

St Philip's Christian Education Foundation Ltd

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St Philip's Christian College Cessnock

Aboriginal Cultural Heritage Construction Management Plan

LGA: Cessnock

11 December 2024

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Report No: J202157 ACHCMP

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Date: 11 December 2024

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EXECUTIVE SUMMARY

MCH have been engaged by Barr Planning on behalf of St Philip's Christian Education Foundation Ltd to prepare to prepare an Aboriginal Cultural Heritage Construction Management Plan (ACHCMP) for the State Significant Development Application for additions and additional to buildings and the use of land as an educational establishment at St Philip's Christian College Cessnock located at Nulkaba.

This ACHCMP applies to the alterations and additions to St Philip's Christian College Cessnock ("the Project Area"). The project area (approximately 37.05 hectares) is defined by the proponent and is located on the corner of Wine Country Drive and Lomas Lane, Nulkaba. Including Lot 1 DP126765, Lot 1 DP744377 and Lot 518 DP837571 (all located on the western side of Black Creek),

This document has been developed to manage Aboriginal Cultural Heritage within the proposed development area. This document is intended to provide guidance for the management of Aboriginal cultural heritage within the Project Area prior to and during construction works until the practical completion of the works. This ACHCMP applies to the entire Project Area as outlined in Section 1. This ACHCMP also outlines the legislative context of the project in respect to heritage (Section 2) and the Aboriginal consultation which has been undertaken. For the practical management of Aboriginal cultural heritage, a clear outline of roles and responsibilities is provided along with operational flow charts to be used by Land Managers and contractors who may need to access, or conduct works, within the Project Area.

This ACHCMP has been produced in consultation with the Registered Aboriginal Parties (RAPs) that have expressed an interest in the project and Heritage NSW. Aboriginal participation has been requested and implemented from the earliest stages of development of this ACHCMP (Section 2 and Appendix A). Additionally, prior to the finalisation of this document, RAPs were invited to provide input/comment on cultural heritage issues associated with the Project Area, and the heritage management protocols outlined in this document.

Section 3 provides detailed information regarding the ten AHIMS sites and four PADs located within the Project Area as follows:

AHIMS 37-6-2096 - SPC 1 - a single mudstone proximal flake located on a 20 m² exposure on the western bank of Black Creek. The artefact was approximately 3 m from the bank edge.

AHIMS 37-6-2097 - SPC 2 - the artefact scatter, comprising 16 artefacts, was identified on the western bank of a billabong within a first-order drainage line that intersects the project area near Black Creek in the southeastern section. The site features two concentrations: the primary concentration consists of 14 artefacts located adjacent to the billabong, while the secondary concentration contains two artefacts situated approximately 20 meters south along the vehicle track that crosses the drainage line south of the billabong.

AHIMS 37-6-2098 - SPC 3 - an isolated indurated mudstone broken flake located within a small exposure (25 m²) on the western side of a first-order drainage line.

AHIMS 37-6-2099 - SPC 4 - two red silcrete broken flakes located on top of a large dam wall in the central southern section of the project area.

AHIMS 37-6-2100 - SPC 5 - artefact scatter consisted of 10 artefacts located in the south western corner of the project area on the flats and adjacent to a 1st order drainage line at the base of the foot-slope where the farm buildings were located.

AHIMS 37-6-2102 - SPC 6 - not a site

AHIMS 37-6-2103 - SPC 7 - isolated mudstone broken flake, was located on a small 0.5 m² exposure next to a vehicle track on a gentle lower slope on the western side of two minor drainage line confluences.

AHIMS 37-6-2104 - SPC 8 - artefact scatter, consisting of 15 artefacts eroding out of the bank of two small first-order watercourses, extended approximately 30 metres along the creek bank, straddling the confluence below the dam wall located approximately 20-50 metres north east of the dam wall.

AHIMS 37-6-2105 - SPC 9 – artefact scatter comprises 18 stone artefacts and is located on a raised soil levee bank, approximately 5 meters wide, adjacent to Black Creek within the oxbow loop. Specifically, it is situated just north of the southern arm of the oxbow. The site features two clusters: the primary cluster spans 20 x 5 meters, while a single artefact is located approximately 10-15 meters south along a vehicle track in riparian vegetation.

AHIMS 37-6-2106 - SPC 10 – artefact scatter comprises three silcrete artefacts: a medial flake, a proximal flake, and a flaked piece. It is situated approximately 60 meters north of SPC9 on a raised soil levee adjacent to Black Creek. The area features a three-meter-wide middle terrace between the upper creek flats and the creek channel. One artefact is found on a soil exposure atop the levee, while the other two are eroding from the creek bank, located approximately 0.2 to 0.5 meters below the bank's edge.

The artefact scatters within the Project Area (37-6-2097, 37-6-2009, 37-6-2100, 37-6-2104, 37-6-2105 and 37-6-2106) were assessed as being of moderate scientific significance whilst the three isolated finds (37-6-2096, 37-6-2098 and 37-6-2013) were assessed as being of low scientific significance. The RAPs did not provide a response or cultural significance report to indicate the cultural significance of the project area.

AHIMS 37-6-2101 – St Phillips PAD1 - encompasses the western bank of Black Creek (in the northern section), the western and northern banks of the oxbow to a width of 50 metres, and included the adjacent lower slope.

AHIMS 37-6-2107 - St Phillips PAD 2 - consists of the banks of the oxbow inside the loop to a width of 50 metres.

AHIMS 37-6-2108 - St Phillips PAD 3 - includes the southern side of the oxbow and part of the western bank of Black Creek to a width of 50 metres.

AHIMS 37-6-2109 - St Phillips PAD 4 - includes the section of middle drainage line upstream (south) of the dam to a width of 50 metres either side.

Section 4 outlines the heritage management protocols which must be implemented and it is a requirement of this ACHCMP that the heritage management protocols are followed.

Unexpected Finds Procedures (Section 5 and Appendix B) have been developed to provide guidance should Aboriginal objects/material be identified, or if human skeletal remains are uncovered during construction. These protocols must be followed if unexpected Aboriginal objects/material or skeletal remains are uncovered during works.

Section 6 provides protocols for compliance, dispute resolution and review procedures, Section 7 outlines the roles and responsibilities for the implementation of this ACHCMP and Section 8 provides the conclusion to the ACHCMP.

GLOSSARY

Aboriginal Cultural Heritage Values: traditional values of Aboriginal people, handed down in spiritual beliefs, stories and community practices and may include local plant and animal species, places that are important and ways of showing respect for other people.

Aboriginal Place: are locations that have been recognised by the Minister for Climate Change and the Environment (and gazetted under the *National Parks and Wildlife Act 1974*) as having special cultural significance to the Aboriginal community. An Aboriginal Place may or may not include archaeological materials.

Harm: is defined as an act that may destroy, deface or damage an Aboriginal object or place. In relation to an object, this means the movement or removal of an object from the land in which it has been situated

Spiritual Significance: the importance of a place in the landscape that is valued by Aboriginal people because it is part of their spiritual culture. Examples include places associated with totem species or places that are the subject of traditional cultural stories.

Traditional Aboriginal Owners: Aboriginal people who are listed in the Register of Aboriginal owners pursuant to Division 3 of the *Aboriginal Land Register Act (1983)*. The Registrar must give priority to registering Aboriginal people for lands listed in Schedule 14 of the *National Parks and Wildlife Act 1974* or land subject to a claim under 36A of the *Aboriginal Land Rights Act 1983*.

Traditional Knowledge: Information about the roles, responsibilities and practices set out in the cultural beliefs of the Aboriginal community. Only certain individuals have traditional knowledge and different aspects of traditional knowledge may be known by different people, e.g. information about men's initiation sites and practices, women's sites, special pathways, proper responsibilities of people fishing or gathering food for the community, ways of sharing and looking after others, etc.

ACRONYMS

ACHCMP	Aboriginal Cultural Heritage Management Plan
AHIMS	Aboriginal Heritage Information Management System.
AHIP	Aboriginal Heritage Impact Permit
RAPs	Registered Aboriginal Party

1 INTRODUCTION

1.1 INTRODUCTION

MCH have been engaged by Barr Planning on behalf of St Philip’s Christian Education Foundation Ltd to prepare to prepare an Aboriginal Cultural Heritage Construction Management Plan (ACHCMP) for the State Significant Development Application for alterations and additions to St Philip’s Christian College Cessnock located at Nulkaba.

