



Aboriginal Cultural Heritage Act 2021

ACH Management Plan Template and Guiding Notes

Consultation Draft





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1. Purpose

When a proponent intends to undertake a tier 3 activity that may harm Aboriginal cultural heritage (ACH), section 112 of the *Aboriginal Cultural Heritage Act 2021* (Act) requires an approved or authorised ACH Management Plan (Plan), to proceed lawfully.

This document provides a template and guiding notes on the sections that proponents and Aboriginal parties will need to develop and include in the Plan.

Proponents will be required to lodge the Plan in the approved form [s.147 (2)(a)], this being through the ACHknowledge portal. ACHknowledge is a purpose built IT system to assist with the processes as prescribed by the Act. ACHknowledge will support user accessibility and engagement while restricting culturally sensitive information. The portal will guide proponents through the application process. ACHknowledge is currently being designed and built.

The main objective of a Plan is to promote, protect and preserve ACH. The Plan is intended to be a joint document agreed between the proponent and the relevant Aboriginal party. It:

- identifies the ACH in the area of interest;
- provides the measures that will be in place to avoid, minimise or manage harm to ACH; and
- includes measures to manage ACH identified after commencement of the Plan.

Plans are a tool that will assist proponents, their employees and contractors to effectively avoid or minimise harm to ACH.

2. Terms used

ACH	Aboriginal cultural heritage
Survey	ACH survey
Act	<i>Aboriginal Cultural Heritage Act 2021</i>
Application area	The area to which the Plan will apply
Council	Aboriginal Cultural Heritage Council
Department	Department of Planning, Lands and Heritage
Plan	Aboriginal cultural heritage management plan
	Section 100. Terms used
	A person who —
Proponent	(a) intends to carry out an activity that may harm Aboriginal cultural heritage; or (b) carries out an activity authorised under Division 4;

3. ACH management plan template and guiding notes

3.1. Part A

<i>Executive summary</i>	<ol style="list-style-type: none">1. Purpose of the Plan;2. General description of the Plan area;3. Statement about the ACH in the proposed area and its importance to the Aboriginal party/parties;4. Summary about the proposed project and the activity(s) to be undertaken; and5. A summary of the potential impacts on ACH and the key provisions for minimising and avoiding harm to ACH.
<i>Table of contents</i>	The contents are to be clear and concise and easy to follow.
<i>Definition of key terms and acronyms</i>	The definitions and acronyms are to be agreed on by all parties.
<i>Confidentiality</i>	A clear statement regarding the confidentiality of the contents of a Plan.
<i>List of contacts</i>	Key contacts for all parties to the Plan.



3.2. Part B – General

<i>Proposed activities</i>	Detailed information regarding the nature and extent of all activities associated with the Plan.
<i>Application area to which the Plan applies</i>	<p>Description of the application area to which the Plan will apply. The description will need to include administrative information including:</p> <ul style="list-style-type: none">• tenure details;• land ownership; and• description of interest held by the Applicant. <p>This information will need to be accompanied by maps and Geographic Information System files that clearly show the location and extent of project footprints.</p>
<i>Existing Plans</i>	<p>Details of any existing or previously approved or authorised Plan(s) (inclusive of section 18 consents granted under the <i>Aboriginal Heritage Act 1972</i>) relevant to the Plan.</p> <p>This may include sections of or an entire Plan that could be transferrable to the application area.</p>
<i>Proposed time frames</i>	Period for which the Plan will have effect.
<i>Parties to the Plan</i>	Identify the parties to the Plan.



3.3. Part C – Consultation

<p><i>Details of consultation</i></p>	<p>Specific details about the consultation:</p> <ul style="list-style-type: none"> • who was consulted and dates of consultation; • form of consultation including meetings, workshops and ACH surveys (Surveys); • information provided to the Aboriginal parties about the project; • any limitations to conducting consultation; and • if applicable, relevant clauses from related agreements (s.140).
<p><i>Outcomes of consultation</i></p>	<ul style="list-style-type: none"> • The views from the Aboriginal party about how ACH is to be managed under the Plan. • The views of any other persons consulted on the contents of the Plan, including any alternate views.

