

Unexpected Heritage Finds & Human Remains Procedure

Redfern Station Upgrade, New Southern Concourse

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1. Response to Conditions of Approval

1.1 Minister’s Conditions of Approval

The CoA relevant to this Plan are listed in Table 1. A cross reference is also included to indicate where the condition is addressed in this Plan or other Project management documents.

Table 1: Conditions of Approval relevant to the Unexpected Heritage Finds & Human Remains Procedure

CoA No.	Condition Requirements	Document Reference	How Addressed
D11	An Unexpected Heritage Finds and Human Remains Procedure must be prepared to manage unexpected heritage finds in accordance with any guidelines and standards prepared by the Heritage Council of NSW or Heritage NSW.	<p>Section 6 – Responsibilities</p> <p>Section 7.1 – Heritage Legislation and Guidelines Table 4 and Table 5.</p> <p>Section 7.3 – Unexpected Heritage Finds Procedure</p> <p>Section 8.3 – Unexpected Human Remains Procedure</p>	<p>The Excavation Director (ED) and the assessment of significance are the two keys to managing heritage finds in accordance with relevant NSW legislation and guidelines. This procedure provides hold points for the project to engage with and be guided by the ED.</p> <p>The ED is capable of meeting the Heritage NSW Excavation Director Criteria September 2019, this criteria demonstrates their experience assessing significance according to government guidelines.</p> <p>The ED is also experienced in the appropriate management of suspected human remains. This procedure provides hold points for the project to engage and be guided by the ED.</p>

D12	<p>D12 The Unexpected Heritage Finds and Human Remains Procedure must be prepared by a suitably qualified and experienced archaeologist or heritage specialist in consultation with Heritage NSW and the Heritage Council of NSW and submitted to the Planning Secretary for information at least five (5) business days before the commencement of Work.</p> <p>The Procedure must be included in the Heritage Management Sub-Plan required by Condition C6. Where the commencement of Work precedes the commencement of construction, the requirement to include the Procedure in the Heritage Management Sub-Plan only applies from the commencement of construction.</p>	Section 5 – Preparation and Consultation	The procedure was prepared by the Excavation Director (ED) and all relevant stakeholders were consulted prior to works commencing.
D13	<p>The Unexpected Heritage Finds and Human Remains Procedure, as submitted to the Planning Secretary, must be implemented for the duration of Work.</p> <p><i>Note: Human remains that are found unexpectedly during the carrying out of work may be under the jurisdiction of the NSW State Coroner and must be reported to the NSW Police immediately.</i></p>	<p>Section 7.3 – Unexpected Heritage Finds Procedure</p> <p>Section 8.3 – Unexpected Human Remains Procedure</p>	<p>The scope of this document is applied to the duration of the work.</p> <p>This procedure directs the reader to contact NSW police immediately in the event that suspected human remains are discovered.</p>

1.2 Revised Environmental Mitigation and Management Measures

Relevant REMMMs are listed in Table 2. This includes reference to required outcomes, the timing of when the commitment applies, relevant documents or sections of the environmental assessment influencing the outcome and implementation.

Table 2 Revised Environmental mitigation and management measures relevant to this Unexpected Heritage Finds & Human Remains Procedure

Ref. No.	Commitment	Timing	Document Reference	How Addressed
NAH14	<p>The potential archaeology on site would be protected and managed by undertaking the following:</p> <ul style="list-style-type: none"> - (a) archaeological test excavation and salvage on the northern side of Marian Street, proposed car park off Little Eveleigh Street and area of relocation of the Platform 1 Office Building, prior to the commencement of bulk excavation works. A Historical Archaeological Research Design (HARD) would be prepared in accordance with the relevant Heritage, DPC guidelines - (b) archaeological monitoring for excavation works in the area of the proposed new car park on Little Eveleigh Street. The methodology for undertaking this archaeological monitoring would be included in the HARD. - (c) archaeological monitoring for any excavation works along Marian Street, Rosehill Street and Cornwallis Street to record remains of earlier road surfaces. Once recorded, these road surfaces can be removed. The archaeological monitoring methodology would be included in the HARD. - (d) implementing stop-work procedures would be implemented should if unexpected finds be uncovered in accordance with TfNSW's Unexpected Heritage Finds Guidelines. 	(d) Pre-construction, Construction and Operation	<p>(d) Section 5 – Preparation and Consultation</p> <p>(d) Section 7.3 – Unexpected Heritage Finds Procedure</p>	<p>(a)(b)(c) This document is not the Historical Archaeological Research Design and Excavation Methodology (HARDEM) but this document can guide works with the HARDEM.</p> <p>(d) This document accords with TfNSW's Unexpected Heritage Finds Guidelines.</p> <p>(d) This document provides the stop-work procedures necessary for heritage finds and human remains.</p>

AB2	<p>A Heritage Management Sub-Plan for construction of the Project would include the following mitigation measures:</p> <ul style="list-style-type: none"> - (a) all relevant contractors and TfNSW personnel would be made aware of the nature and location of previously identified areas of Potential Archaeological Deposits (PADs) located immediately adjacent to the Project area and avoid impact to these areas. Contractors and TfNSW personnel should also be made aware of TfNSW’s legal responsibilities under the National Parks and Wildlife Act 1974 (NPW Act) and the Heritage Act 1977 and the need to avoid impacts to sites (including heritage interpretation and relevant information in the site induction - (b) in the unlikely event that a site or objects (as defined by the NPW Act) are identified during the Project, the procedure outlined in TfNSW’s Unexpected Heritage Finds Guideline (Transport for NSW,2019e) would be followed. Works would immediately cease at the location and the find would be immediately reported to appropriate TfNSW personnel, and the regulator in accordance with legislation. No work would commence in the vicinity of the find until any required approvals have been issued by the regulator. 	(b) Pre-construction, Construction and Operation	<p>(b) Section 5 – Preparation and Consultation</p> <p>(b) Section 7.3 – Unexpected Heritage Finds Procedure</p>	<p>(a) Addressed by the Aboriginal Cultural Heritage Management Plan (TAP04-PLN-EN-0007)</p> <p>(b) This document accords with TfNSW’s Unexpected Heritage Finds Guidelines (2019).</p> <p>(b) This document provides the stop-work procedures necessary for heritage finds and human remains. The procedures outlined in this document are mirrored by the Aboriginal Cultural Heritage Management Plan (TAP04-PLN-EN-0007).</p>
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2. Purpose

