

## Aboriginal Heritage Act 2006

# Information Sheet Aboriginal Heritage Protection Declarations & Cultural Heritage Agreements

Some places of Aboriginal cultural heritage are of particular significance to Aboriginal people and the broader Victorian community and require special protection. The Minister for Aboriginal Affairs is able to declare such places 'protected areas', to be protected and preserved for future generations. Landowners and managers are also able to enter into voluntary formal agreements with Registered Aboriginal Parties to manage and protect important Aboriginal places on their properties.

The *Aboriginal Heritage Act* 2006 allows the Minister for Aboriginal Affairs to make declarations, which preserve important Aboriginal cultural heritage places as 'protected areas'.

There are two types of declarations — Interim and Ongoing Protection Declarations.

### Interim Protection Declarations

The Minister for Aboriginal Affairs can place an Interim Protection Declaration over an area to protect it while an assessment is undertaken to see if it warrants permanent protection.

The Aboriginal Heritage Council or any Registered Aboriginal Party is able to ask the Minister to make an Interim Protection Declaration.

An Interim Protection Declaration:

- Operates for 3 months (and can be extended only once, by a further 3 months).
- Prevents specified activities within that area while the declaration is in force.
- Applies maximum penalties for contravention of 1800 penalty units (over \$215,000) for an individual; or \$1.19 million for a corporation.

After the assessment is complete, the Minister may then decide whether the area warrants an Ongoing Protection Declaration.

### Ongoing Protection Declarations

The Minister for Aboriginal Affairs may make an Ongoing Protection Declaration for an Aboriginal

cultural heritage place or object of significance to Aboriginal people.

The Aboriginal Heritage Council or any Registered Aboriginal Party may ask the Minister to make an Ongoing Protection Declaration.

An Ongoing Protection Declaration is a permanent declaration that:

- Protects the area from activities likely to harm its Aboriginal cultural heritage values.
- Provides for any necessary maintenance or management activities.
- Applies maximum penalties for contravention of 1800 penalty units (over \$215,000) for an individual or \$1.19 million for a corporation.

### Cultural Heritage Agreements

A Cultural Heritage Agreement is a voluntary agreement between two or more parties relating to the management or protection of Aboriginal cultural heritage. One of the parties must be a relevant Registered Aboriginal Party.

### Can the Agreement 'run with' the land?

A Cultural Heritage Agreement may be registered on the land title, if the landowner wishes to do so.

## **Do I need a Cultural Heritage Permit or a Cultural Heritage Management Plan for my activity if I make an Agreement?**

A Cultural Heritage Agreement cannot substitute for a Cultural Heritage Permit or a Cultural Heritage Management Plan. A Cultural Heritage Agreement cannot allow harm to Aboriginal cultural heritage, rather it can formalise the ongoing management of that heritage.

However, a Cultural Heritage Agreement might eventuate as a result of the preparation of a Cultural Heritage Management Plan or Permit.

### **Example Cultural Heritage Agreement**

A landowner wishes to protect an Aboriginal stone arrangement on her property. She wants to ensure that the place remains protected into the future. She contacts the relevant Registered Aboriginal Party to discuss options, and the RAP suggests making a Cultural Heritage Agreement. The Agreement allows the RAP to have access to the place four times a year to conduct maintenance and to observe ceremony. The landowner has to ensure that her stock does not damage the place. Under the Agreement the landowner is to erect a fence around the place.

The landowner and the RAP agree that the Agreement should be entered on the land title, and advise the Secretary, DPCD, of this when the Agreement is lodged. The Secretary then submits the Agreement to the Registrar of Land Titles, and the Agreement is attached to the land. Any covenants relating to the Aboriginal stone arrangement will then remain in place, even if the land is sold.

#### **Further Information**

If you would like more information please contact:

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