

The background features a dirt road winding through a dense forest of gum trees with characteristic white bark. A large, semi-transparent logo consisting of three downward-pointing triangles is centered in the upper half. The word 'WALGA' is written in a light, sans-serif font across the middle of the image. A dark blue diagonal band with a yellow border runs from the top-left corner towards the bottom-right, partially overlapping the text and logo.

ACH Education Workshop

WALGA



Acknowledgement of Traditional Owners

WALGA acknowledges the continuing connection of Aboriginal people to Country, culture and community. We embrace the vast Aboriginal cultural diversity throughout Western Australia, including Boorloo (Perth), on the land of the Whadjuk Nyoongar People, where WALGA is located and we acknowledge and pay respect to Elders past and present. WALGA is committed to supporting the efforts of WA Local Governments to foster respectful partnerships and strengthen relationships with local Aboriginal communities.

Pictured left: Artwork by Jade Dolman, a young Whadjuk/Ballardong Nyoongar, Eastern Arrernte, Irish woman from Perth.



WALGA



Session Overview

9.30am: DPLH Presentation - Aboriginal Cultural Heritage Act and Guidelines

11am: Break

11.15am: Open discussion and Q&A

12.30pm: Session Close

Session Etiquette

In-person participants

- Raise your hand and wait for a mic before asking questions or making comment.

Online participants

- Use the chat function or raise your hand via the zoom functions.
- Mute your mic during the presentation.



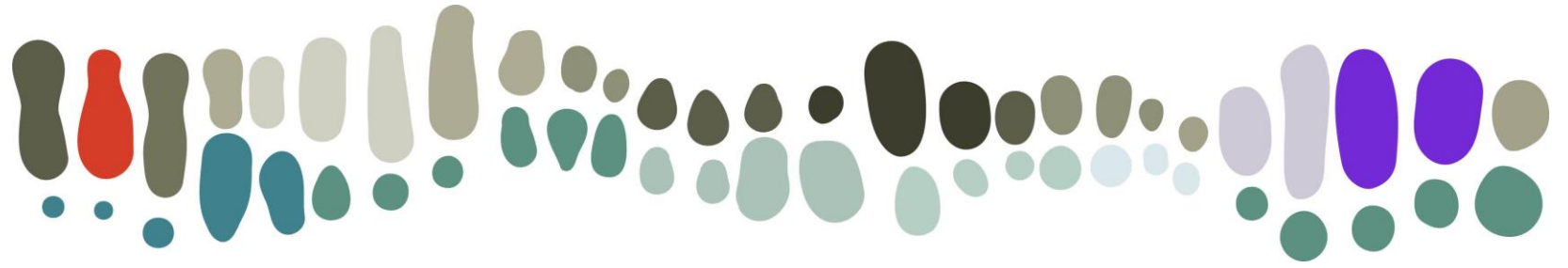
WALGA's Advocacy Position

3.1.4 Aboriginal Cultural Heritage Act 2021 and South West Native Title Settlement

WALGA acknowledges Noongar people as the traditional owners of the South West Region. Local Government is supportive of conserving and protecting the State's Aboriginal cultural heritage

State Council Resolution December 2022 – 399.8/2022





Aboriginal Cultural Heritage Act 2021

Implementation of the *Aboriginal Cultural Heritage Act 2021*

On 1 July 2023 Western Australia will be moving to new legislation for the protection of Aboriginal cultural heritage:

the *Aboriginal Cultural Heritage Act 2021* will be proclaimed

the *Aboriginal Cultural Heritage Regulations 2022* will come into effect

the *Aboriginal Heritage (Marandoo) Act 1992* will be repealed

Limited functions of the *Aboriginal Heritage Act 1972*, associated with live section 18 applications, will remain in place for a period of six months.

2023 Program

Finalise Regulations and other co-design documents

LACHS Readiness grants fund (\$80k)

EOI process for 4 new ACH Council members & support Council

Designation of LACHS – each LACHS to receive \$200K grant on appointment

Finalise completion of ACHKnowledge

Implement Education Program Finalise repeal of the Marandoo Act

Ensure all 78 Protected Areas are ready for transition on 1 July

Proclamation of the *Aboriginal Cultural Heritage Act 2021*

Develop and implement TAFE ACH Training Program

Internal resourcing/capacity building



Implementation of the *Aboriginal Cultural Heritage Act 2021*

The new Act was the culmination of 4 years of engagement that included three phases of formal consultation between 2018 – 2020

Passed by Parliament in December 2021

The new Act is radically different from the 1972 Act:

- no assessment of Aboriginal people's cultural heritage by a Government committee
- proponents required to undertake due diligence prior to undertaking activities
- approvals process requiring engagement with Aboriginal people
- acknowledges and provides roles for native title holders, knowledge holders and traditional custodians
- ability for Aboriginal organisations to be appointed as a LACHS
- substantially increased penalties for breaches
- new suite of protection mechanisms such as Stop Activity and Prohibition orders

Aboriginal Cultural Heritage Act 2021

Tools for protecting cultural heritage



Objects and Principles of the Aboriginal Cultural Heritage Act 2021

8. Objects of Act	9. Principles relating to Aboriginal cultural heritage	10. Principles relating to management of activities that may harm Aboriginal cultural heritage
<p>(1) The objects of this Act are as follows —</p> <ul style="list-style-type: none">(a) to recognise —<ul style="list-style-type: none">(i) the fundamental importance to Aboriginal people of Aboriginal cultural heritage and the central role of Aboriginal cultural heritage in Aboriginal communities past, present and future; and(ii) that Aboriginal people have custodianship over Aboriginal cultural heritage; and(iii) the value of Aboriginal cultural heritage to Aboriginal people and the wider Western Australian community; and(iv) the living, historical and traditional nature of Aboriginal cultural heritage;(b) to recognise, protect, conserve and preserve Aboriginal cultural heritage;(c) to manage activities that may harm Aboriginal cultural heritage in a manner that provides —<ul style="list-style-type: none">(i) clarity, confidence and certainty; and(ii) balanced and beneficial outcomes for Aboriginal people and the wider Western Australian community;(d) to promote an appreciation of Aboriginal cultural heritage. <p>2) In the pursuit of the objects of this Act, the following principles must be observed —</p> <ul style="list-style-type: none">(a) the principles set out in section 9 relating to Aboriginal cultural heritage;(b) the principles set out in section 10 relating to the management of activities that may harm Aboriginal cultural heritage.	<p>The principles relating to Aboriginal cultural heritage are as follows —</p> <ul style="list-style-type: none">(a) Aboriginal people should be recognised as having a living relationship with, and as being the primary custodians of, Aboriginal cultural heritage;(b) Aboriginal people should, as far as practicable, be involved in —<ul style="list-style-type: none">(i) the recognition, protection, conservation and preservation of Aboriginal cultural heritage; and(ii) the management of activities that may harm Aboriginal cultural heritage;(c) as far as practicable —<ul style="list-style-type: none">(i) Aboriginal ancestral remains should be in the possession, and under the custodianship and control, of Aboriginal people;(ii) secret or sacred objects should be in the possession, and under the custodianship, ownership, and control, of Aboriginal people;(iii) Aboriginal ancestral remains and secret or sacred objects that are not in the possession, and under the custodianship and control, of Aboriginal people should be returned to Aboriginal people	<p>The principles relating to the management of activities that may harm Aboriginal cultural heritage are as follows —</p> <ul style="list-style-type: none">(a) it should be recognised that —<ul style="list-style-type: none">(i) places, objects and landscapes have a range of different values for different individuals, groups or communities, and those values may change for an individual, group or community over time; and(ii) those values includes social, spiritual, historical, scientific, economic and aesthetic values;(b) the range of different values for places, objects and landscapes held by different individuals, groups or communities, at particular times and over time, should be recognised and respected;(c) places and objects exist within landscapes and should be considered in that context;(d) as far as practicable, in order to utilise land for the optimum benefit of the people of Western Australia, the values held by Aboriginal people in relation to Aboriginal cultural heritage should be prioritised when managing activities that may harm Aboriginal cultural heritage.

