



# Operational guidelines for Aboriginal cultural heritage management

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March 2006

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9 May 2006

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Document Location: Visual Vault / Intranet

Document title: Operational guidelines for ACH management	Version No.: 2	Page: 1 of 24
Document ID (Visual Vault): Corp –FM-0038	Issue date: May 2006	Review date: June 2012

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## **Operational guidelines for Aboriginal cultural heritage management**

### **Forests NSW**

Policy and guidelines for due diligence and documentation of minimum standards to assess impacts, locate and manage Aboriginal sites and places; and processes to address issues relevant to Aboriginal people

Prepared by Forests NSW in consultation with DPI Aboriginal Liaison and Cultural Heritage Unit

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## Abbreviations

ACHO: Aboriginal cultural heritage officer  
 LAC: Local Aboriginal community  
 LALC: Local Aboriginal land council  
 DEC: Department of Environment and Conservation  
 AHIS: Aboriginal heritage information management system

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## 1. Forests NSW policy and strategies

### 1.1 Aboriginal cultural heritage management policy

Forests NSW is committed to protecting and managing Aboriginal cultural heritage in cooperation with Aboriginal communities and in accordance with regulatory obligations.

In order to effectively identify and manage cultural heritage, Forests NSW will:

- Communicate effectively with Aboriginal community representatives
- Ensure that, where there is potential for any impact on cultural heritage, forest management policies and practices are sensitive and respond to the needs and attitudes of Aboriginal people
- Ensure that operational planning addresses cultural heritage requirements
- Make available resources to address heritage responsibilities
- Ensure that employees or contractors whose work may impact on cultural heritage are trained appropriately
- Promote Aboriginal cultural awareness and respect among staff and contractors
- Explore opportunities to work with Aboriginal people
- Respect confidentiality about the location and details of Aboriginal sites and cultural knowledge shared by Aboriginal communities
- Refer inquiries from third parties on cultural heritage or sites to local Aboriginal community representatives.
- Develop consultation and operational guidelines<sup>1</sup> to implement this policy.

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<sup>1</sup> These guidelines identify the processes to implement the policy for Aboriginal cultural heritage management.

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## 1.2 Strategies to protect cultural heritage

Aboriginal cultural heritage items are irreplaceable. When conducting forestry operations, Forests NSW will apply management controls to minimise damage and disturbance to Aboriginal sites or objects during activities such as plantation establishment, road works, fire management and timber harvesting.

Sound forest management practices will:

- Protect Aboriginal objects, sites and spiritual places
- Protect intellectual knowledge
- Provide for cultural access to animal and plant species, sought for food or for medicinal purposes
- Identify opportunities to participate in joint ventures or co-manage areas of forest

The involvement of Aboriginal communities is crucial in cultural heritage management planning. Aboriginal people must be consulted about proposed activities early in the planning process and given an opportunity for meaningful input.

These guidelines provide a due diligence process and minimum standards to protect Aboriginal cultural heritage and ensure that Aboriginal interests and values are recognised and addressed during forest management planning and operations.

## 2. Introduction

### 2.1 Aboriginal cultural heritage

Aboriginal cultural heritage includes physical and spiritual sites, places, objects, stories, oral histories, flora, fauna and documents relating to Aboriginal occupation before and after European contact. Evidence of the long history of occupation by Aboriginal people, and their use of naturally occurring resources, can be seen in items in the landscape. The identification and management of these items within forests is important to the protection of Aboriginal cultural heritage in NSW.

Physical evidence of Aboriginal land use includes:

- Carved and scarred trees (boundaries and directional markers, markers for burials and the result of bark removal for shields, canoes, coolamons)
- Quarry sites (where stone tools were manufactured)
- Grinding grooves (where tools were sharpened)
- Occupation sites (indicated by scatters of stone artefacts and remains from cooking, ash, baked clay, middens containing shells, animal bones or human remains)
- Art sites (ochre stencilling, charcoal drawing, rock engravings)
- Meeting and ceremonial sites (indicated by earth mounds or stone arrangements)
- Cultural places (where natural features hold spiritual significance – e.g. water holes, rivers, mountain tops)
- Sites of historic importance (contact sites, massacre sites, mission/reserve sites and walk-off sites)
- Burial grounds and cemeteries

Forests may contain plants used as food and medicine or animals that are totems or sought for food. The habitats that support this flora and fauna are important to Aboriginal people.

Aboriginal communities place spiritual and cultural value on some locations because they feature in dreaming stories or because of historic events or traditions linked to the land, such as initiation or birthing sites. Consideration of matters arising from Aboriginal association with particular areas, and

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issues relating to cultural and spiritual beliefs requires close involvement with Aboriginal communities during operational planning.

Forests NSW acknowledges that Aboriginal people should determine the significance of their heritage. The involvement of Aboriginal people is integral to understanding Aboriginal heritage and formulating management responses to culturally important objects and places.

## 2.2 Legislative requirements

The National Parks and Wildlife Act (NP&W Act) 1974 provides for the declaration of Aboriginal places where it is believed the place was or is of special significance to Aboriginal culture (s.84).

