

# Upper Hunter Holdings Pty Ltd

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## The Dolwendeer Quarry Project

Aboriginal Cultural Heritage Management Plan

LGA: Muswellbrook

16 May 2019

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CULTURAL HERITAGE

**Report No: J18069 ACHMP**

Approved by: Penny McCardle

Position: Director

Signed: 

Date: 17 August 2023

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## EXECUTIVE SUMMARY

MCH have been commissioned by Upper Hunter Holdings Pty Ltd to prepare an Aboriginal Cultural Management Plan (ACHMP) in accordance with the Development Consent Conditions for the Dolwende Quarry Project located on the northern side of the Golden Highway, approximately 7 kilometres to the northwest of Denman. Located within the Muswellbrook Local Government Area (LGA). The Project area comprises part of Lots 1, 2, 3 and 4, DP 1160936 and Lot 1 DP 1178562.

This document has been developed to manage Aboriginal Cultural Heritage within the proposed development area as stipulated in the Development Consent Conditions. This document is intended to provide guidance for the management of Aboriginal cultural heritage within the Project Area both during quarrying activities and into the future. This ACHMP applies to the entire Project Area as outlined in Section 1. This ACHMP 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 ACHMP has been produced in consultation with the Registered Aboriginal Parties (RAPs) that have expressed an interest in the project. Aboriginal participation has been requested and implemented from the earliest stages of development of this ACHMP (Section 3 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 4 provides detailed information regarding the 5 sites located within the Project Area as follows:

- **38-4-1720 (isolated)** one mudstone flake located within the Golden Highway southern road reserve and 1 kilometre from reliable water. Highly disturbed through previous road works, signage and erosion. The site was assessed as being of low significance due to its highly disturbed nature from past land uses.
- **37-2-5037 (artefact scatter)** two broken mudstone flakes located on the southern mid and waning slope of Lynch's Gully within a highly eroded gully/drainage line. The site was assessed as being of low significance due to its highly disturbed nature from past land uses.
- **37-2-5038 (isolated)** one chert flake located in an exposure of a highly disturbed area of heavy clearing, oversewing, grazing and erosion. The site was assessed as being of low significance due to its highly disturbed nature from past land uses.
- **37-2-5039 (isolated)** one mudstone flake located 7 metres east of a current access track and highly disturbed by heavy clearing, oversewing, grazing and erosion. The site was assessed as being of low significance due to its highly disturbed nature from past land uses.
- **37-2-5040 (isolated)** one mudstone flake within a vehicle access track and disturbed by heavy clearing, oversewing, grazing and vehicles. The site was assessed as being of low significance due to its highly disturbed nature from past land uses.

MCH recommended that prior to the commencement of quarrying activities that will impact on the sites, the Proponent shall provide for an appropriately qualified archaeological heritage consultant

and registered Aboriginal stakeholders to collect any surface artefacts and the artefacts shall be placed in a keeping place as identified by the Land Manager and RAPs.

Section 5 outlines the heritage management protocols which must be implemented and it is a requirement of this ACHMP that the heritage management protocols are followed.

Unexpected Finds Procedures (Section 6 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 7 provides protocols for compliance, dispute resolution and review procedures, Section 8 outlines the roles and responsibilities for the implementation of this ACHMP and Section 9 provides the conclusion to the ACHMP.

## 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 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

<b>ACHMP</b>	Aboriginal Cultural Heritage Management Plan
<b>AHIMS</b>	Aboriginal Heritage Information Management System. Data base of recorded sites across NSW
<b>OEH</b>	Office of Environment and Heritage (replaced by NSW Department of Planning and Environment)
<b>AHIP</b>	Aboriginal Heritage Impact Permit
<b>RAPs</b>	Registered Aboriginal Party

## 1 INTRODUCTION

### 1.1 INTRODUCTION

MCH have been commissioned by Upper Hunter Holdings Pty Ltd to prepare an Aboriginal Cultural Management Plan (ACHMP) in accordance with the Development Consent Conditions for the Dolwende Quarry Project located on the northern side of the Golden Highway, approximately 7 kilometres to the northwest of Denman. Located within the Muswellbrook Local Government Area (LGA). The Project area comprises part of Lots 1, 2, 3 and 4, DP 1160936 and Lot 1 DP 1178562.

The approval allows for future ridge gravel quarrying operations and associated infrastructure and 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 Development Consent Conditions. The key components of the AHMP that will be addressed derive from the Development Consent conditions and include:

- (a) be prepared in consultation with OEH and the Aboriginal community;
- (b) be submitted to the Secretary for approval prior to the commencement of development under this consent, unless otherwise agreed by the Secretary;
- (c) include:
  - a description of any additional management or mitigation measures required in response to cultural information relevant to the development and provided to the Applicant during consultation with the Aboriginal community;
  - a description of the measures that would be implemented to protect Aboriginal sites, including any visually significant areas of outcropping sandstone near the project that may be affected by airblast overpressure and/or vibration from blasting activities;
  - a description of the measures that would be implemented if any new Aboriginal objects or human remains are discovered during construction and/or quarry operations;
  - a protocol for ensuring any sites impacted by the development are appropriately recorded and submitted to OEH's AHIMS register;
  - a description of an Aboriginal Cultural Education Induction Program for the induction of all personnel and contractors involved in construction and quarrying operations to be implemented for the life of the development; and
  - a protocol for the ongoing consultation and involvement of the Aboriginal community in the conservation and management of Aboriginal cultural heritage on the site, particularly any Aboriginal objects discovered as part of extraction activities.

