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| *Aborigina*Decorative*l Heritage Act 2006* |
| Advisory Note: Geotechnical Investigations |

This Advisory Note describes relevant provisions of the *Aboriginal Heritage Act 2006* (the Act) and the obligation to protect Aboriginal cultural heritage when undertaking geotechnical investigations. This Advisory Note covers the following:

* the obligation to protect Aboriginal cultural heritage during geotechnical investigations
* preliminary matters to be considered prior to undertaking geotechnical investigations
* what to do if Aboriginal cultural heritage is discovered before or during geotechnical investigations
* where to find further information and advice.

#### Protecting Aboriginal cultural heritage during geotechnical investigations

The Act provides protection for all Aboriginal places, objects and Aboriginal Ancestral Remains in Victoria, regardless of their inclusion on the Victorian Aboriginal Heritage Register or whether they are located on public or private land.

A Cultural Heritage Management Plan (“CHMP”) is required by regulation if the proposed activity is in an ‘area of cultural heritage sensitivity’ and is a listed ‘high impact activity.’ Geotechnical investigations are not listed in the Aboriginal Heritage Regulations 2018 as a ‘high impact activity’, and do not trigger the requirement to prepare a CHMP.

However, all proponents need to consider Aboriginal cultural heritage when they are planning their activities, including geotechnical investigations. Those undertaking geotechnical investigations must ensure that they do not harm Aboriginal cultural heritage.

If harm is likely, a Cultural Heritage Permit or approved CHMP must be obtained prior to geotechnical investigations commencing.

#### Preliminary matters to be considered prior to undertaking geotechnical investigations

Before commencing geotechnical investigations, preliminary activities such as those outlined by VicRoads on the opposite page, should be considered. These include considering the impact of geotechnical investigations on Aboriginal cultural heritage by:

* checking the Victorian Aboriginal Heritage Register for specific information relating to any Aboriginal cultural heritage listed in the geotechnical investigation area
* checking whether a CHMP has previously been prepared for the geotechnical investigation area, and
* consulting with the Registered Aboriginal Party(s) within whose area the geotechnical investigation will occur.

If there is Aboriginal cultural heritage within the geotechnical investigation area (recorded in the Victorian Aboriginal Heritage Register or otherwise) you cannot undertake geotechnical investigations that may harm the Aboriginal cultural heritage without prior authorisation under the Act.

If your enquiries raise concerns that the geotechnical investigations will impact on Aboriginal cultural heritage, you may need to seek professional heritage advice to determine what actions should be undertaken.

#### What do I do if I discover Aboriginal cultural heritage before or during geotechnical works?

If an approved CHMP is in place for your activity, there will be contingency plans, measures and requirements in place for dealing with discoveries of Aboriginal cultural heritage. Follow these.

If there is no CHMP for your activity, you will need to take the following action:

1. Stop all geotechnical investigations that may harm the discovery
2. Report the discovery to Aboriginal Victoria (AV), and
3. If any suspected human remains are found during any activity, works must cease. The Victoria Police and the State Coroner’s Office should be notified immediately. If there are reasonable grounds to believe the remains are Aboriginal, the Coronial Admissions and Enquiries hotline must be contacted immediately on 1300 888 544.

Before continuing with geotechnical investigations, you will need to obtain authorisation under the Act to harm the Aboriginal cultural heritage.

**VicRoads’ preliminaries before commencing geotechnical site investigations:**

1. undertake a site inspection
2. obtain a feature survey plan of the site (if available)
3. prepare drawings illustrating the proposed works, grade line and general arrangement of structures
4. collate all existing geotechnical data relating to the site (including planning investigation reports, historic land use information, previous geotechnical investigations, flood data, earthquake and landslide data, known contaminated sites)
5. decide on the types of investigative works to be undertaken and the need for heavy investigative equipment such as drilling rigs and backhoe excavators
6. identify areas of restricted access (Aboriginal cultural places, heritage protected sites, areas of significance or protected flora or fauna, etc.) and relevant statutory requirements for site access
7. arrange access to the site, including obtaining landowner consent and other relevant authorisations
8. undertake site inductions for all field staff and contractors prior to ground works.

Note: for further information, refer to VicRoads Technical consulting – Geotechnical Services –Geotechnical site investigation manual.



**Further information and Advice**

More detailed information on the *Aboriginal Heritage Act 2006* and Aboriginal heritage places can be found on the Aboriginal Victoria website: <https://www.vic.gov.au/aboriginalvictoria.html>

Further advice is also available by contacting Aboriginal Victoria directly on telephone: 1800 762 003 or email: aboriginal.heritage@dpc.vic.gov.au