

Mr Tony Gant
Project Director M1 Extension to Raymond Terrace
Transport for NSW
Locked Bag 2030
Newcastle NSW 2300

23/01/2023

Subject: M1 Pacific motorway Extension to Raymond Terrace – Unexpected Heritage Finds and Human Remains Procedure

Dear Mr Gant

I refer to your submission dated 14 December 2022 requesting the Planning Secretary's approval of the Unexpected Heritage finds and Human Remains Procedure (rev 2, December 2022) in accordance with Condition E61 of the project approval.

I note that:

- Transport for NSW prepared the Unexpected Heritage finds and Human Remains Procedure
- Transport for NSW submitted the Unexpected Heritage finds and Human Remains Procedure to the Planning Secretary one month before the commencement of work
- The Unexpected Heritage finds and Human Remains Procedure contains the information required by the Project Approval.

Accordingly, as a nominee of the Planning Secretary, I approve the Unexpected Heritage Finds and Human Remains Procedure (rev 2, December 2022) under condition E61 of SSI 7319-PA-3.

You are reminded that if there are any inconsistencies between the Unexpected Heritage Finds and Human Remains Procedure and the conditions of approval, the conditions prevail.

Please make the document publicly available on the project website at your earliest convenience.

If you wish to discuss the matter further, please contact Grant Brown at grant.brown@dpie.nsw.gov.au

Yours sincerely



Grant Brown
Acting Team Leader
Infrastructure Management

As a nominee of the Planning Secretary

Transport
for NSW

Unexpected Heritage Finds and Human Remains Procedure

M1 Pacific Motorway Extension to Raymond
Terrace

SSI 7319

December 2022



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Acknowledgement of Country

Transport for NSW acknowledges the traditional custodians of the land on which we work and live.

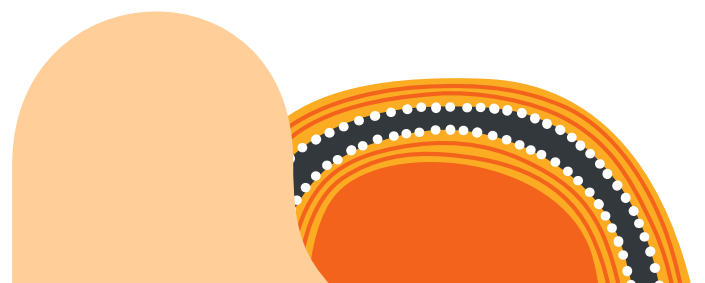
We pay our respects to Elders past and present and celebrate the diversity of Aboriginal people and their ongoing cultures and connections to the lands and waters of NSW.

Many of the transport routes we use today – from rail lines, to roads, to water crossings – follow the traditional Songlines, trade routes and ceremonial paths in Country that our nation's First Peoples followed for tens of thousands of years.

Transport for NSW is committed to honouring Aboriginal peoples' cultural and spiritual connections to the lands, waters and seas and their rich contribution to society.

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Versions

Version	Amendment notes
V0.1	1 st draft for internal review
V0.2	Updated for internal review
V1.0	Issued to Transport for NSW for review
V2.0	Final

1. Acronyms and Abbreviations

Acronym	Definition
ACHMP	Aboriginal Cultural Heritage Management Plan
AHIMS	Aboriginal Heritage Information Management System
AHIP	Aboriginal Heritage Impact Permit
ASO	Aboriginal Site Officer
CEMP	Construction Environment Management Plan
CoA	Conditions of Approval
DPE	NSW Department of Planning and Environment
EIS	Environmental Impact Statement
Environmental Manager	The Contractor's Environmental Manager
EP&A Act	NSW <i>Environmental Planning and Assessment Act 1979</i>
ER	The Environmental Representative of the SSI
HNSW	Heritage NSW
NAHMP	Non-Aboriginal Heritage Management Plan
OEH	Office of Environment and Heritage, now Heritage NSW
PACHCI	Procedure for Aboriginal Cultural Heritage Consultation and Investigation
PM	Project Manager
RAP	Registered Aboriginal Party
RMS	Roads and Maritime Services, now Transport for NSW
SS(H)	Senior Specialist (Heritage)
SSI	State Significant Infrastructure
Transport	Transport for NSW
UFP	Unexpected Finds Procedure

2. Purpose

The purpose of this Unexpected Heritage Finds and Human Remains Procedure provide direction in relation to actions to be undertaken should unexpected heritage finds of any nature be found or should human remains be found.

