



The Aboriginal Heritage Act 2006 explained

How Aboriginal cultural heritage is protected in Victoria

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firstpeoplesrelations.vic.gov.au



First Peoples –
State Relations



Acknowledgement of Country

The Victorian Government acknowledges Aboriginal and Torres Strait Islander people as the Traditional Custodians of Country.

We respectfully acknowledge all First Peoples of Victoria and celebrate their enduring connection to land, skies and waters. We thank First Peoples for their care of Country and contributions to Victorian communities. We honour and pay our respects to First Peoples' Elders past and present.

This document explains the principles which underpin the *Aboriginal Heritage Act 2006*, the key parties involved, as well as the tools and processes that protect and manage cultural heritage.



For more information on what Aboriginal cultural heritage is and how we celebrate it, see **An introduction to Aboriginal cultural heritage in Victoria** <<https://www.firstpeoplesrelations.vic.gov.au/an-introduction-to-aboriginal-cultural-heritage-in-victoria>>.



For more information on the two main processes that protect and manage cultural heritage - cultural heritage management plans and cultural heritage permits - see **Processes that protect Aboriginal cultural heritage in Victoria** <<https://www.firstpeoplesrelations.vic.gov.au/processes-that-protect-aboriginal-cultural-heritage-in-victoria>>.

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Aboriginal Heritage Act 2006

Aboriginal cultural heritage in Victoria is protected in law by the *Aboriginal Heritage Act 2006* (the Act).

The Act creates a system to protect and manage cultural heritage in Victoria.

The Act makes it illegal to harm Aboriginal cultural heritage unless a relevant approval has been received. The Act provides the processes to obtain approvals and the key parties who decide the approvals.

At the heart of the Victorian system is the principle that Aboriginal people have power to make decisions about the protection and management of cultural heritage. This is the principle of self-determination.



Read the full **Act and its Regulations**
<<https://firstpeoplesrelations.vic.gov.au/aboriginal-heritage-legislation>>

Self-determination

Aboriginal Victorians have fought for self-determination and their right to make decisions on matters that affect their lives and communities for decades. The Victorian Government enables self-determination by ensuring Aboriginal Victorians are at the heart of decision-making on the matters that affect their lives.



Read about the **government's commitment to self-determination**
<<https://firstpeoplesrelations.vic.gov.au/governments-commitment-self-determination>>

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Aboriginal cultural heritage

Ancestral Remains

The remains of an Aboriginal person from the past. Victoria's laws recognise that First Peoples are best placed to care for Ancestral Remains and have the right to lay their Ancestors to rest on Country.

Tangible cultural heritage

Aboriginal places and objects such as rock art, fish traps, scarred trees and stone tools. Physical things that can be seen and touched, and important places where cultural heritage is found.

Intangible cultural heritage

Traditional Aboriginal knowledge including oral traditions, arts, stories, rituals, festivals, social practices, craft, and environmental and ecological knowledge.



Image: Rock art at Billimina Shelter, Gariwerd. Country with shared connection to multiple Traditional Owner groups.

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The Act recognises First Peoples as the primary guardians, keepers and knowledge-holders of Aboriginal cultural heritage.



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Registered Aboriginal Parties

A Registered Aboriginal Party (RAP) represents the recognised Traditional Owners of an area of Country in Victoria.

RAPs go through a rigorous registration process, carried out by the Victorian Aboriginal Heritage Council. It includes proving their knowledge, lore, cultural responsibilities and authority, and considering their relationship to Country and common Ancestors.

RAPs have an important role as the decision makers for cultural heritage in an appointed area of Victoria.

Responsibilities include:

- being the primary source of advice and knowledge on Aboriginal cultural heritage
- evaluating and deciding on cultural heritage permit applications, cultural heritage management plans and cultural heritage agreements
- providing advice on protection declarations
- undertaking compliance actions.



Read about **Registered Aboriginal Parties** <<https://aboriginalheritagecouncil.vic.gov.au/fact-sheet-registered-aboriginal-parties>>

There are currently 12 RAPs in Victoria, covering 77.5% of the state.

