

Orion Consulting

M

Gazcorp Industrial Estate (SSD 5248) Archaeology

LGA: Fairfield

Aboriginal Cultural Heritage Assessment (ACHA)

14 May 2020

McCARDLE CULTURAL HERITAGE PTY LTD

ACN 104 590 141 • ABN 89 104 590 141

PO Box 166, Adamstown, NSW 2289

Mobile: 0412 702 396 • Fax: 4952 5501 • Email: mheritage@iprimus.com.au



Report No: J20224 ACHMP

Approved by: Penny McCardle

Position: Director

Signed: 

Date: 14 May 2020

This report has been prepared in accordance with the scope of services described in the contract or agreement between McCardle Cultural Heritage Pty Ltd (MCH), ACN: 104 590 141, ABN: 89 104 590 141, and Orion Consulting. The report relies upon data, surveys, measurements and specific times and conditions specified herein. Any findings, conclusions or recommendations only apply to the aforementioned circumstances and no greater reliance should be assumed or drawn by Orion Consulting. Furthermore, the report has been prepared solely for use by Orion Consulting and MCH accepts no responsibility for its use by other parties.

CONTENTS

1	INTRODUCTION.....	1
1.1	INTRODUCTION	1
1.2	OVERVIEW	2
1.3	PURPOSE	3
1.4	PROJECT INTENDED LAND USE	3
2	LEGISLATIVE CONTEXT	4
2.1	NATIONAL PARKS AND WILDLIFE ACT (1974, AS AMENDED)	4
2.2	NATIONAL PARKS AND WILDLIFE REGULATION (2009)	5
2.3	ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 (EP&A ACT)	5
2.4	ASK FIRST: A GUIDE TO RESPECTING INDIGENOUS HERITAGE PLACES AND VALUES	6
3	CONSULTATION.....	7
3.1	ABORIGINAL CULTURAL HERITAGE CONSULTATION REQUIREMENTS (ACHCRS)	7
3.2	PROTOCOL FOR CONTINUED ABORIGINAL CONSULTATION.....	7
4	REGISTERED AHIMS SITES IN THE PROJECT AREA.....	8
4.1	SITES IN THE PROJECT AREA	8
5	HERITAGE MANAGEMENT PROTOCOLS.....	10
5.1	ABORIGINAL CULTURAL HERITAGE INDUCTION.....	10
5.2	MANAGEMENT OF AHIMS SITES.....	10
5.3	TEMPORARY STORAGE OF ABORIGINAL OBJECTS	10
5.4	PERMANENT STORAGE OF ABORIGINAL OBJECTS.....	11
6	UNEXPECTED FINDS PROTOCOLS	12
6.1	UNEXPECTED ABORIGINAL OBJECTS	12
6.2	DISCOVERY OF HUMAN REMAINS.....	14
7	COMPLIANCE, DISPUTE RESOLUTION AND REVIEW PROCEDURES.....	16
7.1	IMPLEMENTATION AND COMPLIANCE	16
7.2	DISPUTE RESOLUTION.....	16
7.3	REVIEW AND AMENDMENTS	17
8	ROLES AND RESPONSIBILITIES.....	18
8.1	LAND MANAGER.....	18
8.1.1	DEFINITION.....	18
8.1.2	RESPONSIBILITIES.....	18
8.2	ONSITE PERSONNEL	19
8.2.1	DEFINITION.....	19
8.2.2	RESPONSIBILITIES.....	19

8.3	REGISTERED ABORIGINAL PARTIES (RAPS)	19
8.3.1	DEFINITION.....	19
8.3.2	RESPONSIBILITIES.....	19
8.4	HERITAGE CONSULTANT.....	20
8.4.1	DEFINITION.....	20
8.4.2	RESPONSIBILITIES.....	20
8.5	CONFIDENTIALITY	20
8.6	INTELLECTUAL PROPERTY RIGHTS.....	21
9	CONCLUSION	21

APPENDICES

APPENDIX A UNEXPECTED FINDS HERITAGE INVESTIGATION METHODOLOGIES

LIST OF TABLES

TABLE 7.1	NON-COMPLIANCE RISK MATRIX	16
-----------	----------------------------------	----

LIST OF FIGURES

FIGURE 1.1	LOCATION OF THE PROJECT AREA	2
FIGURE 1.2	AERIAL PHOTOGRAPH OF THE PROJECT AREA (NEARMAP 2019)	2
FIGURE 1.3	PLAN	3
FIGURE 4.1	SITES AND AREA OF ARCHAEOLOGICAL SENSITIVITY IN THE PROJECT AREA.....	8
FIGURE 4.2	LOCATION OF SUBSURFACE ARTEFACTS.....	9
FIGURE 4.3	UNEXPECTED FINDS PROTOCOL FLOW CHART	13
FIGURE 4.4	HUMAN REMAINS PROTOCOL FLOW CHART	15

1 INTRODUCTION

1.1 INTRODUCTION

McCardle Cultural Heritage Pty Ltd (MCH) has been commissioned by Orion Consulting on behalf of Gazcorp Pty Ltd prepare an to prepare an Aboriginal Cultural Management Plan (ACHMP) in accordance with the SSD (5248) requirements for an Industrial Estate located at 813-913 Wallgrove Road, Horsley Park, NSW.

