



**Transport**  
Roads & Maritime  
Services

# **APPENDIX B5**

Heritage Management Sub Plan

Toolijooa Road Fill Works stage of  
Foxground and Berry bypass

JANUARY 2014

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## Glossary / Abbreviations

AFG	Aboriginal Focus Group
CEMP	Construction Environmental Management Plan
CoA	Condition of approval
DEC	Department of Environment and Conservation
DECCW	Department of Environment, Climate Change and Water
Director General	Director General of the NSW Department of Planning and Infrastructure (or delegate)
DP&I	Department of Planning and Infrastructure
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPBC Act	<i>Environmental Protection and Biodiversity Conservation Act 1999</i>
EWMS	Environmental Work Method Statements
HMP	Heritage Management Sub Plan
LALC	Local Aboriginal Land Council
NPW Act	<i>National Parks and Wildlife Act 1974</i>
OEH	Office of Environment and Heritage
PAD	Potential archaeological deposit
PASA	Potential archaeologically sensitive areas
Project, the	The Princes Highway Upgrade - Foxground and Berry Bypass Project, defined as <i>“The construction and operation of approximately 11.6 kilometres of two lane divided carriageways (with the exception of the cutting through Toolijooa Ridge which comprises two lanes plus a climbing lane in each direction), with provisions for the possible future widening to three lanes within the road corridor (if required in the future).”</i>
RMS	Roads and Maritime Services
SoC	Statement of Commitments
TRACL	Toolijooa Ridge Aboriginal Cultural Landscape

# 1 Introduction

## 1.1 Context

This Heritage Management Sub Plan (HMP or Plan) forms part of the Construction Environmental Management Plan (CEMP) for the Toolijooa Road Fill Works stage of the Foxground and Berry bypass Project (the Project).

This HMP has been prepared to address the requirements of the Minister's Conditions of Approval (CoA), the RMS Statement of Commitments (SoC), the mitigation and management measures listed in the Foxground and Berry bypass Environmental Assessment (EA) and all applicable legislation.

This HMP has been reviewed by Dr Sandra Wallace, Director and Principal Archaeologist of Artefact, who is an appropriately qualified heritage consultant in both Aboriginal and non-Aboriginal heritage.

## 1.2 Background

The *Princes Highway upgrade – Foxground and Berry bypass Environmental Assessment* (AECOM, 2012) assessed the impacts of construction of the Project on Aboriginal and non-Aboriginal heritage.

As part of EA development, detailed Aboriginal and non-Aboriginal cultural heritage assessment was prepared to address the Director General's Requirements issued by the then Department of Planning. The assessments were included in the EA as:

- *Volume 2 Appendix J Technical paper: Aboriginal heritage; and*
- *Volume 2 Appendix K Technical Paper: Non-Aboriginal (historic) heritage*

## 1.3 Environmental management document system

The Project Environmental Management System is described in the CEMP. The HMP is part of Fulton Hogan's environmental management framework for the Project. In accordance with the requirements of CoA B36(e), this HMP has been developed in consultation with the NSW Office of Environment and Heritage (OEH). Further details of the consultation are provided in Chapter 4 of this HMP.

Management measures identified in this HMP will be incorporated into site or activity specific Environmental Work Method Statements (EWMS). EWMS will be developed and signed off by environment and management representatives prior to the commencement of the associated works. Construction personnel will be required to undertake works in accordance with the safeguards identified in the EWMS.

The combination of the CEMP, sub-plans strategies, procedures and EWMS identify the required environmental management actions for implementation by Fulton Hogan's personnel and contractors.

The review and document control processes for this HMP are described in Chapter 10 of the CEMP.

## **2 Purpose and objectives**

### **2.1 Purpose**

The purpose of this HMP is to describe how Aboriginal and non-Aboriginal heritage will be protected and managed by Fulton Hogan during construction of the Toolijooa Road Fill Works stage of the Project.

### **2.2 Objectives**

The key objective of the HMP is to ensure that impacts to Aboriginal and non-Aboriginal heritage are minimised and within the scope permitted by the Planning Approval.

To achieve this objective, the following will be undertaken:

- ensure appropriate controls and procedures are implemented during construction activities to avoid or minimise potential adverse impacts to Aboriginal and non-Aboriginal heritage along the Toolijooa Road Fill Works stage of the Project corridor;
- ensure appropriate measures are implemented to address the relevant CoA and SoC outlined in Table 3.1 and Table 3.2, and the safeguards detailed in the EA; and
- ensure appropriate measures are implemented to comply with all relevant legislation and other requirements as described in Section 3.1 of this HMP.

### **2.3 Targets**

The following targets have been established for the management of Aboriginal cultural heritage and non-Aboriginal heritage impacts during the Toolijooa Road Fill Works stage of the Project:

- ensure compliance with the relevant legislative requirements, CoA and SoC;
- minimise or avoid impacts on known Aboriginal and non-Aboriginal heritage sites;
- Detail management measures to be carried out in relation to recorded Aboriginal and non-Aboriginal sites;
- follow correct procedure and ensure notification of any Aboriginal and non-Aboriginal heritage objects / places uncovered during construction;
- ensure Aboriginal and non-Aboriginal heritage awareness training is provided to all personnel in the form of inductions before they begin work on-site.

## 3 Environmental requirements

### 3.1 Relevant legislation and guidelines

#### 3.1.1 Legislation

Legislation relevant to heritage management includes:

- *Environmental Planning and Assessment Act 1979* (EP&A Act);
- *National Parks and Wildlife Act 1974* (NPW Act);
- *Heritage Act 1977* (Heritage Act);
- *Environment Protection Biodiversity Conservation Act, 1999* (EPBC Act) (Commonwealth); and
- *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Commonwealth).

Relevant provisions of the above legislation are explained in the register of legal and other requirements included in Appendix A1 of the CEMP.

#### 3.1.2 Guidelines

The main guidelines, specifications and policy documents relevant to this HMP include:

- RMS QA Specification G36 – *Environmental Protection (Management System)*;
- RMS Standard Procedure – *Unexpected Archaeological Finds* (November 2011);
- *Procedure for Aboriginal Cultural Heritage Consultation* (RMS, 2011);
- *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* (DEC, July 2005);
- *Aboriginal cultural heritage consultation requirements for proponents 2010* (DECCW, 2010) (for reference only);
- *Altering Heritage Assets* (Heritage Office and DUAP 1996);
- *Assessing Significance for Archaeological Heritage Sites and Relics* (NSW Heritage Branch Department of Planning);
- *RTA Heritage Guidelines* (March 2004);
- *Archaeological Assessment Guidelines* (NSW Heritage Office and NSW Department of Urban Affairs and Planning 1996);
- NSW Government's *Aboriginal Participation in Construction Guidelines* (2007);
- *How to Prepare Archival Recording of Heritage Items* (Heritage Office, 1998);
- *Photographic Recording of Heritage Items Using Film or Digital Capture* (Heritage Office 2006); and
- *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance* (1999).



## 3.2 Minister's Conditions of Approval

The CoA relevant to this HMP are listed in Table 3-1 below. A cross reference is also included to indicate where the condition is addressed in this HMP or other project / environmental management documents.

**Table 3-1 Conditions of Approval relevant to the HMP**

CoA No.	Condition Requirements	Document Reference
CoA B36	As part of the Construction Environment Management Plan for the Project required under condition B35, the Proponent shall prepare and implement the following sub plan(s):	This HMP
	(e) a <b>Construction Heritage Management Sub-plan</b> to detail how construction impacts on Aboriginal and non-Aboriginal heritage will be avoided, minimised and managed. The sub-plan shall be prepared by an appropriately qualified heritage consultant(s) and be developed in consultation with the Heritage Council of NSW, the OEH (Aboriginal heritage), and registered Aboriginal stakeholders (for Aboriginal heritage), and include, but not necessarily be limited to:	Chapter 7 Section 1.1 Chapter 4
	(i) In relation to <b>Aboriginal Heritage</b> :	
	i. details of management measures and strategies for protection, salvage, and/or conservation of sites and items that will be directly or indirectly impacted during construction (including further archaeological investigations, salvage measures and/ or measures to protect unaffected sites during construction works in the vicinity);	Chapter 7 Chapter 8 Appendix A – RMS Standard Management Procedure – Unexpected Archaeological Finds
	ii. procedures for dealing with previously unidentified Aboriginal objects (excluding human remains) including cessation of works in the vicinity, assessment of the significance of the item(s) and determination of appropriate mitigation measures including when works can re-commence by a suitably qualified archaeologist in consultation with the department, OEH and registered Aboriginal stakeholders and assessment of the consistency of any new Aboriginal heritage impacts against the approved impacts of the Project, and notification to the OEH, in accordance with section 89A of the <i>National Parks and Wildlife Act 1974</i> , and the department;	Appendix A – RMS Standard Management Procedure – Unexpected Archaeological Finds
	iii. procedures for dealing with human remains, including cessation of works in the vicinity and notification of the department, NSW Police Force, OEH and registered Aboriginal stakeholders and not recommencing any works in the area unless authorised by the department and/ or the NSW Police Force; and	Appendix A – RMS Standard Management Procedure – Unexpected Archaeological Finds
	iv. induction processes (identification, protection) for construction personnel (including procedures for keeping records of inductions) and procedures for ongoing Aboriginal consultation and involvement; and	Section 8.2, Section 4.2

CoA No.	Condition Requirements	Document Reference
	(ii) In relation to <b>non-Aboriginal Heritage</b> :	
	i. details of management measures and strategies for protection, excavation, archival recording and/or conservation of heritage items that will be directly or indirectly impacted during construction (including measures to protect unaffected items during construction works in the vicinity);	Section 5.2 Chapter 7
	ii. procedures for dealing with previously unidentified items of heritage significance, including cessation of works in the vicinity, assessment of the significance of the item(s) and determination of appropriate mitigation measures including when works can re-commence by a suitably qualified and experienced archaeologist in consultation with the department and the Heritage Council of NSW and assessment of the consistency of any new non-Aboriginal heritage impacts against the approved impacts of the Project and notification of the Heritage Council of NSW, in accordance with Section 146 of the <i>NSW Heritage Act 1977</i> , and the department;	Appendix A – RMS Standard Management Procedure – Unexpected Archaeological Finds
	iii. procedures for dealing with human remains, including cessation of works in the vicinity and notification of the department, NSW Police Force, the Heritage Council of NSW and not recommencing any works in the area unless authorised by the department, and/ or the NSW Police Force; and	Appendix A – RMS Standard Management Procedure – Unexpected Archaeological Finds
	iv. heritage induction processes (identification, protection) for construction personnel (including procedures for keeping records of inductions).	Section 8.2
CoA C15	This approval does not allow the Proponent to destroy, modify or otherwise physically affect human remains as part of the Project.	Chapter 7 Appendix A – RMS Standard Management Procedure – Unexpected Archaeological Finds
CoA C16	The Proponent shall not destroy, modify or otherwise physically affect Aboriginal sites A3, A20, A37 – A39, and MFT 13-23 and non-Aboriginal sites H25, H26, H51, H52, H58, and H59.	Detailed design Chapter 7
CoA C17	Identified impacts to heritage (both Aboriginal and non-Aboriginal), shall be minimised to the greatest extent practicable through both detailed design and construction, particularly with regard to Aboriginal sites A13, A14, A18 and <b>TRACL</b> , and historic sites H13, H20, H54, H62, H63 and the Southern Illawarra Coastal Plain and Hinterland Cultural Landscape. Where impacts are unavoidable, works shall be undertaken in accordance with the actions to manage heritage construction impacts required by condition B36(e) and under the guidance of an appropriately qualified heritage specialist.	Detailed design Chapter 7
CoA C18	The proponent shall not destroy, modify or otherwise physically affect any heritage items outside the approved Project footprint, unless otherwise agreed by the Director General in accordance with Condition C32 of this Project Approval.	Chapter 7 SWMP App F
CoA C19	The measures to protect Aboriginal or historic heritage sites near or adjacent to the Project during construction shall be detailed in the Heritage Management Sub-plan required under condition B36(e).	Chapter 7

### 3.3 Statement of commitments

Relevant SoC are listed Table 3-2 below. This includes reference to required outcomes, the timing of when the commitment applies, and a cross section where the commitment is addressed in this HMP or other project management documents.

**Table 3-2 Statements of commitment relevant to this HMP**

Outcome	Ref #	Commitment	Timing	HMP Reference
Manage impacts on Aboriginal heritage	AH1	Aboriginal sites identified to be conserved will be managed as environmentally sensitive areas.	Pre-construction and construction	Chapter 7
Any unknown Aboriginal objects and/or places encountered are assessed	AH4	If any skeletal remains or unknown Aboriginal objects or places are encountered, works that would potentially impact the find will stop immediately. Works will not recommence until appropriate clearance has been received.	Pre-construction and construction	Appendix A – RMS Standard Management Procedure – Unexpected Archaeological Finds
	AH5	All construction personnel will receive training in the management of Aboriginal cultural materials, including legal obligations, the application of protocols and the recognition of Aboriginal cultural materials.	Pre-construction and construction	Section 8.2
Minimise impacts on non-Aboriginal heritage	NA4	If any unknown non-Aboriginal heritage items are encountered, all works that would potentially impact the find will stop immediately. Works will not recommence until appropriate clearance has been received.	Pre-construction and construction	Chapter 6 Appendix A – RMS Standard Management Procedure – Unexpected Archaeological Finds

## 4 Consultation

### 4.1 Consultation for preparation of the HMP

In accordance with CoA B36(e), this HMP has been developed in consultation with the OEH. A summary of consultation undertaken during the preparation of this HMP is provided in Appendix A2 of the CEMP.

The Heritage Division of OEH advised that as there is minimal impact to known heritage, the HMP for the Toolijooa Road Fill Works stage of the Foxground to Berry Bypass does not require referral to the Heritage Council.

