**Guide to preparing a Cultural Heritage Management Plan**

*Last updated April 2024*

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# Purpose

The purpose of this Guide is to assist Heritage Advisors and Sponsors to prepare a Cultural Heritage Management Plan (CHMP) in accordance with the *Aboriginal Heritage Act 2006* (the Act) and the Aboriginal Heritage Regulations 2018 (the Regulations).

The Guide aims to:

* provide general information about processes to follow when preparing a CHMP
* set minimum standards for the conduct of cultural heritage assessments
* outline the requirements for documenting and reporting on Aboriginal cultural heritage
* outline the processes for identifying Aboriginal heritage management measures, and
* clarify application of legislation and Approved Forms.

This Guide must be read in conjunction with the relevant parts of the statute; namely, Part 4 of the Act and Part 3 of the Regulations. Part 3 of the Regulations provides prescribed standards for the preparation of a CHMP, and Schedule 2 of the Regulations sets out what information must be provided in a CHMP.

The Approved Form for a CHMP is available on the [Department of Premier and Cabinet’s (the Department) website](https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2023-02/Format-in-which-a-CHMP-must-be-prepared.doc). The Guide follows the structure of the Approved Form rather than being organised in chronological order. Relevant sections of Approved Forms are reproduced through the Guide, verbatim, in *italics.* The Secretary **may** approve amendments to the format of a CHMP.

All relevant parties **must** be provided a ‘Notice of Intent to Prepare a CHMP’ before the preparation of a CHMP can begin. This includes a desktop assessment. More information on the ‘Notice of Intent’ and the CHMP process can be found on the [Department’s website](https://www.firstpeoplesrelations.vic.gov.au/cultural-heritage-management-plans#the-chmp-process).

As the Guide is an iterative document, if you have suggestions, corrections or other comments you are encouraged to send them to [aboriginal.heritage@dpc.vic.gov.au](mailto:aboriginal.heritage@dpc.vic.gov.au).

Note: The *Aboriginal Heritage Act* 2006 and the *Heritage Act 2017* are separate pieces of legislation, each with their own requirements. Although both relate to cultural heritage, satisfying the requirements of one of these Acts may not satisfy the requirements of the other. Further information on the statutory requirements of the *Heritage Act 2017* can be found on Heritage Victoria’s website.

# Glossary

Approved Form:

A form approved by the Secretary, Department of Premier and Cabinet (Secretary), that specifies the format in which a document must be prepared to comply with the Act and the Regulations (s. 190).

Activity Advisory Group (AAG):

The Secretary may appoint a group where the proposed activity is in an area for which there is no RAP. An AAG may include representatives of any relevant Traditional Owners.

The role of an AAG is to provide advice on a proposed activity and its impact on Aboriginal cultural heritage where the proposed activity falls within an area with no RAP.

Heritage Advisor:

Heritage Advisors are persons who meet the Minister's guidelines on appropriate qualifications and experience who can conduct cultural heritage assessments and prepare technical reports. Sponsors **must** engage a Heritage Advisor to assist with preparing a CHMP. Heritage Advisors can conduct cultural heritage audits, supervise activity under a cultural heritage permit, conduct research and submit material for recording on the Victorian Aboriginal Heritage Register.

The disturbance or excavation for a complex assessment **must** be supervised by a person appropriately qualified in archaeology. If the Heritage Advisor preparing the CHMP is not appropriately qualified in archaeology, a qualified archaeologist to supervise the disturbance and/or excavation **must** be engaged.

Relevant Authority:

Refers to the approval body for a CHMP: a relevant Registered Aboriginal Party that has elected to evaluate the plan; or if there is no relevant Registered Aboriginal Party—the Secretary; or if the applicant is a Registered Aboriginal Party or the Secretary—the Victorian Aboriginal Heritage Council.

Registered Aboriginal Party (RAP):

Registered Aboriginal Parties (RAPs) make decisions about protecting and managing Aboriginal cultural heritage on behalf of the Traditional Owners over a specified geographical area. RAPs have responsibilities relating to the management of Aboriginal cultural heritage under the Act, which include evaluating CHMP for their appointed area.

RAPs are Traditional Owner corporations which must also be registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006.*

Relevant RAP (in relation to a CHMP):

The RAP that is registered for the area to which the CHMP relates.

Sponsor:

The person or corporation who is seeking to undertake an activity requiring a CHMP under the Act or, in any other case, the person seeking the preparation of a CHMP. It is the Sponsor who, in effect, prepares a CHMP for an activity. See 5.1.3 for further details.

Victorian Aboriginal Heritage Council (Council):

The Council is an independent body of Victorian Traditional Owners who has statutory responsibilities for the management of Aboriginal ancestral remains and secret or sacred Aboriginal objects, the appointment and oversight of RAPs and the promotion of public awareness of Victoria's Aboriginal cultural heritage.

Victorian Aboriginal Heritage Register (the Register):

The central repository for Aboriginal Cultural Places and Objects in the State, it is used for place registration and CHMP lodgement.

# Format and content of a Cultural Heritage Management Plan

## Presentation

*The CHMP must be presented as follows:*

*▪ Pages must be typed and numbered.*

Roman numerals should be used for the pages before ‘Part 1 – Cultural Heritage Management Conditions’ (e.g. cover, title page).

From ‘Part 1- Cultural Heritage Management Conditions’ pages should be sequentially numbered in standard western Arabic numerals, for the remainder of the report including the Appendices.

*▪ References must be given to any reports, articles, primary sources, maps or books used.*

*▪ A standard set of contents must be used* (set out in 3.2).

A CHMP **must** be written in plain English and comply with the prescribed standards (s. 63(3), 65(4), 66(4); r.68).

A CHMP **must** be presented in two parts. Part 1 – Cultural Heritage Management Conditions and Part 2 - Assessment.

In certain circumstances it may be possible to prepare a CHMP in an amended format. For example, where a CHMP is required for a discrete Aboriginal place, such as a scarred tree. The Sponsor will need to discuss any amendments to the format with the relevant RAP(s) and then obtain the approval of the Secretary in writing.

A CHMP with an amended format must still comply with the prescribed standards (s.53).

## Standard contents

*The standard content of a CHMP must include at least the following:*

* ***Cover***
* ***Title page***
* ***Executive summary***
* ***Table of contents***

***PART 1 – Cultural Heritage Management Conditions***

* *Specific management conditions*
* *Contingency plans*

***PART 2 – Assessment***

* *Introduction*
* *Activity description*
* *Extent of activity area covered by the CHMP*
* *Documentation of consultation*
* *Aboriginal cultural heritage assessment*
* *Details of Aboriginal cultural heritage in the activity area (if any)*
* *Consideration of Section 61 matters*
* ***References***
* ***Appendices***

## Cover

*The cover must set out:*

* *the title of the CHMP*
* *the CHMP identifier*
* *the name of the sponsor*
* *the name of the heritage advisor*
* *the name of the author(s) if different or in addition to the heritage advisor; and*
* *the date of completion.*

*The title of the CHMP must commence with the name of the activity and its location (e.g. Greenfields Residential Development, Eastmeadows: Cultural Heritage Management Plan).*

## Title page

*The title page must set out:*

* *the title of the CHMP*
* *the CHMP identifier*
* *whether the activity is small, medium or large (in accordance with Regulation 81 of the Regulations)*
* *whether a desktop, standard and/or complex assessment was undertaken (in accordance with Regulation 60 of the Regulations)*
* *the name of the sponsor*
* *the name of the heritage advisor*
* *the name of the author(s) if different or in addition to the heritage advisor, and*
* *the date of completion.*

## Executive summary

*The CHMP must commence with an Executive Summary that briefly describes the nature and extent of the proposed activity, and the results of the cultural heritage assessment. The Executive Summary must succinctly set out:*

* *the activity*
* *the location*
* *the assessment undertaken*
* *the results of the assessment*
* *the Aboriginal cultural heritage in the activity area*

The executive summary is important for the Sponsor and other people undertaking activities to determine whether the CHMP applies to them, and if so, which aspects. This section needs to be clear and concise in describing the proposed activity, its context and the cultural heritage assessment and results.

*The executive summary* ***must*** *begin with the following statement:*

*“Compliance requirements are set out in Part 1 of the Cultural Heritage Management Plan.”*

**A summary of management conditions must not be included in this section.**

## Table of contents

*The table of contents must list the following items (as appropriate), giving page numbers for each item:*

* *Headings*
* *Sub-headings*
* *Tables*
* *Maps*
* *Photographs*
* *Figures*
* *Gazetteer*
* *Appendices*
* *References*

# PART 1 – CULTURAL HERITAGE MANAGEMENT CONDITIONS

Chronologically, the assessment occurs before drafting conditions and contingencies however in a CHMP the conditions and contingencies **must** be presented first.

Both conditions and contingency plans fall under ‘Part 1 – Cultural Heritage Management Conditions’ and confer obligations on the Sponsor and other parties conducting the activity on behalf of the Sponsor. Both are compliance requirements once the CHMP is approved. The ‘[Guide to drafting enforceable conditions and contingency plans’](https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2019-09/Guide_for_Drafting_Enforceable_Conditions_and_Contingency_Plans.docx) provides additional information on writing clear and enforceable conditions and contingency plans.

