



# Heritage Management Plan

## Karuah East Quarry, Great Lakes Local Government Area

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**Document Status**

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## Executive Summary

RPS has been commissioned by Karuah East Quarry Pty Ltd to prepare a Heritage Management Plan for the Karuah East Quarry in the Great Lakes Local Government Area. The Project was approved by the Planning and Assessment Commission on 17 June 2014 under approval number 09\_0175.

This document has been developed to set a minimum standard for the management of Aboriginal cultural heritage in the Karuah East Quarry. It provides management protocols for the initial surface disturbances and construction and for future management of Aboriginal cultural heritage for the life of the Karuah East Quarry. For the practical implementation of this document, a clear outline of roles and responsibilities is provided along with flow charts to be used by the Quarry Manager and onsite personnel who may need to conduct works in the Karuah East Quarry.

Prior to the finalisation of this document the registered Aboriginal parties were invited to provide input/comments on cultural heritage management issues and contingency protocols (Appendix 1). RPS attempted to contact the registered Aboriginal Parties, however no responses were received. Whilst no comments were received, it is considered that the contingency protocols are suitable for heritage best practice.

This document has outlined heritage contingency protocols that are to be followed should there be an unexpected discovery of Aboriginal objects. Additionally it outlines the methodology for which heritage monitoring of the initial surface disturbance be undertaken. Furthermore, it provides a step by step guide by which the registered Aboriginal parties should be consulted with. It also outlines the process which should be undertaken with regards to:

- The storage of Aboriginal objects;
- Culturally sensitive information;
- Inductions;
- Document Control; and,
- Dispute resolution.

This document must be used in all Aboriginal cultural heritage matters pertaining to the Karuah East Quarry.

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## Terms, Definitions, and Abbreviations

Abbreviation/ Term	Meaning
Aboriginal Object	“any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises NSW, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains” (DECCW 2010:18).
mtpa	Million tonnes per annum
ATSIHP Act	Aboriginal & Torres Strait Islander Heritage Protection Act 1984
NPW Act	National Parks and Wildlife Act 1974
OEH	Office of Environment and Heritage (formerly Department of Environment, Climate Change and Water, DECCW)
SHR	State Heritage Register
EIS	Environmental Impact Statement
EIA	Environmental Impact Assessment
REF	Review of Environmental Factors
LEP	Local Environmental Plan
AHIP	Aboriginal Heritage Impact Permit
ACHCRs	Aboriginal Cultural Heritage Consultation Requirements for Proponents
ICCRs	Interim Community Consultation Requirements
LALCs	Local Aboriginal Land Council
CHA	Cultural Heritage Assessment
EoI	Expression of Interest

## 1.0 Introduction

RPS has been engaged by Karuah East Quarry Pty Ltd (the Proponent) to prepare a Heritage Management Plan (this document) for the Karuah East Quarry (the quarry). The Quarry has been approved under Project Approval Number 09\_0175, which was granted on 17 June 2014 by the Planning and Assessment Commission.

### 1.1 Overview

This document has been prepared to set a minimum standard and to effectively manage potential Aboriginal cultural heritage sites in the quarry boundaries (Section 1.2). Heritage Contingency Protocols for the implementation by the Quarry Manager and onsite personnel have also been prepared.

### 1.2 The Project Area and Intended Land Use

The Project Area is located on Lots 12 and 13 DP1024564 and is situated in the Great Lakes Local Government Area (**Figure 1**). It is bounded by the Pacific Highway in the south.

The proponent intends to extract hard black andesite material from the quarry. The project will involve the extraction of up to 1.5 million tonnes per annum (mtpa) of andesite over a 20 year period. A 29 million tonne reserve is expected at the quarry and the quarry is expected to have a volume of approximately 14.4 million cubic metres. The extraction will take place on Lot 12 DP1024564. Processing facilities will be located entirely on Lot 13 DP1024564. The extracted material will be used for:

- Base Material;
- Drainage;
- Fill;
- Landscaping; and,
- Aggregate.

To achieve this, the extraction will be conducted in stages and will include the clearance of vegetation and blasting activities. Additionally, road works and upgrades to Andesite Road, Blue Rock Lane and Branch Lane will also be included in the Project.

### 1.3 Purpose

This document has been prepared to provide the Proponent with a consistent approach to the management of Aboriginal cultural heritage and sets out the minimum standards and processes to achieve the intended level of management. This AHMP applies only to the Project Area described in Section 1.2 and Figure 1.

### 1.4 Authorship

This document has been prepared RPS Cultural Heritage Consultant Jeremy Hill (BA Hons [Arch]) and reviewed by RPS Cultural Heritage Technical Director and Newcastle General Manager Darrell Rigby.

### 1.5 Conditions of Approval

The Planning Assessment Commission, on behalf of the Minister for Planning, approved the Project on 17 June 2014 (09\_0175). The approval set out numerous Environmental Performance Conditions (Schedule 3) which included a Heritage condition (Condition 36). Condition 36 is summarised in **Table 1** below.



**Table 1 Conditions of Approval**

Condition	Addressed in this Report
The proponent shall prepare and implement a Heritage Management Plan for the project to the satisfaction of the Secretary. This plan must:	
1. Be prepared by a suitably qualified expert whose appointment has been approved by the secretary	Section 1.4
2. Be prepared in consultation with the local Aboriginal community and OEHL, and submitted to the Secretary for approval prior to the commencement of construction activities	Sections 3.0, 8.0 and Appendix 1
3. Describe measures to be implemented to:	
a. monitor initial surface disturbance on site for Aboriginal cultural heritage Sites or objects;	Section 6.0
b. manage the discovery of Aboriginal cultural heritage sites, objects or human remains on site;	Sections 5.0, 6.0 and 9.0
c. ensure ongoing consultation with Aboriginal stakeholders in the conservation and management of Aboriginal cultural heritage values on site	Section 8.0



