

Issue of Aboriginal Heritage Impact Permit



**Office of
Environment
& Heritage**

National Parks and Wildlife Act 1974 (NPW Act)

Your reference:

Our reference: AHIMS No. / FIL11/11863

Notice number: 1131344

Contact: Fran Scully (02) 9995 6830

PENRITH LAKES DEVELOPMENT CORPORATION LTD,
ABN 46 000 133 951,
PO BOX 457,
CRANEBROOK NSW 2749
STANDARD POST

NOTICE OF THE ISSUE OF ABORIGINAL HERITAGE IMPACT PERMIT 1131345

Issued pursuant to section 90C(4) of the *National Parks and Wildlife Act 1974*

BACKGROUND

- A. PENRITH LAKES DEVELOPMENT CORPORATION LTD (the applicant) applied to the Office of Environment and Heritage, Department of Premier and Cabinet (OEH) under section 90A of the *National Parks and Wildlife Act 1974* (the NPW Act) for an Aboriginal Heritage Impact Permit (AHIP). The AHIP application was in relation to the completion of the Penrith Lakes Scheme landforms, remediation and associated infrastructure.
- B. OEH received the application on 10-Nov-2011 and further information was received on 24 November 2011, 30 November 2011 and 2 December 2011.

ISSUE OF ABORIGINAL HERITAGE IMPACT PERMIT

- 1. OEH has considered the application and supporting information provided, and matters under section 90K of the NPW Act and has decided to issue an AHIP 1131345 subject to conditions.
- 2. The AHIP is attached.
- 3. You should read the AHIP carefully and ensure you comply with its conditions.

It is an offence under section 90J NPW Act to fail to comply with the conditions of the AHIP. The maximum penalty that a court may impose on a corporation for failing to comply with this AHIP is \$1.1m. OEH can also issue penalty notices for this offence.

Notice number 1131344

Issue of Aboriginal Heritage Impact Permit



Office of
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& Heritage

National Parks and Wildlife Act 1974 (NPW Act)

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S. Harrison
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Ms Susan Harrison
Acting Manager Planning & Aboriginal Heritage

Section

Metropolitan
(by Delegation)

Date: 12-Dec-2011

INFORMATION ABOUT THIS NOTICE

- Details provided in this notice will be available on OEH's Public Register in accordance with section 188F of the National Parks and Wildlife Act 1974.

Variation of this AHIP

- This AHIP may only be varied on application by the AHIP holder or by OEH to correct typographical errors or resolve inconsistencies between conditions of the AHIP. A permit can only be varied by subsequent variation notices.

Appeals against this decision

You can appeal to the Land and Environment Court against this decision. The deadline for lodging the appeal is 21 days after you were given notice of this decision.

Aboriginal Heritage Impact Permit

Section 90 of the National Parks and Wildlife Act 1974



Office of
Environment
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AHIP number: 1131345

(AHIMS Permit ID:)

AHIP Issued To:

PENRITH LAKES DEVELOPMENT CORPORATION LTD,
ABN 46 000 133 951,
PO BOX 457,
CRANEBROOK NSW 2749
STANDARD POST

OEH Office issuing this AHIP

Office of Environment and Heritage
Department of Premier and Cabinet (NSW)
Environment Protection and Regulation Group (EPRG)
Metropolitan Branch
PO Box 668
Parramatta
NSW 2124
Telephone number: (02) 9995 6830
Fax number: (02) 9995 6900

Additional details for public register

a) Name of development or project	Penrith Lakes Scheme
b) Location	Penrith Lakes
c) Local Government Area(s)	Penrith
d) Description of harm authorised	<ul style="list-style-type: none">Harm to certain Aboriginal objects through the proposed works
e) AHIP commencement date and duration	<i>Commencement:</i> 12-Dec-2011 <i>Duration:</i> 7 years

AHIP TO HARM ABORIGINAL OBJECTS

A. Background

- (i) On 10-Nov-2011 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).
- (ii) The purpose of the application is to allow impact to any Aboriginal object that may remain within the Penrith Lakes Scheme, excluding the non-quarry areas, in the course of the completion of the Penrith Lakes Scheme landforms, remediation and associated infrastructure.
- (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 **7 years** from the date of commencement

D. Proposed Works

Post-extraction landforming, remediation and associated infrastructure.

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.



