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| Cultural Heritage Permits:Guidelines for Applicants*Under the Aboriginal Heritage Act 2006* |

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*Last updated November 2024*

# Introduction

**Aboriginal cultural heritage of Victoria**

Throughout Victoria, even in the most intensively developed regions, the landscape holds the imprint of thousands of generations of Aboriginal people. Each part of Victoria, from the coast to the high country and from the semi-arid Mallee to the rain forests of the east, has places where Aboriginal people lived; obtaining sustenance, expressing themselves artistically, passing on creation stories and cultural values, engaging in conflict, establishing alliances and social networks, trading goods, celebrating rites of passage and committing the departed to their final resting places.

During that time, the people living in these areas left physical evidence of their activities that survive today as cultural heritage places and objects. Aboriginal places and objects can be found all over Victoria and are often near major food sources such as rivers, lakes, swamps or along the coast.

With the arrival of Europeans in Victoria, the nature of Aboriginal occupation and use of the land changed dramatically. Different cultural heritage places were created; places where the first contacts between European and Aboriginal people occurred, massacre sites, missions, protectorate stations, properties where Aboriginal pastoral workers played vital roles and, in more recent times, places associated with the Aboriginal rights movement and contemporary places with ongoing uses and associations.

The endurance of Aboriginal society across the continent is of global significance and the cultural heritage places and objects associated with that society are a part of the heritage of all Australians. They are a fundamental part of Victorian Aboriginal community life and cultural identity ([First Peoples - State Relations website](https://www.firstpeoplesrelations.vic.gov.au/aboriginal-places-and-objects))

**How to use these Guidelines**

The purpose of these Guidelines is to assist a proponent of an activity that requires a **cultural heritage permit (permit)** under the Act to prepare an application for a permit.

Consideration of these guidelines when making an application will help to ensure it is complete and contains the required information to assist the **Approval Body** (see *Who grants a cultural heritage permit?*) in making a decision in accordance with the requirements of the Act.

These Guidelines are divided into 3 sections:

**Part 1.** outlines the permit process under the Act and provides general information on the requirements of permit applications.

**Part 2.** discusses the information required in a permit application to enable a decision to be made in accordance with the Act; details the process and requirements for submitting a permit application and explains how permit applications are assessed and determined.

**Part 3.** Provides specific guidance on completing the permit application form.

Parts 1 and 2 of these Guidelines should be read in full to provide context for the permit process under the Act. The relevant Attachment section in Part 3 can then be referred to depending on the type of permit being applied for. The Table of Contents on page 3 will assist in navigating this document.

Table 1 Frequently used abbreviations and acronyms in this document

|  |  |
| --- | --- |
| Approval Body | The authority to which an application is submitted, that decides whether to grant a cultural heritage permit in accordance with the *Aboriginal Heritage Act 2006* |
| Approved Form | The form in which an application for a permit must be made |
| FPSR | First Peoples - State Relations |
| Permit | A cultural heritage permit under Division 4 of the *Aboriginal Heritage Act 2006* |
| RAP | Registered Aboriginal Party |
| Secretary | The Secretary to the Department of Premier and Cabinet |
| The Act | The *Aboriginal Heritage Act 2006* |
| VAHC | Victorian Aboriginal Heritage Council |
| VAHR | Victorian Aboriginal Heritage Register |

Note: in this guide, an application for a cultural heritage permit under the *Aboriginal Heritage Act 2006* is referred to as the **‘application’**, andan applicant for a cultural heritage permit is referred to as the **‘Applicant’**.

Further information

You may also like to learn more about the following, available on the FPSR website:

* [Aboriginal places and objects](https://www.firstpeoplesrelations.vic.gov.au/aboriginal-places-and-objects)
* [Archaeological s](https://www.firstpeoplesrelations.vic.gov.au/archaeological-surveys-and-investigations)urveys and investigations

# Part 1. Cultural heritage permits and the Act

The *Aboriginal Heritage Act 2006* (the Act) contains a number of provisions and mechanisms to assist proponents of an activity to manage and protect Aboriginal cultural heritage. One of these provisions allows a person to apply for a cultural heritage permit;authorising specific activities or works in relation to Aboriginal cultural heritage.

Permits are applied for on a case-by-case basis; determined by the nature of the proposed activity and the Aboriginal cultural heritage that is the subject of the application.

The process for applying for a permit ensures that the impact to the Aboriginal cultural heritage from a proposed activity is well considered, and that actions for appropriate protection or management are developed when planning the activity.

Granted permits authorise an activity to be carried out in accordance with **conditions** that specify requirements to manage Aboriginal cultural heritage during the activity.

**When is a cultural heritage permit required?**

Section 36 of the Act establishes the circumstances under which a permit is required to undertake certain activities.

A person must apply to the relevant **Approval Body** if they propose to:

**✓** disturb or excavate land to **uncover or discover** Aboriginal cultural heritage;

**✓** carry out **research** on an Aboriginal place or Aboriginal object, including removing an Aboriginal object from Victoria for the purposes of that research;

**✓** carry out an activity that will, or is likely to, **harm** Aboriginal cultural heritage;

**✓ sell** an Aboriginal object (where it was not made for the purpose of sale);

**✓ remove** an Aboriginal cultural heritage object from Victoria;

**✓ rehabilitate land**[[1]](#footnote-1) at an Aboriginal place, including land containing burial grounds for Aboriginal Ancestral Remains;

**✓ inter Aboriginal Ancestral Remains** at an Aboriginal place.

**Restrictions on granting a cultural heritage permit**

**🗶** A permit must not be granted for an activity for which a **cultural heritage management plan** is required under the Act[[2]](#footnote-2)

**🗶** A permit must not be granted in relation to **Aboriginal Ancestral Remains** or an Aboriginal object that is a **secret or sacred Aboriginal object** if the application relates to:

* an activity that will, or is likely to, harm Aboriginal cultural heritage;
* selling an Aboriginal object; or;
* removing an Aboriginal object from Victoria.

**🗶** A permit must not be granted in respect of **Aboriginal intangible heritage**.

**Who can apply for a cultural heritage permit?**

Any person may apply for a permit. It is the proponent of the activity (**the Applicant**), however, who has the final responsibility for ensuring all relevant authorisations are in place prior to commencing the proposed activity.

These guidelines are designed to assist individuals with all levels of knowledge and experience in using the Act to apply for a permit. For those less experienced, there remains the option of engaging a consultant heritage advisor to draft the application on behalf of the proponent.

**How much does a cultural heritage permit application cost?**

Fees are prescribed by the Aboriginal Heritage Regulations 2018 and depend on the type of permit being applied for. The value of a fee unit\* is indexed and is adjusted each financial year.

Table 1 Cultural heritage permit types and associated fee units

|  |  |
| --- | --- |
| **Cultural heritage permit type** | **Fee** |
| Disturb or excavate any land for purpose of uncovering or discovering Aboriginal cultural heritage | 8 fee units |
| Carry out research on an Aboriginal place or Aboriginal object, including the removal of an Aboriginal object from Victoria for the purpose of that research | 8 fee units |
| Carry out an activity that will, or is likely to, harm Aboriginal cultural heritage | 46 fee units |
| Sell an Aboriginal object | 13 fee units |
| Remove an Aboriginal object from Victoria | 13 fee units |
| Rehabilitate land at an Aboriginal place, including land containing burial grounds for Aboriginal Ancestral Remains | No fee |
| Inter Aboriginal Ancestral Remains at an Aboriginal place | No fee |

\* The First Peoples - State Relations website contains a list of the [current value of all fee units](https://www.firstpeoplesrelations.vic.gov.au/fees-and-penalties-aboriginal-heritage-activities) associated with the Act.

If an application is made for a permit in relation to two or more of the above, the fee is the sum of the fees for each of these matters. Note that in certain circumstances, no fee may be payable for an application[[3]](#footnote-3).

**Who grants a cultural heritage permit?**

A permit is granted by an “**Approval Body”**. An application must be submitted to the relevant Approval Body, who will determine whether to grant a permit in accordance with the Act.

Depending on the location of the Aboriginal cultural heritage that is the subject of an application, the Approval Body is:

* the relevant **Registered Aboriginal Party** (**RAP**) for the area to which the Aboriginal cultural heritage relates; or
* if there is no relevant RAP – the Secretary, Department of Premier and Cabinet (**Secretary**); or
* if the applicant is a RAP or the Secretary – the Victorian Aboriginal Heritage Council (**VAHC**).

See the [Victorian Aboriginal Heritage Council’s website](https://www.aboriginalheritagecouncil.vic.gov.au/) for more information on the role of RAPs and the VAHC in Aboriginal cultural heritage management and the Act.

# Part 2. The planning & application process

A cultural heritage permit must be obtained *before* commencing an activity for which a permit is required under the Act (see ‘*When is a cultural heritage permit required?’* in **Part 1**). This means that the necessary **consultation**, **heritage investigation**, and **impact assessment** considerations required to prepare an application should be undertaken well in advance of the planned start date of the activity.

An application for a permit must be made using the **Approved Form**. The detail required for an application varies depending on the purpose for which a permit is being sought.

The [Approved Form](https://www.firstpeoplesrelations.vic.gov.au/cultural-heritage-permit) for a permit application can be found on the First Peoples - State Relations website.



Figure 1 The four stages of the permit planning and application process

1. Planning and preparation

When planning and preparing a permit application, Applicants are encouraged to discuss their proposal with the relevant Approval Body before making a final decision on the activity methodology. The Approval Body can identify their information requirements and decision-making processes that will apply to the particular circumstances. Undertaking a thorough preliminary process will help to ensure that an application is lodged with sufficient information to assist the Approval Body in its evaluation. It may also avoid the need for the Approval Body to request additional information, which may delay the application (see *Request for additional information* and *The Stop the Clock mechanism* in **[Part 3](#Part3)**).

Particularly if the application is in respect of an activity that will, or is likely to, harm Aboriginal cultural heritage, it is strongly recommended that an **Aboriginal** **cultural heritage investigation** and an **Aboriginal** **cultural heritage impact assessment** (see below) are undertaken as part of activity planning and to assist in preparing an application. The information that comes from these processes are also useful to inform discussions with the Approval Body[[4]](#footnote-4).

Good planning and preparation will assist in developing a permit application to the standards required by the Approved Form, the Act, and with enough information to enable the Approval Body to make a decision**. Providing this information is the responsibility of the Applicant.[[5]](#footnote-5)**

**Consultation with RAPs or other Traditional Owners**

The Act recognises Traditional Owners as the primary guardians, keepers and knowledge holders of their cultural heritage and seeks to ensure they have the opportunity to determine how it is managed and protected.

RAPs are Traditional Owner organisations with rights and responsibilities under the Act for their appointed area. RAPs are appointed by the VAHC according to criteria set out in the Act and the VAHC’s own decision-making principles for RAP applications.

The permit application form requires the Applicant to provide information about the consultation, if any, that has taken place with relevant in relation to the application, or if there have been no discussions, why that is the case.

**Aboriginal cultural heritage investigation**

A **cultural heritage investigation** should seek to identify the nature, extent and significance of the Aboriginal cultural heritage that is the subject of a permit application. The Aboriginal cultural heritage investigation will inform the Aboriginal **cultural heritage impact assessment** required by the permit application process.

A cultural heritage investigation for an activity relating to an Aboriginal place(s) should include, as a minimum:

* a search of the Victorian Aboriginal Heritage Register (VAHR) for information related to the Aboriginal cultural heritage and the proposed activity or works area[[6]](#footnote-6); and
* a ‘place inspection’, or site visit (if applicable) - to re-identify the registered Aboriginal place, its extent, and assess the current condition of the Aboriginal place/s that will, or may be, subject to a permit application.

