

Aboriginal Heritage Impact Permit

Section 90 of the National Parks and Wildlife Act 1974



**Office of
Environment
& Heritage**

AHIP number: 1131988

(AHIMS Permit ID: 3551)

AHIP Issued To:

SEA EAGLE ESTATE PTY LTD,
ABN 82 001 705 513,
188 Merimbula Drive,
MERIMBULA NSW 2548
STANDARD POST

OEH Office issuing this AHIP

Office of Environment and Heritage
Department of Premier and Cabinet (NSW)
Environment Protection and Regulation Group (EPRG)
South
PO Box 733
Queanbeyan NSW 2620
Telephone number: (02) 6229 7088
Fax number: (02) 6229 7001

Additional details for public register

a) Name of development or project	Development of Bellbird Ridge Estate Stage 5 and expansion of Robyns Nest Tourist Facility
b) Location	Merimbula Drive, Merimbula
c) Local Government Area(s)	Bega Valley
d) Description of harm authorised	<ul style="list-style-type: none">• Certain Aboriginal objects must not be harmed• Harm to certain Aboriginal objects through the proposed works
e) AHIP commencement date and duration	<i>Commencement:</i> 30-Nov-2012 <i>Duration:</i> Fifteen years.

AHIP TO HARM ABORIGINAL OBJECTS

A. Background

On 03-Feb-2012 an application was made to the Director-General of the Department of Premier and Cabinet (OEH) for an Aboriginal Heritage Impact Permit (AHIP) pursuant to s.90 of the *National Parks and Wildlife Act 1974* (the Act).

The AHIP application was deficient and a Receipt of AHIP Application and Notice to Supply Further Information were issued on 23-Mar-2012. Further information was received as follows: signed and dated page 6 of revised application (rec. 3-Apr-2012); revised application (rec. 17-Apr-2012); further revised application (rec. 4-Sep-2012); site conservation methodology and conservation area management plan (rec. 22-Oct-2012) and development plan (rec. 22-Oct-2012).

OEH considered the application and supporting information provided, and matters under section 90K of the Act and decided to issue an AHIP subject to conditions.

B. AHIP issued subject to conditions

An AHIP is issued to harm Aboriginal objects identified in Schedules B and C, in accordance with the conditions of this AHIP.

This AHIP is issued pursuant to section 90 of the Act.

C. Commencement and duration of AHIP

This AHIP commences on the date it is signed unless otherwise provided by this AHIP.

Unless otherwise revoked in writing, this AHIP remains in force for:

- (i) Fifteen years from the date of commencement, or
- (ii) until the date on which the Harm Report, is submitted,

D. Proposed Works

Development of a residential subdivision of 32 allotments including roads, essential services, and ancillary works (Stage 5, Bellbird Ridge Estate) and construction of additional cottages and infrastructure at Robyns Nest Tourist Facility.

Note: A Dictionary at the end of the AHIP defines terms used in this document. Further information about this AHIP is also set out after the Dictionary.



Mr Mark Sheahan

(by Delegation)

DATED: 30-Nov-2012

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LAND TO WHICH THIS AHIP APPLIES

Lot 881 DP 1148672 and part Lot 1882 DP 1014185, Parish of Pambula, Bega Valley Local Government Area as shown in Attachment A, Figure 1.

CONDITIONS

The conditions of this AHIP specify the actions that are permitted and/or required in relation to areas and Aboriginal objects, which are detailed in the Schedules that follow.

Administrative Conditions

Responsibility for compliance with conditions of AHIP

1. The AHIP holder must ensure that all persons involved in actions or works covered by this AHIP (whether employees, contractors, sub-contractors, agents or invitees) are made aware of and comply with the conditions of this AHIP.

Project manager to oversee the actions relating to this AHIP

2. A suitably qualified and experienced individual must be appointed as a project manager who is responsible for overseeing, for and on behalf of the AHIP holder, all the actions relating to this AHIP.
3. The individual appointed as project manager must be the project manager nominated in the application form.
4. If an alternative to the nominated project manager is appointed, OEH must be notified of their contact details within 14 days of this appointment.

Actions must be in accordance with AHIP application

5. All actions on the land must be carried out in accordance with the application except as otherwise expressly provided by a condition of this AHIP.