The Planning Approval SSI-7319 defines Unexpected Heritage Find(s) as “An object or place that is discovered during the carrying out of the CSSI and which may be a heritage item but was not identified in the documents listed in Condition A1 or suspected to be present. An unexpected heritage find does not include human remains.”

The Unexpected Heritage Items Procedure (Roads and Maritime, 2015) (the Procedure) was developed to provide a consistent method for managing unexpected heritage items (both Aboriginal and non-Aboriginal) that are discovered during Transport activities. The Procedure includes Transport's heritage notification obligations under the *Heritage Act 1977* (NSW), *National Parks and Wildlife Act 1974* (NSW), *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) and the *Coroner's Act 2009* (NSW).

The discovery of an ‘unexpected heritage item’ may include:

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

The following guidelines and policies were referenced during the drafting of the Procedure:

- Standard Management Procedure – Unexpected Heritage Items – Heritage Procedure 02 (Roads and Maritime Services 2015f)
- Unexpected Heritage Items Procedure (Transport for NSW 2019b)
- Assessing heritage significance (NSW Heritage Office, 2001)
- Photographic recording of heritage items using film or digital capture (NSW Heritage Office, 2006)
- Skeletal remains: Guidelines for management of human skeletal remains (NSW Heritage Office, 1988)
- Due diligence code of practice for the protection of Aboriginal objects in NSW (OEH, 2010)
- Aboriginal cultural heritage consultation requirement for proponents (OEH, 2010)
- Code of practice for the archaeological investigation of Aboriginal objects in NSW (OEH, 2010)
- Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (OEH, 2011).

This procedure will be implemented for the duration of all Work.

3. Relevant Conditions from Planning Approval

Table 1 includes the relevant conditions from the Planning Approval. This procedure will be written in accordance with these conditions.

Table 1 Relevant Conditions

Condition	Details	Where compliance is addressed
CoA-E55	Where previously unidentified Aboriginal objects or places of cultural significance are discovered, all work must immediately stop in the vicinity of the affected area.	Section 4: Step 1
CoA-E56	Work potentially affecting the previously unidentified objects and places must not recommence until: (a) Heritage NSW and each of the RAPs have been consulted on the proposed management of the Aboriginal objects or places of cultural significance that are identified; and (b) Heritage NSW has advised that works can resume. As part of the consultation with the RAPs, the RAPs must be given the opportunity for further site investigations and cultural salvage. The measures to consider and manage this process must be specified in the Unexpected Heritage Finds and Human Remains Procedure required by Condition E61 and include registration in the Aboriginal Heritage Information Management System (AHIMS).	Section 4: Steps 3, 4, 5 and 6 Section 5
CoA-E61	An Unexpected Heritage Finds and Human Remains Procedure must be prepared to manage unexpected heritage finds (including maritime discoveries) in accordance with any guidelines and standards prepared by Heritage NSW and the Heritage Council of NSW. The Unexpected Heritage and Human Remains Procedure must be submitted to the Planning Secretary for	This Procedure

Condition	Details	Where compliance is addressed
	<p>approval at least one month before the commencements of Work. Work cannot commence until the unexpected finds procedure is approved by the Planning Secretary.</p>	
CoA-E62	<p>The Unexpected Heritage Finds and Human Remains Procedure must be implemented for the duration of Work. Note: Human remains that are found unexpectedly during the carrying out of work may be under the jurisdiction of the NSW State Coroner and must be reported to the NSW Police immediately.</p>	Section 2
REMM AH01	<p>An Aboriginal Cultural Heritage Management Plan (ACHMP) will be prepared in accordance with the Procedure for Aboriginal cultural heritage consultation and investigation (Roads and Maritime Services 2011b) and Standard Management Procedure – Unexpected Heritage Items (Roads and Maritime Services 2015f). The ACHMP will be prepared in consultation with all relevant Aboriginal groups. The ACHMP will include: Details of investigations completed or planned to be carried out and any associated approvals required Mapping of areas of Aboriginal heritage value and identification of protection measures to be applied during construction Procedures to be implemented if previously unidentified Aboriginal objects, including skeletal remains, are discovered during construction An induction program for construction personnel on the management of Aboriginal heritage values developed in conjunction with relevant Registered Aboriginal Parties Opportunities for on-going Aboriginal community engagement in the project.</p>	This Procedure will be referenced within the Aboriginal Cultural Heritage Management Plan (ACHMP)

