



# **Australian Government**

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## **Geoscience Australia**

# **Land Access and Cultural Heritage Procedures**

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# 1. Introduction

## 1.1. Purpose

These procedures define how the [Land Access and Cultural Heritage Policy](#)<sup>1</sup> (the Policy) will be implemented in practice.

They provide fieldwork staff with the necessary instructions and information required to ensure their fieldwork activities on land and sea and in the air comply with relevant legislation and are respectful of stakeholders.

These procedures are also an expression of Geoscience Australia's commitment in our [Reconciliation Action Plan](#)<sup>2</sup> to ensure meaningful engagement with Aboriginal and Torres Strait Islander peoples, whether they are our employees, stakeholders in issues that are affected by our work, or end users of our products and information.

Ultimately, these procedures will provide the following benefits for us and the Australian community:

- protection of cultural heritage sites from disturbance or damage
- maintenance of productive working relationships with stakeholders
- preservation our reputation with the Australian community
- reduction of our exposure to legal and program delivery risks
- increased transparency and accountability for stakeholders regarding our intentions and processes
- support of the following actions from our Reconciliation Action Plan:
  - 'Promote understanding and awareness amongst our staff of the history and culture of Aboriginal and Torres Strait Islander peoples'
  - 'Raise internal understanding of Aboriginal and Torres Strait Islander cultural protocols'
  - 'Develop resources to support staff in identifying and appropriately managing heritage values and potential cultural sensitivities of land'.

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<sup>1</sup> D2018-32673

<sup>2</sup> D2017-161040

## 2. Procedures

### 2.1. Preparing for fieldwork

**Aim:** To ensure fieldwork planners identify and meet all relevant legislative and stakeholder requirements before commencing fieldwork activities.

**Policy:**

**Accessing or acquiring land, sea and airspace**

GA will access or acquire land, sea and airspace in ways that are respectful of relevant stakeholders and their cultural heritage (both Indigenous and non-Indigenous).

GA will access or acquire land, sea and airspace in ways that comply with all relevant legislation

**Procedures:**

1. **Keep records:** Throughout all stages of the fieldwork project (i.e. initiation, delivery and closure), you must keep thorough records of all relevant stakeholder interactions, decisions, incidents, determinations, permits, etc. in HPRM.
  - a. If an interaction is over the phone, record in writing the key points of discussion and outcomes of the phone call as soon is as reasonably practicable. Where appropriate, email this summary to the caller to confirm understanding.
2. **Determine the general area of the fieldwork:**
  - a. Determine and record the general geographical area/s you will be affecting as part of the fieldwork activities, including non-public access routes and airspace.
  - b. Use cadastral information to determine the types of land and/or airspace requiring access and who the landholders are, including:
    - i. national/state parks, marine parks or other nature reserves
    - ii. private land
    - iii. Indigenous land or sites of cultural significance
    - iv. Crown land and pastoral leases
  - c. See the [Identifying Land Tenure Guidelines](#) for more information.
3. **Determine the type of works planned:** Determine and record the type of works planned to be undertaken as part of the fieldwork activities, including:
  - a. the nature of planned activities, such as whether the planned works:
    - i. require acquisition of land, access without acquisition, or access to airspace;
    - ii. are non-ground disturbing, ground disturbing and the severity of ground-disturbance;
    - iii. include any potential environmental impacts such as chemical use, introduction or removal of large volumes of water,
    - iv. are harmful/hazardous to people, animals, habitats and ecosystems,

