

ABORIGINAL HERITAGE AND FIRE MANAGEMENT

Interim Guidance 2025/26

Introduction

Aboriginal heritage is widespread in Western Australia (WA), so it is common to encounter it when undertaking bushfire mitigation or suppression operations. This guidance note explains how to minimise the risk of causing harm to Aboriginal heritage and apply for permission to undertake necessary work in Aboriginal sites.

Legislation

The [Aboriginal Heritage Act 1972](#) (AH Act) is the legislation used to manage Aboriginal heritage in WA. Under this Act, it is an offence to knowingly damage Aboriginal heritage. This applies whether an Aboriginal site is registered or not.

Section 18 of the Act allows the Minister for Aboriginal Affairs to grant consent for an activity that is likely to cause harm to an Aboriginal site.

The [Aboriginal Heritage Regulations 1974](#) support the AH Act, key regulations include:

Regulation 7. It is an offence to bring digging or lifting equipment, on to any Aboriginal site or a Protected Area without prior approval of the Minister for Aboriginal Affairs or Registrar of Aboriginal Sites.

Regulation 10. It is an offence to disturb the surface of the ground, remove or disturb the soil/sand or cut any tree, shrub or grass within any Aboriginal site or a Protected Area without prior written consent of the Minister for Aboriginal Affairs or Registrar of Aboriginal Sites.



Joffre Gorge Trail, Karinjini National Park.
Image credit: D. Hill.

Definitions

Aboriginal heritage: Aboriginal heritage is anything that holds significant value to Aboriginal people for its social, spiritual, historical, scientific, or aesthetic importance within Aboriginal traditions. It includes things such as artefacts, rock art, ancient caves or burial sites, waterways, ceremonial or mythological sites, historical places and scar trees.

Aboriginal site: Any place where Aboriginal heritage is found, meaning:

- Any place of importance and significance where persons of Aboriginal descent have, or appear to have, left any object, natural or artificial, used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people, past or present.
- Any sacred, ritual or ceremonial site, which is of importance and special significance to persons of Aboriginal descent.
- Any place which is or was associated with the Aboriginal people and which is of historical, anthropological, archaeological or ethnographical interest and should be preserved because of its importance and significance to the cultural heritage of the State.

A site may be lodged (submitted to Department of Planning, Lands and Heritage (DPLH) but not yet assessed) or registered (confirmed by DPLH to be an Aboriginal site). **The AH Act applies to all Aboriginal heritage, regardless of whether a site is registered or not.**

Activity notice: A notification provided by the proponent of an activity to a Regional Corporation providing information to assist the Corporation to decide whether a heritage survey is required, and, if so, to provide information relevant to the conduct of a Survey.

Condition report: A brief report summarising the on-ground activities, Aboriginal heritage sites and any consultation undertaken related to consent or approvals provided under the Aboriginal Heritage Regulations 1974.

Consent and approval: The Minister for Aboriginal Affairs or Registrar for Aboriginal Sites may grant *approval* to take digging or lifting equipment onto an Aboriginal site or *consent* to undertake minor activities within an Aboriginal site.

Indigenous Land Use Agreement (ILUA): A voluntary agreement between a Native Title Party and other people or bodies about the use and management of an area of land.

Minimal impact activity: Any activity that involves minimal or no ground disturbance, such as:

- Walking, photography, filming
- Use of existing tracks and water courses
- Grazing in previously grazed areas
- Maintenance of existing paths, fences, roads, tracks, bridges, infrastructure and utilities
- Weed control, vegetation control and fire prevention; excluding construction of fences and clearing of native vegetation.

Minimal impact activities generally do not require the issuing of an activity notice or additional surveys.

Low ground disturbance activity: Activities that involve only minor ground disturbance, such as:

- removing fallen wood or flora
- biological, environmental or conservation surveys
- offroad reconnaissance and patrol in light vehicles
- maintaining and refurbishing existing facilities, water points, signs and other structures
- maintaining but not widening existing roads, drains, culverts, bridges, trails, tracks, fence lines and firebreaks

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Interim Guidance 2025/26

Bushfire Suppression

This Guidance Note provides principles for protecting Aboriginal sites during bushfire suppression operations and a process for gaining consent and approval for activities that could harm Aboriginal heritage.

