Gerringong upgrade
Princes Highway
Review of Environmental Factors
APPENDIX C - SECTION 87 PERMIT (AHIP)
JUNE 2010
Dear Mr Watters – Director Major Infrastructure

RE: Princes Highway Gerringong to Bomaderry Upgrade: Mount Pleasant to Toolijooa Road – proposed archaeological test excavations.

I refer to your application for an Aboriginal Heritage Impact Permit under section 87 of the National Parks and Wildlife Act 1974 (NPW Act), and accompanying information provided for the Princes Highway Gerringong to Bomaderry Upgrade Project: Mount Pleasant to Toolijooa Road section, NSW, received by the Department of Environment, Climate Change and Water (NSW) (DECCW) on 17 December 2009 and additional information received on 3, 15 and 22 February 2010 respectively.

DECCW has considered the application and supporting information provided and has decided to issue an AHIP subject to conditions. The AHIP is attached.

You should read the AHIP carefully and ensure you comply with its conditions. In particular please note the following conditions:

AHIP does not authorise damage under s.90 of the Act

**Condition 12.** Nothing in this AHIP authorises any person to damage an Aboriginal object in, on or under the land.

**Long term management of excavated Aboriginal objects**

**Condition 22.** In the event that excavated Aboriginal objects are to be reburied on site:

(a) the reburial of Aboriginal objects must occur as soon as practicable after completion of construction activities;
(b) reburial activities must be undertaken by the AHIP holder in consultation with representatives of local Aboriginal groups;

(c) pursuant to Section 91 of the Act, the location of each reburial area must be notified in writing to the DECCW office as soon as practicable after reburial occurs; and

(d) the AHIP holder must ensure that procedures are put in place to ensure that Aboriginal objects at each reburial location are not disturbed, damaged, destroyed or defaced.

Condition 23. In the event that local Aboriginal groups wish to retain any Aboriginal objects excavated under this AHIP, a completed application for a Care and Control Agreement, pursuant to Section 85A of the Act, must be forwarded to the DECCW office as soon as practicable prior to transfer.

Condition 24. If excavated Aboriginal objects are not reburied on site or transferred to a local Aboriginal group then the objects must be managed pursuant to Section 88 of the Act.

You should note that it is an offence under the NPW Act to fail to comply with the conditions of the AHIP. The maximum penalty that a court may impose on a corporation for failing to comply with this AHIP is $22,000.

If you have any questions, or wish to discuss this matter further please contact Jackie Taylor, DECCW Archaeologist South Branch, on (02) 6229 7089.

Mr Dimitri Young
Acting Manager Landscape & Aboriginal Heritage

Date: 23-Mar-2010
AHIP number: 1112245

AHIMS number: 3233

AHIP Issued To:
ROADS & TRAFFIC AUTHORITY OF NEW SOUTH WALES,
ABN 64 480 155 255,
LEVEL 4, 90 CROWN STREET (PO BOX 477),
WOLLONGONG NSW 2500
STANDARD POST

DECCW office issuing this AHIP
Department of Environment, Climate Change and Water (NSW)
Environment Protection and Regulation Group, South Branch
PO Box 733, QUEANBEYAN NSW 2620
Ph: 02 6229 7000, fax: 02 6229 7001

Short description of activity and/or location
Archaeological test excavations within an area proposed for upgrade and construction activities of the Princes Highway between Gerringong to Bomaderry; Mount Pleasant to Toolijooa Road section NSW.

Note: A Dictionary at the end of the AHIP defines terms used in this document. Further information about this AHIP is also set out after the Dictionary.
PERMIT TO DISTURB OR EXCAVATE LAND FOR THE PURPOSE OF
DISCOVERING ABORIGINAL OBJECTS

PERMIT TO DISTURB OR MOVE ABORIGINAL OBJECTS ON LAND

Background

On 17-Dec-2009 an application was made to the Director-General of the Department of
Environment, Climate Change and Water for a permit pursuant to s.87 of the National Parks and

Permit issued subject to conditions

A permit is issued to:

(a) disturb or excavate the land as described in Schedule A for the purpose of
discovering Aboriginal objects, and

(b) disturb or move on land Aboriginal objects identified in Schedule C

but only as expressly provided by the conditions of this AHIP.

