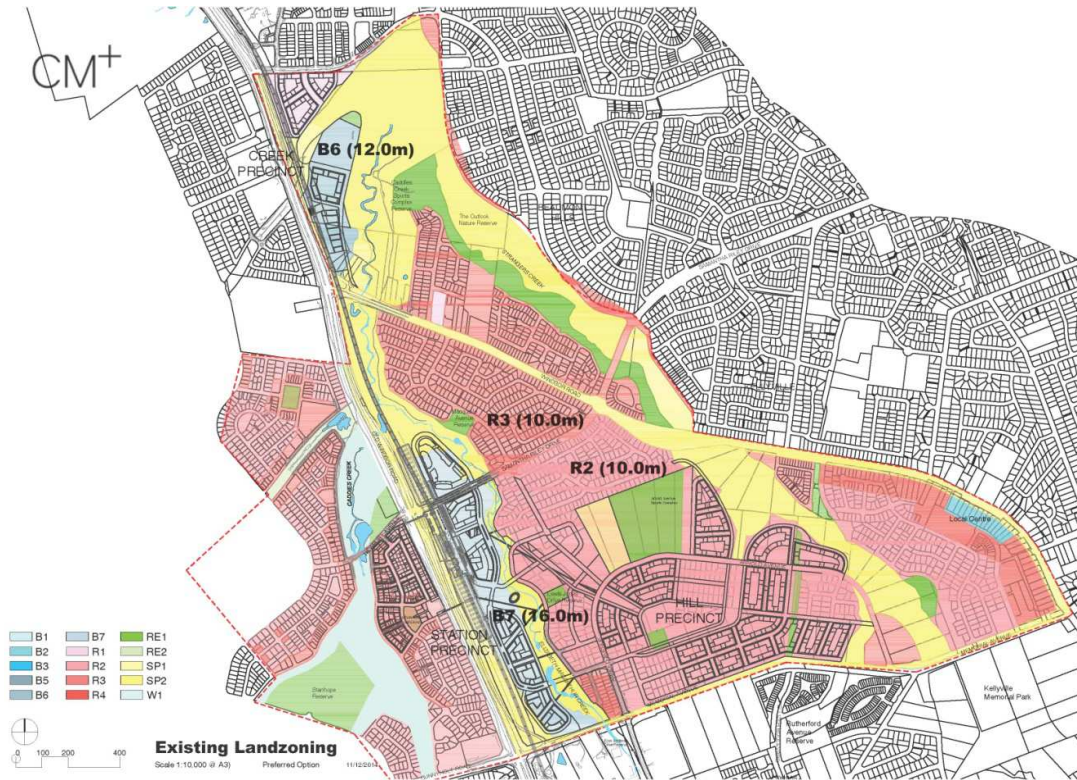


Figure 1 Kellyville Station Precinct with current land use zoning, not to scale.
Source: CM+, 2014.

