



Integrated
Management
System

Exhumation Management Plan

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Sydney Metro Integrated Management System (IMS)

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1. Introduction

Sydney Metro have developed this Exhumation Management Plan (ExMP) to provide Sydney Metro and their contractors with guidance on managing the discovery of human skeletal remains during the course of the Sydney Metro program of works.

Sydney Metro is Australia's biggest public transport project. From the northwest, metro rail is being extended under Sydney Harbour, through new underground city stations and beyond to the south west. In 2024, Sydney will have 31 metro railway stations and a 66km standalone metro railway system, revolutionising the way Australia's biggest city travels (refer to Figure 1).

The purpose of this ExMP is to address relevant planning conditions of approval where required, by providing a clear and concise process to follow in the event of the discovery of potential human remains during project works.

The policy document may be used for the Sydney Metro program, although there is a focus on human remains at Central Station (associated with the former Devonshire Street cemetery). Potential for human remains had been identified in the Archaeological Assessment and Research Design (AARD) for Sydney Metro – City & Southwest Chatswood to Sydenham (Artefact Heritage, 2016) and subsequently presence of human remains has been confirmed during archaeological investigation for the Central Station Main Works (CSMW).

This ExMP will be reviewed prior to its implementation on any future Sydney Metro project that has potential to impact on a known cemetery or burial ground. A review may require amendment the ExMP to tailor additional controls or management procedures that are specific to the impacted cemetery or burial ground. In addition, the requirements of the relevant Planning Approval, including consultation on any amendment, will be assessed during the review of this ExMP prior to its implementation.

2. Methodology

This ExMP satisfies the relevant planning requirements, by outlining the procedure for the discovery and management of human remains within the Sydney Metro program. The ExMP addresses the following:

- Discussion of relevant legislation and guidelines, (e.g. Coroners Act 2009, Heritage Act 1977, Guidelines for the Management of Human Skeletal Remains and the Public Health Regulations 2012).
- Archaeological methodology for excavation of remains including processes for appropriately handling remains in accordance with the relevant guidelines.
- Preparation of a flow chart process to be used by contractors to respond to the discovery of suspected human remains.
- Post-exhumation management primarily around relocation, processing and long-term arrangements.
- Process for nomination of a physical anthropologist and temporary storage location.
- Process for additional analysis including DNA testing, isotope analysis and environmental sampling, and discussion on requirements for public involvement.

2.2. Discovery of human remains and forensic cases: Coroners Act 2009 (NSW)

For a discovery of suspected human remains less than 100 years old, the remains would come under the jurisdiction of the State Coroner and the Coroners Act 2009 (NSW). Such a case would be considered a 'reportable death' and, under legal notification obligations set out in s35 (2); a person must report the death to a police officer, a coroner or an assistant coroner as soon as possible. This applies to all human remains less than 100 years old, regardless of ancestry (i.e. both Aboriginal and non-Aboriginal remains).

35 Obligation to report death or suspected death

(1) This section applies to any person who has reasonable grounds to believe that a death or suspected death of another person:

(a) is a reportable death or occurred in circumstances that would be examinable under Division 2 of Part 3.2, and

(b) has not been reported in accordance with subsection (2).

(2) A person to whom this section applies must report the death or suspected death concerned to a police officer, a coroner or an assistant coroner as soon as possible after becoming aware of the grounds referred to in subsection (1).

Maximum penalty (subsection (2)): 10 penalty units.

(3) A police officer to whom a death or suspected death is reported under this section is required to report the death or suspected death to a coroner or assistant coroner as soon as possible after the report is made.

(4) An assistant coroner to whom a death or suspected death is reported under this section is required to report the death or suspected death to a coroner as soon as possible after the report is made.

(5) A coroner to whom a death or suspected death is reported under this section is required to inform the State Coroner of the report as soon as practicable after the report is made.

2.3. Historical human remains: Heritage Act 1977 and Guidelines for the Management of Human Skeletal Remains under the Heritage Act 1977

The Heritage Act 1977 and Guidelines for the Management of Human Skeletal Remains under the Heritage Act 1977¹ apply to historic burials in New South Wales. It should be noted that the Guidelines are outdated in terms of the current statutory framework.

The definition of an archaeological 'relic' under the Heritage Act changed in 2009. A relic is no longer defined as an object of at least 50 years of age, but is now defined as an archaeological deposit or artefact that has heritage significance at a local or State level. New guidelines, Assessing Significance for Historical Archaeological Sites and 'Relics', have been endorsed by the Heritage Council and should be used to assess the level of heritage or archaeological significance of the remains. With reference to burial grounds, objects such as headstones, grave enclosures and grave goods, as well as buried human remains, may be a 'relic'.

¹ NSW Heritage Office, 1998.

If the project is approved as CSSI, an application to the NSW Heritage Council for an excavation permit (either Section 140 or Section 60) is not required. Notification to the NSW Heritage Council (or delegate) is required under the CSSI approval if unexpected relics of State significance or human remains are located.

2.4. Aboriginal human remains: National Parks and Wildlife Act 1974

The National Parks and Wildlife Act, administered by the NSW Office of Environment and Heritage (OEH), provides statutory protection for all Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) under Section 90 of the Act, and for 'Aboriginal Places' (areas of cultural significance to the Aboriginal community) under Section 84.

Discovery of Aboriginal burials and/or human remains would be addressed in the projects Aboriginal Cultural Heritage Assessment Report (ACHAR). ACHARs would be prepared in accordance with the OEH 'Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation'², the OEH 'Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW'³, the OEH 'Aboriginal cultural heritage consultation requirements for proponents 2010'⁴, the OEH 'Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales'⁵.

If suspected human skeletal remains are uncovered at any time during the archaeological management program, the process outlined in this ExMP and detailed in the flow chart is to be followed. Management of the remains would be guided by consultation with the nominated Registered Aboriginal Parties (RAPs) for the project, in adherence to the ACHAR.

2.5. Exhumation of human remains: Public Health Regulation 2012 (NSW) and the NSW Health Policy Statement – Exhumation of human remains (2013)

Public Health Regulation 2012 and the NSW Health Policy Statement – Exhumation of human remains of the Public Health Regulation 2012 provides specific regulation for the exhumation of bodies in NSW.

Under Clause 70, an application for approval to exhume the remains of a dead person may be made to the Director-General via an approved form to the Director of the local Public Health Unit that acts on behalf of the Director-General of NSW Health. Exhumation is not to take place unless an authorised officer or a NSW Health member of staff is present at the exhumation (the grave may be excavated to the lid of the coffin but nothing must be disturbed until the arrival of the authorised officer) (Clause 72). An authorised officer must be present at the exhumation to ensure the correct interment is opened and that all of the remains are exhumed, and to enforce the protection of public health should this be necessary.

Sydney Metro would be required to apply to the Secretary of Health for approval to exhume human remains as per Clause 26 of the Regulations.

² NSW Department of Environment and Conservation, 2005.

³ OEH 2011.

⁴ Department of Environment, Climate Change and Water 2010.

⁵ OEH 2010.

Note that special consideration has been made for works at Central Station within the CSMW boundary that impact the former Devonshire Street Cemetery (Section 4).

2.6. NSW Ministry of Health Policy Statement – Exhumation of human remains (2013)

The NSW Ministry of Health Policy Statement on the exhumation of human remains provides the policy to be observed by Public Health Units located in Local Health Districts on receipt of an application to seek permission for approval of the exhumation of human remains under the Public Health Regulation 2012. Public Health Units (PHUs) of Local Health Districts (LHDs) in NSW facilitate the approval for an exhumation.

Under Clause 69 a person must not exhume a body unless the exhumation of the remains has been approved by the Director-General. An application for permission to exhume the remains of a deceased person is to be made to the Public Health Unit on the approved form which is contained at the [NSW Health website](#).

The required form is appended to this ExMP for ease of reference.

Note that the title of Director General of Health was replaced with the Secretary of Health when the Public Health Act and Public Health Regulation were amended. However, the Policy Directive PD2013-046 has not been amended to reflect this change.

