



**TRANSPORT
SCOTLAND**
CÒMHDHAIL ALBA

Archaeology and Trunk Roads

Guidance Note

Contents

Executive Summary	3
Terms and Definitions.....	4
Roles and Responsibilities.....	8
Introduction	10
Purpose	10
Background	10
Scope	12
What is Archaeology?.....	13
Legislation, Policy and Guidance Notes	14
Design Manual for Roads and Bridges.....	16
Guidance.....	17
Effective Archaeological Management.....	17
Approach	18
Phases of an Archaeological Project on a Trunk Road Scheme	18
Contracts – Phased Tendering	22
Watching Brief	22
Transport Scotland’s Historic Environment Adviser	23
The Role of the Curator	25
Appendix A. Relationship between Scheme Stages and Archaeological Works (after DMRB HA 75/01)	26
Appendix B. Involvement of Transport Scotland’s Historic Environment Adviser in DMRB Scheme Stages and Archaeological Works	27
Appendix C. References	29
ClfA Standards and Guidance	29
Other References	29
Appendix D. Legislation and Policy.....	31
Legislation	31
Planning Policy	32

Executive Summary

This Guidance Note outlines procedures to be followed by Transport Scotland to ensure the efficient and cost-effective management of fieldwork for the mitigation of impacts on archaeology during the ongoing development of Scotland's Trunk Road network.

While this guidance primarily deals with Archaeological Investigations to be undertaken post-consent, it is also applicable to targeted Archaeological Investigations carried out to inform the Stage 3 EIA Report(s).

The Historic Environment, of which archaeology forms an integral part, is extensive and often with ill- or undefined boundaries. It should be assumed that all Trunk Roads schemes will traverse the Historic Environment. The Historic Environment therefore represents a significant risk to all ground-breaking works in terms of delays and cost increases arising from the unforeseen discovery of significant Historic Environment assets within a road-line. These risks, if not well managed, also have the potential to cause reputational harm to both the contractor and Transport Scotland.

These guidelines advocate a consistent, phased approach to Archaeological Evaluation, mitigation and the dissemination of archaeological findings. Such an approach includes the development of detailed specifications appropriate and proportionate to the level of work required to meet Transport Scotland's statutory obligations.

Successful management of Historic Environment risks will produce benefits in terms of minimising the impact on the Historic Environment; cost and timetable controls; reputational enhancements; and a public legacy that reflects well on the scheme and will garner public support for future schemes.

Terms and Definitions

Archaeological Evaluation

“A limited programme of non-intrusive and/or intrusive fieldwork which determines the presence or absence of archaeological features, structures, deposits, artefacts or ecofacts within a specified area or site on land, inter-tidal zone or underwater. If such archaeological remains are present field evaluation defines their character, extent, quality and preservation, and enables an assessment of their significance in a local, regional, national or international context as appropriate” (ClfA 2014a).

Archaeological Excavation

“A programme of controlled, intrusive fieldwork with defined research objectives which examines, records and interprets archaeological deposits, features and structures and, as appropriate, retrieves artefacts, ecofacts and other remains within a specified area or site on land, inter-tidal zone or underwater. The records made and objects gathered during fieldwork are studied and the results of that study published in detail appropriate to the project design” (ClfA 2014b).

Archaeological Investigation

Any archaeological works identified in this guidance note.

Archaeological Remains

“Archaeological Remains are the materials created or modified by past human activities that contribute to the study and understanding of past human societies and behaviour – archaeology. Archaeology can include the study of a wide range of artefacts, field monuments, structures and landscape features, both visible and buried. For the purposes of this guidance the sub-topic generally excludes historic buildings and historic landscapes, always accepting there may be important archaeological aspects to these sub-topics.” (The Highways Agency et al., 2007).

Archive

“The archaeological archive is defined as all parts of the archaeological record, including the finds samples, and digital records as well as the written, drawn and photographic documentation” (ClfA 2014c). Note: Archival procedures have to reflect Scottish law and archive deposition practice; please see Archives and Collections Policies 2017-2020 (Historic Environment Scotland) and Treasure Trove in Scotland: A Code of Practice (Scottish Government 2016).

ClfA

Chartered Institute for Archaeologists

DMRB

Design Manual for Roads and Bridges

Designated Heritage Asset

A World Heritage Site, Scheduled Monument, Listed Building, Wreck Site, Garden, Designed Landscape, Historic Battlefield or Conservation Area designated under the relevant legislation or listed on another official list such as a HES inventory.

Development-led Archaeology

The process of evaluating the impact of a proposed development project upon the archaeology within the development footprint and the mitigation of any adverse unavoidable impacts on heritage assets in advance of a planned development.

Environmental Impact Assessment

The process of identifying, describing and assessing the significant effects of a project on the environment, including cultural heritage and the landscape, as outlined in The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017.

Geophysical Survey

“Archaeological geophysical survey uses non-intrusive and non-destructive techniques to determine the presence or absence of anomalies likely to be caused by archaeological features, structures or deposits, as far as reasonably possible, within a specified area or site on land, in the inter-tidal zone or underwater. Geophysical survey determines the presence of anomalies of archaeological potential through measurement of one or more physical properties of the subsurface” (CIfA 2014d).

Historic Environment

The Historic Environment forms part of our cultural heritage and includes “All aspects of the environment resulting from the interaction between people and places through time...” (Council of Europe 2005). The Historic Environment includes Listed Buildings, Conservation Areas, Scheduled Monuments, Historic Marine Protected Areas, World Heritage Sites, Gardens and Designed Landscapes, Battlefields, Archaeology and other historic assets (Scottish Government, 2014).

HES

Historic Environment Scotland, the new lead public body for the country’s Historic Environment.

HEPS

Historic Environment Policy for Scotland is a policy statement directing decision-making that affects the Historic Environment. HEPS should be taken into account whenever a decision will affect the Historic Environment. It is also a material consideration for planning proposals that might affect the Historic Environment, and in relation to Listed Building and Scheduled Monument consent (HES 2019a).

Listed Building

A building of special architectural or historical interest. Such buildings are classified into Categories A, B or C. They are protected under The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended).

Local Authority Archaeologist

An archaeologist working within local government to encourage the identification, recording, protection, management, interpretation and promotion of archaeological sites and monuments.

Managing Change Guidance Notes

A series of guidance notes published by HES outlining best practice for managing change in the Historic Environment.

PAN

Planning Advice Note

PERD

Post Excavation Research Design

Post Excavation

Archaeological work required after the completion of on-site archaeological excavations. It includes but is not limited to sample processing and assessment for analysis, stratigraphic reporting, finds cataloguing, specialist reports, radiocarbon dating, finds conservation, research, synthesis, conclusions, final reporting, publication and archiving.

Preparation for Road Procurement, and Procurement

The completion of DMRB Stage 3 (hereafter referred to as Stage 3), in parallel with promoting Road Orders, marks the end of the Preliminary Design process. This is normally followed by completion of the Specimen Design, preparation of contract documents and procurement, which precede the beginning of the construction phase, and it is during this phase that the majority of the Archaeological Investigations are undertaken.

Regional Archaeological Research Frameworks

These regional frameworks are currently being prepared and shall align with the national Scottish Archaeological Research Framework (ScARF). They have and will have relevance in local decision-making and will need to be referred to in the EIA process and in justifying a requirement for agreed mitigation measures.

ScARF

Scottish Archaeological Research Framework

Scheduled Monument

A monument of national importance given legal protection under The Ancient Monuments and Archaeological Areas Act 1979 (as amended).

SPP

Scottish Planning Policy

Trunk Road

Trunk Roads are major roads that form part of the strategic road and motorway network connecting Scotland's major cities, towns, airports and ports, and are defined under The Roads (Scotland) Act 1984 and Trunk Roads Acts 1936 and 1946.

TS

Transport Scotland

TSHEA

Transport Scotland's Historic Environment Adviser

Undesignated Heritage Assets

Buildings, monuments, sites, places, areas or landscapes identified as having a degree of significance meriting consideration in planning decisions but which are not formally designated heritage assets.