Under the AH Act it is an offence to knowingly damage Aboriginal heritage. However, fire managers will not be liable for breaching the Act if they are responding to an emergency and take reasonable steps to identify Aboriginal heritage and avoid causing it harm.

The protection of Aboriginal heritage is best achieved by building strong, collaborative relationships with Traditional Owners and their representative bodies during non-emergency periods. Developing agreed fire response plans for sensitive areas and processes for engaging Aboriginal knowledge holders is the best way to ensure Aboriginal heritage can be protected during a bushfire.

Overview

The following process should be used when responding to a bushfire in areas where Aboriginal heritage may be present.



FIGHT THE FIRE

Take any actions immediately necessary to fight a bushfire consistent with the State Strategic Control Priorities.



IDENTIFY

As soon as practical, check [ACHIS](#) for Aboriginal heritage and take reasonable steps to minimise the impacts of firefighting operations on it.



NOTIFY AND APPLY

If there are Aboriginal sites within the likely operational area, submit an enquiry to DPLH. DPLH will advise if consent and approval are required and assist with the application process.



CONSULT

Contact the Native Title Party to request an Aboriginal Cultural Advisor to attend the Incident Management Team (IMT) or Incident Support Group (ISG) to advise on cultural matters and harm minimisation strategies.



MINIMISE IMPACTS

Consider Aboriginal sites when developing suppression strategies and include relevant information in IMT meetings, Incident Action Plans (IAPs) and operational briefings.



RECORD AND REPORT

Record the rationale for taking actions that might impact Aboriginal sites. Report any potential impact on Aboriginal heritage to DPLH.

Fight the fire

Fire managers will not be criminally responsible for breaching the AH Act or regulations if their actions meet the criteria for the *defence of emergency* under section 25 of the Criminal Code. The defence of emergency requires that:

(a) the person believes —

(i) circumstances of sudden or extraordinary emergency exist; and

(ii) doing the act or making the omission is a necessary response to the emergency; and

(b) the act or omission is a reasonable response to the emergency in the circumstances as the person believes them to be; and

(c) there are reasonable grounds for those beliefs.

An active bushfire that presents an imminent danger to the State Strategic Control Priorities constitutes circumstances of a sudden or extraordinary emergency. When considering these priorities, the protection and preservation of life is paramount. Actions that are reasonably necessary to fight such a fire meet the criteria for the defence of emergency.

Identify

Although immediate action may be taken to respond to a bushfire emergency, wherever time allows, reasonable steps must be taken to check if Aboriginal heritage is present and to minimise causing harm

When it is practical to do so, incident managers should check [ACHIS](#) for Aboriginal heritage within the likely operational area. To respect cultural sensitivity, the boundary shown in ACHIS will reflect the general locality of Aboriginal heritage and may be larger than the actual site. DPLH can advise whether proposed suppression activities are in an Aboriginal site.




Notify and apply

DPLH must be notified if operations are expected to occur within the boundaries of an Aboriginal place shown on ACHIS. This means, as soon as practical, lodge an enquiry with DPLH via the [Aboriginal Heritage Enquiry Form](#).

The following details should be provided under the 'Description' section of the form:

- Location of the incident (also attach a copy of the incident map if possible).
- All registered sites and lodged places within the operational area including their identification numbers (available from [ACHIS](#)).
- Likely suppression and post-incident rehabilitation activities.
- Any Aboriginal engagement process undertaken to date.
- Any other relevant information such as whether there may be a transfer of control of the incident to another agency.
- **Clearly identify in the enquiry that it relates to a bushfire emergency.**



Include a point of contact that will continue to be monitored if there is a shift changeover and, where possible, follow up with a phone call to DPLH during business hours (see Contacts).

Following assessment of the enquiry, DPLH will:

- Advise whether suppression strategies will intersect any Aboriginal sites and may provide information about its nature and location.
- Advise if consent and approval are required, due to likelihood of harm to any Aboriginal sites.
- Provide assistance to the Controlling Agency to manage the consent and approval application process via [ACHknowledge](#).

Consult

If Aboriginal heritage is identified within the operational area, consider requesting the Native Title Party provide a suitable person to join the IMT or ISG as an Aboriginal Cultural Advisor. The role of the Aboriginal Cultural Advisor is to provide advice on the location and protection or management of Aboriginal sites. Consistent arrangements for payment of Aboriginal Cultural Advisors are in development. If needed, seek advice from DPLH.

