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NPWS Unicorn Falls Uki, New South Wales

Cultural Values Assessment

Prepared for NSW National Parks and Wildlife
Service

January 2020



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EXECUTIVE SUMMARY

Everick Heritage Pty Ltd has been engaged by NSW National Parks and Wildlife Service (the 'Proponent'), to prepare a Aboriginal Values Assessment for proposed upgrades to visitor safety and recreation infrastructure (the 'Proposed Works') at Unicorn Falls, located within the Mt Jerusalem National Park, via Uki New South Wales (the 'Project Area'). The Aboriginal Values Assessment has been identified as a result of initial Aboriginal community consultation undertaken as part of the initial Aboriginal Cultural Heritage Due Diligence Assessment for the Works (Everick 2019). In particular, the assessment aims to identify the cultural value of the Unicorn Falls to Aboriginal women.

The methodology used for this SOHI is consistent with the Australia ICOMOS Burra Charter and the NSW Department of Planning (Heritage Division) publication, *Assessing Heritage Significance, Statements of Heritage Impact* (NSW Heritage Office, 2002). The significance assessment, together with an outline of statutory requirements, informed the impact assessment and recommendations. In accordance with the brief the assessment methodology included:

- a) desktop searches of relevant heritage registers and databases to identify documented evidence of the Aboriginal values within the Project Area;
- b) a community consultation notification process to identify potential knowledge holders and participants in the assessment;
- c) a meeting with representatives of the Tweed Byron Local Aboriginal Land Council and Aunty Jackie McDonald to establish the range of values for Uki Falls, but also waterfalls and water features in the Northern Rivers region generally;
- d) an assessment of the significance of the Falls through the application of the NSW Heritage Office heritage criteria, and the NSW Heritage Branch *Assessing significance for historical archaeological sites and relics* (2009); and
- e) writing of a report on the findings and appropriate mitigation recommendations.

A meeting with representatives of the Tweed Byron Local Aboriginal Land Council ('LALC') was organised by Ms Leweena Williams and Mr Maurice Gannon to discuss the cultural values of Unicorn Falls. The following members participated in the meeting;

- Uncle Des Williams;
- Kyle Slabb;
- Kerrin Epwi (Slabb);
- Yvonne Slab;
- Ebony Williams/ Costa;
- Leweena Williams; and

- Maurice Gannon.

A phone interview was undertaken with Aunty Jackie McDonald on 19 December 2019.

Having consideration for the literature review and the outcomes of the consultation there is no collective story or cultural practice to indicate that Unicorn Falls is of particular significance to the Minjungbal/ Nganawal people and Aboriginal culture generally. This assessment considers that there is no traditional story, place name or agreed spiritual character at Unicorn Falls. However, there is a first-hand experience of the presence of a spiritual power at the Falls and a general tradition of women's sites at Falls within the Tweed and Byron Hinterland. As such the Unicorn Falls site has the potential to contribute to Aboriginal cultural heritage generally and may form part of a broader cultural renewal program for sacred sites in the Tweed Byron Hinterland.

Based on the consultation undertaken as part of the is assessment it is possible to conclude that the Falls likely form part of a broader cultural landscape whereby fresh water falls are typically 'women's sites', however there is no specific story, name or character known to the participants of the study. The below may comprise the basis of a management plan to assist Minjungbal and Nganawal people to actively participate in the management of the Falls.

Recommendation 1: Cultural use and renewal

Based on the broad tradition of women's sites at waterfalls within the hinterland the visitation and use of the Unicorn Falls by women should be encouraged. This may include back to country visits or the dissemination of information to the Aboriginal community about the recreation opportunities at Unicorn Falls. The addition of infrastructure to increase safety and access will support the ongoing use of Unicorn Falls by the Aboriginal community as a day use area.

Recommendation 2: Provision of amenities.

The primary agents of desecration of the cultural values of creeks and water falls generally relate to defecation within and around the stream. The pollution of the water with human waste may compromise the quality of the water and capacity of Aboriginal women to utilise the falls. As such the provision of appropriate amenities should be considered as the main management strategy for the cultural values of the Falls.

Recommendation 3: Public interpretation.

It is not considered that there is a strong cultural story for Unicorn Falls. However, there is the opportunity to make general statements with respect to the range of values for creeks and water and the expectations of the Aboriginal community for visitors to the Tweed Byron Hinterland. These statements may be made by individual knowledge holders and should include messaging directed at men and women. The use of images, such as drawings or artwork, to support these messages should be subject to collective consent and all interpretive material should be subject to copyright agreement.



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DEFINITIONS

The following definitions apply to the terms used in this report:

BCD means the New South Wales Biodiversity and Conservation Division of the New South Wales Department of Planning, Infrastructure and Environment.

DPI&E means the New South Wales Department of Planning, Infrastructure and Environment.

Heritage Act means the Heritage Act 1977 (NSW).

ICOMOS means the International Council on Monuments and Sites.

LEP means the Local Environmental Plan.

LGA means Local Government Area.

NPWS means National Parks and Wildlife Service

NSW means New South Wales.

Project Area means Unicorn Falls located at Mount Jerusalem National Park via Uki, Northern New South Wales.

Proponent means NSW National Parks and Wildlife Service.

Proposed Works means the visitor upgrades and safety works at Unicorn Falls located at Mount Jerusalem National Park and Unicorn Falls located within Mt Jerusalem National Park, Northern New South Wales.

The Consultant means qualified archaeological staff and/or qualified heritage sub-contractors of Everick Heritage Pty Ltd.

1. INTRODUCTION

1.1 The Project

Everick Heritage Pty Ltd has been engaged by NSW National Parks and Wildlife Service (the 'Proponent'), to prepare a Aboriginal Values Assessment for proposed upgrades to visitor safety and recreation infrastructure (the 'Proposed Works') at Unicorn Falls, located within the Mt Jerusalem National Park, via Uki New South Wales (the 'Project Area'). The Aboriginal Values Assessment has been identified as a result of initial Aboriginal community consultation undertaken as part of the initial Aboriginal Cultural Heritage Due Diligence Assessment for the Works (Everick 2019). In particular, the assessment aims to identify the cultural value of the Unicorn Falls to Aboriginal women.

