

Matt Philpott
Managing Director – Land and Development
Sealark Pty Limited
1006/97-99 Bathurst St
SYDNEY NSW 2000

By email: Matt Philpott, Managing Director – Land & Development, Sealark Pty Ltd – matt@sealark.com.au
cc: Taylor Foster, Senior Archaeologist, Austral Archaeology – taylorf@australarch.com.au

Dear Matt

ABORIGINAL HERITAGE IMPACT PERMIT 5076

West Culburra

Thank you for your application for an Aboriginal Heritage Impact Permit (AHIP) under section 90 of the *National Parks and Wildlife Act 1974* (the Act) received on 2 March 2023. Additional information was received on 23 May and 27 June 2023.

I understand that the proposed development is a residential subdivision for which the Concept Plan (SSD3846) was determined in December 2021. Each stage of development within the Concept Plan area will require that the applicant seek Development Approval (DA), with each stage ceasing to be State Significant Development and subject to requirements for permits and approvals. The AHIP application relates to the completion of test excavations to inform future applications for DA.

Your application has been assessed and approved. Your AHIP is attached.

Aboriginal cultural heritage is important and invaluable. Please be aware of your responsibilities in relation to Aboriginal cultural heritage and the conditions of the attached permit.

Advice

Your works may need approval from other local, State or Commonwealth government authorities.

You may need to report any discovery of Aboriginal remains under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

The AHIP holder is responsible for obtaining permission to enter land from the owner and/or occupier of the land.

Section 164 of the Act allows authorised officers to enter land if they suspect that an offence has been or is being committed.



Right of appeal

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.

If you require any further assistance do not hesitate to contact Nicola Roche, Senior Assessments Officer at Heritage NSW on 0400 133 251 or via email at nicola.roche@environment.nsw.gov.au

Yours sincerely

Nicole Davis

Manager Assessments

Heritage NSW

Department of Planning and Environment

As Delegate under National Parks and Wildlife Act 1974

18/07/2023



Aboriginal Heritage Impact Permit (AHIP)

AHIP number: 5076

AHIP Issued to:

**Sealark Pty Limited
ABN 81 075 795 587
1006/97-99 Bathurst St
SYDNEY NSW 2000**

ADDITIONAL DETAILS FOR PUBLIC REGISTER

Name of development or project	West Culburra Concept Proposal SSD 3846 determined 1 December 2021 Subsequent DA to be submitted following test excavations
Location	453 Culburra Road, Culburra Beach Lots 1, 2 and 3 DP1279350, adjoining Crown Land and Road Reserves
Local Government Area(s)	Shoalhaven
Description of harm authorised	<ul style="list-style-type: none">• Certain Aboriginal objects must not be harmed• Test excavations• Other action causing harm
AHIP commencement date and duration	Commencement date: 18 July 2023 Duration: 2 years

AHIP TO HARM ABORIGINAL OBJECTS

AHIP ISSUED SUBJECT TO CONDITIONS

This AHIP is issued pursuant to section 90 of the *National Parks and Wildlife Act 1974* (the Act). 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.

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

***Note:** a dictionary defining terms used in this document are in Appendix A.

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 2 years or until an AHIP for harm is issued over the land to which this AHIP applies, whichever is sooner.

PROPOSED WORKS

The AHIP application relates to the completion of test excavations to inform future applications for Development Approvals that will be sought in relation to an approved Concept Plan (SSD 3846, determined December 2021). The proposed test excavations will interact with recorded midden sites and therefore an AHIP is required.

LAND TO WHICH THIS AHIP APPLIES

The land to which this AHIP applies is that land bound by the red outline (shown in the legend as 'Study Area') as shown in Attachment 1.