The purpose of this guideline is to provide guidance to site personnel in the event that an unexpected heritage find or human remains are encountered at Redfern Station and surrounds during the Redfern Station Upgrade, New Southern Concourse works (SSI: 10041). The guideline will be implemented from the commencement of work, and will be included as an appendix to the Construction Heritage Management Plan for the duration of construction.

An 'unexpected heritage find' is defined by the Conditions of Approval as: ' An object or place that is discovered during the carrying out of the SSI and which may be a heritage item but was not identified in the documents listed in Condition A1 or suspected to be present. An unexpected heritage find does not include 'human remains.'

'Human remains' are defined as human skeletal remains. Human remains must be correctly identified as either a forensic case or an archaeological case and whether the remains have Aboriginal ancestry and require further care and consultation.

Ultimately, this guideline provides the project with several key hold points to ensure that the appropriate specialists are engaged at the right time. In sum, this includes: stakeholders for the proponent, the archaeological Excavation Director, the NSW Government, NSW Police, NSW Coroner and Registered Aboriginal Parties.

Please note, the Redfern New Southern Concourse project is approved under the State Significant Infrastructure process under the *Environmental Planning and Assessment Act 1979*. This process alters the application of the *NSW Heritage Act 1977* and the *National Parks and Wildlife Act 1974* but does not nullify them.

3. Scope

In some instances, even when appropriate and robust cultural heritage assessments are undertaken during the environmental impact assessment process, some heritage objects or relics are not identified, and are subsequently found. This procedure outlines the procedure that should be followed in those circumstances. This guideline must be implemented for the duration of Work.

This procedure includes references to some of the relevant legislative and regulatory requirements but is not intended to replace them. It is not intended to replace any requirements identified as part of the environmental impact assessment process

This procedure does not apply to:

- Exhumation of human remains and any relevant Acts.
- Aboriginal and non-Aboriginal cultural heritage objects or relics found during investigations undertaken to inform the environmental assessment, in accordance with relevant legislation and the Planning Approvals and Environmental Impact Assessment – DMS-ST-051. These environmental impact assessments typically identify all heritage items before the project is implemented

- cultural heritage investigations undertaken to comply with conditions set out in any land use planning approval for a project
- archaeological investigations permitted under the National Parks and Wildlife Act 1974 (NPW Act) or the Heritage Act 1977 (Heritage Act).

This procedure seeks to address the commitments and development conditions of consent outlined by Table 1 and Table 2 (above).

4. Definitions

All terminology in this document is taken to mean the generally accepted or dictionary definition with the exception of the following terms which have a specifically defined meaning:

Table 3 Definitions

Term	Definition
CEMP	Construction environmental management plan
AGM	Alliance General Manager
AAD	The Aboriginal Archaeology Director is a suitably qualified archaeologist who guides the management of Aboriginal heritage and archaeology along with Registered Aboriginal Parties (RAPs) and Heritage NSW.
ESTR	Environmental and Sustainability Representative (Novo Rail)
ED	Excavation Directors are suitably qualified archaeologists who manage the excavation of archaeological sites. The Excavation Director responds to the NSW Heritage Excavation Director Criteria (September 2019) to demonstrate their experience upholding relevant legislation, the Code of Practice and NSW Heritage Council guidelines for assessing significance.
DPC	NSW Department of Premier and Cabinet
EP&A Act	NSW <i>Environmental Planning and Assessment Act 1979</i>
EPM	IP environment and planning manager
Heritage Act	NSW <i>Heritage Act 1977</i>
ITC	Test Check Sheets
ITP	Inspection Test Plan
NPW Act	NSW <i>National Parks and Wildlife Act 1974</i>
NSW	New South Wales
Heritage NSW	Heritage NSW exist within the Community Engagement Division of the Department of Premier and Cabinet. Note: Heritage Division under OEH absolved 01/07/19
ADEM	Associate Director Environmental Management
TSR	TfNSW Standard Requirement
TfNSW	Transport for New South Wales
RAP	Registered Aboriginal Party
Human remains	Human remains must be correctly identified as either a forensic case or an archaeological case and whether the remains have Aboriginal ancestry and require further care and consultation.
Unexpected Heritage Find	An object or place that is discovered during the carrying out of the SSI and which may be a heritage item but was not identified in the documents listed in SSI 10041 Condition A1 or suspected to be present

Aboriginal 'object'	As defined by the <i>National Parks and Wildlife Act 1974</i> . An Aboriginal object is any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of New South Wales. All Aboriginal objects are protected by law.
Relic	As defined by the <i>Heritage Act 1977</i> . A relic means any deposit, artefact, object or material evidence that: a) relates to the settlement of the area that comprises NSW, not being Aboriginal settlement, and b) is of State or local heritage significance.

Other terms and jargon specific to this Plan are defined within SM QM-FT-435 Integrated Management System (IMS) Glossary.

5. Preparation and Consultation

This document was co-authored by the nominated Excavation Director (ED) for the Redfern Station Upgrade project, Dr Ivana Vetta and the Secondary Director, Ms Jacqueline Baloh in a mentorship role. Excavation Directors need to meet the Heritage NSW Excavation Director Criteria (September 2019).