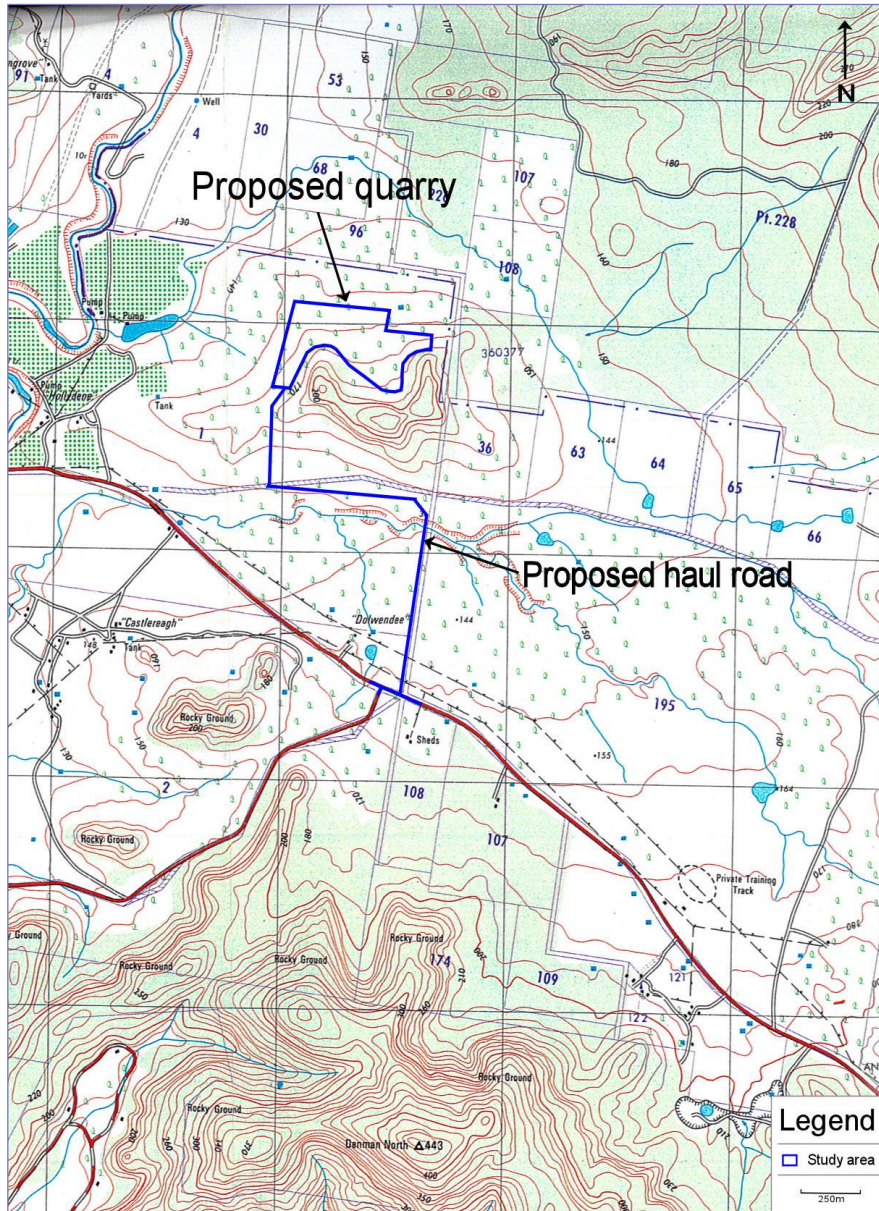
Following consultation with the Office of Environment and Heritage (OEH), it was agreed that the Registered Aboriginal Parties (RAPs) who registered for the project during the 2015 archaeological assessment (MCH 2015) would be consulted for this ACHMP as well as any new RAPs who had registered with OEH since the project commenced. Undertaking new consultation for this ACHMP was not required by OEH.

### 1.2 OVERVIEW

This ACHMP applies to the Dolwende Quarry Project ("the Project Area") located on the northern side of the Golden Highway, approximately 7 kilometres to the northwest of Denman in the NSW Hunter Valley. The Project occurs on a rural property known as "Dolwende", comprising Lots 1, 2, 3 and 4 in DP 1160936 and Lot 1 DP 1178562. The proposed quarry is to be located over Lot 2 with a

haul road from the quarry to the Golden Highway crossing Lots 3 and 4 DP 1160936 and Lot 1 DP 1178562, partly within an existing right of carriageway (Figure 1.1).

Figure 1.1 Location of the project area



One of the conditions of this approval requires consultation with Registered Aboriginal Parties (RAPs) and the development of an ACHMP. This ACHMP 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 quarrying commencing (including construction), during quarrying works and after quarrying is 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 targeting extraction of ridge gravel from a resource comprising sandstone and conglomerate parent material. The total resource proposed for extraction under this development application has been estimated at more than 5 million tonnes, hence the project meets the definition of State Significant Development as identified under Schedule 1, Clause 7 of State Environmental Planning Policy (State and Regional Development) 2011.

The Project Area includes lands required for establishment and operation of the quarry, haul road and intersection establishment. The proposed quarry is to be a conventional open cut operation and is expected to comprise a quarry footprint of approximately 10.7 hectares located on Lot 2 which would contain the active extraction area, raw material and product stockpiles, crushing and screening plant, and ancillary facilities including a small office, amenities and car parking space. Additionally, an internal haul road approximately 2.0 km long will be constructed, along with a new intersection with the Golden Highway. Figures 1.3 and 1.4 provide the quarry plans.