1.2 Aims and Methodology

The methodology used for this SOHI is consistent with the Australia ICOMOS Burra Charter and the NSW Department of Planning (Heritage Division) publication, *Assessing Heritage Significance, Statements of Heritage Impact* (NSW Heritage Office, 2002). The significance assessment, together with an outline of statutory requirements, informed the impact assessment and recommendations. In accordance with the brief the assessment methodology included:

- a) desktop searches of relevant heritage registers and databases to identify documented evidence of the Aboriginal values within the Project Area;
- b) a community consultation notification process to identify potential knowledge holders and participants in the assessment;
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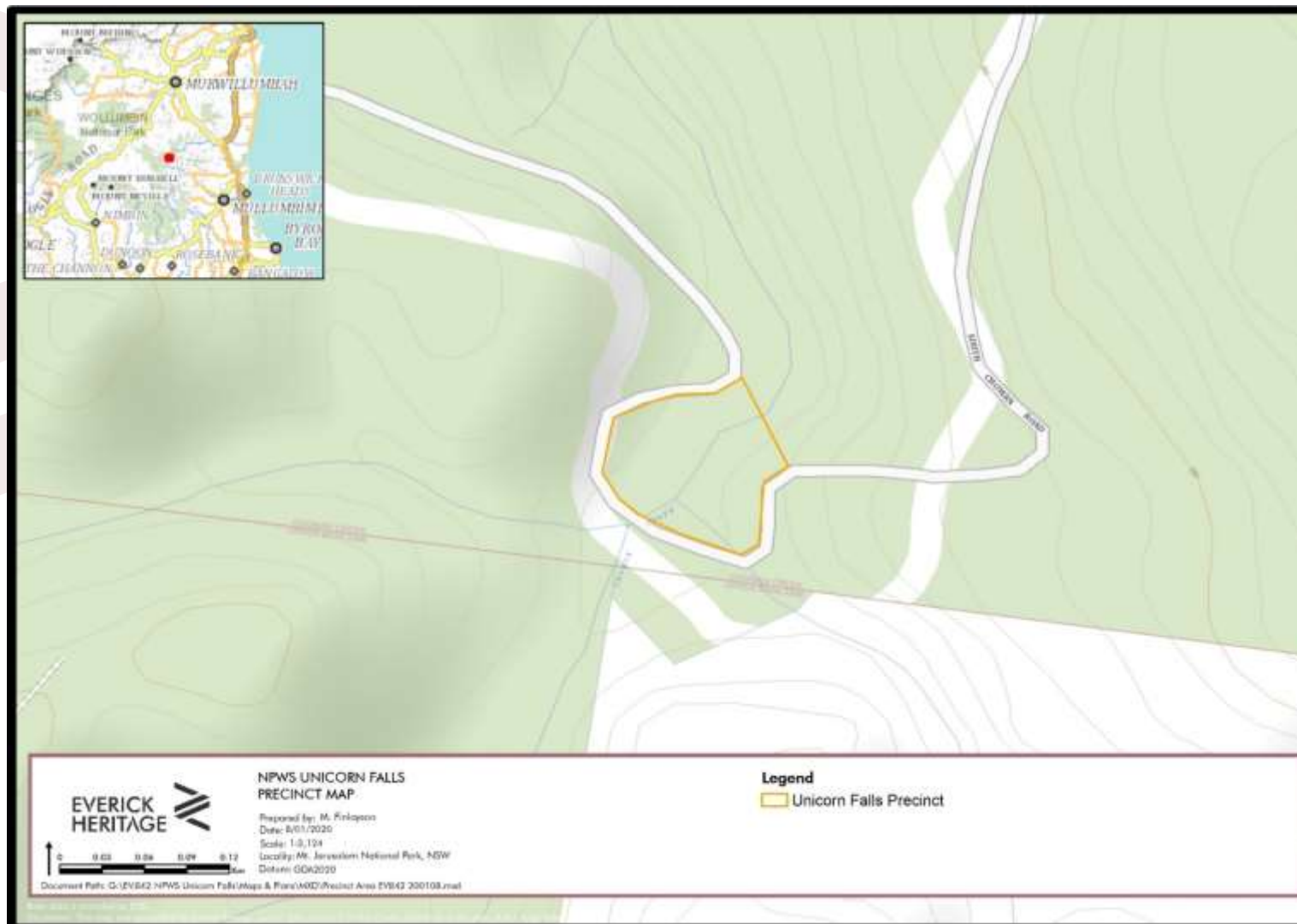


Figure 1: Location of the Project Area (Blue area only).

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Figure 2: Unicorn Falls masterplan.

2. LEGISLATIVE AND PLANNING CONTEXT

Several planning and legislative documents govern the manner in which historic heritage is managed in NSW and Australia. The following section provides an overview of the requirements under each as they apply to the Proposal.

2.1 State Legislation

2.1.1 *Environmental Planning and Assessment Act 1979*

The NSW *Environmental Planning and Assessment Act 1979* (EP&A Act) and its associated regulations provide the framework for determining planning approvals for developments and activities in NSW. Environmental impacts are interpreted as including impacts to cultural heritage. The Proponent is undertaking the assessment internally under the provisions of the EP&A Act.

2.1.2 *The National Parks and Wildlife Act 1974 (NSW) and the National Parks and Wildlife Regulations 2009 (NSW)*

The *National Parks and Wildlife Act 1974* (NSW) ('NPW Act') is the primary legislation concerning the identification and protection of Aboriginal cultural heritage and are administered by the Department of Planning, Infrastructure and Environment ('DPI&E'). It provides for the management of both Aboriginal Objects and Aboriginal Places. Under the NPW Act, an Aboriginal Object is any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area, regardless of whether the evidence of habitation occurred before or after non-Aboriginal settlement of the land. This means that every Aboriginal Object, regardless of its size or seeming isolation from other Objects, is protected under the NPW Act. The definition of an Aboriginal object does not include landscape features, formations or natural objects which have 'intangible' values to the Aboriginal community. These may include food resources, medicines, materials such as ochre and other natural objects related to Aboriginal spirituality and ceremony. Provisions for protection of these types of cultural values are provided by the Aboriginal Place provisions.