To prepare this document, the Excavation Director reviewed several existing unexpected finds management procedures and may refer to them, if needed.¹

This document was also prepared in consultation with Heritage NSW, DPC, the Heritage Council of NSW and the NSW Planning Secretary prior to works commencing. Comments were received and applied on 11/12/20. Details of consultation have been provided in the Consultation Plan in Attachment 1.

6. Responsibilities

The Novo Rail Alliance General Manager is accountable for this document including authorising the document. The Environmental and Sustainability Team Representative is accountable for monitoring its effectiveness and performing a formal document review.

Project directors, including the Excavation Director and Aboriginal Archaeology Director, are accountable for ensuring the requirements of this document are implemented within their area of responsibility. This includes following relevant NSW government legislation and guidelines (Section 7.1)

Contractors are accountable for following this document, where this guideline forms a part of their contract.

This procedure adopts the roles and responsibilities set out by the NSW Historical Archaeology Code of Practice (2006) for professional archaeologists, government authorities, property owners and developers (Table 6).

¹ TfNSW (23 Aug 2019) Unexpected Heritage Finds Guideline DMS-SD-115 Version 3.2
Artefact Heritage (1 May 2017) Exhumation Management Plan SM ES-PW-315/1.0 Version 1.1 on behalf of Sydney Metro
Transport for New South Wales (19 April 2018) Sydney Metro Unexpected Heritage Finds Procedure Version 1.4

7. Unexpected Heritage Finds

7.1 Heritage Legislation and Guidelines

In NSW, heritage finds are identified and protected by two separate Acts. Non-Aboriginal heritage is protected by the Heritage Act 1977 and Aboriginal heritage is protected by the National Parks and Wildlife Act 1974.

The Redfern Station Upgrade project was approved through the *Environmental Planning and Assessment Act 1989*, this Act alters the administration of, but does not nullify, the Heritage Act 1977 and the National Parks and Wildlife Act 1974.

For a summary of these acts as they relate to unexpected finds, please refer to Sections 7.1.1 – 7.1.3 and **Table 4**. **Table 5** identifies the NSW government guidelines for the personnel involved with managing heritage finds in NSW.

7.1.1 Heritage Act 1977

Under the Heritage Act 1977, historical archaeology heritage finds are identified and managed according to their significance (**Table 4**). The significance of heritage finds is assessed using guidelines published by the NSW Government (see **Table 5**). An Excavation Director must assess the significance of a heritage find according to those guidelines and establish whether the find is considered a ‘*relic*’ under the Heritage Act (Please refer to **Table 3** for the Excavation Director role).

This procedure for Unexpected Heritage Finds provides hold points for the project to engage with, and be guided by, the ED, to ensure finds are managed appropriately under the Heritage Act 1977.

If an unexpected heritage find is discovered, and it is considered a ‘*relic*’ under the Act, the Heritage Council of NSW, must be notified using Section 146 of the Heritage Act 1977.

7.1.2 National Parks and Wildlife Act 1974

The NSW National Parks and Wildlife Act 1974 (as amended) defines Aboriginal objects and provides protection to *any and all* material remains which may be evidence of the Aboriginal occupation of lands contained within the state of New South Wales. The relevant sections of the Act are sections 84, 86, 87 and 90. An Aboriginal object is defined by the NSW government (NPW 1974) 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 occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.”

All work in the area of the object must cease immediately and the Excavation Director must be notified. The ED, working with the Aboriginal Archaeology Director, the Registered Aboriginal Parties and Heritage NSW, will determine the nature and significance of the object. Please refer to **Table 3** for explanation of these various roles.

This procedure for Unexpected Heritage Finds provides hold points for the project to engage with, and be guided by, the Excavation Director and the Aboriginal Archaeology Director, to ensure finds are managed appropriately under the National Parks and Wildlife Act 1974.

7.1.3 Environmental Planning and Assessment Act 1979

The use of the *Environmental Planning and Assessment Act 1979* alters the administration of the Acts outlined above but does not alter how heritage finds are identified, nor does it nullify the legal requirements to notify the relevant stakeholders.

Table 4 Legislation and guidelines for management of unexpected heritage finds

Relevant Requirement	Objectives and offences
Environmental Planning and Assessment Act 1979 (EP&A Act)	<ul style="list-style-type: none"> Requires heritage to be considered within the environmental impact assessment of projects. This guideline is based on the premise that an appropriate level of Aboriginal and non-Aboriginal cultural heritage assessment and investigations and mitigation have already been undertaken under the relevant legislation, including the EP&A Act, during the assessment and determination process. It also assumes that appropriate mitigation measures have been included in the conditions of any approval.
National Parks and Wildlife Act 1974 (NPW Act)	<ul style="list-style-type: none"> Provides for the protection and management of Aboriginal objects. An Aboriginal object is defined as: <i>'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 occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains'</i>. It is an offence to harm or desecrate an Aboriginal object or place. These are strict liability offences. An offence cannot be upheld where the harm or desecration was authorised by an Aboriginal heritage impact permit and the permit's conditions were not contravened. A person must notify Heritage NSW if a person is aware of the location of an Aboriginal object. Penalties for some of the offences can include 2 years imprisonment and/or up to \$550,000 (for individuals), and a maximum penalty of \$1.1million (for corporations).
Heritage Act 1977	<ul style="list-style-type: none"> Provides for the care, protection and management of relics. A relic is defined as: <i>'any deposit, artefact, object or material evidence that: (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and (b) is of State or local heritage significance.'</i> It is an offence to disturb or excavate any land knowing or having reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed, unless the disturbance or excavation is carried out in accordance with an excavation permit issued by the appropriate Heritage Branch of the DPC. Using Section 146 of the Act, a person must notify the Heritage NSW of DPC, if a person is aware or believes that they have discovered or located a relic. Penalties for offences under the Heritage Act can include 6 months imprisonment and/or up to \$1.1million.