Watching Brief

"A formal programme of observation and investigation conducted during any operation carried out for non-archaeological reasons. This will be within a specified area or site on land, inter-tidal zone or underwater, where there is a possibility that archaeological deposits may be disturbed or destroyed. The programme will result in the preparation of a report and ordered archive" (ClfA 2014e).

WSI

Written Scheme of Investigation

Roles and Responsibilities

Archaeological Consultant

Nominated representative appointed by TS to oversee the delivery of required archaeological investigations on their behalf.

Archaeological Contractor

The archaeological organisation appointed to provide specified archaeological investigations in accordance with a contract.

Curator

The individual or organisation appointed by TS to act as archaeological advisor on a specific trunk road project(s) in accordance with the Standard and guidance for archaeological advice by historic environment services (ClfA 2014i) and in accordance with the provisions set out within this guidance document (see also The Role of the Curator).

Historic Environment Scotland

Historic Environment Scotland is the new lead public body for the country's Historic Environment, and must be consulted if any works on a Trunk Road have the potential to:

- affect a historic garden or designed landscape included on the relevant inventory
- affect the site of a Scheduled Monument or its setting
- affect a Category A Listed Building or its setting
- affect a historic battlefield that is included on the relevant inventory
- affect land which is situated within 800 metres of any Royal Palace or Park and might affect the amenities of that Palace or Park and
- affect a World Heritage Site

In relation to Trunk Road projects, HES is a statutory consultee that must be consulted during the planning process when schemes are likely to impact on the above listed site types. Post planning, HES only needs to be consulted when a road project will impact on any of the above listed site types and is the consenting body for any proposed work on a Scheduled Monument. In this instance, its role will be to approve mitigation strategies that will be prepared by the relevant Archaeological Consultant in agreement with Transport Scotland's Historic Environment Adviser (TSHEA).

Local Authority Archaeologist

Local Authorities are required to take the Historic Environment into consideration when determining applications submitted under the Town and County Planning (Scotland) Act. Their Historic Environment advisers provide advice on the likely effects of development proposals on the Historic Environment, the wording of planning conditions and on appropriate mitigation where necessary.

Local Authorities are statutory consultees under the EIA Regulations and as such their Historic Environment advisers are consulted during the consenting phase of a Trunk Road scheme. Unless specifically identified as a mitigation requirement in the Environmental Impact Assessment Report or there are effects on Conservation Areas or Category B or Category C Listed Buildings, after the end of the statutory process – completion of Stage 3 (post-consent) – there is no specific requirement for consultation with Local Authority Historic Environment advisers, and a formal mechanism to enable this consultation is often not in place. However, many Local Authority Historic Environment advisers do continue to provide advice post-consent and consultation should be undertaken as best practice.

For future Trunk Road projects, following the completion of the Stage 3 Environmental Impact Assessment Reports, the relevant Archaeological Consultant(s) will develop mitigation strategies for each scheme in agreement with Transport Scotland's Historic Environment Adviser. These developed strategies will then be sent to the relevant Local Authority Historic Environment advisers for comment. The Local Authority Historic Environment advisers will also be invited to contribute to research objectives for the project and to visit the scheme when mitigation works are underway.

For Trunk Road Projects, it is envisaged that generally, following the completion of Stage 3 Environmental Impact Assessment Reports, Local Authority Historic Environment advisers would act as Curator through a service level agreement or contract.

Transport Scotland's Historic Environment Adviser

Transport Scotland's Historic Environment Adviser (TSHEA) assists TS in ensuring robust consideration of Historic Environment issues from project inception through design, procurement and construction. Appendix B contains a flowchart outlining the involvement of the TSHEA in DMRB scheme stages and archaeological works (see also Transport Scotland's Historic Environment Adviser and Appendix B).

Introduction

Purpose

The purpose of this guidance note is to provide guidance on the management of Archaeological Investigations on Trunk Roads and to support both the efficient delivery of Trunk Roads and the preservation (preferably *in situ* but by record where this is not achievable) of Archaeological Remains.

This document is primarily targeted at Trunk Roads engineers and planners engaged in the Design and Construction phases of new or upgrading Trunk Roads schemes.

This guidance deals with the onset of Archaeological Investigations, both non-intrusive and intrusive, through to excavation, post-excavation and dissemination.

At the point where this guidance comes into effect, all known significant impacts within the proposed Trunk Road will have been identified. All areas where the nature and/or extent of Historic Environment assets remain unknown will have been similarly identified. Appropriate mitigation measures relating to these impacts will be under consideration. While this guidance primarily deals with Archaeological Investigations to be undertaken post-consent, it is also applicable to targeted Archaeological Investigations carried out to inform the Stage 3 EIA Report(s), which should be used to inform and refine design so that proposals minimise impacts on the Historic Environment. Similarly, it provides advice on the archaeological requirements for Ground Investigations pre- and post-consent.

Background

Under the planning system, Transport Scotland (TS) is one of the largest funders of development-led archaeological works in the country, and seeks to uphold the best practice and high standards expected for government-funded archaeological activities. TS is committed to meeting its statutory requirements in relation to mitigating the impacts Trunk Road projects have on the Historic Environment, and its schemes are regarded by the general public, as well as the conservation community, as being necessary and acceptable. TS recognises that its good reputation is susceptible to rapid damage from poorly managed Historic Environment mitigation projects.

It is critical that a consistent approach is applied to each Trunk Road project in terms of how Archaeological Investigations are procured and managed; when various levels of evaluation and mitigation are implemented; and how the results of evaluation and mitigation are reported, including publication and dissemination. The use of robust contract documents that include clear specifications and conditions helps to achieve better value-for-money outputs, including knowledge creation and community value, as well as greater cost certainty for both TS and the Archaeological Contractor.

Transport Scotland is required to consider and take account of the effects of its proposals on the Historic Environment. During the route selection stages of a road project, an Archaeological Consultant working on behalf of TS, in consultation with Historic Environment Scotland (HES) and the Local Authority Archaeologist, is required, in collaboration with the Design Team, to avoid or minimise adverse change to the Historic Environment where practicable and cost effective and to

reduce the chances of discovery of unforeseen archaeological remains during construction (see Appendix A). This should be undertaken in the context of balancing other duties including road safety and protection of the environment.

Archaeological Evaluation, mainly in the form of non-intrusive investigations, generally commences during the Environmental Impact Assessment (EIA) phase of a road project, with most of the intrusive archaeological works occurring following the end of the statutory process (post-consent) either under agreement with landowners or when the land has been purchased for the scheme. If circumstances dictate, however, targeted advance intrusive Archaeological Investigations may occur earlier to inform the assessment of value and/or magnitude of effect, or to identify appropriate mitigation, which may include design change to avoid/minimise impacts.

At Stage 3 of scheme assessment¹, the EIA Report (EIAR) shall contain a mitigation strategy outlining measures to avoid, reduce and, if possible, offset likely significant adverse effects on the Historic Environment, including any Archaeological Investigations to be undertaken prior to and during road construction. This strategy, to be secured through a Schedule of Commitments, is prepared by the Archaeological Consultant and agreed by the Local Authority Archaeologist and HES when applicable. It is further developed during preparation for the road procurement, when the Construction team inherits responsibility for properly dealing with all known and unknown Historic Environment assets within the scheme, but often delivered during the road procurement process or during construction (see Guidance and Appendix B for further information).

Mitigation means the prevention or reduction of unnecessary impact to Historic Environment assets within or adjacent to the road scheme or, where impact is unavoidable, mitigation means that the damage to or loss of Historic Environment assets is offset by acquired new knowledge through Archaeological Excavation, when *in situ* preservation is not possible. Mitigation also entails the responsibility to make that new knowledge fully accessible to the general and academic public both locally and nationally. The latter is usually achieved through thorough analysis and publication.

A mitigation strategy usually contains two principal components. The first deals with the known Historic Environment and the consequent impacts within the road scheme upon those assets. The second deals with the scheme's impacts upon the hitherto unknown, or hidden, Historic Environment. The former comprises works which either avoid or fully expose and remove the Historic Environment assets within or adjacent to the road-line. The latter presents a methodology for identifying hidden Historic Environment assets within the road-line; it will entail revisions to the Mitigation Strategy and may give rise to changes in the Project Design.

