

Managing Aboriginal heritage in South Australia

What is Aboriginal heritage?

Aboriginal sites, objects and remains (together, Aboriginal heritage) in South Australia comprise tangible and intangible manifestations of Aboriginal culture. Aboriginal heritage reflects Aboriginal use and occupation of the landscape, which in many cases dates back tens of thousands of years.

Aboriginal heritage includes:

- artifacts made of stone, wood or bone
- campsites and middens
- quarries
- culturally modified trees
- ancestral burials
- painted and engraved rock art
- stone arrangements
- historic sites such as missions, fringe camps, stations and cemeteries.

Aboriginal heritage also directly connects Aboriginal people to the ceremonies, traditions, stories and songlines of their ancestors. Often, these ceremonies and traditions are linked to certain areas or features in the landscape.

Aboriginal heritage:

- connects Aboriginal people to their ancestors, culture, beliefs, values, traditions and Country
- provides information about how Aboriginal people used, and continue to use, the environment and landscape
- provides an important link between the past and the present
- is fundamental to the wellbeing of Aboriginal communities
- can be used to educate the broader community about the cultural history of Aboriginal Australia, and the knowledge, practices and beliefs that are still maintained by Aboriginal people today.

Legislative requirements

The protection of heritage forms part of Aboriginal people's traditional obligations to care for Country. Where an Aboriginal site is damaged, it often cannot be repaired or replaced.

Aboriginal heritage is a finite resource.

The *Aboriginal Heritage Act 1988 (SA)* is the principal legislation protecting and preserving Aboriginal heritage in South Australia.

The Act defines Aboriginal heritage into three categories:

- **Aboriginal site:** an Aboriginal site is an area of land that is of significance according to Aboriginal tradition, or of significance to Aboriginal archaeology, anthropology or history.
- **Aboriginal object:** an object that is of significance according to Aboriginal tradition, or of significance to Aboriginal archaeology, anthropology or history.
- **Aboriginal remains:** the whole or part of the skeletal remains of an Aboriginal person, not including remains that have been buried in accordance with the law of the state.

Key provisions of the Act include:

- **Section 21:** Excavating land for the purpose of uncovering Aboriginal heritage. It is an offence for a person to excavate land for the purpose of uncovering any Aboriginal heritage without the authority of the Minister for Aboriginal Affairs.
- **Section 23:** Damage, disturbance or interference with Aboriginal heritage. It is an offence to damage, disturb or interfere with any Aboriginal heritage; or where any Aboriginal object or remains are found – disturb or interfere with the object or remains; or remove the object or remains without the authority of the Minister.
- **Section 29:** Control of sale of and other dealings with objects. It is an offence to sell or dispose of an Aboriginal object, or to remove an Aboriginal object from the state without prior authorisation from the Minister.

Penalties of up to \$50,000 or 6-months' jail may apply to individuals and entities who are found to have breached sections 21, 23 or 29 of the Act.

Likelihood of encountering Aboriginal heritage

All land in South Australia, including both developed and undeveloped land, may contain Aboriginal heritage.

Some Aboriginal heritage can be easily identified in the landscape, such as culturally modified trees or engraved or painted artwork. Other types of heritage may only be reflected by subtle features or changes in the landscape, may be obscured by vegetation or completely hidden beneath the ground's surface. Some heritage sites may exhibit very little or no material evidence of their existence but are nonetheless well known to Traditional Owners and custodians of those sites.

Landscape features to be aware of

While it is possible that Aboriginal heritage may be found anywhere in the landscape, certain landscape features or elements are more likely to be associated with Aboriginal heritage than others.

Examples of some landscape features and the types of Aboriginal sites that they are often associated with include:

- clay pans, lakes, rivers, and estuaries. They may contain or be associated with stone artefact sites, shell middens, rock art, campsites, and stone arrangements. These landscape features may also be considered cultural sites by Aboriginal people.
- dunes and sand hills. They may be associated with stone artefact sites, Aboriginal campsites, and burials, and these landscape features may also be considered cultural sites by Aboriginal people.
- areas near the coast. They may include campsites, stone artefact scatters, shell middens and burials.
- areas in proximity to creeks, rivers, watercourses, lakes, waterholes, rock holes, wells, and springs, whether permanent, seasonal, or ephemeral. These areas may be associated with Aboriginal campsites, stone artefact sites, burials, and other signs of Aboriginal occupation, especially in arid zones.
- rocky outcrops. They may be associated with stone quarries, rock art, rock holes, stone arrangements, ceremonial sites, and stone artefact sites. These landscape features may also be considered cultural sites by Aboriginal people.

Managing Aboriginal heritage in a project

To assist in appropriately managing Aboriginal heritage during your project, Aboriginal Affairs and Reconciliation (AAR) recommends that you:

- **request a search of AAR's central archives** early in the project planning phase
- **engage and consult with the Recognised Aboriginal Representative Body (RARB)**, Traditional Owners of heritage and relevant Aboriginal groups with interests (including native title bodies)
- **arrange a heritage survey or assessment** for the project area.

These steps can be undertaken in any order, or simultaneously. Uncertainty about the presence, or significance, of Aboriginal heritage does not absolve you of your obligations under the Act.

Searching the central archives

The central archives are administered by AAR on behalf of the Minister. You should request a search of the central archives for your project area, **prior** to conducting any works.

The results of this search will show the indicative location of Aboriginal heritage within the search area(s) and will also provide contact details for relevant Traditional Owner groups for the search area.

