



TITLE: Aboriginal Cultural Heritage and Capital Works Procedure

REFERENCE NUMBER:	DOC/18/74311
RESPONSIBLE DEPARTMENT:	Planning and Development
APPLICABLE LEGISLATION:	<i>Aboriginal Heritage Act 1988</i>
MOUNT BARKER DISTRICT 2035 STRATEGIC PLAN:	GL 1.3 Provide opportunities for the community to access and participate in the decision making process. GL 2.10 Ensure compliance with legislative requirements. GL4.4 Identify strategic and operational risks and manage accordingly.
RELATED POLICIES / CORPORATE GUIDELINE:	Aboriginal Cultural Heritage Policy Capital Works – Aboriginal Cultural Heritage Procedure flow chart Aboriginal Cultural Heritage and Development Assessment Procedure
APPROVED:	6 August 2018
NEXT REVIEW DATE:	6 August 2021

1. PURPOSE

To ensure that proposed capital works address the potential for Aboriginal cultural heritage as part of a risk management process.

To ensure that capital works projects address Aboriginal cultural heritage as part of the project concept design and/or investigations.

2. PROCEDURE

The following steps are to be undertaken during Project Concept Design/Investigation and are to be read in conjunction with the Capital Works – Aboriginal Cultural Heritage Protocol flow chart DOC/18/75615.

1. DETERMINATION OR SITE OR AREA – DOES IT CONTAIN OR IS IT WITHIN PROXIMITY OF A REGISTERED OR KNOWN (RECORDED) ABORIGINAL SITE?

Action:

- **Identify whether the site, location or footprint of proposed works contains or is within close proximity to registered site pursuant to section 12 of the Aboriginal Heritage Act 1988 or known (recorded) Aboriginal site via the following processes.**
 - a) Contact the Aboriginal Heritage Team, Aboriginal Affairs and Reconciliation Division (AARD), Department of Premier and Cabinet for the location of registered Aboriginal sites.
 - b) Review known and existing reports and literature for the location of known and recorded (but not registered) Aboriginal sites. i.e. *Wood, V. August 2009*
 - c) Apply a curtilage of a minimum of 100 metres around the identified site if within close proximity to the proposed works.
- **IF YES** – if the site is a registered or known (recorded) Aboriginal site, or the proposed works are with proximity of a registered or known Aboriginal site (sufficiently close to impact the values of the site (tangible or intangible values) – go directly to **Step 4** – Conduct a full Cultural Heritage Study (including a field (site) survey and engage with the traditional owners and/or custodians.
- **IF NO** – proceed to **Step 2** – Can it be determined that substantial prior disturbance is likely to have removed or destroyed all tangible heritage items?

2. CAN IT BE DETERMINED THAT SUBSTANTIAL PRIOR DISTURBANCE IS LIKELY TO HAVE REMOVED OR DESTROYED ALL TANGIBLE HERITAGE ITEMS?

Action:

- **Can it be determined or demonstrated that prior disturbance of the site/ area/footprint is likely to have removed or destroyed all tangible heritage items with no likelihood of remnant heritage materials.**
 - This step provides the opportunity for the project manager to demonstrate that a proposal does not warrant either undertaking predictive modelling / risk assessment or ultimately a cultural heritage study and survey in acceptance

Rationale – Substantial prior land disturbance can be described as (a) areas of gross land disturbance where the original land surface and soil profile has been obliterated through subsequent land use; (b) urban and suburban areas, services such power, water, telephone, aerodrome, sewer, industrial precincts and mining installations and includes lands that have been landscaped, levelled, bulldozed, terra-formed and excavated.

Areas that have been subject to filling but without significant disturbance to the natural ground surface beneath should not be classified as have been subject to substantial prior land disturbance. Such areas have the potential for tangible Aboriginal cultural heritage materials to exist, “sealed”, beneath upper fill layers.

➤ **IF YES** – if the site/area/footprint has been subject to prior disturbance that is considered to have removed or destroyed all tangible heritage items, with no likelihood of an intact site or the presence of any Aboriginal cultural material the no further action is required.

➤ **IF NO** – proceed to **Step 3** – Predictive Modelling /Risk Assessment.

3. PREDICTIVE MODELLING / RISK ASSESSMENT

Action:

- **At this stage the proposal will require a specialist to undertake predictive modelling and risk assessment in order to determine the probability of the discovery or disturbance of and Aboriginal site. During the process the following will need to be addressed.**

- a) Is the activity considered to be of “low impact”?
- b) Will the activity disturb the ground surface? If an activity will disturb the ground surface there is a higher likelihood that Aboriginal sites will be harmed.
- c) What is the land use history or previous development of the site / area / development footprint? Can it be determined that previous activities would have resulted in significant disturbance (both surface and subsurface)?
- d) This step provides the opportunity for the project manager engage a specialist to undertake predictive modelling / risk assessment.