Operational Conditions

Certain Aboriginal objects must not be harmed

6. All human remains in, on or under the land must not be harmed, other than any human remains identified in Schedule B4.
7. The Aboriginal objects described in Schedule A must not be harmed.

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8. To ensure that the Aboriginal objects described in Schedule A are not harmed, the following measures must be implemented as soon as practicable and complied with:
- (a) Visual markers must be installed to clearly indicate the location of the Aboriginal objects and 'no-harm area' described in Schedule A, to any person on foot or in a vehicle in the vicinity,
 - (b) Persons entering the land such as employees, contractors, sub-contractors, agents and invitees must be provided with a copy of any Map referred to in Schedule A,
 - (c) Appropriate sediment control measures must be installed, operated and maintained so as to prevent harm to the Aboriginal objects and 'no-harm areas' described in Schedule A,
 - (d) Vehicles must not be driven on or in the immediate vicinity of an Aboriginal object described in Schedule A,
 - (e) Vehicles must not be driven on any part of a 'no-harm area' described in Schedule A,
 - (f) Plant, equipment or any materials including fill, must not be stored on any part of a 'no-harm area' described in Schedule A.
9. To ensure that the Aboriginal objects described in Schedule A are not harmed, the 'Management Plan for Heritage Conservation Area on Part of Lot 881 DP 1148672' dated 21-Oct-2012 and provided on 22-Oct-2012 and 'Methodology for Conservation of Sites within the AHIP (Namely RN 1 and RN 2)' dated 20-Oct-2012 and provided on 22-Oct-2012, must be implemented as soon as practicable and complied with.

Certain Aboriginal objects may only be moved

Not applicable

Community collection

Not applicable

Other - conservation of RN1 and RN2 and fencing of Heritage Conservation Area

10. Surface Aboriginal objects at sites RN1 and RN2 may be harmed during installation of enviromat, topsoil and/or tar sealed gravel as per conservation methodology. The sites may not be further harmed after completion of conservation works.
11. Surface Aboriginal objects at sites RN5/MC10/A, MC11/A and MC12/A may be harmed during installation of a fence around the margins of the Heritage Conservation Area as per the management plan. The sites may not be further harmed after completion of fencing works.

Harm of certain Aboriginal objects through the proposed works

12. The Aboriginal objects described in Schedule C may be harmed. Nothing in this condition authorised harm to Aboriginal objects described in Schedule A (whether human remains, Aboriginal objects or 'no-harm areas').
13. Aboriginal objects described in Schedule C must not be harmed unless:
- (a) all conservation actions described in Schedule B4 have been completed.

Long term management of certain Aboriginal objects

14. Requirement 26 "Stone artefact deposition and storage" in the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (24 September 2010, available online at: <http://www.environment.nsw.gov.au/licences/archinvestigations.htm>) must be complied with.

Access routes

15. Where practicable, existing access routes to parts of the land where actions relating to this AHIP are to be carried out must be used.

Notification and Reporting Conditions

Notification of commencement and completion of actions

16. Written notice must be provided to the OEH office at least 7 days prior to the commencement of actions authorised by this AHIP.
17. Written notice must be provided to the OEH office within 7 days of the completion of actions authorised by this AHIP.

Copy of this AHIP and notices to be provided to Registered Aboriginal Parties

18. A copy of this AHIP must be provided to each Registered Aboriginal Party, within 14 days of receipt of the AHIP from OEH.
19. Where this AHIP is varied or transferred, a copy of the AHIP variation or transfer notice must be provided to each Registered Aboriginal Party, within 14 days of receipt of the notice.

Human remains

20. If any human remains (other than any human remains described in Schedule B4) are discovered and/or harmed in, on or under the land, the AHIP holder must:
 - (a) not further harm these remains
 - (b) immediately cease all work at the particular location
 - (c) secure the area so as to avoid further harm to the remains
 - (d) notify the local police and OEH's Environment Line on 131 555 as soon as practicable and provide any available details of the remains and their location, and
 - (e) not recommence any work at the particular location unless authorised in writing by OEH.

Incidents which may breach the Act or AHIP

21. The AHIP holder must notify the OEH office in writing as soon as practicable after becoming aware of:

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- (a) any contravention of s.86 of the Act not authorised by an AHIP, and/or
- (b) any contravention of the conditions of this AHIP.