Only one comment relating to potential impacts on the Toolijooa Ridge Aboriginal Cultural Landscape' (TRACL), was received from the OEH. The OEH provided a map of the TRACL boundary from the Foxground and Berry Bypass EA, and queried whether the TRACL boundary as presented in the EA was closer to the proposed Toolijooa Road Fill Works than what has been presented in sections 5.1.3, 6.2.2 and Figure 5-1 the HMP. OEH recommended that the boundary of this feature be clarified and if this landscape feature was found to be closer to the Toolijooa Road Fill Works than what is presented in the HMP, then the HMP should be updated to incorporate any relevant mitigation or management measures that may be required under the Minister's Conditions of Approval.

In preparation of Figure 5-2 of this HMP, the location of TRACL was adopted from the same map of the TRACL boundary that was presented in the Foxground and Berry Bypass EA. Figure 5-2 of this HMP was prepared by an experienced Geographic Information System (GIS) analyst by georeferencing the figure presenting the TRACL boundary from the Foxground and Berry Bypass EA, tracing the TRACL boundary and then scaling this feature to the same scale as the georeferenced aerial photograph that was used to create Figure 5-2 of this HMP. The result being the accurate representation of the TRACL boundary in Figure 5-2 of this HMP.

Figure 5-2 of this HMP was also provided to Navin Officer Heritage Consultants who undertook the Aboriginal heritage assessment for the Foxground and Berry Bypass EA and prepared the map depicting the TRACL boundary, referred to by OEH in their comments on the HMP. Navin Officer's Aboriginal heritage specialist who undertook the Aboriginal Heritage assessment for the Foxground and Berry Bypass EA, confirmed after consultation with other Navin Officer heritage specialists that the location of the TRACL boundary presented in Figure 5-2 of this HMP was a true representation of the location of TRACL. Navin Officer also noted that an Aboriginal Cultural Landscape is not a defined feature such as an isolated Aboriginal artefact that can be accurately mapped. Navin Officer added that although the proposed Toolijooa Road Fill Works is located outside of the mapped TRACL boundary, it is preferential to design and construct the proposed fill embankment to be sympathetic to and blend in as much as possible with the surrounding landscape.

As discussed in the Staging Report, the Landscape and Revegetation Management Plan and section 6.2.2 of this HMP, the proposed fill has been designed to be sympathetic to and blend in with the surrounding landscape and will be revegetated in a similar manner as the adjacent properties.

Additional environmental controls and mitigation measures, to prevent access to within the mapped TRACL boundary, are provided in Chapter 7 and 8.

## 4.2 Aboriginal consultation

Although the proposed Toolijooa Road Fill Works will not impact on any Aboriginal heritage items (refer to Chapter 5), consultation will still be undertaken with registered Aboriginal heritage stakeholders, to meet the requirements of CoA B36(e). A letter drafted by Fulton Hogan and approved by RMS, will be sent to registered Aboriginal heritage stakeholders describing the proposed works and inviting a response.

In addition, Fulton Hogan will make use of training materials prepared by the local Aboriginal art studio that explains the values of the Aboriginal heritage items in the area and how Fulton Hogan ensures these are protected (refer Section 8.2).

In the case of an unexpected Aboriginal heritage find, Fulton Hogan and RMS will consult with registered Aboriginal stakeholders regarding the management of Aboriginal heritage items.

## 5 Existing environment

The following sections summarise what is known about Aboriginal and non-Aboriginal heritage within and adjacent to the Project corridor based on information provided in:

- EA Section 7.7 Aboriginal cultural heritage;
- EA Section 7.8 Non-Aboriginal (historic) heritage;
- EA *Volume 2 Appendix J Technical paper: Aboriginal heritage*; and
- EA *Volume 2 Appendix K Technical Paper: Non-Aboriginal (historic) heritage*.

### 5.1 Aboriginal cultural heritage

#### 5.1.1 Historic context

Many modern researchers use the term Dharawal or Tharawal to refer to the tribal group within the Illawarra. Amongst contemporary local Aboriginal people the term Wodi Wodi is preferred. The Aborigines of the Nowra region refer to themselves as Wandiwandian people.

Boundaries between local bands and clans were flexible and permeable, allowing groups to move about. The Aboriginal people of the Shoalhaven banded together for specific activities, were together for a time, and then split apart. Later they formed new groups which most likely had at their core a number of closely-related families.

It is likely that Aboriginal groups were able to maintain their structure throughout the early period of European settlement. In response to European settlement, Aboriginal groups may have sought refuge, established camps either at a distance or close to European properties, been partially integrated into maritime or pastoral activities, or remained on the fringes of European communities.

As the land-use patterns of the new colonists intensified, there would have been a demand on natural resources, and the food sources of the Aboriginal people would have diminished radically. In the 1840s and 1850s, the introduction of dairy farming further reduced the availability of game in the Shoalhaven District. The issuing of rations by the government encouraged a clustering of people into camps, which would have caused some breaking down of the previous social structures. By the 1880s, it appears as if most of these structures were weakening and Aboriginal people were being pressed into reserves or missions.

#### 5.1.2 Local Aboriginal Land Councils

The Project and the surrounding area falls within three Local Aboriginal Land Council (LALC) boundaries. These are Illawarra LALC, the Jerringa LALC and the Nowra LALC. The Toolijooa Road Fill Works stage falls within the Illawarra LALC boundary.

#### 5.1.3 Aboriginal cultural heritage

Based on literature and database review, field surveys, test excavations and consultation with Aboriginal stakeholders, as described in the EA, 29 Aboriginal heritage items were identified within the Project area. These comprised 2 lithic artefact occurrences (G2B A3 and G2B A38), twenty three potential archaeologically sensitive areas (PASAs) (PASA12-29 and PASA 40-44), and 4 non-archaeological recordings of places of Aboriginal cultural heritage significance.

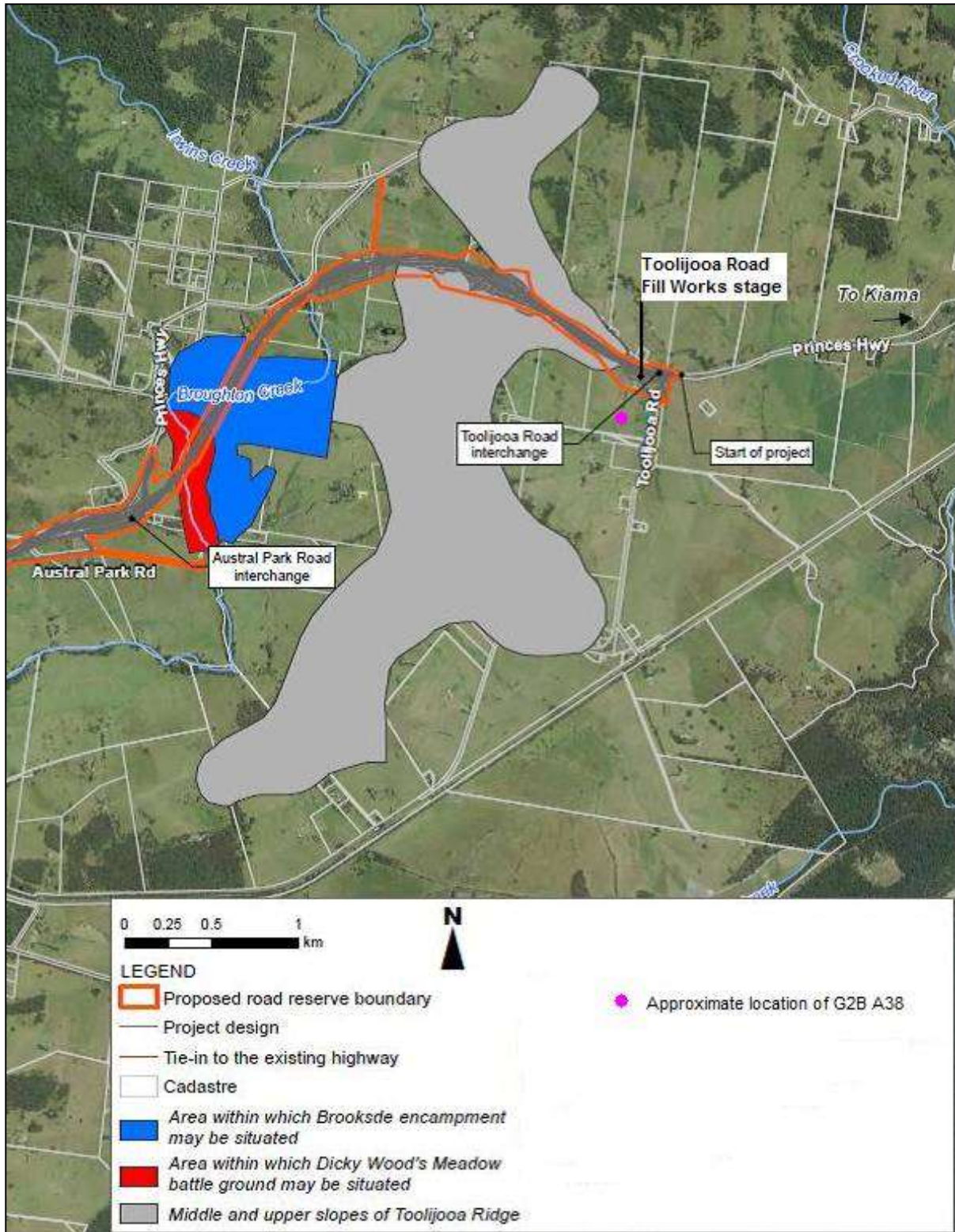
The non-archaeological recordings comprise three places relating to historical events or occupation (The 'Little Mountain' or 'Dicky Wood's Meadow' battle ground (G2B A13), Aboriginal Encampments at 'Brookside' (Broughton Village) (G2B A14) and Berry (G2B

A39)), and one cultural landscape, the Toolijooa Ridge Aboriginal cultural landscape (TRACL).

Two generalised Aboriginal cultural heritage values are recognised - large and old growth fig trees and Aboriginal burial sites. Twelve large or old growth fig trees have been identified in or near to the project area (MFT12 – 23).

One Aboriginal heritage item, a lithic Aboriginal artefact and associated PAD - G2B A38 is located in proximity to the Toolijooa Road Fill Works stage to the south-west, while one cultural landscape, the Toolijooa Ridge Aboriginal cultural landscape (TRACL) is generally mapped as extending up to a point, immediately west of the Toolijooa Road Fill Works stage.

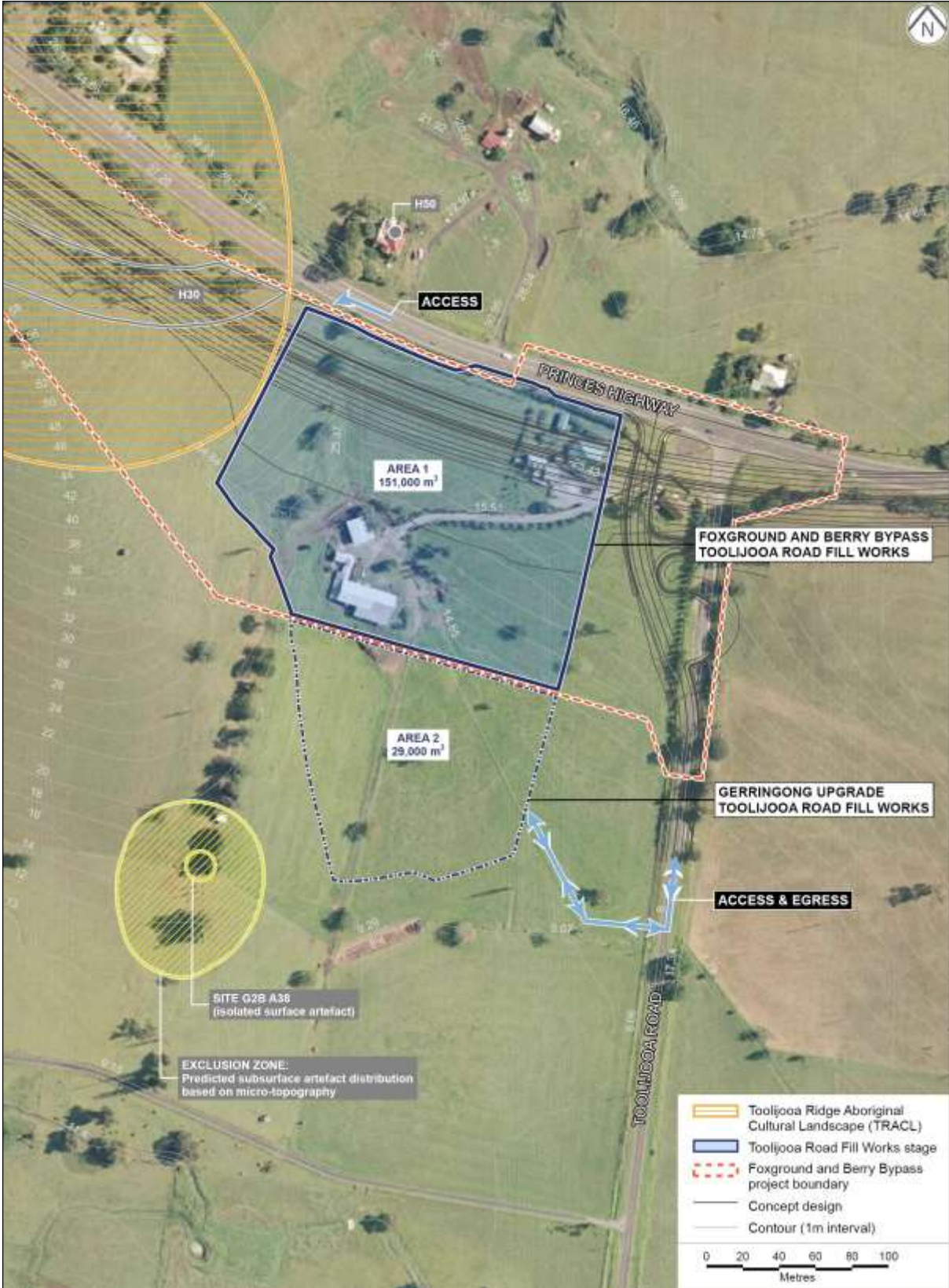
The general location of G2B A38 and TRACL is shown on Figure 5-1, with their locations in relation to the proposed Toolijooa Road Fill Works disturbance footprint shown in Figure 5-2.



