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| Aboriginal Cultural Heritage Land Management Agreements |

## What is an ACHLMA?

An Aboriginal Cultural Heritage Land Management Agreement, or ACHLMA, is a voluntary agreement between a Registered Aboriginal Party (RAP) and a public land manager (PLM), as defined in the *Aboriginal Heritage Act 2006*. An ACHLMA establishes a mutually agreed framework for protecting and managing Aboriginal cultural heritage during ongoing, routine land management activities on Crown land within a RAP area. ACHLMAs document the negotiated approach to land management activities and cultural heritage management actions, as well as any other matters established through the agreement, within a specified Agreement Area, and over a specified period of time. ACHLMAs are designed to facilitate a joint, holistic approach to the ongoing protection and management of Aboriginal cultural heritage during land management activities.

A fully executed ACHLMA is made up of a completed and signed **Approved Form** with accompanying **Schedules**. Information on what is required in each of the Schedules is provided in the *Approved Form Companion Guide*.

## When can an ACHLMA be entered into?

The ACHLMA process starts when both parties - a RAP and a PLM, agree to commence discussions for developing an ACHLMA. An ACHLMA can only be negotiated between these two types of parties and can only cover activities undertaken on land within a RAP area.

An ACHLMA cannot be entered into for activities that trigger a mandatory Cultural Heritage Management Plan (CHMP). See the Aboriginal Victoria website for further information about [when a CHMP is required](https://www.aboriginalvictoria.vic.gov.au/cultural-heritage-management-plans).

## Can multiple ACHLMAs cover one area of land?

Yes, where more than one PLM has land management responsibilities that cover all or part of the same area, multiple ACHLMAs can exist over all or part of the same area. Each PLM can have an ACHLMA with the RAP that covers the land management activities for which they are responsible.

## Can parties make a new ACHLMA over an area of land where one already exists?

Where an ACHLMA exists over an area of land and the parties later wish to have an ACHLMA to cover a larger area that includes the original land, there are two options:

1. The first ACHLMA can be amended to cover the larger area; or
2. A new ACHLMA may be prepared for the areas not covered by the original ACHLMA.

There is no limit to how many ACHLMAS can be entered into for the same area. However, to avoid confusion and the potential for conflicting ACHLMAs, where the agreement is between the same parties, it is recommended that ACHLMAs are consolidated.

## Can new activities be added, or changes made to an existing ACHLMA?

Yes, an ACHLMA can be amended with the agreement of both parties. The process to amend an ACHLMA is in the *Guide to developing and negotiating an ACHLMA*.

## What if multiple PLMs undertake similar land management activities within all or part of the same area?

A separate ACHLMA should be negotiated between the RAP and PLM for the land management activities which they undertake.

## Can third parties undertake certain land management activities within the ACHLMA?

Yes. Third parties, such as Landcare, Coastcare, ‘Friends Groups’, other not-for profit or community groups, or contractors / subcontractors, can undertake specified activities within the ACHLMA.

Third party involvement in an ACHLMA must be agreed upon by the parties during the negotiations and described clearly in the agreement. This may be presented in one of the following sections of the agreement document:

* in the relevant activity description
* as part of ‘Other Matters’
* by signing and attaching a deed.

The third party must act in accordance with the particulars set out in the ACHLMA and in line with any Aboriginal cultural heritage management actions. It is important that these processes are developed and included in the cultural heritage management actions to ensure third parties are aware of and understand the land management activities and methodologies of the ACHLMA.

## ACHLMAs and other agreements, permits or plans

**Land Use Activity Agreements (LUAAs)**

An ACHLMA does not replace a Land Use Activity Agreement (LUAA) under the *Traditional Owner Settlement Act 2010*. ACHLMAs are designed to exist alongside LUAAs and other procedures and instruments of the *Traditional Owner Settlement Act 2010*; as these apply to different activities. Given the different subject matter, there should not be any clause or condition in an ACHLMA that contradicts one within a LUAA. An ACHLMA cannot be used to supersede or replace a LUAA.

**Management Plans**

Where an overarching management plan for a park or reserve exists, an ACHLMA can be entered into for protecting and managing Aboriginal cultural heritage during required land management activities. The ACHLMA can form part of the cultural heritage management component of the management plan, as the statutory authority for conducting works where a cultural heritage permit may otherwise be required under the *Aboriginal Heritage Act 2006*.

**Cultural Heritage Permits**

An ACHLMA can incorporate an existing cultural heritage permit (under the *Aboriginal Heritage Act 2006*) in the following ways:

* honour the existing activities and conditions within the permit until its expiration
* include the activities and conditions of the permit in the ACHLMA so that all requirements are incorporated into a single document
* void the existing permit and include activities and conditions of the permit into the ACHLMA.

## What if Aboriginal cultural heritage is unexpectedly identified during the activity?

An ACHLMA should include contingency plans to determine how Aboriginal cultural heritage will be managed, if it is discovered during the course of the land management activities.

Further information about drafting contingency plans can be found on the Aboriginal Victoria website – [Guide to drafting enforceable conditions and contingency plans](https://www.aboriginalvictoria.vic.gov.au/sites/default/files/2019-09/Guide_for_Drafting_Enforceable_Conditions_and_Contingency_Plans.docx).

## What if there is no funding for an activity?

If all possible or likely agreed land management activities are included in the ACHLMA, activities can be undertaken when funding is available, providing it is within the life of the ACHLMA.

## Are there costs associated with the preparation of an ACHLMA?

Yes, there will likely be costs associated with the preparation an ACHLMA. Meeting attendance fees (for example) and payment should be discussed between the prospective parties at the outset of discussions.

When preparing to negotiate an ACHLMA, timeframes and budgets should take into consideration the time, staffing and finances required for a meaningful engagement process with Traditional Owners, in line with the principles of the Victorian Aboriginal Affairs Framework.

## If I have an ACHLMA that covers multiple land management activities, do I still need to apply for a Cultural Heritage Permit?

No, provided the ACHLMA covers the activity that you are undertaking, a Cultural heritage Permit is not required. An ACHLMA can permit harm and other controlled activities to occur in accordance with the agreement. If additional land management activities arise that need to be added to the ACHLMA, the ACHLMA can be amended to include them.

Amendments to an ACHLMA must be agreed upon by both Parties.

## What happens if a PLM acquires new land responsibilities, such as a new park or land acquired to build a road, and the land is associated with an ACHLMA?

The ACHLMA should be amended to reflect the changes. This may be to remove the land parcel from the original ACHLMA that is now the responsibility of a different PLM.

A new ACHLMA may be entered into between the RAP and new PLM for that land parcel using essentially the same management conditions, or a new ACHLMA negotiated.

## Will information regarding agreement areas, their extent and the parties to the agreement be available via the VAHR?

No, ACHLMAs are agreements between the RAP and PLM, the content belongs to the two parties. A copy of the agreement is retained on the Victorian Aboriginal Heritage Register (VAHR) for administrative purposes, but will not be accessible on ACHRIS.

## What is the process for entering into an ACHLMA?

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**Further information about entering into an ACHLMA and completing the Approved Form can be found on the Aboriginal Victoria website -** <https://www.aboriginalvictoria.vic.gov.au/aboriginal-cultural-heritage-land-management-agreements>

**Aboriginal Victoria can also provide further assistance and answer questions, please contact the** **vahr@dpc.vic.gov.au**