Figure 1.2 Project Plan (Sheet 1)

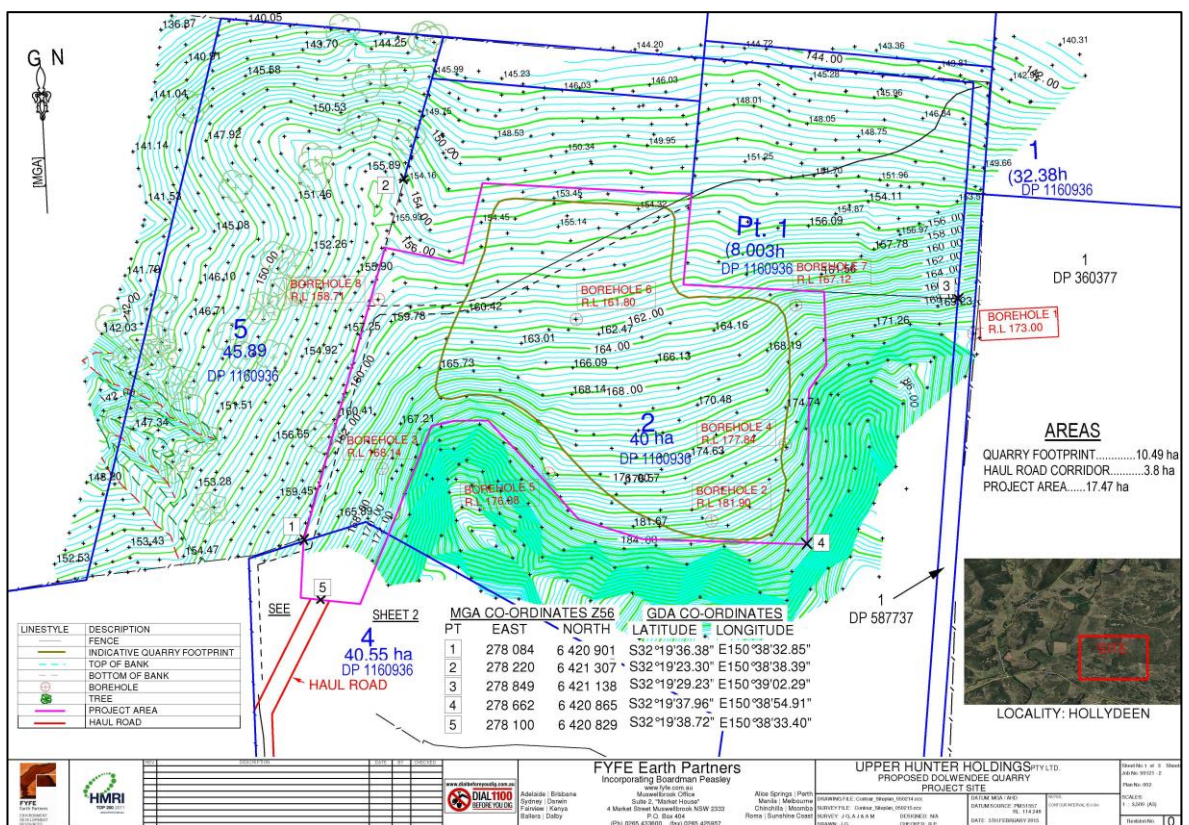


Figure 1.4 Project Plan (Sheet 2)