CONDITIONS

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

Any requirement to provide written notice to Heritage NSW may be complied with by emailing the notice to heritagemailbox@environment.nsw.gov.au

General Conditions	
Condition Number	Condition
Persons undertaking actions or works covered by this 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.
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	If an alternative to the nominated project manager is appointed, Heritage NSW must be notified of their contact details within 14 days of this appointment.
Notification of Registered Aboriginal Parties	
4	A copy of this AHIP must be provided to each Registered Aboriginal Party, within 14 days of receipt of the AHIP from Heritage NSW and at least 7 days before the start of works under this AHIP.
5	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.
Indemnity	
6	<p>This AHIP holder agrees to indemnify and keep indemnified, the Crown in right of NSW, the Minister administering the Act, the Secretary of Department of Planning and Environment, and their employees, agents, and contractors, in the absence of any wilful misconduct or negligence on their part, from and against all actions, demands, claims, proceedings, loss, damages, costs (including legal costs), charges or expenses suffered or incurred by them resulting from:</p> <ul style="list-style-type: none"> 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.

General Conditions	
Condition Number	Condition
Breach of AHIP Conditions	
7	<p>The AHIP holder must notify Heritage NSW in writing as soon as practicable after becoming aware of:</p> <ul style="list-style-type: none"> 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. <p>Where Heritage NSW suspects that an incident has occurred which may have breached the Act or AHIP, Heritage NSW and/or Authorised Officer appointed under the Act may request a written incident report, which includes the following:</p> <ul style="list-style-type: none"> 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/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 take or will be taken to prevent a recurrence of the incident. <p>The incident report must be provided to the Heritage NSW office within the timeframe specified in the request.</p>
Human Remains	
8	All human remains in, on or under the land must not be harmed.
9	<p>If any human remains are discovered and/or harmed in, on or under the land, the AHIP holder must:</p> <ul style="list-style-type: none"> a. Not further harm these remains b. Immediately cease all work at the location c. Secure the area to avoid further harm to the remains d. Notify the local police and Department of Planning and Environment'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 location unless authorised in writing by Heritage NSW.

Standard Conditions	
Condition Number	Condition
Prevention of Harm	
10	The Aboriginal objects described in Schedule A must not be harmed.
Harm	
Test Excavation	
11	Test excavations may be carried out in, on or under each area described in Schedule B2.
12	Aboriginal objects that are recovered during the excavations may be analysed on-site and/or may be taken off-site for further analysis. The excavations and analysis of Aboriginal objects must be carried out in accordance with the methodology provided in Attachment 4.
Test Excavation Report	
13	A Test Excavation Report must be prepared in accordance with Requirement 11 of the <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW</i> . If relevant, the Test Excavation Report may be incorporated into a revised ACHAR.
14	The Test Excavation Report must be submitted to Heritage NSW (heritagemailbox@environment.nsw.gov.au) and the AHIMS Registrar (ahims@environment.nsw.gov.au) within 12 months of the completion of the excavations
15	A copy of the Test Excavation Report, including a summary of the report in plain English must be sent to each Registered Aboriginal Party within 14 days of the report being submitted to Heritage NSW
Other – Vegetation clearance and midden recording	
16	Vegetation clearance and midden recording may be carried out in, on or under each area described in Schedule B4
17	The vegetation clearance and midden recording must be carried out in accordance with the methodology provided in Attachment 5.
Temporary Storage	
18	Any Aboriginal objects that are removed from the land by actions authorised by this AHIP, must be moved as soon as practicable to the temporary storage specified below: Location: Austral Archaeology Pty Ltd office, 1/148 Tongarra Road, Albion Park NSW 2527 Storage particulars: Secure storage
19	Heritage NSW must be notified of an alternative temporary storage location at least 7 days prior to the move.

Standard Conditions	
Condition Number	Condition
20	Any Aboriginal objects stored at the temporary storage location must not be further harmed, except in accordance with the conditions of this AHIP.
21	Requirement 26 'Stone artefact deposition and storage' in the <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW</i> , must be complied with unless the Registered Aboriginal Parties agree to an alternative deposition method.
Aboriginal Site Impact Recording Form	
22	<p>Aboriginal Site Impact Recording Form must be completed and submitted to the AHIMS Registrar, for each AHIMS site identified in Scheduled B and C, within 6 months of the completion of the test excavation actions authorised by this AHIP.</p> <p>Note:</p> <ul style="list-style-type: none"> • The Aboriginal Site Impact Recording Form must be updated with information about the site in each relevant field. Reference to a report is not an acceptable substitute for site information. • See the website (https://www.environment.nsw.gov.au/topics/heritage/search-heritage-databases/aboriginal-heritage-information-management-system) for the Aboriginal Site Impact Recording Form • contact details for the AHIMS Registrar

SCHEDULE A:

ABORIGINAL OBJECTS THAT MUST NOT BE HARMED

A1. HUMAN REMAINS

All human remains in, on or under the land must not be harmed.

