

# Appendix B8

## Aboriginal Cultural Heritage Management Sub-plan

M4-M5 Link Mainline Tunnels

February 2019

**WestConnex** M4-M5 Link Tunnels

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# Document control

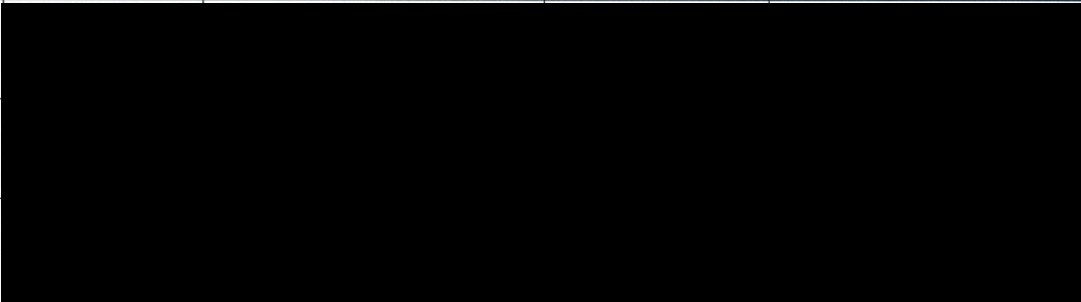
## Approval and authorisation

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From Revision 01 Document Number has changed from M4M5-LSBJ-PRW-GEN-EV01-PLN-0008 (previous revisions) to M4M5-LSBJ-PRW-EN-MP01-PLN-0008-02.

# Abbreviations/Definitions/Glossary

Abbreviations	Expanded Text
Aboriginal place	An Aboriginal Place is an area declared under section 84 by the Minister administering the <i>National Parks and Wildlife Act 1974</i> to be of special significance with respect to Aboriginal culture
Aboriginal objects	Aboriginal objects include any deposit, object or material evidence (not being a handicraft made for sale), including Aboriginal remains, relating to the Aboriginal habitation of NSW, before or concurrent with occupation by non-Aboriginal people, as defined in section 5 of the <i>National Parks and Wildlife Act 1974</i>
ACHMP	Aboriginal Cultural Heritage Management Sub-Plan
AHIMS	Aboriginal Heritage Information Management System
ASO	Aboriginal Sites Officer
CEMP	Construction Environmental Management Plan
CoA	Conditions of Approval
CSSI	Critical State Significant Infrastructure
DECCW	Department of Environment Climate Change and Water
DPE	Department of Planning and Environment
EIS	Environmental Impact Statement
ER	Environmental Representative
EWMS	Environmental Work Method Statements
KPI	Key Performance Indicators
LALC	Local Aboriginal Land Council
LEP	Local Environmental Plan
LSBJV	Lendlease Samsung Bouygues Joint Venture
MLALC	Metropolitan Local Aboriginal Land Council
MOC5	Campbell Road Motorway Operations Complex
NAHMP	Non-Aboriginal Heritage Management Sub-plan
OEH	Office of Environment and Heritage

Abbreviations	Expanded Text
PACHCI	Procedure for Aboriginal Cultural Heritage Consultation and Investigation (Roads and Maritime, 2011)
Project, the	The M4-M5 Link Mainline Tunnels
REMM	Revised Environmental Management Measures (from the SPIR)
Roads and Maritime Services	Roads and Maritime
SAP(s)	Sensitive Area Plan(s)
Secretary	Secretary of the NSW Department of Planning and Environment (or delegate)
SEMP	Site Environmental Management Plan
SMC	Sydney Motorway Corporation
SPIR	Submissions and Preferred Infrastructure Report
WestConnex program of works	A program of works that includes the M4 Widening, King Georges Road Interchange Upgrade, M4 East, New M5 and WestConnex M4-M5 Link Projects

# 1 Introduction

## 1.1 Context

This Aboriginal Cultural Heritage Management Sub-Plan (ACHMP or Plan) forms part of the Construction Environmental Management Plan (CEMP) for the M4-M5 Link Mainline Tunnels (the Project).

This ACHMP has been prepared to address the requirements of the Minister's Conditions of Approval (CoA), the WestConnex M4-M5 Link Environmental Impact Statement (EIS), the Revised Environmental Management Measures (REMM) listed in the WestConnex M4-M5 Link Submissions and Preferred Infrastructure Report (SPIR), the WestConnex M4-M5 Link Mainline Tunnel Modification report (September 2018) and all applicable guidance and legislation.

## 1.2 Background and project description

An EIS (AECOM 2017) assessed the impacts of construction and operation of the Project on Aboriginal Cultural Heritage, within Chapter 21 (Aboriginal heritage) and the Aboriginal Heritage Technical Working Paper (Appendix V).

The Aboriginal heritage assessment prepared as a part of the EIS found no Aboriginal Heritage Information Management System (AHIMS) registered Aboriginal sites, objects or places of Aboriginal heritage within the areas of surface disturbance within the Project footprint (Stage 1). Furthermore, no known potential cultural heritage values were identified within the Project footprint. The potential for subsurface Aboriginal archaeology was also considered negligible given the previous disturbance of the landscape.

Consequently, the EIS identified that the Project is not anticipated to have any direct or indirect impacts on identified Aboriginal objects or places of Aboriginal heritage significance including sites adjacent to the Project.

However, the EIS identified the potential for minor impacts on Aboriginal cultural heritage during construction associated with any unidentified / unexpected Aboriginal heritage finds. The EIS concluded any potential impacts could be managed by standard mitigation and management measures.

Please refer to Section 1.3 of the CEMP for Project Description.

## 1.3 Scope of the Sub-Plan

The scope of this Plan is to describe how LSBJV propose to manage and protect Aboriginal cultural heritage during construction of the Project. Operational Aboriginal cultural heritage management and operation measures do not fall within the scope of this Plan and therefore are not included within the processes contained within this Plan.

## 1.4 Environmental management systems overview

The environmental management system overview is described in Section 1.5 of the CEMP.

## 1.5 Consultation for preparation

This section describes the consultation with relevant regulatory authorities while Section 4 of this Plan outlines the consultation and ongoing consultation with Aboriginal stakeholders.



This Plan was provided to the NSW Office of Environment and Heritage (OEH), in accordance with CoA C4 (h). Refer to Section 2 of the CEMP for consultation requirements relating to the CEMP and all Sub-plans.

Ongoing consultation with OEH and relevant stakeholders, may be carried out for particular issues pertaining to the Project's impact on Aboriginal cultural heritage, such as in the case of any unexpected Aboriginal heritage finds. Community feedback and complaints relating to Aboriginal cultural heritage will be dealt with in accordance with the Community Communications Strategy and Complaints Management System.

# 2 Purpose and objectives

## 2.1 Purpose

The purpose of this Plan is to describe how LSBJV proposes to manage and protect Aboriginal cultural heritage during construction of the Project.

## 2.2 Objectives

The key objective of the ACHMP is to ensure all CoA, REMM and licence/permit requirements relevant to Aboriginal cultural heritage management are described, scheduled and assigned responsibility as outlined in:

- The EIS prepared for WestConnex M4-M5 Link
- The SPIR prepared for WestConnex M4-M5 Link
- The Modification report for WestConnex M4-M5 Link Mainline Tunnel (September 2018)
- Conditions of Approval granted to the Project on 17 April 2018 and as modified on 25 February 2019
- Roads and Maritime Services (Roads and Maritime) QA Specification G36
- All relevant legislation and other requirements described in Section 3.1 of this Plan.

## 2.3 Environmental performance outcomes and targets

The desired environmental performance outcomes for Aboriginal cultural heritage management, as outlined and addressed in the EIS, are that the construction of the Project:

- Facilitate the long-term protection, conservation and management of the heritage significance of items of environmental heritage and Aboriginal objects and places
- Avoid or minimise impacts on the heritage significance of environmental heritage and Aboriginal objects and places.

The following targets, presented in Table 2-1 have been established for the management of Aboriginal cultural heritage during construction of the Project. The Project has also established key performance indicators (KPIs) for these targets. These have been derived from the following sources:

- EIS Appendix A
- Conditions of Approval granted to the project on 17 April 2018
- Road and Maritime QA Specification G36.

**Table 2-1 KPIs for Aboriginal cultural heritage**

Target / KPI number	Target	KPI	Records	Source
1	Identify and implement management measures to avoid, minimise or mitigate impacts on identified and unidentified Aboriginal heritage objects, places or human remains	<p>Known heritage sites to be identified on Sensitive Area Plans (SAPs) and physically protected on site (if required) (refer to Appendix A5 of CEMP)</p> <p>Follow the Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015) (Appendix A) to ensure the correct procedure and notification requirements are followed if any unexpected heritage objects/places are uncovered during construction</p> <p>Zero incidents of damage to heritage objects and places</p>	<p>Compliance Tracking and Environmental Audit Program</p> <p>Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items Procedure (March 2015)</p>	<p>CoA E154 CoA E155 CoA E156 CoA E157 CoA E173 REMM AH1 Roads and Maritime QA Specifications G36 Section 4.9 EIS Appendix A</p>
2	Ensure Heritage Awareness Training as a part of the Environmental Induction Training is provided to all personnel before they begin work on site. This will include information on heritage objects, protection measures and unexpected heritage items procedures	100% Heritage Awareness Training as part of Induction Training	Induction Training Records	<p>CoA E156 CoA E173 REMM NAH01 Roads and Maritime QA Specifications G36 Section 4.9 Roads and Maritime QA Specifications G36 Section 4.13 EIS Appendix A</p>

Target / KPI number	Target	KPI	Records	Source
3	Ensure full compliance with heritage mitigation measures listed in this ACHMP to address relevant CoA, SPIR requirements, legislation and other requirements as described in this Plan	Zero incidents involving damage to heritage objects and places  No environmental fines or prosecutions regarding aboriginal cultural heritage management	Compliance Tracking and Environmental Audit Program  LLE702A Environmental Incident Report (internal document)	CoA E156 CoA E173 EIS Appendix A

# 3 Environmental Requirements

## 3.1 Relevant legislation and guidelines

### 3.1.1 Legislation

All legislation relevant to this ACHMP is included in Appendix A1 of the CEMP.

### 3.1.2 Additional legislation, approvals, licences, permits and requirements

Refer to Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015) of the ACHMP.