Table 5 NSW Heritage Guidelines

Guideline	Details
NSW Heritage Council Excavation Director Criteria (2019)	<ul style="list-style-type: none"> Nominated Excavation Directors respond to this set of criteria to ensure they have the skills and experience appropriate to successfully undertake the archaeological program at a specific site.
NSW Historical Archaeology Code of Practice (2006)	<ul style="list-style-type: none"> Establishes the responsibilities of professional archaeologists, government authorities, property owners and developers. Ensures that sites with archaeological remains are more effectively investigated, assessed and managed.
Assessing Significance For Historical Archaeological Sites and 'Relics' (2009)	<ul style="list-style-type: none"> Guide to assess the heritage significance of known and potential archaeological resources, features or deposits and determine whether they are 'relics' as defined by the <i>Heritage Act 1977</i>.
Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (2010)	<ul style="list-style-type: none"> This code of practice sets out a process for individuals and organisations to follow to determine whether an Aboriginal object will be harmed by an activity, whether further investigation is needed, and whether the application to harm requires an Aboriginal heritage impact permit.

7.1.4 Penalties

It should be noted that significant penalties exist for breaches of the listed legislation as a result of actions that relate to unauthorised impacts on heritage items. Further, it is noted that heritage that has been assessed and is being managed in accordance with an environmental impact assessment is exempt from these offences.

To avoid breaches of legislation, it is important that Novo Rail and its sub-contractors are aware of their legislative obligations under relevant legislation and that appropriate management measures are in place to avoid impacts on unexpected heritage items during construction. Novo Rail will need to ensure that they undertake their own due diligence to identify any other legislative requirements that may apply under the project.

7.2 What is an unexpected heritage find?

An 'unexpected heritage find' can be defined as any unanticipated archaeological discovery that has not been identified during a previous assessment or is not covered by an existing permit under relevant legislation such as the NPW Act or Heritage Act. The find may have potential cultural heritage value, which may require some type of statutory cultural heritage permit or notification if any interference with the heritage item is proposed or anticipated.

Once the Excavation Director has been notified of the nature of the unexpected heritage find, the ED will determine whether the find is a 'relic' under the Heritage Act 1977, or the ED will contact the Aboriginal Archaeology Director to determine whether the find is an 'object' under the National Parks and Wildlife Act 1974.

An unexpected heritage find may not meet the threshold of significance to be considered a 'relic' under the Heritage Act 1977, the ED will determine this. Some heritage finds may also be considered 'works.'

The range of potential unexpected heritage find discoveries can include but are not limited to:

- Aboriginal stone artefacts, shell middens, burial sites, engraved rock art, scarred trees
- remains of rail infrastructure including buildings, footings, stations, signal boxes, rail lines, bridges and culverts
- remains of other infrastructure including sandstone or brick buildings, wells, cisterns, drainage services, conduits, old kerbing and pavement, former road surfaces, timber and stone culverts, bridge footings and retaining walls
- artefact scatters including clustering of broken and complete bottles, glass, ceramics, animal bones and clay pipes
- archaeological human skeletal remains (refer below to Section 8 for details).

7.3 Unexpected Heritage Finds Flowcharts

In the event that an unexpected heritage find is encountered on site, the flowcharts in Figure 1 and Figure 2 should be followed. Table 6 and Table 7 outline the roles and responsibilities referred to in Figure 1 and Figure 2, respectively.

