

Your reference :
Our reference : 06/06607
Contact : Lou Ewins 9995 6802

Glenn Colquhoun
Australand Holdings Limited
Shell Cove Office
PO Box A148
SHELLHARBOUR NSW 2529

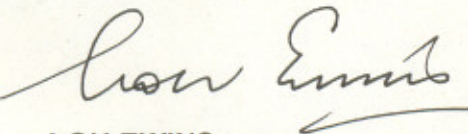
Dear Glenn,

RE: Consent and Permit #2534 for Shell Cove Boatharbour/Marina Development

Enclosed is s.90 consent and permit #2534, granted to Australand Corporation (NSW Pty Limited) for the Shell Cove Boatharbour/Marina development. The development will partially impact Aboriginal shell midden 52-5-0207 and will completely impact stone artefact scatters 52-5-0436, 52-5-0437 and 52-5-0438. The consent applies to these known Aboriginal sites/objects as well as any other Aboriginal sites/objects present within the development area as detailed in the consent, excluding human skeletal remains.

Please note the conditions attached to this consent and permit. In particular please note those conditions relating to the salvage and monitoring requirements and the ongoing management of the portion of Aboriginal shell midden 52-5-0207 which is to be conserved. You should also note the date of expiry for this Consent and Permit, being eighteen (18) years from date of issue.

Yours sincerely

 29.09.06

LOU EWINS
Manager
Planning & Aboriginal Heritage
Metropolitan Region
Environment Protection and Regulation





CONSENT AND PERMIT # 2534

CONSENT AND PERMIT TO COLLECT

CONSENT TO CARRY OUT THE DESTRUCTION OF AN ABORIGINAL OBJECT/PLACE AND PERMIT TO COLLECT AND/OR EXCAVATE FOR THE PURPOSE OF SALVAGE

Background

An application has been made to the Director-General of the Department of Environment and Conservation by:

Australand Corporation (NSW) Pty Limited ACN 001 022 117

of (address in full):

Level 3, 1C Homebush Bay Drive, Rhodes NSW 2138

for a permit pursuant to section 87 of the *National Parks and Wildlife Act 1974* ("the Act") to disturb and move Aboriginal objects for the purpose of salvage and also a consent pursuant to section 90 the Act to destroy, damage or deface Aboriginal objects in the course of development activities associated with the **Shell Cove Boatharbour/Marina Project**.

Permit and consent granted subject to conditions

NOW I, Lou Ewins, Manager Planning & Aboriginal Heritage Section, Metropolitan Branch of the Department of Environment and Conservation, grant to Australand Corporation (NSW) Pty Ltd ("the proponent"):

(a) pursuant to Section 87 of the Act, a PERMIT for the disturbance and excavation of land described in Schedule C for the purpose of discovering Aboriginal objects and the disturbance and movement of certain Aboriginal objects identified in Schedule A on the land described in Schedule C, for the purpose of salvage; AND

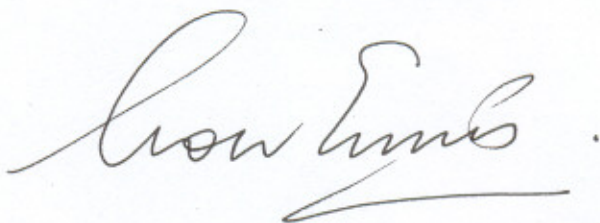
(b) pursuant to Section 90 of the Act, CONSENT to destroy, damage or deface the remaining Aboriginal objects identified in Schedule A on the land described in Schedule C, following the salvage described in paragraph (a) above;

but only in accordance with all of the conditions of this permit and consent.

TERMS AND CONDITIONS OF THIS PERMIT AND CONSENT

This Permit and Consent are issued subject to the conditions specified below.

DATED at Sydney this *29th* day of *September* 2006

A handwritten signature in black ink, appearing to read "Lou Ewins", with a long horizontal flourish extending to the right.

Lou Ewins
Manager Planning & Aboriginal Heritage Section
Metropolitan Branch
Environment Protection and Regulation Division
Department of Environment and Conservation
(by delegation)

SCHEDULE A: Aboriginal objects to which this permit and consent apply

All Aboriginal objects on the land described in Schedule C, including the following registered Aboriginal sites:

Site reference	Site description	Approximate eastings	Approximate northings
Shellharbour Beach (52-5-0207)	Shell midden, but only in relation to areas identified as being of relatively low or no archaeological value in Figure 20 (attached).	AMGe305110	AMGn6170090
SH1 (52-5-0436)	stone artefact scatter	AMGe304821	AMGn6170370
SH2 (52-5-0437)	stone artefact scatter and associated potential archaeological deposit	AMGe304138	AMGn6170238
SH3 (52-5-0438)	stone artefact scatter	AMGe304016	AMGn6170032

However, this permit and consent do not apply to the Aboriginal objects or sites described in Schedule B.