3.4. Part D – Informed Consent

<p><i>Where there is an agreement, a letter from the interested Aboriginal parties giving informed consent</i></p> <p>*Template letter is currently being developed</p>	<p>The letter must acknowledge:</p> <ul style="list-style-type: none"> • The proponent provided: <ul style="list-style-type: none"> ○ Full and proper disclosure of information about the activity intended to be carried out under the Plan, and details of other feasible method available to the proponent to carry out the activity. ○ Risk of reasonably foreseeable harm to ACH, including evidence of known and documented ACH and characteristics and values of ACH to Aboriginal persons • That harm to ACH proposed under the Plan has been authorised by the Aboriginal party • Evidence the consent has been given voluntarily without coercion, intimidation or manipulation.
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3.5. Part E – Aboriginal Cultural Heritage

<i>Identification of ACH</i>	<p>Processes used to identify ACH located within the application area and justification for the methods. Methods may include:</p> <ul style="list-style-type: none">• <u>Desktop Assessment</u> Will involve, but not be limited to, research of information held on the ACH Directory, reviewing existing literature, and discussing information with Aboriginal persons.• <u>Detailed Assessment</u> As above with the addition of Surveys appropriate for the scope of the Plan.• <u>Complex Assessment</u> As above with the addition of subsurface or other ACH sample testing and detailed analysis of testing results.
<i>Summary of ACH</i>	<p>Detailed summary of:</p> <ul style="list-style-type: none">• the ACH located within the application area;• characteristics of ACH; and• values of ACH to Aboriginal persons. <p>*Aboriginal persons will not be required to provide sensitive or restricted information.</p>



3.6. Part F – Managing Aboriginal Cultural Heritage

<p><i>Managing impacts to ACH prior to works</i></p>	<p>Measures could include, but are not limited to:</p> <ul style="list-style-type: none"> • altering development footprints; • use of less intrusive methods; • protection agreements; • considering harm, including but not limited to visual, sound and dust; and/or • providing protective barriers around, or sealing off, areas.
<p><i>Manage impacts to ACH during works</i></p>	<p>Measures could include, but are not limited to:</p> <ul style="list-style-type: none"> • demarcating no-go areas; • partial avoidance of areas; • salvage and curation of ACH; • further surface recording; • scientific excavation (or further excavation); • analysis of ACH; and • monitoring of activities by the Aboriginal party.
<p><i>ACH impact statement</i></p>	<p>The impact statement should include:</p> <ul style="list-style-type: none"> • details as to whether the impact will be total or partial to the identified ACH; • whether the activity will be a one-off event or ongoing; • what, if any, specific values of each ACH are being impacted; • impacts to places that form part of cultural landscapes; and • local and broader cumulative impacts to ACH.
<p><i>Summary of impacts to ACH</i></p>	<p>Detailed summary of impacts from proposed activities to known ACH and will need to reference the Plan Schedule.</p>
<p><i>Managing ongoing access to ACH</i></p>	<p>Details of how the Aboriginal party will continue to maintain physical access to the ACH and agreement of access between the parties.</p>



3.7. Part G – New Information

<i>Managing new Aboriginal cultural heritage</i>	<p>Agreed measures between the proponent and Aboriginal party for managing newly discovered ACH.</p> <p>Include a dispute resolution mechanism if parties are not able to agree on how newly discovered ACH, or ACH for which there is new information, are to be managed.</p> <p>The discovery of human remains while undertaking any activity will require compliance with the Act and the <i>Coroners Act 1996</i>.</p>
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3.8. Part H – Rehabilitation and Remediation

<i>Rehabilitation and remediation</i>	<p>The rehabilitation and remediation measures that are to be put in place, where possible, for ACH that will be impacted by the activities.</p>
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3.9. Part I – Compliance with Aboriginal Cultural Heritage Management Plan

<i>Compliance with the Plan</i>	<p>These measures may include:</p> <ul style="list-style-type: none">• operational instructions and guidelines;• incorporation of internal ACH management systems;• schedules for monitoring and reporting; and• details of any specific roles and responsibilities regarding compliance.
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Example of Appendix 1. (Hypothetical Scenarios)