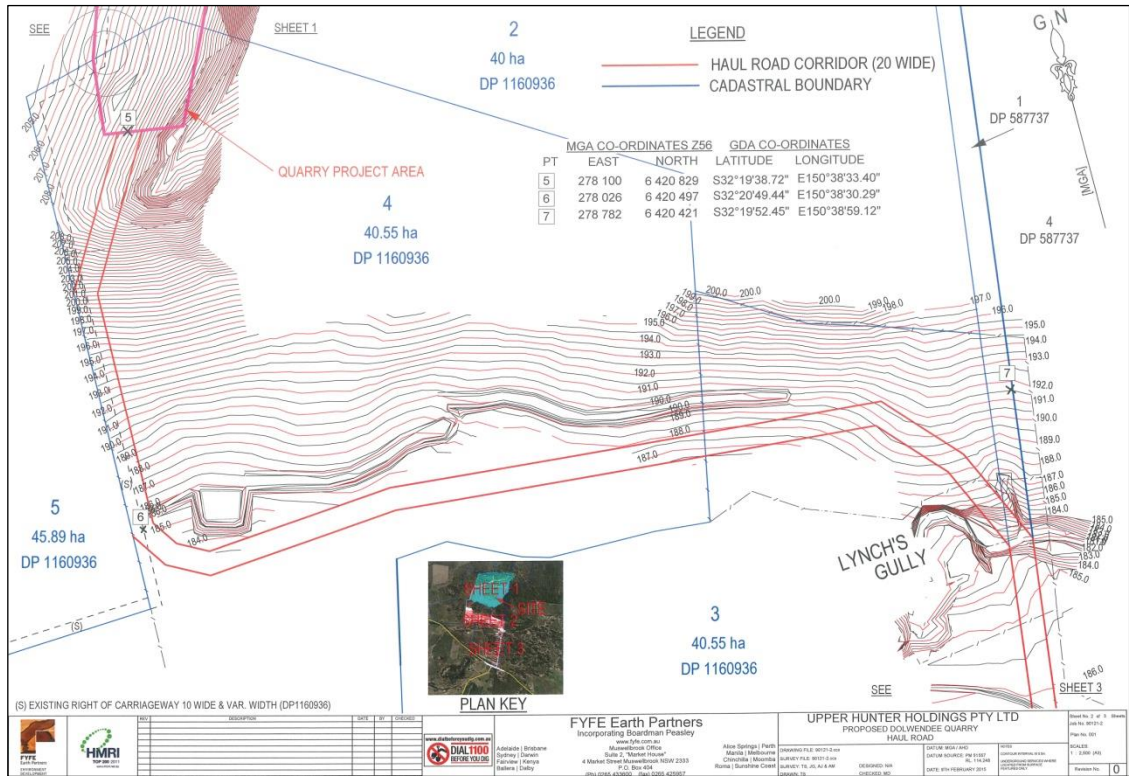
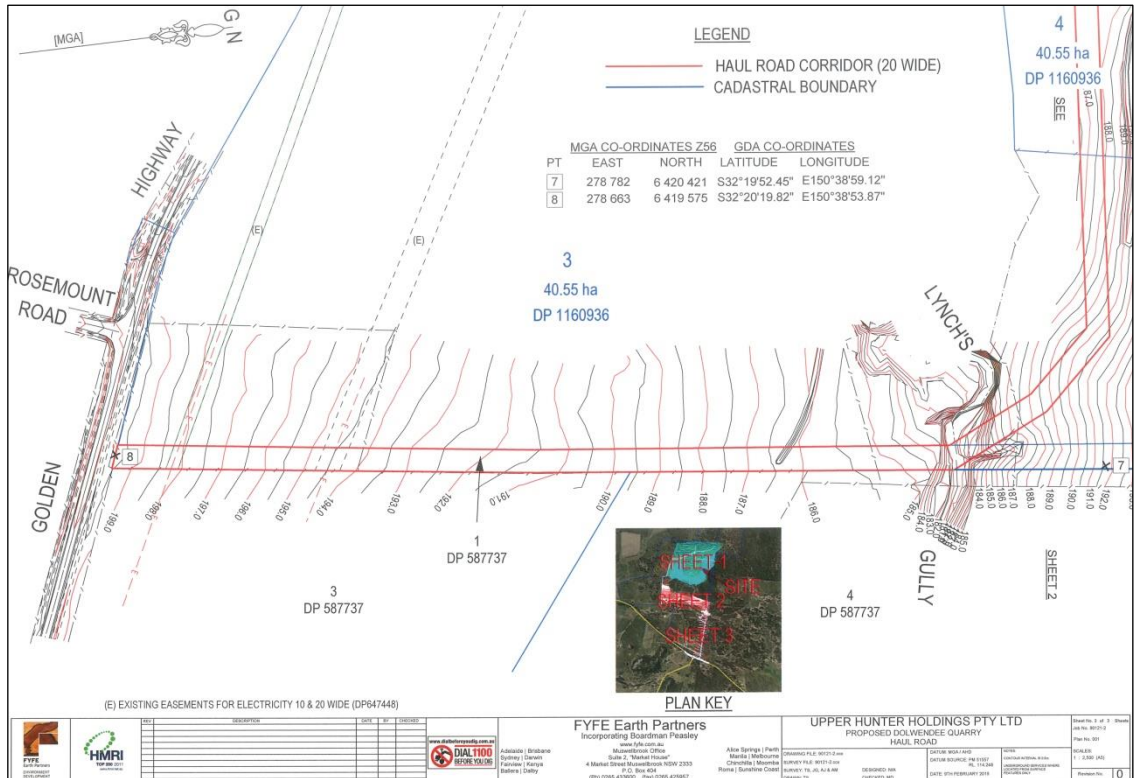


Figure 1.3 Project Plan (Sheet 3) Golden Highway Intersection



## 1.5 PREVIOUS INVESTIGATIONS

An Aboriginal Cultural Heritage Assessment (ACHA) was undertaken by MCH in 2015. Considering the environmental, cultural and archaeological context of the regional and local area, it was found that the distance from reliable water (1 kilometre) and subsistence resources indicated that the project area would not have been suitable for camping. Rather it would likely to have been utilised by small groups of people over short durations involved in transitory hunting and gathering activities. Evidence of such past Aboriginal land uses manifests in the archaeological record as a background scatter of discarded artefacts. Additionally, past land uses and significant erosion was likely to have displaced and cultural materials that may have been present.

The results of the survey identified five sites (38-4-1720, 37-2-5037, 37-2-5038, 37-2-5039, 37-2-5040), four isolated finds located on simple lower slopes and one low density artefact scatter (2 artefacts) along a 1<sup>st</sup> order stream (Lynch's Gully). All sites were located within erosion areas and along tracks and were heavily disturbed with no subsurface potential. Soil horizon A had eroded at all locations with the B horizon exposed with poorly sorted conglomerate stone. Abundant raw materials suitable for tool making such as IMT (Indurated Mudstone Tuff), Quartz and Silcrete were naturally present indicating an abundance of raw materials locally. All sites were well represented throughout the area including their locations, raw material types and artefact types. The assessment recommended community collection of all sites prior to works commencing.

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

## 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)

The 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 Director-General will issue Director-General Requirements (DGRs) 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 is 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 Director-General will issue DGRs 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).

This project falls under Part 4, Division 4.1 and is a State Significant Development (SSD) Project.

