



Aboriginal Cultural Heritage Act 2021

STATE SIGNIFICANCE GUIDELINES





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1. Purpose

One of the objects of the Aboriginal Cultural Heritage Act 2021 (Act) is to recognise the value of Aboriginal cultural heritage (ACH) to Aboriginal people and to the wider Western Australian community. State significance, in relation to ACH, means that the ACH is of exceptional importance to the cultural identity of the State [s. 100].

In recognising the value of ACH to the State, the Act ensures that activities that may harm ACH are appropriately managed. The Act does this to provide balanced and beneficial outcomes for Aboriginal people as well as the broader Western Australian community.

These guidelines set out the factors that must be considered by the ACH Council (Council) in determining whether ACH is of State significance.

2. Overview

The Council will need to consider whether ACH is of State significance when there is an application for approval or authorisation of an ACH Management Plan (Plan) or an application to amend an approved or authorised Plan¹.

Where the Council determines that ACH is of State significance, the Plan under consideration can only be authorised by the Minister for Aboriginal Affairs (Minister). This includes where the parties have reached agreement on the terms of a Plan. The Minister may impose specific conditions to avoid or minimise the risk of harm to ACH of State significance.

3. Legislative Context

The process for determining whether ACH is of State significance [ss175-176] is:

1. The Council, in considering the application for a Plan or amendment to a Plan, forms a view that the ACH may be of State significance.
2. The Council must give public notice and notice to specified persons that it is considering making a determination that the ACH is of State significance, including providing details of the ACH and the area in which it is located, and an opportunity for submissions.
3. The Council must, within the prescribed period, consider any submissions and make a determination that the ACH is or is not of State significance, taking into consideration the factors set out in these guidelines.
4. If the Council determines the ACH to be of State significance, it must refer the Plan to the Minister to decide whether to authorise the Plan.
5. In making a decision, the Minister must consider the interests of the State [s. 11], which includes:
 - a) the social or economic benefit of the State, including for the social or economic benefit of Aboriginal people; and
 - b) the interests of future generations.

¹ Further guidance on how Plans should be developed, including who should be consulted, is contained in the ACH Management Code and the ACH Management Plan Form – Guiding Notes.



4. Scope

This document sets out the factors the Council must consider in determining whether ACH is of State significance as part of the approval or authorisation process for a Plan.

5. Determination of State significance

5.1 Why is State significance assessed?

ACH that is of State significance is ACH of exceptional importance to the cultural identity of the State.

ACH found to be of State significance is important to understanding the story of Western Australia – its history, identity and its people. It is important to note, however, that this does not mean that ACH that is found to be of State significance is more important than ACH that is important only to Aboriginal people; rather, ACH of State significance is being recognised for different factors.

5.2 How State significance is established

The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Heritage Significance 2013 (Burra Charter), provides guidance for the protection, conservation and management of cultural heritage places, including ACH, and recognises the fundamental importance of ACH to Aboriginal people and the wider community. The Burra Charter Practice Note *Understanding and assessing cultural significance* Version 1: November 2013 provides guidance on cultural significance and its assessment, including for the assessment of ACH. The values outlined in the Burra Charter have been adapted for the purpose of these guidelines.

In addition, the Council may determine that ACH is of State significance taking into consideration the following:

- the application for a Plan and supporting information;
- submissions made in response to the public notice.

6. Threshold for ACH Demonstrating State Significance

When considering whether ACH is of State significance, the Council will consider whether ACH demonstrates **exceptional** importance to the cultural identity of the State in relation to one or more of the following factors that have been adapted from the Burra Charter values:

- Aesthetic
- Historic
- Scientific
- Social.

6.1 Identifying factors

Aesthetic

Aesthetic does not simply rely on a common perception or most popular view. There is a need to consider aesthetics as understood by different cultural and community groups in terms of what is considered aesthetically pleasing or artistic. Aesthetic can also refer to the sensory and perceptual experience, such as sounds and smells, which can impact the way ACH is experienced by evoking strong feelings or special meanings.



Aesthetic value may be demonstrated:

- through creative or artistic excellence, innovation or achievement;
- in terms of setting, including landmark quality or impact on important vistas.

Historic

Historic considers the value of ACH to the wider story of Western Australia. ACH demonstrating this factor may be the site of an important or significant event, phase, movement, or activity in the State's history, or may be associated with a notable person or cultural group. Historic associations should be strong and verified by evidence.

Historic factor may be demonstrated through:

- 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 is considered by the potential to contribute to a further understanding of the natural or cultural history of Western Australia and is commonly used to assess the significance of identified, or potential, archaeological deposits.

Scientific factor may be demonstrated through:

- 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

Social refers to the ties that ACH has, and the meanings that it holds, for a particular community or for the Western Australian community as a whole. ACH 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.



7. Related Documents

The following documents support these guidelines:

- The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013
- Practice Note - Version 1: Understanding and assessing cultural significance (Australia ICOMOS, November 2013)
- ACH Management Code
- ACH Management Plan Form and Guiding Notes

8. Acronyms and definitions

ACH	<p>Aboriginal cultural heritage</p> <p>(a) means 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; and</p> <p>(b) includes the following —</p> <ul style="list-style-type: none"> (i) an area (an Aboriginal place) in which tangible elements of Aboriginal cultural heritage are present; (ii) an object (an Aboriginal object) that is a tangible element of Aboriginal cultural heritage; (iii) a group of areas (a cultural landscape) interconnected through tangible or intangible elements of Aboriginal cultural heritage; (iv) the bodily remains of a deceased Aboriginal person (Aboriginal ancestral remains), other than remains that are buried in a cemetery where non-Aboriginal persons are also buried or remains that have been dealt with or are to be dealt with under a law of the State relating to the burial of the bodies of deceased persons.
Act	<i>Aboriginal Cultural Heritage Act 2021</i>
Council	ACH Council
Department	Department of Planning, Lands and Heritage
LACHS	Local ACH Services
Minister	Minister for Aboriginal Affairs