Condition	Details	Where compliance is addressed
REMM NAH01	<p>A Non-Aboriginal Heritage Management Plan (NAHMP) would be prepared prior to construction in consultation with Heritage NSW relevant agencies. As a minimum, the NAHMP would include the following:</p> <p>A list, plan and maps with GIS layers showing the location of identified heritage items both within, and near, the construction footprint</p> <p>Procedures to be implemented during construction to avoid or minimise impacts on items of heritage significance including protective fencing</p> <p>The Unexpected Heritage Items Procedure (Transport for NSW 2019b) which will be followed in the event that unexpected heritage finds are uncovered during construction</p> <p>A procedure for the unexpected discovery of human skeletal remains as per the Skeletal remains: guidelines for the management of human skeletal remains (NSW Heritage Office 1998).</p>	<p>This Procedure will be referenced within the Non-Aboriginal Heritage Management Plan (NAHMP)</p>

4. Unexpected Aboriginal and non-Aboriginal heritage finds procedure

This section outlines the tasks that will be carried out following the discovery of an unexpected heritage item.

This procedure has been prepared in based on the content and processes outlined in the Unexpected Heritage Items: Heritage Procedure 02 (RMS, 2015) for Aboriginal heritage as per REMM AH01 and The Unexpected Heritage Items Procedure (Transport for NSW 2019b) for non-Aboriginal heritage as per REMM NAH01. The RMS Unexpected Finds Procedure (the RMS procedure) is a more detailed procedure compared to the Transport Unexpected Finds Procedure (the Transport Procedure) and as such will be used as the base case for this UFP (to be applied to all heritage item types), with any supplementary requirements from the 2019 Transport Procedure included.

In accordance with the Unexpected Heritage Items Procedure (RMS, 2015), different processes will be put in place dependent on the items classification. The Unexpected Heritage finds procedure identifies three types of heritage items listed and classified as follows:

1. *Relic: Evidence of past human activity which has local or state heritage significance. It may include items such as bottles, utensils, remnants of clothing, crockery, personal effects, tools, machinery and domestic or industrial refuse*
2. *Aboriginal object: May include a shell midden, stone tools, bones, rock art or a scarred tree*
3. *Work: A building or standing structure. This may include tram tracks, kerbing, historic road pavement, fences, sheds or building foundations*

Figure 1 shows an overview of the process. The figure has been taken from the RMS procedure with updates to personnel titles. It is noted that the Transport procedure is similar, the main difference being that the Transport asks the reader to consider whether any damage may have been done to the heritage item under step 3, and if so to raise an Environmental event under Transports Environmental Incident Procedure and if required, an incident report under Condition A39.