## 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) that participated during the Aboriginal Heritage Impact Assessment (AHIA) (MCH 2015). The RAPs involvement was in accordance with the Aboriginal Cultural Heritage Consultation Requirements for proponents (ACHCRs), (DECCW now OEH; April 2010). 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 ACHA undertaken by MCH in 2015 (details of full consultation can be found in the 2015 ACHA report) and OEH confirmed that consultation should continue with those RAPs for this ACHMP. The RAPs are listed in Table 3.1.

Table 3.1 List of RAPs

Stakeholder/organisation	Contact
Aboriginal Native Title Elders Consultants	Margaret Matthews
Hunter Valley Cultural Consultants	Christine Archibald
Upper Hunter Heritage Consultants	Darrel Matthews
Giwiirr Consultants	Rodney Matthews
Lower Hunter Wonnarua Cultural Services	Tom Miller
Hunter Valley Aboriginal Corporation	Rhonda Griffiths
Tocomwall	Scott Franks
Gomeroi Dreaming	Alfred Priestly
Gomeroi Enterprises	Anthony Munro
JLC Cultural Services	Jenny-Lee Chambers
Ungooroo Aboriginal Corporation	Taasha Layer

The RAPs were provided a copy of the draft ACHMP and invited to review the document and provide any feedback. RAPs were asked to provide their comments no later than 22 October 2018. A final copy of the ACHMP was forwarded to all RAPs.

#### 3.2 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.

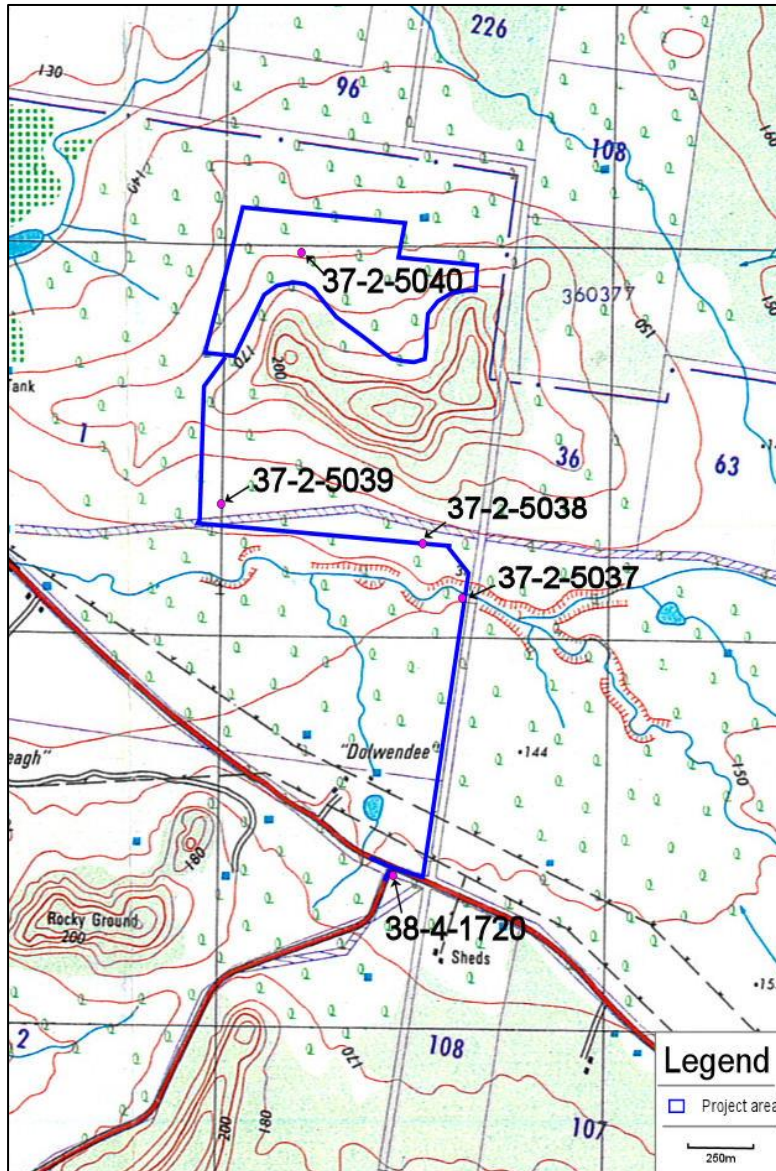
- The Land Manager will advise the RAPs of the date of planned commencement of activities within the Project area;
- The land Manager will contact the RAPs every 6 months to advise of the project's progress and all consultation will be documented;
- In the event that any possible archaeological sites are identified during construction works, the Land Manager will notify the Heritage Consultant and RAPs following the Unexpected Finds Procedure in Section 6;
- 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 ACHMP.

## 4 REGISTERED AHIMS SITES IN THE PROJECT AREA

### 4.1 SITES IN THE PROJECT AREA

Five highly disturbed sites are located within the project area. Their location is shown in Figure 4.1 and details of each site is presented below.

Figure 4.1 Sites in the project area



**38-4-1720 (isolated)** one mudstone flake located within the Golden Highway southern road reserve and 1 kilometre from reliable water. Highly disturbed through previous road works, signage and erosion. The site was assessed as being of low significance due to its highly disturbed nature from past land uses. It was recommended that Prior to the commencement of construction activities that will impact on site 38-4-1702, the Proponent shall provide for an appropriately qualified archaeological heritage consultant and the registered Aboriginal stakeholders to collect the isolated artefact. The artefact shall be placed in a keeping place as identified by the Land Manager and RAPs.

