

Aboriginal Heritage Impact Permit

Section 90 of the National Parks and Wildlife Act 1974



Office of
Environment
& Heritage

AHIP number: C0000623

(AHIMS Permit ID: 3765)

AHIP Issued To:

Liddell Coal Operations Pty Ltd
PO Box 7
SINGLETON NSW 2330

OEH Office issuing this AHIP

Office of Environment and Heritage

Regional Operations

Hunter Central Coast Region

PO Box 488G

NEWCASTLE NSW 2300

Telephone number: (02) 4908 6800

Fax number: (02) 4908 6810

Additional details for public register

a) Name of development or project	Liddell Coal Operations Development Modification 5 (DA 305-11-01)
b) Location	Lot 32 DP 545601; Lot 354 DP 867083; Lot 353 DP 867083; Lot 1 DP 237766; Lot 23 DP 841165; Lot 100 DP 858173; Lot 32 DP 870789; Lot 31 DP 870789; Lot 24 DP 841165; Lot 36 DP 862516; Lot 33 DP 862516; Lot 1 DP 48536; Lot 102 DP 1103268; Lot 2 DP 48536; Lot 35 DP 862516; Lot 225 DP 752470; Lot 81 DP 607296. Liddell Coal Operations Old New England Highway RAVENSWORTH NSW 2330
c) Local Government Area(s)	Singleton and Muswellbrook LGA's
d) Description of harm authorised	• Community collection • Harm to certain Aboriginal objects through the proposed works • Harm to all unknown Aboriginal objects within the AHIP Application Area.
e) AHIP commencement date and duration	<u>Commencement:</u> 3 December 2014 <u>Duration:</u> 10 Years

AHIP TO HARM ABORIGINAL OBJECTS

A. Background

- (i) On 20 October 2014 an application was made to the Chief Executive of the Office of Environment and Heritage (OEH) for an Aboriginal Heritage Impact Permit (AHIP) pursuant to s.90 of the *National Parks and Wildlife Act 1974* (the Act).
- (ii) The AHIP application is in relation to fifteen (15) AHIMS registered sites that will be impacted by the proposed Development Modification 5 for Liddell Coal Operations (DA 305-11-01).
- (iii) 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) Ten (10) years from the date of commencement, that is, until **3 December 2024**.

D. Proposed Works

The key components of the proposed mine modification works include the following:

- Extension of the South and Entrance Pits to the south east, and, upon completion of mining in these pits, the mining of coal resources under the Mine Infrastructure Area (MIA) during which the MIA would be relocated to a temporary facility.
- The extension of open cut mining activities would lead to an associated extension of the life of mine at Liddell Coal Operations (LCO) from 2023 to 2028.
- An additional tailings emplacement area would be constructed within the final void of the South Pit to dispose of the additional tailings associated with the extension of open cut mining activities.
- Coal would continue to be processed at the LCO Coal Handling and Preparation Plant (CHPP) at the approved rate of up to 8 Mtpa. As a contingency for coal processing, LCO also propose to deliver up to 1.5 Mtpa of this ROM coal to the Ravensworth Central Coal Processing Facility (RCCP) for washing via a new connection to the existing overland conveyor or the road transport route to RCCP. In addition, up to 2 Mtpa may be received from the adjacent Mt Owen Complex for processing via a new connection to the existing overland conveyor.
- Infrastructure and auxiliary surface disturbance to support the new mining areas would also be required, including but not limited to, power lines, water management infrastructure and haul roads.

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- The proposed works lie wholly within both the existing development consent boundary and the mining lease ML 1597 boundary. No further changes are proposed to that already approved by DA 305-11-01 including operating hours, coal handling techniques and mining methods.

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.

RICHARD BATH

Senior Team Leader Planning, Hunter Central Coast Region

Regional Operations

(By Delegation)

DATED: 3 December 2014

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LAND TO WHICH THIS AHIP APPLIES

The land to which this AHIP applies is shown in Figure (1) The lands to which this AHIP applies - AHIP extent for the Liddell Coal Operations Development Modification 5 (DA 305-11-01), Liddell Coal Operations, Old New England Highway, RAVENSWORTH NSW 2330, and which covers the following lots: Lot 32 DP 545601; Lot 354 DP 867083; Lot 353 DP 867083; Lot 1 DP 237766; Lot 23 DP 841165; Lot 100 DP 858173; Lot 32 DP 870789; Lot 31 DP 870789; Lot 24 DP 841165; Lot 36 DP 862516; Lot 33 DP 862516; Lot 1 DP 48536; Lot 102 DP 1103268; Lot 2 DP 48536; Lot 35 DP 862516; Lot 225 DP 752470; Lot 81 DP 607296 (as shown on page 14 of this AHIP).