2.7. Work Health and Safety Act 2011

The Work Health and Safety Act 2011 provisions apply to protect personnel involved in the exhumation procedure by creating and maintaining safe and healthy work practices and are enforced by WorkCover NSW. Graves, crypts and vaults could be considered to be confined spaces in some circumstances under health and safety legislation. More information on safe work practices is available at or by contacting SafeWork NSW via their website or directly.

Health and safety aspects of working with human remains should be considered. Generally, working with archaeological human skeletal remains requires no extra precautions to be taken beyond normal health and safety regulations. Once any necessary site health and safety precautions have been taken, the exhumation of human remains can proceed.

3. Procedure for the discovery, management and relocation of human remains

This procedure provides project managers, principal contractors and the project archaeologist/Excavation Director with advice on the steps to follow upon uncovering suspected human remains. Information on the potential for burials and human remains would be included in the general project induction for all personnel. The induction would include the procedure to manage these finds as set out in this ExMP.

3.1. Initial discovery of bones: What do we do?

To avoid doubt, all suspected bone items must be treated as potential human skeletal remains, and work around them must stop while they are protected and investigated as a matter of urgency.

1. Stop Work and preliminary notification

Upon the discovery of bone (suspected human remains), all work in the area of the find must stop and the remains must be confirmed as being human or not.

The Project Archaeologist/Excavation Director must be notified

Preliminary notification must be made to the NSW Police in compliance with Section 35 of the Coroners Act 2009 (also refer to special conditions for Central Station noted in section 4).

What?	When bones are uncovered at a site, all work in the area the find must stop immediately and the site must be secured.
Who?	The discoverer will immediately notify machinery operators so that no further disturbance of the remains will occur, as well as notify the foreman/site supervisor, principal contractor, project archaeologist/Excavation Director and Sydney Metro Environmental Manager). Preliminary notification to the NSW Police will be undertaken by the Sydney Metro Environmental Manager. Notification should provide verbal description of the remains and inform the police that consultation with technical specialists is being undertaken to confirm that the remains are human, as well as the burial context (archaeological or less than 100 years old, refer Step 2).
How?	Inform all site personnel of restricted access to the area of the discovery until further notice. Area must be fenced off (flagging or temporary exclusion fencing).
Actions	Notify site supervisor, principal contractor, project archaeologist / Excavation Director and Sydney Metro Environmental Manager of the find and protect the suspected remains until an initial assessment can be undertaken by a technical specialist. Preliminary notification to NSW Police.

2. Confirm human provenance

Skeletal remains could either be articulated and in a recognisable form of burial such as a coffin or common burial position of the body (e.g. supine, prone or flexed) or they could be disarticulated or fragmented remains. Within the boundaries of a known historic burial ground, there is a high probability of the remains being human. In a suspected forensic case (less than 100 years old), the remains may have clothing and/or human tissue. Disarticulated or fragmented bones are often uncovered and these may require specialist assessment to determine legal jurisdiction.

If suspected human remains are identified during the course of project works, preliminary notification must be made to the NSW Police in compliance with Section 35 of the Coroners Act 1999 (refer Step 1) (also refer to special conditions for Central Station noted in section 4, Central Station). NSW Police would be contacted immediately upon receipt of confirmation of human provenance (also refer to special conditions for Central Station noted in section 4).

What?	Confirmation that the remains are human, their burial context - whether they are forensic (less than 100 years) or archaeological (older than 100 years) and suspected ancestry (Aboriginal or non-Aboriginal).
Who?	Excavation Director and or Forensic or physical anthropologist, or archaeologist with specialist skills such as an osteoarchaeologist.
How?	Consultation could be undertaken as either an on-site inspection or via good quality photos sent to the nominated technical specialist of 1) the remains; and 2) the site general site location of the discovery.
Actions	Contact nominated technical specialists to confirm that the remains are: a) human, b) burial context (archaeological or forensic), and c) suspected ancestry (Aboriginal or non-Aboriginal). For the duration of the Sydney Metro project, the nominated technical specialists are: <ul style="list-style-type: none"> Forensic Anthropologist – TBC by contractor for project area.

- | |
|---|
| <ul style="list-style-type: none"> Nominated Excavation Director – TBC by contractor for project area. <p>The archaeologist may be able to identify the nature of remains without input from the Forensic Anthropologist. The Forensic Anthropologist should be contacted as required.</p> |
|---|

3. Notification based on jurisdiction (forensic or archaeological)

Once confirmation is received from the technical specialist that the remains are of human origin, there are three possible statutory pathways to follow based on the assessment:

- **Forensic case (remains are less than 100 years old):** If it is determined by specialist assessment (Step 2) that the remains are forensic, the remains come under the jurisdiction of the State Coroner and the Coroners Act 2009. The NSW Police would likely secure the site and will advise on the procedure to be followed.
- **Archaeological – non-Aboriginal human remains (more than 100 years old).** Actions: Notification to OEH Heritage Division. Follow the Archaeology Exhumation Methodology as set out in Step 4.
- **Archaeological – suspected Aboriginal human remains (more than 100 years old).** The RAPs must be present where it is reasonably suspected that Aboriginal burials or human remains have been encountered. Recording of Aboriginal ancestral remains must be undertaken by, or be conducted under the direct supervision of a specialist. Actions: Notify RAPs and follow ACHAR Notification to OEH. Follow the Archaeology Exhumation Methodology as set out in Step 4.

4. Archaeological Exhumation Methodology

The following section provides the archaeological methodology for exhumation and the appropriate handling of human remains.

Securing the Site: The strategy for the excavation and removal of human remains must be sensitive to public opinion and ethical issues and exhumation activities should not be visible to the general public. The site may need to be screened off from public areas, not only with hoarding but also in some cases with a roof to screen the site off from overlooking buildings. At all times, human remains should be treated with respect and dignity. The perimeter of the excavation site should be demarcated by plastic tape or flagging, with only technical staff allowed within this area for the duration of exhumation activities.

The site should be protected from the elements including flooding, contamination with dust or debris, and other disturbance. These measures would be formulated by the Excavation Director in consultation with the contractor and Sydney Metro where required and may differ from site to site.

Excavation Director: Archaeological investigations are to be managed by a suitably qualified Excavation Director with experience in the historical archaeology of Sydney and management of human remains. For sites with potential for locally significant remains, the Excavation Director should meet the NSW Heritage Council criteria for locally significant archaeological sites. For sites with potential for State significant archaeology the Excavation Director should meet the NSW Heritage Council criteria for State significant archaeological sites.

Excavation and Recording: Exhumation and recording is to be undertaken in accordance with best practice forensic and Heritage Council guidelines. Prior to

removal, the remains should be fully recorded in situ to understand their surrounding archaeological context. This will include recording any disturbances to the burial, identification of bones present. In some cases, the deposit of bones may be a mixture of articulated and disarticulated remains. Care should be taken to distinguish articulated remains and to assess if they represent commingled individuals or disturbed remains belonging to one individual, and to record them accordingly.

Recording:

- A standard context recording system will be employed.
- Detailed survey and/or measured drawings would be prepared and include location of remains within the overall site (position of the body, the direction of the burial, noting any stratigraphic relationships with other archaeological features).
- Any associated artefacts (potential grave goods, burial furniture) would be recorded and collected by context for later analysis.
- Digital photography, in RAW format, using photographic scales and photo boards where appropriate. A photographic record of all phases of the work on site would be undertaken.
- Registers of contexts, photos, samples and drawings would be kept.

Excavation:

- Detection of the extent of the grave/remains (if disarticulated).
- Surface soils removed in excavation units of 100mm (site dependent) using small tools.
- Expose remains with soft paint brushes and pedestal the remains.
- Record position and depth of remains.
- Soil removed would be sieved through 3mm mesh to examine for teeth and bone fragments.
- Soil samples may be taken from the abdominal and/or chest areas of the body (articulated remains) to retrieve evidence of gallstones or worm infestations.
- Exhumation must be under the control of the Excavation Director, with the assistance of a Forensic Anthropologist if required. Exhumation permit/s, provided by NSW Ministry of Health may also require the presence of an authorised officer or a member of staff of the Ministry of Health.
- Further excavation of the bottom of the pit (grave) following removal to confirm the absence of further remains.