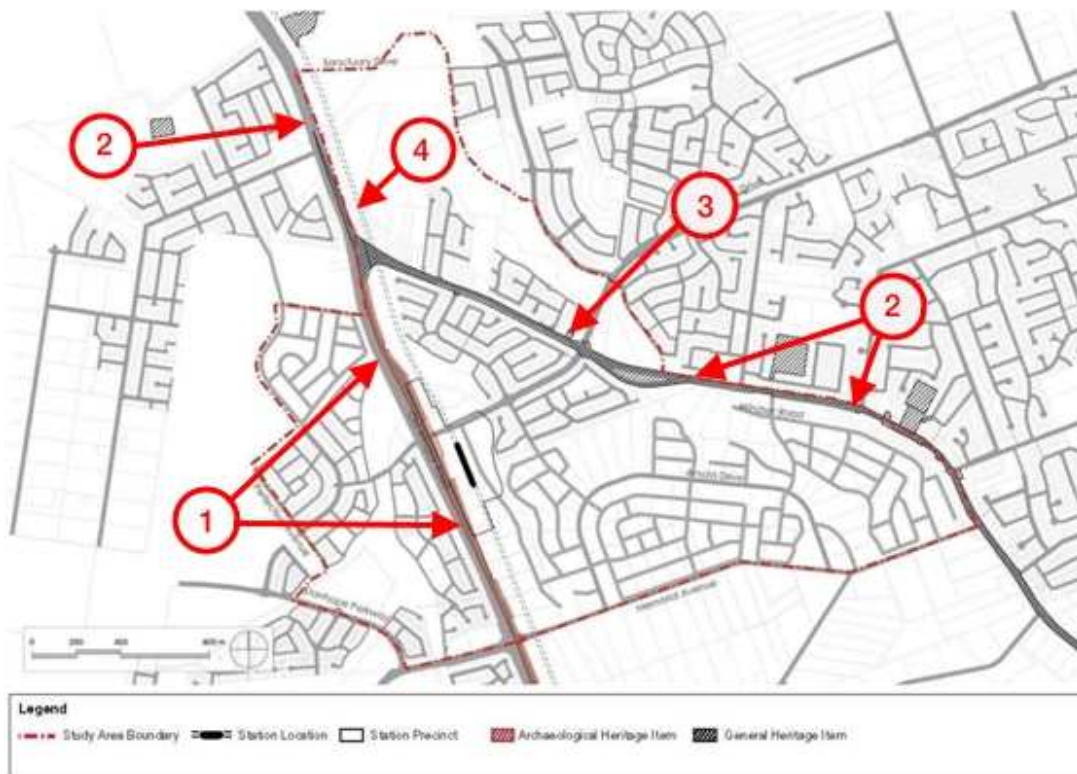


Figure 2 Kellyville Station Precinct plan with location of the heritage items. Not to scale. (1—Old Windsor Road, 2—Windsor Road, 3—Former Divine Word Mission, 4—White Hart Inn site.)
Source: Draft Structure Plan (Cox 2013) with TKDA overlay 2015.

2 HISTORICAL BACKGROUND

2.1 Preamble

This European Historical Summary is based on the “European Historical Context of the Study Area” section of the North West Rail Link EIS 1—European Heritage Report prepared by Godden Mackay Logan in March 2012. It provides a general historical overview of the districts through which the route of the NWRL passes as well as historically important areas close by. It outlines the historical context (including a brief history of European settlement and land use) in those regions where the NWRL is to be built.

2.2 Early European Settlement

2.2.1 Overview

Early European settlement in the general area of the proposed North West Rail Link was shaped by three major influences: the creation of Windsor and Old Windsor Roads connecting Parramatta with the Hawkesbury farms allowing clusters of farms to gather along these roads from as early as the late 1790's; the government farm and stock reserve at Castle Hill created in 1802; and the Field of Mars Common created in 1804, which was not released for sale until the 1800's. These developments created, restricted and repelled settlement within the Precinct.

2.2.2 Early Settler Farms

Governor Phillip led an exploration party through this area in 1791. His party left Rose Hill (Parramatta), travelling north for a couple of miles and then turning to the northwest. The following year David Burton was instructed to examine the country around Parramatta in search of good land suitable for cultivation and in 1794 Governor Grose made 22 land grants at Windsor. A track from Parramatta to access these grants (Old Windsor Road) was cut the same year and went via the Toongabbie Government Farm. In 1813 Governor Macquarie organised for the construction of a new alignment for part of the road between Parramatta and Kellyville (Windsor Road) which would avoid the hilly section which Governor King had called Seven Hills. Macquarie also organised for the existing road between Kellyville and Windsor to be upgraded. A toll system was introduced to pay for the new road which had 70 bridges, with toll booths at Rouse Hill and North Parramatta.

In the early years these roads were the focus of the local communities and a means of bringing supplies and of selling produce and stock. Inns, sly grog shops and hotels were established along the roads and became easy targets for bushrangers who were active in the district in the 1810's and 1820's. The first land grant within the locality was 30 acres made to William Joyce, a pardoned convict in 1794. His land fronted the newly cut track to the Hawkesbury (Old Windsor Road) and straddled Toongabbie Creek. Other land grants soon followed clinging closely to this early road.

Free settler Mathew Pierce received a large grant in the area which he named Kings Langley. At Baulkham Hills several grants of 100 acres or over were made to pioneer settlers, many of whom became successful farmers. The largest grant, 980 acres made jointly to Joseph Foveaux and Charles Grimes fronted Old Windsor Road. Foveaux ran more than 1200 Merino sheep on his farm which was sold to John and Elizabeth MacArthur in 1815. They called this property Seven Hills farm. In 1821 the farm was purchased by the Pearce family and re-named Bella Vista.

In 1802 Baulkham Hills was one of six new districts created for administrative purposes by the Governor King. His purpose was to place stock in these districts within the reach 'of the industrious independent settler'.¹ In 1810 Governor Macquarie visited Baulkham Hills and praised the orderly and well cultivated farms of the district.

¹ McClymont J 2003, *Baulkham Hills Shire: Pictorial History*, pp 28-29.

The largest land grant in the Pennant Hills area was to Dr John Savage, a doctor attached to Parramatta Hospital in 1804. His 290 acre grant covers much of today's West Pennant Hills. When he left the colony in 1835 his land was subdivided and sold as smaller farm lots which then supported a growing local population.²

The Kellyville district (named after Hugh Kelly, an Irish former convict turned land owner) remained semi-rural for most of the nineteenth and twentieth centuries. By 1829 Hugh Kelly had become one of the largest land owners in the district. He operated a coaching service between Parramatta and Windsor by 1832 and had bought the right to collect tolls at Howe's Bridge over South Creek.³

Rouse Hill is named after Richard Rouse a prominent free settler who arrived in the colony in 1801. His first grant here was in 1802 and his second grant was in 1816. Rouse built his home, Rouse Hill House, from 1813-18. Rouse was made superintendent of public works for Parramatta, Richmond and Windsor, and is best known for building the tollhouse and turnpike at Parramatta in 1811, and for supervising the construction of Parramatta Hospital, completed in 1818.