The Act provides for the protection of Aboriginal objects, regardless of significance and whether or not they are recorded in the Department of Environment and Conservation (DEC) Aboriginal heritage information and management system (AHIMS). The Act defines Aboriginal objects as:

*Any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.*

Section 85 of the Act states that the Director-General (DEC) is the authority for the protection of Aboriginal objects and Aboriginal places in NSW. Section 86 states that it is an offence to disturb or excavate land for the purpose of discovering an Aboriginal object, or to disturb or move an Aboriginal object on any land without obtaining a permit under section 87. When issuing a permit, DEC considers Aboriginal community views on the proposed activity, the objectives and justification for the activity, the proposed method and the skills and experience of the people nominated to undertake the activity.

Under section 90 of the NP&W Act, it is an offence to destroy, damage or cause or permit the destruction, defacement or damage to an Aboriginal object without consent from the Director-General.

DEC consent requires the following to be addressed:

- The significance of the Aboriginal objects or places subject to impact
- The likely effect of proposed impacts and planned mitigation measures
- Alternative actions to avoid impact
- Conservation outcomes that can be achieved, if impact is permitted
- The result of consultation with Aboriginal communities

Section 90 requires an assessment to determine whether any action could impact on an Aboriginal object or place. Protection requirements agreed with Aboriginal communities must be incorporated in plans. During operations, prescriptions must be followed and reasonable precautions taken to avoid damaging Aboriginal objects or places. If a site cannot be avoided, consent to destroy must be obtained.

Under section 91 of the NP&W Act, the DEC Director-General must be notified of the location of Aboriginal objects within a reasonable time of discovery. DEC has a site recording form to record data for the Aboriginal heritage information system. If consultation reveals that community members are apprehensive about this method of lodging data, IFOAs contain clauses that address the confidentiality of site information — e.g. IFOA for upper north east, cl 15 (1), (3), (4) and (5).

Under clause 19(1) of the Plantations and Reafforestation Regulation (Code), buffers of 10-50 metres, depending on the type of site, must be retained around Aboriginal sites, relics and places. No clearing is permitted in buffers.

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## 2.3 Requirement to obtain permits

Forests NSW policy aims to protect Aboriginal heritage through close liaison with the Aboriginal community and incorporation of site-specific prescriptions within plans. On some occasions, an Aboriginal community may agree that operations can proceed without specific action to protect a site or object. Where damage to a site is likely, Forests NSW must apply to the Department of Conservation (DEC) to seek a s.90 consent under the NP&W Act. Aboriginal communities must also obtain permits for some actions e.g. s.87 permit to remove an object to a keeping place or where they choose to shift an object to enhance its protection.

## 3. Consultation

### 3.1 Consultative framework

This framework provides a comprehensive consultative process in which regional issues can be discussed and documented with Aboriginal communities. It allows Forests NSW to take a consistent approach when consulting with the many Aboriginal groups associated with forestry activities across the state. The focus on reaching agreement at a local level allows arrangements to be tailored to the regional situation and history.

The objective is for Forests NSW to maintain communications with Aboriginal communities to ensure that planning incorporates Aboriginal interests. This includes site management, cultural heritage intellectual property rights and the cultural use of natural resources.

Principles of the framework:

- Forests NSW will consider views expressed within the Aboriginal community
- Cultural heritage liaison should involve people with cultural knowledge. This may involve Aboriginal land councils, registered native title claimants, Aboriginal elders or people with knowledge of areas where activities are proposed
- Expectations for input will take into account the community's capacity to participate
- Consultation will be sensitive to gender-specific sites and issues

Required actions:

Each regional manager will develop a working relationship with the local Aboriginal community (LAC) as illustrated in chart 1 (refer to section 4.4 for further details on consultation). The section of this document, 'Contact with the Aboriginal community' on page 11 provides additional guidance on Aboriginal involvement.