This Aboriginal Cultural Heritage Management Plan (ACHMP) pertains to the entire Project Area, informing all subsequent stages of the development, and meets the conditions set out by the SSD requirements. The key components of the ACHMP that will be addressed derive from the SSD requirements and include:

Aboriginal Cultural Heritage Management Plan

C70. Before the commencement of any clearing or construction works, the Applicant must prepare an Aboriginal Cultural Heritage Management Plan (ACHMP) for the Development to protect and manage 45-5-3884 (WR1 Prospect), WR2 and the area of archaeological sensitivity next to Reedy Creek to the satisfaction of the Planning Secretary. The ACHMP must form part of the CEMP required by Condition D2 and must:

- a) be prepared by a suitably qualified and experienced expert in consultation with the Registered Aboriginal Parties;
- b) be submitted to the satisfaction of the Planning Secretary prior to construction of any part of the development; and
- c) describe the measures to protect the Aboriginal artefacts in perpetuity.

C71. The Applicant must:

- a) not commence construction until the ACHMP is approved by the Planning Secretary; and
- b) implement the most recent version of the ACHMP approved by the Planning Secretary for the duration of the Development.

Unexpected finds Protocol

C72. If any items or objects of Aboriginal heritage significance, or relic as defined by the *Heritage Act 1977* (NSW) is identified on site:

- a) all work in the immediate vicinity of the suspected Aboriginal item, object or relic must cease immediately;
- b) a 10m wide buffer area around the suspected item or object must be cordoned off; and
- c) the Heritage Division of the Department of Premier and Cabinet must be contacted immediately.

Following consultation with the Department of Planning, Industry and Environment (DPIE), Biodiversity and Conservation Division (BCD) the Registered Aboriginal Parties (RAPs) who registered for the project during the first Aboriginal Cultural Heritage Assessment (ACHA) were to be consulted for the ACHA undertaken to inform this ACHMP along with any new RAPs.

Darug Custodians Aboriginal Corporation (DCAC) are the registered Aboriginal party for the project.

1.2 OVERVIEW

This ACHMP applies to the Gazcorp Industrial Estate (“the Project Area”) located approximately 33 kilometres south west of the Sydney CBD. Comprising approximately 52 hectares, the project area includes Lot 5 DP 24090 located at 813-913 Wallgrove Road, Horsley Park. The location of the project area is provided in Figures 1.1 and 1.2.