SCHEDULE B: Excluded Aboriginal objects or sites which must not be disturbed, moved, damaged, defaced or destroyed

Site reference	Site description	Approximate eastings	Approximate northings
Shellharbour Beach (52-5-0207)	Shell midden, in relation to areas identified as being of relatively high archaeological value in Figure 20 (attached). ("the Conservation Area")	AMGe305110	AMGn6170090
	All human skeletal material, wherever occurring		

SCHEDULE C: Land to which this permit and consent apply ("the land")

The land is the Shell Cove Boatharbour/Marina Project Area (identified within the red dotted boundary area shown on attached plan Drawing No. 4717-2-059), which is located south of Shellharbour township. The land is approximately 179 hectares and comprises the following titles (as well as the public roads and Crown road reserves within the external boundary):

Lot 206 DP 857030

Lots 8031 and 8032 DP 1072187

Lot 1168 DP 1076113

Lot 22 DP 1010797

Lot 74 DP 229374

Lot B DP 420074

Lot 1 DP 584291

Lot 2 DP 109304

Lot 82 DP 729172

Lots 1 and 2 DP 1022866

SPECIAL CONDITIONS RELATING TO PERMIT

1. The proponent must appoint either Johan Kamminga or Allan Lance (“the Archaeologist”) to oversee, for and on behalf of the proponent, the activities authorised by the permit, including salvage, monitoring and investigative works, unless an alternative person is approved in writing by the DEC office.

If an alternative person needs to be appointed whilst the permit remains in force, the proponent must advise the DEC office in writing of the name and relevant qualifications or experience of the individual that the proponent proposes to appoint as a replacement.

If, in the opinion of the DEC office, that person is unsuitable the proponent must provide, within 5 days of receiving a written request from the DEC, the details of 2 alternative individuals available to undertake this role and provide details of their name and relevant qualifications or experience.

2. Excavation works associated with the boatharbour/marina construction which will impact the portion of shell midden 52-5-207 referred to in Schedule A must be monitored by the Archaeologist and member(s) of the Aboriginal Community in accordance with the methodology outlined in the Archaeological and Heritage Protection Plan.
3. Aboriginal objects evident in artefact scatters 52-5-436 and 52-5-438 are to be collected by member(s) of the Aboriginal Community and the Archaeologist.
4. Monitoring of excavation works associated with the boatharbour/marina construction in the area of site 52-5-436 is to be undertaken by member(s) of the Aboriginal Community and the Archaeologist as described in the Archaeological and Heritage Protection Plan.
5. Stone artefact scatter 52-5-437 is to be salvaged in accordance with the methodology described in the Archaeological and Heritage Protection Plan.
6. The proponent must ensure that the following further measures are undertaken in regards to the salvage of 52-5-437:
 - Mechanical scrapes are to be undertaken where practicable along either side of the unnamed creek on which site 52-5-437 is situated and that drains into Shellharbour Swamp (“the Creek”), where site 52-5-437 occurs within the land.
 - The mechanical scrapes must where practicable extend along the entire length of the Creek banks near where site 52-5-437 occurs within the land in all areas where sediment that is likely to contain Aboriginal objects (to be determined by the Archaeologist) is present.
 - The initial scrapes either side of the Creek must be positioned as close to the edge of the Creek banks as practicable.
 - A series of scrapes must be undertaken to a minimum width of ten metres along the sides of the Creek where site 52-5-437 occurs.
 - If features of potential archaeological significance (such as dense stone artefact clusters) are encountered, the DEC must be contacted to determine whether additional mechanical scrapes, salvage and/or other management measures are required.
 - A summary report of the results of the salvage undertaken pursuant to this condition must be supplied by the supervising archaeologist to the DEC office following completion of the salvage works for review prior to any construction activities commencing in the vicinity of any registered site referred to in Schedule A.

