

ACT Project Sign Off Sheet

Date 9/9/09

Project Name: Harrison 4 Estate – Survey and Consultation

Recommended Management Options*:

- No cultural heritage sites identified. No further cultural heritage action required
- Salvage Collect artefacts associated with sites, prior to construction commencing
- Further detailed archaeological research required at site.
- Implement measures to protect heritage site(s), prior to construction commencing.

Further Comments

Signed by

Archaeologist

RAO's

3-9-2009

**Harrison Stage 4
Preliminary Desk Top Assessment**

[REDACTED]
Ngarigu Currawong Clan

[REDACTED]
CHMA has been contracted by the LDA to carry out a desk top preliminary heritage assessment for the proposed Harrison Stage 4 land release area. As part of this desk top assessment, a brief site visit will be carried. The main purpose of this site visit will be to determine the scope of further archaeological heritage works in this area

It is anticipated that the field visit will occur on Wednesday the 9th September 2009.

CHMA would like to invite a representative from the Ngarigu Currawong Clan to participate in the field visit. Payment for the involvement of your representative will be organised by CHMA, and the invoice for this work should be presented to CHMA. The LDA have specified the hourly rate for the involvement of the RAOs at \$45.00 per hour.

The Ngarigu Currawong Clan will need to ensure that they hold the appropriate insurance covers (Workers Compensation, Professional Indemnity, Public Liability) for their involvement in this project. If your organisation does not hold the required insurances you will need to notify (in writing) a representative from CHMA prior to field work commencing so that alternate arrangements can be made.

If you are in agreement with the terms outlined above, could you please sign this letter and retain a copy for your own records. We look forward to working with you on this project.

Yours sincerely
Stuart Huys (Director)



Land Development Agency

M I N U T E

John Robertson
A/g Chief Executive Officer

Gerry Ryan
General Manager
Corporate

Chris Reynolds
General Manager
Residential Development

**SUBJECT: COMPLAINT FROM [REDACTED] [REDACTED] – NGARIGU CURRAWONG
CLAN REGARDING PAYMENT AND PROCESS ON BONNER
ARCHAEOLOGICAL ASSESSMENT**

PURPOSE

To brief you on action relating to recent archaeological assessments and the payment of Relevant Aboriginal Organisations (RAOs) for participation in current archaeological assessments for Bonner, Franklin 2 and Franklin 3.

BACKGROUND

The LDA is required to undertake an archaeological assessment during the preparation of Estate Development Plans (EDPs) for the verification and salvage of relevant Aboriginal artefacts prior to estate construction.

Archaeological assessments recently completed include:

- Dunlop 5 West (after the commencement of construction when the ACT Heritage Unit reversed its earlier decision that no further assessment was required);
- Bonner where currently EDPs are under preparation for Bonner 1A and 1B; and
- Franklin 2 (after EDP approval in July 2007 as the ACT Heritage Unit was not satisfied with earlier studies done for the Concept Plan).

An archaeological assessment is about to commence for Franklin 3 again due to the lack of support of the Heritage Unit with the extent of previous studies. The EDP for Franklin 3 is currently circulating for comment by agencies.

ABN 20419925579

21 Wentworth Avenue, Kingston ACT 2604

GPO Box 158 • Canberra ACT 2601 • Telephone (02) 6207 5322 • Facsimile (02) 6205 0386

ACT Government Homepage: www.act.gov.au

The archaeological assessment is carried under the Heritage Act which came into effect in 2004. All archaeological assessments carried out in the ACT must comply with the requirements of the Act.

The past practice for archaeological assessments was:

- the archaeologist engaged in accordance with the normal procurement procedures with a brief supported by the Heritage Unit to meet the requirements of the Heritage Act.
- the archaeologist invites the participation of the RAOs in the fieldwork and to sign off on the final report.
- the RAOs claim payment for their participation and directly invoice the client (in this case the LDA) for the amount claimed.

However, the LDA does not engage the RAOs directly or indirectly. Therefore, it is considered there is no contractual arrangement/agreement on which to base support for payment of the RAOs invoices.

The invoiced amounts have now become substantial with four (4) RAOs required to be consulted.

Bonner

This practice came to a head very recently in Bonner with the claims by the RAOs for payment directly from LDA amounting to \$5,992.56 including GST.

