

18 January 2018 pre-referral discussion with Tasmanian Parks and Wildlife

ATTENDEES:

DOEE: James Barker, s22(1)(a)(ii) , s22(1)(a)(ii)

Tasmanian Parks and Wildlife: Jason Jacobi (general manager), s47F(1) (planning – 03 6165 s47F(1))

ACTIONS (VIC TAS team)

- Send follow up email with self-assessment info, pre-referral meeting templates and links to pertinent info on the Department's website.
- Discuss with heritage and pass on s47F(1) contact details – heritage to engage from there.

PROJECTS:

s47B(a)

s47F(1)

s47B(a)

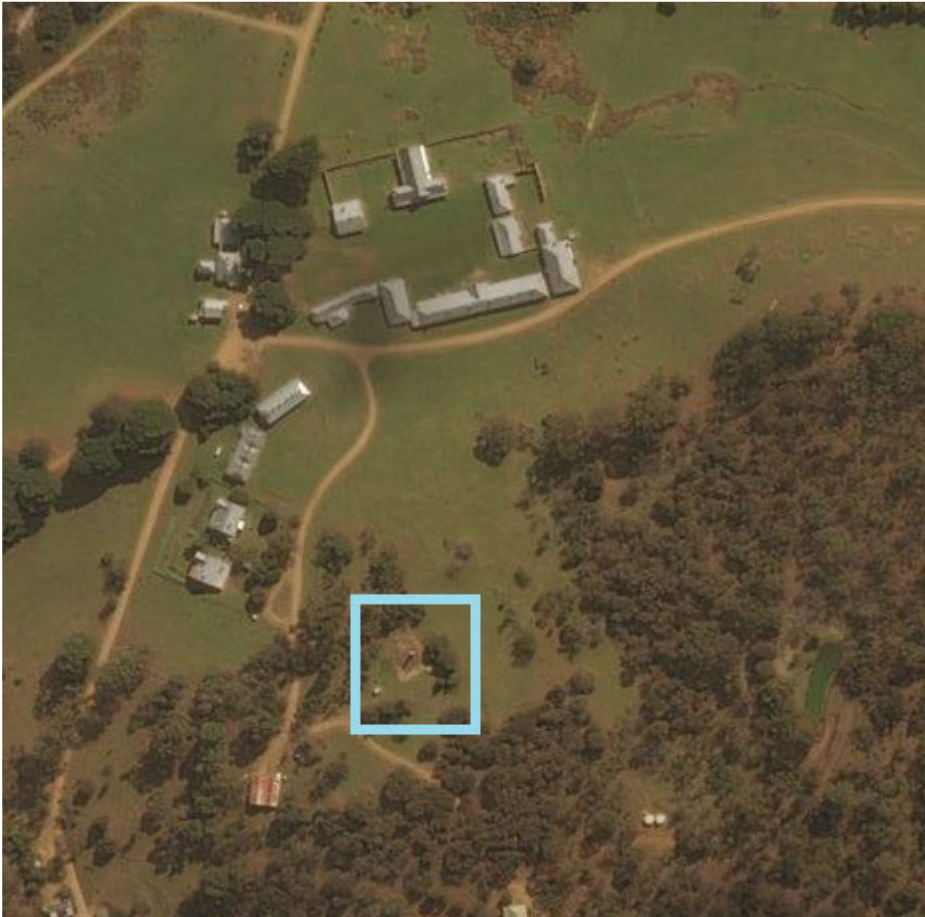
s47B(a)

s22(1)(a)(ii)

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Thursday, 25 January 2018 9:56 AM
To: s22(1)(a)(ii)
Subject: FW: Recommendation to discuss Maria Island Management Plan amendment with you (from James Barker and s47F(1)) [SEC=UNCLASSIFIED]

Hi ^{s22(1)(a)(ii)}, also as a follow up you can see the old location of the Adkins House on satellite view, it is that old chimney.

**s22(1)(a)(ii)**

Historic Heritage Section
Department of the Environment and Energy
a: GPO Box 787 CANBERRA ACT 2600
t: (02) 6274 ^{s22(1)(a)(ii)}
e: s22(1)(a)(ii) [@environment.gov.au](mailto:s22(1)(a)(ii)@environment.gov.au)



From: s22(1)(a)(ii)
Sent: Tuesday, 23 January 2018 12:35 PM
To: s22(1)(a)(ii)
Subject: RE: Recommendation to discuss Maria Island Management Plan amendment with you (from James Barker and s47F(1)) [SEC=UNCLASSIFIED]

Hi ^{s22(1)(a)(ii)},

I understand this meeting is about them seeking to vary their management plan for Maria Island rather than the action itself (walking paths and reconstructing a building). As such, in our discussion with them we would need to explain that the variation to the management plan itself would not need referring, rather the actions they are taking later which are in the management plan will need to be referred. Maria Island isn't in a Cth area so the management plan is not required to go through the AHC, and I also note that it is a management plan for the National Park, rather than a Heritage Management Plan.

I have looked into the Darlington Station National Heritage values. Under (a) it states "As Australia's most intact example of a convict probation station, Darlington is considered to be a significant aspect of Australia's cultural history. With a natural environment setting that has few competing elements, the precinct possesses a rare sense of place. The intactness of the 13 buildings and structures and their relationship with each other uniquely demonstrate the philosophy behind the probation system." This value doesn't to me lend itself particularly well to other buildings being added to the landscape, though as ^{s22(1)(a)(ii)} said it may depend on the setting. There are also non-convict buildings within the area already, eg: the Coffee House. While Adkins House was there formerly, it burned down in 2001 and the Convict Sites were listed 2010, so the house was not part of the landscape at that point. I managed to find a document from 1992 which I believe shows where Adkins House is (http://nswaol.library.usyd.edu.au//data/pdfs/15441_ID_GoddenMackayEtal1992DarlingtonPrecinctMarialsConservPlan.pdf, page 22). It looks like it is above the hill above the Penitentiary and the Coffee Palace. In this photo: https://sydneylivingmuseums.com.au/sites/default/files/LON10_ACS_015.jpg I think it would be up on the hill, possibly the little chimney in the trees is a remnant of Adkins House.

In light of there being a few sensitive World Heritage issues recently (REB and Opera House, for example), I am not sure how keen we would be on this project, as it is in a rather overlooking position. We would certainly want it referred – ^{s22(1)(a)(ii)} has been taking the approach recently of encouraging anyone with a World Heritage related piece of work to refer it for certainty and so we can ensure we have addressed all the relevant issues if we are asked about it by the World Heritage Centre. I think the paths are probably fine.

FYI the Tas Environment Minister put out a press release about this:

http://www.premier.tas.gov.au/releases/two_new_exciting_proposals_to_boost_tourism

Happy to discuss,

s22(1)(a)(ii)

Historic Heritage Section

Department of the Environment and Energy

a: GPO Box 787 CANBERRA ACT 2600

t: (02) 6274

e: **s22(1)(a)(ii)** @environment.gov.au



From: **s22(1)(a)(ii)**

Sent: Monday, 22 January 2018 9:55 AM

To: **s22(1)(a)(ii)** @environment.gov.au

Subject: FW: Recommendation to discuss Maria Island Management Plan amendment with you (from James Barker and **s47F(1)**) [SEC=UNCLASSIFIED]

Hi ^{s22(1)(a)(ii)}

Can you prepare response to this request for advice for this meeting? Lets discuss on Wednesday.

Thank you

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Friday, 19 January 2018 12:35 PM
To: s22(1)(a)(ii) @environment.gov.au>; s22(1)(a)(ii) s22(1)(a)(ii) @environment.gov.au>
Subject: FW: Recommendation to discuss Maria Island Management Plan amendment with you (from James Barker and s47F(1)) [SEC=UNCLASSIFIED]

Hi ladies – see below, can you please contact s47F(1) next week to set up a time to chat? My understanding from s22(1)(a)(ii) is that the activity they want to facilitate through the management plan is the construction of walking paths and also reconstructing a building (Adkins House?) that burned down in the 2000s to make it suitable for guest accommodation. This is all on Maria Island in the Darlington Probation Station WH/NH place. They thought if we could just change the place boundary that would make it easier. s22(1)(a)

Just found this online:

http://cg.tas.gov.au/data/assets/pdf_file/0003/164370/Project_brief_Wildlife_Heritage_MIW_Final.pdf

Extract:

‘Adkins House’ was built in 1923 during the Bernacchi Cement Works era and was an integral part of the Darlington landscape until it burnt down in 2001. The rebuilding of ‘Adkins House’ would allow for its ongoing use and the possible adaptive reuse of the remaining infrastructure. The reconstruction will complement the multi layered history of the World Heritage precinct and maintain the style and feel of the former ‘Adkins House’ that existed on the site for 80 years.

So it wasn’t a convict-era building but I still think there would be concerns about a new building in the precinct, though may depend on where it is etc.

Ta, s22(1)(i)

s22(1)(a)(ii) | Historic Heritage Section | 02 6275 s22(1)(a)(ii)

From: s47F(1) @parks.tas.gov.au]
Sent: Friday, 19 January 2018 11:31 AM
To: s22(1)(a)(ii) @environment.gov.au>
Subject: Recommendation to discuss Maria Island Management Plan amendment with you (from James Barker and s47F(1))

Dear s22(1)(a)(ii),
s47B(a)

The pathway for a statutory amendment at State level is clear (in our Act) but less clear in terms of process with respect to WHA and National Heritage. James Baker suggested we speak and was going to contact you to give you a heads up. This email is to try and organise a time to speak with you next week if possible about process, what information requirements may be in order for you to give me advice at this stage etc.

Are you free Tuesday, Wednesday or Thursday next week – my diary is relatively free and I can work around your timing if you do have ½ hour for a discussion.

Kind Regards,
s47F(1)

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Teleconference – File Note**Maria Island/Darlington Probation Station – Proposed Variations to Management Plan and Potential Development**

25 January 2018

Attendees – **s47F(1)**, Planning and Evaluation Manager, Parks Tasmania
s22(1)(a)(ii), Policy Officer, Department of the Environment and Energy

- **s22(1)(a)(ii)** was meant to attend but was held up in another meeting.
- **s22(1)(a)(ii)** and **s47F(1)** met to discuss the proposal by Parks Tasmania to amend statutory management planning documents for the Darlington Probation Station and Maria Island.
- **s47F(1)** provided context to the proposal.
- The Tasmanian Government has sought expressions of interest for proposed developments/activation of certain spaces in National Parks. An EOI has been received for a tourism proposal for Maria Island.
- The proposal is to rebuild Adkins House (1920s era building which burned down in 2001) and add an additional building behind Adkins House for accommodation. This is within the Darlington Probation Station World Heritage area.
- The proposed development is not within the Facilities zone as outlined under the Maria Island National Park management plan, therefore it is currently inconsistent with the management plan.

s47B(a)

s47B(a)

s47B(a)

- The plans to be updated are the 1998 Nature Reserve Park Plan, the 1998 Site Plan for Darlington Probation Station and the 2007 Conservation Management Plan for Darlington. (World Heritage Listing occurred in 2011).
- The EOI for Maria Island is occurring in the context of a State Government position of investigating tourism opportunities, the “Maria Island Rediscovered” project. This covers a series of projects, funded for a two year project.
 - Assessing what visitor experience should be on Maria Island, how that would relate to the site’s values and whether it would be compatible.
 - Once it is clear what visitor experience etc should be, they will then look at potential ideas’ compliance with values, prepare documents such as a building use site plan.