Generally, a mitigation strategy consists of a multi-phased approach from initial non-intrusive investigations (e.g., geophysical surveys), through to intrusive techniques such as trial trenching and excavation and finally post-excavation work, including publication and dissemination of results. Elements of this work (mainly geophysical survey and targeted trial trenching) may be undertaken pre-consent under agreement with the relevant landowner and with Scheduled Monument Consent from

¹ For an outline of scheme assessment stages, see DMRB Volume 5, Section 1, Part 2 Scheme Assessment Reporting (TA 37/93) (The Highways Agency et al., 1993). For the relationship between scheme stages and archaeological works, refer to Appendix A.

Historic Environment Scotland and other relevant consents where necessary, in order to determine the presence or absence, character, extent and, where possible, the age and sequence of buried archaeology. This is carried out in order to assess the significance of the buried remains and to formulate a proposal to mitigate the adverse impacts on the archaeology.

The key to successful mitigation lies in the reduction of the extent of the unknown risks by a process of survey which may extend to substantial intrusive works (e.g. trial trenching of up to 10% of the road-line footprint). The corollary of this concept is that greater investment in evaluation, especially in the design phase, results in the significant reduction of risk passed on to the Construction team. Greater levels of investigation pre-consent can also make assessment of impacts more robust, and lead to design changes that avoid or reduce impacts, which is the most effective risk reduction. However, the level of Archaeological Evaluation undertaken pre-consent varies from scheme to scheme, and there is an opportunity to improve the consistency and oversight associated with the existing approach. Furthermore, there is often the risk that unknown archaeology may be encountered during construction, which has the potential to impact on programme as well as overall cost. This risk can be greatly reduced through undertaking a measured evaluation of the scheme.

Scope

This guidance provides a pathway for Design and Construction teams for the management of risk to a Trunk Road scheme arising from the inevitable impact on the Historic Environment. It aims to guide these teams to manage and reduce those risks and to acquire benefits through working effectively within the Historic Environment along a road-line. It also details the approach to be adopted during the implementation and reporting phases of Archaeological Investigations and outlines the role of Transport Scotland's Historic Environment Adviser (TSHEA).

This guidance note complements guidance in the Design manual for roads and bridges (DMRB) Volume 11, Section 3, Part 2 Cultural Heritage (HA 208/07) (The Highways Agency et al., 2007) and DMRB Volume 10, Section 6, Part 1 Trunk Roads and Archaeological Mitigation (HA 75/01) (The Highways Agency et al., 2011 (refer to Appendix C)); though not current, these sections of the pre-2020 DMRB nevertheless contain information relevant to this guidance.

Note: Please see the Design Manual for Roads and Bridges section of this Guidance in relation to DMRB LA 106 Cultural Heritage Assessment (2020).

What is Archaeology?

“Archaeology is the study of human societies through their physical evidence – both above and below ground. It encompasses materials as diverse as the bones and tools of prehistoric peoples and the buildings of the 20th century. It may include extensive landscape elements such as field systems and routeways, as well as buried deposits containing preserved pollen and waterlogged wood” (The Highways Agency et al., 2011).

Archaeological heritage comprises “all remains and objects and any other traces of mankind from past epochs” and includes “structures, constructions, groups of buildings, developed sites, moveable objects, monuments of other kinds as well as their context, whether situated on land or under water” (Council of Europe 1992).

Archaeological remains are a non-renewable resource and are of cultural and scientific importance. Archaeological sites and monuments not only enrich our landscapes and townscapes, but are essential to understanding our past.

Archaeology is one of the key practices by which the Historic Environment becomes known. It also provides the practice by which adverse impacts on the Historic Environment from Construction projects can be mitigated.

Archaeology can be a focus for public attention and interest and, if handled appropriately, can considerably enhance the public approval for a development such as a road scheme. The converse is also true.

There are currently over 260,000 archaeological sites and monuments, architectural objects and marine sites recorded in Scotland. With many archaeological monuments having no surface or visible expression, the true number is believed to be much higher.

Legislation, Policy and Guidance Notes

Archaeology is inextricably linked with planning and development in Scotland. Key legislation includes the following:

- Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended)
- Roads (Scotland) Act 1984
- Town and Country Planning (Scotland) Act 1997 (as amended)
- Ancient Monuments and Archaeological Areas Act 1979 (as amended);
- National Heritage Act 1983
- Historic Environment (Amendment) Scotland Act (2011)
- Historic Environment Scotland Act 2014

Legislation such as the Ancient Monuments and Archaeological Areas Act 1979 and National Heritage Act 1983 affords protection to some sites recognised to be of national importance. However, provision for the protection and investigation of most archaeological sites has come about through the development of Environmental Assessment (EIA) regulations, planning legislation and the recognition of archaeology as a material consideration in the planning process.

European Directive 2011/92/EU deals with the assessment of the effects of certain public and private projects on the environment, including archaeological heritage. The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 came into force in May 2017 and implement EIA Directive 2011/92/EU as amended by Directive 2014/52/EU in relation to roads. The main aim of EIA Directive 2014/52/EU is to provide a high level of environmental protection and better integrate environmental considerations into project planning with a view to avoiding or reducing significant environmental impacts, including impacts to cultural heritage. This includes ensuring that the project incorporates measures to avoid, prevent or reduce and, if possible, offset significant adverse environmental effects, and procedures for monitoring significant adverse environmental effects.

The following EIA regulations are also key:

- Environmental Impact Assessment (Scotland) Regulations 1999, as amended
- The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011
- The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017

The document entitled Historic Environment Scotland Circular Regulations and Procedures, published by HES in April 2019 (HES 2019c), covers the requirements of the secondary legislation ('the Regulations') relating to the following primary legislation:

- Ancient Monuments and Archaeological Areas Act 1979
- Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

- Environmental Assessment (Scotland) Act 2005
- Marine (Scotland) Act 2010

Government policies concerning alteration or change within the Historic Environment are set out in:

- Scottish Planning Policy (Scottish Government, 2014)
- Historic Environment Policy Scotland (HEPS) (HES 2019a)

Historic Environment Policy for Scotland (HEPS) (HES 2019a) replaces Historic Environment Scotland Policy Statement 2016 (HESPS), which had replaced Scottish Historic Environment Policy 2011 (SHEP). Chapter 5 of SHEP, which dealt with the conservation of the Historic Environment by Government bodies in Scotland, was not replicated in HEPS. However, a standalone guidance note in relation to Historic Environment assets, entitled *Managing Change in the Historic Environment Asset Management*, was published (HES 2019b).

Advice to planning authorities and developers on dealing with Archaeological Remains and other aspects of the Historic Environment is provided in PAN 2/2011: *Planning and Archaeology* (Scottish Government, 2011). Additional Guidance Notes on the policies contained within the Historic Environment Policy for Scotland (HES 2019a) and Scottish Planning Policy (2014) are presented in the *Managing change in the Historic Environment* series, and cover topics including historic battlefields (HES 2016), historic boundaries (Historic Scotland, 2010) and many other aspects of the Historic Environment.² ([HES – Managing Change in the Historic Environment](#))

Further provision for the protection of cultural heritage is included in:

- Strategic Development Plans
- Local Development Plans
- Local Plans
- EIA Regulations

ClfA's standards and guidelines cover a range of topics including archaeological research, archaeological investigations and recording, geophysical surveys, watching briefs and archive management (refer to Appendix C for links to useful ClfA documents (ClfA 2014a–i)).

Further details on policies and legislation affecting the Scottish Historic Environment are presented in Appendix D.

² Dealing with human remains is a complex and uncertain area under Scottish Law. Some powers to deal with burial grounds are granted to Local Authorities under the *Burial and Cremation (Scotland) Act 2016*, but the accompanying secondary legislation is still under development. The Act does not cover human remains outside of recognised burial grounds. Responsible parties are referred to the 'The Treatment of Human Remains in Archaeology' Operational Policy Paper, re-issued by Historic Environment Scotland in 2016, and should ensure that they are conversant with the ongoing regulatory situation with respect to human remains.