Traditional Owners

The *Aboriginal Heritage Act 2006* recognises Traditional Owners as “the primary guardians, keepers and knowledge holders of Aboriginal Cultural Heritage.” They are responsible for managing and protecting Aboriginal cultural heritage on Country.

Under the Act, Traditional Owners are Aboriginal people with particular knowledge about traditions, observances, customs or beliefs associated with an area. Under Aboriginal tradition they have responsibility to care for Aboriginal knowledge, places and objects in their area.

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Map of Registered Aboriginal Parties

First People of the Millewa-Mallee Aboriginal Corporation representing First People of the Millewa-Mallee, being Latji Latji and Ngintait Traditional Owners
fpmmac.com.au

Barengi Gadjin Land Council Aboriginal Corporation representing Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagalk Nations
bglc.com.au

Gunditj Mirring Traditional Owners Aboriginal Corporation representing Gunditjmara People
gunditjmirring.com

Eastern Maar Aboriginal Corporation representing Eastern Maar People
easternmaar.com.au

Wamba Wemba Aboriginal Corporation representing Wamba Wemba People (no website)

Wadawurrung Traditional Owners Aboriginal Corporation representing Wadawurrung People
wadawurrung.org.au

Dja Dja Wurrung Clans Aboriginal Corporation representing Dja Dja Wurrung people
djadjawurrung.com.au

Bunurong Land Council Aboriginal Corporation representing Bunurong People
bunuronglc.org

Yorta Yorta Nation Aboriginal Corporation representing Yorta Yorta People
yynac.com.au

Taungurung Land and Waters Council Aboriginal Corporation representing Taungurung People
taungurung.com.au

Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation representing Wurundjeri People
wurundjeri.com.au

Gunaikurnai Land and Waters Aboriginal Corporation representing Gunaikurnai People
gunaikurnai.org

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Victorian Aboriginal Heritage Council

The Victorian Aboriginal Heritage Council is an advisory body of 11 Traditional Owners. Council members are appointed by the Minister for Treaty and First Peoples for their extensive knowledge of Victorian Aboriginal cultural heritage.

Responsibilities include:

- appointing Registered Aboriginal Parties to manage and protect cultural heritage on Country
- providing advice to the Minister for Treaty and First Peoples and the Secretary, Department of Premier and Cabinet, about the protection of Aboriginal cultural heritage in Victoria
- protecting and managing Ancestral Remains
- protecting Ancestors' resting places and returning Ancestors to Country

- promoting awareness and understanding of Aboriginal cultural heritage
- managing the Victorian Aboriginal Cultural Heritage Fund, which can be used to protect and manage important Aboriginal heritage.



Read about the **Victorian Aboriginal Heritage Council** <<https://aboriginalheritagecouncil.vic.gov.au>>

Secretary, Department of Premier and Cabinet

The Secretary leads the Department of Premier and Cabinet, which includes the First Peoples - State Relations branch. Staff in this branch support the Act by running administrative systems and processes.

Responsibilities include:

- establishing and maintaining the Victorian Aboriginal Heritage Register
- evaluating and deciding on cultural heritage management plans for areas where there is no Registered Aboriginal Party (about 22% of Victoria)
- determining cultural heritage permit applications for areas where there is no Registered Aboriginal Party
- investigating compliance issues and taking enforcement actions
- developing guidelines and information to support the operation of the system.