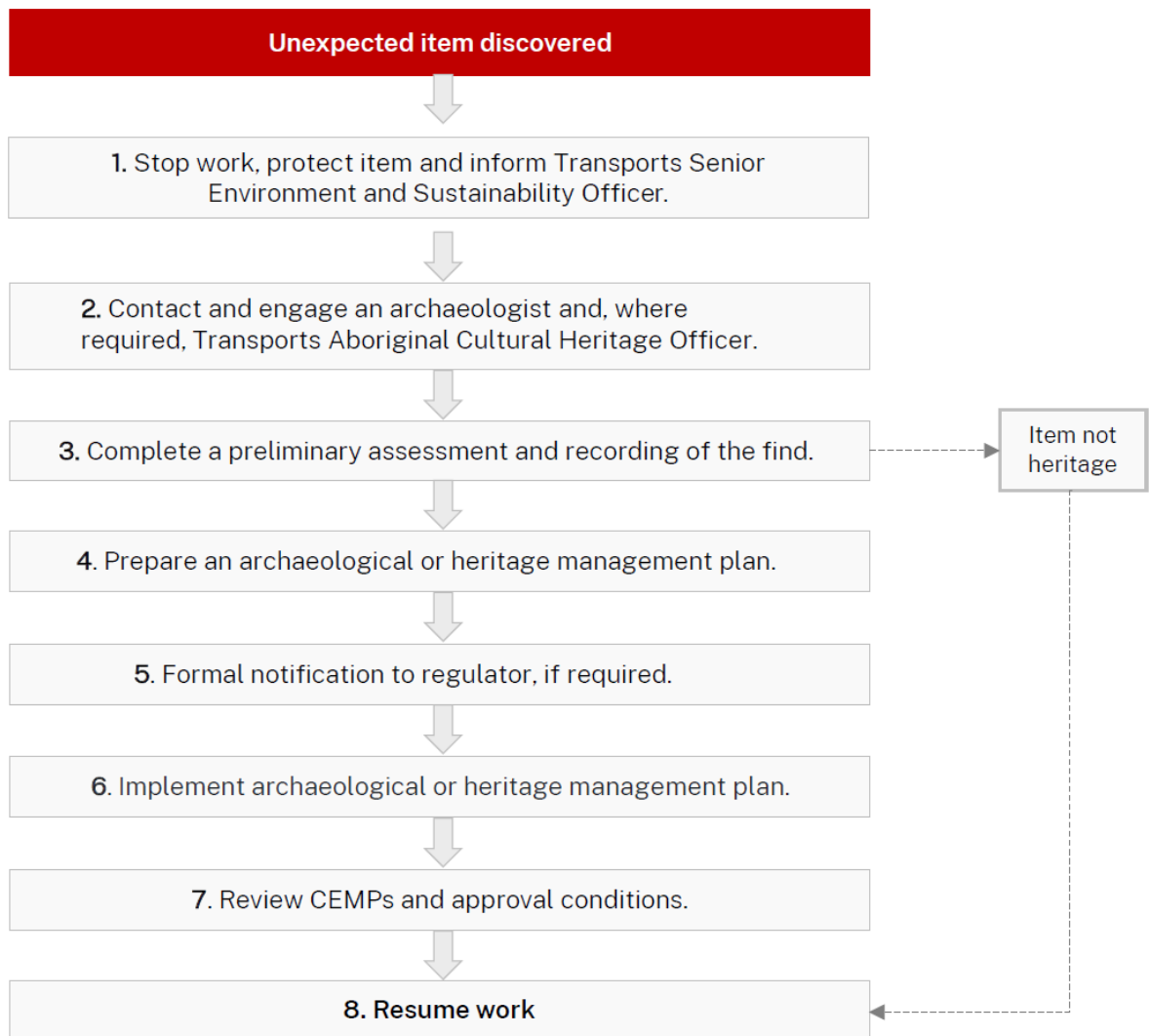


Figure 1: Overview of steps to be undertaken on the discovery of an unexpected heritage item.

The detailed actions relating to each step are included below.

Step 1. Stop work, protect item, and inform Transports Senior Environment and Sustainability Officer

If an unexpected heritage item is encountered during excavation/construction activities:

- Stop all work in the immediate area of the item and the Project Manager or Site Supervisor will inform Transports Senior Environment and Sustainability Officer.
- The Project Manager or site supervisor will be responsible for establishing a 'no-go zone' around the item, using high visibility fencing where practicable. The size of the 'no-go zone' will be determined in consultation with Transports Senior Specialist (Heritage).
- The item will be inspected, documented and photographed using 'Unexpected Heritage Item Recording Form (Appendix A)
- The Project Manager or Site Supervisor will identify whether the item is likely a 'relic', 'Aboriginal object' or 'work'.

- If the item is determined to be a 'work', and it is possible to continue works without causing further disturbance, works will continue, and the completed Recording Form will be submitted to the relevant Transport Staff within 24 hours
- Transport Senior Environment and Sustainability Officer will advise Project Manager whether Transport has an approval or safeguard in place (apart from this procedure) to impact on the item. If yes, work will recommence in accordance with the approval, permit or appropriate safeguard and no further action will be required
- The Project Manager or Site Supervisor will liaise with Traffic Management Centre where the delay is likely to affect traffic flow
- Item will be reported as a 'report-only' in accordance with the Transport Environmental Incident Procedure (EMF-EM-PR-0001).

Step 2. Contact and engage and archaeologist and, where required, Transports Aboriginal Cultural Heritage Officer

- A suitably qualified and experienced archaeological consultant will be engaged to assess the find
- Where the item is likely to be an Aboriginal object, Transports Aboriginal Cultural Heritage Officer will also be engaged to assess the find
- The archaeological consultant (and Transport Aboriginal Cultural Heritage Officer , if relevant) will be provided with the photographs.