The following statement **must** be included immediately below the heading for Part 1:

*These conditions become compliance requirements once the Cultural Heritage Management Plan is approved. Failure to comply with a condition is an offence under s.67A of the Aboriginal Heritage Act 2006.*

*The Cultural Heritage Management Plan must be readily accessible to the sponsor and their employees and contractors when carrying out the activity.*

Conditions of a CHMP can include:

* management of Aboriginal cultural heritage identified during the assessment and to be impacted by the activity,
* protocols for handling sensitive information,
* communication of correspondence and information between the Sponsor and RAP(s) including timeframes for response,
* continuing involvement of RAP(s) in future stages of the activity,
* procedures where one party fails to abide by the terms of the CHMP,
* cultural awareness training for employees or contractors, and
* ongoing liaison between the Sponsor and RAP(s).

## Cultural heritage management conditions

Conditions **must** be complied with before, during and after the activity to manage and protect the Aboriginal cultural heritage identified during the cultural heritage assessment (s.42).

Conditions **must** be based on sound cultural heritage management principles, with the first principle being to avoid harm to Aboriginal cultural heritage. If this is not possible, the conditions **must** mitigate the impact of the activity.

The development of appropriate conditions involves an assessment of the Aboriginal cultural heritage present in the activity area and the likely impacts of the proposed activity on that Aboriginal cultural heritage. The conditions of a CHMP should reflect and be consistent with the matters considered under section 61 of a CHMP (section 4.4). The views of the RAP(s) and/or AAG are integral to drafting appropriate management conditions.

You should consider the cumulative impact of development in the region on Aboriginal cultural heritage when determining what impacts should be allowed by the conditions.

## Specific cultural heritage management conditions

*Specific management conditions must:*

* *be presented by Victorian Aboriginal Heritage Register number for known Aboriginal cultural heritage*
* *where identified, include requirements for ensuring areas likely to contain Aboriginal cultural heritage that are not to be impacted by the activity are protected, and*
* *include a map or maps showing the location of specific requirements.*

*These conditions should include, without limitation:*

* *avoidance of as much of the Aboriginal cultural heritage as possible, based on the significance of the Aboriginal cultural heritage;*
* *developing an appropriate salvage strategy to recover information about Aboriginal cultural heritage if it is not possible to avoid disturbance, based on the significance of the Aboriginal cultural heritage;*
* *the removal and curation of Aboriginal cultural heritage;*
* *requirements relating to the custody and management of Aboriginal cultural heritage during the course of the activity; or*
* *any combination of the above measures.*

*If no Aboriginal cultural heritage is found during the assessment, and no areas are identified as likely to contain Aboriginal cultural heritage, the CHMP may specify that no specific cultural heritage management activities are required.*

### Conditions to avoid harm to Aboriginal cultural heritage

The primary purpose of the CHMP process is to avoid harm to Aboriginal cultural heritage.

A proposed activity that harms Aboriginal cultural heritage may not be able to proceed or can proceed only if changed to mitigate its impact on Aboriginal cultural heritage in a way that satisfies the relevant authority.

Conditions to avoid harm to Aboriginal cultural heritage **must** clearly state how harm will be avoided.

### Conditions for the salvage of Aboriginal cultural heritage

Salvage of Aboriginal cultural heritage is only acceptable when it is not possible to avoid harm or minimise harm to Aboriginal cultural heritage. It should be used as a last resort when all other options have been exhausted.

Conditions for the salvage **must** include a research design and methodology developed in consultation with the RAP(s). The research design should maximise the quality of information gained from the salvage. The methodology **must** include the analysis of salvaged Aboriginal cultural heritage material and how this information will be provided to the RAP(s) or Traditional Owners, the Secretary and other interested parties.

The CHMP must identify the resources required for the salvage and analysis of Aboriginal cultural heritage, and for reporting of the results of the analysis.

#### Salvage including archaeological excavation

If salvage involves archaeological excavation, absolute dating (such as radiometric or optically stimulated luminescence dating) of occupation deposits and features **must** be obtained where possible.

Salvage of Aboriginal cultural heritage involving archaeological excavation **must** be supervised by someone appropriately qualified in archaeology and have extensive experience or knowledge in relation to excavation and analysis of excavated material.

### Conditions for the removal and curation of Aboriginal cultural heritage

Conditions for the removal and curation of Aboriginal cultural heritage **must** be consistent with established procedures for the treatment of cultural material[[1]](#footnote-2).

When developing conditions for the removal and curation of Aboriginal cultural heritage, consult with the relevant RAP(s) or Traditional Owners. If the RAP chooses not to curate Aboriginal cultural heritage, the Heritage Advisor needs to identify alternative arrangements prior to the salvage commencing.

In consultation with the RAP(s), the Heritage Advisor must:

* catalogue the Aboriginal cultural heritage,
* label and package the Aboriginal cultural heritage with reference to provenance, and
* arrange storage of the Aboriginal cultural heritage in a secure location with copies of the catalogue, assessment documentation, CHMP, and the results of the analysis of the cultural heritage.

The accumulation of unprovenanced collections of ‘salvaged’ cultural material is discouraged.

### Monitoring construction work

Generally, monitoring construction works should not be included in the conditions of a CHMP. Reasons for this include:

* it provides limited value to the understanding of the Aboriginal cultural heritage,
* it is a reactive measure and inconsistent with the purpose of preparing a CHMP (i.e. avoid or minimise harm to Aboriginal cultural heritage),
* it is an ineffective way for relevant RAP(s) or Traditional Owners to gather a collection of representative artefacts from an activity area,
* it does not adequately address the requirements of s.61(c).

Under certain circumstances, monitoring construction work may be included as a condition, such as:

* to ensure the avoidance of known Aboriginal cultural heritage when an activity is underway,
* where there is an obstacle within the activity area, such as a slab of concrete, which when removed may uncover unknown Aboriginal cultural heritage,
* when Aboriginal Ancestral remains are likely to be encountered during construction, and despite this, the activity must proceed in that area (e.g. a project of state significance). Note: unless exceptional circumstances arise, the activity should avoid such an area. The Secretary would not normally approve a CHMP for an activity impacting on an area likely to contain Aboriginal Ancestral remains.

If monitoring of construction work is included as a condition of a CHMP, supervision by the Heritage Advisor and representatives of relevant RAP(s) should be negotiated.

### Future access to Aboriginal cultural heritage

Conditions may provide for Traditional Owners to continue to visit Aboriginal cultural heritage places within the activity area during and after the activity has been completed. Notification requirements to the Sponsor, owner and occupier of the area, and safety requirements of the Sponsor, owner and/or occupier should be included in the condition.

A Cultural Heritage Agreement may also be entered into between landowner and relevant RAP(s) to deal with rights of access to Aboriginal cultural heritage within the activity area. More information on Cultural Heritage Agreements can be found on the [Department’s website](https://www.firstpeoplesrelations.vic.gov.au/aboriginal-heritage-protection-declarations-and-cultural-heritage-agreements).

## Contingency plans

Contingency plans cover unlikely events, such as the unexpected discovery of Aboriginal cultural heritage during works, or the Sponsor and the RAP unexpectedly disagreeing about the implementation of the CHMP.

A CHMP **must** include contingencies for the discovery of Aboriginal cultural heritage during works.

Contingencies **must** set out procedures in relation to Aboriginal cultural heritage **not previously identified** and other matters which may affect the conduct of the activity such as disputes, delays and other obstacles (s.61(d)).

**Example contingencies are set out in Appendix 1. Where the Secretary is the decision maker Sponsors are encouraged to use the example contingencies set out in Appendix 1.**

Where there is no RAP, a contingency plan should involve a Heritage Advisor being engaged to assist in facilitating an appropriate outcome, including the involvement of relevant Traditional Owners group. Generally, contingencies should only include future actions or roles for RAPs (this should be in consultation with RAP(s)).

For events that will happen, or are planned, contingency plans **are not** appropriate. These **must** be included as conditions of a CHMP (see section 4.2).

For clear referencing and easy legal application, contingencies should be sequentially numbered or lettered (not bullet-point).

Note: A contingency cannot be used if a change to the activity is so significant that it requires a new statutory authorisation (s.50 and 52(1)), the Sponsor must prepare and submit for approval either:

* an amended CHMP, or
* a new CHMP.

Contingency plans required under the Regulations are elaborated on below.

### Matters under Section 61 of the Act

Schedule 2 of the Regulations requires a CHMP to contain contingency plans about the matters under section 61 of the Act.

Further information on how to address section 61 matters can be found in section 4.4 ‘Addressing section 61 matter in ‘Part 1 – Cultural heritage management conditions’’.

### Resolution of any disputes between the sponsor and relevant registered Aboriginal parties in relation to the implementation of the CHMP or the conduct of the activity

It is the responsibility of the parties involved in the preparation of a CHMP to reach agreement on a dispute resolution procedure to be implemented **after** a CHMP is approved and include this as a contingency plan.

Where the Secretary is evaluating the CHMP, it is not necessary to contain a dispute resolution procedure under this provision. The Secretary has other mechanisms to address disputes, such as the audit provisions of the Act.

### Reviewing compliance with the cultural heritage management plan and mechanisms for remedying non-compliance

A contingency plan for reviewing compliance with the CHMP **must** be included with mechanisms for remedying non-compliance.