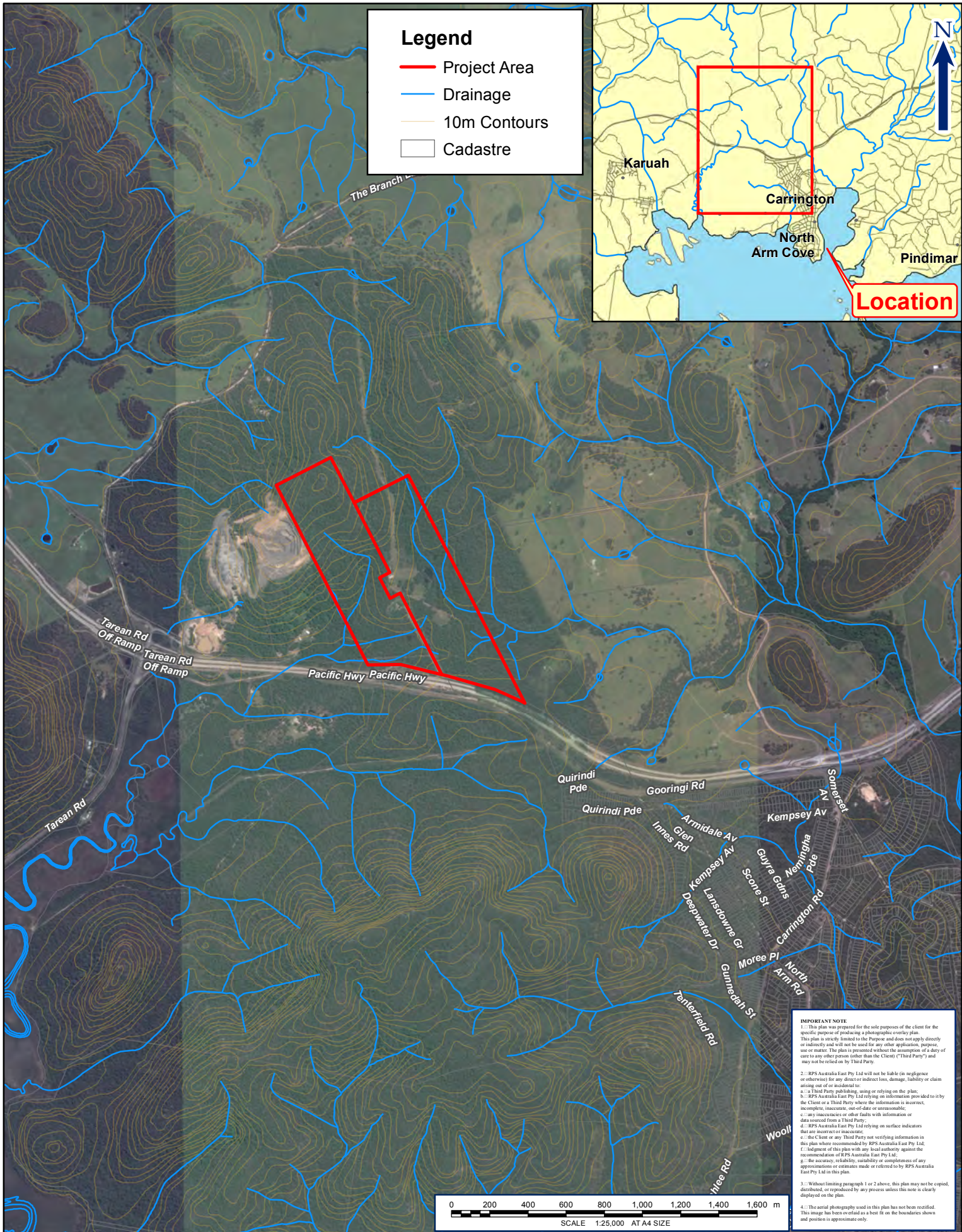


Figure 1: Project Area

LOCATION: Karuah		DATUM: GDA94
JOB NO.: PR127935		PROJECTION: MGA Zone 56
PURPOSE: Heritage		Data Sources: RPS
Technician: jeremy.hill		Date: 15/07/2015

CLIENT: Karuah East Quarry Pty Ltd

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## 2.0 Legislative Context and Guidelines

The overview below is provided solely for the information purposes for the client, it should not be interpreted as legal advice. RPS will not be liable for any actions taken by any person, body or group as a result of this general overview, and recommend that legal advice be obtained from a qualified legal practitioner prior to any action being taken as a result of the summary. The following legislation and guidelines are applicable to Aboriginal cultural heritage management.

### 2.1 Commonwealth Legislation

#### 2.1.1 Native Title Act 1993

The Commonwealth Government enacted the *Native Title Act* (1993) to formally recognise and protect native title rights in Australia following the decision of the High Court of Australia in *Mabo & Ors v Queensland* (No. 2) (1992) 175 CLR 1 ("Mabo").

Although there is a presumption of native title in any area where an Aboriginal community or group can establish a traditional or customary connection with that area, there are a number of ways that native title can be extinguished. For example, land that was designated as having freehold title prior to 1 January 1994 extinguishes native title, as does any commercial, agricultural, pastoral or residential lease. Land that has been used for the construction or establishment of public works also extinguishes any native title rights and interests for as long as they are used for that purpose. Other land tenure, such as mining leases, may be subject to native title depending on when the lease was granted.

#### 2.1.2 Aboriginal & Torres Strait Islander Heritage Protection Act 1984 (ATSIHIP Act)

The purpose of this Act is to preserve and protect all heritage places of particular significance to Aboriginal and Torres Strait Islander people. This Act applies to all sites and objects across Australia and in Australian waters (s4).

The intention of this Act is to provide national baseline protection for Aboriginal places and objects where State legislation is absent. It is not to exclude or limit State laws (s7(1)). Should State legislation cover a matter already covered in the Commonwealth legislation, and a person contravenes that matter, that person may be prosecuted under either Act, but not both (s7(3)).

The Act provides for the preservation and protection of all Aboriginal objects and places from injury and/or desecration. A place is construed to be injured or desecrated if it is not treated consistently with the manner of Aboriginal tradition or is or likely to be adversely affected (s3).

### 2.2 State Legislation

#### 2.2.1 Aboriginal Land Rights Act 1983

The purpose of this legislation is to provide land rights for Aboriginal people within New South Wales and to establish Local Aboriginal Land Councils. The land able to be claimed by Aboriginal Land Councils on behalf of Aboriginal people is certain Crown land that (s36):

- Is able to be lawfully sold, leased, reserved or dedicated;
- Is not lawfully used or occupied;
- Does not comprise lands which, in the opinion of the Crown Lands Minister, are needed or are likely to be needed for residential purposes;

- Are not needed, nor likely to be needed for an essential public purpose;
- Does not comprise land under determination by a claim for native title; and
- Is not the subject of an approved determination under Native Title.

Claims for land are by application to the Office of the Registrar, *Aboriginal Land Rights Act* (1983).

### 2.2.2 National Parks and Wildlife Act 1974

The primary state legislation relating to Aboriginal cultural heritage in NSW is the *National Parks and Wildlife Act* (1974) [*NPW Act*]. The legislation is overseen by the Office of Environment and Heritage (OEH) and specifically the Director-General of the OEH.

### 2.2.3 Heritage Act 1977

Historical archaeological relics, buildings, structures, archaeological deposits and features are protected under the *Heritage Act* (1977) (as amended 1999) and may be identified on the State Heritage Register (SHR) or by an active Interim Heritage Order. Certain types of historic Aboriginal sites may be listed on the SHR or be subject to an active Interim Heritage Order; in such cases they would be protected under the *Heritage Act* (1977) and may require approvals or excavation permits from the NSW Heritage Branch.

### 2.2.4 Environmental Planning & Assessment Act 1979 (EP&A ACT)

This Act regulates a system of environmental planning and assessment for NSW. Land use planning requires that environmental impacts are considered, including the impact on cultural heritage and specifically Aboriginal heritage. Assessment documents prepared to meet the requirements of the *EP&A Act* (1979) - including Review of Environmental Factors (REF), Environmental Impact Statements (EIS) and Environmental Impact Assessments (EIA) - must address Aboriginal heritage, and planning documents such as Local Environment Plans (LEP) typically contain provisions for Aboriginal heritage where relevant.

## 2.3 Guidelines

### 2.3.1 Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW

In 2010, the NSW Office of Environment and Heritage released the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW. This code of practice is designed to assist individuals and organisations to exercise due diligence when carrying out activities that may harm Aboriginal objects and to determine whether they should apply for consent in the form of an Aboriginal Heritage Impact Permit (AHIP).

The *National Parks and Wildlife Act* (1974) provides that a person who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later unknowingly harm an object without an AHIP.

The code sets out the reasonable and practicable steps which individuals and organisations need to take in order to:

- identify whether or not Aboriginal objects are, or are likely to be, present in an area;
- determine whether or not their activities are likely to harm Aboriginal objects (if present); and
- determine whether an AHIP application is required.

### 2.3.2 Aboriginal Cultural Heritage Consultation Requirements for Proponents

In 2010 the NSW Office of Environment and Heritage released the Aboriginal Cultural Heritage Consultation Requirements (ACHCRs) for Proponents. The purpose of the consultation guidelines is to establish the requirements for consultation with the registered Aboriginal parties as part of the heritage assessment process to determine potential impacts of proposed activities on Aboriginal objects and places and to inform decision making for any application for an AHIP. The aims of the consultation guidelines are to facilitate positive Aboriginal cultural heritage outcomes by:

- affording an opportunity for Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal objects(s) and/or place(s) in the area of the proposed project to be involved in consultation so that information about cultural significance can be provided to OEH to inform decisions regarding applications for an AHIP; and
- providing Aboriginal people who hold cultural knowledge relevant to determining the significance of Aboriginal objects (s) and/or place(s) in the area of the proposed project with the opportunity to participate in decision making regarding the management of their cultural heritage by providing proponents with information regarding cultural significance and inputting into management options.

### 2.3.3 Burra Charter

The Burra Charter defines the basic principles and procedures to be followed in the conservation of cultural heritage in Australia. Article 2 declares “The aim of conservation is to retain the cultural significance of a place and must include provision for its security, its maintenance and its future.” The principles that are set out in the Burra Charter guide and inform the assessment of significance of a place. As noted above, Cultural Significance means aesthetic, historic, scientific, or social value for past, present or future generations. Significance assessments are a helpful tool in the management of cultural heritage resources through allowing managers to make informed decisions especially in land use issues. Definitions of these concepts of significance are:

- Aesthetic value;
- Historic value;
- Scientific value or research potential; and
- Social value.