Figure 1.1 Location of the project area

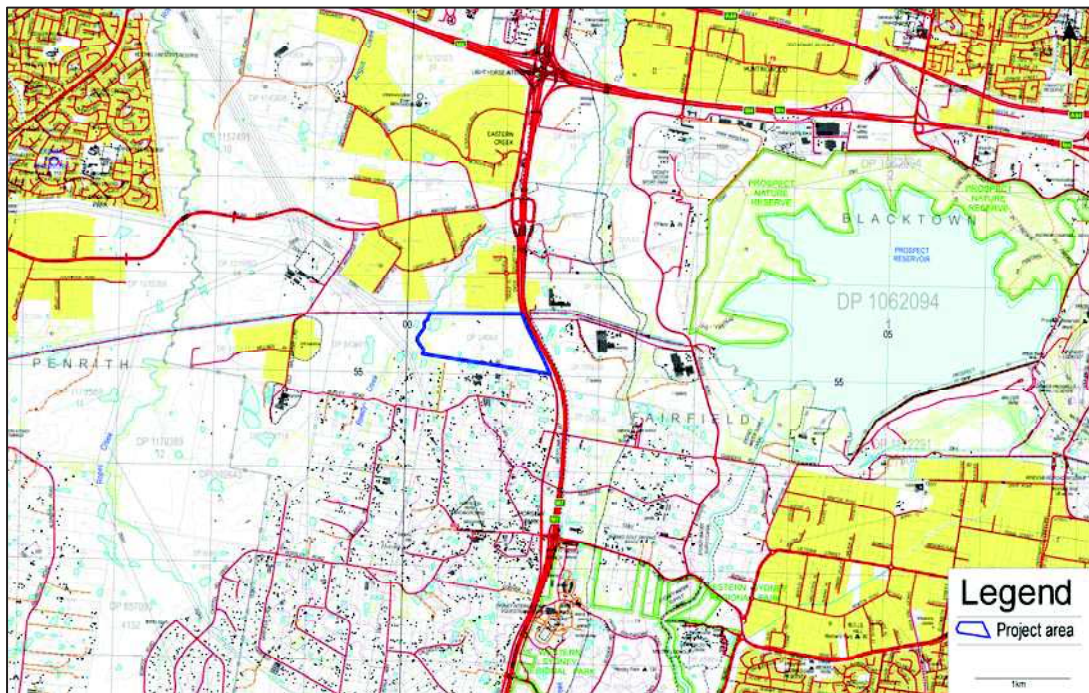
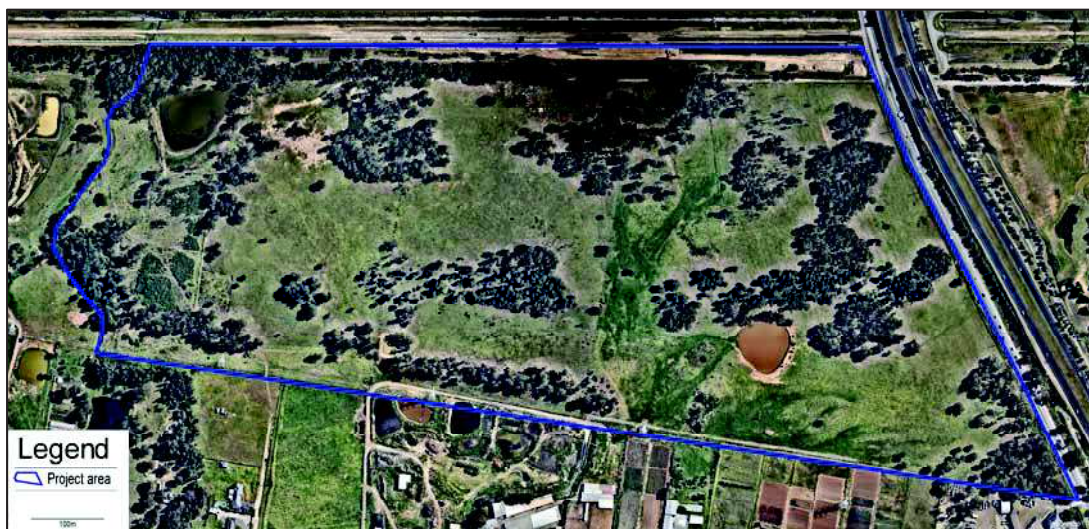


Figure 1.2 Aerial photograph of the project area (nearmap 2019)



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 an industrial estate (Figure 1.3) that will include the following:

- 2111,550 square metres of gross floor area comprised of 198,300 square metres of warehouse/industrial uses and 13,250 metres square of ancillary office floor space;
- 16 development lots with a total of 14 building envelopes; and
- lot layouts, site levelling, infrastructure and utilities and landscaping.

Stage 1 of the development will include:

- vegetation clearing and bulk earthworks;
- construction of internal estate roads and utilities infrastructure;
- construction of stormwater management devices;
- development landscaping;
- construction and operation of a 45,225-metre square warehouse and distribution building, including 3,000 metres square of ancillary office spaces; and
- intersection works at Wallgrove Road.

Figure 1.3 Plan



2 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)

2.1 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 BCD notified (DECCW 2010:13). The due diligence defence does not authorise continuing harm.

The archaeological due diligence assessment and report has been carried out in compliance with the NSW DECCW 2010 Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW.

2.2 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.

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

EP&A Act establishes the statutory framework for planning and environmental assessment in NSW and the implementation of the EP&A Act is the responsibility of the Minister for Planning, statutory authorities and local councils. The EP&A Act contains three parts which impose requirements for planning approval:

- Part 3 of the EP&A Act relates to the preparation and making of Environmental Planning Instruments (EPIs), State Environmental Planning Policies (SEPPs) and Local Environmental Plans (LEPs).
- Part 4 of the EP&A Act establishes the framework for assessing development under an EPI. The consent authority for Part 4 development is generally the local council, however the consent authority may be the Minister, the Planning Assessment Commission or a joint regional planning panel depending upon the nature of the development.
- Part 4, Division 4.1 of the EP&A Act establishes the assessment pathway for State significant development (SSD) declared by the State Environmental Planning Policy (State and Regional Development) 2011 (NSW). Once a development is declared as SSD, the Secretary's Environmental Assessment Requirements (SEARs) will be issued outlining what issues must be considered in the EIS.
- Part 5 of the EP&A Act provides for the control of 'activities' that do not require development consent and are undertaken or approved by a determining authority. Development under Part 5 that are likely to significantly affect the environment is required to have an EIS prepared for the proposed activity.
- Part 5.1 of the EP&A Act establishes the assessment pathways for State significant infrastructure (SSI). Development applications made for SSI can only be approved by the Minister. Once a development is declared as SSI, the SEARs will be issued outlining what issues must be addressed in the EIS.