This permit is issued pursuant to section 87 of the National Parks and Wildlife Act 1974.

Mr Dimitri Young
Acting Manager Landscape & Aboriginal Heritage

Protection

South
(by Delegation)

DATED: 23-Mar-2010
CONDITIONS OF AHIP

Schedule A: Land to which this AHIP applies

Archaeological test excavation of eight (8) potential archaeological deposits (defined as potentially archaeologically sensitive areas) and associated artefact scatters: G2B A5 – AHIMS #52-5-0568; G2B A6 – AHIMS #52-5-0569; G2B A7 – AHIMS #52-5-0570; PASA 32 – AHIMS #52-5-0571; PASA 33 – AHIMS #52-5-0572; PASA 34 and 35 – AHIMS #52-5-0573; PASA 36 – AHIMS #52-5-0574; PASA 37 – AHIMS #52-5-0575; PASA 38 – AHIMS #52-5-0576; PASA 39 – AHIMS #52-5-0577; within an area proposed for upgrade and construction activities of the Princes Highway between Gerringong to Bomaderry: Mount Pleasant to Toolijooa Road section NSW, Parish of Broughton, County of Camden, as shown on the map at Annexure A.

Schedule B: Protected Aboriginal objects which must not be disturbed or moved

1. Burials

All human remains in, on or under the land.

Schedule C: Aboriginal objects which may be disturbed or moved

Test excavation area

Excavation and collection of those Aboriginal objects located at the land described in Schedule A and associated with the potential archaeological deposits described in the table below, in accordance with the methodology described in the Section 87 application dated 16 December 2009 and letter of variation dated 19 February 2010, and which are identified on the map at Annexure A of this permit as the proposed subsurface test excavation areas but excluding any Aboriginal objects described in Schedule B.

<table>
<thead>
<tr>
<th>AHIMS SITE ID</th>
<th>SITE NAME</th>
<th>SITE FEATURE</th>
<th>GRID ZONE</th>
<th>EASTINGS</th>
<th>NORTHTINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td>52-5-0568</td>
<td>G2B A5</td>
<td>Artefact Scatter</td>
<td>56h</td>
<td>297820</td>
<td>6152480</td>
</tr>
<tr>
<td>52-5-0569</td>
<td>G2B A6</td>
<td>Artefact Scatter</td>
<td>56h</td>
<td>299437</td>
<td>6152979</td>
</tr>
<tr>
<td>52-5-0570</td>
<td>G2B A7</td>
<td>Artefact Scatter</td>
<td>56h</td>
<td>301296</td>
<td>6155655</td>
</tr>
<tr>
<td>52-5-0571</td>
<td>PASA 32</td>
<td>Potential Archaeological Deposit</td>
<td>56h</td>
<td>297568</td>
<td>6152400</td>
</tr>
<tr>
<td>52-5-0572</td>
<td>PASA 33</td>
<td>Potential Archaeological Deposit</td>
<td>56h</td>
<td>297131</td>
<td>6152335</td>
</tr>
<tr>
<td>52-5-0573</td>
<td>PASA 34 and 35</td>
<td>Potential Archaeological Deposit</td>
<td>56h</td>
<td>299304</td>
<td>6152985</td>
</tr>
</tbody>
</table>
## Excavation and collection activities

Excavation and collection of those Aboriginal objects described in the table above must be undertaken by Navin Officer Heritage Consultants Pty Ltd, Number 4, Kingston Warehouse, 71 Leichhardt St, Kingston ACT 2604, in accordance with the methodology described in the Section 87 application dated 16 December 2009 and letter of variation dated 19 February 2010.