Reports about incidents which may breach the Act or AHIP

22. Where OEH suspects that an incident has occurred which may have breached the Act or AHIP, OEH may request a written incident report, which includes the following:
- (a) the nature of the incident
 - (b) the actual or likely impact of the incident on Aboriginal objects and/or Aboriginal places
 - (c) the nature and location of these Aboriginal objects and/or Aboriginal places, referring to and providing maps and photos where appropriate
 - (d) any conditions of an AHIP which may have been breached, and
 - (e) the measures which have been taken or will be taken to prevent a recurrence of the incident.
23. The incident report must be provided to the OEH office within the timeframe specified in the request.

Provision of Aboriginal Site Impact Recording Form

24. An Aboriginal Site Impact Recording Form must be completed and submitted to the AHIMS Registrar, for each AHIMS site identified in Schedules B and C, within 4 months of the completion of the actions authorised by this AHIP.

Note:

- (i) The Aboriginal Site Impact Recording Form can be found on the OEH website:
<http://www.environment.nsw.gov.au/licences/DECCAHISSiteRecordingForm.htm>
- (ii) Contact details for the AHIMS Registrar can be found on the OEH website:
<http://www.environment.nsw.gov.au/contact/AHIMSRegistrar.htm>

Report about harm to Aboriginal objects (Harm Report)

25. A Harm Report must be prepared about the actions relating to the harm of Aboriginal objects (as permitted by this AHIP). The report must:
- (a) include a short summary of the report
 - (b) describe any ongoing consultation with or involvement of representatives of Registered Aboriginal Parties in relation to this AHIP
 - (c) describe how any Aboriginal objects or 'no-harm areas' described in Schedule A were managed during the period covered by the AHIP
 - (d) provide details of the Aboriginal objects which were fully or partially harmed in the course of undertaking the actions
 - (e) comment on the effectiveness of any mitigation measures that were implemented
 - (f) comment on the effectiveness of any management plan which was in place

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- (g) include a statement confirming that all Aboriginal Site Impact Recording Forms have been completed and submitted to the AHIMS Registrar.
- 26. The Harm Report must be submitted to the OEH office within 4 months of the completion of the actions authorised by this AHIP.
- 27. A copy of the Harm Report, including a summary of the report in plain English, must be sent by registered post to each Registered Aboriginal Party within 14 days of the report being submitted to OEH

General Conditions

Indemnity

- 28. The AHIP holder agrees to indemnify and keep indemnified, the Crown in right of NSW, the Minister administering the Act, the Director-General of OEH, and their employees, agents and contractors, in the absence of any willful misconduct or negligence on their part, from and against all actions, demands, claims, proceedings, losses, damages, costs (including legal costs), charges or expenses suffered or incurred by them resulting from:
 - (a) any damage or destruction to any real or personal property; and
 - (b) injury suffered or sustained (including death) by any persons arising out of or in connection with any actions undertaken pursuant to this AHIP.

Release

- 29. The AHIP holder agrees to release to the full extent permitted by law, the Crown in right of NSW, the Minister administering the Act, the Director-General of OEH, and their employees, agents and contractors, in the absence of any willful misconduct or negligence on their part, from all suits, actions, demands and claims of every kind resulting from:
 - (a) any damage or destruction to any real or personal property; and
 - (b) injury suffered or sustained (including death) by any persons arising from or in connection with any actions undertaken pursuant to this AHIP.

Written notice

- 30. Any requirement to provide written notice to the OEH office in this AHIP may be complied with by faxing the notice to the OEH office's fax number or by sending by registered post to the OEH office's address. The OEH office's contact details are specified at the front of this AHIP.

SCHEDULES

The following schedules identify the areas and Aboriginal objects that are subject to the conditions of this AHIP.

Schedule A: Aboriginal objects which must not be harmed

A1 Human remains

All human remains in, on or under the land must not be harmed, other than any human remains identified in Schedule B4, as specified by the conditions of this AHIP.

A2 Aboriginal objects that are identified on AHIMS

The following Aboriginal objects identified on AHIMS must not be harmed, as specified by the conditions of this AHIP.