Following consultation with Heritage NSW, the Registered Aboriginal Parties (RAPs) who registered for the project during the 2021 archaeological assessment (MCH 2021) were to be consulted for this ACHCMP. Undertaking new consultation for this ACHCMP was not required as there were no additional archaeological works undertaken for the development of the ACHCMP.

1.2 OVERVIEW

This ACHCMP applies to the alterations and additions to St Philip’s Christian College Cessnock (“the Project Area”). The project area (approximately 37.05 hectares) is defined by the proponent and is located on the corner of Wine Country Drive and Lomas Lane, Nulkaba. Including Lot 1 DP126765, Lot 1 DP744377 and Lot 518 DP837571 (all located on the western side of Black Creek), the location and extent of the project area is illustrated in Figures 1.2 and 1.2.

Figure 1.1 Location of the project area

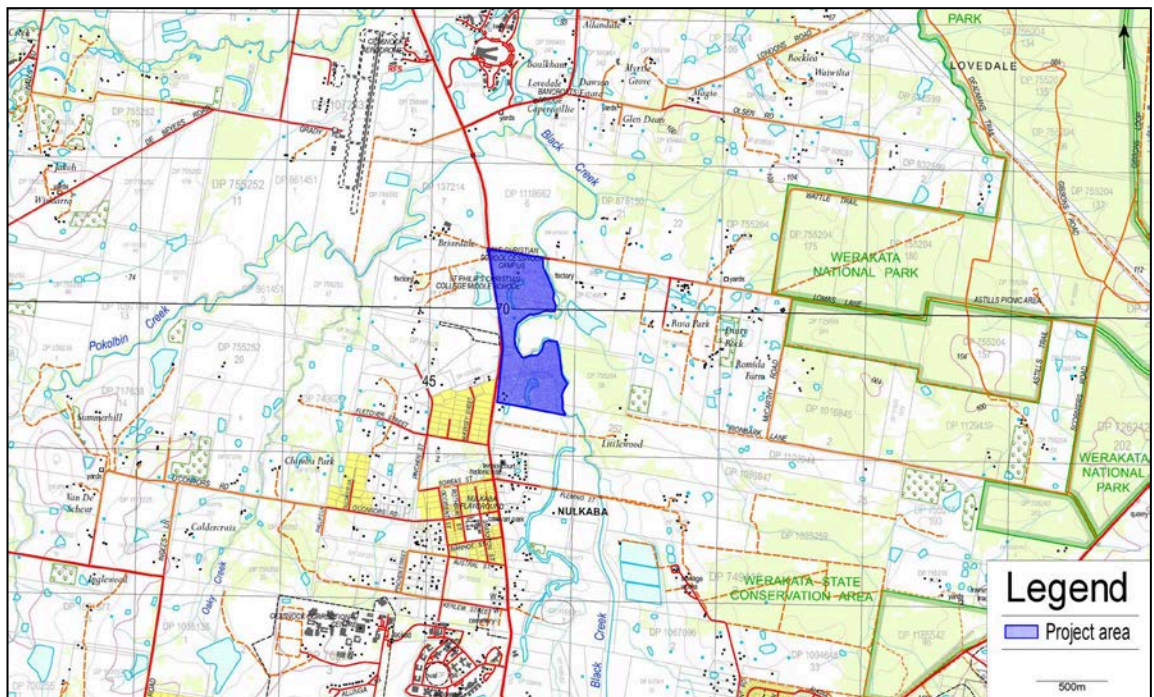


Figure 1.2 Aerial photograph of the project area



This ACHCMP remains the heritage management document for the entire Project Area (Figure 1.1) until such time as the practical completion of the development.

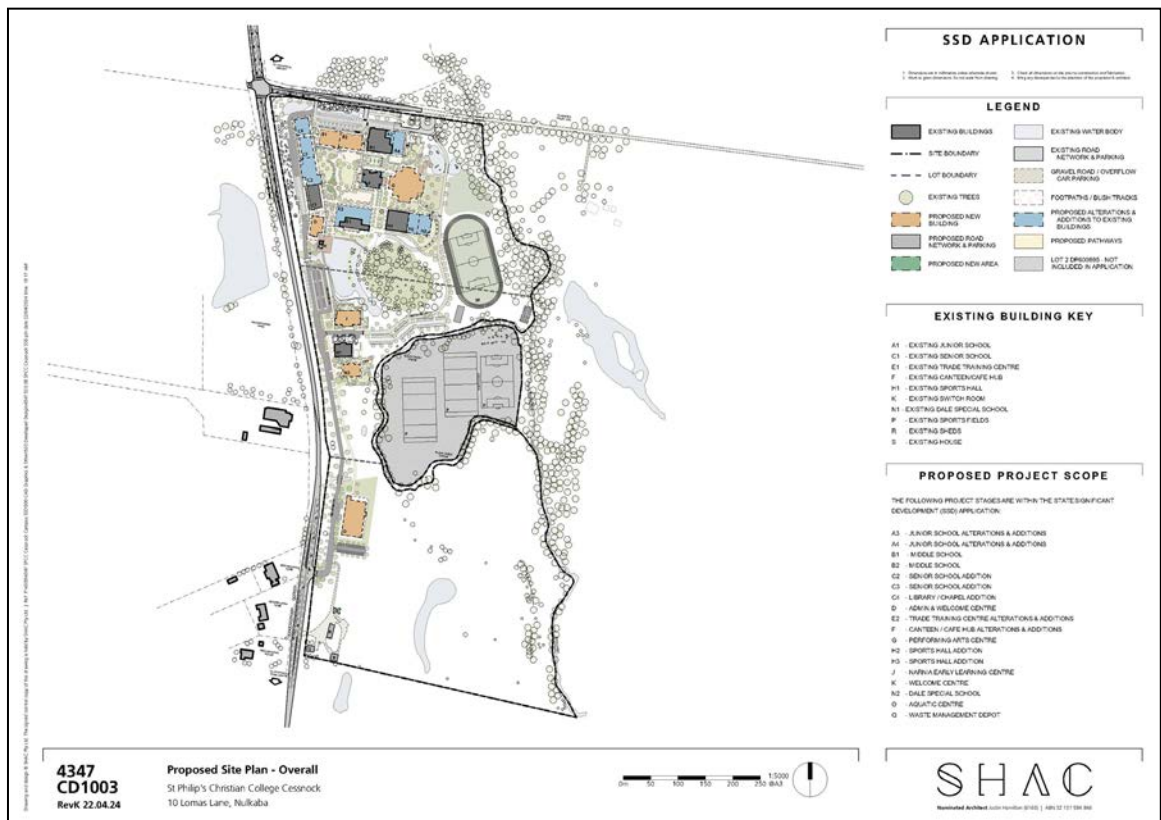
1.3 PURPOSE

This document is intended to provide guidance for the management of Aboriginal cultural heritage within the Project Area for all activities prior to works commencing, during works and after works are complete. For the practical management of Aboriginal cultural heritage a clear outline of roles and responsibilities is provided in this document to be used by land managers and contractors who may need to access, or conduct works within the Project Area.

1.4 PROJECT INTENDED LAND USE

The project is for alterations and additions to St Phillips Christian College Cessnock Campus including additions to the junior, middle and senior school buildings, admin and welcome centre building, library, trade training centre, canteen/café hub, performing arts centre, sports hall, outdoor chapel, Narnia, café, boardwalks, D.A.L.E and the aquatic centre (Figure 1.3).

Figure 1.3 Overall Plan



1.5 LEGISLATIVE CONTEXT

The following overview of the legislative framework, is provided solely for information purposes for the client, and should not be interpreted as legal advice. MCH will not be liable for any actions taken by any person, body or group as a result of this general overview and MCH recommends that specific legal advice be obtained from a qualified legal practitioner prior to any action being taken as a result of the general summary below.