An Aboriginal Place is an area of particular significance to Aboriginal people which has been *declared* an Aboriginal Place by the Minister. The drafting of this legislation reflects the traditional focus on Objects, rather than on areas of significance such as story places and ceremonial grounds. However, a gradual shift in cultural heritage management practices is occurring towards recognising the value of identifying the significance of areas to Indigenous peoples beyond their physical attributes. With the introduction of the *National Parks and Wildlife Amendment Act 2010* (NSW) the former offence provisions under Section 86 of 'disturbing', 'moving', 'removing' or 'taking possession' of Aboriginal Objects or Places have been replaced by the new offence of 'harming or desecrating'. The definition of 'harm' is 'destroying, defacing

or damaging an Object' however the NPW Act does not provide a definition of desecration. Importantly, in the context of the management recommendations in this assessment, harm to an Object that is 'trivial or negligible' will not constitute an offence.

The 2010 amendments have significantly strengthened the penalty provisions. The issue of intent to harm Aboriginal cultural heritage was formally addressed by separating it from inadvertent harm. The penalty for individuals who inadvertently harm Aboriginal Objects is set at up to \$55,000, while for corporations it is \$220,000. The concept of '*circumstances of aggravation*' allows for harsher penalties (up to \$110,000) for individuals who inadvertently harm Aboriginal heritage in the course of undertaking a commercial activity or have a record for committing similar offences. For those who knowingly harm Aboriginal cultural heritage, the penalty rises substantially. The maximum penalty is set at \$275,000 or one year imprisonment for individuals, while for corporations the penalty is set at \$1,100,000.

Where a land user has or is likely to undertake activities that will harm Aboriginal Objects, the Director General has a range of enforcement powers, including stop work orders, interim protection orders and remediation orders. The amended regulations also allow for a number of penalties in support of these provisions.

The NPW Act also includes a range of defense provisions for unintentionally harming Aboriginal Objects:

- a) Undertaking activities that are prescribed as 'Low Impact'.
- b) Acting in accordance with the new *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DEECW 2010) (NSW).
- c) Using a consulting archaeologist who correctly applies the *Code of Practice for Archaeological Conduct in New South Wales* (DEECW 2010) (NSW) ('Code of Practice').
- d) Acting in accordance with an Aboriginal Heritage Impact Permit ('AHIP').

The regulations allow for a range of low impact activities to be undertaken without the need to consult with the DPI&E or a consulting archaeologist. Generally, those who undertake activities of this nature will not be committing an offence, even if they inadvertently harm Aboriginal Objects. These activities include:

- a) Maintenance – For example on existing roads and tracks, or on existing utilities such as underground power cables and sewage lines.
- b) Farming and Land Management – for land previously disturbed, activities such as cropping, grazing, bores, fencing, erosions control etc. *
- c) Removal of dead or dying vegetation - only if there is minimal ground disturbance.
- d) Environmental rehabilitation – weed removal, bush regeneration.

- e) Development in accordance with a Development Certificate issued under the EPA Act 1979 (provided the land is previously disturbed). *
- f) Downhole logging, sampling and coring using hand held equipment.
- g) Geochemical surveying, seismic surveying, costeaning or drilling. *

** This defense is only available where the land has been disturbed by previous activity. Disturbance is defined as a clear and observable change to the land's surface, including but not limited to land disturbed by the following: soil ploughing; urban development; rural infrastructure (such as dams and fences); roads, trails and walking tracks; pipelines, transmission lines; and storm water drainage and other similar infrastructure.*

2.1.3 The Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010) (NSW)

The *Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010) (NSW)* ('ACHCRP') provide an acceptable framework for conducting Aboriginal community consultation in preparation for impacts to Aboriginal cultural heritage. Proponents are required to follow them where a Project is likely to impact on cultural heritage and where required by the relevant Local Government Council. It is recommended by the DPI&E that all cultural heritage assessments involve this level of consultation, although it is not strictly a requirement unless it meets the above criteria. However, demonstration of substantial compliance with the ACHCRP is required for all AHIP applications.

The ACHCRP Guidelines typically take a minimum of 90 days to complete. However, in complicated Projects this period may need to be extended by several months. The Guidelines require public notice of the assessment, preparation of a proposed methodology, undertaking site meetings and excavations where required, the production of a draft report, which is distributed to the registered Aboriginal groups and the production of a final report.

Although not strictly required, a thorough consultation process will treat the ACHCRP Guidelines as a minimum standard of community consultation. Generally, consultants must go to further effort to identify the significance of a given site to the Aboriginal community. This will likely include undertaking additional site inspections if requested by Aboriginal stakeholders, fully resourcing the community by providing copies of past archaeological and environmental assessments in the region and meeting with Aboriginal community members to seek their opinions as to the significance of the site.

2.1.4 *The Heritage Act 1977 (NSW)*

The *Heritage Act 1977 (NSW)* provides protection for the environmental heritage of the State, which includes places, buildings, works, relics, movable objects, or precincts that are of State or local heritage significance. Significance criteria provided by the *Heritage Act* is discussed in further detail in Section 5.2 below. The legislation focuses on identifying places of either local or state heritage significance and protecting them by registration on heritage registers. Significant historic heritage items are afforded little protection (other than at the discretion of councils) where they are not on a heritage register.

Of note are the provisions allowing for interim heritage orders (Part 3), which grants the Minister or the Minister's delegates, (which importantly may include a local government agent) the power to enter a property and provide emergency protection for places that have not yet been put on a heritage register, but that may be of local or State significance.