### 3.1.3 Guidelines

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

- Roads and Maritime Services Specification G36 – Environmental Protection (Management System)
- NSW Office of Environment and Heritage (OEH)'s Aboriginal Cultural Heritage Consultation Requirements for Proponents (NSW Department of Environment Climate Change and Water (DECCW) 2010a)
- Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (DECCW 2010b)
- Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (Department of Environment Climate Change and Water (DECCW) 2010c)
- NSW Roads and Maritime Services Procedure for Aboriginal Cultural Heritage Consultation and Investigation (PACHCI) (Roads and Maritime Services 2011a)
- Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (OEH 2011)
- Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)
- NSW Government Policy on Aboriginal Participation in Construction (released 1 May 2015, updated 1 August 2016)
- Roads and Maritime Cultural Heritage Guidelines (November 2015)
- DIN 4150: Part 3-1999 Structural vibration - Effects of vibration on structures (Deutsches Institute fur Normung 1999) (SLR 2017).

## 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 ACHMP**

CoA No.	Condition Requirements			Document Reference
C4	The following CEMP Sub-Plans must be prepared in consultation with the relevant authorities identified for each CEMP Sub-Plan and be consistent with the CEMP referred to in the EIS.			This Plan Section 1.5 Section 4.2
		<b>Required CEMP Sub-Plan</b>	<b>Relevant authority(s) and council(s) to be consulted for each CEMP Sub-Plan</b>	
	h)	Aboriginal Heritage	OEH	
C5	The CEMP Sub-Plans must state how:			
	(a) the environmental performance outcomes identified in the EIS and SPIR as modified by these conditions will be achieved			
	(b) the mitigation measures identified in the EIS and SPIR as modified by these conditions will be implemented			
	(c) the relevant terms of this approval will be complied with, and			
				Section 2.3 Table 2-1 Table 3-2 Table 7-1
				Table 7-1
				Section 3.2

CoA No.	Condition Requirements	Document Reference
	(d) issues requiring management during construction (including cumulative impacts), as identified through ongoing environmental risk analysis, will be managed.	Table 3-2 Section 6.2 Table 7-1 Environmental Risk Assessment Workshop (Section 3.2.1 and Appendix A2 of CEMP)
C6	The CEMP Sub-plans must be endorsed by the ER and then submitted to the Secretary for approval no later than one (1) month prior to the commencement of the construction activities to which they apply.	CEMP Section 2.2
C7	Any of the CEMP Sub-plans may be submitted to the Secretary along with, or subsequent to, the submission of the CEMP.	CEMP Section 2.2
C8	Construction must not commence until the CEMP and all CEMP Sub-plans have been approved by the Secretary. The CEMP and CEMP Sub-plans, as approved by the Secretary, including any minor amendments approved by the ER, must be implemented for the duration of construction. Where the CSSI is being staged, construction of that stage is not to commence until the relevant CEMP and CEMP sub-plans have been endorsed by the ER and approved by the Secretary.	CEMP Section 2.2
E154	The Proponent must not destroy, modify or otherwise physically affect any heritage items, including human remains, outside of the CSSI boundary, or undertake works in or on Alexandra Canal.	Table 7-1 ACH5 Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)

CoA No.	Condition Requirements	Document Reference
E155	The Proponent must not to harm, modify, or otherwise impact human remains uncovered during the construction of the CSSI.	Table 3-2 Section 4.2 Table 6-1 Table 7-1 ACH2, ACH5, ACH10 Section 8.3 Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)
E156	Identified impacts to heritage items and heritage conservation areas must be minimised through both detailed design and construction. The measures for ensuring this are to be detailed in the Construction Non-Aboriginal Heritage Management Sub-Plan and Aboriginal Cultural Heritage Management Sub-Plan required by Conditions C4(g) and (h), respectively.	Section 6.2 Table 7-1 ACH1 NAHMP
E157	<p>An Unexpected Heritage Finds Procedure must be prepared:</p> <ul style="list-style-type: none"> <li>• to manage unexpected heritage finds in accordance with any guidelines and standards prepared by the Heritage Council of NSW or OEH and</li> <li>• by a suitably qualified and experienced heritage specialist.</li> </ul> <p>The Procedure must be included in the Construction Non-Aboriginal Heritage Management Sub-Plan and Aboriginal Cultural Heritage Management Sub-Plan required by Conditions C4(g) and (h).</p> <p><i>Note: Human remains that are found unexpectedly during works are under the jurisdiction of the NSW State Coroner and must be reported to the NSW Police immediately.</i></p>	Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015) NAHMP



CoA No.	Condition Requirements	Document Reference
E173	The Proponent must take all reasonable steps so as not to harm, modify or otherwise impact any Aboriginal object associated with the CSSI except as authorised by this approval.	Table 3-2 Table 7-1 ACH4 Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)

### 3.3 Revised Environmental Management Measures

Relevant REMM are listed in Table 3-2 below. This includes references to required outcomes, the timing of when the commitment applies and relevant documents or sections of the environmental assessment influencing the outcome and implementation.

**Table 3-2 Revised environmental management measures relevant to this ACHMP**

Outcome	Ref #	Commitment	Timing	ACHMP Reference
Impacts on unexpected finds of Aboriginal objects	AH1	Any items of potential Aboriginal archaeological or cultural heritage conservation significance or human remains discovered during construction will be managed in accordance with the Unexpected Heritage Finds and Humans Remains Procedure developed for the Project.	Construction	Section 4.2 Section 8.2 Section 8.3 Table 7-1 ACH1, ACH4, ACH5, ACH9, ACH10 Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)
General heritage impacts	NAH01	Construction Heritage Management Plan (CHMP) will be prepared and implemented as part of the Construction Environmental Management Plan. The CHMP will include:	Pre-Construction	This Plan

Outcome	Ref #	Commitment	Timing	ACHMP Reference
		<ul style="list-style-type: none"> <li>Measures that will be implemented to manage potential impacts to items of heritage significance</li> </ul>	Construction	Table 7-1 ACH1 to ACH10
		<ul style="list-style-type: none"> <li>Inclusion of heritage awareness and management training for relevant personnel involved in site works</li> </ul>	Construction	Table 2-1 Table 7-1 ACH2 Section 8.2
		<ul style="list-style-type: none"> <li>Details regarding the conservation and curation of any historical artefacts recovered during works.</li> </ul>	Construction	Section 4.2

# 4 Consultation

## 4.1 Consultation undertaken to date

Consultation with registered Aboriginal stakeholders and government authorities were integral in the assessment of Aboriginal cultural heritage for the Project and the development of the EIS. Details of the consultation carried out during the assessment process is outlined in Chapter 21 and Appendix V of the EIS.

The Aboriginal heritage assessment and community consultation for the EIS was undertaken by Roads and Maritime in accordance with the Stage 1 and Stage 2 requirements of the NSW Roads and Maritime Services Procedure for Aboriginal Cultural Heritage Consultation and Investigation (PACHCI) (Roads and Maritime Services 2011a).

In accordance with Stages 1 and 2 of PACHCI process, the following Aboriginal community consultation process was adopted:

- Identification of key Aboriginal stakeholders through searches of the National Native Title Register and Registrar of Aboriginal Owners, as well as identify the relevant Local Aboriginal Land Council (LALC)
- A site survey was undertaken by a heritage advisor and with a representative from the identified LALC present
- An archaeological assessment was undertaken and the associated report was prepared in conjunction with relevant aboriginal stakeholders.

No registered native title claimants were identified in relation to the Project footprint. However, two 'incomplete land claims' have been lodged by MLALC in the past in the King George Park Draft Plan of Management. These were not deemed in the EIS to be relevant to the assessment as the land claims were not complete, and land claims under the *Aboriginal Land Rights Act 1983* (NSW) do not necessarily denote Aboriginal cultural or scientific archaeological values. One of the two land claims referred to has, since preparation of the Draft Plan of Management, been determined by way of refusal.

The Metropolitan LALC (MLALC) were identified as the relevant LALC to consult with for EIS preparation. A representative from MLALC, Jay Daley (an Aboriginal Sites Officer (ASO)), was present during all fieldwork held in September 2016 and reviewed the findings of the Aboriginal heritage assessment including the technical working paper. Beyond the mitigation measures listed in the EIS, no further recommendations were provided by MLALC.

## 4.2 Ongoing consultation

The PACHCI Stage 2 Aboriginal cultural heritage assessment undertaken for the EIS concluded that it is unlikely that direct or indirect impacts to Aboriginal heritage objects and places will occur as a result of the Project. As such, the EIS identified that a Roads and Maritime PACHCI Stage 3 assessment would not be required during EIS development.

In the event that unexpected Aboriginal cultural heritage items are identified during works, works in the vicinity of the find would stop and the Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (2015) would be implemented, located in Appendix A of this Plan.

An appropriately qualified archaeologist will be engaged to assess the find and OEH as well as the MLALC will be consulted during the assessment. Re-commencement of works will only be undertaken in accordance with the Unexpected Heritage Items Procedure (Appendix A) and in consultation with the relevant stakeholder where required. The assessment will include an analysis of the significance of item(s) and the determination of the appropriate mitigation measures,

including when works can re-commence. Any further relevant approvals will be obtained and where relevant, registration of Aboriginal heritage finds in OEH's AHIMS register will be undertaken.

The NSW Police Force will need to be notified and engaged immediately if human remains are encountered. Management of human remains will be undertaken in accordance with the Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015) (Appendix A).

During construction, if additional land outside the assessed construction footprint is required, an investigation will be carried out in accordance with the PACHCI process (2011). This will determine if further assessment, consultation and/or approval is required prior to works being conducted.

# 5 Existing environment

The following sections summarise the existing environment and archaeological context of the landscape within and adjacent to the Project area (Stage 1 of the M4-M5 Link Project). The key reference documents for this section are the EIS Aboriginal heritage (Chapter 21) and the Aboriginal heritage technical working paper (Appendix V).

## 5.1 Ethnographic and archaeological context

The Project footprint lies within the linguistic group boundaries of the Darug people (also spelt Dhaʼ-rook, Dharrook, Dhaʼook, Dharruk and Dharug).

Available historic records indicate that the Darug-speaking peoples utilised marine resources (including fish and shellfish in coastal areas, and further inland, land animals were hunted and eaten (including kangaroos, wallabies, possums, gliders and fruit bats). Thus, surface sites significant to Aboriginal cultural heritage of the Darug people typically occur on land within 200 metres of a watercourse, with larger and more complex artefact assemblages associated with higher order streams. Existing information suggests that dominant archaeological site types for this region and typical to the Darug-speaking people include rockshelters, artefact scatters, isolated artefacts and middens especially prevalent in the coastal areas. Artefact distributions do not form specific 'sites', but rather 'landscapes'.