Key processes in the Act to protect cultural heritage

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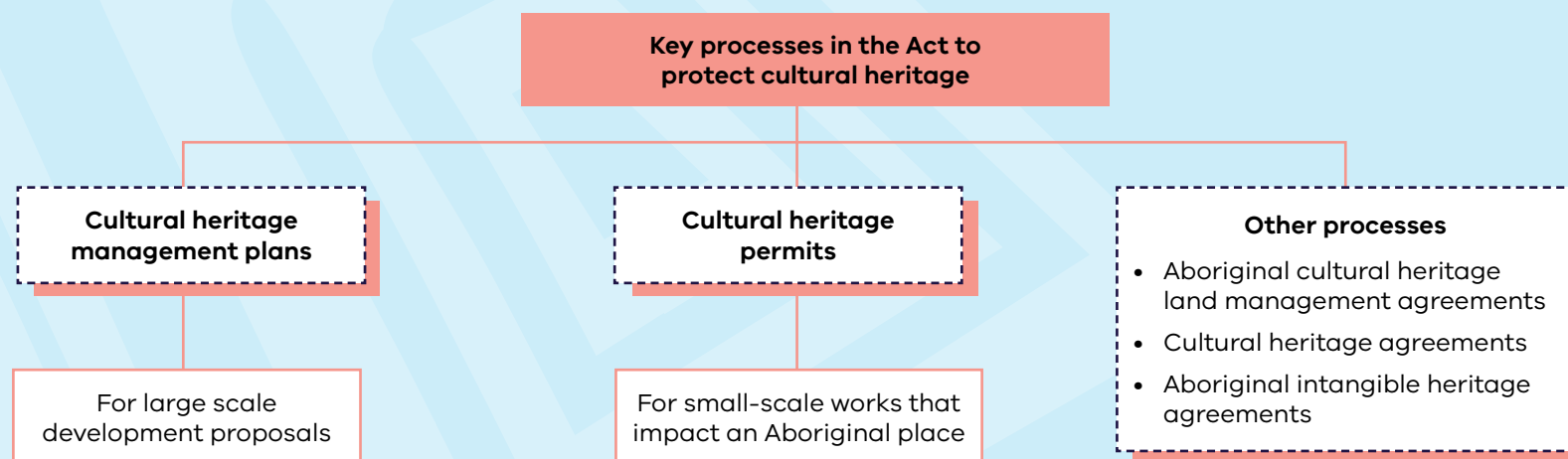
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Cultural heritage management plans

A cultural heritage management plan (CHMP) includes a regulated assessment of the impact of a proposed land use activity on Aboriginal cultural heritage values.

A CHMP is required when a 'high impact activity' is planned for an 'area of cultural heritage sensitivity'.

The CHMP provides an expert report outlining measures a sponsor must take to manage and protect Aboriginal cultural heritage before, during and after a proposed activity.

Generally, a CHMP is not required in areas that have already been heavily developed. This is because the 'significant ground disturbance' from the previous development means an area is no longer an 'area of cultural heritage sensitivity'.

High impact activity

Generally includes larger scale buildings and works that will cause or result in 'significant ground disturbance'.

For example:

- the construction of three or more dwellings
- subdivisions of three or more lots
- mining and quarrying
- new roads and infrastructure.

For a comprehensive list see part 2, division 5 in the **Regulations** <<https://legislation.vic.gov.au/in-force/statutory-rules/aboriginal-heritage-regulations-2018/001>>

Areas of cultural

heritage sensitivity

These include:

- registered Aboriginal places
- waterways, ancient lakes and Ramsar wetlands
- coastal land, dunes and caves.



These areas are mapped at <<https://achris.vic.gov.au/#/onlinemap>>

Significant ground disturbance

Disturbance of the topsoil or surface rock layer of the ground or a waterway by machinery in the course of grading, excavating, digging, dredging or deep ripping.

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Cultural heritage permits

Several actions are controlled under the Act. Permits may be obtained for these actions.

If your proposed project requires a cultural heritage management plan (CHMP), you cannot get a permit for the activity.

Controlled or unlawful activities include:

- harming an Aboriginal place
- selling an Aboriginal object that was not made for sale
- removing an Aboriginal object from Victoria
- disturbing or excavating land to uncover or discover Aboriginal cultural heritage
- carrying out research on an Aboriginal place or object.



Read about **cultural heritage permits**
<<https://firstpeoplesrelations.vic.gov.au/cultural-heritage-permit>>

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Other processes

These processes are less common so are not covered in detail in this pack. Find out more about each process at the links below.

Aboriginal cultural heritage land management agreements

Aimed at public land managers to manage their responsibilities over large areas of land.



Read about **Aboriginal cultural heritage land management agreements** <<https://firstpeoplesrelations.vic.gov.au/aboriginal-cultural-heritage-land-management-agreements>>

Cultural heritage agreements

For private landowners to protect Aboriginal cultural heritage on their properties.



Read about **cultural heritage agreements** <<https://firstpeoplesrelations.vic.gov.au/aboriginal-heritage-protection-declarations-and-cultural-heritage-agreements>>

Aboriginal intangible heritage agreements

For commercial use and development of registered traditional knowledge.