Design Manual for Roads and Bridges

The management of the Trunk Road system is described in the Design Manual for Roads and Bridges (DMRB), which was introduced in 1992 in England and Wales, and subsequently in Scotland and Northern Ireland.

The DMRB accommodates all current European, UK and Scottish government standards, advice notes and other published documents relating to the design, assessment and operation of Trunk Roads, including motorways. The current edition was published in March 2020.

Transport Scotland is currently preparing a National Annex in relation to Cultural Heritage that will set out its position on how the impacts Trunk Road projects will have on the receiving Historic Environment will be managed during the design, assessment and operation phases of these projects. Until such time that this National Annex is finalised and as highlighted under the Scope section of the Introduction to this guidance note, the requirements under the pre-2020 DMRB will stand.

DMRB Volume 10, Section 6, Part 1 Environmental Design and Management advice note for archaeology (HA 75/01) sets out the general principles relating to archaeological mitigation work; describes the potential impacts of road schemes on Archaeological Remains; and provides guidance on preserving important archaeological sites *in situ*, minimising a scheme's impact on archaeological remains; and outlines the scope and development of archaeological recording projects (The Highways Agency et al., 2011). DMRB Volume 10, Environmental Design & Management, Section 6 Archaeology (The Highways Agency et al., 2011) (subsection 1.7) states:

“In Scotland, Historic Scotland, an Agency within the Scottish Executive Education Department, will provide advice to the Scottish Executive Trunk Roads Divisions on the archaeological impact of trunk road schemes and will advise on mitigation strategies. Historic Scotland also manages all archaeological recording contracts associated with trunk road schemes on behalf of the SETRD.”³

DMRB Volume 11, Section 3, Part 2 Cultural Heritage advice note (HA 208/07) (The Highways Agency et al., 2007) provides guidance on the assessment of the impacts that road projects may have on the cultural heritage resource. It refers to Historic Scotland as the agency responsible for safeguarding and promoting the nation's Historic Environment, providing policy advice and commenting on the implications of a Trunk Road scheme (Annex 8). Historic Scotland was succeeded by Historic Environment Scotland (HES) in October 2015.

³ The Scottish Executive Trunk Roads Division was replaced by Transport Scotland in 2006.

Guidance

Effective Archaeological Management

Construction activities often encounter the unknown and can thus be prone to unforeseen archaeological risk, which can lead to delays to programme and cost overruns. Therefore, effective archaeological management of Trunk Road projects is essential and achievable through:

- **Specialist contract documents.** The use of specialist contract documents for archaeological fieldwork with Standardised Conditions for Archaeological Investigations would help ensure a consistent approach to the management of archaeological contracts for Transport Scotland. Documents and protocols could also be developed for the archaeological components of other advanced works such as Ground Investigations.
- **Considered advance archaeological works.** To avoid/reduce significant effects and reduce risk, targeted Archaeological Evaluation should be undertaken at the earliest opportunity, including pre-consent.
- **Quality control of works.** Specialist contract management of site works is required, while oversight is necessary between projects to ensure consistency of approach.
- **Effective interface with Historic Environment Scotland (HES) and Local Authorities.** Early and informed consultation with the statutory authorities will allow access to valuable local expertise that will assist in planning archaeological works, which will help ensure successful contractual outcomes.

Robust management of specialised contracts can lead to reduced delays to construction, reduced construction claims and higher quality deliverables. Specialist contracts would allow TS to maximise the value from archaeological activities, both in terms of communications strategies and community benefit. Outreach, publication and public engagement can be delivered cost effectively by enshrining them within tender requirements. Implementation of the above measures can lead to the consistent delivery of 'value for money' archaeological contracts.

Transport Scotland's Historic Environment Adviser (TSHEA) shall provide the oversight required to deliver successful contractual outcomes on all archaeological projects related to the development of Scotland's Trunk Road network. For further discussion of the role of the TSHEA, see the section outlining Transport Scotland's Historic Environment Adviser below.

Approach

Phases of an Archaeological Project on a Trunk Road Scheme

The following charts the lifecycle of an archaeological project on a Trunk Road scheme and identifies the required deliverables for each separate phase of works (see also Appendix A).

Phase 1a: DMRB Stage 3 Evaluation

- Prepare an archaeological risk assessment strategy for the project to fill specific gaps in the EIA to include non-intrusive surveys and/or targeted trial trenching (see next page and Appendix A for further detail).
- Deliverables: survey reports, targeted trial trenching reports and archive.
- Revised Mitigation Strategy and Written Scheme of Investigation (WSI), based on the results of the evaluation.

Phase 1b: Preparation for Road Procurement (Active end of Stage 3)

- Prepare an archaeological risk assessment strategy for the project to inform the mitigation strategy, to include strategic use of geophysics and scheme-wide trial trenching.⁴
- Deliverables: survey reports, trial trenching reports and archive.
- Revised Mitigation Strategy and WSI, based on the results of the evaluation.

Phase 2: Excavation of sites identified during Phase 1

(Ideally works to be completed prior to main contractor taking possession of the scheme. ⁵Where it has not been possible to excavate particular archaeological sites, these can be included as part of the main works contract).⁶

- Excavation of sites and features as agreed after Phase 1.
- Deliverables: Post-Excavation Assessment Reports and Post-Excavation Research Design (PERD) which summarise what has been done and what is required to undertake Phase 3 works. This will include further details on the required post-excavation assessment, analysis, reporting and dissemination of the scheme and of the pathways and methodologies for same.

Phase 3: Post-excavation Analysis, Reporting and Publication

- Post-excavation works and publication of all material produced at Phase 2.
- Deliverables: final reports, archive, and potentially publication and dissemination of results.

⁴ Where the programme for a project is time constrained, this strategy could also be undertaken pre-consent and can be done using Section 140 powers.

⁵ While it is preferable to complete as much of the advance works as possible prior to construction, it is also imperative that these works comply with the other commitments arising from the EIAR. Issues arising from matters such as ground conditions, local ecology and land use may mean that parts of the archaeological works need to be included in the main contract.

⁶ A Watching Brief may also form part of the main works contract and further information is provided under the Guidance section below.

- For significant projects, an independent impact analysis should be undertaken to test whether the loss or damage to the Historic Environment has been adequately balanced by new knowledge publicly available and publicly accessed.