## 5.2 Landscape and environmental aspects

Key observations from the EIS regarding the landscape that relate to Aboriginal cultural heritage for the Project area are as follows:

- The Project is located in the Cumberland Plain and has been highly disturbed throughout the process of urban development for roads, commercial/industrial development for businesses and rail, and residential areas. This disturbance includes extensive vegetation clearance, landscape modification, channelising of creek channels, road development and the installation of related infrastructure. The level of disturbance means any Aboriginal deposits that were present in the area are likely to have been destroyed
- Soil and geological mapping indicate a varied landscape across the Project footprint, characterised by a mixture of modified/disturbed and natural landscape features. The natural topography of the Project area has been extensively modified through historical land use activities, and as such the Project footprint is often underlain by man-made fill and reworked soil, particularly along watercourses. Natural geological formations in the Project footprint include Blacktown and Gynea soil landscapes, underlain by Ashfield Shale, Hawkesbury Sandstone, and Quaternary alluvium
- It is possible that outcrops of Hawkesbury Sandstone occurring within the Project area could have been utilised for rockshelters, grinding grooves, rock art and the production of flaked stone artefacts. However, an AHIMS search and subsequent archaeological investigations conducted by AECOM (2017) revealed no known areas of heritage significance nor stone deposits with materials suitable for flaked stone artefact manufacture, within or adjacent to the Project footprint
- Watercourses of relevance to the Project include Whites Creek, Johnstons Creek, Hawthorne Canal, Dobroyd Canal and Alexandra Canal. It is likely that the area within and immediately surrounding the Project footprint would have been abundant with freshwater and marine resources in the past. However, deposits associated with Aboriginal use of these watercourses are unlikely to have survived due to historical land use activities such as the channelisation of natural waterways and bank stabilisation works.

- A search of Schedule 5 of relevant LEPs revealed the following:
  - No Aboriginal sites were listed on the Ashfield LEP 2013 or the Sydney LEP 2012
  - Four Aboriginal midden and rockshelter sites were identified on the Leichhardt LEP 2013 in the suburb of Birchgrove (one on Louisa Road and three on Numa Street), but are located more than 1.5 kilometres away from the EIS study area, north of the Rozelle Rail Yards and would not be impacted by the Project
  - One listed item was identified on the Marrickville LEP 2011. Kendrick Park contains a shell midden; however, this is located more than 2.5 kilometres away from the Project, southwest of the St Peters interchange.

### **5.3 Likelihood of Potential Aboriginal Cultural and Archaeological Heritage**

Based on the landscape and archaeological context, the following observations regarding the potential for Aboriginal objects and/or places to be present have been made:

- Aboriginal archaeological sites are highly unlikely to occur in areas previously subject to high levels of landscape modification and disturbance, such as the landscape within the Project footprint
- If Aboriginal shell middens were present, they would be most likely to occur in tidal estuarine foreshore zones (within 10 metres of high water level) including areas adjacent to Whites Creek, Johnstons Creek, Hawthorne Canal and Alexandra Canal. However, it is unlikely that any shell midden sites remain given the high level of disturbance of those areas
- Rockshelters are a common site type in the wider region and could occur in areas where in-situ natural overhangs have survived
- As the terrain, including watercourse areas (typically the most sensitive archaeological locations), within the Project area are highly disturbed it has been considered unlikely that it will contain unidentified Aboriginal archaeological surface objects and places
- Aboriginal heritage deposits characteristic to the Darug people are typically shallow, and located within 20 centimetres of the grounds surface. Given this fact and the previous disturbance of the Project area, the potential for subsurface Aboriginal cultural heritage objects has also been considered negligible as stated in the EIS.

### **5.4 Identified Aboriginal Cultural and Archaeological Heritage**

A PACHCI Stage 1 and 2 was undertaken for the EIS in September 2016. The assessment included reviews of existing desktop information and interrogation of the AHIMS database as well as an Archaeological survey by AECOM archaeologists, accompanied by the MLALC representative. The EIS study area was centred on the M4-M5 Link project footprint and covered an area of 11 kilometres by 9 kilometres (see Appendix B). The EIS study area included land outside of the Project and M4-M5 Link project footprint in order to provide an adequate buffer and to understand the spread and distribution of previously recorded Aboriginal sites.

#### **5.4.1 Within the Project footprint**

While a total of 49 AHIMS registered sites were identified within the overall EIS study area, there are no recorded sites within the Project footprint. The Stage 2 PACHCI consultation process and field surveys did not identify surface or subsurface expressions of Aboriginal objects or places within the Project footprint (Stage 1 of the M4-M5 Link Project).

## 5.4.2 Outside of the Project footprint

The EIS identified one site of concern (AHIMS site #45-6-2278) in the AHIMS database which is not within the Project footprint, but has been considered “in proximity” to Stage 2 of the M4-M5 Link project. Therefore, any CoA, REMM or other relevant requirements relating to AHIMS site #45-6-2278 have not been considered required for construction management and mitigation measures associated with the Project construction activities.

# 6 Environmental aspects and impacts

The majority of the Project's construction activities will occur below the surface. However, a small number of surface works will be required to support tunnelling activities and to construct relevant infrastructure such as interchanges, tunnel portals, ventilation facilities and ancillary facilities. Potential Aboriginal cultural heritage impacts from both surface and subsurface works are explored below, with reference to EIS documentation which has assessed risks and potential impacts.

## 6.1 Construction activities

Key aspects of the Project's construction activities which have the potential to impact Aboriginal cultural heritage include:

- Early works, including activities such utility relocations
- Tunnelling and excavation activities including cavern construction
- Construction of site compounds and stockpile areas
- Construction of road infrastructure or ancillary facilities
- Earthworks
- Piling
- Removal of topsoil
- Project footprint and construction activity modifications or alterations.

## 6.2 Aboriginal Cultural Heritage impacts

Potential impacts to Aboriginal cultural heritage as a result of the Project construction activities identified above include:

- Unexpected Aboriginal heritage finds
- Complete or partial loss of unknown heritage objects or places within the construction footprint
- Impacts to unexpected Aboriginal cultural heritage places or objects due to vibration, settlement and groundwater drawdown associated with tunnelling activities.

Despite these potential impacts, the EIS concluded it is unlikely that direct or indirect impacts to Aboriginal cultural values or remains would occur as a result of the Project. This is attributed to the absence of AHIMS registered sites, the significant previous disturbance within the Project footprint, and the nature of the proposed construction activities.

The risks to Aboriginal cultural heritage are indicated below in Table 6-1.



**Table 6-1 demonstrates the likelihood, consequence and mitigation measures of the risks to Aboriginal cultural heritage associated with the Project**

Summary of key impacts	Timing	Management and mitigation measures	Likelihood	Consequence	Residual risk
Potential impact on previously unidentified Aboriginal heritage items (unexpected finds)	Construction	Any items of potential Aboriginal archaeological or cultural heritage conservation significance or human remains discovered during construction will be managed in accordance with the Unexpected Heritage Finds and Humans Remains Procedure developed for the Project (AH1)	Unlikely	Moderate	Low

As stated in the EIS Chapter 26 (Cumulative impacts), no cumulative impacts on Aboriginal heritage are expected as none of the approved component project belonging to the WestConnex program of works have been identified as posing a significant impact to Aboriginal cultural heritage.

# 7 Environmental mitigation and management measures

Specific measures and requirements to address CoA, REMM and other relevant specifications in relation to Aboriginal cultural heritage management during the Project are outlined in Table 7-1.

**Table 7-1 Aboriginal cultural heritage management and mitigation measures**

ID	Measure/Requirement	Resources needed	When to implement	Responsibility	Reference	Evidence
General						
ACH1	<p>An ACHMP will be prepared and implemented as part of the CEMP. The ACHMP will be regularly updated during detailed design and construction and will include measures to manage, minimise and mitigate any impacts on Aboriginal cultural heritage by the Project.</p> <p>The ACHMP will also include a procedure for the management of unexpected potential Aboriginal objects discovered by during construction.</p>	<p>ACHMP Unexpected Heritage Finds and Humans Remains Procedure</p>	<p>Prior to Construction / Construction</p>	<p>Environment and Sustainability Manager</p>	<p>CoA E156 Roads and Maritime QA Specification G36 4.9</p>	<p>This Plan Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)</p>

ID	Measure/Requirement	Resources needed	When to implement	Responsibility	Reference	Evidence
ACH2	All employees, contractors and utility staff working on site will be provided with site training in regard to Aboriginal cultural heritage site awareness, key mitigation and management requirements and their responsibilities pertaining to the <i>Aboriginal Heritage provisions of the National Parks and Wildlife Act 1974</i> prior to construction commencing. Training will include unexpected heritage finds procedures for heritage places, objects and human remains.	N/A	Prior to Construction / Construction	Environment and Sustainability Manager Construction Manager Foreman	REMM NAH01 Roads and Maritime QA Specification G36 4.9 Roads and Maritime QA Specification G36 4.13	Induction / Training records Toolbox talk records
ACH3	All known heritage objects within immediate vicinity of the construction work zones will be identified in the SEMP and on SAPs included in the CEMP. Preserved heritage objects and places will be shown on relevant site plans and communicated to the relevant workforce. SAPs will be available to all personnel working on site.	SAPs SEMP	Prior to Construction / Construction	Environment and Sustainability Manager Construction Manager	Roads and Maritime QA Specification G36 4.13	CEMP Appendix A5 – Sensitive Area Plans SEMP

ID	Measure/Requirement	Resources needed	When to implement	Responsibility	Reference	Evidence
ACH4	All reasonable steps will be taken not to harm, modify or otherwise impact any Aboriginal object associated with the CSSI except as authorised by this approval.	ACHMP	Prior to Construction / Construction	Environment and Sustainability Manager Construction Manager	CoA E173	Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)
ACH5	All reasonable steps will be taken not to destroy, modify or otherwise physically affect any heritage objects, including human remains, outside of the CSSI boundary. Project boundaries (as defined as the CSSI footprint) would be clearly delineated where relevant.	ACHMP	Prior to Construction / Construction	Environment and Sustainability Manager Construction Manager	CoA E154	Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)
ACH6	Aboriginal cultural heritage management measures from this ACHMP and the relevant Lendlease EMS procedures will be included in relevant Environmental Work Method Statements (EWMS). EWMS will be regularly reviewed to ensure that they are effective. EWMS will include requirement to establish exclusion fencing No-Go areas.	EWMS LLE703A Environmental Inspection Checklist (internal document) LLE711 Lendlease Archaeology and Heritage Procedure (internal document)	Prior to Construction / Construction	Environment and Sustainability Manager Construction Manager	Roads and Maritime QA Specification G36 4.13	EWMS in the CEMP