This should include a checklist referring to matters that **must** be complied with under the CHMP. This list should be as detailed as possible and contain everything the Sponsor **must** do to comply with the CHMP. The sponsor may use the checklist to review compliance at any time. The checklist should be referred to if non-compliance is suspected.

### The management of Aboriginal cultural heritage found during an activity

Contingency plans for the management of Aboriginal cultural heritage found during an activity should be consistent with the example contingencies found in Appendix 1.

If salvage excavation is to be included as a management measure for Aboriginal cultural heritage found during an activity, the contingency should outline the process for any salvage excavation undertaken (including timeframes), and that process should include a salvage report that details the results of the excavation being provided to the Register. The contingency plan should also list circumstances when salvage excavation will be adopted.

**Suspected Aboriginal Ancestral Remains**

If suspected Aboriginal Ancestral Remains are found, the contingency plans must account for the requirements of the *Coroners Act 1985* and the *Aboriginal Heritage Act 2006*. The contingency plan for the discovery of suspected Aboriginal Ancestral Remains should not vary between CHMPs. The example in Appendix 1 should be included verbatim in a CHMP.

### The notification (in accordance with the Act) of the discovery of Aboriginal cultural heritage during the carrying out of the activity

It is the Heritage Advisor’s role to investigate, report, and facilitate an appropriate outcome in line with the relevant contingency plans. This includes taking steps to engage the relevant RAP to assist with on-site investigation of Aboriginal cultural heritage that may be discovered during the activity being undertaken.

The Heritage Advisor **must** report the discovery to the Secretary by submitting, or updating, a Victorian Aboriginal Heritage Register record.

## Addressing section 61 matters in ‘Part 1 – Cultural heritage management conditions’

Section 61 of the Act provides the matters which a relevant authority **must** consider when evaluating a CHMP.

It is important the RAP and the Sponsor both discuss what may be considered appropriate conditions and contingency plans to be included in the CHMP. The Act provides for this communication by requiring the Sponsor consult with the RAP in relation to the conditions to be included in the CHMP (s.60(b)). Consultation around these matters should be well documented and understood.

You should provide draft conditions for discussion to the RAP at least a week prior to any meeting(s). If there are points of contention, further engagement may be required to reach a shared agreement. If a shared agreement cannot be reached, the Sponsor should be aware the RAP may refuse to approve the CHMP on these grounds.

Where the Secretary is the evaluator, you are encouraged to contact the relevant Regional Manager about the development of appropriate conditions and contingencies. Noting Departmental staff are unable to anticipate the decision of the Secretary or review the CHMP prior to submission. Please email VAHR@dpc.vic.gov.au if you require assistance with contact details.

### Section 61(a) - Whether the activity will be conducted in a way that avoids harm to Aboriginal cultural heritage

When developing CHMPs, Sponsors and Heritage Advisors must always seek to avoid harm to Aboriginal cultural heritage that may arise from the proposed activities.

Where Aboriginal cultural heritage has been identified in the activity area and harm will be avoided during the activity, the CHMP should state how harm to that Aboriginal cultural heritage will be avoided. Example measures include:

* not undertaking any works within an appropriate distance of the Aboriginal cultural heritage
* fencing off the Aboriginal cultural heritage during the conduct of the activity
* signage restricting access to the Aboriginal cultural heritage during the conduct of the activity, and/or
* information about avoiding Aboriginal cultural heritage being included in an induction manual, or training for contactors engaged during the conduct of the activity.

Where Aboriginal cultural heritage has been identified in the activity area and harm will occur during the conduct of the activity, the CHMP should clearly explain why it does not appear to be possible to conduct the activity in a way that avoids harm to the Aboriginal cultural heritage. Engagement with relevant RAPs and Traditional Owners are needed inform this section of the CHMP.

Where Aboriginal cultural heritage **has not** been identified in the activity area, contingency plans addressing the unexpected discovery of Aboriginal cultural heritage during the activity are required.

### Section 61(b) – where it does not appear to be possible to conduct the activity in a way that avoids harm to Aboriginal cultural heritage, whether the activity will be conducted in a way that minimises harm to Aboriginal cultural heritage

Where it does not appear to be possible to conduct the activity in a way that avoids harm to Aboriginal cultural heritage, the activity should be conducted in a way that minimises harm to Aboriginal cultural heritage. The CHMP should clearly state how harm to Aboriginal cultural heritage will be minimised. Harm minimisation measures could include:

* adjusting the location of the activity (for example moving a pipeline so it impacts on less of the Aboriginal cultural heritage)
* changing the type of activity in that area (for example using that area for open space in a housing subdivision), and/or
* undertaking the activity in a less destructive manner.

### Section 61(c) – any specific measures required for the management of Aboriginal cultural heritage likely to be affected by the activity, both during and after the activity

Where Aboriginal cultural heritage will be, or is likely to be, affected by the activity, specific Aboriginal heritage management measures should be developed and clearly set out in the CHMP. These may include:

* salvage excavation (to salvage the contextual information that will be lost by harm to the Aboriginal cultural heritage)
* fencing off part of that Aboriginal cultural heritage during the conduct of the activity
* signage restricting access to part of that Aboriginal cultural heritage during and after the conduct of the activity, and/or
* information about avoiding Aboriginal cultural heritage being included in an induction manual, or training for contactors engaged during the conduct of the activity.

If there are no specific measures required for the management of Aboriginal cultural heritage likely to be affected by the activity, such as where the CHMP does not identify any Aboriginal cultural heritage in the activity area, then section 61(c) has no application. The CHMP should state no specific measures are required.

### Section 61(d) – any contingency plans required in relation to disputes, delays and other obstacles that may affect the conduct of the activity.

These contingency plans should tell the Sponsor and other affected parties what to do if disputes, delays or other obstacles about Aboriginal heritage arise during the conduct of the activity. These should be tailored to the activity.

### Section 61(e) - requirements relating to the custody and management of Aboriginal cultural heritage affected during the course of the activity

Custody arrangements will apply where Aboriginal heritage will be salvaged either before or during an activity.

A CHMP should also detail custody arrangements (including timeframes) for Aboriginal heritage found or affected both during and after the activity has been completed.

Note: The term ‘management’ in this section relates to the management of custodial arrangements, not to cultural heritage management arrangements.

Where the Secretary is the evaluator of a CHMP, the custody of Aboriginal cultural heritage (excluding Aboriginal Ancestral Remains or secret or sacred objects) discovered during or after an activity **must** comply with the requirements under the Act and follow ‘Contingency 3 – Custody and management’ found in Appendix 1 – Example Contingencies of the Guide.

When developing conditions for the custody and management of Aboriginal cultural heritage, consideration needs to be given to the proposed custodian to adequately manage salvaged Aboriginal cultural heritage material.

# PART 2 – ASSESSMENT

## Introduction

*The Introduction must contain the following information:*

* *the reasons for preparing the CHMP (in accordance with Regulation 67);*
* *a reference to the Notice of Intention to Prepare a CHMP submitted to each relevant party under Section 54 of the Act and attached in the Appendices;*
* *a brief description of the location of the activity area, including relevant cadastral details;*
* *the name of the sponsor;*
* *the name of the heritage advisor who undertook the work and their qualifications and experience (in accordance with Section 189 of the Act);*
* *the name(s) of the owner(s) or occupier(s) of the land where the activity area is located;*
* *the RAP(s) with responsibility for the activity area;*
* *whether any RAP has elected to evaluate the CHMP; and*
* *whether any Activity Advisory Group was appointed by the Secretary in relation to the CHMP.*

### The reasons for preparing the CHMP

The reason for preparing a CHMP will be one of the following (r.67):

* preparation is voluntary,
* required by the Regulations (that is, due to the proposed activity being a high impact activity entailing significant ground disturbance that will take place in an area of cultural heritage sensitivity),
* required by Minister for Treaty and First Peoples,
* the activity requires an Environment Effects Statement under the *Environment Effects Act 1978*,
* an impact management plan or comprehensive impact statement is required in relation to a declared project under the *Major Transport Projects Facilitation Act 2009*, or
* a certified Preliminary Aboriginal Heritage Test has determined the need for a CHMP (s.45, 46-49A).

### Notice of intention to prepare a CHMP

The ‘Notice of Intention to Prepare a Management Plan’ (Notice) given to each relevant party **must** be referenced in the introduction.

A copy of the Notice **must** be attached in the Appendices. Only a single copy needs to be attached if it is the same Notice provided to the RAP, the Secretary, and to any owner or occupier of relevant land.

If a different Notice is provided to landowners/occupiers then a copy of that Notice should also be provided.

### The name of the Sponsor

The Introduction **must** contain the name of the Sponsor. The Sponsor is the person or corporation who is seeking to undertake the activity or who is seeking the preparation of the CHMP.

The Sponsor **must** be a legal entity. A trust is not a legal entity. Where the Sponsor is an incorporated body, the Australian Company Number (ACN) or other legal identifier **must** be provided with the name of the Sponsor.

ACNs can be found by searching The Australian Securities and Investments Commission (ASIC) Registers on the ASIC [website](https://connectonline.asic.gov.au/RegistrySearch/faces/landing/SearchRegisters.jspx?_adf.ctrl-state=z0lraqqnf_4).

