

CLIENT: ROADS AND MARITIME SERVICES

PROJECT: PACIFIC HIGHWAY UPGRADE -  
KUNDABUNG TO KEMPSEY

LOCATION: NSW

PROJECT NO.: 2602

Quality Management System

# APPENDIX B5- CONSTRUCTION HERITAGE MANAGEMENT PLAN

QMS number **025-Y006-2602**

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## GLOSSARY/ ABBREVIATIONS

Term/ Abbreviation	Definition
CEMP	Construction Environmental Management Plan
CoA	Condition of approval
CHMP	Construction Heritage Management Sub Plan
DECCW	Department of Environment, Climate Change and Water (now New South Wales Office of Environment and Heritage (OEH))
Director-General	Director-General of the NSW Department of Planning and Environment (or delegate)
DP&E	Department of Planning and Environment
DUAP	NSW Department of Urban Affairs and Planning
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EWMS	Environmental Work Method Statements
K2K	Kundabung to Kempsey
NPW Act	<i>National Parks and Wildlife Act 1974</i>
OEH	NSW Office of Environment and Heritage
PAD	Potential archaeological deposit
Plan	Construction Heritage Management Sub Plan
Project, the	Oxley Highway to Kempsey Project
RMS	Roads and Maritime Services
SoC	Statement of commitments

# 1.0 INTRODUCTION

## 1.1 CONTEXT

This Construction Heritage Management Sub Plan (CHMP or Plan) forms part of the Construction Environmental Management Plan (CEMP) for the upgrade of the Pacific Highway between Kundabung and Kempsey (hereafter referred to as 'the Project' or 'K2K').

This CHMP 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 Oxley Highway and Kempsey Environmental Assessment (EA), the Aboriginal Heritage Working Paper and all applicable legislation.

## 1.2 BACKGROUND

For the purposes of approvals the project was assessed as Oxley Highway to Kempsey. The McConnell Dowel OHL Joint Venture (the JV) is delivering the 13.7km K2K section of the Oxley Highway to Kempsey Pacific Highway Upgrade and heritage management specifically related to this section of the highway is contained within this document.

The *Oxley Highway to Kempsey – Upgrading the Pacific Highway – Environmental Assessment* (RTA 2010) assessed the impacts of construction and operation of the Project on Aboriginal and non-Aboriginal heritage. As part of EA development, a detailed Aboriginal cultural heritage impact assessment (South East Archaeology, September 2010) was prepared to address the Environmental Assessment Requirements issued by the then Department of Planning. This Aboriginal cultural heritage impact assessment informed the Aboriginal Heritage Working Paper which was included in Volume 3 of the EA. A supplementary assessment to the Working Paper for minor modifications outside the original Project alignment was undertaken by South East Archaeology in December 2010. The EA identified direct and indirect impacts on Aboriginal archaeological and cultural sites, but concluded that provided the proposed mitigation and management measures are implemented, no significant long-term impacts would be expected. Detailed non-Aboriginal heritage investigations were undertaken in March and April 2007 by South East Archaeology and a draft non-Indigenous Heritage Impact Assessment Report was prepared in December 2007. The EA identified potential direct or indirect impacts on five non-Aboriginal items assessed as having heritage significance throughout the Oxley Highway to Kempsey alignment. One of these sites, the Maria River Bridge occurs within the K2K section of the alignment.

Archaeological investigations have been undertaken at three potential archaeological deposits (PADs) within the alignment. It has been established as a result that no further investigation or salvage operation will be required. There are five PADs adjacent to the alignment which will need to be managed during the works.

## 1.3 ENVIRONMENTAL MANAGEMENT SYSTEMS OVERVIEW

The overall Environmental Management System for the Project is described in the Construction Environmental Management Plan (CEMP) (QMS# 025-Y001-2602).

The CHMP is part of the JV's environmental management framework for the Project, as described in Section 4.1 of the CEMP. In accordance with CoA B31(e), this Plan has been developed in consultation with the NSW Office of Environment and Heritage (OEH) and registered Aboriginal stakeholders. Management measures identified in this Plan 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 associated works and construction personnel will be required to undertake works in accordance with the identified mitigation and management measures.

Used together, the CEMP, strategies, procedures and EWMS form management guides that clearly identify required environmental management actions for reference by JV personnel and contractors. The review and document control processes for this Plan are described in Chapters 9 and 10 of the CEMP.

## 2.0 PURPOSE AND OBJECTIVES

### 2.1 PURPOSE

The purpose of this Plan is to describe how Aboriginal and non-Aboriginal heritage will be protected and managed during construction of the Project.

### 2.2 OBJECTIVES

The key objective of the CHMP 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:

- Facilitate engagement with the local Aboriginal community in partnership to appropriately manage the Aboriginal cultural heritage values associated with the Project.
- 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 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.
- Ensure appropriate measures are implemented to comply with all relevant legislation and other requirements as described in Section 3.1 and Section 3.4 of this Plan.

### 2.3 TARGETS

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

- Ensure full 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 Cultural Heritage Awareness Training is provided to all personnel in the form of inductions before they begin work on-site.
- Ensure non-Aboriginal heritage induction processes are provided to all personnel before they begin work on-site.

## 3.0 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).*

- *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 Plan include:

- *RMS QA Specification G36 – Environmental Protection (Management System).*
- *RMS Standard Procedure – Unexpected Archaeological Finds (November 2011).*
- *Procedure for Aboriginal Cultural Heritage Consultation and Investigation (RMS 2011)*
- *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (DECCW 2010) (for reference only).*
- *Altering Heritage Assets (Heritage Office and DUAP 1996).*
- *Assessing Heritage Significance (NSW Heritage Office 2001).*
- *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 Branch 1998).*
- *Photographic Recording of Heritage Items Using Film or Digital Capture (Heritage Branch 2006).*

### 3.2 MINISTER'S CONDITIONS OF APPROVAL

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

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

CoA No.	Condition Requirements	Document Reference
CoA B.18	<p>Prior to the commencement of pre-construction and construction in Aboriginal sites OHK46/A, OHK47/A, OHK54/A, OHK90/A, OHK91/A and OHK219/A, the Proponent shall undertake the relevant salvage mitigation measures outlined in section 19.4.1 of Volume 1 of the EA for these sites.</p> <p>The results of the salvage program shall be provided to the Department, the EPA and Aboriginal stakeholders within six months of the completion of the salvage program, unless otherwise agreed by the Director General.</p>	Salvage sites not located within the K2K section of the alignment.
CoA B.18A	<p>Prior to the commencement of pre-construction and construction activities affecting the Pipers Creek PAD site, the Proponent shall:</p> <p>(a) undertake archaeological investigations at the Pipers Creek PAD site generally consistent with section 6 of the September 2012 Kelleher Nightingale report referenced in condition A1(f), or a methodology prepared in consultation with OEH and approved by the Director General; and</p> <p>(b) report on the results of the investigations, including recommendations (such as for salvage), in consultation with OEH and to the satisfaction of the Director General. The report shall include but not necessarily be limited to:</p> <p>(i) consideration of measures to minimise disturbance to archaeology, where significant archaeological deposits are found to be present;</p> <p>(ii) where impacts cannot be avoided, recommendations for any further investigations for significant archaeological deposits; and</p> <p>(iii) management and mitigation measures to ensure there are no additional impacts due to pre-construction and construction activities; and</p> <p>(c) undertake any salvage works recommended by the results of the archaeological investigations, in accordance with the report required under condition B18A(b).</p>	<p>Archaeological investigation work has been completed.</p> <p>No further investigation or salvage operation required.</p>
CoA B.18B	<p>Prior to the commencement of pre-construction and construction activities affecting site OHK85, the Proponent shall undertake any salvage works recommended by the results of the archaeological investigations described in the 2013 Kelleher Nightingale document referenced in condition A1(f), in accordance with the relevant salvage mitigation measures outlined in section 19.4.1 of Volume 1 of the EA.</p>	Site OHK85 not applicable to the K2K section of the alignment.
CoA B.18C	<p>Within 12 months of completing any salvage work in accordance with conditions B18A and/or B18B, or at such time otherwise agreed by the Director General, the Proponent shall submit a report containing the findings of the salvage works, prepared in consultation with OEH and to the satisfaction of the Director General.</p>	Salvage sites not located within the K2K section of the alignment.



CoA No.	Condition Requirements	Document Reference
CoA B.19	<p>Prior to the commencement of pre-construction and construction that affects the farm complex identified as OHK11 in Table 20-1 of Volume 1 of the EA, the Proponent shall prepare an archaeological assessment, which includes a research design and methodology to guide any proposed archaeological investigation, in accordance with the relevant Heritage Council of NSW guidelines. The archaeological assessment shall be prepared in consultation with the Office of Environment and Heritage (Heritage Branch) and submitted for the approval of the Director General prior to work commencing on site OHK11, unless otherwise agreed to by the Director General. The Excavation Director for the archaeological program shall meet the requirements of the Heritage Council of NSW's Excavation Director Criteria (Heritage Council of NSW website <a href="http://www.heritage.nsw.gov.au/docs/excavationdirectors.pdf">http://www.heritage.nsw.gov.au/docs/excavationdirectors.pdf</a> dated July 2011).</p> <p>Any further archaeological work recommended on this site by the assessment shall be undertaken by the Proponent in consultation with the Office of Environment and Heritage (Heritage Branch). A final report on the excavation shall be submitted to the Director General and the Heritage Council of NSW within six months of the completion of the archaeological fieldwork, unless otherwise agreed to by the Director General.</p>	Site not located within the K2K section of the alignment.
CoA B.31(e)	<p>A Construction Heritage Management Sub-plan to detail how construction impacts on Aboriginal and non-Aboriginal heritage will be minimised and managed. The sub-plan shall be developed in consultation with the EPA and registered Aboriginal stakeholders (for Aboriginal heritage), and include, but not necessarily be limited to:</p>	This Plan
	<p>(i) In relation to Aboriginal Heritage:</p> <p>i. details of management measures to be carried out in relation to recorded sites and potential Aboriginal deposits (including further archaeological investigations, salvage measures and/ or measures to protect unaffected sites during construction works in the vicinity);</p>	Chapter 7 of this CHMP
	<p>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, EPA and registered Aboriginal stakeholders and assessment of the consistency of any new Aboriginal heritage impacts against the approved impacts of the Project, and registering of the new site in the EPA's Aboriginal Heritage Information Management System (AHIMS) register;</p>	Appendix A of this CHMP
	<p>iii. procedures for dealing with human remains, including cessation of works in the vicinity and notification of the Department, NSW Police Force, EPA and registered Aboriginal stakeholders and not recommencing any works in the area unless authorised by the EPA and/ or the NSW Police Force); and</p>	Appendix A of this CHMP
	<p>iv. Aboriginal cultural heritage induction processes for construction personnel (including procedures for keeping records of inductions) and procedures for ongoing Aboriginal consultation and involvement; and</p>	Appendix B of this CHMP Chapter 7 of this CHMP Enterprise Training Plan (MMS# 030-Y008-2602)