- s47F(1) has looked at the EPBC Act and noted the sections about the Cth using its best endeavours to be involved in management planning etc, wants to know Cth degree of involvement, what should be involved in a management plan for a WH site under the EPBC Act.
- We noted that the EPBC Act only requires the Cth to use its best endeavours, does not provide it with a formal legal role in preparing a management plan. Also is not likely to have a role in the one-off amendment of the Tasmanian statutory plan for this project. However, this is a complex part of the Act and we will double check this and get back to her with more information.
- Project is more likely to be addressed at the referral stage rather than alterations to the management plan itself.
- Cth would also certainly likely to be involved in the broader review process for management planning documents for the site.
- s47F(1) noted that there are two processes – the broader review of the management plans and the referral of the project.

s47B(a)

- Proponent has a heritage consultant on board etc.
- Has been informed that under the Tas regime may be made allowable under the management documents but they may also need other approvals.
- Process to amend statutory management plan is 10-12 months.
- The Parks Tas Secretary is meeting with Dean Knudson (Deputy Secretary) within the next week, so s47F(1) would appreciate information from us that she could provide to her Secretary in preparation for that.
- We conveyed that we will provide a copy of the significant impact guidelines and relevant pieces of the legislation, and s47F(1) will email with a summary of the discussion to allow us to review and clarify any points.

s22(1)(a)(ii)

From: s47F(1) (Parks) s47F(1) @parks.tas.gov.au >
Sent: Friday, 26 January 2018 12:11 AM
To: s22(1)(a)(ii); s22(1)(a)(ii)
Cc: Jacobi, Jason (Parks)
Subject: Amendment of Maria Island National Park and Ile Des Phoques Nature Reserve Management Plan
Attachments: Map6MarialsManagementPlan.pdf
Importance: High
Follow Up Flag: Follow up
Flag Status: Flagged

Dear s22(1)(a)(ii) and s22(1)(a)(ii),

After my discussion this morning with s22(1)(a)(ii) I have outlined what I believe was the agreed approach in terms of interaction with the Commonwealth Department of Environment during the amendment of the statutory management plan associated with Maria Island National Park.

In summary, it was agreed that the immediate minor amendment of the Maria Island National Park and Ile Des Phoques Nature Reserve Management Plan 1988 (the Management Plan) does not constitute an action under the EPBC, the site is not a Commonwealth owned or managed site and the plan was not approved by the Commonwealth Minister (as it pre-dates the inscription of the WHA site). There is no requirement for referral or approval of the minor plan amendment being undertaken by the State under EPBC.

However, the broader development of a revised Management Plan that the Tasmanian Government has committed to in the medium term will need to meet requirements and objectives of Part 15 of the EPBC and the EPBC Regulations 2000. In order for this to occur the revised plan would need to be prepared cooperatively using best endeavours, between the Commonwealth and the State.

Any action on ground that may occur in the future will need to be considered by the proponent in terms of EPBC requirements.

Background

Maria Island forms part of: the Australian Convict Sites World Heritage Area (WHA) and is a listed National Heritage site under the EPBC. The following relevant plans exist:

- Maria Island National Park and Ile Des Phoques Nature Reserve Management Plan 1988 (statutory plan under the Tasmanian *National Parks and Reserves Management Act 2002* (NPRMA), S19) ('the Management Plan');
- Maria Island – Darlington Settlement & Point Lesueur Conservation Management Plan November 2007; and
- Maria Island National Park Darlington Site Plan October 1998.

These plans were in place *prior to* the inscription of the site as part of the Australian Convict Sites WHA (that is, they were *not developed jointly* with the Commonwealth in response to the new WHA listing).

Proposal

s47B(a)

s47B(a)

The amendment to the Management Plan is being undertaken in the context of a Tasmanian Government commitment to undertake a broader review of the entire Management Plan over the medium term. The broader review would aim to update the plan for consistency with WHA and National Heritage requirements as well as state legislative obligations for management of a range of values. This broader review would take into account current work underway in the 'Maria Island Re-discovered' project. This project includes amongst other outputs: a Building Use Site Plan for Darlington and the Maria Island visitor/facilities zone and heritage conservation works schedule in the Darlington area. The project is aiming in a broad sense to determine what the visitor experience on the island could and should be in order to maintain the WHA and NH values at the site. The project's steering committee includes heritage expertise from the Port Arthur Historic Site. Taking the outcomes of this project into account as well as other relevant factors the broader review of the entire Management Plan would ensure any revised Management Plan (and Conservation Management Plan and Site Plan) is consistent with Part 15 of the EPBC and Schedule 5 principles under the EPBC Regulations 2000.

Process for Amendment(s)

For the minor amendment it was agreed that the State could progress the statutory process under the NPRMA without any requirement for referral or approval under the EPBC from the Commonwealth. It was agreed that the Commonwealth DoE Heritage Division would be primary stakeholders during the amendment of the Management Plan. This means that they would be kept informed of the progress of the State statutory process (which includes public consultation) in particular in relation to how it relates to the broader review of the Management Plan in terms of timing and communication/messaging.

For the broader review of the Management Plan it was agreed that a much closer relationship with the Commonwealth would be required and that planning around how this should occur will be initiated prior to commencement of that review (with discussion around this between DPIPWE (PWS) and DoE (Heritage) likely within the next 3-6 months).

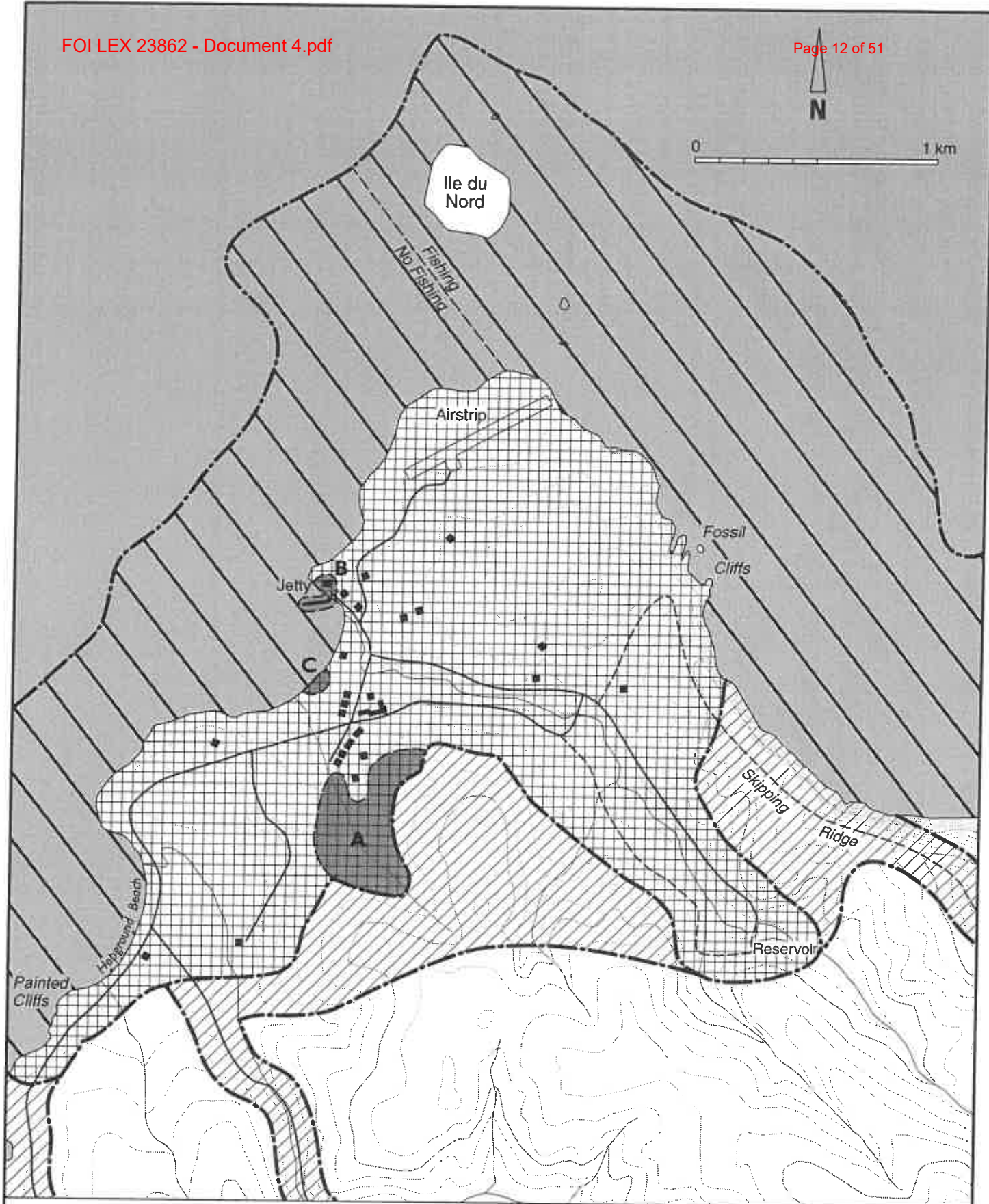
Other Points







It was agreed that the Commonwealth would provide some specific guidance on relevant parts of the EPBC (i.e. direct the state to relevant sections) in relation to the two processes above as well as providing some advice in terms of what is defined as a 'management plan' under the EPBC (i.e. conservation plan vs site plan vs statutory National Park plan).

Thank you for your time today and I hope this accurately reflects what you understand we agreed to – as discussed if it does not or, after discussion with [s22\(1\)\(a\)\(ii\)](#) a different approach may be required, could you let me know as early as possible on Monday or Tuesday next week given our timeframes discussed today?

