

South Australia

Aboriginal Heritage Regulations 2016

under the *Aboriginal Heritage Act 1988*

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Schedule 1—Fees

1—Short title

These regulations may be cited as the *Aboriginal Heritage Regulations 2016*.

2—Commencement

These regulations will come into operation on the day that section 9 of the *Aboriginal Heritage (Miscellaneous) Amendment Act 2016* comes into operation.

3—Interpretation

In these regulations—

Act means the *Aboriginal Heritage Act 1988*.

4—Information to be contained in register of Recognised Aboriginal Representative Bodies

- (1) For the purposes of section 19G(2) of the Act, the following information is required:
 - (a) the name and address of the body corporate from time to time constituting the Recognised Aboriginal Representative Body;
 - (b) the name of each person who is a director or member of the body corporate from time to time constituting the Recognised Aboriginal Representative Body;
 - (c) the address and contact details of the principal place of business of the Recognised Aboriginal Representative Body;
 - (d) subject to section 10 of the Act, a description of the area, Aboriginal site, Aboriginal object or Aboriginal remains in respect of which the Recognised Aboriginal Representative Body is determined or appointed;

Note—

Section 10 of the Act requires the confidentiality of certain information entered in the central or local archives to be maintained.

- (e) if the Recognised Aboriginal Representative Body was appointed under section 19B(9)—a copy of the relevant native title claim or indigenous land use agreement (as the case requires).
- (2) A Recognised Aboriginal Representative Body must notify the Committee as soon as is reasonably practicable (but in any case within 90 days) if any of the information referred to in subregulation (1) changes.
- (3) For the purposes of section 19G(3) of the Act, the register may only be inspected with the consent of, and in accordance with any requirements specified by, the Committee.
- (4) In determining whether to grant consent to, or to specify requirements for, inspection of the register under subregulation (3), the Committee must have regard to, and seek to protect, information that is confidential (including, to avoid doubt, information that is commercial-in-confidence or otherwise commercially sensitive).

5—Information to be contained in local heritage agreement

For the purposes of section 19H(4) and (5) of the Act, a local heritage agreement must contain the following provisions and information:

- (a) a provision setting out the area to which the agreement relates;
- (b) subject to section 10 of the Act, a provision setting out any Aboriginal site, Aboriginal object or Aboriginal remains that are known to be in the area to which the agreement relates;

Note—

Section 10 of the Act requires the confidentiality of certain information entered in the central or local archives to be maintained.

- (c) a provision setting out the proposed activities to which the agreement relates;
- (d) a provision setting out what steps are to be taken on the discovery of an Aboriginal site, Aboriginal object or Aboriginal remains;
- (e) a provision providing that, subject to the Act, any question arising as to the significance of a particular Aboriginal site or Aboriginal object to Aboriginal tradition, archaeology, anthropology or history is to be decided by the Recognised Aboriginal Representative Body in respect of the area, site, object or remains;

Note—

See the definition of *Aboriginal Object* and *Aboriginal site* in section 3 of the Act.

- (f) a provision limiting the costs or charges payable in relation to the agreement;
- (g) a provision setting out the processes for resolving disputes arising in relation to the agreement;
- (h) information explaining the process by which the agreement was negotiated (including information relating to any consultation undertaken during the negotiation process).

6—Approval of local heritage agreement

For the purposes of section 19I of the Act, the Minister must, in deciding whether or not to approve a local heritage agreement, have regard to the following matters:

- (a) whether the traditional owners of any area, and any Aboriginal site, object or remains, affected by the proposed local heritage agreement were consulted, and agreed to, the agreement being entered into;
- (b) whether any payment that has been, or is to be, made to a Recognised Aboriginal Representative Body, traditional owners or any other person in relation to the agreement is reasonable;
- (c) any relevant information (being information of which the Minister is aware) kept in the central or local archives.