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Information access restriction? (Y/N)	Easting	Northing	Datum
part	62-6-0469	shell, artefact, PAD	MC11/A	N	757490	5913420	AGD
part	62-6-0690	shell, PAD	RN1	N	757208	5913518	GDA
part	62-6-0691	shell, artefact	RN2	N	757264	5913471	GDA
whole	62-6-0470	shell, artefact, PAD	MC10/B/ MC10/C	N	757407	5913390	GDA
whole	62-6-0471	shell, artefact, PAD	MC12/A	N	757533	5913434	GDA
whole	62-6-0695	shell	RN6	N	757459	5913425	GDA
whole	62-6-0694	shell, artefact	RN5/MC 10/A	N	757396	5913411	GDA

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A3 No-harm areas

Area name	Information access restriction? (Y/N)	Map Reference
No Harm Area 1	N	Heritage Conservation Area 757459e 5913425n AGD (central point), Pambula 8824-2-S (Attachment A, Figure 2)
No Harm Area 2	N	All parts of RN5/MC10/A (757396e 5913411n GDA), MC10/B/MC10/C (757407e 5913390n GDA) and MC12/A (757533e 5913434n GDA) Pambula 8824-2-S that are outside the Heritage Conservation Area (Attachment A, Figure 2)
No-Harm Area 3	N	All subsurface parts of RN1 (757208e 5913518n) and RN2 (757264e 5913471n) Pambula 8824-2-S (Attachment A, Figure 2)

Schedule B: Aboriginal objects that may be harmed through the certain actions

B1 Movement only

Not applicable

B2 Test/Salvage excavations

Not applicable

B3 Community collection

Not applicable

B4 Other – conservation of RN1 and RN2 and fencing of Heritage Conservation Area

Sites RN1 and RN2 may be harmed during installation of enviromat, topsoil and/or tar sealed gravel as per conservation methodology. The sites may not be further harmed after completion of conservation works.

Sites RN5/MC10/A, MC11/A and MC12/A may be harmed during installation of a fence around the margins of the Heritage Conservation Area as per management plan. The sites may not be further harmed after completion of fencing works.

Schedule C: Aboriginal objects which may be harmed through the proposed works

The Aboriginal objects described in this schedule may be harmed, but only in accordance with the conditions of this AHIP (excluding any Aboriginal objects described in Schedule A).

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C1 Harm of Aboriginal objects identified on AHIMS

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Information access restriction? (Y/N)	Easting	Northing	Datum
part (ground surface where enviromat to be installed as per conservation methodology)	62-6-0690	shell, PAD	RN1	N	757208	5913518	GDA
part (ground surface where enviromat to be installed as per conservation methodology)	62-6-0691	shell, artefact	RN2	N	757264	5913471	GDA
part within Lot 1 north of Heritage Conservation Area boundary	62-6-0469	shell, artefact, PAD	MC11/A	N	757490	5913420	AGD
whole	62-6-0692	shell, artefact	RN3	N	757353	5913594	GDA
whole	62-6-0693	artefact	RN4	N	757449	5913590	GDA
whole	62-6-0632	artefact	MC6/C	N	757500	5913618	AGD

C2 Areas where harm of Aboriginal objects is authorised

All Aboriginal objects in, on or under the land in the following areas. These areas are also shaded red on the map at Attachment A, Figure 3:

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Information access restriction? (Y/N)	Easting	Northing	Datum
whole of RN3, RN4 and MC6/C	62-6-0692	shell, artefact	RN3	N	757353	5913594	GDA
	62-6-0693		RN4		757449	5913590	GDA
	62-6-0632		MC6/C		757500	5913618	AGD
those parts of RN1 and RN2 that are traversed by road and track, and part of MC11/A within Lot 1 north of conservation area	62-6-0690	shell, artefact, PAD	RN1	N	757208	5913518	GDA
	62-6-0691		RN2		757208	5913471	GDA
	62-6-0469		MC11/A		757490	5913420	AGD
all parts of Lots 881 and 1882 except those listed at Schedule A	n/a	n/a	n/a	N	n/a	n/a	n/a

DICTIONARY

In this AHIP, unless the contrary is indicated the terms below have the following meanings:

Aboriginal object	has the same meaning as in the Act.
Act	means the <i>National Parks and Wildlife Act 1974</i> .
AHIMS	means the Aboriginal Heritage Information Management System maintained by OEH, as defined in s.90Q of the Act.
AHIP	means Aboriginal Heritage Impact Permit
AHIP holder	means the entity or person listed on the cover page under the heading "AHIP issued to".
Application	means the completed application form and all other documents in written or electronic form which accompanied the application when it was lodged or which were subsequently submitted in support of the application.
Community collection	means the collection of Aboriginal objects by one or all Registered Aboriginal Parties or their representatives.
Community collection area	means an area described as a community collection area in Schedule B3
DPC	Department of Premier and Cabinet (NSW).
Director-General	means the Director-General of the Department of Premier and Cabinet (NSW).
EPRG	means Environment Protection and Regulation Group (in OEH)
Harm	has the same meaning as in the Act. In relation to Aboriginal objects, harm means the movement, damage, defacement and/or destruction of Aboriginal objects. In relation to an Aboriginal place, harm means the damage, defacement and/or destruction of the Aboriginal place.
Land	means the land described under the heading "Land to which this AHIP applies".
No-harm areas	means those areas described in Schedule A3.
OEH	Office of Environment and Heritage within the Department of Premier and Cabinet (NSW).
OEH office	means the office listed on the cover page of this AHIP.
Proposed works	means the works described under the heading "D. Proposed Works" at the front of this AHIP.
Public register	means the public register established under s.188F of the Act, that contains details of AHIPs issued by the Director-General DPC, as described under the heading "Information about this AHIP".
Registered Aboriginal Parties	means the Registered Aboriginal Parties listed in the application.

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Salvage excavation	means an archaeological excavation carried out in accordance with the methodology accompanying the application, as modified by the conditions of this AHIP. The purpose of salvage excavation is to recover a sample of Aboriginal objects as an archival record of Aboriginal life from a site that will be destroyed.
Salvage excavation area	means any area described as a salvage excavation area in Schedule B2.
Test excavation	means an archaeological excavation carried out in accordance with methodology accompanying the application, as modified by the conditions of this AHIP. The purpose of test excavation is to collect a sample of Aboriginal objects, in order to establish the nature and extent of sub-surface Aboriginal objects and to assist in the assessment of management options for the site.
Test excavation area	means any area described as a test excavation area in Schedule B2

INFORMATION ABOUT THIS AHIP

Public Register

Under section 188F of the Act, the Director-General is required to keep a public register containing the details of each AHIP issued. The details of this AHIP that will be published on the public register are outlined on the front page of this AHIP.

The public register is available online at www.environment.nsw.gov.au

Appeals

Under section 90L of the Act, the AHIP holder may appeal to the Land and Environment Court if they are dissatisfied with any condition of this AHIP. The appeal must be lodged within 21 days of the date this AHIP was issued.

Penalties for breach of the Act or AHIP condition

Significant penalties can be imposed by the Land and Environment Court for harm to an Aboriginal object or Aboriginal Place other than as authorised by a condition of an AHIP, or for a breach of an AHIP condition. OEH can also issue penalty notices for a breach of the Act or AHIP condition.

Responsibility for obtaining all approvals and compliance with applicable laws

The AHIP holder is responsible for obtaining and complying with all approvals necessary to lawfully carry out the work referred to in this AHIP, including but not limited to development consents.

Other relevant provisions of the *National Parks and Wildlife Act*

Newly identified Aboriginal objects must be notified to the Director-General under s.89A of the Act using the form available online at www.environment.nsw.gov.au

Stop work orders, interim protection orders and remediation directions may be issued in certain circumstances to protect Aboriginal objects or places.

Obligation to report Aboriginal remains under Commonwealth laws

The AHIP holder may have additional obligations to report any discovery of Aboriginal remains under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

Exercise of investigation and compliance powers

Officers appointed or authorised under the Act may exercise certain powers and functions, including the power to enter land.

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Duration of AHIP

This AHIP remains in force for the period specified in the AHIP.

Variation of AHIP

The AHIP holder may apply to the OEH office for a variation of any conditions of an AHIP, using the AHIP variation application form available online at www.environment.nsw.gov.au. Requests for significant variations must be accompanied by evidence of further consultation with Registered Aboriginal Parties and may include payment of fees.