The Heritage Act 1977 (NSW) also makes allowances for the protection of archaeological deposits and relics (Part 6). An archaeological "relic" means any deposit, object, or material evidence, which relates to the non-Aboriginal settlement of the area. Importantly, a former requirement for an archaeological relic to be 50 years or older has been repealed. The focus is now on the item's potential heritage significance, not its age.

2.1.5 *Heritage Act Database*

The DPI&E maintains registers of heritage places and items that are of State or local significance to NSW. The NSW State Heritage Register (SHR) is the statutory register under Part 3A of the NSW Heritage Act, whereas the State Heritage Inventory (SHI) is an amalgamated register of items listed on LEPs and/or on a State Government Agency's Section 170 register, and may include items that have been identified as having state or local level significance.

3. HISTORICAL CONTEXT

3.1 Aboriginal Pathways of South East Queensland and the Richmond River

Aboriginal Pathways of South East Queensland and the Richmond River (Steele 1988) provides the most comprehensive collation of ethnographic information relating to places and sites in the Region, based on River valleys and catchments. However, Steele makes no specific reference to Unicorn Falls.

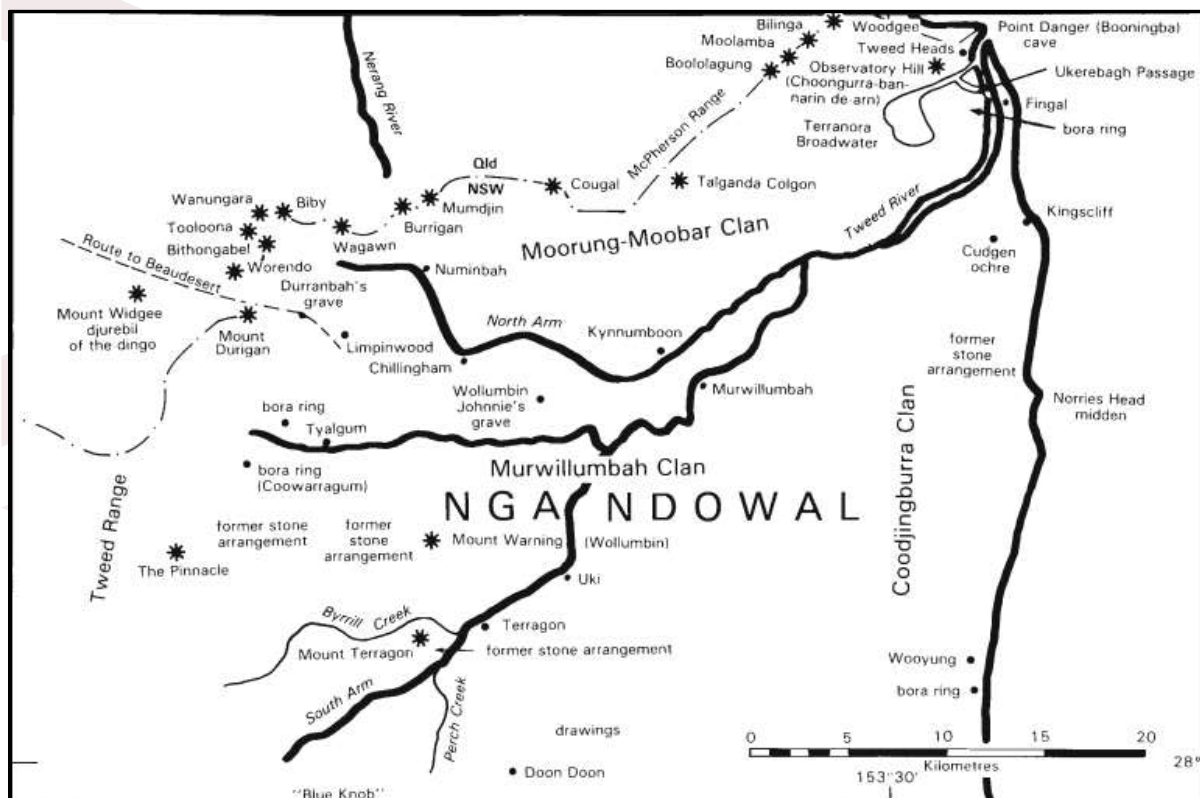


Figure 3: Tweed sites map (source Steele 1988).

3.2 Aboriginal Place Register.

The Aboriginal Place register provides a useful tool to contextualise the Aboriginal significance of water falls and water bodies generally to Aboriginal people.

3.2.1 Tooloom Falls

Tooloom Falls is known to be a women's site relating to the creation of the upper Clarence River by 'Dirrungan'

(<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageltemDetails.aspx?ID=5062898>).

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Tooloom Falls is known as Dooloomi by local Aboriginal people. This is derived from the Githebul/Gidabal word for head lice, which are said to infest the pool below the falls. Aboriginal children were warned never to swim there or they would be infested too. Children were also discouraged from visiting the site because it is believed that many different evil spirits haunt the area around the waterfall. These warnings were also intended to keep children away from deep and dangerous parts of the river.

3.2.2 *Yabbra Spring*

Yabbra Spring is located to the east of Tooloom Falls (<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?id=5062886>). The following description is provided in the Aboriginal Place significance statement.

For thousands of years, Yabbra Spring Aboriginal Place has been regarded as a highly significant spiritual place by the Githabul Aboriginal people. The site has remained relatively unmarked by settler activities because it is hard to get to. It is a natural mythological site known to Aboriginal people as a Juribihl (djurbi:l) site. Juribihl sites are places that are spiritually important and are looked after by a particular family group. Knowledge of the site and its meaning is handed down to family members. Only those Aboriginal people who have family knowledge of Yabbra Spring visit it.

No additional information is provided with respect the nature or function of the Juribihl, however the Place does demonstrate the range of values for water sources more generally in the northern river region.