Rouse Hill gained early notoriety as the location of the colonies only convict uprising, the battle of Vinegar Hill. On 4 March 1804, 200 convicts from the Government Farm at Castle Hill rose in rebellion against the British Colonial authority. They had planned to march to Parramatta but were headed off by government troops and turned and headed for Windsor. By the time the troops caught up with the convicts they were on the hills near Windsor Road and this is where the battle took place. The convicts were quickly defeated and the ringleaders hanged. The area of the battle lies close to the present day suburb of Rouse Hill part of which was originally called Vinegar Hill. The exact location of the site of the uprising is still debated. A monument with a plaque commemorating the event can be seen within the Castlebrook Lawn Cemetery on Windsor Road at Kellyville Ridge.

Agriculture was the district's first industry. Wheat and corn were the principal crops while sheep were raised for meat and wool. As the western plains developed and the climate proved superior for wheat and wool, fruit growing began to dominate the Hills District. Pioneer George Suttor grew the first oranges in the district which in 1807, he claimed were the first to be sent to the Sydney markets. This was the beginning of the area becoming the premier orange growing district in the Colony.⁴

2.2.3 Castle Hill Government Farm

A huge area of 34, 539 acres (14,000 hectares) covering much of the later parish of Castle Hill, was set aside for 'Government Purposes' by Governor King 1803. Governor Phillip, in his travels through the area in 1791, had intended this area to be a stock farm. This prevented settlement in the north eastern part of the Precinct. An extensive common of 5, 830 acres was also set aside along the track to Castle Hill which led up to the government farm (now part of Old Northern Road). King had established this farm in 1801 as part of a plan to revitalise public farming and provide food for the colony. By 1802 300 convicts were stationed there.⁵ This land covered where Rogan's Hill, Glenhaven and Cherrybrook now stand and stretched as far as Glenorie in Hornsby Shire and across to Kellyville. The assignment of numerous Irish convicts to this isolated outstation led to the Colony's only convict uprising in 1804 which became known as the Battle of Vinegar Hill.

2.3 Intensification and Diversification, 1880s-1950s

The land between Parramatta and the Castle Hill District was used to grow oranges, apples, plums, peaches and apricots. The castle Hill District boasted splendid orchards, model farms and numerous houses by the 1890s.⁶ Citrus growing continued into the early part of the twentieth century and for many years, most of Sydney's citrus products were grown in the Hills District.

² Metzke M 2004, *Hornsby Shire: Pictorial History*, p70-71.

³ Bowd D 1986, *Hawkesbury Journey: Up the Windsor Road from Baulkham Hills*, p29-31, Galea M 1983, *History of Kellyville*, pp50-61.

⁴ McIymont J 2003, *Baulkham Hills Shire: Pictorial History*, p19-21.

⁵ Jervis J 1929, *The Beginnings of a settlement in the Parish of Castle Hill*, RAHSJ, Vol 15, p226.

⁶ Jeans D 1972, *An Historical Geography of NSW to 1901*, p209.

The issue of transporting the fruit to market saw a tramway open in 1902 which went from Parramatta to Baulkham Hills. The tram line operated from Parramatta to Castle Hill from 1910 with the terminus lying just south of the intersection of Old Northern Road and Old Castle Hills Road. In the early 1920s the old tram line was converted to railway standards and the railway commenced on 28 January 1923 with the new railway terminus constructed on what is today known as Arthur Whiting Reserve.

The railway line was extended to Rogan's Hill on 24 November 1924.⁷ The line generally followed the roadway and was called a 'pinch penny' service, having no platforms and with all tickets sold on board trains. Castle Hill Railway station was not manned so a junior porter sold tickets on the steam train.⁸ As the use of vehicular traffic increased, patronage of the train line decreased and the railway eventually closed in 1932.

The existence of the railway accelerated the residential subdivision of old estates in the areas adjacent to the line, in particular around the urban areas of Castle Hill and Baulkham Hills. One result of the desirable climate, enhanced transport facilities and increasing middle class prosperity was the creation of large houses in substantial garden settings, commonly referred to as 'country retreats'. Typically they were located along major ridgelines such as Old Castle Hill Road to take advantage of the impressive views. This dress circle ridge became the location for many large houses such as Glenhope (1895), Dunrath, Pine Ridge and Fairholme (1890s).

Houses were scattered along the main roads, such as Windsor and Old Windsor Roads, but there were no distinct towns or villages between Castle Hill and Windsor. Kellyville was often referred to as 'there or nowhere' or 'nowhere here' or 'there and nowhere else'. It is believed bushrangers roamed the area during its time as a government farm. The Kellyville Estate subdivision in 1889 resulted in the pattern of many major roads today.

Kellyville was a rural area with production centred on wheat crops, fruit growing and cattle. Early crops also included grapes, however they were wiped out with an outbreak of Phylloxera. As a result the vineyards were removed and the focus of production shifted to citrus crops that would dominate the Hills District well into the 20th century. Oranges were by far the most popular to grow, although lemons and other citrus varieties also thrived.

At Bella Vista Farm, Edward Henry Pearce operated what by 1890 was recognised as one of the largest orchards in the colony. This was complemented by a dairy and other farming activities. The land remained a working farm until the late 1990s when much of the land was subdivided and sold for development.