A2. ABORIGINAL OBJECTS IDENTIFIED ON ABORIGINAL HERITAGE IMPACT SYSTEM

The following Aboriginal objects identified on AHIMS must not be harmed:

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Restricted access (Y/N)	Easting	Northing	Datum
Part (being that part of the site not subject to test excavation)	52-5-0182	Shell	Culburra 13; Greenwell Point	No	294004	6132990	AGD z56
	52-5-0183	Shell, artefact	Culburra 14; Greenwell Point	No	294000	6132800	AGD z56
	52-5-0186	Shell, artefact	Culburra 12; Greenwell Point	No	293550	6133100	AGD z56
	52-5-0900	Artefact	Halloran Isolated Find 03	No	293790	6133075	AGD z56
	52-5-1077	Midden	WCB Midden Site	No	294565	6132466	GDA z56

A3. NO-HARM AREAS

Area Name	Information access restriction? (Y/N)	Map Reference
Areas of high and moderate archaeological potential (being that part of the areas not subject to test excavation)	N	The areas shaded orange and red in Attachment 2 that are not subject to test excavation

SCHEDULE B:

ABORIGINAL OBJECTS THAT MAY BE HARMED THROUGH THE CERTAIN ACTONS

B1. MOVEMENT ONLY

Not applicable.

B2. TEST EXCAVATIONS

Test/Salvage excavations may be carried out in the areas marked “revised auger pits” and ‘revised test pits” on Attachment 3 (noting that the mapping is indicative and specific locations may vary), but only in accordance with the conditions of this AHIP.

The test/salvage excavation area comprises the following known Aboriginal objects, as identified on AHIMS (excluding Aboriginal objects described in Schedule A):

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Restricted access (Y/N)	Easting	Northing	Datum
Part (being that part of the site subject to test excavation)	52-5-0182	Shell	Culburra 13; Greenwell Point	No	294004	6132990	AGD z56
	52-5-0183	Shell, artefact	Culburra 14; Greenwell Point	No	294000	6132800	AGD z56
	52-5-0186	Shell, artefact	Culburra 12; Greenwell Point	No	293550	6133100	AGD z56
	52-5-0900	Artefact	Halloran Isolated Find 03	No	293790	6133075	AGD z56
	52-5-1077	Midden	WCB Midden Site	No	294565	6132466	GDA z56

B3. COMMUNITY COLLECTION

Not applicable

B4. OTHER – VEGETATION CLEARANCE AND MIDDEN RECORDING

Minimally invasive vegetation clearance may be carried out at recorded midden sites to assist in identifying the visible extent of midden deposits.

Vegetation clearance may occur in the vicinity of the following known Aboriginal objects, as listed on AHIMS (excluding Aboriginal objects described in Schedule A).