When undertaking a place inspection for a cultural heritage permit application, the Aboriginal place registration a ‘Record Edit’ must be completed and verified via ACHRIS prior to submission of the permit for approval.

For more information on completing a Record Edit, refer to the [FPSR website](https://www.firstpeoplesrelations.vic.gov.au/victorian-aboriginal-heritage-register).

For more information on Aboriginal cultural heritage investigations, refer to the [FPSR *Guidelines for Conducting and Reporting on Aboriginal Cultural Heritage Investigations*](https://www.firstpeoplesrelations.vic.gov.au/archaeological-surveys-and-investigations).

**Aboriginal cultural heritage impact assessment**

An **Aboriginal cultural heritage impact assessment** integrates information from the cultural heritage investigation with an examination of the impact of a proposed activity while it is still in the planning stage. A cultural heritage impact assessment involves determining how proposed actions that form part of the methodology for the activity or works will impact an Aboriginal object or place and what measures can be taken to avoid, mitigate, or, if these are not possible, to minimise that impact.

A cultural heritage impact assessment may include:

* discussions with the RAP/Traditional Owners– to get their views on the impact of the proposed activity on the Aboriginal cultural heritage
* ‘overlaying’ the information identified in the cultural heritage investigation with a plan of the proposed activity or works – including a breakdown of potential impact points on the Aboriginal cultural heritage (for example: areas where ground disturbance will occur, vehicle access routes, equipment lay-down areas, etc.)
* identifying the vulnerability of particular ‘types’ of Aboriginal cultural heritage to the potential impacts associated with the proposed activity or works – including from the equipment that will be used
* identifying the ‘nature’ of the impact of each component of the activity or works on the Aboriginal cultural heritage (for example: area and depth of excavation required and what this might do to any sub-surface Aboriginal cultural heritage)
* justifying outcomes arising from the assessment and describing any alternatives considered for undertaking the proposed activity.

The Victorian Aboriginal Heritage Register

The [Victorian Aboriginal Heritage Register](https://www.firstpeoplesrelations.vic.gov.au/victorian-aboriginal-heritage-register) (VAHR) holds information about recorded Aboriginal places and objects within Victoria, with details of their location and a description of their nature, extent and significance.

The VAHR is not publicly accessible, as it contains culturally sensitive information. Relevant to a permit application, it can be accessed by:

* a Registered Aboriginal Party or a person authorised on their behalf, for information about the area of their responsibility
* a landowner to obtain information relating to their land
* a heritage advisor; on behalf of a proposed developer or user of land to obtain information on any Aboriginal cultural heritage relevant to the land
* a member of the [Victorian Aboriginal Heritage Council](http://www.vic.gov.au/aboriginalvictoria/victorian-aboriginal-heritage-council.html) or public sector employee for the purpose of administering and managing Aboriginal cultural heritage
* a person or a body that has the control and management of Crown land, to assist or enable them to control and management of that land
* a local government employee for the purpose of carrying out functions or duties associated with the requirements of the Act
* a person who has written approval to access the Register from the relevant Registered Aboriginal Party(ies), or the [Aboriginal Heritage Council](http://www.vic.gov.au/aboriginalvictoria/victorian-aboriginal-heritage-council.html)
* a holder of a cultural heritage permit to ‘uncover/discover’ or to ‘research’ - for the purpose of obtaining information on any Aboriginal cultural heritage relating to the permit
* a Catchment Management Authority – for the purpose of obtaining information and to assist in carrying out functions associated with the control or management of land.

If you don't fit into the above categories, enquiries about the Aboriginal cultural heritage in a specific area can be made through an [‘Application for Advice](https://applications.vic.gov.au/apps/achris/public/application-for-advice/home)’, using the Aboriginal Cultural Heritage Register and Information System (ACHRIS). This must be accompanied by the correct fee.

If any Aboriginal cultural heritage places or objects are registered on the land, a listing of those registrations is issued, including details of the register number and name and an indication of the type of heritage involved.

The Aboriginal Heritage Registrar

Talking to the Heritage Registrar can help to understand how the Victorian Aboriginal Heritage Register works and the types of information that may be accessed.

Victorian Aboriginal Heritage Registrar
Phone: 1800 762 003 Email: vahr@dpc.vic.gov.au

There are several advantages to undertaking a cultural heritage impact assessment as part of activity planning, and prior to submitting a permit application, including:

* enabling an activity proposal to be modified to avoid, mitigate, or minimise harm to the Aboriginal cultural heritage early in the activity planning cycle
* encouraging a cautionary approach that will help to avoid inadvertent or unexpected harm to the Aboriginal cultural heritage
* more effective conservation outcomes for the Aboriginal cultural heritage
* providing justification in a permit application for proposing a particular methodology to undertake the activity.

2. Completing and submitting an application

Once all the relevant planning and preparation work has been finalised, the application must be completed, signed and submitted to the relevant Approval Body (see ‘*Who grants a cultural heritage permit?*’ in [**Part 1**](#_Part_1._Cultural)) using the [**Approved Form**](https://www.vic.gov.au/aboriginalvictoria/heritage/heritage-tools-and-publications/guides-forms-and-practice-notes-for-aboriginal-heritage-management.html).

**The application form**

The Approved Form that a permit application must be submitted on is designed to enable an Approval Body to make a decision based on the requirements of the Act. It is therefore vital that it is filled in correctly and with the required detail.

Generally, an application requires:

* a description of the Aboriginal cultural heritage;
* an assessment of the potential impacts of the activity on the Aboriginal cultural heritage;
* a plan for how the impacts of the activity on the Aboriginal cultural heritage will be managed – through mitigation, minimisation, or avoidance; and
* a description of consultation undertaken with the Aboriginal persons or bodies with a connection to the subject Aboriginal cultural heritage.

The information required in applications for each permit type is specified in Attachments to the application form. Guidance on completing each attachment type is outlined in [**Part 3**](#_Part_3._Notes) of these guidelines.

It is the responsibility of the Applicant to ensure that all relevant sections of the application are complete and contain the required information to enable a determination to proceed. If insufficient information is provided with the application, a decision may be delayed until the required information is received. An Approval Body may request in writing that the Applicant provide any additional information the body reasonably considers necessary to assist the Approval Body’s decision (see *‘Requests for additional information and the ‘Stop the Clock’ mechanism’* in section 3).

**Submitting an application**

Completed application forms, together with the required supporting information and application fee (if any), must be submitted to the relevant Approval Body for consideration (see ‘*Who grants a cultural heritage permit*?’ in [**Part 1**](#Part1)).

The following items ***must*** be submitted with an application:

1. a completed and signed cover sheet (SECTIONS 1-5);
2. the relevant Attachment as instructed by SECTION 2 of the application form; and
3. the correct application fee (see *How much does a cultural heritage permit application cost?* in [**Part 1**](#_Part_1._Cultural)).

Table 2 Cultural heritage permit types and relevant permit application Attachment

|  |  |
| --- | --- |
| **Cultural heritage permit type** | **Relevant Attachment** |
| To disturb or excavate any land for purpose of uncovering or discovering Aboriginal cultural heritage | [**ATTACHMENT A**](#_ATTACHMENT_A.) |
| To carry out research on an Aboriginal place or Aboriginal object, including the removal of an Aboriginal object from Victoria for the purpose of that research | [**ATTACHMENT A**](#_ATTACHMENT_A.) |
| To carry out an activity that will, or is likely to, harm Aboriginal cultural heritage | [**ATTACHMENT B**](#_ATTACHMENT_B.) |
| To sell an Aboriginal object | [**ATTACHMENT C**](#_ATTACHMENT_C.) |
| To remove an Aboriginal object from Victoria | [**ATTACHMENT D**](#_ATTACHMENT_D.) |
| To rehabilitate land at an Aboriginal place including land containing burial grounds for Aboriginal Ancestral Remains | [**ATTACHMENT E**](#_ATTACHMENT_E.) |
| To inter Aboriginal Ancestral Remains at an Aboriginal place | [**ATTACHMENT F**](#_ATTACHMENT_F.) |

If an application is made for a permit in relation to two or more of these activities, the prescribed fee is the sum of the specified fees for each activity, and the relevant attachment for each activity must be completed.

Applications must be made in the Approved Form.

3. Consideration and assessment of an application

An Approval Body must consider every permit application made using the Approved Form and accompanied by the relevant prescribed fee (if any).

On receiving an application, an officer from the relevant Approval Body will:

1. check to ensure all relevant sections of the application form have been completed;
2. check that the application is signed appropriately; and
3. check that the correct fee (if any) has been submitted.

If any of the requirements have not been met, the application may be returned to the Applicant and consideration of the application by the Approval Body need not proceed.

An application is assessed against the unique circumstances of the proposed activity and the nature of the Aboriginal cultural heritage that is the subject of the application. The following considerations are also relevant:

* practical measures that have been considered to protect and conserve the Aboriginal cultural heritage;
* practical measures that have been proposed to avoid, minimise or mitigate actual or likely harm to the Aboriginal cultural heritage; and
* Any relevant documentation accompanying the application (e.g. maps or project plans).

An application for a ‘permit to undertake an activity that will, or is likely to, harm Aboriginal cultural heritage’ is considered in accordance with specific requirements in addition to the examples above (see [**ATTACHMENT B**](#_ATTACHMENT_B.) in Part 3 of this guide).

If the Approval Body is the Secretary, the Secretary must also consult with, and consider the views of, any Aboriginal person or Aboriginal body that the Secretary considers relevant to the application. If the application is to ‘Rehabilitate land containing burials of Aboriginal Ancestral Remains’ or to ‘inter Aboriginal Ancestral Remains at an Aboriginal place’ and there is no relevant RAP, the Secretary must consult with the VAHC when considering the application.

**Requests for additional information and the ‘Stop the Clock’ mechanism**

An Approval Body may, in writing, request the Applicant to provide any additional information the Approval Body needs to help it make a decision.

A written request for additional information will:

1. outline the information to be provided and/or outstanding issues that need to be addressed in the application;
2. specify the date by which the information is to be provided (being at least 30 days after the request); and
3. include a statement that the application will lapse if the information is not provided by that date.

If an Approval Body requests additional information, the period of time in which the Approval Body has to make a decision on the permit application ceases to run at the time the Approval Body makes the request. Further assessment of the application may not be able to proceed until the requested information has been received. The period of time in which the Approval Body has to make a decision recommences when the Applicant provides the additional information as requested.

If, following a written request for additional information, the information required for the Approval Body to make a decision is not provided within the time specified in the request, the application is considered to have lapsed and a new application may be required.

The Approval Body may also advise that an on-site meeting is organised to discuss the particulars of the application.

4. Decision

After considering an application, the Approval Body may decide to grant a permit or to refuse to grant the permit. An Approval Body must decide to grant or refuse to grant a permit within 30 days of receiving an application.

If an Approval Body fails to decide a permit application within the prescribed timeframe, the Approval Body is taken to have refused to grant the permit. This is known as a ‘deemed refusal’.

**If a cultural heritage permit is granted**

If granted, a signed permit specifying the activity being authorised is issued by the Approval Body.

A permit granted by an Approval Body only takes effect when a copy of the permit is lodged with the Secretary. This means that the activity that is allowed by the permit may not commence until notification has been received acknowledging that the permit has been lodged. **It is the responsibility of the permit holder to lodge the permit with the Secretary at** **vahr@dpc.vic.gov.au****.**

Lodging an approved cultural heritage permit

First Peoples - State Relations is required to maintain a record of all permits issued under the Act on the VAHR.