The applicable approval process is determined by reference to the relevant environmental planning instruments and other controls, LEPs and State Environmental Planning Policies (SEPPs).

The applicable approval process is determined by reference to the relevant environmental planning instruments and other controls, LEPs and State Environmental Planning Policies (SEPPs). This project falls under Part 4 Division 1 with SSD approval (SSD 5248).

2.4 ASK FIRST: A GUIDE TO RESPECTING INDIGENOUS HERITAGE PLACES AND VALUES

Ask First: A guide to respecting Indigenous heritage places and values (2002) was commissioned by the Australian Heritage Commission to provide a practical guide for land developers, land users and managers, cultural heritage professionals and others who may impact on Indigenous cultural heritage. Ask First is intended to be complementary to the Australia ICOMOS Burra Charter and the Australian Natural Heritage Charter. The main focus of Ask First is to emphasise that consultation and negotiation with Aboriginal parties is the best way of addressing Aboriginal cultural heritage issues.

Ask First acknowledges that maintaining Indigenous cultural values and places is a vital part of the community's sense of place, cultural identity and well-being. Indigenous Australians' heritage creates and maintains links between their ancestors, people and the land.

Ask First states that in recognising the rights and interests of Aboriginal peoples in their heritage, all parties concerned with identifying, conserving and managing this heritage should acknowledge, accept and act on the principles that Aboriginal people:

- are the primary source of information on the value of their heritage and how it is best conserved;
- must have an active role in any Aboriginal heritage planning process;
- must have input into primary decision-making in relation to Aboriginal heritage so that they can continue to fulfil their obligations towards this heritage; and
- must control intellectual property and other information relating specifically to their heritage, as this may be an integral aspect of its heritage value.

Ask First also emphasise the benefits of consultation and negotiation in the management of Indigenous cultural heritage and the need to comply with relevant Territory and Commonwealth Aboriginal cultural heritage legislation and statutory authorities, as outlined above. These guidelines have been considered in the development of this ACHMP.

3 CONSULTATION

This ACHMP has been produced in consultation with the Registered Aboriginal Parties (RAPs) as identified throughout the Aboriginal Cultural Heritage Consultation Requirements for proponents (ACHCRs), (DECCW now BCD; April 2010) and attempted to include the RAPs who originally registered during the assessment undertaken previously by AMBS (2013). 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 ACHMP outlined in this document.

3.1 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 which informed this ACHMP (details of full consultation can be found in the 2020 assessment report) The RAP for this project are Darug Custodians Aboriginal Corporation (DCAC)

A copy of the draft ACHMP was forwarded to DCAC for their review and were asked to provide their comments no later than 28th May 2020. DCAC responded earlier and a final copy of the ACHMP was forwarded to DCAC on 14th May 2020.

3.2 PROTOCOL FOR CONTINUED ABORIGINAL CONSULTATION

Subject to any modifications initiated by DCAC, the following protocol will be followed with respect to consultation.

- The Land Manager will advise DCAC of the date of planned commencement of activities within the Project area;
- The land Manager will contact DCAC 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 DCAC following the Unexpected Finds Procedure in Section 6;
- The effectiveness and value of the consultation will be periodically reviewed with DCAC. In the event there is agreement that the approach to consultation needs to change, the changed procedures would be documented in the ACHMP.

4 REGISTERED AHIMS SITES IN THE PROJECT AREA

4.1 SITES IN THE PROJECT AREA

Two highly disturbed surface sites and an area of potential archaeological sensitivity were located within the project area. Their location is shown in Figure 4.12.

