

Aboriginal Heritage

# Standards and Procedures

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Aboriginal Heritage Tasmania

Natural and Cultural Heritage Division

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Department of Primary Industries, Parks, Water and Environment

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# Introduction

In August 2017 the *Aboriginal Relics Act 1975*, which governs the protection and conservation of Aboriginal heritage in Tasmania, was amended and renamed the *Aboriginal Heritage Act 1975*. The amendments addressed a number of inadequacies in the existing legislation and were informed by a series of public consultation sessions during 2016 and early 2017. Appendix A provides a summary of the *Aboriginal Heritage Act 1975* (referred to as 'the Act' in this document).

The amendments require a full review of the Act to be undertaken within three years, and that review is expected to lead to new legislation. Although the Act is only interim, it includes a number of significant changes, such as:

- Substantial increases in maximum penalties for harm to Aboriginal heritage;
- The establishment of a statutory Aboriginal Heritage Council to advise the Minister;
- More clearly specified and easier to prosecute offences; and
- New Ministerial Guidelines setting out the steps that reduce the risk of non-compliance.

Proponents are strongly encouraged to take a clear risk management approach to reduce the risk of non-compliance. Anyone whose activities might potentially harm Aboriginal heritage should consider carefully how to reduce the risks of failing to comply with the Act.

New *Guidelines* have been issued by the Minister for Environment, Parks and Heritage under section 21A of the Act. The *Guidelines* assist proponents to act responsibly and if followed, provide a defence in the unfortunate event that Aboriginal heritage is harmed.

The Act provides for the *Guidelines* to adopt any standards, rules, codes, guidelines or other documents. The adopted documents provide additional information about how landowners and proponents can meet the requirements set out in the *Guidelines*. There are some adopted documents that relate to particular industries or companies, and in the absence of specific documents, these "Aboriginal Heritage Standards and Procedures" (the *Standards and Procedures*) have been adopted. The *Guidelines* further recommend that this document should be followed in relation to the conduct of Aboriginal heritage surveys and registration of Aboriginal sites.

The *Standards and Procedures* assist proponents navigate the processes involved in identifying whether Aboriginal heritage exists and should be protected or managed. It covers the terminology used, and identifies the key parties, particularly the Aboriginal Heritage Council and Aboriginal Heritage Tasmania. It also outlines the process to be followed should a permit be required under the Act.

The *Aboriginal Heritage Standards and Procedures* replace the *Guide to the Aboriginal Heritage Assessment Process* (last published 2016).

Part A of the *Standards and Procedures* describe the framework for managing Aboriginal heritage in the context of proposals for developments, and sets out the tools for determining if Aboriginal relics are located at development sites, and whether proposed activities will impact on Aboriginal relics.

Part B addresses the technical aspects of Aboriginal heritage management and should be used when it is determined that Aboriginal relics exist, or if more work needs to be done to determine if they are present.

# Glossary and Explanation of Terms and Standard Processes

## **Aboriginal community consultation:**

Communication between the proponent and the Aboriginal community (usually via the Aboriginal Heritage Officer or AHO) in relation to any potential impact/s of a proposed development on Aboriginal heritage site/s, and how they might be avoided, mitigated or managed. Aboriginal community consultation is a standard part of all Aboriginal heritage assessments. Advice on the consultation process and who to consult with may be provided by the Aboriginal Heritage Council (See Section 12).

**Aboriginal heritage:** This phrase refers to everything covered by the term “relics” as defined in Section 2(3) of the *Aboriginal Heritage Act 1975* (see Appendix A).

## **Aboriginal Heritage Assessment Report (AHAR):**

An AHAR can comprise a desktop study, a heritage options or strategic assessment, Aboriginal heritage survey, or a combination of these to determine whether Aboriginal heritage sites are present in the proposed area. Aboriginal heritage assessment reports are carried out by Aboriginal heritage practitioners.

**Aboriginal Heritage Council (AHC):** The Aboriginal Heritage Council is established under Part 2 of the Act to advise the Minister on Aboriginal heritage issues. One of its key roles is to provide advice on new permit applications, development or research proposals, and relevant documentation including policies and the *Guidelines*. The Council anticipates discussion with proponents regarding significant proposals (see Section 1.2).

## **Aboriginal Heritage Desktop Review (AHDR):**

A desktop assessment of the project area undertaken by qualified Aboriginal Heritage Tasmania officers, to determine if the proposed development will impact on recognised Aboriginal heritage sites. A desktop review determines whether an Aboriginal heritage assessment report or permit is required.

## **Aboriginal Heritage Officer (AHO):**

A Tasmanian Aboriginal community member who is recognised by the Tasmanian Aboriginal community as

being able to liaise with the community on Aboriginal heritage matters and who also possesses the skills and knowledge required to carry out Aboriginal heritage assessment reports. An AHO is included in the definition of “Aboriginal heritage practitioner”.

## **Aboriginal Heritage Property Search (AHPS):**

The Aboriginal Heritage Property Search (AHPS) provides the first step for land owners undertaking small scale developments to determine whether they need to seek further advice about the presence of Aboriginal relics in an area. This facility undertakes a preliminary search of the Aboriginal Heritage Register (AHR) and provides a result on whether there are registered Aboriginal relics in an area or a risk of impacting Aboriginal relics. Proponents or consultants working on larger scale developments are advised to contact Aboriginal Heritage Tasmania directly. This Property Search facility details results for privately owned property of one PID.

**Aboriginal Heritage Register (AHR):** The Aboriginal Heritage Register (AHR) was launched in November 2014 to replace a number of internal systems, including the Tasmanian Aboriginal Site Index (TASI). The AHR records information about Aboriginal Heritage (AH) sites and supports many of Aboriginal Heritage Tasmania’s business processes. Information recorded for an AH site may include site recording forms/site cards, photographs, slides, spatial data, site composition and associated Aboriginal heritage assessment reports.

**Aboriginal heritage site:** Any site that bears signs of the activities of the original inhabitants of Australia or their descendants. This includes, but is not limited to, any artefact, painting, carving, engravings, arrangement of stones, midden, modified landscape, and human remains within the site. As defined in the Act, an Aboriginal heritage (AH) site is termed a ‘relic’. Relics collected under a permit granted by the Minister are registered in the AHR as an Aboriginal heritage site. All Aboriginal heritage (AH) sites have a unique identification code, for example AH1234<sup>1</sup>. The Aboriginal community may know these sites by other names.

<sup>1</sup> Prior to 2014, AH Sites were formerly known as Tasmanian Aboriginal Site Index (TASI) sites.

**Aboriginal Heritage Tasmania (AHT):**

Aboriginal Heritage Tasmania is part of the Department of Primary Industries, Parks, Water and Environment, and is responsible for administering the *Aboriginal Heritage Act 1975* and maintaining the Aboriginal Heritage Register (AHR) (Section 7). Aboriginal Heritage Tasmania also provides secretariat support to the Aboriginal Heritage Council.

**Aboriginal heritage values:** Refers to the intrinsic value of Aboriginal relics and sites to the broader community.

**Aboriginal Heritage Act 1975:** This is the new title of the *Aboriginal Relics Act 1975* and is referred to in this document as 'the Act'. The Act provides the legislative basis for the protection and management of Aboriginal heritage in Tasmania (see Appendix A).

**Consulting Archaeologist:** A professional with an honours or postgraduate degree in archaeology who is capable of carrying out archaeological fieldwork including preparation and submission of Aboriginal heritage assessment reports. A consulting or research archaeologist is included in the definition of "Aboriginal heritage practitioner". A register of consulting archaeologists and companies working in Tasmania is provided on the AHT website.

**Dial Before You Dig (DBYD):** Dial Before You Dig is a free national referral service designed to prevent damage and disruption to underground assets (see Section 4).

**Permit:** Under Section 14 of the *Aboriginal Heritage Act 1975*, permits may be granted by the Minister; (at the recommendation of the Director) to "destroy, damage, deface, conceal or otherwise interfere with a relic" (s14(1)(a)). Permits may be granted for other actions such as research. Avoidance is the preferred course of action when Aboriginal heritage sites are under threat. If avoidance is not possible, mitigation is required to demonstrate all possible consideration has been given to minimising the impact of the project activity on Aboriginal heritage before a permit is considered by the Minister.

**Property Identification Description (PID):**

The unique identifier for a parcel of land within the LIST.

**Project Investigation Area:** The project area subject to an Aboriginal Heritage Assessment Report. A development footprint (see Project Activity Area) may be within an assessed investigation area.

**Project Activity Area:** The area(s) of project activity and construction easement, alignment or footprint that will be impacted during the project.

**Proponent:** One or more individuals, private sector corporations or government bodies seeking to undertake a development project.

**Relic:** See "Aboriginal heritage". The term 'relic' is still used in the Act although its use is no longer considered contemporary.

**Tasmanian Aboriginal Site Index (TASI):**

The Tasmanian Aboriginal Site Index (TASI) was, until November 2014, the State's database that held spatial information on all recorded Aboriginal heritage in Tasmania. The TASI has now been superseded by the Aboriginal Heritage Register (AHR).

**Unanticipated Discovery Plan (UDP):**

An Unanticipated Discovery Plan (UDP) is a plan that the Aboriginal heritage practitioner provides in the Aboriginal Heritage Assessment Report (AHAR). It is a contingency plan detailing the process and procedures that should be followed if Aboriginal heritage including skeletal material is located during any stage of project works. AHT provides a UDP on its website and through the Aboriginal Heritage Property Search and Dial Before Your Dig process.

# Part A – Aboriginal Heritage Management for Proponents

Part A of the Standards and Procedures describes the framework for managing Aboriginal heritage in the context of proposals for developments, and sets out the tools for determining if Aboriginal relics are located at development sites, and whether proposed activities will impact on Aboriginal relics. The flow chart in Section 2 provides a 'map' of the procedure for proponents and landowners, and Part A describes each of the tools in more detail.

Part A will assist project proponents determine whether they need to progress to the technical guidance provided in Part B.

**No fees apply for any application to AHT for advice, guidance, lodgement or permit application.**

## I Aboriginal Heritage Management Framework

Aboriginal heritage management is underpinned by four key elements:

- The *Aboriginal Heritage Act 1975* (the Act)
- The Aboriginal Heritage Council
- Aboriginal Heritage Tasmania
- Guidelines issued by the Minister.

### I.1 The Aboriginal Heritage Act 1975

The *Aboriginal Relics Act 1975* has been amended and renamed the *Aboriginal Heritage Act 1975* following the proclamation of the *Aboriginal Relics Amendment Act 2017*. The amendments were informed by a series of public consultation sessions during 2016 and early 2017.

Included in the Act is provision for a statutory review after three years (see section 23). It is anticipated that this will lead to new legislation to replace the current Act. While the Act in its current form is not perfect, the amendments have removed the unnecessary elements of the previous *Aboriginal Relics Act 1975*.

The most important provisions of the Act are outlined in Appendix A.

### I.2 The Aboriginal Heritage Council

The Aboriginal Heritage Council (AHC) is an autonomous statutory body established under Part 2 of the Act. It comprises no more than 10 Aboriginal persons appointed by the Governor on the recommendation of the Minister. The key function of the Council is to advise the Minister on Aboriginal heritage matters (See section 3 of the Act). The AHC supersedes a non-statutory body of the same name that was established in late 2012.

The AHC plays a key role in the consultation process with Tasmanian Aboriginal people. The previous Council engaged with proponents as early as possible to ensure that appropriate consultation occurred, and to facilitate efficient and timely recommendations if a permit decision was required. This practice will continue under the new statutory Council.

For large and/or significant projects, and those projects involving new or redesigned interpretation, it is best to consult the AHC during the pre-design stage. Early consultation will ensure the right framework for assessing options and avoiding Aboriginal heritage sites is developed. In cases where there is no or little impact to Aboriginal heritage, the AHC has recommended that consultation with the Aboriginal community is not required (See section 12.2).

The AHC meets at the end of each month and makes every effort to provide advice on Aboriginal heritage permit-related matters and development or research proposals within seven working days of its meeting.

The AHC examines Aboriginal heritage permit applications and determines whether they should be supported. The Minister then considers the AHC advice, along with advice provided by the Director of National Parks and Wildlife.

Information about the AHC can be found on the AHT website.



### **1.3 Aboriginal Heritage Tasmania**

Aboriginal Heritage Tasmania (AHT) is located within the Department of Primary Industries, Parks, Water and Environment (DPIPWE). It provides professional and technical expertise to support the Minister for Heritage, as well as the Aboriginal Heritage Council and the Director of National Parks and Wildlife in their administration of the Act.

AHT ensures that archaeological consulting work undertaken in Tasmania adheres to best practice standards. DPIPWE, the AHC and the Minister rely on reports produced by Aboriginal heritage practitioners to make decisions concerning the protection and management of Aboriginal heritage. It is essential that consultant reports are of the required standard to enable decisions to be made efficiently, effectively and accurately.

AHT also provides executive support to the AHC, as well as administering the Aboriginal Heritage Property Search, maintaining the Aboriginal Heritage Register, and conducting Aboriginal heritage awareness training.

### **1.4 The Guidelines issued by the Minister**

The *Guidelines* summarise the steps towards compliance for proponents of significant projects, i.e. farmers; and householders and private citizens; persons entering “protected sites” declared under section 7 of the Act; as well as the documents adopted under section 21A(3)(b) of the Act (hereon referred to as ‘adopted documents’).

Under section 21(A), the Minister must issue guidelines setting out “the actions to be undertaken by a person for the purpose of establishing a defence [against alleged contraventions of the Act] in accordance with section 21”.

### **21. Defence of compliance with guidelines**

(1) *It is a defence to a prosecution for an offence under section 9 or 14 [ie the provisions relating to harm to Aboriginal heritage] if, in relation to the section of the Act which the defendant is alleged to have contravened, it is proved –*

(a) *that, in so far as is practicable –*

(i) *the defendant complied with the guidelines ...*

The purpose of the *Guidelines* is to encourage compliance and avoid any need for prosecution by assisting businesses and individuals minimise their compliance risks.

