

Roads and Traffic Authority

Pacific Highway Upgrade -
Oxley Highway to Kempsey
Aboriginal Heritage Working Paper

September 2010

GHD Pty Ltd
ABN 39 008 488 373
Level 3, GHD Tower
24 Honeysuckle Drive
NEWCASTLE NSW 2300
Phone: +61 2 4979 9999
Fax: +61 2 4979 9988
Email: ntlmail@ghd.com

3. Aboriginal consultation

3.1 Background

The study area lies within the boundaries of the Kempsey Local Aboriginal Land Council and Birpai Local Aboriginal Land Council and within an area of interest to the Dunghutti Elders Aboriginal Corporation, as well as potentially other Aboriginal persons and organisations. The boundary between the Kempsey and Birpai local Aboriginal land council is located at the Wilson River near Telegraph Point, with the Kempsey Local Aboriginal Land Council responsible for the area north of the river and the Birpai Local Aboriginal Land Council responsible for the area south of the river.

The Aboriginal heritage impact assessment has involved a comprehensive program of Aboriginal consultation that complies to the extent feasible with the RTA's *Aboriginal Heritage Guidelines* (RTA 2002) and the DECCW *Interim Community Consultation Requirements for Applicants* (DEC 2004b) and involve the following procedures:

1. Providing written notification of the Proposal to the local Aboriginal land council, DECCW, Registrar of Aboriginal Owners (Department of Aboriginal Affairs), NSW Native Title Services and relevant local councils, requesting that if they are aware of any Aboriginal persons / organisations who may wish to be consulted about the project to provide such advice in writing, with a minimum 10 day response period.
2. Providing written notification of the Proposal directly to those Aboriginal persons / organisations that were identified in step one above, requesting those who may be interested in participating in the Proposal to register their interest in writing, with a minimum 10 day response period.
3. Placing a media advertisement to the same effect in the local press requesting any Aboriginal persons / organisations who may be interested in participating in the Proposal to register their interest in writing, with a minimum 10 day response period.
4. Providing detailed information about the heritage impact assessment, including the proposed methodology, to the Aboriginal persons / organisations who registered their interest in writing in steps one to three above, with a minimum 21 day response period for comments.
5. Comments received from registered Aboriginal persons / organisations in step four, including information on areas of cultural significance, potential culturally acceptable management measures, the nature of the assessment methodology and any other relevant traditional knowledge or issues, must be considered in order to finalise the assessment methodology.
6. Field inspection in consultation with the registered Aboriginal stakeholders.
7. Notifying the registered Aboriginal stakeholders and the local Aboriginal land council (even if not registered) of the availability of the draft Aboriginal heritage impact assessment report and their comments invited.
8. Preparation of a final Aboriginal heritage impact assessment report that addresses and incorporates the input of the registered Aboriginal stakeholders.

3.2 Consultation for the Proposal

A comprehensive program of consultation has been undertaken for the Proposal. The consultation process is documented below, firstly in relation to the steps outlined in the DECCW policy and secondly to incorporate the extensive additional consultation that was undertaken outside of the formal DECCW process. Further detailed information regarding the comprehensive consultation undertaken for the Proposal is provided in the *Aboriginal Heritage Impact Assessment of the Proposed Upgrade of the Pacific Highway between the Oxley Highway and Kempsey, New South Wales* prepared by South East Archaeology (2010).

3.2.1 Initial consultation

Prior to the release of the DECCW *Interim Community Consultation Requirements for Applicants* (DEC 2004b) a comprehensive program of Aboriginal consultation had already commenced that complies to the extent feasible with the RTA's *Aboriginal Heritage Guidelines* (2002).

Initial consultation with the Aboriginal stakeholders was undertaken by GHD, the RTA and South East Archaeology. South East Archaeology, met with representatives of Birpai Local Aboriginal Land Council, Kempsey Local Aboriginal Land Council and Dunghutti Elders Aboriginal Corporation, on separate occasions on 15 February 2005. The nature of the Proposal and potential heritage evidence was discussed.

Further meetings and a preliminary inspection of the Proposal were undertaken by South East Archaeology with Birpai Local Aboriginal Land Council on 11 July 2005, Kempsey Local Aboriginal Land Council on 13 July 2005, and Dunghutti Elders Aboriginal Corporation on 29 July 2005. One purpose of these meetings and preliminary inspections was to discuss areas of potential cultural significance within the vicinity of the Proposal.

During these inspections, representatives of Kempsey Local Aboriginal Land Council advised of a possible ceremonial site / stone arrangement. Further research and consultation was undertaken and a field inspection made on 20 September 2005 by South East Archaeology, Dunghutti Elders Aboriginal Corporation and Kempsey Local Aboriginal Land Council. No evidence of the site could be found. As a result, it was concluded that if this site still existed, it was located well outside of the study area for the Proposal and therefore was not relevant to these investigations.