Source: Foxground and Berry Bypass EA (AECOM, 2012)

**Figure 5-1 General location of Aboriginal culturally significant places and landscapes**





Source: Element Environment 2013

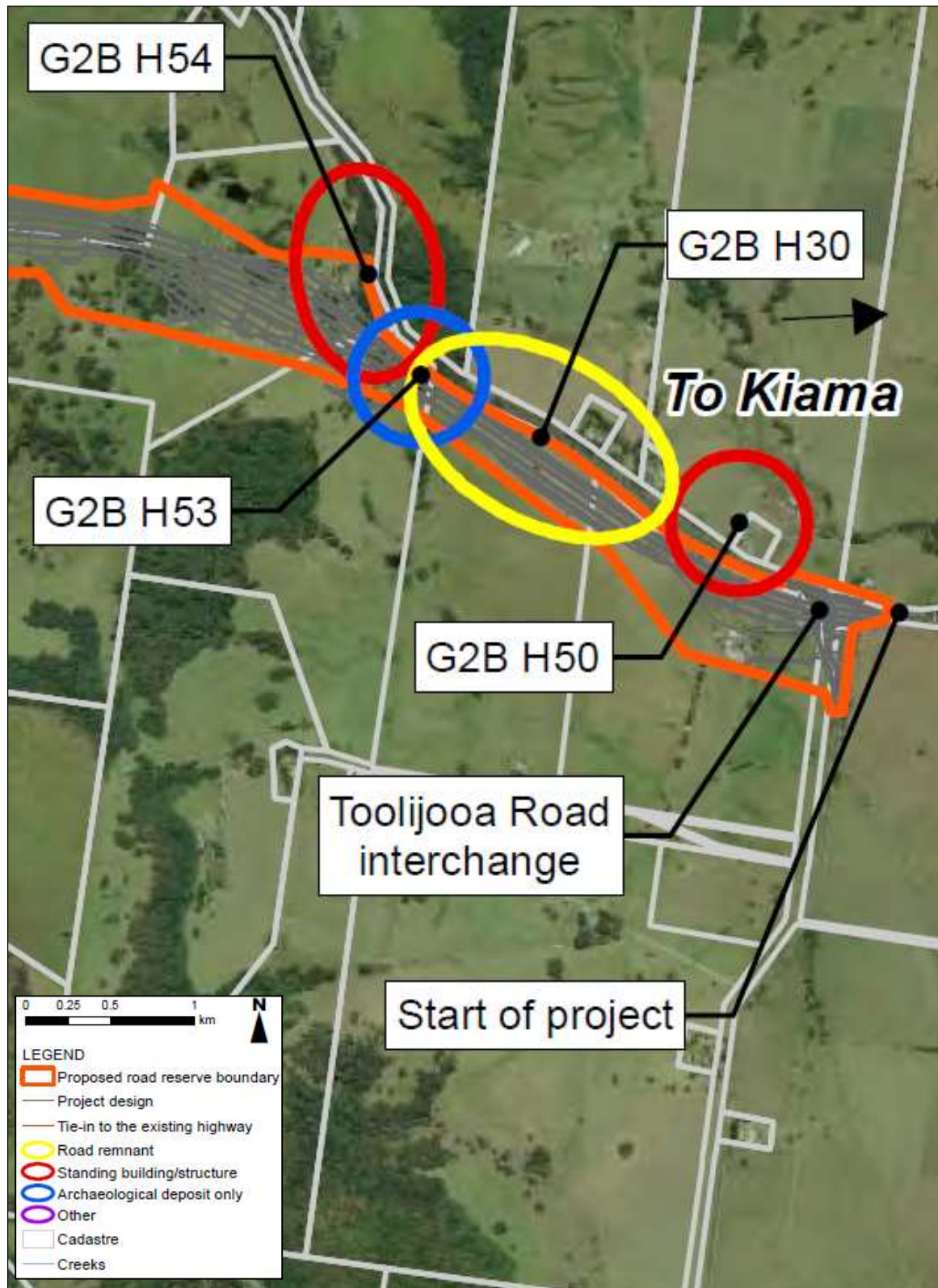
Figure 5-2 Location of heritage items G2B A38, G2B H30 and TRACL

## 5.2 Non-Aboriginal heritage

Forty non-Aboriginal field recordings were identified within the study area along the entire project alignment. Two of these recordings are located in proximity to the proposed Toolijooa Road Fill Works stage of the Project:

- G2B H30 - Remnant Portion of C19 Road is a relatively well preserved section of road, situated within the pasture field, along the crest and shoulder of the spurline, immediately south of the Princes Highway and to the west of the proposed Toolijooa Road Fill Works. This remnant is a portion of the original Berry Estate Road and was found to have local heritage significance. The road platform is evidenced by side ditches and variably shallow ground relief; and
- G2B H50 - *Clare Moy Cottage* (342 Princes Highway, Toolijooa) is located on the opposite (northern) side of the Princes Highway. G2B H50 is one of six recordings that were found not to have heritage significance against the assessment criteria specified by the Heritage Council of NSW and are therefore not classified as heritage items.

The general location of G2B H30 and G2B H50 are shown on Figure 5-3, with their locations in relation to the proposed Toolijooa Road Fill Works disturbance footprint shown in Figure 5-2.



Source: Foxground and Berry Bypass EA (AECOM, 2012)

**Figure 5-3 General location of non-Aboriginal heritage recordings**

## **6 Environmental aspects and impacts**

### **6.1 Construction activities**

Key aspects of the Toolijooa Road Fill Works stage of the Project that could result in adverse impacts to Aboriginal and Non-Aboriginal heritage include:

- initial clearing and/or grubbing of vegetation;
- initial removal of topsoil;
- construction of topsoil / mulch and / or equipment stockpile areas;
- establishment of temporary and permanent stormwater management structures; and
- temporary access roads during construction including heavy machinery accessing areas outside of the proposed Toolijooa Road Fill Works stage disturbance footprint.

Refer to Appendix A3 of the CEMP.

### **6.2 Aboriginal cultural heritage impacts**

#### **6.2.1 Impacts on heritage recordings**

The Aboriginal artefact G2B A38 is located immediately south-west of the Toolijooa Road Fill Works stage. The general location of G2B A38 is shown on Figure 5-1, with the location of G2B A38 in relation to the proposed Toolijooa Road Fill Works disturbance footprint shown in Figure 5-2. This Aboriginal heritage recording will be mapped on the Sensitive Area Plans (Appendix A7 of the CEMP).

The Toolijooa Road Fill Works stage of the Project has been designed to avoid any form of impact to this Aboriginal artefact and is therefore unlikely to impact on any Aboriginal heritage items if the mitigation measures included in section 7 are complied with.

#### **6.2.2 Impacts on the cultural landscape**

The Toolijooa Road Fill Works is located immediately east of the Toolijooa Ridge Aboriginal cultural landscape (TRACL).

The general location of TRACL is shown on Figure 5-1, with the location of TRACL in relation to the proposed Toolijooa Road Fill Works disturbance footprint shown in Figure 5-2. This Aboriginal cultural landscape will be mapped on the Sensitive Area Plans (Appendix A7 of the CEMP).

The Toolijooa Road Fill Works would result in relatively minor modification of the natural landform, through the construction of the first stage of an earthworks fill that will support the future realignment of the Princes Highway and will not directly impact on Toolijooa Ridge Aboriginal cultural landscape. The design of the proposed fill is sympathetic to and blends in with the surrounding landscape and will be revegetated in a similar manner as the adjacent properties (refer to Landscape and Revegetation Sub-Plan).

The Toolijooa Road Fill Works stage of the Project is therefore unlikely to impact on the Toolijooa Ridge Aboriginal cultural landscape if the mitigation measures included in section 7 are complied with.

### **6.3 Non-Aboriginal heritage impacts**

Two non-Aboriginal field recordings are located in proximity to the proposed Toolijooa Road Fill Works stage of the Project:

- G2B H30 - Remnant Portion of C19 Road; and

- G2B H50 - *Clare Moy Cottage* (342 Princes Highway, Toolijooa).

The general location of G2B H30 and G2B H50 are shown on Figure 5-3, with their locations in relation to the proposed Toolijooa Road Fill Works disturbance footprint shown in Figure 5-2.

As G2B H50 is not classified as a heritage item and G2B H30 is located to the west and outside of the proposed disturbance footprint, the Toolijooa Road Fill Works stage of the Project is therefore unlikely to impact on any non-Aboriginal heritage items, if the mitigation measures included in section 7 are complied with.

## **7 Environmental mitigation and management measures**

### **7.1 Construction related measures**

A range of environmental requirements and control measures are identified in the various environmental documents, including the EA, Statement of Commitments, supplementary assessments, Conditions of Approval and other RMS documents. Specific measures and requirements to address impacts on Aboriginal and non-Aboriginal heritage are outlined in Table 7-1.

**Table 7-1 Heritage management and mitigation measures**

<b>ID</b>	<b>Measure / Requirement</b>	<b>Reference</b>	<b>When to implement</b>	<b>Responsibility</b>	<b>Where Addressed/Further Detail</b>
<b>GENERAL</b>					
HMM1	Aboriginal and non-Aboriginal sites identified to be conserved will be managed as environmentally sensitive areas.	SoC AH1 SoC NA3	Construction	Environmental Manager Project / Site Engineers Foreman	Sensitive Area Plans
HMM2	Train construction teams prior to the commencement of construction. Where possible this training would be given by a Project archaeologist and a representative of the registered Aboriginal parties.	CoA B36(e)(i)iv. SoC AH5 EA Table 7-61	Pre-construction	Environmental Manager Project Archaeologist Representatives of registered Aboriginal parties	HMP Section 8.2 CEMP Chapter 5
HMM3	Not used.				
HMM4	Enter all heritage items which would remain in whole, or in part, within the Project easement following the end of Project construction, on the RMS' Section 170 Heritage and Conservation Register(s).	SoC NA5 EA Table 7-64	Post-construction	RMS	RMS
HMM5	Adopt and follow the draft RMS <i>Standard Management Procedure – Unexpected Archaeological Finds</i> (RMS, 2011), or an RMS approved revised version, in the event that unexpected cultural Aboriginal and non-Aboriginal heritage finds are encountered during Project construction.	CoA B36(e)(i)ii. CoA B36(e)(ii)ii. SoC NA4 EA Table 7-61 EA Table 7-64	Pre-construction Construction	All personnel and contractors	HMP Appendix A - RMS <i>Standard Management Procedure – Unexpected Archaeological Finds</i>
HMM6	Include heritage awareness in site induction training for Project staff. Include appropriate training in site inductions for construction staff regarding the Unexpected Finds Procedure and the cultural significance of the Toolijooa Ridge. Where possible this training would be given by a Project archaeologist and a representative of the registered Aboriginal parties.	CoA B36(e)(i)iv. CoA B36(e)(ii)iv. SoC AH5 EA Table 7-61 EA Table 7-64	Pre-construction Construction	Environmental Manager Project Archaeologist Representative of the registered Aboriginal parties	HMP Section 8.2 CEMP Chapter 5

ID	Measure / Requirement	Reference	When to implement	Responsibility	Where Addressed/Further Detail
<b>ABORIGINAL HERITAGE</b>					
<b>STAKEHOLDER CONSULTATION</b>					
HMM7	Continue ongoing consultation between RMS and Aboriginal stakeholders regarding the management of Aboriginal heritage items that are unexpectedly found during construction within the Toolijooa Road Fill Works area.	CoA B36(e)(i). EA Table 7-61	Pre-construction Construction Operation	RMS Representative Environmental Manager Communications Manager	HMP Section 4
<b>IMPACTS ON CULTURAL VALUES AND ETHNO HISTORIC SITES</b>					
HMM8	Not used.				
HMM9	Reduce the visual impacts associated with the construction and finishing of the fill embankment to reduce indirect impacts to the adjacent TRACL. Re-establish vegetation on the fill embankment as soon as practicable.	EA Table 7-61	Pre-construction Construction	Design Manager Project / Site Engineer	LRMP
HMM10 - 11	Not used.				
HMM12	Erect temporary fencing along the western boundary of the fill works, between the zone of construction activity and the adjacent TRACL, to define a 'no-go' area for vehicles, material storage or other actions likely to result in ground disturbance.	CoA B18 EA Table 7-61	Pre-construction Construction	Environmental Manager Project Archaeologist Project / Site Engineer Foreman	HMP Section 8.2 and 8.3
HMM13 - 14	Not used.				
<b>IMPACTS TO ABORIGINAL ARCHAEOLOGICAL IMPACTS</b>					
HMM15	Avoid unnecessary impact to site G2B A38.	EA Table 7-61	Pre-construction Construction	Environmental Manager Project / Site Engineer Foreman	HMP Section 8.2
HMM16	Not used.				
HMM17	Erect temporary fencing between the zone of construction activity and Aboriginal archaeological deposit G2B A38, to define a 'no-go' area for vehicles, material storage or other	EA Table 7-61	Pre-construction Construction	Environmental Manager	HMP Section 8.2



ID	Measure / Requirement	Reference	When to implement	Responsibility	Where Addressed/Further Detail
	actions likely to result in ground disturbance. Temporary fencing is to be erected no closer to G2B A38 than the edge of the exclusion zone identified in Figure 5-2. Appropriate 'no-go' signage is to be erected at the edge of the exclusion zone.			Project / Site Engineer Foreman	
<b>IMPACTS FROM ANCILLARY FACILITIES</b>					
HMM18 - 21	Not used.				
<b>NON-ABORIGINAL HERITAGE</b>					
<b>INDIRECT OR ACCIDENTAL IMPACTS ON KNOWN SITES</b>					
HMM22	Erect temporary fencing along the western boundary of the fill works, to prevent access to heritage item G2B H30 and to define a 'no-go' area for vehicles, material storage or other actions likely to result in ground disturbance.	CoA B18 EA Table 7-64	Pre-construction Construction	Environmental Manager Project / Site Engineer Foreman	HMP Section 8.2 and 8.3
HMM23 - 45	Not used.				