CoA No.	Condition Requirements	Document Reference
	(ii) In relation to non-Aboriginal Heritage: i. details of management measures to be carried out in relation to recorded sites (including further heritage investigations, archival recordings and/ or measures to protect unaffected sites during construction works in the vicinity), consistent with the Mitigation and Management Strategies listed in Section 9 of the Non-Indigenous Heritage Impact Assessment prepared by South East Archaeology Pty Limited (dated December 2007);	Chapter 7 of this CHMP
	ii. procedures for dealing with previously unidentified non-Aboriginal objects, (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 Office of Environment and Heritage (Heritage Branch) and assessment of the consistency of any new non-Aboriginal heritage impacts against the approved impacts of the project; and	Appendix A of this CHMP
	iii. non-Aboriginal cultural heritage induction processes for construction personnel.	Appendix B of this CHMP
CoA C.14	This approval does not allow the Proponent to destroy, modify or otherwise physically affect any heritage items or human remains as part of the Project.	Chapter 6 and 7 of this CHMP
CoA C.14A	The proponent shall not destroy, modify or otherwise physically affect any heritage items outside the approved project footprint, except where this has been approved by the Director General in accordance with condition C28 of this project approval.	Chapter 7 of this CEMP
CoA C.15	The Proponent shall not destroy, modify or otherwise physically affect the Maria River bridge (OHK14), unless otherwise agreed by the Director General.	Chapter 7 of this CHMP
CoA B.16	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 B31.	Chapter 7 of this CHMP

### 3.3 STATEMENT OF COMMITMENTS

Relevant SoC are listed in Table 3-2 below. 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 3-2 Statements of commitment relevant to the K2K CHMP**

Outcome	Ref #	Commitment	Timing	CHMP Reference
Minimise impacts on Aboriginal Heritage	AH1	An Aboriginal heritage management plan will be developed to document procedures, management measures and protocols to minimise impacts.	Pre-construction and construction	This Plan
	AH2	Items and areas of archaeological significance not directly affected will be protected during construction.	Pre-construction and construction	Chapter 7 of this CHMP
	AH3	Protocols will be established and implemented should any previously unidentified Aboriginal objects or human skeletal remains be encountered during construction works on the Project. All works in the vicinity of the find will cease until Police and Aboriginal heritage specialist advice is obtained from OEH.	Pre-construction and construction	Appendix A of this CHMP
	AH4	Any Aboriginal heritage items directly affected will be managed in consultation with Aboriginal stakeholders and OEH.	Pre-construction and construction	Chapter 4 of this CHMP
	AH5	All construction personnel will receive Aboriginal heritage awareness training on their obligations for protection of Aboriginal cultural materials, including information on site locations, conservation management requirements and legal obligations in regard to Aboriginal cultural materials.	Pre-construction and construction	Chapter 8 and Appendix B of this CHMP

Outcome	Ref #	Commitment	Timing	CHMP Reference
Minimise impacts on non-Aboriginal heritage	NAH1	The detailed design will minimise impacts to the identified non-Aboriginal heritage items where feasible and reasonable	Pre-construction	Chapter 6 of this CHMP
	NAH2	A non-Aboriginal heritage management plan will be developed.	Pre-construction	This Plan
	NAH3	Staff will receive training with respect to identifying items of non-Aboriginal heritage during construction and the correct methods of communication on the worksite.	Pre-construction	Chapter 8 and Appendix B of this CHMP
	NAH4	If any material of potential archaeological significance is unearthed, work will cease until specialist heritage advice has been obtained. Should any material of potential archaeological significance be unearthed, the Heritage Branch would be notified.	Pre-construction and construction	Appendix A of this CHMP

## 4.0 CONSULTATION

Consultation and collaboration with registered Aboriginal stakeholders has been integral to the assessment and management of Aboriginal cultural heritage for the Project. Any Aboriginal heritage items directly affected will be managed in consultation with Aboriginal stakeholders and OEH. Consultation is outlined in Section 19.1.2 of the EA. Consultation activities have included Aboriginal Focus Group meetings held in March 2012 and August 2012 to discuss geotechnical activities and to present the methodology for salvage works required to be undertaken by CoA B18 respectively.

In line with CoA B31(e), this Plan, its appendices and the heritage training package have been provided to the EPA and the registered Aboriginal parties for consultation during the approval process. The EPA has provided comments on this plan which have now been closed out by the JV to the satisfaction of the EPA. The registered Aboriginal Parties which have been consulted are the:

- Birpai Aboriginal Land Council (Port Macquarie);
- Dunghutti Elders Aboriginal Corporation (South Kempsey); and
- Kempsey Local Aboriginal Land Council (KLALC).

Face-to-face meetings have been held with the three registered Aboriginal stakeholders on 13 August 2014 (Birpai Aboriginal Land Council and Dunghutti Elders Aboriginal Corporation) and 20 August 2014 (KLALC). During these meetings the JV introduced the project, our team, this plan and the heritage training package. No objections were raised during this meeting and, to date, all comments on the plans have been considered and have resulted in updates to the plans where relevant.

The JV will continue to consult with the registered Aboriginal stakeholders for the duration of the project.

## 5.0 EXISTING ENVIRONMENT

The following sections summarise what is known about Aboriginal and non-Aboriginal heritage within and adjacent to the Project corridor.

The key reference documents are:

- Chapter 19, Chapter 20.2 of the EA (GHD September 2010).
- Aboriginal Heritage Working Paper (Volume 3 of the EA) (GHD September 2010).
- Aboriginal heritage impact assessment (South East Archaeology September 2010)
- Supplementary assessment to the Working Paper (South East Archaeology December 2010).
- Draft non-Indigenous Heritage Impact Assessment Report (South East Archaeology December 2007).
- Aboriginal Archaeological Assessment and Artefact Salvage Methodology and Cultural Heritage Assessment Report (Kelleher Nightingale September 2012).

### 5.1 ABORIGINAL CULTURAL HERITAGE

#### 5.1.1 Archaeological sites

The Oxley Highway to Kempsey Project would have direct, indirect and potential impacts on various identified archaeological sites. Three of these are directly related to the K2K Section– refer Table 5-1. Refer also to the Sensitive Area Maps included in Appendix A6 of the CEMP.

**Table 5-1 Archaeological sites**

Name	Scientific Significance (Local context)	Cultural Value
<b>Relevant to Kundabung to Kempsey Section Only</b>		
Smiths Creek – PAD	Moderate	Yes
Pipers Creek – PAD	Moderate	Yes
Maria River – PAD	Moderate	Yes

Source: Aboriginal Archaeological Assessment and Artefact Salvage Methodology and Cultural Heritage Assessment Report (Kelleher Nightingale September 2012).

#### 5.1.2 Cultural sites

Five cultural sites were identified through the cultural assessment and consultation process undertaken for the EA. Only the Maria River site is of relevance to K2K – refer Table 5-2.

**Table 5-2 Aboriginal cultural sites**

Name	Scientific Significance (Local context)	Cultural Value
<b>Relevant to Kundabung to Kempsey Section Only</b>		
Maria River	N/A	Yes

### 5.2 NON-ABORIGINAL HERITAGE

Non-Aboriginal heritage items located within or adjacent to the Oxley Highway to Kempsey Project corridor are listed below in Table 5-3. Only the Maria River Bridge is located within the K2K section of the Project. The location of this item is shown on the Sensitive Area Maps included in Appendix A6 of the CEMP.

**Table 5-3 Non-Aboriginal heritage items**

Name	Location	Significance
<b>Relevant to Kundabung to Kempsey Section Only</b>		
OHK14 – Maria River Bridge	Western side of Pacific Highway	State significant

## 6.0 ENVIRONMENTAL ASPECTS AND IMPACTS

### 6.1 CONSTRUCTION ACTIVITIES

Key aspects of the Project that could result in adverse impacts to Aboriginal and Non-Aboriginal heritage include:

- Early works including non-substantial construction activities such as services relocations.
- Planned salvage of Aboriginal heritage items.
- Initial clearing and/or grubbing of vegetation.
- Initial removal of topsoil.
- Construction of site compounds and spoil/mulch and/or equipment stockpile areas.
- Temporary access roads during construction.

Refer to Appendix A2 of the CEMP – Aspects and Impacts Register.

As stated by CoA C14, the planning approval for the Project does not allow the Proponent to destroy, modify or otherwise physically affect any heritage items or human remains as part of the Project. Additionally, C14A does not allow the proponent to destroy, modify or otherwise physically affect any heritage items outside the approved project footprint, except where this has been approved by the Director-General in accordance with condition C28 of the project approval.

### 6.2 ABORIGINAL CULTURAL HERITAGE ITEMS

Table 6-1 summarises identified impacts and management measures in relation to Aboriginal archaeological sites on K2K.

**Table 6-1 Aboriginal archaeology – impacts and management**

Name	Impact	Management
Smiths Creek – PAD	Partial impact	Investigation complete, no further action required
Pipers Creek – PAD	Direct impact	Investigation complete, no further action required
Maria River – PAD	Not impacted	Protection and monitoring

The Aboriginal Archaeological Assessment and Artefact Salvage Methodology and Cultural Heritage Assessment Report (Kelleher Nightingale September 2012) sets out the methodology for the proposed excavation program for the Project. The main aim of the excavation program is to recover a representative sample of the archaeological deposits present in areas identified as archaeological sites or areas of archaeological potential within the Project boundary.

An archeological investigation was undertaken at Pipers Creek as per the requirements of the Ministers Conditions of Approval B18 & B18A between September and December 2013. The proposed methodology and field program (KNC 2012) was developed in consultation with and with participation of the registered Aboriginal stakeholders for the project, Kempsey Local Aboriginal Land Council (KLALC), Birpai Local Aboriginal Land Council (BLALC) and Dunghutti Elders Council Aboriginal Corporation (DECAC). Representatives from the DECAC and the KLALC were present during excavation activities due to the location of this site with respect to the relevant land council boundaries.

For the purposes of the investigation the Pipers Creek PAD was split into two sections, Pipers Creek 1 (western half) and Pipers Creek 2 (eastern half). Fourteen test squares were excavated within the Pipers Creek 1 PAD, with 3 artefacts recovered. The artefacts were recovered from one test square (220E 830N). Fifteen test squares were excavated within the Pipers Creek 2 PAD, with 18 artefacts recovered. The artefacts were recovered from nine test squares located on the elevated terrace. The mean density within the impact corridor is considered very low, at 0.8 artefacts per square metre.

The artefacts represent an isolated low density scatter. Some evidence of soil disturbance, caused by flooding and ploughing, was observed in the soil profiles of the test squares excavated across the creek flats. The low artefact densities suggest that occupation of hinterland creek valleys was of a transitory nature that did not involve activities causing the discard of many stone artefacts. In addition, periodic flooding of the Pipers Creek was seen in soil sections, underscoring the natural level of disturbance limiting archaeological integrity.

The report concludes that the conditions of Project Approval were completed for the Pipers Creek PAD by the test excavation program and no further assessment was warranted. In addition no salvage is required for the land within the project boundary (pers. comm. Matthew Kelleher, Archaeologist).

Table 6-2 summarises identified impacts and management measures in relation to Aboriginal cultural heritage sites within the K2K project alignment.

**Table 6-2 Aboriginal cultural heritage – impacts and mitigation**

Name	Impact	Management
Maria River	Not impacted	Minimise impacts as far as practicable during detailed design and construction.

### 6.3 NON-ABORIGINAL HERITAGE IMPACTS

Table 6-3 summarises identified impacts and management measures in relation to non-Aboriginal cultural heritage sites.