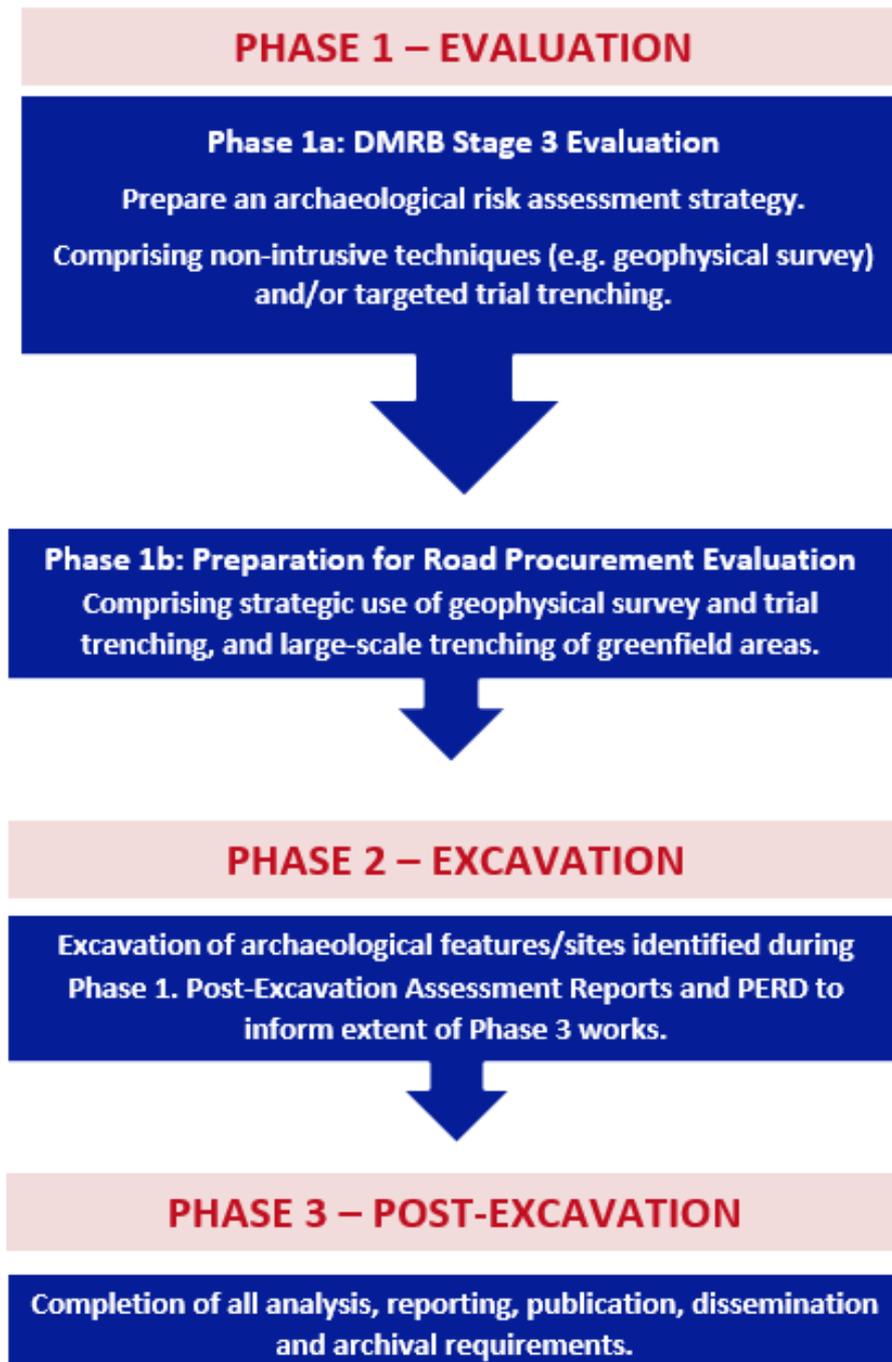


Figure 1: Phases of an Archaeological Project on a Trunk Road Scheme

Phase Ia: (DMRB Stage 3 Evaluation)

An archaeological risk assessment strategy shall be developed for the project at DMRB Stage 3 by the Consultant to obtain a better understanding of particular known cultural heritage assets, and to assess the potential for currently unknown assets. Informed by the results of the Stage 3 Desk Based Assessment, the level of proposed evaluation work to be undertaken for each project shall be approved by TS, while the agreed risk assessment strategy shall be approved by the relevant Local Authority Archaeologist, HES and Transport Scotland's Historic Environment Adviser (TSHEA); it shall be the latter's responsibility to facilitate the process.

The risk assessment strategy and WSI shall consist of:

- Non-intrusive techniques – where possible to include a combination of geophysical survey, topographical survey, LiDAR survey and terrain modelling. Where practical, the entirety of the land made available for the scheme should be subject to non-intrusive techniques.
- Intrusive techniques – to consist of targeted trial trenching of known sites and potential sites identified by the non-intrusive techniques.
- Non-archaeological advanced works – the risk assessment strategy may also include archaeological specifications in relation to non-archaeological advanced works such as Ground Investigations (e.g. watching brief of trial holes and the avoidance of impacts on sensitive cultural heritage assets).

Based on the pre-consent evaluation results, a strategic evaluation programme shall be developed for the entire route of the proposed Trunk Road by the Consultant to be agreed by the TSHEA in consultation with HES and the Local Authority Archaeologist.

Phase Ib (Evaluation: Preparation for Road Procurement)

The strategic evaluation programme is to be presented within a Written Scheme of Investigation (WSI) that shall include:

- The strategic use of geophysical survey, to include areas not covered during pre-consent evaluation works.
- The use of strategic trial trenching, to include areas not covered during pre-consent evaluation works and to provide further information on pre-consent evaluation results, where required.
- The use of scheme-wide trial trenching. The proportion of the Trunk Road scheme to be trial trenched shall depend on the perceived archaeological potential and risk, but shall fall somewhere between 5% and 10%. The percentage to be trial trenched shall be agreed by relevant stakeholders prior to contract procurement. The Curator for the project, in consultation with the TSHEA, shall facilitate this process.

Phase 2 (Excavation)

The focus of this phase is to ensure that all Archaeological Remains identified during Phase 1 are fully investigated. In order to reduce the risk posed by the presence of Archaeological Remains, the results of the Phase 1 Evaluation shall inform the nature, scope and scale of Phase 2 works.

A Project Design detailing how the features/sites identified during Phase 1 are to be mitigated is required and shall be produced in accordance with the requirements of the contract (see Contracts – Phased Tendering in the Guidance section below). Project Designs shall be developed by the Archaeological Contractor and reviewed by the Archaeological Consultant, who shall seek the approval of the Curator for the project in consultation with the TSHEA and the statutory stakeholders prior to the works taking place.

Sites shall then be excavated in timescales that sit within a considered timeframe, though not under pressure from the site contractor. A window for excavations shall be established, the length of which shall depend on the nature of the archaeology present, as well as the scheme and Transport Scotland requirements. Where practical, Phase 2 works should be carried out prior to land acquisition.⁷ The Project Design should contain a programme that is agreed by all parties.

Following completion of Phase 2 fieldwork, Post-Excavation Assessment Reports and a costed and programmed PERD which summarise what analysis and reporting is required to undertake Phase 3 works, shall be produced by the Archaeological Contractor and reviewed by the Archaeological Consultant. These shall be undertaken in accordance with the requirements of the contract, including all publication and dissemination conditions (see Contracts – Phased Tendering in the Guidance section below). The Post-Excavation Assessment Reports and the PERD shall be agreed by the Curator in consultation with the TSHEA and the statutory stakeholders prior to Phase 3 works commencing.

Phase 3 (Post-Excavation Analysis, Reporting and Publication)

Once the Post-Excavation Assessment Reports and the PERD have been agreed, Phase 3 works shall be undertaken in accordance with the contract.

The Archaeological Contractor shall provide adequate resources during each phase of investigations to ensure that all records are checked and internally consistent. Archive consolidation shall be undertaken immediately following the conclusion of the investigations and shall be undertaken in accordance with the conditions of the contract.

⁷ This is subject to landowner relations; while undertaking Phase 2 works pre-land acquisition is preferred, it may not always be possible.

Contracts – Phased Tendering

Archaeological Contracts on Trunk Roads are often presented by Archaeological Consultants as a single contract covering Phases 1–3. While these phases can be tendered together, it is more effective in reducing risk and potential cost to split the phases into separate contracts if overall programme time allows. Transport Scotland shall determine this on a project-by-project basis.⁸

The first contract should cover Phase 1a (pre-consent works); the second contract should cover Phase 1b (post-consent works); and the third contract should cover Phase 2 and Phase 3 works. This would reduce exposure to risk to both Transport Scotland and the Archaeological Contractor, and allow better definition of specifications as the project progresses which can be priced with more certainty. While Phases 1b–3 can be tendered as a single contract, Phase 1a will generally be a standalone contract or can form part of other advanced works contracts such as Ground Investigation.

Transport Scotland should always consider the clear separation of Archaeological Evaluation from Archaeological Excavation/Post-Excavation works. Such an approach provides more clearly-defined archaeological requirements and greater cost certainty. Standardised Conditions for Archaeological Investigations should form the basis of all archaeological tender documentation. The TSHEA shall approve all documentation prior to procurement.

Following the completion of Phase 1 works, the TSHEA shall facilitate consultation between the Archaeological Consultant, HES and the Local Authority Archaeologist to devise publication, dissemination and community benefit strategies that shall be incorporated into the Phase 2/Phase 3 contract documents.