## 8 Compliance management

### 8.1 Roles and responsibilities

The Fulton Hogan Project Team's organisational structure and overall roles and responsibilities are outlined in Section 4.2 of the CEMP. Specific responsibilities for the implementation of environmental controls are detailed in Chapter 7 of this HMP.

### 8.2 Training

All employees, contractors and utility staff working on site will undergo site induction training relating to Aboriginal and non-Aboriginal heritage management issues. The induction training will address elements related to heritage management including:

- existence and requirements of this HMP;
- relevant legislation in particular relevant requirements under *NPW Act 1974* and *Heritage Act 1977*;
- roles and responsibilities of project personnel for heritage management;
- a seven minute video prepared by the local Aboriginal art studio that explains the values of the Aboriginal heritage items in the area and how Fulton Hogan ensures these are protected;
- location of identified Aboriginal heritage site G2B A38;
- location of identified Toolijooa Ridge Aboriginal Cultural Landscape, immediately west of the proposed works;
- location of identified non-Aboriginal heritage site G2B H30;
- proposed heritage management and protection measures including all mitigation measures detailed in Section 7 of this HMP, in particular the erection and maintenance of exclusion fencing around Aboriginal heritage item G2B A38 and along the western boundary of the fill works, to prevent access and impacts to TRACL and non-Aboriginal heritage site G2B H30;
- specific training for personnel working in the vicinity of Aboriginal heritage item G2B A38, TRACL and non-Aboriginal heritage site G2B H30;
- procedure to follow in the event of an unexpected heritage item find during construction works (*RMS Standard Management Procedure – Unexpected Archaeological Finds* (November 2011) (refer Appendix A));
- procedure to follow in the event of discovery of human remains during construction works (*RMS Standard Management Procedure – Unexpected Archaeological Finds* (November 2011) (refer Appendix A));
- Director General and other relevant government agencies notification procedures, in the event of an incident that results in actual or potential impacts on known heritage items and/or archaeological items that are discovered unexpectedly;
- basic identification skills for Aboriginal artefacts and human remains;
- penalties and consequences for non-compliance with the HMP;
- HMM2: Where possible this training would be given by a Project archaeologist and a representative of the registered Aboriginal parties; and
- HMM6: This training will include site inductions for construction staff regarding the cultural significance of the Toolijooa Ridge.

Environmental Posters will also be placed in areas of high visitation and meeting areas and will include heritage management information reflected in this Plan.

Training records for all project personnel will be kept and maintained in a register detailing names, dates, content and type of training undertaken.

Further details regarding staff induction and training are outlined in Chapter 5 of the CEMP.

### **8.3 Monitoring and inspections**

Inspections of Aboriginal heritage item G2B A38, TRACL and non-Aboriginal heritage item G2B H30, associated exclusion zone fencing and signage, and activities with the potential to impact these heritage items, will be undertaken daily by the site Foreman and at least weekly by the Environmental Manager, for the duration of the Toolijooa Road Fill Works stage of the Project. Any issues identified during weekly inspections will be documented, corrected and closed out by the Environmental Manager.

General requirements and responsibilities in relation to monitoring and inspections are documented in Section 8.1 and Section 8.2 of the CEMP.

### **8.4 Auditing**

Audits (both internal and external) will be undertaken to assess the effectiveness of environmental controls, compliance with this sub plan, CoA and other relevant approvals, licenses and guidelines. Audit requirements are detailed in Section 8.3 of the CEMP.

### **8.5 Incidents**

If an incident occurs that results in actual or potential impacts on known heritage items and/or archaeological items that are discovered unexpectedly, the Director General and other relevant government agencies will be notified as documented in Section 7 of the CEMP and in accordance with the Environmental Incident Classification and Reporting Procedure (Appendix A8 of the CEMP).

### **8.6 Reporting**

Reporting requirements and responsibilities are documented in Section 8.5 of the CEMP.

## **9 Review and improvement**

### **9.1 Continuous improvement**

Continuous improvement of this HMP will be achieved by the ongoing evaluation of environmental management performance against environmental policies, objectives and targets for the purpose of identifying opportunities for improvement.

The continuous improvement process will be designed to:

- identify areas of opportunity for improvement of environmental management and performance;
- determine the cause or causes of non-conformances and deficiencies;
- develop and implement a plan of corrective and preventative action to address any non-conformances and deficiencies;
- verify the effectiveness of the corrective and preventative actions;
- document any changes in procedures resulting from process improvement; and
- make comparisons with objectives and targets.

### **9.2 HMP update and amendment**

The processes described in Chapter 8 and Chapter 9 of the CEMP may result in the need to update or revise this HMP. This will occur as needed. Any revisions to the HMP will be in accordance with the process outlined in Section 1.6 of the CEMP.

A copy of the updated HMP and changes will be distributed to all relevant stakeholders in accordance with the approved document control procedure – refer to Section 10.2 of the CEMP.

**Appendix A**  
RMS Standard Management Procedure -  
Unexpected Heritage Items

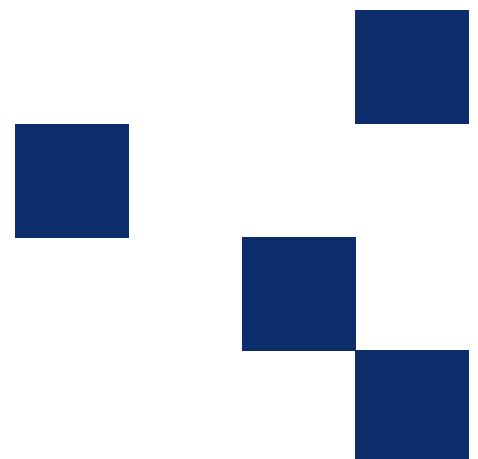


**Transport**  
Roads & Maritime  
Services

# STANDARD MANAGEMENT PROCEDURE

## Unexpected Heritage Items

October 2013



# About this release

<b>RMS/ISBN numbers</b>	RMS 12.003   ISBN 9781922040305
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Document status	Date
Final	09 October 2013

Version	Date	Revision Description
Final	1 November 2011	First Draft
Revised	23 July 2012	Amended to reflect that (a) unexpected finds do not include items covered by a relevant approval; (b) Aboriginal people must be consulted where an unexpected find is likely to be an Aboriginal object; (c) the Department of Planning and Infrastructure must be notified in accordance with Step 5 of this procedure for Part 3A and Part 5.1 projects.
Revised	09 October 2013	Amended to clarify that the procedure applies to all types of unexpected heritage items, not just archaeological items. The procedure introduces the term 'Historic Items' to cover both 'archaeological relics' and 'other historic items' such as works, structures, buildings and movable objects. The title of the document has been amended to better reflect this clarification.

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**Please note**

This procedure applies to all development and activities concerning roads, road infrastructure and road related assets undertaken by Roads and Maritime.

For advice on how to manage unexpected heritage items as a result of activities related to maritime infrastructure projects, please contact the Senior Environmental Specialist (Heritage).



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# Unexpected heritage items procedure

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## 1. Purpose

This procedure has been developed to provide a consistent method for managing unexpected heritage items (both Aboriginal and non-Aboriginal) during Roads and Maritime activities. This procedure includes Roads and Maritime's heritage notification obligations under the *Heritage Act 1977* (NSW), *National Parks and Wildlife Act 1974* (NSW), *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) and the *Coroner's Act 2009* (NSW).

This document provides relevant background information in Section 3, followed by the technical procedure in Sections 6 and 7. Associated guidance referred to in the procedure can be found in Appendices A-H.

## 2. Scope

This procedure assumes that an appropriate level of Aboriginal and non-Aboriginal heritage assessment has been undertaken prior to project approval or determination. Such assessment would have identified all heritage items, including areas of archaeological potential, likely to be present within the project area.

In some cases, despite appropriate and adequate investigation, unexpected heritage items may be encountered during the project construction phase. When this happens, this procedure must be followed. This procedure provides direction on when to stop work, where to seek technical advice and how to notify the regulator, if required.

**This procedure applies to all Road and Maritime construction and maintenance activities**

This procedure **applies to**:

- The discovery of any unexpected heritage item (usually during construction), where Roads and Maritime does not have approval to disturb that item.
- All Roads and Maritime projects that are approved or determined under Part 3A (including Transitional Part 3A Projects), Part 4, Part 5 or Part 5.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), or any development that is exempt under the Act.

This procedure must be followed by Roads and Maritime staff, alliance partners (including local council staff working under Road Maintenance Council Contracts, [RMCC]), developers under works authorisation deeds or any person undertaking Part 5 assessment for Roads and Maritime.

This procedure **does not apply** to:

- The legal discovery and disturbance of heritage items as a result of investigations being undertaken in accordance with OEH's *Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW* (2010); an Aboriginal Heritage Impact Permit (AHIP) issued under the *National Parks and Wildlife Act 1974*; or an approval issued under the *Heritage Act 1977*<sup>1</sup>.

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<sup>1</sup> RMS' heritage obligations are incorporated into the conditions of heritage approvals.

- The legal discovery and disturbance of heritage items as a result of investigations (or other activities) that are required to be carried out for the purpose of complying with any environmental assessment requirements under Part 3A (including Transitional Part 3A Projects) or Part 5.1 of the EP&A Act.
- The legal discovery and disturbance of heritage items as a result of construction related activities, where the disturbance is permissible in accordance with an AHIP<sup>2</sup>; an approval issued under the *Heritage Act 1977*; or the Minister for Planning's conditions of project approval.

All Construction Environment Management Plans (CEMPs) must make reference to and/or include this procedure (often included as a heritage sub-plan). Where approved CEMPs exist they must be followed in the first instance. Where there is a difference between approved CEMPs and this procedure, the approved CEMP must be followed. Where an approved CEMP does not provide sufficient detail on particular issues, this procedure should be used as additional guidance. When in doubt always seek environment and legal advice on varying approved CEMPs.

### 3. Types of unexpected heritage items and their legal protection

The roles of project, field and environmental staff are critical to the early identification and protection of unexpected heritage items. Appendix A illustrates the wide range of heritage discoveries found on Roads and Maritime projects and provides a useful photographic guide to this early identification. Subsequent confirmation of heritage discoveries must then be identified and assessed by technical specialists (usually an archaeologist).

An 'unexpected heritage item' means any unanticipated discovery of an actual or potential heritage item, for which Roads and Maritime does not have approval to disturb<sup>3</sup>.

These discoveries are categorised as either:

- (a) Aboriginal objects
- (b) Historic (non-Aboriginal) heritage items
- (c) Human skeletal remains.

The relevant legislation that applies to each of these categories is described below.

#### 3.1 Aboriginal objects

The *National Park and Wildlife Act 1974* protects *Aboriginal objects* which are defined as:

*“any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the*

<sup>2</sup> RMS *Procedure for Aboriginal cultural heritage consultation and investigation* (2011) recommends that Part 4 and Part 5 projects that are likely to impact Aboriginal objects during construction seek a whole-of-project AHIP. This type of AHIP generally allows a project to impact known and potential Aboriginal objects within the entire project area, without the need to stop works. It should be noted that an AHIP may exclude impact to certain objects and areas, such as burials or ceremonial sites. In such cases, the project must follow this procedure.

<sup>3</sup> Disturbance is considered to be any physical interference with the item that results in it being destroyed, defaced, damaged, harmed, impacted or altered in any way (this includes archaeological investigation activities).

*occupation of that area by persons of non Aboriginal extraction, and includes Aboriginal remains”<sup>4</sup>.*

Examples of Aboriginal objects include stone tool artefacts, shell middens, axe grinding grooves, pigment or engraved rock art, burials and scarred trees.

### **IMPORTANT!**

#### **All Aboriginal objects, regardless of significance, are protected under law.**

If any impact is expected to an Aboriginal object, an Aboriginal Heritage Impact Permit (AHIP) is usually required from the Office of Environment and Heritage (OEH)<sup>5</sup>. Also, when a person becomes aware of an Aboriginal object they must notify the Director-General of OEH about its location<sup>6</sup>. Assistance on how to do this is provided in Section 7 (Step 5).

## 3.2 Historic heritage items

Historic (non-Aboriginal) heritage items may include:

- Archaeological ‘relics’
- Other historic items (i.e. works, structures, buildings or movable objects).

### 3.2.1 Archaeological relics

The *Heritage Act 1977* protects *relics* which are defined as:

*“any deposit, artefact, object or material evidence that relates to the settlement of the area that comprises NSW, not being Aboriginal settlement; and is of State or local heritage significance”<sup>7</sup>.*

Relics are archaeological items of local or state significance which may relate to past domestic, industrial or agricultural activities in NSW, and can include bottles, remnants of clothing, pottery, building materials and general refuse.

### **IMPORTANT!**

#### **All relics are subject to statutory controls and protections.**

If any impact is expected to a relic, a heritage approval is usually required from the NSW Heritage Council<sup>8</sup>. Also, when a person discovers a relic they must notify the NSW Heritage Council of its location<sup>9</sup>. Advice on how to do this is provided in Section 7 (Step 5).

<sup>4</sup> Section 5(1) *National Park and Wildlife Act 1974*.

<sup>5</sup> Except when Part 3A, Division 4.1 of Part 4 or Part 5.1 of the *EP&A Act* applies.

<sup>6</sup> This is required under s89(A) of the *National Park and Wildlife Act 1974* and applies to **all projects** assessed under Part 3A, Part 4, Part 5 and Part 5.1 of the *EP&A Act*, including exempt development.