3.2.3 *Ti Tree (Taylor's Lake)*

The Ti Tree Aboriginal Place is located between Suffolk Park and Broken Head. The Statement of Significance for the site acknowledges that the nature of significance is restricted (<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5062900>). The Ti Tree Lake Aboriginal Area Draft Plan of Management NPWS 2015:4) makes the following comment on the Aboriginal values of the Aboriginal Area;

The Aboriginal Place is of particular significance to women and is an acknowledged mythological site. In recognition of the cultural sensitivity of this area no additional information is publicly available.

3.3 Tweed Shire Aboriginal Cultural Heritage Management Plan

The Tweed Shire Aboriginal Cultural Heritage Management Plan ('TSACHMP') provides frameworks for planning and regulation of Aboriginal heritage in the Tweed Shire. However, due to the nature of the

research and consultation involved in the production of the plan it can be used more generally across the Northern Rivers. The TSACHMP makes the following statements with respect to waterfalls (TSACHMP 2018:46);

Ceremonial sites are often associated with unique landforms such as waterfalls, which are usually found in upper catchments and physical evidence of regular visitation may be present on level ground adjacent or near to the particular feature.

Unicorn Falls is identified as “Aboriginal Place of Heritage Significance” under the Tweed Aboriginal Cultural Heritage Management Plan (2017 see Figure 4). This is specifically in the area of the campground, approximately 1 km to the north-west of the falls themselves.

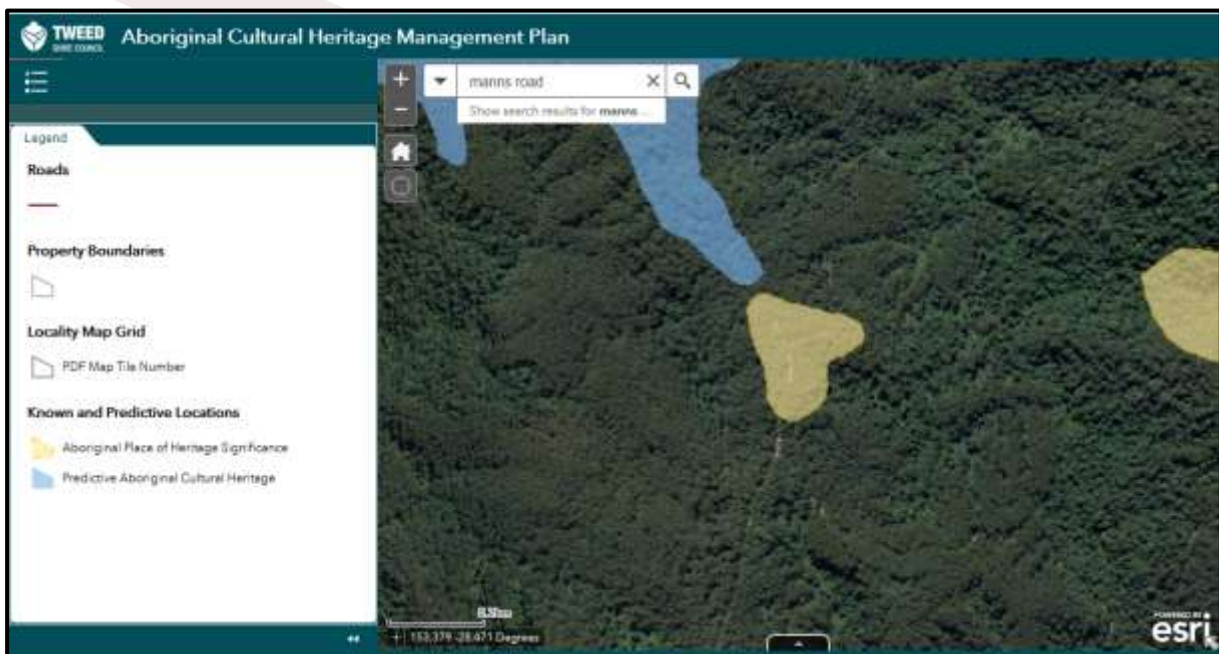


Figure 4: Results of Tweed ACHMP mapping search (source Tweed Shire Council)

3.4 Hausfeld (1961)

The manuscript of R. G. Hausfeld (<https://ses.library.usyd.edu.au/handle/2123/7549>) from the Woodenbong area provides a key regional text for Aboriginal mythology in northern New South Wales. While not specifically covering the area east of the hinterland, many of the informants for stories and cultural knowledge references in the manuscript had knowledge of the coastal area or knowledge of the general belief systems across the entire Bundjalung nation. As such, while general in nature, the manuscript is relevant to provide contextual information for the assessment in part because the records relate to a critical time period in the early -mid 20th century.

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Hausfeld (1961:91) makes the following comment on the relationship and distinctions of the Butherim and Juraveel sites which is relevant to the assessment;

Mythology, whether in song or story, provides the knowledge of the Butheram and the jurraveel provides the means of contact with the Butheram.

Hausfeld makes the following note on the use of Juraveel sites by women (Hausfeld 1961:59);

It is not clear whether or not women are able to exercise magical power through jurraveel. They are able to “talk” to increase natural species. For example, (T) said: “If my Granny (mthers mother) goes to unumgar and “talks”, the next time she goes there she can catch a great big perch.” I conclude, that since the reference is to “next time”, that this is a reference to “increase” rather than to magical assistance in fishing. (A) also, stated that his sisters, as well as his brother, could “talk” at a jurraveel.

Hausfeld (1961:92) makes another important comment on the social context within which Aboriginal mythology and belief was recorded in the early to mid-20th century that may be of relevance to the Unicorn Falls site in particular;

It is indicative of the past attitude of the white community of the study area that “fairy” is the only English word known to Woodenbong aborigines (sic) with which they can attempt to describe many Butheram beings.

The use of ‘fairy tale’ type narratives to describe Aboriginal mythology by white settlers was not uncommon, and the use of the term ‘unicorn’ may refer to an Aboriginal tradition with a ‘unicorn’ physical character. An example is the common use of the term ‘bunyip’ to describe characters equivalent to the ‘Nimbin’.