7. Once any salvage/monitoring requirements have been fulfilled, any soils excavated from any of the registered Aboriginal sites listed in Schedule A during construction activities must be tagged to record their source. The purpose of this condition is to enable the tracking of soil which may contain Aboriginal objects.
8. Any Aboriginal objects recovered, being the property of the Crown, shall be deposited at The Australian Museum, in accordance with adopted procedures for the deposition of Aboriginal objects as prescribed by The Australian Museum, at or before a period of twelve months from the date of salvage of the objects. Information about deposition requirements can be obtained from the Aboriginal Archaeological Collections Manager, Division of Anthropology, The Australian Museum, on (02) 9320 6000.
9. At the same time that Aboriginal objects are deposited in the Australian Museum, a copy of any relevant reports, field notes, site plans, section drawings and relevant photographs, shall be deposited at The Australian Museum.
10. The proponent must furnish the DEC office with a report within twelve months of the completion of the salvage/monitoring work. The report must include:
 - a complete list of all Aboriginal objects recovered;
 - a detailed description of the methods of excavation/collection and analysis used;
 - a detailed plan of the site, including the location of collection areas, all trenches, auger holes and spoil heaps;
 - summary of consultation undertaken with the Aboriginal Community and any role that members of the Aboriginal Community played in monitoring, salvage or other activities on the land.

CONDITIONS APPLYING TO BOTH PERMIT AND CONSENT

Commencement

1. This permit and consent commence on the date this document was signed.

Duration of permit and consent

2. This permit and consent remain in force for 18 years from the date this document was signed.

Protection of human remains

3. If any human remains are located in, on or under the land, the proponent must:
 - (a) contact the local police so that the necessary investigations can be undertaken to establish whether it is a crime scene;
 - (b) not disturb or excavate these remains;
 - (c) immediately cease all work at the particular location;
 - (d) notify the DEC office 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 until authorised in writing by the DEC.

Protection of the Conservation Area (the excluded portion of shell midden 52-5-0207)

4. The Conservation Area must not be disturbed.
5. Vehicles must not be driven in the Conservation Area.
6. The Conservation Area must not be used to store plant, equipment or any materials, including fill.

7. Appropriate sediment and erosion controls must be installed in and operated to prevent any disturbance of Aboriginal objects in, on or under the Conservation Area, as described in the Archaeological and Heritage Protection Plan.
8. In relation to the most northerly cell of the Conservation Area shown on Figure 20 (adjoining the boatharbour entry excavation area) a fenced buffer zone of at least five metres must be maintained around the northerly cell of high archaeological value area. This portion of the Conservation Area must be protected in accordance with the management principles outlined in the Archaeological and Heritage Protection Plan and the further information regarding this matter sent by the proponent to DEC by letter dated 11 September 2006.
9. Once the protective measures for the Conservation Area outlined in the Archaeological and Heritage Protection Plan have been put in place the proponent must ensure that the Conservation Area is adequately protected. The proponent must inspect the condition of the midden on two (2) yearly basis and report back to the Aboriginal Community and the DEC in writing following the inspections. If, in the DEC office's opinion, the midden is suffering degradation then alternative protective measures must be developed in consultation with the Aboriginal Community and the DEC.

GENERAL TERMS AND CONDITIONS APPLYING TO BOTH PERMIT AND CONSENT

1. This permit and consent are not transferable.
 2. This permit and consent may be revoked at any time at the discretion of the Director-General.
 3. The terms and conditions of this Permit and consent may be varied at any time at the discretion of the Director-General.
 4. The proponent must ensure that all of its employees, contractors, sub-contractors and agents are made aware of the conditions of this permit and consent and the corresponding offence provisions and obligations contained in the Act.
 5. The proponent must notify the DEC office in writing as soon as practicable after becoming aware of any failure to comply with Part 6 of the Act or any condition of this permit and consent.
 6. Where a DEC officer reasonably suspects that an incident which may have breached Part 6 of the Act has occurred, the officer may request in writing that the proponent prepare a written report as soon as practicable about the incident.
 7. The proponent agrees to indemnify and keep indemnified, the Crown in right of NSW (DEC), the Minister administering the Act, the Director-General, 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 any damage or destruction to any real or personal property and injury suffered or sustained (including death) by any persons arising out of or in connection with the activities undertaken pursuant to this permit and consent.
 8. The proponent agrees to release to the full extent permitted by law, the Crown in right of NSW (DEC), the Minister administering the Act, the Director-General, 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 any damage or destruction to any real or personal property and injury suffered or sustained (including death) by any persons arising out of or in connection with the works undertaken pursuant to this permit.
 9. DEC is entitled to make copies of any reports provided to DEC under this permit and consent. The proponent must ensure that any culturally sensitive information that should be accessed subject to conditions (eg. gender related cultural reasons) be identified in a separate letter accompanying the report.
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Note: DEC may be required to produce a copy of a report provided to it in response to a lawful requirement. This request may occur, for example, as part of court proceedings or under freedom of information legislation. In providing a copy of any report which contains culturally sensitive information to which access is restricted, DEC will provide a copy of the letter setting out the restrictions and request that any person receiving a copy of the report take all reasonable precautions to comply with the specified access restrictions.