Read about **Aboriginal intangible heritage** <<https://firstpeoplesrelations.vic.gov.au/protecting-aboriginal-intangible-heritage>>

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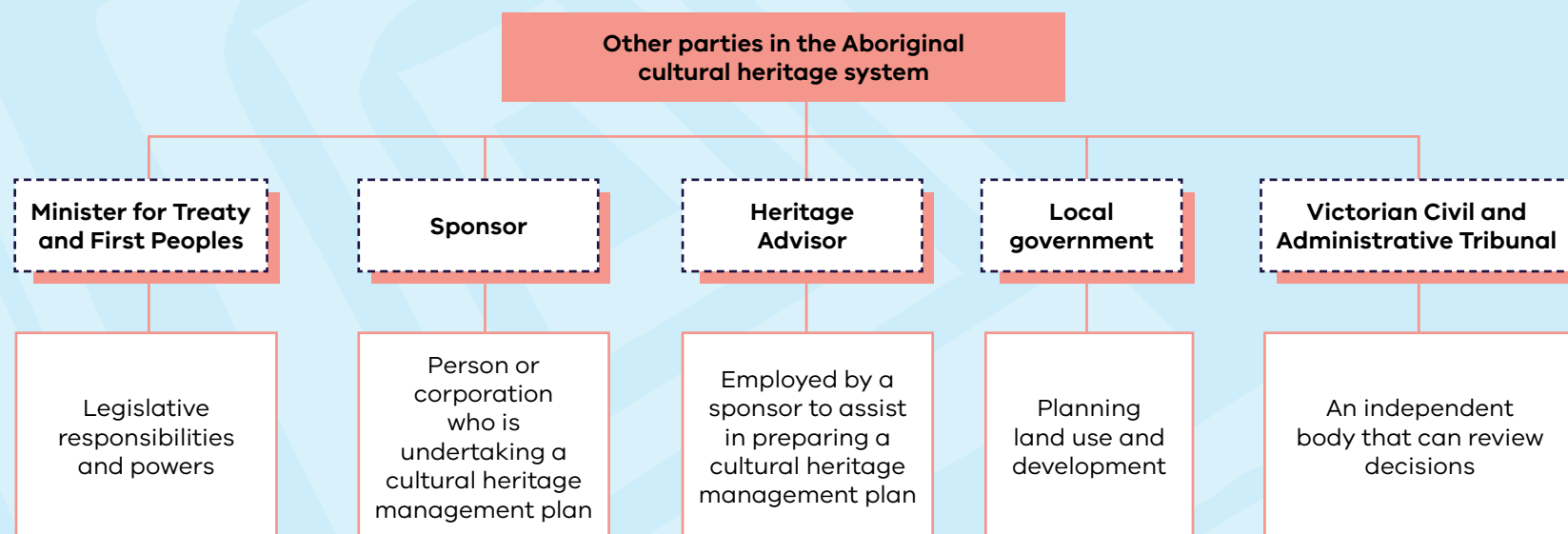
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As well as the key decision makers described on previous pages, there are a number of other parties in the cultural heritage system.



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Minister for Treaty and First Peoples

The Minister has significant legislative responsibilities and powers. However, as Traditional Owners are the primary decision makers about their cultural heritage, the Minister has limited decision-making roles.

Responsibilities and powers include:

- acquiring private land to protect significant Aboriginal cultural heritage
- declaring areas in Victoria temporarily or permanently protected through protection declarations
- appointing members of the Victorian Aboriginal Heritage Council
- appointing Authorised Officers and Aboriginal Heritage Officers to enforce the Act
- mandating and auditing cultural heritage management plans.

Sponsor

A sponsor is a person or corporation who is undertaking a cultural heritage management plan.

Sponsors seek permission to carry out an activity or development that has the potential to harm Aboriginal cultural heritage.

Typical sponsors are residential and infrastructure developers, and mining and quarrying companies. This can include the state government.

Sponsors have significant responsibilities under the Act. Their main responsibilities are to prepare a cultural heritage management plan when required and abide by cultural heritage management plan conditions.