2.4 Suburban Expansion, 1960s-Present

From the 1960s the Precinct became the focal point of the NSW Government's plan to make residential land available in the expanding Sydney area. Old orchards, rough roads and timber framed cottages gave way to suburban blocks, and sealed roads with kerbs and gutters. Baulkham Hills saw much red-brick residential development during the 1960s.

Until the mid-1990s, the area around Bella Vista Farm was primarily used for small-scale agriculture. Since then, significant changes have become apparent as this area now incorporates a burgeoning residential area and a busy business district. The homestead and old farm buildings have been preserved and this portion of the former Pearce family property is now owned by The Hills Shire Council.


⁷ Oakes J 2008, *Sydney's Forgotten Park and Rural Railways*, Australian Railway Historical Society, p73-96.


⁸ <http://www.thehills.nsw.gov.au/external/hillsvoices/Brucelrwin.htm>.


3 HERITAGE SIGNIFICANCE

3.1 Built Heritage

The following schedule provides an overview of the significance of the three built heritage places identified within the Kellyville Station Precinct.

1	Old Windsor Road (from Memorial Avenue to Windsor Road)
Overview History and Description	<p>Francis Grose, as Acting Governor, ordered the building of a road to the Windsor Area (then Mulgrave Place) as soon as he had permitted settlement there by 22 emancipists and others in 1794.</p> <p>This was a walking and riding track and was expanded and improved in 1812 into a cut road by Governor Macquarie.</p> <p>The road was the only land link between Parramatta and the Hawkesbury linking the struggling settlement at Sydney Cove, and the larger settlement at Parramatta with the grain growing farms along the Hawkesbury.</p>
Significance	<p>A powerful evocation of the earliest road to the Hawkesbury, with original cuttings through the steep hill and appropriate bush vegetation with no habitation in sight.</p> <p>Of the highest historic significance as it was the basic means of land communication between Sydney/ Parramatta and the “bread basket” of the Hawkesbury in the first two generations of settlement.</p> <p>The road has the potential to yield valuable information about early road construction and design.</p>
Listings	The Hills LEP 2012 Archaeological Site A2, RMS s170 Heritage and Conservation Register.
Images	 <p>View of remains of Old Windsor Road which is now separated from the dual lane replacement</p>

2	Windsor Road (From Memorial Avenue to Sanctuary Drive)
Overview History and Description	<p>In 1810 Governor Macquarie decided to build a turnpike road from Sydney to the Hawkesbury at Windsor. The road was opened as far as South Creek at Windsor in 1812 but it was barely fit for wheeled transport and convicts under John Howe and James McGrath widened and improved the road in 1813, when South Creek was also bridged. The surface was earth, cambered to divert water: it easily became potholed and muddy, but remained the principal link to the Hawkesbury.</p> <p>From 3 km west of Kellyville right into Windsor it incorporated the 18th century line of Old Windsor Road. Inns were erected along Windsor Road at Baulkham Hills, Kellyville, Rouse Hill and the junction with Old Windsor Road.</p> <p>Increased traffic in connection with service settlements and the sub-division of Kellyville in the 1880s created a new town in the rural landscape.</p> <p>A broad characteristic toll road retaining its 1812 and, to the west, its 1794 line. Nothing survives of the original earthen carriageway, but some post and rail fencing survives at Glenmore, just east of the junction with Old Windsor Road and opposite Castlebrook Lawn Cemetery to the west.</p> <p>Inns old and new still perform an essential function from the Bull and Bush to the Royal Oak.</p>
Significance	<p>The best example of a Macquarie period toll road partly in the 1794 line of the earliest track to the Hawkesbury granaries. The inns and inn-sites. The suburban growth at Baulkham Hills, the village development at Kellyville in the late Victorian period and the larger properties at Rouse Hill and Box Hill evoke historical realities, just as the post and rail fencing at Glenmore evokes the colonial rural scene.</p>
Listings	<p>The Hills LEP 2012 Heritage Item I28, RMS S170 Heritage and Conservation Register.</p>
Images	 <p>View of new dual lane Windsor Road</p>

3	Former Divine Word Mission at 4 Sabal Place, Beaumont Hills	
Overview History and Description	The house originally fronted Windsor Road.	
Significance	Local historical significance	
Listings	The Hills LEP 2012 Heritage Item I37.	
Images	 <p>Sales brochure photograph of the restored cottage which once housed the Divine Word Mission</p>	

3.2 Archaeological Sites

Since the 1980s the locality of Rouse Hill and Baulkham Hills has been the subject of a number of European archaeological reports. The first main report was *Archaeological study of the land within the Shire of Baulkham Hills*, by Mary Dallas, Richard Mackay and Grace Karskens (1989). This is a substantial and important report which influenced all subsequent European archaeology reports for the Rouse Hill Infrastructure projects and all preliminary reporting for the North West Rail Link. It covered all of The Hills LGA but none of the Blacktown LGA part of the Precinct.