<sup>7</sup> Section 4(1) *Heritage Act 1977*.

<sup>8</sup> Except when Part 3A, Division 4.1 of Part 4 or Part 5.1 of the *EP&A Act* applies.

<sup>9</sup> This is required under s146 of the *Heritage Act 1977* and applies to **all projects** assessed under Part 3A, Part 4, Part 5 and Part 5.1 of the *EP&A Act*, including exempt development.

### 3.2.2 Other historic items

Some historic heritage items are not considered to be 'relics'; but are instead referred to as works, buildings, structures or movable objects. Examples of these items that Roads and Maritime may encounter include culverts, historic road formations, historic pavements, buried roads, retaining walls, tramlines, cisterns, fences, sheds, buildings and conduits. Although an approval under the *Heritage Act 1977* may not be required to disturb these items, their discovery must be managed in accordance with this procedure.

As a general rule, an archaeological relic requires discovery or examination through the act of excavation. An archaeological excavation permit under Section 140 of the *Heritage Act 1977* is required to do this. In contrast, 'other historic items' either exist above the ground's surface (e.g. a shed), or they are designed to operate and exist beneath the ground's surface (e.g. a culvert).

Despite this difference, it should be remembered that relics can often be associated with 'other heritage items', such as archaeological deposits within cisterns and underfloor deposits under buildings.

### 3.3 Human skeletal remains

Human skeletal remains can be identified as either an Aboriginal object or non-Aboriginal relic depending on ancestry of the individual (Aboriginal or non-Aboriginal) and burial context (archaeological or non-archaeological). Remains are considered to be archaeological when the time elapsed since death is suspected of being 100 years or more. Depending on ancestry and context, different legislation applies.

As a simple example, a pre-contact archaeological Aboriginal burial would be protected under the *National Park and Wildlife Act 1974*, while a historic (non-Aboriginal) archaeological burial within a cemetery would be protected under the *Heritage Act 1977*. For these cases, the relevant heritage approval and notification requirements described in the above sections 3.1 and 3.2 would apply. In addition to the *National Park and Wildlife Act 1974*, finding Aboriginal human remains also triggers notification requirements to the Commonwealth Minister for Sustainability, Environment, Water, Populations and Communities (SEWPC) under s20(1) of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

#### IMPORTANT!

**All human skeletal remains are subject to statutory controls and protections.**

All bones must be treated as potential human skeletal remains and work around them must stop while they are protected and investigated urgently.

However, where it is suspected that less than 100 years has elapsed since death, the human skeletal remains come under the jurisdiction of the State Coroner and the *Coroners Act 2009* (NSW). Such a case would be considered a 'reportable death' and under legal notification obligations set out in s35(2); a person must report the death to a police officer, a coroner or an assistant coroner as soon as possible. This applies to

all human remains less than 100 years old<sup>10</sup> regardless of ancestry (ie both Aboriginal and non-Aboriginal remains). Public health controls may also apply.

Guidance on what to do when suspected human remains are found is provided in Appendix F.

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<sup>10</sup> Under s19 of the *Coroners Act 2009*, the coroner has no jurisdiction to conduct an inquest into reportable death unless it appears to the coroner that (or that there is reasonable cause to suspect that) the death or suspected death occurred within the last 100 years.

## 4. Responsibilities

The following roles and responsibilities are relevant to this procedure.

<b>Role</b>	<b>Definition/responsibility</b>
Aboriginal Cultural Heritage Advisor (ACHA)	Provides Aboriginal cultural heritage advice to project teams. Acts as Aboriginal community liaison for projects on cultural heritage matters. Engages and consults with the Aboriginal community as per the Roads and Maritime <i>Procedure for Aboriginal Cultural Heritage Consultation and Investigation</i> .
Aboriginal Sites Officer	Is an appropriately trained and skilled Aboriginal person whose role is to identify and assess Aboriginal objects and cultural values. For details on engaging Aboriginal Sites Officers, refer to Roads and Maritime <i>Procedure for Aboriginal Cultural Heritage Consultation and Investigation</i> .
Archaeologist (A)	Professional consultant, contracted on a case-by-case basis to provide heritage and archaeological advice and technical services (such as reports, heritage approval documentation etc).
Environment Manager Regional Maintenance Delivery (EM-RMD)	Ensures Regional Maintenance Delivery staff are aware of the Unexpected Heritage Items Protocol for Maintenance Staff and the Unexpected Heritage Item Recording Form 418. Supports the Regional Maintenance Delivery Section Manager during the implementation of this procedure and ensures reporting of unexpected heritage items through environment management systems.
Project (on-call) Archaeologist	Professional consultant contracted for the implementation phase of a construction project to provide heritage and archaeological advice and technical services when required. Major projects with complex heritage issues often have a Project archaeologist.
Project Manager (PM)	Ensures all aspects of this procedure are implemented. The PM can delegate specific tasks to a construction environment manager, Roads and Maritime site representatives or regional environment staff, where appropriate.
Regional Environment Staff (RES)	Provides advice on this procedure to project teams. Ensuring this procedure is implemented consistently by supporting the PM. Supporting project teams during the uncovering of unexpected finds. Reviewing archaeological management plans and liaising with heritage staff and archaeological consultants as needed.
Registered Aboriginal Parties (RAPs)	RAPs are Aboriginal people who have registered with Roads and Maritime to be consulted about a proposed Roads and Maritime project or activity in accordance with OEH's Aboriginal cultural heritage consultation

	requirements for proponents (2010).
Section Manager - Regional Maintenance Delivery (SM-RMD)	Liaises with RES, EM-RMD and heritage staff during the discovery of unexpected heritage items and the implementation of this procedure.
Senior Environmental Specialist (Heritage) (SES(H))	Provides technical assistance on this procedure and archaeological technical matters, as required. Reviewing the archaeological management plans and facilitating heritage approval applications, where required. Assists with regulator engagement, where required.
Team Leader - Regional Maintenance Delivery (TL-RMD)	Ensures Regional Maintenance Delivery staff stop work in the vicinity of an unexpected heritage item. Completes Unexpected Heritage Item Recording Form 418 and notifies SM-RMD.
Technical Specialist	Professional consultant contracted to provide specific technical advice that relates to the specific type of unexpected heritage find (eg a forensic or physical anthropologist who can identify and analyse human skeletal remains).

## 5. Acronyms

The following acronyms are relevant to this procedure.

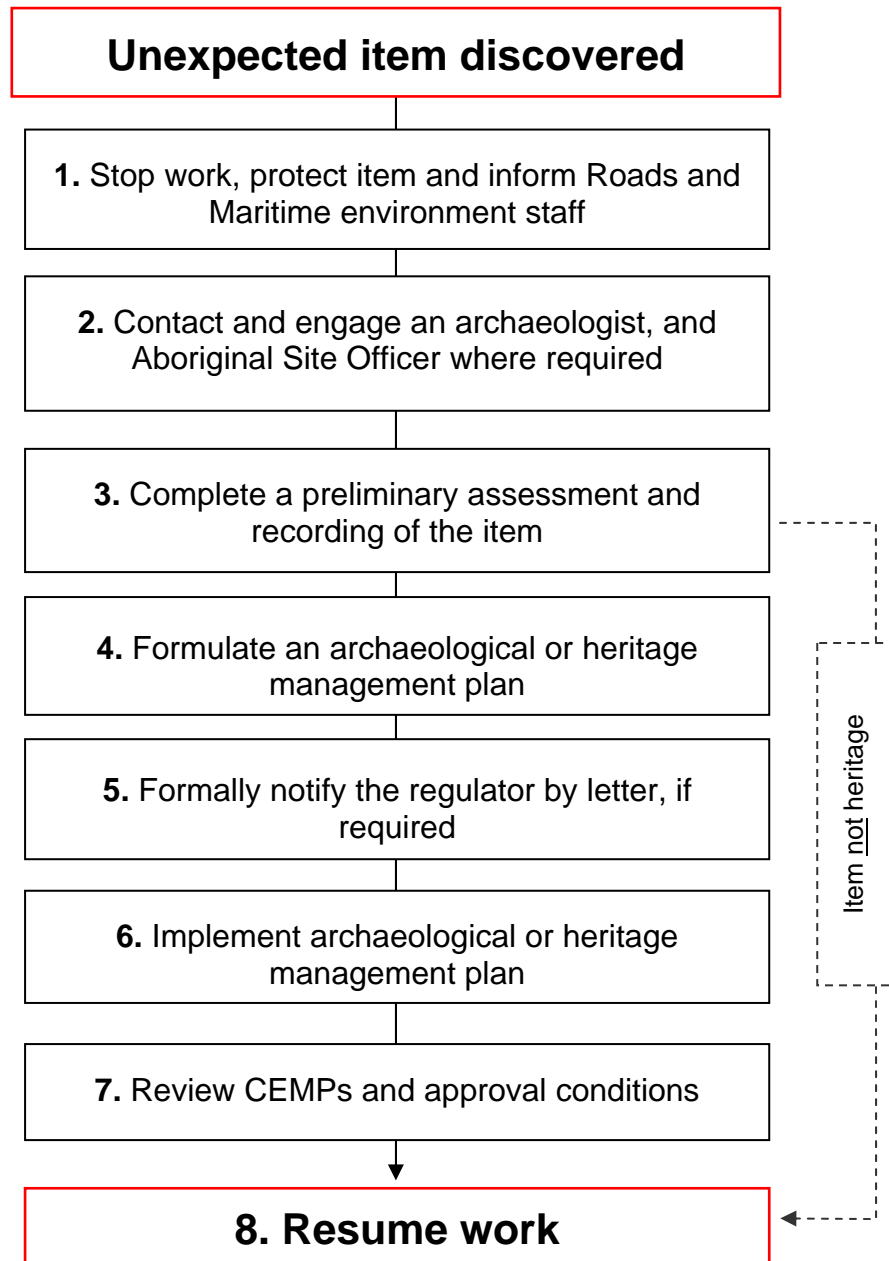
<b>Acronym</b>	<b>Meaning</b>
AHIP	Aboriginal Heritage Impact Permit
ASO	Aboriginal Site Officer
CEMP	Construction Environment Management Plan
DSEWPC	Commonwealth Department of Sustainability, Environment, Water, Populations and Communities
EPRG	Environmental Planning and Regulatory Group. <i>Please note at the time of finalisation EPRG became part of Environment Protection Authority</i>
OEH	Office of Environment and Heritage
PACHCI	Procedure for Aboriginal Cultural Heritage Consultation and Investigation
RAP	Registered Aboriginal Party/ies
RMD	Regional Maintenance Delivery
RMCC	Road Maintenance Council Contracts
RMS	Roads and Maritime



## 6. Overview of the procedure

On discovering something that could be an unexpected heritage item ('the item'), the Project Manager must implement the following procedure with the assistance of the regional environment staff and Roads and Maritime heritage staff, where required.

There are eight steps in the procedure. These steps are shown briefly in Figure 1 below and explained in detail in Section 7.



**Figure 1:** Overview of steps to be undertaken on the discovery of an unexpected heritage item.

## 7. Unexpected heritage items procedure

**Table 1:** Specific tasks to be implemented following the discovery of an unexpected heritage item.

*Aboriginal Cultural Heritage Advisor (ACHA); Aboriginal Sites Officer (ASO); Archaeologist (A); Project Manager (PM); Regional Environment Staff (RES); Registered Aboriginal Parties (RAPs); Senior Environmental Specialist (Heritage) (SES(H)).*

Step	Task	Responsibility	Guidance & Tools
<b>1</b>	<b>Stop work, protect item and inform Roads and Maritime environment staff</b>		
1.1	Stop all work in the immediate area of the item and notify the PM.	All	<b>Appendix A</b> (Identifying Unexpected Heritage items)
1.2	Maintenance crews are required to follow the <i>Unexpected Heritage Items Protocol for Maintenance Staff</i> outlined in Appendix B and return to this procedure when directed by that protocol.	TL-RMD	<b>Appendix B</b> (Unexpected Heritage Items Protocol for Maintenance Staff) <b>Appendix C</b> (Unexpected Heritage Item Recording Form 418)
1.3	Take a number of photographs that captures the general context and specific detail of the item.	PM	<b>Appendix D</b> (Photographing Unexpected Heritage items)
1.4	Inform relevant Roads and Maritime regional environment staff, Senior Environmental Specialist (Heritage) and Regional Aboriginal Cultural Heritage Advisor (where the item is thought to be an Aboriginal object).	PM	<b>Appendix E</b> (Key Environmental Contacts)
1.5	Delineate and protect the item with appropriate (high visibility) fencing, where practical.	PM	

Step	Task	Responsibility	Guidance & Tools
1.6	No further interference, including works, ground disturbance, touching or moving the item must occur to the item or within the protected area.	PM	
1.7	Inform all site personnel of the protected area (a new environmentally sensitive zone).	PM	
1.8	Where, at this stage, the item is reasonably suspected to be human remains proceed directly to notifying the local police who may take command of all or part of the site. Where the item does not involve human remains, continue progressing through this procedure.	PM	<b>Appendix F</b> (Uncovering Bones)
1.9	Report the item as a 'Notifiable Event' in accordance with the Roads and Maritime <i>Incident Classification and Reporting Procedure</i> . Also implement any additional reporting requirements related to the project's approval and CEMP.	PM/RES	RMS Incident Classification and Reporting Procedure
<b>2</b>	<b>Contact and engage an archaeologist, and Aboriginal site officer where required</b>		
2.1	Contact the Project (on-call) Archaeologist to discuss the location and extent of the item and to arrange a site inspection, if required. The project CEMP contains contact details of the Project Archaeologist.	PM/RES	Also see <b>Appendix E</b> (Key Environmental Contacts)
2.2	Where there is no project archaeologist engaged for the project, engage a suitably qualified and experienced archaeological consultant to undertake a site inspection, conduct a preliminary assessment and prepare an archaeological or heritage management plan. Lists of consultants are available from online sources, including the yellow pages. Regional environment staff and Roads and Maritime heritage staff can also advise on appropriate consultants.	PM/RES	Online lists of heritage consultants: <ul style="list-style-type: none"> <li>• <a href="#">OEH List</a></li> <li>• <a href="#">AACAI List</a></li> </ul>
2.3	Where the item is likely to be an Aboriginal object, arrange for an Aboriginal Sites Officer to inspect the find. Generally, this person would be a Sites Officer from the relevant local Aboriginal land council. If an alternative contact person (ie a RAP) has been nominated as a result of previous consultation, then that person is to be contacted.	PM/ACHA	
2.4	If requested, provide photographs of the item taken at Step 1.3 to the archaeologist, and Aboriginal Sites Officer if relevant.	PM/RES	<b>Appendix D</b> (Photographing)