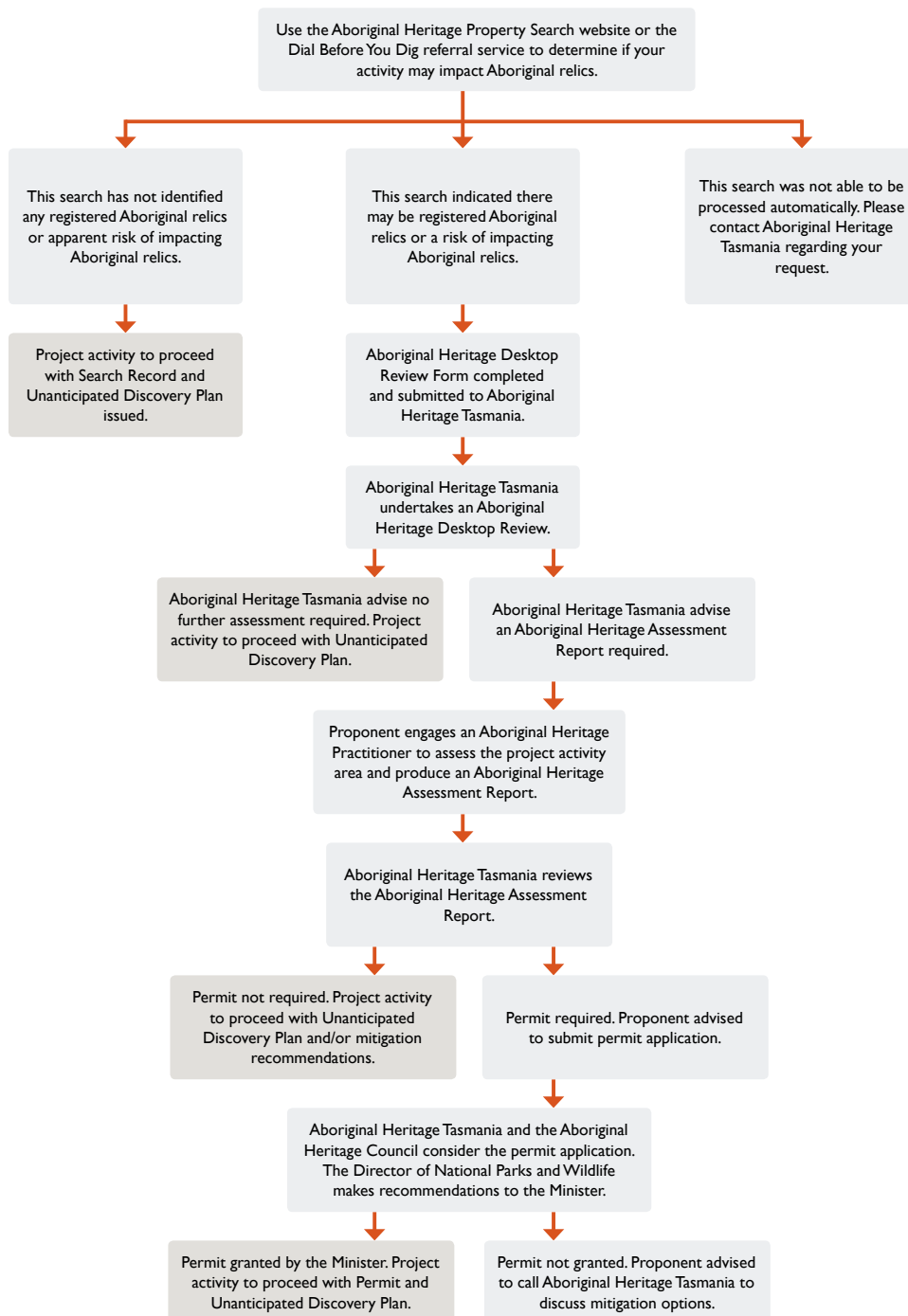
The *Guidelines* may adopt “any standards, rules, codes, guidelines or other documents”, and compliance with an adopted document will be taken to be compliance with the *Guidelines*.

If a proponent complies with the *Guidelines*, or with any adopted document identified in the *Guidelines*, they can be confident they are acting in accordance with the Act. These *Standards and Procedures* have been adopted by the *Guidelines*.

## 2 Aboriginal Heritage Assessment Procedure

The due diligence part of the Aboriginal heritage assessment procedure is depicted in the summary flowchart below. The flowchart sets out the path by which a proponent manages any potential Aboriginal heritage constraints to the project activity, including the process to obtain a Aboriginal Heritage Desktop Review.

**No fees apply for any application to AHT for advice, guidance, lodgement or permit application.**



### 3 Aboriginal Heritage Property Search (AHPS)

The Aboriginal Heritage Property Search website provides the first step for land owners to determine whether there is a need to seek further advice about the presence of Aboriginal relics in an area.

The website undertakes a preliminary search of the Aboriginal Heritage Register and provides a result on whether there are registered Aboriginal relics in an area or a risk of impacting Aboriginal relics. It is important to check the Property Search website before undertaking activities that may impact on Aboriginal relics.

#### **The Property Search website is intended mainly to assist small scale developments.**

Proponents or consultants working on public land or larger scale developments are advised to contact Aboriginal Heritage Tasmania directly.

The Property Search website provides the best available information about the presence of relics in Tasmania, however, the records are not complete. Obtaining a Search Record from this website does not exempt a person from their responsibilities under the *Aboriginal Heritage Act 1975*. Under the Act it is an offence to interfere with relics and there is an obligation to report findings of relics.

For further information please contact Aboriginal Heritage Tasmania on **1300 487 045** or at **aboriginal@heritage.tas.gov.au**.

The Aboriginal Heritage Property Search website is available at **www.aboriginalheritage.tas.gov.au/propertysearch**

### 4 Dial Before You Dig Service

Dial Before You Dig acts as a single point of contact for information about underground networks at excavation sites so that landowners do not need to contact each utility organisation individually. The Dial Before You Dig referral service also assists land owners determine whether there is a need to seek further advice about the presence of Aboriginal relics in an area.

Clients detail their excavation location to Dial Before You Dig and the service passes the referral to the affected asset owners. The asset owners then send information directly to the client generally within two business days.

Aboriginal Heritage Tasmania has automated internal services to direct referrals from Dial Before You Dig through a workflow, the Aboriginal Heritage Property Search website. The Aboriginal Heritage Property Search website undertakes a preliminary search of the Aboriginal Heritage Register and provides a result on whether there are registered Aboriginal relics in an area or a risk of impacting Aboriginal relics. The website contacts the client and advises if any registered Aboriginal relics or apparent risk of impacting Aboriginal relics has been identified.

Clients whose activities are unlikely to impact registered Aboriginal relics are provided with a Search Record and an Unanticipated Discovery Plan as confirmation.

Clients with an increased risk of impacting registered Aboriginal relics are also provided with a Search Record and Unanticipated Discovery Plan as confirmation. Clients are advised that caution must be applied when undertaking works.

Clients who are likely to impact registered Aboriginal relics are asked to provide further details to initiate a Aboriginal Heritage Desktop Review by Aboriginal Heritage Tasmania.

Dial Before You Dig is available at **www.1100.com.au**

## 5 Aboriginal Heritage Desktop Review (AHDR)

### 5.1 Aboriginal Heritage Desktop Review

The Aboriginal Heritage Desktop Review Form initiates a desktop review that will be assessed by Aboriginal Heritage Tasmania. This form is required if:

- **the property is comprised of more than one (1) Property ID or for large scale developments or activity; or**
- **the development or activity is occurring on public land; or**
- **the proposed area for development or activity may intersect with registered Aboriginal relics or risk impacting Aboriginal relics.**

The proposal in a desktop review is assessed by AHT to determine if the activity is likely to impact on both registered and potential Aboriginal heritage. AHT relies on the proponent providing comprehensive information, including digital spatial data and a non-technical description of the activity.

The information provided by proponents should include all proposed activities within the project investigation area, together with the information held in the AHR to determine if further action is required to ensure compliance with the *Aboriginal Heritage Act 1975*.

Aboriginal Heritage Desktop Reviews can result in the following outcomes:

- (a) **Aboriginal Heritage Property Search Record** provided stating Aboriginal heritage is unlikely to be impacted, and apart from agreement to implement the Unanticipated Discovery Plan (UDP) if necessary, no further action is required;

OR

- (b) **Aboriginal Heritage Property Search Record** provided stating there is increased risk of impacting Aboriginal relics in this area and that caution must be applied when undertaking works. The applicant will be required to implement the

Unanticipated Discovery Plan (UDP) if necessary;

OR

- (c) Further information on the likelihood of Aboriginal heritage within the project investigation area is required and an Aboriginal heritage assessment report (AHAR) undertaken by a consulting archaeologist and AHO is recommended to identify any impacts to Aboriginal heritage and the mitigation options that could be implemented;

OR

- (d) In rare cases, where there is already sufficient information about the extent of Aboriginal heritage and the specific impact to that heritage, an Aboriginal heritage permit is required.

The Aboriginal Heritage Desktop Review form can be accessed on the AHT website or is emailed to the proponent following the result of Property Search and once completed, can be submitted to [Aboriginal@heritage.tas.gov.au](mailto:Aboriginal@heritage.tas.gov.au).

### 5.2 Aboriginal Heritage Desktop Review Requirements

All applicants using the AHDR form are required to provide a detailed description of the proposed development or activity including all associated ground disturbance or excavation activities (Section 5 of the form). **An applicant should include details to identify the footprint and where on the property the development or activity will take place.**

The AHDR form should include description of all technical or general activities proposed, including multiple project boundary areas and any potential stockpiles, site offices, utilities or vehicle turnarounds.

The minimum map/supporting information requirement for desktop review applications as indicated in section 6 of the form is an aerial image showing the footprint of the development or activity. It is strongly recommended that (where available) the applicant submit a project activity area boundary in GDA94 shapefile format to AHT to determine the activity in relation to the

boundary of any Aboriginal heritage registrations that may be impacted.

AHT recommend providing digital spatial and image data if available to enable effective assessment. Digital data should be supplied in zipped format.

If the desktop review form cannot be assessed because of inadequate information, it may be returned to the proponent and result in delays to the Aboriginal heritage review process. A desktop review can take up to 10 working days to process, depending on AHT workloads.

### **5.3 Project can proceed with Unanticipated Discovery Plan**

The Unanticipated Discovery Plan (UDP) establishes the process for those dealing with unanticipated discoveries of Aboriginal cultural heritage. The Plan, which is set out in two sections, provides guidance for managing unexpected Aboriginal cultural heritage under the *Aboriginal Heritage Act 1975* and the *Coroners Act 1995*. The first section explains mitigation strategies that can be employed when any Aboriginal heritage sites are discovered, but where there are no skeletal remains uncovered. The second section deals specifically with skeletal remains (burials).

#### **A UDP in isolation does not constitute due diligence under the Guidelines in relation to Aboriginal cultural heritage.**

Proponents are strongly advised to minimise the risks of impact to Aboriginal heritage by first submitting an Aboriginal Heritage Desktop Review to AHT or using the Property Search website or Dial Before You Dig service. AHT issues the UDP when the desktop review indicates there is a low likelihood of further Aboriginal heritage assessment. The UDP is also issued for review assessments where no sites are recorded but there may be an increased risk of impacting Aboriginal sites within the area. Proponents should note that the relevant Aboriginal Heritage Information Sheets (Aboriginal site information is also summarized in the UDP) can be used as a basic Aboriginal heritage identification tool during the life of a project; as part of an Environmental Management Plan (EMP) or cultural heritage awareness program for the project. Demonstrated use of the UDP,

information sheets and other cultural heritage awareness resources during the construction phase of the project can provide an effective due diligence tool for both proponent and their contractors. The UDP also forms part of an Aboriginal heritage permit issued by the Minister under the Act.

AHT strongly advises proponents not to commence any project construction using a UDP – where there is potential impact to known registered Aboriginal heritage within a project boundary – until the Minister has determined the permit outcome.

# Part B – Technical Assessment

Part B describes the steps that need to be taken once it has been determined that an Aboriginal Heritage Assessment Report and/or permit is required. Appendix B sets out the overall Aboriginal heritage assessment procedure and assists proponents and landowners navigate through the process.

As noted in Part A, proponents need to consider the potential impact of a project activity on Aboriginal heritage early in the planning process. Large scale projects should be discussed with Aboriginal Heritage Tasmania (AHT) and the Aboriginal Heritage Council (AHC) prior to design.

**No fees apply for any application to AHT for advice, guidance, lodgement or permit application.**

## 6 Engaging an Aboriginal Heritage Practitioner

### 6.1 Aboriginal Heritage Practitioners

Consulting archaeologists (including heritage consultants more broadly) and Aboriginal Heritage Officers (AHOs) are consultants who are recognised as Aboriginal Heritage Practitioners in the assessment process. Throughout the *Standards and Procedures* they are generally referred to as consulting archaeologist/AHO.

Once the desktop review has been completed, AHT will advise the proponent if a report should be prepared by a consulting archaeologist accompanied by an AHO. Depending on the level of engagement by the proponent, the role of the Aboriginal heritage practitioner should include:

- Conducting searches of the AHR to clarify Aboriginal site registrations prior to undertaking the Aboriginal Heritage Assessment Report;
- Undertaking an Aboriginal field assessment, including Aboriginal community consultation;
- Providing a report and mapping of Aboriginal

heritage values located during the on-ground assessment which describes the impacts of the proposed development, mitigation options, and any legal obligations; and

- If required, preparing permit application documentation.

### 6.2 Consulting Archaeologist

A proponent wishing to engage a consulting archaeologist or heritage consultant can review the Register of Consulting Archaeologists on the AHT website. The Register is maintained by AHT and amendments to a listing should be emailed to [aboriginal@heritage.tas.gov.au](mailto:aboriginal@heritage.tas.gov.au).

It is considered best practice for a consulting archaeologist to be accompanied by an AHO while undertaking an Aboriginal heritage assessment report (field survey). This is based on the Australian Archaeological Association and Australian Association of Consulting Archaeologists Inc (AACAI) Code of Ethics for members.