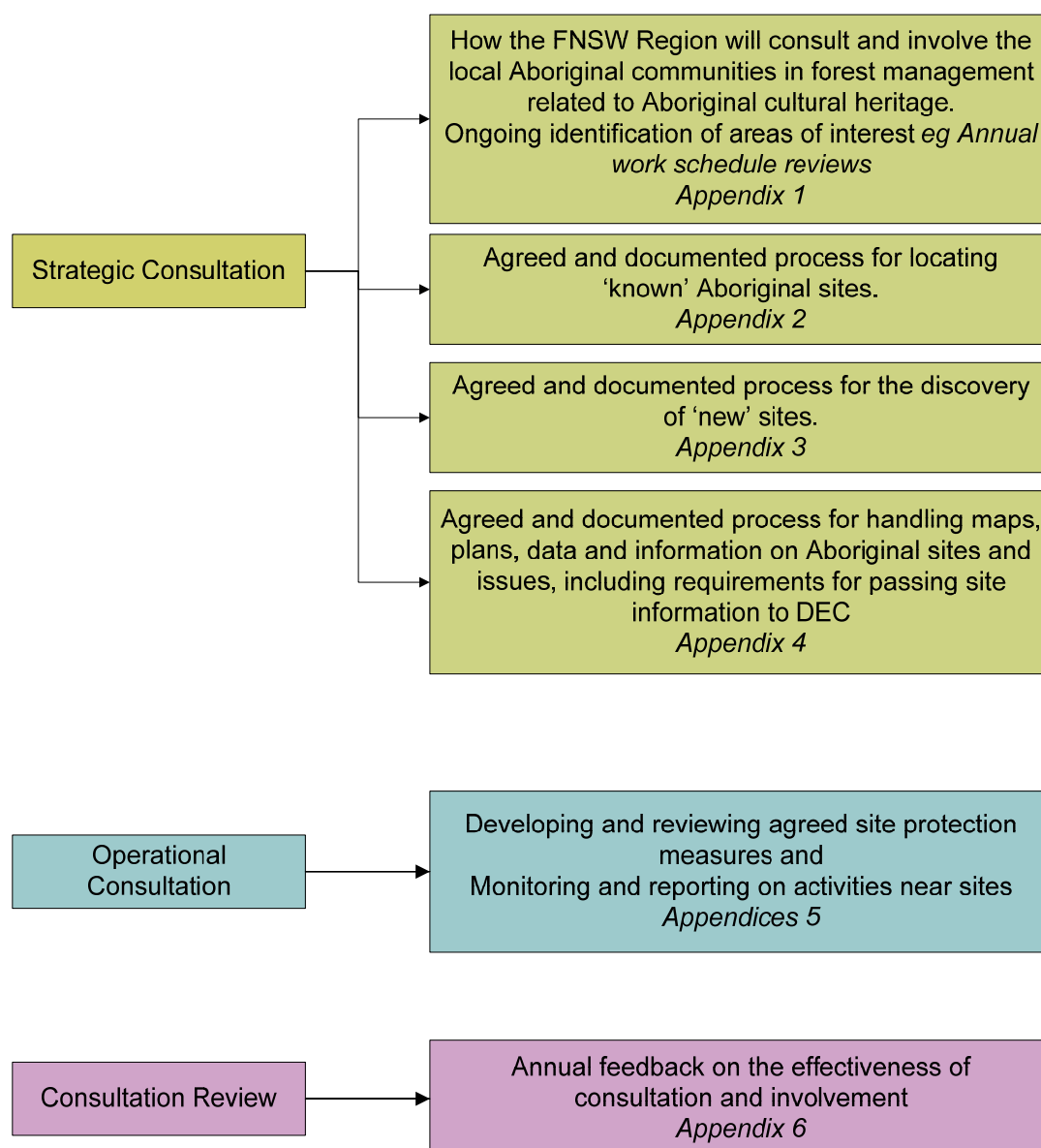
The resulting six locally produced documents are to be attached as appendices to this document and will provide direction for regional staff when consulting with LACs.

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**Chart 1      The regional consultation process**



## 3.2 Details of regional consultation process

### 3.2.1 Strategic consultation elements

#### Consulting and involving LACs:

Within each region, Forests NSW will work with Aboriginal people and organisations to identify the appropriate local Aboriginal communities to consult with for each of the forests they manage. Local protocols will be developed with LACs concerning notification of Forests NSW policy and annual work schedules, and for consultation on forestry operations such as timber harvesting; road works; hazard reduction burning; pest animal and weed control and plantation establishment activities.

#### Expected outcomes:

- Improved LAC knowledge of Forests NSW management and practices

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- Improved Forests NSW knowledge of LAC interests and concerns in forest management
- Documented consultation process between the Forests NSW region and the LAC over Aboriginal cultural heritage management. Attach as Appendix 1

#### Process for locating 'known' Aboriginal sites

Regions should seek agreement for procedures to:

- Locate previously recorded and registered sites during pre-operational planning<sup>2</sup>
- Deal with variations between actual field locations and recorded locations

Note: Data and information sources should include LAC, AHIMS, Forests NSW databases, landowners and research papers.

Expected outcomes:

- A documented process for operational planning that meets LAC expectations. Attach as Appendix 2
- An improved shared knowledge of the general region with the LAC, including greater consensus on the extent and location of sites or interests that are known on the Forests NSW estate and on possible plantation establishment land, timber acquisition areas or proposed management agreement areas
- Greater confidence for Forests NSW staff about site locations
- Greater confidence for the LAC about management measures to protect sites

#### Process for discovering new sites

Regions should seek agreement on processes for discovering new sites:

- Across the Forests NSW estate
- Across the general landscape (where Forests NSW may be involved in acquiring land or timber or potentially be involved in forest management outside Forests NSW tenures)<sup>3</sup>
- Over time, as operations return to areas previously investigated

Criteria for developing regional processes for discovering new sites:

- Geographic area e.g. entire or part of the region
- Historic knowledge of Aboriginal occupation
- Location and types of known sites on and within five kilometres of the area. Note: when consulting, use maps of appropriate scale
- The extent and intensity of previous discovery work
- Ground visibility during past discovery work
- Landform features including topography and vegetation affecting the likelihood of finding new sites
- Extent and level of past disturbance
- Current ground visibility
- Proposed operational activities
- Timing of proposed discovery work relative to proposed activities
- Field sampling intensity and procedures to focus effort in areas with highest likelihood for new sites
- Field procedures

Example of field procedure:

<sup>2</sup> Note: there are commercial in confidence issues with proposed areas and it should be recognised that it may not be possible for LAC to be involved in activities on areas such as proposed property acquisitions, joint ventures or FNSW managed operations on private property.

<sup>3</sup> This landscape model would be used by FNSW staff for any discovery work on 3rd party lands such as joint ventures or private property where access by LAC may not be possible.