Relocation of bones:

- Removal and collection of skeletal remains to follow standard forensic practice of labelling.
- Remove remains from the ground systematically and place in plastic bags according to anatomical areas of the body.
- Bags should not be air-tight and should have ventilation holes to prevent deterioration of fragile skeletal material. Each bag should contain labels and

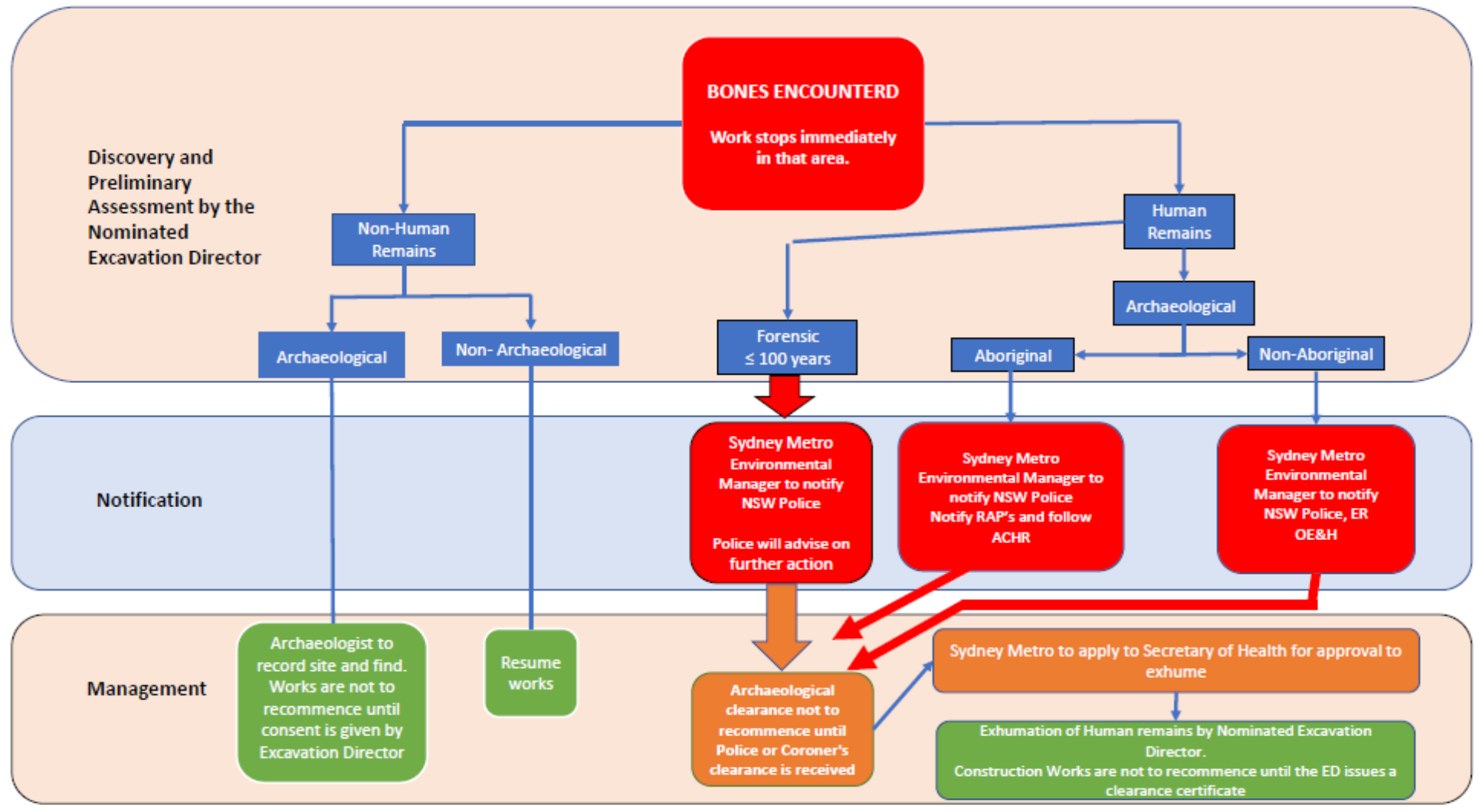
the separate bags should then be placed in a large plastic bag, crate or box, labelled with the context information.

- The remains should be placed in a sturdy, large cardboard box (approximately 600 x 300 x 200 mm) for relocation to off-site processing location.

Resume work: Construction work may only recommence upon receipt of clearance certificate from the Excavation Director and may require additional NSW Ministry of Health approval. If a forensic case, written authorisation from the NSW Police is required.

Reporting: A report would be prepared following the completion of the program of exhumation works, separate to the archaeological excavation report for the project. This report would include skeletal analysis catalogue, comprehensively describe the process of exhumation, detail the recording of the remains and synthesise the results of any further laboratory testing. An assessment of significance for the remains would be provided and interpreted within the context of the archaeological research design (response to research questions.)

Figure 2: Exhumation Policy flow chart



4. Central Station

4.1. Brief historical overview: Devonshire Street cemetery (Central Station)

The northern part of the Central Station site was formerly occupied by the nineteenth century Devonshire Street cemetery; specifically the Church of England, Presbyterian, Wesleyan and Roman Catholic burial areas. The burial grounds, called the Sandhills Cemetery or the Devonshire Street Cemetery, was consecrated in 1820⁶. The site was chosen due to the remote location of the cemetery compared to the growing town of Sydney. The cemetery was eventually declared at capacity, and took no more burials from 1865 onwards. Images from the 1890s, shortly before the cemetery was resumed for the expansion of the station, show that the original brick walls for the burial ground were still intact⁷.

Proposals raised in the 1880s and 1890s for the construction of a larger station facility at Central Station were adopted, and the clearing of the Devonshire Street cemetery commenced in 1901. On 17 January 1901, the government issued a notice declaring that representatives of any deceased in the cemetery must remove their relatives within two months⁸. By 1902 clearing had been completed.



Figure 3: Plan of proposed Central railway station with Devonshire Street cemetery marked in red and the current station footprint indicated by the blue line⁹

⁶ The Sydney Gazette and New South Wales Advertiser, 5 February 1820.

⁷ Artefact Heritage, 2016. Sydney Metro City & Southwest Chatswood to Sydenham Historical Archaeological Assessment & Research Design. Report to Jacobs/Arcadis/RPS, pp.227-228.

⁸ The Sydney Morning Herald, 25 January 1901.

⁹ Source: State Records NSW, SR Map 6408 with overlay by Artefact Heritage 2016.

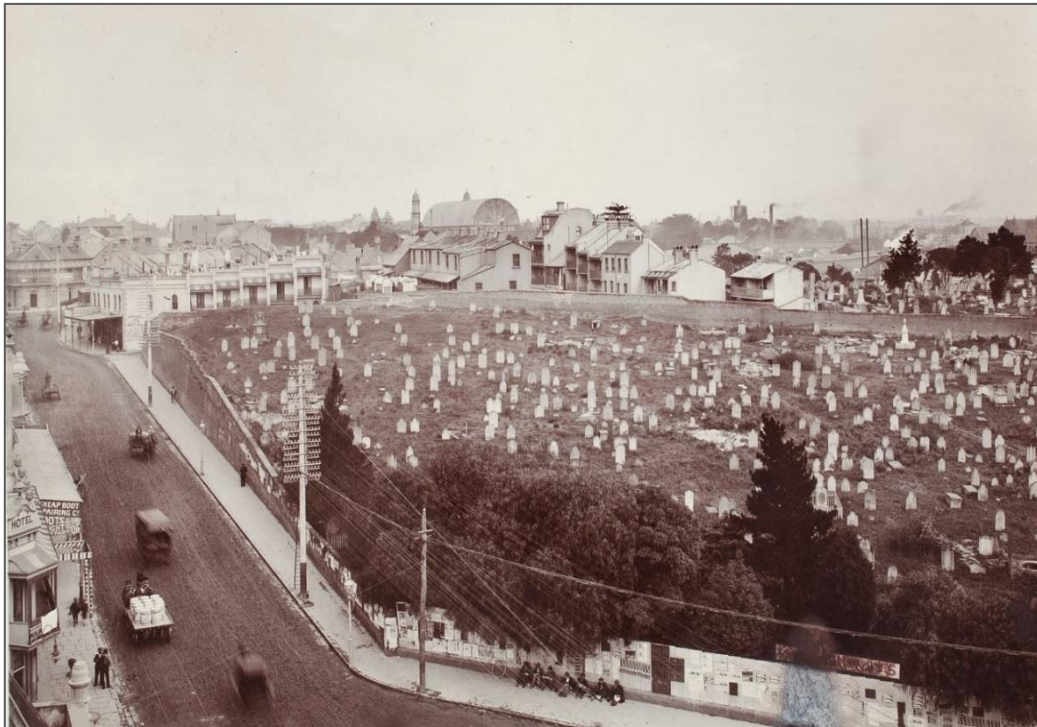


Figure 4: 1890s photo of the Church of England area of the Devonshire Street cemetery, facing south from north-eastern corner¹⁰