- b. the scope of the planned activities, such as:
    - i. the frequency and duration of access or acquisition.
    - ii. the timing of activity and how it may impact cultural or natural events (for instance, migrations or other biologically important events)
  - c. any potential impacts on cultural heritage, the environment or directly on stakeholders.
    - i. Examples of tangible cultural impacts include clearing or disturbance.
    - ii. Examples of intangible cultural impacts include the presence of people.
    - iii. Examples of environmental impacts include chemical use, land clearing, habitat removal, ground disturbance, noise and light.
    - iv. Examples of stakeholder impacts include noise, interruption to business or personal life, restriction of stock movement or low-flying aircraft and drones.
4. **Identify and get approvals from relevant stakeholders:** Considering the general area/s of works and the types of works planned, identify the relevant stakeholders and apply for and record any permits/permissions/approvals required from the stakeholders.
- a. Relevant stakeholders may include but are not limited to:
    - i. federal, state, territory, or local government entities that administer environmental legislation and/or cultural heritage and native title legislation
    - ii. land holders, including land owners, lease holders, Indigenous groups and/or mining/exploration rights holders
    - iii. other users of land, such as for recreation, hunting or fishing.
  - b. For information about your legal obligations regarding Indigenous and non-Indigenous cultural heritage and how to get approvals for activities that might affect cultural heritage, see the [Cultural Heritage Legislation \(Indigenous and non-Indigenous\) Guidelines](#).
  - c. For information about your legal obligations regarding the environment and how to get approvals for activities that might affect the environment, see the [Environmental Legislation Guidelines](#).
  - d. You must ensure any consent provided by land holders is **free, prior and informed**, to the degree required. In negotiating for consent, you must:
    - i. seek consent sufficiently in advance of any authorisation or commencement of activities, keeping in mind that some consultation and consensus processes may be an involved and protracted process
    - ii. provide the land holder with adequate and accurate information about the nature, scope, pace and predicted impacts of the works relevant to them
    - iii. not make false representations about our legal powers, or coerce or otherwise manipulate the land holder to gain consent
    - iv. consult with the [Contracts and Procurement Unit](#)<sup>3</sup> if the activity meets the criteria for an 'acquisition', whether or not the land holder seeks compensation for the acquisition.
    - v. not offer or provide compensation for access to Crown Land, such as pastoral leases.
    - vi. refer all requests for us to provide an indemnity, guarantee or warranty to the relevant [PGPA s60 delegate](#)<sup>4</sup>.

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<sup>3</sup> [Contracts@ga.gov.au](mailto:Contracts@ga.gov.au)

<sup>4</sup> D2014-244589

- vii. utilise stakeholder land knowledge and experience
  - viii. develop a land access communications plan with each stakeholder
  - ix. acknowledge that flyovers do not require consent, but stakeholders must be informed prior to the activity wherever possible.
- e. See the [Landholder Relationship Management Guidelines](#) for more information about how to engage and negotiate with stakeholders for access, permits, permissions or approvals.
5. **Learning and development:** It is strongly suggested that all party members complete the [Indigenous Awareness Training listed on the intranet](#)<sup>5</sup> prior to departing for the field.

## 2.2. Implementing fieldwork

**Aim:** To ensure fieldwork activities meet all relevant legislative and stakeholder requirements.

**Policy:**

**Accessing or acquiring land, sea and airspace**

GA will access or acquire land, sea and airspace in ways that are respectful of relevant stakeholders and their cultural heritage (both Indigenous and non-Indigenous).

GA will access or acquire land, sea and airspace in ways that comply with all relevant legislation

**Procedures:**

1. **Re-check and verify permits and paperwork:** Before heading into the field, ensure the following are finalised, recorded and available to the field work party:
  - a. details of the work recorded in step 2.1
  - b. all required permits/permissions/approvals
  - c. communication plans for each land holder
2. **Communicate and meet with the landholder/s:**
  - a. Communicate with the landholder/s as per the communications plan, for example 24-hour notice, or notifying of changes to the proposed work.
  - b. Undergo any required induction, such as for WH&S, Acknowledgement of Country, etc.
3. **Incidents:** If an incident<sup>6</sup> occurs that could impact a stakeholder or create an obligation on us to report it to an authority (e.g. damage of cultural artefacts, property or the environment) perform the following steps:
  - a. Immediately stop work and, where possible, contact your log-in officer.
  - b. Where appropriate, report the matter to relevant stakeholders (detailed reporting instructions for cultural heritage and environmental incidents are in the [Cultural Heritage Legislation \(Indigenous and non-Indigenous\) Guidelines](#) and [Environmental Legislation Guidelines](#). including:

<sup>5</sup> <https://intranet.ga.gov.au/everyday-tasks/fieldwork/training>

<sup>6</sup> If the incident involves a WH&S component, submit a separate incident report via the [online incident management tool](https://geoscienceaus.appiancloud.com/suite/sites/whs-incident) <https://geoscienceaus.appiancloud.com/suite/sites/whs-incident>

- i. emergency services, if there is a threat to life or safety, such as a bushfire or chemical spill
- ii. land holders
- iii. federal, state, territory or local government regulators
- iv. Indigenous groups, such as land councils, trusts or families
- v. the Director, Governance and Risk if there is a potentially insurable event, such as damage to property or other financial liabilities
- vi. the relevant Chief of Division. The Chief of Division must then forward the report to the relevant federal, state, territory or local government regulator, if the incident has not already been reported to them.

4. **Leaving:** When the field work is complete:

- a. communicate with the stakeholder as agreed
- b. follow through with any commitments to stakeholders, including to:
  - i. remove all equipment<sup>7</sup> other than those things the land holder agreed may be left on the land
  - ii. rectify any disturbances, such as holes or trenches
  - iii. provide any information/data agreed to previously.