Previous land use, locality and landscape features can provide the underlying basis for determining risk. The following constitutes general level of risk relevant to location and landscape features and is intended to be used a guideline.

However, often the siting of proposed works on areas designated as high risk, such as floodplains and adjacent to watercourses will be sufficient enough factor without other considerations to immediately warrant a **HIGH RISK** classification.

Low risk - Assessment areas designated as low risk are those located on disturbed land (i.e. ploughed and cleared or built up) with a low topographical relief. Generally these are confined to inland areas and are not located near natural features associated with Aboriginal heritage sites such as limestone outcrops, sand dunes, hills and water courses or sources.

Medium risk - Assessment areas designated as medium risk are also at times those located on disturbed land (i.e. ploughed and cleared or built up) with a low topographical relief. Some areas are heavily vegetated with native bushland with very poor ground surface visibility. These areas are often located near natural features usually associated with Aboriginal heritage sites, such as limestone outcrops, hills, sand dunes, and water courses or sources. Areas that are reasonably undisturbed are also given a medium risk status.

High risk - Assessment areas designated as high risk are those on totally undisturbed land. These areas have a high topographical relief, such as hills or dune systems. They may occur in association rocky outcrops or watercourses or sources. High risk areas are also those where Aboriginal heritage places or objects have been noted within close proximity.

- **IF HIGH RISK** – if the site or area is considered to be of a high risk for prior Aboriginal activity and therefore a high risk of finding Aboriginal sites– go directly to **Step 4** – Conduct a full Cultural Heritage Study (including a field (site) survey and engage with the traditional owners and/or custodians.
- **IF LOW or MEDIUM RISK** – proceed to **Step 5** – undertake a Desktop Cultural Heritage Study and Review.

4. FULL CULTURAL HERITAGE STUDY AND ENGAGEMENT WITH TRADITIONAL OWNERS AND CUSTODIANS

Action:

- **At this stage the proposal will require a specialist to undertake predictive a full cultural heritage study and engagement with Traditional Owners and/or Custodians. During the process the following will need to be addressed.**
 - a) Any relevant Aboriginal Heritage Study;
 - b) Existing knowledge of area's Aboriginal cultural heritage sites/ values from previous studies of reports for the area and other published works (including historical or ethnographic accounts, or archaeological studies listed on AHIMS);
 - c) Landforms, geomorphology and land use history of the site, and
 - d) The Aboriginal Heritage Branch Register of Aboriginal Sites and Objects
(Unless already undertaken in Step 5)
 - e) A visual inspection or on-ground reconnaissance level (walk-over) survey of the area to detect any readily identifiable Aboriginal Cultural Heritage sites /objects, determine the likelihood of subsurface materials and assess the degree / extent of previous site disturbance
- **IF RISK INCREASES** – if the site or area is considered to be of a high risk for prior Aboriginal activity and therefore a high risk of finding Aboriginal sites– go directly to **Step 6** – Review of the design or location of proposed works to determine whether disturbance to the potential site can be avoided.
- **IF RISK INCREASES** –if the site or nominated area contains cultural material (surface) that may indicate a possible site, or the risk is considered sufficient, and based on advice from the archaeologists in consultation with the traditional owners/ custodians go to either:

- a) **Step 6** – review design and location of proposed works to determine whether amendments can be made to avoid the area containing Aboriginal artefacts and identified site, or
- b) **Step 7** – Monitor nominated area / site by archaeologists in conjunction with traditional owners/custodians during earth works or other site disturbing activities,
- c) **Step 8** – lodge an application pursuant to section 23 of the Aboriginal Heritage Act 1988 with the Aboriginal Heritage Team, Aboriginal Affairs and Reconciliation Division, Department of Premier and Cabinet.

➤ **IF RISK IS AMELIORATED** – proceed to **Step 10** – if it is determined that there is no or it is highly unlikely to encounter Aboriginal Cultural Heritage with the designated or nominated area, works to proceed without monitoring.

5. DESKTOP CULTURAL HERITAGE STUDY AND REVIEW TO CONFIRM RISK ASSESSMENT

Action:

- **Undertake a desktop study/assessment, including a review of:**

- a) Any relevant Aboriginal Heritage Study;
- b) Existing knowledge of area's Aboriginal cultural heritage sites/ values from previous studies of reports for the area and other published works (including historical or ethnographic accounts, or archaeological studies listed on AHIMS);
- c) Landforms, geomorphology and land use history of the site, and
- d) The Aboriginal Heritage Branch Register of Aboriginal Sites and Objects.