A copy of an approved permit must be lodged with the Secretary, Department of Premier and Cabinet for it to take effect. Email vahr@dpc.vic.gov.au. When lodging an approved permit, please also include any additional information relevant to the application which may be useful to record it on the VAHR, including any maps or activity plans.

On lodgement of the approved permit, First Peoples - State Relations will issue the holder with a unique permit identification number.

**An activity must not commence until an approved permit has been lodged with the Secretary, or there is a risk of breaching the offence provisions of the Act.**

**Conditions on cultural heritage permits**

If the Approval Body decides to grant a permit, it usually includes **conditions** that it considers reasonably appropriate to protect and manage the Aboriginal cultural heritage that is the subject of the permit.

Permits will usually contain standard or ‘general’ conditions that are consistently applied to most permits when they are written. These include requirements such as reporting any new discoveries to the VAHR, for example.

A permit may also contain additional conditions that are specific to the particular activity and/or the nature of the Aboriginal cultural heritage. These include, but are not limited to the following:

* that the activity authorised by the permit be supervised by a heritage advisor;
* that any Aboriginal cultural heritage found in the course of the activity authorised by the permit be conserved in a particular way;
* that specified actions are to be undertaken to the satisfaction of the Approval Body[[7]](#footnote-7).

It is important that any conditions are carefully read and understood prior to commencing the activity.

The Approval Body may decide to issue a permit with an ‘expiry’ date that is tied to the duration of the activity that it applies to. A permit may also specify points within that timeframe for completion of a particular part of the activity - to ensure reporting occurs within a particular time, for example.

**Compliance and enforcement**

**IT IS AN OFFENCE UNDER THE ACT TO FAIL TO COMPLY WITH THE CONDITIONS OF A PERMIT**

The holder of a permit must comply with the conditions of the permit. Penalties may apply for failing to do so. An activity for which a permit has been granted may also be subject to compliance monitoring by an **Authorised Officer** or **Aboriginal Heritage Officer**. These officers investigate and monitor compliance with the Act and are authorised to take certain enforcement measures if necessary.

An **Improvement Notice** may also be issued where there has been a contravention in relation to the conditions of a permit. It is an offence to fail to comply with an Improvement Notice.

**Transferring or amending a cultural heritage permit**

The holder of a permit may transfer it to another party with the written consent of the Approval Body. An application to transfer can be made to the Approval Body using the Form on the First Peoples - State Relations [website](https://www.firstpeoplesrelations.vic.gov.au/cultural-heritage-permit).

If the Approval Body is the Secretary, the Secretary must consult with any Aboriginal person or body the Secretary considers relevant before approving the transfer of a permit.

A permit may be amended upon application to the relevant Approval Body. An application to amend a permit must be made using the Approved Form and be accompanied by the required fee; as if a new application were being made.

**Why a cultural heritage permit may be refused**

The circumstances in which an Approval Body may refuse to issue a permit are determined on a case-by-case basis and in accordance with the Act. Some instances where refusal may occur include:

* where the activity design is not compatible with the cultural heritage values of the Aboriginal object or Aboriginal place (for example it will involve extensive harm to significant Aboriginal cultural heritage)
* where harm could be avoided by the adoption of other reasonable and practical measures, but there is no indication that these measures will be implemented
* where the loss of Aboriginal cultural heritage values would significantly diminish the ability of Traditional Owners to exercise cultural practices within the region.

**The submission of a completed application form or any additional information requested DOES NOT guarantee a decision by the Approval Body to grant a permit.**

# Part 3. Notes on completing the application form

The Approved Form that a permit application must be submitted on has been designed to enable the relevant Approval Body to make a decision based on the requirements of the Act. It is therefore vital that it is filled in properly and with the required detail.

The application form comes in two parts: the Cover Sheet and a series of Attachments depending on what type of permit is being applied for.

**All sections of the Cover Sheet and the relevant Attachment/s must be addressed before the application is submitted.**

It is the responsibility of the Applicant to ensure that all relevant sections of the application are complete and contain the required information to enable a determination to proceed.

An Approval Body may request in writing that the Applicant provide any additional information the body reasonably considers necessary to assist the Approval Body’s decision (see *Requests for additional information and the ‘Stop the Clock’ mechanism* in **Part 2**).

Applications **must** be made in the Approved Form.

**The Cover Sheet**

The permit application cover sheet contains important information about who is making the application, how they can be contacted by the relevant Approval Body, as well as a declaration by the Applicant.

Sections 1-5 must be completed in every application for a permit and the declaration in section 4 must be signed and dated by the Applicant.

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **SECTION 1 – Applicant information** | This section provides information about the permit applicant. The Applicant is the person\* or organisation that needs a permit to undertake an activity. This may also be the owner/manager of the land (if applicable) and the person who should be contacted about any matters concerning the application. The Applicant can, but does not need to be, the contact person. If the application is being lodged by another person, SECTION 3 must be completed.

|  |
| --- |
| SECTION 1 – Applicant information |
| Person responsible for carrying out the activity and to whom the permit would be granted: |
| Name of Applicant: |  |
| Business name: |  |
| Postal address: |  |
| Telephone number: |  |
| Email address: |  |
| ABN (if any): |  |
| ACHRIS payment receipt number (if applicable): |  |

\*A person is either a natural person or a legal entity. A trust is not a legal entity and therefore cannot be the Applicant. |
| **SECTION 2 – Purpose of application** | Section 2 specifies which Attachment must be completed in addition to the cover sheet.An application made for a permit in relation to two or more of the ‘types’ listed below will attract the sum of fees for each of these matters. Refer to https://www.firstpeoplesrelations.vic.gov.au/fees-and-penalties-aboriginal-heritage-activities for the current value of a fee unit.All relevant boxes must be checked.

|  |
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| SECTION 2 – Purpose of application |
| In accordance with s.36(1) of the AHA, please indicate the purpose for which the Applicant seeks a cultural heritage permit and complete the appropriate Attachment |
|  |  | Check applicable box(es) | Applicable fee\* | $ amount |
| • | To disturb or excavate any land for the purpose of uncovering or discovering Aboriginal cultural heritage.***(Complete Attachment A)*** | ⬜ | 8 fee units | xxx.xx |
| • | To carry out research on an Aboriginal place or Aboriginal object, including the removal of an Aboriginal object from Victoria for the purpose of that research.***(Complete Attachment A)*** | ⬜ | 8 fee units | xxx.xx |
| • | To carry out an activity that will, or is likely to, harm Aboriginal cultural heritage.***(Complete Attachment B)*** | ⬜ | 46 fee units | xxx.xx |
| • | To sell an Aboriginal object.***(Complete Attachment C)*** | ⬜ | 13 fee units | xxx.xx |
| • | To remove an Aboriginal object from Victoria.***(Complete Attachment D)*** | ⬜ | 13 fee units | xxx.xx |
| • | To rehabilitate land at an Aboriginal place including land containing burial grounds for Aboriginal Ancestral Remains.***(Complete Attachment E)*** | ⬜ | No fee | xxx.xx |
| • | To inter Aboriginal Ancestral Remains at an Aboriginal place.***(Complete Attachment F)*** | ⬜ | No fee | xxx.xx |
|  |  |  | ***Total Amount*** | $ |
|  |  |  |  | (excludes GST) |

 |
| **SECTION 3 – Person lodging application** (if applicable) | If an Applicant elects to employ another person to prepare and lodge an application on their behalf, the Approval Body will communicate directly with this representative in any requests for additional information. If granted, it is the Applicant that becomes the permit holder.

|  |
| --- |
| SECTION 3 – Person lodging application (if applicable) |
| If the cultural heritage permit is being sought by another person / organisation on behalf of the Applicant: |
| Name of representative: |  |
| Business name: |  |
| Postal address: |  |
| Telephone number: |  |
| Email address: |  |
| ABN (if any): |  |

 |
| **SECTION 4 – Declaration by Applicant** | This form must be signed by the Applicant named in Section 1 of this form. This declaration is a signed statement that the information included with the application is true and correct at the time of lodgement.

|  |
| --- |
| SECTION 4 – Declaration by Applicant |
| I certify that, to the best of my knowledge and belief, the information supplied in this application is correct and complete.I am aware that any cultural heritage permit issued in response to this application may include conditions required by the Secretary or the Registered Aboriginal Party or the Victorian Aboriginal Heritage Council. |
| Signed |  | Date: / / |
|  | (Applicant named in Section 1 of this form) |  |

 |
| **SECTION 5 – Application checklist** |

|  |
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| SECTION 5 – Application checklist |
| ⬜ | Sign the Declaration by Applicant at SECTION 4 of this form |
| ⬜ | Include appropriate fee (if any) |
| ⬜ | ACHRIS payment receipt number included at Section 1 (for applications to the Secretary) |
| ⬜ | Appropriate Attachment(s) are fully completed (see SECTION 2 of this form) |

 |

**The ATTACHMENTS**

Section 2 of the application Cover Sheet will indicate the relevant Attachment/s that must be completed for every application.

Additional sheets may be attached where further space is required to ensure all required information is provided in the application.

If applying for a permit in relation to two or more of the matters a permit may be applied for, ALL corresponding Attachments in the Approved Form must be completed.

## **ATTACHMENT A**

## Application for a permit to disturb or excavate any land for the purpose of uncovering or discovering Aboriginal cultural heritage

and

## Application for a permit to carry out research on an Aboriginal place or Aboriginal object, including the removal of an Aboriginal object from Victoria for the purpose of that research

**What is a ‘permit to uncover/discover’?**

This type of permit authorises the holder to excavate or disturb any land to discover, uncover, or understand further the nature of Aboriginal cultural heritage. This may be part of a research project for a university or other academic study.

When preparing the methodology for a proposed excavation, it is strongly advised that it conforms with the requirements for a ‘complex assessment’ – including supervision of the excavation, as outlined in the [Practice Note: Subsurface Testing](https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2019-07/Practice-Note-Subsurface-Testing.docx) on the First Peoples - State Relations website.

The disturbance or excavation of land to uncover or discover Aboriginal cultural heritage is by its nature destructive. It is important that it is only carried out with the support of the Traditional Owners.

**What is a ‘permit to research’?**

A permit to research is an authorisation to undertake systematic investigations on Aboriginal cultural heritage for the purposes of education; in order to learn more about an Aboriginal place or object. A permit to research may also facilitate the removal of an object from Victoria if necessary – to undertake carbon dating, for example.

**Completing an application for a permit to uncover/discover or a permit to research**

ATTACHMENT A is used to apply for both a permit to disturb or excavate any land to uncover or discover Aboriginal cultural heritage, and/or for a permit to carry out research on an Aboriginal place or Aboriginal object.

The disturbance, excavation or research for which a permit is required is referred to as the “project” in this Attachment. The project description provided here is the basis on which all decisions under the Act will be made, including whether a permit will be granted. It is therefore important that the description is complete and includes all components and activities that will be associated with the project.