4.2. Archaeological potential of former Devonshire Street cemetery, Central Station

Artefact Heritage have prepared an historical AARD for the City & Southwest Chatswood to Sydenham project to assess archaeological potential and recommend appropriate management and mitigation measures. Central Station was assessed as having low potential for State significant archaeological remains associated with Devonshire Street cemetery as follows:

The Devonshire Street cemetery was located in the northern half of the Central Station site. Remaining material from the cemetery could include structural remains such as former footings for the deconstructed burial ground walls, residual brick and stone tombs, and tombstones. Coffins, coffin furniture and human skeletal remains and associated artefacts may also be preserved. Evidence of grave excavation in the form of cut soils and potential clay and sand backfill would be located from the base of the grave shaft to the top of the former ground level.¹¹

During works at the CSMW site, human remains were located in definable burials (including vaults) and scattered in redeposited fill. This ExMP applies to human skeletal remains or burial-related archaeological material.¹²

¹⁰ Source: State Library of New South Wales

¹¹ Artefact Heritage 2016: 238.

¹² Ibid, pp.255-257

4.3. Special consideration for approvals at the CSMW site

4.3.1. Discovery of human remains and forensic cases: Coroners Act 2009 (NSW)

Consultation with the Coroner has confirmed that fragmented human remains discovered at the CSMW site do not require notification to the NSW Police, as the Coroners Act would not apply, if they meet **all** of the following criteria:

- They are disarticulated bone pieces or fragments, either within an identified burial site such as a grave cut or vault, or dissociated from their original context. For example disarticulated bones, bone fragments or teeth including those found in situ, in redeposited fill or when sieving deposits.
- Are not associated, in a definable burial site, with elements that could identify the interred such as a name plate, certain types of coffin goods such as personal effects, and or a headstone;
- They are more than 100 years old;
- They meet the requirements for exhumation under the Permit issued by SLHDPHU dated 21 January 2019; and
- They have been confirmed to meet the above criteria by a forensic or physical anthropologist, or archaeologist with specialist skills such as an osteoarchaeologist.

Exhumation of human remains: Public Health Regulation 2012 (NSW) and the **h**.

4.3.2. NSW Ministry of Health Policy Statement – Exhumation of human remains (2013)

Sydney Local Health District Public Health Unit has issued a permit, dated 21 January 2019, approving site wide (CSMW) exhumation of fragmented skeletal remains under certain conditions as outlined in the permit. This provides for the management of fragmented remains without the need to seek separate permits for scattered remains that are often only identified during the sieving process, or are not associated with definable burial sites (for example within redeposited fill).

Note that additional health permits may be required if substantial remains such as full or partial articulated skeletal remains, or other elements such as grave goods or coffin nameplates, are found on site.

5. Excavation and post-excavation tasks

The following tasks relate to responses to the identification of human remains on site. All management should be in accordance with the AARD and relevant Archaeological Method Statement (AMS), and be overseen by the Excavation Director. The Excavation Director would nominate a Forensic Anthropologist where required.

5.1. Research Questions

The following research questions should be used guide exhumations, should intact burials, disarticulated remain, burial cuttings or associated material culture be uncovered during works. These research questions are based on research undertaken for the Sydney Metro City & Southwest Chatswood to Sydenham AARD, and review of previous archaeological

excavations that involved recording and removal of human remains. Additional research questions may be provided in project specific AMS documents. Note that some of the questions particularly relate to the former Devonshire Street Cemetery at Central Station.

The research questions are a guide only, and could be added to or amended by the Excavation Director, depending on the nature of the find.

Social History and Burial Practices

- Does the location of the burial/burial cutting correspond with historic plans/descriptions of the Devonshire Street Cemetery? Are these sources reliable?
- Is there evidence of exhumation?
- Do graves cut into older ones? What can this tell us about nineteenth century burial practices in Sydney, and how does this compare to other excavated cemetery sites in the region?
- What is the distance between burials (if multiple burials uncovered)? Does this conform to known nineteenth century burial practices?
- What type of fill was used within grave cuttings? What can this tell us about the surrounding environment and burial practices at the time?
- What materials/tree species were used to produce coffins? Can coffin manufacturing techniques or fastening methods (use of mortar, screws, nails, tacks) be identified? Does this match known burial practices of the time? If alternative methods are identified, what can this tell us about the manufacturer or economic/social landscape?
- Evidence of brick vaults were found during excavations at the Old Sydney Burial Ground in 1991 and 2003,¹³ is there evidence of similar practices at the Devonshire Street Cemetery?
- Can the class or rank of the individual be identified via coffin materials, grave goods or clothing/shrouds?
- Which direction is the burial orientated? How does this correspond with the known/hypothesised location of denomination areas?
- Previous excavations of historic cemeteries have noted the use of quicklime in burials,¹⁴ is there evidence for similar practices at the Devonshire Street Cemetery?
- If the burial is associated with additional individuals, can a familial relationship be assessed through DNA or other genetic markers identifiable within the skeletal remains (e.g. impacted third molar)?
- Can an exchange between burial practices in Britain and colonial Sydney be identified through the burial remains? Is there evidence for alternative burial practices associated with additional cultures?

¹³ Godden Mackay, 1991. Old Sydney Burial Ground, Sydney Town Hall: Archaeological monitoring excavation. Prepared for the Council of the City of Sydney and the Heritage Council of NSW and Casey & Lowe, 2006. Recording of Graves, Old Sydney Burial Ground, Sydney Town Hall, 2003-2005, for Otto Cserhalmi i + Partners, on behalf of the City of Sydney.

¹⁴ Hewitt, G. & Wright, R., 2004. Identification and Historical Truth: The Russell Street Police Garage Burials. Australasian Historical Archaeology, Vol. 22.

Environmental Factors and Scientific Analysis

- What is the condition of the bones? How does their condition compare to known or nearby burials of the same age? What environmental or man-made factors may have influenced the decomposition process?
- Can the health, nutrition, sex, race, stature or age be identified through the skeletal remains? Is there evidence of trauma on the bones? Is there evidence of pathology on the bones (e.g. syphilis, tuberculosis, tumours)?
- If archaeobotanical analysis is carried out, what can it tell us about the surrounding environment and nearby plant species? Can pre/post-European landscapes be determined within the archaeobotanical record?
- Can stable isotope analysis address any questions regarding diet, country of origin and nutrition?
- Can DNA testing address any questions not answerable by the skeletal remains themselves, such as sex, familial relationships (if buried with another individual/s) or race?
- Is there potential for DNA to be tested against any individuals who may come forward as a descendant of the deceased?

5.2. Process for DNA Testing, Isotope Analysis and Environmental Sampling

5.2.1. Pre-Excavation

The Excavation Director, in consultation with the Forensic Anthropologist, will nominate a suitable laboratory prior to works commencing. Approval for the analysis of skeletal remains, soil samples and material samples from the laboratory would also be sought prior to works commencing.

5.2.2. Excavation

In order to prevent cross-contamination, the following sample collection and excavation process should be followed:

- The location, quantity and material (bone, teeth, hair, soil, wood) of samples will be determined by the Excavation Director or Forensic Anthropologist prior to its collection;
- Samples would be stored in a safe, secure and climate controlled location while excavations are in progress. This would be chosen by the Excavation Director or Forensic Anthropologist on site;
- Each collected sample would be given a unique catalogue number and a sample register would be recorded throughout the excavation;
- “Clean Excavation” procedures would be followed during the excavation of burials and during the sample collection process.¹⁵ This would include:

¹⁵ Guidelines for ‘clean excavation’ are based on procedures outlined in: Yang, D. Y. & Watt, K. 2005. Contamination controls when preparing archaeological remains for ancient DNA analysis. *Journal of Archaeological Science*, vol. 32, pp. 331–336 and Society for Historical Archaeology, 2015-2017. *Research and Analysis of Artefacts*. Accessed online at: <https://sha.org/conservation-facts/faq/analysis/#C> on 25/5/2017.