### 2.3.4 Ask First: A guide to respecting Indigenous heritage places and values

Ask First (2002) was commissioned by the Australian Heritage Commission to help Australians protect different aspects of their natural and cultural heritage places, and is intended to be complementary to the Australia ICOMOS Burra Charter and the Australian Natural Heritage Charter. Ask First is a practical guide for land developers, land users and managers, cultural heritage professionals and others who may have an impact on Indigenous heritage. The main focus of the guidelines is to emphasise that consultation and negotiation with Indigenous parties is the best means of addressing Indigenous heritage issues. The guidelines also emphasise the need to comply with relevant Territory and Commonwealth Indigenous cultural heritage legislation and statutory authorities.

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

- must have input into primary decision-making in relation to Indigenous 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.

## 3.0 Aboriginal Community Involvement

### 3.1 Aboriginal Community Input and Comment

This included field surveys conducted on 30 March and 3 August 2010 and further consultation for the preparation of this document was initiated on 14 July 2014. Prior to finalisation of this document the relevant RAPs were invited to provide input/comments on cultural heritage issues associated with the Quarry and heritage contingency protocols outlined in this document.

### 3.2 The Interim Community Consultation Requirements (ICCRs)

Aboriginal Community Consultation for this assessment was begun on 15 January 2010. According to the ICCRs, proponents were to contact the Local Aboriginal Land Council(s) (LALCs), Registrar of Aboriginal Owners, Native Title Services, local councils and the Department of Environment, Climate Change and Water (DECCW, now the Office of Environment Heritage), to request information regarding contact information for any Aboriginal person or groups who may have an interest in the project at the quarry (RPS 2011).

Additionally an advertisement was placed in The Port Stephens Examiner and the Great Lakes Advocate on 15 January 2010. Letters were also mailed to the Karuah LALC, the Registrar of Aboriginal Owners, DECCW and the Port Stephens Council. As a result 10 Aboriginal groups were identified as holding an ancestral link to the Quarry.

**Table 2 Aboriginal Stakeholder Groups Identified by the ICCR Process**

Organisation	Contact	Date EOI Sent
Mur-Roo-Ma Inc	Anthony Anderson	2 March 2010
Worimi Local Aboriginal Land Council	Andrew Smith	2 March 2010
Garrigal Aboriginal Community Inc	Del Arnold	2 March 2010
Nur-Run-Gee Pty Ltd	Leanne Anderson	2 March 2010
Karuah Local Aboriginal Land Council	Michael Rodgers	2 March 2010
Worimi Aboriginal Community Co-operative	Cheryl Hendry	2 March 2010
Maaiangal Aboriginal Heritage	Carol Ridgeway-Bissett	2 March 2010
Forster Local Aboriginal Land Council	Lorna Paulson	2 March 2010
Interim Worimi Knowledgeholders Council	Mick Leon	2 March 2010
Worimi Conservation Lands	Mr Steve Larkin	2 March 2010

As a result of the Eois being sent, only the Karuah LALC responded and as a result was invited to participate in the field survey conducted 30 March and 3 August 2010. Upon finalisation of the fieldwork a Cultural Heritage Assessment (CHA) was completed. The CHA was complied and the RAPs were asked for input, which was included in the final report.

### 3.3 Ongoing Community Consultation

Under approval Condition 35 (09\_0175), the Proponent must ensure ongoing consultation with the Aboriginal community. As a result, the Karuah Local Aboriginal Land Council was invited to consult with RPS in the preparation of this document. A copy of the management plan was sent to the Karuah Local Aboriginal Land Council on 23 July 2015 and comments were due by 20 August 2015. RPS contacted the Karuah LALC numerous times for their comments on this document (Appendix 1), however, no comments were received.

Section 8.0 provides contingency measures should further consultation be required.

Additionally, RPS invited OEH to comment on 2 December 2015. No comments were received.



## 4.0 Aboriginal Cultural Heritage Sites in the Project Area

As part of the CHA (RPS 2011) a search of the Aboriginal Heritage Information Management System (AHIMS) database was conducted on 12 February 2010. The coordinates searched were Geodetic Datum of Australia (GDA) Zone 56 Eastings 396270 to 416270 and Nothings 6379830 to 6399830, an area of approximately 10 kilometres around the Project Area. It identified 104 previously recorded AHIMS sites within those search parameters, none of which fell inside the Project Area.

An updated AHIMS search was undertaken on 9 July 2015. The coordinates searched were the same as listed above. The updated AHIMS search revealed that the total number of AHIMS sites had not changed (n=104); however, the Gooreengi Aboriginal place had been recorded. The Gooreengi Aboriginal Place is located approximately 5 kilometres to the south east and is **outside** of the Quarry.

No previously recorded AHIMS sites have been identified in the Project Area. A previous survey (RPS 2011) did not identify any further unrecorded Aboriginal objects (2011:26). As there are no previously recorded AHIMS sites in the Project Area, heritage contingency protocols have been formulated in the event that unexpected Aboriginal objects are identified.

## 5.0 Heritage Contingency Protocols for the Discovery of Unexpected Aboriginal Sites

Section 4.0 of this document shows that no previously recorded AHIMS site were recorded in the Project Area. Therefore, this section outlines the heritage contingency procedures that have been developed for unexpected finds; it includes procedures for unexpected Aboriginal objects or sites, the discovery of human remains and unexpected historic objects. These protocols must be followed regardless of the development activity taking place.

### 5.1 Heritage Contingency Protocol for Unexpected Aboriginal Objects

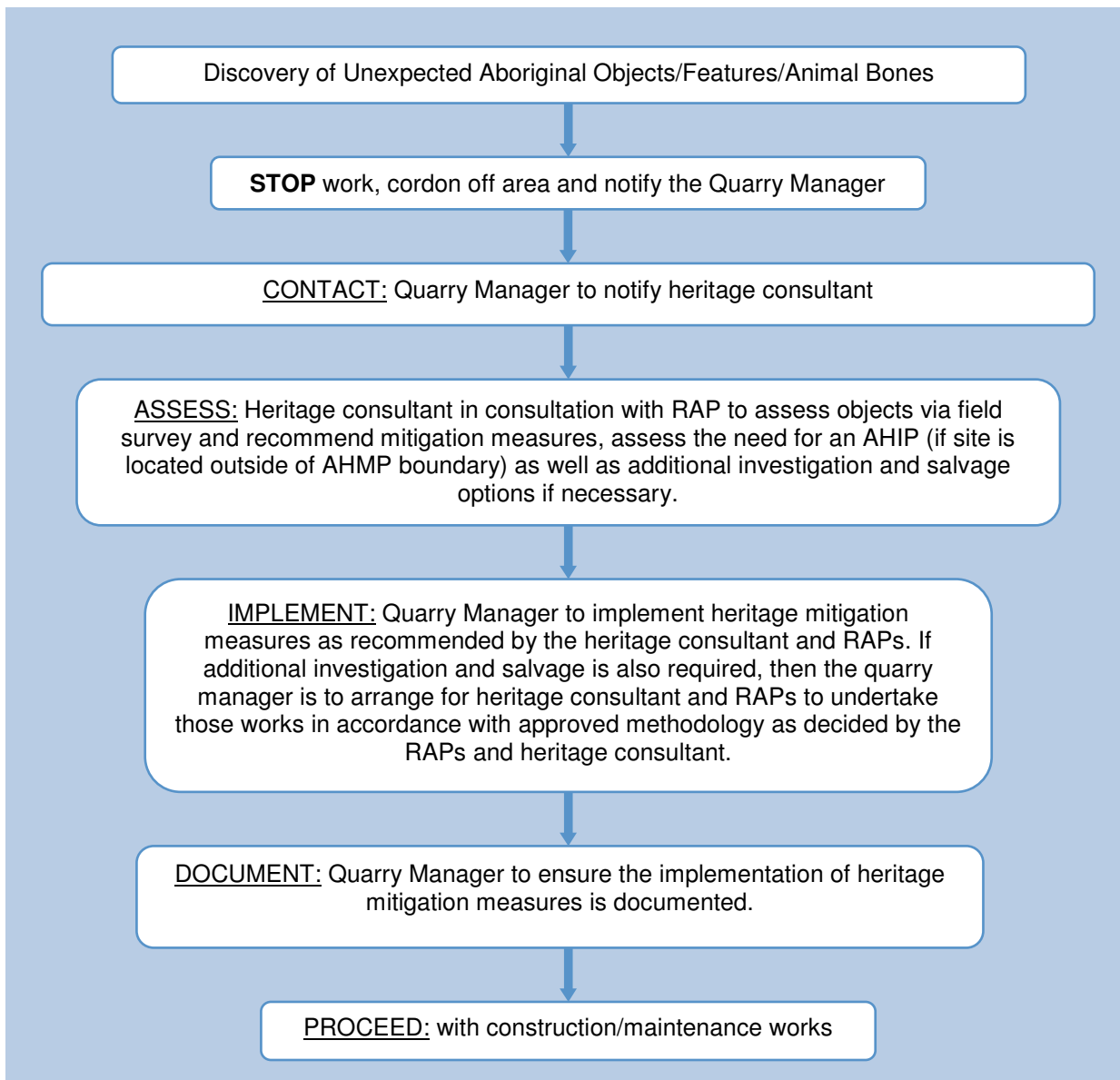
Heritage contingency protocols for unexpected Aboriginal objects that are found in the Project Area during construction are outlined in **Figure 2** below. Should unexpected Aboriginal objects/features be encountered, work must stop immediately and the area cordoned off with a high visibility barrier such as that shown in Plate 1. The Quarry Manager is to be notified as soon as possible.