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*Initial investigation will involve Aboriginal cultural heritage officers, staff or community consultants examining the most likely areas (e.g. rock overhangs, river flats, saddles, level to gently sloped areas and stream flats) on foot, looking for stone objects such as cutting tools, hammer stones, stone axes, stone arrangements. Rock overhangs and cliffs should be examined for rock engravings, art or potential occupation deposits, and trees for unnatural scars.*

*An Aboriginal heritage pre-operational inspection report should be completed for each compartment or operational area. Areas inspected and lines traversed must be recorded on the compartment or operational map attached to the report, regardless of whether sites were located, as this provides evidence of search effort and is useful for future planning, and will record areas searched where sites were not evident.*

*Surveyor's flagging tape will be used to temporarily mark any suspected objects until the ACHO has the opportunity to consult with the Aboriginal community.*

*The ACHO and Aboriginal community consultant (inspecting the site) will determine in the field, and by reference to the community and others if necessary (e.g. archaeologist selected in consultation with the Aboriginal community), whether a potential site is Aboriginal heritage.*

*Where places or suspected objects are confirmed as Aboriginal sites or objects the extent and boundary of sites must be determined in the field. Management and protection of the site will be discussed with LAC and Forests NSW staff, for regional manager approval.*

*Site details are recorded on the AHIMS form, entered into the Forests NSW database, a copy forwarded to the LALC and either a copy forwarded to the DEC, or advice to DEC of the discovery of a new site with contact details of the informant or relevant knowledge-holder.*

*The site is then considered to be a 'known site' and protection prescriptions are included in the operational plan. Field marking is implemented as required in the plan.*

*Note: Data and information sources should include LAC, research papers, EIS reports.*

#### Expected outcomes:

- A documented process for operational planning that meets LAC expectations. Attach as Appendix 3.

#### Process for managing Aboriginal cultural heritage information

Regions should seek LAC agreement on procedures for handling data and information on Aboriginal sites and issues including:

- Details of instruction to third-parties requesting information from Forests NSW on Aboriginal sites or heritage
- Clarification from the LAC about forwarding site information or only contact details to DEC. Advice to DEC may seek specific restricted access to site information when loaded onto the AHIMS database
- How information on Aboriginal sites is shown on operational maps and plans; including constraints on distributing maps and plans
- Details to be recorded in Forests NSW databases
- Data expected to be provided to LAC

#### Expected outcomes:

- Documented, unambiguous procedures for protecting the confidentiality of Aboriginal site information. Attach as Appendix 4.
- Documented notification and record of LAC preferences about site information.

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### 3.2.2 Operational consultation

#### Developing and reviewing agreed site protection measures

Regions should seek agreement with the LAC on site management issues on known sites, including:

- Identifying the LAC representatives to propose protective management prescriptions
- Requirements for reviewing or confirming existing or standard management prescriptions for sites in proposed operational areas
- Procedures for developing and recording agreements and approvals on protective management prescriptions

Expected outcomes:

- A documented, unambiguous procedure for developing and recording protective management prescriptions for each site. Attach as Appendix 5.

#### Monitoring and reporting activities near sites

Regions should seek agreement with the LAC on the process for notifying non-conformances with agreed prescriptions or processes.

Expected outcomes:

- A documented, unambiguous procedure for notifying non-conformances with agreed prescriptions. Attach as Appendix 5
- A high level of LAC confidence in and support for FNSW management and procedures

### 3.2.3 Annual consultation review

Regions will review the effectiveness of consultation with the LAC annually. The region will seek agreement on the process to review consultation.

Details of the proposed participants, location and agenda for annual meetings will be confirmed before the review meeting.

- Documentation for participants, includes:
  - Non-compliance and non-conformance reports related to Aboriginal heritage, progress on implementing corrective and preventative actions, impacts and outcomes of actions
  - Records of consultation
  - Records of site management prescriptions reviewed or developed during the preceding period

Expected outcomes:

- A highly credible consultative procedure
- A high level of LAC confidence in and support for Forests NSW management and procedures
- A documented, unambiguous procedure reviewing the success of Forests NSW liaison with the LAC. Attach as Appendix 6

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### 3.3 Engaging the Aboriginal community for field work

LAC or other Aboriginal representatives engaged for field site location or identification work should be experienced. Contracts should cover a defined period, such as six or 12 months, be agreed with the group (e.g. LALC and Forests NSW), and specify the payment rate, survey method and reporting requirements. Refer to Appendix 9 for an example of the form of a suitable contract. Consultation records detailing arrangements and outcomes will be kept on Forests NSW regional files.

### 3.4 Consultation background and principles

#### *Pro-active communication*

Forests NSW plays an important role in informing Aboriginal communities about the likely impact of management activities. Potential conflicts will be minimised if Aboriginal people are involved in identifying and assessing sites and cultural places, including discussions about managing and minimising the impact of operational management. Aboriginal representatives should be involved early in the planning process in order to foster mutual trust and conduct discussions about site management in a culturally appropriate manner.