Figure 1 Unexpected heritage finds flowchart Part 1 – Historical Archaeology

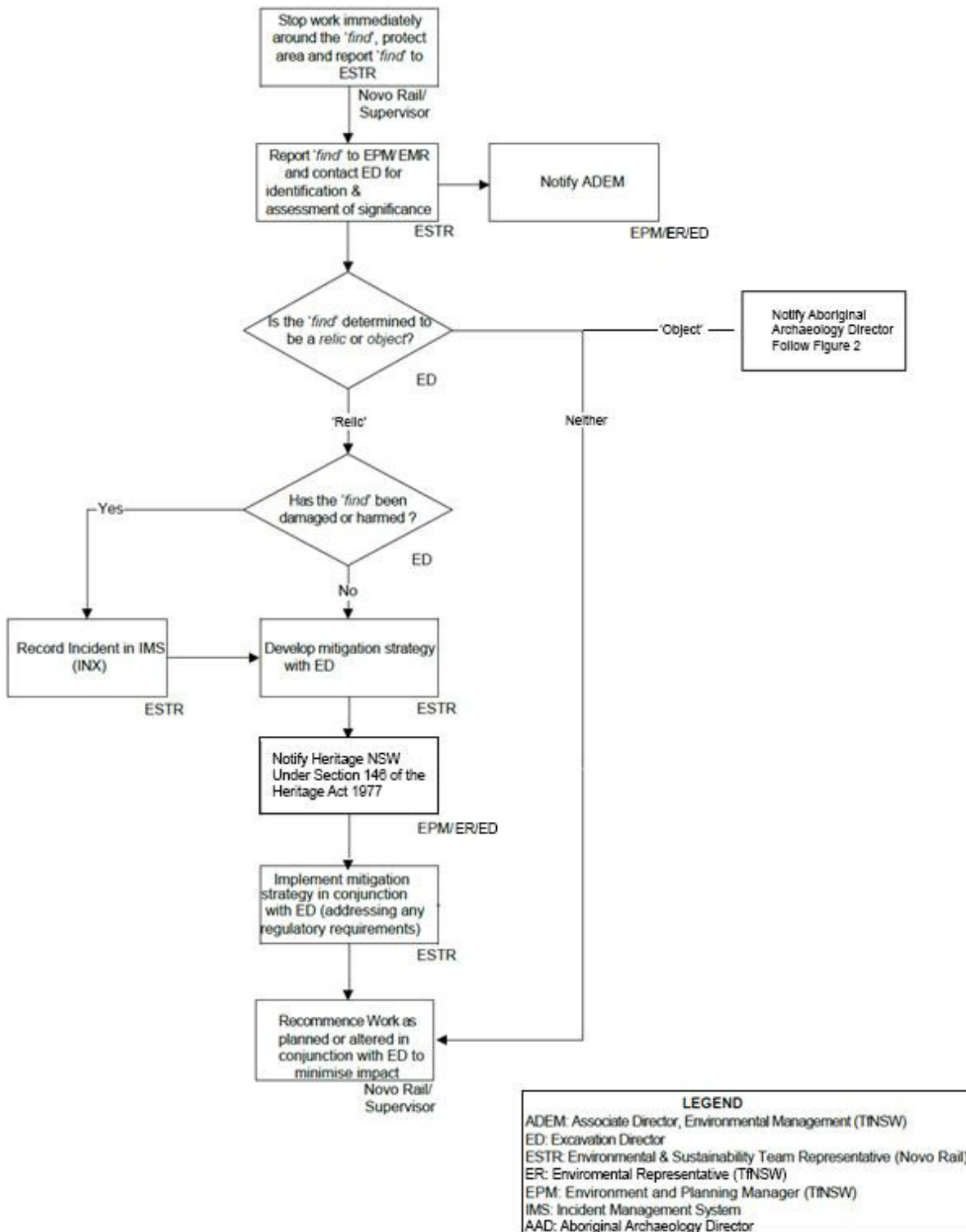


Table 6 Roles and responsibilities within Figure 1

Abbreviation in Figure 1	Role	Responsibility or role under this Guideline
Contractor/supervisor	Contractor / supervisor (Novo Rail)	Stop work immediately when an unexpected heritage find is encountered. Cordon off area until EM and ED advises that work can recommence.
ED	Excavation Director	Prepare the Unexpected Heritage Finds and Human Remains Procedure. Provide expert advice to the EM on 'relic' identification, significance, mitigation, legislative procedures and regulatory requirements, best practice and guidelines. Implement management recommendations and, if necessary, seek and follow guidance from Heritage Council of NSW or its delegate, NSW Police or relevant specialists. Liaison, as needed, with project stakeholders
AAD	Aboriginal Archaeology Director	Prepare the Aboriginal Archaeology and Heritage Unexpected Heritage Finds and Human Remains Procedure. Consult with RAPs. Provide expert advice to the ED and the EM on 'object' identification, significance, mitigation, legislative procedures and regulatory requirements, best practice and guidelines. Implement management recommendations and, if necessary, seek and follow guidance from Heritage NSW or its delegate, NSW Police or relevant specialists. Liaison, as needed, with project stakeholders
ESTR	Environmental and Sustainability Team Representative	Manage the process of identifying, reporting, protecting and mitigating impacts on the 'find'. Notifies Transport for New South Wales Liaise with Excavation Director or relevant heritage advisor and relevant authorities on significance of the find, mitigation and regulatory requirements. Complete incident report and review CEMP for any changes required. Propose amendments to the CEMP if any changes are required. Advise Contractor / supervisor to recommence work.
ER	Environmental Representative	Independent environmental advisor, provides advice on heritage management plan and changes to the CHMP. Ensures compliance with relevant approvals.
EPM	Environment and Planning Manager (TfNSW)	Notify Associate Director, Environmental Management of 'find' and manage incident reporting once completed by ESTR.
Relevant authorities	Heritage NSW, DPC (for Aboriginal objects).	Regulate the care, protection and management of Aboriginal objects. Issue Aboriginal heritage impact permits. Formerly, Office of Environment and Heritage (OEH).
	Heritage Council of NSW, or its delegate (for relics).	Regulate the care, protection and management of relics. Issue excavation permits.
	Heritage NSW, DPC as a delegate of the Heritage Council of NSW (for relics).	As a delegate of Heritage Council of NSW, regulate the care, protection and management of relics. Issue excavation permits. Formerly, Heritage Division.
	Department of Planning, Industry and Environment	In consultation with the Heritage Council of NSW, or its delegate, regulate the care, protection and management of relics and issue excavation permits.

Figure 2 Unexpected heritage finds flowchart Part 2 – Aboriginal Heritage and Archaeology

