



Aboriginal Cultural Heritage Act

ABORIGINAL CULTURAL HERITAGE SURVEY REPORT GUIDELINES



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1 Purpose

The *Aboriginal Cultural Heritage Act 2021* (Act) requires that a proponent proposing to carry out an activity that is not an exempt activity is required to undertake a due diligence assessment (DDA) in accordance with the ACH Management Code (Code).

The purpose of these guidelines is to specify in what circumstances an ACH Survey Report (ACH Report) can be relied upon for the purposes of satisfying a DDA.

Section 2 applies to ACH Reports dated prior to 1 July 2024

Section 3 applies to ACH Reports dated on or after 1 July 2024. The requirements in Section 3 reflect best practice standards for ACH Reports. They are not required to be satisfied for ACH Reports dated prior to 1 July 2024 in order to allow all stakeholders including proponents and Aboriginal people and organisations time to transition to these standards.

As part of the DDA, if a proponent intends to rely on an ACH Report (in the ACH Directory or otherwise available to the proponent) for the purposes of the DDA in respect of a proposed activity area, the Code states that the ACH Report needs to be consistent with these guidelines.

2 Assessment Criteria – ACH Reports prior to 1 July 2024

Table 1 sets out the criteria against which an ACH Report must be assessed to determine if it can be relied on for the purposes of a DDA up to and including 30 June 2024. To be consistent with these guidelines, the criteria set out in this document must be satisfied for the ACH Report to be relied upon for the purposes of the Code.

A single ACH Report, or multiple ACH Reports, may be used to fulfil the requirements of an individual criterion.

The proponent must keep records of the assessment of an ACH Report that is relied upon against these guidelines including documenting how the ACH Report was determined to be consistent.

Table 1 Assessment criteria

Criteria	Requirement
<p>1. The ACH Report has the involvement, agreement or endorsement of the Aboriginal party</p>	<p>An ACH Report can be relied upon for the purposes of a DDA where:</p> <ol style="list-style-type: none"> 1. it can be demonstrated that the ACH Report has been agreed to or endorsed, whether within the ACH Report or separately, by the Aboriginal party on or after 1 July 2023 (no further criteria need to be satisfied); or 2. the ACH Report is dated 1 January 2013 or later and the persons who participated in informing the ACH Report were nominated by the Aboriginal party and/or were knowledge holders, subject to satisfying the remaining criteria 2-7; or 3. the ACH Report is dated 1 January 2013 or later and the persons who participated in informing the ACH Report were not nominated by the Aboriginal party or were not knowledge holders, but it can be demonstrated that the ACH Report has been subsequently endorsed or agreed to by the Aboriginal party prior to 1 July 2024, subject to satisfying the remaining criteria 2-7; or 4. the ACH Report is dated prior to 1 January 2013 and the persons who participated in informing the ACH Report were nominated by the Aboriginal party or were knowledge holders and it can be demonstrated that the ACH Report has been subsequently endorsed or agreed to by the Aboriginal party on or after 1 January 2013, subject to satisfying the remaining criteria 2-7; or 5. the ACH Report is dated prior to 1 January 2013 and has been informed, agreed to or endorsed, whether within the ACH Report or separately by the Aboriginal party, subject to the Aboriginal party being the Aboriginal party as at 1 July 2023, subject to satisfying the remaining criteria 2-7. <p>An ACH Report cannot be relied upon for the purposes of a DDA if it does not meet at least one of requirements 1 to 5 above.</p>

<p>2. The ACH Report must relate to tangible (archaeological) and/or intangible (anthropological) elements of Aboriginal cultural heritage</p>	<p>The ACH Report must relate to the tangible (archaeological) and/or intangible (anthropological) elements of ACH.</p> <p>This may have been reported through an archaeological and/or anthropological surveys. One ACH Report may address both of these elements or multiple reports may do so.</p> <p>Where only one element has been addressed, for the ACH Report to be relied on for the purposes of a DDA, it must be able to be demonstrated that the Aboriginal party has been party to, directed, or otherwise endorsed this decision or survey procedure. The endorsement must be sufficiently clear to demonstrate this.</p>
<p>3. The ACH Report must include a clear statement as to the presence of ACH</p>	<p>The ACH Report must contain a clear statement as to:</p> <ul style="list-style-type: none"> (a) whether or not ACH is located in the proposed activity area; or (b) whether areas have been cleared or approved for activities to be undertaken.
<p>4. Area covered by the ACH Report(s) must completely cover the proposed activity area</p>	<p>The ACH Report must clearly identify the specific geographical area the subject of the ACH Report. This may include:</p> <ul style="list-style-type: none"> (i) a map or maps at sufficient detail and scale to identify the area covered by the ACH Report, particularly the boundaries of the area; or (ii) where a map(s) that cover the entire area of the ACH Report is (are) not available, GPS coordinates and/or detailed description; or (iii) land parcel or tenement identification along with a description of the part of the land parcel or tenement that was surveyed in circumstances where the land parcel or tenement was not surveyed in its entirety. <p>The proposed activity area must be covered by an ACH Report(s).</p> <p>Multiple ACH Reports (collectively) can cover the activity area.</p>
<p>5. Parts of the ACH Report may not be used if limitations exist</p>	<p>Where limitations are described in the ACH Report that prevented the accurate or reliable identification of ACH (or the accurate or reliable clearance or approval of areas for activities to proceed, such that those activities will not impact or interfere with any ACH), the ACH Report is not able to be relied upon to confirm whether ACH may be present for those parts of the survey area for the purposes of a DDA.</p>

