

Our ref: DOC24/16909

Mr Peter Bowman

Environmental Officer

HV Operations Pty Ltd

No: 1 Level 44, Gateway

Macquarie Place

SYDNEY NSW 2000

peter.bowman@hvo.com.au

Aboriginal Heritage Impact Permit 5219

Hunter Valley Operations North – Wilton/Mitchell Pit Extension

Dear Peter,

Thank you for your application for an Aboriginal Heritage Impact Permit under section 90 of the National Parks and Wildlife Act 1974 received on 4 December 2023. Additional information was received on 5 February 2024

I understand that the proposed development involves extension of the West Pit/Wilton Pit and Mitchell Pit within Hunter Valley Operations (HVO) North and all associated works as documented in your Aboriginal Heritage Impact Permit application and permitted by Development Application DA450-10-2003, as modified.

Your application has been assessed and approved. Your Aboriginal Heritage Impact Permit is attached.

Aboriginal cultural heritage is important and irreplaceable. 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 Aboriginal Heritage Impact Permit holder is responsible for obtaining permission to enter land from the owner and/or occupier of the land.

Section 164 of the National Parks and Wildlife 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 National Parks and Wildlife Act, the Aboriginal Heritage Impact Permit holder may appeal to the Land and Environment Court if they are dissatisfied with any condition of this Aboriginal Heritage Impact Permit. The appeal must be lodged within 21 days of the date this Aboriginal Heritage Impact Permit was issued.

If you require any further assistance do not hesitate to contact Corey O'Driscoll, Senior Assessments Officer, at Heritage NSW on 6229 7079 or corey.odriscoll@environment.nsw.gov.au.

Yours sincerely

Nicole Davis

Nicole Davis

Manager Assessments

Heritage NSW

Department of Climate Change, Energy, the Environment and Water

As Delegate under National Parks and Wildlife Act 1974

6 February 2024

Cc: Andrew Speechly, HV Operations - andrew.speechly@hvo.com.au

Cc: Joel Deacon, Principal Archaeologist , Arrow Heritage Solutions - joel@arrowheritage.com.au

Aboriginal Heritage Impact Permit: 5219

Aboriginal Heritage Impact Permit Issued to:

HV Operations Pty Ltd

ABN: 76 606 478 399

No: 1 Level 44, Gateway

Macquarie Place

SYDNEY NSW 2000

Additional Details for Public Register

Name of development or project	Hunter Valley Operations North – Wilton/Mitchell Pit Extension
Location	Hunter Valley Operations – ML 1428 and CML 4 1011 Lemington Road Liddell Lot5 DP 1113789
Local Government Area(s)	Singleton
Description of harm authorised	<ul style="list-style-type: none">• Community collection• Harm to certain Aboriginal objects through the proposed works
Aboriginal Heritage Impact Permit commencement date and duration	Commencement date: 6 February 2024 Duration: 16 months until 12 June 2025

Aboriginal Heritage Impact Permit to Harm Aboriginal Objects

A. Aboriginal Heritage Impact Permit Issued Subject to Conditions

This Aboriginal Heritage Impact Permit is issued pursuant to section 90 of the National Parks and Wildlife 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 Aboriginal Heritage Impact Permit.

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

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

B. Commencement and Duration of Aboriginal Heritage Impact Permit

This Aboriginal Heritage Impact Permit commences on the date it is signed unless otherwise provided by this Aboriginal Heritage Impact Permit. Unless otherwise revoked in writing, this Aboriginal Heritage Impact Permit remains in force until 12 June 2025 (16 months) from the date of commencement.

C. Proposed Works

The proposed works comprise extending the existing open cut mining at HVO North to the south and west of the West Pit/Wilton Pit and Mitchell Pit mining area, including all bulk earthworks and coal mining, water management activities, and auxiliary infrastructure as permitted under DA450-10-2003 and as modified.

D. Land to Which this Aboriginal Heritage Impact Permit Applies

The land to which this Aboriginal Heritage Impact Permit applies is that land bound by the green line shown as the Proposed Aboriginal Heritage Impact Permit Application Area boundary in Attachment 1.