Land managers are required to consider the affects of their activities or proposed development on the environment under several pieces of legislation. Although there are a number of Acts and regulations protecting Aboriginal heritage, including places, sites and objects, within NSW, the three main ones include:

- National Parks and Wildlife Act (1974, as amended)
- National Parks and Wildlife Regulation (2009)
- Environmental Planning and Assessment Act (1979)

1.6 NATIONAL PARKS AND WILDLIFE ACT (1974, AS AMENDED)

The National Parks and Wildlife Act (1974), Amended 2010, is the primary legislation for the protection of Aboriginal cultural heritage in New South Wales. The NPW Act protects Aboriginal heritage (places, sites and objects) within NSW and the Protection of Aboriginal heritage is outlined in s86 of the Act, as follows:

- “A person must not harm or desecrate an object that the person knows is an Aboriginal object” s86(1)
- “A person must not harm an Aboriginal object” s86(2)
- “A person must not harm or desecrate an Aboriginal place” s86(4)

Penalties apply for harming an Aboriginal object, site or place. The penalty for knowingly harming an Aboriginal object (s86[1]) and/or an Aboriginal place (s86[4]) is up to \$550,000 for an individual and/or imprisonment for 2 years; and in the case of a corporation the penalty is up to \$1.1 million. The penalty for a strict liability offence (s86[2]) is up to \$110,000 for an individual and \$220,000 for a corporation.

Harm under the National Parks and Wildlife Act (1974, as amended) is defined as any act that; destroys defaces or damages the object, moves the object from the land on which it has been situated, causes or permits the object to be harmed. However, it is a defence from prosecution if the proponent can demonstrate that;

- 1) harm was authorised under an Aboriginal Heritage Impact Permit (AHIP) (and the permit was properly followed), or
- 2) the proponent exercised due diligence in respect to Aboriginal heritage.

The ‘due diligence’ defence (s87[2]), states that if a person or company has applied due diligence to determine that no Aboriginal object, site or place was likely to be harmed as a result of the activities proposed for the Project Area, then liability from prosecution under the NPW Act 1974 will be removed or mitigated if it later transpires that an Aboriginal object, site or place was harmed. If any Aboriginal objects are identified during the activity, then works should cease in that area and Heritage NSW notified (DECCW 2010:13). The due diligence defence does not authorise continuing harm.

1.7 NATIONAL PARKS AND WILDLIFE REGULATION (2009)

The National Parks and Wildlife Regulation 2009 provides a framework for undertaking activities and exercising due diligence in respect to Aboriginal heritage. The Regulation (2009) recognises various due diligence codes of practice, including the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW which is pertinent to this report, but it also outlines procedures for Aboriginal Heritage Impact Permit (AHIP) applications and Aboriginal Cultural Heritage Consultation Requirements (ACHCRs); amongst other regulatory processes.

1.8 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 (EP&A ACT)

The EP&A Act establishes the statutory framework for urban and regional planning in NSW, detailing how development is assessed in accordance with those laws and providing the approval pathways for development. The Minister for Planning and Public Spaces is the minister responsible for the EP&A Act, and is supported by State government authorities and local councils in its implementation. The EP&A Act comprises three key Parts to guide development and planning processes. These parts are summarised below:

- Part 3 of the EP&A Act serves a strategic planning function, dealing with the preparation of local and regional strategic plans, the making of environmental planning instruments (EPI) (that is, State Environmental Planning Policies (SEPP) and Local Environmental Plans (LEP), and the preparation of Development Control Plans (DCP).

- Part 4 of the EP&A Act establishes the assessment framework for development that requires consent, containing provisions for local development, regionally significant development (RSD), designated development and State significant development (SSD). The consent authority for determining development applications made under Part 4 is typically the local council; however, for more larger scale, contentious or environmentally sensitive projects the consent authority may be the Minister for Planning or a planning panel.
- Part 5 of the EP&A Act deals with the environmental assessment of infrastructure projects (or 'activities') that do not require development consent. Whilst development consent is not required, activities under Part 5 are still required to undergo environmental assessment by a determining authority (usually a public authority) to determine whether a proposed activity will have a significant impact. Part 5 activities are typically supported by a Review of Environmental Factors (REF); however, in circumstances where a significant impact is determined or a proposed activity is classified as State Significant Infrastructure (SSI) and critical SSI, an Environmental Impact Statement (EIS) is required. For SSI and critical SSI, the Minister has the authority for issuing approval.

The applicable approval pathway for development under Part 4 and Part 5 is determined by reference to the relevant EPIs, that are established under Part 3. It is noted that there are several other Parts of the EP&A Act pertaining to certification, infrastructure contributions, reviews and appeal rights, and implementation and enforcement of the Act; however, these are less critical in terms of the assessment and management of Aboriginal heritage, and as such, not covered above.

This project falls under Part 4 (Division 4.7 SSD).

2 CONSULTATION

This ACHCMP has been produced in consultation with the RAPs as identified throughout the Aboriginal Cultural Heritage Consultation Requirements for proponents (ACHCRs), (DECCW 2010, during the earlier assessment (MCH 2021 and since update to 2024). RAPs were invited to provide input/comment throughout the project on any cultural heritage issues associated with the local area, the Project Area, and the ACHCMP outlined in this document.

2.1 ABORIGINAL CULTURAL HERITAGE CONSULTATION REQUIREMENTS (ACHCRS)

The ACHCRs include a four staged approach of Aboriginal consultation with specific timeframes for the various components throughout the process. This process was completed as part of the assessment undertaken by MCH in 2021 (details of full consultation can be found in the 2021 assessment report, updated in 2024). The RAPs are listed in Table 2.1.

Table 2.1 List of RAPs

Stakeholder/organization	Contact
Culturally Aware	Tracey Skeen
Didge Ngunawal Clan	Paul Boyd & Lilly Carroll
Ungooroo Aboriginal Corporation	Alan Paget
Widescope Indigenous Group	Steven Hickey
Indigenous Services Pty Ltd	Carolyn Hickey

The RAPs were provided a copy of the draft ACHCMP and asked if they would like a meeting to discuss the document and project or if they would like to respond in writing.

A copy of the draft ACHCMP was forwarded to all RAPs for their review and were asked to provide their comments no later than 11th December 2024. MCH received no comments from the RAPs and a final copy of the ACHCMP was forwarded to all RAPs.

2.2 PROTOCOL FOR CONTINUED ABORIGINAL CONSULTATION

Subject to any modifications initiated by the RAPs (listed in Section 3.1), the following protocol will be followed with respect to consultation.

- The Land Manager will advise the RAPs of the date of planned commencement of activities within the Project Area;
- The land Manager will contact the RAPs every 6 months to advise of the project's progress and all consultation will be documented;