- Latex gloves would be worn by individuals excavating and/or handling bone or soil samples. Gloves would be changed for each bone and/or individual to prevent cross-contamination;
- Excavation tools/brushes would be cleaned prior to and after the collection of each sample to prevent cross-contamination;
- In some cases, a face mask would be worn when samples for DNA analysis are being collected;
- Bone samples for DNA testing would be collected with surrounding in situ soil and should not be cleaned prior to bagging;
- It may be necessary for individuals involved in sample collection to submit DNA for comparison in the event of cross-contamination; and
- All bags containing samples for analysis would be bagged and labelled appropriately to prevent cross contamination and ensure they are handled and stored correctly.

5.2.3. Post-Excavation

Upon the completion of excavations, samples will be transported to nominated laboratories for analysis. A record of their location will be taken.

5.3. Reporting

The results of the investigation of human remains and the exhumation will be included in the archaeological reporting for the project in accordance with the project AARD.

Once finalised, all archaeological excavation and data analysis reports will be submitted to:

- The relevant local Council and Library;
- The Heritage Office Library;
- The State Library of NSW; and
- Made available online for public access and educational purposes.

Further, if significant remains are identified during excavations, the results and findings would be published in academic journals and conference papers where feasible.

5.4. Public Involvement

Archaeological excavations associated with the Devonshire Street Cemetery have uncovered remains directly associated with early settlement and burial practices in colonial Sydney. Such remains are likely to generate public interest. Therefore, public engagement and education would be incorporated into the Central Station project and other Metro projects, if relevant and feasible.

Public involvement may include:

- Media releases;
- Public Open Days;
- Preparation of brochures detailing the archaeological excavations;
- Interpretive signage and online blog posts or site diaries while excavations are taking place; and

- The preparation of a Heritage Interpretation Plan designed to provide interpretation of the site within the new development upon the completion of works.

Due to sensitive nature of human skeletal remains, these recommendations would be adapted and modified as appropriate under the direction of Sydney Metro and the Excavation Director.

Such recommendations would also be considered and require approval from relevant Stakeholder Groups such as known or potential descendants of the deceased, the NSW Heritage Division/Heritage Council, local Council and the Royal Australian Historical Society.

5.5. Temporary Storage and Permanent Repository or Resting Place for Remains

5.5.1. Temporary Storage

Upon the completion of archaeological excavations, skeletal remains should be boxed separately and temporarily stored within a safe, secure and temperature controlled environment to allow for further analysis of the remains. This location would be chosen by the Excavation Director and the Forensic Anthropologist and comply with NSW legislative requirements. Permanent Repository or Resting Place for Remains.

A permanent repository or resting place for remains is dependent on the nature and volume of skeletal remains. As this cannot be determined prior to excavations taking place, the following recommendations should act as guidelines only. Final arrangements would be dictated by Sydney Metro the Excavation Director, Forensic Anthropologist, identified descendants of the deceased and/or Stakeholder Groups upon the completion of excavations and subsequent analysis.

Recommendations for permanent repositories or resting places for remains include:

- Reinterment and Commemoration at:
 - Rookwood Cemetery (where many exhumed burials from the Devonshire Street Cemetery were historically re-buried);
 - An appropriate and respectful location within the former permitters of the Devonshire Street Cemetery; and
 - A cemetery chosen by descendants of the deceased (if identified and confirmed by DNA testing).

6. Accountabilities

The Sydney Metro Executive Director, Safety, Sustainability & Environment is accountable for this Plan including authorising the document, monitoring its effectiveness and performing a formal document review.

Direct Reports to the Program Director are accountable for ensuring the requirements of this Plan are implemented within their area of responsibility.

Direct Reports to the Program Director who are accountable for specific projects/programs are accountable for ensuring associated contractors comply with the requirements of this Plan.

7. Definitions

All terminology in this Plan is taken to mean the generally accepted or dictionary definition. Other terms and jargon specific to this Plan are defined within [SM QM-FT-435 Integrated Management System \(IMS\) Glossary](#).

8. Related Documents and References

Related Documents and References

- n/a

9. Superseded Documents

Superseded Documents

Exhumation Management Plan Version 2.2

10. Document History

Version	Date of approval	Notes
1.1	May 2017	New IMS document.
2.0	July 2017	Incorporates Stage 2 (Section 3)
2.1	February 2019	Extended for Metro Program wide application, includes changes specific Central Station management, incorporates comments received from the State Coroner's Office, NSW Police, NSW Health, Sydney Metro Environmental, Environmental Representatives engaged on the Central site and the Office of Environment and Heritage.
2.2	February 2019	Incorporates comments received from Artefact Heritage and Denise Donlan issued to Health and OEH HD for consultation
3.0	May 2019	Incorporates Health, Coroner and OEH comments

11. Schedule of Acronyms

Acronym	Meaning
AARD	Archaeological Assessment and Research Design
ACHAR	Aboriginal Cultural Heritage Assessment Report
AMS	Archaeological Method Statement
CSMW	Central Station Main Works
CSSI	Critical State Significant Infrastructure
ER	Environmental Representative (Independent)
ExMP	Exhumation Management Plan (this plan)
OEH	Office of Environment and Heritage
PHU	Public Health Unit
RAPs	Registered Aboriginal Parties
SLHDPHU	Sydney Local Health District Public Health Unit
SMEM	Sydney Metro Environmental Manager

Appendix 1

NSW Health Policy Directive for Exhumation of Human Remains

Exhumation of Human Remains

Document Number PD2013_046

Publication date 05-Dec-2013

Functional Sub group Population Health - Environmental

Summary This document provides the policy to be observed by NSW Health in receipt of an application to seek permission for approval of the exhumation of human remains under clauses 69-72 of the Public Health Regulation 2012. This Policy Directive will provide the conditions on which approvals may be granted for exhumation of human remains.

Replaces Doc. No. Burials - Exhumation of Human Remains [PD2008_022]

Author Branch Environmental Health

Branch contact Environmental Health 94245823

Applies to Local Health Districts, Environmental Health Officers of Local Councils, Ministry of Health, Public Health Units, Public Hospitals

Audience Authorised officers from Public Health Units and local councils

Distributed to Public Health System, Environmental Health Officers of Local Councils, NSW Ambulance Service, Ministry of Health, Public Health Units, Public Hospitals

Review date 05-Dec-2018

Policy Manual Patient Matters

File No. 08/1292

Status Active

Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

EXHUMATION OF HUMAN REMAINS

PURPOSE

This document provides the policy to be observed by Public Health Units located in Local Health Districts, on receipt of an application to seek permission for approval of the exhumation of human remains under the *Public Health Regulation 2012*. Common reasons for exhuming bodies include to repatriate the remains overseas or to relocate the body to another cemetery plot or vault.

MANDATORY REQUIREMENTS

Under Clause 69 of the *Public Health Regulation 2012* a person must not exhume a body unless the exhumation of the remains has been approved by the Director-General.

An application for approval to exhume the remains of the body of a dead person may be made to the Director General by:

- An executor of the estate of the dead person
- The nearest surviving relative of the dead person
- If there is no such executor or relative available to make the application a person who, in the opinion of the Director-General, is a proper person may make the application.

An application is to be made in the approved form and it is to be accompanied by:

- A certified copy of the death certificate relating to the dead person
- A statutory declaration as to the relationship of the applicant to the dead person and the dead persons wishes, if any, regarding the disposal of his or her body
- An application fee.

Under Clause 71 of the *Public Health Regulation 2012* the Director-General may:

- Grant an approval to exhume the remains of a body
- Refuse the application.

Under Clause 72, an exhumation cannot take place without an authorised officer or a Ministry of Health staff member present. A person must not proceed with an exhumation if the authorised officer or Ministry of Health staff member who is present at the exhumation, orders the exhumation to stop.