#### *Contact with the Aboriginal community*

Contact with the local Aboriginal land council (LALC), registered native title claimants and other recognised groups may be necessary to identify issues and concerns about proposed operations. The most appropriate contacts will be cultural knowledge-holders or custodians with authority to speak (by descent, historical association or entrusted knowledge) or other Aboriginal community groups that are active in heritage conservation; decisions should not be made in isolation of the land council. Protocols developed with LACs will provide further advice on agreed procedures. An occasional (two-three yearly) advertisement in local media inviting Aboriginal communities to review Forests NSW regional operational plans would demonstrate commitment to inclusiveness and transparency.

Meetings, on-site visits and inspections provide opportunities to resolve issues and develop measures to protect cultural sites. If community meetings are held, the venue must be convenient to local people — for example, a land council office rather than a Forests NSW office.

#### *Consultation maps*

Maps used for consultation with the LAC on operational planning:

- Are scaled to identify the location and extent of operations over the planning period <sup>4</sup>
- Identify known sites and areas surveyed within five kilometres of the operational area in order to consider the context of Aboriginal sites within the landscape and future management requirements

#### *The role of Forests NSW Aboriginal staff*

Consultation will be organised by Forests NSW Aboriginal cultural heritage officers, Aboriginal coordinators or an officer nominated to coordinate Aboriginal liaison. Regional managers will ensure these staff are briefed on current NSW operations, management processes and proposals.

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<sup>4</sup> Where operations are planned for private property or joint venture lands, the operational area may be very broad but still indicate to the LAC the areas where they should advise Forests NSW of known sites.

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### 3.5 Consultation records

The consultation process and outcomes from consultation must be documented and filed. The Aboriginal community consultation record form (attached as appendix) is used to record the contact person, participant, organisation or group, location of identified sites and community requirements for site management.

### 3.6 Information sharing

To foster trust and involvement, Forests NSW staff will share relevant information held in compartment histories and databases with members of the LAC. This includes recorded information about sites, previous community advice and prescriptions implemented to manage these places.

Leadership by Forests NSW Aboriginal staff helps promote open dialogue. Cultural concerns are more likely to be revealed when trust is established between parties. Information provided by Aboriginal groups must be handled sensitively. Staff and Aboriginal representatives must handle photographic material and information, in accordance with procedures agreed with the LAC.

## 4. Operational guidelines

### 4.1 Training requirements

DPI provides Aboriginal cultural awareness training to Forests NSW staff. Contractors also receive Aboriginal cultural awareness training through Forests NSW-approved training organisations. Training promotes a broad appreciation of Aboriginal cultural values and communicates the legal basis for Forests NSW to implement heritage protection measures.

Regional managers must ensure that staff are trained in the consultation and management processes outlined in this guideline.

### 4.2 Operational planning

Regional planning staff implement the discovery process for 'new' sites over the proposed operational area. This involves procedures for consultation, considering existing information, field investigation and marking, and site mapping. Implementation and outcomes records are kept with the operational planning documentation.

Planning will consider known and recorded Aboriginal sites (collate information from AHIMS, Forests NSW databases and the LAC). Operational plans will include specific protection measures or, as a minimum, the agreed general prescriptions to protect various types of Aboriginal sites..

### 4.3 Operational plan inductions

Operational staff and contractors must be aware of legal obligations to ensure that sites are not disturbed or damaged unless consent has been obtained. At the pre-operational briefing, planning staff will inform staff and contractors of management requirements and exclusion areas. The induction will include reference to operational maps, prescriptions in plans, field marking and field inspection. A list of inductees will be kept with the operational plan.

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#### 4.4 Mapping standards

Maps produced by Forests NSW containing Aboriginal site information must be marked:  
*Confidential — for restricted distribution only.*

##### *Consultation maps*

Maps produced by Forests NSW for consultation with Aboriginal communities will:

- Be produced to professional standards
- Be scaled appropriately
- Include legends and scale, production version date/time, author and approval information

##### *Operational plan and text*

Pre-operational planning includes a desktop review and mapping of Aboriginal sites within and near the operational area, and exclusion zones. Cross-referenced information on site type and approved prescriptions will be provided on the map or on attached pages to help field staff locate and identify field locations and plan the mark-up. Where the Aboriginal community has identified the presence of sensitive sites, planning maps showing sites will be returned to planning staff for retention or destruction. Procedures are documented in the agreement with the LAC, refer to Appendix 4.

Operational plans and maps must include the protection of all identified and recorded Aboriginal sites within and near the operational area, and management prescriptions for each site.

The method of identification on the operational copy of the map and in the text should be documented in the agreement with the LAC. If a symbol is used on the map, the corporate standard “\*” is used. A second map that does not show Aboriginal sites will be produced for harvest plans and any additional maps available for public release. Agreement should be sought from the LAC on whether plans and maps with symbols need to be recalled from contractors after the operation and recorded as being collected on the operational clearance certificate.

If a generic ‘modified harvest area’ is used on the map and described as a ‘special prescription’ in the text, rather than an Aboriginal site symbol, sufficient detail must be provided in the pre-operational briefing to each operator and staff member to ensure protection occurs. If mark-up starts before the pre-operational briefing, the field supervisor may need a briefing before mark-up.

#### 4.5 Field investigation to locate known sites

Agreement with the LAC will determine the need for and timing of field inspections to locate recorded sites before operational activities. If a field inspection reveals an error in DEC AHIMS data, Forests NSW must advise DEC of the error.

Forest litter or ground flora can mask recorded sites and isolated objects. Unless there is evidence that a location is wrong, the recorded location must be marked in the field and protected during operations.