ID	Measure/Requirement	Resources needed	When to implement	Responsibility	Reference	Evidence
ACH7	A suitably qualified and experienced heritage specialist will be engaged to provide guidance on the management of heritage sites and impacts during pre-construction and construction activities. Guidance would include assessment of any unexpected finds and new heritage impacts. Archaeological investigations will be conducted in accordance with section 1.6 of the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010).	Suitably Qualified Archaeologist	Prior to Construction / Construction	Environment and Sustainability Manager Construction Manager	LLE711 H3 (internal document)	Archaeological Assessment Reports

ID	Measure/Requirement	Resources needed	When to implement	Responsibility	Reference	Evidence
ACH8	<p>Exclusion fencing or No-Go areas will be established to protect unexpected heritage object discovered within or adjacent to construction work zones.</p> <p>Routine inspections of any heritage and 'No Go' areas discovered, as well as any control measures shall be undertaken in accordance with LLE711 Lendlease Archaeology and Heritage Procedure (internal document), LLE703 Lendlease Environmental Monitoring and Inspection procedure (internal document) and monitored in accordance with LLE703A Environmental Inspection Checklist (internal document) and any other contractual and/or legislative requirements.</p>	<p>LLE703A Environmental Inspection Checklist (internal document)</p> <p>LLE711 Lendlease Archaeology and Heritage Procedure (internal document)</p>	Prior to Construction / Construction	<p>Environment and Sustainability Manager</p> <p>Construction Manager</p>	<p>Best practice</p> <p>LLE711 H1 (internal document)</p>	LLE703A Environmental Inspection Checklist (internal document)
Unexpected Heritage Finds						

ID	Measure/Requirement	Resources needed	When to implement	Responsibility	Reference	Evidence
ACH9	<p>Should any unexpected finds of potential significance to Aboriginal cultural heritage (e.g. places or objects) be discovered during the Project, works potentially affecting the find will cease immediately and the Roads and Maritime Services Unexpected Heritage Items (March 2015) will be followed.</p> <p>Work shall not recommence until approval has been received from the relevant authorities and the Project Environment and Sustainability Manager. Where relevant, registration of Aboriginal heritage finds in OEH's Aboriginal Heritage Information Management System (AHIMS) register will be undertaken.</p>	Unexpected Heritage Finds and Humans Remains Procedure	Construction	Environment and Sustainability Manager	CoA E155 CoA E157 REMM AH1 Roads and Maritime QA Specification G36 4.9 LLE711 H3 (internal document) LLE711 H7 (internal document)	Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)



ID	Measure/Requirement	Resources needed	When to implement	Responsibility	Reference	Evidence
ACH10	<p>All reasonable steps will be taken not to harm, modify, or otherwise impact human remains uncovered during the construction of the CSSI.</p> <p>If human remains are discovered during construction, the find will be managed in accordance with the Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015). Human remains that are found unexpectedly during works are under the jurisdiction of the NSW State Coroner and will be reported to the NSW Police immediately. Management will include notification of registered Aboriginal stakeholders and a commitment to not recommencing works in the area unless authorised by the OEH and/or the NSW Police Force.</p>	Unexpected Heritage Finds and Humans Remains Procedure	Prior to Construction / Construction	Environment and Sustainability Manager  Construction Manager	CoA E155 CoA E157 REMM AH1 LLE711 H6 (internal document) LLE711 H8 (internal document)	Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)

# 8 Compliance Management

## 8.1 Roles and responsibilities

The LSBJV Project Team organisational structure and overall roles and responsibilities are outlined in Section 3.3 of the CEMP. Specific responsibilities for the implementation of environmental controls are detailed in Section 7 of this Plan.

## 8.2 Training

All personnel, including employees, contractors and utility staff working on site will undergo site induction training relating to Aboriginal cultural heritage management issues prior to construction activities commencing. The induction training will address elements related to Aboriginal cultural heritage management including:

- The existence of and requirements of this Plan
- The relevant mitigation and protective measures
- Relevant legislation and guidelines
- Making the personnel working on site aware of and explaining the procedures to follow in the event of any unexpected heritage finds or the discovery of human remains during construction works (Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015))
- Roles and responsibilities for Aboriginal cultural heritage management including responsibilities pertaining to the Aboriginal heritage provisions of the *National Parks and Wildlife Act 1974*
- Heritage Awareness Training provided to all personnel before they begin work on site. This will include making all personnel on site aware of heritage objects, protection measures and unexpected heritage items procedures.

While it is unlikely that the Project will result in any impacts to Aboriginal cultural heritage, LSBJV will provide specific training (e.g. toolbox talks) prior to works commencing in areas where there has been an unexpected Aboriginal heritage finds, where there is a high risk of heritage impacts by the Project or personnel likely to work in close proximity (i.e. less than 50 metres) to heritage objects.

Further details regarding staff induction and training are outlined in Section 3.5 of the CEMP.

## 8.3 Monitoring and inspections

As there are no identified places and objects of Aboriginal cultural heritage significance, the following section describes monitoring and inspections regimes that would be employed should any unexpected heritage finds be uncovered during construction.

In the case of any unexpected Aboriginal heritage finds identified during proposed works all on site personnel will follow the Unexpected Heritage Items Procedure in Appendix A. If unexpected Aboriginal heritage objects are uncovered, construction work in the vicinity will cease immediately SMC and Roads and Maritime will be informed. The Project archaeologist and ASO (where required) will be engaged to perform a preliminary inspection of the item. If confirmed to be a heritage item, an archaeological or heritage management plan will be created by the archaeologist in consultation with the ASO. OEHL will be notified of the find in a formal letter, if required. The archaeological management plan states, amongst other requirements, the appropriate management measures to implement during construction and whether OEHL will need to be formally notified of the find. The relevant CEMP documentation such as SAPs and the ACHMP will

be updated to reflect the item discovery. Construction work may resume following obtainment of any further approvals and the implementation of the archaeological management plan, or if the item is determined not an item of heritage significance during the preliminary site inspection.

Following the discovery of any unexpected heritage finds, inspections will be undertaken during weekly environmental inspections and may also be undertaken during formal Roads and Maritime, SMC or Environmental Representative (ER) inspections. Routine inspections shall be undertaken in accordance with the LLE703 Lendlease Environmental Monitoring and Inspection procedure (internal document), and in accordance with all contractual and legislative requirements.

Where archaeological investigations of Aboriginal objects are proposed, these will be conducted by a suitably qualified archaeologist, in accordance with section 1.6 of the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010).

Requirements and responsibilities in relation to monitoring and inspections are documented in Table 8-1 below and in Sections 3.9.1 and 3.9.2 of the CEMP.

**Table 8-1 Monitoring and inspection requirements relevant to management of Aboriginal cultural heritage**

Item	Frequency	Standards	Reporting	Responsibility
Site inspection	Weekly	All heritage management measures in place, maintained and effective  LLE703 Lendlease Environmental Monitoring and Inspection procedure (internal document)  LLE703A Environmental Inspection Checklist (internal document)  Land disturbance permits obtained for all clearances	Completed Environmental Inspection Checklist	Environmental Team
Visual surveillance	Daily	LLE703 Lendlease Environmental Monitoring and Inspection procedure (internal document)  No-go zone fencing and signage in place and undamaged  No unauthorised access to No-go zones	Log book and photos as relevant	Environmental Team

Item	Frequency	Standards	Reporting	Responsibility
Unexpected heritage item	Upon discovery of potential heritage item	CoA E157 REMM AH1	Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)  Roads and Maritime Procedure for Aboriginal Cultural Heritage Consultation and Investigation (November 2011)	Environment and Sustainability Manager  Excavation Director
Discovery of human remains	Upon discovery of human remains	CoA E157 REMM AH1  Contact NSW Police first  Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)	As required by Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)	Environment and Sustainability Manager

## 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 3.9.3 of the CEMP.

## 8.5 Reporting

The reporting requirements relevant to the ACHMP are summarised below in Table 8-2 and detailed in the Section 3.9.5 of the CEMP.

Reporting required for Aboriginal cultural heritage management for the Project includes:

- Reporting in accordance with Roads and Maritime's Standard Management Procedure: Unexpected Heritage Items (March 2015) if an unexpected heritage item is discovered
- Reporting in accordance with the Roads and Maritime Services PACHCI (2011) is required if land outside of the assessed construction footprint is to be utilised during construction of the Project
- Existing condition surveys / reports, ground settlement reports and/or a post-construction condition survey / report would also be undertaken for any unexpected Aboriginal heritage finds identified during construction activities to assess if impacts have occurred.

**Table 8-2 Reporting requirements relevant to management of Aboriginal cultural heritage**

Item	Frequency	Standards	Reporting	Responsibility
Project monthly reports	Monthly	As per reporting requirements and responsibilities documented in the CEMP, including reporting on heritage targets and Compliance with this Plan, relevant legislative requirements and CoA	In accordance with CEMP	Environment and Sustainability Manager
Six monthly construction compliance reports	Every 6 months	As per the Compliance Tracking and Environmental Audit Program	In accordance with the Compliance Tracking and Environmental Audit Program	Environment and Sustainability Manager
Notification and reporting if unexpected heritage objects, places and / or human remains are discovered	Upon unexpected heritage find	CoA E157 REMM AH1 Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)  Roads and Maritime Procedure for Aboriginal Cultural Heritage Consultation and Investigation (November 2011)	As required by Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)	Environment and Sustainability Manager  Heritage Consultant  Excavation Director

# 9 Review and improvement

## 9.1 Continuous improvement

Continuous improvement of this Plan will be achieved through 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(s) of any 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 required in procedures resulting from process improvement due to the following:
  - As a result of any investigations into any exceedances or non-conformances that determine changes to this Plan are required to prevent reoccurrences
  - To take into account changes to the Environment or generally accepted environmental management practices, new risks to the Environment, any Hazardous Substances, Contamination or changes in Law
  - In response to internal or external audits or annual management reviews.
- Where requested or required by the Department of Planning and Environment (DPE) or other regulatory authority
- Make comparisons with Project objectives and targets
- Meet approval requirements and conditions.