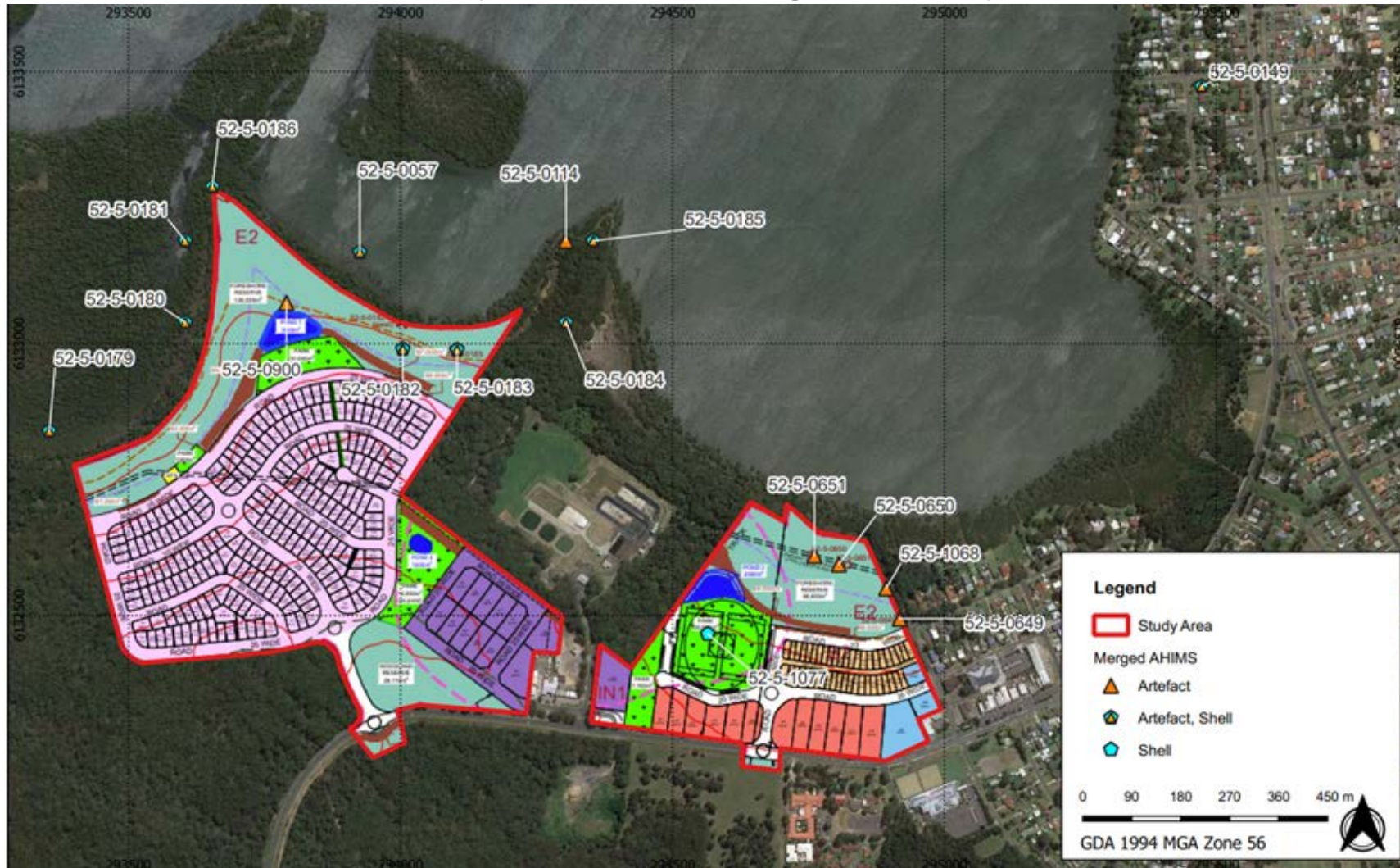
Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Restricted access (Y/N)	Easting	Northing	Datum
Part (being that part of the site subject to vegetation clearance only)	52-5-0182	Shell	Culburra 13; Greenwell Point	No	294004	6132990	AGD z56
	52-5-0183	Shell, artefact	Culburra 14; Greenwell Point	No	294000	6132800	AGD z56
	52-5-0186	Shell, artefact	Culburra 12; Greenwell Point	No	293550	6133100	AGD z56
	52-5-1077	Midden	WCB Midden Site	No	294565	6132466	GDA z56

SCHEDULE C:

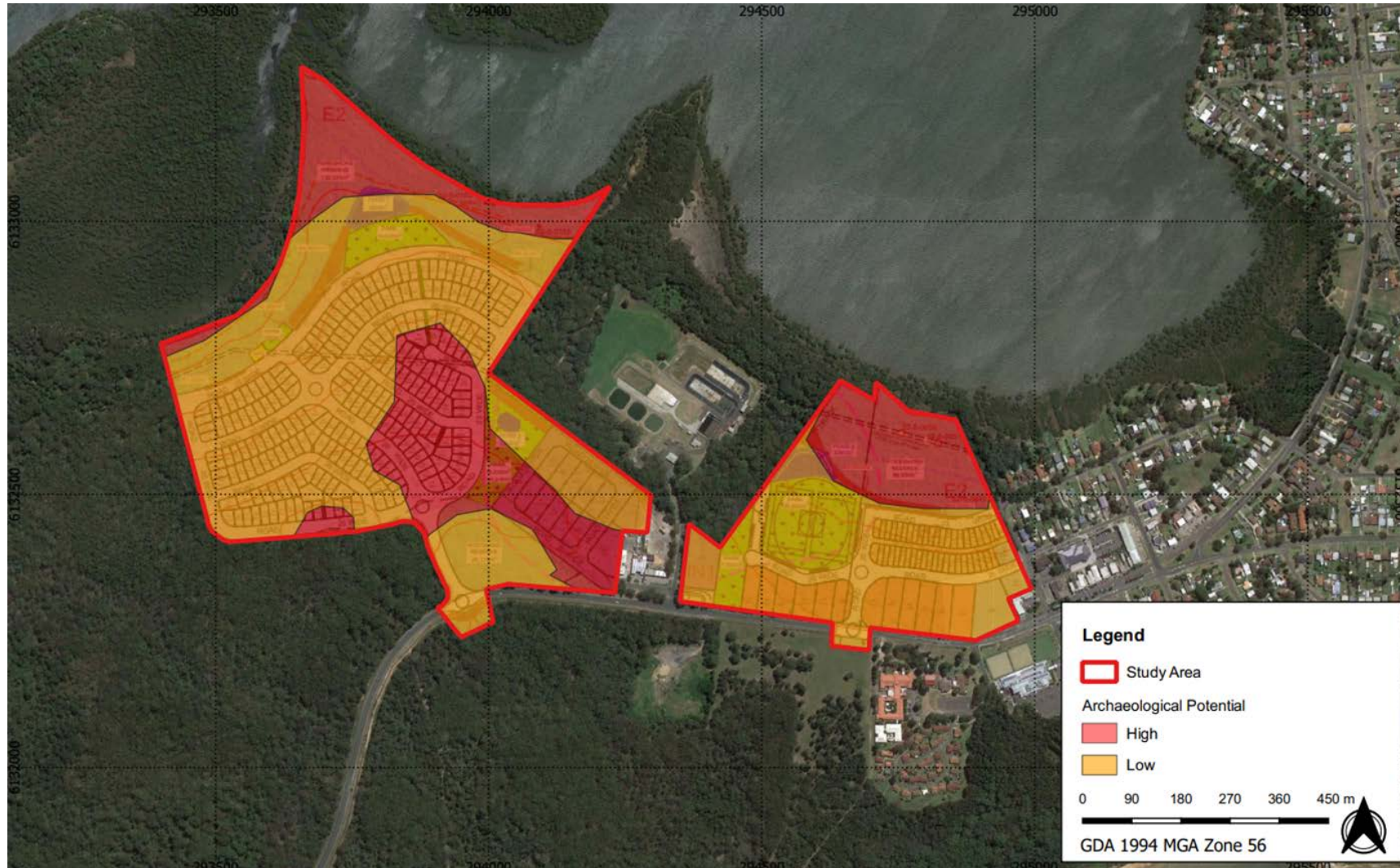
ABORIGINAL OBJECTS WHICH MAY BE HARMED THROUGH THE PROPOSED WORKS

Not applicable.