Step 3. Complete Preliminary assessment and recording of the find

- Should the archaeologist (and Transports Aboriginal Cultural Heritage Officer, if relevant) determine from the photographs that no site inspection is required because no archaeological constraint exists, such advice will be provided in writing and confirmed by the Project Manager or Site Supervisor that work can recommence
- Site access will be arranged for the archaeologist (and Transports Aboriginal Cultural Heritage Officer, if relevant) to inspect the item as soon as practicable
- Subject to the archaeologist assessment (and Transports Aboriginal Cultural Heritage Officer, if relevant), work will recommence at a set distance from the item (determined by the archaeologist)
- Should the archaeologist (and Transports Aboriginal Cultural Heritage Officer, if relevant) provide advice after the site inspection and preliminary assessment that no archaeological constraint exists, such advice should be provided in writing and confirmed by the Project Manager or Site Supervisor that work can recommence
- Should it be required, additional specialist technical advice will be organised
- Should the item be identified as a relic, heritage item or an Aboriginal object the archaeologist will formally record them, including in the Aboriginal Heritage Information Management System (AHIMS) for Aboriginal objects
- Heritage NSW would be notified informally by telephone at this stage by the archaeologist or Project Manager. Any verbal conversations with Heritage NSW will be noted on project file for future reference
- In addition, the Transport Procedure states that if the heritage item has been damaged an environmental incident report should be raised.

Step 4. Prepare an archaeological or heritage management plan

- An archaeological or heritage management will need to be prepared in the event of unexpected Aboriginal or non-Aboriginal heritage find
- Notify Heritage NSW and each of the RAPs and consult on the proposed management of the Aboriginal objects or places of cultural significance that are identified. This includes the opportunity for further site investigations and cultural salvage
- The archaeological consultant will prepare an archaeological or heritage management plan (with input from the Transport Aboriginal Cultural Heritage Officer, where relevant) with consideration to the any heritage sub-plans, any conditions of heritage approvals, Minister's Conditions of Approval, and heritage assessment documentation
- The archaeologist will submit this plan as a letter, brief report or email to the Project Manager or Site Supervisor outlining all relevant archaeological or heritage issues and constraints
- The Project Manager or Site Supervisor will review the archaeological or heritage management plan
- It is noted that the 2019 Transport Procedure refers to this step as "developing a mitigation strategy with the heritage advisor". This has the same intention as this step within the RMS Procedure.

Step 5. Formal notification to regulator (if required)

- If required, a formal notification letter will be prepared
- The draft notification letter, archaeological or heritage plan and the site recording form will then be sent to Transport Senior Environment and Sustainability Officer for review and amended where appropriate
- The signed notification letter, archaeological or heritage management plan and site recording form will be submitted to Heritage NSW and DPE
- A copy of the final signed notification letter, archaeological or heritage management plan and the site recording form will be kept on file by the Project Manager or Site Supervisor and a copy sent to the Transport Senior Environment and Sustainability Officer.

Step 6. Implement archaeological or heritage management plan

- The archaeological or heritage management plan will be modified to take into account any additional advice resulting from notification and discussions with Heritage NSW and DPE
- The archaeological or heritage management plan will be implemented. Where impact is expected, this will include such things as a formal assessment of significance and heritage impact assessment, preparation of excavation or recording methodologies, consultation with RAPs, obtaining heritage approvals etc, if required
- Where heritage approval is required, the Transport Senior Environment and Sustainability Officer will be contacted for further advice and support material
- It will then be assessed whether heritage impact is consistent with the project approval
- Where statutory approval is not required and where recording is recommended by the archaeologist, sufficient time will be allowed for this to occur.

Step 7. Review CEMP and approval conditions

- The CEMP will be updated as appropriate with any changes resulting from final heritage management (e.g. retention of heritage item, salvage of item). The updated CEMP will incorporate additional conditions arising from any heritage approvals, and Aboriginal community consultation if relevant. Approval of the updated CEMP will be sought from the ER or DPE, as appropriate.
- Any changes to the CEMP will be included in site induction material site workers will be updated during toolbox talks
- Where statutory approval is not required and where recording is recommended by the archaeologist, sufficient time will be allowed for this to occur
- Where Unexpected Finds are uncovered during Low Impact Works, consultation will occur with the Planning Secretary and Heritage NSW to determine whether works may continue as Low Impact Works, or whether works must continue as construction under an approved Construction Heritage Management Plan.