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.

Community collection

7. The Registered Aboriginal Parties must be provided with an opportunity to collect Aboriginal objects within the 'community collection areas' described in Schedule B3, and shown on Figure 2 Community Collection Area (West) and Figure 3 Community Collection Area (East) (page 15 and 16 of this AHIP)

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8. The opportunity for community collection must be provided:
 - (a) in accordance with:
 - (i) *Development Application Modification 5 - AHIP Application & Supporting Document, Liddell Coal Operations, Singleton Local Government Area, July 2014*, Report Prepared by OzArk Environmental & Heritage Management Pty Ltd, for Liddell Coal Operations Pty Ltd, and
 - (ii) *Liddell Coal Operations, Aboriginal Cultural Heritage Management Plan, Version 2.6, November 2014*, Report Prepared by OzArk Environmental & Heritage Management Pty Ltd, for Liddell Coal Operations Pty Ltd, that was provided with the application.
 - (b) before any harm of Aboriginal objects described in Schedule C can commence in the area.
9. Aboriginal objects that are recovered during the community collection may be analysed on-site and/or may be taken off-site for further analysis as decided by the Registered Aboriginal Parties.
10. If an opportunity for community collection has been provided and this collection does not occur, the AHIP holder may proceed with any actions to harm Aboriginal objects described in Schedule C, in accordance with the conditions of this AHIP.

Harm of certain Aboriginal objects through the proposed works

11. 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').
12. Aboriginal objects described in Schedule C must not be harmed unless:
 - (i) all opportunities for community collection of Aboriginal objects described in Schedule B3 have been provided in the area.

Temporary storage of certain Aboriginal objects

13. 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 location in the table below, pending any agreement reached about the long term management of the Aboriginal objects.
14. The temporary storage location is as follows:

Location name:	Liddell Coal Operations
Address:	Old New England Highway RAVENSWORTH NSW 2330
Storage particulars:	Storage on-site in a suitable location as agreed to in consultation with the Registered Aboriginal Parties.

15. Care Agreement(s) may be applied for by the Registered Aboriginal Parties for temporary storage and management of certain Aboriginal objects for educational purposes prior to reburial. Any Care Agreement(s) need to be negotiated in consultation with all Registered Aboriginal Parties.
16. Any Aboriginal objects stored at the temporary storage location must not be further harmed, except in accordance with the conditions of this AHIP.

Long term management of certain Aboriginal objects

17. When appropriate, all Aboriginal objects collected under this AHIP are to be reburied in accordance 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: www.environment.nsw.gov.au/licences/archinvestigations.htm) at a location to be determined in consultation with the Registered Aboriginal Parties.

Notification and Reporting Conditions

Notification of commencement and completion of actions

18. Written notice must be provided to the OEH office at least 7 days prior to the commencement of actions authorised by this AHIP.
19. 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

20. A copy of this AHIP must be provided to each Registered Aboriginal Party, within 14 days of receipt of the AHIP from OEH.
21. 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

22. If any human remains 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

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

24. 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

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- (e) the measures which have been taken or will be taken to prevent a recurrence of the incident.
25. The incident report must be provided to the OEH office within the timeframe specified in the request.

Provision of Aboriginal Site Impact Recording Form

26. 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 6 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:
www.environment.nsw.gov.au/licences/DECCAHIMSSiteRecordingForm.htm
- (ii) Contact details for the AHIMS Registrar can be found on the OEH website:
www.environment.nsw.gov.au/contact/AHIMSRegistrar.htm

General Conditions

Indemnity

27. The AHIP holder agrees to indemnify and keep indemnified, the Crown in right of NSW, the Minister administering the Act, the Chief Executive 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

28. 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 Chief Executive 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

29. 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, as specified by the conditions of this AHIP.