**37-2-5037 (artefact scatter)** two broken mudstone flakes located on the southern mid and waning slope of Lynch's Gully within a highly eroded gully/drainage line. The site was assessed as being of low significance due to its highly disturbed nature from past land uses and uses and it was recommended that Prior to the commencement of construction activities that will impact on site 37-2-5037, the Proponent shall provide for an appropriately qualified archaeological heritage consultant and the registered Aboriginal stakeholders to collect the two artefacts. The artefacts shall be placed in a keeping place as identified by the Land Manager and RAPs.

**37-2-5038 (isolated)** one chert flake located in an exposure of a highly disturbed area of heavy clearing, oversewing, grazing and erosion. The site was assessed as being of low significance due to its highly disturbed nature from past land uses and it was recommended that Prior to the commencement of construction activities that will impact on site 37-2-5038, the Proponent shall provide for an appropriately qualified archaeological heritage consultant and the registered Aboriginal stakeholders to collect the isolated artefact. The artefact shall be placed in a keeping place as identified by the Land Manager and RAPs.

**37-2-5039 (isolated)** one mudstone flake located 7 metres east of a current access track and highly disturbed by heavy clearing, oversewing, grazing and erosion. The site was assessed as being of low significance due to its highly disturbed nature from past land uses and it was recommended that Prior to the commencement of construction activities that will impact on site 37-2-5039, the Proponent shall provide for an appropriately qualified archaeological heritage consultant and the registered Aboriginal stakeholders to collect the isolated artefact. The artefact shall be placed in a keeping place as identified by the Land Manager and RAPs.

**37-2-5040 (isolated)** one mudstone flake within a vehicle access track and disturbed by heavy clearing, oversewing, grazing and vehicles. The site was assessed as being of low significance due to its highly disturbed nature from past land uses and it was recommended that Prior to the commencement of construction activities that will impact on site 37-2-5040, the Proponent shall provide for an appropriately qualified archaeological heritage consultant and the registered Aboriginal stakeholders to collect the isolated artefact. The artefact shall be placed in a keeping place as identified by the Land Manager and RAPs.

## 5 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 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;
- 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, and
- 4) A surface collection of 38-4-1720, 37-2-5037, 37-2-5038, 37-2-5039 and 37-2-5040 will be required prior to works commencing in those locations.

### 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 activities undertaken for the Project 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 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 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.

### 5.2 MANAGEMENT OF AHIMS SITES

#### 5.2.1 38-4-1720

A community surface collection of this site prior to any works being undertaken in that area and a site impact card submitted to AHIMS following the collection.

#### 5.2.2 37-2-5037

A community surface collection of this site prior to any works being undertaken in that area and a site impact card submitted to AHIMS following the collection.

#### 5.2.3 37-2-5038

A community surface collection of this site prior to any works being undertaken in that area and a site impact card submitted to AHIMS following the collection.

#### 5.2.4 37-2-5039

A community surface collection of this site prior to any works being undertaken in that area and a site impact card submitted to AHIMS following the collection.

#### 5.2.5 37-2-5040

A community surface collection of this site prior to any works being undertaken in that area and a site impact card submitted to AHIMS following the collection.

### 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 the RAPs.

### 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 or outside 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 OEH.

If re-burial is decided, this will be undertaken in accordance with Wonnarau 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 OEH. 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.

### 5.5 PROTECTION OF VISUALLY SIGNIFICANT SANDSTONE OUTCROP

The visually significant areas of outcropping sandstone near the project that may be affected by airblast overpressure and/or vibration from blasting activities will be protected through the implementation of appropriate blast techniques including monitoring. These matters would be addressed in a blast management plan prepared prior to commencement of blasting operations at the site.

## 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

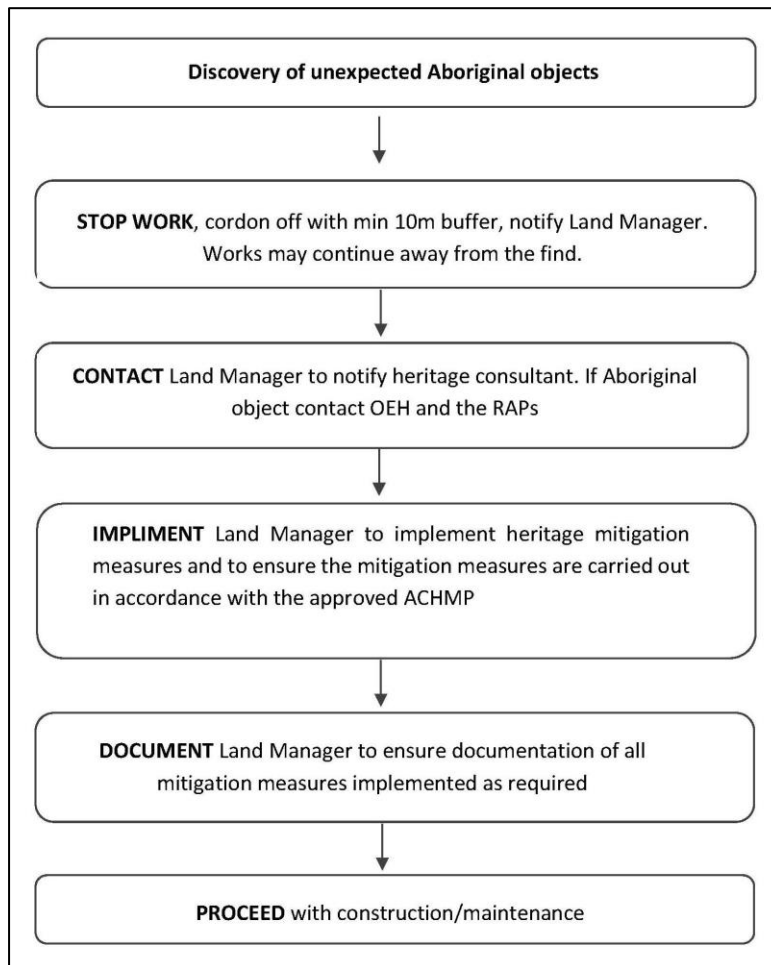
Should unexpected Aboriginal objects be uncovered during any stage of the development, the protocols in Figure 6.1 would be followed. Unexpected Aboriginal objects may include, but not limited to, isolated artefacts, artefact scatters, scarred trees and hearths (descriptions of such objects are provided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