**Table 6-3 Non-Aboriginal heritage – impacts and mitigation**

Name	Impact	Management
OHK14 – Maria River bridge	Indirect impact	Construction techniques and management measures to be implemented for construction activities in the vicinity of the bridge, to minimise vibration impacts. To be included in training program for relevant staff and contractors.



## 7.0 ENVIRONMENTAL MITIGATION AND MANAGEMENT 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**

ID	Measure/ Requirement	Resources needed	When to implement	Responsibility	Reference
<b>GENERAL</b>					
AH1/NH1	Training will be provided to all Project personnel, including relevant sub-contractors on Aboriginal and non-Aboriginal heritage requirements from this plan through inductions, toolboxes and targeted training. The training will be undertaken in accordance with education and training packages included in Appendix B of this CHMP.	Aboriginal and non-Aboriginal education and training packages (refer Appendix B)	Pre-construction Construction	Environment Manager	CoA B.31(e)(i) iv. CoA B31(e)(ii) iii. SoC AH5 and NAH3 G36 Sections 6.13 and 6.14
AH2/NH2	If any unexpected heritage items are encountered, works potentially affecting the find would cease immediately and the RMS Standard Management Procedure – Unexpected Archaeological Finds (November 2011) (refer Appendix A) would be followed.	RMS Standard Management Procedure – Unexpected Archaeological Finds (November 2011) (refer Appendix A)	Pre-construction Construction	All personnel and subcontractors	CoA B31(e)(i) ii. CoA B31(e)(ii) ii. SoC AH3 and NAH4 G36 Section 6.13 and 6.14

ID	Measure/ Requirement	Resources needed	When to implement	Responsibility	Reference
AH3/NH3	If suspected human skeletal remains are encountered, works potentially affecting the find would cease immediately and the RMS Standard Management Procedure – Unexpected Archaeological Finds (November 2011) (refer Appendix A) would be followed.	RMS Standard Management Procedure – Unexpected Archaeological Finds (November 2011) (refer Appendix A)	Pre-construction Construction	All personnel and subcontractors	CoA B31(e)(i) iii. SoC AH3 G36 Section 6.13 and 6.14
AH4/NH4	If any Project works (such as an ancillary facility) are proposed to occur in an area beyond the extent of previous heritage survey and assessment, additional survey assessment will be undertaken before proceeding.		Pre-construction Construction	Environment Manager	Best practice
AH5	Ongoing consultation with Aboriginal stakeholders will be consistent with the RMS <i>Procedure for Aboriginal Cultural Heritage Consultation and Investigation</i> (RMS 2011)	<i>Procedure for Aboriginal Cultural Heritage Consultation and Investigation</i> (RMS 2011)	Pre-construction Construction	Environment Manager	SoC AH4

ID	Measure/ Requirement	Resources needed	When to implement	Responsibility	Reference
<b>SITE SPECIFIC ABORIGINAL HERITAGE MANAGEMENT/MITIGATION MEASURES</b>					
AH8	Heritage awareness training for all relevant staff and contractors will be undertaken to highlight the culturally sensitive sites along and adjacent the Project, including, the Maria River.	Aboriginal Heritage Education and Training Package– Appendix B of this CHMP	Pre-construction Construction	Environment Manager Project Archaeologist Project Engineers Forman/Leading Hands	EA
AH9	All reasonable and feasible measures will be taken to minimise the impact of the Project on the culturally sensitive areas at Maria River. Any future work in this area or deviation from the approved Project design would be undertaken in accordance with Section 7.3 of the CEMP and would likely require further consultation with the knowledge holders.		Pre-construction Construction	Environment Manager Project Archaeologist Project Engineers Forman/Leading Hands	Aboriginal Archaeological Assessment and Methodology (Kelleher Nightingale 2012)
AH10	All reasonable and feasible measures will be taken to minimise the impact of the Project on the Maria River PAD site including the installation of protective fencing and signage during construction. Site will be identified in the construction sensitive area maps.  If the design is modified and the PAD is impacted, the changes would be managed in accordance with Section 7.3 of the CEMP and would likely require archaeological excavation.		Pre-construction Construction	Environment Manager Project Archaeologist Project Engineers Forman/Leading Hands	Aboriginal Archaeological Assessment and Methodology (Kelleher Nightingale 2012)

ID	Measure/ Requirement	Resources needed	When to implement	Responsibility	Reference
<b>SITE SPECIFIC NON-ABORIGINAL HERITAGE MANAGEMENT/MITIGATION MEASURES</b>					
NH9	<p>The following measures will be implemented in relation to the Maria River bridge:</p> <ul style="list-style-type: none"> <li>• Designation of the site as a “No Impact Zone” on all construction drawings.</li> <li>• Construction techniques and management measures will be incorporated which minimise vibration impact on bridge from adjacent work.</li> <li>• Reference to the site during inductions, training and awareness sessions.</li> <li>• Install temporary protective fencing and signage.</li> </ul>		Pre-construction Construction	Environment Manager	Draft non-Indigenous Heritage Impact Assessment Report (South East Archaeology December 2007).

## 8.0 COMPLIANCE MANAGEMENT

### 8.1 ROLES AND RESPONSIBILITIES

The 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 Section 7 of this Plan.

### 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 and their responsibilities under the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977*. The induction training will address elements related to heritage management including:

- Existence and requirements of this sub-plan.
- Relevant legislation.
- Roles and responsibilities for heritage management.
- Location of identified heritage sites.
- Proposed heritage management and protection measures.
- 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)).

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

The Heritage Training Package for the Project is included in Appendix B.

### 8.3 INSPECTIONS AND MONITORING

Inspections of sensitive areas and activities with the potential to impact Aboriginal and non-Aboriginal heritage will occur as required for the duration of the Project. Some specific monitoring requirements in relation to some items have been documented in Table 7-1.

Requirements and responsibilities in relation to inspections are documented in Section 8.1 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 REPORTING

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

## 9.0 REVIEW AND IMPROVEMENT

### 9.1 CONTINUOUS IMPROVEMENT

Continuous improvement of this plan 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.
- Make comparisons with objectives and targets.

### 9.2 CHMP UPDATE AND AMENDMENT

The processes described in Chapters 7 to 9 of the CEMP may result in the need to update or revise this Plan. This will occur as needed. The CHMP will be regularly verified to establish that it is functioning as designed to the standard required.

Any revisions to the CHMP will be in accordance with the process outlined in Section 1.6 of the CEMP.

A copy of the updated plan 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 ARCHAEOLOGICAL FINDS**

Refer to RMS Standard Management Procedure – Unexpected Archaeological Finds (QMS # 025-E018-2606)

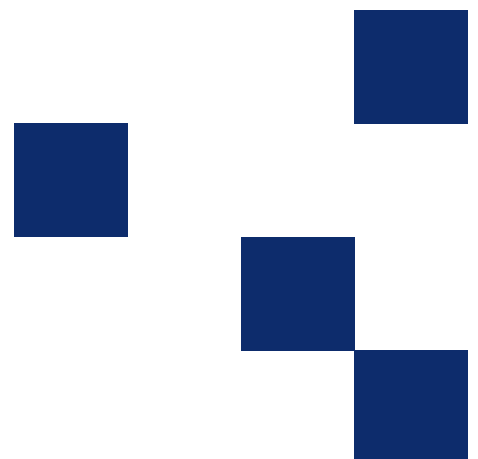


**Transport**  
Roads & Maritime  
Services

# **STANDARD MANAGEMENT PROCEDURE**

## **Unexpected Archaeological Finds**

July 2012





# About this release

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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.

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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 Services.

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

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# Unexpected Archaeological Finds Procedure

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## 1. Purpose

The unexpected archaeological finds procedure has been developed to provide a consistent approach on how to proceed in the event of uncovering an unexpected archaeological find (both Aboriginal and non-Aboriginal) during Roads and Maritime Services' (RMS) activities. This includes RMS' heritage notification obligations under the following legislation: *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 cultural 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.

However, in some cases, despite appropriate and adequate investigation, unexpected archaeological finds 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 RMS construction and maintenance activities**

This procedure **applies to**:

- The discovery of any unexpected archaeological find (usually during construction), where RMS does not have specific approval to disturb that find.
- All RMS 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 all RMS staff, RMS 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 the purposes of RMS.

This procedure **does not apply** to:

- The legal discovery and disturbance of archaeological finds 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>.

- The legal discovery and disturbance of archaeological finds 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 archaeological finds 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 new 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 approved CEMPs do 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 archaeological finds and their legal protection

Project, field and environment staff will be critical to the early identification and protection of unexpected archaeological finds. Appendix A illustrates the wide range of archaeological discoveries found on RMS projects and provides a useful photographic guide to this early identification. Subsequent confirmation of archaeological discoveries must then be identified and assessed by technical specialists (usually an archaeologist).

An 'unexpected find' is any unanticipated archaeological discovery, for which RMS does not have existing approval to disturb<sup>3</sup>.

These discoveries are categorised as either:

- (a) Aboriginal objects
- (b) 'Non-Aboriginal' unexpected finds
- (c) Human skeletal remains.

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

#### 3.1 Aboriginal objects

Unexpected archaeological finds may include 'Aboriginal objects'. The *National Park and Wildlife Act 1974* protects *Aboriginal objects* which are defined as:

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<sup>1</sup> RMS' heritage obligations are incorporated into either the conditions of heritage approval or within the RMS standard consultant's brief for undertaking archaeological investigations.

<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> This is considered to be any physical interference with the find such as manually picking it up and putting it back, moving it to another location near by, removing it from site, crushing or excavation it, or any other type of physical action that results in it being destroyed, defaced, damaged, harmed, impacted or altered in any way (this includes archaeological investigation activities).

*“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”<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 are subject to statutory controls and protections.**

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 Non-Aboriginal unexpected finds

Non-Aboriginal unexpected finds may include statutory ‘relics’ or other non-statutory archaeological features (ie works).

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 may relate to past domestic, industrial or agricultural activities in NSW, and can include items such as bottles, items 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).

Some non-Aboriginal archaeological features such as historic utilities and infrastructure are not considered to be ‘relics’; instead they are considered to be ‘works’. Examples

<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.

of works that the RMS may encounter include former road infrastructure features and services, culverts, previous historic road formation, historic pavement, buried road retaining walls, tramlines, cisterns and conduits. Although an approval under the *Heritage Act 1977* may not be required, the discovery of works must also be managed in accordance with this procedure.

### 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 RMS <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 RMS <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).
Project ( <i>on-call</i> ) 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)	Ensuring all aspects of this procedure are implemented. The PM can delegate specific site tasks to a construction environment manager, RMS site representatives or regional environment staff, where appropriate.
Regional Environment Staff (RES)	Providing 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 the RMS to be consulted about a proposed RMS project or activity in accordance with OEH's Aboriginal cultural heritage consultation requirements for proponents (2010).
RFS Environment Manager	Ensuring RFS field staff are aware of the RFS Escalation Protocol and RFS Unexpected Find Recording Form 418. Supporting the RFS Section Manager, where required, during the implementation of this procedure and ensuring reporting of unexpected finds through environment management systems.
RFS Section Manager	Responding to escalated unexpected finds that have been uncovered during RFS maintenance works. Liaising with the RES and RFS Environment Manager and heritage staff, where required, during the uncovering



<b>Role</b>	<b>Definition/responsibility</b>
	of unexpected finds and the implementation of this procedure.
RFS Team Leader	Ensuring RFS field crew stop works in vicinity of the find. Completing RFS Unexpected Find Recording Form 418 and escalating issues to RFS Section Manager, as per RFS Escalation Protocol.
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.
Technical Specialist	Professional consultant contracted to provide specific technical advice that relates to the specific type of unexpected find (eg a forensic or physical anthropologist who can identify and analyse human skeletal remains).