The Quarry Manager is to then contact the heritage consultant and RAPs. The heritage consultant, in consultation with the RAPs, is to conduct a field survey to assess the Aboriginal objects/features identified. The heritage consultant, in consultation with the RAPs, will recommend appropriate mitigation measures.

The Quarry Manager is to implement the mitigation measures that are recommended by the heritage consultant and agreed to by the RAPs and in accordance with OEH regulations. If additional visual inspection and salvage is recommended, the Quarry Manager is to arrange for the heritage consultant and RAPs to undertake those works. The methodology for undertaking field work is outlined in Section 5.1.2.

Provided that these heritage contingency protocols have been followed, construction/maintenance works within the Project Area may proceed. Any artefacts collected must be handled in accordance with Section 7.1. The heritage mitigation measures undertaken must be reported to RAPs and to OEH.

**Figure 2 Heritage contingency protocol for unexpected Aboriginal objects/features encountered during construction works**



## 5.1.2 Methodology for Field Survey and Due Diligence Visual Inspections

### 5.1.2.1 Survey Methodology

Surveys will involve a visual inspection of the potential impact area or in areas of unexpected discovery of Aboriginal objects. The strategic survey method will largely depend on the size of the survey team, scope of works, landform features and accessibility. Survey coverage can only be determined on a case-by-case scenario because inaccessible landscapes and landowner restrictions may apply in some instances.

### 5.1.2.2 Documentation Methodology

The Aboriginal heritage survey will be undertaken using the following documentation methods, as a minimum:

- Marking the location of any identified artefacts with a stake, flag or similar, and recording them with a GPS unit;

- Recording information about the context of the artefact(s). This will include a description of any associated soil profiles, the depth at which the artefact was identified and a description of any associated features (such as hearths, charcoal, and/or associated artefacts);
- Recording the length, width, thickness, weight and raw material;
- Photographing identified artefacts (the methods for artefact photography are outlined below); and
- Where relevant, plans or section drawings will be drawn to show the location and distribution of identified artefacts/tools, and to assist in the interpretation of the site. These drawings will feature any soil profiles or stratigraphic layers associated with identified artefacts, as well as any other significant features that are identified (such as hearths and/or charcoal); and
- Following the recording of any identified artefacts, construction work may proceed with care in the area.

#### 5.1.2.3 Field Methods

The survey will be conducted on foot (pedestrian) and target landforms or identified Aboriginal objects. Surveys will only take place in an impact/ed area. The area surveyed will be recorded in survey units according to observations of geomorphological processes, rock exposure, drainage, vegetation and any newly identified Aboriginal cultural heritage sites or potential archaeological deposits, where applicable. Survey unit ground surface exposure and visibility will be recorded and the sample fraction calculated according to OEH guidelines.

#### 5.1.2.4 Recording of New Aboriginal Sites

If new (previously unrecorded) Aboriginal heritage sites are identified, site recording will be undertaken in accordance with OEH guidelines. An AHIMS site card will be completed; information required includes location of the site/s, description contents, condition of the site and similar. Site locations will be recorded on a GPS using MGA 56 coordinates. Site locations and contents will be photographed (scaled) and described in field notes. The dimension of Aboriginal artefacts/sites will be recorded using tapes or callipers as appropriate and information added to the AHIMS site cards.

### 5.1.3 **Methodology for Archaeological Excavation**

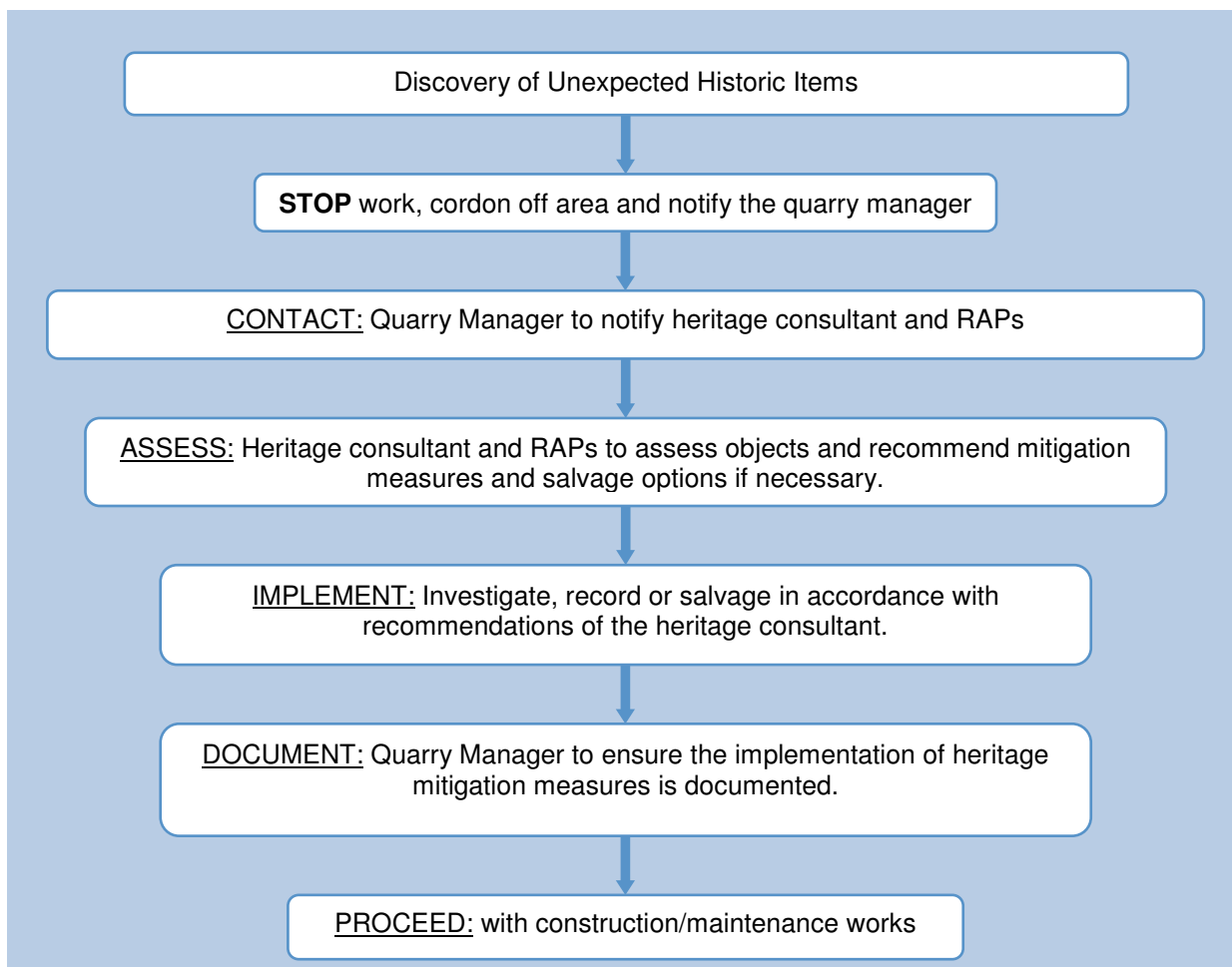
If during the initial surface disturbance or subsequent field surveys areas of potential archaeological deposit are identified and are at risk of harm, archaeological excavations will be carried out prior to harm occurring. The methodology for archaeological excavations will be decided on by the heritage consultant in consultation with the RAPs. Additionally, archaeological excavations will only be undertaken in areas of the potential archaeological deposit that will be impacted.