Following completion of the field survey, further consultation with representatives of the Birpai Local Aboriginal Land Council resulted in the identification of an exposed ochre site in a road cutting in the southern part of the Proposal. This ochre site has also been considered as an area of cultural sensitivity.

3.2.2 DECCW consultation policy

Step one

A letter was forwarded to the relevant organisations on 4 August 2006. DECCW responded on 11 August 2006 to advise that 22 Aboriginal groups and / or individuals in addition to the relevant local Aboriginal land councils should be contacted. The Registrar of Aboriginal Owners responded on 8 August 2006 to advise that there are no Registered Aboriginal Owners for this area.

Step two

A letter was forwarded to the nominated groups on 12 September 2007 with an invitation to register their interest in the Proposal. No responses were received.

Step three

Advertisements were placed in the Port Macquarie News and The Macleay Argus on 2 June and 16 June 2006, Port Macquarie Express on 7 June and 21 June 2006, The National Aboriginal Times on 1 June and 15 June 2006, The Koori Mail on 7 June and 21 June 2006 and the Deadly Vibe and In Vibe magazines for the month of July 2006. The advertisements requested that any Aboriginal persons / organisations who may be interested in participating in the Proposal register their interest in writing. No responses were received.

While no parties formally registered their interest in the Proposal, as a result of the initial consultation already undertaken for the Proposal, Dunghutti Elders Aboriginal Corporation, Kempsey Local Aboriginal Land Council and Birpai Local Aboriginal Land Council were deemed to be registered stakeholders.

Steps four and five

The registered stakeholders were provided with the proposed field assessment methodology in February 2007. Meetings were also held with the stakeholders to discuss the proposed methodology. The stakeholders agreed fully with the methodology.

In addition, in relation to the sub-surface investigations at the Hastings River and Wilson River, the proposed methodology and research design were provided to the stakeholders in September 2007. The stakeholders agreed with the test excavation methodology.

Step six

A comprehensive field survey was undertaken by South East Archaeology over nine days between 5 and 14 March 2007, assisted by the registered Aboriginal stakeholders.

The representatives expressed satisfaction with the level of survey coverage and the consultation process, as well as a strong interest in the findings.

In addition, sub-surface investigations were subsequently undertaken in two locations, in consultation with the registered Aboriginal stakeholders. Fieldwork was undertaken by South East Archaeology over 21 days between 5 and 29 November 2007, assisted by the registered Aboriginal stakeholders.

Step seven

The registered Aboriginal stakeholders were provided with a draft copy of the *Aboriginal Heritage Impact Assessment of the Proposed Upgrade of the Pacific Highway between the Oxley Highway and Kempsey, New South Wales* prepared by South East Archaeology (2010) at an Aboriginal focus group meeting on 23 February 2010. The draft report was discussed at the meeting and the registered Aboriginal stakeholders were invited to provide comments prior to its finalisation, in accordance with the *Interim Community Consultation Requirements for Applicants* (DEC 2004b). A number of attempts were made between March and August 2010 to obtain feedback from the stakeholders on the draft report. At the time of finalising this report, no feedback had been received, and the RTA was continuing to make efforts to obtain this feedback.

The *Aboriginal Heritage Impact Assessment of the Proposed Upgrade of the Pacific Highway between the Oxley Highway and Kempsey, New South Wales* prepared by South East Archaeology (2010) formed the basis for this Aboriginal Heritage Working Paper.

Step eight

Based on discussions with the registered Aboriginal stakeholders at the Aboriginal focus group on 23 February 2010 and the comprehensive program of consultation carried out during development of the Proposal, this Aboriginal Heritage Working Paper has been prepared to address and incorporate the input of the registered Aboriginal stakeholders, as well as the results of the archaeological studies described in the previous steps..

3.2.3 Other consultation

Aboriginal focus group

Three Aboriginal focus group meetings have been held with the registered stakeholders at Telegraph Point on:

- 27 February 2006 – to discuss the route options.
- 8 February 2007 – to discuss the preferred route and proposed field survey.
- 23 February 2010 – to discuss the draft *Aboriginal Heritage Impact Assessment of the Proposed Upgrade of the Pacific Highway between the Oxley Highway and Kempsey, New South Wales* prepared by South East Archaeology (2010).

The Aboriginal focus group provided a forum for representatives of the registered Aboriginal groups to meet with the RTA to discuss known areas and sites of Aboriginal cultural significance. The Aboriginal focus group also enabled the Aboriginal representatives to be kept informed on the progress of the Proposal.

Care Agreement

Consultation has been undertaken with the stakeholders to arrange a Care Agreement for the Dunghutti Elders Aboriginal Corporation, to facilitate their custodianship of the artefacts retrieved during the sub-surface excavations.