A2 Aboriginal objects that are identified on AHIMS

N/A

A3 No-harm areas

N/A

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

B1 Movement only

N/A

B2 Test/Salvage excavations

N/A

B3 Community collection

Community collection may be carried out in the area on Figure 2 Community Collection Area (West) and Figure 3 Community Collection Area (East) (page 15 and 16 of this AHIP) and only in accordance with the conditions of this AHIP.

The community collection area includes the following known Aboriginal objects, as identified on AHIMS:

Portion of Site (whole or part)	AHIMS Site ID	Site Feature	Site Name	Information access restriction? (Y/N)	Easting	Northing	Datum
Whole	37-3-1137	Artefact Scatter	LID ES2	No	316154	6413852	GDA
Partial	37-3-1136	Artefact Scatter	LID ES1	No	316057	6414006	GDA

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Partial	37-3-0452	Artefact Scatter	LID 3 with PAD	No	315680	6414483	GDA
Partial	37-3-1150	Artefact Scatter	LID 34 with PAD	No	316379	6413975	GDA
Whole	37-3-1159	Artefact Scatter	LIDEE-OS1	No	315444	6413001	GDA
Whole	37-3-1168	Artefact Scatter	LIDEE-OS2	No	315467	6413555	GDA
Whole	37-3-1160	Isolated Find	LIDEE-IF1	No	315395	6413071	GDA
Whole	37-3-1169	Isolated Find	LIDEE-IF2	No	315500	643147	GDA
Whole	37-3-0419	Artefact Scatter	Rav 24 east	No	315867	6413228	GDA
Whole	37-3-1152	Artefact Scatter	LID 36	No	315653	6413108	GDA
Whole	37-3-1151	Artefact Scatter	LID 35	No	315332	6413283	GDA
Whole	37-3-1167	Artefact Scatter	LIDSE OS1	No	313970	6413562	GDA
Whole	37-3-0430	Artefact Scatter	LID 27	No	315654	6413994	GDA

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Whole	37-3-0463	Artefact Scatter	LID 33	No	314907	6412391	GDA
Whole	37-3-0037	Artefact Scatter	Ravensworth A	No	314770	6412718	GDA

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.

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
Whole	37-3-1137	Artefact Scatter	LID ES2	No	316154	6413852	GDA
Partial	37-3-1136	Artefact Scatter	LID ES1	No	316057	6414006	GDA
Partial	37-3-0452	Artefact Scatter	LID 3 with PAD	No	315680	6414483	GDA
Partial	37-3-1150	Artefact Scatter	LID 34 with PAD	No	316379	6413975	GDA
Whole	37-3-1159	Artefact Scatter	LIDEE-OS1	No	315444	6413001	GDA
Whole	37-3-1168	Artefact Scatter	LIDEE-OS2	No	315467	6413555	GDA

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Whole	37-3-1160	Isolated Find	LIDEE-IF1	No	315395	6413071	GDA
Whole	37-3-1169	Isolated Find	LIDEE-IF2	No	315500	643147	GDA
Whole	37-3-0419	Artefact Scatter	Rav 24 east	No	315867	6413228	GDA
Whole	37-3-1152	Artefact Scatter	LID 36	No	315653	6413108	GDA
Whole	37-3-1151	Artefact Scatter	LID 35	No	315332	6413283	GDA
Whole	37-3-1167	Artefact Scatter	LIDSE OS1	No	313970	6413562	GDA
Whole	37-3-0430	Artefact Scatter	LID 27	No	315654	6413994	GDA
Whole	37-3-0463	Artefact Scatter	LID 33	No	314907	6412391	GDA
Whole	37-3-0037	Artefact Scatter	Ravensworth A	No	314770	6412718	GDA

C2 Areas where harm of Aboriginal objects is authorised

All Aboriginal objects in, on or under the land which is identified on – Figure (1) The land to which this AHIP applies AHIP extent for the Liddell Coal Operations Development Modification 5 (DA 305-11-01), Liddell Coal Operations, Old New England Highway, RAVENSWORTH NSW 2330, and which covers the following lots: Lot 32 DP 545601; Lot 354 DP 867083; Lot 353 DP 867083; Lot 1 DP 237766; Lot 23 DP 841165; Lot 100 DP 858173; Lot 32 DP 870789; Lot 31 DP 870789; Lot 24 DP 841165; Lot 36 DP 862516; Lot 33 DP 862516; Lot 1 DP 48536; Lot 102 DP 1103268; Lot 2 DP 48536; Lot 35 DP 862516; Lot 225 DP 752470; Lot 81 DP 607296 (as shown on page 14 of this AHIP).