Minimise impact

All reasonable steps should be taken to avoid causing harm to Aboriginal sites during bushfire suppression operations. To minimise the potential for harm, wherever possible:

- Consider opportunities to avoid Aboriginal heritage when developing suppression strategies.
- Include information about Aboriginal sites in IMT meetings, IAPs and operational briefings to ensure all personnel understand its significance and how to avoid harm.
- Avoid building containment lines within Aboriginal heritage boundaries where a safe and suitable alternative exists e.g. aerial suppression, using existing tracks, backburning.
- If the criteria for an emergency are met and it is necessary to track through Aboriginal heritage, restrict activities to previously disturbed areas, minimise disturbance, use hand tools or wet lines rather than heavy machinery, and avoid disturbing waterways if it is possible and safe to do so.
- Encourage crews to remain vigilant for signs of Aboriginal heritage and take any practical steps to protect it.

Record and report

The consent and approval process requires a Condition report to be submitted to DPLH after bushfire suppression operations are complete. To facilitate post incident reporting, record the rationale for any actions taken that may have harmed Aboriginal heritage. If an IMT is in place, note relevant decisions made at IMT meetings, including whether an Aboriginal Cultural Adviser was appointed and present.

Two templates have been prepared to assist with reporting (see Resources):

Combined condition report

- Used to consolidate multiple consents from a region at the end of the bushfire season.
- This is the preferred approach unless a Condition Report is required for a specific consent (see below).
- Submitted via the [Aboriginal Heritage Enquiry Form](#).

Condition Report

- Required where it is thought likely that Aboriginal heritage was harmed during operations or there has been significant interest in the operations from the Native Title Party.
- Record why any actions that may have harmed Aboriginal heritage were necessary.
- Note if an Aboriginal Cultural Advisor was involved during the operations or if any consultation with Native Title Parties or local Traditional Owners occurred.
- Condition reports should be approved by the Department of Fire and Emergency Services (DFES) Regional Superintendent before being attached to the consent application on [ACHknowledge](#).

For both reports, it is critical to provide spatial records of any ground disturbance within Aboriginal sites and a description of the nature of the disturbance.

DPLH must also be notified as soon as practical if suspected Aboriginal heritage is encountered during an incident that was not subject to the consent and approval. All Aboriginal heritage is protected under the Act, even if not registered.

Contacts

During incidents contact:

- DFES Regional Duty Coordinator or Department of Biodiversity, Conservation and Attractions Regional Duty Officer for information about local arrangements with Native Title Parties.
- DPLH Aboriginal Heritage Team for questions and advice about Aboriginal heritage, registered sites or lodged places, to advise of potential impacts or any Aboriginal heritage identified during the incident but not listed in ACHIS:
 - (08) 6551 8002
 - [Aboriginal Heritage Enquiry Form](#).

Resources

- [Aboriginal Cultural Heritage Inquiry System](#)
- [Aboriginal Heritage Enquiry Form](#)
- [ACHknowledge](#)

Locate these resources on the [Staff Intranet](#) and the [Volunteer Hub](#).

- Aboriginal Heritage Combined Condition Report template - Bushfire
- Aboriginal Heritage Condition Report template - Bushfire



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Interim Guidance 2025/26

Bushfire Mitigation

This Guidance Note provides principles for protecting Aboriginal sites during bushfire mitigation operations and a process for gaining consent and approval for activities that could harm Aboriginal heritage.

Under the AH Act it is an offence to knowingly damage Aboriginal heritage. If bushfire mitigation activities are planned within an Aboriginal site, you will require consent and approval before proceeding.

The protection of Aboriginal heritage is best achieved by building strong, collaborative relationships with Traditional Owners and their representative bodies. Developing agreed fire mitigation plans for sensitive areas and processes for engaging Aboriginal knowledge holders is the best way to ensure Aboriginal heritage can be protected when undertaking mitigation works.

Overview

The following process should be used when planning and undertaking bushfire mitigation activities in areas where Aboriginal heritage may be present.



IDENTIFY

As soon as practical, check [ACHIS](#) for Aboriginal heritage.



CONSULT

Contact the Native Title Party and DPLH to seek advice about whether the activity may proceed and harm minimisation strategies.