Because of the requirement for the AHO to provide Aboriginal community consultation, including specific recommendations for the draft Aboriginal heritage report prior to review by the proponent, it is advisable that the proponent engage both the AHO and a consulting archaeologist from the outset of the project and allow an adequate project timeframe for consultation with the Aboriginal community.

Proponents engaging a consulting archaeologist should note that:

- AHT cannot recommend a consultant on this list. A proponent should consider the statements of expertise in the Register and seek more than one quote. Consultants on this list may or may not be members of the Australian Association of Consulting Archaeologists Inc. (AACAI) or Australia ICOMOS<sup>2</sup>. Non-membership does not preclude engagement of a consulting archaeologist listed.

<sup>2</sup> International Council of Monuments and Sites

- When selecting a consultant you should provide them with a brief/Request for Quote (RFQ).
- The consultant should respond to that work offer by completing a proposal including a capability statement, and testimonials from clients or demonstrated evidence of past projects that demonstrate their ability to complete the Aboriginal heritage assessment report within a set timeframe and an acceptable price.
- The consulting archaeologist should demonstrate the ability to provide the Aboriginal heritage assessment in accordance with the *Aboriginal Heritage Standards and Procedures*.
- The consultant should provide a clear indication of exclusion and/or limitations in relation to outputs and work program, project costs, site registration preparation costs and costs of engaging the Aboriginal Heritage Officer (AHO) for the project.

### 6.3 Consulting Aboriginal Heritage Officer

An AHO is a Tasmanian Aboriginal community member whose key role is to liaise with the Aboriginal community, and who possesses the ability to provide or facilitate the cultural significance assessment. AHOs also have suitable skills to undertake or facilitate Aboriginal heritage assessment.

**AHT cannot recommend an AHO to a proponent or consulting archaeologist. A consulting archaeologist may propose the services of an AHO, or a proponent may appoint an AHO.**

The Register of Consulting AHOs working in Tasmania can be found on the AHT website.

Proponents should be aware that AHT does not verify the reliability or otherwise of an AHO statement in relation to skills or capabilities. AHT recommends that the proponent seek project testimonials and/or a capability statement in order to determine the capacity of the AHO to do the work required.

**AHT strongly recommends that the proponent engage the AHO at the time the consulting archaeologist is engaged, and that the consultation report/section is provided by the AHO as part of the final draft submitted to AHT for review.**

## 7 Aboriginal Heritage Register (AHR)

### 7.1 Purpose

Aboriginal heritage sites and associated data are recorded in the Aboriginal Heritage Register (AHR). The purpose of the AHR is to manage reported Aboriginal site registrations with respect to Section 10 (3) of the *Aboriginal Heritage Act 1975* wherein: 'A person shall, as soon as practicable after finding a relic, inform the Director or an authorized officer of the find'.

## 8 AHR Search Process

### 8.1 Search requirements

An AHR search is usually undertaken following the Aboriginal Heritage Desktop Review. It is the process by which an application is made to AHT for access to data which is held in the AHR. An AHR search is usually the responsibility of the consulting archaeologist, however, it can also be undertaken by the proponent, planning consultant, researcher or AHO. An AHR search is undertaken to inform an Aboriginal heritage assessment report prior to fieldwork being undertaken. Evidence of a dated AHR search process prior to the field survey date will be required for the AHAR to be accepted by AHT. It is strongly recommended that the consulting archaeologist/AHO schedule a time to review AHR reports and/or site records at AHT in order to minimise re-recording of registered Aboriginal sites in the project investigation area.

A search before any on-ground assessment is undertaken will ensure that the consulting archaeologist/AHO and the proponent are advised of previous

heritage assessments and existing Aboriginal sites that fall within the project investigation area. This will enable the consulting archaeologist/AHO to consider existing site registrations and discuss any potential spatial registration matters with AHT prior to the field assessment.

A project investigation area buffer (e.g. within 2 km of the project investigation area) should be specified by the consulting archaeologist/AHO when requesting AH site cards and reports for the search application.

## 8.2 Search results

An AHR search may take up to 10 working days to complete. The AHR search application form is located on the AHT website and should be submitted to [aboriginal@heritage.tas.gov.au](mailto:aboriginal@heritage.tas.gov.au). If the AHR Search form is incomplete, it may be returned to the person who lodged the request, which could cause a delay in processing the application.

Large data requests or requests resulting in the potential release of confidential data are to be submitted via the search form with a statement of justification and will be considered by AHT and the AHC on a case-by-case basis.

Information which is typically accessed from the AHR includes Aboriginal heritage spatial data, site cards and previous investigation reports. Because of copyright laws, previous survey reports can only be viewed by attending the AHT offices, and an appointment is required.

AHT will provide an A3 map and excel spreadsheet showing the location and details of recorded Aboriginal sites within and/or surrounding the project investigation area. Please note that:

- AHT provides this map for research purposes only and cannot be used for any other purpose without written permission from AHT.
- Aboriginal heritage site information supplied is confidential and not for public dissemination. Coordinates are in MGA Zone 55.
- The site location information provided will vary in accuracy depending upon factors such as the date of recording, equipment used and the skills of

the recorder. As a result, site location information provided by AHT may be between 250m to 10m from the site location on the attached map.

## 9 Aboriginal Heritage Assessment Report

An Aboriginal Heritage Assessment Report (AHAR) is a field survey or other type of report assessment of the project investigation area. The project investigation area is usually a larger survey area or project corridor within which development footprints/construction easement(s) may be located. The project activity may or may not fully or partially impact on known or potential Aboriginal heritage within the wider project investigation area.

A field assessment/survey is undertaken to establish whether the proposed development may impact an Aboriginal relic. Under the Act (see Appendix A), it is an offence to *destroy, damage, deface, conceal, or otherwise interfere with a relic* unless a permit is granted by the Minister. An AHAR assists proponents to avoid contravening the Act.

Prior to undertaking an AHAR, a survey methodology needs to be established by the consulting archaeologist/AHO. For larger projects this may involve the AHC as well via the AHC Briefing. This methodology will depend primarily on the type of development the proponent is proposing. To assist in developing the survey methodology, *Archaeological Survey* (Banning 2002) or *The Archaeologist's Field Handbook* (Burke and Smith 2004) are useful guides.

The usual method of conducting an Aboriginal heritage survey is by walking transects over the area under investigation. During the survey, the consulting archaeologist/AHO is expected to record any and all evidence of Aboriginal occupation in the survey area using an AHR Site Recording Form available on the AHT website.

Once a field assessment or other type of study has been completed, the consulting archaeologist prepares a report describing the results (including if Aboriginal heritage is not located or is relocated) and provides



recommendations to the proponent, AHT, and the Aboriginal community so that any necessary protection and management strategies for Aboriginal heritage sites can be prescribed. The requirements of an Aboriginal heritage assessment report are discussed further in Section 11.

## 10 Aboriginal Heritage Site Registration

The Aboriginal Heritage Register (AHR) Site Recording Form should be completed for all newly identified Aboriginal heritage (AH) sites and for previously recorded and revisited sites within the project activity area.

**Please Note:** AHT will not accept site registrations not accompanied by polygon data unless the site is registered as an isolated artefact. Polylines are not accepted for site registration.

The AHR Site Recording Form can be found on the AHT website and should be submitted in full, including all relevant images and site plans to

**Aboriginal@heritage.tas.gov.au**. Image data should be supplied for registrations as per Appendix D and site spatial data for sites as per Appendix E.

AHR site recording forms are to be completed for all Aboriginal heritage sites in the Investigation Area **revisited** or **reinspected** during fieldwork to ensure the integrity of the AHR dataset. This process is very important as:

- It ensures AHR legacy data is revised;
- the site condition is documented to current standards;
- it enhances the dataset for the Aboriginal community;
- enhances future heritage assessment by consulting archaeologists/AHOs working in the region; and
- provides clearer legal site boundaries in the AHR (polygons).

AHT would expect that consulting archaeologists/

AHOs provide Aboriginal heritage site registrations on the AHR Site Recording Form. The Aboriginal Heritage Site Reporting Form is intended for use by persons not familiar with recording Aboriginal heritage sites.

### 10.1 Site Registration

**AH site numbers are only issued by AHT.**

Once the Aboriginal heritage practitioner has filled out the AHR Site Recording Form and AHT has emailed the applicant with registration approval, the site is registered in the AHR and a unique number (with an AH prefix) is designated. AHT will not issue AH site numbers until site recording forms are complete and data supplied in accordance with these *Aboriginal Heritage Standards and Procedures* and submitted to

**Aboriginal@heritage.tas.gov.au**. Final copy reports, permit applications and other documentation require AH site registration numbers.

### 10.2 Timeframe

The registering of new AH sites may take up to five working days to complete. AHT will advise if this timeframe is to be extended due to the number of sites recorded or the existing volume of registrations. Should the site recording form not be completed satisfactorily, it may be returned to the applicant for further information or clarification. This could cause a delay in the issuing of AH site numbers.

### 10.3 Site Re-Recording

The AHR Site Recording Form requires the consulting archaeologist/AHO to complete a site record for existing sites revisited within the project investigation area. Re-recording of Aboriginal heritage sites is important in order to avoid and mitigate any potential impacts on Aboriginal heritage. Where sites are not able to be re-located, the consulting archaeologist/AHO must provide justification in the site card and AHAR.

### 10.4 Site Deregistration

Any request for site deregistration must be made in writing to the Director of Aboriginal Heritage Tasmania. Deregistrations will be reviewed by AHT and will be

made available to the AHC. Once a deregistration is approved by the Director (AHT) the site registration status will be updated in the AHR.

## **11 Aboriginal Heritage Assessment Reports**

### **11.1 Minimum Standards**

Aboriginal heritage practitioners who have been engaged by a proponent to conduct an Aboriginal Heritage Assessment Report (AHAR) are required to submit a final draft report of their findings to AHT for review before any further action is undertaken.

Regardless of whether any sites are identified during an investigation, final draft reports should be completed and lodged with AHT. Section 11 describes the minimum standard that is required.

It is important that reports are of a high standard and include spatial mapping, site data, consultation and management recommendations. This information may be required by a proponent in the event that a permit application is necessary. All Aboriginal heritage practitioners are reminded that report content and Aboriginal site data should be treated as confidential. It is an expectation when writing reports that all Aboriginal heritage practitioners are familiar with the Australia ICOMOS Burra Charter, 2013 and associated guidelines, in particular the *The Burra Charter and Indigenous Cultural Heritage Practice Note (Version 1 November 2013 and subsequent versions)*.<sup>3</sup>

### **11.2 Report Types**

In some cases it may be appropriate to change the recommended AHAR format or provide detailed technical information as an addendum to a report. AHT should be contacted to discuss report and review requirements where a proponent commissions a report from an consulting archaeologist/AHO that does not meet the field assessment format. Examples may include:

- desktop/due diligence report

- regional study
- feasibility study
- option/multi-criteria analysis assessment
- artefact analysis
- Sub-surface testing report
- Salvage excavation report

AHT requests that reports that are commissioned following initial investigations are addendum reports (e.g. for sub-surface testing).

### **11.3 Report components**

#### **11.3.1 Cover Page**

The cover page should include the following information:

- Report title (this should be consistent across versions and permit application if required)
- Author/s - AHPs (AHO(s) contributing to the report should be listed here)
- AHP - company/organisation
- Name of proponent
- Proponent - company/organisation
- Postal address
- Date of report (DD/MM/YYYY) (see version control)
- Report version (see Section 11.3.2)
- Report status (draft, final draft or final)

#### **11.3.2 Quality Assurance**

The report should provide a version control and review history that indicates quality assurance (QA) has been applied to the report. The following check list indicates the details that are required to demonstrate QA processes and version control:

- Version number
- Reason for review

<sup>3</sup> The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013

- Status of report (draft, final draft, final)
- Prepared by
- Reviewed and recommended by
- Authorised by
- Issued date

A copies distribution table should also be provided to indicate distribution of the report to all parties, including Aboriginal communities and individuals consulted.

**Quality control and report editing to minimise typographic and format errors is the responsibility of the report author(s). Excessive report errors will result in the report being returned by AHT.**

### 11.3.3 AHAR Executive Summary

The AHAR executive summary should be brief and in plain language so that proponents and approval authorities can quickly and clearly understand the results of the AHAR and implications regarding management of potential impact to Aboriginal heritage under the Act.

The summary should be between one to four pages (pages i-iv) and include the following sub-headings:

- Project background, including who commissioned the AHAR, project aims and the personnel involved;
- Desktop results - an account of the desktop investigation;
- Field survey results - an account of the results of any field survey in summary/tabular format;
- Impact assessment – an account of any full or partial impact the development may have on Aboriginal sites within the project investigation area and/or project activity area. Reference is to be made to the report project activity map and the location of any registered Aboriginal heritage sites within the project investigation area; and
- Management recommendations based on the report results in summary/tabular format

### 11.3.4 Contents

Provide page references for sections, sub-sections and attachments as appropriate. Provide separate lists for tables, figures and images.

### 11.3.5 Introduction

The introduction should include the following information:

- The reasons for the project;
- Who commissioned the project;
- A map of Tasmania showing the location of the project investigation area;
- Where the project was conducted;
- Project aims;
- Timing and stages of the project; and
- All persons involved and consulted

### 11.3.6 Project Activity Description

The report is to provide clear and relevant information about the nature and extent of the proposed activity in order for AHT, the AHC and the Minister responsible for the Act to effectively assess the scope of potential impact on Aboriginal heritage.

This section must include:

- A detailed description of the nature of the proposed activity as well as the likely impact on the surface of the land and buried former land surfaces in relation to potential impact on Aboriginal heritage;
- A description of any ancillary works, utilities or additional areas of land associated with the activity; and
- The description of the activity should provide technical detail that can be read and understood by non-experts.

It is strongly recommended that the activity is referenced to a report map(s) and photographs to provide AHT and the AHC with a visual indication of the activity area.

### 11.3.7 Background Information

The background information for the report should include separate sections on the environmental, ethno-historical and cultural context of the project activity or investigation area. It should be presented as an aid to the study for the purposes of designing a survey methodology, preparing predictive statements or models and interpreting the survey results.