In 1993 Casey & Lowe undertook a series of archaeological reports for the Rouse Hill Infrastructure, Stages 1, 2 and 3. The relevant reports for this project include:

- *Historical Archaeological Survey of the Rouse Hill Infrastructure Project (Stage 1) Works*, July 1993.
- *Historical Archaeological Heritage Study and Assessment of Old Windsor Road and Windsor Road, Rouse Hill*, for Rouse Hill Infrastructure Project (Stage 1) Works, September 1993.
- *Historical Archaeological Survey of the Infrastructure Project (Stage 1) Works, Additional Sites*, October 1993.


North West Rail Link EIS reporting relevant to this project includes:

- *Godden Mackay Logan 2012: North West Rail Link, EIS 1 - Major Civil Works, European Heritage Reports*, report prepared for NWRL Planning Approval Team, March 2012. This was Technical Paper 3 of the EIS.

For the North West Rail Link construction stages the European archaeological component was undertaken by EMM. This reporting involved the archaeological excavation of two sites within the Precinct. While there are some gaps in these reports such as land titles research, the subsequent archaeological programs confirmed the presence of archaeological remains. The relevant reports are:

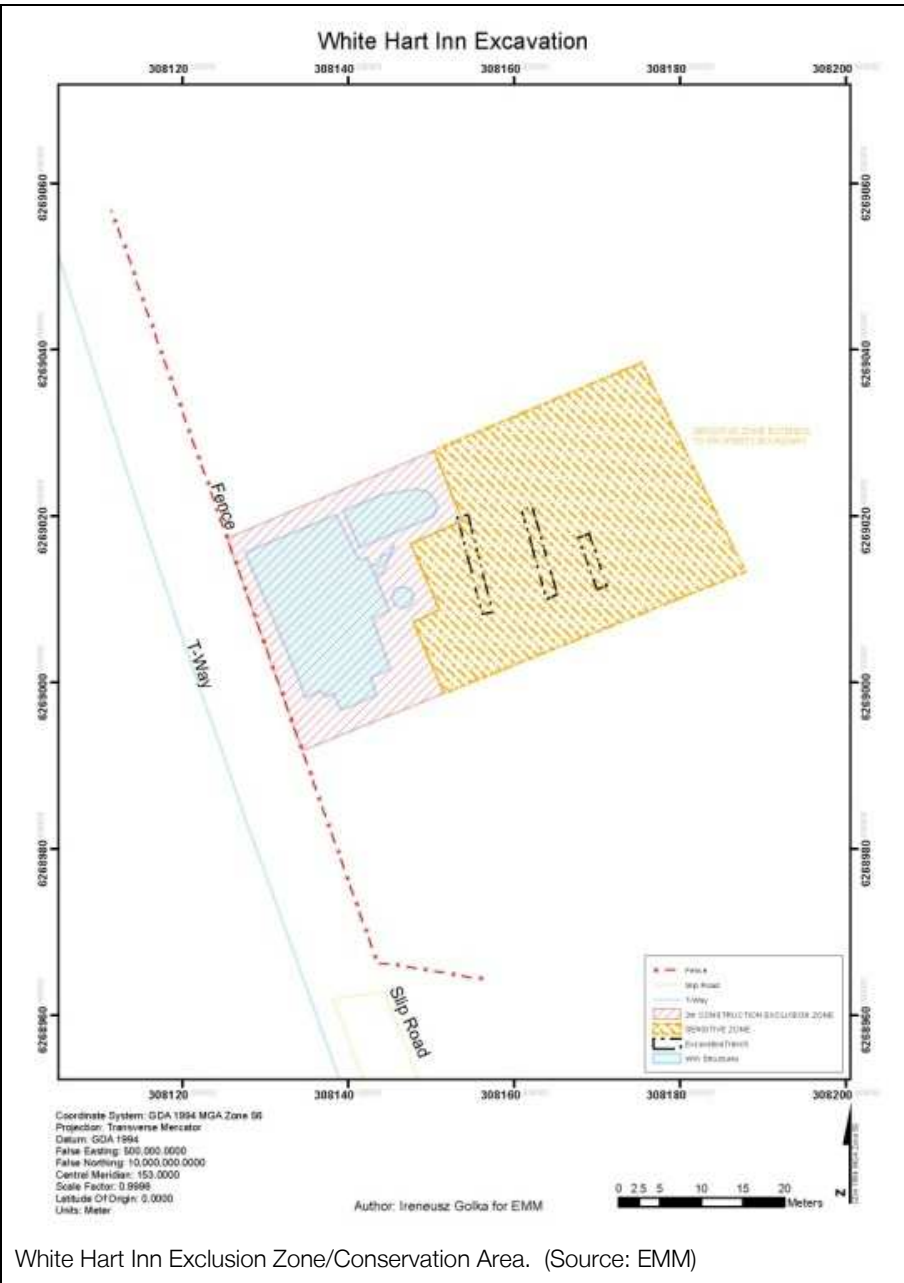
- *Archaeological Assessment and Research Design, Kellyville Station*, 12 August 2013.
- *Archaeological Assessment and Research Design, Swan Inn, Old Windsor Road to White Hard Drive*, September 2013.