➤ **IF RISK INCREASES** – if the site or area is considered to be of a medium to high risk as a result information presented in the desktop study / assessment greater risk of finding Aboriginal sites than identified in **Step 3** – go directly to **Step 4** – Conduct a full Cultural Heritage Study (including a field (site) survey and engage with the traditional owners and/or custodians.

➤ **IF RISK IS AMELIORATED** – proceed to **Step 5** – undertake a Desktop Cultural Heritage Study and Review.

6. REVIEW OF DESIGN AND/OR LOCATION OF PROPOSED WORKS

Action:

- **Undertake a review of the project design and whether the proposed works can be relocated.**

➤ **IF RISK INCREASES** – If the opportunity for a review of the design and / or location of the proposed works is not available then go directly to **Step 7** – Conduct a full Cultural Heritage Study (including a field (site) survey and engage with the traditional owners and/or custodians.

- **IF RISK IS AMELIORATED** – proceed to **Step 10** – No determined impact. The potential site, area or disturbance can be avoided – works can proceed.

7. MONITORING OF NOMINATED AREA BY ARCHAEOLOGISTS WITH TRADITIONAL OWNERS / CUSTODIANS DURING WORKS

Action:

- **Monitoring of the nominated area or possible site during works.**
 - This is most likely to occur during any process that involves surface disturbance, i.e. excavation.
- **IF RISK INCREASES** – if Aboriginal cultural material or site is discovered as a result of works go directly to **Step 8** – lodge an application pursuant to section 23 of the Aboriginal Heritage Act 1988 with the Aboriginal Heritage Team, Aboriginal Affairs and Reconciliation Division, Department of Premier and Cabinet.
- **IF RISK IS AMELIORATED** – proceed to **Step 11** – No discovery or impact on site by works. The potential site, area or disturbance can be avoided – works can be completed.

8. APPLICATION PURSUANT TO SECTION 23 OF THE ABORIGINAL HERITAGE ACT 1988

Action:

- **Lodge and application pursuant to section 23 of the Aboriginal Heritage Act 1988 with:**
 - The Aboriginal Heritage Team, Aboriginal Affairs and Reconciliation Division, Department of Premier and Cabinet.

9. REMOVAL OR RELOCATION OF ABORIGINAL CULTURAL HERITAGE IN CONJUNCTION WITH TRADITIONAL OWNERS / CUSTODIANS IN ACCORDANCE WITH THE ABORIGINAL HERITAGE ACT 1988.

Action:

- **Upon approval from the Minister for the Section 23 application works may proceed under the supervision of the traditional owners and/or custodians and archaeologists:**
 - a) So that the removal or relocation of cultural material (including burials) significant to persons without damage, and
 - b) so that the destruction of the site can occur in a manner that is sensitive to the traditions of the Peramangk and wider Aboriginal community, and
 - c) in accordance with the relevant provisions of the *Aboriginal Heritage Act 1988*.

10. NO DETERMINED IMPACT – WORKS TO PROCEED

Action:

- **Works to proceed without monitoring as a result of:**
 - a) Design and / or location of works has changed to avoid potential site or nominated area, or
 - b) Determination by archaeologists and traditional owners / custodians that there is no likelihood of either a site or the presence of objects of significance to the traditional owners located in the nominated area.
- **IF RISK INCREASES** – if Aboriginal cultural material or site is discovered as a result of works go directly to **Step 8** – lodge an application pursuant to section 23 of the *Aboriginal Heritage Act 1988* with the Aboriginal Heritage Team, Aboriginal Affairs and Reconciliation Division, Department of Premier and Cabinet.
- **IF RISK IS AMELIORATED** – proceed to **Step 11** – No discovery or impact on site by works. The potential site, area or disturbance can be avoided – works can be completed.

11. CULTURAL HERITAGE COMPONENT COMPLETED

Action:

- **No Further Action.**

3. REVIEW

This Standard Operating Procedure will be reviewed every 3 years or earlier in the event of changes to legislation or related Policies and Procedures or if deemed necessary by the Policy Planner, Planning Policy and Strategy.

4. ACCESS TO THE PROCEDURE

The Standard Operating Procedure is available to staff via Policies on the Intranet.

6. FURTHER INFORMATION

For further information on this Standard Operating Procedure, please contact:

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