For an application for a permit to research, students/researchers must attach a research proposal in addition to completing ATTACHMENT A.

|  |  |
| --- | --- |
| **1. Project name** | Title of the project |
| **2. Purpose of the project** | Tick one or more of the boxes**2. Purpose of the project**⬜ Exploratory testing ⬜ Salvage ⬜ ResearchProvide a summary of the project. If the project is for a purpose other than these, describe it in reasonable detail.  |
| **3. Land tenure** | Indicate if the land where the activity is proposed is held in private (Freehold) or public (Crown) ownership.**3. Land tenure**⬜ Freehold ⬜ Crown  |
| **4. Contact details for land owner / manager, where different to Applicant**  | The person or organisation who owns or manages the land identified in section 5 below. Where they are different to the Applicant identified in section 1 and where the application is being lodged on behalf of the Applicant (section 3). |
| **5. Address of the land** | Provide a street address and **one** of the Formal Land Descriptions.Land is commonly identified by a street address, but sometimes this does not provide an accurate identification of the relevant parcel of land relating to an application. Ensure the formal land description, the lot and plan number, or the Crown section and parish / township details (as applicable) for the subject land is provided. This information can be found on the certificate of title, or it can be searched for using the Department of Environment, Land Water and Planning’s [VicPlan](https://mapshare.vic.gov.au/vicplan/).If the project relates to an Aboriginal place or places, it is important that clear and concise details of the land are provided with the application. This is to enable the Approval Body to check the VAHR for relevant associated Aboriginal cultural heritage. If a permit is granted, the information provided here will be included in the permit.

|  |
| --- |
| **5. Address of the land** |
| Provide a street address and **one** of the Formal Land Descriptions. |
| **Street Address:** |  |
|  |  |
|  |  |
|  |  |
| **Formal Land Description:** | A | Lot No: |  |  Plan No: |  |
| (Complete either A or B) | OR |  |  |
|  | B | Crown Allotment No: |  |  Section No: |  |
|  |  | Parish/Township Name: |  |

 |
| **6. Application plan** | Attach a plan of the land subject to the permit application, drawn to scale, with dimensions and a North arrow, showing the location and extent of the proposed activity, and the boundaries of the areas of land on which the project will take place.There are a number of free online mapping applications that could be used to produce an application plan, including, but not limited to [ACHRIS](https://achris.vic.gov.au/#/onlinemap), [VicPlan](https://mapshare.vic.gov.au/vicplan/) or [GoogleEarth](https://www.google.com/earth/) |

|  |  |
| --- | --- |
| **7. Project location** | Present using GDA94 coordinates. This assists in providing a reference location for a permit application.**7. Project location**(a centrally located point presented using GDA94 coordinates)Projection zone: ⬜ 54 ⬜ 55Easting Northing⬜ ⬜ ⬜ ⬜ ⬜ ⬜ ⬜ ⬜ ⬜ ⬜ ⬜ ⬜ ⬜  |
| **8. Victorian Aboriginal Heritage Register details** | Provide details of the Aboriginal cultural heritage that is the subject of the permit applicationConfirm whether there is already a record of Aboriginal cultural heritage in the area. You will need to apply to the Secretary for access to / advice from the VAHR to obtain this information: https://achris.vic.gov.au/#/applicationforaccessenterAboriginal cultural heritage subject to a permit application must be referenced by its VAHR number and name. These are assigned by the FPSR Heritage Registrar as part of the Aboriginal cultural heritage recording and registration process, where each registered Aboriginal place is given a unique reference: (VAHR #### - ####)**8. Victorian Aboriginal Heritage Register details**

|  |  |
| --- | --- |
| ID Number | Name |
|  |  |
|  |  |
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| **9. Description of project** | The research proposal must include all relevant information required by the application form as well as information on the questions/s the research is designed to answer.Include information regarding the: |
| • Nature of the Aboriginal cultural heritage (where known) | • Proposed methodology |
| • Likely impact of the project on Aboriginal cultural heritage | • Relationship of methodology to the aims of the project |
| • Land use history (if relevant) | • Proposals for the supervision of the project by an appropriately qualified and/or experienced person |
| ⬜ For an application to carry out research, the research proposal must be attached.‘Nature’ should include a description of the extent, components and condition of the Aboriginal cultural heritage.‘Likely impact’ could include a description of the estimated depths and dimensions of impact on the ground surface, for example.  |
| **10. Describe any arrangements that have been made to:*** **Minimise harm to the Aboriginal cultural heritage**
* **Document and manage any Aboriginal cultural heritage found during the project**
 | A completed research proposal, including how harm to Aboriginal cultural heritage will be avoided, mitigated or managed.Detailed information on how Aboriginal objects may be collected for analysis, the curatorial and/or storage arrangements during this process and any arrangements made for the re-burial of Aboriginal objects.These should be developed in consultation with the RAP or Traditional Owners and may include arrangements to: * catalogue the Aboriginal cultural heritage
* label and package the Aboriginal cultural heritage with reference to the Aboriginal cultural heritage
* store the Aboriginal cultural heritage in a secure location together with copies of the catalogue.
 |
| **11. Provide details of any consultation undertaken with relevant Aboriginal persons or bodies in relation to this application** | The application should document formal and, where possible, informal consultation processes that have taken place. It is important that the application also documents the outcomes of the consultation – even if the parties do not agree.In consulting with a RAP or other Traditional Owners, students and researchers should address the following matters, ensuring that the following is clearly understood:* a description of the project
* the type of information required
* a clear geographic description of the area or areas you are interested in
* any timelines that are relevant to your request
* your commitments to involve the RAP/ Traditional Owners in the project and briefing the RAP/Traditional Owners about the project outcomes.

**It is important to document any consultation with the RAP or Traditional Owners.** Where Traditional Owners other than those represented by the RAP are concerned, evidence of any consultation and written responses if possible, should be attached to the application.Details may include the following:* dates of meetings/consultations
* names of attendees
* outcomes of discussion.

The Approval Body evaluating the permit application will be interested in information about the type of consultation undertaken (if any), or if there have been no discussions, why that is the case. |
| **12. Time frames for project**  | Indicate the proposed start and finish date of the activity, if applicable.This will help the Approval Body to formulate appropriate expiry date conditions in any permit granted, if required.Start date: / / Finish date: / /  |
| **13. Checklist** | The following items must be submitted with an application:⬜ Figures, maps (to scale and including north arrow), or aerial photograph showing the location of the project⬜ Application plan (drawn to scale, with dimensions)⬜ A list of any documents and source materials relied upon for the preparation of the application⬜ Copies of any relevant technical reports that may assist when considering this application. ⬜ For an **application to carry out research**, the research proposal must be attached⬜ Evidence of any consultation undertaken with a relevant Aboriginal person or body in relation to this applicationA research proposal should describe the project outcomes, including, but not limited to:* the project aims, objectives and intentions;
* the methodology and how the information on the VAHR will be used;
* how the research will be used to benefit the Traditional Owner and broader community;
* the management of Aboriginal cultural heritage;
* evidence of how the relevant RAP(s) or other Traditional Owners will be briefed about the project outcomes and any opportunities for their involvement;
* how information will be presented and reported in any journals or publications; and
* evidence of RAP/Traditional Owner support for the project.
 |

## **ATTACHMENT B**

## Application for a permit to carry out an activity that will, or is likely to, harm Aboriginal cultural heritage

**What is a ‘permit to harm’?**

The Act defines ‘harm’ in relation to Aboriginal cultural heritage to include damage, deface, desecrate, destroy, disturb, injure or interfere with.

Unless it occurs within a limited set of circumstances, harming Aboriginal cultural heritage without the appropriate authorisation is illegal, and could potentially incur large fines.

**A person does not, however, commit an offence under the Act if acting in accordance with a cultural heritage permit.**

Specifically, a permit to harm is issued with conditions to manage an activity that will, or is likely to, harm the Aboriginal cultural heritage that is its subject

**When is a permit to harm required?**

Before proceeding with a proposed activity, it must be determined whether that activity will, or is likely to, harm Aboriginal cultural heritage. Another way to frame this question in relation to a proposed activity might be to ask whether the activity will damage, deface, desecrate, destroy, disturb, injure, or interfere with, or is likely to have any of these impacts, on Aboriginal cultural heritage.

The likelihood that a proposed activity will harm Aboriginal cultural heritage arises from three factors:

1. the existence of Aboriginal cultural heritage within the scope or vicinity of the proposed activity area; **and**
2. the nature of the Aboriginal cultural heritage; **and**
3. the nature and methodology of the works that comprise the proposed activity.

To make this assessment, the cultural heritage values of the area that will or may be affected by the proposed activity need to be identified and investigated. This may include Aboriginal cultural heritage that has not yet been recorded on the VAHR.

Figure 2 below outlines an example of a process for assessing whether an activity will require an application for a permit to harm. In situations where the assessment process indicates that there is no Aboriginal cultural heritage in the activity area and/or that the activity will not, or is not likely to, harm Aboriginal cultural heritage (and that a permit is therefore not required), it is acceptable to proceed with the activity with caution. It is advisable to have contingency plans in place with steps to follow should unexpected Aboriginal cultural heritage be found during the conduct of the activity.



Figure 2 Example of an activity planning process that considers whether a permit to harm is required

**Completing an application for a permit to harm**

The activity that will harm, or is likely to harm, Aboriginal cultural heritage, and for which a permit is required under the Act, is referred to as the “activity” in this Attachment. The information provided here is the basis on which decisions under the Act will be made, including whether a permit will be granted. It is therefore important that the information provided is complete and includes all components and actions that will be associated with the activity.

In evaluating applications for a permit to harm, the Act requires the Approval Body to consider:

* the nature of the Aboriginal cultural heritage,
* the impact, or likely impact, of the activity on the Aboriginal cultural heritage; and
* the extent to which any harm to the Aboriginal cultural heritage could be minimised.

It is therefore imperative that these are considered in detail in an application.

Attach additional sheets where further space is required.

|  |  |
| --- | --- |
| **1. Description of the proposed activity** | Provide clear and relevant information about the proposed activity to allow an assessment of its potential impact on the Aboriginal cultural heritage that is the subject of the application. This should include:* a detailed description of the nature of the proposed activity - including ancillary works associated with its undertaking
* a description of impacts on the surface of the land or to vegetation, including all components and actions that will be associated with all stages of the activity
* any equipment and machinery that will be used.

Provide a brief justification of ‘why’ the activity needs to be undertaken. This will help to describe the proposal but should not replace a complete description of the proposed activity.The application needs to be clear about how the activity will, or is likely to, harm Aboriginal cultural heritage. Considering and documenting in detail the proposed methodology - including the machinery/equipment required for undertaking the activity, may assist in assessing its impact or likely impact on the Aboriginal cultural heritage further in the application. **Note**: photographs may be included to give a visual description of the proposed activity area, or show examples of the types of machinery that will be used. |
| **2. Contact details for the land owner/manager (in relation to Aboriginal place) or owner / custodian (in relation to an Aboriginal object) where the person is not the Applicant** | In relation to an Aboriginal place, provide details of land ownership/management (e.g. Commonwealth Government; State Government; local government; company, individual; catchment management/water authority), including the name and contact details of the owner, manager and/or occupier. Details should be adequate to enable relevant persons to be contacted to arrange access to the property, if necessary.Note: if the applicant and the owner/manager/custodian are the same, completing the information on the cover sheet is sufficient.**\* Note, the following questions 3-6 only need to be completed if the project relates to Aboriginal place/s located on land or waters in Victoria – not to projects related to Aboriginal object/s.** |
| **3. Land tenure** | For any project relating to an Aboriginal cultural heritage place or places located on land or waters in Victoria.**3. Land tenure**⬜ Freehold ⬜ Crown  |
| **4. Address of the land** | Provide a street address and **one** of the Formal Land Descriptions.Land is commonly identified by a street address, but sometimes this does not provide an accurate identification of the relevant parcel of land relating to an application. Ensure the formal land description, the lot and plan number, or the Crown section and parish / township details (as applicable) for the subject land is provided. This information can be found on the certificate of title, or it can be searched for using the Department of Environment, Land Water and Planning’s [VicPlan](https://mapshare.vic.gov.au/vicplan/).If the project relates to an Aboriginal place or places, it is important that clear and concise details of the land are provided with the application. This is to enable the Approval Body to check the VAHR for relevant associated Aboriginal cultural heritage. If a permit is granted, the information provided here will be included in the permit.

|  |
| --- |
| **5. Address of the land** |
| Provide a street address and **one** of the Formal Land Descriptions. |
| **Street Address:** |  |
|  |  |
|  |  |
|  |  |
| **Formal Land Description:** | A | Lot No: |  |  Plan No: |  |
| (Complete either A or B) | OR |  |  |
|  | B | Crown Allotment No: |  |  Section No: |  |
|  |  | Parish/Township Name: |  |

 |
| **5. Plan and description of the area/s of land where the activity will take place** | Attach a plan or map of the land that is subject of the permit application, drawn to scale, with:* the **dimensions of the proposed activity area**;
* the **location of proposed works** involved in the activity – including any other impact areas (lay-down spots for equipment, vehicle access points, etc.);
* the boundaries of the area of land on which the activity will take place; and
* the **extent of known Aboriginal cultural heritage** on that land.