E. Conditions

The conditions of this Aboriginal Heritage Impact Permit 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 Aboriginal Heritage Impact Permit	
1	The Aboriginal Heritage Impact Permit holder must ensure that all persons involved in actions or works covered by this Aboriginal Heritage Impact Permit (whether employees, contractors, sub-contractors, agents, or invitees) are made aware of and comply with the conditions of this Aboriginal Heritage Impact Permit.
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 Aboriginal Heritage Impact Permit holder, all the actions relating to this Aboriginal Heritage Impact Permit.
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 Aboriginal Heritage Impact Permit must be provided to each Registered Aboriginal Party, within 14 days of receipt of the Aboriginal Heritage Impact Permit from Heritage NSW and at least 7 days before the start of works under this Aboriginal Heritage Impact Permit.
5	Where this Aboriginal Heritage Impact Permit is varied or transferred, a copy of the Aboriginal Heritage Impact Permit variation or transfer notice must be provided to each Registered Aboriginal Party, within 14 days of receipt of the notice.
Indemnity	
6	This Aboriginal Heritage Impact Permit holder agrees to indemnify and keep indemnified, the Crown in right of NSW, the Minister administering the National Parks and Wildlife Act, the Secretary of Department of Climate Change, Energy, the Environment and Water, 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, 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 Aboriginal Heritage Impact Permit.

General Conditions

Condition
Number

Condition

Breach of Aboriginal Heritage Impact Permit Conditions

7

The Aboriginal Heritage Impact Permit holder must notify Heritage NSW in writing as soon as practicable after becoming aware of:

- a. Any contravention of s.86 of the National Parks and Wildlife Act not authorised by an Aboriginal Heritage Impact Permit, and/or
- b. Any contravention of the conditions of this Aboriginal Heritage Impact Permit.

Where Heritage NSW suspects that an incident has occurred which may have breached the National Parks and Wildlife Act or Aboriginal Heritage Impact Permit, Heritage NSW and/or Authorised Officer appointed under the National Parks and Wildlife Act 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/or Aboriginal places, referring to and providing maps and photos where appropriate
- d. any conditions of an Aboriginal Heritage Impact Permit which may have been breached, and
- e. the measures which have been take or will be taken to prevent a recurrence of the incident.

The incident report must be provided to the Heritage NSW office within the timeframe specified in the request.

Human Remains

8

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

9

If any human remains (other than any human remains described in the attached schedule) are discovered and/or harmed in, on or under the land, the Aboriginal Heritage Impact Permit holder must:

- 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 the [NSW Environment Line](http://www.environment.nsw.gov.au/topics/heritage) 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.
11	All personnel involved in the proposed works must participate in Aboriginal cultural heritage awareness training before undertaking any works.
Harm	
Community Collection of Aboriginal Objects	
12	A representative or representatives of the Registered Aboriginal Parties must be provided with an opportunity to collect Aboriginal objects within the 'community collection area' described in Schedule B3.
13	The opportunity for community collection must be provided: <ol style="list-style-type: none"> a. in accordance with HVO North Aboriginal Heritage Management Plan dated 9 February 2023 that was provided with the application and b. before any harm of Aboriginal objects described in Schedule C can commence in the area.
14	If an opportunity for community collection has been provided and this collection does not occur, the Aboriginal Heritage Impact Permit holder may proceed with any actions to harm Aboriginal objects described in Schedule C, in accordance with the conditions of this Aboriginal Heritage Impact Permit.
Harm through the proposed works	
15	The Aboriginal objects described in Schedule C may be harmed. Nothing in this condition authorises harm to Aboriginal objects described in Schedule A (whether human remains, Aboriginal objects or 'no-harm areas').
16	Aboriginal objects described in Schedule C must not be harmed unless all opportunities for community collection of Aboriginal objects described in Schedule B3 have been provided in the area.