## 5. Acronyms

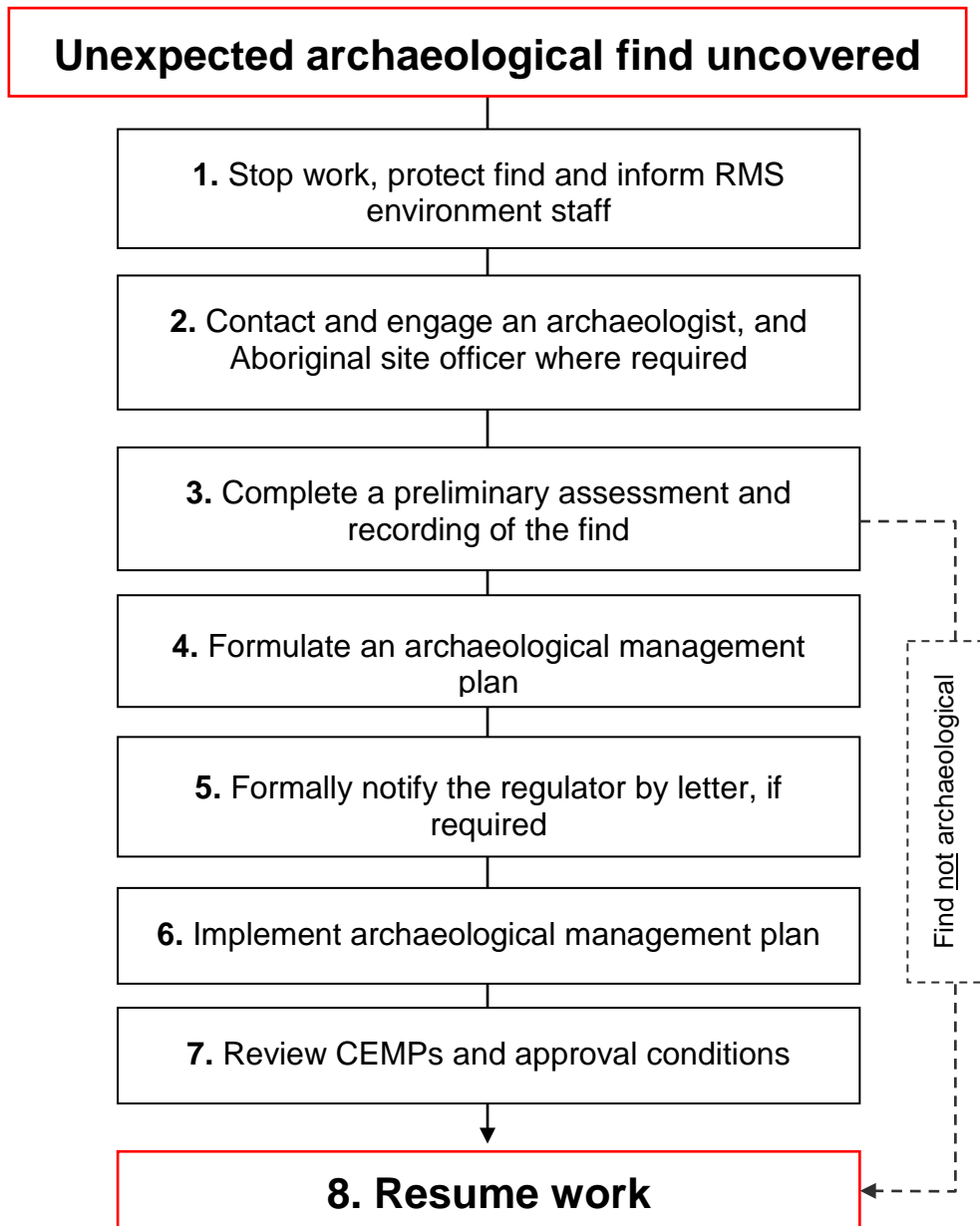
The following acronyms are relevant to this procedure.

<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
RFS	Road and Fleet Services
RMCC	Road Maintenance Council Contracts
RMS	Roads and Maritime Services

## 6. Overview of the procedure

On discovering something that could be an unexpected archaeological find ('the find'), the project manager must implement the following procedure with the assistance of the regional environment staff and RMS 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 archaeological find.

## 7. Unexpected Archaeological Finds Procedure

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

*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 find and inform RMS environment staff</b>		
1.1	Stop all work in the immediate area of the find and notify the PM.	All	<b>Appendix A</b> (Identifying Unexpected Archaeological Finds)
1.2	RFS routine maintenance crews are required to follow the escalation protocol outlined in Appendix B and return to this procedure when directed by that protocol.	RFS Team Leader	<b>Appendix B</b> (RFS Escalation Protocol) <b>Appendix C</b> (RFS Find Recording Form 418)
1.3	Take a number of photographs that captures the general context and specific detail of the find.	PM	<b>Appendix D</b> (Photographing Unexpected Archaeological Finds)
1.4	Inform relevant RMS regional environment staff, Senior Environmental Specialist (Heritage) and Regional Aboriginal Cultural Heritage Advisor (where the find is thought to be an Aboriginal object).	PM	<b>Appendix E</b> (Key Environmental Contacts)
1.5	Delineate and protect the find with appropriate (high visibility) fencing, where practical.	PM	
1.6	No further interference, including works, ground disturbance, touching or moving the find of any kind, must occur to the find 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 find 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 find does not involve human remains, continue progressing through this	PM	<b>Appendix F</b> (Uncovering Bones)

Step	Task	Responsibility	Guidance & Tools
	procedure.		
1.9	Report the find as a 'Notifiable Event' in accordance with the RTA <i>Incident Classification and Reporting Procedure</i> . Also implement any additional reporting requirements related to the project's approval and CEMP.	PM/RES	<a href="#">RTA Incident Classification and Reporting Procedure</a>
<b>2</b>	<b>Contact and engage an archaeologist, and Aboriginal site officer where required</b>		
2.1	Contact the project ( <i>on-call</i> ) archaeologist to discuss the location and extent of the find 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 management plan. Lists of consultants are available from online sources, including the yellow pages. Regional environment staff and RMS 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 find 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 find taken at Step 1.3 to the archaeologist, and Aboriginal sites officer if relevant.	PM/RES	<b>Appendix D</b> (Photographing Unexpected Archaeological Finds)
<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 ( <i>eg the find is not a 'relic', a heritage 'work' or an 'Aboriginal object'</i> ). Any such advice should be provided in writing by the	A/PM/ASO	Proceed to Step 8

Step	Task	Responsibility	Guidance & Tools
	archaeologist (eg via email) and confirmed by the project manager.		
3.2	Arrange site access for the archaeologist (and Aboriginal sites officer, if relevant) to inspect the find 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 find. 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 find is not a 'relic', a heritage 'work' 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 RMS heritage staff can provide contacts for such specialist consultants.	PM/RES	<b>Appendix E</b> (Key Environmental Contacts)
3.6	Where the find has been identified as a 'relic', 'work' or an 'Aboriginal object' the archaeologist should record the find on a proforma recording form.	A	<ul style="list-style-type: none"> <li>• <a href="#">Aboriginal site recording form</a></li> <li>• <a href="#">Non-Aboriginal site recording form</a></li> </ul>
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 management plan</b>		
4.1	The archaeologist must prepare an archaeological management plan (with input from the Aboriginal sites officer, where relevant) shortly after the site inspection. This plan is a brief	A/ASO	<b>Appendix G</b> (Archaeological Advice)

Step	Task	Responsibility	Guidance & Tools
	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.		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 find 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 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 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	
4.4	The project manager must review the archaeological management plan to ensure all requirements can reasonably be implemented. Seek additional advice from regional environment staff and RMS heritage staff, if required.	PM/RES/SES (H)	
<b>5</b>	<b>Notify the regulator, if required.</b>		
5.1	Review the archaeological 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 management plan and the site recording form to regional environment staff and Senior Environmental Specialist	PM/RES/SES (H)	

Step	Task	Responsibility	Guidance & Tools
	(Heritage) for review, and consider any suggested amendments.		
5.4	Forward the signed notification letter to the relevant regulator (ie notification of non-Aboriginal 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 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 find for them.	PM	
<b>6</b>	<b>Implement archaeological management plan</b>		
6.1	Modify the archaeological management plan to take into account any additional advice resulting from notification and discussions with the regulator.	A/PM	
6.2	Implement the archaeological 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	PM/RES	

Step	Task	Responsibility	Guidance & Tools
	Environment Branch specialist staff if unsure.		
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 archaeological 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 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 heritage recording are completed prior to RMS 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. This may relate to situations where human remains are found or when they request to review preliminary archaeological excavation reports or assessments prior to the resumption of RMS project work. Where this is not explicit in heritage approval conditions, expectations should be clarified directly with the regulator.	PM	
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	RES/A/PM	



Step	Task	Responsibility	Guidance & Tools
	archaeological excavation and heritage recording (where required) are complete. Resumption of project work must be in accordance with the all relevant project/heritage approvals/determinations.		
8.2	If required, ensure archaeological excavation reporting and other heritage approval conditions are completed in the required timeframes. This includes artefact retention repositories and/or disposal strategies.	PM/A	
8.3	Forward all heritage/archaeological assessments, heritage location data and its RMS ownership status to the Senior Environmental Specialist (Heritage). They will ensure all heritage items in RMS ownership and/or control are considered for the RMS S170 Heritage Register.	PM/SES(H)	
8.4	If additional unexpected finds are uncovered this procedure must begin again from Step 1.	PM	

## 8. Seeking advice

Advice regarding this procedure should be directed to regional environment staff in the first instance, and then RMS heritage staff, where required. RMS staff can contact RMS 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-RMS 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 and heritage staff.**

Technical archaeological advice regarding the unexpected find should be sought from the contracted archaeologist. Technical specialist advice can also be sought from heritage 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.*
- *RMS 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> Policy Directive: Burials - exhumation of human remains

## 10. List of appendices

The following appendices are included to support this procedure.

<b>Appendix Number</b>	<b>Name</b>
Appendix A	Identifying Unexpected Archaeological Finds
Appendix B	Road and Fleet Services Escalation Protocol
Appendix C	RFS Unexpected Find Recording Form 418
Appendix D	Photographing Unexpected Archaeological Finds
Appendix E	Key Environment Contacts
Appendix F	Uncovering Bones
Appendix G	Archaeological Advice Checklist
Appendix H	Template Notification Letter

# Appendix A

## Identifying Unexpected Archaeological Finds

The following images can be used to assist in the preliminary identification of a potential unexpected find (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*.