A written description of the area is also required.It is important to:* clearly illustrate the relationship between the Aboriginal cultural heritage and the proposed activity; and
* clearly define the extent (boundary) of the known Aboriginal cultural heritage on the map – a point symbol is not sufficient to show place extent (unless the place consists of an isolated artefact).

**As a minimum**: you must ensure that all maps or plans are legible, include a north arrow, and are of a sufficient scale to enable interpretation. (See example at Figure 3).Spatial data is ideal if you have access to it. |
| **6. Victorian Aboriginal Heritage Register** | Provide details of the Aboriginal cultural heritage that is the subject of the permit applicationConfirm whether there is already a record of Aboriginal cultural heritage in the area. You will need to apply to the Secretary for access to / advice from the VAHR to obtain this information: https://achris.vic.gov.au/#/applicationforaccessenterAboriginal cultural heritage subject to a permit application must be referenced by its VAHR number and name. These are assigned by the FPSR Heritage Registrar as part of the Aboriginal cultural heritage recording and registration process, where each registered Aboriginal place is given a unique reference: (VAHR #### - ####)Aboriginal cultural heritage not previously recorded on the VAHR, or significantly altered from the original record, will need to be investigated prior to an application being submitted. If the Aboriginal cultural heritage has not been registered, it will need to be recorded and registered prior to submitting the application. For already registered Aboriginal cultural heritage – especially for older registrations, the Approval Body may require further investigation – including an on-site inspection for an Aboriginal place, to enable more informed consideration of the application. If this is the case, you may also be required to complete a Record Edit and verified via ACHRIS.**8. Victorian Aboriginal Heritage Register details**

|  |  |
| --- | --- |
| ID Number | Name |
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 |
| **7. Provide a detailed description of the Aboriginal cultural heritage which is the subject of this application** | Providing details of the Aboriginal cultural heritage is critical to informing its management. This includes as a minimum: 1. location
2. context
3. ‘type’ and components
4. **surface extent** and likely sub-surface extent (if known)
5. condition.

If applicable, refer to the information in section 7 as a starting point. Older registrations may not contain enough information to complete this section. In these cases, it is advisable that an assessment – involving a field inspection as a minimum – is undertaken prior to completing this section. An assessment of an Aboriginal place must be documented using a Record Edit, to inform the application and to update the VAHR record.Example: The northern half of the Aboriginal place is an area of continuous middens. It includes a cliff-top deposit immediately north of the carpark, scatters & also primary dune coastal shell middens. Many of the primary dune middens (particularly areas 130 metres each side of the scout hall access track) have, since the opening of the heads, been badly affected by tidal surges. During this time new middens have become exposed, with loss of midden estimated at 1 metre per year. An area of midden in front of the scout hall has been carbon dated –at 1300 years before 1950. Fifty metres north of the road, the raised rock platform protects the midden. The area south of the carpark also contains middens but they are not readily evident on the surface. |
| **8. Describe the nature and extent of any archaeological deposits (where known)** | Nature: a detailed **description** of the Aboriginal cultural heritage recorded/impacted and/or subject to investigation.Extent: a detailed **plan** of each Aboriginal place found, discovered and/or subject to investigation.Indicate whether sub-surface deposits are present, absent, or not determined. (Do not undertake archaeological excavation unless you are authorised to do so – this requires a different type of permit).If it has not been previously determined whether sub-surface material is present, the conditions of any granted permit may contain specific conditions relating to the management of the Aboriginal cultural heritage in this regard.**Important note**: sections 8 and 9 are linked and must be sufficiently detailed for the Approval Body to consider the nature of the Aboriginal cultural heritage. The more detail with which the Aboriginal cultural heritage can be described, the better sections 10 and 11 below can be completed. Again, consider undertaking a field inspection with a suitably qualified person and the RAP / Traditional Owner representatives (if applicable). |
| **9. Describe the impact, or likely impact of the activity on the Aboriginal cultural heritage** | Section 10 requires a description of the individual impacts of the tasks involved in undertaking the activity on the Aboriginal cultural heritage. For example, if an excavator will be used to dig a hole for a toilet pit in a camp ground, how may the tracks of the bulldozer impact the surrounding area and how may digging the hole itself impact on any subsurface deposits (known or unknown). Provide as much relevant descriptive detail as possible - even if it seems obvious to you as the applicant. This contextual understanding will assist the Approval Body to evaluate the application and may avoid the need to request further information.1. Identify all areas where the proposed activity will, or is likely to, have an impact on the Aboriginal cultural heritage
2. Include any impacts associated with vehicle access routes or temporary equipment/material drop-points used during the activity
3. Use the plan in section 5 overlaying the extent of the Aboriginal cultural heritage in relation to each activity component will help to ensure the necessary information is provided for this section.

**Tip: to assist in describing the likely impact, refer to the description of the activity and its footprint and consider the nature and extent of the Aboriginal cultural heritage. Wherever they overlap, consider the impact on the Aboriginal cultural heritage**.It is important that the impact described is specific to the Aboriginal cultural heritage place or object. This will help to create a clear picture of the overall effect of the proposed activity in relation to the Aboriginal heritage values. It will reveal which of those values are at risk of being harmed and which objects or places are likely to remain unaffected.Detail the impact of all tasks relevant to the activity on the Aboriginal cultural heritage. To determine the impact of the activity on the Aboriginal cultural heritage, they must be considered together. Consider why a permit is required in the first place – the impact the activity will have on the Aboriginal cultural heritage equates to the harm that is caused. Unsubstantiated judgements of the extent of the impact (e.g. ‘harm will be minimal’) are not useful in considering a permit application and should be avoided. **Important note**: this section does not ask for justification of why the activity needs to occur. Reiterating the reason a toilet block is required in a campsite, for example, is not useful to describe the impact of installing one on the Aboriginal cultural heritage.  |
| **10. Describe any arrangements that have been made to:*** **Minimise harm to the Aboriginal cultural heritage**
* **Document and manage any Aboriginal cultural heritage found during the activity**
* **Supervise the conduct of the activity by an appropriately qualified and/or experienced person.**
 | Developing management actions involves the assessment of the Aboriginal cultural heritage present in the activity area (sections 7-9) and the likely impact of the proposed activity on that Aboriginal cultural heritage (section 10), to identify appropriate management measures (this section).Arrangements should be aimed at avoiding harm where possible. The following consideration should guide the drafting of management actions:* conservation and management strategies should be developed in consultation with the relevant Traditional Owners. If appropriate, obtain advice from relevant experts (e.g. arborists, botanists, geomorphologists)
* operate under the principle of avoiding unnecessary impact to the Aboriginal cultural heritage.
* think of specific arrangements that can be implemented before, during and after the activity to minimise or mitigate harm to the Aboriginal cultural heritage. These arrangements should detail what needs to be done; when it needs to be done; by whom, and how.

Providing documents considering the views of the relevant Traditional Owners when developing options and making activity methodology decisions will support the application and help demonstrate that appropriate Aboriginal cultural heritage management outcomes have been explored in planning the proposed activity.It may be beneficial to provide additional context to assist the evaluation of the application, including documenting any alternative methodologies that may have had a lesser (or no) impact on the Aboriginal cultural heritage that were considered, and why they might have been rejected as inappropriate in this case.* **Minimise harm** to the Aboriginal cultural heritage.

After exhausting available options for avoiding harm to Aboriginal cultural heritage, the next step is to develop management strategies to minimise the impact / likely impact of the activity identified in section 10. Consider practical measures that may be taken to protect and conserve the Aboriginal cultural heritage and any practical measures that may be taken to avoid or mitigate the actual or likely harm, or if this is not possible, to minimise harm. Possible methods that may avoid or minimise harm may include one or a combination of the following (please note this list is not exhaustive):* Fencing as much as possible of the Aboriginal place during the conduct of the activity (be sure to specify what type of fencing will be used and why, considering impacts to the ground surface and buried deposits)
* Using existing roads/tracks to bring machinery, vehicles, and equipment to and from the works area
* Installing signage restricting access to the area where the Aboriginal cultural heritage is located during and after the conduct of the activity
* Substituting a procedure, process or substance (e.g. pedestrian weed-spraying using a back-pack and hand-held hose, rather than from a vehicle)
* Applying engineering controls (e.g. using a Hamilton planter instead of ploughing furrows to plant tubestock during planting works)
* Adjusting the location of a component of the activity (e.g. adjusting the alignment of a section of a pathway so that it impacts on less of the Aboriginal cultural heritage)
* Including information about avoiding Aboriginal cultural heritage in an induction manual, or on-site training for contractors engaged during the conduct of the activity;
* Altering the methodology or equipment used to undertake all or part of the proposed activity.

Also note who will be doing what and at what point during the activity.**Tip: The conditions of a permit are directly linked to harm minimisation measures. If you are able to devise a methodology for undertaking your activity that includes sufficient and appropriate measures for minimising harm to the Aboriginal cultural heritage, then the methodology for the activity as outlined in the application may be more readily incorporated as a condition of a permit.*** **Document and manage** any Aboriginal cultural heritage recovered or otherwise dealt with during the activity.

Harm minimisation and management is not only about reducing the impact of the activity on the ‘known’ Aboriginal cultural heritage, it is also about having a plan in place for what to do upon the unexpected discovery of Aboriginal cultural heritage (often referred to as a ‘contingency plan’).Contingency plans are specific measures for the management of Aboriginal cultural heritage unexpectedly found during the activity. Contingency plans include procedures for dealing with Aboriginal cultural heritage not identified during the cultural heritage investigation informing a permit application. Contingency plans for the management of Aboriginal cultural heritage found during the activity outline what will happen to document and manage this heritage.(Note: If a thorough heritage investigation has been completed as part of the permit application process, the unexpected discovery of any heritage within the activity area should be a rare occurrence).The Act requires that, if a person finds an Aboriginal place or object, they must report the discovery to the Secretary (unless the person has reasonable cause to believe that the VAHR already contains a record of the place or object). Therefore, a normal contingency would be to report the heritage and follow an agreed plan relating to discoveries of Aboriginal cultural heritage during the conduct of the activity. Such contingencies could include (but are not limited to):* Stopping work and leaving the Aboriginal cultural heritage in situ until it is inspected;
* Restricting work on or near the identified Aboriginal cultural heritage;
* Establishing timeframes for notification, inspection and possibly removal of discovered Aboriginal cultural heritage; and
* Establishing tasks that must be completed before the activity may recommence in the area.