Regards,
[s47F\(1\)](#)

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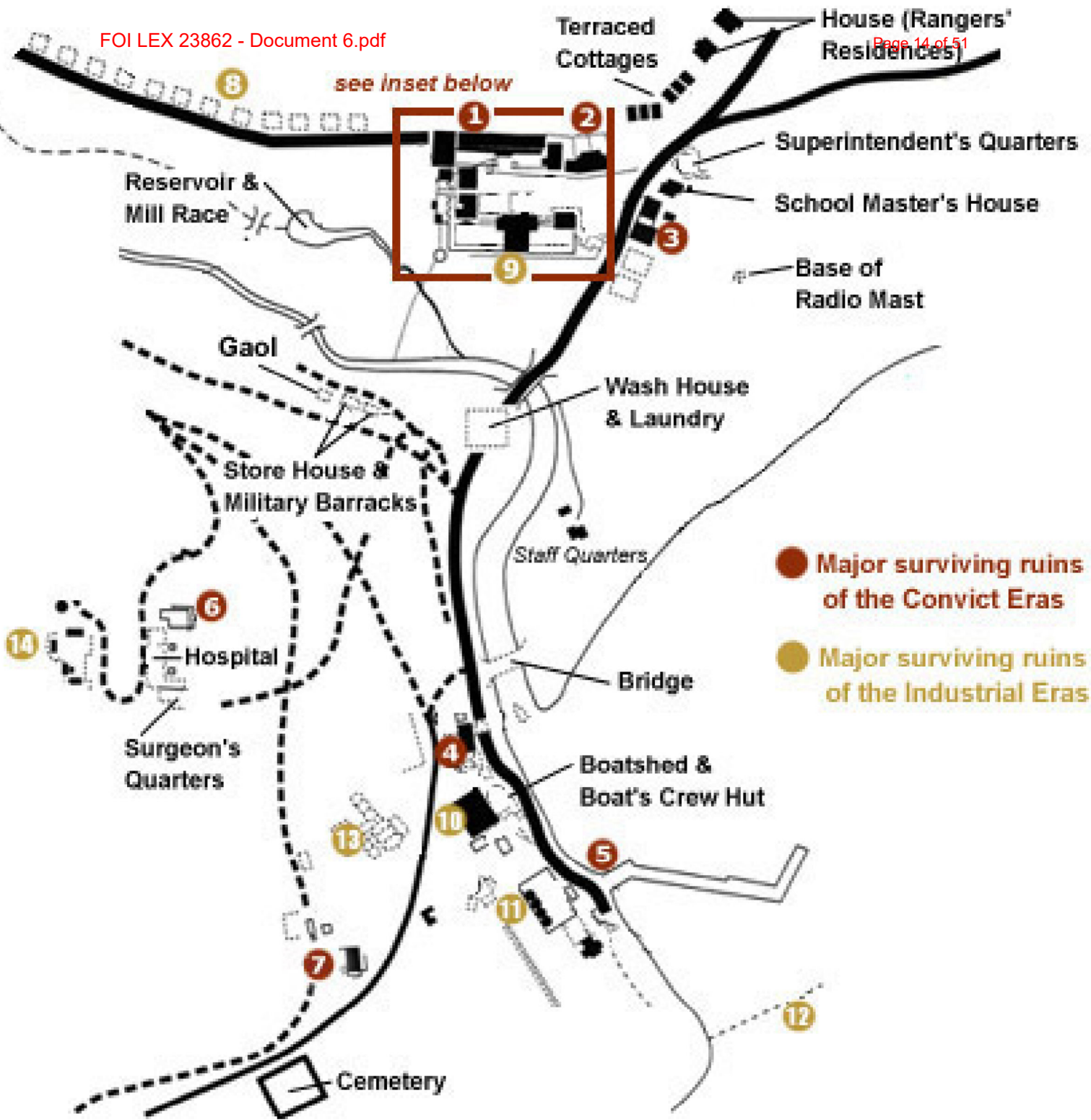


-  Darlington Zone
-  Recreation Zone
-  Natural Zone
-  Marine Zone
-  Facilities & Service Area
-  Zone Boundary


Tasmania
 Produced by
 Land Information Services 1997

MAP 6 DARLINGTON AREA MANAGEMENT ZONES





- Major surviving ruins of the Convict Eras
- Major surviving ruins of the Industrial Eras



s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Thursday, 15 February 2018 1:22 PM
To: s22(1)(a)(ii); s22(1)(a)(ii); s22(1)(a)(ii)
Subject: Maria Island - Darlington Settlement and Point Lesueur Conservation Management Plan 2007 [SEC=UNCLASSIFIED]

Hi folks

Further to our meeting yesterday, I thought I should look through the 'Maria Island - Darlington Settlement and Point Lesueur Conservation Management Plan (2007)' (CMP) in more detail to check what the policies say in terms of new development. This CMP was prepared following the National Heritage listing of the place, and was submitted to the World Heritage Centre as part of the nomination of the Australian Convict Sites World Heritage Property in 2010. It's currently on the UNESCO website as one of the supporting documents for the Property. I think therefore it is one we need to pay attention to. I'm not entirely sure how Tas Parks intends to amend the other 1998 management plan, but this one identifies heritage precincts, including the 'Darlington Precinct' which includes the National and World Heritage listed area and that proposed for development (see below). I haven't been across all the detail as I've been away but I would think that regardless of the changes they want to make to the 1998 plan, the identification of precincts in this 2007 plan, and the policies below that state no new development should be in the heritage precincts, would be enough to say the proposal is inconsistent with this plan.

I'll still draft up an email along the lines of what we discussed with James yesterday but thought you might be interested in this information in the meantime.

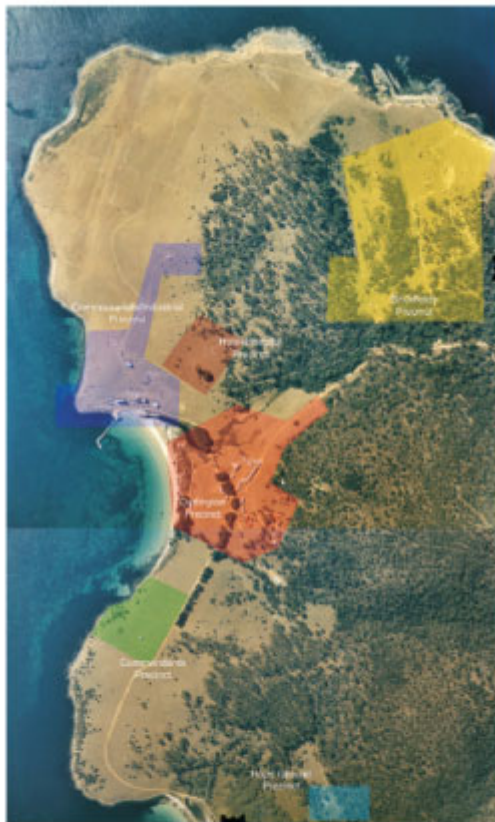


Figure 4	
The Location of Maria Island's Heritage Precincts	
Client: Tasmanian PWS	
Project: Maria Island CMP	
Drawing No: 00000201_04	
Date: 15/02/2007	Drawing size: A3
Drawn by: JEM	Reviewed by: TCD
Source: -	
Scale: -	
<small>Environmental Resources Management Australia Pty Ltd Building 10, 10 Sowerden Street Pyrmont NSW 2009 Locked Bag 14 Broadway NSW 2007</small>	

There are a number of policies that relate to new development on the Island including:

7.6 Risk Assessment

The key risks which need to be managed and minimised through appropriate actioning of PWS policy include planning risks, management and maintenance risks and environmental risks. An overview of these risks is provided below:

7.6.1 Planning Risks

Planning within all heritage precincts needs to be carefully considered. It would be easy to detract from the heritage values of the place, through actions allowing:

- Any new development within the historic precincts;
- Any redevelopment within the historic precincts without consideration or recognition of historic heritage values and archaeological zoning plans;
- Redevelopment on Maria Island without consideration of its natural or potential Aboriginal heritage values;
- Removal of heritage buildings;
- Installation of new infrastructure;

7.7 Conservation Policy Statement For Maria Island

New building is not appropriate within any of the heritage precincts, unless compelling management and conservation reasons are put forward. These would have to be supported by built, archaeological and ecological heritage impact assessments, along with appropriate mitigation measures, permits and approvals from statutory authorities.

8.3.3 Future Place Use

The future of Maria Island should be secured within the National Park. Consultation with PWS and other users has provided an indication that the current situation, whereby some of the heritage buildings are used for visitor accommodation and interpretation, is set to change. The following directives provide an indication of the possibilities for future use, reuse, adaptation and development on Maria Island.

Low Impact Zones

All historical precincts should be assigned the status of 'low impact zones'. Ideally all areas with an archaeological potential (see Annex D) should be assigned the status of low impact zones, other than for reasons specified under this CMP (i.e. relevant research, critical conservation works or reuse for historically compatible purposes).

No new development should be undertaken within the low impact zone. Adaptive reuse or redevelopment would be subject to a number of requirements, which are specified below.

Redevelopment and New Development

Given that a large proportion of the heritage values of the place are manifest through the extant building stock, within the defined heritage precincts, then any future requirements need to account for all impacts to these buildings and precincts. Each of the heritage precincts should be considered as a 'heritage protection zone', where all heritage within the boundary of that zone, including buildings, ruins, archaeology and views between items, should not be impacted by either redevelopment or new development.

It is recommended that no new development occur within any of the heritage precincts. This should not constrain PWS in their operation of the National Park, given the limited size of each precinct. Indeed, to date PWS have successfully placed new buildings and associated infrastructure (such as power generators) outside of the existing heritage precincts.

During any planning for redevelopment of any heritage asset it is recommended that the risks associated with all heritage be taken into account from the beginning. This is particularly relevant to the Darlington Precinct and specific controls for this area are discussed below. Redevelopment should not impact archaeological zones or ruins. The following table provides some general advice for heritage buildings and precincts. These actions are the responsibility of the HHC, PSU and CO.

Issue Dos and Do nots Why?

New Development

Do not allow new development within any heritage precincts.

These precincts have established heritage values that will not be enhanced by new development within their boundaries.

Do not allow new development to impede existing view corridors.

All new development should blend in with the existing landscape. This principle has been practised since creation of the National Park.

9.3 Opportunities And Constraints For Continued Use

9.3.1 Landscape and Setting

Maria Island's landscape presents itself as a series of historically created sites, with obvious connections between buildings and precincts. The pattern of history has seen that many of these areas have evolved to become multilayered, with mainly positive (i.e. non-destructive) built additions. The pattern of building has principally focused around the natural topography of Darlington Bay, although the Brickfields and Hop ground Precincts have been positioned to access the natural resources of those areas.

The following principles should be applied to the management of the landscape:

- the landscape is an important contributor to the overall significance of the place and should be respected;
- the combination of buildings (including ruins and archaeological sites) and natural environment create the visual image of the place (its setting) which should not be impacted. However, vegetation that is overwhelming heritage assets (particularly in the Brickfields Precinct) poses a threat to the heritage and should be appropriately managed;
- any new site works/conservation could be combined with public interpretation, so that conservation/ preservation becomes entwined as a component of the works;
- new development should not be placed within the existing heritage precincts, although it could be located on its margins; and
- redevelopment or adaptive re-use needs to understand the existing and original heritage values of the place/building. It should aim to be reversible and not impact heritage fabric. Darlington should be the only precinct with permanent visitor accommodation because of visitor management issues.