Watching Brief

Whilst every effort shall be made to reduce the risk of discovery of archaeological sites prior to construction, due to uncontrollable circumstances such as tree cover, excluded lands etc., it may not be possible to investigate the entirety of the route using the methods described above. In such circumstances, a Watching Brief shall be proposed for areas not previously investigated or where there remains a potential for further archaeological discoveries. The requirements and locations for project-specific Watching Briefs should be identified in the Employer's Requirements for each project.

It should be noted that while a Watching Brief may be required for specific areas on many schemes, it carries a level of risk because it may insert a need for archaeological mitigation work into the construction programme

⁸ If the results of Phase 1 indicate a scheme is low risk in terms of archaeology, then Phase 2 works may be undertaken post land acquisition or even during construction if it is deemed more appropriate by TS.

Transport Scotland's Historic Environment Adviser

Appendix B contains a flowchart outlining the involvement of Transport Scotland's Historic Environment Adviser (TSHEA) in DMRB scheme stages and archaeological works. Trunk Roads engineers and planners engaged in the Design and Construction phases of new or upgrading Trunk Roads schemes should engage with the TSHEA whenever they are in doubt about any Historic Environment issue.

In short, the TSHEA assists TS in ensuring robust and cost-effective consideration of Historic Environment issues from project inception through design, procurement and construction. The TSHEA performs many aspects of the oversight and advisory roles that were previously provided by Historic Scotland on behalf of the Scottish Government until the establishment of Historic Environment Scotland in October 2015.

The oversight role of the TSHEA includes ensuring that the various Archaeological Consultants working on behalf of TS maintain a consistent approach across all road projects in relation to the design, procurement and management of archaeological projects, and providing the oversight required to deliver successful contractual outcomes on all archaeological projects related to the development of Scotland's Trunk Road network.

The TSHEA shall provide a focus on 'value for money' by:

- Reviewing the assessment of risk of impact on the archaeological resource.
- Facilitating or undertaking consultation with cultural heritage stakeholders throughout the lifecycle of a project. The effective interface with HES and Local Planning Archaeologists that TS has developed over the past number of years shall be cultivated.
- Facilitating or undertaking consultation with Curators and Consultants appointed to projects to ensure successful outcomes.
- Ensuring proposed mitigation strategies are effective, in line with best practice, policies and standards, and meet with stakeholders' expectations. Mitigation shall be designed and implemented to reduce cost and programme risk.
- Reviewing all contract documents, including specifications and WSIs, to ensure they meet with Transport Scotland's Standardised Conditions for Archaeological Investigations requirements.
- Ensuring that a detailed costing of associated mitigation is provided by the Archaeological Consultant. Costs associated with archaeological mitigation shall be verified before approval.
- Monitoring, in consultation with the appointed Curator, Archaeological Consultants and Contractors on the ground to ensure that consistency of approach is maintained across all projects.
- Ensuring delivery of quality final excavation reports. All post-excavation proposals shall be reviewed and the relevant stakeholders consulted.

- Aiding the dissemination of results to the general public through lectures, articles, school tours, publication etc. Proposed publication strategies shall include relevant research aims that align with those of the Scottish Archaeological Research Framework (ScARF). Relevant stakeholders shall be consulted, while appropriate academic editors shall be appointed to advise on the publication of results for each project.
- Liaising and consulting with the relevant Project Team in Transport Scotland.

It should be noted that although Historic Environment Scotland is no longer performing oversight and advisory roles, HES remains a Statutory Consultee within Trunk Road planning and a provider of data, while they also provide Scheduled Monument Consent for any proposed works on Scheduled Monuments. It should also be noted that Local Authorities are required to take archaeology into account as a material consideration when determining planning applications, and must be consulted if any works on a Trunk Road have the potential to affect Undesignated Heritage Assets and Category B and C Listed Buildings.

The Role of the Curator

The individual or organisation appointed by Transport Scotland to act as Curator shall undertake many of the duties that were previously carried out by Historic Scotland as Curator in relation to the design and management of archaeological projects, including but not limited to:

- approval of outline archaeological Written Schemes of Investigation for advanced and construction-phased archaeological investigations
- monitoring on-site archaeological works undertaken by Archaeological Contractors
- providing advice when unforeseen archaeological discoveries are encountered within the road line
- providing advice on what is sufficient and necessary within the post-excavation analysis and reporting phase
- providing advice on the form and content of published reports, both technical and popular
- provision of advice on archaeology service and product quality in advance works, construction and post-excavation works
- liaising with HES and other national institutions (National Museum of Scotland etc.) and local institutions (Local Authority Archaeologists, if applicable, local societies, local museums, etc.) regarding the nature, extent, timetable and product of advance and construction work fieldwork and the resulting post-excavation analysis and reporting programme
- approval of interim and final reports on archaeological investigations

Note: Local Authority Archaeologists shall only be appointed as Curator via a Service Level Agreement or contract after the scheme has been consented; prior to this, Local Authority Archaeologists shall undertake their consultee role as normal (see 'Roles and Responsibilities' above).

Appendix A. Relationship between Scheme Stages and Archaeological Works (after DMRB HA 75/01)

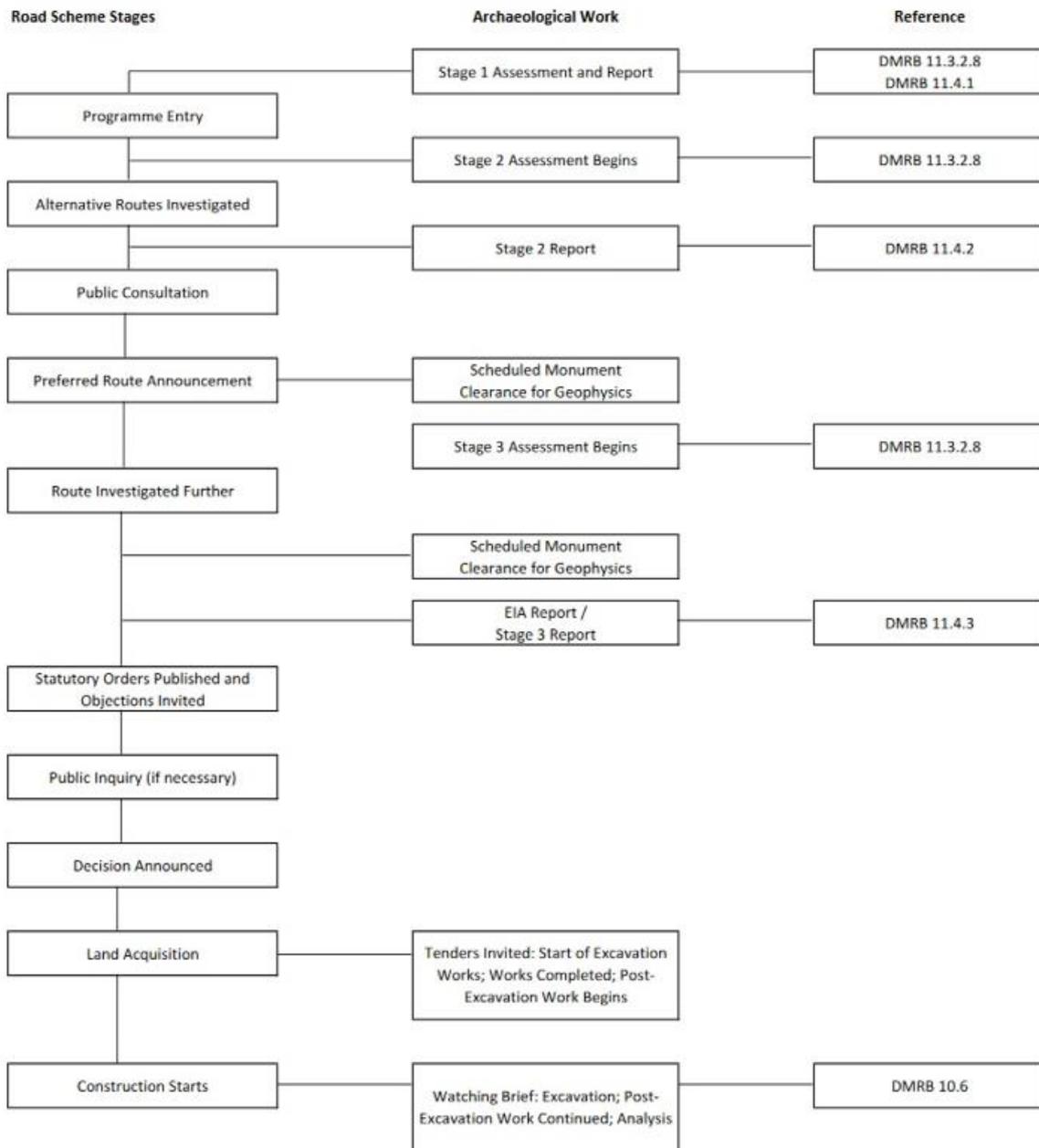


Figure 2: Relationship between Scheme Stages and Archaeological Works

Appendix B. Involvement of Transport Scotland’s Historic Environment Adviser in DMRB Scheme Stages and Archaeological Works