Key components of ACH Act



Aboriginal people empowered to determine what ACH is protected (Part 1)

- existing registered sites and lodged places transition to new Directory

ACH Council (Part 2)

- two Aboriginal co-chairs (M&F); up to nine additional members; majority Aboriginal
- designates LACHS, approves permits & agreed plans, recommendations to Minister

LACHS (Part 2) – active role for Aboriginal people in heritage management

- one-stop shop for proponents; role in negotiating ACHMPs
- funding for capacity building; able to charge fee for service for ACHMPs

Aboriginal ancestral remains and secret and sacred objects (SSO) (Part 3)

- ancestral remains must be returned to rightful custodians
- SSO reported to Council; government must return; can't be sold/removed from WA

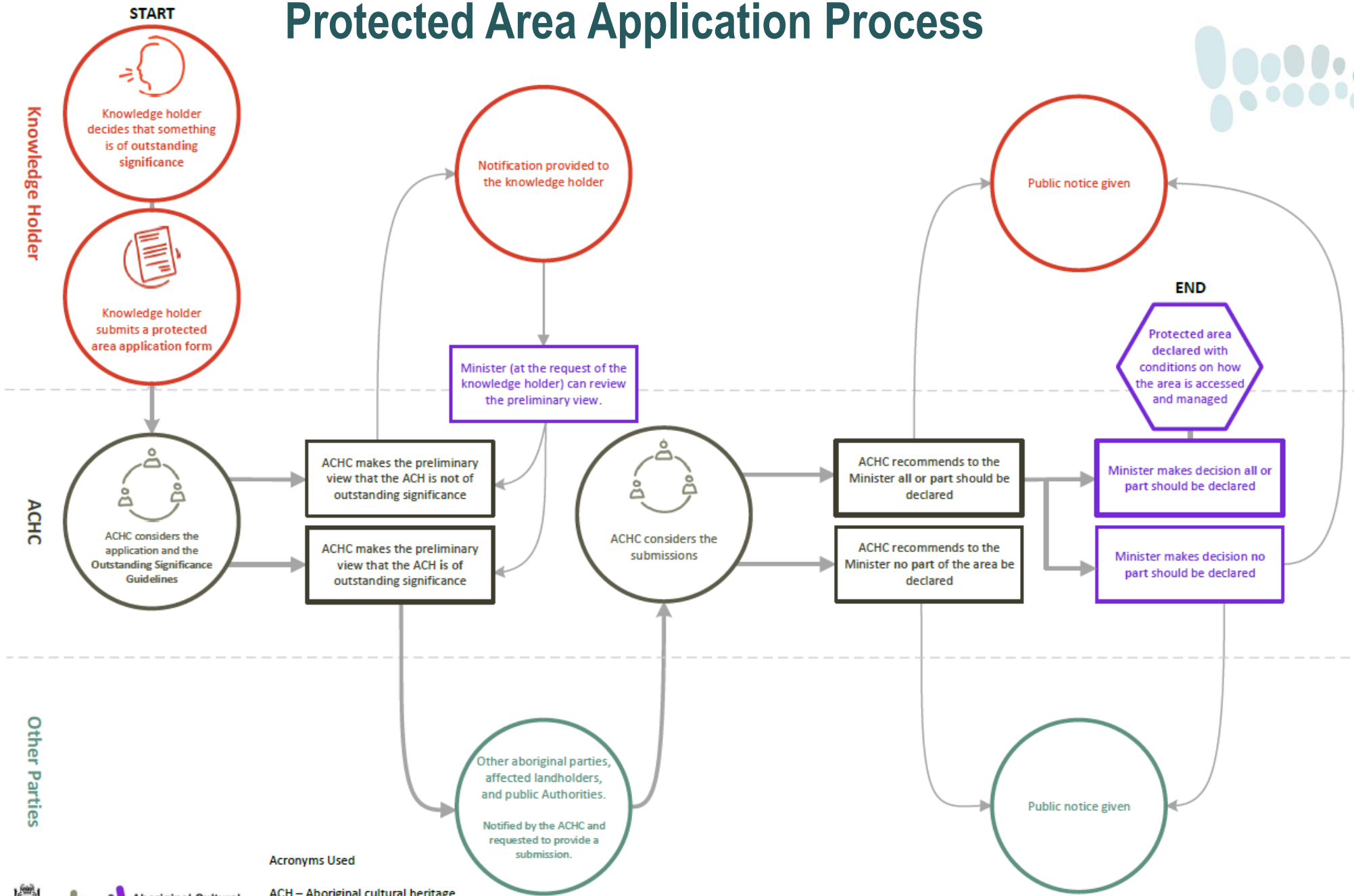
Protected Areas for ACH of Outstanding Significance (Part 4)

- existing 78 Protected Areas transition under new Act
- exclusive vesting with Minister removed to allow Aboriginal groups to manage

Aboriginal Cultural Heritage (ACH) vs Protected Areas (PA)

	Aboriginal Cultural Heritage (ACH)		Protected Area (PA)
Definition	The tangible and intangible elements that are important to the Aboriginal people of the State, and are recognised through social, spiritual, historical, scientific or aesthetic values, as part of Aboriginal tradition.		ACH considered to be of outstanding significance to a knowledge holder or a group or community which consist of knowledge holders for the area. The knowledge holder(s) may apply for a protected area to be declared over the boundary of the ACH.
Process of registration	Placed on the ACH Directory through submission of a form		Declared a PA through an order following approval by the Governor following an application
Who can nominate?	Anyone can register ACH, either as a standalone submission, or as part of an ACH Management Plan Application, ACH Permit Application.		An application for a Protected Area can only be made by a knowledge holder and will need to provide evidence as to why the proposed protected area is of outstanding significance. <i>The Act does not require knowledge holders to disclose any culturally sensitive information.</i>
Who can access?	Access to ACH may be restricted for cultural reasons, or because there is a high risk that the ACH may be harmed or adversely affected. Information available on the ACH may be restricted due to cultural sensitive information.		No-one can access and undertake activities within the area other than an Aboriginal person undertaking their traditional rights and responsibilities, and/or where the conditions of the Protected Area or regulations otherwise allow.
Giving Notice	ACH can be added to the Directory without giving notice		Giving notice is part of the assessment process
Is it an offence to harm?	✓		✓
Can you undertake Exempt Activities?	✓	Take all possible steps to avoid harm to ACH	✗
Can you undertake T1 activities?	✓	Take all possible steps to avoid harm to ACH	✗
Can you undertake T2 activities?	✓	May require submission of an ACH Permit or ACH Management Plan	✗
Can you undertake T3 activities?	✓	May require initiation of ACH Management Plan process	✗