9.3.3 View Corridors

View corridors are an obvious feature of Maria Island, where views exist into, out of and within the seven precincts. These view corridors need to be maintained and managed, so that new development or alterations to existing heritage buildings do not impact these corridors. The most significant view corridors exist between:

- between the Darlington, Hospital/Hotel, Commissariats/Industrial and the Commandants precincts;
- views across/within the Brickfields Precinct;
- views across/within Darlington Precinct; and
- views within the Commissariats/Industrial Precinct.

s22(1)(a)(ii) | Assistant Director | Historic Heritage Section | Heritage, Reef and Marine Division | Department of the Environment and Energy | John Gorton Building, Parkes, ACT | 02 6275 ^{s22(1)(a)(ii)}

s22(1)(a)(ii)

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Thursday, 12 April 2018 4:14 PM
To: s22(1)(a)(ii); s22(1)(a)(ii)
Cc: s22(1)(a)(ii)
Subject: FW: Darlington Probation Station [SEC=UNCLASSIFIED]

And here it is in my email from David – sent just now!

s22(1)(a)

From: Williams, David
Sent: Thursday, 12 April 2018 4:12 PM
To: 'jason.jacobi@parks.tas.gov.au'
Cc: Oxley, Stephen ; s22(1)(a)(ii) ; Barker, James
Subject: Darlington Probation Station [SEC=UNCLASSIFIED]

Dear Jason

Thank you for the opportunity to discuss Ian Johnstone's proposal to construct hotel accommodation in the Darlington Precinct of Maria Island (Feb 6th teleconference). We appreciate you engaging early with the Department of the Environment and Energy (DoEE) on this proposal given the inclusion of Darlington Probation Station in the World and National Heritage lists and the protection of these listed values under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

We understand that the Tasmanian Parks and Wildlife Service is currently working on the process to amend the zoning identified in the Maria Island National Park Darlington Site Plan (1998) to enable this proposal to meet Tasmanian legislative requirements. We note there is also a Conservation Management Plan (CMP) that was prepared following the National Heritage listing of the place, and submitted to the World Heritage Centre as part of the nomination of the Australian Convict Sites World Heritage Property in 2010: the '*Maria Island - Darlington Settlement and Point Lesueur Conservation Management Plan (2007)*'. As you may be aware, this CMP identifies heritage precincts where it states that no new development should be undertaken, such as the 'Darlington Precinct' which includes the area where Mr Johnstone has proposed to construct the hotel. Please be advised that when making a decision under the EPBC Act about whether to approve the taking of an action and what conditions to attach, the Minister must not act inconsistently with (among other things) a heritage management plan described in section 321 (for a World Heritage property) or section 324X (for a National Heritage place) (see section 137).

With respect to EPBC Act referral and approval processes, proponents are strongly encouraged to request a pre-referral meeting early in their planning process. Pre-referral meetings not only assist proponents in their self-assessment to determine whether or not they need to refer, but also result in better quality referrals reducing the delays in requesting additional information from proponents. Information on how to request a pre-referral meeting is available at: <http://www.environment.gov.au/protection/environment-assessments/assessment-and-approval-process>. You may pass this link on to Ian Johnstone who may also find information on the referral process, including links to the significant impact guidelines that need to be considered when submitting a referral, useful – see <http://www.environment.gov.au/epbc/publications/factsheet-submitting-referral-under-epbc-act>.

Until the DoEE is approached by a prospective proponent seeking advice on referring or receives information suggesting non-compliance with the EBPC Act, there is little that DoEE can proceed with in

relation to this project. Hopefully you can encourage Ian Johnstone to approach DoEE to discuss the referral process before planning proceeds much further. I also understand that the Parks and Wildlife Service in Tasmania has two representatives on the Australian Convict Sites Steering Committee for Darlington Probation Station. These representatives, s47F(1) and s47F(1), should be well placed to provide advice on the appropriate management of Darlington Probation Station in the context of the Australian Convict World Heritage Property as a whole.

Thanks again for the discussions already held on this matter.

Yours sincerely

David Williams

Assistant Secretary | Heritage Branch
Department of the Environment and Energy
Ph: 02 6274 2015 Mob: s47F(1)



Australian Government

Department of the Environment and Energy

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Tuesday, 29 May 2018 1:35 PM
To: s22(1)(a)(ii)
Subject: Darlington Probation Station - Maria Island - Teleconference meeting notes 29 05 2018 [SEC=UNCLASSIFIED]

Hi ^{s22(1)(a)},

I have done a brief summary of our teleconference this morning below. If you'd like to make any edits/let me know if you're happy with it, then I'll put this on SPIRE. Then the next step might be preparing some more feedback for Tas, as discussed.

Teleconference – 29 05 2018

Attendees - s47F(1) : Parks Tas
s47F(1) : Parks Tas
Ian Johnson: Proponent
s47F(1) : Heritage Architect for Proponent
Jason Jacobi: Parks Tas
s47F(1) : Tas, managing EOIs for Maria Island
s22(1)(a)(ii): Director, Historic Heritage
s22(1)(a)(ii) : Historic Heritage
James Barker: ESD AS
s22(1)(a)(ii) : ESD Assessment Officer

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s47B(a)

s22(1)(a)(ii)

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s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Friday, 15 June 2018 1:37 PM
To: s22(1)(a)(ii)
Subject: RE: Email to Parks Tas about Darlington Probation Station Proposal [SEC=UNCLASSIFIED]

Thanks s22(1)(a)(ii) - some minor fixes but otherwise yes we will use this in discussions with s47F(1) s22(1)(a)

From: s22(1)(a)(ii)
Sent: Friday, 15 June 2018 10:56 AM
To: s22(1)(a)(ii)
Subject: Email to Parks Tas about Darlington Probation Station Proposal [SEC=UNCLASSIFIED]

Hi s22(1)(a)(ii)

I have drafted an email for Parks Tas below. Not quite sure who is the best person for it to go to, possibly Jason Jacobi? I thought I would send it to you now prior to our meeting with s47F(1) in case you want to run your eye over it, and it could be tweaked depending on that discussion.

s22(1)(a)(ii)

Dear Jason,

I am emailing you in regards to the proposal for a hotel development at Darlington Probation Station on Maria Island. Thank you for the discussion by teleconference on 29 May.

We wanted to get in touch to provide some further information on the heritage context of the proposed project and the Darlington Probation Station World Heritage site to assist Parks Tasmania in your progressing on of this matter. As discussed at the teleconference, we also understand that s47F(1), the heritage consultant for proponent Ian Johnson, is preparing a document that considers the project and its consistency with the World Heritage Values of the site.

As you know, the Darlington Probation Station is part of the Australian Convict Sites World Heritage Site serial listing, as well as being included on the National Heritage List. Both heritage listings constitute Matters of National Environmental Significance which trigger referral obligations under the EPBC Act. Additionally, as a World Heritage place, there are a number of elements which regulate impacts to the Outstanding Universal Value of the site. Darlington Probation Station is heritage listed as part of the Convict Sites World Heritage listing as an exemplar of the convict system, particularly as an isolated probation station where convicts were kept away from the rest of society. This is re-iterated in the National Heritage values for the site, which state:

As Australia's most intact example of a convict probation station, Darlington is considered to be a significant aspect of Australia's cultural history. With a natural environment setting that has few competing elements, the precinct possesses a rare sense of place. The intactness of the 13 buildings and structures and their relationship with each other uniquely demonstrate the philosophy behind the probation system. (See http://www.environment.gov.au/cgi-bin/ahdb/search.pl?mode=place_detail;place_id=105933)

The setting of the Probation Station, and the ability to appreciate the site as an isolated and intact example of the convict punishment system is therefore an important aspect of its World and National heritage values.

Australia's World Heritage Obligations

Under the World Heritage Intergovernmental Agreement agreed by all states in 2009 (attached), State governments must ensure that their World Heritage property management systems meet the requirements under the Australian World Heritage Management Principles outlined in the EPBC Act – the primary requirement of which is that Australia should act in accordance with its obligations under the World Heritage Convention – while the Commonwealth must seek assurance from State governments that this is the case. As such, the Tasmanian Government should consult with the Commonwealth on amendments to any management plans for the Darlington Probation Station, both the specific amendment to the 1988 Management Plan and the broader review process of all plans to be undertaken, to ensure that it is complying with the Intergovernmental Agreement and the Australian World Heritage Management Principles. For ease of reference, Australia’s World Heritage Management Principles are available here: https://www.legislation.gov.au/Details/F2016C00914/Html/Text#_Toc464468591

The World Heritage Management Principles require, among other things, that the primary purpose of management of cultural heritage of a World Heritage property must be to “identify, protect, conserve, present, transmit to future generations and, if appropriate, rehabilitate the World Heritage values of the property” (Schedule 5.1.01). **s47B(a)**

In complying with their obligations under the Intergovernmental Agreement, Tasmania would therefore need to consider whether an amended statutory management plan is consistent with the property management system for the site meeting the World Heritage Management Principles.

Under section 137 of the EPBC Act, when making a decision whether to approve the taking of an action, the Minister for the Environment and Energy must also not act inconsistently with Australia’s obligations under the World Heritage Convention or the Australian World Heritage Management Principles. The World Heritage Principles have requirements including that “An action should not be approved if it would be inconsistent with the protection, conservation, presentation or transmission to future generations of the World Heritage values of the property” (Schedule 5.3.04). Consequently, compliance with Australia’s World Heritage Obligations and the World Heritage Management Principles is a relevant consideration at both state and Commonwealth level.

Site Management Plans

We understand that there are a number of site management plans for the Darlington Probation Station and Maria Island.

In terms of the Commonwealth’s obligations to manage the World Heritage Property, the relevant management plan is the ‘*Maria Island - Darlington Settlement and Point Lesueur Conservation Management Plan (2007)*’. As addressed in David Williams’ email to you of 12 April 2018, when making a decision under the EPBC Act about whether to approve the taking of an action and what conditions to attach, the Minister must not act inconsistently with (among other things) a heritage management plan described in section 321 (for a World Heritage property) or section 324X (for a National Heritage place) (see section 137). The 2007 CMP is such a plan. It is available on the UNESCO website here: <https://whc.unesco.org/en/list/1306/documents/>

The 2007 CMP identifies Heritage Precincts, including the ‘Darlington Precinct’ which includes the National and World Heritage listed area, and the area proposed for development. These zones are visible on the map at page 46 of the CMP. There are a number of policies in the 2007 CMP which relate to new development on Maria Island. In particular, the Conservation Policy Statement states “New building is not appropriate within any of the heritage precincts, unless compelling management and conservation reasons are put forward.” (p 75) Additionally, Future Place Use states “All historical precincts should be assigned the status of ‘low impact zones’ [...] No new development should be undertaken within the low impact zone.” (pg 86) and also “It is recommended that no new development occur within any of the heritage precincts. This should not constrain PWS in their operation of the National Park, given the limited size of each precinct. Indeed, to date PWS have successfully placed new buildings and associated infrastructure (such as power generators) outside of the existing heritage precincts” (pg 87).