**Background information included in the report should be specific to the project area and should not include general historic or ethnographic discussion that is not relevant to the investigation area.**

### 11.3.8 Site Prediction

The AHAR should clearly state that the likelihood of Aboriginal heritage within the project area has been determined via a predictive statement or through the use of a predictive model

#### 11.3.8.1 Predictive Statements

When Aboriginal heritage practitioners assess Aboriginal heritage likelihood, site density or distribution of sites in the landscape on the basis of desktop review or a literature search, this is referred to as a predictive statement. A predictive statement is a professional opinion based on experience and knowledge of pre-existing conditions. It should not be used to constrain or modify an investigation.

#### 11.3.8.2 Predictive Model

In contrast, a predictive model is a result of a modelling process where the probability of the presence/absence of Aboriginal sites is determined using sampling/statistical methods in conjunction with a research design. For large projects, AHT may recommend that a predictive model be developed using sampling/statistical methods or a preliminary landform unit assessment to obtain information on the likelihood of Aboriginal heritage being present within a large investigation area. Such models are testable and verifiable and should be so tested and verified in the course of the Aboriginal heritage assessment process.

### 11.3.8.3 Potential Area of Sensitivity (PAS)

During the course of an AHAR, the consulting archaeologist/AHO may determine that an area of land or landform unit within, or extending beyond, the boundaries of a project investigation area is a Potential Area of Sensitivity (PAS). Areas of PAS are to be defined in the report and presented in tabular format with images representing each area/type of landform unit.

### 11.3.9 Environment

A description of the project investigation area based on LIST data is required. This should be in tabular format. Provide information here relevant to past human behaviour, site formation and taphonomic processes that cover:

- Geology – stone tool resources
- Geomorphology – past human habitats
- Past and current vegetation – flora resources
- Landscapes – animal resources and human interactions

### 11.3.10 Historical

This section refers to ethnographic accounts and historical documents as well as any oral histories of the project investigation area. Only include contextual information specific to the project area. Assessment of the reliability of the ethno-historical and historical sources should be provided.

### 11.3.11 Land Use History

The consultant archaeologist/AHO is to provide a description of land use history to indicate possible post-depositional impacts/disturbances to Aboriginal sites for the project activity area.

### 11.3.12 Previous Aboriginal Heritage Investigations

AHT maintains over 2,000 reports on Aboriginal heritage projects undertaken in Tasmania. Reports relevant to the project activity area can be made available to consulting archaeologists/AHOs who book an appointment with AHT.

The AHAR should contain a table summarising all previous Aboriginal heritage studies and surveys undertaken and relevant to the project investigation area. The information gathered by the consultant/AHO from these reports should be summarised here. The summary should identify relevant considerations regarding Aboriginal site type and location, and qualifying information regarding the nature of prior assessments that may have a bearing on the proponent's activity.

### 11.3.13 Previously Recorded Aboriginal Heritage Sites

Indicate any Aboriginal sites that have been recorded for the project area, and identify if there are none. Following AHT search results, list each Aboriginal heritage previously recorded in table format including:

- AH Number
- Site Name
- Site Type
- Description
- Report/Source
- Distance from proposed activity footprint
- Significance/Interpretation

### 11.3.14 Research Design and Field Methods

This section should outline and justify the survey strategy and provide a description of the field methods employed. The nature of the methodology may be used by AHT as an indication of the accuracy of the results. The description should include:

- Timing;
- Personnel;
- Survey methods used (e.g. transects, quadrants, targeted areas);
- Field recording methods used (e.g. definitions of site boundaries, recording site contents, quantifying site contents, assessing condition of site preservation and condition, and the means used to record features and specific elements);

- Limitations (e.g. the influences of weather on efficiency of observations and ground surface visibility);
- Dating technique (where applicable); and
- For reports on sub-surface investigations, the testing strategy used.

### 11.3.15 Effective Survey Coverage

Effective coverage is an important aspect of the Aboriginal heritage assessment process, particularly for larger scale field assessments.

Table 1 depicts the recommended approach to define effective survey coverage for Aboriginal heritage assessment reports.

AHT encourages reference to vegetation cover instead of ground surface visibility. Identifying exposure type will assist in the recall of landform at the time of survey. Record landform types (as per the LIST and AHR Site Recording Form) and percentage as well as vegetation cover and exposure type and amount.

The results of the effective survey coverage table should also inform the assessment of landforms that were identified as moderate to high archaeological sensitivity from the predictive statement/model.

Effective coverage (Ec) variable can be defined as **Ec = m2 x e x vc**. For example, the first survey transect is 28,000 x .8 x .5 = 11,200 or 40% per cent effective survey coverage.

| Area/<br>Transect No<br>(m2) | Geomorphic<br>Unit | Landforms              | Exposure<br>Type (%)                 | Vegetation<br>Cover % | Effective Coverage<br>in m2 (% of Transect<br>Total ) | Sites Found<br>– AHR<br>Registration |
|------------------------------|--------------------|------------------------|--------------------------------------|-----------------------|---|--------------------------------------|
| Transect 1<br>(28,000)       | Dunefield          | Dune slopes<br>& crest | Sheet/wind/<br>vehicle track<br>(80) | 50                    | 11,200 (40)   | Nil                                  |
| Transect 2<br>(88,000)       | Dunefield          | Undulating<br>land     | Sheet/wind/<br>vehicle track<br>(80) | 25                    | 52,800 (60)   | AHXXXXXX,<br>AHXXXXXX                |
| Transect 3<br>(28,000)       | Dunefield          | Dune slopes<br>& crest | Sheet/wind/<br>vehicle track<br>(80) | 70                    | 4,200 (15)  | Nil                                  |
| Transect 4<br>(50,000)       | Sandsheet          | Plain                  | Sheet/wind/<br>vehicle track<br>(80) | 25                    | 30,000 (60)   | Nil                                  |

If using ground surface visibility for site registrations and landform units, the following applies:  
*no visibility = 0%; Low = 25%; Medium = 50%; High = 75%; Full = 100%.*

*Table 1 Effective Survey Coverage*

## 11.4 Results

The results of the fieldwork should be clearly presented, using AH site registration numbers issued by AHT. Reports containing field designations instead of AH site registration numbers will be returned to the consulting archaeologist/AHO. Report mapping should indicate field transects undertaken by the consulting archaeologist/AHO. The results should include:

### Evidence of effective survey coverage

- a labelled and scaled figure showing GPS transects; and
- a table outlining the size of the investigation area, number in transect team, length of transects with width of visual coverage, and average visibility.

### All Aboriginal sites recorded/relocated during fieldwork

- a labelled and scaled figure showing the location and boundaries of all Aboriginal heritage site registrations in relation to the project investigation area and activity area;
- a full description of each site whether newly recorded or previously recorded (i.e. type, size, content and condition);
- rationale justifying why prior AH registrations in the investigation area could not be relocated (if necessary)
- accompanying images (figures); and
- detailed figures of more complex sites.

### For sub-surface investigation reports only:

- a labelled and scaled map/figure showing the location of testing sites;
- labelled and scaled drawings of test/excavation pits; and
- artefact analysis report section.

## **11.5 Interpretation and Discussion**

The level of interpretation and discussion will vary depending largely on the aims and results of the fieldwork, and it is expected that reports with null results will provide comment around lack of Aboriginal heritage values for the investigation area.

The interpretation and discussion should include:

- an explanation of site/s recorded or re-recorded (or not found) taking into consideration effective survey coverage, visibility, environment (e.g. geology, geomorphology, vegetation, climate, landscape), and post depositional process;
- an interpretation of the results based on Tasmanian Aboriginal people's use of the project investigation area;
- relevant comparisons to previous studies (those referred to in the background information);
- evidence that the previously presented predictive statement or model was true or false;
- identification of areas of known or potential Aboriginal heritage sensitivity, including an account of the likelihood of sub-surface relics; and
- a detailed discussion of any known or potential threats to Aboriginal heritage values.

## **12 Aboriginal Community Consultation**

### **12.1 Principles of Aboriginal consultation**

Appropriate Aboriginal consultation for the level of a proposed project is essential for successful outcomes, particularly if a proponent cannot avoid or mitigate potential impact to Aboriginal heritage. During the Aboriginal heritage assessment process, it is important to engage with the AHO/AHC/Aboriginal community early in the planning process and well before final design stages. In considering options assessment involving the Aboriginal Community, particularly for larger scale projects, proponents can potentially avoid Aboriginal heritage or reduce overall heritage impact through

project redesign. When considering permits that impact heritage, the AHC considers the efforts undertaken to avoid or mitigate against impact to Aboriginal heritage.

### **12.2 AHC Engagement and Consultation Policy**

#### **12.2.1 Aboriginal Heritage Council and Consultation**

In order for the AHC to consider a permit and either support or not support the application, the Council requires demonstrable evidence of consultation with the Aboriginal Community.

The AHC expect that the AHO will provide evidence of all attempts to consult as described in Appendix C. The AHO must also demonstrate how they engaged with the Community to garner support (or not) for the report's recommendations, and provided associated specific recommendations to Aboriginal Community individuals/groups regarding each Aboriginal heritage site.

It is the responsibility of the consulting archaeologist to ensure the AHO provides the Aboriginal Community consultation report and log as a report section/ appendix at the time the AHAR is submitted to AHT for review. Reports without evidence of consultation (unless negotiated with AHT/AHC) will be deemed incomplete and not accepted.

#### **12.2.2 Role of the Aboriginal Heritage Officer**

This section should provide information on the Aboriginal Community Consultation that has been undertaken with respect to the project. This is primarily the role of the AHO.

The final report should clearly present a full description of any Aboriginal community consultation undertaken, in the form of a communication log (See Appendix C), which includes:

- the names of individuals/groups consulted;
- the timing of the consultation;
- the attitudes and comments of those consulted;

- a full list of questions and topics (including specific report recommendations) that the Aboriginal heritage practitioner(s) presented to the Aboriginal community; and
- any recommendations made from those discussions by the Aboriginal community and/or the AHC.

Where the recommendation of the AHO differs from the consulting archaeologist in the AHAR, this should be acknowledged. The permit process allows for variations in management recommendations as the AHC and Minister require all the information available to make decisions regarding avoiding or mitigating impacts to Aboriginal heritage.

### **12.2.3 Where consultation is not required**

At its meeting on 28 April 2017, the Aboriginal Heritage Council amended its Engagement and Consultation Policy in regard to whether consultation with an Aboriginal community organisation is required or not during the Aboriginal heritage assessment process.

Consultation with the Aboriginal community continues to be important in the assessment process, however, in some circumstances it may be sufficient for a consulting archaeologist/AHO to consult exclusively with the Aboriginal Heritage Council.

The Council recommends that there is no need to consult with an Aboriginal community organisation when there are less than 10 isolated artefacts that are not associated with any other nearby heritage; or the impact of the project on Aboriginal heritage:

- is not significant; or
- will not destroy the heritage; or
- affects only part of the outer approximately 20% of a buffer around a registered site.

The consulting AHO/archaeologist can provide information to relevant community organisations and offer further engagement if the organisation is interested.

### **12.2.4 Role of AHT where consultation is not required**

The Council requests that AHT staff:

1. Make a determination based on these thresholds;
2. Keep a record of advice given to the consulting archaeologist/AHO or proponent; and
3. Provide a summary report each month to the Aboriginal Heritage Council of the projects and advice given to proponents, consulting archaeologists and AHOs.

## **12.3 Statement of Significance**

### **12.3.1 Burra Charter**

Significance assessments are essential for making management recommendations and for identifying sites which require further assessment. The *Burra Charter* provides a national standard for the assessment of significance in relation to cultural heritage. It defines cultural significance as being of "aesthetic, historic, scientific and social value for past, present or future generations" (Burra Charter ).

While it is noted that in most cases scientific and social values are the most pertinent in relation to Tasmanian Aboriginal heritage, practitioners should always consider the potential of aesthetic and historic values to be present.

A statement of aesthetic, historic and scientific significance should be made by the Aboriginal Heritage practitioner for each site that is located during fieldwork (including sites previously recorded). The following should be established and considered when assessing significance values:

- state of preservation;
- site content;
- site structure; and
- representativeness within the investigation area and within a broader archaeological context.

The consulting archaeologist should provide justification when assessing each Aboriginal site for low, moderate or high archaeological significance.



### **12.3.2 Social Significance**

The statement of social significance can only be made by the AHO and/or Aboriginal community. Prior to submission of the final draft AHAR by the consulting archaeologist, the AHO should provide a social significance statement for inclusion in addition to the AHAR consultation log in the format depicted in Appendix C.

The consultation log should demonstrate the timing, nature and content of communications between the AHO on behalf of the consulting archaeologist/proponent and the Aboriginal community. The timeframe for obtaining Aboriginal community feedback or responses should be realistic. The log should detail results for both general or specific management recommendations in the report.

## **13 Recommendations**

This is the most crucial chapter of the report, as the recommendations may have varied implications for the proponent, which may in turn affect how they proceed with the project proposal. It is not acceptable to make neutral or indecisive statements, or to refer the proponent back to AHT for advice. Recommendations for monitoring may not be accepted unless clearly justified.

It is important to note that recommendations are not legally binding under the Act. Consulting archaeologists/AHOs do not have authority to grant permission for a project to proceed. Recommendations are simply to inform the proponent of their responsibility under the Act and to protect Aboriginal heritage by offering mitigation options and advice. All recommendations should be justified in the AHAR.

### **13.1 Requirements**

Management recommendations should:

- specify the legislative requirements for developers and the procedures to be followed if permits must be obtained to destroy, conceal or interfere, or otherwise deal with Aboriginal heritage sites under

the Act.