Example A: Quarry Construction

Aboriginal Heritage Place/Objects	Brief Description *Full description in ACH management plan (PART E)	Identification of ACH (PART E)	Attributed Value by Aboriginal persons consulted. (PART E)	How Will Place Be Impacted/managed						
				Avoid/Impact (PART F)	Determined through consultation of Aboriginal party/parties (PART C)	Level of Impact	Measures to Avoid/Minimise Impact during planning	Management Measures/Conditions to Minimise Impact (PART F)	Rehabilitation and remediation (PART G)	Informed consent (PART D)
Artefact Scatter AAA	<i>Small artefact scatter with low artefact variability and no formal tools</i>	<i>Detailed Assessment</i>	<i>Although important not considered to be of high value as the place type is common in the immediate area.</i>	<i>Full impact – location of the proposed land use quarry.</i>	<i>Construction of the quarry will destroy the place.</i>	High	<i>NA – Impact unavoidable</i>	<i>Artefacts from Artefact Scatter AAA to be salvaged and relocated as per the methodology outlined in the Plan.</i>	<i>Relocated to an area that has been agreed to by the parties.</i>	<i>Yes. Harm to ACH authorised by Aboriginal party</i>
Ethnographic Place CCC	<i>Information not released by Aboriginal party due to cultural sensitivity.</i>	<i>Detailed Assessment</i>	<i>Considered of immense significance to knowledge Holders</i>	<i>Ethnographic Place CCC will be avoided.</i>	<i>There will be no impact as Ethnographic Place CCC will marked off on plans as no go area Knowledge Holders and Aboriginal people will maintain access to Ethnographic Place CCC</i>	NA	<i>Area marked off on work plans as no-go area</i>	<ul style="list-style-type: none"> - Area marked of on plans as no-go area. - Entering no-go areas is a dismissible offence. - Routine monitoring of the no-go area by LACHS appointed monitors 	<i>The area in the vicinity of Ethnographic Place CCC will be rehabilitated with endemic species.</i>	<i>Yes. Harm to ACH not authorised by Aboriginal party</i>



Example B: Construction of a Retaining Wall

Aboriginal Heritage Place/Objects	Brief Description *Full description in ACH management plan (PART E)	Identification of ACH (PART E)	Attributed Value by Aboriginal persons consulted. (PART E)	How will Place Be Impacted/managed Determined through consultation of Aboriginal party/parties PART C	Avoid/Impact (PART F)	Level of Impact (PART F)	Measures to Avoid/ Minimise Impact during planning (PART F)	Management Measures/Conditions to Minimise Impact (PART F)	Rehabilitation and remediation (PART G)	Informed consent (PART D)
Ethnographic Place BBB	<i>Mythological site associated with a creation narrative. The extent of the ACH BBB includes the entire river from its headwaters to where it meets the Indian Ocean. Sacred entity living in the waters of the river.</i>		<i>Important to the Aboriginal persons consulted. The river continues to play an important role in customary beliefs</i>	<i>Partial impact – impact limited to a small portion of the bank due to the replacement of existing structure.</i>	<i>Building retaining wall along 75 metre section of the ACH BBB along already reclaimed area.</i>	Low	<i>Retaining wall reduced from 200m to 75 m to reduce footprint and impacts to ACH</i>	<i>Engagement of Aboriginal monitors for dredging and ground disturbance works. Should Aboriginal ancestral remains or cultural material be identified, works will cease and procedures in contingency Plan be implemented.</i>	N/A	<i>Yes. Harm to ACH authorised by Aboriginal party</i>
Shell Midden DDD	<i>A small shell midden of three different species of shell located along the bank of river.</i>		<i>Considered important by Aboriginal persons consulted – given the existing development along the river, such types of sites are extremely rare.</i>	<i>Full impact – due to proposed location of retaining wall.</i>	<i>Construction of retaining wall will require use of the land where Shell Midden DDD is located. Although project footprint has been reduced to minimise impacts to ACH, retaining wall cannot be moved to avoid this place.</i>	High	<i>NA – Impact unavoidable</i>	<ul style="list-style-type: none"> - Salvage of material located at Shell Midden DDD to be stored by XXXX group. - ACH monitoring for any subsurface material that may be revealed during the undertaking of the activity. - Erection of educational signage at the location following construction that advises of the former use of the Shell Midden DDD and its importance. 	N/A	<i>Yes. Harm to ACH authorised by Aboriginal party</i>