These policies which require no new development within the Heritage Precincts will therefore need to be considered by the Minister for the Environment and Energy when making any referral decision under the EPBC Act, as part of the requirement not to make a decision inconsistent with the Management Plan.

s47B(a)

I hope this information assists Parks Tasmania in addressing the proposed development. Please don't hesitate to let us know if you have any queries or would like to discuss further.

s22(1)(a)(ii)

Historic Heritage Section
Department of the Environment and Energy
a: GPO Box 787 CANBERRA ACT 2600
t: (02) 6274 ^{s22(1)(a)(ii)}
e: s22(1)(a)(ii) [@environment.gov.au](mailto:s22(1)(a)(ii)@environment.gov.au)



s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Tuesday, 16 October 2018 9:05 AM
To: s22(1)(a)(ii)
Subject: FW: Commercial in Confidence: The Discussion Paper on the proposal to rebuild Adkins House at Darlington [SEC=UNCLASSIFIED]
Attachments: 181003 Maria Island Adkins House Reconstruction Discussion Paper.pdf

And the attachment

s22(1)(a)

From: s47F(1) (Parks) [mailto:s47F(1)@parks.tas.gov.au]
Sent: Tuesday, 16 October 2018 8:25 AM
To: s22(1)(a)(ii)
Cc: Ian Johnstone
Subject: FW: Commercial in Confidence: The Discussion Paper on the proposal to rebuild Adkins House at Darlington

Hello s22(1)(a)(ii)

I understand that you are expecting this report to be sent on to you. I have simply forwarded the report to you at this stage – no other PWS Officer has seen the report and I have not had a chance to look at it either.

Cheers

s47F(1)

s47F(1)

Manager Visitor Strategy
Mobile: s47F(1)
Email: s47F(1)@parks.tas.gov.au

From: Ian Johnstone <office@mariaislandwalk.com.au>
Sent: Monday, 15 October 2018 2:32 PM
To: s47F(1) @parks.tas.gov.au>
Subject: Commercial in Confidence: The Discussion Paper on the proposal to rebuild Adkins House at Darlington

Hi ^{s47F(1)}, attached is s47F(1) final version of the Discussion Paper on the proposal to reconstruct Adkins House at Darlington.

Can I ask that it be forwarded to s22(1)(a)(ii) of EPBC in Canberra who has been in discussion with ^{s47F(1)} s47F(1) and is expecting to receive it.

Please also copy to other relevant PWS staff members noting it is provided on a strictly Commercial in Confidence basis

Regards

Ian Johnstone

Director

PO Box 2054, Lower Sandy Bay, TAS 7005

Tel: [+61 \(0\)3 6234 2999](tel:+61(0)362342999)

Fax: [+61 \(0\)3 6234 6888](tel:+61(0)362346888)

Email: s47F(1)

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Maria Island

Potential Reconstruction of Adkins House

Discussion Paper



Adkins House c1950s

Executive Summary

This paper considers the heritage issues around the potential reconstruction of Adkins House in the Darlington Precinct at Maria Island. The building was accidentally lost through a fire in 2001. The paper sets out the background and statutory framework and looks at the significance of the area but most importantly considers whether reconstruction, in this specific situation, is possible and if it is, is it supportable in relation to the heritage values that are established.

There is no prohibition on reconstructing this building within the management plans or heritage documents for the place. There are policies that address new built elements, even though there are also policies that severely limit how this may take place.

There are also policies that promote balance between conservation and tourism, the need to manage visitation, zoning of the site to protect the core heritage areas and provide for some flexibility in designated areas and management of views and vistas.

The significance assessments consistently identify the convict elements of the place to be of exceptional significance (resulting in the world heritage listing) but all elements of the place, representing all phases of the historic development and use of the precinct as being significant.

The management plans and first CMP on which these plans were based were prepared when Adkins House was extant. It was considered to be a significant element of the precinct relating to the second industrial

phase. Its loss through fire was a loss of significant fabric and a loss of spatial understanding. It was one of two buildings remaining from that period of use.

The conclusion of this paper is that it is appropriate to reconstruct Adkins House as it has no adverse heritage impacts on the values of the area and recovers a spatial arrangement at Darlington that was accidentally lost. This achieves a positive heritage outcome for the place.

The main consideration must be whether there is an impact on heritage values and if there is (noting that all actions have some impact) is the level of impact acceptable. If this is established the detail of a proposal can be considered including how it may be achieved within the planning framework that exists.

This paper also concludes that it is possible under the current management plans to reconstruct the building and undertake the proposed addition. There is a clear provision for work to take place across the precinct even though the conditions under which could take place are very tightly controlled and constrained.

Background

This paper considers the heritage issues around the potential reconstruction of Adkins House at Darlington on Maria Island, the building was accidentally lost through a fire in 2001.

This report arises from a proposal by Ian Johnstone (The Maria Island Walk) to introduce an overnight wildlife and heritage experience for visitors that requires overnight accommodation to be provided in the Darlington area. The lack of suitable accommodation to date has for many years held Maria Island back from satisfying the strong visitor demand for overnight experiences. Having explored potential accommodation options in the Darlington area, Mr Johnstone proposes that a preferred option by far is rebuilding Adkins House. The site is adjacent to the 1880s era Bernacchi House and farm sheds which The Maria Island Walk leases from Parks and Wildlife Tasmania to operate their 4-day walk. Adkins House site is also favoured because it is screened from the heritage precinct by established trees and adjoins the service precinct.

The Maria Island Walk has operated since 2002 and provides a high-quality, guided walk experience for small groups of up to 10 guests with two guides that carefully manages impacts on the island.

The planning and heritage framework for the island operates at three statutory levels:

- World Heritage
- State Significant Heritage
- Within a National Park

There are requirements and constraints within each of these levels that need to be considered and satisfied for a proposal to take place. This paper does not consider the actual process of approval but rather the matters that need to be considered before a process could commence.

The proposal has two aspects, one is to reconstruct the house on its original footprint and to its known external form and the second is to add a small addition to the rear and side of the building.

The principal matter to consider is the reconstruction of the building, additions to less significant elements within the precinct can be contemplated so that is a secondary consideration and is only relevant if the reconstruction were to proceed.

Statutory Controls

The documents that address heritage in the precinct are:

- CMP prepared by GM 1992
- Maria Island Management Plan 1998
- Maria Island Darlington Site Plan 1998
- CMP prepared by ERM 2007
- Australian Heritage database inventory form 2007
- National Heritage listing inventory form 2007

The Maria Island Management and Darlington Site Plans, although some 20 years old, remain the control documents for the site, however, neither document nor the 1992 CMP anticipated the World Heritage listing or the accidental loss of a building. The 2007 CMP focussed on the world heritage values of the place and provides little assistance with regard to the former Adkins house.

The 2007 CMP provided the most recent site plan that shows the boundary of the world heritage area.

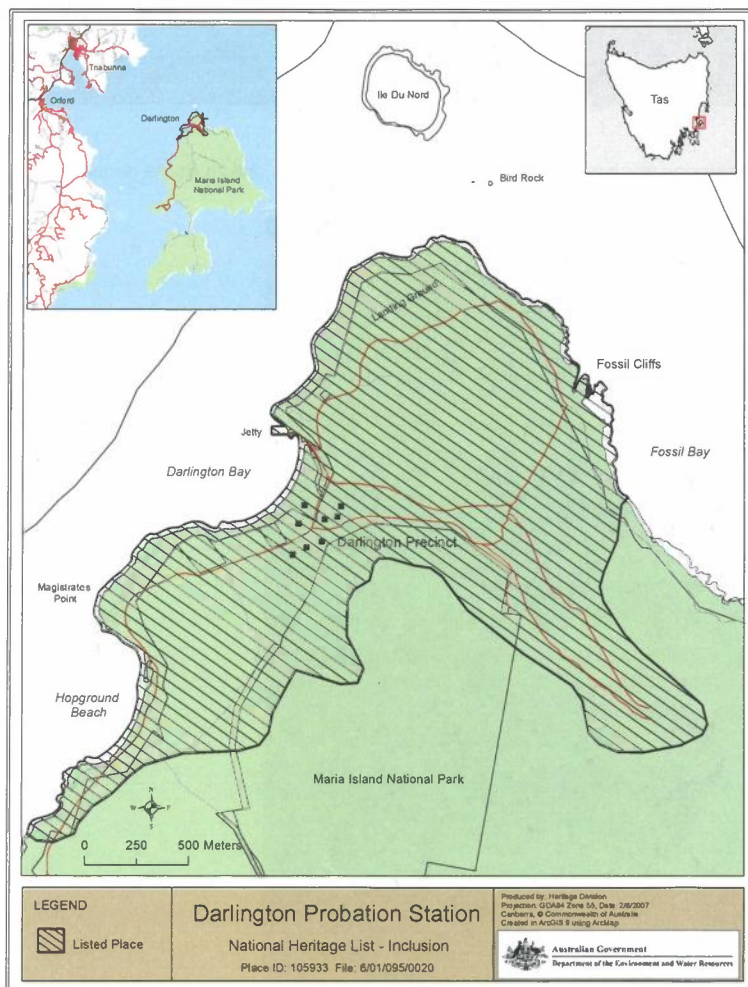


Figure ii: 2007 CMP plan of listed place. The boundary appears to relate to a contour line. The indication of buildings is nominal and does not reflect the site layout.



Figure iii: Excerpt from 2007 CMP showing title boundaries that relate to figure ii above. Adkins House is marked by a red dot.



Figure iv: 2007 CMP showing site zones. This does not overlay with the management plan zones. Adkins House is marked by a red dot. The coloured zones are not precise and appear to indicate the areas that were examined rather than establish site boundaries.



Figure v: 2007 CMP site plan. Shows Adkins House even though it was not extant at the time but does not attribute it with significance (presumably as it was destroyed).



Figure vi: Management Plan – Darlington Management Zones. Adkins House is nominally located as a black square behind the Bernacchi Houses. The house site is located close to and just outside the facilities and service zone. The drawing is not accurate in either locating boundaries or buildings.