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<sup>7</sup> Including all plant, machinery, goods or structures

## 3. Supporting Information

This section is informative

### Roles and Responsibilities

|                          |   |
|--------------------------|---|
| <b>All officials</b>     | <ul style="list-style-type: none"><li>All officials are responsible for following any relevant section of the procedures</li></ul>  |
| <b>Chief of Division</b> | <ul style="list-style-type: none"><li>Receive reports of environmental or cultural heritage incidents</li><li>Forward reports of environmental or cultural heritage incidents to the relevant authority</li></ul> |

### Related Procedures

|  |   |
|--|---|
| <a href="#">How and When to Create Records<sup>8</sup></a> | <ul style="list-style-type: none"><li>Guidance on how and when you should create official records</li></ul> |
| <a href="#">Risk Management Procedures<sup>9</sup></a>     | <ul style="list-style-type: none"><li>How to manage risks associated with your work</li></ul>               |

### Related Policies

|  |  |
|--|--|
| <a href="#">Land Access and Cultural Heritage Policy<sup>10</sup></a>  | <ul style="list-style-type: none"><li>Sets our commitment to to access or acquire land, sea and airspace through fieldwork in ways that:<ul style="list-style-type: none"><li>are respectful of relevant stakeholders and their cultural heritage (both Indigenous and non-Indigenous) and;</li><li>comply with all relevant legislation (primarily cultural heritage and environmental)</li></ul></li></ul> |
| <a href="#">Risk Management Policy<sup>11</sup></a>                    | <ul style="list-style-type: none"><li>Sets our commitment to manage risks associated with its programs</li></ul>   |
| <a href="#">Work Health and Safety Policy<sup>12</sup></a>             | <ul style="list-style-type: none"><li>Sets our commitment to provide a safe workplace</li></ul>  |
| <a href="#">Information and Records Management Policy<sup>13</sup></a> | <ul style="list-style-type: none"><li>Sets our commitment to keep official records in accordance with the Archives Act.</li></ul>  |

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<sup>8</sup> D2005-76626

<sup>9</sup> D2017-179448

<sup>10</sup> D2018-32673

<sup>11</sup> D2017-161350

<sup>12</sup> D2017-158439

<sup>13</sup> D2014-170833

## Related Plans

|  |  |
|--|--|
| <a href="#">Reconciliation Action Plan</a> <sup>14</sup> | <ul style="list-style-type: none"> <li>• Sets our commitment to ensure meaningful engagement with Aboriginal and Torres Strait Islander peoples</li> </ul> |
|--|--|

## Definitions

|                          |  |
|--------------------------|--|
| <b>Access</b>            | The temporary use of land, sea or airspace without the Commonwealth acquiring an 'interest' in the land, sea or airspace.  |
| <b>Acquire</b>           | To take a temporary or permanent 'interest' in land.   |
| <b>Cultural heritage</b> | <p>'The total ways of living built up by a group of human beings, which is passed from one generation to the next'<sup>15</sup>.</p> <p>'The legacy of physical artefacts and intangible attributes of a group or society that are inherited from past generations, maintained in the present and bestowed for the benefit of future generations'<sup>16</sup>.</p>  |
| <b>Interest</b>          | <p>Interests in land include:</p> <ul style="list-style-type: none"> <li>• legal ownership or a lease</li> <li>• use of land in any way that restricts use of it</li> <li>• any other right, charge, power or privilege over or in connection with the land or an interest in the land<sup>17</sup>.</li> </ul> <p>Examples of interests in land taken by us include:</p> <ul style="list-style-type: none"> <li>• ownership</li> <li>• leases</li> <li>• installing equipment (such as the temporary or permanent deployment of monitoring stations and corner reflectors)</li> <li>• temporary restrictions on land use (such as to pedestrian, vehicle or stock movement).</li> </ul> |
| <b>Land holder</b>       | A person or group with rights to land.   |

<sup>14</sup> D2017-161040

<sup>15</sup> <http://www.australia.gov.au/about-australia/australian-story/austn-indigenous-cultural-heritage>

<sup>16</sup> <http://www.unesco.org/new/en/cairo/culture/tangible-cultural-heritage/>