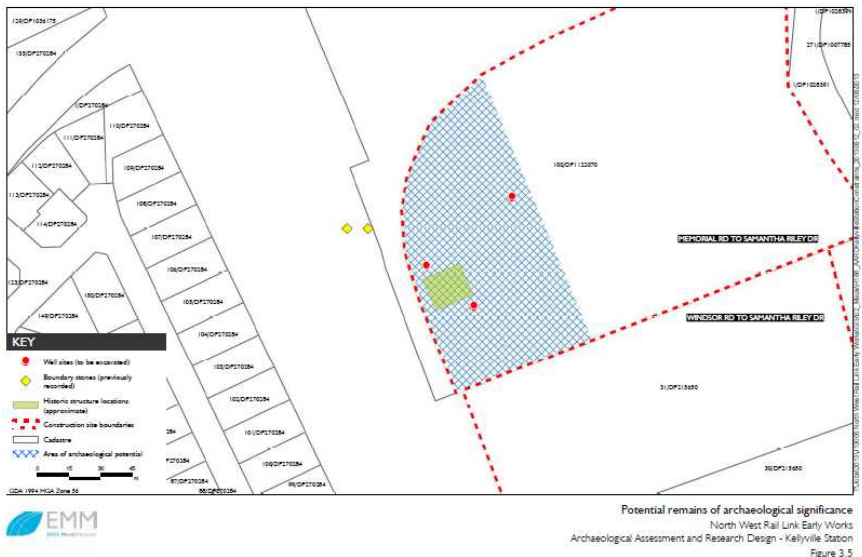
The following schedules provide an overview of the significance of the archaeological sites in the Kellyville Station Precinct:

White Hart Inn Archaeological Site, Windsor Road, Kellyville (RH/36)	
Overview History and Description	<p>The foundations White Hart Inn at Kellyville were uncovered by archaeologists near the intersection of Old Windsor and Windsor Roads at Kellyville during archaeological testing work for the sky train section of the North West Rail Link.</p> <p>The White Hart Inn is located on 30 acres originally granted to John Moss in 1810. Moss transferred the land to Edmund Wright in 1821 and in the same year Edmund Wright transferred the land to Hugh Kelly.</p> <p>William Cox Esquire purchased the land in the 1820s and built the White Hart Inn. He owned the inn until his death in 1836 when it passed to his son, William Cox Jr. The will of William Cox Esquire mentions the White Hart Inn, stables and other outbuildings.</p> <p>In 1881 the 'Old White Hart Hotel' was listed for auction. This was the final entry for the building.</p> <p>The test excavation uncovered a structure of approximately 20m in width and 15m in length built of sandstone and brick. The structure is configured as a typical colonial inn with a long verandah or front room. Directly behind the long front room is a large indoor area defined by sandstone footings on all sides. This room has tentatively been identified as the dining room or bar. Other rooms, possibly accommodation, on the ground floor are represented by a series of sandstock brick rows at the southern end of the building. Next to the large bar area on the west, a deep room, probably a cellar, was uncovered.</p> <p>An agreement was reached with the Heritage Division, Office of Environment & Heritage and Transport NSW that part of this site would be retained in situ within a Conservation Area. The northern part of this site is outside this Conservation Area but is still archaeologically sensitive.⁹</p>
Significance	This site has been assessed as being of State Significance.
Listings	Nil
Images	 <p>Revealed archaeological remains</p>

⁹ Pamela Kottaras, EMM, co-director on the archaeological project.

Images



Nineteenth-century house site (RH/35)	
Description	This archaeological site was mostly excavated during the construction for Kellyville Station. Also the two adjacent boundary stones in Windsor Road were removed during the 2013 archaeological program. There is some limited archaeological potential outside the area of excavation ¹⁰
Significance	This site has been assessed as being of local significance.
Image	 <p>Potential remains of archaeological significance North West Rail Link Early Works Archaeological Assessment and Research Design - Kellyville Station Figure 3.5</p> <p>Location of the remains associated with a site near the Kellyville Station site and the two boundary stones in Windsor Road—located within Area A. (Source: EMM <i>Kellyville Station Archaeological Assessment</i>.)</p>

¹⁰ Pamela Kottaras, EMM, co-director on the archaeological project.



Figure 3 This map identifies site RH/35 (see area marked by 49 on map) and Old Windsor Road and associated boundary stones but no other archaeological sites.

Source: Map 11, *North West Rail Link, EIS 1—Major Civil Works, European Heritage Reports*, Godden Mackay Logan 2012.



Site of the Battle of Vinegar Hill

Description

The location of the battle associated with this significant Irish Convict Rebellion is uncertain.

There are a number of possible sites of the battle but none have been proven.

The site may include buried remains of the dead and evidence of the battle, such as musket shot or gun flints.

There is a memorial at Castlebrook Memorial Park.

4 DESCRIPTION OF THE PROPOSAL

4.1 North West Corridor Strategy

The \$8.3 billion North West Rail Link (NWRL) is Australia's largest public transport infrastructure project currently under construction and a priority rail project for the NSW Government.