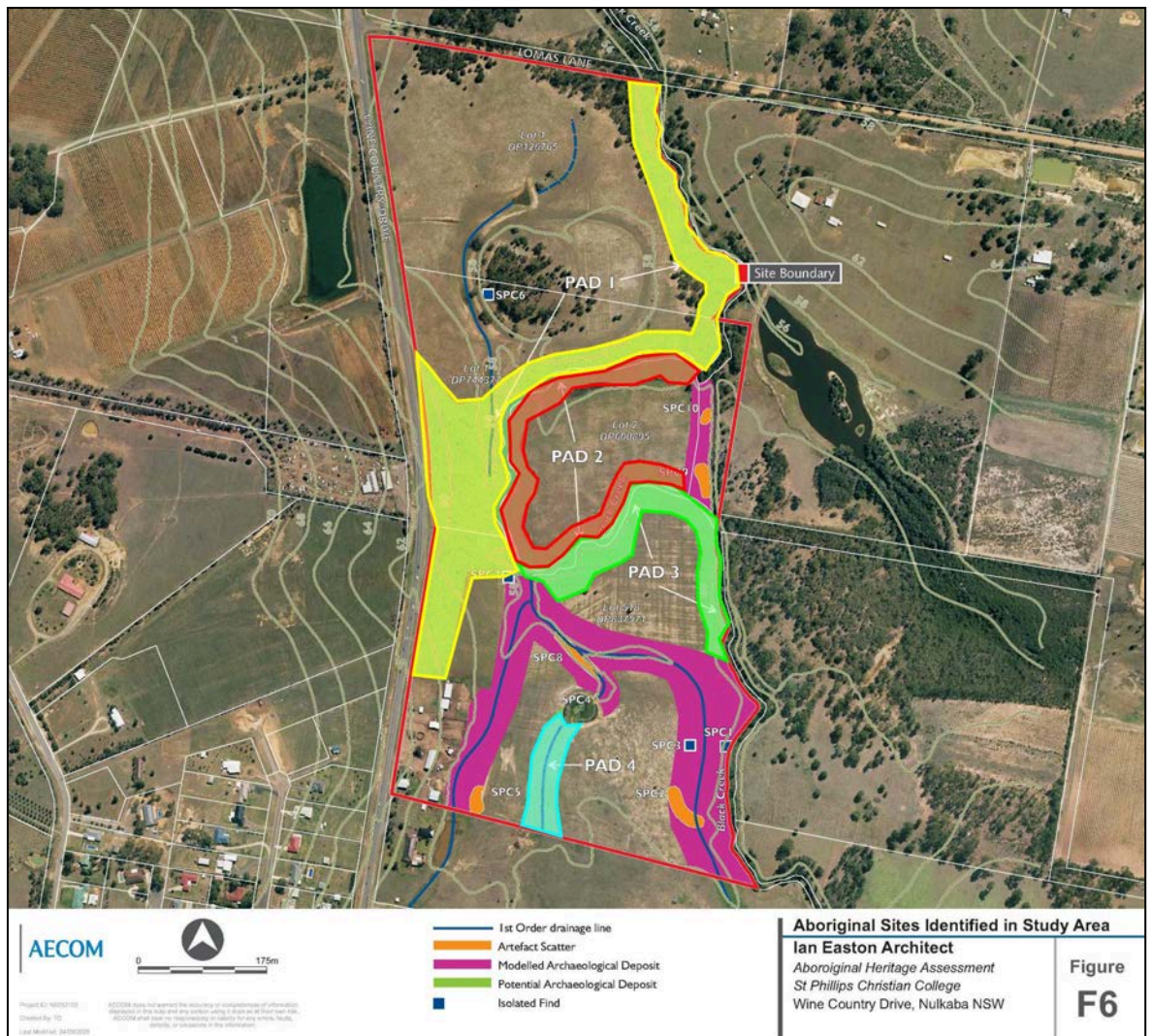
- In the event that any possible archaeological sites are identified during construction works, the Land Manager will notify the Heritage Consultant and RAPs following the Unexpected Finds Procedure in Appendix B;
- The effectiveness and value of the consultation will be periodically reviewed with the RAPs. In the event there is agreement that the approach to consultation needs to change, the changed procedures would be documented in the ACHCMP.

3 REGISTERED AHIMS SITES IN THE PROJECT AREA

3.1 SITES IN THE PROJECT AREA

Ten archaeological sites, four PADs and an area of modelled archaeological deposits have been previously identified within the project area (Figure 3.1 – adapted by MCH from AECOM 2009 report to delineate the PAD areas shows the site boundary to include Lot 1 and 2 of DP 600895 which are not subject to the current SSDA). These are discussed below.

Figure 3.1 Location of sites, PADs and modelled area of archaeological deposits (adapted from AECOM 2009)



3.1.1 AHIMS SITES

- AHIMS 37-6-2096 - SPC 1 (MGA Coordinates: 345916E 6369449N)

Site SPC 1 consists of a single mudstone proximal flake measuring 16 x 13 x 7 mm. The flake had a prominent bulb on the ventral side and a negative flake scar on the dorsal side. The site was located on a 20 m² exposure on the western bank of Black Creek. Along this section, the bank was near vertical and 2 metres in depth and a slight lip (levee) was evident on the bank edge. The artefact was approximately 3 m from the bank edge.

- AHIMS 37-6-2097 - SPC 2 (MGA Coordinates: 345845E 6369387N)

This artefact scatter (16 artefacts) was located on the western side of a billabong within a first-order drainage line that enters the project area adjacent to Black Creek in the south eastern corner of the project area. The site was located on a slight rise that runs roughly parallel to the drainage line and consists of an exposure (20 x 5 m with) with approximately 20% visibility at the time of its recording. The site consists of two concentrations, the largest containing 14 artefacts adjacent to the billabong, and the second containing two artefacts approximately 20 m south on the vehicle track that crossed the drainage line immediately south of the billabong.

Site SPC 2 consisted of 16 stone artefacts consisting of three complete flakes, 12 broken flakes (including proximal and distal flakes) and one core. Artefact raw materials included silcrete and indurated mudstone in roughly equal numbers, with one artefact manufactured from quartzite.

- AHIMS 37-6-2098 - SPC 3 (MGA Coordinates: 345866E 6369451N)

Site SPC 3 was an isolated indurated mudstone broken flake measuring 25 x 13 x 3 mm located within a small exposure (25 m²) on the western side of the same drainage line as SPC 2 (approximately 50 metres west of SPC 1 and 70 metres north of SPC 2).

- AHIMS 37-6-2099 - SPC 4 (MGA Coordinates: 345740E 6369512N)

Site SPC 4 consists of two red silcrete broken flakes located on top of a large dam wall in the central southern section of the project area. The dam is located on a minor first-order drainage line that enters the study area from the southern boundary, and flows northwards to the Black Creek ox-bow. Visible within an exposure of approximately 30 x 2 m on the north east corner of the dam wall, this site was considered to be part of the same archaeological distribution as site SPC8.

- AHIMS 37-6-2100 - SPC 5 (MGA Coordinates: 345589E 6369385N)

This artefact scatter consisted of 10 artefacts including two flakes, a core and seven broken flakes located in the south western corner of the project area on the flats and adjacent to a 1st order drainage line at the base of the foot-slope where the farm buildings were located. Located on a 200 m² area of sheetwash erosion, the artefacts were distributed across an area of approximately 20 x 10 metres. Raw materials included mostly silcrete, with a lesser occurrence of indurated mudstone.

- AHIMS 37-6-2102 - SPC 6 (MGA Coordinates: 345577E 6370065N) Not a site

This isolated find, a small mudstone broken core, (measuring 18 x 20 x 8 mm) was located on a raised soil embankment running parallel to, and alongside the inner edge of the "totting track" on the west side of the remnant vegetation patch. This area had been heavily disturbed by the construction of the track and it was considered unlikely that the object is associated with any in situ subsurface deposit. The AHIMS results show that this is not a site.

- AHIMS 37-6-2103 - SPC 7 (MGA Coordinates: 345629E 6369656N)

This small mudstone broken flake, (measuring 32 x 27 x 10 mm) was located on a small 0.5 m² exposure next to a vehicle track on a gentle lower slope on the western side of two minor drainage line confluences.

- AHIMS 37-6-2104 - SPC 8 (MGA Coordinates: 345692E 6369589N)

This artefact scatter, consisting of 15 artefacts eroding out of the bank of two small first-order watercourses, extended approximately 30 metres along the creek bank, straddling the confluence below the dam wall located approximately 20-50 metres north east of the dam wall associated with SPC4 and was considered to be part of the same archaeological distribution as SPC4.

The artefacts were eroding out of the western bank, which was slightly higher than the bank on the eastern side and a few artefacts also occurred in the creek bed, but were likely to have eroded from the creek bank. Artefacts included flaked pieces, flakes and two cores manufactured predominantly from silcrete, followed by a lesser number of mudstone artefacts.

- AHIMS 37-6-2105 - SPC 9 (MGA Coordinates: 345871E 6369813N)

Consisting of 18 stone artefacts, this site was located on a raised soil levee bank (approximately 5 metres wide) running parallel to, and alongside Black Creek, inside the loop formed by the oxbow. It was situated immediately north of the southern arm of the oxbow. The site included two clusters, the main within a 20 x 5 metre exposure and a single artefact located approximately 10-15 metres south on a vehicle track amongst riparian vegetation.

The majority of artefacts were made from mudstone and included one flake, one distal flake, two medial flakes and 12 flaked pieces. Silcrete artefacts include two proximal flakes.

- AHIMS 37-6-2106 - SPC 10 (MGA Coordinates: 345877E 6369879N)

Site SPC 10 consisted of three silcrete artefacts (a medial flake, a proximal flake and a flaked Piece) and was located approximately 60 metres north of SPC9 on the same raised soil levee alongside Black Creek. At this location there was a three-metre-wide middle terrace between the upper creek flats and the creek channel and one of the artefacts was on a soil exposure on top of the levee, whilst the other two artefacts are eroding out of the creek bank (approximately 0.2 to 0.5 metres below the lip of the bank suggesting there is archaeological deposit in the alluvial topsoils at this location to a depth of around 0.5 metres). This site was considered to be part of the same archaeological distribution as SPC9.