## 9.2 ACHMP update and amendment

The processes described in Section 3.9 to Section 3.13 of the CEMP may result in the need to update or revise this Plan.

Any revisions to the ACHMP will be in accordance with the process outlined in Section 1.5 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 3.11.2 of the CEMP.

# **Appendix A - Roads and Maritime Standard Management Procedure: Unexpected Heritage Items (March 2015)**

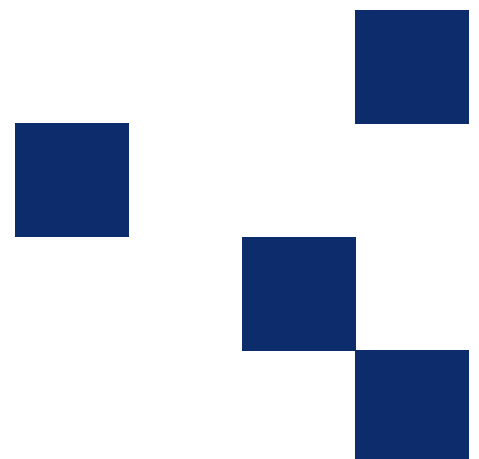


**Transport**  
Roads & Maritime  
Services

# STANDARD MANAGEMENT PROCEDURE

## Unexpected Heritage Items

March 2015





## About this release

<b>RMS/ISBN numbers</b>	RMS 12.003   ISBN 9781922040305
<b>Title</b>	Unexpected Heritage Items Procedure

Approval and authorisation		Name
Prepared by	Environmental Officer (Heritage)	Gretta Logue
Revised by	Environmental Officer (Heritage)	Daniel Percival
Approved by	Manager Environmental Policy	Michael Crowley

File location	File name
Objective - SF2013/153770	Unexpected heritage items procedure.doc

Document status	Date
Final	16 March 2015

Version	Date	Revision Description
Final	1 November 2011	First Draft
Revised	23 July 2012	Amended to reflect that (a) unexpected finds do not include items covered by a relevant approval; (b) Aboriginal people must be consulted where an unexpected find is likely to be an Aboriginal object; (c) the Department of Planning and Environment must be notified in accordance with Step 5 of this procedure for Part 3A and Part 5.1 projects.
Revised	09 October 2013	Amended to clarify that the procedure applies to all types of unexpected heritage items, not just archaeological items. The procedure introduces the term 'Historic Items' to cover both 'archaeological relics' and 'other historic items' such as works, structures, buildings and movable objects. The title of the document has been amended to better reflect this clarification.
Revised	16 March 2015	The procedure was streamlined to address all project types including maintenance works. The separate maintenance procedure (formerly Appendix B) was removed. Names and titles updated throughout.

Prepared by  
Environment Branch  
Roads and Maritime Services  
Level 17, 101 Miller Street  
North Sydney, NSW 2060  
T 02 8588 5726

**Please note**

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

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

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# Unexpected heritage items procedure

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## 1. Purpose

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

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

## 2. Scope

This procedure assumes that an appropriate level of Aboriginal and non-Aboriginal heritage assessment has been undertaken prior to on site project work commencing. In some case, such as exempt development, detailed heritage assessment may not be required.

Despite appropriate and adequate investigation, unexpected heritage items may still be discovered during maintenance and construction works. When this happens, this procedure must be followed. This procedure provides direction on when to stop work, where to seek technical advice and how to notify the regulator, if required.

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

This procedure **applies to**:

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

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

This procedure **does not apply to**:

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

1974; or an approval issued under the *Heritage Act 1977*<sup>1</sup>.

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

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

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

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

An 'unexpected heritage item' means any unanticipated discovery of an actual or potential heritage item, for which Roads and Maritime does not have approval to disturb<sup>3</sup> or does not have a safeguard in place (apart from this procedure) to manage the disturbance.

These discoveries are categorised as either:

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

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

#### 3.1 Aboriginal objects

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

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

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

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

*“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, regardless of significance, are protected under law.**

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

## 3.2 Historic heritage items

Historic (non-Aboriginal) heritage items may include:

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

### 3.2.1 Archaeological relics

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

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

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

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<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*.

## IMPORTANT!

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

If a relic is likely to be disturbed, 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).

### 3.2.2 Other historic items

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

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

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

### 3.3 Human skeletal remains

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

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

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<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.

 **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 E**.

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



## 4. Responsibilities

The following roles and responsibilities are relevant to this procedure.

<b>Role</b>	<b>Definition/responsibility</b>
Aboriginal Cultural Heritage Advisor (ACHA)	Provides Aboriginal cultural heritage advice to project teams. Acts as Aboriginal community liaison for projects on cultural heritage matters. Engages and consults with the Aboriginal community as per the Roads and Maritime <i>Procedure for Aboriginal Cultural Heritage Consultation and Investigation</i> .
Aboriginal Sites Officer (ASO)	Is an appropriately trained and skilled Aboriginal person whose role is to identify and assess Aboriginal objects and cultural values. For details on engaging Aboriginal Sites Officers, refer to Roads and Maritime <i>Procedure for Aboriginal Cultural Heritage Consultation and Investigation</i> .
Archaeologist (A)	Professional consultant, contracted on a case-by-case basis to provide heritage and archaeological advice and technical services (such as reports, heritage approval documentation etc). Major projects with complex heritage issues often have an on call Project archaeologist.
Project Manager (PM)	Ensures all aspects of this procedure are implemented. The PM can delegate specific tasks to a construction environment manager, Roads and Maritime site representatives or regional environment staff, where appropriate.
Regional Environment Staff (RES)	Provides advice on this procedure to project teams. Ensuring this procedure is implemented consistently by supporting the PM. Supporting project teams during the uncovering of unexpected finds. Reviewing archaeological management plans and liaising with heritage staff and archaeological consultants as needed.
Registered Aboriginal Parties (RAPs)	RAPs are Aboriginal people who have registered with Roads and Maritime to be consulted about a proposed Roads and Maritime project or activity in accordance with OEH's Aboriginal cultural heritage consultation requirements for proponents (2010).
Senior Environmental Specialist (Heritage) (SES(H))	Provides technical assistance on this procedure and archaeological technical matters, as required. Reviewing the archaeological management plans and facilitating heritage approval applications, where required. Assists with regulator engagement, where required.
Team Leader - Regional Maintenance Delivery (TL-RMD)	Ensures Regional Maintenance Delivery staff stop work in the vicinity of an unexpected heritage item. Completes Unexpected Heritage Item Recording Form 418 and notifies WS-RMD.
Technical Specialist	Professional consultant contracted to provide specific technical advice that relates to the specific type of

	unexpected heritage find (eg a forensic or physical anthropologist who can identify and analyse human skeletal remains).
Works Supervisor - Regional Maintenance Delivery (WS-RMD)	Ensures Regional Maintenance Delivery staff are aware of this procedure. Supports the Team Leader - Regional Maintenance Delivery during the implementation of this procedure and ensures reporting of unexpected heritage items through environment management systems.

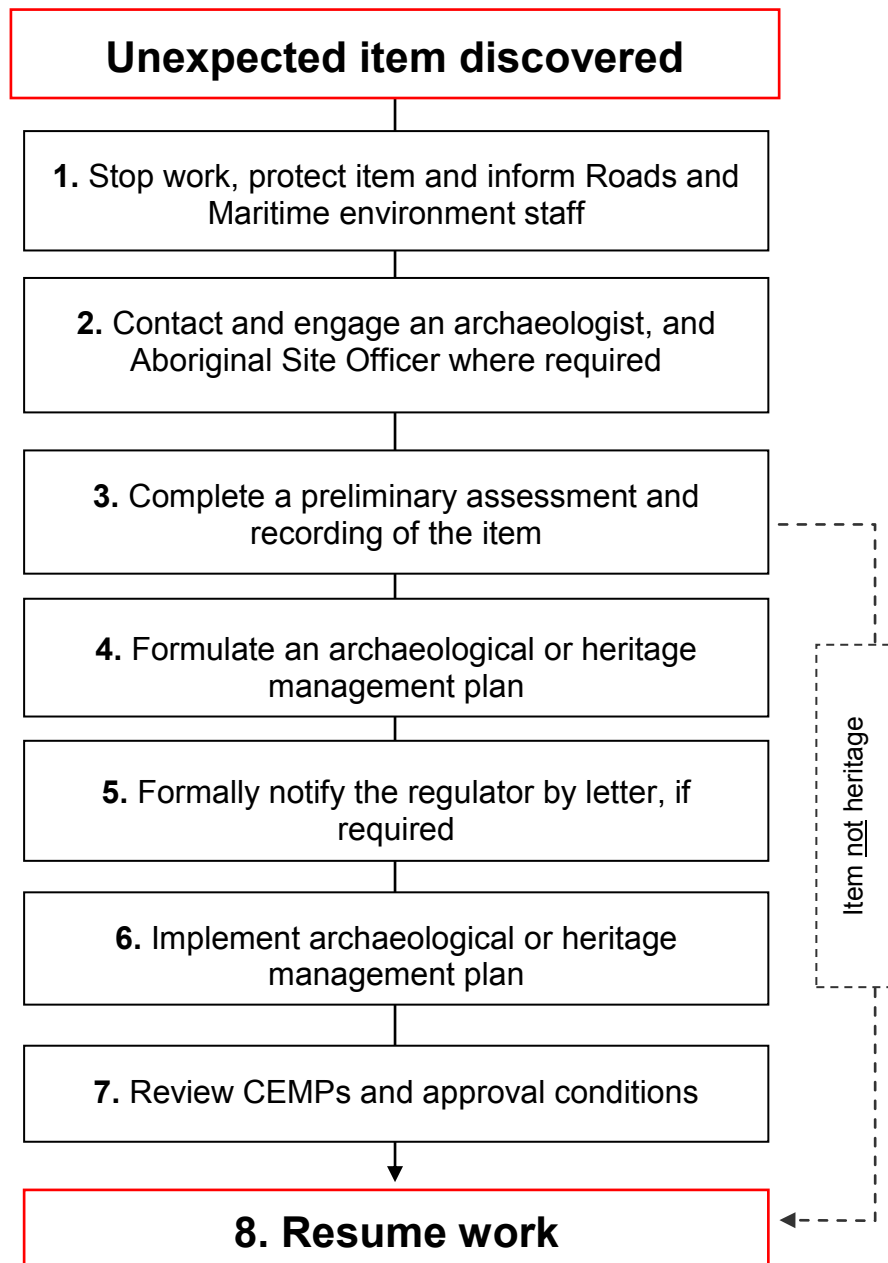
## 5. Acronyms

The following acronyms are relevant to this procedure.