3.5 A Gift and a Dreaming (Creamer 1984).

A Gift and a Dreaming is the collation of the works and reports of the NPWS Aboriginal Sacred Sites Survey between up until 1984. The report outlines a list of sites and places which were subject to discrete reports. Unicorn Falls was not subject to a survey by the sacred sites team. As a result of the geographical range and gender of the survey team, the far north coast region and women’s sites in particular are underrepresented by the manuscript. However, the report does provide a general analysis of the nature or mens and women’s value for natural items, including water holes and water features generally.

Creamer (1984:7.9) makes specific comment on the association between the shared experiences of Aboriginal communities and the nature and knowledge of Aboriginal sites and place;

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The strong history of two centuries of contact and culture change which surrounds Aboriginal communities everywhere comes through in those sites for which the preferred category of significance is historic- the burials and cemeteries, camping places and massacre sites. Where there is a traditional continuity of site knowledge the sites tend to be natural features, ceremonial sites or resource places.

3.6 Murwillumbah Management Area (Heron and Reed 1996)

Heron and Reed (1996) conducted a study of Aboriginal archaeological and anthropological values of the Murwillumbah Management Area commissioned by State Forests of NSW Northern Region, supported by the TBLALC and Ngulingah LALC. The study explores a very wide range of aspects of Bundjalung life from physical environment, regional mythology, and the cycle of life, the significance of sites with particular reference to State Forest Management areas Whian Whian Forest, Lost Valley, Mt. Warning and Mebbin Forest. The report makes a firm general statement regarding the relationship between water and women's sites but does not elaborate due to the restrictions of the authors due to gender. However, the information provided in the section of the cultural values of water is sufficient to establish the following;

- There is a strong tradition of restrictions of physical access to water, particularly restrictions applying to men.
- Springs and water features have been recorded as increase sites for both rain and a range of other animals.
- Water features are typically associated with the Dirrangun type characters who are typically described as an 'old woman'.
- Water can be significant as habitat for significant food sources.

The report does not specifically identify birthing sites with water features, however note that the spirits of children were left behind by ancestors and that the spirit would return to the place at birth at the time of death, thereby creating a spiritual cycle tied to a specific location. The following comment is made with respect to the practical use of these sites;

At these (and other) places women who wished to have a child would spend time, and through the processes according to Aboriginal beliefs would have a child (Heron and Reed 1996:17).

3.7 Lismore LGA Aboriginal Heritage Study (Collins and Heron 2000)

Ron Heron and Michelle Collins undertook an Aboriginal cultural heritage study for the Lismore Local Government Area (Collins and Heron 2000) however this report has been provided in confidence and as such cannot be quoted. However, the authors do outline specific comment relevant to the assessment;

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- Waterfalls being of significance to Aboriginal people (Collins and Heron 2000:32).
- Fertility sites (Collins and Heron 2000:34).
- Increase sites (Collins and Heron 2000:35).

The report includes an extensive list of women's site in the Lismore LGA, most of which are related to water in some form (Collins and Heron 2000:46-49).

3.8 Aboriginal Cultural Heritage Assessment for Mt Warning (Collaborative Solutions (2001)).

The Aboriginal cultural heritage assessment for Mt Warning (Wollumbin) National Park was undertaken in 2001 and collates a range of cultural resources, including oral histories. The Oral histories in particular provide a consistent and supportive narrative that identify the nature of women's sites in the northern rivers, particularly as they relate to Wollumbin. These include transcripts from the following women;

- Alice Bundock.
- June Gordon (nee Roberts).
- Jackie McDonald.
- Elsie Smith.

As the study was focused on Wollumbin it does not provide a definitive account of places and sites in the surrounding area. However, it is reasonable to conclude from the oral histories that the hinterland included both mens and women's sites, but that the Aboriginal values for the higher peaks were typically within the primary domain of men. Notwithstanding this generalisation, the study broadly sets out a narrative whereby places and sites of primary significance to women functionally support mens sites. This includes, but is not restricted to, ensure that men have 'safe' passage through the caldera.

A key finding of the Wollumbin study was the way that that the collective history of the Aboriginal community shaped the knowledge of significant places in the region;

Some people both from the Tweed and from elsewhere commented that there was a lack of people on the Tweed that held traditional knowledge. Elders did not talk about it lightly and often only in Bundjalung. This meant that people who had knowledgeable parents or grandparents and spent time with them did not learn these things unless they spoke Bundjalung (Collaborative solutions 2000:107).

The Study makes the following clear comment on women's values;

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An important cultural significance of the Mountain was said to be the fact that men's and women's rituals came together there. There are a number of important women's sites mentioned. One women's pathway coming from Ti-tree Lake. The women's sites are said to be powerful and dangerous to men who need to be instructed by women as to where to go and where not to go.

3.9 NSW Rainforest Assessment (Byrne 1987)

Denis Byrne (1987) completed a state-wide assessment of the Aboriginal cultural values of New South Wales rainforests, which was commissioned by the NSW Forestry Corporation and published as a stand-alone manuscript. This study included consultation with Elders as well as archaeological investigation of the Tweed Range, Tweed Valley and North Richmond Range. While the study does not specifically detail stories and values for Minyon Falls or Unicorn Falls, Byrne makes the following broad assessment of the nature of Aboriginal values for lands within the study;

... it may be said that the rainforests of New South Wales, particularly those of the Far North Coast, have a relatively high incidence of sacred/ significant sites, which consist of natural landscape features. (Byrne 1987:98)

...I draw attention to what is probably the most identifiable aspect of rainforest significance: its important as a tangible reminder and link between Aborigines and the pre-European landscape...As elsewhere in the world, the equation involves forests and mountains: the forest survives the colonization of the landscape by agricultural newcomers because the mountains are too steep and/or inaccessible for farming. In places like the upper Richmond Valley, it is entirely understandable that Aborigines see the mountain, substantially clothed by subtropical rainforests, as part of their heritage. (Byrne 198:109).