7—Information to be contained in register of agreements

- (1) For the purposes of section 19Q(2) of the Act, the following information is required:
 - (a) in the case of a local heritage agreement—
 - (i) a copy of the application for authority under section 21 or 23 of the Act to which the agreement relates;
 - (ii) details of any variation to the agreement (including the date on which the variation takes effect);
 - (iii) details sufficient to identify any report or survey referred to in the agreement or upon which the agreement is wholly or partly based;
 - (b) in the case of an agreement to which Division A2 of the Act applies—
 - (i) the name, address and contact details of each party to the agreement;
 - (ii) details of any variation to the agreement (including the date on which the variation takes effect);
 - (c) in any case—
 - (i) a copy of the local heritage agreement or agreement to which Division A2 of the Act applies (as the case requires);
 - (ii) the name, address and contact details of the principal place of business of the relevant Recognised Aboriginal Representative Body;
 - (iii) the name and address of each party to the agreement.
- (2) For the purposes of section 19Q(3) of the Act, the register may only be inspected—
 - (a) with the consent of each party to the relevant agreement; and
 - (b) in accordance with any requirements specified by the Committee in relation to the relevant agreement.
- (3) In determining whether to specify requirements for inspection of the register under subregulation (2), the Committee must have regard to, and seek to protect, information that is confidential (including, to avoid doubt, information that is commercial-in-confidence or otherwise commercially sensitive).

8—Application fees

For the purposes of section 37E(c) of the act, the prescribed fees are as set out in Schedule 1.

Schedule 1—Fees

Application for notice under section 12 of Act	\$Nil
Application for appointment as Recognised Aboriginal Representative Body under section 19B of Act	\$Nil
Application for approval of local heritage agreement under section 19I of Act—	
(a) where value of project is not more than \$500 000	\$50
(b) where value of project is more than \$500 000 but not more than \$1 000 000	\$100
(c) where value of project is more than \$1 000 000 but not more than \$2 000 000	\$200
(d) where value of project is more than \$2 000 000 but not more than \$5 000 000	\$300
(e) where value of project is more than \$5 000 000	\$500
Application for approval of agreement under section 19M of Act—	
(a) where value of project is not more than \$500 000	\$50
(b) where value of project is more than \$500 000 but not more than \$1 000 000	\$100
(c) where value of project is more than \$1 000 000 but not more than \$2 000 000	\$200
(d) where value of project is more than \$2 000 000 but not more than \$5 000 000	\$300
(e) where value of project is more than \$5 000 000	\$500
Application for search of Register of Aboriginal Sites and Objects—	
(a) for a basic search	\$25
(b) for an extended search	\$75 per hour or part thereof
Application for authority under section 21 of Act (where accompanying local heritage agreement)	\$Nil
Application for authority under section 21 of Act (where no accompanying local heritage agreement)—	
(a) where value of project is not more than \$500 000	\$50
(b) where value of project is more than \$500 000 but not more than \$1 000 000	\$100
(c) where value of project is more than \$1 000 000 but not more than \$2 000 000	\$200
(d) where value of project is more than \$2 000 000 but not more than \$5 000 000	\$300
(e) where value of project is more than \$5 000 000	\$500
Application for authority under section 23 of Act (where accompanying local heritage agreement)	\$Nil
Application for authority under section 23 of Act (where no accompanying local heritage agreement)—	
(a) where value of project is not more than \$500 000	\$50
(b) where value of project is more than \$500 000 but not more than \$1 000 000	\$100
(c) where value of project is more than \$1 000 000 but not more than \$2 000 000	\$200

(d) where value of project is more than \$2 000 000 but not more than \$5 000 000	\$300
(e) where value of project is more than \$5 000 000	\$500
Application for authority under section 29 of Act	\$150
Application for authority under section 35 of Act	\$Nil

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

on the recommendation of the Minister made after consultation with the Aboriginal Heritage Committee and with the advice and consent of the Executive Council

on

No of 2016