Step	Task	Responsibility	Guidance & Tools
			Unexpected Heritage items)
<b>3</b>	<b>Preliminary assessment and recording of the find</b>		
3.1	In a minority of cases, the archaeologist (and Aboriginal Sites Officer, if relevant) may determine from the photographs that no site inspection is required because no archaeological constraint exists for the project (eg <i>the item is not a 'relic', a 'heritage item' or an 'Aboriginal object'</i> ). Any such advice should be provided in writing by the archaeologist (eg via email) and confirmed by the Project Manager.	A/PM/ASO	Proceed to Step 8
3.2	Arrange site access for the archaeologist (and Aboriginal Sites Officer, if relevant) to inspect the item as soon as practicable. In the majority of cases a site inspection is required to conduct a preliminary assessment.	PM	
3.3	Subject to the archaeologist's assessment (and the Aboriginal Sites Officer's assessment, if relevant), work may recommence at a set distance from the item. This is to protect any other archaeological material that may exist in the vicinity, which has not yet been uncovered. Existing protective fencing established in Step 1.5 may need to be adjusted to reflect the extent of the newly assessed protective area. No works are to take place within this area once established.	A/PM/ASO	
3.4	The archaeologist (and Aboriginal Sites Officer, if relevant) may provide advice after the site inspection and preliminary assessment that no archaeological constraint exists for the project (eg <i>the item is not a 'relic', a 'heritage item' or an 'Aboriginal object'</i> ). Any such advice should be provided in writing by the archaeologist, (and Aboriginal Sites Officer if relevant) (eg via email) and confirmed by the Project Manager.	A/PM/ASO	Proceed to Step 8
3.5	Where required, seek additional specialist technical advice (such as a forensic or physical anthropologist to identify skeletal remains). Regional environment staff and/or Roads and Maritime heritage staff can provide contacts for such specialist consultants.	PM/RES	<b>Appendix E</b> (Key Environmental Contacts)
3.6	Where the item has been identified as a 'relic', 'heritage item' or an 'Aboriginal object' the archaeologist should record the item on a proforma recording form.	A	<ul style="list-style-type: none"> <li>• <u>Aboriginal site recording form</u></li> <li>• <u>Non-Aboriginal site</u></li> </ul>

Step	Task	Responsibility	Guidance & Tools
			<u>recording form</u>
3.7	The regulator can be notified informally by telephone at this stage by the archaeologist or Project Manager (or delegate). Any verbal conversations with regulators must be noted on the project file for future reference.	PM/A	
<b>4</b>	<b>Prepare an archaeological or heritage management plan</b>		
4.1	The archaeologist must prepare an archaeological or heritage management plan (with input from the Aboriginal Sites Officer, where relevant) shortly after the site inspection. This plan is a brief overview of the following: (a) description of the feature, (b) historic context, if data is easily accessible, (c) likely significance, (d) heritage approval and regulatory notification requirements, (e) heritage reporting requirements, (f) stakeholder consultation requirements, (g) relevance to other project approvals and management plans etc.	A/ASO	<b>Appendix G</b> (Archaeological/ Heritage Advice Checklist)
4.2	In preparing the plan, the archaeologist with the assistance of regional environment staff must review the CEMP, any heritage sub-plans, any conditions of heritage approvals, any conditions of project approval (and or Minister's Conditions of Approval) and heritage assessment documentation (eg Aboriginal Cultural Heritage Assessment Report). This will outline if the unexpected item is consistent with previous heritage/project approval(s) and/or previously agreed management strategies. The Project Manager and regional environment staff must provide all relevant documents to the archaeologist to assist with this. Discussions should occur with design engineers to consider if re-design options exist and are appropriate.	A/RES/PM	<b>Appendix G</b> (Archaeological/ Heritage Advice Checklist)
4.3	The archaeologist must submit this plan as a letter, brief report or email to the Project Manager outlining all relevant archaeological or heritage issues. This plan should be submitted to the Project Manager as soon as practicable. Given that the archaeological management plan is an overview of all the necessary requirements (and the urgency of the situation), it should take no longer than two working days to submit to the Project Manager.	A	

Step	Task	Responsibility	Guidance & Tools
4.4	The Project Manager must review the archaeological or heritage management plan to ensure all requirements can reasonably be implemented. Seek additional advice from regional environment staff and Roads and Maritime heritage staff, if required.	PM/RES/SES (H)	
<b>5</b>	<b>Notify the regulator, if required.</b>		
5.1	Review the archaeological or heritage management plan to confirm if regulator notification is required. It may state notification is not required.	PM/RES/SES (H)	Proceed to Step 6
5.2	If notification is required, complete the template notification letter.	PM	<b>Appendix H</b> (Template Notification Letter)
5.3	Forward the draft notification letter, archaeological or heritage management plan and the site recording form to regional environment staff and Senior Environmental Specialist (Heritage) for review, and consider any suggested amendments.	PM/RES/SES (H)	
5.4	Forward the signed notification letter to the relevant regulator (ie notification of relics must be given to the Heritage Branch of OEH, while notification for Aboriginal objects must be given to the Environmental Protection and Regulation Group of OEH). Informal notification (via a phone call or email) to the regulator prior to sending the letter is appropriate. The archaeological management plan and the completed site recording form must be submitted with the notification letter. For Part 3A and Part 5.1 projects, the Department of Planning and Infrastructure must also be notified.	PM	<b>Appendix E</b> (Key Environmental Contacts)
5.5	A copy of the final signed notification letter, archaeological or heritage management plan and the site recording form should be kept on file by the Project Manager and a copy sent to the Senior Environmental Specialist (Heritage).	PM	
5.6	If requested by the regulator, arrange a site inspection of the item for them.	PM	
<b>6</b>	<b>Implement archaeological or heritage management plan</b>		
6.1	Modify the archaeological or heritage management plan to take into account any additional advice resulting from notification and discussions with the regulator.	A/PM	

Step	Task	Responsibility	Guidance & Tools
6.2	Implement the archaeological or heritage management plan. Where impact is expected, this would include such things as a formal assessment of significance and heritage impact assessment, preparation of excavation or recording methodologies, consultation with registered Aboriginal parties, obtaining heritage approvals etc, if required.	PM/RAPs	PACHCI Stage 3
6.3	Where heritage approval is required contact regional environment staff for further advice and support material. Please note time constraints associated with heritage approval preparation and processing. Project scheduling may need to be revised where extensive delays are expected.	PM/RES	
6.4	For Part 3A/Part 5.1 projects, assess whether heritage impact is consistent with the project approval or if project approval modification is required from the Department of Planning and Infrastructure. Seek advice from regional environment staff and Environment Branch specialist staff if unsure.	PM/RES	
6.5	Where statutory approvals (or project approval modification) are required, impact upon relics and/or Aboriginal objects must not occur until heritage approvals are issued by the appropriate regulator.	PM	
6.6	Where statutory approval (or Part 3A/Part 5.1 project modification) is not required and where recording is recommended by the archaeologist, sufficient time must be allowed for this to occur.	PM	
6.7	Ensure short term and permanent storage locations are identified for archaeological material or other heritage material is removed from site, where required. Interested third parties (eg museums or local councils) should be consulted on this issue. Contact regional environment staff and Senior Environmental Specialist (Heritage) for advice on this matter, if required.	PM	
6.8	Ensure all archaeological excavation and/or heritage recording are completed prior to Roads and Maritime project work resuming.	PM	
<b>7</b>	<b>Review CEMPs and approval conditions</b>		
7.1	Clarify regulator expectations around written authorisation to commence project work.	PM	

Step	Task	Responsibility	Guidance & Tools
	This may relate to situations where human remains are found or when they request to review preliminary archaeological excavation reports or heritage assessments prior to the resumption of Roads and Maritime project work. Where this is not explicit in heritage approval conditions, expectations should be clarified directly with the regulator.		
7.2	Update the CEMP, site mapping and project delivery program as appropriate with any project changes resulting from final heritage management (eg retention of heritage item, salvage of item). Updated CEMPs must incorporate additional conditions arising from any heritage approvals, and Aboriginal community consultation if relevant. Include any changes to CEMP in site induction material and update site workers during toolbox talks.	PM	
<b>8</b>	<b>Resume work</b>		
8.1	Seek written clearance to resume project work from regional environment staff and the archaeologist (and regulator, if required). Clearance would only be given once all archaeological excavation and/or heritage recommendations (where required) are complete. Resumption of project work must be in accordance with the all relevant project/heritage approvals/determinations.	RES/A/PM	
8.2	If required, ensure archaeological excavation/heritage reporting and other heritage approval conditions are completed in the required timeframes. This includes artefact retention repositories, conservation and/or disposal strategies.	PM/A	
8.3	Forward all heritage/archaeological assessments, heritage location data and its ownership status to the Senior Environmental Specialist (Heritage). They will ensure all heritage items in Roads and Maritime ownership and/or control are considered for the Roads and Maritime S170 Heritage and Conservation Register.	PM/SES(H)	
8.4	If additional unexpected items are discovered this procedure must begin again from Step 1.	PM	



## 8. Seeking advice

Advice on this procedure should be sought from regional environment staff in the first instance, and then Roads and Maritime heritage policy officers, where required. Roads and Maritime staff can contact Roads and Maritime regional environment staff for advice on this procedure at any time. Contractors and alliance partners should ensure their own project environment managers are aware of and understand this procedure. Regional environment staff can assist non-Roads and Maritime project environment managers with enquires concerning this procedure.

### **IMPORTANT!**

**RMS staff and contractors are not to seek advice on this procedure directly from OEH without first seeking advice from regional environment staff and heritage policy staff.**

Technical archaeological or heritage advice regarding the unexpected item should be sought from the contracted archaeologist. Technical specialist advice can also be sought from heritage policy staff within Environment Branch to assist with the preliminary archaeological identification and technical reviews of heritage/archaeological reports.

## 9. Related information

**Contact details:** Manager, Environmental Policy, Environment Branch, 02 8588 5740

**Effective date:** 1 November 2011

**Review date:** Final + 12 months

This procedure should be read in conjunction with:

- RTA *Incident Classification and Reporting Procedure*.
- Roads and Maritime's *Procedure for Aboriginal Cultural Heritage Consultation and Investigation*.
- RTA *Heritage Guidelines 2004*.
- RTA *Environmental Impact Assessment Guidelines*.

This procedure replaces:

- Procedure 5.5 ("*unexpected discovery of an archaeological relic or Aboriginal object*") outlined in the RTA's *Heritage Guidelines 2004*.

Other relevant reading material:

- NSW Heritage Office (1998), *Skeletal remains: guidelines for the management of human skeletal remains*.
- Department of Environment and Conservation NSW (2006), *Manual for the identification of Aboriginal remains*.
- Department of Health (April 2008), *Policy Directive: Burials - exhumation of human remains*<sup>11</sup>.

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<sup>11</sup> [http://www.health.nsw.gov.au/policies/pd/2008/pdf/PD2008\\_022.pdf](http://www.health.nsw.gov.au/policies/pd/2008/pdf/PD2008_022.pdf)

## 10. List of appendices

The following appendices are included to support this procedure.

Appendix A	Identifying Unexpected Heritage items
Appendix B	Unexpected Heritage Items Protocol for Maintenance Staff
Appendix C	Unexpected Heritage Item Recording Form 418
Appendix D	Photographing Unexpected Heritage Items
Appendix E	Key Environment Contacts
Appendix F	Uncovering Bones
Appendix G	Archaeological Advice Checklist
Appendix H	Template Notification Letter

# Appendix A

## Identifying unexpected heritage items

The following images can be used to assist in the preliminary identification of a potential unexpected items (both Aboriginal and non-Aboriginal) during construction and maintenance works. Please note this is not a comprehensive typology.



**Top left hand picture continuing clockwise:** Stock camp remnants (Hume Highway Bypass at Tarcutta); Linear archaeological feature with post holes (Hume Highway Duplication), Animal bones (Hume Highway Bypass at Woomargama); Cut wooden stake; Glass jars, bottles, spoon and fork recovered from refuse pit associated with a Newcastle Hotel (Pacific Highway, Adamstown Heights, Newcastle area).



**Wood stave water pipe**



**Tram tracks**



**Retaining wall**



**Cistern**

**Top left hand picture continuing clockwise:** Woodstave water pipe with tar and wire sealing (Horsley Drive); Tram tracks (Sydney); Brick lined cistern (Clyde); Retaining wall (Great Western Highway, Leura).



**Top left hand picture continuing clockwise:** Road pavement (Great Western Highway, Lawson); Sandstone kerbing and guttering (Parramatta Road, Mays Hill); Telford road (sandstone road base, Great Western Highway, Leura); Ceramic conduit and sandstone culvert headwall (Blue Mountains, NSW); Corduroy road (timber road base, Entrance Road, Wamberai).