<p>6. The scope of activities for which the ACH Report was completed must correspond to the proposed activity</p>	<p>ACH Reports which specify a proposed activity to be undertaken or contain limitations regarding specific activities proposed, or which are undertaken for a specific activity, (collectively the 'specified activity') can only be relied upon where the activity being undertaken in reliance on the ACH Report results in land use or development that:</p> <ul style="list-style-type: none"> (a) is no greater in surface area or height than the specified activity; and (b) is either – <ul style="list-style-type: none"> (i) no greater in depth than the specified activity; or (ii) only greater in depth than the specified activity it extends 10 m or lower below natural ground level. <p>The above does not apply if the ACH Report contains a clear statement that ACH is not located in the proposed activity area.</p>
<p>7. Recommendation for further surveys</p>	<p>Where there is a recommendation for a further survey(s) to identify whether or not ACH¹ is located in the area of the proposed activity, an ACH Report can only be relied upon for the purposes of a DDA in conjunction with any subsequent ACH Report(s) that specifically addresses the recommendation.</p>

¹ This may be ACH in addition to ACH that is already identified in the ACH Report.

3 Proposed survey requirements – ACH Reports on or after 1 July 2024

Where a survey is required for the purposes of satisfying a DDA and an ACH Report is dated on or after 1 July 2024, the ACH Report will need to address the following matters:

- (a) An endorsement of the ACH Report by the Aboriginal party.
- (b) A list of the survey participants including identification of any knowledge holders.
- (c) Details of the information provided to the Aboriginal party or survey participants relating to the purpose and context of the survey and which should include:
 - (i) details of the proposed activity, in particular any tier 2 or 3 activity;
 - (ii) the information sought to be obtained from the survey.
- (d) Detailed description of the survey methodology and information provided by the survey participants (where applicable) in relation to:
 - (i) the area of the survey and its relationship to the activity area;
 - (ii) the fitness for purpose of the survey methodology;
 - (iii) that the area is clear of any ACH (ACH work area clearance survey) or the location and boundary of the ACH (ACH avoidance survey); and
 - (iv) any cultural sensitivities or restrictions.

Additional information that may be provided by the survey participants, and which may be included in the ACH Report if endorsed by the Aboriginal party* may include:

- (v) the importance and/or characteristics of the ACH;
 - (vi) potential impacts of the proposed activity on the ACH; and
 - (vii) any recommendations as to the management of the ACH.
- (e) Whether the survey relates to tangible and/or intangible elements of ACH.
- (f) A description of limitations that may have prevented all ACH present being identified throughout the ACH investigation.
- (g) Where limitations exist that may have prevented the accurate or reliable identification of ACH, should it be present, the ACH Report will only be able to be relied on (for the purposes of the DDA in respect of a proposed activity area) for those parts of the survey area where the limitations do not apply.

*Additional information that may also be included in the ACH Report is:

- (i) representative photographs (and landforms where informative);
 - (ii) record landform and general environmental information;
 - (iii) record the land surface and vegetation conditions encountered during the survey, accounting as appropriate for things like vegetation, rock outcrops, coarse fragments, recent fires (etc.) and how these impacted on the visibility of objects;
 - (iv) record any ACH (including ACH already listed in the ACH Directory) observed during the survey;
 - (v) description of how the method used to collect information relating to the presence or absence of ACH was suitable for the scope of the survey;
 - (vi) record survey coverage; and
 - (vii) accurate mapping including digital geospatial data and coordinated (accurate zone, northing and easting).

4 Terms Used

Aboriginal party (see section 100 of the Act)	Each LACHS for the area or part of the area as at the date of the ACH Report or relevant endorsement (as applicable). If there is not a LACHS for the area or part of the area (as at the date of the ACH Report or relevant endorsement) – each native title party for the area or the part of the area as at the date of the ACH Report or relevant endorsement (as applicable). If there is not a native title party for the area or part of the area (as at the date of the ACH Report or relevant endorsement) – each native title representative body as at the date of the ACH Report or relevant endorsement (as applicable).
ACH	Aboriginal cultural heritage
ACH Report	ACH survey report
Act	<i>Aboriginal Cultural Heritage Act 2021</i>
Activity area	The area where it is intended that the proposed activity will be carried out
Code	ACH Management Code
ACH Directory	The ACH Directory established under Part 9 of the Act (part of the ACHknowledge system)
Knowledge holder	As defined in section 11 of the Act
LACHS	Local ACH service, as designated under Part 2 of the Act
Native title party	As defined in section 11 of the Act
Native title representative body	As defined in section 11 of the Act