4. CONSULTATION WITH ABORIGINAL COMMUNITIES

4.1 Invitation to Participate

Invitations to participate in the Unicorn Falls and Minyon Falls projects were provided on 18 November (see Appendix A and Table 1).

A response was received from Tweed Byron Local Aboriginal Land Council on 20 November (see Appendix 1) confirming that they would provide the name of an appropriate participant for the assessment.

Table 1: Notification of Aboriginal Stakeholders

Stakeholder name	Letter	Email	Response Received
Jackie McDonald	18 November	18 November	
Bundjalung Elders Council Aboriginal Corporation	18 November	18 November	
Cannowindra Tweed Byron Aged and Disabled Care	18 November	18 November	
Tweed Aboriginal Co-operative Society Pty Ltd	18 November	18 November	
Bundjalung Tribal Society	18 November	18 November	
Tweed Byron Local Aboriginal Land Council	18 November	18 November	20 November
Ngulingah Local Aboriginal Land Council	18 November	18 November	
Widjabul Wia-bal	18 November	18 November	
Tweed Shire Council Aboriginal Advisory Committee	18 November	18 November	

4.2 Tweed Byron Local Aboriginal Land Council Meeting 19 December 2019

A meeting with representatives of the Tweed Byron Local Aboriginal Land Council ('LALC') was organised by Ms Leweena Williams and Mr Maurice Gannon to discuss the cultural values of Unicorn Falls. The following members participated in the meeting;

- Uncle Des Williams;
- Kyle Slabb;
- Kerrin Epwi (Slabb);
- Yvonne Slab;
- Ebony Williams/ Costa;
- Leweena Williams; and

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- Maurice Gannon.

The below provides a summary of the outcomes of the meeting with respect to the assessment of intangible Aboriginal cultural heritage values and will provide the basis for management recommendations. The summary is provided in an order to better understand the nature and range of cultural significance of Unicorn Falls and should not be considered as a hierarchy of significance.

- The meeting established the location of the Falls and the participants knew the area generally, however there was not a clear or collective cultural story for the Falls.
- Kyle Slab recounted that he had been near the Falls with the intention of visiting, however had decided to not to proceed based on a 'feeling' that he should not visit the Falls. Kyle indicated that this feeling was intuitive for him when walking in the bush and was considered an indication of the spiritual power of the Falls. Kyle indicated he had not been told any stories of the Falls prior to his visit.
- Uncle Des Williams noted that a women's place is across the river from Uki in the direction of Wollumbin.
- It was noted that the 'Hell Holes' were a important spiritual site for Aboriginal people.
- Dirrangans are known in the hinterland and it was generally agreed by the group that they exist within the hinterland- but mostly on the Richmond Valley side of the Range. It was understood that no-one should go near places where Dirrangans are. Examples of places include Toolooms Falls, the mouth of the Clarence and Minyon Falls. It was noted that Dirrangans stay in one place, which is usually associated with water.
- The other type of female character is a Gaungan. They are typically pretty and it is widely known that if you feel one, "you run the other way".
- Uncle Des noted that many of the places where Dirrangans and Gaungans reside are not known, so Aboriginal people rely on the feeling of the spiritual power of the place.
- Uncle Des and Kyle were not aware of any Dirrangans on the Tweed Side of Nightcap range, however they did note that they extend north into Queensland around Tamborine Mountain.

4.3 Interview with Aunty Jackie McDonald 19 December 2019

A phone interview was undertaken with Aunty Jackie McDonald on 19 December 2019. The below provides a summary of the outcomes of the meeting with respect to the assessment of intangible Aboriginal cultural heritage values and will provide the basis for management recommendations. The summary is provided in an order to better understand the nature and range of cultural significance of Unicorn Falls and should not be considered as a hierarchy of significance.

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- Aunty Jackie had been involved with the Wollumbin Committee for 20 years and was aware of the context of visitor upgrades to provide visitors an alternative to climbing Wollumbin.
- There was no specific story, characters or names associated with Unicorn Falls, and Aunty Jackie had not specifically visited the Falls.
- Dirrangan Falls was noted as a typical women's site within the Bundjalung nation. Jackie also noted a women's site on the western flank of Coopers Creek.
- Aunty Jackie was familiar with Uki and had gone to Uki Primary School when she was younger. It was noted that the Uki area was part of her great great grandmothers country.
- There was agreement that water falls were 'typically', or more likely, to be associated with women's stories and that Aboriginal women definitely had a cultural association with water. There is a particular feeling about women's places and under traditional laws men cannot enter or speak at women's sites.
- Aunty Jackie noted that men have the final say on decisions relating to the high peaks and mountain, but women typically have the final say on creeks and waters.
- It was noted that the roots of Bundjalung culture is in the Hinterland. Aunty Jackie typically visits the hinterland, somewhere with a view of Wollumbin, to consider particular issues or decisions which are complicated or require guidance from her ancestors.
- Aunty Jackie appreciates the opportunities to visit the hinterland and to be more closely connected to her great great grandmother. She had recently done a drive around Kunghur for this reason and encourages other women to do the same when they need to connect with their culture.
- It was noted that supporting family members to connect with culture in the hinterland was important. Aunty Jackie provided an example of the Clarrie Hall Dam survey where extended members of her family were provided opportunities to participate in the site survey for this reason.
- Aunty Jackie had heard of Dirrangans and had stories about the feeling visiting these places. They are superstitions within the community and are similar to 'Buri' within the south-sea islander community. It was noted that these feelings are deeper than superstitions and that the feelings also occur with some white people.
- The Bundjalung have a particular belief in the spirits of the land. The death of a visitor on Wollumbin and another landslide on Wollumbin were attributed to the spirits of the Aboriginal Place. Aunty Jackie considers the bush to be a dangerous place and it is the spirits of the ancestors that make it dangerous.

5. STATEMENT OF SIGNIFICANCE

5.1 Heritage NSW Historical Themes

The following statements address the criteria set out by Heritage NSW to identify appropriate heritage themes.

Developing Australia's cultural life/ Religion

Activities associated with particular systems of faith and worship.