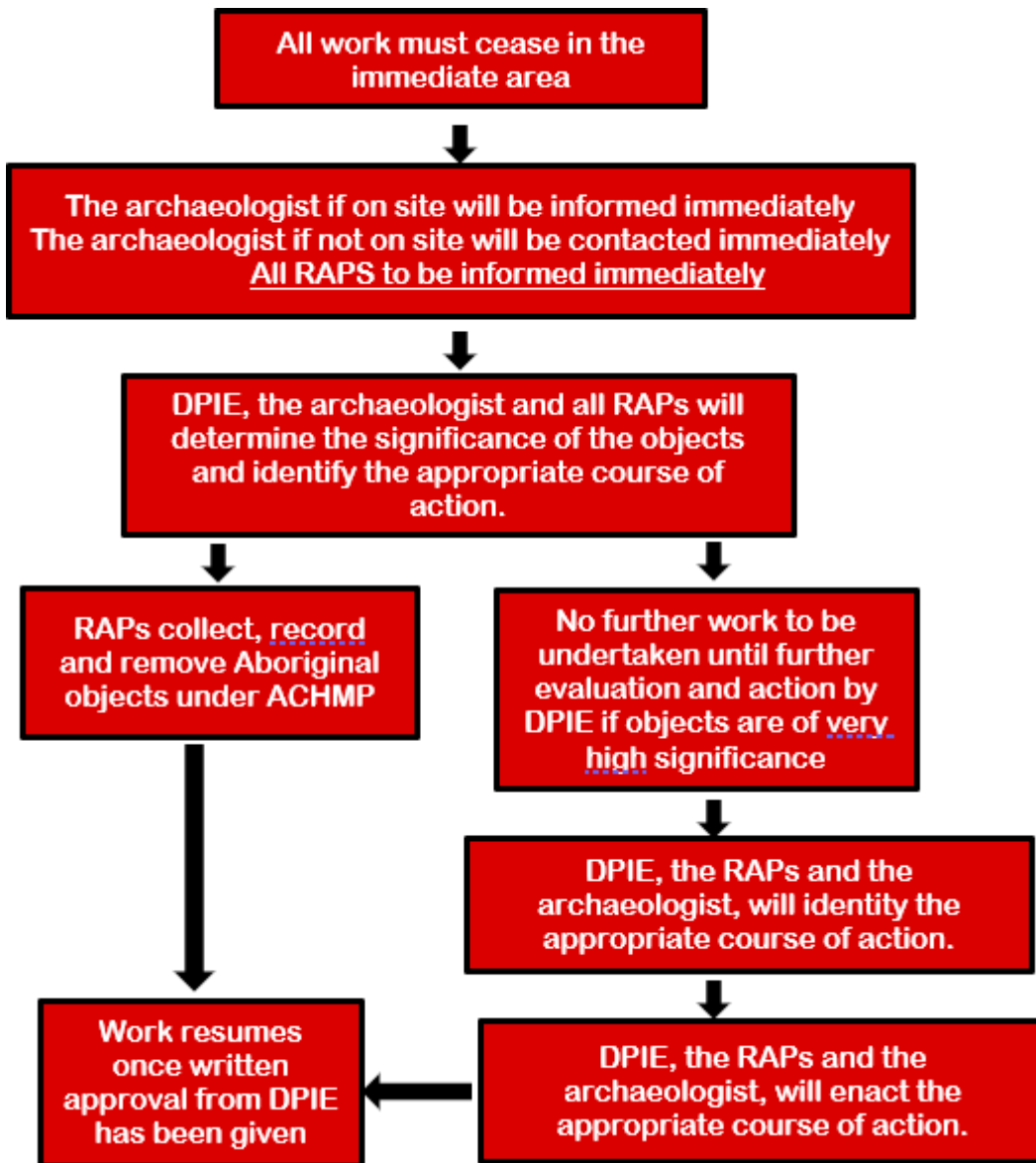


Table 7 Roles and responsibilities within Figure 2

Abbreviation used in Figure 1	Role	Responsibility or role under this Guideline
Contractor/ supervisor	Contractor / supervisor (Novo Rail)	Stop work immediately when an unexpected heritage find is encountered. Cordon off area until EM and ED advises that work can recommence.
AAD	Aboriginal Archaeology Director	Prepare the Aboriginal Archaeology and Heritage Unexpected Heritage Finds and Human Remains Procedure. Consult with RAPs. Provide expert advice to the ED and the EM on 'object' identification, significance, mitigation, legislative procedures and regulatory requirements, best practice and guidelines. Implement management recommendations and, if necessary, seek and follow guidance from Heritage NSW or its delegate, NSW Police or relevant specialists. Liaison, as needed, with project stakeholders
RAPs	Registered Aboriginal Party	Cultural Heritage Stakeholders, as outlined in the Aboriginal Cultural Heritage Management Plan.
Relevant authorities	Heritage NSW, DPC (for Aboriginal objects).	Regulate the care, protection and management of Aboriginal objects. Issue Aboriginal heritage impact permits. Formerly, Office of Environment and Heritage (OEH).
	Heritage Council of NSW, or its delegate (for relics).	Regulate the care, protection and management of relics. Issue excavation permits.
	Heritage NSW, DPC as a delegate of the Heritage Council of NSW (for relics).	As a delegate of Heritage Council of NSW, regulate the care, protection and management of relics. Issue excavation permits. Formerly, Heritage Division.
	Department of Planning, Industry and Environment	In consultation with the Heritage Council of NSW, or its delegate, regulate the care, protection and management of relics and issue excavation permits.

8. Unexpected Human Remains

8.1 Suspected Human Remains

Bone is a common material recovered from archaeological sites and is often of animal origin. However, there are a variety of contexts where human remains might be discovered:

- In situ articulated skeletal remains discovered in undisturbed burials;
- Disarticulated skeletal remains that were redeposited after a burial was disturbed;
- Discarded skeletal remains (for instance, as a result of injury or amputation).

A suitably qualified and experienced Excavation Director can make the distinction between commonly encountered animal remains and 'suspected human remains.' However, 'suspected human remains' will always be immediately referred to NSW Police and, if necessary, a suitably experienced and qualified forensic anthropologist, or equivalent, for confirmation or to ascertain age and ancestry.

Discovery of suspected human remains may be subject to different Acts and requirements, thereby triggering different notification pathways, based on the specific circumstances involved. Please refer to the following sections for an outline of the relevant legislation and a flowchart to determine which legislation is relevant to manage the suspected human remains.

8.2 Discovery of Human Remains Legislation

If suspected human remains are discovered, the first step will always be to notify NSW Police, however, the next step depends on the age and nature of the human remains and the reason for disturbing the remains. The flowchart Figure 2 outlines the steps to consider.

If the remains are found to be archaeological, rather than forensic, Heritage NSW of the Department of Premier and Cabinet must be notified. Depending on the nature of the remains, notification is required either under the Heritage Act 1977 or the National Parks and Wildlife Act 1974. The legal requirement to notify under those Acts is not affected by the Environmental Planning and Assessment Act 1979 or the State Significant Infrastructure or Development processes.

Compliance with the Coroners Act 2009 and Public Health Regulation 2012 is also unaffected by the Environmental Planning and Assessment Act 1979 and applicable Conditions of Approval under the Final Determination Report.

The flowchart in Figure 3 is designed to ensure compliance with the above Acts.