## Schedule D: Temporary storage location for certain salvaged objects

Temporary storage location: the offices of Navin Officer Heritage Consultants Pty Ltd, Number 4, Kingston Warehouse 71 Leichhardt St, Kingston ACT 2604.
COMMENCEMENT AND OVERSIGHT OF ACTIVITIES RELATING TO THIS AHIP

Commencement of AHIP

1. This AHIP commences on the date it is signed unless otherwise provided by this AHIP.

Duration of AHIP

2. Unless otherwise revoked in writing, this AHIP remains in force for:
   (a) Two (2) years from the date of commencement; or
   (b) the date on which the test excavation report, is submitted,
       whichever is the sooner.

Responsibility for compliance with conditions of AHIP

3. The AHIP holder must ensure that all persons involved in activities or works covered by this AHIP (whether employees, contractors, sub-contractors, agents or invitees) are made aware of and comply with the conditions of this AHIP.

Project manager to oversee the activities relating to this AHIP

4. The AHIP holder must appoint a suitably qualified and experienced individual who is responsible for overseeing, for and on behalf of the AHIP holder, the activities relating to this AHIP.

5. The individual appointed must be the individual nominated in the application form.

6. If an alternative individual is appointed whilst this AHIP remains in force, the AHIP holder must advise the DECCW office in writing within 14 days of the new appointment.

Notification of commencement of work

7. Prior to the proposed commencement of activities authorised by this AHIP, the AHIP holder must give the DECCW office written notice of the proposed commencement date of those activities.
GENERAL OPERATIONAL CONDITIONS

Activities must not disturb or excavate any land

8. The AHIP holder must not disturb or excavate any land for the purpose of discovering an Aboriginal object, except as otherwise expressly provided by a condition of this AHIP.

Activities must not move or disturb Aboriginal objects

9. The AHIP holder must not move or disturb any Aboriginal objects, except as otherwise expressly provided by a condition of this AHIP.

Activities must be in accordance with methodology

10. Activities must be carried out in accordance with the methodology specified in the application to which this AHIP applies, except as otherwise expressly provided by a condition of this AHIP.

Standards and Guidelines Kit

11. All activities including archaeological fieldwork authorised by this AHIP must be consistent with the following standards described in the Aboriginal Cultural Heritage Standards and Guidelines Kit: Guidelines for Archaeological Survey Reporting (NPWS 1997):
   a. Sub-surface Probing standard, section 1;
   b. Excavation standard, sections 1 to 2.4;
   c. Dating standard, sections 1 to 2;
   d. Stone Artefact Analysis standard, sections 1 to 6.
   e. Artefact Disposition, Storage & Archival Management standard, sections 1 to 5.

AHIP does not authorise damage under s.90 of the Act

12. Nothing in this AHIP authorises any person to damage an Aboriginal object in, on or under the land.

PROTECTION OF ABORIGINAL OBJECTS

Protected Aboriginal objects

13. The AHIP holder must not move or disturb protected Aboriginal objects specified in Schedule B.
14. To the fullest extent possible, each protected Aboriginal object must be clearly marked so as to provide a clear visual marker to persons on foot or in vehicles in the vicinity of that Aboriginal object.

15. The AHIP holder must ensure that persons entering the land such as employees, contractors, sub-contractors, agents and invitees have a copy of any Map referred to in Schedule B.

16. Appropriate sediment control measures must be installed, operated and maintained so as to prevent any disturbance of a protected Aboriginal object.

17. Vehicles must not be driven on or in the immediate vicinity of a protected Aboriginal object.

TEST EXCAVATION AND RELATED ACTIONS

Test Excavation of Aboriginal objects

18. The AHIP holder may disturb or move Aboriginal objects in, on or under each test excavation area for the purpose of their test excavation, other than protected Aboriginal objects in the test excavation area.

19. The test excavation work must occur in accordance with the methodology specified in the Section 87 application dated 16 December 2009 and letter of variation dated 19 February 2010, except as otherwise expressly provided by a condition of this AHIP.