Work must stop immediately in that location, the objects cordoned off with at least a 10m perimeter surrounding the object(s) with high visibility fencing/barrier and the Land Manager and OEH 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 OEH NSW regulations and the NSW NPW Act.

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 Sections 5.3 and 5.4. The mitigation measures undertaken must be reported to the RAPs and OEH 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 6.1 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:

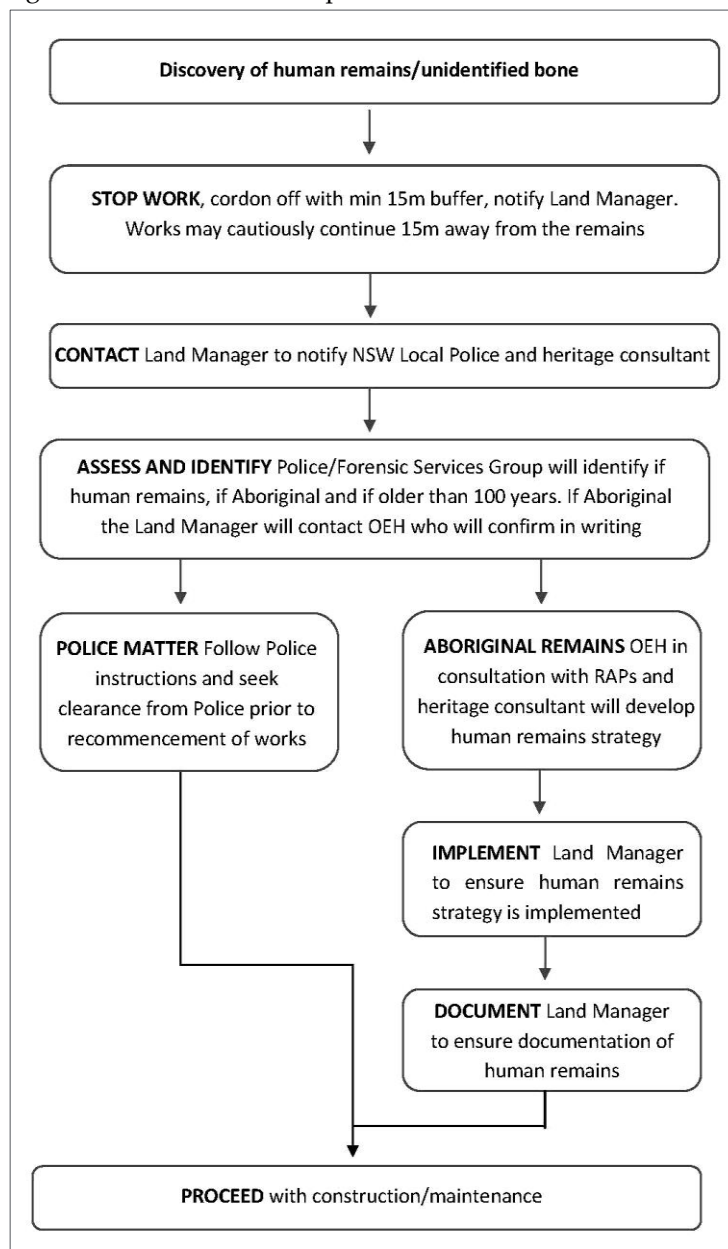
- 1) Human;
- 2) Aboriginal or non-Aboriginal;
- 3) If Aboriginal, determine antiquity (older or younger than 100 years)

If it is determined the remains are Aboriginal and older than 100 years old, the Police will notify the Land Manager who must contact OEH immediately and an OEH officer will confirm the identification in writing. OEH, 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 6.2 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 this Section. 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 ACHMP, 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 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 DPE or Office of Environment & Heritage. 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 7.1 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"> <li>• potential for serious environmental consequences, but unlikely to occur; or</li> <li>• potential for moderate environmental consequences, but likely to occur</li> </ul>
Low	Non-compliance with: <ul style="list-style-type: none"> <li>• potential for moderate environmental consequences, but is unlikely to occur; or</li> <li>• potential for low environmental consequences, but is likely to occur</li> </ul>
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)"

## 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 OEH) 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, RAPs 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, RAPs and Heritage Consultant, with the approval of the Secretary of DPE.

## 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 responsible construction manager during construction activities, and the Quarry manager during quarry operations.

#### 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 Cultural Heritage Induction is delivered 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 to be followed 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 ACHMP;
- Ensure the ACHMP is updated as required until the completion of works; and
- Where site meetings with the RAPs are proposed, other than for the Heritage Management, Unexpected Finds and Human Remains Protocols, 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 descent who have registered as holders of traditional knowledge in the Project Areas part of the consultation process undertaken for this ACHMP. The RAPs are listed in Table 8.1.