Standard Conditions

Condition Number	Condition
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Salvage Report

17	<p>A report must be prepared about the actions relating to the harm of Aboriginal objects (as permitted by this Aboriginal Heritage Impact Permit). The report must:</p> <ol style="list-style-type: none"> 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 Aboriginal Heritage Impact Permit c. provide details of the Aboriginal objects which were fully or partially harmed while undertaking the actions d. detail any community collection of Aboriginal objects undertaken by the Registered Aboriginal Parties 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 g. if any Aboriginal objects were moved to a temporary storage location, a description of the nature and types of Aboriginal objects which are now at that location h. detail the results of any analysis of Aboriginal objects i. detail the long-term management arrangements for any Aboriginal objects, and j. include a statement confirming that all Aboriginal Site Impact Recording Forms have been completed and submitted.
18	<p>The report must be submitted to Heritage NSW heritagemailbox@environment.nsw.gov.au and the Aboriginal Heritage Information Management System Registrar ahims@environment.nsw.gov.au within 6 months of the completion of the actions.</p>
19	<p>A copy of the 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.</p>

Temporary Storage

20	<p>Any Aboriginal objects that are removed from the land by actions authorised by this Aboriginal Heritage Impact Permit, must be moved as soon as practicable to the temporary storage specified below:</p> <p>Location name: Hunter Valley Services Cultural Heritage Storage Facility Address: 1011 Lemington Road, Lemington Storage particulars: In a locked secure facility as per current Care and Control Agreement C0004768</p>
21	<p>Heritage NSW must be notified of an alternative temporary storage location at least 7 days prior to the move.</p>
22	<p>Any Aboriginal objects stored at the temporary storage location must not be further harmed, except in accordance with the conditions of this Aboriginal Heritage Impact Permit.</p>

Standard Conditions

Condition Number	Condition
Long term management	
23	If objects are to be transferred under a Care and Control Agreement to an Aboriginal person or organisation representing Aboriginal people in accordance with section 85A(1)(c) of the National Parks and Wildlife Act an application for a Care Agreement must be completed.
24	If reburial is to be undertaken of objects Requirement 26 'Stone artefact deposition and storage' in the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW , must be complied with unless the Registered Aboriginal Parties agree to an alternative deposition method.

Aboriginal Site Impact Recording Form

25	<p>Aboriginal Site Impact Recording Form must be completed and submitted to the Aboriginal Heritage Information Management System Registrar, for each Aboriginal Heritage Information Management System site identified in Schedule B and C, within 6 months of the completion of the community collection actions authorised by this Aboriginal Heritage Impact Permit.</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. • The Aboriginal Site Impact Recording Form can be found here • Contact details for the Aboriginal Heritage Information Management System Registrar can be found here
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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 that are identified on Aboriginal Heritage Information Management System

Not applicable.

A3. No-Harm Areas

Not applicable.

Schedule B: Aboriginal Objects that may be harmed through certain actions

B1. Movement Only

Not applicable.

B2. Salvage Excavations

Not applicable.

B3. Community Collection

Community collection may be carried out in the area marked by the green boundary, on Land to which this Aboriginal Heritage Impact Permit applies, Attachment 1, but only in accordance with the conditions of this Aboriginal Heritage Impact Permit.

The community collection area includes the following known Aboriginal objects, as identified on Aboriginal Heritage Information Management System (excluding any 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
Whole	37-2-0528	Artefact	Site Q	N	307720	6405560	GDA 56
Whole	37-2-0800	Artefact	HC 24	N	308402	6405682	GDA 56
Partial	37-2-0801	Artefact	HC 25	N	308712	6405763	GDA 56
Whole	37-2-6521	Artefact	HVOCP TR114-AS1	N	308305	6405346	GDA 56
Whole	37-2-6522	Artefact	HVOCP TR115-AS1	N	308445	6405439	GDA 56
Whole	37-2-6523	Artefact	HVOCP TR115-IF1	N	308030	6405713	GDA 56
Whole	37-2-6524	Artefact	HVOCP TR116-AS1	N	308264	6405686	GDA 56