Figure 4.1 Sites and area of archaeological sensitivity in the project area

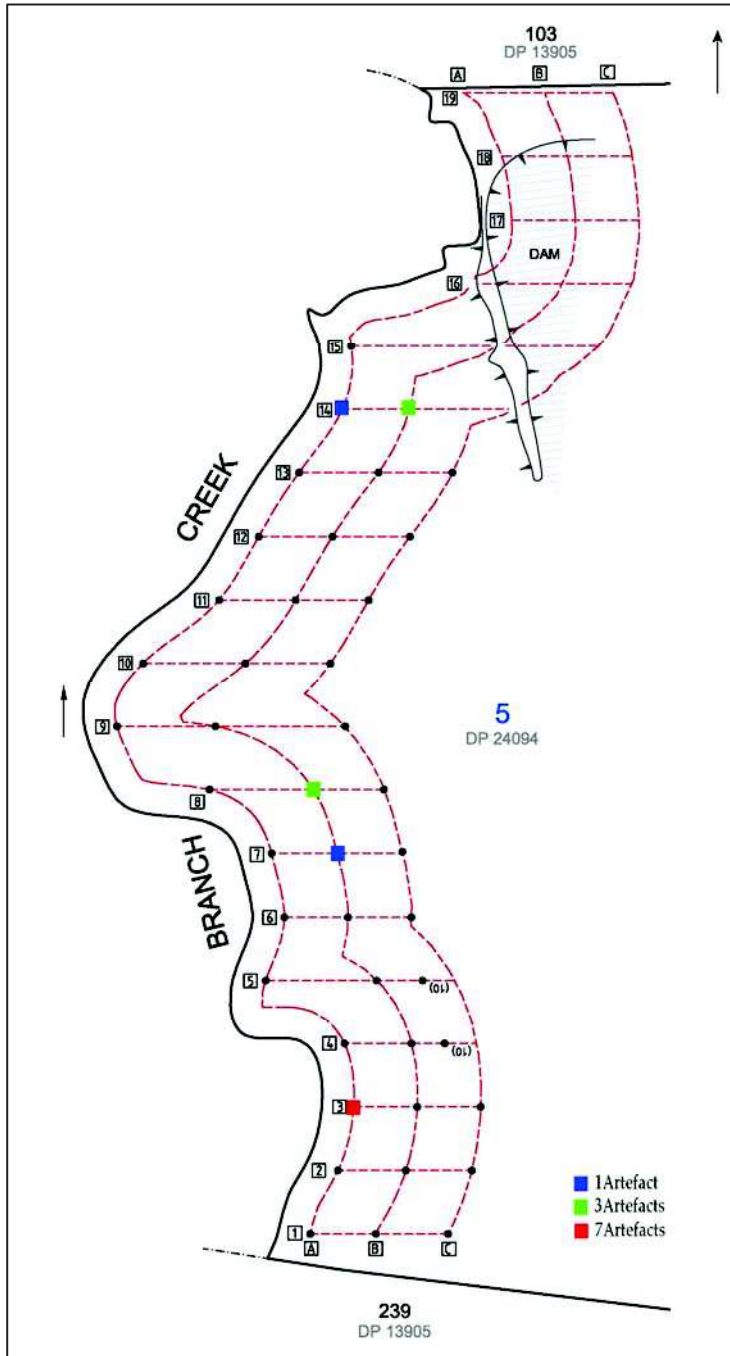


Both WR1 and WR2 were low density artefact scatters that have been collected under the SSD and are no longer in the Project Area.

The area of potential archaeological sensitivity was subject to test excavation and identified a background scatter of artefacts (Horsley Park 1). Figure 4.2 shows the locations of the subsurface artefacts.

As site Horsley Park 1 is a background scatter of discarded artefacts representative of hunting and gathering activities and is well represented both locally and regionally and as such, protection/conservation was not required. Additionally, as the nature of the site was known, further investigations were not required and being an SSD project, an AHIP is not required. As the nature of the site is understood, being a background scatter of discarded artefacts with no specific activity areas identified, salvage works are not required.

Figure 4.2 Location of subsurface artefacts



5 HERITAGE MANAGEMENT PROTOCOLS

The heritage management protocols for unknown Aboriginal objects (sites) set out below must be followed for the proposed development. The implementation of the heritage management protocols and the ACHMP 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; and
- 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.

5.1 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 DCAC and will include, but not limited to;

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

The initial induction will be conducted by the site safety officer with assistance from DCAC 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 DCAC and heritage consultant when requested.

5.2 MANAGEMENT OF AHIMS SITES

As both surface sites have been collected and the subsurface site required no further archaeological works, there are no heritage management strategies required for the known sites in the project area.

5.3 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 DCAC.

5.4 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 permanent storage is decided, this will be documented in a *Transfer of Aboriginal Objects for Safekeeping* agreement which will be submitted to BCD.

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

6 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.

6.1 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).

Should unexpected Aboriginal objects be uncovered during any stage of the development;