For example, there may be a protocol established that requires the works supervisor to notify the RAP within 24 hours of discovering unexpected Aboriginal cultural heritage. Notification could:* Describe the find;
* Outline the proposed remedial action or procedure to be put in place to protect the find from harm;
* Invite the RAP(s) to inspect the find;
* Propose a management measure to protect the find in the long term;
* Invite the RAP to agree to the proposed management measure or propose an alternative.

If the activity can proceed without risk to the Aboriginal cultural heritage, the activity should be able to continue, albeit in a restricted intensity within an agreed buffer until a plan for managing the find is agreed.Note: if suspected Aboriginal Ancestral Remains are considered likely to be found, the contingency plans must account for the requirements of the *Coroners Act 2008* and the *Aboriginal Heritage Act 2006*, as well as any other relevant legislation. If a permit is granted, what to do in this instance is usually outlined in the general conditions.Documentation may include completing Place Inspection Form / Record Edit or new Aboriginal place registrations.* **Supervise** the conduct of the activity by an appropriately qualified and/or experienced person.

It may be necessary to ensure someone with appropriate expertise is on hand to deal with any Aboriginal cultural heritage that may be encountered before / during / after the activity. Where relevant, it is strongly recommended that applicants engage someone who is appropriately qualified with practical experience and knowledge of the management of Aboriginal cultural heritage. |
| **11. Provide details of any consultation undertaken with relevant Aboriginal persons or bodies in relation to this application** | The application should document formal and, where possible, informal consultation processes that have taken place. It is important that the application also documents the outcomes of the consultation – even if the parties do not agree.In consulting with a RAP or other Traditional Owners, students and researchers should address the following matters, ensuring that the following is clearly understood:* a description of the project
* the type of information required
* a clear geographic description of the area or areas you are interested in
* any timelines that are relevant to your request
* your commitments to involve the RAP/ Traditional Owners in the project and briefing the RAP/Traditional Owners about the project outcomes.

**It is important to document any consultation with the RAP or Traditional Owners.** Where Traditional Owners other than those represented by the RAP are concerned, evidence of any consultation and written responses if possible, should be attached to the application.Details may include the following:* dates of meetings/consultations
* names of attendees
* outcomes of discussion.

The Approval Body evaluating the permit application will be interested in information about the type of consultation undertaken (if any), or if there have been no discussions, why that is the case. |
| **12. Time frame for activity** | Indicate the proposed start and finish date of the activity, if applicable.This will help the Approval Body to formulate appropriate expiry date conditions in any permit granted, if required.Start date: / / Finish date: / /  |
| **13. Checklist** | The following items must be submitted with an application:⬜ Figures, maps (to scale and including north arrow), or aerial photograph showing the locations of the project⬜ Activity plan (drawn to scale, with dimensions)See the example in Figure 3 on the following page.⬜ Copies of any technical reports that may assist in the consideration of this application⬜ A photograph of each Aboriginal place or object (or group of Aboriginal places or objects) subject of the application⬜ Evidence of any consultation undertaken with relevant Aboriginal persons or bodies in relation to this application.⬜ Copies of any completed Record Edit(s), including evidence of verification by the Aboriginal Heritage Registrar. |

####

SAMPLE ONLY

Figure 3 Activity plan and Aboriginal place extent

## **ATTACHMENT C**

## Application for a permit to sell an Aboriginal object

**What is a ‘permit to sell an Aboriginal object’?**

Sell, in relation to an Aboriginal object, means-

a) dispose of by sale, barter or exchange; or

b) agree, or offer, to dispose of by sale, barter or exchange; or

c) advertise or expose for the purpose of sale, barter or exchange; or

d) consign, or have possession of on consignment, for the purpose of sale, barter or exchange.

This includes doing any of the above through an online auction house.

Note: The export of Aboriginal objects from Australia is governed by separate Commonwealth legislation – the *Protection of Moveable Cultural Heritage Act 1986*. Applicants for a permit to sell an Aboriginal object should contact the relevant Commonwealth department to ensure they are complying with their responsibilities under that Act.

**Completing an application for a permit to sell an Aboriginal object**

The description of the Aboriginal object here is the description on which decisions under the Act will be made, including whether a permit will be granted. It is therefore important that the description of the Aboriginal object and the purpose of its sale is complete.

Attach additional sheets where further space is required.

|  |  |
| --- | --- |
| **1. Provide a detailed description of the Aboriginal object(s) which is the subject of the application** | Provide as much detail as possible, including material and dimensions of the Aboriginal object, as well as its current condition. |
| **2. Provide details regarding the history of the object, including information about:*** **Its place of origin if known**
* **The history of the object**
* **Its current location and ownership.**
 | Provide details regarding the history of the object, including information about:* Its place of origin if known:

(attach a map indicating this location)* The history of the object:

(particularly information regarding its manufacture, ownership and use)* Its current location and ownership.
 |
| **3. Describe what arrangements will be made to minimise any harm to the object(s) during the conduct of the sale** | Provide any information on display and/or packing requirements for the Aboriginal object; taking into account its current condition and any unique requirements of the conduct of the sale.It is also important to include information on the future location of the Aboriginal object following the proposed sale, as this information will be necessary to update the record on the Victorian Aboriginal Heritage Register. |
| **4. Provide the contact details of the person who can arrange access to the Aboriginal object for inspection and assessment (if different to the applicant)** |  |
| **5. Information sources and attachments*** **You must attach photographs showing the Aboriginal object(s) (preferably from multiple angles)**
* **If relevant, provide a list of documents and source materials relied upon when preparing this application**
* **Provide details about the reliability of information referred to in the preparation of this application.**
 | Use photographs, including an indication of scale, to show the Aboriginal object from multiple angles. |
| **6. Provide details of any consultation with relevant Aboriginal persons or bodies in relation to this application** | The application should document formal and, where possible, informal consultation processes that have taken place. It is important that the application also documents the outcomes of the consultation – even if the parties do not agree.In consulting with a RAP or other Traditional Owners, students and researchers should address the following matters, ensuring that the following is clearly understood:* a description of the project
* the type of information required
* a clear geographic description of the area or areas you are interested in
* any timelines that are relevant to your request
* your commitments to involve the RAP/ Traditional Owners in the project and briefing the RAP/Traditional Owners about the project outcomes.

**It is important to document any consultation with the RAP or Traditional Owners.** Where Traditional Owners other than those represented by the RAP are concerned, evidence of any consultation and written responses if possible, should be attached to the application.Details may include the following:* dates of meetings/consultations
* names of attendees
* outcomes of discussion.

The Approval Body evaluating the permit application will be interested in information about the type of consultation undertaken (if any), or if there have been no discussions, why that is the case. |
| **7. Checklist** | ⬜ A map indicating the location of the Aboriginal object’s point of origin⬜ Photographs showing the Aboriginal object⬜ Evidence of any consultation undertaken with relevant Aboriginal persons or bodies in relation to this application. |

## **ATTACHMENT D**

## Application for a permit to remove an Aboriginal object from Victoria

**What is a ‘permit to remove an Aboriginal object from Victoria’?**

This permit type allows the removal of an Aboriginal object from the State of Victoria.

Note: A separate permit to remove an Aboriginal object from Victoria is not required if a permit to undertake research on an Aboriginal object is held and the removal of the object from Victoria is for the purpose of that research (see Attachment A).

**Completing an application for a permit to remove an Aboriginal object from Victoria**

Applications must include at least one representative photograph or digital image of the Aboriginal object that is the subject of the application.

The description of the Aboriginal object here is the description on which decisions under the Act will be made, including whether a permit will be granted. It is therefore important that the description of the Aboriginal object and the purpose of its removal is complete.

Attach additional sheets where further space is required.

|  |  |
| --- | --- |
| **1. Provide a detailed description of the Aboriginal object(s) which is the subject of the application** | Provide as much detail as possible, including material and dimensions of the Aboriginal object, as well as its current condition. |
| **2. Provide details regarding the history of the object, including information about:*** **Its place of origin if known**
* **The history of the object**

**Its current location and ownership.** | Provide details regarding the history of the object, including information about:* Its place of origin if known:

(attach a map indicating this location)* The history of the object:

(particularly information regarding its manufacture, ownership and use)* Its current location and ownership.
 |
| **3. Describe any likely impact removal may have on the Aboriginal object(s) and, if relevant, what arrangements will be made to minimise any harm** | Provide any information on packing and moving requirements for the Aboriginal object; taking into account its current condition and any unique requirements of the conduct of the removal. |
| **4. Provide the contact details of the person who can arrange the inspection and assessment of the Aboriginal object (if different to the Applicant)** |  |
| **5. Provide details about:*** **Why the Aboriginal object is being removed from Victoria**
* **Where the Aboriginal object will be taken**
* **Any arrangements that have been made for the care and preservation of the Aboriginal object once it has been removed from Victoria**
* **The period of time the Aboriginal object will be outside Victoria (if the planned removal is permanent, please specify the reasons why).**
 | It is important to include information on the future location of the Aboriginal object following the proposed removal, as this information will be necessary to update the record on the Victorian Aboriginal Heritage Register. |
| **6. Information sources and attachments*** **You must attach photographs showing the Aboriginal object(s) (preferably from multiple angles)**
* **If relevant, provide a list of documents and source materials relied upon when preparing this application**
* **Provide details about the reliability of information referred to in the preparation of this application.**
 | Use photographs, including an indication of scale, to show the Aboriginal object from multiple angles. |
| **7. Provide details of any consultation undertaken with relevant Aboriginal persons or bodies in relation to this application.** | The application should document formal and, where possible, informal consultation processes that have taken place. It is important that the application also documents the outcomes of the consultation – even if the parties do not agree.In consulting with a RAP or other Traditional Owners, students and researchers should address the following matters, ensuring that the following is clearly understood:* a description of the project
* the type of information required
* a clear geographic description of the area or areas you are interested in
* any timelines that are relevant to your request
* your commitments to involve the RAP/ Traditional Owners in the project and briefing the RAP/Traditional Owners about the project outcomes.

**It is important to document any consultation with the RAP or Traditional Owners.** Where Traditional Owners other than those represented by the RAP are concerned, evidence of any consultation and written responses if possible, should be attached to the application.Details may include the following:* dates of meetings/consultations
* names of attendees
* outcomes of discussion.

The Approval Body evaluating the permit application will be interested in information about the type of consultation undertaken (if any), or if there have been no discussions, why that is the case. |
| **8. Checklist** | If relevant, attach:⬜ A map indicating the location of the Aboriginal object’s point of origin⬜ Photographs showing the Aboriginal object⬜ A list of any documents and source material relied on in the preparation of this application⬜ Evidence of any consultation undertaken with relevant Aboriginal persons or bodies in relation to this application |

## **ATTACHMENT E**

## Application for a permit to rehabilitate land at an Aboriginal place, including land containing burial grounds for Aboriginal Ancestral Remains

**What is a ‘permit to rehabilitate land’?**

Sometimes works to improve the condition of land, or to prevent degradation or erosion of land, or to revegetate land need to be undertaken in an area where there is a known Aboriginal place.

This generally applies to discrete land management works and maintenance activities that cause relatively minimal disturbance to the ground, for example, planting trees or removing pest plants and weeds.

A permit to rehabilitate land is restricted to works using hand tools, such as Hamilton Planters or shovels. If the activity involves the use of **machinery**, an application for a permit to harm is likely to be required (see ATTACHMENT B). If the proposed activity involves works using machinery a permit to rehabilitate land may not be issued.