Table 8.1 List of RAPs

Stakeholder/organisation	Contact
Aboriginal Native Title Elders Consultants	Margaret Matthews
Hunter Valley Cultural Consultants	Christine Archibald
Upper Hunter Heritage Consultants	Darrel Matthews
Giwiirr Consultants	Rodney Matthews
Lower Hunter Wonnarua Cultural Services	Tom Miller
Hunter Valley Aboriginal Corporation	Rhonda Griffiths

Tocomwall	Scott Franks
Gomeroi Dreaming	Alfred Priestly
Gomeroi Enterprises	Anthony Munro
JLC Cultural Services	Jenny-Lee Chambers
Ungooroo Aboriginal Corporation	Taasha Layer

### 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 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 ACHMP;
- Provide advice and assistance to the Land Manager and RAPs with the review and amendment(s) and/or updating of this ACHMP as required; and
- Liaise with the RAPs 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 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.

## 9 CONCLUSION

This ACHMP has been prepared as a guiding document for the management of Aboriginal cultural heritage within the Dolwende Quarry 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

### Aboriginal Consultation Summary

Date	Consultation type	OEH requirement	Consult stage	RAP/Agency	Contact person	Description
2/8/18	Phone call	4.1.2	1	Pitt & Sherry contacted Office of Environment & Heritage (OEH)		Outlined that the development had been on hold and was re-starting and discussed the approach of re-engaging with the current RAPs
5/9/18	email	4.1.2	1	OEH contacted Pitt & Sherry		Supported the approach of reengaging with the original RAPs and to also include any new RAPs listed with OEH since the original consultation occurred.
9/9/18	email	4.1.2	1	MCH contacted OEH		Requested information regarding current addresses for previous Raps and clarification of some RAPs listed with OEH but are outside the LGA.
21/9/18	Letter	4.1.2	1	OEH contacted MCH		Provided what addresses OEH have but unable to provide all.
24/9/18	letter	4.2.1, 4.2.2, 4.2.3, 4.3.1, 4.3.2, 4.3.3, 4.3.4, 4.3.5, 4.3.6, 4.3.7	2 & 3	All RAPs		Formal letter and draft ACHMP sent to all RAPs. A response the proposed methodology was required registration by C.O.B. 22/10/18
No response						
<b>22 October 2018 C.O.B. Response to draft ACHMP closed</b>						
23/10/18	letter & email	4.4.4; 4.4.5	4	All RAPs		Final report, final ACHMP and final AHIP sent to all RAPs
<b>23 October 2018 C.O.B. Assessment Complete</b>						

## 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 are 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 the Office of Environment and Heritage.

### 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)



## Scarred trees

Aboriginal culturally modified (scarred and carved) trees are trees that show the scars caused by the removal of bark or wood for the making of various items. Scars vary in size and are identified by the exposure of the sapwood on the trunk or branch of the tree. Scarred trees often occur along major waterways, around lake margins and flood plains. Bark was removed to make items such as canoes, coolamons, shields, to construct temporary shelters and coffins and wrappings for the deceased. Wood was also removed for boomerangs, spears, digging sticks, clubs and shields. Toe holds were also cut into trees to gain access to lookout points, possums, bees' nests and bark higher up a tree. The bark was removed by cutting an outline of the desired shape using a stone, trade or steel axe and the bark then levered off. The axe cut marks may remain and be present on the bark or sapwood and may be used to relatively date the scar (pre or post settlement or the contact period) as the different axe types produce different tool marks. However, often the cut marks have been obscured by bark re-growth or thickened bark showing a noticeable lip around the scar and at times closing up leaving a vertical ridge as the only evidence of bark removal. Scarred trees are uncommon due to large scale land clearing, bush fires, insect activity, environmental issues (such as salinity) and decay. Scarred trees are one of the few material clues to the past use of perishable natural resources by past Aboriginal people. Wood and bark items rarely survive and scarred trees are disappearing due to impacts mentioned above.

Other activities that scar trees include survey boundary markers (triangular in shape and may be inscribed), removal for housing materials (usually square or rectangle in shape) and those that border roads may be damaged by traffic and/or farming machinery and damage is usually below two metres in height. Naturally occurring scars also occur through fire, falling limbs and flood debris impacts on trees next to waterways. A scar caused by burning can be identified by the presence of charring, a triangular shape scar, a scar that is wide at the base and tapers up from the ground. Scars caused by falling branches will look like a 'key hole' with the stub of the branch at the top of the scar and a tail of torn sapwood beneath. Scar trees may be identified by the following;

- 1) A scar will be more-or-less regular shape, will have parallel sides and may have slightly pointed or rounded off ends.
- 2) The scar will be above ground level.
- 3) Exposed sapwood will be free of tree knots, branches or evidence of a branch being present at the top of the scar.
- 4) Exposed sapwood at the base of the scar and more rarely at the tip of the scar may show axe tool marks.
- 5) The scar tree will be an Australian native species that occurs in the local area.
- 6) The scarred tree will be over 100 years old.

There are three categories of scartrees;

- 1) Bark removal (canoes, shields etc)
- 2) Wood removal (boomerangs, spears, digging sticks, clubs, shields etc)
- 3) Evidence of hunting or climbing (toe holds: small horizontal scars where the bark is healed over).

Scarred trees may represent evidence of;

- Hunting and/or gathering events;
- Use of the perishable natural environment;

- Long or short term occupation of a local, single or multiple occupation events (usually associated with other evidence of camping).

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

Examples of scarred trees (MCH)