As the central archives are a non-exhaustive record of Aboriginal heritage in South Australia, undiscovered or unrecorded Aboriginal heritage may exist within a search area. This is the case even where the area has been affected by past activities.

Aboriginal groups and some heritage consultants also hold local archives, including reports from previous heritage surveys, which contain important Aboriginal heritage information not held in the central archives. This is another reason why you should engage early with representative bodies such as a RARB (where appointed), or a native title body and/or relevant Aboriginal heritage organisation or individual Traditional Owners.

Requests for searches of the central archives can be made by visiting: taawika.sa.gov.au.

For further information about obtaining a search of the central archives, contact:

Aboriginal Affairs and Reconciliation

(08) 8303 0743

AAR.HeritageSites@sa.gov.au

Please note, central archives search requests may take some weeks to be finalised.

Engaging and consulting with Aboriginal people and organisations

You are strongly encouraged to contact the Recognised Aboriginal Representative Body (RARB) for the project area, where one is appointed. Where no RARB is appointed for the project area, you should contact and consult with the relevant native title body or bodies and/or any relevant Aboriginal organisations and Traditional Owners of the area.

AAR's central archives search results will provide contact details for any Aboriginal organisations who have advised AAR that they represent, or have an interest in, a given area.

Early consultation allows for relevant Aboriginal people, including Traditional Owners, to learn about the project and to provide feedback. This feedback may include information on whether specific elements of the project pose particular risk to known or unknown Aboriginal heritage.

Engaging with Aboriginal people and organisations for a given area provides an opportunity for Traditional Owners to better understand the project, ask questions, and raise any concerns regarding appropriate management of Aboriginal heritage.

Importantly, early engagement may allow you to design your project in a way that does not impact heritage, in which case authorisations under the Act may not be required.

Early engagement with Aboriginal people is also culturally respectful, and is strongly recommended in all instances. You may need to consult with more than one Aboriginal organisation.

Arranging an Aboriginal heritage survey or assessment

In addition to searching the central archives and contacting Traditional Owners and Aboriginal organisations, you should consider engaging the services of a qualified heritage consultant.

Commercial Aboriginal heritage consultants

A qualified heritage consultant can help to assess the risk the project may pose to recorded, known and unknown Aboriginal heritage. The most effective way to do this is to engage consultants (ideally an archaeologist and an anthropologist) to carry out an Aboriginal cultural heritage survey over the project area, in consultation with the relevant Traditional Owners.

Heritage surveys involve the physical inspection of an area to identify Aboriginal heritage so that it can be recorded. Preferably, heritage surveys are attended by both Traditional Owners and heritage consultant(s), who are both skilled in identifying and recording Aboriginal heritage.

A best-practice heritage survey involving Traditional Owners and an archaeologist and anthropologist should identify both archaeological and anthropological (also termed ethnographic) heritage within the survey area.

AAR has collated a [non-exhaustive list of commercial Aboriginal heritage consultants](#) currently working in South Australia. This list is not an endorsement of any consultant.

You should test the suitability of a consultant by discussing them with the relevant Aboriginal organisations/Traditional Owners, seeking references from other proponents and by reviewing recent examples of their work.

Heritage assessments

Heritage assessments serve a variety of purposes, but are mostly commissioned to:

- identify Aboriginal heritage within a given area
- assess the risk that project works may impact or encounter it
- provide recommendations on how it should be best managed.

Depending on the nature of the Aboriginal heritage assessment, it may result in a survey report, work area clearance report, and/or a heritage risk assessment report.

A heritage survey or inspection should be undertaken early in the planning stage of a ground-disturbing project. This will ensure that any Aboriginal heritage identified within the project area can be avoided through thoughtful planning or, where avoidance is not possible, authorised impacts to Aboriginal heritage are minimised.

While on-ground heritage surveys are recommended in most instances, you may engage a heritage consultant to prepare an initial desktop report, carry out a targeted heritage inspection, or develop a risk/impact assessment.

Each serves a different purpose - some assessments will be more useful in some circumstances than others.

When deciding on what kind of heritage assessment is required, you should consider:

- the views of the RARB/native title body/Aboriginal organisation/Traditional Owners about the project, and their views on what type of assessment is most appropriate (recognising that Aboriginal people are the primary source of information about their heritage and how it should be managed and protected)
- the nature and extent of the project
- previous land use and the extent of historic disturbance in the area
- the results of AAR's central archives search results
- previous heritage assessments undertaken on the land
- the likelihood that additional unrecorded Aboriginal heritage may exist within the project area.

All heritage assessments should result in a report or similar documentation that lays out the methodology used during the assessment, outcomes from consultation with Traditional Owners of heritage (and any other relevant Aboriginal people or organisations) the results of any on-ground inspections, surveys or work area clearance and recommendations stemming from the above.

Next steps

You will be in a better position to manage, avoid and protect heritage during your project after considering:

- the results of a central archives search
- the views of Traditional Owners of heritage as well as any other relevant Aboriginal people or organisations
- the results of any heritage assessments undertaken over the project area.

Where possible, projects should be relocated or re-engineered to avoid impacts to Aboriginal heritage. If relocation or re-engineering the project is not possible, you may be legally required to apply for authorisation under sections 21 and/or 23 of the Act.

Visit the [Attorney-General's Department website](#) for further information about applying for authorisation.

For further information on managing Aboriginal heritage contact:

Aboriginal Affairs and Reconciliation

(08) 8303 0752

conservation.aar@sa.gov.au

*This factsheet is provided for general guidance purposes only. It **does not** purport to be legal advice nor does adherence to it guarantee compliance under the Aboriginal Heritage Act 1988 (SA).*