Under Clause 78, if the applicant seeks to have the exhumed body cremated a separate application can be made for an exemption from providing the required cremation documentation, provided the body has been buried for longer than 10 years. The minimum 10 year period is strictly enforced. An application under this clause is to be accompanied by a fee of \$100.

IMPLEMENTATION

Authorised officers in Public Health Units of Local Health Districts are responsible for assessing applications for exhumation of human remains and either approving with a set of conditions or rejecting the application. Authorised officers should ensure that all of the required document has been submitted with the application fee and that an appropriate person has applied for the application. The approval granted is valid for a period of three months after the approval is granted.

REVISION HISTORY

Version	Approved by	Amendment notes
December 2013 PD2013_046	Deputy Director-General, Population and Public Health	This document is an updating of the original document due to legal changes under the Public Health Regulation 2012
23 April 2008 PD2008_022	Director-General	This document provided the policy to be observed by NSW Health in receipt of an application to seek permission for approval of exhumation of human remains under clauses 25 – 28 of the Public Health (Disposal of Bodies) Regulation 2002. It provided the conditions upon which approvals could be granted for the exhumation of human remains.

ATTACHMENTS

1. Exhumation of Human Remains: Procedures

Exhumation of Human Remains



Issue date: December-2013

PD2013_046

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1 BACKGROUND

1.1 Introduction

Exhumation of human remains may occur for a number of reasons, including:

- To satisfy family wishes, where the family of the deceased person may want the remains to be moved to another burial ground, to another part of the state or country or abroad, or even to have the remains cremated
- To obey Coronial orders requiring exhumation for forensic (criminal) investigation
- To enable the use of closed cemeteries for redevelopment or for the construction of new infrastructure such as a road or airport.

A variety of people, including authorised officers, cemetery authorities, and funeral directors are involved at different stages of exhumation procedures.

Public Health Units (PHUs) of Local Health Districts (LHDs) in NSW facilitate the approval for an exhumation however there is no obligation to proceed with an exhumation once it has been approved.

The objectives of this document are:

- To assist authorised officers with processing applications to exhume
- To standardise the management of an exhumation so as to prevent a public health risk and protect community amenity in the handling of remains.

1.2 Key definitions

These definitions are repeated from the *Public Health Act 2010* and Public Health Regulation 2012 for clarity:

Body	Means the body of a dead person, but does not include the cremated remains of the person
Burial	Includes putting the body in a vault
Cemetery Authority	Means the person or body that directs the operations of a cemetery
Coroner	Means a person who exercises or performs the functions of a coroner in accordance with the <i>Coroners Act 2009</i>
Dead person	Includes a still-born child (see definition of Still birth)
Exhumation	Means the removal of a dead person's remains (not being cremated remains) from a grave or vault, but does not include their removal from one vault for immediate transfer to another vault in the same cemetery or their temporary removal for the purposes of reburial in the same grave or vault

Funeral director	Means a person (other than the operator of a mortuary transport service) who, in the conduct of the person's business, engages, for the purpose of burial, cremation or transport, in the collection, transport, storage, preparation or embalming of bodies or engages in the conduct of exhumations
Prescribed infectious diseases	Means any one of the following diseases: avian influenza in humans, diphtheria; plague, respiratory anthrax; smallpox; severe acute respiratory syndrome, tuberculosis and any viral haemorrhagic fever (including Lassa, Marburg, Ebola, and Congo-Crimean fevers)
Proper person	The Director General has the power to decide whether a person is a 'proper person' to make an application to exhume the remains of a dead person
Nearest surviving relative	Means: (a) In relation to a still-born child a parent, or sibling at or above the age of 16 years, of the child (b) In relation to a dead person who is not a still-born child – the spouse or de facto partner of the dead person immediately before death, a parent of the dead person, a child at or above the age of 16 years of the dead person or any relative of the dead person who was residing with the dead person when he or she died
Still-birth	Consistent with the <i>Births, Deaths & Marriages Act 1995</i> , means the birth of a child that exhibits no sign of respiration or heartbeat, or other sign of life, after birth and that: (a) Is of at least 20 weeks' gestation (b) If it cannot be reliably established whether the period of gestation is more or less than 20 weeks, has a body mass of at least 400 grams at birth

1.3 Legal and legislative framework

Public Health Regulation 2012

Division 4 of Part 8 of the Public Health Regulation 2012 provides specific regulation for the exhumation of bodies.

Clause 69 Exhumation without approval prohibited

- (1) A person must not exhume the remains of a body unless the exhumation of those remains has been:
 - (a) Ordered by a coroner
 - (b) Approved by the Director-General.

- (2) However, a funeral director may, without a coroner's order or Director-General's approval, transfer a coffin from a vault in a cemetery to a mortuary for the purpose of the coffin being immediately repaired and returned to the vault.
- (3) A funeral director must return the coffin to the cemetery within 24 hours of its transfer.

Clause 70 Application to exhume remains

- (1) An application for approval to exhume the remains of the body of a dead person may be made to the Director-General by:
 - (a) An executor of the estate of the dead person
 - (b) The nearest surviving relative of the dead person
 - (c) If there is no such executor or relative available to make the application a person who, in the opinion of the Director-General, is a proper person in all the circumstances may make the application.
- (2) An application is to be made in the approved form and is to be accompanied by:
 - (a) A certified copy of the death certificate relating to the dead person
 - (b) A statutory declaration as to the relationship of the applicant to the dead person and the dead person's wishes, if any, regarding the disposal of his or her body (so far as any such wishes are known to the applicant)
 - (c) An application fee (please check with the PHU for the current fee).
- (3) In this clause, death certificate means a certificate given by a medical practitioner as to the cause of death or issued under the *Births, Deaths and Marriages Registration Act 1995*.

All applications to exhume remains must be made in writing using an approved form to the Director of the local Public Health Unit that acts on behalf of the Director-General of the NSW Ministry of Health. The application fee may increase periodically in line with the Consumer Price Index.

Clause 71 Approval to exhume remains

- (1) The Director-General may:
 - (a) Grant an approval to exhume the remains of a body, subject to any conditions specified in the approval
 - (b) Refuse the application.
- (2) An approval granted under this clause remains valid for three months from the date of the approval or for a period agreed to by the Director-General.

The PHU is not bound to approve the application. The PHU may approve, subject to conditions, or refuse the application. An approval is normally given for 3 calendar months and this date will be specified in a schedule of conditions attached to the approval document. Any further extension of time may require re-application and re-approval. An approval initially for longer than three calendar months should be negotiated with the PHU.

Clause 72 Exhumation not to take place without authorised officer present

- (1) A person must not proceed with an exhumation unless an authorised officer or a member of staff of the Ministry of Health is present at the exhumation.
- (2) A person must not proceed with an exhumation if the authorised officer or Ministry staff member who is present at the exhumation orders the exhumation to stop.

The grave may be excavated to the lid of the coffin but nothing must be disturbed until the arrival of the authorised officer. An authorised officer must be present at the exhumation to ensure that the correct interment is opened, to ensure that all of the remains are exhumed and to enforce the protection of public health should this be necessary. The authorised officer has the power to order that the exhumation be stopped immediately under adverse circumstances. An example of where this may occur is where the weather is very poor with heavy rain. The initial order to stop is to be given verbally and then confirmed in writing to all parties involved, within 24 hours.

Division 5 of Part 8 of the Public Health Regulation 2012 provides for cremation of deceased persons.

Clause 78 No cremation without documentation

Clause 78 does not apply to a cremation of the body of a dead person that has been buried for at least 10 years if the cremation is carried out in accordance with an exemption granted by the Director-General following an application by:

- 1) An executor of the estate of the dead person
- 2) The nearest surviving relative of the dead person
- 3) If there is no such executor or relative available to make the application a person who, in the opinion of the Director-General, is a proper person in all the circumstances to make the application.

This is a new addition to the Exhumation section of the Regulation that may be used where a person makes a separate application to have the exhumed body cremated following the exhumation.

Note: The Director-General's authority under Clause 78 (4) of the Public Health Regulation 2012 (Delegations Manual page 8.66, delegation (PH590)) is the power to decide whether a person is a "proper person" to make an application in the absence of an executor or surviving relative.

