



Aboriginal Cultural Heritage Act 2021

PRESCRIBED TIMEFRAMES

Consultation Draft



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1. Purpose

Where a proposed activity may harm Aboriginal cultural heritage (ACH), the *Aboriginal Cultural Heritage Act 2021* (Act) establishes processes that outline the responsibilities for proponents as well as the roles for the Aboriginal Cultural Heritage Council (Council) and Aboriginal people for the management of the activities. Certain processes are required to be undertaken in accordance with timeframes prescribed in regulations.

Timeframes provide certainty of process and facilitate timely decision-making.

2. Overview

The Act has established processes for proponents who wish to carry out tier 2 activities requiring an ACH Permit (Permit) and tier 3 activities requiring an ACH Management Plan (Plan).

Prescribed timeframes apply to:

- proponents
- Aboriginal persons required to be notified for Permit applications
- interested Aboriginal parties with regards to Plan applications
- the Council.

Tier 2 activities are activities that involve a low level of ground disturbance to ACH and can only proceed through the grant of a Permit by the ACH Council.

Tier 3 activities involve moderate to high levels of ground disturbance to ACH. For tier 3 activities that are likely to cause harm to ACH, a proponent must use its best endeavours to reach agreement on a Plan with the interested Aboriginal parties within a specified period.

The Act has prescribed periods for notification and consultation for tier 2 and tier 3 activities.

Persons to be notified are defined in the Act [s107] as being:

- Each local ACH service (LACHS) that has been appointed for an area.
- Where a LACHS has not been appointed, each native title party for the area as well as a knowledge holder(s) for the area.
- Where a LACHS has not been appointed, and there is neither a native title party nor knowledge holder(s) for the area, then the native title representative body.

Interested Aboriginal party is defined in the Act [s135] as:

- Each LACHS that has been appointed for an area.
- Where a LACHS has not been appointed, each native title party for the area.
- Where a LACHS has not been appointed, and there is no native title party, the native title representative body.



3. Prescribed timeframes

	Prescribed Period	Section	Suggested Timeframe
Permits	Period for persons to be notified to respond to proponent's notice for a new Permit and extension to an existing Permit.	113(b), 122(3)(b)	20 business days
	Period for persons to be notified to respond to the Council's notice of receipt of an application for a Permit and application for an extension of an existing Permit.	118(2), 125(2)	20 business days*
	Period for Council to make a decision as to whether or not to grant a Permit or to extend an existing Permit.	119(2), 126(2)	10 business days from the closing date of the Council's notification period*
Plans	Period for interested Aboriginal parties and proponents to reach agreement on the terms of a Plan.	143(2)	100 business days**
	Period for the Council to make a decision as to whether or not to approve a Plan that has been agreed by a proponent and the Aboriginal party.	150(2)	20 business days***
	Period for Council to make a recommendation to the Minister about a Plan where there has been no agreement between the proponent and the interested Aboriginal party.	162(2)	60 business days****
	Period to respond to notice from the Council regarding its preliminary view that ACH is of State significance.	175(3)(c)	20 business days
	Period for Council to make a determination as to whether ACH is of State significance.	176(2)	25 business days

* Does not include period where the clock has been 'stopped' following the Council making a written request to an applicant seeking further information under section 116.

** Period may be extended if agreed by the proponent and interested Aboriginal party, or if imposed by the Council under section 143.

*** Does not include period where the clock has been 'stopped' following the Council making a written request to an applicant seeking further information under section 148.

**** Does not include period where the clock has been 'stopped' following the Council making a written request to an applicant seeking further information under section 158, nor the period where the Council has given notice to the parties of the offer to assist in reaching agreement under section 160.



4. Related Documents

The following documents support these guidelines:

- ACH Management Code
- ACH Management Plan Template and Guiding Notes
- State Significance Guidelines

5. Terms used

ACH	Aboriginal cultural heritage
Act	<i>Aboriginal Cultural Heritage Act 2021</i>
Council	Aboriginal Cultural Heritage Council
Plan	ACH Management Plan
Permit	ACH Permit
LACHS	Local Aboriginal cultural heritage services