8.2.1 Forensic Cases – NSW Coroners Act 2009

A discovery of suspected human remains less than 100 years old is a forensic case by definition and the remains would come under the jurisdiction of the State Coroner and the Coroners Act 2009 (NSW). Such a case would be considered a 'reportable death' and Section 35 of the Act outlines that 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 regardless of ancestry (i.e. both Aboriginal and non-Aboriginal remains). For full details of the legal notification clauses, please refer to Section 35 of the Act:

Section 35 Obligation to report death or suspected death

- (1) This section applies to any person who has reasonable grounds to believe that a death or suspected death of another person:
 - (a) is a reportable death or occurred in circumstances that would be examinable under Division 2 of Part 3.2, and
 - (b) has not been reported in accordance with subsection (2).
- (2) A person to whom this section applies must report the death or suspected death concerned to a police officer, a coroner or an assistant coroner as soon as possible after becoming aware of the grounds referred to in subsection (1).
Maximum penalty (subsection (2)): 10 penalty units.
- (3) A police officer to whom a death or suspected death is reported under this section is required to report the death or suspected death to a coroner or assistant coroner as soon as possible after the report is made.
- (4) An assistant coroner to whom a death or suspected death is reported under this section is required to report the death or suspected death to a coroner as soon as possible after the report is made.
- (5) A coroner to whom a death or suspected death is reported under this section is required to inform the State Coroner of the report as soon as practicable after the report is made.

For the Redfern Station Upgrade project, this Unexpected Heritage Finds & Human Remains Procedure (TAP04-PLN-EN-0014) prepared by AMAC Group provides the details for managing forensic cases of any human remains.

8.2.2 Archaeological Cases (Non-Aboriginal Ancestry) NSW Heritage Act 1977

A discovery of suspected human remains greater than 100 years old is an archaeological case and is not subject to the NSW Coroners Act 2009.

Suspected human remains of non-Aboriginal ancestry, and historic burials, are protected by the Heritage Act 1977. They are also subject to the NSW Heritage Council's 1998 Guidelines for the Management of Human Skeletal Remains.² However, the 1998 Skeletal Remains Guidelines should be read in context with current statutory definition of a 'relic' under the Heritage Act 1977 (altered in 2009) and in context with the current guidelines for Assessing Significance for Historical Archaeological Sites and 'Relics' (2009).

For the Redfern Station Upgrade project, the Historical Archaeology Research Design (TAP04-PLN-EN-0014) prepared by AMAC Group provides the details for managing non-Aboriginal heritage.

8.2.3 Archaeological Cases (Aboriginal Ancestry) NSW National Parks and Wildlife Act 1974

² NSW Heritage Office, 1998. NSW Heritage Council's Guidelines for the Management of Human Skeletal Remains

A discovery of suspected human remains greater than 100 years old is an archaeological case and is not subject to the NSW Coroners Act 2009.

Suspected human remains of Aboriginal ancestry are protected as Aboriginal 'objects,' that is, they are material evidence of the Aboriginal occupation of NSW, and as such are protected by Section 90 of the National Parks and Wildlife Act 1974. Aboriginal 'Places,' being areas of cultural significance to Aboriginal communities, are protected under Section 84.

For the Redfern Station Upgrade project, the Aboriginal Cultural Heritage Management Plan (TAP04-PLN-EN-0007) prepared by Streat Archaeological Services and AMAC Group provides the details for facilitating the management of Aboriginal heritage and human remains.

The discovery of suspected human remains of Aboriginal ancestry will require notification to and consultation with Registered Aboriginal Parties (RAPs).