<sup>17</sup> For the complete definition of 'interest', see the [Lands Acquisition Act 1989](#)

|                     |  |
|---------------------|--|
| <b>Respectful</b>   | Respectful behaviour includes: <ul style="list-style-type: none"> <li>• being consultative</li> <li>• minimising impact or detriment</li> <li>• being pro-active/timely</li> <li>• being considerate of beliefs and customs</li> <li>• being transparent.</li> </ul>   |
| <b>Stakeholders</b> | Examples of relevant stakeholders include: <ul style="list-style-type: none"> <li>• Indigenous traditional owners</li> <li>• land or lease holders</li> <li>• holders of mining or exploration tenements</li> <li>• other Commonwealth entities</li> <li>• state and territory governments</li> <li>• local councils.</li> </ul> |

## External Mandates

Staff should be aware that compliance with these procedures does not necessarily guarantee compliance with all external mandates, laws and policies. Staff should satisfy themselves of their compliance with all relevant laws and policies, including those listed below. In the event of conflict, legislation and binding whole of government directions take precedence.

| Source  | Nature of risk to be managed  |
|---|---|
| <b>Legislative mandates - Commonwealth</b>  |   |
| <i>Native Title Act 1993</i> <sup>18</sup>  | Sets the ways and standards for dealing with native title.  |
| <i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i> <sup>19</sup> | Preservation and protection of areas and objects that are of particular significance to Aboriginal and Torres Strait Islander peoples in accordance with their traditions |
| <i>Environment Protection and Biodiversity Conservation Act 1999</i> <sup>20</sup>      | Protection and management of nationally and internationally important flora, fauna, ecological communities and heritage places  |

<sup>18</sup> <https://www.legislation.gov.au/Series/C2004A04665>

<sup>19</sup> <https://www.legislation.gov.au/Series/C2004A02943>

<sup>20</sup> <https://www.legislation.gov.au/Series/C2004A00485>

|   |  |
|---|--|
| <a href="#">Lands Acquisition Act 1989</a> <sup>21</sup>                        | Balance the rights of land holders with the needs of the Commonwealth regarding land ownership and use                             |
| <a href="#">Historic Shipwrecks Act 1976</a> <sup>22</sup>                      | Protection of historic shipwrecks and relics   |
| <b>Legislative mandates – New South Wales</b>                                   |  |
| <a href="#">Heritage Act 1997</a> <sup>23</sup>                                 | Protection of items of State heritage significance   |
| <a href="#">Protection of the Environment Operations Act 1997</a> <sup>24</sup> | Protection, restoration and enhancement of the quality of the environment  |
| <b>Legislative mandates – Queensland</b>  |  |
| <a href="#">Aboriginal Cultural Heritage Act 2003</a> <sup>25</sup>             | Provision of effective recognition, protection and conservation of Aboriginal cultural heritage                                    |
| <a href="#">Torres Strait Islander Cultural Heritage Act 2003</a> <sup>26</sup> | Protection and conservation of Torres Strait Islander cultural heritage  |
| <a href="#">Environmental Protection Act 1994</a> <sup>27</sup>                 | Protection of the environment  |
| <b>Legislative mandates – Northern Territory</b>                                |  |
| <a href="#">Heritage Act 2011</a> <sup>28</sup>                                 | Protection of cultural heritage  |
| <a href="#">Aboriginal Sacred Sites Act 1989</a> <sup>29</sup>                  | Protection of Aboriginal sacred sites  |
| <a href="#">Waste Management and Pollution Control Act</a> <sup>30</sup>        | Protection of the environment  |
| <b>Legislative mandates – Western Australia</b>                                 |  |
| <a href="#">Aboriginal Heritage Act 1972</a> <sup>31</sup>                      | Preservation of places and object customarily used by or traditional to the original inhabitants of Australia or their descendants |

<sup>21</sup> <https://www.legislation.gov.au/Series/C2004A03763>

<sup>22</sup> <https://www.legislation.gov.au/Details/C2016C01026>

<sup>23</sup> <https://www.legislation.nsw.gov.au/#/view/act/1977/136>

<sup>24</sup> <https://www.legislation.nsw.gov.au/#/view/act/1997/156>

<sup>25</sup> <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2003-079>

<sup>26</sup> <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2003-080>

<sup>27</sup> <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1994-062>

<sup>28</sup> <https://legislation.nt.gov.au/en/Bills/Heritage-Bill-2011?format=assented>

<sup>29</sup> <https://legislation.nt.gov.au/Legislation/NORTHERN-TERRITORY-ABORIGINAL-SACRED-SITES-ACT>

<sup>30</sup> <https://legislation.nt.gov.au/Legislation/WASTE-MANAGEMENT-AND-POLLUTION-CONTROL-ACT>