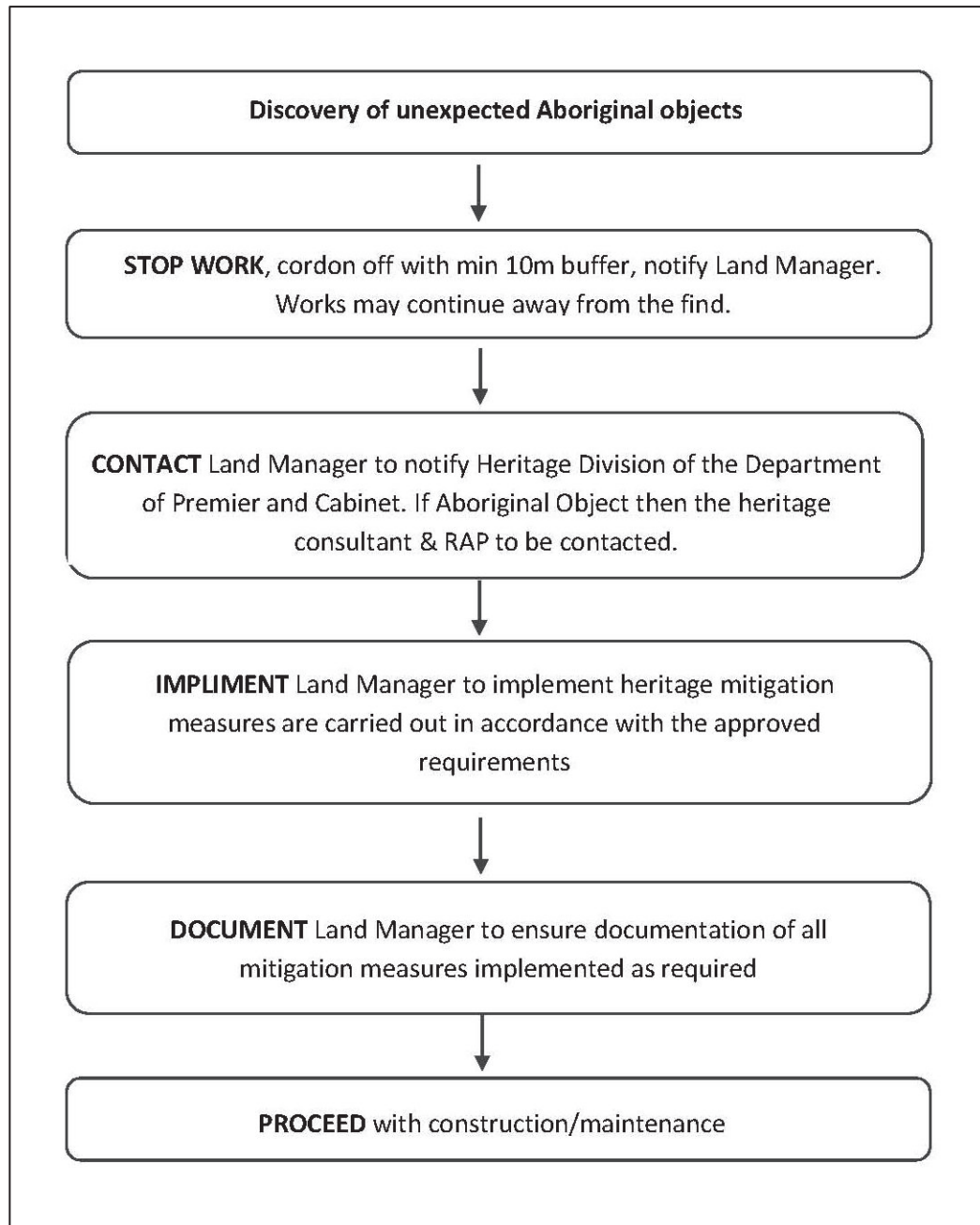
- 1) all work in the immediate vicinity of the suspected Aboriginal item, object or relic must cease immediately;
- 2) a 10m wide buffer area around the suspected item or object must be cordoned off; and
- 3) the Heritage Division of the Department of Premier and Cabinet, specifically DPIC/BCD must be contacted immediately.

Additionally, the Land Manager will then contact the heritage consultant and DCAC, who in consultation with BCD, 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 DCAC and BCD.

If additional works are required, such as salvage excavations, the Land Manager is to arrange for the heritage consultant and DCAC 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 DCAC.

Any Aboriginal objects collected must be managed in accordance with Sections 5.3 and 5.4. The mitigation measures undertaken must be reported to DCAC and BCD 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 4.3 Unexpected finds protocol flow chart



6.2 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 6.2 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:

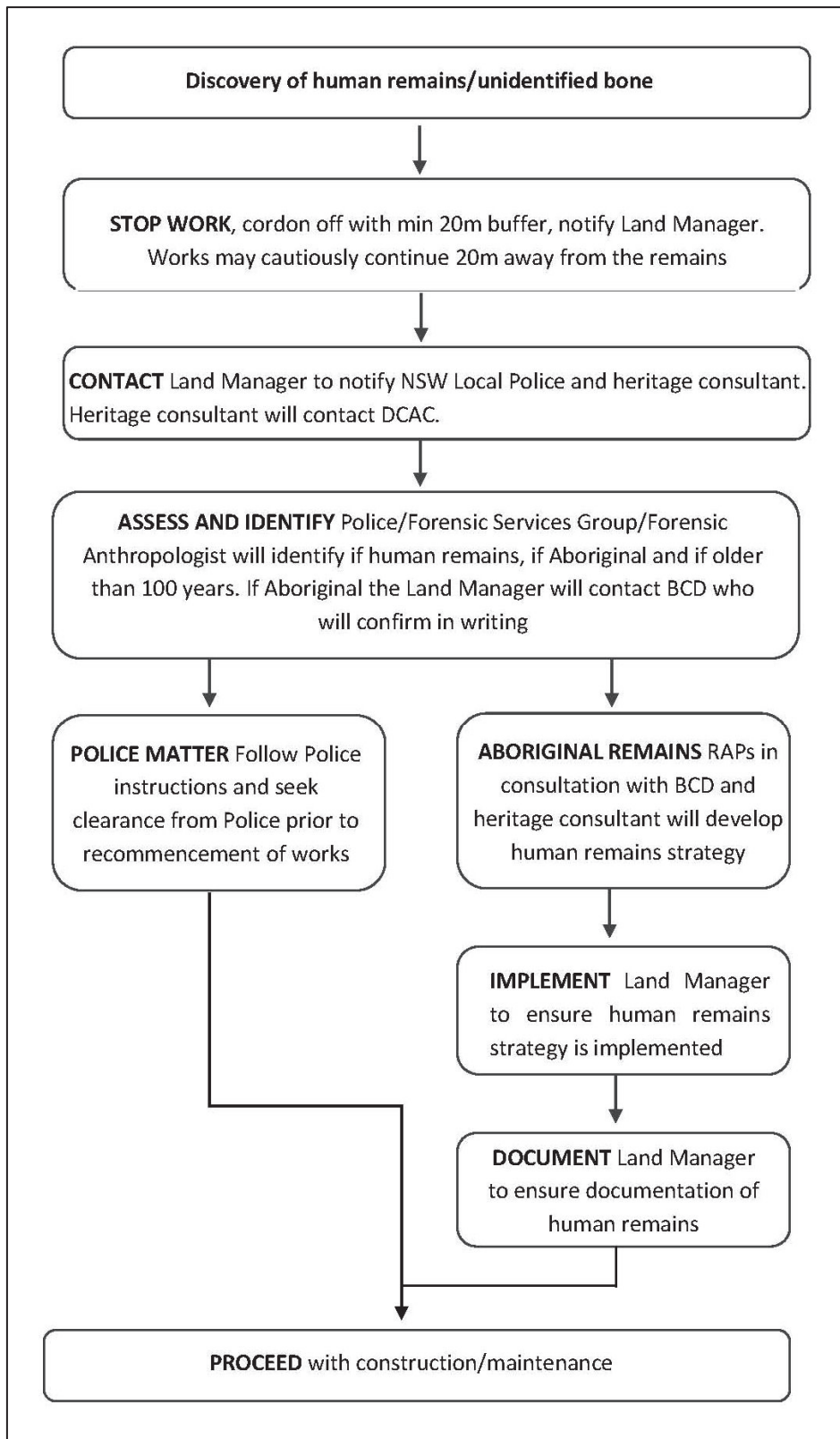
- 1) Human;
- 2) Aboriginal or non-Aboriginal;
- 3) If Aboriginal, determine antiquity (older or younger than 100 years)

If it is determined the remains are Aboriginal and older than 100 years old, the Police will notify the Land Manager who must contact BCD immediately and an BCD officer will confirm the identification in writing. BCD, 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 4.4 Human remains protocol flow chart



7 COMPLIANCE, DISPUTE RESOLUTION AND REVIEW PROCEDURES

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

7.1 IMPLEMENTATION AND COMPLIANCE

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

- The Land Manager will contact DCAC every six months to discuss ongoing implementation and compliance of the ACHMP, or as required; and
- DCAC 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 DPIE and shown in Table 7.1. If the project archaeologist determines that the non-compliance is of a Medium or High risk level, the project archaeologist shall notify NSW DPIE. 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 4.1 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).

7.2 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 BCD) 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.

7.3 REVIEW AND AMENDMENTS

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

8 ROLES AND RESPONSIBILITIES

8.1 LAND MANAGER

8.1.1 DEFINITION

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

8.1.2 RESPONSIBILITIES

- The Land Manager must read, understand and implement the practical application of this ACHMP. 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 6.1) and Human Remains Protocol (Section 6.2);
- 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 ACHMP and are provided with access to a copy of this ACHMP 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;
- 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, RDCAC, Local Police and/or Government Authorities;
- Maintain a contact list for individuals and organisations who may need to be contacted under this ACHMP;
- Ensure the ACHMP 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 DCAC, at least 2 weeks' notice will be given.

8.2 ONSITE PERSONNEL

8.2.1 DEFINITION

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

8.2.2 RESPONSIBILITIES

- Report to the site office prior to entering the site to ensure knowledge and understanding of the ACHMP 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 ACHMP and direct any queries to the Land Manager as required under the provisions of this ACHMP;
- Follow the instructions outlined in the Heritage Management Protocols section of this ACHMP (Section 5);
- Follow the instructions outlined in the Unexpected Finds and Human Remains Protocols section(s) of this ACHMP (Section 6.1 and 6.2 respectively) if needed;
- Be aware that there is an immediate STOP WORK requirement for the discovery of Unexpected Finds and Human Remains; and
- 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 are off limits, including all vehicular movement.