Heritage Listings

World Heritage Values

The heritage values of Maria Island are layered and complex. The World Heritage Listing covers parts of the island that are integral to the colonial convict development of the precinct. The listing forms part of a group of listings across Australia that collectively demonstrate some of the more intact and significant convict history of the early settlements.

The areas included in the world heritage listing also include other values (heritage, natural and scenic) that are not of world heritage status, that is an inevitable outcome for a listing where there has been considerable later development and layering of the site.

Maria Island has heritage values at many levels. This is set out in the conservation plans and studies and also within the management plans.

Atkins House relates to the second Bernacchi period of development from the 1920s and is consequently part of the later phases of the island's development. The world heritage listing identifies colonial buildings and does not differentiate any other heritage values for the area.

The whole of the area under consideration falls within the boundary of the listing.

Mapping

The mapping for the Darlington Precinct is not precise and varies between plans and documents. It would appear that some of the mapping does not always reflect the intent of the various documents. Without looking at the whole area but rather focussing on the area around Adkins House, we have overlaid the various plans to try and ascertain how the mapping, precincts and boundaries could operate.

The most reliable information is the available aerial photos of the site that show the buildings and the edges of cleared areas and vegetation.

The stated and obvious main intent of creating zones and boundaries is to protect the visual setting (and integrity) of the convict era buildings and in order of hierarchy after that the first Bernacchi period buildings and the later Bernacchi buildings.

The intent of the service zone is to separate the staff housing the workshops (late twentieth century), and the potential marine centre development site from the core area. The mapping in part follows the edge of vegetation but also crosses open cleared areas. This would appear to be a product of inaccurate base drawings and working at a small scale that did not allow nuance or precision. We have remapped the area around Adkins House to reflect the existing mapping, the vegetation and what we would consider the intent of the separation of precincts. We have also shown how the boundary could be adjusted to include Adkins House site without affecting the intent of the plan.

This raises the question of whether the mapping adjustment requires an amendment to the Plan of Management or whether it is a clarification of the 1997 drawings based on more accurate information.

In either scenario it appears very clear that Adkins House site could be included in the service zone without any adverse impacts to the PoM intent of protecting the core zone physically and visually.

The same logic would apply to the 2007 CMP and material in support of the World Heritage Listing. The very clear intent of these documents is to protect the physical fabric and visual setting of the convict era buildings. Refining the precinct boundary as suggested would enhance that outcome and intent. There would be no conflict with those documents or their recommendations.

Part of the various listings are maps defining the extent of heritage values. They are found in each of the listing and assessment documents.

There is no precise mapping of the heritage precincts on the island based on detailed surveys or information. The definition of precincts is approximate, but the intent of the zones is clear from the descriptive material and the indicative mapping.

One of the difficulties of the mapping is that the different plans show buildings and features in different locations and in different relationships to each other. This affects the impact of zone edges.

The management plan creates two precincts that are relevant to this assessment. There is the central or core heritage area and a service zone that provides for infrastructure and new elements that support the use and management of the island.

The zones are identified in part by reference to a contour line, this is quite precise except that the contours are only identified from ortho mapping and the actual relationship of the contour to the site conditions is not specific.

The mapping also responds to aerial photographs that show vegetation and existing development. The zone boundary moves away from the contours near Atkins House to include the open grassed area near the house, the site of the former house and some service buildings, sheds, the ruined stock yards and sheds. The mapping then returns to the contour line excluding the workshop areas.

Presumably the boundary was mapped to protect visual values as the open grassed area and a small part of the former house site are visible from the slopes below and the hillside beyond the convict buildings.

Immediately beyond the boundary, within a band of vegetation, are National Parks staff residences, sheds and facilities. They are located quite close to the site of Atkins House but are separated by a small cleared area.

An access road traverses the area behind the Bernacchi houses, extends to several sheds and then heads up the slope east to access the staff residences.

The former house site and the sheds are within the core heritage area but are largely set within a band of landscaping that separates them from the group of houses immediately in front and from the convict group of buildings.

The following overlay drawings take the three key plans and seek to rationalise how they apply in detail to the site:



Figure vii: Overlay of figure ii and figure iii showing the relative locations of structures.

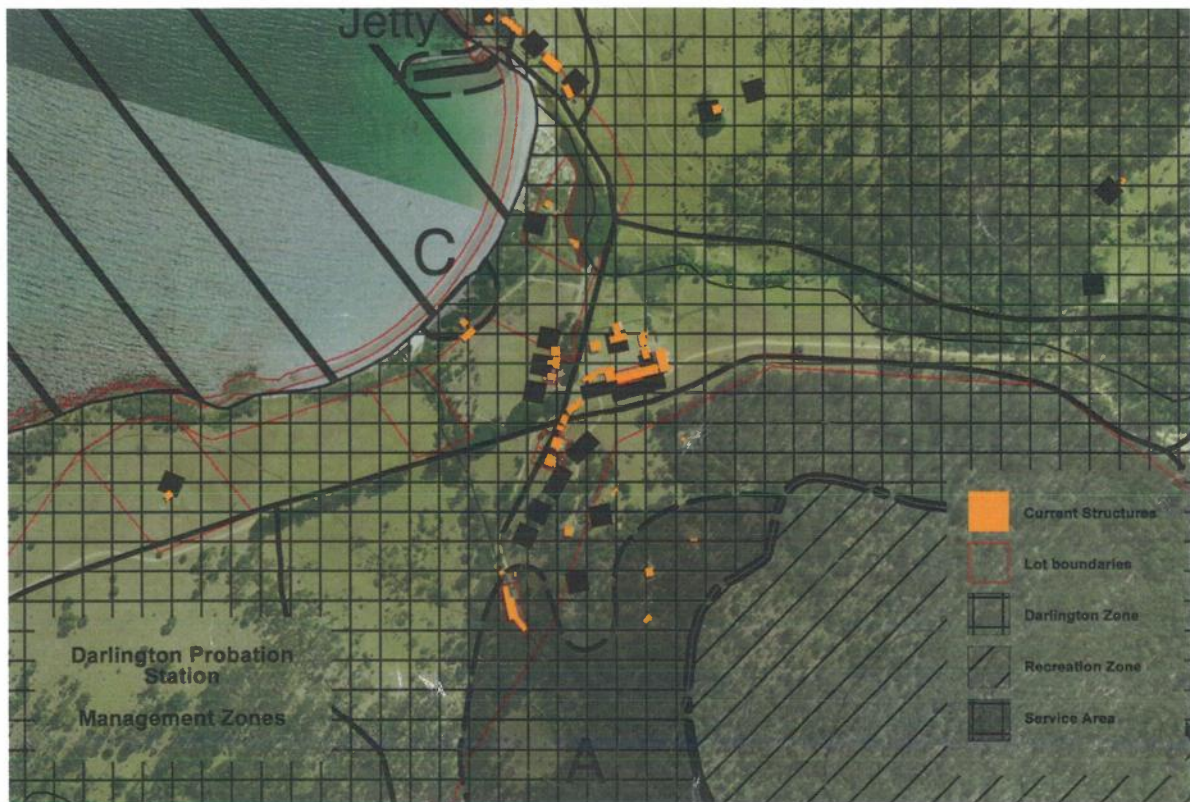


Figure viii: Overlay of figures ii, iii and v. The world heritage boundary approximately follows the management plan site boundary but the management plan zone boundary appears to relate to buildings (black squares) that are not correctly situated. It appears the zone boundary is not accurate and is intended to be located much closer to the existing buildings than is actually mapped.

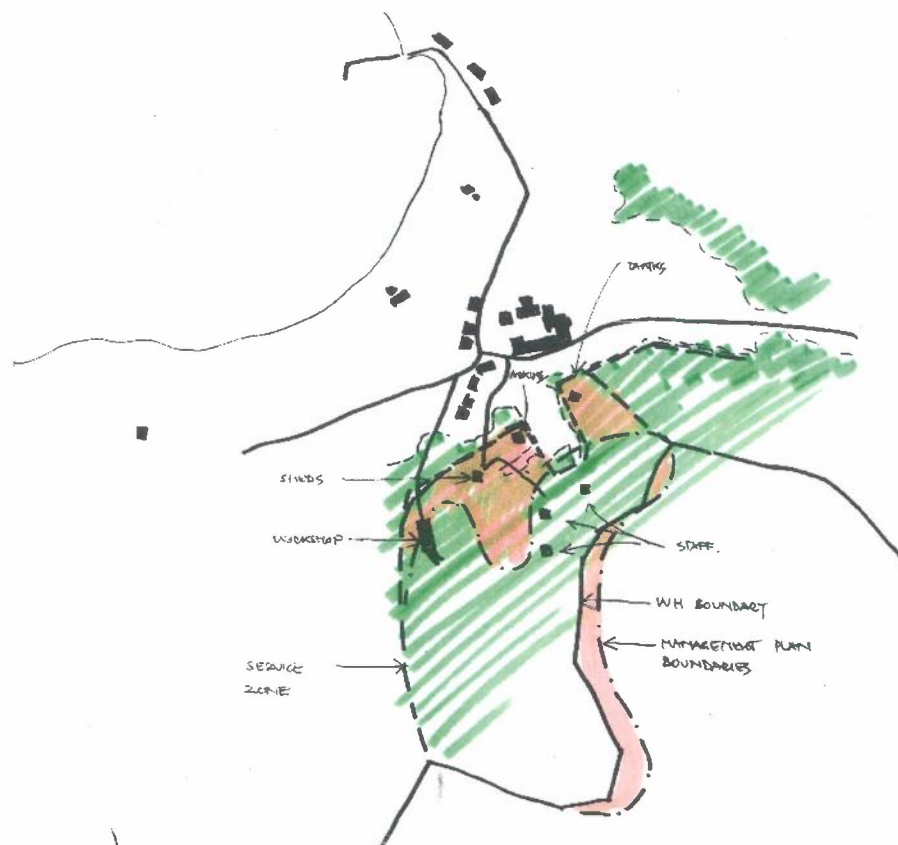


Figure ix: Recommended adjusted zone boundary. This retains the open space to the north-east of Adkins House as part of the core zone and maps the service zone within the tree line. It also includes the whole of the workshop area within the service zone.

Matters to consider

There are four factors in relation to this potential reconstruction that need to be considered.

- i If the building were extant would it be significant and was its' accidental loss a loss of significance for the place?
- ii Can reconstruction be undertaken as a matter of principle on a very significant site?
- iii Would reconstruction have an adverse impact on the identified world heritage values of the site?
- iv Is reconstruction prohibited in the planning regime for the site?

i Significance

The building was significant as part of the evolution of the site. It was one of the few remaining buildings from the last significant period of development and occupation of the area. The loss of the building due to

an accidental fire was a loss of significance in terms of the physical fabric of the place and probably more importantly the spatial arrangement of the site.

ii Reconstruction of a lost Building

The reconstruction of buildings within very significant sites has been undertaken elsewhere in Australia with considerable success. This is not a common action but can be considered where a number of factors have been assessed. In summary, the issues to set out are:

- i why was the building removed?
- ii was the building significant?
- iii did the building contribute to the heritage values of the site, particularly the spatial values of a place?
- iv how would reconstructing the building affect the identified heritage values of the place
- v is the use of the building consistent with the heritage values of the place?