If the land contains burial grounds for Aboriginal Ancestral Remains, the Ancestral Remains Unit of the Victorian Aboriginal Heritage Council may be contacted for general advice regarding the protection of Aboriginal burials and Ancestral Remains:

Ph: 0437 956 520 or Email: ancestral.remains.unit@dpc.vic.gov.au

**Note:** There is no fee associated with an application for a permit to rehabilitate land.

**Completing an application for a permit to rehabilitate land**

Attach additional sheets where further space is required.

|  |  |
| --- | --- |
| **1. Description of the proposed works to rehabilitate land at an Aboriginal place** | **Example #1: planting or revegetation of a 20 x 30m area**Ground preparation – planting hole excavation to a maximum depth of 30cm and circumference of 20cm using a Hamilton Planter; planting tube stock; installing bamboo/hardwood stakes using a hammer; installing weed suppression matting by pinning down jute matting between plantings with tent pegs or similar.Weed removal and revegetation - planting will consist of infilling locations where weed species are removed, to re-establish vegetation on closed and informal tracks and to assist with erosion control on slopes. Planting will use forestry tubes (maximum depth 10cm). Hole excavation will be by Hamilton Planters on flat areas, and hand trowels on all other areas. All excavated material will be used to firm plant into the ground to establish root contact. **Example #2: vegetation maintenance**Tasks include: 1. weed spraying – on foot, using a back pack, spot spray to avoid native grasses/plants,
2. cut and paint at stump (root ball left in situ), on foot – using a backpack and hand tools,
3. brush cutting – on foot, using a hand-held brush cutter.
* Mulch will be placed on surfaces to recreate natural soil and ground habitat in highly eroded and modified areas. Such areas can include informal tracks, revegetation areas and exposed middens.
* Erosion control (including exposed middens) will include covering the area with mulch and planting where appropriate. For example, planting around the edge of a midden with creepers which will naturally cover area over time.
* Additional vegetation to prevent further access will sometimes be imported local material such as branches and logs. Any imported material will be from clean sites to avoid possible introduction of pathogens along with being free of seed.
* All public access will be kept to established paths. Any informal tracks and shortcuts which are created by the public will be actively closed

**Example # 3: weed control** * Woody Weeds: Large shrubs and trees will be cut and dabbed at ground level or drilled and filled. Herbicide will be administered immediately after cut/drill.
* Smaller individuals (below knee height) will be manually removed ensuring that minimal disturbance is caused to the soil. Emerging seedlings will be sprayed using selective herbicides.
* Ground flora weeds: manual removal of smaller individuals will occur in sensitive areas using small knives to minimise soil disturbance. Larger patches will be sprayed with selective herbicides.
 |
| **2. Contact details for land owner / manager where the person is not the Applicant** | The person or organisation who owns or manages the land identified in section 4 below. Where they are different to the Applicant identified in section 1 and where the application is being lodged on behalf of the Applicant (section 3). |
| **3. Land tenure** | For any project relating to an Aboriginal cultural heritage place or places located on land or waters in Victoria.**3. Land tenure**⬜ Freehold ⬜ Crown  |
| **4. Address of the land** | Provide a street address and **one** of the Formal Land Descriptions.Land is commonly identified by a street address, but sometimes this does not provide an accurate identification of the relevant parcel of land relating to an application. Ensure the formal land description, the lot and plan number, or the Crown section and parish / township details (as applicable) for the subject land is provided. This information can be found on the certificate of title, or it can be searched for using the Department of Environment, Land Water and Planning’s [VicPlan](https://mapshare.vic.gov.au/vicplan/).If the project relates to an Aboriginal place or places, it is important that clear and concise details of the land are provided with the application. This is to enable the Approval Body to check the VAHR for relevant associated Aboriginal cultural heritage. If a permit is granted, the information provided here will be included in the permit.

|  |
| --- |
| **5. Address of the land** |
| Provide a street address and **one** of the Formal Land Descriptions. |
| **Street Address:** |  |
|  |  |
|  |  |
|  |  |
| **Formal Land Description:** | A | Lot No: |  |  Plan No: |  |
| (Complete either A or B) | OR |  |  |
|  | B | Crown Allotment No: |  |  Section No: |  |
|  |  | Parish/Township Name: |  |

 |
| **5. Plan and description of the area(s) of land where the rehabilitation works will take place** | Attach a plan or map of the land that is subject of the permit application, drawn to scale, with:* the **dimensions of the proposed activity area**;
* the **location of proposed works** involved in the activity – including any other impact areas (lay-down spots for equipment, vehicle access points, etc.);
* the boundaries of the area of land on which the activity will take place; and
* the **extent of known Aboriginal cultural heritage** on that land.

A written description of the area is also required.It is important to:* clearly illustrate the relationship between the Aboriginal cultural heritage and the proposed activity; and
* clearly define the extent (boundary) of the known Aboriginal cultural heritage on the map – a point symbol is not sufficient to show place extent (unless the place consists of an isolated artefact).

**As a minimum**: you must ensure that all maps or plans are legible, include a north arrow, and are of a sufficient scale to enable interpretation.Spatial data is ideal if you have access to it. For more information, refer to the [Spatial Data](https://www.vic.gov.au/aboriginalvictoria/heritage/heritage-tools-and-publications/guides-forms-and-practice-notes-for-aboriginal-heritage-management.html) Guidelines on the First Peoples - State Relations website. |
| **6. Victorian Aboriginal Heritage Register** | Provide details of the Aboriginal cultural heritage that is the subject of the permit applicationConfirm whether there is already a record of Aboriginal cultural heritage in the area. You will need to apply to the Secretary for access to / advice from the VAHR to obtain this information: https://applications.vic.gov.au/apps/achris/public/Aboriginal cultural heritage subject to a permit application must be referenced by its VAHR number and name. These are assigned by the FPSR Heritage Registrar as part of the Aboriginal cultural heritage recording and registration process, where each registered Aboriginal place is given a unique reference: (VAHR #### - ####)Aboriginal cultural heritage not previously recorded on the VAHR, or significantly altered from the original record, will need to be investigated prior to an application being submitted. If the Aboriginal cultural heritage has not been registered, it will need to be recorded and registered prior to submitting the application. For already registered Aboriginal cultural heritage – especially for older registrations, the Approval Body may require further investigation – including an on-site inspection for an Aboriginal place, to enable more informed consideration of the application. If this is the case, you may also be required to complete and submit a Place Inspection Form or Record Edit allowing the VAHR record to be updated. **8. Victorian Aboriginal Heritage Register details**

|  |  |
| --- | --- |
| ID Number | Name |
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|  |  |
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 |
| **7. Provide a detailed description of the Aboriginal cultural heritage which is the subject of this application** | Providing details of the Aboriginal cultural heritage is critical to informing its management. This includes as a minimum: 1. location
2. context
3. ‘type’ and components
4. **surface extent**
5. condition.

If applicable, refer to the information in section 6 as a starting point. Older registrations may not contain enough information to complete this section. In these cases, it is advisable that an assessment – involving a field inspection as a minimum – is undertaken prior to completing this section. An assessment of an Aboriginal place must be documented using a Place Inspection Form or Record Edit, to inform the application and to update the VAHR record.For more information on how to complete a Place Inspection Form / Record Edit, or what type of information is required when making a report of Aboriginal cultural heritage, refer to the [Guidelines for Recording Aboriginal Cultural Heritage](https://www.vic.gov.au/aboriginalvictoria/heritage/heritage-tools-and-publications/guides-forms-and-practice-notes-for-aboriginal-heritage-management.html) on the FPSR website.Example: The northern half of the Aboriginal place is an area of continuous middens. It includes a cliff-top deposit immediately north of the carpark, scatters & also primary dune coastal shell middens. Many of the primary dune middens (particularly areas 130 metres each side of the scout hall access track) have, since the opening of the heads, been badly affected by tidal surges. During this time new middens have become exposed, with loss of midden estimated at 1 metre per year. An area of midden in front of the scout hall has been carbon dated –at 1300 years before 1950. Fifty metres north of the road, the raised rock platform protects the midden. The area south of the carpark also contains middens but they are not readily evident on the surface. |
| **8. Describe the likely impact of the works to rehabilitate land on the Aboriginal cultural heritage** | This section requires a description of the individual impacts of the tasks involved in undertaking the activity on the Aboriginal cultural heritage. For example, if a Hamilton Planter will be used to dig holes for tube stock, how may the digging of the holes impact the surrounding area. Provide as much relevant descriptive detail as possible - even if it seems obvious to you as the applicant. This contextual understanding will assist the Approval Body to evaluate the application and may avoid the need to request further information.1. Identify all areas where the proposed activity will, or is likely to, have an impact on the Aboriginal cultural heritage
2. Include any impacts associated with vehicle access routes or temporary equipment/material drop-points used during the activity
3. Use the plan in section 5 overlaying the extent of the Aboriginal cultural heritage in relation to each activity component will help to ensure the necessary information is provided for this section.

**Tip: to assist in describing the likely impact, refer to the description of the activity and its footprint and consider the nature and extent of the Aboriginal cultural heritage. Wherever they overlap, consider the impact on the Aboriginal cultural heritage**.It is important that the impact described is specific to the Aboriginal cultural heritage place or object. This will help to create a clear picture of the overall effect of the proposed activity in relation to the Aboriginal heritage values. It will reveal which of those values are at risk of being harmed and which objects or places are likely to remain unaffected.Detail the impact of all tasks relevant to the activity on the Aboriginal cultural heritage. To determine the impact of the activity on the Aboriginal cultural heritage, they must be considered together. **Important note**: this section does not ask for justification of why the activity needs to occur. Reiterating the reason revegetation needs to occur, for example, is not useful to describe the impact of the activity on the Aboriginal cultural heritage.  |
| **9. Describe any arrangements that have been made to:*** **Avoid impacts to the Aboriginal cultural heritage during the works**
* **Document and manage any Aboriginal cultural heritage found during the works**
* **Supervise the conduct of the works by an appropriately qualified and/or experienced person.**
 | Outline specific arrangements that can be implemented before, during and after the activity to minimise or mitigate impacts on the Aboriginal cultural heritage: what needs to be done, when, by whom and how.Conservation and management strategies should be developed in consultation with the relevant Traditional Owner group(s). If appropriate, obtain advice from relevant experts (e.g. arborists, botanists, geomorphologists). Arrangements should be based on sound cultural heritage management principles, with the first principle being to avoid unnecessary impact to the Aboriginal cultural heritage.Consider practical measures that may be taken to protect and conserve the Aboriginal cultural heritage and any practical measures that may be taken to avoid or mitigate any actual or likely impact. For example: *To avoid impacts to the Aboriginal cultural heritage during work, the following has already been undertaken: fencing on the lower side of the north/south track; signage has been erected on the exposed areas north of the scout hall to create a ‘no-go zone’ around the middens; logs and leafy branches have been pulled over exposed areas of the hillside to mitigate further erosion.* *During works, planting tools will be commensurate with the size of the hole required (a Hamilton tree planter for tube-sized plants & a very small knife for smaller plants); hand weeding will be limited to stable sites; spot spraying in vegetated midden areas will be restricted to selective herbicide.**Planting will occur around the edges of exposed surface shell middens. The person planting will monitor excavated soil for signs of midden material and stop in that area if any possible midden material is detected. Imported material such as mulch will be added in some instances so that lower substrate material is not impacted during planting.* |
| **10. Provide details of any consultation with relevant Aboriginal persons or bodies in relation to this application** | The application should document formal and, where possible, informal consultation processes that have taken place. It is important that the application also documents the outcomes of the consultation – even if the parties do not agree.In consulting with a RAP or other Traditional Owners, students and researchers should address the following matters, ensuring that the following is clearly understood:* a description of the project
* the type of information required
* a clear geographic description of the area or areas you are interested in
* any timelines that are relevant to your request
* your commitments to involve the RAP/ Traditional Owners in the project and briefing the RAP/Traditional Owners about the project outcomes.