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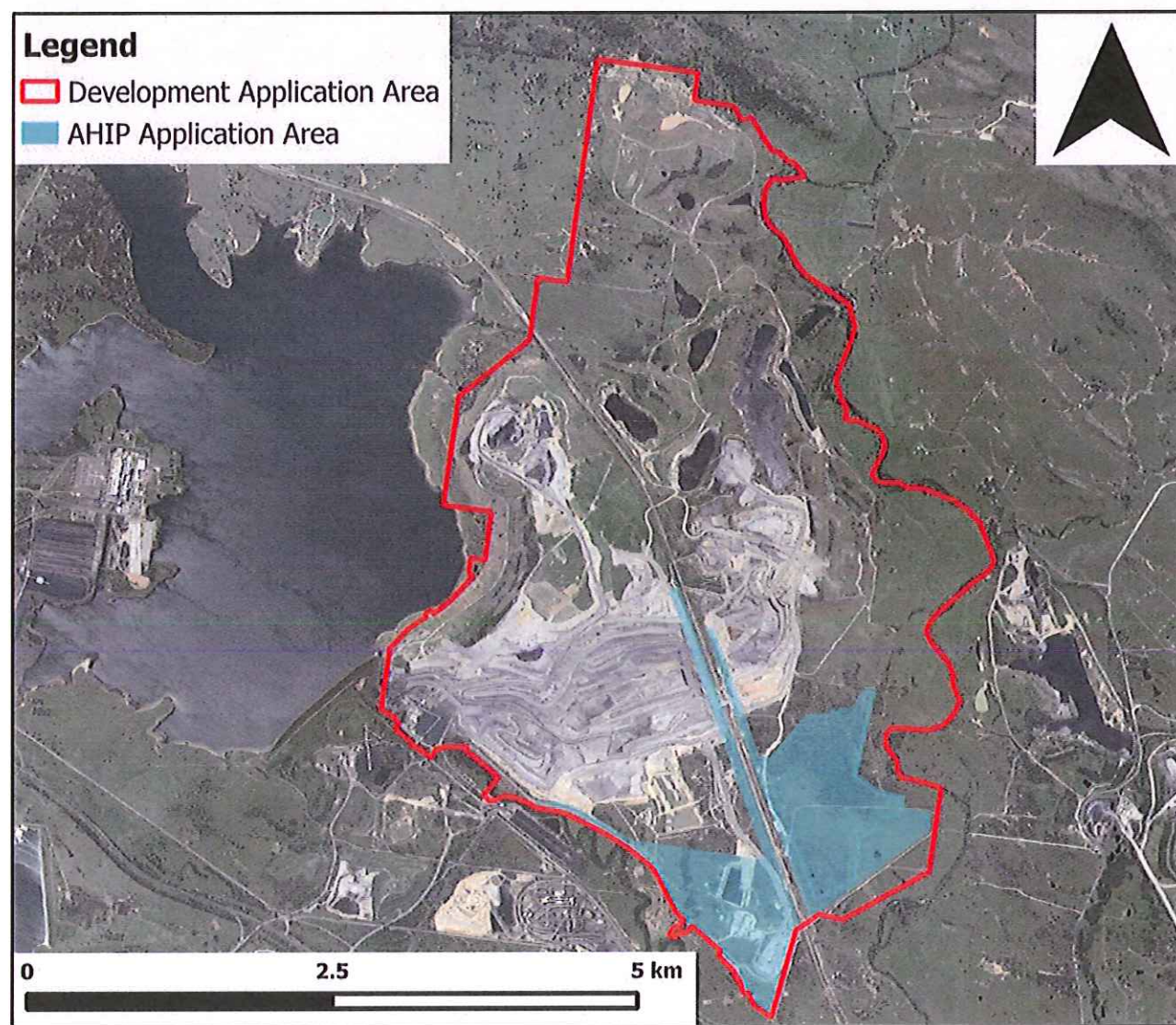
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Figure (1)