<b>Acronym</b>	<b>Meaning</b>
A	Archaeologist
ACHA	Aboriginal Cultural Heritage Advisor
AHIP	Aboriginal Heritage Impact Permit
ASO	Aboriginal Site Officer
CEMP	Construction Environment Management Plan
OEH	Office of Environment and Heritage.
PACHCI	Procedure for Aboriginal Cultural Heritage Consultation and Investigation
PM	Project Manager
RAP	Registered Aboriginal Parties
RES	Regional Environmental Staff
SES(H)	Senior Environmental Specialist (Heritage)
TL-RMD	Team Leader – Regional Maintenance Division
RMD	Regional Maintenance Delivery
RMS	Roads and Maritime
WS-RMD	Works Supervisor - Regional Maintenance Division

## 6. Overview of the procedure

On discovering something that could be an unexpected heritage item ('the item'), the following procedure must be followed. There are eight steps in the procedure. These steps are summarised in **Figure 1** below and explained in detail in Section 7.



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

### **IMPORTANT!**

RMS may have approval or specific safeguards in place (apart from this procedure) to impact on certain heritage items during construction. If you discover a heritage item and you are unsure whether an approval or safeguard is in place, STOP works and follow this procedure.

## 7. Unexpected heritage items procedure

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

*Aboriginal Cultural Heritage Advisor (ACHA); Aboriginal Sites Officer (ASO); Archaeologist (A); Project Manager (PM); Regional Environment Staff (RES); Registered Aboriginal Parties (RAPs); Senior Environmental Specialist (Heritage) (SES(H)); Team leader – Roads and Maintenance Division (TL - RMD); Works supervisor – Roads and Maintenance Division (WS - RMD).*

Step	Task	Responsibility	Guidance & Tools
<b>1</b>	<b>Stop work, protect item and inform Roads and Maritime environment staff</b>		
1.1	Stop all work in the immediate area of the item and notify the Project Manager or Team Leader-RMD. (For maintenance activities, the Team Leader is to also notify the Works Supervisor-RMD)	All	<b>Appendix A</b> (Identifying Unexpected Heritage items)
1.2	Establish a 'no-go zone' around the item. Use high visibility fencing, where practical.	PM or TL-RMD	
1.3	Inform all site personnel about the no-go zone. No further interference, including works, ground disturbance, touching or moving the item must occur within the no-go zone.	PM or TL-RMD	
1.4	Inspect, document and photograph the item using 'Unexpected Heritage Item Recording Form 418'.	PM or TL-RMD	<b>Appendix B</b> (Unexpected Heritage Item Recording Form 418) <b>Appendix C</b> (Photographing Unexpected Heritage items)

Step	Task	Responsibility	Guidance & Tools
1.5	<p>Is the item likely to be bone?</p> <p>If <b>yes</b>, follow the steps in Appendix E – ‘Uncovering bones’. Where it is obvious that the bones are human remains, you must notify the local police by telephone immediately. They may take command of all or part of the site.</p> <p>If <b>no</b>, proceed to next step.</p>	PM or WS-RMD	<b>Appendix E</b> (Uncovering Bones)
1.6	<p>Is the item likely to be:</p> <p>a) A relic? (A relic is evidence of past human activity which has local or state heritage significance. It may include items such as bottles, utensils, remnants of clothing, crockery, personal effects, tools, machinery and domestic or industrial refuse) and/or</p> <p>b) An Aboriginal object? (An Aboriginal object may include a shell midden, stone tools, bones, rock art or a scarred tree).</p> <p>If <b>yes</b>, proceed directly to Step 1.8</p> <p>If <b>no</b>, proceed to next step.</p>	PM or WS-RMD	<b>Appendix A</b> (Identifying heritage items)
1.7	<p>Is the item likely to be a “work”, building or standing structure? (This may include tram tracks, kerbing, historic road pavement, fences, sheds or building foundations).</p> <p>If <b>yes</b>, can works avoid further disturbance to the item? (E.g. if historic road base/tram tracks have been exposed, can they be left in place?) If <b>yes</b>, works may proceed without further disturbance to the item. Complete Step 1.8 within 24 hours.</p> <p>If works cannot avoid further disturbance to the item, works must not recommence at this time. Complete the remaining steps in this procedure.</p>	PM or WS-RMD	<b>Appendix A</b> (Identifying heritage items)

Step	Task	Responsibility	Guidance & Tools
1.8	Inform relevant Roads and Maritime Regional Environmental Staff of item by providing them with the completed 'Form 418'.	PM or WS-RMD (RES)	<b>Appendix D</b> (Key Environmental Contacts)
1.9	<p>Regional Environmental Staff to advise Project Manager or Works Supervisor whether RMS has an approval or safeguard in place (apart from this procedure) to impact on the 'item'. (An approval may include an approval under the <i>Heritage Act</i>, the <i>National Parks and Wildlife Act</i> or the <i>Planning and Assessment Act</i>).</p> <p>Does RMS have an approval, permit or appropriate safeguard in place to impact on the item?</p> <p>If <b>yes</b>, work may recommence in accordance with the approval, permit or safeguard. There is no further requirement to follow this procedure.</p> <p>If <b>no</b>, continue to next step.</p>		
1.10	Liaise with Traffic Management Centre where the delay is likely to affect traffic flow.	PM or WS-RMD	
1.11	Report the item as a 'Reportable Event' in accordance with the Roads and Maritime <i>Environmental Incident Classification and Reporting Procedure</i> . Implement any additional reporting requirements related to the project's approval and CEMP, where relevant.	PM or WS-RMD	RMS Environmental Incident Classification and Reporting Procedure
<b>2</b>	<b>Contact and engage an archaeologist and, where required, an Aboriginal site officer</b>		
2.1	<p>Contact the Project (on-call) Archaeologist to discuss the location and extent of the item and to arrange a site inspection, if required. The project CEMP may contain contact details of the Project Archaeologist.</p> <p>OR</p>	PM or WS-RMD (A; RES; SES(H))	Also see <b>Appendix D</b> (Key Environmental Contacts)

Step	Task	Responsibility	Guidance & Tools
	Where there is no project archaeologist engaged for the works, engage a suitably qualified and experienced archaeological consultant to assess the find. A list of heritage consultants is available on the RMS contractor panels on the Buyways homepage. Regional environment staff and Roads and Maritime heritage staff can also advise on appropriate consultants.		<u>Buyways</u>
2.2	Where the item is likely to be an Aboriginal object, speak with your Aboriginal Cultural Heritage Advisor to arrange for an Aboriginal Sites Officer to assess the find. Generally, an Aboriginal Sites Officer would be 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 or WS-RMD (ACHA; ASO)	
2.3	If requested, provide photographs of the item taken at Step 1.4 to the archaeologist, and Aboriginal Sites Officer if relevant.	PM or WS-RMD (RES)	<b>Appendix C</b> (Photographing Unexpected Heritage items)
<b>3</b>	<b>Preliminary assessment and recording of the find</b>		
3.1	In a minority of cases, the archaeologist (and Aboriginal Sites Officer, if relevant) may determine from the photographs that no site inspection is required because no archaeological constraint exists for the project ( <i>eg the item is not a 'relic', a 'heritage item' or an 'Aboriginal object'</i> ). Any such advice should be provided in writing (eg via email) and confirmed by the Project Manager or Works Supervisor - RMD.	A/PM/ASO/ WS-RMD	Proceed to Step 8
3.2	Arrange site access for the archaeologist (and Aboriginal Sites Officer, if relevant) to inspect the item as soon as practicable. In the majority of cases a site inspection is required to conduct a preliminary assessment.	PM or WS-RMD	
3.3	Subject to the archaeologist's assessment (and the Aboriginal Sites Officer's assessment, if relevant), work may recommence at a set distance from the item. This is to protect any other archaeological material that may exist in the vicinity, which has not yet been uncovered. Existing protective fencing established in Step 1.2 may need to be adjusted to	A/PM/ASO/ WS-RMD	

Step	Task	Responsibility	Guidance & Tools
	reflect the extent of the newly assessed protective area. No works are to take place within this area once established.		
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 ( <i>eg the item is not a 'relic', a 'heritage item' or an 'Aboriginal object'</i> ). Any such advice should be provided in writing (eg via email) and confirmed by the Project Manager or Works Supervisor - RMD.	A/PM/ASO/ WS-RMD	Proceed to Step 8
3.5	Where required, seek additional specialist technical advice (such as a forensic or physical anthropologist to identify skeletal remains). Regional environment staff and/or Roads and Maritime heritage staff can provide contacts for such specialist consultants.	RES/SES(H)	<b>Appendix D</b> (Key Environmental Contacts)
3.6	Where the item has been identified as a 'relic', 'heritage item' or an 'Aboriginal object' the archaeologist should formally record the item.	A	
3.7	The regulator can be notified informally by telephone at this stage by the archaeologist, Project Manager (or delegate) or Works Supervisor - RMD. Any verbal conversations with regulators must be noted on the project file for future reference.	PM/A/WS-RMD	
<b>4</b>	<b>Prepare an archaeological or heritage management plan</b>		
4.1	The archaeologist must prepare an archaeological or heritage management plan (with input from the Aboriginal Sites Officer, where relevant) shortly after the site inspection. This plan is a brief overview of the following: (a) description of the feature, (b) historic context, if data is easily accessible, (c) likely significance, (d) heritage approval and regulatory notification requirements, (e) heritage reporting requirements, (f) stakeholder consultation requirements, (g) relevance to other project approvals and management plans etc.	A/ASO	<b>Appendix F</b> (Archaeological/ Heritage Advice Checklist)
4.2	In preparing the plan, the archaeologist with the assistance of regional environment staff must review the CEMP, any heritage sub-plans, any conditions of heritage approvals, conditions of project approval (and or Minister's Conditions of Approval) and heritage assessment documentation (eg Aboriginal Cultural Heritage Assessment Report). This will outline if the unexpected item is consistent with previous heritage/project approval(s)	A/RES/PM	<b>Appendix F</b> (Archaeological/ Heritage Advice Checklist)