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## 4.6 Field marking

Operational plans contain prescriptions to protect Aboriginal sites or objects. Sites buffers are marked before operations begin. When planning a hazard reduction burn, vulnerable sites such as scarred trees should be found and protection work (raking or dozing) carried out before burning. Where possible, use temporary marking such as ribbon or aerosol paint on nearby trees or features. Buffers should be marked, not the site itself.

Marking is usually carried out by the field supervisor. The ACHO or community representative who found the site in the pre-operational inspection should guide the supervisor to the location.

Marking follows the tree-marking code:

Activity	Method	Symbol or marker
Harvesting	Tape or spray paint on trees	Three horizontal lines/bars
Road works	Paint or tape plus 'stake' at each end of road section	100mm X 50mm stake, projecting 75 cm above ground
Plantation establishment	Reference posts or fencing around object	Solid post or fencing
Hazard reduction burning and other activities	Stake or peg, tape or paint to mark locations	Determined locally, documented for systematic application

## 4.7 Operational supervision and monitoring

If a potential 'new' Aboriginal site is found during operations, work stops near the site (e.g. impose the minimum exclusion distance in the Plantation and Reafforestation Code) until the site has been investigated and a management prescription is added to the operational plan.

Procedure for new sites discovered during operational activity	
Step 1	Mark the possible site and exclude from operations pending further investigation.
Step 2	The ACHO and Aboriginal community consultant inspect the site and determine whether the site is heritage. Community members or other experts may be consulted.
Step 3	The extent and boundary of the site are determined in the field. LACs and Forests NSW staff discuss management and protection; outcomes are approved by the regional manager. Prescriptions are added as amendments to operational plans. The buffer distance is marked according to the marking standard.  If a site cannot be avoided, and objects are not considered significant by the LAC, Forests NSW will seek support from the knowledge-holders for an application to DEC for a consent permit. Guidance may be sought from knowledge-holders about salvaging artefacts.
Step 4	Site details are recorded on the AHIMS form, entered into the Forests NSW database and copies sent to the relevant Aboriginal group, the LALC and DEC. Where the LAC has issues concerning

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site sensitivity, their advice must be complied with, including restricting advice to DEC, to contact details of the informant, if so requested.

Field supervisors will monitor compliance with operational plan conditions.

#### 4.8 Reporting operational outcomes

Forests NSW will report the results of operational compliance to the LAC.

### 5. Data management

#### 5.1 Use of Aboriginal site data

Forests NSW accepts that information may be culturally sensitive and therefore should be kept confidential. Forests NSW will adopt the following procedures to protect information:

- Reports must state that Aboriginal site information cannot be reproduced in public documents without the consent of the LAC.
- Site and other information provided by Aboriginal people will only be used by Forests NSW staff for consultation, planning and operational supervision. Information is not released to the public.
- Information is available to the Aboriginal community on request through the ACHO, Aboriginal coordinator or other qualified regional representative.
- Inquiries from third parties about Aboriginal cultural heritage or site information will be referred to LAC representatives. Regional managers will ensure that agreed procedures are implemented.
- The processes for Aboriginal involvement and the protection of heritage include consideration of data management procedures, which are assessed during the annual consultation review.

#### 5.2 Aboriginal heritage information management system

The Aboriginal heritage information management system (AHIMS) is a non-statutory register of Aboriginal sites maintained by DEC and is the primary source of information about the location of known Aboriginal sites in NSW. An electronic AHIMS database contains summary data for information held on site cards, in slide and photographic collections, and site recording forms.

Forests NSW has a Memorandum of Understanding with DEC to share data from AHIMS for sites on State forests and within a five-kilometre buffer. A Data Licence Agreement covers the exchange of data (Appendix 7).

Each region has a copy of regional DEC AHIMS data. The data available through AHIMS contains only site details resulting from areas already investigated, where the data has been provided to DEC and the record updated.

#### 5.3 Forests NSW databases

Forests NSW maintains regional databases of Aboriginal sites recorded on State forests. The database uses registered AHIMS data, compartment histories and consultation to provide an inventory of known sites on land being controlled by Forests NSW. Regional databases may contain information additional to AHIMS data, gained through consultation and negotiations. There is likely to be a lag between sending data to DEC and receiving updated AHIMS data.

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## 5.4 Aboriginal community data sources

Recorded data will need to be supplemented by the results of community consultation.

## 5.5 Data management for new sites

When a site is confirmed as Aboriginal cultural heritage, details are recorded on the DEC AHIMS site recording form (Appendix 8). Regional agreements (Appendix 4) provide the regional manager with direction for notifying site details to DEC.

If the LAC chooses to withhold information, a file note is attached to the compartment history and/or regional database stating that the site was found and that the community is aware of the site and has requested that information remains with Forests NSW and the community. The NP&W Act (s.91) requires that site information is submitted to DEC. If Aboriginal representatives request that details are withheld, Forests NSW forwards only general locality information and contact details for the informant or knowledge-holder.