An Australian Business Number (ABN) can be found by searching the business name on the Australian Business Register (ABR) [website](https://abr.business.gov.au/).

### The name of the Heritage Advisor

The name of the Heritage Advisor who prepared the CHMP and their qualifications and experience **must** be provided in the Introduction. It should be clear how the Heritage Advisors’ qualifications and experience meet the requirements of the Act, and the Minister’s guidelines specifying appropriate qualifications for Heritage Advisors (s.189(2)).

The Heritage Advisor **must** be a natural person, not a company.

### The location of the activity area

A brief description of the location of the activity area in regional context **must** be provided, including relevant cadastral details. Cadastral details are the lot and plan or volume and folio number *not* 'specific parcel identifier' (SPI) or council ID number.

### The owners and occupiers of the land

If different to the Sponsor, the name of the owner(s) or occupier(s) of the land where the activity area is located **must** be provided in the Introduction. Where an occupier does not wish to have their name recorded in the CHMP, the owner’s name **must** be provided. The name of a landowner is public information and can be obtained from LANDATA.

### Registered Aboriginal Parties

The name of relevant RAP(s) **must** be provided and include a statement about whether they have elected to evaluate the CHMP.

A copy of the RAP response **must** be included in the Appendices section of the CHMP (see section 7).

## Activity description

*A CHMP must provide clear and relevant information about the nature and extent of the proposed activity to assess the scope for potential impact on Aboriginal cultural heritage. In accordance with Clause 6.1, Schedule 2 of the Regulations, this information must include a detailed description of the nature of the proposed activity and any ancillary works associated with the activity as well as a description of the likely impact on the surface of the land and buried former land surfaces, and its possible impact on Aboriginal cultural heritage.*

### Subdivisions

*If the activity is a subdivision, the activity description must also include a description of how each lot is intended to be used or developed or if no such description is provided in relation to a lot, a description of the use or development of each lot permitted by the relevant planning scheme (in accordance with Clauses 6(2) and 10, Schedule 2 of the Regulations).*

A “description of the use or development of each lot permitted by the relevant planning scheme” is appropriate when the use is known but the exact development footprint is not, and should normally be used for subdivisions. This allows for the ongoing use and development of the land to be covered by the CHMP after the subdivision has occurred. The relevant planning scheme can be included within the appendices to provide this description.

## Extent of activity area covered by the Cultural Heritage Management Plan

1. *The map must include the following:*
2. *a description of what the map represents;*
3. *details of the location of the boundaries of the activity area;*
4. *the municipal district (if any) in which the area is located;*
5. *the salient prominent structures and works in, and natural features of, the activity area;*
6. *a legend explaining the symbols used to represent features on the map;*
7. *a scale shown as either a unit measure (such as 1:50 000) or by a graphic bar;*
8. *an arrow indicating which direction is north; and*

*a small diagram showing the location of the area depicted on the map in relation to the nearest major town.*

1. *The map must show any registration on the Victorian Aboriginal Heritage Register within the activity area and within 200 metres of the boundary of the activity area, at the time the desktop assessment for the Management Plan was undertaken.*

## Documentation of consultation with relevant Traditional Owners

It is important that Heritage Advisors make every effort to engage with relevant RAPs, or where no RAP is appointed, then with other relevant Traditional Owners. All engagement and discussion with Traditional Owners, including what was discussed and any agreed outcomes or disagreements, should be documented in the CHMP.

**Do not include information regarding consultation or exchange with stakeholders other than Traditional Owners in this section.** Relevant consultation with parties other than relevant Traditional Owners can be included, and referred to, as an appendix.

### Registered Aboriginal Parties

*If a RAP gives notice under Section 55 of the Act of its intention to evaluate a CHMP, the CHMP must:*

1. *state the name and functions of any representative appointed by the RAP(s) [pursuant to Clause 4(3), Schedule 2 of the Regulations];*
2. *include details of any consultation between the sponsor and the RAP(s) in relation to the assessment of the area for the purposes of the CHMP [pursuant to Section 60(a) of the Act];*
3. *include detail of the RAP(s) participation in the conduct of the assessment for the CHMP [pursuant to Section 60(c) of the Act];*
4. *include detail of the sponsor’s efforts to consult with the RAP(s) about the conditions to be included in the CHMP [pursuant to section 60(b) of the Act];*
5. *pursuant to Clause 8(2), Schedule 2 of the Regulations:*
   * *identify the RAP representatives, if any, who participated in CHMP meetings and/or consultation (including tele-conferencing, video conferencing and internet hook-ups as acceptable alternatives to meetings); and,*
   * *identify RAP representatives, if any, who participated in any field assessment.*
6. *provide a summary of the outcomes of the consultation.*

### Activity Advisory Groups

*If the activity is proposed for an area for which no RAP exists, and the Secretary appoints an Activity Advisory Group (AAG) for the activity under section 60A of the Act, the CHMP must:*

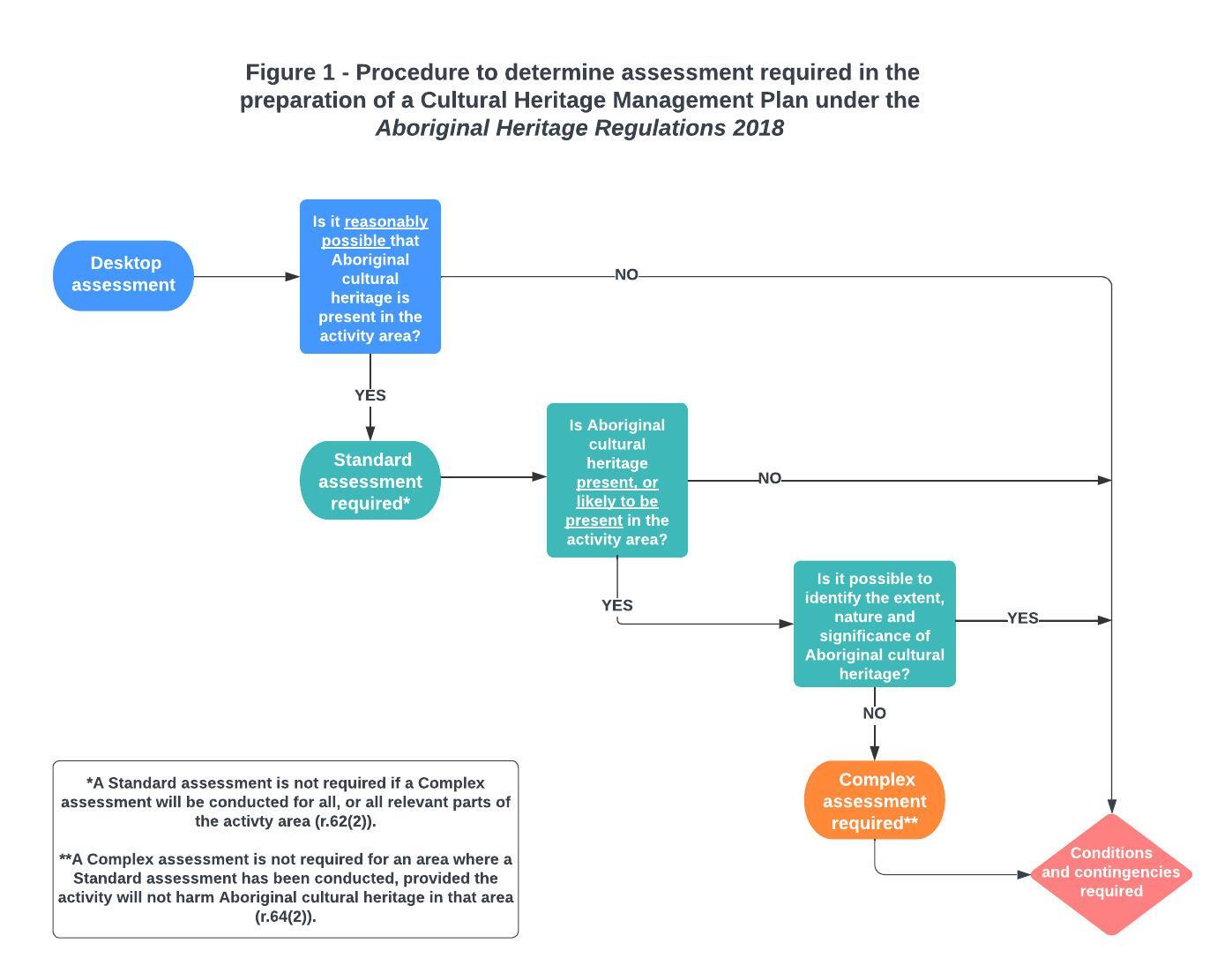
1. *state the names of the people appointed to the AAG;*
2. *include details of any consultation between the sponsor and the AAG in relation to the assessment of the area for the purposes of the CHMP [pursuant to Section 60A(5)(a) of the Act];*
3. *include details of any consultation between the sponsor and the AAG in relation to the conditions to be included in the CHMP [pursuant to Section 60A(5)(b) of the Act];*
4. *include detail of the AAG participation in the conduct of the assessment for the CHMP [pursuant to Section 60A(5)(c) of the Act];*
5. *pursuant to Clause 8(2), Schedule 2 of the Regulations:*
   * *identify the AAG representatives, if any, who participated in CHMP meetings and/or consultation (including tele-conferencing and video conferencing as acceptable alternatives to meetings); and,*
   * *identify AAG representatives, if any, who participated in any field assessment.*
6. *provide a summary of the outcomes of the consultation.*

## Conducting Aboriginal cultural heritage assessments

Aboriginal cultural heritage assessments identify and record Aboriginal cultural heritage within the activity area that may be impacted by a proposed activity.