Ms Susan Harrison
Acting Manager Planning & Aboriginal Heritage Section
Metropolitan
(by Delegation)

DATED: 12-Dec-2011

Aboriginal Heritage Impact Permit

Section 90 of the National Parks and Wildlife Act 1974



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LAND TO WHICH THIS AHIP APPLIES

The yellow hatched area as shown in **Attachment 1: Map of the land to which this AHIP applies** with co-ordinates in **Attachment 2: AHIP boundary co-ordinates**

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, OEHL 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

Harm of certain Aboriginal objects through the proposed works

6. 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').

Notification and Reporting Conditions

Notification of commencement and completion of actions

7. Written notice must be provided to the OEH office at least **7 days** prior to the commencement of actions authorised by this AHIP.
8. 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

9. A copy of this AHIP must be provided to each Registered Aboriginal Party, within **14 days** of receipt of the AHIP from OEH.
10. 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

11. 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

12. 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

13. 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.
14. The incident report must be provided to the OEH office within the timeframe specified in the request.

General Conditions

Indemnity

15. 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

16. 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

17. 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

Not applicable

A3 No-harm areas

Not applicable

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

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 AHIP (excluding any Aboriginal objects described in Schedule A).

C1 Harm of Aboriginal objects identified on AHIMS

Not applicable

C2 Areas where harm of Aboriginal objects is authorised

All Aboriginal objects in, on or under the land, as shown in the yellow hatched area as shown in **Attachment 1: Map of the land to which this AHIP applies** with co-ordinates in **Attachment 2: AHIP boundary co-ordinates**

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.
Salvage excavation	means an archaeological excavation carried out in accordance with the methodology accompanying the application, as modified by the

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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.

Duration of AHIP

AHIP number: 1131345

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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.



Legend
 AHIP Application Boundary

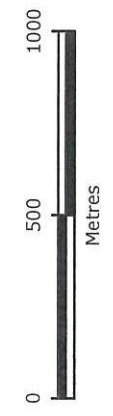


Map 2 - AHIP Boundary
 PLDC Ref.:11149

28 October 2011
 For Legal Review

Checked by: Dani Drewry

Approved by: Dani Drewry



Disclaimer
 The information contained in and by this map has been compiled from various sources and may contain errors or omissions. No warranty or representation, expressed or implied, is made with respect to the accuracy of this information or its suitability for any purpose.

ATTACHMENT 1:- MAP OF THE LAND TO WHICH THIS AHIP APPLIES
(Yellow Hatched Area)

J:\Projects\Precinct_Scheme\Heritage\Aboriginal\HeritageImpactPermit\111025_ps_HeritageSoilDisturbances.mxd

AHIP Boundary Coordinates

Point #	Easting	Northing	Description
299	283570.12	6265315.05	BDY
300	283464.16	6265155.94	BDY
301	283378.91	6265218.31	BDY
302	283317.59	6265285.15	BDY
303	283275.77	6265338.92	BDY
304	283383.38	6265369.50	BDY
305	283424.51	6265646.16	BDY
306	283436.11	6265820.90	BDY
307	283426.69	6265818.56	BDY
308	283368.30	6265858.32	BDY
309	283339.74	6265890.95	BDY
310	283293.84	6265992.95	BDY
311	283260.18	6266007.23	BDY
312	283225.50	6266013.35	BDY
313	283223.46	6266027.63	BDY
314	283034.38	6266045.23	BDY
315	283036.19	6266058.23	BDY
316	283005.93	6266170.77	BDY
317	283006.20	6266191.48	BDY
318	283085.88	6266194.02	BDY
319	283151.98	6266191.55	BDY
320	283159.96	6266209.48	BDY
321	283201.38	6266203.29	BDY
322	283209.68	6266175.98	BDY
323	283176.55	6266168.38	BDY
324	283207.15	6266107.18	BDY
325	283202.05	6266035.79	BDY
326	283190.24	6266022.98	BDY
327	284575.41	6271624.22	BDY
328	284699.68	6271618.03	BDY
329	284654.28	6271309.95	BDY
330	284728.28	6271298.81	BDY
331	284684.85	6270989.00	BDY
332	284663.22	6270991.62	BDY
333	284635.39	6270793.84	BDY
334	284936.06	6270752.02	BDY
335	284939.26	6270718.38	BDY
336	284869.74	6270727.87	BDY
337	284814.40	6270390.56	BDY
338	284839.64	6270035.65	BDY
339	284693.37	6270057.57	BDY
340	284670.54	6270077.97	BDY
341	284648.03	6270086.07	BDY
342	284598.48	6270587.40	BDY
343	284609.32	6270603.50	BDY
344	284607.87	6270623.67	BDY
345	284594.47	6270628.01	BDY
346	284540.95	6271169.50	BDY
347	284533.47	6271321.13	BDY
348	284535.67	6271405.91	BDY
349	284566.70	6271617.02	BDY
350	284915.96	6269579.32	BDY
351	285060.53	6269558.45	BDY
352	285082.85	6269538.66	BDY
353	285232.52	6269434.88	BDY
354	285308.54	6269369.24	BDY
355	285328.46	6269359.02	BDY
356	285334.25	6269352.28	BDY
357	285461.58	6269303.75	BDY
358	285532.49	6269274.21	BDY
359	285586.84	6269244.66	BDY
360	285633.81	6269210.02	BDY
361	285672.98	6269173.15	BDY
362	285704.42	6269152.25	BDY
363	285772.14	6269100.55	BDY
364	285761.35	6269080.78	BDY
365	285791.60	6269053.85	BDY
366	285861.95	6268998.90	BDY
367	285824.25	6268993.34	BDY
368	285750.23	6269046.12	BDY
369	285677.03	6269093.59	BDY
370	285620.37	6269127.52	BDY
372	285620.21	6269179.57	BDY
373	285588.80	6269190.97	BDY