NOTIFY AND APPLY

If there are Aboriginal sites within the likely operational area, submit an enquiry to DPLH. DPLH will advise if consent and approval are required and assist with the application process.



PROTECT

Ensure mitigation activities do not damage Aboriginal heritage.



RECORD AND REPORT

Report any potential impact on Aboriginal heritage to DPLH.



Identify

Check ACHIS for Aboriginal heritage in the area where the activity is proposed. To respect cultural sensitivity, the boundary shown in ACHIS may reflect the general locality of a site rather than its specific location and be larger than the actual site. DPLH can advise whether proposed activities are within any Aboriginal sites.

Consult

If the proposed activity is within an Aboriginal site or an Indigenous Land Use Agreement (ILUA) area, seek advice from the relevant Native Title Party. In ILUA areas, standard heritage agreements may define minor impact activities and low ground disturbance activities, the requirements for engaging Native Title Parties and a schedule of fees for heritage surveys.

Consultation should seek to establish whether the treatment is likely to harm Aboriginal heritage, if alternative strategies are feasible and whether further survey is required. Where there is a risk that activities may impact Aboriginal heritage, an Aboriginal Cultural Advisor can assist in assessing the intended operations and any potential harm to heritage and monitor operations in the field. Any cultural information provided should remain confidential unless advised otherwise by the cultural advisor. DFES personnel are encouraged to contact DPLH to seek advice on engaging with Native Title Parties. Consent and approval are required to bring plant and equipment onto an Aboriginal site.

Apply

DPLH must be notified if operations are expected to occur within the boundaries of an Aboriginal place shown on ACHIS. DPLH will confirm whether the proposed activity poses a risk to any Aboriginal sites and advise whether approval and consent are required.

Applications for approval and consent are submitted via [ACHknowledge](#) and should include:

- The type and location of the proposed activity, including a map or spatial file.
- The identification numbers of any Aboriginal sites within the planned activity area.
- The actions that will be taken to avoid or minimise harm to Aboriginal sites.
- Details of the consultation that has occurred with the relevant Native Title Party.

Minimise impact

Bushfire mitigation activities must not proceed if they are likely to damage Aboriginal sites. Works must stop if any Aboriginal heritage is discovered that was not included in the consent and approval.

To minimise the impact of approved activities:

- Ensure staff and contractors are aware and understand their obligations regarding Aboriginal heritage.
- Include Aboriginal heritage considerations in bushfire mitigation policies, procedures, forms, checklists and operational briefings.
- Wherever possible, adapt activities to avoid Aboriginal sites, for example by establishing a buffer zone around sites to avoid accidental damage during activities.
- Minimise activities that disturb the ground near Aboriginal sites, for example use existing tracks rather than creating new ones.
- Adjust the intensity, timing and location of planned burns to protect sensitive areas.
- Waterways, wetlands and dune systems are often culturally significant and environmentally sensitive. Try to avoid mitigation activities in these areas.

Report

The consent and approval process requires a condition report to be submitted to DPLH after bushfire mitigation operations are complete. The combined condition report template is most appropriate for reporting on a bushfire mitigation program, unless a specific report is requested by DPLH. Two templates along with some suggested wording have been prepared to assist with reporting (see Resources).

Combined Condition Report

- Used to consolidate multiple consents from a region's entire mitigation program.
- Must include spatial records of any ground disturbance within Aboriginal sites and a description of the nature of the disturbance.
- Submitted via [ACHknowledge](#) under the 'Compliance' dropdown and by selecting 'Create Conditions Report'

DPLH must also be notified as soon as practical if suspected Aboriginal heritage is encountered during mitigation activities that were not subject to the consent and approval. All Aboriginal heritage is protected under the Act, even if not registered.

Contacts

For further information and advice contact DPLH's Aboriginal Heritage team on 08 6551 8002.

Resources

- [Aboriginal Cultural Heritage Inquiry System](#)
- [Aboriginal Heritage Enquiry Form](#)
- [ACHknowledge](#)

Locate these resources on the [Staff Intranet](#) and the [Volunteer Hub](#).

- Aboriginal Heritage Combined Condition Report template - Mitigation
- Aboriginal Heritage Condition Report template - Mitigation
- Suggested Wording for Regulation 7 & 10 Applications