<sup>31</sup> [https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_3\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_3_homepage.html)

|  |  |
|--|--|
| <a href="#">Environmental Protection Act 1986</a> <sup>32</sup>      | Protection, control and abatement of pollution and environmental harm, and conservation, preservation, protection, enhancement and management of the environment   |
| <a href="#">Heritage of Western Australia Act 1990</a> <sup>33</sup> | Provision for and conservation of places have significance to the cultural heritage  |
| <b>Legislative mandates – South Australia</b>                        |  |
| <a href="#">Aboriginal Heritage Act 1988</a> <sup>34</sup>           | Protection and preservation of the Aboriginal heritage   |
| <a href="#">Heritage Places Act 1993</a> <sup>35</sup>               | Identification, recording and conservation of places and objects of non-Indigenous heritage significance   |
| <a href="#">Environment Protection Act 1993</a> <sup>36</sup>        | Protection of the environment  |
| <b>Legislative mandates – Victoria</b>                               |  |
| <a href="#">Aboriginal Heritage Act 2006</a> <sup>37</sup>           | Recognition, protection and conservation of Aboriginal cultural heritage in Victoria in ways that are based on respect for Aboriginal knowledge and cultural and traditional practices<br><br>Recognition of Aboriginal people as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage |
| <a href="#">Heritage Act 2017</a> <sup>38</sup>                      | Protection and conservation of places and objects of cultural heritage significance  |
| <a href="#">Environment Protection Act 1970</a> <sup>39</sup>        | Protection of the environment  |
| <b>Legislative mandates – Tasmania</b>                               |  |

<sup>32</sup> [https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_304\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_304_homepage.html)

<sup>33</sup> [https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_418\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_418_homepage.html)

<sup>34</sup> <https://www.legislation.sa.gov.au/LZ/C/A/ABORIGINAL%20HERITAGE%20ACT%201988.aspx>

<sup>35</sup> <https://www.legislation.sa.gov.au/LZ/C/A/HERITAGE%20PLACES%20ACT%201993.aspx>

<sup>36</sup> <https://www.legislation.sa.gov.au/LZ/C/A/ENVIRONMENT%20PROTECTION%20ACT%201993.aspx>

<sup>37</sup>

[http://www.legislation.vic.gov.au/Domino/Web\\_Notes/LDMS/PubLawToday.nsf/e84a08860d8fa942ca25761700261a63/52085cd6d560e6ebca25796e0079e5e8!OpenDocument&Highlight=0,Act](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/e84a08860d8fa942ca25761700261a63/52085cd6d560e6ebca25796e0079e5e8!OpenDocument&Highlight=0,Act)

<sup>38</sup>

[http://www.legislation.vic.gov.au/Domino/Web\\_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/3297d78c7620b8ddca2580e4000b8857!OpenDocument](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/3297d78c7620b8ddca2580e4000b8857!OpenDocument)

<sup>39</sup>

[http://www.legislation.vic.gov.au/domino/Web\\_notes/LDMS/PubLawToday.nsf/95c43dd4eac71a68ca256dde00056e7b/c7131dc25197a476ca257347000a99b1!OpenDocument](http://www.legislation.vic.gov.au/domino/Web_notes/LDMS/PubLawToday.nsf/95c43dd4eac71a68ca256dde00056e7b/c7131dc25197a476ca257347000a99b1!OpenDocument)

|   |  |
|---|--|
| <a href="#">Aboriginal Heritage Act 1975</a> <sup>40</sup>                            | Preservation of Aboriginal heritage  |
| <a href="#">Historic Cultural Heritage Act 1995</a> <sup>41</sup>                     | Preservation of cultural heritage  |
| <a href="#">Environmental Management and Pollution Control Act 1994</a> <sup>42</sup> | Prevention, reduction and remediation of environmental harm  |
| <b>Legislative mandates – Australian Capital Territory</b>                            |  |
| <a href="#">Heritage Act 2004</a> <sup>43</sup>                                       | Recognition, registration and conservation of places and objects of natural and cultural significance, including Aboriginal places and objects |
| <a href="#">Environment Protection Act 1997</a> <sup>44</sup>                         | Protection of the environment  |

## Change history

| Version | Date         | Change           |
|---------|--------------|------------------|
| 1.0     | 12 July 2018 | Original version |

<sup>40</sup> <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1975-081>

<sup>41</sup> <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1995-117>

<sup>42</sup> <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1994-044>

<sup>43</sup> <http://www.legislation.act.gov.au/a/2004-57/>

<sup>44</sup> <http://www.legislation.act.gov.au/a/1997-92/default.asp>