8.3 Unexpected Human Remains Flowchart

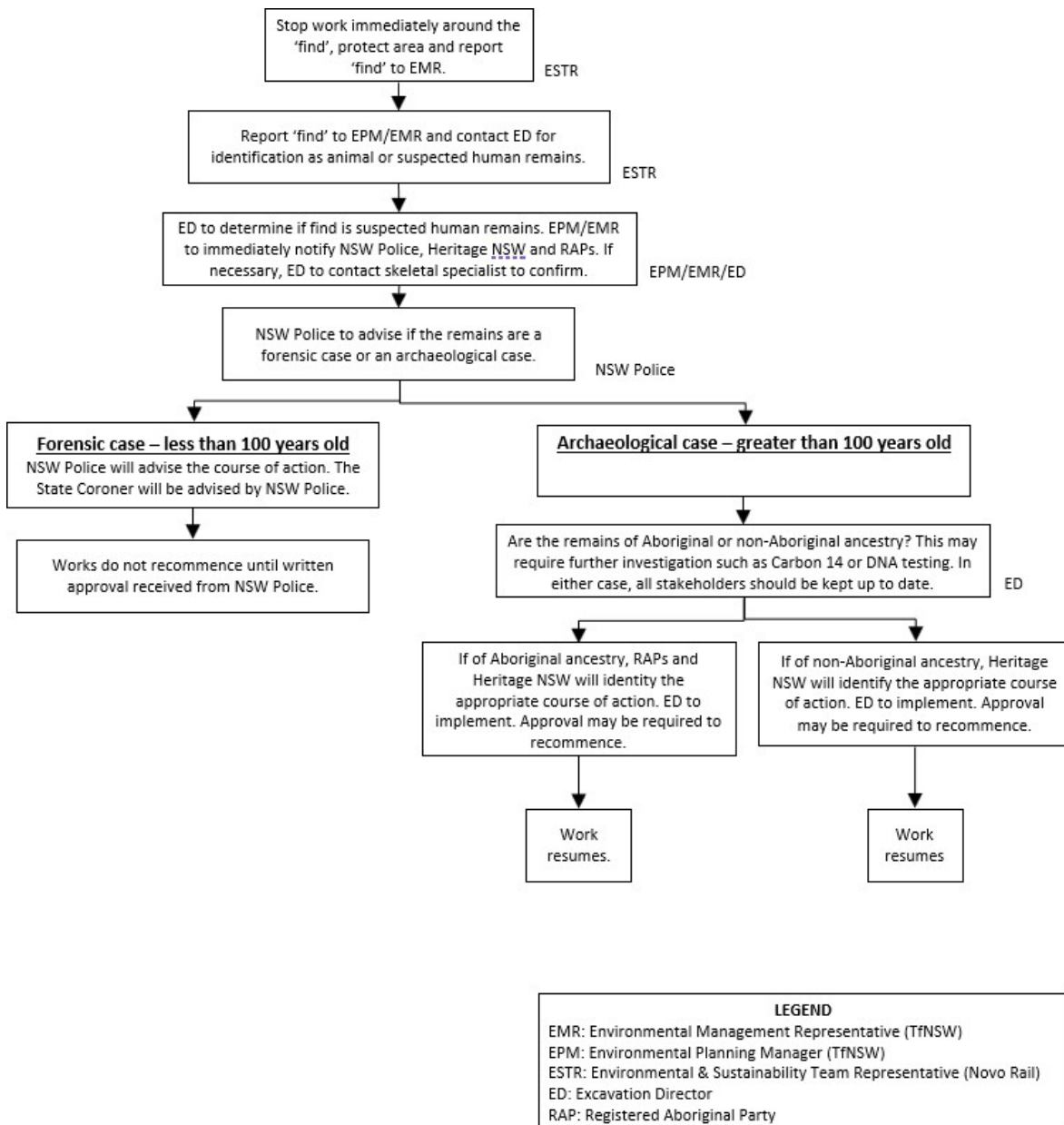


Figure 3 Unexpected Human Remains flowchart

Table 8 Roles and responsibilities within Figure 3

Abbreviation used in Figure 1	Role	Responsibility or role under this Guideline
Contractor/ supervisor	Contractor / supervisor (Novo Rail)	Stop work immediately when an unexpected heritage find is encountered. Cordon off area until EM and ED advises that work can recommence.
ED	Excavation Director	Prepare the Unexpected Heritage Finds and Human Remains Procedure. Provide expert advice to the EM on 'find' identification, significance, mitigation, legislative procedures and regulatory requirements, best practice and guidelines. Implement management recommendations and, if necessary, seek and follow guidance from Heritage Council of NSW or its delegate, NSW Police or relevant specialists. Liaison, as needed, with project stakeholders
ESTR	Environmental and Sustainability Team Representative	Manage the process of identifying, reporting, protecting and mitigating impacts on the 'find'. Notifies Transport for New South Wales Liaise with Excavation Director or relevant heritage advisor and relevant authorities on significance of the find, mitigation and regulatory requirements. Complete incident report and review CEMP for any changes required. Propose amendments to the CEMP if any changes are required. Advise Contractor / supervisor to recommence work.
ER	Environmental Representative	Independent environmental advisor, provides advice on heritage management plan and changes to the CHMP. Ensures compliance with relevant approvals.
EPM	Environment and Planning Manager (TfNSW)	Notify Associate Director, Environmental Management of 'find' and manage incident reporting once completed by ESTR.
Relevant authorities	Heritage NSW, DPC (for Aboriginal objects).	Regulate the care, protection and management of Aboriginal objects. Issue Aboriginal heritage impact permits. Formerly, Office of Environment and Heritage (OEH).
	Heritage Council of NSW, or its delegate (for relics).	Regulate the care, protection and management of relics. Issue excavation permits.
	Heritage NSW, DPC as a delegate of the Heritage Council of NSW (for relics).	As a delegate of Heritage Council of NSW, regulate the care, protection and management of relics. Issue excavation permits. Formerly, Heritage Division.
	Department of Planning, Industry and Environment	In consultation with the Heritage Council of NSW, or its delegate, regulate the care, protection and management of relics and issue excavation permits.

8.4 Unexpected Heritage Finds and Human Remains Contact Details

Table 9 Notification Details for Unexpected Finds Procedure Personnel

Find Type	Organisation	Contact	Contact Details
Human Remains	NSW Environment Line	N/A	131 555
Human Remains	NSW Redfern Police Area Command	N/A	PAC Office: 1 Lawson Street Redfern 2016 Phone: 02 8303 5199 Fax: 02 8303 5333
Heritage Finds and Human Remains	Archaeological Management & Consulting Group	<p>Business Hours:</p> <p>Jaki Baloh 0423 121 007</p> <p>Ivana Vetta (ED) 0419 302 744</p> <p>Ben Streat (AAD) 0405 455 869</p> <p>Out of Hours:</p> <p>Martin Carney 0411 727 395</p>	<p>122c-d Percival Road Stanmore NSW 2048 Ph:(02) 9568 6093</p> <p>jakibaloh@archaeological.com.au</p> <p>ivanavetta@archaeological.com.au</p> <p>benjaminstreat@archaeological.com.au</p> <p>martincarney@archaeological.com.au</p>
'Relics' and Human Remains	Specialist Services Heritage NSW, Community Engagement, Department of Premier and Cabinet	Historical Archaeologist	<p>(02) 9873 8500 heritagemailbox@environment.nsw.gov.au</p> <p>Level 6, 10 Valentine Ave, Parramatta, 2150</p> <p>A delegate of Heritage Council of NSW. Formerly Heritage Division and Office of Environment and Heritage.</p>
'Objects' and Human Remains	Archaeologist – Aboriginal Cultural Heritage Regulation Heritage NSW Community Engagement, Department of Premier and Cabinet	Aboriginal Heritage Archaeologist	<p>(02) 9873 8500 heritagemailbox@environment.nsw.gov.au</p> <p>Level 6, 10 Valentine Ave, Parramatta, 2150</p> <p>Formerly Office of Environment and Heritage.</p>