- identify any project areas or cultural materials (relics) requiring further assessment or research;
- define mitigation options and strategies for protection, conservation and management of archaeological and social Aboriginal heritage values; and
- include an Unanticipated Discovery Plan (UDP)

### **13.2 Where no Aboriginal heritage is recorded**

If no Aboriginal heritage sites were recorded then recommendations should still be provided. For example, if no Aboriginal heritage sites or specific areas of Aboriginal heritage sensitivity were identified during the desktop or field survey stages of the proposed project activity area. The completed survey should indicate that the risk is low for any undetected Aboriginal heritage sites being impacted by the project. On this basis, it can be established that there are no site-specific Aboriginal heritage constraints or requirements that apply to this project:

- If previously undetected relics are located during the course of the construction works, the processes outlined in the Unanticipated Discovery Plan (see Appendix F) should be followed.
- Copies of this report should be submitted to Aboriginal Heritage Tasmania (AHT) and the Aboriginal Heritage Council (AHC) for review.
- Other recommendations may be made prior to commencement of the construction phase.

### **13.3 Artefact relocation**

Aboriginal heritage sites which may be impacted by a proposed development and either destroyed, interfered with, or covered, remain listed in the AHR as registered sites. Recommendations may be made by the consultant archaeologist in consultation with the AHO to remove artefacts prior to development impact, however, AHT does not generally support removal of artefact(s) from their context (original position) and their redeposition

either in the landscape or in a collection results in an artificial/false Aboriginal site location; or relocation of artefact(s) from an area of land managed by one land manager to another area of land which may subsequently impact on another land manager.

AHT may support artefact collection (salvage) on a case by case basis where there is support from the AHC/ Aboriginal community; there are sufficient resources for the curation, display and long-term storage of the material; and there is scientific merit in further analysis of artefact material that will advance knowledge of Aboriginal sites in Tasmania.

The AHC will consider artefact relocation on a case-by-case basis.

### **13.4 References**

A full reference list with in-text referencing should be applied using the Australian Archaeological Association Incorporated style guide. Websites or other media sources of information should be included in the reference list as per the AAA style guide.

### **13.5 Appendices**

Appendices should include a gazetteer of any Aboriginal sites recorded within the project investigation area including the Aboriginal Community consultation log and a copy of the current Unanticipated Discovery Plan (UDP). The consulting archaeologist/AHO should provide clear justification for modification of the UDP requirements within the report.

Where the AHAR is reporting the results of sub-surface testing or large scale project investigation corridors, the following should be provided:

- field survey (land unit assessment tables)
- geotechnical logs
- Artefact analysis addendum reports
- scientific dating results and
- other relevant technical information

If warranted, the proponent brief may be included.

### **13.6 Glossary**

A glossary should include relevant non-technical definitions of terms and acronyms used.

### **13.7 Report mapping and data**

#### **13.7.1 Figures (Maps)**

Large project developments will require A3 series mapping (with insets). All maps, including site plans, should be appropriately sized for readability and accuracy, and should indicate the location of Aboriginal heritage, scale, legend and grid north.

All maps should be labelled to include AH site registration numbers and be referred to in the text. The boundary of each Aboriginal site (polygons) or points for isolated artefacts is to be shown in relation to the project activity boundary.

All maps to be in colour with aerial backgrounds and clearly distinguishable colours for Aboriginal site and project activity area boundaries.

All tables should include AH numbers, be appropriately labelled and referred to in the text.

#### **13.7.2 Images**

All photographs (figures) should clearly communicate the feature(s) of the Aboriginal site (relic) and or process/methodology during assessment. Images should be suitable for reproduction as per requirements in Appendix D. Images are to be cross-referenced in the report and consistently captioned, with photo logs provided as per site registration requirements and recording form plan. Photographs should have a human or scientific scale as appropriate.

Photograph captions should include Aboriginal site registration numbers, direction, subject, persons, photographer, date (e.g. AH1 3XXX – view east to midden deflation, John Citizen in background; Photo: Jill Citizen DD/MM/YYYY)

## **13.8 Aboriginal Heritage Report Review**

### **13.8.1 Review Process**

AHT undertakes a review of all Aboriginal heritage assessment reports. This review process ensures that the standards set out in Section 11 are being met and proponents are receiving sound advice.

All AHAR reports should be forwarded to AHT at **Aboriginal@heritage.tas.gov.au**. The AHT Dropbox can be accessed if the AHAR and/or data is generally greater than 10 MB.

Reports submitted to AHT for review must be final drafts (following the QA process applied in Section 11.3.2). Once AHT has accepted the report, the status of the resubmitted amended report is 'final'. All reports should be submitted for review as soon as practical, including those where no evidence of Aboriginal heritage was located. Proponents should allow up to 10 working days for reviews to be completed.

Proponents should not undertake any project actions that would compromise the results of the AHAR until confirmation has been received from AHT that the report is acceptable for lodgement in the AHR.

AHT will notify the proponent, consulting archaeologist and AHO of the AHAR review in writing, and will return an AHAR if excessive grammatical, structural or formatting errors are noted during the review.

AHT may accept a report pending minor corrections. Timeframes for resubmission should be discussed with AHT.

### **13.8.2 Review Outcome**

There are several possible outcomes (A to E) arising from an AHAR review:

- A) The report is acceptable, no heritage was found, no further action required. The proponent may proceed with their proposed project activity as planned, including the UDP.
- B) The report is acceptable, heritage has been found, and mitigation measures must be followed. The proponent may proceed with their proposed

project activity as planned (including a UDP), and should comply with the mitigation measures outlined by the consulting archaeologist, AHO and/or AHT.

- C) The report is acceptable, and further investigation is required:
  - In some instances the Aboriginal heritage practitioner and/or AHT may recommend that further investigation be undertaken before a decision can be made concerning the full impact of the development on Aboriginal heritage. AHT will inform both parties if further investigation is warranted and supported by AHT.
  - In cases where further investigation is warranted, the proponent and/or consulting archaeologist/AHO should contact AHT for further advice regarding the requirements and protocols of sub-surface testing. A permit under the Act may be required.
- D) The report is acceptable, heritage has been found, and a permit is required. Where impacts to Aboriginal heritage are unavoidable, the proponent will be required to apply for a permit under the Act before any further action is taken (see Section 15).
- E) The report is incomplete, and corrections or further work to be carried out by an Aboriginal heritage practitioner. An AHAR is deemed incomplete if it fails to include or adequately address any one or more of the sections outlined in Section 11. If the report is found to be deficient, it may be returned to the consulting archaeologist/AHO with comments for corrections and/or further work. Once all comments have been addressed, the consulting archaeologist/AHO should resubmit the report to AHT. The proponent cannot proceed with their proposal until the issues with the report are corrected or addressed.

### **13.8.3 Distribution of the Final Report**

Once all changes are made to the report following AHR review, it is to be lodged via Dropbox if over 10 MB, or it can be emailed to **aboriginal@heritage.tas.gov.au**.

An important part of the consultation process is to ensure that a final copy of the report is forwarded so the Aboriginal community is informed of the results and recommendations lodged with AHT.

All final reports are to be forwarded to Aboriginal community groups or individuals that were consulted. Evidence of distribution to consulted parties is to be provided in the copies distributed table of the report.

## **14 Sub-surface Investigation**

AHT and the AHC may only support a sub-surface testing program when it is fully justified in the Aboriginal Heritage Assessment Report (AHAR) recommendations and/or permit application. The consulting archaeologist, AHO, and proponent should meet with AHT if sub-surface testing is considered necessary, and to discuss any proposed methodology. This will assist in establishing if there are potential permit requirements under the Act.

This section provides a methodology developed by AHT for sub-surface investigations of Aboriginal heritage in Tasmania. This methodology should be employed by all consulting archaeologists and AHOs working on known or potential Aboriginal sites to ensure professional best practice standards are maintained and impacts to Aboriginal heritage are minimised.

Formal sub-surface testing investigations require consultation with the Tasmanian Aboriginal community. This is achieved through report recommendations discussed between the AHO and consulting archaeologists, the AHO consultation statement and log and further consideration of a permit by the AHC.

### **14.1 Purpose of Sub-Surface Testing**

The primary purpose of a sub-surface testing strategy is to provide an avenue for proponents to ascertain the extent and character of a sub-surface Aboriginal heritage site. This presence/absence testing should be used to provide mitigation and management strategies to lessen the impact of any development on Aboriginal heritage.

Testing is also a powerful tool which enables an insight into past Aboriginal landscapes and the lifeways of Aboriginal people so that their story can be shared. In reviewing the consulting archaeologist/AHO testing methodology for particular project types and landscapes, AHT will endeavour to recommend the most effective models to ensure a balance between cost, efficiency and successful Aboriginal heritage protection principles.

### **14.2 Sub-surface Testing Considerations**

AHT may review and modify a proposed sub-surface testing method and recommend changes to the AHC in consultation with the sub-surface testing permit application. The AHC may either support or not support the proposed methodology in the sub-surface testing permit.

Testing is not generally undertaken on small scale, low impact, low density developments with limited opportunity for greater understanding of the Aboriginal site. Sub-surface testing may be undertaken on high impact developments where the further information on the nature and significance of the Aboriginal sites is required before any total or partial impact may occur.

Testing may also be undertaken when surface visibility is considered low. Consideration will be given to how this impacted the results of the initial surface survey. When developing the testing methodology, the soil profile and pre-existing land use of the area should be taken into consideration. Further, no testing should be undertaken outside of the development footprint unless the methodology is sufficiently justified, for example, to determine the significance of the artefacts and refine a site boundary.

State Occupational Health and Safety procedures and codes relevant to excavation should be followed.

### 14.3 Sub-surface Testing Stages

The testing process prescribed below may include up to three stages, depending on the presence, type and density of Aboriginal heritage identified during each stage:

- **Stage 1** is the initial sub-surface investigation. The results of this stage will be used to determine the necessity of on-going testing. Stage 1 will determine the density of sub-surface material in a cost-effective manner. Once it has been determined that there is a need to further understand the site, Stage 2 will be employed.
- **Stage 2** involves obtaining valuable scientific information from the site in a controlled manner. A proposed methodology for this stage should provide assurance to proponents regarding value for money from the on-ground works and have the support of the AHC.
- **Stage 3** testing will be required only where necessary, to develop and implement a final stage of the testing strategy for more complex projects. It is considered best practice for the consulting archaeologist, AHO and proponent to liaise with AHT to determine the need for Stage 3.

#### 14.4 Stage 1 Sub-surface Investigation

A stratified random testing method should be employed. This procedure should be developed in conjunction with a statistician for significant Aboriginal heritage site extents. A stratified random testing procedure is defined as a testing strategy that evenly distributes sample units across the sample universe (for example see Bourke and Smith 2004<sup>4</sup>; Banning 2002<sup>5</sup>). The number of pits should be determined in collaboration with AHT, the statistician, and the archaeologist.

Stage 1 testing can be undertaken using a stratified random testing strategy, and an additional 10 per cent of test pits can be placed at the discretion of the consulting archaeologist/AHO. The placement of the additional test

pits should be clearly labelled on an aerial map (Mapping, section 13.4) and the results provided in an addendum report. These pits should be labelled Discretionary Pits.

#### 14.4.1 Sub-surface Testing Design

For larger projects, a statistician, Sampling Design Tool for ArcGIS or similar sampling design tools should be used to provide sample design analysis. The methodology should be justified in the permit application.

#### 14.4.2 Stage 1 Excavation Standards

1. Test pits should be 50cm by 50cm;
2. Test pits should be dug with a flat bladed spade or shovel or any other non-mechanical device unless otherwise stated and approved;
3. The soil matrix should be sieved either wet or dry through a 5mm sieve unless otherwise stipulated;
4. The stratigraphy (minimum of two section profiles) of the pit should be photographed at the end of the testpit;
5. Record features and artefacts in-situ where possible;
6. Test pits should be dug in units/spits and controlled by labelled buckets unless otherwise stated;
7. Location of test pits should be recorded on a aerial sub-surface testing plan;
8. The location of each test pit should be recorded with a GPS;
9. General field notes with reference to each pit should be made;
10. The pits should be dug until the soil is sterile (e.g. base geology or other deposit unlikely to contain Aboriginal artefacts)
11. The test pits should be back filled with sterile soil;
12. Subject to permit requirements, any artefacts discovered during this stage of the investigation should be returned to the base of the pit following

<sup>4</sup> Burke, H. and Smith, C. (2004). *The Archaeologist's Handbook*, Allen and Unwin

<sup>5</sup> Banning, E.B. (2002). *Archaeological Survey*, Kluwer Academic/Plenum

consultation with the AHO prior to backfilling or as close to the pit as possible after artefact analysis; and

13. General details of the artefacts should be recorded and photographed. Density, associations, raw material type, depth of material, environmental deposits and horizon (soil) details are to be recorded.

Work should cease on a test pit if an Aboriginal relic is revealed. Once a pit yields five or more artefacts, the project should move to Stage 2 of the testing procedure. Prior to Stage 2 being implemented, AHT should be consulted.

#### **14.5 Stage 2: Excavation Test Pitting**

This stage of the test pitting has been created so that sites that have undergone the preliminary test pitting and have revealed higher concentrations of artefacts than previously understood can be investigated more thoroughly.

##### **14.5.1 Stage 2 Excavation Standards**

1. Test pits should be at least 50cm x 50cm, cardinally placed with distance from original pit to be determined at the discretion of the archaeologist and in consultation with the AHO.
2. Test pits to be dug by hand with an archaeologist's trowel;
3. All sediments removed from an excavation pit should be wet sieved through a 5 mm sieve unless otherwise stipulated;
4. Sediments should be removed from the test pits in a controlled manner which will entail recording excavated material both in relation to recognised stratigraphy (where present) and in 50mm spits or excavation units within the stratigraphic layers;
5. The location of artefacts found in situ should be measured in 3 dimensions and mapped relative to the pit edges;
6. All cultural materials found either in the excavation pit or in the sieve should be documented and

bagged against its appropriate stratigraphic and spit layer;

7. Notes written at the time of excavation should be kept in relation to each pit and copies of which should be submitted to AHT. These notes should adequately describe the process of excavation, the findings of the excavation and the justification for ceasing the excavation at a particular point;
8. Each pit should be located on a master plan of the whole excavation area;
9. The centre point of each pit should be recorded with a GPS and placed on the plan;
10. The pits should be dug until the soil is sterile, unless significant Aboriginal heritage deposits are located;
11. If Aboriginal deposits with high social and/or archaeological significance are located, the excavation of the test pit should cease;
12. The stratigraphy of the pit should be photographed at the end of the pit unless an interesting feature is noted. Section photographs should:
  - have a clearly distinguished photographic scale placed horizontally along the top of the section as well as another scale placed vertically at one end;
  - include a board containing the excavation ID, photographer's initials, orientation, and the date;
  - show pits which are clean and crisp. Tool marks, footprints, tool smears and loose soil crumbs should not be in evidence.
13. All completed excavation pits should be backfilled.
14. Any artefacts discovered during this stage of the investigation should be repatriated to the general vicinity of the pit which they were recovered from unless otherwise discussed. The location of the repatriated artefacts should be recorded with a differential GPS and the location provided to AHT.