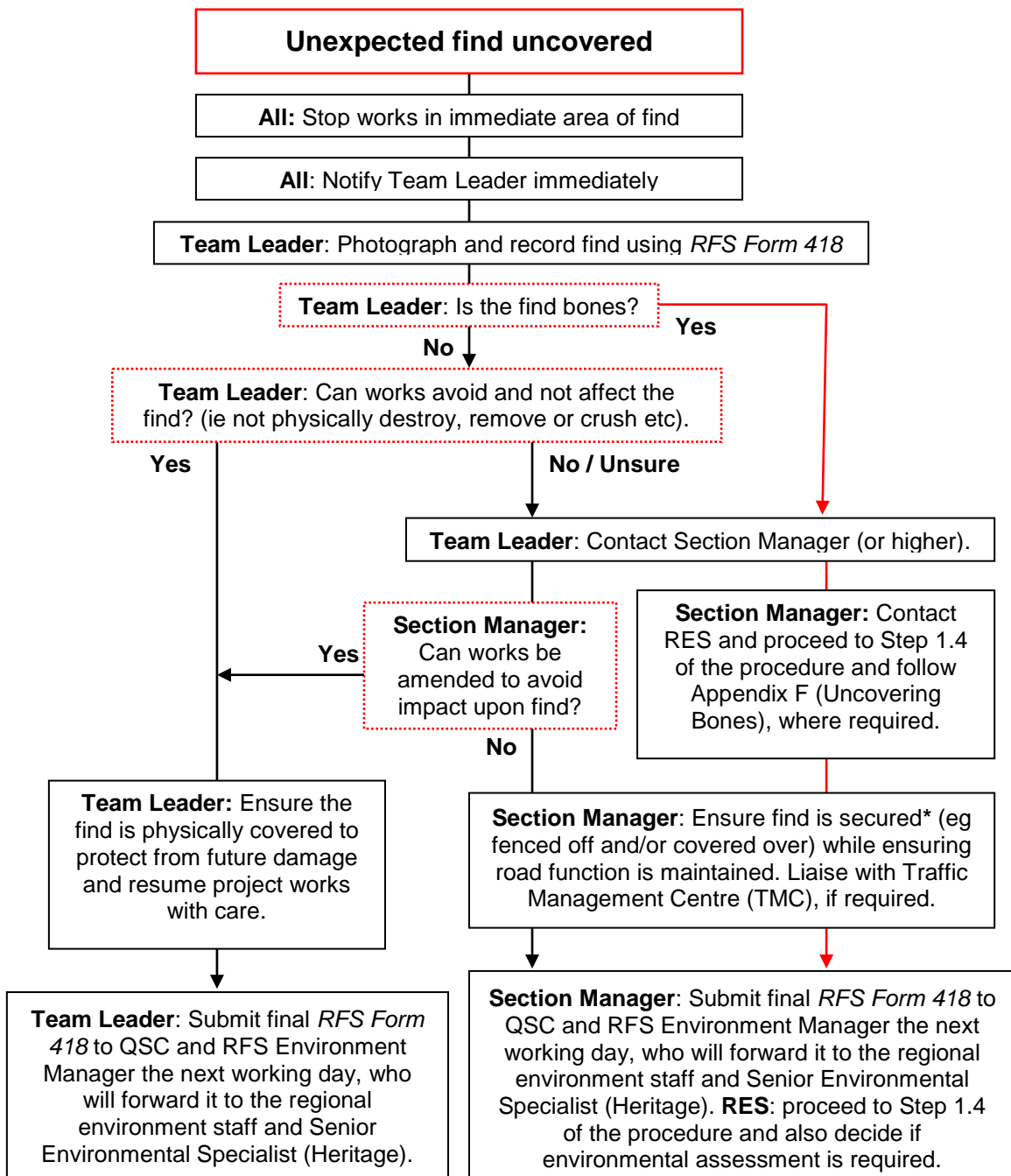
**Top left hand corner:** Culturally modified stone discovered on Main Road 92, about two kilometres west of Sassafras. The rest of the images show a selection of stone artefacts retrieved from test and salvage archaeological excavations during the Hume Highway Duplication and Bypass projects from 2006-2010.



# Appendix B

## Road and Fleet Services Escalation Protocol

Road crews in RMS Road and Fleet Services (RFS) 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. A specific escalation protocol has been developed to ensure that disruption to traffic is minimised if an unexpected find is encountered when carrying out such maintenance works.



\*Appropriate temporary covering of the find is something that protects 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**

RFS Unexpected Find 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 find</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 find's general location in relation to other road features so its approximate location can be mapped without having to re-excavate it. Also annotate this sketch with the location and direction of any photographs of the item taken).			
<b>Action Taken</b> (Tick either A or B)			
<b>A.</b>	Unexpected find <b>will not</b> be affected by maintenance works	<input type="checkbox"/>	<b>B.</b> Unexpected find <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 find and the action taken to cover the item.</b>			
<b>B. Describe how works will affect the find.</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 find, the material it is made from and any distinguishing features).

<b>Team Leader Signature</b>	
------------------------------	--

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

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*To be completed by Section Manager*

<b>Describe any further considerations to amend project works to avoid unexpected find and if impact is still anticipated.</b>	
<b>Describe action taken to secure site temporarily</b>	
<b>Section Manager Signature</b>	

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

## Appendix D

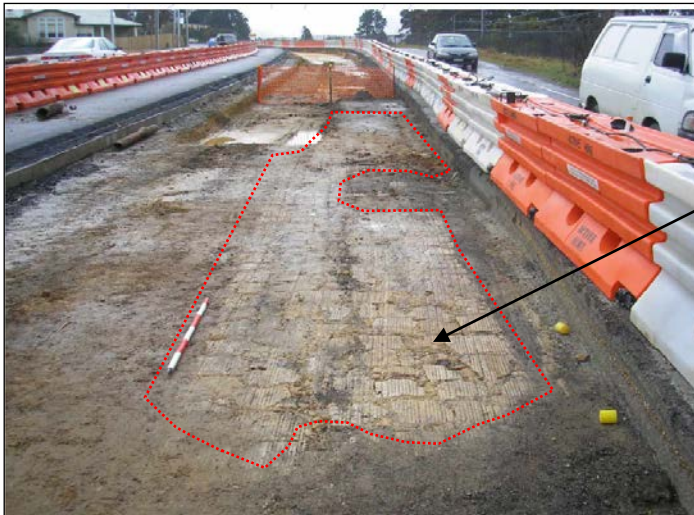
### Photographing Unexpected Archaeological Finds

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

Photographs of unexpected finds, in their original placement (*in situ*), assists heritage staff and archaeologists to identify 'finds' soon after being uncovered. 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 find include its position, the general find 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 find. 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.

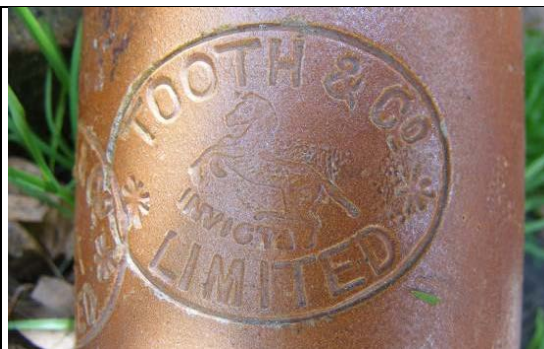
**Figure 1:** Telford road uncovered on the Great Western Highway (Leura) in 2008.

#### Photographing distinguishing features

Where unexpected finds (eg artefacts) have a distinguishing feature, close up detailed photographs must be taken of this, where practicable. 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 RMS 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

Region	Role	Phone number
Hunter region	Senior Environmental Officer	4924 0281
	Aboriginal Cultural Heritage Advisor	4924 0383
Northern region	Senior Environmental Officer	6640 1072
	Aboriginal Cultural Heritage Advisor	6604 9305
Southern region	Senior Environmental Officer	4221 2765
	Aboriginal Cultural Heritage Advisor	4221 2767
South West region	Senior Environmental Officer	6938 1143
	Aboriginal Cultural Heritage Advisor	6937 1647
Sydney region	Senior Environmental Officer	8814 2516
	Aboriginal Cultural Heritage Advisor	8849 2006
Western region	Senior Environmental Officer	6861 1628
	Aboriginal Cultural Heritage Advisor	6861 1658
Pacific Highway Office	Environmental Services Manager	6640 1375
Hume Highway Office	Senior Environmental Officer	6923 3419
Road and Fleet Services	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
Planning and Aboriginal Heritage Section Environment Protection and Regulation Group* (Metropolitan) Office of Environment and Heritage PO Box 668 Parramatta NSW 2124 Phone: (02) 9995 5000	Planning and Aboriginal Heritage Section Environment Protection and Regulation Group* (North East) Office of Environment and Heritage Locked Bag 914 Coffs Harbour NSW 2450 Phone: (02) 6651 5946
Environment and Conservation Programs Environment Protection and Regulation Group* (North West) Office of Environment and Heritage PO Box 2111 Dubbo NSW 2830 Phone: (02) 6883 5330	Aboriginal Heritage Protection Section Environment Protection and Regulation Group* (South) Office of Environment and Heritage PO Box 733 Queanbeyan NSW 2620 Phone: (02) 6229 7000

### Project-Specific Contacts (*complete as needed*)

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

\* **Please note:** at the time of finalising this procedure EPRG became part to the Environment Protection Authority (EPA); full title block was yet to be finalised.



# Appendix F

## Uncovering Bones

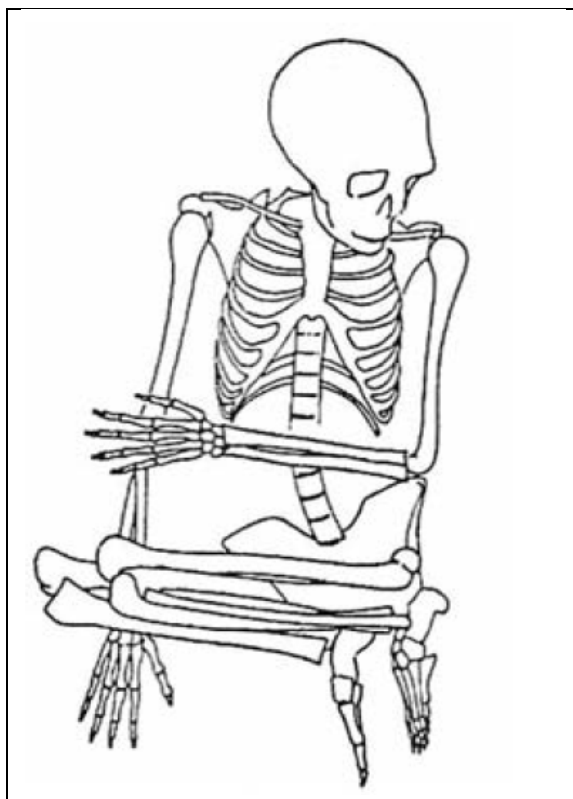
👉 All matters relating to uncovering bones and RMS' human remains notification obligations should involve RMS regional environment and heritage staff. They will guide project managers through occurrences of uncovering bones.