Step	Task	Responsibility	Guidance & Tools
	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.		
4.3	The archaeologist must submit this plan as a letter, brief report or email to the Project Manager outlining all relevant archaeological or heritage issues. This plan should be submitted to the Project Manager as soon as practicable. Given that the archaeological management plan is an overview of all the necessary requirements (and the urgency of the situation), it should take no longer than two working days to submit to the Project Manager.	A	
4.4	The Project Manager or Works Supervisor must review the archaeological or heritage management plan to ensure all requirements can reasonably be implemented. Seek additional advice from regional environment staff and Roads and Maritime heritage staff, if required.	PM/RES/SES(H)/ WS-RMD	
<b>5</b>	<b>Notify the regulator, if required.</b>		
5.1	Review the archaeological or heritage management plan to confirm if regulator notification is required. Is notification required?  If <b>no</b> , proceed directly to Step 6  If <b>yes</b> , proceed to next step.	PM/RES/SES(H)/ WS-RMD	
5.2	If notification is required, complete the template notification letter.	PM or WS-RMD	<b>Appendix G</b> (Template Notification Letter)
5.3	Forward the draft notification letter, archaeological or heritage management plan and the site recording form to regional environment staff and Senior Environmental Specialist (Heritage) for review, and consider any suggested amendments.	PM/RES/SES(H)/ WS-RMD	

Step	Task	Responsibility	Guidance & Tools
5.4	Forward the signed notification letter to the relevant regulator (ie notification of relics must be given to the Heritage Division, Office of Environment and Heritage (OEH), while notification for Aboriginal objects must be given to the relevant Aboriginal section 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 Environment must also be notified.	PM or WS-RMD	<b>Appendix D</b> (Key Environmental Contacts)
5.5	A copy of the final signed notification letter, archaeological or heritage management plan and the site recording form should be kept on file by the Project Manager or Works Supervisor- RMD and a copy sent to the Senior Environmental Specialist (Heritage).	PM or WS-RMD	
<b>6</b>	<b>Implement archaeological or heritage management plan</b>		
6.1	Modify the archaeological or heritage management plan to take into account any additional advice resulting from notification and discussions with the regulator.	A/PM or WS-RMD (RES)	
6.2	Implement the archaeological or heritage management plan. Where impact is expected, this would include such things as a formal assessment of significance and heritage impact assessment, preparation of excavation or recording methodologies, consultation with registered Aboriginal parties, obtaining heritage approvals etc, if required.	PM or WS-RMD (RAPs and RES)	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/WS-RMD	
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 Environment. Seek advice from regional environment staff and Environment Branch specialist staff if unsure.	PM/RES	

Step	Task	Responsibility	Guidance & Tools
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 or WS-RMD	
6.6	Where statutory approval (or Part 3A/Part 5.1 project modification) is not required and where recording is recommended by the archaeologist, sufficient time must be allowed for this to occur.	PM or WS-RMD	
6.7	Ensure short term and permanent storage locations are identified for archaeological material or other heritage material is removed from site, where required. Interested third parties (eg museums or local councils) should be consulted on this issue. Contact regional environment staff and Senior Environmental Specialist (Heritage) for advice on this matter, if required.	PM or WS-RMD	
<b>7</b>	<b>Review CEMPs and approval conditions</b>		
7.1	Check whether written notification is required to be sent to the regulator before re-commencing 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 archaeological excavation and/or heritage recommendations (where required) are complete. Resumption of project work must be in accordance with the all relevant project/heritage approvals/determinations.	RES/A/PM/WS-RMD	
8.2	If required, ensure archaeological excavation/heritage reporting and other heritage	PM/AWS-RMD	

Step	Task	Responsibility	Guidance & Tools
	approval conditions are completed in the required timeframes. This includes artefact retention repositories, conservation and/or disposal strategies.		
8.3	Forward all heritage/archaeological assessments, heritage location data and its ownership status to the Senior Environmental Specialist (Heritage). They will ensure all heritage items in Roads and Maritime ownership and/or control are considered for the Roads and Maritime S170 Heritage and Conservation Register.	PM/SES(H)/ WS-RMD	
8.4	If additional unexpected items are discovered this procedure must begin again from Step 1.	PM/TL-RMD	

## 8. Seeking advice

Advice on this procedure should be sought from Roads and Maritime regional environment staff in the first instance. Contractors and alliance partners should ensure their own project environment managers are aware of and understand this procedure. Regional environment staff can assist non-Roads and Maritime project environment managers with enquires concerning this procedure.

### IMPORTANT!

**Roads and Maritime Services staff and contractors are not to seek advice on this procedure directly from the Office of Environment and Heritage without first seeking advice from regional environment staff and heritage policy staff.**

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

## 9. Related information

**Contact details:** Senior Environmental Specialist (Heritage), Environment Branch, 02 8588 5754

**Effective date:** 01 February 2015

**Review date:** 01 February 2016

This procedure should be read in conjunction with:

- Roads and Maritimes' *Heritage Guidelines 2015*.
- Roads and Maritime Services *Environmental Incident Classification and Reporting Procedure*
- Roads and Maritime's *Procedure for Aboriginal Cultural Heritage Consultation and Investigation*
- RTA *Environmental Impact Assessment Guidelines*.

This procedure replaces:

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

Other relevant reading material:

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

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

## 10. List of appendices

The following appendices are included to support this procedure.

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

## Appendix A

### Identifying unexpected heritage items

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



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



**Wood stave water pipe**



**Tram tracks**



**Retaining wall**



**Cistern**

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





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



**Alignment pin**



**Survey tree**



**Alignment stone**



**Survey tree**



**Milestone**



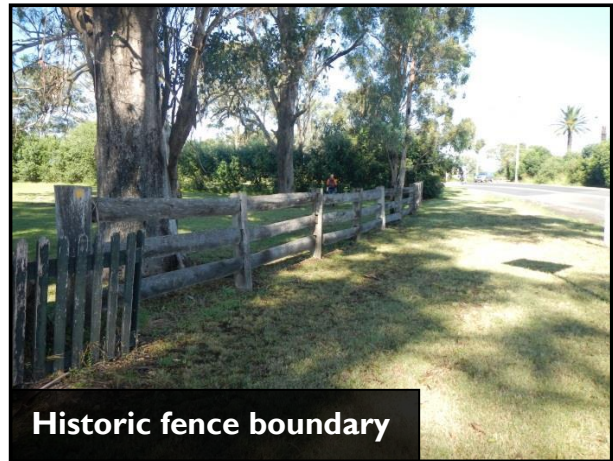
**Top left hand corner continuing clockwise:** Alignment Pin (Great Western Highway, Wentworth Falls); Survey tree (MR7, Albury); Survey tree (Kidman Way, Darlington Point, Murrumbidgee); Survey tree (Cobb Highway, Deniliquin); Milestone (Great Western Highway, Kingswood, Penrith); Alignment Stone (near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



**Remnant Bridge Piers**



**Mine Shaft**



**Historic fence boundary**



**Dairy shed**

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



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

## **Appendix B**

Unexpected heritage item recording form 418



**This form is to be filled in by a project manager (or their delegate) or a team leader – Road and Maintenance Division, on the discovery of an unexpected heritage item during construction or maintenance works.**

<b>Date:</b>		<b>Recorded by:</b> (Include name and position)	
<b>Project name:</b>			
<b>Description of works being undertaken</b> (eg Removal of failed pavement by excavation and pouring concrete slabs in 1m x 1m replacement sections).			
<b>Description of exact location of item</b> (eg Within the road formation on Parramatta Road, east bound lane, at the corner of Johnston Street, Annandale, Sydney).			
<b>Description of item found</b> (What type of item is it likely to be? Tick the relevant boxes).			
<b>A. A relic</b>	<input type="checkbox"/>	A 'relic' is evidence of a past human activity relating to the settlement of NSW with local or state heritage significance. A relic might include bottles, utensils, plates, cups, household items, tools, implements, and similar items.	
<b>B. A 'work, building or structure'</b>	<input type="checkbox"/>	A 'work' can generally be defined as a form infrastructure such as tram tracks, a culvert, road base, a bridge pier, kerbing, and similar items.	
<b>C. An Aboriginal object</b>	<input type="checkbox"/>	An 'Aboriginal object' may include stone tools, stone flakes, shell middens, rock art, scarred trees and human bones.	
<b>D. Bone</b>	<input type="checkbox"/>	Bones can either be human or animal remains. <b>Remember that you must contact the local police immediately by telephone if you are <u>certain</u> that the bone(s) are <u>human remains</u>.</b>	
<b>E. Other</b>	<input type="checkbox"/>		

<p><b>Provide short description of item</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).</p>	
<p><b>Sketch</b> (Provide a sketch of the item's general location in relation to other road features so its approximate location can be mapped without having to re-excavate it. In addition, please include details of the location and direction of any photographs of the item taken).</p>	
<p><b>Action taken</b> (Tick either A or B)</p>	
<p><b>A. Unexpected item <b>would not</b> be further impacted on by works</b> <input type="checkbox"/></p>	
<p><b>Describe how works would avoid impact on the item.</b> (eg The tram tracks will be left <i>in situ</i>, and recovered with road paving).</p>	
<p><b>B. Unexpected item <b>would be</b> further impacted on by works</b> <input type="checkbox"/></p>	
<p><b>Describe how works would impact on the item.</b> (eg Milling is required to be continued to 200 mm depth to ensure road pavement requirements are met. Tram tracks will need to be removed).</p>	
<p><b>Important:</b> It is a statutory offence to disturb Aboriginal objects and historic relics (including human remains) without an approval. All works affecting objects and relics must cease until an approval is sought. Approvals may also be required to impact on certain works. Contact your regional environment staff for guidance.</p>	
<p><b>Project manager / works supervisor signature</b></p>	

## Appendix C

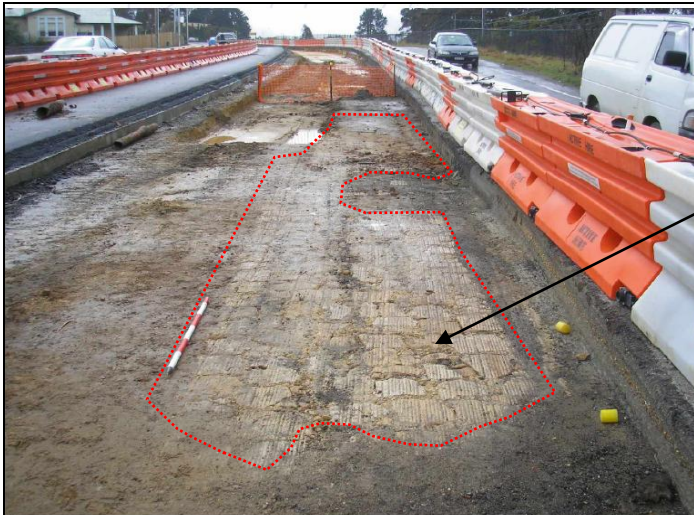
### Photographing unexpected heritage items

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

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

#### Context and detailed photographs

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



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

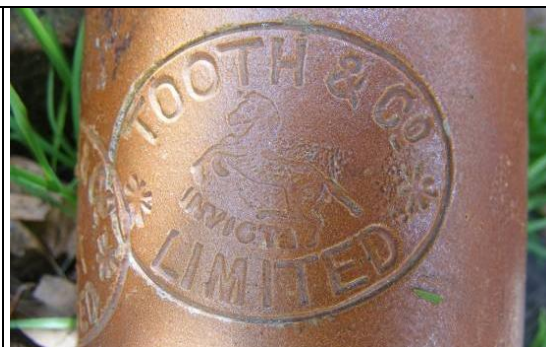
**Figure 1:** Telford road uncovered on the Great Western Highway (Leura) in 2008.