■ ■ ■ representing the Ngarigu Currawong Clan as one of the RAOs made several phone calls following up on his invoice for which he required payment within 7 days of submitting the invoice. I informed him initially that I expected that payment clearance would be done in a couple of days and payment would follow after processing time to his nominated bank account. I processed all four invoices from the RAOs at the one time and took them for internal clearance and sign off by an officer with a suitable delegation.

The delegate's advice was that we should not pay the invoices direct to the RAOs because the LDA did not have a contractual obligation with them and normal procurement and payment procedures could not be followed. It was agreed that the LDA vary the contract with the archaeologist for the amount of the RAOs invoices and payment could then be made to the archaeologist for distribution accordingly. The archaeologist agreed to this action and a variation was approved on 13 September.

It is understood in conversation with the archaeologist that payments were made to all RAOs late on 19 September out of the goodwill of the archaeologist prior to receiving expedited payment from Shared Services.

Franklin 2

Similar invoices have been received from the RAOs following the Franklin 2 archaeological assessment. Similar to Bonner, the contract with the archaeologist was varied for the full amount of the RAOs invoices. Current action is with Shared Services to make payment to the archaeologist following processing of his invoices. The archaeologist will then make direct payment to the RAOs.

Franklin 3

A brief for undertaking the further archaeological assessment was cleared by the Heritage Unit and provided to a suitable archaeologist for tender. It is a requirement of the brief that the archaeologist is responsible for all contact with the RAOs and payment of any invoices received. In this way the RAOs are sub-consultants to the archaeologist.

The tender received is currently undergoing evaluation and further discussion with the Heritage Unit regarding the extent of the work required and the expected cost of the RAOs participation.

Conversations with [REDACTED]

[REDACTED] made a number of calls over several days about the lack of payment (to the Finance area and to me on 19 September). The explanation was provided to [REDACTED] why the invoices were not paid and that the archaeologist's contract had been varied and that he would receive payment direct from the archaeologist. He queried the "change" to his understanding of the procedure and challenged the solution.

[REDACTED] then complained that [REDACTED] had been paid directly by the LDA for a job in Hume and "other jobs" and that I was the problem.

The letter to the Acting CEO attached a 2007 Contract Rates schedule that he claimed was lodged with the LDA and was the basis of his invoice.

Discussion with relevant officers within the LDA has not uncovered any agreement or acceptance of this Contract Rates schedule or agreement on the procedure that was required to be followed to gain support for payment. It is understood that Finance had seen a Contract Rates schedule attached to several incoming invoices.

ACTION

It is clear that the LDA does not have a contractual obligation with the ROAs. Hence the requirements for procurement and the basis for payment of any invoices received have not been met. The contractual obligation is with the archaeological assessment consultant who should be responsible for any engagement with the RAOs and for any monetary consideration they may claim for their participation.

Action was taken to ensure payment of RAO invoices on Bonner and Franklin 2 in accordance with Government procurement and finance procedures.

The Franklin 3 brief formalises the arrangements described above and implemented the above actions in the case of the Bonner and Franklin 2 archaeological assessments and RAO claims for payment.

This method is recommended as the course of action to follow in all further archaeological assessments for the LDA. It is also recommended that a

direction to this effect should be circulated to LDA staff so that correct procurement and payment procedures are followed.

It is considered that the problem referred to in the letter of [REDACTED] has already been resolved and no further action is required.

RECOMMENDATIONS

It is recommended that:

1. the practice of paying RAOs directly for invoices received for their participation in archaeological assessments should cease immediately.
2. all further archaeological assessments to be undertaken for the LDA require the archaeologist to communicate with and engage the RAOs directly as sub-consultants with their costs identified in any tenders received. The archaeologist is responsible for direct payments to the RAOs.
3. instructions be issued to all relevant LDA staff that no direct payments for current invoices received from RAOs are to be authorised or paid and that variations to contracts should be processed in accordance with Government procurement and finance procedures.
4. action be initiated with the ACT Heritage Unit to issue clear guidelines under the Heritage Act 2004 for the engagement and reasonable payment for the participation of RAOs in archaeological assessments.

Dave Richardson
Senior Project Manager

26 September 2007