Temporary storage of excavated Aboriginal objects

20. Any Aboriginal objects which are to be moved as part of the test excavation works must be moved as soon as practicable to a temporary storage location nominated in Schedule D, pending any agreement reached as to the long term management of the excavated Aboriginal objects.

21. The AHIP holder is responsible for the protection of any excavated Aboriginal objects stored at each temporary storage location.

Long term management of excavated Aboriginal objects

22. In the event that excavated Aboriginal objects are to be reburied on site:

(a) the reburial of Aboriginal objects must occur as soon as practicable after completion of construction activities;

(b) reburial activities must be undertaken by the AHIP holder in consultation with representatives of local Aboriginal groups;

(c) pursuant to Section 91 of the Act, the location of each reburial area must be notified in writing to the DECCW office as soon as practicable after reburial occurs; and

AHIP number: 1112245
(d) the AHIP holder must ensure that procedures are put in place to ensure that Aboriginal objects at each reburial location are not disturbed, damaged, destroyed or defaced.

23. In the event that local Aboriginal groups wish to retain any Aboriginal objects excavated under this AHIP, a completed application for a Care and Control Agreement, pursuant to Section 85A of the Act, must be forwarded to the DECCW office as soon as practicable prior to transfer.

24. If excavated Aboriginal objects are not reburied on site or transferred to a local Aboriginal group then the objects must be managed pursuant to Section 88 of the Act.

ANALYSIS OF ABORIGINAL OBJECTS

25. This AHIP does not authorise the movement or disturbance of any Aboriginal objects for the purpose of invasive analysis.

26. The AHIP holder must ensure that any disturbance or movement of any Aboriginal objects for the purpose of non invasive analysis is minimised to the fullest extent practicable.

NOTIFICATION AND REPORTING CONDITIONS

Human remains

27. If any human remains are located in, on or under the land, AHIP holder must:
   (a) not further disturb or move these remains;
   (b) immediately cease all work at the particular location;
   (c) notify DECCW’s Environment Line on 131 555 and the local police as soon as practicable and provide any available details of the remains and their location; and
   (d) not recommence any work at the particular location unless authorised in writing by the DECCW.

Incidents which may breach the Act or AHIP

28. The AHIP holder must notify the DECCW office in writing as soon as practicable after becoming aware:
   (a) any contravention of s90 or s86 of the Act not authorised by an AHIP;
   (b) any contravention of the conditions of this AHIP.
Reports about incidents which may breach the Act or AHIP

29. Where an authorised officer reasonably suspects that an incident which may have breached the Act or AHIP has occurred, the officer may request in writing that the AHIP holder prepare a written report about that incident. The report must detail:

(a) the nature of the incident;
(b) the nature and location of relevant Aboriginal objects or Aboriginal places, referring to and providing maps and photos where appropriate;
(c) the impact of the incident on Aboriginal objects or Aboriginal places;
(d) any conditions of an AHIP which may have been breached; and
(e) the measures which have been taken or will be taken to prevent a recurrence of the incident.

30. The report must be provided to the DECCW office by the due date specified by the authorised officer.

Report about investigation of Aboriginal objects under s.87

31. If investigation is authorised by this AHIP, the AHIP holder must prepare an investigation report after completing the investigation. The report must:

(a) provide a short summary of the report;
(b) in relation to any identified Aboriginal objects which remain in situ on the land, provide a brief overview of the type and locations of those Aboriginal objects and any of those objects which either the AHIP holder or, if applicable, any representatives from local Aboriginal groups consider to be of particular significance;
(c) detail any potential archaeological deposits;
(d) detail and evaluate the effectiveness of any monitoring activities and mitigation measures that were implemented.

Due date for report

32. The investigation report must be provided to the DECCW office within six (6) months of the completion of test excavation activities.