The conditions of an AHIP may be varied at any time by the Director General in order to correct a typographical error or to resolve an inconsistency between conditions. The AHIP holder may appeal a decision of the Director General to vary the conditions of the AHIP.

Transfer of AHIP

The AHIP holder may apply to transfer this AHIP to another person by using the AHIP transfer application form available online at www.environment.nsw.gov.au.

Surrender of AHIP

The AHIP holder may apply to surrender this AHIP by using the AHIP surrender application form available online at www.environment.nsw.gov.au. The surrender must be approved by the Director-General and may be subject to conditions.

Suspension and revocation of AHIP

An AHIP may be suspended or revoked at any time at the discretion of the Director-General. Prior to suspending or revoking the AHIP, the AHIP holder will be given notice and an opportunity to make submissions. The AHIP holder will be notified in writing of the final decision. The AHIP holder may appeal a decision to revoke the AHIP.

Entry to land

An AHIP does not automatically entitle its holder to enter land for the purpose of conducting work related to the AHIP. The AHIP holder is responsible for obtaining permission to enter land from the owner and/or occupier of the land.

Disclosure of information pursuant to lawful requirement

This AHIP does not prevent the disclosure of any information or document in OEH's possession in accordance with any lawful requirement.

Making copies of reports

By providing a report, the AHIP holder acknowledges that OEH can use the information in that report to inform its regulatory functions, note details of that report in AHIMS and include a copy of the report in its library which may be available to members of the public. OEH is able to make copies of any reports provided to OEH under this AHIP.

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Attachment A, Figure 1 – Land to which this AHIP applies (blue line shows boundary)



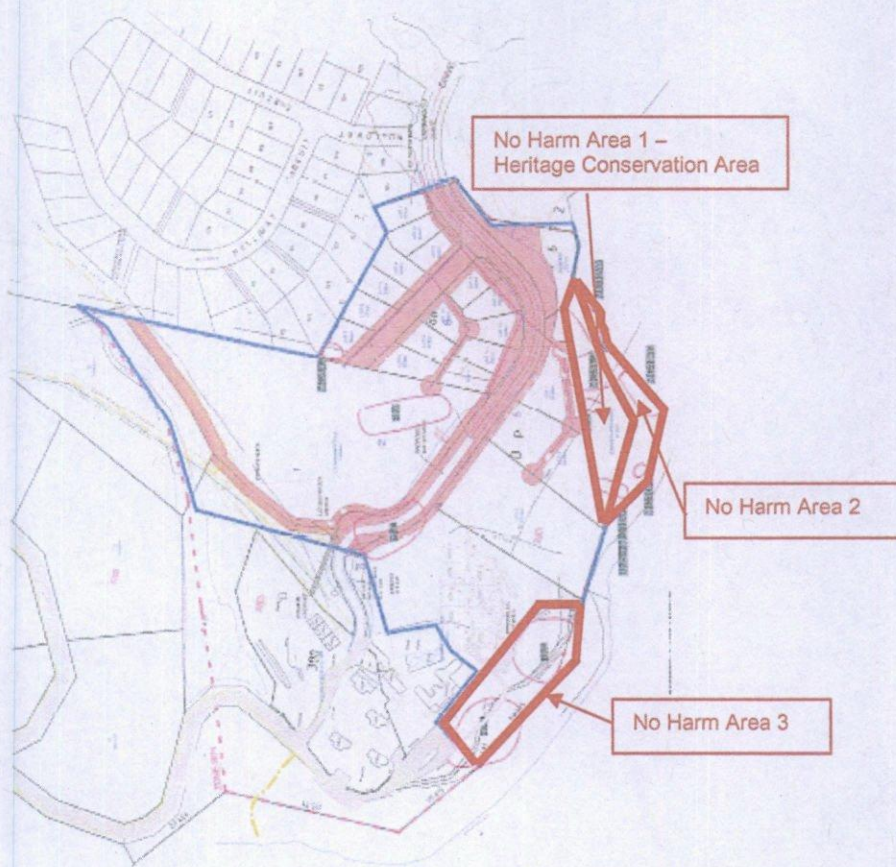
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Attachment A, Figure 2 – No Harm Areas 1, 2 and 3



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Attachment A, Figure 3 – Areas where harm of Aboriginal objects is authorised