Aboriginal cultural heritage assessments **must** be in accordance with the prescribed standards (s.53). The Regulations set out the standards, which are the minimum requirements for the conduct of Aboriginal cultural heritage assessments. Additional activities to determine the presence and/or nature of Aboriginal cultural heritage in the activity area may also be undertaken.

Assessments can involve background desktop research, interviews with Traditional Owners, ground surveys, and archaeological excavation and/or subsurface testing to detect Aboriginal cultural heritage (s.43). The procedure to determine the assessment required is summarised in Figure 1. Engagement with the relevant RAP(s), and/or Traditional Owners is an important part of best practice assessment of Aboriginal cultural heritage.



Note: a RAP may request further assessment (i.e. standard or complex) occur, even if not required by legislation. If further assessment is agreed to and conducted, the CHMP should still detail the evidence that demonstrates thresholds under the regulations have not been met (i.e. regulation 62 and 64) and state the reasons the RAP has requested a standard and/or complex assessment be undertaken.

### Engagement with RAP representatives

RAP representatives are key partners during the preparation of the CHMP. Representatives need to be available for meetings for the duration of the CHMP and participate in field assessment.

The identity and number of RAP representatives should be determined early in the CHMP preparation process to avoid confusion and duplication.

Where there is more than one RAP, it is preferable to have equal numbers of representatives from each RAP involved, however RAP(s) may decide to involve differing numbers of representatives. Joint meetings with representatives from each RAP can be beneficial but it may be necessary to schedule meetings individually with each RAP.

A process should be agreed to enable a RAP(s) to change their representatives, although continuity is preferable. This process should not delay the completion of the CHMP or inconvenience the Sponsor.

Disputes may arise between the Sponsor and RAP(s) during the preparation of a CHMP. The Sponsor or RAP (or both) may refer a dispute to the Chairperson of the Council for alternative dispute resolution (s.113).

Further information on the management of disputes during the preparation of a CHMP can be found on the [Department’s website](https://www.firstpeoplesrelations.vic.gov.au/dispute-resolution-related-evaluation-chmp).

Note: For Secretary evaluated CHMPs, engagement with relevant Traditional Owner groups is considered. The approach used to engage RAP representatives may be used to engage relevant Traditional Owner groups.

### Attendance

All parties involved in the preparation of a CHMP are responsible for ensuring assessment participants can undertake assessment duties and have the necessary skills.

As the primary source of advice and knowledge on matters relating to Aboriginal cultural heritage in their region, it is expected that RAP(s) will choose to participate in assessment work. However, it is up to the RAP(s) to decide whether they will participate in assessment work, by providing field workers or interviewees who can give oral information.

### Occupational health and safety

The Sponsor **must** comply with the *Occupational Health and Safety Act 2004* (OHS Act). This includes being responsible for the health and safety of the Heritage Advisor the Sponsor employs and also the RAP representatives engaged to assist.

These responsibilities include but are not limited to:

* providing induction and training necessary to meet requirements under the OHS Act
* managing conduct of all persons involved in the cultural heritage assessment to ensure compliance with the occupational health and safety requirements of the activity area, and
* providing safe access to the activity area, appropriate first aid and other facilities necessary for the occupational health and safety of those involved in the cultural heritage assessment.

The Sponsor may require the Heritage Advisor and RAP representatives to comply with any occupational health and safety requirements within the activity area before any assessment work begins.

### Desktop assessment

A desktop assessment **must** be undertaken as part of a cultural heritage assessment and before a standard or complex assessment proceeds (r. 62(1) and 64(1)). A desktop assessment **must** comply with regulation 61 and may include other activities the Heritage Advisor considers necessary or convenient to determine the presence and or nature of Aboriginal cultural heritage in the activity area.

A desktop assessment generally informs the methodology for standard and complex assessments, including ground survey and excavation strategies. In limited circumstances, a desktop assessment may be the substantive part of the cultural heritage assessment.

Note: A search of the Victorian Aboriginal Heritage Register (the Register) via Aboriginal Cultural Heritage Information System (ACHRIS) **must** be undertaken by a Heritage Advisor. There is a fee for accessing and searching ACHRIS and payment of this fee should accompany the ‘Notice of Intent’.

The results of the desktop assessment determine whether further assessment is required. This process is summarised in Figure 1.

### Standard assessment

The standard assessment aims to identify the extent, nature and significance of the Aboriginal cultural heritage found in the activity area through ground survey. A standard assessment **must** comply with regulation 63, including a ground survey of all or part of the activity area to detect the presence of Aboriginal cultural heritage in or associated with the activity area. A ground survey **must** be done in accordance with proper archaeological practice[[2]](#footnote-3).

The results of the standard assessment determine whether a complex assessment is required and this process is summarised in Figure 1.

### Complex assessment

A complex assessment **must** comply with regulation 65 and involves the disturbance or excavation of all or part of the activity area to uncover Aboriginal cultural heritage. The benefits of such assessment need to be balanced against the risks of disturbance and potentially even destruction of Aboriginal cultural heritage. It may also include the collection and review of oral history relating to the activity area.

A complex assessment is required if the desktop or standard assessment show the activity will impact an area where Aboriginal cultural heritage is present, or is likely to be, and a complex assessment is needed to determine the extent, nature and significance of the Aboriginal cultural heritage.

‘Likely’ holds the ordinary meaning of the word when determining whether Aboriginal cultural heritage is ‘likely’ to be present in an area.

It is essential that you notify and consult relevant RAP(s) in relation to any proposed disturbance or excavation of the activity area. This ensures the RAPs are aware and can raise any concerns prior to the excavation taking place.

If the Secretary is evaluating the CHMP, please contact the relevant Regional Manager to arrange a meeting before any complex assessment is undertaken. If no complex assessment is proposed, it is advised that this decision is discussed with the Regional Manager prior to submission of the CHMP. Please email [VAHR@dpc.vic.gov.au](mailto:VAHR@dpc.vic.gov.au) if you require assistance with contact details.

The disturbance or excavation of land to uncover or discover Aboriginal cultural heritage can be destructive. It is important that it only be carried out when required. Disturbance or excavation should not be undertaken in areas unaffected by the proposed activity, or if they will cause more harm to Aboriginal cultural heritage than the proposed activity (e.g. surface stripping by grader).

Test excavations **are not** salvage operations and should not be designed as such.

Where mechanical excavation or mechanical sub-surface testing may be an appropriate method for uncovering or discovering Aboriginal cultural heritage, this **must** be preceded by controlled excavation to establish the stratigraphy and general sub-surface nature of the area being investigated (r.65(4)). Should Aboriginal cultural heritage be identified during mechanical excavation, work must cease and controlled archaeological excavation continue in accordance with the regulations (r.65(7).

A person appropriately qualified in archaeology **must** be physically present to supervise the disturbance or excavation for a complex assessment and these activities must be carried out in accordance with proper archaeological practice (r.65(3)). If the Heritage Advisor is not appropriately qualified in archaeology, a qualified archaeologist to supervise the disturbance and/or excavation **must** be engaged.

Any Aboriginal cultural heritage recovered during complex assessments must be managed according to established procedures for the treatment of cultural material[[3]](#footnote-4). This **must** also be the responsibility of a qualified archaeologist who has extensive experience or knowledge in relation to the analysis and management of excavated Aboriginal cultural heritage. Practice notes on the Department’s website provide additional guidance on [salvage excavation](https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2020-06/Practice-Note-Salvage-Excavation.docx) and [subsurface testing](https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2019-07/Practice-Note-Subsurface-Testing.docx).

Additional resources

* ‘*The Archaeologist’s Field Handbook’*[[4]](#footnote-5) provides a basic guide to archaeological excavation and the management of archaeological materials,
* ‘*A Record in Stone’*[[5]](#footnote-6) features extensive analysis of stone flaked material,
* ‘*Australian Field Archaeology: a guide to techniques’*[[6]](#footnote-7) for useful information on field archaeology, and
* ‘Survey Strategies in Landscape Archaeology’[[7]](#footnote-8) considers survey strategies and subsurface testing can be found in Richards’ ‘*Handbook of Landscape Archaeology’*.

## Reporting the results of an Aboriginal cultural heritage assessments

A CHMP **must** detail the results of any assessment of the Aboriginal cultural heritage present within an activity area.

In reporting the results of an Aboriginal cultural heritage assessment, a CHMP must use the Victorian Aboriginal Heritage Register numbers to identify all Aboriginal cultural heritage found, discovered and/or subject to investigation.

Note: register numbers for new records will only be issued following receipt of completed Victorian Aboriginal Heritage Register record to the required standard. To make any updates to a record for Aboriginal cultural heritage that already has a Victorian Aboriginal Heritage Register number, a ‘Record Edit’ must be completed and verified via ACHRIS prior to submission of the CHMP for approval.