The principle archaeological purpose of backfilling is to protect the integrity of the surrounding in-situ archaeological deposits. Back filling is to be undertaken for occupational health and safety reasons (including

potential impact to stock) and as a requirement of the permit.

Once Stage 2 has been completed all further excavations should stop. AHT should be contacted and provided with the preliminary field results for further discussion regarding whether Stage 3 test pitting or more intensive assessment is warranted.

#### **14.6 Stage 3: Extended Excavation Test Pitting**

Once the above requirements have been fulfilled and AHT is consulted, a further stage of test-pitting may be undertaken only where circumstances of significance or Aboriginal community interest is warranted. This stage of the test pitting will be undertaken in the same manner as prescribed in Stage 2.

#### **14.7 Sub-surface Investigation Report**

All sub-surface testing results should be provided in an addendum report and include mapping indicating the location of excavation pits. The report should be structured as follows:

1. Table of Contents
2. Executive Summary - Introduction – background to project and preliminary work to date
3. Introduction
4. Research questions – archaeological background, research questions, Aboriginal Community consultation framework
5. Excavation methodology – approach to testing design
6. Excavation results – summary, methods and results in tabular format including figures, graphs and section profile drawings/images
7. Interpretation of findings
8. Conclusion
9. References
10. Appendices

Proposed salvage and scientific analysis reports require

further consultation with the Aboriginal community and are to be provided as an addendum report that includes:

1. Table of Contents
2. Executive Summary – Introduction and background to project and preliminary work to date, excavation methods and results; Community consultation to date; proposed impact of works, responsible parties, sampling and transportation, results and curation
3. Research Questions – archaeological background, research framework
4. Methods – lithic or shell analysis approach, dating applications, usewear and analysis,
5. Aboriginal Community Consultation Framework
6. Recommendations (including final reports)
7. Conclusion
8. References
9. Appendices

## **15 Aboriginal Heritage Permits**

Proponents should be aware that applying for a permit does not guarantee that one will be granted by the Minister. Each application is given careful consideration in terms of the impacts to Aboriginal heritage, and examined on a case by case basis. AHT will review and make recommendation regarding the nature of the proposed impacts along with the Aboriginal Heritage Council who will elect to support or not support the permit. The permit can be reviewed and resubmitted on that basis, or be forwarded to the Minister who requires all available information to make the decision to impact Aboriginal heritage.

Any project which may impact on significant Aboriginal heritage should be discussed with AHT and the AHC prior to permit submission and preferably early in the planning and design process. This follows the principle of avoid first (assess options), and if not possible, to mitigate any potential impact.

## 15.1 Permit Application

At the conclusion of the report review process, if it has been determined that the proposed activity may impact Aboriginal heritage, the heritage practitioner(s) and/or AHT may recommend a permit be sought prior to any further action being undertaken (See permit process in Appendix B).

On the recommendation of the Director National Parks and Wildlife, the Minister may grant a Permit under the Act. All permits applications are submitted to AHT by forwarding a completed Permit Application form available from the AHT website, along with any relevant attachments, to [Aboriginal@heritage.tas.gov.au](mailto:Aboriginal@heritage.tas.gov.au).

The permit application can be prepared by an Aboriginal heritage practitioner, proponent, land owner, planner or agent. The proponent is to be indicated on the form and is the person to whom the permit will be issued and who is responsible for the requirements of fulfilling the conditions if a permit is granted. It is the applicant's responsibility to ensure that all required and relevant information is provided at the time of submission, including:

- Project details
- Project Activity timeframe with expected start and completion dates
- Permit extension – a new permit form will be required should an existing permit be expired.
- Project location information
- Project Activity aerial figure(s) or map(s) and/or technical plans that show the spatial location (point or polygon) of each Aboriginal heritage site that may be impacted within the activity area.
- Figures that show the location of Aboriginal heritage sites within the project activity area subject to management recommendations but which may not be impacted.
- A clear description of the project activity
- Project impacts on each Aboriginal site(s)
- Project social and economic benefits

- Evidence of current Aboriginal community consultation specifically relating to the proposed site impact(s).
- Aboriginal site information (AHR number, site description, location, type of impact – conceal, interfere or destroy, any applicable assessment reports, site images, archaeological and social significance statements and specific recommendations pertaining to each site).

Incomplete applications received by AHT cannot be processed and may be returned to the applicant for revision (see Appendix B).

## 15.2 Evidence of Permit Option Assessment or Impact Mitigation

For large and/or significant projects, and those projects involving new or redesigned cultural heritage interpretation, it is best to consult AHT and the AHC during the pre-design stage. Early consultation may ensure the right framework for assessing options and avoiding impact on Aboriginal heritage sites is applied. In some cases, negotiations may mean that the proponent can avoid impacts to Aboriginal cultural heritage and bypass the requirement to submit a permit application. Options assessment or Multi-Criteria Analysis (MCA) assessments may be useful approaches for larger scale projects.

Certain projects may involve activities such as road widening and drainage, or construction of facilities that improve public safety, environmental concerns, or which bring infrastructure up to Australian Standards. In such cases, the proponent should clearly articulate any limitations regarding mitigation of potential impact to Aboriginal heritage at the assessment stage and also in the permit application. In some cases safety constraints, significant threatened species, environmental constraints, or multiple impacts on other values may mean that impact to the Aboriginal site(s) cannot be avoided.



### **15.3 Permit Timeframe**

Proponents are encouraged to submit permit applications well before construction commences to ensure they have the approval of the Minister. There is no fee for this service. AHT recommends that permits are submitted prior to the end of the first week of the month for AHT review and further consideration by the AHC at the end of the month. There is no statutory timeframe for Aboriginal heritage permits therefore it is recommended that proponents allow up to 20 working days for formal permit documents to be prepared and forwarded for Ministerial consideration.

Permits can be issued for the project activity period specified by the proponent on the application form.

A permit may be issued until completion of the project activity. If a proposed activity cannot be completed within the required timeframe, the permit will expire and a new application will need to be submitted. In these cases the previous permit should be referenced in the new permit application, including any design changes or revised Aboriginal community consultation that may have a bearing on the Minister's decision. The subsequent permit application should be submitted at least three months prior to the expiration date of the original permit, and indicate the justification for expiry.

As a condition of the permit, proponents are required to provide evidence to AHT in writing that the works have been completed.

### **15.4 Potential Areas of Sensitivity (PAS)**

Areas within a project investigation area that have a higher likelihood of surface and sub-surface Aboriginal heritage are known as Potential Areas of Sensitivity (PAS) (sometimes referred to as Potential Archaeological Deposit or PAD). These areas cannot be permitted and are not 'relics' under the Act but denote a higher risk for the proponent during construction stage. Areas of PAS may contain possible site areas based on landform assessment by the consulting archaeologist/AHO and are not registered site boundaries. In the event an area of PAS is subsequently recorded as an Aboriginal heritage site, a permit will be required to impact any part of all of the site.

AHT supports testing areas of PAS however there is difficulty with sub-surface testing under the current Act. A consulting archaeologist/AHO may have the permission of the landowner to undertake a program of sub-surface testing to establish the absence or presence of relics, however, in the event an Aboriginal artefact ('relic') is recorded, the sub-surface testing must stop. In order to conceal/disturb/interfere/further impact the newly recorded Aboriginal heritage site, the proponent would require a permit that provides enough information for the Minister to make a decision.

A consulting archaeologist/AHO is required to justify that the site boundary for the permit is either reduced to a single point (isolated) artefact registration once that artefact was found, or if further sub-surface material was believed to be present in the landform, be able to undertake additional testing (for example, using adaptive testing (Figure 1) to adequately justify the sub-surface extent of an artefact scatter registration. Groups of separately registered isolated artefacts or a linear site extent may not be approved by AHT as a defined site boundary unless adequately justified.

The Minister requires sufficient information to issue a permit against impact to a known Aboriginal heritage extent (point or polygon) and cannot issue a permit for testing of unknown site boundaries or possible extents. If the site boundary is registered, testing within that boundary may provide further information on the nature and significance of the site to enable the Minister to make an informed decision.

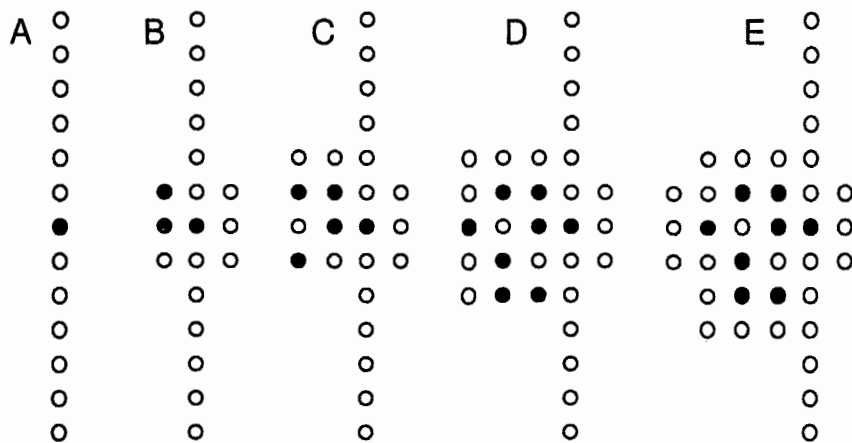


Figure 26. Example of adaptive sampling in a systematic survey by shovel tests or augering. Discovery of an artifact in one SST (black circle) in the first transect (a) leads to the addition of more SSTs in its neighborhood (b), and so on, until the new SSTs no longer produce any artifacts (e).

Figure 1 Example of Adaptive Sampling. Source: E.B.Banning Archaeological Survey 2002

### 15.5 Sub-Surface Testing permits

AHT should be contacted to discuss Aboriginal site registration and/or permitting requirements in relation to sub-surface testing proposals. AHT may only support sub-surface testing when it is fully justified by the consulting archaeologist/AHO in the Aboriginal heritage assessment report. A justification should be provided following the results of the field survey in cases where the significance of a defined Aboriginal site extent cannot be determined and this information is required in the event the site is likely to be impacted. A proposed testing program can be made via the Aboriginal Heritage Council Briefing.

### 15.6 Artefact Analysis, Dating and Research

A permit is required for any research process that may interfere with a relic. The permit is to include Aboriginal community consultation before submission to AHT and the AHC. A separate permit or a permit condition is required for the analysis of Aboriginal stone artefacts including but not limited to radiocarbon or AMS dating, residue and usewear analysis, midden sample analysis and dating, curation of the Aboriginal cultural assemblage and removal and relocation of relics for specialist assessment.

# APPENDIX A.

## Tasmanian Aboriginal Heritage Legislative Framework

The *Aboriginal Heritage Act 1975* is the primary Act which governs the treatment of Aboriginal heritage in Tasmania. It sets out what legally constitutes unacceptable impacts and a process to approve impacts (via a permit under the Act) if there is deemed to be no better option. The Act is administered by the Minister for Heritage through Aboriginal Heritage Tasmania in the Department of Primary Industries, Parks, Water and Environment.

The Act applies to 'relics', which are defined in section 2(3) of the Act as:

- (a) any artefact, painting, carving, engraving, arrangement of stones, midden, or other object, made or created by any of the original inhabitants of Australia or the descendants of any such inhabitants, which is of significance to the Aboriginal people of Tasmania; or
- (b) any object, site, or place that bears signs of the activities of any such original inhabitants or their descendants, which is of significance to the Aboriginal people of Tasmania;
- (c) the remains of the body of such an original inhabitant or of a descendant of such an inhabitant that are not interred in –
  - (i) any land that is or has been held, set aside, reserved, or used for the purposes of a burial-ground or cemetery pursuant to any Act, deed, or other instrument; or
  - (ii) a marked grave in any other land.

Section 2(4) qualifies (a) and (b) to exclude "objects made, or likely to have been made, for the purposes of sale (otherwise than by way of barter or exchange in accordance with Aboriginal tradition)".

It also now defines "significance" in section 2(8):

(8) In this section –

**Aboriginal tradition** means –

- (a) the body of traditions, knowledge, observances, customs and beliefs of Aboriginal people generally or of a particular community or group of Aboriginal people; and

- (b) any such tradition, knowledge, observance, custom or belief relating to particular persons, areas, objects or relationships;

**significance**, of a relic, means significance in accordance with –

- (a) the archaeological or scientific history of Aboriginal people; or
- (b) the anthropological history of Aboriginal people; or
- (c) the contemporary history of Aboriginal people; or
- (d) Aboriginal tradition.

In the event of dispute about whether something is a relic, the AHC will provide advice – see section 3(2):

(2) The Council – [ ... ]

(ab) shall advise, and make written recommendations to, the Minister in relation to any object, site or place alleged to be a relic under this Act;

The essential protection of the Act is provided by section 14, which specifies a range of actions that are illegal without a permit granted by the Minister.

**Note** that this permit granting power cannot be delegated, therefore the Minister is required to grant every permit, from the least to the most significant. The Minister must also have the personal recommendation of the Director of National Parks and Wildlife. This means it is important to undertake all required preparatory steps in sufficient time, as the approval process cannot be rushed.