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Restricted access (Y/N)	Easting	Northing	Datum
Whole	37-2-6525	Artefact	HVOCP TR116-IF1	N	308383	6405584	GDA 56
Whole	37-2-6526	Artefact	HVOCP TR116-IF2	N	308169	6405780	GDA 56
Whole	37-2-6527	Artefact	HVOCP TR116-IF3	N	308007	6405843	GDA 56
Whole	37-2-6528	Artefact	HVOCP TR117-IF1	N	308234	6405800	GDA 56
Whole	37-2-6529	Artefact	HVOCP TR117-IF2	N	308292	6405787	GDA 56
Whole	37-2-6530	Artefact	HVOCP TR118-IF1	N	308084	6406302	GDA 56
Whole	37-2-6531	Artefact	HVOCP TR123-IF1	N	308446	6405954	GDA 56
Whole	37-2-6532	Artefact	HVOCP TR129-AS1	N	308726	6406479	GDA 56

*Note – in this context “part” means “that part of the site that is within the land to which this Aboriginal Heritage Impact Permit applies”

B4. Other

Not applicable.

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 Aboriginal Heritage Impact Permit (excluding any Aboriginal objects described in Schedule A).

C1. Harm of Aboriginal Objects Identified on identified on Aboriginal Heritage Information Management System

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Restricted access (Y/N)	Easting	Northing	Datum
Whole	37-2-0528	Artefact	Site Q	N	307720	6405560	GDA 56
Whole	37-2-0800	Artefact	HC 24	N	308402	6405682	GDA 56
Partial	37-2-0801	Artefact	HC 25	N	308712	6405763	GDA 56
Whole	37-2-6521	Artefact	HVOCP TR114-AS1	N	308305	6405346	GDA 56
Whole	37-2-6522	Artefact	HVOCP TR115-AS1	N	308445	6405439	GDA 56

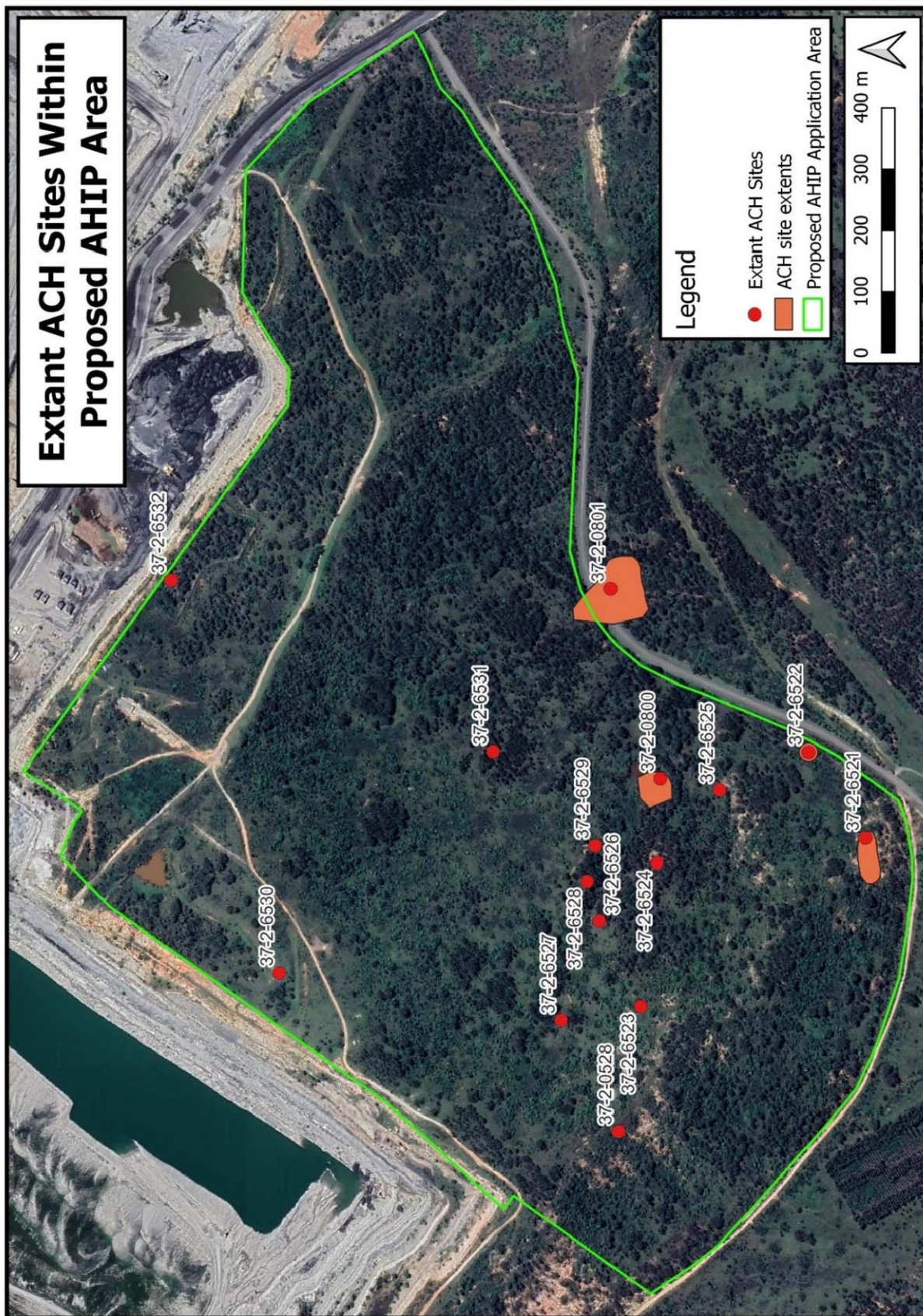
Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Restricted access (Y/N)	Easting	Northing	Datum
Whole	37-2-6523	Artefact	HVOCP TR115-IF1	N	308030	6405713	GDA 56
Whole	37-2-6524	Artefact	HVOCP TR116-AS1	N	308264	6405686	GDA 56
Whole	37-2-6525	Artefact	HVOCP TR116-IF1	N	308383	6405584	GDA 56
Whole	37-2-6526	Artefact	HVOCP TR116-IF2	N	308169	6405780	GDA 56
Whole	37-2-6527	Artefact	HVOCP TR116-IF3	N	308007	6405843	GDA 56
Whole	37-2-6528	Artefact	HVOCP TR117-IF1	N	308234	6405800	GDA 56
Whole	37-2-6529	Artefact	HVOCP TR117-IF2	N	308292	6405787	GDA 56
Whole	37-2-6530	Artefact	HVOCP TR118-IF1	N	308084	6406302	GDA 56
Whole	37-2-6531	Artefact	HVOCP TR123-IF1	N	308446	6405954	GDA 56
Whole	37-2-6532	Artefact	HVOCP TR129-AS1	N	308726	6406479	GDA 56