8.3 REGISTERED ABORIGINAL PARTIES (RAPs)

8.3.1 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 ACHMP. The RAPs for this project area DCAC.

8.3.2 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 ACHMP.
- Assist the Land Manager with the implementation of this ACHMP 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 ACHMP; and
- Provide advice and assistance to the Land Manager and heritage consultant with the review and amendment(s) and/or updating of this ACHMP as required.

8.4 HERITAGE CONSULTANT

8.4.1 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 ACHMP.

8.4.2 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 ACHMP if required;
- Assist with the Cultural Heritage Induction if required;
- Provide heritage advice to the Land Manager and DCAC 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 DCAC and this ACHMP;
- Provide advice and assistance to the Land Manager and DCAC with the review and amendment(s) and/or updating of this ACHMP as required; and
- Liaise with DCAC as required.

8.5 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.

8.6 INTELLECTUAL PROPERTY RIGHTS

Some works undertaken for this development will contain Aboriginal cultural information. Such materials will be developed between the Land Manager and DCAC 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. DCAC will retain copyright to their cultural information.

9 CONCLUSION

This ACHMP has been prepared as a guiding document for the management of Aboriginal cultural heritage within Gazcorp Industrial Estate (SSD 5248) Project Area. This ACHMP should be used for the management of cultural heritage within the Project Area until the practical completion of the project.

Appendix A

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 DCAC.

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 DCAC 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 BCD.

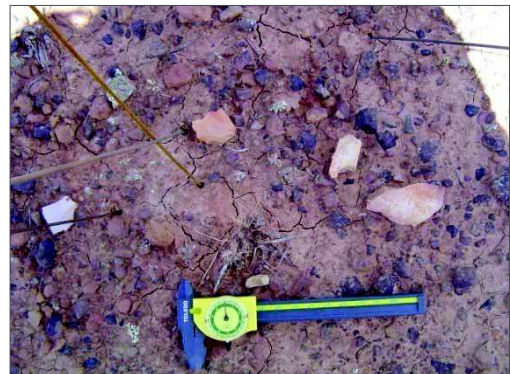
Surface artefact scatters

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)



Hearth

A hearth may also be known as an oven, earth oven, campfire or fireplace. In general, a hearth is a relatively small (<2m diameter) roughly circular piles of ash-stained, heat fractured rock and/or lumps of burnt clay (known as hearth stones) and are often associated with an ash-stained substrate and charcoal fragments found on or in open ground. Hearths are typically associated with burnt flora, faunal remains (particularly bone and shell) and other cultural material, including stone artefacts. Hearths are assumed to have been used for food cooking and/or heating and/or heat-treating stone for stone tool manufacture,

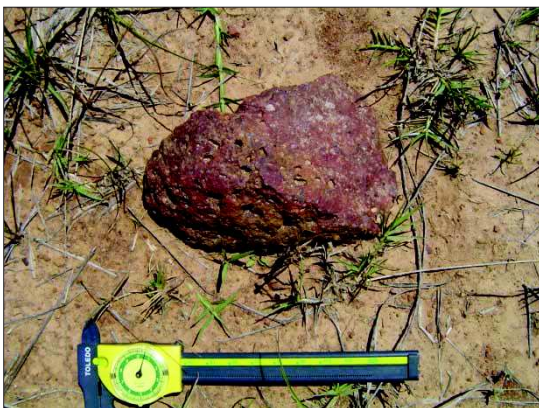
These sites are usually identified as surface and/or subsurface sites in areas where ground surface visibility is increased due to lack of vegetation. Erosion, agricultural activities (such as ploughing) and access ways can also expose hearths, although this usually results in a disturbed hearth with hearth stones dispersed over a slightly larger area than their original location.

Hearths 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; and
- Hunting and/or gathering events.

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

Examples of hearths and a hearth stone (MCH; OEH)



Burials

Burials can occur anywhere (ground, cave, and hollow tree). Cave burials usually do not survive due to both animal and human disturbances and extant tree burials are rare due to logging and land clearance. Ground burials tend to be in soft sandy soils, but can be found in soil and clay. Burials are also commonly found in association with burial goods including stone axe heads (Howitt 1996:464-465). Generally they are only identified through accidental exposure. Although factors such as land clearance and associated erosion reduce the likelihood of burials surviving intact, bone is durable and commonly survives in such environments, albeit in fragmentary form.

If a burial or skeletal remains are uncovered, the Skeletal Remains Protocol must be followed immediately. Once verified by the appropriate specialists and Police, the burial/skeletal remains will be recorded and assessment undertaken. Management recommendations will be made in consultation with the RAPs, BCD and the heritage consultant.