5.2 Heritage NSW Significance assessment criteria.

The following statements address the criteria set out by Heritage NSW to support significance assessment

- 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);

Unicorn Falls is not considered to meet this criteria.

- 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);

Unicorn Falls is not considered to meet this criteria.

- 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);

Unicorn Falls is not considered to meet this criteria.

- 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;

Unicorn Falls is not considered to meet this criteria.

- 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);

Unicorn Falls is not considered to meet this criteria.

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- 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);

Unicorn Falls is not considered to meet this criteria.

- 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.)

Unicorn Falls is not considered to meet this criteria.

5.3 Interim Statement of Significance

Having consideration for the literature review and the outcomes of the consultation there is no collective story or cultural practice to indicate that Unicorn Falls is of particular significance to the Minjungbal/ Ngaranawal people and Aboriginal culture generally. This assessment considers that there is no traditional story, place name or agreed spiritual character at Unicorn Falls. However, there is a first-hand experience of the presence of a spiritual power at the Falls and a general tradition of women's sites at Falls within the Tweed and Byron Hinterland. As such the Unicorn Falls site has the potential to contribute to Aboriginal cultural heritage generally and may form part of a broader cultural renewal program for sacred sites in the Tweed Byron Hinterland.

6. MANAGEMENT RECOMMENDATIONS.

The Aboriginal cultural values assessment has concluded there is not a collectively agreed cultural value for Unicorn Falls. Based on the consultation undertaken as part of the assessment it is possible to conclude that the Falls likely form part of a broader cultural landscape whereby fresh water falls are typically 'women's sites', however there is no specific story, name or character known to the participants of the study. The below may comprise the basis of a management plan to assist Minjungbal and Nganawal people to actively participate in the management of the Falls.

Recommendation 1: Cultural use and renewal

Based on the broad tradition of women's sites at waterfalls within the hinterland the visitation and use of the Unicorn Falls by women should be encouraged. This may include back to country visits or the dissemination of information to the Aboriginal community about the recreation opportunities at Unicorn Falls. The addition of infrastructure to increase safety and access will support the ongoing use of Unicorn Falls by the Aboriginal community as a day use area.

Recommendation 2: Provision of amenities.

The primary agents of desecration of the cultural values of creeks and water falls generally relate to defecation within and around the stream. The pollution of the water with human waste may compromise the quality of the water and capacity of Aboriginal women to utilise the falls. As such the provision of appropriate amenities should be considered as the main management strategy for the cultural values of the Falls.

Recommendation 3: Public interpretation.

It is not considered that there is a strong cultural story for Unicorn Falls. However, there is the opportunity to make general statements with respect to the range of values for creeks and water and the expectations of the Aboriginal community for visitors to the Tweed Byron Hinterland. These statements may be made by individual knowledge holders and should include messages directed at men and women. The use of images, such as drawings or artwork, to support these messages should be subject to collective consent and all interpretive material should be subject to copyright agreement.

7. REFERENCES

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8. APPENDIX 1: CORRESPONDANCE TO STAKEHOLDERS

8.1.1 *Response from Tweed Byron Local Aboriginal Land Council 20 November*

From: Sites <sites@tblalc.com>

Sent: Wednesday, 20 November 2019 10:25 AM

To: Tim Hill <t.hill@everick.net.au>

Subject: RE: MINYON FALLS and UNICORN FALLS

Hi Tim

Very briefly re this: both the falls areas are women's sites. Warren has discussed this briefly with Lew. There is a particular lady in the Bundjalung community here on the Tweed that Lew suggests should be consulted. I'll await formal feedback from Lew before putting specific names forward. The likely TBLALC engagement in the project will be the Cultural Heritage Unit (Warren and I) – probably more me in this instance because of the Aboriginal gender considerations - with guidance and assistance from the appropriate female representatives.

Cheers

Maurice

8.1.2 *Letter to Aboriginal Stakeholders.*

RE: ABORIGINAL CULTURAL HERITAGE ASSESSMENT
MINYON FALLS and UNICORN FALLS

We are seeking your input and support of an assessment of Aboriginal cultural values at Minyon Falls in Nightcap National Park and Unicorn Falls in Mt Jerusalem National Park.

Background.

National Parks and Wildlife Service (NPWS) is undertaking visitor infrastructure upgrades as part of the proposed new Tweed Byron Hinterland Trail, stretching from Minyon Falls in the south (within Nightcap National Parks) to Unicorn Falls in the north (in Mt Jerusalem National, near Uki). This includes plans for additional infrastructure at both Minyon Falls and Unicorn Falls Park. As a result of the initial Aboriginal cultural heritage assessments conducted at each site, additional follow-up is required based on their significance, or potential significance, to Aboriginal people.

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Everick Heritage Pty Ltd has been engaged to assist NPWS to collate additional information about both Minyon and Unicorn Falls to assist in future planning for visitor infrastructure. Staff from Everick will be undertaking the following activities over the next couple of months:

- Literature review and desktop study, including mapping.
- A Registration of Interest process for Aboriginal knowledge holders.
- Knowledge Holder interviews and site visits as appropriate.
- A short report outlining findings of the project and recommendations
- A summary of the findings provided to participants.

How can you be involved?

Everick and NPWS are seeking input and support from the Aboriginal community to provide us with information on cultural values so we don't impact on these values when upgrading facilities. The below questions are provided to assist Knowledge Holders to identify whether or not you wish to be included in the studies. These include:

- Any specific knowledge or stories that you have for Unicorn or Minyon Falls?
- Whether you have visited the Falls in the past?
- If you have any experience with Oral Histories?

Please note that Everick can provide male and female staff members to undertake any interviews. There is no requirement to provide any 'restricted' information and any sensitive information will be treated in confidence.

If you have any questions about the Project, please contact Tim Hill on 0422 309 822. If you wish to find out more about our qualifications and experience in this field, please visit our website www.everick.com.au. We look forward to hearing from you.

Yours Sincerely,



Tim Robins
Director
Everick Heritage