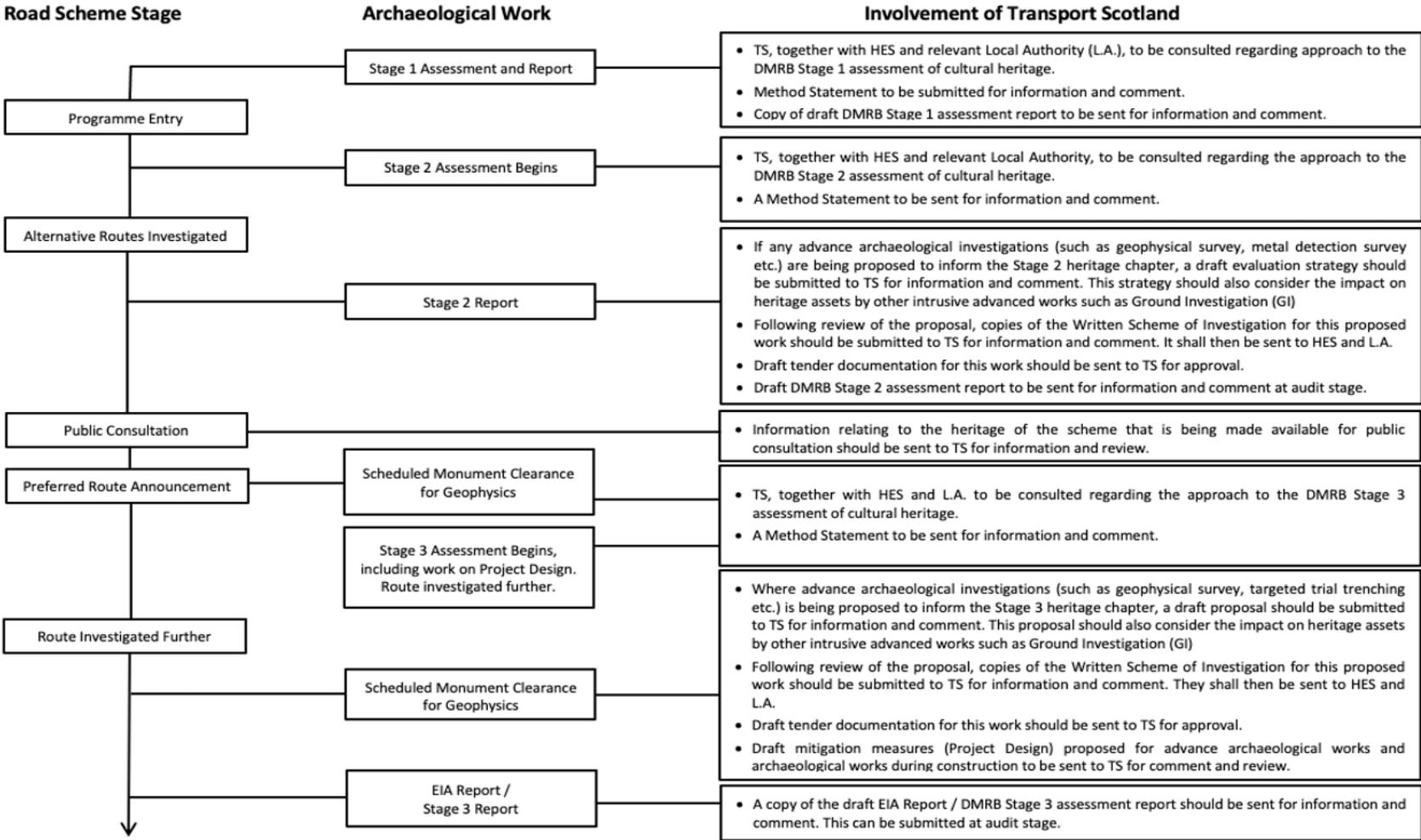


Figure 3: Involvement of Transport Scotland’s Historic Environment Adviser in DMRB Scheme Stages and Archaeological Works

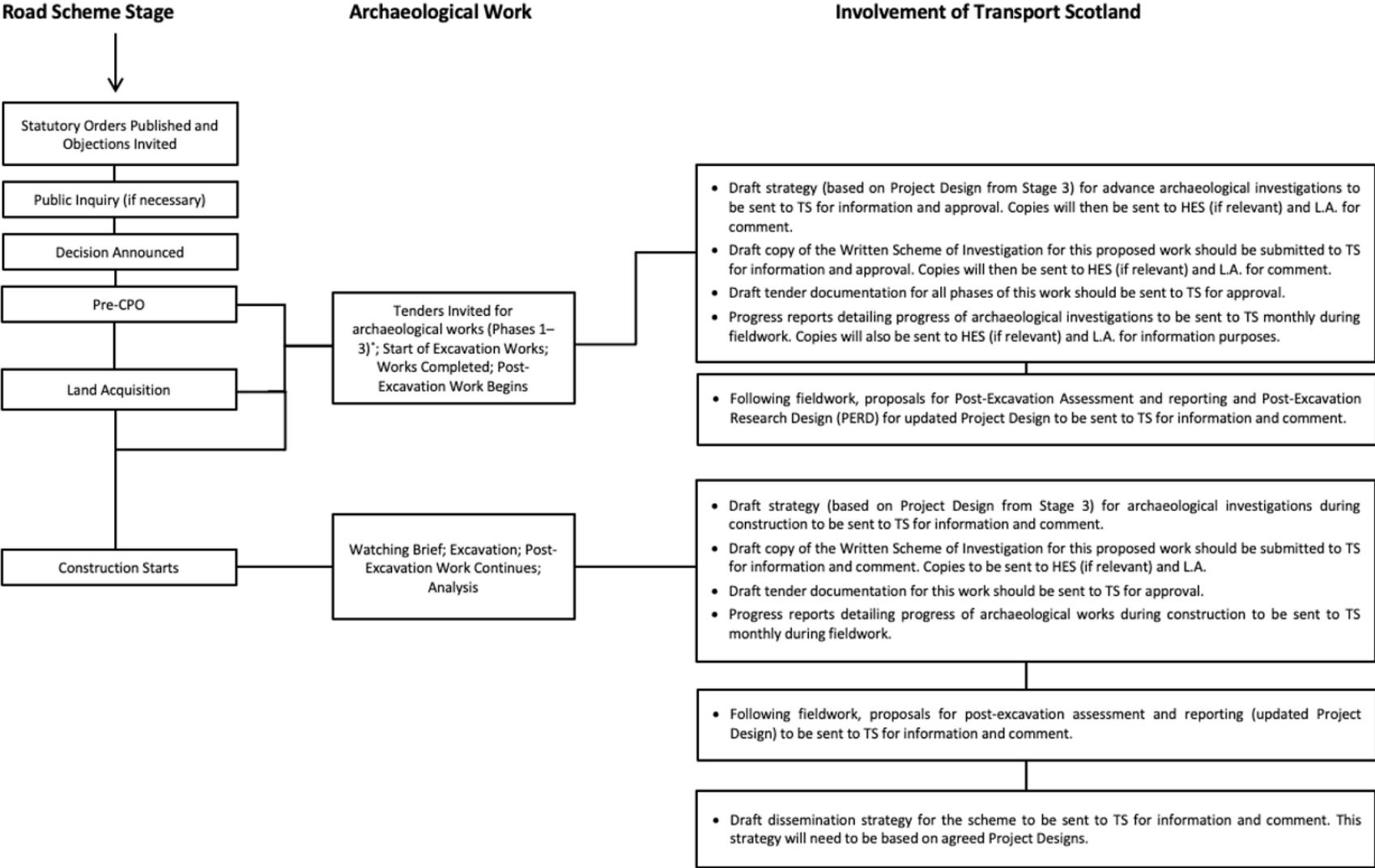


Figure 4: Involvement of Transport Scotland’s Historic Environment Adviser in DMRB Scheme Stages and Archaeological Works (cont.)