The regulations require that a CHMP includes the following:

1. ***Desktop Assessment*** *– Details of the desktop assessment pursuant to Regulation 61 and Clause 8.1, Schedule 2 of the Regulations, including the following information relating to the Aboriginal cultural heritage in or associated with the activity area:*
   1. *a search of the Victorian Aboriginal Heritage Register for information relating to the activity area, including the date(s) the Victorian Aboriginal Heritage Register was accessed*
   2. *an identification and determination of the geographic region of which the activity area forms a part that is relevant to the Aboriginal cultural heritage that may be present in the activity area*
   3. *a concise map or maps showing the geographic region referred to in point 2 and the location of the activity area in that geographic region*
   4. *a review of the registered Aboriginal places in the geographic region referred to in point 2*
   5. *a review of reports and published works about Aboriginal cultural heritage in the geographic region referred to in point 2, relevant to the activity area*
   6. *a review of historical and ethno-historical accounts of Aboriginal occupation of the geographic region referred to in point 2, relevant to the activity area*
   7. *a review of the landforms or geomorphology of the activity area*
   8. *a review of the history of the use of the activity area, including discussion of prior disturbance to ground surfaces and soil deposits if available, and*
   9. *a conclusion surmising from the desktop assessment whether it is possible Aboriginal cultural heritage may be located in the activity area.*
2. ***Standard Assessment*** *– When a cultural heritage assessment includes a ground survey, details of the assessment pursuant to Clause 8, Schedule 2 of the Regulations, including:*
   1. *the method by which the Aboriginal cultural heritage present in the activity area was assessed, including ground survey strategies and techniques*
   2. *if any, a concise map or maps showing the ground survey areas and any Aboriginal places in the survey areas, including estimates of effective survey coverage*
   3. *the names of those taking part in the ground survey*
   4. *details of obstacles encountered, if any, in completing the ground survey, and*
   5. *the results and conclusions of the ground survey, considered in light of the desktop assessment, including the identification of areas likely to contain Aboriginal cultural heritage (if any).*
3. ***Complex Assessment*** *– When a cultural heritage assessment includes subsurface testing and excavation, the CHMP must also include (Clause 9, Schedule 2 of the Regulations):*
   1. *the subsurface testing or excavation aims and methodology (including strategies employed and/or techniques used)*
   2. *a concise map or maps showing the location of subsurface testing or excavation pits or transects and any Aboriginal places in the vicinity of the subsurface testing or excavation pits or transects*
   3. *scaled section drawings and/or scaled photographs of the profile of each controlled excavation subsurface testing or excavation pit or transect pit where Aboriginal cultural heritage is present*
   4. *scaled section drawings and/or scaled photographs of the profile of each controlled excavation subsurface testing or excavation pit or transect pit representative of a landform being investigated*
   5. *the co-ordinates for the location of subsurface testing or excavation pits or transects, including transect start and end points (Victorian Government standard GDA94 MGA for Eastings, Northings and Zone)*
   6. *the names of those taking part in the subsurface testing or excavation*
   7. *the name of the person responsible for supervising the subsurface testing or excavation*
   8. *any physical or other obstacles to the carrying out of the subsurface testing or excavation (e.g. environmental conditions, weather, access restrictions, competency of participants, etc.), and*
   9. *the results and conclusions of the subsurface testing and/or excavation including the results of any radiometric or other dating, considered in light of the desktop and standard assessment.*

### Documenting Aboriginal cultural heritage

It is a requirement to report the discovery of Aboriginal places and objects. Heritage Advisors acting in a professional capacity are expected to do so by registering Aboriginal places and objects on the Register. When documenting Aboriginal cultural heritage, Heritage Advisors must avoid assumptions about what may be present and should only report what is determined after appropriate investigation. Whilst professional judgement about the extent, nature and significance of a place is an essential part of its recording, person opinions or claims about the past use (or non-use) of a place should be treated with caution. Where possible, other sources (e.g. historical accounts, material remains, and/or oral history) should be sought to substantiate information that may otherwise be based on hearsay.

## Cultural heritage significance

Cultural heritage significance **must** be thoroughly assessed to determine appropriate CHMP conditions. This is to enable RAPs to form a view on whether proposed CHMP conditions are adequate to their satisfaction, as required by sections 61 and 63(4).

The relationship between cultural heritage significance and CHMP conditions was highlighted by the Supreme Court of Victoria in *Thorpe v Head, Transport for Victoria & Ors* (2021 VSC 750; para 84):

*“Understanding the significance of an Aboriginal place is important in devising its adequate protection. There are inextricable links between the identification of Aboriginal places, the significance that is accorded to them and the adequacy of measures to be adopted to avoid harm.”*

The Act defines ‘cultural heritage significance’ as including:

* archaeological, anthropological, contemporary, historical, scientific, social or spiritual significance; and
* significance in accordance with Aboriginal tradition.

The Act also defines Aboriginal tradition as:

1. The body of traditions, knowledge, customs and beliefs of Aboriginal people generally or of a particular community or group of Aboriginal people; and
2. any such traditions, knowledge observances, customs or beliefs relating to particular persons, areas, objects or relationships (s.4).

What is considered ‘significant’ can change throughout time and the degree of significance can also change. The Burra Charter provides guidelines for measuring the relative importance of a place and states that ‘understanding of cultural significance may change as a result of new information'[[8]](#footnote-9). For example, a scatter of discarded objects from an activity not considered significant at the time, may acquire ‘significance in accordance with Aboriginal tradition’ with time and cultural change.

The Act is also explicit that cultural heritage significance is not affected if the Aboriginal cultural heritage is damaged or modified (s.8).

All Aboriginal places and objects have cultural heritage significance. Protection of Aboriginal cultural heritage must be considered first when developing cultural heritage management conditions. Assessing cultural heritage significance – including non-archaeological cultural heritage significance -is an essentialpart of determining appropriate management conditions. This may require the engagement of an appropriately qualified expert, such as an anthropologist.

A CHMP **must** include a statement of the cultural heritage significance for each Aboriginal cultural heritage place or object found, discovered and/or subject to investigation in accordance with the AH Act’s definition of ‘cultural heritage significance’. This **must** be developed through engagement and collaboration with the relevant RAPs or Traditional Owners, and it should address as many elements of cultural heritage significance as practicable.

You are encouraged to contact the Registry team by emailing [VAHR@dpc.vic.gov.au](mailto:VAHR@dpc.vic.gov.au) for guidance on the development of Cultural Significance Statements, and the minimum standards required for a landscape registration, in particular.

## Details of Aboriginal cultural heritage in the activity area (if any)

A CHMP **must** detail the results of any assessment of the Aboriginal cultural heritage present in an activity, including an analysis to establish the nature and significance of the Aboriginal cultural heritage.

*If no Aboriginal cultural heritage is found, discovered and/or subject to investigation for the CHMP, and no areas likely to contain Aboriginal cultural heritage are identified in the activity area, then this section should not be included.*

1. *For the Aboriginal places or objects found, discovered and/or subject to investigation (if any) in the activity area (pursuant to Clauses 8 and 11, Schedule 2 of the Regulations) the following must be included:*
   1. *details of the assessment of the Aboriginal cultural heritage undertaken to determine the nature and significance of each Aboriginal place or object, including analysis of site formation processes and (where relevant):artefact analysis; shell or faunal analysis; radiometric dating; statistical analysis; and any other relevant analysis undertaken,*
   2. *a summary of information, if any, provided by a member of a relevant RAP or other person about the Aboriginal cultural heritage of the activity area,*
   3. *an accurate transcript of any oral information provided by a representative of a relevant RAP or other people who may possess information about the Aboriginal heritage of the activity area, if the person who provided the information consents,*
   4. *the results of the assessment of the Aboriginal cultural heritage,*
   5. *a concise map or maps of the activity area which locates all Aboriginal cultural heritage found, discovered and/or subject to investigation with reference to Victorian Aboriginal Heritage Register numbers.*
2. *For each Aboriginal place or object found, discovered and/or subject to investigation in the activity area, which may be subject to impact by the activity, presented by Victorian Aboriginal Heritage Register number, the following must be included (pursuant to Clause 11, Schedule 2 of the Regulations):*
   1. *the Victorian Aboriginal Heritage Register number,*
   2. *the full cadastral description of the land on which Aboriginal cultural heritage is located,*
   3. *the* ***Extent*** *– a detailed plan of each Aboriginal place found, discovered and/ or subject to investigation including*
   4. *coordinates (Victorian Government standard GDA94 MGA for Eastings, Northings and Zone)*
   5. *the* ***Nature*** *– a detailed description of the Aboriginal cultural heritage found, discovered and/or subject to investigation*
   6. *the* ***Significance*** *– a statement of the significance of the Aboriginal cultural heritage found, discovered and/or subject to investigation in terms of the definition of ‘cultural heritage significance’ in Section 4 of the Act, and*
   7. *at least one representative photograph or digital image of the Aboriginal cultural heritage.*
3. *If a cultural heritage assessment identifies areas likely to contain Aboriginal cultural heritage, which will not be impacted by the activity, the following must be included:*
4. *the reasoning behind the identification of each area likely to contain Aboriginal cultural heritage, and*
5. *a description of each area identified as likely to contain Aboriginal cultural heritage.*

Where an Aboriginal place has various features, representative images of *each* feature **must** also be submitted. Images should be provided as JPEG files at a resolution of at least 300 DPI (dots per inch).