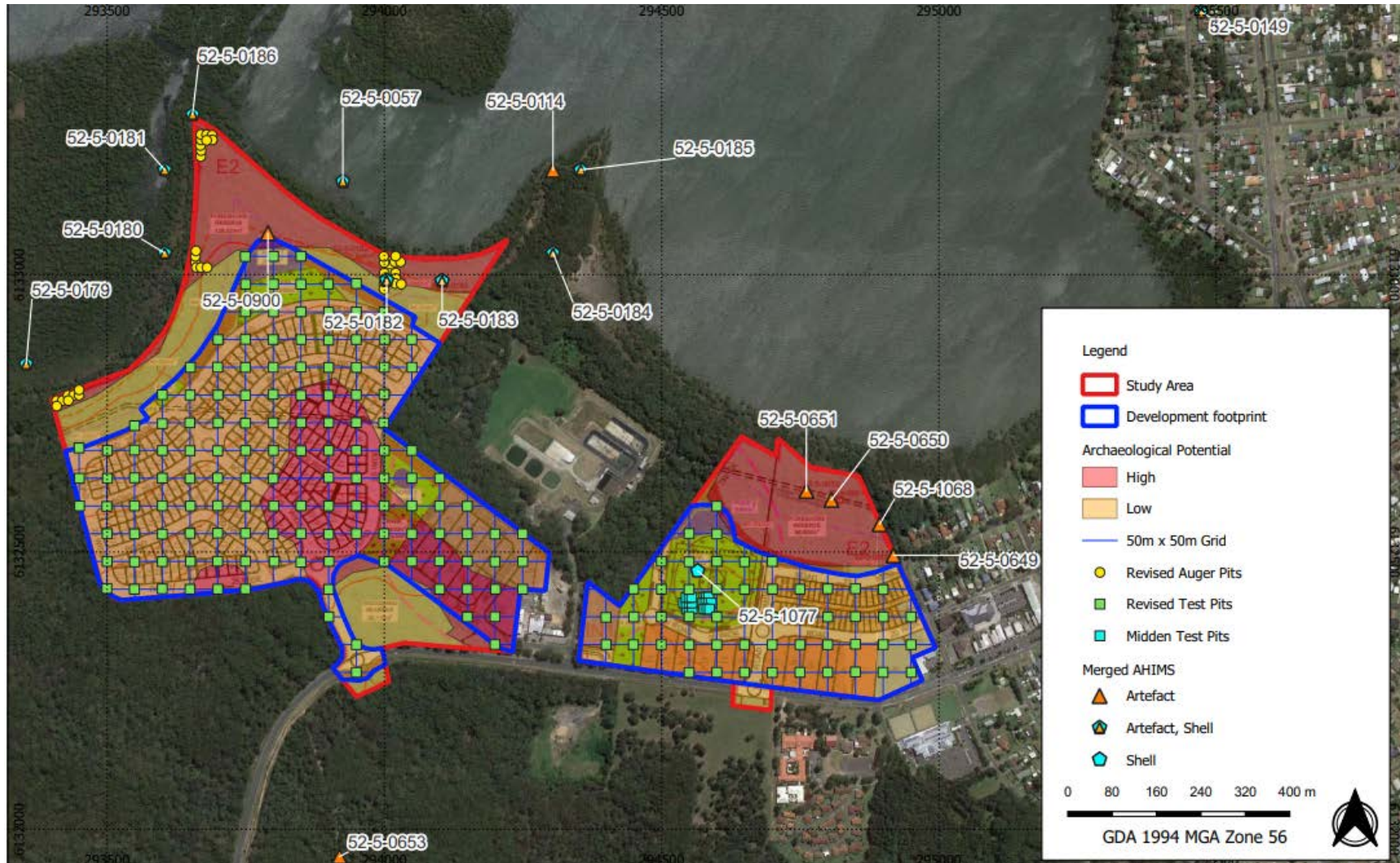
**ATTACHMENT 1: Land to which this AHIP applies
(bounded by red outline and in legend as 'Study Area')**



ATTACHMENT 2: No Harm Areas
(being those parts of the areas shaded red and orange that are not subject to test excavation)



ATTACHMENT 3: Test excavation locations (indicative mapping only)



ATTACHMENT 4: Test excavation methodology

AUGERING

Augering will be undertaken to assist in defining the extent of identified midden deposits, including those located outside the proposed development impact area (which excludes the areas mapped as E2 zoning in the approved Concept Plan). Augering will be undertaken following the completion of vegetation clearance (as referenced in Attachment 5) and in accordance with the following methodology.

- At each known midden site, two transects will be established orientated perpendicular to each other and intersecting at the centre of the known extent of the midden or at the recorded coordinate for the site if no visible midden material is present. Augering will commence along each transect at the point at which surface midden material is no longer visible. Augering will occur at approximately 10m intervals (with individual locations subject to variation to allow for factors such as vegetation, disturbance and other adverse conditions) along each transect until such time as at least 2 consecutive auger holes that do not contain midden material have been recorded in the one transect.
- If compact or consolidated shell midden is identified, augering at that location will cease but can recommence at the next 10m interval. The presence of consolidated shell midden should be documented in as much detail as possible.
- Each auger hole will be given a unique ID, will be recorded using a hand-held GPS and plotted on a scale map with reference to the site extent. Any subsequent mapping should document presence or absence of midden material within auger holes.
- Photographic recording of the augering process should be undertaken.
- Any Aboriginal objects recovered will be placed in lock-seal plastic bags and labelled with the unique auger ID, the coordinates of the auger location and the approximate depth from which the object(s) originated. The objects will be subject to recording and analysis in accordance with the methodology provided below.