The land to which this AHIP applies - AHIP extent for the Liddell Coal Operations Development Modification 5 (DA 305-11-01), Liddell Coal Operations, Old New England Highway, RAVENSWORTH NSW 2330, and which covers the following lots: Lot 32 DP 545601; Lot 354 DP 867083; Lot 353 DP 867083; Lot 1 DP 237766; Lot 23 DP 841165; Lot 100 DP 858173; Lot 32 DP 870789; Lot 31 DP 870789; Lot 24 DP 841165; Lot 36 DP 862516; Lot 33 DP 862516; Lot 1 DP 48536; Lot 102 DP 1103268; Lot 2 DP 48536; Lot 35 DP 862516; Lot 225 DP 752470; Lot 81 DP 607296.



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Figure (2)

Community Collection Area - West

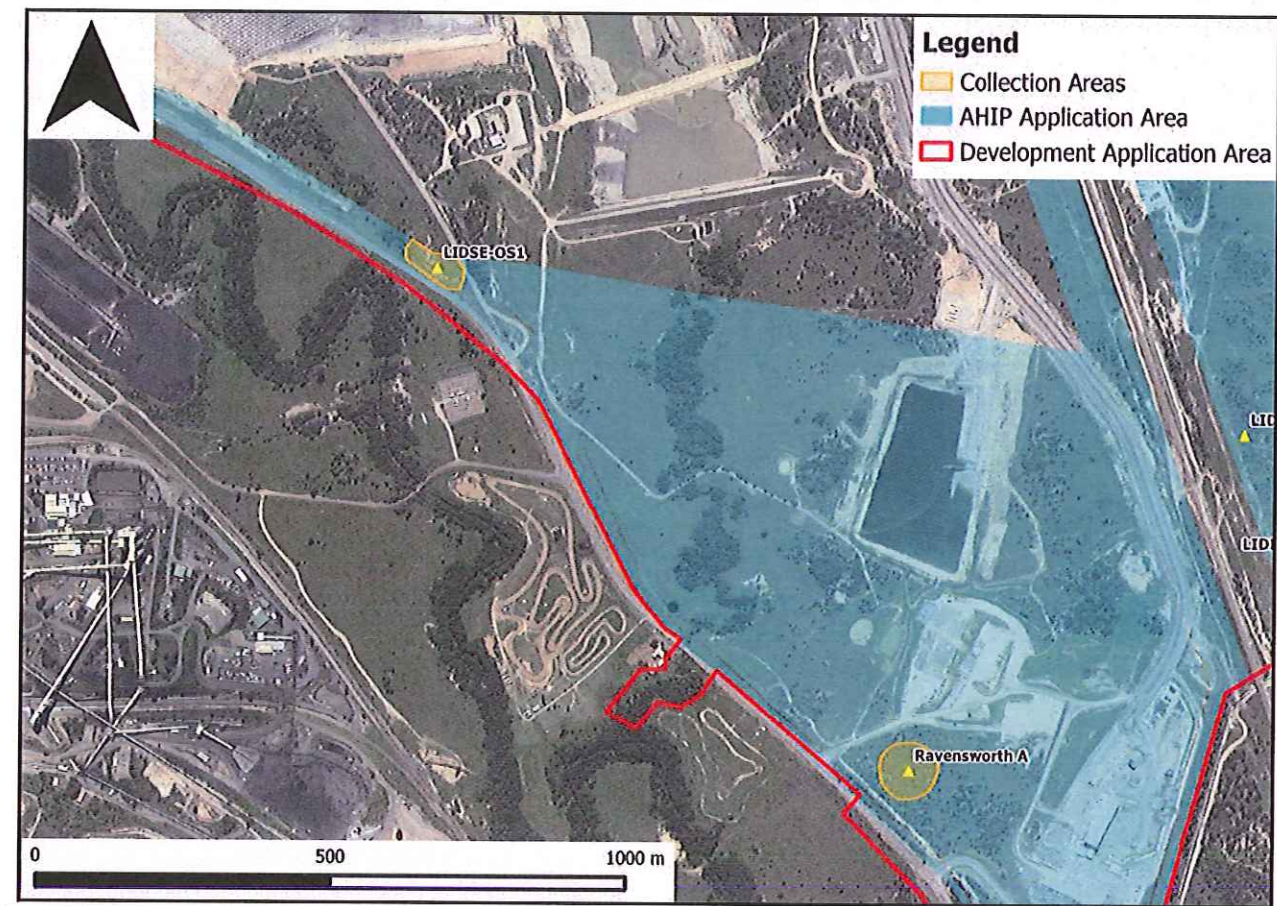
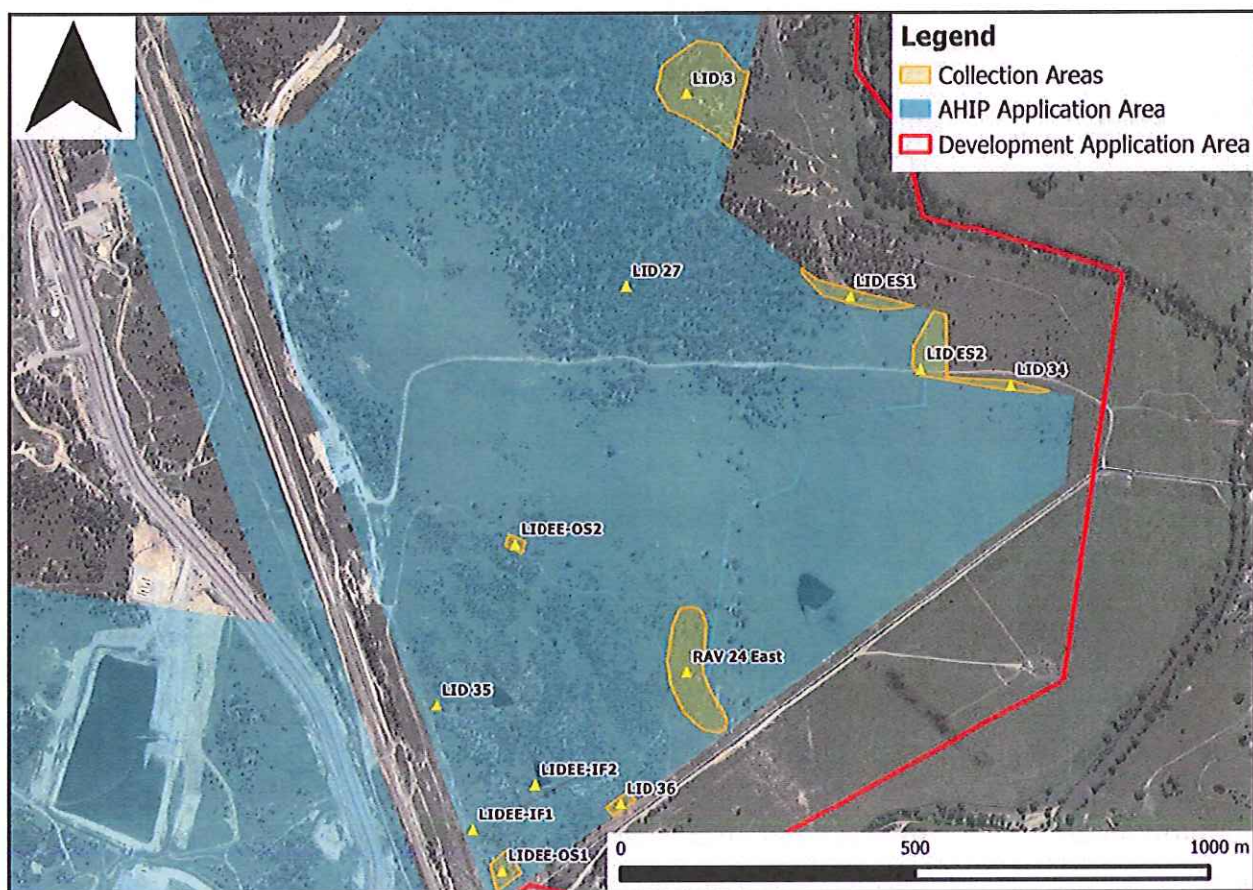


Figure (3)

Community Collection Area – East



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
Chief Executive	means Chief Executive of the Office of Environment and Heritage (NSW)
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 (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 Chief Executive of OEH, as described under the heading "Information about this AHIP".
Registered Aboriginal Parties	means the 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 Schedule B2.

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- 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 Chief Executive of OEH 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 Chief Executive of OEH 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.

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.

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