DICTIONARY

Aboriginal Community means those Aboriginal groups or individuals in the local area including those which registered an interest to be consulted during the community consultation undertaken for the project and any other Aboriginal group or individual which notifies the proponent of a wish to be consulted about the activities referred to in this permit and consent.

Act means the *National Parks and Wildlife Act 1974*

Archaeological and Heritage Protection Plan means the *Archaeological and Heritage Protection Plan for the Shell Cove Boatharbour/Marina* (2006) by Australand Corporation (NSW) Pty Ltd and Shellharbour City Council.

Archaeologist means Johan Kamminga or Allan Lance or an alternative person appointed by the proponent in accordance with the conditions of the permit.

Consent means this consent issued pursuant to s.90 of the Act

Conservation Area means that portion of shell midden Site 52-5-0207 which must not be disturbed, as described in Schedule B

Damage in relation to an Aboriginal object, means to damage, deface or destroy, or knowingly cause or permit the destruction or defacement of, or damage to, the Aboriginal object (unless otherwise specified)

DEC means the Department of Environment and Conservation

DEC office means the Parramatta office; contact Lou Ewins, Manager Planning & Aboriginal Heritage Unit, Metropolitan Region ph: (02) 9995 6802 fax: (02) 995 6900

Figure 20 means Figure 20 of Appendix 6 (Cultural Heritage Assessment) of *Environmental Impact Statement Shell Cove Boatharbour/Marina* (June 1995) by Navin Officer Archaeological Resource Management.

Heritage Act means the *Heritage Act 1977* (NSW)

Land means the land described in Schedule C

Permit means this permit issued pursuant to s.87 of the Act

Proponent means Australand Corporation (NSW) Pty Limited ACN 001 022 117

INFORMATION ABOUT THIS CONSENT

Responsibility for obtaining all approvals and compliance with applicable laws

The proponent is responsible for obtaining and complying with all approvals necessary to lawfully carry out the work referred to in this permit and consent, including but not limited to development consents and any permits required under Part 3A of the *Rivers and Foreshores Improvement Act 1948* to carry out excavation near watercourses.

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.

Entry to the land only with permission of owner or occupier

A permit or consent does not authorise the holder to enter or work on the land. Permission must be obtained from the owner or occupier.

Obligation to report newly identified Aboriginal objects

Nothing in this permit and consent affects the proponent's responsibility under s.91 of the Act to report newly identified Aboriginal objects.



BOATHARBOUR DEVELOPMENT

LEGEND:
 - - - - - PROJECT AREA

DRG STATUS : PRELIMINARY, NOT FOR CONSTRUCTION

Rev	Date	By	Appr	Notes
C	15.11.02	CSB	CSB	MAJOR REVISIONS
B	08.11.02	CSB	CSB	MINOR REVISIONS
A	03.11.02	CSB	CSB	REVISED FOR SECTION 47/20 APPLICATION
	18.08.02	CSB	CSB	REVISED AND ISSUED TO AUSTRALAND FOR APPROVAL
	08.08.02	CSB	CSB	ISSUED TO AUSTRALAND FOR INFORMATION

DETAILS SHOWN IN THE ADJACENT STAGE RECORDS INDICATE THE STAGES UNDER WHICH THE WORK WAS DONE. THESE RECORDS ARE ONLY TO BE USED WHEN APPROVED BY PATTERSON, BRIDGES & PARTNERS PTY LTD. ORIGINALS OF THESE RECORDS CAN BE FOUND ON THE ORIGINAL SET OF THE ORIGINAL OF THE DRG HELD BY PATTERSON, BRIDGES & PARTNERS CONSULTING ENGINEERS.