## 6. Site management

Sites will be protected according to management prescriptions agreed to by the regional manager and the Aboriginal community. Management procedures may vary depending on the nature and significance of a site and the proposed activity. Site procedures may involve:

- Consideration of the requirements of the Plantation Reafforestation Code of Practice
- Establishment of defined exclusion zones
- Variation of operations, including reduced harvesting intensity, restriction of off-road machinery or vehicles
- Exclusion or inclusion of fire
- Protection works
- Interpretation works

Other considerations include:

- Cultural sensitivity of landscape
- Evidence of past disturbance
- Aboriginal community involvement in fieldwork and schedules for payment
- Aboriginal cultural significance of sites, and the site-types present
- Significance of Aboriginal sites and their heritage value to the wider community
- Direct and indirect impacts on Aboriginal sites and cultural places that would result from the proposed operation and subsequent rehabilitation
- Regional priorities for the protection of sites and objects
- Opportunities for conserving adjacent similar sites
- Negotiation of actions for field implementation
- Need to obtain consents or permits

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### *Obtaining consent*

Consent to destroy is not required:

- Where there will be no disturbance or damage to a site there is no need to seek a *consent to destroy* e.g. disturbance can be avoided by excluding activities that result in earth disturbance and tree felling close to the site

Consent to destroy is required:

- Where artefacts are recorded on tracks or roads, DEC advises that continuing use is likely to cause damage, and would therefore require a s.90 consent
- If an operation is likely to damage or a site, a consent under s.90 of the NP&W Act is required.
  - In some circumstances, consents to destroy or partially destroy stone artefact sites will only be granted if they contain an agreement to carry out salvage collection or excavation
  - Salvage involves the excavation and/or collection of material, analysis, and reporting by an ACHO and planning staff, and requires a s.87 permit to collect. Salvage work usually involves an archaeologist and an Aboriginal community representative

In accordance with s.87 of the NP&W Act (1974), Forests NSW will not move or collect objects. To determine whether an object is of Aboriginal heritage, the object can be picked up for examination but must be replaced in the same position. Site inspection needs to establish the extent of artefact distribution and boundaries to the site.

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## Forms

### Aboriginal Community Consultation Record

Note: To be completed by ACHO/Aboriginal coordinator or nominated representative and attached to relevant file or plan

This records each stage of consultation with the Aboriginal community

- ☐ Notice of proposed operational schedules
- ☐ Report new sites discovered in pre-operational planning procedures or during operations
- ☐ Development of management prescriptions

If insufficient space is provided, please make reference below and attach additional pages

Details for **written communication** informing community of tactical plan, operational plan etc.

Organisation		
Representative		
Date		
FNSW employee		
Site details		
Issues		

Details of courtesy follow up **phone call** to Aboriginal community

Organisation		
Representative		
Phone number		
Date		
FNSW employee		
Site details		
Issues		

Details of **meetings** with Aboriginal community members

Organisation		
Representative		
Date		
Location		
FNSW employee		
Site details		
Issues raised		

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## Example of a contract for engaging ACH consultants

### FORESTS NSW

Agreement made on the .....between the ..... and Department Primary Industries Forests NSW Southern Region.

(hereinafter and in the general conditions of contract attached hereto called the "Consultant") of the one part and the FORESTRY COMMISSION OF NEW SOUTH WALES trading as Forests NSW (hereinafter and in the said attachment called "Forests NSW") of the other part.

WHEREAS —

- i) Forests NSW wishes to inspect proposed logging areas and other areas as requested for the presence of sites of Aboriginal significance for up to 100 man hours in the period between December 2004 and December 2005 within the Southern Forestry Region.
- ii) The Consultant is prepared, subject to provisions of the agreement to be so engaged; and to provide a written report within 14 days of each inspection, and
- iii) The parties hereto desire to enter into this agreement so that upon their signing the provisions hereunder shall have full force and effect.

Now it is hereby agreed as follows:

#### SERVICES TO BE PROVIDED BY THE CONSULTANT

The Consultant shall undertake joint field-based Aboriginal site inspections with Forests NSW staff for logging areas and other areas as advised from time to time by Forests NSW. The Consultant shall provide a written report of the result of each inspection and shall also provide reports in the attached format for all archaeological sites encountered during the course of each inspection.

The fact that the Consultant is under the terms of this Agreement to be engaged in providing consultancy service for Forests NSW is not to be construed in such manner as to imply that the Consultant or any person employed by the Consultant is the employee of Forests NSW or Her Majesty Queen Elizabeth II or is employed under the *Public Sector Management Act 1998* of the said State nor shall the Consultant or any of his employees represent them selves as being the servant of Forests NSW or Her Majesty.

The provisions of the *Superannuation Act 1916*, and the regulations thereunder shall not apply to the engagement of the Consultant under this Agreement or to any person employed by the Consultant in the course of the Consultant carrying out his obligations under this Agreement.

The Consultant shall not, unless with the prior written approval of Forests NSW, assign his interest in this Agreement.

The Consultant shall have access to information of Forests NSW relevant to the inspections proposed under this Agreement, and Forests NSW shall render all reasonable advice and information to the Consultant to allow him to achieve the terms of this Agreement.

Except as necessary to obtain advice and opinions from local Aboriginal groups, the Consultant shall not disclose or make public any information or material acquired or produced in connection with or by the performance of the consultancy services without proper approval, in writing, from Forests NSW.

For each logging or other area required by Forests NSW to be inspected under the terms of this contract, the Consultant shall be supplied with a map detailing the extent of proposed disturbance, and the proposed methodology and maximum time frame for undertaking the inspections within that area.