A particular consideration is that the site has been world heritage listed since the building disappeared and it was obviously not considered as it did not exist.

This report proposes an adjustment to the zone boundary to locate the former house site, the sheds and yards and much of the dirt access road into the service area of the site.

This is put forward as a logical rationalisation of the boundaries that responds to the intent of the management plan and is consistent with the various levels of heritage significance of the site.

This would then allow a merit assessment of the proposal to reconstruct Adkins House to be made within a permissible planning framework.

i why was the building removed?

The building was destroyed by an accidental kitchen fire. If the fire had not occurred the building would be standing and part of the heritage value of the site.

ii was the building significant?

The building had been identified as significant as part of the Bernacchi second period. It was not as significant as earlier structures, but it was a significant building and its loss was a loss of heritage value to the site. The early documents include the building as part of the significance of the precinct.

iii did the building contribute to the heritage values of the site, particularly the spatial values of a place?

Apart from the physical loss of the building itself and its fabric, the building was one of the few structures from the 1920 period and with its location behind the earlier houses demonstrated a layering of the site from convict through to the early twentieth century.

The building did contribute to the broader spatial heritage values of the site and its loss removed part of the historic layering. Seeing the building within the landscape, even through foliage and undergrowth would recover some of the visual setting of the broader group of structures.

When built, the structure was not separated from the main site by trees and landscape. Now it is visually separated, although the chimney top can be seen above the tree line. Any consideration should take into account the setting and the landscape, but landscape can also change over time. The question that should be considered is whether the built form would be appropriate without the landscape that separates it from the other built forms on the site. I would suggest that if built to its early configuration (with additions

behind the main form when viewed from the core site area), the building would be very appropriate within the setting as it would reflect its built form and period.

However, the intervening landscape provides screening that is also valuable as it creates some separation from the convict period buildings.

Seeing the reconstructed built form, in part, across the landscape would not detract from the heritage qualities of the site or the spatial arrangement of the locality.

iv how would reconstructing the building affect the identified heritage values of the place

The reconstruction of the building changes the nature of the site in that the World Heritage Listing was made without it and it was not considered. However, the World Heritage Listing, only addresses the parts of the site that do have specific world heritage value, consequently the later layers of development are not considered in the listing. While new construction would not be contemplated or be appropriate within the WHA, reconstructing a significant building accidentally lost can recover some heritage values.

It is also noted that the mapping for the WH listing includes the building as part of the site plan even though it was not extant at the time.

v is the use of the building consistent with the heritage values of the place?

The use of the building for accommodation is consistent with the management plan and the use of other buildings on the site – guest and staff accommodation. It is a preferred use and the location is a preferred location as it groups accommodation uses in one area of the site that is close to but detached from the convict period buildings.

Presently the closest Bernacchi building is used for guest accommodation (as are some of the convict buildings) and guided tour accommodation, which is different to general visitor accommodation, is well located on the fringe of the core precinct.

Reconstruction

To understand the management plan in relation to the potential reconstruction of Adkins House it is necessary to refer to the CMP from 1992 by Godden Mackay and the plan of management as that CMP informed the management document.

Both documents provide a clearly articulated policy about the construction of new buildings in the core Darlington Precinct. The policies are logical and reflect the high values of the precinct.

At the point of writing both documents the precinct included the building known as Adkins House, its loss through fire occurred after these plans were in place.

The questions that then arise are:

- 1 Is the reconstruction of the Adkins House (however that is done) the construction of a new building and
- 2 Is the reconstruction of the Adkins House an action that fits within the policies that were endorsed in those documents.

To consider the question of reconstruction there is precedence.

In NSW two buildings at the Quarantine Station at North Head were lost to fires. One to arson and one to an electrical fault. I had prepared a very detailed 6 volume CMP and management plan for the site (NPWS) that contained policies that did not allow for new buildings on the site but did allow, with a range of

constraints, the reconstruction of some buildings that had been demolished when the station closed for use. The policy did not consider replacing then extant buildings lost through fire. Considerable debate took place and I prepared several discussion papers on whether it was appropriate to reconstruct the lost buildings and if so how should it be done.

The outcome of that long and quite intense process was a NPWS decision to reconstruct the buildings externally to their documented and known form and for one to internally maintain that form (as a museum space which is was before loss) and the other to allow for adaptation to facilitate new uses.

The project took place, we designed and documented and then built the buildings to a high level of acclaim. There is no doubt that the lost heritage values of the site were recovered by the work.

Maria Island and the Quarantine Station at Sydney are different sites but share a similar level of significance within Australia.

The important considerations at Quarantine Station centred on whether the reconstruction added to or detracted from the heritage values of the place. The decision was that the accidental loss of significant buildings on an important site reduced significance and no amount of interpretation could recover the spatial qualities of the site that had been lost by the non-existence of the built form. It was also concluded that reconstruction did not distort or adversely affect significance or how the site was understood. At its worst, it was an interpretive act, at its best, it corrected an aberration and allowed significance to be recovered.

It would seem the same argument applies at Maria Island.

The loss of the building through an accidental fire removed an element of significance. It can be reinstated with detailed and accurate knowledge of the building and that action is both interpretive and recovers significance.

The matter of whether the building is a new building within the terms of the management and conservation management plans is quite easy to resolve.

There can be no doubt that the policies relate to 'new buildings' or, buildings that are not historically part of the setting of the site and did not exist prior to the policy being written. The concept of reconstruction is different and separate and is not addressed.

The building stock at the time of the management plans being endorsed included the cottage. There was no anticipation that it would be lost therefore there was no policy to address this possibility.

In the terms of the policies a 'new building' is something that is to be built and is an addition to the building stock of the place. It does not reference additions or reconstruction of lost buildings. I agree that new buildings would be inappropriate and the intent of the policy was to retain the site overall in the state it was at the time of writing – this included Adkins Cottage.

Consequently, considering reconstruction is possible under the current management plan. It is a matter that has not been addressed or prohibited by the current documents.

A further consideration is whether the building can be rebuilt authentically and accurately.

Fortunately, the building is quite simple in form and detail and has a reasonable level of recording and is a very simple timber framed structure that can easily be recreated. There is no doubt that the building can be reconstructed with care to accurately reflect its built form.

This may not be the case with some of the earlier buildings that have been lost as their detailed form is not as recoverable, even if there was a desire to reconstruct.

The prohibition in the plan of management is quite specific and correctly refers to adding new elements to the site. It does not address rebuilding known elements that were extant when the plan was gazetted but later lost by accident.

Another way to look at the proposal is to consider if the proposal would be considered favourably if the building remained in situ. That is, would the use and an addition be acceptable if the building were still standing.

Subject to a detailed design and analysis and just considering the matter conceptually I can see no reason that the proposal would not fit comfortably under the current plan of management and CMP.

It would appear that the current plan of management can consider this proposal for reconstruction without any amendment.

If, on the other hand, an amendment to the Plan of Management were sought, it would appear to be quite straightforward as it would not require the alteration of any existing policy. Rather it would add a clarification as to how the policy applied in this specific situation. This could be done by way of a short addendum or even explanatory note so that the document as a whole remained without change.

With regard to the plan of management and a possible review or change, I would suggest that any review of that document should be a comprehensive one to update the whole document to current practice. The document is sound but would benefit from review. Interim or partial changes can be problematic and are probably best not undertaken.

The key issue is whether it is appropriate to consider reconstructing Atkins House. It is reasonable to assume that if conceptually the building can be rebuilt, how exactly how that should take place can be resolved as part of an assessment and approval process.

Planning Considerations

The management documents make various statements about new buildings within the core heritage precinct. There is a consensus among reports that new buildings should not be constructed.

There is also a consensus view that buildings in ruin should not be reconstructed. These references are clearly made in relation to the convict buildings in terms of reconstruction as the comments refer to conjectural reconstruction of those fragile elements.

There is no reference to the reconstruction of a building lost recently due to accidental fire and that is not unreasonable as it would not be anticipated.

Some of the statements and policies in the documents with comment on how this proposal can be considered are:

Policy	Comment
1997 CMP - Intervention in fabric	
- 'Wherever possible original fabric should be retained in situ and maintained, preserved and restored (Hypothetical reconstruction should not occur).' P100	The policy does not strictly apply to this proposal however the reconstruction is not conjectural as there is excellent evidence of the form of the building.
- 'Any new fabric, whether reconstruction or adaptation work, should be of a form, scale and finish that respects the existing building or structure, fabric and visual qualities.'	This allows for reconstruction despite the above policy. The proposal is a form, scale and materiality that respects the former building and the scale of the area and precinct.

	An addition to the side and rear is consistent with the scale and form and there is no intrusion into vistas or views.
2007 CMP	
7.4 Competing Interests and Values	
'The management of Maria Islands historical heritage values are challenged by several competing interests. These interests are tourism, conservation of natural heritage values and commercial interests.	This project balances those competing needs by addressing an important tourist accommodation need, recovering a lost built form that adds to the spatial understanding of the precinct, addresses the commercial interests of the island by managing visitation in a sustainable way and conserves natural heritage values. It also removes the need to provide new accommodation elsewhere on the island.
A balance needs to be found so that all of these values can be managed appropriately, so that the public's and PWS activities can continue without significantly impacting Maria Island's historical heritage values.'	The proposal does not impact on heritage values and achieves the balanced management sought.
7.5 Fundamental Constraints arising from Significance The following points arise from Maria Island's assessed significance and culminate in constraints to the places management:	
- The entire history of the island....contributes to the significance of the place. It should be appropriately interpreted.	Adkins House is one of two structures that did remain from the later Bernacchi period, its reinstatement recovers an important part of that period without adversely affecting other heritage values.
- All cultural landscapes have been deliberately created.... These landscapes should be conserved, retained and interpreted.	The deliberate cultural landscape included this building and the landscaper remains around the remnant built elements. The reconstruction of the building assists in understanding the cultural landscape.
- Significant vistas and views between precincts and heritage assets should be maintained and used as part of the interpretation of the place.	There is a small vista to the chimney from the core precinct and hill beyond, this will remain with the addition of a roof form. This is consistent with the historic form and has no adverse heritage impact.
- The precincts contain buildings and ruins from different historical periods.... These should be retained as is, without modification to the original style or character.	Recovery of the building strengthens the balance of structures from varying periods. There is no modification to style proposed. The addition is of similar form with a distinctly modern approach to detailing. It does not form part of the visual setting of the core precinct.
- Visitor access to the place should be encouraged and actively managed	The location is excellent for visitor accommodation. It is closely linked to the existing accommodation buildings, requires no clearing or other infrastructure in terms of roads or access and sits within a defined and fenced residential lot.