Point #	Easting	Northing	Description
374	285558.32	6269208.53	BDY
375	285510.96	6269231.47	BDY
376	285389.41	6269285.53	BDY
377	285318.29	6269321.72	BDY
378	285261.74	6269356.11	BDY
379	285204.46	6269393.38	BDY
380	285165.76	6269414.46	BDY
381	285130.99	6269435.52	BDY
382	285096.21	6269456.58	BDY
383	285052.55	6269483.67	BDY
384	285008.40	6269506.79	BDY
385	284960.20	6269543.20	BDY
386	284911.99	6269579.61	BDY
387	286269.58	6268562.67	BDY
388	286313.87	6268555.48	BDY
389	286309.31	6268520.19	BDY
390	286464.22	6268652.46	BDY
391	286603.58	6268633.14	BDY
392	286547.90	6268230.56	BDY
393	286564.43	6268228.38	BDY
394	286545.76	6268210.90	BDY
395	286536.29	6268205.58	BDY
396	286517.35	6268286.73	BDY
397	286456.47	6268260.92	BDY
398	286402.28	6268371.47	BDY
399	286364.38	6268425.77	BDY
400	286312.39	6268490.97	BDY
401	286571.99	6268178.00	BDY
402	286616.17	6268082.16	BDY
403	286722.83	6267897.37	BDY
404	286753.34	6267785.15	BDY
405	286746.65	6267462.79	BDY
406	286554.09	6267487.48	BDY
407	286542.72	6267408.15	BDY
408	286458.49	6267420.38	BDY
409	286437.87	6267274.33	BDY
410	286485.26	6267267.61	BDY
411	286480.69	6267232.24	BDY
412	286504.84	6267228.82	BDY
413	286474.60	6266994.39	BDY
414	286596.98	6266976.44	BDY
415	286593.96	6266952.11	BDY
416	286618.07	6266948.67	BDY
417	286567.86	6266571.60	BDY
418	286545.51	6266573.51	BDY
419	286508.33	6266768.91	BDY
420	286509.55	6266776.86	BDY
421	286592.84	6266799.94	BDY
422	286601.43	6266865.44	BDY
425	286555.12	6266822.71	BDY
426	286506.59	6266850.59	BDY
427	286494.59	6266860.92	BDY
428	286485.91	6266905.09	BDY
429	286479.37	6266917.15	BDY
430	286455.60	6267038.78	BDY
431	286459.85	6267047.19	BDY
432	286439.95	6267144.21	BDY
433	286424.55	6267223.68	BDY
435	286411.70	6267278.03	BDY
438	286415.83	6267331.75	BDY
439	286413.57	6267364.67	BDY
440	286413.05	6267403.65	BDY
441	286415.20	6267426.67	BDY
443	286415.91	6267466.77	BDY
444	286424.21	6267511.94	BDY
446	286491.37	6267813.20	BDY
447	286498.96	6267852.34	BDY
448	286505.45	6267902.62	BDY
449	286509.32	6267984.76	BDY
450	286507.30	6268043.69	BDY
451	286503.36	6268085.82	BDY
452	286511.71	6268101.33	BDY
455	286537.26	6268154.35	BDY