3.1.2 PADS

- AHIMS 37-6-2101 – St Philips PAD1

PAD 1 encompassed the western bank of Black Creek (in the northern section), the western and northern banks of the oxbow to a width of 50 metres, and included the adjacent lower slope. Thick vegetation hampered ground surface visibility along Black Creek during the initial survey by AECOM, but the gentle banks suggested a high potential for archaeological deposit to occur. Additionally, the lower slope along Wine Country Drive adjacent to the oxbow offered an elevated position in close proximity to an ephemeral water source.

- AHIMS 37-6-2107 - St Philips PAD 2

PAD 2 consisted of the banks of the oxbow inside the loop to a width of 50 metres. Although access to ephemeral water is available, the natural levee associated with the Black Creek archaeological deposit was considered to offer a better location for occupation.

- AHIMS 37-6-2108 - St Philips PAD 3

PAD 3 included the southern side of the oxbow and part of the western bank of Black Creek to a width of 50 metres. In this area, Black creek was deeply entrenched with near vertical sides, inhibiting access to the water below during the initial survey by AECOM. Very few artefacts were found in the many exposures along the creek bank, however, the presence of the artefact at SPC 1 suggested that there was still some potential for artefactual material. For this reason, the potential for archaeological deposit was considered to be low-moderate.

- AHIMS 37-6-2109 - St Philips PAD4

PAD 4 included the section of middle drainage line upstream (south) of the dam to a width of 50 metres either side. Archaeological sites were identified downstream of the dam (SPC8) and on the dam wall (SPC4), indicating that middle drainage line had a moderate to high potential for containing in situ archaeological deposit, albeit probably at a very low density.

4 HERITAGE MANAGEMENT PROTOCOLS

The heritage management protocols for known (previously identified) Aboriginal objects (sites) set out below must be followed for the proposed development. The implementation of the heritage management protocols and the ACHCMP will be overseen by the Project Land Manager. It is the Land Manager's responsibility to ensure these protocols are implemented and an outline of the roles and responsibilities are provided in Section 8.

Protocols for the management of unexpected cultural heritage objects during construction are set out in Section 6.

A number of mandatory heritage management protocols must be implemented including;

- 1) Aboriginal cultural heritage inductions for all personnel working on site before and during construction works;
- 2) Temporary storage and transfer of Aboriginal objects;
- 3) Permanent storage of Aboriginal objects in a keeping place or re-burial in a suitable location. This location is currently being discussed with the RAPs;
- 4) As the project is an SSD, an AHIP is not required to allow harm to Aboriginal Objects. A surface collection of any of the AHIMS sites that will be impacted on by the development will be undertaken prior to works; and
- 5) Archaeological test excavations of any part of the PADs, prior to works at that location, as per the Heritage NSW Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010 (DECCW 2010), the Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (OEH 2011) and the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010b).

4.1 ABORIGINAL CULTURAL HERITAGE INDUCTION

Aboriginal cultural heritage inductions, (referred to as an Aboriginal Cultural Education Program) forming part of the overall Induction Package, will be required for all on-site personnel and contractors involved in the construction activities on site prior to any works within the project area. This includes installation of utilities or any other harm that may have the potential to harm Aboriginal objects. The induction program will be developed by the heritage consultant and RAPs and will include, but not limited to;

- 1) the content of this ACHCMP;
- 2) NSW and Commonwealth legislative requirements (as outlined in Section 1); and
- 3) Statement explaining what cultural significance is.

The initial induction will be conducted by the site safety officer with assistance from the RAPs and heritage consultant for all management personnel. Further inductions for all remaining site workers will be conducted by the site safety officer. The induction will not exceed 30 minutes in length and attendees will acknowledge understanding and participation of the cultural heritage induction content by signing an attendee sheet. The list of attendees will be maintained on site by the Land Manager to ensure all required personnel have participated in the cultural heritage induction and will be made available to the RAPs and heritage consultant when requested.

4.2 MANAGEMENT OF AHIMS SITES

4.2.1 AHIMS 37-6-2096 - SPC 1

As this site will not be impacted on by the development, no further archaeological works are required.

This site will be fenced with a 2m boundary with high visibility fencing during all works to ensure it is not harmed during works.

4.2.2 AHIMS 37-6-2097 - SPC 2

As this site will not be impacted on by the development, no further archaeological works are required.

This site will be fenced with a 2m boundary with high visibility fencing during all works to ensure it is not harmed during works.

4.2.3 AHIMS 37-6-2098 - SPC 3

As this site will not be impacted on by the development, no further archaeological works are required.

This site will be fenced with a 2m boundary with high visibility fencing during all works to ensure it is not harmed during works.

4.2.4 AHIMS 37-6-2099 - SPC 4

As this site will not be impacted on by the development, no further archaeological works are required.

This site will be fenced with a 2m boundary with high visibility fencing during all works to ensure it is not harmed during works.

4.2.5 AHIMS 37-6-2100 - SPC 5

As this site will not be impacted on by the development, no further archaeological works are required.

This site will be fenced with a 2m boundary with high visibility fencing during all works to ensure it is not harmed during works.

4.2.6 AHIMS 37-6-2102 - SPC 6 - NOT A SITE

The AHIMS results show that this is not a site. NO further works are required for this site.

4.2.7 AHIMS 37-6-2103 - SPC 7

As this site will not be impacted on by the development, no further archaeological works are required.

This site will be fenced with a 2m boundary with high visibility fencing during all works to ensure it is not harmed during works.

4.2.8 AHIMS 37-6-2104 - SPC 8

As this site will not be impacted on by the development, no further archaeological works are required.

This site will be fenced with a 2m boundary with high visibility fencing during all works to ensure it is not harmed during works.

4.2.9 AHIMS 37-6-2105 - SPC 9

As this site will not be impacted on by the development, no further archaeological works are required.

This site will be fenced with a 2m boundary with high visibility fencing during all works to ensure it is not harmed during works.

4.2.10 AHIMS 37-6-2106 - SPC 10

As this site will not be impacted on by the development, no further archaeological works are required.

This site will be fenced with a 2m boundary with high visibility fencing during all works to ensure it is not harmed during works.

4.2.11 AHIMS 37-6-2101 – ST PHILIPS PAD1

PAD 1 encompassed the western bank of Black Creek (in the northern section), the western and northern banks of the oxbow to a width of 50 metres, and included the adjacent lower slope. Thick vegetation hampered ground surface visibility along Black Creek during the initial survey by AECOM, but the gentle banks suggested a high potential for archaeological deposit to occur. Additionally, the lower slope along Wine Country Drive adjacent to the oxbow offered an elevated position in close proximity to an ephemeral water source.

A portion of PAD 1, will be affected by the construction of a small structure to the north (nominated building N2), and a section of a larger building (aquatic centre) to the south and the construction of a road. The areas that will be impacted on by the development will be subject archaeological test excavations prior to works at those locations. The test excavation will be undertaken as per the Code of Practice for Archaeological Investigations in NSW)

4.2.12 AHIMS 37-6-2107 - ST PHILIPS PAD 2

PAD 2 consisted of the banks of the oxbow inside the loop to a width of 50 metres. Although access to ephemeral water is available, the natural levee associated with the Black Creek archaeological deposit was considered to offer a better location for occupation.

PAD 2 will not be impacted on by the proposed development.

4.2.13 AHIMS 37-6-2108 - ST PHILIPS PAD 3

PAD 3 included the southern side of the oxbow and part of the western bank of Black Creek to a width of 50 metres. In this area, Black creek was deeply entrenched with near vertical sides, inhibiting access to the water below during the initial survey by AECOM. Very few artefacts were found in the many exposures along the creek bank, however, the presence of the artefact at SPC 1

suggested that there was still some potential for artefactual material. For this reason, the potential for archaeological deposit was considered to be low-moderate.

PAD 3 will not be impacted on by the proposed development.

4.2.14 AHIMS 37-6-2109 - ST PHILIPS PAD4

PAD 4 included the section of middle drainage line upstream (south) of the dam to a width of 50 metres either side. Archaeological sites were identified downstream of the dam (SPC8) and on the dam wall (SPC4), indicating that middle drainage line had a moderate to high potential for containing in situ archaeological deposit, albeit probably at a very low density.

PAD 4 will not be impacted on by the proposed development.

