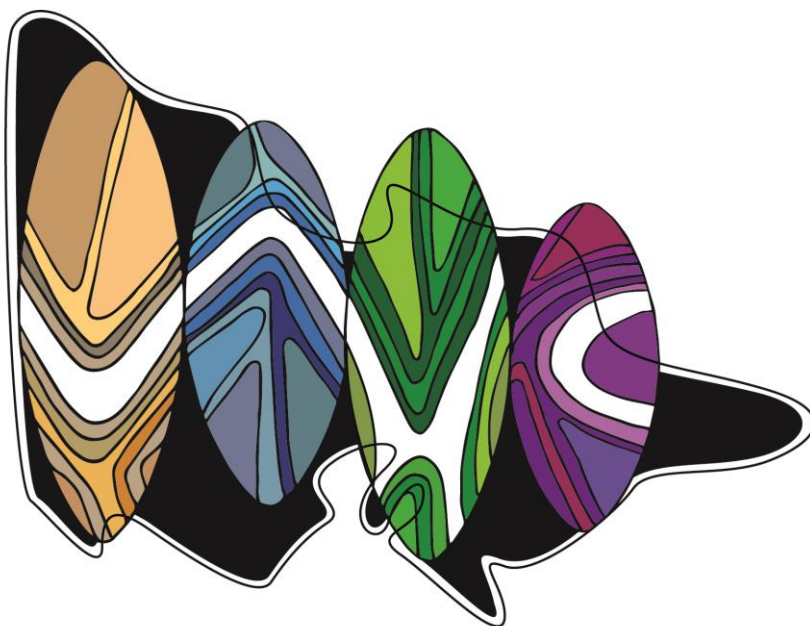


Registered Aboriginal Parties and Fieldwork During COVID19 Restrictions Policy Guidelines

May 2020

These policy guidelines are published by the Victorian Aboriginal Heritage Council pursuant to sections 132(2) (cg) (ch) and (ck) of the Aboriginal Heritage Act 2006



**VICTORIAN ABORIGINAL
HERITAGE COUNCIL**

Context

The current COVID19 pandemic has resulted in a real and significant threat to the health and wellbeing of peoples globally including in Victoria. Aboriginal communities have been identified as being particularly susceptible to the health risks posed by this disease. Registered Aboriginal Parties as Aboriginal cultural organisations and as employers at law owe cultural and legal responsibilities to their staff and the communities of which they are part. In particular, a RAP has a legal obligation to ensure the health and safety of its employees and the environments in which they operate. This legal obligation extends to a RAP needing to take account of the particular circumstances of each of their employees. As such the legal obligation of a RAP to its employees during the pandemic may exceed those of employers to their employees generally. A RAP's cultural obligations to their communities certainly exceed those of employers generally.

In response to the COVID19 pandemic on 16 March 2020 the Victorian Government made a State of Emergency Declaration under the Public Health and Wellbeing Act 2008 (Vic). Pursuant to this declaration the Chief Health Officer has issued a number of Directions including the Stay at Home Direction and the Restricted Activity Direction which operate to restrict or prohibit a number of activities of the population. In addition to these Directions the Victorian Government has recommended a number of Measures designed to reduce the transmission of the disease and thereby maximize community health and well-being. Under these Directions and Measures Construction and field work activities are not prohibited but are subject to operational restrictions.

On 6 April 2020 Aboriginal Victoria issued an Advisory Notice regarding Registered Aboriginal Party (RAP) Fieldwork during the current restrictions. That Advisory Notice may have given the impression that the provisions of ss 59 and 60 of the Act operated in the current circumstances to the effect that where a RAP declined to participate in proposed Fieldwork activities related to a Cultural Heritage Management Plan or cultural heritage permit as a result of concerns relating to the health and well-being of its employees then the fieldwork could proceed and still satisfy the requirements of the Act.

The purpose of this Guideline is to clarify that impression and to provide guidance for RAPS, Heritage Advisors and Sponsors as to the circumstances in which CHMP or cultural heritage permit Fieldwork can proceed in the current circumstances.



Basic Propositions

If a RAP gives notice under s 55 of the Act a sponsor (and their Heritage Advisor) must take reasonable steps to facilitate the involvement of the RAP in the assessment of the area and preparation of the plan. Thus, unless a sponsor (and their Heritage Advisor) take reasonable steps to involve a RAP in the field work associated with a proposed CHMP preparation the proposed CHMP will not have satisfied the procedural requirements of the Act necessary for its subsequent approval by the RAP.

Where a CHMP is approved subject to the condition of RAP participation in any subsequent fieldwork unless a sponsor (and their Heritage Advisor) take reasonable steps to involve the RAP that condition of the CHMP will have been breached.

What constitutes reasonable steps is informed by a RAP's cultural obligations to its community and legal obligations to its employees. Some of these obligations are described above under the heading of context. The following section of these guidelines provides some guidance as to what constitutes reasonable steps during the current state of emergency.

Fieldwork Guidelines

Fieldwork during the current state of emergency if it is absolutely necessary. A decision as to whether fieldwork is absolutely necessary should be taken in consultation with the relevant RAP.

If fieldwork is deemed absolutely necessary, all relevant Workplace Health and Safety measures currently in place to minimise the spread of COVID-19. These measures must be adopted by Sponsors, HA's and RAP staff. Any specialist materials necessary for RAP personnel to implement these measures should be supplied by the Sponsor (or their Heritage Advisor).

The current COVID-19 Safe Work Australia Health and Safety measures relevant to the construction industry can be found here:

<https://www.safeworkaustralia.gov.au/covid-19-information-workplaces/industry-information/building-and-construction/about-covid-19>

As a result of the particular context of RAP personnel the following additional guidelines should be adhered to.



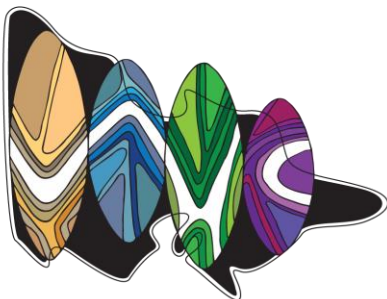
If fieldwork must be undertaken, **at a minimum** Sponsors and Heritage Advisors must ensure the following;

- At no time should an individual come within 1.5 metres of another person.
- As part of the usual SWMS and JSA, each person present must declare if they have any symptoms of COVID-19 or been in close contact with anyone who has been diagnosed with COVID-19.
- If an individual is demonstrating or reporting symptoms of COVID-19 (ie. fever or a constant cough), or within the past 14 days has been in contact with someone who has been diagnosed with COVID-19 they must leave the worksite **IMMEDIATELY**.
- At no time should pens, documentation or equipment be touched by anyone without the use of disposable gloves.
- Equipment must be sterilized before use. Anti-bacterial wipes or liquid sanitizer with an alcohol content greater than 60% ethanol or 70% isopropanol must be used.
- Specific areas of activity (test pits, mechanical trench) must be identified and outlined to all people present before the commencement of works.
- No more than **TWO** people can work within an identified area of activity at any given time. (This excludes machine operators as long as they stay within their machine). Keeping in mind that individuals must maintain a distance of 1.5 metres **AT ALL TIMES**.
- Adequate hand washing facilities, PPE and sterilisation materials (hand sanitizer) are provided at each activity area.

In addition, all personnel should:

- avoid touching their face
- put cigarette butts in the bin.





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