#### RATES AND CHARGES

Forests NSW shall pay to the Consultant a sum of \$xx per hour for consultancy services, on production of the report and detailed invoice. Consultancy fees are inclusive of GST. Persons engaged will be

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paid for shifts commencing and finishing at the person's home on each day of field inspections, plus an additional hour to finalise reports for each area.

In addition to the hourly rate, Forests NSW shall reimburse the Consultant for use of a single vehicle in travel legitimately required to undertake field inspections by the shortest practical return route from the person's home to the inspection area or arranged meeting place with State Forest staff. This additional payment will be made by referencing the Consultant's claim to local CMA 1:25,000 maps, and will be at the rates of \$xx. cents per kilometer for all travel on 'roads' and \$xx cents per kilometer for all travel on 'tracks' as marked on those maps. Travel fees are inclusive of GST.

Subject to the reasonableness of the claim, Forests NSW shall pay the invoice within fourteen (14) days of receipt.

## TERMINATION OF AGREEMENT

If the Consultant fails to carry out any of the obligations or duties required of him under this agreement, Forests NSW may determine this Agreement forthwith by notice in writing to the Consultant up to the date of determination and will pay all moneys due to such date. Such notice will be deemed to be in full satisfaction and discharge of all claims whatsoever the Consultant has or may have against Forests NSW.

The Consultant shall ensure that all official documents are kept secure and confidential at all times. In general terms, any confidential information obtained shall not be used either during the course of this Agreement, or thereafter, without first obtaining the permission of Forests NSW. Failure to do so may lead to termination of this Agreement or other legal action.

## INSURANCE, WARRANTIES AND INDEMNITIES

The Consultant will effect and maintain all insurances required for the protection of his employees engaged in the provision of consultancy services under the Agreement and, in particular, insurances required under Workers Compensation Legislation.

The Consultant hereby releases and indemnifies and will keep indemnified Forests NSW, Her Majesty and the Government of New South Wales from and against all liability including but not limited to actions, suits, claims, demands, proceedings, losses, damages, compensation, sums of money, costs (including solicitor and client costs), charges, expenses and penalties which arise directly or indirectly for any negligent or wrongful act or omissions of the Consultant, its employees, contractors or agents done or omitted to be done in the course of carrying out the consultancy services hereunder included but not limited to, any physical injury and death to persons and damage to property or from any, or omission in breach of any, condition or warranty of the agreement AND this release and indemnity has effect notwithstanding that such act or omission was done, or omitted to be done, under the authority or in consequence of this Agreement and notwithstanding that any time waiver or other indulgence has been given to the Consultant in respect of any obligation of the consultant under this Agreement AND IT IS HEREBY EXPRESSLY AGREED AND DECLARED that the obligations of the Consultant under this Sub-clause will continue after the expiration or other determination of this agreement in respect of any act, deed, matter or thing happening before such expiration or determination.

IN WITNESS WHEREOF the parties have executed this Agreement:

Signed by the delegate of the  
FORESTRY COMMISSION OF NEW SOUTH WALES Trading as FORESTS NSW ) \_\_\_\_\_

In the presence of: ) \_\_\_\_\_

Signed by: ) \_\_\_\_\_

For: ) \_\_\_\_\_

In the presence of: ) \_\_\_\_\_

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## AGREEMENT SPECIFICATION

Joint inspections between the consultant and Forests NSW staff shall be undertaken in areas/compartments as advised from time to time by Forests NSW.

For each area/compartment required by Forests NSW to be inspected, the consultant shall be provided with a map identifying the location of areas on which the inspections are to be focussed.

For proposed logging areas, inspections shall be focussed on existing roads and log dump sites, proposed roads and log dump sites and prominent ridge lines on the boundary of, and within, the net harvestable area of the compartment, as indicated in yellow on the maps provided.

For other areas, inspections shall be focussed on the areas proposed for disturbance, as indicated on the maps provided.

The methodology for inspections consists of driving and/or walking along the routes of the existing and proposed roads and log dumps, and along the prominent ridge lines, or along the other areas proposed for disturbance, while searching for signs of Aboriginal activity. As a guide, the rate of inspection should be about 2km of route per hour.

Indicative inspection routes and total inspection times shall be provided by Forests NSW to the consultant to assist in planning the work schedule.

If signs of activity are identified, the location of the site must be recorded, using a GPS recorder, and the characteristics of the site recorded on the data sheets provided by Forests NSW.

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## Appendices

Regions are to develop and include as attachments to these guidelines Appendices 1-6.

- 1 Regional agreement(s) on processes for liaison with the local Aboriginal community.
- 2 Regional agreement(s) on processes for locating known sites.
- 3 Regional agreement(s) on processes for discovering 'new' sites.
- 4 Regional agreement(s) on processes for managing Aboriginal cultural heritage information.
- 5 Regional agreement(s) on processes for developing management prescriptions to protect Aboriginal cultural heritage, monitor and report plan implementation, including reporting of compliance or non-conformance with management prescriptions
- 6 Regional agreement(s) on processes for providing annual feedback on the effectiveness of the region's consultation and involvement of the LAC in forest management
- 7 AHIMS data licence (copy)
- 8 AHIMS standard site record form

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