## 5.2 Heritage Contingency Protocol for Unexpected Historic Heritage

Historic heritage contingency protocols for unexpected historic heritage items found in the Project Area are outlined in **Figure 3** below. Historic heritage sites may include ceremonial/post contact Aboriginal sites, conflict sites or mission sites. Should unexpected historic heritage be encountered, work must stop immediately and the area cordoned off with a high visibility barrier such as that shown in Plate 1. The Quarry Manager is to be notified as soon as possible.

The Quarry Manager is to then contact the heritage consultant and RAPs where the heritage is Aboriginal. In this case, the heritage consultant in consultation with the RAPs is to assess the object(s) via a field survey and recommend appropriate mitigation measures. The Quarry Manager is to implement the mitigation measures that are recommended by the heritage consultant and RAPs. If additional investigation and salvage is recommended, the Quarry Manager is to arrange for the heritage consultant and RAPs to undertake those works. The methodology for undertaking heritage works for suspected historic heritage may vary depending on the nature of the site. Advice from both the Heritage Consultant and OEH should be sought prior to investigations taking place.

**Figure 3 Heritage contingency protocol for unexpected historic heritage**



### 5.3 Heritage contingency protocol for discovery of human skeletal remains

It should be noted that all Parties agree to observe suitable dignity in relation to discovery of clearly identifiable human remains or probable human remains. Human skeletal remains are of the highest importance to Aboriginal peoples and all care, caution, respect and dignity will be utilised by all Parties should such remains be discovered.

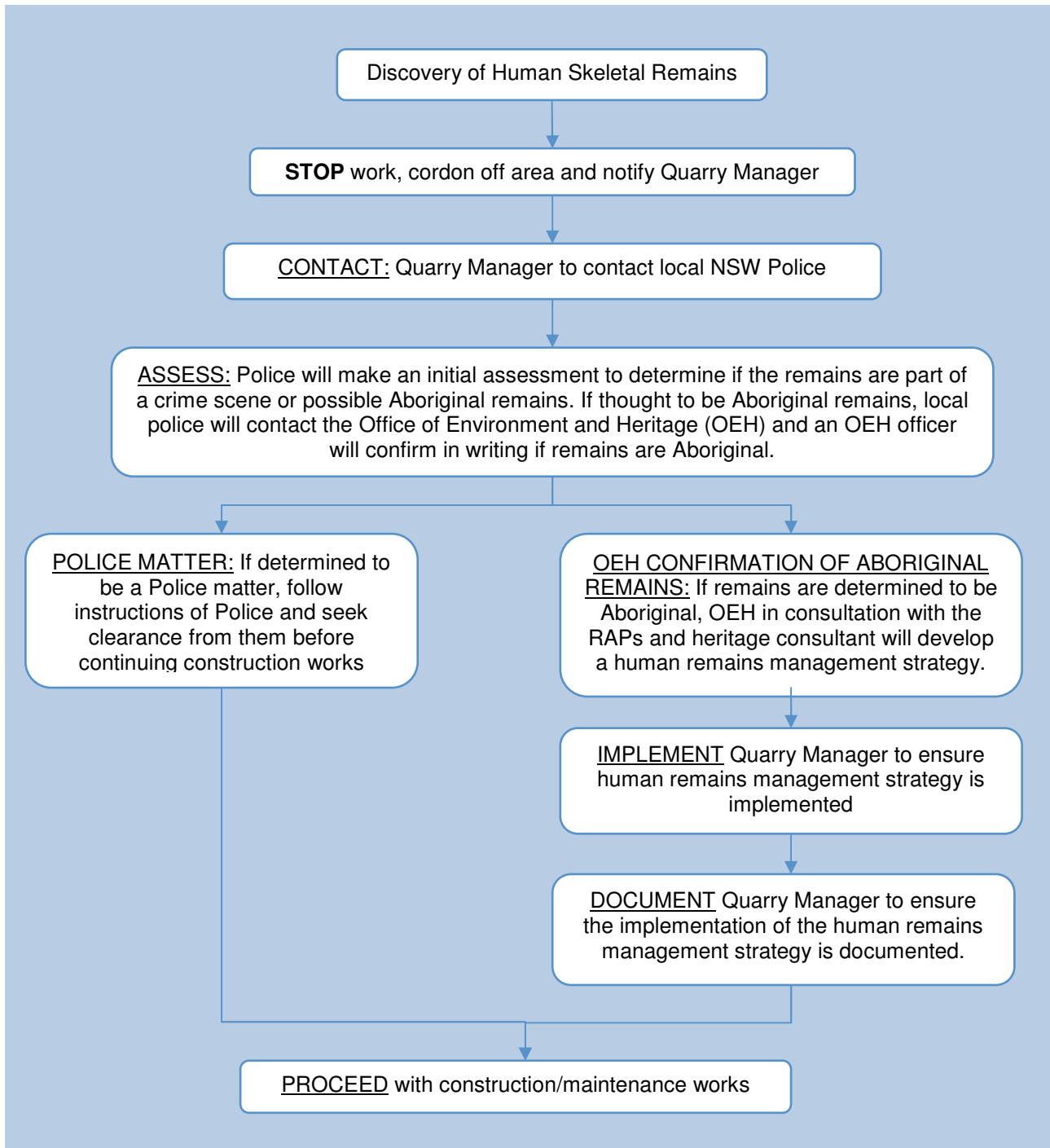
Where human skeletal remains are discovered within the project area the NSW Government sanctioned process for the reporting and management of skeletal remains will be implemented. Heritage contingency protocols for the discovery of human skeletal remains during construction are outlined in **Figure 4**, below. Should clearly identifiable human remains or possible human remains be encountered, work must stop immediately, the area cordoned off with a high visibility barrier such as that shown in Plate 1. The Quarry Manager is to be notified as soon as possible.

The Quarry Manager is to contact the local NSW Police, who will then assess whether the remains are part of a crime scene, or possible Aboriginal remains. If determined by police to be Aboriginal remains, the Police will contact OEH and an OEH officer will confirm the determination in writing. If determined to be a Police matter, Police instructions are to be followed. Clearance to recommence construction works should be sought directly from the Police.

If OEH confirms that the remains are Aboriginal, OEH (in consultation with RAPs and the heritage consultant) will develop a human remains management strategy. The Quarry Manager is to ensure that this strategy is implemented, and must document its implementation.

Provided that these heritage contingency protocols have been followed, construction/maintenance works within the Project Area may proceed.

Figure 4 Heritage contingency protocol for discovery of skeletal remains



## 6.0 Methodology for the Monitoring of Surface Disturbances

Under Condition 35(c) of Project Approval 09\_0175, the Planning and Assessment Commission require the Proponent to offer the opportunity for heritage monitoring to occur during initial surface disturbance for the discovery of unexpected and unrecorded Aboriginal cultural heritage sites or objects.

The RAPs will be offered the opportunity to inspect (monitor) the ground surfaces during the initial surface disturbance of the proposed area footprint (**Figure 5**) in conjunction with the heritage consultant. Thus, the RAPs must be contacted and offered the opportunity to monitor the initial ground surface disturbance and topsoil stripping. All RAPs will be notified of upcoming monitoring works at least 14 days in advance by email or phone or both where necessary. If the RAPs have been given the opportunity to monitor, but are not available, then works will still proceed without the participation of the RAPs. Should unexpected Aboriginal objects/features be encountered, work must stop immediately and the area cordoned off with a high visibility barrier such as that shown in Plate 1. The Quarry Manager is to be notified as soon as possible. Works are not to recommence in the cordoned off area until a heritage assessment has been made and appropriate mitigation and management measures implemented.