Protected Area Application Process

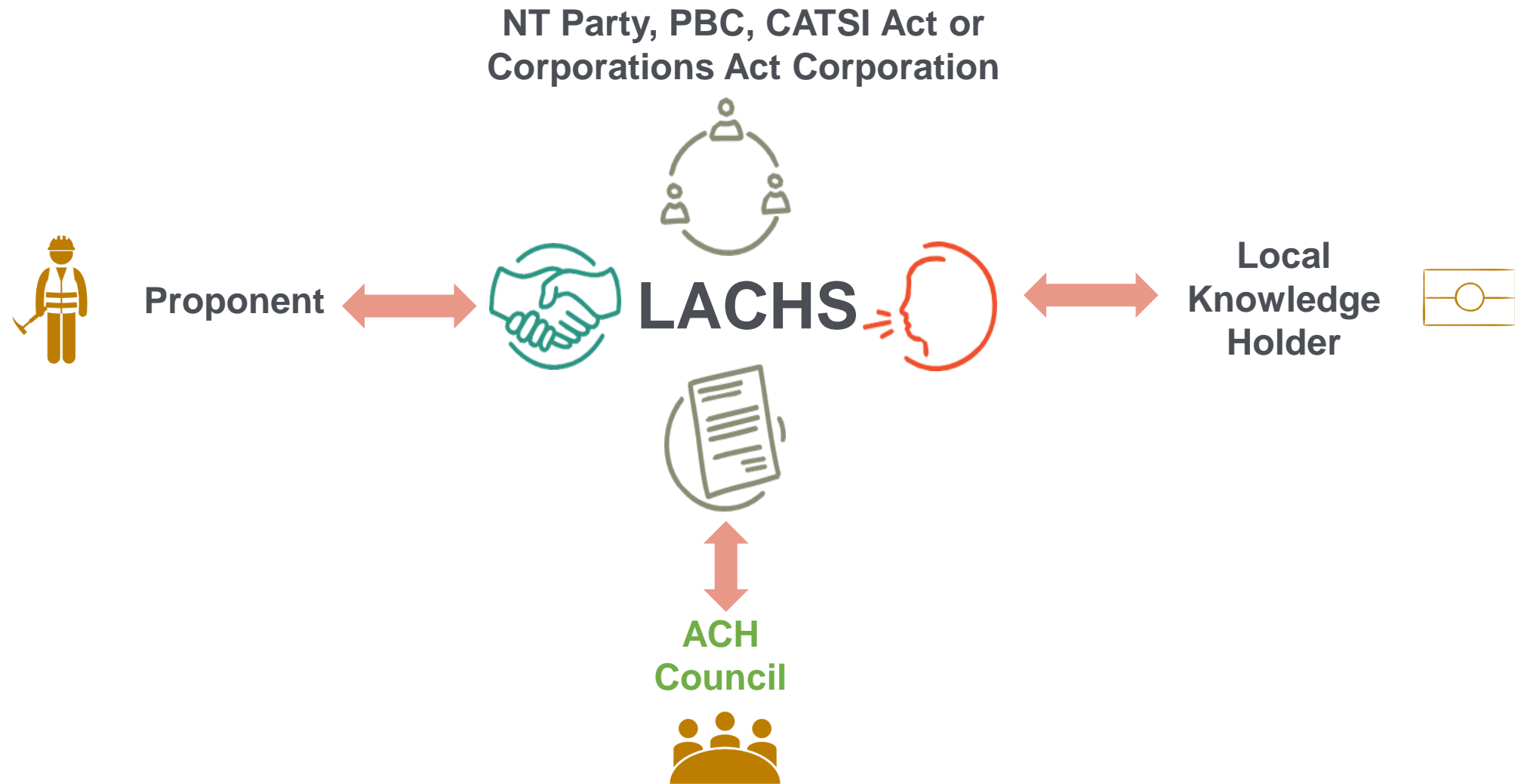


Acronyms Used

ACH – Aboriginal cultural heritage
 ACHC – Aboriginal Cultural Heritage Council



LACHS and ACH Management System (Part 2)



Land Use Approvals (Part 6)



Replacing Section 18 Process

- No requirement to consult with Aboriginal people
- No alignment with native title
- Does not allow for new information on ACH
- One size fits all process
- Approvals are not time limited
- Approvals cannot be cancelled or suspended
- Decision making is not transparent

Land Use Approvals (Part 6)



Policy Objectives

- Aboriginal people and proponents *work together to reach agreements* regarding the management of ACH
- Land use activities managed in a manner that *avoids or minimises* harm to Aboriginal cultural heritage where possible
- System that *provides clarity and certainty* of process and consultation for all stakeholders
- System that facilitates the making of well informed decisions
- Approval process where the effort required to seek an approval is commensurate with the level of impact an activity may cause
- Aboriginal people to be involved in the decision making process
- Approval only required when proposed activity may harm heritage

Land Use Approvals (Part 6)



Tier Category	Description	Approval Pathway
Exempt Activity <i>Activities specified in the ACH Act</i>	‘Small Scale Residential’ ‘Emergency Services’, ‘Recreational Activities’ ‘Like for Like or less’	Does not require Approval <i>Proponents encouraged to avoid ACH</i>
Tier 1 <i>Activities will be specified in the Regulations</i>	Minimal Ground Disturbance Activities	Does not require Approval <i>Proponents takes all reasonable steps possible to avoid or minimise risk of harm ACH</i>
Tier 2 <i>Activities will be specified in the Regulations</i>	Low Ground Disturbance Activities	Requires issue of <u>ACH Permit</u> by ACH Council <i>Proponents takes all reasonable steps possible to avoid or minimise risk of harm ACH</i>
Tier 3 <i>Activities will be specified in the Regulations</i>	Moderate to High Ground Disturbance Activities	Where Aboriginal Party and Proponent reach agreement ACH Council <u>approves ACH Management Plan.</u> Where Aboriginal Party and Proponent are unable to reach agreement it is <i>the decision of the Minister whether or not to authorise an ACH Management Plan</i>

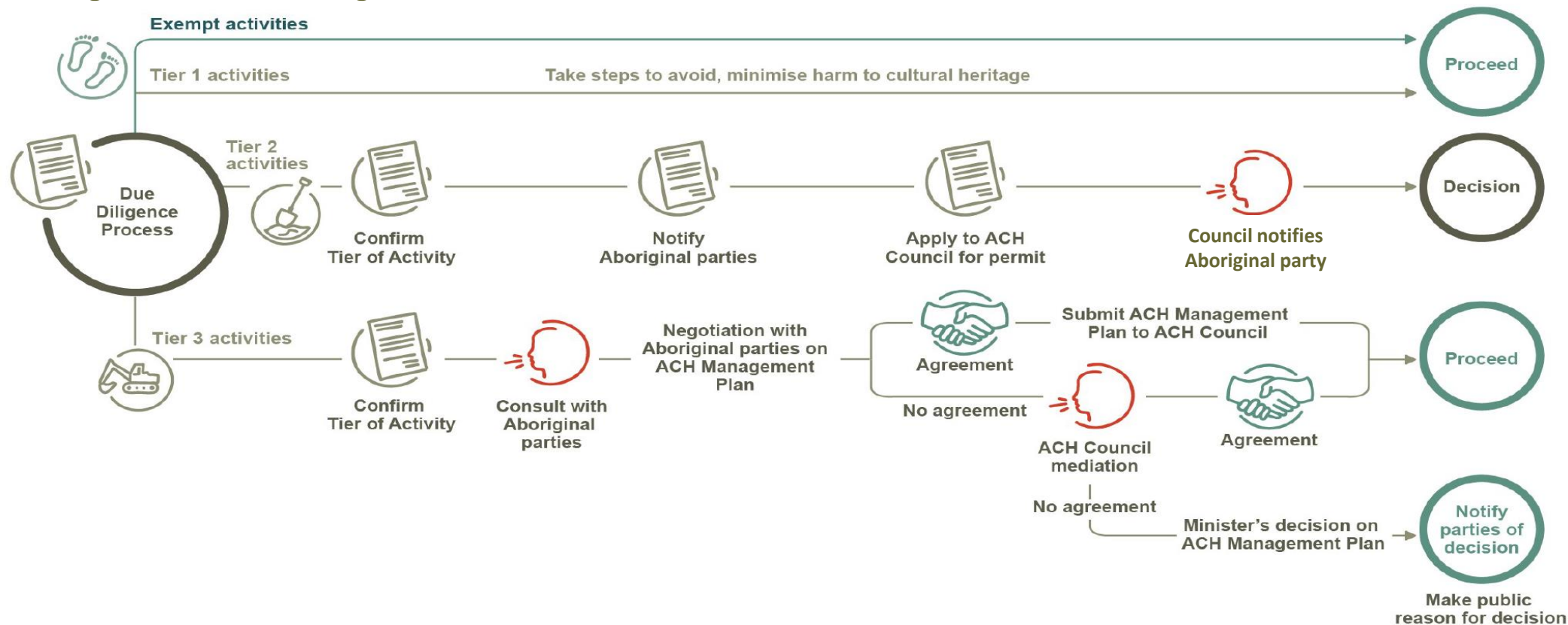
Comparison: AHA Section 18 process and the Aboriginal Cultural Heritage Act 2021 tiered assessment process



Aboriginal Heritage Act 1972



Aboriginal Cultural Heritage Act 2021



ACH Management Plans (Part 6)

ACH Management Plans need to:

- Set out how activity is managed to avoid or minimise impact to ACH
- Include an ACH Impact Statement
- Demonstrate **informed consent** from the Aboriginal parties
 - full and proper disclosure of information by proponent
 - consent must be given voluntarily, without coercion, intimidation or manipulation
 - *ACH Act nullifies 'non-objection' clause found in native title agreements*
- Ensure contingency arrangements for new information about ACH
- Where *agreement is reached* between proponent and Aboriginal party, *ACH Council approves the Plan*
- When agreement *cannot be reached*, ACH Council required to consider the views of the Aboriginal party and the proponent and *acts as a mediator*



ACH Management Plans (Part 6)



Minister's Role

Minister only makes decision where proponent and Aboriginal party cannot reach agreement

Minister can only make a decision if ACH Council is satisfied that:

- consultation has been undertaken
- reasonable steps are in place to avoid or minimise the risk of harm to ACH

Minister must also be satisfied as to these matters and also consider if it is '***in the interests of the State***'

- includes ***economic and social interest of Aboriginal people and future generations.***

Parties given notice of decision and reasons for the decision

Key components of ACH Act (continued)



Minister able to issue new Orders (Part 7)

- Stop Activity and Prohibition Orders where unauthorised harm or new information

ACH Protection Agreements (Part 8)

- recognition, protection, conservation, restoration or management

ACH Directory to replace Register of Aboriginal Sites (Part 9)

- ACH, Protected Areas, ACH Permits & Plans, LACHS, Knowledge Holders
- duty to report ACH (except Aboriginal people and if requested by Aboriginal people)

Offences & securing compliance (Parts 5 & 10)

- maximum penalty of \$10M; statute of limitations period increased to 6 years
- appointment of Inspectors and Aboriginal Inspectors
- compensation to Aboriginal people if ACH is harmed without authorisation

ACH Council



- Friday 14 October 2022 marked the inaugural meeting of the Council
- Co-chairs Ms Irene Stainton and Mr Mark Bin Bakar
- Five members
Ms Merle Carter,
Mr Graham Castledine,
Dr Debbie Fletcher,
Ms Belinda Moharich
and Mr Kevin Walley



Front left: Co-chair Irene Stainton, Minister Buti and Co-chair Mark Bin Bakar ...

2022 Co-design Schedule

Phase 1:

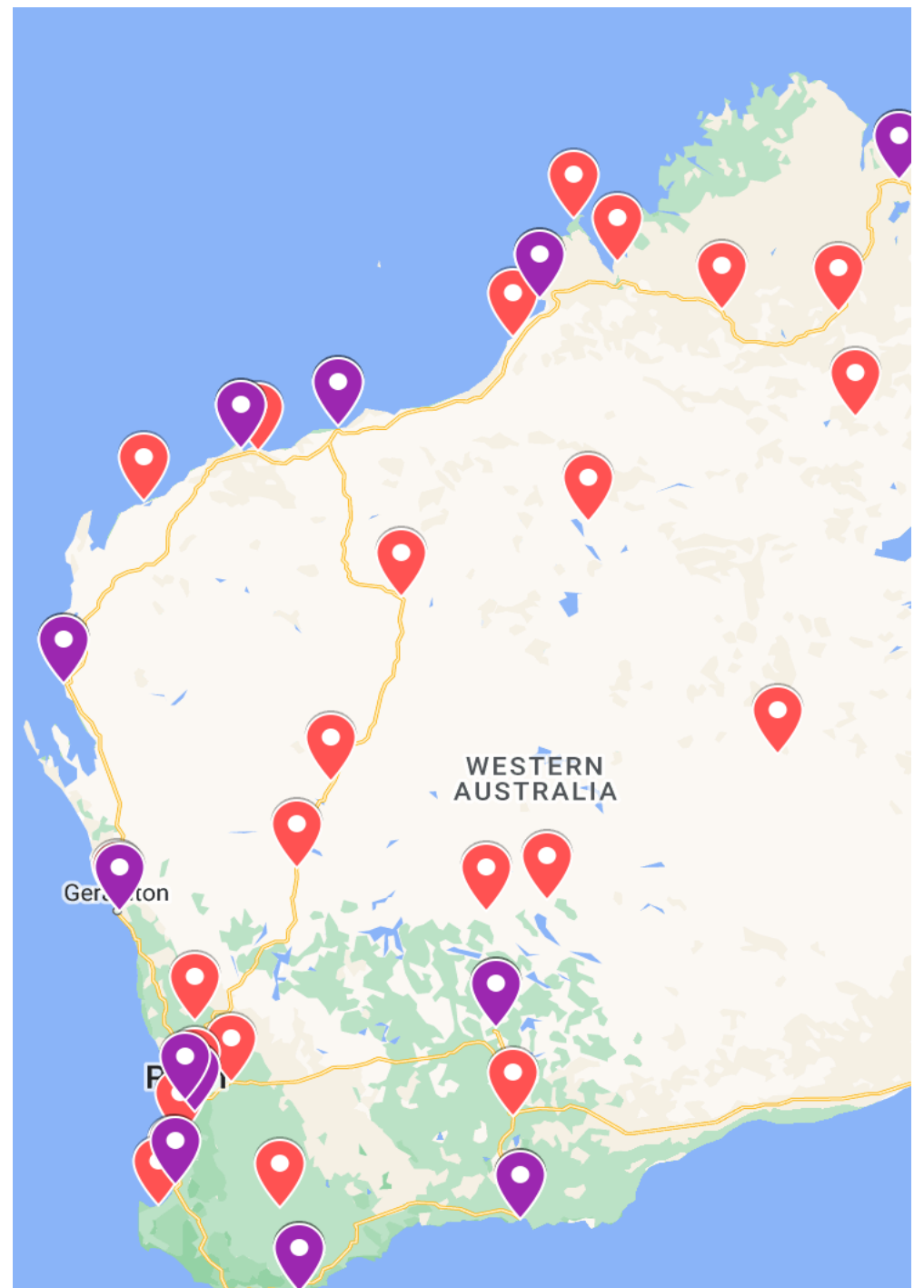
12 locations
16 Workshops
77 submissions received

Phase 2:

32 locations
40 Workshops
54 submissions received

Phase 3:

33 locations
35 Workshops
92 submissions.