4.3 TEMPORARY STORAGE OF ABORIGINAL OBJECTS

All aboriginal objects will be stored in an appropriate manner in a secure on-site keeping place to be agreed upon by all parties in consultation with the RAPs.

4.4 PERMANENT STORAGE OF ABORIGINAL OBJECTS

The repatriation of all Aboriginal objects to a permanent storage location will be decided by the RAPs and may involve either the re-burial of objects to a specific location within the Project Area that will be protected in perpetuity or transferred to an off-site secure keeping place.

If transfer to an off-site keeping place is decided, this will be documented in a *Transfer of Aboriginal Objects for Safekeeping* agreement which will be submitted to Heritage NSW.

If re-burial is decided, this will be undertaken in accordance with Wonnarua cultural protocols and tradition and documented in an AHIMS site card that will include a photographic record, field notes and GPS location. A culturally appropriate depositional container selected by the RAPs will be used for reburial and may include traditional bark containers for wrapping the Aboriginal objects.

5 UNEXPECTED FINDS PROTOCOLS

Unexpected find protocols have been developed to provide procedures for unexpected finds including Aboriginal objects and the discovery of human remains. These protocols must be followed throughout all stages of the development.

5.1 UNEXPECTED ABORIGINAL OBJECTS

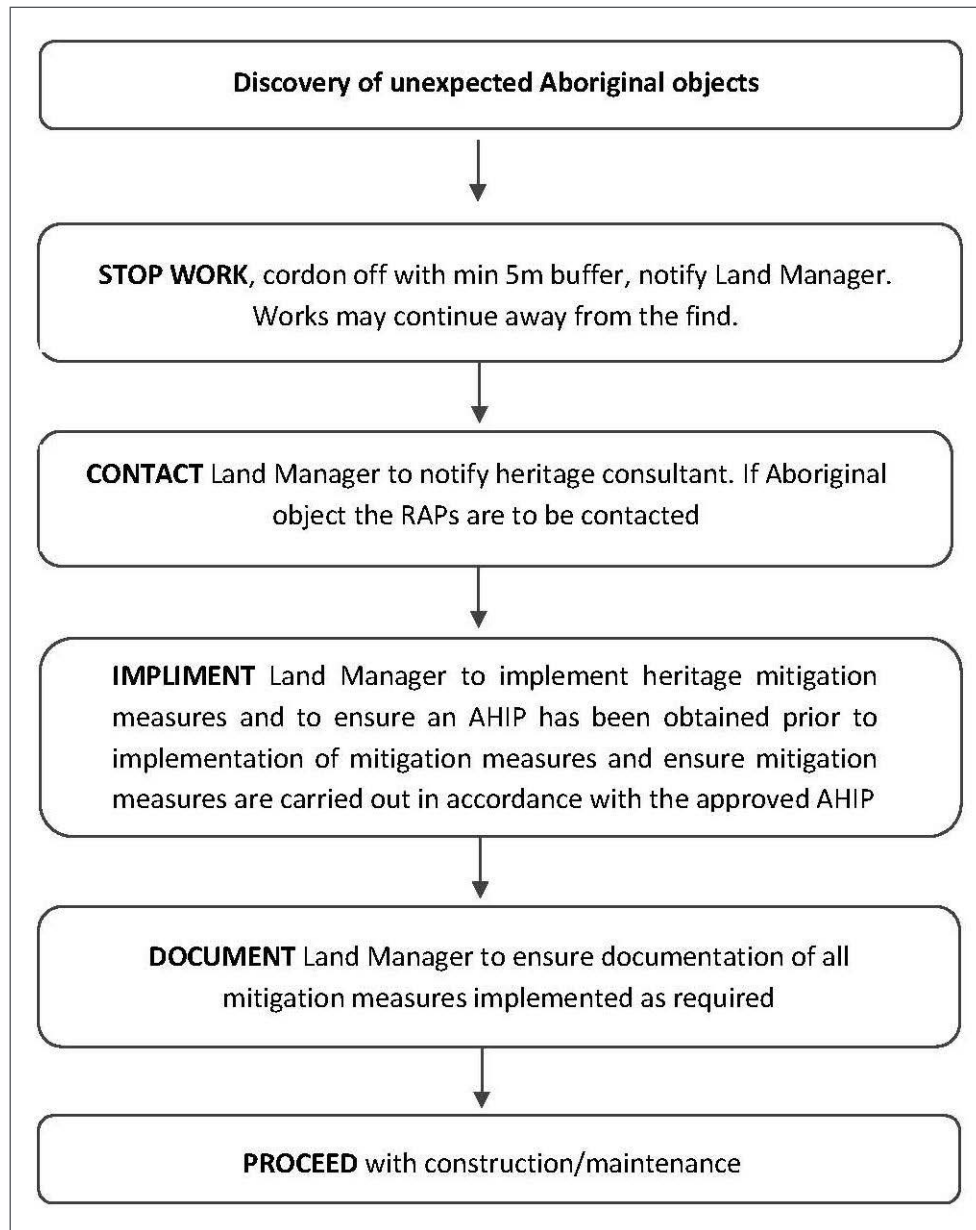
Should unexpected Aboriginal objects be uncovered during any stage of the development, Figure 6.1 illustrates the protocols. Unexpected Aboriginal objects may include, but not limited to, isolated artefacts, artefact scatters, scarred trees and hearths (descriptions of such objects are provided in Appendix B).

Work must stop immediately in that location, the objects cordoned off with at least a 5m perimeter surrounding the object(s) with high visibility fencing/barrier and the Land Manager notified immediately. The Land Manager will then contact the heritage consultant and RAPs, who in consultation with each other, will assess the object(s) and recommend appropriate mitigation measures. The Land Manager is to implement all reasonable mitigation measures recommended by the heritage consultant and in consultation with the RAPs and in accordance with this ACHCMP.

If additional works are required, such as salvage excavations, the Land Manager is to arrange for the heritage consultant and RAPs to undertake those works. The methodology for undertaking additional works will be dependent on a number of factors including, but not limited to, site/object type and disturbances. Due to the unknown nature of unexpected objects, methodologies for the salvage of unexpected Aboriginal objects will be determined during consultation with the RAPs.

Any Aboriginal objects collected must be managed in accordance with those measures outlined in Appendix B. The mitigation measures undertaken must be reported to the RAPs and Heritage NSW and the appropriate required analysis and reporting complete. Provided these heritage unexpected finds protocols have been followed, construction/maintenance works in that location may proceed.

Figure 5.1 Unexpected finds protocol flow chart



5.2 DISCOVERY OF HUMAN REMAINS

Human skeletal remains are of the highest significance and importance to Aboriginal people, and all care, respect and dignity will be extended by all parties should human remains be uncovered.

If human remains or unidentified bone are uncovered during any stage of the development and maintenance activities, the appropriate State legislation will be followed. All human remains fall under the *Coroners Act 2009* in the first instance. If they are identified as Aboriginal and older than 100 years old, they will fall under the *NSW NPWS Act 1974* (as amended). Figure 5.2 outlines the required protocols should human remains be uncovered.

Should any human remains or unidentifiable bone be found, work is to stop in that area immediately and an area of 15m cordoned off surrounding the remains/bone in high visibility fencing. The Land Manager is to be notified immediately.