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 the RMS 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 RMS 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

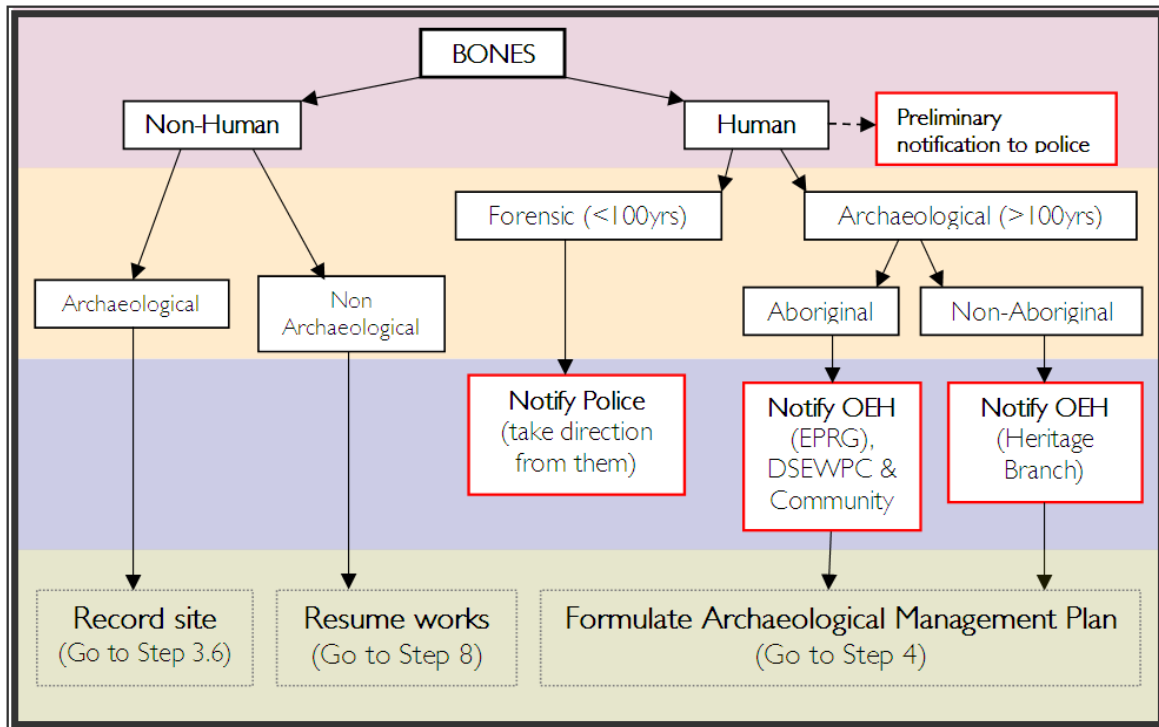
The OEH (*EPRG*) and the RMS Aboriginal Cultural Heritage Advisor (ACHA) must be notified immediately. The ACHA must contact and inform the relevant Aboriginal community stakeholders who may request to be present on site. Relevant stakeholders are determined by the RTA's *Procedure for Aboriginal Cultural 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 Archaeological Finds 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). RMS 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, RMS 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 advised, when works uncover human remains adjacent to cemeteries, to confirm the cemetery's exact boundaries.

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

## Appendix G

### Archaeological Advice Checklist

The archaeologist must advise the project manager of an appropriate archaeological management plan as soon as possible after site inspection (see Step 4). An archaeological 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 advice on how to proceed can be received in a letter or email outlining all relevant archaeological 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	
• RMS' S170 Heritage 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</i> (PACHCI).	Yes/No	
• Advice from regional environmental staff, Aboriginal Cultural Heritage Advisor, RMS heritage team.	Yes/No	
<b>Artefact management</b>		
• Disposal strategy for non-Aboriginal relics or heritage material (eg former road pavement): short term and permanent storage locations (interested third parties should be consulted on this issue).	Yes/No	
• Control Agreement for Aboriginal objects.	Yes/No	
<b>Program and budget</b>		
• Time estimate associated with archaeological work.		
• Total cost of archaeological work.		

## **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 archaeological find uncovered during Roads and Maritime Services project works.**

I write to inform you of an unexpected archaeological [select: relic and/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:** 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 find, 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 find. A preliminary assessment indicates [provide a summary description and likely significance of the find]. 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 approach (eg develop archaeological research design, seek heritage approvals and undertake archaeological investigation). Also include preliminary justification of such archaeological impact with regard to project design constraints and delivery program].

The proposed archaeological 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 management plan and site recording form].

**Roads & Maritime Services**

## **APPENDIX B – HERITAGE EDUCATION AND TRAINING PACKAGE**

Refer to the Heritage Education and Training Package (QMS # 025-Z001-2602).



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This Heritage Training Package contains the following information:

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- Your Responsibilities
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Under the **National Parks and Wildlife Act 1974**, EVERYONE has a cultural heritage duty of care:

- You must not harm Aboriginal or Non-Aboriginal cultural heritage items
- In the event of a cultural heritage find, it is YOUR responsibility to **stop work** and **notify** your supervisor.

The Environmental Manager will notify the New South Wales Department of Environment and Heritage – Heritage Branch.

Specialist heritage advice will be sought in the event that material of material potential archaeological significance is uncovered.



# BACKGROUND INFORMATION

Cultural Heritage includes:

- Indigenous examples such as scar trees, midden sites, stone chippings, axe heads etc
- European examples such buildings, memorials, sculptures, structures, foundations, bottles, ceramics, cemeteries and trees.



Ceramic bottle artefact with stamp



Culturally modified stone (Hume Highway Duplication)



- **Culture** is a way of understanding and living in the world.
- **Heritage** is the environment, objects and places that we inherit from the past and pass on to future generations to use, learn from and be inspired by.
- These frame our understanding of the past and influence the decisions we make about what is worth keeping.
- The Office of Environment and Heritage, in partnership with our government agencies and Aboriginal people, has a role in protecting and promoting Aboriginal and non-Aboriginal culture and heritage environments of NSW.



Offences under National Parks and Wildlife Act 1974 (NPW) Act include:



## Offences and penalties for harming or desecrating Aboriginal objects and declared Aboriginal Places

The new and existing Aboriginal cultural heritage offences and the penalty for each offence are summarised below.

Offence	Maximum penalty: Individual	Maximum penalty: Corporation
A person must not harm or desecrate an Aboriginal object that the person knows is an Aboriginal object.	2,500 penalty units (\$275,000) or imprisonment for 1 year <hr/> 5,000 penalty units (\$550,000) or imprisonment for 2 years or both (in circumstances of aggravation)	10,000 penalty units (\$1,100,000)
A person must not harm or desecrate an Aboriginal object (strict liability offence).	500 penalty units (\$55,000) <hr/> 1,000 penalty units (\$110,000) (in circumstances of aggravation)	2,000 penalty units (\$220,000)
A person must not harm or desecrate an Aboriginal Place (strict liability offence).	5,000 penalty units (\$550,000) or imprisonment for 2 years or both	10,000 penalty units (\$1,100,000)
Failure to notify DECCW of the location of an Aboriginal object (existing offence and penalty)	100 penalty units (\$11,000). For continuing offences a further maximum penalty of 10 penalty units (\$1,100) applies for each day the offence continues.	200 penalty units (\$22,000). For continuing offences a further maximum penalty of 20 penalty units (\$2,200) applies for each day the offence continues



**(NSW) Heritage Act 1977** provides overarching framework:

- Provisions to conserve the environmental heritage of the State.
- Identification and registration of items of State heritage significance,
- For the interim protection of items of State heritage significance,
- Heritage Council of NSW and functions relating to the State's heritage.

**S79C – Order restricting harm to ‘relic’ or building** stops work if harm likely

**S119 – Not maintaining and repairing** in accordance with minimum standards

**S139 – Excavation permit** for any land on which a ‘relic’ might be damaged

**S146 – Obligation to notify discovery of ‘relic’** within reasonable time

**"relic"** means 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 (*determined by Heritage Council*).



# CULTURAL SIGNIFICANCE OF THE PROJECT AREA

- Sea levels fell and then began to rise about 18,000 years ago, stabilising at their present position roughly 6,000 years ago.
- At this time the present day Macleay Valley floodplain was an estuary fringed by sandy beaches and Pleistocene cliffs. It has since been filled by alluvial deposition.
- In the Clybuca area are ancient camp sites with shell beds in the form of mounds which are up to two metres high. These are places where kitchen waste was placed in orderly fashion and the accumulation of these middens was started some 11,000 years ago and abandoned when the sea began to recede. Food was plentiful especially in the lower Macleay.
- Climate accounted for movement. The people in the colder climates of the upper Macleay could easily move into warmer places on the floor of the valley during winter.
- There are significant sites remaining in the general area away from ground which has been cultivated. Stone implements have been found which give evidence of antiquity. Spears, boomerangs, shields, digging sticks, water and food carriers have been collected.
- In the colder areas cloaks were made from possum skins. Sacred sites were marked with carved trees and stone arrangements.

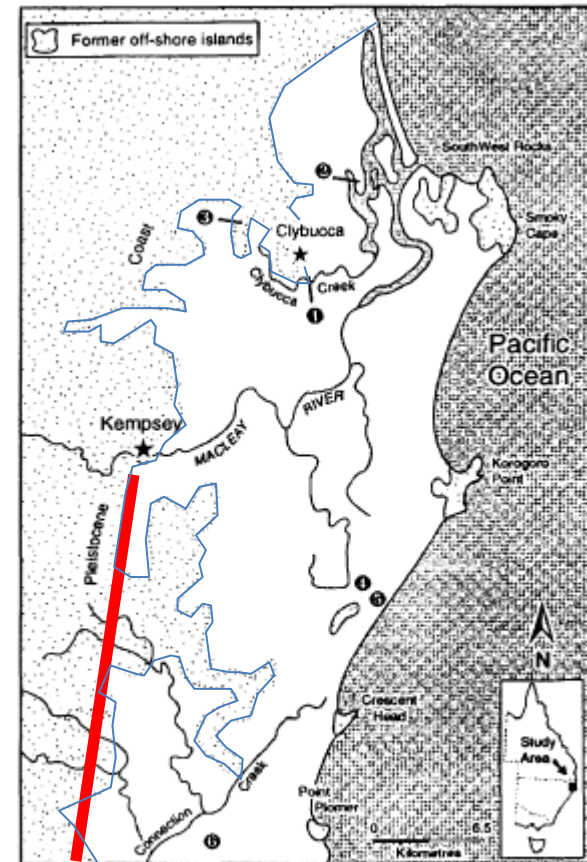


Figure 1 The lower Macleay River, in northern New South Wales. The numerals represent shell middens discussed in the text: 1 = Clybuca 1, 2 = Stuart's Point, 3 = Clybuca 3, 4 = Inner Barrier, 5 = Maguire's Crossing, 6 = Connection Creek.