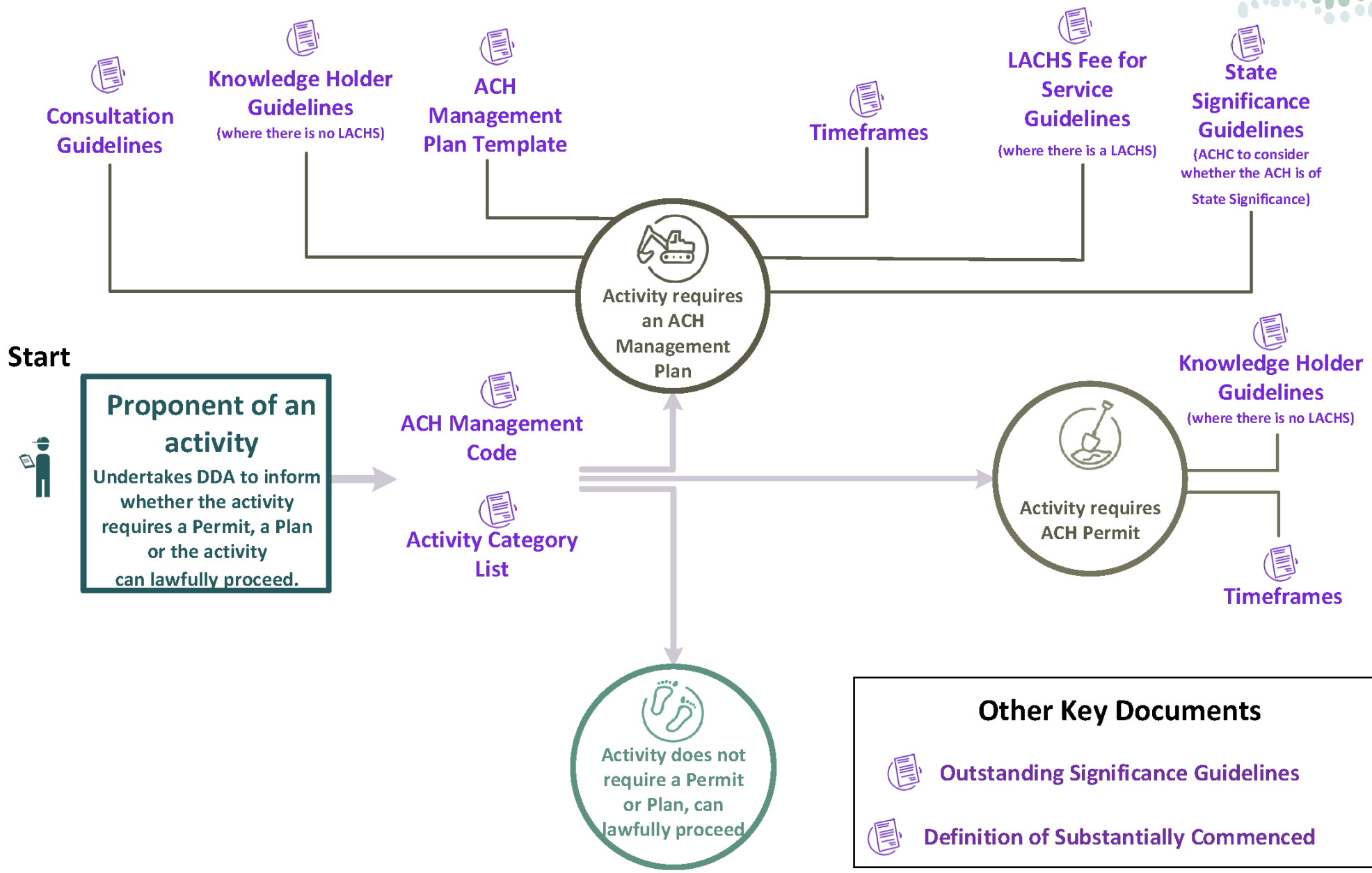


Co-design – challenges



- **Timeframes** – less than 12 months to co-design important documents
- **Diverse stakeholder group** – disparate views from different stakeholder groups – difficulty arriving at ‘agreed positions’
- **Lack of familiarity with *the Act***– not all stakeholders are across the details of the legislation (ACH Act, but also the 1972 Act)
- **Legal framework** – many suggestions put forward are beyond the scope of the legislation
- **Other legal considerations** – documents need to be legally robust in the context of the overarching legislation

Overview of documents subject to the co-design process



Co-design – contentious areas



- **Activity Categories** – determining which activities belong within category
- **ACH Management Code** – determining the level of existing ground disturbance and to what extent it is a factor in determining harm to ACH
- **Fee for Service Guidelines** – determining what are reasonable fees that a LACHS is able to charge proponents
- **Timeframes** – determining some of the timeframes associated with ACH permit and ACH management plan application process
- **Consultation Guidelines** – where is the balance between under/over consulted
- **Knowledge Holder Guidelines** – who decides/provides advice as to who is a knowledge holder

1. Activity Categories



Will be in the Regulations but will be reproduced as a table for ease of use –
have been drafted by Parliamentary Counsel's Office

Have been developed with the assistance of Activity Categories Working
Group

Activities categorised into land use/activity types

Maintenance and 'like for like activities' are exempt

Includes general and catch all categories

1. Activity Categories



Exempt Activities, among others include:

Recreational activities

Developments on Lots less than 1,100 m²

Travelling on existing roads or tracks including driving across previously disturbed ground

Burning carried out by a public authority for fire prevention and control

Maintaining existing infrastructure in a way that does not involve disturbance to ground

Undertaking activities that are essentially 'like for like' activities

Lifestyle and general maintenance activities associated with a residential building, including gardening, repairs and carrying out minor development

Setting up and using a temporary camp

A range of developments small developments associated with the *Planning and Development (Local Planning Schemes) Regulations 2015*

Emergency management activities to prevent imminent loss of life, prejudice to the safety, or harm to the health, of persons or animals.

Important to note that the 1972 Act does not include 'Exemptions' and all activities are that may harm ACH under the legislation require an approval.

1. Activity Categories



Other Activity listings of note:

Marking out (pegging) a tenement is a **Tier 1** activity.

Erecting or installing a fence in a way that does not involve clearing is a **Tier 1** activity.

Complying with a notice given under the Bush Fires Act 1954 section 33(1) or a direction given under section 33(4)(a) of that Act is a **Tier 1** activity.

Metal detecting and scrape and detect using hand held tools are **Tier 1** activities.

Field exploration activities are either **Tier 1 or Tier 2** depending on the (removing less than 4kg = **Tier 1**; removing between 4kg to 20 kg is a **Tier 2**).

Construction or renovation of a residential building on a planning and development lot, or strata or community titles lot in a strata or community titles scheme, that is 1 100 m² or larger is a **Tier 2** activity

2. ACH Management Code



Needs to be viewed from a robust legal perspective as the processes set out establish a defence for a proponent who harms Aboriginal cultural heritage.

Tier 1 activities do not require notification, but the proponent may be required to undertake a visual inspection.

Tier 2 activities do not require surveys under the legislation and a proponent is required to give notice to Aboriginal parties should a proposed activity harm ACH, and may also give notice if unsure whether the activity will harm ACH.

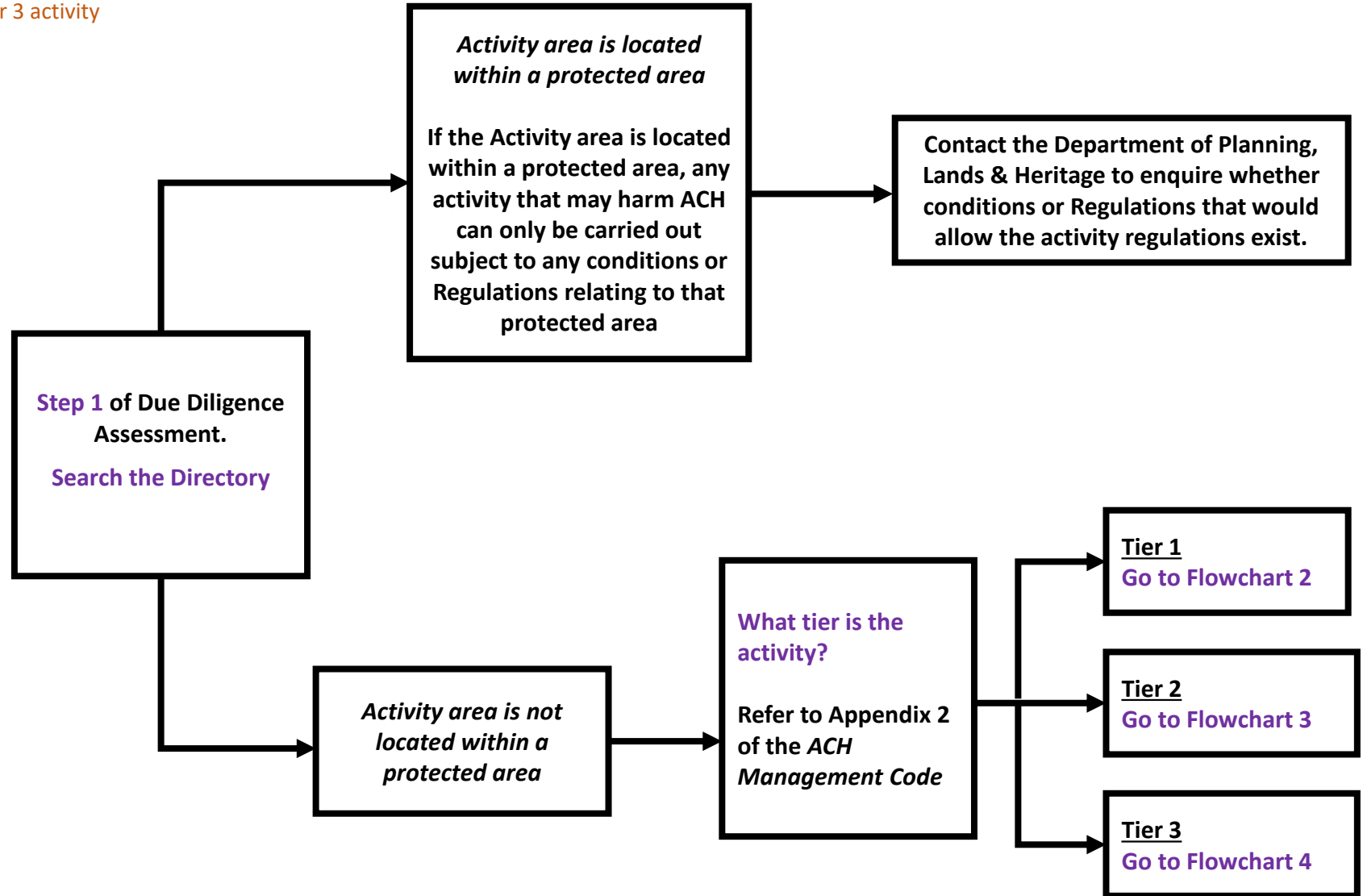
For Tier 3 activities, if it is not known whether Aboriginal cultural heritage is located within the Activity are the proponent will need to undertake ACH Investigations. Depending on the circumstances, these investigations may range from meetings, desktop assessments to undertaking surveys.