If Aboriginal objects are identified and are considered to be a low density scatter; these can be salvaged by the Heritage Consultant and the RAPs. If high density scatters or features such as hearths are identified, then a detailed recording is to be undertaken by the heritage consultant in conjunction with the RAPs. The methodology for recording such sites will be decided by the RAPs and the Heritage Consultant. The area will be cordoned off while the detailed recording is undertaken; but other works can continue in the Quarry so long as it does not require monitoring.

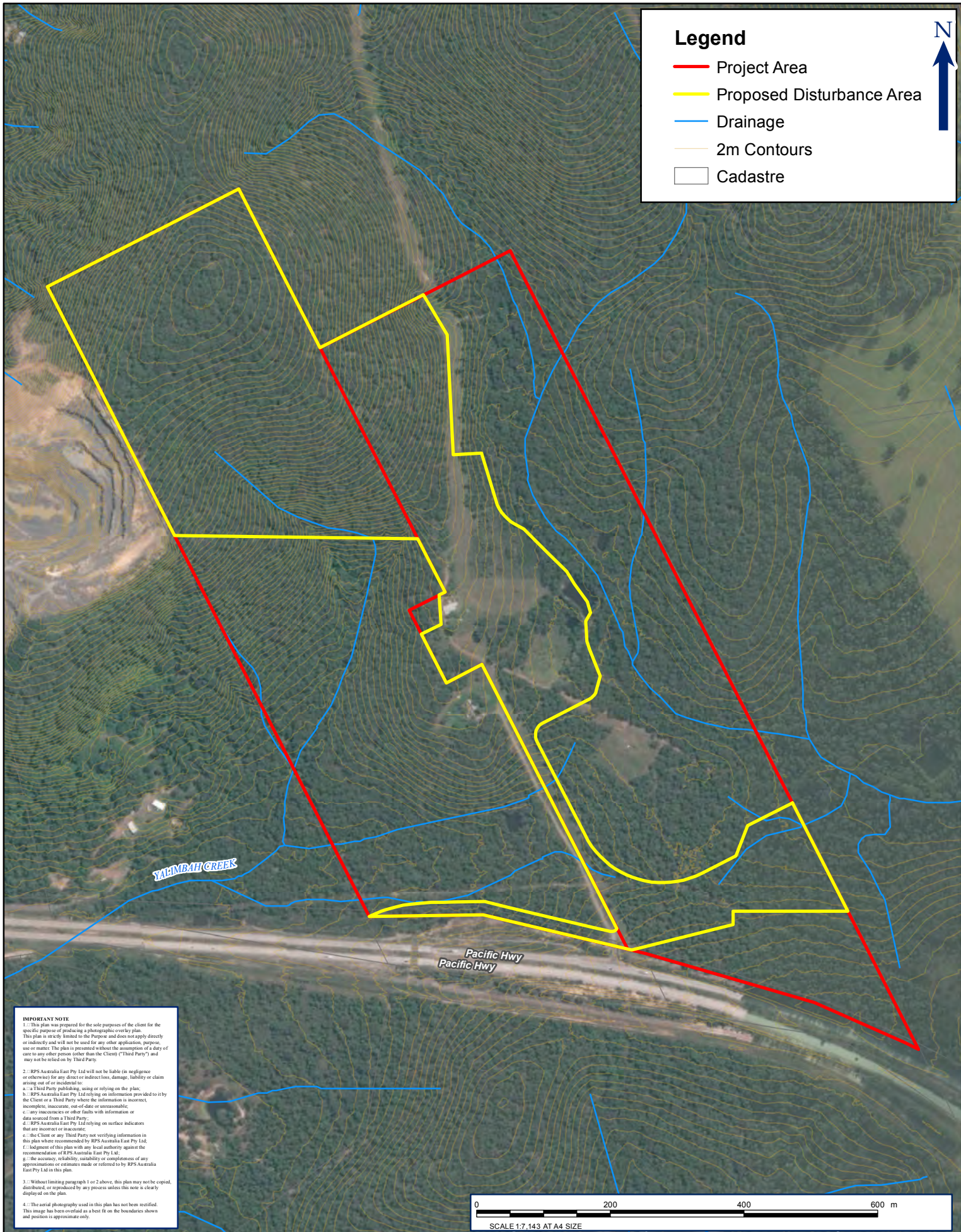
Should Aboriginal objects be collected during monitoring they will be stored in accordance with Section 7.1. The methodology for the initial surface disturbance is located in 5.1.2.

### 6.1 Identification of Aboriginal sites/objects by site personnel

If Aboriginal objects are identified when the RAPs or heritage consultant are not present, the heritage contingency protocols in Section 5.0 must be followed. Section 5.0 states that where unexpected Aboriginal objects/features are encountered, work must stop immediately and the area cordoned off with a high visibility barrier such as that shown in Plate 1. The Quarry Manager is to be notified as soon as possible.

All on site personnel are to undertake a Heritage Induction as per Section 7.3.





**Figure 5: Project Area and areas which need to be monitored**

LOCATION: Karuah	DATUM: GDA94
	PROJECTION: MGA Zone 56
JOB NO.: PR127935	Data Sources: RPS
PURPOSE: Heritage	
Technician: jeremy.hill	Date: 15/07/2015

CLIENT: Karuah East Quarry Pty Ltd

RPS AUSTRALIA EAST PTY LTD (ABN 44 140 292 762)  
 241 DENISON STREET BROADMEADOW PO BOX 428 HAMILTON NSW 2303  
 T: 02 4940 4200 F: 02 4961 6794 www.rpsgroup.com.au

**RPS**



## 7.0 Other Heritage Contingency Protocols

### 7.1 Storage and Transfer of Aboriginal Objects

Aboriginal objects collected at any time during the Quarry's life will be stored in an appropriate manner. During works, Aboriginal objects will be stored at a secure location (temporary keeping place) which will be on-site. Aboriginal objects may be moved temporarily to another location for recording (i.e. heritage consultants) and will then be returned to the secure location at the temporary keeping place. Once the impact and other required activities have been completed, the Aboriginal objects will be re-buried at an appropriate location at the Quarry in consultation with the RAPs. A care and control application will be lodged in order to arrange for the storage of artefacts. Care and control arrangements will be made in consultation with the RAPs and OEH.

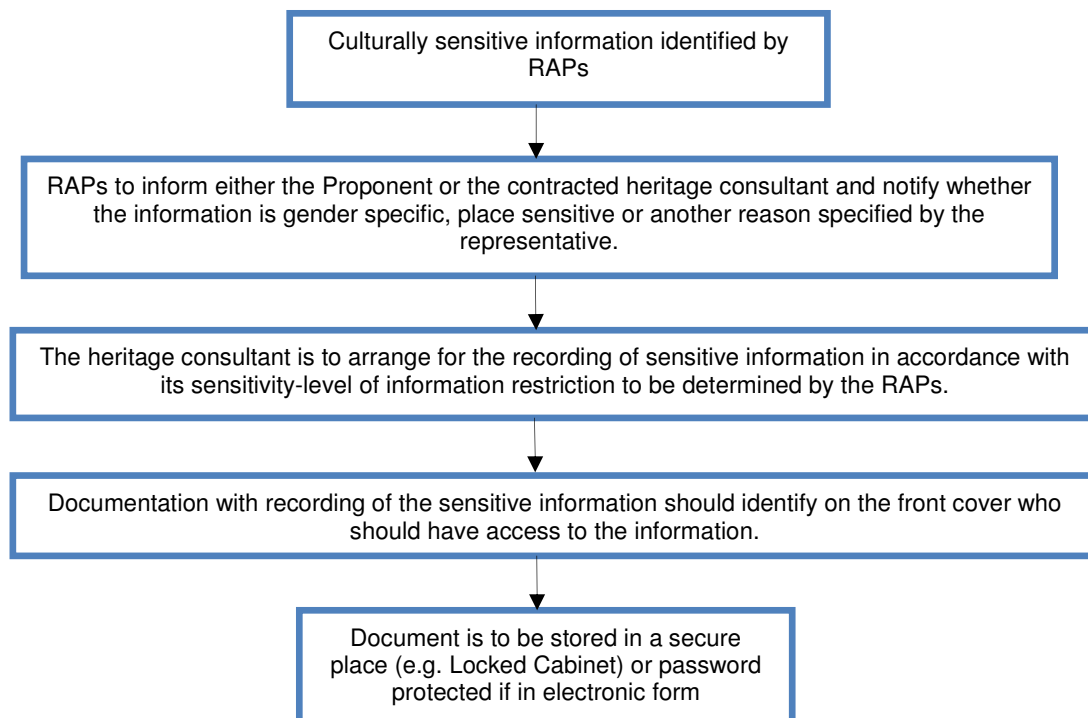
### 7.2 Culturally Sensitive Information

While consultation for the CHA (RPS 2011) did not identify any culturally sensitive information the below process should be implemented if culturally sensitive information is made available to the Proponent.