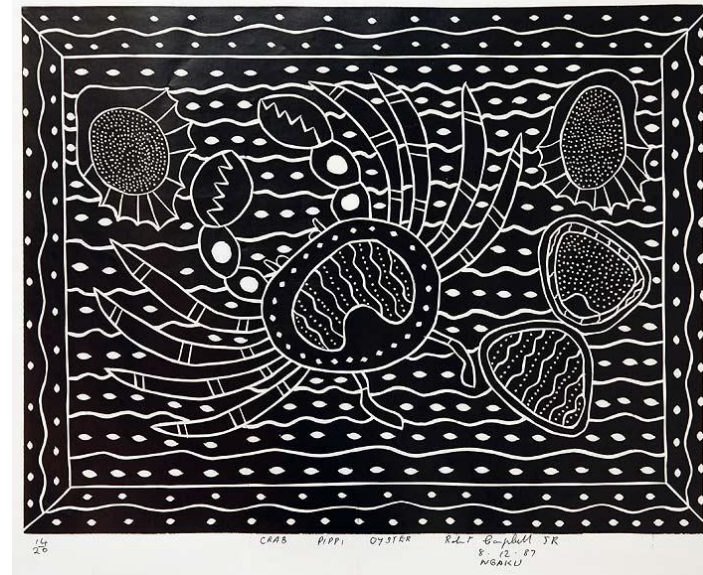




# CULTURAL SIGNIFICANCE OF THE PROJECT AREA

Early inhabitants of the area were:

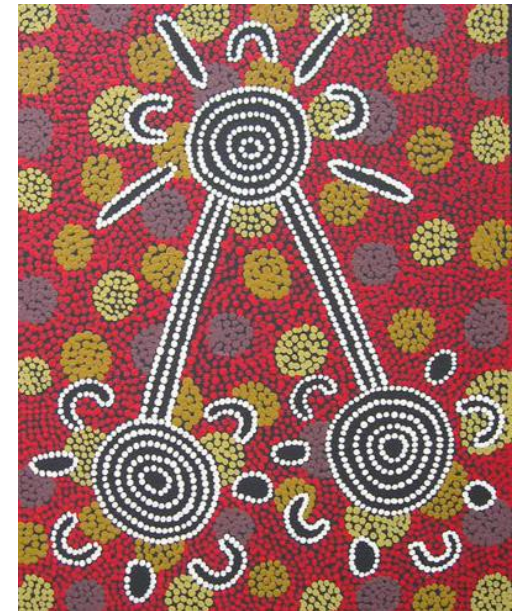
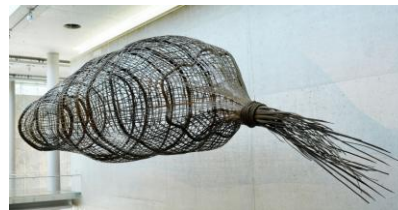
- Hunters and gathers,
- Shared a common language,
- Organised themselves into smaller groups living together.
- Lived in harmony with the land
- Life governed by sacred codes of conduct handed down through countless generations.
- Clybucca midden
  - Oldest - containing bones and shells dating from 2500 years ago to 6000 years ago when sea levels were metres higher than now,
  - Largest in NSW – 6 kilometres long



# CULTURAL SIGNIFICANCE OF THE PROJECT AREA

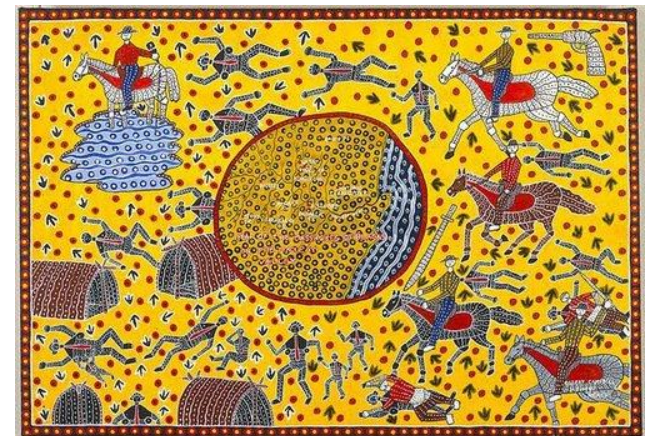
Macleay River Valley - a very rich source of estuarine foods and contains numerous remnants of the ancient culture:

- Middens and a Fish trap in the Limeburners Creek Nature Reserve , and a
- Bora Ring at Richardsons Crossing just north of Crescent Head.



# CULTURAL SIGNIFICANCE OF THE PROJECT AREA

- Along the creeks and on the tablelands there are artefact scatters, scarred trees and axe-grinding grooves.
- Archaeological sites include burial sites at East Kunderang mythological sites include the landscape of the upper Apsley Gorge; and
- Contact sites encompass the rugged falls country where local aboriginal people staged their final fight against white settlers, as well as sites along Kunderang Brook where brutal massacres took place.

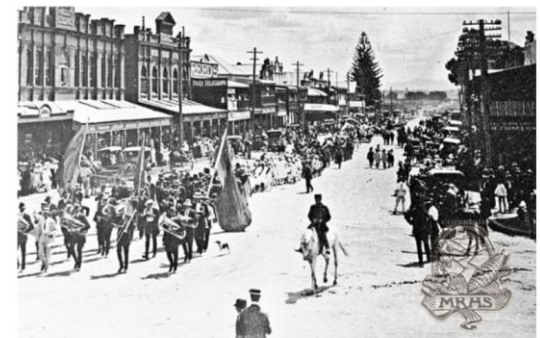


Map of the massacres on the Macleay Valley -  
*Robert Campbell Jnr*



Early settlers to the Macleay River Valley:

- 1827 Capt A.C. Innes – Commandant Port Macquarie, established a cedar party north of Euroka Creek.
- 1835 – First land grants. Samuel Onions 812 acres sold to Enoch William Rudder – a manufacturer from Birmingham. Land became site of a ‘private’ town of Kempsey (reminded him of Kempsey in Worcestershire, England)
- 1842 – First vehicular ferry.
- Mid-1800s – Farming, dairying, beef.
- 1886 – Borough of ‘Kempsey’ proclaimed
- 1917 – Railway connection to Kempsey



Procession - Smith Street c1935



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# PROTECTING CULTURAL HERITAGE

- Development of a Construction Heritage Management Sub-Plan (as per the Minster's Conditions of Approval)
  - Staff training
  - Management of Clearing to prevent harm
    - Use Pre-Clearing Checklists
    - Unexpected Archaeological Finds procedures
  - Establish and maintain 'No go' zones
  - Obtain permits if necessary

McConnell Dowell OHL Joint Venture  
McConnell Dowell - OHL Joint Venture

CLIENT: ROADS AND MARITIME SERVICES  
PROJECT: PACIFIC HIGHWAY UPGRADE - KUNDABUNG TO KEMPSEY  
LOCATION: NSW  
PROJECT NO.: 2602

Quality Management System

**APPENDIX B5- CONSTRUCTION HERITAGE MANAGEMENT PLAN**

QMS number 025-Y006-2602

Revision History

Rev	Date	Details	By	Approved
A	20/08/14	Draft for Review by RWS and Project SR	J.Crawford	N. Rogers

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**HOME WITHOUT HARM  
EVERYONE EVERYDAY**



Non-Aboriginal:

- Maria River Bridge

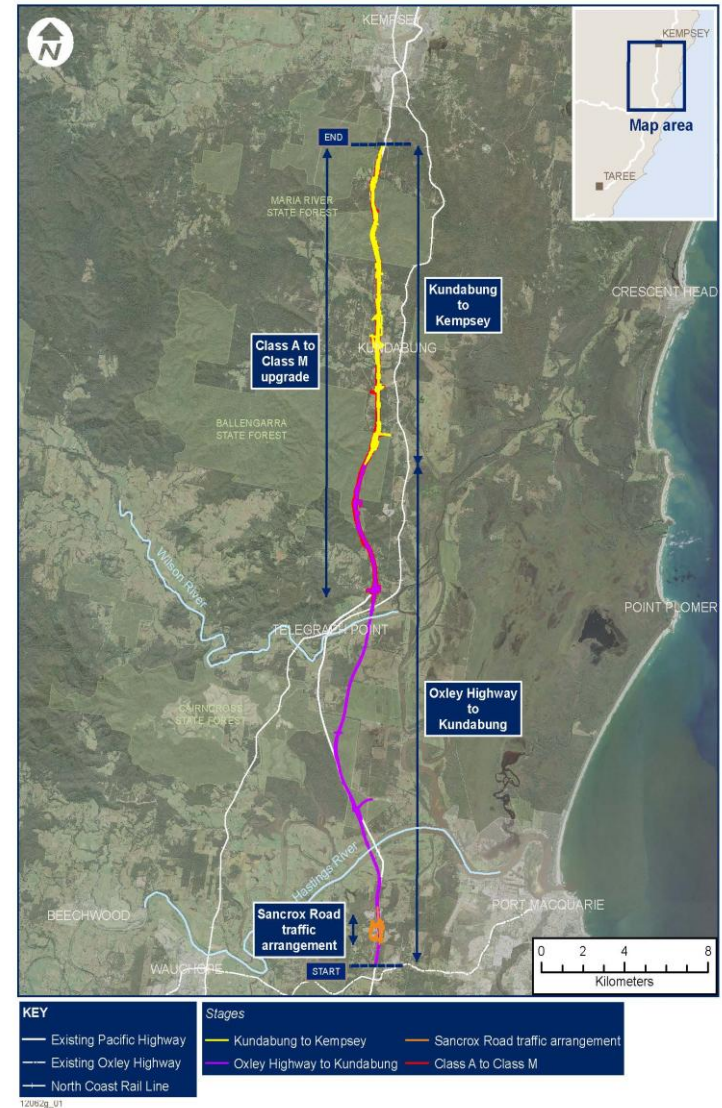
Aboriginal:

- Maria River PAD
- Smiths Creek PAD
- Pipers Creek PAD

All PADs outside the Project Boundary are designated as No-Go Areas

All areas outside the Project Boundary are to be considered to have a potential for cultural heritage.

*PAD – Potential Archaeological Deposit*



### Maria River Bridge:

- Site designated as a “No Impact Zone” on all construction drawings.
- Construction techniques and management measures incorporated to minimise vibration impact on bridge from adjacent work.
- Installation temporary protective fencing and signage.