	The proposal is an elegant way to add a small amount of additional accommodation to the site with no adverse impact.
- The interests of the commercial operator should be aligned with PWS policy.....	The proposal is in line with PWS policy.
7.6.1 Planning Risks Planning within all heritage precincts needs to be carefully considered. It would be easy to detract from the heritage values of the place through actions allowing:	
- Any new development within historic precincts	This is not new development, if it were it could not be considered. It is the recovery of a significant building. This proposal will not detract from heritage values.
- Any redevelopment within the historic precincts without consideration or recognition of historic heritage values	This allows redevelopment but with constraints. The key is heritage values. Reconstruction to a known form is an acceptable heritage action where there is sufficient information to undertake the work and where there are no or minimal impacts. The only adverse impacts are that the immediate site will have some physical change. There are no visual or site impacts.
- Inappropriate alteration or addition to heritage buildings	The new work is appropriate.
- Construction of new developments adjacent heritage buildings/precincts that fail to respect their curtilage or impose on existing view corridors between assets or precincts.	This appears to allow consideration of new developments around precincts and buildings provided there is no impact on setting, views, vistas, etc. This proposal does not affect those attributes.
7.7 Conservation Policy Statement	
- The place, its precincts and heritage values deserves to be interpreted for the benefit of all visitors. Given the places setting this interpretation should be undertaken in an interactive and educational manner, where visitors become part of the experience.	Reconstruction facilitates interpretation. The building can demonstrate conservation principles, be interpreted and will be interactive.
- New building is not appropriate within any of the heritage precincts, unless compelling management and conservation reasons are put forward.	This policy does allow new building under very strict controls. While technically not new building it could be argued under this control that reconstruction fits within the compelling argument.
- Adaptive re-use of buildings is considered appropriate.	This does not strictly apply, but if the building were standing, an addition and adaptation would be considered possible.

Summary

Based on the brief outline of issues above, I would suggest that reconstructing the building is supportable and appropriate. There appear to be no unresolvable heritage and planning matters that would prevent the conceptual basis of reconstruction. This has been well tested at sites such as the North Head

Quarantine Station in Sydney (National heritage) where several buildings have been rebuilt after accidental loss. Their reconstruction added to the heritage values of the site.

The fundamental test is whether there are any adverse impacts on the heritage values of the precinct and Island.

Having visited the site, the precinct and the island and having reviewed the various management plans and heritage documents, I can find no compelling reasons that suggest there is an adverse heritage impact on the World, National or State level heritage significance of the place from reconstructing a lost significant building that is capable of reconstruction with accuracy.

This does not suggest that all lost buildings could or should be reconstructed. In the case of Adkins House, its relatively late addition to the precinct (1920s) and its form and construction assists as it is a simple and straightforward construction. In contrast, the World heritage elements are of very high significance for their fabric as well as their setting, reconstruction of those elements would not recover significance as there is such inherent significance in their extant form, that new elements (aside from conservation) will have an adverse impact on significance.

This reflects the layering of the site and the differing heritage values of elements.

The next issue is to amend the Plan of Management to facilitate the reconstruction without conflicting with other policies and guidelines within the document.

While the overall plan is now some 20 years old and is due for review, an amendment to facilitate this concept can be undertaken without either compromising the balance of the Plan or of affecting a future review. It may also be possible to simply provide accurate local mapping that addresses the policies for establishing the edge of the service area.

This is noted as a key aspect of a review needs to be the accurate mapping of the precinct (which was not available in the 1990s) and review of all boundaries, relationships of elements and uses. The proposed review of this area can satisfy those criteria and can be used in a future broader review. There is no potential conflict in that process.

A policy that appears in several documents is that of not allowing new buildings to be constructed in the core site area. That is a sound and proper policy. It does not however address reconstruction as that was not envisaged when the plans were prepared and if the boundary of the precinct is adjusted the service zone would, in any case, allow managed development.

If as a result of the initial review reconstruction is not supported, amending the plan of management would not obviously be required.

A further consideration is whether it is desirable or more desirable to allow a new building to be built for this purpose on another part of the island. Assuming there is a suitable location that is able to connect to the Darlington Precinct (as it would not be desirable to locate a new facility that is remote) is there an advantage in doing that over the reconstruction proposal?

It is necessary to look at the history of development of Darlington to consider this. While there have been considerably more structures in the precinct than now exist there are very few that could be considered for reconstruction as discussed above. There is also no potential to construct a 'new' building within the core precinct, consequently any development would need to be in the service zone. As it is presently mapped the service zone, even though quite large in area, has little potential to accommodate new developments that have not already been proposed. These include staff housing, workshops a marine study centre and the existing elements of ponds, creeks and generator areas.

For a use that is tightly linked to providing overnight short stay accommodation that currently operates in one of the Bernachhi houses, locating a new facility that is distant does not assist in managing tourism and use of the precinct.

It would appear that the Atkins House site is well sited and suited to the use and is an appropriate site location.

s47(1)(b)

s47(1)(b)

Methodology

The process required if this proposal were to proceed requires several stages:

The first is to review and amend the Plan of Management to address the site zones. It is necessary to map and adjust the zone boundary. This would be based on:

- a detailed mapping of the area to allow a more refined assessment of the preferred boundary between zones
- locating the service buildings to the south of Atkins House (there are three sheds in close proximity and a shed and stock yards further south) within the service zone

The purpose of the zones and how they operate needs to be explored and set out in detail.

A review of heritage values to include the potential reconstruction of Atkins House will need to be included.

The World Heritage listing will need to be addressed.

If the amendment to the Plan of Management proceeds the proposal needs to be developed in detail and submitted for assessment and approval.

The application will need to provide a detailed heritage assessment of the proposal addressing all of the requirements of the various listings and planning documents.

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Friday, 23 November 2018 1:30 PM
To: 'office@mariaislandwalk.com.au'
Cc: s22(1)(a)(ii); s22(1)(a)(ii); 's47F(1) (Parks)'
Subject: Adkins House and Darlington Probation Station Discussion Paper - Feedback [SEC=UNCLASSIFIED]

Dear Mr Johnson

I am emailing you in regards to the *Maria Island – Potential Reconstruction of Adkins House* Discussion Paper, prepared by s47F(1). The Department of the Environment and Energy (the Department) has reviewed the report, which addresses the proposal to construct a building on Maria Island within the World Heritage boundary of Darlington Probation Station, and have some feedback in relation to issues raised in the report and the proposal more generally.

As you are aware, the Darlington Probation Station is on the World Heritage List as part of the Australian Convict Sites World Heritage property, and is included on the National Heritage List as an individual listing. Anyone taking an action which is likely to have a significant impact on the World or National Heritage values of a National or World Heritage place must refer their action to the Minister for the Environment for approval. The World and National Heritage values of Darlington Probation are related to its status as an exemplar of the convict system, particularly as an isolated probation station where convicts were kept away from the rest of society. This is re-iterated in the National Heritage values for the site, which state:

As Australia's most intact example of a convict probation station, Darlington is considered to be a significant aspect of Australia's cultural history. With a natural environment setting that has few competing elements, the precinct possesses a rare sense of place. The intactness of the 13 buildings and structures and their relationship with each other uniquely demonstrate the philosophy behind the probation system. (See http://www.environment.gov.au/cgi-bin/ahdb/search.pl?mode=place_detail;place_id=105933)

The setting of the Probation Station and the ability to appreciate the site as an isolated and intact example of the convict punishment system is therefore an important aspect of its World and National Heritage values. The Department would have to carefully consider the impacts of any proposed new construction within this isolated setting.

We have reviewed the statements in the Discussion Paper that the proposed construction is on the site of the original Adkins House, which was destroyed by fire in 2001, and had some degree of heritage significance. We also note the issues raised in relation to the 1998 Maria Island Management Plan zoning requirements, and some differences in mapping between this document and other management documents for the Island, including the 2007 Darlington Settlement and Point Lesuer Conservation Management Plan. Please be aware that there are a number of issues that the Department has identified in relation to the justifications for the proposal.

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the relevant consideration for assessing any proposals for the Darlington Probation Station are impacts on its Outstanding Universal Value, communicated through the World Heritage listing, the World Heritage boundary for the site, and the 2007 Conservation Management Plan. Additionally, the National Heritage values and associated National Heritage boundary are also relevant considerations under the EPBC Act. While there are a number of other state-level management documents for Maria Island and the area around Darlington Probation Station, these are not the matters which need to be taken into account in determining the degree of impact on the World and National Heritage values under the EPBC Act.

The EPBC Act requires that any action likely to have a significant impact cannot be approved unless it is consistent with the 2007 Conservation Management Plan. This Conservation Management Plan has a number of policies which

relate to new development on Maria Island. In particular, the Conservation Policy Statement states “New building is not appropriate within any of the heritage precincts, unless compelling management and conservation reasons are put forward.” (p 75) Additionally, Future Place Use states “All historical precincts should be assigned the status of ‘low impact zones’ [...]No new development should be undertaken within the low impact zone.” (pg 86) and also “It is recommended that no new development occur within any of the heritage precincts. This should not constrain PWS in their operation of the National Park, given the limited size of each precinct. Indeed, to date PWS have successfully placed new buildings and associated infrastructure (such as power generators) outside of the existing heritage precincts” (pg 87).

The 2007 Conservation Management Plan was prepared for the World and National Heritage listing of Darlington Probation Station that year. Given Adkins House was not in-situ when Darlington Probation Station was included in the World and National Heritage lists, the Department considers the proposal as a new building for the purposes of any approval decision under the EPBC Act. In addition, while the original Adkins House likely had some degree of heritage significance, any such heritage significance was not at World or National Heritage level. Therefore, any reconstruction would not contribute to the World and National Heritage values of the site.

The Department is supportive of proposals on Maria Island with contribute to the conservation and promotion of Darlington Probation Station’s World and National Heritage values. We note that there are a number of existing buildings on the Island which may be suitable for adaptive re-use and provide visitors with an authentic heritage experience, as well as a number of locations on the Island outside the World Heritage boundary which may be well placed to provide tourists with a visitor experience without impacting on the World and National Heritage values of the site. The Department is happy to discuss further developing a suitable approach to providing visitor services on Maria Island.

Many thanks

s22(1)(a)(ii)

s22(1)(a)(ii) | [Acting Director | Historic Heritage Section | Heritage, Reef and Marine Division | Department of the Environment and Energy | John Gorton Building, Parkes, ACT | 02 6275](#) s22(1)(a)(ii)

s22(1)(a)(ii)