The purpose of undergoing the consultation process with the Aboriginal community is to gather cultural knowledge relevant to the area so that Aboriginal sites and objects can be appropriately managed. During the process of consultation or field surveys, some information exchanged may be culturally sensitive. For example, gender restrictions (men's or women's business) may be one form of culturally sensitive information in addition to ceremonial and ritualistic information associated with an Aboriginal place. It is therefore paramount that cultural sensitivities associated with the landscape are treated as important information that must be handled with care and in a respectful manner.

#### 7.2.1 Aboriginal Community Co-operation

In the event that culturally sensitive information is associated with a particular area in the Quarry, it is the responsibility of the Aboriginal community to clearly inform either the Proponent and/or the contracted heritage consultant of this matter so that appropriate management protocols can be formulated in order to minimise the risk of quarry related impact to the area. Should the Aboriginal community provide details regarding culturally sensitive information for documentation purposes, under the stipulation that this information not be made public, the following protocols (**Figure 6**) will be adopted unless another protocol is agreed upon by the Aboriginal community.

**Figure 6 Protocol for handling culturally sensitive information**

### 7.3 Inductions

The Proponents staff and contractors undertaking work at the quarry are required to undertake a site specific induction prior to commencing work. Aboriginal heritage matters must form a component of these inductions. The Aboriginal cultural heritage component of the induction will include:

- The contents of this document;
- Relevant legislation and obligations;
- Areas of cultural sensitivity; and,
- The penalties for breaching the relevant legislation.

Records of inductions will be kept and are maintained on-site and a heritage induction sheet is located in **Appendix 2**.

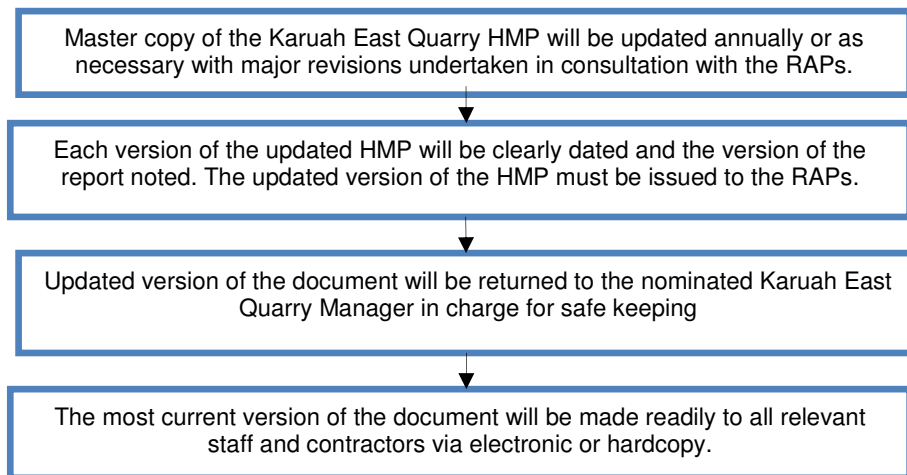
### 7.4 Document Control

#### 7.4.1 Management Plan Updates

The purpose of this document is to provide a standardised and overarching management plan and mitigation strategy for potential Aboriginal sites in the quarry. However, this does not discount the possibility that certain sites may require extra attention and additional specific management protocols to be put in place to ensure that the site is not harmed as a result of quarrying related activities. There may be requirements to adjust/modify some of the management strategies or mitigation measures in this document if it becomes outdated or proven to be inefficient in practice. As a consequence, the CHMP will be updated when deemed necessary to ensure that the document remains current and user-friendly for the purpose of managing Aboriginal sites according to the standards required under NSW legislation.

Given that the expected lifespan of the quarry is approximately 20 years, it is important that current and future Quarry Managers thoroughly read and clearly understand the operations of this document. The Proponent will ensure that this document is readily accessible to Karuah East Quarry staff and relevant contactors working on site. It is the responsibility of the Quarry Manager to ensure that revised editions of this document are made readily accessible to all onsite staff and contractors and that refresher inductions are provided when deemed necessary.

Any significant revisions to this document will be undertaken in consultation with RAPs and the revision date and the version of the document clearly specified (**Figure 7**).

**Figure 7 Continual Revision of the HMP Procedure**

## 7.5 Dispute Resolution

### 7.5.1 Procedure to Resolve a Dispute

This procedure will be enacted should there be a major dispute (disagreement or difference in opinion) between the Proponent and the RAPs and/or between the RAPs. The first step will be to document what the disagreement is and attempt to resolve the issue/s at the time that they arise.

If the dispute cannot be resolved within two weeks of the issue arising, the disputing parties will engage each other in a more formal setting to seek a dispute resolution. The meeting will be set in an agreed location where both parties can attend and facilitated by an independent mediator agreed to by both parties.

In the event that the disputing parties cannot agree on a meeting place, the mediator will nominate a location.

The scheduled meeting place will be stated in a formal invitation letter prepared by the Proponent to the disputing parties, which stipulates the time, date and the issue of discussion. In the event that one of the disputing parties is not able to attend on the day the meeting was scheduled, notice will be provided at least two days before the date of attendance. If either party involved in the dispute fails to confirm their participation and/or fails to attend the meeting, this will be considered a forfeiture of the dispute.

The meeting will be conducted under mediation, which comprises an independent mediator and representatives of the disputing parties. The parties in dispute will be prepared to negotiate in good faith and work towards a mutually satisfying compromise with the assistance of the mediator. All points of view will be documented by the mediator and the purpose of the meeting will be to encourage the parties to negotiate and ultimately reach a satisfying agreement. The course of the meeting will be based on the complexity and number of the disputed issues. Any information disclosed to a mediator in private is to be treated as confidential by the mediator unless the party making the disclosure states otherwise. If agreement is reached at the mediation, the terms of the agreement will be written down and signed by the parties before leaving the mediation.

#### 7.5.1.1 Role of the Mediator

The mediator is a neutral and impartial person who will not impose a solution on the parties, nor will not make a decision for or give any legal advice to the parties. The mediator will not act for any party in relation

to any proceeding concerning the dispute. The mediator will be agreed upon by both parties in dispute. If the disputing parties cannot agree on a person to act as a mediator, it is recommended that OEH be contacted as an independent advisor to suggest a mediator for the dispute resolution.

The mediator will provide an overview of the mediation process which will include the following stages:

- The systematic identification of all disputed matters;
- Facilitation of direct communication between the parties;
- Develop options for the resolution of these issues;
- Explore the usefulness of these options; and
- Arrive at a settlement that the parties find mutually acceptable.

#### **7.5.1.2 Conflict of Interest**

The mediator must, prior to the commencement of the mediation, disclose to the parties to the best of his or her knowledge any prior dealings with any of the parties as well as any interests in the dispute. If in the course of the mediation the mediator becomes aware of any circumstances that might reasonably be considered to affect the mediator's capacity to act impartially, the mediator will immediately inform the parties of these circumstances. In this instance, the parties will then decide whether the mediation will continue with that mediator or with a new mediator appointed by the parties.

#### **7.5.2 Dispute Resolution Protocol during Field Survey**

Participation in the field survey for Aboriginal sites and objects requires the co-operation of all parties involved. It is important that all members of the field team co-operate to ensure that the task is undertaken smoothly without deliberate delays. Professional standards will be employed at all times to ensure that the purpose of the exercise is not disrupted.