**Alignment pin**



**Survey tree**



**Alignment stone**



**Survey tree**



**Milestone**



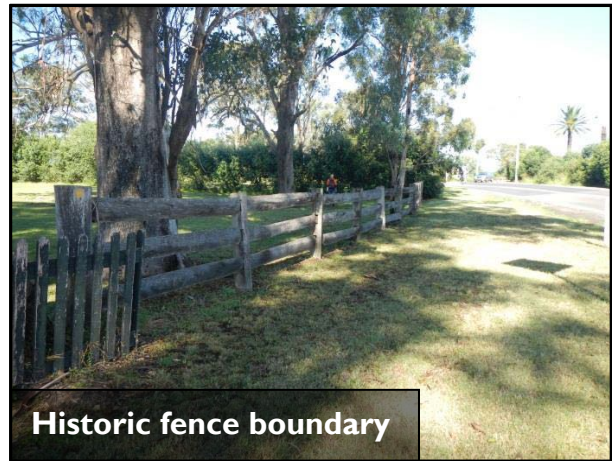
**Top left hand corner continuing clockwise:** Alignment Pin (Great Western Highway, Wentworth Falls); Survey tree (MR7, Albury); Survey tree (Kidman Way, Darlington Point, Murrumbidgee); Survey tree (Cobb Highway, Deniliquin); Milestone (Great Western Highway, Kingswood, Penrith); Alignment Stone (near Guntawong Road, Riverstone). Please note survey marks may have additional statutory protection under the *Surveying and Spatial Information Act 2002*.



Remnant Bridge Piers



Mine Shaft



Historic fence boundary



Dairy shed

**Top left hand corner continuing clockwise:** Remnant bridge piers (Putty Road, Bulga); Wooden boundary fence (Campbelltown Road, Denham Court); Dairy shed (Ballina); Golden Arrow Mine Shaft.



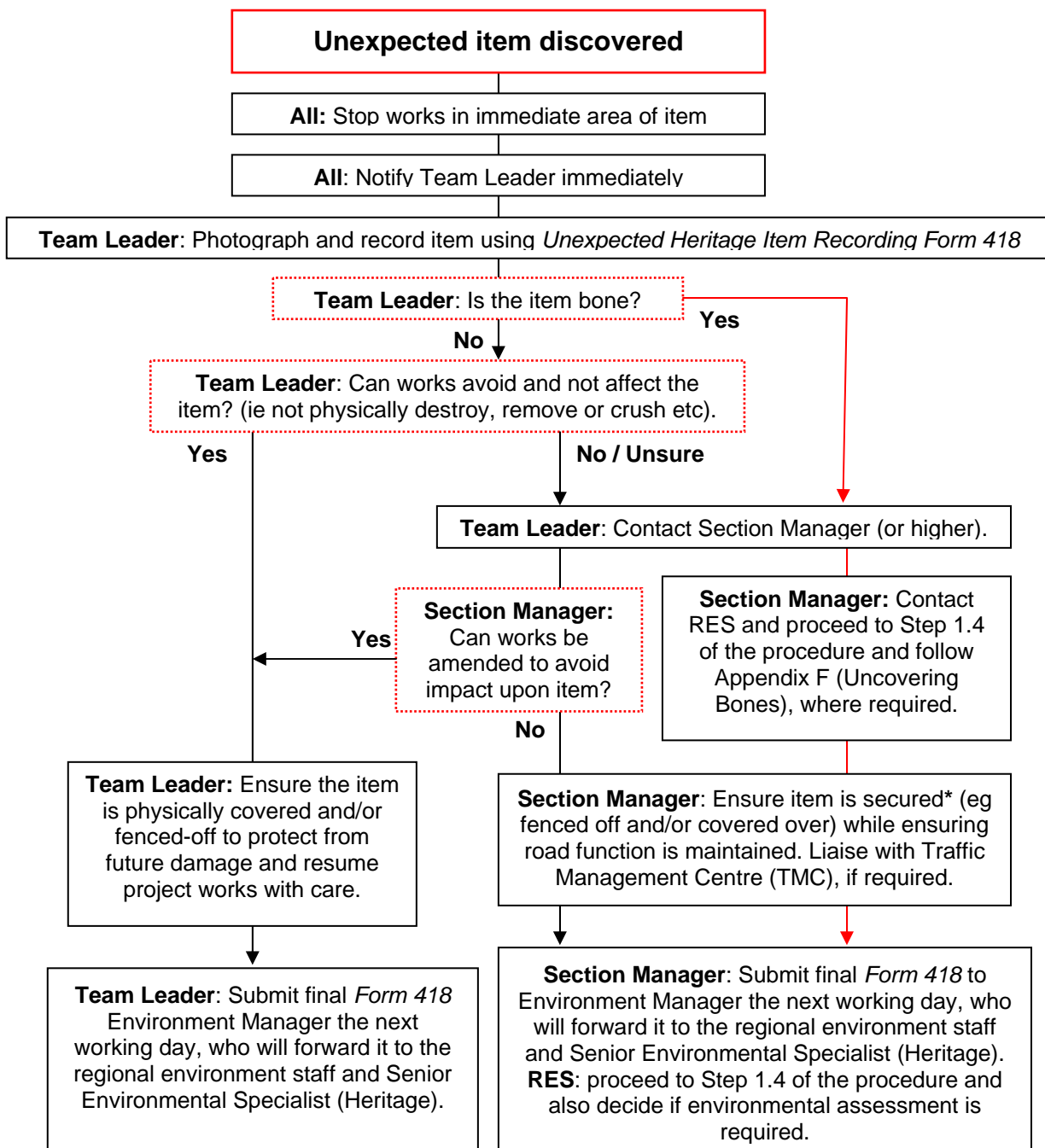
**Top left hand corner:** Culturally modified stone discovered on Main Road 92, about two kilometres west of Sassafras. The remaining images show a selection of stone artefacts retrieved from test and salvage archaeological excavations during the Hume Highway Duplication and Bypass projects from 2006-2010.



## Appendix B

### Unexpected Heritage Items Protocol for Maintenance Staff

Regional Maintenance Delivery staff undertake routine maintenance works such as patching, cleaning, line marking and milling within the road reserve. In addition, these works are often undertaken at night on urban thoroughfares. This protocol has been developed to ensure that disruption to traffic is minimised if an unexpected item is encountered when carrying out such maintenance works.



\*In the case of an archaeological item, appropriate temporary covering of the find is something that may protect it from further damage and that can be removed quickly the next day without

damage from re-excavation. For example geofabric and loose, dry asphalt, or a metal plate. Certain unexpected finds (such as human remains) should not be covered with loose material as the re-excavation process is likely to cause further damage to the find. Fencing and immediate action is appropriate in these rare cases.

## **Appendix C**

### Unexpected Heritage Item Recording Form 418

<b>Date:</b>		<b>Recorded by</b>	
<b>Project Name:</b>			
<b>Description of works being undertaken</b> (eg Removal of failed pavement by excavation and pouring concrete slabs in 1m x 1m replacement sections).			
<b>Description of exact location of item</b> (eg Within the road formation on Parramatta Road, east bound lane, at the corner of Johnston Street, Annandale, Sydney).			
<b>Description of item found</b> (eg Metal tram tracks running parallel to road alignment. Good condition. Tracks set in concrete, approximately 10cms (100 mm) below the current ground surface).			
<b>Sketch</b> (Provide a sketch of the item's general location in relation to other road features so its approximate location can be mapped without having to re-excavate it. In addition, please include details of the location and direction of any photographs of the item taken).			
<b>Action Taken</b> (Tick either A or B)			
<b>A.</b>	Unexpected item <b>will not</b> be affected by maintenance works	<input type="checkbox"/>	<b>B.</b> Unexpected item <b>will be</b> affected by maintenance works <input type="checkbox"/>
<b>A. Describe if and how works were amended to avoid impact to the item and the action taken to cover the item.</b>			
<b>B. Describe how works will affect the item.</b> (eg Milling is required to be continued to 200 mm depth to ensure road pavement requirements are met. Milling to required depth would affect the top 50 mm of potential heritage pavement).			



**Attach photographs.** (Take a number of close up and general photographs so anyone off site can understand the location of the item, the material it is made from and any distinguishing features).

**Team Leader Signature**

**Action:** Refer issue to Section Manager (or higher) immediately where 'B' has been ticked.

*To be completed by Section Manager*

**Describe any further considerations to amend project works to avoid unexpected item and if impact is still anticipated.**

**Describe action taken to secure site temporarily**

**Section Manager signature**

**Action:** Escalate to environment and heritage policy staff where impact to item cannot be avoided.

## Appendix D

### Photographing unexpected heritage items

👉 Removal of the item from its context (eg excavating from the ground) for photographic purposes is not permitted.

Photographs of unexpected items in their current context (*in situ*) may assist heritage staff and archaeologists to better identify the heritage values of the item. Emailing good quality photographs to specialists can allow for better quality and faster heritage advice. The key elements that must be captured in photographs of the item include its position, the item itself and any distinguishing features. All photographs must have a scale (ruler, scale bar, mobile phone, coin) and a note describing the direction of the photograph.

#### Context and detailed photographs

It is important to take a general photograph (Figure 1) to convey the location and setting of the item. This will add much value to the subsequent detailed photographs also required (Figure 2).



**Figure 2:** Close up detail of the sandstone surface showing material type, formation and construction detail. This is essential for establishing date of the feature.

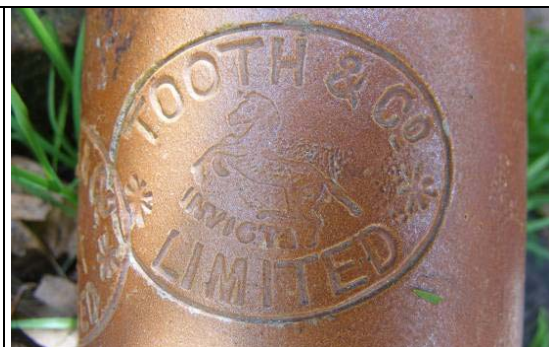
**Figure 1:** Telford road uncovered on the Great Western Highway (Leura) in 2008.

#### Photographing distinguishing features

Where unexpected items have a distinguishing feature, close up detailed photographs must be taken of this, where practicable. In the case of a building or bridge, this may include diagnostic details architectural or technical features. See Figures 3 and 4 for examples.



**Figure 3:** Ceramic bottle artefact with stamp.



**Figure 4:** Detail of the stamp allows 'Tooth & Co Limited' to be made out. This is helpful to a specialist in gauging the artefact's origin, manufacturing date and likely significance.

## Photographing bones

The majority of bones found on site will those of be recently deceased animal bones often requiring no further assessment (unless they are in archaeological context). However, if bones are human, Roads and Maritime must contact the police immediately (see Appendix F for detailed guidance). Taking quality photographs of the bones can often resolve this issue quickly. Heritage staff in Environment Branch can confirm if bones are human or non-human if provided with appropriate photographs. Ensure that photographs of bones are not concealed by foliage (Figure 5) as this makes it difficult to identify. Minor hand removal of foliage can be undertaken as long as disturbance of the bone does not occur. Excavation of the ground to remove bone(s) should not occur, nor should they be pulled out of the ground if partially exposed. Where sediment (adhering to a bone found on the ground surface) conceals portions of a bone (Figure 6) ensure the photograph is taken of the bone (if any) that is not concealed by sediment.



**Figure 5:** Bone concealed by foliage.



**Figure 6:** Bone covered in sediment

Ensure that all close up photographs include the whole bone and then specific details of the bone (especially the ends of long bones, the *epiphysis*, which is critical for species identification). Figures 7 and 8 are examples of good photographs of bones that can easily be identified from the photograph alone. They show sufficient detail of the complete bone and the epiphysis.



**Figure 7:** Photograph showing complete bone.



**Figure 8:** Close up of a long bone's epiphysis.

## Appendix E

### Key environmental contacts

Hunter region	Environmental Manager (Hunter)	4924 0281
	Aboriginal Cultural Heritage Advisor	4924 0383
Northern region	Environment Manager (North)	6640 1072
	Aboriginal Cultural Heritage Advisor	6604 9305
Southern region	Environmental Manager (South)	6492 9515
	Aboriginal Cultural Heritage Advisor	4221 2767
South West region	Environment Manager (South West)	6937 1634
	Aboriginal Cultural Heritage Advisor	6937 1647
Sydney region	Environment Manager (Sydney)	8849 2516
	Aboriginal Cultural Heritage Advisor	8849 2006
Western region	Environment Manager (West)	6861 1628
	Aboriginal Cultural Heritage Advisor	6861 1658
Pacific Highway Office	Environment Manager	6640 1375
Hume Highway Office	Senior Environment Manager	6923 3419
Regional Maintenance Delivery	Environment Manager	9598 7721
Environment Branch	Senior Environmental Specialist (Heritage)	8588 5754

### Heritage Regulators

Heritage Branch Office of Environment and Heritage Locked Bag 5020 Parramatta NSW 2124 Phone: (02) 9873 8500	Minister for Sustainability, Environment, Water, Populations and Communities GPO Box 787 Canberra ACT 2601 Phone: (02) 6274 1111
Office of Environment and Heritage (Sydney Metropolitan) Planning and Aboriginal Heritage Section PO Box 668 Parramatta NSW 2124 Phone: (02) 9995 5000	Office of Environment and Heritage (North Eastern NSW) Planning and Aboriginal Heritage Section Locked Bag 914 Coffs Harbour NSW 2450 Phone: (02) 6651 5946
Office of Environment and Heritage (North Western NSW) Environment and Conservation Programs PO Box 2111 Dubbo NSW 2830 Phone: (02) 6883 5330	Office of Environment and Heritage (Southern NSW) Aboriginal Heritage Protection Section PO Box 733 Queanbeyan NSW 2620 Phone: (02) 6229 7000

### Project-Specific Contacts

Position	Name	Phone Number
Project Manager		
Site/Alliance Environment Manager		
Regional Environmental Officer		
Aboriginal Cultural Heritage Advisor		
Consultant Archaeologist		
Local Police Station		
OEH: Environment Line		131 555



# Appendix F

## Uncovering bones

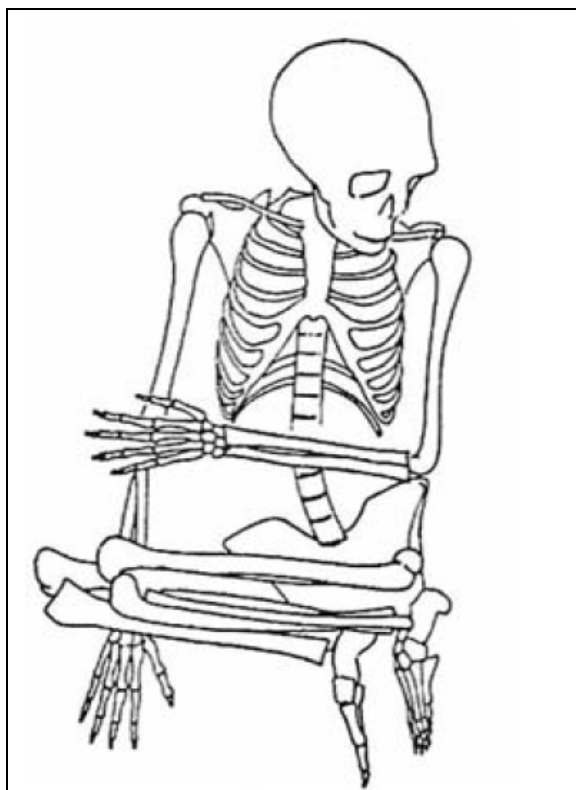
👉 All matters relating to uncovering bones and RMS' human remains notification obligations should involve RMS regional environment and heritage staff. They will guide Project Managers through occurrences of uncovering bones.