#### Photographing distinguishing features

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



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



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



## Photographing bones

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



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



**Figure 6:** Bone covered in sediment

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



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



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

## Appendix D

### Key environmental contacts

Hunter region	Environmental Manager (Hunter)	4924 0440
	Aboriginal Cultural Heritage Advisor	4924 0383
Northern region	Environment Manager (North)	6640 1072
	Aboriginal Cultural Heritage Advisor	6604 9305
Southern region	Environmental Manager (South)	6492 9515
	Aboriginal Cultural Heritage Advisor	4221 2767
South West region	Environment Manager (South West)	6937 1634
	Aboriginal Cultural Heritage Advisor	6937 1647
Sydney region	Environment Manager (Sydney)	8849 2516
	Aboriginal Cultural Heritage Advisor	8849 2583
Western region	Environment Manager (West)	6861 1628
	Aboriginal Cultural Heritage Advisor	6861 1658
Pacific Highway Office	Environment Manager	6640 1375
Regional Maintenance Delivery	Environment Manager	9598 7721
Environment Branch	Senior Environmental Specialist (Heritage)	8588 5754

### Heritage Regulators

Heritage Division Office of Environment and Heritage Locked Bag 5020 Parramatta NSW 2124 Phone: (02) 9873 8500	Department of the Environment (Clth) GPO Box 787 Canberra ACT 2601 Phone: (02) 6274 1111
Office of Environment and Heritage (Sydney Metropolitan) Planning and Aboriginal Heritage Section PO Box 668 Parramatta NSW 2124 Phone: (02) 9995 5000	Office of Environment and Heritage (North Eastern NSW) Planning and Aboriginal Heritage Section Locked Bag 914 Coffs Harbour NSW 2450 Phone: (02) 6651 5946
Office of Environment and Heritage (North Western NSW) Environment and Conservation Programs PO Box 2111 Dubbo NSW 2830 Phone: (02) 6883 5330	Office of Environment and Heritage (Southern NSW) Landscape and Aboriginal Heritage Protection Section PO Box 733 Queanbeyan NSW 2620 Phone: (02) 6229 7188

### Project-Specific Contacts

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

# Appendix E

## Uncovering bones

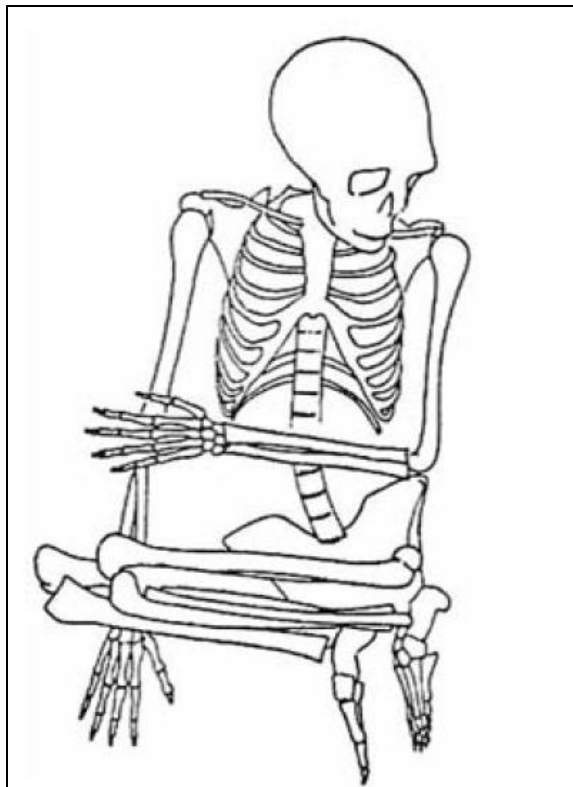
**Hand icon** All matters relating to uncovering bones and RMS' human remains notification obligations should involve RMS regional environment and heritage staff. They will guide Project Managers through occurrences of uncovering bones.

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

### 1. First uncovering bones

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

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



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



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

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

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

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

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

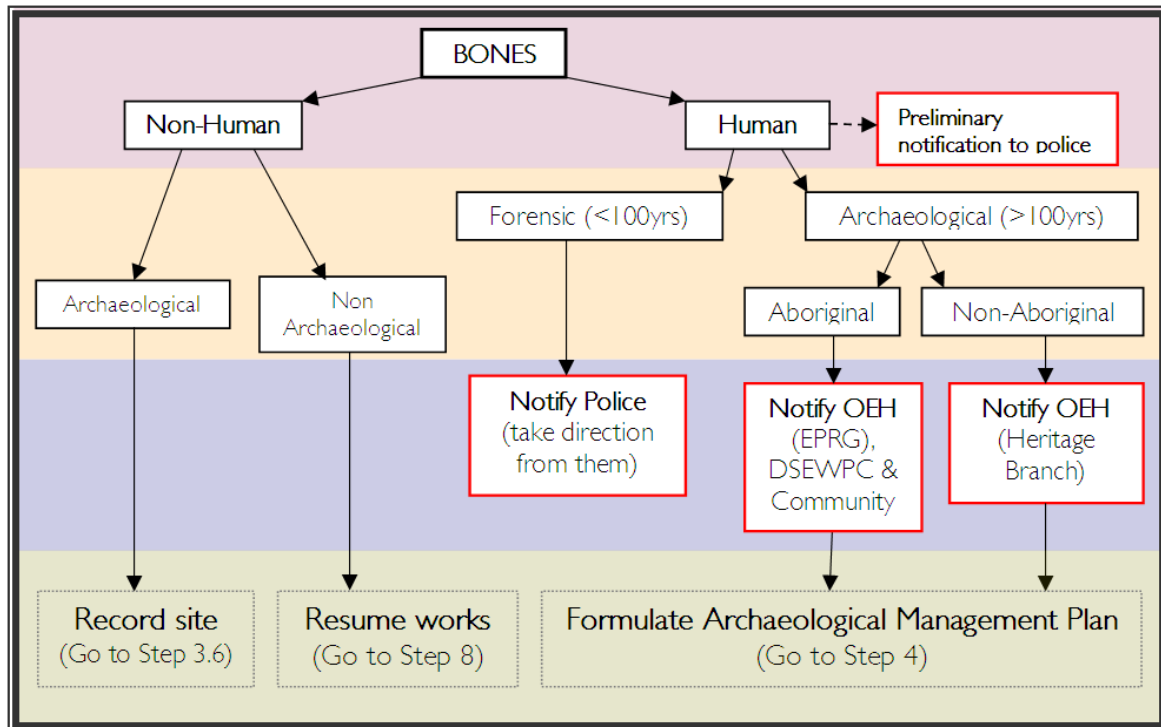
The OEH and the RMS Aboriginal Cultural Heritage Advisor (ACHA) must be notified immediately. The ACHA must contact and inform the relevant Aboriginal community stakeholders who may request to be present on site. Relevant stakeholders are determined by the RTA's *Procedure for Aboriginal Cultural Heritage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

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

#### Action

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

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



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

### 3. Additional considerations and requirements

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

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

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

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

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

## Appendix F

### Archaeological/heritage advice checklist

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

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

#### Roads & Maritime Services

consulted on this issue).		
• Control Agreement for Aboriginal objects.	Yes/No	
<b>Program and budget</b>		
• Time estimate associated with archaeological or heritage conservation work.		
• Total cost of archaeological/heritage work.		



## **Appendix G**

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 D**]

[Select and type salutation and name],

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

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

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

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

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

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

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

The proposed approach will be further developed in consultation with a nominated Office of Environment and Heritage staff member.

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

Yours sincerely

[Sender name and position]

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

# **Appendix B - Map of AHIMS sites within proximity of Project footprint**

**EXISTING FEATURES**

- Waterway
- Arterial road
- Railway
- Subarterial road
- - Light rail
- Suburb boundary



**Indicative Tunnel Alignment**

**ABORIGINAL HERITAGE**

- Registered AHIMS site
- Study area

**LEGEND**

- |   |  |  |  |  |  |  |   |
|---|--|--|--|--|--|--|---|
| <b>M4 East</b>                                    | <b>New M5</b>                                    | <b>M4-M5 Link</b>                                | <b>Mainline tunnel</b>                       | <b>Rozelle interchange</b>                       | <b>Iron Cove Link</b>                              | <b>Proposed future WHTBL connections (civil construction only)</b> | <b>Project features</b>                                 |
| <span style="color: green;">—</span> Surface road | <span style="color: blue;">—</span> Surface road | <span style="color: blue;">—</span> Surface road | <span style="color: blue;">- -</span> Tunnel | <span style="color: blue;">—</span> Surface road | <span style="color: purple;">—</span> Surface road | <span style="color: purple;">- -</span> Tunnel                     | <span style="color: blue;">◆</span> Tunnel portal       |
| <span style="color: green;">- -</span> Tunnel     | <span style="color: blue;">- -</span> Tunnel     | <span style="color: blue;">- -</span> Tunnel     | <span style="color: blue;">- -</span> Tunnel | <span style="color: blue;">- -</span> Tunnel     | <span style="color: purple;">- -</span> Tunnel     | <span style="color: purple;">- -</span> Tunnel                     | <span style="color: blue;">◊</span> Tunnel extent       |
|   |  |  |  |  |  |  | <span style="color: yellow;">◆</span> Tunnel connection |