(1) Except as otherwise provided in this Act, no person shall, otherwise than in accordance with the terms of a permit granted by the Minister on the recommendation of the Director –

- (a) destroy, damage, deface, conceal, or otherwise interfere with a relic;

- (b) make a copy or replica of a carving or engraving that is a relic by rubbing, tracing, casting, or other means that involve direct contact with the carving or engraving;

- (c) remove a relic from the place where it is found or abandoned;

- (d)** sell or offer or expose for sale, exchange, or otherwise dispose of a relic or any other object that so nearly resembles a relic as to be likely to deceive or be capable of being mistaken for a relic;
- (e)** take a relic, or cause or permit a relic to be taken, out of this State; or
- (f)** cause an excavation to be made or any other work to be carried out on Crown land for the purpose of searching for a relic.

A very important part of the Act is the obligation to report the finding of any relic, in section 10(3). This is the basis of the Aboriginal Heritage Register (section 7.1):

- (3)** A person shall, as soon as practicable after finding a relic, inform the Director or an authorized officer of the find.

The *Aboriginal Relics Act 1975* remained without significant amendment for over 40 years. The main amendments made by the *Aboriginal Relics Amendment Act 2017* are:

- The change of the title to the *Aboriginal Heritage Act 1975*.
- The removal of references to 1876 as being a cut-off date beyond which relics cannot exist (and thus be protected). Additional criteria define 'relics' as being of significance to the Aboriginal people of Tasmania. The term 'significance' is further qualified as being in accordance with Tasmanian Aboriginal history and tradition.
- The establishment of a new Aboriginal Heritage Council, replacing a long-defunct Aboriginal Relics Advisory Council. The Council consists of Aboriginal people and has broad advisory functions, as well as a specific role to advise in cases of uncertainty about whether something is a relic and thus falls under the scope of the Act.
- Introduction of new sets of penalty provisions. The first set covers the offences related to harm to relics, in sections 9 and 14. Maximum penalties (for deliberate acts) are 10,000 penalty units (currently \$1.57 million) for bodies corporate

other than small business entities and 5,000 penalty units (currently \$785,000) for individuals or small business entities; for reckless or negligent offences, the maximum penalties are 2,000 and 1,000 penalty units respectively (currently \$314,000 and \$157,000 respectively). Businesses that are "small business entities" under Federal income tax legislation are treated as individuals rather than bodies corporate for the purpose of all the penalty provisions in the Bill.

- The second set covers lesser offences, with maximum penalties of 100 penalty units (currently \$15,700) for bodies corporate other than small business entities and 50 penalty units (currently \$7,850) for individuals or small business entities. They apply in sections 10, 12, 17 and 18.
- Creation of two new defences. One is for acts during an emergency response. The other is a defence of "compliance with the guidelines", specifically for offences under sections 9 and 14. The Minister must issue the guidelines (which are disallowable by the Parliament). The guidelines will provide an opportunity for proponents to be proactive in seeking to minimise the harm they might do, and avoid the chance of their actions being negligent.
- Extension of the time available for commencing prosecutions from 6 months to 2 years.
- The requirement to undertake a review of the Act within 3 years, and to report on it to the Parliament.

In some circumstances, Commonwealth legislation may also apply in Tasmania (impacts on Commonwealth land).

**Environment Protection and Biodiversity Conservation (EPBC) Act 1999 (& 2003 (Heritage) Amendments) [Federal]**

**Matters of national environmental significance**

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), actions that have, or are likely to have, a significant impact on a matter of national environmental significance require approval from the Australian Government Minister for the Environment (the Minister). The Minister will decide whether assessment and approval is required under the EPBC Act. There are nine matters of national environmental significance protected under the EPBC Act:

- world heritage properties
- national heritage places
- wetlands of international importance (listed under the Ramsar Convention)
- listed threatened species and ecological communities
- migratory species protected under international agreements
- Commonwealth marine areas
- the Great Barrier Reef Marine Park
- nuclear actions (including uranium mines)
- a water resource, in relation to coal seam gas development and large coal mining development

Other matters that are protected are where actions are proposed on or will affect Commonwealth land and the environment or where Commonwealth agencies are proposing to take an action.

**The Aboriginal and Torres Strait Islander Heritage Protection Act 1975 [Federal]**

This Commonwealth Act provides for Aboriginal people to identify important 'cultural property' and enables a mechanism to prevent acts that might damage or destroy cultural property while this is investigated. This Act is designed to protect Aboriginal heritage of significance to Aboriginal people, but not covered by the more narrowly (archaeologically) focussed state legislation. It takes precedence over the State *Aboriginal Heritage Act 1975* where the State Act does not provide for, or does not enforce, the protection of significant Aboriginal heritage values.

Aboriginal 'cultural property' includes any place, object, and folklore that is "of particular significance to Aboriginals in accordance with Aboriginal tradition". There is no cut-off date, therefore the Act may be interpreted as including contemporary cultural property. Decisions regarding the significance of Aboriginal cultural property and values lie wholly with the relevant Aboriginal community. Permits are, in general, only issued by the Minister or his/her representative. It is a defence where a breach has occurred that the offence was committed without knowing or reasonably expecting that a relic was involved.

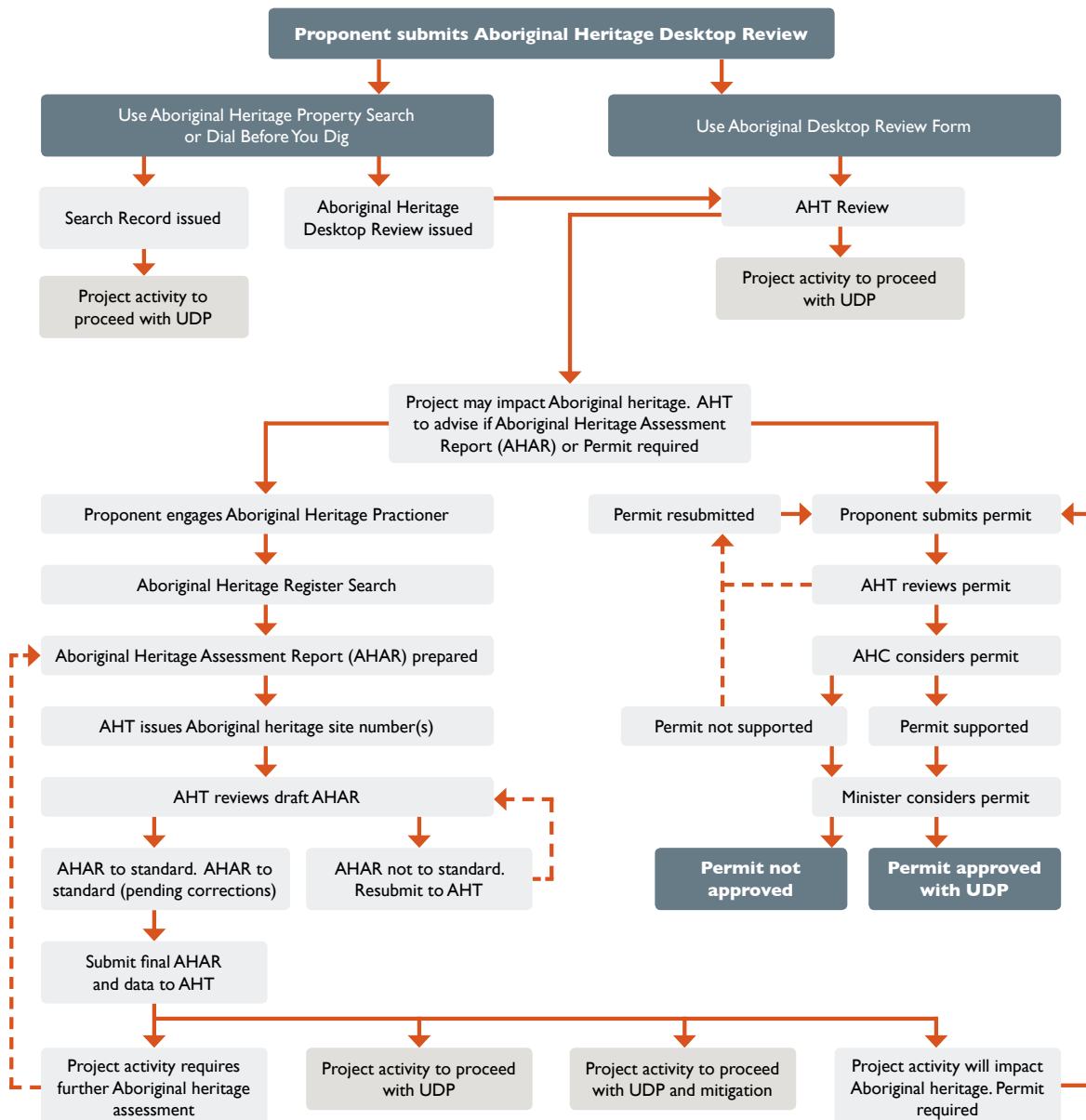
# APPENDIX B.

## Aboriginal Heritage Assessment Procedure

The Aboriginal heritage assessment procedure is depicted below. The flowchart sets out the path by which a proponent manages any potential Aboriginal heritage constraints to the project activity, including desktop reviews, searches of the Aboriginal Heritage Register, engagement of consulting archaeologist//AHO for the Aboriginal heritage assessment report and applying to the Minister for a permit.

### Aboriginal Heritage Assessment Procedure

A proponent should consider the potential impact of a project activity on Aboriginal heritage early in the planning process. Large scale projects should be discussed with Aboriginal Heritage Tasmania (AHT) and the Aboriginal Heritage Council (AHC) prior to design. An Unanticipated Discovery Plan (UDP) applies at any stage of a project.



# APPENDIX C.

## Aboriginal Community Consultation Log

Aboriginal Heritage Officers (AHOs) should prepare an Aboriginal Community consultation report for the AHAR (Section 12.2.2). All written documentation of Community consultation should be provided in an appendix of the AHAR. The consultation log should be in tabular format to include:

|                               |   |
|-------------------------------|---|
| <b>Date</b>                   | DD/MM/YYYY indicating date information forwarded by the AHO   |
| <b>Forwarded by</b>           | Name of AHO, person seeking view of Aboriginal community  |
| <b>Role</b>                   | Role (e.g. AHO), position held  |
| <b>Subject</b>                | Message, recommendation(s) per Aboriginal site, general recommendations, request for meeting/response to AHAR   |
| <b>Method</b>                 | phone call, email, meeting (detail all attending)   |
| <b>Forwarded to</b>           | Name and role of recipient of consultation  |
| <b>Date requested</b>         | DD/MM/YYYY information requested by the AHO   |
| <b>Date required</b>          | DD/MM/YYYY information required by the AHO. Community feedback on a report should be requested with adequate time for Aboriginal community response. <b>Requests should be forwarded by the AHO as soon as possible following field assessment as the consultation report is included in the final draft AHAR for AHT review.</b> |
| <b>Date responded</b>         | DD/MM/YYYY indicating date information forwarded by the AHO   |
| <b>Response</b>               | Response provided or not provided   |
| <b>Outcome/Further Action</b> | Actions arising, received comments/feedback/suggested approaches or changes to specific recommendations, requests for meetings, Summary of feedback, request for further information, inclusion of conditions etc.  |

*Table 2 Example Aboriginal Heritage Consultation Log*

# APPENDIX D.

## AHT Image Data Requirements

The Aboriginal Heritage Register (AHR) stores imagery relating to each Aboriginal heritage site. It is critical for effective management of Aboriginal sites that the images recorded during field assessments provide a clear, accurate and consistent technical record. Images are required to understand the existing conditions on survey, the landform and site contexts. The nature of the artefact(s), material(s), modification by human agency, details of post-depositional action, diagnostic information and artefact size are important considerations. Catalogues of artefacts should be consistent in terms of background, lighting, orientation, scale and placement of artefact(s) in order that comparative assessment can be undertaken within an assemblage and across assemblages.

### **AHR Site Registration Form**

For submission of Aboriginal heritage site registration, AHT requires completion of a site plan which shows the location of the site including location of images indicated as P# within a circle with direction bearing and a accompanying photo log for up to five (5) images.

Digital images should be high resolution JPG (RAW and TIFF images are also accepted) with project file names corresponding to the site plan photo log or extended photo log. Digital image file sizes should typically exceed 5MB (2500 x 2000 pixels) and be able to be printed at minimum of 300 pixels per inch (PPI).

### **Aboriginal Sites – Minimum image recording**

Minimum standards apply for particular types of Aboriginal sites.

#### Isolated Artefact

- Location of artefact in site context (site overview)
- Dorsal and ventral views
- Scientific scale
- Avoid distracting or coloured backgrounds
- Communicate attributes of artefact to confirm status as a relic

#### Artefact Scatter

- Location of artefacts in site context (site overview)
- Location of artefact scatter (in situ/post depositional/disturbance)
- Representative sample of raw materials, manufacture/reduction process, artefact types

#### Quarry

- Site/landform overview
- Evidence of extraction/processing
- Detail (raw material)

#### Midden

- Site overview
- Depth of deposit/section profile (if exposed)
- Representative sample of species
- Features/deposits

#### Rockshelter

- Landform context
- Entrance/profile
- Floor surface, deposits
- Detail (components)

#### Rock Markings

- Landform context
- Site overview
- Panel(s)
- Detail (components)
- Application method

#### Hut depressions

- Site overview
- Range pole/scale to indicate depth at center
- Site features (artefacts, deposits)



## Scales

Archaeological scales are integral to the representation of size of the archaeological feature, context or artefact. Use of pens, coins, GPS units or other scales is to be avoided. The AHT Artefact Scale Card or similar archaeological or forensic scale should be used when photographing Aboriginal artefacts to indicate relative size (Figure 3). Scales should be placed below or to the right of the artefact. Scale cards are available from AHT on request. If using the scale card place the most suitable scale (either 8.0 cm or 5.0 cm) along the edge of the photo frame with the artefact ('relic') filling the rest of the frame.

AHT recommend the use of mini-rods to indicate scale (Figure 4). A mini-rod extended to 0.5 m should be used to indicate ground surface visibility and/or land unit exposure and density as indicated in Figure 5.