The 23 kilometre line, from Epping to Cudgegong Road, will connect to Sydney's wider rail network and include eight new stations. Demand for new homes and jobs in north western Sydney is expected to increase, which creates a significant opportunity to comprehensively plan for the future, by providing for new homes, jobs and recreational opportunities in desirable communities close to public transport.

The Department of Planning and Environment and Transport for NSW, in collaboration with relevant local councils and State agencies, finalised the North Rail Link Corridor Strategy in September 2013. The Corridor Strategy, including Structure Plans for precincts surrounding each of the eight new North West Rail Link stations, was prepared to integrate land use and transport planning to meet current and emerging challenges with future expected growth in the North West region, and:

- identifies future visions for the precincts surrounding the new stations,
- projects housing and job growth for each precinct and the corridor as a whole, and
- establishes a framework for managing future land use change.

The Corridor Strategy provides the community with an understanding and certainty for how the corridor will change and grow into the future, as well as establishing a framework for infrastructure needs to be delivered as the area grows. In particular, it will allow infrastructure agencies and service providers to identify, prioritise and co-ordinate the delivery of infrastructure upgrades in accordance with each precinct's long term growth potential, providing increased transparency about the area's growth infrastructure pipeline.

In October 2013, the Hills Shire Council unanimously resolved to partner with the Department of Planning and Environment in implementing parts of the strategy by nominating the area around the planned Kellyville/Bella Vista/Showground station as an Urban Activation Precinct. The Urban Activation Precinct program is a State government led planning process which aims to increase the number of homes and jobs close to transport nodes.

4.2 Kellyville Station Precinct

The Kellyville Station Precinct was announced by the NSW Government in August 2014. The precinct is one of number of Priority Precincts which aim to provide for more homes, jobs and improved public spaces close to transport and services. One of the key goals for Priority Precincts is to increase housing choice and affordability by delivering increased housing supply in an environmentally, socially and economically sustainable manner.

The vision for the Kellyville Station Precinct is for a vibrant, predominantly residential area offering a mix of housing types within walking distance of the new station, along with local shops, community facilities, and improved open space network.

The Kellyville Station Precinct is a long term project that will be delivered over the next 25 years.

The following map illustrates the rezoning proposal (Figure 4).

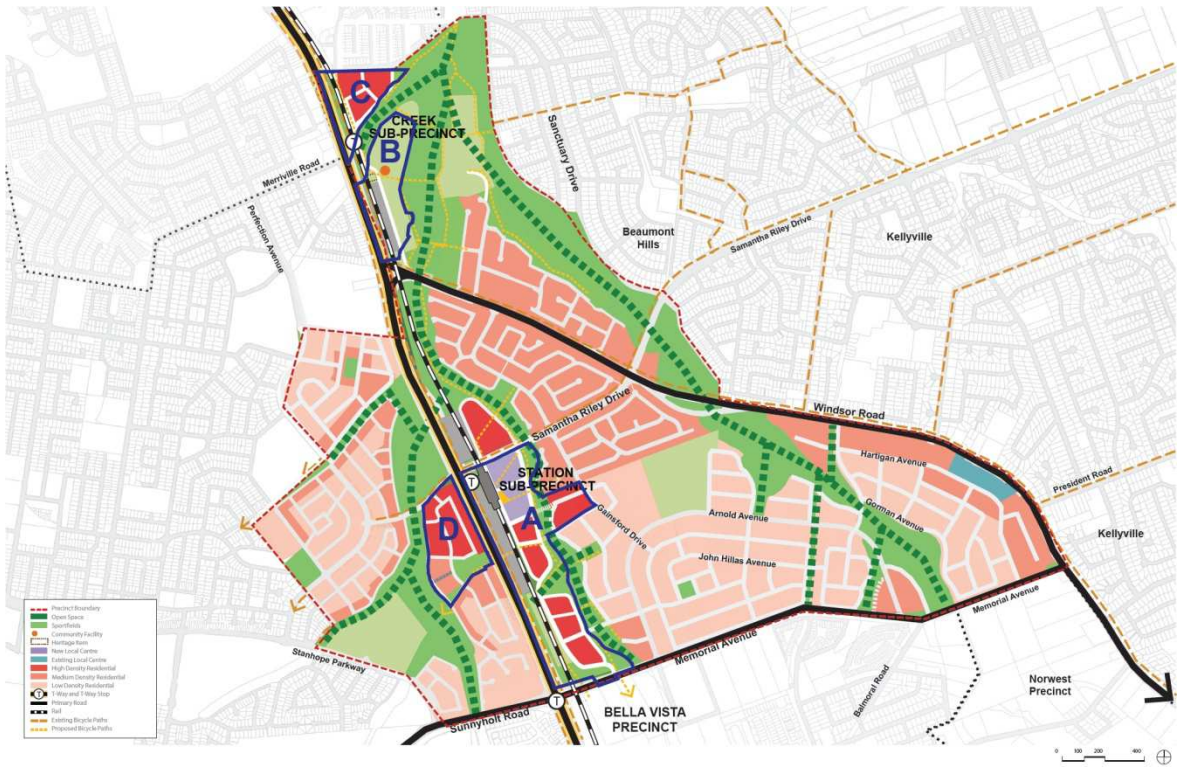


Figure 4 Kellyville Station Precinct Concept Plan. Not to scale.