Appendix C. References

ClfA Standards and Guidance

- ClfA, 2014a. [Standard and guidance for archaeological field evaluation.](#)
- ClfA, 2014b. [Standard and guidance for archaeological excavation.](#)
- ClfA, 2014c. [Standard and guidance for the creation, compilation, transfer and deposition of archaeological archives.](#)
- ClfA, 2014d. [Standard and guidance for archaeological geophysical survey.](#)
- ClfA, 2014e. [Standard and guidance for an archaeological watching brief.](#)
- ClfA, 2014f. [Standard and guidance for the archaeological investigation and recording of standing buildings or structures.](#)
- ClfA, 2014g. [Standard and guidance for the collection, documentation, conservation and research of archaeological materials.](#)
- ClfA, 2014h. [Standard and guidance for commissioning work or providing consultancy advice on archaeology and the Historic Environment.](#)
- ClfA, 2014i. [Standard and guidance for archaeological advice by historic environment services.](#)

Other References

- Council of Europe. 1992. [European Convention on the Protection of the Archaeological Heritage \(Revised\). European Treaty Series No. 143.](#)
- Council of Europe. 2005. [Council of Europe Framework Convention on the Value of Cultural Heritage for Society. Faro, 27.X.2005. Council of Europe Treaty Series No. 199.](#)
- The Highways Agency et al, 1993. *Design manual for roads and bridges*. Volume 5, Section 1, Part 2 Scheme Assessment Reporting (TA 37/93).
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- Historic Scotland, 2010. [Managing change in the Historic Environment: historic boundaries.](#)
- Historic Environment Scotland, 2016. [Managing change in the Historic Environment: historic battlefields.](#)
- Historic Environment Scotland, 2017. [Archives and Collections Policies for Scotland, 2017–2020.](#)
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Historic Environment Scotland, 2019c. [Historic Environment Circular: Regulations and Procedures.](#)

Scottish Government, 2011. [Planning advice note PAN 2/2011: planning and archaeology.](#)

Scottish Government, 2014. [Scottish planning policy.](#)

Scottish Government 2016, [Treasure Trove in Scotland: A Code of Practice.](#)

Appendix D. Legislation and Policy

This appendix provides further information on legislation and policy affecting the Scottish Historic Environment to that listed in Legislation, Policy and Guidance Notes above.

Legislation

On 1st October 2015, the legislative requirements of the Historic Environment Scotland Act 2014 came into force. The Historic Environment Scotland Act 2014 sets out Historic Environment Scotland's role and legal status, including changes in processes for the designation of monuments and buildings (scheduling and listing) and for consents relating to Scheduled Monuments, Listed Buildings and Conservation Areas. The Act amended the:

- Ancient Monuments and Archaeological Areas Act 1979
- Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
- Environmental Assessment (Scotland) Act 2005
- Marine (Scotland) Act 2010

Scheduled Monuments are by definition of national importance and are protected by law under the Ancient Monuments and Archaeological Areas Act 1979 (as amended). Consequently, it is a criminal offence to damage a Scheduled Monument, and consent must be obtained from Historic Environment Scotland (unless Scottish Ministers direct that the application is called-in for their own determination) before any works affecting a Scheduled Monument may take place.

Listed Buildings are protected under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended), and are recognised to be of special architectural or historical interest. Under the Act, planning authorities are instructed to have special regard to the desirability of preserving a Listed Building, its setting or any features of special architectural or historical interest which it possesses (Planning (Listed Buildings and Conservation Areas) Act, Section 66(1)). Designation as a Listed Building confers additional controls over demolition and alteration through the requirement for Listed Building Consent to be gained before undertaking alteration or demolition.

The Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) imposes a duty on local planning authorities to designate and protect "areas of special architectural or historic interest the appearance or character of which it is desirable to preserve or enhance" as Conservation Areas. Designation provides control over demolition of unlisted buildings through the requirement for Conservation Area Consent, limits permitted development rights and provides the basis for planning policies to further preserve and enhance the area's special character.

The Historic Environment Scotland Act (2014) makes provision for Historic Environment Scotland to compile and maintain an Inventory of Gardens and Designed Landscapes. Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, local authorities are required

to consult Historic Scotland on development proposals considered to affect an Inventory Garden or Designed Landscape.

The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 came into force in May 2017 and implements EIA Directive 2011/92/EU as amended by Directive 2014/52/EU in relation to roads. The main aim of EIA Directive 2014/52/EU is to provide a high level of environmental protection and better integrate environmental considerations into project planning with a view to avoiding or reducing significant environmental impacts, including impacts to cultural heritage. This includes ensuring that the project incorporates measures to avoid, prevent or reduce and, if possible, offset significant adverse environmental effects, and procedures for monitoring significant adverse environmental effects.

Planning Policy

Scottish Ministers' policies for planning and the Historic Environment are set out in Scottish Planning Policy (SPP) 2014 (Scottish Government, 2014).

Paragraphs 135–151 of the SPP deal with the Historic Environment, which is defined to include ancient monuments; archaeological sites and landscape; historic buildings; townscapes; parks; gardens and designed landscapes; and other features. Strategic development plans should protect and promote their significant Historic Environment assets (SPP Paragraph 138).

Paragraph 141 of the SPP states that Listed Buildings should be protected from demolition or other work that would adversely affect their settings. With regards to Scheduled Monuments, paragraph 145 states that development which would have an adverse impact on a Scheduled Monument or the integrity of its setting should not be permitted unless there are exceptional circumstances. Change to Gardens and Designed Landscapes is controlled under paragraph 148, which states that significant elements of these assets which justify the designation should be protected or enhanced.

Paragraph 150 states that archaeological sites and monuments are a finite and non-renewable resource and that they should be protected and preserved *in situ* wherever possible. If preservation *in situ* is not possible, then developers are required to undertake excavation, recording, analysis and publication. It further states that if archaeological discoveries are made during any development, they should be reported and appropriate measures, such as inspection and recording, should be discussed.

The Historic Environment Policy for Scotland (HEPS) (HES 2019a) outlines six fundamental policies and their underlying principles for managing the Historic Environment and directs decision making that affects the Historic Environment. It is a material consideration in decision making in the planning system and heritage consenting regimes. HEPS complements and should be read alongside the SPP and other relevant Ministerial policy documents. Historic Environment Scotland Circular (HESC) sets out how Historic Environment Scotland fulfils its regulatory and advisory roles and the circumstances under which HES should be consulted. HEPS, SPP, HESC and Historic Environment Scotland's Managing Change in the Historic

Environment guidance note series are the documents to which planning authorities are directed in their consideration of planning applications affecting the Historic Environment including the setting of individual elements of the Historic Environment.

Planning Advice Note (PAN) 2/2011: Planning and Archaeology (Scottish Government, 2011) provides advice on archaeological remains within the planning process. The PAN sets out the requirement to protect archaeological remains in a manner which is proportionate to the relative value of the remains and of the developments under consideration.

HES policies for the Historic Environment are set out in Historic Environment Policy for Scotland (HEPS) (HES 2019a).



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