This appendix provides Project Managers with advice (1) on what to do on first uncovering bones (2) the range of human skeletal notification pathways and (3) additional considerations and requirements when managing the discovery of human remains.

### 1. First uncovering bones

Stop all work in the vicinity of the find. All bones uncovered during project works should be **treated with care and urgency** as they have the potential to be human remains. Therefore they must be identified as either human or non-human as soon as possible by a qualified forensic or physical anthropologist. These specialist consultants can be sought by contacting regional environment staff and/or heritage staff at Environment Branch.

On the very rare occasion where it is *instantly obvious* from the remains that they are human, the Project Manager (or a delegate) should **inform the police by telephone** prior to seeking specialist advice. It will be obvious that it is human skeletal remains where there is no doubt, as demonstrated by the example in Figure 1. Often skeletal elements in isolation (such as a skull) can also clearly be identified as human. Note it may also be obvious that human remains have been uncovered when soft tissue and clothing are present.



**Figure 1:** Schematic of a complete skeleton that is 'obviously' human<sup>12</sup>.



**Figure 2:** Disarticulated bones that require assessment to determine species.

<sup>12</sup> After Department of Environment and Conservation NSW (2006), *Manual for the identification of Aboriginal Remains*: 17.

This preliminary phone call is to let the police know that Roads and Maritime is undertaking a specialist skeletal assessment to determine the approximate date of death which will inform legal jurisdiction. The police may wish to take control of the site at this stage. If not, a forensic or physical anthropologist must be requested to make an on-site assessment of the skeletal remains.

Where it is not 'obvious' that the bones are human (in the majority of cases, illustrated by Figure 2), specialist assessment is required to establish the species of the bones. Photographs of the bones can assist this assessment if they are clear and taken in accordance with guidance provided in Appendix D. Good photographs often result in the bones being identified by a specialist without requiring a site visit; noting they are nearly always non-human. In these cases, non-human skeletal remains must be treated like any other unexpected archaeological find.

If the bones are identified as human (either by photographs or an on-site inspection) a technical specialist must determine the likely ancestry (Aboriginal or non-Aboriginal) and burial context (archaeological or forensic). This assessment is required to identify the legal regulator of the human remains so **urgent notification** (as below) can occur. Preliminary telephone or verbal notification by the Project Manager or regional environment staff is considered appropriate. This must be followed up later by Roads and Maritime's formal letter notification as per Appendix H when a management plan has been developed and agreed to by the relevant parties.

## 2. Range of human skeletal notification pathways

The following is a summary of the different notification pathways required for human skeletal remains depending on the preliminary skeletal assessment of ancestry and burial context.

### A. Human bones are from a recently deceased person (*less than 100 years old*).

#### Action

A police officer must be notified immediately as per the obligations to report a death or suspected death under s35 of the *Coroners Act 2009* (NSW). It should be assumed the police will then take command of the site until otherwise directed.

### B. Human bones are archaeological in nature (*more than 100 years old*) and are likely to be Aboriginal remains.

#### Action

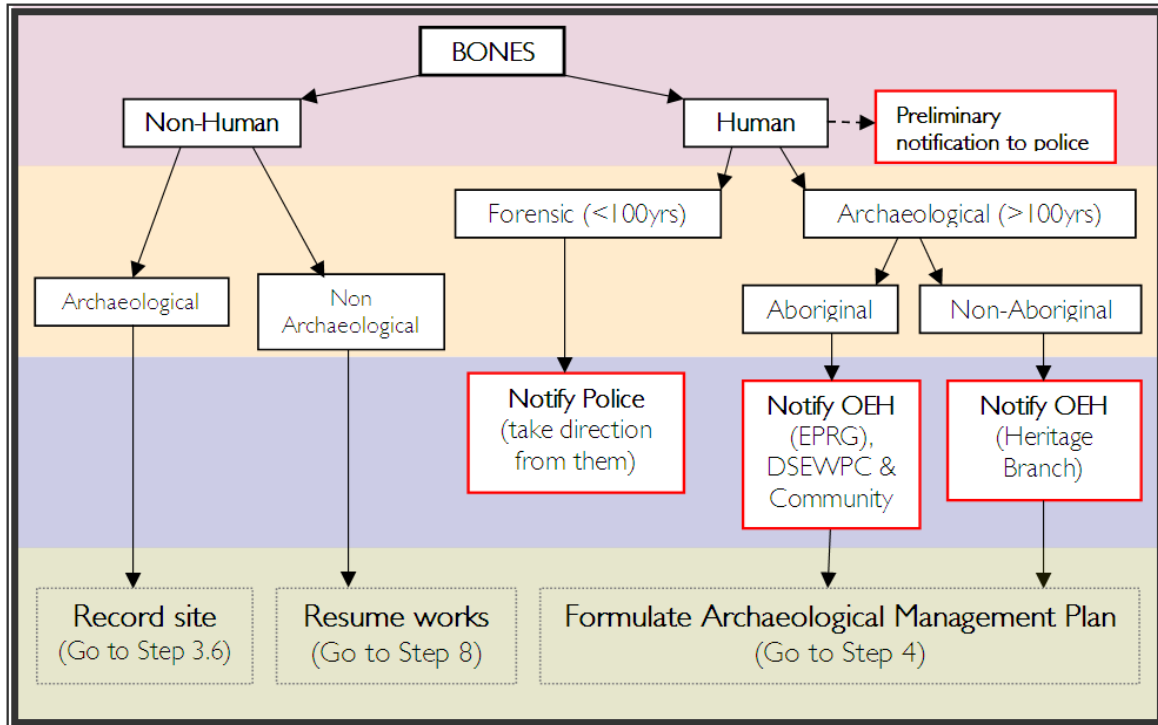
The OEH (*EPRG*) and the RMS Aboriginal Cultural Heritage Advisor (ACHA) must be notified immediately. The ACHA must contact and inform the relevant Aboriginal community stakeholders who may request to be present on site. Relevant stakeholders are determined by the RTA's *Procedure for Aboriginal Cultural Heritage Consultation and Investigation*.

### C. Human bones are archaeological in nature (*more than 100 years old*) and likely to be non-Aboriginal remains.

#### Action

The OEH (Heritage Branch, Conservation Team) must be notified immediately.

The simple diagram below summarises the notification pathways on finding bones.



After the appropriate verbal notifications (as described in B and C), the Project Manager must proceed through the *Unexpected Heritage Items Procedure* to formulate an archaeological management plan (Step 4). Note no archaeological management plan is required for forensic cases (A), as all future management is a police matter. Non-human skeletal remains must be treated like any other unexpected archaeological find and so must proceed to recording the find as per Step 3.6.

### 3. Additional considerations and requirements

Uncovering archaeological human remains must be managed intensively and needs to consider a number of additional specific issues. These issues might include facilitating culturally appropriate processes when dealing with Aboriginal remains (such as repatriation and cultural ceremonies). Roads and Maritime's ACHA can provide advice on this and how to engage with the relevant Aboriginal community. Project Managers, more generally, may also need to consider overnight site security of any exposed remains and may need to manage the onsite attendance of a number of different external stakeholders during assessment and/or investigation of remains. Project Managers may also be advised to liaise with local church/religious groups and the media to manage community issues arising from the find. Additional investigations may be required to identify living descendants, particularly if the remains are to be removed and relocated.

If exhumation of the remains (from a formal burial or a vault) is required, Project Managers should also be aware of additional approval requirements under the *Public Health Act 1991* (NSW). Specifically, Roads and Maritime is required to apply to the Director General of NSW Department of Health for approval to exhume human remains as per Clause 26 of the *Public Health (Disposal of Bodies) Regulation 2002* (NSW)<sup>13</sup>. Further, the exhumation of such remains needs to consider health risks such as infectious disease control, exhumation procedures and reburial approval and registration. Further guidance on this matter can be found at the NSW Department of Health [website](#).

In addition, due to the potential significant statutory and common law controls and prohibitions associated with interfering with a public cemetery, project teams are

<sup>13</sup> This requirement is in addition to heritage approvals under the *Heritage Act 1977*.

advised, when works uncover human remains adjacent to cemeteries, to confirm the cemetery's exact boundaries.

## Appendix G

### Archaeological/Heritage advice checklist

The archaeologist must advise the Project Manager of an appropriate archaeological or heritage management plan as soon as possible after site inspection (see Step 4). An archaeological or heritage management plan can include a range of activities and processes, which differ depending on the find and its significance. In discussions with the archaeologist the following checklist can be used by the Project Manager and the archaeologist as a prompt to ensure all relevant archaeological issues are considered when developing this plan. This will allow the project team to receive clear and full advice to move forward quickly and in the right direction. Archaeological and/or heritage advice on how to proceed can be received in a letter or email outlining all relevant archaeological and/or heritage issues.

	Required	Outcome/notes
<b>Assessment and investigation</b>		
• Assessment of significance	Yes/No	
• Assessment of heritage impact	Yes/No	
• Archaeological excavation	Yes/No	
• Archival photographic recording	Yes/No	
<b>Heritage approvals and notifications</b>		
• AHIPs, Section 140, S139 exceptions etc	Yes/No	
• Regulator relics/objects notification	Yes/No	
• Roads and Maritime's S170 Heritage and Conservation Register listing requirements	Yes/No	
• Compliance with CEMP or other project heritage approvals	Yes/No	
<b>Stakeholder consultation</b>		
• Aboriginal stakeholder consultation requirements and how it relates to RTA <i>Procedure for Aboriginal Cultural Heritage Consultation and Investigation (PACHCI)</i> .	Yes/No	
• Advice from regional environmental staff, Aboriginal Cultural Heritage Advisor, Roads and Maritime heritage team.	Yes/No	
<b>Artefact/ heritage item management</b>		
• Retention or conservation strategy (eg items may be subject to long conservation and interpretation)	Yes/No	
• Disposal strategy (eg former road pavement)		
• Short term and permanent storage locations (interested third parties should be consulted on this issue).		
• Control Agreement for Aboriginal objects.	Yes/No	

<b>Program and budget</b>	
<ul style="list-style-type: none"><li>• Time estimate associated with archaeological or heritage conservation work.</li></ul>	
<ul style="list-style-type: none"><li>• Total cost of archaeological/heritage work.</li></ul>	

## **Appendix H**

Template notification letter

[Select and type date]

[Select and type reference number]

[Select and type file number]

[Insert recipient's name and address, see **Appendix E**]

[Select and type salutation and name].

**Re: Unexpected heritage item discovered during Roads and Maritime Services project works.**

I write to inform you of an unexpected [select: relic, heritage item or Aboriginal object] found during Roads and Maritime Services construction works at [insert location] on [insert date]. [Where the regulator has been informally notified at an earlier date by telephone, this should be referred to here].

This letter is in accordance with the notification requirement under [select: Section 146 of the *Heritage Act 1977* (NSW) or Section 89(A) of the *National Parks and Wildlife Act 1974* (NSW)] **NB:** There may be not be statutory requirement to notify of the discovery of a 'heritage Item that is not a relic or Aboriginal object].

**NB:** On finding Aboriginal human skeletal remains this letter must also be sent to the Commonwealth Minister for Sustainability, Environment, Water, Populations and Communities (SEWPC) in accordance with notification requirements under Section 20(1) of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

[Provide a brief overview of the project background and project area. Provide a summary of the description and location of the item, including a map and image where possible. Also include how the project was assessed under the *Environmental Planning and Assessment Act 1979* (NSW) (eg Part 5). Also include any project approval number, if available].

Roads and Maritime Services [or contractor] has sought professional archaeological advice regarding the item. A preliminary assessment indicates [provide a summary description and likely significance of the item]. Please find additional information on the site recording form attached.

Resulting from these preliminary findings, Roads and Maritime Services [or contractor] is proposing [provide a summary of the proposed archaeological/heritage approach (eg develop archaeological research design (where relevant), seek heritage approvals, undertake archaeological investigation or conservation/interpretation strategy). Also include preliminary justification of such heritage impact with regard to project design constraints and delivery program].

The proposed approach will be further developed in consultation with a nominated Office of Environment and Heritage [select either EPRG/Heritage Branch, Conservation Team] staff member.

Please contact me if you have any input on this approach or if you require any further information.

Yours sincerely

[Sender name and position]

[Attach the archaeological/heritage management plan and site recording form].