Source: CM+



5 ASSESSMENT OF HERITAGE IMPACT

5.1 Impact on built heritage sites

The proposed rezoning of opportunity sites within the Kellyville Station Precinct is unlikely to have a physical impact on the three built heritage places. There are no development proposals and the proposed sites to be rezoned are outside of the lot boundaries of the built heritage places.

5.2 Impact on archaeological sites

The three main areas of impacts have limited archaeological potential.

- Opportunity Site A runs along the line of Old Windsor Road and may include part of the site of RH/35 but as most of it was excavated in 2013 additional substantial remains are not anticipated to survive. As indicated in the heritage report for the North West Rail Link EIS, there are no other known archaeological sites in this area. The rezoning area should therefore have limited likelihood for historical archaeological remains.
- Opportunity Site B includes the site of the White Hart Inn, part of which is within a Conservation Area and part of which is outside the conservation zone. The White Heart Inn Archaeological site, including the five metre buffer zone, will be retained and managed by Transport for NSW and will not be included in the sites for redevelopment. New public open space is to be located adjacent for conservation and interpretation. Further research and testing may be required prior to assist with the formulation of management strategies for these redevelopment sites.
- Opportunity Site C has no known European archaeological potential but the mapping includes Windsor Road but there should be no impacts on Windsor Road. No excavation of Old Windsor Road is proposed.
- Opportunity Site D is not considered to contain any known archaeological sites. It is adjacent to Windsor Road which is an LEP item. No excavation of Windsor Road is proposed.

5.3 Statutory background for archaeological relics

The main legislative constraints on archaeological remains are the relics provisions of the *Heritage Act 1977*. In relation to this project, s139 and s140 of the Heritage Act applies as well as s57 and s60 for items listed on the State Heritage Register (SHR).

Division 9: Section 139, 140–146—Relics Provisions—Excavation Permits

According to 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.*
- (4) *The Heritage Council may by order published in the Gazette create exceptions to this section, either unconditionally or subject to conditions, in respect of any of the following:*
 - a. *any relic of a specified kind or description,*
 - b. *any disturbance or excavation of a specified kind or description,*
 - c. *any disturbance or excavation of land in a specified location or having specified features or attributes,*
 - d. *any disturbance or excavation of land in respect of which an archaeological assessment approved by the Heritage Council indicates that there is little likelihood of there being any relics in the land.*

A 'relic' is an item of 'environmental heritage' defined by the Heritage Act 1977 (amended) as:

those places, buildings, works, relics, moveable objects, and precincts of State or local heritage significance.

A relic as further defined by the Act is:

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 an historical archaeological site or relic cannot be impacted upon without an excavation permit. An excavation permit forms an approval from the Heritage Council for permission to 'disturb' a relic.

An application for an excavation permit (Section 140) must be made to the Heritage Council of NSW (or its delegate) and it will take approximately three to four weeks to be processed. The application for a permit must nominate a qualified archaeologist to manage the disturbance of the relics. There is a processing fee for each excavation permit application, the details of which can be obtained from the Heritage Division, Office of Environment and Heritage website.

Exceptions

An application for a S139(4) Exception approval may be made where the impact is considered to be in accordance with the following categories:

- (1A) An archaeological assessment, zoning plan or management plan has been prepared in accordance with Guidelines published by the Heritage Council of NSW which indicates that any relics in the land are unlikely to have State or local heritage significance.
- (1B) The excavation or disturbance of land will have a minor impact on archaeological relics including the testing of land to verify the existence of relics without destroying or removing them.
- (1C) A statement describing the proposed excavation demonstrates that evidence relating to the history or nature of the site, such as its level of disturbance, indicates that the site has little or no archaeological research potential.

5.4 European archaeology recommendations for development of opportunity sites

1. Works in Areas A require no further input for European archaeology, other than to avoid impacts on Old Windsor Road.
2. Works in Area B will need to avoid impacts on the archaeology of the White Hart Inn as much as possible, especially within the conservation zone. Any works which impact on this site will require an approval under the Heritage Act. An application would need to be made under either S139(4) or S140. This would require an Archaeological Research Design. Any such application should draw on the results of the previous excavation reporting.
3. Works in Area C have some limited potential to find remains of the 19th-century house site not found during the archaeological program. These would be quite minor. Further research should be undertaken into this once development issues in this area are understood and if within the identified archaeological site a S139(4) Exception may be required.
4. Works in Area D requires no further input for European archaeology, other than to avoid impacts on Old Windsor Road.

6 CONCLUSION

This rezoning application identifies opportunity sites within the Kellyville Station Precinct but does not include any development proposals. However, the subsequent development of these opportunity sites is unlikely to have a physical impact on the three built heritage places. The impact on known archaeological remains is limited to the area around the White Hart Inn relics. However, excavation for the development of the opportunity sites may disturb archaeological relics. Therefore, the relics provisions of the *Heritage Act 1977* (NSW) will apply to any excavations undertaken in these sites.