TEST PITS

Test pits will be excavated in accordance with the following methodology.

- Test pits will comprise units of 50cm by 50cm in surface dimension.
- Each test pit will be given a unique ID and the location of the test pit will be recorded using a hand-held GPS and plotted on a scale map.
- The test pits will comprise a sample of the areas of high and moderate archaeological potential and will be distributed based on the following:
 - Primary test pits will be excavated at approximately 50m intervals on a grid pattern across the area of moderate and high archaeological potential (as shown in Attachment 3) but only within the proposed development impact area. Individual test pit locations can be varied slightly to avoid areas of disturbance, large trees, adverse conditions or other factors however any changes to test pit locations should be subject to consultation between the archaeologist and Aboriginal party representatives undertaking the works;
 - Where one or more of the following is identified in the primary test pit, at least one secondary test pit will be excavated:
 - Substantially higher artefact numbers or densities (higher by 50% or more) when compared to other test pits within the AHIP area;

Aboriginal Heritage Impact Permit (AHIP)

- Artefact classes or raw materials that are not well represented in other excavated locations within the AHIP area;
- Evidence of in-situ knapping comprising 20 or more artefacts from a single knapping event;
- Consolidated shell midden; or
- Archaeological features such as a hearth or heat treatment pit.
- Secondary test pits can be undertaken as an expansion of a primary test pit or at intervals of up to 20m from the primary test pit with this decision to be made in consultation between the archaeologist and Aboriginal party representatives undertaking the works. Secondary test pit locations should be selected with the intent of identifying and recording any areas of concentrated archaeological deposit and/or variability across the AHIP area.
- The total number of test pits to be excavated should not exceed 300 test pits (with one test pit being a unit of 0.5m by 0.5m), unless subject to prior consultation with the Registered Aboriginal Parties and Heritage NSW.
- Spits will be approximately 10 centimetres in depth or will follow the stratigraphic profile, whichever is the smaller unit.
- Excavation will be undertaken using hand tools only, with the type of tools to be used to be appropriate to the deposit (for example, avoid use of mattocks in soft or sandy deposits).
- If consolidated midden deposit is identified during augering or test excavation within the proposed development impact area, midden material should be excavated in stratigraphic units (where identifiable), samples should be taken for the purpose of dating and all shell and faunal material must be retained. Where secondary test pits are undertaken as an expansion of a primary test pit within consolidated midden deposit, the total excavated area must not exceed 3m² in surface dimension.
- If archaeological features such as a hearth/heat treatment pit is identified, test excavation should be expanded (in units of 50cm by 50cm) to allow the feature to be adequately recorded and excavated. The entirety of the feature should be exposed. Hearths/heat treatment pits must be half-sectioned and recorded (including photography and scale drawing) prior to any further excavation. A bulk sample of material excavated from the hearth/heat treatment pit must be retained for the purposes of analysis and dating.
- All excavated material will be sieved using a sieve with maximum aperture of 5mm, with provision to utilise a sieve with maximum 3mm aperture where needed based on the size of the recovered objects.
- The stratigraphic profile must be photographed (including a suitable scale) in each test pit (or within an area where test pits have been expanded). Photography should ensure that the soil profile is clear and visible in all images and can be correlated to excavation records. Where photography is insufficient, scale drawing of stratigraphic profiles should be undertaken.
- Excavation data will be documented using standardised recording forms that include information on excavation location, test pit ID, spit details (depth, soil type and colour), sketch plan of relevant features and list of objects found.
- The criteria for ceasing excavation are:
 - Excavation has reached the C horizon; or
 - Excavation cannot proceed safely due to water ingress or other constraints;
 - Excavation has demonstrated clear disturbance of the soil profile such that the archaeological integrity of the test pit has been compromised; or

Aboriginal Heritage Impact Permit (AHIP)

- There have been at least three completed spits that did not contain Aboriginal objects.
- If there is any disagreement regarding test pit distribution, placement or expansion, the AHIP holder should seek clarification from Heritage NSW.
- Any Aboriginal objects recovered will be placed in lock-seal plastic bags and labelled with the unique test pit ID, the spit number and the approximate depth from which the object(s) originated. The objects will be subject to recording and analysis in accordance with the methodology provided below.
- If, at any time during excavations, human skeletal remains are identified, the requirements of Conditions 8 & 9 must be followed.