*Note – in this context “part” means “that part of the site that is within the land to which this Aboriginal Heritage Impact Permit applies”

C2. Areas where Harm of Aboriginal Objects is Authorised

- All Aboriginal objects in, on or under the and which is identified on the Land to which this Aboriginal Heritage Impact Permit applies, Attachment 1.

Attachment 1: Land to which this Aboriginal Heritage Impact Permit applies



Appendix A: Dictionary

In this Aboriginal Heritage Impact Permit, unless the contrary is indicated, the terms below have the following meanings:

Aboriginal object	has the same meaning as in the National Parks and Wildlife Act 1974
NPW Act	means the National Parks and Wildlife Act 1974
AHIMS	means the Aboriginal Heritage Information Management System maintained by Heritage NSW, as defined in section 90Q of the National Parks and Wildlife Act
AHIP	means Aboriginal Heritage Impact Permit
Aboriginal Heritage Impact Permit holder	means the entity or person listed on the cover page under the heading “Aboriginal Heritage Impact Permit 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
DCCEEW	Department of Climate Change, Energy, the Environment and Water
No-harm area	means those areas described in relevant schedule
Proposed works	means the works described in the table at the front of this Aboriginal Heritage Impact Permit under “Brief description of proposal.”
Public register	means the public register established under section 188F of the National Parks and Wildlife Act, that contains details of Aboriginal Heritage Impact Permits issued by Heritage NSW, as described under the heading “Information about this Aboriginal Heritage Impact Permit”
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 Aboriginal Heritage Impact Permit. 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 Aboriginal Heritage Impact Permit. 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