Work Health and Safety Act 2011

The *Work Health and Safety Act 2011* and Code of Practice for Excavation provisions apply to protect personnel involved in the exhumation procedure by creating and maintaining safe and healthy work practices. Graves, crypts and vaults could be considered to be confined spaces in some circumstances under health and safety legislation. The *Work Health and Safety Act 2011* makes reference to working in confined spaces.

WH&S matters are enforced by WorkCover NSW. More information on safe work practices is available at <http://www.workcover.nsw.gov.au/default> or by contacting Workcover NSW direct on 13 10 50.

Heritage Act 1977

The *Heritage Act 1977* and Guidelines for the Management of Human Skeletal Remains under the *Heritage Act 1977* applies to relic burials. Any burial site over 50 years old is considered to be relic under the *Heritage Act*. If the site is listed on the State Heritage Register then approval is required from the Heritage Council of NSW.

An application must be made to the Heritage Office before any disturbance, removal or work commences on the site. Approval for an exhumation under the Public Health Regulation 2012 does not obviate the necessity to obtain approval under the *Heritage Act 1977*. For further information contact the Heritage Office of NSW or visit: <http://www.heritage.nsw.gov.au>.

Coroner's Act 2009

A coroner may order an exhumation for the purposes of forensic investigation or a criminal investigation. Such an order is outside the ambit of the Public Health Regulation 2012. The Police may request that an authorised officer from the Ministry of Health or the local Public Health Unit be present at the coronial exhumation.

Births, Deaths and Marriages Registration Act 1995

Section 41(2) of the *Births, Deaths and Marriages Registration Act 1995* requires that if human remains (other than cremated remains) are removed from NSW, the funeral director or other person who arranges for the removal of the remains from NSW must, within 28 days of disposal of the remains outside NSW, give the Registrar notice of the new location of interment. The act is available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/bdamra1995383/. The Registry of Births, Deaths and Marriages may be contacted via: <http://www.bdm.nsw.gov.au>.

2 APPLICATION REQUIREMENTS

An application for permission to exhume the remains of a deceased person is to be made to the PHU on the approved form which is contained at the NSW Ministry of Health website at <http://www.health.nsw.gov.au/environment/dotd/Documents/form-c70-application-to-exhume.pdf>

The application must be made by either:

- An executor of the estate of the deceased
- The nearest surviving relative

- If there is no such executor or relative available to make the application a person who, in the opinion of the Director-General, is a proper person in all the circumstances to make the application.

The application must be accompanied by:

- A certified copy of the death certificate (death certificate issued by the Registry of Births, Deaths and Marriages)
- A statutory declaration that states:
 - The relationship between the applicant and the deceased or the reason the applicant is the proper person to make the application
 - If the deceased left any instructions regarding the disposal of their body/remains if known
 - In addition to the above an applicant should declare that he or she has consulted each nearest surviving relative and that they have no objection to the proposed exhumation
 - An application fee (please check with the PHU for the current fee).

Note: If there is no agreement amongst nearest surviving relatives, the applicant should seek independent legal advice regarding this issue. The applicant should advise if there is an intention to cremate the body following the body being exhumed, and the appropriate form completed.

3 APPROVAL BY PUBLIC HEALTH UNITS

Approval by PHUs for an exhumation must be given by formal correspondence.

3.1 Delegation

The Director-General's authority under clauses 69(1), 70(1)(c) and 71 of the Public Health Regulation 2012 has been delegated to the Chief Health Officer, Director Health Protection, Public Health Officer or Public Health Unit Director as appointed under Section 121 of the Act (delegation PH/308, PH309).

3.2 Special Considerations on Exhumation Approval

Special consideration should be given to the approval of an exhumation if the deceased was infected with a prescribed infectious disease. For example if the deceased was infected with diphtheria or tuberculosis, exhumation should not be permitted in the first year of interment.

Although not prohibited, an exhumation of the remains of a body that was buried without a coffin will be approved only where the cemetery authority and funeral director have agreed to proceed with the exhumation, especially during the first three years of interment.

3.3 Conditions of Approval

After due consideration of the application and the statutory declaration(s), the PHU should then consider applying appropriate conditions to facilitate an approval.

There are two standard sets of approval conditions which can be applied as appropriate:

- Appendix 2 – Schedule A - Conditions of Approval for Exhumation from a Grave
- Appendix 3 – Schedule B - Conditions of Approval for Exhumation from an Above Ground Structure

Any other additional conditions that are deemed necessary to permit the exhumation may be added to schedule A or B based on the individual circumstances of the exhumation. If some conditions are unwarranted they may be removed from the relevant schedule.

3.4 Approval Instrument

An approval must be in writing and must be signed the Director General or their delegate. A template to assist in the approval process can be found at Appendix 4. This template is to be completed by the Authorised Officer in order to facilitate approval by the delegate.

3.5 Notification of Approval

The approval instrument is retained on file as a record that approval was granted by the Director General or their delegate. Therefore it is necessary to advise the applicant, the cemetery authority and the funeral director of the approval.

The attached letter templates may be used for approval notification of the exhumation to the applicant, funeral director and Cemetery Authority.

- Appendix 5 – Sample Letter to Applicant
- Appendix 6 – Sample Letter to the Cemetery Authority and Funeral Director

3.6 Refusals

If after due consideration the application is to be refused then the applicant should be notified in writing specifying the reasons for refusal. Ideally the applicant should consult the PHU in the first instance to discuss the requirements and possible restrictions on an application to exhume.

3.7 Cremation of Remains

Division 5 of Part 8 of the Public Health Regulation 2012 sets out the requirements for documentation for cremations in NSW and includes the requirement for a cremation application form, a cremation certificate and the cremation permit. The documentation confirms the identity of the body to be cremated and the cause of death and ensures that a coroner's investigation has been conducted where necessary.

After the body is exhumed the next of kin may wish to have the body cremated. However there may be cases whereby the body does not have the required paperwork necessary for cremation. Clause 78 of the Public Health Regulation 2012 provides an exemption for

the required documentation for cremation where the body has been buried for longer than 10 years. An application under this clause is to be accompanied by a fee.

The Director General has the power to approve an exemption and the executor or the nearest surviving relative or another proper person may make application on form 'Application for Exemption by the Director – General to the Requirement for Documentation for Cremation to Proceed: Permission for Cremation of Exhumed Remains of a Body Buried more than 10 years ago with statutory declaration'. The minimum 10 year period will be strictly enforced and this matter should be clarified prior to any exhumation approval where it is planned for the remains to be subsequently cremated. The application form is available at:

<http://www.health.nsw.gov.au/environment/dotd/Documents/form-c78-application-for-exemption.pdf>

APPENDIX 1

Schedule A

CONDITIONS OF APPROVAL FOR EXHUMATION FROM GRAVE

1. The exhumation is to be carried out in the presence of a Public Health Unit's authorised officer or other authorised officer of the NSW Ministry of Health or Local Council authorised Officer and person appointed by Cemetery Authority.
2. At least 48 hours notice of the exhumation arrangements shall be given to the Public Health Unit.
3. Day and time of the exhumation shall be arranged by the participating parties and agreed to by the Public Health Unit.
4. The approval granted is valid for a period of three months and shall lapse on ____/____/_____, unless a further approval is granted.
5. The presence of any relative of the deceased at the exhumation is strictly prohibited.
6. No animals are to be permitted within the exhumation site.
7. The cemetery authority and funeral director shall be responsible for the work health and safety of all persons involved in the exhumation and shall ensure that all NSW WorkCover requirements are complied with.
8. If, during the course of the exhumation, it is determined necessary to stop the exhumation by either the exhumation supervisor / cemetery manager or authorised Officer, for any valid reason e.g. work health and / or public health risk, then the exhumation must cease.
9. The remains of the deceased shall be enclosed in a body bag and placed into a new coffin with a name plate attached inscribed with the name of the deceased.
10. The remains of the original coffin are to be placed in the new coffin where possible. Where there is an excess of remains of the original coffin, these remains should be disposed in a sanitary and agreed manner.
11. Excavated soil should be back filled. The soil that was removed from immediately above and around the coffin should be replaced first.
12. If the exhumed remains are to be transferred to another cemetery, a funeral director shall be contracted to transfer the remains from the cemetery grounds or carry out preparatory work for the safe reinterment of the remains.
13. The exhumation will not proceed during or following a period of heavy rainfall within the preceding 24 hours of the appointed time of exhumation. The cemetery manager is to confirm that satisfactory conditions exist for the exhumation to proceed two hours prior to the commencement of the exhumation.
14. Used disposable protective equipment and materials are to be placed in a sealed plastic bag and disposed of in a sanitary manner.