- Do not enter marked or flagged no-go zones
- Do not work or store materials outside the Project boundary
- Be aware of the potential to uncover heritage items and the correct protocol to follow
- Contact your supervisor or the Environmental Team if you suspect you have uncovered an item of cultural significance
- Be aware that if the project boundary changes additional surveys will need to be undertaken

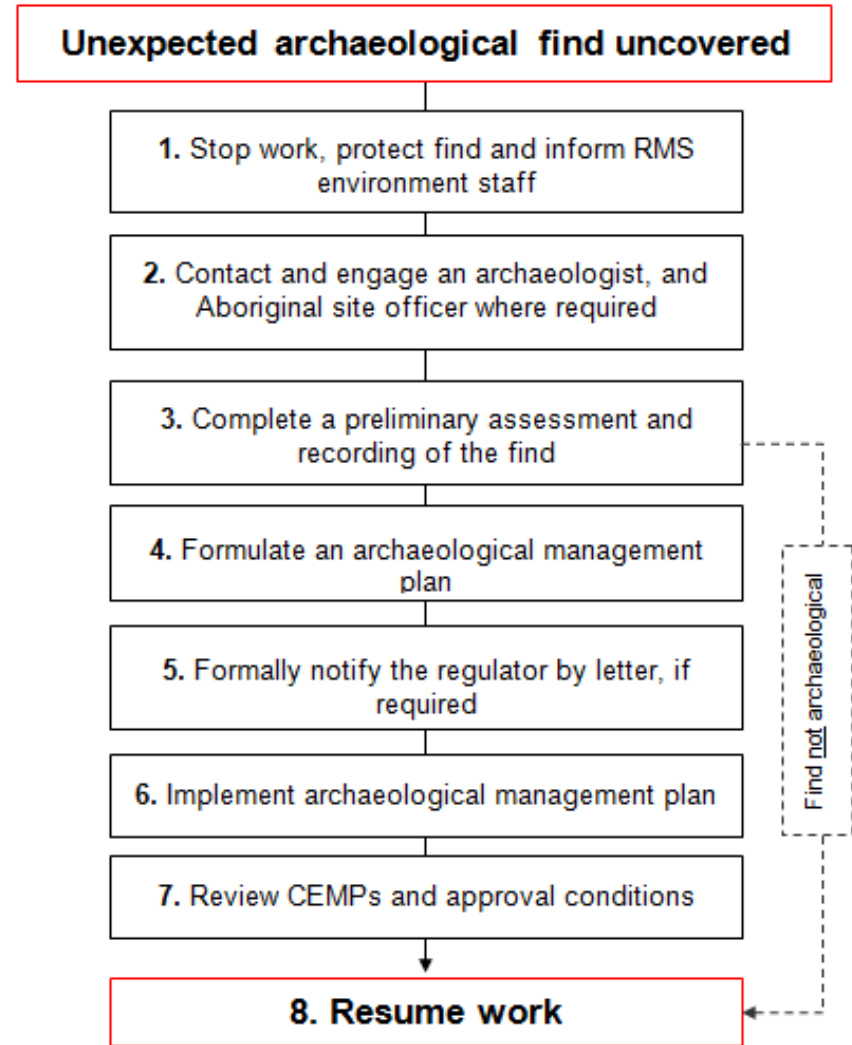


Potential Heritage Item – Road Pavement



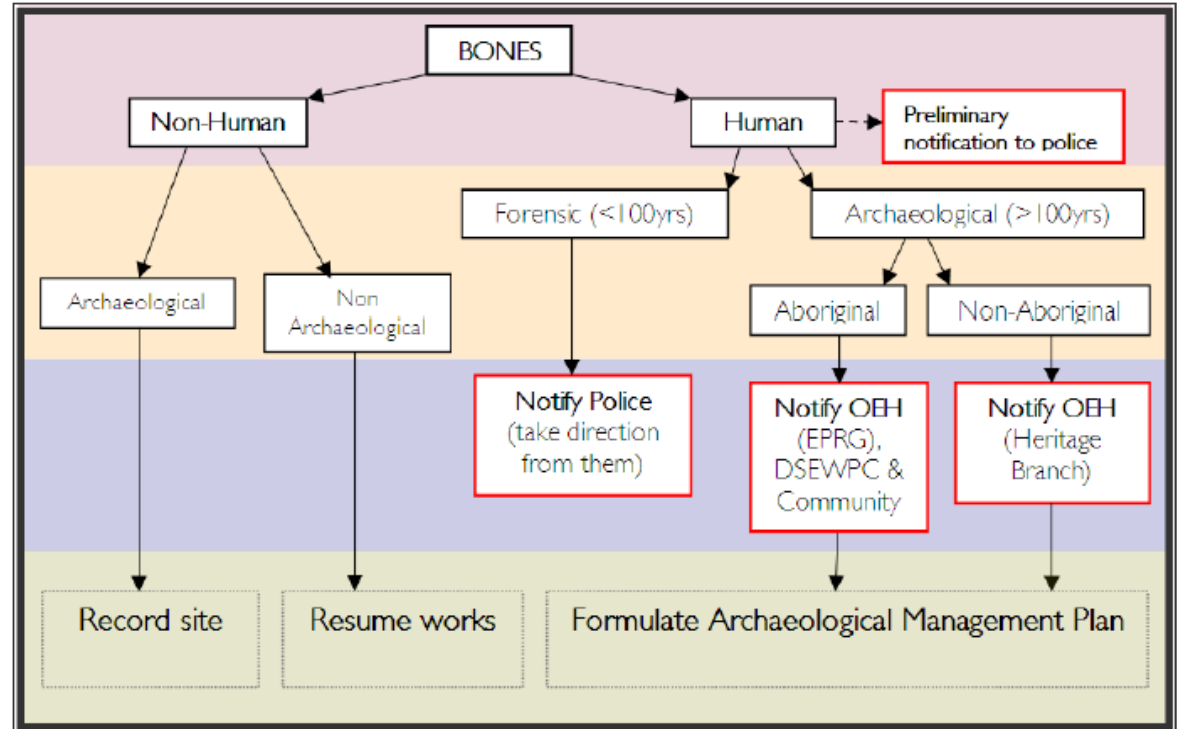
# ACTION TO TAKE SHOULD OBJECTS BE UNCOVERED

- **Unexpected Archaeological Finds Procedure** (also in CHMP)
- An ‘unexpected find’ is any unanticipated archaeological discovery, for which RMS does not have existing approval to disturb
- These discoveries are categorised as either:
  - Aboriginal objects
  - ‘Non-Aboriginal’ unexpected finds
- Examples of Aboriginal objects include stone tool artefacts, shell middens, axe grinding grooves, pigment or engraved rock art, burials and scarred trees.



## If you uncover any bones:

- Stop all work in the vicinity of the find.
- Contact the Supervisor and Environmental Manager
- All bones uncovered during project works should be **treated with care and urgency as they have the potential to be human remains.**

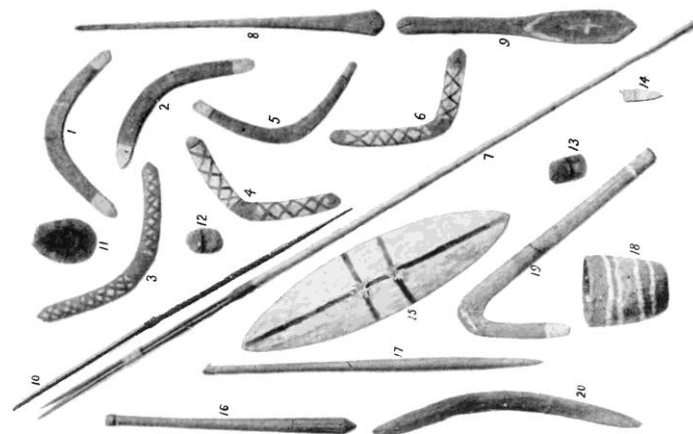


# ABORIGINAL OBJECTS & CONTACTS

These can include: stone tools, shell middens, axe grinding grooves, pigment or engraved rock art, burials and scarred trees.

If you find an item that you suspect to be of cultural heritage importance:

- Stop work immediately
- Contact the JV Environmental Manager or advisor
- Specialist heritage advice will be sought in the event that material of material potential archaeological significance is uncovered.



Possible 'relics' in this region, include:

- 'Selector's Huts' (early settlers)
- Coins, woodworking tools, kitchen utensils,
- Farming implements, saws, boats, drays



Items are hundreds to thousands of years old and easily damaged

## Protect and respect

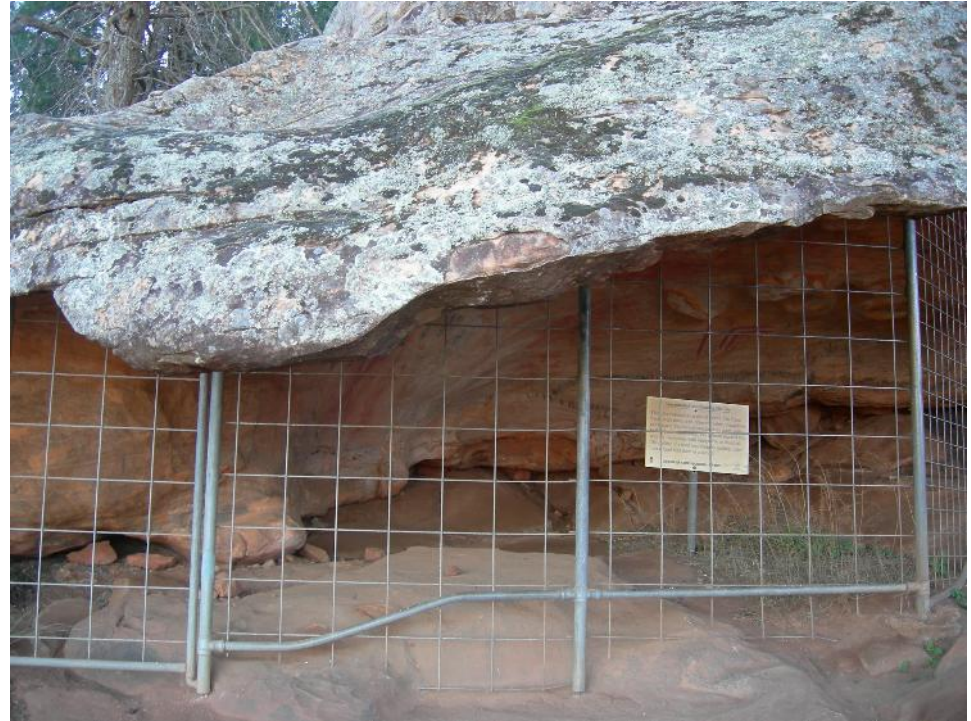
### 6500-year-old heritage junked

**MATTHEW KELLY**  
CORRESPONDENT

**AUSTRALIA'S** latest 6500-year-old rock art site has been bulldozed to make way for a new road. The site, known as the 'Pillbox' site, was one of the most important archaeological sites in the world. It was a well-preserved site of a rock shelter, with a large rock overhang and a well-defined entrance. The site was discovered in 1978 and was excavated in 1982. It was found to contain a wealth of archaeological remains, including stone tools, bone artefacts, and rock art. The site was named after the pillbox-shaped rock overhang. The site was bulldozed in 2011 to make way for a new road. The site was one of the most important archaeological sites in the world. It was a well-preserved site of a rock shelter, with a large rock overhang and a well-defined entrance. The site was discovered in 1978 and was excavated in 1982. It was found to contain a wealth of archaeological remains, including stone tools, bone artefacts, and rock art. The site was named after the pillbox-shaped rock overhang. The site was bulldozed in 2011 to make way for a new road.



**There's no such thing as a free lunch** when it comes to the protection of our heritage. The pillbox site was bulldozed to make way for a new road. The site was one of the most important archaeological sites in the world. It was a well-preserved site of a rock shelter, with a large rock overhang and a well-defined entrance. The site was discovered in 1978 and was excavated in 1982. It was found to contain a wealth of archaeological remains, including stone tools, bone artefacts, and rock art. The site was named after the pillbox-shaped rock overhang. The site was bulldozed in 2011 to make way for a new road.



To protect our Aboriginal and Non-Aboriginal heritage, we must:

1. **Look out for:**
  - Unusual objects, relics, buildings, bones
2. **Stop work** and notify – if we find genuine items
  - Follow instructions from the experts, Police, Aboriginal Advisors and RMS Project staff
3. **Protect the area** from further intrusion

What do you see in these photos?



The JV will continue to consult with the relevant Aboriginal Parties throughout the Project to ensure that potential heritage items are dealt with in an appropriate and sensitive manner.





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Are there any Questions?

*Thank you for your attention*