Report about disturbance or movement of Aboriginal objects under s.87

33. If any disturbance or movement of Aboriginal objects is authorised by this AHIP, the AHIP holder must provide to the DECCW office a test excavation report as soon as practicable after completing the salvage. The report must include:

a. details of the nature and type of Aboriginal objects disturbed or moved at each test excavation area, and the location to and from which the objects were moved;

b. a description of the methods of excavation and movement used;
c. a plan of each test excavation area and location from and to which the objects were moved;
d. any ongoing consultation with or involvement of any local Aboriginal groups in relation to this AHIP;
e. detail and evaluate the effectiveness of any monitoring activities and mitigation measures that were implemented;
f. produce and review the effectiveness of any management plan which was in place;
g. detail the results of any non invasive analysis carried out on the Aboriginal objects;
h. if any Aboriginal objects were moved to a temporary storage location, a description of the nature and types of Aboriginal objects which are now located at the temporary storage location; and
i. detail any long term management arrangement for the excavated Aboriginal objects.

Due date for report about salvage or movement

34. The test excavation report must be provided to the DECCW office within six (6) months of the completion of test excavation activities.

Provision of copies of reports to local Aboriginal groups

35. The AHIP holder must provide a copy of each report provided to the DECCW under this AHIP to each local Aboriginal group, within 14 days after each report is provided to the DECCW.

Copy of this AHIP to be provided to local Aboriginal groups

36. The AHIP holder must provide a copy of this AHIP to each local Aboriginal group, within 14 days of receipt of the AHIP from DECCW.

OTHER GENERAL CONDITIONS

Indemnity

37. The AHIP holder agrees to indemnify and keep indemnified, the Crown in right of NSW, the Minister administering the Act, the Director-General of DECCW, and their employees, agents and contractors, in the absence of any willful misconduct or negligence on their part, from and against all actions, demands, claims, proceedings, losses, damages, costs (including legal costs), charges or expenses suffered or incurred by them resulting from

(i) any damage or destruction to any real or personal property; and
(ii) injury suffered or sustained (including death) by any persons arising out of or in connection with any activities undertaken pursuant to this AHIP.
Release

38. The AHIP holder agrees to release to the full extent permitted by law, the Crown in right of NSW, the Minister administering the Act, the Director-General of DECCW, and their employees, agents and contractors, in the absence of any willful misconduct or negligence on their part, from all suits, actions, demands and claims of every kind resulting from:
   (i) any damage or destruction to any real or personal property; and
   (ii) injury suffered or sustained (including death) by any persons arising out of or in connection with any activities undertaken pursuant to this AHIP.

Ongoing obligation to comply with due dates

39. Where a condition of this AHIP specifies a date by which something must be done or ceased to be done, the AHIP holder has a continuing obligation to comply with that condition after that date (subject to any written revocation or variation of the AHIP by DECCW).

Written notice

40. Any requirement to provide written notice to the DECCW office in this AHIP may be complied with by faxing the notice to the DECCW office’s fax number or by sending by registered post to the DECCW office’s address. The DECCW office’s contact details are specified at the front of this AHIP.

DICTIONARY

In this AHIP, unless the contrary is indicated the terms below have the following meanings:

- **Aboriginal object(s)** has the same meaning as in the Act
- **Aboriginal place** has the same meaning as in the Act
- **Act** means the National Parks and Wildlife Act 1974
- **AHIMS** means the Aboriginal Heritage Information Management System maintained by DECCW
- **AHIP holder** means the person listed on the cover page under the heading “AHIP issued to”
- **Application** means the completed application form and all other documents in written or electronic form which accompanied the application when it was lodged or which were subsequently submitted in support of the application.
- **Authorised officer** means an employee of the DECCW who is appointed as authorised officer under s.156B of the Act
- **Damage** in relation to an Aboriginal object or Aboriginal place, unless otherwise
specified in this AHIP, includes destruction and defacement

DECCW
Department of Environment, Climate Change and Water (NSW)

DECCW office
means the office listed on the cover page of this AHIP

Director-General
means the Director-General of DECCW

Invasive analysis
Any analysis of an Aboriginal object that damage the Aboriginal object

Land
means the land described at Schedule A

Local Aboriginal groups
means those groups as identified as Aboriginal stakeholders for consultation within the section 87 application dated 16 December 2009 and letter of variation dated 19 February 2010.