The Land Manager will contact the heritage consultant and local NSW Police immediately, who will then contact the NSW Forensic Services who will determine if they are:

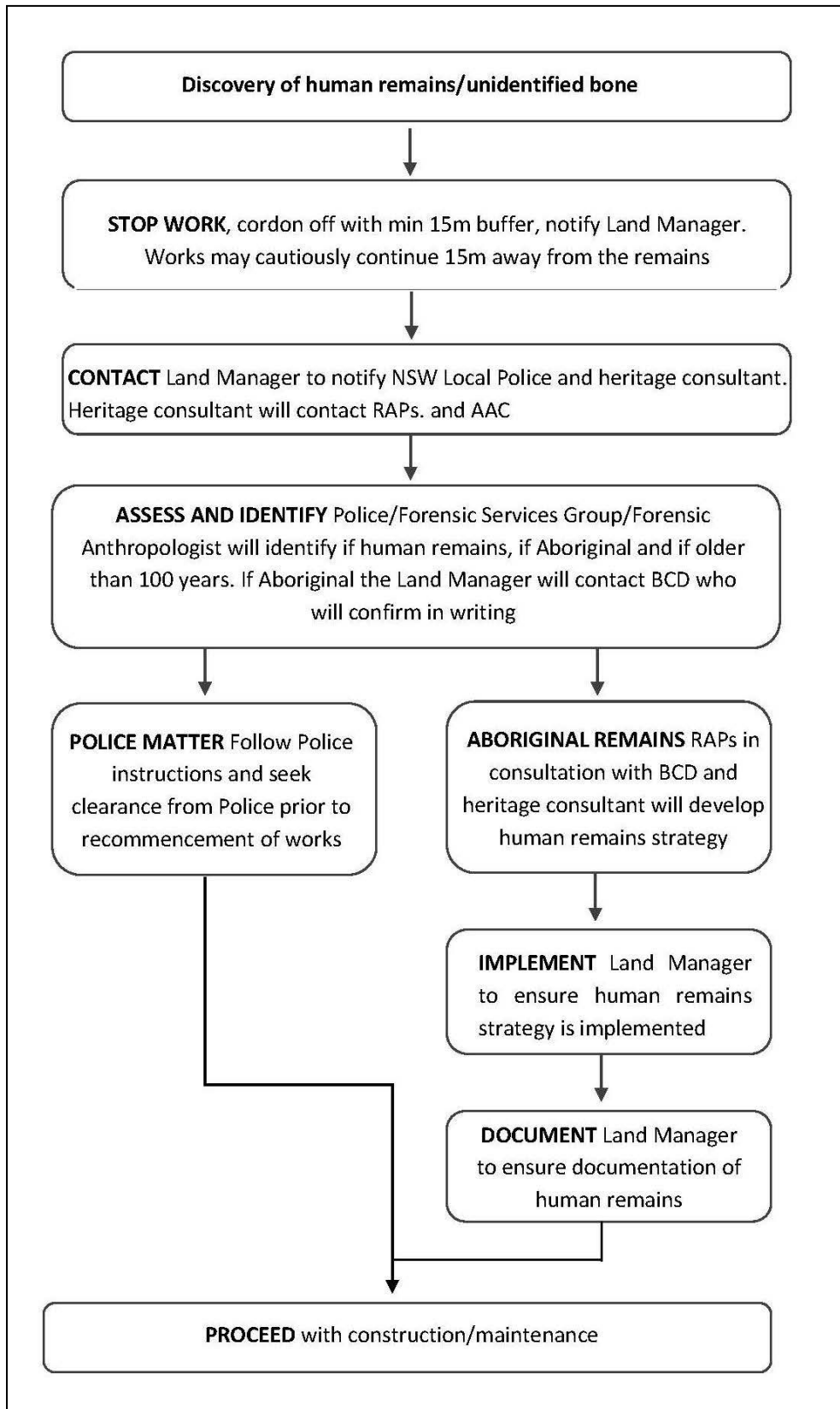
- 1) Human;
- 2) Aboriginal or non-Aboriginal;
- 3) If Aboriginal, determine antiquity (older or younger than 100 years)

If it is determined the remains are Aboriginal and older than 100 years old, the Police will notify the Land Manager who must contact Heritage NSW immediately and a Heritage NSW officer will confirm the identification in writing. Heritage NSW, in consultation with the RAPs and the heritage consultant will develop a human remains management strategy and the Land Manager is to ensure this strategy is implemented. The Land Manager must also document the human remains management strategy and the heritage consultant will provide a letter of clearance prior to any works recommencing at that location.

If the remains are determined to be a Police matter, Police instructions will be followed and clearance to recommence works should be sought from the Police.

Provided the human skeletal protocols have been followed and documented, and a clearance letter from the heritage consultant has been obtained, construction/maintenance works may proceed in that location.

Figure 5.2 Human remains protocol flow chart



6 COMPLIANCE, DISPUTE RESOLUTION AND REVIEW PROCEDURES

To ensure compliance with this ACHCMP, a dispute resolution process and method of reviewing and amending this document have been developed. If required, the procedures outlined below will apply.

6.1 IMPLEMENTATION AND COMPLIANCE

The Land Manager is to implement the ACHCMP and ensure that it is complied with as per Section 7. Meetings between the Land Manager, RAPs and the Heritage Consultant are to occur in accordance with the following:

- The Land Manager will contact the RAPs every six months to discuss ongoing implementation and compliance of the ACHCMP, or as required; and
- The RAPs and Heritage Consultant will be notified in writing if there is a change in Land Manager.

In the event that there is a non-compliance with this plan, the non-compliance should be reported immediately to the project Heritage Consultant for determining the environmental consequence. The extent and nature of the non-compliance will be evaluated by the project Heritage Consultant using the Risk Matrix as outlined by NSW Department of Planning and Environment (NSW DPE) and shown in Table 6.1. If the project archaeologist determines that the non-compliance is of a Medium or High risk level, the project archaeologist shall notify Heritage NSW. If the project Heritage Consultant determines the non-compliance to be of Low Risk or an Administrative non-compliance, the Heritage Consultant shall take appropriate action to rectify the matter and/or document and record the non-compliance in annual reporting.

Table 6.1 Non-Compliance Risk Matrix

Risk Level	Description
High	Non-compliance with potential for significant environmental consequences, regardless of the likelihood of occurrence
Medium	Non-compliance with: <ul style="list-style-type: none"> • potential for serious environmental consequences, but is unlikely to occur; or • potential for moderate environmental consequences, but is likely to occur
Low	Non-compliance with: <ul style="list-style-type: none"> • potential for moderate environmental consequences, but is unlikely to occur; or • potential for low environmental consequences, but is likely to occur
Administrative non-compliance	Only to be applied where the non-compliance does not result in any risk of environmental harm (e.g. submitting a report to government later than required under approval conditions).

Source: "Annual Review Guideline, Post-Approval requirements for State significant mining developments (NSW DPE 2015)"

6.2 DISPUTE RESOLUTION

- Any party may advise the other of an issue of dispute verbally, whereupon the Land Manager and the Heritage Consultant will discuss and seek to resolve the issue;
- Where verbal notice does not result in resolution of an issue of dispute within 48 hours, the party that raised the issue of dispute must advise the other in writing including the details of the issue of dispute within 7 days of the event. The Land Manager will, on receipt of a written advice, liaise with the relevant parties to appoint and organise a meeting with an Independent Expert within 7 days. The Independent Expert (who might be a mutually agreeable third-party heritage consultant or an officer from Heritage NSW,) will be employed to mediate the dispute;
- At the meeting to be chaired by the Independent Expert, each of the parties may present their issues in the dispute to the Independent Expert for consideration and decision, and
- In so far as the Independent Expert's decision is consistent with all relevant legislative and regulatory obligations, all parties to the dispute agree to be bound by the decision of the Independent Expert in relation to the resolution of the dispute.

6.3 REVIEW AND AMENDMENTS

- Any party may advise the other of a proposed amendment to the provisions of this ACHCMP, whereupon the Land Manager, RAPs and Heritage Consultant will discuss the proposed amendment/s. The ACHCMP should be revisited for updating when required by the Land Manager, heritage consultant and RAPs; and
- Amendments to this ACHCMP must be approved by consensus of the Land Manager, RAPs and Heritage Consultant and in consultation with, and the approval of, where required, the relevant State Government regulatory agency.

7 ROLES AND RESPONSIBILITIES

7.1 LAND MANAGER

7.1.1 DEFINITION

The Land Manager is the person who manages the land within the Project Area. For the purpose of this ACHCMP, the Land Manager is the on-site manager/supervisor from the construction company.