Heritage Advisor

A heritage advisor must be employed by a sponsor to assist in preparing a cultural heritage management plan.

A heritage advisor is an expert in assessing a place for:

- Aboriginal cultural heritage values
- the potential impact of a proposed development on those values
- how to avoid, minimise or mitigate harm to those values.

Heritage advisors are typically people with archaeological, anthropological, historical or other expertise.



Find a **heritage advisor**
<<https://firstpeoplesrelations.vic.gov.au/engage-a-heritage-advisor>>

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Local government

Local government plays a key role in planning land use and development across Victoria. As part of this role, it must ensure Aboriginal cultural heritage is considered during planning. When an activity needs a cultural heritage management plan, local government must not issue a planning permit until the plan is approved.

Responsibilities as a **land use planner** include:

- accessing the Victorian Aboriginal Heritage Register to help plan land use
- working with Registered Aboriginal Parties to help make land use and planning decisions
- helping sponsors decide if they need a cultural heritage management plan for their activity
- ensuring planning permits align with approved cultural heritage management plans.

Local government is also responsible for managing and protecting Aboriginal cultural heritage on the public land it manages.

Responsibilities as a **public land manager** include:

- working with Registered Aboriginal Parties on land management issues
- making Aboriginal cultural heritage land management agreements with Registered Aboriginal Parties for managing public land
- applying for cultural heritage permits if activities may harm Aboriginal cultural heritage
- preparing cultural heritage management plans when they are a sponsor for an activity.

Victorian Civil and Administrative Tribunal (VCAT)

VCAT is an independent body. It plays an important role, with powers to review certain decisions.

Under the Act, a sponsor can request VCAT to review a Registered Aboriginal Party or Secretary's decision to refuse to approve a cultural heritage management plan. VCAT can uphold, reverse or amend the decision.

The independence of VCAT ensures appeals and reviews are fair and transparent.



Read about **VCAT**
<<https://vcat.vic.gov.au>>

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As well as the processes already mentioned, the Act sets out other ways of protecting Aboriginal cultural heritage.



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Protection declarations

While all cultural heritage is protected under the Act, protection declarations provide an additional layer of protection.

Protection declarations are decided by the Minister for Treaty and First Peoples and can be interim orders, or ongoing. They set out measures to protect the place or object while ensuring that people can still interact with them in a way that respects the cultural heritage.

There are penalties if people go against the measures set out in the declaration.

Compliance and enforcement

The Act includes enforcement provisions to provide protection for Aboriginal cultural heritage.

Authorised Officers (AOs) and Aboriginal Heritage Officers (AHOs)

AOs and AHOs are trained to the same standard and have similar powers as authorised officers working under other Victorian legislation. They:

- investigate reports of harm to cultural heritage
- help government and land users avoid impacts to cultural heritage
- assess compliance with cultural heritage management plans and cultural heritage permits.

Stop orders and improvement notices

These can be issued by AOs and AHOs to stop or modify works that are harming or threatening to harm Aboriginal cultural heritage, and that do not comply with cultural heritage management plans or cultural heritage permits.

Penalty units and fines

The Act includes substantial penalties to deter people from harming cultural heritage.

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The Victorian Aboriginal Heritage Register

The register is a central source of information on known Aboriginal cultural heritage places and objects in Victoria. Over 40,000 places and objects are recorded on the register, with more added each year and more yet to be discovered.

The register is a key tool in the management of cultural heritage now and into the future. It stores information including:

- registrations of Aboriginal places, objects and intangible heritage
- approved cultural heritage management plans
- cultural heritage permits
- certified preliminary Aboriginal heritage tests
- archaeological reports.

The register is accessed through the Aboriginal cultural heritage register and information system (ACHRIS).

As the register holds culturally sensitive information, ACHRIS is only available to people or organisations who need detailed information on cultural heritage to protect and manage it.

Information about registered intangible heritage is only available to:

- the Traditional Owners who registered the heritage
- people who have received permission to access it from the Traditional Owners.



Read about the **Victorian Aboriginal Heritage Register** <<https://firstpeoplesrelations.vic.gov.au/victorian-aboriginal-heritage-register>>

For more information email
aboriginal.heritage@dpc.vic.gov.au

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