Flowchart 1 – Commencement of Due Diligence Assessment

- Whether there is a Protected Area
- Whether the proposed activity is an exempt activity
- Whether the proposed activity is a Tier 1, Tier 2 or Tier 3 activity

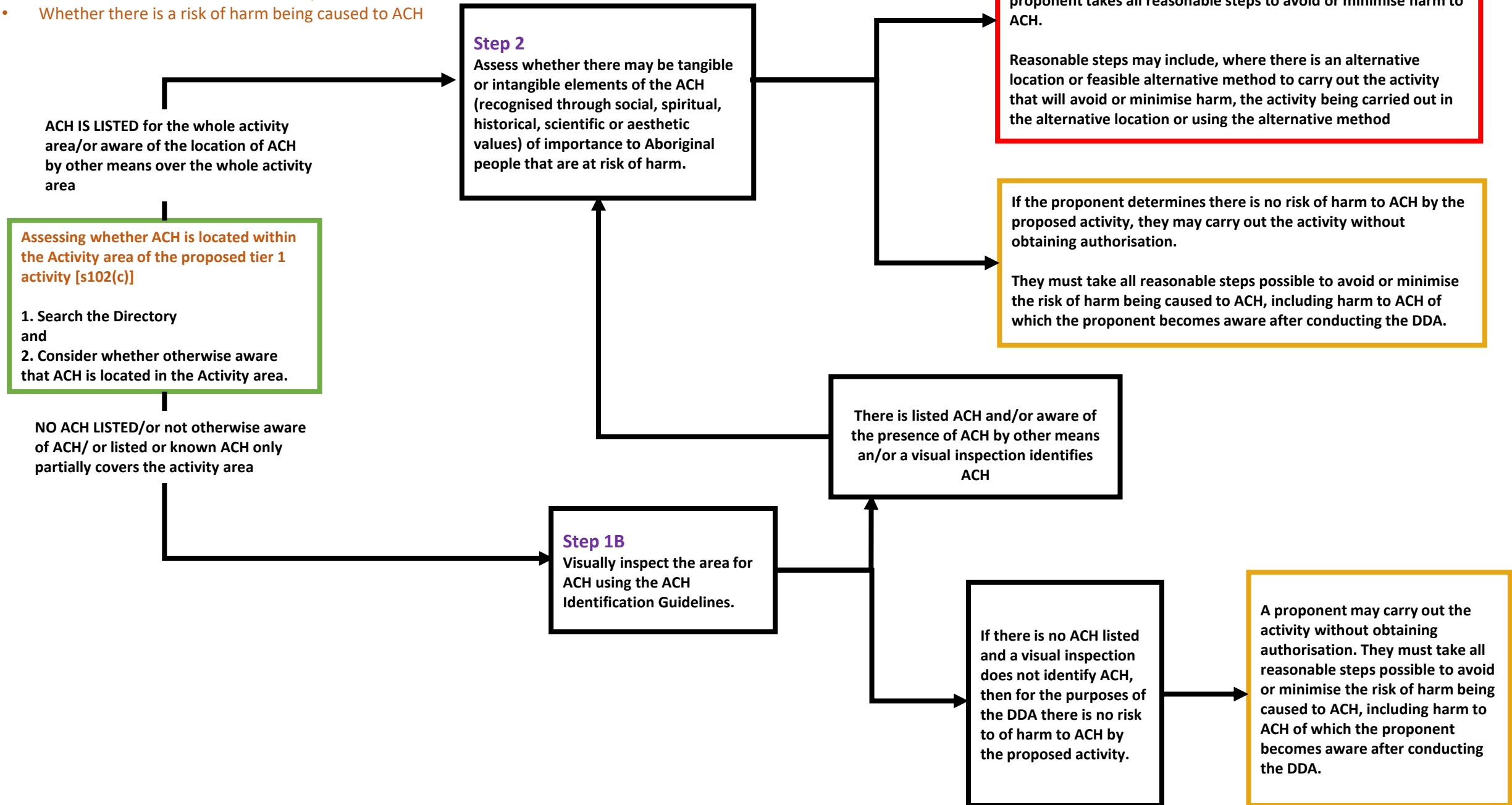
Flowchart 1 assumes the proponent has already established whether the proposed activity is an exempt activity noting that:

- *Activities that are 'like for like' or less, are exempt activities.*
- *Exempt activities may proceed without completion of a due diligence assessment.*
- *Exempt activities cannot be undertaken within a protected area unless conditions or regulations associated with the protected area order permit the activity.*
- *The proponent of the activity must take responsibility to establish whether the proposed activity is planned to be carried out is within a protected area by checking the ACH Directory.*



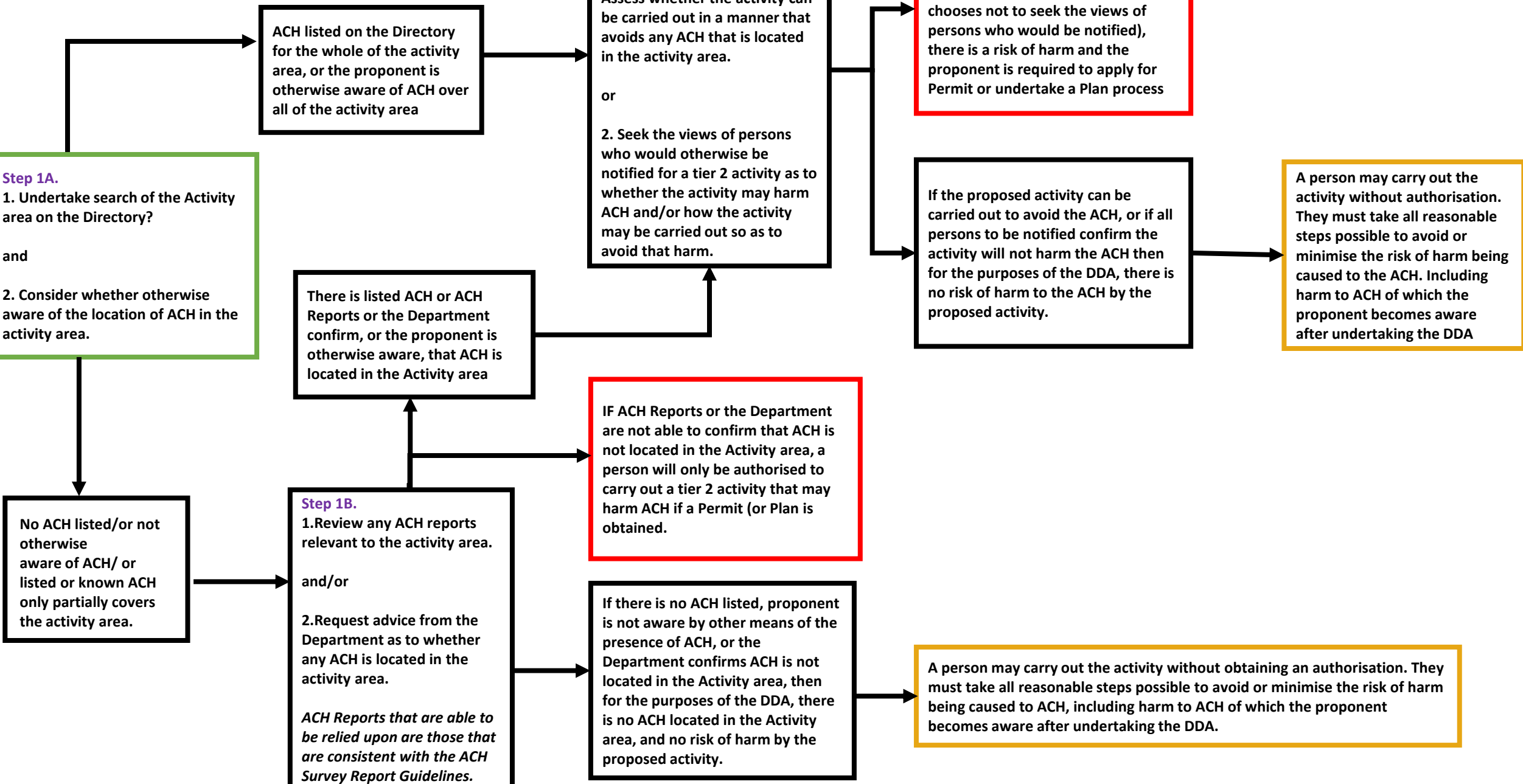
Flowchart 2 – Due Diligence Assessment for Tier 1 Activities