7.1.2 RESPONSIBILITIES

- The Land Manager must read, understand and implement the practical application of this ACHCMP. Any queries should be directed to the heritage consultant;
- Follow instructions outlined in the flow charts for the Heritage Management Protocols;
- Follow instructions outlined in the flow charts for the Unexpected Finds protocol (Section 5.1) and Human Remains Protocol (Section 5.2);
- Be the point of contact for all onsite personnel and maintain a list of all onsite personnel;
- Ensure the construction site is secured and all visitors and on-site personnel are directed through the site office each visit. This is to ensure that all visitors and personnel receive the correct induction prior to entering the site;
- Ensure all onsite personnel undertake and understand the Cultural Heritage Induction and maintain an attendees list. Ensure the inductees understand their responsibilities in this ACHCMP and are provided with access to a copy of this ACHCMP for use within a common area on site, such as the site office and lunch room. It is the Land Manager's responsibility to ensure the site safety manager delivers the Cultural Heritage Induction to on-site personnel following his or her induction with the RAPs;
- Be aware of onsite activities ensuring that all areas to be protected are fenced off prior to works and must communicate to all onsite personnel that such areas are off limits (this includes vehicular movements);
- Be aware and understand there is a STOP WORK requirement in that location upon the discovery of an Aboriginal Object and/or skeletal remains or unidentified bone as outlined in the Unexpected Finds Protocols (Section 6.1) and Human Remains Protocol (Section 6.2). The Land Manager must also ensure all onsite personnel have the necessary procedures in place, equipment available and secure that location immediately;
- Must contact the appropriate individuals and organisations required under the Heritage Management, Unexpected Finds and Human Remains Protocols. This may include, but not limited to, heritage consultant, RAPs, Local Police and/or Government Authorities;
- Maintain a contact list for individuals and organisations who may need to be contacted under this ACHCMP;
- Ensure the ACHCMP is updated as required until the completion of works; and
- Where site meetings, other than for the Heritage Management, Unexpected Finds and Human Remains Protocols, with the RAPs, at least 2 weeks' notice will be given.

7.2 ONSITE PERSONNEL

7.2.1 DEFINITION

This includes all individuals undertaking any type of work within the development area subject to this ACHCMP.

7.2.2 RESPONSIBILITIES

- Report to the site office prior to entering the site to ensure knowledge and understanding of the ACHCMP is current and all personnel are aware of any changes that may have occurred;
- Undertake the Cultural Heritage Induction prior to starting any works associated with the development of the entire Project Area;
- Read and understand this ACHCMP and direct any queries to the Land Manager as required under the provisions of this ACHCMP;
- Follow the instructions outlined in the Heritage Management Protocols section of this ACHCMP (Section 5);
- Follow the instructions outlined in the Unexpected Finds and Human Remains Protocols section(s) of this ACHCMP (Section 5.1 and 5.2 respectively) if needed;
- Be aware that there is an immediate STOP WORK requirement for the discovery of Unexpected Finds and Human Remains;
- Be aware that all on site works and activities are to occur only within the defined Project Area, which must be visually defined prior to works being undertaken;
- Be aware that conservation areas (fenced off AHIMS sites) are off limits, including all vehicular movement.

7.3 REGISTERED ABORIGINAL PARTIES (RAPs)

7.3.1 DEFINITION

The person(s) or organisations, of Aboriginal decent who have registered as holders of traditional knowledge in the Project Areas part of the consultation process undertaken for this ACHCMP. The RAPs are listed in Table 7.1.

Table 7.1 List of RAPs

Stakeholder/organization	Contact
Culturally Aware	Tracey Skeen
Didge Ngunawal Clan	Paul Boyd & Lilly Carroll
Ungooroo Aboriginal Corporation	Alan Paget
Widescope Indigenous Group	Steven Hickey
Indigenous Services Pty Ltd	Carolyn Hickey

7.3.2 RESPONSIBILITIES

- Report to the site office prior to entering the site to ensure they are aware of any site conditions that may have changed, such as safety, and obtain the relevant update of works being undertaken that day;
- Provide advice on Aboriginal cultural heritage issues that may arise during the Project in a timely manner (within 7 days);
- Assist in the identification of cultural heritage sites; and
- Participate in the cultural heritage activities in this ACHCMP.
- Assist the Land Manager with the implementation of this ACHCMP if required;
- Assist with the Cultural Heritage Induction if required;
- Assist with the recording, salvage (if appropriate), analysis and reporting of any new sites identified within the Project Area in accordance with the relevant legislation, consultation with the heritage consultant and this ACHCMP; and
- Provide advice and assistance to the Land Manager and heritage consultant with the review and amendment(s) and/or updating of this ACHCMP as required.

7.4 HERITAGE CONSULTANT

7.4.1 DEFINITION

An individual or organisation engaged by the Land Manager who possess the appropriate qualifications (minimum Honours in Archaeology) and experience to undertake the heritage assessment, management activities and consultation required for the ongoing management of the provisions of the ACHCMP.

7.4.2 RESPONSIBILITIES

- Report to the site office prior to entering the site to ensure he/she are aware of any site conditions that may have changed, such as safety, and obtain the relevant update of works being undertaken that day;
- Assist the Land Manager with the implementation of this ACHCMP if required;
- Assist with the Cultural Heritage Induction if required;
- Provide heritage advice to the Land Manager and RAPs in accordance with the relevant legislation;
- Undertake the assessment, recording, salvage (if appropriate), analysis and reporting of any new sites identified within the Project Area in accordance with the relevant legislation, consultation with the RAPs and this ACHCMP;
- Provide advice and assistance to the Land Manager and RAPs with the review and amendment(s) and/or updating of this ACHCMP as required; and
- Liaise with the RAPs as required.

7.5 CONFIDENTIALITY

All individuals and organisations as outlined above will respect that some information shared will be confidential. This may include:

- Commercial information, or
- Sensitive Aboriginal cultural information.

Other than in accordance with a written agreement by the identified individuals/ organisations, no information will be provided to any other persons other than to:

- Enable project works, or
- As required by law.

7.6 INTELLECTUAL PROPERTY RIGHTS

Some works undertaken for this development will contain Aboriginal cultural information. Such materials will be developed between the Land Manager and the RAPs and shall be jointly owned so that both parties may reference the material. Any culturally sensitive material or information not be included in public documents may include sacred knowledge. The RAPs will retain copyright to their cultural information.

8 CONCLUSION

This ACHCMP has been prepared as a guiding document for the management of Aboriginal cultural heritage within the St Philip's Christian College Cessnock Project Area. This ACHCMP should be used for the management of cultural heritage within the Project Area until the practical completion of the project.

Appendix A

Aboriginal Consultation Summary

Date	Consultation type	RAP/Agency	Contact person	Description

Appendix B

Unexpected Finds Heritage Investigation Methodologies

Verification and management of all Aboriginal objects (sites)

All potential Aboriginal sites will be verified by the heritage consultant and representatives from the RAPs.

The purpose of the verification process is to determine whether or not the objects in question are in fact Aboriginal objects to ensure appropriate management measures be implemented.

The verification process will include the following provisions:

1. One representative from each RAP may assess the Aboriginal object (site) for its cultural status and must provide evidence and justification for significance;
2. A heritage consultant may assess the scientific status of the Aboriginal object (site) and provide evidence and justification for significance;
3. An AHIMS site card and pro-forma assessment sheet will be completed for each Aboriginal object (site); and
4. Management recommendations specific to each Aboriginal object (site), based on both traditional knowledge and scientific methodology, will be provided to the Land Manager. Should a potential site be either scientifically or culturally significant but no evidence or justification is provided, the matter will be put to Heritage NSW.

Surface artefact scatters

Also described as open campsites, artefact scatters and open sites, these deposits have been defined as two or more stone artefacts within 50 metres of each other and may include archaeological remains such as stone artefacts, shell, and sometimes hearths, stone lined fire places and heat treatment pits. These sites are usually identified as surface scatters of artefacts in areas where ground surface visibility is increased due to lack of vegetation. Erosion, agricultural activities (such as ploughing) and access ways can also expose surface campsites. Artefact scatters may represent evidence of;

- Camp sites, where everyday activities such as habitation, maintenance of stone or wooden tools, manufacturing of such tools, management of raw materials, preparation and consumption of food and storage of tools has occurred;
- Hunting and/or gathering events;
- Other events spatially separated from a camp site, or
- Transitory movement through the landscape.

If a potential artefact scatter has been identified, the Unexpected Finds Protocol must be followed immediately.

Examples of artefact scatters (MCH)



Surface isolated finds

Isolated artefacts are usually identified in areas where ground surface visibility is increased due to lack of vegetation. Erosion, agricultural activities (such as ploughing) and access ways can also expose surface artefacts. Isolated finds may represent evidence of;

- Hunting and/or gathering events; or
- Transitory movement through the landscape.

If a potential isolated find has been identified, the Unexpected Finds Protocol must be followed immediately.

Examples of isolated artefacts (MCH)