In the event that a disagreement takes place, it is not acceptable to engage in an argument in the field. Instead, the incident will be clearly documented in writing by each party at the end of the day which will clearly indicate the following:

- Date of incident;
- Place where the incident took place;
- The individuals involved in the incident; and
- Matter of dispute or disagreement.

The incident report will be submitted to the Proponent within two days of the field survey so that the information can be documented and the Proponent has the opportunity to seek a pathway to resolve the issue. In the event that a resolution cannot be achieved by means of informing the Proponent, the protocols below will be initiated.

#### **7.5.3 Protocols if Mediation is Unsuccessful**

Mediation will be adopted as the primary means of achieving a resolution if an agreement cannot be achieved through informal discussions. In the event that the disputing parties remain in conflict after going through mediation, advice will be sought from the appropriate regulatory authority depending on the nature of the dispute. The advice provided by the regulatory authority will be followed in order to achieve a dispute resolution.

## 8.0 Ongoing Aboriginal Community Consultation

### 8.1 Field Surveys and Consultation

During the initial surface disturbance (including, but not limited to, the construction of initial infrastructure and initial soil disturbance) representatives from the Aboriginal community will be invited to participate in monitoring or field survey in accordance with the methodologies stated in this document. Field Work methodologies undertaken with RAPs are to be carried out in accordance with Section 5.1.2 and Section 5.1.3. A minimum of 14 days notice will be provided to the registered Aboriginal parties before the commencement of the field surveys. If the RAPs have been given the opportunity to monitor, but are not available, then works will still proceed without the participation of the RAPs.

If, during the course of development works undertaken over the life of the quarry, unexpected Aboriginal object should be identified the Karuah Local Aboriginal Land Council will be contacted. Should the objects be at risk of harm the heritage consultant and a representative from the Karuah Local Aboriginal Land Council must collect the artefact in accordance with the methodologies in Section 5.1.2 and Section 5.1.3.

The Quarry Manager will negotiate with representatives from other Aboriginal community stakeholders who may wish to participate in field work. This will be decided on a case by case basis. The Quarry Manager may ask the heritage consultant to consult with OEH for the purpose of identifying Aboriginal community stakeholders who may have an interest in works undertaken at the quarry.

## 9.0 Roles and Responsibilities

This section defines the roles of persons associated with the implementation of this document as well as their responsibilities under it.

The roles and responsibilities for the monitoring of Aboriginal sites include efforts from the following groups:

- The Quarry Manager;
- Onsite Personnel;
- Heritage consultants; and,
- RAPs.

In order to successfully facilitate the management plan/strategy for Aboriginal sites in the quarry, it is important that the following personnel ensure that their roles and responsibilities are carried out correctly.

**Table 3** details the roles and responsibilities that each group must carry out.

### 9.1 Penalties and Consequences for Non-Compliance

It is important that the roles and responsibilities listed in **Table 3** are adhered to closely to ensure that the monitoring process for Aboriginal sites and objects is undertaken correctly and to best practice standards for the management of Aboriginal sites and objects. It is important to be aware that there are legal repercussions for the mismanagement of Aboriginal cultural heritage where harm to Aboriginal sites and objects can occur. The NPW Act 1974 defines the process of harm as destroying, defacing, damaging or moving an Aboriginal object from the land on which it has been situated.



Table 3 Roles and Responsibilities of Personnel involved in the HMP

Quarry Manager	Responsibilities	Onsite Personnel	Responsibilities	Heritage Consultant	Responsibilities	Aboriginal Parties	Responsibilities
<b>This is the person nominated by Karuah East Quarry manage Karuah East Quarry Land</b>	<ul style="list-style-type: none"> <li>Read, understand, implement and ensure the practical application of this HMP.</li> <li>Follow instructions outlined in this HMP.</li> <li>Ensure that a copy of this HMP is available onsite in addition to any other reports applicable to area of proposed works.</li> <li>Liaise with the Aboriginal community, as appropriate and respond to requests in a timely manner.</li> </ul>	<b>Any individual undertaking surface disturbance within Karuah East Quarry</b>	<ul style="list-style-type: none"> <li>Understand the heritage requirements under the NSW legislation.</li> <li>Be aware that there is an immediate STOP WORK requirement for some situations outlined in heritage management flow charts and ensure that there are procedures in place to secure the area for such situations.</li> </ul>	<b>An individual with appropriate qualification to undertake cultural heritage assessments and recommended management actions.</b>	<ul style="list-style-type: none"> <li>Assist with the implementation of this HMP, as required.</li> <li>Co-ordinate Aboriginal heritage monitoring program.</li> <li>Provide heritage advice in accordance with the relevant legislation.</li> <li>Undertake the recording of new sites in accordance with OEH guidelines.</li> <li>Liaise with the Aboriginal community, as appropriate.</li> <li>Complete monitoring control forms in a timely manner.</li> </ul>	<b>Person/s of Aboriginal descent who have an interest in Aboriginal Heritage within Karuah East Quarry</b>	<ul style="list-style-type: none"> <li>Participate in the consultation process</li> <li>Provide advice on Aboriginal cultural heritage issues in a timely manner.</li> <li>Assist in the identification of cultural heritage sites, as necessary.</li> <li>Participate, if available, in the monitoring of the respective quarry in which they have an interest.</li> </ul>

## 10.0 Conclusion

This document has been prepared to set a minimum standard for the management of Aboriginal heritage in the quarry. It is considered that the heritage contingency protocols outlined in this document are suitable for heritage best practice. This document should be used at all times to ensure the continuation and management of Aboriginal heritage in the quarry.

## 11.0 Plates



**Plate 1 Example of high visibility fencing to be established around Aboriginal Sites (if required)**

## 12.0 References

RPS. 2011. "Cultural Heritage Assessment: Karuah East Hard Rock Quarry, Pacific Highway, Karuah."  
Karuah East Quarries.

## Appendix I

### Aboriginal Consultation

Date	Consultation Description	Outcomes	Method of Contact
14/07/2015	RPS contacted the Karuah LALC inviting them to be consulted in the preparation of this document	RPS awaiting Response	Email ('karuahaboriginal@bigpond.com'; 'klalc@optusnet.com.au')
14/07/2015	Undeliverable email for the email 'klalc@optusnet.com.au'	No further contact can be made through this email address	Email
23/07/2015	RPS Emailed the Karuah LALC the Draft HMP for their comment	RPS awaiting response. Comments Close 20/08/2015	Email
31/07/2015	RPS called Karuah LALC to see if they had comments on the Draft HMP	RPS was unable to leave a message as the phone kept ringing	Phone
04/08/2015	RPS called Karuah LALC to see if they had comments on the Draft HMP	RPS was unable to leave a message as the phone kept ringing	Phone
23/07/2015	RPS emailed Karuah LALC to see if they had comments on the Draft HMP	No Response was received	Email
20/08/2015	Comments on HMP Due	No responses received	-
20/08/2015	RPS emailed Karuah LALC to see if they had comments on the Draft HMP	No Response was received	Email
20/08/2015	RPS called Karuah LALC to see if they had comments on the Draft HMP	RPS was unable to leave a message as the phone kept ringing	Phone
26/08/2015	RPS called and Emailed Karuah LALC to see if they could provide any final comments on the HMP	RPS was able to contact the LALC and comments should be received by Friday 28 August	Phone and Email
28/08/2015	Comments on HMP Due (Extension)	No Responses received	-
04/09/2015	RPS called Karuah LALC to see if they had comments on the Draft HMP	RPS was unable to leave a message as the phone kept ringing	Phone
04/09/2015	RPS called Karuah LALC CEO to enquire about the comments that were to be forwarded to RPS on 28 August	A message was left on CEO mobile	Phone

## Appendix 2

### Heritage Induction Attendance Sheet

# HERITAGE INDUCTION REGISTER

By signing the below I hereby confirm that I have attended the heritage induction, have been informed of the requirements under the Aboriginal Cultural Heritage Management Plan (CHMP) and my legal obligations in accordance with the National Parks and Wildlife Act 1974; I will abide all the heritage protocols and requirements under the CHMP:

[illegible]