Step 8. Resume work

- The Contractor will seek written clearance to resume project work from Transport Project Manager, the archaeologist and Heritage NSW
- Archaeological excavation/heritage reporting and other heritage approval conditions will be completed in the required timeframes. This includes artefact retention repositories, conservation and/or disposal strategies.

5. Unexpected Human Remains Procedure

This attachment outlines the procedure for handling human remains in accordance with CoA E61, CoA E62, the *Skeletal Remains – Guidelines for the Management of Human Skeletal Remains under the Heritage Act 1977* (NSW Heritage Office 1998) and the *Aboriginal Cultural Heritage Standards and Guidelines Kit* (NPWS 1997).

If possible human skeletal material (remains) are revealed, the following procedure is to be followed:

1. As soon as remains are exposed, immediately stop all work at that location and immediately notify the Transport Senior Environment and Sustainability Officer, Project Manager and Transport's Aboriginal Cultural Heritage Officer on site to allow assessment and management
2. Secure the site immediately with high visible fencing
3. The bones must be identified as either human or non-human as soon as possible by a qualified forensic or physical anthropologist
4. If the bones are not human proceed in accordance with section 4: unexpected Aboriginal and non-Aboriginal heritage finds procedure
5. If the bones are confirmed to be human remains, contact NSW Police as this triggers a process which assumes that they are associated with a crime. The NSW Police will retain carriage of the process until such time as the remains are confirmed to be Aboriginal or historic
6. Notify DPE and Heritage NSW when human remains are found
7. If the bones are identified as human (either by photographs or an on-site inspection) an archaeologist must determine the likely ancestry (Aboriginal or non-Aboriginal) and burial context (archaeological or forensic)
8. Once the police process is complete and if remains are not associated with a contemporary crime provide an update to Heritage NSW and DPE
9. If the remains are identified as Aboriginal, notify all RAPs and continue consultation with the RAPs, DPE and Heritage NSW until a management plan finalised
10. If the remains are identified as Non-Aboriginal (historical) remains, consultation with DPE and Heritage NSW must continue at all times until a management plan finalised
11. The contractor will seek written clearance to resume project work from Transport Project Manager, the archaeologist and Heritage NSW

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

Appendix A – Unexpected heritage item recording form

TRANSPORT FOR NSW - UNEXPECTED HERITAGE ITEM

Date		Recorded by	Name
			Position
Project name			
Description of works being undertaken (e.g., removal of failed pavement by excavation and pouring concrete slabs in 1m x 1m replacement sections).			
Description of exact location of item (e.g., Within the road formation on Parramatta Road, east bound lane, at the corner of Johnston Street, Annandale, Sydney)			
Description of item found (What type of item is it likely to be? Tick the relevant boxes)			
A. Relic	<input type="checkbox"/>	A 'relic' is evidence of a past human activity relating to the settlement of NSW with local or state heritage significance. A relic might include bottles, utensils, plates, cups, household items, tools, implements, and similar items.	
B. 'Work, building or structure'	<input type="checkbox"/>	'Work' can generally be defined as a form of infrastructure such as tram tracks, a culvert, road base, a bridge pier, kerbing, and similar items.	
C. An Aboriginal object	<input type="checkbox"/>	An 'Aboriginal object' may include stone tools, stone flakes, shell middens, rock art, scarred trees and human bones.	
D. Bone	<input type="checkbox"/>	Bones can either be human or animal remains. Remember that you must contact the local police immediately by telephone if you are certain that the bone(s) are human remains	
E. Other	<input type="checkbox"/>		
Provide a short description of item (e.g., Metal tram tracks running parallel to road alignment. Good condition. Tracks set in concrete, approximately 10cms (100 mm) below the current ground surface).			

Sketch

(Provide a sketch map of item's general location in relation to other road features so its approximate location can be mapped without having to re-excavate it. In addition, please include details of the location and direction of any photographs of the item taken).

Action taken (tick either A or B)

A. Unexpected item **would not** be further impacted by works

Describe how works would avoid impact on the item

(e.g., the tram tracks will be left in situ, and recovered with road paving).

B. Unexpected item **would** be further impacted by works

Describe how works would impact on the item

(e.g., milling is required to be continued to 200 mm depth to ensure road pavement requirements are met. Tram tracks will need to be removed).

Project manager / works supervisor signature



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