Non-invasive analysis
Any analysis of an Aboriginal object that does not damage the Aboriginal object

Protected Aboriginal objects
means those Aboriginal objects which are described in Schedule B

Salvage
the recovery of Aboriginal objects in accordance with the archaeological methodology accompanying the application, as modified by the conditions of this AHIP.

Salvage area
means an area described as a salvage area in Schedule C

Standards and Guidelines Kit
means the Aboriginal Cultural Heritage Standards and Guidelines Kit (NSW National Parks and Wildlife Service 1997) as amended or replaced from time to time

Temporary storage location
means a location specified at Schedule D

INFORMATION ABOUT THIS AHIP

Responsibilities of AHIP holder
The AHIP holder is responsible for ensuring the AHIP holder’s employees, contractors, subcontractors agents, invitees are made aware of and comply with the conditions of this AHIP.

Penalties for breach of the Act
Significant penalties can be imposed by a court for failure to obtain or breach of an AHIP. The DECCW can also issue penalty notices.

Responsibility for obtaining all approvals and compliance with applicable laws
The AHIP holder is responsible for obtaining and complying with all approvals necessary to lawfully carry out the work referred to in this AHIP, including but not limited to development consents.
Other relevant provisions of the National Parks and Wildlife Act

Newly identified Aboriginal objects need to be notified to the Director-General under s.91 of the Act using the form available on www.environment.nsw.gov.au

Stop work orders and interim protection orders may be issued in certain circumstances to protect Aboriginal objects or places.

Obligation to report Aboriginal remains under Commonwealth laws

The AHIP holder may have additional obligations to report any discovery of Aboriginal remains under the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Commonwealth).

Exercise of investigation and compliance powers

Officers appointed or authorised under the Act may exercise certain powers and functions, including the power to enter land.

Duration of AHIP

This AHIP remains in force for the period specified in the AHIP.

Variation of AHIP

The AHIP holder may apply to the DECCW office in writing for a variation of any conditions of an AHIP. Requests for variations may need to be accompanied by evidence of further consultation with interested parties including Aboriginal stakeholders and in some cases may include payment of fees. The conditions of an AHIP may be varied at any time at the discretion of the Director-General. The AHIP holder may appeal a decision of the Director General to vary the conditions of the AHIP.

Transfer of AHIP

An AHIP is not transferable. The surrender or revocation of an existing AHIP could occur at the same time an AHIP is issued to a new AHIP holder.

Revocation of AHIP

An AHIP may be revoked at any time at the discretion of the Director General. Prior to revoking the AHIP, the AHIP holder will be given notice and an opportunity to make submissions. The AHIP holder will be notified in writing of the final decision. The AHIP holder may appeal a decision to revoke the AHIP.

Entry to land

An AHIP does not automatically entitle its holder to enter land for the purpose of conducting work related to the AHIP. The AHIP holder is responsible for obtaining permission to enter land from the owner and/or occupier of the land.
AHIP does not authorise damage, destruction of defacement of Aboriginal objects

It is an offence to knowingly damage, destroy or deface or knowingly cause or permit the damage, destruction or defacement of an Aboriginal object or Aboriginal place without consent. A consent under s.90 of the Act is required.

Disclosure of information pursuant to lawful requirement

This AHIP does not prevent the disclosure of any information or document in DECCW’s possession in accordance with any lawful requirement.

Making copies of reports

By providing a report, the AHIP holder acknowledges that DECCW can use the information in that report to inform its regulatory functions, note details of that report in AHIMS and include a copy of the report in its library which may be available to members of the public.

DECCW is able to make copies of any reports provided to DECCW under this AHIP.
Appendix A – location of Aboriginal sites and potentially archaeologically sensitive areas (PASAs) within the Princes Highway Upgrade Gerringong to Bomaderry: Mount Pleasant to Toolijooa section.