Figure 2 AHT Artefact Scale Card – Front

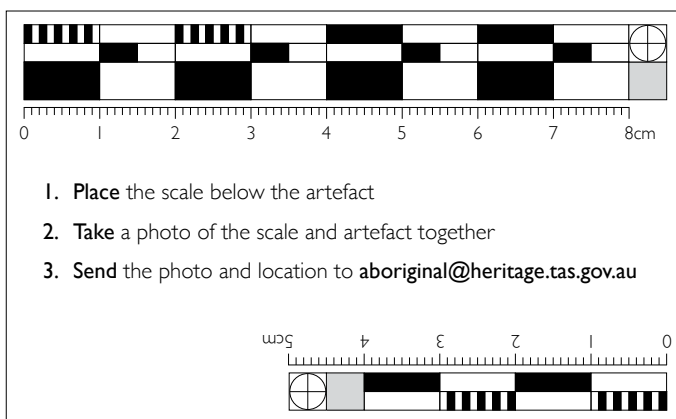


Figure 3 AHT Artefact Scale Card – Back. Scales (8.0 cm and 5.0 cm)



Figure 4 Use of a mini-rod to indicate depth of midden deposit

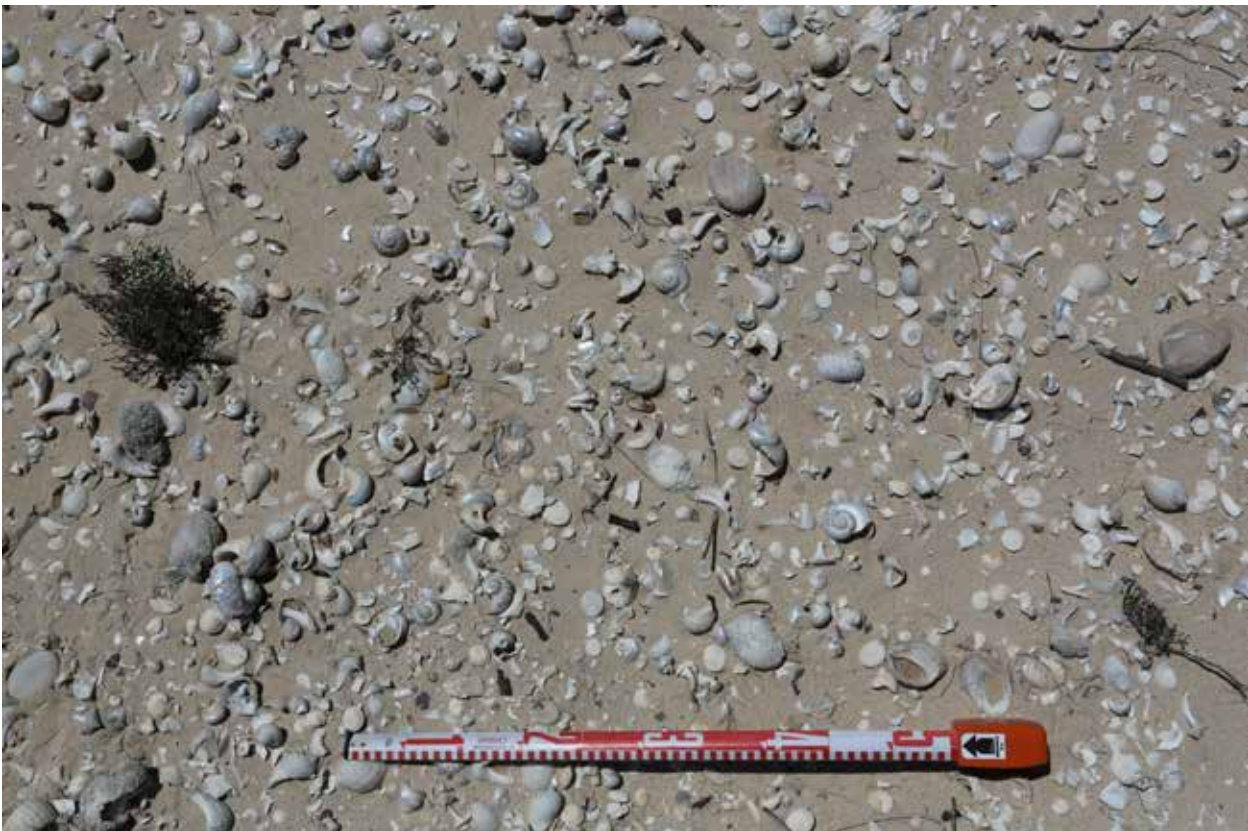


Figure 5 Use of a mini-rod to indicate density and exposure

Surveying range poles (20 cm graduations) are also recommended scales for site features and for vertical scale (e.g. artefact scatters, rock shelters). The IFRAO rock art scale is to be used for rock markings.

# APPENDIX E.

## AHT Spatial Data Requirements

The Aboriginal heritage assessment process in Tasmania requires the lodgement of spatial data in the Aboriginal Heritage Register (AHR). Spatial data is lodged during the Aboriginal site registration process and upon final submission of the AHAR. All stakeholders who require accurate Aboriginal site extents to determine potential impact on Aboriginal heritage either depend on a spatial point (Easting and Northing) or polygon.

Other reports or heritage investigations may also result in the production of spatial data, which should be lodged in the AHR to assist in the management of Aboriginal heritage under the Act (Section 10 (3)). When lodging spatial data, it is very important that the correct information is provided and is effectively prepared for inclusion in the AHR. The consulting archaeologist and/or AHO are to ensure the quality of the digital shapefiles (correct projection, free from import errors) and that the digital data accurately reflects the mapping extents provided in AHAR report and AHR site registration form.

For an AHAR, the following should be provided to AHT as GDA94 projected spatial data:

- project investigation area (for larger projects e.g. corridor) represented by a polygon;
- project activity area (development footprint) represented by a polygon(s)
- tracks and/or transects represented by polylines (series of track routes)
- sub-surface testing or excavation pits (if any) represented by point or polygon; and
- the extent of each Aboriginal site found and/or subject to investigation (if any) represented by a polygon unless a single (isolated) artefact. Polygons for Aboriginal heritage sites are to be provided when the AHR site registration form is lodged with AHT.
- Potential Areas of Sensitivity (PAS) polygons

### File extensions

All the necessary 'file extensions' for the project investigation and activity (footprint) area must be provided as a Shapefile for the AHR. The table indicates what file extensions are commonly used or can be converted:

| ESRI   | MapInfo file  | CAD drawing file projected using GDA94      | QGIS  | GPX, other format  |
|--|---|---|---|--|
| *.dbf file<br>*.prj file<br>*.shp file<br>*.shx file | *.TAB file<br>*.DAT file<br>*.MAP file<br>*.ID file | *.dwg file                                  | QGIS read and write vector data formats, including ESRI shapefiles, MapInfo and MicroStation file formats, AutoCAD DXF and more | wptType - individual waypoint<br>trkType – ordered list of waypoints<br>rteType – ordered list of route points (destination) |
| Shapefile format                                     | Convert to shapefile using conversion tools         | Convert to shapefile using conversion tools | Write data to shapefile format  | GPX, or GPS Exchange Format, is an XML schema/ common GPS data format<br>Convert to Shapefile using conversion tools         |

### Sub-surface Investigation Data

Supply point data for each testing location. Supply polygons for intrasite or excavation areas larger than 1 m x 1 m. When supplying polygons for excavated areas or intrasite features, ensure the polygon is the same size as reported in the mapping/report.

### Zip files

Provide each element of spatial data as a WinZip file. Spatial data files should be named after the submitted Desktop Review or Search Form project name or where available by AHTP or AHAR number once supplied by AHT.

### Each Aboriginal site extent designated in the field by the consulting archaeologist/AHO is to be provided as separate polygons and as a zip file.

Each site, for example Binnalong Bay Pipeline\_01.zip, Binnalong Bay Pipeline\_02.zip should contain the following files for an ESRI Shapefile:

Binnalong Bay Pipeline\_01\_site extent.dbf  
Binnalong Bay Pipeline\_01\_site extent.prj  
Binnalong Bay Pipeline\_01\_site extent.shp  
Binnalong Bay Pipeline\_01\_site extent.shx

Binnalong Bay Pipeline\_02\_site extent.dbf  
Binnalong Bay Pipeline\_02\_site extent.prj  
Binnalong Bay Pipeline\_02\_site extent.shp  
Binnalong Bay Pipeline\_02\_site extent.shx

Name project zip files by project name if AHT has not allocated a project or other reference number. Once allocated, use the AHT number reference e.g. - Aboriginal Heritage Tasmania Project number (AHTPXXXX) or Aboriginal Heritage Assessment Report number (AHARXXXX).

AHARXXXX\_investigation boundary.dbf  
AHARXXXX\_investigation boundary .prj  
AHARXXXX\_investigation boundary .shp  
AHARXXXX\_investigation boundary .shx

AHARXXXX\_activity boundary.dbf  
AHARXXXX\_activity boundary.prj  
AHARXXXX\_activity boundary.shp  
AHARXXXX\_activity boundary.shx

AHARXXXX\_track01.dbf  
AHARXXXX\_track01.prj  
AHARXXXX\_track01.shp  
AHARXXXX\_track01.shx

### Before sending spatial data to AHT check that the data:

- shows the intended information and is contained within the project investigation and/or project activity area
- matches the information shown on the maps and described in the AHAR; and
- is projected in GDA94

# APPENDIX F.

## Unanticipated Discovery Plan (UDP)

### Unanticipated Discovery Plan

Procedure for the management of unanticipated discoveries of Aboriginal relics in Tasmania

For the management of unanticipated discoveries of Aboriginal relics in accordance with the *Aboriginal Heritage Act 1975* and the *Coroners Act 1995*. The Unanticipated Discovery Plan is in two sections.

#### Discovery of Aboriginal Relics other than Skeletal Material

##### Step 1:

Any person who believes they have uncovered Aboriginal relics should notify all employees or contractors working in the immediate area that all earth disturbance works must cease immediately.

##### Step 2:

A temporary 'no-go' or buffer zone of at least 10m x 10m should be implemented to protect the suspected Aboriginal relics, where practicable. No unauthorised entry or works will be allowed within this 'no-go' zone until the suspected Aboriginal relics have been assessed by a consulting archaeologist, Aboriginal Heritage Officer or Aboriginal Heritage Tasmania staff member.

##### Step 3:

Contact Aboriginal Heritage Tasmania on **1300 487 045** as soon as possible and inform them of the discovery. Documentation of the find should be emailed to [aboriginal@heritage.tas.gov.au](mailto:aboriginal@heritage.tas.gov.au) as soon as possible. Aboriginal Heritage Tasmania will then provide further advice in accordance with the *Aboriginal Heritage Act 1975*.

#### Discovery of Skeletal Material

##### Step 1:

Call the Police immediately. Under no circumstances should the suspected skeletal material be touched or disturbed. The area should be managed as a crime scene. It is a criminal offence to interfere with a crime scene.

##### Step 2:

Any person who believes they have uncovered skeletal material should notify all employees or contractors working in the immediate area that all earth disturbance works cease immediately.

##### Step 3:

A temporary 'no-go' or buffer zone of at least 50m x 50m should be implemented to protect the suspected skeletal material, where practicable. No unauthorised entry or works will be allowed within this 'no-go' zone until the suspected skeletal remains have been assessed by the Police and/or Coroner.

##### Step 4:

If it is suspected that the skeletal material is Aboriginal, Aboriginal Heritage Tasmania should be notified.

##### Step 5:

Should the skeletal material be determined to be Aboriginal, the Coroner will contact the Aboriginal organisation approved by the Attorney-General, as per the *Coroners Act 1995*.

Aboriginal Heritage Tasmania  
Department of Primary Industries, Parks, Water and Environment



## Guide to Aboriginal site types

### Stone Artefact Scatters

A stone artefact is any stone or rock fractured or modified by Aboriginal people to produce cutting, scraping or grinding implements. Stone artefacts are indicative of past Aboriginal living spaces, trade and movement throughout Tasmania. Aboriginal people used hornfels, chalcedony, spongelite, quartzite, chert and silcrete depending on stone quality and availability. Stone artefacts are typically recorded as being 'isolated' (single stone artefact) or as an 'artefact scatter' (multiple stone artefacts).

### Shell Middens

Middens are distinct concentrations of discarded shell that have accumulated as a result of past Aboriginal camping and food processing activities. These sites are usually found near waterways and coastal areas, and range in size from large mounds to small scatters. Tasmanian Aboriginal middens commonly contain fragments of mature edible shellfish such as abalone, oyster, mussel, warrener and limpet, however they can also contain stone tools, animal bone and charcoal.

### Rockshelters

An occupied rockshelter is a cave or overhang that contains evidence of past Aboriginal use and occupation, such as stone tools, middens and hearths, and in some cases, rock markings. Rockshelters are usually found in geological formations that are naturally prone to weathering, such as limestone, dolerite and sandstone

### Quarries

An Aboriginal quarry is a place where stone or ochre has been extracted from a natural source by Aboriginal people. Quarries can be recognised by evidence of human manipulation such as battering of an outcrop, stone fracturing debris or ochre pits left behind from processing the raw material. Stone and ochre quarries can vary in terms of size, quality and the frequency of use.

### Rock Marking

Rock marking is the term used in Tasmania to define markings on rocks which are the result of Aboriginal practices. Rock markings come in two forms; engraving and painting. Engravings are made by removing the surface of a rock through pecking, abrading or grinding, whilst paintings are made by adding pigment or ochre to the surface of a rock.

### Burials

Aboriginal burial sites are highly sensitive and may be found in a variety of places, including sand dunes, shell middens and rock shelters. Despite few records of pre-contact practices, cremation appears to have been more common than burial. Family members carried bones or ashes of recently deceased relatives. The Aboriginal community has fought long campaigns for the return of the remains of ancestral Aboriginal people.

*Further information on Aboriginal Heritage is available from:*

Aboriginal Heritage Tasmania  
Natural and Cultural Heritage Division  
Department of Primary Industries, Parks, Water and Environment  
GPO Box 44 Hobart TAS 7001

Telephone: **1300 487 045**

Email: **aboriginal@heritage.tas.gov.au**

Web: **www.aboriginalheritage.tas.gov.au**

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