APPENDIX 2

Schedule B

CONDITIONS OF APPROVAL FOR EXHUMATION FROM ABOVE GROUND STRUCTURE

1. The exhumation is to be carried out in presence of a Public Health Unit authorised officer or other authorised officer of the NSW Ministry of Health or Local Council authorised Officer and person appointed by Cemetery Authority.
2. At least 48 hours notice of the exhumation arrangements shall be given to the Public Health Unit.
3. Date and time of the exhumation shall be arranged by the participating parties and agreed to by the Public Health Unit.
4. An approval granted is valid for a period of three months and shall lapse on ____/____/____, unless a further approval is granted.
5. The cemetery authority and funeral director shall be responsible for the work health and safety of all persons involved in the exhumation and shall ensure that all NSW WorkCover requirements are complied with.
6. If, during the course of the exhumation, it is determined necessary to stop the exhumation by either the exhumation supervisor / Cemetery Manager or authorised officer, if for any valid reason e.g. worker health and/or public health risks, then the exhumation must cease.
7. Used disposable protective equipment and materials are to be placed in a sealed plastic bag and disposed in a sanitary manner.

APPENDIX 3

{LETTERHEAD}

APPROVAL INSTRUMENT TEMPLATE

**Public Health Unit
Environmental Health Section**

File Number: [XXXXXX]

PURPOSE: To approve of the exhumation of the late _____

RECOMMENDATION:

Approval is granted by the Director General pursuant to clause 71(1)(a) *Public Health Regulation* 2012 to [NAME OF APPLICANT] to exhume the remains of the late [NAME OF DECEASED].

KEY ISSUES:

[DETAILS OF THE APPLICATION, STATUTORY DECLARATION, RELEVANT ISSUES, MANAGEMENT PLAN AND JUSTIFICATION OF SUGGESTED CONDITIONS ARE TO BE INCLUDED HERE]

BACKGROUND: (TO BE COMPLETED BY PHU)

CONSULTATION: (TO BE COMPLETED BY PHU WHERE APPROPRIATE)

The approval be subject to compliance with the conditions specified in *Schedule A / Schedule B and to expire on ____/____/____.

Signature: Authorised officer

Author:

Telephone:

Date:

-
- 1 Authorised officer
 - 2 Public Health Unit Director/ Public Health Officer [SIGN AND DATE]:
Approved via delegation from the Director-General PH308, PH309 page 8.63 Public Health Delegations Manual under clause 69(1) and 70(1) (C) *Public Health Regulation* 2012.
 3. Authorised officer

APPENDIX 4

{LETTERHEAD}

SAMPLE LETTER TO APPLICANT

[APPLICANT'S NAME]
[ADDRESS]

Dear [APPLICANT'S NAME]

Reference is made to your application of [DATE] requesting approval to exhume the remains of late [NAME OF DECEASED] from *grave / vault / crypt No: _____, Section _____, [NAME OF PLACE OF INTERMENT OR CEMETERY] for the purpose of re-interment to [NAME OF PLACE FOR RE-INTERMENT].

Approval has been granted by the Director-General pursuant to clause 71 (1) (a) *Public Health Regulation* 2012, subject to compliance with the conditions specified in *Schedule A / Schedule B attached.

The funeral director and cemetery authority have been advised of the approval.

Should you have any inquiries please contact the authorised officer [EHO] on [TELEPHONE] or (EMAIL ADDRESS).

Yours sincerely,

[NAME]
Public Health Unit Director/Public Health Officer

APPENDIX 5

{LETTERHEAD}

SAMPLE LETTER TO CEMETERY AUTHORITY AND FUNERAL DIRECTORS

[NAME]
[ADDRESS]

[DATE]

Dear [NAME]

EXHUMATION OF THE REMAINS OF THE LATE [NAME OF DECEASED]

Approval has been granted for the exhumation of the late [NAME OF DECEASED] from *grave / vault / crypt No: _____, Section _____, [NAME OF PLACE OF INTERMENT OR CEMETERY] in accordance with clause 71(1) (a) of the *Public Health Regulation 2012*, and subject to compliance with the conditions specified in Schedule A / Schedule B attached.

A copy of the approval letter is attached for your information.

Should you have any inquiries please contact [Authorised Officer] on [TELEPHONE] or email address.

Yours sincerely,

[NAME]
Public Health Unit Director/Public Health Officer

Addendum 2

NSW Health Permit Application form

APPLICATION TO EXHUME REMAINS

PUBLIC HEALTH REGULATION, 2012 Clause 70(2)

In accordance with the requirements of Clause 70 (2) of the Public Health Regulation 2012, I
(Full name of applicant)

..... of hereby
(Address)

apply for permission to exhume the remains of the late
(Name of deceased)

from Grave No:....., Section:, being a single

interment within the Cemetery, for the purpose of

I seek permission to exhume for the following reason/s:

The deceased: (*cross out which is not applicable*)

- was not known to be infected with a prescribed infectious disease as defined in clause 53 of the Public Health Regulation 2012; or
- was known to be infected with a prescribed infectious disease as defined in clause 53 of the Public Health Regulation 2012

I am entitled to make this application, because I am: (*tick one*)

1. ☐ The executor of the estate of the deceased; or
2. ☐ The nearest surviving relative of the deceased; or
3. ☐ If there is no such executor or relative available to make the application, another the proper person to make the application for the reasons set out below:

.....
(Full reasons for proper person to make application)

Attached is:

1. A certified copy of the death certificate of the deceased.
2. A statutory declaration as to:
 - My relationship to the deceased; and
 - the wishes of the deceased regarding the disposal of the body (if known);
 - the reasons why the Director-General may consider me the proper person in all the circumstances to make the application (if applicable)
3. The application fee of \$.....

The exhumation is to be supervised in strict accordance with the attached Plan of Management

by
employed with(Funeral Director/Cemetery)
in the capacity of

Signature: Date:
(Applicant)

Addendum 3

Central Station Heath Permit

Fil Cerone
Director Environment, Sustainability and Planning Sydney Metro
Level 43, 680 George Street
SYDNEY NSW 2000

Dear Mr Cerone

Reference is made to your application of 16th January 2019 requesting approval to exhume the fragmented skeletal remains from an old burial vault at the former Devonshire Street Cemetery located at Central Railway Station near Platform 13. I note that this is for the purpose of salvage and reburial of the remains.

Approval has been granted pursuant to clause 71(1)(a) of the *Public Health Regulation 2012* to exhume and re-inter the remains, subject to the remains being treated with dignity and respect, and in compliance with Sydney Metro's *Exhumation Management Plan Version 2.0* (SMEMP2). If the remains are to be transferred to another cemetery for re-interment, a funeral director shall be contracted to transfer the remains to the cemetery and to carry out any necessary preparatory work for the safe reinterment of the remains. The remains are to be placed in a coffin for reinterment and an identifying plate with name (if known) or other identifying details should be attached. For example the plate might state "Unknown Burial from Former Devonshire St Cemetery, reinterred here on <date>".

This approval will extend to any further fragmented skeletal remains found at the former Devonshire Street Cemetery located at Central Railway Station in the areas being excavated for the new Sydney Metro, as shown on the site plan in Annexure A. Should any substantial remains, such as full or partial articulated skeletal remains, or other elements such as grave goods or coffin name plate be found on the site that could identify the interred, the Sydney Local Health District Public Health Unit (SLHDPHU) will need to be advised as soon as practicable. Additional assessment or further approvals may be required at that time subject to the nature of the discovery.

Should you have any enquiries, please do not hesitate to contact Geoff Tan, Environmental Health Officer on (02) 9515-9420.

Yours sincerely



Dr Zeina Najjar
Acting Director, Public Health

21st January 2019

Annexure A