ARTEFACT RECORDING AND ANALYSIS

- Any recovered shell will be identified to species (where possible) and weighed.
- For stone artefacts, the minimum attributes to be recorded are listed in Table 1. Where recording of additional attributes will assist in characterising the chronology or nature of occupation of the area, these should also be documented.
- Artefact photography will be undertaken to record an appropriate sample of artefacts at high resolution.

Table 1 Artefact attributes to be recorded

Attributes to be recorded for all artefacts	Additional attributes to be recorded for complete flakes	Additional attributes to be recorded for cores
Artefact class	Platform attributes including width, thickness, type and evidence for platform preparation (eg faceting, overhang removal etc)	Artefact measurements (length, width, thickness)
Raw material	Termination	Number of rotations
Weight (g)	Retouch (location and type)	Evidence for platform preparation
Cortex (amount and type)	Artefact measurements (length, width, thickness)	Scar type(s)
Evidence of heat affect/treatment		

- Any other Aboriginal objects must be recorded in accordance with industry best practice standards, as applicable.
- The results of the recordings should be analysed to provide information on the types of activities being undertaken by Aboriginal people in the area, the use of local or imported raw materials in artefact manufacture and spatial or stratigraphic variability in the artefact assemblage. This information will be incorporated into reporting as required under Condition 13.

ATTACHMENT 5: Vegetation clearance and midden recording

Minimally invasive vegetation clearance will be undertaken to improve visibility surrounding midden sites within the areas of high archaeological potential, which in turn will allow the extent of visible midden material to be more accurately mapped prior to test excavation. Vegetation clearance and midden recording will be undertaken using the following methodology:

- At least two representatives of the Registered Aboriginal Parties must be provided with the opportunity to be present/assist in vegetation clearance and midden recording.
- To ensure that the representatives have sufficient notice, the Registered Aboriginal Parties must be advised of the proposed commencement of vegetation clearance works at least 7 days prior to that commencement.
- Where Aboriginal objects are identified during vegetation clearance, works will cease in the immediate vicinity of the exposed objects and clearance will then occur in the adjoining area.
- Vegetation clearance should involve the removal of non-native plant species only, with native vegetation to be retained.
- Techniques for vegetation removal must minimise potential impacts to Aboriginal objects (including subsurface deposit) and must be selected to minimise the likelihood of subsequent erosion. This may include cut and paint techniques or similar but will not involve mechanical techniques or the removal of the plant root system.
- The extent of visible midden material must be mapped accurately including recording of external coordinates, midden dimensions and estimated depth (where applicable). The information recorded must meet (as a minimum), Requirement 24 – Recording shell middens as specified in the Code of Practice.
- The distribution of midden material must be mapped with reference to the approved Concept Plan footprint.
- If human skeletal remains are identified, Conditions 8 and 9 must be followed.

APPENDIX 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 <i>National Parks and Wildlife Act 1974</i>
Act	means the <i>National Parks and Wildlife Act 1974</i>
AHIMS	means the Aboriginal Heritage Information Management System maintained by Heritage NSW, as defined in section 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 more Registered Aboriginal Parties or their representatives
Community collection area	means an area described as a community collection area in relevant schedule
DPE	means the Department of Planning and Environment
No-harm area	means those areas described in relevant schedule
Proposed works	means the works described in the table at the front of this AHIP under “Brief description of proposal.”
Public register	means the public register established under section 188F of the Act, that contains details of AHIPs issued by Heritage NSW, as described under the heading “Information about this AHIP”
Registered Aboriginal Parties	means Registered Aboriginal Parties listed in the application
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 the relevant schedule
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 and to assist in the assessment of management options for the site
Test excavation area	means any area described as a test excavation in the relevant schedule