- Whether ACH is located in the activity area
- Whether there is a risk of harm being caused to ACH



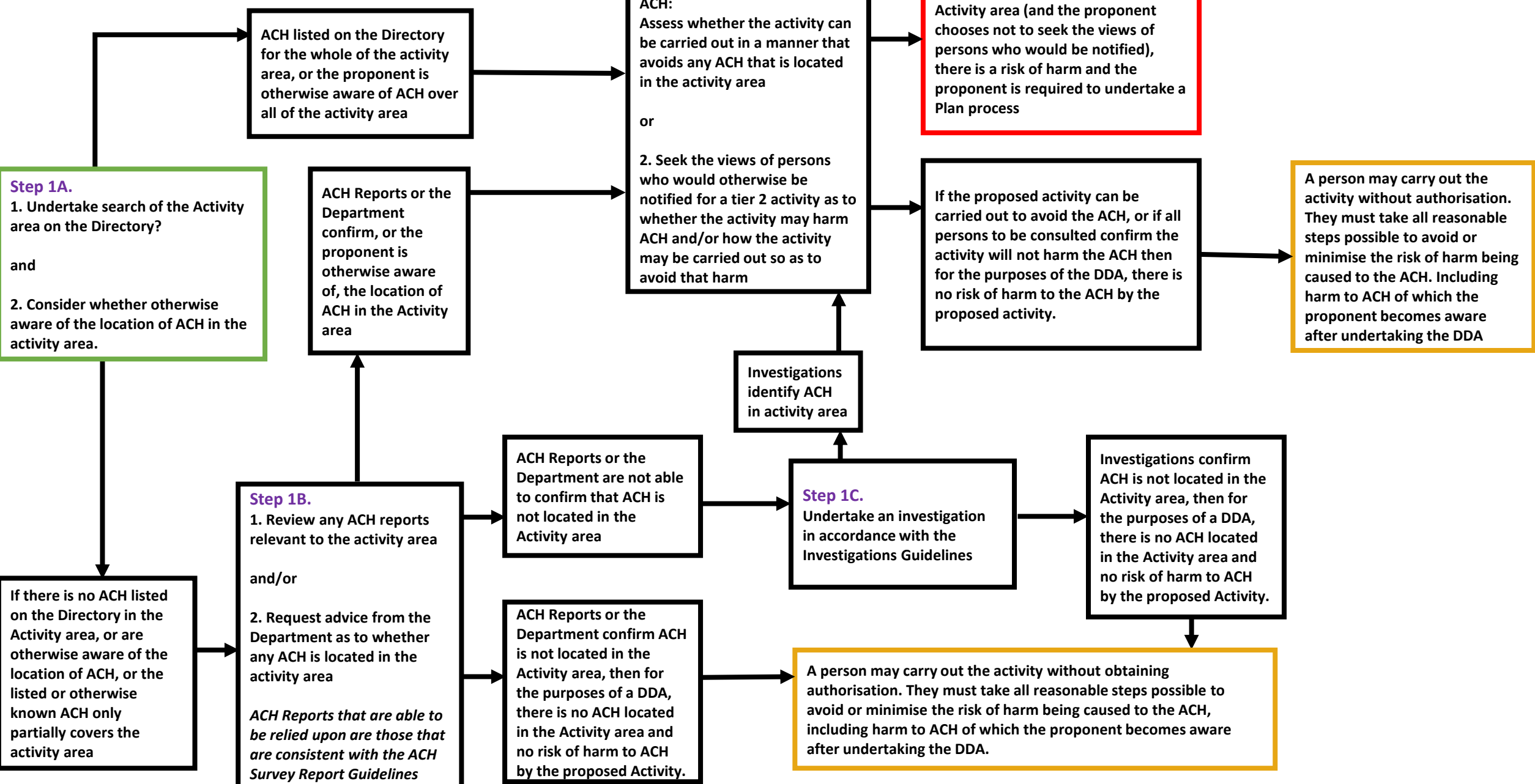
Flowchart 3 – Due Diligence Assessment for Tier 2 Activities

- Whether ACH is located in the activity area
- Whether there is a risk of harm being caused to ACH



Flowchart 4 – Due diligence Assessment for Tier 3 Activities

- Whether ACH is located in the activity area
- Whether there is a risk of harm being caused to ACH



3. Consultation Guidelines

Consultation guidelines establish minimum requirements regarding making initial contact, and the consultation meetings that need to take place.

These guidelines require three consults for the purposes outlined in the adjacent table.

Proponents and Aboriginal parties can negotiate for fewer, or more consults should there be a requirement.

Only LACHS are required to be paid for participation in consults.

Who should be consulted ?	Follow up if no response to Initial Contact	Consultation		
		Meeting 1	Meeting 2	Meeting 3
Each LACHS for the area or a part of the area	Where there is no response to the initial contact, further attempts at initial contact must be undertaken once per week for a minimum period of a further three weeks .	The first meeting is for the proponent to provide background, objectives and proposed outcomes of the project and an invitation to the second and third meetings.	The second meeting is for the persons to be consulted to be able to state and explain their position on the proposed activity, including the identity and characteristics of the ACH located in the area of the activity and how impacts can be avoided or minimised.	The third meeting is for the proponent to discuss how the views provided in the second meeting have been addressed as part of the preferred method for carrying out the activity.
<p>If there is no LACHS for the area or a part of the area — each native title party and each knowledge holder for the area or the part of the area.</p> <p>If there is not a LACHS, native title party or knowledge holder — each NTRB for the area or the part of the area.</p>	<p>Where there is no response to the initial contact, further attempts at initial contact must be undertaken across a minimum period of a further 10 weeks as follows:</p> <ul style="list-style-type: none"> once a fortnight for the first the first 8 weeks; then once per week for the remaining 2 weeks. 			
		Parties may agree on an alternative consultation framework		

4. Knowledge Holder Guidelines



Step 1: Search the Directory and contact the appropriate parties

In order to identify the knowledge holders that are to be notified or consulted, the proponent and ACH Council must first:

1. search the Directory to determine if there is a knowledge holder for the area; and
2. seek the advice of each native title party or, where there is no native title party, the native title representative body (NTRB), for the area; and
3. seek the advice of the LACHS for the area (ACH Council only).