All photographs submitted **must** be labelled appropriately and should be labelled using the following conventions:

[VAHR #]\_[Aboriginal place name/image title]\_[Date/Year]\_[Photographer]\_[Additional details]

e.g. 7323-0074\_Black Range 8\_25Aug23\_ Harry Webber\_ artefact scatter.jpg

Where an area has been identified as likely to contain Aboriginal cultural heritage, but this area will not be impacted by the activity, this should be named relevantly (e.g. ‘Area A – Smith Property Sandy Rise’) and referenced throughout the CHMP.

## Consideration of section 61 matters – Impact assessment

A critical purpose of a CHMP is to assess the potential impact of the proposed activity on Aboriginal cultural heritage and to devise appropriate conditions to avoid or minimise these impacts.

Each Aboriginal place or object **must** be discussed individually under this section of a CHMP.

*An assessment of the likely impacts on Aboriginal cultural heritage of the activity should also include consideration and assessment of the cumulative impact of the activity on Aboriginal cultural heritage in the activity area in relation to the Aboriginal cultural heritage of the region.*

*For each Aboriginal place or object found, discovered and/or subject to investigation in the activity area, presented by Victorian Aboriginal Heritage Register number and in accordance with Section 61 of the Act, consideration of the following must be presented:*

1. *whether the activity will be conducted in a way that avoids harm to the Aboriginal place or object*
2. *if it does not appear to be possible to conduct the activity in a way that avoids harm to Aboriginal place or object, whether the activity will be conducted in a way that minimises harm to Aboriginal place or object, and*
3. *any specific measures required for the management of the Aboriginal place or object likely to be affected by the activity, before, during and after the activity.*

*In accordance with Section 61 of the Act consideration of the following must be presented:*

* *any contingency plans required in relation to disputes, delays and other obstacles that may affect the conduct of the activity, and*
* *requirements relating to the custody and management of Aboriginal cultural heritage during the course of the activity.*

# References

All reports, articles, primary sources, web sources, maps, aerial imagery repositories (e.g. Landata) and books referred to in the CHMP **must** be listed and be presented in accordance with standard referencing conventions, such as those set out in the Australian Style Manual[[9]](#footnote-10).

# Appendices

*The following documents must be appended to the CHMP:*

* *the Notice of Intention to Prepare a CHMP (including the map) provided by the sponsor to various parties under Section 54 of the Act,*
* *the notice from each relevant RAP to the sponsor specifying whether or not it intends to evaluate a CHMP under Section 55 of the Act (where relevant)*
* *a glossary listing simple explanations for any technical terms specifically used in the CHMP*
* *a Gazetteer of all Aboriginal cultural heritage found, discovered and/or subject to investigation in the activity area indexed by Victorian Aboriginal Heritage Register numbers, and*
* *any catalogues of data recorded about Aboriginal cultural heritage, such as detailed recording of stone artefact dimensions and features for analysis.*

*A CHMP may also include, (without limit) as appendices:*

* *relevant figures, tables, photographs not required in the body of the CHMP, and*
* *correspondence between the sponsor and the RAP(s) (where appropriate).*

Maps

The CHMP **must** include maps of sufficient quality to relocate the activity area, understand the assessment, relocate the extent of the Aboriginal cultural heritage in the activity area, and implement the management conditions.

*The maps must provide a minimum of:*

* *either geo-referencing or at least three readily identifiable features, e.g. road intersections, river crossings, prominent features, within the vicinity*
* *a prominent North arrow*
* *a scale bar using standard cartographic formats*
* *the area covered by the CHMP clearly shown, and*
* *any other salient prominent natural features, structures and works.*

The Map of the Activity Area of a CHMP has additional requirements and must be prepared in the Approved Form (see section 5.3 and the [Department’s website](https://www.firstpeoplesrelations.vic.gov.au/cultural-heritage-management-plan-resources-heritage-advisors)).

# Submitting a Cultural Heritage Management Plan for evaluation

It is the Sponsor’s responsibility to ensure the relevant authority receives the CHMP for evaluation and receives the associated statutory fee for evaluation at the time of submission. The fees payable can be found on the [Department’s website.](https://www.firstpeoplesrelations.vic.gov.au/fees-and-penalties-aboriginal-heritage-activities)

## When a RAP is the evaluator

When submitting a CHMP to a RAP for evaluation, the Sponsor **must** submit:

* a complete CHMP, in a format suitable for evaluation. Depending on the preference of the RAP, this will either be hardcopy or an electronic PDF copy,
* a complete ‘[Application for Approval of a Cultural Heritage Management Plan’](https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2019-07/Application-for-approval-of-a-Cultural-Heritage-Management-plan.docx) form, and
* the statutory fee.

A RAP has a 30-day statutory time period to evaluate the CHMP, which does not commence until the RAP receives the CHMP **and** the statutory fee.

## When the Secretary is the evaluator

When submitting a CHMP for evaluation by the Secretary, DPC, the Sponsor must provide the following to the Department:

* a complete CHMP, as an electronic PDF, by email to vahr@dpc.vic.gov.au,
* a complete ‘[Application to the Secretary for Approval of a Cultural Heritage CHMP’](https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2019-07/Application-for-approval-of-a-Cultural-Heritage-Management-plan.docx), and
* the evaluation fee paid [online](https://achris.vic.gov.au/#/feepayments/chmpevaluation).

The Secretary has a 30-day statutory time period to evaluate the CHMP, which does not commence until the Secretary receives the CHMP **and** the statutory fee.

## When the Council is the evaluator

When submitting a CHMP for evaluation by the Council, the Sponsor must forward the following to the Department:

* a complete CHMP, as an electronic PDF, by email to vahc@dpc.vic.gov.au,
* a complete application ‘[Application to the Council for Approval of a Cultural Heritage CHMP’](https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2019-07/Application-for-approval-of-a-Cultural-Heritage-Management-plan.docx), and
* the evaluation fee paid [online](https://achris.vic.gov.au/#/feepayments/chmpevaluation).

## When there is more than one evaluator

When an activity area crosses the boundary of a RAP area, either into another RAP area or into an area where the Secretary is the evaluator, there will be more than one evaluator.

It is the Sponsor's responsibility to ensure all decision makers evaluate the same version of the CHMP. A RAP can only evaluate and approve a CHMP as it relates to its appointed area. The Secretary or Council can only evaluate and approve a CHMP in relation to the activity area where a RAP is not the evaluator.

All relevant authorities will consult to ensure decisions affecting each other are as consistent as possible.

A CHMP will only come into effect after:

* the RAP(s) approves the CHMP as it relates to its appointed area,
* the Secretary approves the plan as it relates the remaining part of the activity area
* the relevant documents are lodged with the Secretary.

Note: Disputes may arise about the evaluation between the Sponsor and a RAP, or where more than one RAP has cultural heritage decision-making responsibility for an area. Further information on the management of disputes about the evaluation of a CHMP can be found on the [Department’s website](https://www.firstpeoplesrelations.vic.gov.au/dispute-resolution-related-evaluation-chmp).

# Lodgement of an Approved CHMP

Following the approval of a CHMP, the Sponsor must provide all assessment documentation to the Secretary within 14 days (s.67(1)). It is recommended that Heritage Advisors assist Sponsors to provide this information as documentation for Secretary and RAP Approved CHMPs is lodged via ACHRIS.

Please refer to the document “ACHRIS User Guide – CHMP Final Lodgement” for further guidance around lodgement.

Assessment documentation includes all spatial data, maps, plans and any other prescribed documentation relating to a CHMP and the CHMP itself (with a copy of each notice of approval received by the sponsor inserted after the title page).

All other documents that are not approved CHMPs (including CHMP amendments) are to be emailed to the Heritage Registrar at the Department (VAHR@dpc.vic.gov.au).

Note: If the Sponsor of a CHMP decides to discontinue preparation of the plan, all assessment documentation must be provided to the Secretary within 14 days after deciding to discontinue the plan (s.67(2)).

## Spatial data

The following information **must** be provided to the Department as projected spatial data (e.g. shapefile or TAB file):

* the activity area
* ground survey areas (if any)
* subsurface testing or excavation pits or transects (if any), and
* the extent of each Aboriginal place found, discovered and/or subject to investigation (if any).

For further guidance, please refer to the ‘Guide to Lodging Spatial Data in the Victorian Aboriginal Heritage Register’ on the [Department’s website.](https://www.firstpeoplesrelations.vic.gov.au/cultural-heritage-management-plan-resources-heritage-advisors)

# Appendix 1 – Example contingencies

**Contingency 1 – The discovery of human remains**

If any suspected human remains are found during any activity, works must cease. Victoria Police and the State Coroner’s Office must be notified immediately. If there are reasonable grounds to believe the remains are Aboriginal, the Coronial Admissions and Enquiries hotline must be contacted immediately on 1300 309 519. This advice has been developed further and is described in the following 5-step contingency plan.

Any such discovery at the activity area must follow these steps.