**It is important to document any consultation with the RAP or Traditional Owners.** Where Traditional Owners other than those represented by the RAP are concerned, evidence of any consultation and written responses if possible, should be attached to the application.Details may include the following:* dates of meetings/consultations
* names of attendees
* outcomes of discussion.

The Approval Body evaluating the permit application will be interested in information about the type of consultation undertaken (if any), or if there have been no discussions, why that is the case. |
| **11. Time frame for works** | Indicate the proposed start and finish date of the activity, if applicable.This will help the Approval Body to formulate appropriate expiry date conditions in any permit granted, if required.Start date: / / Finish date: / /  |
| **12. Checklist** | The following items must be attached to an application:⬜ Figures, maps (to scale and including north arrow), or aerial photograph showing the locations of the project⬜ Works plan (drawn to scale, with dimensions)⬜ Copies of any Record Edit(s) completed for this application, including evidence of verification by the Aboriginal Heritage Registrar.⬜ A photograph of each Aboriginal place (or group of Aboriginal places) subject of the application⬜ Evidence of any consultation undertaken with relevant Aboriginal persons or bodies in relation to this application. |

## **ATTACHMENT F**

## Application for a permit to inter Aboriginal Ancestral Remains at an Aboriginal place

**What is a ‘permit to inter Aboriginal Ancestral Remains?**

Aboriginal Ancestral Remain are of immense cultural importance to Traditional Owners. The *Act’s* underlying principle is that Aboriginal Ancestral Remains should be owned by and returned to the Traditional Owners of the area from which they originated. This is in line with the principles of self-determination and enabling Traditional Owners ongoing connection to Country and culture.

Where a person seeks to inter Aboriginal Ancestral Remains in an Aboriginal Place, a permit is required. If Aboriginal Ancestral Remains are to be interred in a location that is not an Aboriginal place, the burial / interment must be reported to the Secretary DPC, so it can be recorded in the VAHR and protected as an Aboriginal place.

A permit to inter Aboriginal Ancestral Remains is not required if the person is acting in accordance with Aboriginal tradition as it relates to the Aboriginal cultural heritage.

The VAHC has prepared an information sheet ‘[Protecting Aboriginal burials and Aboriginal Ancestral Remains](https://www.dpc.vic.gov.au/index.php/aboriginal-affairs/victorian-aboriginal-heritage-council/victorian-aboriginal-heritage-council-publications-and-fact-sheets#factsheets)’.

The Ancestral Remains Unit of the Victorian Aboriginal Heritage Council may be contacted for general advice regarding the protection of Aboriginal burials and Ancestral Remains:

Ph: 0437 956 520 or Email: ancestral.remains.unit@dpc.vic.gov.au

**Completing an application for a permit to inter Aboriginal Ancestral Remains**

|  |  |
| --- | --- |
| **1. Contact details for land owner / manager where this person is not the Applicant** | In relation to an Aboriginal place, provide details of land ownership/management (e.g. Commonwealth Government; State Government; local government; company, individual; catchment management/water authority), including the name and contact details of the owner, manager and/or occupier. Details should be adequate to enable relevant persons to be contacted to arrange access to the property, if necessary.Note: if the applicant and the owner/manager/custodian are the same, completing the information on the cover sheet is sufficient. |
| **2. Land tenure** | For any project relating to an Aboriginal cultural heritage place or places located on land or waters in Victoria.**3. Land tenure**⬜ Freehold ⬜ Crown  |
| **3. Address of the land** | Provide a street address and **one** of the Formal Land Descriptions.Land is commonly identified by a street address, but sometimes this does not provide an accurate identification of the relevant parcel of land relating to an application. Ensure the formal land description, the lot and plan number, or the Crown section and parish / township details (as applicable) for the subject land is provided. This information can be found on the certificate of title, or it can be searched for using the Department of Environment, Land Water and Planning’s [VicPlan](https://mapshare.vic.gov.au/vicplan/).If the project relates to an Aboriginal place or places, it is important that clear and concise details of the land are provided with the application. This is to enable the Approval Body to check the VAHR for relevant associated Aboriginal cultural heritage. If a permit is granted, the information provided here will be included in the permit.

|  |
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| **5. Address of the land** |
| Provide a street address and **one** of the Formal Land Descriptions. |
| **Street Address:** |  |
|  |  |
|  |  |
|  |  |
| **Formal Land Description:** | A | Lot No: |  |  Plan No: |  |
| (Complete either A or B) | OR |  |  |
|  | B | Crown Allotment No: |  |  Section No: |  |
|  |  | Parish/Township Name: |  |

 |
| **4. Victorian Aboriginal Heritage Register** | Provide details of the Aboriginal cultural heritage that is the subject of the permit applicationConfirm whether there is already a record of Aboriginal cultural heritage in the area. You will need to apply to the Secretary for access to / advice from the VAHR to obtain this information: https://achris.vic.gov.au/#/applicationforaccessenterAboriginal cultural heritage subject to a permit application must be referenced by its VAHR number and name. These are assigned by the FPSR Heritage Registrar as part of the Aboriginal cultural heritage recording and registration process, where each registered Aboriginal place is given a unique reference: (VAHR #### - ####)Aboriginal cultural heritage not previously recorded on the VAHR, or significantly altered from the original record, will need to be investigated prior to an application being submitted. If the Aboriginal cultural heritage has not been registered, it will need to be recorded and registered prior to submitting the application. **8. Victorian Aboriginal Heritage Register details**

|  |  |
| --- | --- |
| ID Number | Name |
|  |  |
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| **5. Provide details of any consultation undertaken with relevant Aboriginal persons or bodies in relation to this application** | The application should document formal and, where possible, informal consultation processes that have taken place. It is important that the application also documents the outcomes of the consultation – even if the parties do not agree.In consulting with a RAP or other Traditional Owners, students and researchers should address the following matters, ensuring that the following is clearly understood:* a description of the project
* the type of information required
* a clear geographic description of the area or areas you are interested in
* any timelines that are relevant to your request
* your commitments to involve the RAP/ Traditional Owners in the project and briefing the RAP/Traditional Owners about the project outcomes.

**It is important to document any consultation with the RAP or Traditional Owners.** Where Traditional Owners other than those represented by the RAP are concerned, evidence of any consultation and written responses if possible, should be attached to the application.Details may include the following:* dates of meetings/consultations
* names of attendees
* outcomes of discussion.

The Approval Body evaluating the permit application will be interested in information about the type of consultation undertaken (if any), or if there have been no discussions, why that is the case. |

## **Appendix 1 Terms defined under the *Aboriginal Heritage Act 2006***

|  |  |
| --- | --- |
| **Aboriginal Ancestral Remains** | means the bodily remains of an Aboriginal person, but not those buried in a public cemetery that is still used for the interment of human remains. |
| **Aboriginal cultural heritage** | means Aboriginal places, Aboriginal objects and Aboriginal Ancestral Remains. |
| **Aboriginal intangible heritage** | means any knowledge of or expression of Aboriginal tradition, and includes oral traditions, performing arts, stories, rituals, festivals, social practices, craft, visual arts, and environmental and ecological knowledge, but does not include anything widely known to the public. |
| **Aboriginal place** | is “an area in Victoria or the coastal waters of Victoria that is of cultural heritage significance to the Aboriginal people of Victoria. “Area” includes any one or more of – an area of land; an expanse of water; a natural feature, formation or landscape and the area immediately surrounding it; an archaeological site, feature or deposit and the area immediately surrounding it; land set aside for the purpose of enabling Aboriginal Ancestral Remains to be re-interred or otherwise deposited on a permanent basis; a building or structure. |
| **Aboriginal object** | includes an object, material or thing in Victoria that relates to the Aboriginal occupation of any part of Australia, or is removed or excavated from an Aboriginal place; and is of cultural heritage significance to the Aboriginal people of Victoria. This definition does not include an object that has been made for the purpose of sale or Aboriginal Ancestral Remains. |
| **Activity** | means the development or use of the land. For the purposes of this guide, the proposed activity which is the subject of a permit application under section 36(1)(c) of the *Aboriginal Heritage Act 2006*. |
| **Approval Body** | in relation to an application for a permit, means – * a relevant Registered Aboriginal Party; or
* if there is no relevant Registered Aboriginal Party – the Secretary, Department of Premier and Cabinet; or
* if the applicant is a Registered Aboriginal Party or the Secretary - the Victorian Aboriginal Heritage Council.
 |
| **Approved Form** | a form, approved by the Secretary, Department of Premier and Cabinet under section 190 of the *Aboriginal Heritage Act 2006*. A permit application must be made by completing all relevant sections of the Approved Form.  |
| **Harm** | in relation to Aboriginal cultural heritage, includes damage, deface, desecrate, destroy, disturb, injure or interfere with. |
| **Rehabilitate** | in relation to an application for a permit to rehabilitate land at an Aboriginal place, means works using hand tools -* to improve the condition of the land; or
* to prevent degradation or erosion of the land; or
* to revegetate the land.
 |
| **Sell** | in relation to an Aboriginal object, means to dispose of (or agree or offer to dispose of), by sale, barter or exchange; or advertise or expose, consign, or have possession of on consignment, for the purpose of sale, barter or exchange. |
| **Works** | includes -* any physical intervention, excavation or action that may result in a change to the structure, appearance or physical nature of a place; and
* any change to the natural or existing condition or topography of land; and
* the removal or destruction of trees; and
* the removal of vegetation or topsoil.
 |

1. ‘Rehabilitate’ in relation to cultural heritage permits, means works using hand tools:

to improve the condition of the land; or

to prevent degradation of erosion of the land; or

to revegetate the land. [↑](#footnote-ref-1)
2. Further information about [triggers for a cultural heritage management plan](https://www.firstpeoplesrelations.vic.gov.au/cultural-heritage-management-plans) can be found on the First Peoples - State Relations website. [↑](#footnote-ref-2)
3. In accordance with the Aboriginal Heritage Regulations 2018, no fee is payable for an application for a permit in one of the following classes-

Class 1, an application for a permit to carry out ***heritage protection works\*\****;

Class 2, an application for a research permit, by a student enrolled in an undergraduate course at a university;

Class 3, an application for a research, uncover/discover, harm or sell permit that is the same or substantially similar to an application that was withdrawn no more than 6 months before the application is made;

Class 4, an application that is the same or substantially similar to an application that was not decided within the allowed time.

\*\* In this Regulation, ***heritage protection works*** means works that are primarily intended to protect, conserve or enhance an Aboriginal place. Note that an application such as this must be made using the permit to harm application process. [↑](#footnote-ref-3)
4. Consider whether a heritage advisor could assist in compiling the information required for an application. A heritage advisor can provide professional advice in describing the nature and extent of the heritage, and/or harm minimisation strategies (if applicable).
A [list of heritage advisors](https://www.firstpeoplesrelations.vic.gov.au/engage-a-heritage-advisor) can be found on the First Peoples - State Relations website. [↑](#footnote-ref-4)
5. Note: unless negotiated otherwise, costs incurred as part of a consultation, heritage investigation, or impact assessment process in relation to the application are at the expense of the Applicant. [↑](#footnote-ref-5)
6. This is often referred to as a ‘desktop assessment’. [↑](#footnote-ref-6)
7. Note: a permit cannot include a condition that the applicant pay or give money or money’s worth to the RAP. [↑](#footnote-ref-7)