Step 2: Seek advice from the Department

After completing Step 1, a proponent or the ACH Council must contact the Department for advice as to the identity and contact details of knowledge holders for the relevant area

If the Department confirms that it has provided, in its opinion, the identity and contact details of all knowledge holders for the area, then Step 3 is not required

Step 3: Public notice

If after completing Step 2, the Department confirms it cannot provide, in its opinion, the identity and contact details, of **all** knowledge holders for the area, the proponent or ACH Council is required to give public notice to be published on a website maintained by, or on behalf of, the ACH Council requesting other knowledge holders for that area to provide their contact details to the proponent or ACH Council.

5. LACHS Fee for Service Guidelines

SERVICE PROVIDER	RATE	
	Hourly	Daily
LHO	\$80 - \$120*	\$600 - \$900*
LSHO	\$120 - \$160*	\$900 - \$1200*
Chief Operating Officer	\$160 - \$240*	\$1200 - \$1800*
Chief Executive Officer	\$240 - \$280*	\$1800 - \$2100*
Aboriginal Consultant	\$80 - \$120*	\$600 - \$900*
Senior Aboriginal Consultant	\$120 - \$160*	\$900 - \$1200*
Heritage Professionals	Rates as per professional standards	
Legal Professionals (including in-house)	Rates as per the Legal Profession (Solicitors Costs) Determination made under section 275 of the <i>Legal Profession Act 2008</i> .	
Other Expert Service Providers	Up to \$300	Up to \$2250
Administration fee	15%	
*Very Remote uplift is applicable		

In relation to making a submission in response to a notice of intention to carry out a tier 2 activity, the maximum fee that may be charged for these services is \$500 in total.

6. Protected Area Guidelines



Factor	Description
Community health	Where harm to the ACH has the potential to cause physical, emotional or spiritual harm to an individual, group or a community, particularly where there is a cultural obligation in accordance with Aboriginal tradition to prevent harm to the ACH.
Sacred	Aboriginal sacred tradition includes, but is not limited to, Dreaming places, Law grounds and other places, objects and cultural landscapes associated with sacred traditional customs and practices.
Educational potential	Specific ACH is used by Aboriginal communities for elders to pass on knowledge and educate younger members of the community in relation to both sacred and non-sacred traditional customs, practices and skills that are central to the cultural traditions of that community.
Contemporary usage	The ACH is central or of fundamental importance to the kinship systems or traditional customs, practices and skills of an Aboriginal family, group or community that continues to be practised.
Enhancing knowledge	The potential to meaningfully and significantly further understanding and knowledge of past use of Country and traditional customs, practices and skills.
Uniqueness or rarity of ACH	A place or an object may be rare in, or unique to, a particular area. This may include rarity or uniqueness in the context of how Country appeared in the pre-European contact landscape.

- There are currently 78 protected areas throughout the State, all of which will be transitioned.
- A declaration of ACH as a protected area essentially sterilizes land from significant development, as such it is the Minister makes the recommendation to the Governor as to whether to make a declaration.
- The process for assessing a protected area application includes giving notice to interested parties along with the opportunity to make submissions.
- Declared protected areas can only be repealed or reduced with the approval of both houses of Parliament.

7. State Significance Guidelines

- State significance process only applicable when reviewing ACH management plans.
- If a Plan includes ACH that is deemed as being of State Significance, only the Minister is able to authorise the plan even in circumstances where the Aboriginal party and proponent have reached agreement.
- The process for establishing whether ACH is of State significance includes giving notice to interested parties along with the opportunity to make submissions.

Value	Description
Aesthetic	Aesthetic value may be demonstrated: <ul style="list-style-type: none"> • through creative or artistic excellence, innovation or achievement; • in terms of its setting, including by its landmark quality or impact on important vistas.
Historic	Historic value may be demonstrated through: <ul style="list-style-type: none"> • the density or diversity of cultural features illustrating the human occupation of the State, or for demonstrating patterns in the development of the State; • association with an event, phase or activity of significant historic importance; • close association with an individual or cultural group whose life, works or activities have been significant within the history of Western Australia.
Scientific	Scientific value may be demonstrated through: <ul style="list-style-type: none"> • the potential to provide information/archaeological material contributing to a wider understanding of the natural or cultural history of Western Australia, by virtue of its use as a research site, educational site, type locality, reference or benchmark site. • demonstrating technical innovation or achievement.
Social	ACH of social value may be symbolic or landmark and contribute to a community's sense of place and cultural or social identity, and may have contemporary associations and uses such as education. It can relate to both tangible and intangible elements. The ties, meanings and associations will generally be held very strongly and able to be demonstrated satisfactorily to others and related to the present day rather than have historical value only.

8. Timeframes

	Prescribed Period	Sections	Timeframe
Permits	In relation to a notice of intention to carry out a tier 2 activity [s 113], or an application for extension of a Permit [s 122]), the period for persons to be notified to submit to the proponent a person's views about the risk of harm being caused to ACH located in the area by the proposed activity.	113(b), 122(3)(b)	28 days
	In relation to a written notice by the Council [s 118(1)] and [s 125(1)], the period for persons given the notice to submit to the Council, a statement about the person's views on the proposal set out in the application [s 115].	118(2), 125(2)	28 days*
	Period for the Council to make a decision on an application made under section 115 or section 122.	119(2), 126(2)	14 days from the closing date of the Council's notification period*
Plans	The prescribed period in relation to the proponent and each Aboriginal party using their best endeavours to reach agreement about the terms of an Plan.	143(2)	140 days**
	Period for the Council to make a decision in relation to an application made under section 147 (1), as to whether to approve or refuse the Plan to which the application relates.	150(2)	28 days***
	Period for the Council in relation to an application for authorisation of a Plan made under section 157, to make a recommendation to the Minister as to whether to authorise or refuse to authorise the Plan.	162(2)	90 days****
	In relation to public notice given by the Council under section 175 (2), the period for a person to submit to the Council, a statement about the person's views on whether the ACH subject of the public notice should be recognised as being of State significance.	175(3)(c)	28 days
	Beginning at the end of the period for submissions included in a public notice given under section 175 (3) (c), the period for the Council to make a determination as to whether ACH subject of the public notice given under 175 (2) is of State significance.	176(2)	35 days

9. Substantially Commenced



55. Criteria for determining whether purpose has been substantially commenced

For the purposes of section 325(3) of the Act, the criteria to apply in determining whether the purpose for which land the subject of an historical AH Act section 18 consent may be used, as specified in the consent, has been substantially commenced include the following —

- (a) whether the land is being used for the purpose specified in the consent;
- (b) whether relevant licences, permits and approvals have been obtained to use the land for the purpose specified in the consent, including —
 - (i) [these subparagraphs will set out a of licences, permits and approvals the provisions under which they are obtained];
- (c) whether any of the following activities have been undertaken in relation to the land in preparation for the purpose specified in the consent —

- A section 18 consent will expire within 10 years if, following proclamation, they have failed to establish that the activity has been substantially commenced.
- The above must be determined at least 12 months before expiry of the section 18.
- The criteria includes factors that will discourage proponents from harming ACH to prove that the purpose is substantially commenced.
- The Department is liaising with other government agencies to develop a list of relevant licenses, permits and approvals.

- (i) clearing or other site works to support the construction of key infrastructure;
- (ii) construction of new roads, tracks, trails, pathways or parking areas to service key infrastructure;
- (iii) installation of new services including power, water, sewer or telecommunications services to service key infrastructure;
- (d) whether activities referred to in paragraph (c) have been undertaken in relation to any other land in connection with a larger project of which the purpose specified in the consent forms a part.

10. ACH Management Plan



ACH Management Plan will require the following information:

Executive Summary

Details of the proposed activities including – descriptions, locations, proposed timeframes

Details and outcomes of consultation

Evidence of Informed consent from the Aboriginal party (where agreement is reached)

Details of the ACH subject of the Plan

An ACH impact statement and a description of how the ACH is going to be managed

Contingencies about how ACH is going to be managed should new information about the ACH come to light following the approval/authorisation of the Plan.

Any conditions imposed under the Plan

Thank you



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