Prepared by:
Patterson Bridges & Partners Pty Ltd
 Consulting engineers

Client:
AUSTRALAND HOLDINGS LTD
SHELL HARBOUR CITY COUNCIL
 From:
SHELL COVE BOATHARBOUR
STAGE 2
PRELIMINARY DESIGN DEVELOPMENT

Project No:
4717-2-068
 Drawn By:
E
 Date:
11/11/02
 Scale:
AS SHOWN

Archaeological Assessment - Shell Cove Marina, Shellharbour, NSW

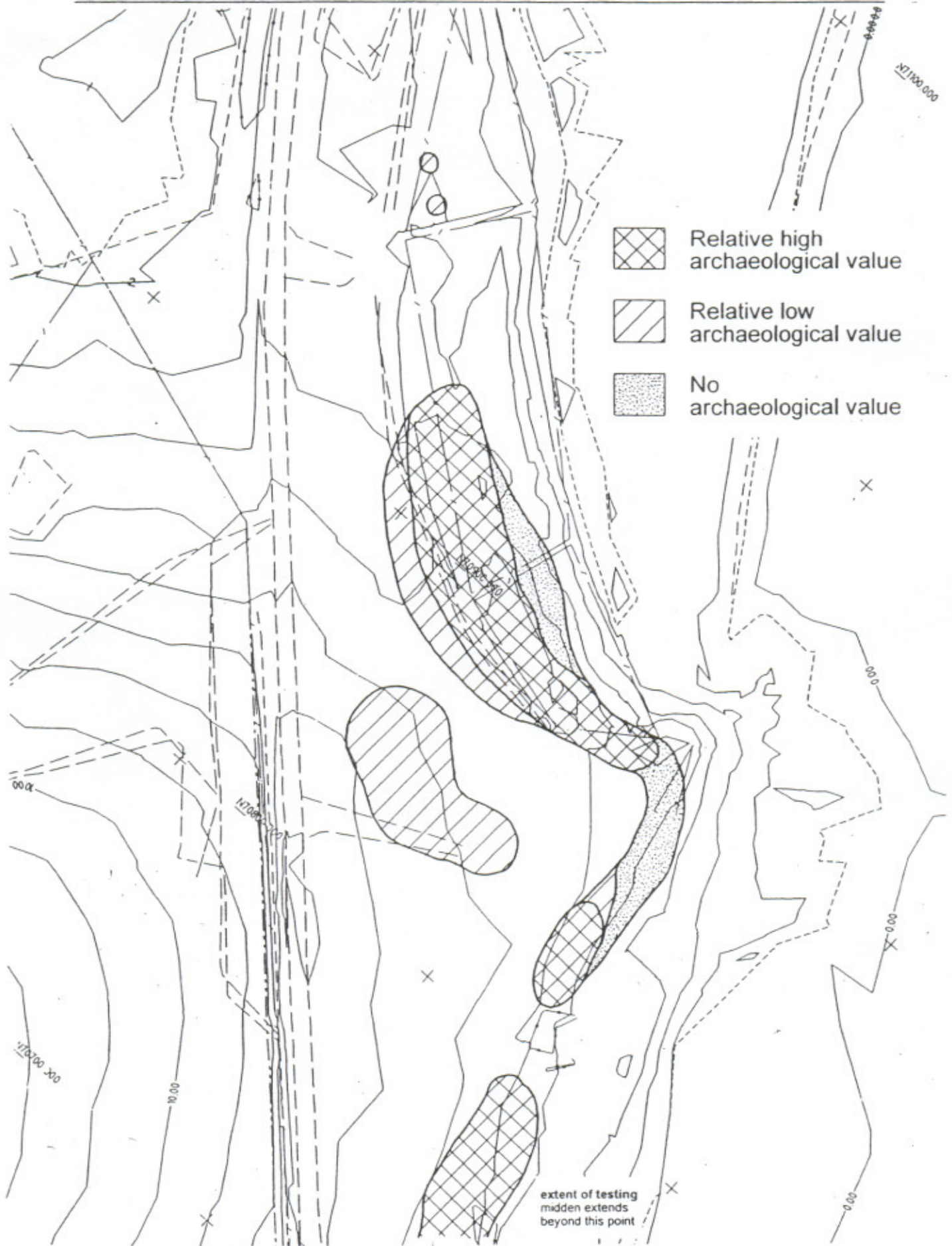


Figure 20: Interpretive map of Shellharbour Aboriginal midden site, NPWS No. 52-5-207, showing extent of archaeological material, and areas of relative high, low, and no archaeological value (1:1000 base map supplied by client).