1. Discovery:
   1. If suspected human remains are discovered, all activity within at least 30 metres must stop
   2. The remains must be left in place and protected from harm or damage, and
   3. Do not contact the media; do not take any photographs of the remains other than those requested by the relevant authorities below.
2. Notification:
   1. If suspected human remains have been found, the State Coroner’s Office and Victoria Police must be notified immediately
   2. If there are reasonable grounds to believe the remains are Aboriginal Ancestral Remains, the Coronial Admissions and Enquiries hotline must be immediately notified on 1300 309 519
   3. All details of the location and nature of the human remains must be provided to the relevant authorities
   4. If it is confirmed by State Coroner’s Office that the discovered remains are Aboriginal Ancestral Remains, the person responsible for the activity must report the existence of them to the Victorian Aboriginal Heritage Council in accordance with section 17 of the *Aboriginal Heritage Act 2006.*
3. Impact Mitigation or Salvage:
   1. The Victorian Aboriginal Heritage Council, after taking reasonable steps to consult with any Aboriginal person or body with an interest in the Aboriginal Ancestral Remains, will determine the appropriate course of action as required by section 18(2)(b) of the *Aboriginal Heritage Act 2006*
   2. An appropriate impact mitigation or salvage strategy as determined by the Victorian Aboriginal Heritage Council must be implemented by the Sponsor. All costs associated with this will be the responsibility of the Sponsor.
4. Curation and further analysis:
   1. The treatment of salvaged Aboriginal Ancestral Remains must be in accordance with the direction of the Victorian Aboriginal Heritage Council.
5. Reburial:
   1. Any reburial site(s) must be fully documented by an experienced and qualified archaeologist and all relevant details provided to the Registrar
   2. Appropriate management measures must be implemented to ensure the Aboriginal Ancestral Remains are not disturbed in the future.

**Contingency 2 – Aboriginal cultural heritage (excluding Aboriginal Ancestral Remains)**

1. Secret / sacred objects
   1. Any suspected Secret / Sacred Objects must be reported to the Victorian Aboriginal Heritage Council, as per Part 2, Division 3 (sections 21-2) of the *Aboriginal Heritage Act 2006.*
   2. All works must stop within at least 10 metres of the objects
   3. The Victorian Aboriginal Heritage Council will transfer the object/s to an Aboriginal person that the Victorian Aboriginal Heritage Council is satisfied is entitled to and willing to take possession, custody or control of the object/s, or otherwise deals with the object/s as the Victorian Aboriginal Heritage Council thinks appropriate, as per section 21B of the *Aboriginal Heritage Act 2006.*
2. Discovery
   1. If any other suspected Aboriginal cultural heritage, excluding Aboriginal Ancestral Remains and suspected Secret / Sacred Objects, is uncovered or identified:
      1. All works must stop within at least 10 metres of the suspected Aboriginal cultural heritage
      2. The ‘stop works’ area around the suspected Aboriginal cultural heritage must be fenced off using appropriate temporary fencing and protected from further disturbance; “no-go zone” signage must be attached to the fencing at all times to prevent the area being disturbed further
      3. An appropriately qualified Heritage Advisor must be notified within two working days
      4. An appropriately qualified Heritage Advisor must inspect the suspected Aboriginal cultural heritage within three working days of notification
      5. Relevant Traditional Owner groups must be provided the opportunity to participate in the inspection.
3. Notification
   1. The Department of Premier and Cabinet (vahr@dpc.vic.gov.au) must be notified of the discovery of any Aboriginal cultural heritage excluding Aboriginal Ancestral Remains by the Sponsor within five working days.
4. Unexpected discoveries of Aboriginal cultural heritage
   1. If the Heritage Advisor determines that the discovery is Aboriginal cultural heritage, and is not Aboriginal cultural heritage as described in Example Contingency 1:
      1. the Sponsor must consider whether it is possible to avoid harm to the Aboriginal cultural heritage, and if harm cannot be avoided, whether harm can be minimised, and salvage excavation of the Aboriginal cultural heritage undertaken to mitigate impact
      2. if harm cannot be avoided, the Sponsor must arrange a meeting between the Heritage Advisor, relevant Traditional Owner groups (should they wish to attend) and the Department of Premier and Cabinet, as soon as practicable, to discuss and agree an appropriate way of managing the Aboriginal cultural heritage
      3. all reasonable costs arising from the meeting and any agreed management actions must be borne by the Sponsor
      4. the temporary fencing around the suspected or identified Aboriginal cultural heritage may be removed, and works re-commence in the “no-go zone”, when the suspected or identified Aboriginal cultural heritage has been investigated and managed appropriately, in accordance with the *Aboriginal Heritage Act 2006* and as agreed in discussions with the Department of Premier and Cabinet
      5. the Heritage Advisor must record the Aboriginal cultural heritage in accordance with VAHR standards and relevant forms must be submitted to the Victorian Aboriginal Heritage Register as soon as practical.
5. Not unexpected Aboriginal cultural heritage and low-density artefact distributions
   1. If the Heritage Advisor determines that the discovery is a low-density artefact distribution or other not unexpected Aboriginal cultural heritage, being (*if required, describe other circumstances in which this contingency is appropriate, such as dispersed remains of shell midden material in a coastal environment*):
      1. the Heritage Advisor must record the Aboriginal cultural heritage in accordance with Victorian Aboriginal Heritage Register (VAHR) recording standards, and relevant forms must be submitted to the VAHR as soon as practical
      2. works can continue once the Aboriginal cultural heritage has been recorded and all temporary fencing is removed.

**Contingency 3 – Custody and management**

1. Where the Secretary to the Department of Premier and Cabinet determines the approval of a CHMP, the custody of Aboriginal cultural heritage (with the exception of Aboriginal Ancestral Remains, or secret or sacred objects) discovered during or after an activity must comply with the requirements of the *Aboriginal Heritage Act 2006* and be assigned according to the following order of priority, as appropriate:
   1. any relevant Registered Aboriginal Party for the land from which the Aboriginal cultural heritage is salvaged
   2. any relevant registered native title holder for the land from which the Aboriginal cultural heritage is salvaged
   3. any relevant native title party (as defined in the Aboriginal Heritage Act 2006) for the land from which the Aboriginal cultural heritage is salvaged
   4. any relevant Traditional Owner or Owners of the land from which the Aboriginal cultural heritage is salvaged
   5. any relevant Aboriginal body or organisation which has historical or contemporary interests in Aboriginal cultural heritage relating to the land from which the Aboriginal cultural heritage is salvaged
   6. the owner of the land from which the Aboriginal cultural heritage is salvaged
   7. Museum Victoria.
2. Final management arrangements, such as repatriation and / or reburial, must occur within six months of the completion of the activity (note, if reburial is to be within the extent of registered place the CHMP must allow for that harm to occur).
3. The final location of Aboriginal cultural heritage material must be documented by a suitably qualified Heritage Advisor and the relevant forms and spatial data provided to the VAHR, as soon as practicable.

**Contingency 4 – Dispute resolution**

1. This contingency has no application as the Secretary to the Department of Premier and Cabinet is evaluating the CHMP.

**Contingency 5 – Compliance**

1. In the event of suspected non-compliance:
   1. All relevant works must stop
   2. The Sponsor must contact the State-wide Compliance and Enforcement Unit (compliance.aboriginalvictoria@dpc.vic.gov.au) within two working days to review the suspected non-compliance and agree to any required remedies
   3. If agreement cannot be reached by all parties, the Minister may order an audit of the CHMP.
   4. All reasonable costs arising from the meeting and any agreed remedies must be borne by the Sponsor.

Note: compliance with the conditions of a CHMP and contingencies 1 and 2 (above) should be presented in a clear checklist format here.

1. 2020 Standards and Guidance in the Care of Archaeological Collections, Society for Museum Archaeology, London. [↑](#footnote-ref-2)
2. Richards, Thomas *“Survey Strategies in Landscape Archaeology”*, in *Handbook of Landscape Archaeology* 2008 Ed. B. David and J. Thomas, Left Coast Press, California [↑](#footnote-ref-3)
3. See 2020 Standards and Guidance in the Care of Archaeological Collections, Society for Museum Archaeology, London. [↑](#footnote-ref-4)
4. Burke, Heather and Claire Smith 2004 The Archaeologist’s Field Handbook, Allen and Unwin, Sydney [↑](#footnote-ref-5)
5. Holdaway, Simon and Stern, Nicola 2004 *A Record in Stone,* Museum Victoria and Aboriginal Studies Press, Canberra [↑](#footnote-ref-6)
6. Connah, Graham (Ed.) *Australian Field Archaeology: a guide to techniques*, Australian Institute of Aboriginal Studies, Canberra [↑](#footnote-ref-7)
7. Richards, Thomas “Survey Strategies in Landscape Archaeology”, in *Handbook of Landscape Archaeology* 2008 Ed. B. David and J. Thomas, Left Coast Press, California [↑](#footnote-ref-8)
8. 2013 [Burra Charter& Practice Notes](https://australia.icomos.org/publications/burra-charter-practice-notes/), Australia ICOMOS, Burwood. [↑](#footnote-ref-9)
9. Australian Government, Style Manual, <https://www.stylemanual.gov.au/>, accessed 21 August 2023. [↑](#footnote-ref-10)